

WATER PERMIT NO. 8436-3

Name of Applicant: New Fashion Pork

Address: PO Box 244, Jackson MN 56143

Phone: 605 933-1326

Amount of Water Claimed: 0.06 cfs

Total Acres: NA

Source of Water Supply: groundwater (one existing well)

Water to be used for: commercial

County: Miner

Type of Waste Disposal System:

Location: 15 miles west and 6 miles south of Howard

PRIORITY

Date Received: 7-27-20

Application/License Fee: \$ 100

Corrected Application Received:

Period of Annual Use: Jan 1 – Dec 31

Remarks: Increase diversion rate authorized by Permit No. 8422-3

Diversion Point: NE 1/4 NE 1/4 Sec 6-T105N-
R58W

Feedlot location: same area as above

Depth of Well: 150 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 7-27-20

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

				6	
			6		

**SOUTH DAKOTA
WATER PERMIT NO. 8436-3**

Date of first receipt of application July 27, 2020.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8436-3 to New Fashion Pork, PO Box 244, Jackson MN 56143 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. 8436-3 appropriates an additional 0.06 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 8422-3. Water Permit No. 8422-3 appropriates 46 acre-feet of water annually at a maximum pump rate of 0.11 cfs from one well to be completed into the Floyd:East James Aquifer (150 feet deep) located in the NE 1/4 NE 1/4 Section 6-T105N-R58W for commercial use in a swine farrowing operation located in the same area described above. The permit holder is authorized to increase the diversion rate from the well from 0.11 cfs to 0.17 cfs. This permit and Water Permit No. 8422-3 will authorize a total appropriation of 46 acre-feet of water annually. This site is located 15 miles west and 6 miles south of Howard SD.
2. The water appropriated shall be used for the purpose of commercial use in a swine farrowing operation and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 8436-3 is September 21, 2020.
5. The date from which applicant may claim right is July 27, 2020 (additional 0.06 cfs).
6. One-fifth of the construction is to be completed on or before March 21, 2023.
7. All construction is to be completed on or before September 21, 2025.
8. Water is to be put to beneficial use on or before September 21, 2029.
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 well approved under Water Permit Nos. 8422-3 and 8436-3 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. The well authorized by Permit Nos. 8422-3 and 8436-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

(continued)

3. Water Permit Nos. 8422-3 and 8436-3 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 or 34A-2-124 for concentrated animal feeding operations.
4. Water Permit Nos. 8422-3 and 8436-3 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
5. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Floyd:East James aquifer.
6. Water Permit Nos. 8422-3 and 8436-3, combined, authorize a total annual diversion of 46 acre feet of water from the Floyd:East James aquifer.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 02 2020

date



PAID
JUL 27 2020
Ck# 15397

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8436-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>Miner County Pioneer, Howard</u>	
	<u>Plainsman, Huron</u>	

RECEIVED

JUL 27 2020

WATER RIGHTS
PIPER

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. <u>8422-3</u>		

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

Increase the currently permitted diversion rate from 0.11 cfs to 0.17 cfs.

1. Name to Appear on Water Permit New Fashion Pork

Mailing Address PO Box 244 Jackson MN 56143
(Address) (City) (State) (Zip Code)

Phone 605-527-2490 Mobile 605-933-1326 Email minercopork@nfpinc.com

2. Amount of water claimed 0.06 add -0.17 *CFS or **GPM and 46 ***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 Well

4. Location of point of diversion 1 well NE 1/4 of the NE 1/4, Section 6, T-105-N, R-58-W County Miner
(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? Facility Location: NE 1/4 NE 1/4 Sec 6 - T105N - R58W
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Miner

6. Annual period during which water is to be used Continuous Jan 1 - Dec 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

An existing 7,807 head swine farrowing operation that is installing a new well. The proposed well was previously permitted for a maximum pumping rate of 0.11 cfs and 46 acre-feet/year. Due to pressure loss during peak usage the maximum pumping rate needs to be increased to 0.17 cfs. The annual water usage will remain unchanged at 46 acre-feet/year.

I, Brad Freking CEO, 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.

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 Pullman Drilling
(if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) 150' Depth to Top of Water Bearing Material Depth to Water from Surface 45'

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

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)

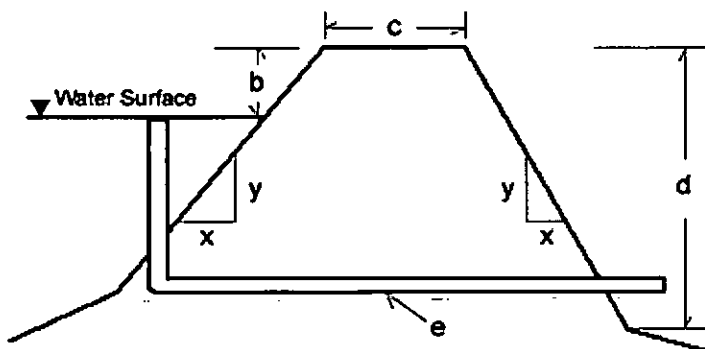
Upstream

Downstream

h) Surface Area of Impoundment

i) Storage Acre Feet

j) Drainage Area Above Dam Acres



106N 59W
Section: 36

106N 58W
Section: 31

106N 58W
Section: 32

105N 59W
Section: 01

105N 58W
Section: 06

105N 58W
Section: 05

105N 59W
Section: 12

105N 58W
Section: 07

105N 58W
Section: 08

EXISTING PERIMETER TILE WITH SUMP RISER PIPE INSTALLED TO DEWATER DURING CONSTRUCTION. NO TILE OUTLET WAS INSTALLED. A SUMP PUMP WAS USED TO REMOVE THE WATER FROM THE TILE DURING CONSTRUCTION. PUMP HAS BEEN REMOVED AND WILL NO LONGER BE USED. TILE & RISER REMAIN IN PLACE TO MONITOR THE GROUNDWATER LEVELS. IF ANY GROUNDWATER IS PUMPED FROM THE SUMP IT WILL BE PUMPED INTO THE CONCRETE PIT.

EXISTING 1,300 HEAD GILT DEVELOPMENT BARN #6 (204'x81'-10") WITH 8' CONCRETE PIT BELOW THE SLATTED BARN FLOOR. BARN FLOOR ELEVATION 1343, BOTTOM OF PIT ELEVATION 1335.

EXISTING 1,600 HEAD GILT DEVELOPMENT BARN #5 TO BE CONVERTED INTO 813 HEAD SOW GESTATION BARN, 8' DEEP CONCRETE PIT, TOP OF PIT/FLOOR ELEV. 1343

EXISTING MORTALITY COMPOST BUILDING (20'8"x100'8") WITH 8' CONCRETE WALL ON THE NORTH SIDE BETWEEN BUILDINGS

EXISTING MORTALITY COMPOST BUILDING

EXISTING EARTHEN MANURE STORAGE BASIN
10' WIDE TOP OF DIKE ELEVATION 1341
FREEBOARD ELEVATION 1339
MAXIMUM OPERATING LEVEL 1338.5
BOTTOM ELEVATION 1324.7
3:1 INSIDE SIDESLOPES
VOLUME @ ELEV. 1338.5 = 9,302,128 GAL.
(NOT INCLUDING BOTTOM 1')

238TH STREET

2185' TO NEAREST RESIDENCE

GPS BASE STATION #10,
ELEVATION 1339.68
(BENCHMARK)

CONTROL POINT #265,
ELEVATION 1340.0

EXISTING HALLWAYS CONNECTING EXISTING BARNS TO PROPOSED BARNS SHALL HAVE ALL CONSTRUCTION JOINTS WATER TIGHT WITH WATERSTOP. SEE DETAIL. WATER SUPPLY PIPELINES WILL BE PLACED IN THE HALLWAYS ABOVE GROUND ENTERING THE PROPOSED BARNS

EXISTING GESTATION BARN #1, 2245 HEAD OF BREEDING SOWS & 15 HEAD OF BOARS, 2' DEEP PULL-PLUG CONCRETE PIT, TOP OF PIT/FLOOR ELEV. 1342

EXISTING FARROWING BARN #2, 352 HEAD OF FARROWING SOWS & LITTER, 2' DEEP PULL-PLUG CONCRETE PIT, TOP OF PIT/FLOOR ELEV. 1342

EXISTING FARROWING BARN #3, 384 HEAD OF FARROWING SOWS & LITTER & 150 HEAD OF CULL SOWS, 2' DEEP PULL-PLUG CONCRETE PIT, TOP OF PIT/FLOOR ELEV. 1342

EXISTING GESTATION BARN #4, 2260 HEAD OF BREEDING SOWS, 2' DEEP PULL-PLUG CONCRETE PIT, TOP OF PIT/FLOOR ELEV. 1342

EXISTING PIPE
BOTTOM ELEV.
1337.1

EXISTING 40' WIDE DRIVEWAY

108' SETBACK

EXISTING DEEP WELL

EXISTING 288 HEAD FARROWING SOW BARN #7 (153'-4"x141'-4") WITH 2' DEEP PULL-PLUG CONCRETE PITS, TOP OF PIT/FLOOR ELEVATION 1343

EXISTING NON-PERFORATED STORMWATER PIPE WITH SURFACE INTAKES BETWEEN BUILDINGS TO COLLECT CLEAN ROOF WATER RUNOFF AND DRAIN INTO ROAD DITCH.

EXISTING 8"Ø PVC PIPE CONNECTS TO EXISTING 8"Ø PVC PIPE TO USING DRESSER STYLE COUPLING.

EXISTING 8"Ø MANURE DRAIN PIPE, FL ELEV. 1336.7

PROPOSED DEEP WELL

EXISTING EQUIPMENT SHED (60'x40')

419TH AVENUE

GRAPHIC SCALE



(IN FEET)
1 inch = 120 ft.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 27, 2020

RECEIVED OF NFP Construction Inc. PO Box 244 164 Pkwy Jackson MN 56143

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

Fee for Application for Permit No. <u>8436-3</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. _____	\$
Fee for Filing Transfer Form _____	\$
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$100.00

By Eric Gronlund
Chief Engineer

YM



531025481

B0143-2559 06/05/2020 10:51AM Rec'd by SD SOS

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

2020
FILING YEAR

ANNUAL REPORT
Foreign Limited Liability Partnership
SDCL 48-7A-1003; 59-11-6; 59-11-24.1

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

Filing Fee: \$50

Total Fee: \$50

1. Business ID and Name:

FR000139
BUSINESS ID

NEW FASHION PORK, LLP
BUSINESS NAME

2. The jurisdiction under whose law it is formed MINNESOTA

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

Actual Street Address

164 INDUSTRIAL PARKWAY
JACKSON, MN 56143-9588

Mailing Address

PO BOX 244
JACKSON, MN 56143-0244

4. The South Dakota Registered Agent's Name:

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

(b) The South Dakota Commercial Registered Agent's name & CRA#

CRA: **C T CORPORATION SYSTEM (0000002)**

Actual Street Address in this State

319 S COTEAU ST
PIERRE, SD 57501-3187

Mailing Address in this State

5. The names and business addresses of the partners.

Name	Address
BRAD W FREKING	PO BOX 244, JACKSON, MN, 56143
LINETTE FREKING	77714 500TH AVENUE, JACKSON, MN, 56143
SUSAN HOTOVEC	75696 360TH AVENUE, ROUND LAKE, MN, 56167
SCHWARTZ BROTHERS LLP	32296 190TH STREET, SLEEPY EYE, MI, 56085
CHRISTENSEN BROTHERS LLP	24170 US 14, SLEEPY EYE, MN, 56085
NFP CAPITAL, LLP	PO BOX 244, JACKSON, MN, 56143
FREKING FARMS INC	75696 360TH AVENUE, ROUND LAKE, MI, 56167

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 civil and/or criminal penalty (SDCL 22-39-36; 47-15-51).

06/05/2020

Dated

Email (Optional)

David C. Kim

Signature of an Authorized Person

David C. Kim

Printed Name

B0143-2560 06/05/2020 10:51AM Rec'd by SD SOS

Schlaak, Karen

From: Nic Rowe <nic@proageng.com>
Sent: Friday, July 17, 2020 12:07 PM
To: Schlaak, Karen
Cc: 'Jay Moore'
Subject: FW: [EXT] Water Permit Application No. 8422-3
Attachments: Application No. 8422-3.pdf

Hi Karen,

New Fashion Pork has determined that they need a larger well pump to provide enough water pressure and supply water during extreme high usage times. Their attached permit has a maximum diversion rate of 0.11 cfs and they need a pump with a maximum capacity of 0.17 cfs. Their total permitted annual water usage of 46 acre-feet/year doesn't need to change. Do we need to submit an entire new permit for this pumping rate change? New fees also?

Thanks, Nic Rowe, PE
ProAg Engineering, Inc.
77402 US Hwy 71
PO Box 181
Jackson, MN 56143
507-849-7200 (office)
507-841-3269 (cell)
nic@proageng.com

0.11 cfs = 50 gpm
0.17 cfs = 75 gpm

From: Schlaak, Karen [mailto:Karen.Schlaak@state.sd.us]
Sent: Wednesday, April 15, 2020 12:05 PM
To: minercopork@nfpinc.com
Cc: 'nic@proageng.com' <nic@proageng.com>
Subject: Water Permit Application No. 8422-3

Attached is the report, recommendation and information regarding the public notice for your Water Permit Application No. 8422-3. As stated in the letter it is important that someone contact the two papers to authorize publication and arrange for payment ASAP. This same information is being mailed to you today.

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, July 20, 2020 8:43 AM
To: Nic Rowe
Cc: 'Jay Moore'
Subject: RE: [EXT] Water Permit Application No. 8422-3

Good Morning,

A new water permit application will need to be submitted for the increase in the diversion rate. A map will not be required. If available, please submit a copy of the well completion report. The application should be signed by Jay Moore. The application fee will be \$100 and the applicant will be responsible for payment of the public notice.

Application form can be found: <http://denr.sd.gov/des/wr/wr.aspx>

Karen Schlaak

Water Rights Program
(605) 773-3352



From: Nic Rowe <nic@proageng.com>
Sent: Friday, July 17, 2020 12:07 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Cc: 'Jay Moore' <jdmoore@nfpinc.com>
Subject: FW: [EXT] Water Permit Application No. 8422-3

Hi Karen,

New Fashion Pork has determined that they need a larger well pump to provide enough water pressure and supply water during extreme high usage times. Their attached permit has a maximum diversion rate of 0.11 cfs and they need a pump with a maximum capacity of 0.17 cfs. Their total permitted annual water usage of 46 acre-feet/year doesn't need to change. Do we need to submit an entire new permit for this pumping rate change? New fees also?

Thanks, Nic Rowe, PE
ProAg Engineering, Inc.
77402 US Hwy 71
PO Box 181
Jackson, MN 56143
507-849-7200 (office)
507-841-3269 (cell)
nic@proageng.com

From: Schlaak, Karen [<mailto:Karen.Schlaak@state.sd.us>]
Sent: Wednesday, April 15, 2020 12:05 PM
To: minercopork@nfpinc.com

Schlaak, Karen

From: Nic Rowe <nic@proageng.com>
Sent: Thursday, July 30, 2020 8:54 AM
To: Schlaak, Karen
Cc: 'Jay Moore'
Subject: RE: [EXT] New water permit application - New Fashion Pork

Hi Karen,

Yes that is correct, the proposed well location has changed moving further south as shown on the recently submitted site plan. Also the application is only for increasing the diversion rate to 0.17 cfs for No.8422-3. No changes proposed for No. 5117-3. Let me know if you have any other questions.

Thanks, Nic Rowe, PE
ProAg Engineering, Inc.
77402 US Hwy 71
PO Box 181
Jackson, MN 56143
507-849-7200 (office)
507-841-3269 (cell)
nic@proageng.com

From: Schlaak, Karen [mailto:Karen.Schlaak@state.sd.us]
Sent: Tuesday, July 28, 2020 4:55 PM
To: 'nic@proageng.com' <nic@proageng.com>
Subject: New water permit application - New Fashion Pork

Nic,

I have a couple of questions regarding the application we just received for New Fashion Pork.

The map submitted with Water Permit No. 8422-3 indicates the proposed well to be drilled in the very corner of the NE ¼ NE ¼ Section 17. Based on the map submitted with this application, the proposed well location is south of the existing deep well authorized by Water Right No. 5117-3. Am I correct in assuming the location of the proposed well has changed since 8422-3 was approved (which is fine because it is still in the same quarter-quarter)?

I just want to clarify that this application is to increase the diversion rate authorized by No. 8422-3 to 0.17 cfs involving one well only.

Nothing is changing on Water Right No. 5117-3 for 0.067 cfs, correct?

Please clarify or let me know if I have confused you.

Karen Schlaak
Water Rights Program
(605) 773-3352



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8436-3, New Fashion Pork**

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. 8436-3, New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143.

The Chief Engineer is recommending APPROVAL of Application No. 8436-3 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 well approved under Water Permit Nos. 8422-3 and 8436-3 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. The well authorized by Permit Nos. 8422-3 and 8436-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Water Permit Nos. 8422-3 and 8436-3 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 or 34A-2-124 for concentrated animal feeding operations.
4. Water Permit Nos. 8422-3 and 8436-3 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)

Recommendation for Application No. 8436-3

Page 2

5. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Floyd:East James aquifer.
6. Water Permit Nos. 8422-3 and 8436-3, combined, authorize a total annual diversion of 46 acre feet of water from the Floyd:East James aquifer.

See report on application for additional information.



Eric Gronlund, Chief Engineer

September 1, 2020

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8436-3
NEW FASHION PORK
SEPTEMBER 1, 2020

Water Permit Application No. 8436-3 proposes to increase the diversion rate authorized by Water Permit No. 8422-3. Water Permit No. 8422-3 appropriates 46 acre-feet per year (ac-ft/yr) at a maximum diversion rate of 0.11 cubic feet per second (cfs) from a single, 150-foot deep well, located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 6-T105N-R58W. The water is from the East James management unit of the Floyd aquifer and is to be used in a commercial swine farrowing operation located 15 miles west and 6 miles south of Howard, South Dakota. This application proposes to increase the existing authorized diversion rate by an additional 0.06 cfs to a total diversion rate of 0.17 cfs. No additional volume of water is requested.

AQUIFER: Floyd: East James (F: EJ)

Aquifer Characteristics

The Floyd: East James aquifer, as shown in Figure 1, underlies approximately 444,000 acres of Beadle, Hanson, McCook, Miner and Sanborn Counties (Hedges et al., 1982). Hedges, et al. (1982), included this aquifer in a series of hydrologically interconnected deposits usually in direct contact with underlying bedrock units. These bedrock units include the Pierre Shale, Niobrara Formation, Carlile Shale, Sioux Quartzite, and undifferentiated sediments of Cretaceous age (Holmes, 2019; Tomhave and Schulz, 2004). The material composing this aquifer was deposited by meltwater as outwash drift from receding glaciers. It is described as sand and gravel layers, intermixed and confined by a gray pebbly till (Hansen, 1983) and stratified beds of gravel, sand, silt, and clay (Howels and Stephens, 1968). The Floyd: East James aquifer is primarily under confined conditions with an average thickness of 30 feet and water depths ranging from 70 feet below the ground surface to flowing at the ground surface (Water Rights, 2020a and 2020b).

The depth to the top of the aquifer and aquifer thickness varies considerably in Miner County and the aquifer is under confined conditions (McGarvie, 1983; Water Rights, 2020a and 2020b). Within eight miles of this proposed application, the aquifer is buried underneath 60 to 175 feet of glacial till, ranges between 10 and 90 feet in thickness, and has a water depth range between 3 to 50 feet from the surface (Water Rights, 2020a and 2020b). With the average depth to the top of aquifer at 110 feet and an average depth to water at 27 feet, there exists an average of 83 feet of artesian head pressure near the proposed application (Water Rights, 2020b).

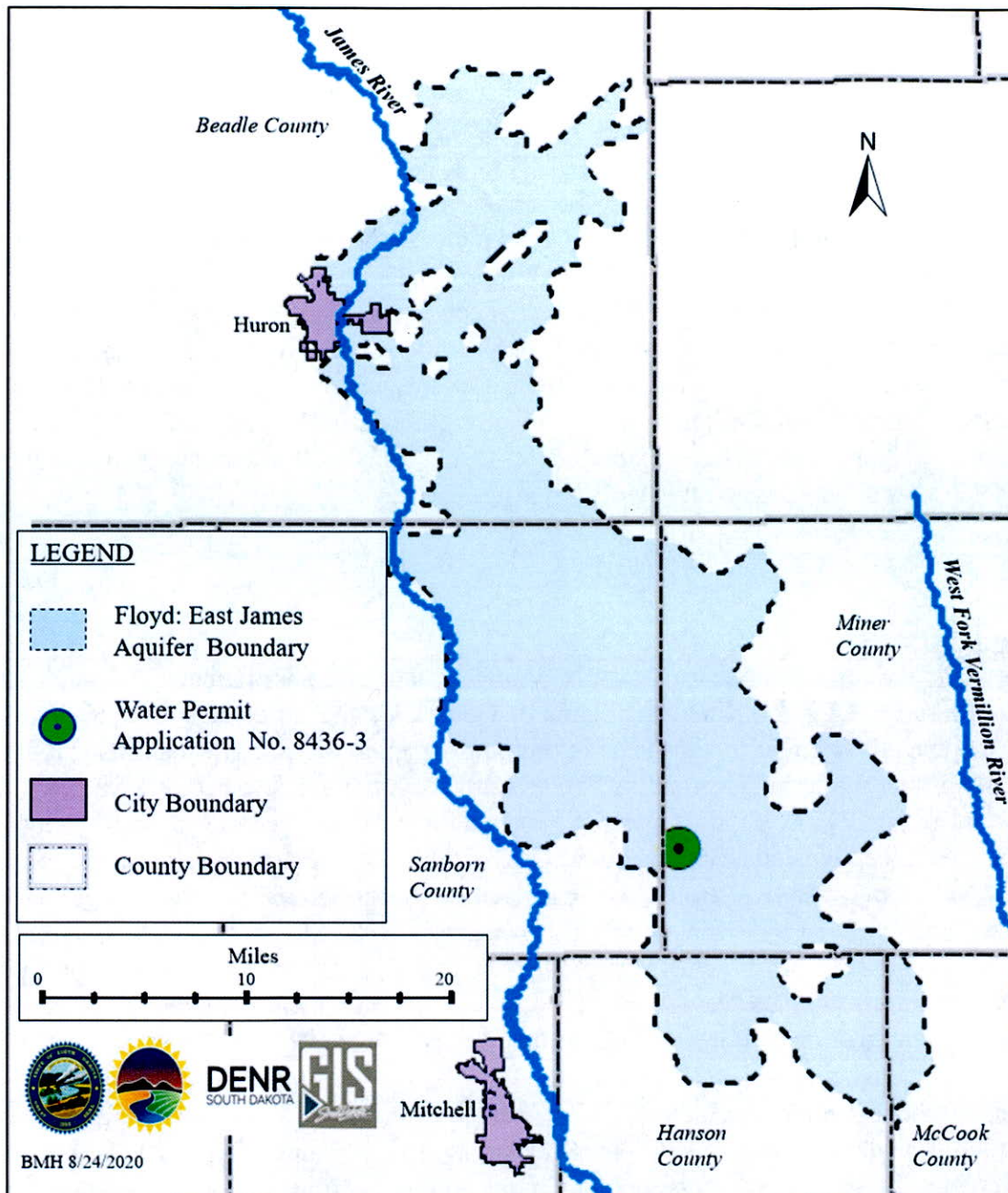


Figure 1. Water Permit Application No. 8436-3 shown within the Floyd: East James East Fork aquifer boundary (modified from: Hedges et al., 1982).

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

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

WATER AVAILABILITY

Water Permit Application No. 8436-3 proposes to appropriate water from the Floyd: East James aquifer. 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 a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. For this application, a water distribution system is not involved, and the aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered. However, this application proposes to increase the diversion rate authorized by Water Permit No. 8422-3. This application does not request an increase in the total volume of water appropriated. Therefore, water availability is not an issue.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS

Currently, there are 69 existing water rights/permits appropriating from the Floyd: East James aquifer. Table 1 contains the permits within 8 miles of the proposed application. Figure 2 shows their location in relation to the proposed application. Water Permit No. 8244-3 is in the same location as the application. Donahue Farms is located approximately 3.4 miles to the northeast and the Haag wells are located 8.7 miles south of the proposed well location. The remainder of the permits are near the City of Huron, over 30 miles north of the proposed well location. Many domestic wells have been completed into the Floyd: East James aquifer with nearest, on file with the Water Rights Program, approximately 0.75 miles to the southeast of this application (Water Rights 2020c). When considering the large amount of artesian head pressure and saturated thickness of the aquifer in this area, domestic users with adequate wells are not anticipated to be adversely impacted by the pumping proposed for this application.

Table 1. Existing water rights/permits within eight-mile radius of the proposed diversion site for Water Permit Application No. 8436-3 (Water Rights, 2020c).

Name	Permit No.	Status ^a	Use ^b	Rate (cfs)	Acres
Donahue Farms	8199-3	PE	COM/DOM	0.162	NA
New Fashion Pork	8422-3	PE	COM	0.11	NA
Haag	6292-3	LC	IRR	1.37	96
	2774-3			1.55	216
	6293-3			2.07	145
a - PE: Water Permit; LC: Licensed Water Right					
b - COM: Commercial; DOM: Domestic; IRR: Irrigation					

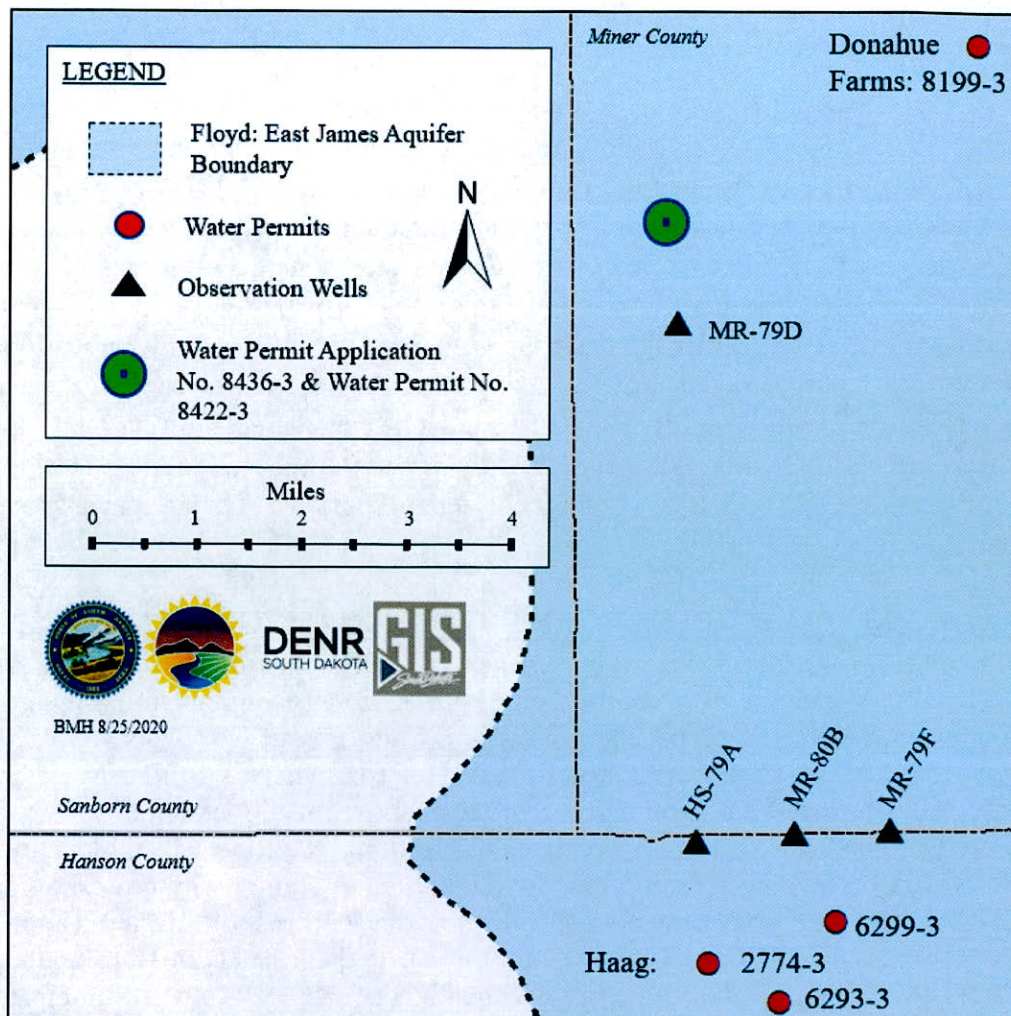


Figure 2. Existing water rights/permits and Floyd: East James aquifer observation wells in the vicinity of Water Permit Application No. 8436-3 (Water Rights 2020a and 2020c). Water Permit No. 8422-3 is in the same location as this proposed application.

Observation Well Data

The DENR – Water Rights Program monitors 57 observation wells completed into the Floyd: East James aquifer (Water Rights, 2020a). Approximately half of these are in Beadle County, twenty to forty-five miles north of this proposed application. Figure 2 shows the locations of selected observation wells in the vicinity of the proposed location. The closest is well MR-79D, approximately one mile to the south, with its hydrograph shown in Figure 3. Figures 4 through 6 show hydrographs of the wells near the high capacity production Haag wells. The graphs of HS-79A and MR-80B show the rise and fall of water levels after and during irrigation season. This response is typical for the majority of observation wells in the Floyd: East James aquifer. Observation well MR-79F does indicate water levels trending downward. Mathiowetz and Buhler (2016) noted that this is likely the effects of increased localized pumping but, that the aquifer levels appear to be equilibrating in response to this activity. Further, this well contains approximately 110 feet of artesian head pressure below the lowest recorded water level (Water Rights, 2020a). Consequently, well interference is not anticipated to be an issue with this proposed application.

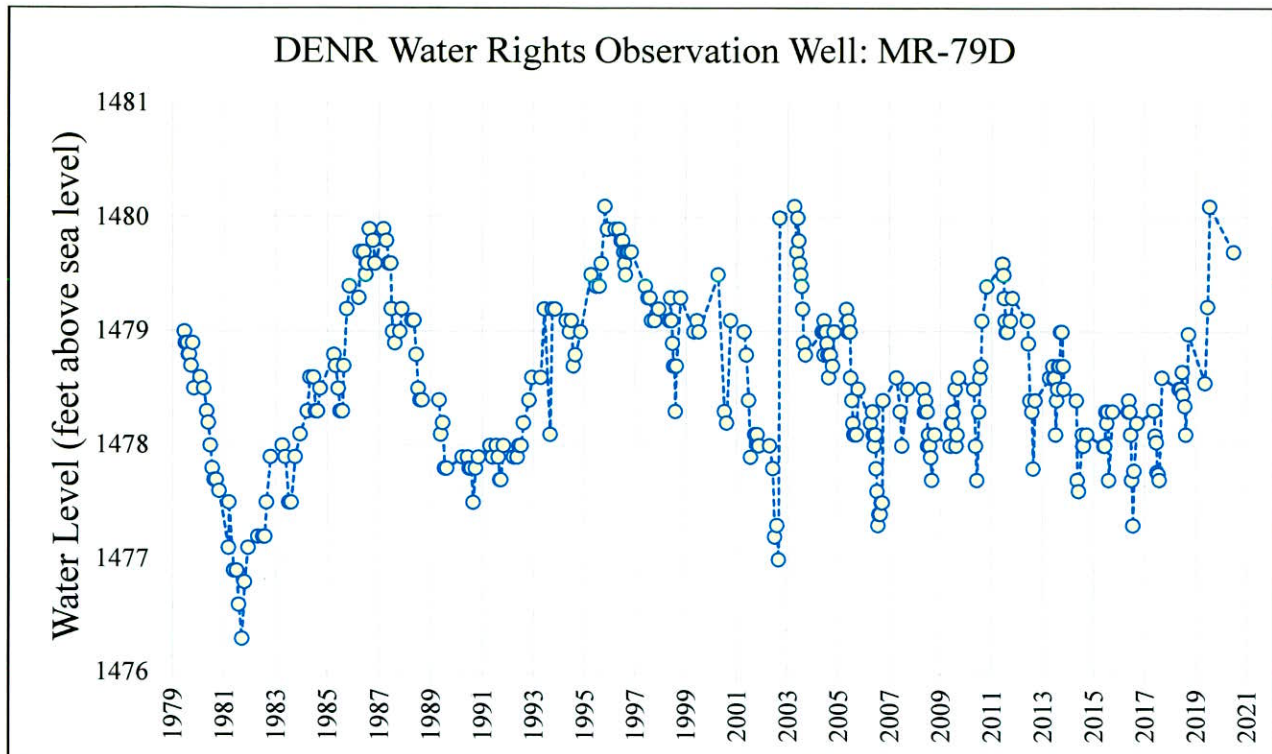


Figure 3. Hydrograph for observation well MR-79D. It is approximately 1 mile south of the proposed well location for Water Permit Application No. 8436-3 (Water Rights, 2020a).

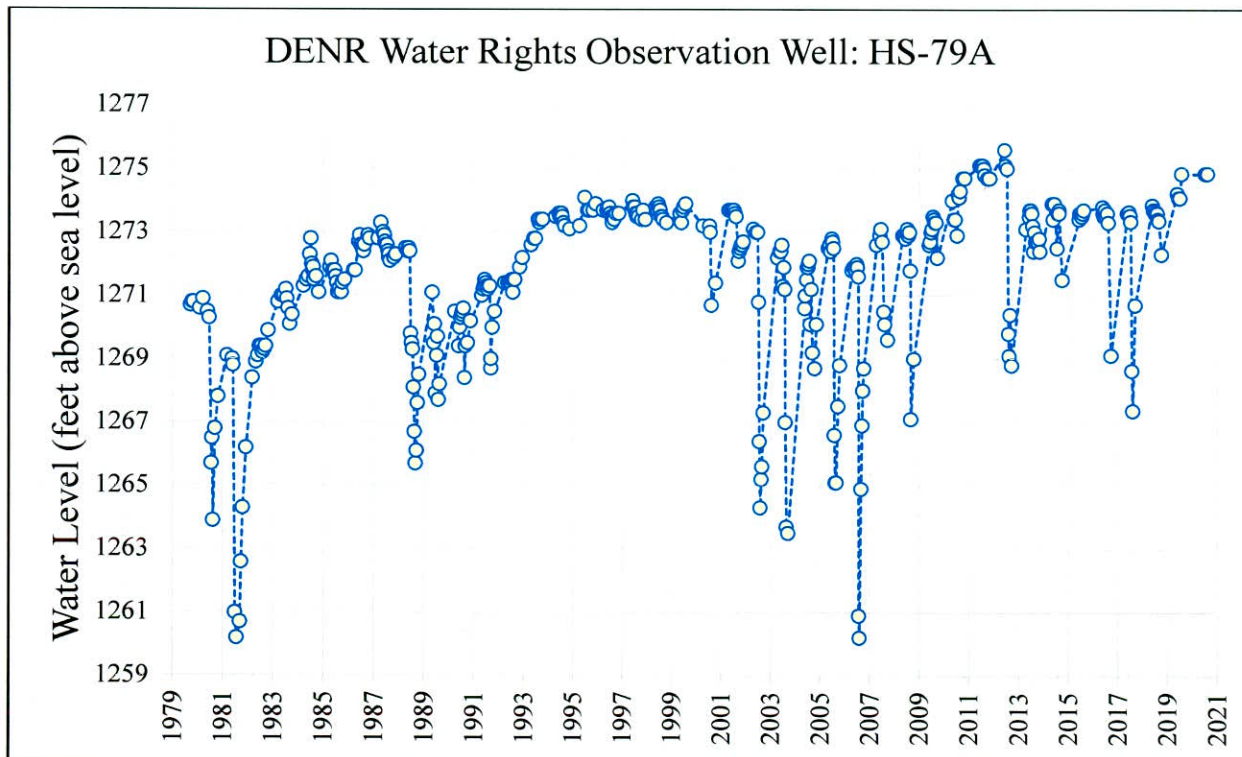


Figure 4. Hydrograph for observation well HS-79A, located approximately 6 miles south of the proposed well location for Water Permit Application No. 8436-3 (Water Rights, 2020a).

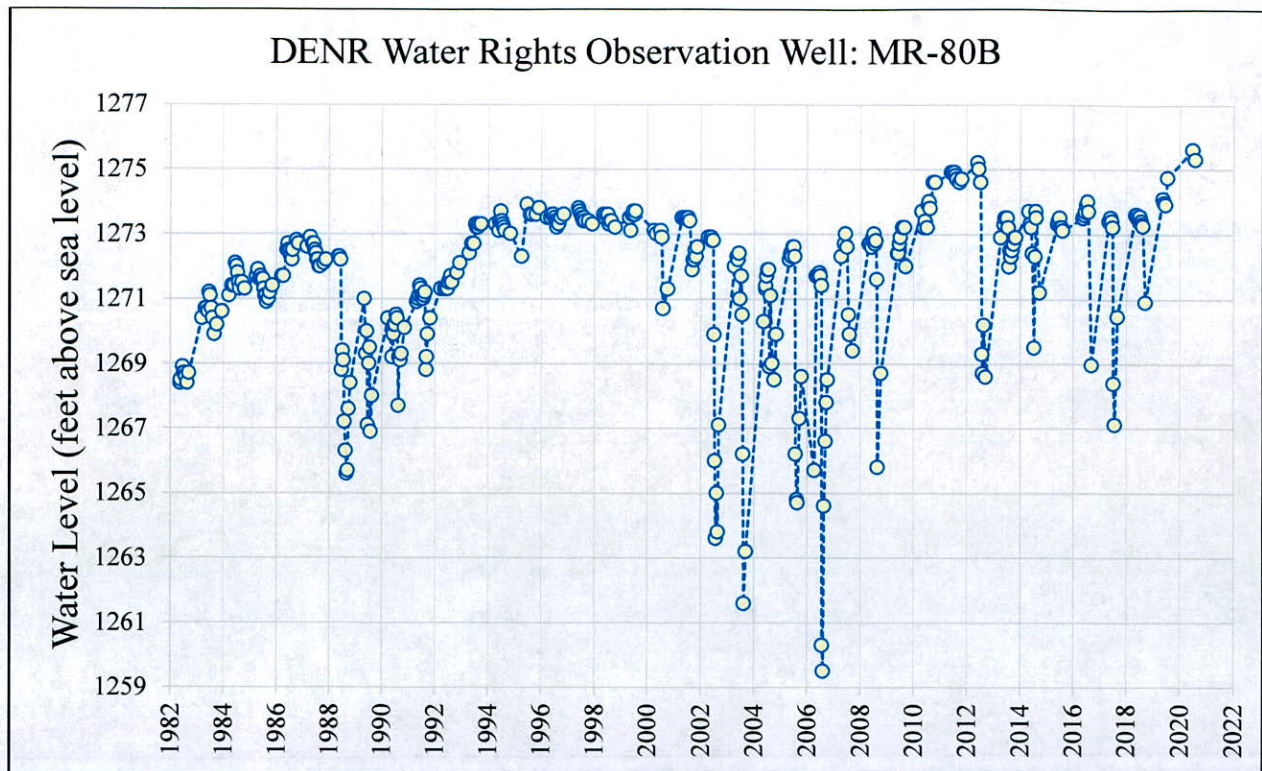


Figure 5. Hydrograph for observation well MR-80B, located approximately 6 miles south of the proposed well location for Water Permit Application No. 8436-3 (Water Rights, 2020a).

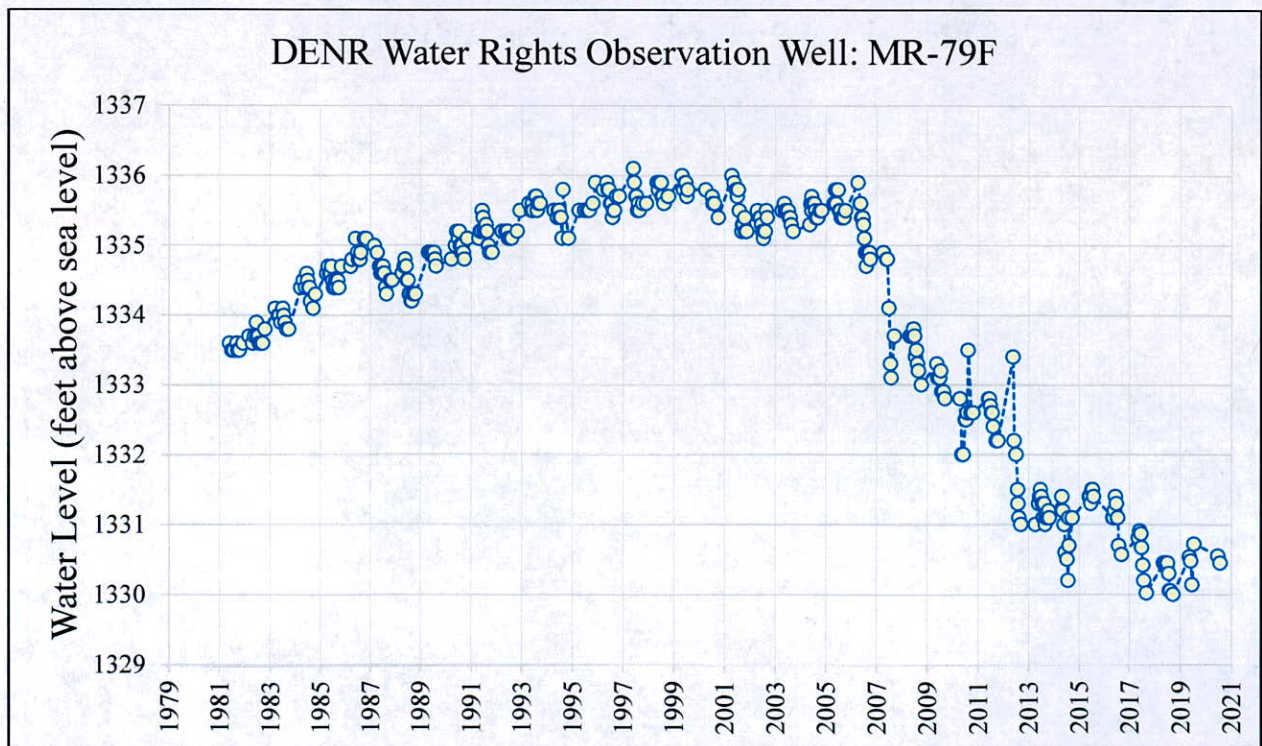


Figure 6. Hydrograph for observation well MR-79F, located approximately 6 miles southeast of the proposed well location for Water Permit Application No. 8436-3 (Water Rights, 2020a).

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) 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”.

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water is inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is considered as an unlawful impairment, it conflicts with SDCL 46-1-4 (Water Rights, 1995). Consequently, some existing well owners may need to lower their pumps due to deeper water levels depending on the specific characteristics of the Floyd: East James aquifer at their location; particularly since the aquifer is under confined conditions near the proposed diversion point for this application. When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20 (7)), and the lack of well complaints (Water Rights, 2020d), there is a reasonable probability that any well drawdown created by pumping from this proposed diversion will not cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8436-3 proposes to increase the existing authorized diversion rate of 0.11 cfs from Water Permit No. 8422-3 by an additional 0.06 cfs
2. Combined, Water Permit No. 8422-3 and Water Permit Application No. 8436-3, if approved, would authorize the appropriation of 46 ac-ft/yr at a maximum instantaneous diversion rate of 0.17 cfs.
3. If approved, this application does not authorize an increase in the total volume of water that is approved for Water Permit No. 8422-3. Therefore, water availability is not a consideration in this matter.

4. Based on observation well data, drawdown may occur in nearby wells. However, it is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells.



Blaise M. Hansen
SD DENR – Water Rights Program
Reviewed by:



Adam Mathiowetz, PE
SD DENR – Water Rights Program

REFERENCES:

- Hansen, D.S., 1983. Water Resources of Hanson and Davison Counties, South Dakota: U.S. Geological Survey Water Resources Investigations Report 83-4108.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 3: Ground Water Storage, U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Holmes, S. L., 2019. First Occurrence of Aquifer Materials in McCook County, SD DENR-Geological Survey Aquifer Materials Map 37, Vermillion, SD. Scale 1:1,000,000.
- Howells, L.W. and J.C. Stephens. 1968. Geology and Water Resources of Beadle County, South Dakota Part II: Water Resources. SD DENR Geological Survey Bulletin 18, Vermillion South Dakota.
- Mathiowetz, A. and Buhler, K., 2016. Report to the Chief Engineer on Water Permit Application No. 8214-3, City of Huron C/O Mike Weaver, City Engineer, SD DENR Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- McGarvie, S.D., 1983. Major Aquifers in Miner County, South Dakota: South Dakota Geological Survey Information Pamphlet No. 20.

Tomhave, D.W. and Schulz, L.D., 2004. Bedrock Geologic Map Showing Configuration of the Bedrock Surface in South Dakota East of the Missouri River. SD DENR-Geological Survey General Map 9. Vermillion, South Dakota. Scale 1:500,000.

Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DENR-Water Rights Program file for Water Right No. 2313-2. Pierre, South Dakota.

Water Rights, 2020a. Observation Well Database, SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Water Rights, 2020b. Well Completion Database, SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Water Rights, 2020c. Water Right/Permit Database, SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Water Rights, 2020d. Miner County Files, SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 1, 2020 4:13 PM
To: 'minercopork@nfpinc.com'
Cc: 'nic@proageng.com'
Subject: Application No. 8436-3, New Fashion Pork
Attachments: 8436-3.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you tomorrow.

Karen Schlaak
Water Rights Program
(605) 773-3352



DENR
SOUTH DAKOTA

RECEIVED

OCT 19 2020

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Miner: ss.

Carla Poulson of said County and State, being duly sworn, on her oath says: That the Miner County Pioneer is a legal newspaper of general circulation, printed and published in Howard, said County and State, by Carla Poulson, and has been such newspaper during the time hereinafter mentioned: and that I, Carla Poulson the undersigned, am publisher of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the advertisement or notice headed

Notice of Application

A printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in a supplement, once each week for1..... successive weeks, the first publication being made on the10..... day of Sept 20 20.

And the last publication on the day of 20.....

The first publication being made on the day of 20.....

The second publication being made on the day of 20.....

The third publication being made on the day of 20.....

The fourth publication being made on the day of 20.....

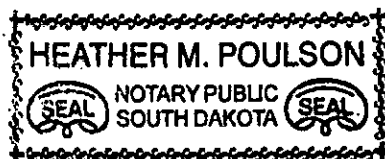
The fifth publication being made on the day of 20.....

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Miner, for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in an office maintained in Howard, South Dakota, the place of publication of said newspaper. That the full amount of fees for publication of the annexed notice is \$ and insures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any person whomever.

Subscribed and sworn to me this 16 day of Oct 2020.

C.R.

My commission expires the 10 day of Oct 2025

[Signature]

**NOTICE OF APPLICATION NO.
8436-3 to Appropriate Water**

Notice is given that New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 has filed an application for a water permit to appropriate an additional 0.06 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 8422-3. Water Permit No. 8422-3 appropriates 46 acre-feet of water annually at a maximum pump rate of 0.11 cfs from one well to be completed into the Floyd-East James Aquifer (150 feet deep) located in the NE 1/4 NE 1/4 Section 6-T105N-R58W for commercial use in a swine farrowing operation located in the same area described above. The applicant is proposing to increase the diversion rate from the well from 0.11 cfs to 0.17 cfs. This application, if approved, and Water Permit No. 8422-3 will authorize a total appropriation of 46 acre-feet of water annually. This site is located 15 miles west and 6 miles south of Howard SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8436-3 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 Ron Duvall 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 September 21, 2020.

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.

Published once at the total approximate cost of \$28.11.
(Sept. 10, 2020)

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 24, 2020 8:09 AM
To: Miner County Pioneer News (news@minercountypioneer.com)
Subject: FW: 8436-3, New Fashion Pork
Attachments: 8436-3public.short.docx; FORM8.FRM.doc

*Called 10/15/20
Heather said went in
mail last week.*

Please send me the affidavit for this publication.
Thanks,
Karen

From: Schlaak, Karen
Sent: Tuesday, September 1, 2020 4:07 PM
To: Miner County Pioneer News (news@minercountypioneer.com) <news@minercountypioneer.com>
Subject: 8436-3, New Fashion Pork

Attached is a notice to be published on September 10, 2020.

New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 (605 933-1326) 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
Water Rights Program
(605) 773-3352



Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

RECEIVED

OCT 07 2020

WATER RIGHTS
PROGRAM

Legal Notice Number: 0451

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 a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: SD ENVIRONMENTAL & NATURAL- WATER RIGHTS, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 9/11/20. That the full amount of the fee charged for the publishing \$ 42.57 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.

McKendzie Castillo

Subscribed and sworn to me before this date 9/30/20.

[Signature]

Notary Public, South Dakota

My Term Expires 03/11/2022

PLAINSMAN

2000 - Legals

F. P. 09-11-20

NOTICE OF APPLICATION NO. 8436-3 to

Appropriate Water

Notice is given that New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 has filed an application for a water permit to appropriate an additional 0.06 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 8422-3. Water Permit No. 8422-3 appropriates 46 acre-feet of water annually at a maximum pump rate of 0.11 cfs from one well to be completed into the Floyd-East James Aquifer (150 feet deep) located in the NE 1/4 NE 1/4 Section 6-T105N-R58W for commercial use in a swine farrowing operation located in the same area described above. The applicant is proposing to increase the diversion rate from the well from 0.11 cfs to 0.17 cfs. This application, if approved, and Water Permit No. 8422-3 will authorize a total appropriation of 46 acre-feet of water annually. This site is located 15 miles west and 6 miles south of Howard SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8436-3 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 Ron Duvall 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 September 21, 2020.

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.

No. 0451 (adv.)

Published once at the total approximate cost of \$42.57.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 1, 2020 4:07 PM
To: Miner County Pioneer News (news@minercountypioneer.com)
Subject: 8436-3, New Fashion Pork
Attachments: 8436-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on September 10, 2020.

New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 (605 933-1326) 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
Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 1, 2020 4:09 PM
To: Ruby Crandall
Subject: FW: 8436-3, New Fashion Pork
Attachments: FORM8.FRM.doc; 8436-3public.short.docx

Attached is a notice to be published on September 11, 2020.

New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 (605 933-1326) 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
Water Rights Program
(605) 773-3352



Instruction to Newspaper - Publish the Notice on September 10, 2020. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8436-3 to Appropriate Water

Notice is given that New Fashion Pork, c/o Brad Freking, PO Box 244, Jackson MN 56143 has filed an application for a water permit to appropriate an additional 0.06 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 8422-3. Water Permit No. 8422-3 appropriates 46 acre-feet of water annually at a maximum pump rate of 0.11 cfs from one well to be completed into the Floyd:East James Aquifer (150 feet deep) located in the NE 1/4 NE 1/4 Section 6-T105N-R58W for commercial use in a swine farrowing operation located in the same area described above. The applicant is proposing to increase the diversion rate from the well from 0.11 cfs to 0.17 cfs. This application, if approved, and Water Permit No. 8422-3 will authorize a total appropriation of 46 acre-feet of water annually. This site is located 15 miles west and 6 miles south of Howard SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8436-3 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 Ron Duvall 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 September 21, 2020.

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.

Published once at the total approximate cost of_



DENR
SOUTH DAKOTA

**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 NEWSPAPERS RIGHT AWAY.**

September 1, 2020

New Fashion Pork
c/o Brad Freking
PO Box 244
Jackson MN 56143

Dear Mr. Freking:

Water Permit Application No. 8436-3 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 Miner County Pioneer printed at Howard SD (Ph # 605 772-5644) and the Plainsman printed at Huron SD (Ph # 605 353-7414). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak
Water Rights Program
(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.



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 02 2020

New Fashion Pork
c/o Brad Freking
PO Box 244
Jackson MN 56143

Dear Mr. Freking:

Enclosed is Water Permit No. 8436-3 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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 5, 2024

8422-3

8436-3

New Fashion Pork
c/o Brad Freking
PO Box 244
Jackson MN 56143

Dear Mr. Freking:

On July 15, 2024, a staff engineer from the Water Rights Program made a site visit to conduct an inspection of the water use system authorized under Permit Nos. 8422-3 & 8436-3 for a commercial swing farrowing operation.

With the inspection having been conducted and the report completed, we are ready to proceed with the licensing of your water use system. However, as stated in Permit Nos. 8422-3 & 8436-3, you have until May 4 & September 21, 2025, to complete the construction of your water use system and until May 4 & September 21, 2029, to put that water to beneficial use, respectively.

If you have finished the construction and are satisfied with your water use system, please complete the highlighted portions of the enclosed "Notice of Completion of Works" forms and return them in the postage paid envelope. Once we have these completed forms back from you, we will proceed with the licensing of your system.

If you have any questions, please reach out.

Sincerely,

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

enclosures