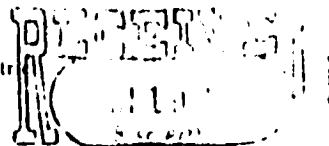


Water Right Number 1801-3

1. Considered March 16, 19 71
2. Name of Applicant Harold Munk
3. Post Office Address Dell Rapids, S.D.
4. Amount of Water claimed 2.47
5. Source of Water supply Big Sioux River and well or wells
6. Water to be used for irrigation
- Acres to be irrigated 173
7. Water to be diverted and used in Moody County  
about 4 miles S of Trent
8. Proof of Publication Received 3-2-71  
Not Received \_\_\_\_\_
9. Application Approved \_\_\_\_\_  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action Deferred \_\_\_\_\_

10. Remarks:

No. 1801-3  
 Map No. 1307-3 Water Division No. 3 BIG SIOUX RIVER  
 (Blanks to be filled by the Engineer for the W. R. C.)


## APPLICATION FOR PERMIT

STATE WATER RESOURCES  
DIVISION

To Appropriate Water within the State of South Dakota

(NOTE: Draw a line through items not applicable)

1. Name of Applicant HAROLD MUNK  
 Post-office address DELL RAPIDS State SOUTH DAKOTA  
 If a corporation, show date and place of incorporation \_\_\_\_\_
2. Method of accomplishing work (contract, employment of others, or by direct labor) EMPLOYMENT OF OTHERS
3. Name of diversion work HAROLD MUNK IRRIGATION PROJECT
4. Amount of water claimed (cubic feet per second) 2.47 C.F.S.
5. Source of water supply BIG SIOUX RIVER AND WELL OR WELLS
6. Location of point of diversion AS SHOWN ON ATTACHED MAP POINT "B" ON PIER  
"A" CORNER OF WELL OR WELLS LOCATION
7. Annual period or periods during which water is to be used MARCH, APRIL, MAY, JUNE, JULY, AUGUST & SEPT.
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
9. For irrigation use, Total number of acres to be irrigated 173

List below each forty-acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

| Land Description                        | No. Acres Irr. | Land Description                                | No. Acres Irr. |
|-----------------------------------------|----------------|-------------------------------------------------|----------------|
| NW 1/4 SW 1/4 SEC 36-105-49 SW R.R. 7th | 17.75          | LOTA IN THE NW 1/4 & SE 1/4 SEC 36-105-49 17.75 |                |
| SW 1/4 SW 1/4 SEC 36-105-49             |                |                                                 |                |
| NE 1/4 SW 1/4 SEC 36-105-49             |                |                                                 |                |
| SE 1/4 SW 1/4 SEC 36-105-49             |                |                                                 |                |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 3 years. Additional time required to complete application of water to the proposed beneficial use 3 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication MOODY COUNTY ENTERPRISE
12. Principal Features of the Proposed Water Supply System.

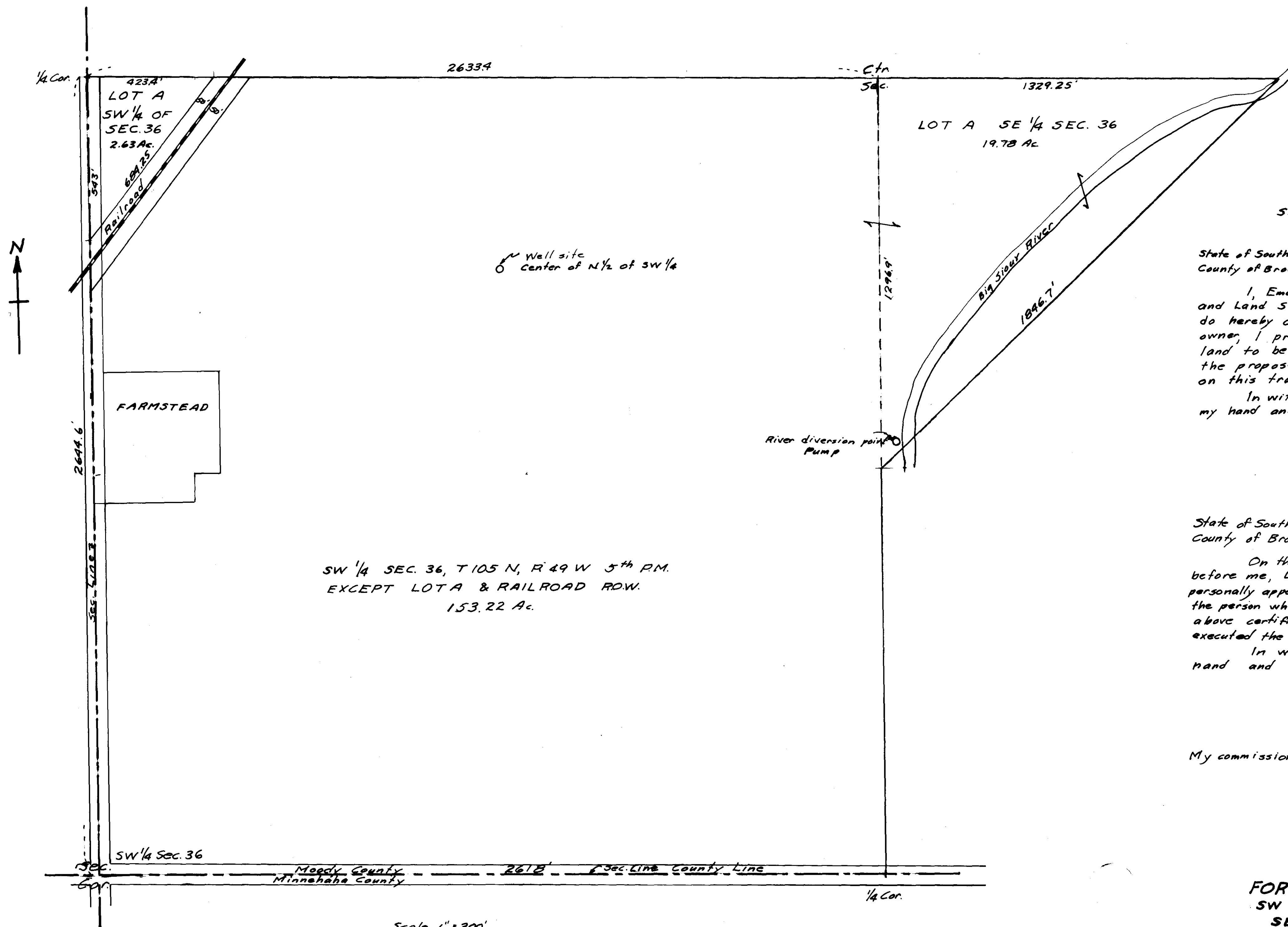
A. Works proposed to divert water from its natural source.  
FURNISHB. Works proposed to transport water to place of use. ALUMINUM PIPE + 4" B.F. 600 WHICH MOBILE PIPEC. Works proposed to apply water to beneficial use. MARK 4 E-Z RAIN IRRIGATION MACHINEEstimated Total Cost \$ 13000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.  
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of MOODYI, Harold L. Munk the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Harold L. MunkSubscribed and sworn to before me this 12 day of Jan. 1971

Notary Public (or other qualified officer)





# SURVEYOR'S CERTIFICATE

State of South Dakota } SS  
County of Brookings }

I, Emory E. Johnson, a Registered Engineer and Land Surveyor in the State of South Dakota do hereby certify that at the request of the owner, I prepared this map showing the land to be irrigated and the location of the proposed well and river diversion point on this tract and this map is a true representation. In witness whereof, I have hereunto set my hand and seal this 16th day of January, 1971.

*Emory E. Johnson*  
Registered Engineer and  
Land Surveyor

State of South Dakota } SS  
County of Brookings }

On this the 18th day of January, 1971 before me, L. J. Larson, the undersigned officer personally appeared Emory E. Johnson, known to me to be the person whose name is subscribed to the above certificate and acknowledged that he executed the same.

In witness whereof I hereunto set my hand and official seal

*L. J. Larson*  
Notary Public

My commission expires Feb. 10, 1977.

MAP  
FOR PERMIT TO APPROPRIATE WATER  
SW 1/4 AND LOT A OF SE 1/4 IN  
SECTION 36 T105 N, R49 W 5th PM  
MAROLD MUNK OWNER  
SCALE 1" = 200'  
MAP PREPARED BY  
*Emory E. Johnson*  
Registered Engineer and  
Land Surveyor

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1801-3  
HAROLD MUNK DELL RAPIDS  
 (Applicant) (Post Office Address)  
SOUTH DAKOTA With the following modifications  
 (State)

NATURAL FLOWS IN THE BIG SIOUX RIVER ARE NOT A DEPENDABLE SOURCE OF WATER DURING THE LATTER PART OF THE SUMMER. PRIOR APPROPRIATIVE RIGHTS AND DOWNSTREAM DOMESTIC USE MUST BE RESPECTED. THIS PERMIT IS GRANTED ALLOWING WITHDRAWALS WHENEVER 35 C.F.S. OF WATER OR MORE IS FLOWING PAST YOUR DIVERSION POINT

Date of first receipt of application JANUARY 19 19 71  
 Date of return to applicant for correction, amendments or changes required — 19 —  
 Date of receipt of corrected application — 19 —  
 Approved MARCH 10 19 71 Recorded in Book 11 Page 251

WATER RIGHT PERMIT NO. 1801-3

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1801-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is JANUARY 19 19 71
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before SEPTEMBER 12 19 72
3. The whole of said work is to be completed on or before MARCH 10 19 74
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 10 19 77
5. The water appropriated shall be used for the purpose of IRRIGATION
6. 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.
7. The amount of the appropriation herein granted shall not exceed 2.47 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before MARCH 10 19 77; said water to be used during the following described annual period: MARCH THEN SEPTEMBER

Witness my hand this 12<sup>TH</sup> day of MARCH 19 71

WATER RESOURCES COMMISSION

By:

[Signature]  
 Chief Engineer, Executive Officer

Certificate of Construction Issued FEBRUARY 2 19 78

Water License Issued FEBRUARY 2 19 78

12. Principal Features of the Proposed Water Supply System (continued.)

Estimate

D. Well Information or Estimates

- (1) Drill Hole, Diameter 30", Depth 20' - 30'  
 (2) Casing, Type Steel (wood, concrete, steel, etc) Diameter 16" Thickness 1/4"  
 (3) Perforated Screen.  
 Type WOOD, Diameter 20", Length 5' - 10'  
 (4) Gravel Pack, Thickness 5", Length of gravel pack 10' - 20'

E. Dugout Information or Estimates.

- (1) Surface dimensions \_\_\_\_\_, Depth \_\_\_\_\_

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials GRAVEL & SAND  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Depth to top of water bearing material ~~10'~~ 0 - 3'

Depth to bottom of water bearing material ?

Thickness of water bearing material 10 - 20'

Depth to water (ground surface to water level) 4' - 10'

(2) Distance to nearest existing household or livestock watering wells.

On same owner's property 80 rds. On property owned by others 100 rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Harold L. Munk  
 Signature of Applicant

## WATER LICENSE NO. 1801-3

(1) WHEREAS, On the 19th day of January A. D. 19 71

Harold Hunk

made Water Right Application No. 1801-3 for a permit to use 2.47 cubic feet per second of the waters of ground water Big Sioux River.

County of Moody, State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 12th day of March A. D. 19 71

Permit No. 1801-3 with a date of priority of January 19, 1971

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water

supply system therein described on or before the 10th day of March A. D. 19 74 and for the

application to beneficial use of said water on or before the 10th day of March A. D. 19 77

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.0 cubic feet per second of water for beneficial use and,

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

for irrigating the following land in Section 36, T105N, R42W

NW $\frac{1}{4}$  SW $\frac{1}{4}$  22 acres

NE $\frac{1}{4}$  SW $\frac{1}{4}$  40 acres

SW $\frac{1}{4}$  SW $\frac{1}{4}$  29 acres

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

TOTAL 131 acres

(5) NOW, THEREFORE By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Harold Munk  
\_\_\_\_\_ of Dell Rapids  
the holder \_\_\_\_\_ and owner \_\_\_\_\_ of said permit No. 1801-3 a water right, dating from January 12, 1971  
\_\_\_\_\_ to use of 1.0 cubic feet per second of the waters  
of ground water  
in the County of Hoody and State of South Dakota, or so much thereof as may be necessary for the  
purposes hereinbelow mentioned, to be diverted at a point 14300'N & 70'E of the S $\frac{1}{2}$  corner  
Section 36, T105N, R49W  
\_\_\_\_\_ and conduct to and upon portion of Section 36, T105N, R49W, described on the face of this  
License  
\_\_\_\_\_ for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 1801-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota  
this 2nd day of February A. D.  
Nineteen Hundred and seventy-eight

WATER RIGHTS COMMISSION

By:

Chief Engineer, Executive Officer JOHN HATCH

## **Amendment to the qualifications contained in Water Right No. 1801-3**

### **Deleted Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is granted allowing withdrawals of water whenever 35 cfs of water or more is flowing past your diversion point.

### **New Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Prior to issuing any shut off orders, the Chief Engineer shall also take into consideration the flows at the USGS Gaging Station No. 6482020 at North Cliff Avenue in Sioux Falls. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

May 22, 2018

**NOTICE OF ENTRY OF ORDER**

1801-3

Thomas A & Patricia K Munk Revocable Living Trust  
15683 State Hwy 105  
Austin MN 55912

Dear Mr. & Mrs. Munk:

I am writing in response to action taken by the Water Management Board on May 3, 2018, regarding the Hearing to Amend the Bypass Qualifications on Big Sioux River water rights.

Attached is the qualification that was deleted from your water right and the new qualifications.

This amendment designates a US Geological Survey gaging station as the measuring point to determine if pumping is allowed. The gaging station has real time flow information that can be accessed online at <https://waterdata.usgs.gov/sd/nwis/rt>. However, the water right is also subject to written orders of the Chief Engineer regardless of the bypass criteria.

If you have questions concerning the Board action or your water right(s), please contact Mark Rath with our program at 605 773-3352 or [mark.rath@state.sd.us](mailto:mark.rath@state.sd.us).

Sincerely,

Jeanne Goodman, Chief Engineer  
Water Rights Program

enclosure

## CERTIFICATION

I hereby certify that on May 22, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated May 22, 2018 regarding amending bypass qualifications on Big Sioux River water rights addressed as stated below:

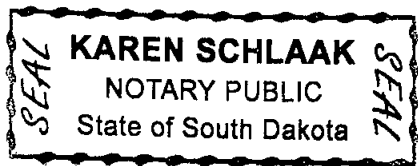
Elaine Ahlers, PO Box 186, Flandreau SD 57028  
Adam Wiese, Operator, 22603 479<sup>th</sup> Ave, Flandreau SD 57028  
Chad Anderson, 47880 244<sup>th</sup> St, Dell Rapids SD 57022  
Ronnie J Boever, 47948 232<sup>nd</sup> St, Flandreau SD 57028  
Brian Burkhart, 24482 482<sup>nd</sup> Ave, Dell Rapids SD 57022  
Jim Czech, Operator, 45767 177<sup>th</sup> St, Watertown SD 57201  
Marvin & Maxine Czech, 45848 176<sup>th</sup> St, Watertown SD 57201  
Dell Rocky Run Golf Course, 47364 Golf View Drive, Dell Rapids SD 57022  
Allen Fugere, Operator, 700 N Main, Estelline SD 57234  
W J Sanderson & Alan Blum, 703 1<sup>st</sup> Ave S, Estherville IA 51334  
Darren & Allison Hamilton, 22615 480<sup>th</sup> Ave, Flandreau SD 57028  
Wayne Headrick, 47926 SD Hwy 32, Flandreau SD 57028  
Mrs. Raymond D Jensen & Scott Jensen, Operator, 24348 478<sup>th</sup> Ave, Dell Rapids SD 57022  
Larry J Jorgenson, 24048 477<sup>th</sup> Ave, Trent SD 57065  
Ted Lacey, 24064 478<sup>th</sup> Ave, Trent SD 57065  
Thomas A & Patricia K Munk Revocable Living Trust, 15683 State Hwy 105, Austin MN 55912  
City of Sioux Falls, Greg Anderson, 224 W 9<sup>th</sup> St, Sioux Falls SD 57102  
City of Sioux Falls, Kelby Mieras, 100 E 6<sup>th</sup> St, Sioux Falls SD 57104  
Diane Best, Assistant City Attorney, City of Sioux Falls, PO Box 7402, Sioux Falls SD 57117-7402

Vickie Maberry  
Vickie Maberry  
Secretary/Water Rights

STATE OF SOUTH DAKOTA     )  
                                                  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 22<sup>nd</sup> day of May, 2018.

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019



Permit No. 1801-3

Water Diversion No. 3 Big Sioux River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Harold Munk

\_\_\_\_\_ the holder \_\_\_\_\_ of  
Permit No. 1801-3, issued upon Application No. 1801-3, bearing date of priority of January 19,  
1971 authorizing the diversion of 2.47 cu. ft. per second of the waters of \_\_\_\_\_  
Big Sioux River  
around water County of Hood, State of South Dakota at \_\_\_\_\_  
a point 1430'N and 70'E of the S $\frac{1}{4}$  corner, Section 36, T10N, R40W

\_\_\_\_\_, for irrigation

purposes, has \_\_\_\_\_ complied with the provisions of the laws of the State of South Dakota relating to proof of  
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory  
condition for diverting and conveying to the place of intended use 1.0 cu. ft. per second of water.

Date February 2, 1973

By:

~~WATER RIGHTS COMMISSION~~  
WATER RIGHTS COMMISSION

John Hatch  
JOHN HATCH, Chief Engineer

J. 1601-3

Publish first publication, on or before February 11, 1971

NOTICE  
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

January 27, 1971

Notice is hereby given that Harold Munk  
whose post office address is Dell Rapids, South Dakota, has made an application in accordance  
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use  
2.47 cubic feet of water per second of time from the Sioux River & ground water through the  
Pank Irrigation Project, the point of diversion of which is to be located in the

between points in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  and in the N $\frac{1}{2}$  NW $\frac{1}{4}$

of Section 36, Twp. 105N, Range 49W. Said water to be used for the purpose  
of providing irrigation on the following described land:

SW $\frac{1}{4}$  and Lot A, SE $\frac{1}{4}$ , Section 36, T105N, R49W

This application No. 1601-3 will be considered by the Water Resources Commission at their office at  
Pierre upon the 10th day of March, 1971, at 2:00 P. M. All interested  
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

R

cc: Harold Munk, Dell Rapids, S.D. 57022

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Moody ) ss.

