

WATER PERMIT NO. 8942-3

Name of Applicant: **Plainview Dairy, LLC.**

Address: **19218 473rd Avenue, Toronto SD 57268**

Phone: **209-564-2000**

Amount of Water Claimed: **100 AF**

Total Acres: **N/A**

Source of Water Supply: **Surface**

Water to be used for: **Commercial**

County: **Deuel**

Type of Waste Disposal System:

Location: **Approx. 5 miles northwest of Toronto**

PRIORITY Date Received: **03-18-25**

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

Corrected Application Received: **03-19-25**

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

Remarks:

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

Sec 17-T113N-R49W

Land to be Irrigated: **N/A**

Depth of Well: **N/A**

Well Driller: **N/A**

Remarks:

Type of Map: **aerial**

	x				
			17		

Reviewed and the Number Assigned on: **03-19-25**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8942-3**

Date of first receipt of application March 18, 2025.

Date of return to applicant for corrections, amendments or changes March 19, 2025.

Date of receipt of corrected application March 19, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8942-3 to Plainview Dairy, LLC., 19218 473rd Avenue, Toronto SD 57268, 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. 8942-3 appropriates up to 100 acre-feet (ac-ft) of water annually from unnamed tributaries of Peg Munky Run at a dairy operation located in the N 1/2 Section 17-T113N-R49W. Runoff will be captured in a 0.7 ac-ft capacity dugout and 3.6 ac-ft capacity storage dam, located respectively in the NW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 17-T113N-R49W. Water will be diverted from storage at a maximum instantaneous diversion rate of 0.222 cubic feet of water per second for commercial use at a dairy operation. This site is located approximately five miles northwest of Toronto SD.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 8942-3 is June 9, 2025.
5. The date from which applicant may claim right is March 18, 2025.
6. One-fifth of the construction is to be completed on or before December 9, 2027.
7. All construction is to be completed on or before June 9, 2030.
8. Water is to be put to beneficial use on or before June 9, 2034.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water must be by-passed.
2. Water Permit No. 8942-3 authorizes impoundment of runoff in a dugout and dam with a combined storage capacity of 4.3 acre-feet of water at the normal pool elevation and sufficient water annually to maintain the water level to the primary outlet elevations.
3. Water Permit No. 8942-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.

(continued)

4. Water Permit No. 8942-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
5. The Permit holder must report to the Chief Engineer annually the amount of water pumped from storage.
6. Water Permit No. 8942-3 authorizes an annual diversion of up to 100 acre-feet of water.

WATER MANAGEMENT BOARD

By: Mark Mayer
Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

7/21/25
date



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

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8942-3</u> Hydrologic Unit <u>10170202</u> Basin <u>Big Sioux-Middle</u> Newspaper <u>Clear Lake Courier</u> <u>Brookings Register</u> (office use only)
---	--

RECEIVED

MAR 18 2025

**Water Rights
Program**

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal
☒ Domestic (over 18 gpm)	☐ Industrial	☐ Other _____	

Type of Application:
(check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

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

1. Name to Appear on Water Permit PLAINVIEW DAIRY, LLC.

Mailing Address 19218 473RD AVE TORONTO SD 57268
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 209-564-2000 Email MIKE@STANDARD CATTLE.COM

2. Amount of water claimed 0.222 *CFS or 100 **GPM and 100 ***AF or 32,585,100 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply SURFACE NW 1/4 NW 1/4, SW 1/4 NE 1/4

4. Location of point of diversion N1/2 S17, T113N - R49W County DEUEL
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used DEUEL

6. Annual period during which water is to be used DAILY, 1/1 - 12/31

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

PLAINVIEW INTENDS TO CONSTRUCT STORAGE DAMS TO COLLECT SURFACE WATER FROM TWO STREAMS ON THE DAIRY SITE. THE WATER THAT IS COLLECTED WILL BE UTILIZED BY THE DAIRY FARM ONCE THE DAIRY'S CONSTRUCTION IS COMPLETE.

I, Kees Knevelbaard Manager, the applicant, certify under
Kees Knevelbaard (Mar 18, 2025 09:57 CDT)
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)

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 **NW DIVERSION, 400 ACRES**

- a) Surface Dimensions 50' X 170' Depth 6'
- b) Depth to water (ground surface to water level) UNKNOWN

4. Water Storage Dams **SE DIVERSION, 300 ACRES**

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.

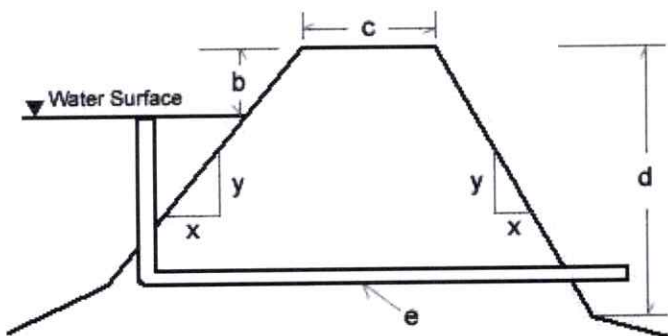
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

SETTJE AGRISERVICES
15460 NW 48TH ST.
RAYMOND, NE 68428

- b) Freeboard _____
- c) Crest Width 30
Crest Length 30
- d) Height 6
- e) Primary Outlet Capacity _____

