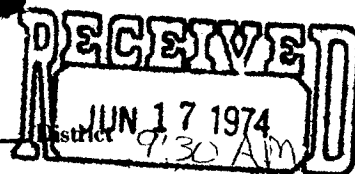


1188-2

1. Considered 7-17, 19 74
2. Name of Applicant F. H. IRELAND
3. Post Office Address BELVIDERE
4. Amount of water claimed 3.5
5. Source of water supply WHITE RIVER & DRY DRAWS
6. Water to be used for IRRIGATION
- Acres to be irrigated 256
7. Water to be diverted and used in WASHA BAUGH County  
about SW 55 miles \_\_\_\_\_ of BELVIDERE.
8. Proof of Publication Received 7-12-74  
Not Received \_\_\_\_\_
9. Application Approved \_\_\_\_\_  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action deferred \_\_\_\_\_
10. Remarks:

No. 1188-2Map No. 1012-2Water Division No. 2WHITE RIVER

(Blanks to be Filled by the Engineer for the W. R. C.)

STATE WATER RIGHTS COMM.  
PIERRE, SOUTH DAKOTA

## APPLICATION FOR PERMIT

## To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant F. H. Ireland  
Postoffice address Belvidere, State South Dakota 57521  
If a corporation show date and place of incorporation \_\_\_\_\_
2. Method of accomplishing work (contract, employment of others, or by direct labor) contract and direct labor
3. Name of diversion work Ireland Irrigation Project #3
4. Amount of water claimed (cubic feet per second) 3.5
5. Source of water supply White River and dry draws
6. Location of point of diversion From White River - between points in Lot 2 and Lot 4, Section 15;  
from dry draws at points in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 22, all in T44N, R34W  
County Washabaugh
7. Annual period or periods during which water is to be used April thru October
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
9. For irrigation use, Total number of acres to be irrigated 256

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

| Land Description                                      | No. Acres Irr. |
|-------------------------------------------------------|----------------|
| Sec. 22, T44N, R34W NW $\frac{1}{4}$ NW $\frac{1}{4}$ | 123            |
| Sec. 15, T44N, R34W Lot 1                             | 13             |
| Lot 2                                                 | 23             |
| Lot 3                                                 | 22             |

| Land Description                  | No. Acres Irr. |
|-----------------------------------|----------------|
| Sec. 15, T44N, R34W Lot 4         | 31             |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 34             |
|                                   |                |
|                                   |                |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Kadoka Press, Kadoka, S. D.
12. Principal Features of the Proposed Water Supply System.

## A. Works proposed to divert water from its natural source.

From White River Pump and motor  
From dry draws plugs and ditches

## B. Works proposed to transport water to place of use.

ditches and/or mainline

## C. Works proposed to apply water to beneficial use.

levelled land and border dikes

Estimated Total Cost \$ \_\_\_\_\_

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.  
(See instructions concerning preparation.)

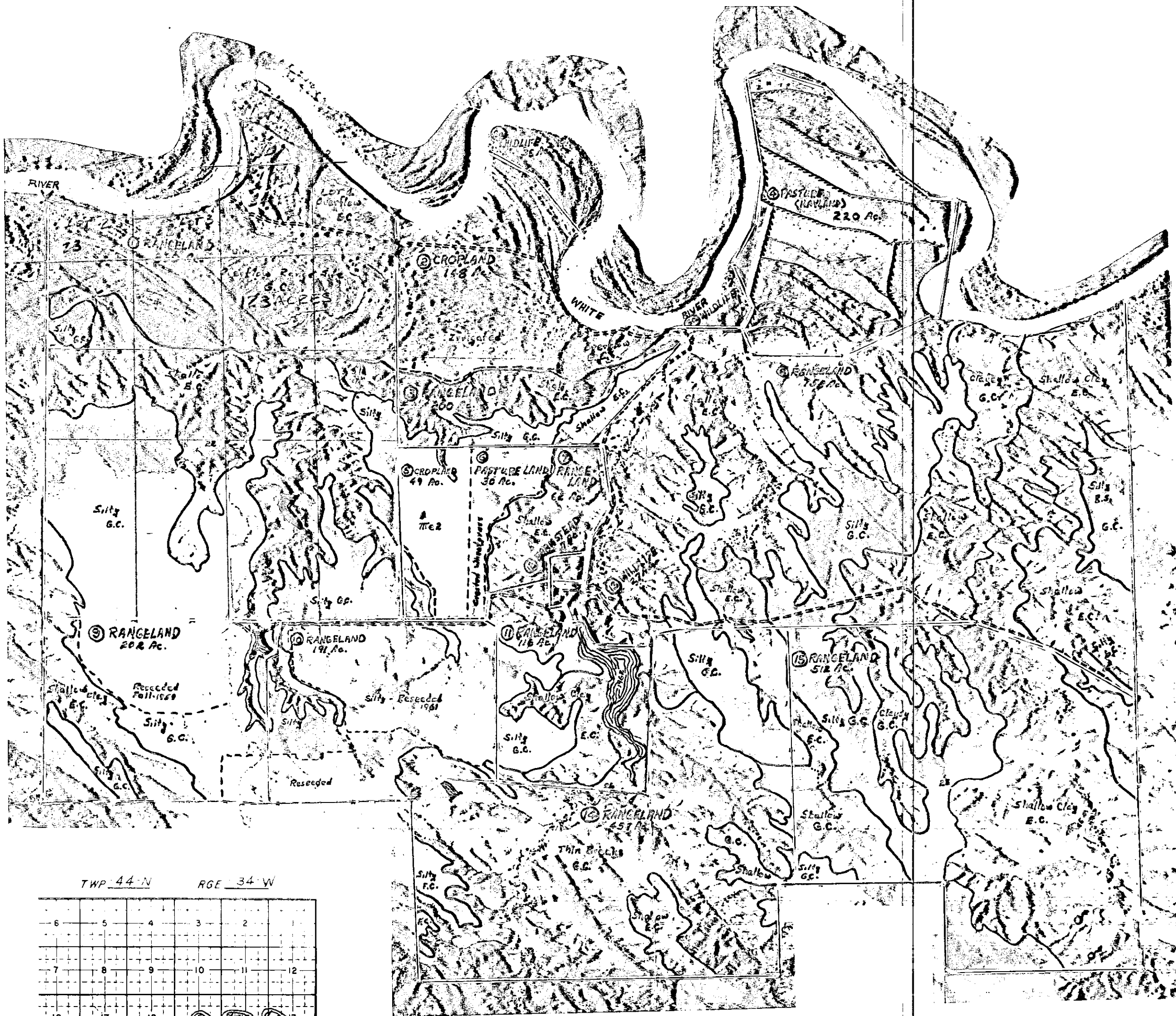
STATE OF SOUTH DAKOTA

County of HughesI, F. H. Ireland

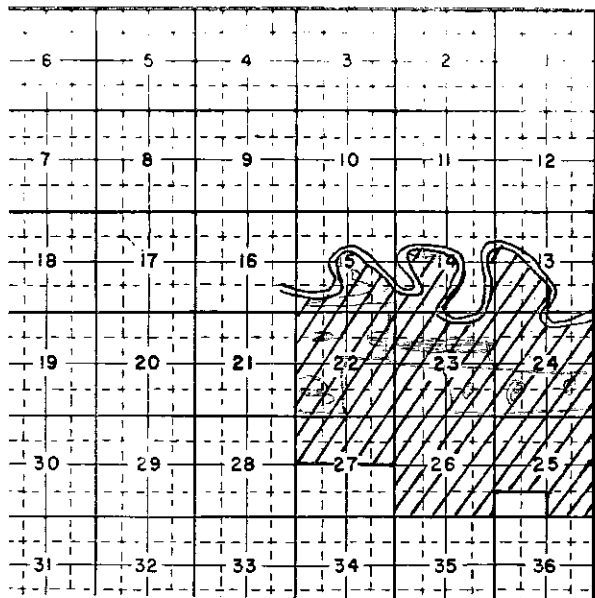
the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed F. H. IrelandSubscribed and sworn to before me this 17th day of June, 1974

Notary public (or other qualified officer)



TWP 44-N RGE 34-W



CONSERVATION PLAN MAP  
 PREPARED BY U. S. DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE,  
 COOPERATING WITH Jackson-Washabaugh SOIL CONSERVATION DISTRICT  
 COUNTY Washabaugh, South Dakota DATE 11/16/62  
 OWNER/OPER. F. H. Ireland  
 PLAN NO. 219 AC. APP. SCALE 4"/MI. PHOTO NO. BON-1N-69,71,128,130

MAP N°1042-2 APPL N°1183-2

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1188-2  
F.H. IRELAND BELVIDERE  
 (Applicant) (Post Office Address)  
SOUTH DAKOTA 57521 With the following modifications:  
 (State)

DIVERSIONS OF WATER UNDER THIS PERMIT ARE CONTINGENT UPON SUPPLIES BEING FIRST AVAILABLE TO PRIOR WATER RIGHTS DOWNSTREAM ON THE WHITE RIVER. FLOW RECORDS SHOW THAT THERE ARE OCCASIONAL YEARS WHEN THE FLOWS OF THE WHITE RIVER IN THIS AREA ARE DEFINITELY AND RECOGNIZABLY LOWER THAN USUAL DURING THE MONTHS OF JULY, AUGUST AND SEPTEMBER. DIVERSIONS OF WATER ARE NOT TO BE MADE UNDER THIS PERMIT DURING SUCH LOW FLOW PERIODS.

Date of first receipt of application JUNE 17, 19 74  
 Date of return to applicant for correction, amendments or changes required —, 19 —  
 Date of receipt of corrected application —, 19 —  
 Approved JULY 17, 19 74, Recorded in Book 13 Page 26

WATER RIGHT PERMIT NO. 1188-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1188-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is JUNE 17, 19 74
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 17, 19 77
3. The whole of said work is to be completed on or before JULY 17, 19 79
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 19, 19 83
5. The water appropriated shall be used for the purpose of IRRIGATION

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 3.5 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is

actually and beneficially applied for irrigation on or before JULY 17, 19 83; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 18<sup>TH</sup> day of JULY, 19 74

WATER RIGHTS COMMISSION

By: Donald Driscoll  
 Chief Engineer, Executive Officer

Certificate of Construction Issued —, 19 —

Water License Issued —, 19 —

1188-2Publish first publication, on or before July 4, 19 74NOTICE  
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

June 21, 19 74

Notice is hereby given that F. H. Ireland  
whose post office address is Belvidere, South Dakota, has made an application in accordance  
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use  
3.5 cubic feet of water per second of time from the White River & dry draws through the  
#3  
Ireland Irrigation Project, the point of diversion of which is to be located in the  
from the White River between points in Lot 2 and Lot 4, Section  
15 from dry draws in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  and SW $\frac{1}{4}$  NE $\frac{1}{4}$

of Section 22, Twp. 44 N, Range 34W. Said water to be used for the purpose  
of providing irrigation on the following described land:

N $\frac{1}{2}$  N $\frac{1}{2}$ , Section 22; Lots 1, 2, 3 and 4, and SW $\frac{1}{4}$  SE $\frac{1}{4}$ , section 15,  
all in T44N, R34W

This application No. 1188-2 will be considered by the **WATER RIGHTS COMMISSION** at their office at  
Pierre upon the 17th day of July, 19 74, at 2:30 P.M. All interested  
persons may appear and be heard.

cc: F. H. Ireland**WATER RIGHTS COMMISSION**

By:

**Burton F. Jones**  
**Water Rights Specialist**

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Jackson ) ss.

I, L. G. Parkinson hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Kadoka Press

A newspaper which during the whole time of publication of said notice  
herein after stated, has been and is printed and published in the

City of Kadoka

County of Jackson and State of South Dakota;  
that the said notice was published in said newspaper on the following  
two dates:

Thursday, June 27, 1974

Thursday, July 4, 1974

L. G. Parkinson

(Signature)

Editor

(Title)

July 4, 1974

(Date Signed)

NOTICE  
INTENT TO APPROPRIATE  
WATER

Pierre, South Dakota 57501  
June 21, 1974

Notice is hereby given that F.  
H. Ireland whose post office  
address is Belvidere, South Da-  
kota, has made an application in  
accordance with the provisions of  
the water laws of South Dakota  
for permit to appropriate for  
beneficial use 3.5 cubic feet of  
water per second of time from  
the White River & dry draws  
through the Ireland Irrigation Pro-  
ject No. 3, the point of diversion  
of which is to be located from  
the White River between points  
in Lot 2 and Lot 4, Section 15  
from dry draws in the NW $\frac{1}{4}$  NW $\frac{1}{4}$   
and SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 22,  
Twp. 44N, Range 34W. Said water  
to be used for the purpose of  
providing irrigation on portions  
of the following described land:

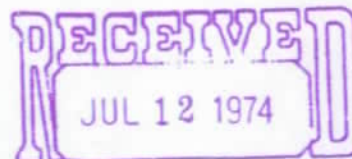
N $\frac{1}{2}$  N $\frac{1}{2}$ , Section 22; Lots 1,  
2, 3 and 4, and SW $\frac{1}{4}$  SE $\frac{1}{4}$ , section  
15, all in T44N, R34W.

This application No. 1188-2 will  
be considered by the Water Rights  
Commission at their office at  
Pierre upon the 17th day of July,  
1974, at 2:30 p.m. All interested  
persons may appear and be heard.

WATER RIGHTS COMMISSION

BY:

Burton F. Jones  
Water Rights Specialist  
Pub. June 27-July 4



STATE WATER RIGHTS COMM.  
PIERRE, SOUTH DAKOTA

I TALKED WITH MR. F.H. IRELAND  
ON FEBRUARY 20, 1976. THE SYSTEM  
IS ABOUT 60% COMPLETE. THIS  
INSPECTION SHOULD BE MADE AFTER  
1979

THOMAS GARNER  
2-23-76



Quelques ?

Lot 1

Lot 4

Lot 3

Lot 2

111.6

1188-2

**Department of  
Water & Natural Resources**  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

March 23, 1987

FOREST H IRELAND  
BOX 459  
KADOKA, SD 57543

**NOTICE**

Re: Violation of Requirement To Submit 1986 Irrigation  
Questionnaire

Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 802-2, 1188-2, 321-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 2:00 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 802-2, 1188-2, 321-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.



JOHN HATCH, Chief Engineer  
Water Rights Division  
605 773-3352

NOTE: If the questionnaire(s) is received in this office before the hearing date, your name will be deleted from the agenda for the hearing.



# Department of Water & Natural Resources

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

May 13, 1987

## NOTICE OF AMENDMENT TO WATER PERMIT(s)

TO: FOREST H IRELAND  
BOX 459  
KADOKA, SD 57543

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605 773-3352

SUBJECT: Amendment to Water Permit No(s). 802-2, 1188-2, 321-2

Pursuant to the provisions of the notice dated March 23, 1987, and following the Hearing May 6, 1987, the Water Management Board has amended Water Permit No(s). 802-2, 1188-2, 321-2 to add the following qualification:

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

The addition of this qualification to your Permit means that failure to submit the required irrigation questionnaire in the future could result in **SUSPENSION** of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.

Attachment to Water Permit No 1188-2

Pursuant to the provisions of the notice dated March 23, 1987 and following the Hearing May 6, 1987, the Water Management Board has amended Water Permit No. 1188-2 to add the following qualification:

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

**Department of  
Water & Natural Resources**  
Joe Foss Bldg  
523 E Capitol  
Pierre, South Dakota 57501-3181

January 29, 1988

FOREST H IRELAND  
BOX 459  
KADOKA, SD 57543

NOTICE

Re: Violation of Water Permit No(s). 1188-2, 802-2, 321-2

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 1188-2, 802-2, 321-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1188-2, 802-2, 321-2 qualification:

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

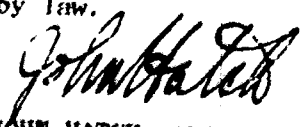
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 1188-2, 802-2, 321-2 until either the 1987 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.

  
JOHN HATCH, Chief Engineer  
Water Rights Division  
605 773-3352

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.

**Department of  
Water & Natural Resources**

Joe Foss Building  
725 East Capitol  
Pierre, South Dakota 57501-3181

February 5, 1988

321-2  
802-2  
1188-2

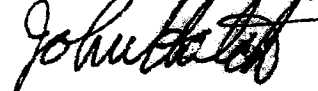
F H Ireland  
Box 459  
Kadoka SD 57543

Dear Mr. Ireland:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the the requirement to submit the Irrigation Questionnaire(s) for Water Permit Nos. 321-2, 802-2 & 1188-2 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,



JOHN HATCH, Chief Engineer  
Water Rights Division  
605 773-3352

# Department of Water & Natural Resources

Joe Foss Building  
505 East Capitol  
Pierre, South Dakota 57501-3181

February 8, 1989

FOREST H IRELAND  
BOX 459  
KADOKA, SD 57543

## NOTICE

RE: Violation of Water Permit No(s) 1188-2, 321-2, 802-2

Our records indicate that the 1988 Irrigation Questionnaire has not been submitted for Permit No(s). 1188-2, 321-2, 802-2. The request for the Questionnaire was dated October 26, 1988. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1188-2, 321-2, 802-2 qualification:

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

The hearing will be held at 9:45 am, March 1, 1989 at the Howard Johnson's, Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

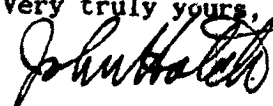
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Suspend Permit No(s). 1188-2, 321-2, 802-2 until the 1988 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
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 is received in this office before the March 1st hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

  
JOHN HATCH, Chief Engineer  
Water Rights Division  
605 773-3352



# Department of Water & Natural Resources

Joe Foss Building  
823 East Capitol  
Pierre, South Dakota 57501-3181

February 24, 1989

321-2  
802-2  
1188-2

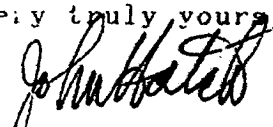
Forest H Ireland  
Box 459  
Kadoka, SD 57543

Dear Mr. Ireland:

I am writing to acknowledge receipt of your 1988 irrigation questionnaires for Water Permit Nos. 321-2, 802-2, 1188-2. You may disregard the February 8, 1989, Notice of failure to submit the 1988 irrigation questionnaire. With receipt of the questionnaires your name has been deleted from the March Water Management Board meeting agenda.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Very truly yours,

  
JOHN HATCH, Chief Engineer  
Water Rights Division

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3181

**WATER RIGHTS DIVISION**  
January 27, 1992

FORREST H IRELAND  
BOX 459  
HARLOW SD 57543

**NOTICE**

**RE: Violation of Water Permit No(s) 1188-2**

Our records indicate that the 1991 Irrigation Questionnaire has not been submitted for Permit No(s) 1188-2. The request for the Questionnaire was dated October 18, 1991. The Water Management Board has directed that owners of water permits who have not submitted the 1991 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 1188-2 qualification:

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

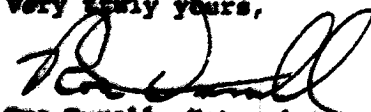
The hearing will be held at 9:15 am, March 4, 1992, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, 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) 1188-2 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 4th hearing date, you will no longer be in violation of your permit and your name will be deleted from the Board agenda.

Very truly yours,



Ron Duvall, Natural Resources Engineer IV  
Water Rights Division  
605 773-3352

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3181

February 6, 1992

1188-2

Forest H Ireland  
Box 459  
Kadoka, SD 57543

Dear Mr. Ireland:

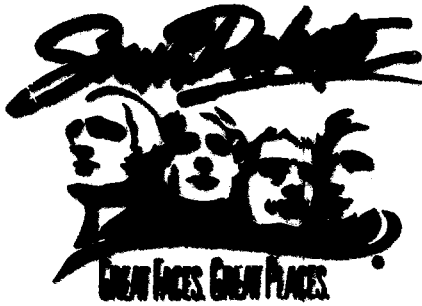
I am writing to acknowledge receipt of your 1991 irrigation questionnaire for Water Permit No. 1188-2. You may disregard the January 27, 1992, Notice of failure to submit the 1991 irrigation questionnaire. The questionnaire was received prior to the Water Management Board meeting and your name was deleted from the agenda.

