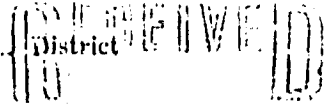


OFFICE OF STATE ENGINEER
FILE COPY

Form 2—Application for Permit to appropriate Water—Original

NO. 395-2

Water Division No. 2 White River Water
(Blank to be filled by the State Engineer.)



APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota
STATE ENGINEER
PIERRE, S. DAK.

(NOTE—Draw a line through items not applicable.)

1. Name of applicant ~~Glen Whidby and sons~~ Whidby Bros.
Postoffice address Kadoka, County Jackson, State South Dakota

I. If a corporation

- (a) Name of same
(b) Date and place of incorporation
(c) Amount of capital stock
(d) Amount paid in
(e) Names and address of directors:

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor) Contract and direct labor
(b) Cash on hand, \$
(c) Treasury stock, \$
(d) Bonds to be issued, \$
(e) Other resources, \$

2. Name of diversion work Diamond W Irrigation Project
3. Quantity of water claimed 1.4 cubic feet per second.
4. Source of water supply White River
5. Location of point of diversion Beginning at the North E corner of section 31, T.38., R.28E.,

Thence S. 57 degrees and 34 minutes west for a distance of 2320 feet Left bank.
(Right or left bank looking down stream.)

6. Annual periods during which water is to be used April to October each year
7. To be used for:

I. Irrigation or domestic

- (a) Number of acres to be irrigated 20.0 acres.

(b) Legal subdivisions to be irrigated Lots 1, 2, 3, 4, 6, 8, 9, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
(NOTE—A list of lands to be irrigated, giving each subdivision and fraction, with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.)

II. Mining, power, manufacturing, transportation, or other purposes

- (a) Nature of use
(b) Amount of power to be generated horse power.
(c) Location of plant
(d) Method of developing power
(e) Point where water will be returned to stream

MAP NO 339-2

8. Estimated cost of works:

(a) Head gates, \$100.00..... (b) Pumping plant, \$150.00.....
 (c) Fluming, \$..... (d) Canal-earth, \$50.00..... Rock, \$.....
 (e) Other structures \$100.00..... Total, \$300.00.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Pumping plant powered with a farm tractor, pumps about 2250 g.p.m.

II. Dimensions of works:

- (a) Dam: Height feet; length at bottom feet; length at top feet thickness at bottom feet; thickness at top feet; slope of front (water) face.....; slope of back face; material used in construction
- (b) Reservoir: Capacity when filled acre feet. Surface area at highwater mark acres.

DEPTH AT OUTLET- FEET	SURFACE AREA AT EACH DEPTH AT OUTLET- ACRES	CAPACITY ACRE- FEET

(c) Head gate: Width 4.0..... feet; height 2.0..... feet;

Material Concrete

(d) Canal: Total length 1.68..... miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At 0.00..... Mile	1.60 feet	3.0 feet	6.0 feet	10.0 feet
At 1.68..... Mile	1.50 feet	3.0 feet	6.0 feet	10.0 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 3..... years.

11. Time required for complete application of water to the proposed beneficial use 4..... yrs.

12. Choice of newspaper for publication of notice of intention to appropriate

Jackson County Times

STATE OF SOUTH DAKOTA

County of Jackson

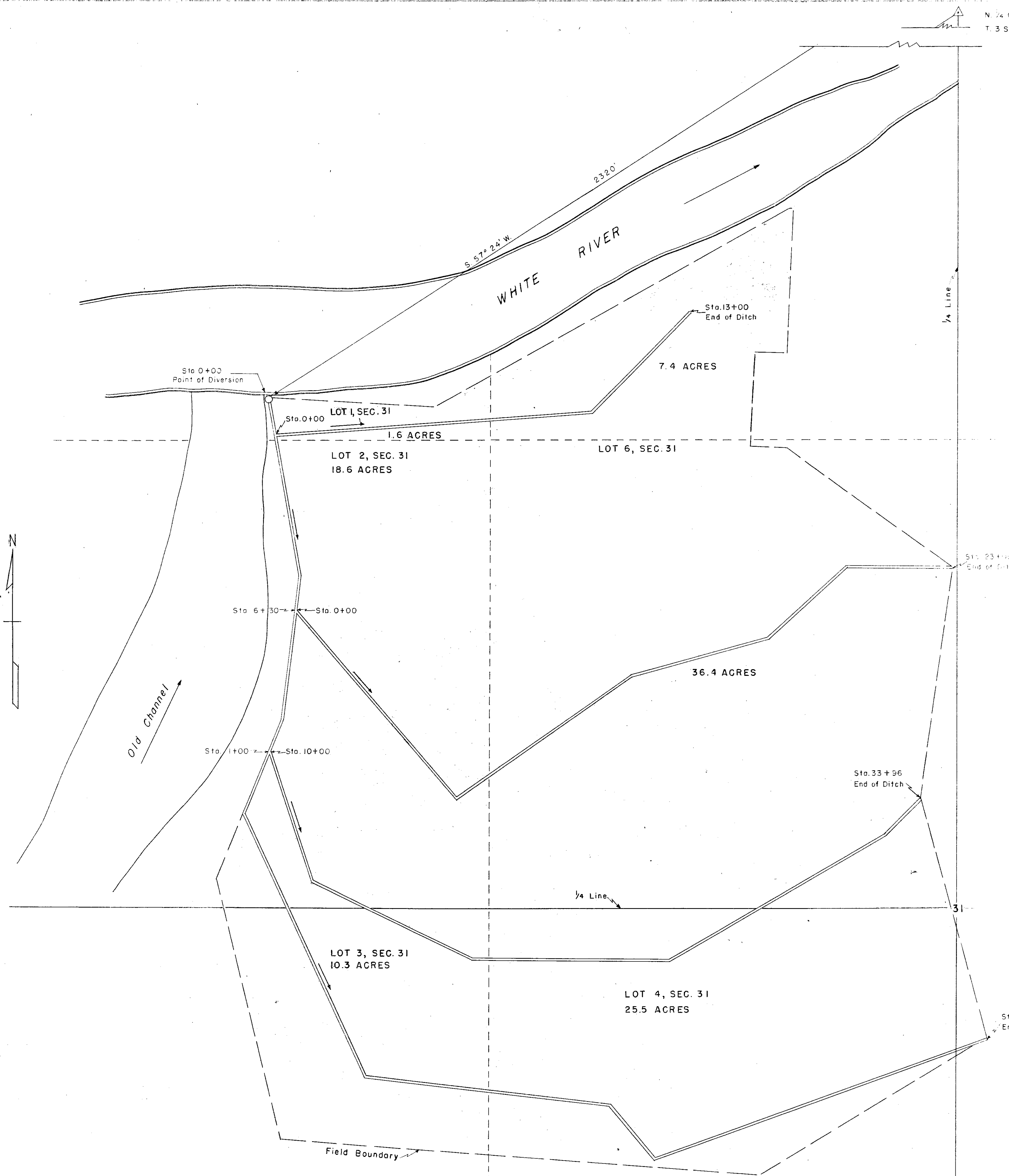
I, Glen H. Widby, being first duly sworn on my oath depose and say: That my relation to the above described, undertaking is that of Owner, that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters herein stated and shown are true.

Signed Glen H. Widby

Subscribed and sworn to before me this 14 day of June 1925

Notary Public (or other qualified officer.)

N 1/4 Corner of Sec. 31
T. 3 S. R. 22 E.



Scale 1" = 150'

Area to be irrigated

LOCATION OF LAND TO BE IRRIGATED

LOCATION	SEC.	TWP.	RGE.	ACRES
Lot 1	31	3 S.	22 E.	1.6
Lot 2	31	3 S.	22 E.	18.6
Lot 3	31	3 S.	22 E.	10.3
Lot 4	31	3 S.	22 E.	25.5
Lot 6	31	3 S.	22 E.	43.8
TOTAL				99.8

Surveyors' Certificate:—

I, J. R. Richardson, Registered Professional Engineer and Land Surveyor No. 219, State of South Dakota, do hereby certify that I have made a careful survey of the Irrigation Project and that the map hereon is a true and correct representation of the same. Witness my hand and seal this 24 day of April, 1945, A.D.

J. R. Richardson
Registered Professional Engineer
and Land Surveyor.

Subscribed and sworn to before me a Notary Public this 24 day of April, 1945 A.D.

Lucha Almer Fleming
Notary Public

IRRIGATION PROJECT
OWNER: GLEN WHIDBY
JACKSON COUNTY, SOUTH DAKOTA

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE
LINCOLN, NEBR.

