

WATER PERMIT NO. 8206-3

Name of Applicant: Blue Haven Barn & Garden⁶ Inc.

Address: 204 Park Dr, Lennox SD 57039 Phone: 605 630-1795

Amount of Water Claimed: 0.85 cfs Total Acres: 3.5 acres

Source of Water Supply: small pond

Water to be used for: irrigation County: Minnehaha

Type of Waste Disposal System:

Location: 2 mile west of Sioux Falls

PRIORITY Date Received: 3-4-16 Application/License Fee: \$ 300

Corrected Application Received: Period of Annual Use: April 1 – November 30

Remarks:

Diversion Point: SE 1/4 SE 1/4 Sec 36-T101N-
R51W

Land to be Irrigated: SE 1/4 SE 1/4 Sec 36-T101N-
R51W

Depth of Well: NA

Well Driller:

Remarks:

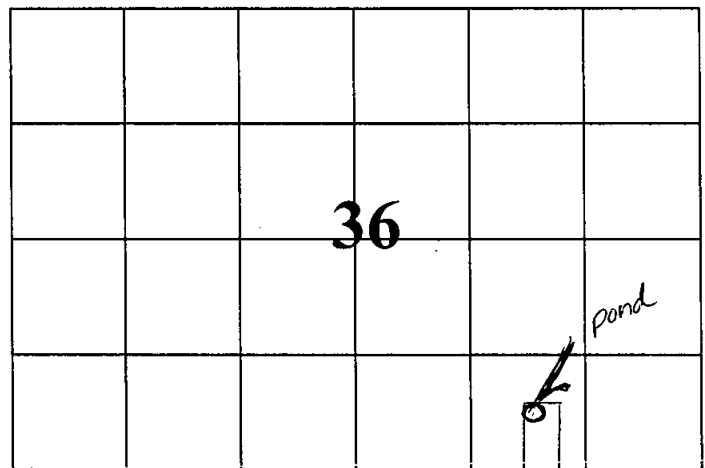
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 3-7-16

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8206-3</u> (office use only)
	Basin <u>Sioux River</u> Hydrologic Unit <u>10170203</u>
	Newspaper <u>Argus Leader - S Falls</u>
	<u>605-331-2200</u>

RECEIVED
MAR 04 2016
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit Blue Haven Barn & Gardens Inc (Josh Nelson)

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 204 Park Dr Lennox SD 57039
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-630-1795 Email info@bluehavenbarn.com

2. Amount of water claimed 0.078 *CFS or 35 **GPM 0.95 ***AF Total Acreage 3.5
(*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 from pond

4. Location of point of diversion Tract 3 Krells Addition, SE 1/4, Section 36, Township 101, North
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
Range 51 West CSE 1/4 SE 1/4 County Minnehaha

5. County or counties where water will be used Minnehaha

6. Annual period during which water is to be used April thru November 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>46594 W 268th St Sioux Falls, SD</u>	<u>3.5</u>		
<u>57039</u>			
<u>SE 1/4 SE 1/4 Sec 36 - T101N-R51W</u>			

8. Give a description of the project. (Attach sheet if more space is needed)

I want to pump water from my pond to irrigate my yard with a sprinkler system. Approx 3.5 acres

I, [Signature] owner, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

SOUTH DAKOTA
WATER PERMIT NO. 8206-3

Date of first receipt of application March 4, 2016.

Date of return to applicant for corrections, amendments or changes March 7, 2016.

Date of receipt of corrected application March 7, 2016.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8206-3 to Blue Haven Barn & Gardens, Inc. c/o Josh Nelson, 204 Park Dr, Lennox SD 57039 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. 8206-3 appropriates 0.078 cubic feet of water per second from a pond (approximate 3 acre foot storage capacity) constructed into Quaternary age alluvium located in the SE 1/4 SE 1/4 Section 36 for irrigation of 3.5 acres located in the SE 1/4 SE 1/4 Section 36; all in T101N-R51W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – November 30.
3. The date from which applicant may claim right is March 4, 2016.
4. The date of approval of Permit No. 8206-3 is May 2, 2016.
5. One-fifth of the construction is to be completed on or before November 2, 2018.
6. All construction is to be completed on or before May 2, 2021.
7. Water is to be put to beneficial use on or before May 2, 2025.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

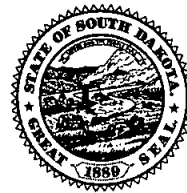
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

MAY 12 2016

date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Informationa) Type of System (i.e. septic tank, drain field) Holding tanksb) System Capacity (gallons) 6000 Year Constructed 2016

c) Connected to the City of ____ Sanitary System

3. Dugout Informationa) Surface Dimensions 100' x 100' with 50' island in middle Depth 10'b) Depth to water (ground surface to water level) 1 foot**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 (e.g. 3 to 1 is a typical slope)

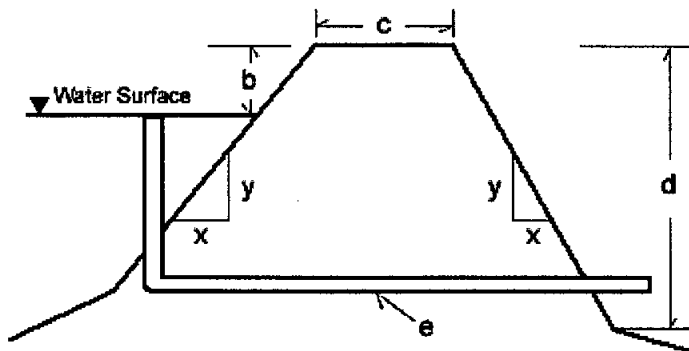
Upstream _____

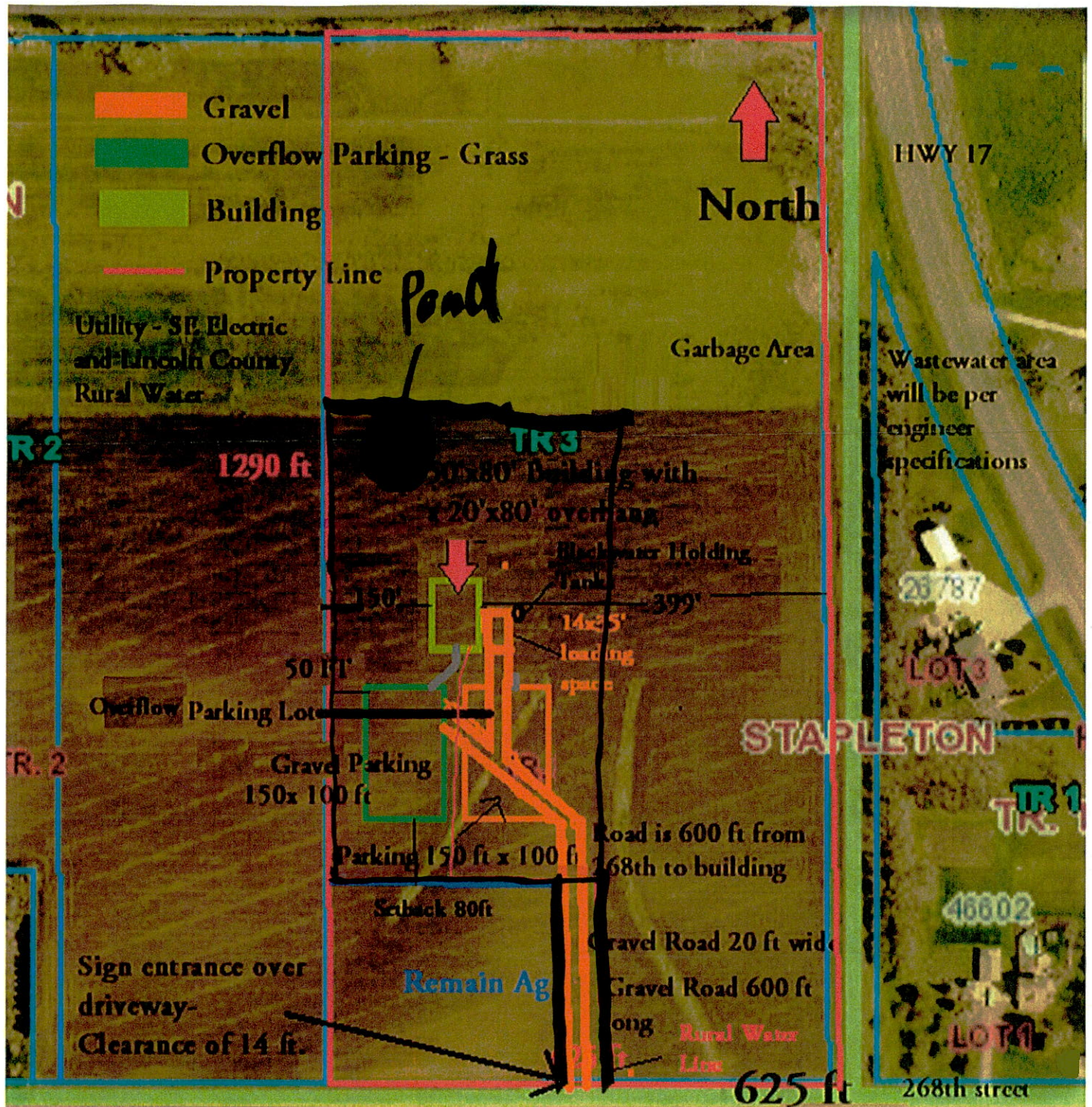
Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





I have reviewed this revised site plan for CUP #15-61 and have determined that the 50 foot movement of the main building to the west is a minor change. In addition the swapping of the gravel and overflow parking locations is a minor change in the site plan. The tree line that was included in the original site plan will have to be planted as originally approved despite the absence of the tree line in this revised plan.

Scott Anderson 11-6-2015
 Scott Anderson, Planning Director

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Sec 26
T101N
R51W

Sec 25
T101N
R51W

Sec 30
T101N
R50W

Sec 35
T101N
R51W

Sec 36
T101N
R51W

Sec 31
T101N
R50W

Sec 7
T100N
R51W

Sec 8
T100N
R51W

S
T
R

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/4, 20 16

RECEIVED OF Blue Haven Barn 46594 268th St Sioux Falls SD 57106

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

Fee for Application for Permit No. <u>8206-3</u> to Appropriate Water, to construct and to put water to beneficial use	100	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>8206-3</u>	200	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	300 00

No. **07775**

By James Hochman Jr.
Chief Engineer

Gronlund, Eric

From: Drywall and More Nelson <drywallandmore@hotmail.com>
Sent: Monday, March 07, 2016 6:57 PM
To: Gronlund, Eric
Subject: Fw: water permit application filed for irrigation

Eric,
Thanks for your speedy response to our application.
The pond is in place and it does intercept ground water. Where it is located is in an area with a pretty high water table. It would not be dependent on rain snow melt or run off. I do concur with your approach. Does a new application need to be filled out or can we change it on the existing one?

From: Amanda Nelson <info@bluehavenbarn.com>
Sent: Monday, March 7, 2016 3:06 PM
To: drywallandmore
Subject: Fwd: water permit application filed for irrigation

Amanda Masterson Nelson
Blue Haven Barn

Begin forwarded message:

From: "Gronlund, Eric" <Eric.Gronlund@state.sd.us>
Date: March 7, 2016 at 2:44:52 PM CST
To: "'info@bluehavenbarn.com'" <info@bluehavenbarn.com>
Subject: water permit application filed for irrigation

Mr. Nelson:

The Water Rights Program received your application to appropriate water for irrigation at Blue Haven Barn & Gardens.

The application states the source of water is "groundwater from pond". Is the pond in place and if so does it in fact intercept groundwater which maintains a fairly constant water level in the pond or will the pond fill primarily from snowmelt or run-off events?

Form 2A indicates the size of the pond to be 100 feet by 100 feet and 10 feet deep with a 50 foot island in the middle. We usually include the approximate storage capacity of the pond. The dimensions provided equates to 100,000 cubic feet if you assume a square box and didn't account for the island. Convert this to an acre foot of water volume capacity equals 2.3 acre-feet. For your information 1 acre foot of water is 325,828 gallons of water. My suggestion is for the application to state the storage capacity of the pond is approximately 3.0 acre feet of water. This is a very conservative capacity considering the pond is not a square box but instead will have side slopes and the island area. This

number also provides the ability to construct a little bigger than what is initially planned. Do you concur with this approach?

If the storage capacity of the pond is 2.3 acre feet of water and it does not intercept groundwater to maintain its water level, that size of pond would allow for applying about 8 inches of water on the requested 3.5 acres before being drawn down. The point is that grass turf will likely need more than 8 inches of water throughout the season and under that type of scenario the pond may not be a reliable source of water especially during dry years.

Let me know if you have questions.

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8206-3, Blue Haven Barn & Garden Inc.**

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. 8206-3, Blue Haven Barn & Garden, Inc., c/o Josh Nelson, 204 Park Drive, Lennox SD 57034.

The Chief Engineer is recommending APPROVAL of Application No. 8206-3 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 qualification:

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
April 12, 2016

**REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8206-3
BLUE HAVEN BARN & GARDEN INC.
MARCH 26, 2016**

Water Permit Application No. 8206-3 proposes to appropriate water from Quaternary age alluvium for the irrigation of 3.5 acres located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T101N-R51W. This application proposes to divert water at a maximum rate of 0.078 cubic feet of water per second (cfs) from a pond/dugout approximately 13 feet deep. The dugout, with a storage capacity of approximately 3 acre feet, is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T101N-R51W.

AQUIFER: Quaternary age alluvium (ALQ)

GEOLOGY AND AQUIFER CHARACTERISTICS:

On 24 March 2016, Josh Nelson of Blue Haven Barn & Garden Inc. was contacted via telephone regarding this proposed project. Mr. Nelson stated that the pond that is to be used as a diversion point for this project was constructed “approximately three months ago”. Nelson estimated the maximum depth of the pond is 13 feet, and it was reportedly excavated into sandy clay. Mr. Nelson indicated the pond readily filled with groundwater (i.e. overnight) and no runoff contributed to the fill. Mr. Nelson added that the only supplement to groundwater for the pond would be precipitation falling directly on the pond (Nelson).

There are no major surficial aquifers that have been identified in this area. However, “[l]ocally..., the till can contain thin, discontinuous sand and gravel lenses that can yield as much as 5 gal/min to wells” (Lindgren and Niehus, 1992). Approximately one mile west of the pond/dugout this application proposes to use, aquifer material 10 feet or greater in thickness was encountered from 0-50 feet below land surface (Tomhave, 2001). A test hole drilled by the SD Geological Survey approximately 0.85 miles north-northeast of this dugout did not encounter any outwash material (“Lithologic Logs Search”). Therefore, if an outwash lens is present, it appears to be limited in areal extent. The most likely source of groundwater to this dugout is Quaternary age alluvium. Alluvial sediments consisting of clay and silt, with minor amounts of sand and gravel have been deposited along various creeks and rivers since the retreat of the last glaciers. The alluvium is generally thin and restricted to the creek/river channels. The map of the first occurrence of aquifer materials in Minnehaha County (Tomhave, 2001), identified alluvium along a narrow area adjacent to the unnamed tributary to North Buffalo Creek, in the vicinity of the dugout the applicant proposes to use. A number of the monitoring wells installed in the vicinity of the Sioux Falls Landfill, approximately one mile west of this dugout, identify sand and silty sand (likely alluvium) in the upper portion of the borehole (Water Rights, 2016b). Alluvial deposits were not mapped more than approximately one-half mile south into Lincoln County (McCormick, 2007). However, the areal extent of the alluvium is difficult to assess given the scale of the first occurrence of aquifer materials maps (i.e. 1:100,000) and the lack of data points. Groundwater in the alluvium is under unconfined conditions, and flow in the alluvium likely is the same direction as the tributary (i.e. from southwest to northeast).

SOUTH DAKOTA CODIFIED LAW (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and existing rights from the aquifer.

WATER AVAILABILITY:

In this case, the Quaternary age alluvium along the unnamed tributary to North Buffalo Creek can be considered a catchment in which the relatively impervious glacial till underlies the alluvium that serves as a reservoir for infiltrated water. Water is supplied to the catchment through runoff from a drainage basin with an area of approximately 10,600 acres. The principle soil types of the drainage basin are Egan-Wentworth –Trent complex, Ethan-Egan complex, and Worthing silty clay loams (Soil Survey Staff). Based on the National Agricultural Statistics Service cropland data layer for 2014, (USDA, 2014) the drainage basin was primarily cropland with approximately 32% of the basin corn, 25% soybeans, and 16% hay and alfalfa. The remainder of the drainage basin was used for small grain crops, was idle cropland, developed or pasture.

Based on the SCS “Method A” for estimating annual surface yield (USDA) there is a 50% chance of occurrence of an annual yield (i.e. annual runoff) from the basin to be 794 acre-feet annually. Runoff in excess of the infiltration rate or storage capacity of the alluvium results in flow in the ephemeral tributary downstream of the catchment. Water is naturally discharged from the alluvium through groundwater flow down gradient and evapotranspiration. The inclusion of this 0.23 acre dugout into the alluvium will result in evaporation of approximately 0.7 acre-feet annually. Pursuant to South Dakota Codified Law (SDCL) 46-5-6, “the volume of water diverted for use may not exceed two acre-feet per acre”. Therefore, the maximum diversion that this permit would authorize would be seven acre-feet annually. Withdrawals from this dugout will capture water that otherwise would be lost due to evapotranspiration and groundwater outflow. In addition, pumping from the catchment, in theory, will actually create additional storage to allow infiltration of greater amounts of runoff. Therefore there is a reasonable probability that unappropriated groundwater is available for this appropriation.

REVIEW OF EXISTING RIGHTS:

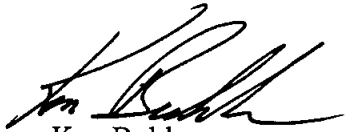
Water Right No. 5005-3, Wild Water West, authorizes three ponds with a total storage capacity of 4.5 acre-feet, approximately one-quarter mile north of the dugout that this application proposes as a water source. The Wild Water West ponds were originally constructed as retention/detention ponds. The inspection report for Water Right No. 5659-3, a subsequent appropriation dealing with the Wild Water West ponds, indicates that “Water to three ponds is supplied by surface runoff and shallow groundwater” (Johnston, 1992). The permit application indicated the dugouts would no longer be supplemented with well water (Water Rights, 2016b).

When considering the history of the ponds (i.e. originating as retention/detention ponds and later maintained with well water), it is unlikely that groundwater inflow to the ponds is significant. If the ponds are to be considered wells pursuant to SDCL 46-1-6 (18), they would not meet the definition of an “adequate well” pursuant to SD Well Construction Standard 74:02:04:20(6).

Groundwater seepage to the ponds would not be protected by water law. More importantly, since the alluvium is under unconfined conditions and Application No. 8026-3 is proposing a maximum diversion rate of only 0.078 cfs (approximately 35 gallons per minute), drawdown resulting from pumping from this dugout are not expected to be significant very far from the dugout.

CONCLUSIONS:

1. Permit Application No. 8206-3 proposes to appropriate water from Quaternary age alluvium for the irrigation of 3.5 acres.
2. If Permit No. 8206-3 is approved, the maximum annual diversion rate allowed for the irrigation of 3.5 acres is seven acre-feet per year.
3. The areal extent of the Quaternary aged alluvium has not been delineated.
4. There is a reasonable probability that unappropriated water is available from the Quaternary age alluvium in this area to satisfy this proposed appropriation.
5. There is a reasonable probability that approval of this permit will not cause an adverse impairment on existing water rights.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

Johnston, G.C., 1992, Report on Inspection of Permit Number 5659-3: SD DENR-Water Rights Program Water Right No. 5659-3,

Lindgren, R.L., and Niehus, C.A., 1992, Water Resources of Minnehaha County, South Dakota: U.S. Geological Survey Water-Resources Report 91-4101, 80 p.

"Lithologic Logs Search." *Lithologic Logs Search*. Web. 29 Mar. 2016.
<<http://www.cf.sddenr.net/lithdb>>.

McCormick, K.A., First Occurrence of Aquifer Materials in Lincoln County, South Dakota: S.D. Dept. Environment and Natural Resources Aquifer Materials Map 26, scale 1:100,000

Niehus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota: U. S. Geological Survey Water-Resources Report 93-4195, 57 p.

Nelson, Josh, Phone conversation. 24 Mar. 2016

Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Soil Survey Geographic (SSURGO) Database. Available online at <http://sdmdataaccess.nrcs.usda.gov/>. Accessed [03/28/2016]

Tomhave, D.W., 2001, First Occurrence of Aquifer Materials in Minnehaha County, South Dakota: S.D. Dept. Environment and Natural Resources Aquifer Materials Map 9, scale 1:100,000

USDA, Soil Conservation Service, South Dakota Engineering Field Manual for Conservation Practices, Chapter 2, EFM Notice-1, 969

USDA, 2014, USDA-NASS Cropland Data Layer: National Agricultural Statistics Service, Research and Development Division, Geospatial Information Branch, Spatial Analysis Research Section

Water Rights, 2016a, Water Right/Permit Data Base, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD

Water Rights, 2016b, Well Completion Report Data Base, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD

CUSTOMER NUMBER:	078200	Argus Leader	
AD ORDER NUMBER:	1197892		
	4/21, 2016	P.O. Box 677349, Dallas, TX 75267-7349	\$67.69

Blue Haven Barn & Gardens, Inc.
% Josh Nelson
204 Park Drive
Lennox, SD 57039

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APR 25 2016

WATER RIGHTS PROGRAM

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION

Customer Number: 078200
Invoice Number: 1197892

Argus Leader
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Linda Schulte being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

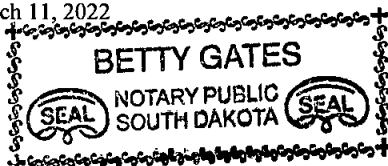
Thursday the 21 day of April 2016 ;
the day of 2016 ,
the day of 2016
the day of 2016 ,
the day of 2016 ,
the day of 2016 ,
the day of 2016 ,
the day of 2016 ,
the day of 2016 ,

and that \$67.69 was charged for publishing the same including a \$10.00 affidavit fee.

Linda Schulte
Subscribed and sworn to before me 4/21/2016

Betty Gates
Notary Public, South Dakota

My Commission expires March 11, 2022



NOTICE OF APPLICATION NO. 8206-3 to Appropriate Water

Notice is given that Blue Haven Barn & Gardens, Inc., c/o Josh Nelson, 204 Park Dr., Lennox SD 57039 has filed an application for a water permit to appropriate 0.078 cubic feet of water per second from a pond (approximate 3 acre foot storage capacity) constructed into Quaternary age alluvium located in the SE 1/4 SE 1/4 Section 36 for irrigation of 3.5 acres located in the SE 1/4 SE 1/4 Section 36; all in T101N-R51W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8206-3 with qualifications 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 with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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 2, 2016.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$67.69.

1197892 Apr. 21, 2016

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, April 13, 2016 8:05 AM
To: allegals@argusleader.com
Subject: 8206-3, Blue Haven Barn & Gardens Inc.

Attached is a notice to be published on April 21, 2016.

Blue Haven Barn & Gardens, Inc., c/o Josh Nelson, 204 Park Dr, Lennox SD 57039 (605 630-1795) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

April 12, 2016

Blue Haven Barn & Gardens Inc
Josh Nelson
204 Park Dr
Lennox SD 57039

Dear Mr. Nelson:

Water Permit Application No. 8206-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Argus Leader printed at Sioux Falls SD (Ph # 605-331-2200). You will need to contact the newspaper(s) 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. 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.

NOTICE OF APPLICATION NO. 8206-3 to Appropriate Water

Notice is given that Blue Haven Barn & Gardens, Inc., c/o Josh Nelson, 204 Park Dr., Lennox SD 57039 has filed an application for a water permit to appropriate 0.078 cubic feet of water per second from a pond (approximate 3 acre foot storage capacity) constructed into Quaternary age alluvium located in the SE 1/4 SE 1/4 Section 36 for irrigation of 3.5 acres located in the SE 1/4 SE 1/4 Section 36; all in T101N-R51W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8206-3 with qualifications 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 with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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 2, 2016.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of_____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

MAY 12 2016

Blue Haven Barn & Gardens Inc
Josh Nelson
204 Park Dr
Lennox SD 57039

Dear Mr. Nelson:

Enclosed is Water Permit No. 8206-3 authorizing construction of the 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,

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

enclosures



8206-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: BLUE HAVEN BARN & GARDENS INC, JOSH NELSON, 204 PARK DR, LENNOX, SD 57039

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8206-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8206-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8206-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 23, 2018

8206-3

Josh Nelson
Blue Haven Barn & Gardens Inc
204 Park Dr
Lennox SD 57039

Dear Mr. Nelson:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit No. 8206-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

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

8206-3



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 29, 2020

8206-3

Josh Nelson
Blue Haven Barn & Gardens Inc
46594 268th St
Sioux Falls SD 57106-6901

Dear Mr. Nelson:

Enclosed is a "Notice" dated October 23, 2020 concerning the 2020 irrigation questionnaire.

The notice was originally mailed to 204 Park Dr, Lennox SD. The post office notified us that your address has changed, and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Genny McMath".

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: BLUE HAVEN BARN & GARDENS INC, JOSH NELSON, 46594 268th ST, SIOUX FALLS, SD 57106 6901

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8206-3 & 8446-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8206-3 & 8446-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8206-3 & 8446-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LKLQHU**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

8206-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 31, 2022

8206-3
8446-3

Josh Nelson
Blue Haven Barn & Gardens
45594 268th St
Sioux Falls SD 57106-6901

Dear Mr. Nelson:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Permit Nos. 8206-3 & 8446-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

Dewell, Amanda

From: Dewell, Amanda
Sent: Friday, October 25, 2024 8:37 AM
To: info@bluehavenbarn.com
Subject: Attn: Leah Vail (Water Rights)
Attachments: Notice of Transfer of Ownership_8206-3.pdf; Notice of Transfer of Ownership_8446-3.pdf

Dear Ms. Vail:

Each year, the State of South Dakota sends out Water Management Irrigation Questionnaires to collect information based on annual water use from our state's waters.

This year we received word from one of the irrigator's that Permit Nos. [8206-3](#) & [8446-3](#), they'd previously reported, on had been sold to you. For your convenience I have attached partially completed "Transfer of Ownership" forms for you to complete and return via email. You may notice that the irrigated area is listed the same on both permits. This is due to the fact that the permits are from different water sources and one permit operates as a backup for the other.

Please call our Fiscal Office at 605.773.4216 to submit the transfer fee of \$100.00 (\$50/transfer).

Should you decide you wish to discontinue the irrigation, we would ask that you let us know.

If you have any questions or concerns, please give me a call. My direct number is 605.910.5187

Sincerely,

Amanda Dewell

DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



8206-3
PAID

NOV 01 2024

Ck# 2065

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 8206-3

Date: 10-29-24

I/We request that Water Right/Permit No. 8206-3 formerly owned by:
Blue Haven Barn & Gardens Inc, c/o Josh Nelson - Sioux Falls SD be transferred to:

New Owner Name:

BH b.a.r. LLC (Leah Vail)

Address:

46594 268th St

mobile: 605-261-6275

City, State, Zip

Sioux Falls SD 57106

email:

leahvail@yahoo.com

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

3.5 acres - SE 1/4 SE 1/4 Section 6, T101N, R51W

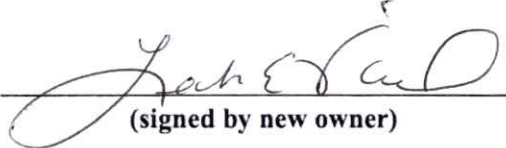


I understand that the validity of Water Right/Permit No. 8206-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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, Leah Vail, 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, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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 Agriculture and Natural Resources

Date November 5th, 2024

RECEIVED OF BH b.a.r. LLC 46594 268th St Sioux Falls SD 57106

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>8206-3</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By Eric Grunlund
Chief Engineer

SK



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

November 5, 2024

8206-3
8446-3

BH b.a.r. LLC
c/o Leah Vail
46594 268th St
Sioux Falls SD 57106

Dear Ms. Vail:

I have received your "Notice of Transfer of Ownership" forms and the required fees. Enclosed are copies of the original permits and receipts of payment for your records.

Water Permit No. 8206-3 previously held by Blue Haven Barn & Garden Inc, and Water Permit No. 8446-3 previously held by Blue Barn LLC, are now both listed under BH b.a.r. LLC. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the water permits, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the permits will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

NOTE: The validity of Water Permit Nos. 8206-3 & 8446-3 have not been determined by these transfer actions. Only the Water Management Board has the authority to determine if a water permit/right is valid.

enclosures