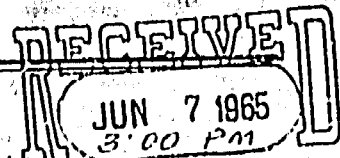


1. Considered 7.10, 1910
2. Name of Applicant Edmund S. Smith
3. Post Office Address PRESIDENT
4. Amount of Water Claimed .125
5. Source of water supply WHITE RIVER & ARTESIAN WELL
6. Water to be used for IRRIGATION
Acres to be irrigated 44.16
7. Water to be diverted and used in ISMAH County about
15 Miles S of PRESIDENT
8. Proof of Publication Received ✓
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:



No. 867-2
 Water Division No. 2 WHITE RIVER District
 (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

1. Name of applicant - Larry D. Byrd
Presho, S.D. 57568

Postoffice address _____, County LYMAN, 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 direct labor)

CONTRACT & DIRECT LABOR

(b) Cash on hand, \$ ADEQUATE

(c) Treasury stock, \$ _____

(d) Bonds to be issued, \$ _____

(e) Other resources, \$ _____

2. Name of diversion work

SLETTO IRRIGATION PROJECT

3. Amount of water claimed 6.3 cubic feet per second

4. Source of water supply WHITE RIVER & GROUND WATER

5. Location of point of diversion FROM RIVER - BETWEEN POINTS IN LOT 3, SECTION 30, T103N, R17W on LEFT bank LYMAN County.

6. Annual period or periods during which water is to be used APRIL THRU OCTOBER

7. To be used for:

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

(a) Number of acres to be irrigated 44.6 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 _____ 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 747-2

8. Estimated cost of work:

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

(c) Fluming, \$.....

(e) Other structures

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

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

Rock, \$.....

Total, \$.....

9. Description of diversion works:

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

II. Dimensions of works.

(c) 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.....
(d) 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
At.....Mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work.....5.....years.
11. Time required for complete application of water to the proposed beneficial use.....4.....years.
12. Choice of newspaper for publication of notice of intention to appropriate.....

LYMAN COUNTY HERALD, PRESHO

STATE OF SOUTH DAKOTA

County of.....HUGHES.....ss.

I,.....FLOYD SLETT

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.