Map No. 239-2 (S.R. No. 305-2)

Remarks by State Engineer:

Stream flow data indicates that there will be periods during low flow of the river when there will not be sufficient water (without storage) to operate all appropriations to maximum capacity at the same time. At such times and except as riparian rights may apply, all valid water rights having an earlier priority shall have first claim to the available water over this right.

STATE OF SOUTH DAKOTA

County of Hughes

ss.

Pierre, South Dakota, August 30, 1945.

This is to certify that the foregoing application was received at this office at 3.00 o'clock p. m. upon the 15th day of June, 1945 and that after examination it was found to conform to the water laws of South Dakota and that after being duly advertised, no objections were filed with the State Engineer.

Dean W. Loucks

Dean W. Loucks, State Engineer.

Number of permit 305-2

Date of first receipt of application July 15, 1945

Date of return to applicant for correction 19

Dated of receipt of corrected application 19

Date from which applicant may claim right July 15, 1945

Approved August 30, 1945, Recorded in Book 2 Page 544-545

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth, of the work above specified is to be completed on or before February 30, 1947.

2nd. The whole of said work is to be completed on or before August 30, 1948.

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is August 30, 1949.

4th. The water appropriated shall be used for the purpose of Irrigation.

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 1.4 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before August 30, 1949; said water to be used during the following described annual period:

April to October except when all available water is required to satisfy prior appropriations on the river.

Witness my hand this 30th day of August, 1945.

Dean W. Loucks
Dean W. Loucks, State Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 305-2

WHEREAS, On the 15th day of June A. D. 1945

OLEN WHIDBY AND SONS

of Kadoka County of Jackson and State of South Dakota

duly made application (No. 305-2) to me for a permit to use 2.0 cubic feet per second of the waters of the White River

County of Jackson State of South Dakota, for irrigation purposes; and

WHEREAS, On the 30th day of August A. D. 1945

Permit No. 305-2 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 30th day of August A. D. 1948 and for the application to beneficial use of said

water on or before the 30th day of August A. D. 1949.

and, on October 19, 1949, extension of time for the application to beneficial use was granted to August 30, 1950; and,

WHEREAS, On the 18th day of July A. D. 1950

the holder of said permit duly made proof of the completion of adequate works for the diversion of

1.4 cubic feet per second of said waters, as evidenced by my Certificate No. 305-2

dated July 18, 1950 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 1.4 cubic feet per second of water,

with date of priority of June 15, 1945 and,

WHEREAS, On the 19th day of March A. D. 1951

proof was duly made of the application to beneficial use of 1.4 cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of South Dakota, I hereby grant and confirm to Glen Whidby and Sons of Kadoka, South Dakota the holder... and owner... of said permit No. 305-2 a water right, dating from June 15, 1945 to the use of 1.4 cubic feet per second of the waters of the White River in the County of Jackson and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point S. 57 degrees and 24 minutes W. 2320 ft. from N. cor. Sec. 31, T. 3S., R. 22E. and conducted to and upon Lots 1, 2, 3, 4, and 6 Sec. 31, T. 3S., R. 22E.

for the purpose... of providing irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Pierre, South Dakota, this 22nd day of March A. D. Nineteen 51 Hundred and 51

DEAN W. LOUCKS

State Engineer.

STATE OF SOUTH DAKOTA

Water License No. 305-2

To Glen Whidby + Sons

Kadoka, S. Dak.

Source of Supply White River

County Jackson

Amount 1.4 Sec. Feet

Point of Diversion S. 57° and 24' W. 2320' from N. cor. Sec. 31, T. 3S., R. 22E

Place of Use Lots 1, 2, 3, 4, and 6

Sec. 31, T. 3S., R. 22E

Purpose providing irrigation

Date of Priority June 15, 1945

Recorded August 30, 1945

in Book 2 of N. B. Page 544-545

Permit No. 305-2

Water Division No. 2 White River Water District

Certificate of Construction of Works.

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Glen Whidby and Sonsof Kadoka, County of Jackson, and State ofSouth Dakota, the holder of Permit No. 305-2, issued upon ApplicationNo. 305-2, bearing date of priority of June 15, 1915, authorizing the diversion of1.4 second-feet of the waters of White RiverCounty of Jackson, State of South Dakota, at a point 2320 ft. S.57° 24' W. of the N. E. corner of Section 31, T. 3S., R. 22E., B.H.M.for irrigation

purposes, have fully complied with the provisions of the laws of the State of South Dakota relating to proof of

completion of the works of diversion set out and described in said Permit; that said works are adequate for divert-

ing and conveying to the place of intended use 1.4

second-feet of water; and that the lands proposed to be irrigated by the use of said water are described as follows,

to-wit: Lots 1, 2, 3, 4, and 6, Section 31, T. 3S., R. 22E.comprising a total of 99.9 acres.Witness my hand this 21 day of July, A. D. 1915

DEAN W. LOUCKS State Engineer of South Dakota.

Permit No. 305-2

Water Division No. 2

White River Water District

Certificate of Construction of Works.

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Glen Whidby and Sons

of Kadoka County of Jackson and State of

South Dakota the holder of Permit No. 305-2 issued upon Application

No. 305-2 bearing date of priority of June 15, 1945 authorizing the diversion of

1.4 second-feet of the waters of White River

County of Jackson State of South Dakota, at a point 2320 ft. S.

67° 21' W. of the N $\frac{1}{2}$ corner of Section 31, T. 3S., R. 22E., B.H.M.

for Irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of

completion of the works of diversion set out and described in said Permit; that said works are adequate for divert-

ing and conveying to the place of intended use 1.4

second-feet of water; and that the lands proposed to be irrigated by the use of said water are described as follows.

to-wit: Lots 1, 2, 3, 4, and 6, Section 31, T. 3S., R. 22E.

comprising a total of 99.8 acres.

Witness my hand this 21 day of July A. D. 19

DEAN W. LOUCKS State Engineer of South Dakota.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of Jackson } ss.

M. C. Browning being duly sworn, deposes and says the annexed printed copy of Notice of Intention to appropriate Water was taken from the.....
Jackson County Times..... a newspaper which during the whole time of publication of said notice herein-after stated, has been and is printed and published in the
Town of Belvidere..... County of
Jackson..... and State of South Dakota; that the said notice was published in said newspaper on the following dates:

July 26, 1945-August 2, 1945-August 9, 1945-August 16, 1945-

in each and every issue of the full number thereof, the first publication being made on the 26th day of July..... 1945 and the last publication on the 16th day of August..... 1945, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was Publisher..... the printer..... and publisher..... of the said newspaper.

M. C. BrowningSubscribed and sworn to before me this 27th day of July..... A. D. 1945.Notary Public

Notary Public..... County, S. D.

FP126 1P816
APPROPRIATION OF WATER

Pierre S. Dak. June 20, 1945
 Notice is hereby given that Glen Whidby and Sons whose post-office address is Kadoka, S. Dak., has made an application in accordance with the provisions with the water laws of South Dakota for a permit to appropriate for beneficial use 1.4 cubic feet of water per second of time from the White River through the Diamond W. Irr. Proj., the point of diversion of which is to be located on the left bank of said stream in the NW 1/4 of the NW 1/4 of Section 31 Twp. 35 Range 22 E. Said water to be used for the purpose of providing irrigation.

This application will be taken up by the State Engineer at his office at Pierre for consideration upon the 6th day of August, 1945, at 2:00 p.m. All persons who believe that their prior rights would be injuriously affected or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.
 Dean W. Loucks, State Engineer.

RECEIVED
 JUL 27 1945

STATE OF SOUTH DAKOTA
 ENGINEER, S. DAK.

(First Publication 194.....)

APPROPRIATION OF WATER

Office of State Engineer,

Pierre, So. Dak., June 20 1945.

Notice is hereby given that Glen Whidby and Sons whose postoffice address is Kadoka, So. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.4 cubic feet of water per second of time from the White River through the Diamond W Irr. Proj. the point of diversion of which is to be located on the left bank of said stream in the N.W. 1/4 of the N.W. 1/4 of Section 31 Twp. 35 Range 22 E. Said water to be used for the purpose of providing Irrigation.

This application will be taken up by the State Engineer at his office at Pierre for consideration upon the 6th day of August, 1945, at 2:00 P.M. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

Dean W. Loucks,
State Engineer

10/19/49

Note. Project completed but no use made of water as yet.
Extension of time to August 30, 1950.

Form No. 25

D.L.L.

APPLICATION FOR EXTENSION OF TIME FOR COMPLETING WORKS

To the State Engineer,

Pierre, South Dakota.

Dear Sir:-

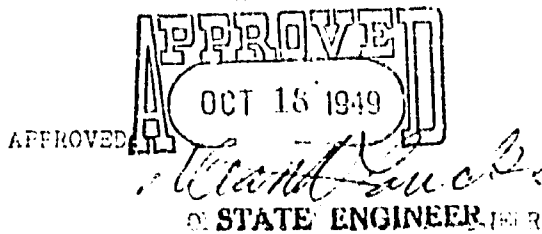
I hereby request that an extension of time of the water right of
Glen Whidby & Sons be granted me for the completion of works to be done
under permit No. 305-2.

Said works are located in Jackson County and
are described as follows:-

Location of headworks: In ~~the~~ Lot I ~~of the~~ of the
of Section 31 Township 35 Range 22E
D., B.H.H.

The water is to be used for the purpose of irrigation

The extension of time for the completion of these works is requested
for the following reasons: 2 1/2 years did not require irrigation.



Mrs. Thelma Whidby edmx.
Holder of Permit No. 305-2 *of Glen Whidby & Sons*

DEAL. L. RICH, State Engineer.

Permit No. 305-2.

Water Division No. 2..... White River Water District

Certificate of Examination of Works**Report of Examining Engineer**

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated July 10, 1950.....
 19⁵⁰..... I have this day made a thorough examination of the diversion works constructed by Glen Whidby
 and Sons..... of Kadoka, S. Dak.

..... Jackson..... County, South Dakota, holder of permit No. 305-2..... issued
 upon application No. 305-2..... bearing date of priority of June 15, 3:00 P.M., 1945..... authorizing the
 diversion of 1.4..... second feet of the waters of White River..... for Irrigation
 purposes. I have to report on the condition of the same as follows:

The diversion works comprise: Pumping Plant, Metering Vior and field laterals

All complete and in place

and the system is in the following condition: Good

The point of diversion is located at a point 2320 ft., South 57 degrees and 24 minutes West
 of the N. $\frac{1}{4}$ corner of Sec. 31, T. 3 S., R. 22 E., B.H.M.

The works are capable of diverting and conveying to the place of use 1.4..... second-feet of water,
 which is to be used for Irrigation

The legal sub-divisions to be irrigated are: Lots 1, 2, 3, 4, 6, T. 3 S. R. 22 E.

..... comprising a total of 99.3..... acres of land.

The domestic use intended comprises None

The utilization for power, mining, or other beneficial uses comprises: None

Witness my hand, this 18th day of July A. D. 19 50

J. R. Richardson
 Examining Engineer.

Permit No. 305-2.

Water Division No. 2 White River Water District

Notice of Completion of Works

(This blank must be filled out by the holder of permit and forwarded to the State Engineer at least 60 days before the time set for completion of works.)

(P. O.) Kadoka, S. Dak.

(Date) July 18, 1950

TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of

1.4 second feet of the waters of the state from White River
through the Diamond W. Irrigation Project
for Irrigation purposes

in accordance with the terms and conditions of a certain permit heretofore issued by the State Engineer of the State of South Dakota.

1. The name of the person or corporation holding said permit is Glen Whidby and Sons

2. The postoffice address of such person or the place of business of such corporation is Kadoka
County of Jackson State of S. Dak.

3. The number of such permit is 305-2 and the date set for the completion of such work is
(See Time extension granted under date of Oct. 13, 1949)

4. Said water to be used for Irrigation purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 1.4 cubic feet per second.

6. The amount of land for which said water is available is 99.3 acres,
particularly described as follows: Lots 1, 2, 3, 4, 6, Section 21, T. 3 S., R. 22 E.

(In case of all canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well known and competent engineer.)

I hereby certify that the facts set forth in the above notice are true.

(Signature.)

T. T. Richardson
Engineer
Glen W. Whidby and
Sons
Julian R. Whidby

Permit No. 305-2

Water Division No. 2 White River Water District

Notice of Application of Water to Beneficial Use

(This blank must be filled out by holder of permit and forwarded to the State Engineer at least 60 days before the time set for application of water.)

(P. O.) Kadoka, S. Dak.

(Date) July 13, 1950

TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given that on the 13th day of July 1950, at Kadoka County of Jackson State of South Dakota, before J. R. Richardson (Examining Engineer or Officer) proof will be submitted of the application to beneficial use of 1.4 cubic feet per second of the waters of White River in accordance with the terms and conditions of Permit No. 305-2 heretofore issued by the State Engineer of South Dakota.

- The name and postoffice address of the person or corporation holding said permit are Glen Whidby and Sons, Kadoka, S. Dak.
- The use to which said water has been applied is irrigation of 99.3 acres
- The amount applied to beneficial use is 1.4 Cubic Feet per second
- The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated) Lots 1, 2, 3, 4, 6, Section 31, T. 3 S., R. 22 E., comprising a total of 99.3 acres
- The name of the canal or ditch or other works by which said water is conducted to such place of use is Diamond W. Irrigation Project (Canals are only field laterals)
- The right to take the water from such works is based upon permit No. 305-2
- The source of supply from which such water is diverted is White River
- The date of priority which said user is prepared to establish is June 15, 3:00 P.M. 1945

(Sign)

Glen W. Whidby and Sons
 by Julian R. Whidby

Permit No. 305-2
 Water Division No. 2 White River Water District

RECEIVED
 2:15 P.M.
 MAR 26 1951

CERTIFICATE OF APPLICATION OF WATER TO BENEFICIAL USE

OFFICE OF STATE ENGINEER
 PIERRE, S. DAK.

DEPOSITION OF HOLDER

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Julian R. Whidby Diamond "W" Ranch
Rancher Kadotka, S.D.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. Glenn H. Whidby and Sons Diamond "W" Ranch
Partner. My father is no longer living.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. 305-2 June 15, 1945 June 15, 1945

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. White River, Jackson Co. a point 2320 ft.
S. 52° 24' W. of the N. $\frac{1}{4}$ corner of section 31, T. 3 S., R. 22 E. B.M. 4

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Water is diverted from White River by centrifugal pump
and tractor. Between 600 and 900 gal per min. can be pumped through
pipes to measuring device and from there through ditches in the fields
irrigated.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Irrigation, Lot 1 - 1.6 acres, Lot 2 - 18.6 acres,
Lot 3 - 10.3 acres, Lot 4 - 25.5 acres, Lot 6 - 43.3 acres,
all in Sec. 31, Twp. 3 S., Rge. 22 E.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. Used for irrigation only.

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 1.4 second-foot of water.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. _____

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Between June 1st and Aug. 1st 1950 we pumped approx. 300,000 gallons of water per day for 15 days with which we irrigated 10 acres of corn and cane and 29.8 acres of hay.

(Sign.)

Julian B. Whidby

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Madison, County of Jackson, State of South Dakota, on this 19 day of January A.D., 1951

Ray Andrews
Co. and

Permit No. 305-2

Proof of Application of Water to
Beneficial Use.

DEPOSITOR'S OF HOLDER.

Amount of water 1.4 second feet

Source White River

County Taoka

Purpose irrigation

Place of Use lots 1, 2, 3, 4 and 6.

Section 31, T. 35, R. 27E.

Date of priority June 15, 1945 3:00 p.m.

Received and filed

305-2

INVESTIGATION OF WATER RIGHT #305-2

On July 26, 1967, Mr. Julian Whidby was contacted for the inspection of works under permit #633-2. At the same time I looked over the land covered by Water License 305-2. The pumping equipment listed on the Certificate of Examination of Works for permit 633-2 is used for license 305-2 also. All the land under 305-2 has been leveled with borders or catch basins for all the fields. The system seemed very efficient and in excellent condition.

Richard Schmoyer

Water Rights Specialist

August 2, 1967

South Dakota
Department of
Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501
Division of Water Rights
605 773-3352

No. 305-2

633-2
842-2
943-2

February 7, 1984

Julian Whidby
840 N. Spruce St., Lot 193
Rapid City, South Dakota 57701

Dear Mr. Whidby:

Please find enclosed a copy of a Notice of Transfer of Water Permit form. This form must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50 for each making a total of \$10.00.

Upon receipt of the enclosed form and the \$2.50 filing fee ^{/for each} the permits will be transferred to the proper name. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

Please advise if you have any questions.

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc.

DWNR-820A-8/83

NO. 305-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: Feb 10-1984

This is to notify you that the title to the lands described as follows:

99.8 Acres - Lots 1, 2, 3, 4 & 6, Section 31, T3S, R22E

formerly owned by Whidby Brothers, Kadoka, SD

has been transferred to Julian P. Whidby, 810 N. Spruce St., Lot 193, Rapid City, SD 57701
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 305-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Jackson) ss.

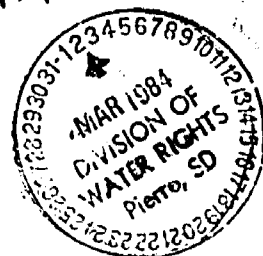
I, Julian P. Whidby being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Julian P. Whidby
(Signed)

Subscribed and sworn to before me this 1ST Day of March, 1984

KAREN HEPPNER
Notary Public
My Commission Expires
March 27, 1989

Karen Heppner
(Notary Public)



No. 842-2

633-2

943-2

305-2

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division

Phone (605) 773-3352

March 6, 1984

Julian R. Whidby
840 N. Spruce, Lot 193
Rapid City, South Dakota 57701

Dear Mr. Whidby:

Enclosed is receipt No. 4 9567, 4 9568,
4 9569, 4 9570 in the amount of \$ 2.50 each which you
paid for transfer of Water Right No.s. 842-2, 633-2, 305-2 & 943-2.

Our records now show you as the owner of this Water Right.

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc. 4

RECEIPT

Division of Water Rights

No 4 9569 -

South Dakota Department of Water and Natural Resources

Pierre, March 2, 1984

RECEIVED OF Julian R. Whidby, 840 N. Spruce St., Lot 193, Rapid City, SD 57701
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form #305-2	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By John Hatch
Chief Engineer JOHN HATCH (115)



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

January 29, 1988

JULIAN R WHIDBY
4706 PRIMROSE P
RAPID CITY, SD 57702

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). (305-2) 633-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 305-2, 633-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, your name will be deleted from the agenda for the hearing.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 16, 1988

305-2
633-2

Julian R Whidby
4706 Primrose P
Rapid City SD 57702

Dear Mr. Whidby:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 305-2 & 633-2 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,

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



305-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 27, 1994

Julian R Whidby
4706 Primrose
Rapid City, SD 57702

RE: Water Right Nos. 305-2, 633-2, 842-2 and 943-2

Dear Mr. Whidby:

Thank you for the prompt return of your 1994 irrigation questionnaires. I am writing in response to your inquiries concerning the name the water rights are listed under and the fees which you would incur should the "proposed" fee schedule pass the Legislature.

Water Right Nos. 305-2, 633-2, 842-2 and 943-2 are all currently listed under Julian R Whidby. They were originally held by Whidby Brothers and on March 2, 1984, they were transferred to your name.

The proposed fee schedule for irrigation water permits/rights is based on the amount of acreage authorized for irrigation and is not based on water usage. The fee would be calculated at \$0.30 an acre. The amount of fee as it relates to your water rights would be calculated as follows:

Water Right No. 305-2	99.8 acres
Water Right No. 633-2	307.7 acres
Water Right No. 842-2	342.0 acres
Water Right No. 943-2	<u>50.9 acres</u>
800.4 acres x \$0.30 = \$240.12	

The fee structure is a "proposal" and needs Legislative approval prior to being implemented.

Thank you for your inquiry into this matter. If you have any further questions, please contact us.

Sincerely,

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

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

305-2
 JULIAN R WHIDBY
 4706 PRIMROSE
 RAPID CITY SD 57702

4a. Article Number

P378 081 411

4b. Service Type

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

7. Date of Delivery

3-15-97

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

5. Received By: (Print Name)

Jessie R. Mikkelsen

6. Signature: (Addressee or Agent)

Jessie R. Mikkelsen

PS Form 3811, December 1994

Domestic Return Receipt



February 4, 1997

305-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: JULIAN R WHIDBY, 4706 PRIMROSE, RAPID CITY, SD 57702

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

SUBJECT: Violation of Requirement to Submit 1996 Irrigation Questionnaire

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 305-2 & 633-2. The request for the Questionnaire was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 2:30 pm, March 5, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol. Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 305-2 & 633-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 28, 1997, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



305-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 25, 1997

305-2

633-2

Julian R Whidby
4706 Primrose
Rapid City, SD 57702

Dear Mr. Whidby:

I am writing to acknowledge receipt of your 1996 irrigation questionnaires. You may disregard the February 4, 1997, Notice of Violation of the Requirement to Submit the 1996 Irrigation Questionnaire.

I completed questionnaires for you based on our February 25th telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 29, 2008

305-2
633-2

Julian R Whidby
224 E Minnesota St Apt 210
Rapid City SD 57701-7731

Dear Mr. Whidby:

Enclosed is a "Notice" dated October 24, 2008 concerning the 2008 irrigation questionnaire. The notice was originally mailed to 4706 Primrose in Rapid City. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: JULIAN R WHIDBY, 224 E MINNESOTA ST - APT 210, RAPID CITY, SD 57701 7731

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire has not been submitted for Permit No(s) 305-2 & 633-2. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **10:00 am, March 11, 2009**, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 305-2 & 633-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 6, 2009**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:
<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pd>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 29, 2009

305-2
633-2

Julian R Whidby
224 E Minnesota St Apt 210
Rapid City SD 57701 7731

Dear Mr. Whidby:

I am writing to acknowledge receipt of your 2008 irrigation questionnaires. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right Nos. 305-2 and 633-2.

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

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 24, 2013

305-2
633-2

Julian R Whidby
2000 Wesleyan Blvd Room 103
Rapid City SD 57702 9340

Dear Mr. Whidby:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaires.

The notice was originally mailed to 224 E Minnesota St, Apt 210, Rapid City SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

305-2

WEST RIVER LAND LLC

928 LAZELLE STREET, STURGIS, SD 57785 • CELL: 605.641.6882 • FAX: 605.720.8888
www.westriverland.com

RECEIVED

APR - 1 2015

WATER RIGHTS
PROGRAM

Eric Gronlund
DENR – Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

March 30, 2015

Dear Eric,

We closed the real estate transaction on the John and Lesa Eisenbraun Ranch.. Most of the ranch was purchased by Stromberger Farms, Inc. and a small portion purchased by Supreme Investments, L.L.C., Both entities owned by Bart Stromberger.

I have enclosed six water rights transfers, a copy of both warranty deeds, a \$300.00 check and a plat map of the ranch. I carefully went through the water rights and took off any land that was not being purchased. I really feel that I have them all correct, but it is possible that I have made errors.

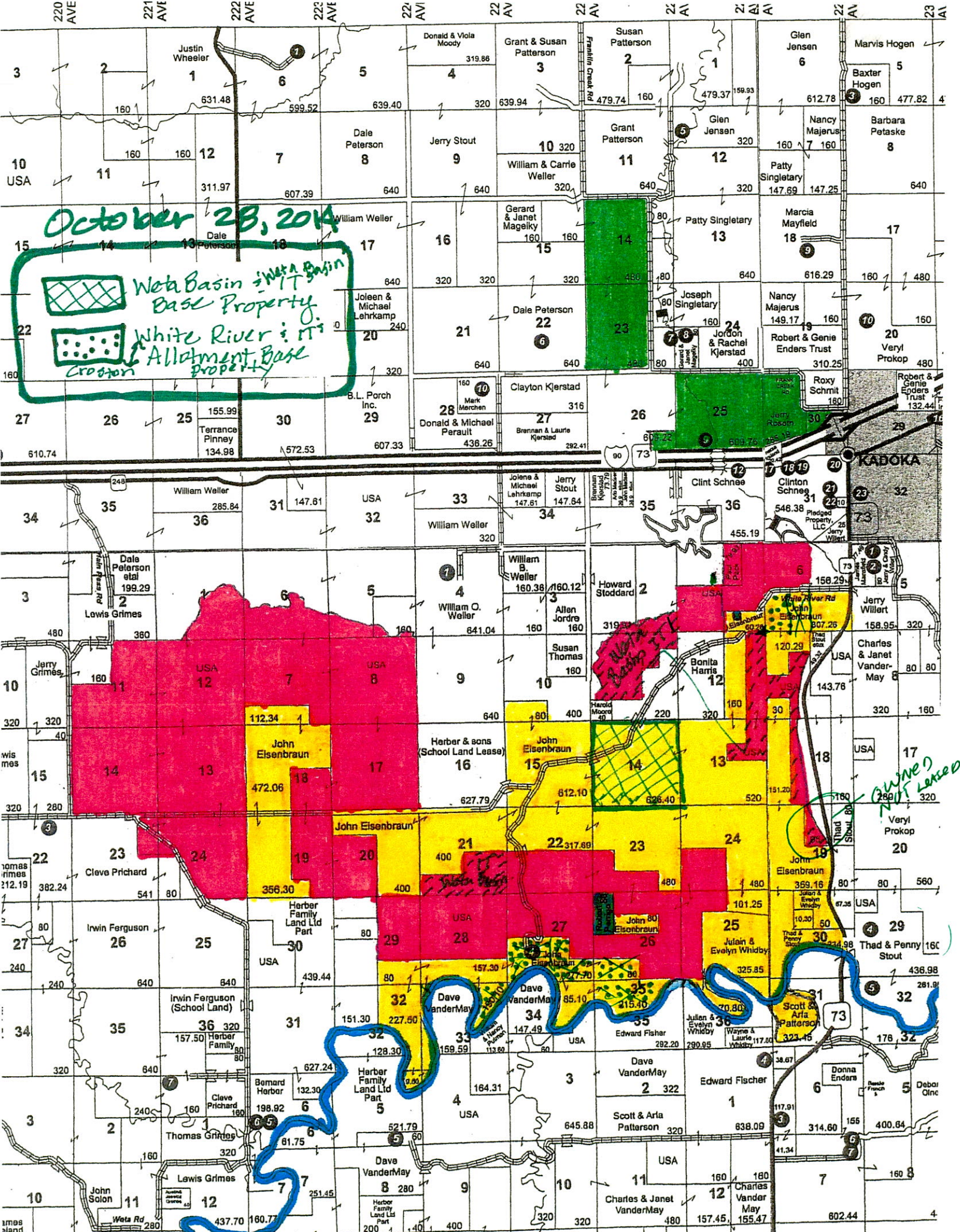
If you have any questions about these transfer forms, please feel free to call me and I will assist more. Please call me at any time. 605-641-6882 cell, steve@stevesatterlee.com e-mail.

Thanks for your previous help with these. Hope you are having a good week.

Sincerely,



Steve Satterlee Broker/Owner 605-641-6882 cell
West River Land LLC
928 Lazelle St
Sturgis, SD 57785



October 28, 2014

Wet Basin - IT Basin
Base Property

White River - IT
Allotment Base
Property

OWNER
NOT LINED

PREPARED BY:
Cheryl Nankivel
First American Title Company
801 Mt. Rushmore Road Ste 100
P.O. Box 8181
Rapid City, SD 57701
(605) 348-4200

RECEIVED

APR - 1 2015

WATER RIGHTS
PROGRAM

WARRANTY DEED

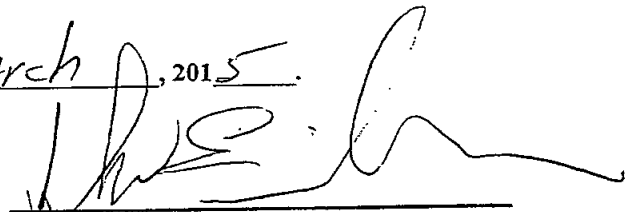
JOHN M. EISENBRAUN A/K/A JOHN EISENBRAUN AND LESA J. EISENBRAUN A/K/A LESA EISENBRAUN, husband and wife, Grantors, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, GRANTS, CONVEYS AND WARRANTS, TO SUPREME INVESTMENTS LLC, a Nebraska limited liability company, Grantee, of _____, the following described real estate in the County of JACKSON, State of SOUTH DAKOTA:

Township 3 South, Range 21 East of the Black Hills Meridian, Jackson County, South Dakota:
Section 24: SE1/4.

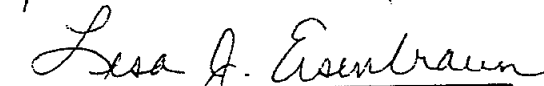
Township 3 South, Range 22 East of the Black Hills Meridian, Jackson County, South Dakota:
Section 18: Lots 1, 2, 3 and 4.
Section 19: Lots 1, 2, 3, 4, E1/2W1/2, W1/2NE1/4, lying west of Highway and W1/2SE1/4,
EXCEPTING therefrom Lots H-1, H-2, H-3, H-4, H-5 and H-6.

Subject to easements, restrictions, covenants and reservations of record.

Dated this 25 day of March, 2015.



JOHN M. EISENBRAUN
A/K/A JOHN EISENBRAUN



LESA J. EISENBRAUN
A/K/A LESA EISENBRAUN

STATE OF

So. Dak.

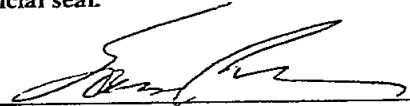
COUNTY OF

Pennington

} SS.

On this the 25 day of March, 2015, before me, the undersigned officer, personally appeared JOHN M. EISENBRAUN A/K/A JOHN EISENBRAUN AND LESA J. EISENBRAUN A/K/A LESA EISENBRAUN known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he/she has executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Notary Public

My Commission Expires: _____

(SEAL)



PREPARED BY:
Cheryl Nankivel
First American Title Company
801 Mt. Rushmore Road Ste 100
P.O. Box 8181
Rapid City, SD 57701
(605) 348-4200

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WATER RIGHTS
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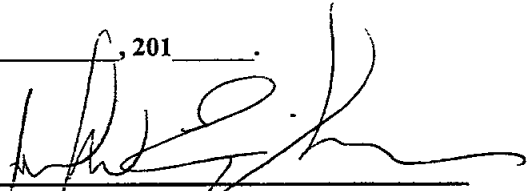
WARRANTY DEED

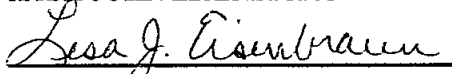
JOHN M. EISENBRAUN, A/K/A JOHN EISENBRAUN, AND LESA J. EISENBRAUN, A/K/A LESA EISENBRAUN, husband and wife, Grantors, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, GRANTS, CONVEYS AND WARRANTS, TO STROMBERGER FARMS INC., a Nebraska corporation, Grantee, of PO Box 787
Imperial, NE 69033, the following described real estate in the County of JACKSON, State of SOUTH DAKOTA:

See Exhibit A attached hereto and made a part hereof.

Subject to easements, restrictions, covenants and reservations of record.

Dated this 25 day of March, 2015.



JOHN M. EISENBRAUN
A/K/A JOHN EISENBRAUN


LESA J. EISENBRAUN
A/K/A LESA EISENBRAUN

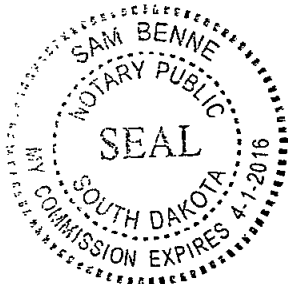
STATE OF S.D.

COUNTY OF Ferrington

} ss.

On this the 25 day of March, 2015, before me, the undersigned officer, personally appeared JOHN M. EISENBRAUN, A/K/A JOHN EISENBRAUN, AND LESA J. EISENBRAUN, A/K/A LESA EISENBRAUN known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he/she has executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.





Notary Public

My Commission Expires: _____

Exhibit A

Township 3 South, Range 21 East of the Black Hills Meridian, Jackson County, South Dakota:

Section 1: S1/2SE1/4, EXCEPTING therefrom the NE1/4SW1/4SE1/4, and also EXCEPTING therefrom the N1/2N1/2SE1/4SW1/4SE1/4, and also EXCEPTING therefrom any Railroad Right of Way.

Section 7: Lot 4, SE1/4SW1/4 and SW1/4SE1/4.

Section 10: SW1/4SW1/4.

Section 12: W1/2E1/2, EXCEPTING therefrom any Railroad Right of Way.

Section 13: NW1/4NE1/4, W1/2 and SE1/4.

Section 14: ALL, EXCEPTING therefrom any Railroad Right of Way.

Section 15: ALL, EXCEPTING therefrom any Railroad Right of Way.

Section 18: Lots 1, 2, 3, 4, E1/2W1/2 and NE1/4, EXCEPTING therefrom any Railroad Right of Way.

Section 19: Lots 1, 2, 3, 4 and E1/2W1/2 and SW1/4SE1/4.

Section 20: N1/2NW1/4 and E1/2.

Section 21: N1/2 and N1/2SW1/4.

Section 22: N1/2.

Section 23: N1/2, NE1/4SW1/4, N1/2SE1/4 and SE1/4SE1/4.

Section 24: N1/2.

Section 25: N1/2NE1/4 and the SE1/4NE1/4, EXCEPTING therefrom Lot 1 of Whidby Ranch Subdivision, as shown on the plat filed in Plat Book E, Page 14.

Section 26: S1/2SW1/4.

Section 27: Lots 1, 2, N1/2SW1/4, NW1/4SE1/4 and S1/2SE1/4.

Section 28: Lot 1, SW1/4SW1/4 and S1/2SE1/4.

Section 29: S1/2SE1/4.

Section 32: Lots 1, 2, 3, NW1/4NE1/4 and E1/2NE1/4.

