

WATER PERMIT NO. 2835-2

Name of Applicant: **Blake Burnham**

Address: **31166 300th St, Winner SD 57580**

Phone: **605 208-0383**

Amount of Water Claimed: **2.07 cfs**

Total Acres: **145 acres**

Source of Water Supply: **Dugout**

Water to be used for: **irrigation**

County: **Tripp**

Type of Waste Disposal System:

Location: **23 miles southwest of Winner**

PRIORITY

Date Received: **12-28-21**

Application/License Fee: **\$ 1,050**

Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks:

Diversion Point: **SE 1/4 NE 1/4 Section 31-T103N-R77W**

Land to be Irrigated: **S 1/2 SW 1/4, SW 1/4 SE Sec 29, NW 1/4, NW 1/4 NE 1/4 Sec 32; T103N-R77W**



Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **1-14-22**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2835-2

Date of first receipt of application December 28, 2021.

Date of return to applicant for corrections, amendments or changes January 4, 2022.

Date of receipt of corrected application January 13, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2835-2 to Blake Burnham, 31166 300th St, 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. 2835-2 appropriates 2.07 cubic feet of water per second from a dugout located in the SE 1/4 NE 1/4 Section 31 for irrigation of 145 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 29 and the NW 1/4, NW 1/4 NE 1/4 Section 32; all in T103N-R77W. This site is located approximately 23 miles northwest 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: April 1 – October 31.
3. The date from which applicant may claim right is December 28, 2021.
4. The date of approval of Permit No. 2835-2 is February 21, 2022.
5. One-fifth of the construction is to be completed on or before August 21, 2024.
6. All construction is to be completed on or before February 21, 2027.
7. Water is to be put to beneficial use on or before February 21, 2031.
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. 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.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Eric Gronlund*
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

MAR 30 2022
date



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.

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>2835-2</u> (office use only) Hydrologic Unit <u>10140204</u>
	Basin <u>White R</u>
	Newspaper <u>Winner Advocate</u> <u>Plainsman</u>

PAID
 DEC 28 2021
 Ck# 15426

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.)

 1. Name to Appear on Irrigation Permit Blake Burnham

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

 Mailing Address 31166 300th St. Winner SD 57580
 (Address) (City) (State) (Zip Code)

 Phone _____ Mobile 605 208-0383 Email burnhambro@hotmail.com

 2. Amount of water claimed 2.29^{2.07} *CFS or 000 **GPM ***AF Total Acreage 160145
 (*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 water / aquifer underneath it dugout

 4. Location of point of diversion one 12" pipe gravity flow from
 (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

SE 1/4 NE 1/4 Sec 31-T103N-R77W County Tripp

 5. County or counties where water will be used Tripp

 6. Annual period during which water is to be used April - OCT

 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
<u>Northwest 50 Acres</u>	<u>40</u>	<u>see attachment</u>	
<u>Northwest 50 Acres</u>	<u>40</u>		
<u>Southwest 50 Acres</u>	<u>40</u>		
<u>Southeast 50 Acres</u>	<u>40</u>		

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

 I, Blake Burnham owner, 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.

Section 29-T103N-R77W

SW 1/4 SW 1/4	22 acres
SE 1/4 SW 1/4	34 acres
SW 1/4 SE 1/4	5 acres

Total of 145 acres

Section 32-T103N-R77W

NW 1/4 NW 1/4	30 acres
NE 1/4 NW 1/4	39 acres
SE 1/4 NW 1/4	5 acres
SW 1/4 NW 1/4	2 acres
NW 1/4 NE 1/4	8 acres

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (**required**) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) ____

b) System Capacity (gallons) ____ Year Constructed ____

c) Connected to the City of ____ Sanitary System

3. Dugout Informationa) Surface Dimensions 70x 600 Depth 20b) Depth to water (ground surface to water level) 15**4. Water Storage Dams**

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

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

b) Freeboard 15c) Crest Width 75Crest Length 600d) Height 20'

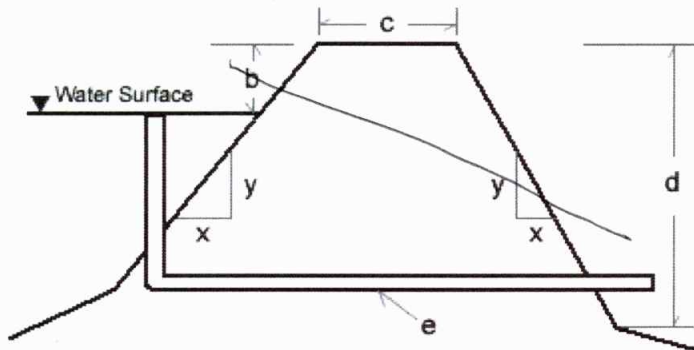
e) Primary Outlet Capacity

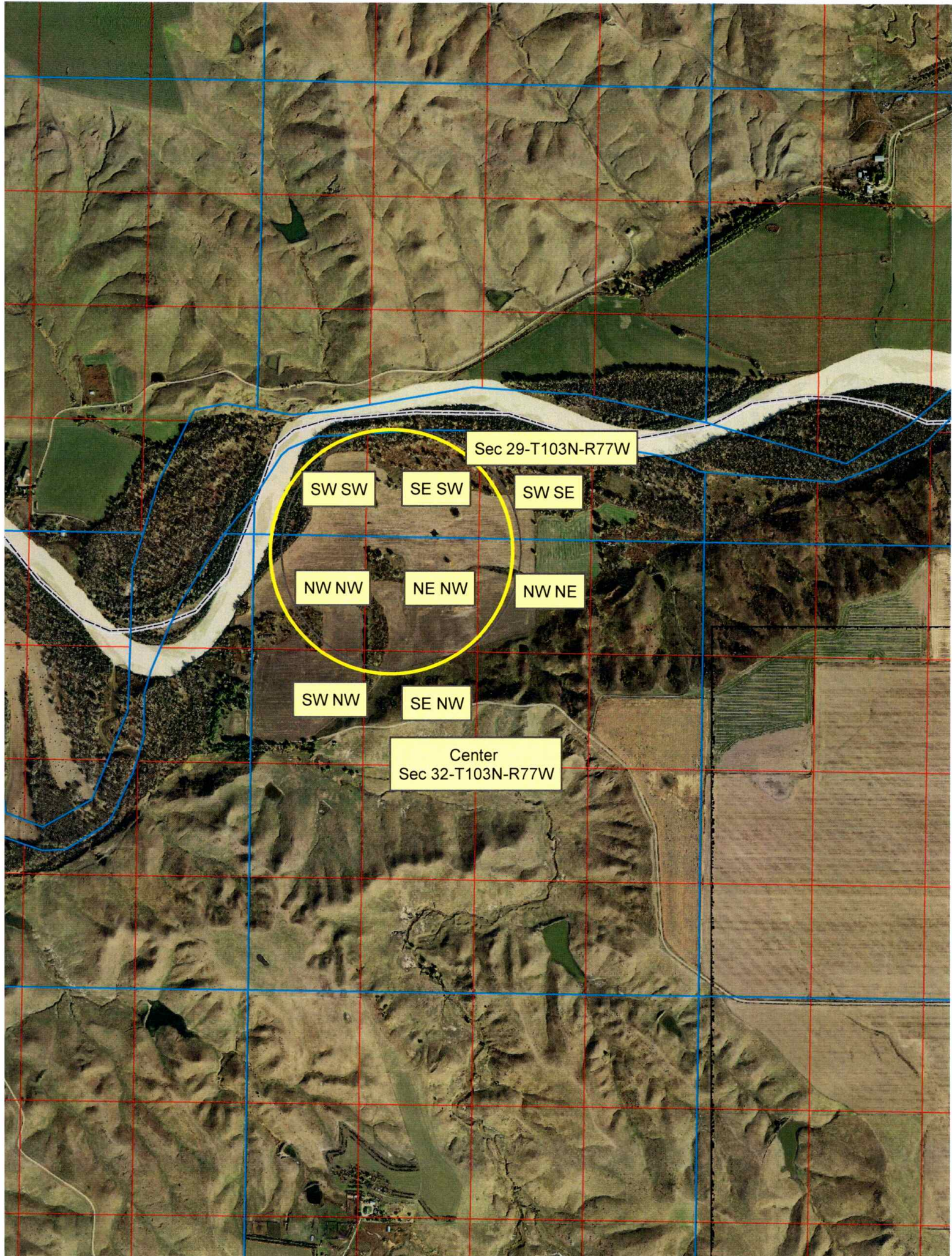
If pipe, diameter 12"f) Secondary Spillway Capacity notSpillway Width don't need

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

Upstream 3:1

Downstream

h) Surface Area of Impoundment 42,000'i) Storage 294,000 Acre Feetj) Drainage Area Above Dam 0 Acres



