

OFFICE OF STATE ENGINEER

PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 149-0

Water Div. No. 2

Water Dist.

Application Received NOV 22 1911

Maps Received NOV 22 1911

Acknowledgment NOV 22 1911

Notice for P.L.B. Mailed NOV 27 1911

Receipt from Newspaper

Copy of Newspaper Rec'd. JAN 9 1912

Notice of Correction

Proof of Pub. Rec'd. JAN 29 1912

Hearing JAN 26 1912

Approved

Recorded and Filed

REMARKS

Notice for Jan 27th 1912

Received Feb 8th 1912

Page 66 and 67

No. 129-3

Map No. 159-2

Water Division No. 3

White River District.

(Blanks to be filled by the State Engineer.)

COPY

APPLICATION FOR A PERMIT To Appropriate Water Within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant George W. Dunkel
Postoffice address Draper, County Lyman, State South Dakota

I. If a corporation:

- (a) Name of same _____
(b) Date and place of incorporation _____
(c) Amount of capital stock _____
(d) Amount paid in _____
(e) Names and addresses of directors: _____

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Direct labor and employment of others
(b) Cash on hand, \$ _____ (c) Treasury stock, \$ _____
(d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion works No. 8 Centrifugal Pump
3. Quantity of water claimed 4.4 cubic feet per second.
4. Source of water supply White River
5. Location of point of diversion N. 45° 50' W., 1650 ft. from the N. 1/4 Cor of
Sec. 30, Tp. 3 S., Rge. 30 E., R.H.M. on left bank.
(Right or left bank looking down stream.)
6. Annual periods during which water is to be used Irrigating Season
7. To be used for:

I. Irrigation or domestic use:

- (a) Number of acres to be irrigated 352.73 acres.

Legal Subdivisions:

NE 1/4 of NW 1/4 of	Section 29	36.30	Acres
SW 1/4 of NW 1/4 of	" 29	40.00	"
Lot 1 of " "	" 29	18.09	"
NE 1/4 of NE 1/4 of	" 30	40.00	"
SE 1/4 of NE 1/4 of	" 30	40.00	"
Lot 1 of " "	" 30	45.17	"
Lot 2 of " "	" 30	29.24	"
Lot 3 of " "	" 30	20.54	"
Lot 4 of " "	" 30	24.60	"
SE 1/4 of SE 1/4 of	" 19	17.27	"
SW 1/4 of SW 1/4 of	" 19	15.86	"
Total		352.73	Acres

Should be
326.97 Ac.

8. Estimated cost of works:

(a) Head gates, \$..... (b) Pumping plant, \$1000.00
 (c) Fluming, \$ 100.00 (d) Canal-earth, \$150.00 Rock, \$.....
 (e) Other structures..... \$..... Total, \$1250.00

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Pumping Plant

11. Dimensions of works:

(a) Dam: Height..... feet; length at bottom..... feet; length at top..... feet; thickness at bottom..... feet; thickness at top..... feet; slope of front (water) face.....; slope of back face.....; material used in construction.....

(b) Reservoir: Capacity when filled..... acre feet. Surface area at highwater mark..... acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH..... FEET OF DEPTH AT OUTLET--ACRES	CAPACITY-- ACRE-Feet

(c) Head gate: Width..... feet; height..... feet;

Material.....

(d) Canal: Total length..... miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At..... mile	 feet	 feet	 feet	 feet
At..... mile	 feet	 feet	 feet	 feet
At..... mile	 feet	 feet	 feet	 feet
At..... mile	 feet	 feet	 feet	 feet
At..... mile	 feet	 feet	 feet	 feet

[Give dimensions where reductions in size are made.]

10. Time required for completion of work..... 2 years.

11. Time required for complete application of water to the proposed beneficial use..... 5 years.

12. Choice of newspaper for publication of notice of intention to appropriate.....

Draper Democrat

STATE OF SOUTH DAKOTA

County of..... **Stanley** } ss

I, **Ralph Vanderhook**, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of

Engineer

(Owner, manager or engineer)

, that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed **Ralph Vanderhook**

Subscribed and sworn to before me this **21st** day of **November** 1901

Notary Public (or other qualified officer.)

DUNKEL WATER RIGHT

Scale: 1 inch = 300 feet.

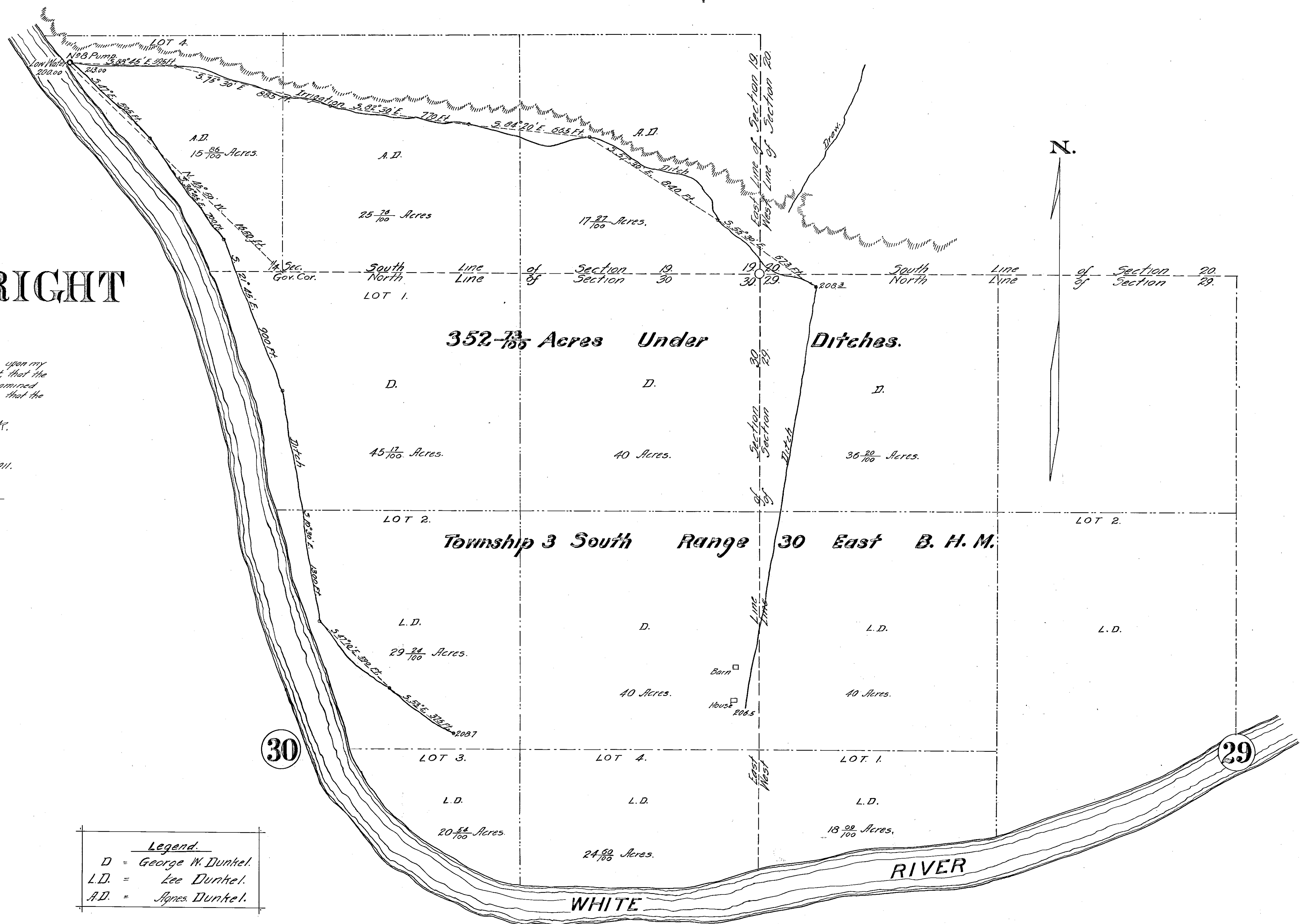
State of South Dakota } ss.
County of Stanley }

I Ralph Vanducott being duly sworn upon my Oath say that I am the Engineer of the Dunkel Water Right, that the Survey and Map of same were made by me and that I have examined the accompanying Statement and know of my own knowledge that the Statements therein made are true.

Ralph Vanducott
Engineer

Subscribed and sworn to before me this 18 Day of October 1911.

