

Considered: _____

WATER PERMIT NO. 1958-2

MAP No. Same

Name of Applicant Sylvan L. Kruse

Post Office Address Box 92, Interior SD 57750

Amount of Water Claimed 5.10 cfs Total Acres 357.2

Source of Water Supply White River

Water to be used for irrigation County Jackson

About 2 miles SW of Interior

PROOF OF PUBLICATION: Received April 3, 1986 Not Received _____

APPLICATION: Approved May 14, 1986 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Oct 10, 1985 Fee \$325.00 Remarks _____

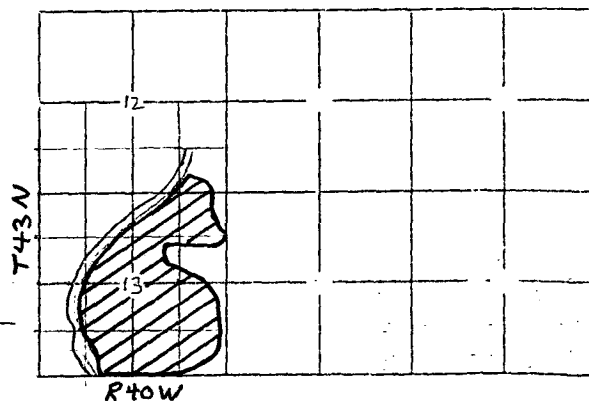
Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED Mar 11, 1986 APPROVED CONDITIONAL (Circle one)

WI-1 Description same as Application YES ☒ NO _____ REMARKS _____

Diversion Point White River: any point within
Lots 1, 2, 3, 4, 5 in T43N-R40W

Land to be Irrigated Lots 1, 2, 3, 4, 5; SE 1/4,
S 1/2 NE 1/4; sec 13: SE 1/4 SE 1/4, sec 12: all in
T43N-R40W



Well Log: Driller NA Licensed YES _____ NO _____

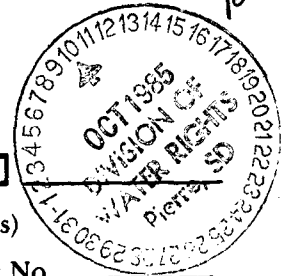
Depth of Well _____ REMARKS _____

Type of Map Aerial photo PREPARED BY R. Duvall Reviewed and the Number
assigned on Mar 14, 1986 By R. Duvall

No. <u>1958-2</u> Hydrologic Unit <u>10140202</u>
Map No. <u>same</u> Basin <u>White River</u>
Newspaper <u>Kadoka Press, Box 309 57543</u>

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following;

New ☐ Vested Right ☒ Future Use ☐☐ Application to amend Permit No. _____ with old priority date retained☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____1. Name of Applicant Sylvan L. Kruse Phone No. 433-5470Post Office Address Box 92 Interior State SD DAK. 5750
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 5.10 ? Total acres irrigated 357.23. Source of Water supply WHITE RIVER4. Location of point of diversion LOTS 1, 2, 3, 4, 5, SECTION 13.
T43N-R40WCounty JACKSON5. Counties where water will be used JACKSON6. Annual period during which water is to be used MARCH - NOV. 30

7. 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.
<u>1, 2, 3, 4, 5 SECTION 13</u>	<u>9117.2</u>
<u>SE 1/4 SECTION 13</u>	<u>160</u>
<u>SW 1/4 SEC. 13</u>	<u>160</u>

Land Description	No. Acres Irr.
<u>SE 1/4 SE 1/4 Section 12</u>	<u>5</u>
<u>all in T43N-R40W</u>	

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed) (600)

This ground was flood irrigated for the past 20 years. to upgrade the system for better use. What I wanted to do is establish a water right to continue to pump in the future.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of Jackson) ssI, Sylvan L. Kruse the applicant, certify that I have read the foregoing application, 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 Sylvan L. KruseSubscribed and sworn to before me this 9th day of October 1985

Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 1958-2
Sylvan L. Kruse Box 92, Interior
(Applicant) (Post Office Address)
SD 57750 With the following qualifications.
(State) (Zip Code)

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1. After June 1 there shall be no diversion from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversions under this Permit shall be in accordance with the written orders issued by the Chief Engineer.

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Date of first receipt of application October 10, 1985.
Date of return to applicant for correction, amendments or changes required October 15, 1985.
Date of receipt of corrected application Oct. 25, 1986. Approved May 14, 1986.

The Water Management Board hereby approves this Water Permit No. 1958-2 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is October 10, 1985.
2. One-fifth of the work is to be completed on or before October 14, 1988.
3. The whole of said work is to be completed on or before May 14, 1991.
4. The time limit for proof of beneficial use of water is May 14, 1995.
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 5.10 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. For irrigation purposes said appropriation must be limited to not more than 2 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 May 14, 1995; said water to be used during the following described annual period: Mar 1 - Nov 30.

WATER MANAGEMENT BOARD

By: John Hatch
Chief Engineer
Division of Water Rights
Dept. of Water and Natural Resources
John Hatch
JUN 20 1986

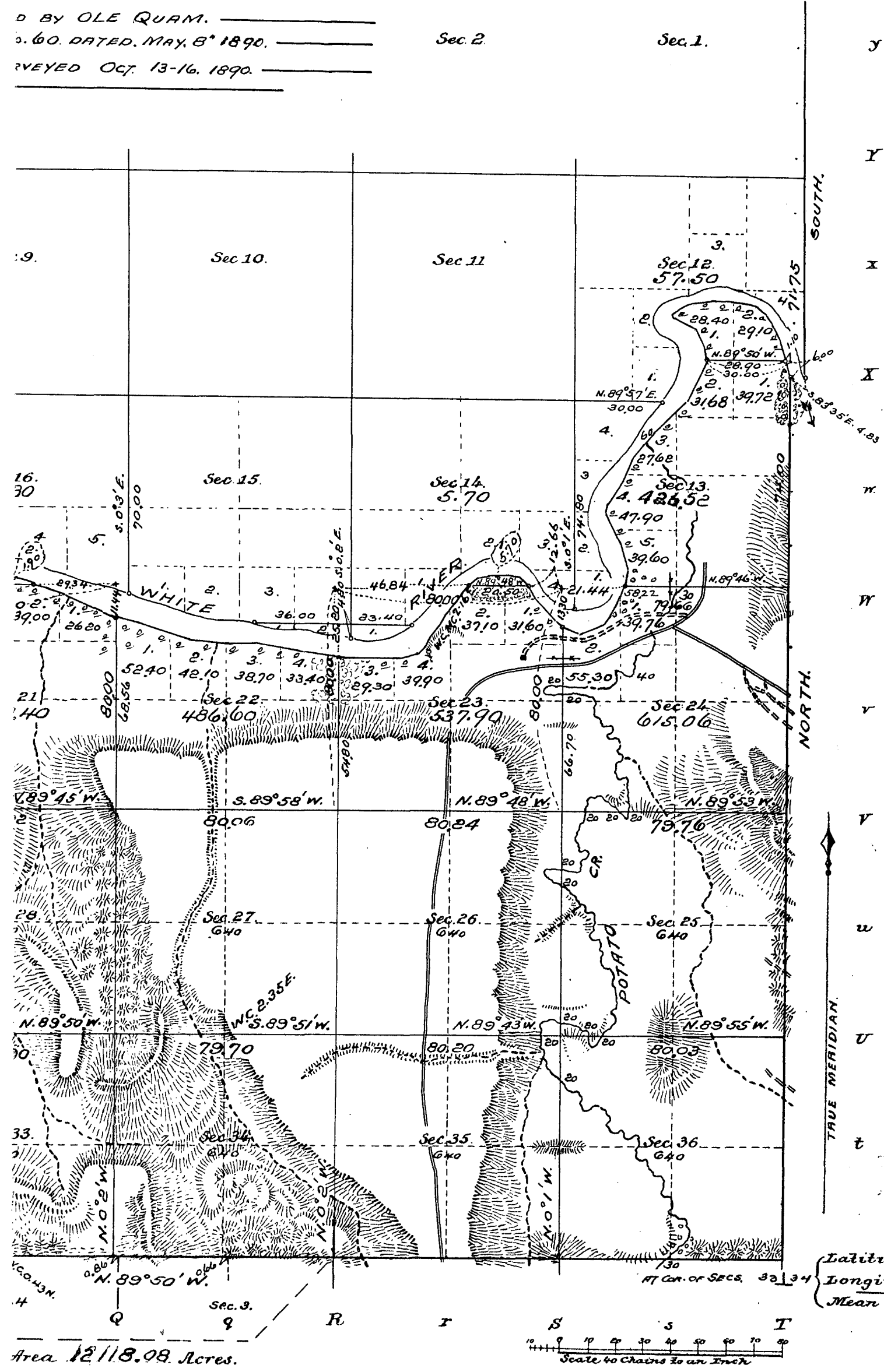
_____, 19____

EST, 6" PRINCIPAL Meridian, South Dakota.

T43N - R40W

a D c C b B a A

4 S. R. 17 E. _____
B. H. M. _____
D BY OLE QUAM. _____
D. 60. DATED. MAY. 8th 1890. _____
S. 60. DATED. MAY. 8th 1890. _____
S. 60. DATED. MAY. 8th 1890. _____



Area 12118.08 Acres.

When Surveyed.
JUNE. 22-28. 1904.
" 27 " "
AUG. 12-29. 1901.
OCT. 2. "
JUNE. 24. "
JUNE 1904

The above Map of Township No. 43 North, of Range No. 40 WEST OF THE 6" PRINCIPAL Meridian, South Dakota, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

U.S. Surveyor General's Office
Huron S. Dak. AUGUST. 15th 1906.

[Signature]
U.S. Surveyor General.

Latitude 43° 39' N.
Longitude 102° 05' W.
Mean mag. decl. 14° 05' E.

ALL IN T. 43N
R. 40W



43-4D
159-4L

1 in = 660 ft

Ron Duvall
Natural Resources Eng
3/14/86

Appl. No. 1958-2

RECEIPT

Division of Water Rights

No 4 10213

South Dakota Department of Water and Natural Resources

Pierre, October 10, 19 85

Sylvan L. Kruse, Interior SD 57750

RECEIVED OF

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	325	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	325 00

By

Chief Engineer

JOHN HATCH

(KS)

Water Rights Division
605 773-3352

October 15, 1985

Sylvan L Kruse
Box 92
Interior SD 57750

Mr. Kruse:

I have reviewed your application to irrigate 357.2 acres from the White River. I have forwarded your WI-1 to the Dept of Agriculture for action by the Conservation Commission. I am returning your map for the following information:

1. The lands to be irrigated must be clearly marked on the map.
2. The township and range should be indicated also.

When we receive the map and the WI-1 permit we will continue to process your application. If you have any further questions concerning this, please contact this office.

Thank you,

KEVIN C LARSON
Natural Resources Engineer

KCL:ks

enclosure

Dear Sir,

Thank you for your response
on my application.

All the ground to be irrigated
is in township 43 north and range
40 west. Also the map is marked
to the best I know how.

Sincerely Yours,
Syron L. Kause





Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

November 4, 1985

Sylvan Kruse
Box 92
Interior S I 57750

Mr. Kruse:

After reviewing your map and comparing it to a USGS topographic quad, I think there is one change to the legal location of the land being irrigated. It is difficult to decipher because of the river but I think about five acres shown on the enclosed copy should be listed as the SE 1/4 SE 1/4 Section 12. We can make the change on your application in the office if my interpretation looks reasonable. I am also forwarding a copy of this letter to the Conservation Commission. If this change is made the legal location of the land would be as follows:

Lots 1 thru 5 Section 13	117.2 ac.
SE 1/4 Section 13	160.0 ac.
S 1/2 NE 1/4 Section 13	75.0 ac.
SE 1/4 SE 1/4 Section 12	5.0 ac.
	357.2 ac.

If you have any further questions, please contact this office.

Thank you,

KEVIN C LARSON
Natural Resources Engineer

cc: Conservation Commission

Equal Opportunity Employer

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM

Division of Conservation

Office Use Only

4165

WR#

OWNERS NAME: SYLVAN L. KRUSE

OWNERS ADDRESS: Box 92

COUNTY LAND LOCATED IN: JACKSON

PHONE: 432-5490

TENANT'S NAME AND ADDRESS:

LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. WELL LOCATION

Depth

2. SURFACE WATER SOURCE AND DIVERSION LOCATION: All along Lots 1, 2, 3, 4, 5 SEC. 13

Diversion Location

Legal Description	Acres	Legal Description	Acres
<u>LOTS 1, 2, 3, 4, 5 SEC. 13</u>	<u>117.2</u>		
<u>SE 1/4 SECTION 13</u>	<u>160</u>	<u>357.2</u>	
<u>5 1/2 NE 1/4 SEC. 13</u>	<u>200</u>	<u>75</u>	
<u>SE 1/4 SE 1/4 Section 12</u>	<u>5.0</u>		

3. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED

LEGAL DESCRIPTION:

IN WHAT NAME:

4. LOCATION OF AREA TO BE IRRIGATED NOTE: SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See instruction sheet)

5. TYPE OF IRRIGATION: GRAVITY: TOWLINE: CENTER PIVOT: GUN: OTHER: Flood (Specify)

6. CROPS TO BE IRRIGATED: SMALL GRAINS + ALFAIFA

WATER QUALITY: (TO BE COMPLETED BY SDSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER:

10. ADJUSTED (SAR):

8. SALINITY (EC X 10⁶):

11. PERCENT SODIUM

9. SODIUM (SAR):

I hereby certify that I personally obtained or that I personally observed that taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see instruction sheet) were followed, and that the sample was taken at _____ a.m./p.m., on _____, 19____, at the following location: _____

by (individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

Signature

I understand that the Division of Conservation or agents thereof may obtain water samples from wells and surface bodies to be used for irrigation purposes to validate water samples taken at the time of application. The Department of Agriculture may also gather technical information necessary to protect the land. (46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

DAY OF _____, 19____.

(NOTARY PUBLIC)

APPLICANT'S SIGNATURE

Director, Division of Conservation

Date

APPROVED - With Requirements
DISAPPROVED
CONDITIONALLY APPROVED



IMPORTANT

Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER RIGHT must be obtained from the Board of Water Management, Foss Building, Pierre.

Conditional soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

#4168

Approved with Requirements

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATION

NAME OF APPLICANT: Sylvan Kruse

LEGAL DESCRIPTION: Lots 1,2,3,4,5, Sec 19 = 117.2

SE $\frac{1}{4}$ 13; S $\frac{1}{2}$ NE $\frac{1}{4}$ 13; SE $\frac{1}{4}$ SE $\frac{1}{4}$ 12-43-40

SOIL RESTRICTIONS:

THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:

THE SOILS(S) LISTED BELOW CAN BE IRRIGATED
WITH THE FOLLOWING RESTRICTIONS:

This area shall be maintained in alfalfa.

RECOMMENDED MANAGEMENT:

Ted M. Field
SIGNATURE

3-6-86
DATE

REPORT ON APPLICATION No. 1958-2

Sylvan L. Kruse

March 17, 1986

Water Permit Application No. 1958-2 request an appropriation of 5.1 cfs of water from the White River to irrigate 357.2 acres. The points of diversion will be located along and within the stream reach described as Lots 1 through 5 of Section 13, T43N, R40W. The location is in south Jackson County near the eastern boundary of Pennington County.

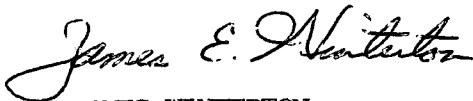
Discussion

The Water Management Board has approved recent applications to appropriate water from the White River with a June 1 cutoff date and a low flow qualification.

Water Rights below the applicants point of diversion total approximately 220 cfs. Assuming a 40 to 50% usage of the water at any one time, the flows necessary to serve these water rights would range from 88 to 110 cfs. The attached flow frequency data shows when adequate flows are usually available. This data is derived from the Kadoka stream gaging station and indicates water is available in most years to June 1 and many years beyond June 1. Further analysis of the flows will be necessary to reconsider the June 1 cutoff qualification.

Conclusions

1. In most years, water will be available to June 1 to meet the needs of this application.
2. The existing rights and domestic uses will be protected with the low flow qualification.
3. Irrigation beyond June 1 of each calendar year should be subject to written authorization from the Chief Engineer, Water Rights Division.



JAMES WINTERTON
Natural Resources Engineer

39 year period - Beginning October 1944

5 day average Duration Hydrograph - White River Near Kadoka

<u>Date</u>	<u>High</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>	<u>50%</u>	<u>70%</u>	<u>80%</u>	<u>90%</u>	<u>Low</u>
4-5	1796	813	387	302	194	124	87	43	18
4-10	3778	1376	503	301	155	101	83	39	15
4-15	3360	981	545	349	170	89	72	49	20
4-20	2790	817	432	259	147	87	57	45	19
4-25	4962	1476	525	255	133	84	55	45	25
4-30	4524	1630	508	255	138	87	58	43	14
5-5	5904	1544	831	445	167	92	63	35	15
5-10	5036	1075	569	308	156	93	72	42	15
5-15	7642	1260	544	333	175	113	73	47	13
5-20	6390	1282	565	325	171	113	86	57	22
5-25	8038	2531	968	379	140	93	80	64	29
5-30	5375	1707	812	524	211	85	71	53	18
6-5	2022	1015	541	386	196	116	77	39	24
6-10	7958	1468	615	337	161	84	62	38	12
6-15	8442	2286	1229	582	210	84	57	35	14
6-20	10364	4330	1792	918	373	148	78	44	19
6-25	7620	3190	1130	554	250	120	75	28	19
6-30	5764	1486	800	448	161	72	44	20	4
7-5	3436	863	444	263	125	75	48	24	5
7-10	1037	412	235	150	85	52	41	26	6
7-15	3158	654	270	177	83	48	23	9	0
7-20	2964	645	305	207	95	45	25	6	2
7-25	3640	1159	659	274	113	49	30	6	1
7-31	4160	951	490	295	154	48	16	5	0
8-5	3060	650	286	194	107	22	8	1	0
8-10	2674	983	387	179	73	21	6	0	0
8-15	1300	704	302	158	57	24	10	1	0
8-20	2352	436	223	141	55	19	5	1	0
8-25	1369	468	200	134	45	17	7	1	0
8-31	1038	223	104	73	31	8	4	1	0
9-5	1700	202	106	57	24	6	2	0	0
9-10	1504	132	65	40	18	3	1	0	0
9-15	1241	244	58	32	11	1	0	0	0
9-20	2758	397	134	65	18	3	0	0	0
9-25	4008	444	95	41	14	3	1	0	0
9-30	839	155	88	28	7	1	0	0	0

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1958-2, Sylvan L. Kruse

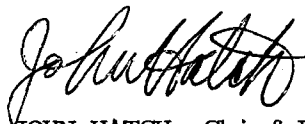
Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 1958-2, for Sylvan L. Kruse.

The Chief Engineer is recommending APPROVAL of Application No. 1958-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be bypassed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1. After June 1 there shall be no diversion from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversions under this Permit shall be in accordance with the written orders issued by the Chief Engineer.

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
March 18, 1986

No. 1958-2

Instruction to Newspaper - Publish first publication of the following Notice on or before April 3, 1986 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1958-2 to Appropriate Water and/or to Amend Water Permit or Water Right No. _____

Notice is hereby given that Sylvan L. Kruse whose mailing address is Box 92, Interior,, South Dakota has made an application for a permit

to appropriate 5.10 cubic feet of water per second from the White River to irrigate 357.2 acres. The points of diversion will be located along and within the stream reach described as Lots 1 through 5 of Section 13, T43N, R40W. The land to be irrigated is located in the SE $\frac{1}{4}$, SW $\frac{1}{4}$, Lots 1, 2, 3, 4, 5 of section 13; SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12; all in T43N-R40W

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends **APPROVAL** of Application No. 1958-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Room 216, Joe Foss Building, 523 E. Capitol, Pierre, SD, May 14 1986 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by May 2, 1986. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; ~~(ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.~~

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 2, 1986.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Jackson)

I, L. G. Parkinson hereby

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

Water was taken from the Kadoka Press

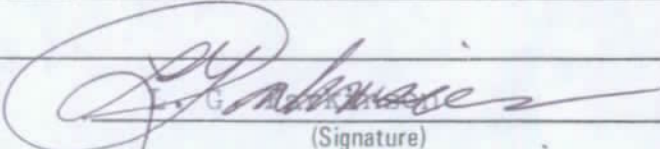
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City of Kadoka

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

Thursday, March 27, 1986

Thursday, April 3, 1986


(Signature)

Editor

(Title)

April 3, 1986

(Date Signed)

Cost of Printing: \$38.70

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN, Joe Foss Bldg., Pierre, S. D. (605-773-3352), for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 2, 1986.

Pub. Mar. 27-Apr. 3

NOTICE OF HEARING
ON APPLICATION NO. 1958-2
TO APPROPRIATE WATER

Notice is hereby given that Sylvan L. Kruse, whose mailing address is Box 92, Interior, South Dakota has made an application for a permit to appropriate 5.10 cubic feet of water per second from the White River to irrigate 357.2 acres. The points of diversion will be located along and within the stream reach described as Lots 1 through 5 of Section 13, T43N, R40W. The land to be irrigated is located in the SE $\frac{1}{4}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 1, 2, 3, 4, 5 of Section 13; SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12; all in T43N-R40W.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 1958-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Room 216, Joe Foss Building, 523 E. Capitol, Pierre, S. D., May 14, 1986, at 10:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by May 2, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14; 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

1958-2

JUN 20 1986

Sylvan L. Kruse
Box 92
Interior, South Dakota 57750

Dear Mr. Kruse:

Enclosed herewith is your Water Permit No. 1958-2 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 1958-2.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Note: Authorization to pump after June 1 may be requested by calling or writing the Water Division office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



1958-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2001

NOTICE

TO: SYLVAN L KRUSE, BOX 92, INTERIOR, SD 57750
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1958-2. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1958-2 qualification:

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

The hearing will be held at 10:00 am, March 7, 2001 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. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1958-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 2, 2001, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

1958-2

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:

SYLVAN L KRUSE
BOX 92
INTERIOR SD 57750

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Sylvan L Kruse* B. Date of Delivery *1-31-01*

C. Signature *X* ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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

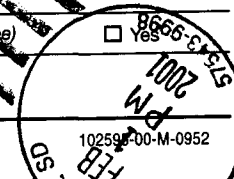
4. Restricted Delivery (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7000 0600 0026 9814 2300

PS Form 3811, July 1999

Domestic Return Receipt





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 1, 2001

1958-2

Lawrence R Kruse
20031 E Hwy 44
Scenic, SD 57780

Dear Mr. Kruse:

Thank you for contacting our office concerning ownership of Water Permit No. 1958-2. The permit is currently listed in the name of Sylvan L Kruse.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the ownership change. 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. The check or money order for the fee can be made payable to the "Water Rights Program."

Also enclosed is the "2000" irrigation questionnaire pertaining to the permit. Please complete the form with any irrigation information you have for the year 2000.

I am enclosing a postage paid envelope for your use in returning the transfer of ownership form, filing fee and the irrigation questionnaire. If you have any questions concerning the water permit or any of the enclosed forms, please get in touch with me.

Sincerely,

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

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. 1958-2

Date: Feb 28, 2001

I/We request that Water Permit No. 1958-2

formerly owned by: Sylvan L Kruse

be transferred to: (name & address) Lawrence R Kruse, 20031 E Hwy 44, Scenic, SD 57780

Telephone No. (605) 433-5355

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

357.2 acres – Lots 1, 2, 3, 4 & 5, SE ¼, S ½ NE ¼ Section 13 and SE ¼ SE ¼ Section 12, T43N, R40W

I/We understand that the validity of Water Permit No. 1958-2 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 Jackson)

I/We Lawrence R Kruse 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.

Lawrence R Kruse
(Signature of new owner)

Subscribed and sworn to before me this 2nd day of March, 2000
2001



Amber Lyle
(Notary Public)
expires June 26, 2002



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

Water Rights Program

South Dakota Department of Environment and Natural Resources

NE 416790

Pierre, March 6, 2001

RECEIVED OF Lawrence R Kruse, 20031 E Hwy 44, Scenic, SD 57780

the following amount in fees for services rendered as provided for by law: (Sylvan L Kruse)

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 1958-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

Darland Erbe

Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 20, 2001

1958-2

Lawrence R Kruse
20031 E Hwy 44
Scenic, SD 57780

Dear Mr. Kruse:

Thank you for following up on the ownership change for Water Permit No. 1958-2. The transfer has been completed. The water permit formerly listed in the name of Sylvan L. Kruse is now listed in your name.

Enclosed is your Receipt No. 416790 in the amount of \$2.50. If I can answer any questions for you, please contact me.

Sincerely,

Glenda Marks
Secretary
Water Rights Program
(605) 773-3352

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 25, 2002

1958-2

Philip Kruse
20055 E Hwy 44
Scenic SD 57780

Dear Mr. Kruse:

I am writing to acknowledge receipt of the 2002 irrigation questionnaire for Water Permit No. 1958-2.

It is my understanding from the change you wrote on the questionnaire that you wish to have the water permit transferred to your name. In order to do this, you will need to file a transfer of ownership with us. Enclosed is a partially completed form to be used for this purpose. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to us with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If your intent was only to have the questionnaire sent to your address and the water right remain under Lawrence's name, please give me a call and I will make the correction.

Thank you and if you have any questions, please let me know.

Sincerely,

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

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1958-2

Date: 11-25-02

I/We request that Water Permit No. 1958-2

formerly owned by: Lawrence R Kruse, 20031 E Hwy 44, Scenic, SD 57780

be transferred to: (name & address) ~~Philip Kruse, 20055 E Hwy 44, Scenic, SD 57780~~

Kevin Kruse, PO Box 85, Interior, SD 57750 Telephone No. 605 433 5403
605 433 5582

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

357.2 acres - Lots 1, 2, 3, 4 & 5, SE ¼, S ½ NE ¼ Section 13 and SE ¼ SE ¼ Section 12, T43N, R40W

I/We understand that the validity of Water Permit No. 1958-2 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 Pennington)

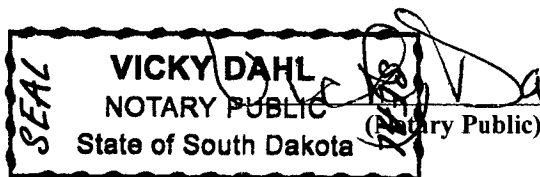
I/We Vicky Dahl Kevin L. Kruse

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.

Kevin L. Kruse
(Signature of new owner)

Subscribed and sworn to before me this 25 day of November, 2000-2002

My Commission Expires
August 27, 2003



RECEIVED

NOV 26 2002

WATER RIGHTS
PROGRAM

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 57501-3182
www.state.sd.us/denr

December 19, 2002

317-2
1958-2

Kevin Kruse
PO Box 85
Interior SD 57750-0085

Dear Mr. Kruse:

Thank you calling about the ownership changes for Water Right No. 319-2 and Water Permit No. 1958-2. Enclosed is a copy of each.

A transfer form was submitted at the end of November for No. 1958-2. All that is needed to finalize the transfer is a \$2.50 filing fee.

Enclosed is a partially completed Notice of Transfer of Ownership form for use in filing the ownership change for Water Right No. 317-2. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50.

A total of \$5.00 is required for filing the ownership changes. The check or money order for the fee can be made payable to the Water Rights Program. Please return the filing fee and the transfer form for No. 317-2 to our office. You may keep the copies of the water right and the permit.

If you have any questions, please let me know.

Sincerely,

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

enclosures

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date FEBRUARY 6, 2003

RECEIVED OF Philip Kruse, 20055 E Hwy 44, Scenic SD 57780

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>1958-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	
	2.50	

No.

000006

By

Darland Schick
Chief Engineer *gm*



February 10, 2003

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

317-2
1958-2

Philip J Kruse
20055 E Hwy 44
Scenic SD 57780

Kevin Kruse
PO Box 85
Interior SD 57750-0085

Dear Sirs:

I am writing to acknowledge receipt of the transfer of ownership forms and filing fees for Water Right No. 317-2 and Water Permit No. 1958-2.

The transfers have been completed as follows:

- **Water Right No. 317-2, formerly held by Kruse Partnership, is now listed in the name of Philip J Kruse.** No. 317-2 authorizes irrigation of 115.73 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and Lot 2 of Section 14, all in T4S, R17E.
- **Water Permit No. 1958-2, formerly held by Lawrence R Kruse, is now listed in the name of Kevin Kruse.** No. 1958-2 authorizes irrigation of 357.2 acres in Lots 1, 2, 3, 4 & 5, SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 13 and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, T43N, R40W.

Enclosed are Receipt Nos. 000645 and 000646 in the amount of \$2.50 each which were paid to cover the filing fees (these are included in the letter to Philip).

If I can answer any questions for you, please let me know.

Sincerely,

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



1958-2
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 20, 2005

NOTICE

TO: KEVIN KRUSE, PO BOX 85, INTERIOR, SD 57750 0085

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1958-2. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1958-2 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1958-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **February 25, 2005**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



1958-2

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 0551

Your item was delivered at 3:11 pm on January 24, 2005 in INTERIOR, SD 57750. The item was signed for by K KRUSE.

[Shipment Details >](#)

Notification Options

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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 0551

KEVIN KRUSE
PO BOX 85
INTERIOR SD 57750 0085

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

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PS Form 153, July 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 8, 2005

1958-2

Kevin Kruse
PO Box 85
Interior SD 57750-0085

Dear Mr. Kruse:

I am writing to acknowledge receipt of your 2004 irrigation questionnaire. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Permit No. 1958-2.

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



1955 28

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: KEVIN KRUSE, PO BOX 85, INTERIOR, SD 57750 0085

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1958-2. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1958-2 qualification:

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

The hearing will be held at **10:00 am, March 11, 2009** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1958-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 6, 2009**, 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/E0455V7-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.

1958 2

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Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0802 7002
Status: **Delivered**

Your item was delivered at 10:46 AM on January 29, 2009 in INTERIOR, SD 57750. The item was signed for by K KRUSE.

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No FEAR Act EEO Data

FOIA

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 7002	KEVIN KRUSE PO BOX 85 INTERIOR SD 57750 0085		ailing.
	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 ☐ First-Class Mail® parcel ☐ Package Services parcel	



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2009

1958-2

Kevin Kruse
PO Box 85
Interior SD 57750-0085

Dear Mr. Kruse:

I am writing to acknowledge receipt of your 2008 irrigation questionnaire. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Permit No. 1958-2.

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,

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

Permit No. 1958-2
The White River

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, **October 21, 2013**, made a thorough examination of the water use system used by **Kevin Kruse, PO Box 85, Interior, SD 57750** holder of Water Permit No. **1958-2**, bearing the priority date of **October 10, 1985** and authorizing the diversion of **5.1 cubic feet per second (cfs)** from the **White River** for the purposes of **irrigating** approximately 357 acres of Sections 12 and 13 of T043N-R40W in **Jackson County**.

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

- 1) Works used to divert water:
Crisafulli pump (mobile) placed in the river with tractor
- 2) Works used to transport water to a place of use:
Crisafulli pump used to flood irrigate fields surrounded by berms with dykes to allow or prevent water flowing from one area to another.
- 3) Works used to apply water to beneficial use:
Flood irrigation, dykes and berms.

The system is in the following condition: well maintained. Mr. Kruse indicated that due to the changing characteristics of the shoreline of the White River, the location from which water is pumped changes from year to year. However, the pump remains on Sec 12 and 13.

The Cristafulli pump used for diversion of water is mobile but is used **along the White River between Lots 1 and 5 in Section 13, T043N-R40W.**

The areas irrigated by the water from the Crisafulli pump are broken down as follows:

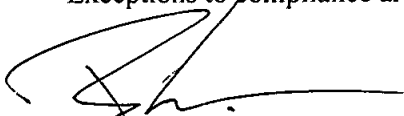
- **5 acres in the S ½ of Sec 12, T043N-R40W**
- **107 acres in the NE ¼ of Sec 13, T043N-R40W, including Lots 1 and 2 of the same section**
- **23 acres in Lot 3 of Section 13, T043N-R40W**
- **83 acres in Lots 4 and 5 of Section 13, T043N-R40W**
- **139 acres in the SE ¼ of Sec 13, T043N-R40W**

357 irrigated acres total in Sec 12 and 13, T043N-R40W.

This breakdown of acres is a best estimate based on information provided and by viewing the 2012 FSA aerial using ArcMap.

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

Exceptions to compliance are: **None** Date report completed: **November 8, 2013**



Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 1958-2

DATE OF INVESTIGATION:	October 21, 2013
NAME & ADDRESS OF PERMIT HOLDER	Kevin Kruse PO Box 85 Interior, SD 57750
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Kevin Kruse
DIVERSION POINT LEGAL LOCATIONS	The White River is located to the north and to the west of the irrigated land under Water Permit No. 1958-3. The exact diversion point is in Section 12 or 13 but changes each year within those sections.

WELL INFORMATION: N/A

- 1) Well Drilling Firm:
- 2) Number of Wells:
- 3) Depths:
- 4) Well Logs Available:
- 5) Comment: **System does not include wells**

Pumps:

- 1) Make: **Travelling Crisafulli Pump**
- 2) Model:
- 3) Size: **16 inch diameter pipe**
- 4) Capacity: **10,000 GPM**

Casing: N/A

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

Screen: N/A

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

Motor:

- 1) Make:
- 2) Model No:
- 3) Power: **200 HP**

SYSTEM TYPE:

- 1) Make: **Travelling Crisafulli Pump**
- 2) Overall length: **20 feet**
- 3) Number of Towers:
- 4) Distance Between Towers:
- 5) End Gun:
- 6) Pressure:
- 7) Capacity: **10,000 GPM**

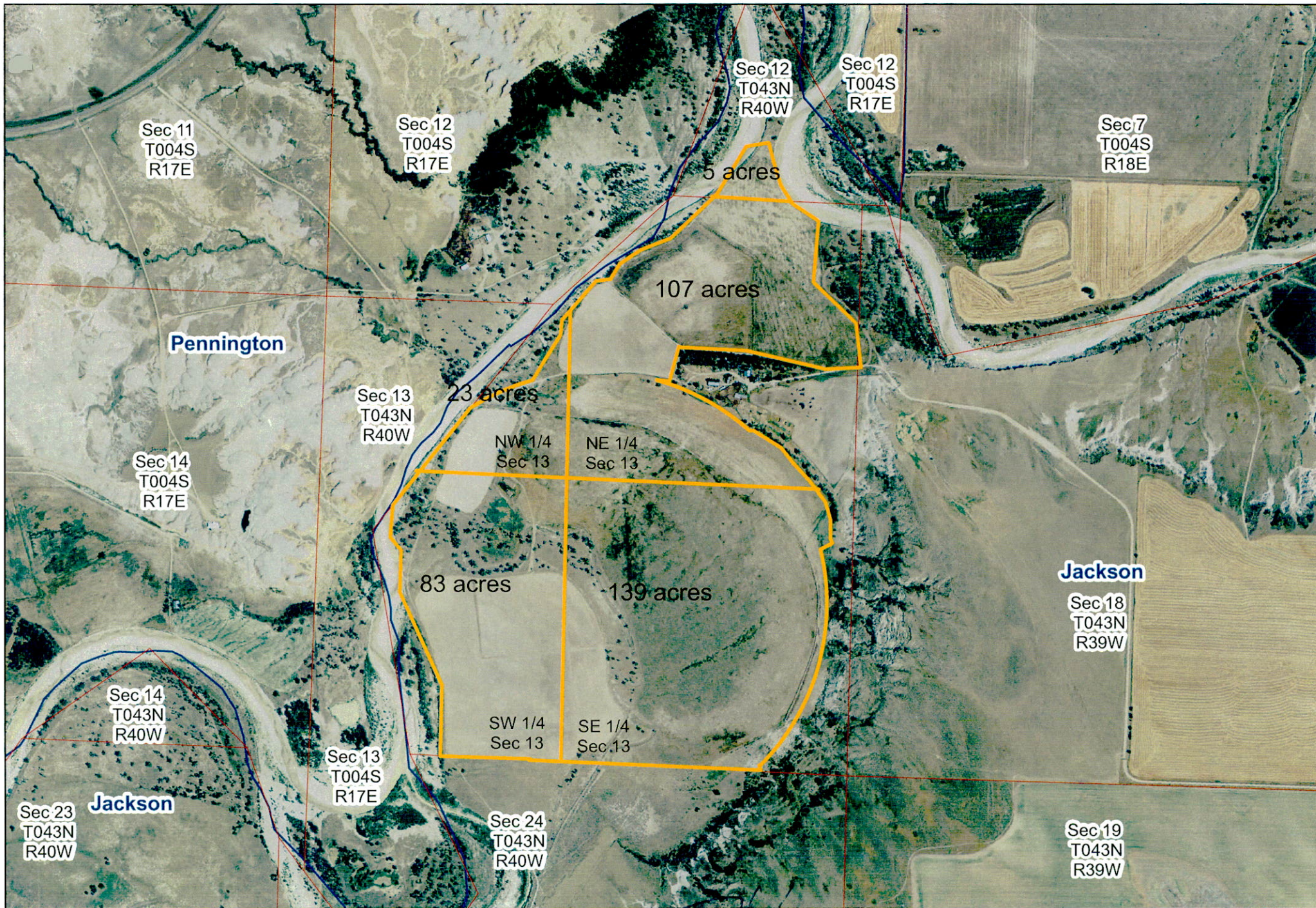
CHEMIGATION EQUIPMENT: No

PERMIT QUALIFICATIONS:

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

COMMENTS:

- 1) The Crisafulli pump being used has a much great capacity to pump than the flow rate permitted. During the inspection, Mr. Kruse stated that he understands that he is restricted to the flow rate appropriated to him under this Water Permit No. 1958-2.
- 2) The Crisafulli pump has an extremely short range and is used to flood irrigate the areas on Mr. Kruse's property.
- 3) The irrigation questionnaire database was referenced during the writing of this inspection report. From 2010-2012, Mr. Kruse reported that the system had not been completed, despite irrigation questionnaires from 1986-2009 indicating that irrigation was taking place. During the inspection Mr. Kruse indicated that the system was in full use.



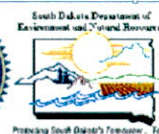
Legend

- Converted_Graphics14
- Section Boundaries - PLSS



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



EST, 6" PRINCIPAL

Meridian, South Dakota.

T43N R40W

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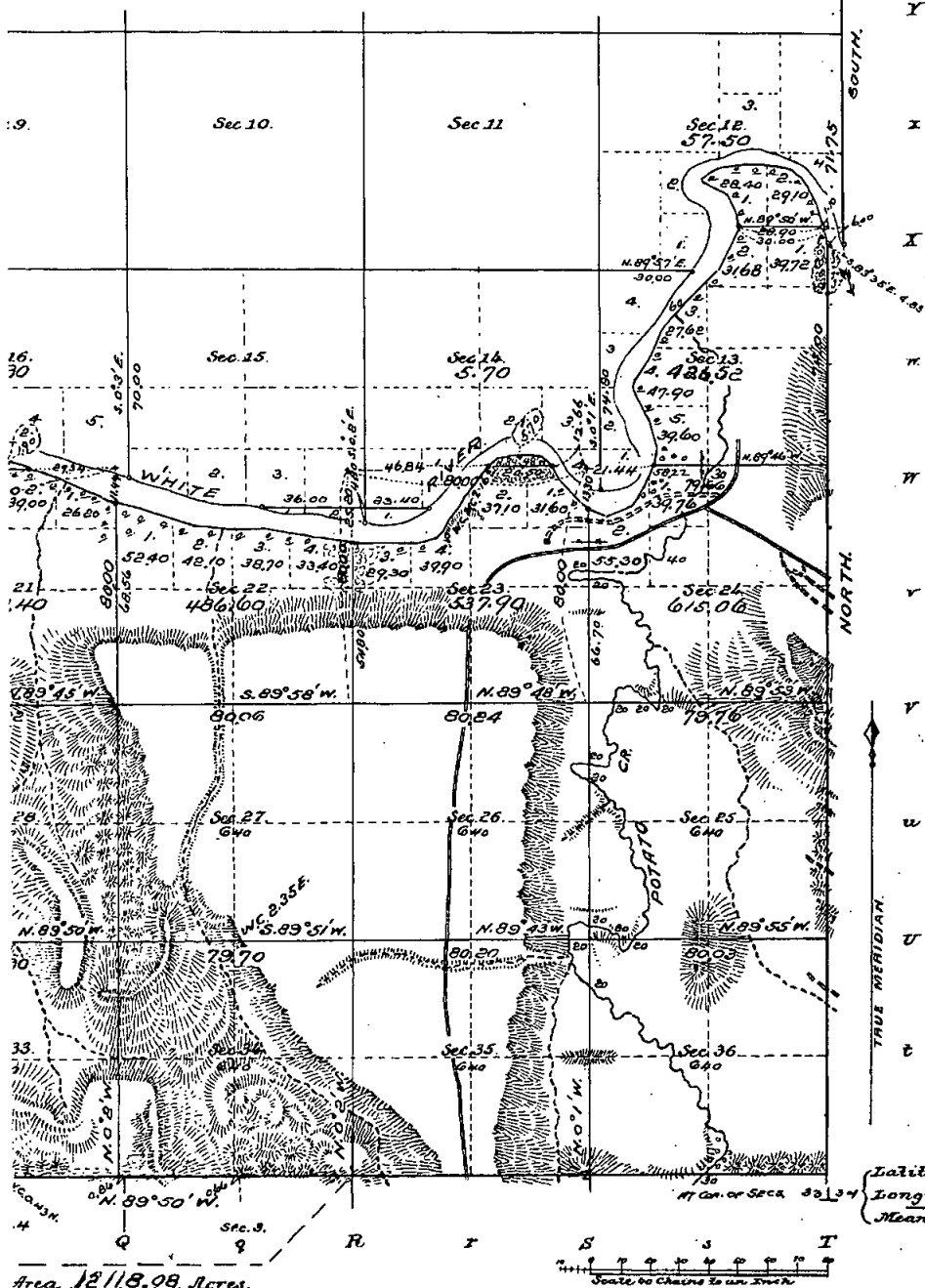
D. 60. DATED, MAY, 8th 1890.

MEYED OCT. 13-16, 1890.

Sec. 2.

Sec. 1.

Y .



Latitude 43° 39' N.
Longitude 102° 05' W.
Mean mag. decl. 14° 05' E.



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



September 29, 2014

REMINDER NOTICE

1958-2

Kevin Kruse
PO Box 85
Interior SD 57750 0085

Dear Mr. Kruse:

On November 8, 2013, we contacted you concerning the completed investigation of your water use system and the requirement for payment of a \$50.00 fee. The fee covers the issuance of the water license which is the final document completing your process of obtaining and perfecting a water permit.

To date, we have not received the fee and water license has not been issued. Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by any permit requirements.

Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program". If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact me.

Sincerely,

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

pd ch # 10426

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/8, 20 14

RECEIVED OF River View Ranch PO Box 85 Interior SD 57750

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1958-2</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____	50	00
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06965**

By James Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

AUG 17 2015

1958-2

Kevin Kruse
PO Box 85
Interior SD 57750

Dear Mr. Kruse:

Enclosed is Water License No. 1958-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1958-2**

(1) Sylvan L Kruse, Interior SD made Application No. 1958-2, October 10, 1985 for a water permit to divert 5.10 cubic feet of water per second from the White River, Jackson County, South Dakota for irrigation purposes. Permit No. 1958-2, with a priority date of October 10, 1985 was approved May 14, 1986 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 14, 1991 and for the application to beneficial use of said water on or before May 14, 1995.

On November 26, 2002, Water Permit No. 1958-2 was transferred to Kevin Kruse, PO Box 85, Interior SD.

(2) It is certified that the permit holder 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 5.10 cubic feet of water per second for beneficial use.

The diversion point is moveable and located along the White River between points in Lots 1 through 5, Section 13, T43N, R40W.

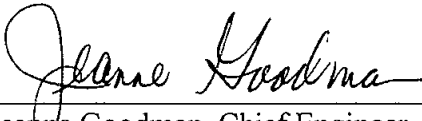
(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

T43N, R40W Section 12	S ½	5 acres
T43N, R40W Section 13	NE ¼ (including Lots 1 & 2)	107 acres
	Lot 3	23 acres
	Lots 4 & 5	83 acres
	SE ¼	139 acres
	Total	357 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Kevin Kruse, PO Box 85, Interior SD 57750 the holder and/or owner of Water Right No. 1958-2 is issued a license to appropriate water, the right to use 5.10 cubic feet of water per second from the White River with a priority date of October 10, 1985 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1958-2 and subject to the following qualifications:

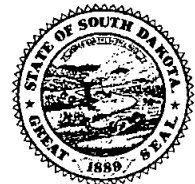
- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed. This permit authorizes the diversion of water from the White River for irrigation to the land directly until June 1. After June 1, there shall be no diversion from the White River under this Permit unless written authorization is issued by the Chief Engineer. Diversions under this Permit shall be in accordance with the written orders issued by the Chief Engineer.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 17 2015

date



1958-2



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 27, 2020

1958-2

Kevin Kruse
801 S Sneve Ave
Sioux Falls SD 57103-2545

Dear Mr. Kruse:

Enclosed is a "Notice" dated October 23, 2020 concerning the 2020 irrigation questionnaire.

The notice was originally mailed to PO Box 85, Interior 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, appearing to read "Genny McMath".

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

enclosures

1958-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 28, 2021

1958-2

Ryan Kruse
PO Box 65
Interior SD 57750 0065

Dear Mr. Kruse:

I am contacting you in regard to ownership of land described in Water Right No. 1958-2. Kevin Kruse contacted us and indicated he would like to have the water right transferred to you and Rochelle.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of the water license and the map showing the irrigated acres. If I can answer any questions for you, please let me know.

Sincerely,

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

1958-2

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date November 17, 2021RECEIVED OF Ryan/Rochelle Kruse PO Box 65 Interior SD 57750

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 <u>1958-2</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineervm

PAID

NOV 17 2021

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 1404

RECEIVED

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

NOV 17 2021

WATER RIGHTS
PROGRAM

No. 1958-2

Date: _____

I/We request that Water Right No. 1958-2

formerly owned by: Kevin Kruse

be transferred to: (name & address) Ryan Kruse

20280 Rimmer Rd Interior, SD 57750

Telephone No. 605-515-3367

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

357 acres – S ½ Section 12, NE ¼, Lots 1-5, SE ¼ Section 13, T43N, R40W

I/We understand that the validity of Water Right No. 1958-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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

Ryan Kruse

(Signed by new owner)

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 27, 2021

1958-2

Ryan Kruse
PO Box 65
Interior SD 57750 0065

Dear Mr. Kruse:

The ownership change on Water Right No. 1958-2 has been completed. The water right formerly held by Kevin Kruse is now listed in your name. Enclosed is a receipt for the filing fee that you paid.

Just a reminder, the 2021 irrigation questionnaire is still needed. The form was mailed out in late October and was due by December 3rd. The letters scheduling a hearing before the Water Management Board will go out in mid-January. Let me know how I can help.

Sincerely,

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

enclosure

6960-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2022

4678-3
6960-3

Gary Jepsen
31225 451st Ave
Gayville SD 57031

Dear Mr. Jepsen:

Thank you for calling concerning the ownership changes for Water Right Nos. 4678-3 & 6960-3 and about adding a well to your current irrigation system.

Last year when you submitted the irrigation questionnaires, we were under the impression that you were the new contact person for the water rights and did not actually want them transferred. Enclosed are partially completed transfer forms for use in filing ownership changes. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

With respect to adding a well to your irrigation system, SDCL 46-5-13.1 states the location of a point of diversion may be changed or additional points of diversion may be approved if the new or additional point of diversion is from the same source of water, no additional water is appropriated, and, if the water use is for irrigation, no new land is to be irrigated. The change in location of diversion points may be allowed if the chief engineer is contacted and makes a finding that the change does not increase the potential for interference with existing diversions.

Enclosed is an application to amend a water right. We handle requests for additional wells by having the permit holder file an application, provide a well drillers report and a map showing the location of the new well. If you do not have a well drillers report yet, please complete the supplemental information page included with the application. We then review the application to determine if the request can be handled in-house. No fee is required at this time. If it is determined the more formal process must be followed, we will request the fee and any additional information needed.

If you have any questions at all concerning the transfers or the application to amend your water right, please call (605) 773-3352.

Sincerely,

Genny McMath
Water Rights Program
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 6, 2022

No. 1958-2

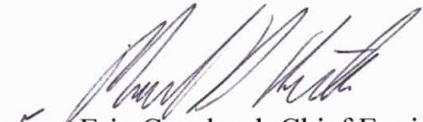
Ryan Kruse
PO Box 65
Interior SD, 57750

Dear Mr. Kruse:

This letter is regarding your request to pump from the White River under Water Right No. 1958-2 after the mandatory June 1 shutoff date. A review of the stream flow measured at the USGS stream gaging station located near Interior shows strong flow in that reach of the river. You may continue to pump from the White River until July 1, 2022. If you wish to continue to pump beyond July 1 you will need to make another request and we will review the stream flow conditions at that time.

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

Sincerely,


For Eric Gronlund, Chief Engineer
SD DANR-Water Rights Program



**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.

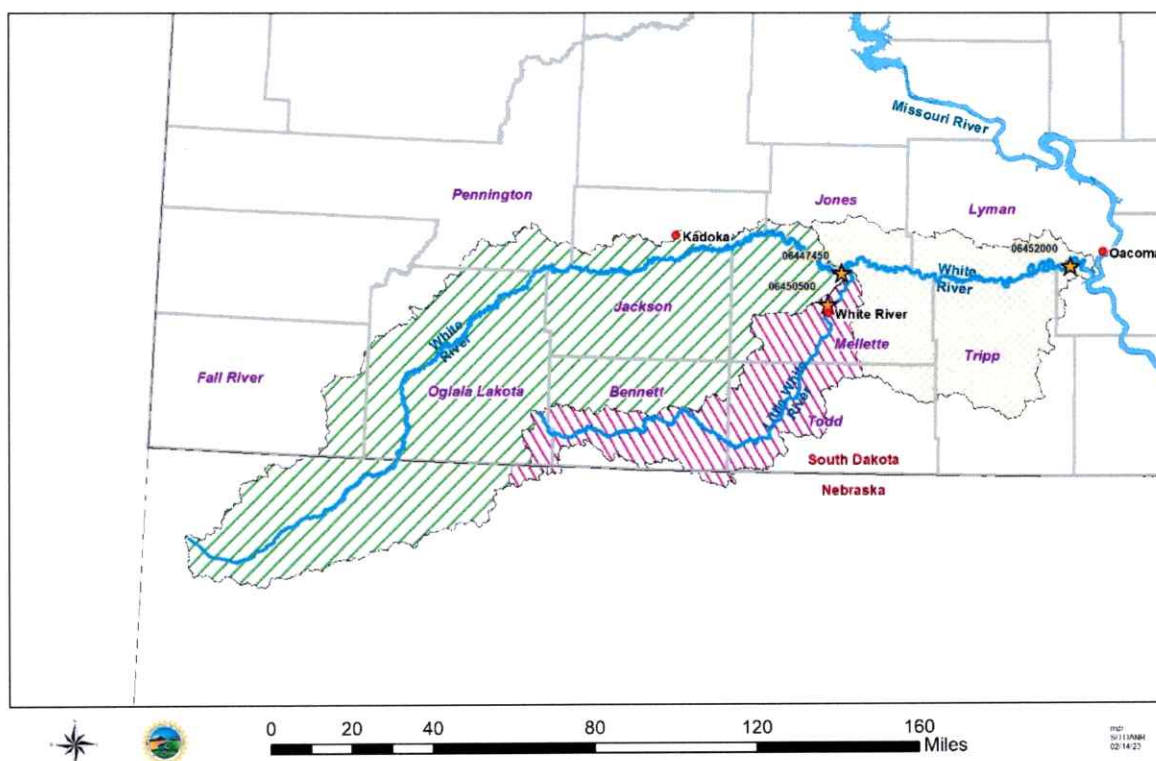


Figure 1. White River Watershed Map.

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.

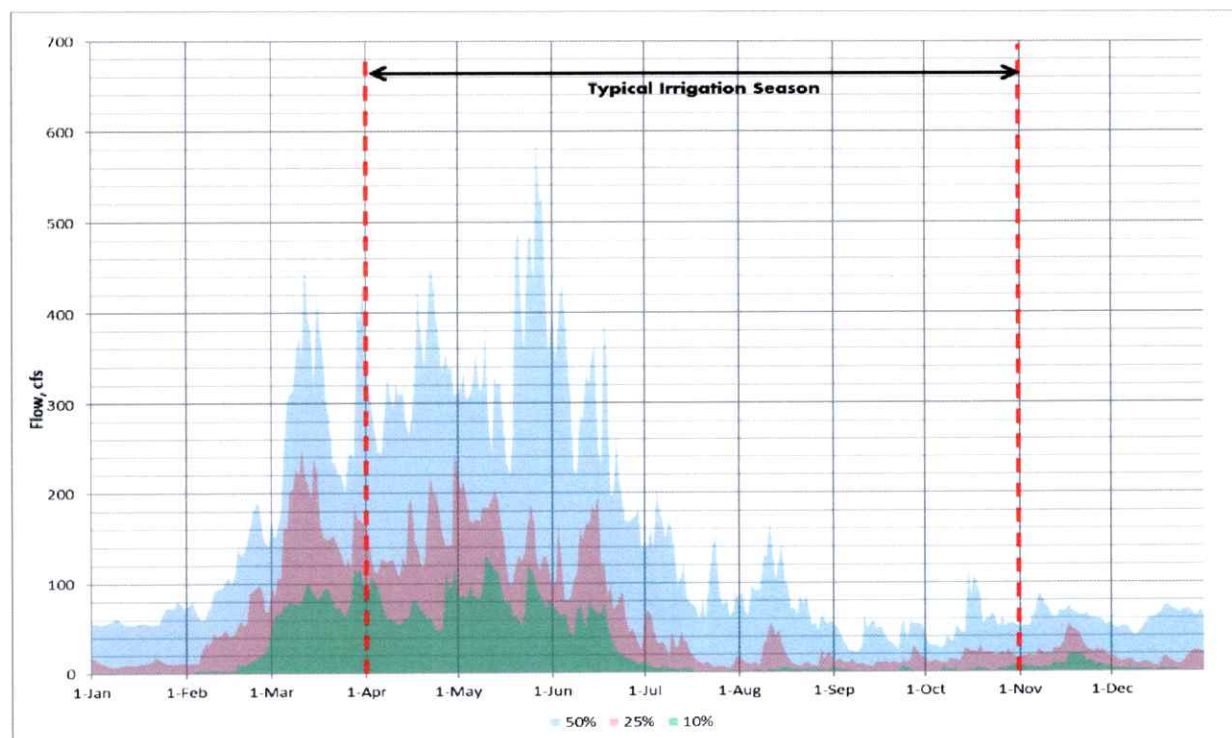


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

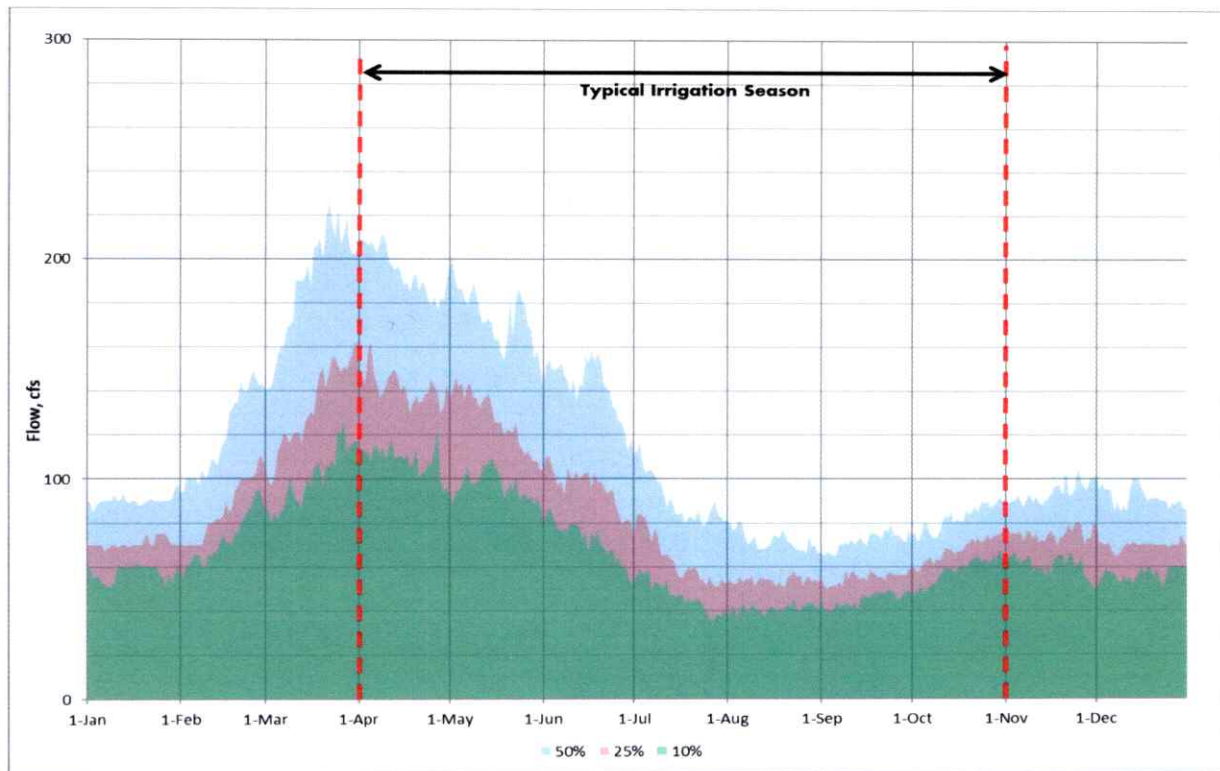


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

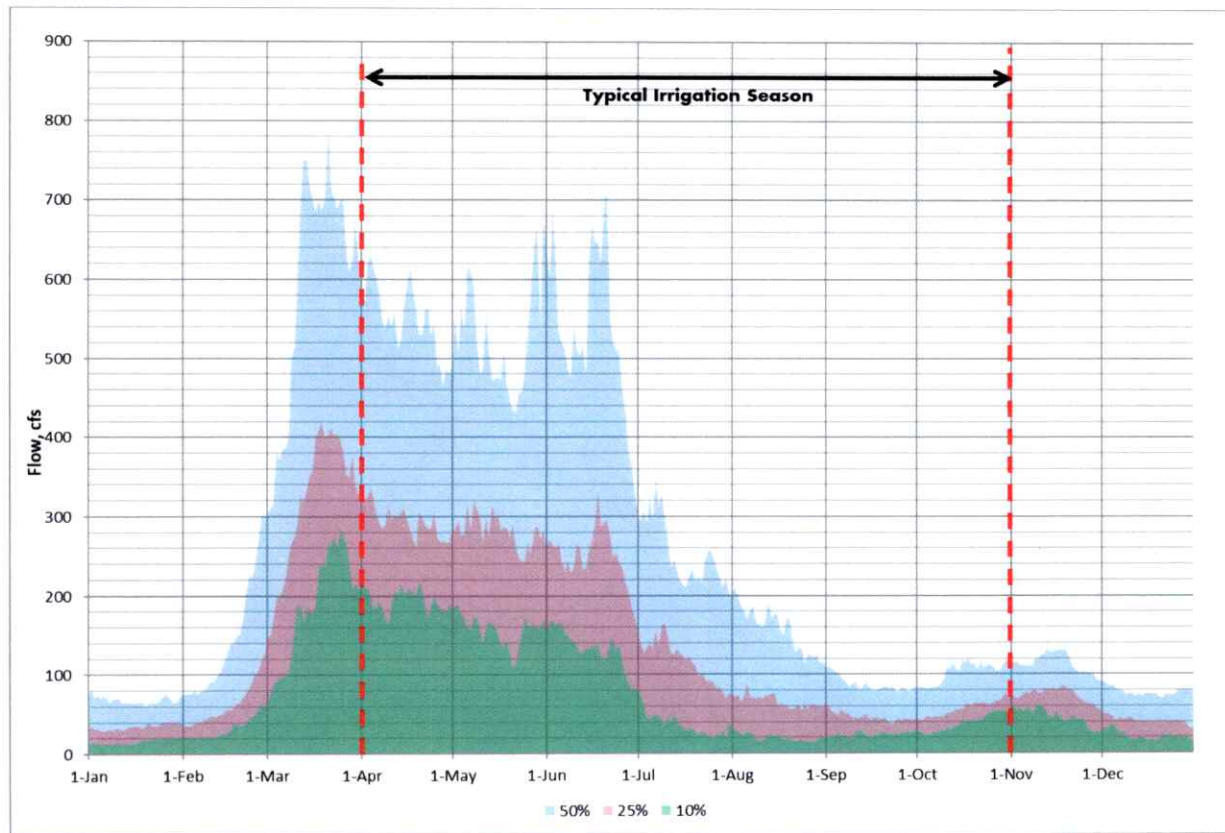


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

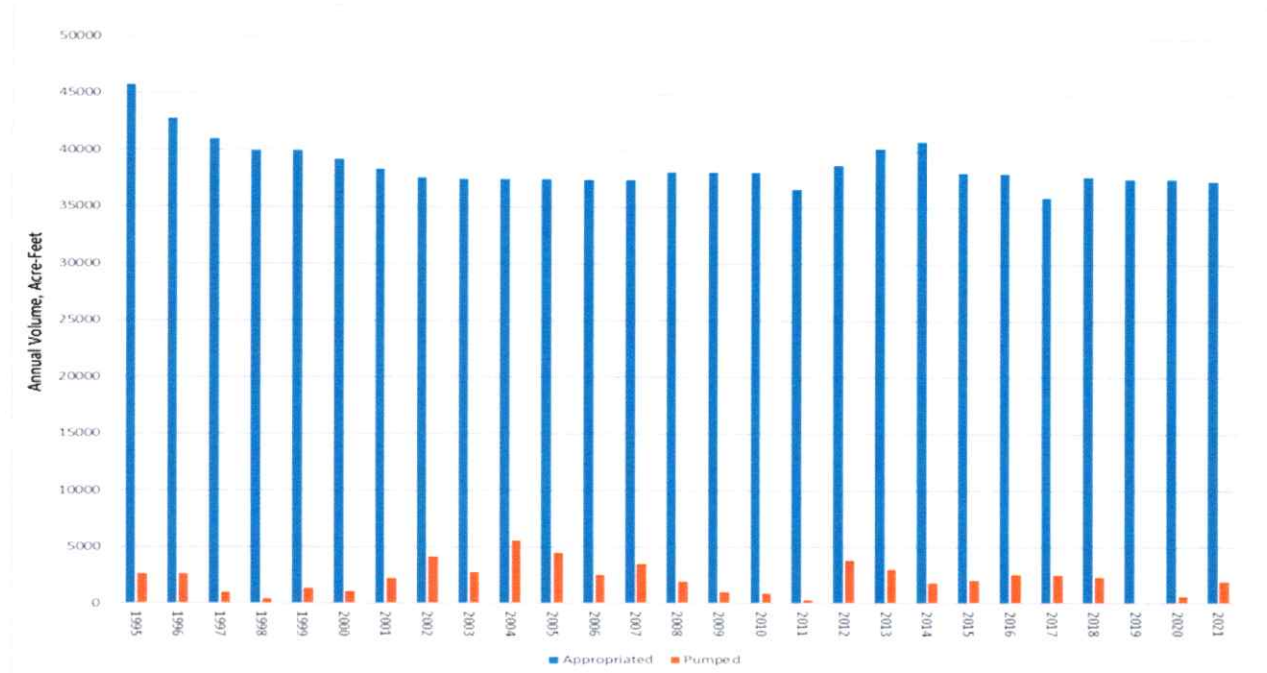


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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

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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