

WATER PERMIT NO. 8873-3

Name of Applicant: **Ochsner Real Estate II LP**

Address: **38280 134th Street, Aberdeen SD 57401**

Phone: **605-290-1001**

Amount of Water Claimed: **2.5**

Total Acres: **60**

Source of Water Supply: **Surface**

Water to be used for: **Irrigation**

County: **Brown**

Type of Waste Disposal System:

Location: **Approx. 2.5 miles west of Aberdeen**

PRIORITY

Date Received: **06-07-24**

Application/License Fee: **\$700.00**

Corrected Application Received: **06-10-24**

Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **NW 1/4 SW 1/4, NW 1/4 SE 1/4**

Sec 20- T123N-R64W

Land to be Irrigated: **S 1/2 NE 1/4, N 1/2 SE 1/4**

Sec 20-T123N-R64W

			20		
	✕		✕		

Depth of Well: **N/A**

Well Driller: **N/A**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **06-11-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8873-3

Date of first receipt of application June 7, 2024.

Date of return to applicant for corrections, amendments or changes June 10, 2024.

Date of receipt of corrected application June 10, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8873-3 to Ochsner Real Estate II LP, 38280 134th Street, Aberdeen SD 57401, 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. 8873-3 appropriates surface runoff for irrigation of 60 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 20; all in T123N-R64W. Sufficient surface runoff will be captured to maintain the water level to the normal pool elevations in an existing 150 acre-feet storage pond located in the NW 1/4 SW 1/4 Section 20; NE 1/4 SE 1/4 Section 19 with impounded water covering portions of Section 19, and in a proposed excavation with a 40 acre-feet storage capacity to be located in the W 1/2 SE 1/4 Section 20; all in T123N-R64W. Water will be diverted from the proposed excavation to the acreage to be irrigated at a rate of 1.11 cubic feet of water per second (cfs). If needed, water will be diverted from the storage pond at a rate of 0.44 cfs to supplement water stored in the proposed excavation. This site is located approximately three miles west of Aberdeen SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is June 7, 2024.
4. The date of approval of Permit No. 8873-3 is August 19, 2024.
5. One-fifth of the construction is to be completed on or before February 19, 2027.
6. All construction is to be completed on or before August 19, 2029.
7. Water is to be put to beneficial use on or before August 19, 2033.
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. Water Permit No. 8873-3 authorizes storage of up to 190 acre-feet of water (combination of 150 acre-feet storage dam and 40 acre-feet excavation) with sufficient water annually to maintain the water level to the outlet elevations.
1. Low flows as needed for downstream domestic use, including livestock water must be by-passed.
2. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8873-3 authorizes a maximum diversion rate of 1.11 cfs for the irrigation of 60 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
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

SEP 04 2024
date



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

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8873-3</u> Hydrologic Unit <u>10160008</u>
	Basin <u>James R</u>
	Newspaper <u>Aberdeen American News</u>
	(office use only)

PAID
JUN 07 2024
CK# 1178
Rec't# _____

Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Ochsner Real Estate II LP

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

Mailing Address 38200 134th Street Aberdeen SD 57401
(Address) (City) (State) (Zip Code)

Phone 605-226-0695 Mobile 605-290-1051 Email jake@concordgrain.com

2. Amount of water claimed 2.5 ^{1.11} peak flow *CFS or 1,120 ^{peak flow} **GPM 120 ^{total volume} ***AF Total Acreage 50.60
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ponds shown on attached aerial photo surface runoff

4. Location of point of diversion See attached aerial photo NW 1/4 SW 1/4 Sec 20 & NE 1/4 SE 1/4
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

Sec 19; W 1/2 SE 1/4 Sec 20; all in T123N-R64W County Brown

5. County or counties where water will be used Brown

6. Annual period during which water is to be used May - September³⁰ (Growing Season)

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

Land Description	Acres	Land Description	Acres
<u>N 1/2 SE 1/4 20; T123N-R64W (See Aerial Photo)</u>	<u>50.60</u>		
<u>S 1/2 NE 1/4 "</u>			

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

We would like to irrigate a 50 acre research plot using water from the ponds on our property. Requesting a diversion rate greater than the statutory limit

I, Todd Ochsner 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.

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

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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 _____ 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) _____ Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____
- d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

- a) Surface Dimensions 4 Acres (1,750' x 1,000') Depth 12.5' Max
(Rise! Run)
(1:3) side slope
- b) Depth to water (ground surface to water level) 3' ~~(20' deep)~~

4. Water Storage Dams (Hanson Pond)

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:

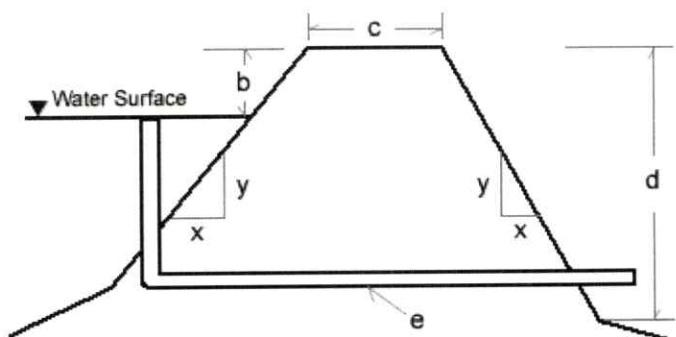
BNSF Railway
Brown County

(Dam Already Exists)

- b) Freeboard 9'
- c) Crest Width 80'
Crest Length 1,650'
- d) Height 15'
- e) Primary Outlet Capacity _____

If pipe, diameter 48" = 4' (Steel Culvert, 3' of cover)

- f) Secondary Spillway Capacity N/A
Spillway Width Water would spill over roadway
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream 5
Downstream 5
- h) Area of Impoundment ≈ 38 Acres
- i) Storage ≈ 150 Acre Feet
- j) Drainage Area Above Dam ≈ 12,500 Acres



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38 Acre Pond
Approx. 150 AF of Storage

Property Boundary

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123N 64W
Section: 18

123N 64W
Section: 17

123N
Section: 16

133 ST

123N 64W
Section: 19

123N 64W
Section: 20

Diversion point

123N 64W

Diversion point

123N
Section: 21

US HWY 12 W

US HWY 12 E

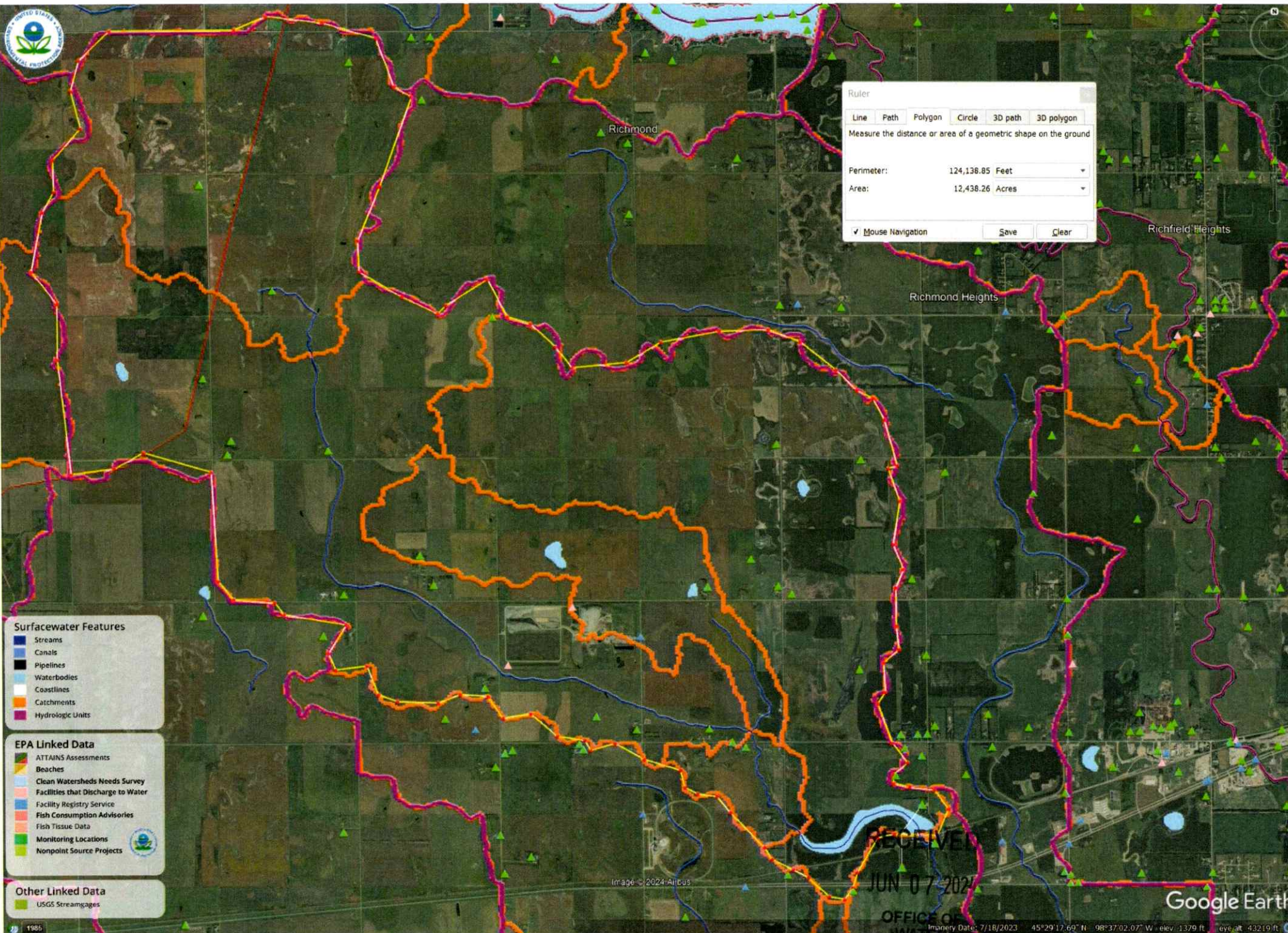
12

134 ST

123N 64W
Section: 30

123N 64W
Section: 29

384 AVE



Ruler

Line Path Polygon **Circle** 3D path 3D polygon

Measure the distance or area of a geometric shape on the ground

Perimeter: 124,138.85 Feet

Area: 12,438.26 Acres

☒ Mouse Navigation

Surfacewater Features

- Streams
- Canals
- Pipelines
- Waterbodies
- Coastlines
- Catchments
- Hydrologic Units

EPA Linked Data

- ATTAINS Assessments
- Beaches
- Clean Watersheds Needs Survey
- Facilities that Discharge to Water
- Facility Registry Service
- Fish Consumption Advisories
- Fish Tissue Data
- Monitoring Locations
- Nonpoint Source Projects

Other Linked Data

- USGS Streamgages

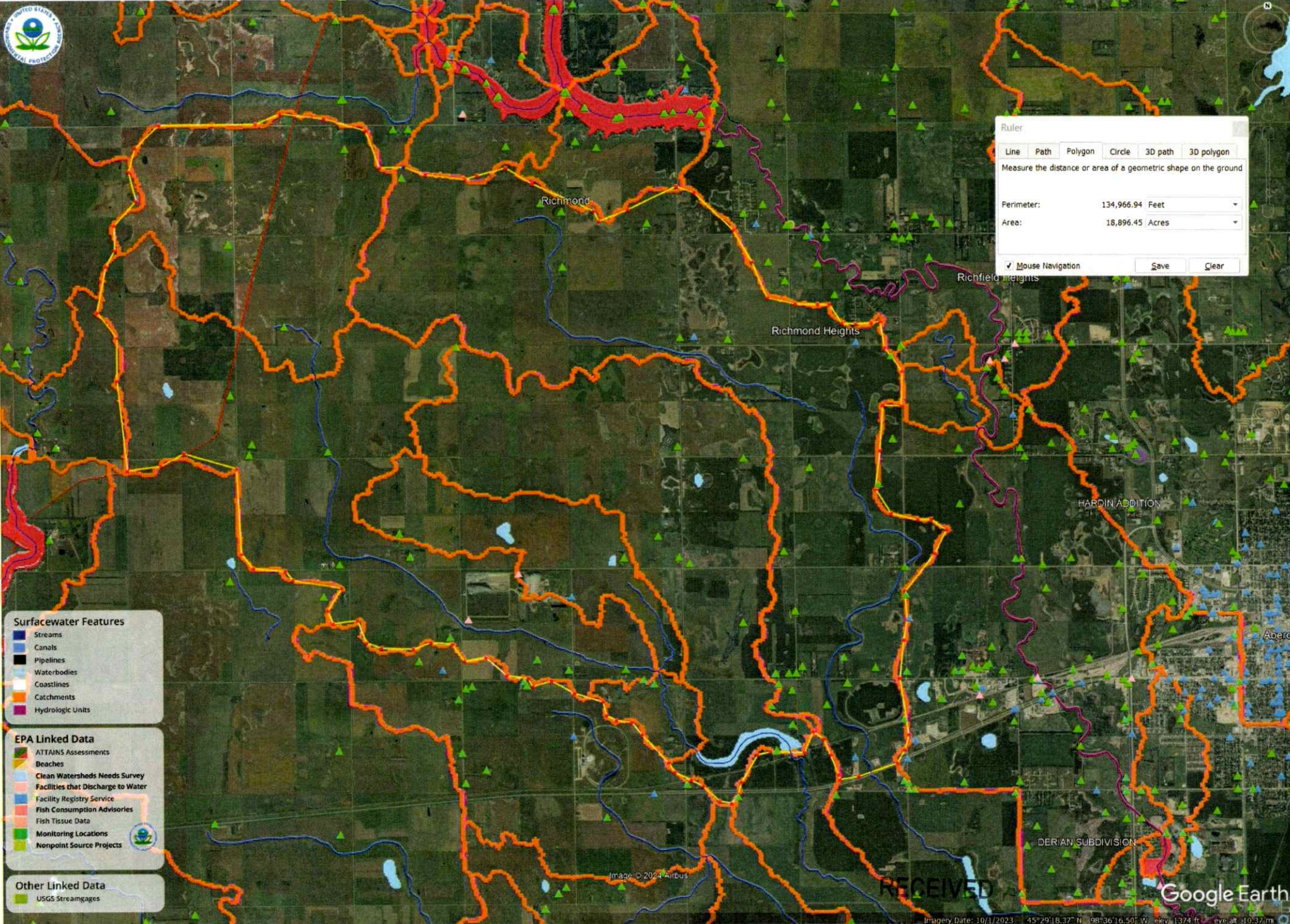
Image © 2024 Airbus

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Google Earth

Imagery Date: 7/18/2023 45°29'17.69" N 98°37'02.07" W elev: 1379 ft eye alt: 43219 ft

WATER



Surfacewater Features

- Streams
- Canals
- Pipelines
- Waterbodies
- Coastlines
- Catchments
- Hydrologic Units

EPA Linked Data

- ATTAINS Assessments
- Beaches
- Clean Watersheds Needs Survey
- Facilities that Discharge to Water
- Facility Registry Service
- Fish Consumption Advisories
- Fish Tissue Data
- Monitoring Locations
- Nonpoint Source Projects

Other Linked Data

- USGS Streamgages

Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance or area of a geometric shape on the ground

Perimeter: 134,966.94 Feet

Area: 18,896.45 Acres

☒ Mouse Navigation

Save Clear

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RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 10th, 2024

RECEIVED OF Ochsner Real Estate 38280 134th Street Aberdeen SD 57401

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

Fee for Application for Permit No. <u>8873-3</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.	\$ <u>200.00</u>
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8873-3</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 Grosland
Chief Engineer

SK



Ag - Testing Consulting

February 22, 2024

To whom it may regard,

This letter is regarding an irrigation water and soil compatibility assessment for Ochsner Partnership in Aberdeen, South Dakota. In September of 2023, a water sample with identification of "Office Pond" was submitted for irrigation water quality testing (lab number 23291, invoice number 1412286). Interpreting the results using Colorado State University Extension publication "Irrigation Water Quality Criteria" we first looked at electrical conductivity (EC). Using table 1, we see the sample EC of 1.48 mmho/cm falls in the category of "some" limitations are possible. This would make us want to check further using table 4, potential for water infiltration problems. Using the adjusted SAR value of 5.1 and EC of 1.48 this water falls in to the 3-6 range of SAR and > 1.2 EC so infiltration problems are "Unlikely".

