

RECEIVED
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NO. 322-2

OCT 17 1941

Water Division No. 2

(Blanks to be filled by the State Engineer.)

District STATE ENGINEER
PIERRE, S. DAK.

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant Herman Brost

Postoffice address Kardo, County Jones, State S. Dak.

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)
- (b) Cash on hand, \$2200.00
- (c) Treasury stock, \$
- (d) Bonds to be issued, \$
- (e) Other resources, \$

1. Name of diversion work Brost Irrigation Project

3. Quantity of water claimed 1.02 cubic feet per second.

4. Source of water supply White Riv.

5. Location of point of diversion 975.7 ft. S16°55' W. of the N. Cor. of Sec. 34, 3S-27E

on Left bank.
(Right or left bank looking down stream.)

6. Annual periods during which water is to be used April to October 1

7. To be used for:

I. Irrigation or domestic use:

(a) Number of acres to be irrigated 71.43 acres.

(b) Legal subdivisions to be irrigated See attached sheet

(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. 353-2

8. Estimated cost of works:

(a) Head gates, \$..... (b) Pumping plant, \$1200.00.....
 (c) Fluming, \$..... (d) Canal-earth, \$200.00..... Rock, \$.....
 (e) Other structures Railroad..... \$50.00..... Total, \$2050.00.....

9. Description of diversion works:

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

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 FEET OF DEPTH AT OUTLET—ACRES	CAPACITY ACRE-Feet

(c) Head gate: Width feet; height feet;
 Material

(d) Canal: Total length 0.454 miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At 0.00 Mile	 feet	 feet	 feet	 feet
At 0.454 Mile	1.0 feet	3.0 feet	4.0 feet	5.28 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 2 years.
 11. Time required for complete application of water to the proposed beneficial use 3 years.
 12. Choice of newspaper for publication of notice of intention to appropriate
Kardo Coyote, Kardo, S. Dak.

STATE OF SOUTH DAKOTA

County of } ss.

I,, being first duly sworn on my oath depose and say: That my relation to the above described, undertaking is that of
 (Owner, manager, engineer.) 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

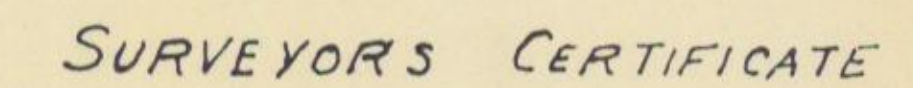
Heriman B. Boyd

Subscribed and sworn to before me this 17th day of October, 1948

Edna F. Richardson

Notary Public (or other qualified officer.)

SCALE : 1" = 200'



I, J.R. Richardson, Registered Professional Engineer and Land Surveyor No. 219,
do hereby certify that I have made a careful and complete survey of the
Brost Irrigation Project and that the pump and ditch locations, and the
areas to be irrigated are as shown hereon.
In witness whereof I have hereunto affixed my hand and seal.
This 6th day of Oct., 1948 A.D.

J. R. Richardson

Registered Professional Engineer and Land Surveyor No. 219

State of South Dakota
County of Jackson

Subscribed and sworn to before me this 6th day of October, 1948 A.D.
Edna F. Richardson
A Notary Public

Land to be Irrigated

Location	Sec.	Twp	R	Acres
S.E. 1/4 of the N.E. 1/4	24	3S	27E	2.23
Lot 5	"	"	"	12.82
Lot 2	19	3S	28E	4.61
Lot 3	"	"	"	30.95
Lot 4	"	"	"	20.82
Total Acres				71.43

(Water Right no. 322-2)
maps no. 355-2

Remarks by State-Engineers

The State Water Resources Commission

Vested Right Claimed

STATE OF SOUTH DAKOTA

County of

Sioux Falls

ss.

Pierre, South Dakota,

March 6

1957

This is to certify that the foregoing application was received at this office at 10:00 o'clock

a. m. upon the 4 day of March, 1957, and that after examination it

1233

State Water Resources Commission

Number of permit

322-2

By: Chief Engineer and Executive Officer

State-Engineer.

Date of first receipt of application

October 7

1948

Date of return to applicant for correction

October 19

1948

Dated of receipt of corrected application

March 4

1957

Date from which applicant may claim right

May 1950

1950

Approved

March 6

1957

Recorded in Book

3, Section 2

Page

51

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 Completed, 19

2nd. The whole of said work is to be completed on or before Completed, 19

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is Completed, 19

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 1.00 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 Completed, 19; said water to be used during the following described annual period:

April to October inclusive

Witness my hand this

6 day of

March

1957

By: Chief Engineer and Executive Officer

State-Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE No. . . . 322-2 . .

WHEREAS, On the 7 day of October A. D. 1948
Herman Brost

of Mardo County of Jones and State of
South Dakota duly made application (No. 322-2) to us for a permit to use Vested Right
1.02
cubic feet per second of the waters of the White River
County of Jones, State of South Dakota, for Irrigation
purposes; and

WHEREAS, On the 6 day of March A. D. 1957
Vested Right
Permit No. 322-2 was issued to said applicant for the diversion of said water, and recognizing
completion of the works of diversion therein described XXXXXX
in May of 1950 XXXX and XXXX application to beneficial use of said
water XXXXXX XXXX in May of 1950 XXXXXX
and,

WHEREAS, On the 4 day of March A. D. 1957
the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.02
cubic feet per second of said waters, as evidenced by our Certificate No. 322-2
dated March 6, 1957 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.02 cubic feet per second of water, with date of
priority of May of 1950 XXX XXX,

WHEREAS, On the 4 day of March A. D. 1957
proof was duly made of the application to beneficial use of 1.02 cubic feet per second of said water;
on 71.43 acres located in the SE¹, NE¹ and Lot 5, all in Section 24,
Township 3S, Range 27E and Lot 2, Lot 3 and Lot 4 all in Section 19,
Township 3S, Range 28E.

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
 We hereby grant and confirm to Herman Broot
 of Mundo, South Dakota the holder and owner of said Vested Right permit No. 322-2
 a water right, dating from May of 1950 to the use of 1.02
 cubic feet per second of the waters of the White River
 in the County of Jones and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted at 1230 feet, S 65° W, of the E 1
Cor. Section 24, Township 3S, Range 27E
 and conducted to and upon parts of the SE 1 NE 1 And Lot 5, all in Section 24,
Township 3S, Range 27E, and Lot 2, Lot 3, and Lot 4, all in Section 29,
Township 3S, Range 28E.
 for the purpose of 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 seal of our office at Pierre, South Dakota,
 this 6 day of March A. D. Nineteen
 Hundred and fifty-seven

State Water Resources Commission

By:

J. W. Grimes, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

7. I. (b) Legal subdivisions to be irrigated:

Location	Sec.	Twp.	R	Acres
S.E. $\frac{1}{4}$ of the N.E. $\frac{1}{4}$	24	3S	27E	2.23
Lot 5	24	3S	27E	12.62
Lot 2	19	3S	28E	4.61
Lot 3	19	3S	28E	30.95
Lot 4	19	3S	28E	20.82
Total Acres				71.43

Permit No. 322-2Water Division No. 2 White River
Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Herman Brost

of Murdo, County of Jones, and State of South Dakota,
the holder of Vested Right Permit No. 322-2, Issued upon Application
No. 322-2, bearing date of priority of May of 1950, authorizing the diversion of
1.02 cu. ft. per second of the waters of the White River
County of Jones, State of South Dakota, at 1230 feet, S 65° W
of the E¹ Cor., Section 24, Township 3S, Range 27 E.
for Irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of
Vested Right
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use 1.02 cu. ft.

