

WATER PERMIT NO. 7054-3

Name of Applicant: **Bergner & Yeaton Farms**

Address: **34475 258th St, Chamberlain SD 57325**

Phone: **605 734-5719**

Amount of Water Claimed: **0.22 cfs**

Total Acres: **NA**

Source of Water Supply: **groundwater (2 wells)**

Water to be used for: **commercial use - feedlot**

County: **Brule**

Type of Waste Disposal System:

Location: **6 miles south of Chamberlain**

PRIORITY

Date Received: **7-22-08**

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

Corrected Application Received: **8-6-08**

Period of Annual Use: **January 1 – December 31**

Remarks:

Diversion Point: **NE ¼ SW ¼ Sec 22-T103N-
R71W**

Land to be Irrigated: **NA**

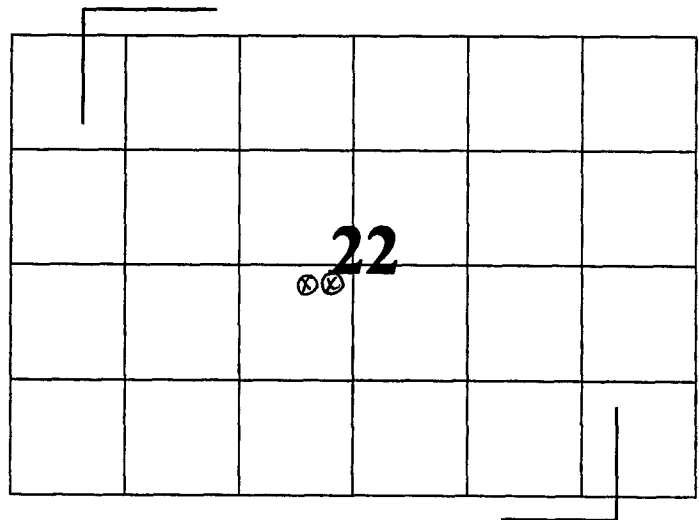
Depth of Well: **980 feet deep**

Well Driller: : **Hutmacher Drilling Inc.**

Remarks:

Type of Map: **aerial**

Prepared by: **Brule Co. FSA office**



Reviewed and the Number Assigned on: **8-6-08**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

RECEIVED

JUL 22 2008

WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7054-3</u> (office use only) Hydrologic Unit <u>18140101</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Central Daily Times PO Box 125</u> <u>605-234-0266</u> <u>Chamberlain 57325</u>

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

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal Heat
☒ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application:
(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.)

- Name of Applicant Bergner & Yeaton Farms Phone 605-734-5719
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 34475 258th St Chamberlain State SD 57325
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 0.222 *CFS or 100 **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 Dakota Sandstone
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Brule
NE 1/4 SW 1/4 Sec. 22 - 103N-71W (2 wells)
- County or counties where water will be used Brule
- Annual period during which water is to be used annually 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)
Livestock water (Feedlot)

STATE OF SOUTH DAKOTA)

County of Brule) 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)

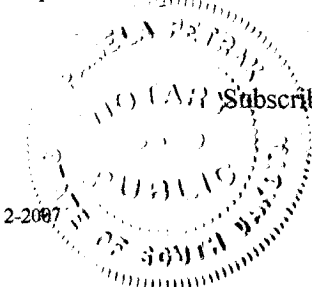
I, Kenneth Yeaton, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature [Signature]

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

[Signature]

Notary Public signature



**SOUTH DAKOTA
WATER PERMIT NO. 7054-3**

Date of first receipt of application July 22, 2008.

Date of return to applicant for corrections, amendments or changes July 22, 2008.

