

Water Right Number 1504-2

1. Considered 1-26, 1976
2. Name of Applicant DENNIS HURST
3. Post Office Address MURDO
4. Amount of water claimed ~~2.81~~ 2.44
5. Source of water supply WHITE RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 170.5
7. Water to be diverted and used in MELLETT County
about 3E, 11S Miles of MURDO
8. Proof of Publication
Received 1-17-77
Not received
9. Application
Approved
Subject to
Not approved
Action deferred
10. Remarks:

No. 1501-2Map No. 1280-2 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, Dennis Hurst
Postoffice address Murdo, 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 Hurst Irrigation Project No. 1
4. Amount of water claimed (cubic feet per second) 2.44 cfs
5. Source of water supply White River
6. Location of point of diversion On White River: 209 rods N29°00'W of the SE corner of Sec. 33, T44N, R28W; and 90 rods N77°00'W of the SE corner of Sec. 34, T44N, R28W County Melette
7. Annual period or periods during which water is to be used March 1 to June 30 & Late Fall
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 170.5

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.
#1, L1-12.80, Sec33, T44N, R28W	12.5	#5, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec33, T44N, R28W	40.0
#2, L2-24.80, Sec33, T44N, R28W	9.5	#6, L1-17.10, Sec34, T44N, R28W	14.5
#3, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec33, T44N, R28W	40.0	#7, L2-55.30, Sec34, T44N, R28W	44.0
#4, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec33, T44N, R28W	10.0		

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 Appropriately Water publication Todd Co. Tribune
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

C. Works proposed to apply water to beneficial use.

Gravity & Gated Pipe

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 MeletteI, Dennis Hurst, 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 constructionSigned Dennis HurstSubscribed and sworn to before me this First day of November 1976DeWata M. Hutchinson
Notary Public (or other qualified officer)

7-1-82.

All lands described are owned by "Dennis Hurst"

LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	Lot 1-12.80	33	44N	28W	12.5
2	Lot 2-24.80	33	44	28	9.5
3	NE ⁴ SE ⁴	33	44	28	40.0
4	SW ⁴ SE ⁴	33	44	28	10.0
5	SE ⁴ SE ⁴	33	44	28	40.0
6	Lot 1-17.10	34	44	28	14.5
7	Lot 2-55.30	34	44	28	44.0
TOTAL					170.5

HURST IRRIGATION PROJECT

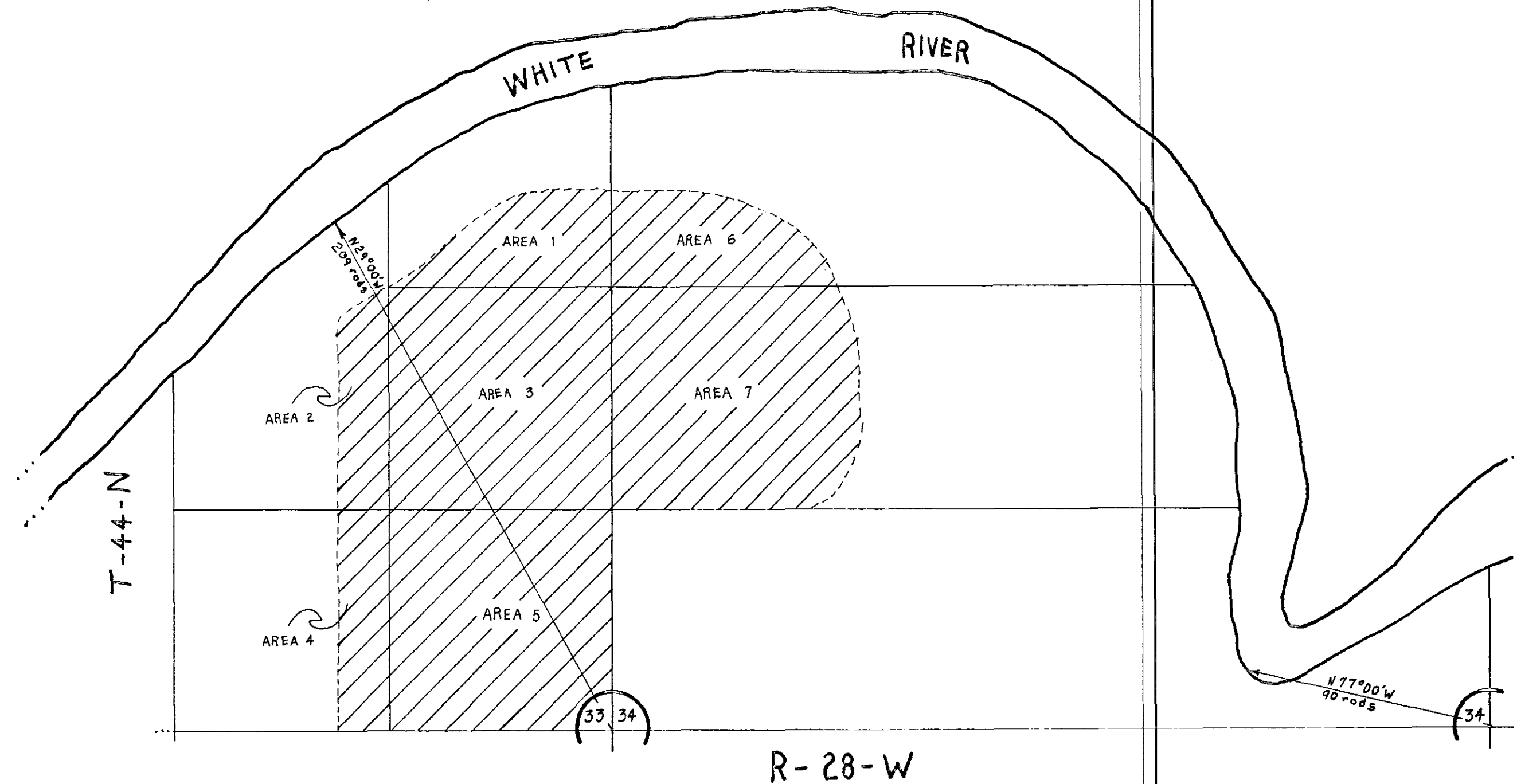
NO. 1

(DENNIS HURST)

Mellette County, South Dakota

Keith Kuchenbocker, Manager

West River Conservancy Sub-Dist



WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1504-2

DENNIS HURST
(Applicant)

MURDO
(Post Office Address)

SOUTH DAKOTA 57559 With the following modifications:
(State)

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 ~~to the land~~ 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.