If pipe, diameter _____

- f) Secondary Spillway Capacity 6 0
Spillway Width 0
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Area of Impoundment _____
- i) Storage 3.6 Acre Feet 000
- j) Drainage Area Above Dam 360 Acres



113N 49W
Section: 06

113N 49W
Section: 05

113N 49W
Section: 04

113N 49W
Section: 07

113N 49W
Section: 08

113N 49W
Section: 09

10170202 Middle Big Sioux

Big Sioux

113N 49W
Section: 18

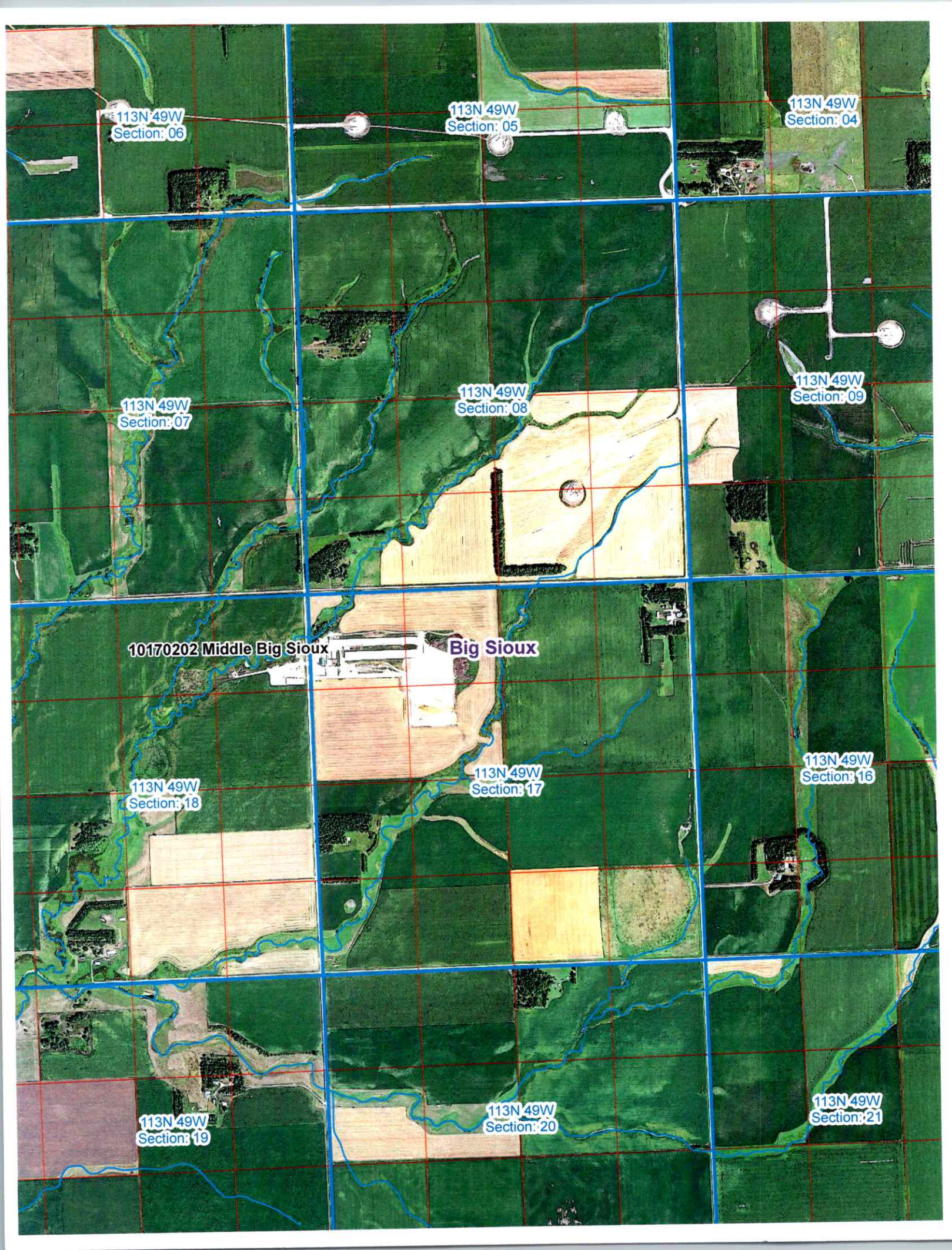
113N 49W
Section: 17

113N 49W
Section: 16

113N 49W
Section: 19

113N 49W
Section: 20

113N 49W
Section: 21



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 19th, 2025

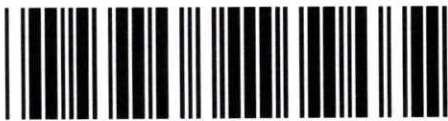
RECEIVED OF Plainview Dairy LLC 19218 473rd Avenue Toronto SD 57268

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

Fee for Application for Permit No. <u>8942-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8942-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>700.00</u>

By Mark Mayhew
Chief Engineer

Se



532581175

ANNUAL REPORT

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

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

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

Filing Fee: \$50

Total Fee: \$50

2024
FILING YEAR

1. Business ID and Name:

DL192732
BUSINESS ID

Plainview Dairy, LLC
BUSINESS NAME

2. The jurisdiction under whose law it is formed **South Dakota**

3. The address of the principal executive office (business address):

Actual Street Address

**729 EAST JEFFERSON ROAD
EL NIDO, CA 95317**

Mailing Address

**729 EAST JEFFERSON ROAD
EL NIDO, CA 95317**

4. The South Dakota Registered Agent's Name:

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

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

Name **Ty Eschenbaum**

Actual Street Address in this State

**101 N MAIN AVE STE 210
SIOUX FALLS, SD 57104**

Mailing Address in this State

**101 N MAIN AVE STE 210
SIOUX FALLS, SD 57103**

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

Name	Address
------	---------

Mike Vander Dussen	729 East Jefferson Road, El Nido, CA 95317
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6. 43-2A-1. "Agricultural land" defined.