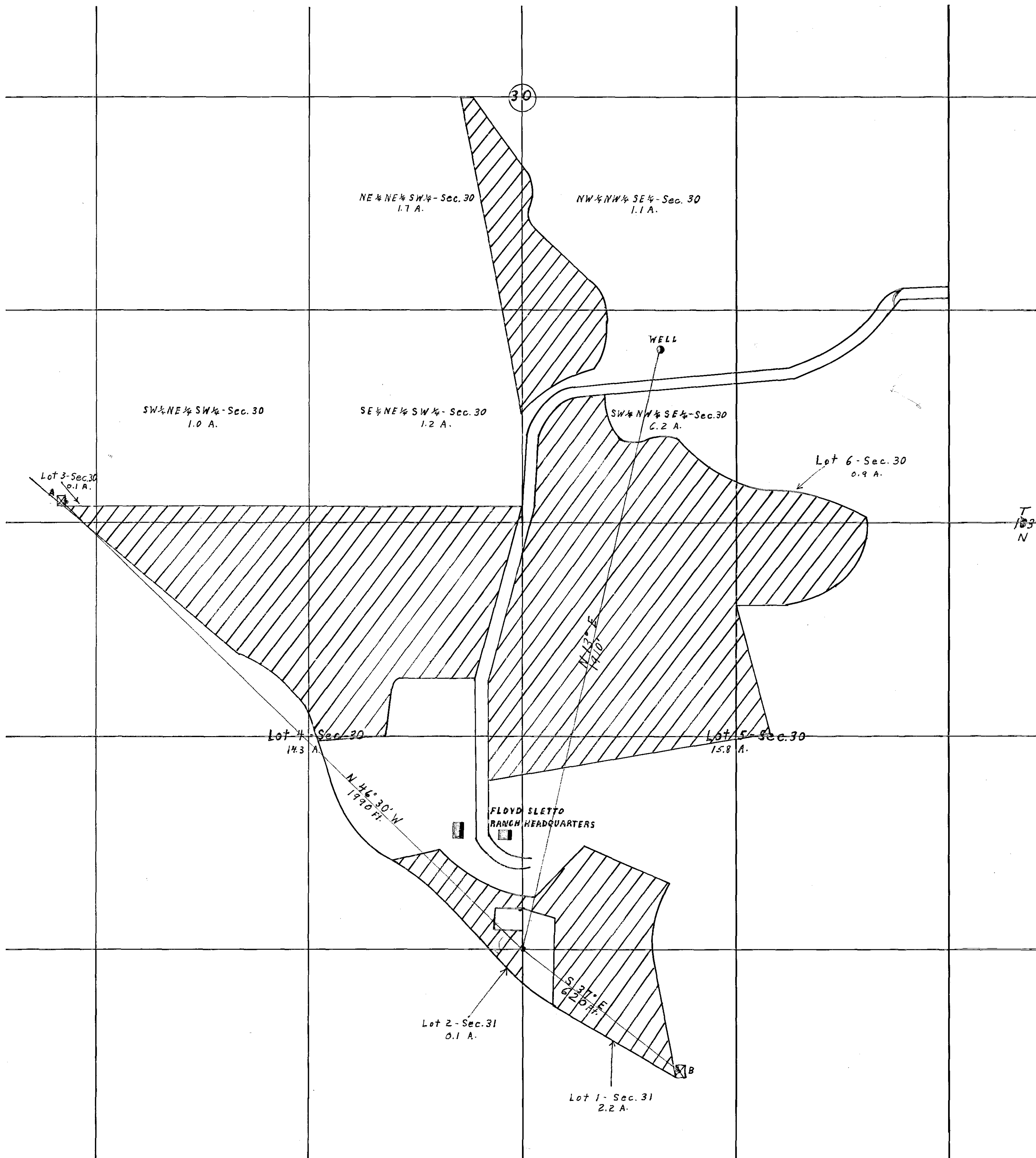
Signed.....Floyd Slett

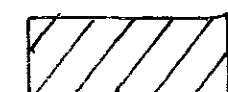
Subscribed and sworn to before me this.....7th.....day of.....JUNE.....1915

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

R 77W



 Land to be irrigated

All lands described are owned by Floyd Sletto

LOCATION OF LAND TO BE IRRIGATED				
LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
NE 1/4 NE 1/4 SW 1/4	30	103N	77W	1.7
NW 1/4 NW 1/4 SE 1/4	30	103N	77W	1.1
Lot 3	30	103N	77W	0.1
SW 1/4 NE 1/4 SW 1/4	30	103N	77W	1.0
SE 1/4 NE 1/4 SW 1/4	30	103N	77W	1.2
SW 1/4 NW 1/4 SE 1/4	30	103N	77W	6.2
Lot 6	30	103N	77W	0.9
Lot 4	30	103N	77W	14.3
Lot 5	30	103N	77W	15.8
Lot 1	31	103N	77W	2.2
Lot 2	31	103N	77W	0.1
TOTAL				44.6

SCALE: 1" = 200'

SURVEYOR'S CERTIFICATE

I, FRANKLIN L. FITE DO HEREBY CERTIFY THAT THIS MAP IDENTIFIES A REASONABLY ACCURATE RECORD OF THE LAND OF THE FLOYD SLETTA IRRIGATION PROJECT NUMBER 1 AND HAS BEEN PREPARED BY THE SOIL CONSERVATION SERVICE FOR THE AMERICAN CREEK SOIL AND WATER CONSERVATION DISTRICT

SIGNATURE: Franklin L. Fite
TITLE: Work Unit Conservationist

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SUBSCRIBED AND SWORN TO BEFORE ME THIS June 7 DAY OF 1965 A.D.

Richard L. Armachy
NOTARY PUBLIC

MY COMMISSION EXPIRES Dec 13, 1970

MAP NO 747-2 (APPL NO 867-2)

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 } 59.

Pierre, South Dakota, JULY 15, 1965

This is to certify that the foregoing application was received by the Commission at 3:00 o'clock

P.m. upon the 7TH day of JUNE, 1965

State Water Resources Commission

By:

Burton Jones
for Chief Engineer, Executive Officer

Number of permit 867-2

Date of first receipt of application JUNE 7, 1965

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 JUNE 7, 1965

Approved JULY 14, 1965 Recorded in Book 9 Page 23

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

JANUARY 14, 1968

2nd. The whole of said work is to be completed on or before JULY 14, 1970

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

JULY 14, 1974

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 .63 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 14, 1974; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this 15TH day of JULY, 1965

State Water Resources Commission

By:

Frederick

Chief Engineer, Executive Officer

Certificate of Construction Issued DECEMBER 12, 1972

Water License Issued DECEMBER 12, 1972

LANDS TO BE IRRIGATED
ALL IN T102N, R77W

SECTION 30	Lot 3	0.1	ACRES
	Lot 4	14.3	"
	Lot 5	15.8	"
	Lot 6	0.9	"
	NE ¹ SW ¹	3.9	"
	NW ¹ SE ¹	1.3	"
SECTION 31	Lot 1	2.2	"
	Lot 2	0.1	"
TOTALS		44.6	ACRES

Permit No. 867-2

Water Diversion No. 2 WHITE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify That Floyd Sletto

_____ the holder _____ of
Permit No. 867-2, issued upon Application No. 867-2, bearing date of priority of June 7, 1965
_____ authorizing the diversion of .63 cu. ft. per second of the waters of _____
White River & ground water County of Lyman, State of South Dakota at _____
from the S½ corner, Section 30, T103N, R77W, between points North 46° 30' West,
1990 feet and South 37° East, 620 feet
_____, 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 1.57 cu. ft. per second of water.

