

WATER PERMIT NO. 8547-3

Name of Applicant: L & E Holdings LLC

Address: 4901 N 4th Ave, Sioux Falls SD 57104

Phone: 888 781-8778

Amount of Water Claimed: 0.10 cfs

Total Acres: 11.39

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Minnehaha

Type of Waste Disposal System:

Location: north of airport

PRIORITY

Date Received: 9-3-21

Application/License Fee: \$ 300

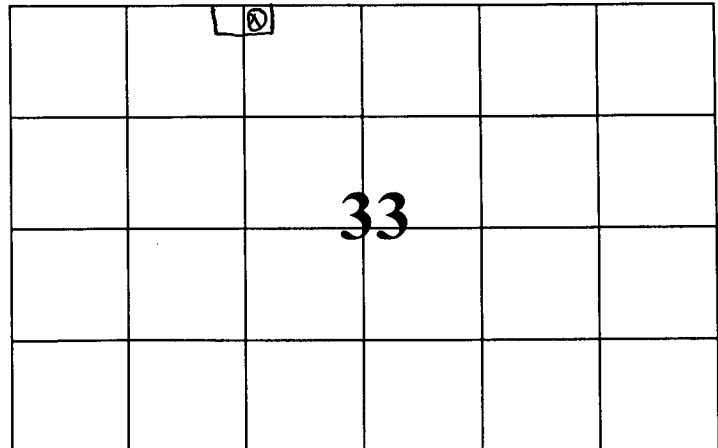
Corrected Application Received: 9-8-21

Period of Annual Use: May 1 – October 31

Remarks: pump from the well to a pond and from the pond to the watering system

Diversion Point: NW 1/4 NE 1/4 Sec 33-T102N-R49W

Land to be Irrigated: N 1/2 Sec 33-T102N-R49W
(Lot 6, Block 4 Sioux Empire Development Park
Two Addition)



Depth of Well: 66150

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 9-9-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8547-3**

Date of first receipt of application September 3, 2021.

Date of return to applicant for corrections, amendments or changes September 7, 2021.

Date of receipt of corrected application September 8, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8547-3 to L & E Holdings LLC, c/o Brandon L Maddox, 4901 N 4th Ave, Sioux Falls SD 57104 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. 8547-3 appropriates 0.10 cubic feet of water per second (cfs) from one well to be completed into the Sioux Quartzite Aquifer (approximately 150 feet deep) located in the NE 1/4 NW 1/4 Section 33 for landscape watering of 11.39 acres located in the N 1/2 NW 1/4 Section 33; all in T102N-R49W (Lot 6, Blk 4 Sioux Empire Development Park Two Addition). The permit holder is authorized to pump from the well at a rate of 45 gallons per minute (gpm) to a pond. Water from the pond will be applied to the landscape at a rate of 40 gpm. This site is located northeast of the airport in Sioux Falls SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1-October 31.
3. The date from which applicant may claim right is September 3, 2021.
4. The date of approval of Permit No. 8547-3 is December 20, 2021.
5. One-fifth of the construction is to be completed on or before June 20, 2024.
6. All construction is to be completed on or before December 20, 2026.
7. Water is to be put to beneficial use on or before December 20, 2030.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Water Permit No. 8547-3 may be located near domestic wells. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells.
2. The well authorized by Permit No. 8547-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

DEC 23 2021

date



SEP 03 2021

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>8547-3</u>	Hydrologic Unit <u>10170203</u> WATER RIGHTS PROGRAM
	Basin <u>Sioux River</u>	
	Newspaper <u>Argus Leader</u>	

PAID
SEP 3 2021
Ck# 15890

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

- Name to Appear on Irrigation Permit L & E Holdings, LLC
 Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
 Mailing Address 4901 N 4th Ave Sioux Falls SD 57104
 (Address) (City) (State) (Zip Code)
 Phone (605) 781-8778 Mobile _____ Email brandon.maddox@silencercentral.com
- Amount of water claimed 0.10 *CFS or 45 **GPM ***AF Total Acreage 11.39
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply New Well & pond NE 1/4 NW 1/4 Sec 33-T102N-R49W
- Location of point of diversion 1 Well - LOT 6 BLK 4 Sioux Empire Development
 (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
Park Two ADDN to City of Sioux Falls County Minnehaha
- County or counties where water will be used Minnehaha
- Annual period during which water is to be used May through October
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
LOT 6 BLK 4 Sioux Falls		N 1/2 NW 1/4 Sec 33-T102N-R49W	
Development Park Two ADDN			
to City of Sioux Falls	11.39		

8. Give a description of the project. (Attach sheet if more space is needed) @ 45 gpm

Install a pond that is to be filled by the new well. The irrigation system will pull water from the pond after the iron - other minerals have settled to the bottom. Landscaping & Fountain is to be installed to increase the aesthetics of the pond.

I, Brandon I. Maddox Owner, the applicant, certify under

Name of Person

Title (if applicable)

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

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) ~~60'~~ ¹⁵⁰ Depth to Top of Water Bearing Material _____ Depth to Water from Surface 20'
*estimated*d) Distance to nearest domestic well on applicant's property NA Property owned by others _____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions Approx. 109' x 52' Depth 8'b) Depth to water (ground surface to water level) 1'

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

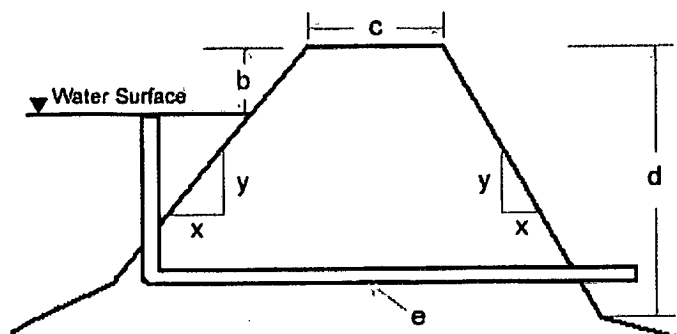
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





Imagery ©2021 Maxar Technologies, USDA Farm Service Agency, Map data ©2021 Google 50 ft

