

1. Considered April 23, 1958 Appl. No. 452-2
2. Name of Applicant Herman Brest
3. Post Office Address Murdo, South Dakota
4. Amount of water claimed 1.5 cfs
5. Source of water supply White River
6. Water to be used for irrigation
Acres to be irrigated 1094
7. Water to be diverted and used in Tones County about
10-12 miles South west of Murdo.
8. Proof of Publication Received _____
Not Received ✓
9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____
10. Remarks:

Observations during the Field Inspection on August 3, 1957
of the Hollis Haisch Project relative to Application #429-2.

Mr. Haisch and Mr. DeHaan accompanied me on this inspection and were very helpful and cooperative in assisting me so that I could complete my work.

This project consisted of 267 acres + located in the NE Cor. NE $\frac{1}{4}$ Sec 21, NW Cor NW $\frac{1}{4}$ Sec 22, SW $\frac{1}{4}$ Sec 15, Sec 16, and Sec 9 all in T.97N, R168W. This area was divided into 15-75 acre fields of milo, cane, corn, and alfalfa. The pump was located on Randall Reservoir (Missouri River) about 50 rods N. and 40 rods E. of the Cor. 16/15. The area to be irrigated (except for a small area in Sec 21/22 15 & 22 which was taken out and an area in SW $\frac{1}{4}$ Sec 9 which was added still maintaining the total acreage) and the locations of the diversion points corresponded to those shown on Map #451-2.

The system was operating at the time of the inspection in a milo field at the South end of the project. The lift was an estimated 6 ft. from the water to the pump and 0-100 ft. from the pump to the field.

Equipment consisted of a Chrysler Industrial Engine, on propane, rated @ 180 Hp and 120 continuous (estimated). He also has a Karlow Pump, Model #6E6S, Spec #1827, Serial #D8947, w/ a 6 inch inlet and outlet, and has an estimated capacity varying from 600-1800 gpm under the power and field conditions in this case. This range would be encountered in irrigating over the entire area in this project. Additional equipment includes 2600 feet of 4 inch Sprinkler Line, 1260 feet of 6 inch Main Line, 400 feet of 7 inch Main Line, and 400 feet of 6 inch Gated Pipe, and 86 Model-35 Rainbird 13/64 nozzles. There was a pressure gauge on the pump and the operator stated that he pumps @ 50-135# pressure at the pump. I donot think that we should assume over an 85# nozzles pressure as the breakup is too great beyond this for feasible operation.

A reasonable estimate would be a maximum capacity on the nozzles of 868.6 gpm total and on the gates (estimate 117 gates @ 15 gpm, partially open) or a total of an estimated 1755 gpm.

All of the equipment was new and in excellent condition.

The area to be irrigated and the capacity of the works or equipment to convey water to the place of use corresponded to the conditions as set forth in the Application and Permit.

September 6, 1957

Les Wyborny
Les Wyborny
Water Rights Engineer

Thats all

SOUTH DAKOTA
Department of
Water & Natural Resources

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

January 29, 1988

HOLLIS HAISCH
RT 2 BOX 18
BONESTEEL, SD 57317

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 429-2, 459-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

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

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

1. Amend Permit No(s). 429-2, 459-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

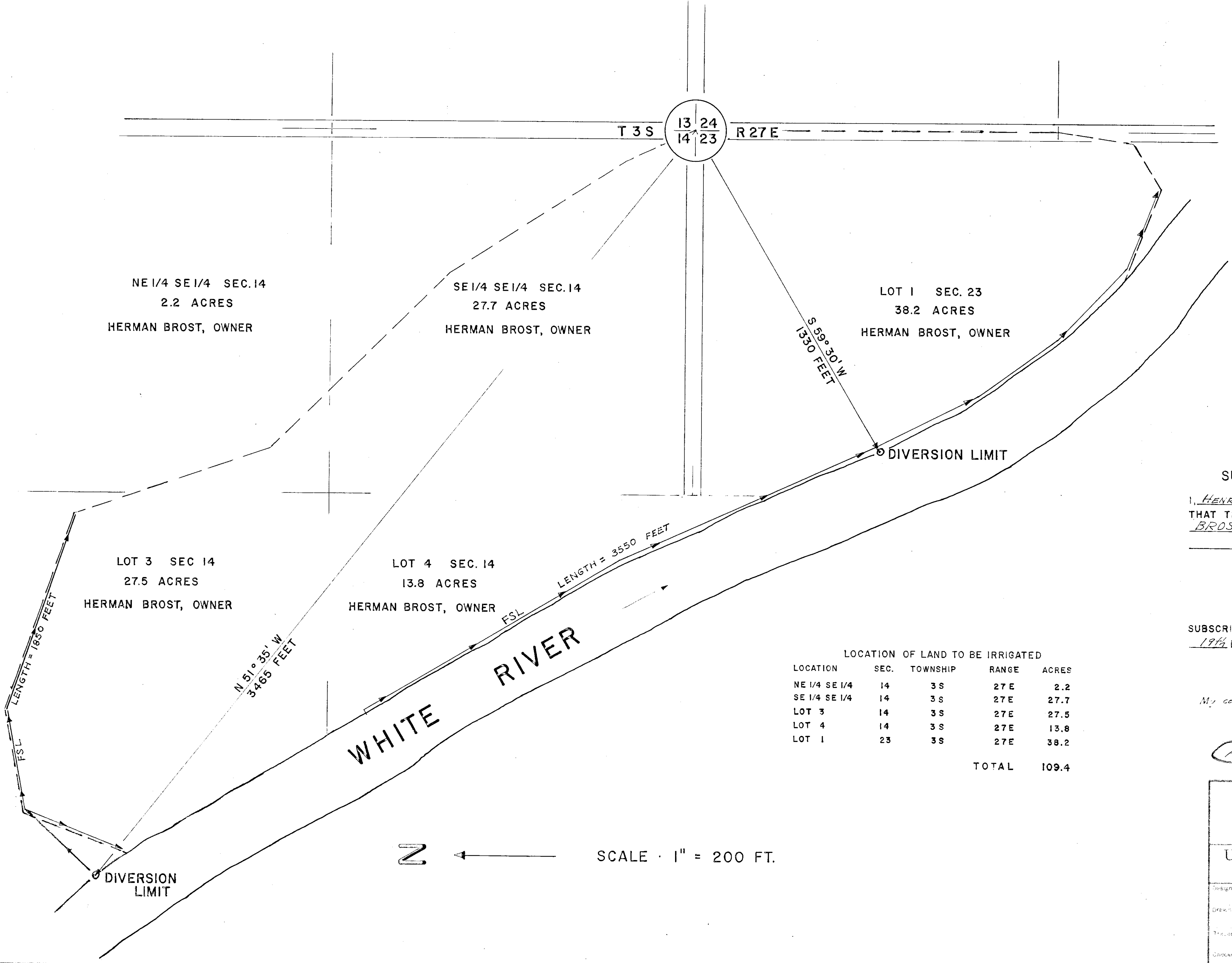
The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided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

