

1. Considered Mar 7, 1969
2. Name of Applicant Earl F. Medsaw
3. Post Office Address Mundo
4. Amount of water claimed 2.89
5. Source of water supply Big Lost Lake River
6. Water to be used for Irrigation
- Acres to be irrigated 202.2
7. Water to be diverted and used in Garfield county
about _____ miles _____ of _____
8. Proof of Publication Received ☒
Not received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____

10. Remarks:

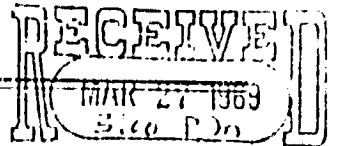
Reinstated 191-2 which was cancelled 11-9-67

12-11-79

989-2

*Frank Burt was in
and indicated this
is ready for inspection*

James C.

No. 989-2Water Division No. 2 WHITE RIVER District
(Blank to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COM. L.
PIERRE, SOUTH DAKOTA

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

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

1. Name of applicant - Earl E. Wedean - Frank D Prost
Postoffice address Murdo Presho, County Jones, State S. D.

I. If a corporation _____

(a) Name of same _____

(b) Date and place of incorporation _____

(c) Amount of capital stock _____

(d) Amount paid in _____

(e) Names and addresses of directors _____

~~Direct labor and employment of others~~

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

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

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

Direct labor and employment of others(b) Cash on hand, \$ adequate

(c) Treasury stock, \$ _____

(d) Bonds to be issued, \$ _____

(e) Other resources, \$ S.C.S.-Great Plains2. Name of diversion work Wedean Irrigation Project3. Amount of water claimed 2.89 cubic feet per second4. Source of water supply Big White River5. 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 thru October

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? gravity(a) Number of acres to be irrigated 202.2 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 irrigation
Name any of the above uses claimed

(b) Amount of power to be generated _____ horse power

Amount claimed for engine cooling _____

(c) Location of plant _____

(d) Method of developing power _____

(e) Point where water will be returned to stream _____

MAP NO 855-2

8. Estimated cost of work:

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

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

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

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

Rock, \$.....

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

Total, \$.....

9. Description of diversion works:

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

pumping plant, gated pipe to levelled land

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottomfeet; length at top

.....feet; thickness at bottomfeet; thickness at top

feet; slope at front water face; slope at back face

material used in construction

(b) Reservoir: Capacity when filledacre 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; heightfeet;

Material

(d) Canal: Total lengthmiles.

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work5.....years.

11. Time required for complete application of water to the proposed beneficial use4.....years.

12. Choice of newspaper for publication of notice of intention to appropriate
Murdo Coyote, Murdo, S.D.

STATE OF SOUTH DAKOTA

Hughes

County of

} ss.

I,Earl F. Wedean.....

being first duly sworn on my oath, depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

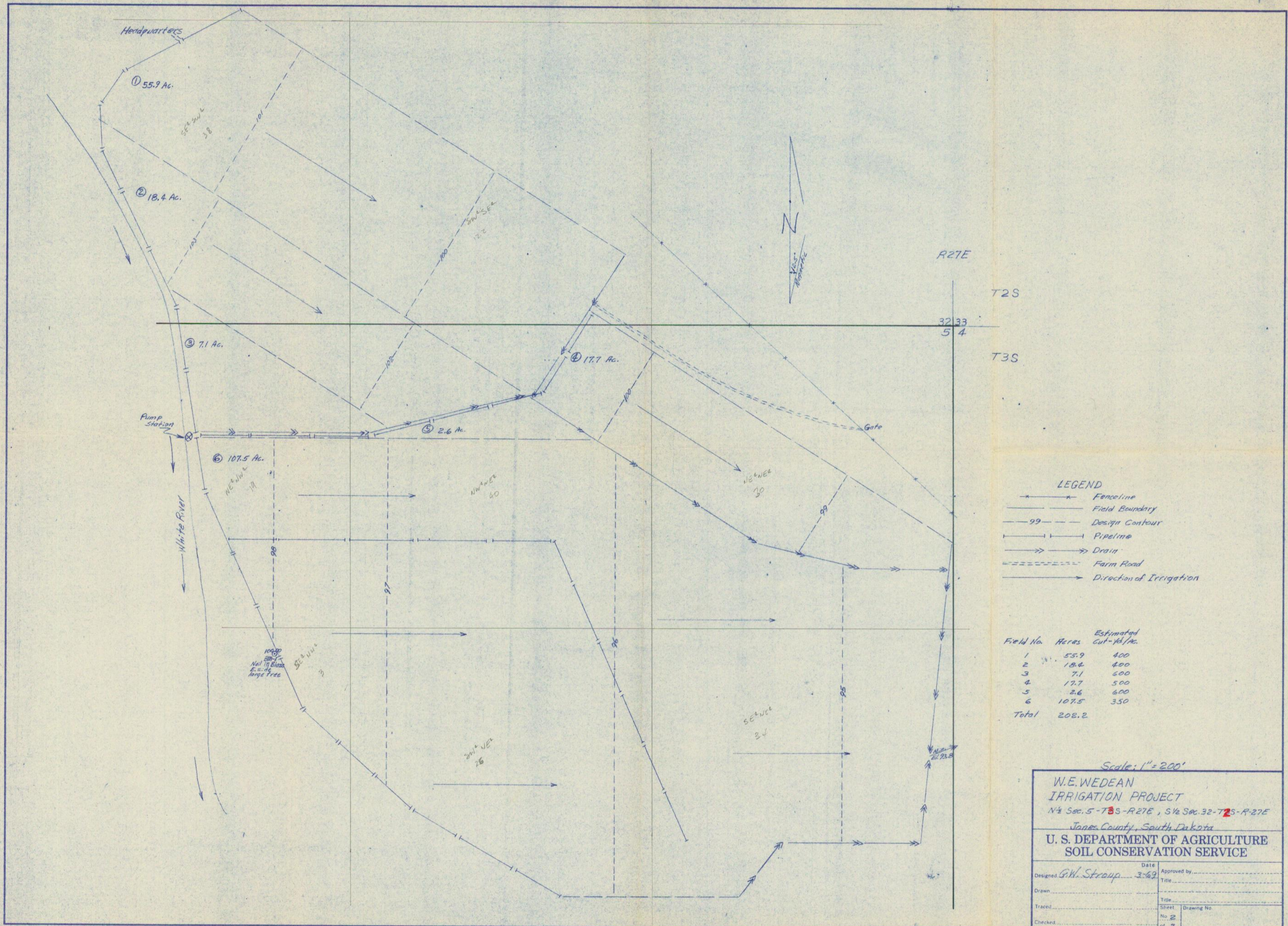
Signed *Earl F. Wedean*

Subscribed and sworn to before me this27th..... day ofMarch..... 19. 69

James R. Hall
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

*Opportunity to examine same
Shirley R. Anderson, Comm.*



- LEGEND**
- *—*— Fenceline
 - Field Boundary
 - 99— Design Contour
 - Pipeline
 - Drain
 - Farm Road
 - Direction of Irrigation

