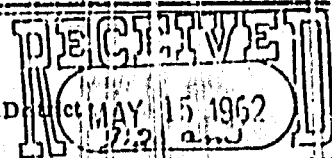


766-2

1. Considered 7.11, 1912
2. Name of Applicant Louis Dechman
3. Post Office Address Kadapa
4. Amount of water claimed 5.11
5. Source of water supply White Water
6. Water to be used for irrigation
Acres to be irrigated 387.600
7. Water to be diverted and used in 27.5 Krishna County
11E 1S miles of the river
8. Proof of Publication Received 102
Not Received
9. Application Approved ✓ And to P of Publication
Subject to
Not Approved
Action deferred
10. Remarks:

No. 766-2Water Division No. 2 WHITE RIVER
(This form to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

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

1. Name of applicant Louise Beckwith KEITH BERRY
 Postoffice address Kadoka, County Jackson, State S. Dak

I. If a corporation

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

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

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

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Direct labor & Employment of others

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

2. Name of diversion work Louise Beckwith Irrigation Project #13. Amount of water claimed 5.11 cubic feet per second4. Source of water supply White River5. Location of point of diversion See Attached Sheet
both on river banks Jackson Washabaugh Counties6. Annual period or periods during which water is to be used Throughout year when needed7. To be used for:
I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity(a) Number of acres to be irrigated 357.6 acres.(b) Legal subdivisions to be irrigated See Attached Sheets

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here or may be appended as a part of this application. Same must also be shown on accompanying map.)

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

II. Stockraising, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use _____
Name any of the above uses claimed

(b) Amount of power to be generated _____ horse power.

Amount claimed for engine cooling _____

(c) Location of plant _____

(d) Method of developing power _____

(e) Point where water will be returned to stream _____

MAP NO- 666-2

8. Estimated cost of work:

(a) Head Gates, \$-----

(b) Pumping plant, \$-----

(c) Fluming, \$-----

(d) Canal-earth, \$-----

Rock, \$-----

(e) Other structures ----- \$-----

Total, \$-----

9. Description of diversion works:

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

Pumping plant & ditches

II. Dimensions of works.

(a) Dam: Height ----- feet; length at bottom ----- feet; length at top -----

feet; thickness at bottom ----- feet; thickness at top -----

feet; slope at front water face -----; slope at back face -----

material used in construction -----

(b) Reservoir: Capacity when filled ----- acre feet. Surface area at highwater mark ----- acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET- Feet	Feet	ACRE-Feet CAPACITY

(c)* Head gate: Width ----- feet; height ----- feet;

Material -----

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

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet

(Give dimensions where reductions in size are made.)

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

11. Time required for complete application of water to the proposed beneficial use ----- 3 ----- years.

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

The Kadoka Press, Kadoka, S.D.

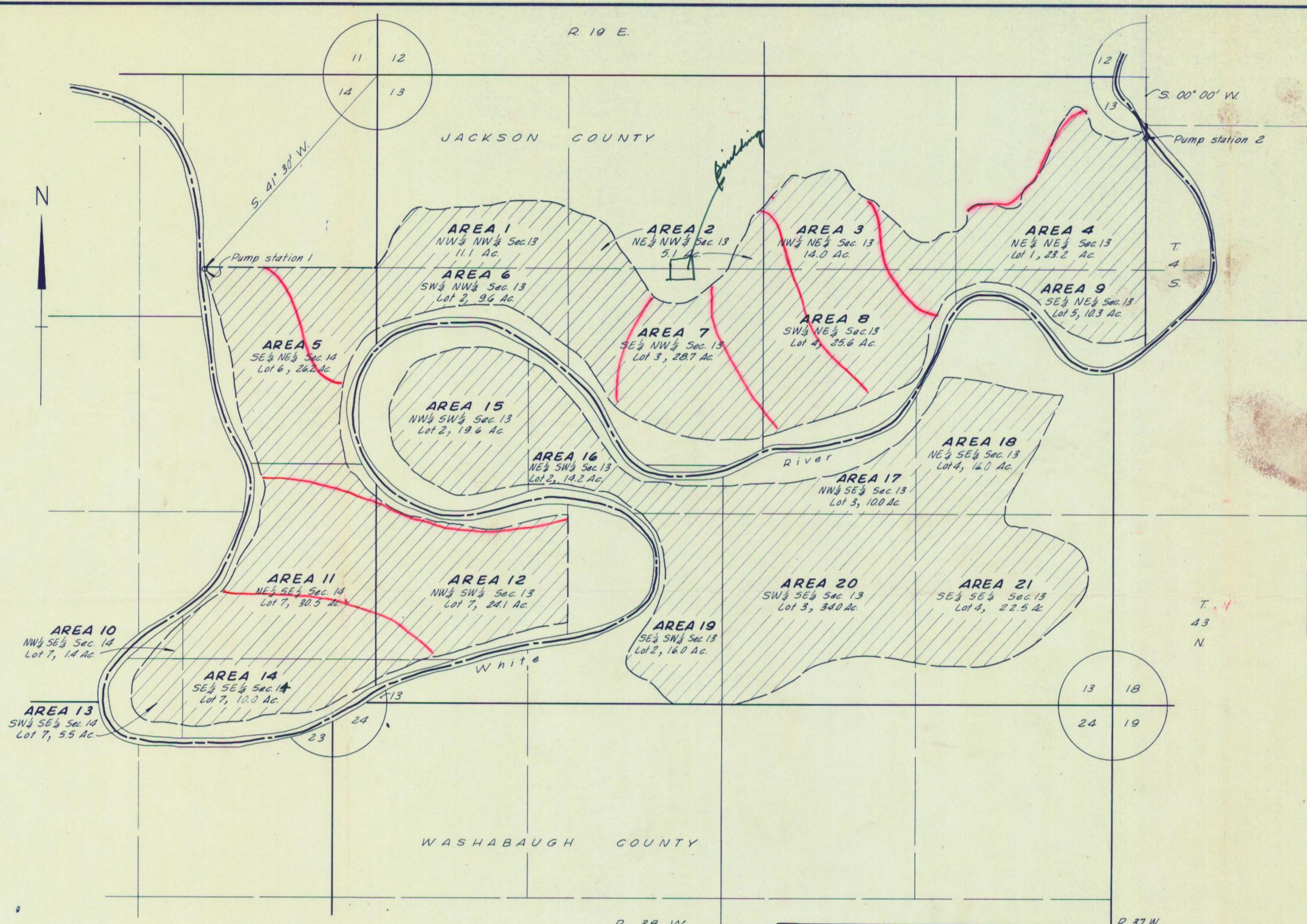
STATE OF SOUTH DAKOTA

County of Taekson ss.

I, Louis Beckwith, 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, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Louis BeckwithSubscribed and sworn to before me this 7 day of May, 1962George Shick, Jr. Auditor
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.



