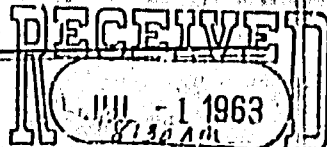


802-2

1. Considered 9-6, 1922
2. Name of Applicant F.H. IRELAND
3. Post Office Address ELVIDERE
4. Amount of water claimed 7.77
5. Source of water supply WILHE RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 144.3
7. Water to be diverted and used in WASHARADON County about
SW 65 miles 65 of ELVIDERE
8. Proof of Publication Received ✓
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:



No. 802-2
2 WHITE RIVER
 Water Division No. _____
 (Blanks to be filled by the Engineer for the W. R. C.)

STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT To appropriate Water within the State of South Dakota

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

1. Name of applicant EDDIE H. IRELAND
 Postoffice address RELYVIERE, County WASHAKIE, State SOUTH DAKOTA

I. If a corporation _____

- (a) Name of same _____
 (b) Date and place of Incorporation _____
 (c) Amount of capital stock _____
 (d) Amount paid in _____
 (e) Names and 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, and employment of others

(b) Cash on hand, \$ Adequate

(c) Treasury stock, \$ _____

(d) Bonds to be issued, \$ _____

(e) Other resources, \$ _____

2. Name of diversion work IRELAND IRRIGATION PROJECT # 2

3. Amount of water claimed 2.22 cubic feet per second and all unappropriated flood waters

4. Source of water supply White River

5. Location of point of diversion See Attachment

BETWEEN A POINT IN THE SOUTHWEST CORNER OF THE NW 1/4 SEC. 22, T14N, R24E

_____ on _____ bank _____ County.

6. Annual period or periods during which water is to be used season of year through out the normal growing

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity

(a) Number of acres to be irrigated 154.3 acres.

(b) Legal subdivisions to be irrigated See attachment

(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. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use stockwater
 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 _____

2-069-N-690-2

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

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--ACRES	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 ----- 2 ----- years.

11. Time required for complete application of water to the proposed beneficial use ----- 2 ----- years.

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

STATE OF SOUTH DAKOTA

County of Jackson

ss.

I, F. H. Ireland, 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

F. H. Ireland

Subscribed and sworn to before me this 28th day of June 1963.

J. C. Lutenberger

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

R34W

All lands described are owned by F.H. Ireland.

LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	SW ¹ / ₄ SW ¹ / ₄	14	44N	34W	24.8
2	SE ¹ / ₄ SW ¹ / ₄	14	44N	34W	38.0
3	NW ¹ / ₄ NW ¹ / ₄	23	44N	34W	40.0
4	NE ¹ / ₄ NW ¹ / ₄	23	44N	34W	38.0
5	NW ¹ / ₄ SE ¹ / ₄	23	44N	34W	12.5
6	SW ¹ / ₄ NW ¹ / ₄	23	44N	34W	8.6
7	SE ¹ / ₄ NW ¹ / ₄	23	44N	34W	8.9
8	SW ¹ / ₄ NE ¹ / ₄	24	44N	34W	1.2
TOTAL					169.0

169.0

Land to be irrigated



T
44
N

WHITE
RIVER

AREA 5
NW¹/₄ NE¹/₄ Sec. 23
12.5 Acres

AREA 7
SE¹/₄ NW¹/₄ Sec. 23
8.9 Acres

AREA 8
SW¹/₄ NE¹/₄ Sec. 23
1.2 Acres

SE Corner NE¹/₄ Sec. 23
1.44 Acres R34W

SURVEYOR'S CERTIFICATE

I, James P. Ireland, do hereby certify that this map identifies a reasonably accurate record of the land of the F. H. Ireland Irrigation Project and has been prepared by the Soil Conservation Service for the Jackson-Washabaugh Soil Conservation District.

SIGNATURE: James P. Ireland
TITLE: Administrative Engineer
U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SUBSCRIBED AND SWORN TO before me this 10th day of June, 1963 A.D.