Based on this information I would have no worries using this water for irrigation for normal row crop or cereal grain production. Further information in the report and this publication can be used to determine if crop injury could occur but that is not part of this assessment.

Sincerely,

A handwritten signature in black ink that reads "Nicholas Ward". The signature is fluid and cursive, with the first name "Nicholas" and last name "Ward" clearly distinguishable.

Nicholas C Ward, Ph.D.
Ward Laboratories Inc
800-887-7645
4007 Cherry Avenue
Kearney, NE 68847
nickward@wardlab.com

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WATER

Account No. : 96734

Water Analysis Report

OCHSNER PARTNERSHIP
38280 134TH ST
ABERDEEN SD 57401

Invoice No. : 1412286
Date Received : 09/22/2023
Date Reported : 09/25/2023

Lab Number : 23291

Results For : OCHSNER PARTNERSHIP

Location :

Sample ID : OFFICE POND

pH	8.4
Sodium Adsorption Ratio (SAR)	4.5
Adjusted SAR	5.1
Total Dissolved Solids (TDS) Est, ppm	888
Electrical Conductivity, mmho/cm	1.48
Cations / Anions, me/L	17.1 / 16.0

	ppm	lbs / Acre 9 inch
Sodium, Na	202	404
Potassium, K	29	58
Calcium, Ca	69.4	138
Magnesium, Mg	49	98
Total Hardness, CaCO ₃	377	754
Nitrate, NO ₃ -N	0.2	0.4
Sulfate, SO ₄ -S	156	312
Chloride, Cl	94	188
Carbonate, CO ₃	3.0	6
Bicarbonate, HCO ₃	212	424
Total Alkalinity, CaCO ₃	178	358
Boron, B	0.22	0.44

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Reviewed By : Raymond Ward

9/26/2023

Copy : 1

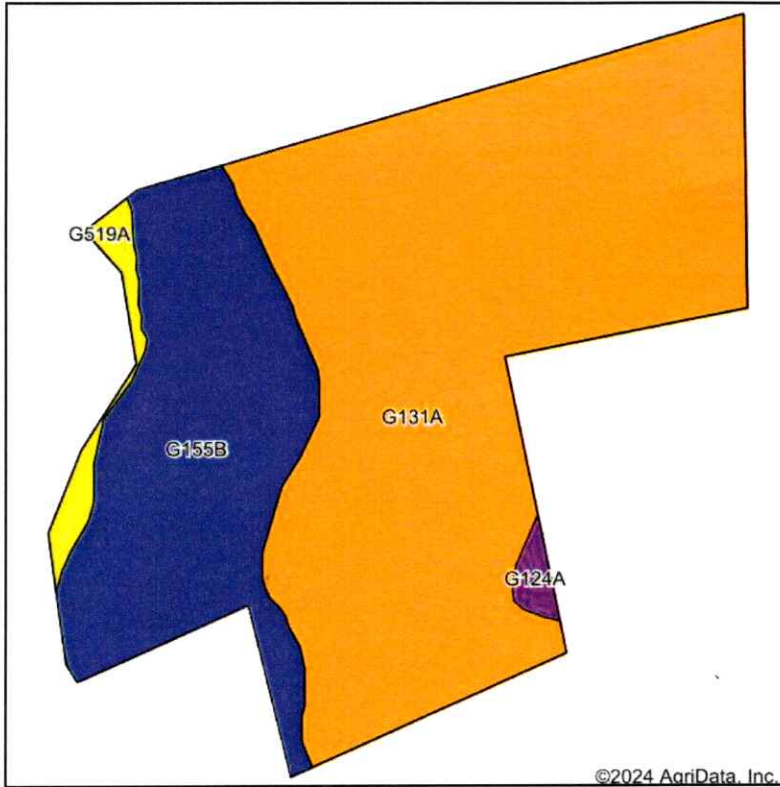
Page 3 of 8

Bus: 308-234-2418
Fax: 308-234-1940

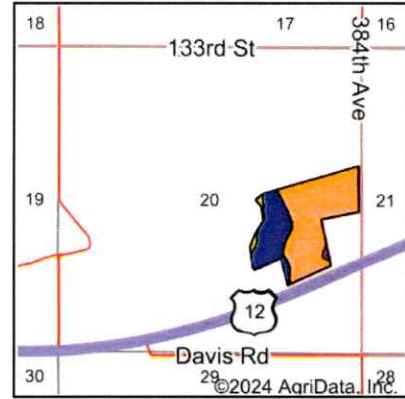
web site
www.wardlab.com

4007 Cherry Ave., P.O. Box 788
Kearney, Nebraska 68848-0788

Soils Map



Soils data provided by USDA and NRCS.



State: **South Dakota**
 County: **Brown**
 Location: **20-123N-64W**
 Township: **Aberdeen**
 Acres: **50.7**
 Date: **6/4/2024**



Maps Provided By:



Area Symbol: SD013, Soil Area Version: 29												
Code	Soil Description	Acres	Percent of field	PI Legend	Water Table	Soil Drainage	Hydric Rating	Non-Irr Class *c	Productivity Index	*n NCCPI Overall	*n NCCPI Corn	*n NCCPI Soybeans
G131A	Barnes-Cresbard-Tonka complex, 0 to 3 percent slopes	34.89	68.8%		4.9ft.	Well drained	19	IIc	72	49	34	48
G155B	Barnes-Svea loams, 0 to 6 percent slopes	14.21	28.0%		4.9ft.	Well drained	3	Ile	82	59	40	58
G519A	Moritz-Lowe, occasionally flooded loams, 0 to 2 percent slopes	1.15	2.3%		4ft.	Somewhat poorly drained	34	Ile	68	51	30	48
G124A	Cresbard-Cavour loams, 0 to 3 percent slopes	0.45	0.9%		4.9ft.	Moderately well drained	4	IIIs	58	45	32	44
Weighted Average								2.01	74.6	*n 51.8	*n 35.6	*n 50.8

*n: The aggregation method is "Weighted Average using all components"

*c: Using Capabilities Class Dominant Condition Aggregation Method

Soils data provided by USDA and NRCS.

To Whom This May Concern:

Included within this permit application is a satellite photo showing the pond that currently exists on my property (Hanson Pond) as well as a new pond that I would like to excavate to the east (Clausen Pond). The Hanson Pond was created by the damming of an unnamed waterway by the BNSF railroad track that bisects the property. The water overflows through 4-48" culverts in the SE corner of the pond. This water goes underneath the township roadway and down a drainage ditch where it flows underneath the BNSF mainline and through a round concrete culvert. Once through this culvert, the water would enter the Clausen Pond which I will create by excavation. No fill will be placed in the wetland and no dam will be constructed as per Army Corps regulations. We will place an intake structure (wet well) adjacent to this pond and outside of the wetland. This intake structure will supply water to the field east of the Clausen Pond as shown on the aerial photo. This irrigation method utilized will be drip tape as the field is misshapen and water efficiency is a priority. The Hansen Pond will serve as supplemental flow when the Clausen Pond is not sufficient. I will transfer water from the Hansen Pond by placing a floating pump into said pond and allowing the discharge to flow down the ditch and into the Clausen Pond.

