

WATER PERMIT NO. 2006-1

Name of Applicant: **Thomas Simons**

Address: **20240 Cheyenne Crossing Rd, Howes SD 57748**

Phone: **605 515-1706**

Amount of Water Claimed: **5.33 cfs**

Total Acres: **900 acres**

Source of Water Supply: **Cheyenne River**

Water to be used for: **irrigation**

County: **Meade**

Type of Waste Disposal System:

Location: **10 miles south of Howes**

PRIORITY Date Received: **4-15-21**

Application/License Fee: **\$ 2250**

Corrected Application Received: **4-19-21**

Period of Annual Use: **May 1 – Sept 30**

Remarks:

Diversion Point: **NW 1/4 NE 1/4 Sec 29 and W 1/2**

NW 1/4 Sec 15; T6N-R17E

Land to be Irrigated: **SNW 1/4, NW 1/4 SW 1/4**
Sec 16, Sec 17, SE 1/4, SE 1/4 NE 1/4 Sec 18, NE
1/4 Sec 19, NW 1/4, NE 1/4 SW 1/4 Sec 20; all in
T6N-R17E

Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **4-19-21**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2006-1**

Date of first receipt of application April 15, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2006-1 to Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 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. 2006-1 appropriates 5.34 cubic feet of water per second from the Cheyenne River located between the NW 1/4 NE 1/4 Section 29 and the W 1/2 NW 1/4 Section 15 for irrigation of 900 acres located in the NW 1/4, NW 1/4 SW 1/4 Section 16, Section 17, SE 1/4, SE 1/4 NE 1/4 Section 18, NE 1/4 Section 19 and NW 1/4, NE 1/4 SW 1/4 Section 20; all in T6N-R17E. This site is located approximately 10 miles south of Howes SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is April 15, 2021.
4. The date of approval of Permit No. 2006-1 is July 5, 2021.
5. One-fifth of the construction is to be completed on or before January 5, 2024.
6. All construction is to be completed on or before July 5, 2026.
7. Water is to be put to beneficial use on or before July 5, 2030.
8. 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. Diversions under this Permit shall be in accordance with any written orders by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 13 2021
date



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

PAID

APR 15 2021

Ck# 3245

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>2006-1</u>	Hydrologic Unit <u>10120112</u>
	RECEIVED APR 15 2021	
	Basin <u>Lower Cheyenne</u> Newspaper <u>Faith Independent</u> <u>Rapid City Journal</u>	
PETROLEUM RELEASE FUND		

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit Thomas Simons

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

Mailing Address 20240 Cheyenne Crossing Rd. Howes SD 57748
(Address) (City) (State) (Zip Code)

Phone 985-5026 Mobile 515-1706 Email Simonsangus13@gmail.com

2. Amount of water claimed 5.34 *CFS or 2400 **GPM ***AF Total Acreage 900
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Cheyenne River (NW 1/4 NE 1/4)

4. Location of point of diversion Surface Pumps N 1/2 Section 29-6N-R17E
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
NW 1/4 Section 15-6N-R17E County Meade

5. County or counties where water will be used _____

6. Annual period during which water is to be used May - September Intermittently

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

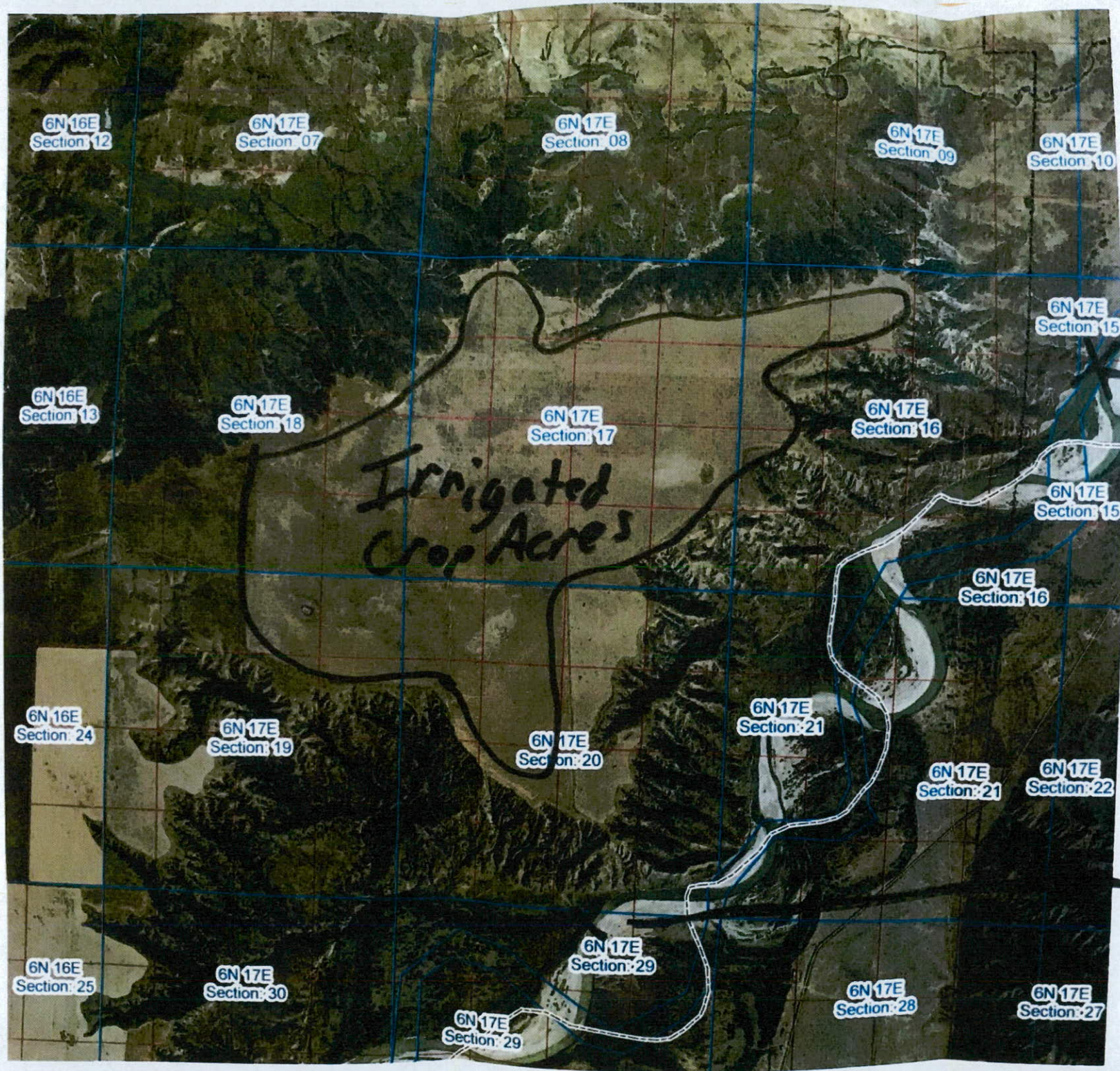
Land Description	Acres	Land Description	Acres
<u>S17-6N-17E</u>	<u>400</u>	<u>S16-6N-17E NW 1/4,</u>	<u>50</u>
<u>S18-6N-17E SE 1/4, SE 1/4 NE 1/4</u>	<u>200</u>	<u>NW 1/4 SW 1/4</u>	
<u>S19-6N-17E NE 1/4</u>	<u>80</u>		
<u>S20-6N-17E NW 1/4, NE 1/4 SW 1/4</u>	<u>170</u>		

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

We wish to pump water for irrigation to raise crops for livestock feed corn, alfalfa, wheat, ect.

I, Thomas C. [Signature] Owner, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.



6N 16E
Section 12

6N 17E
Section 07

6N 17E
Section 08

6N 17E
Section 09

6N 17E
Section 10

6N 16E
Section 13

6N 17E
Section 18

6N 17E
Section 17

6N 17E
Section 16

6N 17E
Section 15

6N 17E
Section 15

6N 17E
Section 16

6N 16E
Section 24

6N 17E
Section 19

6N 17E
Section 20

6N 17E
Section 21

6N 17E
Section 21

6N 17E
Section 22

6N 16E
Section 25

6N 17E
Section 30

6N 17E
Section 29

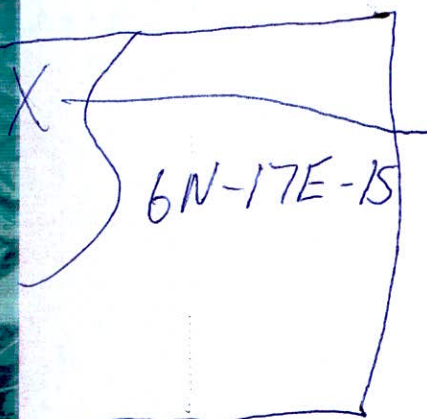
6N 17E
Section 28

6N 17E
Section 27

6N 17E
Section 29

Proposed
Pump

Proposed
Pump



Potential
Pump
Site

Cropland

Potential Pump Site

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 15, 2021

RECEIVED OF Thomas Simons 20240 19153 Vista Pl. Howes SD 57748

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

Fee for Application for Permit No. <u>2006-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$2050.00
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>2006-1</u>	\$200.00
Fee for Filing Transfer Form _____	\$
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law)	
TOTAL	\$2250.00

By Eric Gronlund
Chief Engineer
vm



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

April 15, 2021

Thomas Simons
20240 Cheyenne Crossing Rd
Howes SD 57748

Dear Mr. Simons:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Meade County. In order to complete the application, the following is required.

- Enclosed is the aerial photo map for your entire proposed irrigation project. On the map, please outline the acres to be irrigated and mark the two proposed Cheyenne River diversion points with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

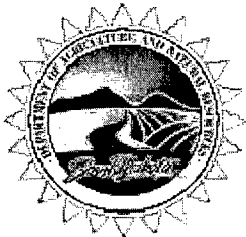
enclosure

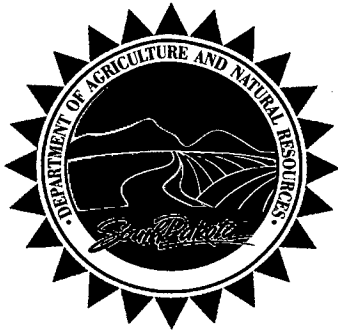
Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, June 15, 2021 8:30 AM
To: Tommy Simons
Subject: Water Permit Application No. 2006-1
Attachments: 1339.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2006-1, Thomas Simons**

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. 2006-1, Thomas Simons, 20240 Cheyenne Crossing Rd., Howes SD 57748.

The Chief Engineer is recommending APPROVAL of Application No. 2006-1 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. Diversions under this Permit shall be in accordance with any written orders 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.

Eric Gronlund, Chief Engineer
June 14, 2021

REPORT ON WATER PERMIT APPLICATION NO. 2006-1

Thomas Simons

June 14, 2021

Water Permit Application No. 2006-1 requests the appropriation of 5.34 cubic feet per second (cfs) of water from the Cheyenne River located between the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29 and the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 15 for the irrigation of 900 acres located in the NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, Section 17, SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, NE $\frac{1}{4}$ Section 19 and NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20; all in T6N-R17E. This site is located approximately 10 miles south of Howes, SD.

Water Source: Cheyenne River

Hydrology

The proposed water source for this application is the lower Cheyenne River downstream from the confluence of the Belle Fourche River with the Cheyenne River.

The Cheyenne River headwaters in the high plains of Wyoming in the Thunder Basin National Grasslands and meanders around the southern extent of the Black Hills, entering South Dakota about 14 miles northwest of the town of Edgemont, SD in Fall River County. The river is impounded by Angostura Reservoir, located approximately 6 miles south of Hot Springs, SD, and is capable of impounding up to 138,761 acre-feet of water stored in Angostura Reservoir for irrigation at the Angostura Irrigation District and other purposes. Construction of Angostura Reservoir was completed in 1949 as part of the Angostura Unit and supplies the Angostura Irrigation District water for irrigation of 12,218 acres in northeastern Fall River and southeastern Custer counties (US Bureau of Reclamation, 2002).

The Belle Fourche River headwaters in northeastern Wyoming and flows northeast around the northern edge of the Black Hills of South Dakota, then east to the Cheyenne River confluence north of Wasta, South Dakota. In this stretch is the Belle Fourche Irrigation District, a US Bureau of Reclamation irrigation project capable of diverting Belle Fourche River flow to an off-river reservoir located on Owl Creek. This project was completed in 1914 and includes the Belle Fourche River diversion dam, a storage dam capable of impounding 192,077 acre-feet of storage and irrigating 57,068 acres in southeastern Butte and northwestern Meade counties (US Bureau of Reclamation, 2004).

There are also numerous tributaries located along the southern, eastern, and northern flanks of the Black Hills that contribute flow to the Cheyenne and Belle Fourche rivers. A major source of flow coming from upstream of this project is from irrigation return flows from the Angostura Irrigation District and the Belle Fourche Irrigation District (Figure 1).