102N 49W
Section: 29

102N 49W
Section: 28

102N
Section

Well
Location

NW 1/4
corner

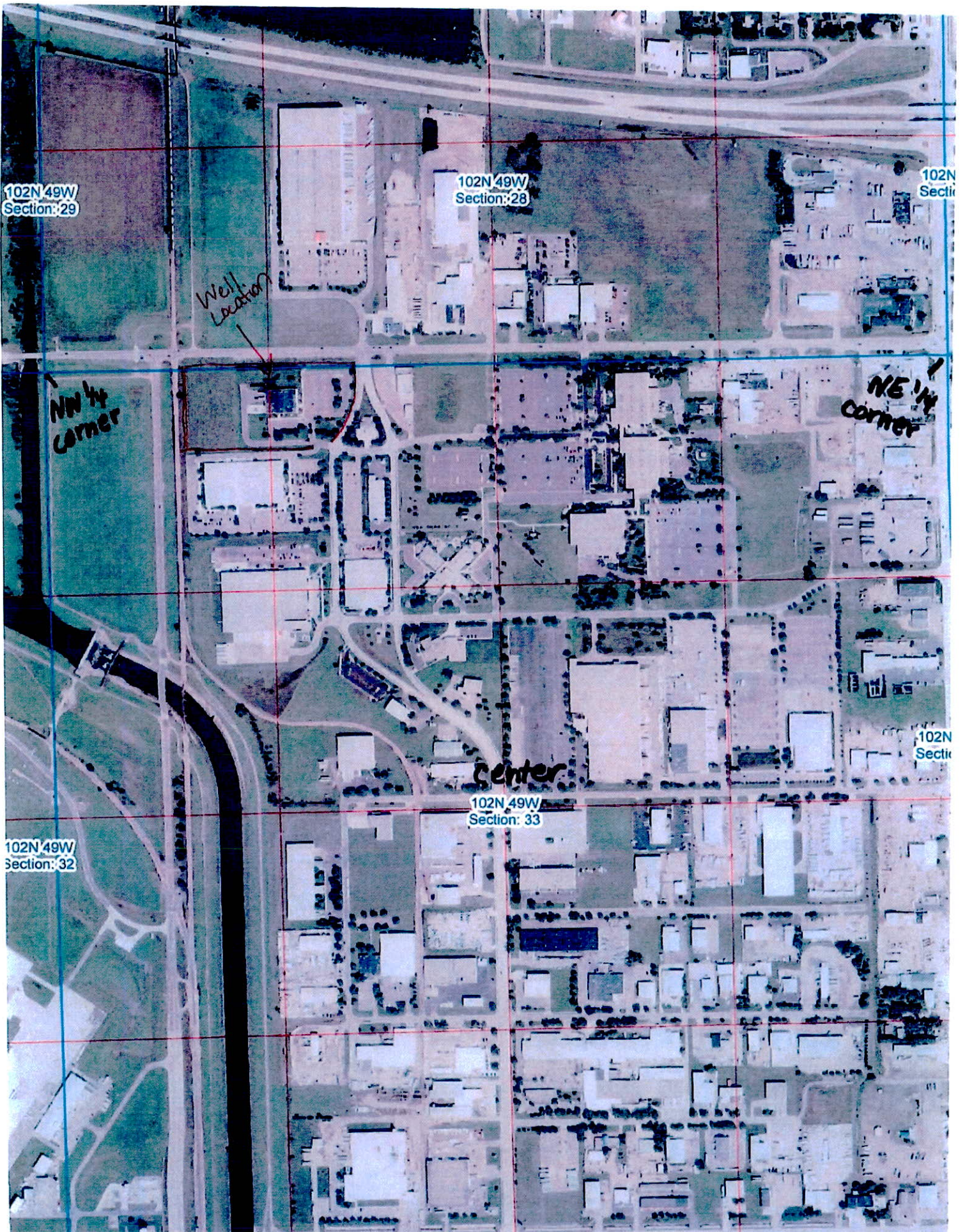
NE 1/4
corner

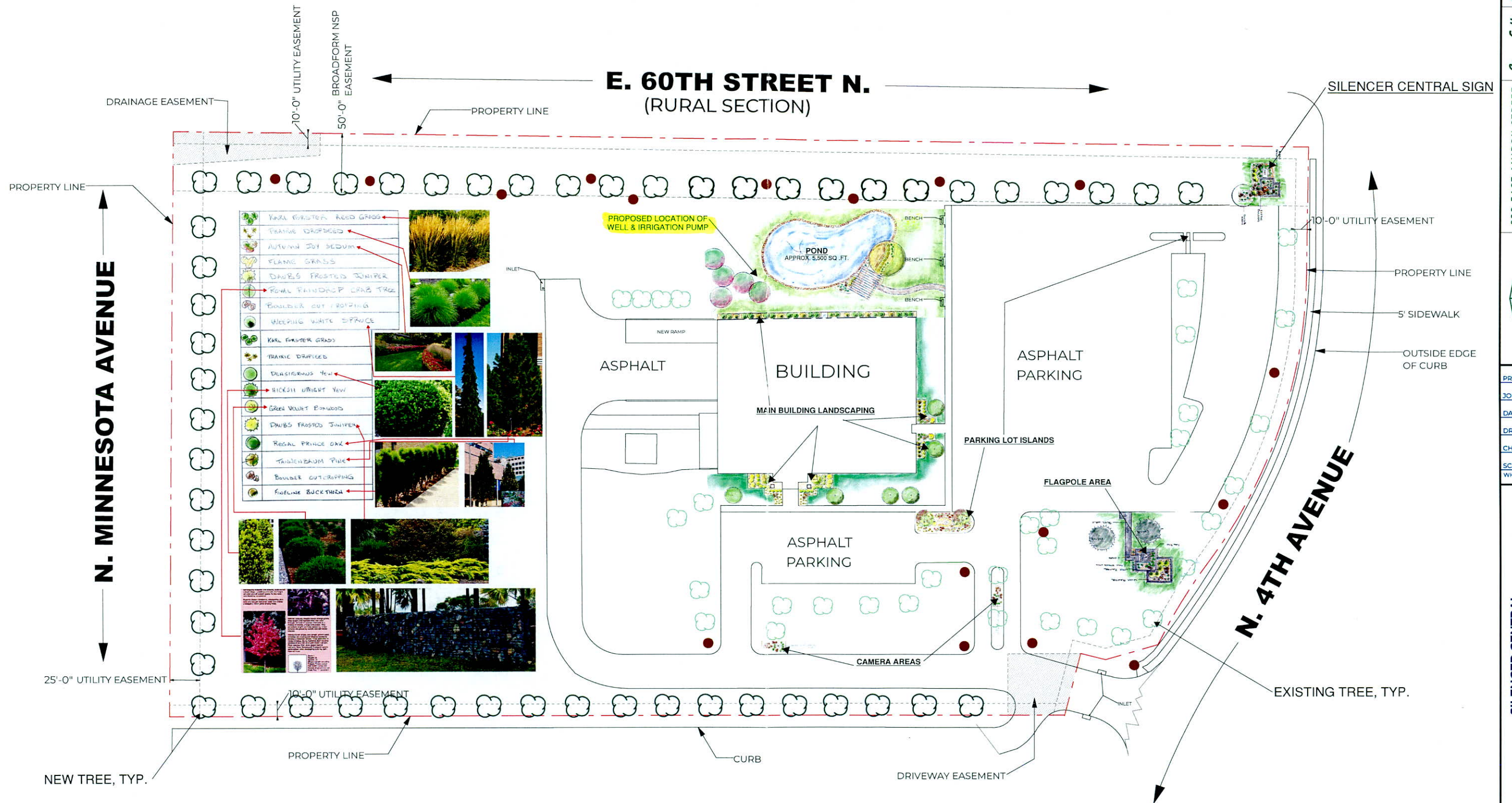
Center

102N 49W
Section: 33

102N
Section

102N 49W
Section: 32





 SMART COMMERCIAL CONSTRUCTION CO.	820 EAST AMIDON STREET Sioux Falls SD 57104
	605.275.2964 SMARTCOMMERCIALCONSTRUCTION.COM
PROJECT: JOB NUMBER: DATE: 7/19/2021 DRAWN BY: CHECKED BY: JES/MK SCALE: N.T.S. WHEN PLOTTED TO ARCH D	
SILENCER CENTRAL	SITE
 QUALITY TRUST SERVICE SCC.CO.	
PROGRESS SET NOT FOR CONSTRUCTION	
PAGE: 1	



531079686

ANNUAL REPORT

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

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

Filing Fee: \$50

2020
FILING YEAR

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

Total Fee: \$50

1. Business ID and Name:

DL030096
BUSINESS ID

L&E HOLDINGS, 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

7511 S. LOUISE AVE
SUITE 101
SIOUX FALLS, SD 57108

Mailing Address

7511 S. LOUISE AVE
SUITE 101
SIOUX FALLS, SD 57108

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 **Brandon Lane Maddox**

Actual Street Address in this State

7511 S LOUISE AVE
SUITE 101
SIOUX FALLS, SD 57108

Mailing Address in this State

7511 S LOUISE AVE
SUITE 101
SIOUX FALLS, SD 57108

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
BRANDON LANE MADDOX	7511 S. Louise Ave, Suite 101, SIOUX FALLS, SD, 57108
MEGAN LAVIN MADDOX	7511 S. Louise Ave, Suite 101, SIOUX FALLS, SD, 57108

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).



09/14/2020

Dated

Email (Optional)

Brandon Maddox

Signature of an Authorized Person

Brandon Maddox

Printed Name

B0152-6649 09/14/2020 1:41PM Rec'd by SD SOS

Schlaak, Karen

From: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Sent: Wednesday, September 8, 2021 5:19 PM
To: Schlaak, Karen
Cc: Brandon L. Maddox
Subject: RE: [EXT] Water Permit Application - L & E Holdings LLC
Attachments: County Map.pdf; Form 2A Resubmittal.pdf

Thank you for your prompt response of the well location. Please see the response to the questions in RED below.

- A map needs to be submitted that references a government section corner or quarter corner including section, township and range. Please outline the acres to be irrigated and mark the proposed well location with an "X".

Please see the attachment for the maps that you requested. I have outlined the property that will be irrigated as well as an "x" showing the proposed well location. As discussed with you today, I believe the location you provided is correct. The lot size is 11.39 acres, but as I said before, that includes the building, parking lot, and sidewalks which will not be irrigated. Your response was as follows; *"Based on this map and comparing it with the maps submitted with the application, the proposed location of the well and pond will be the NE ¼ NW ¼ Section 33-T102N-R49W. The acres to be irrigated will be located within the N ½ NW ¼ Section 33-T102N-R49W. We will include Lot 6 Blk 4 Sioux Empire Development Park Two Addition with the above legal descriptions."*

- Enclosed is the Form 2A, Supplemental Information submitted with the application. Please complete Item No. 3, Dugout Information for the proposed pond. Also, will the pond receive any incidental runoff from the area?

The attached is the completed Form 2A with the dugout information. . The pond is not currently set to receive incidental runoff from the landscape.

- The application requests 45 gallons per minute. Is this the pump rate from the well to the pond? If not, what is the proposed rate? What is the proposed rate for application from the pond to the landscape?

45 gallons/ minute is the pump rate from the well to the pond to resupply the water that was removed from the pond for irrigation. The irrigation system will pull an estimated 40 gallons/ minute from the pond to the landscape throughout the property.

Thank you again for your response. Please let me know if you need any additional information.



SMART COMMERCIAL
CONSTRUCTION Co.

820 EAST AMIDON STREET	Sioux Falls	SD • 57104
SMARTCOMMERCIALCONSTRUCTION.COM	605.275.2964	

BRENDAN TIDEMANN
Assistant Project Manager

BRENDAN@SMARTCOMMERCIALCONSTRUCTION.COM
OFFICE: 605.275.2964
MOBILE: 605.254.7591
FAX: 605.338.7938

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From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Tuesday, September 7, 2021 12:59 PM
To: brandon.maddox@silencercentral.com
Cc: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Subject: Water Permit Application - L & E Holdings LLC

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

- A map needs to be submitted that references a government section corner or quarter corner including section, township and range. Please outline the acres to be irrigated and mark the proposed well location with an "X".
- Enclosed is the Form 2A, Supplemental Information submitted with the application. Please complete Item No. 3, Dugout Information for the proposed pond. Also, will the pond receive any incidental runoff from the area?
- The application requests 45 gallons per minute. Is this the pump rate from the well to the pond? If not, what is the proposed rate? What is the proposed rate for application from the pond to the landscape?

If you have questions, please let me know.

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



Mathiowetz, Adam (DENR)

From: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Sent: Wednesday, October 6, 2021 8:56 AM
To: Mathiowetz, Adam (DENR)
Cc: Justin Heimdal; Duvall, Ron; Brandon L. Maddox; Jarrod Smart
Subject: RE: [EXT] Well for Irrigation at Silencer Central

Adam – After discussing it with L&E Holdings, please amend the permit to go into the Sioux Quartzite at a depth of 150 feet. With the assumption that the depth may change if a steady water source is not located. To clarify – we do NOT want a temporary permit. We wish to make the proper revisions to be granted a permanent permit for a well for irrigation purposes.

Thank you!!

 SMART COMMERCIAL CONSTRUCTION Co.		BRENDAN TIDEMANN <i>Assistant Project Manager</i>
820 EAST AMIDON STREET	Sioux Falls	SD - 57104
SMARTCOMMERCIALCONSTRUCTION.COM	605.275.2964	
BRENDAN@SMARTCOMMERCIALCONSTRUCTION.COM OFFICE: 605.275.2964 MOBILE: 605.254.7591 FAX: 605.338.7938		

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From: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Sent: Monday, September 27, 2021 2:33 PM
To: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Cc: Justin Heimdal <justin@smartcommercialconstruction.com>; Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: RE: Well for Irrigation at Silencer Central

Brendan,

Just to clarify and make sure it is fully documented, L&E Holdings does not wish to go for the shallower aquifer, the Big Sioux: Sioux Falls aquifer, where the permit would be a temporary permit if issued. They instead wish to go for the deeper Sioux Quartzite aquifer where a permit, if issued, would be a regular permanent water permit.

If L&E Holdings wishes to go for the Sioux Quartzite aquifer would it be acceptable to your client to amend their application for a deeper well depth? I was thinking approximately 150 feet. This depth is not necessarily binding, but provides information to anyone reviewing the application, report, or public notice for this application.

In terms of informing Dave Putzke, your driller, tell him you want a well completed into the Sioux Quartzite and **not completed into** the glacial sands and gravels.



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

From: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Sent: Monday, September 27, 2021 1:04 PM
To: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Cc: Justin Heimdal <justin@smartcommercialconstruction.com>; Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: RE: [EXT] Well for Irrigation at Silencer Central

Adam – I talked to Dave last week to get a better understanding of the process for NOT using water from the aquifer so we can be issued a permanent permit instead of a temporary. From my understanding, this is something that is feasible to do and has been done in the past. I have tried to reach Dave today to let him know that is the direction we want to go but have not been able to reach him. I wanted to make you aware that L&E Holdings wants a well with a permanent permit and NOT a temporary one so they would like to take the necessary actions to make that happen. I will keep trying to reach Dave so that we can all get on the same page.

Is there any action that I need to take so that we can keep moving toward a permanent well irrigation permit? I appreciate your communication and cooperation!

Thank you!

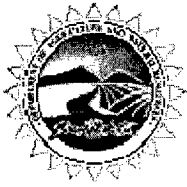
 SMART COMMERCIAL CONSTRUCTION Co.		BRENDAN TIDEMANN <i>Assistant Project Manager</i>
820 EAST AMIDON STREET	Sioux Falls	SD - 57104
SMARTCOMMERCIALCONSTRUCTION.COM		605.275.2964
BRENDAN@SMARTCOMMERCIALCONSTRUCTION.COM OFFICE: 605.275.2964 MOBILE: 605.254.7591 FAX: 605.338.7938		

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From: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Sent: Thursday, September 23, 2021 4:39 PM
To: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Cc: Justin Heimdal <justin@smartcommercialconstruction.com>; Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: RE: Well for Irrigation at Silencer Central

I ended up calling Dave today so it didn't slip through a crack tomorrow. Dave's estimate of a 60 foot deep well was for a well to be completed into the glacial sand and gravel aquifer, the Big Sioux: Sioux Falls. The water, that has not already been appropriated from the Big Sioux: Sioux Falls aquifer is currently held in a future use reservation by the City of Sioux Falls. Any permit to appropriate water from the Big Sioux: Sioux Falls aquifer would be a temporary permit to withdraw water from the City of Sioux Falls's future use reservation. You would be free to use the water until the city decides to put their future use reservation to beneficial use. Ron Duvall in our office has previously sent an email to Brandon Maddox, AJ Swanson, and Jarrod Smart regarding this issue. I have attached the email for your convenience.

At this time, we are processing the irrigation application assuming it is for a well to be completed into the Big Sioux: Sioux Falls aquifer. If that is to change, please notify us as soon as possible.



