

WATER PERMIT NO. 1801-1

Name of Applicant: Harry Einfalt

Address: HCR 76, Box 76, Nisland SD 57762

Phone: 605 257-2125

Amount of Water Claimed: 4.08

Total Acres: 282.6

Source of Water Supply: dugout

Water to be used for: irrigation

County: Butte

Type of Waste Disposal System:

Location: 5 miles northwest of Nisland

PRIORITY Date Received: 6-30-03

Application/License Fee: \$350

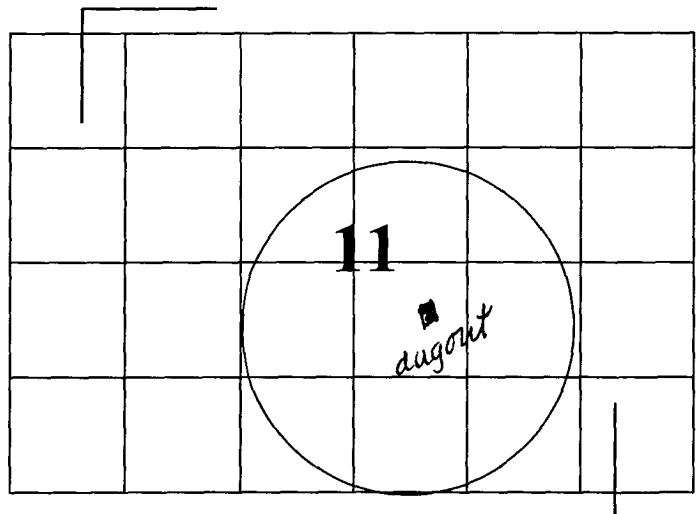
Corrected Application Received: 7-7-03

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: NW ¼ SE ¼ Sec 11-T9N-R4E

Land to be Irrigated: SE ¼, E ½ SW ¼, S ½, NE ¼, SW ¼ NW ¼ Sec 11-T9N-R4E



Depth of Well: NA

Well Driller: :

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 7-7-03

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1801-1</u> (office use only)
	Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourche R</u>
	Newspaper <u>Belle Fourche Bee/Post, Belle Fourche</u>

RECEIVED
JUN 30 2003
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name of Applicant Harry Einfalt (check one) ☒ Owner ☐ Tenant/lessee Phone 605-257-2125
- Mailing Address HCR 76 Box 76 Nisland State SD 57763
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 4.08 *CFS or 2800 **GPM ***AF Total Acreage 282.6
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Dam
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) NW 1/4 of SE 1/4 of SEC 11
T9N R4E County Butte
5. County or counties where water will be used Butte
6. Annual period during which water is to be used May 1 through September 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
All in Sec 11 - T9N-R4E (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SE 1/4 of NW 1/4 of SECT 15, T9N, R4E	22.65	SE 1/4 of SE 1/4 of SECT 15, T9N, R4E	22.65
SW 1/4 of NE 1/4 of SECT 15, T9N, R4E	38	SW 1/4 of SE 1/4 of SECT 15, T9N, R4E	39
SE 1/4 of NE 1/4 of SECT 15, T9N, R4E	22.65	SE 1/4 of SW 1/4 of SECT 15, T9N, R4E	22.65
NE 1/4 of SE 1/4 of SECT 15, T9N, R4E	38	NE 1/4 of SW 1/4 of SECT 15, T9N, R4E	38
		NW 1/4 of SE 1/4 of SECT 15, T9N, R4E	40

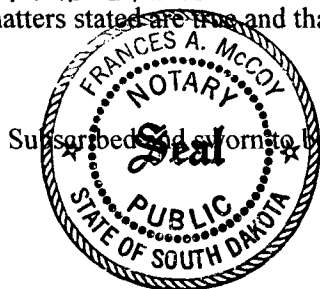
8. Give a description of the project. (Attach sheet if more space is needed)

STATE OF SOUTH DAKOTA) SS

County of Butte

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

I, Harry L. Einfalt, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.



Applicant's signature

Harry L. Einfalt

Subscribed and sworn to before me this 25th day of June, 2003

Frances A. McCoy

Notary Public Signature

SOUTH DAKOTA
WATER PERMIT NO. 1801-1 FOR IRRIGATION

Date of first receipt of application June 30, 2003.

Date of return to applicant for corrections, amendments or changes June 30, 2003.

Date of receipt of corrected application July 7, 2003.

The Water Management Board approved Water Permit No. 1801-1 on October 1, 2003 for Harry Einfalt, HCR 76, Box 76, Nisland SD 57762 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. 1801-1 appropriates 4.08 cfs from a dugout/dam (approximately 2 acre feet in storage capacity) located on a natural drainage way in the NW ¼ SE ¼ Section 11 to irrigate 282.6 acres located in the SE ¼, S ½ NE ¼, SE ¼ NW ¼, E ½ SW ¼ Section 11; all in T9N-R4E. The drainage way is on a tributary to Indian Creek.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is June 30, 2003.
4. One-fifth of the construction is to be completed on or before April 1, 2006.
5. All construction is to be completed on or before October 1, 2008.
6. Water is to be put to beneficial use on or before October 1, 2012.
7. 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 and prior water rights must be by-passed. The permit holder shall control his withdrawals to ensure there is not interference with downstream domestic uses of water. The diversion of water shall be in accordance with any written orders issued by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 10 2003

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

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

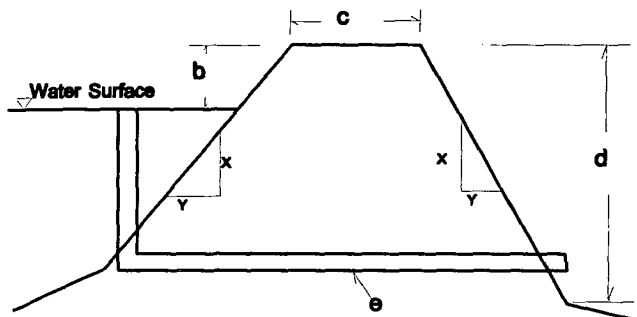
3. Dugout Information

- a) Surface Dimensions 100' x 100' Depth 10'
- b) Depth to water (ground surface to water level) 30' - 100' Depending upon Location

