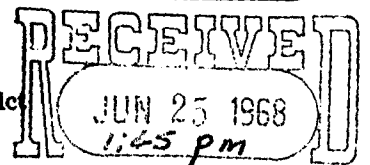


973-2

1. Considered 9-24, 1968
2. Name of Applicant DONALD TRACY
3. Post Office Address PRESHO
4. Amount of water claimed 1.7
5. Source of water supply WHITE RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated 120.7
7. Water to be diverted and used in LYMAN county
about 2 1/4 155 miles of PRESHO
8. Proof of Publication Received ✓
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:

No. **973-2**Water Division No. **2** **WHITE RIVER** District _____
(Blanks to be Filled by the Engineer for the W. R. C.)**APPLICATION FOR PERMIT**STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA**To Appropriate Water within the State of South Dakota**

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

1. Name of applicant ~~Donald Tracy~~ **LIEN RANCH, INC.**
Postoffice address **Presho**, County **Lyman**, State **South Dakota**.

I. ~~For corporation~~

- (a) ~~Name of same~~
(b) ~~Date and place of incorporation~~
(c) ~~Amount of capital stock~~
(d) ~~Amount paid in~~
(e) ~~Name 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)
By contract and direct labor of self
(b) Cash on hand, \$ **Adequate** (c) Treasury stock, \$ _____
(d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work
- Donald Tracy Irrigation Project Number 2**

3. Amount of water claimed
- 1.7**
- cubic feet per second

4. Source of water supply
- White River**
- S 33° W 45' S 5° E 0° NW corner S. 25, SE Corner of SW 1/4 of**

5. Location of point of diversion
- Lot 2, Sec. 25, Twp. 103 N., R. 78 W.**
- SE 1/4 Sec. 25, Twp. 103 N., R. 78 W.**
- on North bank White River in Lyman County.**

6. Annual period or periods during which water is to be used
- March 1 through November 30**

7. To be used for:

- I. Irrigation
- ~~on domestic use~~
- Gravity,
- ~~overhead sprinkling or combination~~
- system?

- (a) Number of acres to be irrigated **120.7** acres.
Lots 2 & 3, Sec. 26, NW 1/4 SW 1/4, NE 1/4 SW 1/4, SW 1/4 SW 1/4, SW 1/4 NW 1/4,
(b) Legal subdivisions to be irrigated **SE 1/4 SW 1/4 Sec. 25, Twp. 103 N., R. 78 W.**

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

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

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

- (a) Nature of use **None**
Name any of the above uses claimed _____
(b) Amount of power to be generated **None** horse power.
Amount claimed for engine cooling **None**
(c) Location of plant **None**
(d) Method of developing power **None**

MAP No 842-2

8. Estimated cost of work:

(a) Head Gates, \$ 300.00

(b) Pumping plant, \$ 2000.00

(c) Fluming, \$

(d) Canal-earth, \$ 300.00

Rock, \$

(e) Other structures land leveling \$ 4000.00

Total, \$ 6600.00

9. Description of diversion works:

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

Pumping plant

II. Dimensions of works.

(a) Dam: Height feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope at front water face; slope at back face material used in construction

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

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	FEET	ACRE-FEET CAPACITY

(c)* Head gate: Width 2 Ft. feet; height 2 Ft. feet; Material Concrete

(d) Canal: Total length 1.1 miles.

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 5 years.

11. Time required for complete application of water to the proposed beneficial use 5 years.

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

Lyman County Herald, Prescho, South Dakota.

STATE OF SOUTH DAKOTA

County of LYMAN

ss.

I, Donald Tracy, 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.

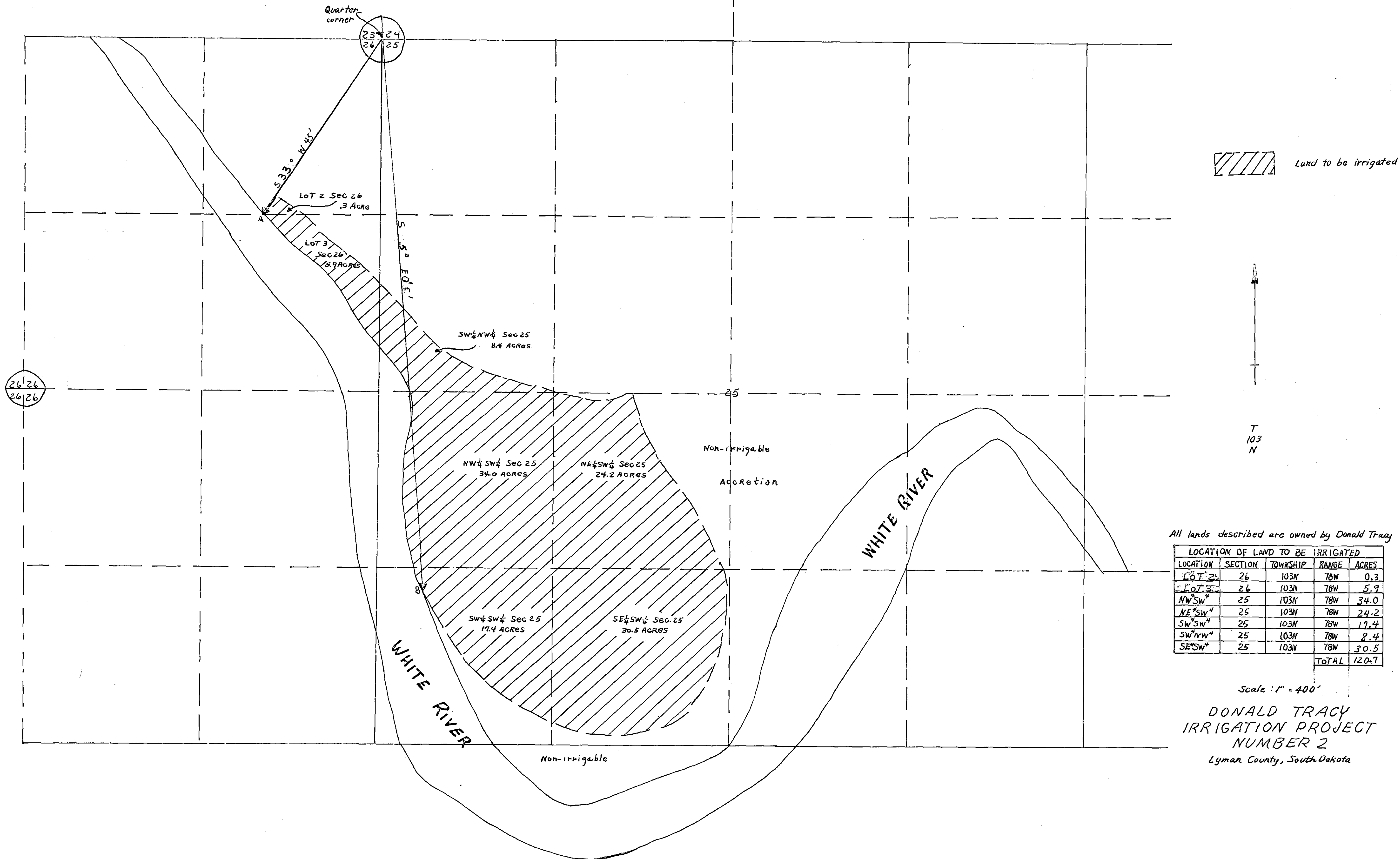
Signed

Donald Tracy

Subscribed and sworn to before me this 25th day of June 19 68

Notary Public for other qualified officer.)
South Dakota.

R 78W



Remarks by State Water Resources Commission:

NUMEROUS WATER RIGHTS EXIST BELOW YOUR DIVERSION POINT WHICH GET THEIR WATER FROM THE WHITE RIVER RESTRICTIONS UNDER THIS PERMIT TO APPROPRIATE WATER MAY BE NECESSARY DURING SOME YEARS TO PROVIDE SUPPLIES FOR THESE PRIOR WATER RIGHTS

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, SEPTEMBER 26, 1968

This is to certify that the foregoing application was received by the Commission at 1:45 o'clock P.m. upon the 25TH day of JUNE, 1968.

State Water Resources Commission

By:

Durton Jones
for Chief Engineer, Executive Officer

Number of permit 973-2

Date of first receipt of application JUNE 25, 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 JUNE 25, 1968

Approved SEPTEMBER 24, 1968, Recorded in Book 10 Page 251

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 MARCH 24, 1971

2nd. The whole of said work is to be completed on or before SEPTEMBER 24, 1973

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

SEPTEMBER 24, 1977 (EXTEN. 7-24-75)

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 1.7 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

and beneficially applied for irrigation on or before SEPTEMBER 24, 1973; said water to be used during the following described annual period:

MARCH 1 THRU NOVEMBER 30

Witness my hand this 26TH day of SEPTEMBER, 1968.

State Water Resources Commission

By:

W. C. Ennes
Chief Engineer, Executive Officer

Certificate of Construction issued _____, 19____

Water License issued _____, 19____

on or before
(First Publication August 29, 1968)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., August 12, 1968.

Notice is hereby given that Donald Tracy whose postoffice address is Presho S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.7 cubic feet of water per second of time from the White River through the Tracy Irrigation Project #2 the point of diversion of which is to be located on the between points in Lot 2, Section 26, and bank of said stream in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25 Twp. 103N Range 78W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

Lots 2 and 3, Section 26; SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, T103N, R78W

and for XXXXX purposes XXXXXX

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 24th day of September, 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:

~~Chief Engineer, Executive Officer~~
Burton F. Jones
Water Rights Specialist

cc: Donald Tracy, Presho, SD.

Publisher's Affidavit of Publication

STATE OF SOUTH DAKOTA

)
)SS.
)

COUNTY OF LYMAN

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

Appropriation of Water

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

The first publication of said notice in said newspaper aforesaid was on

Thursday, the *22* day of *August* A. D., 196*8*

and that the preceding publications were severally

Thursday, the *29* day of *August* A. D., 196*8*

Thursday, the *5* day of *September* A. D., 196*8*

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

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

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

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

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

and the last publication on Thursday, the *12* day of

September, 196*8*; that the full sum of fees charged for

publishing the same, to-wit: the sum of \$ *17.60*, insures solely to the publisher of The Lyman County Herald. That no agreement or understanding for any division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whatsoever.

Robert C. Cameron

Subscribed and sworn to before me, this *19*

day of *September*, 196*8*.

Elythe Parks

Notary Public.

RECEIVED
SEP 23 1968

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

No. 973-2

Form 8—Notice of Intention to Appropriate Water APPROPRIATION OF WATER

Office of State Water
Resources Commission,
Pierre, S. Dak.,
August 12, 1968.

Notice is hereby given that Donald Tracy whose postoffice address is Presho, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.7 cubic feet of water per second of time from the White River through the Tracy Irrigation Project No. 2, the point of diversion of which is to be located on the bank of said stream between points in Lot 2, Section 26, and in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25 Twp. 103 N, Range 78W. Said water to be used for the purpose of providing irrigation on portions of the following described land: Lots 2 and 3, Section 26; SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, T103N, R78W.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 24th day of September, 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: Burton F. Jones,
Water Rights Specialist.

Aug. 21 and 29 — Sept. 5 and 12.

973-2

APPLICATION FOR EXTENSION OF TIME

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

Date JUNE 2, 1975

Dear Sirs:

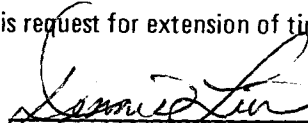
In Water Right Permit No. 973-2 it is specified that the water diversion system is to be completed by SEPTEMBER 24, 1973 and that the water is to be put to the limit of beneficial use by SEPTEMBER 24, 1973.

I hereby request that the date for completing the diversion system be extended to _____, 19____ and that the date for putting the water to the limit of beneficial use be extended to SEPTEMBER 24, 1977.

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

REQUIRE MORE TIME FOR LEVELLING LAND
AND REFINEMENTS TO SYSTEM

Enclosed herewith is a fee of \$1.00 to pay the cost of filing this request for extension of time.


(Signed)
Holder of Permit No. 973-2

APPROVED:

WATER RIGHTS COMMISSION

By:

NOTICE OF TRANSFER OF WATER PERMIT

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

Date JUNE 2, 1975

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

DESCRIBED IN WATER PERMIT NO 973-2

formerly owned by DONALD TRACY, PRESHO

has been transferred to LIEN RANCH, INC. PRESHO

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 973-2 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Resources Commission as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

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

Donald Tracy
(Signed)

Suscribed and sworn to before me this 2nd day of June, 1975

Justin A. Zicknick
(Notary Public)

My Commission Expires 3/27/83



**Department of
Water & Natural Resources**
John Hatch Building
601 West Capitol
Pierre, South Dakota 57501-3181

April 12, 1985

Lien Ranch Inc.
SR 1 Box 17
Presho SD 57568

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). 816-2 & 973-2. 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). 816-2 & 973-2 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, 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.

Department of Water & Natural Resources

Joe Felt Building
500 East Capitol
Pierre, South Dakota 57501-3181

June 12, 1985

Notice of Amendment to Water Permit(s)

To: Dennis Lien
Lien Ranch Inc.
St. Rt. 1, Box 17
Presho, SD 57568

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

SUBJECT: Amendment to Water Permit No(s). 816-2 & 973-2.

