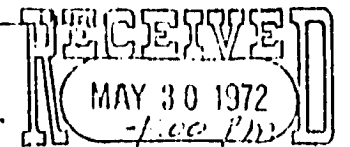


Water Right Number 1943-3

1. Considered JULY 12, 19 72
2. Name of Applicant GLENDAL COLONY
3. Post Office Address FRANKFORT, S.D.
4. Amount of water claimed 4.28
5. Source of water supply JAMES RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated 300.00
7. Water to be diverted and used in SPINK County
about 45 Miles of FRANKFORT
8. Proof of Publication Received 7-11-72
Not received _____
9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____
10. Remarks:

No. 1943-3Map No. 1111-3 Water Division No. 3 JAMES RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant Glendale Colony
 Post-office address Frankfort 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) direct labor
 3. Name of diversion work Glendale Colony Irrigation Project No. 6
 4. Amount of water claimed (cubic feet per second) 4.28
 5. Source of water supply James River
 6. Location of point of diversion between points; North 1540 feet from SE Corner of Section 29 and West 950 feet from East 1/2 Corner, Section 29, all in T116N, R62W
 _____ County Spink
 7. Annual period or periods during which water is to be used April thru October
 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 300

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.
SW 1/4 Section 29, T116N, R62W	160		
SE 1/4, Section 29, T116N, R62W	140		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
 11. Name of newspaper for Notice of Intent to Appropriate Water publication Daily Plainsman, Huron, S.D.
 12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Two centrifugal pumps
 Two industrial engines

B. Works proposed to transport water to place of use.

One and 1/4 miles of 8 and 6 inch aluminum mainline

C. Works proposed to apply water to beneficial use.

Two circular center pivot sprinkler systems.

Estimated Total Cost \$ 30,000.00

Attachments: 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 Hughes

I, John H. Westlund, 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.

Subscribed and sworn to before me this

30th day of May 1972

Betty Westlund
 Notary Public for other qualified officers
 Betty Westlund, Technical Assistant
 Water Resources Commission

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1943-3

GLENDALE COLONY

FRANKFORT

(Applicant)

(Post Office Address)

SOUTH DAKOTA

(State)

With the following modifications:

This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the State Water Resources Commission, or its legally appointed representative. Diversions under this permit shall be in accordance with any written orders issued by the Commission or its representative.

THIS PERMIT DOES NOT AUTHORIZE DIVERSIONS FROM THE JAMES RIVER WHEN WATER IS NOT PASSING THE JAMES RIVER DAM NORTH OF HURON, OR WHEN LESS THAN 20 C.F.S. OF WATER IS BY-PASSING THE 3RD ST. DAM IN HURON.

Date of first receipt of application MAY 30 19 72

Date of return to applicant for correction, amendments or changes required — 19 —

Date of receipt of corrected application — 19 —

Approved JULY 12 19 72 Recorded in Book 12 Page 127

WATER RIGHT PERMIT NO. 1943-3

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1943-3 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 MAY 30 19 72
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 12 19 75
3. The whole of said work is to be completed on or before JULY 12 19 77
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 12 19 81
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 4.28 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 it 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 JULY 12 19 81; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 14TH day of JULY 19 72

WATER RESOURCES COMMISSION

By:

[Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued — 19 —

Water License Issued — 19 —

Form 6 - Notice of Intent to Appropriate Water

1943-3

Publish first publication, on or before June 15, 1972

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

June 8, 1972

Notice is hereby given that the Glendale Colony
whose post office address is Frankfort, 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
4.28 cubic feet of water per second of time from the James River through the
Glendale Colony Project #6, the point of diversion of which is to be located ~~at the~~
Between Points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and in the NE $\frac{1}{4}$ NE $\frac{1}{4}$

of Section 29, Twp. 116N, Range 62W. Said water to be used for the purpose
of providing irrigation on the following described land:
SW $\frac{1}{4}$ and SE $\frac{1}{4}$, Section 29, T116N, R62W

This application No. 1943-3 will be considered by the Water Resources Commission at their office at
Pierre upon the 12th day of July, 1972, at 2:00 P. M. All interested
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

cc: John Kleinsasser, Glendale Colony, Frankfort, S.D. 57460

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 1943-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Beadle) ss.

I, Dorothy Murphy hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Daily Plainsman

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 Huron of _____

County of Beadle and State of South Dakota;
that the said notice was published in said newspaper on the following
four dates:

June 13, 1972

June 22, 1972

June 29, 1972

July 6, 1972

Dorothy Murphy

(Signature)

Borkkepe

(Title)

7-6-72

(Date Signed)

P.P. 6-15-72 L.P. 74-72
No. 1943-3
NOTICE
INTENT TO APPROPRIATE WATER
Pierre, South Dakota 57501
June 8, 1972
Notice is hereby given that the Glen-
dale Colony whose post office address is
Frankfort, South Dakota, has made an
application in accordance with the pro-
visions of the water laws of South Da-
kota for a permit to appropriate for
beneficial use 428 cubic feet of water
per second of time from the James
River through the Glendale Colony Proj-
ect No. 8, the point of diversion of
which is to be located between Points
in the SE 1/4 NE 1/4 and in the NE 1/4 NE 1/4
of Section 29, Twp. 11N, Range 62W.
Said water to be used for the purpose
of providing irrigation on the following
described land:
SW 1/4 and SE 1/4, Section 29, T11N,
R62W.
This application No. 1943-3 will be
considered by the Water Resources Com-
mission at their office at Pierre upon
the 11th day of July, 1972, at 2:00 P.M.
All interested persons may appear and
be heard.
WATER RESOURCES COMMISSION
By: BURTON F. JONES
Water Rights Specialist
No. 308 (adv.)

RECEIVED
JUL 11 1972

STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

COMMISSION

South Dakota

J.W. GRIMES

Carl Cohn, Gettysburg
W. Neil Evans, Watertown
Milton E. Fischer, Milbank
Glyn Garrett, Port A, Pierre
Stanley Jensen, Deadwood
Richard Lamm, Harrisburg
Glenn D. Mortenson, Hayes
Helen Varick, Geddes

Water Resources Commission

Chief Engineer
and
Executive Officer

State Office Building #2

PIERRE, SOUTH DAKOTA 57501

PHONE 605/224-3584

6-22-73

Mr. John Kleinsasser
Glendale Colony
Frankfort, S.D. 57440

The South Dakota Water Laws provide "That the use of water for domestic purposes is the highest use of water; and takes precedence over all appropriative rights." and "That the right of a municipality to acquire and hold rights to the use of water should be protected to the fullest extent necessary for existing and future uses,---".

The South Dakota water laws provide also, "The full control of all waters in the definite streams of this State is vested in the Commission. The Commission shall regulate and control the development, conservation and allotment of waters of the State according to the principles of beneficial use and priority of appropriation established by this Act." The Commission referred to is the Water Resources Commission.

Because of the existing deficient supply of water in the James River to satisfy all authorized uses of the waters of this stream, the Water Resources Commission hereby orders that all withdrawals of water from the James River for irrigation purposes between the James River Bridge east of Ashton, South Dakota and the 3rd Street Dam in Huron, South Dakota shall cease effective 6:00 P.M., July 1, 1973, and until January 1, 1974, or until further notice.

This order is necessary in order to maintain domestic use, including stock-water, and municipal water supplies to the extent possible under the scanty runoff yield of water to the James River.

Please govern your use of irrigation water under your Water Right No. in accordance with this order. You will be notified if water supplies in this section of the James River become sufficient to permit irrigation water withdrawals again during 1973. Aerial inspections of this section of the James River will be made by the Staff of the Water Resources Commission.

1450-3, 1734-3,
1983-3, 1733-3 and
1735-3

Sincerely,

J.W. GRIMES

JWG/DD/bw

Permit No. 1943-3Water Division 3 JAMES RIVER Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / FOSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by GLENDALE
COLONY of FRANKFORT holder
of Permit No. 1943-3, bearing date of priority of MAY 30, 1972
authorizing the diversion of 4.28 cu. ft. per second of the waters of JAMES RIVER
for IRRIGATION purposes, in SPIRK 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:

BERKELEY 6" PUMP WITH 10" INDIKE - 10" DISCHARGE
POWERED BY ALLIS CHAMBERS DIESEL MOTOR - 150HP

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

3/4 MILE BURIED 10" PLASTIC LINE. PICKS UP TWO
PIVOT PADS

C. Works used to apply water to beneficial use.

ZIMMATIC CENTER PIVOT SPRINKLER SYSTEM WITH
END GUN

The system is in the following condition: GOOD

The point of diversion is located N 8° 05' W, 206.5' FROM THE SE CORNER,
SECTION 29, T116N, R.62W

The works are capable of diverting and conveying to the place of use 2.0cu. ft. per second of water which is to be used for IRRIGATIONWater has been put to beneficial use to the maximum extent as follows: ALL IN SECTION 29, T116N, R.62WS10⁴ - 132 ACRE CIRCLESE⁴ - 126 ACRE CIRCLE LESS AREA IN NE PORTIONcomprising a total of 258 acres of land.Date DECEMBER 5, 1979

Barton Spruce
(Signature)

1734-3
1735-3
1876-3
1943-3

WATER RIGHTS DIVISION
Phone (605) 773-3352

March 3, 1983

**Glendale Colony
Route #1, Box 85
Frankfort, South Dakota 57440**

Dear Sirs:

The inspection of your water use systems and inspection of the extent of your application of water to beneficial use, as developed under your Water Permit Nos. 1734-3, 1735-3, 1876-3 and 1943-3 has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee each, total of \$200.00 for the inspection and issuing of the Water License. Upon receipt of the \$200.00 fee from you, your Water Licenses will be sent to you.

You will also receive the Certificate of Construction for each as required by statute.

Sincerely,

**Genny Young
Water Rights Specialist**

GY:ms

Permit No. 1943-3Water Division 3 JAMES RIVER Water District
10160006REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / FOSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by GLENDALE
CEXONY of FRANKFORT holder
of Permit No. 1943-3, bearing date of priority of MAY 30, 1972
authorizing the diversion of 4.28 cu. ft. per second of the waters of THE JAMES RIVER
for IRRIGATION purposes, in SPINK 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:

BERKELEY 6" PUMP MODEL # B6J WITH 10" INTAKE & 10" DISCHARGE
POWERED BY 150 HP ALLIS CHALMERS DIESEL ENGINE.
OPERATES 440 VOLT SIMA ELECTRIC GENERATOR TO
POWER PIVOT SYSTEM.

