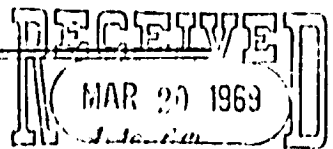


988-2

1. Considered MAY 7, 1969
2. Name of Applicant DAUM ROSSWEEPS
3. Post Office Address MURDO
4. Amount of water claimed 3.57
5. Source of water supply WHITE RIVER & GROUND WATER
6. Water to be used for IRRIGATION
Acres to be irrigated 250.00
7. Water to be diverted and used in TEXAS county
about _____ miles _____ of _____
8. Proof of Publication
Received 1/2
Not received _____
9. Application
Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks.

No. 988-2Water Division No. 2 WHITE RIVER District
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMMISSION
SIOUX FALLS, SOUTH DAKOTA

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

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

1. Name of applicant Daum Brothers
Postoffice address Murdo, County Jones, State South Dakota

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

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

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

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

Contract and Direct Labor

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

2. Name of diversion work Daum Brothers #1
3. Amount of water claimed 3.57 cubic feet per second
4. Source of water supply White River and Ground Water
5. Location of point of diversion See Attachment
on left bank Jones County.
6. Annual period or periods during which water is to be used April through October
7. To be used for:

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

- (a) Number of acres to be irrigated
- 250
- acres.

- (b) Legal subdivisions to be irrigated
- See Attachment

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

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

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

- (a) Nature of use _____
Name any of the above uses claimed
- (b) Amount of power to be generated _____ horse power.
Amount claimed for engine cooling _____
- (c) Location of plant _____
- (d) Method of developing power _____
- (e) Point where water will be returned to stream _____

MAP 20852-2

8. Estimated cost of work:

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

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

(e) Other structures.....

(d) Canalearth, \$.....

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

Rock, \$.....

Total, \$.....

9. Description of diversion works:

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

Pumps, Pipe, Gated Pipe to Levelled Land

II. Dimensions of works.

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

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

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

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

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

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATERLINE	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.....five.....years.

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

12. Choice of newspaper for publication of notice of intention to appropriate.....Murdo Coyote, Murdo, South Dakota

STATE OF SOUTH DAKOTA

County of.....Hughes

ss.

I,.....Daum Brothers, by Edward Daum

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

Edward Daum

Subscribed and sworn to before me this.....20th.....day of.....March.....

1969

Notary Public (or other qualified officer.)

Emeline Assistant
Water Resource Comm.

*Can diversion must have a headgate or measuring device.

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,

MAY 14

1969

This is to certify that the foregoing application was received by the Commission at 3:30 o'clock

P.m. upon the 20TH day of MARCH 1969.

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Number of permit

988-2

Date of first receipt of application

MARCH 20 1969

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

MARCH 20 1969

Approved

MAY 7

1969

Recorded in Book

11

Page

7

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

NOVEMBER 7 1971

2nd. The whole of said work is to be completed on or before

MAY 7

1974

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

MAY 7 1978

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

357

feet per second; neither shall it exceed the capacity of the above described system of diversion works, the least amount of water that experience may hereafter indicate as necessary for the production of crops by 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 MAY 7 1978; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this

14TH

day of

MAY

1969

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued

19

Water License Issued

19

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County

Faulk

ss.

Mary Jane Ingalls being duly sworn, deposes and says the annexed printed copy of Notice

of Intention to Appropriate Water was taken from the

Murdo Post a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the

City of Murdo County of Faulk and State of South Dakota;

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

April 10, 17, 24
May 1

In each and every issue of the full number thereof, the first publication being made on the 10 day of April

1969 and the last publication on the 1st day of

May 1969, upon which days or times

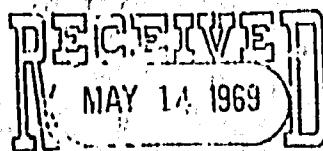
of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he

was _____ the printer and publisher of the said newspaper.

Mary Jane Ingalls

Subscribed and sworn to before me this 5 day of

May A. D. 1969
Therain



STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Notary Public

Jones

County, S. D.

APPROPRIATION OF WATER

Office of State Water
Resources Commission

Pierre, S. Dak., April 2, 1969

Notice is hereby given that

Daum Bros., whose postoffice

address is Murdo, S. Dak., have

made application in accordance

with the provisions of

the water laws of South Dakota

for a permit to appropriate

for beneficial use, 13.57 cubic

feet of water per second of time

from the White River and

ground water through the

Daum Bros. No. 1, the point

of diversion of which is to be

located on the left bank of said

stream between T. 13 N. in the

NE 1/4 NE 1/4 Section 27, and

the NW 1/4 of the NW 1/4 of Sec-

tion 35, Twp. 2S, Range 26E.

Said water to be used for the

purpose of providing irriga-

tion on portions of the follow-

ing described land:

S 1/2 NW 1/4 NE 1/4 SW 1/4

SW 1/4 NE 1/4 W 1/4 SE 1/4 Sec-

tion 26; NW 1/4 and W 1/4 NE 1/4

Section 35, T2S, R26E.

This application will be taken

up by the State Water Re-

sources Commission at their

office at Pierre for considera-

tion upon the 7th day of May

1969 at 2:00 P.M. All inter-

ested persons may appear and

be heard.

Appropriate action will be

taken by the Water Resources

Commission after suitable time

has elapsed for the considera-

tion of any or all information

presented.

State Water Resources

Commission

By: Burton F. Jones

Chief Engineer, Executive

Officer

Burton F. Jones

Water Rights Specialist

cc: Edward Daum, Murdo, SD.

Pub: April 10, 17, 24 May 1

on or before April 10, 1969

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., April 2, 1969

Notice is hereby given that Daum Bros. whose post-office address is Murdo S. Dak. ~~have~~ made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.57 cubic feet of water per second of time from the White River & ground water through the Daum Bros. #1 the point of diversion of which is to be located on the left bank of said stream between points in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, and of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35 Twp. 28 Range 26E. Said water to be used for the purpose of providing irrigation portions of following described land:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Section 26; NW $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 35, T28, R26E.

and for ~~XXXX~~

purposes ~~XXXX~~

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 7th day of May, 1969, 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:

cc: Edward Daum, Murdo, S.D.

Chief Engineer, Executive Officer

BURTON F. JONES
Water Rights Specialist

Daum Bros.

Between points in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, T2N, R26E. (Gravel pit located adjacent to River in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26)

Lands to be Irrigated - All in T2N, R26E

Section 26	SW $\frac{1}{4}$ NW $\frac{1}{4}$	5 acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	30 acres
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	11 acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	34 acres
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	37 acres
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	8 acres
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	23 acres
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	32 acres

Section 35	NW $\frac{1}{4}$ NW $\frac{1}{4}$	5 acres
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	37 acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	3 acres
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	23 acres
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	2 acres

Total 250 Acres

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

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

March 23, 1987

DAUM BROTHERS, Johnny Daum
BOX 19
CKATON, SD 57562

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire

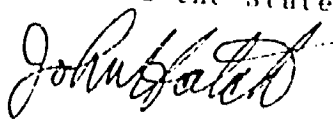
Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 1621-2, 1148-2, 988-2, 1463-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

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

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

1. Amend Permit No(s). 1621-2, 1148-2, 988-2, 1463-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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



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

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



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-2181

April 24, 1987

371-2
(988-2)
1148-2
1463-2
1621-2
1626-2

Johnny Daum
Daum Brothers
Box 19
Okaton, SD 57562

Dear Mr. Daum:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaires. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit Nos. 371-2, 988-2, 1148-2, 1463-2, 1621-2 and 1626-2 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,

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

cc: Keith Moody, RR #1 Box 84, Murdo, SD 57559



988-2

Department of Water & Natural Resources

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

January 29, 1988

JOHNNY DAUM- DAUM BROTHERS
BOX 19
OKA'MON, SD 57562

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 1148-2, 1621-2, 1463-2, 988-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of 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 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

1. Amend Permit No(s). 1148-2, 1621-2, 1463-2, 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date your name will be deleted from the agenda for the hearing.

 **Department of
Water & Natural Resources**

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

February 9, 1988

988-2
1148-2
1463-2
1621-2

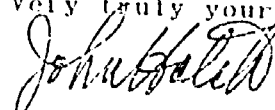
Johnny Daum
Daum Brothers
Box 19
Okaton SD 57562

Dear Mr. Daum:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 988-2, 1148-2, 1463-2, 1621-2 and the hearing date before the Water Management Board.

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

Very truly yours,



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

 **Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57507-3181

February 9, 1990

JOHNNY DAUM- DAUM BROTHERS
BOX 19
OKATON, SD 57562

NOTICE

RE: Violation of Requirement to Submit 1989 Irrigation Questionnaire

Our records indicate that the 1989 Irrigation Questionnaire has not been submitted for Permit No(s). 1621-2, 1463-2, 1148-2, 988-2. The request for the Questionnaire was dated October 13, 1989. The Water Management Board had directed that owners of water permits who have not submitted 1989 Irrigation Questionnaire 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 8:30 am, March 7, 1990 at the Howard Johnson's, Jefferson-Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

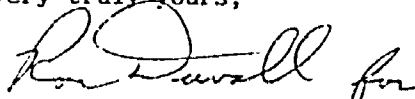
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 1621-2, 1463-2, 1148-2, 988-2 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.

If the questionnaire(s) is received in this office before the March 7th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,


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

 **Department of
Water & Natural Resources**

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

February 23, 1990

988-2
1148-2
1463-2
1621-2

Johnny Daum
Box 19
Okeaton SD 57502

Dear Mr. Daum:

I am writing to acknowledge receipt of your 1989 irrigation questionnaire for Water Permit Nos. 988-2, 1148-2, 1463-2 and 1621-2. You may disregard the February 9, 1990 Notice of failure to submit the 1989 irrigation questionnaire. Your questionnaire was received prior to the March Water Management Board meeting and your name was deleted from the agenda pertaining to the hearing.

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

Sincerely,

Ron Duvall

RON DUVALL
Natural Resources Engineer
Water Rights Division



Department of Water & Natural Resources

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

March 12, 1990

988-2
1148-2
1463-2
1621-2

Johnny Daum
River View Angus X
Box 19
Okaton, SD 57562

Dear Mr. Daum:

Enclosed are partially completed "Notice of Transfer" forms for use in filing ownership changes on Water Permit Nos. 988-2, 1148-2, 1463-2 and 1621-2. Please check over the forms and sign them in the presence of a notary public. Upon completion of the forms, return them to our office with a required filing fee of \$2.50 each (total of \$10.00).

South Dakota Water Law 46-5-37.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

GENNY MCMATH
Natural Resources Analyst
605 772-3352

enclosure

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412149

Pierre, March 10, 1900

RECEIVED OF River View Angus X Ranch Box 19, Olaton, SD

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form Water Permit No. 988-2	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By

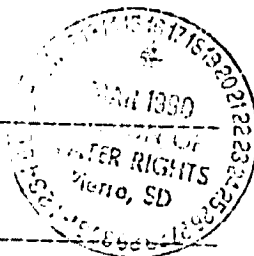
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

No. 983-2

TO: Chief Engineer
Water Rights Division, DWR
523 East Capitol
Pierre, SD 57501-3181

Date: _____



I/We request that Water Permit/Right No. 983-2

formerly owned by: Daum Brothers

be transferred to: (name & address) River View Angus X Ranch

Box 19, Okaton, SD

(telephone No.) 669-2107

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

S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 26, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and

W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 35, T2S, R26E (250 acres)

Jones Co.

I/We understand that the validity of Water Permit/Right No. 983-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

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

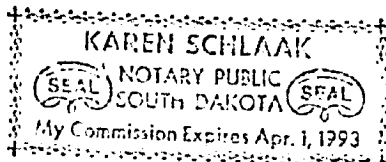
STATE OF SOUTH DAKOTA)

County of Hughes)

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

River View Angus X Ranch
Johnny B. Daum
(Signed)

Subscribed and sworn to before me this 16th day of March, 1990.



Karen Schlaak
(Notary Public)

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

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

South Dakota Department of
Water & Natural Resources

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

March 28, 1990

988-2
1148-2
1463-2
1621-2

Johnny Daum
River View Angus X Ranch
Box 19
Okaton, SD 57562

Dear Mr. Daum:

Enclosed are Receipt Nos. 412146, 412147, 412148 and 412149 in the amount of \$2.50 each which you paid for transfer of Water Right Nos. 988-2, 1148-2, 1463-2 and 1621-2.

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

Sincerely,

Marie R. Arthur

MARIE R. ARTHUR
Secretary
Water Rights Division
(605) 773-3352

enclosure

South Dakota



DEPARTMENT OF WATER & NATURAL RESOURCES

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

988-2

February 1, 1991

RIVER VIEW ANGUS X RANCH
BOX 19
OKATON SD 57562

NOTICE

RE: Violation of Requirement to Submit 1990 Irrigation Questionnaire

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2, 1148-2, 1463-2, 1621-2. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of 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 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

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

1. Amend Permit No(s) 988-2, 1148-2, 1463-2, 1621-2 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.

If the questionnaire(s) is received in this office before the February 27th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,

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

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested. 1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)	
3. Article Addressed to: RIVER VIEW ANGUS X RANCH BOX 19 OKATON SD 57562	4. Article Number P 694 057 395 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and <u>DATE DELIVERED</u>.
5. Signature - Addressee X <i>Johnny H. Dorn</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X	
7. Date of Delivery 2/2/91	



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 20, 1991

988-2

(988-2)
1148-2
1463-2
1621-2

Johnny G Daum
River View Angus X Ranch
HC 74 Box 19
Okatca, SD 57562

Dear Mr. Daum:

I am writing to acknowledge receipt of your 1990 irrigation questionnaires for Water Permit Nos. 988-2, 1148-2, 1463-2, and 1621-2. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division



988-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 29, 1993

NOTICE

TO: RIVER VIEW ANGUS X RANCH
HC 74 BOX 19
OKATON SD 57562

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

RE: Violation of Requirement to Submit 1992 Irrigation Questionnaire

Our records indicate that the 1992 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2, 1148-2, 1463-2 & 1621-2. The request for the Questionnaire was dated October 16, 1992. The Water Management Board has directed that owners of water permits who have not submitted the 1992 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 3, 1993, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 988-2, 1148-2, 1463-2 & 1621-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Prior to February 22, 1993, contact the Water Rights Division, 523 E Capitol, Pierre SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

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



988-2

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

February 10, 1993

River View Angus X Ranch
HC 74 Box 19
Okaton, SD 57562

Dear Sirs:

I am writing to acknowledge receipt of your 1992 irrigation questionnaires for Water Permit Nos. 988-2, 1148-2, 1463-2 and 1621-2. You may disregard the Notice of Violation of the Requirement to Submit the 1992 Irrigation Questionnaires.