Date December 12, 1972

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 867-2

(1) WHEREAS, On the 7th day of June A. D. 19 65Floyd Slettomade Water Right Application No. 867-2 for a permit to use .63 cubic feet per second of the waters of the White River and ground waterCounty of Lyman State of South Dakota, for irrigation

purpose; and

(2) WHEREAS, On the 15th day of July A. D. 19 65Permit No. 867-2, with a date of priority of June 7, 1965was 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 14th day of July A. D. 19 70 and for theapplication to beneficial use of said water on or before the 14th day of July A. D. 19 74

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 .63 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 T103N, R77WSection 30 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 7.3 acresNE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.8 acresLots 3 & 4 14.4 acresLot 5 15.8 acresSection 31 Lots 1 & 2 2.3 acresTOTAL ACRES 44.6

on or before
(First Publication June 17, 1965)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., June 14, 1965

Notice is hereby given that Floyd Slette whose postoffice address is Presho 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 .53 cubic feet of water per second of time from the White River through the Slette Irrigation Project, the point of diversion of which is to be located on the left bank of said stream/in the Lot 3 ~~XXXXXX~~ of Section 30 portions of Twp. 103N Range 77W. Said water to be used for the purpose of providing irrigation on the following described land:

Lots 3, 4, 5, and 6, NE 1/4 SW 1/4 and NW 1/4 SE 1/4, Section 30; Lots 1 and 2, Section 31, T103N, R77W

~~XXXXXX~~ purpose

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 14th day of July, 1965, 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

CC: Mr. Robert C. Cameron, Publisher
Lyman County Herald
Presho, S. Dak.

No. 867-2
APPROPRIATION OF WATER

Office of State Water Resources
Commission, Pierre, S. Dak., June
14, 1965.

Notice is hereby given that Floyd
Sletto whose postoffice address is
Presho, S. Dak., has made appli-
cation in accordance with the pro-
visions of the water laws of South
Dakota for a permit to appropriate
for beneficial use .63 cubic feet of
water per second of time from the
White River through the Sletto Ir-
rigation Project, the point of di-
version, of which is to be located
on the left bank of said stream be-
tween a point in Lot 1, Section 31,
and a point in Lot 3 of Section 30,
Twp. 103N, Range 77W. Said water
to be used for the purpose of pro-
viding irrigation on portions of the
following described land: Lots 3,
4, 5, and 6, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$
SE $\frac{1}{4}$, Section 30; Lots 1 and 2,

Section 31, T103N, R77W.

This application will be taken up
by the State Water Resources Com-
mission at their office at Pierre for
consideration upon the 14th day of
July, 1965, at 2:00 P. M. All inter-
ested persons may appear and be
heard.

Appropriate action will be taken
by the Water Resources Commis-
sion after suitable time has elaps-
ed for the consideration of any or
all information presented.

STATE WATER RESOURCES
COMMISSION

By: BURTON F. JONES

Water Right Specialist

June 16-23-30 -- July 1

Publisher's Affidavit of Publication

STATE OF SOUTH DAKOTA)
COUNTY OF LYMAN) SS.

Robert C. Cameron, of said county and state being duly sworn on his
oath says: The Lyman County Herald is a weekly newspaper of general
circulation and published in Presho, Lyman County, and State of South
Dakota; and has been such newspaper during the times hereinafter mention-
ed; That the said newspaper is a legal weekly, that it has a bonafide circula-
tion of more than 200 copies weekly, that it has been published within said
County of Lyman for more than fifty-two successive weeks next prior to
publication of the notice hereinafter mentioned and has been printed during
said period and at the present time in an office maintained at the place of
publication; That I, the undersigned am publisher of said newspaper, in
charge of the advertising department thereof, and have personal knowledge
of all the facts stated in this affidavit; that the advertisement headed:

Appropriation of Water

A printed copy of which is hereto attached and published in the said
newspaper for four consecutive weeks.

The first publication of said notice is said newspaper aforesaid was on
Thursday, the 17 day of June A. D., 1965

and that the preceding publications were severally

Thursday, the 24 day of June A. D., 1965

Thursday, the 1 day of July A. D., 1965

Thursday, the _____ day of _____ A. D., 196 _____

Thursday, the _____ day of _____ A. D., 196 _____

Thursday, the _____ day of _____ A. D., 196 _____

Thursday, the _____ day of _____ A. D., 196 _____

Thursday, the _____ day of _____ A. D., 196 _____

and the last publication on Thursday, the 8 day of
July, 1965; that the full sum of fees charged for

publishing the same, to-wit: the sum of \$ 13.30, insures solely
to the publisher of The Lyman County Herald. That no agreement or under-
standing for any division thereof has been made with any other person, and
that no part thereof has been agreed to be paid to any person whatsoever.