All lands shown are owned by Louis and Alice Beck with

LOCATION OF LAND TO BE IRRIGATED					
LOT	AREA	SECTION	TOWNSHIP	RANGE	ACRES
1	1	13	4S	19E	11.1
2	2	13	4S	19E	5.1
3	3	13	4S	19E	14.0
4	4	13	4S	19E	23.2
5	5	14	4S	19E	26.2
6	6	13	4S	19E	9.6
7	7	13	4S	19E	28.7
8	8	13	4S	19E	25.6
9	9	13	4S	19E	10.3
10	10	14	4S	19E	1.4
11	11	14	4S	19E	30.5
12	12	13	4S	19E	24.1
13	13	14	4S	19E	5.5
14	14	14	4S	19E	10.0
15	15	13	43N	38W	19.6
16	16	13	43N	38W	14.2
17	17	13	43N	38W	10.0
18	18	13	43N	38W	16.0
19	19	13	43N	38W	16.0
20	20	13	43N	38W	34.0
21	21	13	43N	38W	22.5
TOTAL					357.6

SURVEYOR'S CERTIFICATE

I, Leonard P. Kuck DO HEREBY CERTIFY THAT THIS MAP IDENTIFIES A REASONABLY ACCURATE RECORD OF THE LAND OF THE Louis Beckwith Irrigation Project "1" AND HAS BEEN PREPARED BY THE SOIL CONSERVATION SERVICE FOR THE Jackson-Washabaugh SOIL CONSERVATION DISTRICT.

SIGNATURE: Leonard P. Kuck
 TITLE: Ag. Engineer
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

SUBSCRIBED AND SWORN TO BEFORE ME THIS 8th DAY OF December, 1961 A.D.

Walter V. Lutz
 NOTARY PUBLIC, County, Judge

MY COMMISSION EXPIRES _____, 19____.

LOUIS BECKWITH IRRIGATION PROJECT NUMBER 1

Jackson and Washabaugh Counties, South Dakota

U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE

Designed <u>S.P.K.</u>	Date _____	Approved by _____
Drawn _____	Title _____	
Traced _____	Title _____	
Checked _____	Sheet <u>11-61</u> of _____	Drawing No. _____

Remarks by State Water Resources Commission:

NUMEROUS WATER RIGHTS EXIST below your diversion point which get their water from the White River. RESTRICTIONS UNDER THIS PERMIT TO APPROPRIATE WATER MAY BE NECESSARY DURING SOME YEARS TO PROVIDE SUPPLIES FOR THESE PRIOR WATER RIGHTS.

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, JULY 30, 1962

This is to certify that the foregoing application was received by the Commission at 8:20 o'clock a.m. upon the 15TH day of MAY, 1962

State Water Resources Commission

By:

Durston Jones
for Chief Engineer, Executive Officer

Number of permit 766-2

Date of first receipt of application MAY 15, 1962

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

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right: MAY 15, 1962

Approved JULY 11, 1962, Recorded in Book 7, page 162

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:

EXTENSION APPROVED 3-10-65

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 11, 1964

2nd. The whole of said work is to be completed on or before JULY 11, 1967

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is JULY 11, 1968 **EXTENSION APPROVED 7-17-68**

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

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

6th. The amount of the appropriation herein granted shall not exceed 5.11 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 JULY 11, 1968; said water to be used during the following described annual period:

THROUGHOUT GROWING SEASON

Witness my hand this 30 day of JULY, 1962

State Water Resources Commission

By:

J. S. Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued JULY 22, 1971

Water License Issued JULY 22, 1971

LOUIE BECKWITH IRRIGATION PROJECT #1

LOCATION OF LAND TO BE IRRIGATED

AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NW ⁴ NW ⁴	13	4S	19E	11.1
2	NE ⁴ NW ⁴	13	4S	19E	5.1
3	NW ⁴ NE ⁴	13	4S	19E	14.0
4	NE ⁴ NE ⁴	13	4S	19E	23.2
5	SE ⁴ NE ⁴	14	4S	19E	26.2
6	SW ⁴ NW ⁴	13	4S	19E	9.6
7	SE ⁴ NW ⁴	13	4S	19E	26.7
8	SW ⁴ NE ⁴	13	4S	19E	25.6
9	SE ⁴ NE ⁴	13	4S	19E	10.3
10	NW ⁴ SE ⁴	14	4S	19E	1.4
11	NE ⁴ SE ⁴	14	4S	19E	30.5
12	NW ⁴ SW ⁴	13	4S	19E	24.1
13	SW ⁴ SE ⁴	14	4S	19E	6.6
14	NE ⁴ SE ⁴	14	4S	19E	10.0
15	NW ⁴ SW ⁴	13	43N	38W	19.6
16	NE ⁴ SW ⁴	13	43N	38W	14.2
17	NW ⁴ SE ⁴	13	43N	38W	10.0
18	NE ⁴ SE ⁴	13	43N	38W	16.0
19	SE ⁴ SW ⁴	13	43N	38W	16.0
20	SW ⁴ SE ⁴	13	43N	38W	34.0
21	SE ⁴ SE ⁴	13	43N	38W	22.5

Total 357.6

Pump Station #1 - From NE Corner Sect. 14, T4S, R19E, 107 rods
S 42° 30' W.

Pump Station #2 - From NE Corner Sect. 13, T4S, R19E, 20 rods
S 0° 00' W.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 766-2

(1) WHEREAS, On the 15th day of May A. D. 19 62

Louis Eckhoff

made Water Right Application No. 766-2 for a permit to use 5.11 cubic feet per second of the water of the White River

County of Jackson & Washabaugh State of South Dakota, for irrigation

purposes, and

(2) WHEREAS, On the 30th day of July A. D. 19 62

Permit No. 766-2 with a date of priority of May 15, 1962

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 11th day of July A. D. 19 67 and for the

application to beneficial use of said water on or before the 11th day of July A. D. 19 71

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 5.11 cubic feet per second of water for beneficial use and.

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent.

for irrigating the following land:

Section 13, T4S, R19E		Section 13, T43N, R38W	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	11.1 acres	lot 2	49.3 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.1 acres	lot 3	44.0 acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$	14.0 acres	lot 4	38.5 acres
lot 1	23.2 acres	Total	357.6 acres
lot 2	9/6 acres		
lot 3	28.7 acres		
lot 4	25.6 acres		
lot 5	10.3 acres		
lot 7	24.1 acres		
Section 14, T4S, R19E			
lot 6	26.2 acres		
lot 7	47.4 acres		

(5) 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 Beckwith Ranch, Inc.