The questionnaires were received in our office prior to the Water Management Board Meeting and your name has been deleted from the agenda.

Sincerely,

A handwritten signature in cursive script, which appears to read 'Genny McMath'.

Genny McMath
Natural Resources Analyst
Water Rights Division
(605) 773-3352



988-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 7, 1995

RIVER VIEW ANGUS X RANCH
JOHNNY DAUM
HC 74 BOX 19
OKATON SD 57562

NOTICE

RE: Violation of Requirement to Submit 1994 Irrigation Questionnaire

Our records indicate that the 1994 Irrigation Questionnaire has not been submitted for Permit Nos. 988-2, 1148-2, 1463-2 & 1621-2. The request for the Questionnaire was dated November 3, 1994. The Water Management Board has directed that owners of water permits who have not submitted the 1994 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 8, 1995, in the Crown Room, 3rd Floor, Kings Inn Best Western Convention Center, 220 S Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit Nos. 988-2, 1148-2, 1463-2 & 1621-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaires are received in this office on or before March 3, 1995 your name will be deleted from the Board agenda.

Very truly yours,

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

RIVER VIEW ANGUS X RANCH
JOHNNY DAUM
HC 74 BOX 19
OKATON, SD 57562

4a. Article Number

P-157566341

4b. Service Type

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

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

Earl Woodard

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

PS Form 3811, December 1991 • U.S. GPO: 1993-302-714

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

988-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 E. CAPITOL
PIERCE, SOUTH DAKOTA 57501-3181

February 22, 1995

988-2

148-2

1463-2

1621-2

Johnny Daum
Riverview Angus X Ranch
HC 74 Box 19
Okaton, SD 57562

Dear Mr. Daum:

I am writing to acknowledge receipt of your 1994 irrigation questionnaires. The questionnaires were completed for you following your telephone conversation with Cheryl Frost, with our office, on February 15, 1995. You may disregard the February 7, 1995, **Notice of Violation of the Requirement to Submit the 1994 Irrigation Questionnaires.**

The questionnaires were completed and on file in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



988-2

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

January 30, 1996

NOTICE

TO: RIVER VIEW ANGUS X RANCH, JOHNNY DAUM, HC 74 BOX 19, OKATON, SD 57562

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

SUBJECT: Violation of Requirement to Submit 1995 Irrigation Questionnaire

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 1621-2, 988-2, 1148-2 & 1463-2. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:45 am. March 6, 1996, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 1621-2, 988-2, 1148-2 & 1463-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 1, 1996 your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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

Complete items 1 and/or 2 for additional services.
Complete items 3, 4a, and 4b.
Print your name and address on the reverse of this form so that we can return this card to you.

Attach this form to the front of the mailpiece, or on the back if space does not permit.
Write "Return Receipt Requested" on the mailpiece below the article number.
The Return Receipt will show to whom the article was delivered and the date delivered.

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

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

River View Angus X Ranch
Johnny Daum
RR 1 Box 51-828
Alamo TX 78516-9301

4a. Article Number

2 348 3/8 886

4b. Service Type

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

7. Date of Delivery

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

Received By: (Print Name)

Signature: (Addressee or Agent)

11, December 1994



Domestic Return Receipt

Thank you for using Return Receipt Service.

988-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 9, 1996

988-2 ✓
1148-2
1463-2
1621-2

Johnny Daum
River View Angus X Ranch
RR 1 Box 51-828
Alamo, TX 78516-9801

Dear Mr. Daum:

I am writing to acknowledge receipt of your 1995 irrigation questionnaires. You may disregard the January 30, 1996, Notice of Violation of the Requirement to Submit the 1995 Irrigation Questionnaires.

I completed questionnaires for you based on our February 6, 1996 telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

Genny McMath

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

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 988-2

(1) Daum Brothers, Murdo SD made Application No. 988-2, March 20, 1969 for a water permit to divert 3.57 cubic feet of water per second from the White River and groundwater, Jones County, South Dakota for irrigation purposes. Permit No. 988-2, with a priority date of March 20, 1969 was approved May 7, 1969 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before May 7, 1974 and for the application to beneficial use of said water on or before May 7, 1978.

On March 16, 1990, Water Permit No. 988-2 was transferred to River View Angus X Ranch.

The permit was readvertised February 1 & 8, 1996 to correct an error on the original notice of hearing which did not include all of the lands to be irrigated. The readvertisement of the original notice of hearing did not authorize an increase in the acreage or developed diversion rate.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 3.57 cubic feet of water per second for beneficial use. The location of the diversion points are: Between point A - 70 feet west and 660 feet south of the northeast corner of Section 27 (NE 1/4 NE 1/4); point B - 1070 feet south and 1400 feet west of the north 1/4 corner of Section 35 (NW 1/4 NW 1/4); and point C - gravel pit located in the SW 1/4 NW 1/4 Section 26; all in T2S-R26E.

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land: all in T2S-R26E

Section 26		Section 35	
SW 1/4 NW 1/4	6 acres	NW 1/4 NW 1/4	2 acres
SE 1/4 NW 1/4	31 acres	NE 1/4 NW 1/4	36 acres
SW 1/4 NE 1/4	7 acres	SE 1/4 NW 1/4	1 acre
NW 1/4 SW 1/4	9 acres	NE 1/4 NE 1/4	2 acres
NE 1/4 SW 1/4	32 acres	NW 1/4 NE 1/4	37 acres
SE 1/4 SW 1/4	30 acres	SW 1/4 NE 1/4	3 acres
NW 1/4 SE 1/4	18 acres		
SW 1/4 SE 1/4	36 acres		
		Total 250 acres	

(4) Pursuant to South Dakota Water Law 46-5-30.1 River View Angus X Ranch % Johnny Daum, HC 74, Box 19, Okaton SD 57562 the holder and/or owner of Water Permit No. 988-2 is issued a license to appropriate water, the right to use 3.57 cubic feet of water per second from the White River and a gravel pit with a priority date of March 20, 1969 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 988-2 and subject to South Dakota State Law.

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 4 1996
date



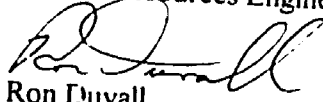
REPORT ON WATER PERMIT NO. 988-2
RIVER VIEW ANGUS X RANCH
December 14, 1995

Water Permit No. 988-2 appropriates 3.57 cubic feet of water per second from the White River and groundwater (gravel pit) located between points in the NE 1/4 NE 1/4 Section 27 and the NW 1/4 NW 1/4 Section 35-T2S-R26E to irrigate 250 acres. Readvertisement of this permit is necessary to correct the location of the lands to be irrigated prior to issuance of the water license. The lands irrigated are located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4 Section 26 and the N 1/2 NW 1/4, SE 1/4 NW 1/4, W 1/2 NE 1/4, NE 1/4 NE 1/4 Section 35; all in T2S-R26E. The notice was incorrectly published on April 10, 17, 24 and May 1, 1969 in the Murdo Coyote. The notice did not include the lands located in the SE 1/4 SW 1/4 Section 26 and the NE 1/4 NE 1/4 Section 35; all in T2S-R26E. This readvertisement does not authorize any increase in the developed water appropriation or irrigated acreage.

Conclusions

1. This is a readvertisement of the Notice of Hearing for Water Permit No. 988-2.
2. This readvertisement is necessary to correct the legal description of the lands being irrigated prior to issuance of the water license. The correct location of the irrigated acreage was identified on the map submitted with the application.
3. The correct legal description of the lands being irrigated is the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4 Section 26 and the N 1/2 NW 1/4, SE 1/4 NW 1/4, W 1/2 NE 1/4, NE 1/4 NE 1/4 Section 35; all in T2S-R26E.


Eric Gronlund
Natural Resources Engineer


Ron Duvall
Natural Resources Engineer IV

**RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED
WATER PERMIT APPLICATION NO. 988-2, River View Angus X Ranch**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning readvertised Water Permit Application No. 988-2, River View Angus X Ranch, %Johnny Daum, HC 74, Box 19, Okaton, SD 57562.

The Chief Engineer is recommending APPROVAL of readvertised Application No. 988-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

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.

See report on application for additional information.



JOHN HATCH, Chief Engineer
January 18, 1996



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 1996

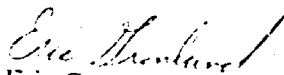
River View Angus X Ranch
%Johnny Daum
HC 74, Box 19
Okaton, SD 57562

Dear Mr. Daum:

The original notice of hearing for Water Permit No. 988-2 was published with an error. Therefore, the notice of hearing needs to be readvertised to correct the error. A notice of hearing has been sent to the Publisher of the Murdo Coyote printed at Murdo, SD (Ph # (605) 669-2271). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the readvertisement are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Water Rights Program. Please contact us if you have any questions.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 1996

The Murdo Coyote
Box 465
Murdo, SD 57559-0465

Attn: Legal Department

Enclosed is a Readvertisement of Notice of Hearing on Permit No 988-2 to be published twice. Please publish the first notice on February 1, 1996, with the second publication 7 days later

Please bill the Water Rights Program for the cost of the advertisement

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

FIRST TRANSMITTAL NOTICE

-----CUT HERE-----

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Readvertisement of Notice of Hearing to Appropriate Water by Permit No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on February 1, 1996, with the second publication 7 days later.

Readvertisement of NOTICE OF APPLICATION NO. 988-2 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 988-2 held by River View Angus X Ranch, HC 74, Box 19, Okaton, SD 57562. The water permit was originally applied for on March 20, 1969. Water Permit No. 988-2 appropriates 3.57 cubic feet of water per second from the White River and groundwater (gravel pit) located between points in the NE 1/4 NE 1/4 Section 27 and the NW 1/4 NW 1/4 Section 35-T2S-R26E to irrigate 250 acres. Readvertisement of this permit is necessary to correct the location of the lands to be irrigated prior to issuance of the water license. The lands irrigated are located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4 Section 26 and the N 1/2 NW 1/4, SE 1/4 NW 1/4, W 1/2 NE 1/4, NE 1/4 NE 1/4 Section 35; all in T2S-R26E. The original notice did not include the lands located in the SE 1/4 SW 1/4 Section 26 and the NE 1/4 NE 1/4 Section 35; all in T2S-R26E. This readvertisement does not authorize any increase in the developed water appropriation or irrigated acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Readvertised Application No. 988-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 20, 1996.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Jones) SS1. Clarice Roghaircertify that the attached printed Notice was
taken from the Murdo Coyoteprinted and published in MurdoCounty of Jones and StateSouth Dakota. The notice was published in
the newspaper on the following two dates:Feb 1, 1996Feb 8, 1996Cost of Printing: 40.85Clarice Roghair
(Signature)Publisher
(Title)Feb 7, 1996
(Date Signed)Readvertisement of NOTICE OF APPLICATION NO. 988-2 to
Appropriate Water

Notice is given of readvertisement of Water Permit No. 988-2 held by River View Angus X Ranch, HC 74, Box 19, Okaton, SD 57562. The water permit was originally applied for on March 20, 1969. Water Permit No. 988-2 appropriates 3.57 cubic feet of water per second from the White River and groundwater (gravel pit) located between points in the NE 1/4 NE 1/4 Section 27 and the NW 1/4 NW 1/4 Section 35-T2S-R26E to irrigate 250 acres. Readvertisement of this permit is necessary to correct the location of the lands to be irrigated prior to issuance of the water license. The lands irrigated are located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4 Section 26 and the N 1/2 NW 1/4, SE 1/4 NW 1/4, W 1/2 NE 1/4, NE 1/4 NE 1/4 Section 35; all in T2S-R26E. The original notice did not include the lands located in the SE 1/4 SW 1/4 Section 26 and the NE 1/4 NE 1/4 Section 35; all in T2S-R26E.

This readvertisement does not authorize any increase in the developed water appropriation or irrigated acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Readvertised Application No. 988-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 20, 1996.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Publish February 1 and February 8, 1996

74

Permit No. 988-2

Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by River View Angus X Ranch (Johnny Dunn) of HC 74, Box 19, Okatow, SD 57562 holder of Permit No. 988-2, bearing the priority of March 20, 1969 authorizing the diversion of 3.57 cu. ft. per second of the waters of the White River and ground water for irrigation purposes, in Jones County.

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

A. Works used to divert the water:

12 inch Crisafulli pump - Tractor powered
Capacity = 5000 gpm

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

10 inch aluminum pipe

C. Works used to apply water to beneficial use:

10 inch gated pipe.

The system is in the following condition good

The point of diversion is located Between point A - 70 feet west and 660 feet south of the NE corner of Section 27 (NE $\frac{1}{4}$ NE $\frac{1}{4}$) and point B - 1070 feet south and 1800 feet west of the NW corner of Section 35 (NW $\frac{1}{4}$ NW $\frac{1}{4}$). Also point C - gravel pit located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26. All in T2S, R26E.

The works are capable of diverting and conveying to the place of use 11cu. ft. per second of water which is to be used for irrigationWater has been put to beneficial use to the maximum extent as follows: SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 6 acres, SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 31 acres,

SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 7 acres, NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 9 acres, NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 32 acres, NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 18 acres,

SE $\frac{1}{4}$ SW $\frac{1}{4}$ - 30 acres, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 36 acres, all in section 26, T2S, R26E.

NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 2 acres, NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 36 acres, NW $\frac{1}{4}$ NE $\frac{1}{4}$ - 37 acres, NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 2 acres,

SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 1 acre, and SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 3 acres, all in section 35, T2S, R26E

comprising a total of 250 acres of land and the license should be issued for 3.6 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are: _____

Date 11-16-95

W. Edwin D. Brown, PE
 (signature)

REPORT ON INSPECTION OF PERMIT NO. 988-2

DATE OF INSPECTION: Nov. 16, 1995

Other permit(s) associated with the project: None

DIVERSION POINT LEGAL LOCATION: Between point A - 70 feet west and 660 feet south of the NE corner of Section 27 (NE 1/4 NE 1/4) and point B - 1070 feet south and 1400 feet west of the N 1/4 corner of Section 35 (NW 1/4 NW 1/4). Also point C - gravel pit located in the SW 1/4 NW 1/4 of Section 26; all in T2S-R26E.

Pump:

- 1) Make Crisafulli
- 2) Model NA
- 3) Size 12 inch
- 4) Capacity 5000 GPM

Motor:

- 1) Make Farm Tractor

DISTRIBUTION LINES OR CANALS:

- 1) Type Aluminum 2) Size 10 inches 3) Length # feet

CHEMIGATION EQUIPMENT:

- 1) Does chemigate N

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 1, 1995

988-2

Johnny Daum
River View Angus X Ranch
HC 74, Box 19
Okaton, SD 57562

Dear Mr. Daum:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 988-2, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

Please remit the fee within 30 days to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

PAYMENT REQUEST FORM

PAYEE: Murdo Coyote
Box 465
Murdo, SD 57559-0465

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Publication of Readvertisement of Notice of Application
No. 988-2 to Appropriate Water.

AMOUNT: \$40.85

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION: Jo Lubbelet

2-21-76

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 4 1996

988-2

River View Angus X Ranch
%Johnny Daum
HC 74, Box 19
Okaton, SD 57562

Dear Mr. Daum

Enclosed is Water License No. 988-2 and Receipt No. 414699 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 983-2 is the final document which completes the process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

kr
enclosures

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

788-2
414699

Pierre, _____ December 7, 19 95

RECEIVED OF Riverview Angus X Ranch, Box 19, Okaton, SD 57562

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>958-2</u>		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)		
Total	50	00

By

Chief Engineer

[Signature]

File No. 988-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Brenda Frisbee

DATE: December 5, 2002

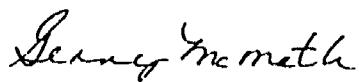
RE: Water Right No. 988-2, RiverView Angus Ranch

COMMENTS:

Ms. Frisbee called – she is the daughter of Johnny and Jane Daum. Her father has passed away and they would like the name changed for contact person to Jane Daum with the annual irrigation questionnaire going to the renter of the land.

She indicated Mack Wyly farmed the land and would have the irrigation records. I contacted Mr. Wyly and he confirmed that he did rent the land. They did not irrigate in 2002. Send future questionnaires to him as follows:

Mack Wyly
21730 US Hwy 83
Ft Pierre SD 57532



Genny McMath
Environmental Scientist



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 9, 2002

Mack Wyly
21730 US Hwy 83
Ft Pierre SD 57532

988-2

Dear Mr. Wyly:

Thank you for returning my call concerning Water Right No. 988-2. The water right is held by River View Angus X Ranch.

I have updated our records and have listed you as the operator for the irrigation system. This does not change ownership of the water right, it merely allows us to send correspondence to the person handling the irrigation.

Each year we mail out an irrigation questionnaire requesting information on how much was irrigated. I am enclosing a copy of the form for 2002 which I completed based on our phone conversation.

Also enclosed is a copy of the water right outlining what is authorized for irrigation. You may keep this for your records. If I can answer any questions for you, please contact me.

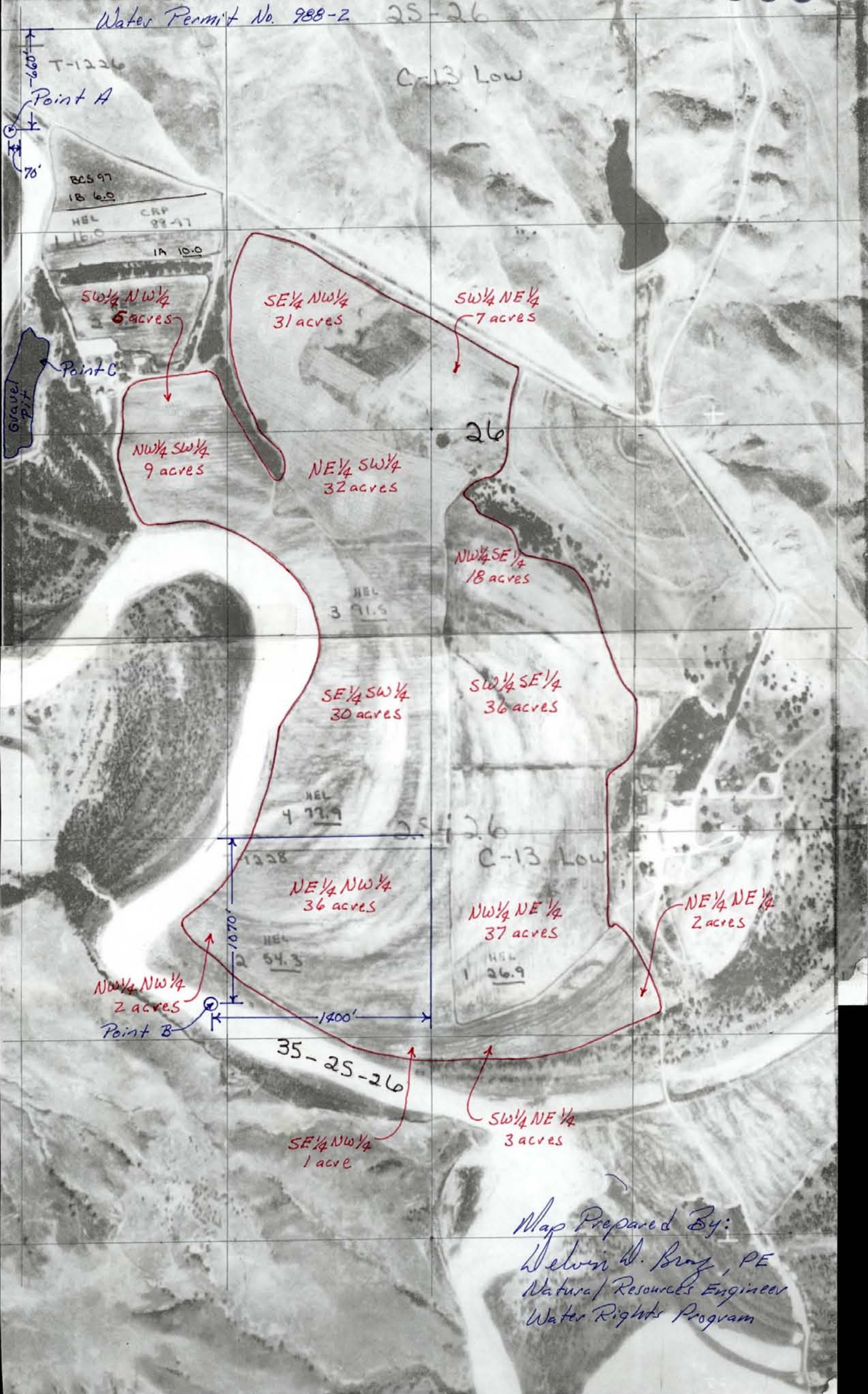
Sincerely,

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

enclosures

NOT TO SCALE 1996

Water Permit No. 988-2 25-26



Map Prepared By:
 Melvin W. Bratz, PE
 Natural Resources Engineer
 Water Rights Program



988-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 2013

1156-2
988-2

Mack Wyly
21730 US Hwy 83
Ft Pierre SD 57532

Dear Mr. Wyly:

I am contacting you in regard to Water Right Nos. 1156-2 and 988-2 both of which authorize diversion of water from the White River for irrigation purposes. No. 988-2 is listed in the name of Riverview Angus X Ranch and No. 1156-2 is listed in your name (copies of each enclosed).

On the last couple years of irrigation questionnaires for both water rights, you indicated that the use of water had been abandoned. Typically when an irrigator indicates the use has been abandoned, the water rights are scheduled for cancellation. Prior to doing anything with the water rights, I wanted to write and ask you if you had truly abandoned irrigation on the land.

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

Please take a few minutes to review the water rights and give me a call so we can discuss them. Thank you in advance for your help.

Sincerely,

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

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

enclosures

File No. 988-2
1156-2

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Mack Wyly, 21730 US Hwy 83, Ft Pierre SD 57532

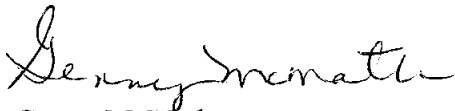
DATE: June 17, 2013 **TELEPHONE:** 605 280-8775

RE: Water Right Nos. 988-2 and 1156-2

With reference to Water Right No. 988-2, Riverview Angus X Ranch -- Mr. Wyly indicated he no longer rented that land and indicated I should contact Ann Daum (Jane's daughter) as she now manages the land for Jane (669-2107 or 669-2879).

With reference to Water Right No. 1156-2 listed in his name, Mr. Wyly indicated he did not irrigate and was agreeable to cancellation of the water right. He said the use had been direct diversion from the White River and no storage dams were involved.

I told Mr. Wyly that the water right would be scheduled for cancellation at the October 2013 WMB meeting and he would be notified of the time, date and place once it was scheduled. He said that was fine.


Genny McMath
Water Rights Program

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Ann Daum Kustar, 24526 Johnny Daum Pl, Okaton SD 57562-5004

DATE: July 10, 2013

TELEPHONE: 605 685-3089 (cell)

RE: Water Right No, 988-2 – Riverview Angus X Ranch

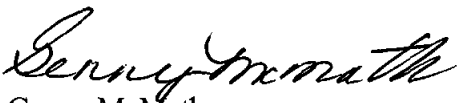
On June 17, 2013 I spoke with Mack Wyly about the water right. His name was listed as operator for Riverview Angus X Ranch. He said he no longer operated any of the land and requested I contact Ann Daum (Jane Daum's daughter).

On today's date, I called and spoke with Ann about the water right. She indicated they have not irrigated on a regular basis. I explained the criteria for maintaining a water right and the legal excuse reasons for not irrigating as outlined in Water Management Board rules. She felt the non-use of water was due in part to either having not enough water or when the river is higher; they do not need to irrigate and have had adequate moisture.

She said the acreage was planted to alfalfa and she would like to maintain the water right in order to be able to irrigate if they needed to. I told Ms. Daum-Kustar I would send her a copy of the water right and begin sending her the annual irrigation questionnaires in October.

A follow-up letter to her with the information we discussed will be sent and will include the following:

- Copy of the water right
- copy of the inspection report
- copy of the map
- Excerpts of the Statutes and Water Management Board rules dealing with abandonment and/or forfeiture and legal excuse for not irrigating.


Genny McMath
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 10, 2013

988-2

Ann Daum Kustar
24526 Johnny Daum Pl
Okaton SD 57562-5004

Dear Ms. Kustar:

Thank you for taking the time to visit with me regarding Water Right No. 988-2. The water right is held by Riverview Angus X Ranch. Enclosed is a copy of the water right which includes the license, inspection report and map.

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

Each year in October we mail out irrigation questionnaires to irrigators in South Dakota. The questionnaire pertaining to Water Right No. 988-2 has been directed to Mack Wyly as operator for several years. I have changed the contact information and will send the annual form to you in October for completion.

One other thing I should mention is that if ownership changes or if you want the water right listed in something other than Riverview Angus X Ranch, an ownership change will need to be filed with our office. I have enclosed a lot of information and if you should have any questions at all, please give me a call.

Sincerely,

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

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

enclosures



488-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: ANN DAUM KUSTAR, MGR, 24526 JOHNNY DAUM PL, OKATON, SD 57562 5004

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

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaire

Our records indicate your 2014 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **10:00 am, March 4, 2015**, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182

March 2, 2015

988-2

Ann Daum Kustar
24526 Johnny Daum Pl
Okaton SD 57562 5004

Dear Ms. Kustar:

I am writing to acknowledge receipt of your 2014 irrigation questionnaire.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Right No. 988-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



988-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: ANN DAUM KUSTAR, MGR, 24526 JOHNNY DAUM PL, OKATON, SD 57562 5004

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 3, 2016

988-2

Ann Daum Kustar, Mgr
24526 Johnny Daum Pl
Okaton SD 57562-5004

Dear Ms. Kustar:

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

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 988-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



988-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 25, 2019

NOTICE

TO: ANN DAUM KUSTAR, MGR, 24526 JOHNNY DAUM PL, OKATON, SD 57562 5004

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

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

1. Amend Permit No(s) 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

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

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

988-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 14, 2019

988-2

Ann Daum Kustar
24526 Johnny Daum Pl
Okaton SD 57562-5004

Dear Ms. Kustar:

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

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Right No. 988-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



988-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: ANN DAUM KUSTAR, MGR, 24526 JOHNNY DAUM PL, OKATON, SD 57562 5004

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

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

1. Amend Permit No(s) 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

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

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.

988-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 6, 2020

988-2

Ann Daum Kustar
24526 Johnny Daum Pl
Okaton SD 57562-5004

Dear Ms. Kustar:

I am writing to acknowledge receipt of your 2019 irrigation questionnaire.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right No. 988-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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

988-2



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: ANN DAUM KUSTAR, MGR, 24526 JOHNNY DAUM PL, OKATON, SD 57562 5004

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

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire has not been submitted for Permit No(s) 988-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 988-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: FLPNVK**

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.



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2021

988-2

Ann Daum Kustar
Riverview Angus X Ranch
24526 Johnny Daum Pl
Okaton SD 57562-5004

Dear Ms. Kustar:

I am writing to acknowledge receipt of your 2020 irrigation questionnaire.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Right No. 988-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Subject: Bypass Qualifications on the White River

March 30, 2023

Dear White River Water Right Holder,

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
SD DANR – Water Rights Program

Review of White River Water Rights and Report on Proposed Amendment

February 14, 2023

Introduction

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

Review of the Water Source

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

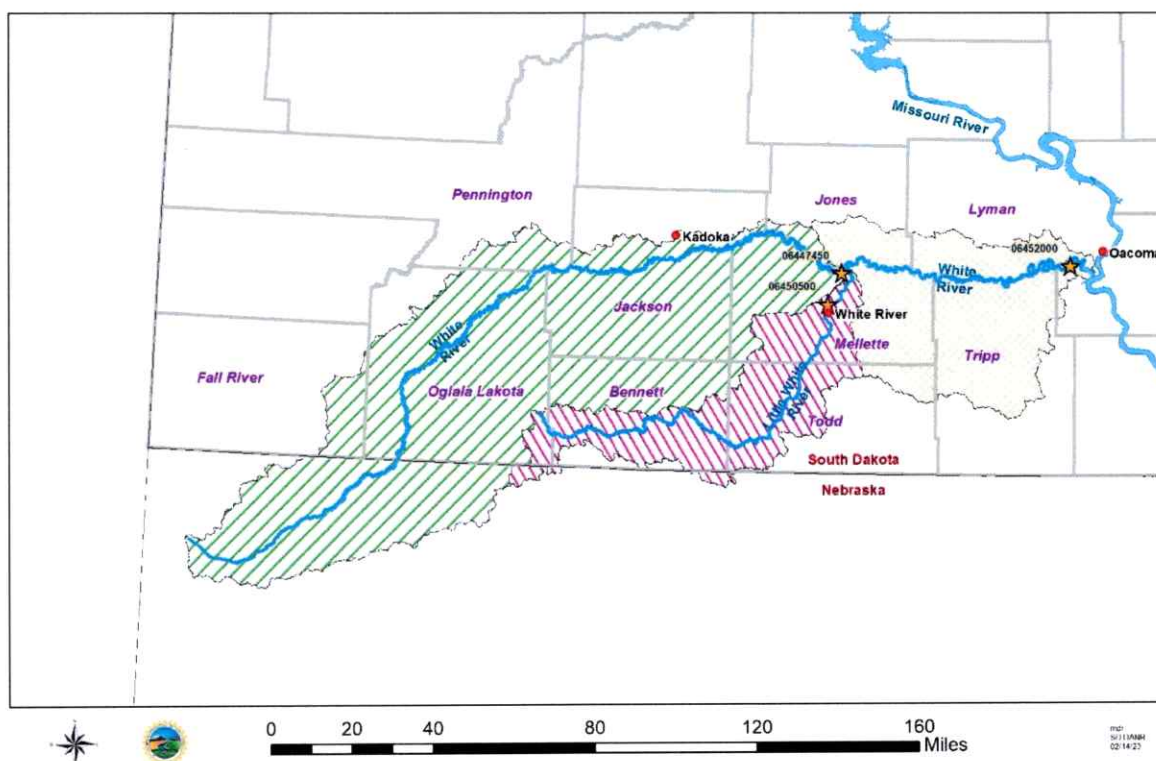


Figure 1. White River Watershed Map.

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

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

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

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

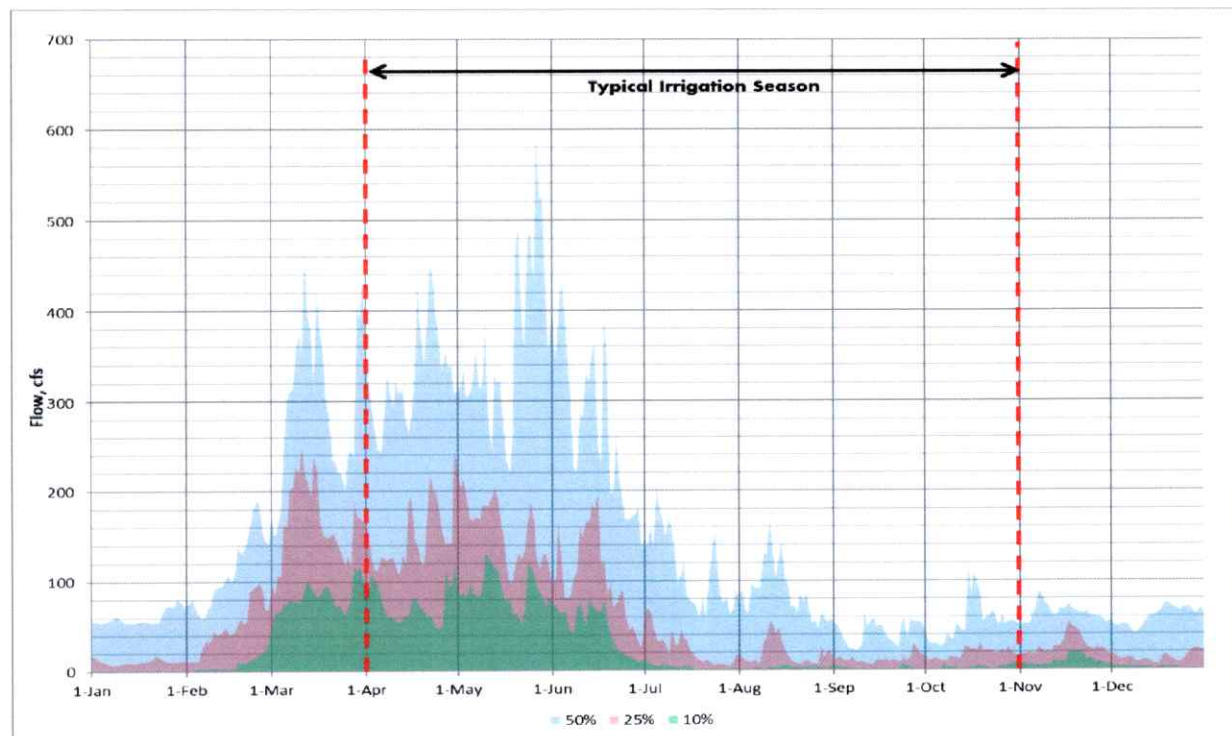


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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

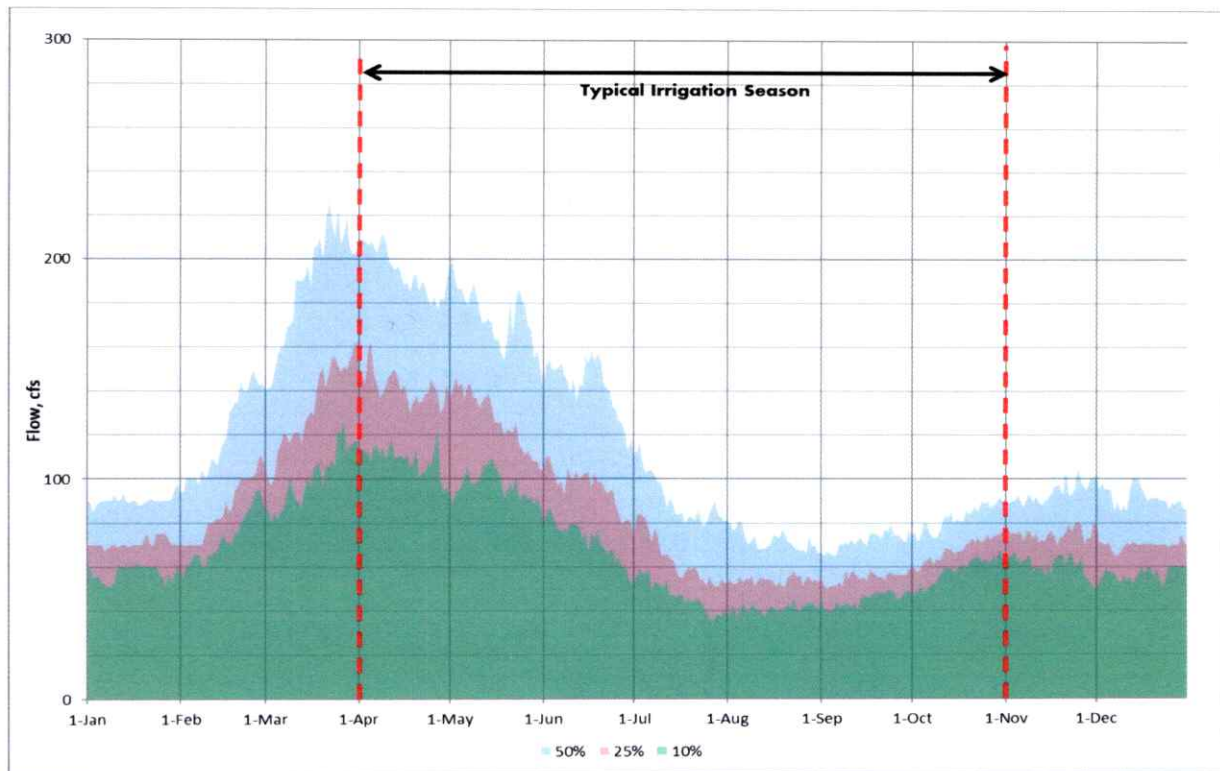


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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

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

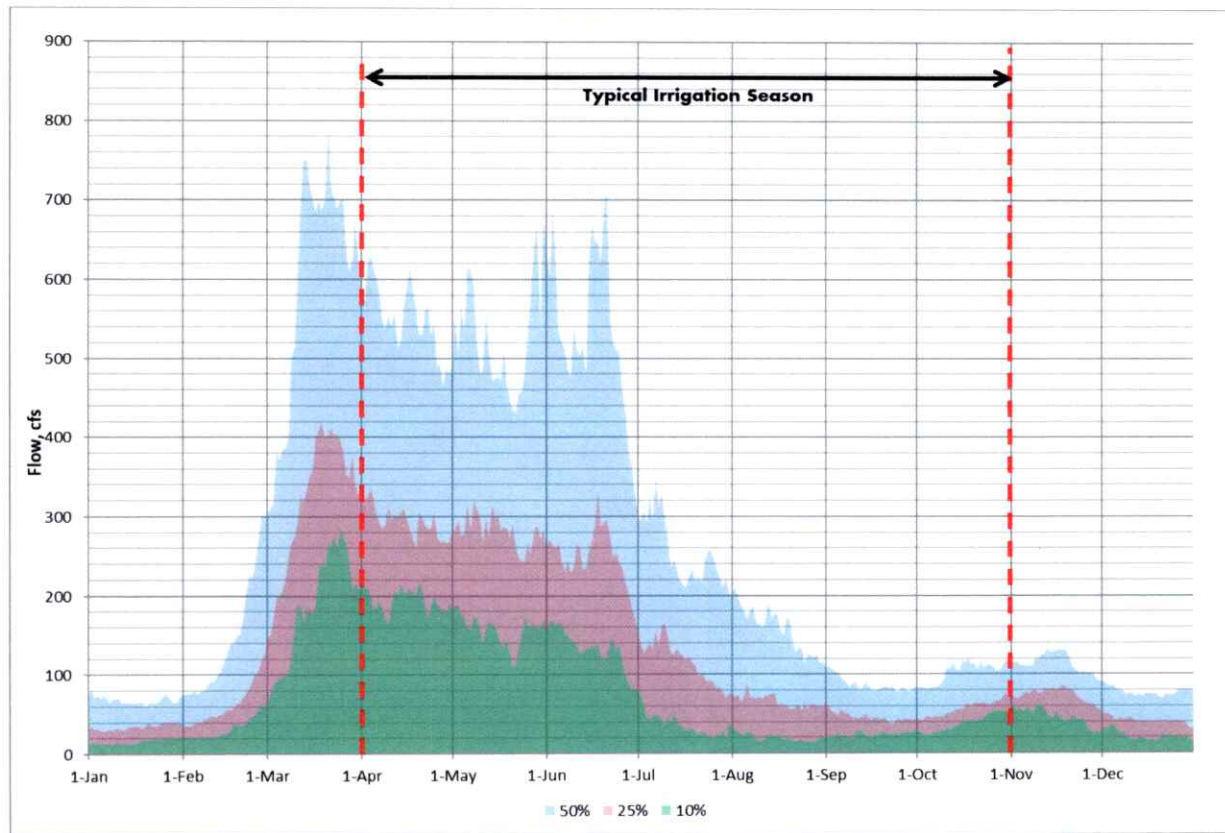


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

The Water Management Board Authority

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

South Dakota Codified Law

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

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

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

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

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

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

Review of Existing Water Rights and Reported Use

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

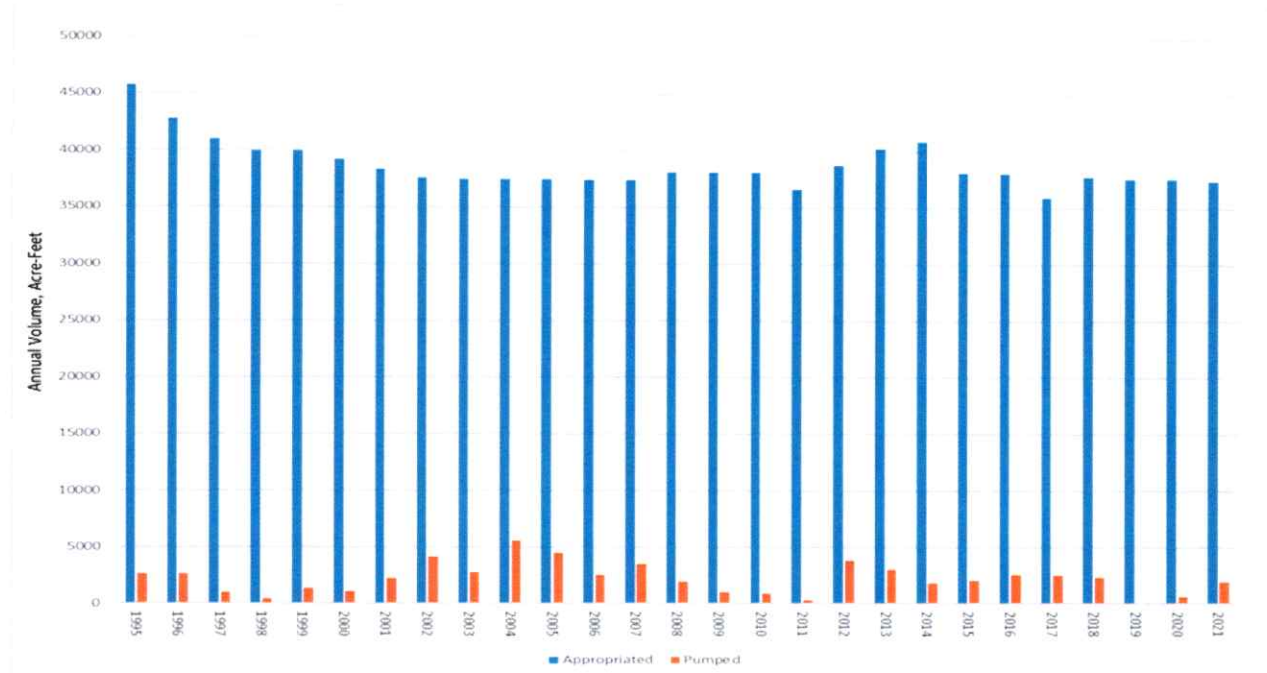


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

Qualification Status

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

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

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

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

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

Analysis and Proposed Qualification Revisions

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

Upper White River

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

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

Lower White River

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

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

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

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

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

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

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualifications:

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

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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