Date of first receipt of application DECEMBER 17 19 76

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

Date of receipt of corrected application --- 19 ---

Approved JANUARY 26 19 77 Recorded in Book 17 Page 3

WATER RIGHT PERMIT NO. 1504-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1504-2 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 DECEMBER 17 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 26 19 79
3. The whole of said work is to be completed on or before JANUARY 26 19 82
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 26 19 86
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 2.44 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 19 86; said water to be used during the following described annual period: MARCH 1 - JUNE 1

Witness my hand this 15th day of APRIL 19 77

WATER RIGHTS COMMISSION

By: John Hatch
Chief Engineer, Executive Officer

Certificate of Construction Issued --- 19 ---

Water License Issued --- 19 ---

Form 6 - Notice of Intent to Appropriate Water

No. 1504-2

Publish first publication, on or before January 15, 1977

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

January 6, 1977

Notice is hereby given that Dannie Horne
whose post office address is Mt. 30, 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

2.44 cubic feet of water per second of time from the White River through the
Water, the point of diversion of which is to be located in the

between points in Lot 2, Section 34, and in the S. 1/4

of Section 34, Twp. 44N, Rang. 28W. Said water to be used for the purpose
of providing irrigation on the following described land:

Lots 1 & 2, NW 1/4, S. 1/4, Section 34, T44N, R28W,
Section 34, T44N, R28W

This application No. 1504-2 will be considered by the Water Rights Commission at their office at
Pierre upon the 26th day of January, 1977 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: Dannie Horne, Fargo, South Dakota 57501

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

No. 1504-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Missile) ss.

I, Lennette Hran hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Missile County News

A 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 Mission

County of Deed 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

Lennette Hran
(Signature)

Book Keeper
(Title)

Jan. 13, 1977
(Date Signed)

Notice of intent to
appropriate water

Notice is hereby given that
Dennis Hurst whose post office
address is Murdo, 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 2.44 cubic feet of
water per second of time from
the White River through the
Hurst No. 1, the point of diversion
of which is to be located in the
between points of Lot 2, Section
33, and in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of
Section 34, Twp. 44N, Range 28W.
Said water to be used for the
purpose of providing irrigation
on portions of the following
described land: Lots 1 & 2, NE $\frac{1}{4}$
SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 33; Lots 1
& 2, Section 34, T44N, R28W.

This application No. 1504-2 will
be considered by the Water
Rights Commission at their
office at Pierre upon the 26th day
of January, 1977, at 10:00 a.m. All
interested persons may appear
and be heard.

WATER RIGHTS
COMMISSION

By: Burton F. Jones

Water Rights

Specialist

Publ.: Jan. 13 and 20.



Water Rights Division
605 773-3352

May 29, 1984

1504-2
1558-2

Dennis Hurst
Murdo SD 57559

Dear Mr. Hurst:

This letter is in reference to your telephone conversation May 28, 1984 with Betty Westlund, of this office. In checking our files, I find no record of receiving your 1983 Irrigation Questionnaires.

Enclosed are additional copies of the irrigation questionnaires pertaining to your water permits. Please complete the data sheets for our records.

If you have any questions, or need assistance in completing the forms, please contact us. The questionnaires should reach our office before June 16th.

Sincerely,

GEMMY MCMATH
Natural Resources Analyst

GM:ks

encl.

 **Department of
Water & Natural Resources**

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

February 9, 1990

DENNIS HURST
HCR 77 BOX 8
MURDO, SD 57559

NOTICE

RE: Violation of Requirement to Submit 1989 Irrigation Questionnaire

Our records indicate that the 1989 Irrigation Questionnaire has not been submitted for Permit No(s). 1558-2, 1504-2. The request for the Questionnaire was dated October 13, 1989. The Water Management Board had directed that owners of water permits who have not submitted 1989 Irrigation Questionnaire be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 8:30 am, March 7, 1990 at the Howard Johnson's, Jefferson-Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

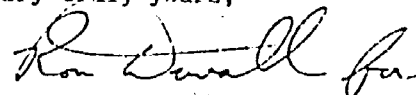
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 1558-2, 1504-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

If the questionnaire(s) is received in this office before the March 7th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,


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

SOUTH DAKOTA
Department of
Water & Natural Resources

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

February 23, 1990

1504-2
1558-2

Dennis Hurst
HCR 77, Box 8
Murdo SD 57559

Dear Mr. Hurst:

I am writing to acknowledge receipt of your 1989 irrigation questionnaire for Water Permit Nos. 1504-2 and 1558-2. You may disregard the February 9, 1990 Notice of failure to submit the 1989 irrigation questionnaire. Your questionnaire was received prior to the March Water Management Board meeting and your name was deleted from the agenda pertaining to the hearing.

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

Sincerely,

Ron Duvall

RON DUVALL
Natural Resources Engineer
Water Rights Division

REPRODUCTION

REPRODUCTION

DATE MICROFILMED

CAMERA OPERATION

1504-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 19, 1994

1504-2
1558-2

Joyce Hurst
HC 77 Box 8
Murdo, SD 57559

Dear Ms. Hurst:

Enclosed, are two partially completed, "Notice of Transfer of Ownership" forms for use in filing an ownership change on Water Permit Nos. 1504-2 and 1558-2. The permits are currently listed in the name of Dennis Hurst. The forms are being sent to you in response to the 1994 irrigation questionnaires and the notation you made concerning changes to be made.

Please review the transfer forms for accuracy and make any needed corrections. Then complete the forms where necessary and sign them in the presence of a notary public. Upon completion, please return them to our office with a required filing fee of \$2.50 each (total of \$5.00).

The water permits will be transferred to your name upon our receipt of the forms and filing fees. If you have any questions, please contact me

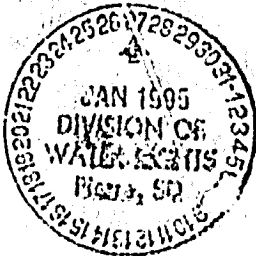
Sincerely,

Germy McMath
Environmental Scientist
Water Rights Division
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 1504-2

Date: 1-24-95

I/We request that Water Permit No. 1504-2

formerly owned by: Dannis Hurst

be transferred to: (name & address) Joyce Hurst

HC 77 Box 8 Murdo SD 57559 (Telephone No) 605-669-2266

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

170.5 acres in Lots 1, 2, & NE 1/4 SE 1/4, S 1/2 SE 1/4 Section 33; Lots 1 & 2, Section 34, T44N, R28W

I/We understand that the validity of Water Permit No. 1504-2 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 at the Division of Water Rights, as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

County of DeWitt)

I/We Joyce Hurst 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 that I know of my own personal knowledge that the information herein stated is true.