John Hatch

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

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

BROST NO. 3 IRRIGATION SYSTEM



NE 1/4 SE 1/4 SEC. 14
2.2 ACRES
HERMAN BROST, OWNER

SE 1/4 SE 1/4 SEC. 14
27.7 ACRES
HERMAN BROST, OWNER

LOT 1 SEC. 23
38.2 ACRES
HERMAN BROST, OWNER

LOT 3 SEC. 14
27.5 ACRES
HERMAN BROST, OWNER

LOT 4 SEC. 14
13.8 ACRES
HERMAN BROST, OWNER

LOCATION OF LAND TO BE IRRIGATED				
LOCATION	SEC.	TOWNSHIP	RANGE	ACRES
NE 1/4 SE 1/4	14	3 S	27 E	2.2
SE 1/4 SE 1/4	14	3 S	27 E	27.7
LOT 3	14	3 S	27 E	27.5
LOT 4	14	3 S	27 E	13.8
LOT 1	23	3 S	27 E	38.2
TOTAL				109.4

SURVEYOR'S CERTIFICATE

I, HENRY V. DAHLQUIST DO HEREBY CERTIFY
THAT THIS MAP IDENTIFIES THE LAND OF THE
BROST NO. 3 IRRIGATION PROJECT.

SIGNATURE: Henry V. Dahlquist
TITLE: LAND ENGINEER
SOIL CONSERVATION SERVICE
U.S. DEPT. OF AGRICULTURE

SUBSCRIBED AND SWORN TO BEFORE ME THIS
19th DAY OF FEBRUARY, 1958, A D

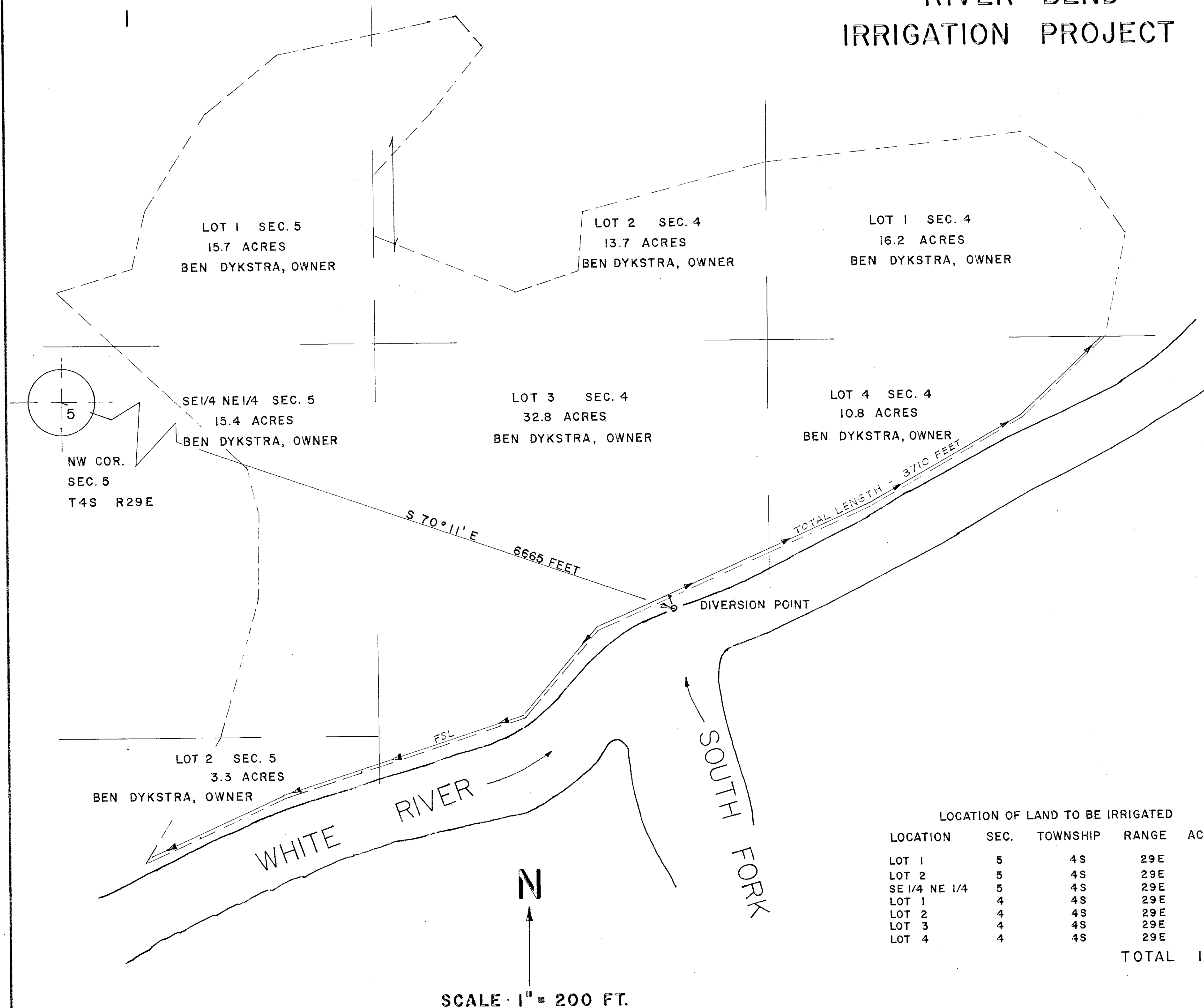
William J. Howard
NOTARY PUBLIC

My commission expires May 25, 1961.

Map No. 463-2
Appl. No. 452-2

JONES COUNTY - SOUTH DAKOTA	
U.S. DEPARTMENT OF AGRICULTURE	
SOIL CONSERVATION SERVICE	
Designed by	Reviewed by
Drew	Title
Traced	Title
Checked	Signature
5E-15,113	

RIVER BEND IRRIGATION PROJECT



LOCATION OF LAND TO BE IRRIGATED

LOCATION	SEC.	TOWNSHIP	RANGE	ACRES
LOT 1	5	4S	29E	15.7
LOT 2	5	4S	29E	3.3
SE 1/4 NE 1/4	5	4S	29E	15.4
LOT 1	4	4S	29E	16.2
LOT 2	4	4S	29E	13.7
LOT 3	4	4S	29E	32.8
LOT 4	4	4S	29E	10.8
TOTAL				107.9

SURVEYOR'S CERTIFICATE
 I, HENRY V. DAHLQUIST DO HEREBY CERTIFY
 THAT THIS MAP IDENTIFIES THE LAND OF THE
RIVER BEND IRRIGATION PROJECT.

SIGNATURE: Henry V. Dahlquist
 TITLE: AREA ENGINEER
 SOIL CONSERVATION SERVICE
 U.S. DEPT. OF AGRICULTURE

SUBSCRIBED AND SWORN TO BEFORE ME THIS
10th DAY OF FEBRUARY, 1955, A.D.

Willard Head
 NOTARY PUBLIC

My commission expires May 25, 1961.

JONES COUNTY · SOUTH DAKOTA
 U.S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

Designed	Date	Approved	Date
Drawn		Title	
Traced		Title	
Checked		Sheet	Drawing No.
		No. 1	5, E-15, 114
		of 1	

STATE OF SOUTH DAKOTA

County of

Hughes

SS.

Pierre, South Dakota,

September 12 1967This is to certify that the foregoing application was received by the Commission at 10:00 o'clockA m. upon the 4th day of March 1957

State Water Resources Commission

By:

Richard D. Schuyler
for Chief Engineer, Executive OfficerNumber of permit 452-2

Date of first receipt of application

March 4 1957

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of ~~corrected application~~ Recording Fees September 2 1962Date from which applicant may claim right September 7 1962Approved April 23 1958, Recorded in Book 9 Page 338

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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 _____

October 23 19592nd. The whole of said work is to be completed on or before April 23 1961

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

April 23 19624th. 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 1.56 2.0 cubic feet per second; 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 April 23 1962; said water to be used during the following described annual period:April 1st through November 1stWitness my hand this 12th day of September 1967

State Water Resources Commission

By:

J. D. Schuyler
Chief Engineer, Executive Officer

Certificate of Construction Issued

SEPTEMBER 19 1967

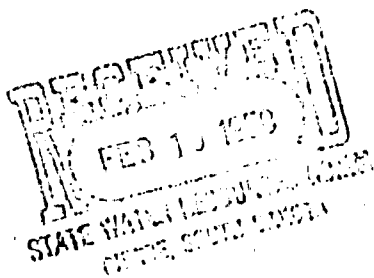
Water License Issued

SEPTEMBER 19 1967

BROST NO. 3

LOCATION	SEC.	TWP.	RANGE	ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$	14	3S	27E	2.2
SE $\frac{1}{4}$ SE $\frac{1}{4}$	14	3S	27E	27.7
Lot 3	14	3S	27E	27.5
Lot 4	14	3S	27E	13.8
Lot 1	23	3S	27E	38.2
				<u>109.4</u>

From a point in Lot 3, Sec. 14-3S-27E, from the SE Cor. Sec. 14, N 51° 35' W, 3465 feet to a point in Lot 1, Sec. 23-3S-27, from the SE Cor. Sec. 14, S 59° 30' W 1330 feet.



STATE OF SOUTH DAKOTA

WATER LICENSE No. 452-2

WHEREAS, On the 4th day of March A. D. 1957

Herman Frost

of Murdo County of Jones and State of South Dakota duly made application (No. 452-2) to us for a permit to use 1.56 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 12th day of September A. D. 1967

Permit No. 452-2 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 23rd day of April A. D. 1961 and for the application to beneficial use of said water on or before the 23rd day of April A. D. 1962 and,

WHEREAS, On the 7th day of September A. D. 1967

the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.0 cubic feet per second of said waters, as evidenced by our Certificate No. 452-2 dated September 19, 1967 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 2.0 cubic feet per second of water, with date of priority of September 19, 1967 and,

WHEREAS, On the 7th day of September A. D. 1967

proof was duly made of the application to beneficial use of 1.56 cubic feet per second of said water; for irrigating 109.4 acres in portions of Section 14 and 23, T33, R27E.

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 Probst

of Murdo the holder and owner of said permit No. 452-2
a water right, dating from September 7, 1967 to the use of 1.56
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
necessray for the purposes hereinafter mentioned, to be diverted ~~at a point in Lot 3,~~
Section 14 and a point in Lot 1, Section 23, T3S, R27E
and conducted to and upon portions of Sections 14 and 23, T3S, R27E, more
specifically described in the Certificate of Completion of Works

for the purpose of irrigation subject to any limitations listed in the
Permit to appropriate water and

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 19th day of September A. D. Nineteen
Hundred and Sixty-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 _____

Permit No. 452-2

Water Division No. 2... WHITE RIVER Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Herman Prost

of Murdo, County of Jones, and State of South Dakota, the holder of Permit No. 452-2, Issued upon Application No. 452-2, bearing date of priority of September 7, 1967, authorizing the diversion of 1.56 cu. ft. per second of the waters of the White River County of Jones, State of South Dakota, at between a point in Lot 3, Section 14, and a point in Lot 1, Section 23, T3S, R27E for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 2.0 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: All in T3S, R27E

Section 14, NE $\frac{1}{4}$ SE $\frac{1}{4}$	2.2 acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$	27.7 acres
Lot 3	27.5 acres
Lot 4	13.8 acres
Section 23 Lot 1	39.2 acres
Total	<u>109.4 acres</u>

Witness my hand this 19th day of September A. D. 19 67

State Water Resources Commission

By:

J.W. GRIMS
Chief Engineer, Executive Officer

(First Publication before March 11, 1958)**APPROPRIATION OF WATER**

Office of State Water Resources Commission,

Pierre, S. Dak., February 11, 1958

Notice is hereby given that Herman Brost whose postoffice address is Murdo S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.56 cubic feet of water per second of time from the White River through the Brost #3, the point of diversion of which is to be located on the left between a point in Lot 1, Sec. 23 and a point bank of said stream in the west of the Lot 1 of Section 14 all in Twp. 35 Range 27E. Said water to be used for the purpose of providing irrigation on the following described land:

E 1/2 SE 1/4 and Lots 1 and 14, Sec. 14; Lot 1, Sec. 23 all in T. 35, R. 27E

and for _____ purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 23 day of April, 1958, at 2:00 p.m. All interested persons may appear and be heard.

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

State Water Resources Commission

By:

~~CHAS. E. HANSEN, CHIEF ENGINEER~~
Les Wyborny
Water Rights Engineer

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)

) SS.