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

1360' OF 18" BURIED PVC. FROM DIVERSION POINT TO E. PIVOT PAD
2500' OF 10" BURIED PVC BETWEEN PIVOT PADS

C. Works used to apply water to beneficial use.

7 TOWER ZIMMATIC CENTER PIVOT SYSTEM WITH NELSON #100
END GUN - TOWED BETWEEN TWO QUARTERS

The system is in the following condition: GOOD

The point of diversion is located 1970' N & 270' W OF THE SE CORNER,
SECTION 29, T116N, R62W

The works are capable of diverting and conveying to the place of use 2.00 (900 GPM)
cu. ft. per second of water which is to be used for IRRIGATION

Water has been put to beneficial use to the maximum extent as follows: ALL IN SECTION 29, T116N, R62WSW⁴ 132 ACRESSE⁴ 126 " (PIVOT OFFSET 180' W TO MISS RIVER)comprising a total of 258 acres of land.Date AUGUST 26, 1982

Dustin Jones
(Signature)

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1943-3

(1) WHEREAS, On the 30th day of May A. D. 19 72

Glendale Colony

made Water Right Application No. 1943-3 for a permit to use 4.28 cubic feet per second of the waters of the James River

County of Spink, State of South Dakota, for Irrigation

purposes; and

(2) WHEREAS, On the 12th day of July A. D. 19 72

Permit No. 1943-2 with a date of priority of May 30, 1972

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 12th day of July A. D. 19 77 and for the

application to beneficial use of said water on or before the 12th day of July A. D. 19 81

and,

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 2.00 (900 gpm) 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,

to irrigate the following land all in Section 29, T116N, R62W

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 33 Acres (CA)

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 33 Acres (CB)

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 33 Acres (CC)

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 33 Acres (CD)

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 30 Acres (DA)

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 33 Acres (DB)

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 33 Acres (DC)

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 30 Acres (DD)

TOTAL 258 Acres

NOTE: The above described land is irrigated as a 132 acre circle in the SW $\frac{1}{4}$ and a 126 acre circle (pivot offset 180'W to miss River) in the SE $\frac{1}{4}$

(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 Glendale Colony

of Route #1, Box 85, Frankfort, South Dakota 57440

the holder _____ and owner _____ of said permit No. 1943-3 a water right, dating from May 30, 1972

to use of 2.00 cubic feet per second of the waters

of the James River

in the County of Spink and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted at a point 1970'N and 270'W of the SE Corner, Section 29,

T116N, R62W (DA)

and conducted to and upon portions of Section 29, T116N, R62W more fully described

on the face of this license

for the purpose of Irrigation

Subject to any limitations listed in Water Right Permit No. 1943-3 and subject to the laws of the State of South Dakota.

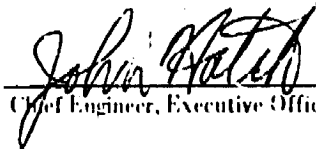
WITNESS, My hand and seal of our office at Pierre, South Dakota

this 18th day of March A. D.

Nineteen Hundred and Eighty-Three

WATER MANAGEMENT BOARD

By:



Chief Engineer, Executive Officer **JOHN HATCH**

South Dakota
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

March 24, 1983

Glendale Colony
c/o John Kleinsasser
Route #1, Box 85
Frankfort, South Dakota 57440

Dear Sir:

Enclosed herewith is, Water License No. 1943-3. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

Enclosures

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 9193

PIERRE, March 16, 1983

RECEIVED OF Glendale Colony, c/o John Kleinsasser, Frankfort, SD 57440
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for inspecting Construction, and issuing Cert. of Construction No. 1943-3	50	00
Fee for inspecting Beneficial Use, and issuing Water License No. 1943-3		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL	50	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH/ES

1943-3

**WATER RIGHTS DIVISION
(605) 773-3362**

August 31, 1983

NOTICE

**TO: John Kleinsasser
Glendale Colony
Route #1, Box 85
Frankfort, South Dakota 57440**

FROM: John Hatch, Chief Engineer, Water Rights Division

**RE: Extension of pumping from the James River under Permits 1450-3,
1733-3, 1734-3, 1735-3, 1943-3**

The flow in the James River is expected to continue to be above average. August 29, 1983 flow at Columbia was about 150 cfs. Because of the available supply of water in the James River the shutoff date for the above permits is extended to September 20, 1983. This extension is subject to change if flow conditions warrant an earlier cutoff.

Water Rights Division - DWIR
Conversation or File Documentation

File No. 1943-3

NAME OF PERSON OR FILE: Glendale Colony

ADDRESS: Frankfort SD COUNTY Spink

DATE: 10/4/85 TELEPHONE _____

RE: Spoke to John Kleinsasser

COMMENTS:

License No 1943-3 was inspected on April 18, 1985, for the
purpose of updating records regarding diversions from the
James River. The total acreage being irrigated has not
changed but some of the irrigation equipment has changed.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Ron D. Swail

4/82

Permit No. 1943-3James River Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

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

I have this day made a thorough examination of the water use system constructed by Glendale Colonyof Frankfort SD, holder of
Permit No. 1943-3, bearing the priority of May 30, 1972 authorizingthe diversion of 4.28 cu. ft. per second of the waters of the James River
for irrigation purposes, in Spink County.

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

A. Works used to divert the water:

Berkley 6 in pump, Model B6J with 10 in. intake and discharge. Powered by a 250hp, 671 Cummins, 6cyl. diesel engine. Also operates a Lister electric generator.

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

Pipeline: size - 10 in.type - PVClength - 3860 ft.

C. Works used to apply water to beneficial use:

10 tower Zimmatic pivot with capacity of 900 gpm
Tow between quarters.The system is in the following condition goodThe point of diversion is located James River: 1970 ft. N and 270 ft. W from the
SE corner of sec 29, T116N, R62WThe works are capable of diverting and conveying to the place of use 2.00cu. ft. per second of water which is to be used for irrigationWater has been put to beneficial use to the maximum extent as follows: see License No. 1943-3comprising a total of 258.0 acres of land and the license should be issued for 2.00 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are: _____

Date April 18, 1985Ron Duvall
(Signature)

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

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

April 18, 1988

1943-3
1733-3
1450-3
1734-3
1735-3

John Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

RE: James River Flow Conditions and Future Shut Off Orders

Dear Mr. Kleinsasser:

We have been monitoring James River flows. I am sure that you realize that unless water supply conditions change, there will not be much water for irrigation during 1988. Shutoff of irrigation above Huron is required when the flow drops to 20 cfs at the Huron Third Street Dam. Therefore, we expect to issue orders within the next two to four weeks to shut off James River Irrigation from the Third Street Dam to the ND-SD border. Below Huron to the I-90 bridge near Mitchell, irrigators can also expect a shutoff order within the next few weeks when the flows of the river drop below 20 cfs at the Forestburg Gaging Station. Below the I-90 bridge near Mitchell to the Yankton County line we may need to issue a shutoff order sometime during early summer if the flows at Scotland drop below 20 cfs.

James River flow conditions are as follows:

James River Flow* Record

Date	LaMoure	Ludden	Columbia**	Ashton	Huron	Forestburg	Scotland
04/06/88	81.2	(state	15.0	37.7	48.0	105	285
04/11/88	134	line)	12.4	34.3	39.4	60.9	167
04/13/88	150		9.99	21.4	34.3	55.7	122
04/14/88	159	190	21.3	34.3	32.0	50.8	115
04/15/88	142		57.0	45.6	32.0	48.9	112

* Flow in cfs (cubic feet of water per second)

1 cfs = 449 gallons per minute

** Sand Lake Refuge has increased releases due to inflows

The flow in North Dakota at LaMoure, ND is 142 cfs because of releases being made at the Pipestem Dam. However, releases from Pipestem will be reduced after April 15 to 25-50 cfs because of a construction project below the dam. We do not expect significant releases from the Jamestown Reservoir in North Dakota because the water level elevation is below the flood control storage elevation.

Sand Lake Refuge is at or near full capacity and releases are being made. The quantity released will depend on inflows which are measured near the ND-SD State Line.

We are providing the above information to allow you to have the latest information for the entire James River and to provide you with an indication of what to expect. Unless water supply conditions change, we expect that the James River pumping will be shutoff for much of the irrigation season.

If we may answer any questions, please contact James Winterton, 773-3352.

Very truly yours,



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



Department of Water & Natural Resources

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

May 18, 1988

NOTICE OF SHUTOFF ORDER

TO: John Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

1943-3
1733-3
1734-3
1735-3
1450-3

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

John Hatch
By James Shults

SUBJECT: Shut Off Order To James River Water Right Holders Located Above
Huron, Effective 12:00 Noon, May 25, 1988.

I am certain that you are aware that James River flows are not enough to supply all water rights. Therefore, to protect the City of Huron's senior water rights and to provide water for domestic use (livestock watering), effective 12:00 noon on May 25, 1988 no pumping of water from the James River is authorized until January 1, 1989 or until further notice.

The following is the latest flow information that we have on the river:
(these are provisional records - flow measured in cubic feet per second)

Date	LaMoure	Ludden	Columbia	Ashton	Huron	Forestburg	Scotland
05/09/88	5.5	156	6.97	51.4	62.0	57.7	72.0
05/10/88	4.2	48.0	16.3	43.7	65.1	65.3	87.4
05/11/88		.05	9.23	31.6	45.0	68.8	82.0
05/12/88	4.6	5.79	6.30	30.3	51.3	68.8	79.4
05/13/88	0.30	0.45	6.46	30.0	48.0	65.3	76.9
05/16/88	0.50	3.09	3.15	21.1	45.0	49.9	62.8
05/17/88	0.0	0.0	4.84	16.0	42.1	43.7	58.5
05/18/88	0.0	0.0	3.51	12.8	6.8*	39.6	50.7

* South wind affecting the reading

As the information listed above shows, there is almost no James River flow in North Dakota and the flows in South Dakota are steadily decreasing. Unless conditions change, it appears that no pumping will be allowed for the remainder of the 1988 irrigation season from the James River.

cc: City of Huron





Department of Water & Natural Resources

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

May 24, 1988

NOTICE OF EXTENSION OF SHUTOFF ORDER

TO: John Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

1943-3
1753-3
1450-3
1734-3
1735-3

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

John Hatch

SUBJECT: Extension of Shutoff Order to 12:00 Noon, June 1, 1988
due to Increased Flows in the James River.

The rains this past weekend over the James River Drainage area has produced enough runoff to provide additional flows in the James River. Therefore, the shutoff order to be effective at 12:00 noon, May 25, 1988 is extended to 12:00 noon, June 1, 1988.

We will continue to monitor the flows to determine whether or not an additional extension may be granted.



 **Department of
Water & Natural Resources**

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

May 31, 1988

NOTICE OF EXTENSION OF SHUTOFF ORDER

TO: John Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

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

1943-3
1733-3
1450-3
1734-3
1735-3

SUBJECT: Extension of Shutoff Order to 12:00 Noon, June 15, 1988
due to Increased Flows in the James River.

The rains over the James River Drainage area has produced enough runoff to provide additional flows in the James River. Therefore, the shutoff order to be effective at 12:00 noon, May 25, 1988 is extended to 12:00 noon, June 15, 1988.

We will continue to monitor the flows to determine whether or not an additional extension may be granted.





Department of Water & Natural Resources

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

July 17, 1989

NOTICE OF SHUTOFF ORDER

1943-3
1733-3
1450-3
1734-3
1735-3

TO: Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

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

SUBJECT: Shut Off Order to James River Water Right Holders
Located above Huron Effective 12:00 Noon July 20, 1989.