Joyce Hurst
(Signed)

Subscribed and sworn to before me this 26 day of January, 19 95.

MY COMMISSION EXPIRES 5/27/98

Edna M. Bartlett
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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

Division of Water Rights

South Dakota Department of Environment and Natural Resources

414386

Pierre, January 27, 19 95

RECEIVED OF Joyce Hurst, HCR 77 Box 8, Murdo, 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 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>Water Permit No. 1504-2</u>		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By *John H. Hildebrand*
Chief Engineer



1504-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-5181

January 31, 1995

No. 1504-2
1558-2

Joyce Hurst
HC 77, Box 8
Murdo, SD 57559

Dear Ms. Hurst:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Permit Nos. 1504-2 and 1558-2.

Our records now show you as the owner of Water Permit Nos. 1504-2 and 1558-2.

Sincerely,

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

enclosure

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1504-2

(1) Dennis Hurst, Murdo SD made Application No. 1504-2, December 17, 1976 for a water permit to divert 2.44 cubic feet of water per second from the White River, Mellette County, South Dakota for irrigation purposes. Permit No. 1504-2, with a priority date of December 17, 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.

On January 27, 1995, Water Permit No. 1504-2 was transferred to Joyce Hurst.

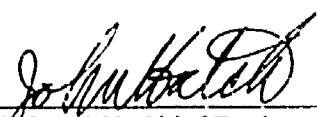
An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(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 2.06 cubic feet of water per second for beneficial use. The location of the diversion point is 1,930 feet west of the east quarter corner of Section 33-T44N-R28W.

(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:

Section 4-T43N-R28W		Section 33-T44N-R28W	
NW 1/4 NE 1/4	1 acre	NW 1/4 SE 1/4 (Lot 2)	12 acres
NE 1/4 NE 1/4	4 acres	NE 1/4 SE 1/4	36 acres
Section 34-T44N-R28W		SW 1/4 SE 1/4	18 acres
NW 1/4 SW 1/4 (Lot 2)	27 acres	SE 1/4 SE 1/4	40 acres
SW 1/4 SW 1/4 (Lot 3)	6 acres		
		Total	144 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Joyce Hurst, HCR 77, Box 8, Murdo SD 57559 the holder and/or owner of Water Permit No. 1504-2 is issued a license to appropriate water, the right to use 2.06 cubic feet of water per second from the White River with a priority date of December 17, 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. 1504-2 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 17 1996
date



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.

Permit No. 1504-2
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

On, July 16, 1996, I made a thorough examination of the water use system constructed by Joyce Hurst of HC 77, Box 8, Murdo, SD 57559 holder of Permit No. 1504-2, bearing the priority of December 17, 1976 authorizing the diversion of 2.44 cu. ft. per second of the waters of the White River for irrigation purposes, in Mellette County.

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

A. Works used to divert the water:

Tractor powered 12 inch Gator impeller pump

B. Works used to transport water to place of use:

earth canal to diked basins

C. Works used to apply water to beneficial use:

floodings of diked basins

The system is in the following condition good. The point of diversion is located 1930 feet west of the east quarter corner of Section 33-T44N-R28W. The works are capable of diverting and conveying to the place of use 8.2 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:

Section 4-T43N-R28W

NW 1/4 NE 1/4 - 1 acre

NE 1/4 NE 1/4 - 4

Section 34-T44N-R28W

NW 1/4 SW 1/4 (Lot 2) - 27 acres

SW 1/4 SW 1/4 (Lot 3) - 6

Section 33-T44N-R28W

NW 1/4 SE 1/4 (Lot 2) - 12 acres

NE 1/4 SE 1/4 - 36

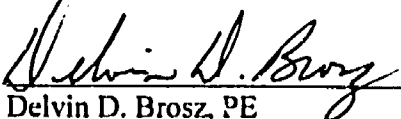
SW 1/4 SE 1/4 - 18

SE 1/4 SE 1/4 - 40

comprising a total of 144 acres of land and the license should be issued for 2.06 cfs.

Applicable permit qualifications have been complied with: Y

Exceptions to compliance are: Change of acreage - see file documentation


Delvin D. Brosz, PE

Natural Resources Engineer
DENR, Water Rights Program

7-30-96

Date

REPORT ON INSPECTION OF PERMIT NO. 1504-2

DATE OF INSPECTION: July 16, 1996

Other permit(s) associated with the project: none

Contact Person & Address: Joyce Hurst, HC 77, Box 8, Murdo, SD 57559

DIVERSION POINT LEGAL LOCATION: 1930 feet west of the east quarter corner of Section 33-T44N-R28W.

WATER SUPPLY Source: White River

Pump:

- | | |
|------------------------|-----------------------------|
| 1) Make <u>Gator</u> | 2) Model <u>MARLIN</u> |
| 3) Size <u>12 inch</u> | 4) Capacity <u>3700</u> GPM |

Motor:

- 1) Make Tractor powered

DISTRIBUTION LINES OR CANALS:

- 1) Type earth canal - diked basins

CHEMIGATION EQUIPMENT:

- 1) Does chemigate No

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**

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

August 15, 1996

1504-2

Joyce Hurst
HC 77, Box 8
Murdo, SD 57559

Dear Ms. Hurst:

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. 1504-2, 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.

Licensing of Acreage Outside of Permitted Area

NAME: Joyce Hurst

ADDRESS: HC 77, Box 8, Murdo, SD 57559

DATE: July 30, 1996

COUNTY: Mellette

TELEPHONE: 605-669-2266

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 144 acres as compared to 170.5 acres authorized by the permit. Licensing of the permit will result in a reduction in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

Yes, NW 1/4 NE 1/4 - 1 acre and NE 1/4 NE 1/4 - 4 acres all in Section 4-T43N-R28W
SW 1/4 SW 1/4 (Lot 3) Section 34-T44N-R28W - 6 acres

- **Owned by Same Property Owner**

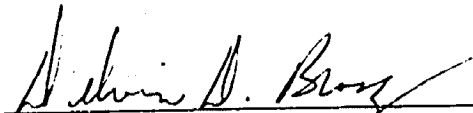
Yes

- **Developed Prior to Expiration of Construction Period**

Yes

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 11 acres be included in the water license.



