

TK ANGUS SWINE FACILITY

MASTER INVESTIGATION & PUBLIC RECORD

Cherry County, Nebraska

A Public Record Compilation and Preliminary Compliance Review

Prepared by: Protect Cherry County

Version: 1.0 — Working Public Record

Prepared: July 14, 2026

This report distinguishes verified facts, agency statements, preliminary analysis, and unresolved questions. Inclusion of an issue does not imply wrongdoing or a final legal conclusion.

COVER NOTE

For Sandy and the Nebraska Examiner

Prepared July 14, 2026

This report is being shared as a background and fact-checking resource concerning the TK Angus livestock-waste permit matter in Cherry County, Nebraska. It compiles records reviewed to date, summarizes the permit history, and identifies questions that remain unresolved in the available public record.

The report is a working public-record compilation, not an official agency record, legal opinion, or final technical determination. It deliberately separates verified facts, agency statements, preliminary analysis, and outstanding questions. Where a document has not yet been obtained or an issue requires agency interpretation, the report says so.

Readers are encouraged to consult the cited source documents and independently verify material used for publication. The complete county approval record, litigation record, and portions of the state permit and technical file are still being assembled. New records or corrections should be incorporated into later versions.

Protect Cherry County welcomes careful review, corrections supported by source documents, and questions about the underlying record. The purpose of sharing this material is to make a complicated public process easier to understand and to support accurate reporting and informed public participation.

Prepared by Protect Cherry County

Working Public Record - Reporter Review Copy

Reader Notice and Method

This report organizes public records concerning TK Angus Co. Facility ID 124885 and the proposed construction of livestock waste-control facilities in Cherry County, Nebraska. It is intended for reporters, technical reviewers, public officials, attorneys, conservation organizations, and community members who need a structured overview of the available record.

Legal limitation: This is not legal advice and does not make a final finding that the applicant is compliant or noncompliant.

Scientific limitation: Regional Sandhills and groundwater information cannot substitute for site-specific hydrogeologic, engineering, soil, water-use, and nutrient-management data.

Evidence classifications

Verified fact: Directly supported by an official record, agency correspondence, regulation, or source document reviewed for this report.

Agency statement: A statement made by an agency or official; reported accurately but not necessarily independently validated.

Preliminary analysis: A comparison or inference based on the record. It is labeled as analysis rather than presented as an agency determination.

Outstanding question: A matter for which the reviewed record is incomplete, unavailable, or requires agency/legal interpretation.

Audit terminology

Confirmed: The reviewed record directly documents the item; this does not necessarily prove future operational compliance.

Partially addressed: Some responsive material exists, but an attachment, calculation, technical basis, or enforceable condition has not been verified.

Not found: The item was not located in the records available for this review; this does not prove that it does not exist in the complete agency file.

Needs interpretation: Applicability depends on thresholds, land/well status, project facts, or agency/legal interpretation.

Method source: Protect Cherry County investigation workbook, Audit Method sheet.

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1. Executive Summary

DWEE issued a corrected public notice on June 25, 2026, stating that it intended to approve TK Angus Co.'s application for a Construction and Operating Permit, subject to review of public comments. The notice described two proposed buildings with underfloor deep pits, a proposed maximum of 4,999 swine weighing at least 55 pounds, and 600 feeder cattle previously exempted from inspection and permitting requirements. The corrected comment period ran from July 1 through July 31, 2026. [S1]

The available record confirms that DWEE inspected the property in April 2026, determined that a permit application was required, and later notified both Cherry County and the Middle Niobrara Natural Resources District that the application had been received. The NRD notification identified Settje Agri-Services & Engineering, Inc. as the preparer of the application and gave the NRD 30 days to provide site-specific comments. [S2–S5]

The project is situated within a region where groundwater and surface water are managed as connected resources. The Middle Niobrara NRD's Voluntary Integrated Management Plan describes the district as predominantly pasture and grassland, reports that the Ogallala underlies most of the district, and explains that groundwater discharge is a major component of Niobrara River flow. [S6]

The preliminary audit contained in this report identifies 32 review items. Four are presently classified as confirmed, seven as partially addressed, sixteen as not found in the available record, and five as requiring agency or legal interpretation. Twenty-five items are rated high priority. These classifications are document-management findings, not final compliance determinations.

Assessment	Count	Meaning
Confirmed	4	Directly documented in records reviewed
Partially Addressed	7	Some evidence exists; key details remain
Not Found	16	Not located in available materials
Needs Interpretation	5	Depends on facts, thresholds, or agency/legal interpretation

Central unresolved questions

- What complete technical record supports DWEE's preliminary decision, including the full application, nutrient management plan, engineering plans, groundwater review, and reviewer memoranda?
- Why is groundwater monitoring required or not required, and what site-specific evidence supports that determination?
- Which wells will serve the operation, what are their pumping rates and annual use, and which MNNRD permits or approvals apply?
- Which MNNRD nitrate-management zone contains each land-application field, and how do the June 5, 2026 rules apply to manure, certification, reporting, soil sampling, and water sampling?

- What field-level nitrogen and phosphorus calculations demonstrate sufficient land base at agronomic rates?
- What state-level wildlife, habitat, wetland, and groundwater-dependent ecosystem review occurred after USFWS reported no known federal refuge nexus?
- What comments did Cherry County and MNNRD provide to DWEE, and how did DWEE address them?
- Will DWEE hold a public hearing in or near Valentine?