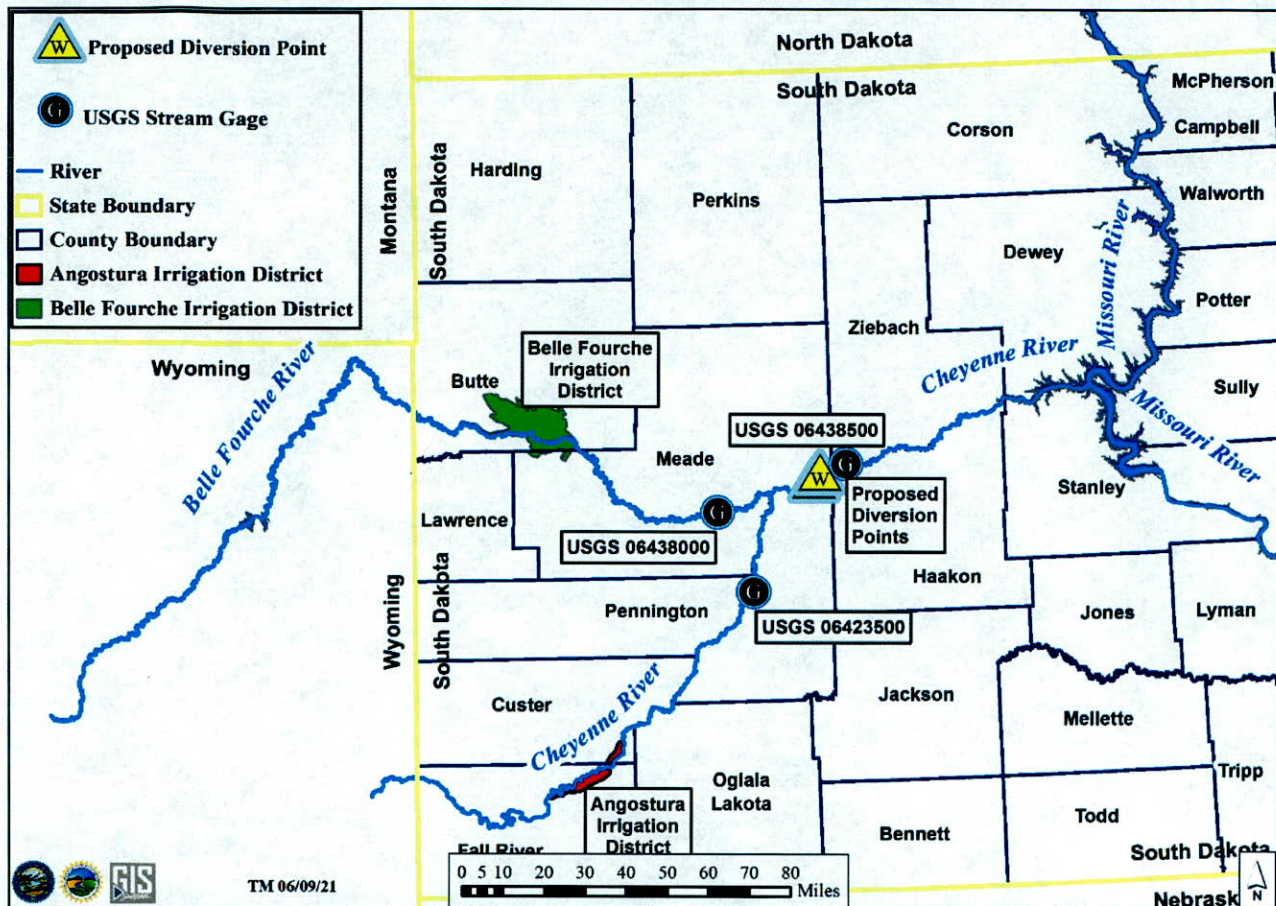


Figure 1: The proposed diversion points, nearby USGS stream gages for the Cheyenne and Belle Fourche rivers, Angostura and Belle Fourche Irrigation Districts (U.S. Geological Survey, 2021).

South Dakota Codified Law 46-2A-9

Pursuant to SDCL 46-2A-9, "A permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest." This report will address the availability of unappropriated water and the potential for unlawful impairment of existing water rights for the Cheyenne River.

Stream Gage Data

The U.S. Geological Survey (USGS) maintains a long-term stream gaging network in South Dakota that provides real-time discharge measurements that are available to the public (U.S. Geological Survey, 2021). For this purpose, the USGS maintains a database of historical data that includes statistical daily, monthly, and annual discharge information. This discharge information includes mean daily readings and median daily readings.

Mean Versus Median

Mean, often referred to as average, and median, otherwise referred to as 50th percentile, are statistical terms that show the central tendency of a statistical dataset. Mean is often used to describe the middle value of a dataset and is calculated by summing the values of a dataset and dividing by the number of data values. Median is the value separating the higher half of a set of data values from the lower half and is the central value of a data set.

The disadvantage of using mean to describe discharge is the mean value can be significantly affected by any single value in a dataset being very high or very low compared to the rest of the data values. In the analysis of long-term discharge data, flood events skew the calculated mean value giving an unreasonable expectation of a higher discharge value over longer periods of time. An example of this is shown in Figure 2, which demonstrates the daily mean discharge values versus the daily median discharge values for USGS gaging station 06438500 for Cheyenne River, located near Plainview, SD. This gaging station has daily discharge data beginning October 1950 to September 2020 (U.S. Geological Survey, 2021).