Date of receipt of corrected application August 6, 2008.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7054-3 to Bergner & Yeaton Farms, c/o Kenneth Yeaton, 34475 258th St, Chamberlain SD 57325 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. 7054-3 appropriates 0.222 cubic feet of water per second from two wells completed into the Dakota Aquifer (980 feet deep) located in NE ¼ SW ¼ Section 22-T103N-R71W.
2. The water appropriated shall be used for the purpose of commercial use in a livestock feedlot operation and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 7054-3 is September 29, 2008.
5. The date from which applicant may claim right is July 22, 2008.
6. One-fifth of the construction is to be completed on or before March 29, 2011.
7. All construction is to be completed on or before September 29, 2013.
8. Water is to be put to beneficial use on or before September 29, 2017.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Permit No. 7054-3 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. 7054-3 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 Erbe

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

OCT 31 2008

date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 7 7/8 4 1/2 Depth 980
- b) Casing Type PVC Diameter 5 in 2 in Thickness SDR17 Sch80
- c) Screen Type PVC Sch80 Diameter 2 1/2 Thickness Sch80
- d) Gravel Pack N/A Length of Gravel Pack N/A
- e) Depth to Top of Water Bearing Material 855
- f) Depth to Water (ground surface to water level) 35 ft.
- g) Distance to nearest existing domestic well:
On applicants property 1/2 mile On property owned by others 1/2 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

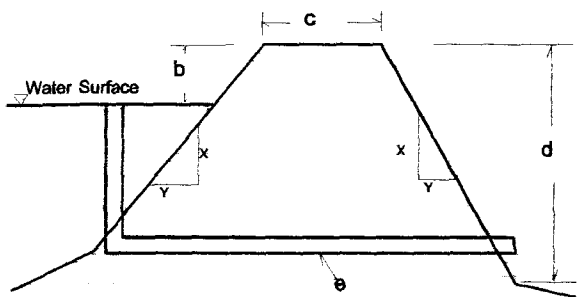
3. Dugout Information

- 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.

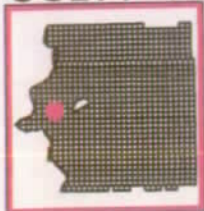
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- 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



USDA - Farm Service Agency



Brule County, SD
22-103N-71W

February 06, 2008

Legend 1:7,535

- Tract Boundaries
- Section-Township-Range
- Easements
- CRP
- Common Land Units
- Rangeland

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions



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USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability of the data. FSA MAPS DO NOT REPRESENT A LEGAL SURVEY. The user accepts the data 'as is' and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/22, 20 08

RECEIVED OF BERGNER & YEATON FARMS INC 34475 258th St Chamberlain SD 57325

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

Fee for Application for Permit No. <u>7054-3</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>7054-3</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.

03701

By

Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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AUG - 6 2008

WATER RIGHTS
PROGRAM

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

July 22, 2008

Bergner & Yeaton Farms
c/o Kenneth Yeaton
34475 258th St
Chamberlain SD 57325

Dear Mr. Yeaton:

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

- Enclosed is the aerial photo map submitted with the application. On the map, please mark the location of the well(s) with an "X".
- Also, when I reviewed the well completion reports filed with this office, I found reports for two wells in this approximate location. One report states it is an emergency backup well for feedlot use. If this is the case, I will amend your application to include both wells, with one well serving as the backup supply. Please let me know if this is a correct assumption.

Yes →

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

Thank you
Kenny

enclosure



**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. 7054-3, Bergner & Yeaton Farms**

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. 7054-3, Bergner & Yeaton Farms, c/o Kenneth Yeaton, 34475 258th Street, Chamberlain SD 57325.

The Chief Engineer is recommending APPROVAL of Application No. 7054-3 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. 7054-3 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. 7054-3 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
September 3, 2008

REPORT ON WATER PERMIT NO. 7054-3
For Bergner and Yeaton Farms
August 19, 2008

Application No. 7054-3 proposes to appropriate 0.222 cfs (100 gpm) from two wells approximately 980 feet deep located in the NE ¼ SW ¼ of section 22, T103N R71W in Brule County. The water is for commercial use in a livestock feedlot operation. One well will be utilized as a backup water supply.

AQUIFER – DAKOTA FORMATION (DKOT)

The Dakota Formation is a buried sand, sandstone and shale bedrock formation that is under artesian conditions at this site. The aquifer underlies 837 square miles and contains an estimated 12.65 million acre-feet of recoverable water in storage in Brule County (Hedges, 1982). The aquifer extends into Buffalo County to the north, Lyman County to the west, Aurora County to the east and into Charles Mix County to the south. The aquifer is areally extensive over much of South Dakota and regionally the ground water movement appears to be from west to east over the state (Schoon, 1971). However, water levels are affected by flowing wells and the largest flows are usually associated and located along lower elevations of the Missouri River and drainages into the river. Locally the regional ground water levels appear to be affected by these large diversions “flowing wells” and the piezometric map shows the declines around those areas of larger withdrawals (Schoon, 1971). Historically much of the volume of water withdrawals from the Dakota Aquifer have occurred as a result of flowing wells that were allowed to flow to waste.

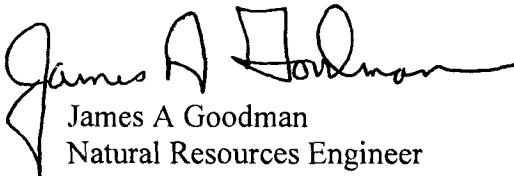
The Water Rights Program monitors an observation well BL-83A located about four miles north of this application. Water levels for this well indicate declining water levels. The rate of decline in the artesian head from 1983 to the present (fall of 2008) has been about ½ foot per year. This compares with earlier estimates provided in the Schoon report of 300 to 350 feet of total decline in areas of South Dakota where there were a high concentration of Dakota wells. Also the head at Chamberlain was reported as about 1828 msl in 1891 and 1684 msl in 1900. This compares with an elevation of about 1585 msl in 2008 at the observation well BL-83A. As can be seen from these numbers and what is now known about artesian aquifers this phenomena is to be expected and occurred as would have been predicted. The decline occurred at a greater rate initially (larger rates of discharge) and gradually decreased over time because of two factors, first the drawdown (cone of depression) expanded to a point where recharge would equal discharge and second the rate of discharge began to decrease because the head was lowering. The water level record indicates the aquifer is capable of sustaining additional withdrawals. A hydrograph for observation well BL-83A is included with this report (Water Rights, 2008).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are two existing water rights located approximately four miles from this application. With the distance separating this diversions and with this requested rate interference is not expected to be a concern. There are some domestic wells in the area that utilize the Dakota aquifer. Pumping at this site will create drawdown but this should not adversely affect the water availability from the aquifer.

CONCLUSIONS

1. Water is available from the Dakota aquifer.
2. The aquifer is under artesian conditions at this site. Pumping will create drawdown. This is not expected to be significant nor affect any existing user of Dakota aquifer water in this area. It may be necessary to lower pumps in existing wells in order to maintain the amount of water needed.
3. These are existing wells. Information is not available to determine if they are constructed in accordance with SD Well Construction Standards.
4. Plans and specifications for this facility have been submitted to and approved by the Department.
5. Approval of this application allows a diversion of 100 gpm from either well (primary or backup) but only a total of 100 gpm can be diverted at any time.