The flows in the James River have dropped to less than 20 cfs at Huron. Therefore to protect the City of Huron's prior rights and domestic uses (livestock watering) on the James River, effective 12:00 noon on July 20, 1989 no pumping of water from the James River is authorized until January 1, 1990 or until further notice.

Unless flow conditions change, it appears that no pumping will be allowed for the remainder of the 1989 irrigation season from the James River.

If you have any questions, please contact James Winterton, Division of Water Rights, Joe Foss Building, Pierre, SD 57501, phone (605) 773-3352.

cc: City of Huron, Water Superintendent



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

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

April 6, 1990

NOTICE OF SHUTOFF ORDER

(1943-3), 1733-3, 1734-3,
1735-3, 1450-3

TO: Kleinsasser, Jerry
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

FROM: *for* John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

Delvin H. Brosz

SUBJECT: Shut Off Order to All James River Irrigation Water Right Holders-Effective Immediately.

The flows in the James River are below 20 cubic feet per second (cfs) at most of the gaging stations. Therefore to protect the City of Huron's prior rights from diversions above Huron and domestic uses (livestock watering) on the river below Huron, effective immediately, no pumping of water from the James River is authorized until January 1, 1991 or until further notice.

Unless flow conditions change, it appears that no pumping will be allowed for the 1990 irrigation season from the James River. If conditions do improve, notices will be issued, based on senior priority dates, to allow pumping by irrigators.

Sand Lake Wildlife Refuge is approximately one foot below the full level. The Refuge is entitled to the flows from North Dakota under a senior water right. The flows from North Dakota are expected to decrease due to the lack of snow pack. The storage levels in the Jamestown and Pipestem Reservoirs are down with no expected releases.

The following is the latest flow (cfs) information on the river:

Date	Ludder	Columbia	Ashton	Huron	Forestburg	Scotland	Yankton
3/28/90	----	----	----	----	----	----	----
4/2/90	----	3.5	8.0	0	6.0	15.0	30.2
4/4/90	51.0	10.0	10.0	0	5.4	22.0	----

If you have any questions, please contact Del Brosz, Division of Water Rights, Joe Foss Building, Pierre, SD 57501, phone (605) 773-3352.

cc: City of Huron, Water Superintendent

SOUTH DAKOTA
Department of
Water & Natural Resources

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

August 2, 1990

RESCISSION OF SHUTOFF ORDER

1733-3, 1734-3
1735-3, 1450-3,
1943-3

TO: Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

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



SUBJECT: Rescission of April 6, 1990 Shutoff Order to James
River Water Right Holders

The present flow conditions on a portion of the James River below Ashton appear to be of sufficient quantities to allow for irrigation. The Shutoff Order of April 6, 1990 is rescinded, this notice is effective immediately, for the section of the James River downstream from Ashton to the James River Diversion Dam. The mandatory August 10 shutoff date is still in effect, but exceptions to this will be handled on a case by case basis by contacting the Water Rights Division.

If you have any questions, please contact Del Brosz, Division of Water Rights, 523 East Capitol, Pierre, SD 57501 Phone (605) 773-3352.



Department of Water & Natural Resources

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

August 8, 1990

NOTICE

1943-3, 1733-3,
1450-3, 1735-3,
1734-3

TO: Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

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

SUBJECT: The August 10 Automatic Shutoff Date For Water
Diversions from the James River

The August 10 automatic shutoff date for water diversions from the James River is still in effect. On some of the older permits this qualification though not listed is still valid and must be followed. Since there are still flows in portions of the James River, continuation of diversions beyond the shutoff date will be considered on a case by case basis. To do this you need to contact Water Rights Division in Pierre.

The following is the latest flow (cfs) information on the river.

<u>DATE</u>	<u>LUDDEN</u>	<u>COLUMBIA</u>	<u>ASHTON</u>	<u>HURON</u>	<u>FORESTBURG</u>	<u>SCOTLAND</u>
8/06/90	0.0	0.0	14.3	128.0	188.0	99.0
8/01/90	0.0	0.0	10.6	108.1	166.5	119.5
8/02/90	0.0	0.0	7.6	99.0	146.2	138.9

If you have any questions, please contact Del Brosz, Division of Water Rights, 523 East Capitol, Pierre, SD 57501.
Phone (605) 773-3352

cc: City of Huron, Water Superintendent

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

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

April 2, 1991

1450-3
1733-3
1734-3
1735-3
1943-3

Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

Dear Mr. Kleinsasser:

I am contacting irrigators and water users on the James River to advise of the low flow conditions in the James River and potential of shut off orders being issued. Due to the continuing drought, the James River basin, in both North Dakota and South Dakota, is supplying the river with below normal runoff.

The following is the latest flow (cfs) information on the river:

Date	Ludden	Columbia	Ashton	Huron	Forestburg	Scotland
3/28/91	79.1	0.0	6.6	2.3	19.2	23.7
3/29/91	79.1	0.0	6.3	13.0	17.9	22.8
4/01/91	79.1	0.0	6.1	11.1	18.5	10.0

Note: The flow at Ludden is from in stream ice melt with little or no runoff occurring.

We will continue to closely monitor the flow in the river. Unless flow conditions improve in the next two to three weeks, shut off orders may have to be issued to all James River water users except for the City of Huron, which has senior water rights.

If you have any questions, feel free to contact Mark Rath or Del Brosz. Phone (605) 773-3352.

Very truly yours,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 5, 1991

NOTICE

1450-3

1733-3

1734-3

1735-3

1943-3

TO: Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

FROM: *for* JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

Delvin D. Brosz

SUBJECT: The August 10 Automatic Shutoff Date For Water
Diversions from the James River

The August 10 automatic shutoff date for water diversions from the James River is still in effect. Although flows in the James River continue to be good, the gates at the Columbia Road Dam below Sand Lake Refuge were shut on August 1, continued good flows, particularly in the upper river reaches, are questionable. Continuation of diversions beyond the August 10 shutoff date will be considered on a case by case basis. To do this you need to contact the Water Rights Division in Pierre.

The following is the latest flow (cfs) information on the river.

DATE	LUDDEN	COLUMBIA	ASHTON	HURON	FORESTBURG	SCOTLAND
7/31/91	6.7	63	130	139	142	148
8/02/91	17	58	125	134	139	154
8/05/91	0.3	36	101	128	140	166

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 East Capitol, Pierre, SD 57501. Phone (605) 773-3352

cc: City of Huron, Water Superintendent

1943-3

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 12, 1991

Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

Dear Mr. Kleinsasser:

In response to your telephone call requesting an extension to pump from the James River, you are hereby authorized to continue irrigation under Water Right Nos. 1450-3, 1733-3, 1734-3, 1735-3, and 1943-3 from the James River.

This authorization is subject to flows remaining available for downstream domestic users and prior water rights. We will continue to monitor the river and will be in contact with you if low flows become a problem.

If you have any questions, please do not hesitate to contact this office.

Very truly yours

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

1943-3



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

September 5, 1991

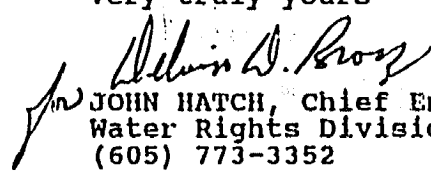
Jerry Kleinsasser
Glendale Colony
RR 1, Box 85
Frankfort, SD 57440

Dear Mr. Kleinsasser:

The flow in the James River is approaching 20 cfs at Huron and continues to drop. Therefore, to protect Huron's senior water right and downstream domestic use (including livestock watering), diversions covered under Water Right Nos. 1450-3, 1733-3 1734-3, 1735-3 and 1943-3 shall be discontinued, effective immediately, until January 1, 1992.

If you have any questions, please do not hesitate to contact this office.

Very truly yours


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



April 14, 1992

1943-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE OF SHUTOFF ORDER

1450-3

1733-3

1734-3

1735-3

1943-3

TO: JERRY KLEINSASSER
GLENDALE HTTRN BRTH
RT 1 BOX 85
FRANKFORT, SD 57440

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

SUBJECT: Shut Off Order to All James River Water Right Holders
Above Huron, Effective Immediately.

The flows in the James River are below 20 cubic feet per second (cfs) at the gaging stations above Huron. Therefore to protect the City of Huron's prior rights from diversions above Huron and domestic uses (livestock watering) below Huron, effective immediately, no pumping of water from the James River above Huron is authorized until January 1, 1993 or until further notice.

Unless flow conditions change, it appears that no pumping will be allowed for 1992 from the James River above Huron diversion dam. If conditions improve, notices will be issued, based on senior priority dates, to allow pumping by water users.

Due to the continuing drought, the James River basin, in both North Dakota and South Dakota, is receiving below normal runoff.

The following is the latest flow (cfs) information on the river:

Date	Ludden	Columbia	Ashton	Huron	Forestburg	Scotland
4/7/92	83	.4	9	32	40	57
4/10/92	54	.6	/	20.5	---	57
4/13/92	6	.6	4	20.5	---	55

If you have any questions, please contact Norma Job or Del Brosz, Division of Water Rights, 523 East Capitol, Pierre, SD 57501, phone (605) 773-3352.

cc: City of Huron, Water Superintendent



1943-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 22, 1992

RESCISSION OF SHUTOFF ORDER

1450-3
1733-3
1734-3
1735-3
1943-3

TO: GLENDALE HTRN BRTH
JERRY KLEINSASSER
RR 1 BOX 85
FRANKFORT, SD 57440

FROM: *for* John Hatch, Chief Engineer *Del Brosz*
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of April 14, 1992 Shutoff Order
to James River Water Right Holders above the
Huron Third Street Dam to Ashton.