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

to-wit: SE¹ NE¹ Sec 24, T3S, R27E = 2.23 Acres

Lot 5 Sec 24, T3S, R27E = 12.82 Acres

Lot 2 Sec 19, T3S, R28E = 4.61 Acres

Lot 3 Sec 19, T3S, R28E = 30.95 Acres

Lot 4 Sec 19, T3S, R28E = 20.82 Acres

TOTAL 71.43 Acres

Witness my hand this 6 day of March A. D. 1957

State Water Resources Commission

By:

J. W. Grimes, Chief Engineer, Executive Officer

Location No. 322-2Water Division No. 2 White River
Water District**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

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

Ans. Herman Frost

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. _____

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. Submitted an Application for A Permit October 5, 1949.

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

Ans. about 1230 feet, S65° W. of the E1 Cor., Sec 24, Twp 3S, Rge 27E
or Lot 5 of said Sec on the left bank of the White River

Ques. 5. Describe your works of diversion giving length and height of each dam 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, and date of completion of same.

Ans. A 6" Eriomaster pump, Model DP powered with a 1950 TD-9. I have
a 15" CMP in my ditch. There is about 2500 feet of Main lateral. The
pump has a maximum capacity of about 1200-1300 gpm and CMP about 700-
750 gpm. I have 48 5/32 x 13/64, Rainbird Model 40 Nozzles.

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 of 71.43 Acres of Alfalfa in Lots 2, 3, & 4 Section
19, Twp 3S, Rge 27E; and SE 1/4 NE1, and Lot 5, Section 24, Twp 3S, Rge 27E.

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

Ans. Stockwatering

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

Ans. 450 gpm.

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. Completed construction and began water use during fall of 1950. At this time I began using about 450 to 525 gpm of water on 71.43 Acres of alfalfa through a Sprinkler System and in 1952 I converted to a Gravity System using about 450-700 plus gpm. I have irrigated at least every other year since.

(Sign)

Herman Frost

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 _____, County of _____, State of South Dakota, on this _____ day of _____, A. D. 19____.

Witnesses.

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No.-----

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water ----- c. f. s.

Source

Country

Purpose

Place of Use

Date of recording

Received and Filed

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

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

January 19, 1983

322-2
323-2
452-2
871-2

Flying T Cattle Co.
Box 378
Murdo SD 57559

Dear Sir:

Please find enclosed copies of our Form 20, Notice of Transfer of Water Permit. These must be signed by the owner before a notary public and returned to this office with a fee of \$2.50 each (total \$10.00).

Upon receipt of the Form 20's, and the \$10.00 filing fee the permits will be transferred to the proper name.

Please advise this office if you have any questions.

Sincerely,

KAREN SCHLANK
Administrative Secretary

enclosures

Water Rights Division - DWR
Conversation or File Documentation

File No. 322-2
323-2
452-2
8-11-2

NAME OF PERSON OR FILE: Frank Broat

ADDRESS: Box 339 COUNTY _____

DATE: June 21, 1983 TELEPHONE _____

RE: ownership of W/R's listed in Herman Broat's name

COMMENTS:
Frank Broat indicated he is executor of his
father-Herman Broat's, estate. He does not want
W/R's transferred yet as Estate has not been
settled and ownership not yet determined.
Land still listed under Herman Broat.
He indicated the Flying T Cattle Co. helps
operate land but he wanted all correspondence
concerning W/R's to be sent to him for time
being.

He understood he was to notify this
Office when the Estate is settled and the
water rights are to be transferred.

List as: Herman Broat Estate
Yo Frank Broat
Box 339
Phone SD 57568

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Scumley

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

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

October 8, 1987

NOTICE TO SUBMIT IRRIGATION QUESTIONNAIRE

1156-2
CALVIN SMITH
BOX 378
MURDO
SD 57559

JN/JH

5

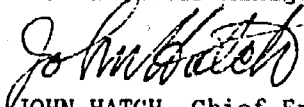
The 1987 Irrigation Water Use Questionnaire(s) and a postage paid return envelope are enclosed. Water Management Board Rules or water permit qualifications require the Irrigation Questionnaire(s) to be submitted each year. Please complete the enclosed questionnaire(s) as accurately as possible and return by November 30, 1987.

If you have multiple permits, you may receive more than one questionnaire. If you are unable to complete the questionnaire for each water permit or water right, complete one and return all questionnaires. Make any necessary corrections to your mailing address. If you no longer own the land irrigated under a water permit or water right include the new owner's name and mailing address on the bottom of the questionnaire(s).

Actual irrigation water use from an aquifer or stream helps the Board determine if additional water permits can be approved. Returning the questionnaire also establishes a record of water use, and provides excellent documentation of South Dakota's rights and claims to water when dealing with downstream States.

If you have any questions, or need assistance in completing the form, please contact us.

For the Water Management Board,


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

enclosure

Frank: This one # 1156-2 is yours now on Sandy land.

Would you check the status of the following:

*# 323-2 + # 871-2 West Place } these are all in Dad's name
452-2 M. Bottom } but they haven't sent any
322-2 Home } questionnaires out on them for a long time.*

L



Department of Water & Natural Resources

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

November 3, 1987

322-2

323-2

452-2

871-2

Calvin Smith
Box 378
Murdo, SD 57559

Dear Mr. Smith:

I am contacting you in reference to Water Right Nos. 322-2, 323-2, 452-2 and 871-2 listed in the name of Herman Brost Estate. Mr. Frank Brost has notified our office that you now own the lands authorized for irrigation under these water rights.

Enclosed are partially completed "Notice of Transfer" forms for use in filing ownership changes on Water Right Nos 322-2, 323-2, 452-2 and 871-2. Please check over the forms and sign in the presence of a notary public. Upon completion of the forms, return them to our office with a required filing fee of \$2.50 each (total of \$10.00). The water rights will then be transferred to your name.

South Dakota Water Law 46-54-30.3 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.

If you have any questions, please contact us.

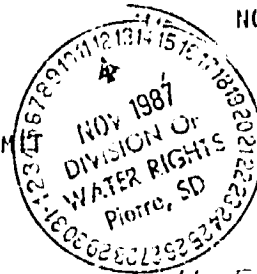
Sincerely,

GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosures

NO. 322-2

NOTICE OF TRANSFER OF WATER PERMIT



Date: 11-5-87

TO: Water Rights
Foss Building
Pierre, SD 57501

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

71.43 acres - SE $\frac{1}{4}$ NE $\frac{1}{4}$ & Lot 5, Section 24, T3S, R27E

Lots 2,3, & 4 Section 19, T3S, R28E

formerly owned by Herman Brost Estate & Frank Brost

has been transferred to Calvin & Dee Smith, Box 378, Murdo SD 57559

(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 322-2 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 Jones) ss.

I, Calvin & Dee Smith 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.

Dee Smith
Calvin Smith
(Signed)

Subscribed and sworn to before me this 5 Day of Nov, 1987.

Beverly Anderson
3-11-90 (Notary Public)

322-2



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

November 13, 1987

Calvin & Dee Smith
Box 378
Murdo, South Dakota 57559

Dear Mr. & Mrs. Smith:

I am contacting you in regard to the "Notice of Transfer" forms you submitted for filing a change of ownership on Water Right Nos. 322-2, 323-2, 452-2 and 871-2. The forms were completed properly, however, a \$2.50 filing fee (each) is required before the transfers can be processed.

Please remit the filing fees (\$10.00 total) as soon as possible. If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst

GM:ms

RECEIPT

Division of Water Rights
South Dakota Department of Water and Natural Resources

411051

Pierre, November 17, 1927

RECEIVED OF Calvin/Dee Smith, Box 378, Murdo, SD 57559

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 <u>322-2</u>		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

(MS)

322-2



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

November 19, 1987

Calvin and Dee Smith
Box 378
Murdo, South Dakota 57559

Dear Mr. & Mrs. Smith:

Enclosed are receipt Nos. 411051, 411052, 411053 and 411054 in the amount of \$2.50 each which you paid for the transfer of Water Right Nos. 322-2, 323-2, 452-2 and 871-2.

Our records now show you as the owners of these Water Rights.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc. 4



Department of Water & Natural Resources

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

May 26, 1988

Calvin/Dee Smith
Box 378
Murdo, SD 57559

Dear Mr. & Mrs. Smith:

I am writing in regard of our review of irrigation questionnaire records. No irrigation has been reported for the last five irrigation seasons under Permit No(s) 322-2, 452-2, 871-2.

South Dakota Codified Laws state that when any person fails to use water for the purpose for which it was appropriated for a period of three years, or abandons the use of the water, such unused water shall revert to the public. An exception to the law is when there is legal excuse for nonuse of water. Examples of legal excuse for nonuse of water are when water is not available or legal proceedings which prevent the use of water.

Since your permit(s) has (have) not been used for five years, the permit(s) may be subject to cancellation by the Water Management Board unless there is a legal reason for not using water. Please advise by June 17, 1988 if you still want to keep your water right and if there is a reason why water has not been used. Let us know, if you have any questions.

Very truly yours,

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



May 31, 1988

S.D. Dept. Water &
Natural Resources
Joe Foss Bldg.
523 E. Capitol
Pierre, SD 57501



Dear Mr. Hatch,

Here are the dates and permit nos.
for irrigating in previous years.

1983: # 322-2 July 25 - Aug. 1

871-2 Aug 1 - Aug 8

1985: # 452-2 Apr. 22 - May 2
Aug 5 - 8

871-2 Apr. 22 - May 7
July 5 - 12

322-2 May 3 - 6
July 6 - 12

Please send the yearly forms to
me at this address: C. Smith, P.O. Box 378,
Murdock, S.D. 57559.

Also what is the status of # 323-2. It and
871-2 are on the same river bottom - am wondering
what Frank has filed on that one.

Thank you.

Sincerely,
Mrs Calvin Smith

South Dakota
Department of
Water & Natural Resources

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

June 6, 1988

323-2
452-2
871-2

Mrs. Calvin Smith
PO Box 378
Murdo SD 57559

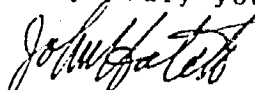
Dear Mrs. Smith:

I am writing in answer to your letter of May 31, 1988. Since all of the permits that you listed have been transferred to Calvin & Dee Smith, you will be receiving future irrigation questionnaires.

Water Right No. 323-2 is in the name of Calvin and Dee Smith. The last irrigation reported on the questionnaire was for the 1985 crop season.

If we can answer any other questions, please contact us.

Very truly yours,



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



South Dakota Department of
Water & Natural Resources

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

September 21, 1988

NOTICE

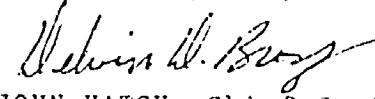
Calvin & Dee Smith
Box 378
Murdo SD 57559

Dear Mr. & Mrs. Smith:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 322-2, 323-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

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



322-2

REISSUED STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 322-2 FOR IRRIGATION

(1) Hennan Brost, Murdo SD was issued Vested Water Right License No. 322-2, March 6, 1957 for a right to appropriate 1.02 cubic feet of water per second from the White River, Jones County, South Dakota, for irrigation purposes. Vested Water Right No. 322-2 with a priority date of May 1, 1950 was issued for the diversion of water with construction of the described water supply system completed and application of water to beneficial use completed.

Vested Water Right No. 322-2 was transferred November 12, 1987 to Calvin & Dee Smith.

On July 10, 1996, the Water Management Board validated Vested Water Right No. 322-2. Vested Water Right No. 322-2 is being reissued to correct the descriptions of the lands and diversion point locations, based on a November 15, 1995, inspection of the system.

(2) The vested right owner is entitled to divert 1.01 cubic feet of water per second for beneficial use. The location of the diversion point is: 1025 feet south and 720 feet east of the west 1/4 corner of Section 19-T3S-R28E (NW 1/4 SW 1/4).

The location of the irrigated acreage is: **all in Section 19-T3S-R28E**

SE 1/4 NW 1/4	2 acres
Lot 2 (SW 1/4 NW 1/4)	7 acres
Lot 3 (NW 1/4 SW 1/4)	27 acres
Lot 4 (NE 1/4 SW 1/4)	28 acres
Lot 5 (NW 1/4 SE 1/4)	7 acres

Total	71 acres
--------------	-----------------

(3) Pursuant to Section 46-5-30.1 Calvin and Dee Smith, Box 378, Murdo SD 57559 the holders and/or owners of Vested Water Right No. 322-2 are issued a license to appropriate 1.01 cubic feet of water per second from the White River with a priority date of May 1, 1950 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 322-2 and subject to South Dakota State Law.

John Hatch
JOHN HATCH, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 17 1996

date

REPORT ON INSPECTION OF PERMIT NO. 322-2

DATE OF INSPECTION: Nov. 15, 1995

Other permit(s) associated with the project: None

DIVERSION POINT LEGAL LOCATION: 1025 feet south and 720 feet east of the west 1/4 corner of Section 19-T3S-R28E.

