

1. Considered March 28 1979
2. Name of Applicant Tullis Bros.
3. Post Office Address Groton, SD
4. Amount of Water Claimed 1.1
5. Source of Water Supply James River
6. Water to be used for irrigation
7. Acres to be irrigated 79 ^{maximum} acre feet
8. Water to be diverted and used in Brown County
about 2S, 6 miles West of Groton
9. PROOF OF PUBLICATION Received 3/20/79
Not Received
- APPLICATION Approved 4-10-80 FFECL 7-24-80
Subject to BELOW SAND LAKE TO JAMES
DIVERSON DAM QUAL.
Not Approved
Action deferred 3/28/79

Priority 12-29-75 Date Received 12/29/75 Application Complete yes x no FEE \$8.00

Remarks

WATER
QUALITY

n/a

Date information and/or
fee or corrected Application received
Period of Annual use April thru October

Received yes no APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application yes no Remarks

Disapproved Returned Diversion Point SW $\frac{1}{4}$ SW $\frac{1}{4}$ 26-125-62Lands to be irrigated S $\frac{1}{2}$ NW $\frac{1}{4}$ 36-123-62

WELL
LOG
n/aRemarks Driller Licensed yes no Depth

MAP Map No. 2006-3 Map located in Water Right X Map file _____
 Type of Map DRAWN Prepared by J. WIERSMA - P.E.

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 3-28-79.

[Signature]
 (Signed)

+++++

PROTESTS Letters/Petitions in File - yes no Remarks _____

REMARKS Date
 F.F. & C Final Decision, including F.F. & C of Law were adopted 7-24-80
 OF LAW, Date
 FINAL Final Decision mailed to parties and/or parties notified that Final Decision
 DECISIONS
 ETC. was adopted _____

Remarks _____

No. 2639-5Map No. 2006-3 Water Division No. 3 JAMES 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 Tullis Brothers - Dakota Tullis Sec.
Postoffice address Groden, State South Dakota 57145
If a corporation show date and place of incorporation N.A.
2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct Labor Contract
3. Name of diversion work Tullis Brothers Irrigation Project DR
4. Amount of water claimed (cubic feet per second) 1.1 cfs
5. Source of water supply James River
6. Location of point of diversion 1060' N 89° E of NW corner Sec 35-123-62
Same as Set Permit H 2383-3 Sub 1 Sec 36-123-62
County Brookings
7. Annual period or periods during which water is to be used April through October
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use, Total number of acres to be irrigated 79

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

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>SW 1/4 NW 1/4 Sec 35-123-62</u>	<u>39</u>		
<u>SE 1/4 NW 1/4 Sec 36-123-62</u>	<u>40</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 1 year years. Additional time required to complete application of water to the proposed beneficial use 1 year years.
11. Choice of newspaper for Notice of Intent to Appropriately Water publication Groden Independent
12. Principal Features of the Proposed Water Supply System.

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

Pump on bank of James River

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

closed can line

C. Works proposed to apply water to beneficial use.

center pivot irrigation machine. The N 1/4 NW 1/4 of Sec 36 and the land (SE 1/4 NW 1/4) will be irrigated as one unitEstimated Total Cost \$20,000Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of BrookingsI, Dwain Tullis, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned Tullis Bros. by Dwain TullisSubscribed and sworn to before me this 24 day of Dec 1975

Notary Public (or other qualified officer)