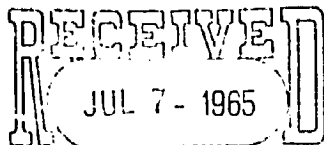
Robert C. Cameron

Subscribed and sworn to before me, this 30

day of July, 1965

Edgar Parker

Notary Public.



STATE WATER RESOURCES COMM.
PIERRE SOUTH DAKOTA

NOTICE OF TRANSFER OF WATER PERMIT

TO: **WATER RIGHTS COMMISSION**
State Office Building No. 2
Pierre, South Dakota 57501

Date Nov 29, 1976

This is to notify you that title to the lands described as follows:
Section 30 and 31, T103N, R77W

_____ formerly owned by Floyd Sletto

_____ has been transferred to Larry D. Byrd, Presho, S.D.

_____ together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 867-2 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 as evidence of the change of ownership.

WATER RIGHTS COMMISSION

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0155 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

I, Larry D. Byrd 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.

Larry D. Byrd
(Signed)

Subscribed and sworn to before me this 29th day of November, 1976

Betty Westlund
(Notary Public)
Land & Water Clerk II

Permit No. 867-2

Water Division 2 WHITE RIVER Water District

REPORT 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 Floyd Sletto
_____ of Presho, South Dakota _____ holder ____
of Permit No. 867-2, bearing date of priority of June 7 _____, 1905
authorizing the diversion of 0.63 cu. ft. per second of the waters of White River
for irrigation _____ purposes, in Lyman _____ 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:

"Berkeley" centrifugal 3" pump

"International" Diesel Tractor, Mod. 560, 50 H.P.

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

100G feet of 6 inch diameter aluminum pipe

C. Works used to apply water to beneficial use.

2000 feet of 6 inch gated pipe

The system is _____, condition: good

The point of diversion is located from S $\frac{1}{2}$ corner of Sec. 30, T103N, R77W. Between points North 46° 30' West, 1990 ft. and South 37° East, 520 feet.

The works are capable of diverting and conveying to the place of use 2.57

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: all in T103N, R77W

NW¼ SE¼, Sec. 30	7.3 acres	Lot 5, Sec. 30	15.8 acres
------------------	-----------	----------------	------------

NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30	4.8 acres	Tots 1 & 2, Sec. 31	2.3 acres
---	-----------	---------------------	-----------

Lot 3 & 4, Sec. 30 14.4 acres

As shown on Water Right Map No. 747-2

comprising a total of 44.6 acres of land.



Department of Water & Natural Resources

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

May 26, 1988

Larry Byrd
SR 6, Box 10
Presho, SD 57568

Dear Mr. Byrd:

I am writing in regard of our review of irrigation questionnaire records. No irrigation has been reported for the last five irrigation seasons under Permit No(s). 867-2.

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

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

Very truly yours,

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



June 14, 1988

John Hatch, Chief Engineer
Water Rights Division

Dear John,

We would like to keep our water permit
No. 367-2. We have had so much rain
during irrigating season in the last few years
we didn't need to pump. This year might be
different.

Thank you
Sincerely,
Larry D. Byrd



HCR 80 Box 106
Presho 57568



267-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 29, 1993

NOTICE

TO: LARRY BYRD
HCR 80 BOX 106
PRESNO SD 57568

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Violation of Requirement to Submit 1992 Irrigation Questionnaire

Our records indicate that the 1992 Irrigation Questionnaire has not been submitted for Permit No(s) 867-2. The request for the Questionnaire was dated October 16, 1992. The Water Management Board has directed that owners of water permits who have not submitted the 1992 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 3, 1993, 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 SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 867-2 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. Prior to February 22, 1993, contact the Water Rights Division, 523 E Capitol, Pierre SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the questionnaire(s) is(are) received in this office before the March 3rd hearing date, your name will be deleted from the Board agenda.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: <i>867-2</i> LARRY BYRD HCR 80 BOX 106 PRESHO SD 57568	4a. Article Number <i>P006 560 053</i> 4b. Service Type ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise 7. Date of Delivery <i>1-30-93</i> 8. Addressee's Address (Only if requested and fee is paid)
5. Signature (Addressee) <i>Larry Byrd</i> 6. Signature (Agent)	

PS Form 3811, December 1991 2 U.S.G.P.O. : 1992-507 529

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.