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

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



John Hatch, Chief Engineer
Water Rights Program

8-26-96



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 17 1996

1504-2

Joyce Hurst
HCR 77, Box 8
Murdo, SD 57559

Dear Ms. Hurst:

Enclosed is Water License No. 1504-2 and Receipt No. 415054 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 1504-2 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

ks
enclosures

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

1504-2
415054

Pierre, _____ August 21, 19 36

RECEIVED OF Joyce Hurst, HCR 77, Box 8, Murdo, 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
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. 1504-2

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By

John Hatch (CF)



January 9, 1998

1504-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: JOYCE HURST, HC 77 BOX 8, MURDO, SD 57559

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaire(s)

Our records indicate that the 1997 Irrigation Questionnaire has not been submitted for Permit No(s) 1504-2. The request for the Questionnaire was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 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 9:45 am. February 25, 1998, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 1504-2 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 20, 1998, 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.

Is your RETURN ADDRESS completed on the reverse side?

INSTRUCTIONS:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JOYCE HURST
HC 77 BOX 8
MURDO SD 57559

4a. Article Number

2179157231

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

1-13-98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X [Signature]

PS Form 3811, December 1994

102595-97-8-0179

Domestic Return Receipt

Thank you for using Return Receipt Service.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 21, 1998

1504-2

Joyce Hurst
H/C 77 Box 8
Murdo, SD 57559

Dear Mrs. Hurst:

I am writing to acknowledge receipt of your 1997 irrigation questionnaire. You may disregard the January 9, 1998, "Notice" concerning reporting requirements for Water Permit No. 1504-2.

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
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

October 22, 1998

1504-2

Joyce Hurst
PO Box 16
Murdo, SD 57559-0016

Dear Ms. Hurst:

Enclosed is a "Notice" dated October 16, 1998 concerning the 1998 irrigation questionnaire. The notice was originally mailed to HC 77 Box 8, Murdo, 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,

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

enclosures



November 2, 1999

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

1504-2

Robert Brost
PO Box 249
Murdo, SD 57559-0249

Dear Mr. Brost:

I am contacting you in regard to ownership of land described in Water Right No. 1504-2. The water right is currently listed in the name of Joyce Hurst. Mrs. Hurst notified our office when sending in her 1999 irrigation questionnaire that she sold her land in Mellette County to you.

A water right goes with the land and can be transferred as long as it has not been abandoned or forfeited. In order to maintain a water right, water must be used for the purpose it was appropriated at least once every three years. This three-year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water.

Enclosed is a partially completed "Notice of Transfer of Ownership" form. Please review the form for accuracy and complete as needed. Upon completion, please sign the form in the presence of a notary public and return it to our office with a required filing fee of \$2.50.

I am also enclosing a copy of the water right. You may keep this for your records. If you do not wish to maintain the water right and have it transferred to your name, please get in touch with me.

Thank you in advance for your help.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1504-2



Date: _____

I/We request that Water Right No. 1504-2

formerly owned by: Joyce Hurst, PO Box 16, Murdo, SD 57559-0016

be transferred to: (name & address) ROBERT BROST

PO Box 249 Murdo, SD 57559 Telephone No. 664-2102

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

144 acres: N 1/4 NE 1/4 Section 4, T43N, R28W; SE 1/4 Section 33 & W 1/4 SW 1/4 Section 34 in T44N, R28W

I/We understand that the validity of Water Right No. 1504-2 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.

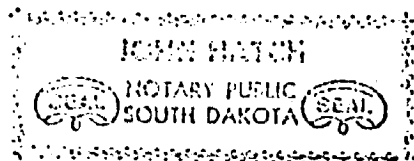
STATE OF SOUTH DAKOTA)

County of Hughes)

I/We Robert Brost 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 that I know of my own personal knowledge that the information herein stated is true.

Robert Brost
(Signed)

Subscribed and sworn to before me this 20th day of December, 19 99.



John Hatch
(Notary Public)

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

December 21, 1999

1504-2

Robert Brost
PO Box 249
Murdo, SD 57559-0249

Dear Mr. Brost:

I am writing to acknowledge receipt of the 1999 irrigation questionnaire pertaining to your water right and the "Notice of Transfer of Ownership" form for Water Right No. 1504-2 (Joyce Hurst).

The transfer form is complete however prior to filing the ownership change, statutes require that we charge a \$2.50 filing fee. As soon as we receive the fee from you, the transfer will be processed and all pertinent records concerning Water Right No. 1504-2 will be transferred to your name. The check or money order for the fee may be made payable to the "Water Rights Program."

Thank you in advance for your help. If you have any questions, please contact me.

Sincerely,

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 416339

Pierre, January 10, 2000

RECEIVED OF Robert Brost, P.O. Box 249, Murdo, SD 57559-0249
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. _____

Fee for Filing Transfer Form Water Right No. 1504-2

Fee for Filing Extension Request _____

Fee for _____

2 50

(Any Other Work Provided by Law)

Total

2 50



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 10, 2000

1504-2

Robert Brost
PO Box 249
Murdo, SD 57559-0249

Dear Mr. Brost:

Thank you for following up on the transfer of ownership for Water Right No. 1504-2. The transfer has been completed and the water right is now listed in your name.

Enclosed is your Receipt No. 416339 in the amount of \$2.70 that you paid for filing the ownership change. You may keep this for your records.

If you have any questions, please contact me.

Sincerely,

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

enclosure



1504-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2002

NOTICE

TO: ROBERT BROST, PO BOX 249, MURDO, SD 57559 0249

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

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire has not been submitted for Permit No(s) 980-2 & 1504-2. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 Irrigation Questionnaire 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 13, 2002, in the Visitor Center (west bank of Capitol Lake), 650 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) 980-2 & 1504-2 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 8, 2002, 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.

1504-2

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROBERT BROST
PO BOX 249
MURDO SD 57559 0249

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

x *Suzanne Brost*
☐ Agent
☐ Addressee
D. Is delivery address different from item 1? ☒ YesIf YES, enter delivery address: 64288 24 ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. 7001 2510 0004 4797 5446



1504-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 11, 2002

980-2
1504-2

Robert Brost
PO Box 249
Murdo SD 57559-0249

Dear Mr. Brost:

I am writing to acknowledge receipt of your 2001 irrigation questionnaires. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 980-2 and 1504-2.

