

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2802-2</u>	(office use only) Hydrologic Unit <u>10150006</u>
	Basin <u>Nebraska Trib</u>	
	Newspaper <u>Winner Advocate</u>	
	<u>Capitol Journal</u>	

RECEIVED

JUL 31 2019

WATER RIGHTS
PROGRAMoriginally Received
7-19-19

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.)

Irrigate additional acres with no increase in the diversion rate authorized by Water Permit No. 2761-21. Name to Appear on Irrigation Permit John Ishmael

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 29480 308th Ave Winner SD 57580
(Address) (City) (State) (Zip Code)

Phone 557-3525 Mobile 842-5314 Email jbarjcattleco@yahoo.com

2. Amount of water claimed no add'l*CFS or ***GPM ***AF Total Acreage 135 acres
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Benson Dam (authorized by Water Right No. 2084-2)4. Location of point of diversion SW 1/4 NE 1/4 Section 19-T96N-R77W

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

County Tripp5. County or counties where water will be used Tripp6. Annual period during which water is to be used May 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
NW 1/4 Section 18-T96N-R77W	135		

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

Irrigate to raise more hay & corn for
livestock feed.

I, [Signature] Owner/Farmer, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

SOUTH DAKOTA
WATER PERMIT NO. 2802-2

Date of first receipt of application July 31, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2802-2 to John Ishmael, 29480 308th Ave, Winner SD 57580 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. 2802-2 authorizes irrigation of 135 new acres in the NW 1/4 Section 18-T96N-R77W to the existing irrigation systems authorized by Water Right No. 2084-2 and Water Permit No. 2761-2. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet annually from runoff into Benson Dam in the Willow Creek Drainage area to irrigate 550 acres located in the S 1/2, NW 1/4, SW 1/4 NE 1/4, NE 1/4 NE 1/4 Section 19, SW 1/4, E 1/2 SE 1/4 Section 18, W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 17 and N 1/2 NW 1/4 Section 20: all in T96N-R77W. Benson dam impounds water in the NE 1/4 Section 19, SE 1/4, E 1/2 NE 1/4 Section 18, and W 1/2 NW 1/4 Section 17; all in T96N-R77W. Water Permit No. 2761-2 appropriates 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-R78W. The diversion point authorized by Permit No. 2761-2 and to be used by this permit is located in the SW 1/4 NE 1/4 Section 19; all in T96N-R77W. This permit does not increase the 2.38 cfs diversion rate authorized by Permit No. 2761-2. This project is located approximately 16 miles south and 7 miles west of Winner SD.
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: May 1 – October 31.
3. The date from which applicant may claim right is July 31, 2019 (additional 135 acres).
4. The date of approval of Permit No. 2802-2 is October 7, 2019.
5. One-fifth of the construction is to be completed on or before April 7, 2022.
6. All construction is to be completed on or before October 7, 2024.
7. Water is to be put to beneficial use on or before October 7, 2028.
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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in storage dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.

(continued)

2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Permit Nos. 2084-2, 2761-2 and 2802-2 combined authorize total storage of up to 1,450 acre feet of water annually in the dam.

WATER MANAGEMENT BOARD

By: _____

Jeanne Goodman
Jeanne Goodman, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

OCT 10 2019

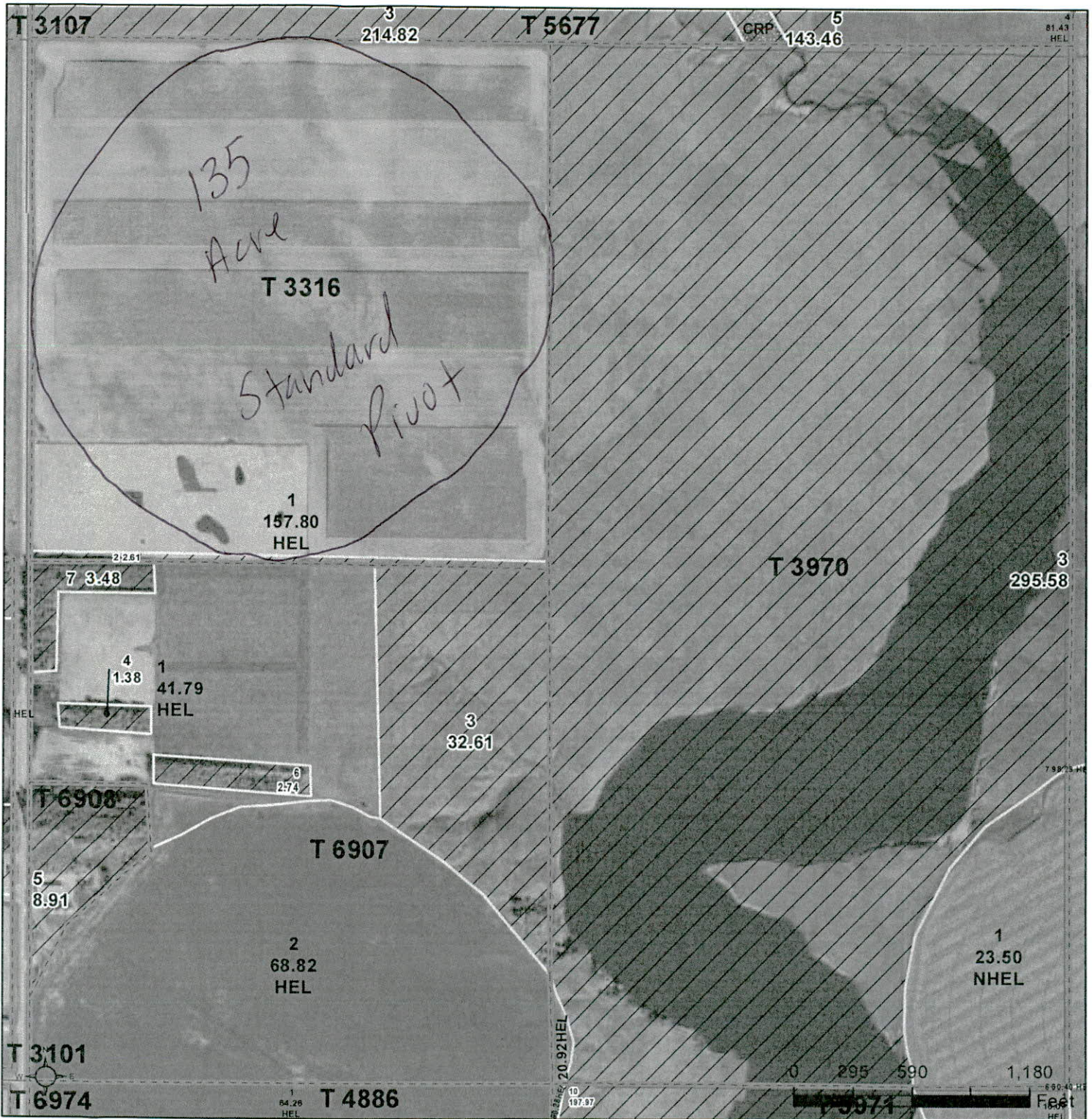
date





United States
Department of
Agriculture

Tripp County, South Dakota



Common Land Unit

	Tract Boundary
	Non-Cropland
	Cropland
	PLSS

Wetland Determination Identifiers

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

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. 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 boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

2019 Program Year

Map Created June 14, 2019

Farm 5382

18 -96N -77W



United States Department of Agriculture
Farm Service Agency

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April 20, 2011

PLSS: 19_96_77
Farm: 5382

Tripp County
1:7,796

MAY - 8 2017
WATER RIGHTS
PROGRAM



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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 19, 2019

RECEIVED OF John J. or Julia Ishmael 29480 308th Avenue Winner SD 57580

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

Fee for Application for Permit No. <u>2802-2</u> to Appropriate Water, to construct and to put water to beneficial use	850	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>2802-2</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	1050	00

No. 09171

By

Jeanne Goodman
Chief Engineer
VM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

July 23, 2019

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

We have received the map and fee requesting to irrigate additional acres to what is authorized by Water Permit No. 2761-2.

- Enclosed is an *Application for a Permit to Appropriate Water* partially completed based on your phone conversation with Eric Gronlund and the map you submitted. Please review the application in its entirety and make any needed corrections. Please sign where indicated and return the application form to this office.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Karen Schlaak".

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2802-2, John Ishmael**

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. 2802-2, John Ishmael, 29480 308th Avenue, Winner SD 57580.

The Chief Engineer is recommending APPROVAL of Application No. 2802-2 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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in storage dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Permit Nos. 2084-2, 2761-2 and 2802-2 combined authorize total storage of up to 1,450 acre feet of water annually in the dam.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
September 13, 2019

**Report to the Chief Engineer
Water Permit Application No. 2802-2**

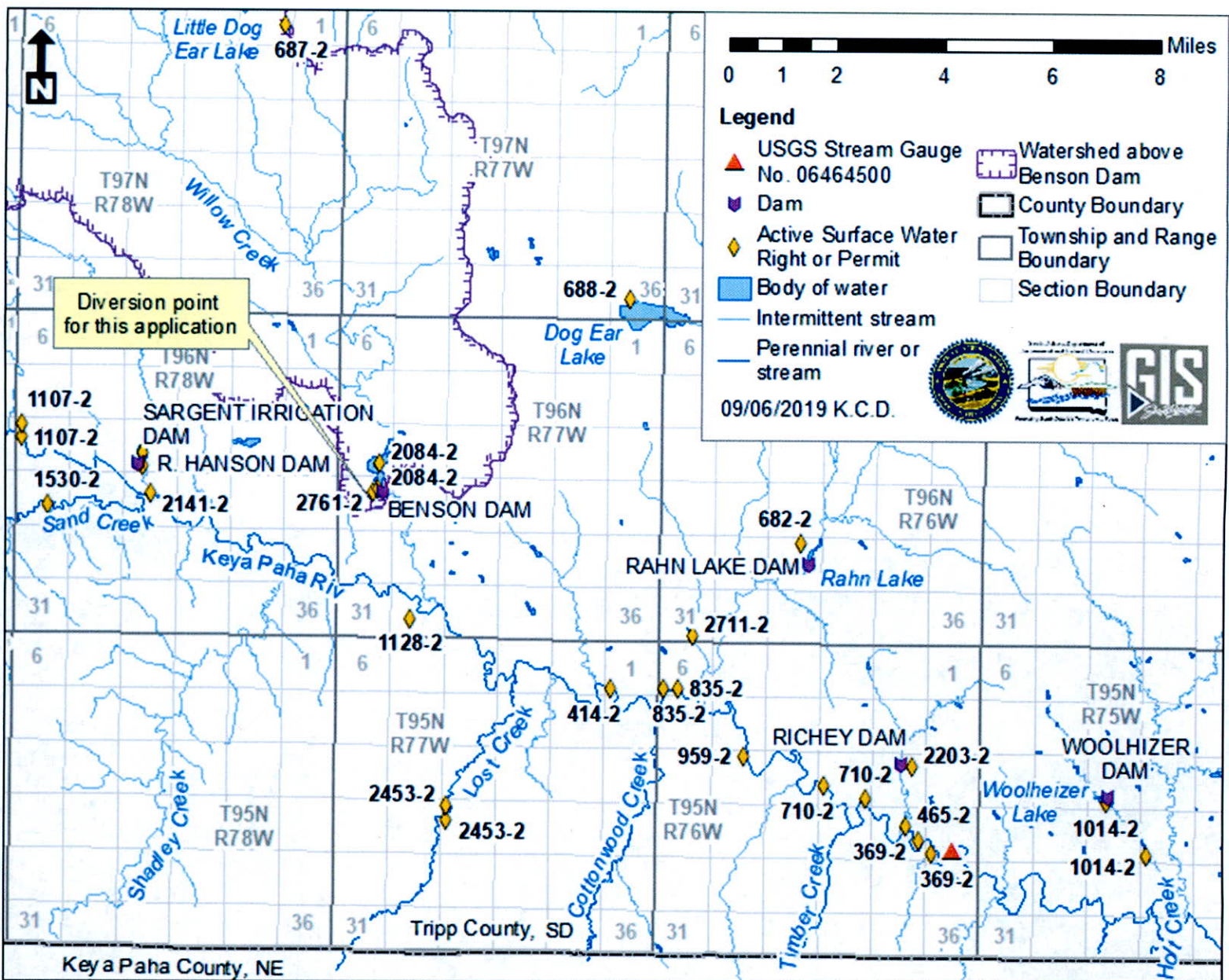
John Ishmael

August 19, 2019

Water Permit No. 2802-2 seeks to irrigate 135 additional acres located in NW $\frac{1}{4}$ Section 18-T96N-R77W. The acres for this application are in addition to the existing irrigation systems authorized by Water Right No. 2084-2 and Water Permit No. 2761-2. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet annually from runoff into Benson Dam in the Willow Creek watershed to irrigate 550 acres located in the S $\frac{1}{2}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19, SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 18, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 20; all in T96N-R77W. Benson Dam impounds water in the NE $\frac{1}{4}$ Section 19 and SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 18, W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17; all in T96N-R77W. Water Permit No. 2761-2 appropriates 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres in the NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 24-T96N-R78W. The diversion point authorized by Permit No. 2761-2 and to be used by this application is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19; all in T96N-R77W. This application, if approved, does not increase the 2.38 cfs diversion rate authorized by Water Permit No. 2761-2. This project is located approximately 16 miles south and 7 miles west of Winner, South Dakota.

Water Source: Benson Dam

Benson Dam is authorized to impound 1,450 ac-ft annually from Willow Creek in Tripp County. Willow Creek begins approximately 14 miles northwest of Benson Dam and discharges into the Keya Paha River approximately 2.3 miles downstream of Benson Dam. The area that drains into the dam is approximately 53,398 acres (USGS, 2019a). The nearest USGS stream gauge downstream from this application is Site No. 06464500 on the Keya Paha River at Wewela, South Dakota (USGS, 2019b). The watershed area above the stream gauge is approximately 720,889 acres (USGS, 2019a). There are 28 water rights/permits withdrawing surface water within the watershed of the stream gauging site on the Keya Paha River at Wewela (SD Water Rights, 2019a), with a total diversion rate of 43.05 cfs. While flows recorded at the stream gauging station at Wewela do not reflect the size of flows entering the Benson Dam reservoir, they do reflect the variable nature of surface water supply in the area. Figure 1 shows a map of the area including surface water rights, most of the watershed above Benson Dam, and USGS Stream Gauge No. 06464500. Figure 2 shows statistics for the stream gauge based on daily data for 70 years of record. Streamflow in the watershed is variable, with high flows in the springtime and the lowest flows in August and September. The minimum 10th percentile flow shown is 5.9 cfs and the minimum median flow shown is 24 cfs.



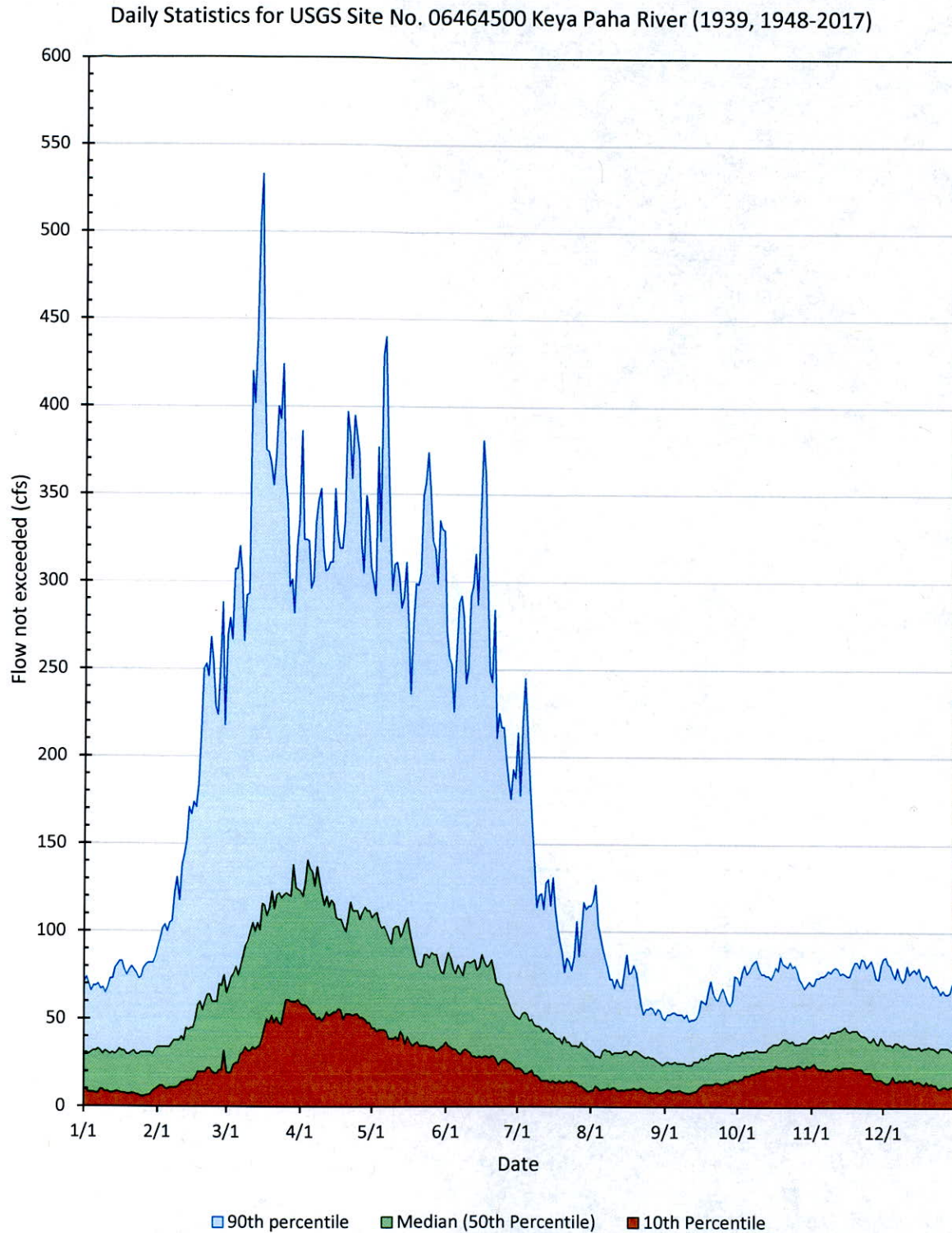


Figure 2: Daily statistics for USGS Site No. 06464500 on Keya Paha River at Wewela for all complete years of record (USGS, 2019c)

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights, and that the proposed use is a beneficial use and in the public interest. This report will assess the availability of water and possibility of developing this application without unlawful impairment of existing rights only.

Availability of Water

Because there is no stream gauge data available for Willow Creek, availability of water will be analyzed by balancing estimates of the supply of water with withdrawals.

Supply

Benson Dam is supplied by runoff from the watershed upstream. Based on land use data from the National Land Cover Database (MLRC Consortium, 2016) and soil data from the Natural Resources Conservation Service (NRCS, 2019), the average Soil Conservation Service (SCS) runoff curve number over the area is 69. The lowest curve number shown in Exhibit 2-10 from the Annual Runoff (Method A) section of the SCS manual for South Dakota is 70 (USDA/SCS, 1989). Using the curve number of 70, Method A estimates the annual yield for this area exceeds 0.09 inches per acre 80% of the time and exceeds 0.27 inches per acre 50% of the time (USDA/SCS, 1989). Applied over the acreage of the watershed above Benson Dam, direct runoff is estimated to exceed 400 ac-ft annually 80% of the time and is estimated to exceed 1,202 ac-ft/yr 50% of the time. Gerbert, et al. (1989) mapped average annual runoff for the United States based on drainage basin at a scale of 1:7,500,000, showing an average annual runoff of 1.0 inch in the area of this application. Applying 1.0 inch over 53,398 acres, the average annual runoff in the watershed above Benson Dam is 4,449 acre-feet (Gerbert, et al., 1989). Average annual discharge data from the USGS stream gauge at Wewela over 70 years of record (1938 and 1948-2017) confirms that 1.0 in/yr is a reasonable estimate of average annual streamflow available for the watershed (USGS, 2019c).

Withdrawals

Discharge of water from the watershed is by infiltration into the soil, evaporation, discharge as streamflow, and withdrawals by appropriative and domestic users including stock watering. Since the average annual yield calculation is based on stream gauges and watershed area only, losses due to infiltration into the soil, evaporation, and the moderating effect of dams and dry draws are already considered in the estimate of water supply. In the watershed above Benson Dam, one water right/permit, Water Right No. 687-2, may withdraw up to 600 acre-feet per year to fill Little Dog Ear Lake from runoff from the watershed (SD Water Rights, 2019a). There are also 83 dry draw location notices on file with the DENR within the boundaries of the watershed with a total storage of 444.1 acre-feet (SD Water Rights, 2019b). Because the dry draw impoundments are for reasonable domestic use or stock watering, they are unlikely to withdraw a significant amount. Since Little Dog Ear Lake is a natural lake with no works to actively control it and has existed since at least 1889 (the priority date of the water right), its withdrawal from runoff is already considered in the estimate of water supply (SD Water Rights, 2019a).

The only two water rights/permits withdrawing from Benson Dam or the watershed above Benson Dam are Water Right No. 2084-2 held by Robert and Judith Benson and Water Permit No. 2761-2 held by John Ishmael (SD Water Rights, 2019a). Mr. Ishmael has a contract for deed for the dam and land authorized by Water Right No. 2084-2. Irrigation reported in the Willow Creek watershed above Benson Dam is shown in Figure 3. The average annual reported withdrawal for the period of record (1979-2018) is 379 ac-ft/yr (SD Water Rights, 2019c). The average withdrawal applied over the acreage developed each year is 8.5 inches, although during 2012, Water Right No. 2084-2 withdrew approximately 1,396 acre-feet of water, which equates to 30.5 inches over each acre licensed (SD Water Rights, 2019c). In general, SDCL 46-5-6 does not allow irrigators to apply more than 24 inches of water to their permitted acreage. However, since portions of Water Right 2084-2 are permitted to apply up to 36 inches of water, that application rate is permissible for that water right assuming low flows for domestic use are bypassed through the dam (SD Water Rights, 2019a). Conservatively assuming the applicant applies on average 12 inches of water per year over the 135 additional acres sought in this application, an additional 135 acre-feet will be withdrawn annually.

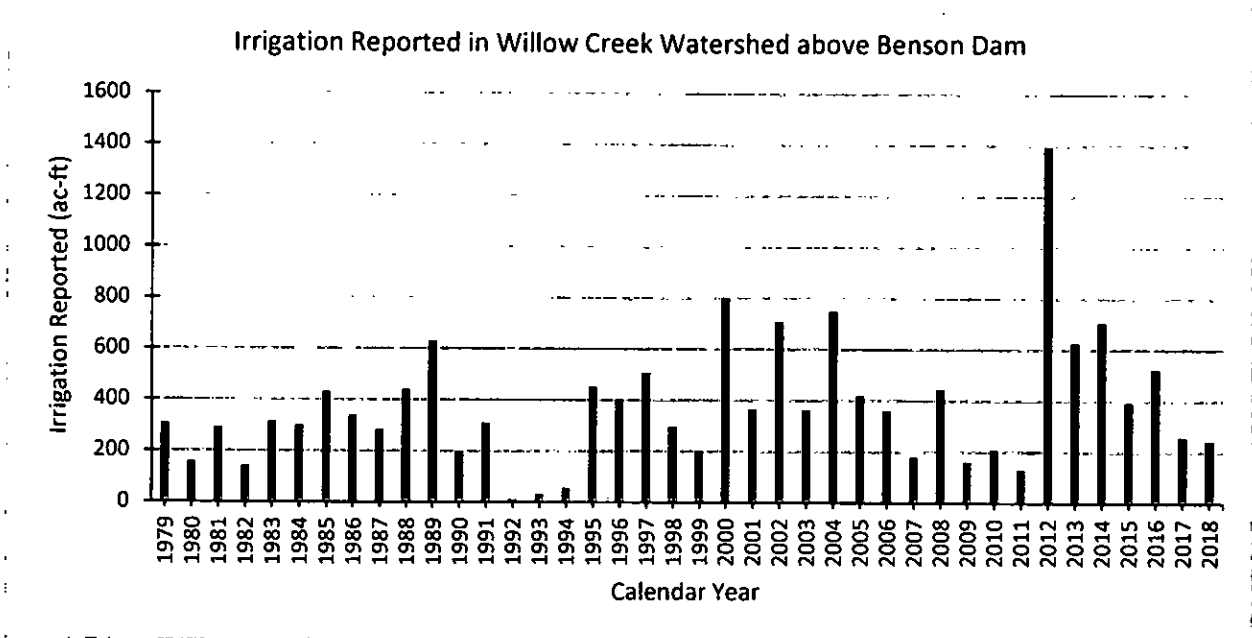


Figure 3: Irrigation reported in Willow Creek watershed above Benson Dam (SD Water Rights, 2019c)

Balance of supply and withdrawals

The average annual supply of runoff to the watershed is 4,448 acre-feet and the total permitted storage in Benson Dam is 1,450 acre-feet. The average annual withdrawal by irrigation is currently 379 acre-feet. This application is estimated to withdraw an additional 135 acre-feet on average. Based on a water budget and streamflow statistics on the Keya Paha River at Wewela, there is reasonable probability unappropriated water is available for this application.

Existing Users and Historical Notes

On July 12, 1989, a landowner downstream of Benson Dam on Willow Creek wrote to the Water Rights Program with concerns about water availability on Willow Creek if Water Right No.

Report on Water Permit Application No. 2802-2

2084-2 was approved (SD Water Rights, 2019d). The Water Management Board approved the application with “the low flow qualification, the irrigation water use questionnaire qualification,” and a qualification regarding the total storage approved for the Benson Dam. The low flow qualification as it appears on the permit for Water Right No. 2084-2 is “Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed” (SD Water Rights, 2019a).

In 1991, the Water Management Board, in order to protect domestic water rights including stock watering, deleted existing qualifications from all water rights/permits withdrawing from the Keya Paha River and contributing tributaries and replaced them with the following qualification (which will be called the 15 cfs qualification from this point onward) instead:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. This permit does not authorize the diversion of water from the Keya Paha River or contributing tributaries when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer (Water Management Board, 1991).

Water Permit No. 2761-2, which is held by the applicant, includes the 15 cfs qualification with an exception that they may irrigate from stored water during low flows if water flowing out of the reservoir is equal to water flowing into the reservoir (SD Water Rights, 2019a). This application does not directly impound more water at Benson Dam, but if water is withdrawn from the reservoir prior to a precipitation event, the reservoir would have more storage available to impound water from Willow Creek. If this application is approved, it should have the same low flow qualification as Water Permit No. 2761-2. Since there have been no new complaints regarding water shortage in the Keya Paha River watershed, there is reasonable probability that with the same low-flow qualification as Water Permit No. 2761-2, this application can be developed without impairment of prior water rights and domestic use.

Conclusions

1. Water Permit Application No. 2802-2 seeks to irrigate 135 acres located in NW $\frac{1}{4}$ Section 18-T96N-R77W using existing irrigation systems authorized by Water Right No. 2084-2 and Water Permit No. 2761-2.
2. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet from runoff into Benson Dam in the Willow Creek watershed to irrigate 550 acres. Benson Dam impounds water in the NE $\frac{1}{4}$ Section 19 and SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 18, W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17; all in T96N-R77W.
3. Water Permit No. 2761-2 appropriates 2.38 cfs from Benson Dam to irrigate 167 acres.
4. The diversion point authorized by Permit No. 2761-2 and to be used by this application is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19-T96N-R77W.
5. This application does not seek to increase the diversion rate authorized by Water Permit No. 2761-2.
6. There is reasonable probability unappropriated water is available for this application.

7. If approved, this application should have the same low flow qualification as Water Permit No. 2761-2.
8. There is reasonable probability this application can be developed without impairing prior water rights or domestic users.



Kimberly C. Drennon
Natural Resources Engineer

References

Gerbert, Warren A., Graczyk, David J. and Krug, William R. 1989. *Average Annual Runoff in the United States, 1951-80*. Reston, Virginia : United States Geological Survey, 1989. Hydrologic Atlas 710.

MLRC Consortium. 2016. MRLC Viewer. *NLCD Land Cover*. [Online] 2016. [Cited: August 20, 2019.] <https://www.mrlc.gov/viewer/>.

NRCS. 2019. Soil Properties and Qualities. *Web Soil Survey*. [Online] USDA Natural Resources Conservation Service, August 21, 2019. [Cited: August 21, 2019.] <https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

SD Water Rights. 2019d. *County files*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019d.

—. **2019b.** *Dry Draw Location Notices*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019b.

—. **2019c.** *Irrigation questionnaires*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019c.

—. **2019a.** *Water rights/permits*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019a.

USDA/SCS. 1989. *Engineering Field Manual for South Dakota: Chapter 2: Estimating Runoff and Peak Discharges*. Huron, South Dakota : United States Department of Agriculture Soil Conservation Service, 1989.

USGS. 2019c. National Water Information System. *Web Interface*. [Online] United States Geological Survey, August 29, 2019c. [Cited: August 29, 2019.] https://waterdata.usgs.gov/nwis/dvstat?referred_module=sw&search_site_no=06464500&format=sites_selection_links.

—. **2019b.** National Water Information System. *Mapper*. [Online] United States Geological Survey, August 20, 2019b. [Cited: August 20, 2019.] <https://maps.waterdata.usgs.gov/mapper/index.html>.

—. **2019a.** StreamStats. *Basin Characteristics*. [Online] United States Geological Survey, August 20, 2019a. [Cited: August 20, 2019.] <https://streamstats.usgs.gov/ss/>.

Water Management Board. 1991. *Minutes of the 60th Meeting of the Water Management Board*. Pierre, South Dakota : SD DENR Water Rights Program, 1991.

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SEP 30 2019

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Marglin 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:

9-25-19

Cost of Printing \$42.00

Marglin Baker
(Signature)

Business Manager
(Title)

9-26-19

(Date Signed)

Legal Notice
SNAXLP-17327
11/01/2015

NOTICE OF APPLICATION

NO. 2802-2
Notice is given that John Ishmael, 29480 308th Ave, Winner SD 57580 has filed an application for a water permit to irrigate 135 new acres in the NW 1/4 Section 18-T96N-R77W to the existing irrigation systems authorized by Water Right No. 2084-2 and Water Permit No. 2761-2. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet annually from runoff into Benson Dam in the Willow Creek Drainage area to irrigate 550 acres located in the S 1/2, NW 1/4, SW 1/4 NE 1/4, NE 1/4 NE 1/4 Section 19, SW 1/4, E 1/2 SE 1/4 Section 18, W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 17 and N 1/2 NW 1/4 Section 20; all in T96N-R77W. Benson dam impounds water in the NE 1/4 Section 19, SE 1/4, E 1/2 NE 1/4 Section 18, and W 1/2 NW 1/4 Section 17; all in T96N-R77W. Water Permit No. 2761-2 appropriates 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-R78W. The diversion point authorized by Permit No. 2761-2 and to be used by this application is located in the SW 1/4 NE 1/4 Section 19; all in T96N-R77W. This application, if approved, does not increase the 2.38 cfs diversion rate authorized by Permit No. 2761-2. This project is located approximately 16 miles south and 7 miles west of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2802-2 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://dwr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with SDWR 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 October 7, 2019.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Published once at the total approximate cost of \$42.00.

AFFIDAVIT OF PUBLICATION

State of South Dakota, county of Tripp-ss.

Dan Bechtold

of said county being first duly sworn, on oath says that he
is the Editor of the

WINNER ADVOCATE

a weekly newspaper printed and published at Winner, said
county of Tripp, and has full and personal knowledge of all
the facts herein stated that said newspaper is a legal
newspaper and has a bona fide circulation of at least two
hundred copies weekly and has been published within said
county for fifty-two successive weeks prior to the
publication of the notice herein mentioned, and was
printed wholly or in part in an office maintained at said
place of publication; that the

81 lines @ 1 column X 90%

Notice of Application

John Ishmael

a printed copy of which, taken from the paper in which
the same was published, is attached to this sheet, and is
made a part of this affidavit, was published in said
newspaper at least once in each week for 1 week(s), on
the day of each week on which said newspaper was
regularly published to wit:

9-25-19

That the full amount of the fees for the publication of the
*annexed notice is \$29.16

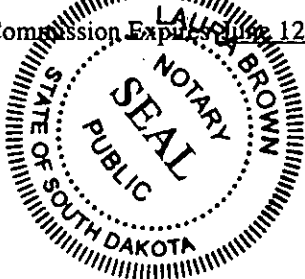
Subscribed and sworn to before me this 25th
day of September, 2019

