

WATER PERMIT NO. 8521-3

Name of Applicant: CBM Land and Cattle

Address: 47930 172nd St, Clear Lake SD 57226

Phone: 605 237-0723

Amount of Water Claimed: 8.29 cfs

Total Acres: 200

Source of Water Supply: Lake Alice

Water to be used for: irrigation

County: Deuel

Type of Waste Disposal System:

Location: 9 miles northeast of Clear Lake

PRIORITY Date Received: 6-21-21

Application/License Fee: \$ 1150

Corrected Application Received: 6-29-21

Period of Annual Use: May 1 – September 30

Remarks: Pump from Lake Alice to a lagoon then apply to land

Diversion Point: SE 1/4 SE 1/4 Sec 6-T116N-
R48W

Land to be Irrigated: NW 1/4 and SE 1/4 Sec 5-
T116N-R48W

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 6-29-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8521-3**

Date of first receipt of application June 21, 2021.

Date of return to applicant for corrections, amendments or changes June 21, 2021.

Date of receipt of corrected application June 29, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8521-3 to CBM Land and Cattle, c/o Craig Magedanz, 47930 172nd St, Clear Lake SD 57226 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. 8521-3 appropriates 8.91 cubic feet of water per second (cfs) from Lake Alice located in the SE 1/4 SE 1/4 Section 6 for irrigation of 200 acres located in portions of the NW 1/4 and SE 1/4 Section 5; all in T116N-R48W. The permit holder is authorized to pump from Lake Alice into a feedlot lagoon located in the SW 1/4 Section 32-T117N-R48W and then apply to the acreage. The pump rate from the lagoon will be 1.78 cfs. This site is located approximately 9 miles northeast of Clear Lake SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is June 21, 2021.
4. The date of approval of Permit No. 8521-3 is September 13, 2021.
5. One-fifth of the construction is to be completed on or before March 13, 2024.
6. All construction is to be completed on or before September 13, 2026.
7. Water is to be put to beneficial use on or before September 13, 2030.
8. 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 South Dakota Department of Game, Fish and Parks holds Recognized Vested Water Right Claim No. 1467-3 for Lake Alice in Deuel County. Irrigation with water from Lake Alice is authorized during the May 1 – September 30 irrigation season when either of the following conditions are met: (survey elevations based on NGVD 29 datum)
 - Irrigation may occur the following year if the lake elevation is at or above 1690.8 feet mean sea level (fmssl) at the time of DANR's annual fall lake elevation survey or,
 - Irrigation may occur if the lake elevation is at or above 1691.3 fmssl at the time of DANR's annual spring lake elevation survey.

(continued)

2. Irrigation with water from Lake Alice is not authorized when neither lake elevation condition is met. The Permit Holder is responsible for confirming with DANR whether irrigation may occur based on the annual lake survey elevations.
3. The annual diversion of water from Lake Alice is limited to 200 acre feet of water. At a pump rate of 8.91 cubic feet of water per second to the wastewater lagoon this equates to pumping 272 hours. Water may not be pumped from Lake Alice when the water is not intended for irrigation use.
4. The irrigation intake in Lake Alice shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
5. This Permit is approved subject to the irrigation water use questionnaire being submitted each year for the volume of water diverted from Lake Alice.

WATER MANAGEMENT BOARD

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

SEP 27 2021

date



RECEIVED

FORM 2: Application for irrigation in South Dakota

(type or print)

JUN 21 2021

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8521-3</u> (office use only)	Hydrologic Unit <u>07020003</u>	WATER RIGHTS PROGRAM
	Basin <u>Minnesota Whetstone</u>		
	Newspaper <u>Clear Lake Courier</u>		
	<u>Public Opinion</u>		

PAID

JUN 21 2021

Ck# 1568

RECEIVED

JUL 12 2021

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit CBM Land and Cattle

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

Mailing Address 47930 172nd ST Clear Lake ☒ SD ☒ 57226
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-237-0723 Email caseymagedanz@hotmail.com

2. Amount of water claimed 8.91 *CFS or 40 to 4,000 **GPM 200 ***AF Total Acreage 200
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Lake Alice In deuel County

4. Location of point of diversion Lake Alice with a pump out point in sec 6-T116N-48W (SE 1/4 SE 1/4)
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
County Deuel ☒

5. County or counties where water will be used Deuel

6. Annual period during which water is to be used May - September

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

Land Description	Acres	Land Description	Acres
nw1/4 of sec 5 T116 R48W	100		
se1/4 of Sec 5 T116 R48W	100		

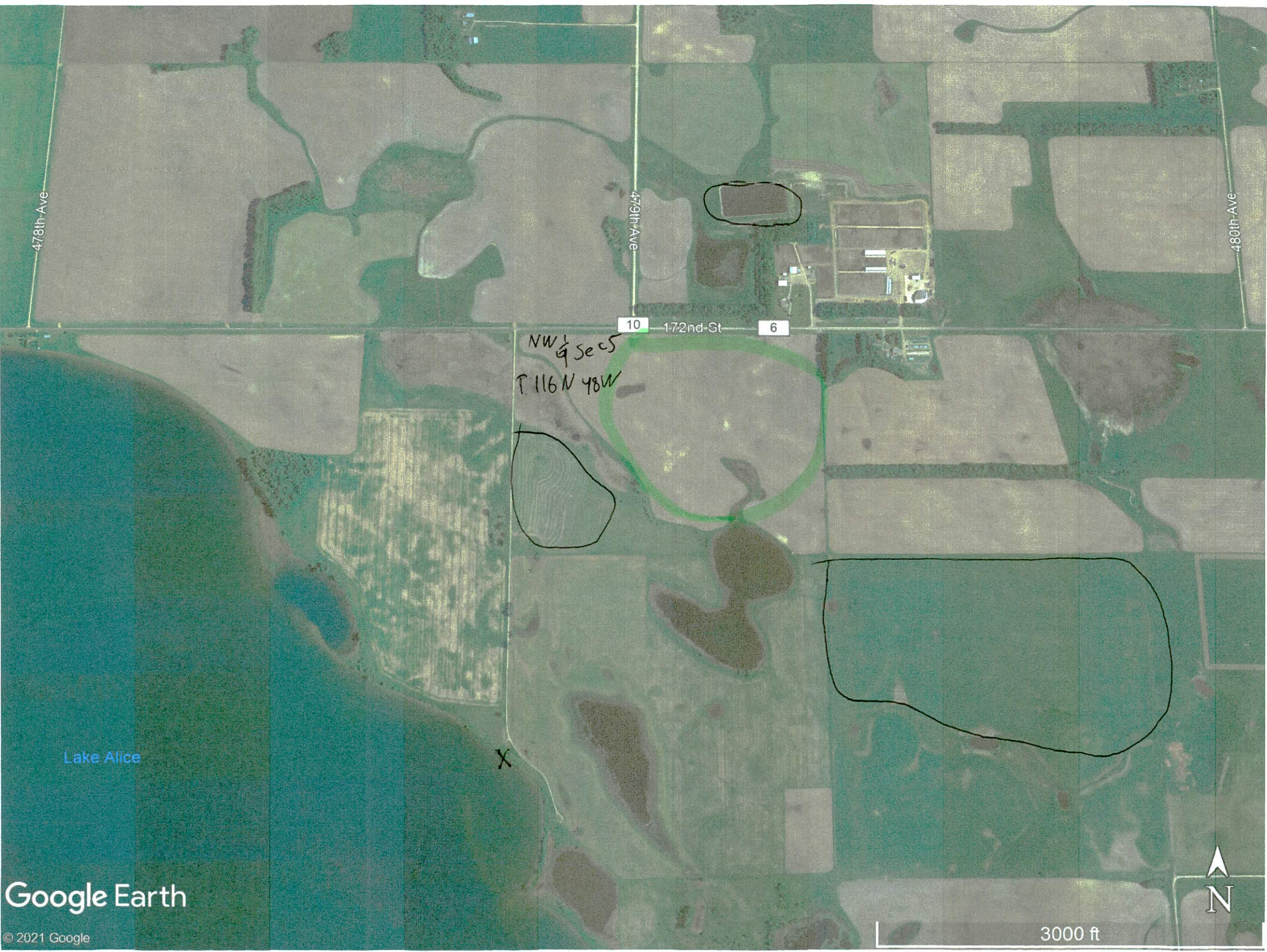
8. Give a description of the project. (Attach sheet if more space is needed)

As of now we are irrigating with a center pivot that covers about 65 acres out of our runoff lagoon for our feedlot. If we got the permit we would pull water from the lake to replenish our lagoon to irrigate the 65 acres. We would also start the process of putting up 2 more pivots to irrigate more land.

Beverly Magedanz 7.7.21

I, Craig Magedanz Owner _____, the applicant, certify under
Name of Person Title (if applicable)

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



Lake Alice

NW 1/4 Sec 5
T 116N 48W

Google Earth

© 2021 Google

3000 ft



117N 48W
Section: 31

117N 48W
Section: 32

117N 48W
Section: 33

116N 48W
Section: 06

116N 48W
Section: 05

116N 48W
Section: 04

116N 48W
Section: 08

116N 48W
Section: 09

116N 48W
Section: 07



531246984

B0183-6152 06/05/2021 7:42AM Rec'd by SD SOS

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

2021
FILING YEAR

ANNUAL REPORT
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

1. Business ID and Name:

DL032338
BUSINESS ID

CBM LAND & CATTLE, 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

47930 172ND ST
CLEAR LAKE, SD 57226

Mailing Address

47930 172ND ST
CLEAR LAKE, SD 57226

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 **THOMAS J. LINNGREN**

Actual Street Address in this State

816 S BROADWAY
WATERTOWN, SD 57201-4846

Mailing Address in this State

PO BOX 1600
WATERTOWN, SD 57201-6600

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.

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).

06/05/2021

Dated

Email (Optional)

Beverly Magedanz

Signature of an Authorized Person

Beverly Magedanz

Printed Name

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 21, 2021

RECEIVED OF Casey/Christina Magendanz/CBM Land & Cattle 47705 US Hwy 212 Revello SD 57259

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

Fee for Application for Permit No. <u>8521-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>950.00</u>
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
	\$ <u>950.00</u>

By Eric Gronlund
Chief Engineer
Um

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date June 29, 2021

RECEIVED OF CBM Land & Cattle LLC 47930 172nd St., Clear Lake SD 57226

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$200.00
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>8521-3</u>	\$ <u>200.00</u>
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	\$ <u>200.00</u>

By Eric Gronlund
Chief Engineer
vm



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 21, 2021

CBM Land and Cattle
Craig Magedanz
47930 172nd St
Clear Lake SD 57226

Dear Mr. Magedanz:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Deuel County. In order to complete the application, the following is required.

- We have received your check in the amount of \$950.00. The application/license fee for irrigation of 200 acres is \$1,150.00. Please submit an additional \$200.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 6, 2021

CBM Land and Cattle
Craig Magedanz
47930 172nd St
Clear Lake SD 57226

Dear Mr. Magedanz:

Thank you for submitting the fee for your *Application for a Permit to Appropriate Water*.

A review of the Secretary of State's corporation website finds CBM Land & Cattle, LLC listed. Your name is not listed as a partner or manager. DANR will need the application to be signed by a listed partner or a statement of authority that the person signing the application has the authority to act on behalf of CBM Land & Cattle LLC on all matters involving the water permit application. The registered agent for the LLC as listed on the website is Thomas J Linngren, 816 S Broadway, Watertown SD.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure

Gronlund, Eric

From: casey magedanz <caseymagedanz@hotmail.com>
Sent: Tuesday, July 13, 2021 8:59 AM
To: Gronlund, Eric
Subject: Re: [EXT] water permit application from Lake Alice

Eric,

At this time, we are planning to just pump to the lagoon, we have a pump there that has an output of 800 gpm that we will continue to utilize. We will most likely use one pump and with valving determine what pivot we will run that day.

at this time i don't think we will pump directly to the irrigator.

Thanks
Casey

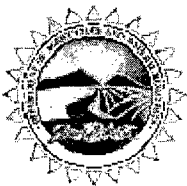
From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Monday, July 12, 2021 1:52 PM
To: caseymagedanz@hotmail.com <caseymagedanz@hotmail.com>
Subject: water permit application from Lake Alice

Mr. Magedanz

The Water Rights Program received your application to appropriate water from Lake Alice for irrigation. The application states Lake Alice water will be pumped at 4,000 gallons per minute to replenish the lagoon. Water will be pumped from the lagoon to supply irrigation on 200 acres (three center pivots).

- Will water from Lake Alice ever be pumped directly for irrigation of the land without utilizing the lagoon?
- What will be the pump rate from the lagoon to the operate the three pivots? Standard quarter section pivots generally operate at 750 – 850 gpm depending on how they are nozzled. It appears what you are planning are smaller sized pivots that may require less water than that.

Thanks - Eric



Eric Gronlund, PE
Chief Engineer, Water Rights Program
Department of Agriculture and Natural Resources
523 E. Capitol Ave. Pierre SD, 57501
605.773.3352
danr.sd.gov



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8521-3, CBM Land and Cattle**

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. 8521-3, CBM Land and Cattle, 47930 172nd St., Clear Lake SD 57226.

The Chief Engineer is recommending APPROVAL of Application No. 8521-3 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 South Dakota Department of Game, Fish and Parks holds Recognized Vested Water Right Claim No. 1467-3 for Lake Alice in Deuel County. Irrigation with water from Lake Alice is authorized during the May 1 – September 30 irrigation season when either of the following conditions are met: (survey elevations based on NGVD 29 datum)
 - Irrigation may occur the following year if the lake elevation is at or above 1690.8 feet mean sea level (fmsl) at the time of DANR's annual fall lake elevation survey or,
 - Irrigation may occur if the lake elevation is at or above 1691.3 fmsl at the time of DANR's annual spring lake elevation survey.
2. Irrigation with water from Lake Alice is not authorized when neither lake elevation condition is met. The Permit Holder is responsible for confirming with DANR whether irrigation may occur based on the annual lake survey elevations.
3. The annual diversion of water from Lake Alice is limited to 200 acre feet of water. At a pump rate of 8.91 cubic feet of water per second to the wastewater lagoon this equates to pumping 272 hours. Water may not be pumped from Lake Alice when the water is not intended for irrigation use.
4. The irrigation intake in Lake Alice shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.

5. This Permit is approved subject to the irrigation water use questionnaire being submitted each year for the volume of water diverted from Lake Alice.

See report on application for additional information.

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund, Chief Engineer

August 25, 2021

REPORT ON WATER PERMIT APPLICATION NO. 8521-3

CBM Land & Cattle

August 18, 2021

Application No. 8521-3, proposes to appropriate 8.91 cubic feet of water per second from Lake Alice located in the SE 1/4 SE 1/4 Section 6 for irrigation of 200 acres located in portions of the NW 1/4 and SE 1/4 Section 5; all in T116N-R48W. The applicant is requesting to pump from Lake Alice into a feedlot lagoon located in the SW 1/4 Section 32-T117N-R48W and then apply to the acreage. This site is located approximately 9 miles northeast of Clear Lake SD in Deuel County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Project

The applicant has captures runoff from a feedlot into a holding lagoon and disposes of wastewater by pumping it through a 65-acre center pivot. The intent is to add two additional pivots increasing the acres covered to 200 acres. Water diverted from Lake Alice will be discharged directly into the lagoon mixing with the captured wastewater before being pumped to one of the three center pivots for a combination irrigation/disposal. The request is to be able to pump from Lake Alice at a rate of 8.91 cfs (4,000 gal per min) into the lagoon.

Review of Existing Water Rights

There is one existing water right on Lake Alice, Recognized Vested Water Right No. 1467-3, held by SD Department of Game Fish and Parks (GF&P). Recognized Vested Water Right No. 1467-3, bearing a priority date of January 1, 1889 allows for a fill of the lake to the outlet at a volume of up to 3,900 acre-feet annually. There are no other existing water rights located downstream of the Lake Alice outlet to the Yellow Bank River.

Review of the Proposed Water Source

The proposed water source for the project is Lake Alice, a meandered lake covering about 1,100 surface acres in north central Deuel County. Lake Alice has had an ordinary high water mark (OHWM), ordinary low water mark (OLWM), and outlet elevation officially established by the Water Management Board.

On May 6, 1992, the Water Management Board held a contested hearing to consider setting the OHWM, OLWM, and outlet elevation for Lake Alice. At the hearing the Board established both the OHWM and OLWM but decided not to set the outlet elevation. The Findings of Fact, Conclusion of Law, and Final Decision (FOF) stated because of a ridgeline around the lake, water does not flow from the lake under “ordinary” conditions (Water Rights. 2021).

In February 1994, the Water Rights Program received a petition from the Deuel County Lakes and Streams Association requesting the Water Management Board establish the outlet elevation for Lake Alice. During the hearing the Board heard testimony that man-made influences and ice action affect the elevation at which water levels at Lake Alice must rise in order to make its way to the outlet. The Board also heard testimony from several witnesses recommending the outlet be set higher and lower than the previously established OHWM elevation of 1691.8 feet mean sea level (fmsl) referenced to NGVD29 vertical datum. Ultimately the Board decided to set the outlet elevation for Lake Alice at 1691.3 fmsl which is six inches below the OHWM. The Board stated in their FOF, “The effect of setting an outlet elevation is, among other things, to establish the level at which an outlet might be constructed and to establish the parameters for operation of SDCL 46-5-1.1” (Water Rights. 2021).

Since the time the outlet elevation was established, there has not been an outlet structure constructed. There continues to be development around the lake and in the outlet area. In the Spring of 2020 following the wet year of 2019, due to the effects of ice action and continued development at the outlet area, water exited Lake Alice at a level above the OHWM through a SD Department of Game Fish & Parks Game Production Area at a location where water had not previously run, (SD GF&P. 2020).

Discussion

This application proposes to divert from the Lake Alice at a rate of 8.91 cfs into a holding lagoon to irrigate up to 200 acres. The statutory limit for irrigation is 2 acre-feet per acre, but likely will apply less than 1 acre-foot per acre. At 1 acre-foot per acre the applicant would use up to approximately 200 acre-feet of water from the lake annually which would have the effect of lowering water levels in the 1,100 acre lake by approximately 0.18 feet (2.2 inches).

On prior applications when an irrigator proposed to divert from a lake where GF&P held a water right, the permit was qualified that pumping could only occur when water levels in the lake were at or above the outlet elevation. Since Lake Alice has an established outlet elevation but does not have a constructed outlet and has a history of water levels needing to rise higher than the outlet elevation to flow out, a qualification like this would not be practical. In a similar situation in 2014 Water Permit No. 7982-3 was issued allowing the diversion from Antelope Lake in Day County for irrigation. In that case GF&P held a recognized vested water right, Antelope Lake was part of the Bitter Lake closed basin, there was no established outlet elevation but there was an overflow elevation determined where water would flow from Antelope Lake toward Bitter Lake. Water Permit No. 7982-3 was issued with a qualification to protect GF&P's recognized vested water right of maintaining water levels at the outlet elevation while allowing the irrigator to plan for the upcoming planting and harvest season. The qualification used measured lake elevations referenced to the overflow elevation and a calculated trigger elevation which was lower than the overflow elevation to determine whether the irrigator was allowed to pump or not during the irrigation season. The qualification stated if the measured fall lake level elevation was equal to or higher than the trigger elevation, the irrigator would be allowed to pump the following year. If the fall lake level elevation was lower than the trigger elevation, but the spring lake level was equal to or higher than the outlet elevation, the irrigator would be allowed to pump (Water Rights. 2021). A similar qualification would be appropriate for this application.

The Water Rights Program has been measuring water levels in Lake Alice twice a year, spring and fall, since September 1984. In order to develop an irrigation pumping plan, lake level readings from the spring and the previous fall will be used to determine whether the irrigator will be able to divert from the lake and still protect GF&P's senior right. A data set of Lake Alice lake levels was used. An analysis was performed of the values created by subtracting the previous fall lake level from the spring lake level for the 37 years of record for Lake Alice (Water Rights. 2021). From this data a median value of 0.5 feet was calculated. This value was subtracted from the outlet elevation of 1691.3 fmsl and used to determine a trigger value of 1690.8 fmsl for the pumping plan.

Figure 1 is the lake level hydrograph with the measured fall and spring lake level elevations for Lake Alice along with outlet elevation and the trigger elevations. Using the trigger elevation of 1690.8 fmsl and the criteria that the fall reading equaled or exceeded the trigger elevation or the spring reading equaled or exceeded the outlet elevation, based upon the 37 years of record, the irrigator would have been able to pump 26 of those years. Three of the years the spring lake level readings would allow the irrigator to pump and are designated with the black ovals. Only one of the years, designated with the red oval, the irrigator would have been able to pump where the fall lake elevation was above the trigger elevation, but the spring lake elevation was below the outlet elevation. A trigger elevation allows the permit holder to know whether pumping from the lake

can occur during the upcoming irrigation season while protecting GF&P's recognized vested water right for Lake Alice.

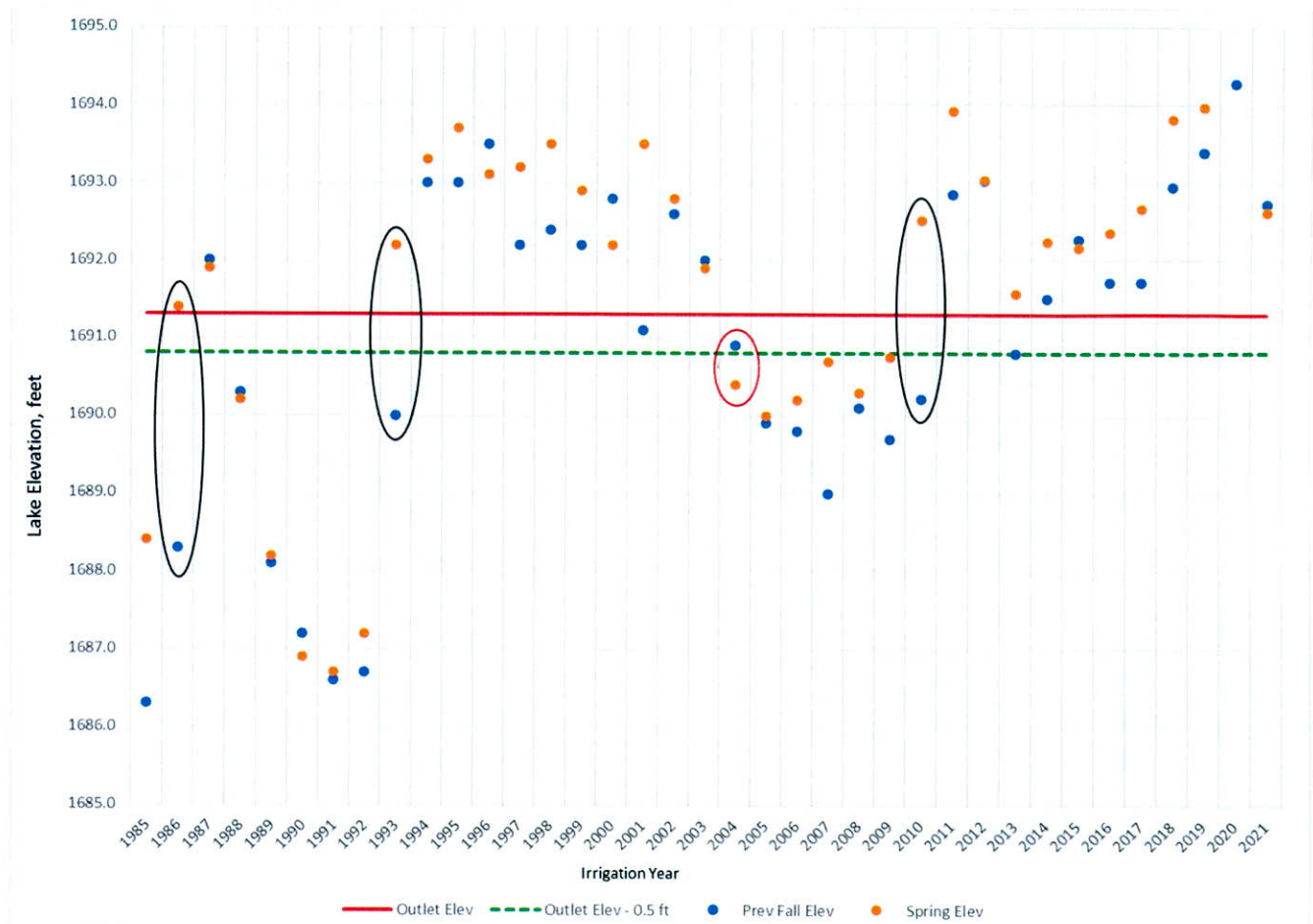


Figure1. Lake Alice lake level hydrograph with the lake outlet elevation and proposed irrigation trigger elevation based upon 37 years of record, (Water Rights. 2021).

If Water Permit Application No. 8521-3 is approved, it should contain the following qualification to allow irrigation yet provide protection to existing water rights:

The South Dakota Department of Game, Fish and Parks holds Recognized Vested Water Right Claim No. 1467-3 for Lake Alice in Deuel County. Irrigation with water from Lake Alice is authorized during the May 1 – September 30 irrigation season when either of the following conditions are met: (survey elevations based on NGVD 29 datum)

- Irrigation may occur the following year if the lake elevation is at or above 1690.8 feet mean sea level (fmsl) at the time DANR's annual fall lake elevation survey or,

- Irrigation may occur if the lake elevation is at or above 1691.3 fmsl at the time of DANR's annual spring lake elevation survey.

Conclusions

1. This application proposes to appropriate 8.91 cubic feet of water per second (cfs) (4,000 gal. per min.) from Lake Alice for irrigation of 200 acres. The applicant is requesting to pump from Lake Alice into a feedlot lagoon then pump from the lagoon and apply to the acreage.
2. GF&P holds Recognized Vested Water Right No. 1467-3, bearing a priority date of January 1, 1889, allowing for a fill of the lake to the outlet at a volume of up to 3,900 acre-feet annually.
3. Pumping an estimated 200 acre-feet of water from the lake annually would have the effect of lowering water levels in the 1,100 acre lake by approximately 0.18 feet (2.2 inches).
4. Utilizing an irrigation season trigger elevation will allow the permit holder a reasonable expectation on whether pumping from the lake can occur the following irrigation season and yet protect GF&P's vested water right for Lake Alice.
5. If Water Permit Application No. 8521-3 is approved, it should contain the following qualification to allow irrigation yet provide protection to existing water rights:

The South Dakota Department of Game, Fish and Parks holds Recognized Vested Water Right Claim No. 1467-3 for Lake Alice in Deuel County. Irrigation with water from Lake Alice is authorized during the May 1 – September 30 irrigation season when either of the following conditions are met: (survey elevations based on NGVD 29 datum)

- Irrigation may occur the following year if the lake elevation is at or above 1690.8 feet mean sea level (fmsl) at the time of DANR's annual fall lake elevation survey or,
- Irrigation may occur if the lake elevation is at or above 1691.3 fmsl at the time of DANR's annual spring lake elevation survey.



Mark D. Rath
Natural Resources Engineer III

References

1. GF&P. 2020. Personal discussion with Rhett Russell, Wildlife Biologist. SD Dept of Game Fish and Parks – Watertown Regional Office, 400 W Kemp Ave, Watertown SD.

2. USGS. 2021. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
3. Water Rights. 2021. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 26, 2021 1:32 PM
To: caseymagedanz@hotmail.com
Subject: Water Permit Application No. 8521-3
Attachments: 1747.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 today.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 26, 2021 1:42 PM
To: Morey, Hilary
Subject: Water Permit Application No. 8521-3, CBM Land and Cattle
Attachments: 1747.pdf

For your information, attached is a copy of the public notice, staff report and recommendation of the Chief Engineer for Water Permit Application No. 8521-3, CBM Land and Cattle. This is an application requesting to pump water from Lake Alice in Deuel County.

If you have questions, contact Mark Rath or me.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that

Notice Of Application Appropriate water CBM Land and Cattle

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

September 1, 2021

That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are \$28.39


Ken Reiste

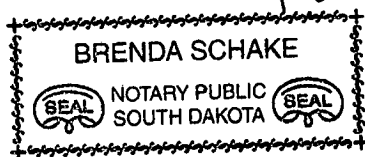
Subscribed and sworn to before me

this 1st day of September, 2021



Notary Public, South Dakota

My commission expires 9-21-21



Public notice

NOTICE OF APPLICATION

NO. 8521-3 to

Appropriate Water

Notice is given that CBM Land and Cattle, c/o Craig Magedanz, 47930 172nd St, Clear Lake SD 57226 has filed an application for a water permit to appropriate 8.91 cubic feet of water per second (cfs) from Lake Alice located in the SE 1/4 SE 1/4 Section 6 for irrigation of 200 acres located in portions of the NW 1/4 and SE 1/4 Section 5; all in T116N-R48W. The applicant is

requesting to pump from Lake Alice into a feedlot lagoon located in the SW 1/4 Section 32-T117N-R48W and then apply to the acreage. The pump rate from the lagoon will be 1.78 cfs. This site is located approximately 9 miles northeast of Clear Lake SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8521-3 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 <https://danr.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 13, 2021.

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 \$28.39 (29-1/84)

RECEIVED

SEP 07 2021

WATER RIGHTS
PROGRAM

LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Sd Dept Of Environment
Sd Dept Of Environment
WATER RIGHTS PROGRAM
523 E. CAPITOL
Pierre SD 57501

STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

09/01/2021

and that the fees charged are legal.
Sworn to and subscribed before on 09/01/2021

Denise Roberts
Legal Clerk

Art Bente
Notary, State of WI, County of Brown
7/27/25

My commission expires

Publication Cost: \$34.12
Order No: 6223714
Customer No: 561450
PO #: 1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

SARAH BERTELSEN
Notary Public
State of Wisconsin

NOTICE OF APPLICATION NO. 8521-3 to Appropriate Water

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Published once at the total approximate cost of \$34.12

September 1, 2021 #6223714

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SEP 07 2021

WATER RIGHTS
PROGRAM

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 26, 2021 1:28 PM
To: Watertown Public Opinon (legals@thepublicopinion.com)
Subject: 8521-3, CBM Land and Cattle
Attachments: 8521-3public.short.docx; FORM8.FRM.doc

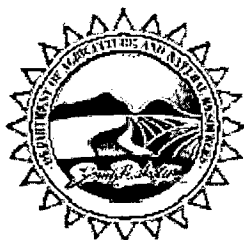
Attached is a notice to be published on September 1, 2021.

CBM Land and Cattle, c.o Craig Magedanz, 47930 172nd St, Clear Lake SD 57226 (605 237-0723) 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
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 26, 2021 1:28 PM
To: Clear Lake Courier (clprint1@itctel.com)
Subject: 8521-3, CBM Land and Cattle
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Karen Schlaak

DANR - Water Rights Program
(605) 773-3352

Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

August 26, 2021

CBM Land and Cattle
c/o Craig Magedanz
47930 172nd St
Clear Lake SD 57226

Dear Mr. Magedanz:

Water Permit Application No. 8521-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Clear Lake Courier printed at Clear Lake SD (Ph # 605 874-2499) and the Public Opinion printed at Watertown SD (Ph # 605 886-6901). 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

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.

NOTICE OF APPLICATION NO. 8521-3 to Appropriate Water

Notice is given that CBM Land and Cattle, c/o Craig Magedanz, 47930 172nd St, Clear Lake SD 57226 has filed an application for a water permit to appropriate 8.91 cubic feet of water per second (cfs) from Lake Alice located in the SE 1/4 SE 1/4 Section 6 for irrigation of 200 acres located in portions of the NW 1/4 and SE 1/4 Section 5; all in T116N-R48W. The applicant is requesting to pump from Lake Alice into a feedlot lagoon located in the SW 1/4 Section 32-T117N-R48W and then apply to the acreage. The pump rate from the lagoon will be 1.78 cfs. This site is located approximately 9 miles northeast of Clear Lake SD.

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Published once at the total approximate cost of__



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 27 2021

CBM Land and Cattle
c/o Craig Magedanz
47930 172nd St
Clear Lake SD 57226

Dear Mr. Magedanz:

Enclosed is Water Permit No. 8521-3 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

Water Permit No. 8521A-3 amends Water Permit No. 8521-3 by transferring a portion of the irrigated acreage to other land. Water Permit No. 8521-3 held by CBM Land and Cattle Co. appropriates 8.91 cubic feet of water per second (cfs) from Lake Alice located in the SE 1/4 SE 1/4 Section 6 for irrigation of 200 acres located in portions of the NW 1/4 and SE 1/4 Section 5; all in T116N-R48W. The permit holder is authorized to pump from Lake Alice into a feedlot lagoon located in the SW 1/4 Section 32-T117N-R48W and then apply water to the irrigated acreage. The pump rate from the lagoon is 1.78 cfs.

Water Permit No. 8521A-3 authorizes moving the location of 43 acres of the 200 acres approximately one-half mile north to an area located in the SE 1/4 Section 31-T117N-R48W. No increase in the diversion rate or number of acres irrigated is authorized by this permit. This site is located approximately 9 miles northeast of Clear Lake SD.



8521-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 11, 2023

CBM Land & Cattle
47930 172nd St
Clear Lake SD 57226

Dear Mr. Magedanz:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your water use system.

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

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

Sincerely,

Amanda Dewell
Water Rights Program
(605) 773-3352
email: Amanda.Dewell@state.sd.us

JUL 10 2023

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 7-6-23TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181FROM: CBM Land and Cattle
(name)
47930 172nd St
(address)
Clear Lake SD 57226 605 237 0723
(city, state, zip) (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. 8521-3 states that the water use system is to be constructed by
9-13-26, and water is to be put to beneficial use by 9-13-30
(date) (date)

The water use system was completed on 7-1-23
(date)

Applying the water to beneficial use was completed on 7-1-23
(date)

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

CBM Land & Cattle by
G. M. M. M.
(signature)

