

WATER PERMIT NO. 2701-2

Name of Applicant: Quinten Burull

Address: 720 Van Antwerp, Chamberlain SD 57325

Phone: 605 680-0524

Amount of Water Claimed: 2.22 cfs

Total Acres: 260 acres

Source of Water Supply: White River

Water to be used for: irrigation

County: Lyman

Type of Waste Disposal System:

Location: 15 miles southwest of Kennebec

PRIORITY

Date Received: 1-9-13

Application/License Fee: \$ 1250

Corrected Application Received:

Period of Annual Use: April 1 – Oct 31

Remarks: Irrigate lands authorized by Water Right No. 1415A-2 and Permit No. 2647-2

Diversion Point: NE 1/4 NW 1/4 Sec 18-T103N-
R74W

Land to be Irrigated: NE 1/4, Lots 1 – 5 Sec 18, S
1/2 SE 1/4 Sec 7; T103N-R74W

Depth of Well:

Well Driller:

Remarks:

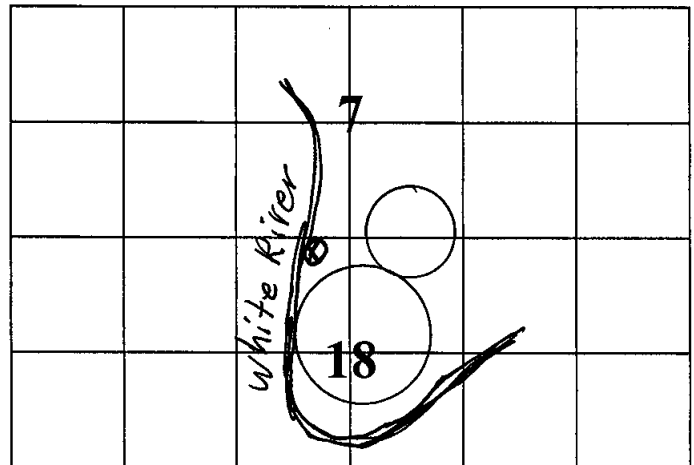
Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 1-11-13

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2701-2</u> (office use only) Hydrologic Unit <u>10140204</u>
	Basin <u>White River</u>
	Newspaper <u>Lyman Co. Herald, Presho</u> <u>Capital Journal</u>

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JAN - 9 2013
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

apply to divert from White River to irrigate the land

authorized Water Right No. 1415A-2 and Water Permit No. 2647-2

1. Name to Appear on Irrigation Permit Quinten Burull

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 720 Van Antwerp Chamberlain sd 57325
(Address) (City) (State) (Zip Code)

Home Phone 234-6083 Cell 680-0524 Email _____

2. Amount of water claimed 2.22 *CFS or 1000 **GPM ***AF Total Acreage 260
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply White River

4. Location of point of diversion dugout NE 1/4 NW 1/4 Section 18, T103N, R74W

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

Dam- E 1/2 SE 1/4 Section 7, T103N, R74W River: NE 1/4 NW 1/4 County Lyman
Sec 18-T103N-R74W

5. County or counties where water will be used Lyman

6. Annual period during which water is to be used April 1 - October 31

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
see land described by Water Right No. 1415A-2			
and Water Permit 2647-2			

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

Intend to divert from the White River to the dugout and dam authorized by Water Right no. 1415A-2 and Water Permit No. 2647-2 to irrigate the lands authorized by these water rights.

I, Quinten Burull, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

SOUTH DAKOTA
WATER PERMIT NO. 2701-2

Date of first receipt of application January 9, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2701-2 to Quinten Burull, 720 Van Antwerp, Chamberlain SD 57325 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. 2701-2 appropriates 2.22 cubic feet of water per second from the White River located in the NE 1/4 NW 1/4 Section 18 for irrigation of 260 acres located in the NE 1/4, Lots 1 thru 5 Section 18, S 1/2 SE 1/4 Section 7; all in T103N-R74W. Water Right No. 1415A-2 and Permit No. 2647-2 authorize irrigation of the above listed acreage from a dugout located in the NW 1/4 NE 1/4 Section 18 and a dam located in the E 1/2 SE 1/4 Section 7; all in T103N-R74W. This permit is authorized to divert from the White River to the dugout and dam, then apply to the land.
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: April 1 – October 31.
3. The date from which applicant may claim right is January 9, 2013.
4. The date of approval of Permit No. 2701-2 is March 11, 2013.
5. One-fifth of the construction is to be completed on or before September 11, 2015.
6. All construction is to be completed on or before March 11, 2018.
7. Water is to be put to beneficial use on or before March 11, 2022.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. 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.
2. Diversions of water from the White River are authorized only when the flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs while pumping under this permit.
3. Water from the White River may be diverted to the dam 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 dam for irrigation of the authorized land is not subject to the June 1st shut-off.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

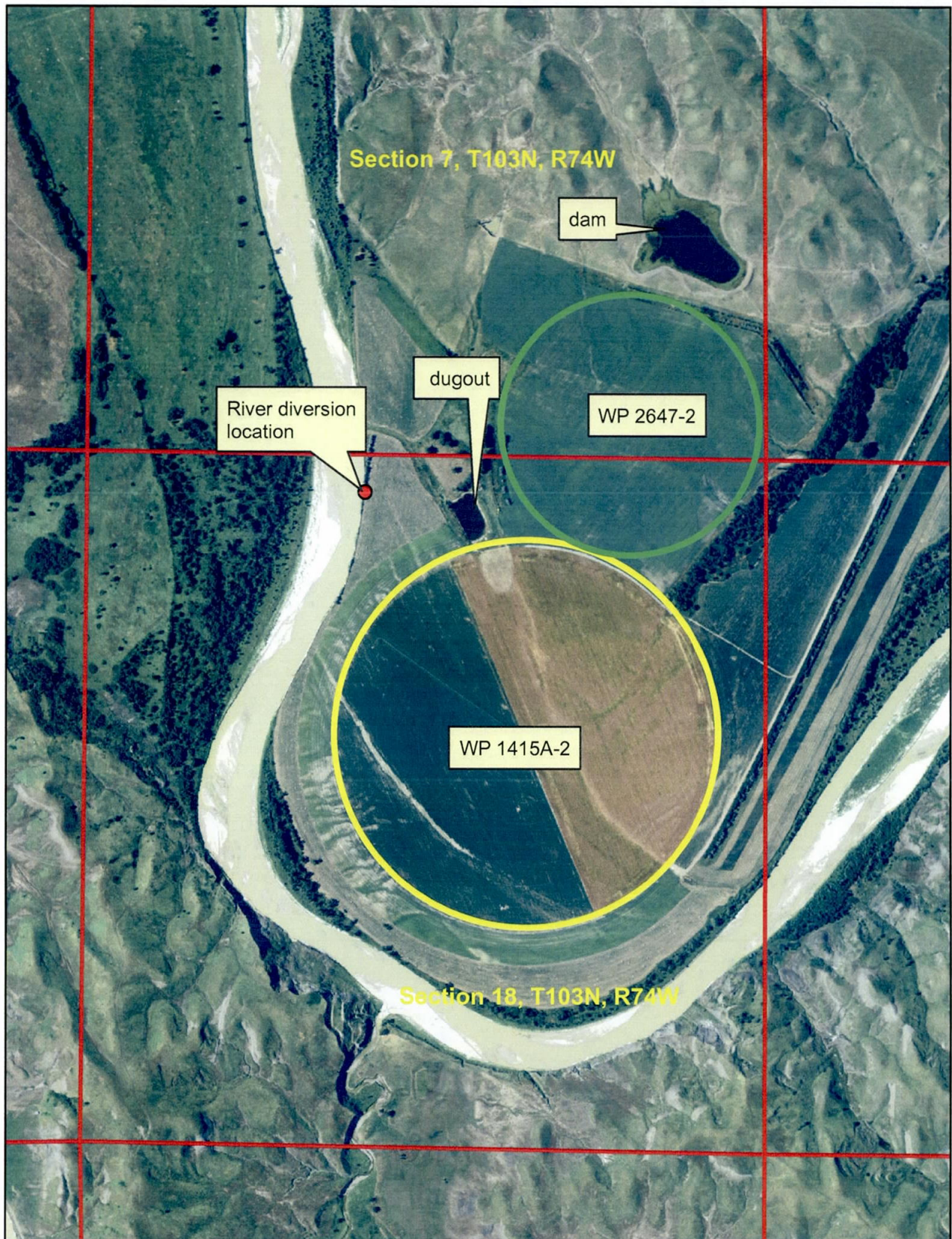
By: 

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

APR 26 2013

date





1,250 625 0 1,250 Feet



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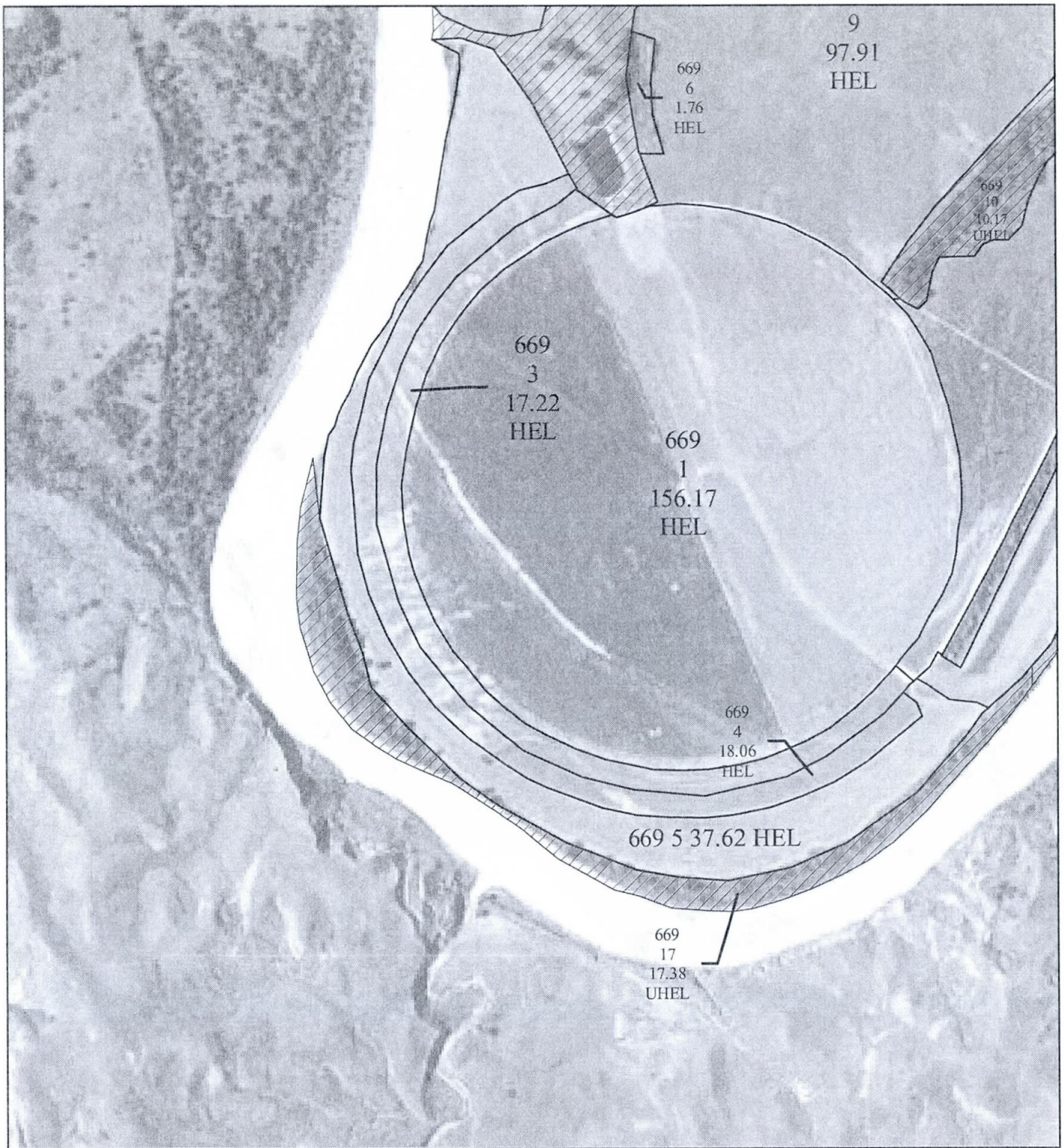
JAN - 9 2013

WATER RIGHTS
PROGRAM

White River diversion point is located in the NE 1/4 NW 1/4
Section 18, T103N, R74W

Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
based on representation by
Mr. Burull





United States Department of Agriculture
Farm Service Agency

Lyman County, SD

PLSS: 18_103N_74W

Farm: 3667

RECEIVED

JAN - 9 2010

**WATER RIGHTS
PROGRAM**

October 06, 2011

Wetland Determination Identifiers

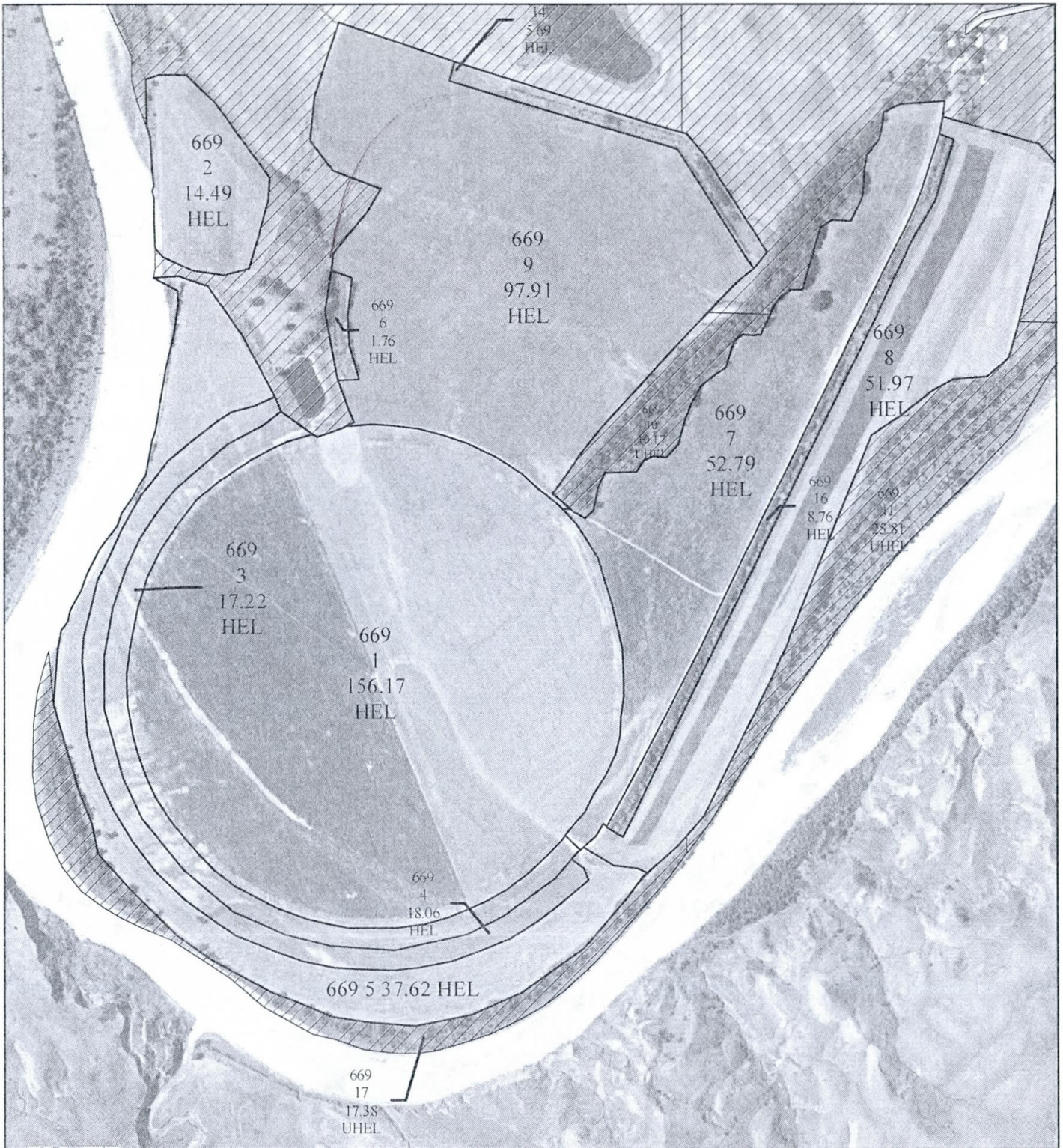
- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

□ Common Land Units

▨ Non Cropland

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area.
Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2010 Ortho-Photography - Not to Scale



United States Department of Agriculture
Farm Service Agency

Lyman County, SD

Farm: 3667

January 20, 2011

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JAN - 9 2013

WATER RIGHTS
PROGRAM

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the wetland. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2010 Ortho-Photography - Not to Scale

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/10, 20 13

RECEIVED OF Quint Burull 720 Van Antwerp Chamberlain SD 57325

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

Fee for Application for Permit No. <u>2701-2</u> to Appropriate Water, to construct and to put water to beneficial use	1050	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2701-2</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1250 00

No. 05930

By

Paul E. Schlegel
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2701-2, Quinten Burell**

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. 2701-2, Quinten Burell.

The Chief Engineer is recommending APPROVAL of Application No. 2701-2 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) it is in the public interest with the following qualifications:

1. 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.
2. Diversion of water from the White River are authorized only when the flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs while pumping under this permit.
3. Water from the White River may be diverted to the dam 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 dam for irrigation of the authorized land is not subject to the June 1st shut-off.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 19, 2013

REPORT ON WATER PERMIT APPLICATION NO. 2701-2

Quinten Burull

February 11, 2013

Application No. 2701-2, Quinten Burull, proposes to appropriate 2.22 cubic feet of water per second from the White River located in the NE 1/4 NW 1/4 Section 18 for irrigation of 260 acres located in the NE 1/4, Lots 1 thru 5 Section 18, S 1/2 SE 1/4 Section 7; all in T103N-R74W. Water Right No. 1415A-2 and Permit No. 2647-2 authorizes irrigation of the above listed acreage from a dugout located in the NW 1/4 NE 1/4 Section 18 and a dam located in the E 1/2 SE 1/4 Section 7; all in T103N-R74W. This application proposes to divert from the White River to the dugout and dam, then apply to the land. The water will be used for irrigation. The proposed project is located approximately 13 miles SE of the town of Kennebec in Lyman County.

Review of the Proposed Project and Water Source

The applicant proposes to irrigate 260 acres from the White River at a diversion rate of 2.22 cfs during the months of March through October. The proposed project is located approximately 33 river miles upstream of the confluence of the White River with the Lake Francis Case. The United States Geologic Survey (USGS) maintains stream gaging stations on the White River and Little White River upstream and downstream of the proposed project. The gages White River near White River and Little White River below White River are located on the individual rivers just prior to their confluence which is located several miles upstream of the proposed project. The gage White River near Oacoma is located approximately 21 river miles downstream of the proposed project (Tables 1, 2, &3).

Table 1 - USGS Gaging Station No. 06447450 White River near White River, 11 years of record.

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	0	3	67	52	49	30	2	1	0	2	5	1
25%	3	21	107	103	114	74	5	7	4	11	17	4
50%	29	89	297	269	209	176	60	46	21	32	41	37
75%	94	229	733	636	800	528	235	245	79	108	88	84
90%	148	1747	2977	2124	2581	2167	976	917	874	603	510	146

Table 2 - USGS Gaging Station No. 06450500 Little White River below White River, 63 years of record.

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	55	71	96	105	94	70	45	40	44	57	59	54
25%	69	83	127	137	121	92	60	51	53	66	72	68
50%	85	110	181	187	163	131	85	68	68	78	89	86
75%	116	156	277	271	241	213	136	98	88	99	112	112
90%	153	226	442	402	362	345	204	135	114	123	139	148

Table 3 - USGS Gaging Station No. 06452000 White River near Oacoma, 84 years of record.

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	14	29	170	186	148	126	32	17	21	36	43	18
25%	31	57	303	286	260	237	109	59	43	54	70	40
50%	62	128	587	532	481	520	243	144	79	91	108	72
75%	110	321	1373	1099	1145	1299	532	321	178	189	177	123
90%	184	791	3250	2564	2944	3509	1152	734	448	442	369	218

The statistical flow data from these gages indicate that the White River typically has good flow during the spring likely due to plains snow pack melt and spring thunderstorms. The data also shows flows during the summer months decline to a point during dry climatic conditions water availability to meet the needs of existing water rights/permits and domestic use can be problematic.

Review of Existing Water Rights

There are 84 existing water rights/permits appropriating 210.2 cfs from White River from the Nebraska border to the confluence with the Missouri River. From the location of this proposed project downstream to the Missouri River, there is one existing water right appropriating 1.87 cfs. This permit can be approved without adversely impacting existing rights. However there may be times when water availability becomes a problem.

The Water Rights Commission, a predecessor to the Water Management Board, addressed concerns over low summer flows in the river in 1977 when the Commission set a June 1st cutoff for direct diversions from the White River for all new water permits. The Commission adopted the following qualification:

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.

Another concern for this reach of river is if this permit is issued the permit holder may request a variance from the Chief Engineer to allow him to continue irrigating after the June 1 shutoff date. Prior to issuing a variance, the Chief Engineer would evaluate the flows in the river to determine if adequate water is available. Once the variance is issued the permit holder would be allowed to divert water subject to permit qualification and any additional qualifications the Chief Engineer would deem appropriate to maintain base flows for domestic use including livestock watering. Recently issued White River water permits have contained the following qualification to address these concerns.

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 permit.

There may also be times during extremely dry periods when flows decrease during the spring months. At those times the Chief Engineer may need to issue shutoff orders to protect senior water rights and domestic use.

Conclusions

1. This application proposes to appropriate 2.22 cfs from the White River to irrigate 260 acres.
2. This same land is also covered by Water Right No. 1415A-2 and Permit No. 2647-2. Nos. 1415A-2 and 2647-2 irrigate out of a dugout and a dam,
3. The water source for the project is the White River which would be pumped into the dugout and dam, then applied to the land.
4. The White River has historically displayed periods of seasonable availability problems. The Water Rights Commission in 1977 addressed concerns over low seasonal flows by setting a June 1st cutoff for direct diversions from the White River for all new water permits.
5. Recently issued White River water permits have contained the qualification authorizing diversions from the White River only when flow as measured at the White River gaging station near Oacoma is at least 20 cfs while pumping.
6. If approved this permit should contain these qualifications.



Mark D. Rath
Natural Resources Engineer III

RECEIVED

MAR - 7 2013

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Marilynn Baker

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

2-27-13

Cost of Printing \$ 32.60

Marilynn Baker
(Signature)

Bookkeeper
(Title)

3-5-13

(Date Signed)

SNAXLP 12669
1tdy 2/27

NOTICE OF
APPLICATION
NO. 2701-2 to
Appropriate
Water

Notice is given that Quinten Bu-nill, 720 Van Antwerp, Chamberlain SD 57325 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from the White River located in the NE 1/4 NW 1/4 Section 18 for irrigation of 250 acres located in the NE 1/4, Lots 1 thru 5 Section 18, S 1/2 SE 1/4 Section 7, all in T103N-R74W. Water Right No. 1415A-2 and Permit No. 2647-2 authorizes irrigation of the above listed acreage from a dugout located in the NW 1/4 NE 1/4 Section 18 and a dam located in the E 1/2 SE 1/4 Section 7, all in T103N-R74W. This application proposes to divert from the White River to the dugout and dam, then apply to the land.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2701-2 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 this 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 this 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.

Wednes

Public Notice

dition. 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 other an interested person or the applicant must be filed by March 11, 2013. 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. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$32.60.