2. Project Snapshot

Item	Current public record
Applicant / operation	TK Angus Co.; Facility ID 124885; Program ID LWC 66-1028.
Permit agency	Nebraska Department of Water, Energy, and Environment, Livestock and Agriculture Section.
Proposal	Two buildings with underfloor deep pits.
Animals identified	New maximum of 4,999 swine weighing 55 pounds or more; 600 feeder cattle identified as previously exempted.
Location	NE 1/4 SW 1/4 Section 14 and SW 1/4 SW 1/4 Section 13, Township 33 North, Range 27 West, Cherry County.
Application preparer	Settje Agri-Services & Engineering, Inc., as identified in DWEE's May 15 NRD notification.
DWEE status in corrected notice	Department stated that it intended to approve, subject to review of written comments and a final decision.
Corrected comment period	July 1–July 31, 2026.

Sources: corrected DWEE notice dated June 25, 2026 [S1]; DWEE NRD notification dated May 15, 2026 [S5].

What the proposal description does not establish by itself

- Whether all final engineering sheets and calculations satisfy applicable standards.
- Whether the land-application acreage and nutrient calculations are sufficient.
- Whether monitoring wells or baseline private-well sampling are required.
- Whether every MNNRD, county, or other approval has been obtained or determined unnecessary.
- Whether project operations will comply with permit conditions after construction.

3. Chronological Record

Date	Event	Record	Next verification
2026-04-23	DWEE determined a Construction and Operating Permit application was required before livestock-waste-control construction.	DWEE permit-requirement letter	Obtain full application and completeness review.
2026-05-15	DWEE notified Cherry County and MNNRD that the permit application had been received and invited site-specific comments.	DWEE notification letters	Obtain county and MNNRD responses.
2026-06-05	MNNRD Rules and Regulations amended.	MNNRD Rules and Regulations 2026	Determine applicability to wells, water use, nitrate zones, and manure application.
2026-06-24	Original DWEE public notice published.	Original public notice	Preserve original notice and publication record.
2026-06-25	Corrected DWEE notice issued; comment deadline stated as July 31, 2026 and swine category corrected.	Corrected public notice	Confirm corrected notice distribution.
2026-06-25	Little Outlaw Canoe, Tube and Kayak dated its public comment requesting stronger safeguards and a public hearing.	Little Outlaw public comment	Track DWEE response and hearing decision.
2026-06-29	Sunny Elliott submitted a DWEE public records request for the complete permit file and supporting documents.	DWEE request RM-2026-515	Await production; follow up if overdue.
2026-06-30	DWEE received the Little Outlaw public comment.	DWEE public comment record	Add to website public-record index.
2026-07	ProtectCherryCounty.org and a Protect Cherry County Facebook page were developed for public education and comment guidance.	Project records	Continue updates and source every factual claim.
2026-07	Outreach sent to The Nature Conservancy — Nebraska.	Email record	Await response.
2026-07	Email and letter sent to MNNRD.	Email/letter record	Await response and request actual NRD permit comment.
2026-07	Email and letter sent to Sandhills Task Force.	Email/letter record	Await response.
2026-07	Center for Rural Affairs email initially bounced, then was corrected and resent to info@cfra.org.	Email record	Await response.
2026-07	Nebraska Game and Parks Commission leadership contacted about wildlife, habitat, wetlands, fisheries, and river concerns.	Email record	Await response.
2026-07	National Park Service — Niobrara National Scenic River contacted.	Email record	Await response.
2026-07	U.S. Fish & Wildlife Service — Fort Niobrara contacted.	Email record	Response received from Matt Sprenger.
2026-07	USFWS response received: no known federal nexus and no refuge environmental review.	Matt Sprenger email	Ask DWEE/NGPC what state-level wildlife review occurred.
2026-07	Sierra Club Nebraska contacts emailed.	Email record	Response received/forwarded material logged.
2026-07-09	Friends of the Niobrara re-dated its position statement to	Position statement / sender confirmation	Audit factual claims and track DWEE receipt and response.

Date	Event	Record	Next verification
	July 9, 2026, and reported submitting it to DWEE by certified mail.		
2026-07-02	Mike Murphy of MNNRD acknowledged Sunny's outreach and confirmed that her letter and resource information had been shared with the MNNRD Board.	MNNRD email response	Request a substantive technical response, MNNRD's comment to DWEE, and written applicability analysis under the amended rules.

Timeline compiled from the Protect Cherry County master workbook and the primary DWEE records listed in Appendix C.

4. DWEE Permit Process and Current Proposal

4.1 Permit-required determination

Following the April 2026 inspection, DWEE issued a letter determining that a Construction and Operating Permit was required. The approval slip identified the operation as TK Angus Co., Facility ID 124885, and listed materials sent with the letter, including Title 130 information, a nutrient-management-plan outline, site-plan instructions, and an inspection form. The approval slip also listed Settje Agri-Services & Engineering, Inc. among consultants receiving documents. [S3]

4.2 Application received and agency notifications

On May 15, 2026, DWEE notified Cherry County and the Middle Niobrara NRD that an application had been received. The letters stated that the application was prepared by Settje Agri-Services & Engineering, Inc. and provided 30 days for site-specific comments. [S4–S5]

4.3 Corrected notice and intended approval

The corrected June 25 notice stated that the earlier public notice contained incorrect animal numbers. It described the application as proposing two buildings with underfloor deep pits and a maximum of 4,999 swine weighing at least 55 pounds, in addition to 600 feeder cattle previously exempted from inspection and permitting requirements. DWEE stated that it had reviewed the application for compliance with the Livestock Waste Management Act and Title 130 and currently intended to approve it, while reserving a final decision until after reviewing written comments. [S1]

Important distinction: “The Department intends to approve” is a preliminary agency position stated in the notice, not the final permit decision.

4.4 Documents still needed for independent review

- Complete application and all revisions/addenda.
- Final sealed engineering plans and calculations.
- Full nutrient management plan, field maps, manure generation and nutrient-production tables.
- Groundwater review, maps, test-hole data, well inventory, and monitoring determination.
- DWEE completeness checklist and technical review memoranda.
- Applicant responses to requests for additional information.
- County and NRD comments and DWEE’s disposition of those comments.

5. Initial Inspection and Site Observations

DWEE's April 20, 2026 inspection documented existing cattle pens and the proposed swine-facility location. The report placed the proposed site within the Cornwell Dam–Niobrara River HUC-12 watershed and stated that the watershed flows north toward the Niobrara River. [S2]

5.1 Existing runoff observation

The inspector recorded the operator's statement that a roughly five-inch rain in September 2025 produced runoff from the north heifer pens through a ditch into a low area southwest of the pens. The operator stated that the area could be pumped out as needed. The inspector characterized the risk of discharge to waters of the state from the two small pen areas as minimal. [S2]

5.2 Soil and site imagery

The inspection photographs and captions describe visible soil strata and cite NRCS Web Soil Survey information. One caption describes a profile that included loamy fine sand above gravelly or bedrock material at the observed borrow site. These observations are useful context, but they do not replace a complete site-specific hydrogeologic and engineering review of the proposed deep-pit structures and land-application fields. [S2]

5.3 Interpretation limits

- The inspection is a site-observation record, not a final engineering approval.
- A statement of “minimal risk” for existing small cattle-pen runoff does not automatically resolve the risks or design requirements for the proposed swine confinement buildings.
- Inspection photographs should be evaluated alongside test holes, engineering plans, groundwater elevations, structural design, and nutrient-management documents.

6. Cherry County and MNNRD Notification

DWEE notified both Cherry County and MNNRD on May 15, 2026. Each notification transmitted or provided access to the application and invited site-specific comments within 30 days. [S4–S5]

Recipient	What DWEE requested	Current status in reviewed record
Cherry County Board	Comment on factors or conditions at the site that should be considered in the permit decision.	Notification confirmed; the county's complete response and DWEE's treatment of it remain to be incorporated.
Middle Niobrara NRD	Comment on site factors or conditions relevant to the permit decision.	Notification confirmed. Mike Murphy later acknowledged Sunny Elliott's separate outreach and said it was shared with the MNNRD Board; that email did not provide substantive technical answers.

6.1 MNNRD acknowledgment

Mike Murphy's July 2 email thanked the sender for participating in the MNNRD water-management program and confirmed that the letter and resource information had been shared with the MNNRD Board. The email establishes receipt and Board distribution. It does not establish how MNNRD applied its 2026 rules, whether MNNRD commented to DWEE, or whether staff completed a technical review. [C1]

7. Water and Groundwater Context

The Middle Niobrara NRD and the State jointly adopted a Voluntary Integrated Management Plan effective October 27, 2022. The plan provides the regional water-management context for Cherry County and the project area. [S6]

7.1 Regional setting

- The plan describes the MNNRD as covering approximately 2.94 million acres in portions of Cherry, Keya Paha, Rock, and Brown Counties.
- Approximately 85 percent of the district is described as pasture or grassland, and roughly 60 percent is within the Sandhills.
- The Ogallala aquifer is described as underlying almost 80 percent of the district.
- The plan estimates that approximately 70 percent of Niobrara River flow comes from seepage from the underlying Ogallala and approximately 30 percent from precipitation.
- Sandy soils and the region's geology allow substantial recharge, while depth to groundwater varies from near the surface to more than 200 feet.

Source: MNNRD/NeDNR Voluntary Integrated Management Plan, effective October 27, 2022 [S6].

7.2 Connected-water management

The VIMP treats groundwater and surface water as hydrologically connected resources. This does not establish a site-specific pathway or impact from the TK Angus proposal. It does establish why pumping, recharge, groundwater quality, and streamflow may be reviewed as related resource-management questions rather than isolated topics. [S6]

7.3 Current monitoring and modeling

The 2026 Annual Integrated Management Plan Report documents streamgage measurements, depletion accounting, and continuing development of a district groundwater model. It reports that DWEE began collaborating with USGS and the National Park Service on the model in 2020 and that model calibration had been completed, with draft documentation under agency review. [S7]

Site-specific caution: Regional model development and district-wide monitoring do not answer project-specific questions unless DWEE or MNNRD explains how those tools were applied to Facility ID 124885.

8. MNNRD Regulatory Context

MNNRD amended its Rules and Regulations on June 5, 2026. The rules state that the entire district is a Ground Water Management Area and identify groundwater protection, conservation, and prevention of contamination as core purposes. [S8]

8.1 Definitions relevant to the proposal

- The rules define a “Livestock Operation” to include livestock kept in buildings, lots, or pens not used for growing crops; an operation requiring a DWEE livestock-waste permit; or livestock confined for more than 90 days per year.
- The rules define a “Livestock Operation Water Well” as a water well serving a livestock operation.
- The rules include permits and approvals for certain wells, changes or additions in groundwater use, groundwater-quality zones, fertilizer controls, and high-capacity uses.

8.2 Well and water-use questions

The preliminary audit flags the absence of a complete well list, registration numbers, pumping rates, annual withdrawals, historic uses, and written MNNRD classifications. Without those facts, the audit cannot determine whether well-construction, change-of-use, high-capacity-use, or large-user provisions apply. [A6–A11]

8.3 Groundwater quality and fertilizer controls

MNNRD rules establish nitrate-related groundwater-management zones and include certification, reporting, soil-sampling, and water-sampling controls for specified applications of commercial or organic fertilizer. The audit has not located the management-zone designation for the proposed land-application fields or a written MNNRD determination explaining whether swine manure is treated as “organic fertilizer” for these controls. [A12–A16]

Careful framing: The report does not conclude that the applicant is violating MNNRD rules. It asks where the current application and agency record demonstrate applicability, compliance, or a reasoned determination that a provision does not apply.

9. Statewide Nitrate and Drinking-Water Context

The Governor’s Water Quality and Quantity Task Force was convened to develop recommendations on interconnected water-quality and water-quantity challenges. Its 2026 Final Report identifies reducing nitrate concentrations in groundwater and supporting reliable drinking water as statewide priorities. [S9]

9.1 Task force findings

- More than 85 percent of Nebraskans rely on groundwater as their primary drinking-water source.
- The report states that naturally occurring nitrate is generally present at low levels, while elevated concentrations can result from excess nitrogen applied at or near the land surface.
- Both inorganic and organic nitrogen sources can convert to nitrate as they move through soil and water.
- Depending on geology, nitrate may reach groundwater in months or after more than 50 years and can persist for decades.
- The report emphasizes proactive and long-term strategies because delayed movement through the vadose zone can separate surface practices from later groundwater measurements.

Source: Governor’s Water Quality and Quantity Task Force Final Report, pp. 1–13 of the report body [S9].

9.2 Dean Settje’s task-force role

The Final Report lists Dean Settje as Founder and President of Settje Agri-Services and as a member of the Governor’s Water Quality and Quantity Task Force. Table 1 and Appendix C also list him on the Nitrate Legacy and Drinking Water Access Subcommittee. [S9–S10]

The task-force documents establish membership and policy participation. They do not establish that the Task Force reviewed or voted on the TK Angus permit, or that Dean Settje participated in any permit-specific state decision.

10. Preliminary Compliance Audit

The working audit compares agency requirements and MNNRD rules with the evidence available in the case file. It is designed to identify missing records and focused questions, not to issue a legal verdict.

ID	Issue	Assessment	Gap or concern	Recommended follow-up
A-001	Permit before construction	Confirmed	Whether any construction began before approval is not established in reviewed documents.	Confirm no LWCF construction occurs before permit issuance.
A-002	Application completeness	Partially Addressed	Complete Title 130 checklist and final completeness determination are not in current audit record.	Request DWEE's completeness checklist and technical review memorandum.
A-004	County and NRD compliance	Not Found	No consolidated compliance determination under current county and June 5 MNNRD rules found.	Require written identification of all county and NRD approvals or non-applicability determinations.
A-005	Livestock operation definition	Needs Interpretation	Definition applies, but exact downstream rule obligations require agency interpretation.	Ask MNNRD which chapters and controls apply to Facility ID 124885.
A-006	Livestock operation water well	Not Found	Well identity, registration, capacity, and purpose are missing.	Identify every well, registration number, capacity, and intended use.
A-007	Well construction permit	Not Found	Confined livestock-operation well treatment may differ from range-livestock exemption.	Request MNNRD well-permit determination and any permit applications.
A-008	Well permit denial criteria	Not Found	Potential effects on existing wells and resource quality not documented in current audit.	Request written findings on existing wells and quality/quantity impacts.
A-009	Change or addition of groundwater use	Not Found	Unknown whether an irrigation/range well will serve the confined operation.	Ask whether any existing well use is changing or expanding and whether approval/offset is required.
A-010	High-capacity use screening	Not Found	Livestock classification within Chapter 6 needs MNNRD interpretation.	Request projected GPM and acre-feet/year and written permit classification.
A-011	Large-user hydrologic evaluation	Needs Interpretation	Potentially significant but threshold-dependent.	Confirm annual use and whether large-user review is triggered.
A-012	Groundwater-quality management zone	Not Found	Applicable controls cannot be assessed without zone map and field locations.	Identify each land-application field's management zone.
A-013	Organic fertilizer applicator certification	Not Found	Whether manure is treated as organic fertilizer and who is legally responsible needs confirmation.	Ask MNNRD whether manure is covered and require certification records if applicable.
A-015	Soil sampling in higher nitrate zone	Needs Interpretation	Cannot determine applicability without zone.	Identify zone and provide soil-sampling protocol if required.
A-016	Groundwater-source sampling in Zone 4	Needs Interpretation	Cannot determine applicability.	Identify zone and required water sampling.
A-017	Agronomic application rates	Not Found	Annual N/P production, field acreage, crop yields, credits, and limits are unavailable.	Obtain full NMP and audit each field's nutrient balance.

ID	Issue	Assessment	Gap or concern	Recommended follow-up
A-018	Application field sufficiency	Not Found	Potential concentration of nutrients on limited acreage.	Provide acres, ownership/control, crop rotation, yield goals, and maximum annual application.

10.1 What has been confirmed

- A-001 — Permit before construction: DWEE formally determined a permit is required and directed submission of a complete application.
- A-026 — Site-specific county comment: DWEE sent notice and application to the county.
- A-028 — Federal nexus / refuge review: Refuge Manager stated no known federal nexus and no refuge environmental review was completed.
- A-032 — Animal description and deadline: A corrected notice changed swine weight category and extended/corrected deadline to July 31, 2026.

10.2 What remains most consequential

- Full applicant and agency technical files are needed before design, groundwater, water-use, and nutrient-management conclusions can be independently tested.
- The monitoring determination remains a central question because baseline data and ongoing measurements affect whether future changes can be detected and attributed.
- MNNRD applicability depends on facts not yet confirmed, including well use, annual withdrawal, field locations, nitrate-management zones, and fertilizer classifications.
- Advocacy submissions are useful issue inventories, but their factual claims require separate verification against primary records and site-specific evidence.

11. Technical Review Questions

11.1 Groundwater and wells

- What wells will serve the operation, and what are their registration numbers and capacities?
- Is a new well, change of use, livestock-operation well approval, or MNNRD permit required?
- What is maximum pumping rate and annual groundwater use in acre-feet?
- Does the water use trigger MNNRD high-capacity or large-user review?
- What site-specific groundwater depth and flow-direction data support the review?
- Which nearby private wells were identified and how were they protected?
- Why is groundwater monitoring required or not required?

11.2 Nutrient management

- Which MNNRD nitrate management zone contains each land-application field?
- Does MNNRD treat swine manure as organic fertilizer under Rule 3.7?
- Who will apply manure and are applicator certifications required/current?
- How much manure, nitrogen, and phosphorus will be generated annually?
- How many acres are available and are they sufficient at agronomic rates?
- What manure and soil testing is required, and how often?

11.3 Engineering and emergency response

- What final sealed design documents describe concrete specifications, joints, seepage control, storage capacity, inspections, and certification?
- What leak, spill, overflow, structural-failure, pumping, notification, and corrective-action plan is enforceable under the permit?
- What contingency capacity exists when manure cannot be land-applied because of weather, crop conditions, field access, or other constraints?
- What financial responsibility or assurance applies to emergency response, closure, or long-term corrective action?

11.4 Agency decision record

- Where is DWEE's Title 130 completeness checklist and technical review memorandum?
- How did DWEE and MNNRD evaluate the proposal under MNNRD rules amended June 5, 2026?
- What comments did Cherry County and MNNRD submit, and how did DWEE respond?
- What state-level wildlife, habitat, wetlands, and species review occurred?
- Will DWEE hold a public hearing in Valentine?

12. Agency and Organizational Responses

ID	Date	Source	Key response	Interpretation	Status
R-001		U.S. Fish & Wildlife Service – Sandhills NWR Complex	No known federal nexus between TK Angus project and Fort Niobrara NWR; refuge did not complete environmental review. Federal nexus could arise through refuge funding, permit, or refuge lands.	Clarifies federal refuge jurisdiction only. It is not an approval, safety determination, or finding that wildlife impacts are absent.	Response Logged
R-002		Sierra Club Nebraska contact / Friends of the Niobrara	Friends of the Niobrara urges denial absent long-term safeguards; requests 30-year monitoring/financial assurance, environmental assessment, public hearing, and other conditions.	Evidence of organized public concern and a detailed issue list. Factual claims require independent verification before reuse.	Response Logged
R-003	2026-07-02	Middle Niobrara Natural Resources District	Thanked Sunny for her interest and involvement in the MNNRD water-management program and for sharing the resource information her group created. Stated that her letter had been shared with the MNNRD Board.	This confirms receipt and Board distribution. It does not answer the technical, regulatory, groundwater, well, nitrate, monitoring, or permit questions raised in the letter.	Follow-up Needed

12.1 USFWS

The Fort Niobrara Refuge Manager reported no known federal nexus and explained that the refuge therefore did not complete an environmental review. The response is jurisdictional: it does not constitute an environmental safety finding or demonstrate that state agencies completed a wildlife or habitat review. [C2]

12.2 MNNRD

MNNRD confirmed that the community letter and resource information were shared with its Board. A substantive response applying MNNRD's June 5 rules or identifying comments submitted to DWEE remains outstanding. [C1]

12.3 Sierra Club / Friends of the Niobrara

A Sierra Club contact forwarded a Friends of the Niobrara position statement requesting denial absent additional safeguards, long-term monitoring and financial assurance, environmental assessment, and a public hearing. The statement is evidence of organized concern and an issue list; its stronger claims must be independently verified before being presented as established facts. [C3]

13. Public Participation and Comment Record

The corrected notice states that comments should address matters within DWEE’s authority under the Livestock Waste Management Act. DWEE stated that it would review written comments before making a final decision. [S1]

Commenter	Date/status	Topics	Hearing requested	Record note
Sunny Elliott	Submission confirmation not incorporated in this version	Initial public comment concerning groundwater, wells, monitoring, manure management, agency review, and careful permit evaluation.	Hearing request indicated in working materials	Confirm final submission date and retain the submitted PDF and receipt before treating as verified.
Sunny Elliott — Supplemental	Working draft as of July 14, 2026	Amended MNNRD rules, livestock-operation wells, water use, organic fertilizer/manure, nitrate zones, monitoring, private wells, agency comments, and hearing request.	Hearing request included in draft	Not yet treated as a submitted public comment in this report.
Rich and Marla Mercure / Little Outlaw Canoe, Tube and Kayak	2026-06-25; received 2026-06-30	Niobrara River, tourism, groundwater monitoring, NMP safeguards, storage design, emergency response, financial assurance, and hearing.	Yes	DWEE public-comment file; evidence ID E-010 / PC-001.
Friends of the Niobrara, Inc.	2026-07-09; sender reports certified-mail submission	Requests denial absent safeguards, 30-year monitoring/financial assurance, environmental assessment, public hearing, and site-specific hydrologic protections.	Yes	Organizational position statement; verify DWEE receipt and independently audit factual assertions before reuse.

13.1 Little Outlaw comment

The Little Outlaw Canoe, Tube and Kayak submission raised river, tourism, groundwater, nutrient-management, emergency-response, financial-assurance, and public-hearing issues. As with other comments, it is primary evidence of what the commenter asked DWEE to consider; technical assertions within the comment should be evaluated against official and scientific sources.

13.2 Protect Cherry County public-information work

The project created a website, evidence tracker, public-comment guidance, source library, and social-media outreach intended to help residents understand the proposal and participate in the process. Those materials are project-created communications, not agency findings. The master workbook separately tracks primary records, advocacy submissions, and educational resources.

14. Governance and Transparency Review

14.1 Verified in the current record

- DWEE's May 15 NRD notification states that the application was prepared by Settje Agri-Services & Engineering, Inc. [S5]
- The Governor's Task Force Final Report identifies Dean Settje as Founder and President of Settje Agri-Services. [S9]
- The Final Report and Appendix C identify Dean Settje as a member of the Nitrate Legacy and Drinking Water Access Subcommittee. [S9–S10]

14.2 Previously identified county records requiring incorporation

County planning and board records have been identified as potentially documenting Dean Settje's role as a consultant for the applicant and Settje Agri-Services' preparation of county management materials. Copies of those official records should be added to the evidence library and cited directly before those statements are treated as fully documented within this report.

14.3 What has not been established

- That the Governor's Task Force reviewed, recommended, or voted on the TK Angus permit.
- That Dean Settje participated in a permit-specific state decision.
- That any ethics law or conflict-of-interest rule was violated.
- That a recusal obligation applied to any task-force discussion without further information about task-force authority, meeting subjects, and applicable ethics policies.

14.4 Appropriate transparency questions

- Did the Task Force or any subcommittee discuss permit-specific matters involving TK Angus?
- What conflict-of-interest disclosures or recusal policies governed Task Force members?
- Did Dean Settje or Settje Agri-Services participate in any DWEE technical or policy discussion affecting this specific application beyond representing the applicant?
- Can the Governor's Office, DWEE, or the Nebraska Accountability and Disclosure Commission identify the applicable policy and whether any disclosure was made?

15. Verified Facts and Unresolved Issues

15.1 Verified facts

- DWEE assigned Facility ID 124885 and Program ID LWC 66-1028 to TK Angus Co.
- DWEE completed an initial inspection in April 2026 and determined that a Construction and Operating Permit application was required.
- DWEE received an application and notified Cherry County and MNNRD on May 15, 2026.
- DWEE's NRD notification states that the application was prepared by Settje Agri-Services & Engineering, Inc.
- The corrected notice describes two proposed buildings with underfloor deep pits, 4,999 swine weighing at least 55 pounds, and 600 feeder cattle.
- The corrected public-comment period ran from July 1 through July 31, 2026.
- MNNRD's VIMP describes the district's groundwater and surface water as hydrologically connected and identifies the Ogallala as a major regional aquifer.
- MNNRD amended its Rules and Regulations on June 5, 2026.
- Dean Settje served on the Governor's Water Quality and Quantity Task Force and the Nitrate Legacy and Drinking Water Access Subcommittee.
- USFWS reported no known federal refuge nexus and no refuge environmental review.
- MNNRD confirmed that community outreach materials were shared with its Board.

15.2 Unresolved issues

- Complete Title 130 application-completeness and technical-review record.
- Final engineering design and agency approval comments.
- Site-specific groundwater monitoring rationale and baseline conditions.
- Complete nearby-well inventory and protective-response plan.
- Facility water demand, well registrations, pumping rates, annual use, and MNNRD classifications.
- Land-application field maps, acreage, nutrient balances, soil/manure testing, timing, setbacks, and reporting.
- MNNRD nitrate-management zones and written interpretation of applicable fertilizer controls.
- County and MNNRD comments to DWEE and DWEE's response to them.
- State wildlife/habitat review.
- Public-hearing decision.
- County approval and litigation record, which remains to be fully integrated from official source copies.

16. Recommendations for Further Review

16.1 Records acquisition

1. Obtain and index the complete DWEE application file, including every revision, addendum, engineering sheet, calculation, nutrient-management document, groundwater document, technical review, request for information, and applicant response.
2. Obtain the complete Cherry County CUP record, current zoning regulations, findings, minutes, recordings, correspondence, and litigation documents.
3. Obtain MNNRD's comments to DWEE, staff analysis, Board materials, well records, management-zone map, and written applicability determination.
4. Obtain NGPC and other state-agency review records concerning wildlife, wetlands, fisheries, habitat, and groundwater-dependent resources.

16.2 Technical review

5. Ask a licensed hydrogeologist to review water levels, flow direction, private wells, pumping demand, monitoring design, and groundwater-surface-water pathways.
6. Ask a qualified agronomist or nutrient-management specialist to audit field-level nitrogen and phosphorus calculations, acreage, crop assumptions, testing, timing, setbacks, and contingency capacity.
7. Ask a licensed agricultural/civil engineer to review deep-pit design, seepage protection, joints, capacity, inspection, leak response, emergency pumping, closure, and financial responsibility.
8. Ask an attorney familiar with Nebraska administrative and land-use law to verify Title 130 procedures, hearing standards, MNNRD applicability, county authority, court history, and ethics/recusal questions.

16.3 Public communication standard

Public communications should continue to distinguish between what the record proves, what an agency has stated, what is preliminary analysis, and what remains an unanswered question. Strong claims—particularly predictions of contamination, health outcomes, economic loss, or conflicts of interest—should not be presented as facts without direct and appropriately qualified evidence.

Appendix A. Evidence Index

ID	Document	Source	Category	Date	Reliability	Use	Notes
E-001	DWEE public records request RM-2026-515	Sunny Elliott / DWEE	Records request	2026-06-29	Primary	Yes	Public-record request submitted; private security key omitted from this report.
E-002	DWEE permit-requirement letter	DWEE	Agency correspondence	2026-04-23	Primary	Yes	Permit required before LWCF construction; Title 130, PE, county/NRD compliance referenced.
E-003	Original DWEE public notice	DWEE / newspaper	Public notice	2026-06-24	Primary	Yes	Original animal description and earlier comment deadline.
E-004	Corrected DWEE public notice	DWEE	Public notice	2026-06-25	Primary	Yes	Corrected swine weight category; comment deadline July 31, 2026.
E-005	DWEE county and NRD notification letters	DWEE	Agency correspondence	2026-05-15	Primary	Yes	Shows county and MNNRD were invited to comment on site factors.
E-006	MNNRD Rules and Regulations amended June 5, 2026	MNNRD	Regulation	2026-06-05	Primary	Yes	Groundwater area, wells, livestock operation definition, nitrate zones, organic fertilizer, high-capacity uses.
E-007	MNNRD Voluntary Integrated Management Plan, amended 2022	MNNRD / Nebraska DNR	Water-planning document	2022-09-30	Primary	Yes	Hydrologic connection, Ogallala coverage, Niobrara seepage, land cover, management goals.
E-008	2026 Annual Integrated Management Plan Report	DWEE / MNNRD	Annual agency report	2026	Primary	Yes	2025 permitting, streamgages, depletion accounting, model development.
E-009	Cherry County Zoning Regulations — 2025 Draft	Cherry County	Draft regulation	2025	Primary draft	Pending	Detailed applicability review still needed.
E-010	Little Outlaw Canoe, Tube and Kayak public comment	DWEE public record	Public comment	2026-06-30	Primary submission	Reference	Requests monitoring, stronger safeguards, and public hearing.
E-011	USFWS response from Matt Sprenger	U.S. Fish & Wildlife Service	Agency response		Primary	Reference	No known federal nexus; no Fort Niobrara environmental review.
E-012	Friends of the Niobrara position statement	Friends of the Niobrara / Sierra Club contact	Organizational public comment	2026-07-09	Primary submission	Reference	Detailed objections and requests; sender

ID	Document	Source	Category	Date	Reliability	Use	Notes
							reports certified-mail submission. Verify agency receipt; factual claims require independent verification.
E-013	USGS General Information Product 234 — Water Movement	U.S. Geological Survey	Educational science resource	2024-03	Primary government source	Yes	General water-cycle/agriculture education; not site-specific evidence.
E-014	Protect Cherry County groundwater infographic	Protect Cherry County	Educational graphic	2026-07	Project-created	Website	Conceptual, not to scale; sources integrated.
E-015	ProtectCherryCounty.org	Protect Cherry County	Public education website	2026-07	Project-created	Active	Official documents, water science, research, records, FAQ, comment help.
E-016	MNNRD acknowledgment response from Mike Murphy	Middle Niobrara Natural Resources District	Agency response	2026-07-02	Primary	Reference	Confirms the letter and project resource information were received and shared with the MNNRD Board; contains no substantive technical or regulatory answers.

Appendix B. Audit Digest

Identifier note: Appendix B preserves the source codes used in the investigation workbook. The corresponding narrative sources and crosswalk are listed in Appendix C.

ID	Authority	Topic	Assessment	Priority	Who answers	Source
A-001	DWEE permit-requirement letter	Permit before construction	Confirmed	High	DWEE / Applicant	S-001
A-002	DWEE permit-requirement letter	Application completeness	Partially Addressed	High	DWEE	S-001 / S-002
A-003	DWEE permit-requirement letter	Professional engineer	Partially Addressed	Medium	DWEE	S-002
A-004	DWEE permit-requirement letter	County and NRD compliance	Not Found	High	DWEE / MNNRD / County	S-001 / S-003
A-005	MNNRD Rules 2026	Livestock operation definition	Needs Interpretation	High	MNNRD	S-003
A-006	MNNRD Rules 2026	Livestock operation water well	Not Found	High	Applicant / MNNRD / DWEE	S-003
A-007	MNNRD Rules 2026	Well construction permit	Not Found	High	MNNRD	S-003
A-008	MNNRD Rules 2026	Well permit denial criteria	Not Found	High	MNNRD	S-003
A-009	MNNRD Rules 2026	Change or addition of groundwater use	Not Found	High	MNNRD / Applicant	S-003
A-010	MNNRD Rules 2026	High-capacity use screening	Not Found	High	MNNRD / Applicant	S-003
A-011	MNNRD Rules 2026	Large-user hydrologic evaluation	Needs Interpretation	High	MNNRD	S-003
A-012	MNNRD Rules 2026	Groundwater-quality management zone	Not Found	High	MNNRD / Applicant	S-003
A-013	MNNRD Rules 2026	Organic fertilizer applicator certification	Not Found	High	MNNRD / Applicant	S-003
A-014	MNNRD Rules 2026	Annual fertilizer/irrigation reporting	Needs Interpretation	Medium	MNNRD / Landowners	S-003
A-015	MNNRD Rules 2026	Soil sampling in higher nitrate zone	Needs Interpretation	High	MNNRD / Applicant	S-003
A-016	MNNRD Rules 2026	Groundwater-source sampling in Zone 4	Needs Interpretation	High	MNNRD / Applicant	S-003
A-017	Permit / Nutrient Management Plan	Agronomic application rates	Not Found	High	DWEE / Applicant	S-007
A-018	Permit / Nutrient Management Plan	Application field sufficiency	Not Found	High	DWEE / Applicant	S-007
A-019	Permit / Nutrient Management Plan	Manure and soil testing	Not Found	High	DWEE / Applicant	S-007
A-020	Permit / Nutrient Management Plan	Timing and weather restrictions	Not Found	High	DWEE / Applicant	S-007
A-021	Groundwater review	Depth and flow direction	Partially Addressed	High	DWEE	S-006
A-022	Groundwater review	Nearby private wells	Partially Addressed	High	DWEE	S-006
A-023	Groundwater review	Monitoring determination	Not Found	High	DWEE	S-006
A-024	Engineering plans	Deep-pit containment	Partially Addressed	High	DWEE / PE	S-005
A-025	Engineering / emergency planning	Spill and structural-failure response	Not Found	High	DWEE / Applicant	S-007
A-026	County notification	Site-specific county comment	Confirmed	Medium	DWEE / County	S-002
A-027	NRD notification	Site-specific NRD comment	Partially Addressed	High	DWEE / MNNRD	S-004 / R-003
A-028	USFWS response	Federal nexus / refuge review	Confirmed	Medium	DWEE / NGPC	R-001
A-029	Friends of the Niobrara	Public hearing and safeguards	Partially Addressed	Medium	DWEE / Research	PC-002

ID	Authority	Topic	Assessment	Priority	Who answers	Source
	statement					
A-030	Friends of the Niobrara statement	Claims of shallow water and rapid transport	Not Found	High	MNNRD / DWEE / Author	PC-002
A-031	Friends of the Niobrara statement	Foreseeable feeder expansion	Not Found	Medium	Applicant / DWEE	PC-002
A-032	Public notice	Animal description and deadline	Confirmed	Medium	DWEE	S-005

Appendix C. Source List

Code	Source
S1	DWEE, Notice of Intent to Approve an Application for Construction and Operating Permit, TK Angus Co., Facility ID 124885, June 25, 2026. Corrected public notice.
S2	DWEE, Initial Livestock Waste Control Inspection, TK Angus Co., April 20, 2026.
S3	DWEE, Determined Permit Required / Request Application Submittal, TK Angus Co., April 23, 2026.
S4	DWEE, County Board Notification of Application Received, Cherry County, May 15, 2026.
S5	DWEE, Natural Resources District Notification of Application Received, Middle Niobrara NRD, May 15, 2026.
S6	Middle Niobrara NRD and Nebraska Department of Natural Resources, Voluntary Integrated Management Plan, effective October 27, 2022.
S7	Nebraska DWEE and MNNRD, Integrated Management Plan: 2026 Annual Report of 2025 Data.
S8	Middle Niobrara NRD, Rules and Regulations, amended June 5, 2026.
S9	Governor's Water Quality and Quantity Task Force, Final Report, 2026.
S10	Governor's Water Quality and Quantity Task Force Final Report, Appendix C: Nitrate Legacy and Drinking Water Access Subcommittee Meeting Materials.
C1	Email from Mike Murphy, Middle Niobrara NRD, July 2, 2026, acknowledging outreach and Board distribution.
C2	Email from Matt Sprenger, Refuge Manager, U.S. Fish and Wildlife Service, explaining no known federal nexus and no refuge environmental review.
C3	Friends of the Niobrara position statement, forwarded through a Sierra Club Nebraska contact, re-dated July 9, 2026; sender reported certified-mail submission to DWEE.
W1	Protect Cherry County master investigation workbook, updated with MNNRD response, July 2026.
Audit S-001	Same record as narrative S3: DWEE permit-required / application-submittal letter, April 23, 2026.
Audit S-002	Same record as narrative S4: DWEE Cherry County notification, May 15, 2026.
Audit S-003	Same record as narrative S8: MNNRD Rules and Regulations, amended June 5, 2026.
Audit S-004	Same record as narrative S5: DWEE MNNRD notification, May 15, 2026.
Audit S-005	Same record as narrative S1: corrected DWEE public notice, June 25, 2026.
Audit S-006	Same record as narrative S2, together with referenced groundwater-review material not yet fully incorporated.
Audit S-007	Complete application, NMP, engineering plans, and related applicant submittals; referenced in the agency record but not fully incorporated into Version 1.0.
Audit R-001	Same correspondence as narrative C2: USFWS / Fort Niobrara response.
Audit R-003	Same correspondence as narrative C1: MNNRD acknowledgment from Mike Murphy.
Audit PC-002	Same organizational submission as narrative C3: Friends of the Niobrara position statement.

Documents not yet incorporated as primary source copies

- Cherry County Planning Commission minutes and exhibits for the original CUP proceedings.
- Cherry County Board minutes, findings of fact, CUP conditions, and related correspondence.

- District-court and appellate litigation records concerning the county approval.
- Complete DWEE permit application, nutrient management plan, engineering plans, groundwater review, and technical memoranda.
- Complete county and MNNRD comments submitted to DWEE.

Working Record — Update Protocol

This report is designed as a living public record. When a new record is received, it should be assigned an evidence ID, entered into the timeline and source index, evaluated for reliability and scope, and used to revise only the affected factual statements and audit items. Earlier versions should be retained through version history.

Next version trigger: Issue Version 1.1 when the complete DWEE application file or the county/court source record is added.