I, Wayne L. Lyford hereby  
certify that the annexed printed copy of Notice of Intent to Appropriate  
Water was taken from the Moody County Enterprise  
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 Flandreau  
County of Moody and State of South Dakota;  
that the said notice was published in said newspaper on the following  
four dates:

February 3, 1971

February 10, 1971

February 17, 1971

February 24, 1971

Wayne L. Lyford  
(Signature)

Public  
(Title)

3-1-71  
(Date Signed)

No. 1801-3  
INTENT TO APPROPRIATE WATER  
Pierre, South Dakota 57501  
January 27, 1971  
Notice is hereby given that Harold  
Munk whose post office address is Dell  
Rapids, South Dakota, has made an  
application in accordance with the pro-  
visions of the water law of South  
Dakota for a permit to appropriate  
for beneficial use 2.27 cubic feet of  
water per second of time from the  
Sioux River & ground water through  
the Munk Irrigation Project, the point  
of diversion of which is to be located  
between points in the NW 1/4, SE 1/4 and  
in the NW 1/4 NW 1/4 of Section 36, Twp.  
106N, Range 49W. Said water is to be  
used for the purpose of providing ir-  
rigation on the following described  
land: SW 1/4 and Lot 4, SE 1/4, Section  
28, T106N, R49W, S4. This application  
This application No. 1801-3 will be  
considered by the Water Resources  
Commission at their office at Pierre  
upon the 10th day of March, 1971, at  
2:00 P.M. All interested persons may  
appear and be heard.  
WATER RESOURCES COMMISSION  
By HURTON F. JONES,  
Water Rights Specialist  
(Feb. 3, 10, 17 & 24)

RECEIVED  
MAR 2 1971

WATER RESOURCES COMMISSION



No. 1801-3

# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Office Building Number 2, Pierre, South Dakota 57501

Phone 605/224 3151

August 1, 1973

Mr. Harold Munk  
Dell Rapids  
South Dakota 57022

Dear Mr. Munk:

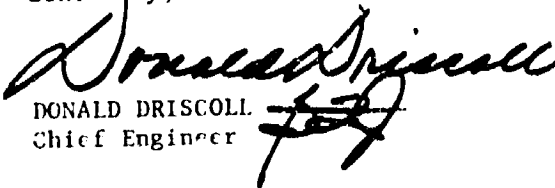
From observation and reports received in this office, it is apparent that the flows in the Sioux River are extremely low this year.

Your Permit No. 1801-3 contains the following qualification:

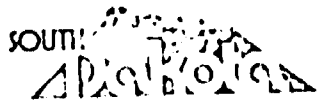
Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is approved allowing withdrawals whenever 35 c.f.s. of water or more is flowing past your diversion point.

Please govern your irrigation withdrawals in accordance with the stated qualification.

Sincerely,

  
DONALD DRISCOLL  
Chief Engineer

DD/BFJ/bw



No. 1801-3

# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

July 19, 1976

Harold Munk  
Dell Rapids, S.D 57022

Dear Mr. Munk:

From observation and reports received in this office, it is apparent that the flows in the Sioux River are extremely low this year.

Your Permit No. 1801-3 contains the following qualification:

Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is approved allowing withdrawals whenever 35 c.f.s. of water or more is flowing past your diversion point.

Please govern your irrigation withdrawals in accordance with the stated qualification.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Hatch", is written over the typed name.

JOHN HATCH  
Chief Engineer  
Water Rights Commission

JH/BFJ/bw

1801-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501  
Phone 605/224-3151

July 27, 1976

Harold Munk  
Dell Rapids, SD 57022

Dear Sirs:

Because of the existing deficient supply of water in the Sioux River to satisfy all authorized uses of the waters of this stream, the Water Rights Commission hereby orders that all withdrawals of water from the Sioux River for irrigation purposes between Watertown, South Dakota and Sioux Falls shall cease effective 12:00 Noon, July 30, 1976 until January 1, 1977 or until further notice.

This order is issued in accordance with South Dakota Water Laws which require the Commission to control and regulate all waters of the State to assure water for domestic supplies and prior water rights.

Please govern your use of irrigation water under your Water Right No. 1801-3 in accordance with this order. You will be notified if water supplies in this section of the Sioux River become sufficient to permit irrigation water withdrawals again during 1976. Aerial inspections of this section of the Sioux River will be made by the Staff of the Water Rights Commission.

Very truly yours,

*John Hatch*

John Hatch, Chief Engineer  
WATER RIGHTS COMMISSION

JH:nlm

1801-3 Knecht Work.

11 3 77 1-2 Basin - 1 down pump

Wells 150, Ser # EA 303

Nozzle size 1.3"

660 ft 7/8" hole 4 in

3510 ft 6" Aluminum pipe

Pumping 450 ppm

Pumps Berdely H 892 CCW

Tractor power broke off

Permit No. 1801-3Water Division 3 Big Sioux River Water DistrictREPORT OF EXAMINATION OF WORKS  
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

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

I have this day made a thorough examination of the water use system constructed by Harold Munk  
 of Dell Rapids, South Dakota 57022 holder  
 of Permit No. 1801-3, bearing date of priority of January 19, 1971  
 authorizing the diversion of 2.41 cu. ft. per second of the waters of Big Sioux River  
 for Irrigation purposes, in Moody County.

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

The Water Use System consists of,

## A. Works used to divert the water:

Pump- Berneley H1892 ccw Pumping 450 gpm.  
 Tractor Power Take-off.

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

3800 ft of 6" dia. Aluminum Pipe  
 660 ft. 4" dia Flexible Hose.

## C. Works used to apply water to beneficial use.

E-Z Rain - Nelson Gun, Model 150, Ser# EA 303  
 Nozzle Size 1.3

The system is in the following condition: Good

The point of diversion is located 1430 ft North and 70 ft East of S  $\frac{1}{4}$  Corner  
of Section 36, T105N R49W

The works are capable of diverting and conveying to the place of use 1.0cu. ft. per second of water which is to be used for Irrigation

Water has been put to beneficial use to the maximum extent as follows: All in Sec. 36, T105N R49W  
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  - 22 Ac., NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  - 40 Ac., SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  - 29 Ac., SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  - 40 Ac.

comprising a total of 131 acres of land.

Date November 30, 1977  
LeRoy J. McLaughlin  
 (Signature)

1861-8

Due to the death  
of Harold Mark, the  
land is now owned by  
Mrs. Harold Mark (wid).  
the land is farmed by  
Jerome Haak.  
Mail address remains the  
same.

Jerome Haak  
~~Dell~~ R1 Box 12  
Dell Rapids, SD 57027  
Phone 605-428-3212



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

January 17, 1997

1801-3

Gail Munk  
RR 3 Box 96  
Dell Rapids, SD 57022-8922

Dear Mrs. Munk:

The 1996 irrigation questionnaire pertaining to Water Right No. 1801-3, was sent to us by Jerome Haak. Mr. Haak indicated that the water right should be listed in your name.

I am enclosing a partially completed "Notice of Transfer" form for use in filing an ownership change. Please review the form for accuracy and complete as needed. Upon completion, please sign the form in the presence of a notary and return it to our office with a required filing fee of \$2.50. The water right will be transferred from Harold's name to your name as soon as we receive the transfer form and filing fee.

If acceptable to you, I will direct the annual irrigation questionnaires to Mr. Haak. This will not alter the ownership records, it will merely allow us to mail the questionnaire to someone other than the owner. If you have any questions, please contact me.

Sincerely,

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

enclosure

# NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1801-3

Date: February 5, 1997



I/We request that Water Right No. 1801-3

formerly owned by: Harold Munk

be transferred to: (name & address) Gail C. Munk RR-3, Box 96, Dell Rapids, S.D., 57022

Telephone No. 605-428-3223

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

131 acres in the SW 1/4 Section 26, T105N, R49W

I/We understand that the validity of Water Right No. 1801-3 has not been determined by this transfer action. If I/We have any question 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 attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA )

County of MINNEHAHA )

I/We Gail C. Munk 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.

Gail C. Munk  
(Signed)

Subscribed and sworn to before me this 5th day of February, 19 97.

Allen B. Brown  
(Notary Public) Allen B. Brown  
State of South Dakota  
My commission expires June 28, 2001

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 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.

# RECEIPT

415245

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

Pierre, \_\_\_\_\_ February 16, 1997

RECEIVED OF Gail C. Munk, RF 3, Box 96, Bell Rapids, SD 57022

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. _____                  |       | 2.50 |
| Fee for Filing Transfer Form <u>Water Right No. 1801-3</u>                                                           |       |      |
| Fee for Filing Extension Request _____                                                                               |       |      |
| Fee for _____                                                                                                        |       |      |
| _____                                                                                                                |       |      |
| _____                                                                                                                |       |      |
| (Any Other Work Provided by Law)                                                                                     | Total | 2.50 |

By John H. Hatcher



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 13, 1997

No. 1801-3

Gail C. Munk  
RR 3, Box 96  
Dell Rapids, SD 57022

Dear Ms. Munk:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right No. 1801-3.

Our records now show you as the owner of Water Right No. 1801-3.

Sincerely,

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

enclosure



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 8, 2006

1801-3

Harvey Schmidt  
47528 244<sup>th</sup> St  
Dell Rapids SD 57022

Dear Mr. Schmidt:

I am writing to acknowledge receipt of your 2006 irrigation questionnaire and your request for information on any studies done concerning irrigation system efficiency for big guns.

We do not have that type of information on hand but you could call Hal Werner with the Ag Engineering Department at SDSU. Hal has worked extensively with irrigation practices over the years. Hal can be reached at (605) 688-5673. He may be able to get the information for you or direct you to someone who could.

Good luck and thank you again for getting the irrigation questionnaire returned to us.

Sincerely,

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



1801-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 18, 2008

NOTICE

TO: HARVEY SCHMIDT, OPERATOR, 47528 244TH ST, DELL RAPIDS, SD 57022

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

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire has not been submitted for Permit No(s) 1801-3. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 Irrigation Questionnaire 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, 2008**, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 1801-3 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 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

c: GAIL MUNK, 803 DAKOTA, DELL RAPIDS, SD 57022-8922

**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.

1801-3

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### Search Results

Label/Receipt Number: 2303 2160 0000 0802 4391  
Status: **Delivered**

Your item was delivered at 1:12 PM on January 28, 2008 in BROWNSVILLE, TX 78520. The item was signed for by G BARES.

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StatementInternet Access  
Statement

|                                                                                                                                                                         |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| SIGNATURE CONFIRMATION NUMBER:<br>2303 2160 0000 0802 4391                                                                                                              |  |
| GAIL MUNK<br>903 DAKOTA<br>DELL RAPIDS SD 57022-8922                                                                                                                    |  |
| Waiver of Signature <input type="checkbox"/> YES <input type="checkbox"/> NO                                                                                            |  |
| Postmark<br>Here                                                                                                                                                        |  |
| <b>POSTAL CUSTOMER:</b><br>Keep this receipt. For Inquiries:<br>Access internet web site at<br><a href="http://www.usps.com">www.usps.com</a><br>or call 1-800-222-1811 |  |
| <input type="checkbox"/> Priority Mail™ Service<br><input type="checkbox"/> First-Class Mail® parcel<br><input type="checkbox"/> Package Services parcel                |  |

1801-3

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## Track & Confirm

### Search Results

Label/Receipt Number: 2303 2160 0000 0802 4384  
Status: **Delivered**

Your item was delivered at 1:23 PM on January 19, 2008 in DELL RAPIDS, SD 57022. The item was signed for by L SCHMIDT.

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FOIA

Seal of the United States Postal Service

Seal of the United States Postal Service

SIGNATURE CONFIRMATION NUMBER:  
2303 2160 0000 0802 4384

HARVEY SCHMIDT, OPERATOR  
47528 244TH ST  
DELL RAPIDS SD 57022

Waiver of Signature ☐ YES ☐ NO

Postmark  
Here

**POSTAL CUSTOMER:**  
Keep this receipt. For Inquiries:  
Access internet web site at  
[www.usps.com](http://www.usps.com)  
or call 1-800-222-1811

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**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 29, 2008

1801-3

Harvey Schmidt  
47528 244<sup>th</sup> St  
Dell Rapids SD 57022

Dear Mr. Schmidt:

I am writing to acknowledge receipt of your 2007 irrigation questionnaire. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Right No. 1801-3.

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

If you have any questions, please contact me.

Sincerely,

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

c: Gail Munk



1801-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

August 6, 2012

Dear Water Right Holder;

Due to low flows I am advising water right holders on the Big Sioux River of the possibility of shutoff orders in 2012 for the river reach from Watertown through Sioux Falls. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Big Sioux River basin remain well below the historical average. The forecast for improved conditions for the near future is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing real-time river flows at 159 stream gauging stations across the state including three gages sites on the Big Sioux River. To access this information go to <http://waterdata.usgs.gov/sd/nwis/rt> and click on the link "Statewide Streamflow Current Conditions Table".

Thank you for your cooperation. If you have any questions, please contact Lynn Beck or Mark Rath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program

# CERTIFICATION

I hereby certify that on August 6, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated August 6, 2012 regarding shut off warnings on Big Sioux River addressed as stated below:

| permitno                         | fname                           | lname                                       | addrss2                                  | city                        | state    | zip            |
|----------------------------------|---------------------------------|---------------------------------------------|------------------------------------------|-----------------------------|----------|----------------|
| 1696-3                           | DONALD G                        | AHLERS                                      | 22920 SD HWY 13                          | FLANDREAU                   | SD       | 57028          |
| 5530-3                           | TERRY & DENISE                  | ANDERSON                                    | 47558 237TH ST<br>26534 N SHORE<br>PLACE | TRENT                       | SD       | 57065          |
| 6192-3                           | BERNE B                         | BAHNSON                                     | PO BOX 366                               | HARTFORD                    | SD       | 57033          |
| 3806-3                           | BERNARD                         | BERGDALE                                    | 47948 232ND ST                           | ALCESTER                    | SD       | 57001          |
| 1175-3                           | HAROLD                          | BOEVER                                      | 4162 BIRCH AVE                           | FLANDREAU                   | SD       | 57028          |
| 4895-3                           | BILL B                          | BOYER                                       | 403 16TH ST                              | HAWARDEN                    | IA       | 51023          |
| 284-3                            | LUKE                            | BOYER, MGR                                  | 24482 482ND AVE                          | HAWARDEN                    | IA       | 51023          |
| 7110-3                           | BRIAN                           | BURKHART                                    | 32650 480TH AVE                          | DELL RAPIDS                 | SD       | 57022          |
| 5760-3                           | BRIAN                           | CHICOINE                                    | 29509 488TH AVE                          | ELK POINT                   | SD       | 57025          |
| 2255-3                           | JAMES H                         | COLE                                        | 47364 GOLF VIEW<br>DR                    | HUDSON                      | SD       | 57034          |
| 6124-3                           |                                 | DELLS ROCKY RUN GOLF COURSE                 |                                          | DELL RAPIDS                 | SD       | 57022          |
| 4969-3                           | JOHN GILMAN                     | FRAZIER FARMS                               | BOX 423                                  | PARKSTON                    | SD       | 57366          |
| 4969-3                           | JOHN<br>TROY D & SANDY<br>F     | GILMAN                                      | 4162 BIRCH                               | HAWARDEN                    | IA       | 51023          |
| 249-3                            | DARREN &<br>ALLISON             | HAHN                                        | 6762 SMITH DR                            | WENTWORTH                   | SD       | 57075          |
| 2065-3                           |                                 | HAMILTON                                    | 22615 480TH AVE                          | FLANDREAU                   | SD       | 57028          |
| 2952-3, 956-3                    | WAYNE                           | HEADRICK                                    | 47926 SD HWY 32                          | FLANDREAU                   | SD       | 57028          |
| 279-3                            | ROBERT                          | JAGER, MGR                                  | 48495 299th ST                           | HAWARDEN                    | IA       | 51023          |
| 1350-3,<br>6042-3                | RAYMOND D                       | JENSEN                                      | 24348 478TH AVE                          | DELL RAPIDS                 | SD       | 57022          |
| 1302-3                           | LARRY J                         | JORGENSEN                                   | 24048 477TH AVE                          | TRENT                       | SD       | 57065          |
| 1500-3, 213-3                    | TED                             | LACEY                                       | 24064 478TH AVE                          | TRENT                       | SD       | 57065          |
|                                  | EUGENE                          | MOLLET                                      | 48011 332ND ST                           | JEFFERSON                   | SD       | 57038          |
| 3433-3                           | VIRGIL L                        | MOLLET JR                                   | 47991 334TH ST                           | JEFFERSON                   | SD       | 57038          |
| 1801-3                           | GAIL                            | MUNK                                        | 803 DAKOTA                               | DELL RAPIDS                 | SD       | 57022          |
| 113-3                            | PATTI                           | NASH                                        | 21660 469TH AVE                          | BROOKINGS                   | SD       | 57006          |
| 3914-3                           | OMAR F                          | PETTERSON                                   | 48378 276TH ST                           | CANTON                      | SD       | 57013          |
| 2350-3                           |                                 | RIVER VALLEY FARMS                          | PO BOX 486                               | ALCESTER                    | SD       | 57001          |
| 1801-3                           | HARVEY<br>JOHN T &<br>MELISSA R | SCHMIDT, OPERATOR                           | 47528 244TH ST                           | DELL RAPIDS                 | SD       | 57022          |
| 1454-3                           |                                 | SCHUTTE                                     | 47973 W 5TH ST<br>47844 COUNTY RD<br>1B  | CANTON                      | SD       | 57013          |
| 5814-3                           | PATRICK V                       | WALSH, OPERATOR                             | 11726 NORWAY ST<br>NW                    | ELK POINT<br>COON<br>RAPIDS | SD<br>MN | 57025<br>55448 |
| 597-3                            | DAN & JUDY                      | WHIPPLE<br>WILLOW RUN MANAGEMENT<br>COMPANY | 8000 E HWY 42                            | SIOUX FALLS                 | SD       | 57110          |
| 5055-3                           |                                 | XCEL ENERGY                                 | 7100 E RICE ST                           | SIOUX FALLS                 | SD       | 57110          |
| 519-3A                           |                                 | NORTHERN STATES POWER<br>COMPANY            | 414 NICOLLET MALL                        | MINNEAPOLIS                 | MN       | 55401          |
| 43-3, 519-3<br>5698-3,<br>6210-3 | GREG ANDERSON                   | CITY SIOUX FALLS                            | 224 W 9TH ST                             | SIOUX FALLS                 | SD       | 57102          |

Gail Jacobson

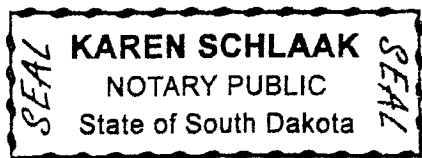
Gail Jacobson  
Secretary/Water Rights

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 4<sup>th</sup> day of August, 2012.