Publisher's Affidavit of Publication
RECEIVED

MAR - 1 2013

**WATER RIGHTS
PROGRAM**

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF LYMAN)

Connie Penny, of said county and state being duly sworn on her oath says: The Lyman County Herald is a weekly newspaper of general circulation and published in Presho, Lyman County, and State of South Dakota; and has been such newspaper during the times hereinafter mentioned; That said newspaper is a legal weekly, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said County of Lyman more than fifty-two successive weeks next prior to publication of the notice hereinafter mentioned and maintained at the place of publication; That I, the undersigned am editor of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; that the advertisement headed:

Notice of Application No 2701-2
88 Lihss

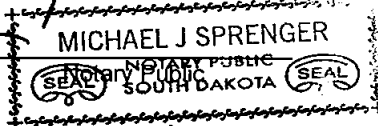
a printed copy of which is hereto attached and published in the said newspaper for _____ consecutive week(s).

The first publication of said notice in said newspaper aforesaid was on Wednesday, the 27 day of Feb A.D., 2013 and that the succeeding publications were severally

Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013
Wednesday, the _____ day of _____ A.D., 2013

and the last publication on Wednesday, the 27 day of Feb, 2013, that the full sum of fees charged for publishing the same, to-wit; the sum of \$ 29.13 insures solely to the editor of The Lyman County Herald. That no agreement or understanding for any division thereof had been made with any other person, and that no part thereof has been agreed to be paid to any person whatsoever.

Connie Penny
Michael J Sprenger



Subscribed and sworn to before me this 28 day of Feb, 2013

My Commission expires _____, 20____
MICHAEL J. SPRENGER
NOTARY PUBLIC - SOUTH DAKOTA
My Commission Expires
March 27, 2015

NOTICE OF APPLICATION NO. 2701-2 to Appropriate Water

Notice is given that Quinten Burull, 720 Van Antwerp, Chamberlain SD 57325 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from the White River located in the NE 1/4 NW 1/4 Section 18 for irrigation of 260 acres located in the NE 1/4, Lots 1 thru 5 Section 18, S 1/2 SE 1/4 Section 7; all in T103N-R74W. Water Right No. 1415A-2 and Permit No. 2647-2 authorizes irrigation of the above listed acreage from a dugout located in the NW 1/4 NE 1/4 Section 18 and a dam located in the E 1/2 SE 1/4 Section 7; all in T103N-R74W. This application proposes to divert from the White River to the dugout and dam, then apply to the land.

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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 March 11, 2013.

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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$27.14.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 20, 2013

Lyman County Herald
PO Box 518
Presho SD 57568

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2701-2 to Appropriate Water. Please publish the notice once on February 27, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Quinten Burull, 720 Van Antwerp, Chamberlain SD 57325 (Ph # 605-234-6083).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 20, 2013

Capital Journal
PO Box 878
Pierre SD 57501

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2701-2 to Appropriate Water. Please publish the notice once on February 27, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.**

February 20, 2013

Quinten Burull
720 Van Antwerp
Chamberlain SD 57325

Dear Mr. Burull:

Water Permit Application No. 2701-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Lyman County Herald printed at Presho SD (Ph # 605-895-6397) and the Capital Journal printed at Pierre SD (Ph # 605-224-7301). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also 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.

Instruction to Newspaper - Publish the Notice on February 27, 2013. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 2701-2 to Appropriate Water

Notice is given that Quinten Burull, 720 Van Antwerp, Chamberlain SD 57325 has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from the White River located in the NE 1/4 NW 1/4 Section 18 for irrigation of 260 acres located in the NE 1/4, Lots 1 thru 5 Section 18, S 1/2 SE 1/4 Section 7; all in T103N-R74W. Water Right No. 1415A-2 and Permit No. 2647-2 authorizes irrigation of the above listed acreage from a dugout located in the NW 1/4 NE 1/4 Section 18 and a dam located in the E 1/2 SE 1/4 Section 7; all in T103N-R74W. This application proposes to divert from the White River to the dugout and dam, then apply to the land.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2701-2 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 this 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 this 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 March 11, 2013.

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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

APR 26 2013

Quinten Burull
720 Van Antwerp
Chamberlain SD 57325

Dear Mr. Burull:

Enclosed is Water Permit No. 2701-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

Water Permit No. 2701-2
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 22, 2015**, made a thorough examination of the water use system constructed by **Quinten Burull** of **720 Van Antwerp, Chamberlain, SD 57325** holder of Permit No. **2701-2**, bearing the priority of **January 9, 2013** authorizing the diversion of **2.22** cu. ft. per second of water from the **White River** for **Irrigation** purposes, in **Lyman** County.

Inspection contact & relationship to permit holder, if applicable: **Cody Burull (473-6083, cell 680-6083)**

A. Works used to divert the water:

Pump:

- 1) Make **Dyna-Flow**
- 2) Size **13 inch**
- 3) Capacity **1,000** GPM

Motor:

- 1) Make **Tractor-Powered PTO**

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

- 1) Type **Canal**
- 2) Length **Approximately 1,100** feet

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by **Y**
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **Y**
- 3) Exceptions to compliance are: **None**

The system is in **Good** condition with the point(s) of diversion located as follows:

Approximately 270 feet north and 2,075 feet east of the SW corner of Section 7-T103N-R74W
(N 43.73214, W -99.73545) (SE ¼ SW ¼)

The works are capable of diverting and conveying to the place of use **2.22** cu. ft. per second of water which is to be used for **Irrigation use**.

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

Water Permit No. 2647-2 (Priority Date: April 8, 2010, 1.78 cfs):

Section 18-T103N-R74W

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 18 acres

NW $\frac{1}{4}$ NE $\frac{1}{4}$ - 10.5

Total: 80 acres

Section 7-T103N-R74W

SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 32 acres

SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 19.5 acres

Water Permit No. 1415A-2 (Priority Date: April 14, 1976, 2.43 cfs):

Section 18-T103N-R74W

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 4.5 acres

NW $\frac{1}{4}$ NE $\frac{1}{4}$ - 20 acres

SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 40 acres

SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 24 acres

Section 18-T103N-R74W

Lot 1 - 4.5 acres

Lot 2 - 23 acres

Lot 3 - 12 acres

Lot 4 - 31 acres

Lot 5 - 11 acres

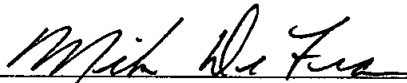
Total: 170 acres

comprising a total of 250 acres of land and the license should be issued for 2.22 cfs.

All structures, wells and lands on map Y

Comments or other permit(s) associated with the project:

Water from the White River is pumped into a canal which flows directly into a dugout authorized to appropriate water by both Water Right No. 1415A-2 and Water Permit No. 2647-2 for irrigation. Water from the dugout then provides water to the two separate irrigation systems by a single pump and motor to the pivot systems.



Mike DeFea

Natural Resources Engineer II
DENR, Water Rights Program

Date report completed: **December 31, 2015**

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Quinten Burull (Cody Burrull)

ADDRESS: 720 Van Antwerp, Chamberlain, SD 57325

DATE: January 4, 2016 COUNTY: Sully TELEPHONE: 680-6083

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The water source is the White River same as permitted with no additional water appropriated. The permit originally indicated the location of the diversion point to be in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 18-T103N-R74W. At the time of the permit licensing inspection, GPS coordinates were taken which indicate the location of the diversion point to be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7-T103N-R74W.

- **If irrigation, no new land is irrigated**

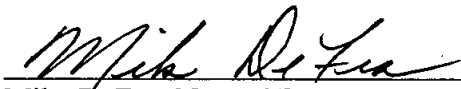
No new land is irrigated.

- **Review of Existing Diversions**

There is one existing water right authorized to appropriate water from the White River located approximately 6.5 stream-miles below this diversion point and the confluence of the Missouri River. Water Right No. 910-2 is authorized to appropriate 1.87 cfs from the White River. This change in diversion point location is unlikely to cause adverse effects to the existing downstream water right.

RECOMMENDED ACTION

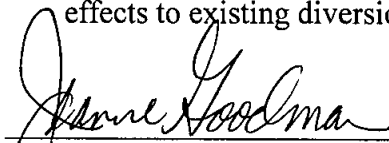
Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Mike DeFea, Natural Resources Engineer II
DENR, Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Jeannie Goodman, Chief Engineer
DENR, Water Rights Program

RECEIVED

JAN - 5 2016

WATER RIGHTS
PROGRAM**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**Date 1/5/2016

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: Cody Burull
(name)
25299 Deer Valley Rd
(address)
Reliance SD 57569 680-6083
(city, state, zip) (phone)

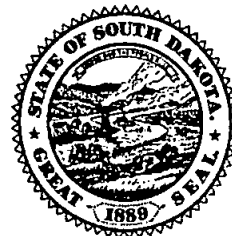
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 2701-2 states that the water use system is to be constructed by
3/11/2018 , and water is to be put to beneficial use by 3/11/2022 .
(date) (date)

The water use system was completed on 4/1/2015 .
(date)

Applying the water to beneficial use was completed on 4/1/2015 .
(date)

You may schedule an investigation so that the water license may be issued.



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/5, 20 16

RECEIVED OF Cody Burull 25299 Dear Valley Rd Reliance SD 57569

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2701-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50 00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 07621

By *Jeanne Goodman*
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

JAN - 5 2016

WATER RIGHTS
PROGRAM

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2701-2Date: January 5, 2016

I/We request that Water Right/Permit No. 2701-2 formerly owned by:
Quinten Burull, 720 Van Antwerp, Chamberlain, SD 57325 be transferred to:

New Owner Name: Cody BurullAddress: 25299 Deer Valley RdCity, State, Zip Reliance SD 57569 Telephone No. 680-6083

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

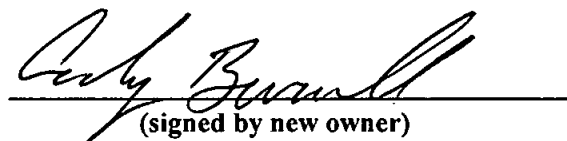
Section 7-103N-R74W
SE 1/4 - 51.5 acres
Section 18-T103N-R74W
NE 1/4 - 117 acres
Section 18-T103N-R74W
Lots 1 through 5 - 81.5 acres

☒ I understand that the validity of Water Right/Permit No. 2701-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Cody Burull, the new owner, certify that the above information is true and correct.

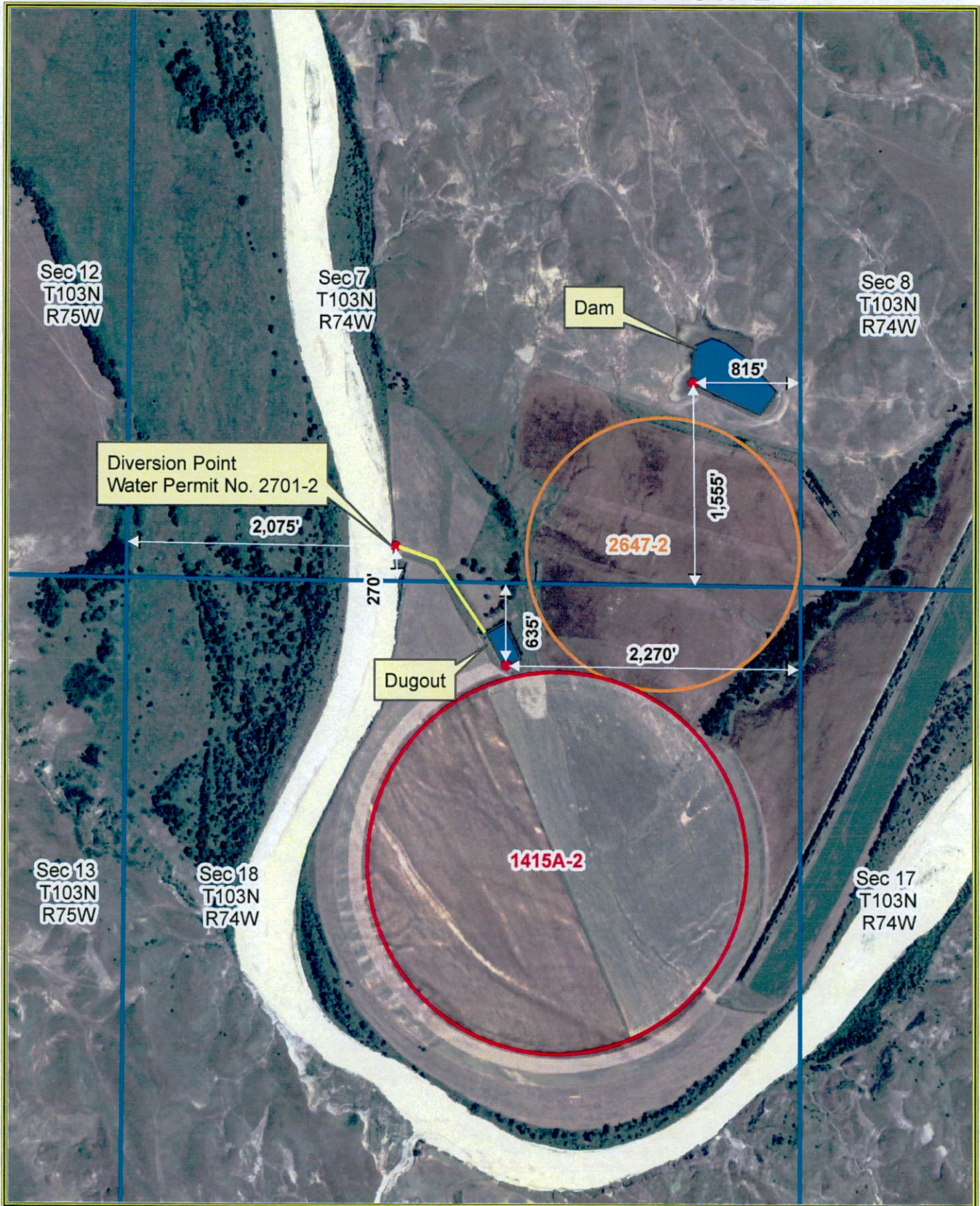

(signed by new owner)

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

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

Cody Burull

Water Permit Nos 2701-2 and 2647-2



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
December 23, 2015

0 0.125 0.25 0.5
Miles



South Dakota
Department of Environment
& Natural Resources
Protecting SD's Tomorrow... Today

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2701-2**

(1) Quinten Burull, Chamberlain SD made Application No. 2701-2, January 9, 2013 for a water permit to divert 2.22 cubic feet of water per second from the White River, Lyman County, South Dakota for irrigation purposes. Permit No. 2701-2, with a priority date of January 9, 2013 was approved March 11, 2013 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 11, 2018 and for the application to beneficial use of said water on or before March 11, 2022.

Water Permit No. 2701-2 authorizes diversion of water from the White River to supplement irrigation of acreage described in Water Right No. 1415A-2 and Water Permit No. 2647-2. Nos. 1415A-2 and 2647-2 authorize irrigation from runoff into a dam and dugout.

On January 5, 2016, the water rights were transferred to Cody Burull, 25299 Deer Valley Rd, Reliance, SD.

Water Permit No. 2701-2 was permitted for a diversion point from the White River to be located in the NW ¼ Section 18, T103N, R74W. An investigation of the water use system found the point of diversion to be located in the SW ¼ Section 7, T103N, R74W. The Chief Engineer made a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that the change in location of the diversion point did not increase the potential for adverse effects to existing diversions and could be licensed as developed.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 2.22 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 270 feet north and 2,075 feet east of the SW corner of Section 7, T103N, R74W (SE ¼ SW ¼).

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

Section 7, T103N, R74W	SE ¼ SE ¼	32.0 acres
	SW ¼ SE ¼	19.5 acres
Section 18, T103N, R74W	NE ¼ NE ¼	22.5 acres
	NW ¼ NE ¼	30.5 acres
	SW ¼ NE ¼	40.0 acres
	SE ¼ NE ¼	24.0 acres
	Lot 1	4.5 acres
	Lot 2	23.0 acres
	Lot 3	12.0 acres
	Lot 4	31.0 acres
	Lot 5	11.0 acres
	Total	250.0 acres

The above land is also authorized for irrigation under Water Right No. 2647-2 from runoff into a dam and a dugout. Due to the different water source, No. 2701-2 is licensed separately.