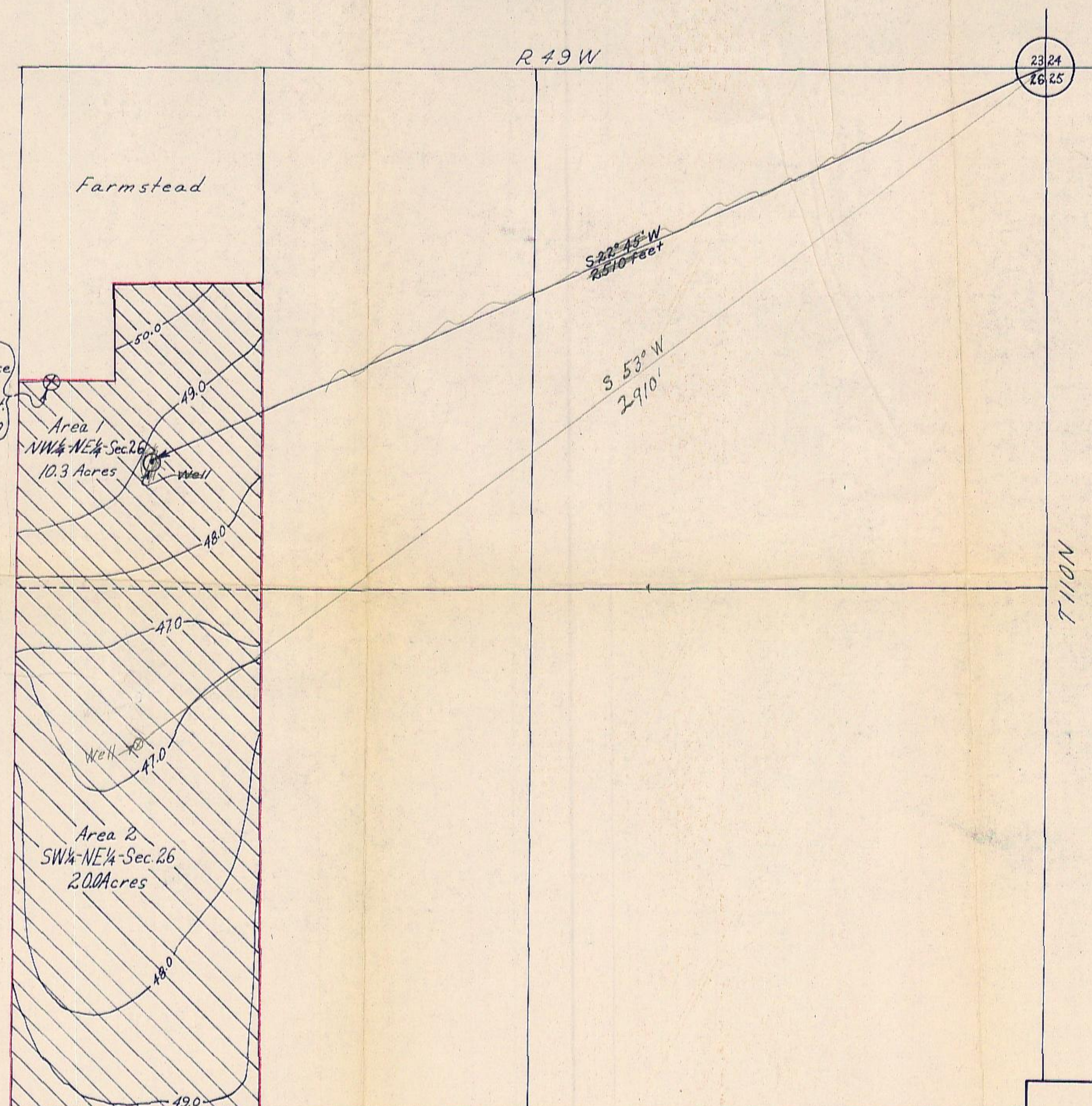
D. E. H. 12/16

LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NW 1/4-NE 1/4	26	110 N	49 W	10.3
2	SW 1/4-NE 1/4	26	110 N	49 W	20.0
Total					= 30.3
All lands described are owned by Cecil Sanderson					

LEGEND

-  Land to be Irrigated
 Well
 Bench Mark

BM-Top of Spike
 in new wood brace
 post. South West
 corner of feedlot.
 Elevation=50.00



SURVEYOR'S CERTIFICATE
 I, WALTER J. OCHS DO HEREBY CERTIFY THAT THIS
 MAP IDENTIFIES A REASONABLY ACCURATE RECORD OF THE LAND
 OF THE CECIL SANDERSON IRRIGATION PROJECT No. 1
 AND HAS BEEN PREPARED BY THE SOIL CONSERVATION SERVICE
 FOR THE BROOKINGS Co. SOIL & WATER CONSERVATION DISTRICT.
 SIGNATURE: Walter J. Ochs
 TITLE: Agricultural Engineer
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE
 SUBSCRIBED AND SWORN TO before me this 25 day of
February, 1963, A. D.
C. A. Larson
 NOTARY PUBLIC, S.D.
 MY COMMISSION EXPIRES Feb. 6, 1965.

Scale: 1"=200'

CECIL SANDERSON
 IRRIGATION PROJECT
 NUMBER 1
 Brookings County, South Dakota

U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

Designed	Date	Approved by	
Drawn		Title	
Traced			
Checked		Sheet	Drawing No.
		No. /	of /

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2639-3

TULLIS BROTHERS (DELWIN TULLIS) GROTON

(Applicant)

(Post Office Address)

SOUTH DAKOTA 57445

(State)

With the following modifications:

SEE ATTACHMENT for Qualifications:

Date of first receipt of application _____ December 29 _____ 19 75
 Date of return to applicant for correction, amendments or changes required _____ 19 _____
 Date of receipt of corrected application _____ 19 _____
 Approved July 24 _____ 19 80 _____, Recorded in Book 21 _____ Page 256 _____

WATER RIGHT PERMIT NO. 2639-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2639-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____ December 29 _____ 19 75 _____
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before January 24 _____ 19 83 _____
3. The whole of said work is to be completed on or before July 24 _____ 19 85 _____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is July 24 _____ 19 88 _____
5. The water appropriated shall be used for the purpose of IRRIGATION _____
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 1.1 _____ cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before July 24 _____ 19 88 _____ said water to be used during the following described annual period: April thru October _____

Witness my hand this 29th _____ day of August _____ 19 80 _____

WATER RIGHTS COMMISSION

By:

John Hatch
 Chief Engineer, Executive Officer JOHN HATCH

Certificate of Construction Issued _____ 19 _____

Water License Issued _____ 19 _____

Below Sand Lake to James Diversion Dam

This Permit No. 2539-3 is approved subject to the following qualifications:

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

Permit No. 2639-3, Tullis Bros., Groton, S.D.



No. 2639-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

March 31, 1976

Tullis Brothers
Groton
South Dakota 57445

Dear **Mrs**:

This will acknowledge receipt of your application to appropriate water from the James River for irrigation purposes. It has been assigned No. 2639-3.

The Commission has adopted a regulation that 300 cubic feet per second diversion can be allowed in the stretch of the river between the north Yankton County line, and the North Dakota - South Dakota state line. This figure has been reached.

Applications which are received proposing diversions from the James River are placed in a deferred status pending further evaluations on the James River and to allow time for development of the existing permits.

You will be advised of further developments.

Sincerely,

BURTON F. JONES
Water Rights Specialist

BFJ/bw

4 4020

Encl: Receipt No. _____

in the amount of \$8.00.



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

Tullis Bros.
Delwin Tullis
Broton, SD 57445

2639-3
2703-3

December 6, 1978

TO: Persons with pending applications for water rights from the James River.

FROM: John Hatch, Chief Engineer, Water Rights Commission

This notice is being written to all persons who have made application for a water right from the James River, which have been deferred with no official action taken by the Water Rights Commission.

The Commission has directed the Staff to advertise the pending applications for hearing, so official action can be taken. Water conditions have not changed on the James River, and no water is presently available for appropriation. The Commission expects to defer the applications at the time of the public hearing until such time as water becomes available. During the deferred period, the applications will retain the priority of the date of receipt by this office.

Will you please notify this office, before January 1, 1979, if you wish your application advertised for hearing. If you wish to withdraw your application, before advertising, it will be returned along with the fee.

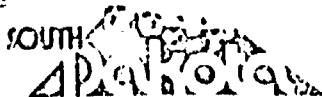
Also, the following checked items will be required before we can process your application:

1. Fee in the amount of \$8.00.
2. The map submitted with your application does not show the diversion point and lands to be irrigated. Please obtain an aerial photo.
3. The map has not been signed by a licensed land surveyor, or a South Dakota Registered Professional Engineer or by a governmental employee who prepares such maps as a regular part of his governmental employment.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bt



No. 2639-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/773-3151

February 27, 1979

NOTE: We are sending you the advertising notice so the application can be considered by the Commission. The Staff is recommending the application remain deferred, but it will retain the original priority of date of receipt of the application.

Tullis Bros.
Croton,
SD 57445

If we do not receive notice that the advertising was accomplished, we will assume you do not wish to continue the application, and it will be withdrawn and returned to you.

Dear Sirs:

You are hereby notified that your Irrigation

Application No. 2639-3 for a permit to appropriate water from

the James River

through the Tullis Bros. Irrigation Project #2

has been examined and found to comply with the water laws of South Dakota and the regulations thereunder. A notice of your intent to appropriate water has

been sent to the Publisher of the Groton Independent printed at Groton, South Dakota for your information, a copy of this notice is enclosed.

The Publisher of the Groton Independent has been instructed that he is to publish the notice of your proposed appropriation of water once a week, for two consecutive weeks after you have verified that the notice is to be published. The Publisher has also been informed that you are to pay the cost of publication and that you should make the necessary arrangements with him to pay these costs.

You should know that the Publisher is to furnish proof of publication to the Water Rights Commission within 60 days of the date of this letter, otherwise South Dakota statute requires that your application lose its priority until proof of publication is received in proper form.

You are also notified that SDCL 1-26 provides you the opportunity to meet informally with Commission Staff to discuss proposed recommendations by the staff to the Commission prior to the scheduled hearing. If we do not hear from you, we will assume that the opportunity for an informal meeting is being waived and you wish to proceed directly to the hearing on your application before the Commission.

Respectfully,
WATER RIGHTS COMMISSION

BY:

Detty Westlund
Water Rights Specialist

enclosure: cc forms 6 and 7

No. 2639-3

Publish first publication, on or before March 9, 1979

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 27, 1979

Notice is hereby given Tullis Bros. whose post office

address is Groton, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 1.1 cubic feet of

water per second of time from the James River through the Tullis Bros. Irrl. Project #2, the point(x) of diversion of which is(~~xxx~~) to be located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$

of Section 26, Twp. 123N, Range 62W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

S $\frac{1}{2}$ NW $\frac{1}{4}$, Section 36-T123N-R62W

This Application No. 2639-3 will be considered by the Water Rights Commission at the Community Room of Chu City Hall, 222 East Dakota, Pierre SD upon the 28th day of March, 1979

at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

Betty Westlund
Water Rights Specialist

cc: Tullis Bros.
Groton SD 57445

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

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, Morris E. Spencer hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the James River

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

Ariton Independent of Ariton

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

March 7, 1979

March 14, 1979

Morris E. Spencer
(Signature)

Owner
(Title)

March 16, 1979
(Date Signed)

NOTICE OF HEARING ON
APPLICATION TO
APPROPRIATE WATER

February 27, 1979

Notice is hereby given Tullis Bros. whose post office address is Groton, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 1.1 cubic feet of water per second of time from the James River through the Tullis Bros. Irr. Project #2, the point of diversion of which is to be located in the SW 1/4 SW 1/4 of Section 26, Twp. 123N, Range 62W. Said water to be used for the purpose of providing irrigation on portions of the following described land: S 1/2 NW 1/4, Section 36-T123N-R62W.

This application No. 2639-3 will be considered by the Water Rights Commission at the Community Room of the City Hall, 222 East Dakota, Pierre, SD, upon the 28th day of March, 1979 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

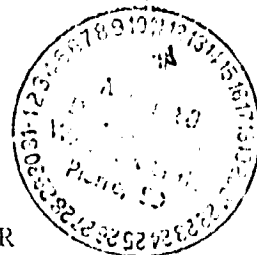
/s/ Betty Westlund

Betty Westlund

Water Rights Specialist

(21, March 7, 14, 1979)



NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USEPost Office ErOTonDate 11-4-80

TO: Water Rights ~~Commission~~
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No.

2637-3.

Water Right Permit No. 2637-3 states that the diversion system is to be constructed by Jan 1, 1981, and that the water is put to beneficial use ^{apriori} by May 1, 1981.

The diversion system was completed on Jan 1, 1981. Applying the water to beneficial use was completed on Jan 1, 1981.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

Tullie Brown By Delwin Tullie
(Signature)

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

BEFORE THE SOUTH DAKOTA
BOARD OF WATER MANAGEMENT

In the matter of James River)
Water Permit Application Nos.)
1914-3, 1915-3, 2629-3,)
2629-3, 2632-3, 2635-3,)
2640-3, 2641-3, 2642-3,)
2643-3, 2645-3, 2654-3,)
2873-3, 2874-3, 2877-3,)
2879-3, 2880-3, 4066-3,)
4067-3, 4068-3, 4069-3,)
4072-3, 4073-3, 2633-3,)
2634-3, 2637-3, 2638-3,)
2639-3, 2646-3, 2703-3,)
2755-3, 4065-3, 4070-3,)
4071-3, 4074-3, 2602-3,)
4496-3, 4494-3, 4495-3,)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND FINAL DECISION

A hearing was held before the Board of Water Management on April 10 and 11, 1980, in Huron, South Dakota to consider the above-entitled matters. Present at the hearing were the following board members: Mr. Dennis Decker, Mrs. Marian Gunderson, Mr. Wendell Hanson, Mr. Leland Harms, Mr. Ray Rylance and Mr. Merwyn Walter. Appearing at the hearing as counsel for the Board was Mr. Robert Timm, Assistant Attorney General; appearing for the Department of Water and Natural Resources was Mr. Curtis Wilson, Assistant Attorney General and appearing for the Oahe Conservancy Subdistrict was Ms. Betty Ganje, Attorney at Law. Based upon the files of the Board of Water Management (hereinafter referred to as the Board) and the testimony and evidence presented at the hearing, the Board makes the following Findings of Fact, Conclusions of Law and Final Decision.

FINDINGS OF FACT

1. That the Water Resources Commission (a predecessor to the Board) based on the information then available, set a 300 cfs limit and an August 1st cutoff date for diversions from the James River at its May, 1965 meeting. Water permits continued to be approved until May of 1968 when the 300 cfs limit was reached at which time the Water Rights Commission (a predecessor to the Board) adopted a policy of

automatically deferring without advertising further applications until it was determined that water was available. At the November, 1975, meeting of the Commission it was determined that additional water permits could be issued within the 300 cfs limit because of cancellation of prior permits. Further permits were issued at that time to bring the total permitted appropriations up to the 300 cfs limit. Additional permits were received after November of 1975 and were advertised and officially deferred at the January and March, 1979 meetings of the Water Rights Commission. The James River was withdrawn from further appropriation for one year at the March, 1979 meeting so that additional studies could be made to determine if there was unappropriated water available.

2. That the James River was reopened for appropriation at the January, 1980 meeting of the Board in order to allow advertising of deferred and pending applications and that all applications have been regularly advertised and affidavits of publication have been received.

3. That the Oahe Conservancy Subdistrict filed a petition at the March, 1979 meeting contesting all deferred applications and the Department of Water and Natural Resources moved to dismiss the petition.

4. That the Oahe Conservancy Subdistrict has a Future Use Permit No. 1067-3 for appropriations from the James River in connection with the proposed Oahe Project.

5. That granting the deferred applications for James River Water will have no effect on any interest, pecuniary or otherwise, of the Oahe Conservancy Subdistrict to water in the James River.

6. That these deferred applications for permits for James River water, to the extent they may conflict with the Oahe Conservancy Subdistrict's Future Use Permit No. 1067-3, are subject to that permit.

7. That the Water Rights staff has conducted detailed hydrographic surveys of the availability of water in the James River and studies of the anticipated effects of

approving additional water permits based on projected development and use by appropriators.

8. That based on the studies of actual irrigation development and use, it is projected that a maximum of fifty percent of permitted acres will be irrigated at any one time.

9. That based on such surveys and studies there is unappropriated water available during the spring and through July 15th of normal years.

10. That the determination that there is unappropriated water available is based strictly on flows naturally occurring in the James River and is not based in any way upon anticipated flows which may be diverted into the James River by the proposed Garrison Project in North Dakota.

11. That the Water Quality staff has conducted a detailed study of the James River as a fishery entitled: "An Instream Flow Recommendation for the Protection of Warm Water Fishery Propagation on the James River."

12. That citizens of South Dakota, as well as other states, make substantial use of the James River for recreational fishing as well as other instream beneficial uses.

13. That the James River, particularly those portions below the city of Huron, South Dakota, supports a variety of fish and aquatic life as well as acting as a spawning ground for fish in the Missouri River.

14. That protection of the instream beneficial uses of the James River requires both good quality water as well as sufficient quantity and velocity of water.

15. That protection of the instream beneficial uses of the James River may be accomplished while still approving additional permits for appropriation from the James River by imposing on those permits for diversions below the city of Huron certain by-pass requirements.

16. That it is in the public interest and consistent with making the fullest beneficial use of the

waters of the James River to approve the following water permits subject to the following restrictions:

A. Above Sand Lake - No. 2640-3; No. 2634-3

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

develops the reserve water supply.

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

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

5. With regard to Application No. 2602-3
only, approval authorizes off-stream
storage of 368 acre feet of water annually.

C. Diversion Dam to Third Street Dam, Huron, South
Dakota - No. 2879-3; No. 2643-3; No. 4070-3.

1. No diversions after July 15th of each year,
nor in periods of obvious low flow without
a written order of the Water Management Board
or its legally appointed representative.
Diversions shall be in accordance with
written orders, if any, of the Board or its
representative.
2. Prior water rights on the James River
contain an August 10th cut-off date,
and the additional requirement that
diversions cannot be made when 20 cfs
are not by-passing the Third Street
Dam in Huron, to provide for downstream
domestic use. In the management of the
James River under these permits, flows
will be monitored at all gauging stations,
and cut-offs will be timed to insure water
supplies to fulfill the prior water rights
and domestic qualification.
3. Permit holders shall complete and return
the irrigation questionnaire each year to
the Board or its representative.

D. Below Huron - July 15th Cut-off

No. 1915-3	No. 2633-3
No. 2642-3	No. 2654-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year,
or in periods of obvious low flow without a
written order of the Water Management Board
or its legally appointed representative.

Diversions shall be in accordance with written orders, if any, of the board or its representative.

2. To maintain instream flows for instream and domestic purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:

- (a) less than 80 cfs during any month of April;

- (b) less than 70 cfs during any month of May;

- (c) less than 50 cfs during any month of June;

- (d) less than 20 cfs during the remainder of the year.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

E. Below Huron - August 10 Cut-Off - No. 1914-3

1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board.
2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Flood Flow Storage - No. 4494-3, No. 4495-3

1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.
2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

17. That the plans of development of the pending permit applications are feasible under the above-listed restrictions.

CONCLUSIONS OF LAW

1. That this Board has jurisdiction over the subject matter and parties to this proceeding.

2. That the Oahe Conservancy Subdistrict has no interest in this matter entitling them to intervene.

3. That the general welfare of the State requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

4. That this Board has authority pursuant to SDCL Chapter 34A-2-11 and SDCL 46-5-18 to impose by-pass restrictions on appropriations from the James River to protect instream and domestic uses, recreational uses and the fish and aquatic life in the James River.

5. That all legal requirements for the pending applications have been met and that the applications for water permits should be approved.

FINAL DECISION

I.

That the Motion to Dismiss the Petition of the Oahe Conservancy Subdistrict is hereby granted.

II.

That Water Permit Applications Nos. 1914-3, 1915-3, 2628-3, 2629-3, 2632-3, 2635-3, 2640-3, 2641-3, 2642-3, 2643-3, 2645-3, 2654-3, 2873-3, 2874-3, 2877-3, 2879-3, 2980-3, 4066-3, 4067-3, 4068-3, 4069-3, 4072-3, 4073-3, 2633-3, 2634-3, 2637-3, 2638-3, 2639-3, 2646-3, 2703-3, 2755-3, 4065-3, 4070-3, 4071-3 and 4074-3 shall be approved subject to the following qualifications:

A. Above Sand Lake - No. 2640-3; No. 2634-3

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

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and this application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.
5. With regard to Application No. 2602-3 only, approval authorizes off-stream storage of 368 acre feet of water annually.

2. For instream flow purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:

(a) less than 80 cfs during any month of April;

(b) less than 70 cfs during any month of May;

(c) less than 50 cfs during any month of June;

(d) less than 20 cfs during the remainder of the year.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

E. Below Huron - August 10 Cut-Off - No. 1914-3

1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.

2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Flood Flow Storage - No. 4494-3, No. 4495-3

1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.

2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

C. Diversion Dam to Third Street Dam. Huron, South Dakota - No. 2879-3; No. 2643-3; No. 4070-3.

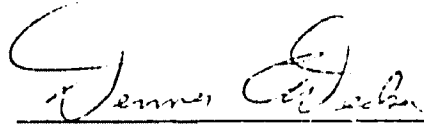
1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not bypassing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

D. Below Huron - July 15th Cut-off

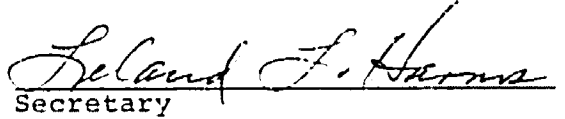
No. 1915-3	No. 2633-3
No. 2642-3	No. 2654-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the board or its representative.

Dated this 2th day of July, 1980.



Chairman



Secretary

2383-3

Permit No. 2639-3James River Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

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

I have this day made a thorough examination of the water use system constructed by Tullis Brothersby Delwin Tullis of RRI, Box 98, Graton, SD 57445 holder of
* 2383-3 August 28, 1975Permit No. 2639-3, bearing the priority of December 29, 1975 authorizingthe diversion of 2.00
1.10 cu. ft. per second of the waters of the James Riverfor irrigation purposes, in Brown County.

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

(A. Works used to divert the water:

motor: 3208 Cat, diesel
S.N. 90N5965
150 hp.pump: Berkeley, imp. 8x17 5/8 in.
S.N. 7677248
M.N. B4EYQBM

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

Pipeline: size - 10 in. 8 in.
type - Aluminum PVC
length - 1320 Ft 5080 FtCenter Pivot: make - Olson
(towable)# of towers - 10high pressure - 60 psinozzles - rainbirdcapacity - 900 gpm

C. Works used to apply water to beneficial use:

The system is in the following condition goodThe point of diversion is located James River: 1023 Ft E and 70 Ft N from the
SW corner of sec 26-T123N-R62WThe works are capable of diverting and conveying to the place of use 2.00
cu. ft. per second of water which is to be used for irrigation

Water has been put to beneficial use to the maximum extent as follows:

	Acres		Acres
<u>NW 1/4 NW 1/4 sec 36-T123N-R62W</u>	<u>33.0</u>	<u>NW 1/4 NE 1/4 sec 35-T123N-R62W</u>	<u>22.5</u>
<u>NE 1/4 NW 1/4</u>	<u>33.0</u>	<u>NE 1/4 NE 1/4</u>	<u>33.0</u>
* <u>SW 1/4 NW 1/4</u>	<u>33.0</u>	<u>SW 1/4 NE 1/4</u>	<u>33.0</u>
* <u>SE 1/4 NW 1/4</u>	<u>33.0</u>	<u>SE 1/4 NE 1/4</u>	<u>33.0</u>

comprising a total of 253.5 acres of land and the license should be issued for 2.00 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ NoExceptions to compliance are: _____ Date March 28, 1985

* License No. 2383-3 is incorporated into Permit No. 2639-3.

Lands in the SW 1/4 NW 1/4 of sec 36 have a priority date of
December 29, 1975. The remaining lands have a
priority date of August 28, 1975.

(signature)

2393-3

LICENSE FOR PERMIT NUMBER 2639-3

1. Legal location of wells: _____

dams & structures: _____

2. Well Information: Well Drilling Firm _____

No. of wells _____ Depth _____

Casing a) diameter _____ Screen a) type _____

b) length _____ b) length _____

c) type _____ Static Water Level _____

Pump a) make _____ Motor a) make _____

b) model _____ b) model no. _____

c) size _____ c) horsepower rating _____

d) capacity _____ GPM d) motor efficiency rating _____

e) turbine pump
no. of stages _____

3. Distribution lines:

a) size of lines 10 in. 8 in.

b) type Aluminum PVC

c) length 1320 ft 5080 ft

4. Dam information:

a) height to crest _____

b) height to spillway _____

c) crest width _____

d) crest length _____

e) spillway length _____

f) spillway width _____

g) approx. storage _____

h) Distribution lines or canals:

1) size _____

2) type _____

3) length _____

i) Outlet tubes:

1) diameter _____

2) type _____

3) valued (Y/N) _____

4) valve type _____

5) location on structure _____

5. System Type: a) sideroll:

1) length _____ feet

2) diameter of pipe _____

3) make, model & number of sprinklers _____

4) spacing of sprinklers _____

5) nozzle size _____

b) towline:

1) length _____ feet

2) make, model & number of sprinklers _____

3) spacing of sprinklers _____

4) nozzle size _____

5. System Type: c) center pivot

- 1) make Olson
- 2) number of towers 10
- 3) distance between towers _____
- 4) overall length _____
- 5) End gun (Y/N) _____
- 6) high or low pressure high
- 7) make & size of nozzles Rainbird
- 8) PSI reading while system is running 60
- 9) GPM 900

g) Gun

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size _____
- 7) hose length _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

YES	NO	Check Items
☒	☐	1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.
☒	☐	2. Special Qualifications to permit being abided by.
☒	☐	3. All Structures, wells and lands on map.

REMARKS:

motor: 3208 Cat, diesel
S.N. 90N5965
150 hp.

pump: Berkeley, imp. 8x17⁵/₈ in.
S.N. 7677248
M.N. B4EYQEM

State of South Dakota
Water License No. 2639-3

(1) Tullis Brothers
of RR#1, Box 98, Croton, South Dakota 57445
made Application No. 2639-3, December 29, 1975 for a water permit to appropriate
1.1 cubic feet per second of water from the James River,
Brown County, South Dakota for irrigation purposes.
Permit No. 2639-3, with a priority date of December 29, 1975
was approved July 24, 1980 and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before July 24, 1985 and for the application to beneficial use of said
water on or before July 24, 1983.