_____ of Keogh, S.D.
the holder _____ and owner _____ of said permit No. 766-2 a water right, dating from May 15, 1962
_____ to use of 5.11 cubic feet per second of the waters
of the White River

in the County of Jackson & Washabaugh and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted ~~x~~ between points South 41° 30' West, 107 rods from
the NW Corner, and South 0°, 20 rods from the NE Corner, Section 13, T4S, R19E

and conduct to and upon portions of Sections 13 and 14, T4S, R19E, and Section 13, T43N, R38N,
described on the face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 766-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 22nd day of July _____ A. D.
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, J.W. GRIMES

Permit No. 766-2

Water Diversion No. 2 WHITE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Louis Beckwith

the holder of
Permit No. 766-2, issued upon Application No. 766-2, hearing date of priority of May 15, 1962
authorizing the diversion of 5.11 cu. ft. per second of the waters of
the White River County of Jackson & Washabaugh, State of South Dakota at x
between points South 41⁰ 30' West, 107 rods from the NW Corner,
and South 0⁰ 20 rods from the NE Corner, Section 13, T4S, R19E
for irrigation

purposes, has 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 5.55 cu. ft. per second of water.

Date July 22, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County Jackson } ss.

L. G. Parkinson being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the Kadoka Press a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the

City of Kadoka, Jackson and State of South Dakota that the said notice was published in said newspaper on the following dates:

May 31, 1962

June 7, 1962

June 14, 1962

June 21, 1962

in each and every issue of the full number thereof, the first publication being made on the 31st day of May, 1962 and the last publication on the 21st day of June, 1962, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was Editor the printer and publisher of the said newspaper.

L. G. Parkinson

APPROPRIATION OF WATER

Office of State Water Resources Commission
 Pierre, S. Dak., May 21, 1962
 Notice is hereby given that Louis Beckwith whose postoffice address is Kadoka, 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 5.11 cubic feet of water per second of time from the White River through the Beckwith Irrigation Project No. 1, the

point of diversion of which is to be located on both banks of said stream between a point in Lot 6, Section 14, and a point in Lot 1, Section 13, Township 43, Range 19E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

Lots 1, 2, 3, 4, 5, & 7, N½ NW¼ and NW¼NE¼, Sec. 13; Lots 6 & 7, Sec. 14, T4S, R19E, Jackson County; Lots 2, 3, & 4, Sec. 13, T43N, R38W, Washington county.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 11th day of July, 1962, at 2 p.m. All interested persons may appear and be heard.

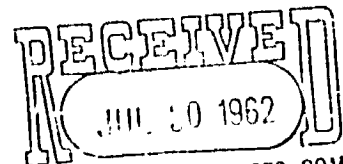
Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

BURTON F. JONES

Water Right Specialist
 Pub. May 31, June 7, 14, 21.



STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

Subscribed and sworn to before me this 21st day of June, A. D. 1962

L. G. Parkinson
 Notary Public Jackson County, S. D.

on or before June 14, 1962
(First Publication _____, 1962.)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., May 21, 1962

Notice is hereby given that Louis Beckwith whose postoffice address is Kadoka 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 5.11 cubic feet of water per second of time from the White River through the Beckwith Irrigation Project, the point of diversion of which is to be located on the both between a point in Lot 6, Sec. 14, and a point in Lot 1 banks of said stream xxxxx xxxxxx xxxxx Section 13 portions of Twp. 4S Range 19E. Said water to be used for the purpose of providing irrigation on the following described land:
Lots 1, 2, 3, 4, 5 & 7, NE 1/4 NW 1/4 and NW 1/4 NE 1/4 Sec. 13; Lots 6 & 7, Sec. 14, T4S, R19E, Jackson County; Lots 2, 3 & 4, Sec. 13, T4N, R3E, Washabaugh Co.
xxxxx xxxxxx

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 11th day of July, 1962, at 2 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:

~~XXXXXXXXXXXXXXXXXXXX~~

CC: Mr. L. G. Parkinson, Publisher BURTON F. JONES
Kadoka Press
Kadoka, South Dakota
Water Right Specialist

APPLICATION FOR EXTENSION OF TIME FOR COMPLETING WORKS

To the State Water Resources Commission
Pierre, South DakotaFEBRUARY 17, 1965
(date)

Dear Sirs:

I hereby request that an extension of time from JULY 11, 1965
to JULY 11, 1967 be granted me for the completion of works to be done under Permit No.
766-2 and that the time for proof of beneficial use of water be extended to JULY 11, 1968

Said works are located in JACKSON County and are described
as follows:

Location of headworks: In the LOT 6
of Section 14 Township 4S Range 19E
E., B.H.M.

The water is to be used for the purpose of IRRIGATION

The extension of time for the completion of these works is requested for the following reasons:
FLOOD IN SPRING OF 1964 WASHED OUT LEVELLED
LAND, AND WE WANT TO CONVERT TO SPRINKLER
SYSTEM

APPROVED: MARCH 10, 1965

State Water Resources Commission

Holder of Permit No. 766-2

By:

for Chief Engineer, Executive Officer

INVESTIGATION OF WATER RIGHT 766-2

On July 12, 1967, I contacted Mr. Beckwith's son Lyle. He informed me that the necessary pipe and pump had been purchased and that most of the land north of the White River had been irrigated last year. However, some of the land still had to be cleaned and no development work has been done south of the river.

Mr. Beckwith was advised he can request an extension for beneficial use if the work is not completed within the next year. Also, he was advised to notify us when all the work is completed so that we may make the necessary inspection.

July 13, 1967

RICHARD SCHMOYER

Water Rights Specialist

APPLICATION FOR EXTENSION OF TIME FOR COMPLETING WORKS

To the State Water Resources Commission
Pierre, South Dakota

June 20, 1968
(date)

Dear Sirs:

I hereby request that an extension of time from _____
to _____ be granted me for the completion of works to be done under Permit No. _____
and that the time for proof of beneficial use of water be extended to July 11, 1971

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

Location of headworks: In the Lot 6, Sec. 14 and Lot 1, Sec. 13
of Section _____ Township 4S Range 19E

E., B.H.M.

The water is to be used for the purpose of irrigation

The extension of time for the completion of these works is requested for the following reasons:

My father passed away, and we have not had time to complete the
entire project.

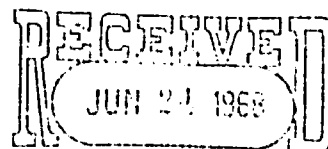
APPROVED:

July 17, 1968
State Water Resources Commission

By:

Barton
for Chief Engineer, Executive Officer

Garry Beckwith
Holder of Permit No. 766-2



STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

Permit No. 766-2Water Division 2 WHITE RIVER Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by LYLE
BECKWITH of KADOKA holder
of Permit No. 766-2, bearing date of priority of MAY 15, 1962
authorizing the diversion of 5.11 cu. ft. per second of the waters of WHITE RIVER
for IRRIGATION purposes, in JACKSON & WASHBAUGH county.

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

The Water Use System consists of,

A. Works used to divert the water:

GOULD 10" INLET 8" OUTLET PUMP POWERED BY
JOHN DEERE 4020 GASOLINE TRACTOR.