867-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 12, 1993

867-2

Larry Byrd
HCR 80 Box 106
Presho, SD 57568

Dear Mr. Byrd:

I am writing to acknowledge receipt of your 1992 irrigation questionnaire for Water Right No. 867-2. You may disregard the January 29, 1993, Notice of Violation of the Requirement to Submit the 1992 Irrigation Questionnaire. The questionnaire 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
Natural Resources Analyst
Water Rights Division
(605) 773-3352

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

3. Article Addressed to:

LARRY BYRD
HCR 80 BOX 106
PRESHO SD 57568

5. Signature (Addressee)

6. Signature (Agent)

Larry Byrd

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

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

Consult postmaster for fee.

4a. Article Number

86720 9837692526

4b. Service Type

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

7. Date of Delivery

02-17-94

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

PS Form 3811, December 1991 ★ U.S.G.P.O. : 1992 507-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.



February 16, 1994

LARRY BYRD
HCR 80 BOX 106
PRESHO SD 57568

867-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3481

NOTICE

RE: Violation of Requirement to Submit 1993 Irrigation Questionnaire

Our records indicate that the 1993 Irrigation Questionnaire has not been submitted for Permit No(s) 867-2. The request for the Questionnaire was dated October 18, 1993. The Water Management Board has directed that owners of water permits who have not submitted the 1993 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

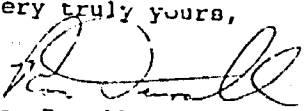
The hearing will be held at 8:45 am, April 6, 1994, at the Golden Hills Resort, 900 Miners Ave, Lead, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 867-2 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 April 1, 1994, your name will be deleted from the Board agenda.

Very truly yours,


Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352



867-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 24, 1994

867-2

Larry Byrd
HCR 80 Box 108
Presho, SD 57568

Dear Mr. Byrd:

I am writing to acknowledge receipt of your 1993 Irrigation questionnaire. You may disregard the February 16, 1994, Notice of Violation of the Requirement to Submit the 1993 Irrigation Questionnaire.

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

If you have any questions, please contact me.

Sincerely,

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

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



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 7, 2020

867-2

Dixie Byrd
30356 Bison Rd
Presho SD 57568

Dear Ms. Byrd:

Thank you for sending in the 2020 irrigation questionnaire. In reference to your note about the ownership change, if you want to maintain the water right, it should be transferred to your name.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a postage paid envelope for your convenience in returning the transfer form and filing fee. If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath".

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

enclosure

867-2



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 16, 2020

867-2

Dixie L Byrd
30356 Bison Rd
Presho SD 57568

Dear Ms. Byrd:

Thank you for following up on the ownership change for Water Right No. 867-2.

The ownership change has been completed. Water Right No. 867-2 formerly held by Larry Byrd is now listed in your name.

Enclosed for your records is a receipt for the filing fee you paid. If I can answer any questions for you, please contact me.

Sincerely,

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

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

PAID

DEC 16 2020

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 6565

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

RECEIVED

DEC 16 2020

WATER RIGHTS
PROGRAM

No. 867-2

Date: _____

I/We request that Water Right No. 867-2

formerly owned by: Larry Byrd

be transferred to: (name & address) Dixie Byrd, 30356 Bison Rd, Presho SD 57568

Telephone No.

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

44.6 acres – NW ¼ SE 1/4, NE ¼ SW ¼, Lots 3, 4 & 5, Section 30, Lots 1 & 2, Section 31

All in T103N, R77W

I/We understand that the validity of Water Right No. 867-2 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 Fifty Dollars (\$50.00) 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 Dixie L. Byrd, the new owner, certify that the above information is true and correct.

Dixie L. Byrd
(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.

867-2

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date December 16, 2020RECEIVED OF Larry/Dixie Byrd 30356Bison Rd. Presho SD 57568

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>867-2</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By Eric Gronlund
Chief Engineer
vn



