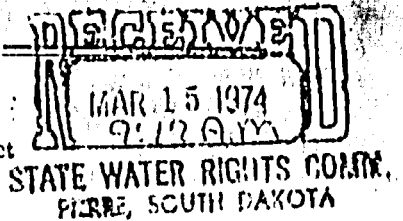


1. Considered 5-15, 1974
2. Name of Applicant HOWARD P. WAGNER
3. Post Office Address MISSION, S.D.
4. Amount of Water claimed 4.00
5. Source of Water supply BIG SIOUX RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated 280
7. Water to be diverted and used in MOODY County
about 4N, 2W miles of FLANDREAU
8. Proof of Publication Received 4-19-74
Not Received
9. Application Approved
Subject to Sioux River Guv.
Not Approved
Action Deferred

10. Remarks:

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



APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota

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

1. Name of applicant Wagner, Howard R.
Postoffice address Box 277, County Todd, State South Dakota

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

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

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

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

Direct Labor(b) Cash on hand, \$ —(c) Treasury stock, \$ —(d) Bonds to be issued, \$ —(e) Other resources, \$ 12,000 ECA LOAN2. Name of diversion work NA3. Amount of water claimed 14 cubic feet per second4. Source of water supply Big Sioux River5. Location of point of diversion Between Rapid in the divide sec 5, T10N, R45W and on the SE 1/4 of Sec 2, T10S, R45W2 on Sweet Band on Both banks Meady County.6. Annual period or periods during which water is to be used April to November

7. To be used for:

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

(a) Number of acres to be irrigated 280 acres.(b) Legal subdivisions to be irrigated See Remarks

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

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

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

(a) Nature of use NA
Name any of the above uses claimed

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

Amount claimed for engine cooling _____

(c) Location of plant _____

(d) Method of developing power _____

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

MAP NO 1469-3

8. Estimated cost of work: NA

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

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

(c) Fluming, \$-----

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

Rock, \$-----

(e) Other structures ----- \$-----

Total, \$-----

9. Description of diversion works:

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

Pumping Plant

II. Dimensions of works: NA

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

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

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

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

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

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 2 years.

11. Time required for complete application of water to the proposed beneficial use 2 years.

12. Choice of newspaper for publication of notice of intention to appropriate Moody County Enterprise

STATE OF SOUTH DAKOTA

County of Moody

ss.

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

Signed Howard P. Wagner

Subscribed and sworn to before me this 14 day of MARCH 1914

Joseph Donald Bristow
Notary Public (or other qualified officer.)

Remarks by State Water Resources Commission:

NATURAL FLOWS IN THE BIG SIOUX RIVER ARE NOT A DEPENDABLE SOURCE OF WATER DURING THE LATTER PART OF THE SUMMER. PRIOR APPROPRIATIVE RIGHTS AND DOWNSTREAM DOMESTIC USE MUST BE RESPECTED. THIS PERMIT IS ^{APPROVED} ALLOWING WITHDRAWALS WHENEVER 45 C.F.S. OF WATER OR MORE IS FLOWING PAST YOUR DIVERSION POINT.

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, MAY 17, 19 74

This is to certify that the foregoing application was received by the Commission at 9:17 o'clock A.m. upon the 15TH day of MARCH, 19 74

State Water Resources Commission

By:

Burton Jones
for Chief Engineer, Executive Officer

Number of permit 2065-3

Date of first receipt of application MARCH 15, 19 74

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

Date of receipt of corrected application —, 19 —

Date from which applicant may claim right MARCH 15, 19 74

Approved MAY 15, 19 74, Recorded in Book 13 Page 3

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before MAY 15, 19 75

2nd. The whole of said work is to be completed on or before MAY 15, 19 74

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is MAY 15, 19 78

4th. The water appropriated shall be used for the purpose of IRRIGATION

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 4.0 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

and beneficially applied for irrigation on or before MAY 15, 19 78; said water to be used during the following described annual period:

APRIL THRU NOVEMBER

Witness my hand this 17TH day of MAY, 19 74

State Water Resources Commission

By:

Donald Driscoll
Chief Engineer, Executive Officer

Certificate of Construction issued _____, 19 _____

Water License issued _____, 19 _____

Amendment to the qualifications contained in Water Right No. 2065-3

Deleted Qualification:

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

New Qualifications:

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

May 22, 2018

NOTICE OF ENTRY OF ORDER

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

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

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

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

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program

enclosure

CERTIFICATION

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

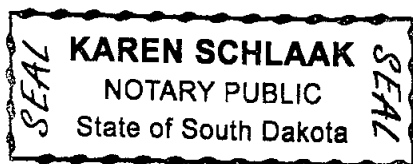
Elaine Ahlers, PO Box 186, Flandreau SD 57028
Adam Wiese, Operator, 22603 479th Ave, Flandreau SD 57028
Chad Anderson, 47880 244th St, Dell Rapids SD 57022
Ronnie J Boever, 47948 232nd St, Flandreau SD 57028
Brian Burkhart, 24482 482nd Ave, Dell Rapids SD 57022
Jim Czech, Operator, 45767 177th St, Watertown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

Vickie Maberry
Vickie Maberry
Secretary/Water Rights

[illegible]

Sworn to, before me, this 22nd day of May, 2018.

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



Remarks by the Applicant:

Portions of NE¹/₄ of SW¹/₄ and SW¹/₄ of SE¹/₄ of Sec. 32, T108, R48 shown as field ② on attached map consisting of 38 acres.
Portions of SW¹/₄ & SE¹/₄ of SW¹/₄ of Sec. 32, T108, R48 shown as field ③ on attached map consisting of 42 acres.
Portions of S¹/₂ of SE¹/₄ of Sec. 32, T108, R48 shown as field ④ consisting of 40 acres to be irrigated.
Portions of SE¹/₄ of SW¹/₄ of Sec. 32, T108, R48 and N¹/₂ of NW¹/₄ Sec. 5, T107, R48 shown as field ⑤ consisting of 30 acres.
Portion of NE¹/₄ of Sec. 5 - T107 - R48 as shown on attached map as field ⑦ consisting of 100 acres.
Portions of NW¹/₄ & NE¹/₄ of Sec. 5, T107, R48 shown as field ⑧ on attached map consisting of 30 acres.
280 acres in all.

Division Points

- #1 Located 2100 feet at 52 degrees 25 minutes East of Grid North from SW corner of Sec. 32-108-48.
- #2 Located 1188 feet at 52 degrees 10 minutes East of Grid North from SW corner of Sec. 32-108-48.
- #3 Located 1848 feet at 106 degrees 0 minutes East of Grid North from NW corner of Sec. 5-107-48.
- #4 Located 1960 feet at 63 degrees 0 minutes West of Grid North from SE corner of Sec. 32-108-48.
- #5 Located 2772 feet at 113 degrees 0 minutes East of Grid North from NW corner of Sec. 5-107-48.

Because of the number of small fields to be irrigated in this project five division points are requested.

I am a District Conservationist with the U.S.D.A. Soil Conservation Service and completed the measurements required in this application personally. The local District Conservationist approved this work as part of his regular duties - see plan map.

Harold P. Wiggins

IRRIGATION PLAN MAP
 MAP E. WAGNER
 U.S. SOIL CONSERVATION SERVICE
 Y County
 County Comm. District
 2-1974
 1 inch = 1 mile
 100' AVE USED
 E. P. Wagner

⑤
 42 AC
 PASTURELAND
 IRRIGATED

DIVERSION
 POINT #1
 2140 FT
 AT 53° 25"
 E of GN from
 SW of Sec. 32

④
 25 AC
 PASTURELAND
 IRRIGATED

1189 FT. AT 82° 10"
 E of GN from SW of Sec. 12
 DIVERSION
 POINT #2

DIVERSION
 POINT #4
 1990 FT
 AT 63° 0"
 W of GN from
 SE of Sec. 32

⑤
 PASTURELAND
 IRRIGATED

⑥ PASTURELAND
 NATIVE

30 AC
 DIVERSION
 POINT #3
 1848 FT AT 104° 0"
 E of GN from
 NW of Sec. 5

⑦ PASTURELAND
 100 AC
 (HAYLAND)
 IRRIGATED

⑦
 PASTURELAND
 IRRIGATED
 30 AC

DIVERSION
 POINT #5
 2772 FT AT 113° 0"
 E of GN from
 NW of Sec. 5

MAP NO 1469-E
 (APPL NO 2065-E)

2065-3

Publish first publication, on or before May 2, 19 74NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

April 4, 19 74Notice is hereby given that Howard P. Wagnerwhose post office address is Mission, 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 use4.0 cubic feet of water per second of time from the Big Sioux River through the Wagner Irrigation Project, the point of diversion of which is to be located ~~XXXXX~~between points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 5, T107N, R48W and in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Twp. 108N, Range 48W. Said water to be used for the purpose of providing irrigation of portions of the following described land:SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, T108N, R48W; NE $\frac{1}{4}$, NW $\frac{1}{4}$, Section 5, T107N, R48WThis application No. 2065-3 will be considered by the Water ~~Resources~~ ^{Rights} Commission at their office at Pierre upon the 15th day of May, 19 74, at 2:30 P. M. All interested persons may appear and be heard.~~WATER RESOURCES COMMISSION~~

WATER RIGHTS COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw

KHEX: Howard P. Wagner

cc: Box 297
Mission, S.D. 57555

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Moody) ss.

I, Dorothy M. Lyford, bookkeeper hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Moody County Enterprise

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

City _____ of Flandreau

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

April 10, 1974

April 17, 1974

Dorothy M. Lyford
(Signature)

Bookkeeper
(Title)

April 17, 1974
(Date Signed)

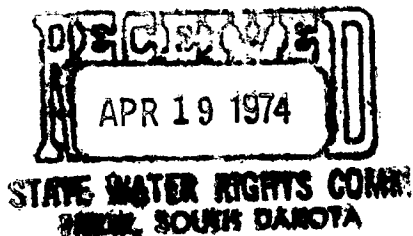
NOTICE
INTENT TO APPROPRIATE WATER

No. 2065-3
Pierre, South Dakota 57501
April 4, 1974

Notice is hereby given that Howard
P. Wagner whose post office address is
Mission, 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 4.0 cubic feet of water per
second of time from the Big Sioux River
through the Wagner Irrigation Project,
the point of diversion of which is to be
located between points in the NW $\frac{1}{4}$
NE $\frac{1}{4}$, Section 5, T 107 N, R 48 W and in
the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 32, Twp. 108 N,
Range 48 W. Said water to be used for
the purpose of providing irrigation on
portions of the following described
land: SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, T
108 N, R 48 W; NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, Section
5, T 107 N, R 48 W.

This application No. 2065-3 will be
considered by the Water Rights Com-
mission at their office at Pierre upon
the 15th day of May, 1974, at 2:30 P.M.
All interested persons may appear and
be heard.

Water Rights Commission
By: Burton F. Jones
Water Rights Specialist
(April 10-17)



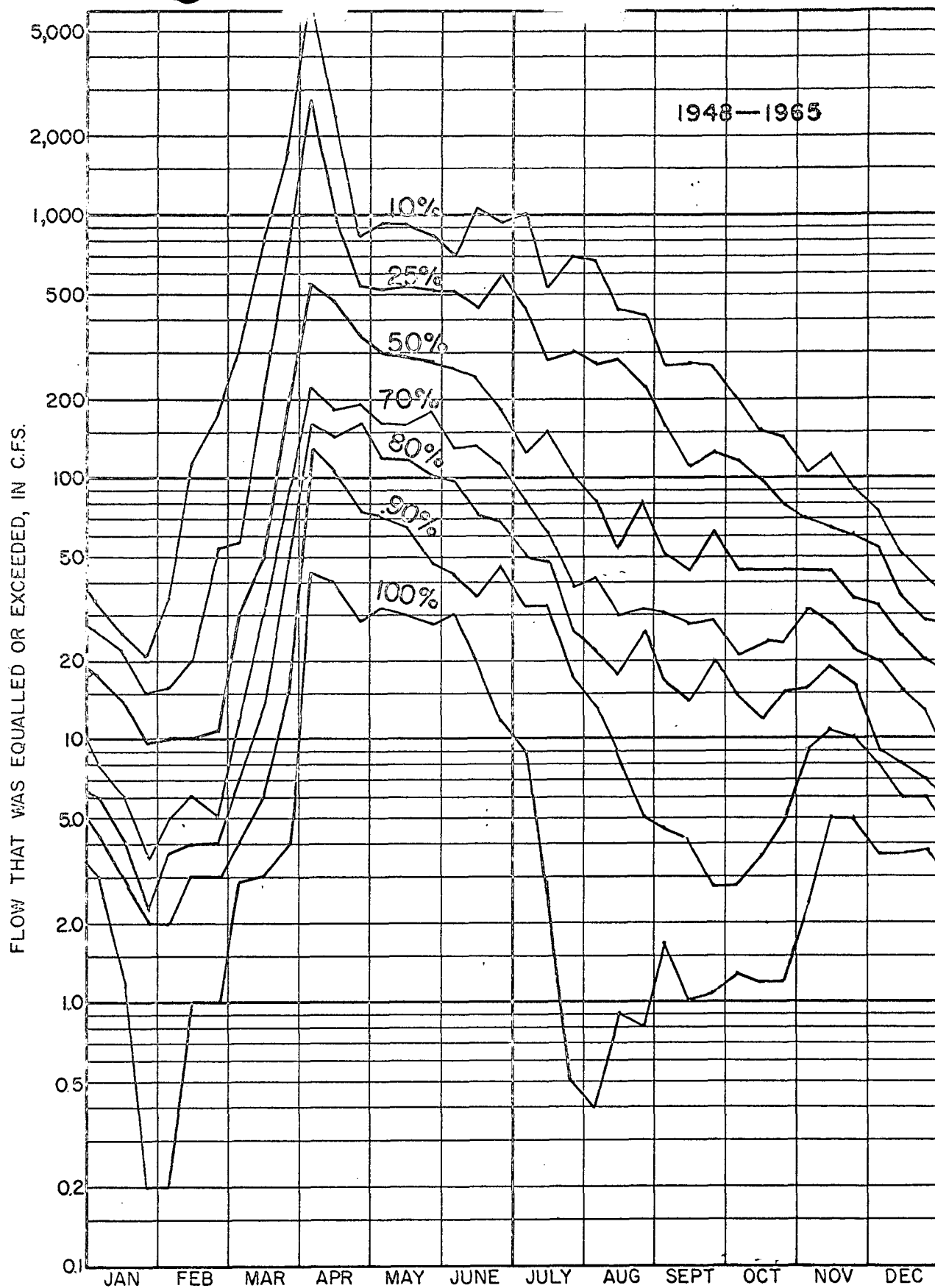


Figure 21. Flow Duration for Indicated Periods of the Year for the Big Sioux River near Dell Rapids



No. 2065-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Office Building Number 2, Pierre, South Dakota 57501

Phone 605/224-3151

August 1, 1974

Mr. Howard P. Wagner
Box 297
Mission, South Dakota 57555

Dear Mr. Wagner:

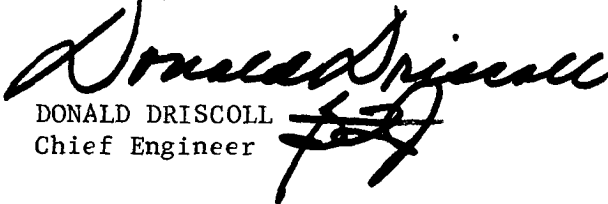
From observation and reports received in this office, it is apparent that the flows in the Sioux River are extremely low this year.

Your Permit No. 2065-3 contains the following qualification:

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

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

Sincerely,


DONALD DRISCOLL
Chief Engineer

DD/BFJ/bw



No. #2065-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

July 19, 1976

Howard P. Wggner
Box 297
Mission, S.D. 57555

Dear Mr. Waggner:

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

Your Permit No. 2065-3 contains the following qualification:

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

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

Sincerely,

JOHN HATCH
Chief Engineer
Water Rights Commission

JH/BFJ/bw

SOUTH
Dakota

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

July 27, 1976

Howard P. Wagner
Sisseton, SD 57262

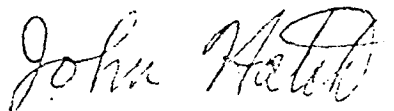
Dear Sirs:

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

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

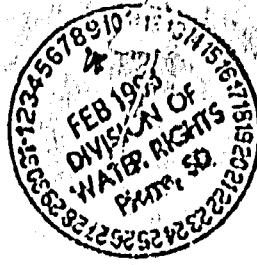
Please govern your use of irrigation water under your Water Right No. 2065-3 in accordance with this order. You will be notified if water supplies in this section of the Sioux River become sufficient to permit irrigation water withdrawals again during 1976. Aerial inspections of this section of the Sioux River will be made by the Staff of the Water Rights Commission.

Very truly yours,



John Hatch, Chief Engineer
WATER RIGHTS COMMISSION

JH:nlm



Permit form 2065-3
2-8-93

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

January 29, 1993

NOTICE

TO: HOWARD P WAGNER
BOX 201
ELK POINT SD 57025

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

RE: Violation of Requirement to Submit 1992 Irrigation Questionnaire

Our records indicate that the 1992 Irrigation Questionnaire has not been submitted for Permit No(s) 2065-3. The request for the Questionnaire was dated October 16, 1992. The Water Management Board has directed that owners of water permits who have not submitted the 1992 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

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

1. Amend Permit No(s) 2065-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

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

CMT #2 February 5, 1993 Elk Point, SD, 57025
I don't remember receiving any Irrigation Water Use Questionnaire.
Please send me a copy.



2065-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 1993

2065-3

Howard P Wagner
Box 201
Elk Point, SD 57025

Dear Mr. Wagner:

I am writing to acknowledge receipt of your 1992 irrigation questionnaire for Water Permit No. 2065-3. You may disregard the January 29, 1993, Notice of Violation of the Requirement to Submit the 1992 Irrigation Questionnaire.

The questionnaire was received in our office prior to the Water Management Board Meeting and your name has been deleted from the agenda. If you have any questions, please contact me.

Sincerely,

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

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

2065-3

**Water Rights Division -DENR
Conversation or File Documentation**

NAME OF PERSON OR FILE: Jan with Wheatstem Realty (Les Miller's Office)

DATE: December 29, 1994

TELEPHONE: (605) 336-7775

RE: Water Permit No. 2065-3, held by Howard Wagner

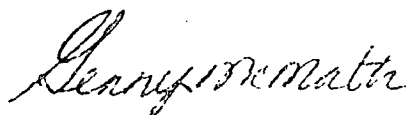
COMMENTS:

Jan called to find out if Howard Wagner, Elk Point, SD had a water permit for 436 acres in Section 5, T107N, R49W and Section 32, T108N, R48W - Moody County. The land is currently in the process of being sold.

Mr. Wagner holds Water Permit No. 2065-3 for portions of the above described land. She asked whether or not the permit was still valid. I explained to her that the Water Management Board would have to make that determination. In checking the past 10 years irrigation questionnaires, the land has not been irrigated since at least 1984. The 1992 irrigation questionnaire states that his land is in the CRP program through 1998. The CRP program is generally a 10 year program and probably would have started on this property in 1988.

I explained "legal excuse" as defined by Board Rule and told her that if the prospective buyers of the property felt there had been legal excuse for the 10 years of non-irrigation, then they could have the permit transferred when the land sold. However, if they felt it was questionable and wanted to make sure they had a legal permit, they would have to petition the Water Management Board to make a declaratory ruling.

She understood and said she would relay the information to Les Miller and get back to us.



Genny McMath
Environmental Scientist

Water Rights Program -- File Documentation

NAME: Howard Wagner

ADDRESS: PO Box 516, Elk Point SD 57025-0201

DATE: July 22, 1997 **COUNTY:** Moody **TELEPHONE:** 356-2112 (w) 356-2533 (h)

RE: Status of Water Permit No. 2065-3

COMMENTS:

On June 11, 1996, the property covered by Water Permit No. 2065-3 was observed from the road (to the extent possible) to determine the presence of any irrigation system. No irrigation systems were observed. The landowner, Howard Wagner, had moved to Elk Point and was not available to discuss the permit status.

On July 22, 1997, I contacted Mr. Wagner via phone to discuss the status of the permit. Mr. Wagner indicated that the last the time the property had been irrigated was 1983 and he no longer has any irrigation equipment. According to Mr. Wagner, most of the acreage covered by the permit had been irrigated at one time or another until a wet spell beginning in 1984. After the wet years, the land was placed in the Conservation Reserve Program from 1988 through 1995. In 1996 the acreage was cropped.

I informed Mr. Wagner about the forfeiture statute and the possibility the permit could be lost due to 3 years of nonuse with no legal excuse. Mr. Wagner indicated that the property is being sold in December and he will relay this information to the new landowner.

RECOMMENDED ACTION:

Based on the information supplied by Mr. Wagner, it appears that legal excuse exists for the periods of nonuse. Another look in a couple of years is warranted to see if the new owner makes any effort to continue irrigation of the land. Mr. Wagner did indicate that the property sale was not contingent upon there being a water right for the land.



Ron Duvall, Natural Resources Engineer
Water Rights Program

NOT TO SCALE

Appl. # 2065-3

108-48

101.6

37.1

31.7

67.3

53.1

47.0

125 R

28.5

37.1

12.5

10.9

38.5

26.7

4.6

108-48

20.0

My # 146013

2065-3



File No. 2065-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Darren & Allison Hamilton, 22615 480th Ave, Flandreau SD 57028

DATE: August 14, 2009

TELEPHONE: 605 997-3158

RE: CRP enrollment and ownership of Water Permit No. 2065-3

COMMENTS:

Water Permit No. 2065-3 was in CRP for the last ten years. Prior to adding the record back into mailing for the annual irrigation questionnaire I contacted the new owners of the land.

I spoke with Darren Hamilton who indicated that he and his wife now owned the land and it was re-enrolled in CRP for another 10 years. He thought the contact would be up and the land eligible for irrigation in 2018.

I explained that the permit should be transferred to their names to reflect current ownership. Send a "Notice of Transfer of Ownership" form and a copy of the water permit to them. Also, hold up on mailing annual irrigation questionnaires until the land comes out of CRP.



Genny McMath
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 14, 2009

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

I am writing in follow-up to my phone conversation with Darren today regarding Water Permit No. 2065-3 listed in the name of Howard Wagner. Enclosed is a copy of the permit for your review. I apologize for the poor quality of the copy.

As we discussed, the water permit needs to be transferred to your names to reflect correct ownership. Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

Each year we mail out an annual irrigation questionnaire to all irrigators in South Dakota to report how much water was diverted from their particular water source. It is my understanding that the land has been re-enrolled in CRP for another 10 year term and will not be irrigated until at least 2018. We will hold up mailing irrigation questionnaires to you until the land comes out of CRP.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 30, 2009

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

I am writing in regard to Water Permit No. 2065-3 listed in the name of Howard Wagner. On August 14th, I forwarded a "Notice of Transfer of Ownership" of ownership form to you for filing an ownership change. To date, we have not received anything back from you.

In the event you no longer have the original form, I am enclosing another partially completed form. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 4, 2010

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

I am writing in regard to Water Permit No. 2065-3 listed in the name of Howard Wagner. On August 14th and September 30th, 2009, I forwarded a "Notice of Transfer of Ownership" form to you for filing an ownership change. To date, we have not received anything back from you.

In the event you no longer have the original form, I am enclosing another partially completed form. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

It is my understanding the land is in CRP through 2018, however ownership of the permit still needs to be kept up to date even though irrigation is not currently taking place. If you have made a decision not to maintain the water permit and feel you will not be irrigating once the land comes out of CRP, let me know and we will schedule the water permit for cancellation consideration.

If you have any questions, please contact me.

Sincerely,

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

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

enclosure

RECEIVED

SEP 30 2010

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2065-3

Date: 9-10-2010

I/We request that Water Permit No. 2065-3

formerly owned by: Howard Wagner

be transferred to: (name & address) Darren & Allison Hamilton

22615 480th Ave, Flandreau SD 57028

Telephone No. _____

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

280 acres – SW ¼, SW ¼ SE ¼ Section 32, T108N, R48W;

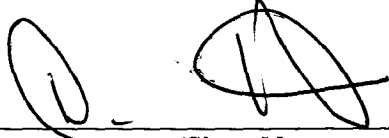
NE ¼, N ½ NW ¼ Section 5, T107N, R48W

I/We understand that the validity of Water Permit No. 2065-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Darren & Allison Hamilton, the new owner, certify that the above information is true and correct.


(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/30, 2010

RECEIVED OF Darren S Hamilton 22615 480th Ave Flandreau SD 57028

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2065-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 04622

By Ladul Ehule
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 30, 2010

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for Water Permit No. 2065-3. The ownership change has been completed. The water permit formerly held by Howard Wagner is now listed in your names.

Enclosed for your records is Receipt No. 04622 in the amount of \$50.00.

If you have any questions, please contact me.

Sincerely,

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

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

enclosure



2065-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 6, 2012

Dear Water Right Holder;

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

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

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

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

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

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

CERTIFICATION

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

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

Gail Jacobson

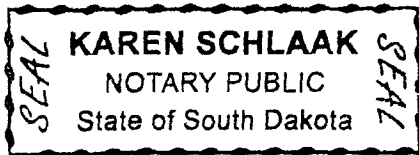
Gail Jacobson
Secretary/Water Rights

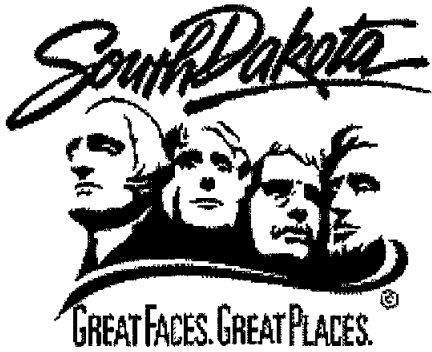
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of August, 2012.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 31, 2018

2065-3

DARREN & ALLISON HAMILTON
22615 480TH AVE
FLANDREAU SD 57028

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear MR & MRS HAMILTON,

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

The intent of this effort is to standardize and make consistent the bypass requirements for the remaining water users. In most cases, the proposed changes will reduce the flow bypass requirement on the individual permits. To make the permits consistent, the bypass measuring point will also be designated at a United States Geological Survey (USGS) stream gaging station. The USGS maintains a real-time stream gaging network on the Big Sioux River. Current river flow information can be easily accessed from the internet at the following internet address:

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

In order to amend a qualification on an existing water right permit, formal action by the SD Water Management Board is needed. In the next few weeks, you can expect to receive official notification scheduling a hearing before the Water Management Board. If you wish to participate in the hearing you can, but you are not required to. There will be instructions with the notification on how to participate in the hearing if you so choose.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Goodman".

for Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 12, 2018

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear Mr. & Mrs. Hamilton:

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

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

The proposed amendment to your water right will not impose a more restrictive condition than currently is in place on your water right. In some cases the bypass requirement remains the same but generally the proposed amendment decreases the minimum bypass that must exist before a user is able to pump water from the river. The amendment does designate a US Geological Survey gaging station as the measuring point to determine if pumping is allowed. The gaging station has real time flow information that can be accessed on-line at <https://waterdata.usgs.gov/sd/nwis/rt>. Many, but not all, water rights referenced the bypass being located at the pump site where there isn't real time flow information.

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

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

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosure

Proposed Qualification Revisions

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

Amendment to the qualifications contained in Water Right No. 2065-3

Delete Qualification:

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

Add Qualifications:

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

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

February 13, 2018

Introduction

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

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

Qualification Status

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

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

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

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

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

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

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

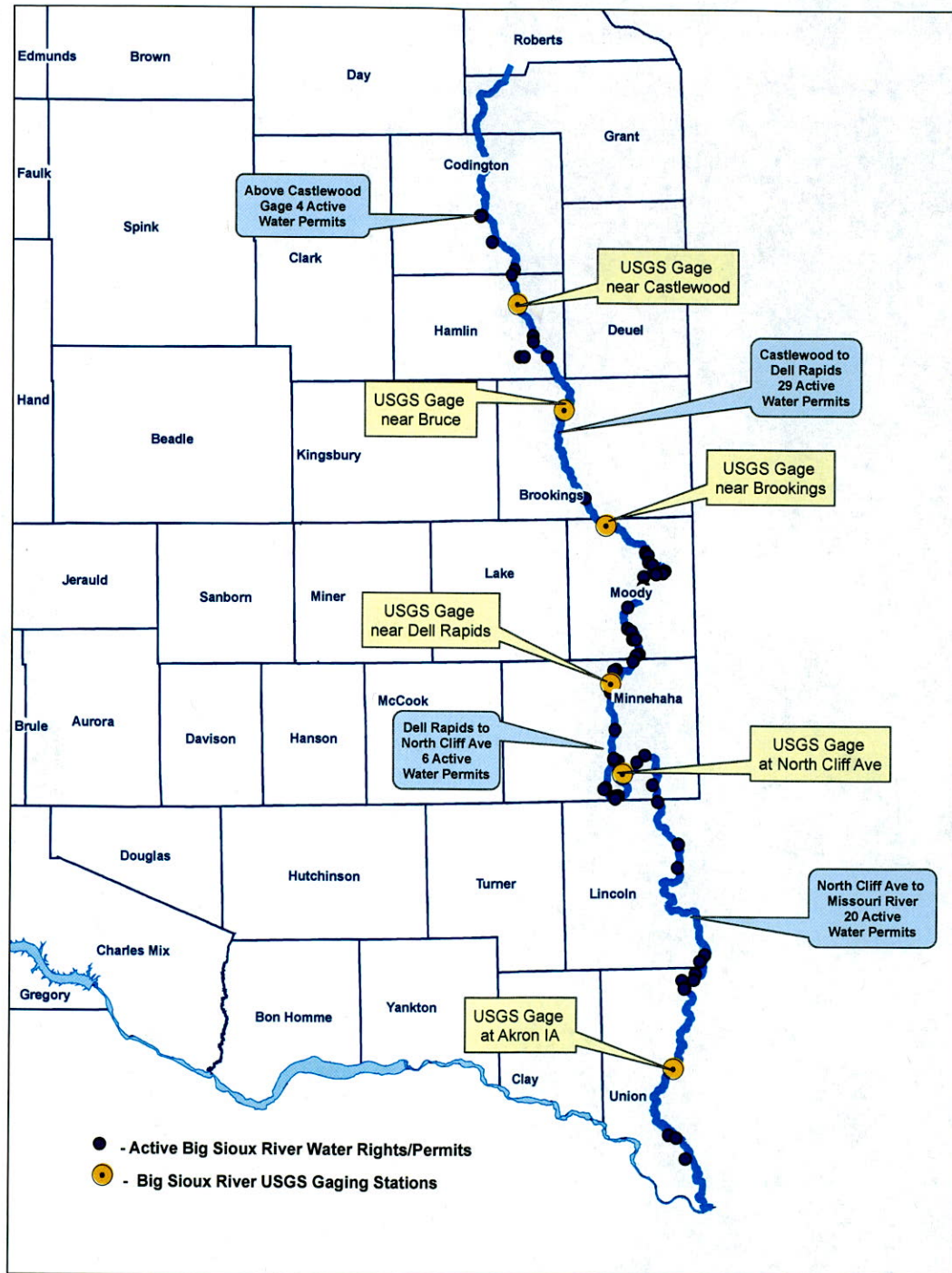


Figure 1. Area map of the Big Sioux River showing the locations of the active water rights/permits and USGS Big Sioux River stream flow gaging stations (Water Rights, 2018 and USGS, 2018).

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

Authority

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

South Dakota Codified Law

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

46-2-3.1. Delegation of authority to chief engineer--Restrictions. The Water Management Board may delegate to the chief engineer authority to act on its behalf concerning the quasi-judicial functions of interpreting, applying, and enforcing existing rules and laws and ordering action or abatement of action. The board may not delegate any other quasi-judicial functions as defined in § 1-32-1, except as otherwise provided by law. The board may promulgate rules pursuant to chapter 1-26 to delegate to the chief engineer the authority to issue permits pursuant to § 46-1-14.

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

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

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

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

Evaluation of the Existing Flow Bypass Qualifications and River Reach

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

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

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

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

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

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

Analysis and Proposed Qualification Revisions

A fresh look was taken of the original bypass requirements to determine whether the original bypass levels would be effective limits for the existing active water rights. The review took into consideration the existing water rights, the qualifications, the authorized use, the location of the diversion points, the annual period of use, and historic stream flow data.

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

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

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

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

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

Headwaters to Castlewood Reach

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

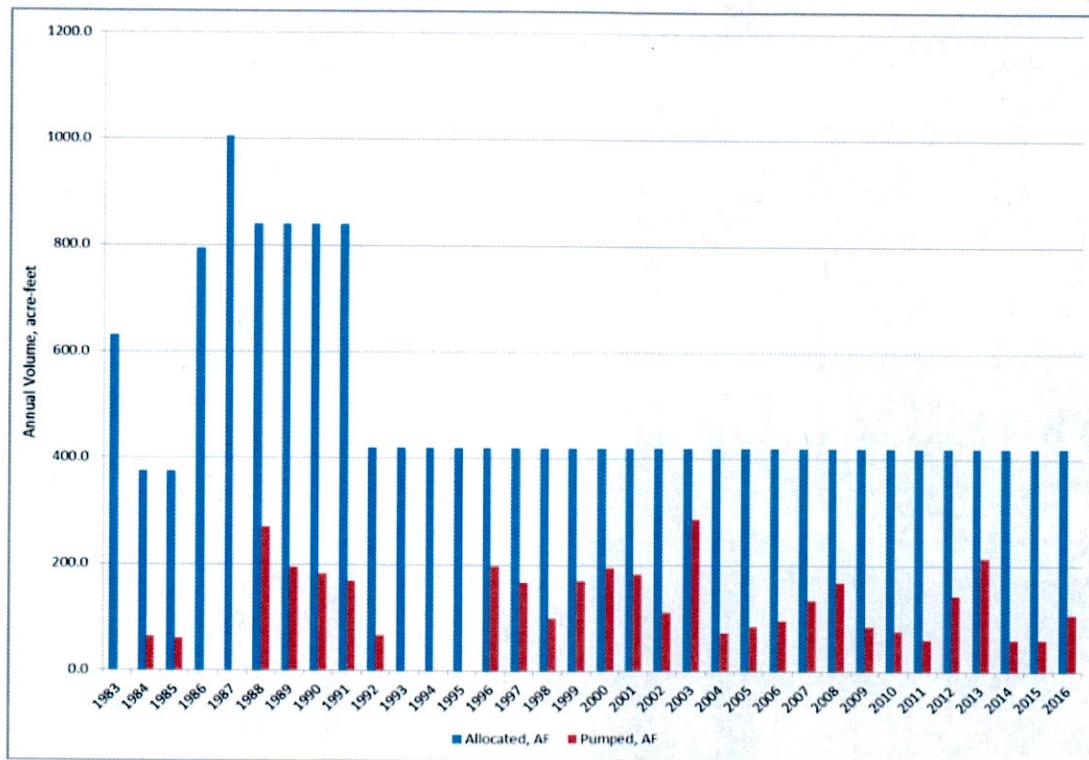


Figure 2. Total irrigation allocation and reported use from the Big Sioux River for the river reach upstream from the USGS gaging station near Castlewood (Water Rights, 2018).

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

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

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

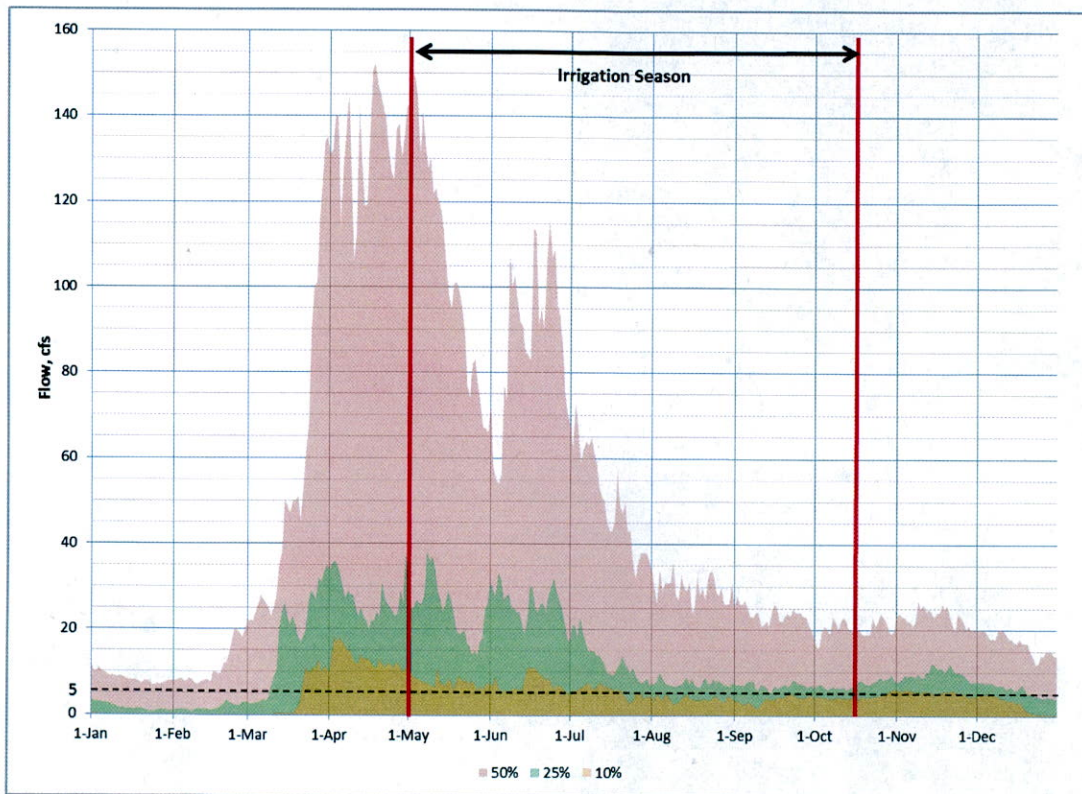


Figure 3. Daily percentile flow hydrographs for the USGS Big Sioux River near Castlewood 1977-2017, contributing drainage area 579 mi² (USGS, 2018).

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

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

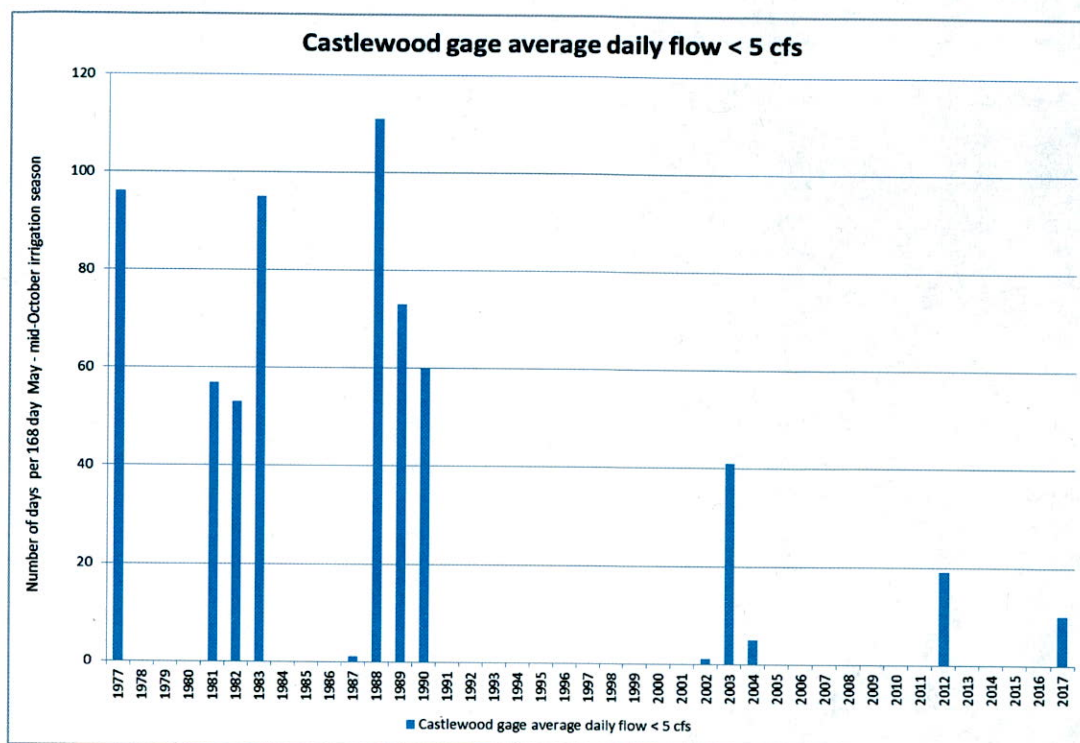


Figure 4. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station near Castlewood was less than 5 cfs (USGS, 2018).

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

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

Castlewood to Dell Rapids Reach

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

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

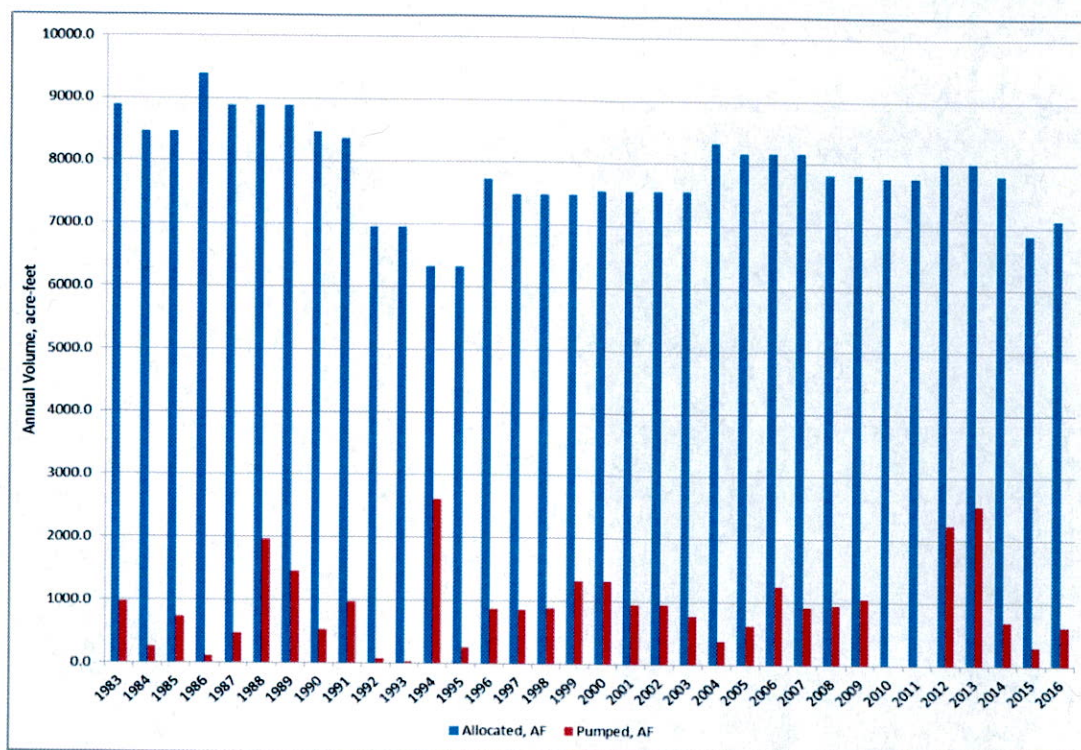


Figure 5. Total irrigation allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Castlewood to the gaging station near Dell Rapids (Water Rights, 2018).

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

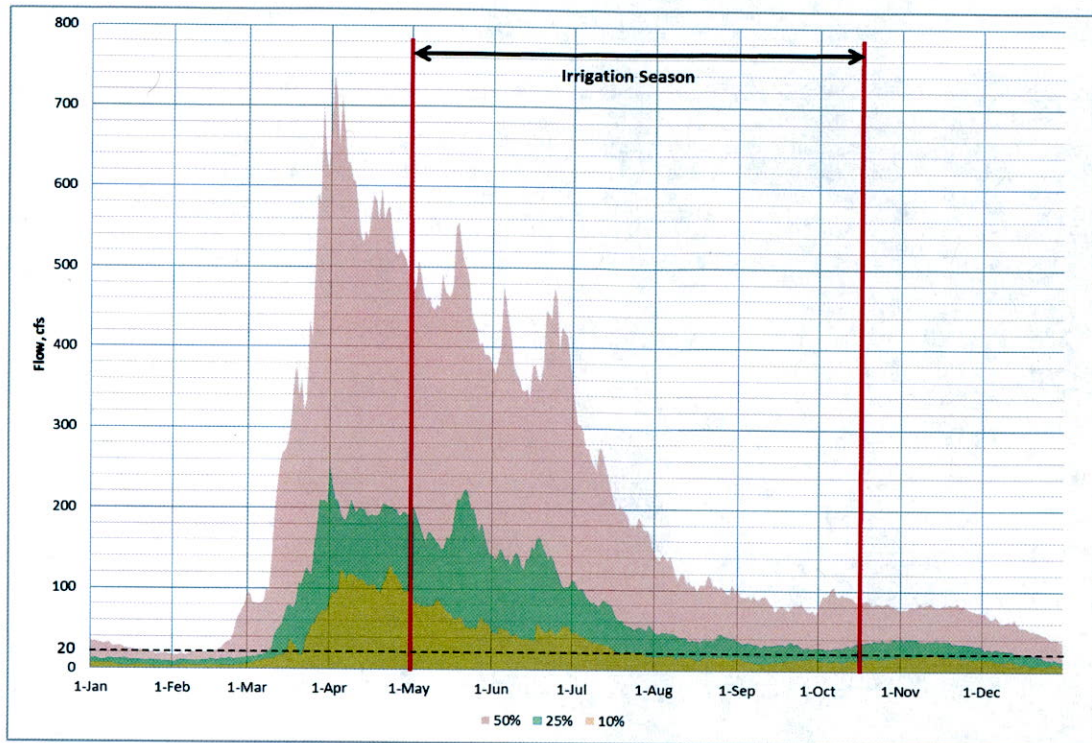


Figure 6. Daily percentile flow hydrographs for the USGS Big Sioux River gage near Dell Rapids 1949-2017, contributing drainage area 3057 mi² (USGS, 2018).

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

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

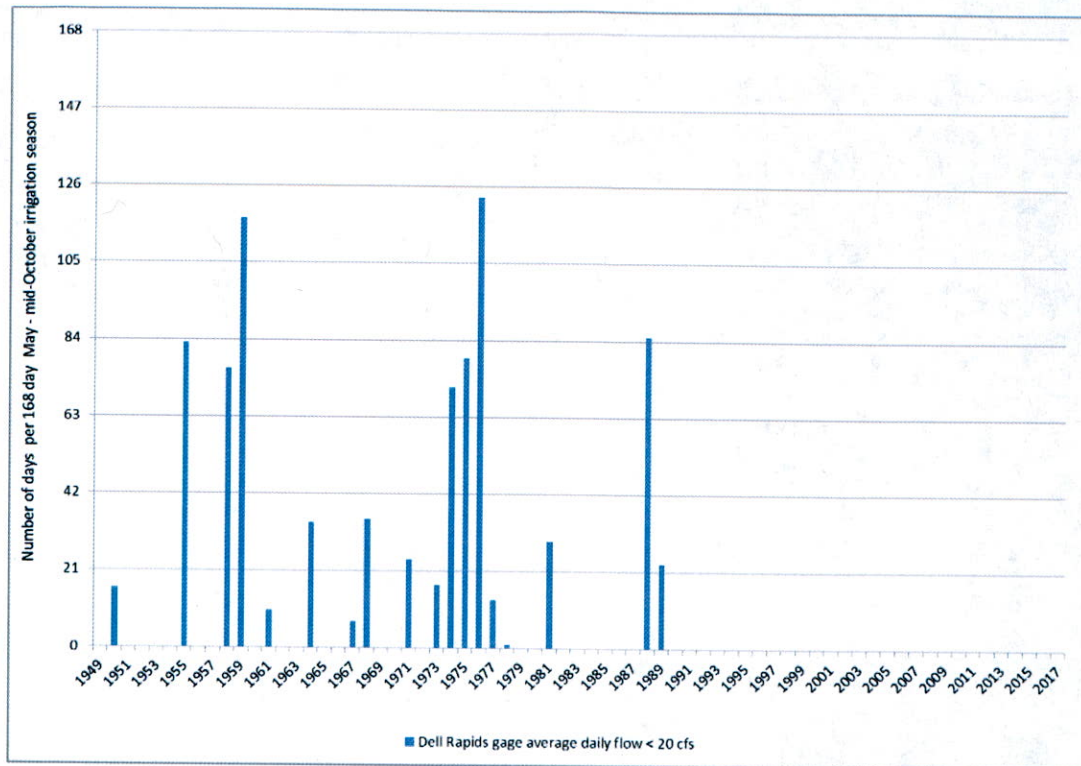


Figure 7. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station near Dell Rapids was less than 20 cfs (USGS, 2018).

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

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

Dell Rapids to North Cliff Avenue at Sioux Falls Reach

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

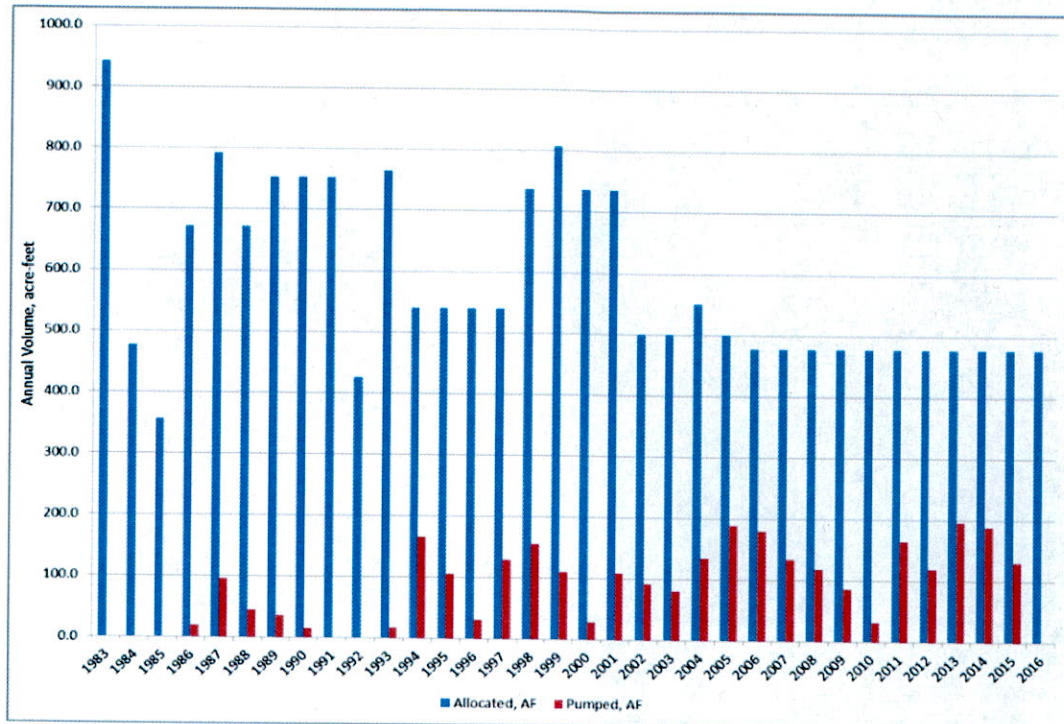


Figure 8. Total irrigation allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Dell Rapids to the gaging station at North Cliff Avenue at Sioux Falls (Water Rights, 2018).

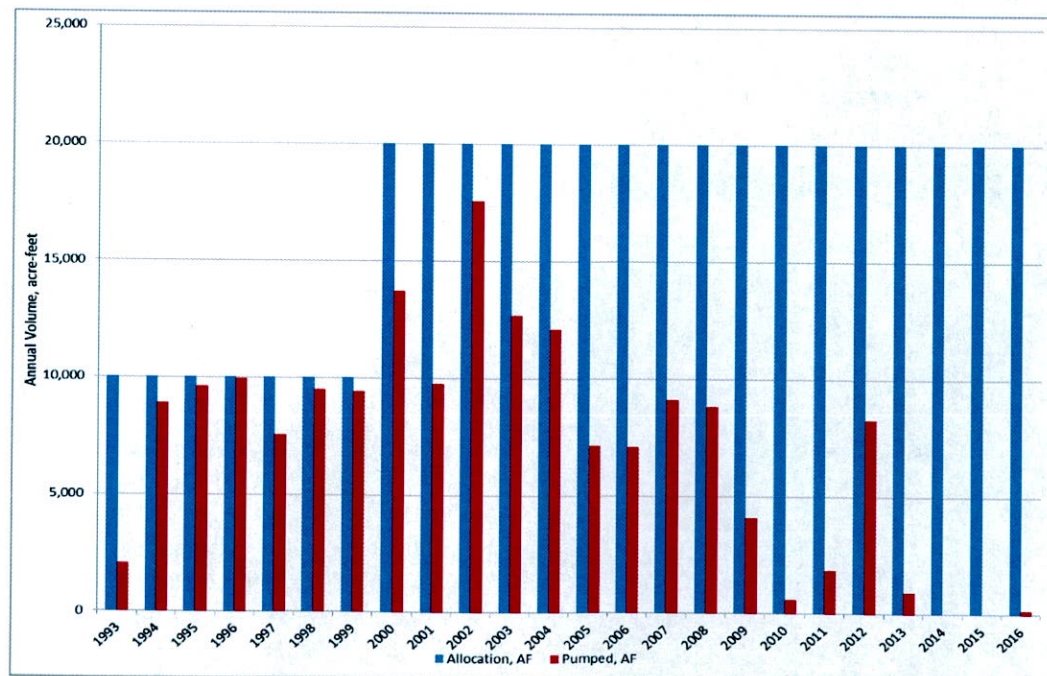


Figure 9. Total municipal allocation and reported use from the Big Sioux River for the river reach between the USGS gaging stations near Dell Rapids to the gaging station at North Cliff Avenue at Sioux Falls (Water Rights, 2018).

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

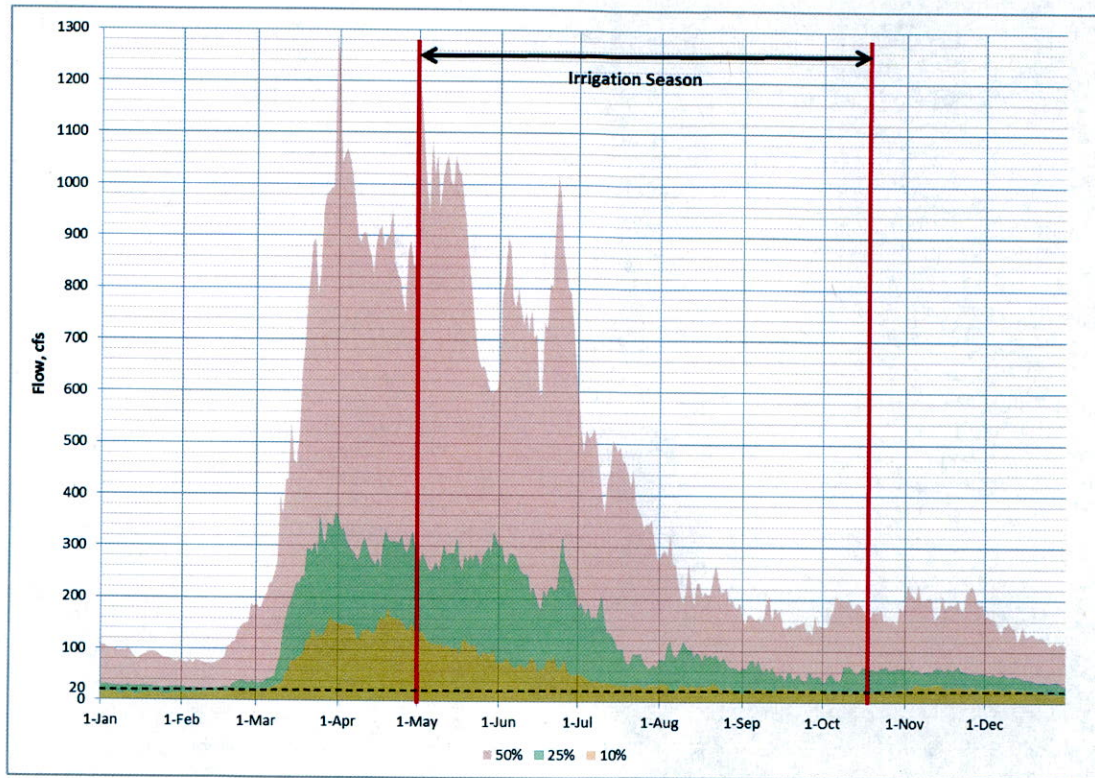


Figure 10. Daily percentile flow hydrographs for the USGS Big Sioux River gage at North Cliff Ave at Sioux Falls 1971-2017, contributing drainage area 3778 mi² (USGS, 2018).

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

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

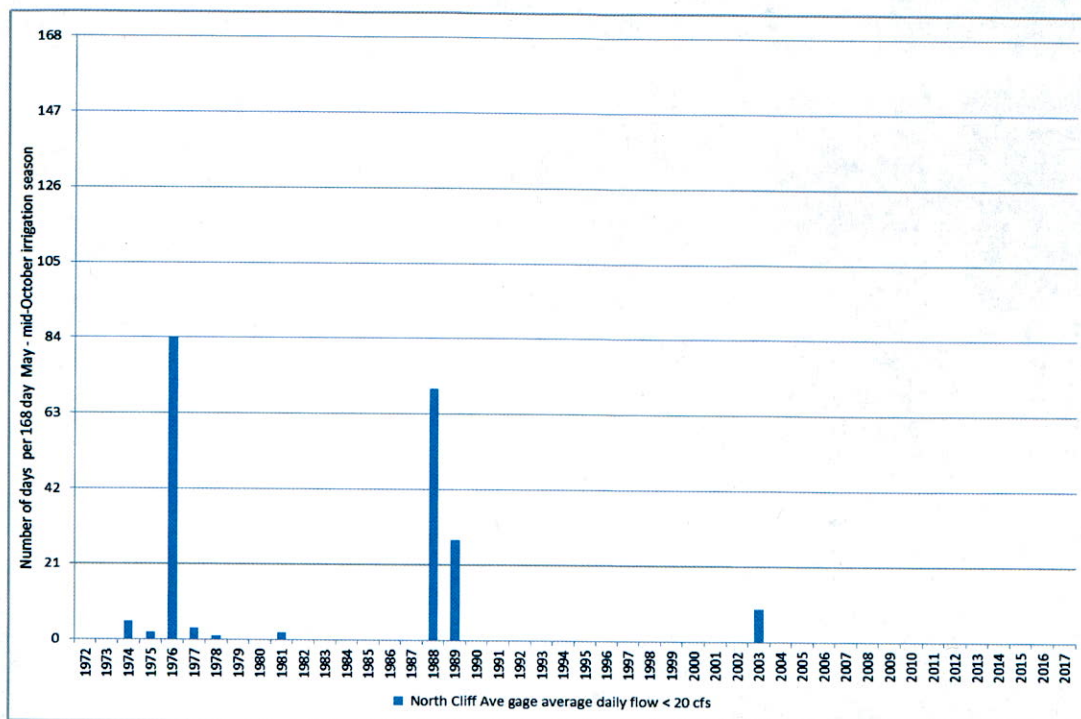


Figure 11. Total number of days for each year during the period of record the average daily flow in the Big Sioux River measured at the USGS gaging station at North Cliff Avenue at Sioux Falls was less than 20 cfs (USGS, 2018).

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

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

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

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

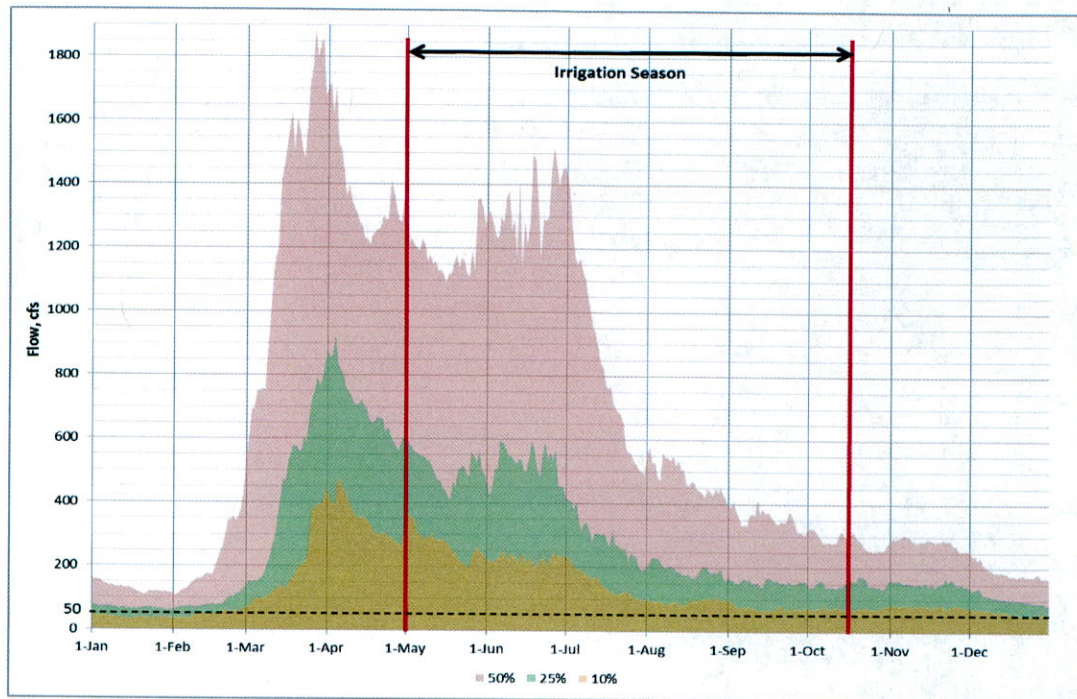


Figure 12. Daily percentile flow hydrographs for the USGS Big Sioux River gage at Akron IA 1971-2017, contributing drainage area 6995 mi² (USGS, 2018).

Considering Future Water Use

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

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

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

Specific Proposed Qualification Revisions by Water Permit

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

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

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Amendment to the qualifications contained in Water Permit No. 7350-3

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, when pumping, unless at least 5 cfs is flowing past the USGS Gaging Station No. 06479525 near Castlewood when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

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

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

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 1175-3

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 1302-3

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 1350-3

Delete Qualification:

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

Add Qualifications:

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

when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

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

Amendment to the qualifications contained in Water Right No. 1500-3

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 1696-3

Delete Qualification:

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

Add Qualifications:

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

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

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 1812-3**Delete Qualification:**

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 2065-3**Delete Qualification:**

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 2952-3**Delete Qualification:**

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 6042-3

Delete Qualification:

- Low flows as needed for downstream domestic use, including livestock water and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River unless at least 41 cfs is flowing past the Dell Rapids USGS Gaging Station, or unless written orders have been issued by the Chief Engineer. Diversions under this Permit are shall be in accordance with any written orders issued by the Chief Engineer.

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 6124-3

Delete Qualification:

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

Add Qualifications:

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

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

Amendment to the qualifications contained in Water Right No. 7110-3

Delete Qualification:

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

Add Qualifications:

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

Amendment to the qualifications contained in Water Right No. 8195-3

Delete Qualification:

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

Add Qualifications:

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

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

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

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Amendment to the qualifications contained in Water Right No. 5512-3

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Amendment to the qualifications contained in Water Right No. 5698-3

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Amendment to the qualifications contained in Water Right No. 6210-3

Delete Qualification:

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

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Amendment to the qualifications contained in Water Right No. 6210A-3

Delete Qualification:

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

Add Qualifications:

- Low flows as needed for downstream domestic use, including livestock water, and prior rights must be by-passed. This permit does not authorize diversion of water from the Big Sioux River, unless at least 20 cfs is flowing past the USGS Gaging Station No. 06482020 at North Cliff Avenue when pumping, unless written orders have been issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- The Water Management Board is retaining jurisdiction of this permit in the event additional information shows that adjustments need to be made to the bypass requirements.

Conclusions

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

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

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



Mark D. Rath
Natural Resources Engineer III

References

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



Schlaak, Karen

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

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

The Water Rights Program will pay for this publication.

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

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

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



CUSTOMER NUMBER:	78306	Argus Leader P.O. Box 677349, Dallas, TX 75267-7349
INVOICE NUMBER:	2727212	
RUN DATES:	2/15, 2018	AMOUNT DUE: \$162.36

RECEIVED
FEB 20 2018
WATER RIGHTS PROGRAM

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

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE UPON RECEIPT

AFFIDAVIT OF PUBLICATION-

Customer Number: 78306
Invoice Number: 902065

523 E. Capital - Jose Foss Building

Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

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

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

and that \$162.36 was charged for publishing the same

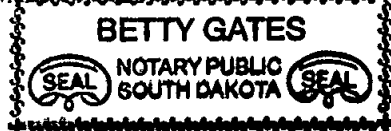
Sara Kruse

Subscribed and sworn to before me 2/15/18

Betty Gates

Notary Public, South Dakota

My Commission expires March 14, 2023



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

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

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

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

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

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

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

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

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

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

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

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

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once on an approximate cost of \$162.36. Feb 15, 2018

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

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 Big Sioux River water right E. Capitol Avenue, Pierre SD 57501 proposes that the Water Management Board amend conditions placed on many Big Sioux River water rights in South Dakota. The objective is to bring consistency among means that the Water Management Board approve and the ability for the Chief Engineer to issue written condition orders to allow pumping to continue if climatic conditions are favorable. The

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

February 20, 2018

PAYMENT REQUEST FORM

PAYEE: Argus Leader
PO Box 677349
Dallas, TX

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Affidavit of Publication

AMOUNT: \$162.36

FUNDING SOURCE:

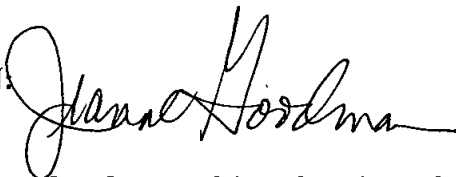
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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

RECEIVED

MAR 07 2018

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

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

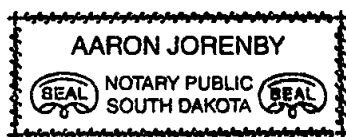
Leg#164 Notice on Hearing

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

February 15, 2018

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

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



KM Foiles

26 day of

February

2018

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

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

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

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

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

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

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

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

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

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

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

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

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

773-3352.

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

March 7, 2018

PAYMENT REQUEST FORM

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

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing

AMOUNT: \$67.73

FUNDING SOURCE:

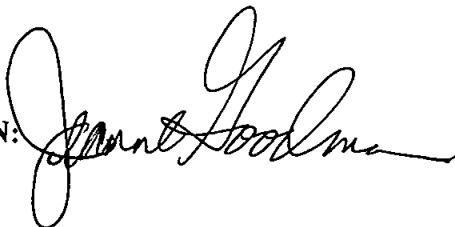
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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

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

**WATER RIGHTS
PROGRAM**

CUSTOMER NUMBER 106003

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

AMOUNT \$ _____
ENCLOSED

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

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF MOODY) SS

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

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

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

2-14-18

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

\$ 75⁶²

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

15th day of February AD 2018

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

NOTARY PUBLIC
SOUTH DAKOTA

My commission expires 2/14/18

RECEIVED

FEB 28 2018

WATER RIGHTS
PROGRAM

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

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County of _____

AFFIDAVIT OF PUBLICATION

Filed in the office of _____

on the _____ day

Attorney for _____

Water Rights Program address provided above.

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

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

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

Published once at approximate cost of \$76

March 2, 2018

PAYMENT REQUEST FORM

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

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing

AMOUNT: \$75.62

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: 

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

Invoice
Moody County Enterprise
PO Box 71
Flandreau, SD 57028

Water Rights
523 E Capitol
Pierre SD 57501

Date	Item advertised	Rate
2-14-18	Notice of Hearing	75.62
Total		\$75.62

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

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF LINCOLN

ANDY WILCOX

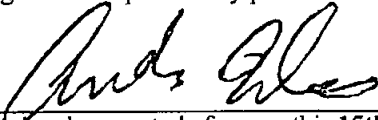
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and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

**DENR Water Rights Program
Notice of Hearing**

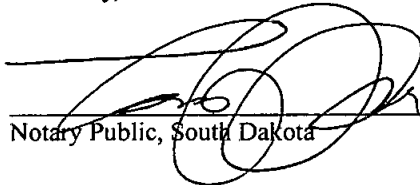
a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

February 15, 2018

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

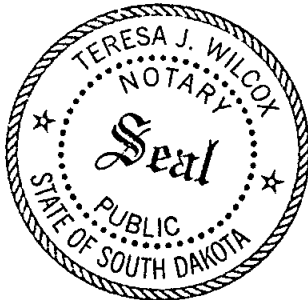


Ascribed and sworn to before me this 15th day of
February, 2018.



Notary Public, South Dakota

(Seal)



My Commission Expires
December 9, 2020

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

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

RECEIVED

FEB 26 2018

**WATER RIGHTS
PROGRAM**

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

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

February 26, 2018

PAYMENT REQUEST FORM

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

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Affidavit of Publication-Big Sioux River

AMOUNT: \$72.47

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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

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

Statement	2/22/2018	50
	DATE	NUMBER

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

Next Closing Day March 29, 2018

ID# 541

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

We now offer online Subscriptions!
www.SiouxValleyNewsOnline.com

Balance Due: 72.47

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

Current	30	60	90	90+
72.47	0.00	0.00	0.00	0.00

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

RECEIVED

FEB 22 2018

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Codington) SS

I, Jackie Wettstad

certify that the attached printed Notice was taken

from the Watertown

Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

February 15, 2018

Cost of Printing \$131.01

Jackie Wettstad
(Signature)

Accounting Clerk
(Title)

2/19/18
(Date Signed)

DEPT OF ENVIRONMENT AND NATURAL RESOURCES

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

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

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

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

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

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

February 22, 2018

PAYMENT REQUEST FORM

PAYEE: Watertown Public Opinion
120 3rd Avenue NW
Watertown, SD

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing-Big Sioux River

AMOUNT: \$131.01

FUNDING SOURCE:

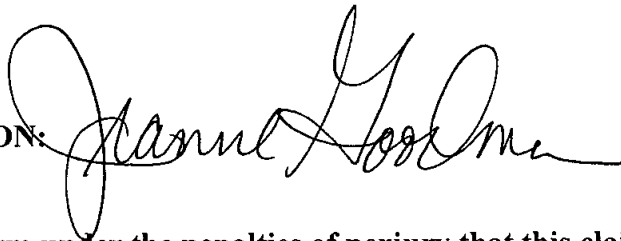
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

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

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

FEB 20 2018

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hamlin) SSI, LeeAnne Dufek

certify that the attached printed Notice was taken

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

state of South Dakota. The notice was published

in the newspaper on the following date:

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

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

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

River reach upstream from the USGS gaging station near Castlewood;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

February 20, 2018

PAYMENT REQUEST FORM

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

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing Big Sioux River

AMOUNT: \$69.09

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

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

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

Statement

B 2 0 2018

Bill To

DENR

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

[illegible]

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

AFFIDAVIT OF PUBLICATION

State of South Dakota)

:ss

County of Union)

Bruce L. Odson,

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

The Leader-Courier

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

Notice of Hearing

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

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

on Thursday, the 15 day of February, 2018

and that the succeeding publications were

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

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

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



Subscribed and sworn to before me

this 15 day of February, 2018

My commission expires 7-12-23

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA



Notary Public

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

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

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

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

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

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

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

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

RECEIVED

FEB 20 2018

WATER RIGHTS
PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

time, date and location.

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

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

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

February 20, 2018

PAYMENT REQUEST FORM

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

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing-Big Sioux River

AMOUNT: \$70.99

FUNDING SOURCE:

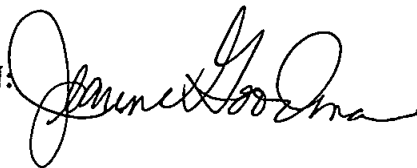
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



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

Southern Union County **LEADER-COURIER**

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

RECEIVED

FEB 20 2018

**WATER RIGHTS
PROGRAM**

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

2/15/18

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

Finance Charge \$0.00

AMOUNT DUE* \$70.99

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

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

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

FEB 26 2018

WATER RIGHTS
PROGRAMCity of
Sioux Falls

City Attorney

Providing a Better Quality of Life for You!

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kleonard@siouxfalls.org

DANIEL J. BROWN
Assistant City Attorney
dbrown4@siouxfalls.org

RYAN J. SAGE
Assistant City Attorney
rsage@siouxfalls.org

100 S. Dakota Ave., Ste. 200
P.O. Box 7402
Sioux Falls, SD 57117-7402
605-367-8880

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Police and Fire Legal Advisor
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Sioux Falls, SD 57104-2413
605-367-8880

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(Public Works Administration)
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P.O. Box 7402
Sioux Falls, SD 57117-7402
605-367-8880

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

February 23, 2018

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

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

Re: Big Sioux River Recommendations

Dear Ms. Goodman,

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

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

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

Ms. Jeanne Goodman
Page 2
February 23, 2018

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

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

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

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

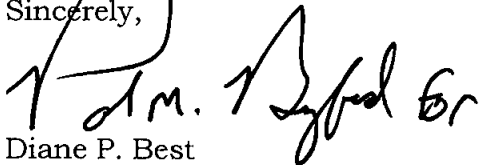
We appreciate the fact that administering these diversions during severe drought will be a challenge. We would respectfully submit, however, that the qualifications, as stated above, would protect the senior water rights and also be a better means to protect the flows in the river for the entire stretch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

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

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

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

Sincerely,



Diane P. Best
Assistant City Attorney

DPB/amr

Sioux Falls Ordinances

§ 53.015 USE OF PUBLIC SEWERS REQUIRED.

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

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

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

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

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

§ 53.016 PRIVATE WASTEWATER DISPOSAL.

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

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

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

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

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

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

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

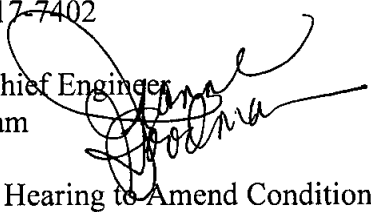
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 27, 2018

NOTICE

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

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

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

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

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

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

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

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

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

Sent Inter-office to:

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



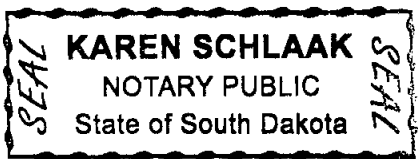
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of February, 2018



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

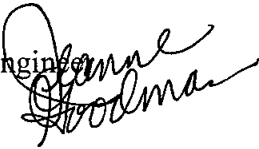
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

April 4, 2018

NOTICE

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

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

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

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

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

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

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

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

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

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

Sent Inter-office to:

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



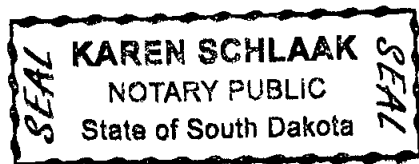
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of April, 2018



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

June 4, 2019

2065-3

Darren & Allison Hamilton
22615 480th Ave
Flandreau SD 57028

Dear Mr. & Mrs. Hamilton:

I am contacting you in regard to your Water Permit No. 2065-3.

Irrigators in South Dakota are required to submit an annual irrigation questionnaire reporting how much water was pumped during the irrigation season. Our records show the land authorized for irrigation under Water Permit No. 2065-3 has been in the Conservation Reserve Program through 2018.

The purpose of my letter is to find out the status of irrigation on your property. Please take a few minutes and answer the questions on the attached sheet and return it in the envelope provided. **If you have made a decision not to maintain the water right, let me know that as well.**

Thank you in advance for your help in updating the water right.

Sincerely,

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

enclosures

2065-3

RECEIVED

JUL 01 2019

WATER RIGHTS
PROGRAM

Water Permit No. 2065-3
Darren & Allison Hamilton

Water Permit No. 2065-3 authorizes diversion of water from the Big Sioux River for irrigation of 280 acres located in the S ½ Section 32, T108N, R48W and the N ½ Section 5, T107N, R48W in Moody County.

Do you still own the land described above?

Yes ☒ _____

No ☐ (If no, please list the name and mailing address of the new owner)

Has the land been re-enrolled in CRP:

Yes ☒ through calendar year 2020

No ☐

If the land has not been re-enrolled in CRP, we will begin mailing irrigation questionnaires to you for annual reporting. Questionnaires are mailed to irrigators in October each year and are due back in December.

For informational purposes:

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 2065-3**

I have this day, June 15, 2021, made a thorough examination of the water use system constructed by Darren and Allison Hamilton, 22615 480th Ave, Flandreau, SD 57028 of Permit No. 2065-3, bearing the priority of May 15, 1976 authorizing the diversion of 4.0 cu. ft. per second the waters of Big Sioux River for irrigation purposes, in Moody County.

F. Comments or other permit(s) associated with the project:

Mr. Darren Hamilton was contacted via phone and reported to this inspector that the potential irrigated land has been in and was put back into CRP during 2021 for another 10 years. So, no irrigation is planned for the near future.

The address for the permittee as shown above is current. His telephone numbers are 605/997-3158 (home) & 605/864-8991 (cell).



Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: June 19, 2021