Pump:

- 1) Make Crisafulli
- 2) Model NA
- 3) Size 10 inch
- 4) Capacity 4000 GPM

Motor:

- 1) Make Farm Tractor

DISTRIBUTION LINES OR CANALS:

- 1) Type Aluminum
- 2) Size 10 inches
- 3) Length # feet

CHEMIGATION EQUIPMENT:

- 1) Does chemigate N

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

Water Rights Program -- File Documentation

NAME: Calvin and Dee Smith

ADDRESS: Box 378, Murdo, SD 57559

DATE: March 19, 1996 COUNTY: Jones TELEPHONE: 669-2855

RE: Investigation of Vested Water Right Nos. 322-2 and 323-2.

COMMENTS:

On November 15, 1995, I investigated Vested Water Right Nos. 322-2 and 323-2 for purposes of validation.

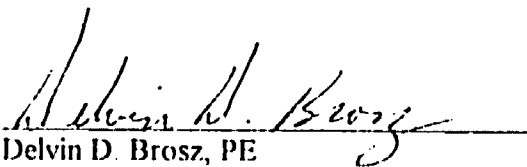
INVESTIGATION RESULTS:

The maps for both of the vested water rights were drawn incorrectly as to legal location. This determination was made when comparing the location of the irrigation projects to aerial photos and topographical maps.

RECOMMENDED ACTION:

Vested Water Right Nos. 322-2 and 323-2 need to be readvertised to correct the descriptions of the lands and diversion point locations. The correct land descriptions and diversion point locations are described in the examination reports. The Water Rights Program will pay for the readvertisements.

I had a telephone discussion with Dee Smith on March 21, 1996 informing her of the recommended action.



Delvin D. Brosz, PE
Natural Resources Engineer
Water Rights Program

Permit No. 322-2
White River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

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

I have this day, Nov. 15, 1995, made a thorough examination of the water use system constructed by Calvin and Dee Smith of Box 378, Murdo, SD 57559 holder of Permit No. 322-2, bearing the priority of May, 1950 authorizing the diversion of 1.02 cu. ft. per second of the waters of White River for irrigation purposes, in Jones County.

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

A. Works used to divert the water:

Tractor powered 10 inch Crisafulli pump - 4000 gallons per minute.

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

10 inch aluminum pipe

C. Works used to apply water to beneficial use:

10 inch aluminum gated pipe

The system is in the following condition good. The point of diversion is located 1025 feet south and 720 feet east of the west 1/4 corner of Section 19-T3S-R28E. The works are capable of diverting and conveying to the place of use 8.9 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

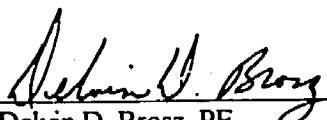
SE 1/4 NW 1/4 - 2 acres, Lot 2 (SW 1/4 NW 1/4) - 7 acres, Lot 3 (NW 1/4 SW 1/4) - 27 acres, Lot 4 (NE 1/4 SW 1/4) - 28 acres, and Lot 5 (NW 1/4 SE 1/4) - 7 acres; all in Section 19-T3S-R28E.

comprising a total of 71 acres of land and the license should be issued for 1.0 cfs.

Applicable permit qualifications have been complied with: N

1.01 *RD*

Exceptions to compliance are: See file document



Delvin D. Brosz, PE

Natural Resources Engineer
DENR, Water Rights Program

3-19-96

Date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 17 1996

Calvin and Dee Smith
Box 378
Murdo SD 57559

Dear Mr. & Mrs. Smith:

The Water Management Board has validated the enclosed Vested Water Right Nos. 322-2 and 323-2. These validations give legal status to the claims and are the final documents for your vested rights. Enclosed are the reissued water licenses which reflect the acreage and diversion rates as validated by the Board.

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

Very truly yours,

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

enclosure

322-2

SOUTH DAKOTA

VESTED WATER RIGHT NO. 322-2 FOR IRRIGATION

Date of Receipt of Claim October 7, 1948.

Date of Validation July 10, 1996.

The Water Management Board validated Vested Water Right Claim No. 322-2 for irrigation purposes for Calvin and Dee Smith, Box 378, Murdo SD 57559 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 322-2 appropriates 1.01 cubic feet of water per second from the White River located in the NW 1/4 SW 1/4 (Lot 3) Section 19 to irrigate 71 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4, NW 1/4 SE 1/4 (Lots 2, 3, 4 and 5) Section 19; all in T3S-R28E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: April 1 - October 1.
3. The priority date of the Vested Water Right is May 1, 1950.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

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

OCT 17 1996

date



322-2
File No. 322-2, 323-2
452-2, 871-2
and 2189-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Calvin & Dee Smith, PO Box 378, Murdo, SD 57559

DATE: November 9, 1999

TELEPHONE: 605 669-2855

RE: transfer of Water Right Nos. 322-2, 323-2, 452-2, 871-2 and 2189-2

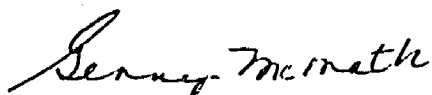
COMMENTS:

The 1999 irrigation questionnaires returned by the Smith's had a comment written on them which stated they had sold the ranch to Frank Brost.

I called and spoke with Mrs. Smith about this and she indicated the sale would not be final until March of 2000. She had placed the note on the questionnaires to let us know that next year's forms should be directed to Frank. She indicated Frank would probably get ahold of us after the sale was finalized.

I asked her if No. 2189-2 went with the sale. The water right authorizes a deep well to be used for domestic stock watering purposes. She said she did not know for sure at this time.

I told her we would wait with sending out transfer forms until around April 2000. If I have not heard from Frank Brost by that time, I will follow-up by sending him the appropriate forms.



Genny McMath
Environmental Scientist



322-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

August 9, 2000

Frank Brost
Brost Land and Cattle Company
23674 Dogleg Dr
Rapid City, SD 57702-7304

Dear Mr. Brost:

I am contacting you in regard to ownership of land described in Water Right Nos. 322-2, 323-2, 452-2, 871-2 and 2189-2. These water rights are currently listed in the name of Calvin and Dee Smith.

In November, 1999, Mrs. Smith indicated you were purchasing the land with the sale to be finalized in March of 2000. If the sale has been finalized, the water permits should be transferred to your name. Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes. Please complete the forms as needed and sign them in the presence of a notary public. A \$2.50 filing fee is required for each transfer.

One item I needed to check with you on is ownership of the well described in No. 2189-2. The water right authorizes a 2,380 feet deep well to be used for domestic stockwatering purposes. At the time I spoke with Mrs. Smith, she did not know if this particular one would go with the sale. I included a transfer form for it, but if you did not purchase that portion of the land, you may disregard the form.

If I can answer any questions for you regarding the water rights or completion of the transfer forms, please get in touch with me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 322-2

Date: _____



I/We request that Vested Water Right No. 322-2

formerly owned by: Calvin & Dee Smith

be transferred to: (name & address) Frank ^{D.} Brost, PO Box 3, Murdo, SD 57559

Telephone No. 605 669-2332

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

71 acres - SE 1/4 NW 1/4, Lots 2, 3, 4 & 5 Section 19, T3S, R28E

I/We understand that the validity of Vested Water Right No. 322-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

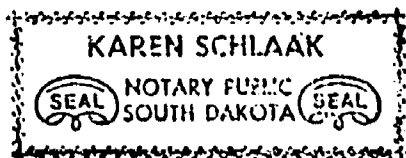
STATE OF SOUTH DAKOTA)

County of Hughes)

I/We Frank Brost 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 that I know of my own personal knowledge that the information herein stated is true.

Frank Brost
(Signed)

Subscribed and sworn to before me this 15th day of August, 19 2000.



Karen Schlaak

(Notary Public) KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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

NO 416601

Pierre, August 15, 2000

RECEIVED OF Frank Brost, PO Box 3, Murdo, SD 57559
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form Vested Water Right No. 322-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

Chief Engineer

Garland Erbele



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

August 16, 2000

Frank D Brost
PO Box 3
Murdo, SD 57559-0003

RE: Water Right Nos. 322-2, 323-2, 452-2, 871-2 and 2189-2

Dear Mr. Brost:

Thank you for stopping by the office to take care of the transfers for water rights formerly held by Calvin and Dee Smith. The transfers have been completed and they are now listed in your name.

Enclosed are copies of the transfer forms and your receipts for the filing fees you paid.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosures



1-26-04

Chief Eng
water right
523 E. Capitol
Pierre, SD

Dear Halley,

Enclosed are 3 permits # 2189-2, 322-2,
+ 323-2 which I request that you
transfer to me.

I enclose my check for \$450
for the transfer.

As a point of information
I will also be purchasing the bid
for permits # 452-2 and 871-2, but
that purchase will not close until
after April 1st

Thank you for your help

Charlie M. Thompson

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 28, 2004

RECEIVED OF Charles Thompson, Box 777, Pierre SD 57501

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	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>322-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

001133

By

Darland Erbe
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

JAN 28 2004

WATER RIGHTS
PROGRAM

No. 322-2

Date:

Jan 26, 2004

I/We request that Vested Water Right No. 322-2

formerly owned by: Frank D Brost

be transferred to: (name & address)

Charles M. Thompson
Box 777
PIERRE SD 57501

Telephone No. 605-224-6599

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

71 acres - SE 1/4 NW 1/4, Lots 2, 3, 4 & 5, Section 19, T3S, R28E

I/We understand that the validity of Vested Water Right No. 322-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We

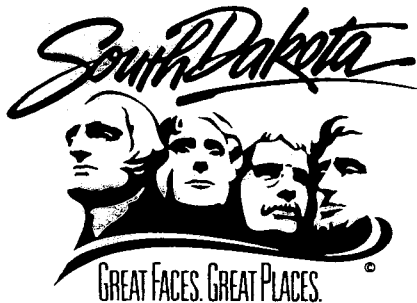
Charles M. Thompson

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

Charles M. Thompson
(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.



322-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 2, 2004

322-2
323-2
2189-2

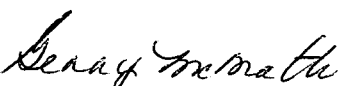
Charles M Thompson
Box 777
Pierre SD 57501

Dear Mr. Thompson:

Thank you for following up on the ownership change for Water Right No. 2189-2 and Vested Water Right Nos. 322-2 and 323-2. The transfers have been completed. The water rights formerly listed in the name of Frank D Brost are now listed in your name.

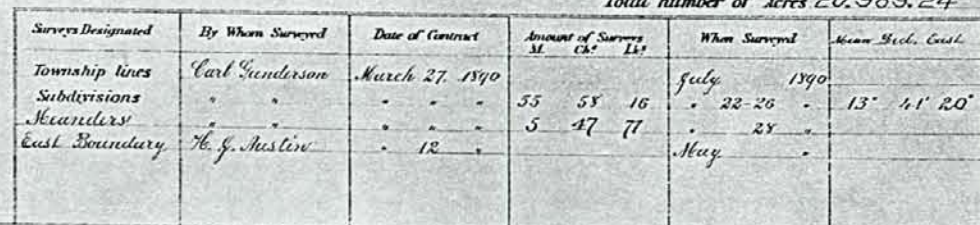
Enclosed is your Receipt Nos. 001131, 001132 and 001133 in the amounts of \$2.50 each. If I can answer any questions for you, please contact me.

Sincerely,


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

enclosures

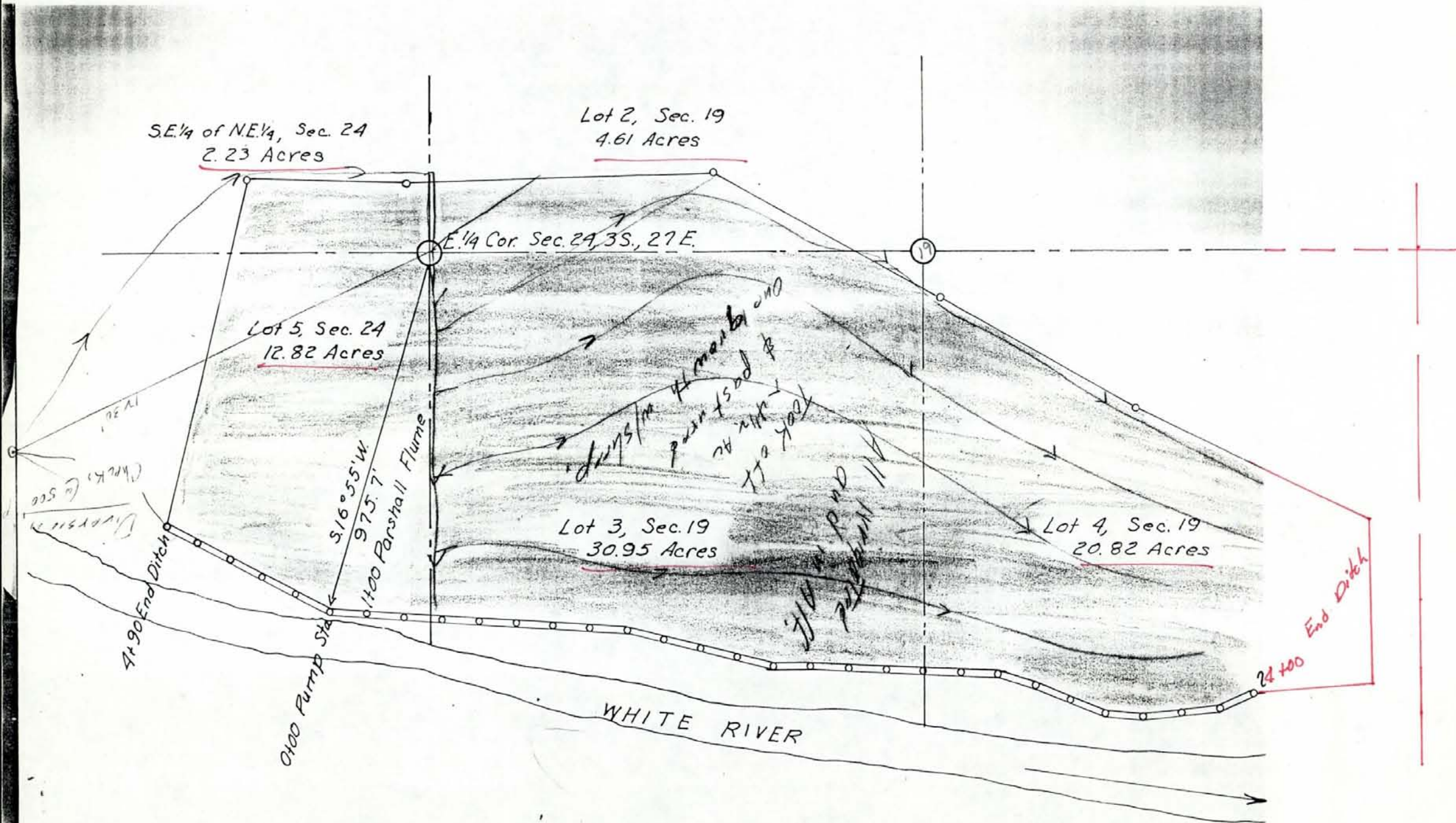
G *f* *F* *e* *E* *d* *D* *c* *C* *b* *B* *a* *A*



