

WATER PERMIT NO. 8880-3

Name of Applicant: Old Tree Dairy

Address: 46318 214th Street, Volga SD 57071 Phone: 605-695-4639

Amount of Water Claimed: No Add'l Total Acres: 24

Source of Water Supply: Groundwater

Water to be used for: Irrigation County: Brookings

Type of Waste Disposal System:

Location: Approx. 5 miles southwest of Brookings SD

PRIORITY Date Received: 06-17-24 Application/License Fee: \$500.00

Corrected Application Received: N/A Period of Annual Use: April 1 – October 31

Remarks: Inspection by Darrell DeBoer found irrigation of an additional 24 acres for Permit 8531-3

Diversion Point: NW 1/4 Sec 13-T109N-R51W

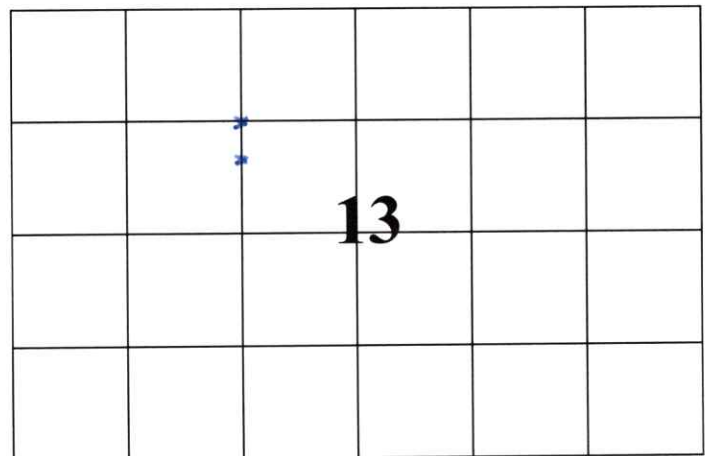
Land to be Irrigated: W 1/2 Sec 13-T109N-R51W

Depth of Well: 53 & 63

Well Driller: Thein Well Co

Remarks:

Type of Map: aerial



Reviewed and the Number Assigned on: 06-20-24

By: Rachel Rodriguez

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8880-3

Date of first receipt of application June 17, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8880-3 to Old Tree Dairy, 46318 214th Street, Volga SD 57071, 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. 8880-3 authorizes irrigation of an additional 24 acres and adds a second existing irrigation well. Water Permit No. 8531-3 authorizes 2.22 cubic feet of water per second (cfs) from one well completed into the Big Sioux: Brookings Aquifer (approximately 53 feet deep) located in the NW 1/4 Section 13 for irrigation of 222 acres located in the W 1/2 Section 13; all in T109N-R51W. An inspection of Permit No. 8531-3 found an additional 24 acres being irrigated within the W 1/2 Section 13 and a second well had been completed into the Big Sioux: Brookings Aquifer in the NW 1/4 Section 13; all in T109N-R51W. This permit authorizes irrigation of the additional 24 acres and use of the two existing wells to irrigate a combined total of 246 acres located in the W 1/2 Section 13-T109N-R51W with no increase in the 2.22 cfs diversion rate authorized by Permit No. 8531-3. This site is located approximately 5 miles southwest of Brookings 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: April 1 – October 31.
3. The date from which applicant may claim right is June 17, 2024.
4. The date of approval of Permit No. 8880-3 is September 9, 2024.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under this Permit and Water Permit No. 8531-3 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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 27 2024
date



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

PAID

JUN 17 2024

Ck# 27882

Rec't#

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8880-3</u> Hydrologic Unit <u>10170202</u>
	Basin <u>Big Sioux</u>
	Newspaper <u>Brookings Register</u>
	(office use only)

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 Old Tree Dairy

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

Mailing Address 46318 214th Street Volga SD 57071
(Address) (City) (State) (Zip Code)
Phone 605-695-4639 Mobile 605-695-4639 Email oldtreefarms@gmail.com

2. Amount of water claimed N/A *CFS or N/A **GPM N/A ***AF Total Acreage 24
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply groundwater - 2 wells (BS:B)

4. Location of point of diversion 2 existing wells (NW 1/4 Sec 13-T109N-R51W)
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Brookings

5. County or counties where water will be used Brookings

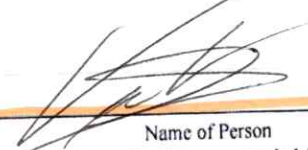
6. Annual period during which water is to be used April 1 - October 31

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
W 1/2 Sec 13-T109N-R51W	24		

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

adding 24 irrigated acres (W 1/2 Sec 13) & 1 well (S 1/2 NW 1/4 Sec 13) to what is already authorized by Permit No. 8531-3 w/ no increase to rate of diversion

I,  Sonja Verpaale Member, 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)

NOTE TO OFFICE STAFF: See inspection report & map in 8531-3 file. Ready to license upon approval.

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 2 Provide copy of log(s), if available. Drilled by Thein Well Co
(see 8531-3)

For either existing or proposed wells:

c) Well Depth (required) 53' & 63' Depth to Top of Water Bearing Material _____ Depth to Water from Surface 10' & 12'

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

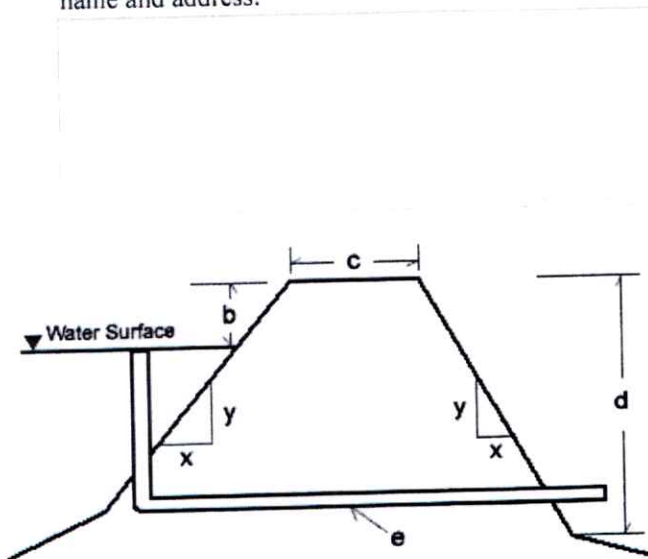
a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

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) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres

109N 51W
Section: 02

109N 51W
Section: 01

109N 50W
Section: 06

109N 51W
Section: 11

109N 51W
Section: 12

109N 50W
Section: 07

109N 51W
Section: 14

10170202 Middle Big Sioux

Big Sioux

109N 51W
Section: 13

109N 50W
Section: 18

109N 51W
Section: 23

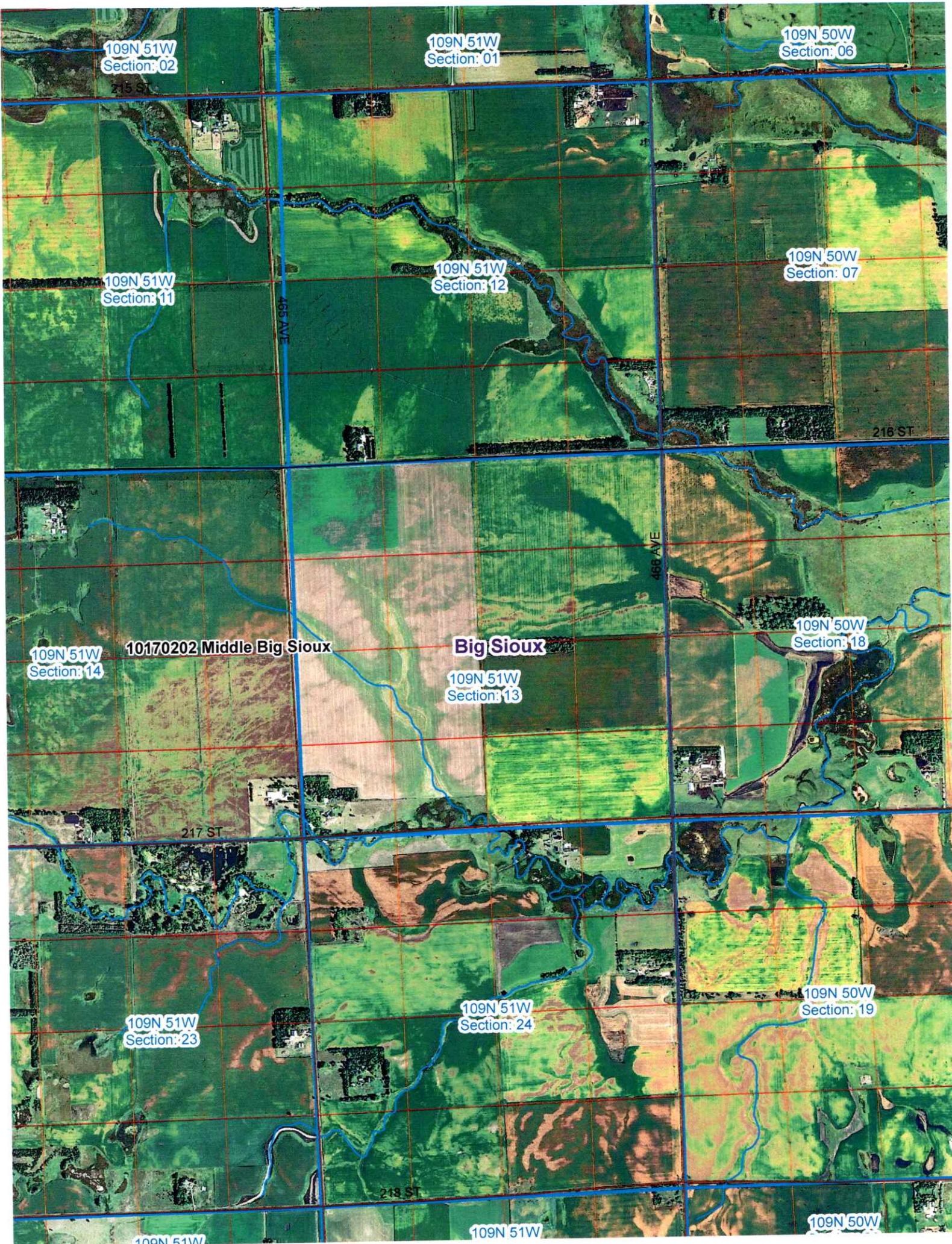
109N 51W
Section: 24

109N 50W
Section: 19

109N 51W

109N 51W

109N 50W



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8531-3

I have this day, June 3, 2024, made a thorough examination of the water use system constructed by Old Tree Dairy, 46318 214th St, Volga, SD 57071 of Permit No. 8531-3, bearing the priority of July 19, 2024 authorizing the diversion of 2.22 cu. ft. per second of the waters of Big Sioux:Brookings Aquifer for irrigation purposes, in Brookings County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Thein Well Co, Inc
- 2) No. of Wells 2
- 3) Depth(s) 53 & 63 feet
- 4) Well log is available Y If no, explain in comments

Casing:

- 1) Diameter 12 inches
- 2) Length 33 & 31 feet
- 3) Type Plastic

Screen:

- 1) Type Stainless
- 2) Length 20 & 20 feet
- 3) Static water level 12 & 10 feet

Pump:

- 1) Make 2- Submersibles
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 600 total GPM

Motor:

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

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

- 1) Type PVC
- 2) Size 8 inches
- 3) Length 2,100 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make 2 Valleys
- 2) Overall length 1300 feet
- 3) Number of towers 7
- 4) End gun Y
- 5) Capacity 600 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: irrigating 24 acres more than permitted

E. Condition and Location:

1. The system is in new condition with the point(s) of diversion located as follows: From the NW corner of Sec 13 T109N R51W "NORTH" WELL: 1320 ft S 1325 ft E, Lat 44.24993 Long -96.90364 (SE 1/4 NW 1/4) "SOUTH" WELL: 1935 ft S & 1325 ft E, Lat 44.24840 Long -96.90346 (SE 1/4 NW 1/4) .
2. The works are capable of diverting and conveying to the place of use 1.34 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

All land in Sec 13 T109N R51W

NW 1/4 NW 1/4 32 acres

NE 1/4 NW 1/4 32 acres

SW 1/4 NW 1/4 36 acres

SE 1/4 NW 1/4 36 acres

NW 1/4 SW 1/4 39 acres

NE 1/4 SW 1/4 39 acres

SE 1/4 SW 1/4 16 acres

SW 1/4 SW 1/4 16 acres

comprising a total of 246 acres of land and the license should be issued for 1.34 cfs.

3. All structures, wells and lands on map Y

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

FSA photographs and the ArcGIS software were used to estimate the irrigated acreage.

The pump rate reported in a recent Irrigation Questionnaire was used to establish the combined system flow capacity for the two wells. Both wells supply water to each pivot independently but not simultaneously. The pivot systems are rated at 600 gpm.

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

I visited with Mr. Frido VerPalen, owner (605/695-4639) during the field visit.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: June 4, 2024

New permit application mailed to Old Tree Dairy June 6, 2024, to bring South Well & 24 unpermitted acres into the fold. Pending approval of new permit application, can be incorporated, and licensed based on inspection. AMD



0 900 1,800 3,600 5,400 7,200 Feet

Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 6, 2024

8531-3

Old Tree Dairy
c/o Frido Verpaalean
46318 214th St
Volga SD 57071

Dear Mr. Verpaalean:

I am writing today in regard to Water Permit No. 8531-3, held by Old Tree Dairy, authorizing the diversion of 2.22 cubic feet of water per second from one well, located in the center of the NW $\frac{1}{4}$ Section 13 for the irrigation of 222 acres, located in the W $\frac{1}{2}$ Section 13; all in T109N-R51W, Brookings County, South Dakota.

A recent inspection was conducted by staff engineer, Darrell DeBoer, for the purpose of licensing the irrigation system. The inspection found a total of 246 acres being irrigated from two wells. Any increase in irrigated acres requires additional permitting.

Please find enclosed, a partially completed irrigation permit application for the over developed acres, with no addition to the rate of diversion. Fees for this new application will be \$500.00. The inspection and licensing fee of \$200.00 will be waived, as it has already been paid. Checks can be made payable to the SD Water Rights Program. You may also submit the necessary fees over the phone by calling our Fiscal Office (605) 773-5559.

If you have any questions concerning these acres, the second well, or need help completing the application, please do not hesitate to call. My direct line is (605) 910-5187.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
Amanda.Dewell@state.sd.us

NOTE: Once this new application is reviewed, if it is approved, it will be licensed immediately based on the inspection report completed for Permit No. 8531-3.

enclosure

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 18th, 2024

RECEIVED OF Old Tree Dairy 46318 214th Street Volga SD 57071

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

Fee for Application for Permit No. <u>8880-3</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. _____	\$ _____
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>500.00</u>

By Eric Jonland
Chief Engineer





**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. 8880-3, Old Tree Dairy**

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. 8880-3, Old Tree Dairy, 46318 214th Street, Volga SD 57071.

The Chief Engineer is recommending APPROVAL of Application No. 8880-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under this Permit and Water Permit No. 8531-3 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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
August 16, 2024

Report to the Chief Engineer
On Water Permit Application No. 8880-3

Old Tree Dairy

July 24, 2024

Water Permit Application No. 8880-3 proposes to irrigate an additional 24 acres and add a second existing irrigation well to what is authorized by Water Permit No. 8531-3. Water Permit No. 8531-3 authorizes 2.22 cubic feet of water per second (cfs) from one well completed into the Big Sioux: Brookings Aquifer (53 feet deep) located in the NW ¼ Section 13 for the irrigation of 222 acres located in the W ½ Section 13; all in T109N-R51W. An inspection of Water Permit No. 8531-3 found an additional 24 acres being irrigated within the W ½ Section 13 and a second well has been completed into the Big Sioux: Brookings Aquifer in the NW ¼ Section 13; all in T109N-R51W. This application authorizes the additional 24 acres and use of the two existing wells to irrigate a combined total of 246 acres located in the W ½ Section 13-T109N-R51W with no increase in the 2.22 cfs diversion rate authorized by Water Permit No. 8531-3. This site is located in Brookings County approximately five miles southwest of Brookings SD.

AQUIFER: Big Sioux: Brookings (BS:B)

HYDROGEOLOGY:

The Big Sioux aquifer is divided into twelve management units that have been historically recognized by the DNR-Water Rights Program and SD Water Management Board (Water Rights, 2024c). The water source for this application is the Brookings management unit of the Big Sioux aquifer.

The Brookings management unit of the Big Sioux aquifer is a Quaternary-aged glacial outwash that consists of medium to very coarse sand and very fine to medium gravel (Kume, 1985; Hamilton, 1989). The depth of the top of the Big Sioux: Brookings aquifer ranges from the land surface in the Big Sioux River floodplain to 212 feet below land surface (Hamilton, 1989). In Brookings, Deuel, Hamlin, Kingsbury, Moody, and Codington Counties, the Big Sioux: Brookings aquifer is estimated to underly approximately 323,000 acres and contain approximately 1,453,000 acre-feet of recoverable water in storage, as shown in Figure 1 (Hedges et al, 1982 and Stonesifer, 2013). The direction of groundwater movement in the Big Sioux: Brookings aquifer is in a southerly direction and towards the Big Sioux River (Hamilton, 1989). The aquifer is unconfined near the Big Sioux River and along major tributary valleys, but elsewhere the aquifer may be confined by overlying till or clay lenses (Hamilton, 1989). The aquifer is primarily unconfined (Stonesifer 2013; Water Rights, 2024b and 2024d).

Based on the well completion reports from Water Permit No. 8531-3, both wells are 53 feet deep with a top of aquifer material approximately 7 feet below grade and static water levels of 10 and 12 feet at the time of well completion in October and December of 2021. The wells for this application and Water Permit No. 8531-3 are completed into unconfined aquifer conditions. Several other nearby water well completion reports for the Big Sioux: Brookings aquifer show

the aquifer to be unconfined near the location of the diversion points (SDGS, 2024; Water Rights, 2024b and 2024d).

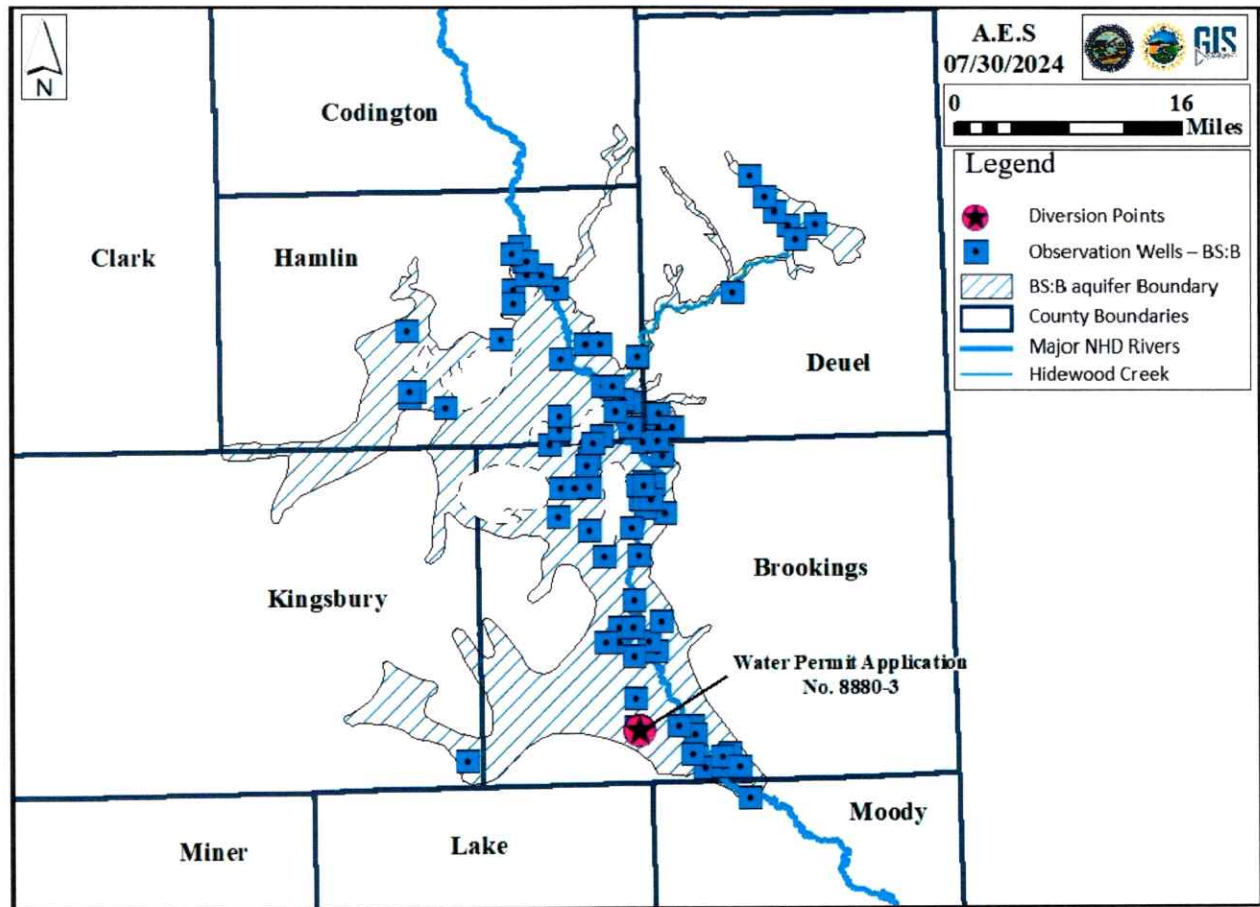


Figure 1. Map of the approximate Big Sioux: Brookings aquifers boundary, Big Sioux: Brookings aquifer observation wells and the location of the existing wells for Water Permit Application 8880-3 (Water Rights, 2024b and 2024c)

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 SD 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 Big Sioux: Brookings aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8880-3 proposes to appropriate water from the Big Sioux: Brookings aquifer. The probability of unappropriated water being 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 Big Sioux: Brookings aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Big Sioux: Brookings aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Big Sioux: Brookings aquifer is received primarily through the infiltration of precipitation and seepage through till, lake deposits, and underlying aquifers (Hamilton, 1989). Using observation well analysis, Hedges and others (1985) estimated a recharge rate of 4.0 inches per year for the Big Sioux: Brookings aquifer. The Big Sioux: Brookings aquifer has an estimated areal extent of approximately 323,000 acres (Stonesifer, 2013); therefore, the average annual recharge rate for the Big Sioux: Brookings aquifer (based on Hedges et al, 1985; Stonesifer, 2013) is approximately 107,667 acre-feet/year.

Discharge

Discharge from the Big Sioux: Brookings aquifer primarily occurs through well withdrawals, seepage to surface water features, and evapotranspiration in areas where the aquifer is at or near land surface (Hamilton, 1989; Water Rights, 2024d). Currently, there are 260 water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2024c). There are 11 future use permits reserving 6,041 acre-feet/year of water from the Big Sioux: Brookings aquifer, shown on Table 1 (Water Rights, 2024c). There are domestic wells completed into the Big Sioux: Brookings aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2024d). Due to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Big Sioux: Brookings aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Big Sioux: Brookings aquifer.

Table 1. Future Use Permits reserving water from the Big Sioux: Brookings aquifer (Water Rights, 2024c)

Future Use Permit Holder	Permit Nos.	Amount of Reserved Water (acre-feet)
Joint Well Fields Inc.	3982-3, 3982A-3, 3982B-3, 6988-3	2,375
City of Lake Norden	4055-3, 6261-3	0
City of Castlewood	558A-3	123
City of Volga	5875-3, 6259-3	1,143
Sioux Rural Water System	5094-3, 7853-3	2,400
TOTAL:		6,041

Table 2 summarizes the 46 non-irrigation water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer with the estimated annual use for each water right/permit as determined by their permitted maximum diversion rate or annual volume. The amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. The 60 percent estimation was established by Water Rights Staff to be a reasonable and safe estimate of average annual withdrawals by non-irrigation appropriations. Historically, the 60 percent estimate has been accepted by the Water Management Board. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer and is likely an overestimation of average annual withdrawals (Drinking Water Program, 2024; Water Rights, 2024c). It should be noted that some of the water permits/rights listed on Table 2 are connected to rural water systems and use rural water rather than their local wells; so, they will not contribute to the annual withdrawal rate. This includes water rights for the Town of Hayti who purchases their water from the Sioux Rural Water System and the City of Clear Lake who purchases their water from the Brookings-Deuel Rural Water System (Drinking Water, 2024). Overall, the estimated average annual withdrawal rate from the Big Sioux: Brookings aquifer by the non-irrigation water rights/permits is approximately 15,278 acre-feet per year (Table 2) (Water Rights, 2024c).

Table 2. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Big Sioux: Brookings aquifer (Water Rights, 2024c)

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimate Use (acre-feet/year)
2111-3	GOPHER SIGN CO	LC	COM	0.04	N/A	17.4
5675-3	LAKE POINSETT ESTATES	LC	COM	0.09	N/A	39.1
6019-3	DAKOTA WHOLESALE BAIT INC	LC	COM, DOM	0.355	N/A	154.2
6329-3	GREG OSWALD	LC	COM	1.28	N/A	556
6745-3	KENNETH HANSEN	LC	COM	0.11	N/A	47.8
6785-3	DRUMGOON DAIRY LP	LC	COM, LCO	0.2	N/A	86.9
6786-3	DAVID NYSTROM	LC	COM, LCO	0.17	N/A	73.9
7277-3	OLD TREE FARMS	LC	COM, LCO	0.1	N/A	43.4
7854-3	DAVID ULVESTAD	PE	COM, LCO	0.89	N/A	386.6
7259-3	OLD APOSTOLIC LUTHERAN CHURCH	LC	GEO	1	120	120
5129-3	TECHNICAL ORDNANCE INC	LC	IND	0.1	N/A	43.4
6146-3	SD SOYBEAN PROCESSORS	LC	IND	0.144	N/A	62.6
1317-3	CITY OF ESTELLINE	LC	MUN	1.1	N/A	477.8
1759-3	CITY OF VOLGA	LC	MUN	1.65	N/A	716.8
3117-3*	TOWN OF HAYTI	LC	MUN	0.33	N/A	0
4950-3	CITY OF BRUCE	LC	MUN	0.27	N/A	117.3
5071-3*	CITY OF CLEAR LAKE	LC	MUN	0.45	N/A	0
5167-3	CITY OF VOLGA	LC	MUN	0.45	N/A	195.5
534A-3*	CITY OF CLEAR LAKE	LC	MUN	1.1	N/A	0
557-3	CITY OF LAKE NORDEN	LC	MUN	3	N/A	1,303.20
558B-3	CITY OF CASTLEWOOD	LC	MUN	0.56	N/A	243.3
558D-3	CITY OF CASTLEWOOD	LC	MUN	0.33	N/A	143.4
5645-3	CITY OF ESTELLINE	LC	MUN	0.66	N/A	286.7
617-3*	TOWN OF HAYTI	LC	MUN	0.66	N/A	0
5815-3	CITY OF LAKE NORDEN	LC	MUN	0.56	139	139
5941-3	CITY OF VOLGA	LC	MUN	0.89	644	644
6417-3	CITY OF LAKE NORDEN	LC	MUN	1.45	630	630
6542-3	CITY OF LAKE NORDEN	LC	MUN	0.6	262	262
8640-3	CITY OF VOLGA	PE	MUN	1.11	645	645
2033-3	SIOUX RURAL WATER SYSTEM	LC	RWS	0.75	N/A	325.8
4830-3	BROOKINGS-DEUEL RWS	LC	RWS	2	N/A	868.8
5079-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	2.9	N/A	1,259.76
5434-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	434	434
5602-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	434	434
6002-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	362	362
2245B-3	BROOKINGS-DEUEL RWS	LC	RWS	1.93	270	270
6718-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	300	300
7381-3	BROOKINGS-DEUEL RWS	PE	RWS	0	N/A	0
7852-3	SIOUX RURAL WATER SYSTEM INC	LC	RWS	4.66	2,100	2,100
8185-3	JOINT WELL FIELD INC.	PE	RWS	0	603	603
7852A-3**	SIOUX RURAL WATER SYSTEM	PE	RWS	0	N/A	0
6988A-3	JOINT WELL FIELD INC	PE	RWS	0	N/A	0
8371-3	JOINT WELL FIELD INC	PE	RWS	0	434	434
8732-3	SIOUX RURAL WATER SYSTEM	PE	RWS	0	N/A	0
1956-3	H. E. MEYER	LC	SHD	1	N/A	434.4
1956-3A	NEIL HAMILTON	LC	SHD	0.04	N/A	17.4
LC Licensed Water Right, PE Water Permit, IL Incorporated License, COM Commercial, DOM Domestic, LCO Livestock Confinement Operation, GEO Geothermal, IND Industrial, MUN Municipal, RWS Rural Water System, SHD Suburban Housing Development, *These Water Rights get their water from a separate system rather than local wells, **This water right permit is an extension of time for Incorporated licence 5960-3					TOTAL:	15,278

Currently, there are 214 irrigation water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2024c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Big Sioux: Brookings aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2023) is approximately 9,242 acre-feet per year (Table 3) (Water Rights, 2024a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2014 to 2023 is approximately 10,478 acre-feet per year (Table 3) (Water Rights, 2024a). These acres proposed to be irrigated with this application were previously developed, without a permit, when Water Permit No. 8531-3 was developed. Water use under this application is already accounted for under the annual reporting for Water Permit No. 8531-3.

Table 3. Reported historic irrigation use from the Big Sioux: Brookings aquifer (Water Rights, 2024a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	184	6,144
1980	187	9,837
1981	198	9,040
1982	155	4,552
1983	161	8,227
1984	188	8,178
1985	181	4,951
1986	179	2,855
1987	171	10,015
1988	167	18,521
1989	166	13,931
1990	175	8,863
1991	165	7,772
1992	162	2,332
1993	162	1,043
1994	160	2,855
1995	161	3,862
1996	154	7,221
1997	153	5,650
1998	157	8,110
1999	155	7,841
2000	153	8,934
2001	149	8,385
2002	149	12,411
2003	149	11,380
2004	156	11,810
2005	159	11,513
2006	161	14,325
2007	164	12,730
2008	166	12,506
2009	174	9,173
2010	172	2,713
2011	174	8,528
2012	177	19,483
2013	198	15,432
2014	212	9,948
2015	209	8,796
2016	210	10,267
2017	209	9,572
2018	211	7,953
2019	211	106
2020	209	10,001
2021	205	17,955
2022	206	14,509
2023	214	15,670
Max	214	19,483
Min	149	106
Avg (1979-2023)	176	9,242
Avg (2014-2023)	210	10,478

Hydrologic Budget Summary

The estimated average annual recharge rate to the Big Sioux: Brookings aquifer is approximately 107,667 acre-feet per year (Stonesifer, 2013). The estimated average annual withdrawal rate from the Big Sioux: Brookings aquifer is approximately 31,797 acre-feet per year (future use: 6,041 acre-feet/year; non-irrigation: 15,278 acre-feet/year; irrigation (avg 2014 to 2023): 10,478 acre-feet). Overall, the estimated average annual recharge rate to the Big Sioux: Brookings aquifer is greater than the estimated average annual withdrawal rate from the aquifer. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Big Sioux: Brookings aquifer for the proposed appropriation.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 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 DANR-Water Rights Program monitors 76 observation wells completed into the Big Sioux: Brookings aquifer (Water Rights, 2024b). The locations of the observation wells completed into the aquifer are shown on Figure 1 (Water Rights, 2024b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the existing diversion points are BG-77G (approximately 0.4 miles northwest), BG-77Q (approximately 2.3 miles north), and BG-#04 (approximately 2.8 miles east) (Water Rights, 2024b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Big Sioux: Brookings aquifer and all displayed a generally similar trend as shown on the hydrographs displayed in Figure 2 (Water Rights, 2024b). Most observation wells in the Big Sioux: Brookings aquifer have a stable water level, with several observation wells that are under the influence of heavy pumping showing points in time when there were slight declines in water levels that eventually stabilized. These periods of time almost always coincide with reduced recharge due to drought conditions. The data shown on Figure 2 shares a similar trend with a majority of the observation wells in the Big Sioux: Brookings aquifer.

DANR Water Rights Observation Wells: BG-77G, BG-77Q, BG-#04

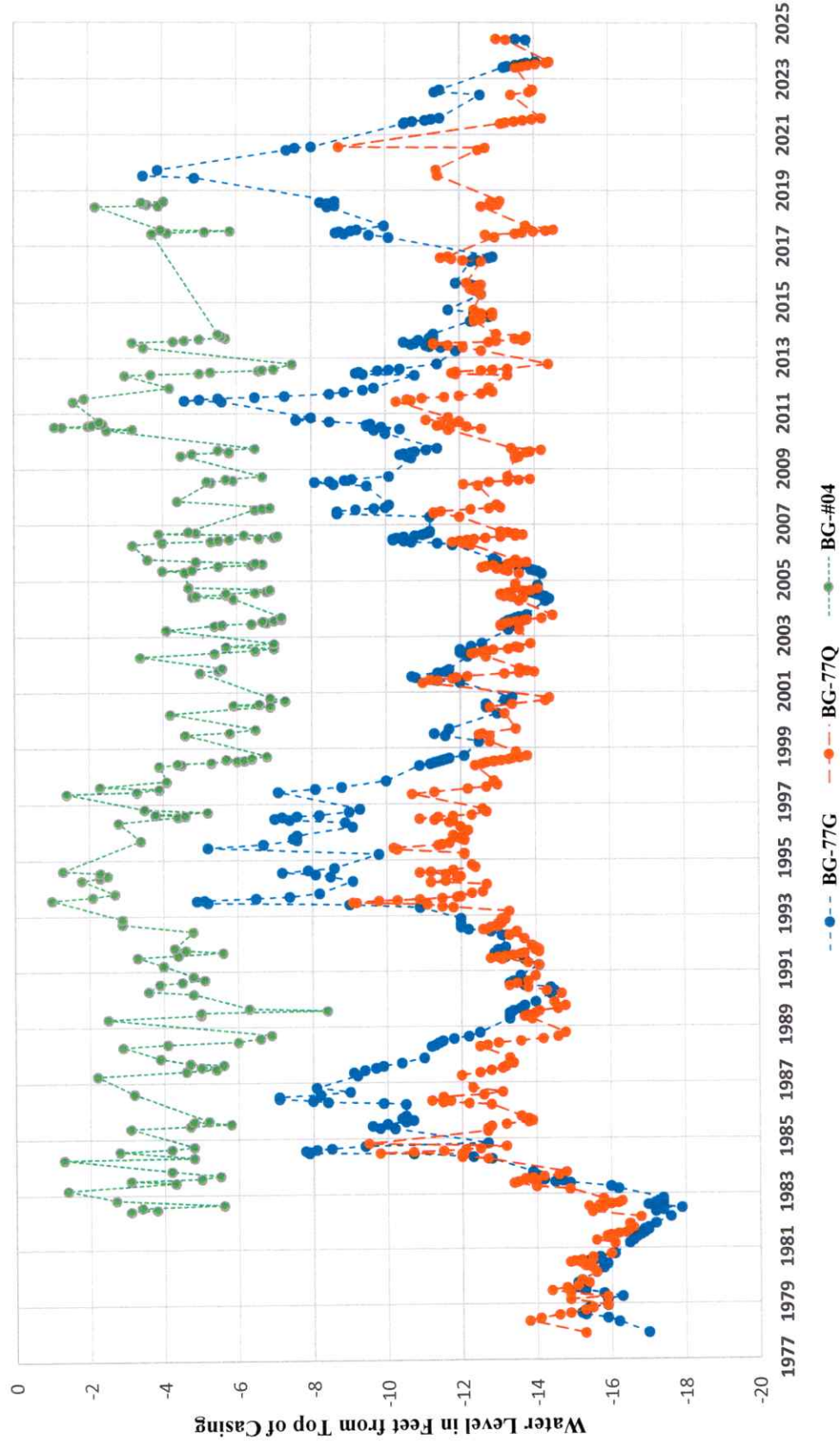


Figure 2. A graph showing the elevation of water levels for observation wells BG-77G, BG-77Q and BG-#04 (Water Rights, 2024b)

Figure 2 shows the observation wells display stable water levels over their respective periods of record. The hydrographs for the Big Sioux: Brookings aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the Big Sioux: Brookings aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Water rights/permits in the general vicinity of the existing well site for this application are shown in Figure 3 and summarized in Table 4 (Water Rights, 2024c). The closest water right/permit (not held by the applicant) to the diversion points is Water Right No. 7500-3 which is held by Hillestad Farms. The diversion point for Water Right No. 7500-3 is located approximately 0.64 miles north of the diversion points for this application (Water Rights, 2024c). There are domestic wells on file with the DANR-Water Rights Program that are completed into the Big Sioux: Brookings aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.75 miles west of the diversion points (Water Rights, 2024d). The location of domestic wells are based on the well completion report submitted by the driller. There could potentially be other domestic wells completed into the Big Sioux: Brookings aquifer near the diversion points that are not on file with the DANR-Water Rights Program.

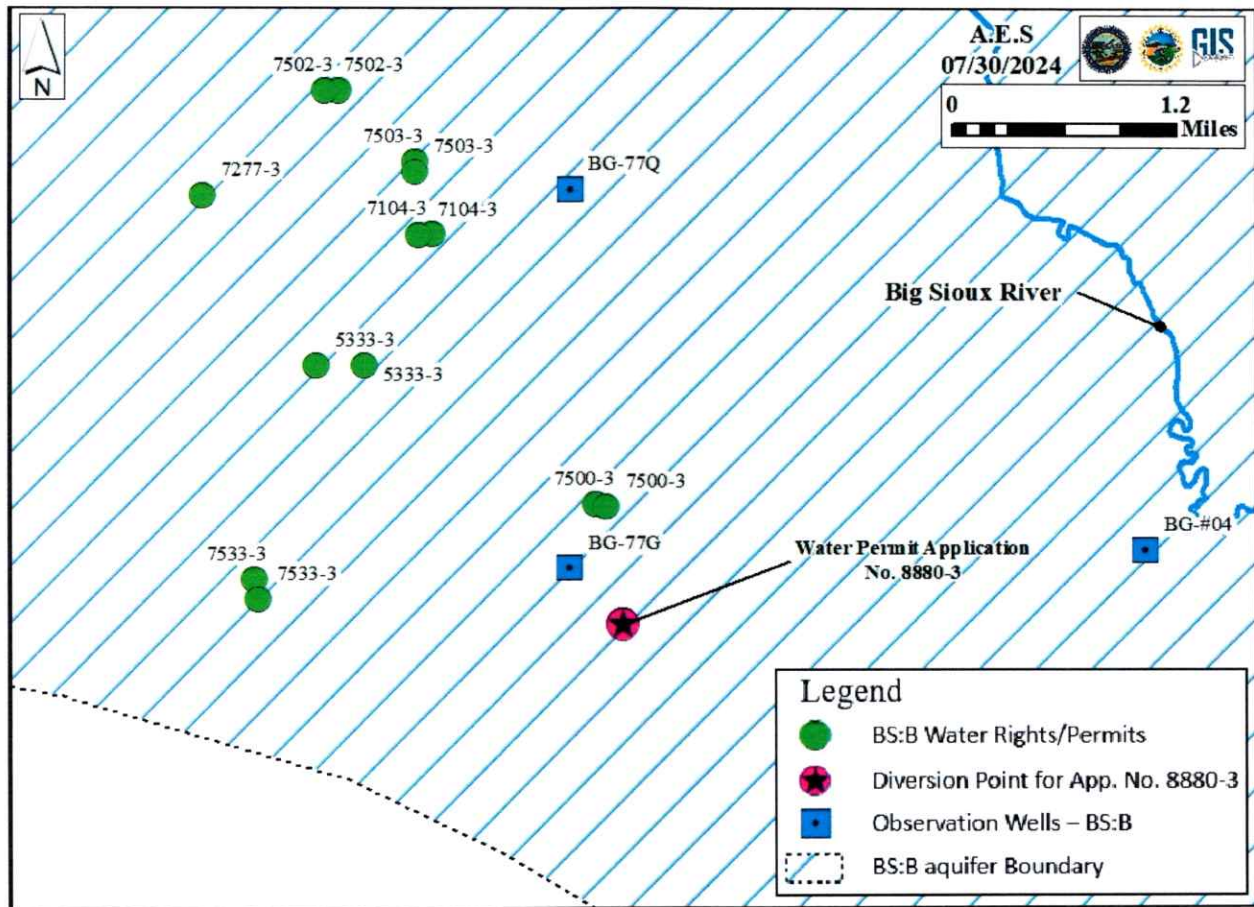


Figure 3: Map of the Big Sioux: Brookings aquifer, water rights/permits, and observation wells that are within approximately 3 miles of the diversion points for Water Permit Application No. 8880-3 (Water Rights, 2024b and 2024c)

Table 4. List of water rights/permits in Figure 3.