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

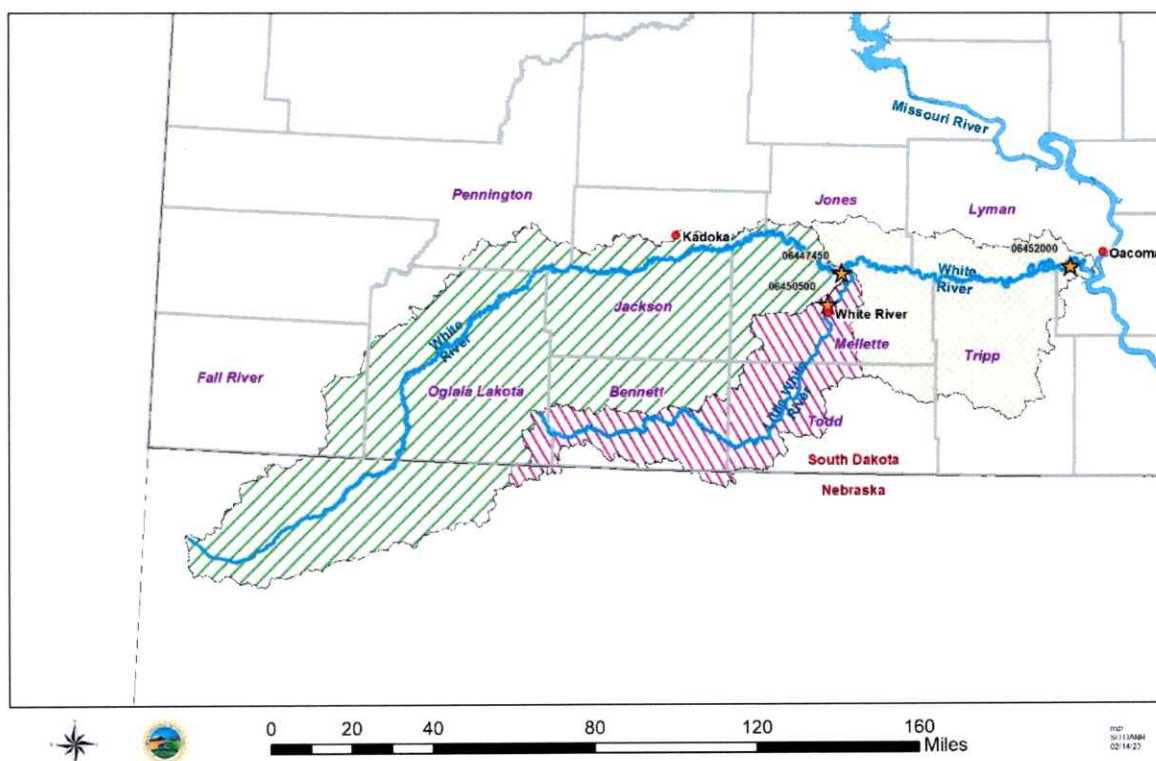


Figure 1. White River Watershed Map.

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

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

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

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

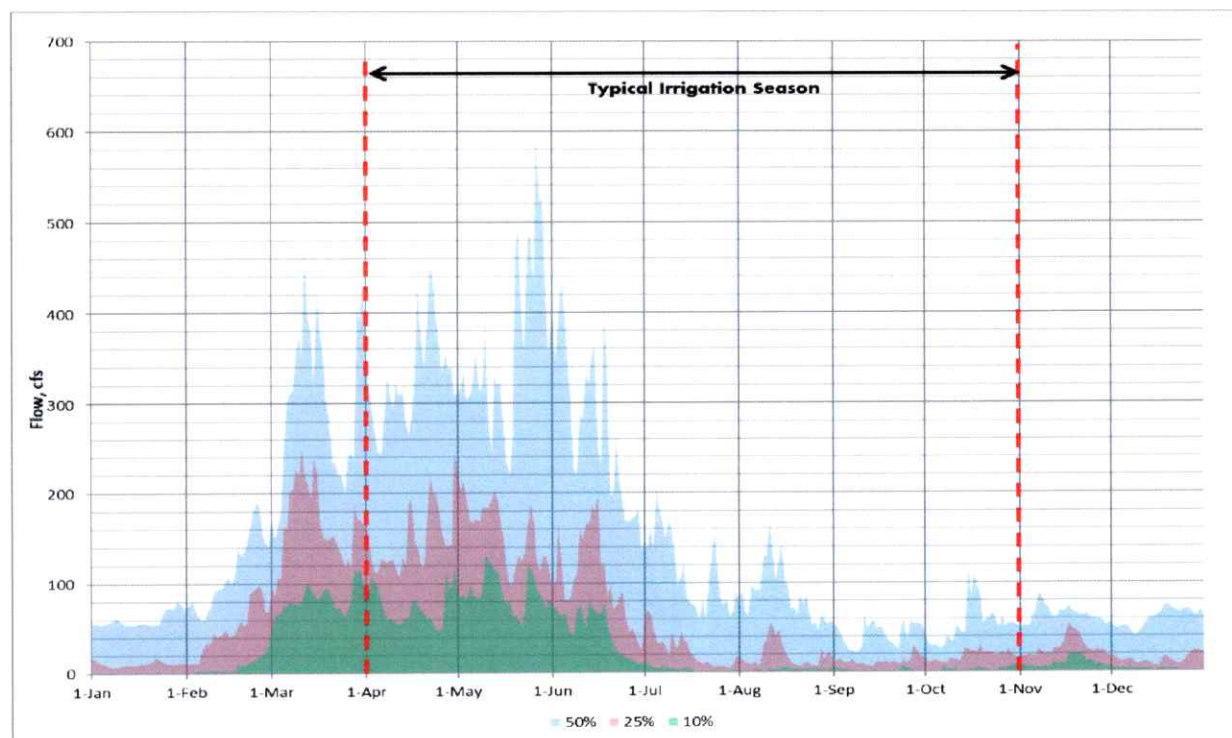


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

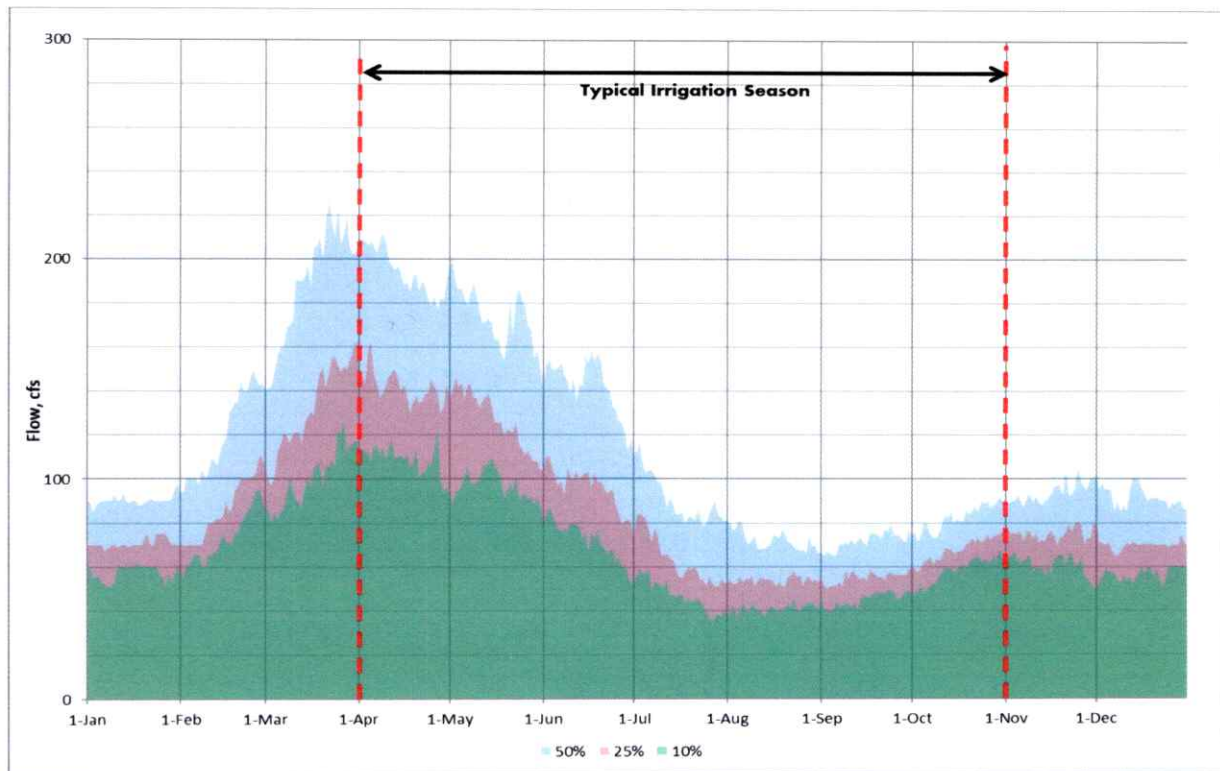


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

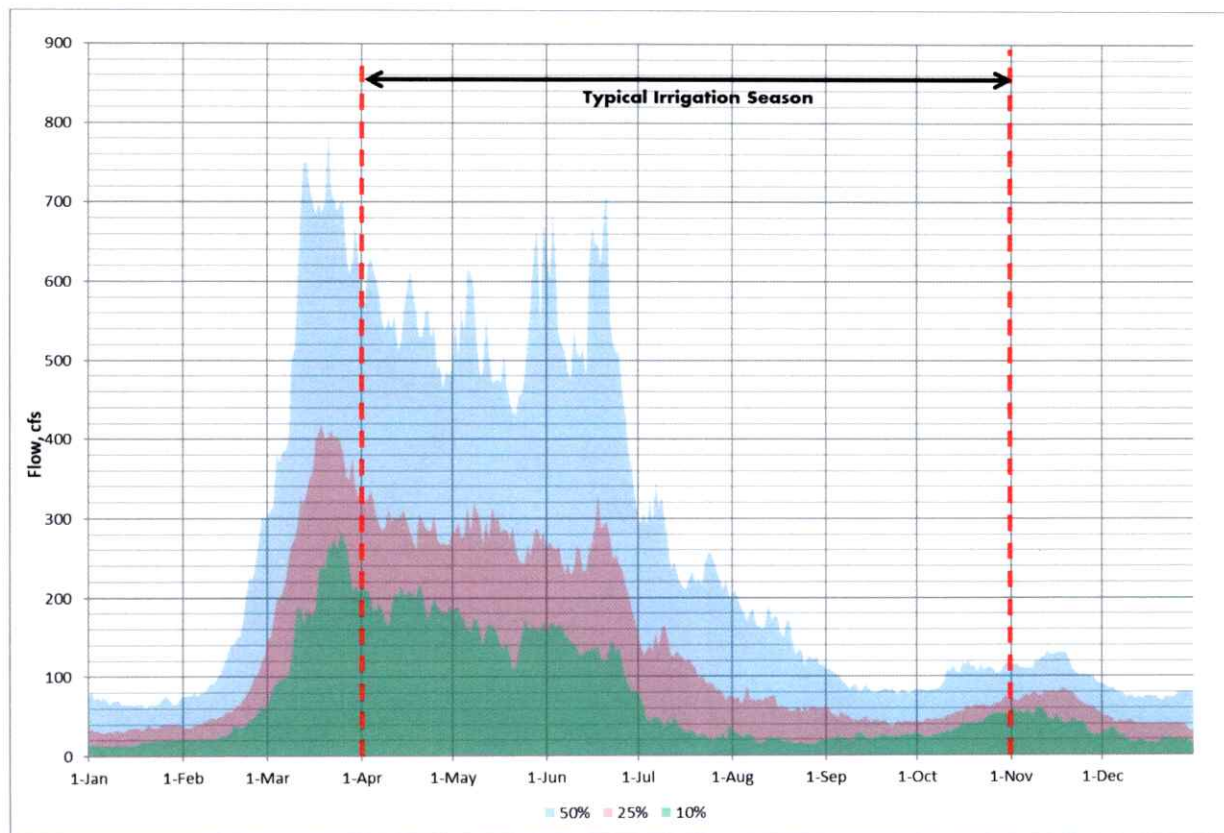


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

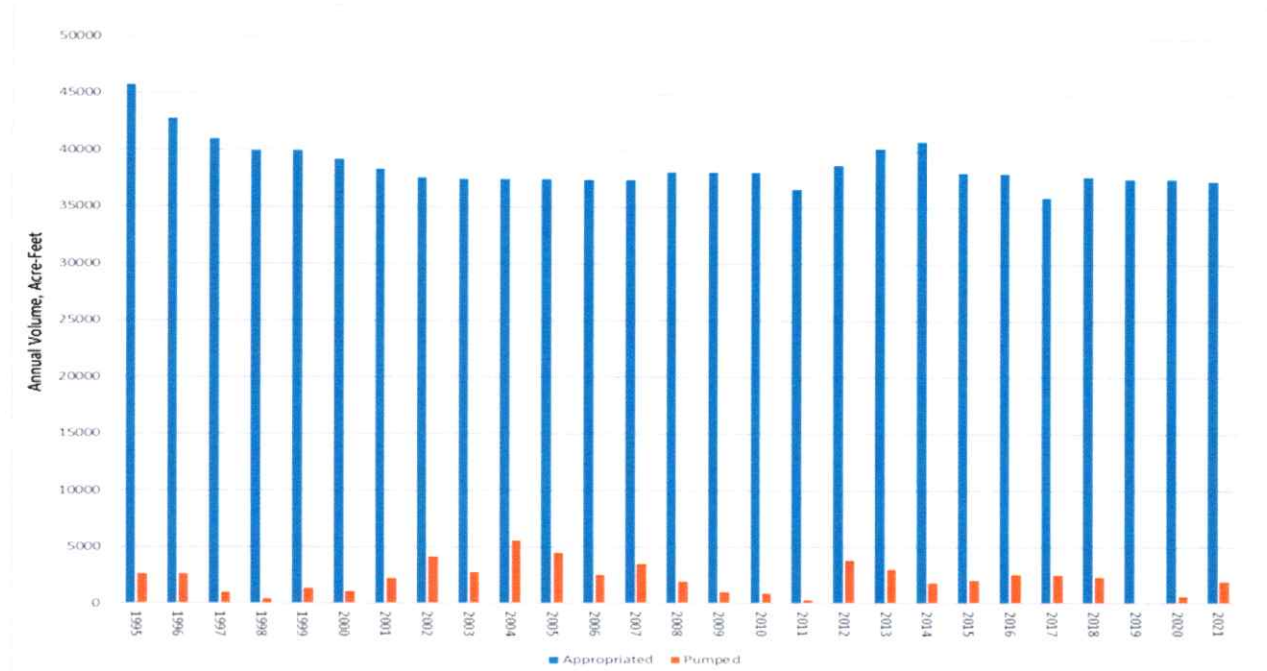


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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April 14, 2023

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

Dear White River Water Right Holder,

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

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR