

WATER PERMIT NO. 2312-4

Phone: 895-2298

Name of Applicant: Harry Perry Jr.

Post Office Address: St Rt, Box 16, Presho SD 57568

Amount of Water Claimed: 0.24 add'l Total Acres: 30 add'l & correction acres

Source of Water Supply: White River and runoff

Water to be used for: irrigation County: Tripp/Mellette

About 30 miles northwest of White River

PRIORITY Date Received: 12-1-91 Fee: \$150 Remarks: Includes 50

ac-ft storage dam, additional & correction acres and additional cfs to No. 1817-2

Corrected Application Received: _____ Period of Annual Use: Jan 1 - Dec 31

WATER QUALITY APPROVAL RECEIVED: _____ APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: storage dam - SW 1/4 SE 1/4

Sec 13-T43N-R25W; White River diversion pt -

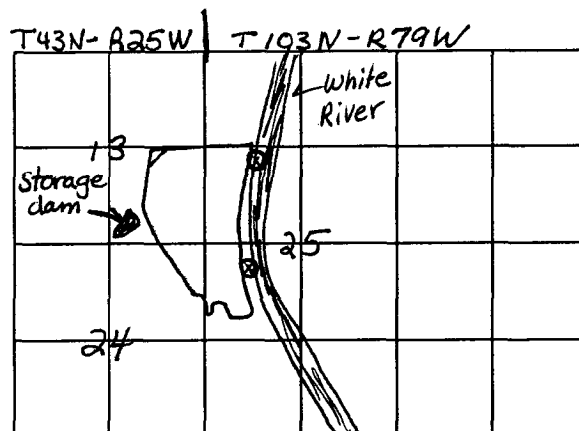
between N 1/2 NW 1/4 & NE 1/4 SW 1/4 Sec 25-

T103N-R79W

Land to be Irrigated: SE 1/4 Sec 13, NE 1/4 NE1/4

Sec 24; T43N-R25W and W 1/2 W 1/2 Sec 25;

T103N-R79W



Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: _____ REMARKS: _____

Type of Map: aerial PREPARED BY: Timothy Schaal Reviewed and the Number

Assigned on: 4-20-94 By: Karen Schlaak

(See instructions)

No. 2312-2 Hydrologic Unit 10140204
Basin White River
Newspaper Mellette Co News, Box 229, Mission

Winner Advocate, Box 71, Winner

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

- Name of Applicant Harry Perry Jr. Phone No. 895-2298
- Post Office Address Star Route, Box 16 Presho State SD 57568
(Street, R.R. or Box) (City) Zip Code
- Amount of water claimed (c.f.s) 0.24 add 1 Total acres irrigated add 1 16.20 acres
1380 correction acres
- Source of Water supply White River and Local Runoff
- Location of point of diversion Between points located 1320 ft. East & 330 ft. South of the NW corner and 1400 ft. East & 1830 ft. North of the SW corner of Sec. 25-T103N-R79W
Between points located N 1/2 NW 1/4 & NE 1/4 SW 1/4 County Tripp & Mellette
- Counties where water will be used Tripp and Mellette
- Annual period during which water is to be used January 1 thru December 31
- 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.
NW 1/4 SE 1/4 Sec. 13-T43N-R25W	20 Ac.
SW 1/4 SE 1/4 Sec. 13-T43N-R25W	10 Ac.

Land Description	No. Acres Irr.

Attach sheet if more space is needed

- Type of Irrigation: Gravity: XX Towline: _____ Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____
- Crops to be Irrigated: Corn, Alfalfa, Small Grain
- Give a description of proposed project. (Attach sheet if more space is needed)

This application is also for storage of 50 acre-feet of White River water and/or Local Runoff in a dam located 1900 ft. South & 660 ft. East of the center of Section 13-T43N-R25W (SW 1/4 SE 1/4). Stored water may be used to irrigate the above land and the land authorized under Water Permit No. 1817-2.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Hyman, ss

I, Harry Perry Jr. the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Harry Perry Jr.

Subscribed and sworn to before me this 29 day of November 19 91

Steph K. Dwyer
Notary Public



Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well: _____
- On applicants property _____ On property owned by others _____

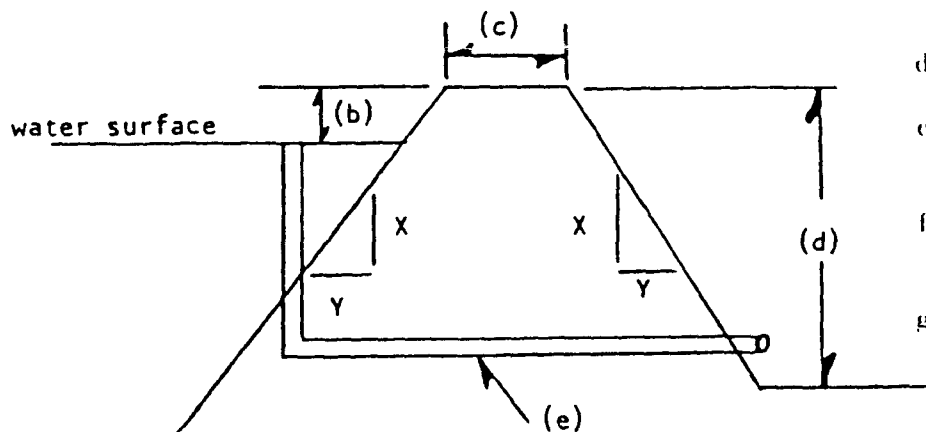
2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address _____



- b) Freeboard 8'
- c) Crest Width 12'-15'
Crest Length 400'
- d) Height 40'
- e) Primary Outlet Capacity 1585 cfs
~~If Pipe, diameter~~ 25' wide
- f) Secondary Spillway Capacity _____
Spillway width _____
- g) X & Y Slope
Upstream 2 : 1
Downstream 3 : 1

Surface Area of Impoundment 6 1/2 Ag. A.

Storage 37 50 acre feet

Drainage area above dam 1560 A

Harry Perry J
Signature of Applicant

SOUTH DAKOTA WATER PERMIT NO. 2312-2

Date of first receipt of application December 2, 1991.

Water permit processed when Soil/Water Compatibility permitting statutes were repealed.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2312-2 to Harry Perry, Jr., HCR 80, Box 16, Presho SD 57568 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2312-2 appropriates 0.24 cubic feet of water per second (cfs), irrigates 16.20 additional acres, specifies the correct location of irrigated acreage, changes the point of diversion and authorizes 50 acre-feet of runoff and White River water in an existing dam. Water Permit No. 1817-2 appropriates 3.32 cfs from the White River located in the NE 1/4 NW 1/4 Section 25-T103N-R79W to irrigate 232.80 acres located in the W 1/2 W 1/2 Section 25-T103N-R79W and the E 1/2 SE 1/4 Section 13 and the NE 1/4 NE 1/4 Section 24; all in T43N-R25W. An inspection of Permit No. 1817-2 found 3.56 cfs could be pumped from the White River directly for irrigation or to the storage dam for irrigation of 249 developed acres. Water is diverted from the White River between points located in the NE 1/4 NW 1/4 and NE 1/4 SW 1/4 Section 25-T103N-R79W. This permit adds the existing 50 acre-feet storage dam which also receives incidental surface runoff to this irrigation project. The storage dam is located in the SW 1/4 SE 1/4 Section 13-T43N-R25W. The acreage correction and additional acres are located in the W 1/2 SE 1/4 Section 13-T43N-R25W. Water Permit No. 1817-2 and this permit, combined, may not exceed 1 cfs for each 70 acres irrigated.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: January 1 - December 31.
3. The date from which applicant may claim right is March 11, 1994 (based on repeal of Soil Water Compatibility permitting statutes).
4. The date of approval of Permit No. 2312-2 is July 11, 1994.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. This permit authorizes diversion of water from the White River for irrigation 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. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Approval of Water Permit No. 2312-2 authorizes storage of up to 50 acre-feet of water annually.

(continued)

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

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

NOV 14 1994
date

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412941

Pierre, December 2, 1991

RECEIVED OF Harry Perry Jr., Presho SD 57568

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

Fee for Application for Permit No. <u>2312-2</u> to Appropriate Water, to construct works and to put water to beneficial use	150	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	150 00

By [Signature]
Chief/Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 24, 1991

Harry Perry, Jr.
Star Route, Box 16
Presho, SD 57568

Dear Mr. Perry:

Enclosed is a partially completed application form that needs to be filed to correct your Water Permit No. 1817-2. This application will do the following:

1. Include the additional land (30 acres) in the W 1/2 SE 1/4 of Sec. 13-T43N-R25W.
2. Include storage in your dam located in the SW 1/4 SE 1/4 of Sec. 13-T43N-R25W (you will need to determine the amount of acre-feet of storage).
3. Include the additional diversion point/points from the White River.

You will need to complete Form 2A and indicate the size and amount of storage in your dam.

The forms need to be signed and notarized and returned to us, along with the \$150.00 filing fee.

If you have further questions, please feel free to contact me.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer
Water Rights Division
(605) 773-3352

enclosures

Conversation or File Documentation

NAME OF PERSON OR FILE: Harry Perry Jr.ADDRESS: Star Route Box 16 Presho, SD COUNTY Tripp & MalletteDATE: December 10, 1991 TELEPHONE 895-2298

RE: _____

COMMENTS:

I talked to Harry Perry today about his application for 30 Add'l acres and his storage dam. Told him we needed more information for his dam on Form 2A. He said he is in the process of working ^(adding to) on his dam and the storage capacity should be 50 Ac-Ft. Also, the dam will be 40 ft. high with a crest width of 12-15 ft. and crest length of 400 ft. and a 25 ft. wide spillway with 8 ft of freeboard.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Tim Schaal

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Harry Perry Jr.

ADDRESS: St Rt, Box 16, Presho SD COUNTY: Tripp and Mellette

DATE: 4-20-94 TELEPHONE:

RE: S/W Compatibility Permit

COMMENTS:

We are proceeding with this application based on the repeal of the Soil/Water Compatibility Permit statutes by the 1994 Legislature.


Karen Schlaak
Environmental Scientist

Water Permit Application # 2312-2

Dam Height - 40 ft.
 25' wide Spway w/ 8 ft. Freeboard
 Drainage Area = 2.4 mi.²
 Surface Area = 6 Ac

Narrow Steep Drainage $\therefore$ Use 0.3

Normal Capacity - $30 \times 6 \times 0.3 = 50 \text{ Ac-Ft}$

Maximum Capacity - $40 \times 8 \times 0.3 = 100 \text{ Ac-Ft}$

$$\begin{aligned} \text{Spillway Capacity } Q &= C L H^{3/4} \\ &= 2.8 (25) 8^{1.5} \\ &= \underline{1585 \text{ cfs}} \end{aligned} \quad \begin{aligned} C &= 2.8 \\ L &= 25' \\ H &= 8 \end{aligned}$$

From USGS "Techniques for Est. Flood Peaks ... SD"

DA = 2.4
 Slope = 100'/mi.
 S_i = 2.05

$$\begin{aligned} Q_{25} &= 83.4 A^{0.60} S^{0.44} S_i^{-0.72} \\ &= 83.4 (2.4)^{0.60} (100)^{0.44} (2.05)^{-0.72} \\ &= 83.4 (1.44) (7.59) (0.60) \\ &= \underline{545 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} Q_{100} &= 106 A^{0.63} S^{0.45} S_i^{-0.69} \\ &= 106 (2.4)^{0.63} (100)^{0.44} (2.05)^{-0.69} \\ &= 106 (1.74) (7.59) (0.61) \\ &= \underline{855 \text{ cfs}} \end{aligned}$$

Perry Dam Cont. 3 - Small Size Dam

Built Before Oct. 1986 $\therefore$ Exempt from 74:02:08

REPORT ON
WATER PERMIT APPLICATION No. 2312-2
HARRY PERRY, Jr.
May 31, 1994

Water Permit Application No. 2312-2 has been filed by Harry Perry Jr. to appropriate 0.24 cfs of water to irrigate an additional 16.2 acres, specify the correct location of irrigated acreage authorized under Water Permit No. 1817-2, change the diversion point, and add a 50 acre-foot storage dam.

Water Permit No. 1817-2 appropriates 3.32 cfs from the White River in the NE 1/4 NW 1/4 of Section 25-T103N-R79W to irrigate 232.80 acres in the W 1/2 W 1/2 of Section 25-T103N-R79W in Tripp County and the E 1/2 SE 1/4 of Section 13-T43N-R25W and the NE 1/4 NE 1/4 of Section 24-T43N-R25W in Mellette County.

An inspection of Water Permit No. 1817-2 found that 3.56 cfs could be pumped from the White River to irrigate 249 acres located in the W 1/2 W 1/2 of Section 25-T103N-R79W in Tripp County and the SE 1/4 of Section 13-T43N-R25W and the NE 1/4 NE 1/4 of Section 24-T43N-R25W in Mellette County. Water was diverted from the White River between points located in the NE 1/4 NW 1/4 and the NE 1/4 SW 1/4 of Section 25-T103N-R79W. Water from the White River was also pumped into a 50 acre-foot storage dam to irrigate the 249 acres.

Water Permit Application No. 2312-2 adds the existing storage dam, located in the SW 1/4 SE 1/4 of Section 13-T43N-R25W, to this irrigation project and changes the diversion point authorized by Water Permit No. 1817-2. The acreage correction and additional irrigated acres are located in the W 1/2 SE 1/4 Section 13-T43N-R25W.

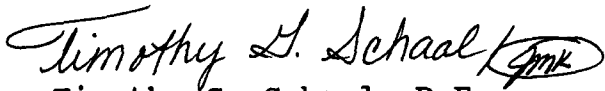
The Perry Dam will be classified as a small size Category 3, Low Hazard Dam with an embankment height of 40 feet and a normal storage capacity of 50 acre-feet and a maximum storage capacity of 100 acre-feet. Since it was constructed prior to October 1986, it is exempt from the requirements of the Safety of Dams Rules, Chapter 74:02:08. However, a dam of this size and category would be required to have the spillway capacity capable of passing a 25 year frequency event. The Perry dam has a drainage area of approximately 2.4 square miles which produces peak discharges of 545 cfs from a 25 year event and 855 cfs from a 100 year event. The Perry Dam has a 25 foot wide earthcut spillway with 8 feet of freeboard, which is capable of passing approximately 1585 cfs.

There are 19 existing Water Permits/Rights from the White River located downstream of this project in Tripp and Lyman County. These existing Water Permits/Rights are located between the Harry Perry project and the confluence of the White River with the Missouri River, approximately 55 miles downstream. The 19 existing Permits/Rights appropriate 43.5 cfs to irrigate 3037 acres. A USGS gaging station located near the mouth of the White River has an median annual mean discharge of 440 cfs for the period of record since 1928.

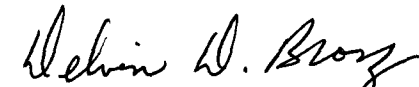
Approval of Water Permit Application No. 2312-2 for an additional 0.24 cfs should have little effect on existing Water Permits/Rights.

Conclusions:

1. Water Permit Application No. 2312-2 should be approved since unappropriated water is available and approval should have little effect to existing Water Permits/Rights.
2. If approved, the low flow bypass requirement should be a qualification on Water Permit No. 2312-2.


Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by:


Delvin D. Brosz, P.E.
Natural Resources Engineer IV

References:

Water Rights, 1994, Water Rights Files, SD DENR, Division of Water Rights, Joe Foss Bldg., Pierre SD 57501.

USGS, 1993, Water Resources Data Report SD-92-1, U.S. Geological Survey, 1608 Mt. View Road, Rapid City SD 57702.

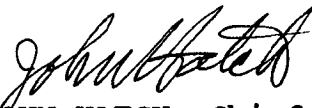
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2312-2, Harry Perry, Jr.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 2312-2, Harry Perry, Jr., St Rt 16, Presho, SD 57568.

The Chief Engineer is recommending APPROVAL of Application No. 2312-2 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:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. This Permit authorizes the diversion of water from the White River for irrigation 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. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Approval of Water Permit No. 2312-2 authorizes storage of up to 50 acre-feet of water annually.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


JOHN HATCH, Chief Engineer
June 13, 1994



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

June 16, 1994

Harry Perry, Jr.
St Rt Box 16
Presho, SD 57568

Dear Mr. Perry:

Water Permit Application No. 2312-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publishers of the Mellette Co. News printed at Mission, SD (Ph # 605-856-4469) and the Winner Advocate printed at Winner, SD (Ph # 605-842-1481). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspapers have been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

This application was submitted on December 1, 1991. The application was on hold pending issuance of the Soil-Water Compatibility Permit through the Department of Agriculture. The Soil-Water Compatibility statutes have since been repealed by the 1994 Legislature and the water permit is now being processed.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 16, 1994

Mellette Co. News
Box 229
Mission, SD 57555-0229

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2312-2 to be published twice. Please publish the first notice on June 22, 1994, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Harry Perry Jr., St Rt Box 16, Presho, SD 57568 (Ph # 605-895-2298).

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

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

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

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 16, 1994

Winner Advocate
Box 71
Winner, SD 57580-0071

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2312-2 to be published twice. Please publish the first notice on June 22, 1994, with the second publication 7 days later.

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Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on June 22, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2312-2 to Appropriate Water
and Amend Water Permit No. 1817-2

Notice is given that Harry Perry Jr., St Rt Box 16, Presho, SD 57568 has filed an application for a water permit to appropriate 0.24 cubic feet of water per second (cfs) to irrigate 16.20 additional acres, specify the correct location of irrigated acreage, to change the point of diversion, and for storage of 50 acre-feet of runoff and White River water in an existing dam. Water Permit No. 1817-2 appropriates 3.32 cfs from the White River located in the NE 1/4 NW 1/4 Section 25-T103N-R79W to irrigate 232.80 acres located in the W 1/2 W 1/2 Section 25-T103N-R79W and the E 1/2 SE 1/4 Section 13 and NE 1/4 NE 1/4 Section 24; all in T43N-R25W. An inspection of Permit No. 1817-2 found 3.56 cfs could be pumped from the White River directly for irrigation, or to the storage dam for irrigation of 249 developed acres. Water is diverted from the White River between points located in the NE 1/4 NW 1/4 and NE 1/4 SW 1/4 Section 25-T103N-R79W. This application is to add the existing 50 acre-foot storage dam, which also receives incidental surface runoff, to this irrigation project. The storage dam is located in the SW 1/4 SE 1/4 Section 13-T43N-R25W. The acreage correction and additional acres are located in the W 1/2 SE 1/4 Section 13-T43N-R25W. Water Permit No. 1817-2 and this application, combined, may not exceed 1 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2312-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 11, 1994.

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



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Tripp) ss

I, Carol Bick

certify that the attached printed Notice was
taken from the Advocate

printed and published in Winger

County of Tripp and State of

South Dakota. The notice was published in
the newspaper on the following two dates:

June 22, 1994

June 29, 1994

Cost of Printing: \$46.14

Carol Bick
(Signature)

Office Manager
(Title)

July 1, 1994
(Date Signed)

Notice of application no. 2312-2 to appropriate water and amend water permit no. 1817-2

Notice is given that Harry Perry Jr., St Rt Box 16, Presho, SD 57568 has filed an application for a water permit to appropriate 0.24 cubic feet of water per second (cfs) to irrigate 16.20 additional acres, specify the correct location of irrigated acreage, to change the point of diversion, and for storage of 50 acre-feet of runoff and White River water in an existing dam. Water Permit No. 1817-2 appropriates 3.32 cfs from the White River located in the NE 1/4 NW 1/4 Section 25-T103N-R79W to irrigate 232.80 acres located in the W 1/2 W 1/2 Section 25-T103N-R79W and the E 1/2 SE 1/4 Section 13 and NE 1/4 NE 1/4 Section 24; all in T43N-R25W. An inspection of Permit No. 1817-2 found 3.56 cfs could be pumped from the White River directly for irrigation, or to the storage dam for irrigation of 249 developed acres. Water is diverted from the White River between points located in the NE 1/4 NW 1/4 and NE 1/4 SW 1/4 Section 25-T103N-R79W. This application is to add the existing 50 acre-foot storage dam, which also receives incidental surface runoff, to this irrigation project. The storage dam is located in the SW 1/4 SE 1/4 Section 13-T43N-R25W. The acreage correction and additional acres are located in the W 1/2 SE 1/4 Section 13-T43N-R25W. Water Permit No. 1817-2 and this application, combined, may not exceed 1 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2312-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 11, 1994.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources (25-26 3424)

my Commission expires August 21, 1999

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Mellette) ss

I, Susan Brown

certify that the attached printed Notice was

taken from the Mellette County

NEWS

printed and published in Mission

County of Todd and State of

South Dakota. The notice was published in
 the newspaper on the following two dates:

June 22, 1994

June 29, 1994

Cost of Printing: \$51.34

Susan A Brown
 (Signature)

Bookkeeper
 (Title)

6/29/94
 (Date Signed)

NOTICE OF APPLICATION

NO. 2312-2 TO APPROPRIATE WATER AND AMEND WATER
 PERMIT NO. 1817-2

Notice is given that Harry Perry Jr., St Rt Box 16, Presho, SD 57568 has filed an application for a water permit to appropriate 0.24 cubic feet of water per second (cfs) to irrigate 16.20 additional acres, specify the correct location or irrigated acreage, to change the point of diversion, and for storage of 50 acre-feet of runoff and White River water in an existing dam. Water Permit No. 1817-2 appropriates 3.32 cfs from the White River located in the NE 1/4 NW 1/4 Section 25-T103N-R79W to irrigate 232.80 acres located in the W 1/2 W 1/2 Section 25-T103N-R79W and the E 1/2 SE 1/4 Section 13 and NE 1/4 NE 1/4 Section 24; all in T43N-R25W. An inspection of Permit No. 1817-2 found 3.56 cfs could be pumped from the White River directly for irrigation, or to the storage dam for irrigation of 249 developed acres. Water is diverted from the White River between points located in the NE 1/4 NW 1/4 and NE 1/4 SW 1/4 Section 25-T103N-R79W. This application is to add the existing 50 acre-foot storage dam, which also receives incidental surface runoff, to this irrigation project. The storage dam is located in the SW 1/4 SE 1/4 Section 13-T43N-R25W. The acreage correction and additional acres are located in the W 1/2 SE 1/4 Section 13-T43N-R25W. Water Permit No. 1817-2 and this application, combined, may not exceed 1 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2312-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 11, 1994.

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

Publ.: June 22 and 29, 1994.





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 14 1994

Harry Perry, Jr.
HCR 80 Box 16
Presho, SD 57568

Dear Mr. Perry:

Enclosed is Water Permit No. 2312-2 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

The final inspection has been completed on this Permit, and we are ready to issue the Water License. Statutes require we charge \$50 for the inspection and issuance of the final papers. Upon receipt of this amount the Water License will be sent to you.

Very truly yours,

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

enclosures

RECEIPT

414347

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ November 29, 19 94

RECEIVED OF Gloria Perry, HC 80 Box 16, Presho, SD 57568-9712

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 renew Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2312-2</u>	60	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)		
Total	50	00

3y John Haxel
Chief Engineer

Permit No. 1817-2 & 2312-2*White River Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

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

I have this day made a thorough examination of the water use system constructed by Harry Perry Jr.
 of Star Rt. Box 16 Prasho, SD holder of
 Permit No. 1817-2, bearing the priority of May 3 19 82 authorizing
 the diversion of 3.32 cu. ft. per second of the waters of White River
 for Irrigation purposes, in Tripp & Mallette County.

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

A. Works used to divert the water:

40 Hp International Diesel Tractor and 1 of 3
Crisafulli 12 Pumps, Approx. 3000 gpm each

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

Approx. 5000 ft. 10 & 12 inch Aluminum Pipe

C. Works used to apply water to beneficial use:

10 & 12 inch Gated Pipe

The system is in the following condition Good

The point of diversion is located Between points located 1320 ft. East & 330 ft. South of
the NW corner and 1400 ft. East & 1830 ft. North of the SW corner
(dam - 1400'S & 660'E of the center of Section 13, T43N, R25W)

The works are capable of diverting and conveying to the place of use 6.67 (3000 gpm) Sec. 25-T103N-R79W

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

Water has been put to beneficial use to the maximum extent as follows:

<u>Sec. 25-T103N-R79W</u>	<u>Sec. 13-T43N-R25W</u>	<u>Sec. 24-T43N-R25W</u>
<u>NW 1/4 NW 1/4 - 38 Ac.</u>	<u>NW 1/4 SE 1/4 - 20 Ac.</u>	<u>NE 1/4 NE 1/4 - 18 Ac.</u>
<u>SW 1/4 NW 1/4 - 34 Ac.</u>	<u>SW 1/4 SE 1/4 - 10 Ac.</u>	
<u>NW 1/4 SW 1/4 - 32 Ac.</u>	<u>NE 1/4 SE 1/4 - 40 Ac.</u>	
<u>SW 1/4 SW 1/4 - 18 Ac.</u>	<u>SE 1/4 SE 1/4 - 39 Ac.</u>	

comprising a total of 249 acres of land and the license should be issued for 3.56 cfsApplicable permit qualifications have been complied with Yes No

Exceptions to compliance are:

Date September 3, 1991

* 2312-2 added the storage dam to project
 and changed diversion point location

(signature)

Dm

LICENSE FOR PERMIT NUMBER 1817-2

Diversion Pt.

1. Legal location of wells: Between points located 1320 ft. East & 330 ft. South of the NW corner and 1400 ft. East & 1830 ft. North of the

dams & structures: SW corner Sec. 25-T103N-R79W

dam located: 1900'S and 660'E of the center of Section 13, T43N, R25W (SW 1/4 SE 1/4)

2. Well Information: Well Drilling Firm _____

Completion Report Yes ___ No ___ No. of Wells _____ Depth _____

Casing a) diameter _____ Screen a) type _____

b) length _____ b) length _____

c) type _____ Static Water Level _____

Pump a) make Crisafulli Pump Motor a) make International Diesel

b) model CP 12 - Low Head b) model No. 460

c) size 12 inch Serial No. 3286 c) horsepower rating 40 Hp

d) capacity ≈ 3000 gpm

e) turbine pump - no. of stages _____

f) operating PSI _____

And: Crisafulli Pump
CP 12 - Low Head
12 inch - Serial No. 3272
≈ 3000 gpm

3. Distribution lines or canals

a) size 10" & 12"

b) type Aluminum

c) length ≈ 5000 ft

Crisafulli Pump
12 LHH - High Head
12 inch - Serial No. 7721
≈ 3000 gpm

4. Dam Information:

a) height to crest 40'

b) height to primary spillway 32'

c) height to secondary spillway _____

d) crest width 15'

e) crest length 400'

f) spillway length _____

g) spillway width 25'

h) approx. storage 50'

i) approx. storage to crest 100'

j) date constructed _____

k) inspection sheet completed (Y/N) _____

l) Name of Contractor _____

m) Outlet tubes:

1) diameter _____

2) type _____

3) valved (Y/N) _____

4) valve type _____

5) location on structure _____

n) Category of Dam 3

5. System Type a) sideroll:

- 1) length _____ feet
- 2) diameter of pipe _____
- 3) make, model & number of
sprinklers _____
- 4) spacing of sprinklers _____
- 5) nozzle size _____

c) gun

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____
- 4) hose size _____
- 5) hose length _____

e) gated pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

f) portable boom

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____

b) towline:

- 1) length _____ feet
- 2) make, model & number of
sprinklers _____
- 3) spacing of sprinklers _____
- 4) nozzle size _____

d) center pivot

- 1) make _____
- 2) number of towers _____
- 3) distance between towers _____
- 4) overall length _____
- 5) end gun (Y/N) _____
- 6) high or low pressure _____
- 7) make & size of nozzles _____
- 8) capacity (GPM) _____

g) siphons

- 1) size _____
- 2) number _____

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

Indicate any other permit(s) which are associated with project _____

Yes No Check Items

____ X 1. Soil and water permit lands agree with lands being irrigated and lands
N. & S. All S/W listed on permit?

X ____ 2. Special qualifications to permit being abided by?

X ____ 3. All structures, wells and lands on map?

X ____ 4. Irrigation Questionnaires checked to determine if permit owner started
irrigation by end of construction period?

____ X 5. Is chemigation used?

____ NA 6. If yes, does equipment comply with chemigation rules?

REMARKS:



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2312-2

(1) Harry Perry Jr. of HCR 80, Box 16, Presho SD 57568 made Application No. 2312-2, December 2, 1991 for a water permit to appropriate 0.24 cubic feet of water per second and store 50 acre-feet of water annually from the White River and local runoff, Tripp and Mellette Counties, South Dakota for irrigation purposes. Permit No. 2312-2, with a priority date of March 11, 1994 was approved July 11, 1994 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

Water Permit No. 2312-2 authorized diversion of an additional 0.24 cfs, irrigates 16.20 additional acres, specified the correct location of irrigated acreage, changed the point of diversion locations and authorized a 50 acre-feet of storage dam that was developed but not permitted under Water Permit No. 1817-2. The applicable portions of Permit No. 1817-2 have been incorporated into this Water License No. 2312-2.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to store 50 acre-feet of water annually and divert 3.56 cubic feet of water per second for beneficial use. The location of the diversion points are between points located 1320 feet east and 330 feet south of the northwest corner and 1400 feet east and 1830 feet north of the southwest corner (between the NE 1/4 NW 1/4 and NE 1/4 SW 1/4) Section 25-T103N-R79W. The 50 acre-feet storage dam is located 1900 feet south and 660 feet east of the center (SW 1/4 SE 1/4) Section 13-T43N-R25W.

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

Section 25-T103N-R79W	NW 1/4 NE 1/4	38 acres
	SW 1/4 NW 1/4	34 acres
	NW 1/4 SW 1/4	32 acres
	SW 1/4 SW 1/4	18 acres
Section 13-T43N-R25W	NW 1/4 SE 1/4	20 acres
	SW 1/4 SE 1/4	10 acres
	NE 1/4 SE 1/4	40 acres
	SE 1/4 SE 1/4	39 acres
Section 24-T43N-R25W	NE 1/4 NE 1/4	18 acres
Total		249 acres

16.20 acres located in the W 1/2 SE 1/4 Section 13-T43N-R25W and the 50 acre-feet storage dam have a priority date of March 11, 1994. The remaining acreage has a priority date of May 3, 1982.

(continued)

(4) Pursuant to South Dakota Water Law 46-5-30.1 Harry Perry Jr. of HCR 80, Box 16, Presho SD 57568 the holder and/or owner of Incorporated Water Permit No. 2312-2 is issued a license to appropriate water, the right to store 50 acre-feet of water annually (in a storage dam) and divert 3.56 cubic feet of water per second from the White River and local runoff with priority dates of May 3, 1982 (3.32 cfs) and March 11, 1994 (0.24 cfs) from the location specified in (2) of this license. The water is conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Incorporated Water Permit No. 2312-2 and subject to South Dakota State Law.



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

SEP 6 1995

date

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.



January 22, 1999

2312-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: DOUGLAS J PERRY, BOX 52, VIVIAN, SD 57576

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

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaires

Our records indicate that the 1998 Irrigation Questionnaires have not been submitted for Permit Nos. 2312-2, 825-2. The request for the Questionnaires was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held at 9:45 am, March 3, 1999 in 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office on/or before March 1, 1999, 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 (605) 773-3352.

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

DOUGLAS J PERRY
BOX 52
VIVIAN SD 57576

4a. Article Number

P 378 080 743

4b. Service Type

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

7. Date of Delivery

1-23-99

5. Received By: (Print Name)

LINDA PERRY

6. Signature: (Addressee or Agent)

Linda Perry

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

PS Form 3811, December 1994

102595-98-B-0229

Domestic Return Receipt

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 1999

825-2
2312-2

Douglas J Perry
Box 52
Vivian, SD 57576

Dear Mr. Perry:

I am writing to acknowledge receipt of your 1998 irrigation questionnaires. You may disregard the January 22, 1999, "Notice" concerning reporting requirements for Water Permit No. 825-2 and 2312-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 6 1995

2312-2

Harry Perry, Jr.
HCR 80, Box 16
Presho, SD 57568

Dear Mr. Perry:

Enclosed is Water License No. 2312-2 and Receipt No. 414347 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 2312-2 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

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

rd
enclosures

NOTE: The applicable portions of Permit No. 1817-2 have been incorporated into this Water License No. 2312-2.



2312-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

TO: DOUGLAS J PERRY, BOX 52, VIVIAN, SD 57576
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaires

Our records indicate that the 2005 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office on/or before **February 24, 2006**, 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 (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.

2312-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 8, 2006

825-2
2312-2

Douglas Perry
Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing to acknowledge receipt of your 2005 irrigation questionnaires. You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Right Nos. 825-2 and 2312-2.

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



2310-2
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: DOUGLAS J PERRY, BOX 52, VIVIAN, SD 57576

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaires

Our records indicate that the 2008 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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.

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ng.

DOUGLAS J PERRY
BOX 52
VIVIAN SD 57576

Waiver of Signature ☐ YES ☐ NO

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**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 29, 2009

825-2
2312-2

Douglas Perry
Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing to acknowledge receipt of your 2008 irrigation questionnaires. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right Nos. 825-2 and 2312-2.

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



2312-2

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 15, 2016

NOTICE

TO: DOUGLAS J PERRY, BOX 52, VIVIAN, SD 57576

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 17, 2016

825-2
2312-2

Douglas J Perry
Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right Nos. 825-2 and 2312-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: 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

2312-2

October 13, 2022

2312-2

Douglas Perry
PO Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing in regard to ownership of land described in Water Right No. 2312-2, listed under Harry Perry Jr (copy enclosed).

We are in the process of getting ready to mail the 2022 irrigation questionnaires and I noticed we still have you listed as "renter". 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.

If you do not own the land and I need to be contacting someone else for the ownership change, please let me know. Thank you in advance for updating the water right.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2023

NOTICE

TO: DOUGLAS J PERRY, PO BOX 52, VIVIAN, SD 57576
FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaires

Our records indicate your 2022 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: OIKGWN**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 1, 2023

825-2
2312-2

Douglas J Perry
PO Box 542
Vivian SD 57576

Dear Mr. Perry:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right/Permit Nos. 825-2 and 2312-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

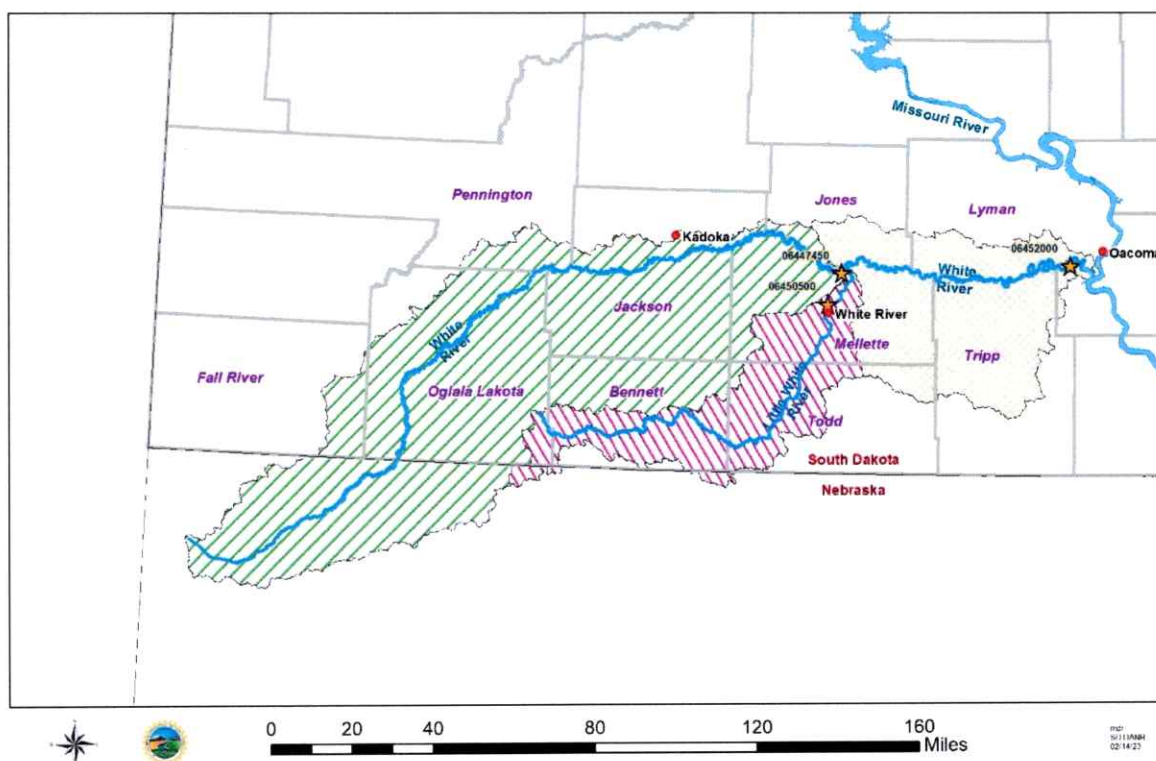


Figure 1. White River Watershed Map.

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

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

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

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

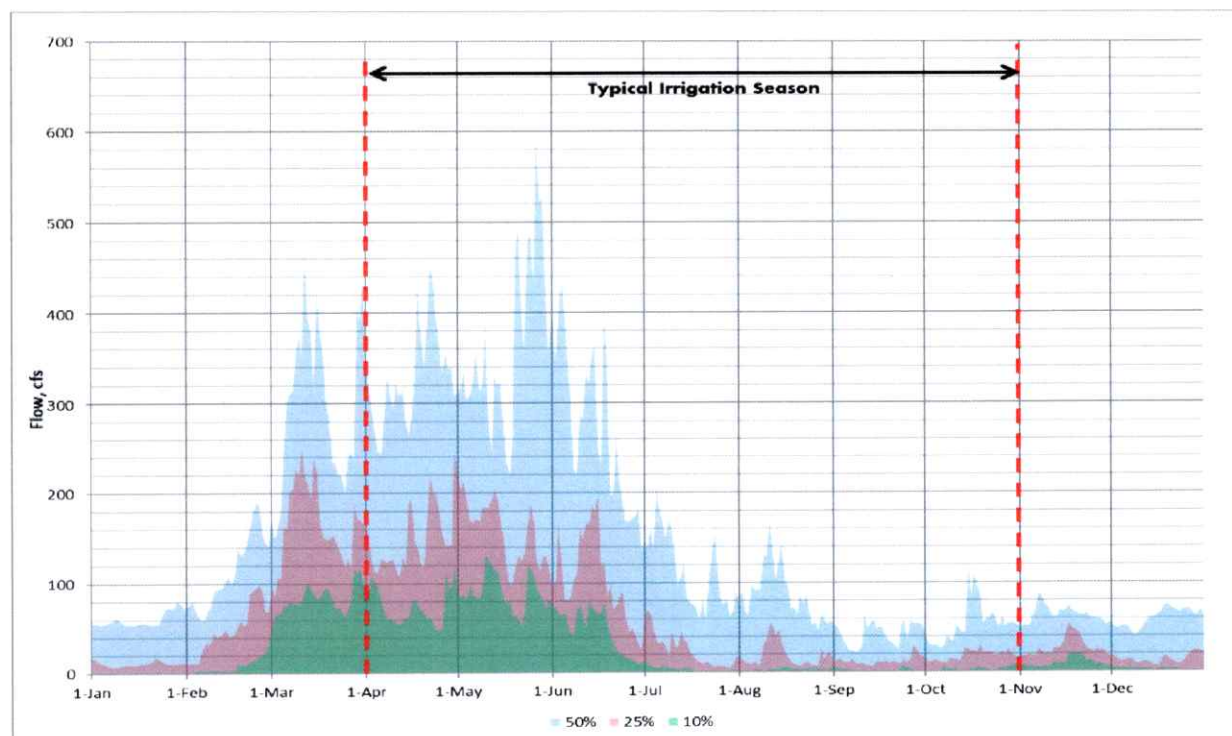


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

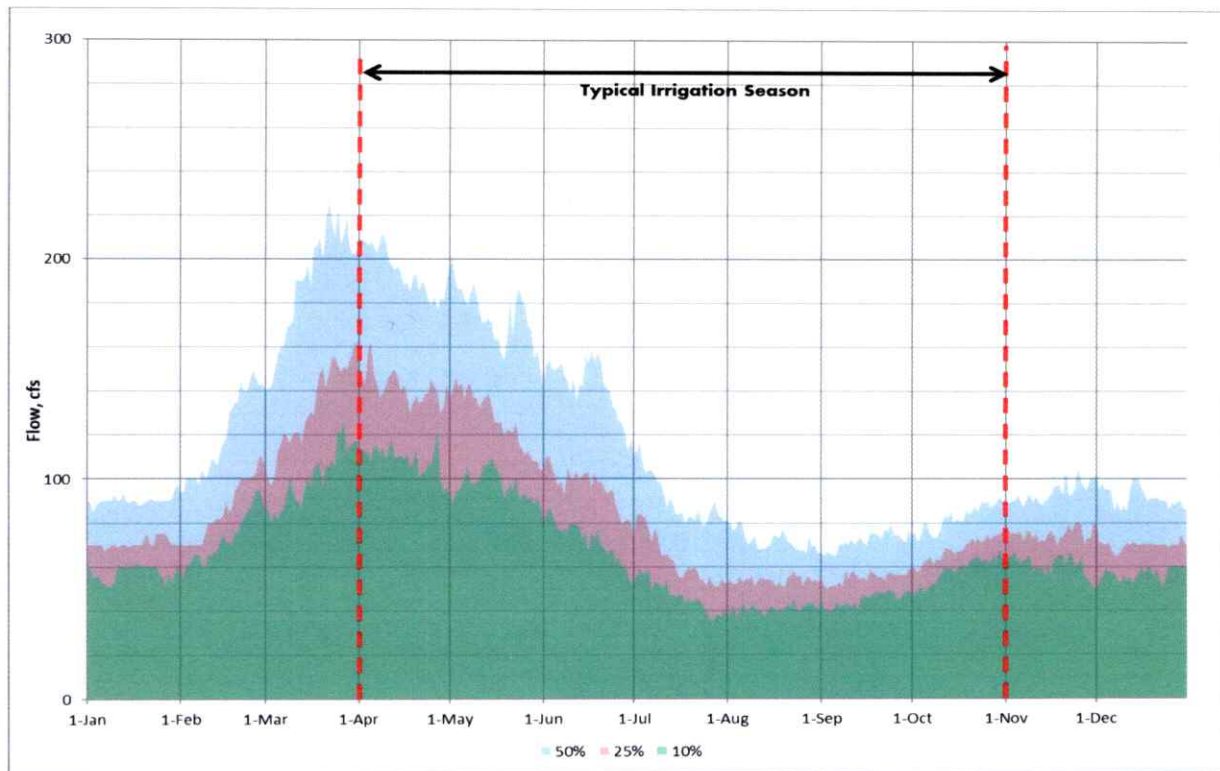


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

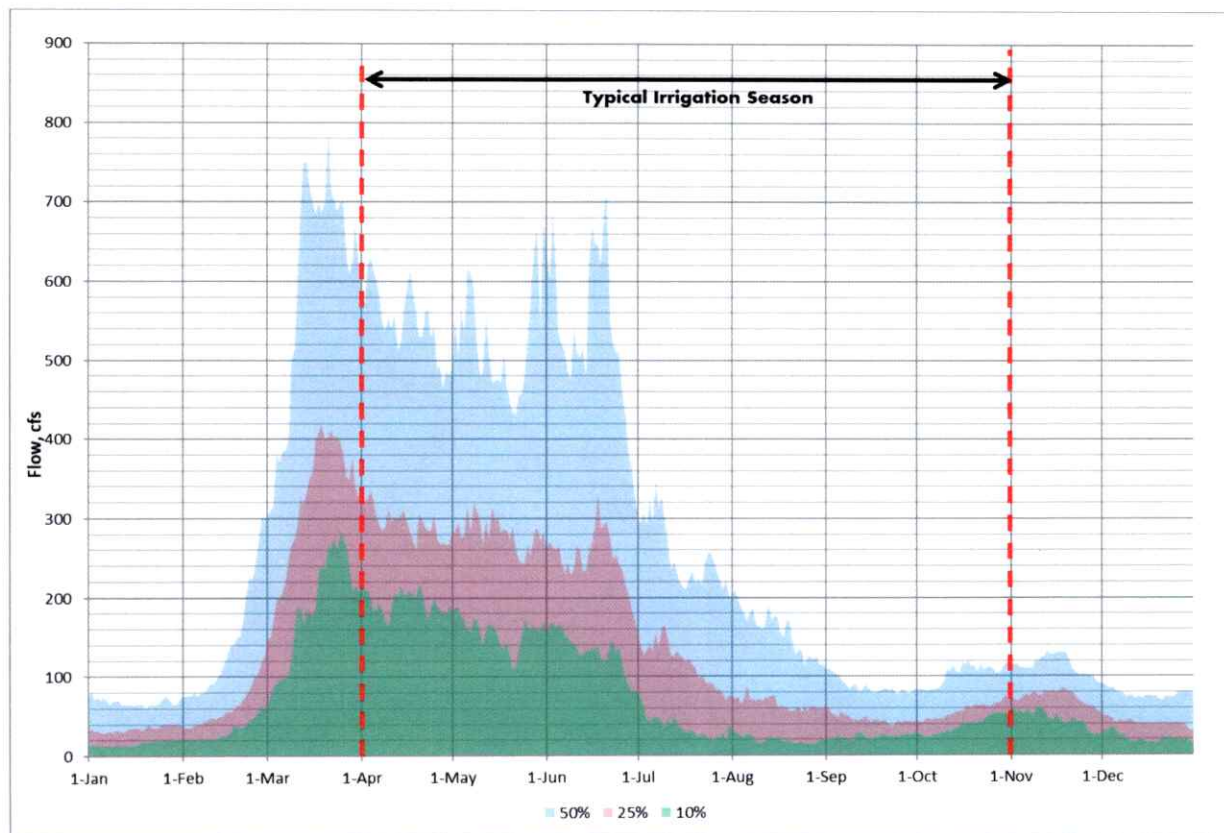


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

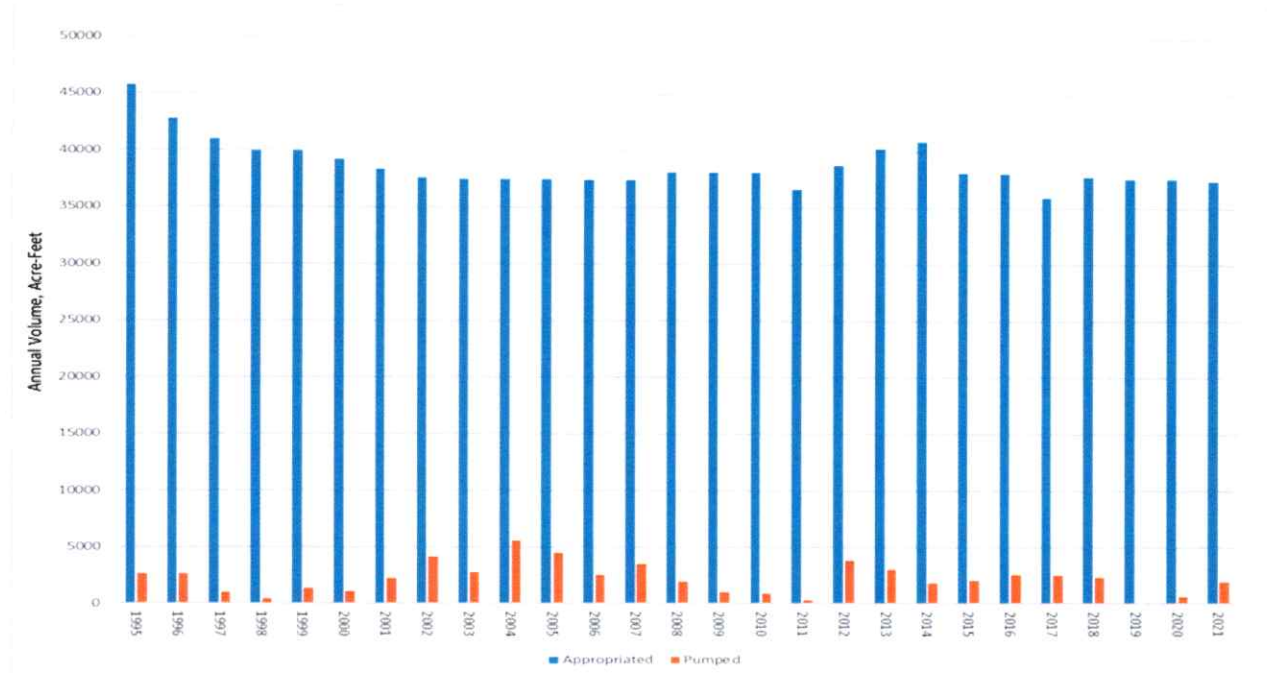


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

HARRY PERRY JR
BOX 52
VIVIAN SD 57576

Subject: Amendment of the Mandatory Shutoff Qualification on White River Water Right No. 2312-2

Dear Mr. Perry,

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

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

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

A hearing before the Water Management Board is scheduled at 9:45 AM (Central Time), Wednesday, May 3, 2023, in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Enclosed is the notice to be published on or before April 13, 2023, in one newspaper from each of the 7 counties that the White River flows through. This notice provides information on filing a petition opposing the proposed amendment or providing a comment. A petition must be postmarked by April 24, 2023, and allows you to participate in the May 3, 2023, hearing before the Board.

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

Sincerely,

Chief Engineer
Water Rights Program, DANR

Proposed Qualification Revisions

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

Amendment to the qualifications contained in Water Right No. 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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 5, 2023

HARRY PERRY JR
BOX 52
VIVIAN SD 57576

Subject: Water Management Board removes the mandatory June 1 shutoff qualification and adds a streamflow bypass qualification on White River Water Right No. 2312-2

Dear Mr. Perry,

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

Deleted Qualification:

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

Added Qualifications:

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

The amendment designates a US Geological Survey streamflow gaging station as the measuring point to determine if pumping is allowed. The gaging station has real time flow information that can be accessed on-line at <https://waterdata.usgs.gov/sd/nwis/rt>.

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

Sincerely,

Chief Engineer
Water Rights Program, DANR



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: DOUGLAS PERRY, PO BOX 52, VIVIAN, SD 57576

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LULGXX**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 16, 2024

~~825-2~~

~~2312-2~~

Douglas Perry
PO Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 825-2 & 2312-2. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 14, 2025

NOTICE

TO: DOUGLAS PERRY, PO BOX 52, VIVIAN, SD 57576

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaires

Our records indicate your 2024 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 825-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2312-2 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 2312-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 825-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: XYYLDR**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 6, 2025

2312-2
825-2

Douglas Perry
PO Box 52
Vivian SD 57576

Dear Mr. Perry:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 825-2 & 2312-2. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 27, 2025

2312-2

Douglas Perry
PO Box 52
Vivian SD 57576

Dear Mr. Perry:

I write to you today in response to the 2024 Irrigation Questionnaire information submitted for Water Right No. 2312-2.

Water Right No. 2312-2 authorizes diversion of 3.56 cubic feet of water per second (1,600 gpm) from White River for irrigation of 249 acres located in portions of Section 25, T103N-R79W, and Section 13 & 24; both in T43N-R25W.

Water Right No. 2312-2 also authorizes the impoundment of up to 50 acre-feet of water, annually, in a dam located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T43N-R25W.

On this year's report, and all previous reports dating back to 1997, the selection of "System Not Constructed" has been made. Pursuant to SDCL 46-5-37, water appropriated under a permit/right that is not placed to beneficial use for a period of three (3) or more years, is subject to cancellation for abandonment, or forfeiture, or both. However, AR 74:02:01:37.1 allows for certain legal excuses for non-use.

Please contact me to discuss whether Water Right No. 2312-2 is subject to cancellation.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
Amanda.Dewell@state.sd.us
(605) 773-3352

File No. 2312-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Doug Perry – Vivian SD

DATE: 05/20/2025

TELEPHONE: 605-280-7371

RE: “system not constructed”

COMMENTS:

Doug called after re-finding my letter dated February 27, 2025. He explained that for many years his family operated a gravity spreading system and more recently practiced flood irrigation. Unfortunately, the White River banks where the pumping station was located had eroded away and flows in their portion of the river have been constant, making bank mitigation difficult. Presently they are looking for a way to curb the increased erosion and exploring irrigation pivot options.

We came to an agreement that if sufficient progress had not been made in the way of reviving the irrigation practiced by April 2027 (2 years from now), we would cancel WR No. 2312-2 for forfeiture.

From our conversation it was apparent that the Perry family had not intentionally abandoned their irrigation practices but was rather due to constant flows in the river curtailing their efforts.



Amanda Dewell
Water Rights Program