If you have any questions, please contact me at (605) 773-3352.

Sincerely,

*Genny McMath*

Genny McMath  
Natural Resources Analyst  
Water Rights Division



1188-2

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

**JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3102  
www.state.sd.us/denr**

January 16, 2002

**NOTICE**

**TO: FOREST H IRELAND, BOX 459, KADOKA, SD 57543**

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

**SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)**

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) '1188-2. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 1188-2 qualification:

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

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 E Capitol, 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) 1188-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

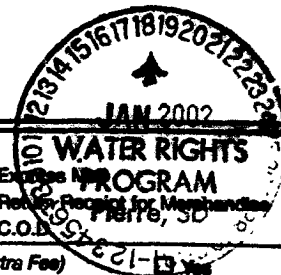
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by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

If the questionnaire(s) is(are) received in this office on/or before March 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

**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.**

1188-2

|                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                                                                                                                                                           |                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| <p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> |  | <p>A. Received by (Please Print Clearly)</p>                                                                                                                                                                                                                                                              | <p>B. Date of Delivery<br/>1-17-02</p> |
| <p>1. Article Addressed to:</p> <p>FOREST H IRELAND<br/>BOX 459<br/>KADOKA SD 57543</p>                                                                                                                                                                                           |  | <p>C. Signature<br/>  <input type="checkbox"/> Agent<br/> <input type="checkbox"/> Addressee         </p>                                                                                                               |                                        |
|                                                                                                                                                                                                                                                                                   |  | <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes<br/>         If YES, enter delivery address below: <input type="checkbox"/> No       </p>                                                                                                                        |                                        |
|                                                                                                                                                                                                                                                                                   |  | <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail<br/> <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise<br/> <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.       </p> |                                        |
|                                                                                                                                                                                                                                                                                   |  | <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>                                                                                                                                                                                            |                                        |

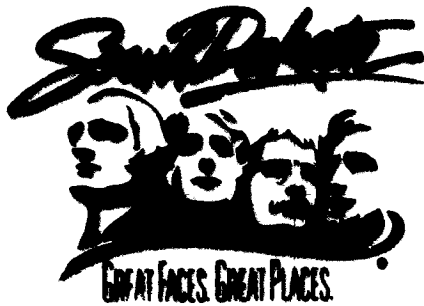


7001 2510 0004 4797 4180

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-11-0002



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3102  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

March 18, 2002

**NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT**

**TO:** Forrest H Ireland, Box 459, Kadoka, SD 57543  
**FROM:** Garland Erbele Chief Engineer  
Water Rights Program *Garland Erbele*  
**SUBJECT:** One Year Suspension of Water Permit No. 1188-2

Pursuant to the provisions of the notice dated January 16, 2002, and following the hearing March 13, 2002, the Water Management Board has ordered:

**That Water Permit No. 1188-2 be suspended until December 31, 2002, for failure to submit the 2001 irrigation questionnaire.**

Suspension of a water permit or right means water may not be pumped during the 2002 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspension, you will need to submit the 2001 irrigation questionnaire and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 1-2, 2002 in Pierre, SD. The letter should include your reasons for not completing the 2001 irrigation questionnaire.

Please contact Genny McMath (605) 773-3352, if you have any questions.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 19, 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing in regard to ownership of land described in Water Permit No. 1188-2. The water permit is currently listed in the name of F H Ireland. A notation was made on the annual irrigation questionnaire that indicated you now own the land. Enclosed is a copy of the water permit for your review.

If you now own the land, the water permit should be transferred to your name. The permit is transferable however it may have been lost due to abandonment and/or forfeiture. A review of the files found the land has not been irrigated since 1986. Is there any intent to irrigate the land or has irrigation been discontinued?

In South Dakota, water must be placed to beneficial use at least once every three years in order to maintain the water right. This three-year period may be waived if legal excuse exists for not irrigating. Enclosed are excerpts of the laws and rules dealing with these issues.

Also enclosed is a "Notice of Transfer of Ownership" form in the event you wish to have the permit transferred to your name. Please review the form and complete as needed. Upon completion, please sign the form and return it to us 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.

If you do not intend to maintain the permit, please let us know.

Sincerely,

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

enclosures

Nov 26 2004

Dear Genny & Water Rights Board,

I am applying for a Transfer of Ownership which my grandfather had. In July of 1987 he signed this land up in the CRP program and in November of 1999 it came out. I do not know what happened to the land until 2003 when I bought it. Then and this year the White River has been too low to pump out of. Thank you for your time.

Sincerely,  
Holly Clements

RECEIVED  
NOV 30 2004  
WATER RIGHTS  
PROGRAM

## NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer  
Water Rights Program, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

No. 1188-2

Date: Nov 26 2004

I/We request that Water Permit No. 1188-2

formerly owned by: F H Ireland

be transferred to: (name & address) Holly Clements

PO Box 141

Murdo SD 57559

Telephone No. 6056692182

Title to the following described land(s)/property has been transferred as described above:

256 acres - N 1/2 N 1/2 Section 22; Lots 1-4 and SW 1/4 SE 1/4 Section 15, T44N, R34W

I/We understand that the validity of Water Permit No. 1188-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

**A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Holly Clements, the new owner, certify that the above information is true and correct.

Holly Clements

(Signed by new owner)

**NOTE:** Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIVED

NOV 30 2004

WATER RIGHTS  
PROGRAM



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 15, 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form you sent in for Water Permit No. 1188-2 (F H Ireland). I was getting ready to finalize the transfer and realized the fee was not sent in with it.

My first letter may not have been clear with respect to the fee. Please return a total of \$2.50 to cover the cost of the transfer. The check or money order for the fee can be made payable to the Water Rights Program.

Thank you in advance for your help.

Sincerely,

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date DECEMBER 27, 20 04

RECEIVED OF HOLLY CLEMENTS, HC 72 BOX 40, KADOTA SD 57543

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

|                                                                                                                |       |      |
|----------------------------------------------------------------------------------------------------------------|-------|------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 2     | 50   |
| 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. _____            |       |      |
| Fee for Filing Transfer Form <u>1188-2</u>                                                                     |       |      |
| 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 | 2.50 |

No.

001188-2

By

Darlene S. Elvick  
Chief Engineer  
gm



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 27 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

The transfer of ownership for Water Permit No. 1188-2 has been completed. The water permit, formerly held by F H Ireland, is now listed in your name.

Enclosed is your Receipt No. 001556 in the amount of \$2.50. You may keep this for your records.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 19, 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing in regard to ownership of land described in Water Permit No. 1188-2. The water permit is currently listed in the name of F H Ireland. A notation was made on the annual irrigation questionnaire that indicated you now own the land. Enclosed is a copy of the water permit for your review.

If you now own the land, the water permit should be transferred to your name. The permit is transferable however it may have been lost due to abandonment and/or forfeiture. A review of the files found the land has not been irrigated since 1986. Is there any intent to irrigate the land or has irrigation been discontinued?

In South Dakota, water must be placed to beneficial use at least once every three years in order to maintain the water right. This three-year period may be waived if legal excuse exists for not irrigating. Enclosed are excerpts of the laws and rules dealing with these issues.

Also enclosed is a "Notice of Transfer of Ownership" form in the event you wish to have the permit transferred to your name. Please review the form and complete as needed. Upon completion, please sign the form and return it to us 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.

If you do not intend to maintain the permit, please let us know.

Sincerely,

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

enclosures

Nov 26 2004

Dear Genny & Water Rights Board,

I am applying for a Transfer of Ownership which my grandfather had. In July of 1987 he signed this land up in the CRP program and in November of 1999 it came out. I do not know what happened to the land until 2003 when I bought it. Then and this year the White River has been too low to pump out of. Thank you for your time.

Sincerely,  
Holly Clements

RECEIVED  
NOV 30 2004  
WATER RIGHTS  
PROGRAM

## NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer  
Water Rights Program, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

No. 1188-2

Date: Nov 26 2004

I/We request that Water Permit No. 1188-2

formerly owned by: F H Ireland

be transferred to: (name & address) Holly Clements

PO Box 141

Murdo SD 57559

Telephone No. 6056692182

Title to the following described land(s)/property has been transferred as described above:

256 acres - N 1/2 N 1/2 Section 22; Lots 1-4 and SW 1/4 SE 1/4 Section 15, T44N, R34W

I/We understand that the validity of Water Permit No. 1188-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

**A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Holly Clements, the new owner, certify that the above information is true and correct.

Holly Clements

(Signed by new owner)

**NOTE:** Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIVED

NOV 30 2004

WATER RIGHTS  
PROGRAM



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 15, 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form you sent in for Water Permit No. 1188-2 (F H Ireland). I was getting ready to finalize the transfer and realized the fee was not sent in with it.

My first letter may not have been clear with respect to the fee. Please return a total of \$2.50 to cover the cost of the transfer. The check or money order for the fee can be made payable to the Water Rights Program.

Thank you in advance for your help.

Sincerely,

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date DECEMBER 27, 20 04

RECEIVED OF HOLLY CLEMENTS, HC 72 BOX 40, KADOTA SD 57543

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

|                                                                                                                |       |      |
|----------------------------------------------------------------------------------------------------------------|-------|------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 2     | 50   |
| 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. _____            |       |      |
| Fee for Filing Transfer Form <u>1188-2</u>                                                                     |       |      |
| 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 | 2.50 |

No.

001188-2

By

Darlene S. Elvick  
Chief Engineer  
gm



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 27 2004

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

The transfer of ownership for Water Permit No. 1188-2 has been completed. The water permit, formerly held by F H Ireland, is now listed in your name.