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

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



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 30, 2003

RECEIVED OF Harry or Rose Einfeld, HCK 76 Box 26, Hnisdland SD 57762

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

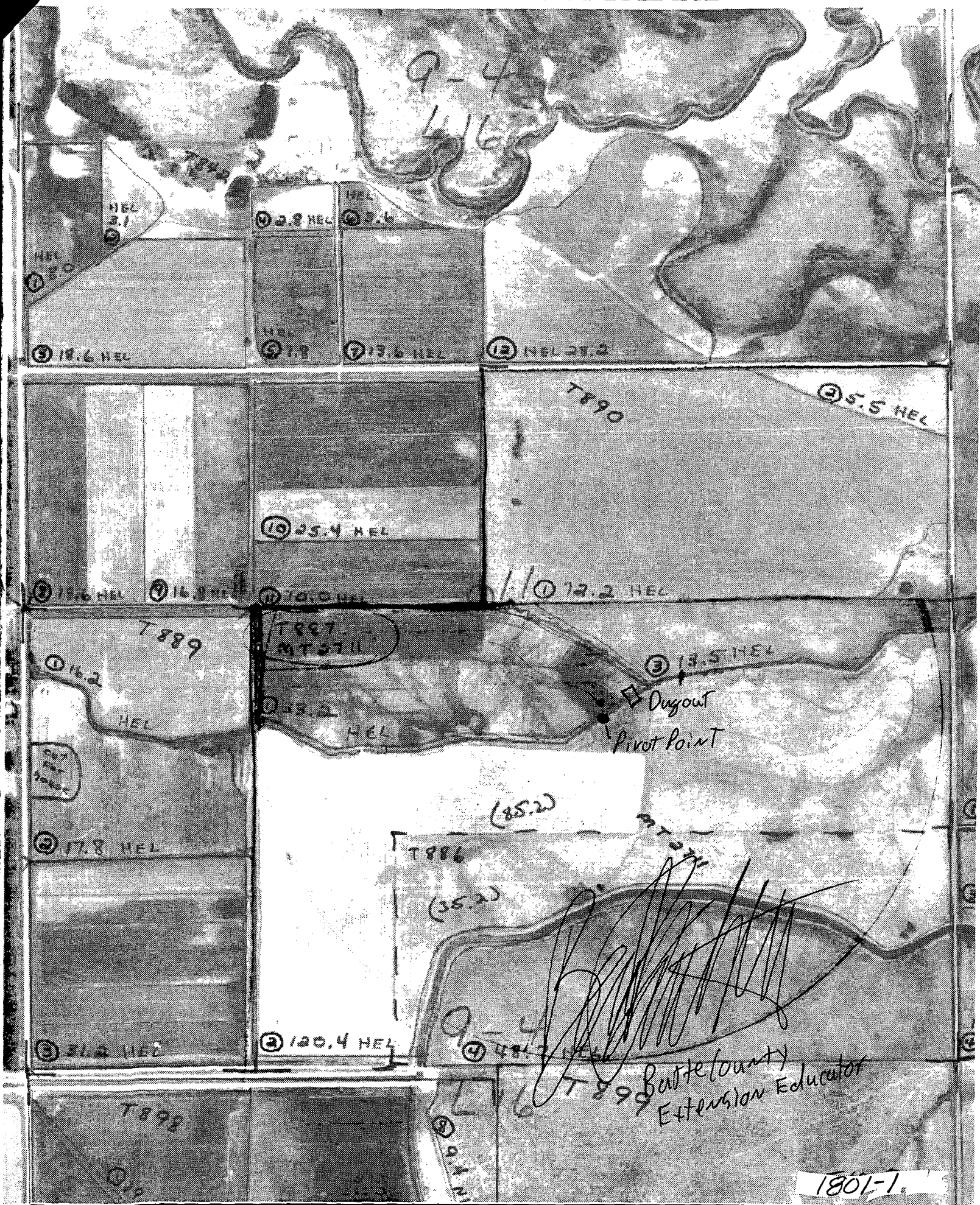
Fee for Application for Permit No. <u>1801-1</u> to Appropriate Water, to construct and to put water to beneficial use	300	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1801-1</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	350.00

No. 000300

By Darlene Einfeld

Chief Engineer gm

MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP



1801-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

June 30, 2003

Harry Einfalt
HCR 76, Box 76
Nisland SD 57762

Dear Mr. Einfalt:

Thank you for submitting the two *Application for a Permit to Appropriate Water* for irrigation. In order to complete the applications the following is required.

Regarding the application to irrigate 130 acres -- Item No. 2 of the application indicates the amount of water claimed to be 1500 gallons per minute (gpm). State Statutes limit diversions to 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed approximately 837 gpm for the 130 acres to be irrigated.

Regarding the application to irrigate 282.6 acres -- Item No. 2 of the application indicates the amount of water claimed to be 2000 gpm. This would mean that you are allowed approximately 1818 gpm for the 282.6 acres to be irrigated.

We understand that in order to operate systems such as you are proposing, a greater diversion rate may be required. Please justify in writing your request for a diversion rate greater than the statutory limit.

Also, enclosed is a copy of the application for irrigation of 282.6 acres. Item No. 7 indicates that the proposed irrigation will be in Section 15. Based on the map submitted, it appears that you intend to irrigate in Section 11 and mistakenly listed Section 15. Is this correct? If so, I will make the appropriate changes on the application.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

Water Rights Program - File Documentation

NAME: Mrs. Einfalt

ADDRESS: Nisland

DATE: 7-7-2003 COUNTY: BU TELEPHONE: 605 257-2125

RE: pending application

COMMENTS:

Mrs. Einfalt called and left a message stating they concurred with amending the applications as follows:

Application for 130 acres – 837 gpm (1.86 cfs)

Application for 282.6 acres – 1818 gpm (4.08)

The lands to be irrigated are located in Section 11 as shown on the aerial photo.



Karen Schlaak
Environmental Scientist

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Harry Einfalt's Water Permit Application Nos. 1800-1 and 1801-1

ADDRESS: COUNTY: Butte

DATE: August 20, 2003 TELEPHONE:

RE: Call from Curt Anderson with the Bureau of Reclamation

COMMENTS:

Mr. Anderson called to discuss the two applications filed by Harry Einfalt.

He indicated that the proposed dugout/dam for the application in Section 15 is located on Bureau property and is an open drain for the Belle Fourche Irrigation Project. Since this open drain is a structural component of the Project, to construct any works on the property will require a special use permit to be obtained through the Bureau. Mr. Anderson indicated that it is unlikely that the Bureau would approve a special use permit but that Mr. Einfalt has the right to go through the process. We then discussed which permit Mr. Einfalt should obtain first. The longer we talked, I became convinced that it seems proper that Mr. Einfalt should go through the Bureau process prior to us acting on the water permit application. I proposed the idea of deferring Application No. 1800-1 to allow time for Mr. Einfalt to go through the Bureau process. I said I would recommend deferral to the Chief Engineer but that it is ultimately Garland's call on whether to recommend approval, denial or deferral of the application. I asked about the timeframes for Mr. Einfalt to go through the Bureau process and the Bureau responded about 6 months. We agreed that if deferred, the application will be brought before the Board for reconsideration in one year.

Mr. Anderson stated that Application No. 1801-1 is on a natural drainage way and is not a structural component of the Belle Fourche Irrigation Project. The water in this drainage way is public water subject to state appropriations. He did indicate that they would not allow project water to be diverted into the dugout. When the application is public noticed, the Bureau will state this in a letter.

Finally, we briefly discussed whether there will be sufficient water from either source to supply irrigation of a center pivot. The consensus is that these sources are not a reliable and probably won't supply sufficient water to operate a center pivot.

NAME: 

REPORT ON WATER PERMIT APPLICATION NO. 1801-1

Harry Einfalt
August 18, 2003

Application Nos. 1801-1, Harry Einfalt proposes to appropriate 4.08 cubic feet of water per second from a dugout located on a natural drainage way. The diversion point is to be located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11 to irrigate 282.6 acres in the SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11; all in T9N-R4E. The proposed projects is located approximately 14 miles NE of the town of Belle Fourche in Butte County.

Review of the Proposed Project

The applicant proposes to construct a dugout on drainage way and pump from the dugout to irrigate 282 acres using a center pivot irrigator. The source of water is local runoff and possibly return flows from the Belle Fourche Irrigation District.

Review of Existing Water Rights

The source of water for this project is from a dugout located on a drainage way that catches return flows from the Belle Fourche Irrigation District and local runoff. The drainage way is a tributary to Indian Creek which is a tributary to Horse Creek. There are 4 existing water rights appropriating 3.30 cfs from Indian Creek and 12 existing water rights appropriating 18.20 cfs from Horse Creek located downstream from this proposed project. There was one existing gauging station located on Indian Creek upstream of this project. This gauging station was located above the Belle Fourche Irrigation District boundaries and was operated from 1961 to 1981. Flow records measured at this site would not reflect return flows from the irrigation district. The hydrograph for this gauging station (Attachment 2) would be considered typical for flows in a prairie stream located in an arid region. During the irrigation season May through September, the majority of the time the stream dries up with flows measured only after sporadic large rain events such as a thunderstorm over the watershed.

A second USGS gauging station has been operated on Horse Creek above Vale SD since 1980 and is located several miles downstream of this proposed project (Attachment 1). The hydrograph for this site shows consistent flows during the irrigation season, which is not typical for a prairie stream. This can be explained because a significant amount of flow measured at this gauging station is from return flows from the Belle Fourche Irrigation District.

Since the proposed project is located within the irrigation district boundaries it would rely on return water collected in the dugout for the majority of the projects water supply. It would be expected that some water would be available for this project. The amount of runoff water available would be dependent upon the amount of upstream irrigation and the efficiency in which the irrigation water is applied. If in the future the number of upstream irrigated acres is reduced or if a more efficient form of irrigation is utilized, the amount of water available for this project could be drastically limited.

There also may be times during the irrigation season when there is not sufficient water available for downstream domestic use and prior water rights. At those times, the applicant would need to cease diversions. In order to address those conditions, if approved, the water permits should contain the standard qualification requiring a bypass for downstream domestic use and prior water rights.

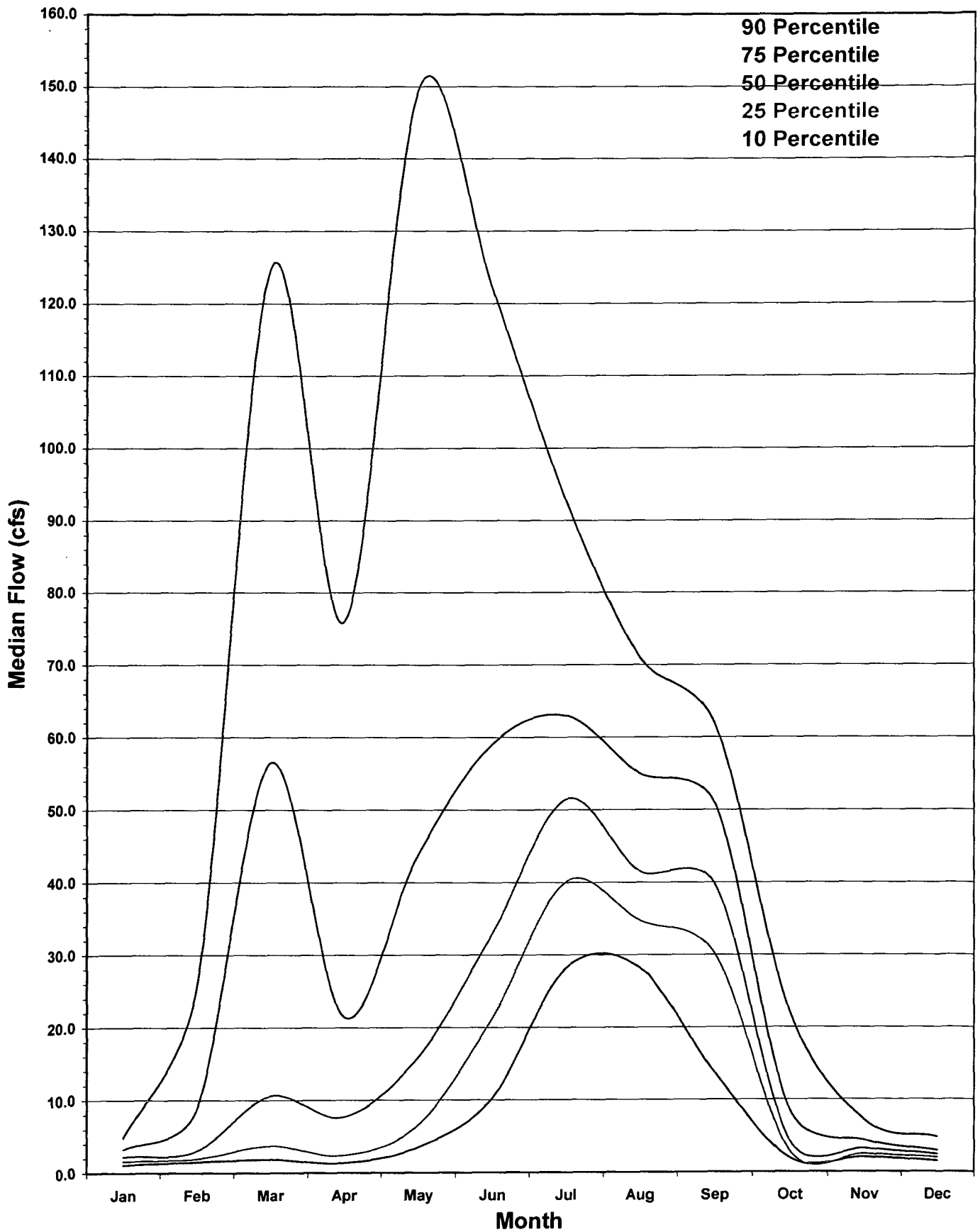
Conclusions

1. This application proposes to appropriate 4.08 cubic feet of water per second (cfs) from surface water for irrigation of 282.6 acres.
2. Water for this project would be primarily from irrigation return flows from the Belle Fourche Irrigation District.
3. The amount of runoff water available would be dependent upon the amount of upstream irrigation and the efficiency in which the irrigation water is applied. If in the future the number of acres irrigated upstream is reduced or if a more efficient form of irrigation is utilized, the amount of water available for this project could be drastically limited.
4. There may be times during the irrigation season when there is not sufficient water available for downstream domestic use and prior water rights. At those times, the applicant would need to cease diversions.