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). 816-2 & 973-2 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 Pratt Building
501 East Capitol
Pierre, South Dakota 57501-3181

Attachment to Water Permit No(s). 816-2 & 973-2

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). 816-2 & 973-2 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 57501-3181

March 23, 1987

LIEN RANCH INC, Dennis Lien
SR #1 BOX 17
PRESHO, SD 57568

NOTICE

Re: Violation of Water Permit No(s). 816-2, 973-2

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 816-2, 973-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 816-2, 973-2 qualification:

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

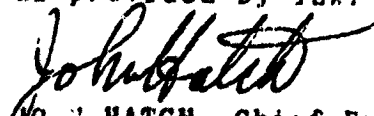
The hearing(s) will be at 2:00 pm, May 6, 1987, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

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

1. Suspend Permit No(s). 816-2, 973-2 until either the 1986 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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


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

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

 **Department of
Water & Natural Resources**
Jon Foss Building
503 East Capitol
Pierre, South Dakota 57501-3181

May 14, 1987

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: DENNIS LIEN- LIEN RANCH INC
SR #1 BOX 17
PRESHO, SD 57568

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

SUBJECT: One Year Suspension Of Water Permit No(s). 816-2,
973-2 If The 1986 Irrigation Questionnaire Is Not
Received By June 1, 1987

Pursuant to the provisions of the Notice dated March 23, 1987,
and following the Hearing May 6, 1987, the Water Management Board
ordered:

That Water Permit No(s). 816-2, 973-2 be **SUSPENDED** until
December 31, 1987 unless the required 1986 Irrigation Water Use
Questionnaire is received by June 1, 1987.

Suspension of a permit means water may not be pumped during the
1987 Irrigation Season. Decisions of the Board may be appealed
to the Circuit Court and the Supreme Court as provided by law.



Department of Water & Natural Resources

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

May 22, 1987

Permit Nos. 973-2
816-2

Dennis Lien
Lien Ranch Inc
HCR 80 Box 17
Presho, SD 57568

Dear Mr. Lien:

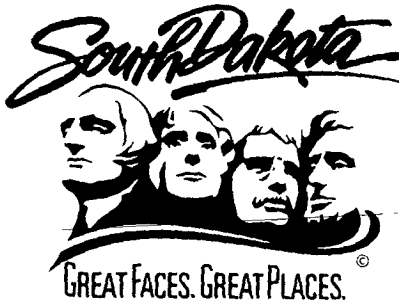
I am writing to acknowledge receipt of your 1986 Irrigation Questionnaires. A notice was sent to you May 14, 1987 regarding the Board action taken May 6, 1987 to suspend your permits if the 1986 irrigation questionnaires were not received before June 1, 1987.

You may disregard the May 14 notice. With receipt of your 1986 questionnaires, your permits will not be suspended.

If you have any questions, please contact us.

Very truly yours,

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



973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 4, 1997

NOTICE

TO: LIEN RANCH INC, DENNIS LIEN, HCR 80 BOX 17, PRESNO, SD 57568

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Water Permit No(s). 816-2 & 973-2

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 816-2 & 973-2. The request for the Questionnaire was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 816-2 & 973-2 qualification:

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

The hearing will be held at 2:30 pm, March 5, 1997 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 816-2 & 973-2 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 February 28, 1997, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 26, 1997

NOTICE

TO: Dennis Lien, Lien Ranch, Inc., HCR 80 Box 17, Presho, SD 57568

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

SUBJECT: Unclaimed Certified Mail Concerning Violation of Water Permit Nos. 816-2 & 973-2

The attached notice was sent certified mail, return-receipt requested. The post office has returned the certified mail return-receipt requested envelope to our office marked "unclaimed". The envelope indicated the post office notified you February 5 and February 11, 1997, to pick up and sign for the certified mail.

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

enclosure



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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

ADDRESS CORRECTION REQUESTED

- ☒ RETURNED TO SENDER
☐ RETURNED, LEFT NO ADDRESS
☐ NOT DELIVERABLE AS ADDRESSED
☐ UNABLE TO FORWARD
☐ ATTEMPTED - NOT KNOWN
☐ UNCLAIMED ☐ REFUSED
☐ NO SUCH STREET - NUMBER
☐ DO NOT REMAIN IN THIS ENVELOPE
☐ INSUFFICIENT ADDRESS
☐ NO OTHER FACE-TYPE
☐ BUT, CHECKED THE UNDER

~~Dennis Lien
Lien Ranch, Inc.
HCR 801 Box 17
Presho, SD 57568~~

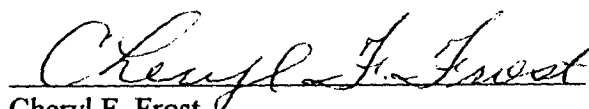


CERTIFICATION

I hereby certify that on February 26, 1997, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 26, 1997, along with the Certified Letter that was sent on February 4, 1997, but was returned to our office unclaimed, regarding Unclaimed Certified Mail Concerning Violation of Water Permit Nos. 816-2 & 973-2 (Dennis Lien, Lien Ranch, Inc.), and Water Permit Nos. 977-3 & 1624-3 (Berwyn Svoboda), addressed as stated below:

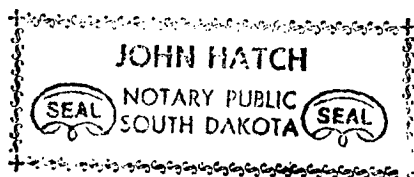
W.P. #'s 816-2 & 973-2: Dennis Lien, Lien Ranch, Inc., HCR 80, Box 17, Presho, SD 57568.

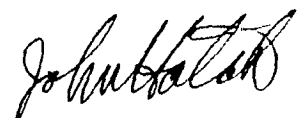
W.P. #'s 977-3 & 1624-3: Berwyn Svoboda, RR 1, Box 11, Burbank, SD 57010-9706.

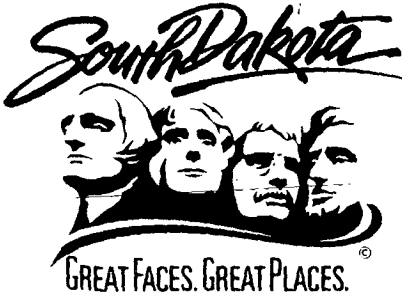

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of February, 1997




Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 7, 1997

NOTICE OF ONE YEAR SUSPENSION OF WATER RIGHT

TO: LIEN RANCH INC, HCR 80 BOX 17, PRESNO, SD 57568

FROM: JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

SUBJECT: One Year Suspension of Water Right No. 816-2 and Water Permit No. 973-2

Pursuant to the provisions of the notice dated February 4, 1997, and following the hearing of March 5, 1997, the Water Management Board has ordered:

That Water Right No. 816-2 and Water Permit No. 973-2 be suspended until December 31, 1997, for failure to submit the 1996 irrigation questionnaires.

Suspension of a water right or permit means water may not be pumped during the 1997 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspensions, you will need to submit the 1996 irrigation questionnaires and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for April 29, 1997, in Pierre, SD. The letter should include your reasons for not completing the 1996 irrigation questionnaires.

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

CERTIFICATION

I hereby certify that on March 7, 1997, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 7, 1997, regarding One Year Suspension of the following Water Rights/Permits, addressed as stated below:

W.R. #884B-1: Dale Johnson, RR 3, Box 23AA, Vale, SD 57788.

W.R. #816-2 & W.P. #973-2: Lien Ranch, Inc., HCR 80, Box 17, Presho, SD 57568.

W.R. #1280-2: Odie Dale Bowen, Box 407, Philip, SD 57567.

W.R. #1342-2: Gerald Novak, Manager, HCR 1, Box 51, Martin, SD 57551.

Copy sent to: Leonard Novak, Box 139, Batesland, SD 57551.

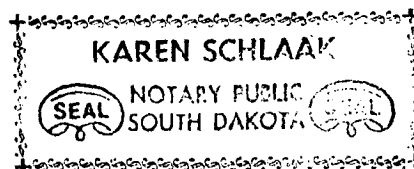
W.R. #3466-3: I. A. Schwan, P.O. Box 97, Hitchcock, SD 57348-0097.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10th day of March, 1997


Notary Public



KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001



973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 3, 1997

James Sundall
Director of Equalization
PO Box 126
Kennebec, SD 57544-0126

Dear Mr. Sundall:

I am contacting you in regard to ownership of land described in Water Right No. 816-2 and Water Permit No. 973-2. The land in question is as follows:

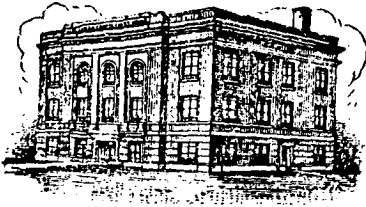
T103N, R78W	Section 22	N½ SW¼ SE¼ SW¼ NW¼ SE¼ S½ SE¼ Lot 1
	Section 25	SW¼ SW¼ NW¼
	Section 26	Lots 2 & 3
	Section 27	Lots 1 & 4 NW¼ NE¼

Our records currently show Lien Ranch, Inc., Presho, SD as owner of the land. The post office recently returned mail I directed to Lien's indicating they have moved and left no forwarding address. If possible, I would like to find out if the land is still listed under Lien Ranch or if it has been sold. I do not need copies of any documents, just verification of ownership and the current mailing address of the owner(s).

Thank you in advance and if I can answer any questions for you, please contact me.

Sincerely,

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



Lyman County
Director Of Equalization

P. O. Box 126

Kennebec, South Dakota

57544

Phone 605/869-2206

June 5, 1997

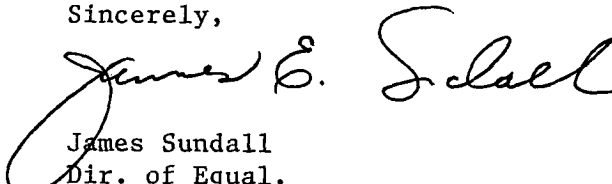


Genny McMath
Dept. of Env. & Nat. Res.
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Dear Ms McMath:

In reply to your recent inquiry on the ownership of the Lien Ranch, it has been sold to Craig S. & Connie L. Mowry, HC 80 Box 16A, Presho, South Dakota 57568.

Sincerely,


James Sundall
Dir. of Equal.
Lyman County



973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 9, 1997

816-2
973-2

Craig & Connie Mowry
HC 80 Box 16A
Presho, SD 57568

Dear Mr. & Mrs. Mowry:

I am contacting you in regard to ownership of land described in Water Right No. 816-2 and Water Permit No. 973-2. They are currently listed in the name of Lien Ranch, Inc. Recently, I contacted the Lyman County Director of Equalization and was told that you had purchased the land.

Enclosed is a copy of Water Right No. 816-2 and Water Permit No. 973-2 for your review. If the land is still being irrigated, they should be transferred to your names. I am including partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes.

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

If the land is not being irrigated and you do not wish to maintain the water permit and right, please write or call and let me know. Thank you in advance for your help.

Sincerely,

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

enclosures



973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 15, 1997

816-2
973-2

Craig & Connie Mowry
HC 80 Box 16A
Presho, SD 57568

Dear Mr. & Mrs. Mowry:

In June, I contacted you regarding ownership of land described in Water Right No. 816-2 and Water Permit No. 973-2, currently listed in the name of Lien Ranch, Inc. To date, I have not received a response from you concerning the above water permit and water right.

In my June 9th letter, I forwarded copies of the water right and water permit to you for your review. I also included partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes.

If the land is not being irrigated and you do not wish to maintain the water permit and right, please write or call and let me know. Otherwise, please complete the transfer forms and return them to our office along with a \$2.50 filing fee for each transfer.

Thank you in advance for your help.

Sincerely,

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

enclosures



973-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 18, 2000

Craig Mowry
% George Mowry
Box 186
Presho, SD 57568

Dear Mr. Mowry:

I am contacting you once again concerning ownership of Water Right No. 816-2 and Water Permit No. 973-2. These are currently listed in the name of Lien Ranch, Inc. It is our understanding that you own the land described in these permits. Enclosed are copies for your review.

If the land is still being irrigated, the permit and right should be transferred to your name. Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes. Please review them and complete the portion titled "*be transferred to: (name and address)*". Upon completion, please sign the forms in the presence of a notary public and return them to our office with a required filing fee of \$2.50 each (total of \$5.00). The check or money order for the fee can be made payable to the Water Rights Program.

Under South Dakota Water Law, water must be placed to beneficial use at least once every three years in order to maintain a water right. This three-year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water.

If you do not irrigate and retaining the water permit and right is not critical to your farming operation, the above information may not be of interest to you. Please get in touch with me as soon as possible to let me know your intent towards Water Right No. 816-2 and Water Permit No. 973-2.

Thank you in advance for your help. I can be reached at the above Water Rights Program address or by phone at (605) 773-3352.

Sincerely,

Genny McMath
Genny McMath
Environmental Scientist
Water Rights Program

enclosures



973-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 25, 2000

Craig & Connie Mowry, renters
HC 80 Box 16A
Presho, SD 57568

NOTICE TO SUBMIT THE 2000 IRRIGATION QUESTIONNAIRE

*Enclosed is the 2000 Irrigation Questionnaire(s). Please complete and return it by **December 1, 2000**.

Returning the Irrigation Questionnaire(s) is required whether or not you irrigated this year. Some of the items to be aware of when completing the enclosed form(s) are:

- If you have multiple permits and do not know the specific legal descriptions which pertain to each permit, please contact us. It is acceptable to put the information for all permits on one form. However, ALL forms need to be returned.
- Completion of this form does not protect a water right from being subject to cancellation for periods of nonuse greater than three years unless legal excuse exists (legal excuse includes unavailability of water to satisfy a permit or excessive natural moisture such as flooding).
- A water right or permit is subject to suspension or cancellation if the irrigation questionnaire(s) is not returned.

If you have questions or need assistance with completion of the irrigation questionnaire, please contact Genny McMath at (605) 773-3352. For those with internet access, you can send the information to her or ask questions by emailing genny.mcmath@state.sd.us. Additional copies of the questionnaire can also be downloaded by going to the Department website at <http://www.state.sd.us/denr/wr> and selecting "download forms".

For the Water Management Board

Garland Erbele, Chief Engineer
Water Rights Program

enclosures

***Note:** A separate form for reporting the type of chemical and rate of application is no longer required. However, please indicate on your irrigation questionnaire whether or not chemicals or fertilizer were applied through your irrigation system.



973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2001

NOTICE

TO: CRAIG MOWRY, RENTER, HC 80 BOX 16A, PRESNO, SD 57568

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

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 816-2 & 973-2. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 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) 816-2 & 973-2 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 7, 2001 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 816-2 & 973-2 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 2, 2001, 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.

9732

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

CRAIG MOWRY, RENTER
HC 80 BOX 16A
PRESHO SD 57568

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

CRAIG MOWRY 1-26-01

C. Signature

x *Craig Mowry*☐ Agent☒ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☒ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7000 0600 0026 9814 2201

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952



973-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 9, 2001

NOTICE OF ONE YEAR SUSPENSION

TO: Craig Mowry, renter, HC 80 Box 16A, Presho, SD 57568

FROM: Garland Erbele Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: One Year Suspension of Water Right No. 816-2 and
Water Permit No. 973-2

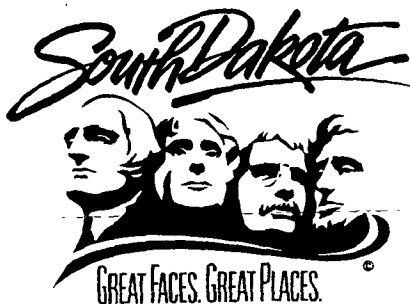
Pursuant to the provisions of the notice dated January 19, 2001, and following the hearing March 7, 2001, the Water Management Board has ordered:

That Water Right No. 816-2 and Water Permit No. 973-2 be suspended until December 31, 2001, for failure to submit the 2000 irrigation questionnaires.

Suspension of a water permit or right means water may not be pumped during the 2001 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspension, you will need to submit the "2000" irrigation questionnaires and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 2, 2001 in Pierre, SD. The letter should include your reasons for not completing the "2000" irrigation questionnaires.

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



973-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 17, 2003

NOTICE

TO: CRAIG MOWRY, RENTER, HC 80 BOX 16A, PRESNO, SD 57568

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

SUBJECT: Reporting Requirement for 2002 Irrigation Questionnaire(s)

Our records indicate that the 2002 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 816-2 & 973-2. The request for the Questionnaire was dated October 11, 2002. The Water Management Board has directed that owners of water permits who have not submitted the 2002 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) 816-2 & 973-2 qualification:

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

The hearing will be held at 8:30 am, March 5, 2003 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) 816-2 & 973-2 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 **February 28, 2003**, 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.



973-2

Track & Confirm

Delivery Status

You entered 2301 0370 0000 7541 3947

Your item was delivered at 1:34 pm on February 03, 2003 in PRESNO,
SD 57568. The item was signed for by C MOWRY.

[Shipment History >](#)[Request Delivery Record >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 0370 0000 7541 3947

P
CRAIG MOWRY, RENTER
HC 80 BOX 16A
PRESNO SD 57568

iling.

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

- ☐ Priority Mail
☐ Package Services

(See Reverse)

PS Form 153, February 2001



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 10, 2003

NOTICE OF THREE YEAR SUSPENSION OF WATER RIGHTS

TO: Craig Mowry, HC 80 Box 16A, Presho SD 57568

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Three Year Suspension of Water Right Nos. 816-2 and 973-2

Pursuant to the provisions of the notice dated January 17, 2003, and following the hearing of March 5, 2003, the Water Management Board has ordered:

That Water Right Nos. 816-2 and 973-2 be suspended until December 31, 2005, for failure to submit the 2002 irrigation questionnaire.

Suspension means water may not be pumped during the 2003, 2004 or 2005 irrigation seasons. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspension, you will need to submit the 2002 irrigation questionnaires and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 7, 2003, in Pierre, SD. The letter should include your reasons for not completing the 2002 irrigation questionnaires.

Our records indicate the land was irrigated once since at least 1992. If you no longer irrigate and do not wish to retain the water rights, let us know and they can be scheduled for cancellation consideration before the Water Management Board. Cancellation of the water rights would eliminate the need for annual submission of the irrigation questionnaire.

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



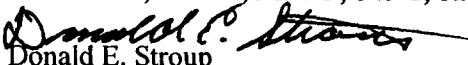
973-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 25, 2003

TO: Files 418-1, 1470-1, 2197-2, 843-1, 816-2, 973-2, 529-1, & 530-1

FROM: 
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

SUBJECT: Examination of Cancelled/Suspended Water Rights

Nos. 816-2 & 973-2, Craig Mowry. I checked these two water rights the summer of 2001 and found no evidence that irrigation had taken place for several years. There was no equipment for irrigation on-site. This information was written up and should have been on file. I made the examination for possible cancellation at the time.

No. 418-1, Dennis Lien. I made an on-site examination 8/22/03 and found no irrigation taking place or evidence that the acreage had been irrigated this year. The pasture is all weeds with a dozen or more horses grazing it.

No. 843-1, Laverne Wilburn. I had made an on-site check for K. Buehler on this. This was in response to a report of a flowing well. There was a hose discharging water into a pond at the location. Reported find to Buehler.

Nos. 529-1 & 530-1, Rod Anders. I made an on-site 8/21/03, getting to about 3-miles of the land authorized for irrigation. I could view the land authorized for irrigation and there was no evidence that irrigation had taken place this year.

No. 1470-1, William Holst. I made an on-site 8/22/03 and found irrigation had and was taking place. I placed a call to Mr. Holst on 8/25/03 requesting that he call me back on the subject.



973-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2008

NOTICE

TO: CRAIG MOWRY, RENTER, 25490 300TH AVE, PRESHO, SD 57568

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

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 816-2 & 973-2. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 Irrigation Questionnaire(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) 816-2 & 973-2 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, 2008** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. 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) 816-2 & 973-2 in accordance with applicable provisions of SDCL 46-1-12; **based on the number of past violations, the Water Rights Staff will recommend to the Board that Nos. 816-2 and 973-2 be cancelled;**
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:
<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 28, 2008

816-2
973-2

James Sundall
Director of Equalization
PO Box 126
Kennebec SD 57544-0126

Dear Mr. Sundall:

I am contacting you in regard to ownership of land described in Water Right No. 816-2 and Water Permit No. 973-2. The land in question is as follows:

all in T103N, R78W			
Section 22	N $\frac{1}{2}$ SW $\frac{1}{4}$	Section 25	SW $\frac{1}{4}$
	SE $\frac{1}{4}$ SW $\frac{1}{4}$		SW $\frac{1}{4}$ NW $\frac{1}{4}$
	NW $\frac{1}{4}$ SE $\frac{1}{4}$		
	S $\frac{1}{2}$ SE $\frac{1}{4}$	Section 26	Lots 2 & 3
	Lot 1		
		Section 27	Lots 1 & 4
			NW $\frac{1}{4}$ NE $\frac{1}{4}$

We still have the water permit and water right listed in the name of Lien Ranch, Presho SD. The last time I contacted you (June, 1997) concerning the land you indicated that Craig and Connie Mowry purchased the property. We have many attempts to contact the Mowry's and have been unsuccessful.

Can you tell me if ownership has changed again or if the Mowry's still own the property? I do not need any copies of documents, just a verification of ownership and a current mailing address for the owners.

Thank you for your help.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 28, 2008

816-2
973-2

Craig Mowry
25490 300th Ave
Presho SD 57568-5705

Dear Mr. Mowry:

I am writing to acknowledge receipt of your 2007 irrigation questionnaire. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Right No. 816-2 and Water Permit No. 973-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

On the forms you indicated that a system was either not constructed or did not exist. Please keep in mind that water must be placed to beneficial use at least once every three years in order to maintain the water permit and water right. This three-year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water. In order to rely on legal excuse for not irrigating, a system would need to be in place and ready to use if conditions warranted irrigation.

Enough information exists to question whether Nos. 816-2 and 973-2 have legal status. If you no longer wish to maintain these, please contact our office. If you intend to irrigate, we would urge you to come before the Water Management Board to find out they have legal standing or if they have been abandoned and forfeited.

If you have any questions, please contact me.

Sincerely,

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

COUNTY OF LYMAN
REAL ESTATE NOTICE FOR THE YEAR 2008
SDCL 10-6-50
ASSESSMENT LIST OF REAL PROPERTY

CRAIG S & CONNIE L MOWRY
25490 300TH AVENUE
PRESNO SD 57568-5705

The value and classification of your real estate as shown on the assessment roll is as listed.

Tn	Add	S/L	T/B	Rng	Q-S	Util	School Dist	Acr/Lot	Land	S T R U C T U R E S				DISCRETIONARY		FULL & TRUE	T O T A L
										Residence	Other	Commercial	AG Exempt	Valuation	Exemption		
25	0	24	103	78	3-0		42-1 AG	80.00	18571	0	0	0	0	0	0	0	18571
Rec #:1484 APR: 0.258 W2SE4																	
Prop Addr: STR 24-103-78																	
25	0	24	103	78	4-0		42-1 AG	160.00	36872	0	0	0	0	0	0	0	36872
Rec #:1486 APR: 0.256 SW4																	
Prop Addr: STR 24-103-78																	
25	0	25	103	78	2-0		42-1 AG	147.69	33894	0	0	0	0	0	0	0	33894
Rec #:1488 APR: 0.255 LOT 3; W2NW4; NE4NW4																	
Prop Addr: STR 25-103-78																	
25	0	25	103	78	4-0		42-1 AG	53.70	24552	0	0	0	0	0	0	0	24552
Rec #:1489 APR: 0.508 LOTS 4-5; NW4SW4																	
Prop Addr: STR 25-103-78																	
25	0	26	103	78	0-0		42-1 AG	80.00	17236	0	0	0	0	0	0	0	17236
Rec #:1490 APR: 0.257 LOTS 1-2-3-4																	
Prop Addr: STR 26-103-78																	
25	0	27	103	78	0-0		42-1 AG	157.30	49945	0	0	0	0	0	0	0	49945
Rec #:1491 APR: 0.353 LOTS 1-2-3-4; NW4NE4																	
Prop Addr: STR 27-103-78																	

TOTAL ACRES/LOTS: 2314.49

TOTAL VALUATION 735455

It Looks AS THOUGH CRAIG + CONNIE MOWRY OWN ALL OF THE LAND IN QUESTION.

James E. S. Hall
Director of Equalization
P.O. Box 126
Kennebec, SD 57544
Phone 605/869 2206

RECEIVED
MAR - 3 2008
WATER RIGHTS
PROGRAM

Phone # 605-895-2208

Tn	Add	S/L	T/B	Rng	Q-S	Util	School Dist	Acr/Lot	Land	Residence	Other	Commercial	AG Exempt	Valuation	Discretionary Exemption	Full & True Total
25	0	15	103	78	3-0		42-1 AG	160.00	72062	0	0	0	0	0	0	72062
Rec #:1452 APR: 0.500 SE4																
Prop Addr: STR 15-103-78																
25	0	15	103	78	4-0		42-1 AG	160.00	87727	0	0	0	0	0	0	87727
Rec #:1453 APR: 0.609 SW4																
Prop Addr: STR 15-103-78																
25	0	22	103	78	1-0		42-1 AG	160.00	64739	0	0	0	0	0	0	64739
Rec #:1476 APR: 0.450 NE4																
Prop Addr: STR 22-103-78																
25	0	22	103	78	2-0		42-1 AG	160.00	51630	0	0	0	0	0	0	51630
Rec #:1477 APR: 0.359 NW4																
Prop Addr: STR 22-103-78																
25	0	22	103	78	3-0		42-1 AG	160.00	21562	0	0	0	0	0	0	21562
Rec #:1478 APR: 0.288 SE4 -RIVER																
Prop Addr: STR 22-103-78																
25	0	22	103	78	4-0		42-1 AG	144.20	53775	0	11765	0	-10000	0	0	55540
								00	0	10420	0	0	0	0	0	10420
								HA	0	3510	0	0	0	0	0	3510
Rec #:1479 APR: 0.466 LOT 1; NW4SW4; E2SW4																
OWNER OCCUPIED																
Prop Addr: 25490 300TH AVE																
MANUFACTURED HOME																
25	0	23	103	78	0-0		42-1 AG	611.60	168730	0	0	0	0	0	0	168730
Rec #:1480 APR: 0.307 LOTS 1-2-3; NE4; NW4; E2SE4; NW4SE4; N2SW4																
Prop Addr: STR 23-103-78																
25	0	24	103	78	2-0 2		42-1 AG	80.00	18465	0	0	0	0	0	0	18465
Rec #:1483 APR: 0.256 S2NW4																
Prop Addr: STR 24-103-78																



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

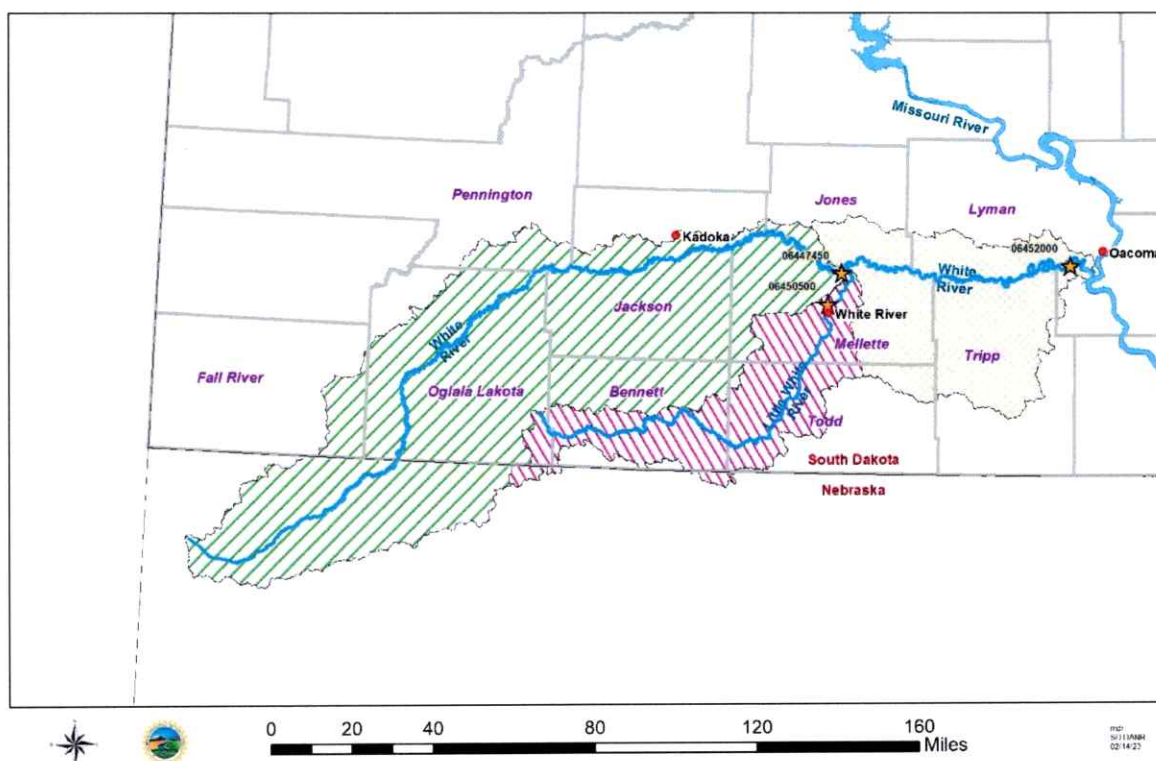


Figure 1. White River Watershed Map.

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

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

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

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

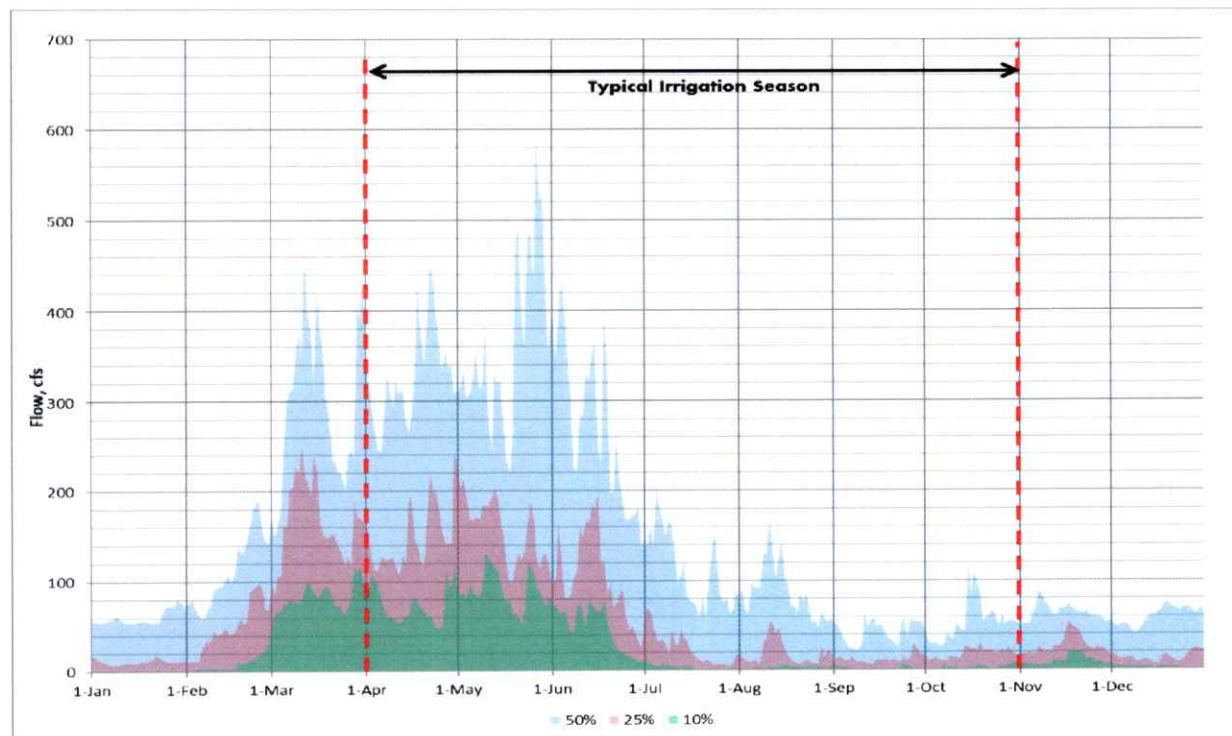


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

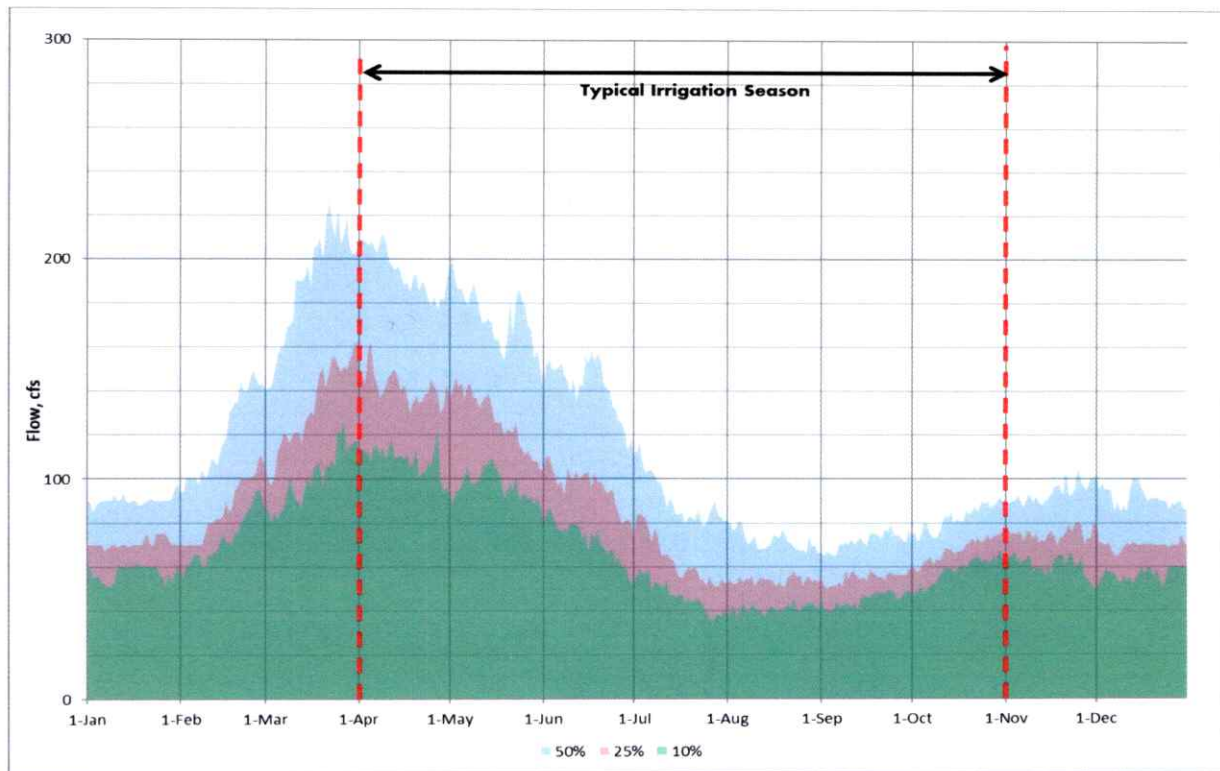


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

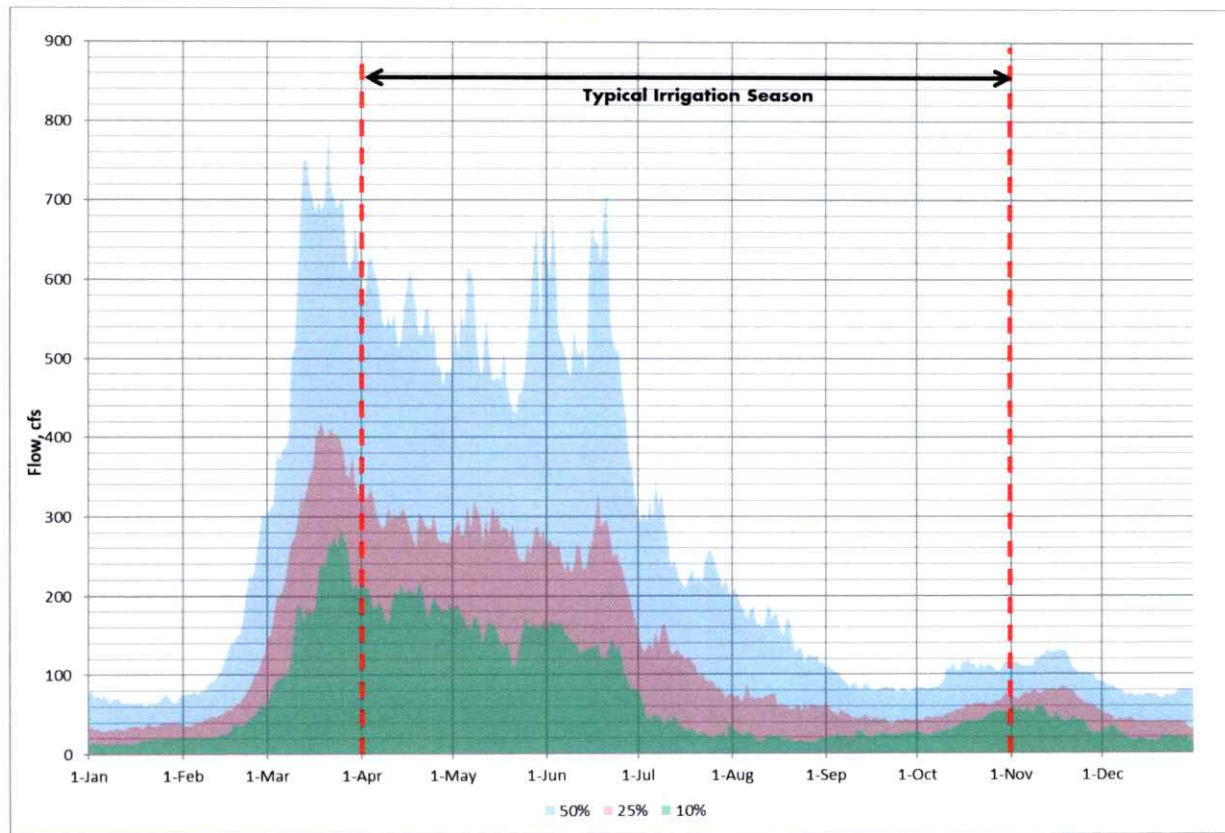


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

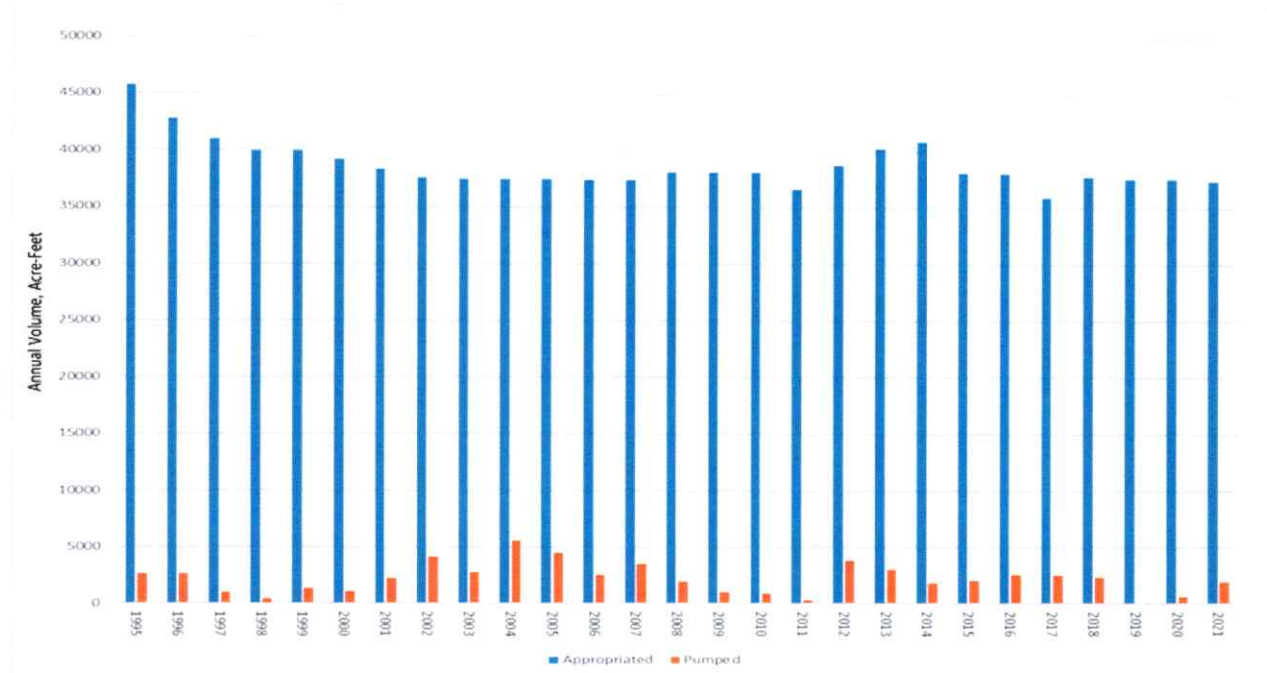


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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April 14, 2023

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

Dear White River Water Right Holder,

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

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

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

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

Sincerely,

Chief Engineer

Water Rights Program, DANR