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.

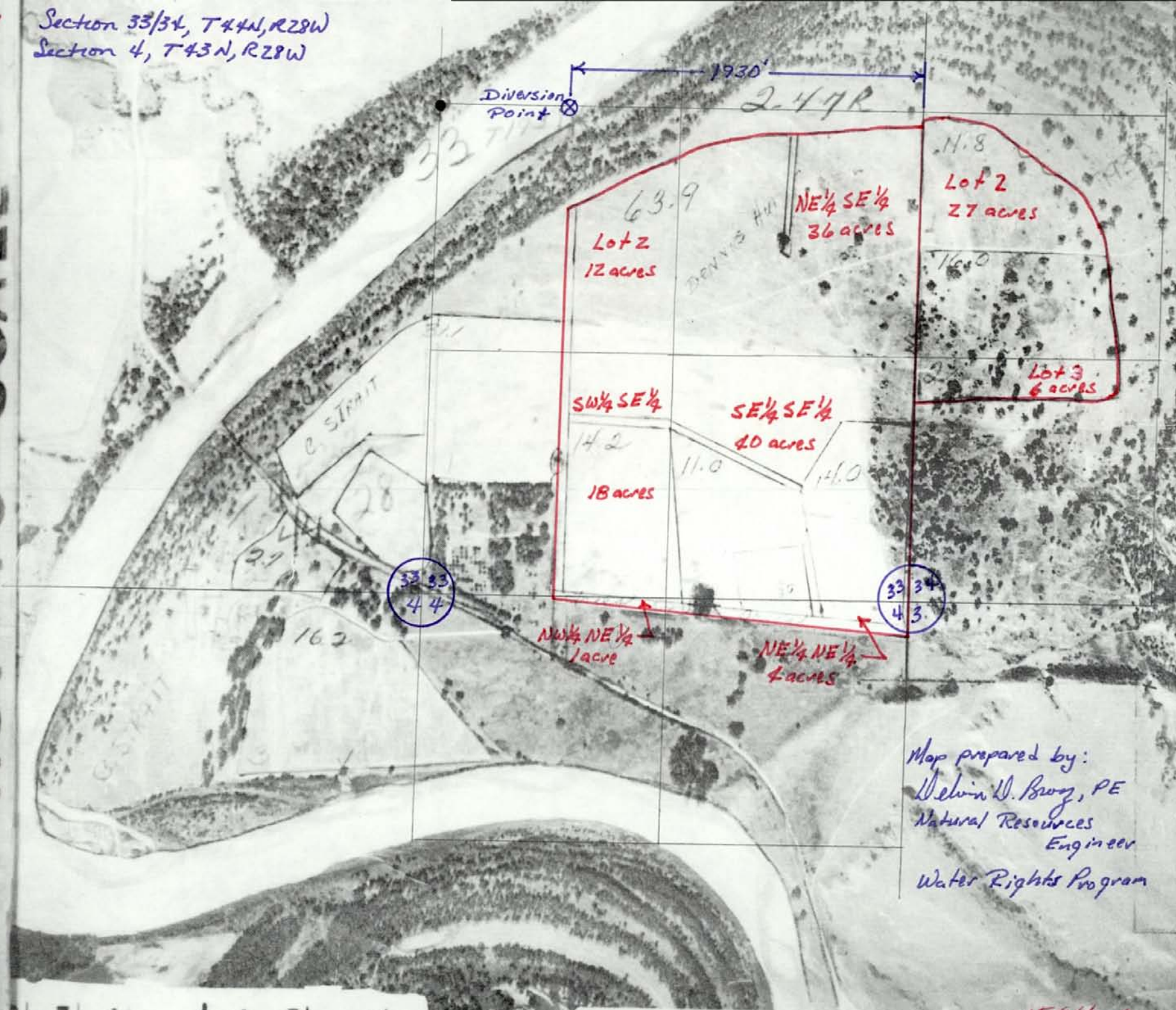
Sincerely,

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

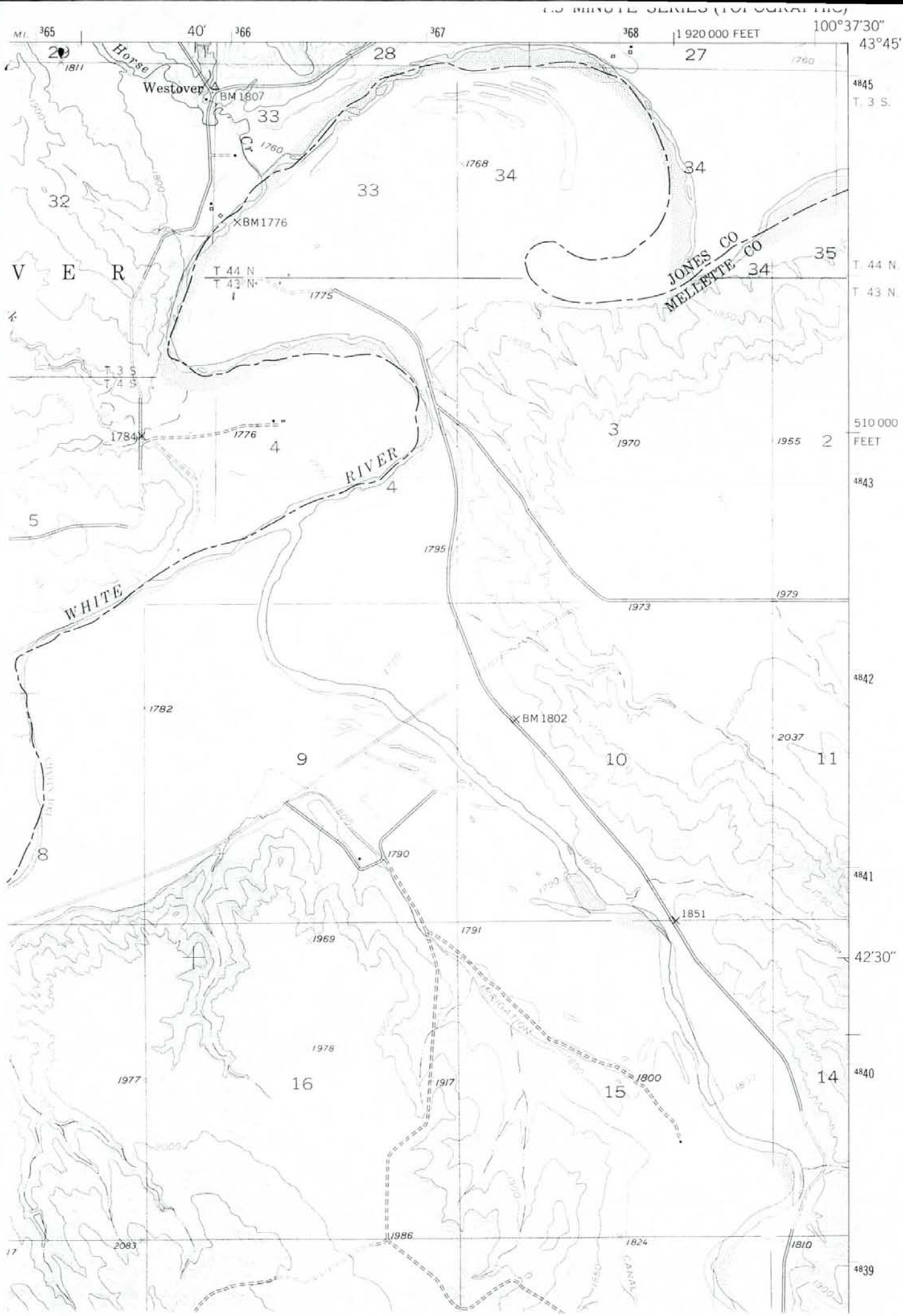
1504-2

Section 33/34, T44N, R28W
 Section 4, T43N, R28W

NOT TO SCALE



1504-2



J 2

DEPARTMENT OF WATER & NATURAL RESOURCES
DIVISION OF WATER RIGHTS



**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.

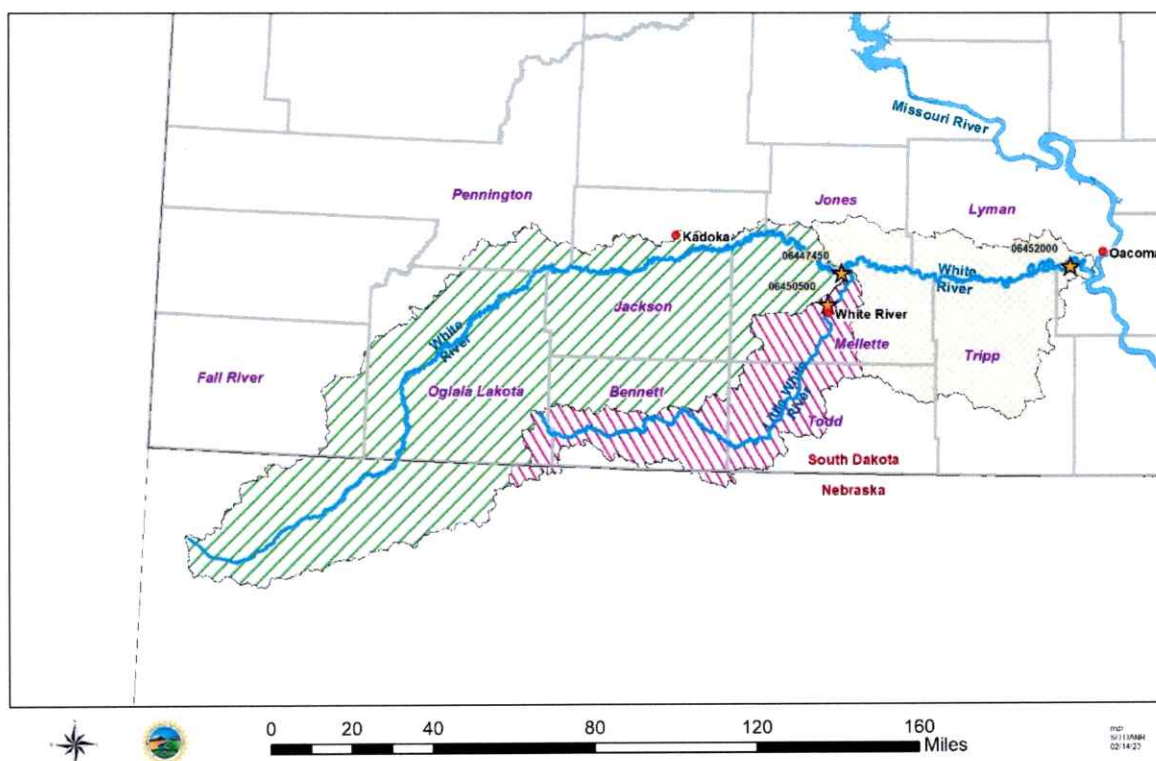


Figure 1. White River Watershed Map.

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.

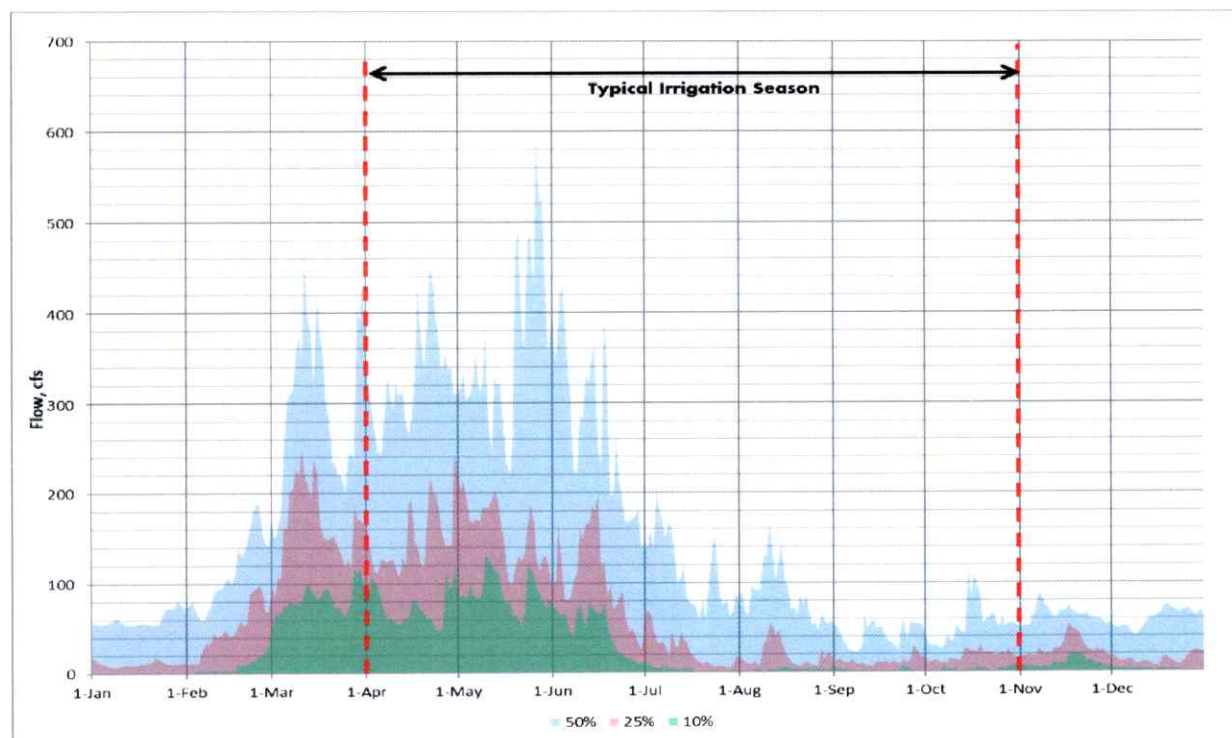


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

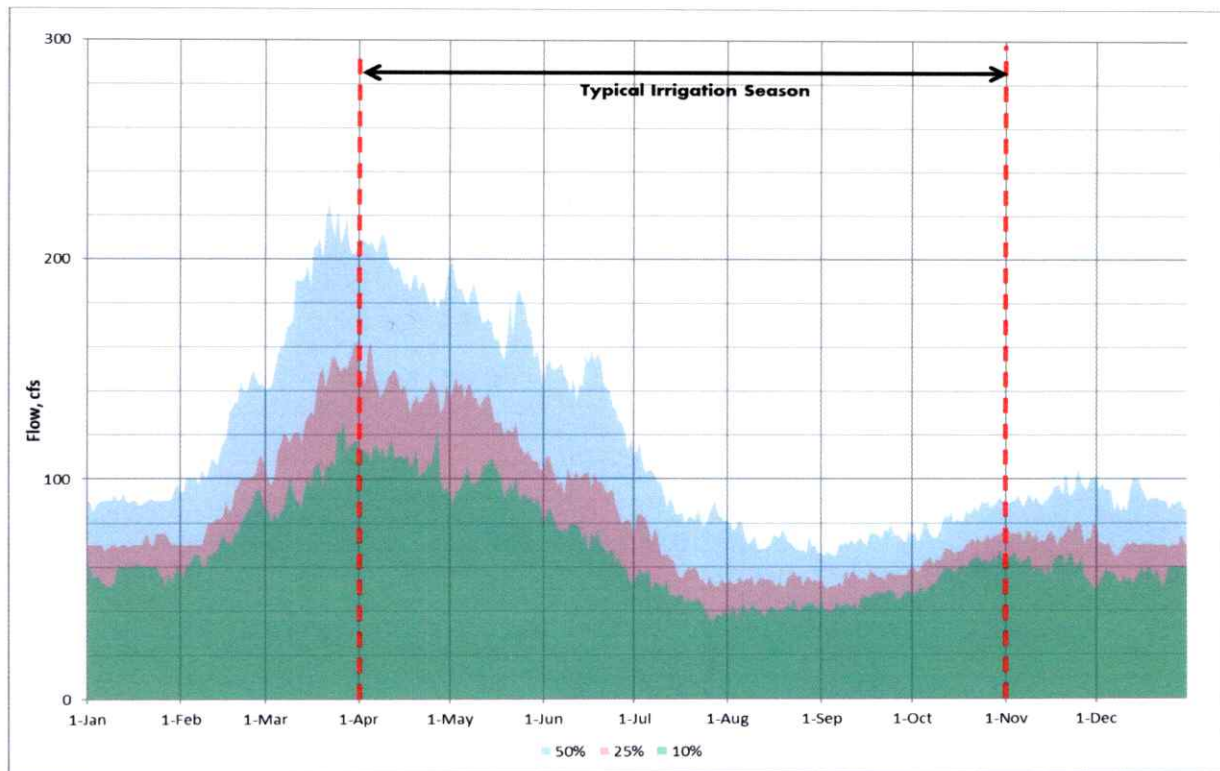


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

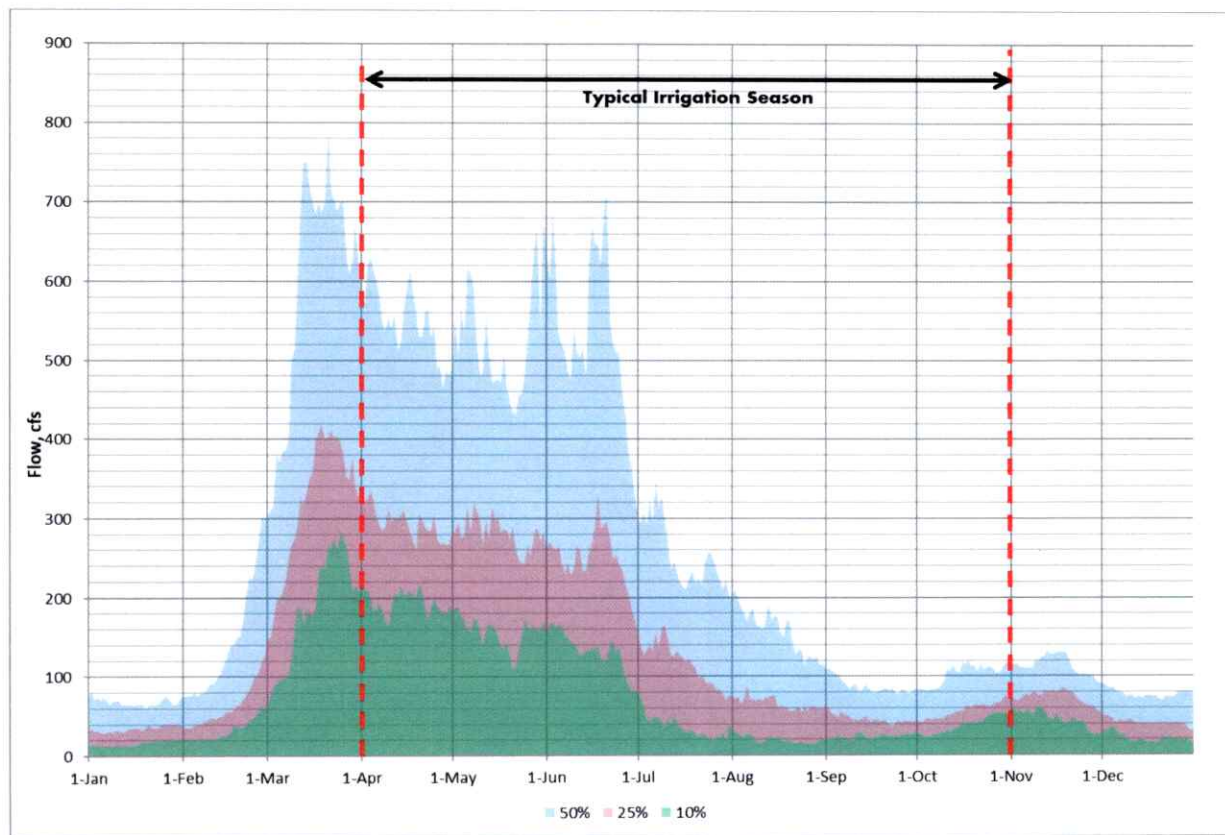


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

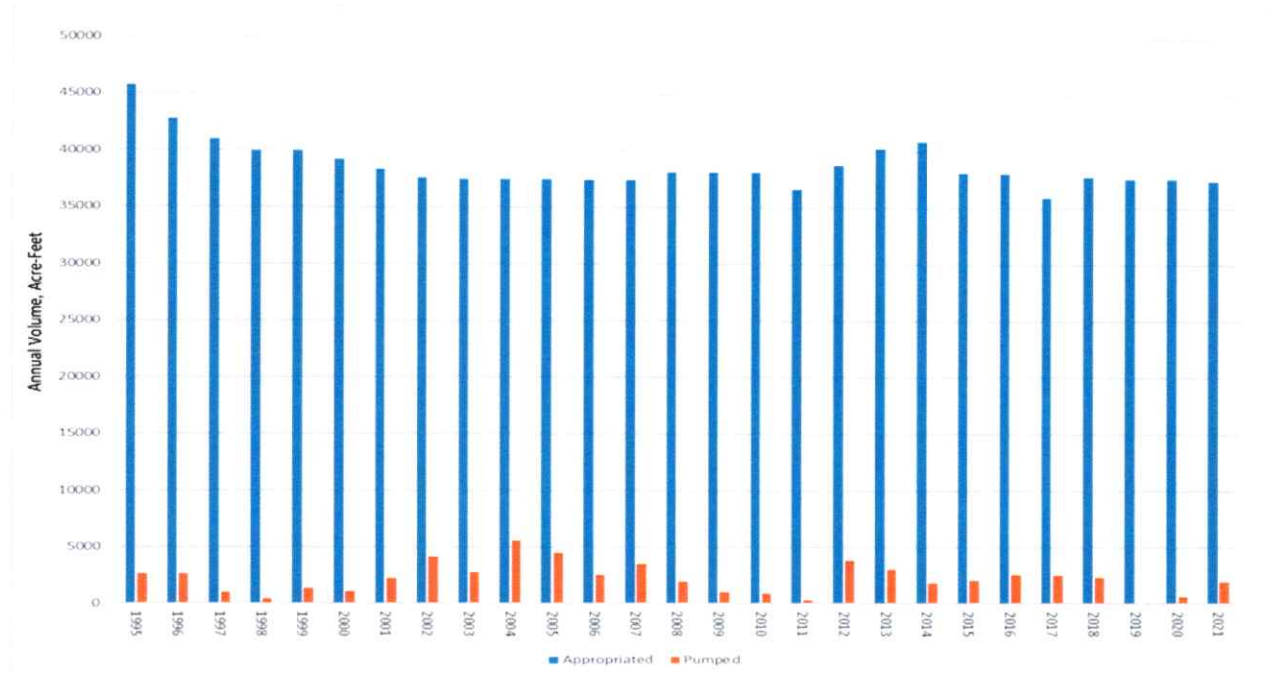


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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

ROBERT BROST
PO BOX 249
MURDO SD 57559

Subject: Amendment of the Mandatory Shutoff Qualification on White River Water Right No. 1504-2

Dear Mr. Brost,

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 on the White River. The Chief Engineer is recommending amending those water rights with the mandatory June 1 shutoff qualification located downstream of the Little White River's confluence with the White River. This involves amending 11 water rights. The intent is to allow more efficient use of water when it is available by replacing the June 1 shutoff qualification with a 20 cubic feet of water per second (cfs) bypass qualification as measured at a USGS stream flow gaging station. Water Right(s) that you own or operate are included in those to be amended. Water Rights that did not have the June 1 shutoff qualification or are located above the Little White River confluence with the White River remain unchanged.

Attached is the qualification to be deleted from the water right(s) and the proposed new qualifications.

Based on a review of historical flow records, in most years, 20 cfs of flow is available in the White River after June 1 as measured at the USGS Oacoma streamflow gaging station. The amendment designates a US Geological Survey gaging station as the measuring point to determine if pumping is allowed. The gaging station has real time flow information that can be accessed online at <https://waterdata.usgs.gov/sd/nwis/rt>.

A hearing before the Water Management Board is scheduled at 9:45 AM (Central Time), 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 7 counties that the White River flows through. This notice provides information on filing a petition opposing the proposed amendment or providing a comment. A petition must be postmarked by April 24, 2023, and allows you to participate in the May 3, 2023, hearing before the Board.

The staff report including affected water rights and the proposed changes is 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

Proposed Qualification Revisions

In order to standardize the bypass qualifications for the existing water rights/permits containing a mandatory June 1 shutoff in the White River reach between the Little White River confluence and the Missouri River, the following changes are proposed.

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.



**DEPARTMENT of AGRICULTURE
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May 5, 2023

ROBERT BROST
PO BOX 249
MURDO SD 57559

Subject: Water Management Board removes the mandatory June 1 shutoff qualification and adds a streamflow bypass qualification on White River Water Right No. 1504-2

Dear Mr. Brost,

This is a follow-up letter to my April 14, 2023, letter concerning the proposed qualification changes to your White River water right. On May 3, 2023, the SD Water Management held a hearing to amend your junior priority date water right and made the following change:

Deleted 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.

Added 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 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>.

If you have any questions concerning this change, please contact Mark Rath at 605 773-3352 or mark.rath@state.sd.us.

Sincerely,

Chief Engineer
Water Rights Program, DANR