Karen Schlaak

Karen Schlaak  
Notary Public  
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

September 12, 2012

**NOTICE OF SHUTOFF ORDER**

**TO:** Harvey Schmidt - Operator  
47528 244<sup>th</sup> Street  
Dell Rapids SD 57022

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Big Sioux River Shutoff Order

**Shutoff Order for Water Right No 1801-3.**

The flow in the Big Sioux River is below 20 cubic feet per second (cfs) at the USGS gaging station near Brookings, SD and below 35 cfs at the USGS gaging station near Dell Rapids, SD. A qualification under Permit No. 1801-3 states that diversions from the Big Sioux River are authorized only when flow at the diversion point is at least 35 cfs while pumping under this permit. Therefore, effective immediately, no diversion of water from the Big Sioux River is authorized under Water Permit No. 1801-3.

Flow in the Big Sioux River has dropped to the point where domestic use of water, which includes livestock watering from the river and diversions for senior water rights, have become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river. If you have any questions, please contact Lynn Beck or Mark Rath with the Water Rights Program at (605) 773-3352. Thank you.

cc: Gail Munk - Owner  
803 Dakota  
Dell Rapids SD 57022



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

December 4, 2017

1801-3

Steven Munk  
24774 481<sup>st</sup> Ave  
Dell Rapids SD 57022

Dear Mr. Munk:

I am writing in follow-up to our phone conversation concerning Water Right No. 1801-3. The water right (copy enclosed) is currently listed in the name of Gail C Munk.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. The form should be completed and signed by the new owner. Upon completion, return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

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](mailto:genny.mcmath@state.sd.us)

enclosures

RECEIVED

JAN 12 2018

WATER RIGHTS  
PROGRAM

## NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1801-3

Date: 1/7/18

I/We request that Water Right No. 1801-3

formerly owned by: Gail C Munk

be transferred to: (name & address)

Thomas A. Munk Revocable Living Trust  
and Patricia K. Munk Revocable Living Trust  
15683 State Highway 105, Austin, MN 55912 Telephone No. 507-383-5362  
507-433-2915

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

131 acres - SW 1/4 Section 36, T105N, R49W

I/We understand that the validity of Water Right No. 1801-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Thomas Munk  
Patricia Munk

, the new owner, certify that the above information is true and correct.

Thomas A. Munk  
Patricia K. Munk

(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.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 28, 20 18

RECEIVED OF

~~Thomas Munk 15683 State Highway 105 Austin, MN 55912-6197~~

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. _____            |       |    |
| Fee for Filing Transfer Form _____ 1801-3                                                                      |       |    |
| 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. _____                                         | 50    | 00 |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |    |
| (Any Other Work Provided by Law)                                                                               | TOTAL |    |

No. **08475**

By

Jeanne Goodman  
Chief Engineer

*2017*



1801-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

January 18, 2018

1801-3

Thomas A & Patricia K Munk  
15683 State Highway 105  
Austin MN 55912-6197

Dear Mr. & Ms. Munk:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 1801-3.

The ownership change has been completed. Water Right No. 1801-3, formerly held by Gail C Munk is now listed under **"Thomas A Munk Revocable Living Trust and Patricia K Munk Revocable Living Trust."**

For informational purposes, each year irrigators in South Dakota are required to submit an irrigation questionnaire to report how much water was pumped during the season. The forms are mailed out from our office in October each year and are due back by December 1<sup>st</sup>. I am enclosing a copy of the report filed by the operator in 2015. This will give you an idea of what the form looks like and what type of information is required.

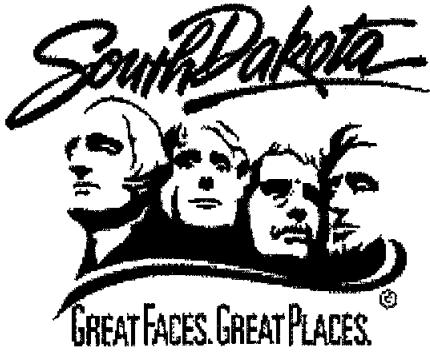
Enclosed for your records is Receipt No. 08475 in the amount of \$50 which you paid for filing the ownership change.

If you have any questions, please contact me.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

January 31, 2018

1801-3

THOMAS A & PATRICIA K MUNK REVOCABLE LIVING TRUST  
15683 STATE HWY 105  
AUSTIN MN 55912

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear MR & MRS MUNK,

I am writing to inform you of an effort the SD Dept. of Environment and Natural Resources Water Rights Program is undertaking to review and update a number of water right permits authorized to pump water from the Big Sioux River. When a number of these permits were issued, they contained a qualification requiring a minimum flow bypass before the user is able to pump water from the river. The bypass qualification was placed on these permits to protect the use of water by downstream senior priority water right holders and domestic water users, which includes livestock watering. The review found, with the passage of time, a number of senior water right permits have been cancelled due to abandonment or forfeiture. Consequently, it may be possible to lower the flow bypass limitation on the remaining permits. In other words, the amount of flow in the river can be lower and pumping will still be allowed. The review also found an inconsistency between permits on where the bypass flow is to be measured.

The intent of this effort is to standardize and make consistent the bypass requirements for the remaining water users. In most cases, the proposed changes will reduce the flow bypass requirement on the individual permits. To make the permits consistent, the bypass measuring point will also be designated at a United States Geological Survey (USGS) stream gaging station. The USGS maintains a real-time stream gaging network on the Big Sioux River. Current river flow information can be easily accessed from the internet 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 next few weeks, you can expect to receive official notification scheduling a hearing before the Water Management Board. 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 phone (605) 773-3352.

Sincerely,

  
for Jeanne Goodman, Chief Engineer  
Water Rights Program



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

February 12, 2018

1801-3

Thomas A & Patricia K Munk Revocable Living Trust  
15683 State Hwy 105  
Austin MN 55912

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear Mr. & Mrs. Munk:

The SD Department of Environment and Natural Resources has evaluated the minimum flow bypass condition on water rights that pump from the Big Sioux River. The Chief Engineer is recommending amending the bypass qualification on 21 Big Sioux water rights. The intent is to bring uniformity to the bypass requirement placed on water rights in past years. Water Right(s) that you own or operate are included in those proposed to be amended.

Attached is the qualification to be deleted from the water right(s) and the proposed new qualifications.

The proposed amendment to your water right will not impose a more restrictive condition than currently is in place on your water right. In some cases the bypass requirement remains the same but generally the proposed amendment decreases the minimum bypass that must exist before a user is able to pump water from the river. The amendment does designate a US Geological Survey 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>. Many, but not all, water rights referenced the bypass being located at the pump site where there isn't real time flow information.

A hearing before the Water Management Board is scheduled at 11:30 AM, Wednesday, March 7, 2018 in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Enclosed is the notice to be published on or before February 15, 2018, in one newspaper from each of the seven counties that the Big Sioux River flows through. This notice provides information on filing a petition in either support or opposition to the propose amendment. The filing of a petition must be postmarked by February 26, 2018. Additionally filing a petition affords you the opportunity to participate in the March 7<sup>th</sup> hearing before the Board if you choose.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Mark Rath at 605 773-3352 or [mark.rath@state.sd.us](mailto:mark.rath@state.sd.us). If you have questions, please call. DENR is willing to work to answer any questions.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

enclosure

### **Proposed Qualification Revisions**

In order to standardize the bypass qualifications for the 14 existing water rights/permits containing bypass qualifications in the Big Sioux River reach between the USGS stream gaging station near Castlewood downstream to the USGS stream gaging station near Dell Rapids, the following changes are proposed.

#### **Amendment to the qualifications contained in Water Right No. 1801-3**

##### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is granted allowing withdrawals of water whenever 35 cfs of water or more is flowing past your diversion point.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.

# **Review of Big Sioux River Water Rights and Report on Proposed Amendments**

## **February 13, 2018**

### **Introduction**

The Big Sioux River is a prairie stream with headwaters located in the northern prairie coteau in southern Roberts, eastern Day and eastern Clark counties, in northeastern South Dakota. The river drains glacial till and outwash plains as it runs southward to its junction with the Missouri River near Sioux City, Iowa. The Big Sioux River physical geography is characterized by glaciated terrain and rolling plains. Rivers commonly follow the valleys formed by glacial lobes, which were glaciated as recently as 14,000 years ago. Drainages in this region formed after retreat of glaciers and are therefore poorly established in parts of the watershed. The poorly established drainage patterns are accompanied by numerous areas of internal drainages, or “potholes,” and are commonly referred to as the “Prairie Pothole Region” (Hoogestrat and Stamm, 2015).

As is typical of prairie streams in South Dakota, the peak runoff occurs during the spring months due to plains snowpack melt and from runoff of larger rain events. Runoff tends to decrease in the late summer months going in to fall and winter.

### **Qualification Status**

A review of Water Right Program files shows there have been 163 water right permits (water permits) issued for the Big Sioux River, some with priority dates going back to statehood. Many of these have been cancelled due to abandonment or forfeiture, some have been incorporated into other water permits and some remain active. An examination of water right files found the Water Resources Commission placed the first bypass qualification, 20 cubic feet per second (cfs) bypass at the diversion point, on a Big Sioux River water permit in Moody County in 1960 (Water Rights, 2018).

After the Water Resources Commission placed the first bypass qualification on a Big Sioux River water permit in 1960, it appears from then until the mid-1990’s, with the advent of real-time accessible stream gaging, the management of water permits from the Big Sioux River was primarily addressed on a river reach basis and the presence of senior priority water permits. Water permits issued in a similar reach with relatively similar priority dates would have the same bypass requirements. Later when water permits were issued, the bypass requirement would be incrementally increased to account for protection of the senior priority water permits (Water Rights, 2018).

The northern most river reach, from the headwaters in southern Roberts County to the Brookings – Moody county line, only has a hand full of permits issued since 1960. Bypass qualifications range from 5 cfs for those water permits issued in the mid-1960’s to 35 cfs for those issued more recently (Water Rights, 2018).

In the Big Sioux River reach from the northern border of Moody County to Dell Rapids, which has the most water permits issued, the 20 cfs bypass requirement was placed on Big Sioux River water permits from 1960 until 1966 when the bypass requirement was raised to 30 cfs for new permits issued. In 1968 the bypass requirement was raised to 35 cfs and was then incrementally increased to 50 cfs by 1976. Many of these water permits have subsequently been cancelled due to abandonment or forfeiture. The most recent water permits issued in this reach contained a 43 cfs bypass requirement (Water Rights, 2018).

In the Big Sioux River reach immediately to the south between Dell Rapids where the Big Sioux River crosses Cliff Avenue on the eastern side of Sioux Falls there have been multiple water permits issued. These contain a 20 cfs bypass requirement. Earlier issued water permits require a 20 cfs bypassed at the diversion point while the later issued ones require a 20 cfs bypass at the United States Geologic Survey (USGS) stream gaging station at North Cliff Avenue in Sioux Falls (Water Rights, 2018 and USGS, 2018).

The southernmost river reach from where the river crosses North Cliff Avenue in eastern Sioux Falls to the confluence with Missouri River in southern Union County does not have any water permits with bypass requirements. This reach, even during drier climatic conditions has sufficient flow exceeding demand. The additional flow is attributed to effluent discharge from the Sioux Falls waste water treatment plant and contributions from downstream tributaries such as Split Rock Creek near Brandon (Water Rights, 2018).

Currently there are 59 active water permits authorized for the Big Sioux River from the headwaters in Roberts County to the mouth in Union County, Figure 1. There have been 49 water permits issued since 1960, when the first bypass requirement was enacted, to present which have subsequently been cancelled due to abandonment or forfeiture. Currently 21 of the existing water permits contain some sort of flow bypass qualification. When the water permits were issued with bypass qualifications, it was done because the senior priority water permits were active and being used, so the amount of the bypass requirement placed on the water permit was based on a level to protect senior priority water use. Since there has been significant attrition in the number of active water permits using Big Sioux River water since 1960, with many of them being cancelled, this leaves a somewhat disjointed system of bypass requirements for the remaining water permits. In addition, the City of Sioux Falls holds two active future use permits with 1977 priority dates reserving 30,000 acre-feet of Big Sioux River water in the river reach between the Dell Rapids gage and the North Cliff Avenue gage (Water Rights, 2018 and USGS, 2018).

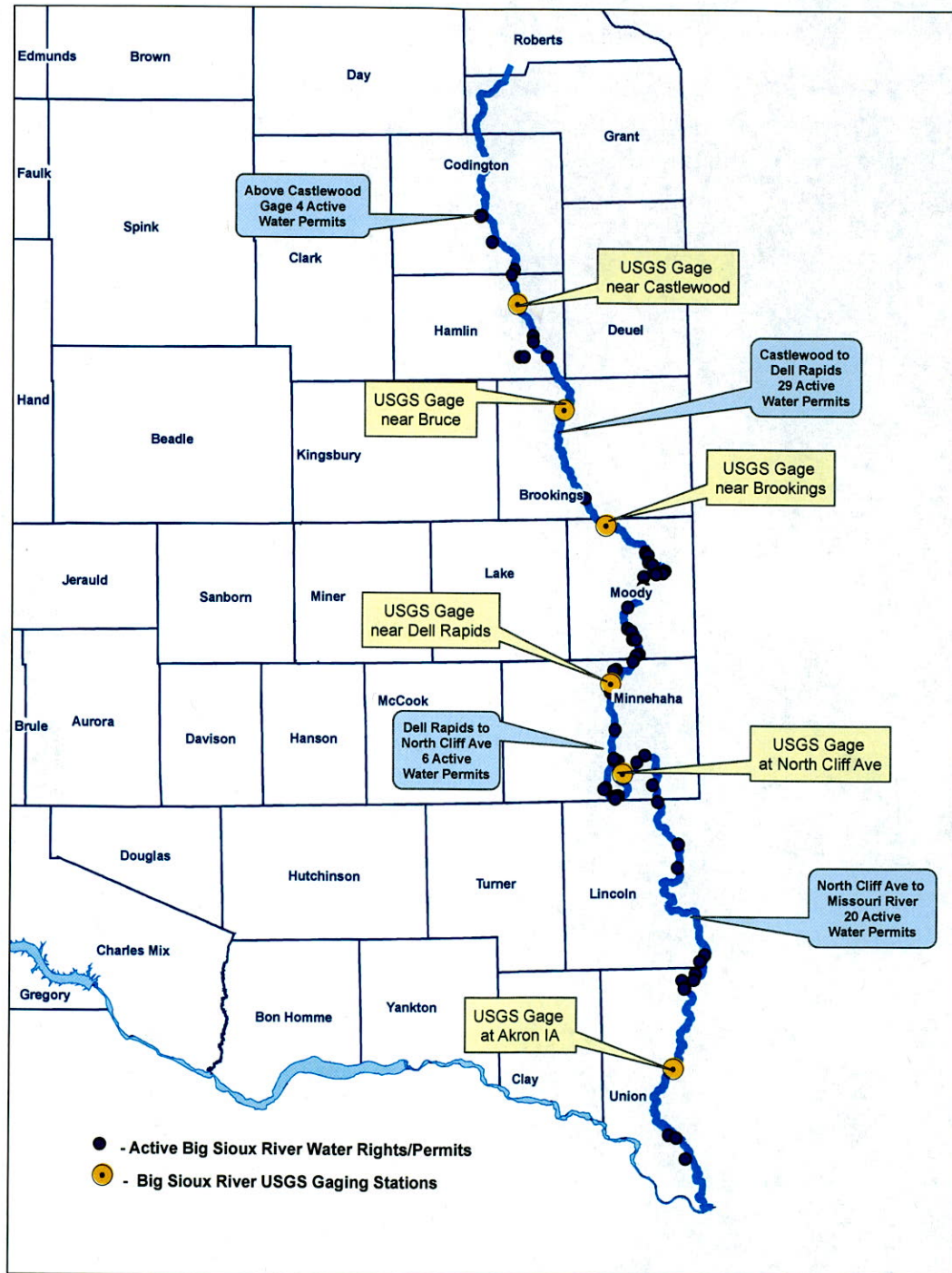


Figure 1. Area map of the Big Sioux River showing the locations of the active water rights/permits and USGS Big Sioux River stream flow gaging stations (Water Rights, 2018 and USGS, 2018).

It is proposed that the existing bypass qualifications for each of the active water permits be reviewed, taking into account the amount of bypass required, the presence of existing rights, the location of the diversions points, and the historical river flow conditions along the various reaches of the river. This review will determine if it is justified to recommend modifications of the existing bypass qualifications.

### **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.

The 21 remaining active water permits authorized to divert water from the Big Sioux River having bypass requirements are subject to SDCL 46-2-3.1, 46-2-17, and 46-2-18, as are all water permits. These statutes give the Chief Engineer the ability to issue written orders within the context of authority granted under the statutes. The remaining 37 active water permits without any bypass requirements authorized to use Big Sioux River water either have priority dates senior to 1960 or are located in the river reach between the North Cliff Avenue gage and the confluence with the Missouri River. There is no intent with this effort to place bypass qualifications on these 37 water permits that do not currently have bypass qualifications.