Surveyor General's Office,
Heron S. D. April 17. 1891.

Accepted:
Commissioner's letter "B"
dated *May 9, 1891*

[illegible]



NOT TO SCALE

W
2
2
1
2

1991

35-28
1-156R
H-14

T-1065

Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$)
7 acres

SE $\frac{1}{4}$ NW $\frac{1}{4}$
2 acres

Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)
27 acres

80.6
Lot 4
(NE $\frac{1}{4}$ SW $\frac{1}{4}$)
28 acres
| HEL

Lot 5
(NW $\frac{1}{4}$ SE $\frac{1}{4}$)
7 acres

Prepared By:
Belvin W. Brong, PE
Natural Resources
Engineer
Water Rights Program

720'

Diversion
Point

T-9553

322-2



322-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: CHARLES M THOMPSON, BOX 777, PIERRE, SD 57501

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) 322-2, 323-2, 452-2 & 871-2. 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) 322-2, 323-2, 452-2 & 871-2 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/efrms/secure/efrms/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

Charles M Thompson
Box 777
Pierre SD 57501

RE: 2008 irrigation questionnaires for Water Right Nos. 322-2, 323-2, 452-2 & 871-2

Dear Mr. Thompson:

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. 322-2, 323-2, 452-2 and 871-2.

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

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
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
www.state.sd.us/denr

January 22, 2010

NOTICE

TO: CHARLES M THOMPSON, BOX 777, PIERRE, SD 57501

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire has not been submitted for Permit No(s) 322-2, 323-2, 452-2 & 871-2. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 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 10, 2010**, 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) 322-2, 323-2, 452-2 & 871-2 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 5, 2010**, 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 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 18, 2010

Charles M Thompson
PO Box 777
Pierre SD 57501

RE: Water Right Nos. 322-2, 323-2, 452-2 & 871-2

Dear Mr. Thompson:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right Nos. 322-2, 323-2, 452-2 & 871-2.

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

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
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
www.state.sd.us/denr

January 21, 2011

NOTICE

TO: CHARLES M THOMPSON, BOX 777, PIERRE, SD 57501

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

SUBJECT: Reporting Requirement for 2010 Irrigation Questionnaire(s)

Our records indicate that the 2010 Irrigation Questionnaire has not been submitted for Permit No(s) 322-2, 323-2, 452-2 & 871-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 15, 2010. The Water Management Board has directed that owners of water permits who have not submitted the 2010 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 9, 2011**, 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) 322-2, 323-2, 452-2 & 871-2 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 4, 2011**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

322-2

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FOIA

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CHARLES M THOMPSON
BOX 777
PIERRE SD 57501

Waiver of Signature ☐ YES ☐ NO

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**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 25, 2011

Charles M Thompson
Box 777
Pierre SD 57501 0777

RE: Water Right Nos. 322-2, 323-2, 452-2 & 871-2

Dear Mr. Thompson:

I am writing to acknowledge receipt of your 2010 irrigation questionnaires.

You may disregard the January 21, 2011, "Notice" concerning reporting requirements for Water Right Nos. 322-2, 323-2, 452-2 & 871-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
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
www.state.sd.us/denr

January 24, 2014

NOTICE

TO: CHARLES M THOMPSON, BOX 777, PIERRE, SD 57501

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

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire has not been submitted for Permit No(s) 322-2, 323-2, 452-2 & 871-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 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 **9:00 am, March 6, 2014**, 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) 322-2, 323-2, 452-2 & 871-2 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 3, 2014**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 28, 2014

Charles M Thompson
Box 777
Pierre SD 57501

RE: Water Right Nos. 322-2, 323-2, 452-2 and 871-2

Dear Mr. Thompson:

I am writing to acknowledge receipt of your 2013 irrigation questionnaires.

You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Right Nos. 322-2, 323-2, 452-2 and 871-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

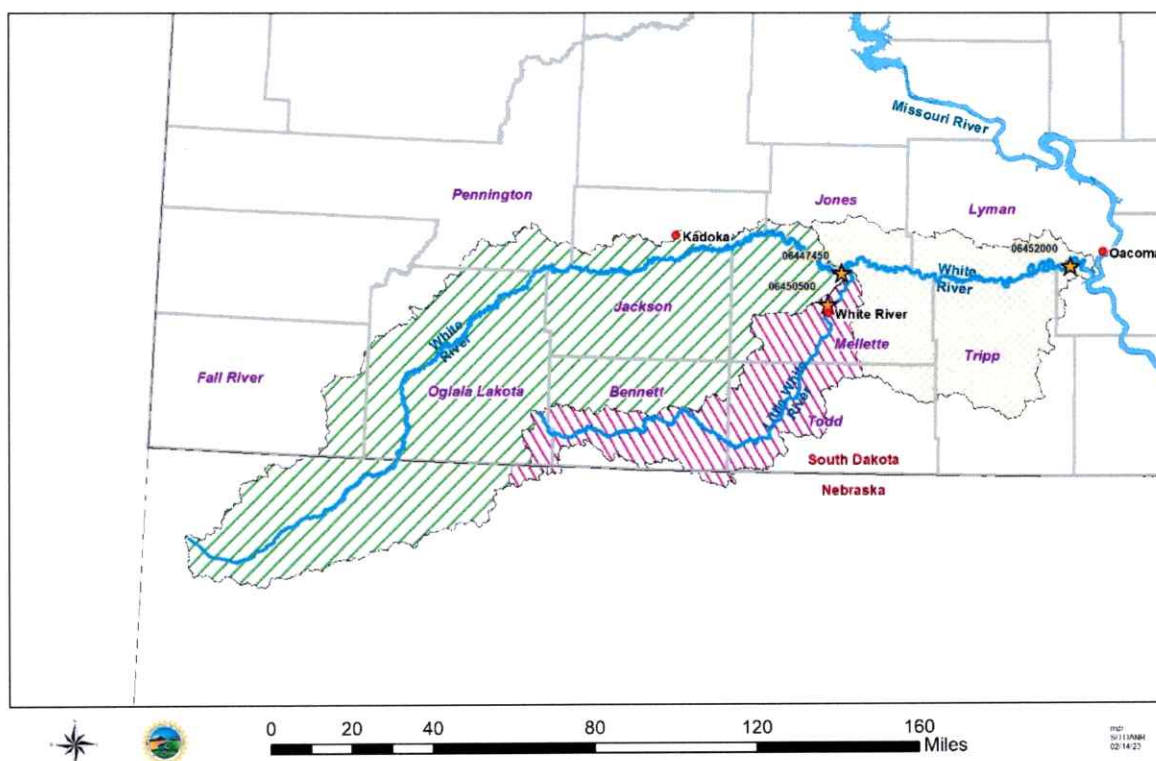


Figure 1. White River Watershed Map.