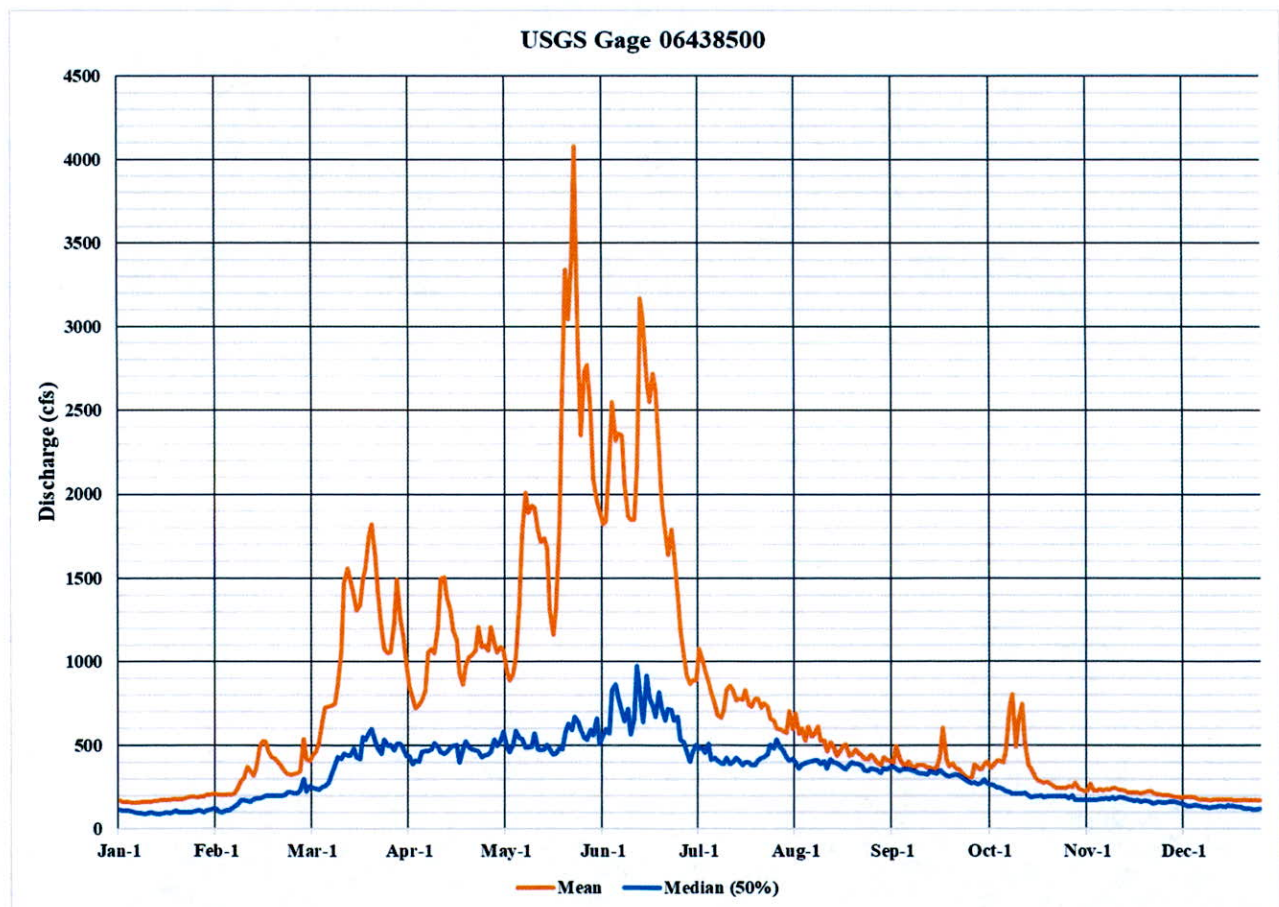


Figure 2: USGS gaging station 06438500 mean versus median daily values over the period of record beginning October 1950 to September 2020. This gaging station has a contributing drainage area of 21,340 mi² (U.S. Geological Survey, 2021).

Daily Percentile Discharge Hydrographs

Hydrographs for the USGS gaging stations upstream from the confluence of the Belle Fourche and upper Cheyenne Rivers were analyzed to determine discharge values, seasonal tendencies, and seasonal pumping before the two rivers merge. The nearest gaging stations upstream to the confluence and the proposed diversion point are USGS Stream Gages 06423500 on the upper Cheyenne River near Wasta SD and 06438000 on the Belle Fourche River near Elm Springs, SD. Additionally, the hydrograph for USGS Stream Gage No. 06438500 for the Cheyenne River, located near Plainview SD, was analyzed to determine discharge values, seasonal tendencies, and seasonal pumping downstream from the proposed diversion points and after the confluence of the two rivers (Figure 1) (U.S. Geological Survey, 2021).

USGS Gaging Station No. 06423500 (Cheyenne River - Upstream)

USGS Stream Gage No. 06423500 on the upper Cheyenne River near Wasta is located approximately 40 river miles upstream from the proposed diversion point and approximately 14 river miles upstream from the confluence with the Belle Fourche River. A hydrograph was constructed using the 50th, 25th, and 10th percentiles of daily mean discharge values (Figure 3).

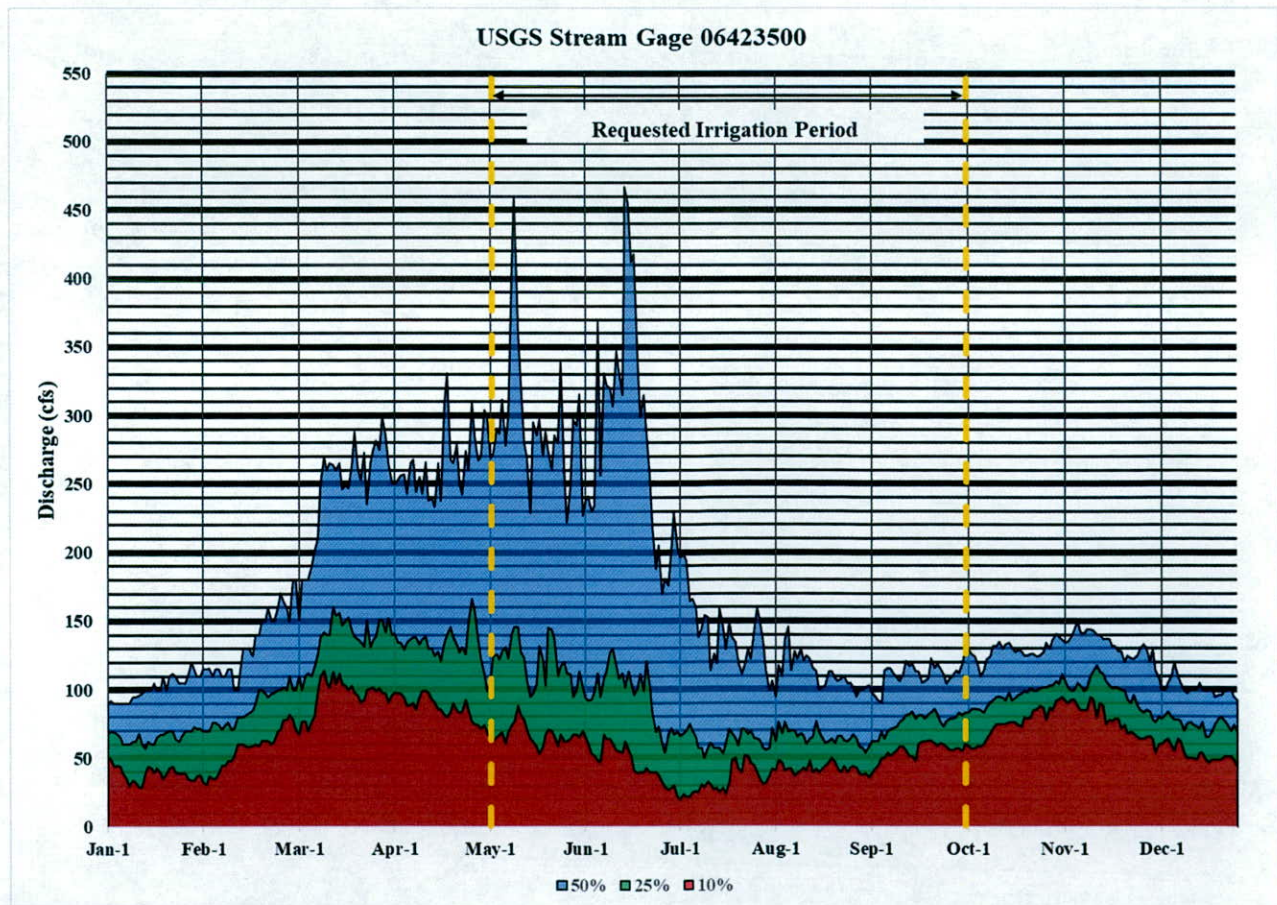


Figure 3: Hydrograph for USGS gaging station 06423500 located on the upper Cheyenne River near Wasta using 50th, 25th, and 10th percentiles of daily mean discharge values over the period of record beginning October 1914 to October 2020. This gaging station has a contributing drainage area of 12,674 mi² (U.S. Geological Survey, 2021).

The 50th percentile (median) hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of two years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 465 cfs generally in early May and mid-June. Discharge values generally decrease beginning in mid-June, reaching a low of approximately 90 cfs, usually in early January. The 50th percentile of daily mean discharge values at this gaging station generally ranges between approximately 90 to 335 cfs.

The 25th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of four years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 165 cfs generally in mid-March and late April. Discharge values generally decrease beginning in late April to early May, reaching a low of approximately 50 cfs usually in mid-July. The 25th percentile of daily mean discharge values at this gaging station generally ranges between approximately 50 to 150 cfs.

The 10th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of ten years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 115 cfs generally in mid-March. Discharge values generally decrease beginning in mid to late March, reaching a low of approximately 20 cfs, usually in early July. The 10th percentile of daily mean discharge values at this gaging station generally ranges between approximately 20 to 105 cfs.

USGS Gaging Station No. 06438000 (Belle Fourche River - Upstream)

USGS stream gaging station no. 06438000 on the Belle Fourche River near Elm Springs, SD, is located approximately 30 river miles upstream from the proposed diversion point and approximately 16 river miles upstream from the confluence with the Cheyenne River. A hydrograph was constructed using the 50th, 25th, and 10th percentiles of daily mean discharge values (Figure 4).

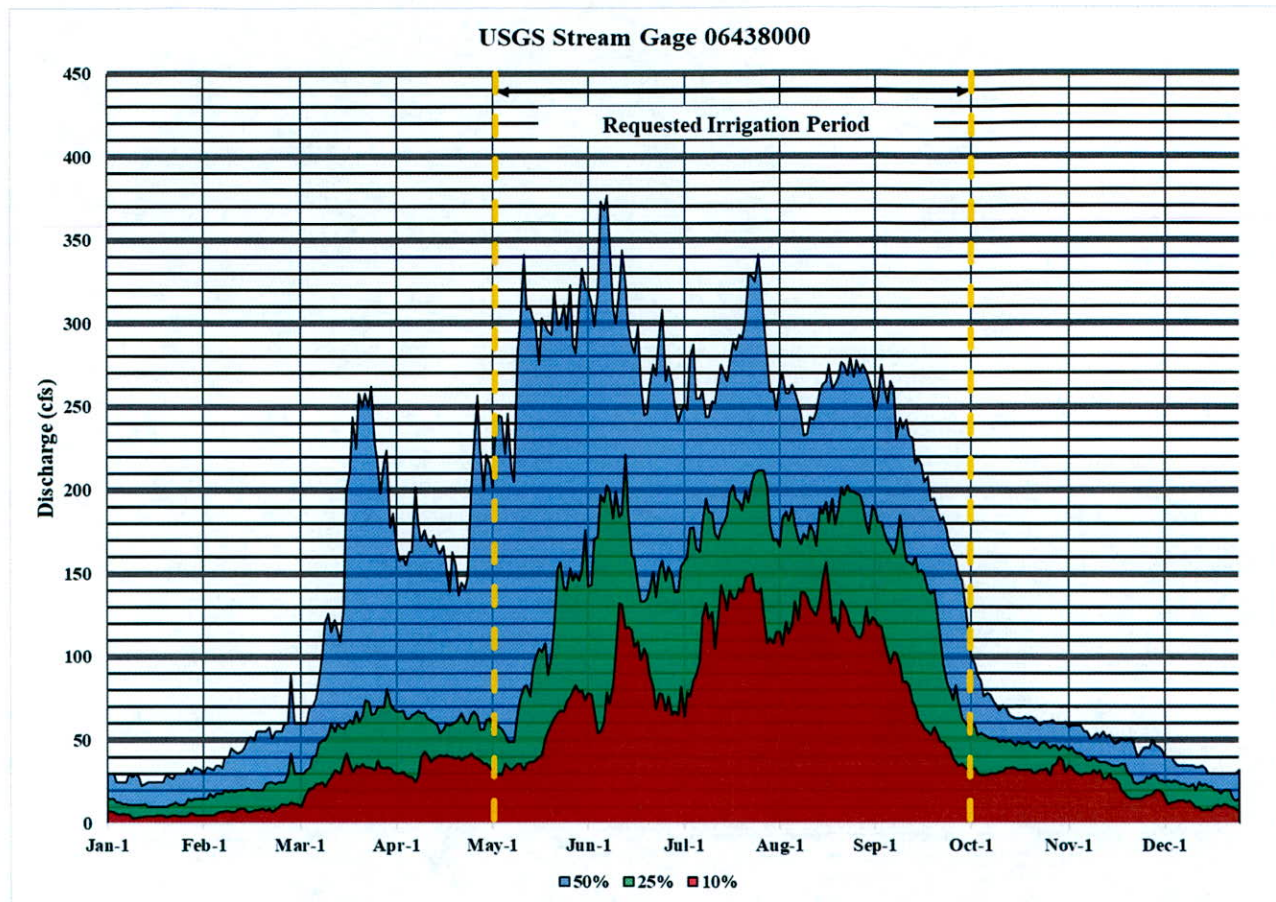


Figure 4: Hydrograph for USGS gaging station 06438000 located on the Belle Fourche River near Elm Springs, SD, using 50th, 25th, and 10th percentiles of daily mean discharge values over the period of record beginning August 1928 to October 2020. This gaging station has a contributing drainage area of 6,997 mi² (U.S. Geological Survey, 2021).

The 50th percentile (median) hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of two years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 375 cfs generally in early June. Discharge values generally decrease beginning in early September, reaching a low of approximately 25 cfs, usually in early to mid-January. The 50th percentile of daily mean discharge values at this gaging station generally ranges between approximately 25 to 375 cfs.

The 25th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of four years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 220 cfs generally in mid-June and Mid to late July. Discharge values generally decrease beginning in early September, reaching a low of approximately 10 cfs, usually in mid-January. The 25th percentile of daily mean discharge values at this gaging station generally ranges between approximately 10 to 220 cfs.

The 10th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of ten years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 155 cfs generally in mid to late July and mid-August. Discharge values generally decrease beginning in early September, reaching a low of approximately 5 cfs, usually in mid-January. The 10th percentile of daily mean discharge values at this gaging station generally ranges between approximately 5 to 135 cfs.

USGS Gaging Station No. 06438500 (Cheyenne River - Downstream)

USGS stream gaging station no. 06438500 on the Cheyenne River, near Plainview SD, is located approximately 7 river miles downstream from the proposed diversion point and approximately 23 river miles downstream from the confluence with the Belle Fourche River. A hydrograph was constructed using the 50th, 25th, and 10th percentiles of daily mean discharge values (Figure 5).

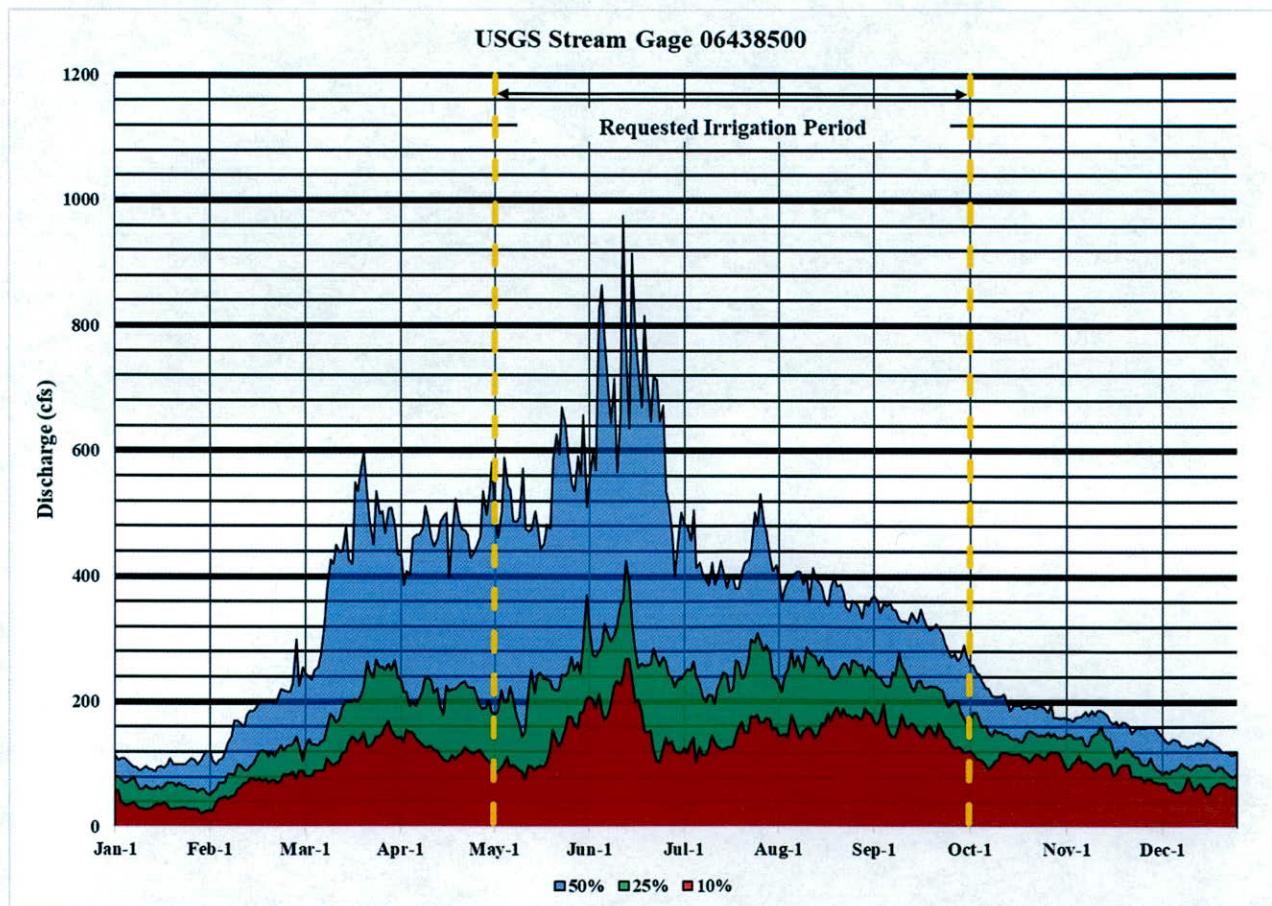


Figure 5: Hydrograph for USGS gaging station 06438500 located on the Cheyenne River, near Plainview SD, using 50th, 25th, and 10th percentiles of daily mean discharge values over the period of record beginning October 1950 to September 2020. This gaging station has a contributing drainage area of 21,340 mi² (U.S. Geological Survey, 2021).

The 50th percentile (median) hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of two years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 975 cfs generally in early to mid-June. Discharge values generally decrease beginning in late June, reaching a low of approximately 90 cfs, usually in early to mid-January. The 50th percentile of daily mean discharge values at this gaging station generally ranges between approximately 90 to 700 cfs.

The 25th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of four years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 425 cfs generally in early to mid-June. Discharge values generally decrease beginning in late June, reaching a low of approximately 50 cfs, usually in late January. The 25th percentile of daily mean discharge values at this gaging station generally ranges between approximately 50 to 335 cfs.

The 10th percentile hydrograph curve exhibits the daily discharge values at or below the indicated level on average one out of ten years. The hydrograph displays an increase in discharge beginning mid-February due to spring snowmelt reaching a peak discharge of approximately 270 cfs generally in early to mid-June. Discharge values generally decrease beginning in late June, reaching a low of approximately 20 cfs, usually in late January. The 10th percentile of daily mean discharge values at this gaging station generally ranges between approximately 20 to 210 cfs.

Existing Water Rights/Permits

There are 9 water rights/permits for irrigation currently authorized to appropriate water from the Cheyenne River downstream from the proposed diversion points (Water Rights, 2021a). The historical irrigation pumpage for 8 of these water rights/permits are shown in Figure 6; the other permit has a diversion rate of 2.28 cfs for the irrigation of 123.2 acres. The reported average annual pumpage over the period of record for the current water rights/permits authorized for irrigation from the Cheyenne River downstream from the proposed diversion points is 744 ac-ft/yr (Water Rights, 2021d). The Maximum instantaneous pump rate for irrigation rights/permits from the Cheyenne River downstream from the proposed diversion points is 26.33 cfs.