For purposes of this chapter, the term "agricultural land" means land capable of use in the production of agricultural crops, timber, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit and other horticultural products but does not include any royalty interest, any oil, gas, or other mineral interest, or any lease, right-of-way, option, or easement relating thereto, or any land zoned by a local governmental unit for a use other than and nonconforming with agricultural use

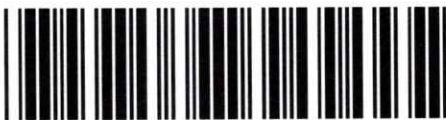
Does the entity own any Agricultural land? (Required)

Yes

If the answer is yes, please answer below

"Foreign Beneficial Owner" "Foreign entity" is registered outside of the United States or its territories or has more than ten percent ownership by a foreign government, foreign person, or any combination thereof. "Foreign Government" A Government or state- controlled enterprise of a government, other than the United States, its states, its territories, or its federally recognized Indian Tribes. "Foreign Person" A natural Person who is not a United States Citizen or a resident.

Does the entity have any foreign beneficial owners/interests?



No

If the answer is yes to the questions above, please provide the information below

Provide a legal description of the agricultural land or a description of the land's common location in the space provided below.

N/A

The total acreage of agricultural land held by the entity.

N/A

The Current use of the agricultural land. As defined in SDCL 43-2A-1.

Check all that apply:

N/A

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

Name	Address
Mike Vander Dussen	729 East Jefferson Road, El Nido, CA 95317

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a criminal penalty (SDCL 22-39-36).

10/02/2024
Dated

Email (Optional)

Mike Vander Dussen
Signature of an Authorized Person
Mike Vander Dussen
Printed Name

B0329-9708 10/02/2024 11:00AM Rec'd by SD SOS



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

File No. 8942-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Plainview Dairy LLC

ADDRESS: 19218 473rd, Toronto SD 57268

DATE: April 8, 2025

PHONE: 209-564-2000

RE: Application No. 8942-3

COMMENTS:

I contacted Plainview Dairy to clarify the size of structures (dugout and a dam) identified on the water permit application. According to Tony Zach, the capacity of the dugout is 0.7 acre-feet and the storage dam capacity is to be 3.6 acre-feet. On the application, the decimal place was missing between the 3 and the 6. I informed Mr. Zach I would add the 0.7 acre-feet capacity concerning the dugout, and make the correction concerning the size of the dam, to the application.

In response to a question as to whether the 100 acre-feet identified on the application was to be considered in addition to, or part of, the 550 acre-feet total from the ground water sources, Kees Knevelbaard indicated that 550 acre-feet is the total. Various water sources will be blended as needed to maintain as high of quality of water as possible, but the total use will not exceed 550 acre-feet. I informed Mr. Knevelbaard that a condition on the recommendation will reflect that combinations of the water sources may not exceed 550 acre-feet.

Also participating in the call was Amanda Dewell, Adam Mathiowetz, Paul Kostboth, and Sarah Nelson.

Ron Duvall, Engineer
SD DANR, Water Rights Program

Plainview Dairy - Surface Water Permit 3.17.25

Final Audit Report

2025-03-18

Created:	2025-03-18
By:	Sarah Nelson (sarah@a1developmentsolutions.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfnGTxIo9P9fDC4ZbawnVeDYdWFdoMaYQ

"Plainview Dairy - Surface Water Permit 3.17.25" History

-  Document created by Sarah Nelson (sarah@a1developmentsolutions.com)
2025-03-18 - 2:02:01 PM GMT
-  Document emailed to kees@plainviewdairy.com for signature
2025-03-18 - 2:02:14 PM GMT
-  Email viewed by kees@plainviewdairy.com
2025-03-18 - 2:57:10 PM GMT
-  Signer kees@plainviewdairy.com entered name at signing as Kees Knevelbaard
2025-03-18 - 2:57:57 PM GMT
-  Document e-signed by Kees Knevelbaard (kees@plainviewdairy.com)
Signature Date: 2025-03-18 - 2:57:59 PM GMT - Time Source: server
-  Agreement completed.
2025-03-18 - 2:57:59 PM GMT



Adobe Acrobat Sign

Rodriguez, Rachel

From: Sarah Nelson <sarah@a1developmentsolutions.com>
Sent: Wednesday, March 19, 2025 1:38 PM
To: Dewell, Amanda; Paul Kostboth; Mathiowetz, Adam (DENR); Rodriguez, Rachel
Cc: Kees Knevelbaard; Heather Kostboth
Subject: RE: [EXT] Plainview Dairy surface water application
Attachments: Surface Water Permit 3.17.25_Updated - signed.pdf

Hello Rachel –

Please see the updated app with the owners' signature on the form.

As we needed to get the updated signature – I went in and updated the form to “Commercial” use and added the note re: Peg Munky Run to the notes.

SARAH NELSON
A1 DEVELOPMENT SOLUTIONS
605.203.0006

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Wednesday, March 19, 2025 10:58 AM
To: Paul Kostboth <paulk@a1developmentsolutions.com>; Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>; Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Heather Kostboth <heather@a1developmentsolutions.com>
Subject: RE: Plainview Dairy surface water application

Paul, we can make the change from domestic to commercial on our end. I've cc'd our Program Assistant, Rachel who is currently handling the application. Once the fees are received she will begin processing.

Thank you,

Amanda Dewell
DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



From: Paul Kostboth <paulk@a1developmentsolutions.com>
Sent: Wednesday, March 19, 2025 8:55 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>; Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Heather Kostboth <heather@a1developmentsolutions.com>
Subject: RE: [EXT] Plainview Dairy surface water application

Hi Amanda:

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, March 19, 2025 12:07 PM
To: Mike-SCC; Paul Kostboth
Subject: Plainview Dairy Water Permit Application

Good afternoon,

In looking over your application, I see one issue:

- A review of the Secretary of State's corporation website finds Plainview Dairy, LLC. listed. However, Kees Knevelbaard is not listed as one of its partners. DANR will need the application to be signed by a listed partner or a statement of authority that the person signing the application has the authority to act on behalf of Plainview Dairy, LLC. on all matters involving the water permit application.

Once this issue is resolved, I can begin processing your application.

Thank you,

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



Rodriguez, Rachel

From: Dewell, Amanda
Sent: Wednesday, March 19, 2025 10:58 AM
To: Paul Kostboth; Mathiowetz, Adam (DENR); Rodriguez, Rachel
Cc: Kees Knevelbaard; Sarah Nelson; Heather Kostboth
Subject: RE: [EXT] Plainview Dairy surface water application

Paul, we can make the change from domestic to commercial on our end. I've cc'd our Program Assistant, Rachel who is currently handling the application. Once the fees are received she will begin processing.

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Amanda Dewell
DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



From: Paul Kostboth <paulk@a1developmentsolutions.com>
Sent: Wednesday, March 19, 2025 8:55 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>; Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>
Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Heather Kostboth <heather@a1developmentsolutions.com>
Subject: RE: [EXT] Plainview Dairy surface water application

Hi Amanda:

I appreciate the feedback and agree it should be marked as commercial. Good catch. Can we just make that note on the app as-is or do we need to change, have Kees re-sign, and send back?

My understanding is that both are tributaries which feed into Peg Munky Run to the SW of the site and that's the premise behind why the plan was to do this as a combined single application. Anything I'm missing there, Kees?

My apologies on the fee calculation. I had it in my head the \$200 was paid at a later date if/when the application is approved first. Kees – please proceed accordingly with the \$700 as Amanda noted.

Thanks,



Paul Kostboth

Founding Partner
paulk@a1developmentsolutions.com
Mobile | 605.295.0850
PO Box 783 | Sioux Falls, SD 57101
101 S Phillips Ave | Suite 207 | Sioux Falls, SD

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>

Sent: Tuesday, March 18, 2025 1:54 PM

To: Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>; Paul Kostboth <paulk@a1developmentsolutions.com>

Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Heather Kostboth <heather@a1developmentsolutions.com>

Subject: RE: Plainview Dairy surface water application

Paul,

Thank you for taking point on this application. My first thought would be that this application should likely be for "commercial use". In reviewing Plainview's existing permits, that is how it has been done in the past based on definitions provided in State Statute and Administrative Rule.

"Commercial use," water use supplied from other than a common water distribution system to a business such as a truck stop; tourist attraction; eating, drinking, or lodging establishment; commercial campground; convenience store; implement business; salvage business; or any other business or to a livestock confinement operation that exceeds reasonable domestic use;

"Domestic use," use of water not exceeding eighteen gallons per minute on an average daily basis, except for larger domestic wells in operation before July 1, 1983, by an individual, or by a family unit or household, for drinking, washing, sanitary, and culinary purposes and other ordinary household purposes; irrigation of a noncommercial family garden, trees, shrubbery, or orchard not greater in area than one acre; eighteen gallons per minute or less for uses in schools, parks, and other public recreation areas; geothermal heat for a single household; or noncommercial on-farm alcohol production. The use of water supplied by a water distribution system for the preceding purposes, for the occupants of schools, hospitals, and other custodial care facilities and for fire protection is a domestic use as against appropriative rights having a priority after June 30, 1978. Stock watering is a domestic use. Use of water not exceeding eighteen gallons per minute on an average daily basis for livestock in a confinement operation, including water for drinking, sanitary and general welfare purposes and for like purposes by those caring for the livestock, is a domestic use.

Secondly, the fee based on the volume of water being requested (100 ac-ft annually), would be \$500 + \$200 (licensing & inspection fee) = \$700 total due before the application can be processed.

Finally, before I pass the application on to our Program Assistant, do the two streams identified in the comment section have names, or are they tributaries to a larger named stream/creek?

Thank you again,

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov



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

Sent: Tuesday, March 18, 2025 1:27 PM

To: Paul Kostboth <paulk@a1developmentsolutions.com>

Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Dewell, Amanda <Amanda.Dewell@state.sd.us>; Heather Kostboth <heather@a1developmentsolutions.com>

Subject: RE: [EXT] Plainview Dairy surface water application

Paul,

New water permit applications go to Amanda Dewell as our Water Rights Permitting Administrator.



Adam Mathiowetz, PE

Engineer, Water Rights Program

Department of Agriculture and Natural Resources

523 E. Capitol Ave. Pierre SD, 57501

605.773.3352

danr.sd.gov

From: Paul Kostboth <paulk@a1developmentsolutions.com>

Sent: Tuesday, March 18, 2025 1:19 PM

To: DANR Mail <DANRMail@state.sd.us>; Mathiowetz, Adam (DENR) <Adam.Mathiowetz@state.sd.us>

Cc: Kees Knevelbaard <Kees@plainviewdairy.com>; Sarah Nelson <sarah@a1developmentsolutions.com>; Heather Kostboth <heather@a1developmentsolutions.com>

Subject: [EXT] Plainview Dairy surface water application

Hi Adam:

I wasn't 100% certain who to run the attached application through now with Eric's retirement or who all was involved with the previous conversations Plainview/Kess (Cc'd) had with Water Rights regarding their intentions to collect some of the surface water onsite so thought it would make the most sense to start with you in addition to the standard email address. Hopefully this application is something you had at least some preliminary involvement in when the idea was originally broached?

Also, none of us from A1 (Heather and Mallory on our team Cc'd) were originally involved with this application either but wanted to let you and the team know we will be moving forward so happy to help get answers to any questions your team might have as we get this one teed up for public notice. Please just let us know on next steps.

Kees – I'm assuming you know this routine by heart at this point but if you need any additional info to send in the \$500 fee that's due just say the word.

Thanks,



Paul Kostboth

Founding Partner

paulk@a1developmentsolutions.com

Mobile | 605.295.0850

PO Box 783 | Sioux Falls, SD 57101

101 S Phillips Ave | Suite 207 | Sioux Falls, SD



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8942-3, Plainview Dairy LLC**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8942-3, Plainview Dairy LLC, 19218 473rd Avenue, Toronto SD 57268.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8942-3 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. Low flows as needed for downstream domestic use, including livestock water must be by-passed.
2. Water Permit No. 8942-3 authorizes impoundment of runoff in a dugout and dam with a combined storage capacity of 4.3 acre-feet of water at the normal pool elevation and sufficient water annually to maintain the water level to the primary outlet elevations.
3. Water Permit No. 8942-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
4. Water Permit No. 8942-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
5. The Permit holder must report to the Chief Engineer annually the amount of water pumped from storage.
6. Water Permit No. 8942-3 authorizes an annual diversion of up to 100 acre-feet of water.

See report on application for additional information.

Mark Mayer, PE
Director of Office of Water
May 16, 2025

Report to the Chief Engineer
Water Permit Application No. 8942-3
Plainview Dairy LLC
05/12/2025

Water Permit Application No. 8942-3 proposes to appropriate up to 100 acre-feet (ac-ft) of water annually from unnamed tributaries of Peg Munky Run at a dairy operation located in the N $\frac{1}{2}$ of Section 17, T113N-R49W. Runoff will be captured in a 0.7 ac-ft capacity dugout and a 3.6 ac-ft capacity storage dam, located respectively in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T113N-R49W. Water will be diverted from storage at a maximum instantaneous diversion rate of 0.222 cubic feet of water per second (cfs) for commercial use at a dairy operation. This site is located in Deuel County, approximately five miles northwest of Toronto, South Dakota.

Water Source: Runoff from unnamed tributaries of Peg Munky Run, which is a tributary to the Big Sioux River.

South Dakota Codified Law (SDCL) 46-2A-9

A permit to appropriate water may only be issued if there is reasonable probability that unappropriated water is available for the applicant's proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.

This report will address the availability of surface water runoff into a dugout and a dam from unnamed tributaries of Peg Munky Run, as well as whether the proposed appropriation can be developed without unlawful impairment of existing domestic water uses and water rights.

Description of Proposed Water Source

Peg Munky Run is a stream that headwaters in Deuel County, flowing generally southwest through a portion of Brookings County and then into the Big Sioux River. When the original survey of the region was being made, the early name of the creek was jokingly called "Pee Munky Run." Later the "Pee" was changed to "Peg," however on some maps the older spelling is retained (WPA, 1940). Peg Munky Run was estimated to have an annual outflow of 1,930 acre-feet with an average annual streamflow of 2.7 cfs (Kume, 1985).

This application proposes to collect surface water from two separate tributaries that flow into Peg Munky Run. The surface water will be collected with two structures: a dugout with a capacity of 0.7 ac-ft located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, and a storage dam with a capacity of 3.6 ac-ft located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, both in T113N-R49W. The capacities and dimensions of the structures were provided with the application by the design firm called Settje Agri Services and Engineering. This application proposes to appropriate no more than 100 ac-ft of water per year total from both storage structures combined.

From aerial imagery (FSA, 2025), it appears that Peg Munky Run may be dry during parts of the year, and its tributaries are dry draws that have intermittent flow depending on the season and conditions in any given year (Kume, 1985). The amount of runoff that is available for the dugout and the dam will vary from year to year depending on the quantity and temporal distribution of precipitation as well as the seasonal variations of evaporative loss directly from the pool surfaces.

Water Availability

The site plan provided with the applicant showed a map of the proposed dairy site, the locations of the two storage structures, and outlines of the estimated local watersheds for both capture sites (400 acres for the dugout and 300 acres for the dam). According to USGS Streamstats (2019), the drainage basin of the proposed dugout has an area of 0.65 square miles or approximately 416 acres. According to the site plan provided by Settje Agri Services, the proposed structures being built will re-route some of the natural flows of the watershed into the proposed dam, allowing for greater capture of surface runoff than if the buildings were not there. Therefore, the drainage basin of the proposed dam has an area of 0.66 square miles or approximately 422 acres.

The NRCS annual surface yield method for South Dakota was used to estimate the annual surface yield for the dugout and the dam proposed by this application (USDA-NRCS, 1984). This method estimates the volume of runoff which can be expected for a twelve-month period at certain annual exceedance probabilities using contributing drainage area, weighted soil cover complex number (runoff curve number, CN) determined by the proportions of hydrologic soil groups in the basins, and drainage basin locations on an isogram map. Assumptions made for this report using this method are that any soil that is split between two hydrologic soil groups take the lower infiltration group category, that the land for this watershed is categorized as “cultivated without conservation treatment” (USGS, 2021) and that the isogram map used was No. 2.5. The weighted curve number for both drainage basins was 88. The method does not account for groundwater baseflow into the tributaries and may be an underestimation of yield. The annual yields at the proposed dugout and dam are listed on **Table 1**. The exceedance probabilities describe the percentage of time (i.e., a probability of 0.5 means one out of every two years) that an annual yield volume is expected to be exceeded.

Table 1. Exceedance probabilities of total annual yield of surface runoff (USDA-NRCS, 1984) for the contributing drainage basins of the proposed dugout and dam (416 acres and 422 acres, respectively) (USGS, 2019).

Exceedance Probability	Inches of annual surface yield per acre for dugout basin	Total annual surface runoff (ac-ft) for dugout	Total annual surface runoff (ac-ft) for dam
0.8	1.01	35.0	35.5
0.5	1.92	66.6	67.5
0.2	3.97	137.6	139.6
0.1	5.43	188.2	191.0

By looking at monthly mean flow data for nearby Hidewood Creek, USGS Gage No. 06479640 (USGS, 2025), the annual yields for the dugout and the dam shown in Table 1 will not be evenly distributed throughout the year. According to local monthly mean streamgage data, the months of March, April, May, and June account for nearly 90% of the annual yield in this area.

The proposed dugout and dam would also collect water through direct precipitation and lose stored water due to evaporation. According to information submitted by the applicant, the surface area of the proposed dugout is to be 8,500 square feet, or approximately 0.19 acres. The surface area of the proposed dam is estimated to be approximately 0.6 acres (3.6 acre-feet storage capacity and a dam height of 6.0 feet). Brookings is located approximately 25 miles south of the site location and has comprehensive monthly precipitation and evaporation data (Poudyal, 2006; U.S. Climate Data, 2025). **Table 2** lists the estimated monthly volume of water loss from the surface area of the dugout and dam using Brookings climate data. The rate of evaporation from smaller lakes is greater than evaporation from larger lakes, so a reduction coefficient is necessary to convert pan evaporation to lake evaporation. The pan to lake coefficient commonly used is 0.7 (Poudyal, 2006).

Table 2. Estimated annual loss due to direct evaporation and precipitation from surface of dugout and dam, using data from Brookings, South Dakota (Poudyal, 2006; U.S. Climate Data, 2025).

Month	Average monthly evaporation (inches)	Pan to Lake Coefficient (0.7)	Monthly Precip. (1981-2010 normals) (inches)	Direct Precip - Evap (inches)	Estimated Monthly Loss for Dugout and Dam (acre-feet)
Jan	0.8	0.80	0.35	-0.45	-0.03
Feb	1.17	1.17	0.41	-0.76	-0.05
Mar	2.62	2.62	1.16	-1.46	-0.10
Apr	5.79	4.05	2.13	-1.92	-0.13
May	7.5	5.25	2.97	-2.28	-0.15
Jun	9.07	6.35	4.30	-2.05	-0.13
Jul	8.68	6.08	3.25	-2.83	-0.19
Aug	7.72	5.40	3.07	-2.33	-0.15
Sep	6.03	4.22	3.19	-1.03	-0.07
Oct	4.5	3.15	2.05	-1.10	-0.07
Nov	1.36	1.36	0.95	-0.41	-0.03
Dec	0.79	0.79	0.48	-0.31	-0.02
Total (ac-ft)					-1.11

Applying the estimated monthly evaporation losses and direct precipitation to the approximate surface areas of the proposed dugout and dam, the yearly loss of approximately one acre-foot (**Table 2**) and estimated monthly losses would not be enough to offset the estimated annual surface runoff from the drainage basins.

This application seeks to appropriate 100 acre-feet of water per year from captured surface water stored in two structures. Based on NRCS Method A to determine annual surface yield, there will be enough water flowing through the system over the course of a normal year (0.5 probability, **Table 1**) to satisfy this application. There may be years that water does not flow through the tributaries of Peg Munky Run or that there is not enough surface runoff to satisfy the requested 100 acre-feet per year.

Potential for Unlawful Impairment

The only other water right/permit appropriating surface water located on or near Peg Munky Run is Water Right No. 8858-3, also held by Plainview Dairy LLC. Water Permit No. 8858-3 is not capturing runoff water from the watershed of the Peg Munky Run tributaries, but capturing runoff water from direct precipitation onto roof and drive surfaces.

There is a Location Notice No. 26688 that is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, T113N-R49W and is near the proposed dugout for this application. That location notice is within the property of the dairy, and in the Water Permit file for Water Permit No. 8858-3 there is mention of an existing dam in the same area, which is likely the same dam that was filed for the location notice in 1965. There are no other location notices on or near the same tributaries of Peg Munky Run that this application proposes to capture runoff from (Water Rights, 2025a and 2025b). Any domestic uses below the same tributaries of Peg Munky Run are expected to be minimal, but do have preference over appropriative water permits such as this application. Approval of this permit is not expected to adversely impact any existing domestic uses or water rights/permits.

Conclusions

1. This application proposes to appropriate up to 100 acre-feet (ac-ft) of water annually from unnamed tributaries of Peg Munky Run at a dairy operation located in the N $\frac{1}{2}$ of Section 17, T113N-R49W. Surface runoff will be captured in a 0.7 ac-ft capacity dugout and a 3.6 ac-ft capacity storage dam, located respectively in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, T113N-R49W.
2. Water will be diverted from the storage dugout and dam at a maximum instantaneous diversion rate of 0.222 cfs for year-round commercial use.
3. Using NRCS Method A to estimate the annual runoff volumes expected from the dugout and dam drainage basins, and incorporating direct precipitation and evaporative losses to the dugout and dam surface area, there is a reasonable probability that water is available during normal years to satisfy the annual request of 100 acre-feet of consumptive use.
4. Approval of this permit is not expected to adversely impact any existing domestic uses or water rights.
5. Flow as needed for domestic use, including livestock water and prior water rights must be bypassed.



Brittan R. Hullinger
Natural Resource Engineer I
SD DANR, Water Rights Program

References

- FSA (Farm Service Agency) 2025. Aerial Photography of Deuel County, Years 2003-2023
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- U.S. Climate Data. 2025. Brookings, South Dakota. <usclimatedata.com> Accessed May 9, 2025
- USDA-NRCS. 1984. Engineering Field Manual—Annual Surface Yield (Method A). U.S. Department of Agriculture (USDA). Natural Resources Conservation Service (NRCS).
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- Water Rights, 2025a. Water Right/Permit Files. SD DANR Water Rights Program. Joe Foss Building. Pierre, South Dakota.
- Water Rights, 2025b. Location Notice Files. SD DANR Water Rights Program. Joe Foss Building. Pierre, South Dakota.
- WPA (Work Projects Administration). 1940. South Dakota Place-Names, Part III River and Creek Names. Compiled by Workers of the Writers' Program of the Works Projects Administration in the State of South Dakota. University of South Dakota. Vermillion, 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 NEWSPAPERS RIGHT AWAY.**

May 20, 2025

Plainview Dairy, LLC.
c/o Kees Knevelbaard
19218 473rd Avenue
Toronto SD 57268

Dear Mr. Knevelbaard:

Water Permit Application No. 8942-3 for commercial use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Clear Lake Courier printed at Clear Lake (Ph # 605 874-2499) and the Brookings Register printed at Brookings (Ph # 605 692-6271). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Acting Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Acting 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. 8942-3 to Appropriate Water

Notice is given that Plainview Dairy, LLC., 19218 473rd Avenue, Toronto SD 57268, has filed an application for a water permit to appropriate up to 100 acre-feet (ac-ft) of water annually from unnamed tributaries of Peg Munky Run at a dairy operation located in the N 1/2 Section 17-T113N-R49W. Runoff will be captured in a 0.7 ac-ft capacity dugout and 3.6 ac-ft capacity storage dam, located respectively in the NW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 17-T113N-R49W. Water will be diverted from storage at a maximum instantaneous diversion rate of 0.222 cubic feet of water per second for commercial use at a dairy operation. This site is located approximately five miles northwest of Toronto SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8942-3 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 Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting 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 June 9, 2025.

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 Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting 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 June 9, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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, May 20, 2025 8:16 AM
To: ClearLake
Subject: 8942-3 Plainview Dairy - Public Notice
Attachments: 8942-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 28, 2025.

Plainview Dairy, LLC., 19218 473rd Avenue, Toronto SD 57268, 209-564-2000, 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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, May 20, 2025 8:17 AM
To: registerclassifieds@brookingsregister.com
Subject: 8942-3 Plainview Dairy - Public Notice
Attachments: 8942-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 28, 2025.

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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
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice

Notice Of Application
No.8942-3
Plainview Dairy, LLC

paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for **One** successive week(s) to wit:

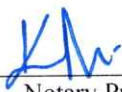
May 28,2025

That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: **\$46.51**


Ken Reiste

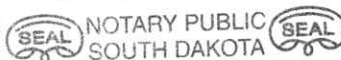
Subscribed and sworn to before me

this 28th day of May,
2025



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

KELSEY MONNIER



Public notice

NOTICE OF APPLICATION
NO. 8942-3 to
Appropriate Water

Notice is given that Plainview Dairy, LLC., 19218 473rd Avenue, Toronto SD 57268, has filed an application for a water permit to appropriate up to 100 acre-feet (ac-ft) of water annually from unnamed tributaries of Peg Munky Run at a dairy operation located in the N 1/2 Section 17-T113N-R49W. Runoff will be captured in a 0.7 ac-ft capacity dugout and 3.6 ac-ft capacity storage dam, located respectively in the NW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 17-T113N-R49W. Water will be diverted from storage at a maximum instantaneous diversion rate of 0.222 cubic feet of water per second for commercial use at a dairy operation. This site is located approximately five miles northwest of Toronto SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8942-3 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 Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting 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 June 9, 2025. The petition shall include a

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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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held. Any comment must be filed by June 9, 2025.

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

Published once at the approximate cost of \$46.51. (16-1/131)

This notice may be viewed free of charge at sdpublicnotices.com maintained pursuant to § 17-2-1.

Affidavit of Publication

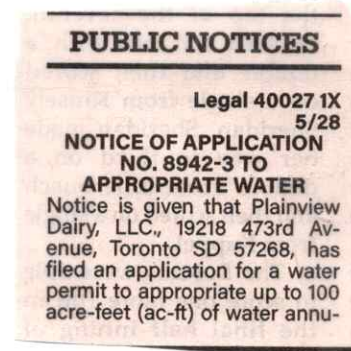
State of South Dakota

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



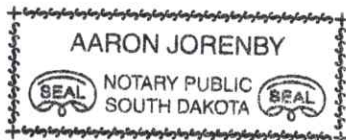
L40027 Notice of Application, Plainview Dairy

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

May 28, 2025

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:

Forty-Seven Dollars and Ninety-One Cents \$47.91



[Handwritten Signature]

30 day of

May

2025

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

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WATER

ally from unnamed tributaries of Peg Munky Run at a dairy operation located in the N 1/2 Section 17-T113N-R49W. Runoff will be captured in a 0.7 ac-ft capacity dugout and 3.6 ac-ft capacity storage dam, located respectively in the NW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 17-T113N-R49W. Water will be diverted from storage at a maximum instantaneous diversion rate of 0.222 cubic feet of water per second for commercial use at a dairy operation. This site is located approximately five miles northwest of Toronto SD. Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8942-3 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 Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting 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 June 9, 2025.

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 Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting 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 June 9, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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 1X at the total approximate cost of \$47.91 and may be viewed free of charge at www.sdpublicnotices.com.

From: DANRnoreply <DANRnoreply@state.sd.us>

Sent: Sunday, June 8, 2025 10:01 PM

To: Duvall, Ron <Ron.Duvall@state.sd.us>; Gronlund, Eric <Eric.Gronlund@state.sd.us>; amanada.dewell@state.sd.us

Subject: [EXT] Comment on No. 8942-3, Plainview Dairy, LLC

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8942-3, Plainview Dairy, LLC

Comment Deadline Date:

06/09/2025

Date Comment Filed:

06/08/2025 22:01:11

Commenter Info:

Troy Lenning

47236 193rd St.

Toronto SD, 57268

Comment:

I have a comment on the granting of Plainview Dairy to harvest water out of two tributaries of Peg Munky Run Creek. Both tributaries flow down to my property where i reside and converge before they flow under interstate 29. The well which I use where i reside is about eight feet to the static water level and is located near the creek tributaries. By removing nearly 33,000,000 gallons annually from this watershed it will endanger the water capacity of this well. It will also remove fresh water recharge to the stock dam on my parents property which is also on this tributary along with the neighbors down stream who in some instances is the only water source in their pastures. With the additional manure production from this large dairy being applied to the land in this watershed and the removal of nearly 33,000,000 gallons of water annually I would anticipate the creek water and dams to become very stagnant in the heat of the summer. According to the report prepared by Ms Hullinger the dugout to be used is likely the one built in 1965. I would be curious to the water holding capacity after sixty years of silting and sedimentation.

Attachment:

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, May 20, 2025 8:25 AM
To: Kees Knevelbaard
Cc: Sarah Nelson
Subject: 8942-3 Plainview Dairy - Public Notice
Attachments: 8942-3 Rec.pdf; 8942-3 Letter.pdf; 8942-3 PubNotice.pdf

Good morning,

Attached is a copy of the report, acting 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

JUL 21 2025

Plainview Dairy, LLC.
c/o Kees Knevelbaard
19218 473rd Avenue
Toronto SD 57268

Dear Mr. Knevelbaard:

Enclosed is Water Permit No. 8942-3 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,

Mark Mayer, PE
Director of Office of Water

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.: 8942-3

Name of Applicant: Plainview Dairy, LLC

Date of Posting: 5/27/2025

Date of Removal: 7/21/2025

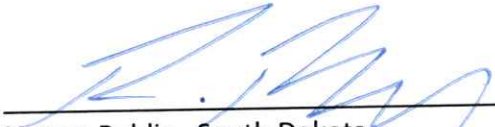


Ron Duvall, Engineer III

7/21/2025

Date

Subscribed and sworn to before me, a notary public, this 21st day of July, 2025.



Notary Public - South Dakota
My commission expires:

**Rachel Rodriguez
My Commission Expires
May 18, 2029**

(SEAL)