Enclosed is your Receipt No. 001556 in the amount of \$2.50. You may keep this for your records.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 2, 2005

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing in regard to the check you wrote to us back in December for \$2.50. The fee was paid for filing an ownership change on Water Permit No. 1188-2.

The check was returned to us by your bank for insufficient funds. Please submit a money order or cashiers check payable to the "Water Rights Program" for \$2.50. As soon as we receive your payment, we will forward your check back to you.

The fee must be received in our office by February 21, 2005. I am enclosing a postage paid envelope for your convenience in returning the payment.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 25, 2005

1188-2

Holly Clements  
PO Box 141  
Murdo SD 57559-0141

Dear Ms. Clements:

I am writing to acknowledge receipt of the money order you submitted for replacement of your check #3788. Enclosed is your original check.

Thank you for taking care of the check and for completing the transfer of ownership. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 22, 2010

1188-2

Kenny Fox  
Box 37  
Belvidere SD 57521

Dear Mr. Fox:

I am writing in regard to Water Permit No. 1188-2 currently listed in the name of Holly Clements. Ms. Clements called today to let us know that she had sold the land described in the permit to you.

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.

Also enclosed is the 2010 irrigation questionnaire pertaining to Permit No. 1188-2. Please complete and return the form along with the transfer of ownership prior to December 3<sup>rd</sup>. 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](mailto:genny.mcmath@state.sd.us)

enclosures

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/10, 2010

RECEIVED OF Kenny Fox Box 37 Belvidere SD 57521

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

|                                                                                                                |       |       |
|----------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50 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. _____            |       |       |
| Fee for Filing Transfer Form <u>1188-2</u>                                                                     |       |       |
| 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 | 50 00 |

No.

**04671**

By

Shirley E. Eide  
Chief Engineer

RECEIVED

NOV 10 2010

WATER RIGHTS  
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer  
Water Rights Program, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

No. 1188-2

Date: 6-23-2010

I/We request that Water Permit No. 1188-2

formerly owned by: Holly Clements

be transferred to: (name & address) Kenny or Roxene Fox  
P.O. Box 37, Belvidere, SD 57521

Telephone No. 605-344-2516

Title to the following described land(s)/property has been transferred as described above:

N ½ N ½ Section 22; Lots 1-4 and SW ¼ SE ¼ Section 15, T44N, R34W

I/We understand that the validity of Water Permit No. 1188-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Kenny <sup>KF</sup> and Roxene Fox, the new owner, certify that the above information is true and correct.

Kenny Fox Roxene Fox  
(Signed by new owner)

**NOTE:** Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 12, 2010

1188-2

Kenny or Roxene Fox  
PO Box 37  
Belvidere SD 57521-0037

Dear Mr. and Mrs. Fox:

Thank you for following up on the ownership change for Water Right No. 1188-2 and for submission of the irrigation questionnaires for all three water rights.

The ownership change has been completed. The water right formerly held by Holly Clements is now listed in your names.

Enclosed is your Receipt No. 04671 in the amount of \$50.00. 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](mailto:genny.mcmath@state.sd.us)

enclosure

1188-2



**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

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



September 2, 2014

Kenny Fox  
PO Box 37  
Belvidere SD 57521

Dear Mr. Fox:

Enclosed as you requested are copies of the transfer of ownership forms and the receipts for the filing fees for Water Right or Permit Nos. 321-2, 638-2, 802-2 and 1188-2.

I should have mentioned when we spoke that you can actually go on line and view the entire permit file for each of these. Our program website is found at:

<http://denr.sd.gov/des/wr/wr.aspx>

Once you get to the site, view along the left hand side of the page and scroll down till you see "databases". Click on the link to the water rights database and it will take you to a page where you can search by name, permit number, legal description and source of water. The website also includes other databases to view and of course includes all of our various forms (transfer forms, new application forms, irrigation questionnaires etc).

If you have any questions, please contact me.

Sincerely,

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

enclosures

**Report of Examination of Works and/or Application of Water to Beneficial Use**

To: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, September 29, 2015 made a thorough examination of the water system used by Kenny and Roxene Fox, PO Box 37, Belvidere, SD 57521, holder of Water Permit No. 1188-2, bearing the priority date of June 17, 1974. Water Permit No. 1188-2 authorizes the spreading of water which runs of the bluff running east-west in Section 22, T44N-R34W and the diversion of 3.5 cubic feet per second (cfs) from the White River for the purposes of irrigating 246 acres in Jackson County as follows: 123 acres in the N  $\frac{1}{2}$  N  $\frac{1}{2}$  of Section 22, 13 acres in Lot 1 of Section 15, 23 acres in Lot 2 of Section 15, 22 acres in Lot 3 of Section 15, 31 acres in Lot 4 of Section 15, and 34 acres in the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 15, all in T44N-R34W.

I have the following conditions to report for the system in question:

- 1) Works used to divert water:  
**Crisafulli Pump and Tractor**
- 2) Works used to transport water to a place of use:  
**Ditches and Dykes**

The system is in the following condition: well maintained. The points of diversion are located along the White River from Lot 2 to Lot 4 of Section 15, T44N-R34W as well as from draws coming off the bluff in Section 22, T44N-R34W.

The lands irrigated by the fore mentioned system are as follows:

- 1) 123 acres in the N  $\frac{1}{2}$  N  $\frac{1}{2}$  of Section 22, T44N-R34W.
- 2) 13 acres in Lot 1 of Section 15, T44N-R34W.
- 3) 23 acres in Lot 2 of Section 15, T44N-R34W.
- 4) 22 acres in Lot 3 of Section 15, T44N-R34W.
- 5) 31 acres in Lot 4 of Section 15, T44N-R34W.
- 6) 34 acres in the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 15, T44N-R34W.

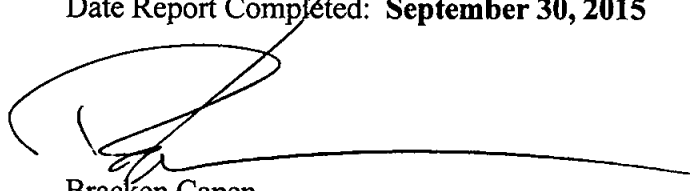
**For a total of 246 acres.**

License should be issued for the diversion rate of: **3.5 cfs (1,570 gpm).**

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **None**

Date Report Completed: **September 30, 2015**



Bracken Capen  
Natural Resources Engineer  
DENR, Water Rights Program

## FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 1188-2

|                                                                                          |                                                                                                                                                            |
|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DATE OF INVESTIGATION:                                                                   | September 29, 2015                                                                                                                                         |
| NAME & ADDRESS OF PERMIT HOLDER                                                          | <b>Kenny and Roxene Fox<br/>PO Box 37<br/>Belvidere, SD 57521</b>                                                                                          |
| NAME & ADDRESS OF INVESTIGATION CONTACT/<br>RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE | <b>Kenny and Roxene Fox</b>                                                                                                                                |
| DIVERSION POINT LEGAL LOCATIONS                                                          | <b>Along the White River from Lot 2 to Lot 4 of<br/>Section 14, T44N-R34W as well as from<br/>draws coming off the bluff in Section 22,<br/>T44N-R34W.</b> |

### WELL INFORMATION: N/A

- 1) Well Drilling Firm:
- 2) Number of Wells:
- 3) Depth:
- 4) Well Log Available:
- 5) Comment:

### Pumps

- 1) Make: **Crisafulli**
- 2) Model:
- 3) Size:
- 4) Capacity:

### Casing

- 1) Diameter:
- 2) Length:
- 3) Type:

### Screen

- 1) Type:
- 2) Length:
- 3) Static Water Level:

### Motor

- 1) Make: **International Tractor**
- 2) Model No:
- 3) Power: **40 hp, 150 hp**

### System Type

- 1) Make:
- 2) Overall length:
- 3) Number of Towers:
- 4) Distance Between Towers:
- 5) End Gun:
- 6) Pressure:
- 7) Capacity:

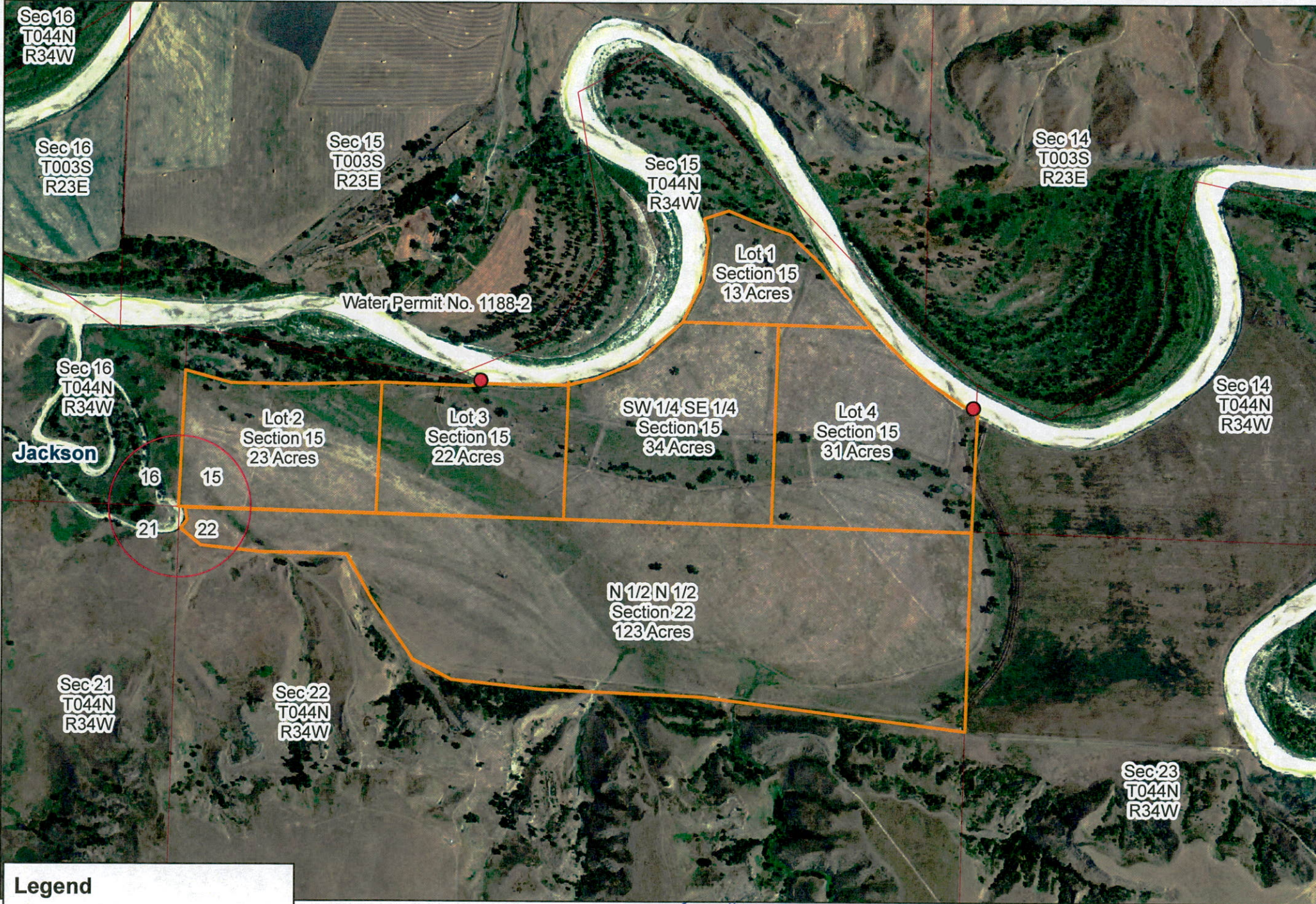
### CHEMIGATION EQUIPMENT: No

- 1) Mainline Check Valve:
- 2) Low Pressure Drain:
- 3) Inspection Port/Air Relief:
- 4) Discharge 20 Feet Away:
- 5) Injection Line Check Valve or Positive Displacement Pump:
- 6) Injection Check Valve:
- 7) Properly Installed:

### PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by: **N/A**
- 2) All structures, wells, and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period: **Reported irrigation beginning in 1975.**

**Comment:** Water Permit No. 1188-2 has used dams to control water flow from the bluff in the southern half of Section 22. According to Kenny Fox, these dams have been destroyed and rebuilt several times since the permit was initially approved. Currently, they are washed out and not operational. Kenny was unsure whether he would attempt to rebuild them again or not. However, water from these draws is still being used to irrigate the lands authorized by Water Permit No. 1188-2.



### Legend

- Irrigated\_Acres
- Section Boundaries - PLSS
- Specific Diversion Points



0 0.05 0.1 0.2 Miles

Prepared by Bracken Capen  
Natural Resources Engineer  
DENR, Water Rights Program





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

October 15, 2015

1188-2

Kenny & Roxene Fox  
PO Box 37  
Belvidere SD 57521 0037

Dear Mr. & Mrs. Fox:

On September 29, 2015 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 1188-2, was completed by Bracken Capen, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact me.

Sincerely,

Genny McMath  
Water Rights Program  
(605) 773-3352

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/28, 20 15

RECEIVED OF Kenny Fox Revocable Trust PO Box 37 Belvidere SD 57521

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

|                                                                                                                |       |       |
|----------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 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>1188-2</u>    |       |       |
| 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 | 50 00 |

No. 07512

By J. Anne Goodman  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**NOV 09 2015**

1188-2

Kenny & Roxene Fox  
PO Box 37  
Belvidere SD 57521 0037

Dear Mr. & Mrs. Fox:

Enclosed is Water License No. 1188-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

Jeanne Goodman, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures

**STATE OF SOUTH DAKOTA  
WATER LICENSE NO. 1188-2**

(1) F H Ireland made Application No. 1188-2, June 17, 1974 for a water permit to divert 3.50 cubic feet of water per second from the White River and dry draws, Jackson County, South Dakota for irrigation purposes. Permit No. 1188-2, with a priority date of June 17, 1974 was approved July 17, 1974 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 17, 1979 and for the application to beneficial use of said water on or before July 17, 1983.

Ownership changes filed with Water Permit No. 1188-2:

- November 30, 2004: transferred from F H Ireland to Holly Clements
- November 10, 2010: transferred from Holly Clements to Kenny or Roxene Fox

(2) It is certified that the permit holders have complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and are entitled to divert 3.50 cubic feet of water per second for beneficial use.

The location of the diversion points are as follows:

- From the White River: between points located along the river between Lot 2 and Lot 4 of Section 15, T44N, R34W;
- From dry draws coming off the bluff in Section 22, T44N, R34W

(3) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 22, T44N, R34W

N ½ N ½ 123 acres

Section 15, T44N, R34W

|       |          |           |          |
|-------|----------|-----------|----------|
| Lot 1 | 13 acres | SW ¼ SE ¼ | 34 acres |
| Lot 2 | 23 acres |           |          |
| Lot 3 | 22 acres |           |          |
| Lot 4 | 31 acres |           |          |

Total 246 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Kenny or Roxene Fox, PO Box 37, Belvidere SD 57521 the holders and/or owners of Water Right No. 1188-2 are issued a license to appropriate water, the right to use 3.50 cubic feet of water per second from the White River and dry draws with a priority date of June 17, 1974 from the locations specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1188-2 and subject to the following qualification:

- Diversions of water under this permit are contingent upon supplies being first available to prior water rights downstream on the White River. Flow records show that there are occasional years when the flows of the White River in this area are definitely and recognizably lower than usual during the months of July, August and September. Diversions of water are not to be made under this permit during such low flow periods.

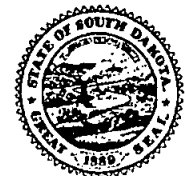


Jeanne Goodman, Chief Engineer  
Water Rights Program

Department of Environment and Natural Resources

NOV 09 2015

date





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

**Subject: Bypass Qualifications on the White River**

March 30, 2023

Dear White River Water Right Holder,

The SD Dept. of Agriculture and Natural Resources Water Rights Program is reviewing qualifications on White River water rights in order to update when pumping is authorized. Water Rights issued with priority dates junior to 1975 contained a qualification requiring a mandatory June 1 shutoff to cease pumping water from the river. The mandatory June 1 shutoff qualification was placed on these permits to protect domestic water users, which includes livestock watering. The review found, with the passage of time the United States Geological Survey (USGS) streamflow monitoring has expanded and realtime access to this information has improved. An analysis of long-term historical flow found that the lower White River, downstream of the Little White River confluence, receives significant flow from the Little White River relative to the flow contribution from the upstream portion of the White River. Consequently, it may be possible to remove the mandatory June 1 shutoff qualification for the junior water right permits in this lower section of the river and replace the qualification with a flow bypass limitation as measured at the USGS streamflow gaging station located near Oacoma.

The intent of this effort is to allow for more efficient use of water when it is available by utilizing a bypass requirement as measured at a USGS stream flow gaging station for those water users. This qualification change will also allow many lower White River junior priority water right holders to irrigate after June 1 without the need to request an extension from the Chief Engineer. Current real time river flow information can be easily accessed on-line at the following internet address:

**<https://waterdata.usgs.gov/sd/nwis/rt>**

In order to amend a qualification on an existing water right permit, formal action by the SD Water Management Board is needed. In the near future, you can expect to receive official notification scheduling a hearing before the Water Management Board. The notification will include if your water right is proposed to have the qualification amended. This hearing will also be public noticed in select county newspapers in which the White River flows through. If you wish to participate in the hearing, you can, but you are not required to. There will be instructions with the notification on how to participate in the hearing if you so choose.

If you have any questions concerning this effort, please contact Mark Rath of the Water Rights Program at (605) 773-3352 or [mark.rath@state.sd.us](mailto:mark.rath@state.sd.us)

Sincerely,

Eric Gronlund, Chief Engineer  
SD DANR – Water Rights Program

# Review of White River Water Rights and Report on Proposed Amendment

## February 14, 2023

### Introduction

An evaluation was made of the current qualifications that were placed on the existing White River water permits/rights to determine whether these qualifications are effectively managing the water source for the users.

### Review of the Water Source

The White River, a prairie stream, located in southwestern South Dakota and northwestern Nebraska, Figure 1. The White River headwaters originate in northwestern Nebraska and drains approximately 9,975 square miles before discharging into the Missouri River near Oacoma SD.

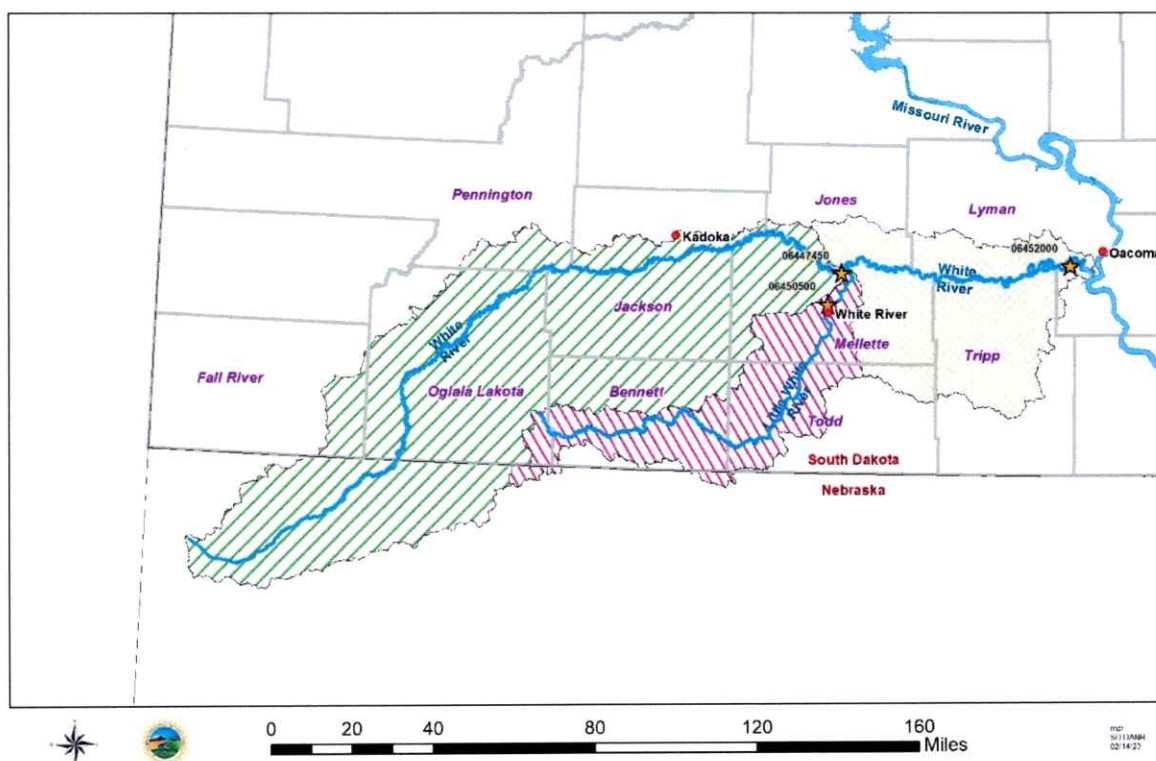


Figure 1. White River Watershed Map.