MY COMMISSION EXPIRES October 11, 1965

Scale: 1"=200'

**F. H. IRELAND
IRRIGATION PROJECT
NUMBER 2**

Washabaugh County, South Dakota

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed	Date	Approved by
Drawn		Title
Traced		Title
Checked	5-63	Sheet No. 1 of 1

MAP No 6902 (APPL No 8022)

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, SEPTEMBER 10, 1963

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock
2 m. upon the 1st day of JULY, 1963

State Water Resources Commission

By:

Forrest L. Linn
Chief Engineer, Executive Officer

Number of permit 802-2

Date of first receipt of application July 1, 1963

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 July 1, 1963

Approved SEPTEMBER 5, 1963, Recorded in Book 8 Page 118

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

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before SEPTEMBER 5, 1964

2nd. The whole of said work is to be completed on or before SEPTEMBER 5, 1965

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is 1972 extended 9/1/67 RDS
SEPTEMBER 5, 1967

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 2.22 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 SEPTEMBER 5, 1967; said water to be used during the following described annual period:

THROUGHOUT THE NORMAL GROWING SEASON

Witness my hand this 10th day of SEPTEMBER, 1963.

State Water Resources Commission

By:

Forrest L. Linn
Chief Engineer, Executive Officer

Certificate of Construction Issued

APRIL 20, 1976

Water License Issued

APRIL 20, 1976

AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	SW ⁴ SE ¹⁴	14	44N	34E	24.8
2	SE ⁴ SE ¹⁴	14	44N	34E	39.0
3	NW ⁴ NW ¹⁴	23	44N	34E	40.0
4	NE ⁴ NW ¹⁴	23	44N	34E	38.0
5	NW ⁴ NE ¹⁴	23	44N	34E	12.5
6	SW ⁴ NW ¹⁴	23	44N	34E	6.5
7	SE ⁴ NW ¹⁴	23	44N	34E	3.9
8	SW ⁴ NE ¹⁴	23	44N	34E	1.3
TOTAL					186.0 184.3

POINTS OF DIVERSION

Pump station I 0° 00' N 58 rds. of the SW corner of Section 14, T44N, R34E.

Pump station II 39° 30' N 140 rds. of the SE corner NE4 Section 23, T44N, R34E.

WATER LICENSE NO. 802-2

(1) WHEREAS, On the 1st day of July A. D. 19 63
F.H. Ireland
 made Water Right Application No. 802-2 for a permit to use 2.22 cubic feet per second of the waters
 of the White River
 County of Washabaugh, State of South Dakota, for irrigation
 purposes; and

(2) WHEREAS, On the 10th day of September A. D. 19 63
 Permit No. 802-2, with a date of priority of July 1, 1963
 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 5th day of September A. D. 19 68 and for the
 application to beneficial use of said water on or before the 5th day of September A. D. 19 72

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 2.22 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 in T44N, R34W

Section 14	SW $\frac{1}{4}$ SW $\frac{1}{4}$	24.8 acres
Section 23	SE $\frac{1}{4}$ SW $\frac{1}{4}$	39.0 acres
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0 acres
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.0 acres
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	12.5 acres
Total		164.3 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 F.H. Ireland

of Belvidere, S.D.

the holder and owner of said permit No. 802-2 a water right, dating from July 1, 1963

to use of 2.22 cubic feet per second of the waters

of the White River

in the County of Washabaugh and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted at a point North 0° West, 58 rods of the SW Corner, Section 14,

T44N, R34W

and conduct to and upon portions of Sections 14 and 23, T44N, R34W, more
fully described on the face of this license

for the purpose of irrigation

subject to any limitations listed on Water Right Permit No. 802-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 20th day of April A. D.

Nineteen Hundred and Seventy-six

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer **JOHN HATCH**

Permit No. 802-2

Water Diversion No. 2 WHITE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That F.H. Ireland

_____ the holder _____ of
Permit No. 802-2, issued upon Application No. 802-2, bearing date of priority of July 1, 1963
_____ authorizing the diversion of 2.22 cu. ft. per second of the waters of _____
the White River County of Washabaugh, State of South Dakota at _____
a point North 0° West, 58 rods of the SW Corner, Section 14,
T44N, R34W
_____, for irrigation

purposes, has s 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 8.26 cu. ft. per second of water.

Date April 20, 1976

By: WATER RIGHTS COMMISSION

John Hatch
JOHN HATCH, Chief Engineer

on or before August 8, 1963
(First Publication August 8, 1963)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., July 29, 1963

Notice is hereby given that F. H. Ireland, whose postoffice address is Bolvidere, 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 2.22 cubic feet of water per second of time from the White River through the Ireland Irrigation Project #2, the point of diversion of which is to be located on the right bank of said stream/in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, and a point between a point in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23 portions of Twp. 44N Range 34W. Said water to be used for the purpose of providing irrigation on the following described land:

S $\frac{1}{2}$ SW $\frac{1}{4}$, Section 14, and N $\frac{1}{2}$ NE $\frac{1}{4}$ & NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 23, all in T44N, R34W

and for ~~XXXXXX~~ purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 5th day of September, 1963, 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

CC: L. G. Parkinson, Publisher
Kadoka Press
Kadoka, South Dakota

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 County of Jackson and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

August 1, 1963

August 8, 1963

August 15, 1963

August 22, 1963

In each and every issue of the full number thereof, the first publication being made on the 1st day of August

1963 and the last publication on the 22nd day of

August, 1963, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he

was Publisher the printer and publisher of the said newspaper.

L. G. Parkinson
L. G. Parkinson

Subscribed and sworn to before me this 22nd day of August, A. D. 1963

APPROPRIATION OF WATER

Notice is hereby given that F. H. Ireland, whose postoffice address is Belvidere, S. D., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.22 cubic feet of water per second of time from the White River through the Ireland Irrigation Project No. 2, the point of diversion of which is to be located on the right bank of said stream between a point in the SW 1/4 Sec. 14 and a point in the NW 1/4 of the NE 1/4 of Sec. 23, Twp. 44N, Range 34W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

S 1/2 SW 1/4, Section 14, and N 1/2 NW 1/4 & NW 1/4 NE 1/4, Sec. 23, all in T44N, R34W.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 5th day of September, 1963, 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. Aug. 1, 8, 15, 22.

RECEIVED
SEP 3 1963

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

A. D. 1963

Notary Public

County, S. D.

APPLICATION FOR EXTENSION OF TIME FOR COMPLETING WORKS

July 26, 1967
(date)To the State Water Resources Commission
Pierre, South Dakota

Dear Sirs:

I hereby request that an extension of time from September 5, 1965
to Sept 5, 1968 be granted me for the completion of works to be done under Permit No.
802-2 and that the time for proof of beneficial use of water be extended to Sept 5, 1972

Said works are located in Washburn County and are described
as follows: Between a point in the SW 1/4 Sec 14 and

Location of headworks: In the NE 1/4 of the NE 1/4
of Section 23 T6N Township 44N Range 34W

E. E.H.M.

The water is to be used for the purpose of irrigation of 154.3 Acres

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

High water in river in past two years has
made it impossible to maintain a pumping
station.

APPROVED:

9/21/67

State Water Resources Commission

By:

Richard Schunger
for Chief Engineer, Executive Officer

Holder of Permit No. 802-2

INVESTIGATION OF WATER RIGHT 802-2

On July 26, 1967, Mr. Ireland was contacted concerning this permit. Mr. Ireland stated that high water the past two years has made it impossible to complete the necessary work to put the water to beneficial use. He has already obtained a pumping plant which he used under his other irrigation permit.

Conclusion: It is recommended that an extension of time be approved extending the period for beneficial use to September 5, 1972, which is the maximum allowable.

August 3, 1967

RICHARD H. MOYER
Water Right Specialist

Permit No. 802-2Water Division 2 White River Water District

**REPORT OF EXAMINATION OF WOPXS
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 F. H. Ireland of Belvidere, South Dakota holder of Permit No. 802-2, bearing date of priority of July 1, 19 63 authorizing the diversion of 2.22 cu. ft. per second of the waters of White River for irrigation purposes, in Washabaugh 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:

40 H.P. Newman Model #J1235546, Frame #J1235546, Crisafulli Model #1211, Serial #3350, 200 feet of 12 inch rubber hose.

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

3800 feet of main canal with outlets every 120 feet

C. Works used to apply water to beneficial use.

Border spreader dikes every 60 feet

The system is in the following condition: Very good

The point of diversion is located N 0° 00' 00" feet west, 58 rods of the SW corner, Section 14, T44N, R34W.

The works are capable of diverting and conveying to the place of use 8.26 cu. ft. per second of water which is to be used for irrigation

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

SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14, T44N, R34W	-	24.8 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 23, T44N, R34W	12.5 acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 14, T44N, R34W	-	39.0 acres		
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 23, T44N, R34W	-	40.0 acres		
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 23, T44N, R34W	-	38.0 acres		

comprising a total of 154.3 acres of land.

Date 2-20-76

Thomas A. Gardner
(Signature)

Thomas A. Gardner
Water Resources Engineer

SOUTH DAKOTA Department of
Water & Natural Resources

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

March 23, 1987

FOREST H IRELAND
BOX 459
KADOKA, SD 57543

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire

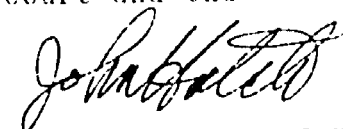
Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 802-2, 1188-2, 321-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 2:00 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

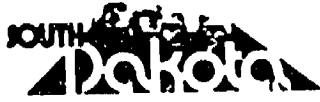
1. Amend Permit No(s). 802-2, 1188-2, 321-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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



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

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



Department of Water & Natural Resources

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

May 13, 1987

NOTICE OF AMENDMENT TO WATER PERMIT(s)

TO: FOREST H IRELAND
BOX 459
KADOKA, SD 57543

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Amendment to Water Permit No(s). 802-2, 1188-2, 321-2

Pursuant to the provisions of the notice dated March 23, 1987, and following the Hearing May 6, 1987, the Water Management Board has amended Water Permit No(s). 802-2, 1188-2, 321-2 to add the following qualification:

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

The addition of this qualification to your Permit means that failure to submit the required irrigation questionnaire in the future could result in **SUSPENSION** of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.

Attachment to Water Permit No. 802-2

Pursuant to the provisions of the notice dated March 23, 1987 and following the Hearing May 6, 1987, the Water Management Board has amended Water Permit No. 802-2 to add the following qualification:

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

REPRODUCTION

REDUCTION

224

DATE

1987

1

DATE

MICROFILMED

1987

1

DATE

1987

1

DATE

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1

DATE

1987

1

DATE

1987

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

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

January 29, 1988

FOREST H IRELAND
BOX 459
KADOKA, SD 57543

NOTICE

Re: Violation of Water Permit No(s). 1188-2, 802-2, 321-2

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 1188-2, 802-2, 321-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1188-2, 802-2, 321-2 qualification:

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

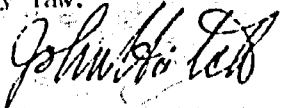
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 1188-2, 802-2, 321-2 until either the 1987 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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


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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



Department of Water & Natural Resources

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

February 5, 1988

321-2
802-2
1188-2

F H Ireland
Box 459
Kadoka SD 57543

Dear Mr. Ireland:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the the requirement to submit the Irrigation Questionnaire(s) for Water Permit Nos. 321-2, 802-2 & 1188-2 and the hearing date before the Water Management Board.

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

Very truly yours,

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

 **Department of
Water & Natural Resources**

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

February 8, 1989

FOREST H IRELAND
BOX 459
KADOKA, SD 57513

NOTICE

RE: Violation of Water Permit No(s). 1188-2, 321-2, 802-2

Our records indicate that the 1988 Irrigation Questionnaire has not been submitted for Permit No(s). 1188-2, 321-2, 802-2. The request for the Questionnaire was dated October 26, 1988. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1188-2, 321-2, 802-2 qualification:

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

The hearing will be held at 9:45 am, March 1, 1989 at the Howard Johnson's, Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

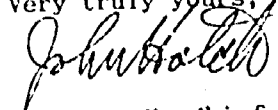
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Suspend Permit No(s). 1188-2, 321-2, 802-2 until the 1988 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
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 is received in this office before the March 1st hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,


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



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

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

February 24, 1989

321-2
802-2
1188-2

Forest H Ireland
Box 459
Kadoka, SD 57543

Dear Mr. Ireland:

I am writing to acknowledge receipt of your 1988 irrigation questionnaires for Water Permit Nos. 321-2, 802-2, 1188-2. You may disregard the February 8, 1989, Notice of failure to submit the 1988 irrigation questionnaire. With receipt of the questionnaires your name has been deleted from the March Water Management Board meeting agenda.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Very truly yours,

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

**SOUTH DAKOTA Department of
Water & Natural Resources**

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

January 26, 1990

321-2
802-2

Kenny Fox
Belvidere, SD 57521

Dear Mr. Fox:

Enclosed are partially completed "Notice of Transfer" forms for use in filing an ownership change on Water Right Nos. 321-2 and 802-2. The water rights are currently in the name of F H Ireland. Mr. Ireland has notified us that you now own the land described under these water rights.

Please check over the forms and sign them in the presence of a notary public. Upon completion of the forms, return them to our office with a required filing fee of \$2.50 each (\$5.00 total).

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
605 773-3352

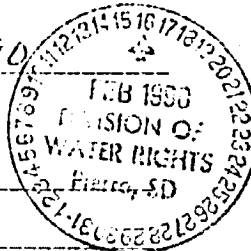
enclosure

NOTICE OF TRANSFER OF OWNERSHIP

No. 802-2

TO: Chief Engineer
Water Rights Division, DWR
523 East Capitol
Pierre, SD 57501-5181

Date: Feb 14, 1990



I/We request that Water Right No. 802-2

formerly owned by: F H Ireland, Box 459, Belvidere, SD 57521

be transferred to: (name & address) Kenny Fox Box 37
Belvidere S.D. (telephone No.) 344-2516

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

SW 1/ SW 1/4 and SE 1/4 SW 1/4 Section 14, N 1/2 NW 1/4 and NW 1/4 NE 1/4 Section 23,
all in T044N, R34W

I/We understand that the validity of Water Right No. 802-2 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 at the Division of Water Rights, as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

County of Jackson)

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

Kenny Fox
(Signed)

Subscribed and sworn to before me this 14th day of Feb, 19 90.

Paula Skirra
(Notary Public)
Comm. Expires 10-8-97

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water 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

412101

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, February 21, 1989

RECEIVED OF Mr. Kenny Fox, Box 37, Belvidere SD 57521

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. _____	2	50
Fee for Filing Transfer Form _____ Water Right No. 202-2		
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 [Signature]
Chief Engineer

SOUTH DAKOTA
Department of
Water & Natural Resources

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

February 23, 1990

No. 321-2
802-2

Kenny Fox
Box 37
Belvidere SD 57521

Dear Mr. Fox:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right Nos. 321-2 and 802-2.

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

Sincerely,

Karen Schlaak

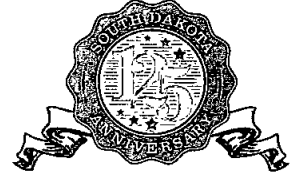
KAREN SCHLAACK
Senior Secretary
Water Rights Division
605 773-3352

enclosure



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



802-2

September 2, 2014

Kenny Fox
PO Box 37
Belvidere SD 57521

Dear Mr. Fox:

Enclosed as you requested are copies of the transfer of ownership forms and the receipts for the filing fees for Water Right or Permit Nos. 321-2, 638-2, 802-2 and 1188-2.

I should have mentioned when we spoke that you can actually go on line and view the entire permit file for each of these. Our program website is found at:

<http://denr.sd.gov/des/wr/wr.aspx>

Once you get to the site, view along the left hand side of the page and scroll down till you see "databases". Click on the link to the water rights database and it will take you to a page where you can search by name, permit number, legal description and source of water. The website also includes other databases to view and of course includes all of our various forms (transfer forms, new application forms, irrigation questionnaires etc).

If you have any questions, please contact me.