Water License No. 2701-2

(4) Pursuant to South Dakota Water Law 46-5-30.1 Cody Burull, 25299 Deer Valley Rd, Reliance, SD, 57569 the holder and/or owner of Water Right No. 2701-2 is issued a license to appropriate water, the right to use 2.22 cubic feet of water per second from the White River with a priority date of January 9, 2013 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2701-2 and subject to the following qualifications:

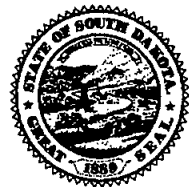
- Water Permit No. 2701-2 authorizes the diversion of water from the White River for irrigation to the land directly or to the existing dugout and storage dam authorized by Water Right No. 1415A-2 and Water Permit No. 2647-2 until June 1st of each calendar year. After June 1st, there shall be no diversions 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.)***
- Diversions of water from the White River are authorized only when the flow at the USGS Gaging Station No. 06452000 – White River near Oacoma is at least 20 cfs while pumping under this permit.
- 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 to 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.)***
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

SEP 06 2016

date



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.



2701-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

SEP 06 2016

1415A-2
2647-2
2701-2

Cody Burull
25299 Deer Valley Rd
Reliance SD 57569

Dear Mr. Burull:

Enclosed are Water License Nos. 2647-2 and 2701-2. They are the final water right documents completing your process of obtaining Water Rights. Included with the licenses is a map prepared by the staff engineer who conducted the field investigation.

Upon licensing, the applicable portions of Water Right No. 1415A-2 and Water Permit No. 2647-2 were incorporated into one license authorizing diversion of water from runoff into a dugout and storage dam. No. 2701-2 authorizes diversion of water from the White River to irrigate the same land and was licensed separately.

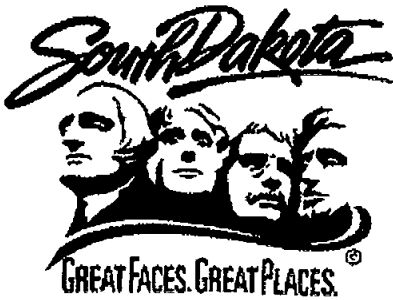
Each year when irrigation questionnaires are mailed to you, you will get two forms for the same land and the difference will be the source of water. The information for each will need to be reported separately.

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

Sincerely,

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

enclosures



2701-2
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: CODY BURULL, 25299 DEER VALLEY RD, RELIANCE, SD 57569

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

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaires

Our records indicate your 2017 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 1397-2 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) 2647-2 & 2701-2 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) 2647-2 & 2701-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1397-2 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 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 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: <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.

2701-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 7, 2018

1397-2
2647-2
2701-2

Cody Burull
25299 Deer Valley Rd
Reliance SD 57569

Dear Mr. Burull:

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

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Right Nos. 1397-1, 2647-2 and 2701-2. 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



2701-2
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, 2020

NOTICE

TO: CODY BURULL, 25299 DEER VALLEY RD, RELIANCE, SD 57569

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 1397-2 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) 2647-2 & 2701-2 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 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) 2647-2 & 2701-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1397-2 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 **February 26, 2020** 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://denr.sd.gov/iq> using this password: ASAVPD**

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.

2701-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 2020

1397-2
2647-2
2701-2

Cody Burull
25299 Deer Valley Rd
Reliance SD 57569

Dear Mr. Burull:

I am writing to acknowledge receipt of the information for your 2019 irrigation questionnaires.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right Nos. 1397-2, 2647-2 and 2701-2. 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
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

January 20, 2022

NOTICE

TO: CODY BURULL, 25299 DEER VALLEY RD, RELIANCE, SD 57569

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 1397-2 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) 2647-2 & 2701-2 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 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) 2647-2 & 2701-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1397-2 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 2, 2022** 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: RSBYHR**

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.



2701-2

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 3, 2022

NOTICE OF ENTRY OF ORDER
FOR AMENDMENT AND ONE YEAR SUSPENSION

TO: Cody Burull, 25299 Deer Valley Rd, Reliance SD 57569

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Amendment of Water Right No. 1397-2 and One Year Suspension of Water Right Nos.
2647-2 & 2701-2

On March 2, 2022, the Water Management Board took the following actions on Water Right Nos. 1397-2, 2647-2 & 2701-2

The Board amended Water Right No. 1397-2 to add the following qualification effective immediately:

"This water right is subject to the Irrigation Water Use Questionnaire being submitted each year."

The Board also ordered:

Effective April 4, 2022, Water Right Nos. 2647-2 and 2701-2 be suspended for the 2022 irrigation season for failure to submit the 2021 irrigation questionnaires.

If the 2021 irrigation questionnaires are received prior to April 4, 2022, the suspensions will not take effect.

Suspension of a water right means water may not be pumped during the 2022 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2022 unless the 2021 irrigation questionnaires are submitted by April 4, 2022.

After April 4, 2022, you may petition the Water Management Board to rescind the suspensions. You will need to submit the 2021 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 4-5, 2022, in Pierre, SD. The letter should include your reasons for not completing the 2021 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place. Please contact Genny McMath (605) 773-3352, if you have any questions.

CERTIFICATION

I hereby certify that on March 3, 2022, I have personally deposited with the United States mail at Pierre, South Dakota, a first class postage prepaid envelopes containing a "Notice" dated March 3, 2022, concerning Board action to amend and/or suspend water rights to the following:

Amendments:

No. 3487-3: Dave Hanson, 31489 455th Ave., Meckling SD 57069
 No. 2460-3: Ryan Patterson, 10946 425th Ave., Britton SD 57430
 Patterson Farm Inc, 42474 SD Hwy 10, Britton SD 57430

Amend & Suspend:

Nos. 1397-2, 2647-2 & 2701-2: Cody Burull, 25299 Deer Valley Rd, Reliance SD 57569

Nos. 2072-3, 2126-3, 3204-3, 7236-3 & 7237-3:

- David Ulvestad, 46720 201st St., Bruce SD 57220
- Darwin Ulvestad, 46679 201st St, Bruce SD 57220

Three year suspensions:

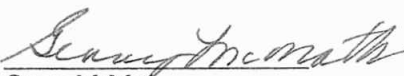
No. 410B-2: Kathi Koester, PO Box 206, Custer SD 57730-0206
 Nos. 1350-3 & 6042-3: Scott Jensen, 24348 478th Ave., Dell Rapids SD 57022

One year suspensions:

No. 6947-3: Joe Adler, 48353 149th St, Milbank SD 57252
 Nos. 6263-3 & 8041-3: George G Hofer, Cedar Grove Colony, 36926 266th St, Platte SD 57369
 No. 881-2: Ryan Edwards, 25331 Yellow Eagle Rd, White River SD 57579
 No. 6316-3: Howard Athletic Club Inc., 508 E Farmer Ave., Howard SD 57349-9017
 Nos. 2851-3 & 4955-3: David Huber, 16010 413th Ave., Conde SD 57434

 Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3: Joey Waldner Colony, 40068 Huron Colony Lane, Huron SD 57350-8001

 Nos. 7286-3 & 7543-3: Brian Kozak, 30620 417th Ave., Tyndall SD 57066
 No. 5665-3: Pat Mentele, PO Box 41, Woonsocket SD 57385-0041
 No. 8326-3: Jerry D Nelsen, 45125 291st St., Viborg SD 57070
 No. 7005-3: Troy Randall, Randall Enterprise LLC, 24250 479th Ave., Dell Rapids SD 57022 6139
 No. 2497-2: Marty Vanderploeg, 22958 293rd St, Martin SD 57551-5930
 No. 8265-3: Carl Pulvermacher, Wiskota Farm, 14050 SD Hwy 25, Webster SD 57274
 Nos. 516-1 & 715-1: Lawrence Woodward, PO Box 220, Dupree SD 57623-0220



Genny McMath
 Program Assistant-Water Rights

STATE OF SOUTH DAKOTA)

) SS

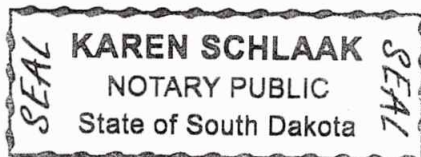
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of March, 2022.



