

WATER PERMIT NO. 2049A-3

Name of Applicant: City of Huron

Address: PO Box 1369, Huron SD 57350

Phone: 605 353-8533

Amount of Water Claimed: no additional

Total Acres: NA

Source of Water Supply: James River

Water to be used for: municipal & recreation

County: Beadle

Type of Waste Disposal System:

Location: East side of Huron

PRIORITY Date Received: 10-4-21

Application/License Fee: \$ 300

Corrected Application Received:

Period of Annual Use: April - October

Remarks: Change period of use

Diversion Point: SW 1/4 NE 1/4 Sec 6-T110N-
R61W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

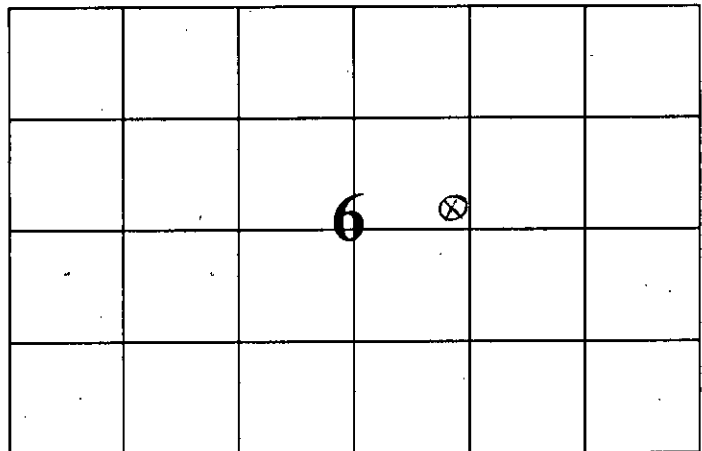
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 10-4-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED

OCT - 4 2021

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2049A-3</u>	(office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James R.</u>	
	Newspaper <u>Plainsman</u>	

Application For Permit To Appropriate Water Within The State Of South Dakota**Check use(s) of water:**

☒ Municipal	☐ Water Distribution System	☒ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other _____	

Type of Application:
(check one)

☐ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☒ Amendment/Correction to Permit No. <u>2049-3</u>		

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

To change the annual period for which water is to be used.

- Name to Appear on Water Permit Parks and Recreation, City of Huron
Mailing Address P.O. Box 1369 Huron SD 57350
(Address) (City) (State) (Zip Code)
Phone 605-353-8533 Mobile 605-354-2696 Email hprd.director@huronsd.com
- Amount of water claimed No additional *CFS or **GPM and ***AF or Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use)
- Source of water supply James River (SW 1/4 NE 1/4)
- Location of point of diversion pump in N.E. 1/4 Section 6-T110N-R61W County Beadle
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No
If "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)
- County or counties where water will be used Beadle County
- Annual period during which water is to be used April, May, June, July, August, September, October
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The Amendment is being filed to increase the opportunities of using water for the purposes of this current water right. Currently we can pump water April, May and June. This amendment would allow us to extend our options through October.

I, Chad Schroder Parks and Recreation Director, the applicant, certify under
Name of Person Title (if applicable)
penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**SOUTH DAKOTA
WATER PERMIT NO. 2049A-3**

Date of first receipt of application is October 4, 2021.

The Water Management Board approved Water Permit No. 2049A-3 on March 2, 2022 for City of Huron, Parks and Recreation, PO Box 1369, Huron SD 57350 authorizing the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2049A-3 amends Water Right No. 2049-3. Water Right No. 2049-3 authorizes 2.0 cubic feet of water per second from the James River located in the SW 1/4 NE 1/4 Section 6-T110N-R61W for the municipal and recreation use of storing water in Ravine Lake. This permit authorizes changing the period of annual use from April 1 through June 30 to April 1 through October 31. Water Right No. 2049-3 and Water Permit No. 2049A-3 will authorize a combined total annual diversion of 361 acre-feet of water from the James River. No additional water appropriation is authorized by this permit. This site is located on the east side of Huron SD.
2. The water appropriated shall be used for the purpose of municipal and recreation use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: April 1 – October 31.
4. The date from which applicant may claim right is October 4, 2021 (July 1 – October 31).
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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 issued by the Chief Engineer.
2. Diversions under this permit during the period from July 1 through October 31 are subject to existing water rights with priority dates predating October 4, 2021, and any written orders issued by the Chief Engineer.
3. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron SD, after pumping.
4. Approval of this Permit does not increase the additional storage of 90 acre-feet annually in Ravine Lake authorized by Water Right No. 2049-3.
5. Water Right No. 2049-3 and Water Permit No. 2049A-3 authorize a, combined, total annual diversion of 361 acre feet of water from the James River.
6. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the James River.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

APR 28 2022
date



**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2049A-3**

(1) The City of Huron, Parks & Recreation, PO Box 1369, Huron SD 57350 made Application No. 2049A-3, October 4, 2021, for a water permit to amend Water Right No. 2049-3 by increasing the period of annual use. No. 2049A-3 did not authorize additional diversion rate from the James River or any additional storage in Ravine Lake. The project is located in Beadle County, South Dakota with water used for municipal and recreational purposes. Permit No. 2049A-3, with a priority date of October 4, 2021, was approved March 2, 2022, and issued to the applicant for diversion of water with construction of the water supply system and the application of water to beneficial completed.

Water Right No. 2049-3, with a priority of February 13, 1974, authorizes diversion of 2.0 cubic feet of water per second from the James River and storage of 90 acre feet of water in Ravine Lake during the months of April, May, and June.

The applicable portions of Water Right No. 2049-3 have been incorporated into this Water License No. 2049A-3. A priority date of February 13, 1974 is retained for use of water during April, May, and June. A priority date of October 4, 2021 is retained for use of water during July, August, September, and October.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 2.00 cubic feet of water per second, with an annual volume of 361 acre feet of water from the James River for the municipal and recreational use of storing water in Ravine Lake beneficial use. The location of the diversion point is:

- 2,900'N and 1,350'W of the SE corner of Section 6, T110N, R61W (SW $\frac{1}{4}$ NE $\frac{1}{4}$)

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Huron, Parks & Recreation, PO Box 1369, Huron SD 57350 the holder and/or owner of Incorporated Water Right No. 2049A-3 is issued a license to appropriate water, the right to use 2.0 cubic feet of water per second from the James River with priority dates of February 13, 1974 (April-June) and October 4, 2021 (July-October) from the location specified in (2) of this license for municipal and recreational purposes.

This license is subject to South Dakota Water Law including any limitations or conditions listed in Water Right No. 2049A-3 and subject to the following qualifications:

- This water right 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 water right during the period from July 1 through October 31 are subject to existing water rights with priority dates predating October 4, 2021, and any written orders issued by the Chief Engineer.

continued

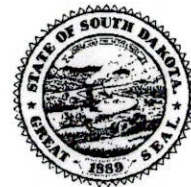
- This water right does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron SD, after pumping.
- Approval of No. 2049A-3 does not increase the additional storage of 90 acre-feet annually in Ravine Lake authorized by Water Right No. 2049-3.
- Water Right Nos. 2049-3 and 2049A-3 authorize a combined total annual diversion of 361 acre feet of water from the James River.
- The water right holder shall report to the Chief Engineer annually the amount of water withdrawn from the James River.

Eric Gronlund

APR 28 2022

Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

date



Permit #: 2049-3

Legend

 Diversion Point

 **Diversion Point**

James River

Jersey Ave NE

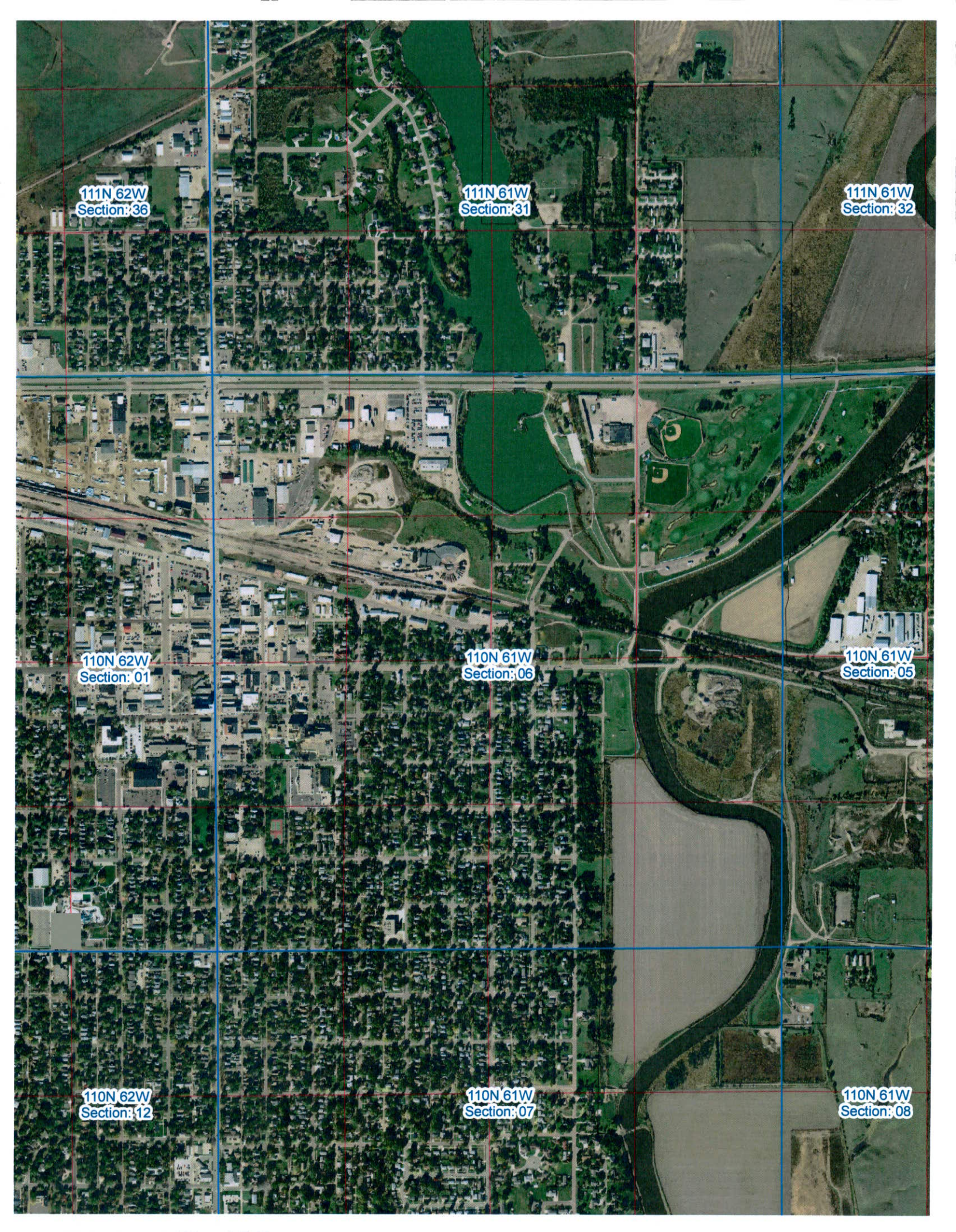
Waibel Dr

Google Earth

© 2021 Google



200 ft



This is an aerial photograph of a township grid, overlaid with a red section line grid. The grid covers a rectangular area. A prominent river flows from the top right towards the bottom right, curving slightly. In the center, there is a large green area that appears to be a golf course, with several distinct green fairways and sand traps. To the left of the golf course, there are several large, light-colored buildings, possibly industrial or commercial. The surrounding areas are a mix of residential housing, fields, and some wooded areas. The labels for the sections are placed in the top-left corner of each section's grid cell.