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

From: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Sent: Thursday, September 23, 2021 4:28 PM
To: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Cc: Justin Heimdal <justin@smartcommercialconstruction.com>
Subject: RE: [EXT] Well for Irrigation at Silencer Central

Thanks. Please get in touch with Dave and let me know what was discuss so I can make sure that everyone, including our client, is on the same page. Thank you!!

Brendan Tidemann

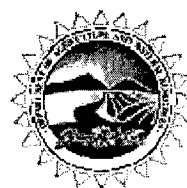
Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Mathiowetz, Adam (DENR)" <Adam.Mathiowetz@state.sd.us>
Date: 9/23/21 2:20 PM (GMT-07:00)
To: Brendan Tidemann <brendan@smartcommercialconstruction.com>
Cc: Justin Heimdal <justin@smartcommercialconstruction.com>
Subject: RE: Well for Irrigation at Silencer Central

Brendan,

I have been out sick until today. I plan to call Dave tomorrow assuming I don't get wrapped up into something else again. We are moving forward with it on our end. Unless Dave, says something completely different than what we discussed we will keep plugging away at it.



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

From: Brendan Tidemann <brendan@smartcommercialconstruction.com>

Sent: Thursday, September 23, 2021 4:10 PM

To: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>

Cc: Justin Heimdahl <justin@smartcommercialconstruction.com>

Subject: [EXT] Well for Irrigation at Silencer Central

Adam, this is Brendan with Smart Commercial Construction. We spoke last week Friday about the well at Silencer Central and you had some questions for Dave Putzky about the well depth and the source of the water that we planned on using so you said you would be calling him on Tuesday to follow up with him.

I just got off the phone with Dave and he said he had not heard from you. Please let me know if you need me to do anything so that we can keep moving forward with the process.

I look forward to hearing from you, thank you!!

Brendan Tidemann
Smart Commercial Construction

Sent from my Verizon, Samsung Galaxy smartphone

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date September 3, 2021

RECEIVED OF Smart Commercial Construction Co., 820 E Amidon St. Sioux Falls SD 57104

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

Fee for Application for Permit No. <u>8547-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</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>8547-3</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>700.00</u>

By Eric Gronlund
Chief Engineer

VM

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, December 3, 2021 7:52 AM
To: brandon.maddox@silencercentral.com
Cc: Brendan Tidemann
Subject: Water Permit Application No. 8547-3
Attachments: 2282.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper 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>





**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. 8547-3, L & E Holdings LLC**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8547-3, L & E Holdings LLC, 4901 N 4th Ave, Sioux Falls SD 57104.

The Chief Engineer is recommending APPROVAL of Application No. 8547-3 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 well approved under Water Permit No. 8547-3 may be located near domestic wells. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells.
2. The well authorized by Permit No. 8547-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund

Eric Gronlund, Chief Engineer
December 1, 2021

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8547-3
L & E HOLDINGS
C/O BRANDON L MADDOX
DECEMBER 2, 2021

Water Permit Application No. 8547-3 proposes to irrigate 11.39 acres of landscape at a maximum instantaneous diversion rate of 0.10 cubic feet of water per second (cfs) from one well (approximately 150 feet deep) to be completed into the Sioux Quartzite and to be located in the NE ¼ NW ¼ Sec. 33 T102N-R49W. The land to be irrigated is located in N ½ NW ¼ Sec. 33; all in T 102N-R49W (Lot 6, Blk. 4 Sioux Empire Development Park Two Addition). The applicant is proposing to pump water from the well at a rate of 0.10 cfs (45 gallons per minute (gpm) to a pond. Water from the pond will be applied to the landscape at a rate of 40 gpm (0.082 cfs). This site is located northeast of the airport in Sioux Falls.

AQUIFER: Sioux Quartzite (SOUX)

Aquifer Characteristics:

The Sioux Quartzite is a Precambrian aged fine to coarse grained ortho-quartzite primarily composed of pink and red colored quartz sand cemented into a nonporous quartzite by silica (Baldwin, 1949; Martin et al., 2004). The Sioux Quartzite underlies portions of southeastern South Dakota, southwestern Minnesota, and northwestern Iowa (Tomhave, 1994; Southwick, 1984). Figure 1 shows the approximate extent of the Sioux Quartzite in southeastern South Dakota. The depth to the Sioux Quartzite can vary significantly over short distances as shown by mapping of the Precambrian surface done by McCormick (2010). The craggy and uneven surface of the Sioux Quartzite is a likely product of pre-glacial streams incising irregular valleys on the quartzite surface (Baldwin, 1949).

There is very limited or no primary porosity for most of the Sioux Quartzite, except in areas where the silica cement is not present due to weathering or non-deposition (Baldwin, 1949). In areas where there is secondary porosity and permeability features (e.g., fractures), water can be transmitted through secondary porosity and the Sioux Quartzite can be considered an aquifer. Any aquifer characteristics are site specific and highly variable due to the unpredictable and uneven nature of the fractures, faults, and joints that comprise secondary porosity.

The Sioux Quartzite has estimated maximum thickness ranging from less than 1,000 feet (Gries, 1983) to 3,000 feet (Baldwin, 1949). However, wells penetrating the Sioux Quartzite typically penetrate to a maximum depth of 200 feet or less (Water Rights, 2021e; Lindgren and Niehus, 1992). The Sioux Quartzite is likely hydrologically connected to overlying and adjacent aquifers and surface water features in direct contact with the quartzite. However, the extent of the hydrologic connection likely varies geographically and are not well understood (Lindgren and Niehus, 1992).

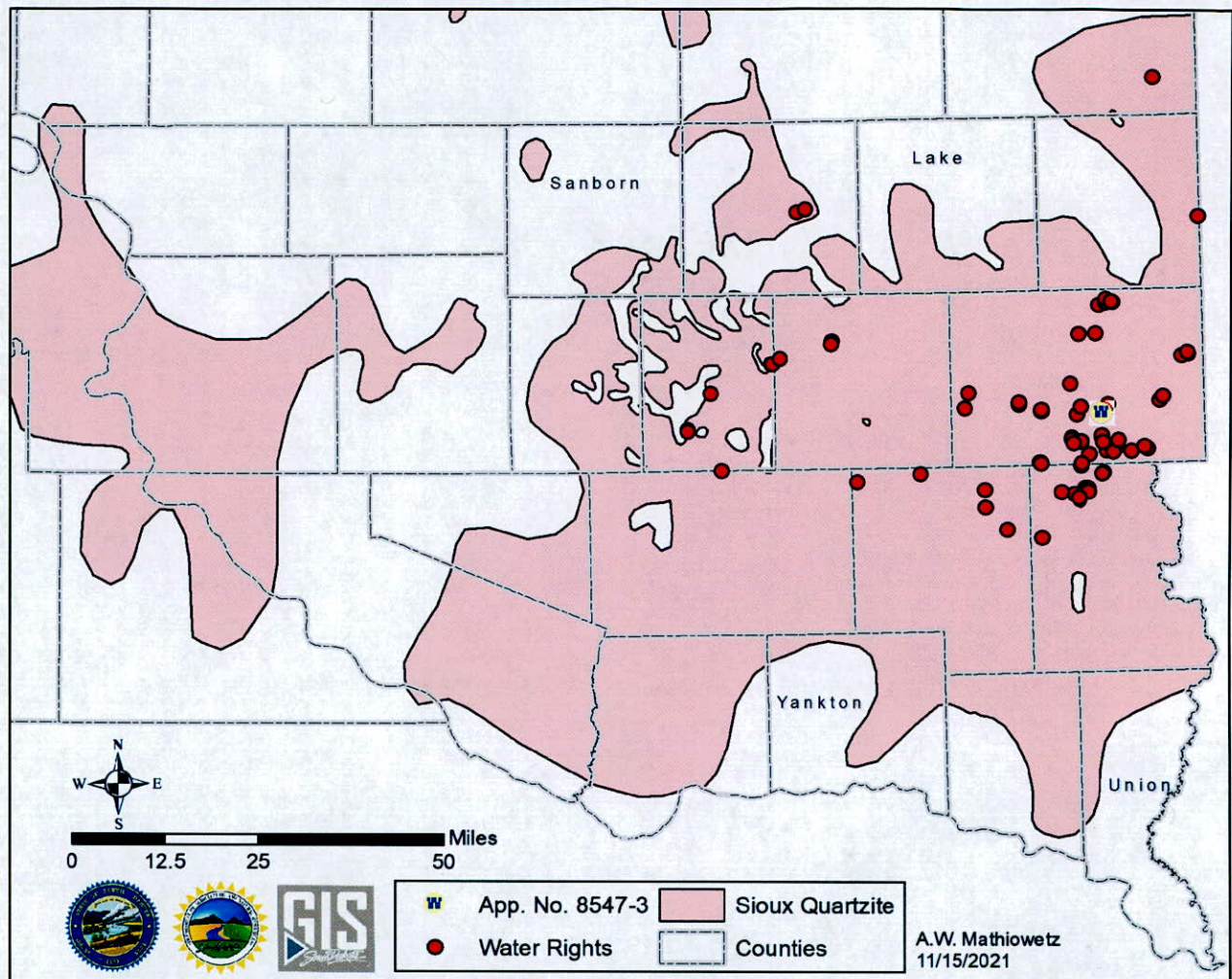


Figure 1- Extent of the Sioux Quartzite in southeastern South Dakota (modified from: McCormick, 2010) with Sioux Quartzite water rights/permits (Water Rights, 2021d)

Based on nearby lithologic logs (SDGS, 2021), well completion reports (Water Rights, 2021e), and a Precambrian bedrock map (McCormick, 2010), the depth to the top of the Sioux Quartzite at the applicant's proposed well location will likely range from 80 to 200 feet. Due to the site specific nature of the Sioux Quartzite and lack of well data completed into the Sioux Quartzite within less than 0.25 miles, there is no relatively specific estimate of static water level. However, it is likely the water level of the Sioux Quartzite is less than 150 feet below ground surface. Furthermore, it is likely the Sioux Quartzite is under confined conditions at the applicant's proposed well location.

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

Pursuant to SDCL 46-2A-9, "A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, that the diversion point 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 as defined by SDCL 46-2-9 and 46-2-11." This report will address the availability of

unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Sioux Quartzite aquifer.

WATER AVAILABILITY:

This application proposes to appropriate water from the Sioux Quartzite aquifer. The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires:

“No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.”

The Sioux Quartzite aquifer is stratigraphically lower/older than the Greenhorn Formation. However, the proposed use is not for a water distribution system as defined in SDCL 46-1-6(17). Therefore, a comparison of average annual recharge and average annual withdrawals from the Sioux Quartzite aquifer is required for this application.

Hydrologic Budget

Discharge from the Sioux Quartzite is through leakage to hydrologically connected aquifers and surface water features where the potentiometric surface of the Sioux Quartzite is higher than in the connected aquifer or surface water feature and through well withdrawals. Currently, there are 69 water rights/permits authorized to withdraw water from the Sioux Quartzite of which 59 are for non-irrigation purposes (Water Rights, 2021d). In general, the amount of water withdrawn for domestic uses is not a significant portion of the hydrologic budget for an aquifer. This is due to the relatively low diversion rate of domestic wells and the development, especially in southeastern South Dakota, of rural water systems. This means some of the domestic wells completed into the Sioux Quartzite may no longer be in use. Therefore, the hydrologic budget will only consider appropriative usage from the aquifer.

There are six water rights/permits that include or are for quarry dewatering. These water rights/permits are listed in Table 1. Reported water use, for those permits required to report, is shown in Table 2. The reported data shows these water rights/permits typically use less than full time pumping at their respective maximum permitted diversion rates. Water Permit No. 8345-3 limits the annual use for both Water Right No. 5784-3 and itself to a combined total annual volume of 1,105 ac-ft/yr. Therefore, using a liberal estimate, the average annual use expected by Water Right No. 5784-3 and Water Permit No. 8345-3 is 1,105 ac-ft/yr (Water Rights, 2021f). Although, the average use from 2018 through 2020 under those permits is approximately 473 ac-ft/yr. Water Right No. 4493-3 is not required to report annual use. However, it is for the same quarry as Water Right No. 6070-3. Water Right No. 6070-3 reports their annual use based on water discharge from the quarry (Kilts, 2020). Therefore, the reported use under Water Right No. 6070-3 is likely to be reflective of the use under both Water Right Nos. 4493-3 and 6070-3 (Kilts, 2020). The average

annual reported use by Water Right No. 5400-3 across the period of record, 2003-2020, is approximately 25 percent of the volume that would be pumped if the quarry was constantly dewatered at the maximum permitted diversion rate, 8,869 ac-ft/yr (Water Rights, 2021f). It should be noted, in general, reported pumping under Water Right No. 5400-3 has been increasing over the period of record. The average reported pumpage across the last five years, 2016-2020, is 2,838 ac-ft/yr. Water Permit No. 8458-3 is assumed to pump their maximum permitted annual volume of 1,452 ac-ft/yr. Therefore, the average annual use for the water rights/permits that include quarry dewatering as a use is estimated to be 6,448 ac-ft/yr [Water Right Nos. 4493-3 & 6070-3: 1,527 ac-ft; Water Right No. 5400-3: 2,364 ac-ft; Water Right No. 5784-3 & Water Permit No. 8345-3: 1,105 ac-ft; Water Permit No. 8458-3: 1,452 ac-ft].

Table 1- Water rights/permits from the Sioux Quartzite that include quarry dewatering (modified from: Kilts, 2020; Water Rights, 2021d)

Permit No.	Name	County	Status	Use	CFS	Annual Volume Limit (ac-ft/yr)
4493-3	SPENCER QUARRIES INC	HS	LC	COM	1.8	n/a
6070-3		HS	LC	COM	3.1	n/a
5400-3	L G EVERIST INC	MA	LC	IND	12.25	n/a
5784-3		MA	LC	COM	3.33	limited by 8345-3
8345-3		MA	PE	IND	3.36	1,105
8458-3	CONCRETE MATERIALS	MA	PE	IND	2	1,452

HS= Hansen, MA= Minnehaha, LC= Water Right, PE= Water Permit, COM= Commercial, IND= Industrial

Table 2- Reported use for Sioux Quartzite permits for quarry dewatering (modified from: Kilts, 2020; Water Rights, 2021f)

Year**	5400-3	5784-3 & 8345-3*	6070-3
2020	2,766	484.3	1,120
2019	3,436	423	1,135
2018	2,767	513	1,120
2017	2,664	0	1,120
2016	2,557	1	1,120
2015	2,114	0	1,248
2014	2,222	0	1,120
2013	2,027	10	1,120
2012	2,309	10	1,111
2011	2,692	113	1,680
2010	2,752	132	1,690
2009	2,355	63	1,680
2008	2,115	70	1,680
2007	2,100	66	1,680
2006	2,101	0	2,190
2005	1,790	28	2,240
2004	1,801	640	2,190
2003	1,984	3	2,240
Average (acre-feet)	2,364	142	1,527

*8345-3 issued in 2018; ** Water Permit No. 8458-3 was approved in 2021 and has yet to report annual usage

Other non-irrigation water rights/permits limited by an annual volume are assumed to use the entire volume. Non-irrigation water rights/permits limited only by a diversion rate are assumed to pump at their maximum permitted diversion rate for 60 percent of the time. All of the municipalities that have Sioux Quartzite water rights/permits are connected to rural water and maintain their wells for standby/emergency purposes (Friedeman, 2021). Therefore, it is assumed there is no withdrawal from the Sioux Quartzite under those 17 water rights/permits representing 13 different municipalities. Water Right No. 6552A-3 is required to report annual pumpage and is not limited by an annual volume. The average pumpage over the period of record, 2013-2020, under Water Right No. 6552A-3 is 8.7 ac-ft/yr. The 10 water permits limited by an annual volume are estimated to pump 638.03 ac-ft/yr. The 25 water rights/permits only limited by diversion rate are estimated to pump approximately 2,344 ac-ft/yr.

There are 10 water rights/permits authorized to withdraw water from the Sioux Quartzite for irrigation purposes (Water Rights, 2021d). A summary of the annual irrigation questionnaire data for these 10 water rights/permits is shown in Table 3. Water Right Nos. 6451-3 and 6553-3 do not have a qualification to report annual irrigation use (Water Rights, 2021d). Water Right Nos. 6451-3 and 6553-3 are estimated to use less than their respective permitted volumes of 2 feet of water per acre for a combined estimated average annual use of less than 14 ac-ft/yr. That value is likely very high given that Water Right No. 6451-3 is qualified to only use water when the City of Sioux Falls has implemented water restrictions.

Table 3– Summary of irrigation water rights/permits and reported irrigation use from the Sioux Quartzite (modified from: Kilts, 2020; Water Rights, 2021b)

PERMIT NO.	NAME	STATUS	COUNTY	ACRES	Average Reported Use (ac-ft/yr)	Years of Constructed System Data
5365-3	WILLOW WOOD APARTMENTS	LC	MA	1.5	1.2	6 (1990-1995)
6195-3	BAKKER CROSSING GOLF COURSE	LC	LN	61	90.8	21
6451-3	BLUFFS TOWNHOMES ASSOCIATION	LC	MA	3	no data	not reporting
6553-3	PRAIRIE HILLS COVENANT CHURCH	LC	MA	4	no data	not reporting
6618-3	WILLOW RUN GOLF LLC	LC	MA	71	80.3	15
6910-3	WOODLAWN CEMETERY	LC	MA	80	5.5	11
7415-3	BAKKER CROSSING GOLF COURSE	PE	LN	34	101.5	8
7805-3	CITY OF SIOUX FALLS PARK & RECREATION	LC	MA	8	4.0	8
8445-3	G L MANAGEMENT LLC	PE	MA	71	no data yet	permitted fall 2020
8446-3	BLUE BARN LLC	PE	MA	3.5	no data yet	permitted fall 2020
Total				337	283.3	
LC= Water Right, PE= Water Permit, MA= Minnehaha, LN= Lincoln						

Water Right No. 5365-3 has not been required to submit irrigation applications since 1995. This is due to the user having well issues and eventually being hooked up to city water. Water Permit Nos. 8445-3 and 8446-3 are assumed to pump their full permitted volumes, 142 ac-ft/yr and 7 ac-ft/yr, respectively, until sufficient data is available to calculate an average pumping that is likely reflective of full development for each permit.

The estimated average annual appropriative withdrawal from the Sioux Quartzite is 9,878.03 ac-ft/yr [quarry dewatering: 6,448 ac-ft; diversion rate limited, non-irrigation: 2,344 ac-ft/yr; annual volume limited, non-irrigation: 638.03 ac-ft; average reported non-irrigation: 8.7 ac-ft; irrigation: 439.3 ac-ft].

Recharge to the Sioux Quartzite is predominantly through the infiltration of precipitation where the Sioux Quartzite is at land surface or near land surface and overlain by permeable materials, streamflow losses where the stream flows across outcrops with secondary porosity features, and leakage from overlying and adjacent aquifers where a hydrologically connected aquifer has a higher potentiometric head than the Sioux Quartzite (Lindgren and Niehus, 1992). A recharge rate to the Sioux Quartzite has yet to be quantified. Furthermore, and as previously stated, aquifer characteristics including recharge are site specific due to the unpredictable and uneven nature of secondary porosity features. Therefore, there is no reasonable estimate of average annual recharge to the Sioux Quartzite available.

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer. The Water Rights Program does not maintain any observation wells completed into the Sioux Quartzite (Water Rights, 2021c). However, it is possible to consider water levels measured in wells completed into the Sioux Quartzite to determine a general long term trend of water levels in an area (Water Rights, 2021d).

Sioux Quartzite water levels show a correlation with long-term precipitation patterns (Lindgren and Niehus, 1992). The water levels undergo cyclic conditions, rising during wetter periods and declining during drier years. A review of well completion reports on file with the Water Rights Program (2021e) indicates in general water levels in the Sioux Quartzite in the area of this application have historically been relatively stable. Table 4 shows a summary of the Sioux Quartzite water levels interpreted from well completion report data within approximately 5.5 miles of the application's proposed well location. If water levels were to show a decline over time, it may be suggestive of withdrawal exceeding recharge to the Sioux Quartzite. The water levels of the Sioux Quartzite in this area have been relatively stable, which indicates that withdrawals from the Sioux Quartzite have not exceeded recharge in the area of this application. Since recharge to and groundwater outflow from an aquifer can be captured for well withdrawals, the water level information from well completion reports on file with the DANR-Water Rights Program is indicative there is unappropriated water available in the Sioux Quartzite in the vicinity of this application.

Table 4— Data points used to examine historic water levels in the Sioux Quartzite (Water Rights, 2021e)

Last Name (Permit No.)	Year Drilled	Distance from App.	Direction from App.	Approximate Ground Surface Elev. (ft)	Estimated Potentiometric Surface (ft)	Approximate Elevation of the Top of the Sioux Quartzite (ft)
VAN BEEST	1994	4.2	NNE	1520	1422	1347
CAIN	1979	1.5	NE	1440	1260	1359
RUNGE	1989	1.5	NE	1440	1388	1410
PADGETT	1994	3.8	NE	1525	1422	1393
JEWELL	1994	1.7	ENE	1460	1434	1432
HEGG PROPERTY MANAGEMENT (5365-3)	1985	5.1	ESE	1450	1412	1402
BAKKER	1973	5	SE	1480	1355	1345
RIECK	1957	5.3	SSE	1545	1415	1440
HANSON	1973	4.3	SSE	1390	1246	1298
PASLEY	1977	4	SSE	1395	1264	1270
YMCA (5931-3)	1995	5.4	SSE	1390	1389	1369
KOBALL	1978	5.4	S	1470	1345	1276
WEIRES	1978	5.3	S	1470	1402	1386
RONNING ENT. INC. (6112-3)	1992	4.3	S	1410	1390	1382
STENCIL CONSTRUCTION	2004	4.1	S	1455	1426	1433
STENCIL CONSTRUCTION	2005	4.1	S	1455	1426	1433
WOODLAWN CEMETERY (6910- 3)	2009	5.2	S	1500	1489	1421
FEAY	1956	5.4	SW	1440	1390	1359
ABBOTT	1956	5.4	SW	1440	1400	1378
GREENLEE PACKING COMPANY	1962	4.4	SW	1420	1385	1375
HALL	1977	5.1	SW	1465	1441	1429
HALL CONSTRUCTION	1977	5.1	SW	1465	1430	1431
CASTLE	1978	5.5	SW	1440	1414	1387
BORMANN	1980	5.1	SW	1465	1442	1422
ANDERSON	1982	5.3	SW	1435	1385	1375
RASMUSSEN	1983	5.1	SW	1465	1440	1411
SOUKUP	1983	5	SW	1475	1437	1414
HALL	1980	5.3	WSW	1440	1417	1399
MARK	1989	6.6	WSW	1490	1441	1355
HOLDER CONSTRUCTION (6701-3)	2005	3.5	W	1515	1427	1395
PROUTY	1977	1.5	WNW	1475	1400	1315
SKYLINE HEIGHTS PUBLIC WORKS COOP (5926-3)	1980	1.4	WNW	1505	1415	1235
SKYLINE HEIGHTS PUBLIC WORKS COOP (5926-3)	1981	1.4	WNW	1505	1415	1236
FRANCE	1973	3.8	NW	1525	1423	1334
MARSH	1977	2.8	NW	1510	1400	1310
STANLEY	1977	3	NW	1500	1410	1320

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

The nearest appropriative well completed into the Sioux Quartzite to the applicant's proposed well location is Water Right No. 5944-3 for Joanne Runge located approximately 1.4 miles northeast of the applicant's proposed well location (see Figure 2) (Water Rights, 2021d). All other Sioux Quartzite appropriative wells are located at least three miles away from the applicant's proposed well location. The nearest Sioux Quartzite domestic wells on file with the Water Rights Program are located approximately 1.5 miles away with two wells to the northeast and one well to the west-northwest of the applicant's proposed well location (Water Rights, 2021e). There may be other domestic wells completed into the Sioux Quartzite in the vicinity of the applicant's proposed well location that are not on file with the Water Rights Program. Since the Big Sioux: Sioux Falls aquifer is above the Sioux Quartzite and typically has much higher production wells, most nearby wells, those within one mile, are completed into the Big Sioux: Sioux Falls aquifer.

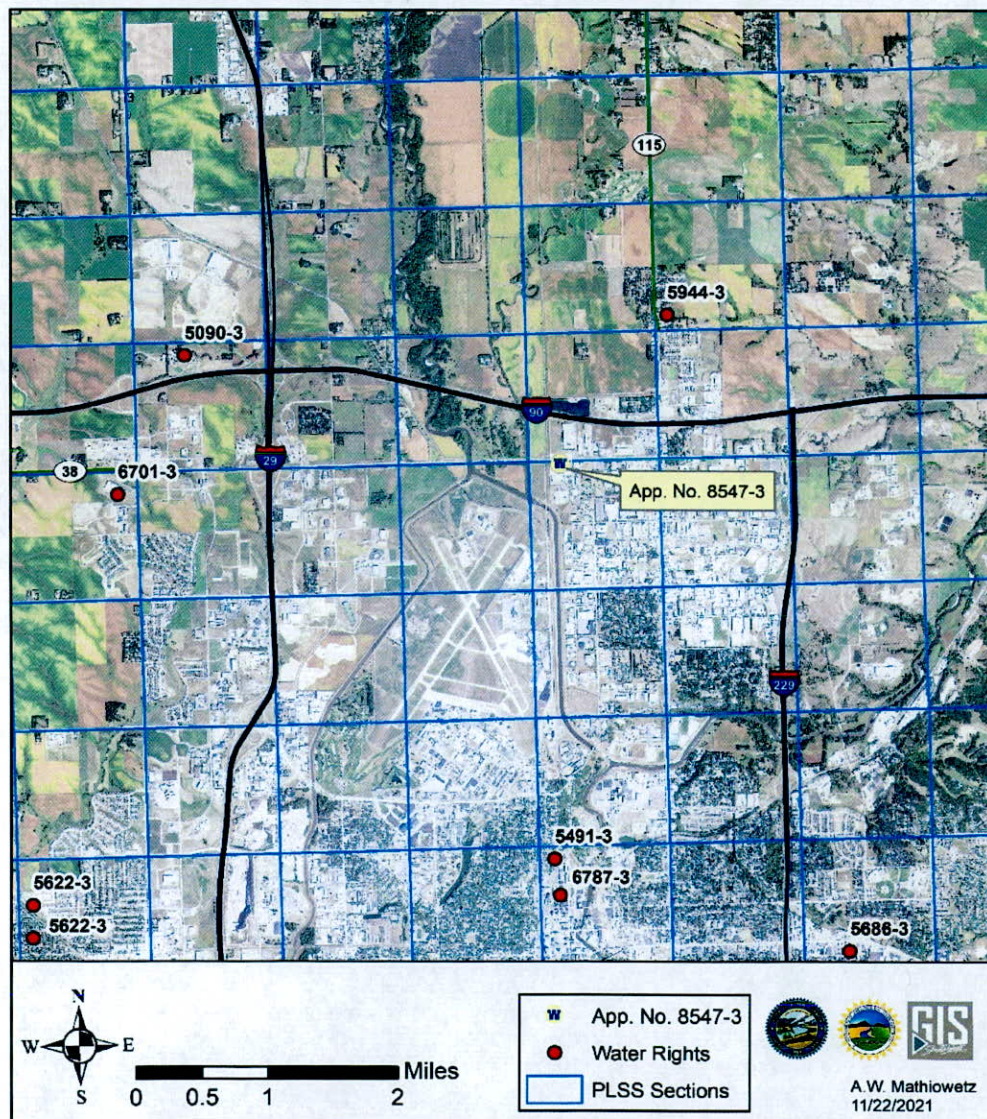


Figure 2- Sioux Quartzite water rights/permits in the vicinity of the applicant's proposed well location (Water Rights, 2021d)

Table 5– Water rights/permits shown in Figure 2 (Water Rights, 2021b)

Permit No.	Name	Status	Use	CFS
5090-3	MCCROSSAN BOYS RANCH	LC	INS	0.07
5491-3	ARNOLD MURRAY CONSTRUCTION	LC	GEO	0.04
5622-3	DALE OLSON	LC	SHD	0.22
5686-3	CLAYMINN LLC	LC	COM	0.04
5944-3	JOANNE RUNGE	LC	COM	0.042
6701-3	ADP INC	LC	IND	0.333
6787-3	MUSEUM OF VISUAL MATERIALS	LC	GEO	0.013
LC= Water Right, INS= Institutional, GEO- Geothermal, SHD= Suburban Housing Development, COM=Commercial, IND=Industrial				

Based on the water levels in nearby domestic wells completed into the Sioux Quartzite (see Table 4) and the presence of the overlying Big Sioux: Sioux Falls aquifer, it is likely the applicant's proposed well will be under confined conditions (Lindgren and Niehus, 1992; Water Rights, 2021d). The average artesian head pressure available in the confined wells listed in Table 4 is approximately 48 feet but ranges from 2 to 180 feet (Water Rights, 2021d).

The Water Management Board has defined an adequate well in Administrative Rule of South Dakota (ARSD) 74:02:4:20(6) 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.

In the past the Water Management Board has recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. To protect domestic users, the Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs.

For most aquifers, the placement of the pump intake 20 feet below the top of the aquifer is sufficient for domestic wells. However, for wells completed into the Sioux Quartzite, 20 feet of saturated thickness may not be sufficient for a dependable water supply. This is due to the low primary porosity of the Sioux Quartzite and the unpredictable occurrence of secondary porosity. Thus, wells that meet the definition of an adequate well and therefore should be easily protected by the definition of an adversely impacted domestic well may not yield sufficient water for a well owner's needs while still being adequate under the rule.

South Dakota Codified Law (SDCL) 46-6-6.1 does not necessarily protect artesian head pressure as a means of delivery, and the Water Management Board has recognized in the past to place water to maximum beneficial use, a certain amount of drawdown may occur. The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use of water issue for Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills (Water Rights, 1995). The Water Management Board adopted Findings of Facts and Conclusions of Law that noted reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable..." (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered an adverse impact it would also be in conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to lower their pumps to accommodate for deeper water levels.

South Dakota water law and administrative rule do not regulate minimum well depth. However, ARSD 74:02:04:60 specifies requirements for the installation of pumps in wells. The rule requires the depth of the pump placement be determined by dividing the specific capacity of the well into the required yield and adding at minimum 10 additional feet. This could be considered a quasi-minimum well depth. Furthermore, if a well constructed with a pump placement sufficient to satisfy ARSD 74:02:04:60 were to experience well interference from pumping of another well and the affected well were required to be deepened, that well interference could be considered an adverse impact. However, if the impacted well was not deep enough or pump placement low enough to satisfy ARSD 74:02:04:20 and the well suffered well interference caused by pumping another well, the interference may not necessarily be considered an adverse impact.

There are no complaints on file with DANR-Water Rights Program regarding well interference issues between Sioux Quartzite wells in Minnehaha County (Water Rights, 2021a). However, in 2018, a complaint was filed regarding well interference that occurred starting in the late 1980's and continued until 1998 when the Soo Dell Park-A-Home, provided water under Water Right No 5944-3, was hooked into the City of Sioux Falls's water system. The complaint stated that the construction and use of the City of Sioux Falls's Big Sioux: Sioux Falls aquifer wells were affecting the Sioux Quartzite wells authorized under Water Right No. 5944-3. No complaint was filed during the time of the interference issue. The 2018 complaint was primarily regarding whether Water Right No. 5944-3 was unlawfully impaired during the 1990's and was eligible to receive more preferential water rates from the city. The complaint was not substantiated (Water Rights, 2021a). Also, a complaint was filed in 2021 regarding possible well interference caused by pumping under Water Permit No. 8426-3. However, the complainant did not provide enough information regarding their own well to make a determination as to whether there was any well interference or unlawful impairment of their well (Water Rights, 2021a). When considering the statute (SDCL 46-6-6.1), rule (ARSD 74:02:04:20(7)), the artesian head pressure that is likely available at the applicant's well site, and the distance between the applicant's proposed well site and other Sioux Quartzite wells on file with the Water Rights Program, there is a reasonable probability this proposed diversion will not unlawfully impair existing users with adequate wells.

CONCLUSIONS:

1. Application No. 8547-3 proposes to irrigate 11.39 acres at a maximum instantaneous diversion rate of 0.1 cfs from a well to be completed into Sioux Quartzite in Minnehaha County.
2. Based on review of available hydrologic budget information and historical well water level data, there is a reasonable probability unappropriated water is available for this proposed appropriation.
3. There is a reasonable probability that pumping this proposed diversion will not unlawfully impair existing domestic water users and water rights with adequate wells.



Adam Mathiowetz, PE
SD DANR-Water Rights Program

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State of Wisconsin

County of Brown

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper issue(s) :

Saturday, December 11, 2021

Sworn to and subscribed before me this 20 day of December, 2021.

Legal Clerk

Notary Public, State of Wisconsin, County of Brown

7/27/25
My Commission expires

SARAH BERTELSEN
Notary Public
State of Wisconsin

**NOTICE OF
APPLICATION NO. 8547-3
to Appropriate Water**

Notice is given that L & E Holdings LLC, c/o Brandon L Maddox, 4901 N 4th Ave, Sioux Falls SD 57104 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well to be completed into the Sioux Quartzite Aquifer (approximately 150 feet deep) located in the NE 1/4 NW 1/4 Section 33 for landscape watering of 11.39 acres located in the N 1/2 NW 1/4 Section 33; all in T102N-R49W (Lot 6, Blk 4 Sioux Empire Development Park Two Addition). The applicant is proposing to pump from the well at a rate of 45 gallons per minute (gpm) to a pond. Water from the pond will be applied to the landscape at a rate of 40 gpm. This site is located northeast of the airport in Sioux Falls SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8547-3 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 December 21, 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 December 21, 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 \$5031319 Dec. 11, 2021

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, December 2, 2021 2:26 PM
To: 'legals@argusleader.com'
Subject: 8547-3, L & E Holdings LLC
Attachments: 8547-3public.short_final.docx; FORM8.FRM.doc

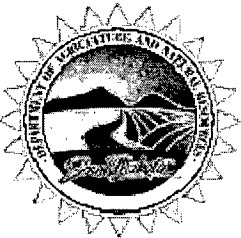
Attached is a notice to be published on December 10, 2021.

L & E Holdings LLC, c/o Brandon L Maddox, 4901 N 4th Ave, Sioux Falls SD 57104 (888 781-8778) 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.**

December 3, 2021

L & E Holdings LLC
c/o Brandon L Maddox
4901 N 4th Ave
Sioux Falls SD 57104

Dear Mr. Maddox:

Water Permit Application No. 8547-3 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 Argus Leader printed at Sioux Falls SD (Ph # 605 331-2200). 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.

NOTICE OF APPLICATION NO. 8547-3 to Appropriate Water

Notice is given that L & E Holdings LLC, c/o Brandon L Maddox, 4901 N 4th Ave, Sioux Falls SD 57104 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well to be completed into the Sioux Quartzite Aquifer (approximately 150 feet deep) located in the NE 1/4 NW 1/4 Section 33 for landscape watering of 11.39 acres located in the N 1/2 NW 1/4 Section 33; all in T102N-R49W (Lot 6, Blk 4 Sioux Empire Development Park Two Addition). The applicant is proposing to pump from the well at a rate of 45 gallons per minute (gpm) to a pond. Water from the pond will be applied to the landscape at a rate of 40 gpm. This site is located northeast of the airport in Sioux Falls SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8547-3 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 December 20, 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 December 20, 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

DEC 28 2021

L & E Holdings LLC
c/o Brandon L Maddox
4901 N 4th Ave
Sioux Falls SD 57104

Dear Mr. Maddox:

Enclosed is Water Permit No. 8547-3 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

8547-3

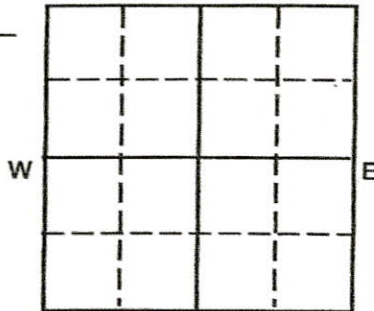
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 NW 1/4 Sec 33 Twp 102N Rg 49W
per AM 10/4/22County Minnehaha

North

Please mark well location with an "X"



Well completion Date

3-24-22

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? ft. from None - city (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☒ Steel ☐ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>19.18</u> LB/FT	<u>6</u> IN	<u>0</u> FT	<u>160</u> FT	<u>10</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type #1 Portland No. of Sacks 1 Grout Weight 0 Lb/gal 0 From 0 Ft 160 To 160 Ft

Describe grouting procedure 33 yds of Slurry/Pumped w/ Drilling Rig.

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? 5 gallons of Chlorine Pumped
☐ No, Why Not?

Lab sample sent to for water quality analysis

Well Owner:

Brandon Maddox

Business Name:

Silencer Central

Address:

City, State, Zip:

Sioux Falls S.D

WELL LOG:

DEPTH

FORMATION

FROM

TO

Top Soil04Yellow Clay415Sand/Gravel1540Blue Clay40160Granite160670

STATIC WATER LEVEL

110

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

Ft. After

Hrs. pumped

GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

REMARKS

500' Blew 25 gpm

This well was drilled under license #

439

And this report is true and accurate.

Drilling firm:

Dave Putake well Drilling & repair, Inc

Signature of License Representative:

Dave Putake

RECEIVED

Signature of Well Owner or Equitable Property Holder:

MAR 31 2022

Date:

WATER RIGHTS PROGRAM

Please return WHITE COPY to: DENR Water Rights

523 E Capitol Ave. Pierre SD 57501



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

January 20, 2023

NOTICE

TO: L & E HOLDINGS LLC, BRANDON MADDOX, 4901 N 4TH AVE, SIOUX FALLS, SD 57104

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8547-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8547-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8547-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: PHXTYP**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2023

8547-3

Brandon Maddox
L & E Holdings LLC
4901 N 4th Ave
Sioux Falls SD 57104

Dear Sir:

I am writing to acknowledge receipt of your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit No. 8547-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us