

WATER PERMIT NO. 2349-2

Name of Applicant: Ronald Gartner

Address: HCR 35, Box 5, Interior SD 57750

Phone: 433-5338

Amount of Water Claimed: no additional

Total Acres: 12 additional acres

Source of Water Supply: White River

Water to be used for: irrigation

County: Jackson

Type of Waste Disposal System: NA

Location: about 4 miles southeast of Interior

PRIORITY

Date Received: 11-28-95

Fee: \$150.00

Corrected Application Received: 11-28-95

Period of Annual Use: March 1 - June 1

Remarks: for irrigation of 12 additional acres not authorized by Water Permit No. 1657-2

Diversion Point: between 2 points in Lot 2

Sec 24-T43N-R39W

Land to be Irrigated: E 1/2 NW 1/4, Lot 2

Sec 24 and Lot 1, 2, and 3 Sec 13 all in

T43N-R39W

Depth of Well: NA

Well Driller: NA

Remarks:

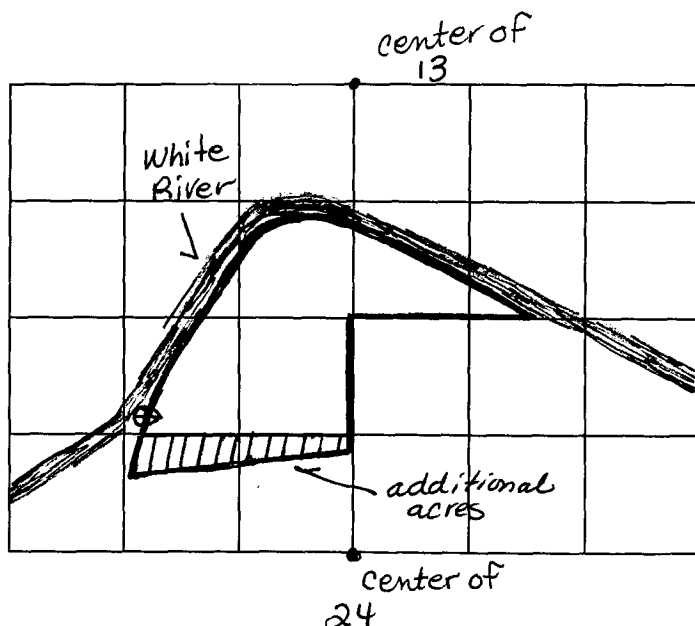
Type of Map: aerial

Prepared by: Timothy G. Schaal

Reviewed and the Number Assigned on: 11-28-95

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota
(type or print)



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>2349-2</u> Hydrologic Unit <u>10140202</u>
	Basin <u>White River</u>
	Newspaper <u>Kadoka Press, Kadoka, SD</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right X Amendment/Correction to Permit No. 1657-2
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)

For irrigation of 12 additional acres not authorized by Water Permit No. 1657-2

1. Name of Applicant Ronald Gardner ☒ Owner ☐ Tenant/Lessee Phone 433-5338
(check one)
- Mailing Address HCR 53, Box 5, Interior, SD 57750 State South Dakota
(Street, RR, or Box) (Zip Code)
2. Amount of water claimed No Add'l *CFS or **GPM ***AF Total Acreage 12 Add'l
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout if applicable)
3. Source of water supply White River
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Between two points
in Lot 2 of Sec. 24-T43N-R39W County Jackson
5. County or counties where water will be used Jackson
6. Annual period during which water is to be used March 1 to June 1
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24-T43N-39W	4		
Lot 3 " "	8		

8. Give a description of the project. (Attach sheet if more space is needed)

For irrigation of 12 additional acres not authorized by Water Permit No. 1657-2
for a total of 109 acres

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

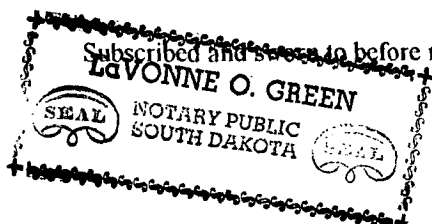
ss

County of Jackson

I, Ronald Gardner, the applicant, have read this application, examined the attached map, and certify that the matters stated are true. I intend and am able to complete the necessary construction.

Signed

Ronald Gardner



Subscribed and sworn to before me this 27 day of November 19 95

LAVONNE O. GREEN
NOTARY PUBLIC
SOUTH DAKOTA

Lavonne O. Green
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 2349-2**

Date of first receipt of application November 28, 1995.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2349-2 to Ronald Gartner, HCR 53, Box 5, Interior SD 57750 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. 2349-2 appropriates 0.16 cubic feet of water per second (cfs) from the White River to irrigate 12 additional acres. Water Permit No. 1657-2 appropriates 1.4 cfs from the White River between two points located in Lot 2 of Section 24 to irrigate 97 acres located in the NE 1/4 NW 1/4 and Lot 2 of Section 24 and Lots 1, 2, & 3 of Section 13; all in T43N-R39W. This permit uses the same diversion point as Permit No. 1657-2 and irrigates 12 additional acres located in the SE 1/4 NW 1/4 and Lot 3 of Section 24-T43N-R39W from the White River.
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: March 1 - June 1.
3. The date from which applicant may claim right is November 28, 1995.
4. The date of approval of Permit No. 2349-2 is February 20, 1996.
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 does not authorize diversion of water from the White River for irrigation after June 1 of each calendar year. After June 1, there shall be no diversion from the White River under this permit unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

APR 4 1996
date



RECEIPT

414688

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ November 28, 19 95

RECEIVED OF Ronald Gartner, HCR 53, Box 5, Interior SD 57750

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2349-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	

By John Hatch
Chief Engineer
JOHN HATCH (ks)

RECEIPT

414687

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ November 28, 19 95

RECEIVED OF Ronald Gardner, HCR 53, Box 5, Interior SD 57750

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

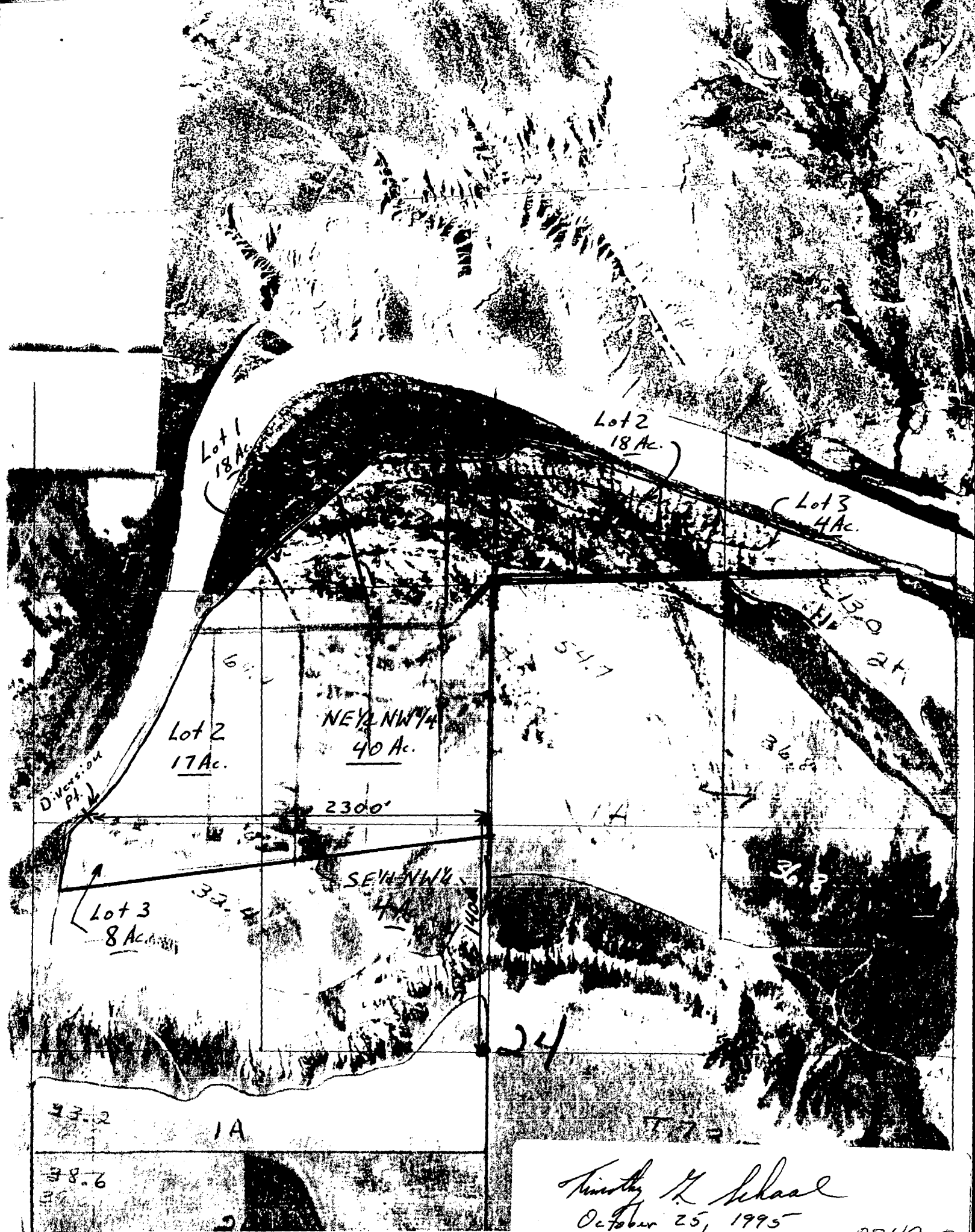
Fee for Application for Permit No. <u>2349-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	150.00

By

John Hatch
Chief Engineer

JOHN HATCH ks



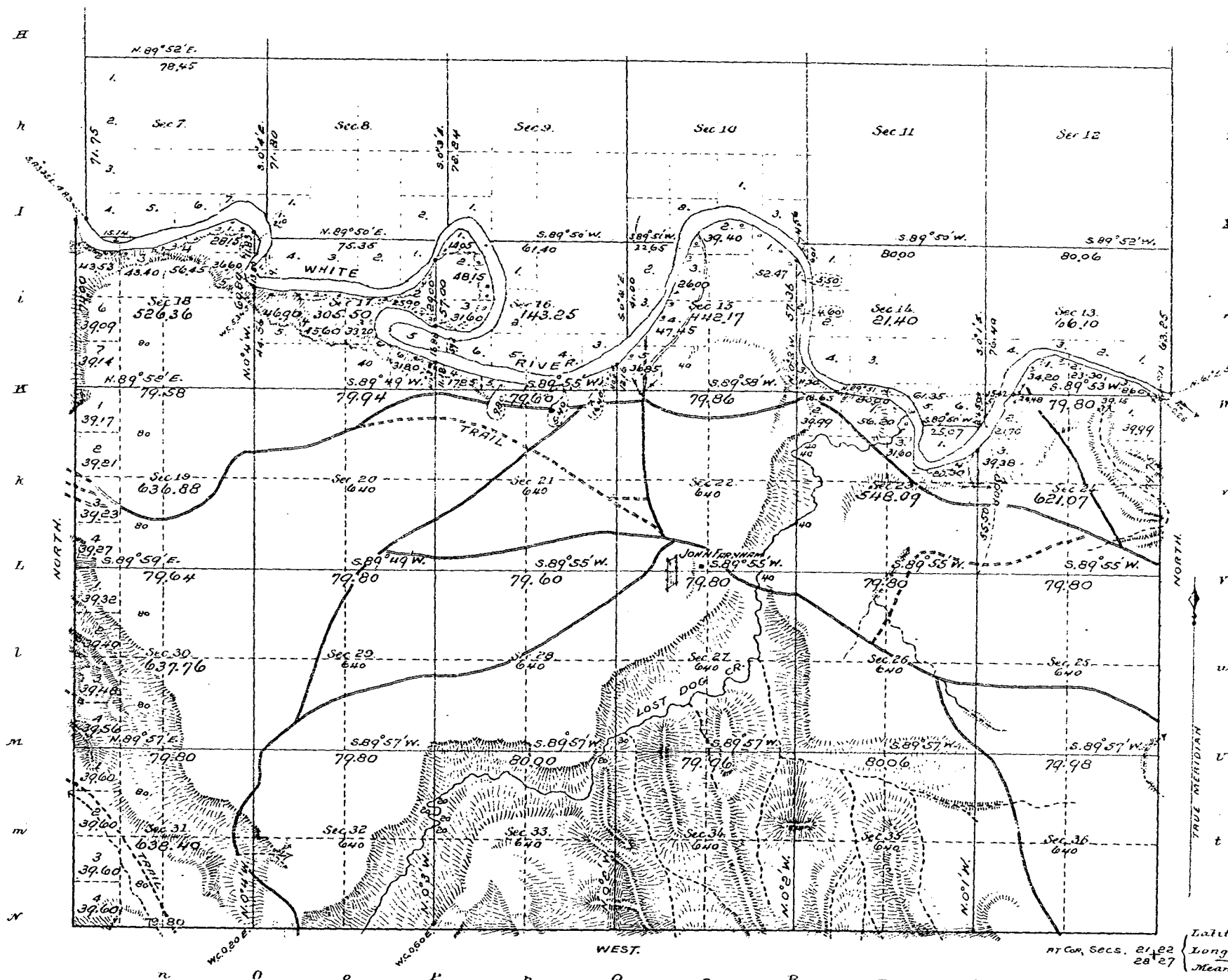
Timothy H. Schaal
October 25, 1995

2349-2

Township No. 43 North, Range No. 39 West, 6th Principal Meridian, South Dakota.

G F F E d D c C h B a A

T. 4 S. R. 18 E.
B. H. M.
SURVEYED BY JAS. HARTGERING.
CONTRACT No. 112, DATED MAY 4, 1896.
SURVEYED OCT. 2-9, 1896.



Area in acres: Public Land, Water Surface, Total Area 12906.98 Acres.

Survey Designated	By Whom Surveyed	Contract No.	Date	Amount of Surveys Ac. Chs. Lks.	When Surveyed
Subdivisions	ORVILLE H. SOUTHMAYO	157	APRIL 18 1904	33 60 83	JUNE 29-JULY 4 1904
MEANDERS	"	"	"	10 29 57	JULY 3-4 "
S.W. & E. TR. LINES	GEORGE R. FISSENDEN	152	MAY 31 1901		AUG. 3-12-13, 1901
CONNECTION LINES	ORVILLE H. SOUTHMAYO	157	APRIL 18 1904	31 13	JUNE, JULY, 1904

The above Map of Township No. 43 North, of Range No. 39 West of the 6th Principal Meridian, South Dakota, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

U. S. Surveyor General's Office
Huron S. Dak. August 15, 1906.

U. S. Surveyor General.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 14, 1995

Ronald Gardner
HCR 53, Box 5
Interior, SD 57750

Dear Mr. Gardner:

Enclosed, as we discussed, is the application to amend Water Permit No. 1657-2. The form needs to be signed and notarized and returned to us along with a \$150.00 filing fee.

After this amendment is approved, Water Permit No. 1657-2 can be licensed. If you wish to, you can submit the \$50.00 licensing fee at this time also.

If you have any questions, please feel free to give us a call.

Sincerely,

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

enclosure

WHITE RIVER BASIN

06447000 WHITE RIVER NEAR KADOKA, SD

LOCATION.--Lat 43°45'09", long 101°31'28", in SE1/4 SE1/4 sec.30, T.3 S., R.22 E., Black Hills meridian, Jackson County, Hydrologic Unit 10140202, on left bank 1,000 ft downstream from bridge on State Highway 73, 5.0 mi upstream from Pass Creek, 5.5 mi downstream from Cottonwood Creek, and 5.8 mi south of Kadoka.

DRAINAGE AREA.--5,000 mi², approximately.

PERIOD OF RECORD.--July 1942 to current year.

REVISED RECORDS.--WSP 1279: 1944(M), 1948.

GAGE.--Water-stage recorder. Datum of gage is 2,122.18 ft above sea level. Prior to June 14, 1949, nonrecording gage, and June 14, 1949, to Mar. 8, 1955, water-stage recorder at site 0.3 mi downstream at same datum. Mar. 9, 1955, to May 17, 1957, nonrecording gage at present site and datum.

REMARKS.--Records fair except those for estimated daily discharges, which are poor. Water temperature and specific conductance measured during the year are compiled in the Miscellaneous Temperature Measurements and Field Determinations section.

EXTREMES OUTSIDE PERIOD OF RECORD.--Flood of June 4, 1942, reached a stage of 16.24 ft, from floodmarks (discharge, about 32,000 ft³/s, from rating curve extended above 16,000 ft³/s). Floods of Mar. 8, 1905, and in spring of 1927 were 1 or 2 ft higher than flood of June 4, 1942, from information by local residents.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1993 TO SEPTEMBER 1994
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	61	40	e140	e210	e50	e200	399	e548	45	13	17	88
2	51	51	e170	e230	e49	e600	373	e548	46	7.5	16	44
3	43	63	e200	e215	e48	e2000	355	e618	45	4.3	18	32
4	38	95	265	e200	e48	e7000	350	e479	44	4.6	34	26
5	36	95	351	e190	e50	e3000	356	358	124	7.7	16	13
6	32	45	423	e170	e45	e2000	419	e360	74	27	78	12
7	29	42	439	e150	e40	e1700	396	e399	131	771	44	9.9
8	34	57	457	e125	e35	e1440	391	444	2390	607	26	8.3
9	81	58	421	e100	e30	e1840	439	e360	e1930	425	35	7.2
10	110	60	467	e97	e33	e1670	525	231	e1110	187	35	5.0
11	174	47	448	e95	e35	e1430	470	179	627	95	19	3.9
12	219	37	426	e92	e37	e1120	428	164	311	186	956	3.6
13	144	45	425	e90	e40	e994	536	150	239	633	148	3.0
14	104	41	439	e86	e55	e909	e553	e697	150	222	41	3.0
15	89	60	377	e82	e100	e865	e534	e423	98	406	24	2.5
16	77	77	359	e78	e200	e770	e553	182	75	132	19	2.2
17	233	107	320	e74	e1000	e702	e534	152	61	110	100	2.0
18	489	171	262	e70	e600	682	e497	147	78	213	71	2.3
19	276	294	206	e67	e380	697	e479	117	64	185	173	2.3
20	148	262	e180	e63	e280	651	473	110	49	100	167	2.5
21	111	246	e175	e60	e200	643	e502	e597	51	82	79	2.5
22	94	220	e170	e60	e170	598	583	e407	64	84	50	3.5
23	78	165	e165	e65	e165	550	500	e436	76	48	30	5.1
24	67	e140	e168	e70	e155	501	362	e330	253	35	17	6.7
25	58	e100	e170	e60	e150	491	344	412	257	26	12	4.7
26	52	e90	e180	e53	e148	528	292	202	100	40	7.7	3.8
27	55	e80	e190	e47	e145	474	e497	127	60	38	5.1	3.8
28	52	e90	e180	e48	e150	454	e680	95	46	21	3.2	3.8
29	38	e100	e190	e50	---	442	e980	69	40	19	3.1	3.9
30	37	e120	e195	e50	---	425	e702	56	34	20	297	4.1
31	39	---	e200	e48	---	414	---	49	---	19	101	---
TOTAL	3149	3098	8758	3095	4438	35790	14502	9446	8672	4768.1	2642.1	314.6
MEAN	102	103	283	99.8	158	1155	483	305	289	154	85.2	10.5
MAX	489	294	467	230	1000	7000	980	697	2390	771	956	88
MIN	29	37	140	47	30	200	292	49	34	4.3	3.1	2.0
AC-FT	6250	6140	17370	6140	8800	70990	28760	18740	17200	9460	5240	624

STATISTICS OF MONTHLY MEAN DATA FOR WATER YEARS 1943 - 1994, BY WATER YEAR (WY)

	MEAN	86.6	57.1	33.5	28.3	141	583	393	585	725	287	169	112
MAX	624	295	283	104	763	2479	1555	2802	3984	986	559	1060	
(WY)	1983	1957	1994	1990	1971	1944	1970	1982	1967	1969	1979	1955	
MIN	.000	1.74	.000	.000	.000	33.8	22.8	23.2	7.29	23.3	2.60	.17	
(WY)	1965	1977	1977	1977	1979	1981	1981	1985	1989	1980	1989	1975	

SUMMARY STATISTICS

FOR 1993 CALENDAR YEAR

FOR 1994 WATER YEAR

WATER YEARS 1943 - 1994

ANNUAL TOTAL	156947.80	98672.8	
ANNUAL MEAN	430	270	267
HIGHEST ANNUAL MEAN			573
LOWEST ANNUAL MEAN			90.0
HIGHEST DAILY MEAN	5500	7000	16500
LOWEST DAILY MEAN	.00	2.0	.00
ANNUAL SEVEN-DAY MINIMUM	.00	2.3	.00
INSTANTANEOUS PEAK FLOW		7200	21700
INSTANTANEOUS PEAK STAGE		9.80	16.18
ANNUAL RUNOFF (AC-FT)	311300	195700	193400
10 PERCENT EXCEEDS	1300	597	600
50 PERCENT EXCEEDS	160	110	58
90 PERCENT EXCEEDS	.00	15	3.2

e Estimated

a No flow at times in many years.

b Gage height, 13.83 ft, site then in use, from rating curve extended above 16,000 ft³/s.

c Backwater from ice, from floodmarks.

REPORT ON
WATER PERMIT APPLICATION NO. 2349-2

Ronald Gartner

January 2, 1996

Water Permit Application No. 2349-2 has been filed by Ronald Gartner to appropriate 0.16 cubic feet per second of water (cfs) from the White River to irrigate 12 additional acres. The point of diversion will be located in Lot 2 of Section 24-T43N-R39W, in Jackson County.

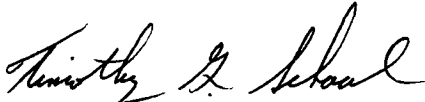
Discussion:

Water Permit No. 1657-2 has a priority date of February 22, 1979 to appropriate 1.4 cfs from the White River to irrigate 97 acres located in the NE 1/4 NW 1/4 and Lot 2 of Section 24-T43N-R39W and Lots 1,2,& 3 of Section 13-T43N-R39W. An inspection of Water Permit No. 1657-2 on October 11, 1995, found an additional 12 acres being irrigated in the SE 1/4 SW 1/4 and Lot 3 of Section 24-T43N-R39W. Water Permit Application No. 2349-2 has been filed to add an additional 12 acres and 0.16 cfs of appropriation to Water Permit Application No. 1657-2..

There are 34 existing Water Permits/Rights from the White River in Jackson County with a total diversion rate of 80.97 cfs. A USGS gauging station located on the White River near Kadoka, with a drainage area of nearly 5,000 square miles, has 51 years of record with an average annual mean discharge of 267 cfs.

Conclusions:

1. Water Permit Application No. 2349-2 should be approved since unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights or on downstream domestic use.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
3. The June 1 cutoff date for diversion from the White River and the water use questionnaire should be a qualification to this application.



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

Approved by:



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

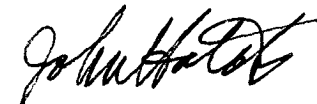
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2349-2, Ronald Gartner**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2349-2, Ronald Gartner, HCR 53, Box 5, Interior, SD 57559.

The Chief Engineer is recommending APPROVAL of Application No. 2349-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been 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 ^{after} ~~until~~ June 1 of each calendar year. After June 1, there shall be no diversion 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.
2. 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
January 18, 1996



**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 NEWSPAPER RIGHT AWAY.

January 23, 1996

Ronald Gartner
HCR 53, Box 5
Interior, SD 57750

Dear Mr. Gartner:

Water Permit Application No. 2349-2 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 Publisher of the Kadoka Press printed at Kadoka, SD (Ph # (605) 837-2259). 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 newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has 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 newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

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

January 23, 1996

Kadoka Press
Box 309
Kadoka, SD 57543-0309

ATTENTION: Legal Department

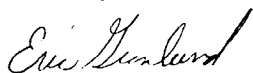
Enclosed is a Notice of Hearing on Application No. 2349-2 to be published twice. Please publish the first notice on February 1, 1996, with the second publication 7 days later.

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 Ronald Gartner, HCR 35, Box 5, Interior, SD 57750 (Ph # (605) 433-5338).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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 Program
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 February 1, 1996, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2349-2 to Appropriate Water
and to Amend Water Permit No. 1657-2

Notice is given that Ronald Gartner, HCR 53, Box 5, Interior, SD 57550 has filed an application for a water permit to appropriate 0.16 cubic feet of water per second from the White River to irrigate 12 additional acres. Water Permit No. 1657-2 appropriates 1.4 cfs from the White River between two points located in Lot 2 of Section 24 to irrigate 97 acres located in the NE 1/4 NW 1/4 and Lot 2 of Section 24 and Lots 1, 2, & 3 of Section 13; all in T43N-R39W. This application uses the same diversion point as Permit No. 1657-2 and is to irrigate 12 additional acres located in the SE 1/4 NW 1/4 and Lot 3 of Section 24-T43N-R39W from the White River.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2349-2 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 Program, 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 February 20, 1996.

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 Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Jackson) SS

I, Ronda Dennis



certify that the attached printed Notice was
taken from the Kadoka Press

printed and published in Kadoka, SD

County of Jackson and State of

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

February 1 & 8, 1996

Cost of Printing: 42.92

Ronda Dennis
(Signature)

Legal Advertising Manager
(Title)

2-8-96
(Date Signed)

NOTICE OF APPLICATION NO. 2349-2 TO APPROPRIATE WATER and to Amend Water Permit No. 1657-2

Notice is given that Ronald Gartner, HCR 53, Box 5, Interior, SD 57550 has filed an application for a water permit to appropriate 0.16 cubic feet of water per second from the White River to irrigate 12 additional acres. Water Permit No. 1657-2 appropriates 1.4 cfs from the White River between two points located in Lot 2 of Section 24 to irrigate 97 acres located in the NE 1/4 NW1/4 and Lot 2 of Section 24 and Lots 1, 2 & 3 of Section 13; all in T43N-R39W. This application uses the same diversion point as Permit No. 1657-2 and is to irrigate 12 additional acres located in the SE1/4 NW1/4 and Lot 3 of Section 24-T43N-R39W from the White River.

Pursuant to SDCL 46-2A-2, the chief engineer recommends APPROVAL of Application No. 2349-2 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 Program, 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 February 20, 1996.

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 Program address to request copies of information pertaining to this application.

Nettie H. Myers, Secretary
Department of Environment
and Natural Resources.

PUBLISH: Feb. 1 & 8, 1996



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

www.state.sd.us/denr

January 16, 2002

NOTICE

TO: RONALD GARTNER, HCR 53 BOX 5, INTERIOR, SD 57750

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

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2349-2. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2349-2 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 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 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) 2349-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

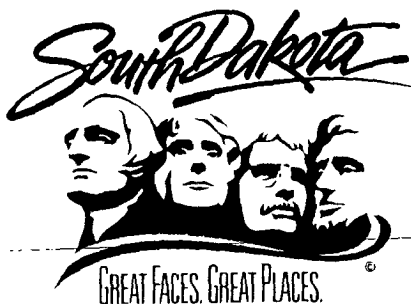
2349-2

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) _____ B. Date of Delivery <u>1-17-02</u> C. Signature <u>Ronald Gartner</u> D. Is delivery address different from item 1? ☒ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: RONALD GARTNER HCR 5 BOX 5 INTERIOR SD 57750		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
2. 7001 2510 0004 4797 4319		4. Restricted Delivery? (Extra Fee) ☐ Yes	

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 17, 2002

2349-2

Ronald Gartner
HCR 53 Box 5
Interior, SD 57750

Dear Mr. Gartner:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 2349-2.

I completed a questionnaire for you based on our January 17th telephone conversation (see enclosed copy). The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Also enclosed is a copy of your Water License No. 2349-2. You may keep this for your records. Thank you for calling and if you have any questions, please contact me.

Sincerely,

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

enclosures

Permit No. 1657-2 & 2349-2**White River** - Water District**Report Of Examination Of Works And/Or Application of Water To Beneficial Use**

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

I have this day, **October 11, 1995**, made a thorough examination of the water use system constructed by **Ronald Gartner** of **HCR 53, Box 5** holder of Permit No. **1657-2 & 2349-2**, bearing the priority of **February 22, 1979 and November 28, 1995** authorizing the diversion of **1.56** cu. ft. per second of the waters of **White River** for **Irrigation** purposes, in **Jackson** County.

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

A. Works used to divert the water:

100 Hp John Deere 420 Tractor with 12 inch Cristifulli pump, Model No. 10681

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

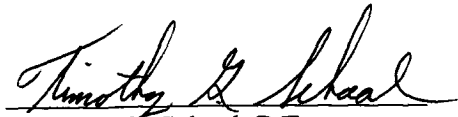
100 feet of 12 inch rubber hose

C. Works used to apply water to beneficial use:

Flood Irrigation

The system is in the following condition **Good**. The point of diversion is located **1400 ft. North & 2300 Ft. West of the Center of Section 24-T43N-R39W (Lot 2, NW1/4 NW 1/4)**. The works are capable of diverting and conveying to the place of use **10 to 25** cu. ft. per second of water which is to be used for **Irrigation**. Water has been put to beneficial use to the maximum extent as follows:

NE 1/4 NW 1/4 Sec. 24-T43N-R39W---40 Ac.	Lot 1 Sec. 13-T43N-R39W---18 Ac.
Lot 2 " " ---17 Ac.	Lot 2 " " ---18 Ac.
SE 1/4 NW 1/4 " " --- 4 Ac.	Lot 3 " " --- 4 Ac.
Lot 3 " " --- 8 Ac.	

comprising a total of **109** acres of land and the license should be issued for **1.56** cfs.Applicable permit qualifications have been complied with: Yes ☒ NoExceptions to compliance are: **none** Date Report Completed: **February 21, 1996**


Timothy G. Schaal, P.E.

Natural Resources Engineer

DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 1657-2 & 2349-2

Other permit(s) associated with the project:

DATE OF INSPECTION: October 11, 1995

NAME & ADDRESS OF INSPECTION CONTACT/ Ronald Gartner

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: owner

NAME & ADDRESS OF PERMIT HOLDER: Ronald Gartner, HCR 53, Box 5, Interior, SD 57750

DIVERSION POINT LEGAL LOCATION: 1400 ft. North & 2300 ft. West of the Center of Sec. 24-T43N-R39W (Lot 2, NW 1/4 NW 1/4)

Pump:

- 1) Make Cristifulli
- 2) Model 10681
- 3) Size 12 inch
- 4) Capacity 12,000GPM

Motor:

- 1) Make John Deere Tractor
- 2) Model No. 420
- 3) Horsepower rating 100 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type Rubber
- 2) Size 12 inches
- 3) Length 100 feet

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2349-2

(1) Ronald Gartner, HCR 53, Box 5, Interior SD 57750 made Application No. 2349-2, November 28, 1995 for a water permit to divert no additional water from the White River, Jackson County, South Dakota for irrigation purposes. Permit No. 2349-2, with a priority date of November 28, 1995 was approved February 20, 1996 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. 2349-2 authorizes irrigation of additional acreage that was developed but not permitted under Water Right No. 1657-2. No. 2349-2 did not allow for an increase in the developed diversion rate.

The applicable portions of Water Permit No. 1657-2 have been incorporated into this Water License No. 2349-2. A priority date of November 28, 1995 (established by Permit No. 2349-2) is retained for irrigation of 12 acres located in SE 1/4 NW 1/4 and Lot 3 of Section 24. A priority date of February 22, 1979 (established by Permit No. 1657-2) is retained for irrigation of the remaining 97 acres.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.56 cubic feet of water per second for beneficial use. The location of the diversion point is 1,400 feet north and 2,300 feet west of the center of Section 24-T43N-R39W (Lot 2, NW 1/4 NW 1/4).

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

Sec 24-T43N-R39W	NE 1/4 NW 1/4	40 acres	Sec 13-T43N-R39W	Lot 1	18 acres
	Lot 2	17 acres		Lot 2	18 acres
	SE 1/4 NW 1/4	4 acres		Lot 3	4 acres
	Lot 3	8 acres			
Total					109 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Ronald Gartner, HCR 53, Box 5, Interior SD 57750 the holder and/or owner of Incorporated Water Permit No. 2349-2 is issued a license to appropriate water, the right to use 1.56 cubic feet of water per second from the White River with priority dates of February 22, 1979 and November 28, 1995 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Incorporated Water Permit No. 2349-2 and subject to South Dakota State Law.


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

APR 4 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 4 1996

2349-2

Ronald Gartner
HCR 53, Box 5
Interior, SD 57750

Dear Mr. Gartner:

Enclosed are Water Permit No. and Water License No. 2349-2 and Receipt No. 414688 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 2349-2 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

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

ks
enclosures

NOTE: The applicable portions of Water Permit No. 1657-2 have been incorporated into this Water License No. 2349-2.



2349-2
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 26, 2018

NOTICE

TO: RONALD GARTNER, 21190 CRAVEN RD, INTERIOR, SD 57750
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2349-2. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2349-2 qualification:

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

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 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) 2349-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** 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.

2349-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 23, 2018

2349-2

Ronald Gartner
21190 Craven Rd
Interior SD 57750

Dear Mr. Gartner:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Right No. 2349-2. 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 black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

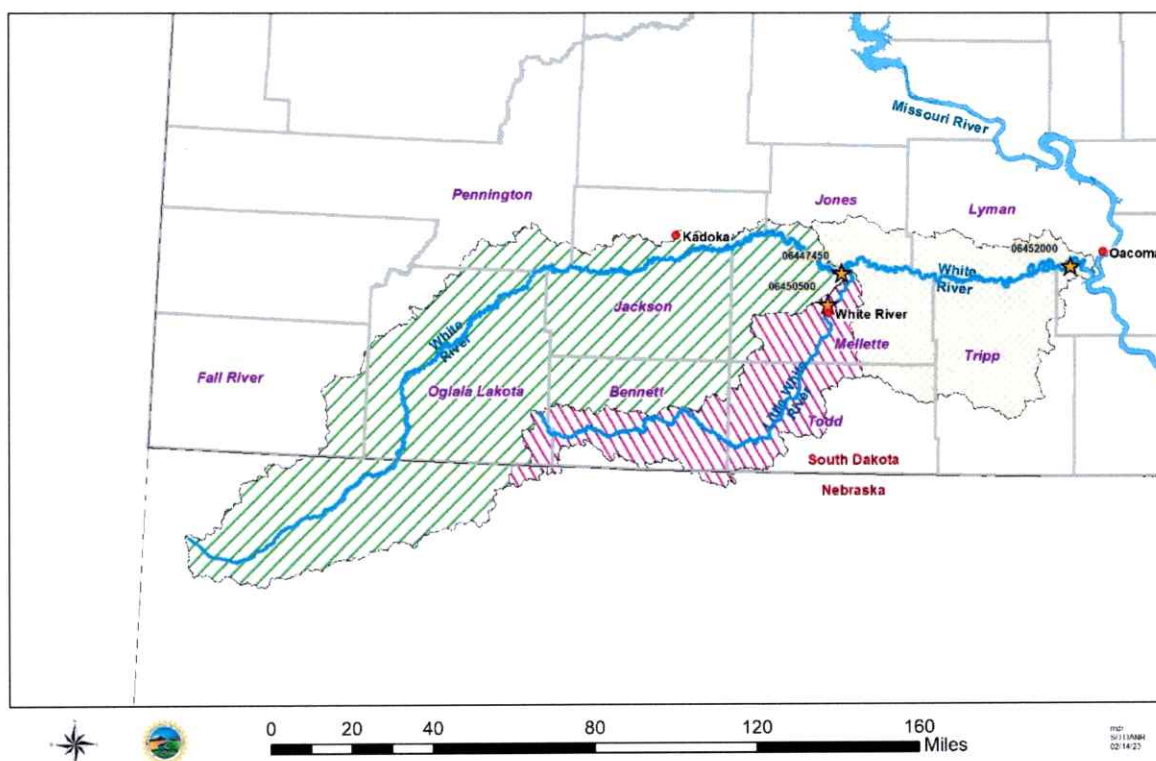


Figure 1. White River Watershed Map.

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

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

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

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

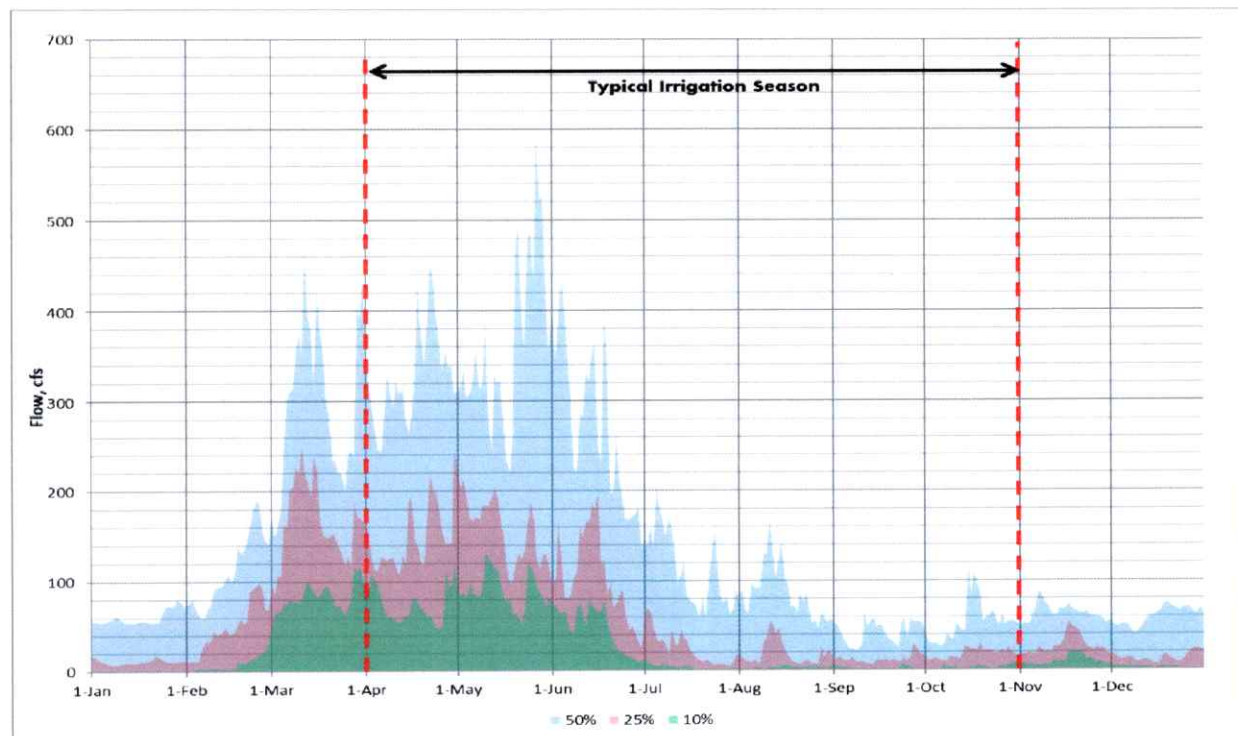


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

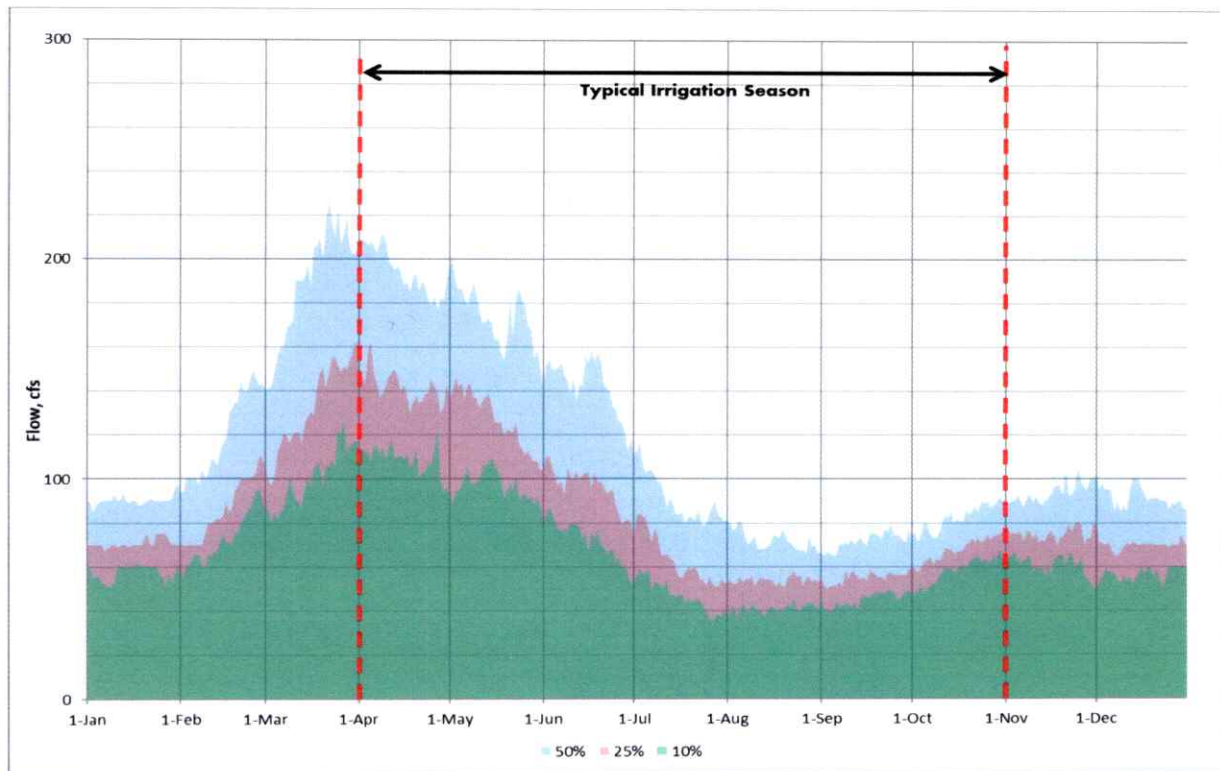


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

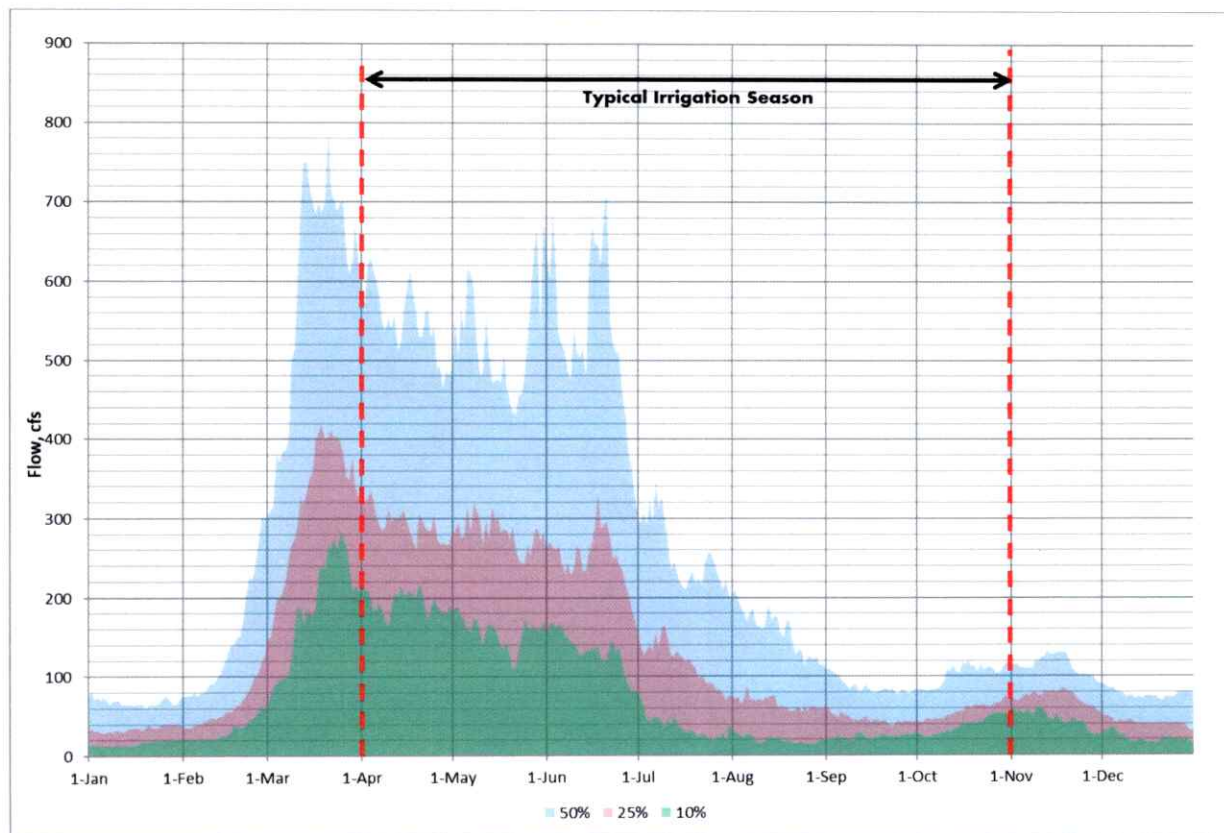


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

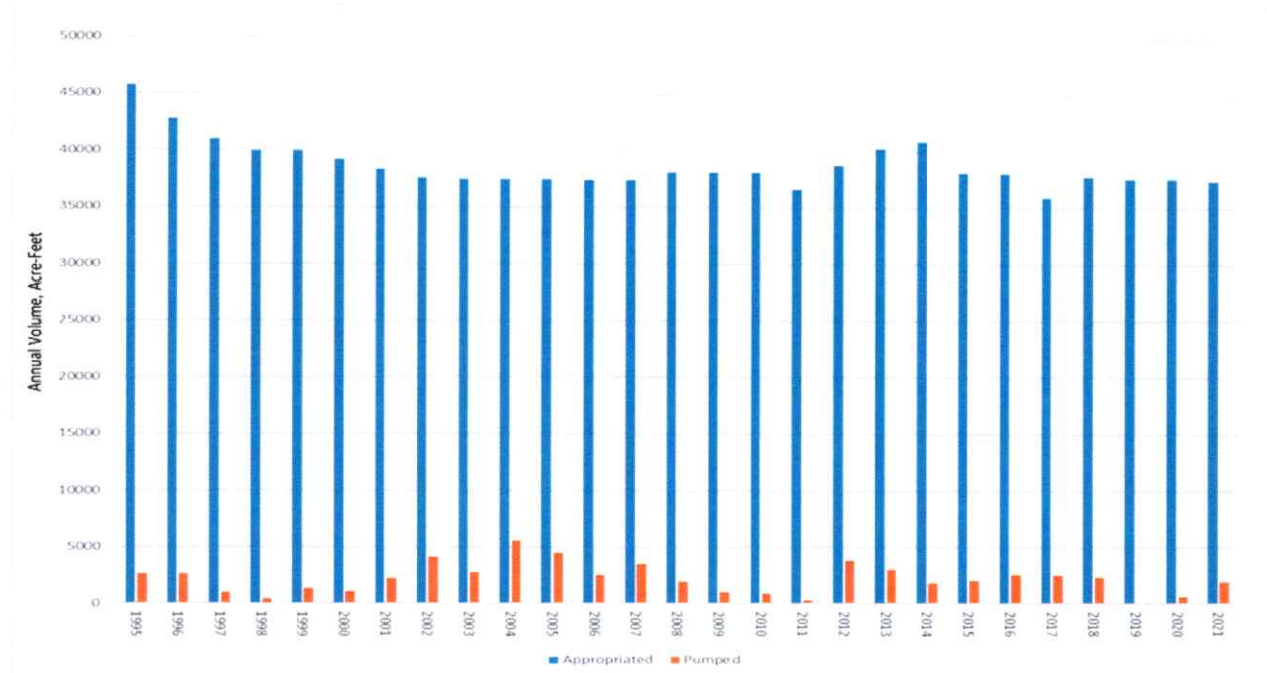


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

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

Dear White River Water Right Holder,

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

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR

2349-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: RONALD GARTNER, 21190 CRAVEN RD, INTERIOR, SD 57750

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2349-2. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2349-2 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 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) 2349-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2026** 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 Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: FYHDZN**

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 11, 2026

2349-2

Ronald Gartner
21190 Craven RD
Interior, SD 57750

Dear Mr. Gartner,

I am writing to acknowledge receipt of your 2025 irrigation questionnaire(s).

You may disregard the January 20, 2026, "Notice" concerning irrigation reporting requirements for your water permit/right(s). 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,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us