111N 62W
Section: 36

111N 61W
Section: 31

111N 61W
Section: 32

110N 62W
Section: 01

110N 61W
Section: 06

110N 61W
Section: 05

110N 62W
Section: 12

110N 61W
Section: 07

110N 61W
Section: 08

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date September 28, 2021

RECEIVED OF City of Huron/Parks & Recreation PO Box 1369 Huron SD 57350-1369

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

Fee for Application for Permit No. <u>2049A-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$100.00
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2049A-3</u>	\$200.00
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$300.00

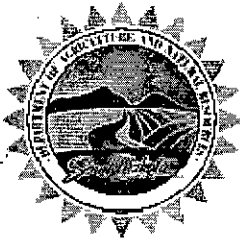
By Eric Groeland
Chief Engineer
VM

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, January 18, 2022 8:28 AM
To: hprd.director@huronsd.com
Subject: Water Permit Application No. 2049A-3, City of Huron, Parks & Recreation
Attachments: 2404.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2049A-3, City of Huron, Parks and Recreation**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2049A-3, City of Huron, Parks and Recreation, PO Box 1369, Huron SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 2049A-3 because 1) the amendment of Water Right No. 2049-3 as qualified does not unlawfully impair existing rights, 2) is for a beneficial use and 3) is in the public interest with the following qualifications:

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 issued by the Chief Engineer.
2. Diversions under this permit during the period from July 1 through October 31 are subject to existing water rights with priority dates predating October 4, 2021, and any written orders issued by the Chief Engineer.
3. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron SD, after pumping.
4. Approval of this Permit does not increase the additional storage of 90 acre-feet annually in Ravine Lake authorized by Water Right No. 2049-3.
5. Water Right No. 2049-3 and Water Permit No. 2049A-3 authorize a, combined, total annual diversion of 361 acre feet of water from the James River.
6. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the James River.

See report on application for additional information.

Eric Gronlund

Eric Gronlund, Chief Engineer
November 30, 2021

REPORT ON WATER PERMIT APPLICATION NO. 2049A-3

City of Huron

November 10, 2021

Application No. 2049A-3 proposes to amend Water Right No. 2049-3. Water Right No. 2049-3 authorizes 2.0 cubic feet of water per second (cfs) from the James River located in the SW 1/4 NE 1/4 Section 6-T110N-R61W for municipal and recreation use. In addition, Water Right No. 2049-3 authorizes an additional storage of 90 acre feet of water annually in Ravine Lake by installation of splash boards to raise the level of Ravine lake one foot. This application requests to change the period of annual use from April 1 through June 30 to April 1 through October 31. No additional water appropriation is authorized by this application. This site is located in Beadle County on the east side of Huron SD.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application including amendment to an existing permit or license. SDCL 46-2A-12 provides that amendment of an existing permit or license may be granted for a change in use, a change in point of diversion or other change only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest. Further, SDCL 46-5-30.4 provides further guidance that subject to the limitations in SDCL 46-5-33 and 46-5-34 governing changes in irrigation rights from one parcel of land to another, any water permit or right holder may apply for a change of use of the water, a change of location of the use or other amendment to the permit or right. Permits or rights may be amended pursuant to the procedure contained in chapter 46-2A. Priority shall be retained upon amendment. An amendment of a water permit or right may not increase the rate of diversion or increase the volume of water to be appropriated under the original water permit or right. The amendment may not impair existing rights.

This report analyzes available information to determine whether the amendment may unlawfully impair existing rights in order for the Chief Engineer to make an official recommendation to the Water Management Board.

Review of the Proposed Project

The applicant holds Water Right No. 2049-3 to divert James River water at a rate of 2.0 cfs during the annual use period April through June and additional storage capacity of 90 acre-feet in Ravine Lake located in the city of Huron. The maximum volume of water diverted by pumping water continuously at a rate of 2.0 cfs from April through June equates to 361 acre-feet of water annually. This application requests to amend the permit to allow the annual period of use to be extended by changing the time period to April through October. The application does not

request any increase in the maximum, annual volume of water that could be diverted under Water Right No. 2049-3.

Review of the Proposed Water Source

Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation, the James River experiences extremely low flows and cannot be considered a reliable source of water.

The United States Geological Survey (USGS) operates a streamflow gaging station network in South Dakota. The USGS collects realtime stream flow data and retains a historical record of the flow data for each of these stations (USGS, 2021). Water Rights staff uses this flow data to help regulate water usage during dry periods and for performing flow analyses in determining the likelihood of water availability at a particular location. The USGS provides an online statistical package to help analyze the flow data.

Two of the measures considered are Mean, often referred to as average, and Median, otherwise referred to as 50th percentile, are statistical terms having a similar role in understanding the central tendency of a set of statistical results. Mean, often used to describe the middle value of a dataset, is calculated by determining the sum of the entries composing the dataset and then dividing that sum by the total number of entries in the dataset. Median, is the central value separating the higher half of values in a dataset from the lower half. The disadvantage of using mean to describe flow is the mean value can be significantly affected by any single value in the data set being very high or very low compared to the rest of the data values. In the analysis of long-term flow data, large flood event data values skew the calculated mean value giving an unreasonable expectation of a higher flow value over a period of time.

The USGS operates stream flow gaging station No. 06476000, on the James River at Huron, SD (USGS, 2021). Figure 1 shows plots of historical percentile data from 1943 to 2020 for this stream flow gage. Looking at the requested period of use at the 50th percentile, with flows at or below this level on average one out of two years, the median daily flow values range from over 650 cfs throughout May before steadily dropping to a low of 60 cfs by mid-August. During the period of proposed use at the 25th percentile level, with flow is at this level or below on average one out of four years, the median daily flow values range between 210 cfs in May before dropping below 20 cfs by mid to late August. During the period of proposed use at the 10th percentile level, with flow is at this level or below on average one out of ten years, the median daily flow values range between 40 cfs in May before near zero cfs by mid-July. Based upon the historical stream gaging data, there will be times when shutoff orders will need to be issued for this reach of the James River.

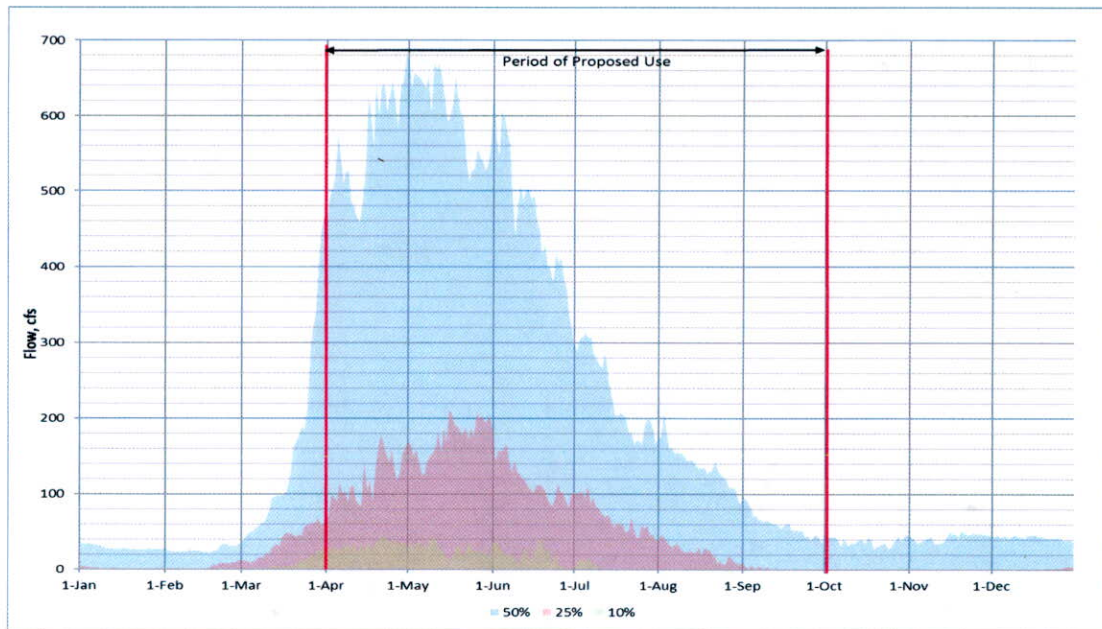


Figure 1. Daily percentile flow hydrograph for the USGS gaging station No. 06476000, 1943-2020, on the James River at Huron, SD, contributing drainage area 13,795 mi², (USGS, 2021).

Review of the James River Water Management Regulation

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed maximum appropriation limits over sections of the James River in South Dakota. A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2021). Of this restriction, a 200 cfs appropriation limit restriction was placed from the North Dakota border to the USGS gaging station in Huron, SD. The SD Water Management Board has adopted these appropriation limits.

In 2007, the SD Water Management Board adopted standardized qualifications and amended the existing water rights/permits for current and future James River water rights/permits (Water Rights. 2012). In order to address times when water availability is scarce from the James River, the Water Management Board has placed the following qualifications on James River permits with diversions located between the Ashton and Huron gaging stations:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year 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 bypassing the USGS gaging station at Huron, SD, after pumping.

Although the original Water Right No. 2049-3 does not contain either of these qualifications, this requested extension of the annual period of use may have the potential of adversely affecting existing rights' ability to divert water during dry periods. If this application is approved, the water permit should contain these same qualifications.

Review of Existing Water Rights/Permits

Currently there are 74 water rights/permits and one future use permit appropriating or reserving 194.58 cfs of the 200 cfs appropriation limit between North Dakota border and the USGS gaging station at Huron, SD, and there are 120 water rights/permits and one future use permit appropriating or reserving 297.71 cfs of the 300 cfs appropriation limit between the North Dakota border and the Yankton-Hutchinson County Line. At the time this report was written there is 2.29 cfs available from the James River for appropriation (Water Rights. 2021).

There is Future Use Permit No. US594-3 bearing a priority date of November 7, 1963, held by the US Bureau of Reclamation for the reservation of 500 cfs from the James River and other sources. The majority of the water reserved by this permit and attributed to the James River would have come from runoff created by the defunded and non-constructed Oahe Project with the water being diverted at the James River pumping plant. Originally the reservation of water was by Future Use Permit No. 1067-3 held by the Oahe Conservancy Sub-District but was transferred to the Bureau of Reclamation under Future Use Permit No. US594-3 in 1974. The remainder of Future Use Permit No. 1067-3 was cancelled by the Water Management Board in 2012. The status of this future use permit should be reviewed since the source of the majority of the water reserved was to be from a federal irrigation project that was never constructed and has been defunded (Water Rights. 2021).

Water Right No. 2049-3 is qualified to allow diversion of James River water during the months of April, May and June when there are flows in excess of those needed for downstream domestic use, including, livestock watering and prior water rights use. This application seeks to extend the period when diversion may occur to include July, August, September and October of each calendar year. However, as set forth above, many water rights issued since Water Right No. 2049-3 was obtained in 1974 are qualified requiring cessation of pumping after August 10th and a requirement that there be a 20 cfs of flow at a downstream US Geological Survey gaging station (Water Rights. 2021). Under certain low flow conditions allowing pumping after July 1st as requested by Application No. 2049A-3 may cause the 20 cfs bypass threshold to be reached which may impair existing rights. Therefore, qualifications should be considered to include the standard August 10th shutoff qualification, a 20 cfs flow at the USGS gaging station at Huron and a special qualification that diversions after June 30th are subject to existing water rights with priority dates predating October 4, 2021 (date of filing of Application No. 2049A-3) to ensure there is not an unlawful impairment of existing rights.

Discussion

The applicant is proposing to extend the period of use from April 1 through June 30 to April 1 through October 31. Since this is not a request for a new appropriation, the current appropriation under Water Right No. 2049-3, which would be amended, is already accounted for within the Water Management Board's James River 300 cfs appropriation limit restriction for the river reach between the North Dakota border to the Yankton-Hutchinson County Line and a 200 cfs appropriation limit restriction for the North Dakota border to the USGS gaging station in Huron, SD. Also, if this application is approved, the permit should be qualified with a 20 cfs bypass at the stream gage in Huron, the August 10th shutoff qualification, being subject to existing water rights predating October 4, 2021, and an annual volume limit of 361 acre feet of water from the James River.

Conclusions

1. The applicant proposes to amend Water Right No. 2049-3 to extend the period of use from April 1 through June 30 to April 1 through October 31.
2. The request to amend the annual period of use Water Right No. 2049-2 will not change the current appropriation 2.0 cfs and is already accounted for within the Water Management Board's James River appropriation limit restrictions for the James River.
3. If approved the permit should contain the following qualifications:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year 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 bypassing the USGS gaging station at Huron, SD, after pumping.
 - Diversions under Permit No. 2049A-3 during the period from July 1 through October 31 are subject to existing water rights with priority dates predating October 4, 2021, and any written orders issued by the Chief Engineer.
 - Water Right No. 2049-3 and Water Permit No. 2049A-3 authorize a, combined, total annual diversion of 361 acre feet of water from the James River.



Mark D. Rath

Natural Resources Engineer III

References

1. USGS. 2021. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2021. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

Legal Notice Number: 1198

I, Kim Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: WATER RIGHTS NO. 2049-3, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on - 1/21/22. That the full amount of the fee charged for the publishing \$ 77.46 insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.



Subscribed and sworn to me before this date 1/21/22.



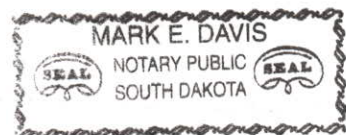
Notary Public, South Dakota

My Term Expires 12/27/24

RECEIVED

JAN 25 2022

WATER RIGHTS
PROGRAM



2000 - Legals

F. P. 01-21-22

NOTICE OF HEARING on Application

No. 2049A-3 to Amend Water Right No. 2049-3

Notice is given that the City of Huron, Parks and Recreation, c/o Chad Schroder, Director, PO Box 1369, Huron SD 57350 has filed an application to amend Water Right No. 2049-3. Water Right No. 2049-3 authorizes 2.0 cubic feet of water per second from the James River located in the SW 1/4 NE 1/4 Section 6-T110N-R61W for the municipal and recreation use of storing water in Ravine Lake. This application requests to change the period of annual use from April 1 through June 30 to April 1 through October 31. Water Right No. 2049-3 and Water Permit No. 2049A-3 will authorize a combined total annual diversion of 361 acre-feet of water from the James River. No additional water appropriation is authorized by this application. This site is located on the east side of Huron SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of

public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2049A-3 as qualified by the Chief Engineer's recommendation because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 am on March 2, 2022 in the Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the

2000 - Legals

regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by January 31, 2022.

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

The March 2, 2022

2000 - Legals

hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by January 31, 2022. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by January 31, 2022.

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

Under SDCL 1-26-17(7) notices must state that "if the amount in controver-

2000 - Legals

sy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is January 31, 2022. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

No. 1198 (adv.)
Published once at an approximate cost of \$77.46.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, January 18, 2022 8:25 AM
To: 'rcrandall@plainsman.com'
Subject: 2049A-3, City of Huron
Attachments: 2049A-3public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on January 21, 2022.

City of Huron, c/o Chad Schroder, Director, PO Box 1369, Huron SD 57350 (605 354-2696) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

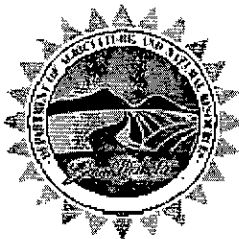
Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

January 18, 2022

City of Huron
c/o Chad Schroder, Park & Rec Director
PO Box 1369
Huron SD 57350

Dear Mr. Schroder:

Water Permit Application No. 2049A-3 for municipal and recreational use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plainsman printed at Huron SD (Ph # 605 353-7414). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF HEARING on Application No. 2049A-3 to Amend Water Right No. 2049-3

Notice is given that the City of Huron, Parks and Recreation, c/o Chad Schroder, Director, PO Box 1369, Huron SD 57350 has filed an application to amend Water Right No. 2049-3. Water Right No. 2049-3 authorizes 2.0 cubic feet of water per second from the James River located in the SW 1/4 NE 1/4 Section 6-T110N-R61W for the municipal and recreation use of storing water in Ravine Lake. This application requests to change the period of annual use from April 1 through June 30 to April 1 through October 31. Water Right No. 2049-3 and Water Permit No. 2049A-3 will authorize a combined total annual diversion of 361 acre-feet of water from the James River. No additional water appropriation is authorized by this application. This site is located on the east side of Huron SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that “if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer’s recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 2049A-3 as qualified by the Chief Engineer’s recommendation because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer’s recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 am on March 2, 2022 in the Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by January 31, 2022.

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

The March 2, 2022 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by January 31, 2022. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by January 31, 2022.

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Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is January 31, 2022. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of _____.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

APR 28 2022

City of Huron
Chad Schroder, Parks & Recreation Director
PO Box 1369
Huron SD 57350

Dear Mr. Schroder:

Enclosed are Water Permit and Water License No. 2049A-3. These are the final water right documents completing your process of obtaining a Water Right.

As long as the city uses the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

Note: The applicable portions of No. 2049-3 are incorporated into Water License No. 2049A-3.

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 6, 2022

2049-3, 2049A-3

Chad Schroeder
City of Huron, Parks and Recreation Director
PO Box 1369
Huron SD 57350

Dear Mr. Schroeder:

This letter is in reference to your September 6, 2022, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the Huron are sufficient at this time to allow an extension. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River and allow you to divert through October 31, 2022. You are not authorized to exceed the annual total diversion limit of 361 acre-feet of water from the James River as specified in the permit.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station James River at Huron drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Permit No. 2049A-3

WATER RIGHTS PROGRAM—FILE DOCUMENTATION

NAME: City of Huron, c/o Chad Schroder, Parks & Recreation Director

ADDRESS: PO Box 1369, Huron SD 57350

DATE: 10/25/2024 **PHONE:** 605-353-8533

RE: Request to extend pumping past the August 10th cutoff on James River

COMMENTS:

Mr. Chad Schroder, director of the Parks & Recreation for the City of Huron emailed the Water Rights Program on October 25, 2024 to request pumping after the August 10th shutoff date from the James River. The current flow on the James River at Huron (USGS gage no. 06476000) is 792 cubic feet per second.

RECOMMENDED ACTION:

Approved and the Chief Engineer told Mr. Schroder that a letter would be sent out to confirm the request.

Brittan Hullinger, Engineer 1
SD DANR, Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 25, 2024

Permit No. 2049A-3

City of Huron, c/o Chad Schroder
PO Box 1369
Huron, SD 57350

Dear Mr. Schroder,

This letter is in reference to your October 25, 2024 request for an extension to pump water from the James River beyond the August 10th shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the USGS stream gaging station James River at Huron are sufficient at this time to allow an extension. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River.

In the event that dry climatic conditions in the river basin cause river flow to significantly decrease and flow measured at the USGS stream gaging station James River at Huron drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you have any questions, please contact Brittan Hullinger of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program