Sec 29-T103N-R77W

SW SW

SE SW

SW SE

NW NW

NE NW

NW NE

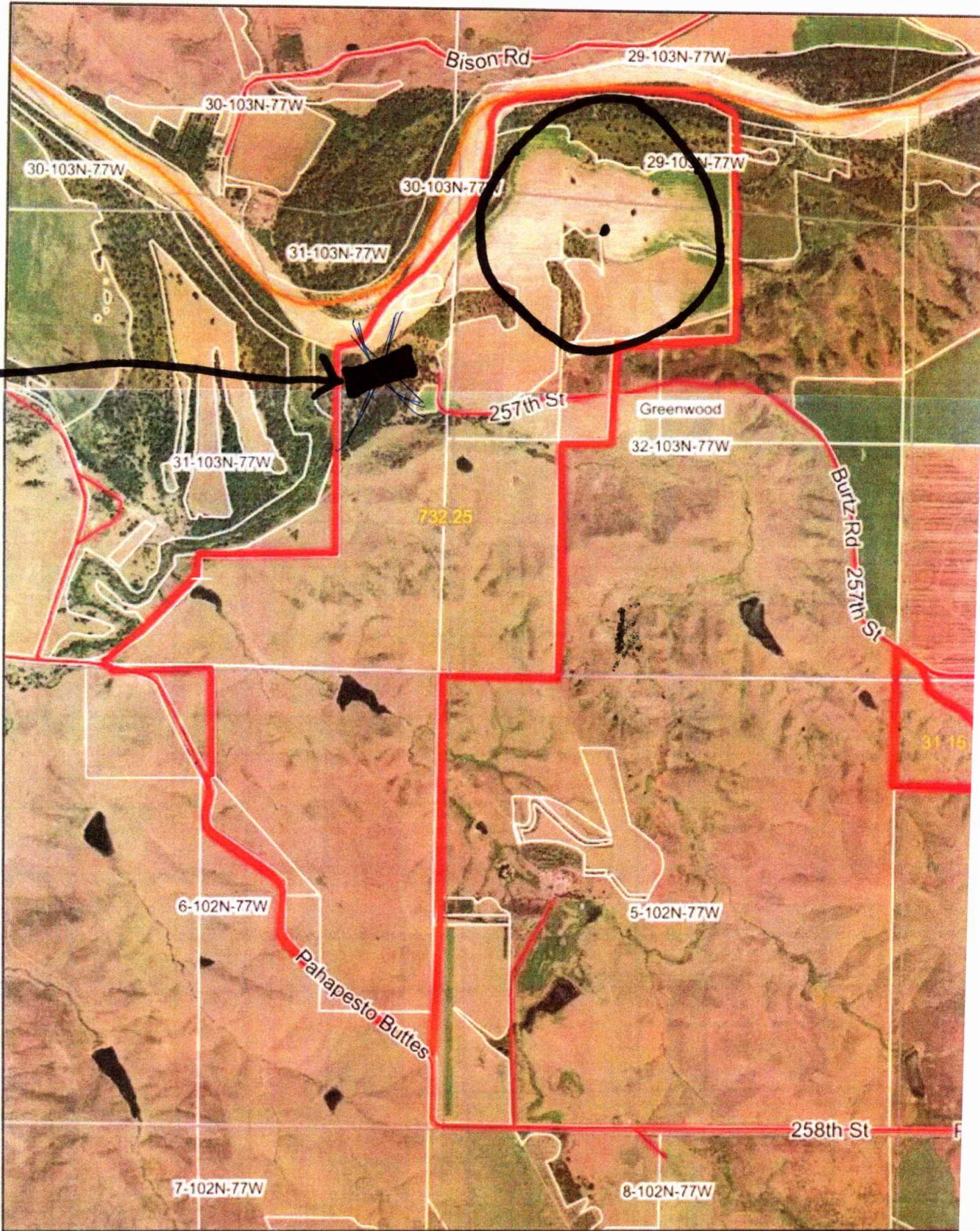
SW NW

SE NW

Center
Sec 32-T103N-R77W

Aerial Map

Out
Out



www.shippyrealty.com

**SHIPPY
REALTY**

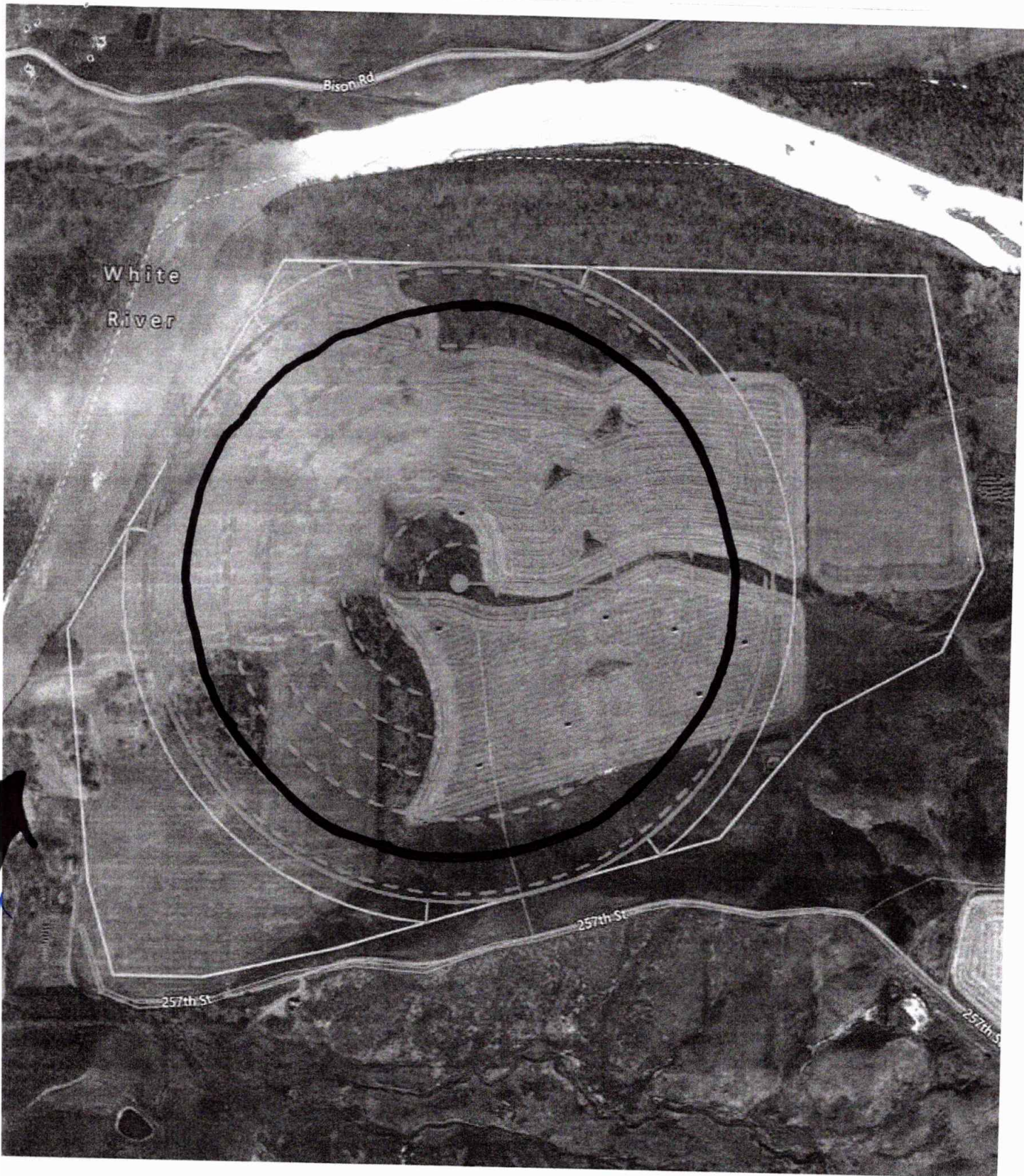
Winner, SD 605842-3212

Map Center: 43° 40' 31.17, -100° 4' 23.52

0ft

32-103N-77W

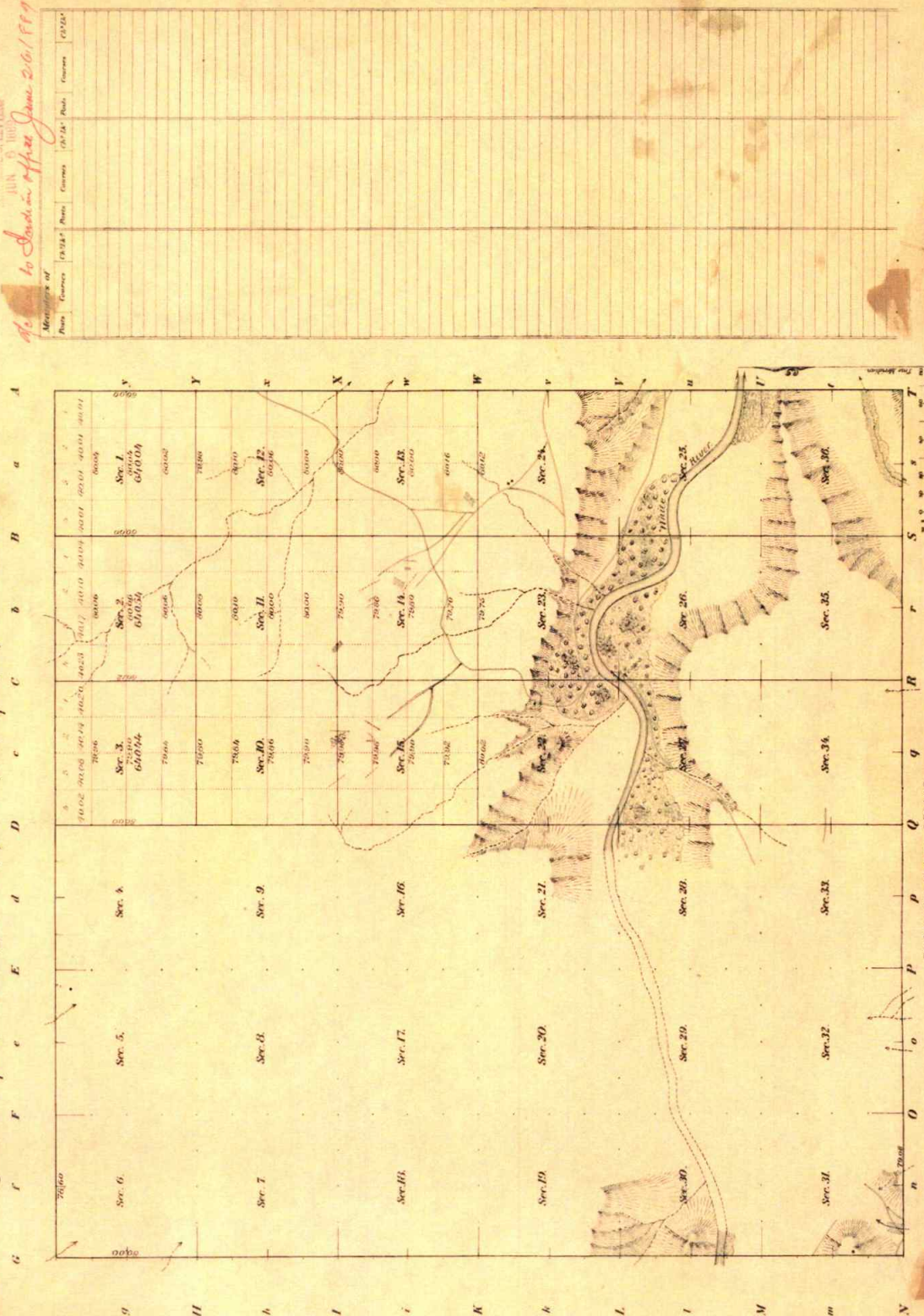
Tripp County



Dugout

SOUTH DAKOTA

Township No 103 North, Range No 77 West, 5th Principal Meridian



The above Map of Township 1, 403 North, of Range 1, 77 West, 5th Principal Meridian, Cass Co. Mo., is hereby conformable to the field notes of the survey thereof on file in this Office which have been examined and approved.

Surveyors General (Glar,
Aulden, June 5 1889,
Mans Clayton, Genl)

1869, 1
POOR COPY

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date December 28, 2021

RECEIVED OF Burnham Bros. 31166 300th St. Winner SD 57580

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

Fee for Application for Permit No. <u>2835-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</u>
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>2835-2</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>1050.00</u>

By Eric Gronlund
Chief Engineer
me



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 4, 2022

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

Thank you for submitting the three *Applications for a Permit to Appropriate Water* for irrigation in Tripp County. Regarding the application from the dugout/White River a few items need to be clarified.

Based on the map submitted with the application, I have created an ArcMap showing each quarter-quarter location. A breakdown of acres in each quarter-quarter is listed below for a total of 145 acres instead of the 160 areas as identified on the application.

Section 29-T103N-R77W		Section 32-T103N-R77W	
SW 1/4 SW 1/4	22 acres	NW 1/4 NW 1/4	30 acres
SE 1/4 SW 1/4	34 acres	NE 1/4 NW 1/4	39 acres
SW 1/4 SE 1/4	5 acres	SE 1/4 NW 1/4	5 acres
		SW 1/4 NW 1/4	2 acres
		NW 1/4 NE 1/4	8 acres
Total of 145 acres			

The statutory limit for irrigation of 145 acres would be 2.07 cubic feet of water per second. Do you agree with these locations and amounts?

Do you agree the proposed dugout will be in the SE 1/4 NE 1/4 Section 31-T103N-R77W? Is it your intent to pump from the White River to the dugout? If so, what will the pump rate from the river to the dugout be?

There were no changes to the other two applications. If you have any questions, please contact me.

Sincerely,

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

enclosure

Schlaak, Karen

From: Burnham Bros <burnhambros@hotmail.com>
Sent: Thursday, January 13, 2022 9:04 AM
To: Schlaak, Karen; ronduvall@sdstatesd
Subject: FW: [EXT] Blake Burnham Permit
Attachments: ^2022 1-4-22 DNR ltr on irrigation application.pdf

**Please ignore my first email, this is the revised version after discussion with Ron Duvall
2nd try at this**

Attached is the reply that you had for me. If you have any time today please call me to discuss how I am pulling water out of the white river.

Below I will address the following concerns:

1. The acres was reduced to 145 acres and I agree with the changes
2. I agree to the 2.07 cubic feet of water per second
3. I am choosing to exclude any connection between the white river and my dugout. I will not be connecting them, I will not be pumping any water out of the white river. I will solely be using ground water
 - a. If this does not work I will reapply in the future.
4. The location for the proposed dugout will be in the indicated position of SE ¼ NE1/4 Section 31-T103N-R77W. Same as you have listed.

Please call me at 605 208 0383 if you have any questions or I need to do anything different

Water Rights Program - DENR

File Documentation

File No. 2835-2

County: Tripp

Name of Person: Blake Burnham

Address: 31166 300th St, Winner SD 57580

Date 01-25-2022 **Telephone:** 605-208- 0383

RE: *Clarification on water source for his application*

Comments:

I called Mr. Burnham concerning his dugout and whether it would be constructed to collect local runoff from the small adjacent watershed. Mr. Burnham indicated because the dugout is so close to the White River, he intends to ring dike it to protect dugout if the river experiences overbank flooding. The water source will only be from the dugout that will be constructed into the alluvium adjacent to the White River.



Mark D Rath

Natural Resources Engineer III



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2835-2, Blake Burnham**

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. 2835-2, Blake Burnham, 31166 300th St, Winner SD 57580.

The Chief Engineer is recommending APPROVAL of Application No. 2835-2 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

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

See report on application for additional information.

Eric Gronlund, Chief Engineer
January 28, 2022

REPORT ON WATER PERMIT APPLICATION NO. 2835-2

Blake Burnham

January 28, 2022

Application No 2835-2, proposes to appropriate 2.07 cubic feet of water per second from a dugout located in the SE 1/4 NE 1/4 Section 31 for irrigation of 145 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 29 and the NW 1/4, NW 1/4 NE 1/4 Section 32; all in T103N-R77W. This site is located approximately 23 miles northwest of Winner SD. in Tripp County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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 domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Water Source and the Proposed Project

The applicant proposes to construct a large, ring-diked dugout into the alluvium immediately adjacent to White River to irrigate 145 acres utilizing a center pivot irrigator, Figure 1. The proposed source of water for this project is from the alluvium via a direct hydraulic connection to the White River. The White River is a prairie stream located in southwestern South Dakota and northwestern Nebraska. The White River headwaters originate in northwestern Nebraska and drains approximately 9,975 square miles before discharging into the Missouri River near Oacoma SD.

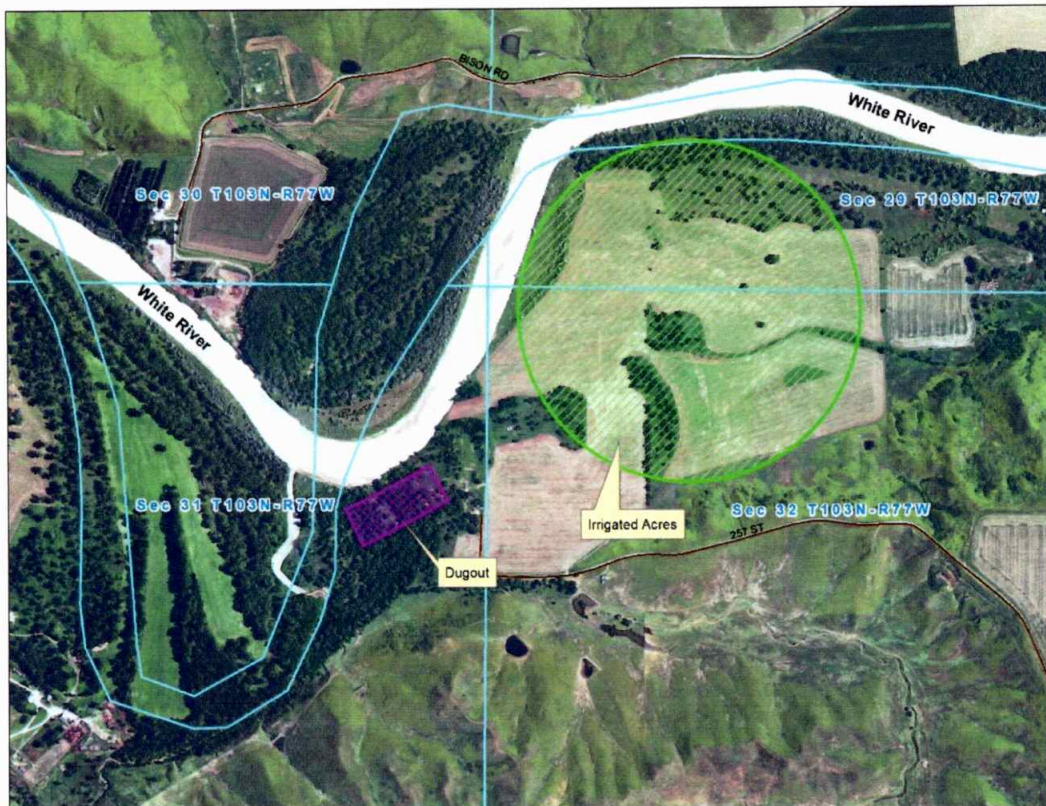


Figure 1. Project Map for Water Permit Application No. 2835-2

A major tributary that provides significant inflows to the White River is the Little White River, Figure 2. The Little White River headwaters in Oglala Lakota and Bennett counties before joining up with the White River approximately 10 miles northeast of the town of White River. The Little White River has more uniform flow than the White River due to permeable sand formation allowing precipitation to seep into the ground and then moving laterally into the streams through springs and seeps (Ellis, et al. 1971). The Little White River's confluence with the White River is located approximately 43 miles upstream from the proposed diversion.

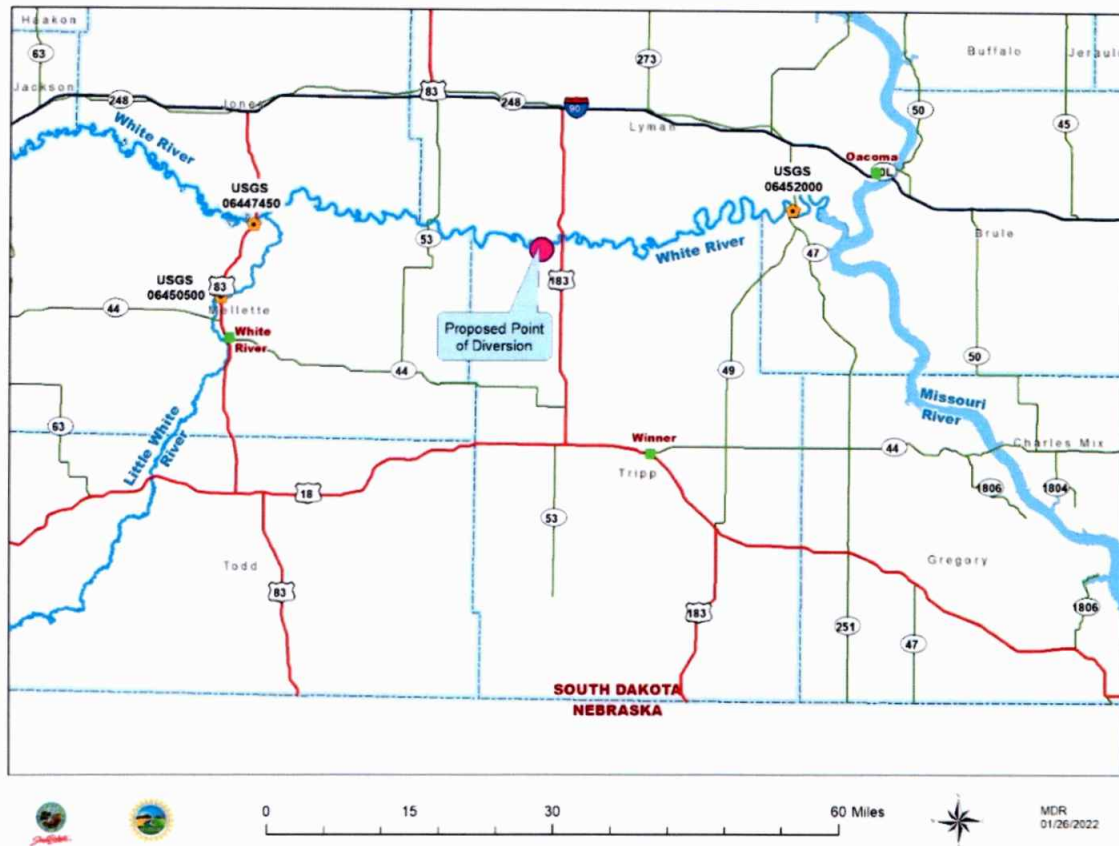


Figure 2. Area Map for Water Permit Application No. 2835-2

Water Rights staff rely on historical streamflow records to give an indication of the flow characteristics of a particular stream throughout the year. The U.S. Geological Survey (USGS) maintains a long term stream gaging monitoring network in South Dakota providing real-time flow information that can be accessed by the public. The USGS provides a repository for several years of historical daily flow data and statistical daily, monthly and annual flow information.

The proposed diversion location for this project is located approximately 23 miles northwest of the town of Winner SD. The United States Geological Survey (USGS) maintains multiple stream flow gaging stations on the White River and Little White rivers in the vicinity of the proposed diversion point.

The USGS Stream Gaging No. 06447450 White River near White River, SD is located approximately 49 river miles upstream from the proposed diversion point and about 2 miles upstream from the confluence with the Little White River. Figure 3 is a hydrograph showing the 50, 25 and 10 percentile daily flow values. 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,

shows an increase in flow in the White River corresponding to spring snowmelt and spring rain events. The figure shows the median daily flow values significantly curtailing after the mid-June time frame. At the 25 percentile level corresponding to drier years, occurring on average one out of four years, there is little water consistently available at the site after the second week of July.

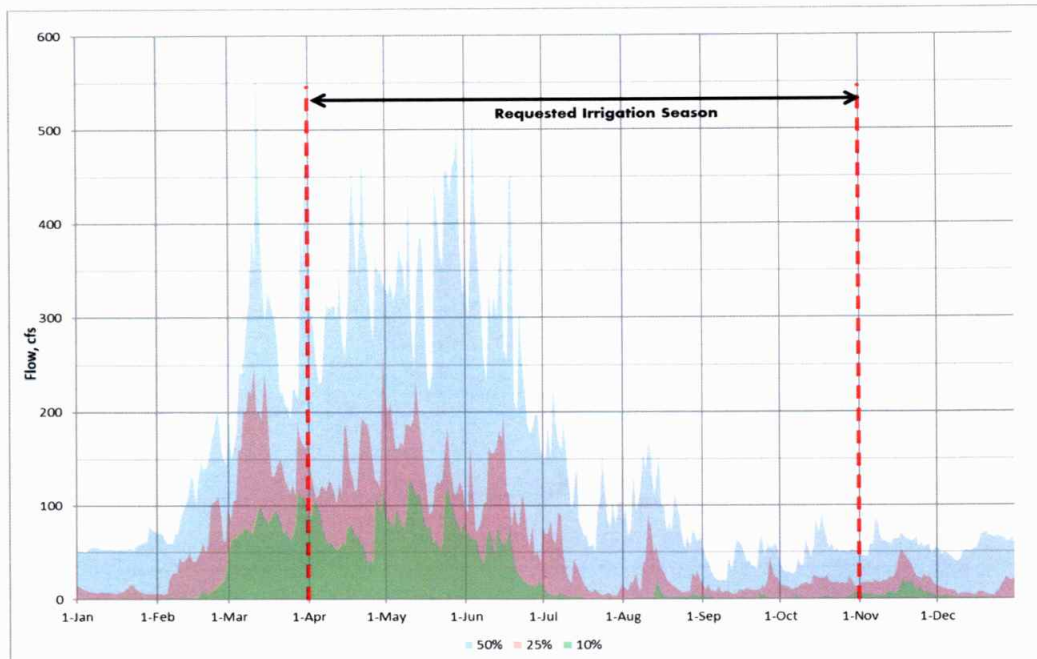


Figure 3. Daily percentile flow hydrographs for the USGS No. 06447450 White River near White River, 2001-2021, contributing drainage area 6,202 mi² (USGS, 2022).

The USGS Stream Gaging No. 06450500 Little White River near White River, SD is located approximately 14.5 miles upstream from the confluence with the White River and 61 river miles upstream from the proposed diversion point. Figure 4 is a hydrograph showing the 50, 25 and 10 percentile daily flow values. 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 indicates the flow curtailing in the mid- June to mid-July time frame before leveling off. The hydrograph also shows there is a decline in available water corresponding with the 25 and 10 percentile levels and following a similar leveling off pattern during the late summer months.

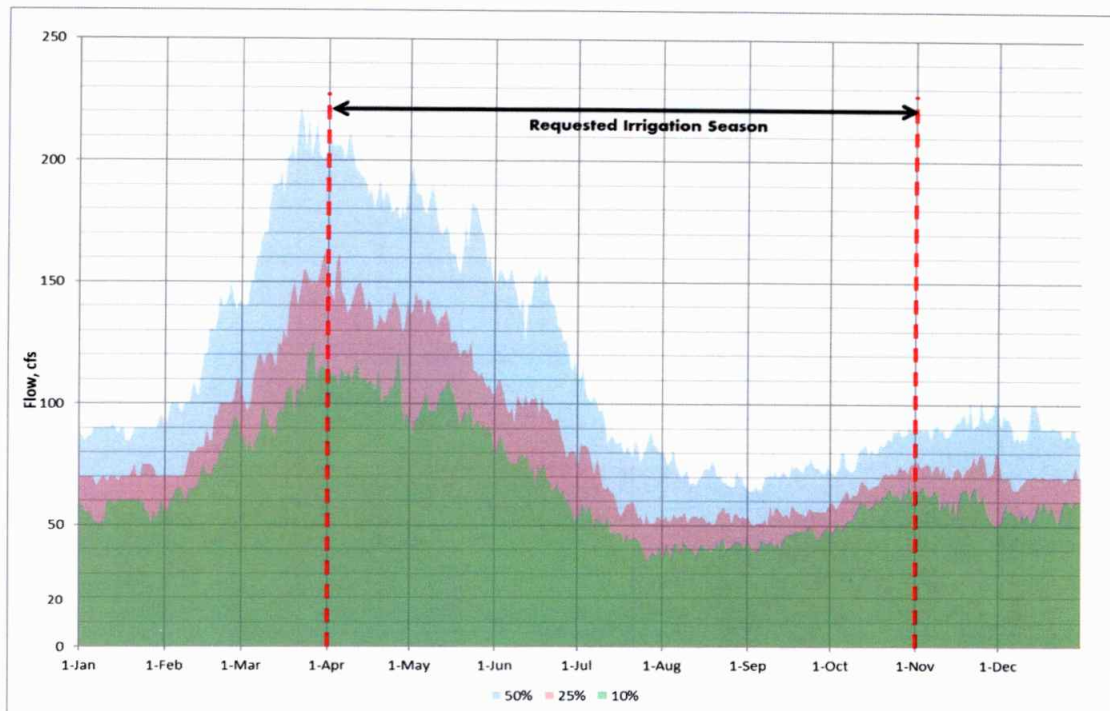


Figure 4. Daily percentile flow hydrographs for the USGS No. 06450500 Little White River near White River, 1949-2021, contributing drainage area 1,495 mi² (USGS, 2022).

The proposed diversion point for the project is located in the White River reach below the confluence with the Little White River to the Missouri River so contains the combined flows from the White and Little White Rivers. The USGS Stream Gaging No. 06452000 White River near Oacoma, SD is located approximately 51 river miles downstream from the proposed diversion point just above the point where the White River flows into the Missouri River. Figure 5 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. The gage shows an increase in flow in the White River starting in early February corresponding to early spring runoff and maintaining strong flows through most of June before tailing off through the remainder of the summer and fall months. At this level, corresponding flow can be expected to be in excess of 75 cfs throughout the irrigation season 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 the indicated level on average one out of four years with flows remaining above 30 cfs except during the irrigation season. 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 four week period from the middle of August through the middle of September.

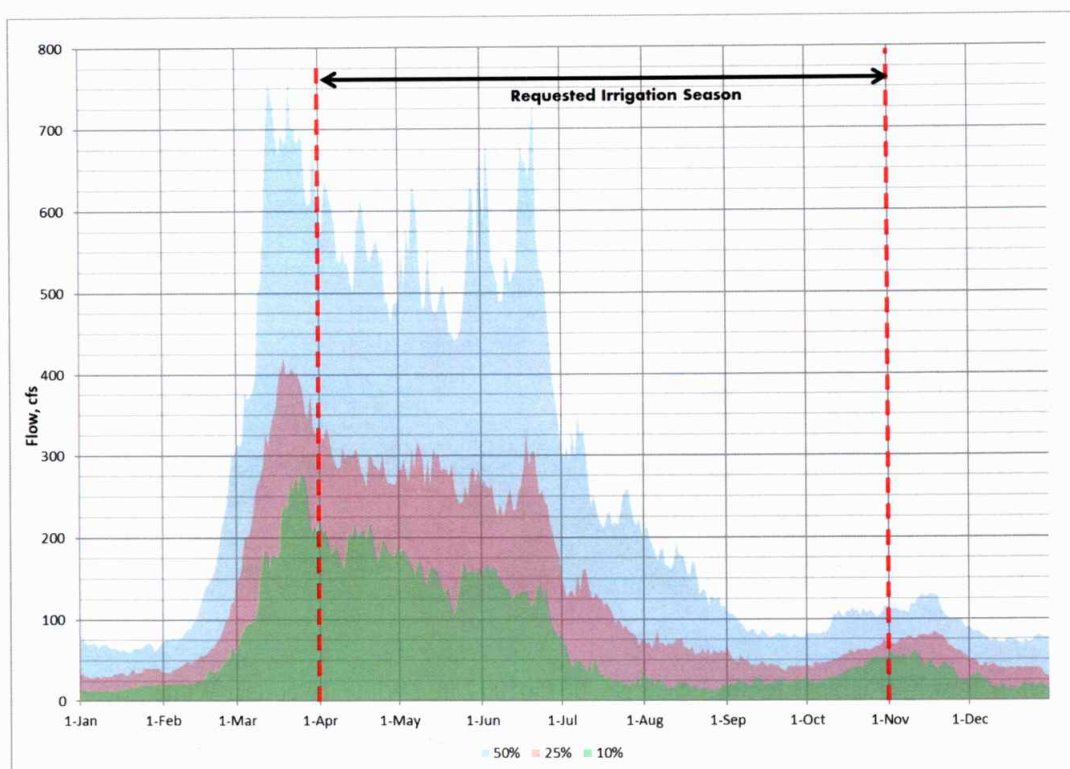


Figure 5. Daily percentile flow hydrographs for the USGS No. 06452000 White River near Oacoma, 1928-2021, contributing drainage area 9,855 mi² (USGS, 2022).

Review of the Existing Water Rights/Permits

There are 81 existing water rights/permits appropriating 188.83 cfs from the 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 are 10 existing water rights appropriating 20.68 cfs (Water Rights. 2022). Approval of this permit would not be expected to adversely impact existing rights.

In 1977 the Water Rights Commission, a predecessor to the Water Management Board, addressed concerns over low summer flows in the river when they approved 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.

In the lower reach downstream from the Little White River confluence to the Missouri River, there is often sufficient flow to allow for diversions after June 1. Water right permit holders can request a permission from the Chief Engineer to allow the permit holder to continue pumping after the June 1 shutoff date. Prior to granting authorization, the Chief Engineer will evaluate the flows in the river to determine if adequate water is available. If written authorization is granted the permit holder would be allowed to divert water subject to permit qualifications and any additional qualifications the Chief Engineer deems appropriate to maintain base flows for domestic use including livestock watering. Starting in 2013, water permits issued in this lower reach of the White River contained the following qualification to address minimum flow requirements when pumping.

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.

Due to changing climatic conditions there may be times during extremely dry periods when flows decrease to a point where the Chief Engineer may need to issue shutoff orders to protect senior water rights and domestic use. There may also be times when excess water is available after June 1 when pumping could be allowed without adversely impacting existing rights. If approved this permit should contain the following qualifications to allow flexibility in managing the available water from the White River while protecting existing rights:

- 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.
- 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.

Conclusions

1. This application proposes to appropriate 2.07 cubic feet of water per second (cfs) from a dugout adjacent to the White River for irrigation of 145 acres.

2. There is reasonable probability water contributed to the alluvium from the White River would be available for use by this project in most years.
3. Approval of this permit with conditions would not be expected to adversely impact existing rights.
4. If approved this permit should contain the following qualifications to allow flexibility in managing the available water from the White River while protecting existing rights:
 - 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.
 - 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.



Mark D. Rath
Natural Resources Engineer III

References

1. 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.
2. USGS. 2022. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
3. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, January 31, 2022 1:01 PM
To: burnhambros@hotmail.com
Subject: Water Permit Application No. 2835-2
Attachments: 2552.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



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

92 lines 2 1 column X 90%

Notice of Application

Blake Burnham

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:

2-9-2022

That the full amount of the fees for the publication of the *annexed notice is \$35.15

Subscribed and sworn to before me this 9th
day of February, 2022

Laura Brown

Notary Public

County of Tripp, South Dakota

My Commission Expires June 12, 2025



RECEIVED

FEB 14 2022

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION NO. 2835-2

to Appropriate Water

Notice is given that Blake Burnham, 31166 300th St, Winner SD 57580 has filed an application for a water permit to appropriate 2.07 cubic feet of water per second from a dugout located in the SE 1/4 NE 1/4 Section 31 for irrigation of 145 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 29 and the NW 1/4, NW 1/4 NE 1/4 Section 32; all in T103N-R77W. This site is located approximately 23 miles northwest of Winner SD.

Pursuant to SDCL 36-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2835-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by February 21, 2022.

The petition shall include a statement describing the unique injury upon approval of the applications on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by February 21, 2022.

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 approximated cost of \$35.15 (6)

Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

RECEIVED

FEB 11 2022

WATER RIGHTS
PROGRAM

Legal Notice Number: 1224

I, Mark Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: Water Rights – Notice of Application, was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 2/09/2022. That the full amount of the fee charged for the publishing \$ 40.77 insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

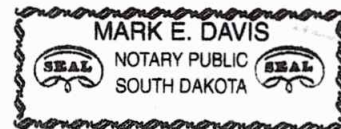
Mark E. Davis

Subscribed and sworn to me before this date 2-9-2022

Mark E. Davis

Notary Public, South Dakota

My Term Expires 12/27/2024



**NOTICE OF
APPLICATION
NO. 2835-2 to**

Appropriate Water

Notice is given that Blake Burnham, 31166 300th St, Winner SD 57580 has filed an application for a water permit to appropriate 2.07 cubic feet of water per second from a dugout located in the SE 1/4 NE 1/4 Section 31 for irrigation of 145 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 29 and the NW 1/4, NW 1/4 NE 1/4 Section 32; all in T103N-R77W. This site is located approximately 23 miles northwest of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2835-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/> public or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by February 21, 2022.

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No. 1224 (adv.)
Published once at the
total approximate cost of
\$40.77.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, January 31, 2022 12:55 PM
To: 'rcrandall@plainsman.com'
Subject: 2835-2, Blake Burnham
Attachments: 2835-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on February 9, 2022.

Blake Burnham, 31166 300th St, Winner SD 57580 (605 208-0383) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, January 31, 2022 12:54 PM
To: Winner Advocate
Subject: 2835-2, Blake Burnham
Attachments: 2835-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on February 9, 2022.

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

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

January 31, 2022

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

Water Permit Application No. 2835-2 for irrigation use have 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 Plainsman printed at Huron SD (Ph # 605 353-7414). 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 publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

NOTICE OF APPLICATION NO. 2835-2 to Appropriate Water

Notice is given that Blake Burnham, 31166 300th St, Winner SD 57580 has filed an application for a water permit to appropriate 2.07 cubic feet of water per second from a dugout located in the SE 1/4 NE 1/4 Section 31 for irrigation of 145 acres located in the S 1/2 SW 1/4, SW 1/4 SE 1/4 Section 29 and the NW 1/4, NW 1/4 NE 1/4 Section 32; all in T103N-R77W. This site is located approximately 23 miles northwest of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2835-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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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 AGRICULTURE
and NATURAL RESOURCES**

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

MAR 30 2022

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

Enclosed is Water Permit No. 2835-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

A 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 information 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,

Eric Gronlund, Chief Engineer
Water Rights Program
605 773-3352

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 29, 2022.

2835-2

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

This letter is in reference to your June 28, 2022, e-mail request for an extension to pump water from the White River beyond the June 1st shutoff date. Flows in the White River in the reach between the confluence with the Little White River and the Missouri River are sufficient at this time to allow an extension. Because there is sufficient flow in the White River, I am granting your request to extend the shutoff date for your water permit out of the White River and allow you to divert until July 15, 2022.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station White River near Oacoma drops to near 20 cfs prior to July 15, you will be contacted and provided orders to cease pumping. Realtime flows in the White River can be monitored by going to the following website: **<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>**

If you wish to continue pumping from the White River after July 15, you will need to make another request for an extension, and we will reevaluate water availability in the river at that time.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 14, 2022

2835-2

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

This letter is in reference to your July 13, 2022, e-mail request for an extension to pump water from the White River beyond the June 1 shutoff date. Flows in the White River in the reach between the confluence with the Little White River and the Missouri River are sufficient at this time to allow an extension. Because there is sufficient flow in the White River, I am granting your request to extend the shutoff date for your water permit out of the White River and allow you to divert until August 1, 2022.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station White River near Oacoma drops to near 20 cfs prior to August 1, you will be contacted and provided orders to cease pumping. Realtime flows in the White River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you wish to continue pumping from the White River after August 1, you will need to make another request for an extension, and we will reevaluate water availability in the river at that time.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 1, 2022

2835-2

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

This letter is in reference to your July 31, 2022, e-mail request for an extension to pump water from the White River beyond the June 1 shutoff date. Flows in the White River in the reach between the confluence with the Little White River and the Missouri River are sufficient at this time to allow an extension. Because there is sufficient flow in the White River, I am granting your request to extend the shutoff date for your water permit out of the White River and allow you to divert through August 15, 2022.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station White River near Oacoma drops to near 20 cfs prior to August 15, you will be contacted and provided orders to cease pumping. Realtime flows in the White River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you wish to continue pumping from the White River after August 15, you will need to make another request for an extension, and we will reevaluate water availability in the river at that time.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

For Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 15, 2022

2835-2

Blake Burnham
31166 300th St
Winner SD 57580

Dear Mr. Burnham:

This letter is in reference to your August 15, 2022, e-mail request for an extension to pump water from the White River beyond the June 1 shutoff date. Flows in the White River in the reach between the confluence with the Little White River and the Missouri River are sufficient at this time to allow an extension. Because there is sufficient flow in the White River, I am granting your request to extend the shutoff date for your water permit out of the White River and allow you to divert through August 22, 2022. However, be aware that river flows have been dropping steadily and I may not be able to issue another extension this irrigation season if runoff conditions into the rivers continue to deteriorate.

In the event dry climatic conditions in the river basin continues and causes river flow to significantly decrease and flow measured at the USGS stream gaging station White River near Oacoma drops to near 20 cfs prior to August 22, you will be contacted and provided orders to cease pumping. Realtime flows in the White River can be monitored by going to the following website: <https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you wish to continue pumping from the White River after August 22, you will need to make another request for an extension, and we will reevaluate water availability in the river at that time.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

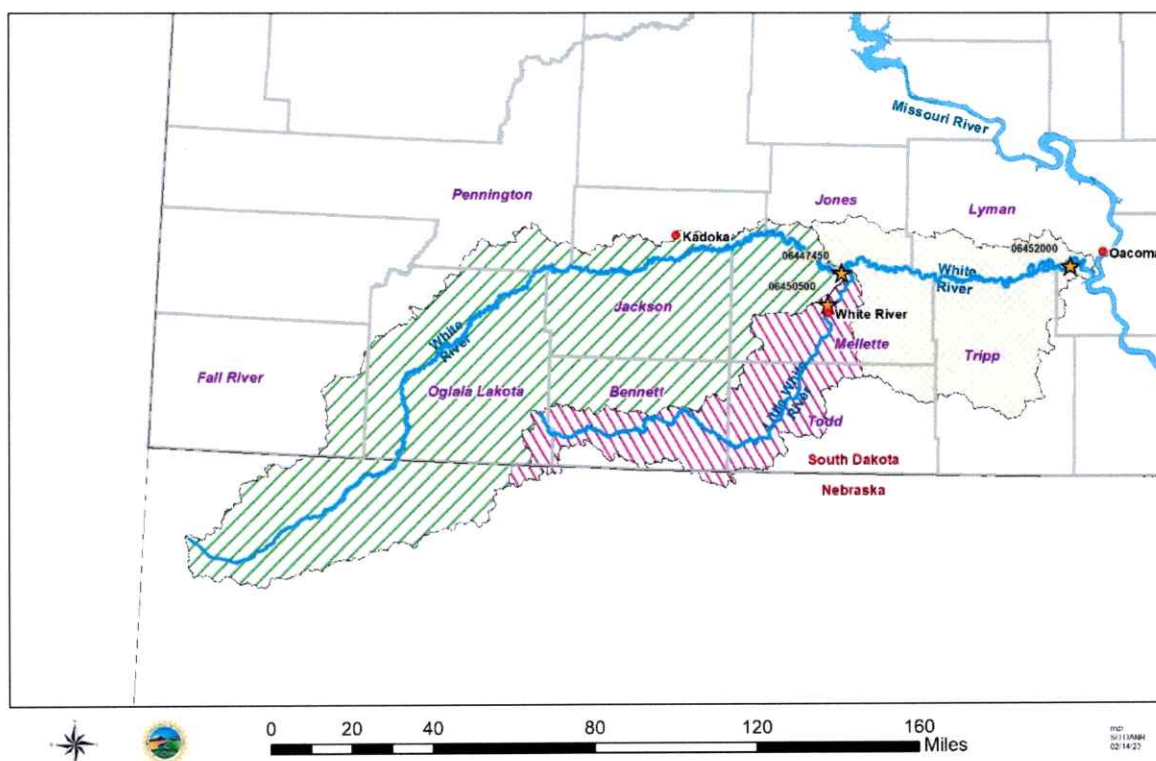


Figure 1. White River Watershed Map.

