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THE HOUSEHOLDER BULLETIN

The Monthly Newsletter of Leut Services, P.C.

WETLAND RULE CHANGE

On July 28, the USDA published an interim final rule stating that wetland determinations made after 1990 are properly certified. The rule addresses inconsistencies in how wetland determinations have been certified and issued. Specifically, it states that all wetland determinations issued after November 28, 1990, are considered certified if the producer was 1) notified of the determination and 2) given appeal rights at the time of the decision. The rule responds to the 2024 Supreme Court decision in *National Wildlife Federation v. Lohr*. In that lawsuit, the NWF challenged USDA's 2018 and 2020 rules on how NRCS treated wetland determinations made before 1996. NWF argued that USDA changed its policy to make it easier to treat older determinations as "certified" without explaining the change, which violated the Administrative Procedure Act. The Court found that NRCS violated the APA by changing its policy on the certification status of wetland determinations made before 1996 without providing a reasoned explanation. An agency assessment also showed that, from 1997 to 2013, NRCS did not consider most wetland determinations made before 1996 to be certified. This change will give farmers clearer guidance when installing drain tile, clearing land, and making land improvements without risking USDA program eligibility.

A NOTE FROM YOUR *Attorney*

Once upon a time, a businessman was hired to manage money and property. Unfortunately, he mishandled the funds and neglected the property. With his year-end review approaching, it looked like termination was on the horizon. Rather than admitting his wrongdoing and creating a Performance Improvement Plan, he reached out to the customers he had wronged. He told them he would forgive their "outstanding debt" to the company and throw in a steak dinner to compensate them for their troubles. At his year-end review, his supervisor praised his shrewd thinking and forgave him (*I am guessing this was his first incident, and not a repeated behavior*). Instead of feeling sorry for himself, the businessman acted quickly to make things right. This story is a tale as old as time, first recorded nearly 2,000 years ago. And while I appreciate the opportunistic thinking this shrewd manager displayed, it also reminded me that climbing the ladder of success is difficult, but staying

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ND DAIRY OPP

In July, a state North Dakota judge heard arguments about the fate of a dairy operation permit in northeastern North Dakota. Riverview, LLP, plans to build a 25,000-head dairy in Traill County. The State issued an environmental permit in 2025, and the Dakota Resource Council is challenging that permit. The Council is an environmental and landowner rights group based in North Dakota with ties to Food & Water Watch. It argues that the State ignored multiple laws when issuing the permit. The Council alleges that Riverview's nutrient management plan does not include enough information about the effects of manure application on fields with drainage systems. The Council also argues that the State should require a federal permit. The State's position is that it has no authority to require a federal permit unless there is a pollution discharge, which it says is not present in this project. Meanwhile, the State contends it made complete findings of fact and responded to all comments raised during the permit process. Riverview states it followed the required permit process. The project is in the early stages of construction. The Herberg Dairy, along with the Abercrombie Dairy, would quadruple the number of milk cows in the state.

MORE FARM AID, RIP FARM BILL

On July 22, the House of Representatives passed a \$95 billion budget resolution that would direct \$12 billion in aid to agricultural producers raising row crops and specialty crops. Groups like the American Farm Bureau Federation and the National Farmers Union applauded the aid. The proposal now heads to the Senate. On another note, on August 6, the Senate Agriculture Committee's final farm bill markup vote failed 10-11. Sen. McConnell, R-Ky. was absent, and Sen. Tuberville, R-Ala., left the meeting before the final vote. The Senate plans to vote again on the bill in early September, as the current extension ends on September 30.

(Note from Your Attorney continued)

faithful once you're there is even harder. To be a successful businessperson, you need two qualities: shrewdness and faithfulness. This businessman likely had potential at the beginning, but over time he lost the integrity a leader must maintain. Being shrewd means being clever and practical—having the kind of common sense that reads a situation quickly and acts promptly. The businessman was shrewd here because he moved quickly to make amends. He could have kept skimming from the top, but instead he gave back what he wrongly took. The second characteristic, faithfulness, means acting with integrity, doing what is right, and staying committed to a mission bigger than yourself. He failed on that front: he mishandled money and property that were not his. He protected his personal image over his character. He put his motives ahead of the company's mission and its customers. Many people lose everything not on the way up, but after they've arrived. The true test of leadership is not the wealth, money, or titles gained; it is whether a person remains faithful once they have them. *"Integrity is doing the right thing, even when no one is watching."* C. S. Lewis

As always, Consult Your Attorney,

Kiera Leddy



Tune in to Coffee with Kiera on Tuesday, August 11, at 10 a.m. Email or text Kellie for the link. Available to Colony clients only.

DID YOU KNOW *with Grandpa Joe*

Long Lake Colony is a daughter of Pearl Creek Colony and is located in McPherson County. Long Lake was established in 1967. In 2025, Long Lake received an award from the SD Dept. of Agriculture and Natural Resources for its drinking water. For 13 consecutive years, Long Lake supplied safe drinking water to its people and was awarded the Secretary's Award for Drinking Water Excellence. Fun fact: Long Lake Colony did business with Kiera's grandpa back in the day, and it must have been memorable enough for the boss to remember. Long Lake has one daughter colony, Grassland.



Long Lake Colony 1981



Long Lake Colony Today



Long Lake Farms- I don't think we've seen this truck on the Rubber Duck wash cam...



This way to Long Lake Colony

NO MORE “HARM”

The Trump Administration finalized a new rule removing the definition of “harm” under the Endangered Species Act (ESA). Congress unanimously passed the ESA in 1973. Since then, differing interpretations and rules have created challenges for developers, landowners, farmers, and ranchers. Since 1975, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have defined “harm” as “an act which actually kills or injures wildlife,” including “significant habitat modification or degradation.” In practice, the definition prohibited habitat modification or degradation that resulted in injury or death to protected wildlife. Now, the Trump Administration has removed the definition. Within three days of the rule change, environmental groups filed three separate federal lawsuits claiming the rule violates the Administrative Procedure Act, the National Environmental Policy Act, and conflicts with previous Supreme Court rulings. Litigation will determine whether the rule remains in effect or may provide additional clarification. However, these lawsuits take years to resolve, and during that time the rule remains on the books.

THE SCOOP ON POOP: CAFO PERMITS

By Laney Andrews

In 1997, the South Dakota Department of Environment and Natural Resources permitted the first Concentrated Animal Feeding Operation (CAFO). As of January 1, 2026, there are 441 total permits. CAFO permitting is overseen by the South Dakota Department of Agriculture and Natural Resources (DANR). The goal of the permit is to prevent damage from pollution to soil and water, while allowing farmers the opportunity to develop their operations. Depending on the headspace capacity of the livestock building and waste disposal plan, there are specific requirements and permits that are necessary to obtain. Overall, a general permit is required for all large CAFOS, and medium and small animal feeding operations meeting certain pollution potential criteria. Under a General Permit, builders must comply with concrete manure storage, surface water, and shallow aquifer protection standards, county ordinances, give public notice of the building, and in most cases obtain a conditional use permit from the county before construction. Instead of a General or State Permit, an applicant can also apply for a National Pollutant Discharge Elimination System (NPDES) permit. Even after the CAFO is permitted to operate, continuous manure pit testing, soil sampling, and manure application plan updates for fields are conducted. Additionally, CAFO owners or operators must attend an environmental training program within 3 years of filing a permit application. This year, the training was hosted by Bob Thaler, SDSU Extension Swine Specialist, and other SDSU Extension associates. Jason Roggow, Natural Resources Engineer with the SD Dept. of Agriculture and Natural Resources, presented on regulations for CAFOs. Currently, DANR General Permits are reissued every 5 years. The last reissuance was in April 2017, *(continued on next column)*

and there are long overdue changes being made. Positive proposed updates included greater flexibility of pump line placements, alternatives for assessing a 100-year flood evaluation plan, stricter inspections for manure management systems, and increasing temporary stockpile storage to 30 days. However, concerns have been raised about feed storage areas and lack of clarification regarding new concrete design standards. The contested case hearing for the reissuance of the State General permit and NPDES permit will take place on September 21. If you are looking to build a CAFO, please consult your attorney or an engineer.

U.S. TO ALLOW MEXICAN CATTLE

On July 24, the USDA announced that it will lift its ban on Mexican cattle imports, which was put in place for biosecurity purposes to keep the New World Screwworm out of the U.S. The Biden Administration first implemented the ban in November 2024. The border reopened in early 2025 after President Trump's inauguration but closed again a few months later. Ultimately, the ban did not keep the screwworm out, but economists believe it helped drive U.S. beef prices to record highs. Ports will begin accepting imported Mexican cattle in phases, with the Douglas, Arizona, port scheduled to reopen first at the end of August. According to the USDA, every animal entering the U.S. through the southern port will undergo a full inspection to ensure it is free from screwworm. The U.S. and Mexico trade approximately 1 million head of cattle each year, which makes up a large portion of Texas's agricultural economy. As part of its biosecurity efforts, the USDA will spend \$25 million on a facility in Arizona to disperse sterile flies used to combat the screwworm.

What do you call a Mexican cow? A moo-xican

UNLOCKING INFORMATION

By Kellie Ripp

If you have traveled internationally, you may be familiar with FOIA. FOIA stands for the Freedom of Information Act. This act was passed in 1967 to provide the public with the right to access records held by a federal agency. A FOIA request can disclose secure, confidential information that the government has on file. Examples of general information you can obtain from a FOIA request include agency records, information about historical events, government studies, and personal files. Examples of personal information you can obtain from a FOIA request include immigration files, background checks, and international travel history. A federal agency is required to disclose the requested information, unless it falls under nine exemptions. The nine exemptions are as follows:

1. Classified information that protects national security.
2. An agency's internal rules and practices.
3. Federal law that is prohibited from being disclosed.
4. Confidential trade secrets or financial information.
5. Communication between agencies that are protected by attorney-work product privilege, attorney-client privilege, and deliberative process privilege.
6. Disclosed information that would invade others' personal privacy.
7. Information that could interfere with law enforcement investigation, a person's right to a fair trial, an individual's physical safety, etc.
8. Regulation and reports related to financial institutions.
9. Information regarding geological wells.

Receiving information from a FOIA request could take anywhere from a few days upwards to months, even years. It is best to avoid this process, because we would rather not be on the government's timeline. However, it is a good alternative if necessary.

MAKING CENTS OUT OF DOLLARS

Thank you, Janelle Guericke, for spending the day with us at our summer seminar. Janelle spoke on the importance of financial stewardship and management. We appreciated the insight, experience, and advice she provided. We look forward to having her back in our "classroom" again!



You know she's a great presenter when she gets the class on their feet!
(Candy bars were awarded to participants)

RECIPE OF THE MONTH

Peach Cake with Brown Butter Frosting

Cake

1 cup melted butter
½ cup sour cream, at room temperature
3 large eggs, at room temperature
¾ cup granulated sugar
¾ cup brown sugar
1 tbsp vanilla extract
1 cup milk, at room temperature
3 cups all-purpose flour
1 ½ tsp baking powder
½ tsp baking soda
1 tsp salt

Filling

2 ½ cups chopped peaches (about 5)
1 tbsp sugar
1 tsp ground cinnamon
⅓ cup raspberry jam

Frosting

2 sticks butter, cubed
3 oz cream cheese, room temp
2-3 cups powdered sugar
⅓ cup maple syrup
2 tsp vanilla extract

Preheat the oven to 350° F. Line a 9x13-inch baking dish with parchment paper. For the filling, toss the peaches with the sugar and cinnamon. Stir in a few spoonfuls of the raspberry jam, saving the rest for the top. To make the cake. Beat together the butter, sour cream, eggs, sugar, brown sugar, and vanilla until smooth. Mix in the milk, then add the flour, baking powder, baking soda, and salt. Mix just until combined. Spread one-third of the batter into the prepped cake pan. Top with half the peaches, then another one-third of the batter. Add the remaining peaches and finish with the remaining batter, smoothing the top. Bake for 40 to 50 minutes, until a toothpick inserted in the center comes out clean. Cool completely. For the frosting, brown the butter in a skillet until golden and fragrant. Let cool to room temperature, then beat with the cream cheese, powdered sugar, maple syrup, and vanilla until light and fluffy, adding more powdered sugar as desired. Spread the frosting over the cooled cake. Swirl the remaining raspberry jam over the top, slice and enjoy! *Recipe by Half Baked Harvest.*



The kids at Tschetter Colony won the prize for the most entries in our coloring contest. They received water balloons, freezies, and a slip-and-slide, which we hear were put to good use in this extreme summer heat!

EVENTS & ACTIVITIES

Aug. 4-6 // MN Farm Fest
Aug. 11 // Coffee with Kiera
Aug. 18-20 // Dakotafest
Aug. 21 // Dr. Bob Thaler's Retirement Party
Aug. 21-22 // NextGen Beef Tour (Mitchell)
Sept. 2-7 // SD State Fair
Sept. 7 // Labor Day (Office Closed)
Sept. 21 // SD CAFO Permit Hearing
Oct. 13-14 // Office Closed

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