The entire watershed can be broken into three sections: upper White River, lower White River and Little White River. The upper White River watershed is the portion drained by the White River headwaters in northwestern Nebraska and drains portions of Oglala Lakota, Fall River, Bennett, Pennington, Jackson, Mellette, Jones, and Todd Counties located upstream of the Little White River confluence. The Little White River watershed is drained by the Little White River headwaters in Oglala Lakota County, draining portions of Nebraska, and Bennett, Todd, and Mellette Counties before merging with the White River approximately 12 miles southeast of the town of Murdo. The Little White River has more uniform flow than the White River due to a permeable sand formation allowing precipitation seeping into the ground to move laterally into the stream through springs and seeps (Ellis, et al. 1971). The lower White River section, after receiving contributing flow from the Little White and upper White rivers, also drains

portions of Mellette, Jones, Todd, Tripp, and Lyman Counties before discharging to the Missouri River just south of the town of Oacoma.

A percentile is a measure used in statistics to indicate the value below which a given percentage of observations in a group of observations fall, in this case daily flows. The percentiles shown correspond to flow scenarios during drier conditions when water would be in short supply. A percentile hydrograph can also give an indication of the time of year when water can be expected to be available at the gage location.

The USGS Stream Gaging No. 06447450 White River near White River, SD is located approximately 2 miles upstream from the confluence of the White and Little White rivers. Figure 2, shows three statistically derived flow levels consisting of the daily median (or 50 percentile), the 25 percentile, and the 10 percentile daily flow values for this stream gage. As this figure indicates, there is an increase in flow in the White River corresponding to spring snowmelt and spring rain events. The figure shows the median or 50 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average one out of two years and also indicates flow curtailing in the mid-July to early September time frame before leveling off. It should be noted during any given year, flow in the river is not going to exactly mirror the median flow values. Since the median daily value is the center value with half the measured flow values greater and half less, what median values do provide is an overall indication of the historical flow characteristics for the stream at that location based upon the period of record. The hydrograph also shows there is a significant decline in available water corresponding with the 25 and 10 percentile levels from mid-to-late June.

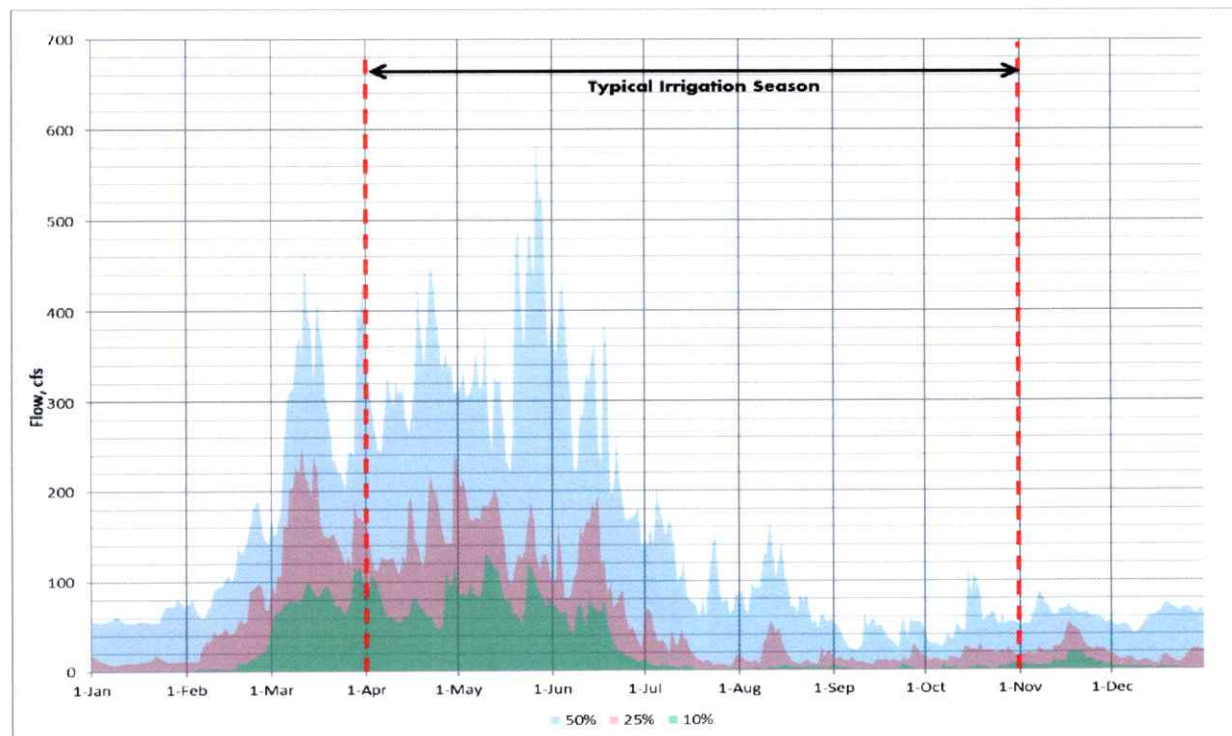


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi<sup>2</sup> (USGS, 2023).

The USGS Stream Gaging No. 06450500 Little White River near White River, SD is located approximately 14.5 miles upstream from the confluence of the Little White River with the White River. Figure 3, indicates there is an increase in flow in the Little White River corresponding to spring snowmelt and rain events. The figure shows the median or 50, 25 and 10 percentile hydrograph levels for this stream and indicates flow at each of the three percentiles peaks in late March and steadily declines until the first of August. Flow then levels off for the remainder of the irrigation season but generally a base flow is maintained throughout the year.

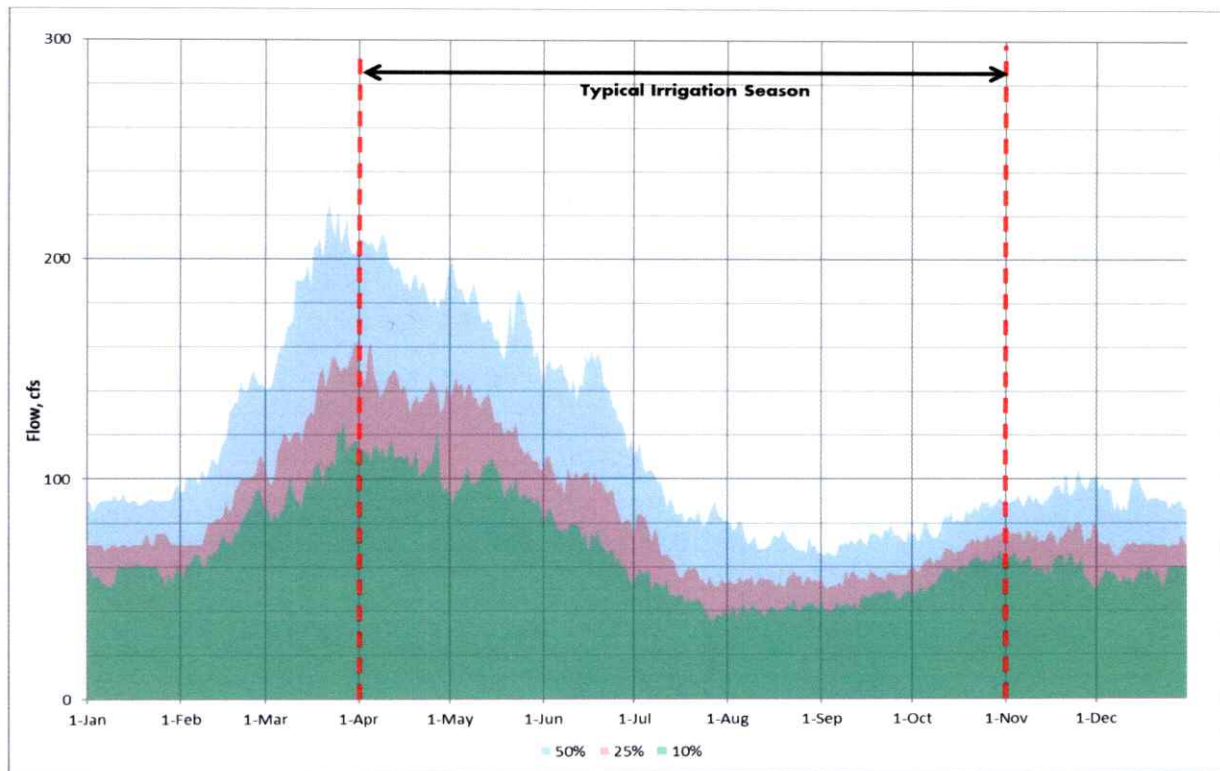


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi<sup>2</sup> (USGS, 2023).

The USGS Stream Gaging No. 06452000 White River near Oacoma, SD is located approximately 55 river miles downstream from the confluence of the White and Little White rivers and approximately 16 miles upstream from the point where the White River flows into the Missouri River on Lake Francis Case. Figure 4 is a hydrograph showing the 50, 25 and 10 percentile levels similar to what was shown in the previous two figures. The median or 50 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average one out of two years, and shows an increase in flow in the White River starting in early February corresponding to early spring runoff and maintains strong flows through most of June before tailing off through the remainder of the summer and fall months. At the 50 percentile level corresponding flow can be expected to be in excess of 40 cubic feet of water per second (cfs) throughout the year on average one out of two years. Looking at the hydrographs corresponding to the 25 and 10 percentiles, they show a similar trend to the 50 percentile curve with increased flows in February and tailing off in the latter part of June. The 25 percentile level shows the daily flow values at or below this level on average one out of four years, indicating flows remain above the 40 cfs level except for a period December through January. At the 10 percentile level, corresponding to the daily flow values

at or below this level on average one out of ten years, flows stay above 20 cfs except during the three week period from the first week of August through the first of September and the six week period in December and January, which is outside the irrigation season.

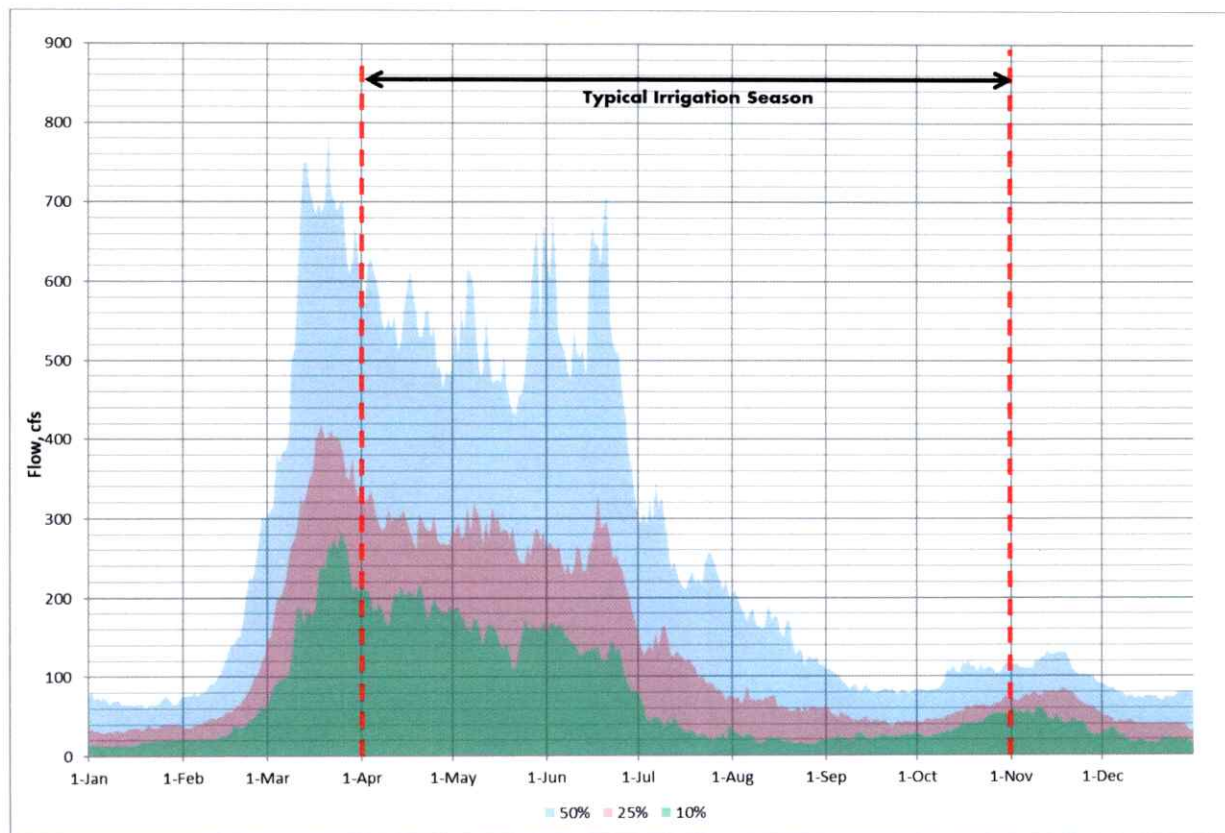


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi<sup>2</sup> (USGS, 2023).

### **The Water Management Board Authority**

SDCL 46-1-14 gives the Water Management Board the authority to amend water right permits. Water permits issued by the board may be amended by the board with priority retained upon amendment. The board may alter terms, conditions, restrictions, qualifications, or quantifications.

### **South Dakota Codified Law**

**46-1-14.** Terms and conditions of permits and licenses--Amendment. The Water Management Board may issue any permit or license subject to terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity consistent with this chapter which it considers necessary to protect the public interest and which are related to matters within the jurisdiction of the board. Water rights issued pursuant to this section may be amended by the board and priority is retained upon amendment. Upon amendment the board may alter terms, conditions, restrictions, qualifications, or quantifications consistent with this chapter.

**46-2-3.1.** Delegation of authority to chief engineer--Restrictions. The Water Management Board may delegate to the chief engineer authority to act on its behalf concerning the quasi-judicial functions of interpreting,

applying, and enforcing existing rules and laws and ordering action or abatement of action. The board may not delegate any other quasi-judicial functions as defined in § 1-32-1, except as otherwise provided by law. The board may promulgate rules pursuant to chapter 1-26 to delegate to the chief engineer the authority to issue permits pursuant to § 46-1-14.

**46-2-17.** Chief engineer's general enforcement authority. The chief engineer may:

- 1) Investigate the use of the waters of the state and compliance with the provisions of water permits, licenses, rules, regulations, and laws relating to water rights.
- 2) Institute enforcement and other proceedings before the Water Management Board;
- 3) Enforce orders of the board; and
- 4) Perform other acts authorized by statute or regulation.

**46-2-18.** Chief engineer's authority to order discontinuance of water use. The provisions of chapter 1-26 notwithstanding, the chief engineer may, after appropriate investigation, issue an order to any person to shut off or limit the person's use of surface or groundwater, or to plug or otherwise control a well. The order may be issued only to protect another user who has higher or earlier priority or to cause a user of water to discontinue the use of water to which the user has no legal right. Upon a refusal to obey the order, the chief engineer may request a court of proper jurisdiction to issue a temporary restraining order or injunction to effectuate the provisions of the order.

### **Review of Existing Water Rights and Reported Use**

A review of Water Right Program files shows there have been 200 water permits/rights issued from either the White or Little White rivers, some with priority dates going back to 1901. Many of these have been cancelled due to abandonment or forfeiture, some have been incorporated into other water permits, and some remain active. Currently, there are 82 existing permits/rights appropriating 190.9 cfs from the White River. Eighty of the existing permits/rights are for irrigation use and the other two are for small dams used for domestic and recreation purposes. Figure 5 shows a comparison between the water appropriated for irrigation use and the annual reported use by these irrigators for the years 1995 to 2021. As this figure indicates except for three years in the early 2000's, less than 10% of the water appropriated annually for irrigation was reported to be used (Water Rights. 2023).

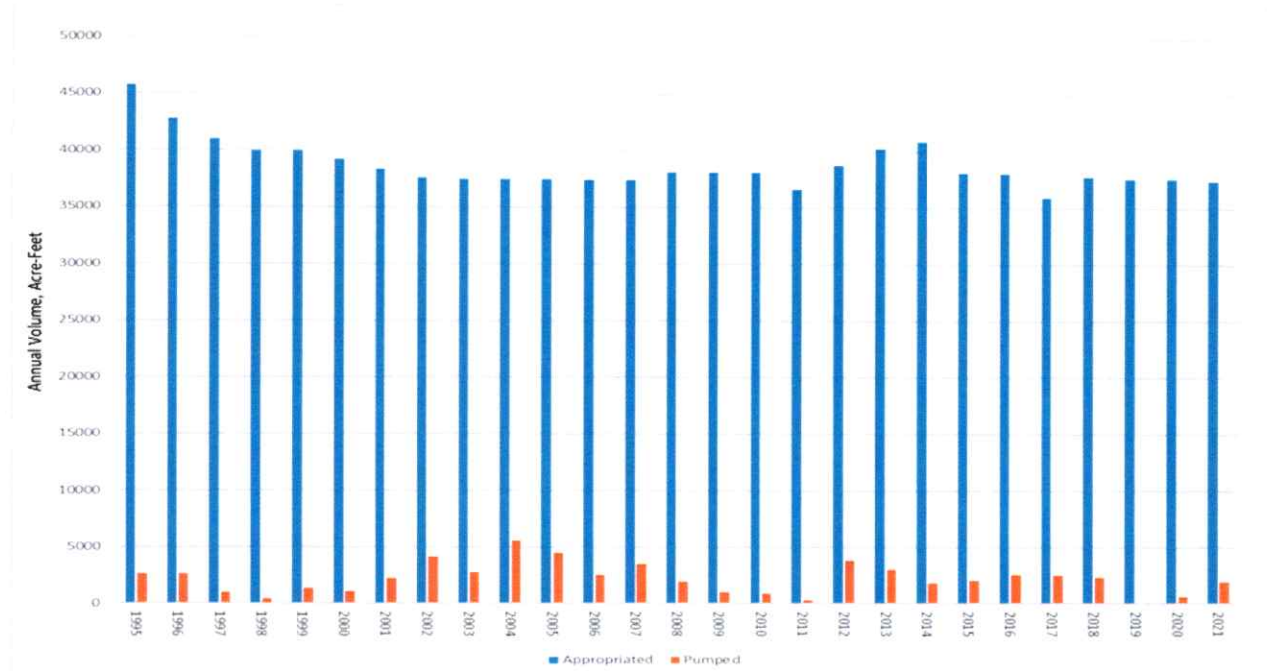


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

### **Qualification Status**

An examination of water right files found the Water Resources Commission, a predecessor to the Water Management Board, placed the first low flow bypass qualification, on a White River water permits in Lyman and Jackson counties in 1964. (Water Rights, 2023). In January of 1977, the Water Rights Commission, another predecessor to the Water Management Board, approved several deferred White River applications with priority dates going back to April 12, 1976, and placed a June 1 cutoff qualification on them. This same qualification has been placed on all White River permits issued since then.

