

Water Right Number 1466-2

1. Considered 1-26, 19 77

2. Name of Applicant CHARLES PERAUDT

3. Post Office Address MIDLAND

4. Amount of water claimed 14.5

5. Source of water supply WHITE RIVER (25 AC FT OFF STREAM)

6. Water to be used for IRRIGATION

Acres to be irrigated 316.5

7. Water to be diverted and used in JONES County

About _____ Miles of _____

8. Proof of Publication Received 5-2-77

Not received _____

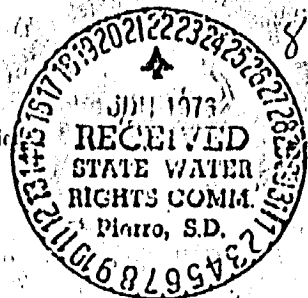
9. Application Approved _____

Subject to _____

Not approved _____

Action deferred _____

10. Remarks:

No. 12466-2Map No. 1245-2 Water Division No. 2 WHITE RIVER District _____
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant Charles Perault
 Post office address Midland State South Dakota
 If a corporation show date and place of incorporation -0- ()
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor
3. Name of diversion work Perault Irrigation Project No. 1
4. Amount of water claimed (cubic feet per second) 4.5 cfs
5. Source of water supply White River & Gravel Pit
6. Location of point of diversion See attached sheet

- County Jones
7. Annual period or periods during which water is to be used March 1 to November 31
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
9. For irrigation use, Total number of acres to be irrigated 316.5
 List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
See attached sheet			

Attach sheet if more space is needed

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

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

Pump

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

Pipe & Gravity

C. Works proposed to apply water to beneficial use.

Gravity & Sprinkler

Estimated Total Cost \$ 35,000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

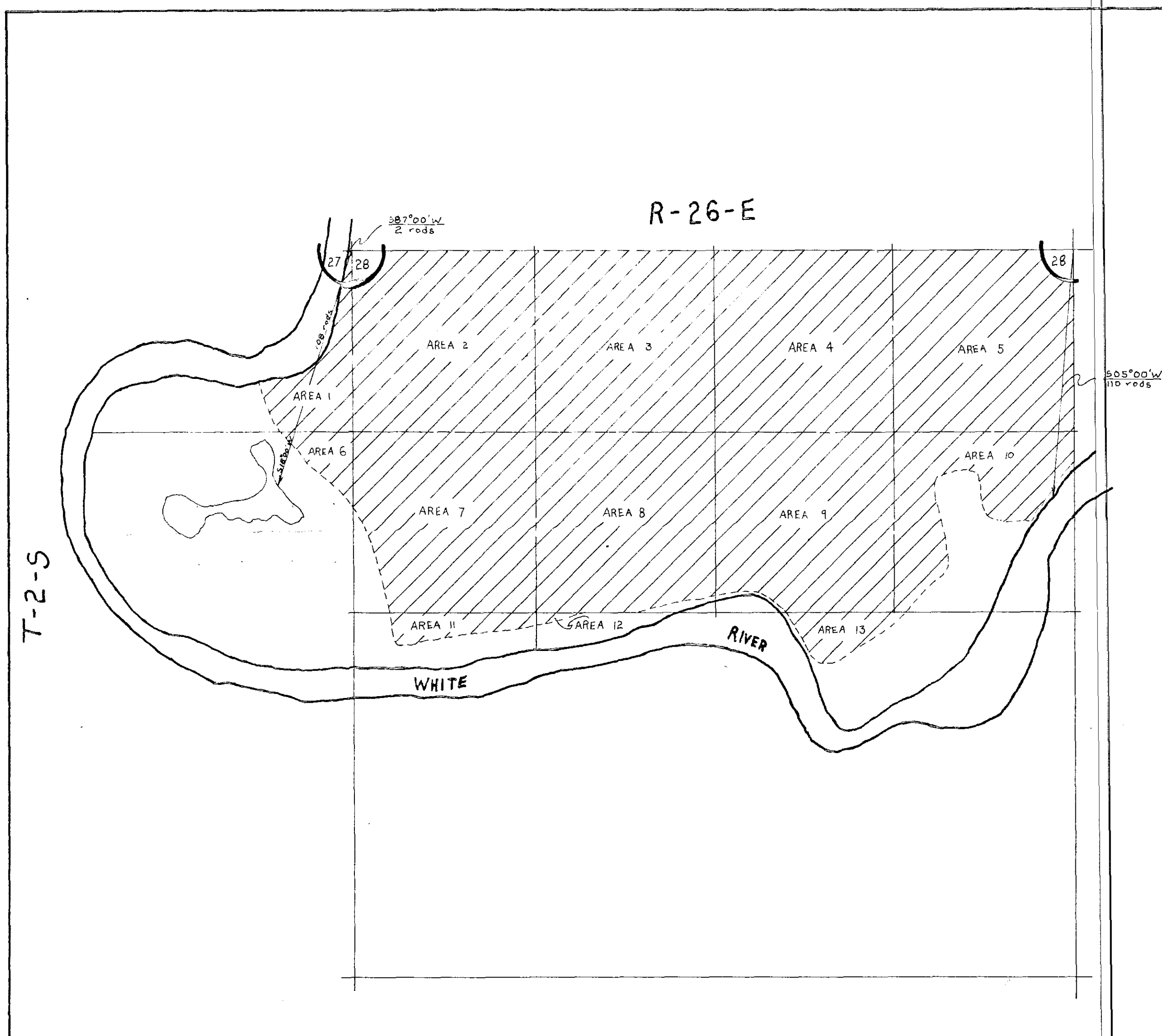
STATE OF SOUTH DAKOTA

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

Signed

Charles O. PeraultSubscribed and sworn to before me this 10th day of June 1976Recky R. Rasmussen
Notary Public (or other qualified officer)

My Commission Expires: 1-15-81



All lands described are owned by "Charles Perault"

LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	Lot 1-19.00	27	25	26E	9.0
2	NW ¹ /4 NW ¹ /4	28	2	26	40.0
3	NE ¹ /4 NW ¹ /4	28	2	26	40.0
4	NW ¹ /4 NE ¹ /4	28	2	26	40.0
5	NE ¹ /4 NE ¹ /4	28	2	26	40.0
6	Lot 2-69.90	27	2	26	3.5
7	SW ¹ /4 NW ¹ /4	28	2	26	37.5
8	SE ¹ /4 NW ¹ /4	28	2	26	39.0
9	SW ¹ /4 NE ¹ /4	28	2	26	38.5
10	SE ¹ /4 NE ¹ /4	28	2	26	20.0
11	Lot 1-11.60	28	2	26	4.0
12	Lot 2-04.50	28	2	26	0.5
13	Lot 3-18.10	28	2	26	4.5
TOTAL					316.5

Scale: 1" = 660'

PERAULT IRRIGATION PROJECT

NO. 1

(CHARLES PERAULT)

Jones County, South Dakota

Keith Kuchenbecker, Manager
West River Conservancy Sub-Dist.