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

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

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

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

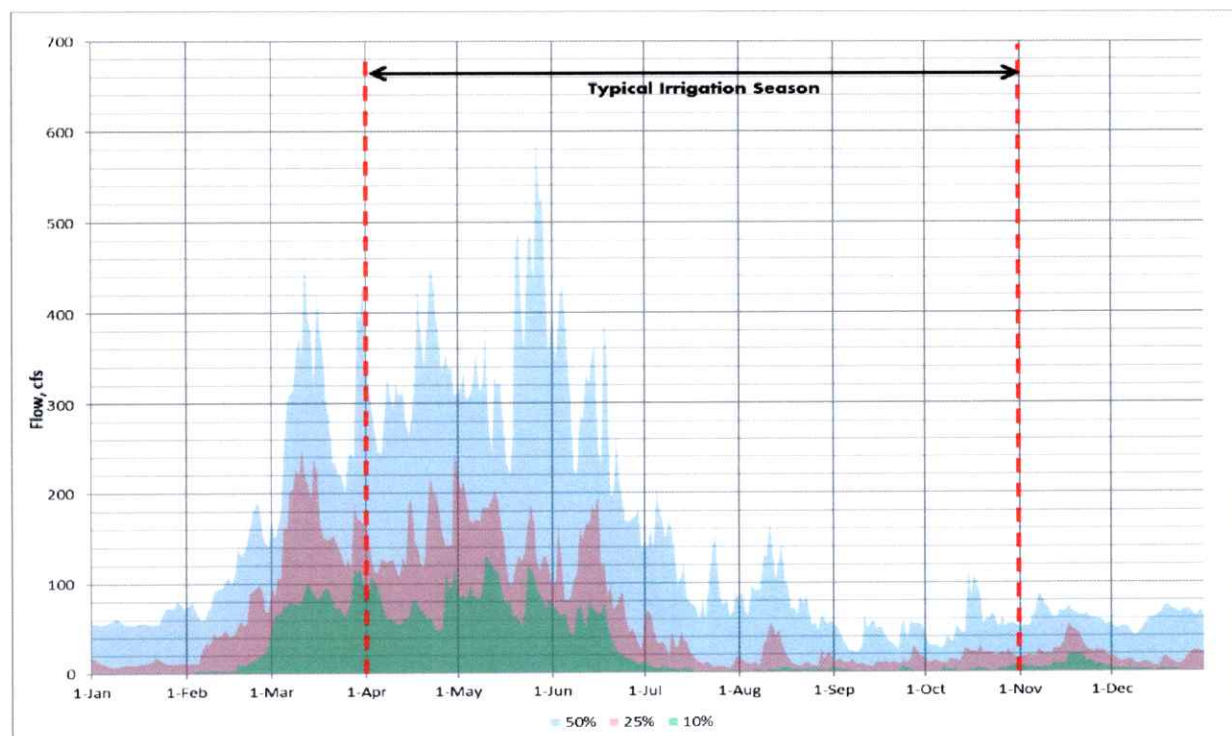


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

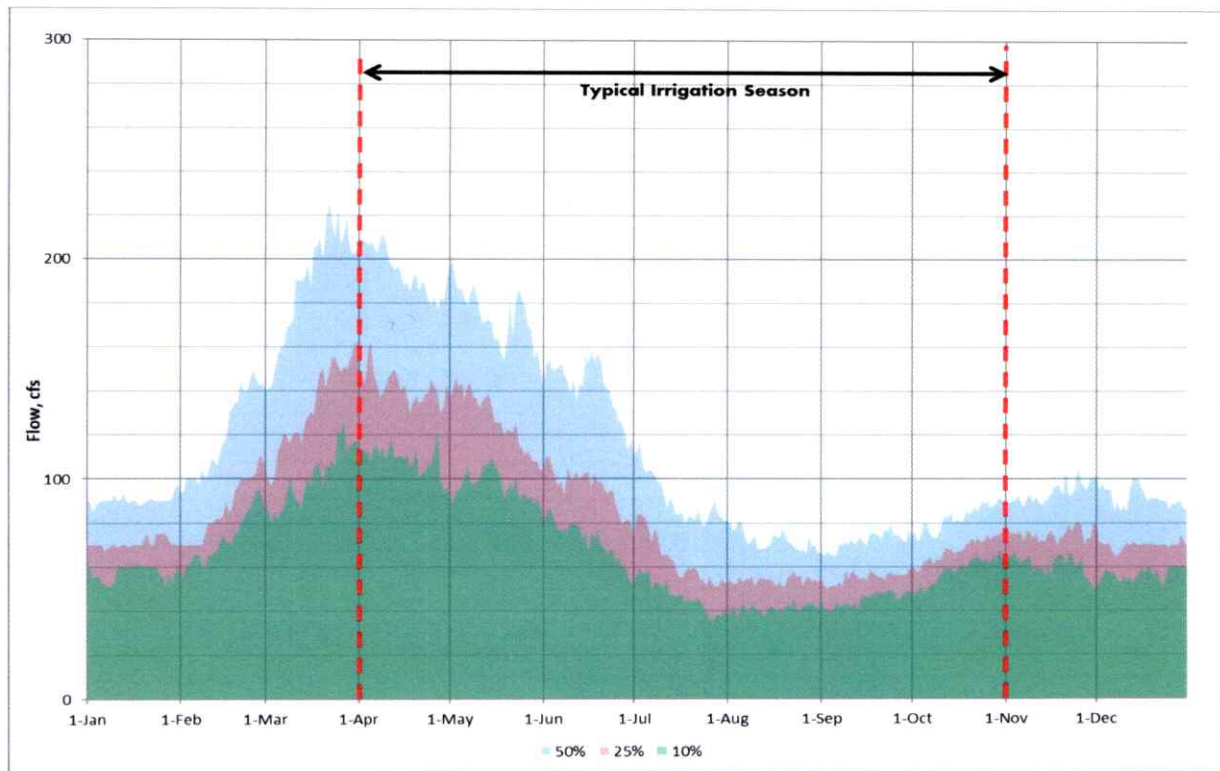


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

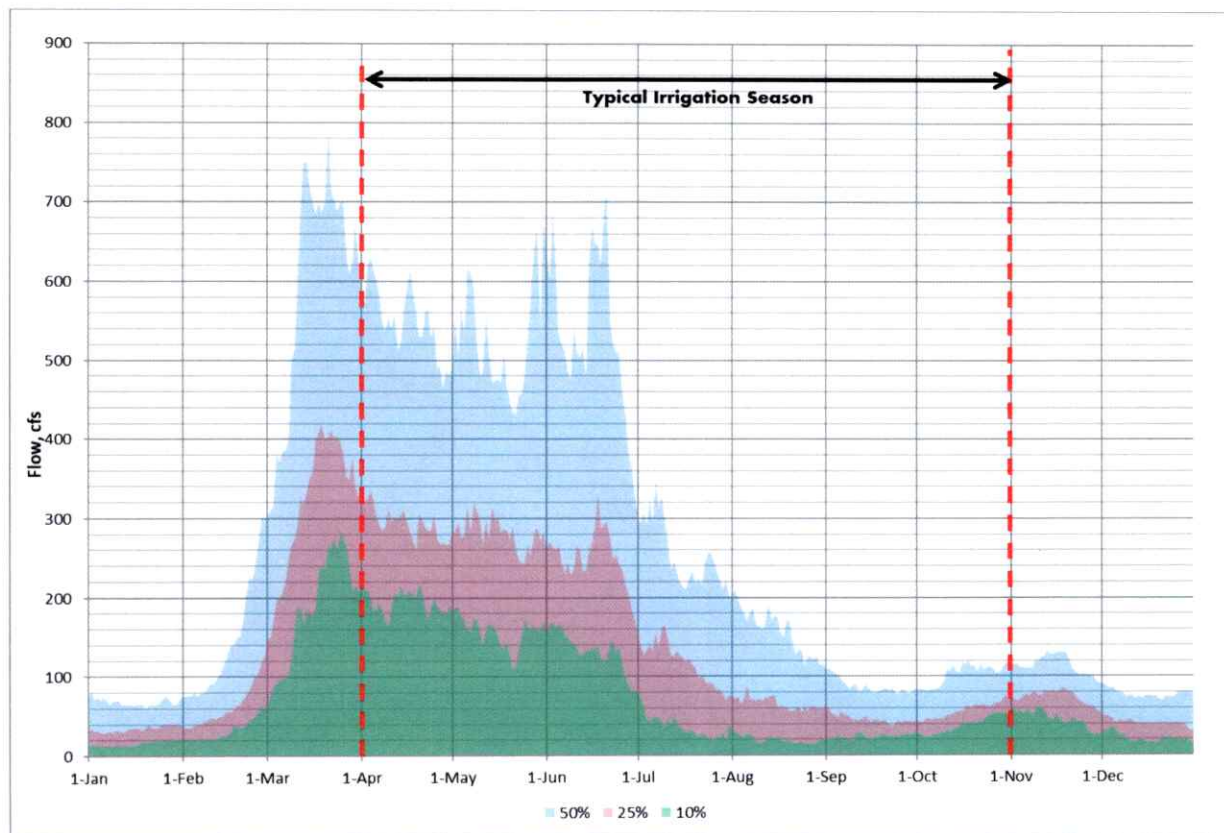


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

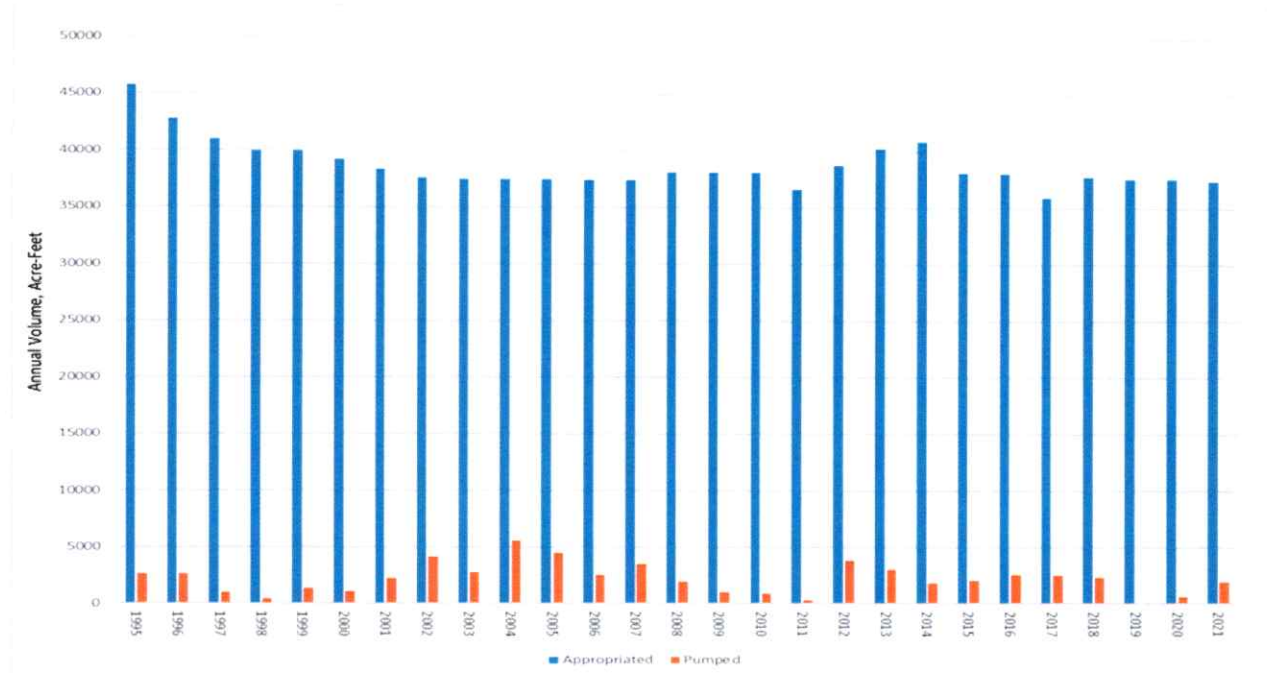


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

BLAKE BURNHAM
31166 300TH ST
WINNER SD 57580

Subject: Amendment of the Mandatory Shutoff Qualification on White River Water Right No. 2835-2

Dear Mr. Burnham,

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 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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 5, 2023

BLAKE BURNHAM
31166 300TH ST
WINNER SD 57580

Subject: Water Management Board removes the mandatory June 1 shutoff qualification and adds a streamflow bypass qualification on White River Water Right No. 2835-2

Dear Mr. Burnham,

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 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.

Qualifications to be included on Water Right No 2835-2:

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 2, 2024

Blake & Brian Burnham
31166 300th St
Winner SD 57580

1260-2
2833-2
2834-2
2835-2

Dear Mr. Burnham:

I am writing you today in regard to your water permits/rights, Water Right No. 1260-2 and Permit Nos. 2833-2, 2834-2, and 2835-2 authorizing the irrigation of 131 acres, 130 acres, 130 acres, and 145 acres, respectively, for a combined total of 536 acres.

In reviewing the irrigation questionnaires submitted for the 2023 irrigation season, it was discovered that you had reported irrigation of 685 acres. I have enclosed copies of each questionnaire for you to review.

If this was simply a recording error, we can make that adjustment. However, if you have developed 149 acres more than what is authorized, a new permit application would be required.

For your convenience I have enclosed a new irrigation permit application. I've also enclosed a "Notice of Completion of Works" form for you to review and return if the systems have been fully developed.

Please feel free to call me with any questions regarding the permit application, permitting process, or questions regarding the questionnaires.

Sincerely,

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

enclosures

File No. 1260-2
2833-2
2834-2
2835-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Blake & Brian Burnham, 31166 300th St, Winner SD 57580

DATE: 05/10/2024

RE: Reported irrigation of more acres than authorized

COMMENTS:

On May 2, 2024, I sent Burnhams a letter regarding their 2023 irrigation questionnaires. They had indicated the irrigation of 149 more acres than what they were permitted.

On May 8, 2024, Burnhams responded to my letter indicating that they had misread/recorded the number of irrigated acres. They requested that questionnaire reporting under 1260-2 be changed from 135 to 131 acres. 2833-3 be changed from 270 to 130 acres, and 2834-2 be changed from 135 to 130 acres.

New scans have replaced originals in the reporting database for the above mentioned permits. No adjustments were made to the 2835-2 questionnaire.



Amanda Dewell
Water Rights Program

We read the permits wrong. Sorry for the error! Attached are the corrections along with 3 Notices of Completion.
Thank you.
Brian Burnham
Blake Burnham

2835-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

RECEIVED

MAY 08 2024

**OFFICE OF
WATER**

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**

TO: Water Rights Program, DANR
523 E. Capitol Ave.
Pierre, SD 57501-3182
or via email to DANRmail@state.sd.us

Date 5-6-24

FROM:

Blake Burnham
(name)

605-208-0383
(phone)

3166 300th St
(address)

burnham.b@southdakota.gov
(email)

Winner SD 57580
(city, state, zip)

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. 2835-2 states that the water use system is to be constructed by

2/21/2027

(date)

, and water is to be put to beneficial use by

2/21/2031

(date)

The water use system was completed on

6-15-23

(date)

Applying the water to beneficial use was completed on

6-30-23

(date)

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 13, 2024

2833-2
2834-2
2835-2

Blake & Brian Burnham
31166 300th St
Winner SD 57580

To whom it may concern:

I am writing to acknowledge receipt of the "Notice of Completion of Works" forms that you sent in to let us know that you are completed with your water use systems.

The systems are now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your projects and the staff inspections have no bearing on your water permit.

Someone from our office will contact you prior to the inspections to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

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