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

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

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

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

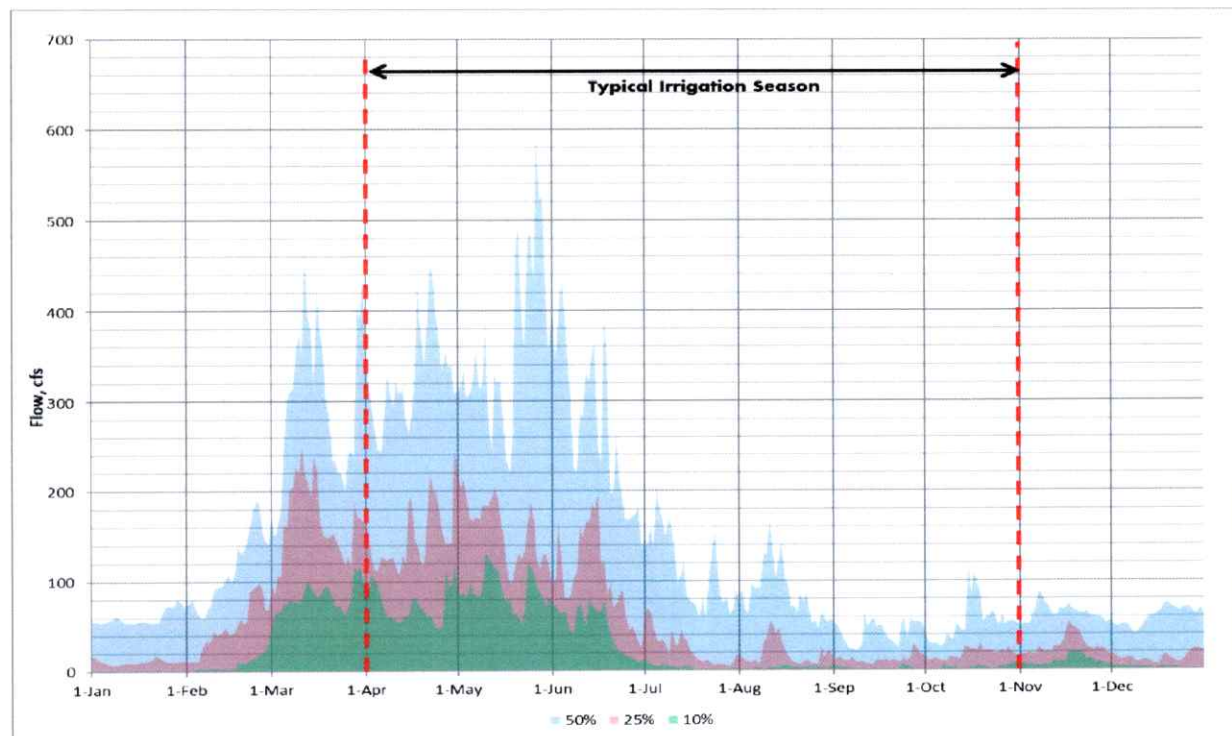


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

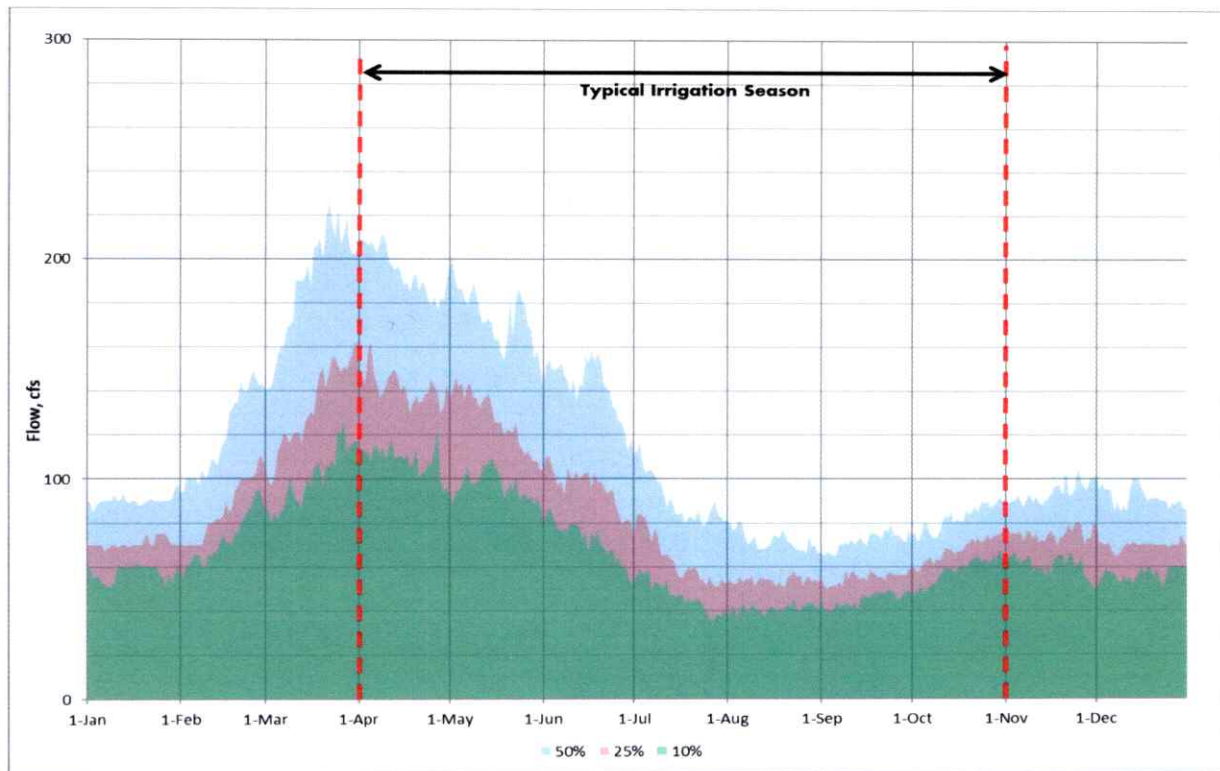


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

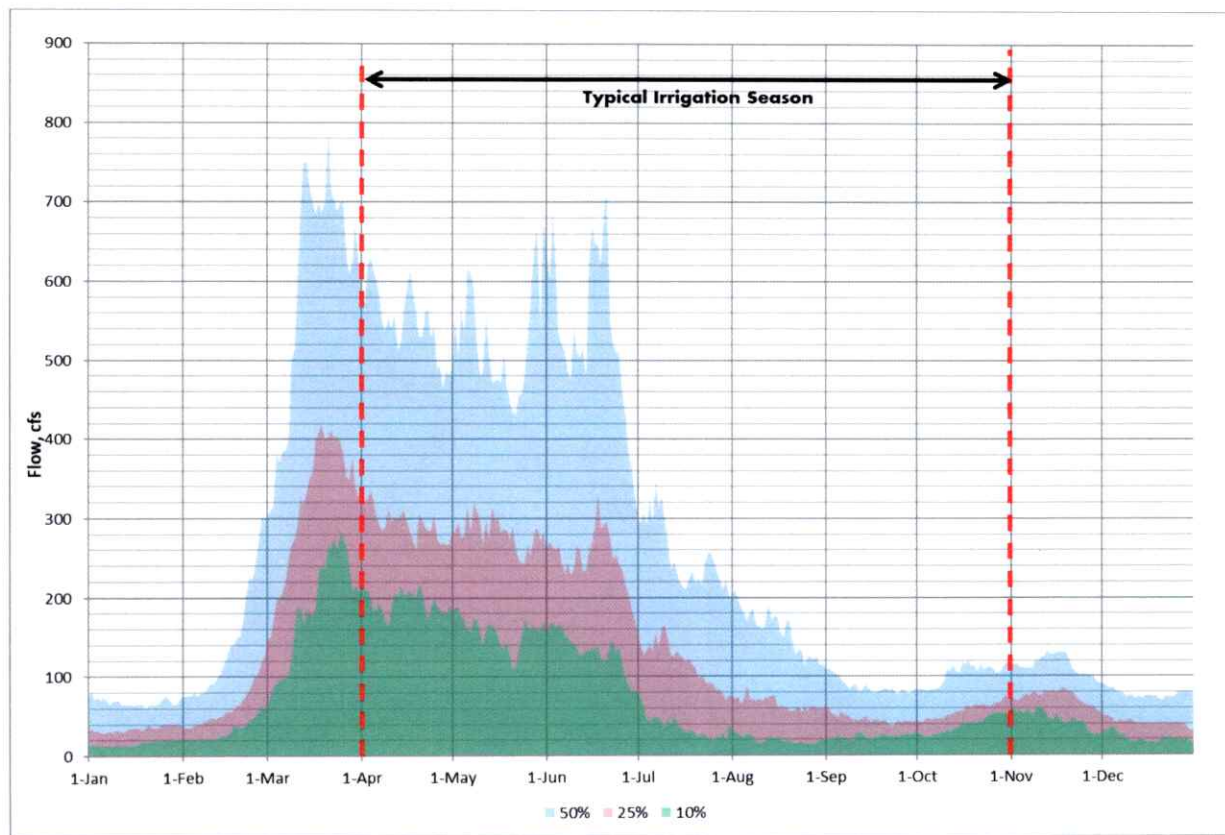


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

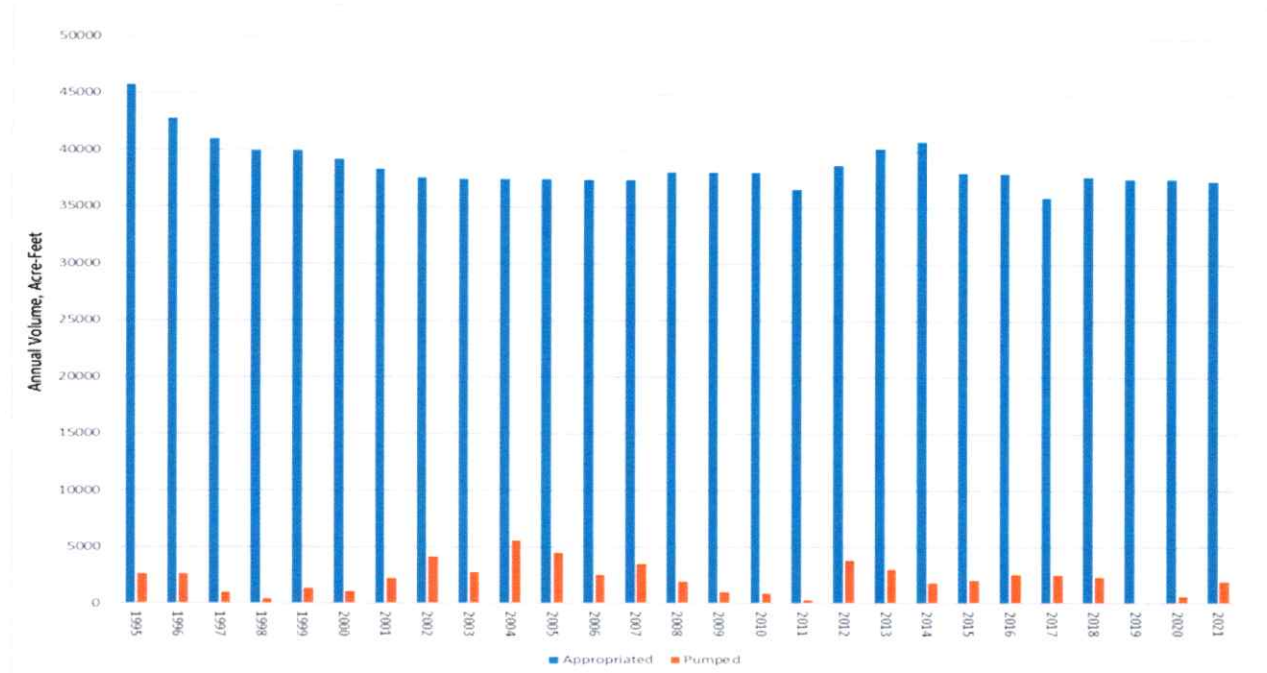


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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April 14, 2023

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