

Considered: _____

WATER PERMIT NO. 5121-3

MAP No. Same

Name of Applicant Fisher Sand and Gravel Company

Post Office Address Box 1034, Dickinson ND 58601

Amount of Water Claimed 0.89 cfs, 120 ac-ft annually Total Acres NA

Source of Water Supply James River and open pit

Water to be used for Industrial purposes County Hanson

About 6 1/2 miles W of Alexandria.

PROOF OF PUBLICATION: Received ☒ Not Received ☐

APPLICATION: Approved 5/6/87 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Jan. 28, 1987 Fee \$150.00 Remarks _____

1/28/87

Corrected Application Received Feb. 6, 1987 Period of Annual Use Apr 1 - Nov. 30

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

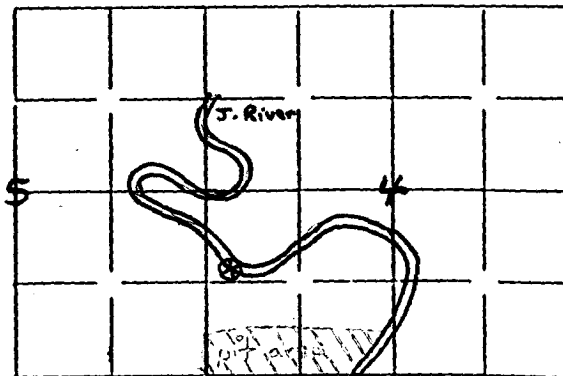
WI-1 Description same as Application YES ☐ NO ☐ REMARKS _____

Diversion Point James River: NW 1/4 SW 1/4 section 4;

pit area: S 1/2 SW 1/4 section 4;

all in T102N-R59W

Land to be Irrigated NA



Well Log: Driller NA Licensed YES ☐ NO ☐

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY David Paulson Reviewed and the Number

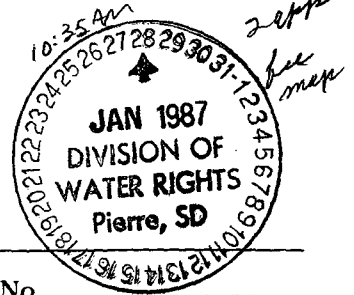
assigned on February 24, 1987 By Ron Duvall

No. 5121-3 Hydrologic Unit 10160011
 Map No. same Basin James River
 Newspaper Alexandria Herald, Box 450 (Thurs)

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☒ Commercial ☒ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant Fisher Sand & Gravel Co. Phone No. (701) 225-9184Post Office Address P.O. Box 1034 Dickinson ND 58601
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 400 gallons per minute 120 acre-feet annually3. Source of water supply James River and open pit4. Location of point of diversion Sec. 4, Twn 102, Rge 59 James River: NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4;
open pit: S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 4; E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5; all in T102N-R59WCounty Hanson5. Counties where water will be used Hanson6. Annual period during which water is to be used April ¹ through November 30

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Process water will be used to wash sand & gravel.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF ~~SOUTH DAKOTA~~ North Dakota
County of Stark ssI, Fisher Sand & Gravel Co., Gene Fisher, President

the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Gene FisherSubscribed and sworn to before me this 23rd day of January 1987Notary Public, STARK COUNTY, N. DAK.
My Commission Expires FEB. 5, 1991

102-59

80-R
F2

18.9

14.3

11.9

9

24.6

16.5

13

8.3

5.9

4.7

3.2

2.9

1.9

1.1

0.8

0.5

0.3

0.1

See 4-102-59

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 5121-3
Fisher Sand and Gravel Co. P.O. Box 1034, Dickinson
(Applicant) (Post Office Address)
ND 58601 With the following qualifications.
(State) (Zip Code)

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.

Date of first receipt of application January 28, 1987.
 Date of return to applicant for correction, amendments or changes required January 30, 1987.
 Date of receipt of corrected application Feb. 6, 1987. Approved May 6, 1987.

The Water Management Board hereby approves this Water Permit No. 5121-3 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is January 28, 1987.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before October 6, 1989.
3. The whole of said work is to be completed on or before May 6, 1992.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is May 6, 1996.
5. The water appropriated shall be used for the purpose of supplying a sand and gravel washing operation
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 120 acre-feet annually 0.89 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 to which water is actually and beneficially applied for industrial use on or before May 6, 1996; said water to be used during the following described annual period: Apr 1 - Nov 30

WATER MANAGEMENT BOARD
 By: John Hatch
Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
JUL 17 1987, 1987

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410733

Pierre, January 28, 19 87

RECEIVED OF Fisher Sand & Gravel CO., PO Box 1034, Dickinson, ND 58601

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 _____	150	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 _____		
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	150 00

By

Chief Engineer

JOHN HATCH

MS

WATER RIGHTS DIVISION
(605) 773-3352

January 30, 1987

Terry Thiel
Fisher Sand & Gravel Company
PO Box 1034
Dickinson, North Dakota 58601

Dear Mr. Thiel:

This letter is in response to our phone conversation on January 28, 1987 regarding the water permit application for sand and gravel washing in Hanson County.