The state water permit application states that a "water/soil compatibility test" should be completed by SD Ag Labs in Brookings. However, SD Ag Labs no longer provides these services. As such, also included with this application is a water analysis performed by Ward Laboratories and a letter from Nicholas Ward speaking to the water/soil compatibility. The research plot has been grid sampled by Hefty and results are available upon request. I did not include those results as they are quite extensive, and it would likely be easier to provide the data the state requests rather than all the data we have. If you have any further questions, I would be happy to help where possible.

Thank You,



Todd Ochsner

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Gronlund, Eric

From: Gronlund, Eric
Sent: Friday, June 14, 2024 10:33 AM
To: jake@concordgrain.com
Subject: Ochsner Real Estate water permit application

Jake:

Ochsner Real Estate filed a water permit application to appropriate 2.5 cubic feet of water per second (1,120 gpm) from ponds to irrigate 60 acres in Brown County.

My question is if this pump rate is to transfer water from the Hansen Pond into the Clausen Pond. OR

Is that the application rate from the pond to the irrigated acres.

The project description states the irrigation method will be drip tape. My understanding is the application rate needed to operate drip tape is much lower than operating a center pivot so seeking clarification of the application rate to be used for irrigation.

Thanks - Eric

Eric Gronlund, PE
Chief Engineer
Water Rights Program, SD DANR
605 773-3352
eric.gronlund@state.sd.us

Gronlund, Eric

From: Jake Ochsner <jake@concordgrain.com>
Sent: Friday, June 14, 2024 1:02 PM
To: Gronlund, Eric
Subject: Re: [EXT] Ochsner Real Estate water permit application

Own the property

Jake Ochsner
Office: (605)725-3276
Cell: (605)290-1001

On Fri, Jun 14, 2024 at 1:00 PM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Sorry – another question.

Do you own the property or been granted access for the pump location on Hanson Pond?

From: Jake Ochsner <jake@concordgrain.com>
Sent: Friday, June 14, 2024 12:53 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: Re: [EXT] Ochsner Real Estate water permit application

Around 200 gpm.

With regard to the application, if you want to amend it to 1 cfs, that would be just fine.

Jake Ochsner
Office: (605)725-3276
Cell: (605)290-1001

On Fri, Jun 14, 2024 at 12:49 PM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Jake – there is a statutory limit for the irrigation application rate of 1 cfs (448.8 gpm per 70 acres). Your 2.5 cfs was well above that so that is the reason for the inquiry. At 1.1, cfs (50 gpm) you will still be over the statutory limit but I don't see that as an issue since there is a provision for in excess if the method of irrigation or time constraints are an issue.

EWJ

Your application will be amended to 1.11 cfs,

What will be the pump rate when you transfer water between the two ponds?

Thanks

From: Jake Ochsner <jake@concordgrain.com>
Sent: Friday, June 14, 2024 11:59 AM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: Re: [EXT] Ochsner Real Estate water permit application

The application rate will only be around 400-500 gpm. I just wanted to make sure that I didn't put too low of a number as it didn't appear it would have too much impact on the application given the water rights are for a total annual volume. It's not a big deal and we can change that to 500 gpm if you would like. We are shooting for around 1/4" per day of capacity with the system (235 gpm). However some zones are larger than others and given the small acres, it would be nice to be able to "catch up" if needed.

Jake Ochsner

Office: (605)725-3276

Cell: (605)290-1001

On Fri, Jun 14, 2024 at 10:32 AM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Jake:

Ochsner Real Estate filed a water permit application to appropriate 2.5 cubic feet of water per second (1,120 gpm) from ponds to irrigate 60 acres in Brown County.

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The project description states the irrigation method will be drip tape. My understanding is the application rate needed to operate drip tape is much lower than operating a center pivot so seeking clarification of the application rate to be used for irrigation.

Thanks - Eric

Eric Gronlund, PE

Chief Engineer

Water Rights Program, SD DANR

605 773-3352

eric.gronlund@state.sd.us

Rodriguez, Rachel

From: Jake Ochsner <jake@concordgrain.com>
Sent: Monday, June 10, 2024 4:04 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] Water Permit Application

Both diversion points are correct. It is around 50 acres after sloughs, corners, and a tree line is taken out but if it is free and doesn't really change much, 60 is ok.

Jake Ochsner

Office: (605)725-3276

Cell: (605)290-1001

On Mon, Jun 10, 2024 at 3:54 PM Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good Afternoon,

I am in receipt of your water permit application. I have a few items that need clarification:

- Attached is a map with the two diversion points, green triangles, one is in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20 all in T123N-64W correct? If not, please mark the locations with an "X".
- You have 50 acres for irrigation. However, see outlined area in red, we get a total of 60 acres. Would you like us to correct the application for 60 acres? You would NOT owe any additional money.

Once I receive the information above, I can begin processing your application.

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, June 10, 2024 3:55 PM
To: 'jake@concordgrain.com'
Subject: Water Permit Application
Attachments: Map.pdf

Good Afternoon,

I am in receipt of your water permit application. I have a few items that need clarification:

- Attached is a map with the two diversion points, green triangles, one is in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20 all in T123N-64W correct? If not, please mark the locations with an "X".
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Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**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. 8873-3, Ochsner Real Estate II LP**

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. 8873-3, Ochsner Real Estate II LP, 38280 134th Street, Aberdeen SD 57401.

The Chief Engineer is recommending APPROVAL of Application No. 8873-3 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. Water Permit No. 8873-3 authorizes storage of up to 190 acre-feet of water (combination of 150 acre-feet storage dam and 40 acre-feet excavation) with sufficient water annually to maintain the water level to the outlet elevations.
2. Low flows as needed for downstream domestic use, including livestock water must be by-passed.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8873-3 authorizes a maximum diversion rate of 1.11 cfs for the irrigation of 60 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
July 31, 2024

NOTE: During drier climatic conditions when runoff in the watershed is limited, there may be times sufficient water is not available to fill ponds to provide an adequate supply of water for irrigation..

Report to the Chief Engineer
On Water Permit Application No. 8873-3

Ochsner Real Estate II LP

c/o Todd Ochsner

July 31, 2024

Water Permit Application No. 8873-3 proposes to appropriate surface runoff for the irrigation of 60 acres located in the S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20; all in T123N-R64W. Sufficient surface runoff will be captured to maintain the water level to the normal pool elevations in an existing 150 acre-feet storage pond located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20; NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19 with impounded water covering portions of Section 19 and in a proposed excavation with a 40 acre-feet storage capacity to be located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 20; all in T123N-R64W. Water will be diverted from the proposed excavation to the acreage to be irrigated at a rate of 1.11 cubic feet of water per second (cfs). If needed, water will be diverted from the storage pond at a rate of 0.44 cfs to supplement water stored in the proposed excavation. The applicant is requesting a diversion rate to the irrigated acreage at a rate greater than the statutory limit of 1.0 cfs per 70 acres. The site of interest is located in Brown County approximately three miles west of Aberdeen, SD.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a water permit application. The Chief Engineer needs to consider four criteria when making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is 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.

This report will analyze the best available information and make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

WATER SOURCE: Runoff to an unnamed tributary contributing to Snake Creek, a tributary to the James River

Review of Water Source and Availability

Water Permit Application No. 8873-3 proposes to appropriate sufficient surface runoff to maintain the water level in an existing pond (150 acre-feet in size) and a proposed excavation (40 acre-feet storage capacity) at normal pool capacities.

The watershed area above the existing storage pond was delineated using NRCS Engineering Tools for ArcGIS 10.3 (USDA-NRCS, 2024a). The elevation data used is a Light Detection and

Ranging radar (LiDAR) DEM (Digital Elevation Model) dataset with 1-meter grid spacing (SDGS, 2024). A DEM is a representation of the bare ground (bare earth) topographic surface of the Earth excluding trees, buildings, and any other surface objects. Within the unnamed watershed, the contributing watershed to the existing storage pond was delineated to be approximately 16 square miles, or approximately 10,200 acres. Figure 1 displays the delineation of the contributing watershed area above the existing storage pond within using LiDAR 1-meter spaced dataset.

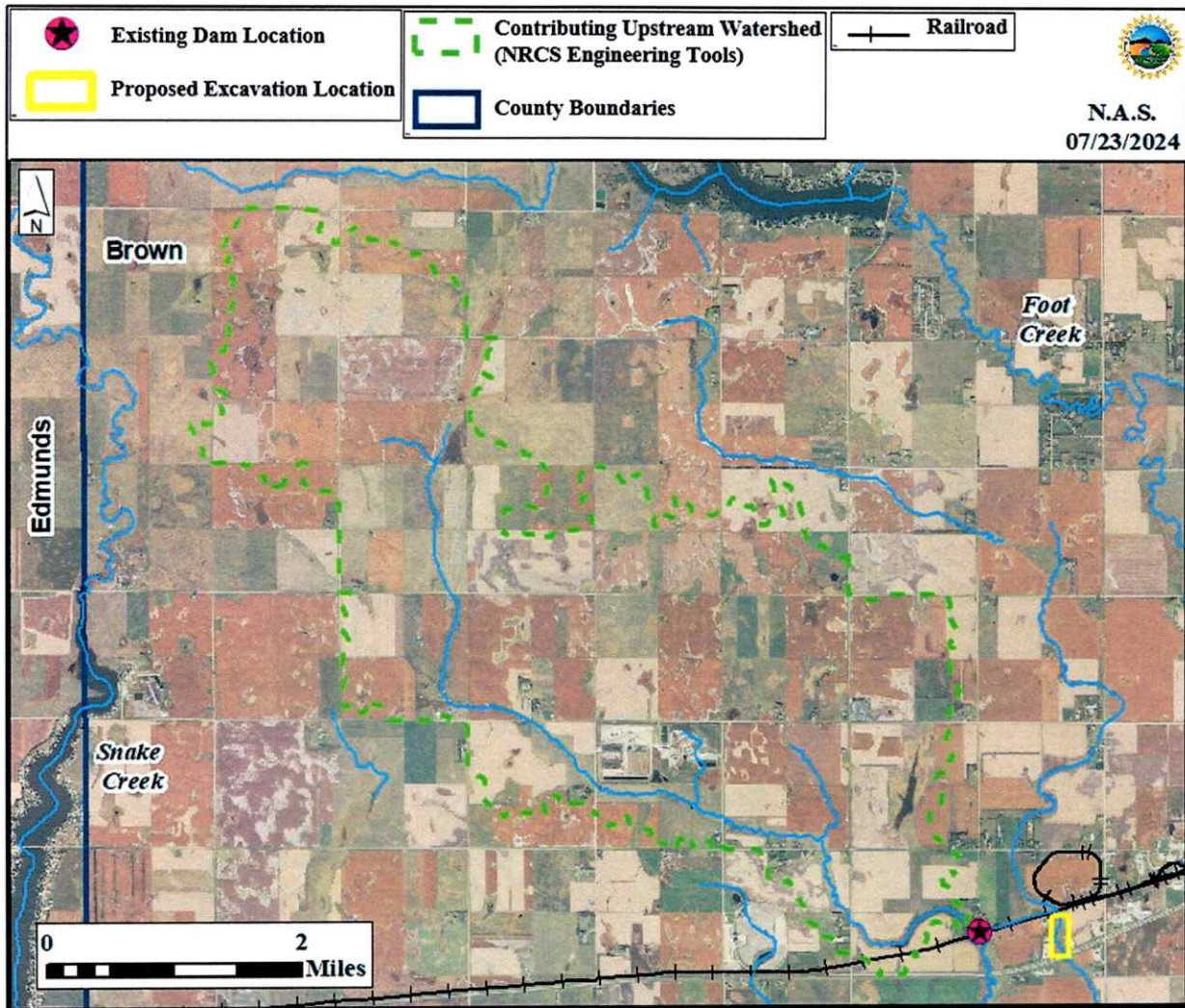


Figure 1: Map of the approximate watershed delineation above the existing storage pond made using LiDAR 1-meter spaced dataset (SDGS, 2024)

The NRCS annual surface yield method for South Dakota was used to estimate annual surface yield for the drainage area upstream of the existing storage pond (USDA-NRCS, 1984). This NRCS method estimates the volume of runoff which can be expected for a twelve-month period at certain annual probabilities using contributing drainage area, soil cover complex number (runoff curve number, CN), and watershed location on an isogram map (USDA-NRCS, 1984).

The soil cover complex number, or the runoff curve number (CN) is necessary to determine the annual surface yield using the NRCS method (USDA-NRCS, 1984). The determination of the runoff curve number depends on the delineated watershed's soil and cover conditions (accessed from USDA-NRCS, 2024b), represented as hydrologic soil group, cover type, treatment, and hydrologic condition (USDA-NRCS, 1986). The general cover type for the delineated watershed is cultivated land (without conservation treatment) (USDA-NRCS, 1984). Using USDA-NRCS Soil Survey, a shapefile of the delineated watershed using 1-meter LiDAR data was imported to determine hydrologic soil groups for regions of the watershed (Figure 2) (SDGS, 2024; USDA-NRCS, 2024b). Using cover type and hydrologic soil group for the area of interest, a runoff curve number was determined by calculating the weighted average of hydrologic soil groups and their respective curve numbers and rounding to the nearest whole number. This method is shown on Table 1. Runoff curve numbers range from 40 to 100 and a higher curve number means that more runoff occurs in the watershed (USDA-NRCS, 1986).

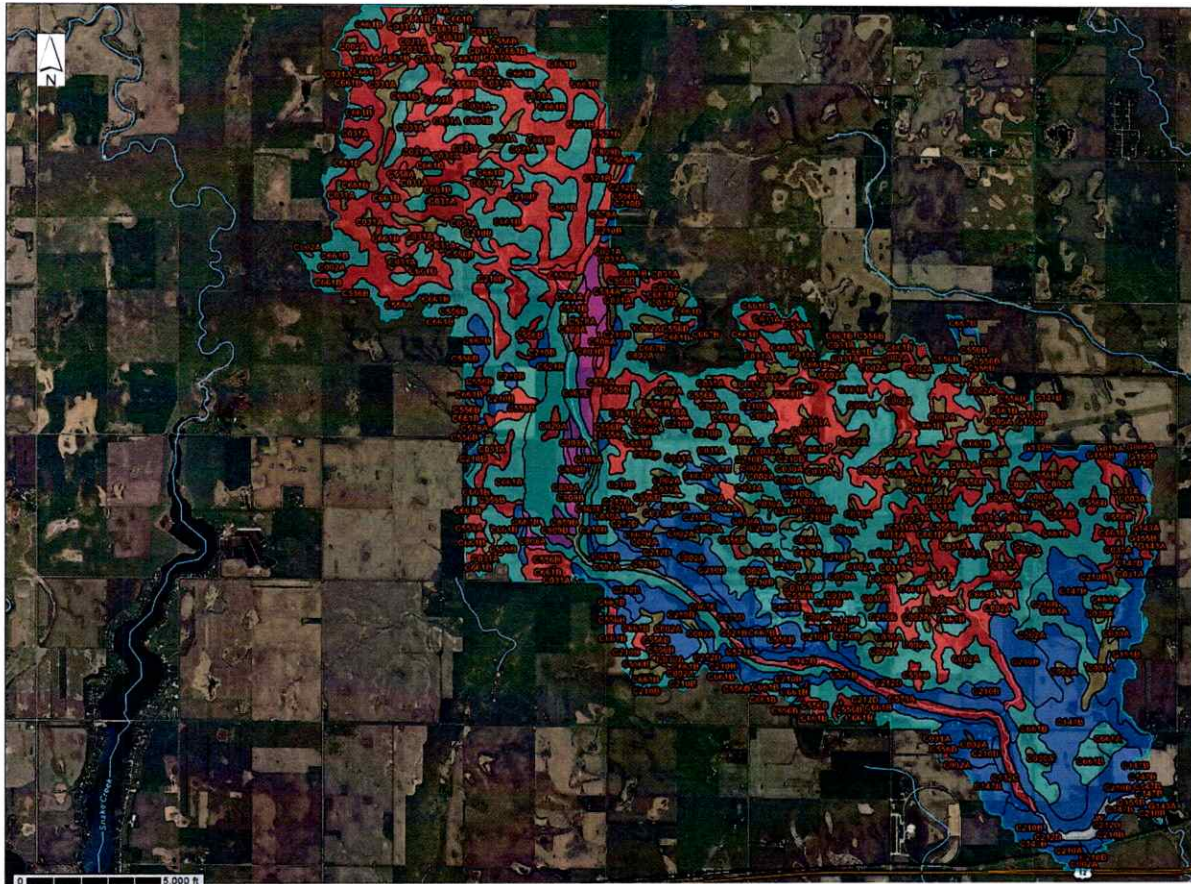


Figure 2: Shapefile of the watershed above the existing storage pond delineated from 1-meter spaced LiDAR data to determine hydrologic soil groups as determined by soil map units (SDGS, 2024; USDA-NRCS, 2024b; USGS, 2004)

Table 1: Weighted average of hydrologic soil group ratios for cultivated land (without conservation treatment) used to determine curve number (USDA-NRCS, 1984 and 2024b)

Soil Group	CN	Map Unit Symbol	Map Unit Name	Weight	Weighted Values
A	72	C808A, C809A	Loam(s)	0.019	1.37
B	81	C132C, C147B, C175C, ...	Loam(s)	0.196	15.88
C	88	C002A, C149B, C521B, ...	Loam(s)	0.516	45.41
D	91	C556B, C558A, C578A, ...	3Loam(s)	0.266	24.21
				Weighted Average CN	86.86
				CN	87

Due to the potential of the cultivated lands above the existing storage pond within the contributing watershed having the potential of conservation treatment, a runoff curve number was calculated using the cover types for cultivated lands with conservation treatment and the hydrologic soil groups for the area of interest (Table 2).

Table 2: Weighted average of hydrologic soil group ratios for cultivated land (with conservation treatment) used to determine curve number (USDA-NRCS, 1984 and 2024b)

Soil Group	CN	Map Unit Symbol	Map Unit Symbol	Weight	Weighted Values
A	62	C808A, C809A	Loam(s)	0.019	1.18
B	71	C132C, C147B, C175C, ...	Loam(s)	0.196	13.92
C	78	C002A, C149B, C521B, ...	Loam(s)	0.516	40.25
D	81	C556B, C558A, C578A, ...	Loam(s)	0.266	21.55
				Weighted Average CN	76.89
				CN	77

The NRCS method is then used to determine the volume of runoff which can be expected for a twelve-month period. For example, an 0.8 probability of occurrence has an 80% change of occurring each year. The annual surface yields for the drainage area at certain probabilities are displayed in Table 3 and Table 4.

Table 3: Estimated Total Annual Yield of Surface Runoff (USDA-NRCS, 1984) using an estimated watershed area of approximately 10,200 acres using the 1-meter LiDAR dataset and runoff curve number of 87 (SDGS, 2024; USDA-NRCS, 1984)

Probability of Occurrence	Inches of Annual Yield per Acre	Annual Yield (Acre-feet)
0.8	0.7	595
0.5	1.4	1,190
0.2	2.9	2,465
0.1	4.2	3,570

Table 4: Estimated Total Annual Yield of Surface Runoff (USDA-NRCS, 1984) using an estimated watershed area of approximately 10,200 acres using the 1-meter LiDAR dataset and runoff curve number of 77 (SDGS, 2024; USDA-NRCS, 1984)

Probability of Occurrence	Inches of Annual Yield per Acre	Annual Yield (Acre-feet)
0.8	0.17	144.5
0.5	0.46	391
0.2	1.25	1,062.5
0.1	2	1,700

Water Permit Application No. 8873-3 proposes to impound 190 acre-feet collectively in the existing storage pond and proposed excavation. It is unknown how much water is currently stored in the existing pond. To determine the probability of occurrence for 190 acre-feet of water in the catchment, the total runoff from Tables 2 and 3 were plotted against the probability of occurrence, shown in Figures 3 and 4. The closer an r square value is to 1, the data is better correlated, and there is more reliability in a trendline. Solving the trendline for a volume of 190 acre-feet and a runoff curve number of 87 (Figure 3), results in the estimated annual probability of the availability of annual yield fulfilling the proposed volume likely to occur at least nine out of every 10 years. Solving the trendline for a volume of 190 acre-feet and a runoff curve number of 77 (Figure 4), results in the estimated annual probability of the availability of annual yield fulfilling the proposed volume likely to occur around seven out of every 10 years. Given the uncertainty of the cultivated lands upstream of the existing storage pond having received or not received conservation treatment, the annual yield for the contributing watershed is expected to range between the values graphed on Figures 3 and 4.

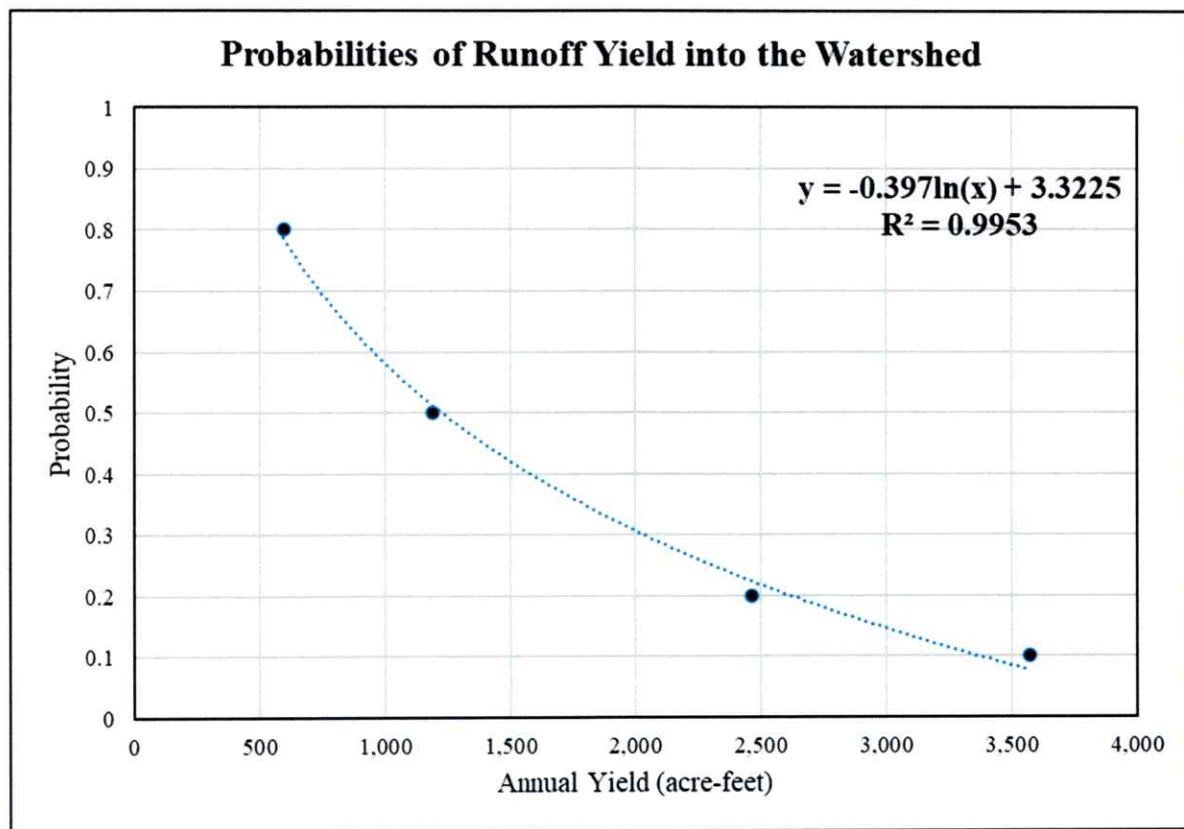


Figure 3: Plot of annual yield for the contributing watershed above the existing storage pond against the probability of occurrence, using runoff curve number of 87. Note that this plot and trendline is only applicable for this specific watershed location and area.

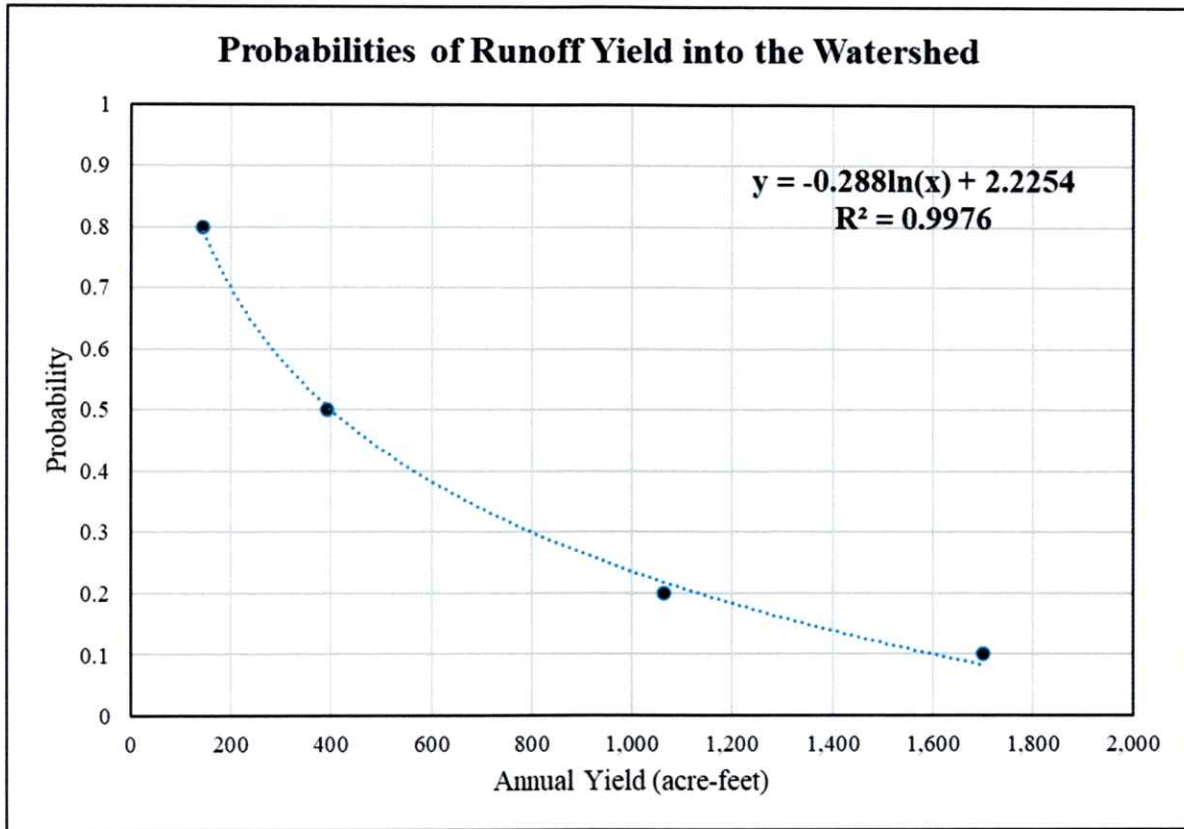


Figure 4: Plot of annual yield for the contributing watershed above the existing storage pond against the probability of occurrence, using runoff curve number of 77. Note that this plot and trendline is only applicable for this specific watershed location and area.

The application indicated the intent is to store the captured runoff in an existing storage pond and proposed excavation. Annual water losses from the reservoir are mainly due to evaporation and seepage. It has been found that evaporation from a shallow lake, wet soil, or other moist natural surfaces is roughly 70% of the evaporation from a Class A pan for the same conditions (Farnsworth and Thompson, 1982). Near the existing storage pond, the estimated average pan evaporation rate for April through October is 44 inches/year, and for November through March is 8 inches/year, for a total of 52 inches/year (4.33 feet/year) in pan evaporation (Poudyal, 2006). To account for evaporation from natural surfaces, 70% of that rate is approximately 36.4 inches/year (3.03 feet/year). While evaporation is not constant throughout the year, approximately 3.03 inches (0.25 feet/month) of evaporation occurs each month. Estimated loss due to seepage is not available since this is not known until after years of operation and is typically not measured (Kilts, 2022).

From 1985 to 2024, Brown County received approximately 20.4 inches of precipitation per year (1.7 feet/year) on average (NOAA, 2024). While precipitation is not constant throughout the year, approximately 1.7 inches of precipitation occurs each month in the county. The net loss between direct precipitation and evaporation is approximately 1.33 feet per year. Based on the surface area of the existing storage pond (38 acres) and proposed excavation (4 acres), and the estimated net loss between evaporation and direct precipitation, the lost storage collectively for the impoundments is approximately 55.9 acre-feet per year. These precipitation and evaporative

estimates are not a guarantee of what will occur in any given year, but are on average, over time, estimates. The proposed water source may not be a reliable source during multi-year drought periods.

Review of Existing Water Rights, Discussion, and Recommendation

There are no water rights/permits authorized to appropriate water from the unnamed tributary contributing to Snake Creek that this application proposes to capture runoff from (Water Rights, 2024). The nearest water right - Water Right No. 3952-3 is authorized to divert from Snake Creek approximately 31 river miles downstream from the existing storage pond. Additionally, the nearest location notice on the unnamed tributary is located approximately one river mile downstream from the existing storage pond.

Given the lack of water rights/permits on the unnamed tributary, and the lack of complaints for appropriative and domestic water uses, if Water Permit Application No. 8873-3 is approved, it is not expected to unlawfully impair existing downstream appropriative uses or domestic uses.

SDCL 46-5-6:

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1.0 cfs per 70 acres, or “the equivalent thereof.” The statute does provide that: “The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires...”

If approved, Water Permit Application No. 8873-3 would authorize a maximum instantaneous diversion rate of 1.11 cfs from the proposed excavation for the irrigation of 60 acres, or at a rate of 1.3 cfs per 70 acres. The applicant’s reason for the exceedance is due to the differing sizes of irrigation zones and having sufficient capacity to “catch up” if necessary. This reason falls within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate without exceeding the annual volume limitation and has been accepted by the Water Management Board and the Water Rights Program in the past.