MAAP 1245-2 APP 1466-2

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1466-2

CHARLES PERAULT

MIDLAND

(Applicant)

(Post Office Address)

SOUTH DAKOTA 57552

(State)

With the following modifications:

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 irrigation to the land directly or for 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. Diversions under this permit shall be in accordance with any written orders issued by the Commission or its Representative.

Approval of this permit authorizes storage of 25 acre feet of water annually.

Date of first receipt of application JULY 22 1976

Date of return to applicant for correction, amendments or changes required — 19—

Date of receipt of corrected application — 19—

Approved JANUARY 26 1977, Recorded in Book 18 Page 103

WATER RIGHT PERMIT NO. 1466-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1466-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is JULY 22 1976
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 26 1979
3. The whole of said work is to be completed on or before JANUARY 26 1982
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 26 1986
5. The water appropriated shall be used for the purpose of IRRIGATION

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

7. The amount of the appropriation herein granted shall not exceed 4.5 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before JANUARY 26 1986; said water to be used during the following described annual period: MARCH 1 TO JUNE 1

Witness my hand this 3RD day of MAY 1977

WATER RIGHTS COMMISSION

By:

John H. H. H.
Chief Engineer, Executive Officer

Certificate of Construction Issued — 19—

Water License Issued — 19—

PERAULT IRRIGATION PROJECT NO. 1

AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	Lot 1-19.00	27	2S	26E	9.0
2	NW 1/4	28	2S	26E	40.0
3	NE 1/4	23	2S	26E	40.0
4	NW 1/4	28	2S	26E	40.0
5	NE 1/4	28	2S	26E	40.0
6	Lot 2-69.90	27	2S	26E	3.5
7	SW 1/4	28	2S	26E	37.5
8	SE 1/4	28	2S	26E	39.0
9	SW 1/4	28	2S	26E	38.5
10	SE 1/4	28	2S	26E	20.0
11	Lot 1-11.60	28	2S	26E	4.0
12	Lot 2-04.50	28	2S	26E	0.5
13	Lot 3-18.10	28	2S	26E	4.5
TOTAL					316.5

DIVERSION POINTS:

On the White River: 2 rods S87°00'W of the NE corner of Section 27, T2S, R26E; and 110 rods S05°00'W of the NE corner of Section 28, T2S, R26E; and from Gravel Pit: 108 rods S18°00'W of the NE corner of Section 27, T2S, R26 E.

Form 2A - Wells, Dugouts or Water Storage Dams (Supplement to form 2)

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc.)
- (3) Perforated Screen,
Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

- (1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Surface Area..... 5.6 A
Height..... 16 Ft.
Max. Water Depth.... 8 Ft.
Storage Capacity.... 25 AF

Charles O. Bennett
Signature of Applicant

Form 6 - Notice of Intent to Appropriate Water

No. 1466-2

Publish first publication, on or before January 13, 19 77

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

January 6, 19 77

Notice is hereby given that Charles Perault
whose post office address is Midland, South Dakota, has made an application in accordance
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use
4.5 cubic feet of water per second of time from the White R. Storage through the
Perault, the point of diversion of which is to be located in the
Between points in Lot 1, Section 27 and in the SW 1/4 NE 1/4
of Section 28, Twp. 2S, Range 26E. Said water to be used for the purpose
of providing irrigation on the following described land:

Lots 1 & 2, Section 27; NE 1/4 & Lots 1, 2 & 3, Section 28, T2S, R26E

This application No. 1466-2 will be considered by the Water Rights Commission at their office at
Pierre upon the 26th day of January, 19 77, at 10:00 A.M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: Charles Perault, Midland, South Dakota 57552

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 1466-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County Jones) ss.

I, J. P. Ingalls hereby

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

Water was taken from the Murdo Gazette

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

Murdo Gazette of Murdo

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

January 13, 1977

January 20, 1977

J. P. Ingalls
(Signature)

publisher
(Title)

1-20-77
(Date Signed)

NOTICE INTENT TO
APPROPRIATE WATER

January 6, 1977
Notice is hereby given that
Charles Perault whose post office
address is Midland, South Dakota,
has made an application in
accordance with the provisions of
the water laws of South Dakota
for a permit to appropriate for
beneficial use 1.5 cubic feet of
water per second of time from the
White River and storage area
through the Perault No. 1 the
point of diversion of which is to be
located in the between points in
Lot 1, Section 27 and in the SE 1/4
NE 1/4 of Section 28, Twp 52S,
Range 26E. Said water to be used
for the purpose of providing
irrigation on portions of the
following described land: Lots 1
and 2, Section 27, N 1/2, and Lots 1,
2 and 3, Section 28, T2S, R26E.

This application No. 1466-2 will
be considered by the Water
Rights Commission at their office
at Pierre upon the 28th day of
January, 1977, at 10:00 A.M. All
interested persons may appear
and be heard.
WATER RIGHTS COMMISSION
Burton F. Jones
Water Rights Specialist



1466-2

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1466-2

(1) Charles Perault of HCR 62 Box 116, Midland, SD 57552 made Application No. 1466-2, July 22, 1976 for a water permit to appropriate 4.50 cubic feet of water per second from the White River and a gravel pit, Jones County, South Dakota for irrigation purposes. Permit No. 1466-2, with a priority date of July 22, 1976 was approved January 26, 1977 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before January 26, 1982 and for the application to beneficial use of said water on or before January 26, 1986.

The April 10, 1996, field investigation found the legal description of the diversion points and a portion of the irrigated acreage were incorrect. Pursuant to SDCL 46-5-13.1 and SDCL 46-5-30.5, the Chief Engineer made a finding that the change in diversion points and irrigated acreage does not increase the potential for interference or impair other existing diversions. The overall project, as developed, is consistent with the original application.

(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 1.18 cubic feet of water per second for beneficial use. The location of the diversion points are: on the White River between Point A: at the NE corner of Section 29 and Point B: 870'S and 750'W of the NE corner of Section 29 (NE 1/4 NE 1/4); gravel pit: 840'N and 480'W of the E 1/4 corner of Section 29 (SE 1/4 NE 1/4), all in T2S, R26E.

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate 83 acres described as follows:

Section 28, T2S, R26E	Section 29, T2S, R26E
NW 1/4 NW 1/4 40 acres	NE 1/4 NE 1/4 (Lot 1) 9 acres
NE 1/4 NW 1/4 11 acres	SE 1/4 NE 1/4 (Lot 2) 3 acres
SW 1/4 NW 1/4 20 acres	

(4) Pursuant to South Dakota Water Law 46-5-30.1 Charles Perault of HCR 62 Box 116, Midland, SD 57552 the holder and/or owner of Water Permit No. 1466-2 is issued a license to appropriate water, the right to use 1.18 cubic feet of water per second from the White River and a gravel pit with a priority date of July 22, 1976 from the location specified in (2) of this license. The water to be 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. 1466-2 and subject to South Dakota State Law.

John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 17 1996

date



Permit No. 1466-2
White River - Water District

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

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

I have this day, April 10, 1996, made a thorough examination of the water use system constructed by Charles Perault of HCR 62 Box 116, Midland, SD 57552 holder of Permit No. 1466-2, bearing the priority of July 22, 1976 authorizing the diversion of 4.5 cu. ft. per second of the waters of the White River and a gravel pit 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:
10 inch Crisafulli pump - tractor powered and a capacity of 3000 gpm.
- B. Works used to transport water to place of use:
10 inch aluminum pipe
- C. Works used to apply water to beneficial use:
10 inch aluminum gated pipe delivers water into bordered field parcels

The system is in the following condition good. The point of diversion is located White River- Between Point A: at the NE corner of Section 29, and Point B: 870 feet south and 750 feet west of the NE corner of Section 29-T2S-R26E. Gravel pit- 840 feet north and 480 feet west of the east quarter corner of Section 29-T2S-R26E. The works are capable of diverting and conveying to the place of use 6.7 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:
NE 1/4 NE 1/4 (Lot 1) - 9 acres and SE 1/4 NE 1/4 (Lot 2) - 3 acres in Section 29 and NW 1/4 NW 1/4 - 40 acres, NE 1/4 NW 1/4 - 11 acres and SW 1/4 NW 1/4 - 20 acres in Section 28; all in T2S-R26E comprising a total of 23 acres of land and the license should be issued for 1.18 cfs.

Applicable permit qualifications have been complied with: Yes

Exceptions to compliance are: Legal descriptions in application and advertisement are incorrect

Delvin D. Brosz
Delvin D. Brosz, PE
Natural Resources Engineer
DENR, Water Rights Program

4-15-96
Date

REPORT ON INSPECTION OF PERMIT NO. 1466-2

DATE OF INSPECTION: April 10, 1996

NAME & ADDRESS OF INSPECTION CONTACT: Charles Perault

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE:

NAME & ADDRESS OF PERMIT HOLDER: Charles Perault, HCR 62 Box 116, Midland, SD 57552.

Other permit(s) associated with the project:

DIVERSION POINT LEGAL LOCATION: White River- Between Point A: at the NE corner of Section 29, and Point B: 870 feet south and 750 feet west of the NE corner of Section 29, all in T2S-R26E. Gravel Pit- 840 feet north and 480 feet west of the east quarter corner of Section 29- T2S-R26E.

Pump:

- 1) Make Crisafulli
- 2) Model
- 3) Size 10 inch
- 4) Capacity 3000 GPM

Motor:

- 1) Make Farm tractor

DISTRIBUTION LINES OR CANALS:

- 1) Type aluminum
- 2) Size 10 inches

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

July 1, 1996

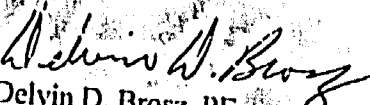
RE: Change of Diversion Points and change of acreage for Water Permit No. 1466-2, Charles Perault

An inspection of Permit No. 1466-2 found that the legal description for the diversion points and a portion of the irrigated acreage was incorrect.

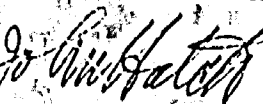
SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

SDCL 46-5-30.5 provides that acreage developed for irrigation outside of the acreage described on the permit may be licensed pursuant to SDCL 46-5-30.1, if no increase occurs in either permitted acreage or water appropriated. Permitted acreage is contiguous to the permitted acreage, owned by the same property, developed as part of the original irrigation project within the time period designated, and on of works. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4, if the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

Water Permit No. 1466-2 authorized 4.5 cubic feet of water per second (cfs) from the White River and a gravel pit to irrigate 316.5 acres. The project was constructed to divert 1.18 cfs from the White River and the gravel pit to irrigate 83 acres as described in the examination report. The diversion points and a portion of the acreage were described in the application and public noticed as being in Section 27-T2S-R26E. The correct legal description is Section 29-T2S-R26E. The legal correction of the diversion points and the acreage will not affect downstream water users. No additional appropriation of water or irrigation of additional acres is taking place beyond that originally approved by Water Permit No. 1466-2.


Delvin D. Brosz, PE
Natural Resources Engineer

The Chief Engineer makes a finding that the change in diversion points and irrigated acreage does not increase the potential for interference with or impair other existing diversions. The overall project, as developed, is consistent with the original application. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference.


John Hutch, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 9, 1996

1466-2

Charles Perault
HCR 62, Box 116
Midland, SD 57552

Dear Mr. Perault:

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. 1466-2, 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.

Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 17 1996

Charles Perault
HCR 62, Box 116
Midland, SD 57552

1466-2

Dear Mr. Perault:

Enclosed is Water License No. 1466-2 and Receipt No. 415006 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 1466-2 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,

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

gm
enclosures

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

1466-2
415006

Pierre, _____

July 22, 19 96

RECEIVED OF Charles Perault, HCR 62, Box 116, Midland, SD 5752-9601

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

Fee for Application for Permit No. _____ and to put water to beneficial use _____	to Appropriate Water, to construct		
Fee for Application for Permit No. _____ Use _____	to Appropriate Water, for Future		
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>1466-2</u>		50	00
Fee for Filing Transfer Form _____			
Fee for Filing Extension Request _____			
Fee for _____			

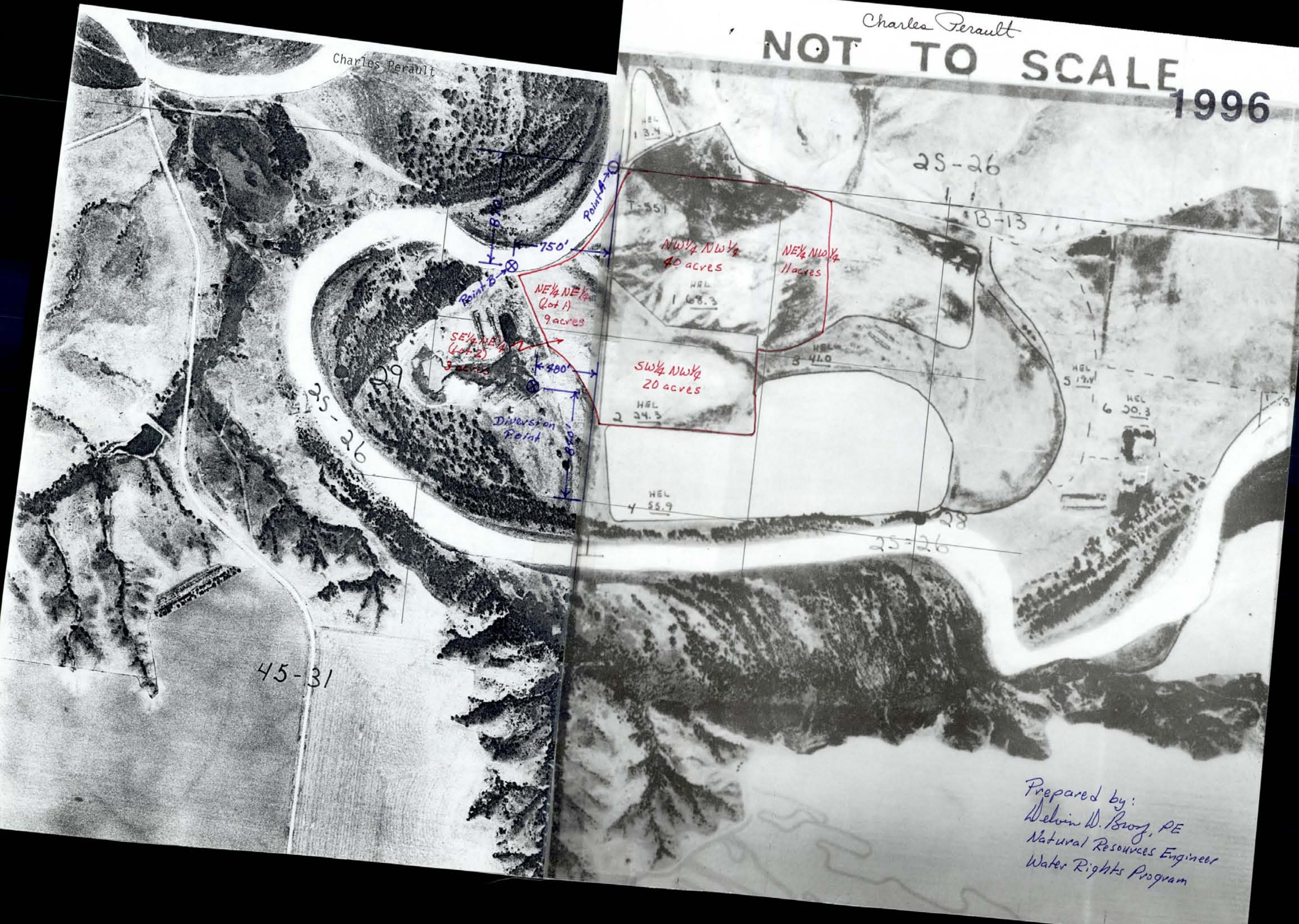
(And Other Work Provided by Law)			
Total		50	00

By

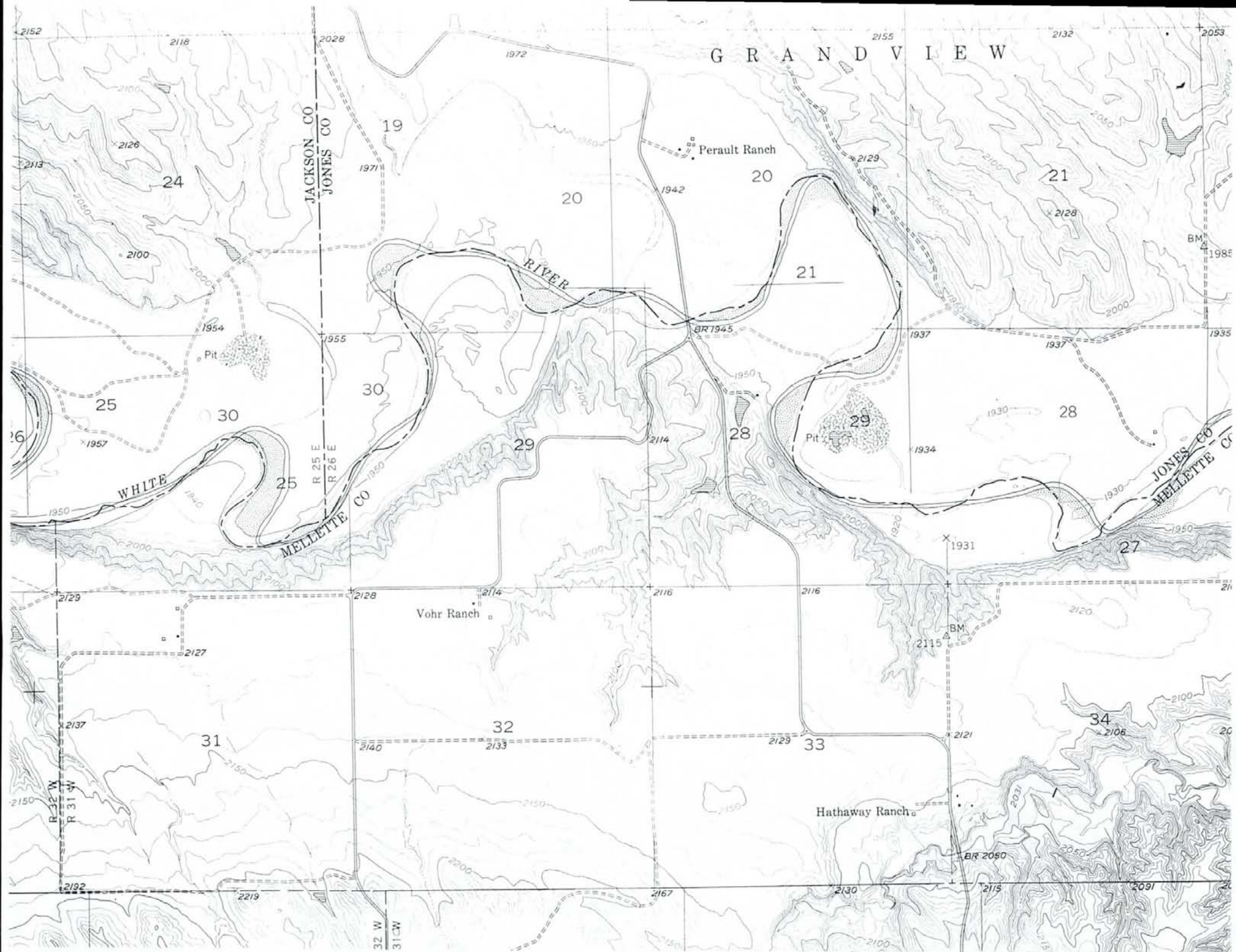
John H. Hatt
Chief Engineer

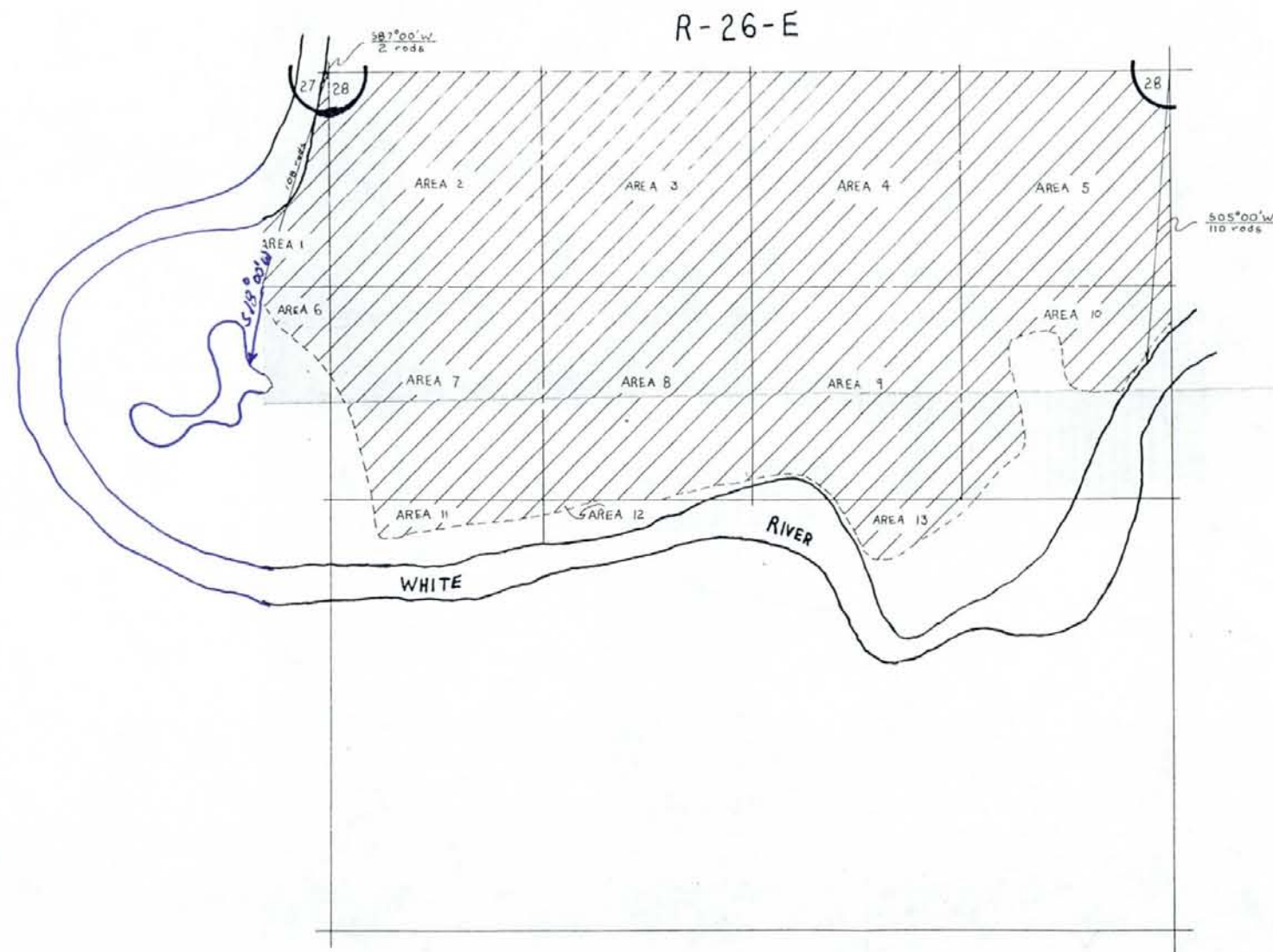
Charles Perault
NOT TO SCALE
1996

Charles Perault



Prepared by:
Melvin D. Brown, PE
Natural Resources Engineer
Water Rights Program





All lands described are owned by "Charles Perault"

LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	Lot 1-1900	27	25	26E	9.0
2	NW ¹ /4 NW ¹ /4	28	2	26	40.0
3	NE ¹ /4 NW ¹ /4	28	2	26	40.0
4	NW ¹ /4 NE ¹ /4	28	2	26	40.0
5	NE ¹ /4 NE ¹ /4	28	2	26	40.0
6	Lot 2-69.90	27	2	26	3.5
7	SW ¹ /4 NW ¹ /4	28	2	26	37.5
8	SE ¹ /4 NW ¹ /4	28	2	26	39.0
9	SW ¹ /4 NE ¹ /4	28	2	26	38.5
10	SE ¹ /4 NE ¹ /4	28	2	26	20.0
11	Lot 1-11.60	28	2	26	4.0
12	Lot 2-04.50	28	2	26	0.5
13	Lot 3-18.10	28	2	26	4.5
TOTAL					316.5

Scale: 1" = 660'

PERAULT IRRIGATION PROJECT

NO. 1

(CHARLES PERAULT)

Jones County, South Dakota

Keith Kuehnbocker, Manager
West River Conservancy Sub-Dist.

1466-2



1466-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

TO: CHARLES PERAULT, 24470 STAMFORD RD, MIDLAND, SD 57552

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire has not been submitted for Permit No(s) 1466-2 & 1469-2. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 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 10:30 am, March 2, 2006, 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) 1466-2 & 1469-2 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 on/or before February 24, 2006, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



Track & Confirm

Current Status

You entered 2303 2160 0000 0799 4350

Your item was delivered at 9:13 am on January 25, 2006 in MIDLAND, SD 57552. The item was signed for by C PERAULT.

[Shipment Details >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

Notification Options

▶ Track & Confirm by email

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Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0799 4350

CHARLES PERAULT
24470 STAMFORD RD
MIDLAND SD 57552

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:
Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

☐ Priority Mail™ Service
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and NATURAL RESOURCES**

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

January 31, 2006

1466-2
1469-2

Charles Perault
24470 Stamford Rd
Midland SD 57552

Dear Mr. Anderson:

I am writing to acknowledge receipt of your 2005 irrigation questionnaires. You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Right Nos. 1466-2 and 1469-2.

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
Environmental Scientist
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
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October 23, 2007

1466-2

1469-2

Charles Perault
PO Box 53
Kadoka SD 57543-0053

Dear Mr. Perault:

Enclosed is a "Notice" dated October 19, 2007 concerning your 2007 irrigation questionnaires. The notice was originally mailed to 24470 Stamford Rd., Midland SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures



1466-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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January 18, 2008

NOTICE

TO: CHARLES PERAULT, PO BOX 53, KADOKA, SD 57543 0053

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

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire has not been submitted for Permit No(s) 1466-2 & 1469-2. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 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 **10:00 am, March 11, 2008**, 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) 1466-2 & 1469-2 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 on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

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



**DEPARTMENT of ENVIRONMENT
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January 23, 2008

1466-2
1469-2

Edith Perault
PO Box 53
Kadoka SD 57543-0053

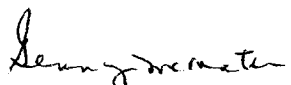
Dear Mrs. Perault:

Thank you for contacting us regarding the water rights listed in Charles' name and for letting us know the reasons for not returning the irrigation questionnaires.

I have put a note in the file that the land was not irrigated and will follow up with Donald Perault concerning the possible transfer of ownership of the water rights.

If you have any questions, please contact me.

Sincerely,


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



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www.state.sd.us/denr

January 23, 2008

1466-2

1469-2

Donald Perault
24651 Perault Rd
Belvidere SD 57521

Dear Mr. Perault:

I am writing in follow-up to our January 22nd phone conversation concerning water rights we have listed in the name of Charles Perault. I have enclosed copies of the water rights for your review.

It is my understanding you own the land. If the water rights have not been lost due to abandonment and/or forfeiture, they are transferable. Under South Dakota Water Law, in order to maintain a water right, water must be placed to beneficial use for the purpose it was appropriated, at least once every three years. This three year period is waived if legal excuse exists for the years of non-use. I am enclosing excerpts of the water laws and Water Management Board Rules dealing with these issues.

If you feel legal excuse exists for the years of non-use and would like to have the water rights transferred to your name. Please complete the enclosed forms and return them to our office with a filing fee of \$2.50 each (total of \$5.00).

If you do not intend to irrigate, there would be no need to determine if legal excuse exists for the years of nonuse and the water rights would be scheduled for cancellation consideration. Cancellation of the water rights does not preclude someone from making an application to irrigate in the future.

Once you have had an opportunity to review the enclosed materials, please get in touch with me as to your intentions toward the water rights.

Sincerely,

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

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

FEB - 8 2008

WATER RIGHTS
PROGRAM

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

No. 1466-2

Date: Feb 4, 2008

I/We request that Water Right No. 1466-2

formerly owned by: Charles Perault

be transferred to: (name & address) Michael D. Perault
Box 196
Belvidere SD 57521 Telephone No. 605-344-2543

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

83 acres N ½ NW ¼, SW ¼ NW ¼ Section 28, T2S, R26E and E ½ NE ¼ Section 29, T2S, R26E

I/We understand that the validity of Water Right No. 1466-2 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 Michael D. Perault, the new owner, certify that the above information is true and correct.

Michael D. Perault
(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 2/8, 20 08

RECEIVED OF Mike Perault PO Box 196 Belvidere SD 57521

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	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 _____ 1466-2		
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.

03509

By

Michael Perault
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

RECEIVED

FEB - 8 2008

WATER RIGHTS
PROGRAM

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

January 23, 2008

1466-2
1469-2

Donald Perault
24651 Perault Rd
Belvidere SD 57521

Dear Mr. Perault:

I am writing in follow-up to our January 22nd phone conversation concerning water rights we have listed in the name of Charles Perault. I have enclosed copies of the water rights for your review.

It is my understanding you own the land. If the water rights have not been lost due to abandonment and/or forfeiture, they are transferable. Under South Dakota Water Law, in order to maintain a water right, water must be placed to beneficial use for the purpose it was appropriated, at least once every three years. This three year period is waived if legal excuse exists for the years of non-use. I am enclosing excerpts of the water laws and Water Management Board Rules dealing with these issues.

If you feel legal excuse exists for the years of non-use and would like to have the water rights transferred to your name. Please complete the enclosed forms and return them to our office with a filing fee of \$2.50 each (total of \$5.00).

If you do not intend to irrigate, there would be no need to determine if legal excuse exists for the years of nonuse and the water rights would be scheduled for cancellation consideration. Cancellation of the water rights does not preclude someone from making an application to irrigate in the future.

Once you have had an opportunity to review the enclosed materials, please get in touch with me as to your intentions toward the water rights.

Sincerely,

*My phone # is
605-344-2543*

Genny McMath

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

*Genny, The previous owner of the land Charles Perault,
had not put the pump into the water or river as the last few
years the river has not had enough water in it to
be able to run a pump, so we were unable to irrigate
because of the drought or low river levels.*

Thank you Mike Perault



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 8, 2008

1466-2

1469-2

Michael D and Donald D Perault
PO Box 196
Belvidere SD 57521

Dear Sirs:

I am writing to acknowledge receipt of the ownership changes and filing fees you submitted for Water Right Nos. 1466-2 and 1469-2. The transfers have been completed. The water rights formerly held by Charles Perault are now listed as follows:

- 1466-2 – Michael D Perault (83 acres in portions of Section 28 & 29, T2S, R26E)
- 1469-2 – Donald Perault (31 acres in portions of the W ½ Section 20, T2S, R26E)

Enclosed are your Receipt Nos. 03509 and 03510 in the amount of \$2.50 each. You may keep these for your records.

Thank you for adding your comments concerning the non-use of water. Non-use of water due to unavailability of water to satisfy a water permit or right is one of the legal excuses defined in Water Management Board Rules.

If you have any questions, please contact me.

Sincerely,

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



1466-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2013

NOTICE

TO: MICHAEL D PERAULT, PO BOX 196, BELVIDERE, SD 57521

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaire(s)

Our records indicate that the 2012 Irrigation Questionnaire has not been submitted for Permit No(s) 1466-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 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 **8:30 am, March 7, 2013**, 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) 1466-2 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 on/or before **March 4, 2013**, 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: <http://denr.sd.gov/iq.aspx>

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.



1466-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 19, 2013

1466-2

1469-2

Michael D Perault
PO Box 196
Belvidere SD 57521 0196

Dear Mr. Perault:

I am writing to acknowledge receipt of your 2012 irrigation questionnaire for Water Right No. 1466-2 and the transfer form and filing fee for Water Right No. 1469-2.

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Right No. 1466-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

With regard to the ownership change for No. 1469-2, the transfer has been completed. The water right formerly held by Donald Perault is now listed in your name.

Enclosed for your records is Receipt No. 06141 in the amount of \$50.00 which you paid for filing the ownership change. If you have any questions, please contact me.

Sincerely,

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

Genny McMath
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

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.

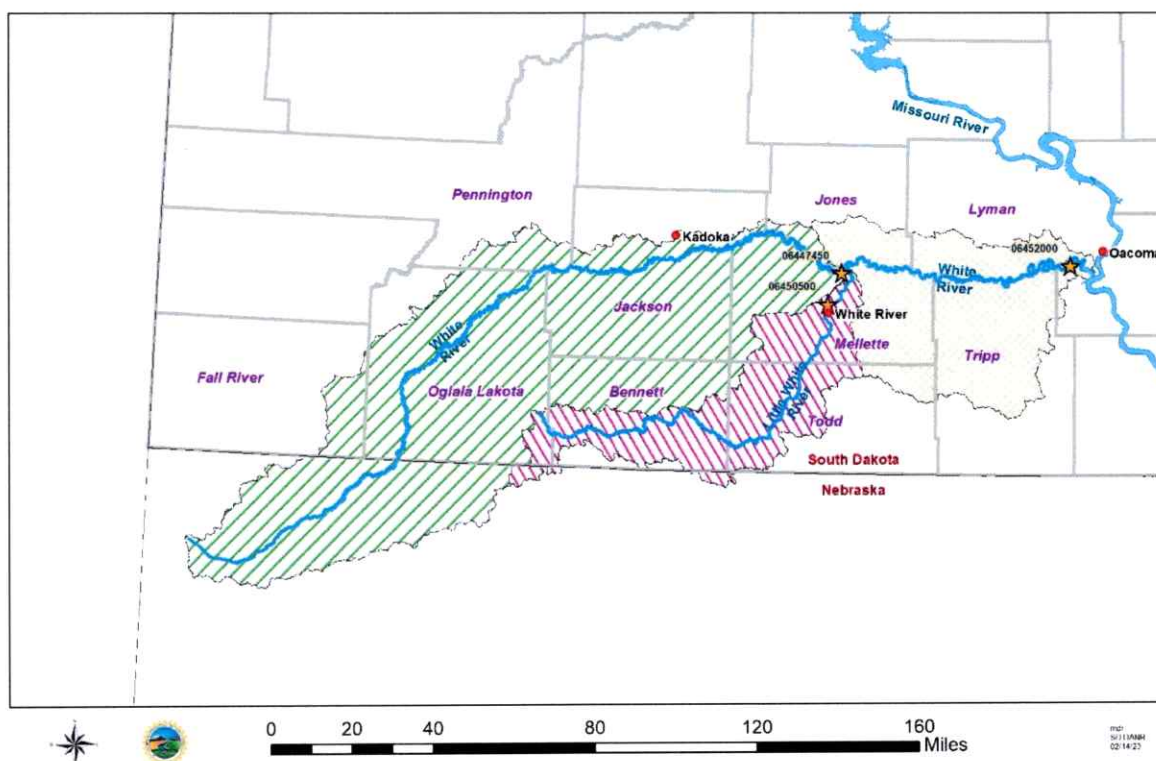


Figure 1. White River Watershed Map.

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.

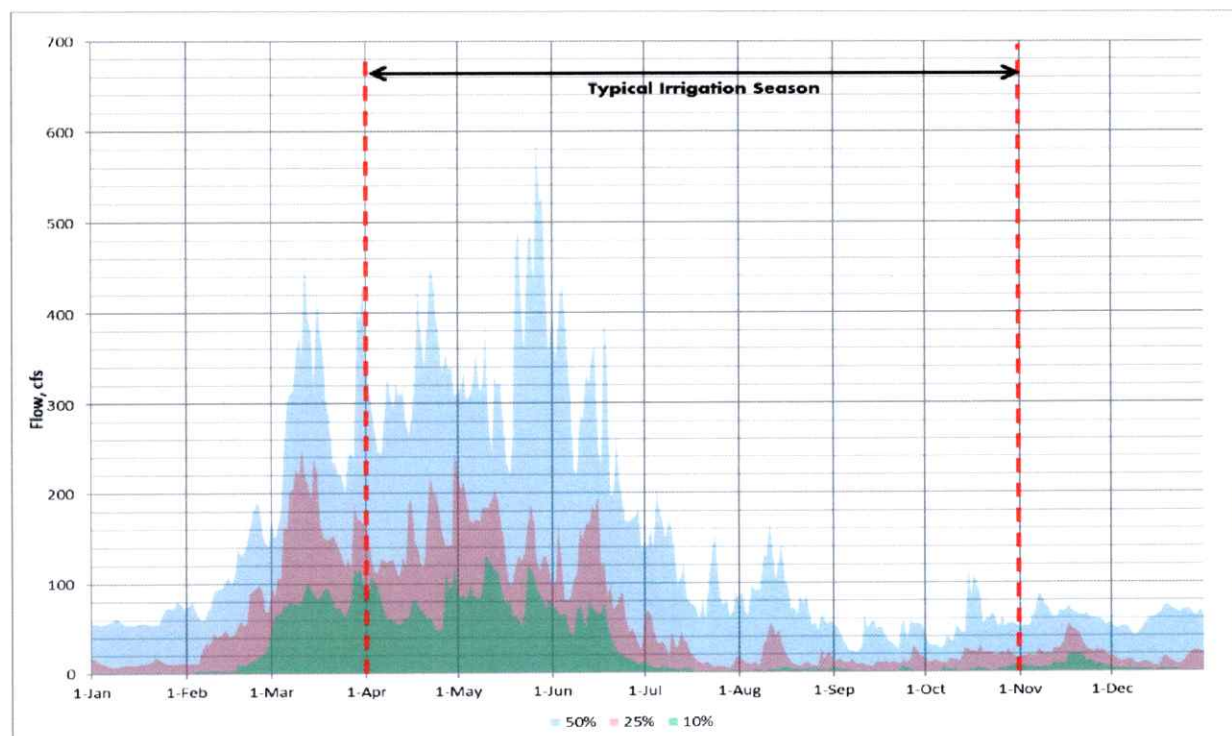


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

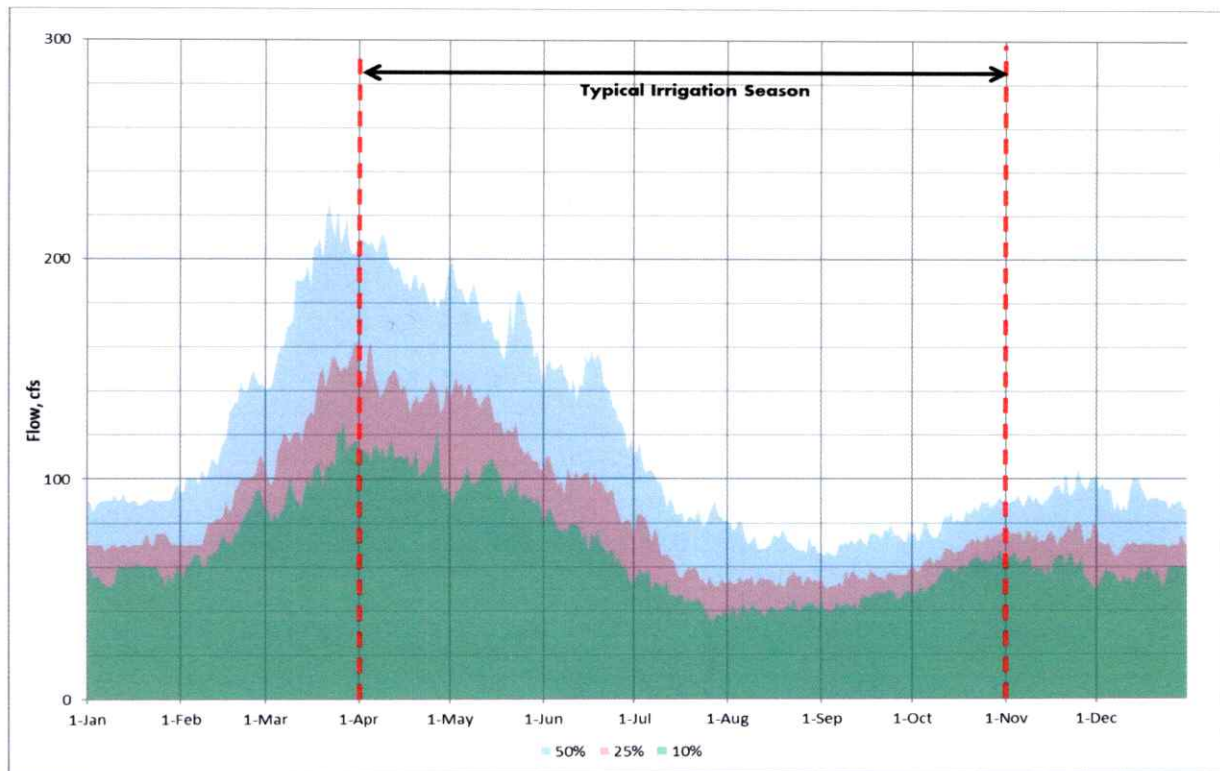


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

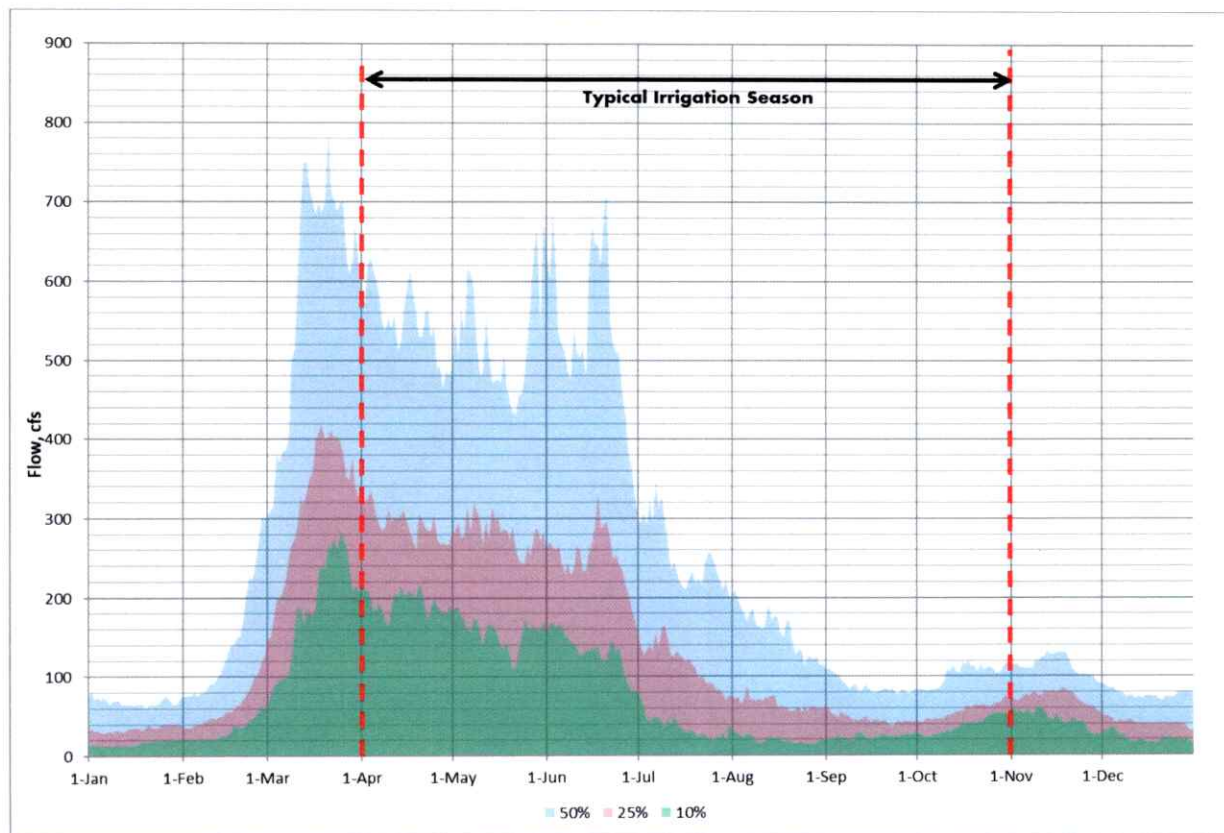


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

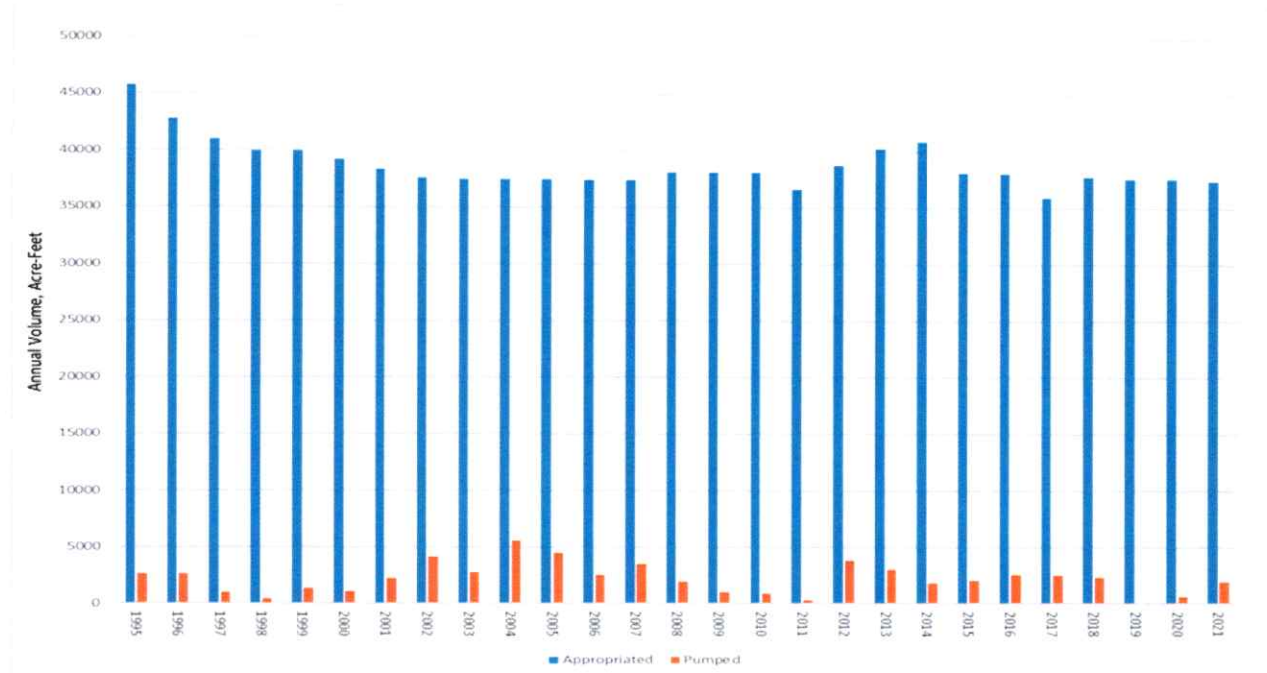


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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**

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April 14, 2023

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

Dear White River Water Right Holder,

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

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR