

950-2

1. Considered 3.20, 1968
2. Name of Applicant EARL BURTZ
3. Post Office Address WINNER
4. Amount of water claimed 2.04
5. Source or water supply WHITE RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 143.38
7. Water to be diverted and used in TRIPP county
about 153 2 1/2 miles of PRESTON
8. Proof of Publication
Received ✓
Not received _____
9. Application
Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:

No.

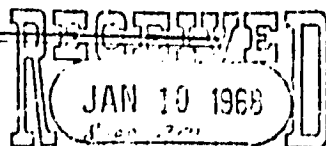
950-2

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

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

1. Name of applicant Earl Burtz
 Postoffice address Winner, County Tripp, State S. Dak.

I. If a corporation -----

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

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

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

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

Contract & direct labor

(b) Cash on hand, \$-----

(c) Treasury stock, \$-----

(d) Bonds to be issued, \$-----

(e) Other resources, \$adequate2. Name of diversion work Winkota Farms Project3. Amount of water claimed 2.04 cubic feet per second4. Source of water supply White River5. Location of point of diversion T103N, E78W. Diversion Point No. 1 - 2100 ft. West of SE corner Sec. 25,SE corner Sec. 25, T103N, E78W. on Southerly bank Tripp County.6. Annual period or periods during which water is to be used April thru November

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? gravity(a) Number of acres to be irrigated 143.38 acres.(b) Legal subdivisions to be irrigated See attached sheet

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

(c) Statement as to domestic use (giving location, etc.) None

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

(a) Nature of use None
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 821-2

8. Estimated cost of work:

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

(b) Pumping plant, \$ 3000

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

(d) Canal-earth, \$ 1500

Rock, \$.....

(e) Other structures \$.....

Total, \$ 5000

9. Description of diversion works:

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

Two pumping plants and canal system

II. Dimensions of works:

(a) Dam: Height..... feet; length at bottom..... feet; length at top..... feet; thickness at bottom..... feet; thickness at top..... feet; slope 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..... FEET DEPTH AT OUTLET--ACRES	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 dimension 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, additional

12. Choice of newspaper for publication of notice of intention to appropriate..... Winner Advocate, Winner, South Dakota

STATE OF SOUTH DAKOTA

County of..... ss.

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

Subscribed and sworn to before me this..... day of..... 1918

Notary Public (or other qualified officer.)

ENGINEER'S CERTIFICATE

I, GEORGE FULLERTON, A SOUTH DAKOTA REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR 1121, CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT DELINEATION OF IRRIGATION PUMP SITES LOCATED IN THE SW1/4 SE1/4 AND NE1/4 SE1/4 SEC 25 T103N, R78W, OF THE 5TH P.M. TRIPP COUNTY, SOUTH DAKOTA. THE ABOVE DESCRIBED LAND BEING OWNED BY EARL BURTZ.
DATED Dec. 27, 1967.

George Fullerton
GEORGE FULLERTON
PE 1121
SOUTH DAKOTA

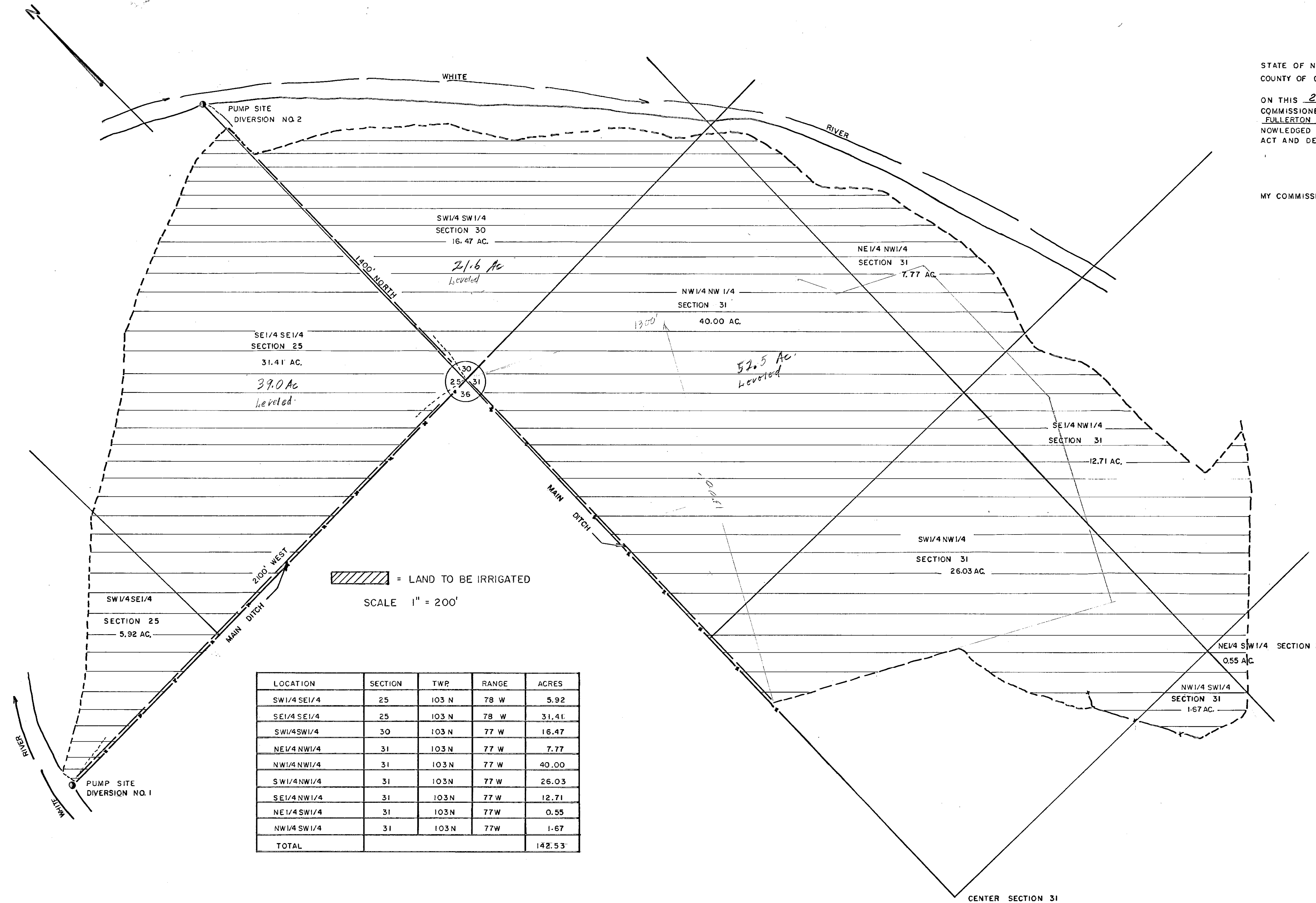
ACKNOWLEDGEMENT

STATE OF NEBRASKA)
COUNTY OF CHERRY) SS

ON THIS 27 DAY OF December, 1967, BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED IN AND FOR SAID COUNTY, APPEARED GEORGE FULLERTON WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME AND HE ACKNOWLEDGED THE SIGNING OF SAID ENGINEER'S CERTIFICATE TO BE HIS VOLUNTARY ACT AND DEED. WITNESS MY HAND AND OFFICIAL SEAL THE AFORESAID DATE.

Mary Abdullah
NOTARY PUBLIC

MY COMMISSION EXPIRES: June 21, 1973



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, MARCH 22, 1968

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock
A.m. upon the 10TH day of JANUARY, 1968

State Water Resources Commission

By:

Burton Jones
Chief Engineer, Executive Officer

Number of permit 950-2

Date of first receipt of application JANUARY 10, 1968

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 JANUARY 10, 1968

Approved MARCH 20, 1968, Recorded in Book 10 Page 102

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 20, 1970

2nd. The whole of said work is to be completed on or before MARCH 20, 1973

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

MARCH 20, 1977

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 2.04 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 MARCH 20, 1977; said water to be used during the following described annual period:

APRIL THRU NOVEMBER

Witness my hand this 22ND day of MARCH, 1968

State Water Resources Commission

By:

John Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued APRIL 20, 1976

Water License Issued APRIL 20, 1976

T 103N, R 78W

Section 25

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 5.92 acres

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 32.26 acres

T 103N, R 77W

Section 30

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.47 acres

Section 31

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 42.00 acres

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.77 acres

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 26.03 acres

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.71 acres

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.67 acres

NE $\frac{1}{4}$ SW $\frac{1}{4}$.55 acres

143.38 acres

Form 15.

Permit No. 950-2

Water Diversion No. 2 WHITE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Earl Burtz

950-2 the holder of
Permit No. 950-2, issued upon Application No. 950-2, bearing date of priority of January 10,
1968 authorizing the diversion of 2.04 cu. ft. per second of the waters of
the White River County of Tripp, State of South Dakota at
Point #1, 2100 ft. West of the SE Corner, Section 25; Point #2 -
1400 ft. North of the SE Corner, Section 25, T103N, R78W
 , for irrigation

purposes, has B 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 4.0 cu. ft. per second of water.

Date April 20, 1976

By: WATER RIGHTS COMMISSION

John Hatch
JOHN HATCH, Chief Engineer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 950-2

(1) WHEREAS, On the 10th day of January A. D. 1968
Earl Burtz

made Water Right Application No. 950-2 for a permit to use 2.04 cubic feet per second of the waters of the White River
County of Tripp, State of South Dakota, for irrigation purposes; and

(2) WHEREAS, On the 22nd day of March A. D. 1968
Permit No. 950-2, with a date of priority of January 10, 1968
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 20th day of March A. D. 1973 and for the application to beneficial use of said water on or before the 20th day of March A. D. 1977

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 2.04 cubic feet per second of water for beneficial use and,

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

for irrigating the following land:

Section 25, T103N, R78W	SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.92 acres
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	32.76 acres
Section 30, T103N, R77W	SW $\frac{1}{4}$ SW $\frac{1}{4}$	16.47 acres
Section 31, T103N, R77W	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00 acres
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	7.77 acres
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	26.03 acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	12.71 acres
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	1.67 acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	.55 acres
Total		143.28 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 Earl Burtz

Winner, S.D.

the holder _____ and owner _____ of said permit No. 950-2 a water right, dating from January 10, 1967 to use of 2.0d cubic feet per second of the waters of the White River

in the County of Tripp and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at _____

Point #1, 2100 ft. West of the SE Corner, Section 25; Point #2 -

1400 ft. North of the SE Corner, Section 25, T103N, R78W

and conduct to and upon portions of Section 25, T103N, R78W and Section 30 and 31, T103N, R77W, more fully described on the face of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 950-2 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

On or before February 15, 1968.
(First Publication)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., February 1, 1968

Notice is hereby given that Earl Burtz whose postoffice address is Winner 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 2.04 cubic feet of water per second of time from the White River through the Winkota Farms Project, the point of diversion of which is to be located on the right bank of said stream between a point in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T103N, R76W, and a point in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 30 Twp. 103W Range 77W. Said water to be used for the purpose of providing irrigation on the following described land:

SW $\frac{1}{4}$ Section 25, T103N, R76W, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31, T103N, R77W

Winner

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 20th day of March, 1968, at 2:00 P.M. All interested persons may appear and be heard.

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

State Water Resources Commission

By:

~~State Engineer, Executive Officer~~
BURTON F. JONES
Water Rights Specialist

cc: Earl Burtz, Winner, S.D.

Yaro

SS.

Notary Public _____ County, S. D.

ENGINEER'S CERTIFICATE

I, GEORGE FULLERTON, A SOUTH DAKOTA REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR 1121, CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT DELINEATION OF IRRIGATION PUMP SITES LOCATED IN THE SW1/4 SE1/4 AND NE1/4 SE1/4 SEC 25 T103N, R78W, OF THE 5TH P.M. TRIPP COUNTY, SOUTH DAKOTA. THE ABOVE DESCRIBED LAND BEING OWNED BY EARL BURTZ.
DATED Dec. 27, 1967.

George Fullerton
GEORGE FULLERTON
PE 1121
SOUTH DAKOTA

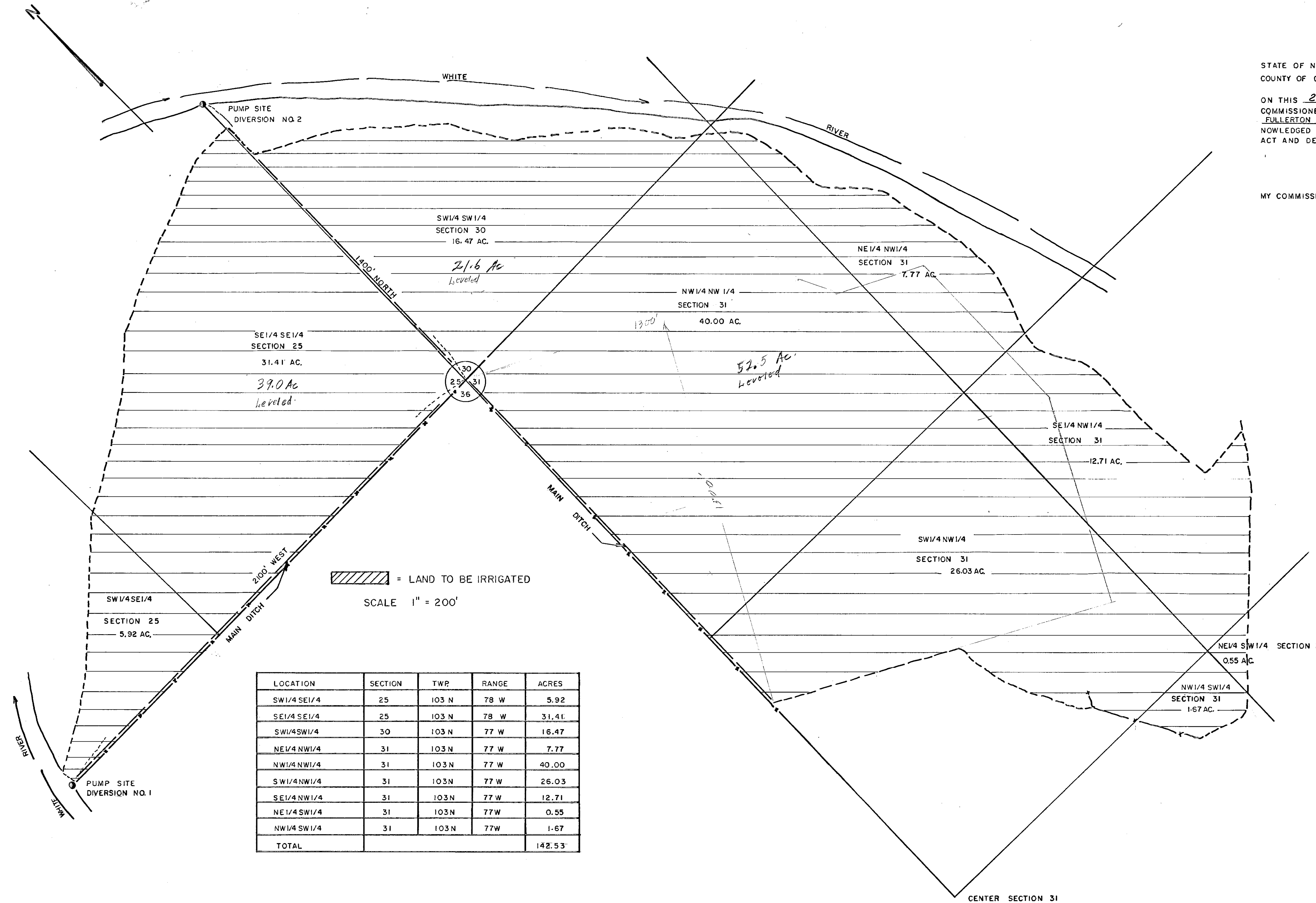
ACKNOWLEDGEMENT

STATE OF NEBRASKA)
COUNTY OF CHERRY) SS

ON THIS 27 DAY OF December, 1967, BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED IN AND FOR SAID COUNTY, APPEARED GEORGE FULLERTON WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME AND HE ACKNOWLEDGED THE SIGNING OF SAID ENGINEER'S CERTIFICATE TO BE HIS VOLUNTARY ACT AND DEED. WITNESS MY HAND AND OFFICIAL SEAL THE AFORESAID DATE.

Mary Abdullah
NOTARY PUBLIC

MY COMMISSION EXPIRES: June 21, 1973



Permit No. 750-2-Water Division 2- White River Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

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

I have this day made a thorough examination of the water use system constructed by Earl Burtr.
Winner, S.DAK holder
 of Permit No. 750-2-, bearing date of priority of Jan. 10, 1968
 authorizing the diversion of 2.04 cu. ft. per second of the waters of White River
 for Irrigation purposes, in Tripp 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:
 Pump - Crisafulli - Serial # 6855 - 2" outlet - 1200 GPM.
 Tractor Power -
 Pump - Berkeley Model # 5W0, Serial # 969367. Impeller
 dia 7 inches - 600 GPM.
 Engine - Allis Chalmers - Model G-160, Serial # 500672.
 Propane Fuel.
- B. Works used to transport water to place of use,
 PVC Pipe 8" dia - 330 ft.
 PVC Gated Pipe - 40 inch spacing 780 ft.
 PVC Gated Pipe - 36 inch spacing 780 ft.
 Aluminium Pipe 8" dia intake 40 ft.
 Aluminium Pipe 8" dia 220 ft. Total pipe length 4130 ft.
- C. Works used to apply water to beneficial use.

The system is in the following condition: Good.

The point of diversion is located Diversion Point No. 1, 2100 ft West of SE Corner
Sec. 25, T103N, R78W. Diversion Point No. 2, 1400 ft North of SE
Corner Sec. 25, T103N, R78W.

The works are capable of diverting and conveying to the place of use 4.0cu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: In Sec. 25, T103N, R78W

SW 1/4 SE 1/4 - 5.92 Ac., SE 1/4 SE 1/4 - 32.26 Ac. In Sec. 30, T103N, R77W
SW 1/4 SW 1/4 - 16.47 Ac. In Sec. 31, T103N, R77W, NW 1/4 NW 1/4 - 40.00 Ac.,
NE 1/4 NW 1/4 - 7.77 Ac., SW 1/4 NW 1/4 - 26.03 Ac., SE 1/4 NW 1/4 - 12.71 Ac.,
NW 1/4 SW 1/4 - 1.67 Ac., NE 1/4 SW 1/4 - 0.55 Ac.

comprising a total of 143.38 acres of land.

Date

Feb 23, 1976
Robert J. Mernagh
 (Signature)

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

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

April 15, 1985

Earl Burtz
RR 3
Winner SD 57580

Notice

Re: Violation of Requirement To Submit 1984 Irrigation Questionnaire

Our records indicate that the 1984 Irrigation Questionnaire has not been submitted for Permit No(s) 950-2. The request for the Questionnaire was dated October 17, 1984. The Water Management Board has directed that owners of water permits who have not submitted 1984 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 10:30 a.m., May 15, 1985 in the Civil Defense Room, State Capitol Building, Pierre, South Dakota.

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). 950-2 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.

Sincerely,

John Hatch
John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352

NOTE: If the questionnaire(s) is received in this office before the May 15th hearing date, your name will be deleted from the agenda for the hearings.

South Dakota
Department of
Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

June 12, 1985

Notice of Amendment to Water Permit(s)

To: Earl Burtz
RR 13
Winner, SD 57580

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

SUBJECT: Amendment to Water Permit No(s). 950-2.

John Hatch

Pursuant to the provisions of the notice dated April 15, 1985, and following the Hearing May 15, 1985, the Water Management Board has amended Water Permit No(s). 950-2 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.



Department of Water & Natural Resources

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

Attachment to Water Permit No(s). 950-2

Pursuant to the provisions of the notice dated April 15, 1985, and following the Hearing May 15, 1985, the Water Management Board has amended Water Permit No(s). 950-2 to add the following qualification:

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



**Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 950-2

December 10, 1985

Malen Lurtz
St Rt 6, box 31
Winner SD 57580

Dear Mr. Lurtz:

Please find enclosed a copy of a Notice of Transfer of Water Permit form. This form must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50.

Upon receipt of the enclosed form and the \$2.50 filing fee the permit will be transferred to the proper name. 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.

Please advise if you have any questions.

Sincerely,

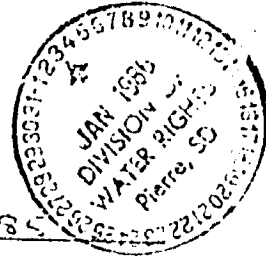
KAREN SCHLAACK
Administrative Aide

NO. 950-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 12/20/85



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

143.28 acres - S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25, T105N, R78W

SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31, T105N, R77W

formerly owned by Earl Burtz, RR 3, Winner SD

has been transferred to Malon Burtz SR #6, Box 31, Winner, SD 57580

(please include complete mailing address)

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

Water Right Permit No. 950-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of Tripp) ss.

I, Malon Burtz 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.

Malon Burtz
(Signed)

Subscribed and sworn to before me this 20 Day of Dec., 1985.

Charles H. Kain
(Notary Public)
My comm. expires 12/6/92

RECEIPT

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

No 4 10277

Pierre, January 3, 1966, 19

RECEIVED OF Malon Burtz, SR 6 Box 31, Winner, SD 57580

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form #930-2 _____	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)		
Total	2	50

By John Hatan
Chief Engineer

JOHN HATAN (RS)

No. 950-2

South Dakota Department of
Water & Natural Resources
Joe Foss Building Water Rights Division
Pierre, South Dakota 57501 Phone (605) 773-3352

January 3, 1985

Malon Burtz
SR#6, Box 31
Winner, South Dakota 57580

Dear Mr. Burtz:

Enclosed is receipt No. 4 10277 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 950-2.

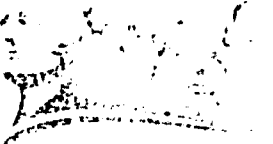
Our records now show you as the owner of this Water Right.

Sincerely,

Moxine Stirling
Staff Assistant

ms/
Enc.

South Dakota



GREAT FACES. GREAT PLACES.

February 1, 1991

MALON BURTZ
HC 57 BOX 30
WINNER SD 57580

DEPARTMENT OF WATER & NATURAL RESOURCES

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

950-2

NOTICE

RE: Violation of Water Permit No(s) 950-2

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 950-2. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 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) 950-2 qualification:

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

The hearing will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, 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, the Water Management Board can:

1. Suspend Permit No(s) 950-2 until the 1990 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 February 27th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

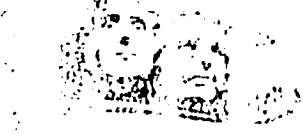
Very truly yours,

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

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge)		2. ☐ Restricted Delivery (Extra charge)	
3. Article Addressed to: MALON BURTZ HC 57 BOX 30 WINNER SD 57580		4. Article Number P694 057 502 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED .	
5. Signature - Addressee X <i>Malon Burtz</i>		8. Addressee's Address (ONLY if requested and fee paid)	
6. Signature - Agent X			
7. Date of Delivery 2-2-91			

South Dakota



GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 19, 1991

950-2

Malon Burtz
EC 57 Box 30
Winner, SD 57580

Dear Mr. Burtz:

I am writing to acknowledge receipt of your 1990 irrigation questionnaire for Water Right No. 950-2. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaire, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Lavall".

Ron Lavall, Natural Resources Engineer IV
Water Rights Division



950-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2002

NOTICE

TO: MALON BURTZ, 626 W 8TH ST, WINNER, SD 57580

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

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 950-2. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 950-2 qualification:

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

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 950-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

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

1. Article Addressed to:

MALON BURTZ
626 W 8TH ST
WINNER SD 57580

A. Received by (Please Print Clearly)

Malon Burtz

B. Date of Delivery

1-18-02

C. Signature

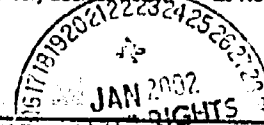
X Malon Burtz

☐ Agent

☐ Addressee

D. Is delivery address different from item 1? ☒ Yes

If YES, enter delivery address below ☐ No



3. Service Type

☒ Certified Mail

☐ Registered

☐ Insured Mail

☐ Express Mail

☐ Return Receipt for Merchandise

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (From sender's label)

7001 2510 0004 4797 4517

PS Form 3811, July 1999

Domestic Return Receipt

102585-00-M-0952



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 29, 2002

950-2

Malon Burtz
626 W 8th St
Winner SD 57580

Dear Mr. Burtz:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 950-2.

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

If you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 3, 2008

950-2

Malon Burtz
626 W 8th St
Winner SD 57580

Dear Mr. Burtz:

I am contacting you in regard to your Water Right No. 950-2. The water right authorizes diversion of water from the White River for irrigation purposes.

On last year's irrigation questionnaire you indicated that the use of water had been abandoned. I note from past questionnaires that the land has not been irrigated since 1994. Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water right. The three year period can be waived if legal excuse exists for the years of non-use. I have enclosed excerpts of our Water Laws and Board Rules pertaining to these issues.

The water right may have been abandoned or forfeited if legal excuse does not exist for the years of non-use. However, if you have discontinued irrigation, the above information may not be an issue for you. The water right can not be held for future use and would need to be used in order to be maintained.

Prior to doing anything with the water right, I wanted to check with you to see if you still own the land and if you have any concerns over scheduling the water right for cancellation consideration. Cancellation of the water right does not prohibit an application for the same project in the future.

Please contact me as to ownership of the land and your intent towards the water right. I have enclosed a postage paid envelope for your use in responding or if it is easier, you may call me at the number listed below.

If you have any questions, please contact me.

Sincerely,

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

enclosures

2007 Water Management Board Irrigation Questionnaire

Please fill out and return before **December 3, 2007**

REMEMBER! Return of this questionnaire is required whether or not you irrigated this year.

Return the completed form(s) to the Water Rights Program at 523 E Capitol, Pierre, SD 57501-3181 (605) 773-3352 or send your form(s) electronically over the internet at <https://www.state.sd.us/efrms/secure/efrms/E0455V6-IQ.pdf>

Permit No. 950-2

MALON BURTZ
626 W 8TH ST
WINNER SD 57580

Any address/ownership corrections?

Telephone No. 605-842-1812

1. Did you irrigate in 2007? *yes ☐ **no ☒
*If yes, _____ acres were irrigated out of
the 143.38 acres covered by Permit No. 950-2

**If no, check reason(s) for not irrigating:
sufficient moisture ☐ no water available ☐
system not constructed ☐ use abandoned ☒
enrolled in CRP ☐ through what year? _____
other ☐ please explain in the Comment Box:

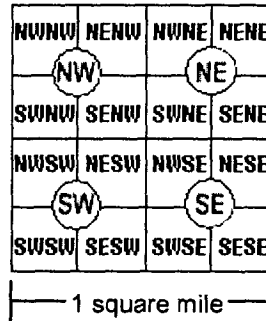
Comment Box

2. If your answer to question No. 1 is "no," you are done!
If you answered "yes," please complete Nos. 3, 4 & 5.

3. Did you apply chemicals or fertilizer through the
system in 2007? yes ☐ no ☐

4. If more than one water source is listed below, circle
each source used. **A. WHITE RIVER**

5. Provide your water use on the back of this form.



Office use only

RECEIVED

OCT 23 2007

WATER RIGHTS
PROGRAM

Acreage permitted for irrigation under No. 950-2

(see above section map for help reading legal descriptions)

sec 25-T103N-R78W, SW1/4SE1/4 - 5.92 acres
sec 25-T103N-R78W, SE1/4SE1/4 - 32.26 acres
sec 30-T103N-R78W, SW1/4SW1/4 - 16.47 acres
sec 31-T103N-R77W, NW1/4NW1/4 - 40.00 acres
sec 31-T103N-R77W, NE1/4NW1/4 - 7.77 acres
sec 31-T103N-R77W, SW1/4NW1/4 - 26.03 acres
sec 31-T103N-R77W, SE1/4NW1/4 - 12.71 acres
sec 31-T103N-R77W, NW1/4SW1/4 - 1.67 acres
sec 31-T103N-R77W, NE1/4SW1/4 - 0.55 acres

Please provide your 2007 water use to irrigate the above acreage on the REVERSE side of this form.

For an example of a completed questionnaire, please refer to the reverse side of your cover letter.

Reported Water Use

06/03/2008

Permit No	Year	Name	Not Irrig	Not Constr
950-2	1983	EARLBURTZ		
950-2	1984	EARLBURTZ		
950-2	1985	EARLBURTZ		
950-2	1986	MALONBURTZ	X	
950-2	1987	MALONBURTZ	X	
950-2	1988	MALONBURTZ	X	
950-2	1989	MALONBURTZ	X	
950-2	1990	MALONBURTZ		
950-2	1991	MALONBURTZ		
950-2	1992	MALONBURTZ	X	
950-2	1993	MALONBURTZ	X	
950-2	1994	MALONBURTZ		
950-2	1995	MALONBURTZ	X	
950-2	1996	MALONBURTZ	X	
950-2	1997	MALONBURTZ	X	
950-2	1998	MALONBURTZ	X	
950-2	1999	MALONBURTZ	X	
950-2	2000	MALONBURTZ	X	
950-2	2001	MALONBURTZ	X	
950-2	2002	MALONBURTZ	X	
950-2	2003	MALONBURTZ	X	
950-2	2004	MALONBURTZ	X	
950-2	2005	MALONBURTZ	X	
950-2	2006	MALONBURTZ	X	



750-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: MALON BURTZ, 626 W. 8TH ST, WINNER, SD 57580

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 950-2. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 950-2 qualification:

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

The hearing will be held at **10:00 am, March 11, 2009** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 950-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pdf>

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

950-2

[Home](#) | [Help](#)[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: **2303 2160 0000 0802 6500**Status: **Delivered**

Your item was delivered at 10:39 AM on January 24, 2009 in WINNER, SD 57580. The item was signed for by M BURTZ.

Track & Confirm

Enter Label/Receipt Number.

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

Proof of Delivery

Verify who signed for your item by email, fax, or mail. [Go >](#)

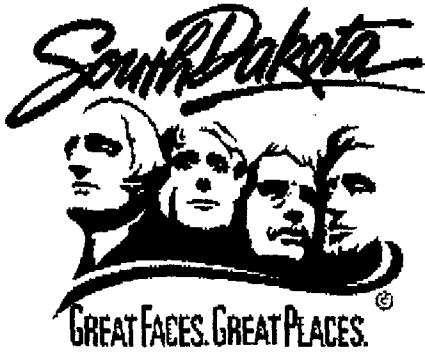
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No FEAR Act EEO Data

FOIA

SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 6500	MALON BURTZ 626 W 8TH ST WINNER SD 57580		nailing.
	Waiver of Signature ☐ YES ☐ NO		
	Postmark Here		
	POSTAL CUSTOMER: Keep this receipt. For inquiries: Access internet web site at www.usps.com ® or call 1-800-222-1811		
	☐ Priority Mail™ Service		
	☐ First-Class Mail® parcel		
	☐ Package Services parcel		



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 29, 2009

950-2

Malon Burtz
626 W 8th St
Winner SD 57580

Dear Mr. Burtz:

I am writing to acknowledge receipt of your 2008 irrigation questionnaire. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right No. 950-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

In June of 2008 I wrote and inquired as to whether or not you had abandoned irrigation on the land described in the water right. No response was received.

Water Rights for irrigation can not be held for future use. If you do not wish to maintain the water right, it will be scheduled for cancellation consideration. This would eliminate the need for yearly irrigation questionnaires. If you want to try and maintain the water right, it should be scheduled for hearing so the Board could make a determination on whether or not the years of non-use constitute legal excuse thereby giving your water right legal standing.

If you have any questions, please contact me.

Sincerely,

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

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



950-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: MALON BURTZ, 626 W 8TH ST, WINNER, SD 57580
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 950-2. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 950-2 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 950-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

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



950-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 25, 2016

950-2

Malon Burtz
626 W 8th St
Winner SD 57580

Dear Mr. Burtz:

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

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 950-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

950-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 12, 2017

950-2

Malon Burtz
30312 Pahapesto Buttes Rd
Winner SD 57580

Dear Mr. Burtz:

Thank you for sending in the 2017 irrigation questionnaire for Water Right No. 950-2. Water Right No. 950-2 authorizes diversion of water from the White River to irrigate 143.28 acres located in the S 1/2 SE 1/4 Section 25, SW 1/4 SW 1/4 Section 30, NW 1/4, N 1/2 SW 1/4 Section 31; all in T103N-R78W.

On the form, you checked the box "use abandoned". Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. A review of the records shows the land has not been irrigated for many years.

If the use has been abandoned and you do not intend to irrigate in the future, the water right could be scheduled for cancellation consideration. Prior to doing that, I wanted to touch base with you to verify your intentions regarding the water right.

Please take a few minutes and give me a call concerning the water right. Thank you in advance for your help.

Sincerely,

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

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Malon Burtz, 30312 Pahapesto Buttes Rd, Winner SD 57580

DATE: December 21, 2017

RE: Water Right No. 950-2

COMMENTS:

Mr. Burtz checked the box "abandoned" on the 2017 irrigation questionnaire. A letter was written to him requesting he call in so we could ensure he meant to abandon the water right.

Mr. Burtz called indicating he had not irrigated in a long time but cited "unavailability" of water in most cases and sufficient moisture the rest of the time. He felt the only way he could get enough water was to have off stream storage.

I explained legal excuse for not irrigating and asked him if he felt his nonuse of water fell under those categories. He indicated he did not want to lose his water right but understood if we needed to cancel it.

He wanted to give it one more season to see if he could get enough water to irrigate. He will let us know on next year's questionnaire whether or not this occurred.



Genny McMath
Water Rights Program



**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.

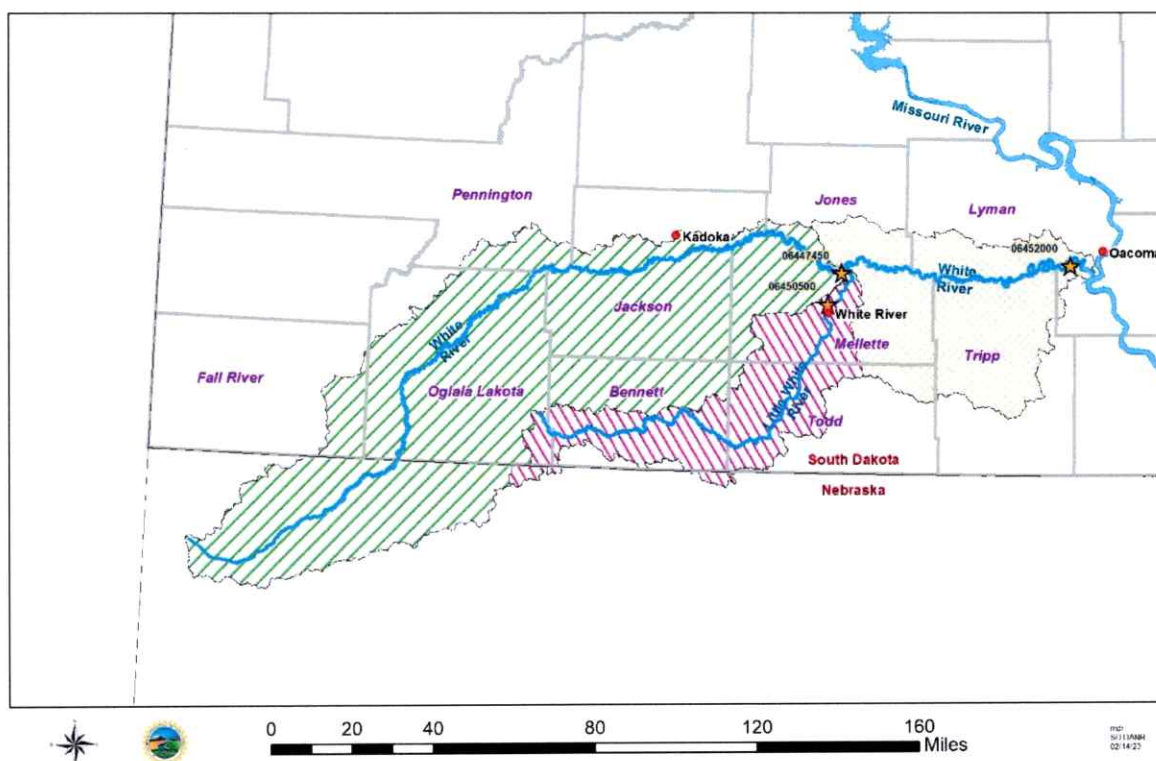


Figure 1. White River Watershed Map.

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.

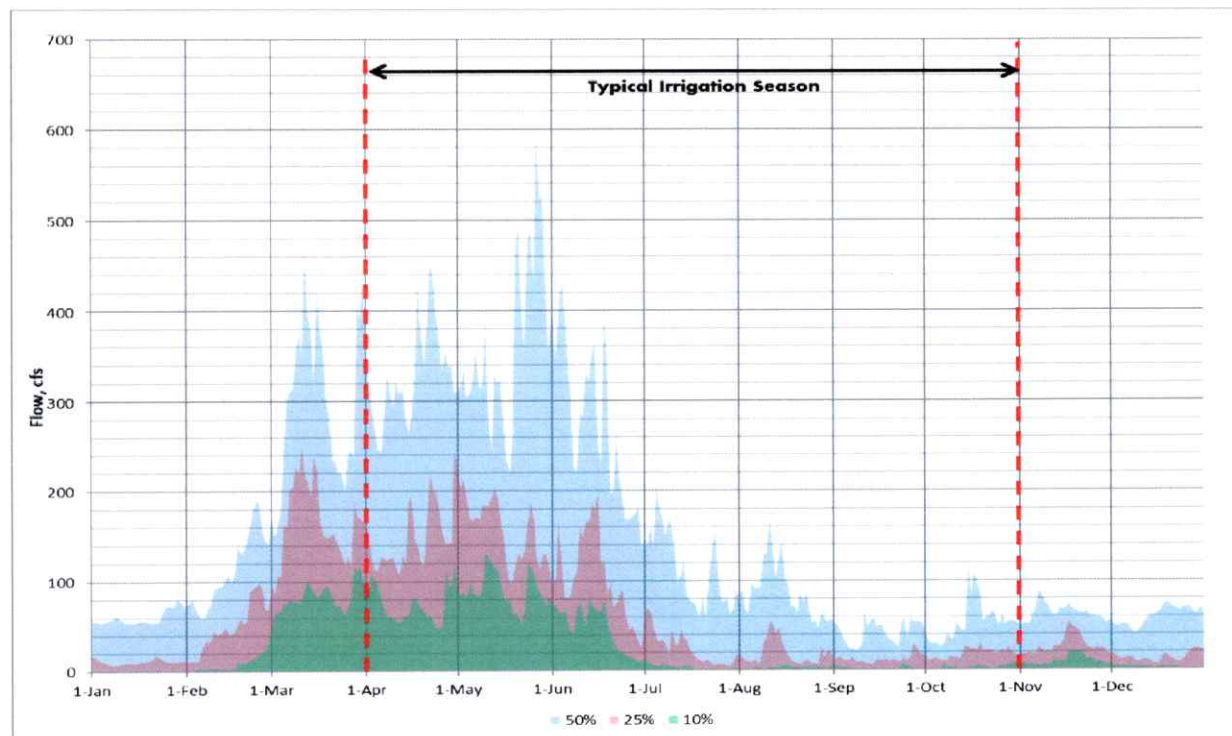


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

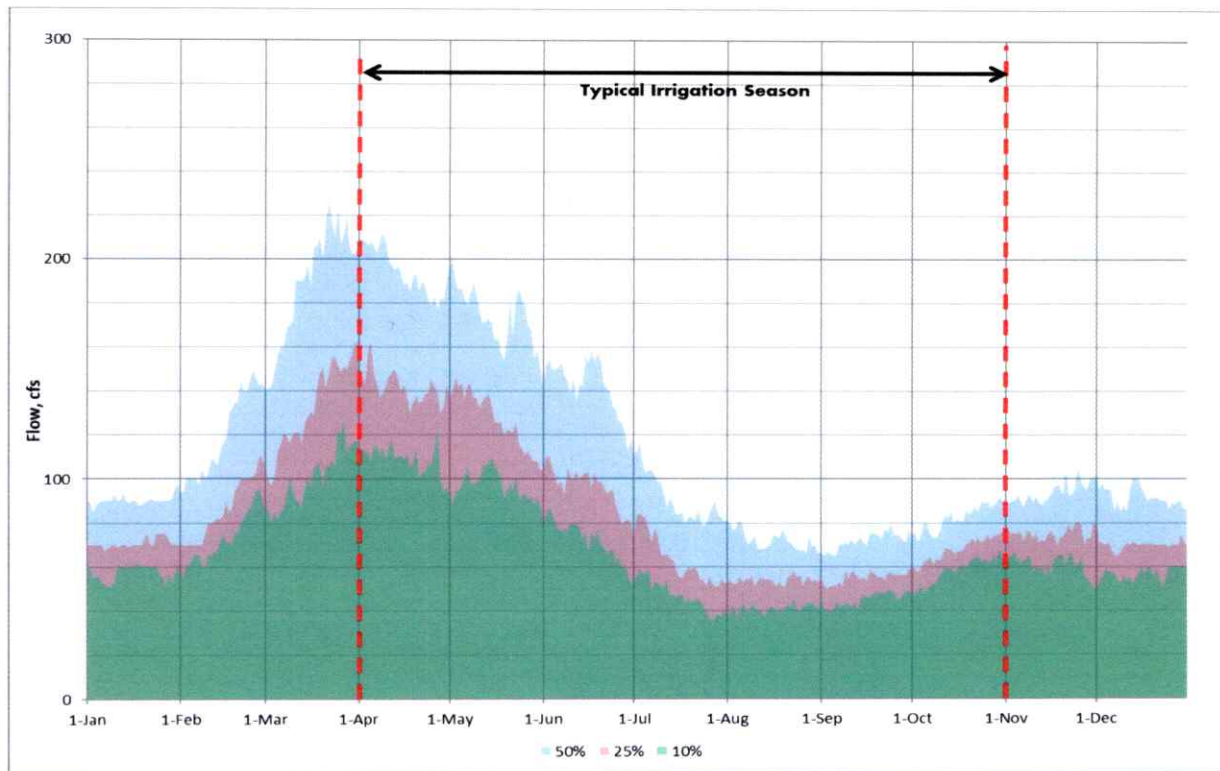


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

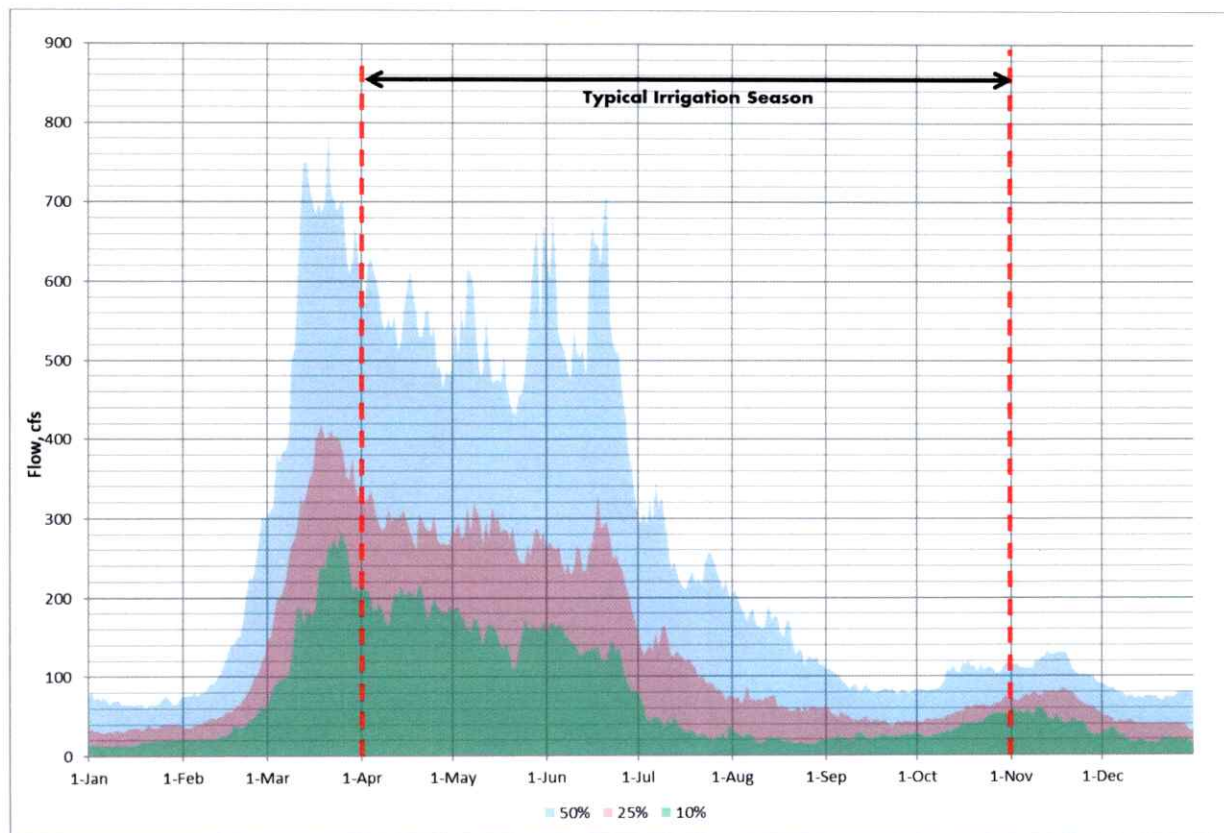


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

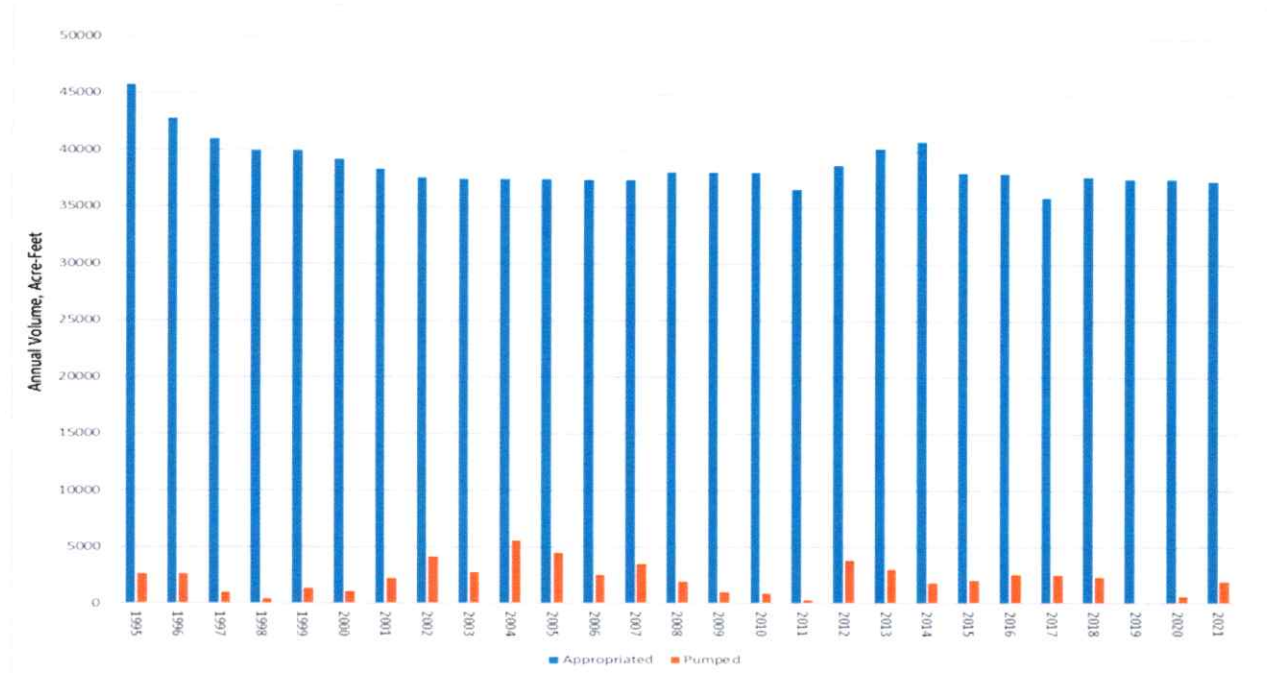


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 7, 2026

950-2

Malon Burtz
30310 Pahapesto Buttes Rd
Winner SD 57580

Dear Mr. Burtz:

The Water Rights Program is in receipt of the 2025 Irrigation Questionnaire you submitted for Water Right No. 950-2, which authorizes the irrigation of 143.28 acres located within portions of Section 25-T103N-R78W and portions of Sections 30 & 31; all in T103N-R77W, Tripp County, South Dakota.

On this year's questionnaires you reported that use of the irrigation system had been abandoned.

Please contact me via email or by calling my direct line (605) 910-5187 to discuss cancellation of Water Right No. 950-2.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Malon Burtz, 30310 Pahapesto Buttes Rd, Winner, SD 57580

DATE: 01/20/2026

TELEPHONE:

RE: Cancellation of WR No. 950-2

COMMENTS:

After receiving the 2025 Irrigation Questionnaire that was reported Abandoned, Water Rights Program Staff reached out to Malon to discuss the report. He stated that this system hasn't been used in years and doesn't plan to resume at this time. He agreed to cancellation of this water right.

Shannon Konst

Shannon Konst
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 4, 2026

NOTICE OF CANCELLATION

TO: Malon Burtz, 30310 Pahapesto Rd, Winner SD 57580

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 950-2

Water Right No. 950-2 authorizes the diversion of 2.04 cubic feet of water per second from the White River for irrigation of 143.23 acres located in portions of Section 25-T103N-R78W and portions of Sections 30 & 31; both in T103N-R77W, Tripp County, South Dakota. After the 2025 Irrigation Questionnaire was returned, reporting "use abandoned", Water Rights Program staff contacted you. During that conversation you reported that the system hadn't been used in years and you had no intention of resuming irrigation practices. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 950-2 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 950-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 950-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 950-2, MALON BURTZ**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 950-2.

After reviewing the 2025 Irrigation Questionnaire submitted for Water Right No. 950-2, which indicated "use abandoned", Program staff contacted Mr. Burtz, who reported that while he retained ownership of the property authorized under Water Right No. 950-2, the irrigation system hadn't been used in many years, and he was agreeable to cancellation.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 950-2 does not prohibit a new application for this project in the future.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF CANCELLATION & RECOMMENDATION dated September 4, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on September 4, 2026.

WP No. 8165-3

Silver Lake Hutterian Brethren
c/o John Grosz
17354 430th Ave
Clark SD 57225

WP No. 6468-3

Town of Alpena
c/o Finance Officer
PO Box 75
Alpena SD 57312

WR Nos. 293-2 & 294-2

GCC Dacotah Inc
c/o Steve Zellmer
PO Box 360
Rapid City SD 57709

WR No. 5577-3

Curtis Foster
42430 116th St
Britton SD 57430

WR No. 881-2

Ryan Edwards
749 W 5th St
Winner SD 57580

WP No. 2800-2

Janice Tetherow
105 W 2nd St
Valentine NE 69201

WR No. 2482-3 & WP No. 6789-3

Allen & Becky Walth
13640 Walth Bay Rd
Glenham SD 57631

WP No. 7846A-3

Marvin Czech
45848 176th St
Watertown SD 57201

WR No. 950-2

Malon Burtz
30310 Pahapesto Buttes Rd
Winner SD 57580

WR No. 2370-2

KW Holding LLC
c/o Kory Weisbeck
2453 S Plaza Dr
Rapid City SD 57702

WR No. 5579-3

Nels J Sorensen
c/o Grant Sorensen
200 Mickelson Ave
Vermillion SD 57069

WP No. 7429-3

Sorensen Family Farm LLC
c/o Grant Sorensen
2903 Sorensen Ave
Vermillion SD 57069

WP Nos. 6363-3 & 6692-3

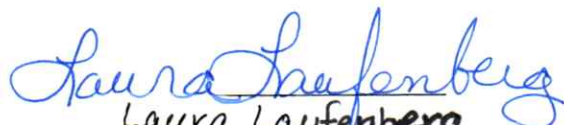
Hillside Colony
c/o Timothy Glanzer
18248 Hillside Ln
Doland SD 57436

WP No. 8886-3

Pronghorn Land LLC
c/o Brian Top
2132 32nd Ave
Brookings SD 57706

WR No. 2130-2

Sandee & Tom Yordy
21436 297th St
Martin SD 57551


Laura Laufenberg
Senior Secretary

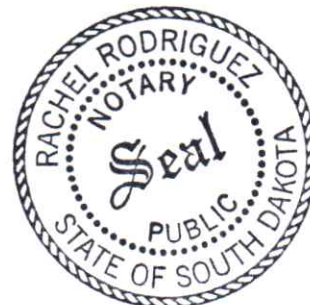
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 4th day of September, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 8, 2026

950-2

NOTICE OF ENTRY OF ORDER

Malon Burtz
30310 Pahapesto Buttes Rd
Winner, SD 57580

Dear Mr. Burtz:

This will notify you that on October 7, 2026, the Water Management Board cancelled your Water Right No. 950-2. This action was taken under the conditions outlined in our notice to you dated September 4, 2026.

If you have any questions concerning the Board action, please contact Amanda Dewell, with our program, at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE, Chief Engineer
SD DANR – Water Rights

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF ENTRY OF ORDER dated October 8, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on October 8, 2026.

WP No. 8165-3

Silver Lake Hutterian Brethren
c/o John Grosz
17354 430th Ave
Clark SD 57225

WP No. 6468-3

Town of Alpena
c/o Finance Officer
PO Box 75
Alpena SD 57312

WR Nos. 293-2 & 294-2

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PO Box 360
Rapid City SD 57709

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13640 Walth Bay Rd
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WP No. 7846A-3

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Watertown SD 57201

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2453 S Plaza Dr
Rapid City SD 57702

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Nels J Sorensen
c/o Grant Sorensen
200 Mickelson Ave
Vermillion SD 57069

WP No. 7429-3

Sorensen Family Farm LLC
c/o Grant Sorensen
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2132 32nd Ave
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WR No. 2130-2

Sandee & Tom Yordy
21436 297th St
Martin SD 57551


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of Oct, 2026


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029

