

WATER PERMIT NO. 8301-3

Name of Applicant: **Fox Run RE LLC**

Address: **PO Box 188, Pipestone MN 56164**

Phone: **507 825-4211**

Amount of Water Claimed: **0.11 (61 AF)**

Total Acres: **NA**

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

Water to be used for: **commercial**

County: **Turner**

Type of Waste Disposal System:

Location: **4 miles east and 1 mile north of Parker**

PRIORITY

Date Received: **7-24-17**

Application/License Fee: **\$ 700**

Corrected Application Received:

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

Remarks: **Swine facility**

Diversion Point: **SW 1/4 SW 1/4 Sec 6-T99N-
R52W**

Facility location: **SW 1/4 SW 1/4 Sec 6-T99N-
R52W**

Depth of Well: **484 feet deep**

Well Driller: **Dave Putzke Well Drilling**

Remarks:

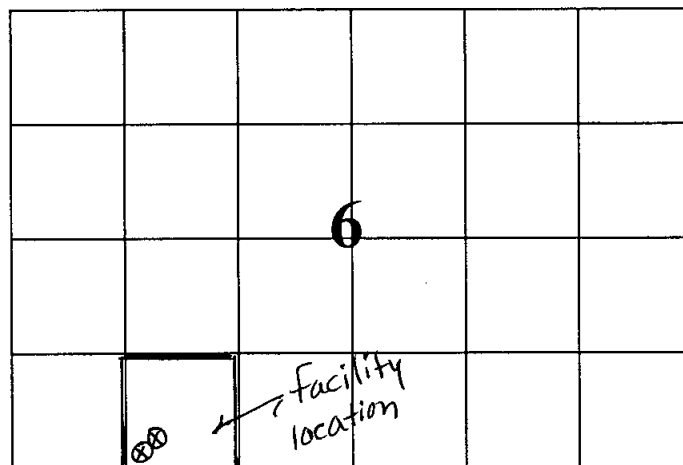
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **7-24-17**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8301-3</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion R</u>
	Newspaper <u>New Era, Parker</u>
	<u>Argus Leader, Sioux Falls</u>

RECEIVED
JUL 24 2017
WATER RIGHTS
PROGRAM

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

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ 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 to Appear on Water Permit Fox Run RE, LLC

Mailing Address PO Box 188 Pipestone MN 56164-0188
(Address) (City) (State) (Zip Code)

Phone (507) 825-4211 Mobile _____ Email luke.minion@pipestone.com

2. Amount of water claimed 0.11 *CFS or 50 **GPM and 61 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply _____

4. Location of point of diversion 2 wells in SW of SW 1/4, 6-99-52 County Turner

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? _____

(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Turner

6. Annual period during which water is to be used January 1 thru December 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)

Existing 7,656 head swine production facility. One existing well (10gpm) and one new well (40gpm).

I, Marty Reix, 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. 8301-3

Date of first receipt of application July 24, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8301-3 to Fox Run RE, LLC, c/o Marty Rost, PO Box 188, Pipestone MN 56164 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. 8301-3 appropriates 61 acre-feet of water annually at a maximum diversion rate of 0.11 cubic feet of water per second from two wells (one existing and one new well) completed into the Sioux Quartzite Aquifer (approximately 484 feet deep) located in the SW 1/4 SW 1/4 Section 6 for commercial use in a swine facility located in the SW 1/4 SW 1/4 Section 6; all in T99N-R52W located 4 miles east and 1 mile north of Parker SD.
2. The water appropriated shall be used for the purpose of commercial use 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. 8301-3 is October 16, 2017.
5. The date from which applicant may claim right is July 24, 2017.
6. One-fifth of the construction is to be completed on or before April 16, 2020.
7. All construction is to be completed on or before October 16, 2022.
8. Water is to be put to beneficial use on or before October 16, 2026.
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 Water Permit No. 8301-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8301-3 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. Water Permit No. 8301-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:

(continued)

- 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
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Sioux Quartzite aquifer.
 5. Water Permit No. 8301-3 authorizes a total annual diversion of 61.0 acre feet of water.

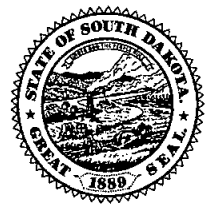
WATER MANAGEMENT BOARD

By: *Jeanne Goodman*
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 20 2017
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 1 Have test holes been drilled ☒ Yes ☐ No Drilled by Dave Putzke Well Drilling
(if yes, please provide copies of logs)b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by ?

For either Existing or Proposed Wells:

c) Well Depth (required) 484 Depth to Top of Water Bearing Material 81 Depth to Water from Surface 47d) Distance to nearest domestic well on applicant's property N/A Property owned by others unknown**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 (e.g. 3 to 1 is a typical slope)

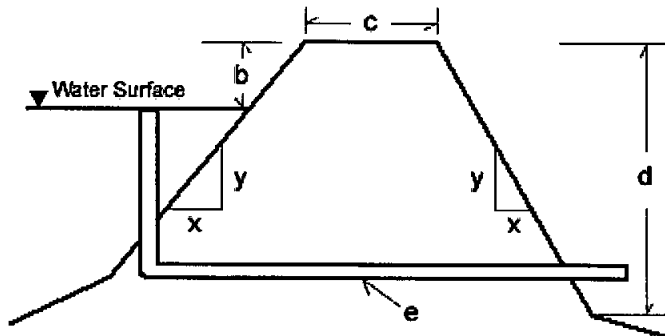
Upstream _____

Downstream _____

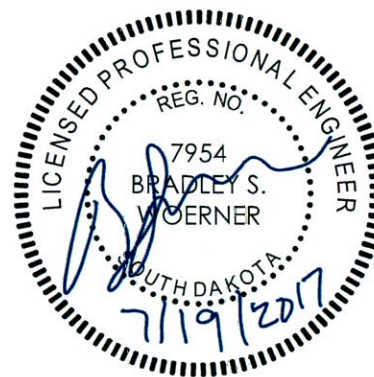
h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

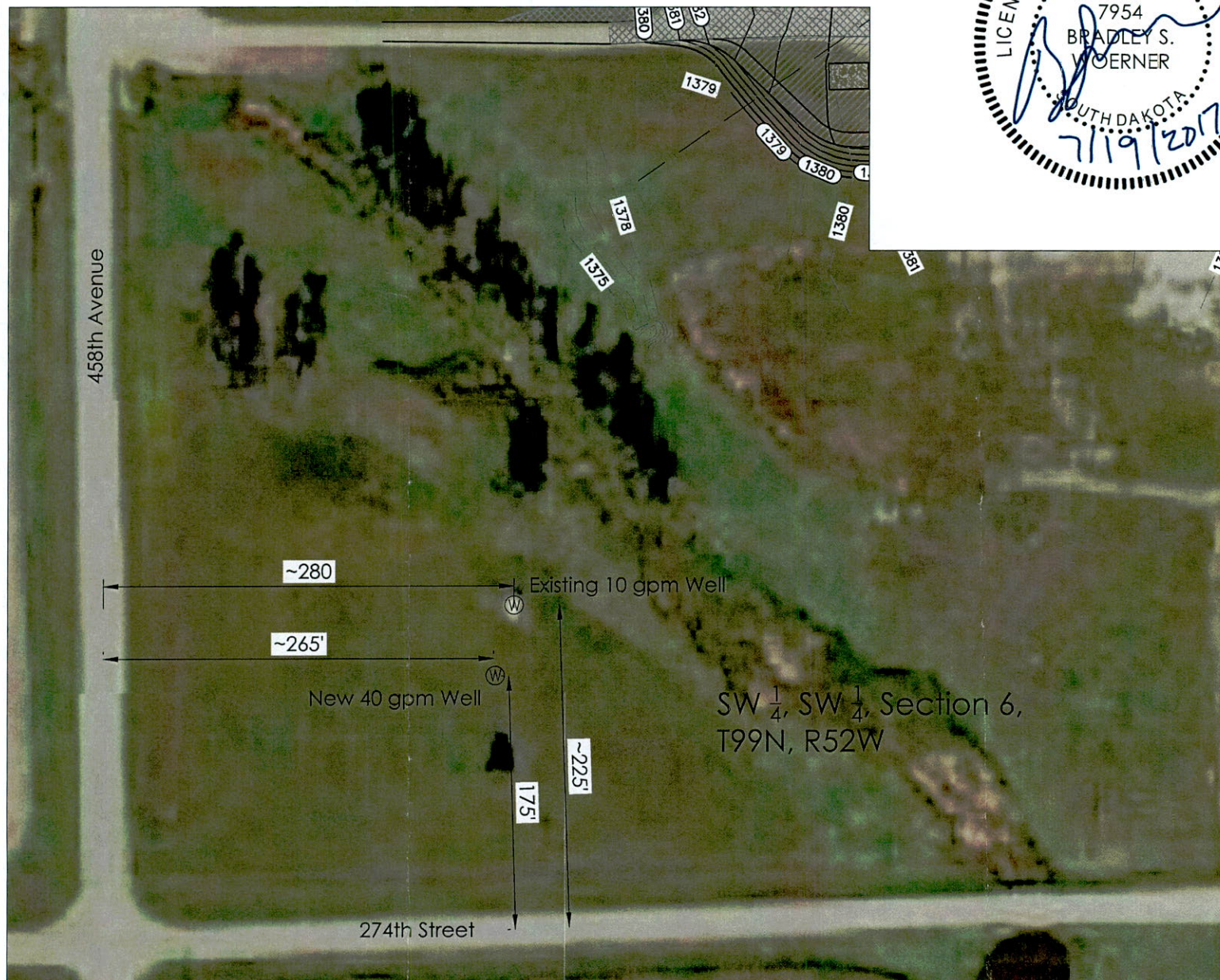
j) Drainage Area Above Dam _____ Acres



1" = 200'



STOCKWELL ENGINEERS, INC.
215 WALNUT ST.
YANKTON, SD 57078
PH: 605.665.8092
FAX: 605.665.0523



Fox Run RE, LLC
PO Box 188
Pipestone, MN 56164

REVISION SCHEDULE
ISSUE/REVISION DATE

SEI PROJECT #: 16247

WELL

Sec 36
T100N
R53W

Sec 31
T100N
R52W

Sec 32
T100N
R52W

Sec 1
T099N
R53W

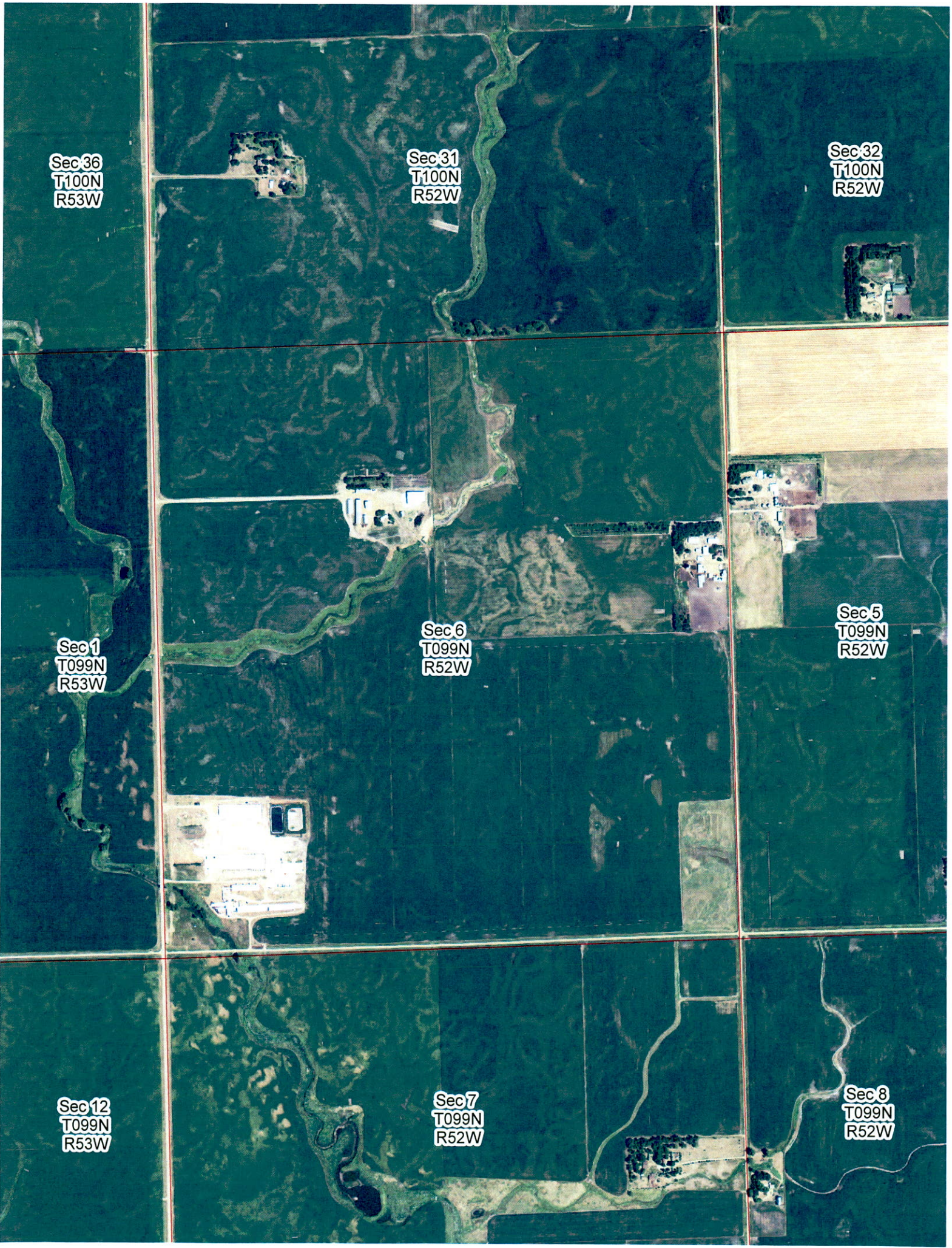
Sec 6
T099N
R52W

Sec 5
T099N
R52W

Sec 12
T099N
R53W

Sec 7
T099N
R52W

Sec 8
T099N
R52W



SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 Sec 6 Twp 99N Rg 52W

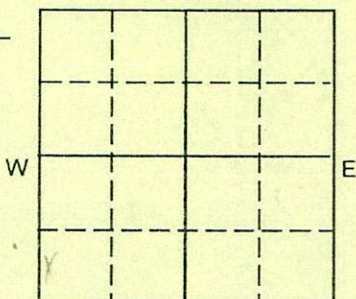
Well Owner: _____

County

North

Turner

Please mark well location with an "X"



Well completion Date

6-19-17

1 Mile

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

? 750 ft. from Hogs-Fed lot (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>19.18 LB/FT</u>	<u>6 IN</u>	<u>0 FT</u>	<u>82 FT</u>	<u>10 IN</u>
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
		Lb/gal	Ft	Ft
		Lb/gal	Ft	Ft

Describe grouting procedure 13 yds of Slurry Pump w/ Drilling Rig

SCREEN:

☐ Perforated pipe
☐ Manufactured
 Diameter _____ Inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ 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? 5 gallons of chlorine Pumped
☐ No, Why Not? _____
 Lab sample sent to for water quality analysis _____

Business Name: Pipestone System

Address: P.O. Box 370

City, State, Zip: Pipestone, MN 56164

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Top Soil</u>	<u>0</u>	<u>2</u>
<u>Yellow clay</u>	<u>2</u>	<u>41</u>
<u>Blue clay</u>	<u>41</u>	<u>81</u>
<u>Granite</u>	<u>81</u>	<u>82</u>
<u>Granite</u>	<u>82</u>	<u>484'</u>

STATIC WATER LEVEL

47

FEET

If flowing: closed in pressure _____

PSI

GPM flow _____

through _____

Inch pipe

Controlled by ☐ Valve

☐ Reducers

☐ Other _____

Reduced flow rate _____

GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: AIR

☐ Bailed

☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____

Hrs. pumped _____

GPM

_____ Ft. After _____

Hrs. pumped _____

GPM

If pump installed, pump rate: _____

GPM

REMARKS

50 gpm At 220'

This well was drilled under license # 439

And this report is true and accurate.

Drilling firm: Dave Putzke well Drilling & repair, INC

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

Please return **WHITE COPY** to: DENR Water Rights

523 E Capitol Ave. Pierre SD 57501

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 24, 2017

RECEIVED OF Fox Run, LLC PO Box 370 Pipestone, MN 56164

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

Fee for Application for Permit No. <u>83013</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>83013</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	700 00

No. **08311**

By Jeanner Goodman
Chief Engineer

vm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8301-3, Fox Run LLC**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8301-3, Fox Run LLC, c/o Marty Rost, PO Box 188, Pipestone MN 56164.

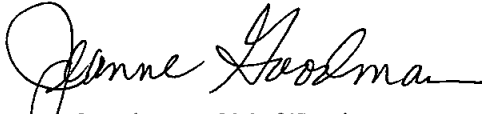
The Chief Engineer is recommending APPROVAL of Application No. 8301-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and, 4) it is in the public interest with the following qualifications:

1. The wells approved under Water Permit No. 8301-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8301-3 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. Water Permit No. 8301-3 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

(continued)

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Sioux Quartzite aquifer.
5. Water Permit No. 8301-3 authorizes a total annual diversion of 61.0 acre feet of water.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" written in a larger, more prominent script than the last name "Goodman".

Jeanne Goodman, Chief Engineer
September 25, 2017

Report to the Chief Engineer
Water Permit Application No. 8301-3
Fox Run RE LLC
September 12, 2017

Water Permit Application No. 8301-3 for Fox Run RE LLC c/o Marty Rost proposes to appropriate 61 acre-feet of water annually at a maximum diversion rate of 0.11 cubic feet per second (cfs) from the Sioux Quartzite aquifer. The diversion points for this application are one existing well and one proposed well located in the SW ¼ SW ¼ Section 6 T99N-R52W. The water is for commercial use in a swine confinement facility located in the SW ¼ SW ¼ Section 6 T99N-R52W in Turner County located approximately four miles east and one mile north of Parker.

Aquifer: Sioux Quartzite (SOUX)

Hydrogeology and Aquifer Characteristics

The well completion report for the existing well lists the well as completed into “granite.” Given the location and geology of the area this “granite” is interpreted as the Sioux Quartzite (McCormick, 2010 and Tomhave and Schulz, 2004); Baldwin (1949) noted the Sioux Quartzite is sometimes locally referred to as the “Sioux Falls granite.” The well completion report submitted with this application indicates that this well was completed into Sioux Quartzite encountered from 81 to 484 feet below grade. The reported static water level at well completion (6/19/17) was 47 feet below grade. This indicates the aquifer is under confined conditions in the area of the well sites.

The Sioux Quartzite is a Precambrian age ortho-quartzite, a sedimentary formation that consists of primarily pink and red colored quartz sand cemented into a nonporous quartzite by silica (Baldwin, 1949). The Sioux Quartzite extends over a regional scale underlying portions of southeastern South Dakota, southwestern Minnesota, and northwestern Iowa (Tomhave, 1994). Mapping of the Precambrian surface by McCormick (2010) indicates that depth to the Sioux Quartzite can change over a short distance. This rugged and craggy upper surface is likely the product of pre-glacial streams that incised irregular valleys on the quartzite surface (Baldwin, 1949).

The primary porosity of the Sioux Quartzite is generally extremely low, except in areas where the silica cement is not present due to either weathering or non-deposition (Baldwin, 1949). In areas where conditions are favorable, water can be transmitted through the Quartzite through secondary porosity and permeability features (i.e. fractures and joints) resulting in areas where the Quartzite can be considered an aquifer. Aquifer characteristics within the Sioux Quartzite are site specific and highly variable due to the unpredictable nature of the fractures and joints in the aquifer.

Estimates of the maximum thickness of the Sioux Quartzite vary from 3,000 feet (Baldwin, 1949) to less than 1,000 feet (Gries, 1983). However, wells for water supply typically only penetrate the Sioux Quartzite to a depth of 200 feet or less (Buhler, 2017). In Turner County, the Sioux Quartzite can be directly overlain by either Sioux Quartzite Wash, the Carlile Shale, the Niobrara Formation, undifferentiated Cretaceous-age material, the Dakota Formation, and glacial material (both outwash and till) (SDGS, 2017; Tomhave and Schulz, 2004; and Jensen, 2015). In Turner County, Lindgren and Hansen (1990) note the Sioux Quartzite as a minor aquifer. The Sioux Quartzite is likely hydraulically connected to overlying aquifers in direct contact with the quartzite to some extent. However the extent of any hydraulic connections between the quartzite and other aquifers in Turner County likely varies by locality and are not well understood due to the lack of a detailed hydrogeologic study of the Sioux Quartzite in Turner County.

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 a reasonable probability there is unappropriated water available for the applicant's proposed use, the proposed diversion can be developed without unlawful impairment of existing rights, and the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and potential effects on existing rights from the aquifer that are pertinent to this application.

Water Availability

The probability of unappropriated water being available from the Sioux Quartzite aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems." Additionally, pursuant to SDCL 46-1-6 (17) a water distribution system is defined as "a system of piping, valves, storage tanks, pumps, and appurtenances by which water is conveyed for domestic or municipal use by a common distribution system, including a municipality as defined in § 9-1-1, a nonprofit rural water supply company as defined in § 10-36A-1, a water user district as defined in § 46A-9-2, a sanitary district as defined in chapter 34A-5, or homes, including mobile homes as defined in § 32-3-1, and manufactured homes as defined in § 34-34A-1.1 supplied by a common distribution system." Here, the Sioux Quartzite aquifer is older than the Greenhorn Formation. However, a water distribution system is not involved, so water availability in the aquifer will need to be considered.

Hydraulic Budget

Discharge from the Sioux Quartzite is from well withdrawals and leakage to hydraulically connected aquifers where the potentiometric gradients are favorable (a higher water level in the quartzite than in an overlying hydraulically connected aquifer would indicate potential for upward leakage). There are currently 59 water rights/permits authorized to appropriate water from the Sioux Quartzite of which 51 are for non-irrigation use (Water Rights, 2017b). There are also two water permit applications for the Sioux Quartzite that are in the final stages of the application process for Farmers Pork. The amount of water withdrawn by domestic uses are not considered a significant portion of the hydraulic budget of the aquifer due to the relatively low diversion rate of domestic wells; additionally with the development of rural water systems in the area many domestic wells may no longer be in use.

For water rights/permits limited to an annual volume, full use of that volume is assumed for estimation of average annual withdrawal. Water rights/permits in the aquifer limited to an annual volume total to 92.03 acre-feet per year. The two applications, if approved, would be both limited by annual volumes which total 100.8 acre-feet per year. There are five water rights for mine dewatering and quarrying activities with diversion rates totaling 20.5 cfs; water usage for these water rights is estimated to be less than 100% utilization resulting in an estimate average annual use of less than 14,864 acre-feet per year. Of this amount, a single appropriation (Water Right No. 5400-3 for LG Everest Inc.) is for 12.25 cfs for quarry dewatering; reported water use under Water Right No. 5400-3 from 2003 to 2016 has annually averaged about 23% of the maximum authorized diversion rate (Water Rights, 2004-2017). Spencer Quarries Inc. holds water rights totaling 4.9 cfs for quarry dewatering; reported water use for Spencer Quarries from 2003 to 2016 has annually averaged about 50% of the maximum authorized diversion rate (Water Rights, 2004-2017).

Historically, average water use by non-irrigation appropriations limited by instantaneous diversion rate has been less than 60% of full time pumping at the permitted diversion rate. Of the municipalities that have water rights for the Sioux Quartzite, the majority have connected to rural water systems (Kilts, 2017) and do not use much or any water from their wells. The remaining non-irrigation water rights/permits after those previously discussed that authorize withdrawals by diversion rate have a total instantaneous diversion rate of 6.15 cfs, this results in an estimated average annual use of less than 2,672 acre-feet per year. This results in an estimated average annual non-irrigation use of less than 17,730 acre-feet per year.

There are eight water rights/permits appropriating water from the Sioux Quartzite for irrigation use. These water rights/permits and their average reported irrigation use is summarized in Table 1. Water Right Nos. 6451-3 and 6553-3 do not have a qualification for reporting annual irrigation use (Water Rights, 2017b). Average annual irrigation use by Water Right Nos. 6451-3 and 6553-3 is estimated to be less than their permitted limitations of two acre feet annually per acre, especially in the case of Water Right No. 6451-3, which is qualified for use only when water restrictions for the City of Sioux Falls are implemented. Authorizing a total of seven acres for irrigation the average annual withdrawal for Water Right Nos. 6451-3 and 6553-3 is

estimated at less than 14 acre-feet per year. This results in an estimated average annual irrigation use of less than 300 acre-feet per year.

Table 1: Irrigation Water Rights/Permits from the Sioux Quartzite (Water Rights, 1991-2017)

Permit No.	Status	Acres	Average Reported Use (acre-feet)	Years of Constructed System Data
5365-3	LC	1.5	1.21	6 (1990-1995)
6195-3	LC	61	91.62	17
6451-3	LC	3	no data	not reporting
6553-3	LC	4	no data	not reporting
6618-3	LC	71	76.75	11
6910-3	LC	80	6.58	7
7805-3	LC	8	4.44	4
7415-3	PE	34	104	4
Total		262.5	284.6	
LC-license, PE-permit				

Recharge to the Sioux Quartzite is from infiltration of precipitation where the Sioux Quartzite is at or near land surface or from hydraulically connected aquifers where the potentiometric gradients are favorable (a lower water level in the quartzite than in an overlying hydraulically connected aquifer would indicate potential for downward leakage) (Lindgren and Niehus, 1992). Recharge to the Sioux Quartzite has not been quantified. Therefore, data is not available to quantitatively compare the estimated average annual recharge to estimated average annual withdrawal in the aquifer.

A qualitative examination of average annual recharge with average annual withdrawals from the aquifer can be accomplished by considering water level trends in the aquifer. The Water Rights Program does not monitor any observation wells completed into the Sioux Quartzite aquifer (Water Rights, 2017a), so the availability of historical water level data is limited. Some insight into historic water levels can be gained by reviewing the well completion reports on file with the Water Rights Program, however evaluating historic water levels using domestic well data is more subjective than the use of dedicated observation wells because of the additional interpretations necessary (i.e. well locations/elevations, groundwater gradients, lack of well completed into the aquifer, and seasonal and climatic water level fluctuations).

Data from Lindgren and Niehus (1992) indicates water levels in the Sioux Quartzite show a correlation with long-term precipitation trends. Water levels that follow long-term precipitation trends typically undergo cyclic conditions, rising during wet years and declining during dry years. Available information indicates the aquifer appears to behave similarly in this area (Water Rights, 2017c). A review of area well completion reports on file with the Water Rights Program (Water Rights, 2017c) indicates water levels in the Sioux Quartzite in this area have historically been relatively stable with some fluctuations due to climatic conditions. If water levels in an aquifer decline over time, it maybe suggestive of withdrawal exceeding recharge. Since available water level information is indicating relatively stable water levels in the area, this indicates that withdrawals from the aquifer have not exceeded recharge. Since recharge to and groundwater

outflow from an aquifer can be captured for well withdrawals, the annual appropriation proposed by this application are not expected to cause the withdrawals from the Sioux Quartzite aquifer to exceed the average annual recharge to the aquifer.

Existing Users

Water rights/permits currently authorized to appropriate water for the Sioux Quartzite are shown in Figure 1 and summarized in Table 2. The nearest water right/permit authorized to appropriate water for the Sioux Quartzite is Water Right No. 6255-3 held by Turner County Dairy. Water Right No. 6225-3 is for 0.156 cfs from one well completed into the Sioux Quartzite. The only domestic/stock well on file with the Water Rights Program completed into the Sioux Quartzite within one mile of the well sites for this application is reported as being located about 0.7 miles northeast (Water Rights, 2017c). However, there are other farm sites within one mile that could potentially have wells completed into the Sioux Quartzite.

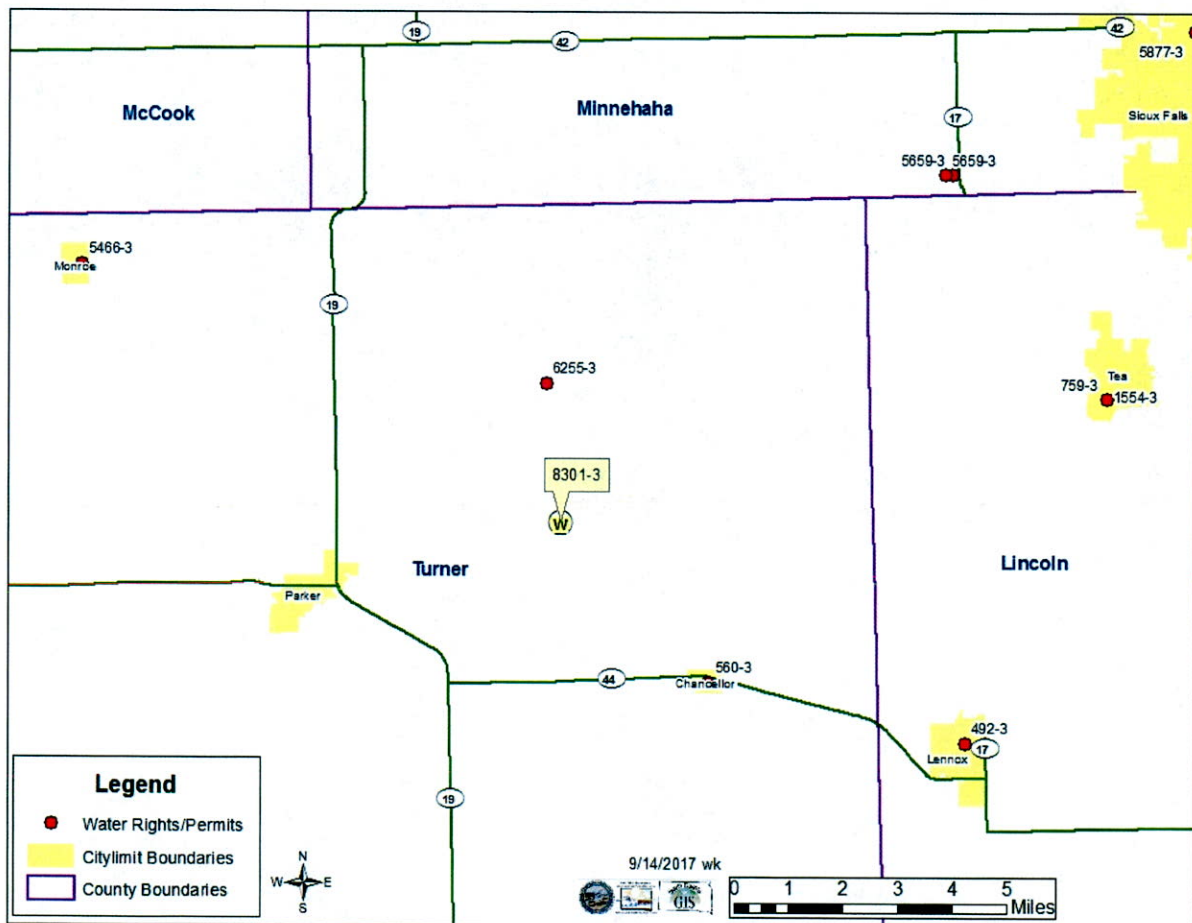


Figure 1: Water rights/permits currently authorized to appropriate water from the Sioux Quartzite (Water Rights, 2017b)

Table 2: Summary of Water Rights shown in Figure 1 (Water Rights,2017b)

Permit No.	Name	Status	Use	Rate (cfs)
492-3	City of Lennox	LC	MUN	0.22
560-3	Town of Chancellor	LC	MUN	0.11
759-3	Town of Tea	LC	MUN	0.07
1554-3	Town of Tea	LC	MUN	0.09
4936-3	Casa Del Rosa Water Inc.	LC	SHD	0.033
5466-3	Town of Monroe	LC	MUN	0.17
5659-3	Wild Water West Waterpark	LC	COM	0.22
5877-3	Dale G. Olson	LC	COM	0.022
6255-3	Turner County Dairy LLP	LC	COM/LCO	0.067

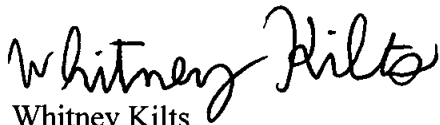
LC- licensed, MUN- municipal, SHD- suburban housing development, COM- commercial, LCO- livestock confinement operation

Administrative Rule of South Dakota (ARSD) 74:02:04:20(7) defines an adversely impacted domestic well as “a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.” While in most aquifers 20 feet is an adequate depth of water for prior users and domestic wells, in the Sioux Quartzite 20 feet below the top of the aquifer is seldom a sufficient depth for a well to be a dependable water supply. To further complicate the consideration of adverse impact in the Sioux Quartzite, maximum drawdown that could result from pumping a large capacity well is limited by well depth rather than aquifer thickness. So provided that a well is adequate as defined by ARSD 74:02:04:20(6), the assessment of well interference being an adverse impact would also have to consider well depth.

Minimum well depth is not regulated, however ARSD 74:02:04:60 specifies requirements for the installation of pumps in wells. The rule requires that the depth of the pump placement be determined by dividing the specific capacity of the well into the required yield and adding at least 10 additional feet. Therefore, the minimum depth of the pump placement as determined by ARSD 74:02:04:60 could be used as a quasi-minimum well depth standard. If well depth allowed for pump placement per ARSD 74:02:04:60 and well interference requires the well be deepened, that interference could be considered an adverse impact. However, if the affected well is not deep enough to allow compliance with the requirements of ARSD 74:02:04:60, interference that would require deepening of the well would not be considered an adverse impact. Additionally, the use of the pump placement standard does not fix the pump placement to the static water level or the specific capacity of the well at the time of construction. Instead the pump setting and well depth would need to allow for climatic fluctuations of the static water level and/or a change in specific capacity of the well. Ultimately, given the distances involved and the relatively low diversion rates requested by this application, any well interference experienced by existing wells as a result of pumping under this application, if approved, is not expected to be adverse.

Conclusions

1. Water Permit Application No. 8301-3 for Fox Run RE LLC c/o Marty Rost proposes to appropriate 61 acre-feet of water annually at a maximum diversion rate of 0.11 cfs from two wells completed into the Sioux Quartzite aquifer located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6 T99N-R52W for commercial use in a swine confinement facility.
2. Available information indicates that in the area of the well sites for these applications the Sioux Quartzite is a viable aquifer.
3. Average annual recharge to the Sioux Quartzite in South Dakota has not been quantified; however since recharge to and groundwater outflow from an aquifer can be captured for well withdrawals the appropriations proposed by this application are not expected to cause the withdrawals from the Sioux Quartzite aquifer to exceed the average annual recharge to the aquifer.
4. The Water Rights Program does not monitor any observation wells completed into the Sioux Quartzite.
5. Potential for unlawful impairment in the Sioux Quartzite would need to be assessed pursuant to both ARSD 74:02:04:20(7) and ARSD 74:02:04:60.
6. Available information indicates that any well interference as a result of this application, if approved, is not expected to be adverse.


Whitney Kilts
Water Rights Program

References

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Water Rights. 2017a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2017b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2017c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

CUSTOMER NUMBER:	6054283374MINN	Argus Leader P.O. Box 677349, Dallas, TX 75267-7349
INVOICE NUMBER:	2432761	
RUN DATES:	10/6, 2017	
		AMOUNT DUE: \$68.91 pd.

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OCT 10 2017
WATER RIGHTS PROGRAM

MINNEHAHA COM. WATER CORP
47381 248TH ST.
DELL RAPIDS, SD 57022

AFFIDAVIT OF PUBLICATION-

Customer Number: 6054283374MINN
Invoice Number: 2432761

Argus Leader
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Sara Kruse 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 17-2-2.1, 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

____ Friday, the 6 day of October 2017,
____, the ____ day of ____ 2017,
____, the ____ day of ____ 2017,
____, the ____ day of ____ 2017,
____, the ____ day of ____ 2017,
____, the ____ day of ____ 2017,
____, the ____ day of ____ 2017,

and that \$68.91 pd. was charged for publishing the same

Sara Kruse

Subscribed and sworn to before me 10/6/17

Betty Gates
Notary Public, South Dakota

My Commission expires March 11, 2022

NOTICE OF APPLICATION NO. 8301-3 to Appropriate Water

Notice is given that Fox Run RE LLC, c/o Marty Rost, PO Box 188, Pipestone MN 56164 has filed an application for a water permit to appropriate 61 acre-feet annually at a maximum diversion rate of 0.11 cubic feet of water per second from two wells (one existing and one new well) completed in the Sioux Quartzite Aquifer (approximately 484 feet deep) located in the SW 1/4 SW 1/4 Section 6 for commercial use in a swine facility located in the SW 1/4 SW 1/4 Section 6; all in T99N-R52W located 4 miles east and 1 mile north of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8301-3 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.

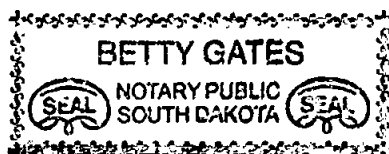
Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer.

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 October 16, 2017.

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 \$68.91.
2432761 Oct. 6, 2017



RECEIVED

OCT 10 2017

**WATER RIGHTS
PROGRAM**

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Turner) SS

I, Dawn Rye

certify that the attached printed Notice was taken

from the The New Era,
New Century Press Publisher

printed and published in The New Era

County of Turner and

state of South Dakota. The notice was published

in the newspaper on the following date:

Thursday, Oct. 5th 2017

Cost of Printing \$ 35.58

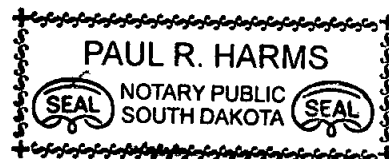
(Signature)

Office Manager
(Title)

10/5/17
(Date Signed)

October 5th 2017

Paul R Hamy



**Notice of application NO.
8301-3 to Appropriate Water**
Notice is given that Fox Run RE
LLC, c/o Marty Rost, PO Box 188,
Pipestone MN 56164 has filed an
application for a water permit to
appropriate 61 acre-feet annually

at a maximum diversion rate of
0.11 cubic feet of water per sec-
ond from two wells (one existing
and one new well) completed into
the Sioux Quartzite Aquifer (ap-
proximately 484 feet deep) locat-
ed in the SW 1/4 SW 1/4 Section
6 for commercial use in a swine
facility located in the SW 1/4 SW
1/4 Section 6; all in T99N-R52W
located 4 miles east and 1 mile
north of Parker SD.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends AP-
PROVAL of Application No. 8301-3
with qualifications because 1) un-
appropriated water is available, 2)
existing rights will not be unlaw-
fully impaired, 3) it is a beneficial
use of water, and 4) it is in the pub-
lic interest. The Chief Engineer's
recommendation with qualifica-
tions, the application, and staff
report are available at [http://
denr.sd.gov/public](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 op-
posing or supporting this appli-
cation 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 En-
gineer'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
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son or the applicant must be filed
by October 16, 2017.

The petition may be informal,
but must include a statement de-
scribing the petitioner's interest
in the application, the petitioner's
reasons for opposing or sup-
porting 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 op-
pose the application is received,
the Chief Engineer shall act on
the application pursuant to the
recommendation with no hearing
held before the Water Manage-
ment Board. If a petition oppos-
ing 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, De-
partment of Environment and
Natural Resources.

Published once at the total ap-
proximate cost of \$35.58
(N1005-2)

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 26, 2017 8:53 AM
To: allegals@argusleader.com
Subject: 8301-3, Fox Run RE LLC
Attachments: 8301-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on October 5, 2017.

Fox Run RE LLC, c/o Marty Rost, PO Box 188, Pipestone MN 56164 (507 825-4211) 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 to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 26, 2017 8:53 AM
To: sebeling@ncppub.com
Subject: 8301-3, Fox Run RE LLC
Attachments: 8301-3public.short.docx; FORM8.FRM.doc

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

Karen Schlaak

SD DENR, Water Rights Program
(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.**

September 26, 2017

Fox Run RE LLC
c/o Marty Rost
PO Box 188
Pipestone MN 56164

Dear Mr. Rost:

Water Permit Application No. 8301-3 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 New Era printed at Parker SD (Ph # 605-297-4419) and 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. 8301-3 to Appropriate Water

Notice is given that Fox Run RE LLC, c/o Marty Rost, PO Box 188, Pipestone MN 56164 has filed an application for a water permit to appropriate 61 acre-feet annually at a maximum diversion rate of 0.11 cubic feet of water per second from two wells (one existing and one new well) completed into the Sioux Quartzite Aquifer (approximately 484 feet deep) located in the SW 1/4 SW 1/4 Section 6 for commercial use in a swine facility located in the SW 1/4 SW 1/4 Section 6; all in T99N-R52W located 4 miles east and 1 mile north of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8301-3 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 October 16, 2017.

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

OCT 20 2017

Fox Run RE LLC
c/o Marty Rost
PO Box 188
Pipestone MN 56164

Dear Mr. Rost:

Enclosed is Water Permit No. 8301-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

A 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 information 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

8301-3
RECEIVED

OCT 04 2018

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date _____

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Fox Run RE, LLC
(name)P.O. Box 188
(address)Pipestone, MN 56164
(city, state, zip)507 825 4211
(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. 8301-3 states that the water use system is to be constructed by

10/16/22, and water is to be put to beneficial use by 10/16/26
(date) (date)

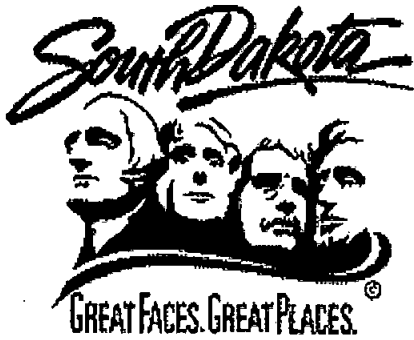
The water use system was completed on 9/1/17
(date)

Applying the water to beneficial use was completed on 10/1/17
(date)

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

[Signature]
(signature)





8301-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 5, 2018

Barry Kerkaert
PO Box 188
Pipestone MN 56164-0188

Dear Mr. Kerkaert:

I am writing to acknowledge receipt of the "Notice of Completion of Works" forms you sent in for the following permits:

Nos. 8289-3 & 8290-3: Farmers Pork – McCook County
No. 8291-3: Jackrabbit Family Farms – Davison County
No. 8301-3: Fox Run RE, LLC – Turner County
No. 8333-3: Liberty Farms LLC – Beadle County

The systems are 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 completion of the projects and the staff inspection has no bearing on the water permits.

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,

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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8301-3

I have this day, October 23, 2024, made a thorough examination of the water use system constructed by Fox Run RE LLC, PO Box 188, Pipestone, MN 56164 of Permit No. 8301-3, bearing the priority of July 24, 2017 authorizing the diversion of 0.11 cu. ft. per second of the waters of the Sioux Quartzite Aquifer for commercial swine facility purposes, in Turner County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Putzke Well Drilling
- 2) No. of Wells 2 (1 New - Main & 1 Existing - Secondary)
- 3) Depth(s) 484 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 6 inches
- 2) Length 82 feet
- 3) Type steel

Screen:

- 1) Type None
- 2) Length NA feet
- 3) Static water level 47 feet

Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity Main – 30 & Secondary - 5 GPM

Motor:

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

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

- 1) Type PVC
- 2) Size Unknown inches
- 3) Length 600 feet

Comments: **xx**

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: WELL LOCATIONS
2. Main Well: 155 ft N & 235 ft E from the SW corner Sec 6, T99N, R52W (SW ¼ SW ¼), Lat 43.41700 Long -97.04192
Secondary Well: 920 ft N & 1000 ft E from the SW corner Sec 6, T99N, R52W (SW ¼ SW ¼), Lat 43.41910 Long -97.03898
3. The works are capable of diverting and conveying to the place of use 56.45 acre-feet of water annually at a rate of 0.078 cu. ft. per second of water which is to be used for commercial swine production.

The license should be issued for 56.45 acre-feet of water annually at a rate of 0.078 cfs.

4. All structures, wells and lands on map Y

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

FSA maps and the ArcGIS program were used to construct the attached map.

The address in the permit materials is current.

Marty Rost (507-215-0482) is the contact person for the permit.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: October 23, 2024



0 385 770 1,540 2,310 3,080 Feet



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

APR 07 2025

Fox Run RE, LLC
c/o Marty Rost
PO Box 188
Pipestone, MN 56164

No. 8301-3

Dear Mr. Rost:

Enclosed is Water License No. 8301-3. 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 in the future, the owner of an existing well, 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.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Mark Mayer, PE
Director of Office of Water
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8301-3

(1) Fox Run RE, LLC, c/o Marty Rost, PO Box 188, Pipestone, MN 56164, made Application No. 8301-3, July 24, 2017, for a water permit to appropriate 61 acre-feet of water at a maximum diversion rate of 0.11 cubic feet of water per second from groundwater, two wells (Sioux Quartzite Aquifer), Turner County, South Dakota for commercial use purposes in a swine facility. Permit No. 8301-3, with a priority date of July 24, 2017, was approved October 16, 2017, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 16, 2022, and for the application to beneficial use of water on or before October 16, 2026.

The permit holder submitted a Notice of Completion of Works and Application of Water to Beneficial Use form on October 4, 2018. The Notice stated the diversion system was completed on September 1, 2017 and the water was placed to beneficial use on October 1, 2017.

(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 appropriate 56.45 acre-feet of water annually at a maximum diversion rate of 0.078 cubic feet of water per second for beneficial use. The location of the diversion points are:

- 155 feet N and 235 feet E from the SW corner Section 6, T99N, R52W (SW ¼ SW ¼)
(Latitude 43.41700 and Longitude -97.04192)
- 920 feet N and 1,000 feet E from the SW corner of Section 6, T99N, R52W (SW ¼ SW ¼)
(Latitude 43.41910 and Longitude -97.03898)

(3) The water is to be used during the following described annual period: January 1 – December 31.

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

(5) Pursuant to South Dakota Water Law 46-5-30.1 Fox Run RE, LLC, the holder and/or owner of Water Right No. 8301-3 is issued a license to appropriate water, the right to appropriate 56.45 acre-feet of water annually at a maximum diversion rate of 0.078 cubic feet of water per second from groundwater, two wells (Sioux Quartzite Aquifer), with a priority date of July 24, 2017, from the location specified in (2) of this license for commercial use purposes in a swine facility.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8301-3 and subject to the following qualifications:

1. The wells approved under Water Permit No. 8301-3 will be located near domestic wells and other wells which obtain water from the same aquifer. The well owner, under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. Water Permit No. 8301-3 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.

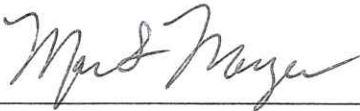
continued

3. Water Permit No. 8301-3 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 Ground 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

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Sioux Quartzite Aquifer.

5. Water Permit No. 8301-3 authorizes a total annual diversion of 61.0 acre-feet of water. *(Water Right No. 8301-3 authorizes a total annual diversion of 56.45 acre-feet at 0.078 cfs, based on the system as developed.)*



Mark Mayer, PE
Director of Office of Water



date