Lauren Brown

Notary Public

County of Tripp, South Dakota

My Commission Expires August 12, 2025



NOTICE OF APPLICATION NO. 2802-2

Notice is given that John Ishmael, 29480
308th Ave, Winner SD 57580 has filed an ap-
plication for a water permit to irrigate 135 new
acres in the NW 1/4 Section 18-T96N-R77W
to the existing irrigation systems authorized by
Water Right No. 2084-2 and Water Permit No.
2761-2. Water Right No. 2084-2 authorizes the
storage of 1,450 acre-feet annually from runoff
into Benson Dam in the Willow Creek
Drainage area to irrigate 550 acres located in
the S 1/2, NW 1/4, SW 1/4 NE 1/4, NE 1/4 NE
1/4 Section 19, SW 1/4, E 1/2 SE 1/4 Section
18, W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 17
and N 1/2 NW 1/4 Section 20: all in T96N-
R77W. Benson dam impounds water in the NE
1/4 Section 19, SE 1/4, E 1/2 NE 1/4 Section
18, and W 1/2 NW 1/4 Section 17: all in
T96N-R77W. Water Permit No. 2761-2 ap-
propriates 2.38 cubic feet of water per second
(cfs) from Benson Dam to irrigate 167 acres
in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-
R78W. The diversion point authorized by Per-
mit No. 2761-2 and to be used by this
application is located in the SW 1/4 NE 1/4
Section 19: all in T96N-R77W. This applica-
tion, if approved, does not increase the 2.38
cfs diversion rate authorized by Permit No.
2761-2. This project is located approximately
16 miles south and 7 miles west of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief En-
gineer recommends APPROVAL of Applica-
tion No. 2802-2 with qualifications because 1)
unappropriated water is available, 2) existing
rights will not be unlawfully impaired, 3) is it
a beneficial use of water, and 4) it is in the
public interest. The Chief Engineer's recom-
mendation with qualifications, the application,
and staff report are available at
<http://denr.sd.gov/public> or contact Eric Gron-
lund for this information, or other information,
at the Water Rights Program address provided
below.

Any person interest in opposing or sup-
porting this application or recommendation
must file a written petition with BOTH the ap-
plicant and Chief Engineer. The applicant must

file a petition if contesting the Chief Engi-
neer's recommendation. The Chief Engineer's
address is "Water Rights Program, Foss Build-
ing, 523 E Capitol, Pierre SD 57501 (605 773-
3352)" and the applicant's mailing address is
given above. A petition filed by either an in-
terested person or the applicant must be filed
by October 7, 2019.

The petition may be informal, but must in-
clude a statement describing the petitioner's
interest in the application, the petitioner's rea-
sons for opposing or supporting the applica-
tion, and the signature and mailing address of
the petitioner or the petitioner's legal counsel,
if legal counsel is obtained.

If the applicant does not contest the rec-
ommendation of the Chief Engineer and no pe-
tition to oppose the application is received, the
Chief Engineer shall act on the application
pursuant to the recommendation with no hear-
ing held before the Water Management Board.
If a petition opposing the application or con-
testing the recommendation is filed, then a
hearing will be scheduled and the Water Man-
agement Board will consider this application.
Notice of the hearing will be given to the ap-
plicant and any person filing a petition.

Published once at the total approximate
cost of \$29.16

(39)

RECEIVED
SEP 30 2019
WATER RIGHTS
PROGRAM

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, September 13, 2019 10:03 AM
To: 'winneradvocate@hotmail.com'
Subject: 2802-2, John Ishmael
Attachments: 2802-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on September 25, 2019.

John Ishmael, 29480 308th Ave, Winner SD 57580 (605 842-5314) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, September 13, 2019 10:04 AM
To: 'legals@capjournal.com'
Subject: 2802-2, John Ishmael
Attachments: 2802-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on September 25, 2019.

John Ishmael, 29480 308th Ave, Winner SD 57580 (605 842-5314) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

September 13, 2019

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

Water Permit Application No. 2802-2 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 Winner Advocate printed at Winner SD (Ph # 605 842-1481) and the Capitol Journal printed at Pierre SD (Ph # 605 224-7801). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers 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 September 25, 2019. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2802-2

Notice is given that John Ishmael, 29480 308th Ave, Winner SD 57580 has filed an application for a water permit to irrigate 135 new acres in the NW 1/4 Section 18-T96N-R77W to the existing irrigation systems authorized by Water Right No. 2084-2 and Water Permit No. 2761-2. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet annually from runoff into Benson Dam in the Willow Creek Drainage area to irrigate 550 acres located in the S 1/2, NW 1/4, SW 1/4 NE 1/4, NE 1/4 NE 1/4 Section 19, SW 1/4, E 1/2 SE 1/4 Section 18, W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 17 and N 1/2 NW 1/4 Section 20: all in T96N-R77W. Benson dam impounds water in the NE 1/4 Section 19, SE 1/4, E 1/2 NE 1/4 Section 18, and W 1/2 NW 1/4 Section 17; all in T96N-R77W. Water Permit No. 2761-2 appropriates 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-R78W. The diversion point authorized by Permit No. 2761-2 and to be used by this application is located in the SW 1/4 NE 1/4 Section 19; all in T96N-R77W. This application, if approved, does not increase the 2.38 cfs diversion rate authorized by Permit No. 2761-2. This project is located approximately 16 miles south and 7 miles west of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2802-2 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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 October 7, 2019.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Published once at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

OCT 10 2019

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

Enclosed is Water Permit No. 2802-2 authorizing construction of the 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