Section 33: Lots 1, 2, 3, 4, 5, 6 and 7.

Section 34: Lots 1, 2, 3 and 4.

Section 35: Lots 1, 2, 3, 4 and the N1/2NW1/4.

Section 36: Lots 1 and 2.

Township 4 South, Range 21 East of the Black Hills Meridian, Jackson County, South Dakota:

Section 4: Lot 1.

Section 5: Lot 1.

Township 3 South, Range 22 East of the Black Hills Meridian, Jackson County, South Dakota:

Section 6: Lots 3 and 4, E1/2SW1/4 and SE1/4, EXCEPTING therefrom any Railroad Right of Way and also EXCEPTING therefrom Lot H-1.

Section 7: Lots 1, 2, 4 and the NE1/4NW1/4, EXCEPTING therefrom Highway Right of Way.

Section 30: Lots 1, 2, 3, 5, 6, E1/2NW1/4 and W1/2NE1/4, EXCEPTING therefrom Lot 1 of Whidby Ranch Subdivision from said Lots 2, 3 and 5, as shown on the plat filed in Plat Book E, Page 14.

Section 30: That portion of Lot 7 lying West of Highway 73 right of way, EXCEPTING therefrom Lots H-1, H-2, H-3, H-4 and H-5.

Section 31: Lots 1, 2, 3, 4, 5 and 6.

Lot 1 of Whidby Ranch Subdivision located in Section 25-T3S-R21E BHM and in Section 30-T3S-R22E BHM, Jackson County, South Dakota, as shown on the plat filed in Plat Book E, Page 14.

Township 3 South, Range 21 East of the Black Hills Meridian, Jackson County, South Dakota:

Section 26: SE1/4NW1/4 and SW1/4NE1/4.

RECEIVED

APR - 1 2015

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 305-2

Date: _____

I/We request that Water Right/Permit No. 305-2 formerly owned by:
John and Lesa Eisenbraun be transferred to:

New Owner Name: Bart Stromberger, Stromberger Farms, Inc.

Address: PO Box 787

City, State, Zip Imperial ☒ NE ☒ 69033 Telephone No. 308-883-2525

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

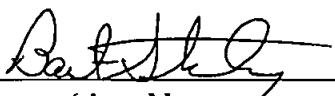
Diverted at a point S. 57 degrees and 24 minutes W. 2320 ft. from n1/4 cor. Section 31, T3S, 22E, and conducted to and upon Lots 1, 2, 3, 4 and 6 of Section 31, T3S, 22E, all in Jackson County, SD.

☒ I understand that the validity of Water Right/Permit No. 305-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, BART STROMBERGER, the new owner, certify that the above information is true and correct.


(signed by new owner)

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 5, 2015

Bart Stromberger
Stromberger Farms Inc
PO Box 787
Imperial NE 69033

RE: Water Right Nos. 305-2, 339-2, 842-2 and 943-2

Dear Mr. Stromberger:

I am contacting you in regard to the ownership changes filed back in April, 2015 for six separate water rights. The ownership changes were submitted by Steven Satterlee with West River Land LLC of Sturgis, SD and the filing fees were paid by First American Title Company in Rapid City SD.

Four of the ownership changes have been processed as follows:

- **No. 305-2:** transferred from Julian Whidby to Bart Stromberger, Stromberger Farms Inc.;
- **No. 339-2:** transferred from John and Lesa Eisenbraun to Bart Stromberger, Stromberger Farms Inc.;
- **No. 842-2:** transferred from Julian Whidby to Bart Stromberger, Stromberger Farms Inc.;
- **No. 943-2** transferred from Julian Whidby to Bart Stromberger, Stromberger Farms Inc and Supreme Investments LLC.

The remaining to ownership changes filed were for Water Right Nos. 558-2 (John and Lesa Eisenbraun) and 633-2 (Julian Whidby). Those two have not yet been processed because I have questions on the description of the acreage cited on the forms. I have called a few times and left messages and have not heard back from you. Please take a few minutes to call so we can discuss the water rights and the ownership changes can be processed.

The Receipts for the filing fees are being forwarded by copy of this letter to First American Title Company in Rapid City, SD.

Sincerely,

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

c: First American Title Company w/Receipts

RECEIVED

MAY 07 2018

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 305-2

Date: 3-9-2018

I/We request that Water Right/Permit No. 305-2 formerly owned by:
Bart Stromberger, Stromberger Farms, Inc. be transferred to:

New Owner Name: Mitchell-Slovak Ranch, LLLP

Address: 20901 Slovak Road

City, State, Zip Philip, SD 57567 ☒ Telephone No. 605-488-0257

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

Diverted at a point S. 57 degrees and 24 minutes W. 2320 ft. from n1/4 cor. Section 31, T3S, 22E, and conducted to and upon Lots 1, 2, 3, 4 and 6 of Section 31, T3S, 22E, all in Jackson County, SD.

☒ I understand that the validity of Water Right/Permit No. 305-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, Mitchell-Slovak Ranch LLLP, the new owner, certify that the above information is true and correct.

William C. Slovak - general partner
(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 7, 20 18

RECEIVED OF First American Title Company of SD PO Box 8181 Rapid City, SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____ 305-2		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **08671**

By Jeanne Goodman
Chief Engineer *vm*

305-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 26, 2018

William C Slovek, General Ptr
Mitchell-Slovek Ranch LLLP
20901 Slovek Rd
Philip SD 57567

RE: Water Right Nos. 305-2, 339-2, 558-2, 842-2 and 943-2

Dear Mr. Slovek:

The transfer of ownership for the above referenced Water Rights has been completed. The water rights formerly held by Stromberger Farms Inc. are now listed in the name of Mitchell-Slovek Ranch LLLP.

The ownership change for Water Right No. 633-2 is still being processed. We are currently working through your attorney to determine if the entire water right should be transferred or if portions of the land are under separate ownership.

The receipts for filing fees for Nos. 305-2, 339-2, 558-2, 842-2 and 943-2 are being sent to First American Title Company of SD with a copy of this letter. Each receipt is in the amount of \$50.

If you have any questions, please contact me.

Sincerely,

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

c: First American Title Company of SD, PO Box 8181, Rapid City SD 57709



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2023

NOTICE

TO: MITCHELL-SLOVEK RANCH LLLP, WILLIAM C SLOVEK, GENERAL PARTNER, 20901 SLOVEK RD, PHILIP, SD 57567

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire has not been submitted for Permit No(s) 305-2, 339-2, 633A-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 305-2, 339-2, 633A-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: SONNMX**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 31, 2023

305-2
339-2
633A-2

William C Slovek
Mitchell-Slovek Ranch LLLP
20901 Slovek Rd
Philip SD 57567

Dear Sir:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right Nos. 305-2, 339-2, 633A-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

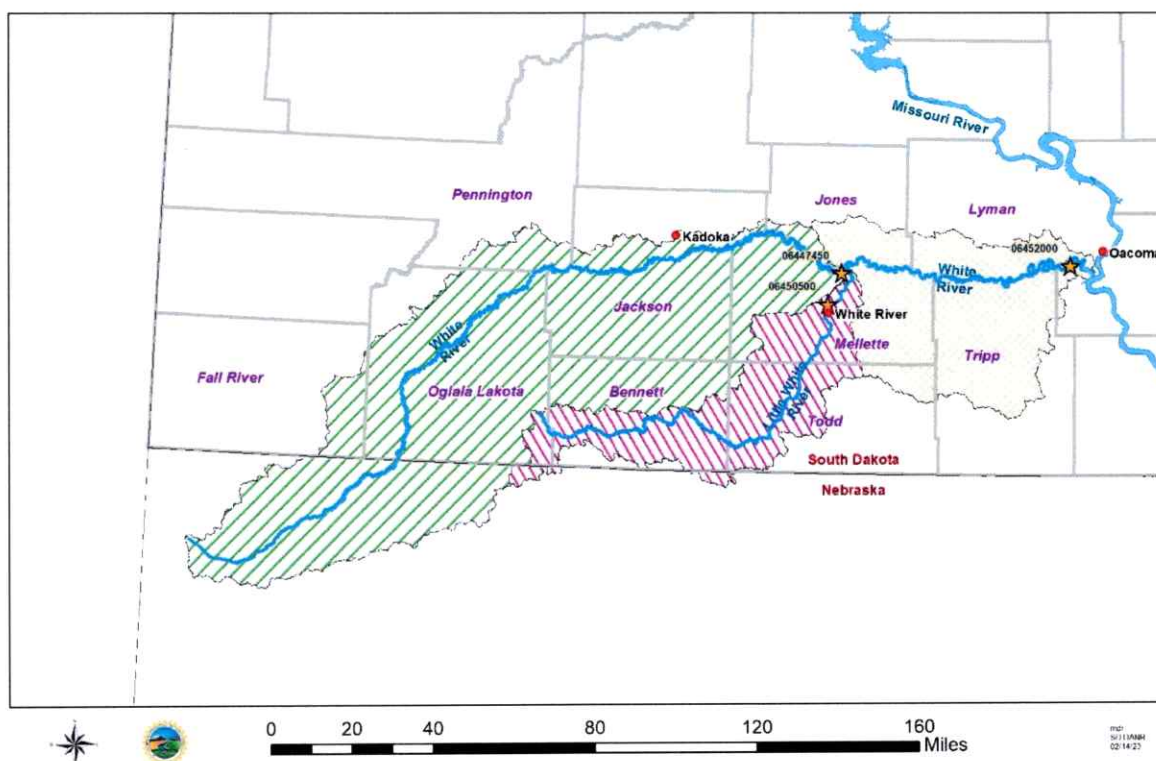


Figure 1. White River Watershed Map.

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

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

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

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

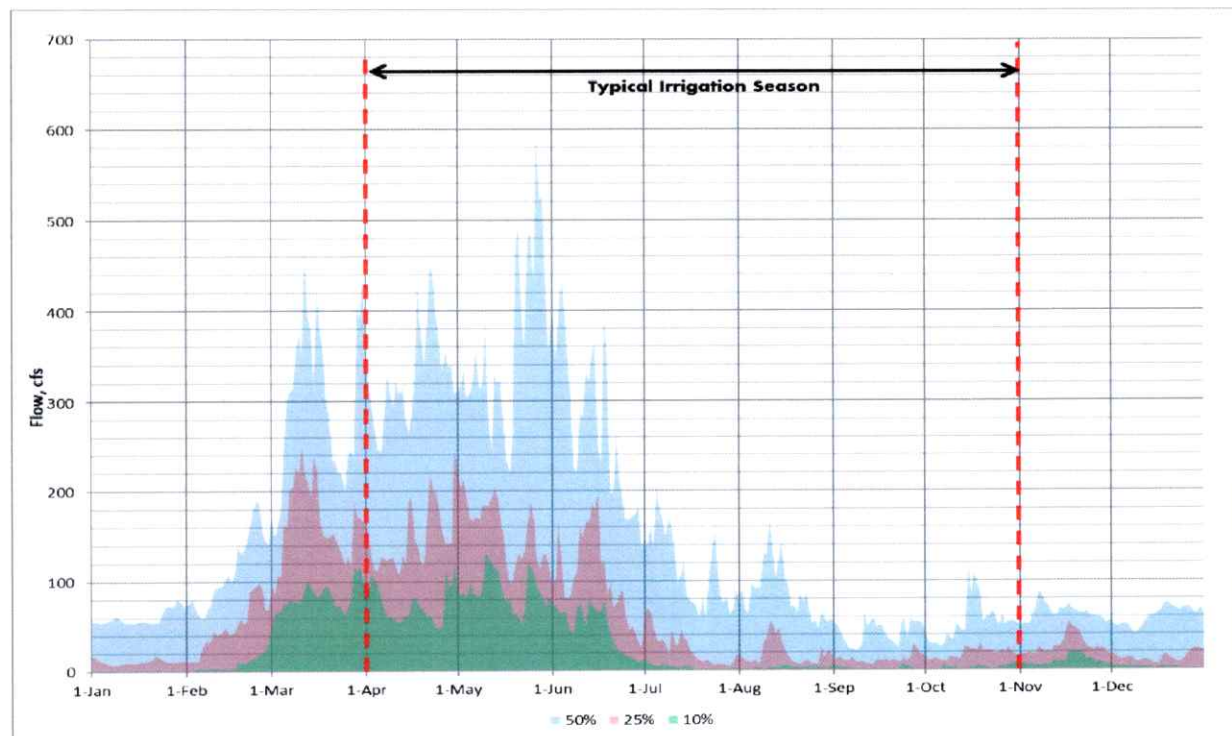


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

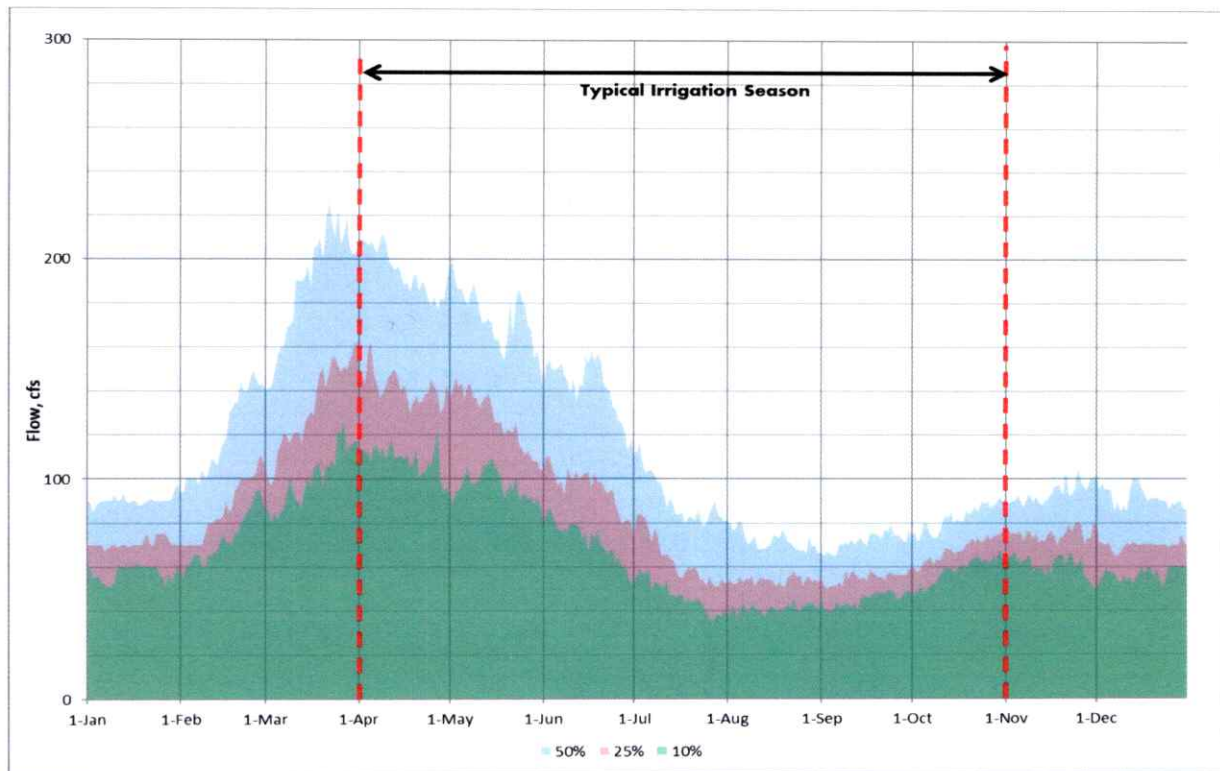


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

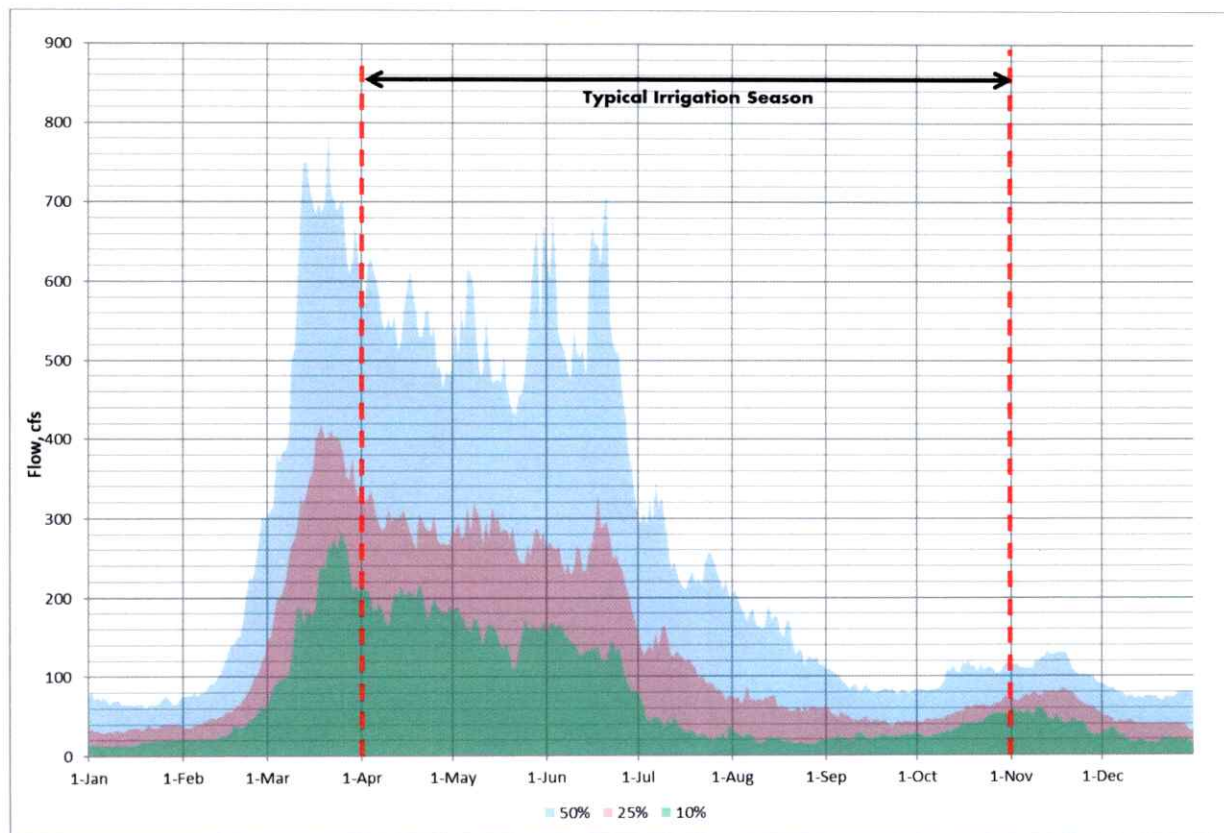


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

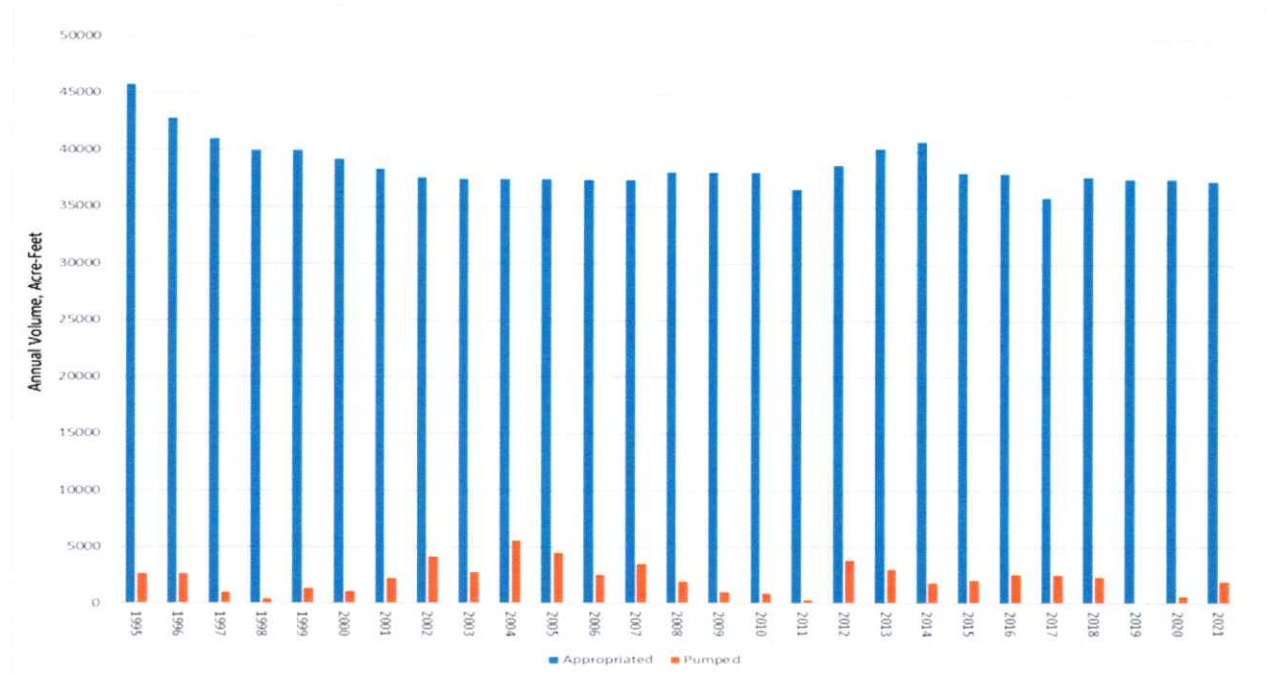


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

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

Dear White River Water Right Holder,

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

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

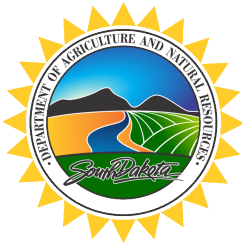
A hearing before the Water Management Board is scheduled at 9:45 AM, Wednesday, May 3, 2023, in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Enclosed is the notice to be published on or before April 13, 2023, in one newspaper from each of the 9 counties that the White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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 14, 2025

NOTICE

TO: SLOVEK RANCH LLLP, WILLIAM C SLOVEK, GENERAL PARTNER, 20901 SLOVEK RD, PHILIP, SD 57567

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire has not been submitted for Permit No(s) 305-2, 339-2, 633A-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 305-2, 339-2, 633A-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LYMBRZ**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2025

305-2, 339-2 & 633A-2

Slovek Ranch LLLP
c/o William C Slovek
20925 Slovek Rd
Philip SD 57567

Dear Mr. Slovek:

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

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 305-2, 339-2 & 633A-2. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

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

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2025

633A-2
305-2 & 339-2

Slovak Ranch LLLP
c/o William C Slovek
20925 Slovek Rd
Philip SD 57567

Dear Mr. Slovek:

The Water Rights Program is in receipt of the 2024 Irrigation Questionnaire you submitted for Water Right Nos. 305-2, 339-2, and 633A-2.

Water Right No. 305-2 authorizes the diversion of 0.1 cfs (630 gpm) from the White River for the irrigation of 99.8 acres located within portions of Lots 1, 2, 3, 4, and 6, Section 31-T3S-R22E.

Water Right No. 339-2 authorizes the diversion of 2.01 cfs (900 gpm) from the White River for the irrigation of 140.89 acres located within portions of Section 32 & Section 33; all in T3S-R21E.