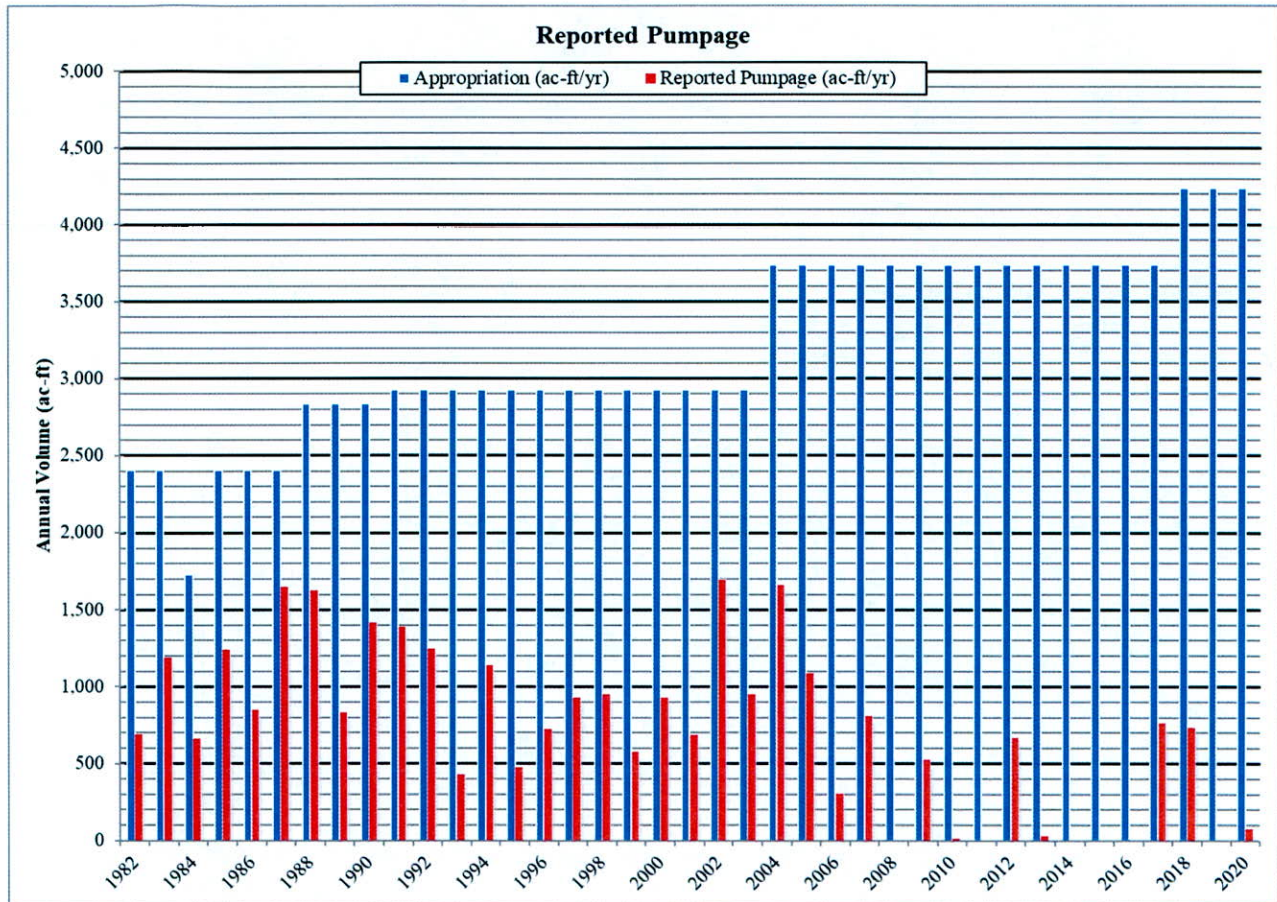


Figure 6: Historical irrigation questionnaire data for irrigation rights/permits currently authorized to withdraw water from the Cheyenne River downstream from the proposed diversion points (Water Rights, 2021a; Water Rights, 2021d).

There is one industrial permit from the Cheyenne River downstream from the proposed diversion points with a maximum instantaneous diversion rate of 6.68 cfs (Water Rights, 2021a). Therefore the maximum instantaneous diversion rate from all rights/permits authorized to withdraw from the Cheyenne River downstream from the proposed diversion points is approximately 33 cfs.

Discussion And Recommendation

The lower Cheyenne River is considered a reliable water source. The confluence of Belle Fourche River and upper Cheyenne River discharge a larger volume of water into the lower Cheyenne River, providing for reliable discharge values throughout most of the year. The hydrograph for the upper Cheyenne River near Wasta, SD (Station No. 06423500), indicates higher discharge values in the spring months and the hydrograph for the Belle Fourche River near Elm Springs, SD (Station No. 06438000), indicates higher discharge values in the summer and early fall months. The higher discharge values in the summer months for the Belle Fourche River correspond with return flows from the Belle Fourche Irrigation District discharging into the river. The Chief Engineer issued a shutoff order to users withdrawing from the lower Cheyenne River in 2006 due to low flow

conditions (Water Rights, 2021e). If drier climatic conditions occur causing low flow conditions, the applicant may be restricted in the amount of water allowed for diversion to protect downstream domestic use, including livestock watering and prior water rights/permits from unlawful impairment. If this permit is approved, it is recommended a qualification be included to address low flow conditions by allowing the Chief Engineer to issue orders to the permit holder restricting diversion.

Conclusions

1. Water Permit Application No. 2006-1 requests the appropriation of 5.34 cubic feet per second (cfs) of water from the Cheyenne River located between the NW ¼ NE ¼ Section 29 and the W ½ NW ¼ Section 15 for the irrigation of 900 acres.
2. The historical discharge data and reported use indicate there is a reasonable probability that there is unappropriated water available for the applicant's proposed use.
3. Historical discharge data indicates that there is a reasonable probability that the diversion proposed by this application will not unlawfully impair existing water rights/permits and domestic users.
4. If drier climatic conditions cause a considerable reduction in flow of the lower Cheyenne River, use by the applicant should be restricted to protect downstream domestic use, including livestock watering, and prior water rights/permits from unlawful impairment.
5. If this application is approved, it should contain the qualification that low flows as needed for downstream domestic use, including livestock watering and prior water rights/permits, must be bypassed. Diversions under this Permit shall be in accordance with any written orders by the Chief Engineer.


Timothy Magstadt

Natural Resources Engineer II
SD DANR – Water Rights Program

Reviewed by:


Mark D Rath

Natural Resources Engineer III

References

U.S. Geological Survey. (2021). *National Water Information System data available on the World Wide Web (USGS Water Data for the Nation)*. Retrieved from <https://waterdata.usgs.gov/nwis/>

US Bureau of Reclamation. (2002). *Angostura Unit Contract Negotiation and Water*. Dakotas Area Office: Bismarck, ND and Rapid City, SD.: Bureau of Reclamation Great Plains Region.

US Bureau of Reclamation. (2004). *Final Environmental Assessment and Resources*. Dakotas Area Office: Bismarck, ND and Rapid City, SD.: US Dept. of the Interior, Bureau of Reclamation.

Water Rights. (2021a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DANR-Water Rights Program.

Water Rights. (2021d). *Irrigation Questionnaire database*. Joe Foss Bldg., Pierre, South Dakota.: SD DANR-Water Rights Program.

Water Rights. (2021e). *County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD*.

*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

Thomas Simons

20240 CHEYENNE CROSSING ROAD

HOWES SD 57748

ORDER NUMBER 32236

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each day for one

successive day, the first publication there of being on the 23rd day of June, 2021.

Section: Legal

Category: 0084 Water Permits

PUBLISHED ON: 06/23/2021

TOTAL AD COST: 48.55

FILED ON: 6/23/2021

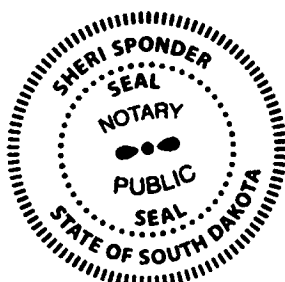
Subscribed and sworn to before me this

23rd day of June, 2021.

Sheri Sponder Notary Public

My commission expires

November 21, 2025



June 23 L32236

NOTICE OF APPLICATION NO. 2006-1 to Appropriate Water

Notice is given that Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 has filed an application for a water permit to appropriate 5.34 cubic feet of water per second from the Cheyenne River located between the NW 1/4 NE 1/4 Section 29 and the W 1/2 NW 1/4 Section 15 for irrigation of 900 acres located in the NW 1/4, NW 1/4 SW 1/4 Section 16, Section 17, SE 1/4, SE 1/4 NE 1/4 Section 18, NE 1/4 Section 19 and NW 1/4, NE 1/4 SW 1/4 Section 20; all in T6N-R17E. This site is located approximately 10 miles south of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2006-1 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 July 5, 2021.

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.

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

(Published one time at the approximate cost of \$48.55)

RECEIVED

JUN 28 2021

WATER RIGHTS PROGRAM

RECEIVED

JUN 24 2021

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of Meade) SSI, Kris Stocklin-Johnson

certify that the attached printed Notice was taken

from the Faith Independentprinted and published in FaithCounty of Meade and

state of South Dakota. The notice was published

in the newspaper on the following date:

06/23/2021Cost of Printing: \$24.50Kris Stocklin-Johnson
(Signature)Editor
(Title)06/24/2021
(Date Signed)

June 23, 2021 • The Faith Independent • 13

NOTICE OF
APPLICATION NO.
2006-1 to
Appropriate Water

Notice is given that Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 has filed an application for a water permit to appropriate 5.34 cubic feet of water per second from the Cheyenne River located between the NW 1/4 NE 1/4 Section 29 and the W 1/2 NW 1/4 Section 15 for irrigation of 900 acres located in the NW 1/4, NW 1/4 SW 1/4 Section 16, Section 17, SE 1/4, SE 1/4 NE 1/4 Section 18, NE 1/4 Section 19 and NW 1/4, NE 1/4 SW 1/4 Section 20; all in T6N-R17E. This site is located approximately 10 miles south of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2006-1 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 July 5, 2021.

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.

If the applicant does not contest the

recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published June 23 2021, at the total approximate cost of \$24.50.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, June 15, 2021 8:22 AM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2006-1, Thomas Simons
Attachments: 2006-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on June 23, 2021.

Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 (605 515-1706 or 605 985-5026) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, June 15, 2021 8:21 AM
To: 'faithind@faithsd.com'
Subject: 2006-1, Thomas Simons
Attachments: 2006-1public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on June 23, 2021.

Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 (605 515-1706 or 605 985-5026) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

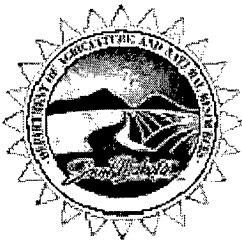
Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

June 15, 2021

Thomas Simons
20240 Cheyenne Crossing Rd
Howes SD 57748

Dear Mr. Simons:

Water Permit Application No. 2006-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Faith Independent printed at Faith SD (Ph # 605 967-2161) and the Rapid City Journal printed at Rapid City SD (Ph # 605 394-8336). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF APPLICATION NO. 2006-1 to Appropriate Water

Notice is given that Thomas Simons, 20240 Cheyenne Crossing Rd, Howes SD 57748 has filed an application for a water permit to appropriate 5.34 cubic feet of water per second from the Cheyenne River located between the NW 1/4 NE 1/4 Section 29 and the W 1/2 NW 1/4 Section 15 for irrigation of 900 acres located in the NW 1/4, NW 1/4 SW 1/4 Section 16, Section 17, SE 1/4, SE 1/4 NE 1/4 Section 18, NE 1/4 Section 19 and NW 1/4, NE 1/4 SW 1/4 Section 20; all in T6N-R17E. This site is located approximately 10 miles south of Howes SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2006-1 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 July 5, 2021.

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.

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

Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 13 2021

Thomas Simons
20240 Cheyenne Crossing Rd
Howes SD 57748

Dear Mr. Simons:

Enclosed is Water Permit No. 2006-1 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

2006-1



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: THOMAS SIMONS, 20240 CHEYENNE CROSSING R, HOWES, SD 57748
FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2006-1. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 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) 2006-1 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** 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) 2006-1 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 before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed 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 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: RXXxcb**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 28, 2023

2006-1

Thomas Simons
20240 Cheyenne Crossing Rd
Howes SD 57748

Dear Mr. Simons:

I am writing to acknowledge receipt of the information for your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit No. 2006-1. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

During our phone conversation, we discussed sending in the form even if you didn't irrigate. The purpose for that is to establish a year of record. We use the information to figure out how much water is appropriated in comparison to how much water is "on paper". The figures help us during the process of reviewing new applications to determine water availability.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 19, 2024

NOTICE

TO: THOMAS SIMONS, 20240 CHEYENNE CROSSING RD, HOWES, SD 57748

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2006-1. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 2006-1 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** 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) 2006-1 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 before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: IEEONX**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 31, 2024

2006-1

Thomas Simon
20240 Cheyenne Crossing Rd
Howes SD 57748

Dear Mr. Simon:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 2006-1. The information was received prior to the March 6, 2024, Water Management Board meeting and this permit number has been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us