Field No.	Acres	Estimated Cut-Yd./Ac.
1	55.9	400
2	18.4	400
3	7.1	600
4	17.7	500
5	2.6	600
6	107.5	350
Total	202.2	

Scale: 1" = 200'

W.E. WEDEAN
IRRIGATION PROJECT
N 1/2 Sec. 5-T3S-R27E, S 1/2 Sec. 32-T2S-R-27E
Jones County, South Dakota

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed <u>G.W. Stroup</u>	Date <u>3-69</u>	Approved by _____
Drawn _____		Title _____
Traced _____		Title _____
Checked _____		Sheet _____
		No. <u>2</u>
		of <u>2</u>
		Drawing No. _____

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
SUPPLY FOR THESE PRIOR WATER RIGHTS.

STATE OF SOUTH DAKOTA
County of HUGHES

Pierre, South Dakota, MAY 12, 1969

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

P.m. upon the 27TH day of MARCH, 1969

State Water Resources Commission

By:

Burton
for Chief Engineer, Executive Officer

Number of permit 989-2

Date of first receipt of application MARCH 27, 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 27, 1969

Approved MAY 7, 1969 Recorded in Book 10 Page 349

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

and beneficially applied for irrigation on or before MAY 7, 1978, said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this 12TH day of MAY, 1969

State Water Resources Commission

By:

James
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

Wedean

Point of Diversion

3340' W and 990' S of the NE Corner, Section 5, T3S, R27E

Section 5, T3S, R27E

	Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	19.0
NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	30.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	3.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	25.0
SE $\frac{1}{4}$ NE $\frac{1}{4}$	34.0

Section 32, T2S, R27E

SE $\frac{1}{4}$ SW $\frac{1}{4}$	38.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	12.2
Total	202.2 Acres

on or before
(First Publication April 10 1969)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., April 2, 1969.

Notice is hereby given that Earl F. Wedean whose postoffice address is Murdo S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.89 cubic feet of water per second of time from the White River through the Wedean Irrigation Project, the point of diversion of which is to be located on the left bank of said stream in the NE ¼ of the NW ¼ of Section 5 portions of Twp. 3S Range 27E. Said water to be used for the purpose of providing irrigation on the following described land:
E½ NW¼, NE¼, Section 5, T3S, R27E; SE¼ SW¼ and SW¼ SE¼, Section 32, T2S, R27E.

~~XXXXXX~~ ~~XXXXXXXXXX~~

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.

cc: Earl F. Wedean, Murdo, S.D.

State Water Resources Commission

By:

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

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County James } 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 Coyote 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 James 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

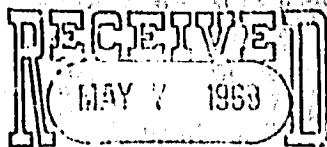
1964 and the last publication on the 1st day of

May 1964, 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, Publisher

Subscribed and sworn to before me this 5 day of May A. D. 1964



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 Earl F. Wedean whose post office address is Murdo, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.89 cubic feet of water per second of time from the White River through the Wedean Irrigation Project, the point of diversion of which is to be located on the left bank of said stream in the NE 1/4 of the NW 1/4 of Section 5 Twp. 3S Range 27E. Said water to be used for the purpose of providing irrigation on portions of the following described land: E 1/4 NW 1/4, NE 1/4, Section 5, T3S, R27E, SE 1/4 SW 1/4 and SW 1/4 SE 1/4, Section 32, T2S, R27E.

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: Burton F. Jones
Chief Engineer,
Executive Officer
Burton F. Jones
Water Rights Specialist
cc: Earl F. Wedean, Murdo, S.D.
Pub: April 10, 17 24 May

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

N^o 4 6635

PIERRE, December 21, 1978

RECEIVED OF Frank D. Brost, Preshe, SD 57568

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

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____	
Fee for Inspecting Construction, and issuing Cert. of Construction No. _____	
Fee for Inspecting Beneficial Use, and issuing Water License No. _____	
Fee for Issuing Location Certificate-Dry Draw, No. _____	2 50
Fee for filing transfer of water right No. 989-2 _____	
Fee for certified copy of _____	
Fee for Print copy of map _____	
Fee for Certifying _____	
Fee for _____ (any other work as provided by law)	
TOTAL	2 50

WATER RIGHTS COMMISSION

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

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights Commission
Foss Building
Pierre, SD 57501

Date: 12-20-78

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

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 19 ac; NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 ac; NE $\frac{1}{4}$ NE $\frac{1}{4}$ 30; SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3 ac; SW $\frac{1}{4}$ NE $\frac{1}{4}$ 25 ac; SE $\frac{1}{4}$ NE $\frac{1}{4}$ 30 ac;

in Sec. 5, T3S, R27E and SE $\frac{1}{4}$ SW $\frac{1}{4}$ 38 ac; SW $\frac{1}{4}$ SE $\frac{1}{4}$ 12.2 ac. in section 32, T2S, R27E for a total of 202.2 acres formerly owned by Earl F. Wadean, Murdo, SD

has been transferred to Frank D. Brost, Presho, SD

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 989-2 as provided for in SDCL 46-5-32 and 46-5-33.

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

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

STATE OF SOUTH DAKOTA)
County of LYMAN) ss.

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

Frank D. Brost
(Signed)

Subscribed and sworn to before me this 20th Day of December 19 78.

E. J. Presho
(Notary Public)

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 7/5/89

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

E 1/2 NW 1/4, NE 1/4, Section 5, T3S, R27E and SE 1/4 SW 1/4, SW 1/4 SE 1/4

Section 32, T2S, R27E

formerly owned by FRANK D BROST

has been transferred to Brost Land & Cattle Co 1517 Sunset, Pierre SD
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water ~~XXXX~~ Permit No. 989-2 as provided for in SDCL 46-5-32 and 46-5-33.

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

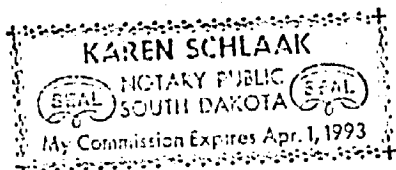
A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

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

Frank Brost
(Signed)

Subscribed and sworn to before me this 5th Day of July, 1989.



Karen Schlaak
(Notary Public)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, July 5, 1939

RECEIVED OF Frank D. Brost, 517 Sunset, Pierre, SD 57501

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. 989-2 _____

Fee for Filing Extension Request _____

Fee for Certified Copy of _____

Fee for Print Copy of Map _____

Fee for Certifying _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

John Hatch (mra)
Chief Engineer John Hatch (mra)

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

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3161

July 14, 1989

Frank D. Brost
Brost Land & Cattle Co.
1517 Sunset
Pierre, SD 57501-2141

Dear Mr. Brost:

Enclosed is Receipt No. 011830 in the amount of \$2.50 which you paid for the transfer of Water Right No. 989-2.

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

Sincerely,

Marie R. Arthur

MARIE R. ARTHUR
Secretary
for Genny McMath
Natural Resources Analyst
Water Rights Division
(605) 773-3352



NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date

7/5/89

TO: Water Rights Division, DWR
Joe Foss Building
Pierre SD 57501-3181

FROM:

Beesthand & Cattle Co 1517 Sunset Pierre S.D.
name address city

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 989-2.

Water Permit No. 989-2 states that the diversion system is to be constructed by 5/7/74, and that the water it put to beneficial use by 5/7/78.

The diversion system was completed on 5/7/74
Applying the water to beneficial use was completed on 5/7/78.

You may schedule an inspection so that the Water License may be issued.

Leuel O. Beest
signature



989-2

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

BROST LAND & CATTLE CO
1517 SUNSET DR
PIERRE SD 57501

NOTICE

RE: Violation of Requirement to Submit 1991 Irrigation Questionnaire

Our records indicate that the 1991 Irrigation Questionnaire has not been submitted for Permit No(s) 989-2 & 1156-2. The request for the Questionnaire was dated October 18, 1991. The Water Management Board has directed that owners of water permits who have not submitted the 1991 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 9:15 am, March 4, 1992, 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) 989-2 & 1156-2 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 4th hearing date, your name will be deleted from the Board agenda.

Very truly yours,

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



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

February 12, 1992

989-2
1156-2

Frank Brost
Brost Land & Cattle Co.
1517 Sunset
Pierre, SD 57501

Dear Mr. Brost:

I am writing to acknowledge receipt of your 1991 irrigation questionnaires for Water Permit Nos. 989-2 and 1156-2. You may disregard the January 27, 1992, Notice of failure to submit the 1991 irrigation questionnaire. The questionnaires were received prior to the Water Management Board meeting and your name was deleted from the agenda.

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

Sincerely,

Genny McMath
Natural Resources Analyst
Water Rights Division

989-2

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 989-2**

(1) Earl F. Wedean made Application No. 989-2, March 27, 1969 for a water permit to appropriate 2.89 cubic feet of water per second from the White River, Jones County, South Dakota for irrigation purposes. Permit No. 989-2 with a priority date of March 27, 1969 was approved May 7, 1969 and issued to the applicant 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. The following ownership transfers have been filed with Water Permit No. 989-2: 1) December 20, 1978: Earl F. Wedean to Frank D. Brost; 2) July 5, 1989: Frank D. Brost to Brost Land & Cattle Company.

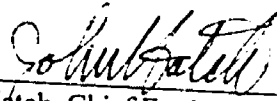
A November 15, 1995, investigation of the water use system found an additional diversion point and a change in acreage not authorized by Water Permit No. 989-2. Pursuant to SDCL 46-5-13.1 and SDCL 46-5-30.5 the Chief Engineer made a finding that the additional diversion point and the change in irrigated acreage does not increase the potential for interference with or impair existing diversions. The overall project is consistent with the original application.

(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 2.85 cubic feet of water per second for beneficial use. The location of the diversion points are 1) 1590'E and 700'N of the SW corner of Section 32, T2S, R27E (SE 1/4 SW 1/4) and 2) 2020'E and 570'S of the NW corner of Section 5, T3S, R27E (NE 1/4 NW 1/4).

(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 200 acres of land (described below):

Section 32, T2S, R27E	Section 5, T3S, R27E	Section 4, T3S, R27E
NE 1/4 SW 1/4 3 acres	NE 1/4 NW 1/4 15 acres	
SE 1/4 SW 1/4 23 acres	SE 1/4 NW 1/4 1 acre	NW 1/4 NW 1/4 2 acres
SW 1/4 SE 1/4 30 acres	NW 1/4 NE 1/4 40 acres	
SE 1/4 SE 1/4 3 acres	SW 1/4 NE 1/4 25 acres	
	NE 1/4 NE 1/4 30 acres	
	SE 1/4 NE 1/4 28 acres	

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brost Land & Cattle Company, 404 W Missouri, Pierre, SD 57501 the holder and/or owner of Water Permit No. 989-2 is issued a license to appropriate water, the right to use 2.85 cubic feet of water per second from the White River with a priority date of March 27, 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. 989-2 and subject to South Dakota State Law.


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

JUL 17 1996

date



REPORT ON INSPECTION OF PERMIT NO. 982-2

DATE OF INSPECTION: November 15, 1995

Other permit(s) associated with the project:

DIVERSION POINT LEGAL LOCATION: 1590 feet east and 700 feet north of the SW corner of Section 32-T2S-R27E (SE 1/4 SW 1/4) and 2020 feet east and 570 feet south of the NW corner of Section 5-T3S-R27E (NE 1/4 NW 1/4).

Pump:

- 1) Make Crisafulli
- 2) Model
- 3) Size 10 inch
- 4) Capacity 4000 GPM

Motor:

- 1) Make Farm tractor

DISTRIBUTION LINES OR CANALS:

- 1) Type aluminum
- 2) Size 10 inches

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

Permit No. 989-2
White River - Water District

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

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, November 15, 1995, made a thorough examination of the water use system constructed by Brost Land & Cattle Company of 404 W Missouri, Pierre, SD 57501 holder of Permit No. 989-2, bearing the priority of March 27, 1969 authorizing the diversion of 2.89 cu. ft. per second of the waters of the White River 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:

10 inch Crisafulli pump with a capacity of 4000 gallons per minute

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

10 inch aluminum pipe

C. Works used to apply water to beneficial use:

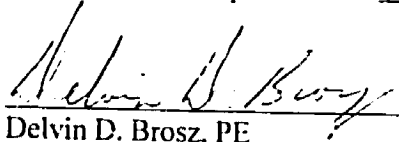
10 inch aluminum gated pipe

The system is in the following condition good. The point of diversion is located at a point 1590 feet east and 700 feet north of the SW corner of Section 32-T2S-R27E and at a point 2020 feet east and 570 feet south of the NW corner of Section 5-T3S-R27E. The works are capable of diverting and conveying to the place of use 8.9 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

NE 1/4 SW 1/4 - 3 acres, SE 1/4 SW 1/4 - 23 acres, SW 1/4 SE 1/4 - 30 acres, SE 1/4 SE 1/4 - 3 acres, all in Section 32-T2S-R27E; NE 1/4 NW 1/4 - 15 acres, SE 1/4 NW 1/4 - 1 acre, NW 1/4 NE 1/4 - 40 acres, SW 1/4 NE 1/4 - 25 acres, NE 1/4 NE 1/4 - 30 acres, SE 1/4 NE 1/4 - 28 acres, all in Section 5-T3S-R27E; and NW 1/4 NW 1/4 - 2 acres in Section 4-T3S-R27E comprising a total of 200 acres of land and the license should be issued for 2.85 cfs.

Applicable permit qualifications have been complied with: N

Exceptions to compliance are: See document file


Delvin D. Brosz, PE

April 3 1996
Date

Natural Resources Engineer
DENR, Water Rights Program

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

July 1, 1996

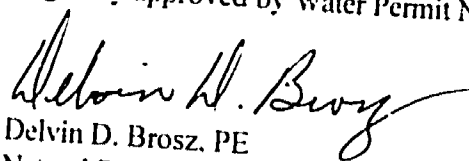
RE: Additional Diversion Point and change of acreage for Water Permit No. 989-2, Brost Land & Cattle Company

An inspection of Permit No. 989-2 found an additional diversion point and a change in acreage not authorized by Permit No. 989-2.

SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

SDCL 46-5-30.5 provides that acreage developed for irrigation outside of the acreage described on the permit may be licensed pursuant to SDCL 46-5-30.1, if no increase occurs in either permitted acreage or water appropriated and the unpermitted acreage is contiguous to the permitted acreage, owned by the same property owner, and developed as part of the original irrigation project within the time period designated for completion of works. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4, if the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

Water Permit No. 989-2 authorized 2.89 cubic feet of water per second (cfs) from the White River to irrigate 202.2 acres from one diversion point. The project was constructed to divert 2.85 cfs from the White River to irrigate 200 acres from two diversion points as described in the examination report. A review of downstream water rights was conducted and found that the addition of a diversion point and the change of acreage will not affect downstream water users. No additional appropriation of water or irrigation of additional acres is taking place beyond that originally approved by Water Permit No. 989-2.



Delvin D. Brosz, PE
Natural Resources Engineer

The Chief Engineer makes a finding that the additional diversion point and the change in irrigated acreage does not increase the potential for interference with or impair other existing diversions. The overall project, as developed, is consistent with the original application. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference.



John Hatch, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 9, 1996

989-2
1156-2

Frank Brost
Brost Land & Cattle Co.
404 W. Missouri
Pierre, SD 57501

Dear Mr. Brost:

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 Nos. 989-2 and 1156-2, have been completed. Your final water right documents, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee per license for the inspection and issuance of the Water Licenses. Upon receipt of the \$50.00 fee per license from you (\$100.00 total), we will begin processing your Water Licenses.

Please remit fee 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 numbers. This will insure proper handling of the fee.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 17 1996

989-2
1156-2

Frank Brost
Brost Land & Cattle Company
404 West Missouri
Pierre, SD 57501

Dear Mr. Brost:

Enclosed are Water License Nos. 989-2 and 1156-2 and Receipt Nos. 415007 and 415008 for \$50.00 each which was assessed for an investigation and issuance of the licenses. Water License Nos. 989-2 and 1156-2 are the final documents which completes the process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water Licenses, 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

gm
enclosures

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

989-2
4150J7

Pierre, _____ July 15, 19 96

RECEIVED OF Brost Land & Cattle Co., 404 W. Missouri, Pierre, SD 57501

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>989-2</u>	50	00
Fee for Filing Transfer Form _____		
• Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By *John J. [Signature]*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 22, 2003

Kim Mortenson
PO Box 190
Ft Pierre SD 57532

RE: Brost land

Dear Ms. Mortenson:

Enclosed are copies of Water Right Nos. 989-2 & 1156-2 for Brost Land and Cattle Company; Vested Water Right Nos. 322-2 & 323-2 for Frank D Brost and also Water Right Nos. 452-2, 871-2 and 2189-2 for Frank D Brost. I was unable to find anything for "Brost Family Ltd Partnership" or "Brost - Newbold Ltd Partnership".

I have included partially completed Notice of Transfer of Ownership forms for filing ownership changes. Please review and make any necessary corrections. Upon completion, the forms should be signed by the new owner(s) and returned to our office with a required filing fee of \$2.50 each. The check or money order for the fees can be made payable to the Water Rights Program.

Blank transfer forms are available on our website if you need additional ones. The link to the forms is: <http://www.state.sd.us/denr/enviro/watrightsapps.htm> From this link, you can select the "print" version which allows you to download the form, complete it and mail it or you can select the "pdf" version and complete the form on-line. Keep in mind if you do the "on-line" version, a filing fee of \$2.50 will still need to be submitted.

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 12, 20040

RECEIVED OF Kyle Wyly, 29342 217 St., Ft Pierre SD 57532

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	2 50	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>989-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No. **001186**

By Darland E. Ebele
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 989-2

Date: _____

I/We request that Water Right No. 989-2

formerly owned by: Brost Land & Cattle Company

be transferred to: (name & address) Kyle Wylly
29342 217 St.
Ft. Pierre SD 57532 Telephone No. 223-2211

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

200 acres - E ½ SW ¼ and S ½ SE ¼ Section 32, T2S, R27E; E ½ NW ¼ & NE ¼ Section 5, T3S,
R27E and the NW ¼ NW ¼ Section 4, T3S, R27E

I/We understand that the validity of Water Right No. 989-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Kyle Wylly, the new owner, certify that the above information is true and correct.

Kyle Wylly

(Signed by new owner)

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

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

RECEIVED
FEB 12 2004
WATER RIGHTS
PROGRAM



989-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 12, 2004

989-2

Kyle Wyly
29342 217th St
Ft Pierre SD 57532

Dear Mr. Wyly:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for transferring Water Right No. 989-2. The transfer has been completed. The water right formerly listed in the name of Brost Land and Cattle Company is now listed in your name.

Each year in October, we mail out the annual irrigation questionnaire. Enclosed is a sample copy for your review. This will give you an idea of what type of information you will need to keep track of during the irrigation season.

Also enclosed is your Receipt No. 001186 in the amount of \$2.50. If I can answer any questions for you, please contact me.

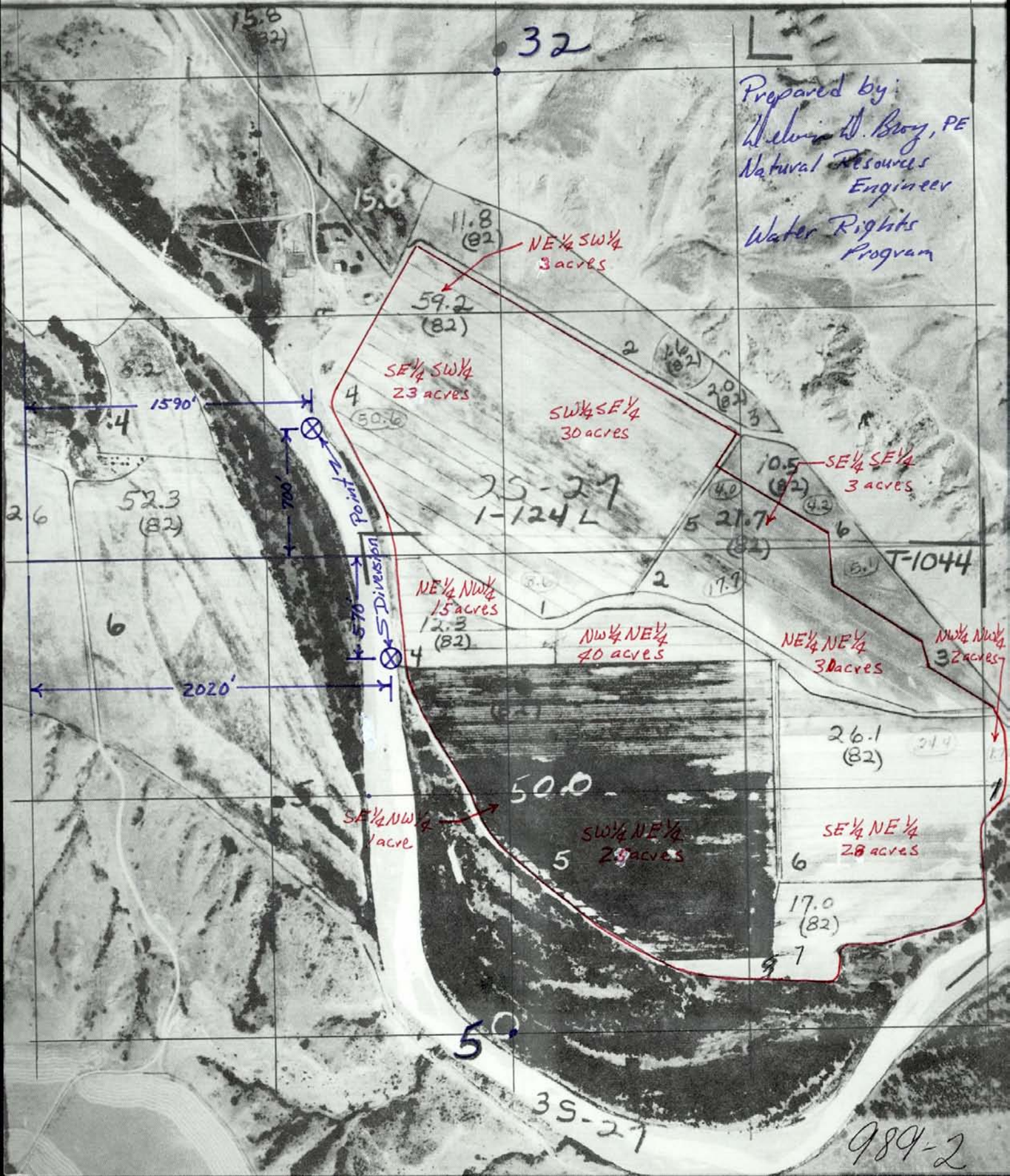
Sincerely,

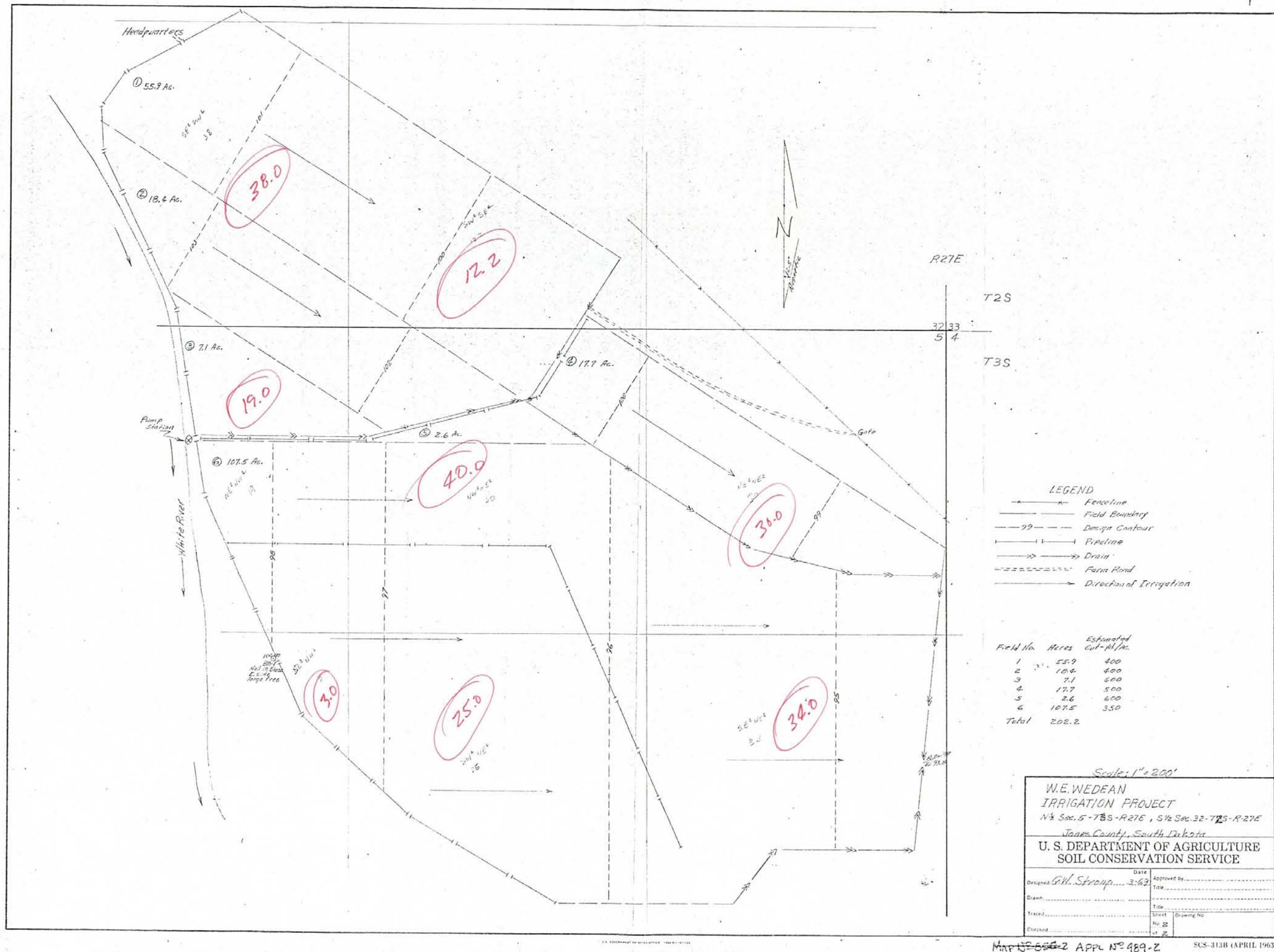
Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

NOT TO SCALE 1991

Prepared by:
William D. Brog, PE
Natural Resources
Engineer
Water Rights
Program







989-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: KYLE WYLY, 29342 217TH ST, FT PIERRE, SD 57532

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire has not been submitted for Permit No(s) 989-2. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaire 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 11, 2009**, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 989-2 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 6, 2009**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:
<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pd>

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.

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

Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0802 6043
Status: **Delivered**

Your item was delivered at 2:51 PM on January 28, 2009 in FORT
PIERRE, SD 57532. The item was signed for by A WYLY.

Track & Confirm

Enter Label/Receipt Number.

[Additional Details >](#)[Return to USPS.com Home >](#)

Notification Options

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

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No FEAR Act EEO Data

FOIA

Signature Confirmation Receipt	
SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 6043	KYLE WYLY 29342 217TH ST FT PIERRE SD 57532
	Waiver of Signature ☐ YES ☐ NO
	Postmark Here
	POSTAL CUSTOMER: Keep this receipt. For Inquiries: Access internet web site at www.usps.com ® or call 1-800-222-1811
	☐ Priority Mail™ Service ☐ First-Class Mail® parcel ☐ Package Services parcel



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 2, 2009

989-2

Kyle Wyly
29342 217th St
Ft Pierre SD 57532

Dear Mr. Wyly:

I am writing to acknowledge receipt of your 2008 irrigation questionnaire. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right No. 989-2.

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

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



**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.

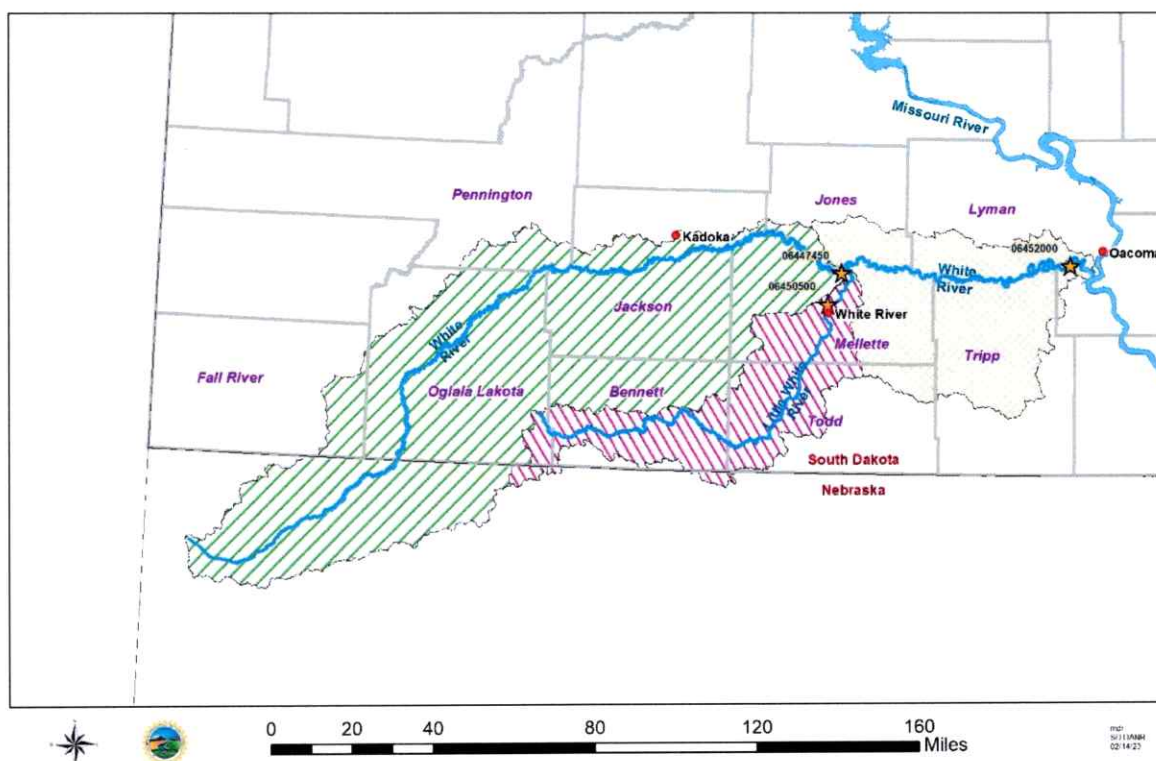


Figure 1. White River Watershed Map.

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.

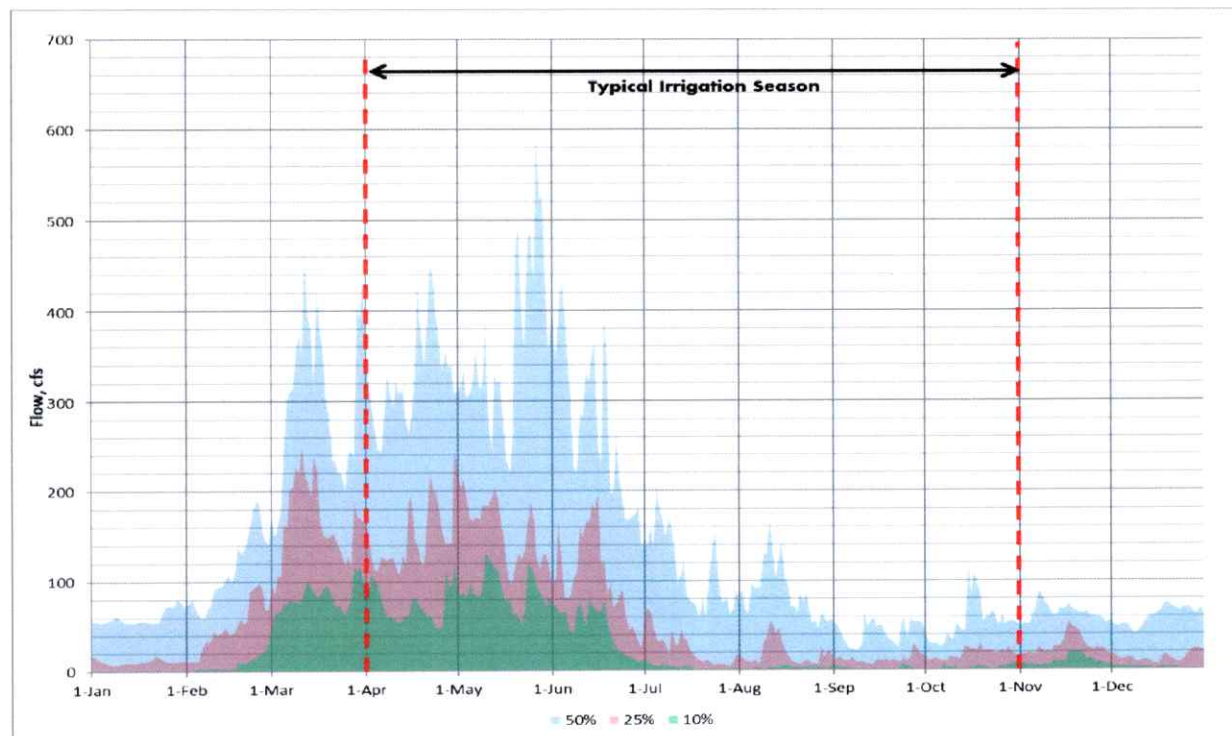


Figure 2. Daily percentile flow hydrographs for the USGS White River near White River 2001-2022, contributing drainage area 6202 mi² (USGS, 2023).

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.

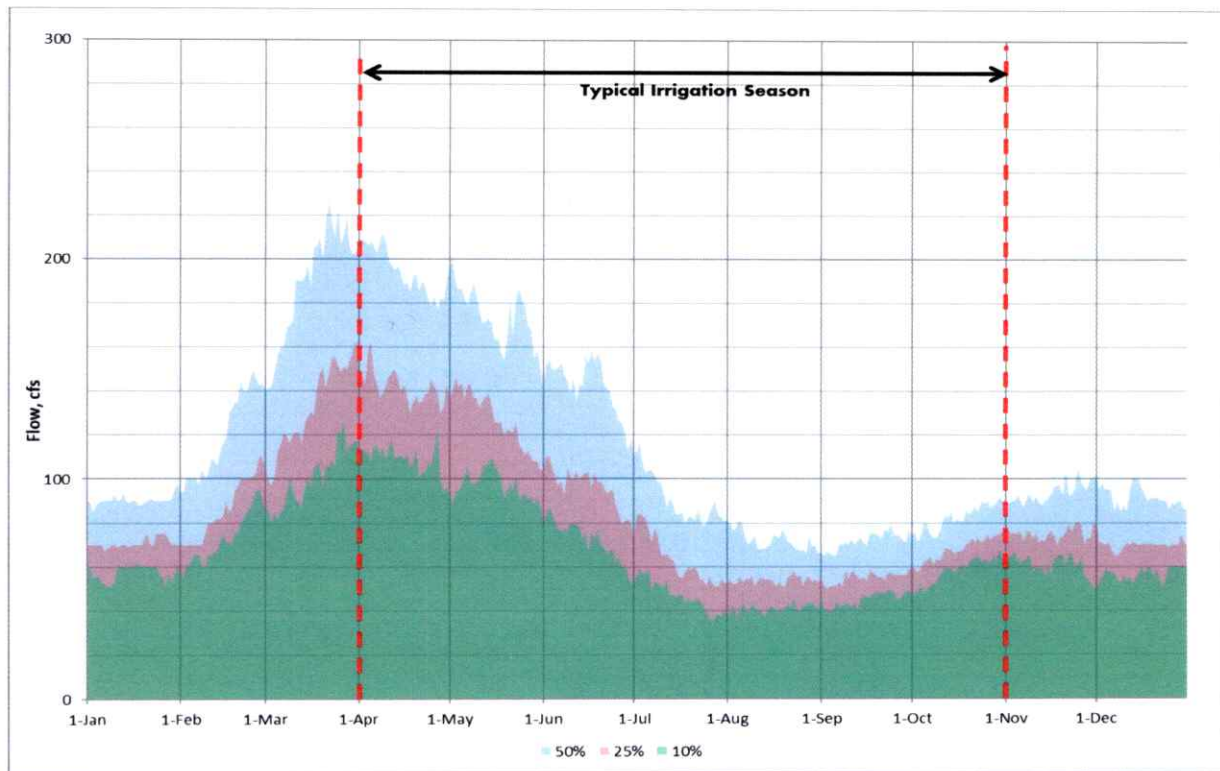


Figure 3. Daily percentile flow hydrographs for the USGS Little White River near White River, 1949-2022, contributing drainage area 1,495 mi² (USGS, 2023).

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.

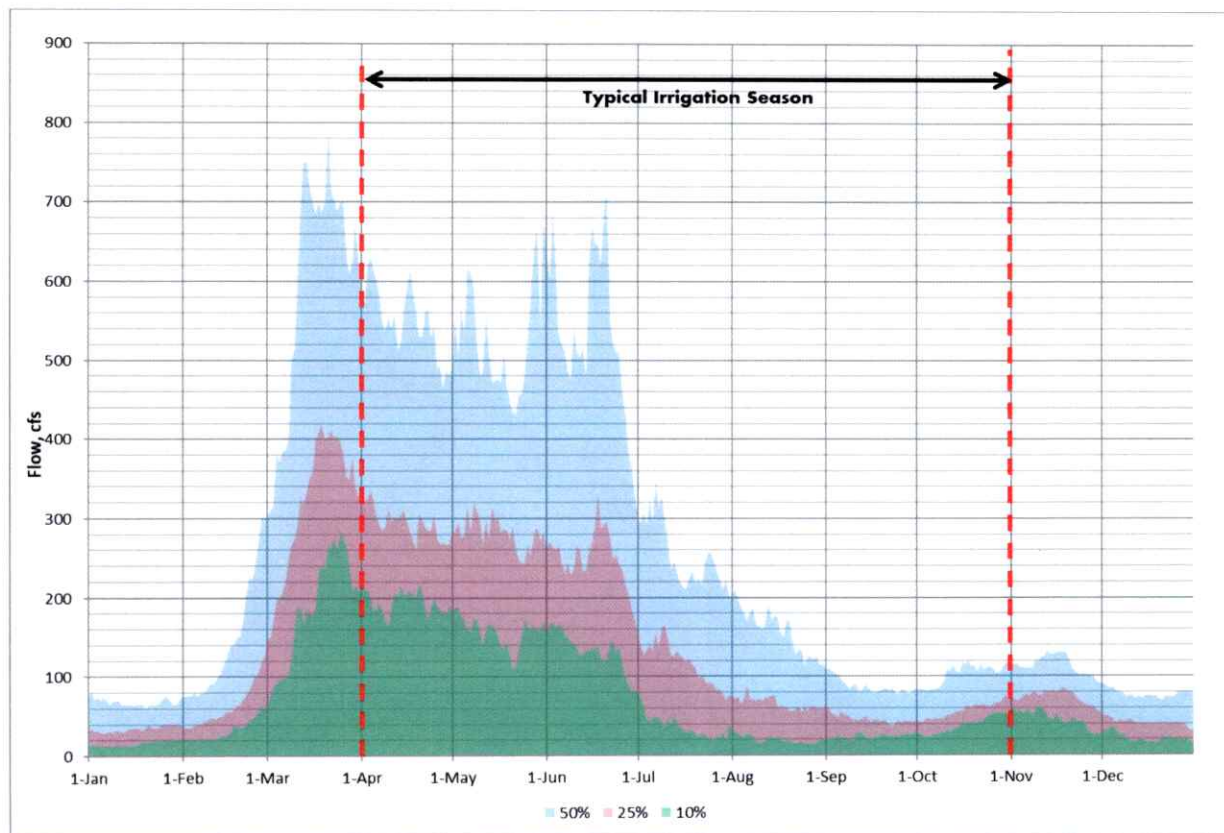


Figure 4. Daily percentile flow hydrographs for the USGS White River near Oacoma, 1928-2022, contributing drainage area 7,697 mi² (USGS, 2023).

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).

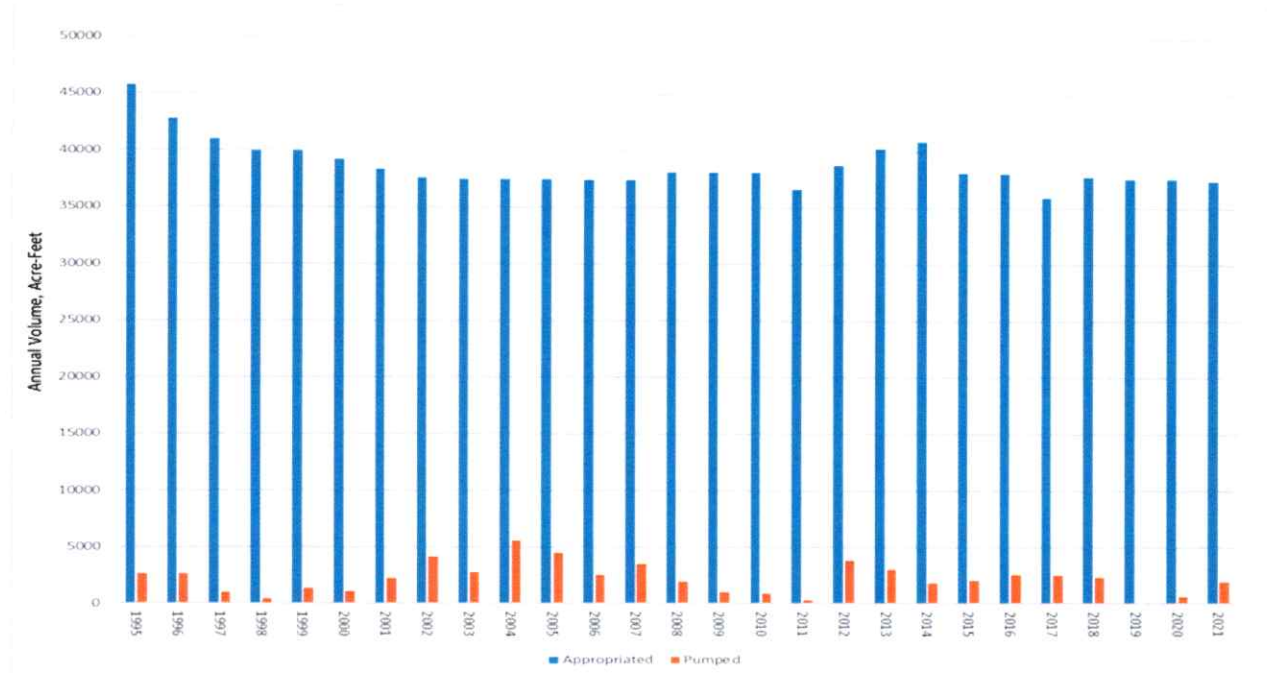


Figure 5. Total irrigation allocation and reported use from the White River (Water Rights, 2023).

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 4, 2026

989-2

Kyle Wyly
29342 217th St
Fort Pierre, SD 57532

Dear Mr. Wyly,

I am writing to acknowledge receipt of your 2025 irrigation questionnaire(s).

You may disregard the January 20, 2026, "Notice" concerning irrigation reporting requirements for your water permit/right(s). 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,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us

989-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
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January 20, 2026

NOTICE

TO: KYLE WYLY, 29342 217TH ST, FT PIERRE, SD 57532

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire has not been submitted for Permit No(s) 989-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 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 on **Wednesday, March 4, 2026 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) 989-2 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, 2026** 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 Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: PLZOGY**

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.