Water Right No. 633A-2 authorizes the diversion of 1.55 cfs (695 gpm) from the White River for the irrigation of 112 acres located within portions of Lot 2 & Lot 3, Section 31-T3S-R22E and portions of Lot 1 & Lot 2 Section 36-T3S-R21E.

On this year's questionnaire you indicated that so long as Slovak Ranch LLLP has held these water rights, irrigation systems have never been constructed or used on the property.

Pursuant to SDCL 46-5-37, if water appropriated under a permit/water right, is not placed to beneficial use for a period of three or more years (without legal excuse), the unused position of the permit/water right may be subject to cancellation due to abandonment or forfeiture.

Please contact me to discuss potential cancellation of Water Right Nos. 305-2, 339-2 & 633A-2.

Sincerely,

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

**File Nos. 305-2,
339-2, 633A-2**

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Bill Slovek, Philip SD

DATE: 03/11/2025

TELEPHONE: +1 605-685-3588

RE: History of non-irrigation

COMMENTS:

After receiving the letter I'd sent, dated March 5, 2025, Bill called to discuss the history of irrigation on the properties authorized by WR Nos. 305-2, 339-2, and 633A-2.

He said that there are dikes in place to catch water from White River and that no pivot systems (to his knowledge) had ever been on the property but rather it was irrigated by large pumps being placed into the water and flood irrigating. Since purchasing the property, the Sloveks have not practiced irrigation in part due to the high silt content of the river water at times which would damage any pumps placed into the river.

I looked over annual IQ reporting from other permit holders along that portion of the White River and it appears that no irrigation has taken place under any of those permits/rights for many years, due to the erratic nature of the river. Permit holders have reported a mix of sufficient moisture, flood events, low water levels, and extreme drought as reasons for not irrigating, which leads me to believe this is a difficult source to appropriate from.

Bill said he was not aware of AR 74:02:01:37.1, allowing him to claim legal excuses for not irrigating. We also discussed SDCL 46-5-37, which requires water to be placed to beneficial use for (with exception to legal excuses). He expressed a deep desire to maintain the water rights and eager to irrigate as soon as the river allowed.

I will not be pursuing cancellation of WR Nos. 305-2, 339-2, or 633A-2 at this time.



Amanda Dewell
Water Rights Program