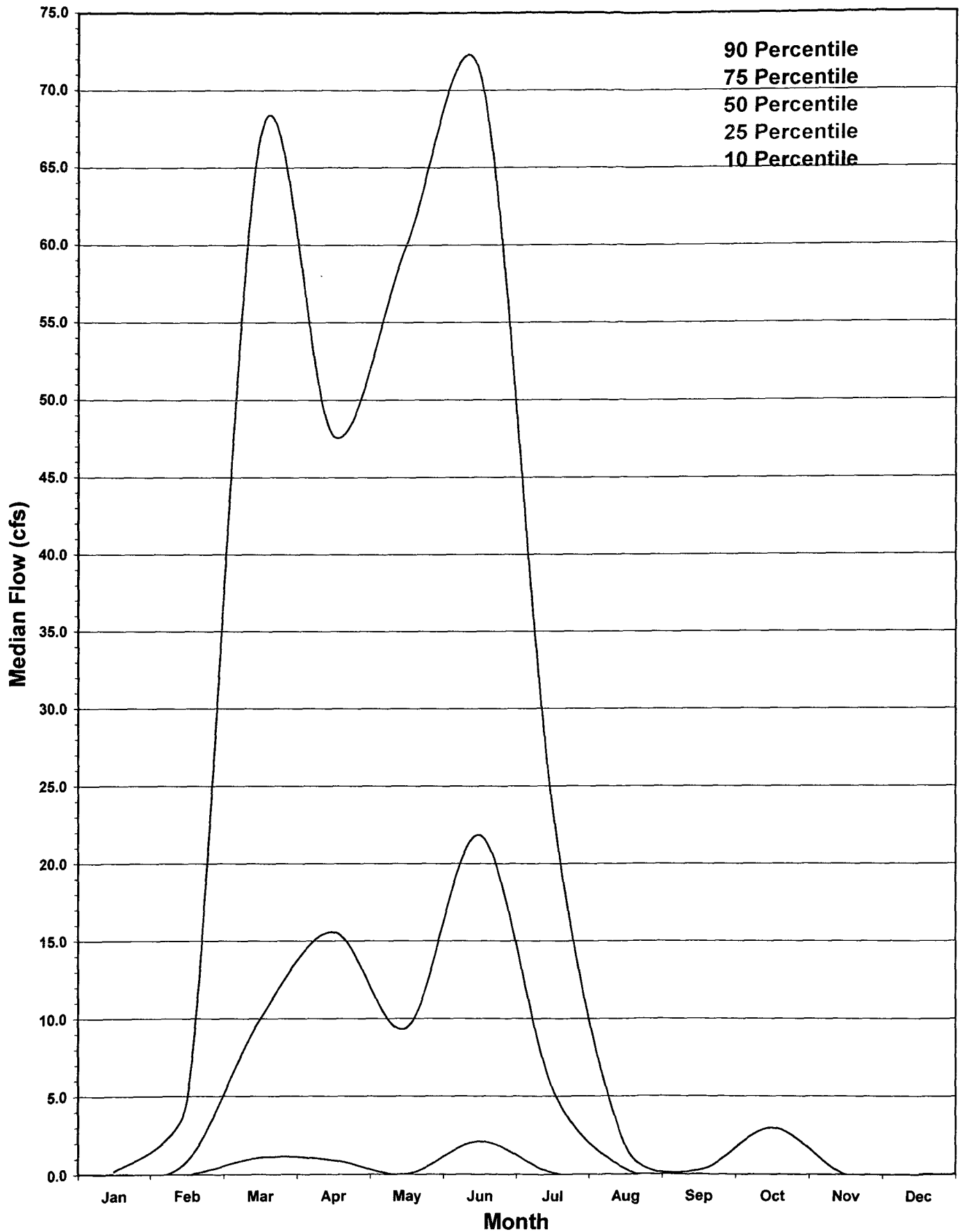


Mark D. Rath
Natural Resources Engineering Specialist

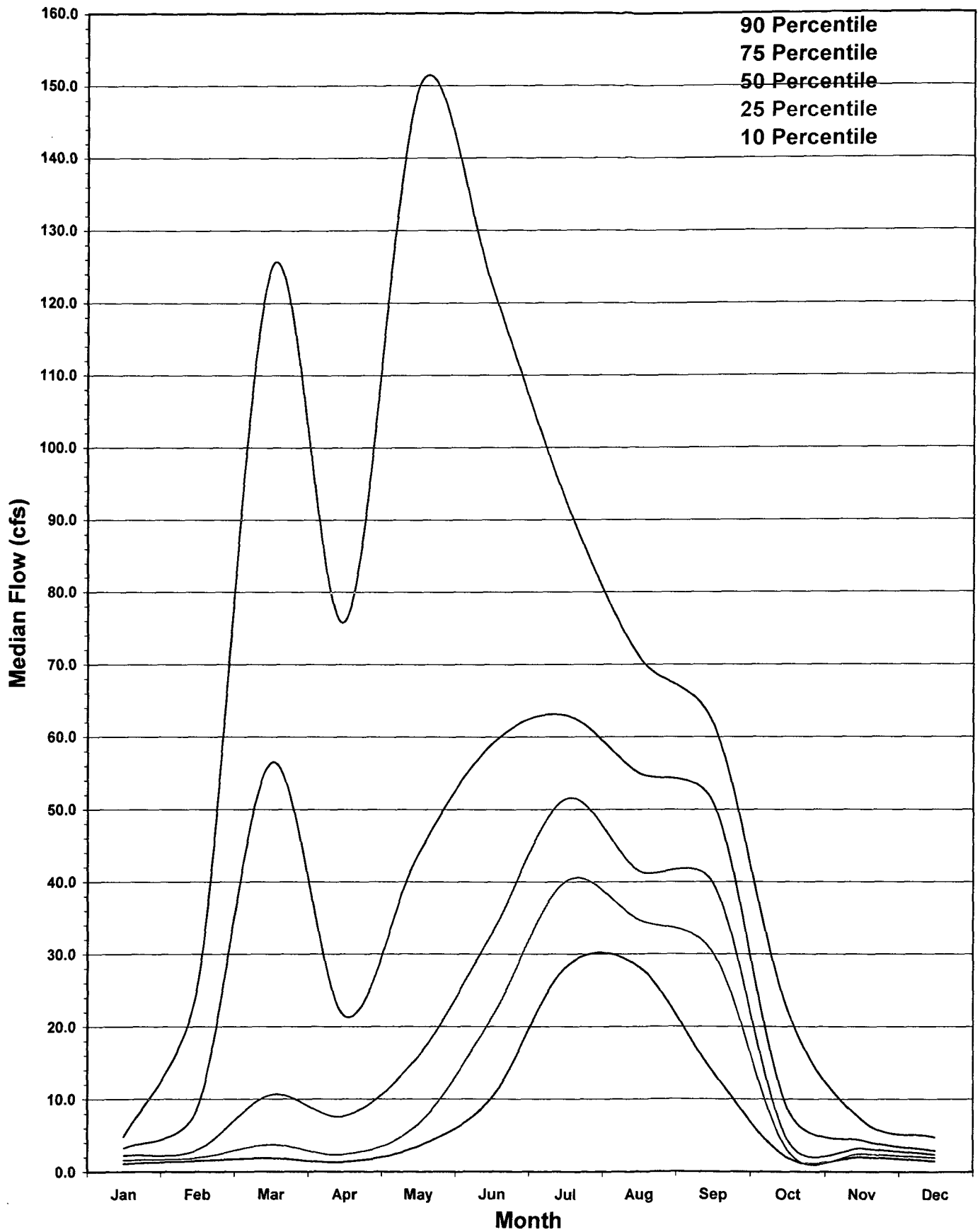
Horse Creek
Above Vale
1980-2002



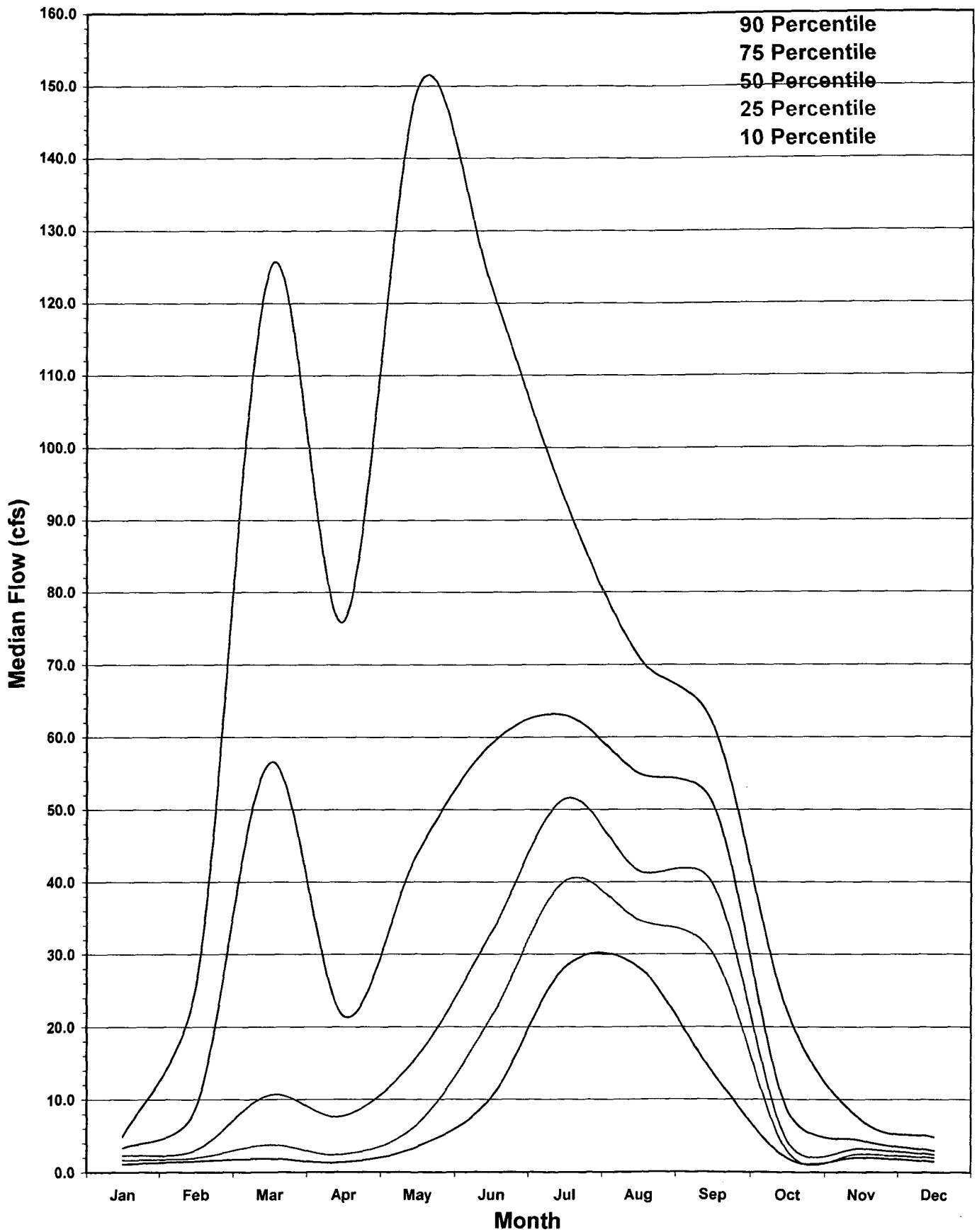
**Indian Creek
1961-1981**



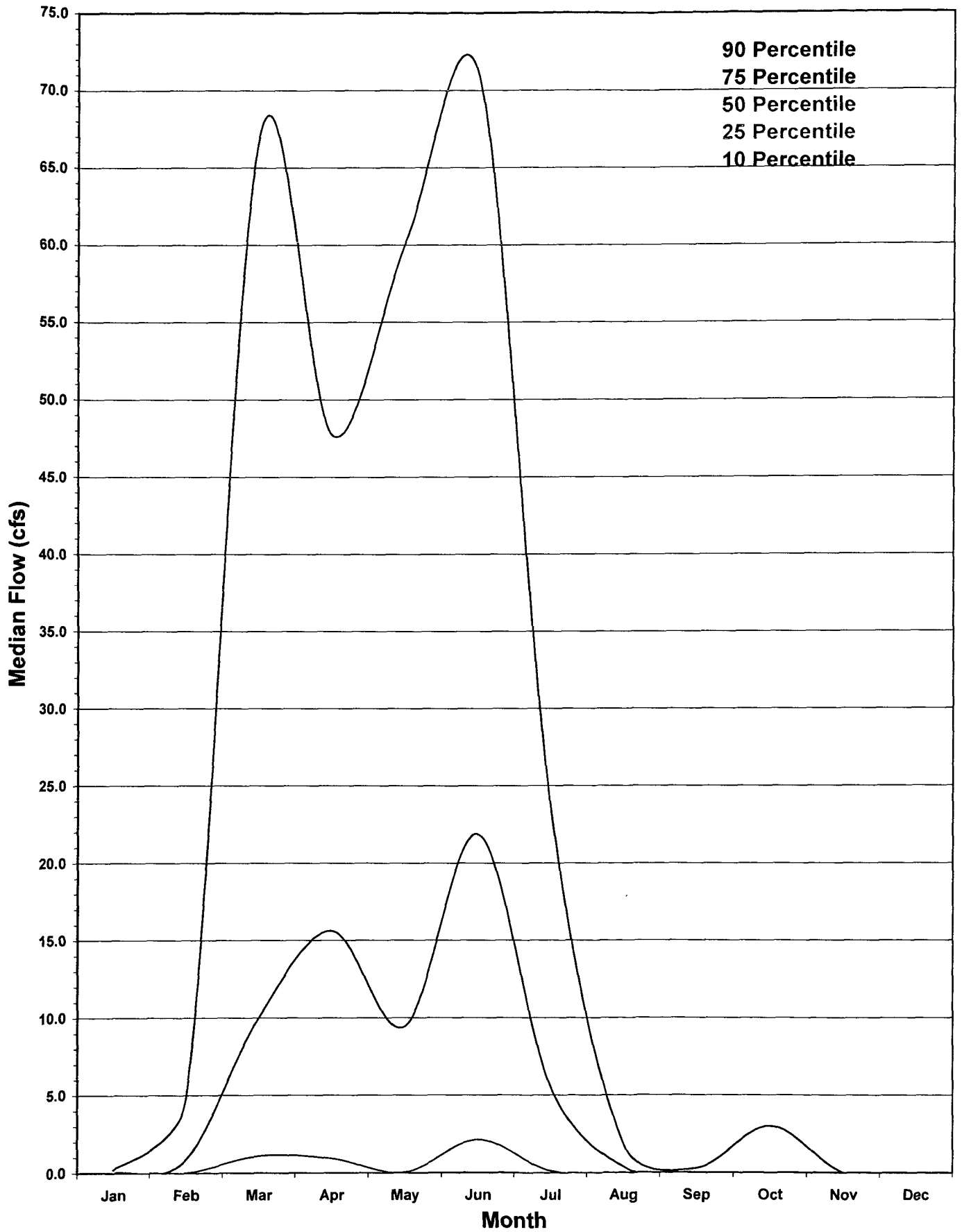
Horse Creek
Above Vale
1980-2002



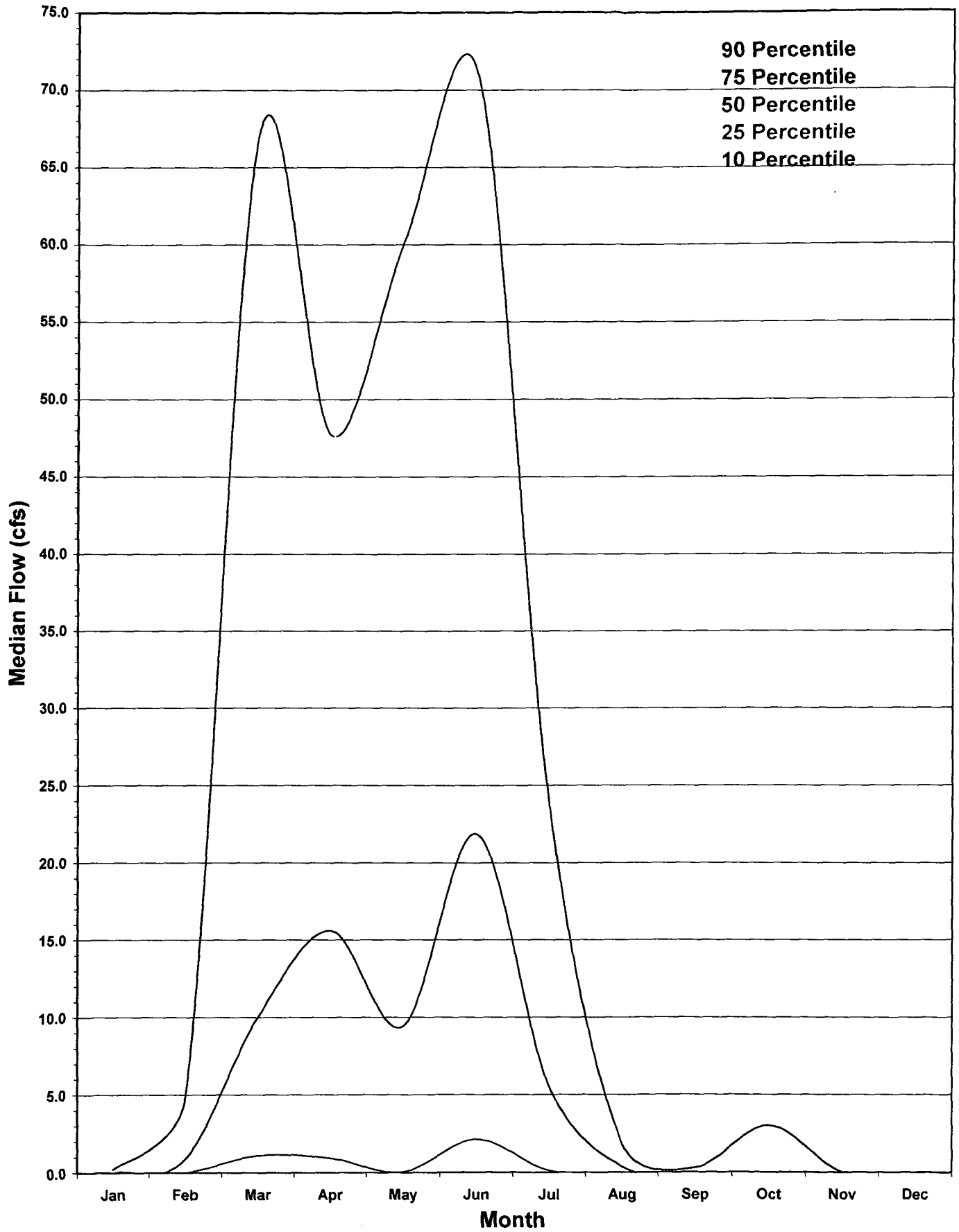
Horse Creek
Above Vale
1980-2002



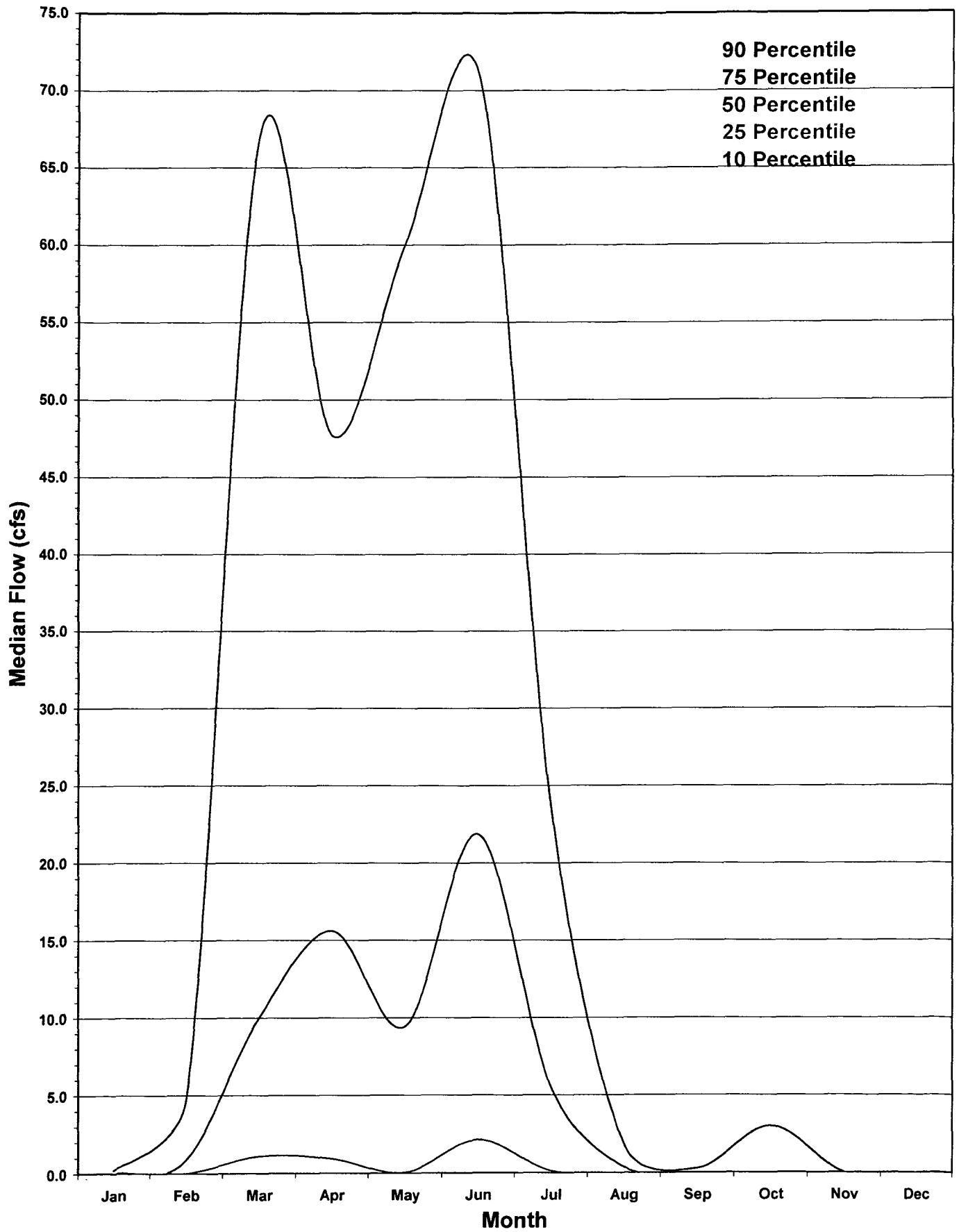
Indian Creek
1961-1981



Indian Creek
1961-1981



**Indian Creek
1961-1981**





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1801-1, Harry Einfalt**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1800-1, Harry Einfalt, HCR 76, Box 76, Nisland SD 57762.

The Chief Engineer is recommending APPROVAL of Application No. 1801-1 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 rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. The permit holder shall control his withdrawals to ensure there is not interference with downstream domestic uses of water. The diversion of water shall be in accordance with any written orders issued by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 27, 2003

NOTE: The applicant is proposing to construct a dugout on a drainage way. This drainage way may not be a reliable source of water capable of sustaining irrigation center pivot irrigation.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2003

Curt Anderson
Bureau of Reclamation
515 9th Street, Room 101
Rapid City SD 57701

Clint Pitts
Belle Fourche Irrigation District
PO Box 225
Newell SD 57760

Gentleman:

Enclosed is a copy of the report, recommendation and public notice on Water Permit Application Nos. 1800-1 and 1801-1 filed by Harry Einfalt. The notice of hearing is scheduled to be published in the Belle Fourche Bee/Post on September 3 and 10, 2003. The notice schedules a October 1st hearing before the Water Management Board.

This information is being sent to you because of the Bureau of Reclamation and the Belle Fourche Irrigation District's continuing interest in water right issues in this area.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

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

August 28, 2003

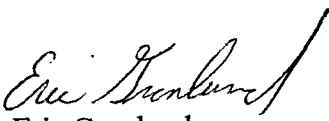
Harry Einfalt
HCR 76 Box 76
Nisland SD 57762

Dear Mr. Einfalt:

Water Permit Application Nos. 1800-1 and 1801-1 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Belle Fourche Bee/Post printed at Belle Fourche, SD (Ph # 605-892-2528). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2003

Belle Fourche Bee/Post
PO Box 400
Belle Fourche, SD 57717-0400

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 1800-1 and 1801-1 to Appropriate Water to be published twice. Please publish the first notice on September 3, 2003 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Harry Einfalt, HCR 76 Box 76, Nisland SD (Ph # 605-257-2125).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

CUT HERE

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Nos. 1800-1 & 1801-1

Date _____

We are in receipt of your letter of August 28, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos. 1800-1 and 1801-1 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on September 3, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING ON APPLICATION NOS. 1800-1 & 1801-1 to Appropriate Water

Notice is given that Harry Einfalt, HCR 76, Box 76, Nisland SD 57762 has filed the following applications for a water permit.

Application No. 1800-1 appropriates 1.86 cubic feet of water per second (cfs) from a dugout/dam on a open drain (approximate 2 acre feet in storage capacity) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15 to irrigate 130 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15; all in T9N-R4E. The open drain is on a tributary to Owl Creek. The source of water is primarily return flows from the Belle Fourche Irrigation Project along with some local runoff.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 1800-1 because the proposed dugout/dam is to be located on an open drain which is a structural component of the Belle Fourche Irrigation Project. This application should be deferred for up to one year to allow applicant to pursue authorization from the Bureau of Reclamation.

Application No. 1801-1 appropriates 4.08 cfs from a dugout/dam (approximately 2 acre feet in storage capacity) located on a natural drainage way in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11 to irrigate 282.6 acres located in the SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 11; all in T9N-R4E. The drainage way is on a tributary to Indian Creek.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1801-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 22, 2003. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 1:30 P.M. October 1, 2003 in the Matthew Training Center, Foss Building, 523 E Captiol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 1, 2003 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 22, 2003.

Any hearing may be an adversarial proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 22, 2003, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS

County of Butte)

I, Delilah Meyer

certify that the attached printed Notice was taken

from the Belle Fourche Post

printed and published in Belle Fourche

County of Butte and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

Sept 3, 2003

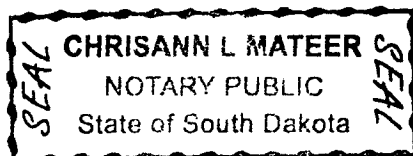
Sept 10, 2003

Cost of Printing \$ 70.76

Chrisann L. Mateer
 (Signature)

Publisher
 (Title)

September 11, 2003
 (Date Signed)



My Commission Expires Nov. 19, 2007

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1801-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 22, 2003. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 1:30 P.M. October 1, 2003 in the Matthew Training Center, Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 1, 2003 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 22, 2003.