Sincerely,

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

enclosures



**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.

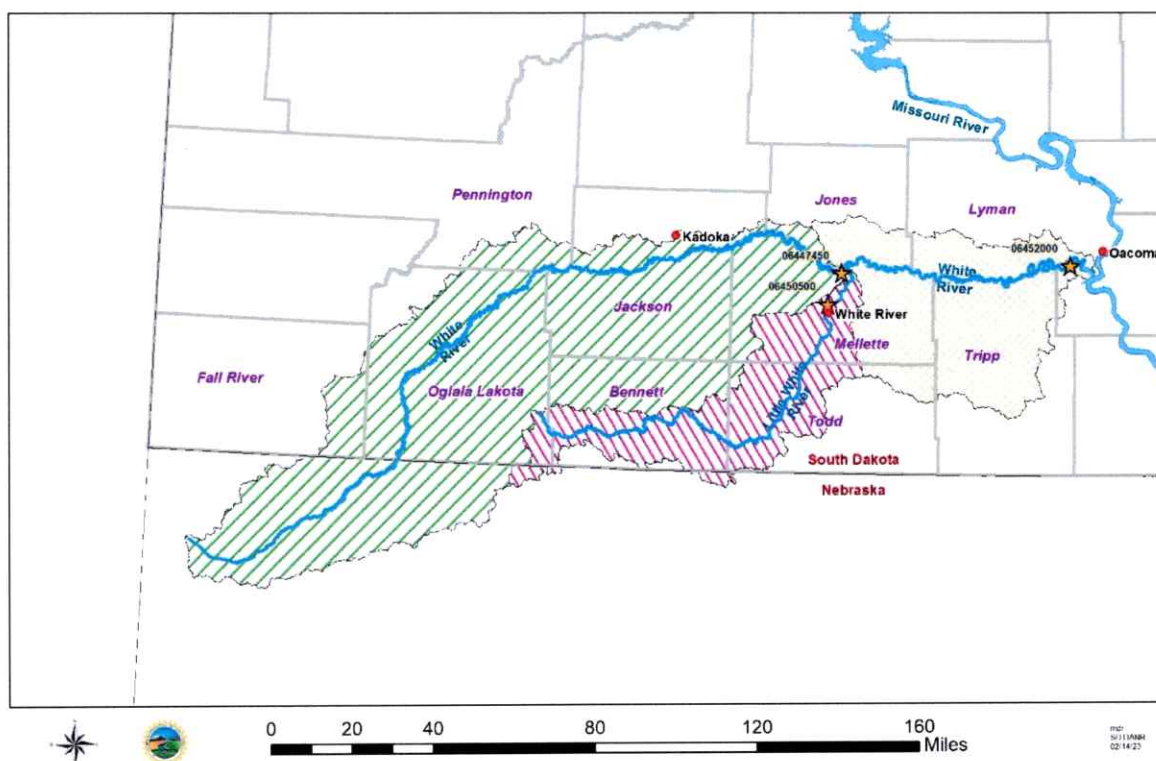


Figure 1. White River Watershed Map.

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.

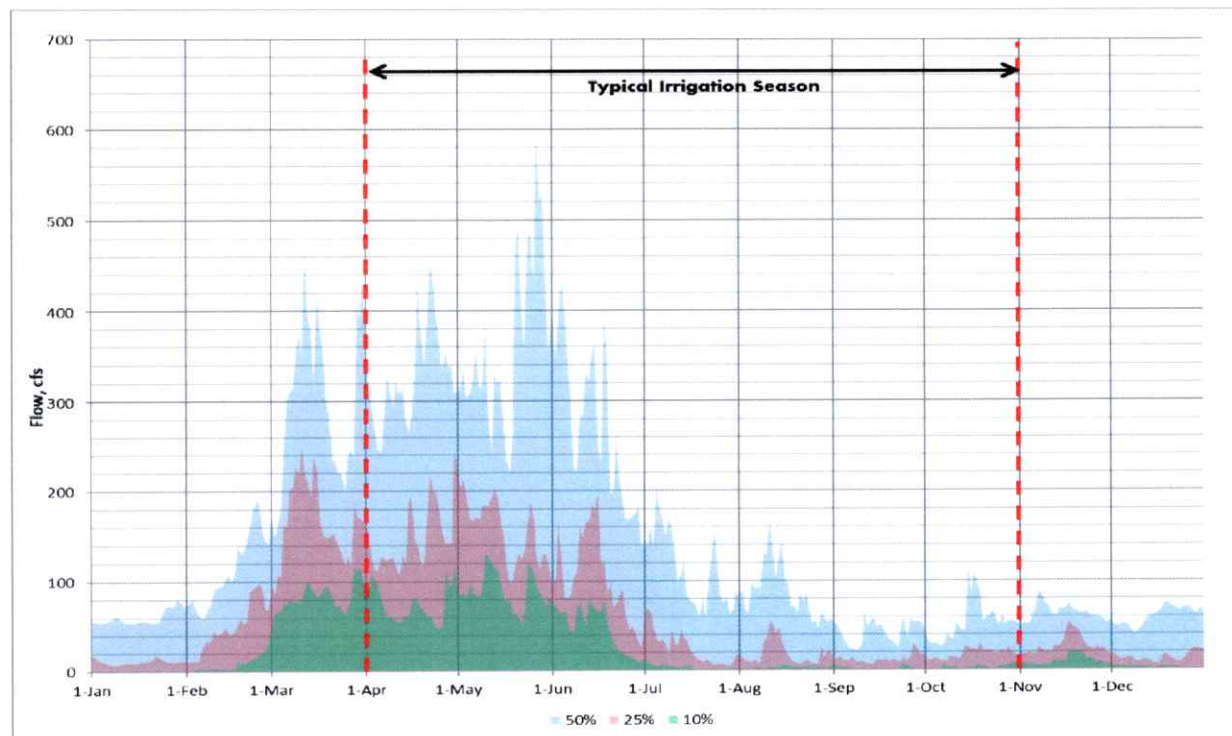


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

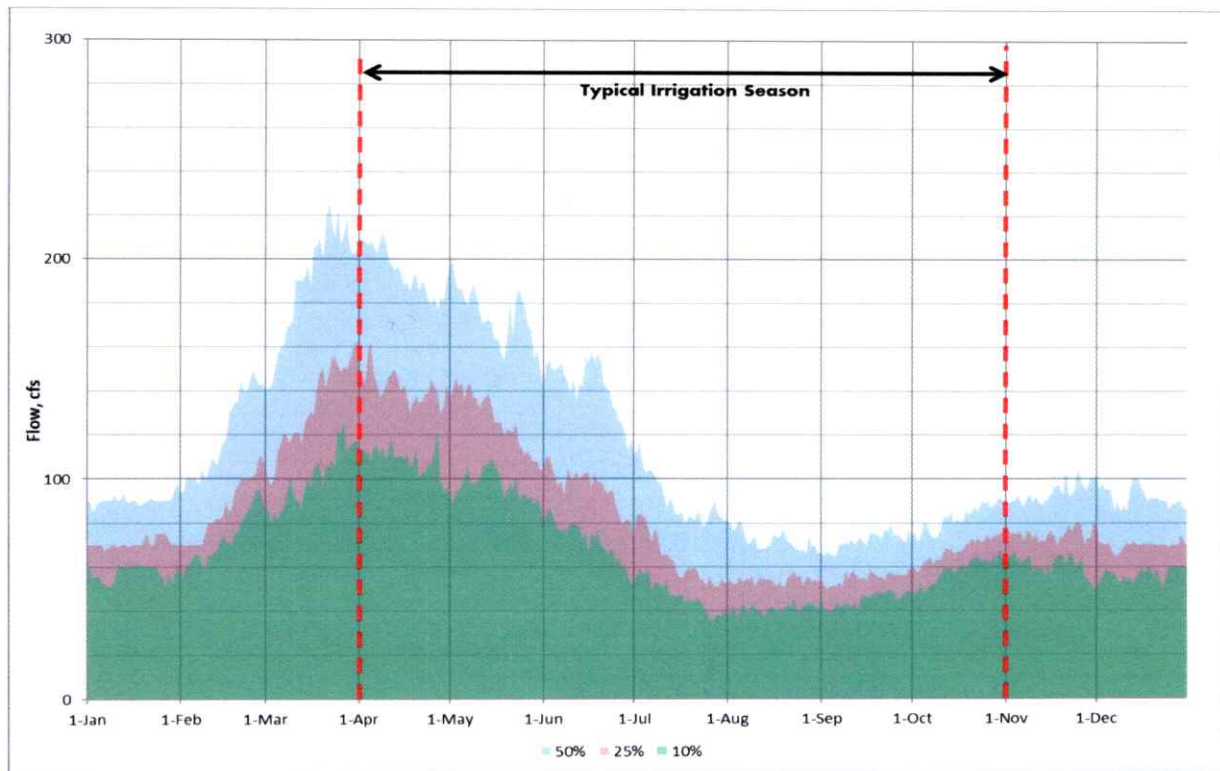


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

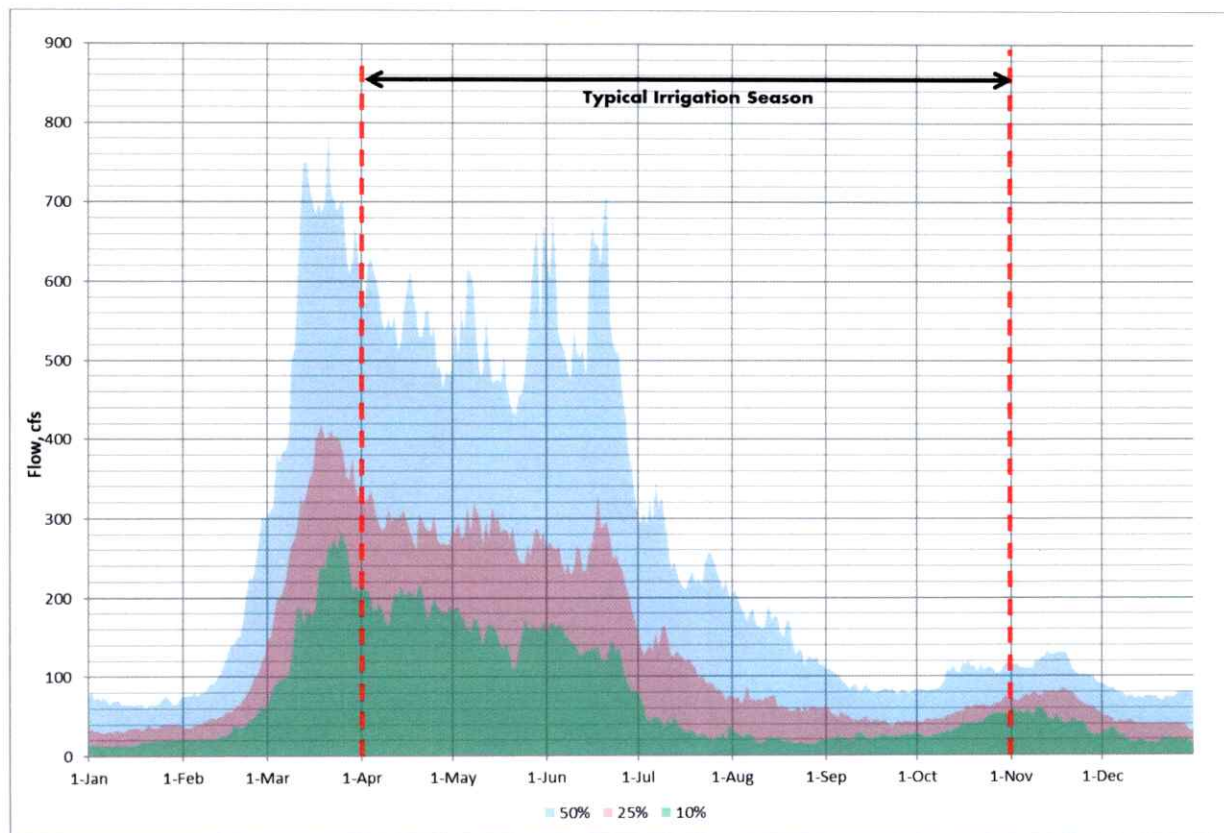


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

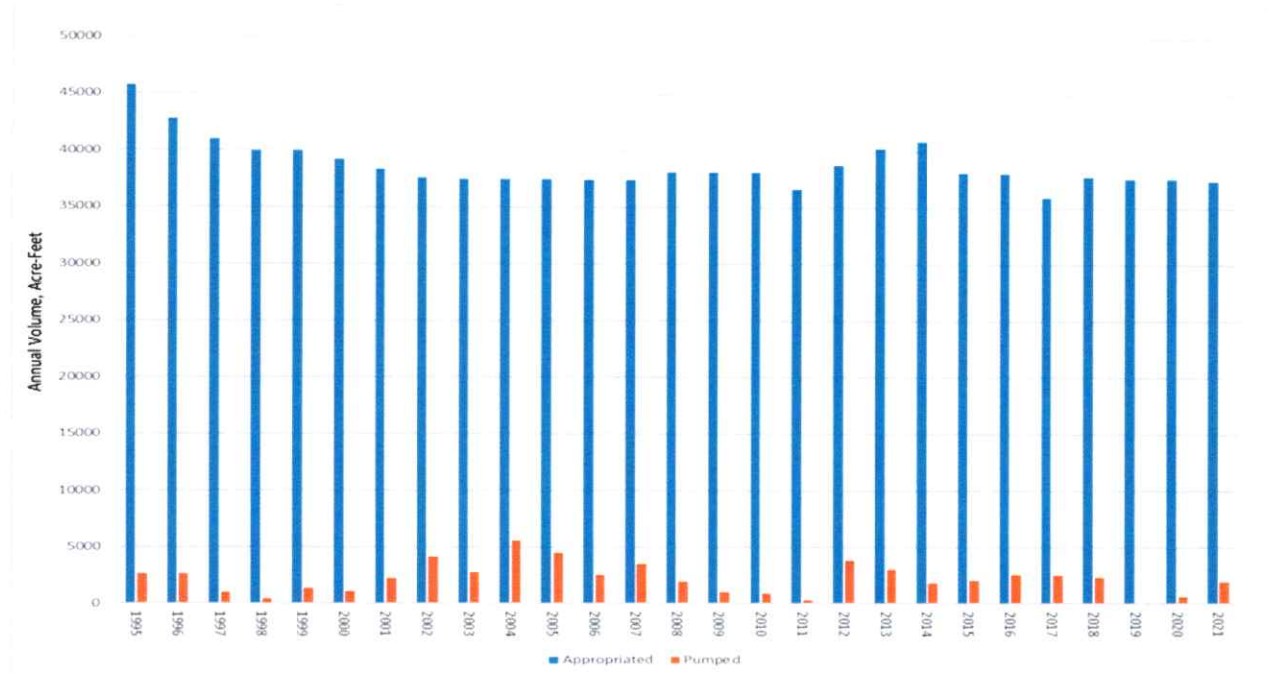


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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.