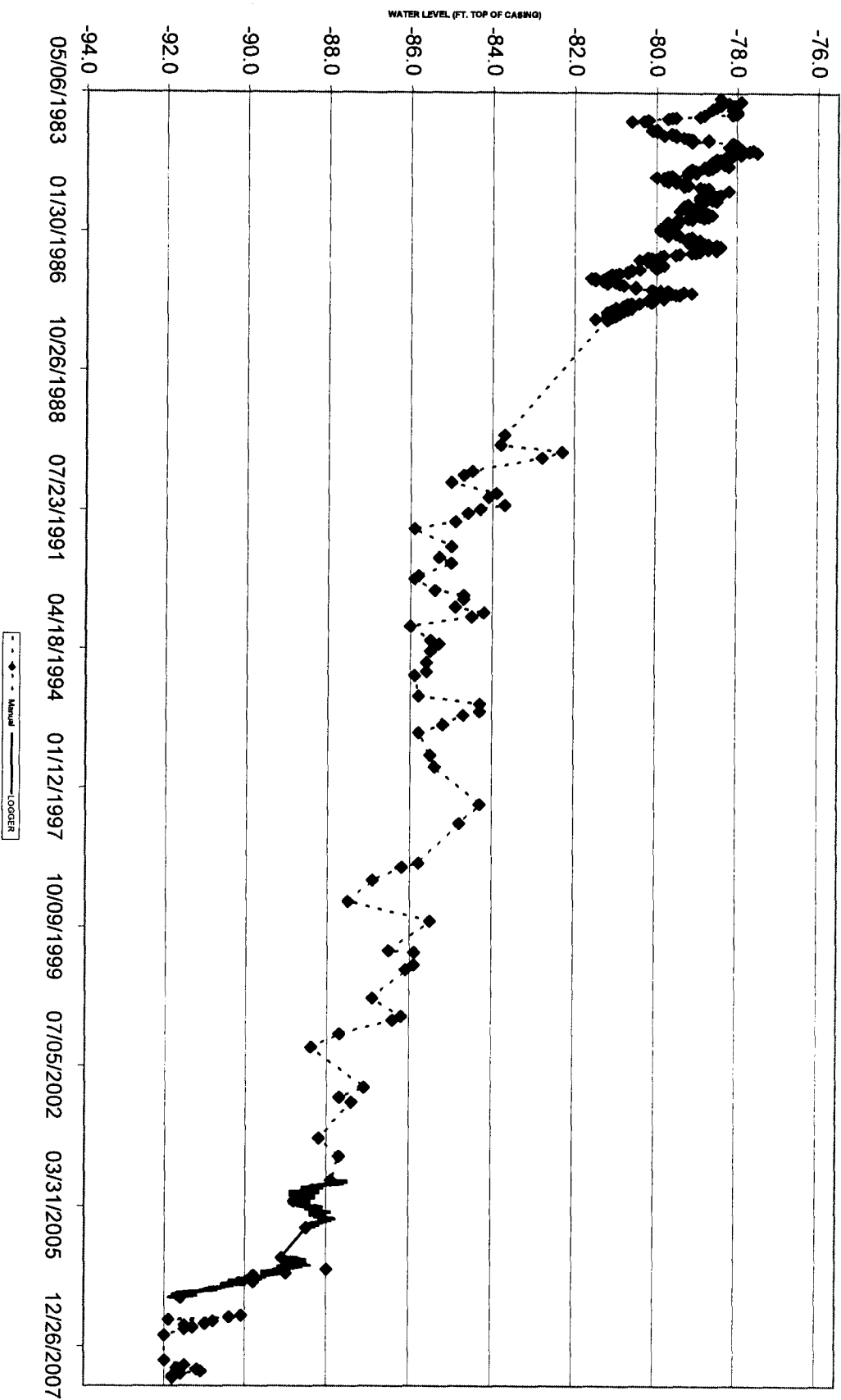


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River South Dakota and Iowa, for US Army Corps of Engineers, SDGS, Vermillion, SD, 57069.
- Schoon, R.A., 1971, Geology and Hydrogeology of the Dakota Formation in South Dakota, Report of Investigations No. 104, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 2008, Unpublished Observation Well Data for Brule County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
BL-83A**



AFFIDAVIT OF PUBLICATION

State of South Dakota

RECEIVED

County of Brule

SS

SEP 20 2008

WATER RIGHTS
PROGRAM

Debi Ruiz of said county, being, first duly sworn, on oath, says: That she is the publisher of *Central Dakota Times*, a weekly newspaper, published in the City of Chamberlain, in said County of Brule, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the Notice of Application No.

7054-3 To Appropriate
Water

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for two successive week(s) to wit:

Sept 10, 2008; Sept 17, 2008;
_____, 20____; _____, 20____;
_____, 20____; _____, 20____;

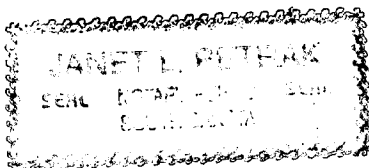
That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

\$ 36.83

Signed: Debi Ruiz

Subscribed and sworn to before me this 30th day
of September, 2008.

Janet L. Petrak
Notary Public in and for the County of Brule,
South Dakota



My commission expires June 5, 2010.

NOTICE OF APPLICATION NO. 7054-3 TO APPROPRIATE WATER

Notice is given that Bergner and Yeaton Farms, c/o Kenneth Yeaton, 34475 258th Street, Chamberlain, SD 57325 has filed an application for a water permit to appropriate 0.222 cubic feet of water per second from two wells completed into the Dakota Aquifer (980 feet deep) located in the NE 1/4 SW 1/4 Section 22-T103N-R71W for commercial use in a livestock feedlot operation. One well will serve as a backup water supply.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7054-3 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 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 Sept. 29, 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. Pimer, Secretary
Department of Environment and Natural
Resources

(September 10/September 17)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 3, 2008

Central Dakota Times
PO Box 125
Chamberlain SD 57325

ATTENTION: Legal Public Notice

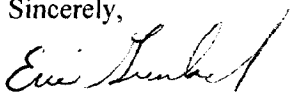
Enclosed is a Notice on Application No. 7054-3 to Appropriate Water to be published twice. Please publish the first notice on September 10, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Bergner & Yeaton Farms, Kenneth Yeaton, 34475 258th St., Chamberlain SD 57325 (Ph # 605-734-5719).

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. 7054-3

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

Date _____

We are in receipt of your letter of September 3, 2008 enclosing Notice to Appropriate Water by Application No. 7054-3 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.

September 3, 2008

Bergner & Yeaton Farms
Kenneth Yeaton
34475 258th St
Chamberlain SD 57325

Dear Mr. Yeaton:

Water Permit Application No. 7054-3 for domestic 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 Central Dakota Times printed at Chamberlain SD (Ph # 605-234-0266). 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 September 10, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 7054-3 to Appropriate Water

Notice is given that Bergner & Yeaton Farms, c/o Kenneth Yeaton, 34475 258th St, Chamberlain SD 57325 has filed an application for a water permit to appropriate 0.222 cubic feet of water per second from two wells completed into the Dakota Aquifer (980 feet deep) located in NE ¼ SW ¼ Section 22-T103N-R71W for commercial use in a livestock feedlot operation. One well will serve as a backup water supply.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7054-3 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.

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 31 2008

Bergner & Yeaton Farms
c/o Kenneth Yeaton
34475 258th St
Chamberlain SD 57325

Dear Mr. Yeaton:

Enclosed is Water Permit No. 7054-3 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

7054-3
RECEIVED

SEP 18 2013

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 11/15/08TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181FROM: Bergner & Yeaton Farms c/o Kenneth Yeaton
(name)34475 258th St
(address)Chamberlain SD 57325
(city, state, zip)605-734-6194
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

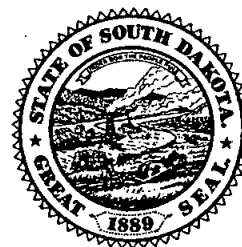
Water Permit No. 7054-3 states that the water use system is to be constructed by
Sept. 29, 2013 , and water is to be put to beneficial use by Sept 29 2017
(date) (date)

The water use system was completed on 10-31-08
(date)

Applying the water to beneficial use was completed on 11-15-08
(date)

You may schedule an investigation so that the water license may be issued.

[Signature]
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 18, 2013

7054-3

Kenneth Yeaton
Bergner & Yeaton Farms
34475 258th St
Chamberlain SD 57325

Dear Mr. Yeaton:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with the water use system authorized under Water Permit No. 7054-3.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

RECEIVED

DEC 23 2013

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 7054-3
Date: 12-2-13

I/We request that Water Permit No. 7054-3

formerly owned by: Bergner & Yeaton Farms, 34475 258th St, Chamberlain SD 57325

be transferred to: (name & address) Ryan Randall
25153 342nd Ave
Chamberlain SD 57325 Telephone No. 605-680-4270

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

Wells located: NE ¼ SW ¼ Section 22, T103N, R71W

I/We understand that the validity of Water Permit No. 7054-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

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

Ryan Randall
(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 12/26, 20 13

RECEIVED OF Ryan Randall 34150 254th St Chamberlain SD 57325

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>7054-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06553**

By Jean Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 3, 2014

7054-3

Ryan Randall
25153 342nd Ave
Chamberlain SD 57325

Dear Mr. Randall:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Permit No. 7054-3.

The ownership change has been completed. Water Permit No. 7054-3 formerly held by Bergner & Yeaton Farms is now listed your name.

Enclosed for your records is Receipt No. 06553 in the amount of \$50 which you paid for filing the ownership change. Also included is a copy of the water permit for you to keep.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures

Permit No. 7054-3
Missouri River - Water District

Contact Person & Address: **Ryan Randall, 34358 254th St, Chamberlain SD 57325**

Report Of Examination Of Works

On, **March 12, 2015**, I made a thorough examination of the water use system constructed by **Ryan Randall** holder of Permit No. **7054-3**, bearing the priority of **July 22, 2008** authorizing the diversion of **0.222** cu. ft. per second of the waters of **groundwater Dakota Aquifer** for **commercial** purposes, in **Brule** County.

The system is in the following condition **good**. The points of diversion is located all in **Sec 22 T103N R71W; from the SW corner; Well 1 - 2395 ft E and 2360 ft N** with latitude of **43.70881** and a longitude of **-99.32280** **and Well 2 - 2515 ft E and 2370 feet N** with latitude of **43.70890** and a longitude of **-99.32242** as determined using **GPS**. The works are capable of diverting and conveying to the place of use **0.222** cu. ft. per second of water which is to be used for **commercial purposes in a feedlot**. Water has been put to beneficial use to the maximum extent as follows:

The feedlot is located in **the S ½ of Sec 22 T103N-71W** and the license should be issued for **0.222** cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by **yes**
- 2) All structures, wells and lands on map **yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **NA**.
- 4) Exceptions to compliance are: **yes**

Report On the Specifics of the System

Diversion Point Information:

Well Information:

- 1) Well Drilling Firm: **Hutmacher Drilling**
- 2) No. of Wells **2**
- 3) Depth(s) **980** feet
- 4) Well log is available **yes**

Casing:

- 1) Diameter **5** inches
- 2) Length **900** feet
- 3) Type **pvc**

Screen:

- 1) Type **stainless steel**
- 2) Length **80** feet
- 3) Static water level **35** feet

Pump:

- 1) Make **unknown**
- 2) Model **unknown**
- 3) Size **6**
- 4) Capacity **100** GPM

Motor:

- 1) Make unknown 2) Model No. unknown 3) Horsepower rating unknown hp

DISTRIBUTION LINES OR CANALS:

- 1) Type black polyplastic 2) Size 1 inches

Comments : none

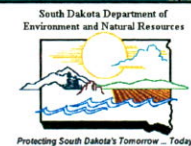
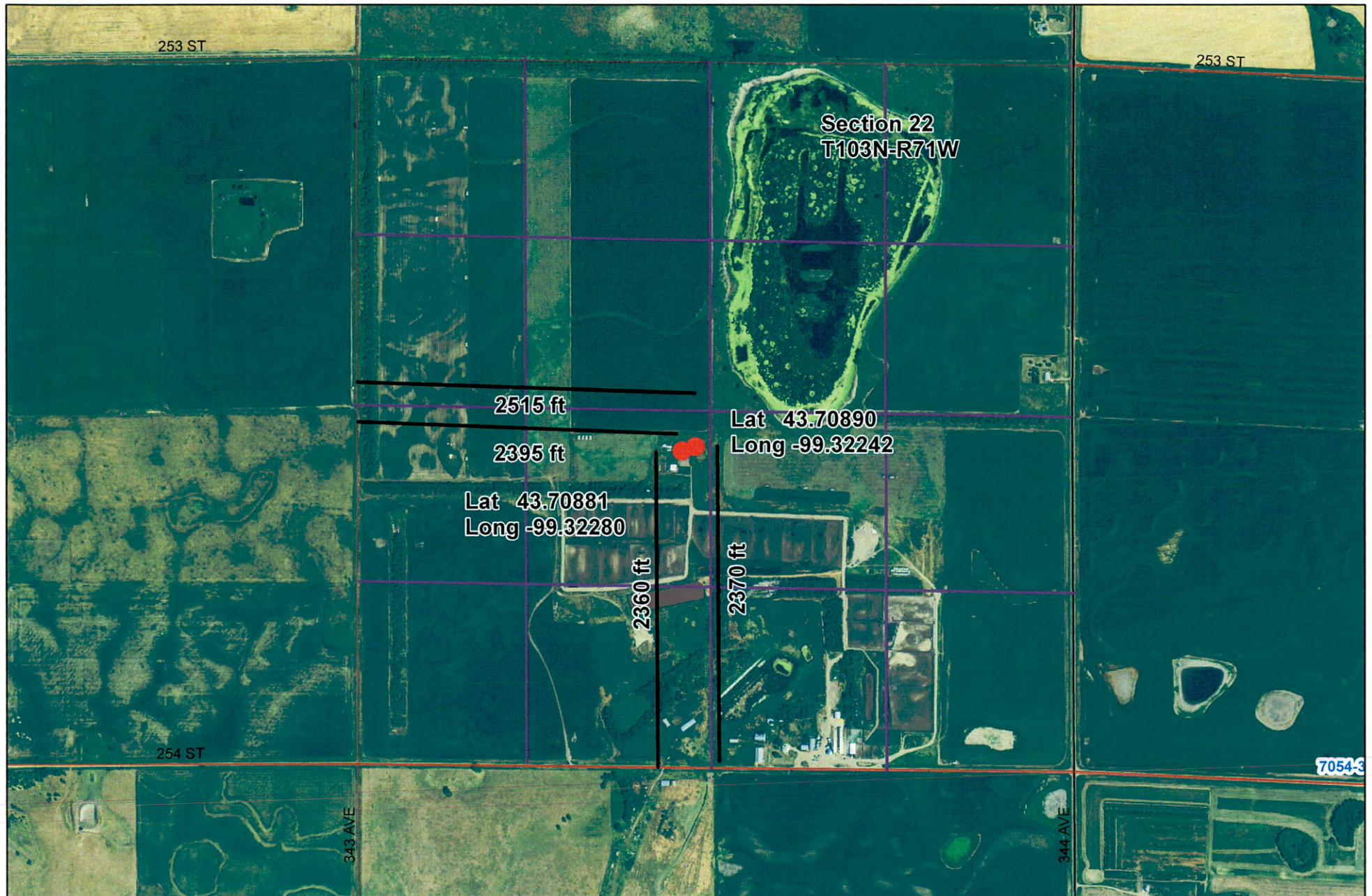


Mark D. Rath
Natural Resources Engineer III
DENR, Water Rights Program

3-16-15

Date

7054-3



Mark D Rath 3-16-18
Mark D Rath
Natural Resources Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

APR 24 2015

7054-3

Ryan Randall
25153 342nd Ave
Chamberlain SD 57325

Dear Mr. Randall:

Enclosed is Water License No. 7054-3. 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 wells authorized by Water Right No. 7054-3, 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. 7054-3**

(1) Bergner & Yeaton Farms, Chamberlain SD 57325 made Application No. 7054-3, July 22, 2008 for a water permit to divert 0.222 cubic feet of water per second from ground water (two wells – Dakota Aquifer), Brule County, South Dakota for commercial purposes in a livestock feedlot operation. Permit No. 7054-3, with a priority date of July 22, 2008 was approved September 29, 2008 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 29, 2013 and for the application to beneficial use of said water on or before September 29, 2017.

On December 23, 2013, Water Permit No. 7054-3 was transferred to Ryan Randall, Chamberlain SD.

(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 2.22 cubic feet of water per second for beneficial use. The location of the diversion points are:

Well #1 – 2,395 feet E and 2,360 feet N of the SW corner of Section 22, T103N, R71W (NE ¼ SW ¼)

Well #2 – 2,515 feet E and 2,370 feet N of the SW corner of Section 22, T103N, R71W (NE ¼ SW ¼)

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use in a livestock feedlot operation located in the S ½ Section 22, T103N, R71W.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Ryan Randall, 25153 342nd Ave., Chamberlain SD 57325 the holder and/or owner of Water Right No. 7054-3 is issued a license to appropriate water, the right to use 0.222 cubic feet of water per second from ground water (two wells – Dakota Aquifer) with a priority date of July 22, 2008 from the locations specified in (2) of this license for commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7054-3 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. 7054-3 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. 7054-3 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

APR 24 2015

date