Permit No.	Name	Use	Status	Rate (cfs)	Acres
5333-3	Vanderwal Yards Inc	IRR	LC	1.61	121
7104-3	Howell Farms Inc	IRR	LC	1.56	134
7277-3	Old Tree Farms	COM	LC	0.1	N/A
7502-3	Howell Farms Inc	IRR	LC	1.34	123
7503-3	Howell Farms Inc	IRR	LC	1.34	112.9
7500-3	Hillestad Farms	IRR	LC	1	124.5
7533-3	Chad or Rhonda Wosje	IRR	PE	1.78	127
LC: Licensed Water Permit; PE: Water Permit					
COM: Commercial; IRR: Irrigation					

The Big Sioux: Brookings aquifer is generally under unconfined conditions in Brookings County (Hamilton, 1989). The diversion points are under unconfined conditions based on the submitted well completion reports in permit file No. 8531-3, and lithologic logs for the nearby observation wells (Water Rights, 2024d). Observation well data (see Figure 2) documents minimal drawdown from withdrawals by existing wells near the diversion points; therefore, pumping at the diversion points is not expected to significantly lower water levels within the aquifer. In Brookings County, there have been no complaints submitted to the DANR-Water Rights Program regarding potential well interference for wells completed into the Big Sioux: Brookings aquifer. (Water Rights, 2024e)

Within approximately two miles of the diversion points for this application, the Big Sioux: Brookings aquifer has saturated aquifer thickness ranging from approximately 20 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 1 to 15 feet below land surface, and static water levels at well completion varying from approximately 5 to 30 feet below land surface (SDGS, 2021; Water Rights 2024b and 2024d). This would allow for sufficient saturated thickness for a pump to be placed 20 feet below top of aquifer; which is required for the well to be considered adequate under ARSD 74:02:04:20(6). The SD Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The SD 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.”

The Big Sioux: Brookings aquifer is a relatively thin aquifer with a limited amount of water in storage. While the average annual withdrawal would not exceed average annual recharge to the aquifer, conditions may occur when the withdrawal exceeds recharge. When this occurs, water will be removed from storage; consequently, reducing the saturated thickness of the aquifer. If the saturated thickness is reduced to the extent that water rights/permits can no longer pump at their developed or “historically established” diversion rates, this may be considered an adverse impact. If approved, the water permit should include a qualification that the well owner should control their withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. Any drawdown created from pumping this proposed appropriation is not expected to cause unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Furthermore, the acres to be irrigated have been in use for several years and there is no increase in diversion rate authority and there have been no complaints regarding well interference. When considering the statutes (SDCL 46-1-4 and 46-6-3.1), rules (ARSD 74:02:04:20 (6) and (7)), the lack of well interference complaints for adequate wells completed into the Big Sioux: Brookings aquifer in Brookings County (Water Rights, 2024e), and the nearby unconfined conditions in the aquifer, any

drawdown created from the diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8880-3 proposes to irrigate an additional 24 acres and add a second existing irrigation well to what is authorized by Water Permit No. 8531-3. Water Permit No. 8531-3 authorizes 2.22 cubic feet of water per second (cfs) from one well completed into the Big Sioux: Brookings Aquifer (53 feet deep) located in the NW ¼ Section 13 for the irrigation of 222 acres located in the W ½ Section 13; all in T109N-R51W. An inspection of Water Permit No. 8531-3 found an additional 24 acres being irrigated within the W ½ Section 13 and a second well has been completed into the Big Sioux: Brookings Aquifer in the NW ¼ Section 13; all in T109N-R51W. This application authorizes the additional 24 acres and use of the two existing wells to irrigate a combined total of 246 acres located in the W ½ Section 13-T109N-R51W with no increase in the 2.22 cfs diversion rate authorized by Water Permit No. 8531-3. This site is located in Brookings County approximately five miles southwest of Brookings SD.
2. This application is based on an inspection of Water Permit No. 8531-3. During the inspection, it was determined an additional 24 acres were being irrigated within the W ½ Section 13 and a second well has been completed into the Big Sioux: Brookings Aquifer in the NW ¼ Section 13; all in T109N-R51W.
3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Big Sioux: Brookings aquifer to supply the proposed appropriation.
4. There is a reasonable probability this proposed diversion will not unlawfully impair adequate wells authorized by existing water rights or domestic use wells.



Austin Settje
Natural Resources Engineer I
SD DANR - Water Rights Program



Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

References

- Drinking Water, 2024. Drinking Water Reports, SD DANR-Drinking Water Program, Joe Foss Bldg, Pierre, SD
- Hamilton, L.J., 1989. Water Resources of Brookings and Kingsbury Counties, South Dakota: Water-Resources Investigation Report 88-4185. USGS, Huron, South Dakota: U.S. Geological Survey.
- Fahrenbach, M.D., Steece, F.V., Sawyer, J.F., McCormick, K.A., McGillivray, G.L., Schulz, L.D., and Redden, J.A. 2010. South Dakota Stratigraphic Correlation Chart. Oil and Gas Investigations 3. SD DANR-Geological Survey, Vermillion, SD.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Kume J., 1985. Water Resources of Deuel and Hamlin Counties, South Dakota; Water-Resources Investigations Report 84-4069 SDGS, Huron, South Dakota.
- SDGS, 2024. South Dakota Geological Survey Lithologic Logs Database. Accessed August 1, 2024. <http://cf.sddanr.net/lithdb/>.
- Stonesifer, J.R., 2013. Report to the Chief Engineer, Water Permit Application No. 7854-3, David Ulverstad, August 23, 2013. SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD
- Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.
- Water Rights, 2024a. "1979-2023 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2024b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**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.**

August 20, 2024

Old Tree Dairy
c/o Sonja Verpoaler
46318 214th Street
Volga SD 57071

Dear Ms. Verpoaler:

Water Permit Application No. 8880-3 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 Brookings Register printed in Brookings SD (Ph # 605 692-6271). 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. 8880-3 to Appropriate Water

Notice is given that Old Tree Dairy, 46318 214th Street, Volga SD 57071 has filed an application for a water permit to irrigate an additional 24 acres and add a second existing irrigation well. Water Permit No. 8531-3 authorizes 2.22 cubic feet of water per second (cfs) from one well completed into the Big Sioux: Brookings Aquifer (approximately 53 feet deep) located in the NW 1/4 Section 13 for irrigation of 222 acres located in the W 1/2 Section 13; all in T109N-R51W. An inspection of Permit No. 8531-3 found an additional 24 acres being irrigated within the W 1/2 Section 13 and a second well had been completed into the Big Sioux: Brookings Aquifer in the NW 1/4 Section 13; all in T109N-R51W. This application authorizes irrigation of the additional 24 acres and use of the two existing wells to irrigate a combined total of 246 acres located in the W 1/2 Section 13-T109N-R51W with no increase in the 2.22 cfs diversion rate authorized by Permit No. 8531-3. This site is located approximately 5 miles southwest of Brookings SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8880-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, August 20, 2024 9:05 AM
To: registerclassifieds@brookingsregister.com
Subject: 8880-3 Old Tree Dairy - Public Notice
Attachments: 8880-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 28, 2024.