H. W. Keller
Notary Public



Qu 109 - 1
11-1-12

Remarks by State Engineer:

This application is for the right to appropriate for irrigation purposes 4.4 cubic feet per second of the waters of White River at the point designated in Lyman County.

STATE OF SOUTH DAKOTA
County of Hughes

Pierre, South Dakota, February 8, 1902

This is to certify that the foregoing application was received at this office at nine o'clock a. m. upon the 2nd day of November 1901 and that after examination it was found to comply with the provisions of the Irrigation Code of South Dakota. Notice of intention to appropriate was published, proof of publication was duly filed, and a hearing was held in this office January 23, 1902.

Samuel H. Lea
State Engineer.

Number of permit 120-2 By B. B. Lea Deputy.

Date of first receipt of application November 22, 1901

Date of return to applicant for correction XXXX 190

Date of receipt of corrected application XXXXX 190

Date from which applicant may claim right November 23, 1901

Approved January 27, 1902, Recorded in Book 2 Page 88-87

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions.

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before January 23, 1913.

2d. The whole of said work is to be completed on or before January 23, 1914.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is January 23, 1907.

4th. The water appropriated shall be used for the purpose of Irrigation.

5th. 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.

6th. The amount of the appropriation herein granted shall not exceed 4.4 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must 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 January 20, 1917; said water to be used during the following described annual periods.

During irrigating season

Witness my hand this 8th day of February 1902

Samuel H. Lea
State Engineer.

By B. B. Lea Deputy.

No. 120-3

Division No. 3

White River District.

PERMIT

to appropriate water from
White River

Lyman County, South Dakota

Name of applicant

George W. Dunkel

Name of diversion works No. 3

Centrifugal Pump

Date of first receipt at office of State
Engineer November 22, 1901

Returned to applicant for Correction

190

Correct application received

190

Date of water right

November 23, 1901

Recorded in Book 2 Page 67

One-fifth of work to be completed

January 23, 1913

Whole work to be completed

January 23, 1914

Final proof of use of water

January 23, 1917

Approved January 27, 1902

Samuel Hobbs

State Engineer.

By B. B. Lea

Deputy

STATE OF SOUTH DAKOTA
COUNTY OF HIGGINS

I hereby certify that the within and
forgoing instrument is a true, correct and
complete transcript of a instrument at which
it purports to be, as this instrument is
recorded in the office of the State Engineer.

Witness my hand and official seal, done
at my office in Pierre, State of South Dakota
this 6th day of February 1912.

Samuel Hobbs
State Engineer.

By B. B. Lea
Deputy.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County of Lynn } 88
Therman Bates being duly sworn, deposes and says the annexed printed copy of Notice Intention to Appropriation of Water was taken from the Drapen Democrat newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the town of Drapen County of Lynn and State of South Dakota, That the said notice was published in said newspaper on the following dates:
Dec 7, Dec 14, Dec 21
28, Jan 4 & Jan 11
 in each and every issue of the full number thereof, the first publication being made on the 7 day of December 1911 and the last publication on the 11 day of January 1912, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was and is the printer and publisher of the said newspaper.

Subscribed and sworn to before me this

17 day of

January

A. D. 1912

Notary Public, Lynn County, S. D.

RECEIVED

JAN 19 1912

OFFICE OF STATE ENGINEER
 PIERRE, S. DAK.

Appropriation of Water

Office of the State Engineer at Pierre, S. D., Dec. 14, 1911.
 Notice is hereby given that George W. Dunkel whose post office address is Drapen, Lynn County, S. D., has filed an application in accordance with the provisions of the irrigation laws of South Dakota, for a permit to appropriate for beneficial use 4.4 cubic feet of water per second of time from White River through the No. 3 centrifugal pump, the point of diversion of which is to be located upon the left bank of said stream in the lot 4 of section 19, township 38 S., range 50 E., R. 11, M. Said water is to be used for the purpose of irrigation upon the NW 1/4 of NW 1/4 of sec. 29; SW 1/4 of NW 1/4 of section 29; lot 1 of sec. 29; NE 1/4 of NE 1/4 of section 30; SE 1/4 of NE 1/4 of section 30; lots 1, 2, 3 and 4 of section 31; SE 1/4 of SW 1/4 of section 18; SW 1/4 of section 19; lot 1 of section 19; and 3/4 of section 19.
 This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the twentieth day of January 1912, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.

Samuel H. Lea,
 State Engineer.

(First Publication 19)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., Nov. 27 1911

Notice is hereby given that George W. Dunkel

whose postoffice address is Draper, Lyman

County, S. D., has made an application in accordance with the provisions of the irrigation laws of South Dakota for a permit to appropriate for beneficial use -4.4- cubic feet of water per second of

time from White River through the No. 8

Centrifugal Pump, the point of diversion of which is

to be located upon the left bank of said stream in the Lot 4
 1 of the xxxxx 1 of section 19 township 38 range 30E. B.H.W.
 said water to be used for the purpose of Irrigation

upon the NVH of NVH of Sec. 29

SW¹ of NW¹ of Sec. 29; Lot 1 of sec. 29; NE¹ of NE¹ of sec. 30; SE¹ of NE¹ of Sec. 30; Lots 1, 2, 3, and 4 of Sec. 30; SE¹ of SE¹ of Sec. 19; SW¹ of SW¹ of Sec. 19; Lot 4 of Sec. 19;

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the twenty-sixth day of January 1912, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.

State Engineer.

129-2

INVESTIGATION OF WATER RIGHT 129-2

On September 8, 1967, Mr. Burnskill's son was contacted concerning water permit 129-2. He stated that the original system was built and used. Later his father installed a different pump and used it for a number of years. However, no pumping has taken place recently. The son was unwilling to commit himself and stated that his father would either write or come to Pierre to see us. The forfeiture clause was explained to him.

Conclusion:

It would appear that this permit can be cancelled and possibly a vested right filed to cover Mr. Burnskill's past irrigation.

September 8, 1967

Richard Schmoyer
Water Rights Specialist

November 6, 1967

Mr. George Brunskill
Murdo, S.D. 57559

Dear Mr. Brunskill:

This is in answer to your letter of October 31st, asking about the completion of water right 129-2. It would be much easier to determine the status of this water right by talking to you in person rather than trying to put all the aspects that might apply into a letter. Therefore, the next time one of our Staff members is in the area, he will make it a point to see you. Hopefully, this will be in the near future.

Please feel free to call upon us if this office can be of any further assistance.

Sincerely,

RICHARD SCHMOYER
Water Rights Specialist

RS/bw

**South Dakota Department of
Water & Natural Resources**

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

September 1, 1988

129-2

Jerry Brunskill
HCR 74 Box 79
Murdo, SD 57559

Dear Mr. Brunskill:

I am writing in follow-up to your conversation with Del Brosz, August 31, 1988 concerning Water Permit No. 129-2. Further review of the permit found no evidence of a transfer being filed from George Dunkel to your father. If the permit should be listed in your name, you will need to file a "Notice of Transfer" with our office.

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change. The form will need to be signed and notarized before returning it to our office with a required filing fee of \$2.50. Upon receipt of the form and filing fee in our office, Water Permit No. 129-2 will be transferred to you.

In 1982, the Water Management Board ruled that submission of the irrigation questionnaire was mandatory for all irrigation permits in the State, with the exception of waterspreading systems. Since you pump directly from the White River, you will need to complete these type of questionnaires. Permit No. 129-2 has been added to the list of permits to receive yearly irrigation questionnaires. The 1988 questionnaires will be mailed from our office sometime in October.

If you have any questions, please contact us.

Sincerely,

Genny McMATH

GENNY MCMATH
Natural Resources Analyst

enclosure



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 7.5.4 1988

This is to notify you that the title to the lands described as follows:

W1/4 NW1/4, Lot 1, Section 29; E1/4 NE1/4, Lots 1,2,3,4 Section 30; SE1/4 SE1/4, SW1/4 SW1/4 Section 19;
T3S, R30E

formerly owned by George Dunkel

has been transferred to Cerald P Brunskill ^{RR1, Box 79}
Mundo SD 57559
(please include complete mailing address)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 129-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Jones) ss.

I, Cerald P Brunskill being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Cerald P Brunskill
(Signed)

Subscribed and sworn to before me this 7 Day of Sept, 1988.