Any hearing may be an adversarial proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 22, 2003, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

RECEIVED
 SEP 11 2003
 WATER RIGHTS
 PROGRAM

NOTICE OF HEARING ON APPLICATIONS NOS. 1800-1 & 1801-1 to Appropriate Water

Notice is given that Harry Einfalt, HCR 76, Box 76, Nisland SD 57762 has filed the following applications for a water permit:

Application No. 1800-1 appropriates 1.86 cubic feet of water per second (cfs) from a dugout/dam on a open drain (approximately 2 acre feet in storage capacity) located in the NW 1/4, SE 1/4, Section 15 to irrigate 180 acres located in the E 1/2 SW 1/4 and the W 1/2 SE 1/4 Section 15, all in T9N-R4E. The open drain is on a tributary to Owl Creek. The source of water is primarily return flows from the Belle Fourche Irrigation Project along with some local runoff.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 1800-1 because the proposed dugout/dam is to be located on an open drain which is a structural component of the Belle Fourche Irrigation Project. This application should be deferred for up to one year to allow applicant to pursue authorization from the Bureau of Reclamation.

Application No. 1801-1 appropriates 4.08 cfs from a dugout/dam (approximately 2 acre feet in storage capacity) located on a natural drainage way in the NW 1/4, SE 1/4 Section 11 to irrigate 282.6 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4 Section 11; all in T9N-R4E. The drainage way is on a tributary to Indian Creek.



IN REPLY
REFER TO:

DK-700R

United States Department of the Interior
BUREAU OF RECLAMATION

Dakotas Area Office
Rapid City Field Office
515 9th St., Room 101
Rapid City, South Dakota 57701



SEP 15 2003

Mr. Garland Erbele
Chief Engineer
Water Rights Division
South Dakota Department of
Environment and Natural Resources
523 E. Capitol
Pierre, South Dakota 57501-3181

RECEIVED

SEP 16 2003

WATER RIGHTS
PROGRAM

Subject: Water Permit Application Numbers 1800-1 and 1801-1 Filed by Harry Einfalt, Belle Fourche Irrigation District

Dear Mr. Erbele:

We appreciate the opportunity to comment concerning Water Permit Application Numbers 1800-1 and 1801-1 filed by Harry Einfalt on the Belle Fourche Irrigation District (District). We concur with the chief engineer's recommendation of deferral for Application Number 1800-1. Mr. Einfalt is required to apply to the Belle Fourche Irrigation District for a special use permit to allow any construction activities or use of water to occur within the open drain rights-of-way. The open drain is a Bureau of Reclamation (Reclamation) facility and requires a special use permit approved by the District and Reclamation.

We also agree with the chief engineer's recommendation of approval for Application Number 1801-1 under the condition that Mr. Einfalt understands that he may not order irrigation water from the District and move it to his dugout and use the water to irrigate Class 6 land. Mr. Einfalt must understand that he may not apply federal water to Class 6 lands.

We thank you for the opportunity to intervene and comment on these proceedings. If you have any questions, please contact Curt Anderson or myself at 605-394-9757.

Sincerely,

Jeffrey L. Nettleton
Rapid City Field Office Manager



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

DEC 10 2003

Harry Einfalt
HCR 76 Box 76
Nisland SD 57762

Dear Mr. Einfalt:

Enclosed is Water Permit No. 1801-1 authorizing construction of your 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,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



1801-1
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 26, 2007

NOTICE

TO: HARRY EINFALT, 18127 ARPAN RD, NISLAND, SD 57762

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2006 Irrigation Questionnaire(s)

Our records indicate that the 2006 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1801-1. The request for the Questionnaire was dated October 20, 2006. The Water Management Board has directed that owners of water permits who have not submitted the 2006 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1801-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 10:30 am, March 7, 2007 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1801-1 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before **March 1, 2007**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V5-IQ.pdf>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



1801-1

[Home](#) | [Help](#)[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: **2301 3460 0000 8516 2463**
Status: **Delivered**

Your item was delivered at 10:20 AM on January 29, 2007 in NISLAND, SD 57762. The item was signed for by H EINFALT.

[Additional Details >](#)[Return to USPS.com Home >](#)

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United States Postal Service Signature Confirmation	
SIGNATURE CONFIRMATION NUMBER: 2301 3460 0000 8516 2463	Postage Paid
	HARRY EINFALT 18127 ARPAN RD NISLAND SD 57762
	Waiver of Signature ☐ YES ☐ NO
	Postmark Here
POSTAL CUSTOMER: Keep this receipt. For Inquiries: Access internet web site at www.usps.com or call 1-800-222-1811	
CHECK ONE (Circle)	
☐ Priority Mail®	
☐ Package Services	
Printed on Recycled Paper (See Reverse)	



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www.state.sd.us/denr

February 12, 2007

1801-1

Harry Einfalt
12149 Reid Rd
Nisland SD 57762

Dear Mr. Einfalt:

I am writing to acknowledge receipt of your 2006 irrigation questionnaire. You may disregard the January 26, 2007, "Notice" concerning reporting requirements for Water Permit No. 1801-1.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 31, 2008

1801-1

Travis Schenk
10307 Chicken Creek Rd
Spearfish SD 57783

Dear Mr. Schenk:

Thank you for returning my call concerning ownership of land described in Water Permit No. 1801-1.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Also enclosed is the 2008 irrigation questionnaire pertaining to the land described in Water Permit No. 1801-1. This can be completed and returned with the transfer form and filing fee.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

1801-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 17, 2009

1801-1
1801B-1

Robert D Walters
PO Box 846
Spearfish SD 57783

Dear Mr. Walters:

Thank you for taking the time to visit with me concerning your ownership of land as authorized in Water Permit No. 1801-1. I have included a copy of the permit for your review.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

As we discussed, Travis Schenk also owns land authorized for irrigation under the permit and has filed an ownership change for his portion. As soon as we receive the completed transfer form and filing fee from you, Water Permit No. 1801-1 will be divided and reissued to reflect separate ownership.

For informational purposes, under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three year period may be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

FILE DOCUMENTATION FOR

WATER PERMIT NO. 1801-1

On November 4, 2008 and September 29, 2009, ownership changes were filed for land described in the water permit. Based on the ownership changes, Water Permit No. 1801-1 is being divided and reissued as follows:

- **Water Permit No. 1801A-1, Travis & Judy Schenk and J Daniel Schenk, 10307 Chicken Creek Rd, Spearfish SD 57783 appropriating 2.88 cfs from a dugout/dam (approximately 2 acre-feet storage capacity) located on a natural drainage way in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11 to irrigate 199.3 acres located in the SE $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 11; all in T9N, R4E. The drainage way is on a tributary to Indian Creek.**
- **Water Permit No. 1801B-1, Robert Walters, PO Box 846, Spearfish SD 57783 appropriating 1.20 cfs from a dugout/dam (approximately 2 acre-feet storage capacity) located on a natural drainage way in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11, to irrigate 83.3 acres located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11; all in T9N, R4E. The drainage way is on a tributary to Indian Creek.**