

**WATER PERMIT NO. 8525-3**

Name of Applicant: **Banner Farms RE LLC**

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

Phone: **507 825-4211**

Amount of Water Claimed: **0.22 cfs (130 AF)**

Total Acres: **NA**

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

Water to be used for: **commercial**

County: **Beadle**

Type of Waste Disposal System:

Location: **3 miles northwest of Iroquois**

**PRIORITY**

Date Received: **7-9-21**

Application/License Fee: **\$ 950**

Corrected Application Received:

Period of Annual Use: **January 1- December 31**

Remarks: **A swine production facility**

Diversion Point: **NW 1/4 NW 1/4 Sec 34-T111N-R59W**

Facility located: **portions of the NW 1/4 Sec 34-T111N-R59W**

|  |  |  |    |  |  |
|--|--|--|----|--|--|
|  |  |  |    |  |  |
|  |  |  |    |  |  |
|  |  |  | 34 |  |  |
|  |  |  |    |  |  |

Depth of Well: **880 feet deep**

Well Driller: **Stretch's Well Service**

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **7-12-21**

By: **Karen Schlaak**

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

**SOUTH DAKOTA  
WATER PERMIT NO. 8525-3**

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Date of first receipt of application July 9, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8525-3 to Banner Farms RE LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8525-3 appropriates 130 acre-feet of water annually at a maximum pump rate of 0.22 cubic feet of water per second from two wells to be completed into the Dakota Aquifer (880 feet deep) located in the NW 1/4 NW 1/4 Section 34 for commercial use in a swine production facility located in a portions of the NW 1/4 Section 34; all in T111N-R59W. This site is located approximately 3 miles northwest of Iroquois SD.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is July 9, 2021.
5. The date of approval of Permit No. 8525-3 is September 27, 2021.
6. One-fifth of the construction is to be completed on or before March 27, 2024.
7. All construction is to be completed on or before September 27, 2026.
8. Water is to be put to beneficial use on or before September 27, 2030.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The wells approved under Water Permit No. 8525-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8525-3 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.
3. Water Permit No. 8525-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota aquifer.
5. Water Permit No. 8525-3 authorizes a total annual diversion of 130 acre-feet of water from the Dakota aquifer.
6. Any future replacement well shall meet the adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20. Replacement wells may not be constructed using the alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.

**WATER MANAGEMENT BOARD**

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

OCT 25 2021

date



JUL 09 2021

SD EForm - 1585LD V5

FORM 2: Application for uses other than irrigation  
(type or print)WATER RIGHTS  
PROGRAM

PAID

JUL 9 2021

Ck# 000009

|                                                                                                             |                                                                        |
|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br><br>ph. (605) 773-3352 | No. <u>8525-3</u> (office use only)<br>Hydrologic Unit <u>10160006</u> |
|                                                                                                             | Basin <u>James River</u>                                               |
|                                                                                                             | Newspaper <u>Plainsman</u>                                             |
|                                                                                                             |                                                                        |

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

## Check use(s) of water:

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

Type of Application:  
(check one)

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

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)  
\_\_\_\_\_  
\_\_\_\_\_1. Name to Appear on Water Permit Banner Farms RE, LLC

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

Phone (507) 825-4211 Mobile \_\_\_\_\_ Email barry.kerkaert@pipestone.com

2. Amount of water claimed 0.22 \*CFS or 100 \*\*GPM and 130 \*\*\*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 Dakota? (2 wells)4. Location of point of diversion NW 1/4 of the NW 1/4 of Section 34, T111N, R59W County Beadle

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

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ NoIf "Yes," where will water be used? facility location: portions of NW 1/4 Sec 34-T111N-R59W  
(example - NW1/4 section 12-T104N-R53W)5. County or counties where water will be used Beadle6. Annual period during which water is to be used January 1st thru December 31st

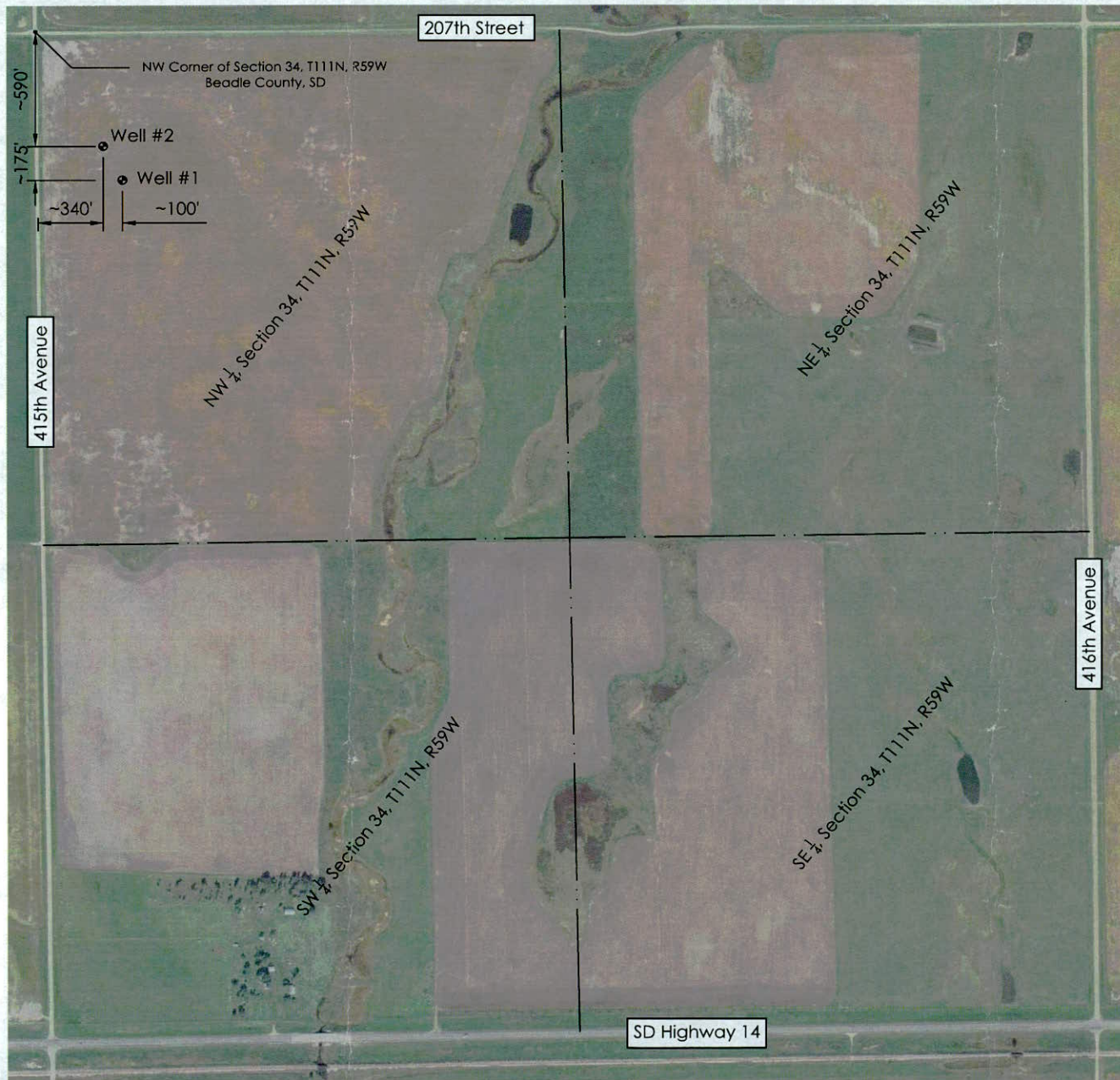
7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Banner Farms RE, LLC - is a proposed 12,996 head swine production facility.

Proposing 2 wells into the same aquifer. Attached log is for well #1.

I, Barry Kerkaert Manager, 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.



19021 - Water Rights.dwg

Banner Farms RE, LLC  
NW 1/4, NW 1/4, Section 34, T111N, R59W



Scale: 1" = 800'

**STOCKWELL**  
7/1/2021 SEI No: 19021

Water  
Rights



Banner Farms RE, LLC

NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Section 34, T111N, R59W



Water  
Rights

19021 - Water Rights.dwg

8525-3

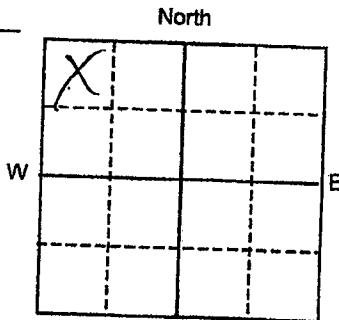
## SOUTH DAKOTA WATER WELL COMPLETION REPORT

SD EForm - 1621LD V1

11-02

Location NW 1/4 NW 1/4 Sec 94 Twp 111N Rg 59WCounty Beadle

Please mark well location with an "X"



Well Completion Date

8-2-21

1 Mile

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

## PROPOSED USE:

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

## METHOD OF DRILLING:

Mud Rotary

## CASING DATA:

If other describe Stainless Steel ☐ Steel ☒ Plastic ☒ Other

| PIPEWEIGHT        | DIAMETER    | FROM          | TO            | HOLE DIAMETER   |
|-------------------|-------------|---------------|---------------|-----------------|
| <u>250</u> LB/FT  | <u>5</u> IN | <u>0</u> FT   | <u>812</u> FT | <u>7 7/8</u> IN |
| <u>5340</u> LB/FT | <u>2</u> IN | <u>800</u> FT | <u>880</u> FT | <u>4 1/2</u> IN |

## GROUTING DATA:

| Grout Type      | No. of Sacks | Grout Weight     | From        | To            |
|-----------------|--------------|------------------|-------------|---------------|
| <u>Portland</u> | <u>120</u>   | <u>15</u> Lb/gal | <u>0</u> Ft | <u>812</u> Ft |

Describe grouting procedure

Pumped Through 5" Pipe

## SCREEN:

☐ Perforated pipe ☒ Manufactured  
 Diameter 2 Inches Length 80 Feet

 Material Stainless Steel  
 Slot Size 0.25 Set From 800 Feet to 880 Feet

Other information

## WAS A PACKER OR SEAL USED?

☒ Yes☐ No

If so, what material?

Cement

Describe packer(s) and location

812

## DISINFECTION: Was well disinfected upon completion?

☒ Yes, How?Chlorine☐ No, Why Not?

Lab to which water

quality sample sent for analysis

Well Owner:

Pipestone Systems

Business Name:

Address:

1801 Forman Drive

City, State, Zip:

Pipestone MN SD 56164

## WELL LOG:

| FORMATION          | DEPTH      |            |
|--------------------|------------|------------|
|                    | FROM       | TO         |
| <u>yellow Clay</u> | <u>1</u>   | <u>25</u>  |
| <u>Shale</u>       | <u>25</u>  | <u>340</u> |
| <u>Greenhorn</u>   | <u>340</u> | <u>360</u> |
| <u>Shale</u>       | <u>360</u> | <u>780</u> |
| <u>Dakota</u>      | <u>780</u> | <u>880</u> |

## STATIC WATER LEVEL

30

FEET

If flowing: closed in pressure

PSI

GPM flow

through

Inch pipe

Controlled by

☐ Valve☐ Reducers☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe: Air☐ Bailed☐ Other

Pumping Level Below Land Surface

30 Ft. After 12 Hrs. pumped 75 GPM

Ft. After

Hrs. pumped

75 GPM

If pump installed, pump rate:

GPM

## REMARKS

This well was drilled under license # 722 and this report is true and accurate.

Drilling firm:

Stretch's Well Service Inc.

Signature of License Representative:

Tom Braden

Signature of Well Owner or Equitable Property Holder:

[Signature]

Date:

8/23/2021

RECEIVED

AUG 24 2021

WATER RIGHTS PROGRAM

8525-3

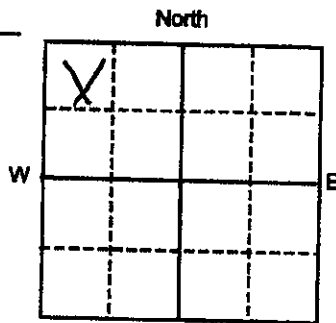
SD EForm - 1621LD V1

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 NW 1/4 Sec 34 Twp 11N Rg 59WCounty Beadle

Please mark well location with an "X"



Well Completion Date

6-17-21

1 Mile

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

## PROPOSED USE:

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

## METHOD OF DRILLING:

Mud Rotary

## CASING DATA:

☐ Steel  
☒ Plastic  
☒ Other  
 If other describe Stainless Steel

| PIPEWEIGHT        | DIAMETER    | FROM          | TO            | HOLE DIAMETER   |
|-------------------|-------------|---------------|---------------|-----------------|
| <u>250</u> LB/FT  | <u>5</u> IN | <u>0</u> FT   | <u>812</u> FT | <u>7 7/8</u> IN |
| <u>440</u> LB/FT  | <u>2</u> IN | <u>800</u> FT | <u>880</u> FT | <u>4 1/2</u> IN |
| <u>3680</u> LB/FT | <u>2</u> IN | <u>600</u> FT | <u>800</u> FT | <u>4 1/2</u> IN |

## GROUTING DATA:

| Grout Type      | No. of Sacks | Grout Weight     | From        | To            |
|-----------------|--------------|------------------|-------------|---------------|
| <u>Portland</u> | <u>115</u>   | <u>15</u> Lb/gal | <u>0</u> FT | <u>812</u> FT |
|                 |              | Lb/gal           | FT          | FT            |

Describe grouting procedure

Pumped Through 5"

## SCREEN:

☐ Perforated pipe  
☒ Manufactured  
 Diameter 2 Inches Length 80 Feet

 Material Stainless Steel  
 Slot Size 1025 Set From 800 Feet to 880 Feet

Other information

## WAS A PACKER OR SEAL USED?

☒ Yes☐ No

If so, what material?

Describe packer(s) and location

Cement  
812'

## DISINFECTION:

Was well disinfected upon completion?

☒ Yes, How?Chlorine☐ No, Why Not?

Lab to which water

quality sample sent for analysis

Well Owner:

Pipestone Systems

Business Name:

Address:

PO Box 370

City, State, Zip:

Pipestone MN SD 56164

## WELL LOG:

| FORMATION          | DEPTH      |            |
|--------------------|------------|------------|
|                    | FROM       | TO         |
| <u>yellow Clay</u> | <u>0</u>   | <u>25</u>  |
| <u>Shale</u>       | <u>25</u>  | <u>340</u> |
| <u>Greenhorn</u>   | <u>340</u> | <u>360</u> |
| <u>Shale</u>       | <u>360</u> | <u>817</u> |
| <u>Dakota Sand</u> | <u>817</u> | <u>880</u> |

STATIC WATER LEVEL

30

FEET

If flowing: closed in pressure

PSI

GPM flow

through

Inch pipe

Controlled by

☐ Valve☐ Reducers☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe:Air☐ Bailed☐ Other

Pumping Level Below Land Surface

30 Ft. After14 Hrs. pumped75 GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

## REMARKS

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JUL 02 2021

WATER RIGHTS

This well was drilled under license #

722

PROGRAM

and this

report is true and accurate.

Drilling firm:

Stretch's Well Service Inc.

Signature of License Representative:

Tom Grathen

Signature of Well Owner or Equitable Property Holder:

Date:

7-1-2021

8525-3

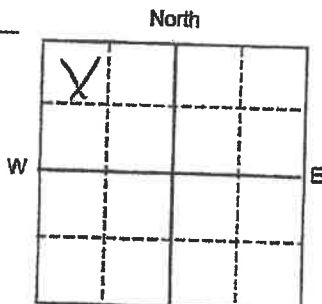
SD EForm - 1621LD V1

11-02

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

Location NW 1/4 NW 1/4 Sec 34 Twp 11N Rg 59WCounty Beadle

Please mark well location with an "X"



Well Completion Date

6-17-21Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?  
200 ft. from Born (identify source)

## PROPOSED USE:

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

## METHOD OF DRILLING:

Mud Rotary

## CASING DATA:

If other describe Stainless Steel

| PIPEWEIGHT          | DIAMETER    | FROM          | TO            | HOLE DIAMETER   |
|---------------------|-------------|---------------|---------------|-----------------|
| <u>250 LB/FT</u>    | <u>5 IN</u> | <u>0 FT</u>   | <u>812 FT</u> | <u>7 7/8 IN</u> |
| <u>440.55 LB/FT</u> | <u>2 IN</u> | <u>800 FT</u> | <u>880 FT</u> | <u>4 1/2 IN</u> |
| <u>508.0 LB/FT</u>  | <u>2 IN</u> | <u>600 FT</u> | <u>800 FT</u> | <u>4 1/2 IN</u> |

## GROUTING DATA:

| Grout Type      | No. of Sacks | Grout Weight     | From        | To            |
|-----------------|--------------|------------------|-------------|---------------|
| <u>Portland</u> | <u>115</u>   | <u>15 Lb/gal</u> | <u>0 FT</u> | <u>812 FT</u> |

Describe grouting procedure

Pumped Through 5"

## SCREEN:

☐ Perforated pipe    ☒ Manufactured  
Diameter 2 Inches Length 80 Feet
Material Stainless Steel  
Slot Size 0.25 Set From 800 Feet to 880 Feet

Other Information

## WAS A PACKER OR SEAL USED?

☒ Yes    ☐ No  
If so, what material? Cement  
Describe packer(s) and location 812'

## DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Chlorine  
☐ No, Why Not?  
Lab to which water quality sample sent for analysis

Well Owner:

Business Name:

Address:

City, State, Zip:

Pipestone SystemsPO Box 370Pipestone MN 56164

## WELL LOG:

| FORMATION                                        | DEPTH      |            |
|--------------------------------------------------|------------|------------|
|                                                  | FROM       | TO         |
| <u>yellow Clay</u>                               | <u>0</u>   | <u>25</u>  |
| <u>Shale</u>                                     | <u>25</u>  | <u>340</u> |
| <u>Greenhorn</u>                                 | <u>340</u> | <u>360</u> |
| <u>Shale</u>                                     | <u>360</u> | <u>700</u> |
| <u>shale with sand streaks &amp; hard shells</u> | <u>700</u> | <u>817</u> |
| <u>good sand with some hard shells</u>           | <u>817</u> | <u>890</u> |

## STATIC WATER LEVEL

30 FEET

If flowing: closed in pressure

GPM flow through

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe: Air  
☐ Bailed  
☐ Other

Pumping Level Below Land Surface

30 Ft. After 14 Hrs. pumped 75 GPM  
     Ft. After      Hrs. pumped      GPM
If pump installed, pump rate:      GPM

## REMARKS

RECEIVED

OCT 29 2021

WATER RIGHTS PROGRAM

This well was drilled under license # 722 and this report is true and accurate.

Drilling firm:

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:

7-1-2021



## Schlaak, Karen

---

**From:** Brad Woerner <bwoerner@stockwellengineers.com>  
**Sent:** Monday, July 12, 2021 11:37 AM  
**To:** Schlaak, Karen  
**Subject:** RE: [EXT] Water Permit Application for Banner Farms RE LLC

I believe that is correct. It is definitely in the NW ¼ and I believe the buildings will be in the N 1/2 of the NW ¼...

Thanks.



**Brad Woerner, PE**  
**Agricultural Engineer**  
Stockwell Engineers, Inc.  
Cell / 605.660.1362  
Office / 605.665.8092

**From:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Sent:** Monday, July 12, 2021 11:26  
**To:** Brad Woerner <bwoerner@stockwellengineers.com>  
**Subject:** RE: Water Permit Application for Banner Farms RE LLC

Yes that works. It appears the facility will be located in the N ½ NW ¼ Sec 34-T11N-R59W.

Thanks

Karen

**From:** Brad Woerner <bwoerner@stockwellengineers.com>  
**Sent:** Monday, July 12, 2021 11:20 AM  
**To:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Subject:** RE: [EXT] Water Permit Application for Banner Farms RE LLC

Karen,

Does this map look better?

I am out of town until Friday but can coordinate further adjustments, if necessary.

Thanks!



**Brad Woerner, PE**  
**Agricultural Engineer**  
Stockwell Engineers, Inc.  
Cell / 605.660.1362  
Office / 605.665.8092

**From:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Sent:** Monday, July 12, 2021 9:54  
**To:** Brad Woerner <bwoerner@stockwellengineers.com>  
**Subject:** Water Permit Application for Banner Farms RE LLC

We received the Water Permit Application for Banner Farms RE LLC. The map included with the application identifies the location of the two wells. The map also needs to outline the area of the proposed facility. We include this information in the public notice. If this should be directed to someone else, please let me know.

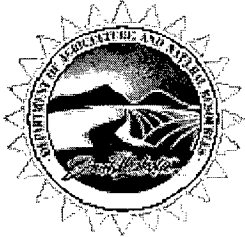
Thanks,

*Karen Schlaak*

DANR - Water Rights Program

(605) 773-3352

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



# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date July 9, 2021

RECEIVED OF Banner Farms RE LLC 1801 Forman Dr., Pipestone MN 56164

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

|                                                                                                                        |                  |
|------------------------------------------------------------------------------------------------------------------------|------------------|
| Fee for Application for Permit No. <u>8525-3</u> to Appropriate Water, to construct and to put water to beneficial use | \$ <u>750.00</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. <u>8525-3</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>950.00</u> |

By Eric Gronlund  
Chief Engineer  
Umu



531133640

B0161-1932 12/09/2020 10:49AM 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:

**DL176295**  
BUSINESS ID

**Banner Farms RE, 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

**304 S. SPLITROCK BLVD**  
**SUITE 205**  
**BRANDON, SD 57005**

Mailing Address

**304 S. SPLITROCK BLVD**  
**SUITE 205**  
**BRANDON, SD 57005**

4. The South Dakota Registered Agent's Name:

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

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

Name **Luke W. Minion**

Actual Street Address in this State

**304 S SPLITROCK BLVD**  
**SUITE 205**  
**BRANDON, SD 57005**

Mailing Address in this State

**304 S SPLITROCK BLVD**  
**SUITE 205**  
**BRANDON, SD 57005**

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

Name

Address

**Barry Kerkaert**

**304 S. Splitrock Blvd., Suite 205, Brandon, SD 57005**

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).



**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. 8525-3, Banner Farms RE LLC**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8525-3, Banner Farms RE LLC, PO Box 188, Pipestone MN 56164.

The Chief Engineer is recommending APPROVAL of Application No. 8525-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under Water Permit No. 8525-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8525-3 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.
3. Water Permit No. 8525-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota aquifer.
5. Water Permit No. 8525-3 authorizes a total annual diversion of 130 acre-feet of water from the Dakota aquifer.
6. Any future replacement well shall meet the adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20. Replacement wells may not be constructed using the alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.

See report on application for additional information.



Eric Gronlund, Chief Engineer  
September 8, 2021

NOTE:

The well drilled on June 17, 2021, does not meet the ARSD 74:02:04:20(6) definition of an adequate well (see definition below). The well was completed using an alternative construction method described in ARSD 74:02:04:35 which is only allowed for domestic and noncommercial livestock water wells. However, your application is for a commercial livestock operation. To be constructed properly, five-inch casing should have been placed 20 feet into the aquifer to a depth of 837 feet deep rather than 800 feet deep as constructed. The second well completed for this application does meet the definition of an adequate well because a pump can be placed 20 feet below the top of the aquifer. If your application is approved, any additional wells needed to meet the requested pump rate or future replacement wells must meet South Dakota well construction standards.

Since Pipestone is involved in developing and managing numerous swine confinement facilities in South Dakota, please ensure that future wells for your facilities that may require a water permit comply with the "Adequate well" definition.

ARSD 74:02:04:20(6) "Adequate well," a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.

**Report to the Chief Engineer on  
Water Permit Application No. 8525-3**

Banner Farms RE LLC  
12 August 2021

Water Permit Application No. 8525-3 seeks to appropriate up to 130 acre-feet of water per year (ac-ft/yr) at a maximum instantaneous diversion rate of 0.22 cubic feet of water per second (cfs), or 100 gallons per minute (gpm), from two wells completed into the Dakota aquifer (880 feet deep) located in the NW ¼ NW ¼ Section 34 for commercial use in a swine production facility located in portions of the NW ¼ Section 34; all in T111N-R59W, 5<sup>th</sup> Principal Meridian. This site is located approximately 3 miles northwest of Iroquois, South Dakota.

**Aquifer: Dakota (DKOT)**

*Hydrogeologic Characteristics*

The Dakota Formation is an upper to lower Cretaceous aged “light- to reddish-brown medium- to coarse-grained quartz and minor feldspar sandstone grading upward to a fine- to medium-grained, quartz and minor feldspar sandstone. [It] contains a middle, gray silty clay unit, and interbeds of gray to dark-gray shale in the upper portion” [1]. The Dakota aquifer consists of the saturated and permeable portions of the Dakota Formation that are capable of delivering useful quantities of water. The Dakota aquifer or its equivalents extend over most of South Dakota and portions of Nebraska, Wyoming, Montana, North Dakota, and Canada [2]. The Dakota aquifer outcrops in South Dakota in the Black Hills as the Newcastle Formation and in southeastern South Dakota along the Missouri and Big Sioux Rivers near Elk Point as the Dakota Formation [3]. The Dakota aquifer is overlain by the Mowry Shale and underlain by the Skull Creek Shale, which act as confining layers [3]. Where the Skull Creek Shale is not present, water flows into the Dakota aquifer from the Inyan Kara aquifer [3]. Some water may flow into the Dakota aquifer from other semi-confining layers underlying and overlying it [4]. The Dakota Formation is approximately 200 to 250 feet thick near this application [3] [4].

The applicant submitted two well completion reports for this application. The first well was completed on June 17, 2021. The driller reported encountering the Greenhorn Formation from 340 to 360 feet below grade, shale from 360 to 817 feet, and Dakota Formation from 817 to 880 feet below grade. The driller placed 80 feet of 2-inch diameter screen from 800 to 880 feet below grade. The static water level at the time the well was completed was 30 feet below grade. Based on the thickness of Dakota aquifer reported by the driller (63 feet), it is likely the applicant’s well does not penetrate the full thickness of the Dakota aquifer. The second well was completed on August 2, 2021. The driller reported encountering the Greenhorn Formation from 340 to 360 feet below grade, shale from 360 to 780 feet below grade, and Dakota Formation from 780 to 880 feet below grade. The driller placed 5-inch casing from land surface to 812 feet below grade and 2-inch casing from 800 to 880 feet below grade. The static water level was 30 feet below grade at the time the well was completed.

**Applicable South Dakota Codified Law (SDCL)**

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued 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 domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will only assess the availability of water and possibility of developing this application without unlawful impairment of existing domestic water uses and water rights.

Pursuant to SDCL 46-6-3.1, 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 the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. Even though the Dakota aquifer is older and stratigraphically lower than the Greenhorn Formation, the applicant's proposed use is not in a water distribution system as defined in SDCL 46-1-6(17). Therefore, it is necessary to find that recharge exceeds withdrawals to approve this application.

## **Availability of Water**

### *Hydrologic Budget*

#### Recharge

Recharge to the Dakota aquifer is by seepage from lower aquifers, infiltration of precipitation where the Newcastle Formation crops out at the edge of the Black Hills, and infiltration from stratigraphically higher aquifers where they are in contact with the Dakota aquifer and the hydraulic head in the Dakota Aquifer is lower than that of the stratigraphically higher aquifers. Bredehoeft, Neuzil, and Milly [4] attempted to model flows between the "Madison Group," Inyan Kara aquifer, Dakota/Newcastle aquifer, and confining shale units, but the model is based on dated information when newer information is available that could change the results [5]. They estimated that based on the Darton [6] map the hydraulic head of the Dakota Aquifer, the total recharge to the Dakota Aquifer was approximately 79.4 cfs, or approximately 57,500 ac-ft/yr before aquifers were developed in South Dakota.

#### Discharge

Discharge from the Dakota aquifer is by outflow to aquifers in contact with the Dakota aquifer when the hydraulic head of the Dakota aquifer is higher than that of the aquifers it contacts, outflow to surface water features in contact with the formation when the hydraulic head of the aquifer is higher than the stage of the surface water features, outflow from uncontrolled and uncontrollable flowing wells to ground surface or aquifers the wells penetrate, and by withdrawals from domestic and appropriative wells. The Water Management Board considers outflow from uncontrolled flowing wells to be available for capture. Due to the relatively low withdrawal rate for domestic wells and prevalence of water distribution systems, domestic well withdrawals are a negligible part of the hydrologic budget. There are 251 water rights/permits authorized to withdraw from the Dakota aquifer [7].

There are 19 water rights/permits authorized to withdraw for irrigation currently. The average reported irrigation over the period of record (1979 – 2020) is 149.14 ac-ft/yr [8]. There were 16 irrigation rights/permits required to report in 2020. Two of the 19 irrigation water rights/permits

have not been required to return irrigation questionnaires and one is too new to have returned any. Water Right No. 394-3 no longer uses their water right and may be subject to cancellation, so is assumed to withdraw no water [9]. Table 1 (see page 4) shows the average irrigation, total appropriation [8], and estimated use of the irrigation water rights/permits in the Dakota aquifer. Water rights/permits that have reported less than nine years of irrigation are conservatively assumed to withdraw at a rate of one acre-foot per acre of land licensed/permitted. The rest are assumed to withdraw at their average annual rate. The total estimated withdrawal for irrigation is 985.41 ac-ft/yr.

There are 71 water rights/permits for municipal users, rural water systems, and suburban housing developments that purchase their water from another system [7] [10] [11], so are likely to use a negligible amount of water from their Dakota aquifer wells. There are 40 non-irrigation water rights/permits that are required to report their annual withdrawals and do not purchase their water from another system (Table 2, see page 5). Lincoln Rural Water System, which holds Permit No. 5156-3, is required to report its withdrawals but purchases its water from another system. It is also shown on Table 2 since it is also required to report its use. Non-irrigation water rights/permits required to report that have reported less than 9 years are assumed to withdraw at the maximum volume listed on their permit if it is listed. If a maximum volume is not listed on their permit, they are assumed to withdraw water at their maximum instantaneous diversion rate 60% of the time. Non-irrigation water rights/permits required to report that have 9 or more years of reports are assumed to withdraw at their reported average annual rate. Some water right/permit holders report all their withdrawals from one aquifer as one number, but are still developing their newer permits, so their average withdrawal is assumed to reflect their water rights/permits with 9 or more years of reports. The total estimated average withdrawal for non-irrigation water rights/permits required to report is 5,215 ac-ft/yr. Water Right Nos. 1818-2, 5117-3, 5642-3, 6174-3, 6541-3 are not required to report their withdrawals but have a volume limit listed on their permit either explicitly or as the volume of storage in the water body their water right fills. They are assumed to use the full volume limit on their permit, for a total 187 ac-ft/yr. There are 116 other water rights/permits not mentioned above, which are conservatively assumed to withdraw at their maximum instantaneous withdrawal rate 60% of the time for a total estimated withdrawal of 18,022 ac-ft/yr. The total estimated annual withdrawal for all permits including irrigation currently authorized to withdraw is 24,419 ac-ft/yr.

There are seven future use permits, Nos. 4817-3, 5101-3, 5155-3, 5219-3, 1262C-3, 5101A-3, 8400-3, which reserve a total of 4,237 ac-ft/yr. Future Use Permit No. 5155-3 reserves 440 ac-ft/yr and is held by Lincoln County Rural Water System, which currently purchases their water from another system [11]. As long as they continue to hold their future use permit, it must be included in the hydrologic budget. There is also one pending application, No. 8528-3, which seeks to appropriate up to 130 ac-ft/yr from a well in Davison County for commercial use in a concentrated animal feeding operation.

# Report on Water Permit App. No. 8525-3

Table 1: Average irrigation reported over the 1979-2020 period of record by permit [8] and estimated use for each irrigation water right/permit [7].

| Permit No.                                                                                          | Status  | Name/Business                          | Priority   | Report Required | Years Reported | Total Appropriation (ac-ft/yr) | Irrigation Acres | Max. CFS | Average Reported Withdrawal (ac-ft/yr) | Est. Annual Use (ac-ft/yr) |
|-----------------------------------------------------------------------------------------------------|---------|----------------------------------------|------------|-----------------|----------------|--------------------------------|------------------|----------|----------------------------------------|----------------------------|
| 6734-3                                                                                              | License | Avera Sacred Heart Health Services     | 06/14/2006 | Yes             | 14             | 23.80                          | 11.90            | 0.730    | 4.58                                   | 4.58                       |
| 2566A-2                                                                                             | License | Chamberlain Country Club               | 08/29/2005 | Yes             | 15             | 126.00                         | 63.00            | 0.330    | 7.04                                   | 7.04                       |
| 5703-3                                                                                              | License | Charles A Long                         | 07/20/1992 | Yes             | 28             | 4.00                           | 2.00             | 0.060    | 0.53                                   | 0.53                       |
| 6527-3                                                                                              | License | City of Beresford                      | 07/22/2004 | Yes             | 16             | 111.00                         | 37.00            | 0.530    | 17.79                                  | 17.79                      |
| 5905-3                                                                                              | License | City of Groton                         | 12/14/1995 | Yes             | 24             | 60.00                          | 30.00            | 0.560    | 37.77                                  | 37.77                      |
| 8423-3                                                                                              | Permit  | City of Platte**                       | 02/10/2020 | Yes             | 1              | 126.00                         | 42.00            | 0.330    | 0.00                                   | 126.00                     |
| 6575-3                                                                                              | Permit  | Dakota Alliance Soccer Club**          | 01/19/2005 | Yes             | 4              | 30.00                          | 15.00            | 0.330    | 6.88                                   | 30.00                      |
| 6110-3                                                                                              | License | Dakota Dunes Comm Improvement District | 10/06/1998 | Yes             | 23             | 33.00                          | 11.00            | 0.120    | 47.31                                  | 47.31                      |
| 5947-3                                                                                              | License | Fish Lake Country Club                 | 09/23/1974 | Yes             | 23             | 66.00                          | 33.00            | 0.240    | 12.43                                  | 12.43                      |
| 7123-3                                                                                              | Permit  | Harrisburg School District             | 04/02/2009 | Yes             | 12             | 60.00                          | 30.00            | 0.140    | 8.74                                   | 8.74                       |
| 4769-3                                                                                              | License | James Leheska                          | 06/01/1981 | Yes             | 39             | 260.00                         | 130.00           | 0.660    | 25.59                                  | 25.59                      |
| 7916-3                                                                                              | Permit  | John H Thompson                        | 10/18/2013 | Yes             | 7              | 300.00                         | 150.00           | 0.560    | 18.51                                  | 150.00                     |
| 394-3                                                                                               | License | Kory Standy                            | 01/01/1912 | No*             | 19             | 9.60                           | 3.20             | 0.067    | 10.23                                  | 0                          |
| 2328-2                                                                                              | License | Michael Kirwan                         | 02/21/1995 | Yes             | 14             | 62.00                          | 31.00            | 0.220    | 2.49                                   | 2.49                       |
| 762-3                                                                                               | License | O L Bussmus Farms Inc                  | 01/10/1961 | No              | 0              | 84.00                          | 28.00            | 0.280    | N/A                                    | 28.00                      |
| 5994-3                                                                                              | License | Robert L Peterson                      | 04/17/1997 | Yes             | 24             | 6.00                           | 3.00             | 0.053    | 6.65                                   | 6.65                       |
| 8043-3                                                                                              | Permit  | Robert P Walsh                         | 08/27/2014 | Yes             | 6              | 783.80                         | 391.90           | 4.230    | 0.00                                   | 391.90                     |
| 1054-3                                                                                              | License | Rolling Hills Golf Dev                 | 01/01/1951 | Yes             | 42             | 131.52                         | 43.84            | 0.620    | 28.59                                  | 28.59                      |
| 8510-3                                                                                              | Permit  | TR Golf LLC**                          | 03/26/2021 | Yes             | 0              | 60.00                          | 30.00            | 1.110    | N/A                                    | 60.00                      |
| Total                                                                                               |         |                                        |            |                 |                | 2,336.72                       | 1,085.84         | 11.170   | 235.13                                 | 985.41                     |
| * Reported from 1979 to 1997 and has not reported since ** Turf is likely to use full appropriation |         |                                        |            |                 |                |                                |                  |          |                                        |                            |

# Report on Water Permit App. No. 8525-3

Table 2: Non-irrigation water rights/permits required to report [7] [12]

| Permit No                                                                                                                                         | Status  | Name/Business                          | Use      | Priority   | Years Reported | Annual Appropriation (ac-ft/yr) | Max. CFS | Average Report (ac-ft/yr) | Est. Use (ac-ft/yr) |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|----------------------------------------|----------|------------|----------------|---------------------------------|----------|---------------------------|---------------------|
| 8056-3                                                                                                                                            | License | Agtegra Cooperative                    | COM      | 10/03/2014 | 3              | N/A                             | 0.167    | 1.66                      | 72.59               |
| 8421-3                                                                                                                                            | Permit  | Albert J Selland & Sons Feedlot        | COM      | 01/29/2020 | 0              | 78.00                           | 0.111    | N/A                       | 78.00               |
| 8228-3                                                                                                                                            | Permit  | B & B Washout                          | COM      | 03/07/2000 | 5              | 18.00                           | 0.330    | 12.14                     | 18.00               |
| 8518-3                                                                                                                                            | Permit  | Bryce Sombke                           | REC, FWP | 06/09/2021 | 0              | 3.10                            | 0.033    | N/A                       | 3.10                |
| 8235-3                                                                                                                                            | Permit  | Camrose Hutterian Brethren             | COM, DOM | 08/05/2016 | 4              | 93.00                           | 0.162    | 1.63                      | 93.00               |
| 6499-3                                                                                                                                            | License | City of Canton*                        | MUN      | 03/16/1966 | 21             | 44.00                           | 2.220    | 360.01                    | 360.01              |
| 6743-3                                                                                                                                            | License |                                        | MUN      | 07/21/2006 | 14             | N/A                             | 0.890    |                           |                     |
| 6060-3                                                                                                                                            | License | City of North Sioux City*              | MUN      | 03/09/1998 | 20             | 1,500.00                        | 0.390    | 790.69                    | 790.69              |
| 6285-3                                                                                                                                            | License |                                        | MUN      | 11/02/2001 | 18             | 386.00                          | 1.340    |                           |                     |
| 6872-3                                                                                                                                            | License |                                        | MUN      | 01/11/1980 | 20             | N/A                             | 0.890    |                           |                     |
| 7645-3                                                                                                                                            | Permit  |                                        | MUN      | 01/14/2013 | 8              | 483.00                          | 1.330    |                           |                     |
| 8118-3                                                                                                                                            | Permit  |                                        | MUN      | 02/19/2015 | 6              | 905.00                          | 1.340    |                           |                     |
| 5997B-3                                                                                                                                           | Permit  | Clay Rural Water System Inc            | RWS      | 04/21/1999 | 19             | N/A                             | 2.090    | 289.18                    | 289.18              |
| 6747-3                                                                                                                                            | Permit  | Collins Colony                         | DOM      | 08/07/2006 | 10             | N/A                             | 0.067    | 27.96                     | 27.96               |
| 6074-3                                                                                                                                            | License | Dakota Dunes Comm Improvement District | MUN      | 05/04/1998 | 20             | 2,419.00                        | 0.550    | 410.43                    | 410.43              |
| 8199-3                                                                                                                                            | Permit  | Donahue Farms                          | COM, DOM | 12/16/2016 | 5              | 73.00                           | 0.156    | 3.03                      | 73.00               |
| 2804-2                                                                                                                                            | Permit  | Dougherty Cattle Company Inc           | COM      | 08/30/2019 | 1              | 77.00                           | 0.067    | 70.00                     | 77.00               |
| 8377-3                                                                                                                                            | Permit  | Elm Valley Farms LLC                   | COM      | 09/06/2018 | 2              | 80.00                           | 0.130    | 23.35                     | 80.00               |
| 8156-3                                                                                                                                            | Permit  | Huron Hutterian Brethren               | COM      | 05/07/2015 | 6              | 60.00                           | 0.530    | 3.87                      | 60.00               |
| 8367-3                                                                                                                                            | Permit  | Hybrid Turkeys                         | COM      | 07/10/2018 | 0              | 4.00                            | 0.067    | N/A                       | 4.00                |
| 8368-3                                                                                                                                            | Permit  |                                        | COM      | 07/10/2018 | 0              | 4.00                            | 0.440    | N/A                       | 4.00                |
| 8369-3                                                                                                                                            | Permit  |                                        | COM      | 07/10/2018 | 0              | 4.00                            | 0.220    | N/A                       | 4.00                |
| 8372-3                                                                                                                                            | Permit  |                                        | COM      | 08/27/2018 | 0              | 5.00                            | 0.200    | N/A                       | 5.00                |
| 8374-3                                                                                                                                            | Permit  |                                        | COM      | 08/27/2018 | 0              | 5.00                            | 0.144    | N/A                       | 5.00                |
| 8373-3                                                                                                                                            | Permit  |                                        | COM      | 08/27/2018 | 0              | 5.00                            | 0.170    | N/A                       | 5.00                |
| 8410-3                                                                                                                                            | License | Jason Harmelink                        | COM      | 09/24/2019 | 0              | 77.00                           | 0.130    | N/A                       | 77.00               |
| 8411-3                                                                                                                                            | Permit  | Jed Chelmo                             | COM      | 08/27/2019 | 1              | 43.00                           | 0.040    | 6.90                      | 43.00               |
| 5887A-3                                                                                                                                           | Permit  | Koch Fertilizer LLC                    | COM, IND | 09/22/1995 | 0              | 9.00                            | 0.167    | N/A                       | 9.00                |
| 8464-3                                                                                                                                            | Permit  | Lakeview Hutterian Brethren            | COM, DOM | 12/17/2020 | 0              | 52.00                           | 0.010    | N/A                       | 52.00               |
| 8333-3                                                                                                                                            | Permit  | Liberty Farms LLC                      | COM      | 02/22/2018 | 3              | 62.00                           | 0.330    | 15.93                     | 62.00               |
| 5156-3                                                                                                                                            | Permit  | Lincoln County RWS                     | RWS      | 10/15/1987 | 14             | 440.00                          | 1.200    | 0.00                      | 0.00                |
| 8252-3                                                                                                                                            | License | Michael J Slama                        | COM      | 12/14/2016 | 4              | 45.00                           | 0.133    | 25.73                     | 45.00               |
| 8393-3                                                                                                                                            | Permit  | Pearl Creek Hutterian Brethren         | COM      | 02/04/2019 | 2              | 8.00                            | 0.490    | 7.05                      | 8.00                |
| 8413-3                                                                                                                                            | Permit  | Ratio LLC                              | COM      | 10/30/2019 | 0              | 77.00                           | 0.610    | N/A                       | 77.00               |
| 8249-3                                                                                                                                            | Permit  | Schwartz Farms Inc - Kaylor Site       | COM      | 11/17/2016 | 4              | 45.00                           | 0.480    | 29.73                     | 45.00               |
| 5647-3                                                                                                                                            | License | South Lincoln RWS*                     | RWS      | 08/17/1981 | 21             | N/A                             | 3.000    | 733.92                    | 733.92              |
| 6300-3                                                                                                                                            | License |                                        | RWS      | 02/04/2002 | 18             | N/A                             | 1.000    |                           |                     |
| 6490-3                                                                                                                                            | License |                                        | RWS      | 03/31/2004 | 16             | 1,048.00                        | 1.890    |                           |                     |
| 6778A-3                                                                                                                                           | Permit  |                                        | RWS      | 08/27/1986 | 21             | 517.00                          | 0.000    |                           |                     |
| 8487-3                                                                                                                                            | Permit  | Spink Hutterian Brethren               | COM, DOM | 02/04/2021 | 0              | 55.00                           | 0.420    | N/A                       | 55.00               |
| 8338-3                                                                                                                                            | Permit  | Unique Railroad Contractors            | IND      | 03/19/2018 | 0              | 160.00                          | 0.100    | N/A                       | 160.00              |
| Total                                                                                                                                             |         |                                        |          |            |                | 8,881.10                        | 24.001   | 2,813.20                  | 5,214.88            |
| *Reports all Dakota Aquifer withdrawals together<br>COM – Commercial, DOM – Domestic, IND – Industrial, MUN – Municipal, RWS – Rural Water System |         |                                        |          |            |                |                                 |          |                           |                     |

Balance of Hydrologic Budget

The best estimate of recharge to the Dakota aquifer available is approximately 57,500 ac-ft/yr, estimated based on data from before development of the Dakota aquifer. Withdrawals estimated for the Dakota aquifer are summarized below in Table 3. The total estimated withdrawal for water rights/permits currently authorized to withdraw is 24,419 ac-ft/yr. The total appropriation including future use permits and pending applications is 28,786 ac-ft/yr. This application seeks to withdraw 130 ac-ft/yr. Therefore, based on the hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Table 3: Summary of estimated withdrawals from the Dakota aquifer

| Category                                    | Number | Annual Use/Appropriation (ac-ft/yr) |
|---------------------------------------------|--------|-------------------------------------|
| Irrigation                                  | 19     | 985                                 |
| Standby                                     | 71     | 0                                   |
| Non-irrigation, reporting, not on standby   | 40     | 5,215                               |
| Non-irrigation, not reporting, volume limit | 5      | 187                                 |
| All others                                  | 116    | 18,022                              |
| Subtotal, currently authorized to withdraw  | 251    | 24,409                              |
| Future use                                  | 7      | 4,237                               |
| Pending                                     | 1      | 130                                 |
| Total                                       | 258    | 28,776                              |

*Observation Wells*

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board rely upon the record of observation well measurements in addition to other information to determine the availability of water. The Water Rights Program maintains 46 observation wells completed into the Dakota aquifer [13]. The nearest observation well to this application is Observation Well HD-87A, located approximately 43 miles west of the wells for this application. That observation well has been taken off of the regular summer well runs and has not been read recently due to access issues [13] [14]. The next nearest observation well regularly measured by the Water Rights Program completed into the Dakota aquifer is Observation Well AU-89A and is located approximately 62 miles southwest of this application [13]. Water levels for these observation wells are shown in Figure 1 (see page 7). In general, water levels in the observation wells in mentioned show a downward trend [13]. The rise in water levels in HD-87A from 2014 and 2017 may be from incorrect readings that are still under review. Water levels in a confined aquifer are not an indication of the quantity of water in the aquifer, but of the hydraulic head in the aquifer. The slowly declining trend may indicate that the Dakota aquifer is approaching a new equilibrium as development continues and uncontrolled flowing wells decline below land surface and cease to flow at land surface. Whether or not additional withdrawals are permitted, water levels in the Dakota aquifer are likely to continue to decline until the hydraulic head in the aquifer reaches the hydraulic head of highest-pressure aquifer old uncontrollable wells have failed into. Based on the well completion reports for this aquifer, there is approximately 750 to 790 feet of hydraulic head above the top of the aquifer. Therefore, based on observation well analysis, there is reasonable probability unappropriated water is available for this application.

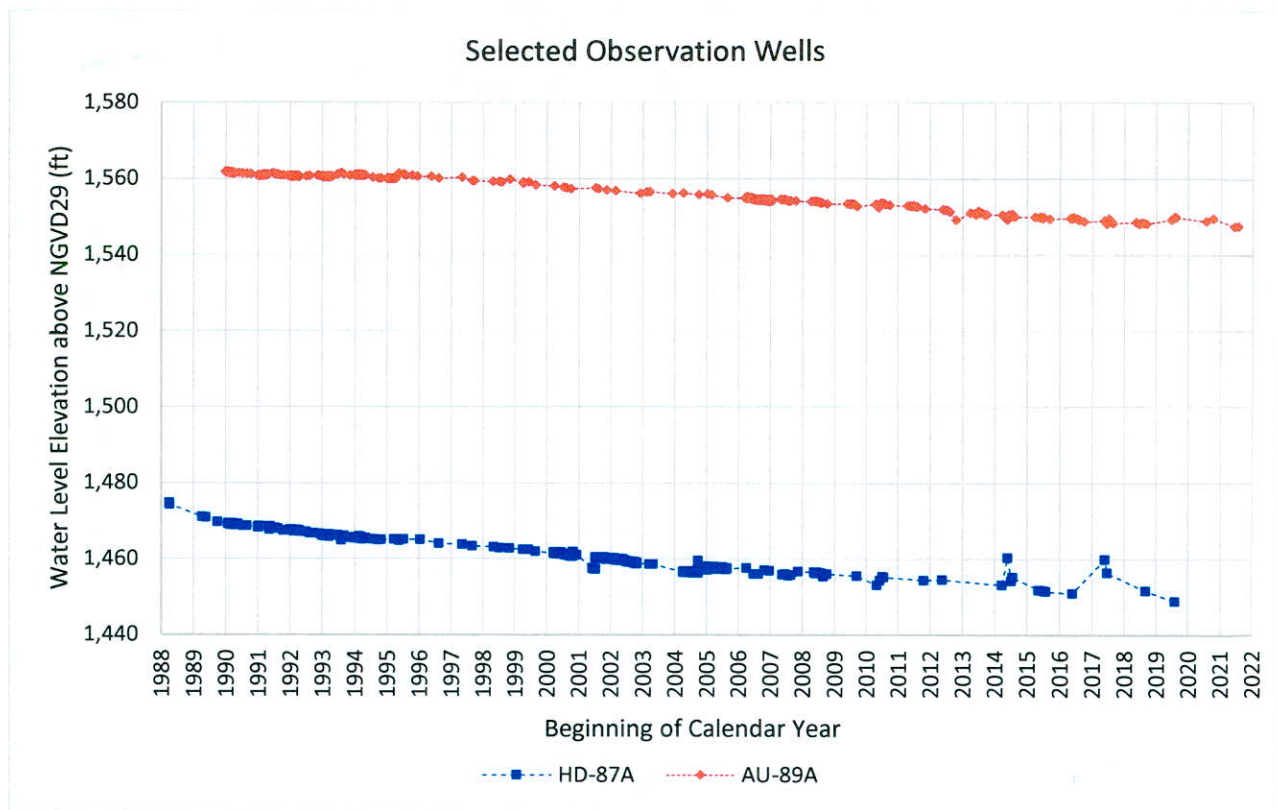


Figure 1: Water levels in selected Dakota aquifer observation wells [13]

### Potential for Unlawful Impairment of Existing Water Rights/Permits

The nearest Dakota aquifer water right is Water Right No. 4287-3, held by the City of Iroquois, and is located approximately 3.1 miles east of the wells for this application, which purchases its water from another system [7] [11]. The next nearest water rights/permits to this application are Water Permit No. 8393-3 and Water Right No. 6167-3, held by Pearl Creek Hutterian Brethren, and located approximately 4 miles south of this application. The nearest domestic wells on file with the Water Rights Program that are likely to be completed into the Dakota aquifer are in the northeast and southwest quarters of the same section the applicant's wells are in [15]. The Water Rights Program has historically interpreted an unlawful impairment of existing water rights to occur if a junior water right/permit causes a nearby adequate well with a senior water right/permit to become unable to withdraw at the rate it is entitled to or, if a domestic well is impacted, the water right/permit causes the adequate domestic well to be unable to withdraw at the rate needed to supply reasonable domestic use of water. Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) defines an adequate well as:

*...a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet*

The nearby domestic wells on file with the water rights program and the nearby water rights/permits mentioned above do not meet the ARSD 74:02:04:20(6) definition of an adequate well. Withdrawals due to this application are likely to cause some drawdown in the aquifer. Precise drawdown behavior in the Dakota aquifer cannot be known without an aquifer performance test. Aquifer properties are given in the Bredehoeft, Neuzil, and Milly [4] report. By multiplying the hydraulic conductivity by the thickness of the aquifer, a value can be estimated for transmissivity. Storage coefficient is also given in terms of aquifer thickness. Using a transmissivity of 2,728 gallons per day per foot and a storage coefficient of 0.003 [4], drawdown in the nearest domestic well, located as near as 0.31 miles away [15], will be approximately 29 feet 30 years after pumping begins, assuming there is no recharge [16] [17]. There was approximately 750 to 790 feet of hydraulic head above the top of the formation at the time the wells for this application were completed. After considering Water Permit Application No. 2313-2 for Coca-Cola Bottling Company, the Water Management Board concluded that to place the waters of the state to maximum beneficial use, hydraulic head should not be protected as a means of water delivery and water rights/permits and domestic wells affected by a declining hydraulic head may be required to lower their pumps [18]. Therefore, there is reasonable probability this application can be developed without unlawful impairment of existing water rights/permits and domestic users with adequate wells.

#### **Special Consideration: Adequate Wells Required**

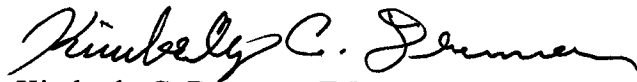
The first well completed for this application does not meet the ARSD 74:02:04:20(6) definition of an adequate well. It does meet construction requirements for domestic and noncommercial livestock watering wells as described in ARSD 74:02:04:35. However, this application is for a commercial livestock operation. The second well completed for this application does meet the definition of an adequate well because a pump can be placed 20 feet below the top of the formation. Any additional wells needed to meet the requested pump rate or any future replacement wells must be adequate wells.

#### **Special Consideration: Declining Hydraulic Head**

Occasionally, the Water Management Board will protect hydraulic head in an aquifer for public interest reasons. However, the hydraulic head in the Dakota aquifer is likely to continue to decline whether or not additional withdrawals are permitted due to uncontrolled/uncontrollable flowing wells allowing the water to flow to waste or into other aquifers. Therefore, the Water Management Board has determined it is better to put that water to beneficial use than to let the water flow to waste from uncontrolled flowing wells [19].

#### **Conclusions**

1. Water Permit Application No. 8525-3 seeks to appropriate up to 130 ac-ft/yr at a maximum instantaneous withdrawal rate of 0.22 cfs from two wells completed into the Dakota aquifer in the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  Section 34 T111N-R59W, 5<sup>th</sup> Principal Meridian.
2. Based on the hydrologic budget and observation well analysis, there is reasonable probability unappropriated water is available for this application.
3. There is reasonable probability this application can be developed without unlawful impairment of existing domestic uses and water rights/permits with adequate wells.



Kimberly C. Drennon, E.I.

Natural Resources Engineer II – DANR Water Rights Program

## References

- [1] D. W. Tomhave and L. D. Schulz, "Bedrock geologic map showing configuration of the bedrock surface in South Dakota east of the Missouri River," SD DANR Geological Survey Program, Vermillion, South Dakota, 2004. General Map 9.
- [2] J. S. Downey, "Geohydrology of bedrock aquifers in the Northern Great Plains in parts of Montana, North Dakota, South Dakota, and Wyoming," United States Geological Survey, Denver, Colorado, 1986. Professional Paper 1402-E.
- [3] R. A. Schoon, "Geology and Hydrology of the Dakota Formation in South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 1971. Report of Investigations No. 104.
- [4] J. D. Bredehoeft, C. E. Neuzil and P. C. D. Milly, "Regional Flow in the Dakota Aquifer: a Study of the Role of Confining Layers," United States Geological Survey, Alexandria, Virginia, 1983. Water-Supply Paper 2237.
- [5] D. G. Driscoll and J. M. Carter, "Hydrologic Conditions and Budgets for the Black Hills of South Dakota, through Water Year 1998," United States Geological Survey, Rapid City, South Dakota, 2001. Water-Resources Investigation 01-4226.
- [6] N. H. Darton, "Geology and Underground Waters of South Dakota," United States Geological Survey, Alexandria, Virginia, 1909. Water-Supply Paper 227.
- [7] SD DANR Water Rights Program, "Water right permit file database," SD DANR Water Rights Program, Pierre, South Dakota, 2021.
- [8] SD DANR Water Rights Program, "Irrigation questionnaire summaries," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2020.
- [9] G. A. McMath, Interviewee, Program Assistant II - SD DANR Water Rights Program. [Interview]. 1 September 2021.
- [10] B. Friedeman, Interviewee, Environmental Scientist II - SD DANR Drinking Water Program. [Interview]. 18-31 October 2019.
- [11] Drinking Water Program, "Your Water System Information," SD DANR Drinking Water Program, 12 August 2021. [Online]. Available: <https://denr.sd.gov/des/dw/sysinfo.aspx>. [Accessed 12 August 2021].
- [12] SD DANR Water Rights Program, "Non-Irrigation Yearly Reports," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 2020.
- [13] SD DANR Water Rights Program, "Observation wells," Pierre, South Dakota, 2021.
- [14] W. Kilts, Interviewee, Natural Resources Engineer III - SD DANR Water Rights Program. [Interview]. 19 August 2021.
- [15] SD DANR Water Rights Program, "Well completion reports," Pierre, South Dakota, 2021.

- [16] C. V. Theis, "The relation between the lowering of the piezometric surface and the rate and duration of discharge of a well using ground water storage," Ground Water Notes No. 5, pp. 1-9, August 1952. Originally published 1935 in Trans. of the Amer. Geophysical Union.
- [17] Y. Gao, P. Hsieh and S. Alexander, "Using excel for aquifer test," [Online]. Available: [https://d32ogoqmya1dw8.cloudfront.net/files/NAGTWorkshops/hydrogeo/activities/Excel\\_\\_Aquifer\\_Test.pdf](https://d32ogoqmya1dw8.cloudfront.net/files/NAGTWorkshops/hydrogeo/activities/Excel__Aquifer_Test.pdf). [Accessed 3 August 2021].
- [18] SD Water Management Board, "Findings of Facts, Conclusions of Law and Final Decison in the matter of Water Permit Application No. 2313-2," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 1994.
- [19] SD Water Management Board, "Findings of Facts, Conclusions of Law and Final Decison in the matter of Water Permit Application No. 5136-3," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 1987.

## Schlaak, Karen

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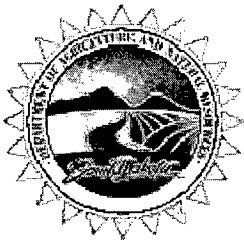
**From:** Schlaak, Karen  
**Sent:** Thursday, September 9, 2021 9:29 AM  
**To:** Brad Woerner (bwoerner@stockwellengineers.com)  
**Subject:** FW: Water Permit Application No. 8525-3, Banner Farms RE LLC  
**Attachments:** 1826.pdf

---

**From:** Schlaak, Karen  
**Sent:** Thursday, September 9, 2021 9:26 AM  
**To:** [barry.kerkaert@pipestone.com](mailto:barry.kerkaert@pipestone.com)  
**Subject:** Water Permit Application No. 8525-3, Banner Farms RE LLC

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 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>



RECEIVED

OCT - 7 2021

WATER RIGHTS  
PROGRAM

Proof Of Publication

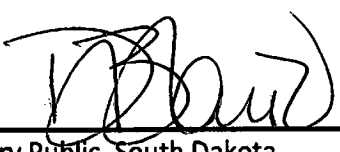
Huron Plainsman  
49 3<sup>rd</sup> Street SE  
Huron, SD 57350  
605-353-7402

Legal Notice Number: 1011

I, Kim Davis, 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: BANNER WATER - 8525-3, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on - 9/15/21. That the full amount of the fee charged for the publishing \$ 41.60 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.

---

Subscribed and sworn to me before this date 9/29/21.

  
\_\_\_\_\_  
Notary Public, South Dakota

My Term Expires 03/11/2022

**2000 - Legals**

**2000 - Legals**

**2000 - Legals**

F. P. 09-15-21

**NOTICE OF APPLICATION  
NO. 8525-3 to**

**Appropriate Water**

Notice is given that Banner Farms RE LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164 has filed an application for a water permit to appropriate 130 acre-feet of water annually at a maximum pump rate of 0.22 cubic feet of water per second from two wells to be completed into the Dakota Aquifer (880 feet deep) located in the NW 1/4 NW 1/4 Section 34 for commercial use in a swine production facility located in a portions of the NW 1/4 Section 34; all in T111N-R59W. This site is located approximately 3 miles northwest of Iroquois SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8525-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) 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 Duval 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 September 27, 2021.

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 September 27, 2021.

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. 1011 (adv.)  
Published one time at the total approximate cost of \$41.60.

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Thursday, September 9, 2021 9:25 AM  
**To:** 'rcrandall@plainsman.com'  
**Subject:** 8525-3, Banner Farms LLC  
**Attachments:** 8525-3public.short\_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 15, 2021.

Banner Farms RE LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164 (507 825-4211) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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

*Karen Schlaak*

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 NEWSPAPER RIGHT AWAY.**

September 9, 2021

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

Dear Mr. Kerkaert:

Water Permit Application No. 8525-3 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 Plainsman printed at Huron SD (Ph # 605 353-7414). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

*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.

Instruction to Newspaper - Publish the Notice on September 15, 2021. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NO. 8525-3 to Appropriate Water

Notice is given that Banner Farms RE LLC, c/o Barry Kerkaert, PO Box 188, Pipestone MN 56164 has filed an application for a water permit to appropriate 130 acre-feet of water annually at a maximum pump rate of 0.22 cubic feet of water per second from two wells to be completed into the Dakota Aquifer (880 feet deep) located in the NW 1/4 NW 1/4 Section 34 for commercial use in a swine production facility located in a portions of the NW 1/4 Section 34; all in T111N-R59W. This site is located approximately 3 miles northwest of Iroquois SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8525-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) 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 September 27, 2021.

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 September 27, 2021.

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\_



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

OCT 25 2021

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

Dear Mr. Kerkaert:

Enclosed is Water Permit No. 8525-3 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

8525-3

Form 10

NOTICE OF COMPLETION OF WORKS AND  
APPLICATION OF WATER TO BENEFICIAL USE

Date 4/20/22

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

FROM: Banner Farms RE, LLC  
(name)

PO Box 188  
(address)

Pipestone, MN 56164  
(city, state, zip)

507 825 4211  
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 8525-3 states that the water use system is to be constructed by

3/27/22  
(date)

, and water is to be put to beneficial use by 3/27/24  
(date)

The water use system was completed on 6/1/22  
(date)

Applying the water to beneficial use was completed on 6/1/22  
(date)

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

[Signature]  
(signature)

7-98



RECEIVED  
MAY 08 2023  
OFFICE OF  
WATER

## Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8525-3

I have this day, June 9, 2025, made a thorough examination of the water use system constructed by Banner farms RE LLC, PO Box 188, Pipestone, MN 56164 of Permit No. 8525-3, bearing the priority of July 9, 2021 authorizing the diversion of 0.22 cu. ft. per second of the waters of the Dakota Aquifer for commercial swine purposes, in Beadle County.

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

#### Well Information:

- 1) Well Drilling Firm: Stretch's Well Service
- 2) No. of Wells 2
- 3) Depth(s) 880 feet
- 4) Well log is available Y

#### Casing:

- 1) Diameter 5 inches
- 2) Length 800 feet
- 3) Type Plastic

#### Screen:

- 1) Type Stainless steel
- 2) Length 80 feet
- 3) Static water level 30 feet

#### Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 90 total for 2 wells GPM

#### Motor:

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

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

- 1) Type Buried PVC
- 2) Size Unknown inches
- 3) Length 200 feet

Comments: **xx**

**C. Compliance with Permit Requirements:**

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

**E. Condition and Location:**

1. The system is in good condition with the point(s) of diversion located as follows: WELL LOCATIONS
2. From the NW corner Sec 34 T111N R59W, "N" WELL: 700 ft S & 430 ft E, Lat 44.38110 Long 97.91194 (NW ¼ NW ¼) "S" WELL: 900 ft S & 430 ft E, Lat 44.38052 Long 97.91194 (NW ¼ NW 1/4).
3. The works are capable of diverting and conveying to the place of use 0.20 cu. ft. per second of water which is to be used for commercial swine use.

The license should be issued for 0.20 cfs.

4. All structures, wells and lands on map Y

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

Used FSA maps and ArcGIS to construct the inspection map.

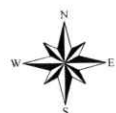
The pump rate reported by Mr. Marty Rost (contact person, phone 507/215-0482) was used to establish the system flow capacity for the well.

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



Darrell DeBoer  
Water Rights Inspector  
DENR, Water Rights Program

Date report completed: June 23, 2025



0 400 800 1,600 2,400 3,200 Feet



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

JUL 21 2015

Banner Farms RE LLC  
c/o Barry Kerkaert  
PO Box 188  
Pipestone, MN 188

No. 8525-3

Dear Mr. Kerkaert:

Enclosed is Water License No. 8525-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

If you have any questions regarding the enclosed license, please contact Water Rights Permitting Administrator, Amanda Dewell at (605) 773-3352 or [Amanda.Dewell@state.sd.us](mailto:Amanda.Dewell@state.sd.us).

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA  
WATER LICENSE NO. 8525-3**

---

(1) Banner Farms RE LLC, PO Box 188, Pipestone, MN 56164, made Application No. 8525-3, July 9, 2021, for a water permit to divert 130 acre-feet of water annually at a maximum pump rate of 0.22 cubic feet of water per second from groundwater, two wells (Dakota Aquifer), Beadle County, South Dakota for commercial use in a swine production facility. Permit No. 8525-3, with a priority date of July 9, 2021, was approved September 27, 2021, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 27, 2026, and for the application to beneficial use of water on or before September 27, 2030.

The permit holder submitted a Notice of Completion of Works and Application of Water to Beneficial Use form on May 8, 2023. The Notice stated the diversion system was completed on June 1, 2022, and the water was placed to beneficial use on June 1, 2022.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 130 acre-feet of water annually at a maximum pump rate of 0.20 cubic feet of water per second for beneficial use. The location of the diversion points are:

- North Well: 700 feet S and 430 feet E of the NW corner of Section 34, T111N, R59W (NW ¼ NW ¼) (Latitude 44.38110 and Longitude -97.91194)
- South Well: 900 feet S and 430 feet E from the NW corner of Section 34, T111N, R59W (NW ¼ NW ¼) (Latitude 44.38052 and Longitude -97.91194)

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

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

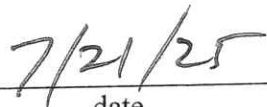
(5) Pursuant to South Dakota Water Law 46-5-30.1 Banner Farms RE LLC, the holder and/or owner of Water Right No. 8525-3 is issued a license to appropriate water, the right to use 130 acre-feet of water annually at a maximum pump rate of 0.20 cubic feet of water per second from groundwater, two wells (Dakota Aquifer), with a priority date of July 9, 2021, from the location specified in (2) of this license for commercial use in a swine production facility.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8525-3 and subject to the following qualifications:

1. The wells approved under Water Permit No. 8525-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. Water Permit No. 8525-3 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.
3. Water Permit No. 8525-3 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
4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Aquifer.
5. Water Permit No. 8525-3 authorizes a total annual diversion of 130 acre-feet of water from the Dakota Aquifer.
6. Any future replacement well shall meet adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20. Replacement wells may not be constructed using alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.

  
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Mark Mayer, PE  
Director of Office of Water

  
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date