COUNTY OF JONES)

M. H. Ingalls of said County and State being first duly sworn, on his oath says that THE MURDO COYOTE is a legal weekly newspaper of general circulation, printed and published in Murdo in said County and State by M. H. INGALLS, and has been such weekly newspaper during the time hereinafter

mentioned, and I, *M. H. Ingalls* the under-

signed, am *Published* of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit and that the advertisement headed *Application for Water*

a printed copy of which is hereto attached was printed and published in said newspaper for 4 successive weeks, to-wit:

First Publication, Thursday, the *6th* day of *March* 19*58*

Second Publication, Thursday, the *13th* day of *March* 19*58*

Third Publication, Thursday, the *20th* day of *March* 19*58*

Fourth Publication, Thursday, the *27th* day of *March* 19*58*

Fifth Publication, Thursday, the _____ day of _____ 19____

Sixth Publication, Thursday, the _____ day of _____ 19____

Seventh Publication, Thursday, the _____ day of _____ 19____

That the full amount of the fee charged for publishing the same, to-wit: The sum of \$ *14.20* inures solely to the publisher of The MURDO COYOTE, that no agreement or understanding for any division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever.

Total \$ *14.20*

Publication Fees \$ *14.20*

Subscribed and sworn to before me, this *31st*

day of *March*, 19*58*.

M. H. Ingalls
Notary Public
Commission Expires *12-17-64*

APPROPRIATION OF WATER
Office of State Water Resources Commission,
Pierre, S. Dak., February 11, 1958

Notice is hereby given that Herman Brost whose postoffice address is Murdo S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.56 cubic feet of water per second of time from the White River through the Brost No. 3, the diversion, of which is to be located on the left bank of said stream between a point in Lot 1, Sec. 23 and a point of Lot 3 of Section 14, all in Twp 3S, Range 27 E. Said water to be used for the purpose of providing irrigation on the following described land:

E $\frac{1}{4}$ SE $\frac{1}{4}$ and Lots 3 and 4, Sec. 14; Lot 1, Sec. 23 all in T 3S, R 27E

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 23 day of April, 1958, at 2:00 P. M. All interested persons may appear and be heard.

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

State Water Resources Commission

By: Les Wyborny
Water Rights Engineer

Pub: March 6, 13, 20, 27

RECEIVED
MAY 1 1958
STATE WATER RESOURCES COM.
PIERRE, SOUTH DAKOTA

Location No.

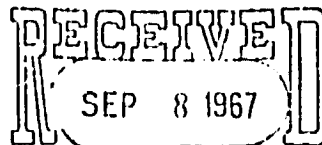
452-2

Water Division No.

2

White River

Water District

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. Herman Brast, Murdo, S. Dak.

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. N/A

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

Ans. Mar 4, 1957

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

Ans. 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. 2 portable pumps, 1400' 8" gated pipe.

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 on 109.4 acres in Sec 14, Lot 3, Lot 4, Sec 14 and Lot 1 Sec 23, both in T35, R27E.

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

Ans. N/A

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

Ans. 1.576

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. N/A

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

Ans. System completed in 1959 and water has been used every year since.

(Sign) H. J. ...

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 The City of Murdo, County of Jones State of South Dakota, on this 7th day of September A. D. 1967

_____) Witnesses. WILLIAM E. BRIST
NOTARY PUBLIC

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.

Wm. E. Hunt

Location No. -----	
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	
PETITION OF HOLDER	
Amount of Water -----	c. f. s.
Source -----	
County -----	
Purpose -----	
Place of Use -----	
Date of recording -----	
Received and filed -----	

Permit No. 452-2Water Division No. 2 White River Water District**Certificate of Examination of Works****Report of Examining Engineer**

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____ 19____, I have this day made a thorough examination of the diversion works constructed by Herman Brust of Merido, Texas _____ County, South Dakota, holder of Permit No. 452-2, issued upon Application No. 452-2, bearing date of priority of _____, 19____, authorizing the diversion of _____ cu. ft. per second of the waters of White River for irrigation purposes. I have to report on the condition of the same as follows:

The diversion works comprise: Pump #1 - Rainmaster portable serial # 122764, Model # 6 DP with 8" intake and 6" output.
Pump #2 - Rainmaster portable serial # 140928, model # 8 DP with 10" input and 8" output. Both driven by tractor power take-off. System includes 60' mainline pipe and 4000' 8" gated pipe. All land leveled.
 and the system is in the following condition: good

The point of diversion is located Between a point in Lot 3 Section 14 and a point in Lot 1 Section 23 as shown on map.

The works are capable of diverting and conveying to the place of use 2.0 cu. ft. per second of water, which is to be used for irrigation

The legal sub-divisions to be irrigated are: portions of Lot 3, Lot 4 and E 1/2 SE 1/4 Section 14 and Lot 1 Section 23 all in T 35, R 27 E

_____ comprising a total of 109.4 acres of land.

The domestic use intended comprises None

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

Witness my hand, this 7th day of September, A. D. 1967.

—SEAL—

Richard D. Schmauer
 Examining Engineer,
 Water Right Specialist

SOUTH DAKOTA
Department of
Water & Natural Resources

Ice 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 - DWMR

File No. 322-2

Conversation or File Documentation

323-2

455-2

871-2

NAME OF PERSON OR FILE: Frank Brost

ADDRESS: Box 339

COUNTY

DATE: June 21, 1983

TELEPHONE

RE: ~~the~~ ownership of W/R's listed in Herman Brost's name

COMMENTS:

Frank Brost indicated he is executor of his father-Herman Brost'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 Brost.

He indicated the Flying T Cattle Co. helps operate land but he would see 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 Brost Estate

To Frank Brost

Box 339

Beck ID 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.

4/82

NAME: Senig

South Dakota
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

GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosures

NOTICE OF TRANSFER OF WATER PERMIT



NO. 452-2

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 11-5-87

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

109.4 acres - E $\frac{1}{2}$ SE $\frac{1}{4}$, Lots 3 & 4 Section 14, Lot 1 Section 23, T3S, R27E

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. 452-2 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 Yazoo) ss.

I, Calvin & Dee Smith being first duly sworn on my oath despose 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)



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

452-2

November 13, 1987

Calvin & Dee Smith
Box 376
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

411053

Pierre, _____ November 17, 19 37

RECEIVED OF Calvin/Dec 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>452-2</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



452-2

SOUTH DAKOTA
Department of
Water & Natural Resources

Jon 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

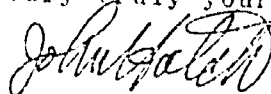
Dear Mr. & Mrs. Smith:

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,
Mundo, 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,
Cecilia 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

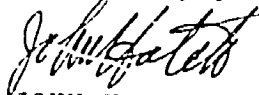
Dear Mrs. Smith:

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



452-2
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

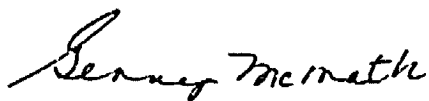
COMMENTS:

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



452-2
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

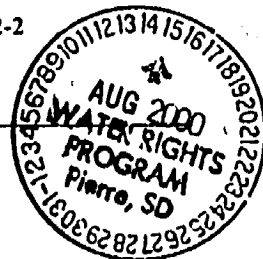
enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 452-2

Date: _____



I/We request that Water Right No. 452-2

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:

109.2 acres - E 1/4 SE 1/4, Lots 3 & 4 in Section 14 and Lot 1 in Section 23, all in T3S, R27E

I/We understand that the validity of Water Right No. 452-2 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.

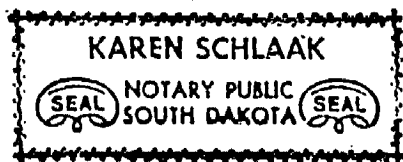
STATE OF SOUTH DAKOTA)

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, 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

N^o 416599

Pierre, August 15, 2000

RECEIVED OF Frank Brust, 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 Water Right No. 452-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

250

250

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 22, 2003

Kim Mortenson
PO Box 190
Ft Pierre SD 57532

RE: Brost land

Dear Ms. Mortenson:

Enclosed are copies of Water Right Nos. 989-2 & 1156-2 for Brost Land and Cattle Company; Vested Water Right Nos. 322-2 & 323-2 for Frank D Brost and also Water Right Nos. 452-2, 871-2 and 2189-2 for Frank D Brost. I was unable to find anything for "Brost Family Ltd Partnership" or "Brost - Newbold Ltd Partnership".

I have included partially completed Notice of Transfer of Ownership forms for filing ownership changes. Please review and make any necessary corrections. Upon completion, the forms should be signed by the new owner(s) and returned to our office with a required filing fee of \$2.50 each. The check or money order for the fees can be made payable to the Water Rights Program.

Blank transfer forms are available on our website if you need additional ones. The link to the forms is: <http://www.state.sd.us/denr/enviro/watrightsapps.htm> From this link, you can select the "print" version which allows you to download the form, complete it and mail it or you can select the "pdf" version and complete the form on-line. Keep in mind if you do the "on-line" version, a filing fee of \$2.50 will still need to be submitted.

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



April 5, 2004

Genny McMath, Enviro. Sceintist
Water Rights, SD DENR
523 East Capitol
Pierre, SD 57501

RECEIVED

APR 06 2004

WATER RIGHTS
PROGRAM

Dear Genny,

Re: Water Rights permits # 452-2 and #871-2

Please transfer water rights from Frank D. Brost / Calvin and Dee Smith on enclosed permits # 452-2 and #871-2 to me.

Enclosed is my check for \$5.00 filing fees.

Thanks for your help. Let me know if there is more to be done on these or any other water permits.

Best regards,

Charles M. Thompson
Box 777
Pierre, SD 57501

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

APR 06 2004

WATER RIGHTS
PROGRAM

No. 452-2

Date: _____

I/We request that Water Right No. 452-2

formerly owned by: Frank D Brost

be transferred to: (name & address) Charles M Thompson, Box 777, Pierre SD 57501

Telephone No.

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

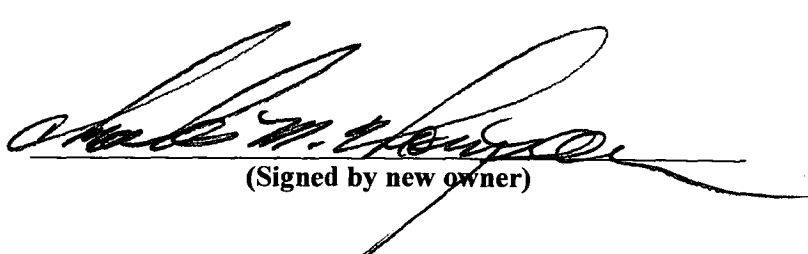
109.2 acres – E ½ SE ¼, Lots 3 & 4 all in Section 14 and Lot 1 in Section 23, T3S, R27E

I/We understand that the validity of Water Right No. 452-2 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.


(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 6, 20 04

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>452-2</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

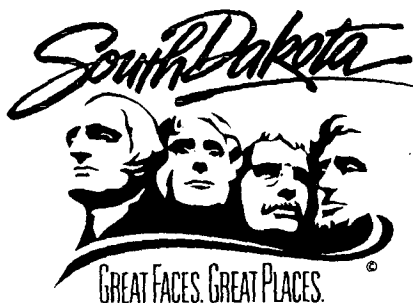
No.

004248

By

Darland Ebel
Chief Engineer
gm

452-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 29, 2004

452-2
871-2

Charles M Thompson
Box 777
Pierre SD 57501

Dear Mr. Thompson:

I am writing to acknowledge receipt of the transfer of ownership forms and filing fees you submitted for filing an ownership change on Water Right Nos. 452-2 and 871-2. The transfers have been completed and the water rights are now listed in your name.

Enclosed are Receipt Nos. 001278 and 001279 in the amounts of \$2.50 each which you paid for filing the ownership changes. You may keep these for your records.

A review of our records indicates the water rights you recently transferred to your name (Nos. 322-2, 323-2, 452-2 and 871-2) have a history of nonuse. Under South Dakota water law, water must be put to beneficial use for the purpose it was appropriated at least once every three years. If not put to beneficial use, all or a portion of the water right may be subject to cancellation for nonuse. One or more years of nonuse may be waived if legal excuse exists for the years of non-irrigation. Please note that transferring ownership of the property and starting to irrigate does not cure the past years of nonuse. I have included a summary sheet of water laws and Water Management Board rules dealing with issues of abandonment/forfeiture and legal excuse for not irrigating.

There may be sufficient question concerning these water rights that you want to ask the Water Management Board for a ruling on the legal status of these rights. If the board finds these rights to be valid, you will be protected from future challenges concerning these years of nonuse. I encourage you to check into the status of your water rights prior to beginning irrigation on your land.

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

452-2

CHARLES M. THOMPSON

*P.O. Box 777
Pierre, South Dakota 57501
Telephone 605-224-8803*

RECEIVED
MAY 03 2004
WATER RIGHTS
PROGRAM

April 30, 2004

Genny McMath, Environmental Scientist
Water Rights Program
Department of Environment and Natural Resources
523 E. Capitol
Pierre, SD 57501

Dear Ms. McMath:

Thank you very much for your letter of April 29, 2004, transferring water rights, 452-2 and 871-2. Apparently no one recorded the use of the irrigation.

I know that they were used in the summer of 2002 because I was physically down there and saw them in use. They irrigated corn on most of the bottom land at that time. What can I do to take care of that situation? We also plan to irrigate this year (if we can just get White River to send us some water!).

I am sure that the previous owner, Frank Brost would be willing to sign whatever forms are necessary showing the use on these. Please let me know what we can do as we sure need the water.

Best regards.

Sincerely,



CHARLES M. THOMPSON

CMT:njh



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 18, 2004

Charles M Thompson
Box 777
Pierre SD 57501

Dear Mr. Thompson:

I am writing in regard to Water Right Nos. 452-2 and 871-2 to irrigate from the White River. In Genny McMath's recent letter regarding the transfer of ownership, we made you aware of the history of non-irrigation. You inquired about what is needed to preserve the water rights.

Our records indicate extended periods when no irrigation took place in the mid to late 1980's and 1990's. The enclosed table presents that information and comments submitted each fall by the water right holder on the annual irrigation questionnaire.

Our previous letter explained the laws regarding the forfeiture for nonuse of a water right and what constitutes legal excuse for not irrigating. Simply put, water use for irrigation must take place at least once every three years or the water right becomes subject to cancellation unless legal excuse exists. Legal excuse includes but is not limited to: 1) water not being available, 2) water use under existing climatic condition would result in a waste of water, and 3) legal proceedings prevented the use of water.

Upon reviewing the irrigation history, you may be comfortable that legal excuse exists for the years when no irrigation took place, in which case no further action is necessary. You may also request a declaratory ruling before the Water Management Board on the status of the water right (ARSD 74:02:01:48). This process includes a public notice and a hearing before the Board.

From the state's perspective, the Water Management Board is entrusted to determine the validity of water rights. Water Rights Program staff may not make statements which could be construed as a determination on the legal status of a water right. Only the Board can determine what constitutes legal excuse and rule on the validity of water right. South Dakota is not however, a revival state. Commencing to irrigate does not cure past extended periods of nonuse, without legal excuse, which may be challenged at some time in the future.

I hope this information is helpful. If you have any questions or wish to request a declaratory ruling, please contact Eric Gronlund at 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program, DENR
(605) 773-3352

enclosure

**Water Use History for Water Right Nos. 452-2 and 871-2
1983 through 2003**

Year	Water Right No.	Irrigated: yes or no	Comments (red = staff notes) (blue = irrigator comments)
1983	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
1984	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
1985	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
1986	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
1987	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
1988	452-2	yes	60 acres in April and June (sometimes the White River water is so thick it is difficult to estimate the usage or the benefit if any to the crop)
	871-2	yes	60 acres in August
1989	452-2	yes	80 acres in June and July (10" pump – gpm depends on water in river and amount of pipe. River went dry lots of times, was dry in June)
	871-2	yes	70 acres in July
1990	452-2	yes	60 acres in April
	871-2	no	<i>no comment by irrigator</i>
1991	452-2	no	17 inches of rain in May & June; we did not irrigate from the White River this summer. Maybe the rain water only will help unseal the soil from the river silt.
	871-2	no	Because of 17" of rain during May & June, we did not irrigate from the White River this summer; giving the soil a rest from the silty river water.
1992	452-2	yes	60 acres in May
	871-2	no	The water was too dirty in the river after we finished at the 452-2 location and it also started raining
1993	452-2	no	Because of all the rain, it was not necessary to irrigate to get 2 cuttings of hay
	871-2	no	Due to all the rain, it was not necessary to irrigate to get 2 cuttings of hay

**Water Use History for Water Right Nos. 452-2 and 871-2
1983 through 2003**

Year	Water Right No.	Irrigated: yes or no	Comments (red = staff notes) (blue = irrigator comments)
1994	452-2	no	We did not irrigate any river bottoms, they were all flooded February 18 - March 15 th
	871-2	no	We did not irrigate any river bottoms, they were all flooded February 18 - March 15 th
1995	452-2	no	same as other permits (ample spring moisture)
	871-2	no	same as other permits (ample spring moisture)
1996	452-2	no	Because of the 4" rain at the end of May, we did not pump the muddy water on the new alfalfa; when we did need water the river did not have enough to pump
	871-2	no	This field was also under water May 30 and then the river did not have water to pump in July or August when needed
1997	452-2	no	Due to the river flooding, we did not irrigate
	871-2	no	Due to the river flooding, we did not irrigate
1998	452-2	no	Due to large amount of moisture rain and previous years flooding, we did not need to add water to the fields
	871-2	no	Because of the large amount of moisture, we did not have to irrigate
1999	452-2	no	Ranch has been sold to Frank Brost. Did not pump in '99, had sufficient rain early
	871-2	no	Did not pump because of sufficient moisture. Ranch has been sold to Frank Brost.
2000	452-2	yes	65 acres in July
	871-2	yes	60 acres in July
2001	452-2	no	<i>no comment by irrigator</i>
	871-2	no	<i>no comment by irrigator</i>
2002	452-2	yes	80 acres in June & July
	871-2	yes	50 acres in June
2003	452-2	no	transferring ownership and no water in July-August
	871-2	no	no water at time of need and in process of transferring ownership



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

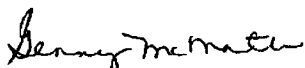
Dear Mr. Thompson:

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,


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



452-3

**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.



**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.

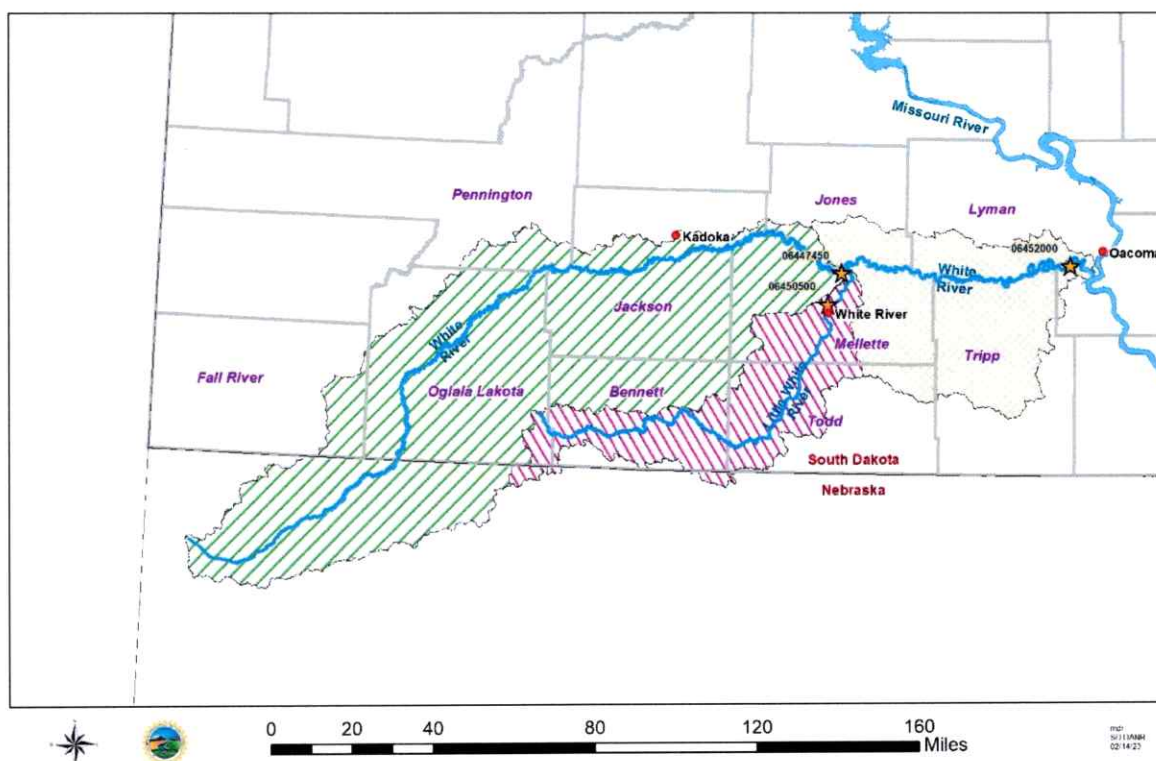


Figure 1. White River Watershed Map.

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.

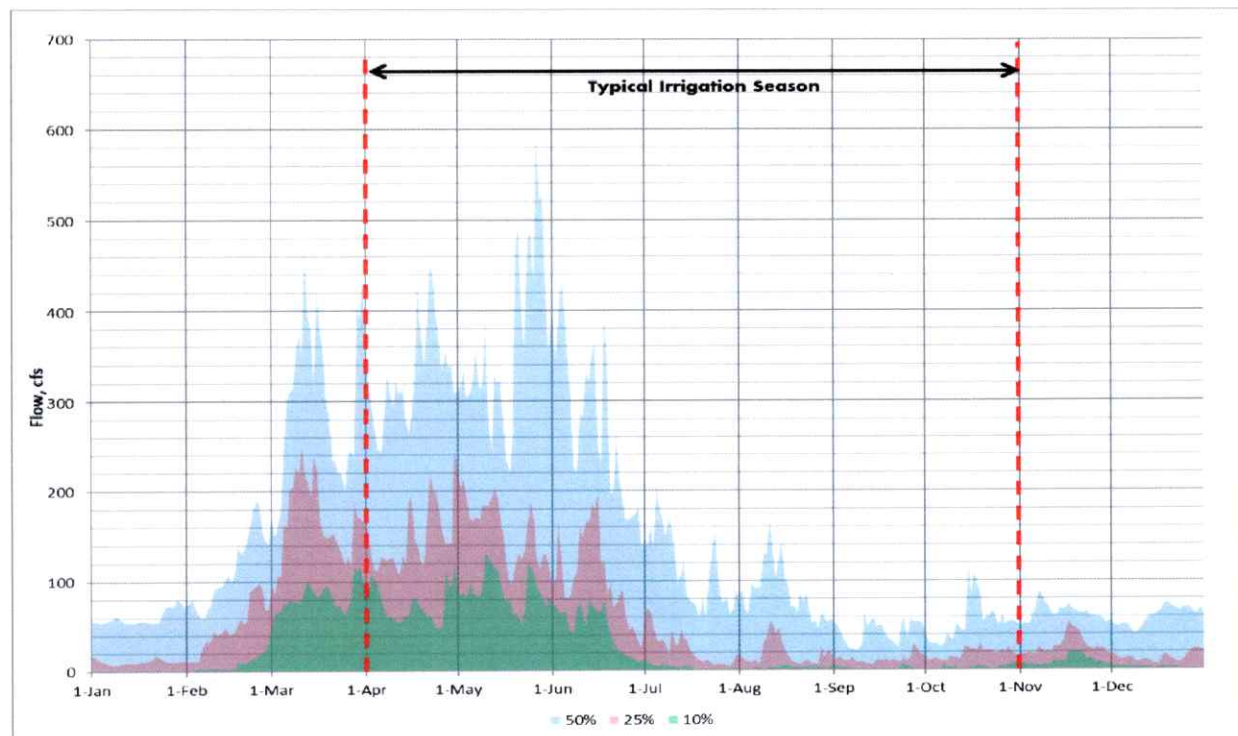


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

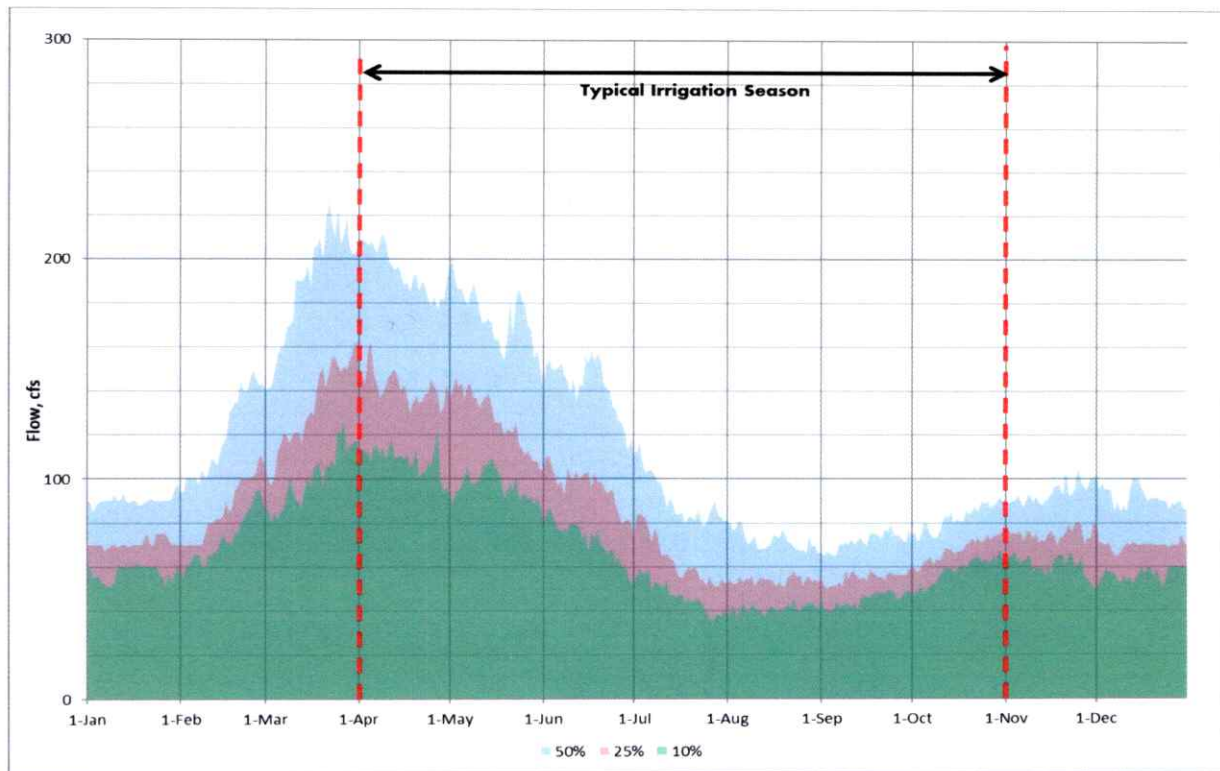


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

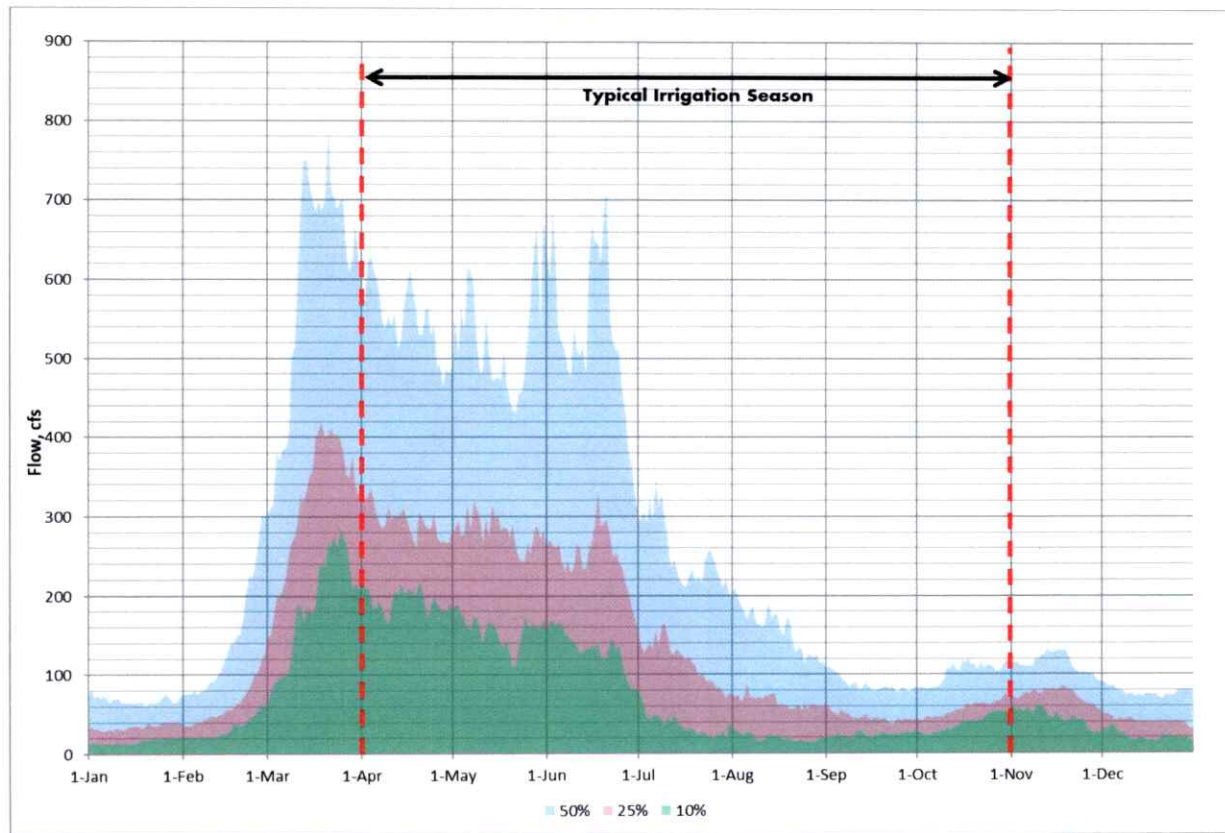


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

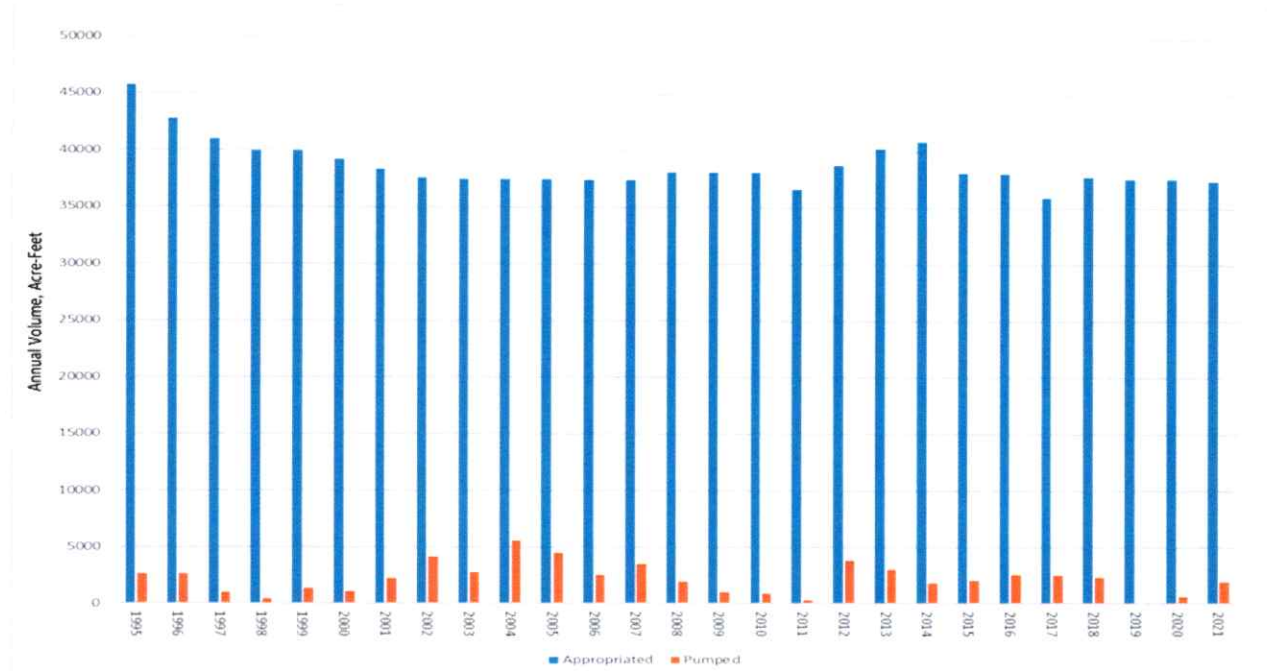


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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

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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