I informed you that the \$150.00 application fee was not adequate to cover a 400 gpm diversion rate without specifying an annual acre-feet limitation. You indicated that the maximum number of acre-feet to be used annually would be 120 acre-feet. You also indicated the annual 120 acre-feet limitation could be placed on the application with the 400 gpm diversion rate. I was also informed that water would be recirculated as much as possible and water from pit de-watering would also be used to supply the project. Therefore, I am also adding the pit as a potential water supply for this project in addition to the James River. I am also enclosing the map submitted with the application. Sign the map according to the directions on the enclosed instruction sheet.

Please contact me if you have any questions regarding the above actions.

Sincerely,

Ron Duvall
Natural Resources Engineer

RD:ms
Enc.

Report on Application No. 5121-3
Fisher Sand and Gravel Company
March 23, 1987

The Fisher Sand and Gravel Company proposes to appropriate 0.88 cfs (120 acre feet maximum annual use) from the James River and/or an open pit created by the mining operations. The James River diversion point would be located in the NW1/4 SW1/4 and the open pit located in the S1/2 SW1/4 all in section 4, T102N, R59W. The water is to be diverted to settling ponds and then recirculated for the sand and gravel washing operations.

Discussion:

The location for the point of diversion from the James River is located downstream from the City of Mitchell. In this area the flows in the river have a good probability of being available for additional appropriations. During 1985 and 1986 a number of permits were cancelled by the Water Management Board due to nondevelopment of the system or forfeiture for nonuse.

Ron Duvall, Staff Engineer inspected the James River Water Rights during the spring of 1985. A total of 164 authorized water permits existed between the North Dakota/South Dakota border and the Missouri backup waters in Yankton County. As a result of the inspections, 25 water permits were cancelled. In addition, several licensed water rights were reduced to reflect the actual amount of water being put to beneficial use. The total number of acres irrigated from the James River as of June 1985 is 15,626.1 acres for an appropriation of 190 cfs. The maximum number of acres that can be irrigated under the current appropriations is 17,875.1 acres for an total appropriation from the river of 211 cfs. The Cities of Huron and Mitchell are authorized 41 cfs plus industrial use totals 2.25 cfs. Therefore, the total irrigation, municipal, and industrial appropriation from the James River is 254.07 cfs.

This application also proposes the option of using waters from an excavated pit during times when needed. The use of the pit as a water supply should not cause any interference with the flows of the James River nor adversely affect existing water uses.

Prior Actions of the Water Resources Commission and Water Rights Commission:

During the 1960's, the Water Resources Commission (a predecessor to the Water Management Board) set a 300 cfs limit on the appropriations from the James River. The 300 cfs limit and the August 10th cutoff date were placed on the James River appropriations at the May, 1965 hearing of the Commission. The basis for setting the limit and cutoff date was a report to the

Water Resources Commission entitled "James River; Stream Flows and Water Right Permits". It was also determined that 20 cfs of water should bypass Huron to provide for downstream domestic use. The report stated that the flow records indicated that there was usually more than sufficient water in the early spring and early summer and little or no flow in the late summer. The report concluded with a recommendation to approve the existing applications with an August 10th cutoff date; the diversions to be in accordance with any written orders issued by the Commission or its representative; a combined diversion of 200 cfs of water could be approved above Huron; and in addition permits having a combined diversion of 300 cfs could be approved above the north boundary of Yankton County. The report at that time also stated that when the above rates were approved, several hundred additional cfs could be approved with a July 1st cutoff.

Water permits continued to be approved from the flows of the James River until May of 1968 when the 300 cfs limit for the James River was reached. After 1968, all applications for the James River were deferred until September of 1975 when the Commission staff reported that inspections of the diversions of the James River revealed that some of the permits which were issued in the late 1960's were not fully developed and others could be cancelled allowing additional permits to be considered. Additional permits were issued until the 300 cfs limit was reached. From 1975 until 1979 applications received were automatically deferred, but then advertised for January and March of 1979. The Water Rights Commission decided in March of 1979 to withdraw the James River from further appropriation for one year until additional study was conducted to determine whether or not unappropriated was still available in the James River.

The Water Management Board in July of 1980 based on the studies conducted by the Department of Water and Natural Resources adopted Findings of Fact, Conclusions of Law and a Final Decision in order to issue water permits on the James River beyond the 300 cfs limit. The permits located below Huron received the following qualifications:

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, the permit does not authorize diversions when there is less than the following cfs bypassing 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.

Conclusions:

Based on investigations conducted by the Division during 1985, the actual quantity of water put to beneficial use is not in excess of the 300 cfs limit and based on the prior showing that the James River during most years can sustain 300 cfs of appropriations through August 10th, water is available from the James River for Application No. 5121-3 to conduct the proposed mining activity.

The proposed use from the pit for an additional supply of water will not cause any adverse impacts to existing water uses.

If approved, the permit should contain the regular James River Qualification with the August 10th cutoff qualification subject to the permits issued and developed after 1980 also being amended with the August 10th cutoff qualification.



James E. Winterton
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5121-3

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5121-3, Fisher Sand & Gravel, Box 1034, Dickinson ND.

The Chief Engineer is recommending APPROVAL of Application No. 5121-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

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

See the attached report for additional information.


JOHN HATCH, Chief Engineer
April 2, 1987

No. **5121-3**

Instruction to Newspaper -- Publish first publication of the following Notice on or before **April 9, 1987** with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. **5121-3** to Appropriate Water
~~and/or to Amend Water Permit or Water Right No. _____~~

Notice is hereby given that **Fisher Sand and Gravel Company** whose mailing address is **P.O. Box 1034, Dickinson, North Dakota** has made an application for a permit to appropriate 0.89 cubic feet of water per second (120 acre-feet maximum annual use from the James River and/or an open pit created by the proposed mining operations. The James River diversion point is to be located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the open pit is to be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 4-T102N-R59W. Water is to be diverted from the James River only if water is not available from the open pit. Water is to be used for de-watering the pit and for sand and gravel washing. Flows from sand and gravel washing operations are then to be diverted to settling ponds and then recirculated.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends **APPROVAL** of Application No. **5121-3** because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at **room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, May 6 1987 at 4:15 PM**.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by **April 24, 1987**. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; ~~(ground)~~ 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; ~~(future use)~~ 46-5-38 thru 46-5-40, ~~(transfer lands)~~ 46-5-30.4, 46-5-33 thru 46-5-35, ~~(10,000 AFA)~~ 46-5-20.1, 46-5-2.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15, ~~(future use)~~ 74:02:01:24 thru 74:02:01:25; ~~(10,000 AFA)~~ 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNr, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by **April 24, 1987**.

Affidavit of Publication

STATE OF SOUTH DAKOTA,

ss.

COUNTY OF HANSON

R. E. BRADEN, of said County and State, being first sworn on his oath, says the ALEXANDRIA HERALD is a weekly newspaper of general circulation, printed and published at Alexandria, in Hanson County, State of South Dakota, by himself, and has been such newspaper during the times hereinafter mentioned;

that the said newspaper is a legal newspaper, that it has a bona-fide circulation of more than 200 copies weekly, that it has been published within said County of Hanson for more than fifty-two successive weeks prior to the publication of the notice hereinafter mentioned and has been printed during said period and at the present time, in whole in an office maintained at said place of publication; and that I, the undersigned, am publisher of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts in this affidavit; that the advertisement headed

Notice of Hearing

a printed copy of which is hereto attached, was printed and

published in the said newspaper for 2 weeks; that said notice was published in the issues of said paper on the dates as follows, to-wit: The first publication being made

April 9, 19 87;

the second publication on _____, 19 _____;

the third publication on _____, 19 _____;

the fourth publication on _____, 19 _____;

and the last publication on April 16, 19 87...

that \$ 45.61 being the full amount of the fee for publication of the annexed notice, insures solely to the benefit of the publisher of the said newspaper; that no agreement or understanding for a division thereof has been made with any person; and that no part thereof has been agreed to be paid by any person whomsoever.

R. E. Braden

Subscribed and sworn to before me this 30

day of April, 19 87

J. A. Braden

Notary Public, Hanson County.

Notice of Hearing

ON APPLICATION NO. 5121-3
TO APPROPRIATE WATER

Notice is hereby given that Fisher Sand and Gravel Company whose mailing address is P.O. Box 1034, Dickinson, North Dakota has made an application for a permit to appropriate 0.89 cubic feet of water per second (120 acre-feet maximum annual use) from the James River and/or an open pit created by the proposed mining operations. The James River diversion point is to be located in the NW 1/4-SW 1/4 and the open pit is to be located in the S 1/2 SW 1/4 all in Section 4-T102N-R59W. Water is to be diverted from the James River only if water is not available from the open pit. Water is to be used for de-watering the pit and for sand and gravel washing. Flows from sand and gravel washing operations are then to be diverted to settling ponds and then recirculated.

Pursuant to SDCL 46-12 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5121-3 because 1) unappropriated water is available; 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, May 8, 1987 at 4:15 P.M. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26 must file a written petition with the applicant and the Chief Engineer by April 24, 1987. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foster Bldg., Pierre, SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by April 24, 1987.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

JUL 17 1987

Fisher Sand & Gravel Co.
P.O. Box 1034
Dickinson, North Dakota 58601

Dear Sir:

Enclosed herewith is your Water Permit No. 5121-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 5121-3.

Also enclosed is Form 10; Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



Department of Water & Natural Resources

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

June 28, 1988

NOTICE OF SHUTOFF ORDER

5121-3

TO: Gene Fisher
Fisher, Sand and Gravel
PO Box 1034
Dickinson, ND 58601

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

John Hatch
by James Monteton

SUBJECT: Shut Off Order To James River Water Right Holders
Located Between Huron and the Yankton County Line,
Effective 12:00 Noon on July 4, 1988.

I am certain that you are aware that James River Flows are not enough to supply all water rights. Therefore, to protect the domestic uses (livestock watering) on the James River, effective 12:00 noon on July 4, 1988 no pumping of water from the James River is authorized until January 1, 1989 or until further notice.

Unless conditions change, it appears that no pumping will be allowed for the remainder of the 1988 irrigation season from the James River.

Let us know if you have any questions.





Department of Water & Natural Resources

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

April 6, 1990

NOTICE OF SHUTOFF ORDER

5121-3

TO: Gene Kleinsasser, Operator
Fisher, Sand and Gravel
PO Box 243B
Mitchell, SD 57301

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

Delvin W. Brosz

SUBJECT: Shut Off Order to All James River 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 1990 from the James River. If conditions do improve, notices will be issued, based on senior priority dates, to allow pumping.

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:

<u>Date</u>	<u>Ludden</u>	<u>Columbia</u>	<u>Ashton</u>	<u>Huron</u>	<u>Forestburg</u>	<u>Scotland</u>	<u>Yankton</u>
3/28/90	----	----	----	----	----	----	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

SOUTH Dakota Department of
Water & Natural Resources

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

May 30, 1990

RESCISSION OF SHUTOFF ORDER

5121-3

TO: Gene Kleinsasser, Op
Fisher, Sand and Gravel
PO Box 243B
Mitchell, SD 57301

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

Delvin H. Brosz

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

The flows in the Lower James River have improved considerably. Therefore I am rescinding the April 6, 1990 shutoff order, effective immediately, for the section of the James River downstream from the I-90 bridge near Mitchell. A list of water rights below I-90 to Yankton County line is enclosed for your information.

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

<u>Date</u>	<u>Ludden</u>	<u>Columbia</u>	<u>Ashton</u>	<u>Huron</u>	<u>Forestburg</u>	<u>Scotland</u>
5/22/90	----	0.7	11.5	17.65	41.8	61.8
5/25/90	1.3	0.2	13.0	58.2	65.7	77.2
5/29/90	3.5	----	9.4	23.9	50.7	377.9

If the flows of the river should decrease to a level that will again require a shutoff in 1990, water rights with junior priority dates will receive shutoff orders first.

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



Department of Water & Natural Resources

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

August 8, 1990

NOTICE

5121-3

TO: Gene Kleinsasser, Op
Fisher, Sand and Gravel
PO Box 243B
Mitchell, SD 57301

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

A handwritten signature in black ink, appearing to read "John Hatch".

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

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

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

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

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

cc: City of Huron, Water Superintendent



Department of Water & Natural Resources

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

August 13, 1990

5121-3

Gene Kleinsasser, Op
Fisher, Sand and Gravel
PO Box 243B
Mitchell, SD 57301

Dear Mr. Kleinsasser, Op:

In response to your request by telephone, you are authorized to continue pumping from the James River under your water right.

The flows in the James River will continue to be monitored. If the flows become so low that use by senior water right holders or domestic users becomes impaired a shutoff order will again be issued.

If there are any questions, please contact this office.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

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

April 2, 1991

5121-3

Gene Kleinsasser, Op
Fisher, Sand and Gravel
PO Box 243B
Mitchell, SD 57301

Dear Mr. Kleinsasser, Op:

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

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

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

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

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

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

Very truly yours,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 5, 1991

NOTICE

5121-3

TO: Gene Kleinsasser, Op
Fisher, Sand and Gravel
PO Box 1265
Mitchell, SD 57301

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

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

The August 10 automatic shutoff date for water diversions from the James River is still in effect. 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

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: FISHER SAND AND GRAVEL

ADDRESS: PO BOX 1034, DICKINSON, ND

COUNTY: HANSON

DATE: 6-10-1992

TELEPHONE:

RE: INSPECTION^{status} REPORT

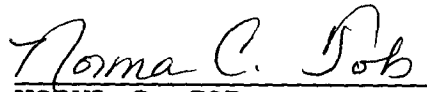
COMMENTS:

AT THE TIME THAT I INSPECTED THIS PERMIT, THE WASH PLANT WAS REMOVED. THERE WAS A POSSIBILITY THAT THEY WERE TO REBUILD IT THIS SUMMER. ALL THE PUMPS AND EQUIPMENT WERE STILL IN THE RIVER AND AT THE HOLDING POND AT THE TIME OF INSPECTION.

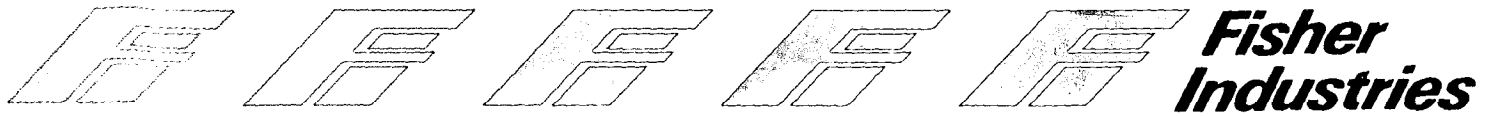
3-22-1993

I SPOKE WITH GENE KLEINSASSER ABOUT IF THEY WERE STILL PLANNING ON REINSTALLING THEIR GRAVEL WASH PLANT. THE LAST TIME THEY HAD USED THE WATER FROM THE RIVER FOR THE GRAVEL WASHING WAS AUGUST 1990. APPROXIMATELY 2 1/2 YEARS AGO. THEY USE THE WATER OUT OF THE GRAVEL PIT THOUGH. THE EQUIPMENT IN THE PIT IS THE SAME AS THE EQUIPMENT IN THE RIVER. HE SAID THAT THEY MAY PUT THE WASH PLANT BACK IN THIS SUMMER. AT THE MOMENT THEY ARE USING ONLY APPROXIMATELY 25-50 GPM FOR DUST CONTROL FROM THE JAMES RIVER, AND WOULD USE ABOUT 300 TO 400 GPM FOR THE WASH PLANT IF THEY INSTALLED IT AGAIN. I WILL CONTACT THEM AGAIN THIS FALL TO SEE IF THEY HAVE INSTALLED THE NEW WASH PLANT BEFORE I SCHEDULE THIS PERMIT FOR A LICENSE.

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


NORMA C. JOB

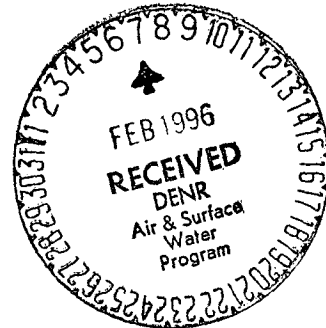
Natural Resources Engineer II
DENR, Water Rights Division



February 5, 1996

Mining Our Business

South Dakota Department of Water & Natural Resources
Joe Foss Building
523 East Capital
Pierre, SD 57501



RE: Water Permit # 5121-3

To Whom it May Concern,

Please send me information on the procedure on how to extend the above water permit.
The permit # 5121-3 is scheduled to end on 5/01/96.

If you have any questions or concerns, please feel free to contact me at the Mitchell office.
Thank you.

Sincerely,

FISHER SAND & GRAVEL CO.

Kyle Frisinger, Area Manager
Eastern South Dakota Operations

cc: File



Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 5121-3

ADDRESS: P.O. Box 1265, Mitchell, SD 57301 COUNTY: Hanson

DATE: 2/14/96 TELEPHONE: 996-1352

RE: Call to Kyle Frisinger regarding his 2/5/96 letter

COMMENTS:

I contacted Mr. Frisinger regarding his letter requesting information on how to extend the Water Permit No. 5121-3. Mr. Frisinger was under the impression that the water permit will expire in May 1996. He thought a water permit is similar to a mining permit which runs for a specific amount of time. I explained the May timeframe listed on the water permit was the limit of time to place water to beneficial use. He stated that water has been each year, however, the wash plant is not always at the Mitchell site.

I explained that the water permit needed to be inspected as part of finalizing their legal right to use water. A staff person will contact him sometime this spring or summer to conduct this inspection. Mr. Frisinger said to contact him anytime to conduct the inspection.

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

NAME:

Eric Lundberg

REPORT ON INSPECTION OF PERMIT NO. 5121-3

Other permit(s) associated with the project: None

DATE OF INSPECTION: March 20, 1996

NAME OF INSPECTION CONTACT: Charlie Bladow, Pit Foreman

NAME & ADDRESS OF PERMIT HOLDER: Fisher Sand & Gravel Co., PO Box 1034, Dickinson, ND 58601

DIVERSION POINT LEGAL LOCATION: #1: (James River) 1431 feet N and 636 feet E (NW1/4 SW1/4); #2: (pit) 1080 feet N and 570 feet E (SW1/4 SW1/4); both from the SW corner of Section 4; T102N R59W.

JAMES RIVER DIVERSION:

Motor:

- 1) Make Lincoln
- 2) Serial No. 3193255
- 3) Horsepower rating 15 HP

Pump:

- 1) Make Cristofulli
- 2) Serial No. 12490
- 3) Capacity 300 GPM

QUARRY PIT DIVERSION:

Motor:

- 1) Make Century
- 2) Frame No. 284T
- 3) Horsepower rating 25 HP

Pump:

- 1) Make Berkeley
- 2) Model No. B4JPBM
- 3) Capacity 100 GPM

DISTRIBUTION LINES OR CANALS:

- | | | |
|-----------------------|-------------------------|---------------------------|
| 1) Type <u>RUBBER</u> | 2) Size <u>4</u> inches | 3) Length <u>50</u> feet |
| 1) Type <u>STEEL</u> | 2) Size <u>4</u> inches | 3) Length <u>200</u> feet |

SYSTEM TYPE:

Sand Washing Plant

Water is pumped from the James River & from the Quarry Pit into a holding pond. From here, water is then pumped from the holding pond to the sand washing plant. After the wash has been completed, the wash water is piped into a holding pond to settle out and then recirculated. The river diversion is only used when water is not available at the quarry pit. Pumps and motors are subject to change at the Quarry pit. Fisher Sand & Gravel has numerous pumps within the company they use at different locations for sand washing/de-watering. The same

pump and motor doesn't always end up at the same location each year. The James River pump will always remain the same.

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

COMMENTS:

This was a follow-up inspection. Norma Job had looked at the system in 1992 at which time the sand washing plant was torn down (see note in file). Since that time, they have been using their James River & Quarry Pit diversions to pump water, to be used for dust control at the quarry. The sand washing plant is set up once again and they will be using it this year. 300 GPM will be pumped from the James River and 100 GPM from the quarry pit. Both pumps can be run at once, but only use the river diversion when water is not available in the quarry pit.

Permit No. 5121-3
James River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **March 21, 1996**, made a thorough examination of the water use system constructed by **Fisher Sand & Gravel Co. of PO Box 1034, Dickinson, ND 58601** holder of Permit No. **5121-3**, bearing the priority of **January 28, 1987** authorizing the diversion of **0.89** cu. ft. of water per second/**120** acre-feet annually from **surface water** for **Industrial** purposes, in **Hanson** County.

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

A. Works used to divert the water:

A 15 HP Lincoln Electric motor with a 300 GPM Cristofulli Pump at the James River.
A 25 HP Century motor with a 100 GPM Berkeley Pump at the Quarry pit..

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

50 feet 4" rubber pipe/hose.
200 feet of 4" steel pipe.

C. Works used to apply water to beneficial use:

Sand washing plant.

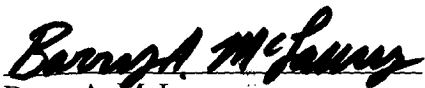
The system is in the following condition **good**. The points of diversion are located **#1: (James River) 1431 feet N and 636 feet E (NW1/4 SW1/4); #2: (pit) 1080 feet N and 570 feet E (SW1/4 SW1/4); both from the SW corner of Section 4; T102N R59W.** The works are capable of diverting and conveying to the place of use **0.88** cu. ft. of water per second/**120** acre-feet annually which is to be used for **Industrial** use and the license should be issued for **0.88** cfs/**120** acre-feet annually.

NOTE:

Pumps and motors are subject to change at the Quarry pit. Fisher Sand & Gravel has numerous pumps within the company they use at different locations for sand washing/de-watering. The same pump and motor doesn't always end up at the same location. The James River pump will always remain the same.

Applicable permit qualifications have been complied with: Yes **X** No

Exceptions to compliance are: **None** Date Report Completed: **April 23, 1996**


Barry A. McLaury

Natural Resources Scientist
DENR, Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 25, 1996

5121-3

Charlie Bladow, Pit Foreman
Fisher Sand & Gravel Co.
P.O. Box 1034
Dickinson, ND 58601

Dear Mr. Bladow:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 5121-3, 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 issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

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

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

414951

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ May 8, 19 96

RECEIVED OF Fisher Sand & Gravel Co., P.O.Box 1034, Dickinson, ND 58602

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. <u>5121-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch (Signature)
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 2 1996

5121-3

Charlie Bladow, Pit Foreman
Fisher Sand & Gravel Co.
P.O. Box 1034
Dickinson, ND 58601

Dear Mr. Bladow:

Enclosed is Water License No. 5121-3 and Receipt No. 414951 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 5121-3 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch".

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

ks
enclosures

STATE OF SOUTH DAKOTA

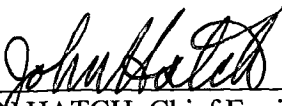
WATER LICENSE NO. 5121-3

(1) Fisher Sand & Gravel Co., PO Box 1034, Dickinson ND 58601 made Application No. 5121-3, January 28, 1987 for a water permit to divert 0.89 cubic feet of water per second (120 acre-feet annually) from the James River and surface runoff, Hanson County, South Dakota for industrial use purposes. Permit No. 5121-3, with a priority date of January 28, 1987 was approved May 6, 1987 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 6, 1992 and for the application to beneficial use of said water on or before May 6, 1996.

(2) It is certified that the applicant 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 0.88 cubic feet of water per second (120 acre-feet annually) for beneficial use. The location of the diversion points are: James River - 1,431 feet north and 636 feet east (NW 1/4 SW 1/4) and quarry pit - 1,080 feet north and 570 feet east (SW 1/4 SW 1/4); both from the SW corner of section 4-T102N-R59W.

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to supply a sand and gravel washing operation.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Fisher Sand & Gravel Co., PO Box 1034, Dickinson, ND 58601 the holder and/or owner of Water Permit No. 5121-3 is issued a license to appropriate water, the right to use 0.88 cubic feet of water per second (120 acre-feet annually) from the James River and surface runoff with a priority date of January 28, 1987 from the location specified in (2) of this license, for the purpose of industrial use. This license is subject to any limitations or qualifications listed in Water Permit No. 5121-3 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

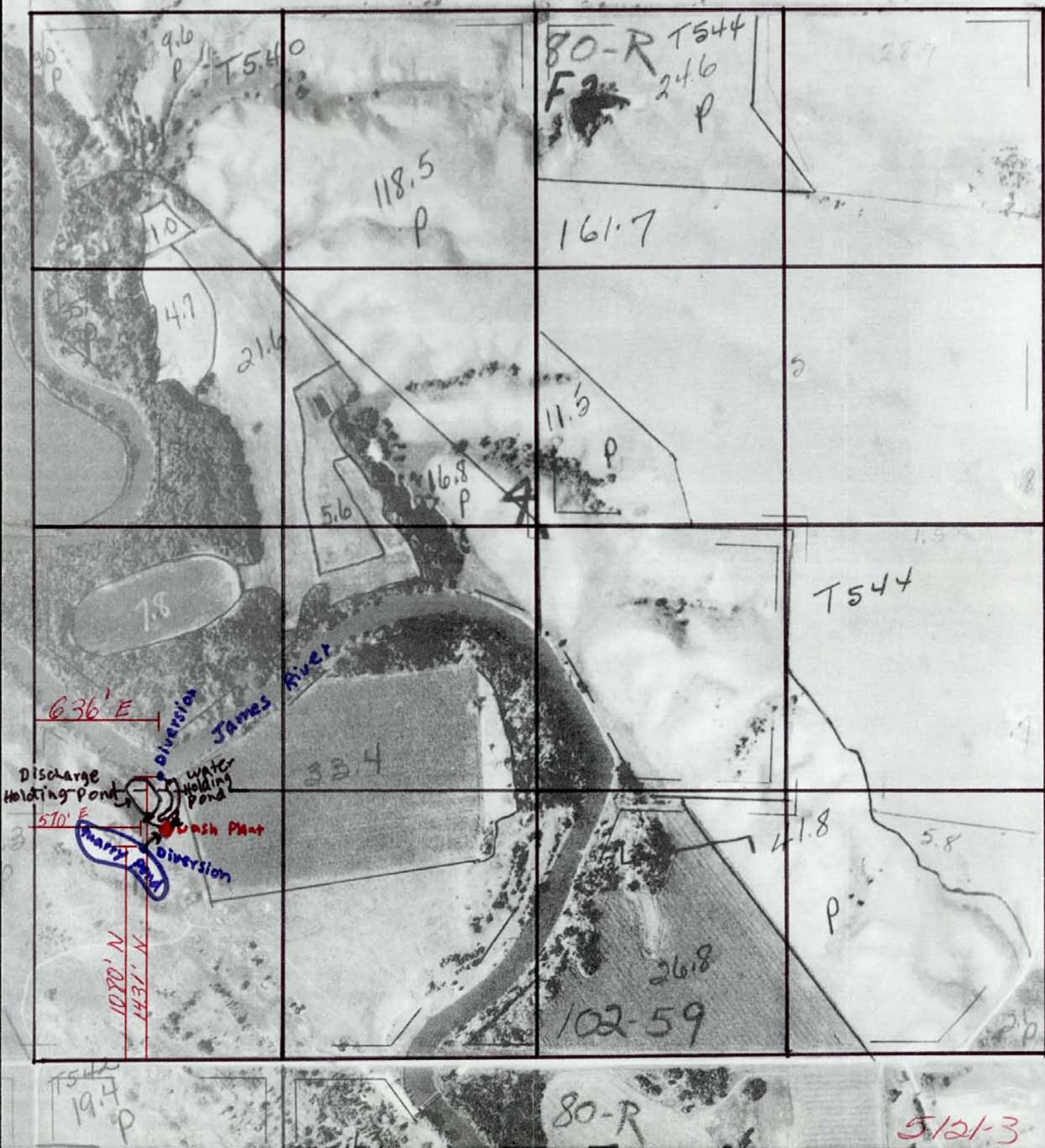
JUL 2 1996

date



NOT TO SCALE

1" = 636 feet





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 15, 2006

No. 5121-3

Spencer Quarries, Inc.
Richard Waldera
25341 430th Ave
Spencer SD 57374

Dear Mr. Waldera:

The 2005 SD Water Use Questionnaire for Water Right No. 5121-3 was returned by Fisher Sand & Gravel indicating they had sold to Spencer Quarries. The questionnaire and a partially completed "Notice of Transfer" form for use in filing a transfer on Water Right No. 5121-3 are enclosed. I have also enclosed a copy of the water right for your records.

The transfer form should be checked over for accuracy and signed by the new owner. Upon completion, return the form and questionnaire to our office. A filing fee of \$2.50 is required for the transfer.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

2005 South Dakota Water Use Questionnaire

To:

Address correction requested:

FISHER SAND & GRAVEL
PO BOX 1034
DICKINSON ND 58601

One questionnaire is being provided for each permitted water source. The following information is based on Water Permit/Right No. 5121-3. If you have other permits/rights in the same water source, also include water use under those permits/rights on this questionnaire.

Water Source: JAMES RIVER
Aquifer: NOT APPLICABLE
Management Unit: NOT APPLICABLE

County: HANSON
Pumping Pt. Legal: SEC 04-T102N-R59W
Type of Water Use: INDUSTRIAL

1) Please estimate your year 2005 water use from the above water source: 0 gallons

2) If no water use in 2005, please list the reason(s) why in the comments section.

Comments: Fisher Sand & Gravel sold the Mitchell
Quarry to Spencer Quarries in 2003

Contact Person: Vent Wallace

Telephone No: 701-456-9184



Questions? Please call Mark Rath or Ron Duvall at 605 773-3352 for assistance.

Thank you for completing the 2005 water use questionnaire.

Water Rights on the Web: www.state.sd.us/denr/wr

RECEIVED
FEB 13 2006
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 5121-3

Date: 4-13-06

I/We request that Water Right/Permit No. 5121-3

formerly owned by: Fisher Sand & Gravel

be transferred to: (name & address)

Metz Rock & Sand
25601 James River Road
Mitchell, SD 57301 Telephone No. 605-996-6609

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

James River – NW ¼ SW ¼ and quarry pit – SW ¼ SW ¼ Section 4-T102N-R59W

I/We understand that the validity of Water Right/Permit No. 5121-3 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 Two Dollars and Fifty Cents (\$2.50) 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 Carolyn Stevenson the new owner, certify that the above information is true and correct.

Carolyn Stevenson
(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.

RECEIVED

APR 20 2006

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 20, 20 06

RECEIVED OF Carolyn Stevenson, 25601 Hemes River Rd, Mitchell SD 57301

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	2	50
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 _____ 512103		
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. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	
		2.50

No.

By Darland Erbe
Chief Engineer gm

08400



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 21, 2006

5121-3

Carolyn Stevenson
Metz Rock & Sand
25601 James River Rd
Mitchell SD 57301

Dear Ms. Stevenson:

Thank you for following up on the ownership change for Water Right No. 5121-3. The transfer has been completed. The water right formerly listed in the name of Fisher Sand & Gravel is now listed in the name of Metz Rock & Sand.

Enclosed is Receipt No. 02400 in the amount of \$2.50. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 1, 2006

NOTICE OF SHUTOFF ORDER

TO: METZ ROCK & SAND
25601 JAMES RIVER RD
MITCHELL SD 57301

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: James River Shutoff Order

Shutoff Order for Water Right No(s). 5121-3

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

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

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

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

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river.

If you have any questions, please contact Lynn Beck or Mark Rath with the Water Rights Program at (605) 773-3352. Thank you.

5121-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 6, 2012

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 5121-3**

To: METZ ROCK & SAND
25601 JAMES RIVER RD
MITCHELL SD 57301

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

Subject: James River Qualification Reminder for Permit No(s). 5121-3

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who either use water from the James River or tributaries under permits with the August 10 shutoff date qualification.

Water rights containing this qualification requires a mandatory compliance and pumping under your permit must cease after August 10th unless you contact the Water Rights Program and receive permission to continue to divert water.

Water Rights staff drove along the James River last week after the August 10 shutoff date to spot-check whether water right holders were complying with this qualification. This spot-check found multiple water right holders diverting water in violation of this qualification.

Again, I remind you, compliance with this shutoff qualification is required unless you request and receive permission from the Water Rights Program to continue pumping. Permission may be granted based upon water availability.

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

5121-3

RECEIPT**WATER RIGHTS PROGRAM**
South Dakota Department of Agriculture and Natural ResourcesDate August 22, 2022RECEIVED OF Dakota Constructors Inc. 27268 Iron Works Ave., Harrisburg SD 57032

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>5121-3</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineer
vm

PAID

AUG 22 2022

Ck# 12631

Rec't# _____

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

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

AUG 22 2022

OFFICE OF
WATER

No. 5121-3

Date: Aug 9 22

I/We request that Water Right No. 5121-3

formerly owned by: Metz Rock & Sand

be transferred to: (name & address)

Mitchell Quarry
41390 257th St
Mitchell S.D. 57301 Telephone No. 605.550.7750

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

James River pump site- NW ¼ SW ¼; quarry pit - SW ¼ SW ¼ all in Section 4, T102N, R59W

I/We understand that the validity of Water Right No. 5121-3 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.

Mitchell Quarry

I/We Warren Barse, the new owner, certify that the above information is true and correct.

Warren Barse Pres
(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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 22, 2022

5121-3

Warren Barse
Mitchell Quarry
41390 257th St
Mitchell SD 57301

Dear Mr. Barse:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 5121-3.

The ownership change has been completed. Water Right No. 5121-3 formerly held by Metz Rock and Sand is now listed under Mitchell Quarry.

Enclosed for your records is a receipt for the filing fee. If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosure

Dewell, Amanda

From: Mitchell Quarry <mitchellquarrysd@gmail.com>
Sent: Thursday, February 6, 2025 9:48 AM
To: Dewell, Amanda
Subject: Re: [EXT] Transfer of Ownership

Good morning Amanda,
thank you so much for helping with this.
The new owners name is David Alexander, he can be reached here at the office at 605.550.7750.
A good email will be Trista@MitchellQuarry.com
Best,
Elle Evangelista

On Thu, Jan 16, 2025 at 11:27 AM Dewell, Amanda <Amanda.Dewell@state.sd.us> wrote:

Elle,

Water Right No. 5121-3 is held in the name of "Mitchell Quarry, 41390 2257th St, Mitchell SD 57301". Since it is my understanding that the name on the water right will not need to change, no paperwork of fees would need to be submitted to Water Rights, however, we would ask that w/ Mr. Barse no longer being involved in the operation, a new point of contact and contact information (ie email & phone) be provided to us. If you would please respond to this email with that information, we will update the file accordingly.

Thank you,

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov



From: Warren Barse <mitchellquarrysd@gmail.com>
Sent: Tuesday, January 14, 2025 3:38 PM
To: Graves, Bret <Bret.Graves@state.sd.us>
Subject: [EXT] Transfer of Ownership

Good afternoon Bret,

I am looking for some help transferring some permits and licenses from Mitchell Quarry.

We are currently selling our mine site located in Hanson County along with our crushing spread. The equipment and licenses will need to have Warren's name removed and the new owner's information added, however, the DBA company name, Mitchell Quarry, will stay the same. It is the parent company that will change.

So far I know I will need to transfer:

Mine License 21-1090

Water Right 5121-3

Discharge Permit SDG071532

Exchange of Surety

Transfer of Reclamation Liability

Air quality permits for Crusher #s

SDG05A342