The applicable portions of Water Right No. 2383-3 have been incorporated into this
Water License No. 2639-3. Priority dates for specific acreages are listed in #3
of this License.

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of
the construction of the water supply system and is entitled to divert 2.00 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is 1023' E and 70' N from the SW Corner
of Section 26, T123N, R62W (CC)

and

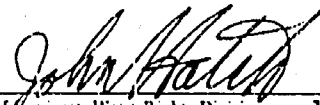
(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, to irrigate the following lands all in 1123N, R62W

<u>Section 36</u>	<u>NW$\frac{1}{4}$NW$\frac{1}{4}$</u>	<u>33.0 Acres</u>
	<u>NE$\frac{1}{4}$NW$\frac{1}{4}$</u>	<u>33.0 Acres</u>
	<u>SW$\frac{1}{4}$NW$\frac{1}{4}$</u>	<u>33.0 Acres</u>
	<u>SE$\frac{1}{4}$NW$\frac{1}{4}$</u>	<u>33.0 Acres</u>
<u>Section 35</u>	<u>NW$\frac{1}{4}$NE$\frac{1}{4}$</u>	<u>22.5 Acres</u>
	<u>NE$\frac{1}{4}$NE$\frac{1}{4}$</u>	<u>33.0 Acres</u>
	<u>SW$\frac{1}{4}$NE$\frac{1}{4}$</u>	<u>33.0 Acres</u>
	<u>SE$\frac{1}{4}$NE$\frac{1}{4}$</u>	<u>33.0 Acres</u>
<u>TOTAL</u>		<u>253.5 ACRES</u>

NW $\frac{1}{4}$ Section 36 & NE $\frac{1}{4}$ Section 35 retain an August 28, 1975 priority date
SW $\frac{1}{4}$ Section 35 retains a December 29, 1975 priority date

(4) Pursuant to §46-5-30.1 Tullis Brothers
of RR#1, Box 98, Groton, South Dakota 57445
the holder(s) and/or owner(s) of Water Permit No. 2639-3 is issued a license to appropriate water, the right to use
2.0 cubic feet per second of water from the James River with a priority date
of August 28 & December 29, 1975 from the location specified in (2) of this license. The water to be
conducted to and upon lands specified in (3) of this license for the purpose of irrigation

This license is subject to any limitations or qualifications listed in Water Permit No. 2639-3 and subject
to South Dakota State Law.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources

JOHN HATCH

DEC 20 1975



**Department of
Water & Natural Resources**

No. 2639-3

Jon Foss Building
623 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

September 26, 1985

Tullis Brothers
%Delwin Tullis
RR 1, Box 98
Groton SD 57445

Dear Sirs:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 2639-3 has been completed. Your final water right document, the Water License, can now be issued.

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

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until this \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

KAREN SCHLAACK
Administrative Aide

NOTE: On form of payment, please include the number of the water permit.
This insures proper handling of the fee.

RECEIPT

Division of Water Rights

No 4 10223

South Dakota Department of Water and Natural Resources

Pierre, November 1, 19 35

RECEIVED OF Tullis Brothers, RR#1, Box 98, Groton, SD 57445

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. 2639-3	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer JOHN HATCH/ms

No. 2639-3

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

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

DEC 20 1985

Tullis Brothers
RR#1, Box 98
Groton, South Dakota 57445

Dear Sir:

Enclosed herewith is, Water License No. 2639-3. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division

JH:MS

Enclosures

Applicable portions of Water Right No. 2383-3 have been incorporated into this Water License No. 2639-3.

WNR-817 3/83
Transmittal of Water License



Department of Water & Natural Resources

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

April 24, 1987

NOTICE

TO: Tullis Brothers
Rt 1, Box 98
Groton SD 57445

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

SUBJECT: Amendment of Water Permit No. 2703-3 and Permit No. 2639-3 incorporated into Water Right No. 2383-3

Notice is given that the Water Management Board will consider deleting and adding the following qualifications to Water Permit Nos. 2703-3 and 2639-3.

Qualifications to be deleted:

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

Qualifications to be added:

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

2. This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior water rights if or when the reserved water supply is developed.

The hearing to consider amendment of Water Permit Nos. 2703-3 and 2639-3 to delete and add the above qualifications will be held May 6, 1987 at 4:15 pm, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The hearing is based on the results from inspection of James River water permits/rights completed in the spring of 1985. The attached report "Status of James River Water Rights" summarizes the results of the inspections. The proposed amendment to Water Permit Nos. 2703-3 and 2639-3 is based on the decrease in James River water appropriation from 443.92 cubic feet of water per second to 254.07 cfs. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

After all evidence is taken at the hearing, the Board may issue a decision to delete and add the above qualifications, postpone any action or taken no action. This hearing is an adversary proceeding. Any party 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.

SOUTH DAKOTA
Department of
Water & Natural Resources

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

May 18, 1987

NOTICE

Tullis Brothers
Rt 1, Box 98
Groton SD 57445

Dear Sirs:

This letter is in response to action taken by the Water Management Board to amend Water Permit Nos. 2703-3 and 2639-3. The Board amended Water Permit Nos. 2703-3 and 2639-3 by deleting and adding the qualifications on the enclosed "Attachment" which should be placed with the permits. The action was taken pursuant to the notice to you dated April 24, 1987.

Very truly yours,

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

enclosures

ATTACHMENT TO WATER PERMIT NO. 2639-3

TULLIS BROTHERS

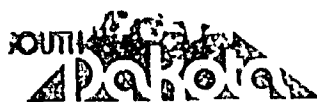
The Water Management Board amended Water Permit No. 2639-3 at the May 6, 1987 Board meeting to delete and add the following qualifications:

Qualifications deleted:

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

Qualifications added:

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



Department of Water & Natural Resources

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

April 18, 1988

2639-3
2703-3

Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

RE: James River Flow Conditions and Future Shut Off Orders

Dear Mr. Tullis:

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

James River flow conditions are as follows:

James River Flow* Record

Date	LaMoure	Ludden	Columbia**	Ashton	Huron	Forestburg	Scotland
04/06/88	81.2	(state	15.0	37.7	48.0	105	285
04/11/88	134	line)	12.4	34.3	39.4	60.9	167
04/13/88	150		8.99	21.4	34.3	55.7	122
04/14/88	159	190	21.3	34.3	32.0	50.8	115
04/15/88	142		57.0	45.6	32.0	48.9	112

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

1 cfs = 449 gallons per minute

** Sand Lake Refuge has increased releases due to inflows

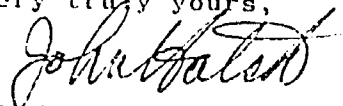
The flow in North Dakota at LaMoure, ND is 142 cfs because of releases being made at the Pipestem Dam. However, releases from Pipestem will be reduced after April 15 to 25-50 cfs because of a construction project below the dam. We do not expect significant releases from the Jamestown Reservoir in North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

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

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

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

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch", written in dark ink.

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

Department of Water & Natural Resources

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

May 18, 1988

NOTICE OF SHUTOFF ORDER

TO: Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

2639-3
2.03-3

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

John Hatch
By James Hentel

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

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

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

Date	LaMoure	Ludden	Colverbia	Ashton	Huron	Forestburg	Scotland
05/09/88	5.5	156	6.97	51.4	62.0	57.7	72.0
05/10/88	4.2	48.0	16.3	43.7	65.1	65.3	87.4
05/11/88		.05	9.23	31.6	45.0	68.8	82.0
05/12/88	4.6	5.79	6.30	30.3	51.3	38.8	79.4
05/13/88	0.30	6.45	6.46	30.0	48.0	65.3	76.9
05/16/88	0.50	3.09	3.15	21.1	45.0	49.9	62.8
05/17/88	0.0	0.0	4.84	16.0	42.1	43.7	58.5
05/18/88	0.0	0.0	3.51	12.8	6.8*	39.6	50.7

* South wind affecting the reading

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

cc: City of Huron





Department of Water & Natural Resources

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

May 24, 1988

NOTICE OF EXTENSION OF SHUTOFF ORDER

2639-3
2703-3

TO: Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

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

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

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

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





Department of Water & Natural Resources

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

May 31, 1988

NOTICE OF EXTENSION OF SHUTOFF ORDER

TO: Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57446

2639-3
2703-3

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

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

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

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



 **Department of
Water & Natural Resources**
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

July 17, 1989

NOTICE OF SHUTOFF ORDER

2639-3
2703-3

TO: Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

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



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

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

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

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

cc: City of Huron, Water Superintendent



**SOUTH DAKOTA Department of
Water & Natural Resources**

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

April 6, 1990

NOTICE OF SHUTOFF ORDER

2639-3, 2703-5

TO: Tullis, Delwin
Tullis Brothers
RR 1, Box 93
Groton, SD 57445

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

Delwin D. Brosz

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

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

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

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

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

Date	Ludden	Columbia	Ashton	Huron	Forestburg	Scotland	Yankton
3/26/90	----	----	----	----	----	----	30.2
4/2/90	----	3.5	8.0	0	6.0	15.0	----
4/4/90	51.0	10.0	10.0	0	5.4	22.0	----

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

cc: City of Huron, Water Superintendent



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-318

April 2, 1991

2639-3

Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

Dear Mr. Tullis:

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

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

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

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

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

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

Very truly yours,

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

South Dakota

2639-3

DEPARTMENT OF WATER & NATURAL RESOURCES

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

GREAT FACES. GREAT PLACES.

February 1, 1991

TULLIS BROTHERS
RR #1 BOX 98
GROTON SD 57445

NOTICE

RE: Violation of Water Permit No(s) 2639-3

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 2639-3. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s) 2639-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

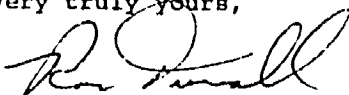
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Suspend Permit No(s) 2639-3 until the 1990 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

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

If the questionnaire is received in this office before the February 27th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,



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

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested. 1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)							
3. Article Addressed to: TULLIS BROTHERS RR #1 BOX 98 GROTON SD 57445	4. Article Number P 1694 057 489 Type of Service: <table border="0"> <tr> <td>☐ Registered</td> <td>☐ Insured</td> </tr> <tr> <td>☒ Certified</td> <td>☐ COD</td> </tr> <tr> <td>☐ Express Mail</td> <td>☐ Return Receipt for Merchandise</td> </tr> </table> Always obtain signature of addressee or agent and DATE DELIVERED.	☐ Registered	☐ Insured	☒ Certified	☐ COD	☐ Express Mail	☐ Return Receipt for Merchandise
☐ Registered	☐ Insured						
☒ Certified	☐ COD						
☐ Express Mail	☐ Return Receipt for Merchandise						
5. Signature - Addressee X <i>Dillon Tullis</i>	8. Addressee's Address (ONLY if requested and fee paid)						
6. Signature - Agent X							
7. Date of Delivery 2.2.91							



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 6, 1991

2639-3

Delwin Tullis
Tullis Brothers
RR #1 Box 98
Groton, SD 57445

Dear Mr. Tullis:

I am writing to acknowledge receipt of your 1990 irrigation questionnaire for Water Right No. 2639-3. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaire, your name has been deleted from the February Water Management Board meeting agenda.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ron Duvall', is written over a horizontal line.

Ron Duvall, Natural Resources Engineer IV
Water Rights Division

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 5, 1991

NOTICE

TO: Delwin Tullis
Tullis Brothers
RR 1, Box 98
Groton, SD 57445

2639-3

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

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

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

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

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

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

cc: City of Huron, Water Superintendent



April 14, 1992

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE OF CANCELLATION ORDER

2639-3

TO: DELWIN TULLIS
TULLIS BROS
RT 1 BOX 98
GROTON, SD 57445

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

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

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

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

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

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

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

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

cc: City of Huron, Water Superintendent



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 23, 1992

RESCISSION OF SHUTOFF ORDER

2639-3

TO: TULLIS BROS
DELWIN TULLIS
RR 1 BOX 98
GROTON, SD 57445

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

SUBJECT: Rescission of April 14, 1992 Shutoff Order
to James River Water Right Holders above
Ashton to the North Dakota/South Dakota
State Line.

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

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

cc: City of Huron, Water Superintendent

2639-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 9, 1993

David Tullis
P.O. Box 112
Cody, SD 57604

Dear Mr. Tullis:

The document referred, is a copy of Water Right No. 2639-3. The water right is currently in the name of Tullis Brothers. Also enclosed is a list entitled "History of James River Shut-off Orders". The list is current even though it states "as of June 23, 1992". There have been no shut-off orders since 1993.

In our phone conversation, we discussed whether or not the water right was valid. I, as a State employee, can not tell you whether or not this water right is valid. The only entity that can do that would be the Water Management Board. However, I can tell you that a water right will remain in effect as long as the water is continually used for the purpose it was applied for. If water is not used at least once every three years, and no legal excuse exists for the non-use of water, the water right may be considered abandoned or forfeited.

I would suggest you may wish to visit with Mr. Tullis about the history of his irrigation pumping. Shut-off orders will reflect the years in which the permit holders along the river were ordered not to pump.

When you purchase the land described in the water right, you will need to file a "Notice of Transfer of Ownership" with our office. I am enclosing a partially completed form in the event you need it. A filing fee is required for filing the transfer.

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

Sincerely,

Genny McMath

Genny McMath
Natural Resources Analyst
Water Rights Division

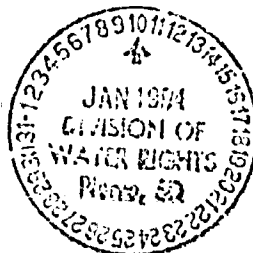
cc: Tullis

STATE OF SOUTH DAKOTA
MICROFILM CERTIFICATE OF AUTHENTICITY
THIS IS TO CERTIFY THAT THE MICROGRAPHIC IMAGE APPEARING ON THIS SIDE OF MICROFILM IS AN ACCURATE REPRODUCTION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SECTION 1-27-4 OF THE SOUTH DAKOTA CODIFIED LAWS. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF ADMINISTRATIVE RULES OF SOUTH DAKOTA 10-04-01 AND 10-04-02 FOR MICROGRAPHIC REPRODUCTIONS.
REDUCTION RATIO 25:1
ROLL NUMBER 4-26
DATE MICROFILMED 9/15/93
CAMERA OPERATOR SIGNATURE David R. Kopp

2639-3

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2639-3Date: Sept 21 '93I/We request that Water Right No. 2639-3formerly owned by: Tullis Brothers, RR #1 Box 98, Groton, SD 57445be transferred to: (name & address) Jon and Lorna LockenPo Box 108, Bath SD 57427-0108(Telephone No) 605-225-8322

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

NW 1/4 Section 36 and NE 1/4 Section 35, T123N, R62W

I/We understand that the validity of Water Right No. 2639-3 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 at the Division of Water Rights, as evidence of the change of ownership.

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

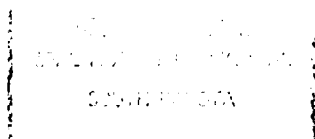
STATE OF SOUTH DAKOTA)

County of BROWN)

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

Jon Locken
(Signed)

Subscribed and sworn to before me this 7th day of January, 1994.



Little A. Duvick
(Notary Public)

My commission expires 7-30-03

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

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

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

2639-3
413986

Pierre, _____ January 16, 19 94

RECEIVED OF Jonathan Locken, PO Box 108, Bath, SD 57427

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Right No. 2639-3</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John H. Harkins
Chief Engineer

2639-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 15, 1994

No. 2639-3

Jon and Loren Locken
P.O. Box 108
Bath, SD 57427-0108

Dear Mr. and Ms. Locken:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right No. 2639-3.

Our records now show you as the owner of Water Right No. 2639-3.

Sincerely,

A handwritten signature in cursive script, reading 'Cheryl F. Frost'.

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

enclosure



2639-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 14, 2000

NOTICE

TO: JON & LOREN LOCKEN, 13755 396TH AVE, BATH, SD 57427

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

SUBJECT: Reporting Requirement for 1999 Irrigation Questionnaire(s)

Our records indicate that the 1999 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2639-3 & 5925-3. The request for the Questionnaire was dated October 7, 1999. The Water Management Board has directed that owners of water permits who have not submitted the 1999 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2639-3 & 5925-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 1:30 pm, March 1, 2000 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 Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2639-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 28, 2000, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

2639-3

SENDER COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JON & LOREN LOCKEN
13755 396TH AVE
BATH SD 57427

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

1-15-00

C. Signature

Jon Locken

☐ Agent

☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

Z 227 670 476



2639-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 19, 2000

2639-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath, SD 57427

Dear Sirs:

I am writing to acknowledge receipt of your 1999 irrigation questionnaires. I completed forms for you based on my phone conversation with Jon Locken on January 18th.

You may disregard the January 14, 2000, "Notice" concerning reporting requirements for Water Permit No. 2639-3 and 5925-3. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

2639-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

APR 04 2004

5925-3

Jon & Loren Locken
13755 396th Ave
Bath, SD 57427

Dear Mr. Locken:

Enclosed is Water License No. 5925-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416799 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

Sincerely,

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

NOTE: The applicable portions of No. 2639-3 are incorporated into Water License No. 5925-3.

enclosures

1060' N 89°E

4 NW Corners Sec
35-123-62

Point of Diversion same as point for Permit # 2383-3

James River

Acres Irrigated - 79
Water Claimed - 1.1 cfs

TULLIS BROTHERS

Delwin Tullis Sec
IRRIGATION PROJECT #2
Grotton S. Dak
Brown County

Land Owned by Ronald Adler
Permit applied for by Tullis Brothers
Point of Diversion 1060' N 89°E of
NW corner Sec 35-123-62

This Land under Permit
2383-3

This Land under Permit
2383-3

SW¹/₄ of NW¹/₄ Sec 36
123-62
39 Acres

SE¹/₄ of NW¹/₄ Sec 36
123-62
40 Acres

Surveyor's Certificate

I, John L. Wiersma, hereby certify that
this map identifies a reasonably accurate
record of the land of:

Ronald Adler

Grotton

57445

South Dakota

12-24-75

Brown County

John L. Wiersma

P.E. # 1916

Brookings

MAP No. 2006-3 (APPL 2639-3)