

WATER PERMIT NO. 6989-3

Name of Applicant: MoDak Dairy

Address: 46472 171st St, Goodwin SD 57238 Phone: 882-8935

Amount of Water Claimed: 1.33 cfs Total Acres: NA

Source of Water Supply: groundwater (3 wells)

Water to be used for: commercial use in a dairy operation County: Deuel

Type of Waste Disposal System:

Location: 6 miles north of Goodwin

PRIORITY Date Received: 2-22-08

Application/License Fee: \$275

Corrected Application Received: 2-29-08

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NW ¼ SW ¼ Sec 6-T116N-R50W

Land to be Irrigated: NA

Depth of Well: 30 feet deep

Well Driller: : Lee Well Drilling

Remarks:

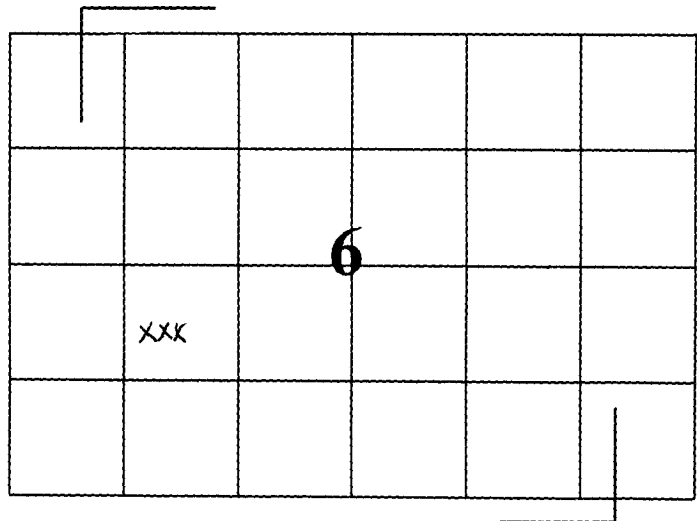
Type of Map: plat

Prepared by: Marty W Mack, RLS

Reviewed and the Number Assigned on: 3-4-08

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



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

(office use only)
No. 6989-3 Hydrologic Unit 10170202
Basin Sioux River
Newspaper Clear Lake Courier PO Box 830
605-874-2499 (local) Clear Lake 57026

RECEIVED
FEB 22 2008
WATER RIGHTS
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: (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 MODAK DAIRY Phone 605.882.8935
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 46472 171st STR GOODWIN State SD 57238
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 0.22 *CFS or 100 **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 GROUND WATER 3WELLS
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Deuel
3WELLS IN NW 1/4 SW 1/4 6-T116N-R50W
5. County or counties where water will be used CODINGTON Deuel
6. Annual period during which water is to be used 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)

WATER TO BE USED TO SUPPLY 2100 DAIRY COW BARN.

STATE OF SOUTH DAKOTA)

County of Codington SS

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

I, Gregory Moes, 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

Gregory Moes

Subscribed and sworn to before me this 21 day of February 20 08

Notary Public signature

Janice Ben
exp 11/27/11

SOUTH DAKOTA
WATER PERMIT NO. 6989-3

Date of first receipt of application February 22, 2008.

Date of return to applicant for corrections, amendments or changes February 25, 2008.

Date of receipt of corrected application February 29, 2008.

The Water Management Board approved Water Permit No. 6989-3 on July 2, 2008 for MoDak Dairy, 46472 171st St, Goodwin SD 57238 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. 6989-3 appropriates 0.22 cubic feet of water per second from three wells to be completed into the Pleistocene Unknown Aquifer (approximately 30 feet deep) located in the NW ¼ SW ¼ Section 6-T116N-R50W.
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 February 22, 2008.
5. One-fifth of the construction is to be completed on or before January 2, 2011.
6. All construction is to be completed on or before July 2, 2013.
7. Water is to be put to beneficial use on or before July 2, 2017.
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. The wells authorized by Permit No. 6989-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Permit No. 6989-3 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.

(continued)

4. Permit No. 6989-3 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

JUL 28 2008
date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 9 inches Depth 30 feet
- b) Casing Type PVC Diameter 5 inches Thickness SDR-21
- c) Screen Type V-Slot John Sun Stainless Steel Diameter 5 inches Thickness see screen type
- d) Gravel Pack red flint rock Length of Gravel Pack 10 feet
- e) Depth to Top of Water Bearing Material 9 feet
- f) Depth to Water (ground surface to water level) 4 feet
- g) Distance to nearest existing domestic well:

On applicants property none yet

On property owned by others N/A

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) septic system
- b) System Capacity (gallons) 1500 gallons Year Constructed proposed
- c) Connected to the City of N/A Sanitary System

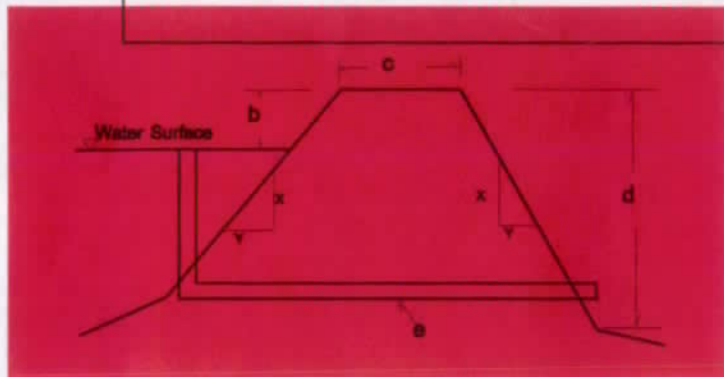
3. Dugout Information

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

4. Water Storage Dams N/A

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

Aerial Map

Customer(s):

District: CODINGTON COUNTY CONSERVATION DISTRICT

Field Office: WATERTOWN SERVICE CENTER

Agency: USDA-NRCS

Assisted By: Arlene Brandt Jenson

State and County: SD, CODINGTON



Scale 1:20,000
2006 Photography

Arlene Brandt Jenson, District Conservationist



Legend

□ Sections

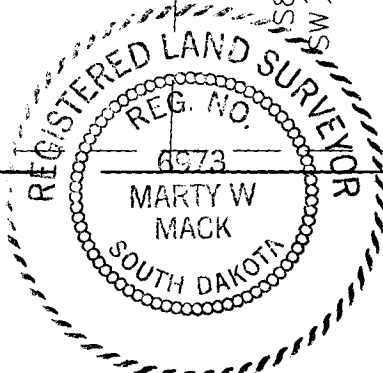
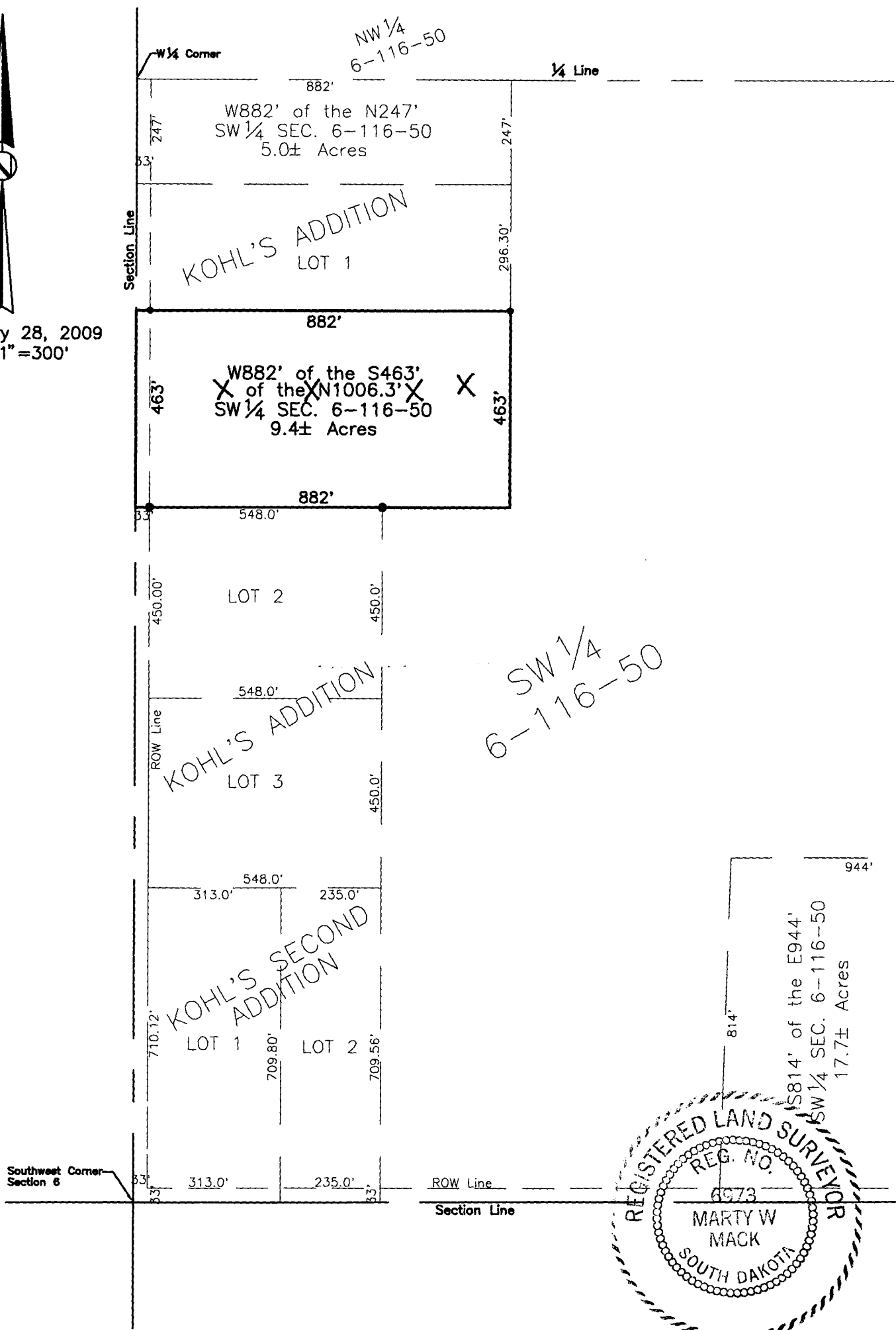
960 0 960 1,920 2,880 3,840 Feet



Drawing of
The West 882' of the South 463' of the North
1006.3' of the Southwest Quarter of Section 6,
T116, R50W of the 5th P.M., Deuel County,
South Dakota.



February 28, 2009
Scale: 1"=300'



Marty W. Mack
Registered Land Surveyor

WELL LOCATION
County Name Deuel

MINNESOTA DEPARTMENT OF HEALTH
WELL AND BORING RECORD
Minnesota Statutes, Chapter 103I

MINNESOTA UNIQUE WELL NO.

Township Name Goodwin Township No. 116-N Range No. 50-W Section No. 6 Fraction 1/4 NW 1/4

WELL DEPTH (completed) 52' ft. Date Work Completed 12/19/07

GPS LOCATION: Latitude _____ degrees _____ minutes _____ seconds _____
Longitude _____ degrees _____ minutes _____ seconds _____

DRILLING METHOD
☐ Cable Tool ☐ Driven ☐ Dug
☐ Auger ☒ Rotary ☐ Jetted

House Number, Street Name, City, and Zip Code of Well Location _____ or Fire Number _____

DRILLING FLUID Bentonite WELL HYDROFRACTURED? ☐ Yes ☒ No

Show exact location of well in section grid with "X".
Sketch map of well location. Showing property lines, roads and buildings.

4th test
long grass
creek
#4 test

USE ☐ Domestic ☐ Monitoring ☐ Heating/Cooling
☐ Noncommunity PWS ☐ Environ. Bore Hole ☐ Industry/Commercial
☐ Community PWS ☐ Irrigation ☐ Remedial
☐ Dewatering ☒ test hole

CASING ☐ Steel ☐ Plastic ☐ Drive Shoe? ☐ Yes ☐ No ☐ Threaded ☐ Welded

CASING DIAMETER _____ in. to _____ ft. WEIGHT _____ lbs./ft. HOLE DIAM. _____ in. to _____ ft.

SCREEN _____ OPEN HOLE _____
Make _____ NONE _____ FROM _____ ft. TO _____ ft.

Type _____ Diam. _____
Slot/Gauze _____ Length _____
Set between _____ ft. and _____ ft. FITTINGS _____

STATIC WATER LEVEL _____ NONE _____
ft. ☐ below ☐ above land surface Date measured _____

PUMPING LEVEL (below land surface) _____
ft. after _____ NONE _____ hrs. pumping _____ g.p.m.

WELL HEAD COMPLETION ☐ Pitless adapter manufacturer _____ NONE _____ Model _____
☐ Casing Protection _____ ☐ 12 in. above grade
☐ At-grade (Environmental Wells and Boring ONLY)

GROUTING INFORMATION
Well grouted ☒ Yes ☐ No
Grout material ☐ Neat cement ☒ Bentonite ☐ Concrete ☐ High Solids Bentonite

NEAREST KNOWN SOURCE OF CONTAMINATION _____
level _____ NONE _____ direction _____ type _____

Well disinfected upon completion ☐ Yes ☐ No
PUMP ☒ Not installed Date installed _____

Manufacturer's name _____
Model number _____ HP _____ Volts _____
Length of drop pipe _____ ft. Capacity _____ g.p.m.

Type: ☐ Submersible ☐ L.S. Turbine ☐ Reciprocating ☐ Jet ☐ _____

ABANDONED WELLS
Does property have any not in use and not sealed well(s) ☐ Yes ☒ No

VARIANCE
Was a variance granted from the MDH for this well? ☐ Yes ☒ No TN# _____

WELL CONTRACTOR CERTIFICATION
This well was drilled under my supervision and in accordance with Minnesota Rules, Chapter 4725.
The information contained in this report is true to the best of my knowledge.

Lee Well Drilling Inc. #63
Licensee Business Name Lic. or Reg. No.

Authorized Representative Signature Dave Lee Date 1/5/08

Name of Driller Dave Lee

PROPERTY OWNER'S NAME/COMPANY NAME Mo Dak Dairy

Property owner's mailing address if different than well location address indicated above.
46472 171st Str.

Goodwin, SD 57238

WELL OWNER'S NAME/COMPANY NAME Good

Well owner's mailing address if different than property owners address indicated above.

Good

REMARKS, ELEVATION, SOURCE OF DATA, etc.

Use a second sheet, if needed

WORK COPY

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date Feb 22, 20 08

RECEIVED OF MoDak Dairy Inc., 46472 171st St, Goodwin SD 57238

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

Fee for Application for Permit No. <u>6989-3</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>6989-3</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. 5000

By Marland Erbeke

Chief Engineer (KS)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

COPY

February 25, 2008

Gregory Moes
MoDak Dairy
46472 171st St
Goodwin SD 57238

RECEIVED
FEB 29 2008
WATER RIGHTS
PROGRAM

Dear Mr. Moes:

Thank you for submitting the *Application for a Permit to Appropriate Water* for your dairy operation. In order to complete the application, the following is required.

- Enclosed is the aerial photo map submitted with the application. This map does not show the location of the wells. We require a map that includes SW ¼ Section 6-T116N-R50W which is located in Deuel County.
- On the map, please mark the location of each of the wells with an "X".
- The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS office).

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure

KAREN: PLS LET ME KNOW
BY EMAIL IF THESE
ARE CORRECT.
ERIC
FEB 28
eric@modak.net
Reply 2/29/08
KS

RECEIVED

Water Rights Program
Eric Gronlund.

MAY 5 2008
WATER RIGHTS
PROGRAM

May 1, 2008

Several months ago Eric, the Moes' son-in-law, called me (Delores Gibson) and asked about digging the wells and going into the Aquifer.

I said it didn't seem that it would be a good thing for us, that it would interfere with our water supply for our two homes and the water for approximately 1000 head of cattle here in our lots.

If they plan to pump 0.22 cubic feet of water per second, I would think it would create a big problem for our water supply. When we have the lots full of cattle, all months except summer, we already now have to rely on some rural water for supplemental water.

Eric said he was the manager of this project and I asked him to talk with my son Greg Gibson about it. We never heard anymore until the notice of the water application was in the Deuel County Clear Lake Courier paper. It reads like the Chief Engineer recommends APPROVAL?

This is all the same section 6-T116N-R50W we live in and that Aquifer supplies water for us and they will have to pipe this water over 2 plus miles to their dairy. We are very concerned it will cause more of a shortage for us and our operation. We do not feel it is right or appropriate to allow anyone from anywhere to get water for, in excessive of, from the aquifer that supplies water for our needs and may force us to buy more rural water. In retrospect, I'm sure they would not allow or want someone to take from them. Where is there a guarantee that there will always be excessive or plenty of water?

However, they apparently got permission from Mike Kohl who owns the SW corner in the same section, as they never discussed anything further with us. He has only a house in the location and I'm not even sure if he lives in the area.

I do not agree with the reasoning (1) inappropriate water is unavailable... Does that entitle them to come 2 plus miles into this supply which may cause problems for others? (2) existing rights...How do you allow them to pipe the water 2 plus miles across other landowners land or even thru a ditch and roads? (3) beneficial use of water... We from this area certainly realize that. Please do not ruin it for us. (4) It is of public interest...we are the public, this is not fair to jeopardize our water supply.

We are not at all against their dairy operation as we ourselves have a similar feed lot operation, but we had to put in rural water for supplement water. When you build those large scale operations you need to handle the complications or problems yourself and not interrupt the other neighborhood operations.

If the Moes' were allowed to pipe this water from here, causing us problems and forcing us to purchase more rural water in the future, would you or they be willing to pay the extra cost?

Therefore, we strongly oppose the application for this water permit into the aquifer which supplies water to our homes and feedlot.

Cc MoDak Dairy, Greg Moes

Thank You,

Greg Gibson
and/or
Delores Gibson



**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 12, 2008

NOTICE

TO: Gregory Moes
MoDak Dairy
46472 171st Street
Goodwin SD 57238

Greg Gibson
16851 465th Avenue
Goodwin SD 57238

Delores Gibson
17259 467th Avenue
Goodwin SD 57238

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 6989-3

A petition has been submitted in opposition to Water Permit Application No. 6989-3 filed by MoDak Dairy. The petition was filed in response to the Notice of Application to appropriate water published in the Clear Lake Courier printed in Clear Lake SD. This notice schedules a hearing before the Water Management Board to consider this application.

Application No. 6989-3 proposes to appropriate 0.22 cubic feet of water per second from three wells to be completed into the Pleistocene Unknown Aquifer (approximately 30 feet deep) located in the NW ¼ SW ¼ Section 6-T116N-R50W for commercial use in a dairy operation.

The Water Management Board will conduct a hearing to consider Application No. 6989-3 at 1:00 PM on Wednesday, July 2, 2008 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to all parties if there are changes to the hearing time. 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. 6989-3 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 July 2, 2008, 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 June 20, 2008.

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.

Enclosed is a copy of the report, recommendation and petition in the matter of Water Permit Application No. 6989-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

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. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

c: Diane Best, Assistant Attorney General

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 June 20, 2008.

CERTIFICATION

I hereby certify that on May 12, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 12, 2008, regarding hearing for Water Right Permit Application No. 6989-3, as addressed below:

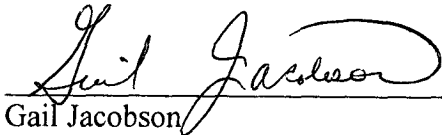
Gregory Moes
MoDak Dairy
46472 171st Street
Goodwin SD 57238

Greg Gibson
16851 465th Avenue
Goodwin SD 57238

Delores Gibson
17259 467th Avenue
Goodwin SD 57238

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

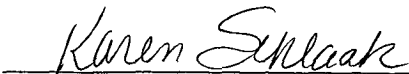
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



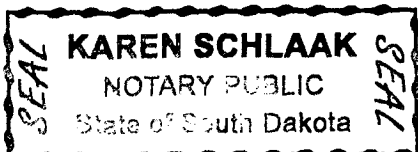
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of May 2008.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6989-3, MoDak Dairy**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6989-3, MoDak Dairy, c/o Gregory Moes, 46472 171st Street, Goodwin SD 57238.

The Chief Engineer is recommending APPROVAL of Application No. 6989-3 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. The wells authorized by Permit No. 6989-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Permit No. 6989-3 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.
4. Permit No. 6989-3 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
April 18, 2008

REPORT ON WATER PERMIT APPLICATION NO. 6989-3
For Modak Dairy
April 9, 2008

Application No. 6989-3 proposes to appropriate 0.22 cfs (100 gpm) from three wells approximately 30 feet deep located in the NW ¼ SW ¼ of section 6, T116N R50W for commercial use in a dairy operation.

AQUIFER - PLEISTOCENE UNKNOWN (PS-U)

The Pleistocene unknown (Hedges, 1982) is a catchall group for an aquifer of glacial origin but was not of sufficient size or can not be included into a mapped aquifer unit. In this case the well site could be considered in the uppermost extent of the Big Sioux Brookings Aquifer that extends north from Hamlin County up Stray Horse Creek (Kume, 1985) into Codington County (Hansen, 1990) and finally into Deuel County to the east. No estimates are available for water in storage or even maps of the aquifer in either Codington or Deuel Counties. The closest map available would be the extension of the Big Sioux aquifer into Codington County as shown in the Hedges report. Even so that report did not indicate the aquifer extended into Deuel County.

A test well completed by the applicant indicates topsoil from 0 to 4 feet, yellow sand and clay from 4 to 9 feet, sand and gravel from 9 to 29 feet and blue clay from 29 to 52 feet all below land surface. This test well had a static water level 4 feet below land surface and was capable of producing 65 gpm using air to develop. This test information looks favorable and indicates there is an aquifer at this site capable of producing the amount of water requested.

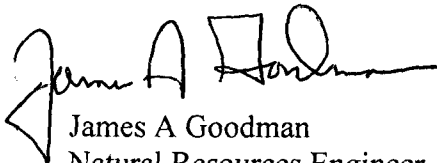
The Water Rights Program does not monitor any observation wells completed into this shallow aquifer in this immediate area. The best observation well that relates to this site is HN-63A. That Hamlin County observation well is completed into the Big Sioux Brookings aquifer and is located about 14 miles southwest of this site but still along Stray Horse Creek. In other words, the well is located in similar hydrogeologic surroundings to this application. A hydrograph for this observation well is included with this report (Water Rights, 2008). In general the water level record responds well to climatic conditions. Water levels rise during wet periods and decline during dry periods. Note the total fluctuation of about nine feet (from absolute highest to lowest for the period of record) that can be expected in the shallow aquifer in this area. Normally it appears an annual fluctuation of about three to four feet can be expected.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other nearby water permits/rights that obtain water from this source. Interference is not a concern. There are domestic wells in the area that use this water source. This requested pumping is relatively small and drawdown created by pumping should not be significant. However, with so little knowledge of the aquifer size for this area the applicant will need to pay close attention to the water supply and possibly have a backup supply available. The concern would be that the aquifer may be small and with the shallow nature of the water table the yields of wells could be adversely affected during an extended period of drought.

CONCLUSIONS

1. Water is available from this water source whether it is the Big Sioux Brookings or Pleistocene Unknown aquifers. The aquifer appears to be under water table conditions at this site.
2. There are no other permitted users in this area. There are domestic users from this source in this immediate area.
3. Interference is expected to be a concern. Drawdown created by pumping at this rate is not expected to be significant.
4. The wells authorized by this application must be constructed in accordance with SD Well Construction Standards.
5. Plans and specifications for the facility have been approved by the Department.

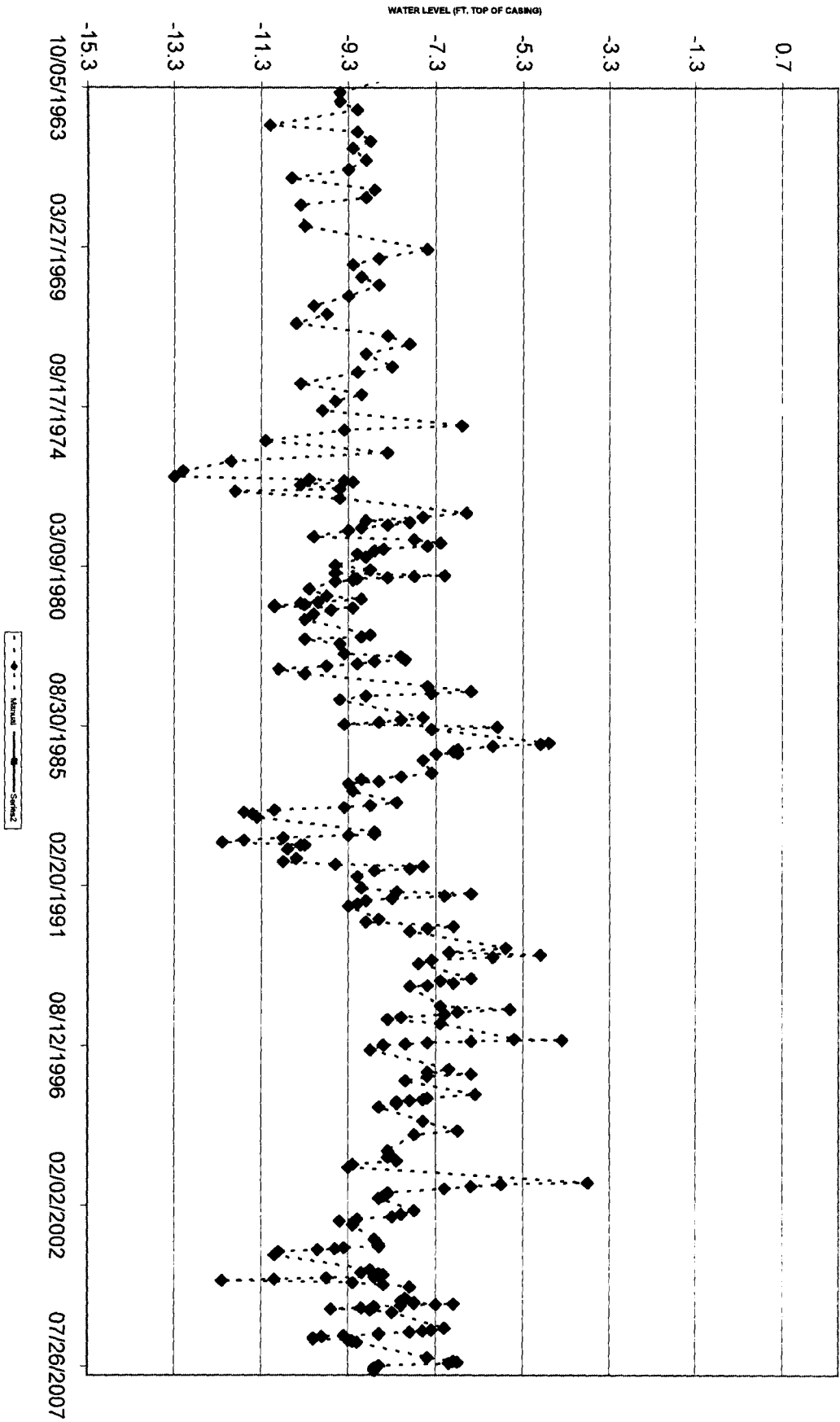


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hansen, D.S., 1990, Water Resources of Codington and Grant Counties, South Dakota, Water-Resources Investigations Report 89-4147, USGS, Huron, SD, 57350.
- Kume, J, 1985, Water Resources of Deuel and Hamlin Counties, South Dakota, Water Resources Investigations Report 84-4069, USGS, Huron, SD, 57350.
- Water Rights, 2008, Unpublished Observation Well Data for Hamlin, Codington and Deuel Counties, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL HN-63A



RECEIVED

MAY - 1 2008

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

The undersigned Ken Reiste being first duly sworn, on oath deposes and says: That he is in charge of the advertising department of the Clear Lake Courier; which newspaper is published by Ken Reiste; that the Clear Lake Courier is a weekly newspaper printed and published in Clear Lake, Deuel County, South Dakota and the undersigned has full and personal knowledge of all facts hereinafter stated; that said newspaper is a legal newspaper and has a bona-fide circulation of a least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication, that the

Department of Environment and Natural Resources

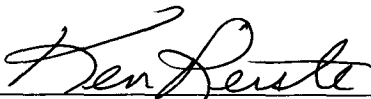
Notice of Application to Appropriate Water

a printed copy of which, taken from the paper in which the same was printed, is attached to this sheet, and is made part of the Affidavit, was published in said newspaper at least once in each week for two successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

April 23, 2008

April 30, 2008

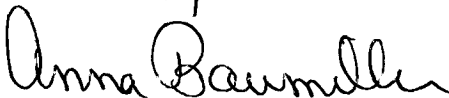
that the full amount of the fees for the publication of the annexed notice is **\$43.65**



Ken Reiste

Subscribed and sworn to before me

this 24 day of April, 2008.



Notary Public, South Dakota
Anna Baumiller

My Commission Expires: May 21, 2010

**NOTICE OF APPLICATION
NO. 6989-3 TO
APPROPRIATE WATER**

Notice is given that MoDak Dairy, c/o Gregory Moes, 46472 171st St., Goodwin, SD 57238, has filed an application for a water permit to appropriate 0.22 cubic feet of water per second from three wells to be completed into the Pleistocene Unknown Aquifer (approximately 30 feet deep) located in the NW1/4SW1/4 Section 6-T116N-R50W for commercial use in a dairy operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6989-3 because 1) unappropriated water is available, 2) ~~existing~~ rights will not be unlawfully impaired, 3) it is a beneficial use of water, 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this 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 this 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 (605-772-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 12, 2008.

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.

Apr. 23, 30



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 18, 2008

Clear Lake Courier
PO Box 830
Clear Lake SD 57226

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 6989-3 to Appropriate Water to be published twice. Please publish the first notice on April 23, 2008 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 MoDak Dairy, Greg Moes, 46472 171st St, Goodwin SD 57238 (Ph # 605-882-8935).

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. 6989-3

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

Date _____

We are in receipt of your letter of April 18, 2008 enclosing Notice to Appropriate Water by Application No. 6989-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



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.

April 18, 2008

MoDak Dairy
Gregory Moes
46472 171st St
Goodwin SD 57238

Dear Mr. Moes:

Water Permit Application No. 6989-3 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 Clear Lake Courier printed at Clear Lake SD (Ph # 605-874-2499). 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 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 April 23, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6989-3 to Appropriate Water

Notice is given that MoDak Dairy, c/o Gregory Moes, 46472 171st St, Goodwin SD 57238 has filed an application for a water permit to appropriate 0.22 cubic feet of water per second from three wells to be completed into the Pleistocene Unknown Aquifer (approximately 30 feet deep) located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6-T116N-R50W for commercial use in a dairy operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6989-3 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 this 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 this 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 May 12, 2008.

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

JUL 28 2000

MoDak Dairy
Greg Moes
46472 171st St
Goodwin SD 57238

Dear Mr. Moes:

Enclosed is Water Permit No. 6989-3 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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

6989-3

07-92

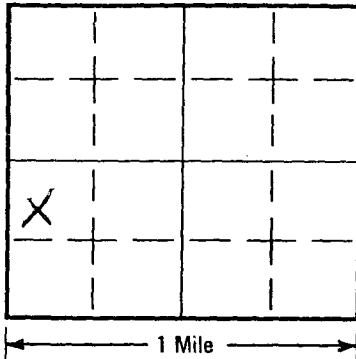
Location NW 1/4 SW 1/4 Sec 6 Twp 116-N Rg 50-W
County Deuel

Please mark well location with an "X"

#1

W

E



Well-Completion Date

7/22/08

LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>SDB21</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>24</u> FT	<u>9</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>Neat Cement</u>	_____	<u>15</u> lb./gal	<u>0</u> ft.	<u>20</u> ft.
_____	_____	_____ lb./gal	_____ ft.	_____ ft.

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 5" P.S. IN Length 3 FEET

Material Stainless Steel

Slot Size 20 Set From 24 Feet to 27 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine Solution

_____ NO, Why Not? _____

Laboratory sent to for water quality analysis

DHIA Lab

Well Owner: Mo Dak Dairy

Business Name: _____

Address: 46472 171st St
Goodwin, SD 57238

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>topsoil Dark soft</u>	<u>0</u>	<u>3</u>
<u>clay Yellow med</u>	<u>3</u>	<u>5</u>
<u>Sand & Gravel Yellow soft</u>	<u>5</u>	<u>10</u>
<u>Sand & Gravel Darker soft</u>	<u>10</u>	<u>27</u>
<u>clay Blue Med</u>	<u>27</u>	

STATIC WATER LEVEL 3 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: Air Compressor

☐ Bailed

☐ Other

Pumping Level Below Land Surface

20 ft. After 2 Hrs. pumped 20 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

1st well east of Gravel Road

RECEIVED

JUL 31 2008

This well was drilled under license # 63 WATER RIGHTS PROGRAM

And this report is true and accurate.

Drilling firm Lee Well Drilling Inc

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

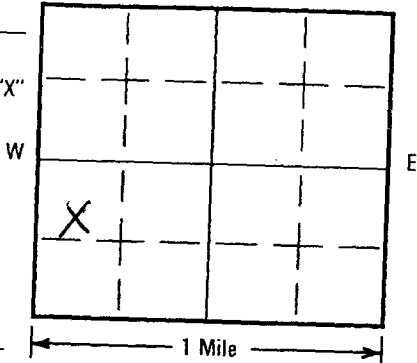
6989-3

07-92

Location NW 1/4 SW 1/4 Sec 6 Twp 116-N Rg 50-W
 County Deuel

Mark well location with an "X"

#2



Well Completion Date

7/22/08

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

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

Method of Drilling:

Forward Rotary

Data: ☐ Steel ☒ Plastic ☐ Other

Weight per foot 5 lb/ft Diameter 5 in From 0 ft To 24 ft Hole Diameter 9 in
 --- lb/ft --- in --- ft --- ft --- in
 --- lb/ft --- in --- ft --- ft --- in

Grouting Data
 Type Cement No. of Sacks 15 Grout Weight 15 lb./gal From 0 ft To 20 ft
 --- lb./gal --- ft --- ft

Grouting procedure

☐ Perforated pipe ☒ Manufactured
5" P. Size in Length 7 feet
Stainless Steel
18 Set From 24 Feet to 31 Feet

Seal or Casing Used? ☐ YES ☒ NO

Material? _____
 Casing(s) and location? _____

Disinfection: Was well disinfected upon completion?
☒ YES, How: Chlorine Solution

Test sent to for water analysis _____

9/16

Well Owner: Mo Dak Dairy Inc

Business Name: _____

Address: 46472 171st St
Goodwin, SD 57238

Well Log:

FORMATION	DEPTH	
	FROM	TO
<u>topsoil</u> <u>Dark soft</u>	<u>0</u>	<u>2</u>
<u>clay</u> <u>yellow med</u>	<u>2</u>	<u>6</u>
<u>Sand</u> <u>yellow soft</u>	<u>6</u>	<u>15</u>
<u>Sand/gravel</u> <u>darker soft</u>	<u>15</u>	<u>31</u>
<u>clay</u> <u>Blue Med</u>	<u>31</u>	

Static Water Level 4 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: Air Compressor
☐ Bailed
☐ Other

Pumping Level Below Land Surface

20 ft. After 2 Hrs. pumped 50 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS 2nd well east of Gravel Road
RECEIVED

JUL 31 2008

This well was drilled under license # 63

WATER RIGHTS PROGRAM

And this report is true and accurate.

Drilling firm Lee Well Drilling Inc

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

6989-3

07-92

Location NW 1/4 SW 1/4 Sec 6 Twp 16N Rg 50W

County

Deuel

North

Please mark well location with an "X"

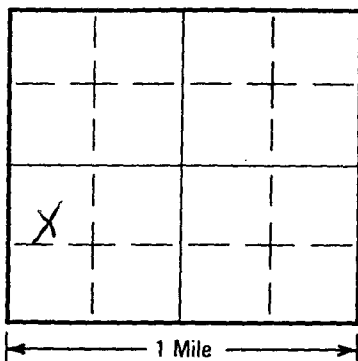
#3

W

E

Well Completion Date

7/23/08



LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT DIAMETER FROM TO HOLE DIAMETER
 SDR-21 LB/FT 5 IN 0 FT 25 FT 9 IN
 LB/FT IN FT FT IN
 LB/FT IN FT FT IN

GROUTING DATA

Grout Type No. of Sacks Grout Weight From To
 Neat Cement 15 lb./gal 0 ft 20 ft
 lb./gal ft ft

Describe grouting procedure

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 5" Pipe Size IN Length 4 FEET

Material Stainless Steel

Slot Size 20 Set From 25 Feet to 29 Feet

Other information

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material?

Describe packer(s) and location?

DISINFECTION: Was well disinfected upon completion?

YES, How:

Chlorine Solution

NO, Why Not?

Laboratory sent to for water quality analysis

DHIA Lab

Well Owner: Modak Dairy

Business Name:

Address: 46472 171st St.

Goodwin, SD 57238

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil Dark Soft	0	3
clay yellow med	3	5
Sand yellow soft	5	10
Sand Darker soft	10	29
clay Blue med	29	

STATIC WATER LEVEL 4 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: Air compressor

☐ Bailed☐ Other

Pumping Level Below Land Surface

20 ft. After 2 Hrs. pumped 25 GPM

ft. After Hrs. pumped GPM

If pump installed, pump rate GPM

REMARKS

3rd well east of Gravel Road

RECEIVED
JUL 31 2008

WATER RIGHTS
PROGRAM

This well was drilled under license # 63

And this report is true and accurate.

Drilling firm Lee Well Drilling Inc.

Signature of License Representative:

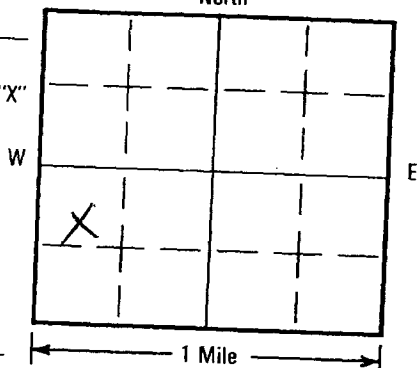
Signature of Well Owner or Equitable Property Holder:

Date:

07-92

Goodrich, SD 57238

7/23/08



Forward Rotary

42A

RECEIVED

JUL 31 2008

~~WATER RIGHTS~~
PROGRAM

Signature of Well Owner or Equitable Property Holder: _____

Date: