

WATER PERMIT NO. 8521A-3

Name of Applicant: Terry Brandenburg Legacy Trust

Address: 809 7th St W, Clear Lake SD 57226 Phone: 605 237-0723

Amount of Water Claimed: no add'l Total Acres: 43

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: 4-19-22 Application/License Fee: \$100

Corrected Application Received: 6-13-22 Period of Annual Use: May 1 – Sept 30

Remarks: change location of 43 acres authorized for irrigation by No. 8521-3

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

Land to be Irrigated: SE 1/4 Sec 31-T117N-R48W

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 6-13-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA WATER PERMIT NO. 8521A-3

Date of first receipt of application April 19, 2022.

Date of return to applicant for corrections, amendments or changes April 20, 2022.

Date of receipt of corrected application June 13, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8521A-3 to Terry Brandenburg Legacy Trust, c/o Casey Magedanz, 809 7th St W, 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. 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. This permit 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.
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 (established by Permit No. 8521-3).
4. The date of approval of Permit No. 8521A-3 is July 25, 2022.
5. One-fifth of the construction is to be completed on or before January 25, 2025.
6. All construction is to be completed on or before July 25, 2027.
7. Water is to be put to beneficial use on or before July 25, 2031.
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 (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.

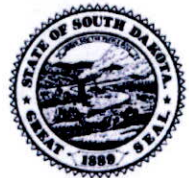
(continued)

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 a combined total of 200 acre feet of water from Water Permit Nos. 8521-3 and 8521A-3. 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 Environment and Natural Resources

AUG 04 2022
date



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

RECEIVED

APR 19 2022

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

PAID

APR 19 2022

Ck# 1625

Rec't# _____

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 8521-3
(Use predates Mar 2, 1955)

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

We want to change one of the fields that will be irrigated1. Name to Appear on Irrigation Permit Terry Brandenburg Legacy trust

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

Mailing Address 809 7th St West Clear Lake SD 57226
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605 237 0723 Email Casey Magedanz@hotmail.com

2. Amount of water claimed 8-91 *CFS or (no add'l) **GPM ***AF Total Acreage 43
(*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

4. Location of point of diversion North shore of Lake Alice Sec 6 T116N R48W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R33W)

(SE1/4SE1/4) Feedlot: SW1/4 Sec 32-T117N-R48W County Dench

5. County or counties where water will be used Dench6. Annual period during which water is to be used May 1 - Sept 30

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

Land Description	Acres	Land Description	Acres
<u>SE 1/4 Sec 31 T117N R48W</u>	<u>43</u>		

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

We want to take acres off of our permit that is in SE 1/4 Sec 5 T116N R48W
and add this ground in Sec 31

I, Casey Magedanz Operator of land, 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.



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



Google Earth

© 2021 Google

3000 ft

N

RECEIVED

JUN 06 2022

OFFICE OF
WATER

Please accept our request to move
43 acres from our water permit from
the SE $\frac{1}{4}$ section 5-T116N-R48W
to the SE $\frac{1}{4}$ section 31-T117N-R48W

Thank you.

CBM Land & Cattle LLC
Beverly Magedanz
@y Dzyg

Water permit No. 8521-3

RECEIVED

JUN 13 2022

OFFICE OF
WATER

Terry Brandenburg Legacy trust give permission to
Craig and Ben Medema for Craig to give 93 acre-foot
of his water right to Terry Brandenburg Legacy trust.

GAT
Co-Trustee of Terry Brandenburg Legacy Land Trust
David Taylor TT 6-10-22

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 19, 2022

RECEIVED OF Casey D/Christina Magedanz 8097th St. West Clear Lake SD 57226

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>100.00</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>100.00</u>

By Eric Bronlund
Chief Engineer
Em



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 20, 2022

Terry Brandenburg Legacy Trust
c/o Casey Magedanz
809 7th St West
Clear Lake SD 57226

Dear Mr. Magedanz:

Thank you for submitting the *Application for a Permit to Appropriate Water* for a change of acreage as authorized by Water Permit No. 8521-3. To complete the application, the following is required.

Water Permit No. 8521-3 is issued to CBM Land and Cattle, c/o Craig and Beverly Magedanz. The new application is listed in the name of Terry Brandenburg Legacy Trust which is a different landowner. We will need a statement signed by Craig and Beverly Magedanz stating they agree with moving the location of 43 acres from the SE 1/4 Section 5-T116N-R48W to the SE 1/4 Section 31-T117N-R48W.

If you have any questions, please contact Ron Duvall or me.

Sincerely,

Karen Schlaak

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 20, 2022

Terry Brandenburg Legacy Trust
c/o Casey Magedanz
809 7th St West
Clear Lake SD 57228

Dear Mr. Magedanz:

On April 19, 2022, you submitted *an Application for Permit to Appropriate Water Within the State of South Dakota* for a change of acreage as authorized by Water Permit No. 8521-3. You were notified what additional information was required to complete the application. A copy of that letter is enclosed.

To date, we have not received the required information.

If you have any questions, please contact me.

Sincerely,

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

enclosure

Schlaak, Karen

From: casey magedanz <caseymagedanz@hotmail.com>
Sent: Tuesday, June 7, 2022 12:45 PM
To: Schlaak, Karen
Subject: Re: [EXT] Change of acres request

No cbm land and cattle doesn't own that. The terry Brandenburg legacy trust does. There will be no change in the total acres to be irrigated we will be removing acres from the se 1/4 of sec 5 .

I hope that makes sense. If you have any questions feel free to call me 6052370723.

Thanks
Casey

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, June 6, 2022 1:58 PM
To: caseymagedanz@hotmail.com <caseymagedanz@hotmail.com>
Subject: Change of acres request

Mr. Magedanz:

We received your request to change the location of 43 acres authorized under Water Permit No. 8521-3.

Does CBM Land and Cattle own the land located in the SE ¼ Section 31-T117N-R48W? If so, the change of acres can be addressed at the time the water permit is inspected prior to issuing the water license. I am assuming there will be no increase in the 200 acres authorized by Water Permit No. 8521-3.

Please let know, the status of the land ownership and clarify that total irrigation will not exceed 200 acres.

Thanks,

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: casey magedanz <caseymagedanz@hotmail.com>
Sent: Monday, June 13, 2022 4:02 PM
To: Schlaak, Karen
Subject: Re: [EXT] Change of acres request

The irrigation salesman told us that the field in the se 1/4 of sec 5 that we are taking from is to hilly to practically put a irrigator on at this time with the equipment he has available.

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, June 13, 2022 2:22 PM
To: casey magedanz <caseymagedanz@hotmail.com>
Subject: RE: Change of acres request

Casey,

When looking through this application to change acres, I did not see a reason for the change. As you know state law allows an irrigation right to be severed from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. What is your justification for this change of acreage?

Let me know the reason or if you have questions?
Karen

From: casey magedanz <caseymagedanz@hotmail.com>
Sent: Sunday, June 12, 2022 5:33 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] Change of acres request

Karen,
i attached a note from terry Brandenburg legacy trust that it sounds like you needed just so you know that they know what is going on. If you need anything else please let me know.

Thanks,
Casey Magedanz

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, June 6, 2022 1:58 PM
To: caseymagedanz@hotmail.com <caseymagedanz@hotmail.com>
Subject: Change of acres request

Mr. Magedanz:

We received your request to change the location of 43 acres authorized under Water Permit No. 8521-3.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8521A-3, Terry Brandenburg Legacy Trust**

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. 8521A-3, Terry Brandenburg Legacy Trust, 809 7th Street W, Clear Lake SD 57226.

The Chief Engineer is recommending APPROVAL of Application No. 8521A-3 because 1) this application does not appropriate any additional water and the existing appropriation of water is available for the applicant's proposed use as authorized by Water Permit No. 8521-3, 2) this application does not modify the diversion point authorized by Water Permit No. 8521-3 which was found could 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 (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.
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 a combined total of 200 acre feet of water from Water Permit Nos. 8521-3 and 8521A-3. 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
July 5, 2022

REPORT ON WATER PERMIT APPLICATION NO. 8521A-3

Terry Brandenburg Legacy Trust

June 30, 2022

Application No. 8521A-3 proposes to amend Water Permit 8521-3 by transferring a portion of the irrigated acreage to other land. Water Permit 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 SE1/4 SE1/4 Section 6 for irrigation of 200 acres located in portions of the NW1/4 and SE1/4 Section 5; all in T116N-R48W. The permit holder is authorized to pump from Lake Alice into a feedlot lagoon located in the SW1/4 Section 32 T117N-R48W and then apply water to the acreage. The pump rate from the lagoon is 1.78 cfs. This application proposes to move the location of 43 irrigated 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 application. This site is located approximately 9 miles northeast of Clear Lake SD in Deuel County.

South Dakota Codified Law (SDCL) 46-5-34 allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it's impractical to use all or any part of the water beneficially or economically for irrigation on the current land for irrigation authorized by an existing water permit. Furthermore, SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. Since this amendment is for an existing water permit there was already a determination made that there is reasonable probability that there is unappropriated water available, and the proposed diversion could be developed without unlawful impairment of existing domestic water uses and water rights as qualified in Water Permit No. 8521A-3. The two remaining criteria the Chief Engineer needs to consider in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred are: 1) the proposed use is a beneficial use, and 2) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board.

Review of the Proposed Project and Request to Amend

The project captures runoff from a feedlot into a holding lagoon and disposes of wastewater by pumping it through center pivots to irrigate 200 acres. Water is diverted from Lake Alice and discharged directly into the lagoon mixing with the captured wastewater before being pumped to the center pivots for a combination irrigation/disposal. The applicant Terry Brandenburg Legacy Trust is requesting to relocate 43 of the authorized irrigated acres approximately 0.5 miles north from the permitted location because the terrain is too hilly to realistically install a center pivot at

that location. CBM Land and Cattle Co., holder of Water Permit No. 8521-3, concurs with this request to relocate the authorized irrigated acres.

Review of Existing Water Rights

Besides Water Permit No. 8521-3, there is one other 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 (Water Rights. 2022).

Review of the Water Source

The 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 (Water Rights. 2022).

Discussion

This application proposes to amend Water Permit No. 8521-3 by relocating 43 irrigated acres due to topography issues and the inability to use a center pivot irrigator on those acres (Water Rights. 2022). Water Permit No. 8521-3 contains the following qualifications, if Application No. 8521A-3 is approved, it should contain the same qualifications:

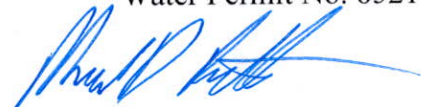
1. The South Dakota Department of Game, Fish and Parks holds Recognized Vested Water Right Claim No. 1467-3 for Lake Alice in Deuel County. Irrigation with water from Lake Alice is authorized during the May 1 - September 30 irrigation season when either of the following conditions are met: (survey elevations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

Conclusions

1. This application proposes to amend Water Permit No. 8521-3 by relocating 43 of the 200 acres authorized for irrigation.
2. SDCL 46-5-34 allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if certain conditions are met.
3. The amendment is requested because of the inability to use a center pivot irrigator on those 43 acres due to topography issues.
4. The applicant Terry Brandenburg Legacy Trust is requesting the amendment to the water permit and CBM Land and Cattle Co., holder of Water Permit No. 8521-3, concurs with this request to relocate 43 acres.
5. If Water Permit No. 8521A-3 is approved, it should contain the same qualifications as Water Permit No. 8521-3.



Mark D. Rath
Natural Resources Engineer III

References

1. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 5, 2022 11:38 AM
To: casey magedanz
Subject: Water Permit Application No. 8521A-3
Attachments: 3647.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>



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

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JUL 18 2022

OFFICE OF
WATER

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:

07/13/2022

and that the fees charged are legal.
Sworn to and subscribed before on 07/13/2022

Legal Clerk

Notary, State of WI. County of Brown

My commission expires

Publication Cost: \$58.20

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1

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Please do not use this form for payment remittance

SARAH BERTELSEN
Notary Public
State of Wisconsin

NOTICE OF
APPLICATION NO.
8521A-3 to Amend Water
Permit No. 8521-3

Notice is given that Terry Brandenburg Legacy Trust, c/o Gail Taylor, 809 7th St West, Clear Lake SD 57226 has filed an application for a water permit to amend 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. This application proposes to move 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 application. This site is located approximately 9 miles northeast of Clear Lake SD.

State Law (SDCL 46-5-34) allows an irrigation water right to be served from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. CBM Land and Cattle indicates a portion of the original area to be irrigated is too hilly to practically put in a center pivot irrigation system.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8521A-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at

<https://dwr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or

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OFFICE OF
WATER

denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 25, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at

<https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by July 25, 2022.

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 \$58.20.
July 13, 2022 7499299

RECEIVED

JUL 18 2022

OFFICE OF
WATER

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

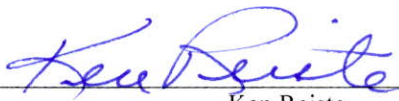
Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined 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
No.8521-A-3 to Amend Water
Permit No.8521-3
Terry Brandenburg Legacy Trust

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:

July 13,2022

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: \$53.25

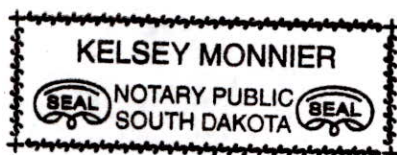

Ken Reiste

Subscribed and sworn to before me

this 13th day of July
2022



Notary Public, South Dakota
My commission expires: 09-27-2027



Public notice

NOTICE OF APPLICATION NO. 8521A-3 to Amend Water Permit No. 8521-3

Notice is given that Terry Brandenburg Legacy Trust, c/o Gail Taylor, 809 7th St West, Clear Lake SD 57226 has filed an application for a water permit to amend 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. This application proposes to move 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 application. This site is located approximately 9 miles northeast of Clear Lake SD.

State Law (SDCL 46-5-34) allows an irrigation water right to be served from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. CBM Land and Cattle indicates a portion of the original area to be irrigated is too hilly to practically put in a center pivot irrigation system.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8521A-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. 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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 25, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

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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 an approximate cost of \$53.25. (22-1/150)
This notice may be viewed free of charge at sdpublicnotices.com maintained pursuant to § 17-2-1.

RECEIVED

JUL 18 2022

OFFICE OF
WATER

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 5, 2022 10:00 AM
To: 'clprint@itctel.com'
Subject: 8521A-3, Terry Brandenburg Legacy Trust
Attachments: 8521A-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on July 13, 2022.

Terry Brandenburg Legacy Trust, c/o Casey Magdanz, 809 7th St West, 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: Tuesday, July 5, 2022 10:01 AM
To: 'legals@thepublicopinion.com'
Subject: FW: 8521A-3, Terry Brandenburg Legacy Trust
Attachments: 8521A-3public.short_final.docx; FORM8.FRM.doc

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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.**

July 5, 2022

Terry Brandenburg Legacy Trust
c/o Casey Magedanz
809 7th St West
Clear Lake SD 57226

Dear Mr. Magedanz:

Water Permit Application No. 8521A-3 for irrigation use have 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 (Ph # 605 874-2499) and the Public Opinion printed at Watertown (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. 8521A-3 to Amend Water Permit No. 8521-3

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Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 25, 2022.

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Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

AUG 04 2022

Terry Brandenburg Legacy Trust
c/o Casey Magedanz
809 7th St W
Clear Lake SD 57226

Dear Mr. Magedanz:

Enclosed is Water Permit No. 8521A-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