In 2012, the Water Rights Program received an application for a water permit to irrigate from the White River in the river reach downstream from the Little White confluence. The analysis for that application resulted in a qualification to the issued water permit that the permit holder may request written authorization from the Chief Engineer to allow the irrigator to continue irrigating after the June 1 shutoff date. Prior to issuing the written authorization, the Chief Engineer would determine whether an appropriate base flow level was present. A 20 cfs bypass has been used in on other major rivers in South Dakota to provide for a base flow to insure domestic/livestock water needs are satisfied. It was determined a minimum base flow of 20 cfs bypass after pumping, as measured at the USGS gaging station, White River near Oacoma, was needed to allow the Chief Engineer to provide written authorization to continue using water. The permit was issued with the following qualifications (Water Rights. 2023).

1. This Permit authorizes the diversion of water from the dugout adjacent to the White River until June 1 of each calendar year. After June 1, there shall be no diversions under this Permit unless written authorization is issued by the Chief Engineer. Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

2. Diversions from the dugout adjacent to the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs while pumping under this Permit.

Since that water permit was issued in 2012, the 20 cfs bypass as measured at the Oacoma stream gage criteria has been utilized multiple times when issuing written authorization to allow pumping after the June 1 cutoff in this river reach. This criterion has worked well.

### **Analysis and Proposed Qualification Revisions**

The original cutoff date and the later adopted bypass requirement were analyzed to determine whether the 20 cfs bypass requirement would be a more effective means of managing active water rights going forward in the lower reach of the White River rather than a June 1 mandatory shutoff date. The review took into consideration the existing water rights, the qualifications, the authorized use, the location of the diversion points, the annual period of use, and historic stream flow data.

#### **Upper White River**

Water rights/permits with priority dates junior to April 11, 1976, located on the upper White River in the river reach upstream from the confluence with the Little White River contain the June 1 mandatory shutoff qualification.

The percentile hydrograph for USGS Stream Gaging No. 06447450 White River near White River, SD shown in Figure 2, indicates a decline in flow during the month of June at the three percentile levels shown (USGS. 2023). At the 10 and 25 percentile levels, corresponding to daily flow values at or below the indicated level on average one out of four years and one out of ten years respectively, show expected flow levels falling to a range of 20 cfs or below. At this time the current June 1 cutoff qualification appears to be working well, with irrigators requesting pumping variances when needed. A review of Water Rights Program files indicates this occurs sporadically with it most recently happening in the summer of 2022. An irrigator near Kadoka requested a temporary variance to pump runoff from a large upstream thunderstorm (Water Rights. 2023). At this time the recommendation is to leave the existing qualification requirements in place for current and future water rights/permits located in this river reach because the current qualification is working well.

#### **Lower White River**

Water rights/permits with priority dates junior to April 11, 1976, located on the lower White River in the river reach downstream from the confluence with the Little White River, contain the June 1 mandatory shutoff qualification.

In 2012, the Water Rights Program received Water Permit Application No. 2681-2, to divert water for irrigation from the lower White River reach. The analysis for that application determined that based upon historical flow data, there was a likelihood that water would be available many years in this reach after June 1 and there was a possibility the permit holder would be asking for a variance to allow pumping after the mandatory shutoff date. For the Chief Engineer to be able to grant written authorization to allow pumping and protect the base flow of the river, a new qualification was adopted (Water Rights. 2023).

- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.

Since 2012, the June 1 mandatory shutoff and the 20 cfs bypass qualifications have been placed on water permits issued in the lower White River reach. The Water Rights Program has received numerous requests from these permit holders over multiple years to allow diversions from the river after June 1. Based upon the experience the Water Rights Program has gained managing use based off the 20 cfs bypass qualification, we found this qualification to be an effective water management tool for this lower reach of the White River.

There are 32 water permits/rights appropriating 86.81 cfs from the White River reach downstream of the Little White River confluence. Of these, there are 11 water permits/rights appropriating 29.54 cfs containing the qualification requiring diversions cease after June 1<sup>st</sup> of each calendar year (Water Rights. 2023). Based upon the review of the stream gaging, reported water use, and our experience with using the White River stream gage near Oacoma to regulate water diversions, I recommend for the water permits/rights located in the lower White River reach, the June 1<sup>st</sup> mandatory shutoff qualification be removed and the qualification requiring a 20 cfs bypass as measured at the White River near Oacoma stream gage be added to those water permits/rights that do not already have it.

### **Specific Proposed Qualification Revisions by Water Permit**

To standardize the bypass qualifications for the existing water permits containing a June 1 mandatory shutoff qualification in the lower White River reach downstream from the Little White River confluence to Missouri River, the following changes are proposed:

#### **Amendment to the qualifications contained in Water Right No. 1474-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for either to the land directly or off-stream storage until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 1501-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for either to the land directly or off-stream storage until June 1 of each calendar year. After June 1,

there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

**Amendment to the qualifications contained in Water Right No. 1504-2**

**Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

**Amendment to the qualifications contained in Water Right No. 1529-2**

**Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 1557-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 1630-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for off-stream storage until June 1<sup>st</sup> of each calendar year. After June 1<sup>st</sup>, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Management Board or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Board or its representative.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.

- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 1765-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for either to the land directly or off-stream storage until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 2312-2**

##### **Delete Qualification:**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Water Rights Commission or its legally appointed representative. Diversion under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

The water rights/permits listed below were issued with a separate qualification that should be retained:

- Diversions from the White River are authorized only when flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs while pumping under this water right.

#### **Amendment to the qualifications contained in Water Right No. 2681A-2**

##### **Delete Qualification:**

Water Permit No. 2681-2 authorizes the diversion of water from the White River for irrigation to the land directly or to two storage dams until June 1<sup>st</sup> of each calendar year. After June 1<sup>st</sup>, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

#### **Amendment to the qualifications contained in Water Right No. 2701-2**

##### **Delete Qualifications:**

Water Permit No. 2701-2 authorizes the diversion of water from the White River for irrigation to the land directly or to the existing dugout and storage dam authorized by Water Right No. 1415A-2 and Water Permit No. 2647-2 until June 1<sup>st</sup> of each calendar year. After June 1<sup>st</sup>, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer. *(Water Right No. 1415A-2 and Water Permit No. 2647-2 have been incorporated and are now licensed under No. 2647-2.)*

Water from the White River may be diverted to the dugout and existing dam authorized by Water Right No. 1415A-2 and Water Permit No. 2647-2 subject to qualifications Nos. 1 and 2. Diversion of stored water from either the dugout or the dam for irrigation of the authorized land is not subject the June 1<sup>st</sup> shut-off. *(Water Right No. 1415A-2 and Water Permit No. 2647-2 have been incorporated and are now licensed under No. 2647-2.)*

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed.
- Water Right No. 2701-2 authorizes the diversion of water from the White River for irrigation to the land directly or to the existing dugout and storage dam authorized by Water Right No. 2647-2
- Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

## **Amendment to the qualifications contained in Water Permit No. 2835-2**

### **Delete Qualification:**

This permit authorizes the diversion of water from the dugout adjacent to the White River until June 1 of each calendar year. After June 1, there shall be no diversions from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

### **Add Qualifications:**

- This permit authorizes the diversion of water from the dugout adjacent and hydraulically connected to the White River. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.



Mark D. Rath  
Natural Resources Engineer III

### References

Ellis, M. J. and D.G. Adolphson. 1971. Hydrologic Atlas 357, Hydrogeology of the Pine Ridge Indian Reservation, South Dakota. United States Geologic Survey Publication Warehouse.

USGS. 2023. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.

Water Rights. 2023. Water Right/Permit Files. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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April 14, 2023

Subject: Amendment of the Mandatory Shutoff Qualification on White River Water Rights

Dear White River Water Right Holder,

The SD Department of Agriculture and Natural Resources has reviewed all White River water rights and the historical, United States Geological Survey (USGS) stream flow records. The Chief Engineer is recommending amending the mandatory June 1 shutoff qualification on 11 junior priority White River water rights located in the reach between the Little White River confluence and the Missouri River. The intent is to allow for more efficient use of water when it is available by utilizing a bypass requirement as measured at a USGS stream flow gaging station for those water users.

The proposed amendment to those water rights would replace the mandatory June 1 shutoff qualification with a 20 cfs of flow bypass measured at the USGS Oacoma streamflow gaging station. This amendment would not be expected adversely impact your use of the White River as authorized by your water right(s). The amendment designates a US Geological Survey streamflow gaging station as the measuring point to determine if pumping is allowed. The gaging station has real time flow information that can be accessed on-line at <https://waterdata.usgs.gov/sd/nwis/rt>.

A hearing before the Water Management Board is scheduled at 9:45 AM, Wednesday, May 3, 2023, in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Enclosed is the notice to be published on or before April 13, 2023, in one newspaper from each of the 9 counties that the White River flows through. This notice provides information on filing a petition in either support or opposition to the proposed amendment. The filing of a petition must be postmarked by April 24, 2023. Additionally filing a petition affords you the opportunity to participate in the May 3rd hearing before the Board if you choose.

The staff report including affected water rights and the proposed changes are available at <http://danr.sd.gov/public> or contact Mark Rath at 605 773-3352 or [mark.rath@state.sd.us](mailto:mark.rath@state.sd.us). If you have questions; please call. DANR is willing to work to answer any questions.

Sincerely,

Chief Engineer

Water Rights Program, DANR