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

1800' OF 8" PIPE

C. Works used to apply water to beneficial use.

SERIES OF DIKES AND LEVEL DITCHES ONTO LEVELLED
LAND. UPPER DIKE HAS 24" OUTLET TUBE - NEXT 8 DIKES
HAVE 16" AND LOWER DIKE HAS 2-12"

The system is in the following condition: GOOD

The point of diversion is located BETWEEN POINTS S 41°30'W, 107 RODS FROM THE
NW CORNER AND S 0°, 20 RODS FROM THE NE CORNER, SECTION 13, T 15, R 19 E

The works are capable of diverting and conveying to the place of use 5.55cu. ft. per second of water which is to be used for IRRIGATION

Water has been put to beneficial use to the maximum extent as follows: _____

SEE ATTACHED SHEET

comprising a total of 357.6 acres of land.Date JUNE 23, 1971

Aurton Jones
(Signature)

WATER RIGHT SPECIALIST

T 4S, R 19E

SECTION 13

NW⁴NW⁴ 11.1 ACRES

NE⁴NW⁴ 5.1 "

NW⁴NE⁴ 14.0 "

LOT 1 23.2 "

LOT 2 9.6 "

LOT 3 28.7 "

LOT 4 25.6 "

LOT 5 10.3 "

LOT 7 24.1 "

SECTION 14

LOT 6 26.2 "

LOT 7 47.4 "

T 43N, R 38W

SECTION 13

LOT 2 49.8 "

LOT 3 44.0 "

LOT 4 38.5 "

TOTAL 357.6 ACRES

NOTICE OF TRANSFER OF WATER PERMIT

TO: ~~Water Resources Commission~~ **WATER RIGHTS COMMISSION**State Office Building No. 2
Pierre, South Dakota 57501Date OCTOBER 8, 1975

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

PORTIONS OF SECTIONS 13 & 14, T4S, R19E.
& SECTION 13, T43N, R38W, DESCRIBED IN
WATER PERMIT NO 766-2formerly owned by BECKWITH RANCH, INC., KADOKA, S.D.has been transferred to KEITH BERRY, KADOKA, S.D.together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 766-2 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the ~~Office of Water Resources Commission~~ **WATER RIGHTS COMMISSION** in evidence of the change of ownership.

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

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

Keith Berry
(Signed)Subscribed and sworn to before me this 8th day of October, 19 75Justin A. Zickrich
(Notary Public)My Commission Expires 3/27/83

Water Rights, Water Management Division
(605) 773-3352

February 4, 1980

Kelly Fortune
Interior, SD 57750

Dear Mr. Fortune:

Per your inquiry about the transfer of water permit No. 736-2, a notice of transfer of water permit was mailed to Fortune Ranch Inc., January 7, 1980. To date we have heard no reply from them. As soon as the transfer form is returned to this office with the correct filing fee, the permit will be transferred.

If you have any further questions, please contact this office.

Sincerely,

GENNY YOUNG
Staff Assistant

gy

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

No 4 7394

PIERRE, March 17, 1980

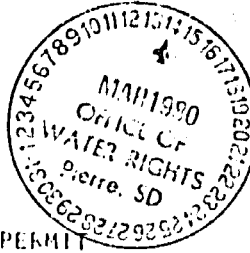
RECEIVED OF Robert Fortune, Fortune Ranch, Inc., Hermosa, SD 57744
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. _____ (examination processing, recording and filing) _____		
Fee for inspecting Construction, and issuing Cert. of Construction No. _____		
Fee for inspecting Beneficial Use, and issuing Water License No. _____		
Fee for issuing Location Certificate-Dry Draw, No. _____		
Fee for filling _____		
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for transfer _____	2.50	
(any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By *(John Hatch)*
Chief Engineer, Executive Officer
JOHN HATCH / (bt)

FORM 20



NO. 766-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 2 - 18 - 1930

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

N $\frac{1}{2}$ NW $\frac{1}{2}$, NW $\frac{1}{2}$ NE $\frac{1}{2}$, Lot 1,2,3,4,5,& 7, Sec. 13-4S-19E; Lot 6 & 7 in

Sec. 14-4S-19E; Lot 2,3, & 4 Sec. 13, T43N,R38W for a total of 357.6
acres

formerly owned by Keith Berry, Kadoka, SD 57543

has been transferred to Fortune Ranch Inc., Interior, SD 57750, (Box 44)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 766-2 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 Office of the Board of Water Management 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 PENNINGTON) ss.

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

Robert Fortune
(Signed)

Subscribed and sworn to before me this 18th Day of February, 1930.

W. H. Johnson
(Notary Public)

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

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

January 12, 1989

766-2

Kelly Fortune
Box 44
Interior, SD 57750

Dear Mr. Fortune:

In response to your 1988 irrigation questionnaire, enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 766-2. The water right is currently listed in the name of Fortune Ranch, Inc.

Please check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50. The water right will then be transferred to your name.

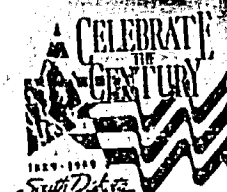
If you have any questions, please contact me.

Sincerely,

Granny McMATH

GRNNY MCMATH
Natural Resources Analyst
605 773-3352

enclosure



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411604

Pierre, January 24, 1922, 19

RECEIVED OF Kelly Fortune, Box 44, Interior, SD 57750

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 _____ 766-2	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By W. E. H. H. H.
Chief Engineer



Department of
Water & Natural Resources

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

January 30, 1989

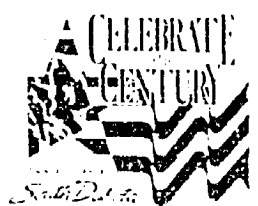
Kelly Fortune
Box 44
Interior, SD 57750

Enclosed is Receipt No. 411604 in the amount of \$ 2.50 which you paid for transfer of Water Right No. 766-2.

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

Sincerely,

Marie R. Arthur
Water Rights Division
(605) 773-3352





766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 14, 2000

NOTICE

TO: KELLY FORTUNE, PO BOX 44, INTERIOR, SD 57750 0044

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

SUBJECT: Reporting Requirement for 1999 Irrigation Questionnaire(s)

Our records indicate that the 1999 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2. The request for the Questionnaire was dated October 7, 1999. The Water Management Board has directed that owners of water permits who have not submitted the 1999 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 1:30 pm, March 1, 2000, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 28, 2000, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Gena Math at (605) 773-3352.

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

766-2

SENDER COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

KELLY FORTUNE
PO BOX 44
INTERIOR SD 57750 0044

A. Received by (Please Print Clearly)

B. Date of Delivery

1-18-99

C. Signature

Kelly Fortune

☐ Agent

☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

Z 227 670 334



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 19, 2000

766-2

Kelly Fortune
PO Box 4
Interior, SD 57750-0004

Dear Mr. Fortune:

Thank you for calling in regard to your 1999 irrigation questionnaire. A questionnaire was completed for you based on your telephone conversation with Ron Duvall.

You may disregard the January 14, 2000, "Notice" concerning reporting requirements for Water Permit No. 766-2. 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 3, 2006

766-2

Gene Fortune
PO Box 60
Interior SD 57750

Dear Mr. Fortune:

I am contacting you in regard to Water Right No. 766-2, currently listed in the name of Kelly Fortune. He made a notation on the annual irrigation questionnaire that he has deeded his land to you and would like the water right transferred to you also.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

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

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

DEC - 4 2006

WATER RIGHTS
PROGRAM

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

No. 766-2

Date: 11-15-06

I/We request that Water Right No. 766-2

formerly owned by: Kelly Fortune

be transferred to: (name & address) Gene Fortune, PO Box 60, Interior SD 57750

Telephone No. _____

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

357.6 acres – Lots 1-5 and Lot 7, N ½ NW ¼, NW ¼ NE ¼ Sec 13; Lots 6-7, Sec 14, T4S, R19E

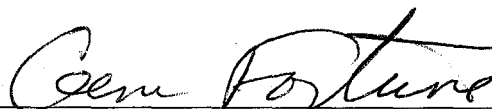
Lots 2, 3 & 4, Section 13, T43N, R38W

I/We understand that the validity of Water Right No. 766-2 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 Gene Fortune, 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 December 4, 20 06

RECEIVED OF Gene Fortune, P O Box 60, Interior SD 57750

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 <u>7660-</u> <u>766-2</u>		2 50
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.

02661

By

Barbara E. Ebel
Chief Engineer



**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 6, 2006

766-2

Gene Fortune
PO Box 60
Interior SD 57750

Dear Mr. Fortune:

I am writing to acknowledge receipt of the ownership change and filing fee you submitted for Water Right No. 766-2. The transfer has been complete. The water right, formerly held by Kelly Fortune is now listed in your name.

Enclosed is your Receipt No. 02661 in the amount of \$2.50. You may keep this for your records.

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

enclosure



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2008

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 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, 2008**, 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) 766-2 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, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

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.

766-2

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Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0802 3998
Status: **Delivered**

Your item was delivered at 11:44 AM on January 19, 2008 in INTERIOR, SD 57750. The item was signed for by A FORTUNE.

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FOIA

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of the United States
Postal ServiceUSPS is a service
of the United States
Postal Service

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 3998	GENE FORTUNE PO BOX 60 INTERIOR SD 57750 0060	
	Waiver of Signature ☐ YES ☐ NO	
	Postmark Here	
	POSTAL CUSTOMER: Keep this receipt. For Inquiries: Access internet web site at www.usps.com ® or call 1-800-222-1811	
☐ Priority Mail™ Service		
☐ First-Class Mail® parcel		
☐ Package Services parcel		



**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 13, 2008

766-2

Gene Fortune
PO Box 60
Interior SD 57760-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2007 irrigation questionnaire. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Right No. 766-2.

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



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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) 766-2. 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) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

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

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

766-2

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Search Results

Label/Receipt Number: **2303 2160 0000 0802 5527**
Status: **Delivered**

Your item was delivered at 2:34 PM on January 27, 2009 in INTERIOR, SD 57750. The item was signed for by G FORTUNE.

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Enter Label/Receipt Number.

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FOIA

Signature Confirmation	
SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 5527	GENE FORTUNE PO BOX 60 INTERIOR SD 57750 0060
	Waiver of Signature ☐ YES ☐ NO
	Postmark Here
	POSTAL CUSTOMER: Keep this receipt. For Inquiries: Access internet web site at www.usps.com ® or call 1-800-222-1811
☐ Priority Mail® Service ☐ First-Class Mail® parcel ☐ Package Services parcel	



**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 17, 2009

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2008 irrigation questionnaire. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right No. 766-2.

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 24, 2012

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaire(s)

Our records indicate that the 2011 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 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 7, 2012**, 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) 766-2 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 2, 2012**, 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

February 8, 2012

766-2

Gene Fortune
PO Box 60
Interior SD 57750 0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2011 irrigation questionnaire.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right No. 766-2. 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



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2014

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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) 766-2 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) 766-2 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

February 27, 2014

766-2

Gene Fortune
PO Box 60
Interior SD 57760 0060

Dear Mr. Fortune:

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

You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Right No. 766-2. 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



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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 **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <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
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

January 28, 2016

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2015 irrigation questionnaire.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 766-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <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
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 7, 2018

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Right No. 766-2. 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".

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



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 25, 2019

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 6, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <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.



766-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 7, 2019

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2018 irrigation questionnaire.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Right No. 766-2. 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
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire has not been submitted for Permit No(s) 766-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 766-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: GCETPC**

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.

766-2

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Your item has been delivered and is available at a PO Box at 3:50 pm on January 28, 2020 in INTERIOR, SD 57750.

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Product Information

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For delivery information, visit our website at www.usps.com ®.	
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Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy) \$	
☐ Return Receipt (electronic) \$	
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☐ Adult Signature Required \$	
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GENE FORTUNE PO BOX 60 INTERIOR SD 57750 0060	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Feedback

See Less ^



766-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 27, 2020

NOTICE OF ENTRY OF ORDER TO AMEND WATER RIGHT

TO: Gene Fortune, PO Box 60, Interior SD 57750 0060

FROM: Jeanne Goodman, Chief Engineer, Water Rights Program 

SUBJECT: Amendment to Water Right No. 766-2

On February 27, 2020, the Water Management Board amended Water Right No. 766-2 to add the following qualification:

"This water right is subject to the Irrigation Water Use Questionnaire being submitted each year."

This action was taken for your failure to return the 2019 irrigation questionnaire. The addition of this qualification to your water right means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water right with no use of water for up to one year for the first violation.

Please contact Genny McMath (605) 773-3352, if you have any questions.

766-2

CERTIFICATION

I hereby certify that on February 27, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 27, 2020 regarding Water Management Board action taken February 26, 2020 for Irrigation Questionnaire violations addressed as stated below:

One Year Suspensions:

Water Right No. 6947-3

Joel Adler, 48353 149th St, Milbank SD 57252

Water Permit No. 7655-3

Thomas Brady, 265 Antler Dr., Yankton SD 57078

Water Right Nos. 2698-2 & 2721-2

Neil & Lupita Fanning, 220 Rangely Ct., Simi Valley CA 93065

Water Right No. 5947-3

Sean Davis, Fish Lake Country Club, 24385 393rd Ave., Letcher SD 57359

Water Permit Nos. 7008A-3 and 7009A-3

Roger D Hanson, 615 E 72nd St., Kansas City MO 64131

Water Right No. 7043-3

Corey Johannsen, 502 Main St., Tolstoy SD 57475

Donald & Dianna Stotz, 14850 328th Ave, Tolstoy SD 57475

Water Right No. 876-1

Gene E Johnson, 19610 US Hwy 85, Belle Fourche SD 57717

Water Right No. 1213B-1

Charles & Cathy Kimbril, 19027 137th Ave, Vale SD 57788

Water Right No. 410B-2

Kathi Koester, PO Box 206, Custer SD 57730-0206

Water Permit No. 8253-3

James Makens, Makens Oak Tree LLP, 42563 168th St, Clark SD 57225

Water Permit Nos. 5849-3 and 6194-3

Josh Oakley, Meadow Creek Golf Course, PO Box 511, Volga SD 57071-0511

Water Right Nos. 2521-3 and 2934-3

Henry Decker, Pembrook Hutterian Inc., 35955 139th St, Ipswich, SD 57451 7103

Water Right Nos. 5566-3 & 7615-3 and Water Permit No. 7616-3

Wayne Reiersen, 30048 Reiersen Pl., Pollock SD 57648

Water Permit No. 2350-3

Bill Boyer, President, River Valley Farms, PO Box 486, Alcester SD 57001 0486

Water Right No. 4737-3

RUS Farms Real Estate LLC, 3283 Dogwood Ave., Rock Valley IA 51247

Water Right No. 2954-3

Lane Tekrony, 47840 180th St, Clear Lake SD 57226-5405

Water Right Nos. 6131-3 and 6132-3

Daniel Ulmer, PO Box 433, Menno SD 57045 0433

Water Right Nos. 2631A-3 and 5451-3
Merritt Ulmer, PO Box 433, Menno SD 57045-0433
Merritt & Marie Ulmer, 1402 S Cage #217, Pharr TX 78577

Water Right No. 553-1
Richard W Kieffer, 14555 Hamlet Pl, Sturgis SD 57785

Three Year Suspensions:

Water Right No. 6168-3
Robert Hattum, 21744 W Bend Rd, Harrold SD 57536

Water Right No. 2106-2
Stuart Rice, 2300 Skyline Ranch Rd, Rapid City SD 57701

Amendments:

Water Right Nos. 804-2 & 995-2
Robert Berry, 23331 Hwy 14, Midland SD 57552

Water Right No. 766-2
Gene Fortune, PO Box 60, Interior SD 57750 0060

Water Right Nos. 516-1 and 715-1
Lawrence Woodward, PO Box 220, Dupree SD 57623 0220

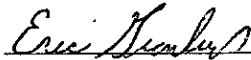
Both Suspend and Amendments

Water Right No. 960-3 and Water Permit No. 472A-3
Chad Binger, 18309 383rd Ave, Tulare SD 57476

Water Right Nos. 2579-3, 4353-3, 5774-3, 6424-3, 6606-3, 6870-3, 7193-3, 7490-3 & 7491-3
Jonathan Wollman, Claremont Colony, 46271 184th St, Castlewood SD 57223

Water Right Nos. 3012-3 and 7323B-3
Mark Morlock, 33820 112th St., Eureka SD 57437-6005
Marvin Morlock, 11072 339th Ave, Eureka SD 57437-6003

Water Right No. 399-2 and Water Permit No. 2668-2
Steve L Simunek, 27851 S Buffalo Gap Rd, Oral SD 57766



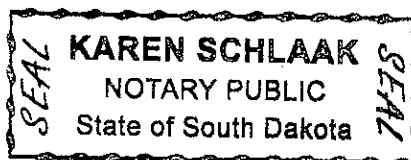
Eric Gronlund
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of February, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



766-2



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

January 20, 2022

NOTICE

TO: GENE FORTUNE, PO BOX 60, INTERIOR, SD 57750 0060

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 766-2. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 766-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 766-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: OGDQJN**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 1, 2022

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 766-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

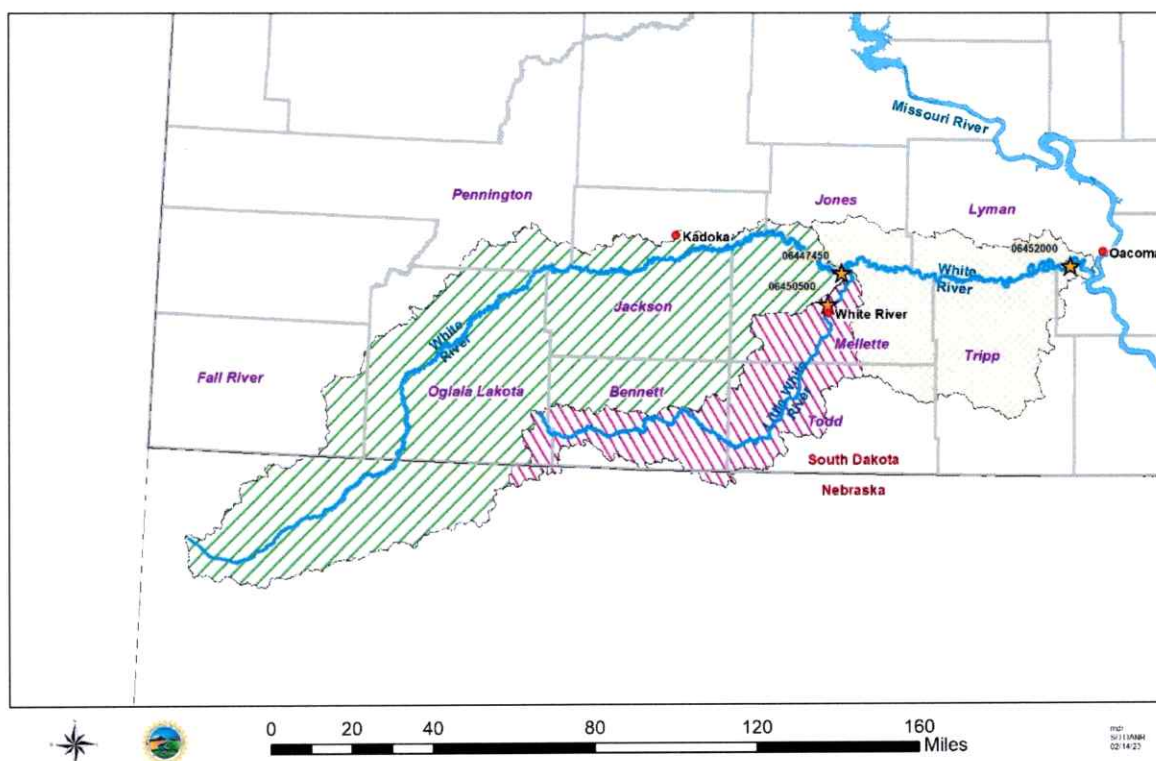


Figure 1. White River Watershed Map.

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

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

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

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

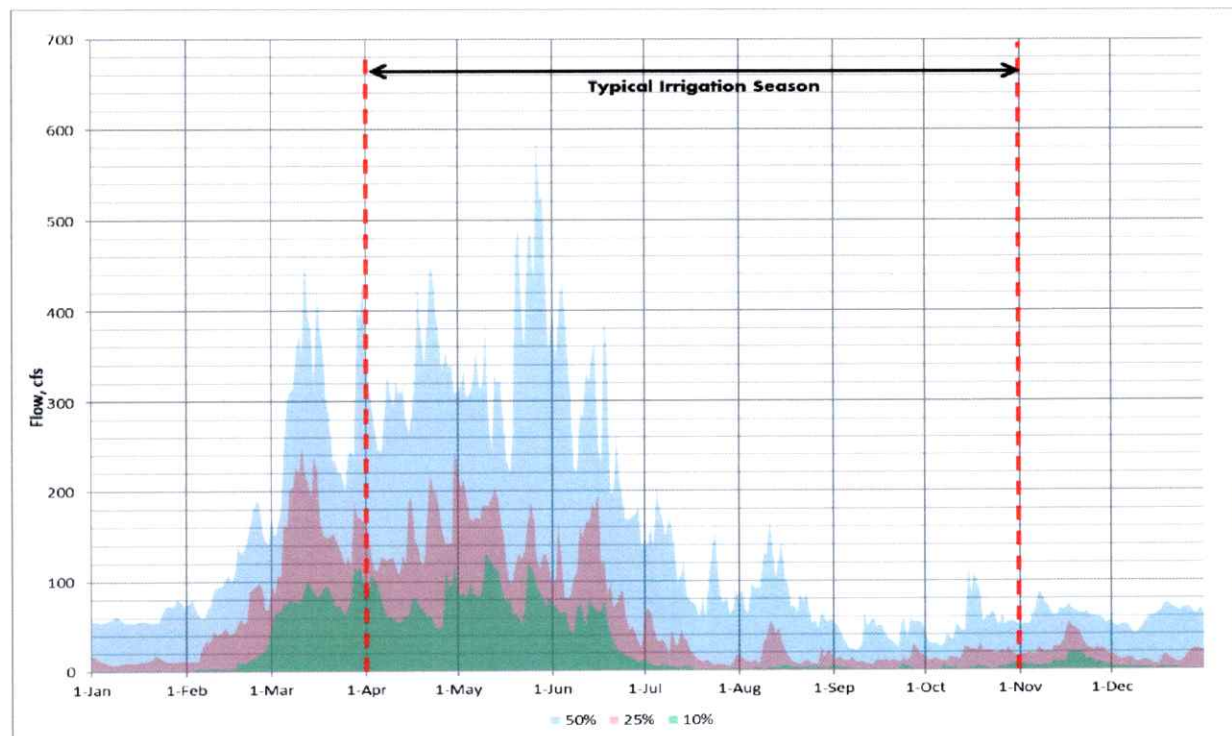


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

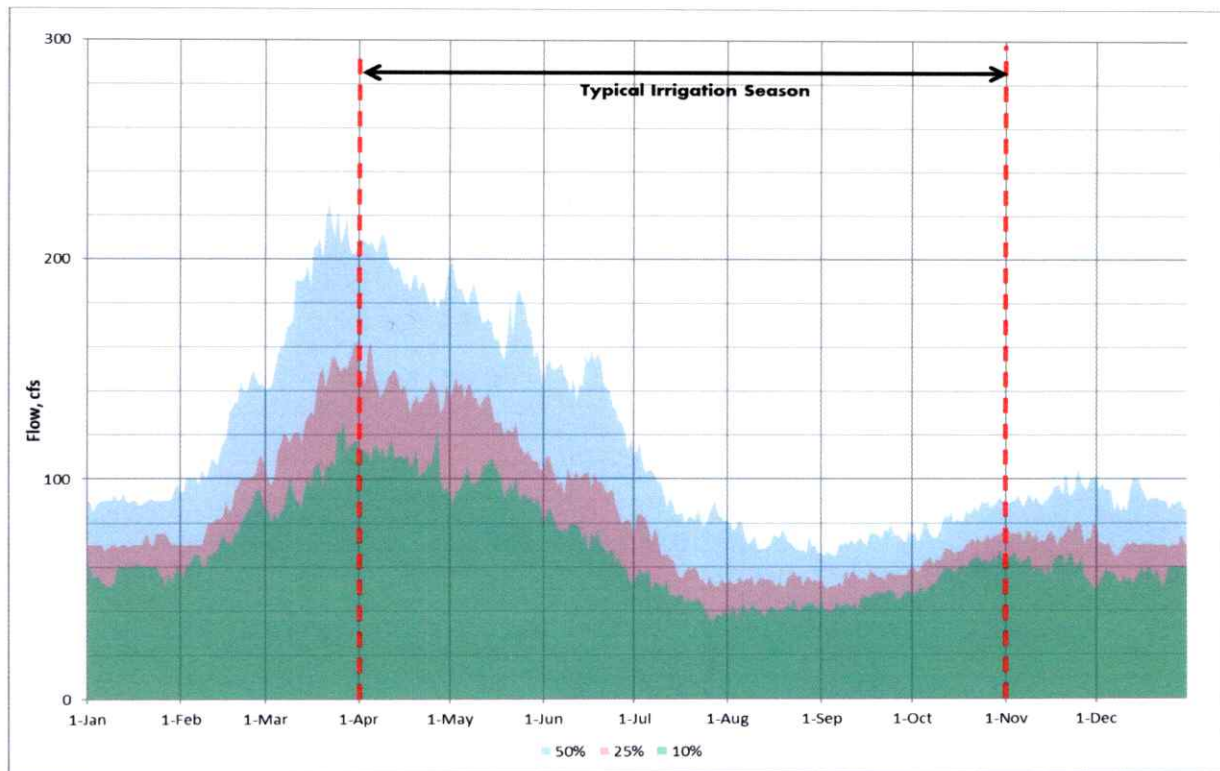


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

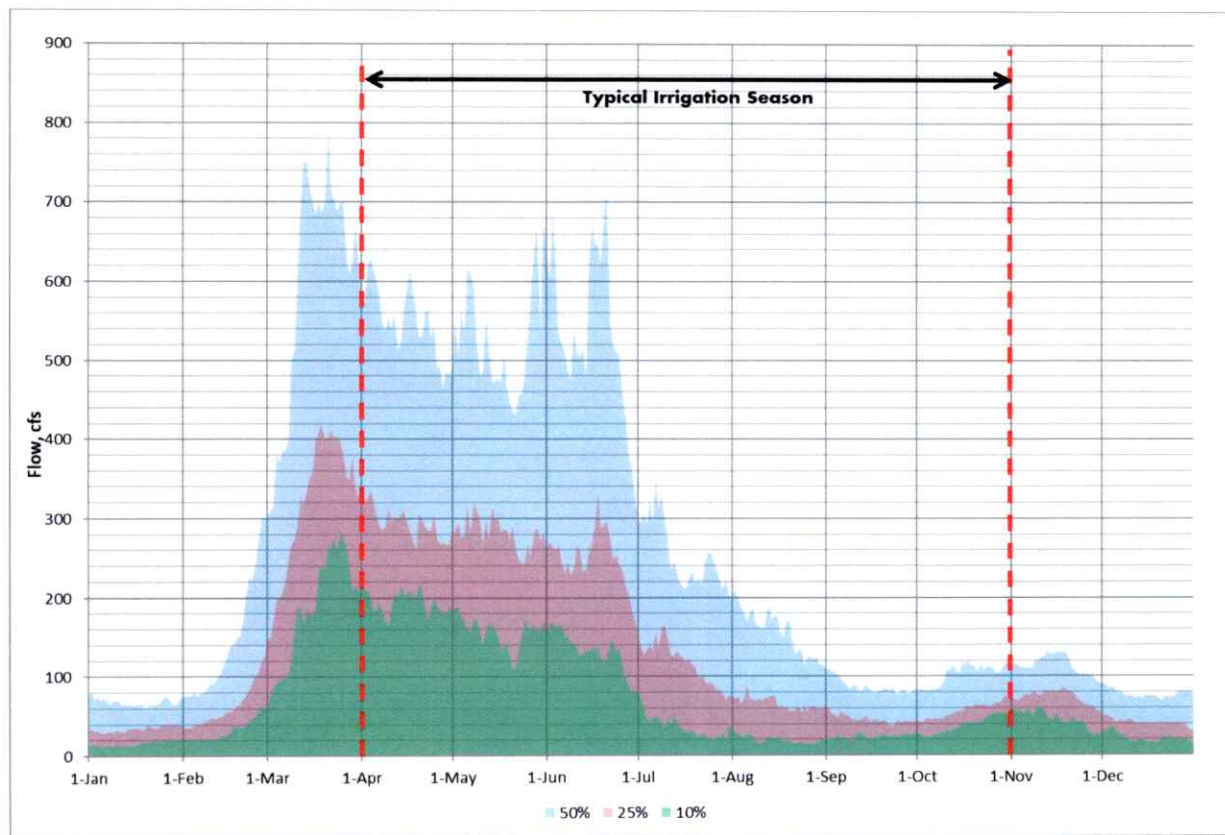


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

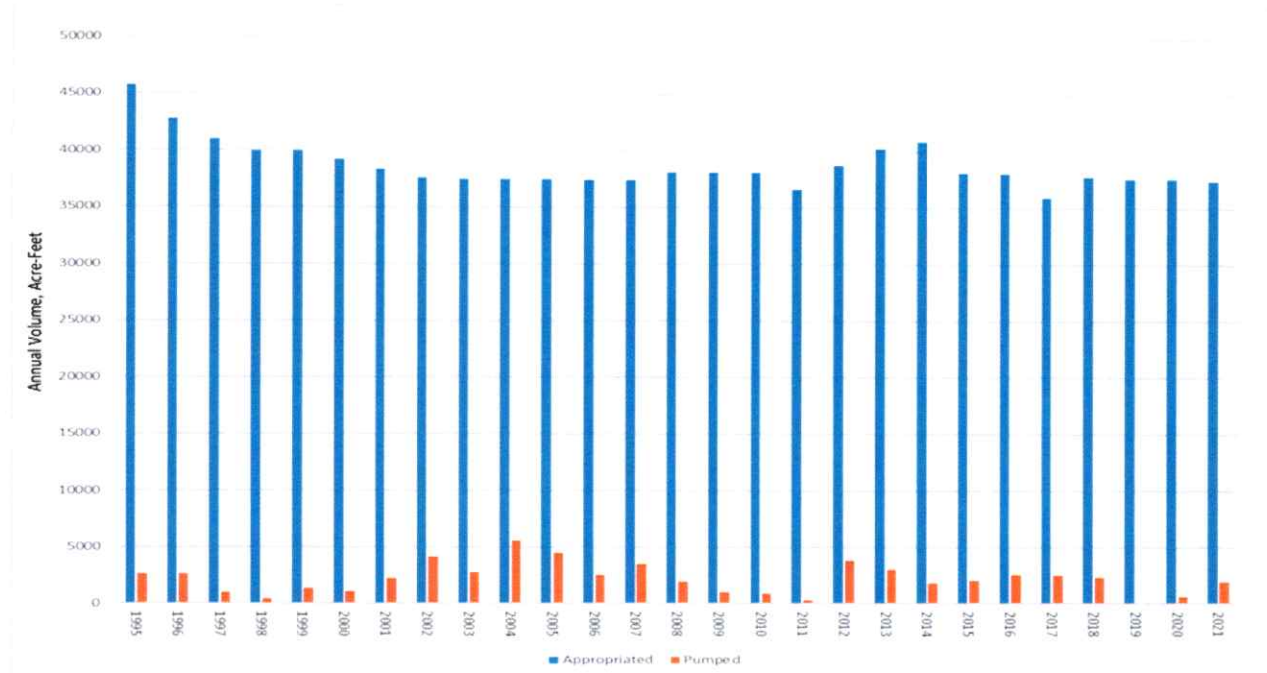


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

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

Dear White River Water Right Holder,

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

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



766-2

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 24, 2023

766-2

Gene Fortune
PO Box 60
Interior SD 57750-0060

Dear Mr. Fortune:

I am writing regarding Water Right No. 766-2 listed in your name. (copy enclosed)

Each year we send out irrigation questionnaires to you for reporting water use. Over the past several years you have reported "no system". On February 23rd, I called and spoke with Mrs. Fortune. It is my understanding no irrigation has been done for several years due to problems with the bank on the White River and maintaining the pipe.

Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three-year period may be waived if legal excuse exists for the years of nonuse. Enclosed for your review are excerpts of water laws and Water Management Board rules dealing with these issues.

If you have made a business decision to discontinue irrigation, the water right would be scheduled for cancellation. This would eliminate the need for annual reporting. However, if you would irrigate if climatic conditions warranted irrigation, it would be beneficial to keep the water right in place.

Once you have had a chance to review the enclosed materials, please give me a call and we can discuss the water right.

Sincerely,

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

enclosures

File No. 766-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Gene Fortune

DATE: June 8, 2023

TELEPHONE: 605 433-5600

RE: irrigation under No. 766-2

COMMENTS:

Mr. Fortune called to let us know they are irrigating. They had trouble with maintaining the bank and the pipe on the White River. They have it stabilized for the time being and are pumping water.

I told him to keep track of the hours pumped or inches applied and jot it down on the questionnaire in the fall.



Genny McMath
Water Rights Program