5-11-90

Barry Anderson
(Notary Public)

RECEIPT

Division of Water Rights
South Dakota Department of Water and Natural Resources

Pierre, September 8, 1986

RECEIVED OF Gerald P. Brunskill, RP 1, Box 79, Hurdo SD 57559

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	
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. _____	2 50
Fee for Filing Transfer Form <u>Rs. 129-2</u>	
Fee for Filing Extension Request <u>"</u>	
Fee for Certified Copy of _____	
Fee for Print Copy of Map _____	
Fee for Certifying _____	
Fee for _____ (Any Other Work Provided by Law)	
Total	

By John Hatch
Chief Engineer

JOHN HATCH

No. 129-2

SOUTH Dakota Department of
Water & Natural Resources

Joe Foss Building Water Rights Division
Pierre, South Dakota 57501 Phone (605) 773-3352

September 15, 1986

Gerald P. Brunskill
RR 1, Box 79
Murdo, South Dakota 57559

Dear Mr. Brunskill:

Enclosed is receipt No. 411399 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 129-2.

Our records now show you as the owner of this Water Right.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

ENR-821-7/79
Receipt & Notice of filing of Transfer of Water Right

Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWRN, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Gerald P. Brumskill
HCR 72, Box 79 of Munda, SD 57559 holder of
Permit No 129-2, bearing the priority of November 22, 1911 authorizing
the diversion of 4.4 cu. ft. per second of the waters of the White River
for irrigation purposes, in Jones County.

I have to report on the conditions of the same as follows:

- A. Works used to divert the water: A 12 inch Crisafulli pump powered by a 45 HP John Deere "R" tractor. Pump capacity = 2250 gpm.
- B. Works used to transport water to place of use: Earthen "V" ditch, 2 1/2 feet depth with a 4 foot top width. The ditch gets smaller as it approaches the end. Water is pumped into settling ponds and then released into the ditch.
- C. Works used to apply water to beneficial use: Gravity irrigation, furrow and flood.

The system is in the following condition Fair

The point of diversion is located 1745 feet east and 725 feet north of the SW corner of section 19 T3S R30E.

The works are capable of directing and conveying to the place of use 5.0

cu. ft. per second of water which is to be used for irrigation

Water has been put to beneficial use to the maximum extent as follows: all in T3S R30E

Section 19;	Section 30;	Section 29;
Lot 4 - 5 acres	Lot 1 - 7.8 acres, Lot 2 - 15 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 22 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 26 acres	Lot 2 - 16 acres, NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 40 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 38 acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 17 acres	Lot 3 - 3 acres, SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 28 acres	Lot 1 - 6 acres

comprising a total of 247 acres of land and the license should be issued for 3.48 (s)

Applicable permit qualifications have been complied with Yes ☒ Yes ☐ No

Exceptions to compliance are: _____ Date June 10, 1992

William W. Brooks, PE
(signature) Nat. Resources Engineer

CHECK LIST FOR FIELD INSPECTION

Permit Number 129-2 Date 6-10-92

Other permit(s) associated with the project _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

1. Diversion point legal location: N 45° 50' W 1650 feet from the
N 1/4 corner of Section 30, T35, R30E (on map)
Actual location = 1745 feet east and 725 feet north of the SW corner
of Section 19, T35, R30E. (within 160 feet).

2. Well Information: Well Drilling Firm _____

No. of Wells _____ Depth(s) _____

a) Casing 1' diameter _____ inches b) Screen 1) type _____

2) length _____ feet 2) length _____ feet

3) type _____ c) Pump 1) make Crisafulli

d) Static Water Level _____ feet 2) model _____

e) Motor: 3) size 12 inches

1) make John Deere Tractor 4) capacity 2250 GPM

2) model No. R 5) turbine pump - No. of stages _____

3) horsepower rating 45 6) operating pressure _____ PSI

3. Distribution lines or canals:

a) type _____ b) size _____ c) length _____

4. System Type:

a) Sideroll:

1) length _____ feet

2) diameter of pipe _____ inches

3) sprinkler spacing _____ feet

b) Towline:

1) length _____ feet

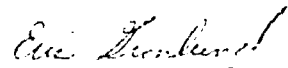
2) sprinkler spacing _____ feet

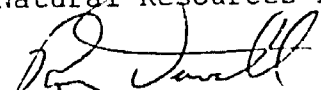
REPORT ON WATER PERMIT NO. 129-2
GERALD P. BRUNSKILL
December 17, 1993

Water Permit No. 129-2 appropriates 4.4 cubic feet of water per second from the White River located in Lot 4 (SE 1/4 SW 1/4 Section 19-T3S-R30E) to irrigate 352 acres. Readvertisement of the notice of hearing published in December 1911 and January 1912 is needed to correct the legal description of the irrigated acres prior to issuance of the water license. The location of the irrigated acres was incorrectly advertised as being located in the NW 1/4 NW 1/4, SW 1/4 NW 1/4, Lot 1 Section 29, NE 1/4 NE 1/4, SE 1/4 NE 1/4, Lots 1, 2, 3, and 4 Section 30, SE 1/4 SE 1/4, SW 1/4 SW 1/4, and Lot 4 Section 19; all in T3S-R30E. The correct location of the acreage developed for irrigation is the W 1/2 NW 1/4, Lot 1 Section 29, E 1/2 NE 1/4, Lots 1, 2, 3 and 4, Section 30 and SE 1/4 SE 1/4, SW 1/4 SE 1/4, and Lot 4 Section 19; all in T3S-R30E. This readvertisement does not authorize any increase in the acreage irrigated or increase in the developed diversion rate.

Conclusions

1. This is a readvertisement of the Notice of Hearing for Water Permit No. 129-2.
2. This readvertisement is necessary to correct the legal description of the lands being irrigated prior to issuance of the water license. The correct location of the irrigated acreage was identified on the original map.
3. The correct legal description of the lands being irrigated is the W 1/2 NW 1/4, Lot 1 Section 29, E 1/2 NE 1/4, Lots 1, 2, 3 and 4, Section 30 and S 1/2 SE 1/4, Lot 4 Section 19; all in T3S-R30E.


Eric Gronlund
Natural Resources Engineer

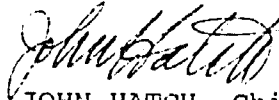

Ron Duvall
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED WATER
PERMIT APPLICATION NO. 129-2, Gerald P. Brunskill

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning readvertised Water Permit Application No. 129-2, Gerald P. Brunskill, HCR 74 Box 79, Murdo, SD 57559.

The Chief Engineer is recommending APPROVAL of readvertised Application No. 129-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest.

See report on application for additional information.



JOHN HATCH, Chief Engineer
December 20, 1993

Ron:

The SW $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19 was advertised as the SW $\frac{1}{2}$ SW $\frac{1}{4}$. It was listed on the application as SW $\frac{1}{2}$ SW $\frac{1}{4}$, but if one looks at the original map, its clear that its SW $\frac{1}{2}$ SE $\frac{1}{4}$.

DEL



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 22, 1993

Gerald P. Brunskill
HCR 74 Box 79
Murdo, SD 57559

Dear Mr. Brunskill:

The original notice of hearing for Water Permit No. 129-2 was published with an error. Therefore, the notice of hearing needs to be readvertised to correct the error. A notice of hearing has been sent to the Publisher of the Murdo Coyote printed at Murdo, SD (Ph # 669-2271). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the readvertisement are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Division of Water Rights. Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



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

December 22, 1993

Murdo Coyote
Box 465
Murdo, SD 57559

Attn: Legal Department

Enclosed is a Readvertisement of Notice of Hearing on Permit No. 129-2 to be published twice. Please publish the first notice on January 6, 1994, with the second publication 7 days later.

Please bill the Water Rights Division for the cost of the advertisement.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

FIRST TRANSMITTAL NOTICE

-----CUT HERE-----

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

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Readvertisement of Notice of Hearing to Appropriate Water by Permit No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on January 6, 1994, with the second publication 7 days later.

Readvertisement of NOTICE OF APPLICATION NO. 129-2 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 129-2 held by Gerald P. Brunskill, HCR 74 Box 79, Murdo, SD 57559. The water permit was originally applied for on November 22, 1911. Water Permit No. 129-2 appropriates 4.4 cubic feet of water per second from the White River located in Lot 4 (SE 1/4 SW 1/4) Section 19-T3S-R30E to irrigate 352 acres. Readvertisement of the notice of hearing published in December 1911 and January 1912 is needed to correct the legal description of the irrigated acres. The location of the irrigated acres was incorrectly advertised as being located in the NW 1/4 NW 1/4, SW 1/4 NW 1/4, Lot 1 Section 29, NE 1/4 NE 1/4, SE 1/4 NE 1/4, Lots 1, 2, 3 and 4 Section 30, SE 1/4 SE 1/4, SW 1/4 SW 1/4, and Lot 4 Section 19; all in T3S-R30E. The correct location of the acreage developed for irrigation is the W 1/2 NW 1/4, Lot 1 Section 29, E 1/2 NE 1/4, Lots 1, 2, 3 and 4 Section 30, and Lot 4, SE 1/4 SE 1/4, SW 1/4 SE 1/4 Section 19; all in T3S-R30E. This readvertisement does not authorize any increase in the acreage irrigated or increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvertised Application No. 129-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 24, 1994.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Grönlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Store, Acting Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

Readvertisement of Notice of Application No. 129-2 to
Appropriate Water

STATE OF SOUTH DAKOTA)

County of Janice) stI, Calvin Royce

certify that the attached printed N

taken from the

Merida Co.printed and published in 7/2County of JaniceSouth Dakota. The notice was pu
the newspaper on the following toJan 20, 1994Jan 27, 1994Cost of Printing: 34.68

Notice is given of readvertisement of Water Permit No. 129-2 held by Gerald P. Brunskill, HCR 74 Box 79, Murdo, SD 57559. The water permit was originally applied for on November 22, 1911. Water Permit No. 129-2 appropriates 4.4 cubic feet of water per second from the White River located in Lot 4 (SE 1/4 SW 1/4) Section 19-T3S-R30E to irrigate 352 acres. Readvertisement of the notice of hearing published in December 1911 and January 1912 is needed to correct the legal description of the irrigated acres. The location of the irrigated acres was incorrectly advertised as being located in the NW 1/4 NW 1/4, SW 1/4 NW 1/4, Lot 1 Section 29, NE 1/4 NE 1/4, SE 1/4 NE 1/4, Lots 1, 2, 3 and 4 Section 30, SE 1/4 SE 1/4, SW 1/4 SW 1/4, and Lot 4 Section 19; all in T3S-R30E. The correct location of the acreage developed for irrigation is the W 1/2 NW 1/4, Lot 1 Section 29, E 1/2 NE 1/4, Lots 1, 2, 3 and 4 Section 30, and Lot 4, SE 1/4 SE 1/4, SW 1/4 SE 1/4 Section 19; all in T3S-R30E. This readvertisement does not authorize any increase in the acreage irrigated of increase in the diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvertised Application No. 129-2 because 1) an appropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended,

unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capital, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 16, 1994.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Grenlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources.

Publish: Jan. 20, 27, 1994

Calvin Royce
(Signature)

Readvertiser
(Title)

Feb 4, 1994
(Date Signed)

File No. 129-2

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Gerald P Brunskill

ADDRESS: Murdo COUNTY: Jones

DATE: 1-18-94 TELEPHONE:

RE: Readvertisement

COMMENTS:

Called Murdo Coyote and talked with Carolyn concerning the readvertisement of Water Permit No. 129-2 which was to have been published on January 6 and 13, 1994. Carolyn stated it was published on January 6 but not on the 13th. The paper was instructed to publish again on January 20 and 27, 1994 and the date in the 3rd paragraph of the notice which was January 24, 1994 should be changed to February 16, 1994. She stated that change would be made and the notice would run again on January 20 and 27, 1994.

Karen Schlaak

Karen Schlaak
Natural Resources Analyst



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

February 17, 1994

129-2

Gerald P. Brunskill
HCR 74, Box 79
Murdo, SD 57559

Dear Mr. Brunskill:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 129-2, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

21 Febr 1954

HL 74 Box 74

Murdo, S. D. 57534

Dept of Envir & Nat. Resources

523 East Capitol

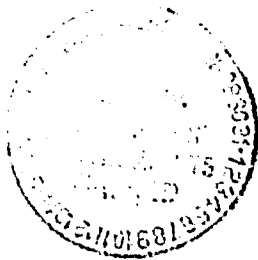
Pierre, S. D. 57501-3151

Dear Ms Frost:

Enclosed is \$50.00 check
for the inspection & issuance
of Water Permit No 129-2.

Sincerely,

L. P. Brunsell



RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

414057

Pierre, February 25, 1994

RECEIVED OF Gerald Branskill, HC 74 Box 99, Mardo, SD 57259

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 _____		
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>129-2</u>	30	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	30 00

By *John H. Hinkle*
Chief Engineer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 129-2 FOR IRRIGATION

(1) George W. Dunkel of Draper SD made Application No. 129-2, November 21, 1911 for a water permit to appropriate 4.4 cubic feet of water per second from the White River, Jones County, South Dakota for irrigation purposes. Permit No. 129-2, with a priority date of November 22, 1911 was approved January 27, 1912 and issued to the applicant for diversion of water with construction of the described water supply system on January 26, 1914 and the application to beneficial use of said water January 26, 1917.

Water Permit No. 129-2 was transferred September 7, 1988 to Gerald P. Brunskill.

The permit was readvertised January 20 and 27, 1994 to correct error on the original notice of hearing in the legal description of the irrigated acres. A portion of the land was described as being located in the SW 1/4 SW 1/4 and should have been SW 1/4 SE 1/4 of Section 19-T3S-R30E. The readvertisement of the original notice of hearing did not authorize an increase in the acreage or developed diversion rate.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 3.48 cubic feet of water per second for beneficial use. The location of the diversion point is 1745 feet east and 725 feet north of the SW corner of Section 19-T3S-R30E (Lot 4 - SE 1/4 SW 1/4).

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

all in T3S-R30E

Section 19	Lot 4	5 acres
	SW 1/4 SE 1/4	26 acres
	SE 1/4 SE 1/4	17 acres
Section 30	Lot 1	28 acres
	Lot 2	16 acres
	Lot 3	3 acres
	Lot 4	15 acres
	NE 1/4 NE 1/4	40 acres
	SE 1/4 NE 1/4	28 acres
Section 29	NW 1/4 NW 1/4	22 acres
	SW 1/4 NW 1/4	38 acres
	Lot 1	6 acres
Total		244 acres

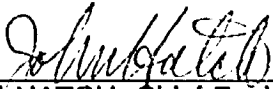
(continued)

Water License No. 129-2

Gerald P. Brunskill

Page 2

(4) Pursuant to South Dakota Water Law 46-5-30.1 Gerald P. Brunskill of HCR 74, Box 79, Murdo SD 57559 the holder and/or owner of Water Permit No. 129-2 is issued a license to appropriate water, the right to use 3.48 cubic feet of water per second from the White River with a priority date of November 22, 1911 from the location specified in (2) of this license. The water is conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 129-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer

Water Rights Division

Department of Environment and Natural Resources

AUG 19 1994

date



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

AUG 19 1994

129-2

Gerald P. Brunskill
HCR 74, Box 79
Murdo, SD 57559

Dear Mr. Brunskill:

Enclosed is Water License No. 129-2 and Receipt No. 414057 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 129-2 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'John Hatch', is written over a horizontal line.

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

rd
enclosures

129-2

PAYMENT REQUEST FORM

PAYEE: The Murdo Coyote
P.O. Box 465
Murdo, SD 57559

FROM: LENR
Water Rights Division
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCT OR TRANSFER

Publication of Readvertisement of Notice of Application No. 129-2
to Appropriate Water, published on January 20 & 27, 1994.

AMOUNT: \$34.68

FUNDING SOURCE:

GENERAL:

FEDERAL:

COMMENTS:

AUTHORIZATION:

John A. Little

2-9-94

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

NOT TO SCALE 1991

T-1664 T

2-19R

T-1793

V ditch
2 1/2 ft
deep
4-5' wide
on top

Maps Prepared by:
Delvin W. Bwng, PE
Division of Water Rights

19

13' lift from
river to ditch

Settling
Ponds

7 ft
ditch

1745

Diversion
Point

725'

Lot 4
5 acres

673
(83)

1 HEL

SW 1/4 SE 1/4
26 acres

SE 1/4 SE 1/4
17 acres

HEL

11.4

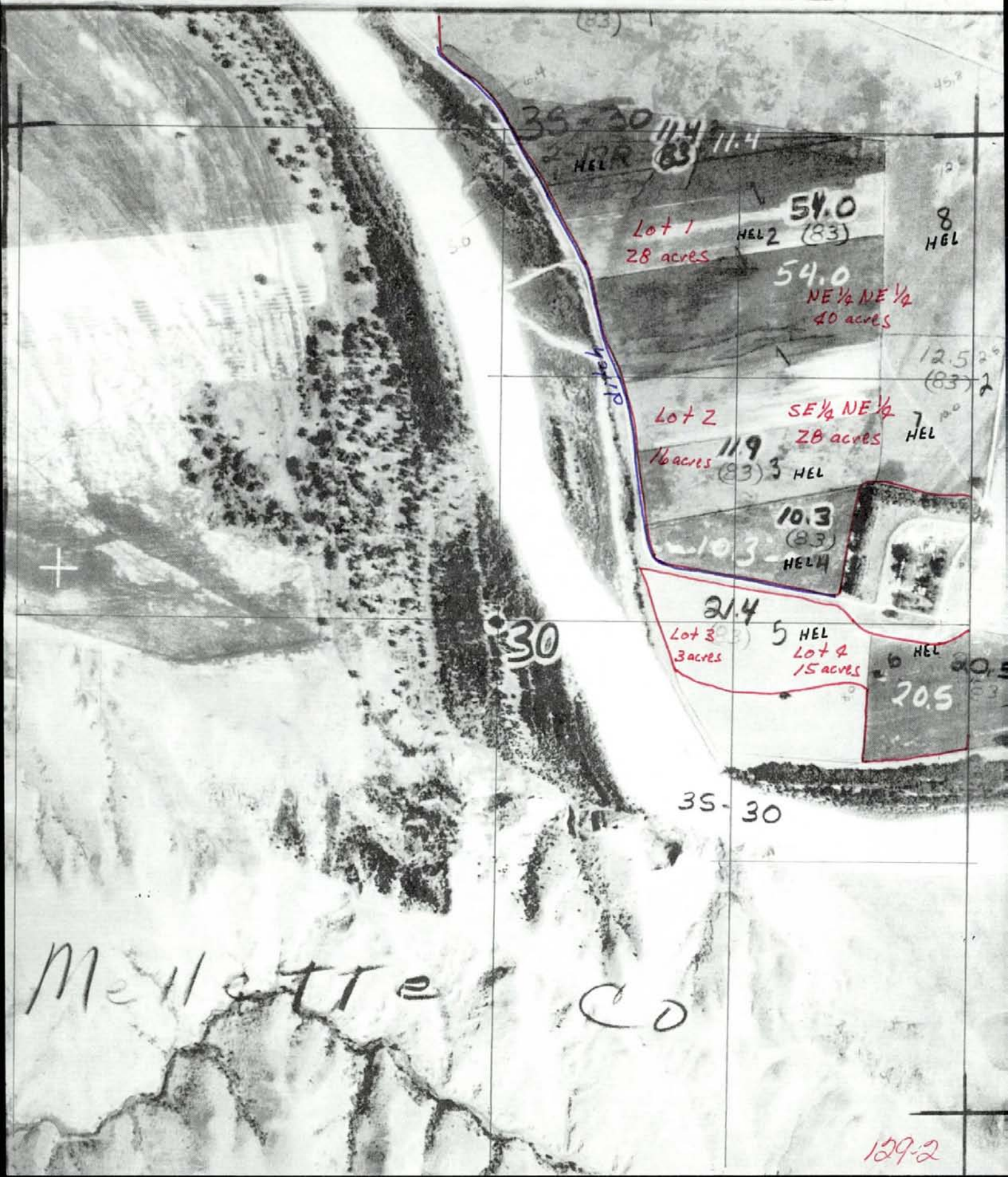
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2 (83)

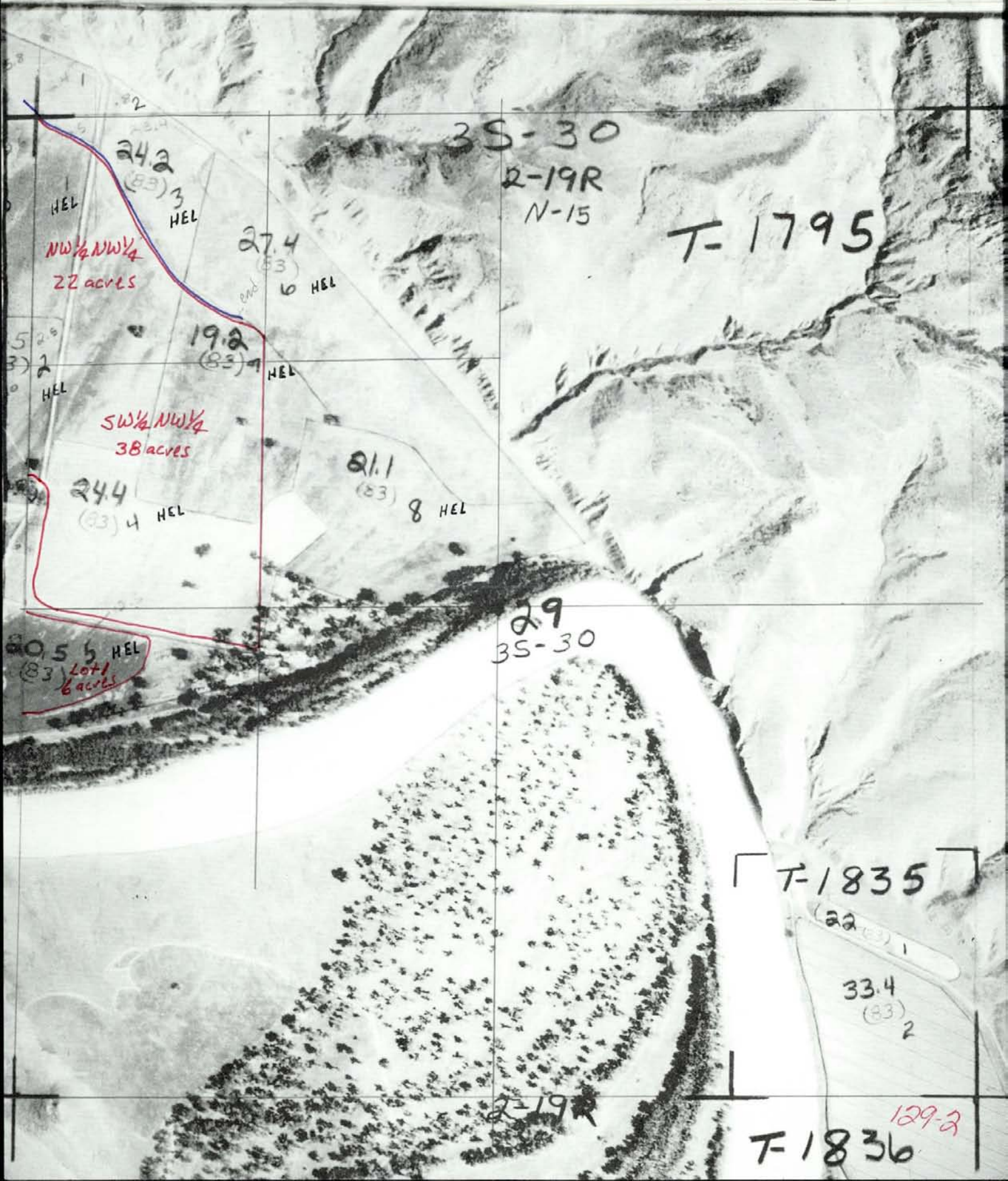
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129-2

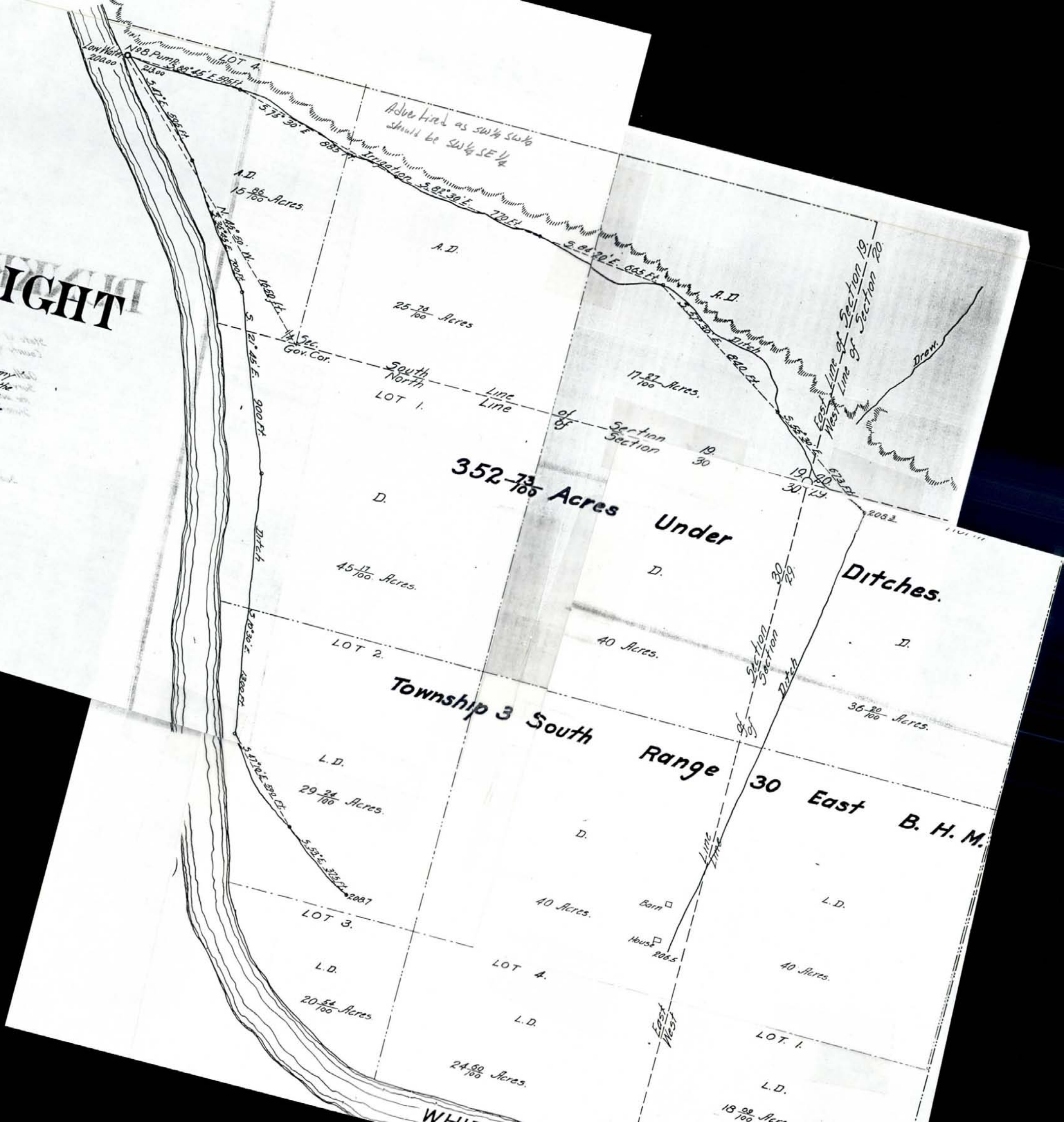
NOT TO SCALE 1991



NOT TO SCALE 1991



Public





129-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 8, 2006

G. P. Brunskill
HC 74, Box 779
Murdo SD 57559

Dear Mr. Brunskill:

The Department of Environment and Natural Resources received your letter expressing concern on Canadian Thistle seed being transported in the White River. Your letter contends that river water diversions authorized by your water right deposit thistle seed on your fields.

I am writing to inform you that we received the letter and forwarded it to the Department of Agriculture. The Department of Agriculture has a Weed and Pest Control Program and is the appropriate agency to respond to your concerns.

Sincerely,

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

c: Kevin Fridley, Division of Agricultural Services, Department of Agriculture, 523 E.
Capitol Avenue, Pierre SD 57501

February 7, 2006

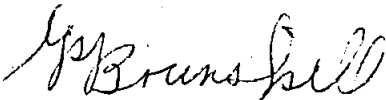
HEAD OF DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL
PIERRE, SD 57501-3182

RECEIVED
FEB 08 2006
WATER RIGHTS
PROGRAM

Dear Sir:

On Nov. 1, 2005, I included a letter (copy enclosed) with the irrigation questionnaire for 2005 expressing my concerns about the canada thistle seed that comes in with the irrigation water from the White River and asked for your comments. Irrigation has been our salvation during the dry years as we have always been able to produce enough forage to winter our cattle. We have a good water right which I would like to pass on but we can't be pumping canada thistle seed onto our ground. The sand bars along the river are the source of the canada thistle seed. This appears to me to be an environmental problem that your department should be concerned with. I expect an answer.

Sincerely,



G. P. Brunskill

HC 74 Box 79

Murdo, SD 57559

November 1, 2005

To Whom it May Concern,

This year the irrigation ditch and the settling pond we pump into to remove some of the Badlands clay were loaded with Canada Thistle. No doubt, the thistle seed came in with the irrigation water and spread onto the field. We had ~~hay~~ millet on the field this year and observed some thistle seed in the ~~hay~~ when we cut the hay. We didn't irrigate at all this year because we can't afford to planting Canada Thistle. We have too many now!

The Corp. of Engineers claim the White River is a navigable stream and dictate what we can use, where we can build jetties to protect our land, etc. They have so many regulations on what we can do to protect our land from the bank erosion that it is impractical to do anything under a permit. It appears that if they have the power to enforce all their arbitrary regulations that they should also have the responsibility to control the Canada Thistle on the waterway.

The State and the County have to control the thistle on all the right of ways and the weed boards have the power to force the land owners to control the Canada Thistle. We will find the extent of CT scattered over our fields next year.

Unless something is done to control the CT along the White River it will be the end of irrigation from the river. The Dept. of Environment and Natural Resources seems like the place to start on this. I hope I will be hearing from you on this matter!

Sincerely,

G. Brunskill

Gerald P. Brunskill
HC 74 BOX 79
Murdo, SD 57559





South Dakota Department of Agriculture

523 East Capitol Avenue, Pierre, SD 57501-3182
(605) 773-3375 (605) 773-5926 FAX

OFFICE OF THE SECRETARY

March 3, 2006

Mr. G. P. Brunskill
HC 74 Box 779
Murdo, SD 57559

RECEIVED

MAR - 7 2006

WATER RIGHTS
PROGRAM

Dear Mr. Brunskill:

The South Dakota Department of Agriculture received a copy of your letter to the Department of Environment and Natural Resources regarding your concern for the spread of Canada Thistle along the White River.

As I'm sure you are aware, Canada Thistle seed is disseminated by various methods including wind, water, and human activities. The counties along the White River have reported infestation of over 122,000 acres of Canada Thistle, so seeds may be floating down the White River. Generally, the viable seeds will stay on top of the water, settling out along the water's edge where they can root and grow. The intake for your irrigation system is most likely pulling water from below the surface, avoiding the majority of thistle seeds. However, the seeds may also be blowing into your settling pond. Whatever the method, I understand that you don't want to purposely put these seeds on your fields.

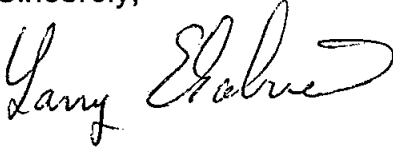
As a navigable waterway, the White River's management falls under several different entities. All waters of the state are the property of the people of the state, but the right to the use of water may be acquired by appropriation. The Department of Environment and Natural Resources handles the water rights appropriations for the state. Anytime fill is put into any waters, a 404 permit is required by federal law. The U.S. Army Corp of Engineers is charged with administering this program. The river is considered a public right of way, much like a section line. The public has the right to travel the route under certain restrictions. The landowner, however, has the responsibility for weed control on lands down to the ordinary low watermark of the river. The ordinary low watermark is the point where there would be no vegetation during ordinary conditions and where the soil type changes to fine riverbed soils.

Looking at all the rules and regulations on navigable waterways, the burden for noxious weed control would generally fall on the landowner. The weed and pest supervisors in your area are Larry Fire Cloud, PO Box 1, White River, SD, 57552 x3 and William

Valburg, PO Box 492, Murdo SD 57559, 669-7101 Extension Office. They will be able to give you information on the best methods and products to use for controlling any noxious weeds on your property. They can also work with others who have Canada Thistle infestations.

Thank you for your concern about the weed problem in your area. Feel free to contact the Division of Agricultural Services staff at 605/773-3724 or 1-800-228-5254 if we can be of further assistance with this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry E. Gabriel". The signature is fluid and cursive, with a large, stylized "G" at the end.

Larry E. Gabriel
SD Secretary of Agriculture

cc: Eric Gronlund, DENR
Kevin Fridley, Ag Services



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 15, 2007

129-2

Charles Strait
25301 Little White River Rd
White River SD 57579

Dear Mr. Strait:

I am writing in regard to ownership of land described in Water Right No. 129-2, listed in the name of Gerald P Brunskill (copy enclosed). It is our understanding from the notation placed on the 2007 irrigation questionnaire that you now own the land.

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

As soon as we receive the transfer form and filing fee from you, all records pertaining to this water right will be transferred to your name. 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

enclosures

RECEIVED

NOV 26 2007

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 129-2

Date: 11-20-07

I/We request that Water Right No. 129-2

formerly owned by: Gerald P Brunskill

be transferred to: (name & address) Charles B Strait
25301 Little White River Road
White River SD 57579 Telephone No. 605-669-2808

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

244 acres – Lot 4, S ½ SE ¼ Section 19; Lots 1-4, E ½ NE ¼ Section 30; W ½ NW ¼ & Lot 1

Section 29, all in T3S, R30E

I/We understand that the validity of Water Right No. 129-2 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 Charles B Strait, the new owner, certify that the above information is true and correct.

Charles B Strait

(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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/26, 2007

RECEIVED OF Charles Strait 25301 Little White River Rd White River SD 57579

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 _____ 129-2		
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. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	
	2	50

No.

03213

By

Garland Erbe
Chief Engineer

[Signature]



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 3, 2007

129-2

Charles Strait
25301 Little White River Rd
White River SD 57579

Dear Mr. Strait:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for transferring Water Right No. 129-2. The ownership change has been completed. The water right, formerly held by Gerald P Brunskill is now listed in your name.

Enclosed is your Receipt No. 03213 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

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

enclosure



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2023

NOTICE

TO: CHARLES STRAIT, 25301 LITTLE WHITE RIVER RD, WHITE RIVER, SD 57579

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire has not been submitted for Permit No(s) 129-2, 1557-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:-

1. Amend Permit No(s) 129-2, 1557-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: NXRGRF**

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



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

January 31, 2023

129-2
1557-2

Charles Strait
25301 Little White River Rd
White River SD 57579

Dear Mr. Strait:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right Nos. 129-2 and 1557-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

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.

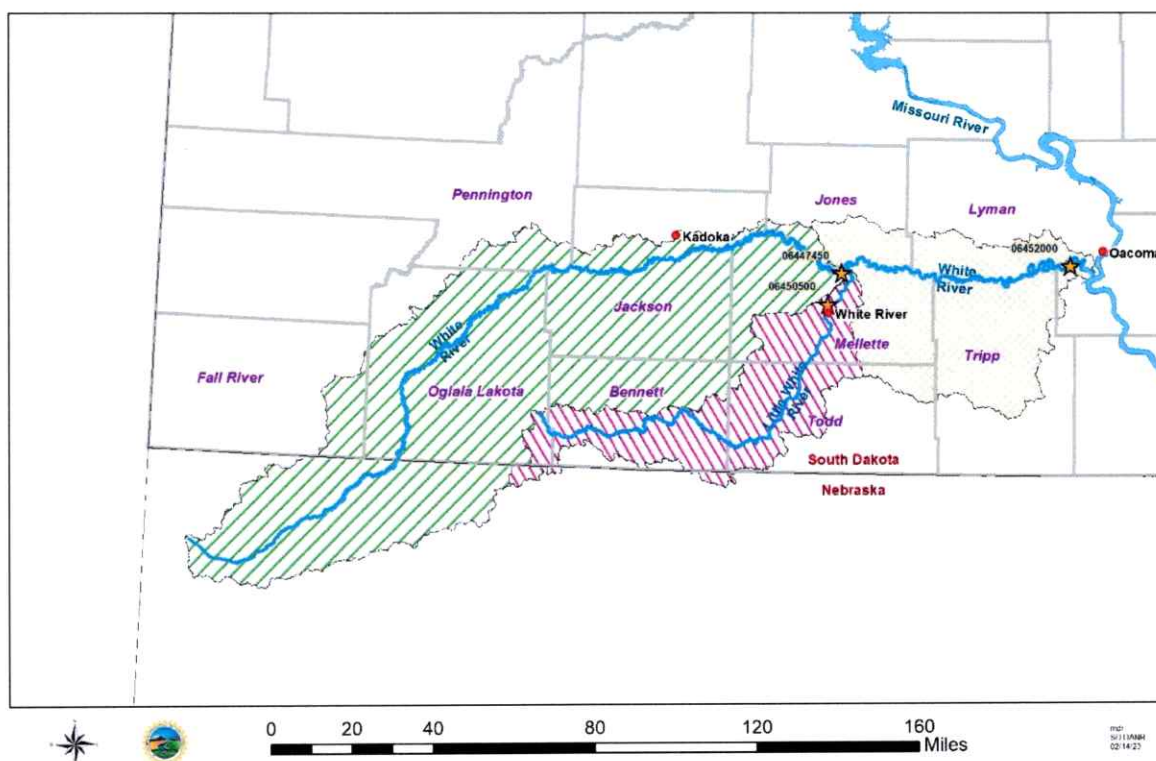


Figure 1. White River Watershed Map.

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.

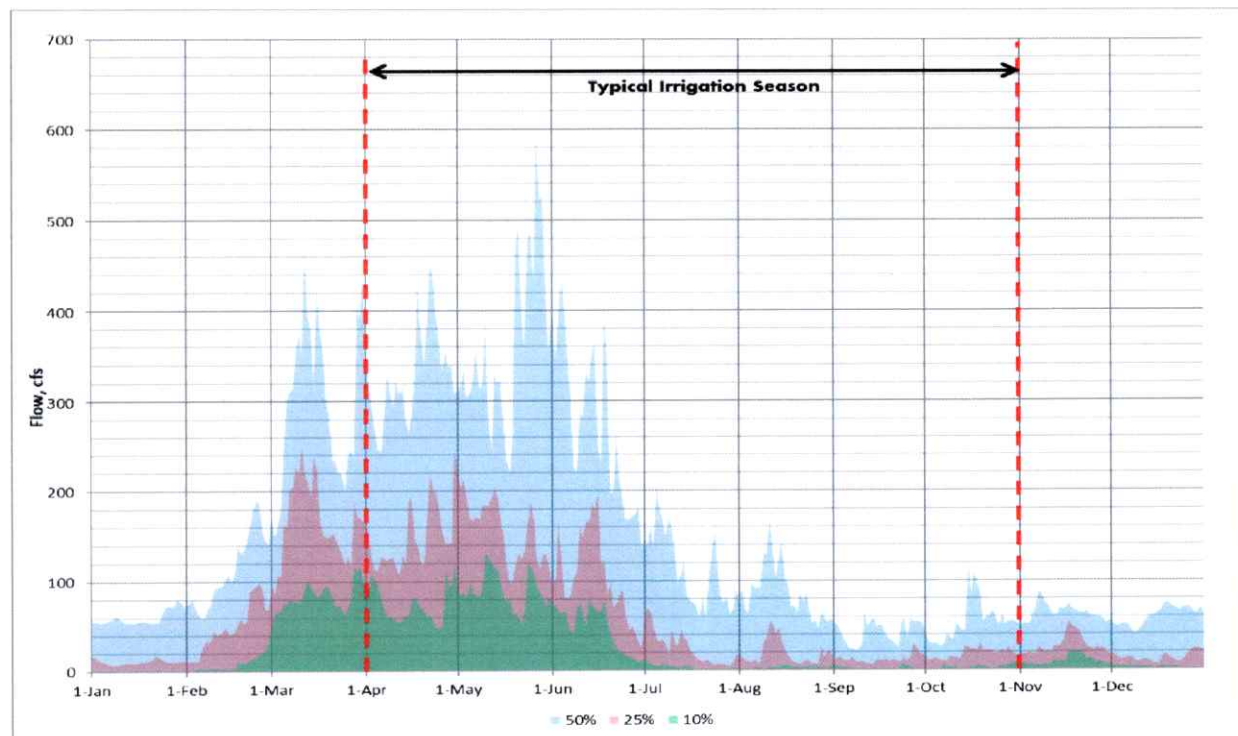


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

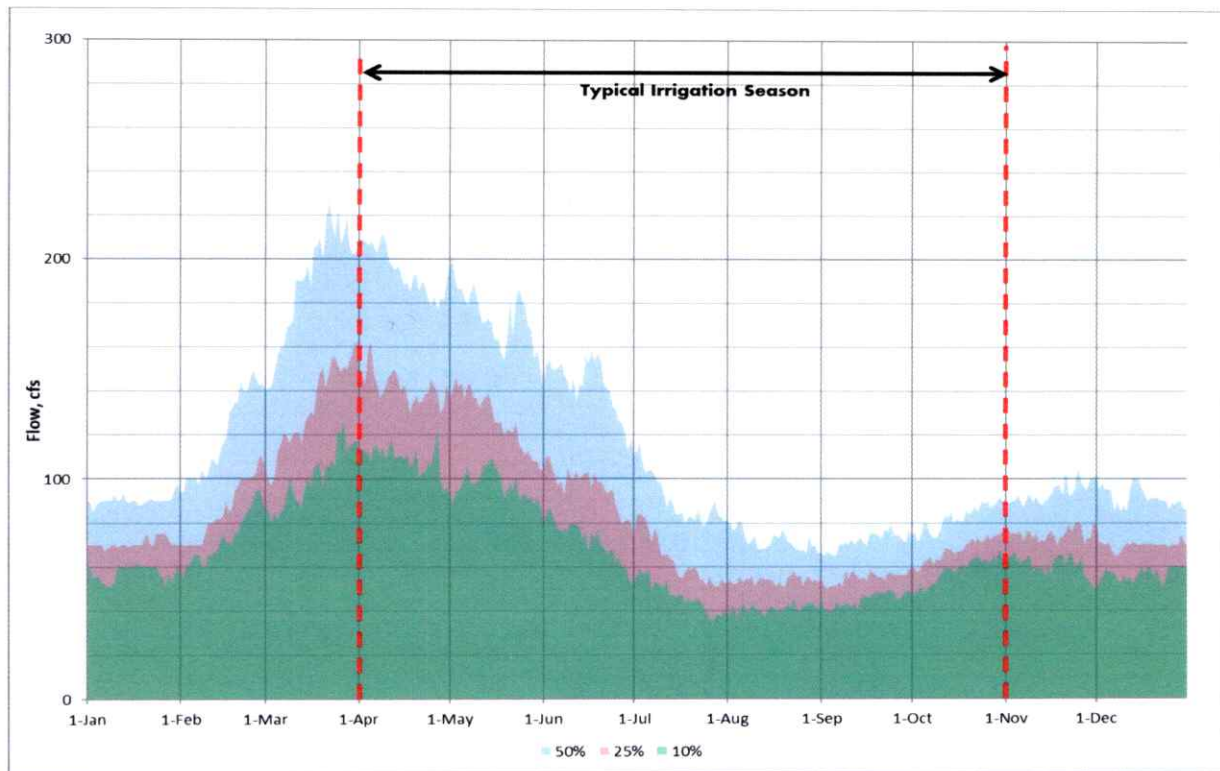


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

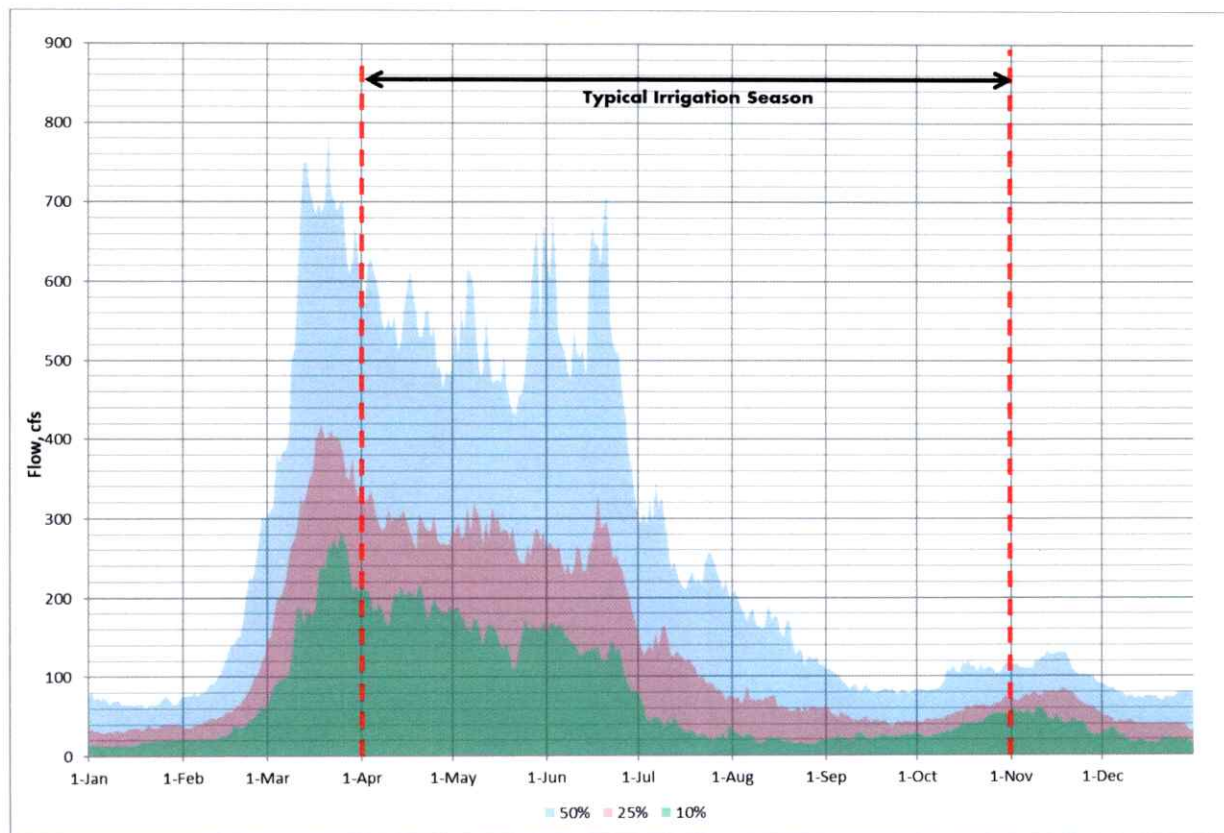


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

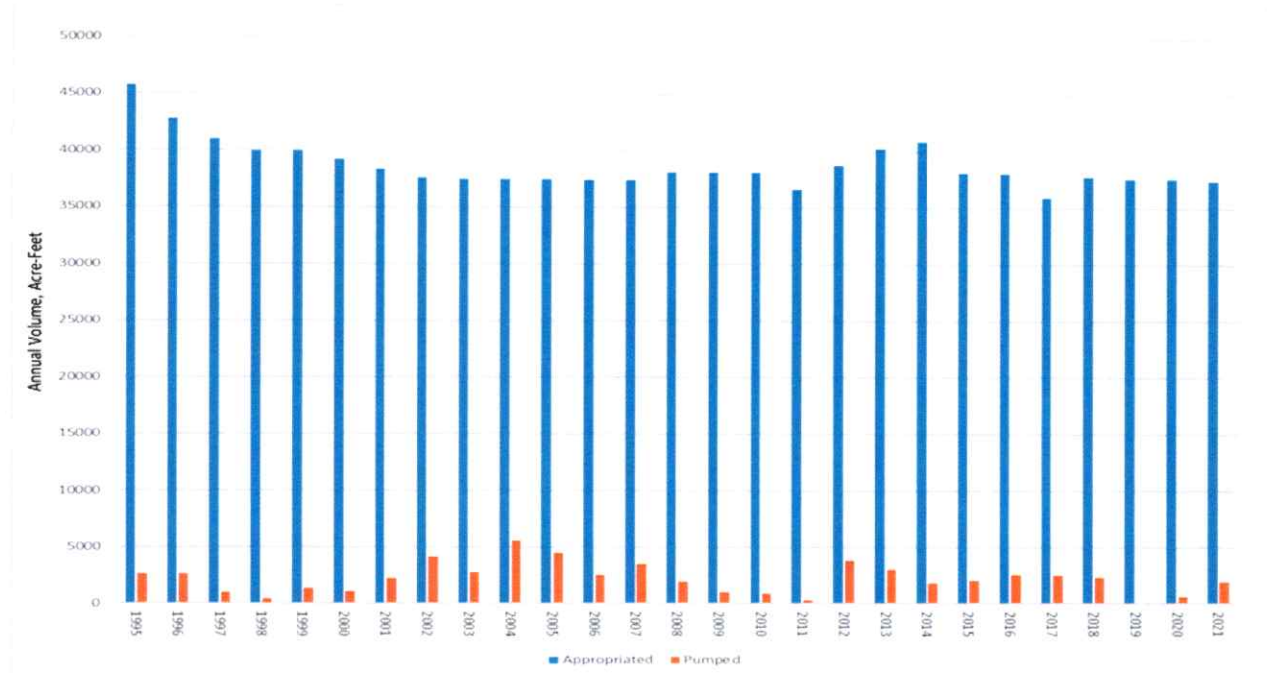


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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 1st 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 1st 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 1st of each calendar year. After June 1st, 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 1st of each calendar year. After June 1st, 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 1st of each calendar year. After June 1st, 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 1st 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**

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

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. If you have questions; please call. DANR is willing to work to answer any questions.

Sincerely,

Chief Engineer

Water Rights Program, DANR