Old Tree Dairy, 46318 214th Street, Volga SD 57071, 605-695-4639, 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.

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



Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

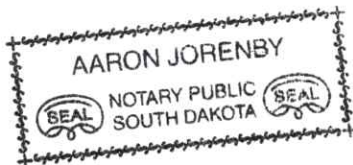
LEG #40482 Notice of Application 8880-3

same was published, is hereto attached marked Exhibit "A" said newspaper for _____ 1 times, to-wit:

August 28, 2024

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Fifty Dollars and Eighty-Four Cents \$50.84



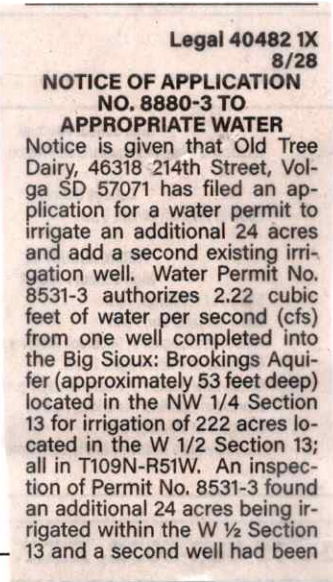
[Handwritten signature]

30 day of

August

2024

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires February 22, 2026



RECEIVED
SEP 05 2024
OFFICE OF
WATER

completed into the Big Sioux Brookings Aquifer in the NW 1/4 Section 13; all in T109N-R51W. This application authorizes irrigation of the additional 24 acres and use of the two existing wells to irrigate a combined total of 246 acres located in the W 1/2 Section 13-T109N-R51W with no increase in the 2.22 cfs diversion rate authorized by Permit No. 8531-3. This site is located approximately 5 miles southwest of Brookings SD. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8880-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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

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If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published August 28, 2024 at the total approximate cost of \$50.84 and may be viewed free of charge at www.sdpublicnotices.com.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, August 20, 2024 9:10 AM
To: oldtreefarms@gmail.com
Subject: 8880-3 Old Tree Dairy - Public Notice
Attachments: 8880-3 Rec.pdf; 8880-3 Ltr.pdf; 8880-3 PubNotice.pdf

Good morning,

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
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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 9-19-'24

FROM: Old Tree Dairy 605-695-4639
(name) (phone)
46318 214th St oldtreefarms@gmail.com
(address) (email)
Volga SD 57071
(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. 8531-3 states that the water use system is to be constructed by

September 20, 2026, and water is to be put to beneficial use by September 20, 2030
(date) (date)

The water use system was completed on 7-20-21
(date)

Applying the water to beneficial use was completed on 8-20-21
(date)

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

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8880-3

(1) Old Tree Dairy, 46318 214th St, Volga SD 57071, made Application No. 8531-3, July 19, 2021, for a water permit to divert 2.22 cubic feet of water per second from groundwater, one well (Big Sioux: Brookings Aquifer), Brookings County, South Dakota for irrigation purposes. Permit No. 8531-3, with a priority date of July 19, 2021, was approved September 20, 2021, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 20, 2026, and for the application to beneficial use of water on or before September 20, 2030. The applicable portions of Permit No. 8531-3 have been incorporated into this license.

The permit holder submitted a Notice of Completion of Works and Application of Water to Beneficial Use form on September 19, 2024. The Notice stated the diversion system was completed on July 20, 2021, and the water was placed to beneficial use on August 30, 2021.

Old Tree Dairy made Application No. 8880-3, on June 17, 2024, for a water permit to add 24 additional irrigated acres to what was already authorized under Permit No. 8531-3, as well as adding an additional diversion point, with no increase to the authorized rate of diversion. Permit No. 8880-3, with a priority date of June 17, 2024, was approved September 9, 2024, and issued to the applicant.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.34 cubic feet of water per second for beneficial use. The locations of the diversion points are:

- North Well: 1,320 ft S & 1,325 ft E of the NW corner Section 13, T109N, R51W (approx. center NW ¼) (Latitude 44.24993 & Longitude -96.90364)
- South Well: 1,935 ft S & 1,325 ft E of the NW corner Section 13, T109N, R51W (SE ¼ NW ¼) (Latitude 44.24840 & Longitude -96.90346)

(3) The amount of 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: April 1 – October 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land:

Section 13, T109N, R51W			
NE ¼ NW ¼	32 acres	NE ¼ SW ¼	39 acres
NW ¼ NW ¼	32 acres	NW ¼ SW ¼	39 acres
SW ¼ NW ¼	36 acres	SW ¼ SW ¼	16 acres
SE ¼ NW ¼	36 acres	SE ¼ SW ¼	16 acres
TOTAL: 246 acres			

(5) Pursuant to South Dakota Water Law 46-5-30.1 Old Tree Dairy, the holder and/or owner of Water Right No. 8880-3 is issued a license to appropriate water, the right to use 1.34 cubic feet of water per second from groundwater, two wells (Big Sioux: Brookings Aquifer, with priority dates of July 19, 2021 (1.34 cfs & 222 acres) & June 17, 2024 (24 acres), from the locations specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8880-3 and subject to the following qualifications:

1. The wells approved under this Permit and Water Permit No. 8531-3 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

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

SEP 27 2024

date





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SEP 27 2024

8531-3
8880-3

Old Tree Dairy
c/o Frido Verpaalean
46318 214th St
Volga SD 570071

Dear Mr. Verpaalean:

Enclosed is Water License No. 8880-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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

Sincerely,

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

NOTE: The applicable portions of Water Permit No. 8531-3 have been incorporated into Water Right No. 8880-3.

enclosures



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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.: 8880-3

Name of Applicant: Old Tree Dairy, Sonja VerPaalen

Date of Posting: 8/26/2024

Date of Removal: 9/27/2024

Ron Duvall, Engineer III

9/27/2024

Date

Subscribed and sworn to before me, a notary public, this 27th day of Sept, 2024.

Rachel Rodriguez
Notary Public - South Dakota
My commission expires: May 16, 2029

(SEAL)