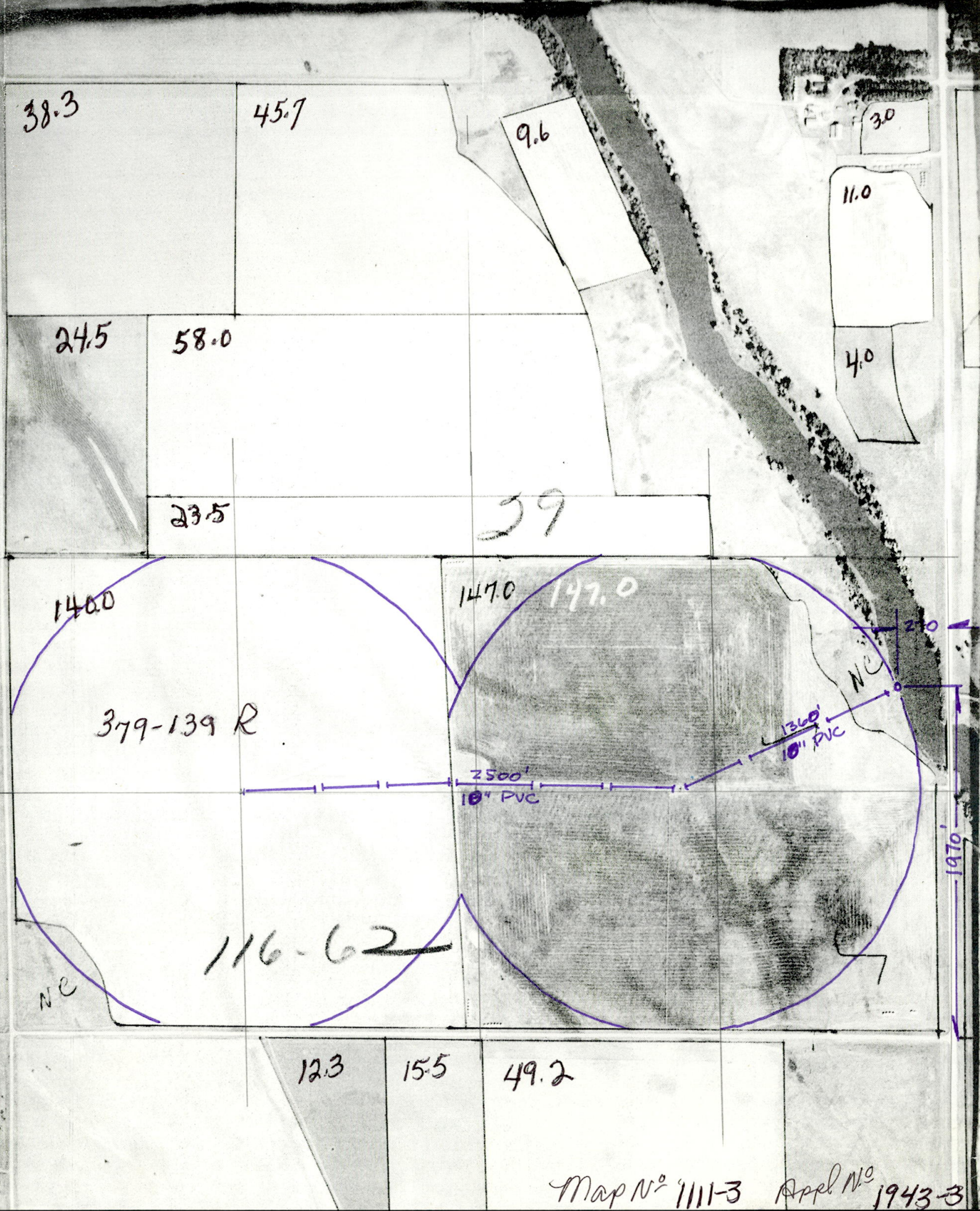
The present flow conditions on the James River are sufficient to allow for diversions. The Shutoff Order of April 14, 1992 is rescinded, effective immediately, for all James River Water Right Holders between the Huron Third Street Dam and the Ashton gaging station. We will continue to monitor the flows of the James River through the summer. The present increase in flow may only be temporary. If the present flow conditions continue, pumping will be allowed until the mandatory August 10 shutoff date. Pumping after the August 10 shutoff date will be handled on request and requires written approval from the Chief Engineer.

If you have any questions, please contact Norma Job or Del Brosz, Division of Water Rights, 523 East Capitol, Pierre, SD 57501 Phone (605) 773-3352.

cc: City of Huron, Water Superintendent

NOT TO SCALE

Appl # 1943-3
Map # 1111-3



STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 1943-3

(1) Glendale Colony, 17866 Glendale Drive, Frankfort SD 57440 was issued Water License No. 1943-3, March 18, 1983 for a water right to divert 2.00 cubic feet of water per second (cfs) from the James River, Spink County, South Dakota for irrigation purposes. Water License No. 1943-3, with a priority date of May 30, 1972 was issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water License No. 1943-3 authorized diversion of 2.00 cfs from the James River to irrigate 258 acres in the S ½ Section 29, T116N, R62W. A center pivot system was towed between the two quarters. Water Permit No. 6587-3 authorized severing the diversion authority for 126 acres and relocating to new land.

The remaining land under Water Right No. 1943-3 is irrigated as a 132 acre circle in the center of the S ½ of Section 29. Water License No. 1943-3 is being reissued for the remaining land and the associated diversion rate of 1.89 cfs (statutory limit for 132 acres).

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Glendale Colony the holder and/or owner of Water Right No. 1943-3 is issued a license, bearing a priority date of May 30, 1972 to appropriate 1.89 cubic feet of water per second from the James River for irrigation purposes.

The diversion point is located: 1,970'N & 270'W of the SE corner of Section 29, T116N, R62W (NE ¼ SE ¼).

The acres authorized for irrigation are as follows:	Section 29, T116N, R62W	NE ¼ SW ¼	33 acres
		SE ¼ SW ¼	33 acres
		NW ¼ SE ¼	33 acres
		SW ¼ SE ¼	33 acres
		Total	132 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 1943-3 including the following qualifications:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Water Management Board or its legally appointed representative. Diversions under this permit shall be in accordance with any written orders issued by the Board or its representative.
- This Permit does not authorize diversions from the James River when water is not bypassing the James River Dam north of Huron or less than 20 cfs of water is bypassing the 3rd Street Dam in Huron.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 28 2005

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 28 2005

Glendale Colony
c/o Jerry Kleinsasser
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

Enclosed are the following: Reissued Water License Nos. 1734-3 and 1943-3 and Water Permit Nos. 6587-3, 6588-3, 6589A-3, 6589B-3 and 6590-3.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed for the five water permits. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

As long as the colony uses the water beneficially, as stated in the Water Licenses, State Water Laws provides that the colony has a continuing right to use the water.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 1, 2006

NOTICE OF SHUTOFF ORDER

TO: GLENDALE HTTRN BRTH attn JERRY KLEINSASSER
17866 GLENDALE DR
FRANKFORT SD 57440

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: James River Shutoff Order

Shutoff Order for Water Right No(s). 1450-3 1733-3 1734-3 1735-3 1943-3 6587-3

To protect domestic use on the James River, the department is issuing shutoff orders to water right holders on the James River from the Yankton-Hutchinson county line north to the North Dakota border. Effective immediately, no diversions of water from the James River will be allowed. Previous to this Order, shutoff orders were issued for water right junior to January 1, 1975 located upstream of Huron.

Flow in the James River continues to decline to the point where domestic use of water, which includes livestock watering from the river, has become a concern. USGS gaging stations over this entire river reach are measuring flow levels at or below 20 cubic feet per second, the required bypass for downstream domestic use. This order will remain in effect until the end of the calendar year.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

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

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 11, 2007

TO: All James River Water Right Holders

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

SUBJECT: Proposed Amendment to Conditions on James River Water Rights

As Chief Engineer of the Water Rights Program, I am proposing amending conditions placed on many James River water rights in order to provide consistency for the period when pumping is authorized from the river. Please find enclosed the Chief Engineer's recommendation and a notice being published in newspapers along the James River in South Dakota. The notice schedules a May 9th hearing before the Water Management Board regarding the amendment.

Water Rights on the James River contain a variety of shutoff dates and by-pass flow qualifications. To facilitate the administration of James River water rights, the Chief Engineer is recommending that the Water Management Board amend water rights to provide a standard August 10th shut-off date and bypass conditions relative to USGS gaging stations. Real time flows can easily be accessed via USGS's website at <http://waterdata.usgs.gov/sd/nwis/>. The proposed amendments will not impose any condition more restrictive than currently in place and all water rights will remain subject to senior water rights and any written orders issued by the Chief Engineer.

Please review the enclosed recommendation and public notice. If your water right is among those that will be amended the section in the recommendation dealing with your water right is highlighted. If there is no highlighted section in your enclosure, then there is no proposed change to your water right. If you have any questions about the proposed changes, I encourage you to contact Lynn Beck or Mark Rath at (605) 773-3352.

enclosure

Instruction to Newspaper - Publish first Notice on April 12, 2007 with the second publication 7 days later. The Water Rights Program is responsible for payment.

NOTICE OF CHIEF ENGINEER'S RECOMMENDATION FOR JAMES RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD proposes to amend conditions placed on many James River water rights in South Dakota. The objective is to bring consistency among water rights for the period when pumping is authorized from the river. This requires the modification to the conditions placed on a number of existing water rights. The amendments will not increase the authorized diversion rate or number of irrigated acres authorized under existing James River water rights. Water rights held by cities for municipal use will not be amended by this proposed action.

Currently, water rights differ in the date that pumping must cease and the amount of water that must bypass a United States Geological Survey's gaging station to pump. The Water Rights Program has reviewed all James River water rights and determined that they can be modified to a standard shut-off date of August 10th of each calendar year. In addition, it is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows.

North Dakota Border to the Ashton gage (northern segment)
Ashton gage to Huron gage (central segment)
Huron gage to gage near Scotland (southern segment)

Water rights that currently have a bypass condition within each segment will be conditioned with a 20 cfs bypass.

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. James River water rights holders 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 shut-off and bypass conditions on applicable water rights and add the following qualifications to those James River water rights as set forth above.

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Ashton SD (or Huron and Scotland).

Any person interested in opposing or supporting this proposed amendment change shall file a written 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 water right holder must be filed by April 30, 2007. The petition may be informal, but must 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 Water Management Board hearing to consider the amendment to delete and add the above qualifications will be held at 11:00 AM, May 9, 2007 in the Floyd Matthew Training Center, 523 E Capitol Avenue, 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) defer, or 3) deny the amendment changes based on the facts presented 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 May 9, 2007 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any interested person opposing the amendments. The request for an automatic delay must be filed by April 30, 2007.

Any hearing will be an adversary proceeding. Any person filing a petition has the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by April 30, 2007, at the above Water Rights Program address to request copies of information pertaining to this action. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Water Rights Program if you have special needs for which special arrangements can be made.

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

REPORT ON AMENDMENT OF JAMES RIVER WATER PERMITS/RIGHTS

April 24, 2007

Purpose of this Study

The James River historical appropriations show a variety of shut-off and by-pass qualifications adopted at different times. It is the purpose of this study to bring the shut-off and by-pass qualifications of active permits in line with the intentions of the Water Management Board as adopted at the April 1980 and May 1987 Board Meetings. In addition, the study shows that future appropriations of water from the James River can also be administered as stated above.

Historical Summary of James River Water Permits/Rights

During the 1960's the Water Resources Commission (predecessor to the Water Management Board) set a 300 cubic feet per second (cfs) limit and an August 10th cutoff date for appropriations from the James River. It was also determined that 20 cfs of water should by-pass Huron, SD to provide for downstream domestic use. The diversion limit was further defined as a combined 200 cfs of water above Huron and in addition permits having a combined 300 cfs of water could be approved above the SD Hutchinson-Yankton county line.

The Commission set limit was reached in 1968 and applications were deferred until 1975 when cancellations and underdeveloped appropriations allowed for deferred applications to be approved until the 300 cfs limit was reached. Applications were once again deferred until 1979 when a similar situation allowed James River diversions to be approved. In 1980 appropriations on the James River were once again opened and based on studies of actual irrigation development and use, it was projected that a maximum of 50-percent of permitted acres were irrigated at any one time. In 1987 a recommendation was made to the Water Management Board to change the qualifications on those active water permits upstream of Huron, SD requiring alignment with the August 10th cut-off date and the 20-cfs by-pass at the Third Street Dam, and for those water permits downstream of Huron, SD to the August 10th cut-off date.

Most recently, in 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews James River water rights for non-use status and possible cancellation. Currently there is unappropriated water in the James River.

See Attachment 1 for a detailed historical review of James River shut-off and by-pass qualifications.

Review of James River Water Permits/Rights

Past inspections of James River water permits/rights have resulted in updates to the number of permits and amounts of water appropriated from the river. See Attachment 2 for a map of the James River permits/rights and Attachment 3 for a list of James River Water Rights including their use and qualifications.

Presently there are eighty-six (86) water rights on the James River reach from the North Dakota (ND) border to the SD Hutchinson-Yankton county line with 231.81-cfs total diversions. These

water rights are for direct diversion of water from the James River during the normal irrigation season. The James River reach from Huron, SD to the ND border presently has fifty-one (51) water rights with 144.83-cfs total diversions. The majority of these water rights are in Spink (25) and Beadle (16) Counties with 124.94-cfs total diversions. At this time there are no water rights in effect for direct diversion of water from the James River upstream of the James River Columbia, SD U.S Geological Survey (USGS) gaging station. Currently 68.19-cfs is available for appropriation on the James River from the ND border to the Hutchinson/Yankton County line, of which, not more than 55.17-cfs is available for appropriation above the USGS gage at Huron due to the 200-cfs limit.

This leaves thirty-five water rights with 86.98-cfs direct diversion from the James River during the normal irrigation season on the stretch below Huron to the Hutchinson/Yankton County line. The majority of these water rights are in Davison (10) and Hutchinson (13) counties with 64.66-cfs total diversions. Currently up to 68.19-cfs is available for diversion below Huron.

Water Availability at Current Appropriation

Currently 231.81-cfs is appropriated on the James River from the ND border to the Hutchinson/Yankton County line, of which, **144.83-cfs** is appropriated above the USGS gage at Huron and **86.98-cfs** is appropriated below Huron to the Hutchinson/Yankton County line. A study was conducted, by water rights staff, to determine the probability that water would be available during the irrigation season until August 10 of each calendar year if existing water permits/rights are brought in line with a common August 10 shut-off date.

The James River was divided into three river reaches between USGS gaging stations, ND border to the USGS gage at Ashton, SD; USGS gage at Ashton, SD to the USGS gage at Huron, SD; and USGS gage at Huron, SD to USGS gage near Scotland, SD. The water appropriated for irrigation and other uses for each of the three river reaches was calculated, see table below.

RIVER REACH	IRR	OTH	TOTALS
ND border to Ashton	16.85	6.5	23.35
Ashton to Huron	95.2	26.28	121.48
TOTAL	112.05	32.78	144.83
Huron to HT/YA Co. ln.	54.2	32.78	86.98
TOTAL	54.2	32.78	86.98

Once these values were obtained, a formula for actual water use at current appropriation was developed.

Stated under, **Historical Summary of Shut-Off and By-Pass Qualifications, 1980 – 1984**, in Attachment 1, the actual irrigation development and use on the James River were found to be a maximum of 50-percent. This conclusion was reached after Water Rights Staff conducted detailed hydrographic surveys of the availability of water in the river and studies of the anticipated effects of approving water permits based on projected development and use by appropriators. A similar study was conducted with current irrigation diversions on the James River. Irrigation questionnaires from 1996 – 2006 were reviewed to estimate maximum

pumping at any one time during the irrigation season. The maximum found in each river reach is as follows:

ND border to the gage at Ashton, SD	52%
Gage at Ashton to gage at Huron, SD	42%
Gage at Huron, SD to HT/YA Co. line	29%

Therefore, the 50-percent value is still applicable today.

Since reporting for other uses is limited, 100-percent pumping is assumed. In addition 20-cfs for domestic use was added. The resulting formula for maximum use is as follows:

$0.5(\text{IRR cfs}) + 1.0(\text{OTH cfs}) + 20 \text{ cfs}$ IRR – irrigation use OTH – other uses

RIVER REACH	IRR	50% IRR	OTH	DOM	NEEDED	% CHANCE AVAIL. AUG 10
ND border to Ashton	16.85	8.42	6.5	20	34.92	65
Ashton to Huron	95.2	47.6	26.28	20	93.88	56
Huron to HT/YA Co. ln.	54.2	27.1	32.78	20	79.88	57

In order to bring existing water permits/rights in line with a common August 10 shut-off date the percent chance that water will still be available August 10 must be calculated. This was done using James River flows based on 50 or more years of USGS stream flow data for each of the three river reaches. There is a 65% chance, or better, of flow being available in the reach from the ND border to the Ashton gage; 56% chance, or better, in the reach from the Ashton gage to the gage at Huron; 57% chance, or better, in the reach from the gage at Huron to the Scotland gage. A bar graph representing the above percent chance of water being available August 10th can be found in Attachment 4.

There are factors of safety built into the computations. All of the percent probabilities that water will be available at current appropriations were calculated using flow data collected from the James River during years pumping occurred. Also, while using a 50% figure for simultaneous irrigation pumping it is assumed that 100% of all other uses will be pumping at the same time.

Water Availability at Full Appropriation

In addition, the study shows that future appropriations of water from the James River can also be administered as stated above. Using estimates for future appropriations calculations showed that there is a 63% chance, or better, of flow being available in the reach from the ND border to the Ashton gage; 50% chance, or better, in the reach from the Ashton gage to the gage at Huron; 56% chance, or better, in the reach from the gage at Huron to the Scotland gage. A bar graph representing the above percent chance of water being available August 10th can be found in Attachment 5.

The same factors of safety apply to the calculations at full appropriation as those for calculations at current appropriations.

Proposed Amendment of James River Water Rights

The present appropriations from the ND-SD border to the Hutchinson-Yankton County line total 231.81-cfs. The present total appropriations are less than the 300-cfs limit set by the Water Resources Commission in 1965 and below the June 1985 appropriation total of 254.07-cfs that brought about the Water Management Board's adoption of qualification changes during the May 1987 meeting.

To facilitate the judicious administration of the use of James River water, the protection of the in-stream beneficial uses of the river for recreational use and as a fishery, to maintain good quality water as well as sufficient quantity and velocity of water, and bring the shut-off and by-pass qualifications of active permits in line with the intentions of the Water Management Board as adopted at the April 1980 and May 1987 Board Meetings; it is proposed that appropriations of water from the James River be administered by similar qualifications adopted at the May 1987 meeting without the prior right qualification for Future Use Permit No. 1067-3. Diversions will still be subject to senior water rights and any written orders by the Chief Engineer.

Although the James River is involved in Future Use Permit No. 1067-3, Oahe Conservancy Sub-District, this permit is predicated or conditioned upon Missouri River water being delivered to the James River through the Oahe Project. Presently Future Use Permit No. 1067-3 is allotted 6500-cfs of such water from the James River, but the status of the permit is questionable since the Oahe Project has been terminated.

The Chief Engineer, Water Rights Program, proposes that the Water Management Board take action as stated in the Chief Engineer's Recommendation.



Lynn Beck
Natural Resources Engineer Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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**CHIEF ENGINEER'S RECOMMENDATIONS FOR WATER RIGHTS
ON THE JAMES RIVER IN SOUTH DAKOTA**

Chief Engineer's Recommendation for Water Rights Above Huron:

The Chief Engineer is recommending that the Water Management Board amend the following permits/rights located above Huron as described:

ND Border to the gage at Ashton, SD

Water Permit No. 6427-3:

Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.
- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit.
- From July 1 - October 1, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

The Chief Engineer is also recommending that the Water Management Board approve the following Qualifications as standard for existing James River permits issued from the ND border to the gage at Ashton, SD.

Add:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, 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.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Ashton, SD after pumping.
-

Gage at Ashton, SD to the gage at Huron, SD

Water Right No. 5027-3:

Delete: Qualification No. 1 "Low flows as needed for downstream domestic use and prior water rights must be bypassed. The minimum bypass at Huron for domestic use is 20 cfs. During the period of April 1 through June 30 of each calendar year, diversions are authorized only when 60 cfs or more are by-passed after diversion for domestic use or prior water rights, unless a lower flow by-pass based upon the need for water in Lake Byron verses the need for water downstream, is authorized by the Chief Engineer. This permit does not authorize diversion of water from the James River after June 30th of each calendar year unless written orders have been so issued by the Chief Engineer. In the management of the James River under this permit, flows will be monitored at all gaging stations, and cutoffs will be timed to insure water supplies for domestic use and prior water rights."

Water Permit No. 5737-3:

Delete: Qualification No. 1 "When pumping from the James River into the storage pond, low flows as needed for downstream domestic use, including livestock water, and prior water rights/permits must be by-passed. From March 1 – March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit. From April 1 – June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam exceeds 63 cfs while pumping under this Permit. From June 30 until November 30, diversions from the James River are not authorized unless allowed by written orders issued by the Chief Engineer. Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer."

Water Right Nos. 6182-3 & 6183-3; Water Permit Nos. 6398-3, 6400-3, & 6505-3:

Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.

- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit
- From July 1 - October 1, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

Water Permit Nos. 6375-3, 6588-3, 6589A-3, 6589B-3, 6590-3, 6613-3, 6614-3, 6614A-3, & 6738-3:
Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit
- From July 1 - October 31, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

The Chief Engineer is also recommending that the Water Management Board approve the following Qualifications as standard for existing James River permits issued below the gage at Ashton, SD to the gage at Huron, SD.

Add:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, 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.
- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Water Right Nos. 1734-3, 1735-3, 1943-3, 1979-3, 2129-3, 2386-3, 2629-3, 4066A-3, 4066B-3, 4071-3, 5651-3, 5925-3, & Water Permit No. 6081-3.

Delete: "flowing over James River Dam" from Qualification No. 2.

Chief Engineer's Recommendation for Water Rights Below Huron:

Gage at Huron, SD to the gage near Scotland, SD

The Chief Engineer is recommending that the Water Management Board amend the following permits/rights located below the gage at Huron, SD as described:

Water Right Nos. 607-3 & 608-3:

Delete: "This permit is granted allowing withdrawal of water whenever 25 cfs or more is flowing past your diversion point."

Add: "This permit does not authorize diversions from the James River when less than 20 cfs is by-passing the gage near Scotland, SD after pumping."

Water Right Nos. 690-3 & 699B-3:

Delete: "Use of water under this water right is subject to flows in the James River of 15 cfs or more past your diversion point."

Add: "This permit does not authorize diversions from the James River when less than 20 cfs is by-passing the gage near Scotland, SD after pumping."

Water Permit No. 6534-3:

Delete: "July 15th" from Qualification No. 1.

Add: "August 10th" to Qualification No. 1.

Contact Lynn Beck, Water Rights Program staff engineer at (605) 773-3352 if you have questions regarding this recommendation.



Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

April 25, 2007

Attachment 1

HISTORY OF JAMES RIVER WATER PERMITS/RIGHTS QUALIFICATIONS

April 9, 2007

Historical Summary of Shut-Off and By-Pass Qualifications:

1965 - 1979

In 1965 the South Dakota (SD) Water Resources Commission, a predecessor to the SD Water Management Board, placed a 300 cubic feet per second (cfs) total diversion limit on the James River with a maximum combined total diversion limit of 200-cfs from Huron, SD to the North Dakota border. Due to Missouri River backwater into the James River, the 300-cfs restriction has been applied from the North Dakota border to the SD Yankton-Hutchinson County Line. The Water Resources Commission also set an automatic August 10th diversion shutoff date unless a written order from them or their legal representative was issued to the holder of a James River water right.

In May of 1968 the 300-cfs limit was reached and the SD Water Rights Commission, also a predecessor to the SD Water Management Board, adopted the policy of automatically deferring without advertising further water permit applications until it was determined that non-appropriated water was available in the James River.

It was determined at the November 1975 Water Rights Commission Meeting that water permits could again be issued for James River water within the 300-cfs limit because of prior permit cancellations. Permits were issued at that time to bring the total appropriations back to the 300-cfs limit.

Applications for James River water received after November 1975 were advertised and officially deferred at the January and March 1979 Water Rights Commission Meetings. The James River was withdrawn from further appropriations for one year at the March 1979 Water Rights Commission Meeting until further studies could be made to determine if there was non-appropriated James River water available.

1980- 1984

The James River was again opened for appropriation of water at the January 1980 Water Rights Commission Meeting. The following items pertaining to James River water use were noted in the July 1980 Findings of Fact, Conclusions of Law, and Final Decision resulting from this meeting:

- The Water Rights Staff had conducted detailed hydrographic surveys of the availability of water in the river and studies of the anticipated effects of approving water permits based on projected development and use by appropriators,
- Based on such studies of actual irrigation development and use, it is projected that a maximum of 50-percent of permitted acres will be irrigated at any one time,
- Based on such surveys and studies, there is non-appropriated water available during the spring and through July 15th of normal years,
- The determination of non-appropriated water availability was based strictly on naturally occurring flows and not on anticipated flows diverted into the river from the proposed Garrison Project,
- The Water Quality Staff conducted a detailed study of the river as a fishery,

- Citizens of South Dakota, as well as other states, make substantial use of the river for recreational fishing as well as other in stream beneficial uses,
- Those portions of the river below Huron, SD support a variety of fish and aquatic life as well as acting as a spawning ground for fish in the Missouri River,
- Protection of the in stream beneficial uses of the river requires good quality of water as well as sufficient quantity and velocity of water, and
- Protection of the in stream beneficial uses of the river could be accomplished while still approving additional permits for appropriation by imposing certain by-pass requirements on those issued for use downstream of Huron, SD.

1985 - 1987

In the spring of 1985 examinations were completed by Water Rights Program personnel to update the status of appropriations from the James River. As a result of the examinations, twenty-five (25) water permits were cancelled for non-development or forfeited for non-use. The actual appropriation amount of several other water permits were also reduced to the actual amount of water being used by the appropriator. As of June 1985 there were total appropriations of 254.07-cfs from the James River.

A recommendation was made to the Water Management Board at the May 1987 meeting to change the qualifications on those active water permits upstream of Huron, SD requiring alignment with the August 10th cut-off date and the 20-cfs by-pass at the Third Street Dam, and for those water permits downstream of Huron, SD to the August 10th cut-off date.

At the May 1987 Water Management Board Meeting it was proposed that for those James River permits downstream of Huron, SD the following qualifications be deleted:

- No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the board or its representative.
- To maintain instream flows for instream and domestic purposes, the permit does not authorize diversions when there is less than the following cubic-feet-per-second bypassing the Scotland Gaging Station:
 - (a) less than 80-cfs during any month of April,
 - (b) less than 70-cfs during any month of May,
 - (c) less than 50-cfs during any month of June, and
 - (d) less than 20-cfs during the remainder of the year.

and replaced with the following:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river's flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.

For those permits upstream of Huron, SD it was also proposed that the following qualifications be deleted:

- No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
- Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20-cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
- The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve supply.

and replaced with the following:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20-cfs of water is by-passing the Third Street Dam in Huron.
- Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This permit is subject to these prior water rights if or when the reserved water supply is developed.

These proposals were adopted by the Water Management Board at the May 1987 meeting.

2003 - Present

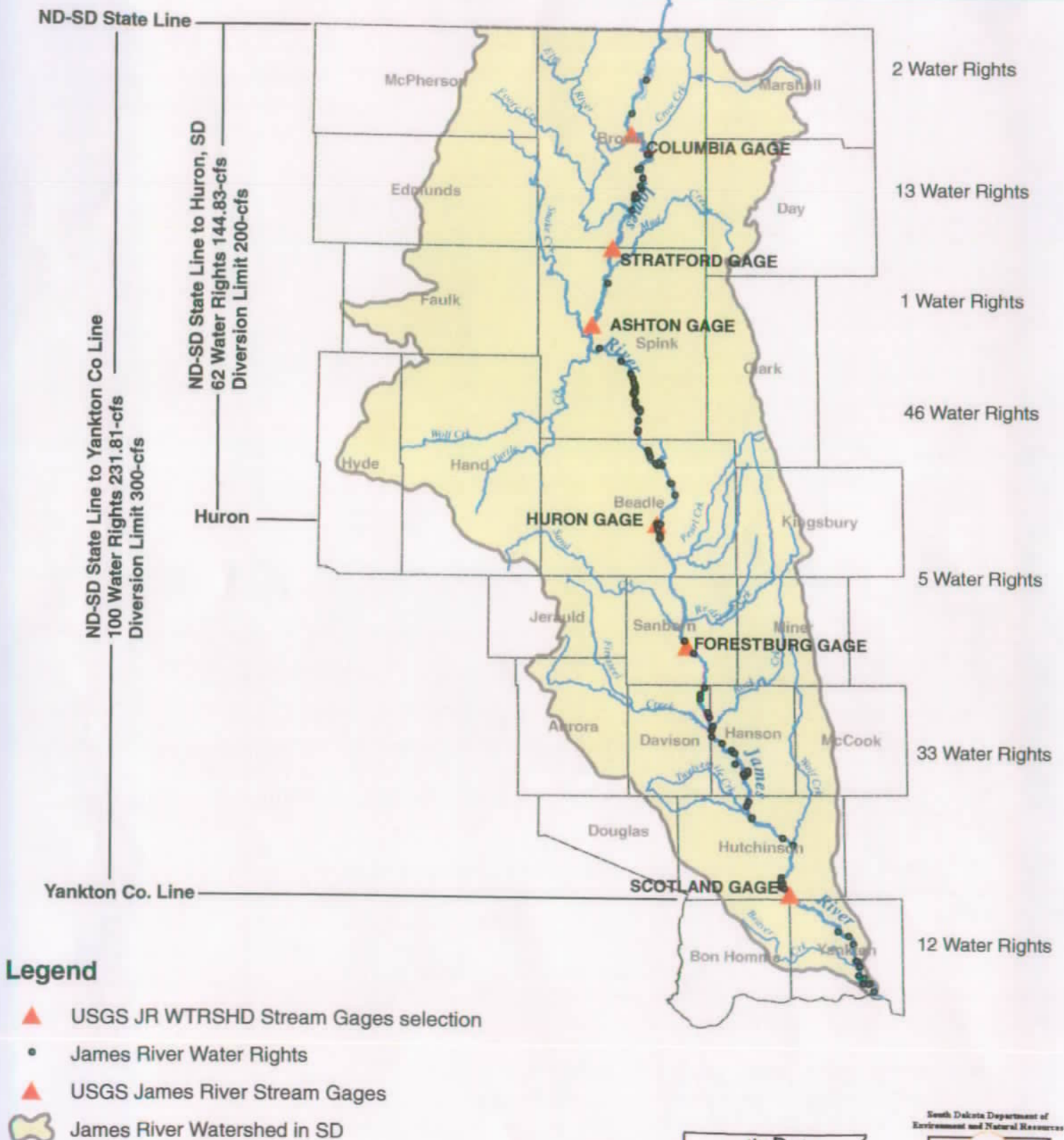
In 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews James River water rights for non use status and possible cancellation.

Presently there are eighty-six (86) water rights on the James River reach from the North Dakota (ND) border to the SD Hutchinson-Yankton county line with 231.81-cfs total diversions. These water rights are for direct diversion of water from the James River during the normal irrigation season. The James River reach from Huron, SD to the ND border presently has fifty-one (51) water rights with 144.83-cfs total diversions. The majority of these water rights are in Spink (25) and Beadle (16) Counties with 124.94-cfs total diversions. At this time there are no water rights in effect for direct diversion of water from the James River upstream of the James River Columbia, SD U.S Geological Survey (USGS) gaging station.

This leaves thirty-five water rights with 86.98-cfs direct diversion from the James River during the normal irrigation season on the stretch below Huron to the Hutchinson/Yankton County line. The majority of these water rights are in Davison (10) and Hutchinson (13) counties with 64.66-cfs total diversions.

Attachment 2 JAMES RIVER BASIN, SOUTH DAKOTA

Map showing James River Basin and water rights located between streamflow-gaging stations in South Dakota.
April 24, 2007



JAMES RIVER WATER RIGHTS BY GAGING STATION

WRTN ORD – Can't pump after the date without a "Written Order" from the Chief Engineer.

ABOVE HURON:

WR's above Columbia Gage: 2

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2	USE 3
US1-3	BN	1	10/16/1934	LC	0.000			FWP	DOM	REC
5516-3	BN	1	03/08/1991	LC	0.000	110 CFS AT DIV		FWP		
total					0.000					

WR's above Stratford Gage: 13

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
27-3	BN	2	03/31/1941	LC	0.500			FWP	REC
1817-3	BN	2	01/01/1935	LC	0.000	VR		REC	
5924-3	BN	2	04/03/1996	PE	0.000	FLOOD FLOWS		FWP	
1125-3	BN	2	08/19/1964	LC	1.980	20 CFS		IRR	
1491-3	BN	2	01/15/1968	LC	1.940	20 CFS		IRR	
6427-3	BN	2	06/26/2003	PE	6.000	20 CFS	WRTN ORD 7/1	FWP	
4066A-3	BN	2	09/03/1976	LC	0.680	20 CFS	WRTN ORD 8/10	IRR	
4066B-3	BN	2	09/03/1976	LC	0.650	20 CFS	WRTN ORD 8/10	IRR	
5925-3	BN	2	04/09/1996	LC	2.000	20 CFS	WRTN ORD 8/10	IRR	
5277-3	BN	2	01/25/1989	LC	2.300	20 CFS	WRTN ORD 8/10	IRR	
6081-3	BN	2	05/27/1998	PE	2.220	20 CFS	WRTN ORD 8/10	IRR	
2629-3	BN	2	11/17/1975	LC	1.440	20 CFS	WRTN ORD 8/10	IRR	
1841-3	BN	2	01/01/1935	LC	0.000	VR		REC	
total					19.710				

WR's above Ashton Gage: 1

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1
4071-3	SP	3	01/20/1977	LC	3.640	20 CFS	WRTN ORD 8/10	IRR
total					3.640			

ND to Ashton appropriated cfs = 23.35, 50% Irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 34.92.

WR's above Huron Gage: 46

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
1172-3	SP	4	03/08/1965	LC	1.500	20 CFS	WRTN ORD 8/10	IRR	
1421-3	SP	4	06/15/1967	LC	0.670	20 CFS	WRTN ORD 8/10	IRR	
2129-3	SP	4	10/10/1974	LC	1.690	20 CFS	WRTN ORD 8/10	IRR	
1943-3	SP	4	05/30/1972	LC	1.890	20 CFS	WRTN ORD 8/10	IRR	

PERMIT NO	CO	GAGE NO	PRIOR DATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
1735-3	SP	4	02/16/1970	LC	1.940	20 CFS	WRTN ORD 8/10	IRR	
6589A-3	SP	4	02/04/2005	PE	2.290	63 CFS	WRTN ORD 7/1	IRR	
6587-3	SP	4	11/04/1968	PE	1.910	20 CFS	WRTN ORD 8/10	IRR	
1733-3	SP	4	10/12/1967	LC	3.770	20 CFS	WRTN ORD 8/10	IRR	
6400-3	SP	4	02/10/2003	PE	6.860	63 CFS	WRTN ORD 7/1	IRR	
6590-3	SP	4	02/04/2005	PE	1.560	63 CFS	WRTN ORD 7/1	IRR	
1734-3	SP	4	11/04/1968	LC	3.750	20 CFS	WRTN ORD 8/10	IRR	
6589B-3	SP	4	02/04/2005	PE	2.290	63 CFS	WRTN ORD 7/1	IRR	
1450-3	SP	4	10/12/1967	LC	4.440	20 CFS	WRTN ORD 8/10	IRR	
6588-3	SP	4	02/04/2005	PE	0.000	63 CFS	WRTN ORD 7/1	IRR	
1538-3	SP	4	03/19/1968	LC	4.000	20 CFS	WRTN ORD 8/10	IRR	
2396-3	SP	4	10/10/1975	LC	1.880	20 CFS	WRTN ORD 8/10	IRR	
5737-3	SP	4	12/17/1992	PE	1.880	63 CFS	WRTN ORD 6/30	IRR	
6375-3	SP	4	01/02/2003	PE	5.350	63 CFS	WRTN ORD 7/1	IRR	
6738-3	SP	4	07/05/2006	PE	2.890	63 CFS	WRTN ORD 7/1	IRR	
2386-3	SP	4	09/24/1975	LC	1.280	20 CFS	WRTN ORD 8/10	IRR	
6398-3	SP	4	02/24/2003	PE	0.610	63 CFS	WRTN ORD 7/1	IRR	
1979-3	SP	4	03/27/1973	LC	3.760	20 CFS	WRTN ORD 8/10	IRR	
6182-3	SP	4	02/22/2000	LC	7.030	63 CFS	WRTN ORD 6/30	IRR	
6183-3	SP	4	02/22/2000	LC	7.830	63 CFS	WRTN ORD 6/30	IRR	
616-3	SP	4	06/06/1959	LC	1.140			IRR	
1027-3	BD	4	01/01/1936	LC	0.000	20 CFS		MUN	
6505-3	BD	4	04/26/2004	PE	1.560	63 CFS	WRTN ORD 7/1	IRR	
6613-3	BD	4	03/31/2005	PE	6.680	63 CFS	WRTN ORD 7/1	IRR	
6614-3	BD	4	03/31/2005	PE	1.890	63 CFS	WRTN ORD 7/1	IRR	
6614A-3	BD	4	03/31/2005	PE	0.000	63 CFS	WRTN ORD 7/1	IRR	
5651-3	BD	4	04/01/1947	LC	0.180	20 CFS	WRTN ORD 8/10	IRR	
2387-3	BD	4	12/12/1966	LC	3.500	20 CFS	WRTN ORD 8/10	IRR	
2390A-3	BD	4	09/26/1975	PE	1.890	20 CFS	WRTN ORD 8/10	IRR	
2390-3	BD	4	09/26/1975	LC	1.890	20 CFS	WRTN ORD 8/10	IRR	
5027-3	BD	4	06/14/1984	LC	12.000	60 CFS	WRTN ORD 6/30	REC	MUN
1276-3	BD	4	01/01/1949	LC	2.220	VR		IRR	
4866-3	BD	4	01/01/1949	LC	1.560	20 CFS	WRTN ORD 8/10	IRR	
2643-3	BD	4	02/06/1976	LC	1.620	20 CFS	WRTN ORD 8/10	IRR	
5321-3	BD	4	04/27/1989	LC	0.030	20 CFS	WRTN ORD 8/10	COM	
2049-3	BD	4	02/13/1974	LC	2.000	20 CFS	APRIL MAY JUNE	MUN	REC
9-3A	BD	4	03/31/1950	LC	5.000			MUN	
9-3	BD	4	04/22/1914	LC	5.000			MUN	

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
37A-3	BD	4	11/04/1942	PE	0.000	20 CFS		MUN	
37-3	BD	4	11/04/1942	LC	2.250			IND	
755-3	BD	4	12/23/1960	LC	0.000	2-15 CFS		MUN	
1022-3	BD	4	01/01/1936	LC	0.000	VR		MUN	
total					121.480				

Ashton to Huron appropriated cfs = 121.48, 50 % irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 93.88.

BELOW HURON:

WR's above Forestburg Gage: 5

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1
550-3	BD	5	09/10/1958	LC	0.600	20 CFS		IRR
559-3A	BD	5	12/03/1958	LC	2.010	15 CFS		IRR
US552-3	BD	5	04/25/1946	LC	0.000			IRR
5385-3	BD	5	01/01/1955	LC	1.360		WRTN ORD 8/10	IRR
5357-3	SA	5	01/01/1936	LC	0.000			REC
total					3.97			

WR's above Scotland Gage: 33

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL2	FL QUAL WRTN ORD	USE 1
5500-3	SA	6	03/06/1991	LC	0.250			WRTN ORD 8/10	IRR
1422-3	DN	6	01/02/1968	LC	2.000			WRTN ORD 8/10	IRR
305-3	DN	6	09/22/1956	LC	0.890				IRR
1917-3	DN	6	12/22/1971	LC	1.740			WRTN ORD 8/10	IRR
5207-3	DN	6	04/20/1957	LC	5.580				IRR
5022-3	DN	6	06/19/1984	LC	2.900	20 CFS PST DIV	110 CFS PST DIV		IRR
4354-3	DN	6	04/06/1978	LC	29.000	20 CFS PST DIV	110 CFS PST DIV		RWS
690-3	DN	6	03/02/1960	LC	0.860	15 CFS PST DIV			MUN
699B-3	DN	6	03/02/1960	LC	1.630	15 CFS PST DIV			IRR
280-3	DN	6	01/01/1955	LC	0.890				IRR
1693A-3	DN	7	08/04/1969	PE	1.330				IRR
5121-3	HS	7	01/28/1987	LC	0.880			WRTN ORD 8/10	IRR
1900-3	HS	7	09/16/1971	LC	1.550			WRTN ORD 8/10	IND
436-3	HS	7	04/05/1945	LC	1.050			WRTN ORD 8/10	IRR
4656-3	HS	7	09/16/1971	LC	5.820			WRTN ORD 8/10	IRR
608-3	HS	7	05/05/1959	LC	0.380	25 CFS PST DIV			IRR
1902-3	HS	7	09/16/1971	LC	4.750			WRTN ORD 8/10	IRR
4717A-3	HS	7	09/16/1971	LC	1.670			WRTN ORD 8/10	IRR
2411-3	HS	7	10/20/1975	LC	2.000			WRTN ORD 8/10	IRR
607-3	HT	7	05/05/1959	LC	0.660	25 CFS PST DIV			IRR
6534-3	HT	7	08/17/2004	PE	2.780			WRTN ORD 7/15	IRR
6125-3	HT	7	02/01/1999	PE	1.560			WRTN ORD 8/10	IRR

PERMIT NO	CO	GAGE NO	PRIOR DATE	STATUS	CUR CFS	FL QUAL1	FL QUAL2	FL QUAL WRTN ORD	USE 1
5970-3	HT	7	12/13/1996	LC	1.440			WRTN ORD 8/10	IRR
4072-3	HT	7	01/24/1977	LC	0.480			WRTN ORD 8/10	IRR
2385-3	HT	7	09/23/1975	LC	1.300			WRTN ORD 8/10	IRR
6131-3	HT	7	03/22/1999	LC	0.770			WRTN ORD 8/10	IRR
5392A-3	HT	7	03/01/1990	LC	1.340			WRTN ORD 8/10	IRR
6506-3	HT	7	04/26/2004	PE	0.000			WRTN ORD 8/10	IRR
5391-3	HT	7	03/01/1990	LC	2.610			WRTN ORD 8/10	IRR
6132-3	HT	7	03/22/1999	LC	0.850			WRTN ORD 8/10	IRR
6082-3	HT	7	06/02/1998	PE	0.570			WRTN ORD 8/10	IRR
2631A-3	HT	7	11/25/1975	LC	1.700			WRTN ORD 8/10	IRR
6083-3	HT	7	06/02/1998	PE	1.780			WRTN ORD 8/10	IRR
total					83.01				

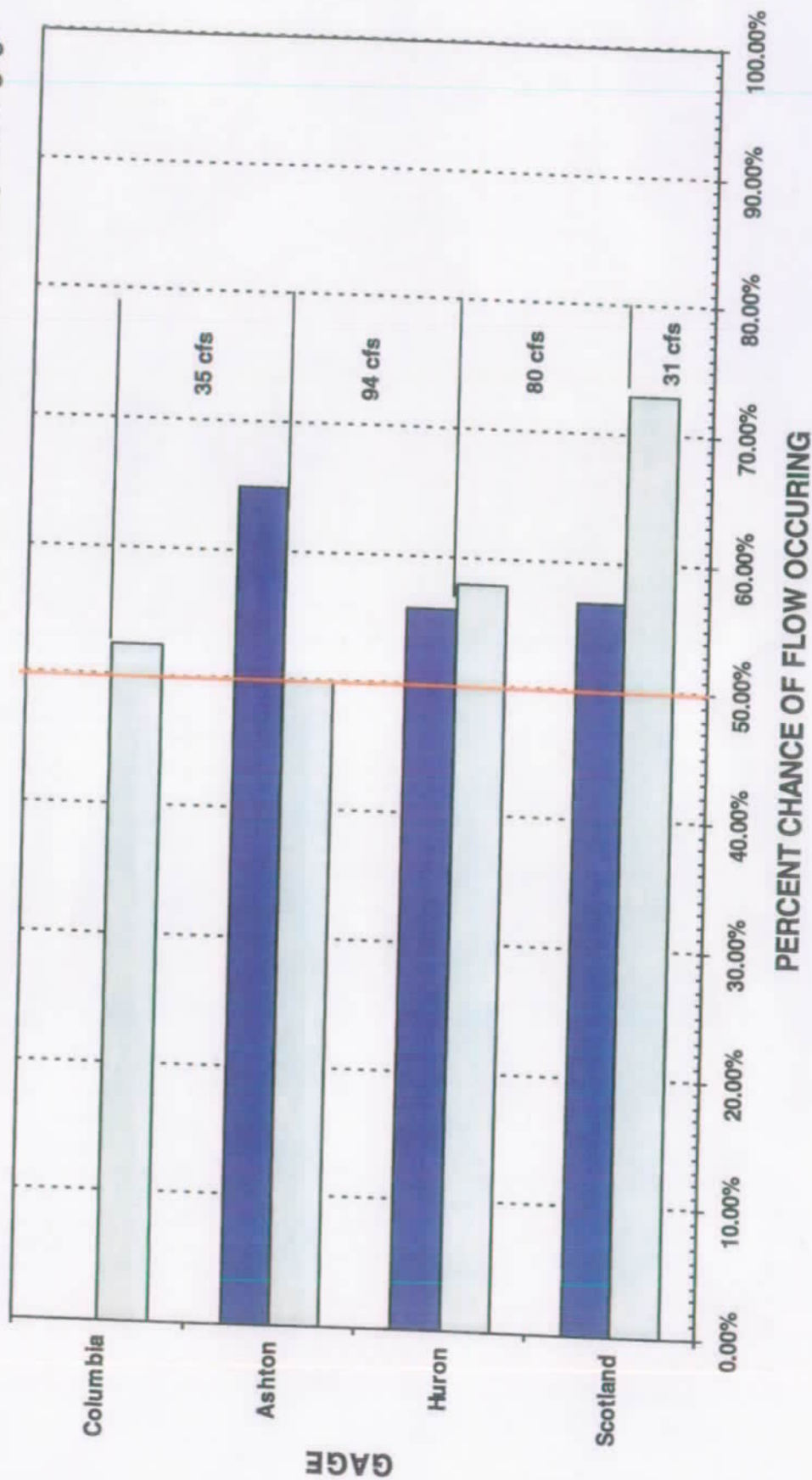
Huron to Scotland appropriated cfs = 86.98, 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 79.88.

% CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10TH

Cfs values are at 50% irrigation pumping and 100% other use diversion at current appropriation plus 20 cfs domestic.

■ % chance to satisfy above gage

□ % chance to satisfy below gage

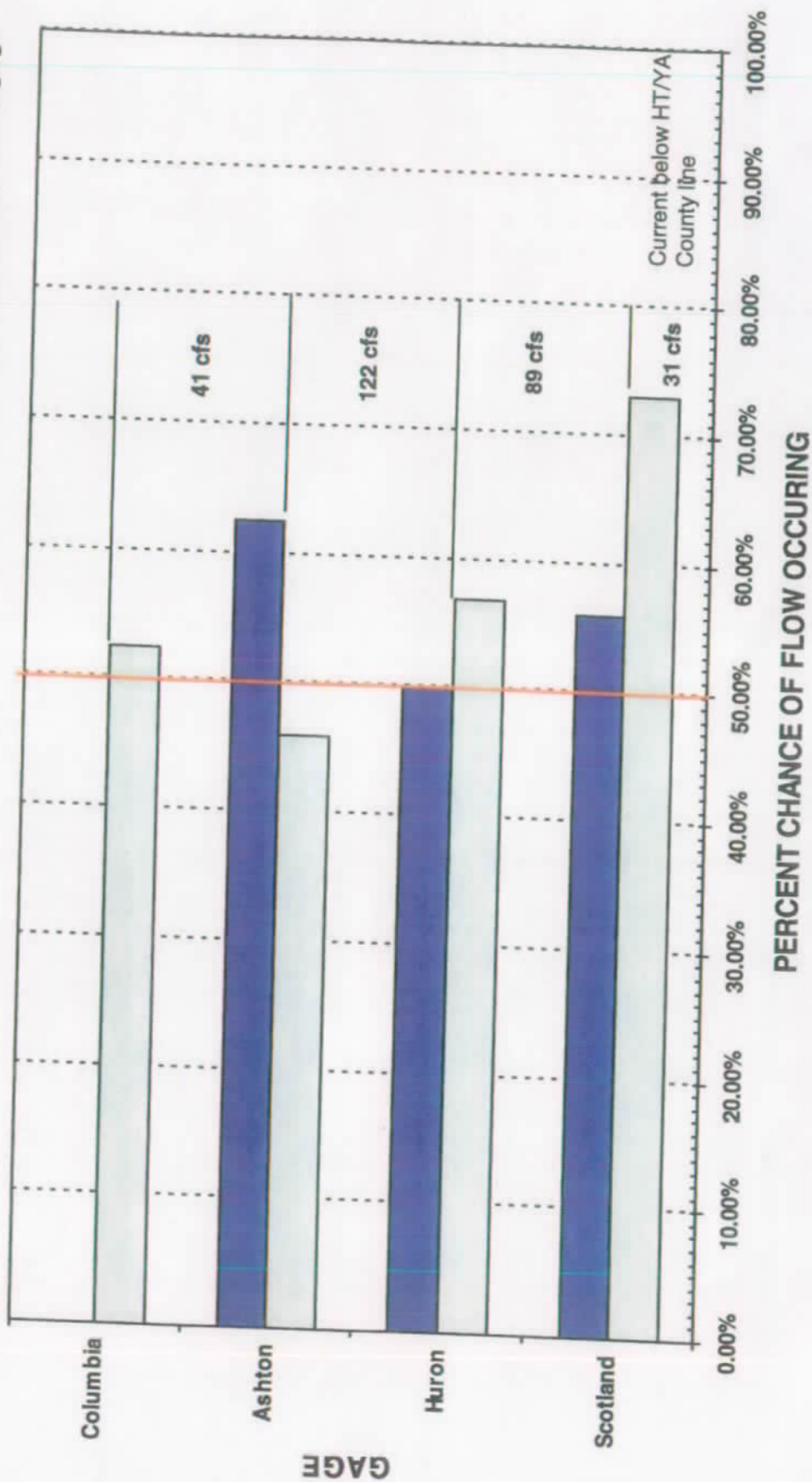


% CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10TH

Cfs values are at 50% irrigation pumping and 100% other use diversion when fully appropriated plus 20 cfs domestic.

■ % chance to satisfy above gage

□ % chance to satisfy below gage



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 21, 2007

NOTICE

TO: JERRY KLEINSASSER
GLENDALE COLONY
17866 GLENDALE DR
FRANKFORT SD 57440

FROM: Garland Erbele, Chief Engineer
Water Rights Program, DENR

SUBJECT: Amendment to Qualifications on Water Right Nos. 1734-3, 1735-3 and 1943-3
and Water Permit Nos. 6588-3, 6589A-3, 6589B-3 & 6590-3

On May 9th, the Water Management Board amended qualifications to Water Right Nos. 1734-3, 1735-3 and 1943-3 and Water Permit Nos. 6588-3, 6589A-3, 6589B-3, & 6590-3. This action was taken as set forth in notice sent to you on April 11, 2007 and published in James River basin newspapers and the staff report mailed to you on April 25, 2007.

Attached is a listing of the qualifications as amended and the deleted qualification which reflects the Board's action to your water permits. Please file these attachments with your water right records. All other qualifications listed on your water permits were not changed by the Board's action and remain in effect. For example, submittal of the annual irrigation questionnaire continues to be a qualification of your water permit.

If you have any questions about the Board's action or the amendment, please contact Lynn Beck at 605 773-3352.

Enclosure

Attachment to Water Right No. 1943-3

Amended Qualifications set by the Water Management Board on May 9, 2007

Qualification as amended to Water Right No. 1943-3

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, 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.
- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Deletion to qualification on Water Right No. 1943-3

Deleted reference to water needing to by-pass the James River Dam north of Huron

CERTIFICATION

I hereby certify that on May 21, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 21, 2007 regarding Amendment to James River Qualifications addressed as stated below:

Marke Grasse, 38313 131st St, Aberdeen SD 57401
 Ron Wheeler, Lake Byron Watershed, PO Box 1363, Huron SD 57350
 Floyd Peterson, 18892 390th Ave Hitchcock SD 57348
 Reed Bixler, Bixler Farms, 39477 184th St, Hitchcock SD 57348
 Ruben Endander, 18239 398th Ave, Frankfort SD 57440
 Lyle Arden Bendenagel, 39586 176th St, Frankfort SD 57440
 Arne Svarstad, 13797 392nd Ave, Aberdeen SD 57401
 Alfred Locken, 39643 137th St, Bath SD 57427
 Jon & Loren Locken, 13755 396th Ave, Bath SD 57427
 Keith Kettering, 39064 156th St, Mellette, SD 57461
 Roger Locken, Locken Ag, 39643 137th St, bath SD 57427
 Orrin Roth, 26752 421st Ave, Parkston SD 57366
 Loren Roth, 42051 262nd St, Alexandria SD 57311
 Don Barber, 41321 Hwy 38, Mitchel SD 57301
 Mary K Puetz, 910 Firesteel Dr, Mitchell SD 57301
 Russ Werning, 1543 Parkview Dr, Watertown SD 57201
 Harvey Wollman, 40004 184th St, Frankfort SD 57440
 John Wipf, Spink Colony, 18206 Spink Ln, Frankfort SD 57440
 Jerry Kleinsasser, Glendale Colony, 17866 Glendale Dr, Frankfort SD 57440
 Sam Waldner, Huron Colony, 40068 Huron Colony Ln, Huron SD 57350

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building

Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA))
COUNTY OF HUGHES)) SS

Sworn to, before me, this 21st day of May, 2007.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2013



1943-3
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

JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 1450-3, 1733-3, 1734-3, 1735-3, 1943-3, 6587-3, 6588-3, 6589A-3,
6589B-3, 6590-3

To: GLENDALE HTRN BRTH
17866 GLENDALE DR
FRANKFORT SD 57440

From: Garland Erbele, Chief Engineer
Water Rights Program, DENR
(605) 773-3352

Subject: James River Qualification Reminder for Permit No(s). 1450-3, 1733-3, 1734-3,
1735-3, 1943-3, 6587-3, 6588-3, 6589A-3, 6589B-3, 6590-3

Qualifications on your water right indicate that you are not authorized to divert James River water after August 10th. Please, consider this a reminder and cease diversion if you have not already done so. No diversion can take place after August 10th unless under written orders by the Chief Engineer. You may resume diversion on the date stated in the qualifications on your water right.

July 10, 2015

Chief Engineer
Water Rights Program, DENR
523 E Capitol Avenue
Pierre SD 57501

Dear Chief Engineer

I am now the President of Glendale Hutterian Brethren. Please put my name down as the contact person for all of Glendale's water rights/permits.

A handwritten signature in cursive script, appearing to read "John Kleinsasser".

John Kleinsasser
Glendale Colony