

**WATER PERMIT NO. 8333-3**

Name of Applicant: Liberty Farms LLC

Address: PO Box 188, Pipestone MN 56164 Phone: 507 825-4211

Amount of Water Claimed: 0.1 cfs Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: commercial County: Beadle

Type of Waste Disposal System:

Location: 10 miles northeast of Huron

PRIORITY Date Received: 2-22-18

Application/License Fee: \$ 300

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: swine farrowing facility

Diversion Point: NW 1/4 SW 1/4 Sec 21-T112N-  
R60W

Land to be Irrigated: NA

Depth of Well: 1080 feet deep

Well Driller: Stretche's Well Service Inc.

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 2-22-18

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_

|  |   |  |    |  |  |
|--|---|--|----|--|--|
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RECEIVED  
FEB 22 2018  
WATER RIGHTS  
PROGRAM

|                                                                                                         |                                                                        |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>8333-3</u> (office use only)<br>Hydrologic Unit <u>10160006</u> |
|                                                                                                         | Basin <u>James River</u>                                               |
|                                                                                                         | Newspaper <u>Plainsman</u> <u>605 353-7414</u>                         |
|                                                                                                         |                                                                        |

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

### Check use(s) of water:

|                                                 |                                                    |                                          |                                        |
|-------------------------------------------------|----------------------------------------------------|------------------------------------------|----------------------------------------|
| <input type="checkbox"/> Municipal              | <input type="checkbox"/> Water Distribution System | <input type="checkbox"/> Recreational    | <input type="checkbox"/> Institutional |
| <input type="checkbox"/> Rural Water System     | <input checked="" type="checkbox"/> Commercial     | <input type="checkbox"/> Fish & Wildlife | <input type="checkbox"/> Geothermal    |
| <input type="checkbox"/> Domestic (over 18 gpm) | <input type="checkbox"/> Industrial                | <input type="checkbox"/> Other           |                                        |

### Type of Application: (check one)

|                                                                                                |                                                                  |                                                 |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------|
| <input checked="" type="checkbox"/> New                                                        | <input type="checkbox"/> Vested Right (Use predates Mar 2, 1955) | <input type="checkbox"/> Future Use Reservation |
| <input type="checkbox"/> Place to Beneficial Use Water Reserved by Future Use Permit No. _____ |                                                                  |                                                 |
| <input type="checkbox"/> Amendment/Correction to Permit No. _____                              |                                                                  |                                                 |

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

- Name to Appear on Water Permit Liberty Farms, LLC - Attn: Barry Kerkaert  
Mailing Address PO Box 188 Pipestone MN 56164-0188  
(Address) (City) (State) (Zip Code)  
Phone (507) 825-4211 Mobile \_\_\_\_\_ Email barry.kerkaert@pipestone.com
- Amount of water claimed 0.1 \*CFS or 45 \*\*GPM and 62 \*\*\*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)
- Source of water supply Lakota
- Location of point of diversion NW 1/4 of SW 1/4, Sec. 21, T112N, R60W County Beadle  
(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)
- County or counties where water will be used Beadle
- Annual period during which water is to be used January 1 thru December 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Liberty Farms, LLC is a new swine farrowing operation which is permitted for 7,580 head. Site is currently under construction as is permitted through the SD DENR. A rural water connection will be established at the site, also.

I, Barry Kerkaert Managing Partner, 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. 8333-3**

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Date of first receipt of application February 22, 2018.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8333-3 to Liberty Farms LLC, c/o Barry Kerkaert, 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. 8333-3 appropriates 62 acre-feet of water annually at a maximum pump rate of 0.10 cubic feet of water per second from one well completed into the Dakota Aquifer (1,080 feet deep) located in the NW 1/4 SW 1/4 Section 21 for use in a livestock confinement facility located in the NW 1/4 SW 1/4 Section 21; all in T112N-R60W. The site is located approximately 10 miles northeast of Huron 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. 8333-3 is May 14, 2018.
5. The date from which applicant may claim right is February 22, 2018.
6. One-fifth of the construction is to be completed on or before November 14, 2020.
7. All construction is to be completed on or before May 14, 2023.
8. Water is to be put to beneficial use on or before May 14, 2027.
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. 8333-3 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. 8333-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 for concentrated animal feeding operations.
3. Water Permit No. 8333-3 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 Dakota aquifer.
5. Water Permit No. 8333-3 authorizes a total annual diversion of 62.0 acre feet of water.

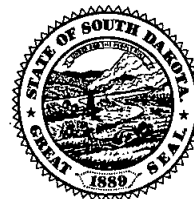
**WATER MANAGEMENT BOARD**

By: \_\_\_\_\_

*Jeanne Goodman*  
Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

**JUN 11 2018**

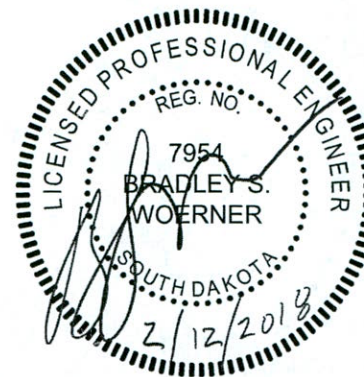
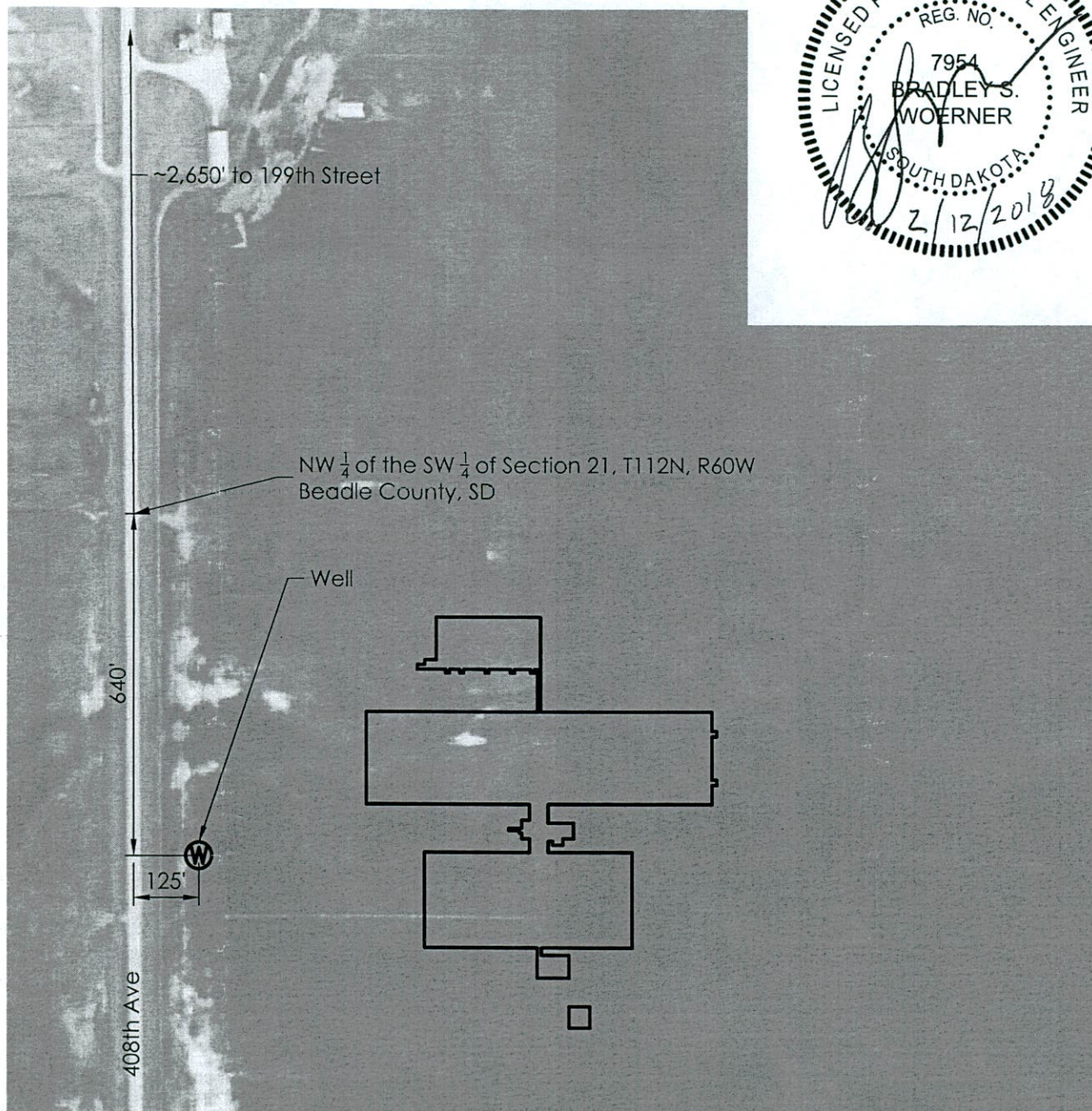
date







1" = 300'



**STOCKWELL**

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

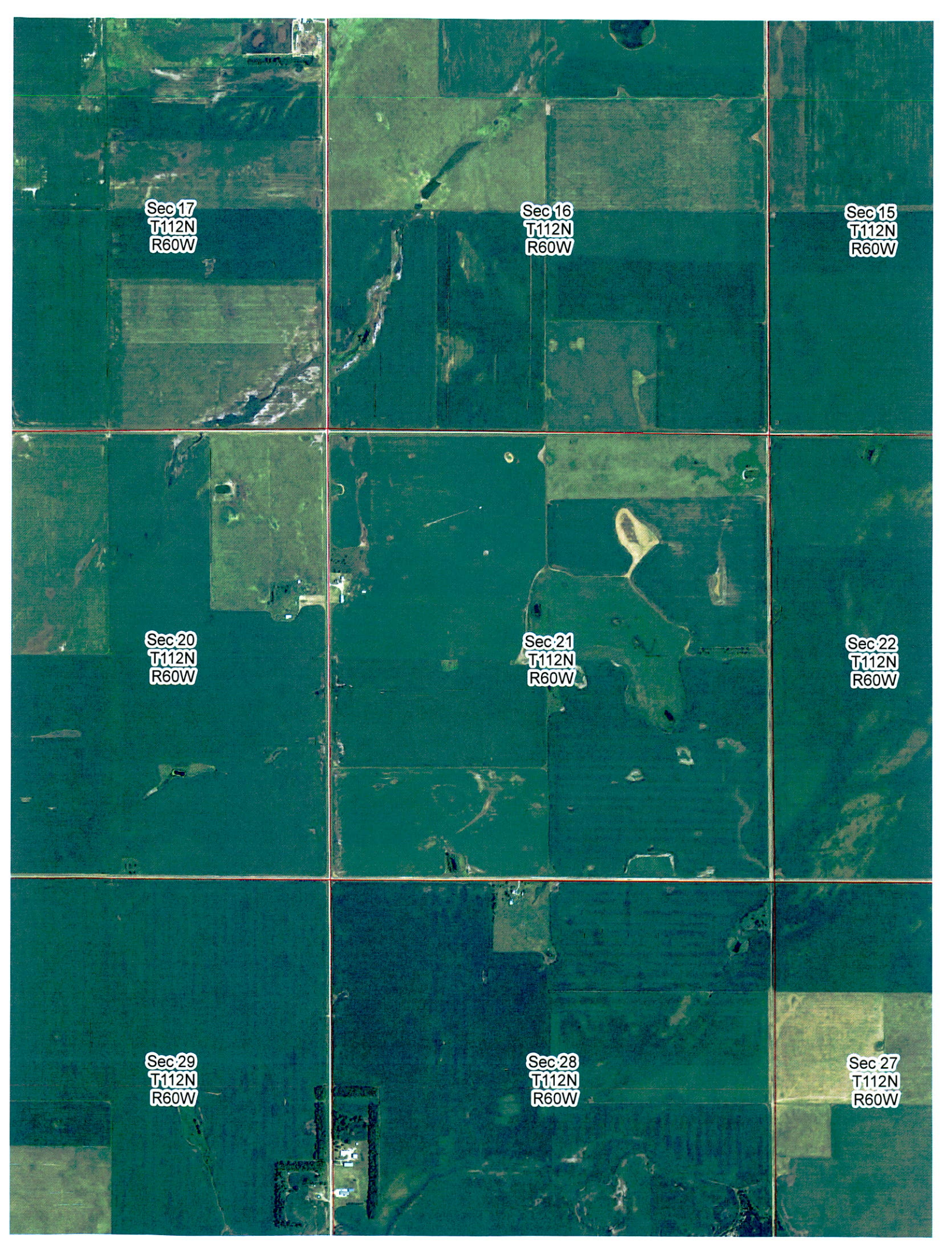
**Liberty Farms, LLC**  
**Beadle County**  
NW 1/4, SW 1/4, 21-112-60

| REVISION SCHEDULE |      |
|-------------------|------|
| ISSUE/REVISION    | DATE |
|                   |      |
|                   |      |
|                   |      |
|                   |      |
|                   |      |

SEI PROJECT #: 16161

Water Rights

**AERIAL**



Sec 17  
T112N  
R60W

Sec 16  
T112N  
R60W

Sec 15  
T112N  
R60W

Sec 20  
T112N  
R60W

Sec 21  
T112N  
R60W

Sec 22  
T112N  
R60W

Sec 29  
T112N  
R60W

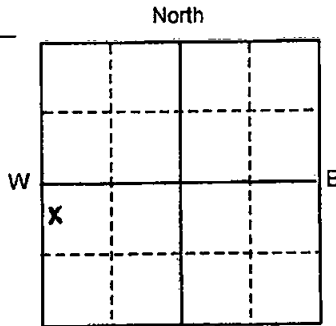
Sec 28  
T112N  
R60W

Sec 27  
T112N  
R60W

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

Location NW 1/4 SW 1/4 Sec 21 Twp 112N Rg 60WCounty Beadle

Please mark well location with an "X"



Well Completion Date

1/31/2018

1 Mile

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

## PROPOSED USE:

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

## METHOD OF DRILLING:

Mud Rotary

## CASING DATA:

☐ Steel ☒ Plastic ☒ Other
If other describe Stainless Steel

| PIPEWEIGHT | DIAMETER | FROM | TO     | HOLE DIAMETER |
|------------|----------|------|--------|---------------|
| 250 LB/FT  | 5 IN     | 0 FT | 980 FT | 7 7/8 IN      |
| LB/FT      | IN       | FT   | FT     | IN            |
| LB/FT      | IN       | FT   | FT     | IN            |

## GROUTING DATA:

| Grout Type | No. of Sacks | Grout Weight | From | To     |
|------------|--------------|--------------|------|--------|
| Portland   | 150          | 15 Lb/gal    | 0 Ft | 980 Ft |
|            |              | Lb/gal       | Ft   | Ft     |

Describe grouting procedure  
Pumped through 5" Pipe

## SCREEN:

☐ Perforated pipe ☒ Manufactured  
 Diameter 2 Inches Length 100 Feet
Material Stainless SteelSlot Size .025 Set From 980 Feet to 1080 Feet

Other information

WAS A PACKER OR SEAL USED? ☒ Yes ☐ NoIf so, what material? CementDescribe packer(s) and location  
980'

## DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Chlorine☐ No, Why Not?

Lab to which water quality sample sent for analysis

Well Owner: Matty RoitBusiness Name: Liberty FarmsAddress: PO Box 188City, State, Zip: Pipestone MN 56164

## WELL LOG:

| FORMATION   | DEPTH |      |
|-------------|-------|------|
|             | FROM  | TO   |
| Top Soil    | 0     | 5    |
| Yellow Clay | 5     | 25   |
| Blue Clay   | 25    | 200  |
| Chalk       | 200   | 280  |
| Shale       | 280   | 800  |
| Dakota      | 800   | 900  |
| Shale       | 900   | 980  |
| Lakota      | 980   | 1080 |

STATIC WATER LEVEL 1 FEETIf flowing: closed in pressure PSIGPM flow through Inch pipeControlled by ☐ Valve ☐ Reducers ☐ OtherReduced flow rate GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe: Air☐ Bailed☐ Other

Pumping Level Below Land Surface

1 Ft. After 12 Hrs. pumped 100 GPMFt. After Hrs. pumped GPMIf pump installed, pump rate: GPM

## REMARKS

This well was drilled under license # 722 and this report is true and accurate.Drilling firm: Stretch's Well Service Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 2/12/18



530386661

## ANNUAL REPORT

South Dakota State Capitol  
500 E. Capitol Ave  
Pierre, SD 57501-5070  
(605) 773-4845

Domestic Limited Liability Company  
SDCL 47-34A-211; 59-11-24, 24.1

Please Type or Print Clearly in Ink  
Please submit one Original  
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

**2017**  
FILING YEAR

1. Business ID and Name:

**DL049963**  
BUSINESS ID

**Liberty Farms, LLC**  
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

3. The address of the principal executive office (business address):

Actual Street Address

**324 SPLITROCK BOULEVARD, SUITE 205  
BRANDON, SD 57005**

Mailing Address

**324 SPLITROCK BOULEVARD, SUITE 205  
BRANDON, SD 57005**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, or (b) a commercial registered agent.

(a) The South Dakota Noncommercial Registered Agent's name

Name **DR. LUKE MINION**

Actual Street Address in this State

**324 SPLITROCK BOULEVARD SUITE 205  
BRANDON, SD 57005**

Mailing Address in this State

5. If the LLC is manager-managed, list the names and addresses of its Managers. SDCL 59-11-24. If the LLC is member-managed, this section may be left blank.

Name

Address

**Barry Kerkaert**

**1300 S Hwy 75, PO BOX 188**

6. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a criminal penalty (SDCL 22-39-36).

**08/03/2017**

Dated

Email (Optional)

**Kassie Bokker**

Signature of an Authorized Person

**Kassie Bokker**

Printed Name

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 22, 20 18

RECEIVED OF Liberty Farms, 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>8333-3</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>8333-3</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. **08665**

By

Jeanne Goodman  
Chief Engineer

0777

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Tuesday, April 24, 2018 12:59 PM  
**To:** Ruby Crandall (rnewman.plainsman@midconetwork.com)  
**Subject:** 8333-3, Liberty Farms LLC  
**Attachments:** 8333-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on May 2, 2018.

Liberty Farms LLC c/o Barry Kerkaert, 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





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 RIGHT AWAY.**

April 24, 2018

Liberty Farms LLC  
c/o Barry Kerkaert  
PO Box 188  
Pipestone MN 56164

Dear Mr. Kerkaert:

Water Permit Application No. 8333-3 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 Daily Plainsman printed at Huron SD (Ph # 605-353-7414). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization 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. 8333-3 to Appropriate Water

Notice is given that Liberty Farms LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164 has filed an application for a water permit to appropriate 62 acre-feet of water annually at a maximum pump rate of 0.10 cubic feet of water per second from one well completed into the Dakota Aquifer (1,080 feet deep) located in the NW 1/4 SW 1/4 Section 21 for commercial use in a livestock confinement facility located in the NW 1/4 SW 1/4 Section 21; all in T112N-R60W. The site is located approximately 10 miles northeast of Huron SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8333-3 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 14, 2018.

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 \_\_\_\_\_.

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,  
COUNTY OF BEADLE: ss

I, MCKENDZIE CASTILLO, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

**LIBERTY FARMS- #3598 WATER RIGHTS**

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 2<sup>ND</sup> Day MAY 2018. That the full amount of the fee charged for publishing **THIRTY-SEVEN & 29/100** dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

Mckenzie Castillo

Subscribed and sworn to me before this 15<sup>TH</sup> Day  
of MAY 2018.

[Signature]  
Notary Public, South Dakota

My term expires 03/11/2022  
Legal #3598

F.P. 05-02-18

NOTICE OF  
APPLICATION  
NO. 8333-3 to

Appropriate Water

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Steven M. Pimer,  
Secretary, Department of  
Environment and Natural  
Resources.

No. 3598 (adv.)  
Published once at the  
total approximate cost of  
\$37.28.

RECEIVED

MAY 17 2018

WATER RIGHTS  
PROGRAM

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Tuesday, April 24, 2018 1:08 PM  
**To:** Marty Rost (mrost@pipevet.com)  
**Subject:** 8333-3, Liberty Farms LLC  
**Attachments:** Liberty Farms.pdf

Marty,

Attached is the report, recommendation and information regarding the public notice for Application No. 8333-3, Liberty Farms LLC located in the Beadle County. Paper copy is being mailed today.

*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  
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8333-3, Liberty Farms 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. 8333-3, Liberty Farms LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164.

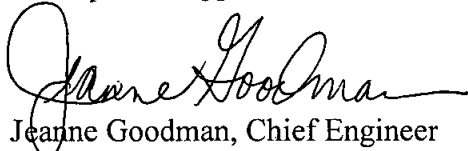
The Chief Engineer is recommending APPROVAL of Application No. 8333-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and, 4) it is in the public interest with the following qualifications:

1. The wells approved under Water Permit No. 8333-3 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.
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  - c) Chapter 74:51:01 Surface Water Quality Standards,
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  - 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 Dakota aquifer.
5. Water Permit No. 8333-3 authorizes a total annual diversion of 62.0 acre feet of water.

See report on application for additional information.



Jeanne Goodman, Chief Engineer  
April 24, 2018

**Report to the Chief Engineer**  
**Water Permit Application No. 8333-3**  
**Liberty Farms LLC**  
**April 12, 2018**

Water Permit Application No. 8333-3 for Liberty Farms LLC c/o Barry Kerkaert proposes to appropriate water at a maximum instantaneous diversion rate of 0.10 cubic feet per second (cfs) and a maximum annual appropriation of 62 acre-feet per year. The diversion point for this application is one existing well completed into the Dakota aquifer located in the NW ¼ SW ¼ Section 21 in T112N-R60W. The water is for commercial use in a livestock confinement facility located in the NW ¼ SW ¼ Section 21 in T112N-R60W in Beadle County located approximately 10 miles northeast of Huron.

**Aquifer: Dakota aquifer (DKOT)**

**Aquifer Characteristics**

The Dakota Formation is a large regional formation that underlies portions of several states including South Dakota, North Dakota, Colorado, Nebraska, Kansas, Montana, Wyoming, Minnesota, and Iowa. The Dakota Formation is a Cretaceous age formation that underlies approximately 66,500 square miles of the 77,047 square miles that make up of the state of South Dakota (Schoon, 1971). The Dakota Formation is made up of yellowish, reddish, and sometimes whitish sandstone with local occurrences of shales and lignite beds, with lithology that can vary both vertically and laterally (Schoon, 1971). Over much of the eastern part of the state the Dakota Formation can be subdivided into three units: an upper layer of fine- to medium grained, light to reddish brown, quartz sandstone interbedded with minor gray to dark gray shale layers; a middle unit of a silty gray clay interbedded with minor sandstone layers; and a lower unit of medium to coarse grained quartz sandstone (Schoon, 1971).

The Dakota aquifer exists within the porous, permeable portions of the Dakota Formation and is a bedrock aquifer under artesian conditions. Schoon (1971) estimated the volume of water stored in the South Dakota portion of the Dakota aquifer at 1.1 billion acre-feet. Hedges et al. (1982) estimates that in the Eastern portion of the state the Dakota aquifer contains 381,104,000 acre-feet of recoverable water.

Based on the well completion report for this application, the screened interval for this well is 980 to 1080 feet below grade in what is reported as "Lakota." The Lakota Formation is considered to be part of the Inyan Kara aquifer. However, best available information has the Inyan Kara pinching out west of this well location (Schoon, 1971). Therefore, this well is more likely completed into the lower portion of the Dakota aquifer. The static water level at the time of completion (January 31, 2018) was one foot below the measuring point, and not flowing. The aquifer is confined at the well site for this application.

### **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 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 that are pertinent to this application.

### **Water Availability**

Water Permit Application No. 8333-3 proposes to appropriate water from the Dakota aquifer for commercial use. The probability of unappropriated water being available from an 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." If the source of the water is older or lower than the Greenhorn Formation and the application is for a water distribution system defined pursuant to SDCL 46-1-6 (17), the Board need not consider the recharge/withdrawal issue. Here, the Dakota aquifer is older or lower than the Greenhorn Formation, however a water distribution system is not involved, therefore the withdrawal/recharge issue must be considered.

### **Dakota Declining Artesian Head Pressure**

The decline of artesian head pressure in the Dakota aquifer has been a standing point of concern since the early 1900's. Some investigators of the Dakota have concluded that this decrease in artesian head pressure is an indication of withdrawals exceeding recharge in the Dakota. The issue of declining artesian head pressure in the Dakota aquifer has been considered by the Water Management Board several times. The Water Management Board has found that declines in artesian head pressure do not automatically indicate that withdrawals have exceeded recharge in the aquifer (Water Rights, 2010). The Board has concluded that whether withdrawals have exceeded recharge cannot be determined based solely on a decline in artesian head pressure, and in theory head pressure in the Dakota aquifer is stabilizing in relation to discharges and withdrawals (Water Rights, 1987). In the Finding of Facts and Conclusions of Law of Application No. 5136-3 the Water Management Board concluded that, "The primary reason for declines in the Dakota Formation head pressure is due to water being discharged without beneficial use through uncontrolled flowing wells" (Water Rights, 1987). The Board further concluded that:

"When defining withdrawal for the purpose of interpreting the meaning of withdrawal pursuant to SDCL 46-6-3.1, there is a difference between withdrawal of water for beneficial use and water discharged without beneficial use through

uncontrolled flowing wells. Water discharged from uncontrolled flowing does not constitute withdrawal (appropriation) pursuant to SDCL 46-6-3.1.”

The position of the Water Management Board has ultimately been to optimize development of the Dakota aquifer for beneficial use.

### **Hydrologic Budget**

There is insufficient data available to estimate recharge to the Dakota aquifer. Therefore, there is insufficient data available to compare average annual withdrawals to average annual recharge. As previously noted, water being discharged without beneficial use from uncontrolled flowing wells is not considered by the Water Management Board to be an appropriation pursuant to SDCL 46-6-3.1. However, data is available to estimate appropriative water use for the Dakota aquifer.

Water use for irrigation makes up a very small portion of the appropriative water use from the Dakota aquifer. There are 18 water rights/permits for the Dakota aquifer with irrigation as a permitted use. Of these, Water Right No. 394-3 and Water Right No. 762-3 appear to no longer use the irrigation portion of the water right and water use for these water rights is considered as part of the non-irrigation appropriations for the aquifer (Kilts, 2016). The remaining 16 irrigation water rights/permits authorize the irrigation of 1,160.24 acres. The irrigation data for these water rights/permits from 1979 to 2016 is shown in Table 1.

Of these water rights/permits, the system for Water Permit No. 8043-3 has not been constructed, thus would not be reflected in the period of record. Water Permit No. 7916-3 has only two years of constructed data available. The acres authorized for irrigation by Water Permit No. 7190-3 are also authorized for irrigation under a water permit with a different aquifer as the water source, and sufficient water from the other aquifer has been reported (Water Rights, 2018b and 2018d). Therefore water use under Water Permit No. 7190-3 is expected to be fairly limited, if the system has been constructed (a well completion report could not be linked to Water Permit No. 7190-3 (Water Rights, 2018c)). The two water permits with limited to no irrigation data authorize the irrigation of a total of 541.9 acres. The statewide geographic distribution of the irrigation water rights/permits for the Dakota aquifer and differing hydrologic conditions (i.e. east river vs. west river) do not allow for a blanket calculation of an application rate to estimate irrigation water use from the Dakota aquifer. However, Water Permit Nos. 7916-3 and 8043-3 are for acres located in Union and Clay counties. Aquifers and management units in the eastern portion of the state, for which the application rate per irrigated or permitted acre have been quantified, have yielded rates of less than ten inches per acre. Combining an application rate of less than 10 inches per acre for the two water permits with limited to no data (about 452 acre-feet per year) and the total average reported irrigation usage of the other water rights/permits, average annual irrigation use for the Dakota aquifer is estimated to be less than 700 acre-feet per year.

Table 1: Reported irrigation use from water rights/permits currently authorized (Water Rights, 1980-2017)

| Permit No.                      | Status | Acres         | Average Reported Use (acre-feet ) | Years Reporting                                           |
|---------------------------------|--------|---------------|-----------------------------------|-----------------------------------------------------------|
| 1054-3                          | LC     | 43.84         | 24.9                              | 38                                                        |
| 2328-2                          | LC     | 31            | 3.46                              | 22 (last irrigated 2008)                                  |
| 2566A-2                         | LC     | 63            | 11.77                             | 6                                                         |
| 4769-3                          | LC     | 130           | 36.49                             | 36 (last irrigated 1993)                                  |
| 5703-3                          | LC     | 2             | 0.5                               | 24                                                        |
| 5905-3                          | LC     | 30            | 44.93                             | 19                                                        |
| 5947-3                          | LC     | 33            | 16.11                             | 10                                                        |
| 5994-3                          | LC     | 3             | 7.35                              | 20                                                        |
| 6110-3                          | LC     | 33            | 49.13                             | 18                                                        |
| 6527-3                          | LC     | 37            | 15.39                             | 12                                                        |
| 6575-3                          | PE     | 15            | 9.42                              | 11                                                        |
| 6734-3                          | PE     | 15.5          | 5.98                              | 10                                                        |
| 7123-3                          | PE     | 30            | 10.29                             | 8                                                         |
| 7190-3                          | PE     | 152           | 0.00                              | 7 (land also covered by a water right in another aquifer) |
| <b>Total</b>                    |        | <b>466.34</b> | <b>235.72</b>                     |                                                           |
| Water Permits with limited data |        |               |                                   |                                                           |
| 7916-3                          | PE     | 150           | 20.74                             | 3                                                         |
| 8043-3                          | PE     | 391.9         | 0.00                              | 2 (system not constructed)                                |
| <b>Total</b>                    |        | <b>541.9</b>  | <b>20.7</b>                       |                                                           |

LC-license, PE-permit

The majority of appropriative use from the Dakota aquifer is for non-irrigation purposes. There are six future use permits for the Dakota aquifer. In estimating appropriative use from an aquifer it is assumed that future use permits will be fully developed. The future use permits for the Dakota aquifer reserve a total of 3,737 acre-feet per year.

For water rights/permits limited to an annual volume, full use of that volume is assumed for estimation of average annual withdrawal. The estimated annual use by non-irrigation water right/permits (excluding water rights/permits utilizing rural water) limited to an annual volume is 7,535.9 acre-feet per year. Water Permit No. 8199-3 for Donahue Farms is limited to an annual volume of 72.6 acre-feet per year, however only one of the permitted four wells is completed into the Dakota aquifer (the other three wells are completed into the East James management unit of the Floyd aquifer) (Water Rights, 2018b). Based on the information of Water Permit No. 8199-3, the maximum potential annual diversion from the Dakota well under Water Permit No. 8199-3 will likely not exceed 21 acre-feet per year (Water Rights, 2018b). Therefore, actual use is likely to be less than the estimated average annual use.

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/permits for the Dakota aquifer the majority have connected to rural water systems (Drinking Water, 2017; Kilts, 2016; Friedeman, 2018). Municipalities connected to rural water systems are not typically expected to use much or any water from their wells. Several of the water rights/permits (Water Right/Permit Nos. 6011-3, 6128-3, 6257-3, 6394-3, 6516-3, 6629-3, and 8252-3) limited by maximum diversion rate cover multiple wells, some of which are completed into a different aquifer. Therefore, actual use is likely to be less than the estimated average annual use. The estimated annual water usage for water rights/permits

that are limited by diversion rate (excluding water rights/permits utilizing rural water) is estimated to be less than 17,577 acre-feet per year. This is a total estimated average annual appropriative non-irrigation use of 28,850 acre-feet per year.

There are a large number of completion reports for domestic wells completed into the Dakota aquifer that are on file with the Water Rights Program (Water Rights, 2018c). The current status of these domestic wells is unknown and could range anywhere from controlled and in use to uncontrolled with some beneficial use. There are also a number of uncontrolled flowing Dakota wells that flow to waste. The volume of water flowing to waste from the Dakota aquifer has not and will likely never be quantified. The volume of water flowing to waste from the Dakota aquifer is likely a significant component of discharge from the aquifer. In the 1960's, it was reported 46 uncontrolled flowing wells, no specific water source was mentioned, had a rate of 16 million gallons per day (approximately 17,900 acre-feet per year) (Davis et al., 1961). The uncontrolled flowing wells had a rate approximately equivalent to 3,054 controlled flowing wells that were presumed completed into the Dakota aquifer (Davis et al., 1961). However, as previously noted, water being discharged without beneficial use from uncontrolled flowing wells is not considered by the Water Management Board to be an appropriation pursuant to SDCL 46-6-3.1. Therefore, water flowing from uncontrolled flowing wells should be available for capture and use by appropriative users.

### **Observation Wells**

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge.

The Water Rights Program monitors 45 observation wells in the Dakota aquifer. Of these, the majority (32 observation wells) are located in Lincoln County and the remainder are spread over the rest of the state. The Dakota aquifer underlies the majority of South Dakota and observation wells show localized variations in water level behavior in the aquifer. Observation wells document water levels in various locations declining, stabilizing, stable, or recently increasing (Water Right, 2018a). However, as a whole the observation well data suggests the declining artesian head pressure in the aquifer is generally slowing and approaching a new steady state equilibrium.

The DENR-Water Rights Program does not monitor any observation wells completed into the Dakota aquifer in the immediate vicinity of the well site that this application proposes to utilize. The nearest Dakota observation well to the location of the well that this application proposes to use is observation well HD-87A, which is located approximately 38 miles west southwest. The hydrograph for HD-87A is shown in Figure 1. Observation ED-85A is located about 73 miles to the north northwest, hydrograph shown in Figure 2. Shown in Figure 3 is the hydrograph for observation well BL-83A located about 80 miles to the southwest.

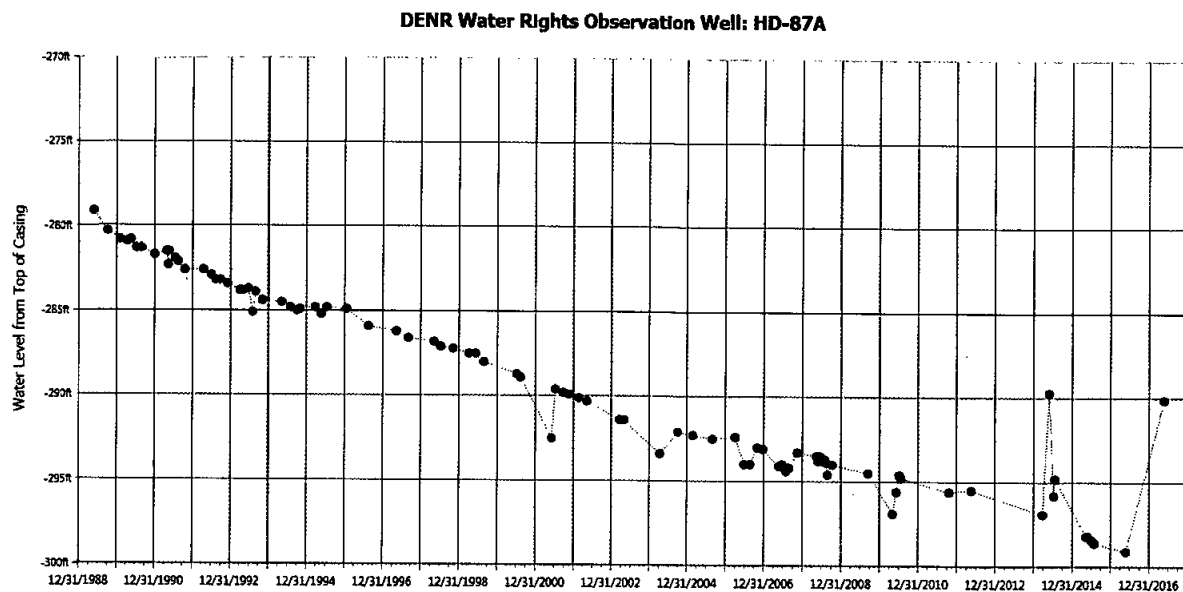


Figure 1: Hydrograph of observation well HD-87A (Water Rights, 2018a)

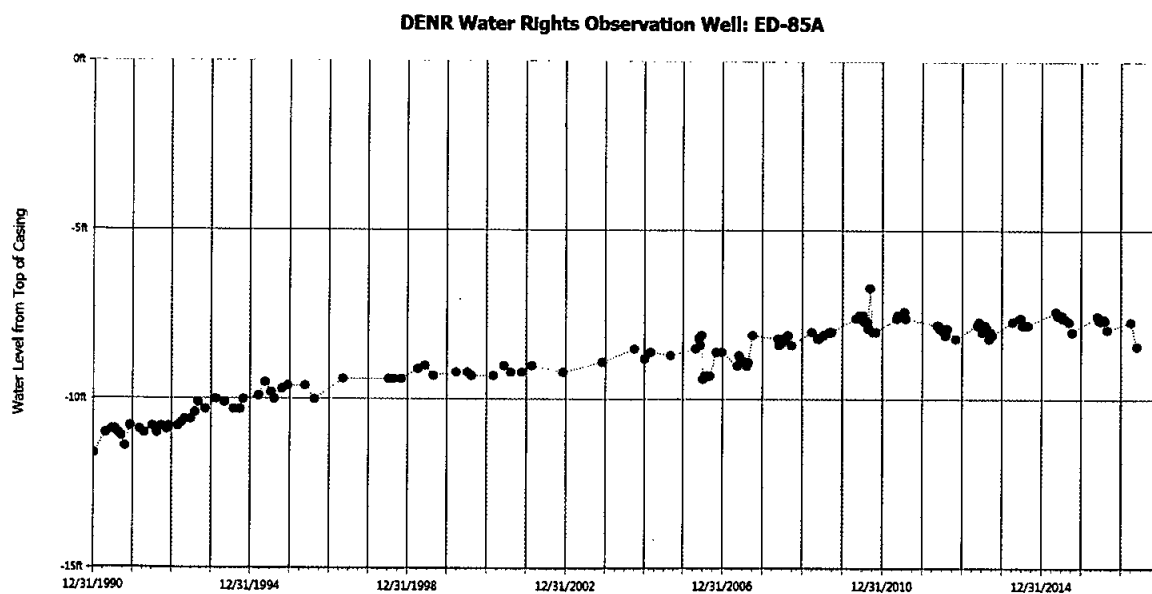


Figure 2: Hydrograph of observation well ED-85A (Water Rights, 2018a)

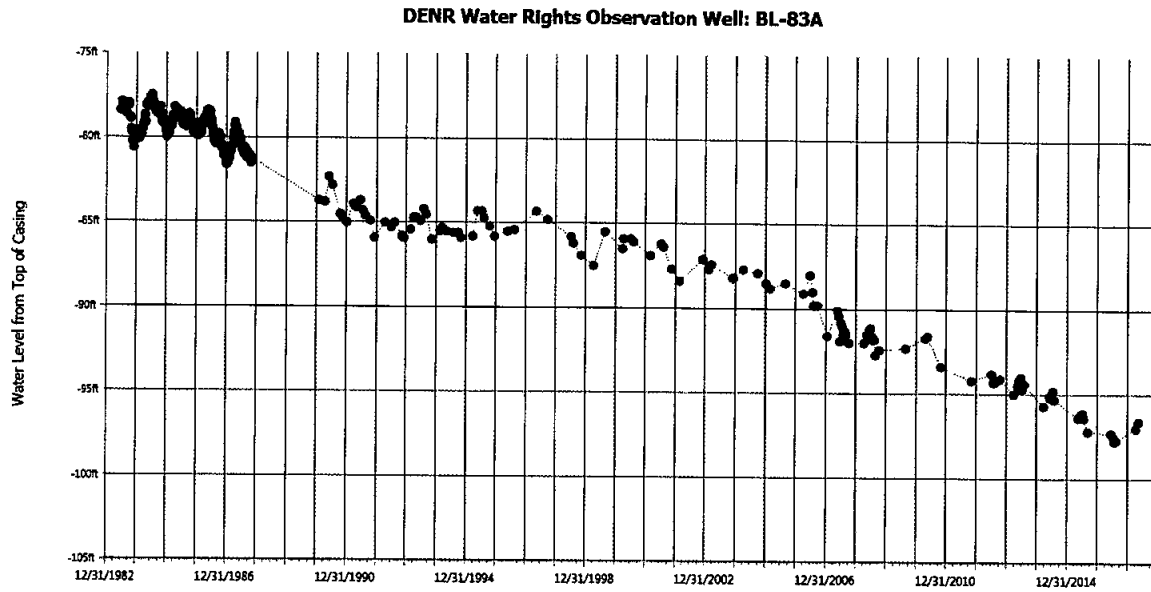


Figure 3: Hydrograph of observation well BL-83A (Water Rights, 2018a)

Potentiometric data for the Dakota aquifer from different time periods was utilized to estimate the potentiometric surface of the Dakota aquifer in the vicinity of the well location that this application proposes to use. The approximate elevations of the potentiometric surface in the vicinity of the well site that this application proposes to use are shown in Table 2. Estimates were based on the statewide potentiometric surface maps of Schoon (1971), and the well completion report for the well that this application proposes to utilize.

Table 2: Potentiometric Surface of the Dakota Aquifer in the Vicinity of the Well the Water Permit Application No. 8333-3 Proposes to Utilize

| Date      | Approximate Potentiometric Surface (feet mean sea level) | Source              |
|-----------|----------------------------------------------------------|---------------------|
| 1909      | 1600                                                     | Schoon, 1971        |
| 1914-1915 | 1400                                                     | Schoon, 1971        |
| 1936-53   | 1350                                                     | Schoon, 1971        |
| 2018      | 1325                                                     | Water Rights, 2018c |

In examining the estimated potentiometric surface in the vicinity of the well site for this application, it appears that the Dakota aquifer in this area is still in the process of equilibrating. From 1909 to 1915 water levels dropped 200 feet (about 33 feet per year). From 1915 to 2018 water levels dropped 75 feet (about 0.73 feet per year). This would suggest the declining artesian head pressure may be beginning to stabilize in the area. As previously noted, water being discharged without beneficial use from uncontrolled flowing wells is not considered by the Water Management Board to be an appropriation pursuant to SDCL 46-6-3.1. The water flowing from uncontrolled flowing wells should be available for capture and use by appropriative users.

Therefore, there is a reasonable probability that unappropriated water is available for additional appropriations from the Dakota aquifer.

### Existing Water Rights

Figure 4 shows area water rights/permits currently authorized to appropriate water from the Dakota aquifer in the area of this application, and these Water Rights are summarized in Table 3. The nearest water rights to the well that this application proposes to utilize are Water Right Nos. 4274-3 and 5095-3 located about 5.1 miles to the southeast held by the Town of Yale. The Town of Yale obtains their water from a rural water system (Friedeman, 2018).

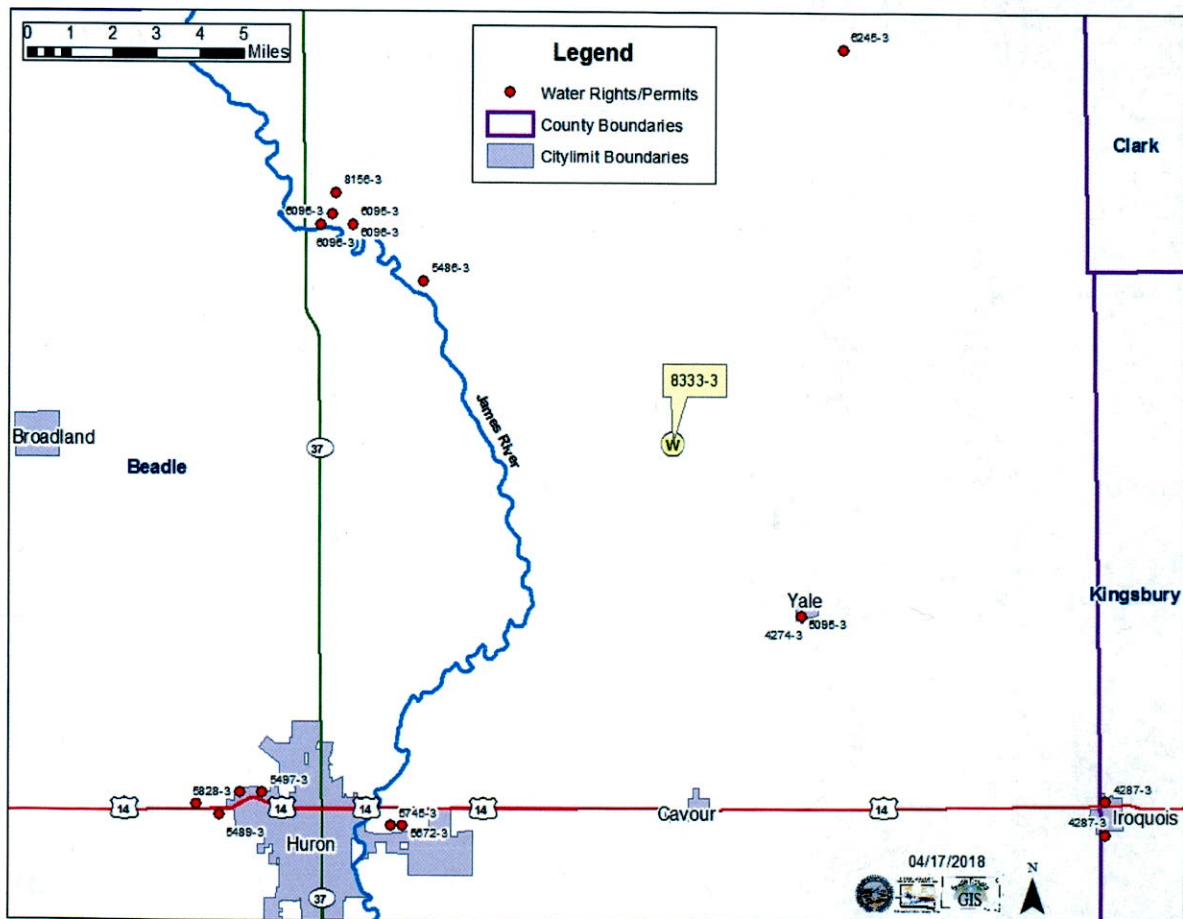


Figure 4: Water rights/permits currently authorized to appropriate water from the Dakota aquifer in the area of this application (Water Rights, 2018b)

Table 3: Summary of Water Rights/Permit shown in Figure 4

| PERMIT_NO | STATUS | Name                       | Use       | Rate  |
|-----------|--------|----------------------------|-----------|-------|
| 5486-3    | LC     | BYRON BIBLE CAMP           | INS       | 0.44  |
| 5745-3    | LC     | CONSOLIDATED READY MIX INC | COM       | 0.09  |
| 5136-3    | LC     | FARMLAND INDUSTRIES        | IND       | 0.1   |
| 5497-3    | LC     | HURON EQUIPMENT COMPANY    | COM       | 0.11  |
| 6096-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.098 |
| 6095-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.031 |
| 8156-3    | PE     | HURON HTRRN BRTH           | COM       | 0.17  |
| 6096-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.098 |
| 6096-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.098 |
| 6095-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.031 |
| 6095-3    | LC     | HURON HTRRN BRTH           | COM & DOM | 0.031 |
| 4287-3    | LC     | CITY OF IROQUOIS           | MUN       | 2.5   |
| 4287-3    | LC     | CITY OF IROQUOIS           | MUN       | 2.5   |
| 5489-3    | LC     | LIVESTOCK RUS LLC          | COM       | 0.09  |
| 5672-3    | LC     | MAGNESS LIVESTOCK MARKET   | COM       | 0.05  |
| 5828-3    | LC     | HARRY OXANDABURU           | IND       | 0.15  |
| 6245-3    | LC     | SHAMROCK COLONY            | COM       | 0.07  |
| 4274-3    | LC     | TOWN OF YALE               | MUN       | 0.05  |
| 5095-3    | LC     | TOWN OF YALE               | MUN       | 0.066 |

LC-Water Right, PE-water permit, COM-commercial, REC-recreation, INS-institutional, MUN-municipal, DOM- domestic, IND-industrial

There are five domestic wells on file with the SDDENR-Water Rights Program within about one mile of the well location for this application that appear to be in the Dakota aquifer (Water Rights, 2018c). However, since the availability of well completion records prior to the mid-1980s is extremely limited and the exact location of domestic wells are not verified; the actual number of domestic wells within about one mile could vary slightly from the noted five domestic wells. The available information suggests these wells were completed into the Dakota aquifer (Water Rights, 2018c). However, based on the age of some of these wells (drilled in 1905, 1909, 1906, and 1915) the extent to which these wells could still be utilized today (if they still exist) is unknown, due to either deteriorated condition or decreased flow. The remaining well was constructed in 2001, and has five inch casing to a depth of 120 feet below grade, at which point the casing diameter decreases to two inches (Water Rights, 2018c). This well flowed at the time of completion, and if the well were to cease flowing the well diameter should allow placement of a pump to about 120 feet below grade (Water Rights, 2018c). However, given the information available on these wells it is unlikely that any of them could have a pump lowered to the depth necessary to meet the definition of an adequate well. Administrative Rule of South Dakota (ARSD) 74:02:04:20 (6) defines an adequate well as “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer

thickness is less than 20 feet.” But given the relatively low diversion rate requested by this application (0.1 cfs or 45 gallons per minutes) drawdown as a direct result of pumping by this application, if approved, would not be expected to exceed the depth to which a pump could be placed in the 2001 domestic well.

The exact amount of drawdown as the result of pumping due to this proposed diversion cannot be quantified without aquifer testing. However, given the amount of artesian head pressure in the lower portion of the Dakota aquifer at this well location (approximately 980 feet) and the relatively low diversion rate requested by this application, this permit, if approved, would not be expected to adversely impact adequate wells in the area.

The Water Management Board has promulgated rules that allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Board has defined 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.” In the case of Water Permit Application No. 2313-2 for the Coca-Cola Bottling Company of the Black Hills the Water Management Board adopted findings that noted that if the increased costs or decreased production as a result of the impacts of legitimate users on artesian head pressure could be considered an adverse impact it would conflict with SDCL 46-1-4 (Water Rights, 1995). SDCL 46-1-4 requires the water resources of the state be put to beneficial use to the maximum extent of which they are capable (Water Rights, 1995).

## **Conclusions**

1. Water Permit Application No. 8333-3 for Liberty Farms LLC proposes to appropriate water for commercial use at a maximum instantaneous diversion rate of 0.10 cfs and a maximum annual appropriation of 62 acre-feet per year from one existing well completed into the Dakota aquifer located in the NW ¼ SW ¼ Section 21 in T112N-R60W.
2. There is no recharge estimate available for the Dakota aquifer. Therefore, it is not possible to compare average annual recharge to average annual withdrawals from the Dakota aquifer. The Dakota aquifer has a history of declining water levels. However, the observation well data suggest the declining levels are generally slowing and approaching a new steady state equilibrium, which indicates there is a reasonable probability unappropriated water is available from the Dakota aquifer to support this application.
3. The Water Management Board’s position has historically been to optimize development for beneficial use from the Dakota aquifer.

4. There is a reasonable probability the diversion proposed by this application from the Dakota aquifer can be made without adversely impacting existing appropriative users of the Dakota aquifer or domestic users of the Dakota aquifer with adequate wells.



Whitney Kilts

SDDENR-Water Rights Program

## References

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Water Rights. 2018a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2018b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2018c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2018d. Irrigation Questionnaires Files. SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

JUN 11 2018

Liberty Farms LLC  
c/o Barry Kerkaert  
PO Box 188  
Pipestone MN 56164

Dear Mr. Kerkaert:

Enclosed is Water Permit No. 8333-3 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,

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

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

enclosures

RECEIVED

8333-3

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:

Liberty Farms 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. 8333-3 states that the water use system is to be constructed by

May 14, 2023 (date), and water is to be put to beneficial use by May 14, 2023 (date).

The water use system was completed on 8/1/18 (date).

Applying the water to beneficial use was completed on 9/1/18 (date).

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

[Signature]  
(signature)



8333-3



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,

A handwritten signature in cursive script that reads "Genny McMath".

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

## Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8333-3

I have this day, June 9, 2025, made a thorough examination of the water use system constructed by Liberty Farms LLC, PO Box 188, Pipestone, MN 56164 of Permit No. 8333-3, bearing the priority of February 22, 2018 authorizing the diversion of 0.10 cu. ft. per second of the waters of the Dakota Aquifer for commercial purposes, in Beadle County.

### A. Works used to divert the water:

#### Well Information:

- 1) Well Drilling Firm: Stretch's Well Service
- 2) No. of Wells 1
- 3) Depth(s) 1080 feet
- 4) Well log is available Y

Comments: xx

#### Casing:

- 1) Diameter 5 inches
- 2) Length 980 feet
- 3) Type Plastic

#### Screen:

- 1) Type Stainless steel
- 2) Length 100 feet
- 3) Static water level 1 feet

#### Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 22 GPM

#### Motor:

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

**Report of Examination of Works**

Permit No. 8333-3

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

- 1) Type Buried PVC      2) Size Unknown inches      3) Length 400 feet

Comments:      xx

**C. 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 LOCATION From the SW corner Sec 21 T112N R60W, 2020 ft N & 130 ft E, Lat 44.49118 Long -98.05236 (NW ¼ SW ¼).
2. The works are capable of diverting and conveying to the place of use 0.05 cu. ft. per second of water which is to be used for commercial use.

The license should be issued for 0.05 cfs.

3. All structures, wells and lands on map Y

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

Used FSA maps and ArcGIS to construct the inspection map.

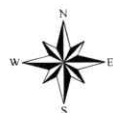
The pump rate reported by Mr. Marty Rost (contact person, phone 507/215-0482) was used to establish the system flow capacity for the well.

The mailing address and the telephone number in the permit materials are current.



Darrell DeBoer  
Water Rights Inspector  
DENR, Water Rights Program

Date report completed: June 12, 2025



0 425 850 1,700 2,550 3,400 Feet



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

SEP 02 2025

8333-3

Liberty Farms LLC  
c/o Barry Kerkaert  
PO Box 188  
Pipestone, MN 56164

Dear Mr. Kerkaert:

Enclosed is Water License No. 8333-3. 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 Amanda Dewell, Permitting Administrator, Water Rights Program (605) 773-3352.

Sincerely,

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

*enclosures*

**STATE OF SOUTH DAKOTA**  
**WATER LICENSE NO. 8333-3**

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(1) Liberty Farms LLC, PO Box 188, Pipestone, MN 56164, made Application No. 8333-3, February 22, 2018, for a water permit to appropriate 62 acre-feet of water annually at a maximum pump rate of 0.10 cubic feet of water per second from groundwater, one well (Dakota Aquifer), Beadle County, South Dakota for commercial use in a livestock confinement facility. Permit No. 8333-3, with a priority date of February 22, 2018, was approved May 14, 2018, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 14, 2023, and for the application to beneficial use of water on or before May 14, 2027.

(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 up to 35.5 acre-feet of water annually at a maximum pump rate of 0.05 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 2,020 feet N and 130 feet E from the SW corner of Section 21, T112N, R60W (NW ¼ SW ¼)  
(Latitude 44.49118 and Longitude -98.05236)

(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 Liberty Farms LLC, the holder and/or owner of Water Right No. 8333-3 is issued a license to appropriate water, the right to use up to 35.5 acre-feet of water annually at a maximum pump rate of 0.05 cubic feet of water per second from groundwater, one well (Dakota Aquifer), with a priority date of February 22, 2018, from the location specified in (2) of this license for commercial use in a livestock confinement facility.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8333-3 and subject to the following qualifications:

1. The well approved under Water Permit No. 8333-3 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. 8333-3 is subject to compliance requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 for concentrated animal feeding operations.
3. Water Permit No. 8333-3 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 Dakota Aquifer.
5. Water Permit No. 8333-3 authorizes a total annual diversion of 62.0 acre-feet of water.  
*(The total authorized annual diversion has been reduced to 35.5 acre-feet of water, based on the system as constructed.)*

  
\_\_\_\_\_  
Mark Mayer, PE  
Director of Office of Water

  
\_\_\_\_\_  
date