CONCLUSIONS:

1. Water Permit Application No. 8873-3 proposes to appropriate surface runoff for the irrigation of 60 acres. Sufficient surface runoff will be captured to maintain the water level to normal pool elevations in an existing 150 acre-feet storage pond and in a proposed excavation with a 40 acre-feet storage capacity. Water will be diverted from this excavation at a rate of 1.11 cfs to the acreage to be irrigated. The site of interest is located in Brown County approximately three miles west of Aberdeen, SD.
2. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The applicant's reason for the exceedance, is due to the differing sizes of irrigation zones and having sufficient capacity to "catch up" if necessary. This reason falls within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate without exceeding the annual volume limitation and has been accepted by the Water Management Board and the Water Rights Program in the past.
3. Using a runoff curve number of 87 for cultivated land (without conservation treatment), the annual probability of the availability of 190 acre-feet per year is likely to occur at least nine out of every 10 years.
4. Using a runoff curve number of 77 for cultivated land (with conservation treatment), the annual probability of the availability of 190 acre-feet per year is likely to occur around seven out of every 10 years.
5. Based on the surface area of the existing storage pond and proposed excavation, and the estimated net loss between evaporation and direct precipitation, the lost storage collectively for the impoundments is approximately 55.9 acre-feet per year. These precipitation and evaporative estimates are not a guarantee of what will occur in any given year, but are on average, over time, estimates. The proposed water source may not be a reliable source during multi-year drought periods.
6. Approval of this application is not expected to unlawfully impair existing water rights/permits, location notices, or domestic uses.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

References

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
danr.sd.gov

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

August 1, 2024

Ochsner Real Estate II LP
c/o Todd Ochsner
38280 134th Street
Aberdeen SD 57401

Dear Mr. Ochsner:

Water Permit Application No. 8873-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Aberdeen News printed in Aberdeen SD (Ph # 844-254-5287). 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,

Rachel Rodriguez

Rachel Rodriguez
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. 8873-3 to Appropriate Water

Notice is given that Ochsner Real Estate II LP, c/o Todd Ochsner, 38280 134th Street, Aberdeen SD 57401 has filed an application for a water permit to appropriate surface runoff for irrigation of 60 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 20; all in T123N-R64W. Sufficient surface runoff will be captured to maintain the water level to the normal pool elevations in an existing 150 acre-feet storage pond located in the NW 1/4 SW 1/4 Section 20; NE 1/4 SE 1/4 Section 19 with impounded water covering portions of Section 19 and in a proposed excavation with a 40 acre-feet storage capacity to be located in the W 1/2 SE 1/4 Section 20; all in T123N-R64W. Water will be diverted from the proposed excavation to the acreage to be irrigated at a rate of 1.11 cubic feet of water per second (cfs). If needed, water will be diverted from the storage pond at a rate of 0.44 cfs to supplement water stored in the proposed excavation. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three miles west of Aberdeen SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8873-3 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 August 19, 2024.

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 August 19, 2024.

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.

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Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Thursday, August 1, 2024 12:05 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 10447644 8873-3 Ochsner Real Estate II LP - Public Notice
Attachments: 10447644.pdf

Please find your order confirmation and proof of ad attached.

Your ad is set to run in American News on 8/8/24 with a cost of \$57.20

The total cost includes an affidavit, that will be mailed to you 7-10 business days after the last day of the ad printing. Please reply by **4 pm Monday, Aug. 5, 2024 to cancel or with any changes for the ad**. You will receive an invoice in the mail.

All orders are subject to a 3.99% service fee. As an incentive for customers, we provide a discount off the order cost equal to the 3.99% service fee if you pay with ACH. Pay by ACH and Save!
Final Order cost provided at time of payment and via a receipt.

Your notice is scheduled to run per your request and will publish unless you advise otherwise.

In the future, if you would like to utilize our online self-serve ad portal to place your legal notices, please visit your local publication's online classifieds legal section. There, you can conveniently submit and immediately preview your notices anytime, 24/7.

Thanks,

*NOTE: We are not legally trained, and it is your responsibility to make sure your AD meets the requirements of your State/Court which includes wording and publication times. Please verify all information is there and that it is correct. Anything missing and/or incorrect can cause your publication to be rejected in which you will be responsible for all fees to republished.

Diana Tope
Public Notice Representative



Office: 844-254-5287

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Thursday, August 1, 2024 11:15 AM
To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>
Subject: 10447644 8873-3 Ochsner Real Estate II LP - Public Notice

Attached is a notice to be published on August 8, 2024.

Ochsner Real Estate II LP, c/o Todd Ochsner, 38280 134th Street, Aberdeen SD 57401, 605-226-0695, 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 Ave, Pierre SD 57501.



Order Confirmation

Not an Invoice

Account Number:	1474539
Customer Name:	Ochsner Real Estate II LP
Customer Address:	Ochsner Real Estate II LP 38280 134Th ST Todd Ochsner Aberdeen SD 57401-8472
Contact Name:	Todd Ochsner
Contact Phone:	(605) 773-3212
Contact Email:	rachel.rodriguez@state.sd.us
PO Number:	8873-3

Date:	08/01/2024
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Water Rights Program
Water Rights Program
523 E. Capitol Ave.
Pierre SD 57501

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

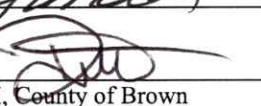
The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

08/08/2024

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 08/08/2024



Legal Clerk



Notary, State of WI, County of Brown

10-28-26

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RYAN SPELLER
Notary Public
State of Wisconsin

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AUG 19 2024

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WATER

NOTICE OF
APPLICATION NO. 8873-3
to Appropriate Water

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WATER

tion 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 August 19, 2024.

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 August 19, 2024.

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 August 8, 2024 at the total approximate cost of \$57.20 and may be viewed free of charge at www.sdpublicnotices.com
10447644

RECEIVED

AUG 19 2024

OFFICE OF
WATER

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, August 1, 2024 12:26 PM
To: jake@concordgrain.com
Subject: 8873-3 Ochsner Real Estate II LP - Public Notice
Attachments: 8873-3 Rec.pdf; 8873-3 Ltr.pdf; 8873-3 Public Notice.pdf; 8873-3 Aberdeen Invoice.pdf

Good afternoon,

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

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 04 2024

Ochsner Real Estate II LP
c/o Todd Ochsner
38280 134th Street
Aberdeen SD 57401

Dear Mr. Ochsner:

Enclosed is Water Permit No. 8873-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8873-3

Name of Applicant: Ochsner Real Estate II LP, Todd Ochsner

Date of Posting: 8/5/2024

Date of Removal: 9/4/2024

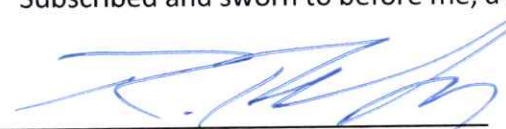


Ron Duvall, Engineer III

9/4/2024

Date

Subscribed and sworn to before me, a notary public, this 4th day of Sept, 2024.



Notary Public - South Dakota
My commission expires:

(SEAL) Rachel Rodriguez
My Commission Expires
May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

TO: Water Rights Program, DANR
523 E. Capitol Ave.
Pierre, SD 57501-3182
or via email to DANRmail@state.sd.us

Date **12/3/2024**

FROM: OCHSNER REAL ESTATE II LP

(605) 226-0695

(name)

(phone)

38280 134TH STREET

adam@tdofarmsinc.com

(address)

(email)

ABERDEEN SD 57401

(city, state, zip)

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. 8873-3 states that the water use system is to be constructed by

Aug 18, 2029

(date)

, and water is to be put to beneficial use by

Aug 19, 2033

(date)

The water use system was completed on

11/10/2024

(date)

Applying the water to beneficial use was completed on

11/10/2024

(date)

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 5, 2024

8873-3

Ochsner Real Estate II LP
c/o Todd or Adam Ochsner
38280 134th St
Aberdeen SD 57401

To whom it may concern:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your water use system authorized by Water Permit No. 8873-3.

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

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

Sincerely,

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