Karen Schlaak
 Notary Public

My Commission expires April 1, 2025





2701-2
**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 15, 2022

2647-2
2701-2

Cody Burull
25299 Deer Valley Rd
Reliance SD 57569

Dear Mr. Mr. Burull:

On March 2, 2022, the Water Management Board ordered Water Right Nos. 2647-2 and 2701-2 be suspended if the 2021 irrigation questionnaires were not received prior to April 4, 2022. The questionnaire information for your water rights has been received.

Since the irrigation questionnaires are on file, no violations have occurred, and no suspensions will take place. You may irrigate during the 2022 irrigation season.

If you have any questions, please contact us.

Sincerely,

Ron Duvall
Water Rights Permitting Administrator
Water Rights Program
(605) 773-3352



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

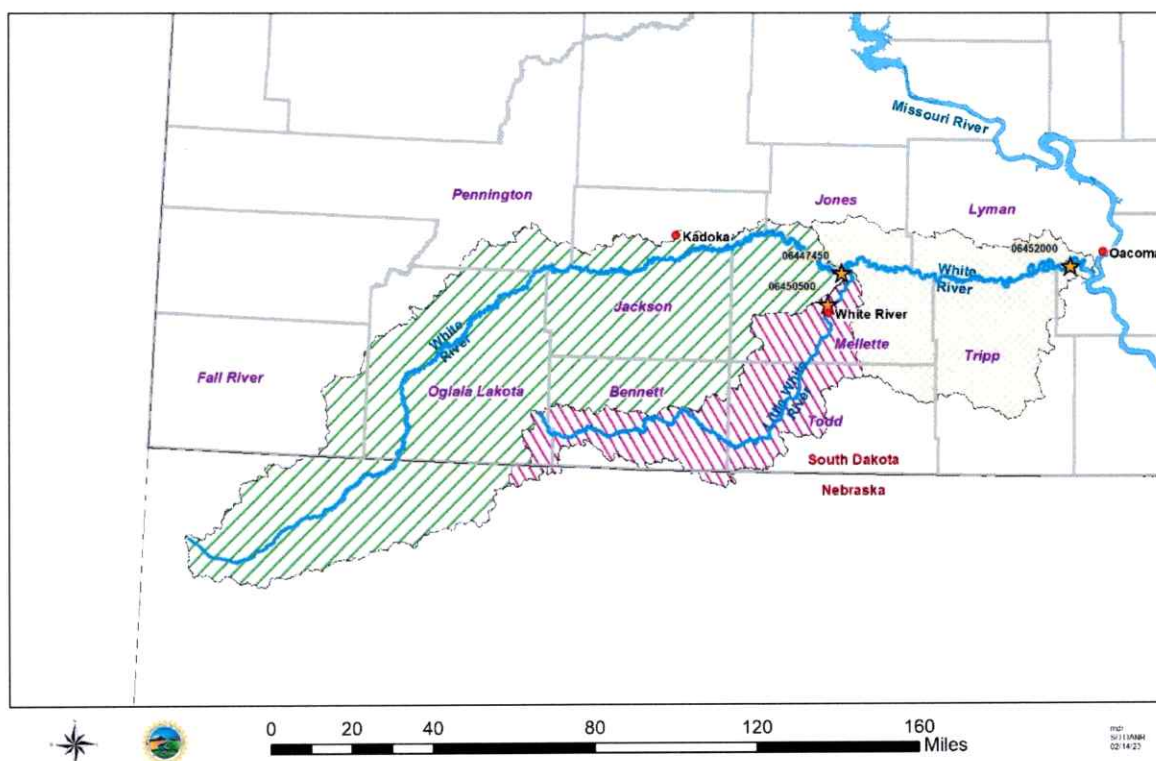


Figure 1. White River Watershed Map.

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

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

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

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

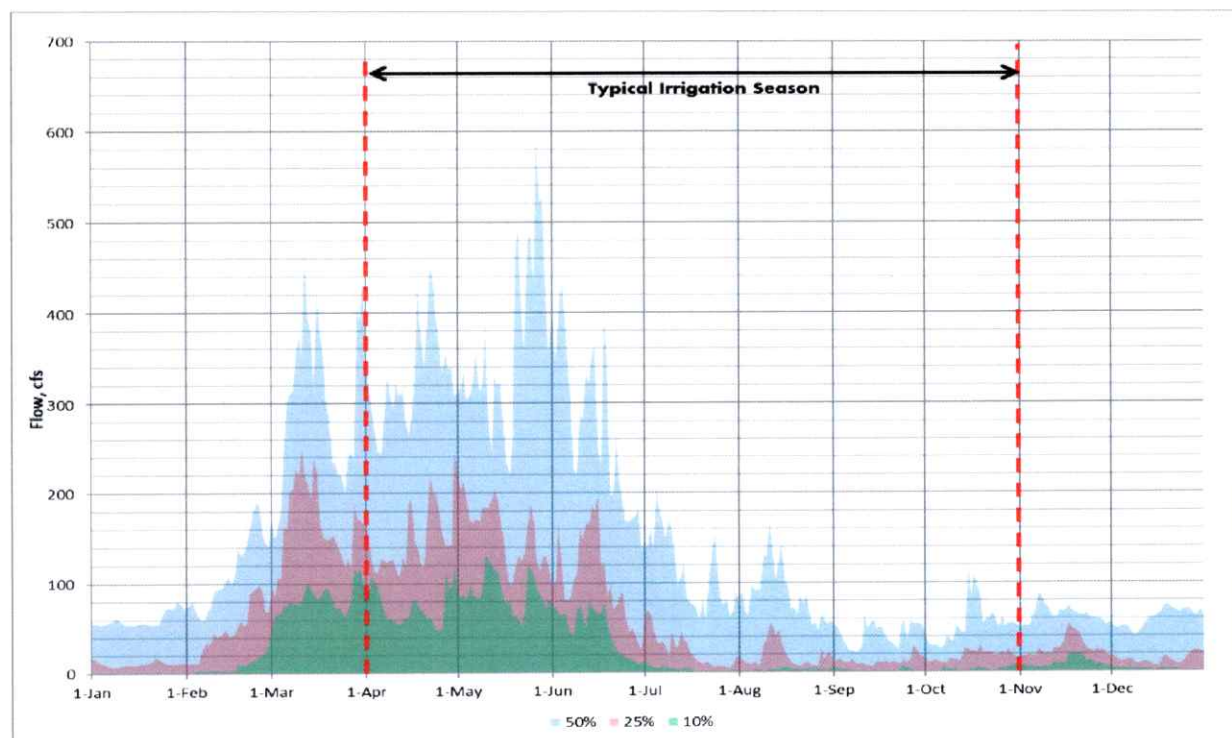


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

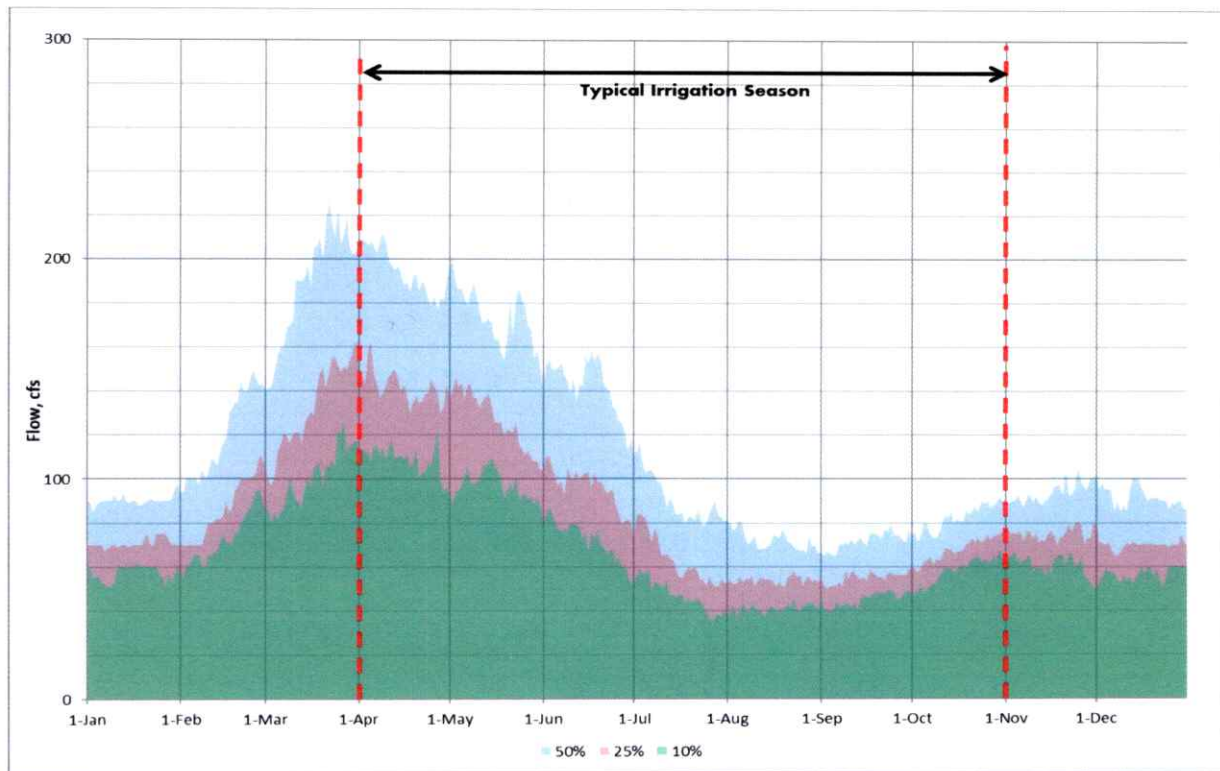


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

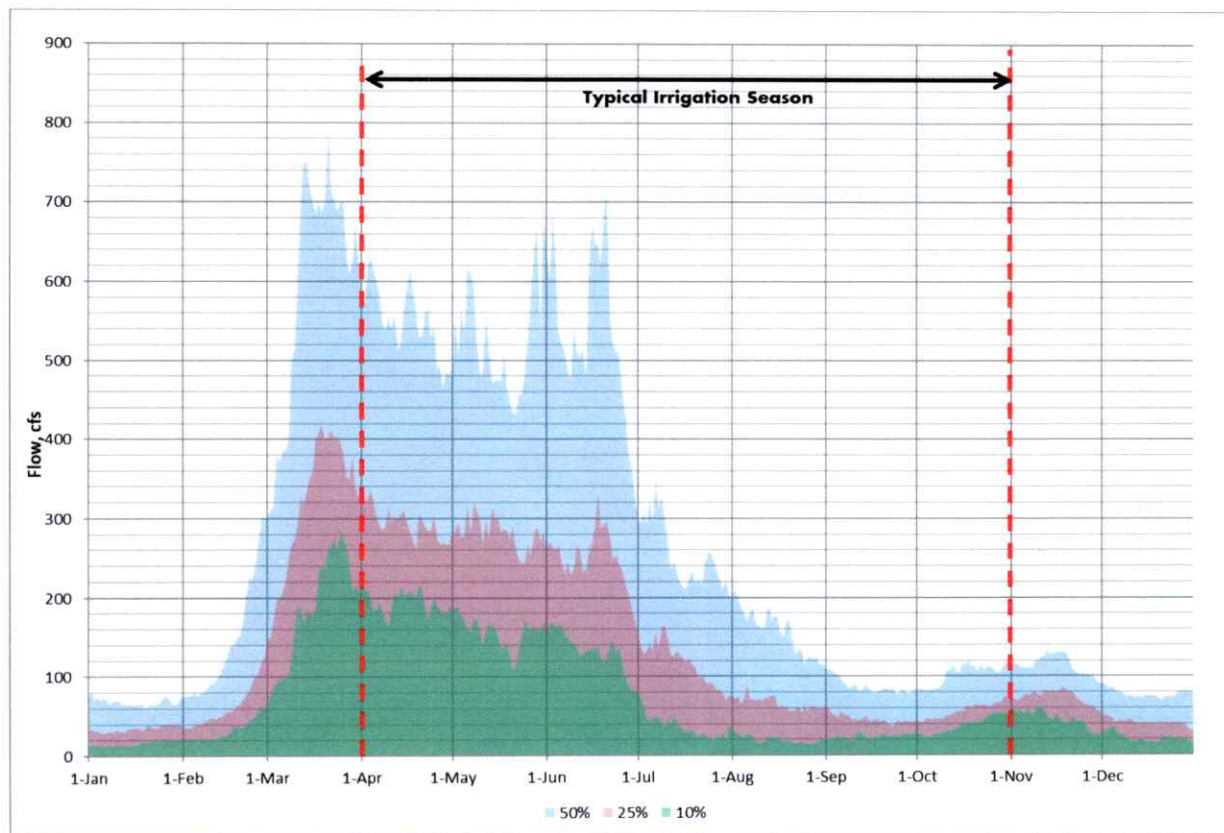


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

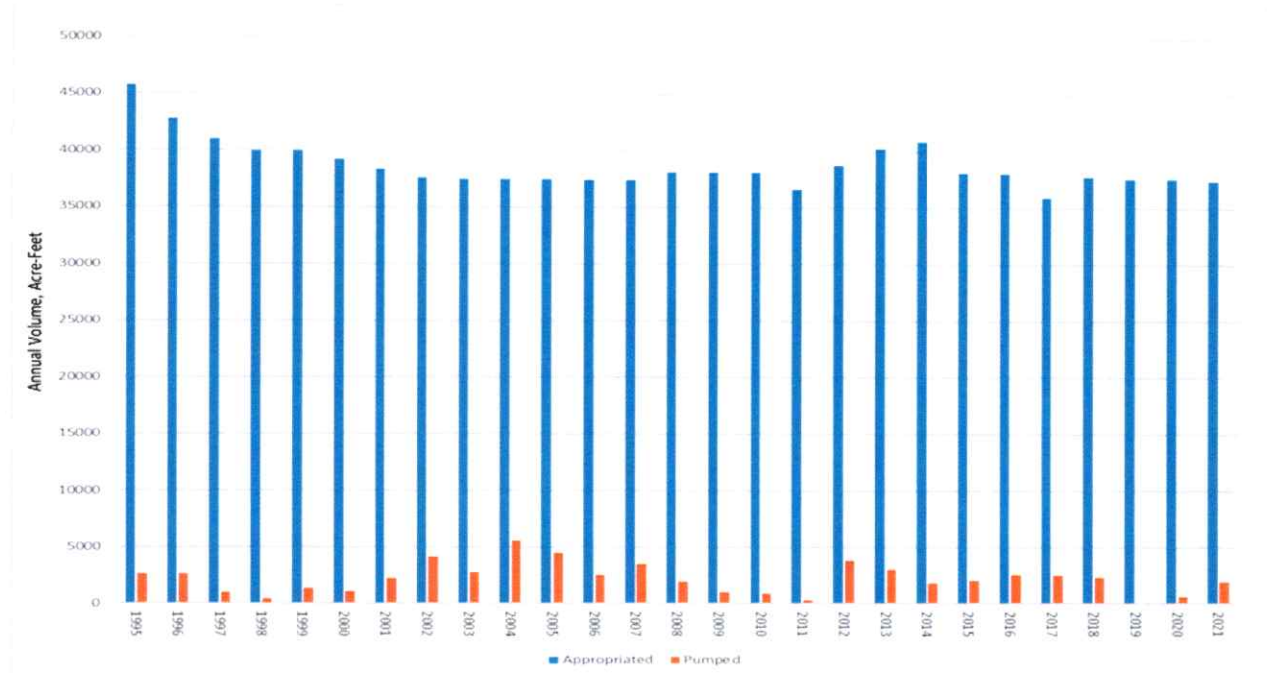


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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April 14, 2023

CODY BURULL
25299 DEER VALLEY RD
RELIANCE SD 57569

Subject: Amendment of the Mandatory Shutoff Qualification on White River Water Right No. 2701-2

Dear Mr. Burull,

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. 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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May 5, 2023

CODY BURULL
25299 DEER VALLEY RD
RELIANCE SD 57569

Subject: Water Management Board removes the mandatory June 1 shutoff qualification and adds a streamflow bypass qualification on White River Water Right No. 2701-2

Dear Mr. Burull,

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:

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.)*

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