### **Evaluation of the Existing Flow Bypass Qualifications and River Reach**

The active Big Sioux water permits containing bypass qualifications vary on where the flow bypass is to be measured. The ones with earlier priority dates require a minimum flow past the diversion point. Because it is

impractical for the water user to measure flow at their pump site the more recently issued permits contained bypass qualifications referenced to a nearby United States Geological Survey (USGS) stream flow gaging stations.

In the section of river from southern Codington County to a point where the Big Sioux River crosses North Cliff Avenue in eastern Sioux Falls, three of the USGS gaging stations allowing access to real-time stream flow information have been used as measuring points for bypass limits from the river. See Table 1 (USGS, 2018).

| Station Number | Station Name                                         | Years Operated |
|----------------|------------------------------------------------------|----------------|
| 06479525       | Big Sioux River near Castlewood SD                   | 1977-2017      |
| 06481000       | Big Sioux River near Dell Rapids SD                  | 1949- 2017     |
| 06482020       | Big Sioux River at North Cliff Ave at Sioux Falls SD | 1972- 2017     |

Table 1. USGS Big Sioux River stream flow gaging stations located near Castlewood, near Dell Rapids and at North Cliff Avenue in Sioux Falls SD (USGS, 2018).

The USGS has collected daily flow data at these gaging stations over several years. The USGS maintains an archive of historical flow and statistical flow data for these gaging stations that can be accessed by the public. A major concern in setting bypass qualifications is to identify the times when the river is experiencing lower flows and also to identify when those lower flows occurred. A review will focus on events when a particular stream segment experiences the lower half of the daily flow. Median, otherwise referred to as 50 percentile (50%), is used to help understand the central tendency of a set of statistical results with the lower half of measured daily flow values being at or less than the 50% value. Based on the period of record for each gage site, the daily flow value or less would be expected to occur on average 10 out of 20 years. At the 25 percentile (25%) flow value, the daily flow would be expected to be at or below that value an average of 5 out of 20 years. At the 10 percentile (10%) flow value, the daily flow would be expected to be at or below that value an average of 2 out of 20 years, (USGS, 2018).

### **Analysis and Proposed Qualification Revisions**

A fresh look was taken of the original bypass requirements to determine whether the original bypass levels would be effective limits for the existing active water rights. 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.

Based upon this review, the river was broken into four separate bypass management reaches. The upper most reach is from the headwaters down to the Castlewood gage. The next reach is from the Castlewood gage to the Dell Rapids gage. The third reach is from the Castlewood gage to the North Cliff Avenue gage at Sioux Falls, and the final reach is from the North Cliff Avenue gage to the confluence with the Missouri River at North Sioux City.

The bypass qualifications originally adopted in the 1960's by the Water Resources Commission of 5 cfs for the reach north of Castlewood and 20 cfs for the reach between Castlewood to Dell Rapids were based on Water Rights staff recommendations. The recommendations were based on water use and flow history for each of those reaches. The 20 cfs bypass requirement for the river reach between Dell Rapids and Sioux Falls was first placed on a water permit in 1989 by the Water Management Board, a successor to the Water Resources Commission, following a low flow analysis by Water Rights staff for the Big Sioux River in that reach (Water Rights, 2018).

Of the 21 existing water permits containing some sort of flow bypass qualification all but two are for irrigation use. The two permits not for irrigation are for municipal use and are held by the City of Sioux Falls. Since most of the water permits having bypass qualifications were issued for irrigation, the following discussion

references a typical crop irrigation season of May 1 to October 15. The analysis focused on the typical irrigation season because this is characteristically when water management actions, such as issuing of shutoff orders by the Chief Engineer, would occur.

The irrigation season for grasses, as would be grown on golf courses and parks, may extend outside the typical irrigation season and run from the early April through late October. Of the four existing water permits for irrigation one is for a golf course at Dell Rapids and three are for irrigating golf courses and soccer fields in Sioux Falls (Water Rights, 2018).

### Headwaters to Castlewood Reach

On the upper Big Sioux River there are four existing water permits, two are for storage in lakes Pelican and Kampeska and the other two are for irrigation. The two irrigation water permits containing a bypass qualification both are located approximately five miles upstream from the USGS stream gaging station near Castlewood. The total current authorized diversion rate for this reach is 4.26 cfs. Figure 2 shows the total annual appropriated volume and reported usage volume for the years 1983 to 2016 (Water Rights, 2018).

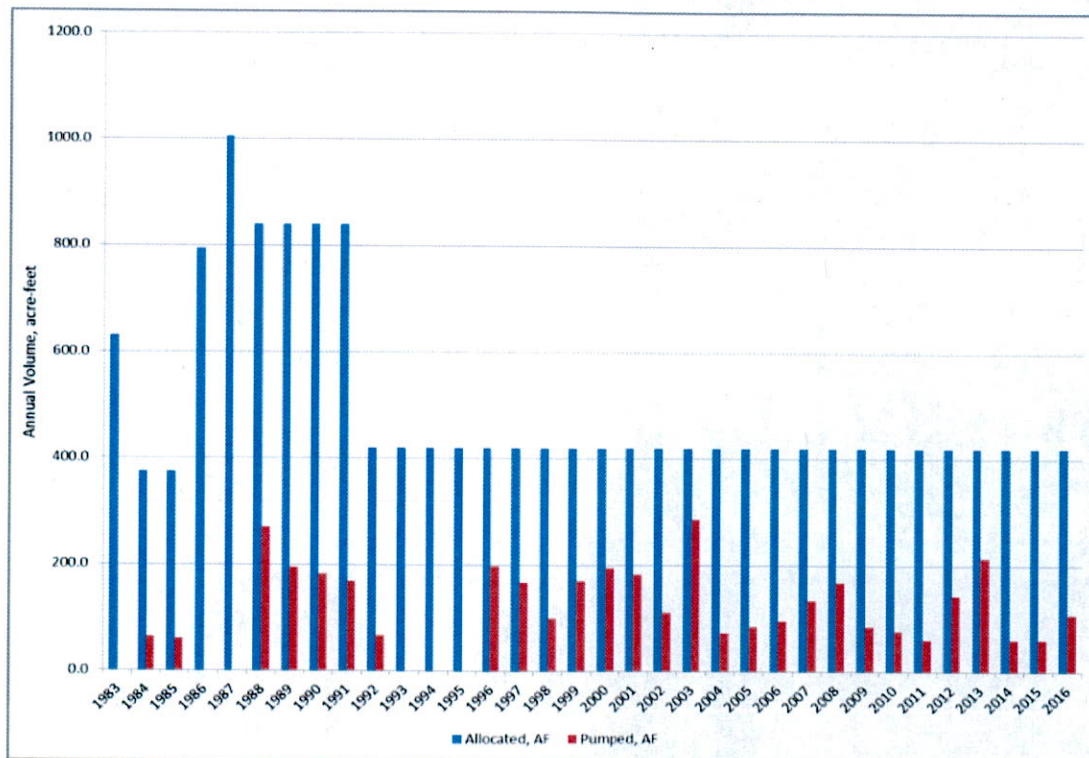


Figure 2. Total irrigation allocation and reported use from the Big Sioux River for the river reach upstream from the USGS gaging station near Castlewood (Water Rights, 2018).

On November 8, 1967, the Water Resources Commission set the initial bypass limit of 5 cfs on a water permit located in the upper river reach north of the Castlewood gage. The application for this water permit had been opposed at a previous meeting so the Commission deferred action and directed staff to investigate. At that time, staff determined excess water was available most years May through July, sometimes available in August and seldom available in September and October. In 2012, a permit was issued in this reach with a 35 cfs bypass qualification. This bypass requirement was the same one

previously placed on a downstream senior priority water permit located in the Castlewood to Dell Rapids reach (Water Rights, 2018).

Figure 3, is a hydrograph for the Castlewood gage showing the 50, 25 and 10 percentile daily flows for the 41 year period of record, 1977 to 2017. In Figure 3, the 10 percentile curve is above the 5 cfs line from the beginning of the irrigation season until the last 10 days of July. The 25 percentile curve is greater than 5 cfs throughout the irrigation season.

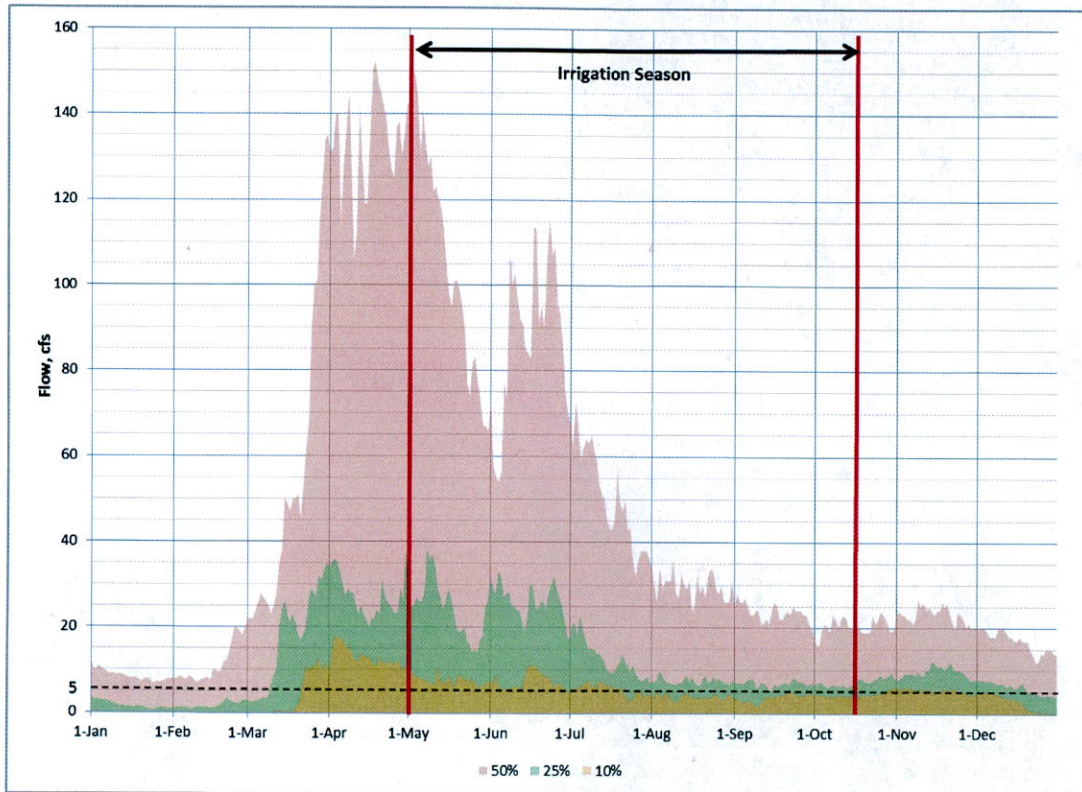


Figure 3. Daily percentile flow hydrographs for the USGS Big Sioux River near Castlewood 1977-2017, contributing drainage area 579 mi<sup>2</sup> (USGS, 2018).

The frequency of low flow events in the upper most river reach was examined by considering how many actual days the average daily flow was less than 5 cfs during the typical irrigation season of May through mid-October over the 41 year period of record. During that time frame 9.2% of the days that had flow less than 5 cfs fell within the May to mid-October irrigation season (USGS, 2018).

Figure 4 shows for the period of record at the Castlewood gage, the total number of days each year the average daily flow in the Big Sioux River was less than 5 cfs. This figure indicates this reach experiences dry climatic conditions causing several day periods of low flow less than 5cfs. The figure also shows there are many more years when the 5 cfs threshold is not met.

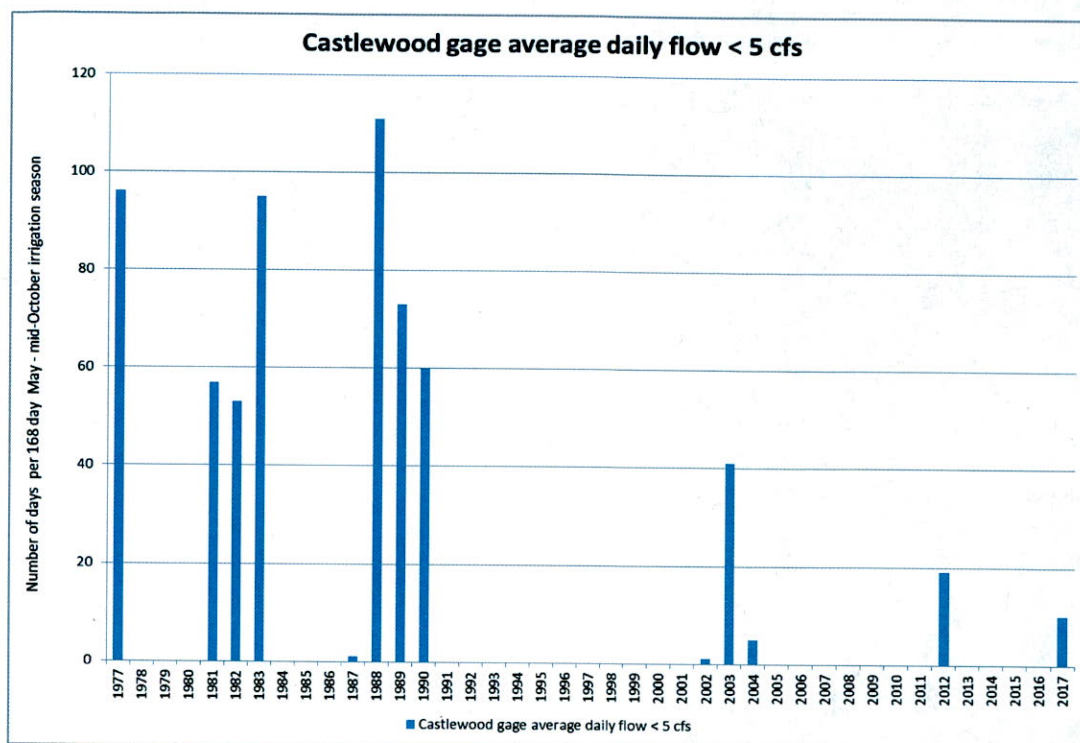


Figure 4. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station near Castlewood was less than 5 cfs (USGS, 2018).

In this reach it is proposed for both of the existing irrigation water permits, the existing bypass qualification be amended to:

- Low flows as needed for downstream domestic use including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

### Castlewood to Dell Rapids Reach

The river reach between the Castlewood gage and the Dell Rapids gage contains 29 active water permits. One of existing water permits is for flood flow diversion, two are for storage in Poinsett and Dry lakes and two water permits are for instream storage in Flandreau Dam and Dell Rapids Dam. The remaining 24 existing water permits are for irrigation, with 14 water permits containing bypass qualifications. The total current authorized diversion rate for this reach is 31.86 cfs. Figure 5 shows the total annual appropriated volume and reported usage volume for the years 1983 to 2016 (Water Rights, 2018).

In this Big Sioux River reach the original 20 cfs bypass requirement was placed on Big Sioux River water permits in April of 1960 by the Water Resources Commission based upon Water Rights staff review and recommendation to set bypass levels on permits. The bypass requirement was raised in 1966 to 30 cfs and was incrementally increased to 50 cfs by 1976. As stated earlier, many of these water permits have subsequently been cancelled due to abandonment or forfeiture (Water Rights, 2018).

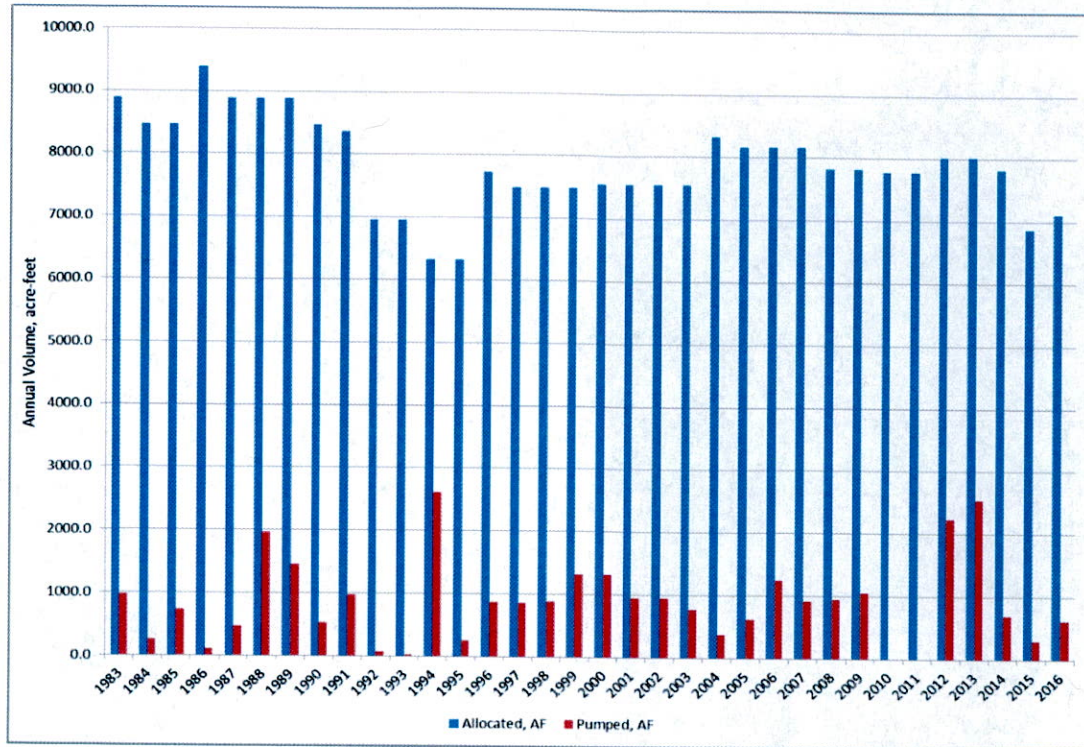


Figure 5. Total irrigation allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Castlewood to the gaging station near Dell Rapids (Water Rights, 2018).

The current bypass limits on existing water permits in this reach range from 20 cfs to 50 cfs with some of the limits set at the diversion point and some measured at the Dell Rapids gage. Using the original 20 cfs bypass as the benchmark, this bypass level was compared to the historic flow record for the Dell Rapids gage. Figure 6 shows the daily percentile flow hydrographs for a 68 year period of record dating back to 1948 for the USGS stream gaging station near Dell Rapids. The 10 percentile curve is above 20 cfs value from the beginning of the irrigation season until the last ten days of August (USGS, 2018).

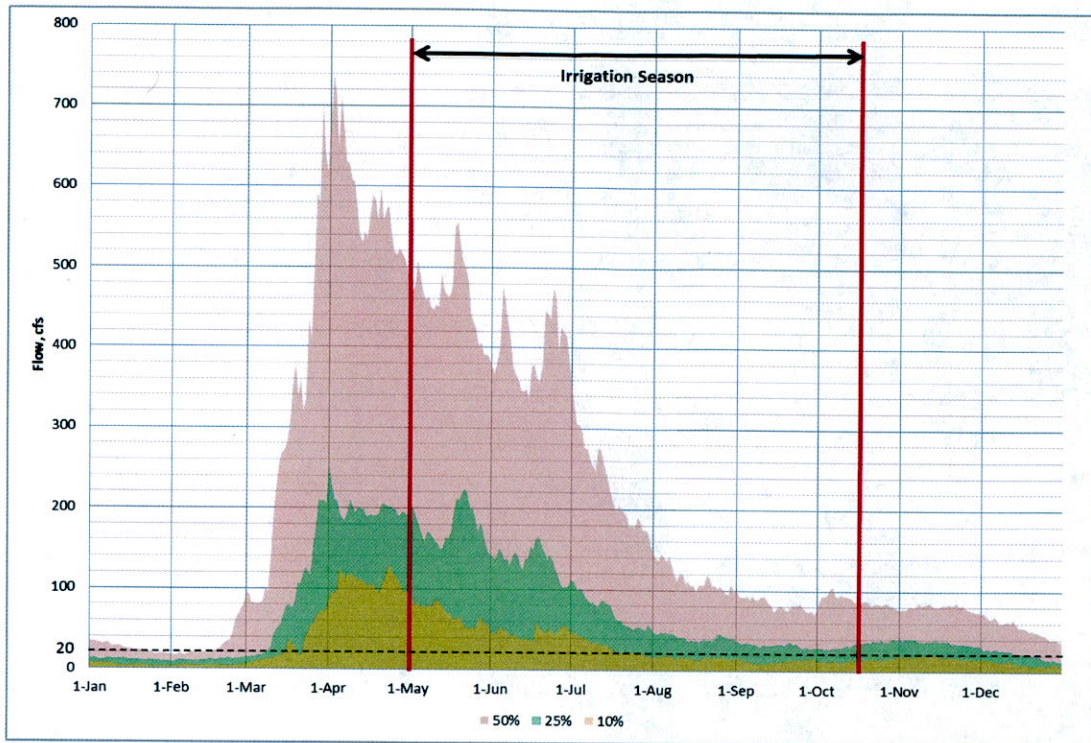


Figure 6. Daily percentile flow hydrographs for the USGS Big Sioux River gage near Dell Rapids 1949-2017, contributing drainage area 3057 mi<sup>2</sup> (USGS, 2018).

The frequency of low flow events in this reach was examined by considering how many actual days the average daily flow was less than 20 cfs during the typical irrigation season of May through mid-October over the 69 year period of record. During that time frame 7.2% of the days had flow less than 20 cfs within May to mid-October irrigation season (USGS, 2018).

Figure 7 shows for period of record at the Dell Rapids gage the total number of days for each year the average daily flow in the Big Sioux River was less than 20 cfs. Similar to what is seen in the upstream reach, this reach also experiences dry climatic conditions causing several days of low flow less than 20 cfs. The figure also shows there are many more years when the 20 cfs threshold is exceeded.

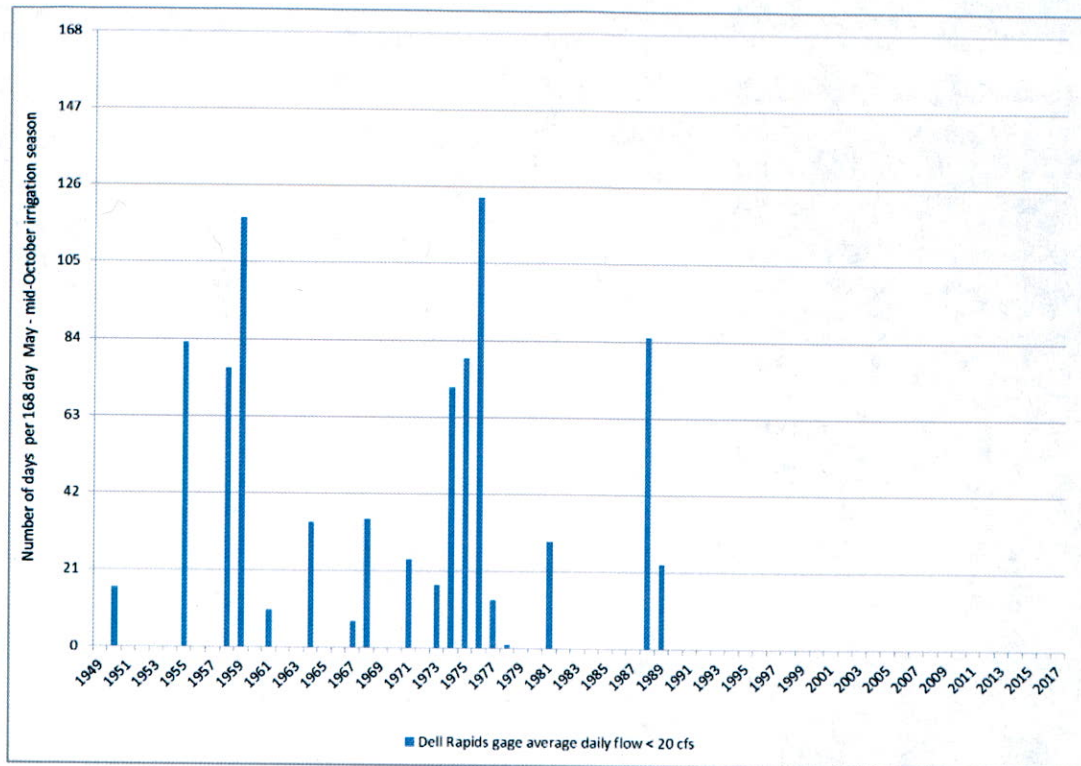


Figure 7. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station near Dell Rapids was less than 20 cfs (USGS, 2018).

In this reach it is proposed for the 14 existing irrigation water permits the existing bypass qualification be amended to:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

#### **Dell Rapids to North Cliff Avenue at Sioux Falls Reach**

In the river reach between the Dell Rapids gage and the North Cliff Avenue at Sioux Falls gage there are six existing water permits. The total current authorized diversion rate for this reach is 87.33 cfs. One right is for instream storage at Baltic Dam, two of the existing rights are for municipal use, and three are for irrigation. The bypass requirement for five existing rights with qualifications is 20 cfs. Three of the water permits require 20 cfs bypassing the diversion point and two requiring measurement of the flow bypass at the North Cliff Avenue gage. It should also be noted the City of Sioux Falls holds two future use permits located in this reach reserving up to 30,000 acre-feet from the Big Sioux River. The Water Management Board did a seven year status review of these permits in July of 2016. The Board ruled to allow these future use permits to remain in effect for the full 30,000 acre-feet for an additional seven years. Figure 8 shows the total annual appropriated volume and reported irrigation usage volume for the years 1983 to 2016, and Figure 9 shows the total annual appropriated volume and reported municipal usage volume for the years 1983 to 2016 in this reach (Water Rights, 2018).

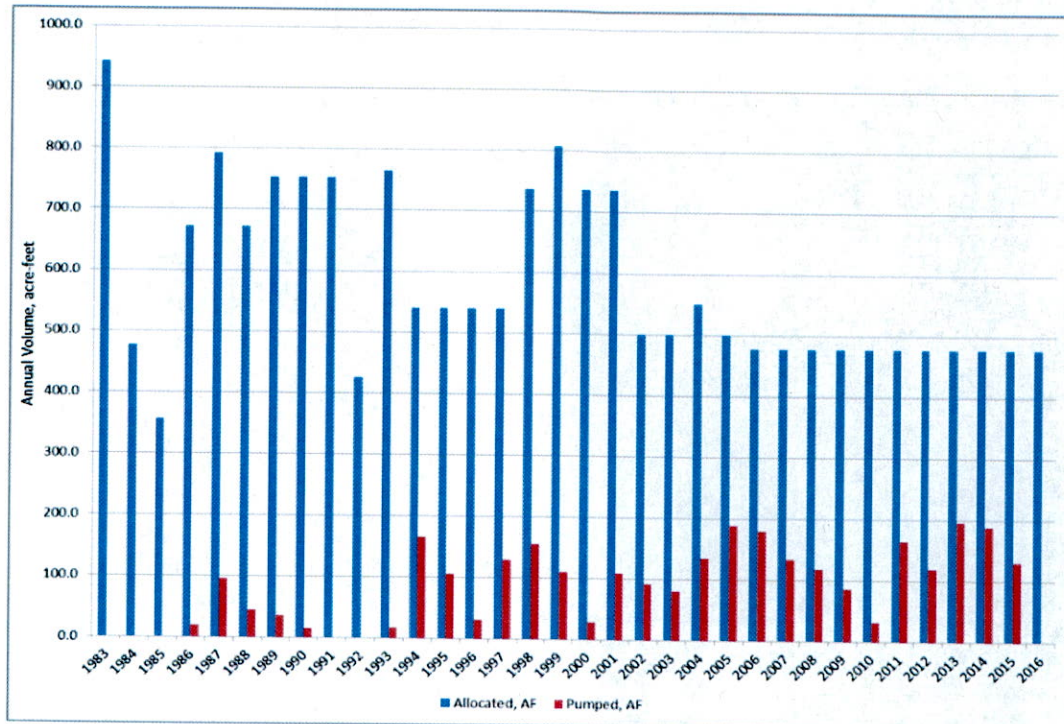


Figure 8. Total irrigation allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Dell Rapids to the gaging station at North Cliff Avenue at Sioux Falls (Water Rights, 2018).

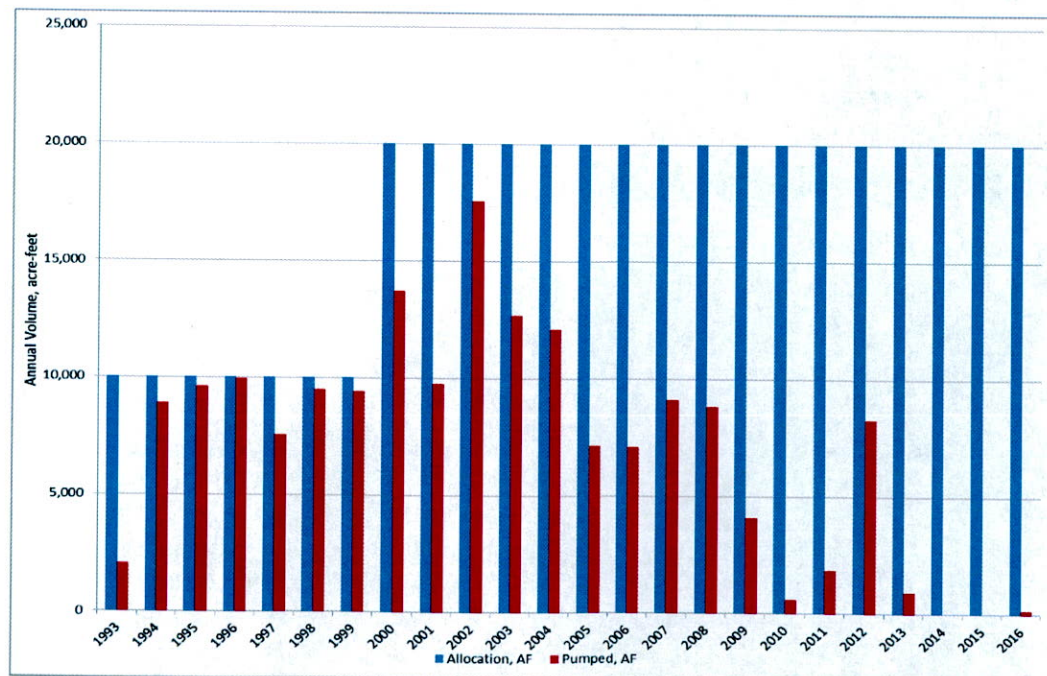


Figure 9. Total municipal allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Dell Rapids to the gaging station at North Cliff Avenue at Sioux Falls (Water Rights, 2018).

Figure 10 shows the daily percentile flow hydrographs for a 45 year period of record dating back to 1971 for the USGS stream gaging station at North Cliff Avenue at Sioux Falls. The 10 percentile curve is above 20 cfs value from the beginning of the irrigation season until the curve drops slightly below 20 cfs line for a few days the first part of September before rising above 20 cfs for the remainder of the irrigation season (USGS, 2018).

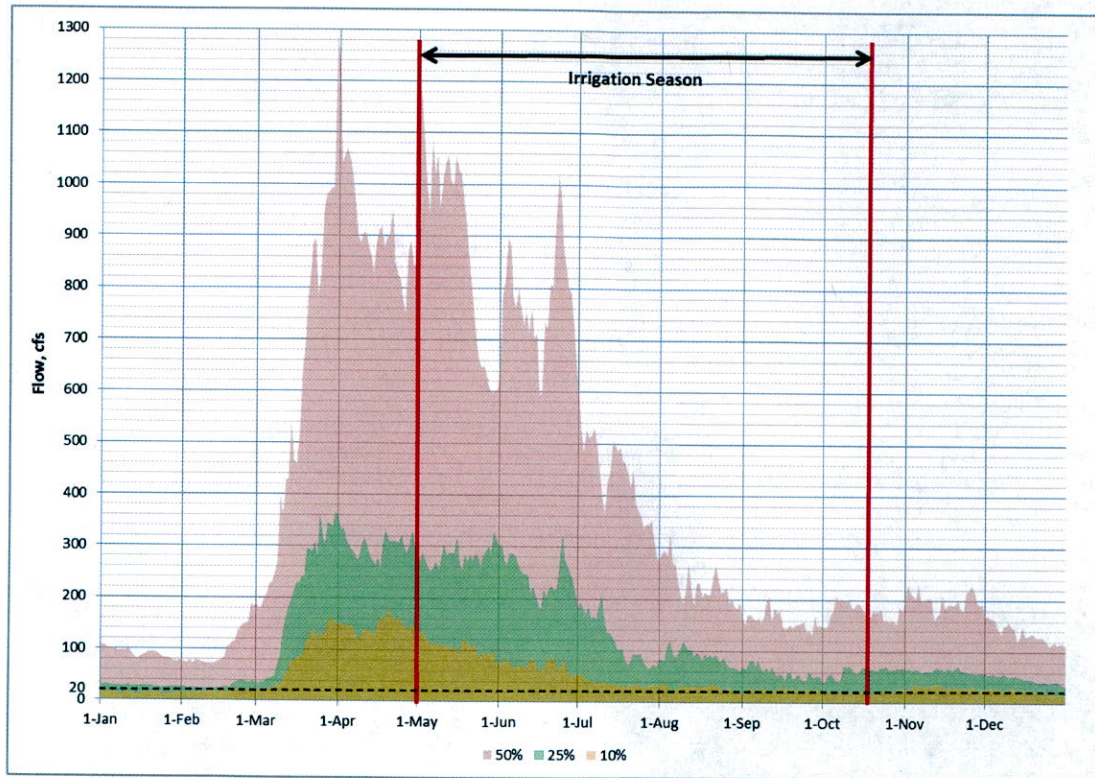


Figure 10. Daily percentile flow hydrographs for the USGS Big Sioux River gage at North Cliff Ave at Sioux Falls 1971-2017, contributing drainage area 3778 mi<sup>2</sup> (USGS, 2018).

The frequency of low flow events in this reach was examined by considering how many actual days the average daily flow was less than 20 cfs during the typical irrigation season of May through mid-October over the 45 year period of record. During that time frame 2.6% of the days had flow less than 20 cfs fell within May to mid-October irrigation season (USGS, 2018).

Figure 11 shows for period of record at the North Cliff Avenue gage the total number of days for each year the average daily flow in the Big Sioux River was less than 20 cfs. Similar to what was experienced in the upstream reaches, this reach can also experience during dry climatic conditions causing several day periods of low flow less than 20 cfs. The figure also shows there are many more years when the 20 cfs threshold is exceeded.

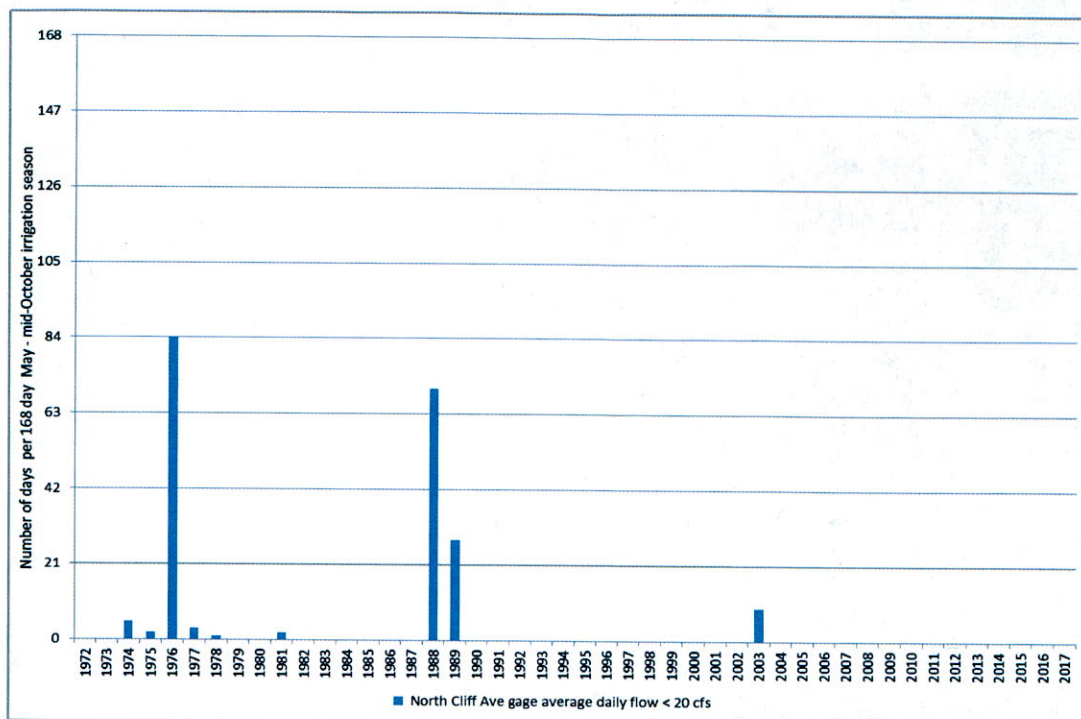


Figure 11. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station at North Cliff Avenue at Sioux Falls was less than 20 cfs (USGS, 2018).

The five existing water permits in this Big Sioux River reach all contain a 20 cfs bypass requirement. The earlier issued water permits required 20 cfs bypassed at the diversion point while the later issued ones required a 20 cfs bypass at the USGS gaging station at North Cliff Avenue in Sioux Falls (Water Rights, 2018). In this reach it is proposed the existing bypass qualification on these five permits retain the 20 cfs bypass requirement but the qualification be amended to:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

#### **North Cliff Avenue at Sioux Falls to the Missouri River Confluence Reach**

The southern reach of the Big Sioux River from the North Cliff Gage to the confluence with the Missouri River in southern Union County does not have any active water permits having bypass qualifications. As shown in Figure 12, the 10 percentile curve is above 50 cfs value throughout the entire irrigation season. This reach has not historically experienced a water shortage, and the Chief Engineer has not had to issue shutoff orders for any of the existing water permits located in this reach. There is not a proposal to amend any of the existing water permits in this lower reach of the Big Sioux River (USGS, 2018).

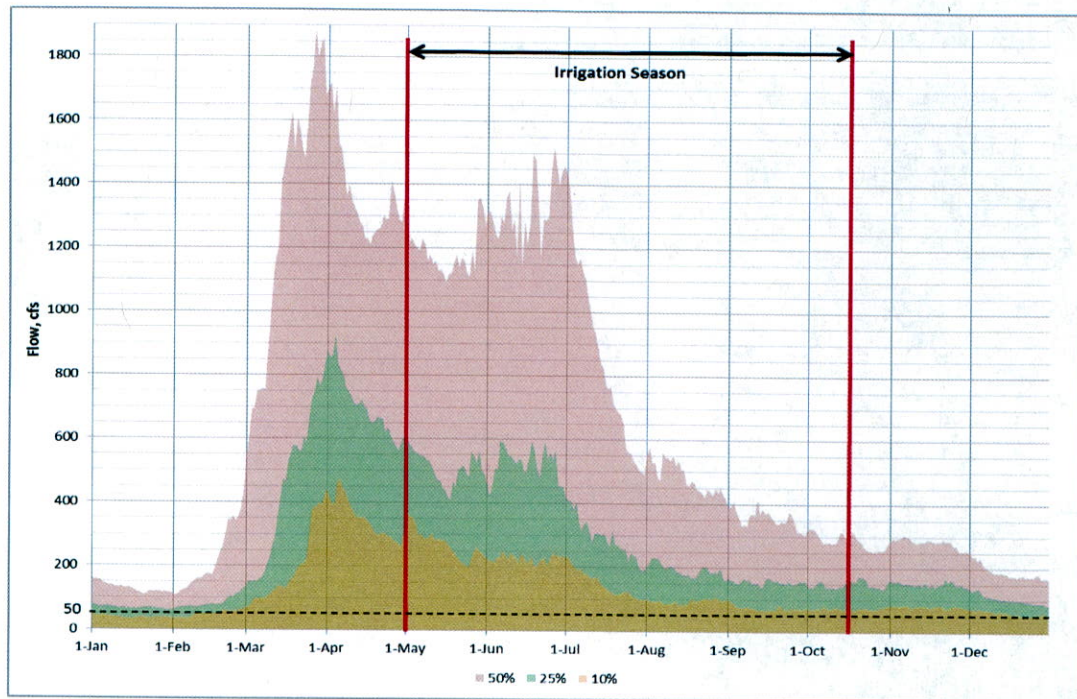


Figure 12. Daily percentile flow hydrographs for the USGS Big Sioux River gage at Akron IA 1971-2017, contributing drainage area 6995 mi<sup>2</sup> (USGS, 2018).

### **Considering Future Water Use**

Anticipating future water demands from the Big Sioux River and climatic conditions may change over time. Particularly with the City of Sioux Falls holding two future use permits bearing a 1977 priority date reserving up to 30,000 acre-feet of water. It is proposed the following qualification be placed on all of the water permits being amended:

- 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.

The existing water permits without bypass qualifications and not targeted to be amended by this effort, will continue to be managed based upon their individual priority dates and location along the river.

### **Specific Proposed Qualification Revisions by Water Permit**

In order to standardize the bypass qualifications for the existing water permits containing bypass qualifications in the Big Sioux River reach upstream from the USGS stream gaging station near Castlewood, the following changes are proposed.

#### **Amendment to the qualifications contained in Water Right No. 1437-3**

##### **Delete Qualification:**

- Diversions of water under this permit can only be made when there is flow of 5 or more cubic feet per second of water flowing at the diversion point.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer. Diversions 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. 7350-3**

##### **Delete Qualification:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 35 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.

To standardize the bypass qualifications for the 14 existing water rights/permits containing bypass qualifications in the Big Sioux River reach between the USGS stream gaging station near Castlewood downstream to the USGS stream gaging station near Dell Rapids, the following changes are proposed.

#### **Amendment to the qualifications contained in Water Right No. 956-3**

##### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is granted allowing withdrawals of water whenever 20 cfs or more is flowing past your diversion point.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1175-3**

#### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is granted allowing withdrawals of water whenever 20 cfs or more is flowing past your diversion point.

#### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1302-3**

#### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is granted allowing withdrawals of water whenever 20 cfs or more is flowing past your diversion point.

#### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1350-3**

#### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is granted allowing withdrawals of water whenever 30 cfs or more is flowing past your diversion point.

#### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids

when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1500-3**

##### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Permit is granted allowing withdrawals of water whenever 30 cfs or more is flowing past your diversion point.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1696-3**

##### **Delete Qualification:**

- Natural flows in the Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This Sioux River portion of this permit is granted allowing withdrawals of water whenever 35 cfs of water or more is flowing past your diversion point.

##### **Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1801-3**

##### **Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is granted allowing withdrawals of water whenever 35 cfs of water or more is flowing past your diversion point.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 1812-3****Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is granted allowing withdrawals of water whenever 35 cfs of water or more is flowing past your diversion point.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 2065-3****Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 45 cfs of water or more is flowing past your diversion point.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 2952-3****Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 40 cfs of water or more is flowing past your diversion point.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 6042-3**

**Delete Qualification:**

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River unless at least 41 cfs is flowing past the Dell Rapids USGS Gaging Station, or unless written orders have been issued by the Chief Engineer. Diversions under this Permit are 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 water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 6124-3**

**Delete Qualification:**

- Natural flows in the Big Sioux River are not a dependable source of water during the latter part of the summer. Prior appropriative rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 50 cfs of water or more is flowing past your diversion point.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 7110-3**

##### **Delete Qualification:**

- Low flows as needed for domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 43 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, or unless written orders have been issued by the Chief Engineer. Diversions under this permit are 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 water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 8195-3**

##### **Delete Qualification:**

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 20 cfs is flowing at the North Cliff Avenue USGS Gaging Station No. 06482020 and 43 cfs is flowing at the Dell Rapids USGS Gaging Station No. 06481000, unless written orders have been issued by the Chief Engineer. Diversions under this Permit are 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 water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.

To standardize the qualifications for the 5 existing water rights/permits containing bypass qualifications in the Big Sioux River reach between the USGS stream gaging station near Dell Rapids downstream to the USGS stream gaging station at North Cliff Avenue at Sioux Falls, the following changes are proposed.

#### **Amendment to the qualifications contained in Water Right No. 5431-3**

##### **Delete Qualification:**

- Permit No. 5431-3 does not authorize pumping from the Big Sioux River unless at least 20 cfs can be bypassed when pumping.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 5512-3**

**Delete Qualification:**

- Permit No. 5512-3 does not authorize pumping from the Big Sioux River unless at least 20 cfs is being bypassed when pumping.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 5698-3**

**Delete Qualification:**

- Permit No. 5698-3 does not authorize pumping from the Big Sioux River unless at least 20 cfs is being bypassed when pumping.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 6210-3**

**Delete Qualification:**

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River,

when pumping, unless at least 20 cfs is flowing at the Cliff Avenue USGS Gaging Station, or unless written orders have been issued by the Chief Engineer.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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 Right No. 6210A-3**

**Delete Qualification:**

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 20 cfs is flowing at the North Cliff Avenue USGS Gaging Station No. 06482020, or unless written orders have been issued by the Chief Engineer. Diversions under this Permit are subject to senior water rights and any written orders issued by the Chief Engineer.

**Add Qualifications:**

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.

**Conclusions**

1. Currently there are 58 active water permits authorized for the Big Sioux River from the headwaters in Roberts County to the mouth in Union County. Currently 21 of the existing water permits contain some sort of flow bypass qualification.
2. Since many water permits have been cancelled over the years, the system of various bypass requirements on several existing Big Sioux water permits are not putting water to beneficial use to the highest extent possible for the current water permit holders. The system is also difficult to manage for the Water Rights Program.
3. A fresh look was taken of the original bypass requirements to determine whether the original bypass levels would be effective limits for the existing active water rights. The review was completed of the original bypass requirements taking into consideration the existing water rights, the qualifications placed on them, their authorized use, the location of their diversion points, their annual period of use and historic stream flow data.

4. Based upon this review, the river was broken into four separate bypass management reaches and standardized qualifications are proposed for each of these reaches.
5. Anticipating future water demands from the Big Sioux River and climatic conditions may change over time, the amendments to the water permits being amended should also contain a qualification allowing the Water Management Board to retain jurisdiction to address future issues if as necessary.
6. On the reach upstream from the Castlewood gaging station, for the two water permits containing bypass requirements replace those qualifications with:
  - Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer. Diversions 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.
7. On the reach between the Castlewood gaging station and the Dell Rapids gaging station, for the 14 water permits containing bypass requirements replace those qualifications with:
  - Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.
8. On the reach upstream from the Dell Rapids gaging station to the North Cliff Avenue gaging station, for the five water permits containing bypass requirements replace those qualifications with:
  - Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions 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.

9. The existing water permits without bypass qualifications and not targeted to be amended by this effort, will continue to be managed based upon their individual priority dates and location along the river.



Mark D. Rath  
Natural Resources Engineer III

#### References

- Hoogestraat, G.K. and J. F. Stamm, 2015. Climate and Streamflow Characteristics for Selected Streamgages in Eastern South Dakota, Water Years 1945–2013. USGS Scientific Investigations Report 2015-5146.
- USGS. 2018. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
- Water Rights. 2018. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

## NOTICE OF HEARING ON CHIEF ENGINEER'S RECOMMENDATION FOR BIG SIOUX RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights.

Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in order for pumping to occur. The Water Rights Program has reviewed all Big Sioux River water rights and determined that the conditions can be modified to a standard bypass at one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

1. River reach upstream from the USGS gaging station near Castlewood;
2. River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;
3. River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.

Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet of water per second (cfs) bypass requirement. Those water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. Big Sioux River water right holders whose bypass condition is proposed for amendment will be provided personal notice of the proposed amendment to their water right.

The Chief Engineer recommends that the Water Management Board approve deletion of the existing bypass condition on applicable water rights and add the following qualifications specific to the bypass flow at a referenced gaging station depending on the location of the water right.

1. Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This water right does not authorize diversion of water from the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer. Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.
2. The Water Management Board is retaining jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements.

Any interested person opposing or supporting the proposed amendment and intending to participate in the hearing shall file a petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

The March 7, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any person who has filed a petition to oppose or support the proposed change. The request for an automatic delay must be filed by February 26, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00 "or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board set forth above, you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Avenue, Pierre SD) by February 26, 2018.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of\_\_\_\_\_.

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:36 AM  
**To:** allegals@argusleader.com  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 15, 2018.

The Water Rights Program will pay for this publication.

Please send the affidavit or return the attached Proof of Publication form and the invoice as soon as possible to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:37 AM  
**To:** mce6@mcisweb.com  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 14, 2018.

The Water Rights Program will pay for this publication.

Please send the affidavit or return the attached Proof of Publication form and the invoice as soon as possible to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:35 AM  
**To:** svn@siouxvalleynewsonline.com  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 15, 2018.

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Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:34 AM  
**To:** Hamlin County Publishing (hcp@itctel.com)  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 14, 2018 in the Hamlin County Republican, Castlewood SD.

The Water Rights Program will pay for this publication.

Please send the affidavit or return the attached Proof of Publication form and the invoice as soon as possible to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:32 AM  
**To:** legals@thepublicopinion.com  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 15, 2018.

The Water Rights Program will pay for this publication.

Please send the affidavit or return the attached Proof of Publication form and the invoice as soon as possible to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:37 AM  
**To:** registerclassifieds (registerclassifieds@brookingsregister.com)  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

Attached is a notice to be published on February 15, 2018.

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*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Friday, February 09, 2018 8:38 AM  
**To:** G5 (leader1@iw.net)  
**Subject:** Notice of Hearing - Big Sioux River Water Rights  
**Attachments:** BigSiouxWRqualif.wmb.docx; FORM8.FRM.doc

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*Karen Schlaak*  
SD DENR, Water Rights Program  
(605) 773-3352



|                  |            |                                                                                                           |
|------------------|------------|-----------------------------------------------------------------------------------------------------------|
| CUSTOMER NUMBER: | 78306      | <h1 style="margin: 0;">Argus Leader</h1> <p style="margin: 0;">P.O. Box 677349, Dallas, TX 75267-7349</p> |
| INVOICE NUMBER:  | 2727212    |                                                                                                           |
| RUN DATES:       | 2/15, 2018 |                                                                                                           |
|                  |            | AMOUNT DUE: \$162.36                                                                                      |

**RECEIVED**  
**FEB 20 2018**  
**WATER RIGHTS PROGRAM**

Attn: Karen Schlaak  
 Water Rights Program  
 523 E. Capital - Jose Foss Building  
 Pierre, SD 57501-0000

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

**AFFIDAVIT OF PUBLICATION-**

Customer Number: 78306  
 Invoice Number: 902065

523 E. Capital - Jose Foss Building

## Argus Leader

### AFFIDAVIT OF PUBLICATION

**STATE OF SOUTH DAKOTA**

**COUNTY OF MINNEHAHA } ss**

Sara Kruse being duly sworn, says: That The **Argus Leader** is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-2.1, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

|          |     |    |        |          |      |   |
|----------|-----|----|--------|----------|------|---|
| Thursday | the | 15 | day of | February | 2018 | , |
|          | the |    | day of |          | 2018 | , |
|          | the |    | day of |          | 2018 | , |
|          | the |    | day of |          | 2018 | , |
|          | the |    | day of |          | 2018 | , |
|          | the |    | day of |          | 2018 | , |
|          | the |    | day of |          | 2018 | , |

and that \$162.36 was charged for publishing the same

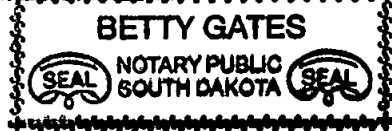
*Sara Kruse*

Subscribed and sworn to before me 2/15/18

*Betty Gates*

Notary Public, South Dakota

My Commission expires March 14, 2023



amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights. Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in or near the water right. The Water Rights Program has reviewed all Big Sioux River water rights and determined that the conditions can be modified to a standard bypass of one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

1. River reach upstream from the USGS gaging station near Castlewood;
2. River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;
3. River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.

Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet per second (cfs) bypass requirement. Those water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. Big Sioux River water right holders whose bypass condition is proposed for amendment will be provided personal notice of the proposed amendment to their water rights in South Dakota. The objective is to bring consistency among the Water Rights Program and the ability for the Chief Engineer to issue written condition orders to allow pumping to continue if climatic conditions are favorable. The referenced gaging station depending on the location of the water right.

1. Low flows as needed for downstream domestic use, including livestock water, and prior rights must be bypassed. This water right does not authorize diversion of water from the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer.
2. The Water Management Board is retaining jurisdiction of this water right in the event additional information shows that adjustments need to be made to the bypass requirements. Any interested person opposing or supporting the proposed amendment and intending to participate in the hearing shall file a petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if the hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave, Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts of the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

The March 7, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any person who has filed a petition to oppose or support the proposed change. The request for an automatic delay must be filed by February 26, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting. The Chief Engineer's and personal notice will be provided to all petitioners regarding the time, date and location. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00 "or if a party right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board, you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by February 26, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once on an approximate cost of \$162.36. 2727212 Feb 15, 2018

**NOTICE OF HEARING ON CHIEF ENGINEER'S RECOMMENDATION FOR BIG SIOUX RIVER WATER RIGHTS**  
 Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 Big Sioux River water right E. Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among the Water Rights Program and the ability for the Chief Engineer to issue written condition orders to allow pumping to continue if climatic conditions are favorable. The

February 20, 2018

PAYMENT REQUEST FORM

PAYEE: Argus Leader  
PO Box 677349  
Dallas, TX

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Affidavit of Publication

AMOUNT: \$162.36

**FUNDING SOURCE:**

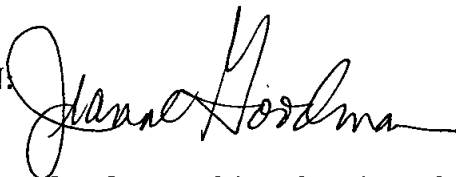
**GENERAL:** X

**FEDERAL:**

**OTHER:**

**COMMENTS:**

**AUTHORIZATION:**



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.

RECEIVED

MAR 07 2018

WATER RIGHTS  
PROGRAM

Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

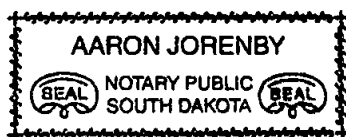
Leg#164 Notice on Hearing

same was published, is hereto attached marked Exhibit said newspaper for \_\_\_\_\_ 1 times, to-wit:

February 15, 2018

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Sixty-Seven Dollars and Seventy-Three Cents \$67.73



KM Foiles

26 day of

February

2018

Notary Public in and for the County of Brookings, South Dakota.  
My Commission expires February 22, 2020.

Legal 164, 1x, 2/15  
NOTICE OF HEARING  
ON CHIEF ENGINEER'S RECOMMENDATION FOR BIG SIOUX RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights. Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in order for pumping to occur. The Water Rights Program has reviewed all Big Sioux River water rights and determined that the conditions can be modified to a standard bypass at one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

1. River reach upstream from the USGS gaging station near Castlewood;
  2. River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;
  3. River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.
- Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet of water per second (cfs) bypass requirement. Those water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.
- The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. Big Sioux River water right holders whose bypass condition is proposed for amendment will be provided personal notice of the proposed amendment to their water right.
- The Chief Engineer recommends that the Water Management Board approve deletion of the existing bypass condition on applicable water rights and add the following qualifications specific to the bypass flow at a referenced gaging station depending on the location of the water right.
1. Low flows as needed for downstream domestic use, including livestock water, and prior rights must be bypassed. This water right does not authorize diversion of water from

the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer. Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.

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

Any interested person opposing or supporting the proposed amendment and intending to participate in the hearing shall file a petition with the Chief Engineer.

The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

The March 7, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any person who has filed a petition to oppose or support the proposed change. The request for an automatic delay must be filed by February 26, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605)

773-3352.

Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00 "or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board set forth above, you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Avenue, Pierre SD) by February 26, 2018. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$67.73.

March 7, 2018

PAYMENT REQUEST FORM

PAYEE: Brookings Register  
PO Box 177  
Brookings, SD 57006-0177

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing

AMOUNT: \$67.73

FUNDING SOURCE:

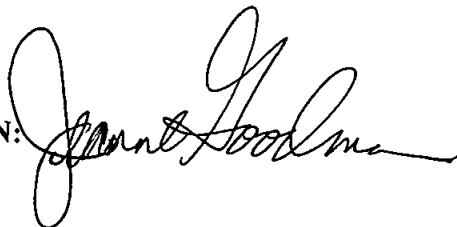
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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.

312 5TH ST  
P.O. BOX 177  
BROOKINGS, SD 57006-0177  
Phone (605) 692-6271 Fax (605) 692-2979

## WATER RIGHTS PROGRAM

CUSTOMER NUMBER 106003

SD-WATER RIGHTS PROGRAM  
ATTN: ERIC GRONLUND  
523 E CAPITOL- JOE FOSS BLDG  
PIERRE SD 57501-3181

AMOUNT ENCLOSURE \$

| DOCUMENT                                                                                                                                                                                                                                                                                                                                 | DATE             | TYPE         | REFERENCES               | AMOUNT     |         |                  |  |  |            |              |              |              |       |     |     |     |       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------|--------------------------|------------|---------|------------------|--|--|------------|--------------|--------------|--------------|-------|-----|-----|-----|-------|
| 372411                                                                                                                                                                                                                                                                                                                                   | 02/15/18         | INVOICE      | Leg164 Notice on Hearing | 67.73      |         |                  |  |  |            |              |              |              |       |     |     |     |       |
| <table border="1"> <thead> <tr> <th rowspan="2">CURRENT</th> <th colspan="3">PAST DUE AMOUNTS</th> <th rowspan="2">AMOUNT DUE</th> </tr> <tr> <th>OVER 30 DAYS</th> <th>OVER 60 DAYS</th> <th>OVER 90 DAYS</th> </tr> </thead> <tbody> <tr> <td>67.73</td> <td>.00</td> <td>.00</td> <td>.00</td> <td>67.73</td> </tr> </tbody> </table> |                  |              |                          |            | CURRENT | PAST DUE AMOUNTS |  |  | AMOUNT DUE | OVER 30 DAYS | OVER 60 DAYS | OVER 90 DAYS | 67.73 | .00 | .00 | .00 | 67.73 |
| CURRENT                                                                                                                                                                                                                                                                                                                                  | PAST DUE AMOUNTS |              |                          | AMOUNT DUE |         |                  |  |  |            |              |              |              |       |     |     |     |       |
|                                                                                                                                                                                                                                                                                                                                          | OVER 30 DAYS     | OVER 60 DAYS | OVER 90 DAYS             |            |         |                  |  |  |            |              |              |              |       |     |     |     |       |
| 67.73                                                                                                                                                                                                                                                                                                                                    | .00              | .00          | .00                      | 67.73      |         |                  |  |  |            |              |              |              |       |     |     |     |       |

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF MOODY) SS

MARY LYNN HEADRICK, of said county, being first duly sworn on oath says that she is the bookkeeper of the Moody County Enterprise, a weekly newspaper printed and published in said county of Moody and State of South Dakota, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least 200 copies weekly, and has been published within said county for 52 consecutive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the advertisement headed:

*Notice of hearing on Chief  
Engineer's Recommendation  
for Big Sioux River Water Rights*

a printed copy of which, taken from the newspaper in which the same was published, is attached to this sheet and is made a part of this affidavit, was published in said newspaper at least once in each week for 1 successful weeks, on the day of each week on which said newspaper was regularly published, to wit:

2-14-18

that the full amount of the fee charged for the publication of said Notice inures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever, and that the fees charged for the publication thereof are

\$ 75<sup>62</sup>

*M. Headrick* bookkeeper  
Subscribed and sworn to before me this

15<sup>th</sup> day of February AD 2018

Notary Public, County Moody, South Dakota  
**ROGER W. JANUSSEN**

NOTARY PUBLIC  
SOUTH DAKOTA

My commission expires 2/14/18

RECEIVED

FEB 28 2018

WATER RIGHTS  
PROGRAM

## NOTICE OF HEARING ON CHIEF ENGINEER'S RECOMMENDATION FOR BIG SIOUX RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights.

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The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the

County of \_\_\_\_\_

**AFFIDAVIT OF PUBLICATION**

Filed in the office of \_\_\_\_\_

on the \_\_\_\_\_ day

Attorney for \_\_\_\_\_

Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

*Published once at approximate cost of \$76*

March 2, 2018

**PAYMENT REQUEST FORM**

**PAYEE:** Moody County Enterprise  
PO Box 71  
Flandreau, SD 57028

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

**DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER**

Notice of Hearing

**AMOUNT:** \$75.62

**FUNDING SOURCE:**

**GENERAL:** X

**FEDERAL:**

**OTHER:**

**COMMENTS:**

**AUTHORIZATION:** 

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.

Invoice  
**Moody County Enterprise**  
**PO Box 71**  
**Flandreau, SD 57028**

**Water Rights**  
**523 E Capitol**  
**Pierre SD 57501**

| <b>Date</b>  | <b>Item advertised</b> | <b>Rate</b>    |
|--------------|------------------------|----------------|
| 2-14-18      | Notice of Hearing      | 75.62          |
| <b>Total</b> |                        | <b>\$75.62</b> |

**Payment can be sent to us at the above address.**  
**Thank you**

# Affidavit of Publication

STATE OF SOUTH DAKOTA  
COUNTY OF LINCOLN

**ANDY WILCOX**

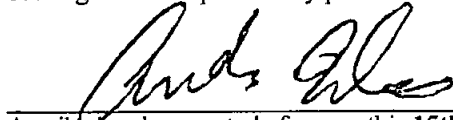
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that he is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

**DENR Water Rights Program  
Notice of Hearing**

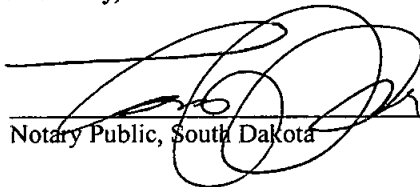
a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

**February 15, 2018**

that the full amount of the fees charged for publishing the same to-wit: the sum of \$72.47 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

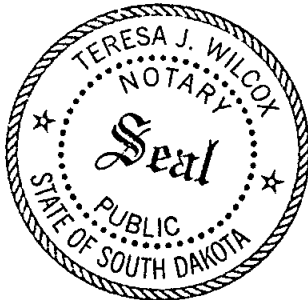


Ascribed and sworn to before me this 15th day of  
**February, 2018.**



Notary Public, South Dakota

(Seal)



**NOTICE OF HEARING  
ON CHIEF ENGINEER'S  
RECOMMENDATION FOR BIG  
SIOUX RIVER WATER RIGHTS**

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights.

Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in order for pumping to occur. The Water Rights Program has reviewed all Big Sioux River water rights and determined that the conditions can be modified to a standard bypass at one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

1. River reach upstream from the USGS gaging station near Castlewood;
2. River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;
3. River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.

Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet of water per second (cfs) bypass requirement. Those

water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. Big Sioux River water right holders whose bypass condition is proposed for amendment will be provided personal notice of the proposed amendment to their water right.

The Chief Engineer recommends that the Water Management Board approve deletion of the existing bypass condition on applicable water rights and add the following qualifications specific to the bypass flow at a referenced gaging station depending on the location of the water right.

1. Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This water right does not authorize diversion of water from the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer. Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.

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

Any interested person opposing or supporting the proposed amendment and intending to participate in the

My Commission Expires  
December 9, 2020

**RECEIVED**

**FEB 26 2018**

**WATER RIGHTS  
PROGRAM**

hearing shall file a petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

\* The March 7, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any person who has filed a petition to oppose or support the proposed change. The request for an automatic delay must be filed by February 26, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00 "or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board set forth above, you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Avenue, Pierre SD) by February 26, 2018.

Steven M. Pirner, Secretary,  
Department of Environment and  
Natural Resources.

Published in the Sioux Valley News  
on February 15, 2018, at the total  
approximate cost of \$72.47.

February 26, 2018

PAYMENT REQUEST FORM

PAYEE: Sioux Valley News Inc.  
PO Box 255  
Canton, SD

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Affidavit of Publication-Big Sioux River

AMOUNT: \$72.47

**FUNDING SOURCE:**

**GENERAL:** X

**FEDERAL:**

**OTHER:**

**COMMENTS:**

**AUTHORIZATION:** 

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.

Sioux Valley News Inc.  
213 East 5th St P O Box 255  
Canton SD 57013

|           |           |        |
|-----------|-----------|--------|
| Statement | 2/22/2018 | 50     |
|           | DATE      | NUMBER |

Phone Number: (605) 764-2000  
Please return yellow copy  
with payment.

Next Closing Day March 29, 2018

ID# 541

Dept of Environment & Natural Resou  
Attn: Karen Water Rights Program  
523 East Capitol, Joe Foss Building  
Pierre SD 57501

We now offer online Subscriptions!  
[www.SiouxValleyNewsOnline.com](http://www.SiouxValleyNewsOnline.com)

Balance Due: 72.47

| Date       | Description            | Units | Debit | Credit |
|------------|------------------------|-------|-------|--------|
| 02/15/2018 | Legals                 |       | 72.47 |        |
|            | Big Sioux River Notice |       |       |        |
|            | Balance Due            |       | 72.47 |        |

|         |      |      |      |      |
|---------|------|------|------|------|
| Current | 30   | 60   | 90   | 90+  |
| 72.47   | 0.00 | 0.00 | 0.00 | 0.00 |

Service charge of 1-3/4% per month (21% per year) on accounts 30 days past due. Minimum charge \$30.  
In addition, costs and reasonable attorney's fees for collection may be charged.

RECEIVED

FEB 22 2018

Form 8

WATER RIGHTS  
PROGRAM

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )

County of Codington ) SSI, Jackie Wettstad

certify that the attached printed Notice was taken

from the WatertownPublic Opinionprinted and published in WatertownCounty of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

February 15, 2018Cost of Printing \$131.01Jackie Wettstad  
(Signature)Accounting Clerk  
(Title)2/19/18

(Date Signed)

DEPT OF EN-  
VIRONMENT  
AND NATURAL  
RESOURCES

NOTICE OF HEARING  
ON CHIEF ENGINEER'S  
RECOMMENDATION FOR BIG  
SIOUX RIVER WATER RIGHTS  
Notice is given that the Water  
Rights Program, Department  
of Environment and Natural  
Resources, 523 E Capitol Avenue,  
Pierre SD 57501 proposes that  
the Water Management Board  
amend conditions placed on  
many Big Sioux River water rights  
in South Dakota. The objective is  
to bring consistency among water  
rights from the river and the ability  
for the Chief Engineer to issue  
written orders to allow pumping to  
continue if climatic conditions are  
favorable. The amendments will  
not increase either the authorized  
diversion rate or number of  
irrigated acres authorized under  
existing Big Sioux River water  
rights.

Currently, water rights differ in  
the amount of water that must be  
bypassed at the pump site or at a  
United States Geological Survey  
(USGS) gaging station in order  
for pumping to occur. The Water  
Rights Program has reviewed all  
Big Sioux River water rights and  
determined that the conditions  
can be modified to a standard  
bypass at one of three gaging  
stations depending on the stream  
segment where the water right is  
located. It is proposed that the  
bypass condition along the river is  
best managed in three segments  
identified by USGS gaging  
stations as follows:

1. River reach upstream from  
the USGS gaging station near  
Castlewood;
2. River reach between USGS  
gaging station near Castlewood  
downstream to gaging station  
near Dell Rapids;
3. River reach between USGS  
gaging station near Dell Rapids  
downstream to gaging station  
near North Cliff Avenue in Sioux  
Falls.

Water rights that currently have a  
bypass condition will be amended  
such that those water rights  
upstream of the Castlewood  
gaging station will have a 5 cubic  
feet of water per second (cfs)  
bypass requirement. Those water  
rights in the two other reaches  
described above will have a 20 cfs  
bypass requirement referenced to  
either the Dell Rapids or North Cliff  
Avenue gaging station depending  
on the location of the water right.  
Water rights with senior priority  
dates that do not currently have  
a bypass requirement will see no  
change.

The proposed amendment will  
not impose any conditions more  
restrictive than the conditions  
currently in place on any water  
right. Big Sioux River water right  
holders whose bypass condition  
is proposed for amendment will  
be provided personal notice of  
the proposed amendment to their  
water right.

The Chief Engineer recommends  
that the Water Management  
Board approve deletion of the  
existing bypass condition on  
applicable water rights and add  
the following qualifications specific  
to the bypass flow at a referenced  
gaging station depending on the  
location of the water right.

1. Low flows as needed for  
downstream domestic use,  
including livestock water, and  
prior rights must be by-passed.  
This water right does not  
authorize diversion of water  
from the Big Sioux River, when  
pumping, unless at least "X"  
cfs is flowing past the USGS  
Gaging Station "IDENTIFY  
APPLICABLE STATION" unless  
written orders have been  
issued by the Chief Engineer.  
Divisions under this water right  
shall be in accordance with any  
written orders issued by the  
Chief Engineer.

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

Any interested person opposing  
or supporting the proposed  
amendment and intending to  
participate in the hearing shall file  
a petition with the Chief Engineer.  
The Chief Engineer's address is  
"Water Rights Program, Foss  
Building, 523 E Capitol, Pierre SD  
57501 (605 773-3352)". A petition  
filed by either an interested person  
or a water right holder must be  
filed by February 26, 2018.

The petition may be informal,  
but shall be in writing and shall  
include a statement describing  
the petitioner's interest, the  
petitioner's reasons for opposing  
or supporting the proposed  
change, and the signature and  
mailing address of the petitioner  
or the petitioner's legal counsel,  
if legal counsel is obtained.

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

The staff report including affected  
water rights and the proposed  
changes is available at <http://denr.sd.gov/public> or contact Eric  
Gronlund for this information, or  
other information, at the Water  
Rights Program address provided  
above.

The Water Management Board  
will consider the proposed  
changes at 11:30 a.m. on March  
7, 2018, in the Matthew Training  
Center, Joe Foss Bldg, 523 E.  
Capitol Ave, Pierre SD. The  
hearing will be held pursuant to  
the provisions of SDCL 46-1-14  
and 46-2-17.

The Chief Engineer's  
recommendation is not final or  
binding upon the Board. The  
Board is authorized to 1) approve,  
2) modify, 3) defer, or 4) deny the  
proposed amendments after it  
reaches a conclusion based on  
facts at the public hearing. The  
Board has legal authority and  
jurisdiction to consider this matter  
pursuant to SDCL 46-2-9 and 46-  
2-11.

The March 7, 2018 hearing date  
will be automatically delayed  
for at least 20 days upon written  
request to the Chief Engineer  
from any person who has filed a  
petition to oppose or support the  
proposed change. The request  
for an automatic delay must be  
filed by February 26, 2018. If  
an automatic delay is requested,  
the hearing will be rescheduled  
for a future Board meeting and  
personal notice will be provided to  
all petitioners regarding the time,  
date and location.

Notice is given to individuals with  
disabilities that this hearing is be-  
ing held in a physically accessible  
place. Please notify the Depart-  
ment of Environment and Natural  
Resources at least 48 hours before  
the hearing if you have a disabili-  
ty for which special arrangements  
must be made at the hearing. The  
telephone number for making ar-  
rangements is (605) 773-3352.

Under SDCL 1-26-18.3, in any  
contested case, if the amount in  
controversy exceeds \$2,500.00  
"or if a property right may be  
terminated, any party to the  
contested case may require the  
agency to use the Office of Hearing  
Examiners by giving notice of the  
request to the agency no later than  
ten days after service of a notice of  
hearing issued pursuant to SDCL  
1-26-17." If you choose to use the  
Office of Hearing Examiners rather  
than the hearing procedure before  
the Water Management Board  
set forth above, you need to notify  
the Chief Engineer (Water Rights  
Program, 523 E Capitol Avenue,  
Pierre SD) by February 26, 2018.  
Steven M. Pinner, Secretary, De-  
partment of Environment and Nat-  
ural Resources.

Published once at an approxi-  
mate cost of \$126.01.  
(February 15, 2018)

February 22, 2018

**PAYMENT REQUEST FORM**

**PAYEE:** Watertown Public Opinion  
120 3<sup>rd</sup> Avenue NW  
Watertown, SD

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

**DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER**

Notice of Hearing-Big Sioux River

**AMOUNT:** \$131.01

**FUNDING SOURCE:**

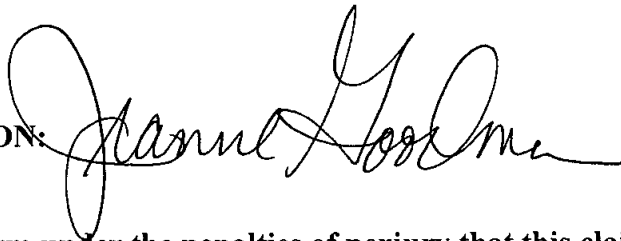
**GENERAL:** X

**FEDERAL:**

**OTHER:**

**COMMENTS:**

**AUTHORIZATION:**

A handwritten signature in black ink, appearing to read "Hannah Goodman", is written over the "AUTHORIZATION:" label.

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.

FEB 20 2018

WATER RIGHTS  
PROGRAM

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )

County of Hamlin ) SSI, LeeAnne Dufek

certify that the attached printed Notice was taken

from the Hamlin County  
Republicanprinted and published in CastlewoodCounty of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Feb 14, 2018Cost of Printing \$69.09LeeAnne Dufek  
(Signature)Owner  
(Title)2-14-2018  
(Date Signed)NOTICE OF HEARING ON CHIEF  
ENGINEER'S RECOMMENDA-  
TION FOR BIG SIOUX RIVER  
WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights.

Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in order for pumping to occur. The Water Rights Program has reviewed all Big Sioux River water rights and determined that the conditions can be modified to a standard bypass at one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

River reach upstream from the USGS gaging station near Castlewood;

River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;

River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.

Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet of water per second (cfs) bypass requirement. Those water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.

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The Chief Engineer recommends that the Water Management Board approve deletion of the existing bypass condition on applicable water rights and add the following qualifications specific to the bypass flow at a referenced gaging station depending on the location of the water right.

Low flows as needed for downstream domestic use, including live-stock water, and prior rights must be by-passed. This water right does not authorize diversion of water from the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer. Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.

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

Any interested person opposing or supporting the proposed amendment and intending to participate in the hearing shall file a petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

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Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00, "or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board set forth above, you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Avenue, Pierre SD) by February 26, 2018.

Steven M. Pimer, Secretary  
Department of Environment and Natural Resources.

Published Feb. 14, 2018, at total cost of \$69.09.

February 20, 2018

**PAYMENT REQUEST FORM**

**PAYEE:** Hamlin County Publishing Inc.  
PO Box 50  
Castlewood, SD 57223

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

**DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER**

Notice of Hearing Big Sioux River

**AMOUNT:** \$69.09

**FUNDING SOURCE:**

**GENERAL:** X

**FEDERAL:**

**OTHER:**

**COMMENTS:**

**AUTHORIZATION:**

A handwritten signature in black ink, appearing to read "James Goodman", written over a horizontal line.

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.

## Statement

**B 2 0 2018**

Bill To

DENR

Teresa Williams  
Air Quality Program  
523 E. Capitol, Joe Foss Bldg.  
Pierre, SD 57501

[illegible]

| Current | 1-30 Days<br>Past Due | 31-60 Days<br>Past Due | 61-90 Days<br>Past Due | OVER 90 Days<br>Past Due | Amount Due |
|---------|-----------------------|------------------------|------------------------|--------------------------|------------|
| \$69.09 | \$0.00                | \$0.00                 | \$0.00                 | \$0.00                   | \$69.09    |

# AFFIDAVIT OF PUBLICATION

State of South Dakota )

:ss

County of Union )

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

## The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

### Notice of Hearing

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 15 day of February, 2018

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

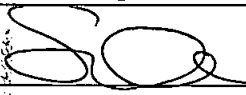
\$ 70.99, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

  
Subscribed and sworn to before me

this 15 day of February, 2018

My commission expires 7-12-23

SUSAN ODSON  
NOTARY PUBLIC  
SOUTH DAKOTA

  
Notary Public

## NOTICE OF HEARING ON CHIEF ENGINEER'S RECOMMENDATION FOR BIG SIOUX RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among water rights from the river and the ability for the Chief Engineer to issue written orders to allow pumping to continue if climatic conditions are favorable. The amendments will not increase either the authorized diversion rate or number of irrigated acres authorized under existing Big Sioux River water rights.

Currently, water rights differ in the amount of water that must be bypassed at the pump site or at a United States Geological Survey (USGS) gaging station in order for pumping to occur. The Water Rights Program has reviewed all Big Sioux River

water rights and determined that the conditions can be modified to a standard bypass at one of three gaging stations depending on the stream segment where the water right is located. It is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows:

1. River reach upstream from the USGS gaging station near Castlewood;

2. River reach between USGS gaging station near Castlewood downstream to gaging station near Dell Rapids;

3. River reach between USGS gaging station near Dell Rapids downstream to gaging station near North Cliff Avenue in Sioux Falls.

Water rights that currently have a bypass condition will be amended such that those water rights upstream of the Castlewood gaging station will have a 5 cubic feet of water per second (cfs) bypass requirement. Those water rights in the two other reaches described above will have a 20 cfs bypass requirement referenced to either the Dell Rapids or North Cliff Avenue gaging station depending on the location of the water right. Water rights with senior priority dates that do not currently have a bypass requirement will see no change.

RECEIVED

FEB 20 2018

WATER RIGHTS  
PROGRAM

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. Big Sioux River water right holders whose bypass condition is proposed for amendment will be provided personal notice of the proposed amendment to their water right.

The Chief Engineer recommends that the Water Management Board approve deletion of the existing bypass condition on applicable water rights and add the following qualifications specific to the bypass flow at a referenced gaging station depending on the location of the water right.

1. Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This water right does not authorize diversion of water from the Big Sioux River, when pumping, unless at least "X" cfs is flowing past the USGS Gaging Station "IDENTIFY APPLICABLE STATION" unless written orders have been issued by the Chief Engineer. Diversions under this water right shall be in accordance with any written orders issued by the Chief Engineer.

2. The Water Management Board is retaining jurisdiction of this water right in the event additional information

shows that adjustments need to be made to the bypass requirements.

Any interested person opposing or supporting the proposed amendment and intending to participate in the hearing shall file a petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or a water right holder must be filed by February 26, 2018.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or

contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided above.

The Water Management Board will consider the proposed changes at 11:30 a.m. on March 7, 2018, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) modify, 3) defer, or 4) deny the proposed amendments after it reaches a conclusion based on facts at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

The March 7, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any person who has filed a petition to oppose or support the proposed change. The request for an automatic delay must be filed by February 26, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the

time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-18.3, in any contested case, if the amount in controversy exceeds \$2,500.00 "or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If you choose to use the Office of Hearing Examiners rather than the hearing procedure before the Water Management Board set forth above, you need to notify the Chief Engineer (Water Rights Program, 523 E Capitol Avenue, Pierre SD) by February 26, 2018.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.  
Publish Feb. 15, 2018  
Published once the total approximate cost of \$70.99  
7-4-231

February 20, 2018

PAYMENT REQUEST FORM

PAYEE: Southern Union County Leader-Courier  
PO Box 310  
Elk Point, SD

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing-Big Sioux River

AMOUNT: \$70.99

FUNDING SOURCE:

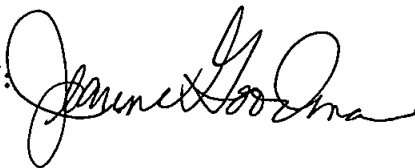
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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.

# Southern Union County **LEADER-COURIER**

*The community newspaper of Dakota Dunes, Elk Point,  
Jefferson, McCook Lake and North Sioux City.*

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**FEB 20 2018**

**WATER RIGHTS  
PROGRAM**

**Water Rights Program  
523 E Capitol Ave  
Pierre, SD 57501**

2/15/18

| DATE    | INVOICE  | DESCRIPTION                        | CHARGES | BALANCE |
|---------|----------|------------------------------------|---------|---------|
| 2/15/18 | SJ073117 | Notice of Hearing- Big Sioux River | \$70.99 | \$70.99 |

Finance Charge \$0.00

AMOUNT DUE\* \$70.99

\*Includes finance charges on amounts more than 30 days past due.

**PO Box 310  
Elk Point, SD 57025  
Phone 605-356-2632  
Fax 605-356-3626**

**PO Box 1457  
North Sioux City, SD 57049  
Phone 605-235-1914  
Fax 605-232-3679**

FEB 26 2018

WATER RIGHTS  
PROGRAMCity of  
*Sioux Falls*

City Attorney

Providing a Better Quality of Life for You!

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605-367-8880

605-367-7039 TTY  
605-367-7330 FAX  
www.siouxfalls.org

February 23, 2018

**SENT VIA U.S. MAIL AND EMAIL TO: DENRINTERNET@STATE.SD.US**

Ms. Jeanne Goodman  
Chief Engineer  
Water Rights Program, DENR  
523 E. Capitol Avenue,  
Pierre, SD 57501

*Re: Big Sioux River Recommendations*

Dear Ms. Goodman,

Please consider this letter as the City of Sioux Falls' Petition to Intervene in the pending Big Sioux River Water Rights matter now scheduled for March 7, 2018.

The City of Sioux Falls ("*Sioux Falls*") appreciates the the Department of Environment & Natural Resources ("*DENR*") objective of bringing consistency to the water right permits and their administration along the Big Sioux River ("*BSR*"). Changing the qualifications to ensure they are all based on USGS river gages is a good thing. Sioux Falls does have some concerns that it would like to share with the South Dakota Water Management Board ("*Board*").

The proposed new qualifications for each stretch of the BSR would be based on the next USGS gage below the water permit involved. For example, irrigation above the Castlewood gage would be allowed so long as the Castlewood gage was at 5 cfs or more. As such, this qualification would tend to assure these upstream irrigators have the right to irrigate so long as the stream gage below them meets a particular criteria, without regard to what is happening to senior users further downstream. Under this scenario, a junior irrigator above the Castlewood gage could irrigate if the Castlewood gage was at 5 cfs regardless of whether the gages at Dell Rapids and Sioux Falls were below 20 cfs. At the same time, a senior appropriator would be constrained by the 20 cfs qualification at the downstream gages. While I understand these qualifications are intended to provide for flexibility by the Chief Engineer and as such, the Chief Engineer could seek cooperation among the upstream junior appropriators, the language of these qualifications seems to reduce the legal means for the senior water right holders to take action against junior water right holders that impair water rights downstream.

Ms. Jeanne Goodman  
Page 2  
February 23, 2018

Sioux Falls would suggest all downstream gage criteria be incorporated in the qualifications. For the two permits above Castlewood, we would propose the qualification state as follows:

*Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids, and at least 20 cfs is flowing past USGS Gaging Station No. 6482020 at North Cliff Avenue in Sioux Falls, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.*

Similarly, for the 14 permits above Dell Rapids, we would propose the qualification state as follows:

*Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06481000 near Dell Rapids, and at least 20 cfs is flowing past USGS Gaging Station No. 6482020 at North Cliff Avenue in Sioux Falls, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.*

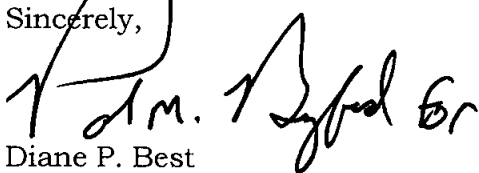
We appreciate the fact that administering these diversions during severe drought will be a challenge. We would respectfully submit, however, that the qualifications, as stated above, would protect the senior water rights and also be a better means to protect the flows in the river for the entire stretch impacted.

We also reserve our right to address any other issues that may be presented by other intervenors or the Board at a hearing.

At the hearing Sioux Falls may also address the extent to which releases from the Sioux Falls Water Reclamation Plant augment other available flows in the BSR.

Due to scheduling constraints, Sioux Falls is exercising its right to automatically delay the hearing for at least twenty (20) days as provided by state law.

Sincerely,



Diane P. Best  
Assistant City Attorney

DPB/amr

## **Sioux Falls Ordinances**

### **§ 53.015 USE OF PUBLIC SEWERS REQUIRED.**

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this subchapter, or permitted by the DENR or EPA.

(c) Except as provided in this subchapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(d) The owner of each house, building or property used for human occupancy, employment, recreation or other purposes, in the city and abutting on any street, alley or right-of-way in which there is located or may be located a public sanitary sewer of the city, shall at the owner's expense install suitable toilet facilities therein, and connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within five years after the date of official notice to do so, provided that the public sewer is within 200 feet of the property line and reasonably accessible as determined by the city engineer.

(1992 Code, § 41-111) (Ord. 47-81, passed 6-1-1981; Ord. 57-93, passed 7-12-1993; Ord. 102-96, passed 9-3-1996; Ord. 48-03, passed 6-9-2003) Penalty, see § 53.999

### **§ 53.016 PRIVATE WASTEWATER DISPOSAL.**

(a) Where a public sanitary sewer is not available under the provisions of § 53.015(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subchapter and State of South Dakota Administrative Rules for individual and small on-site wastewater systems (ARSD Chapter 74:03:01).

(b) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the city engineer. The application for the permit shall be made on a form furnished by the city which the applicant shall supplement by any plans, specifications and other information deemed necessary by the city. A permit and inspection fee established by ordinance shall be paid to the city when the application is filed.

(c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city engineer. The city engineer shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the city engineer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within three hours of the receipt of notice by the city engineer.

(d) The type, capacity, location and layout of a private wastewater disposal system shall comply with all recommendations of the state department of health. For persons with a public water supply, no permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one-half acre. For persons with a private well, no permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) When a public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 53.015(d), a direct connection shall be made to the public sewer within five years in compliance with this subchapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(f) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(g) No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by a health officer.

(1992 Code, § 41-112) (Ord. 47-81, passed 6-1-1981; Ord. 19-82, passed 3-8-1982; Ord. 57-93, passed 7-12-1993; Ord. 102-96, passed 9-3-1996; Ord. 48-03, passed 6-9-2003)



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

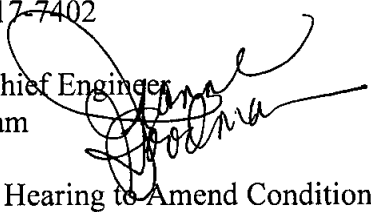
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 27, 2018

**NOTICE**

TO: Diane Best  
Assistant City Attorney  
City of Sioux Falls  
PO Box 7402  
Sioux Falls SD 57117-7402

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program 

SUBJECT: Automatic Delay of Hearing to Amend Conditions Placed on Many Big Sioux River  
Water Rights

The city of Sioux Falls filed a petition to intervene in response to the public notice regarding the Water Management Board hearing to consider an amendment to the conditions on many Big Sioux River water rights. The city's petition included a request for an automatic delay of the March 7, 2018 hearing date. Therefore, the hearing on this matter is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on March 7, 2018.

The hearing to consider amendment to the conditions on many Big Sioux River water rights is tentatively scheduled for the Water Management Board meeting to be held May 2 - 3, 2018, in Pierre. The Board will formalize its next meeting date at their March 7<sup>th</sup> meeting. Future notice of the time and place of the hearing will be provided.

Please contact Eric Gronlund at (605) 773-3352 if you have questions regarding the hearing process.

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 27, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 27, 2018, regarding automatic delay of the hearing to consider amendment to the conditions on many Big Sioux River water rights, as addressed below:

Diane Best  
Assistant City Attorney  
City of Sioux Falls  
PO Box 7402  
Sioux Falls SD 57117-7402

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



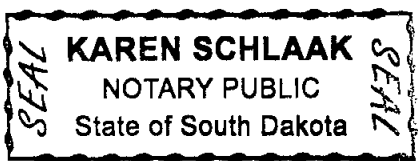
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA       )  
                                                  ) SS  
COUNTY OF HUGHES       )

Sworn to, before me, this 27<sup>th</sup> day of February, 2018



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

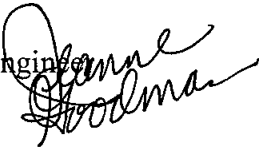
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

April 4, 2018

NOTICE

TO: Diane Best  
Assistant City Attorney  
City of Sioux Falls  
PO Box 7402  
Sioux Falls SD 57117-7402

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program 

SUBJECT: Scheduling of Hearing to Amend Conditions Placed on Many Big Sioux River  
Water Rights

The city of Sioux Falls filed a petition to intervene in response to the public notice published in the Argus Leader regarding proposed amendment to conditions placed on many Big Sioux River water rights. The March 7, 2018, hearing was postponed at the city's request. This notice reschedules the hearing for May 3, 2018.

**The Water Management Board will now conduct a hearing to consider proposed amendment to conditions placed on many Big Sioux River water rights at 8:30 AM (Central Time) on Thursday, May 3, 2018, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.** The agenda time is an estimate and may be delayed due to prior items. Future notice will be provided to all parties if there is a significant change to the hearing time.

Applicable provisions of the public notice of hearing published in the Argus Leader on February 15, 2018, still apply.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 4, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 4, 2018, regarding scheduling of the hearing to consider amendment to the conditions on many Big Sioux River water rights, as addressed below:

Diane Best  
Assistant City Attorney  
City of Sioux Falls  
PO Box 7402  
Sioux Falls SD 57117-7402

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
\_\_\_\_\_  
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                                  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 4<sup>th</sup> day of April, 2018

  
\_\_\_\_\_  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019

