

Considered: _____

WATER PERMIT NO. 5391-3 ⁴⁵

HAP No. same 387-5252

Name of Applicant Daniel Ulmer

Post Office Address Rt. 1 Box 31 Menno, SD 57045

Amount of Water Claimed 3.02 cfs Total Acres 212

Source of Water Supply James River

Water to be used for irrigation County Dutchinson

About 4 miles west of Menno

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received April 24, 1989 Fee \$275⁰⁰ Remarks _____

Corrected Application Received _____ Period of Annual Use May 1-Sept 30

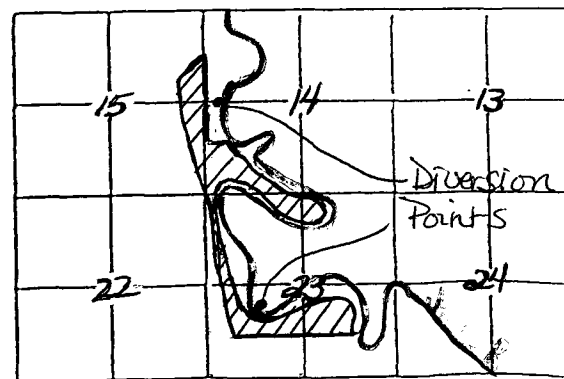
WATER QUALITY APPROVAL RECEIVED 3/1/90 APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES ☒ NO ☐ REMARKS small error on J.R.

diversion point (southern point)

Diversion Points Sept 14, 23-T97N-R58W

Land to be Irrigated Sections 14, 15, 23-T97N-R58W



Well Log: Driller NA Licensed YES _____ NO _____

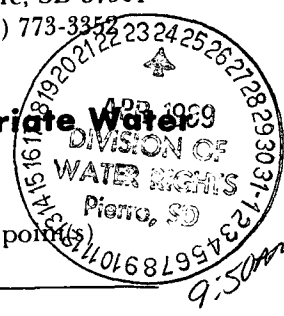
Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Robert Bennett Reviewed and the Number

assigned on Mar 12, 1990 By [Signature]

(See instructions)

No. 5391-3 Hydrologic Unit 10160011
Basin James R.
Newspaper Hutchinson Herald Box 537 Menno 57045
(used)



Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

1. Name of Applicant DANIEL ULMER Phone No. 387-5252
Post Office Address RT-1 BOX-34 Box 433 MENNO State SOUTH DAKOTA
(Street, RR or Box) *(City)* *Zip Code*
2. Amount of water claimed (c.f.s) 3.02 Total acres irrigated 200-1-212
3. Source of Water supply JAMES RIVER between following points:
4. Location of point of diversion North Diversion Point 250 East from the NW
Corner of the SW 1/4 of 14-97-58 / South Diversion Point
1500 East - 700 North - from SW corner SW 1/4 - 23-97-58 - S.E. corner - Hutchinson
County Hutchinson
5. Counties where water will be used HUTCHINSON
6. Annual period during which water is to be used MAY 1-JUNE--JULY--AUGUST SEPTEMBER 30
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

see attachment

Land Description	No. Acres Irr.
Flds: 1 T(3734) 14-97-58	9.8 A
6 T(39852) 15-97-58	18.2 A
1 T(3758) 15-97-58	5.5 A
1 T(3757) 23-97-58	10.7 A

Land Description	No. Acres Irr.
Fld 2 T(3757) 23-97-58	67.8 A

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ Other: _____
(Specify) _____
9. Crops to be Irrigated: CORN SOYBEANS ALFALFA
10. Give a description of proposed project. (Attach sheet if more-space is needed)
Level land to aquire desired drop and slope.
Plant crop in 30 inch rows. Using a ridge-till cultivator
to build the row ridges. Use 10 inch diameter 30 inch
spaced gated pipe to deliver water to furrows.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Hutchinson)^{ss}

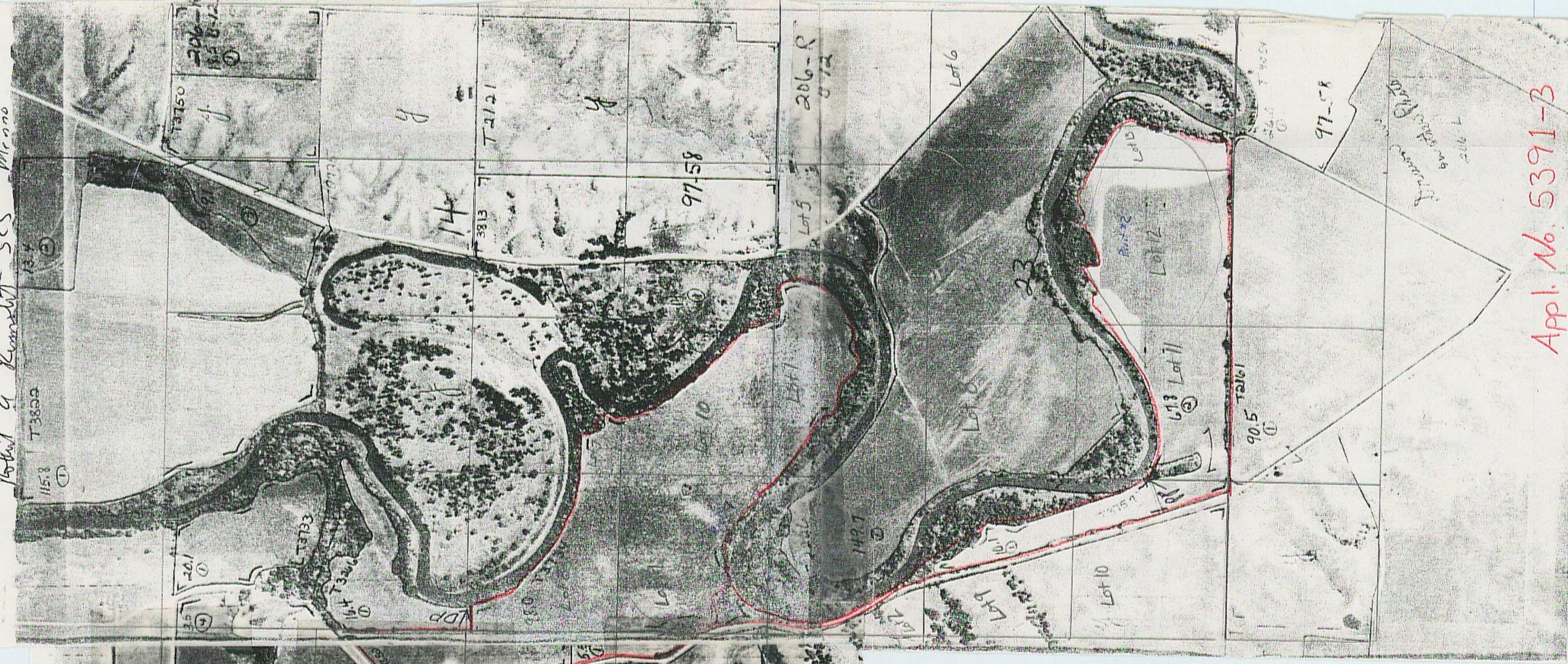
I, Dan Ulmer, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Dan Ulmer

Subscribed and sworn to before me this 17th day of April 1989

[Signature]
Notary Public

Robert A Remschmidt SCS Menno



7. 975
H. 975
H. 975

**SOUTH DAKOTA
WATER PERMIT No. 5391-3 FOR IRRIGATION**

Date of first receipt of application April 24, 1989.

Date Soil/Water Compatibility Permit received March 1, 1990.

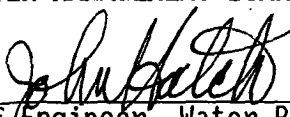
The Water Management Board approved Water Permit Application No. 5391-3 on May 24, 1990 for Daniel Ulmer, Rt. 1 Box 34, Menno, SD 57045 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5391-3 appropriates 3.02 cubic feet of water per second from the James River to irrigate 212 acres. The James River diversion points are to be located between approximately 250 feet east of the W1/4 corner Section 14 and approximately 1320 feet east and 2000 feet north of the SW corner Section 23; all in T97N-R58W. The acreage to be irrigated is located in the SE1/4 NE1/4, E1/2 SE1/4 Section 15; Lots 7, 8, 9, 10, Section 14; Lots 1, 2, 9, 10, 11, 12, 13 Section 23; all in T97N-R58W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 - September 30.
3. The date from which applicant may claim right is March 1, 1990.
4. One-fifth of the construction is to be completed on or before November 24, 1992.
5. All construction is to be completed on or before May 24, 1995.
6. Water is to be put to beneficial use on or before May 24, 1999.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 5391-3 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 is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 10 1990

(date)

ATTACHMENT

#4 Between the following 2 points:

#1: approximately 250 feet east of the W 1/4 corner Section 14-T97N-R58W

#2: approximately 1320 feet east and 2000 feet north of the SW corner Section 23-T97N-R58W

#7 Irrigated Acreage

SE 1/4 NE 1/4 Sec 15-T97N-R58W	10
NE 1/4 SE 1/4 "	5
SE 1/4 SE 1/4 "	4
Lot 8 Sec 14-T97N-R58W	20
Lot 7 "	4
Lot 9 "	33
Lot 10 "	27
Lot 2 Sec 23-T97N-R58W	4
Lot 1 "	19
Lot 9 "	8
Lot 10 "	7
Lot 11 "	24
Lot 12 "	38
Lot 13 "	9

	212

Conversation or File Documentation

NAME OF PERSON OR FILE: John UlmerADDRESS: Rt. 1, Box 109, Menno SD COUNTY HutchinsonDATE: April 26, 1989 TELEPHONE 387-5660RE: pumping capacity

COMMENTS:

John Ulmer called regarding the pumping rate that needs to be specified on the applications. I informed Mr. Ulmer that the pumping rate can be set at 1 cfs/70 acres for the 138.3 acres which is 1.97 cfs. Mr. Ulmer instructed me to specify the 1 cfs/70 acre diversion rate on his application and on Daniel Ulmer's application.

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: Don Swall

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4450

WR#

OWNERS NAME: Daniel Ulmer OWNERS ADDRESS: Route 1, Box 34
Menno, South Dakota 57045

COUNTY LAND LOCATED IN: Hutchinson PHONE: 387-5252

LEGAL DESCRIPTION:

☐ Well

☒ Surface

1. LOCATION James River - North Diversion Point 250 East from the NW Corner of SW1/4 of
14-T97N-R58W/ South Diversion Point 1500 East, 700 North from SW Corner SW1/4 23-T97N-R58W
Depth: _____

Legal Description	Acres	Legal Description	Acres
SE1/4 NE1/4 15-T97N-R58W	10	Lot 1 23-T97N-R58W	19
NE1/4 SE1/4 15-T97N-R58W	5	Lot 9 23-T97N-R58W	8
SE1/4 SE1/4 15-T97N-R58W	4	Lot 10 23-T97N-R58W	7
Lot 8 14-T97N-R58W	20	Lot 11 23-T97N-R58W	24
Lot 7 14-T97N-R58W	4	Lot 12 23-T97N-R58W	38
Lot 9 14-T97N-R58W	33	Lot 13 23-T97N-R58W	9
Lot 10 14-T97N-R58W	27		
Lot 2 23-T97N-R58W	4		

2. TYPE OF IRRIGATION: GRAVITY: XX TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED Corn, Soybean, Alfalfa

WATER QUALITY:

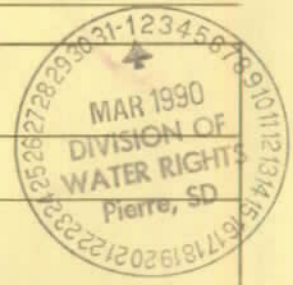
4. WATER SAMPLE NUMBER: James River

7. ADJUSTED (SAR): _____

5. SALINITY (EC X 10⁶): _____

8. PERCENT SODIUM: _____

6. SODIUM (SAR): _____



Requirements:

The areas adjacent to the James River remain in permanent vegetation to act as a buffer strip for stream bank stabilization and flooding.

The soil of the area are subject to seasonal high water tables, which may remain perched under irrigation and inhibit the leaching of salts; therefore, adequate internal drainage must be provided, which on the long-term include artificial drainage; ie, tile drains.

Please be advised, we do not consider the swampbuster provision from the 1985 Food Security Act in developing our recommendation. Before undertaking any drainage project, contact your local SCS or ASCS office.

The areas mapped James silty-clay is subject to wetness and may be subject to high total salts. This area shall remain in permanent vegetation.

XXX APPROVED

XXX REQUIREMENTS

____ DISAPPROVED

____ WAIVER

Director, Division of Conservation

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

February 28, 1990

Date

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, April 24, 19 89

RECEIVED OF Daniel Ulmer, Rt 1, Box 34, Menno SD 57045

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

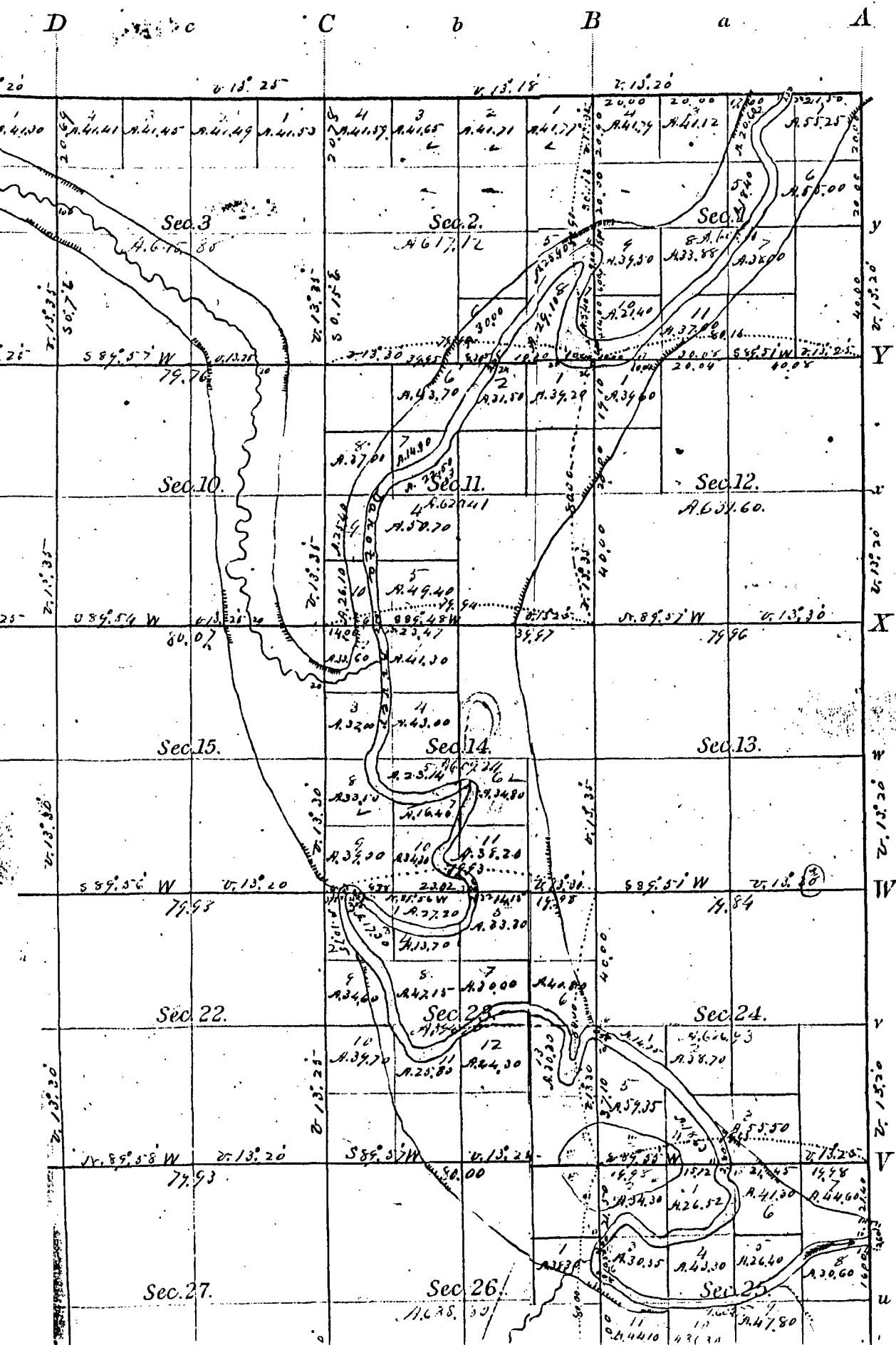
Fee for Application for Permit No. <u>5391-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	275 00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____	
Fee to retain Future Use Permit No. _____ after period of seven years.	
Fee for 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	275 00

By John Hatch
Chief Engineer

JOHN HATCH

ks

58 WEST OF THE 52nd PRINCIPAL MERIDIAN



Meanders of the		
Posts	Courses	Ch. ² l.
1	S. 40° 21'	12.
	S. 9° 11'	2
	S. 20° 6'	11.
	S. 13° 6'	7
	S. 32° 11'	7
	S. 40° 11'	3
	S. 45° 11'	2
	S. 22° 11'	5
	S. 35° 11'	13.
	S. 54° 11'	30.
	S. 62° 11'	8.
	N. 80° 11'	4
2	N. 42° 11'	4
	N. 10° 11'	2.
	N. 11th	2.
	N. 25° 6'	9.
3	N. 60° 11'	5
	N. 27° 11'	2
4	Point	4
	S. 20° 11'	5
	S. 40° 11'	20.
	S. 35° 11'	20.
5	S. 35° 11'	10.
	S. 20° 11'	13.
	S. 62° 11'	20.
	S. 30° 11'	8.
	S. 12° 11'	14.
	S. 41° 6'	27.
6	S. 25° 6'	7
	S. 11th	20
	S. 35° 11'	8
	S. 18° 11'	4
	S. 10° 6'	4
	S. 20° 6'	5
	S. 68° 6'	5
	S. 76° 6'	4
	N. 88° 6'	4
	N. 86° 6'	8
	N. 58° 6'	6
	S. 20° 11'	9
	S. 16° 11'	8
	S. 37° 11'	10
	S. 63° 6'	12
	S. 15° 6'	3
	S. 55° 6'	



January 30, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

TO: DANIEL ULMER, BOX 433, MENNO, SD 57045

 FROM: Ron Duvall, Natural Resources Engineer
 for John Hatch, Chief Engineer
 Water Rights Program

SUBJECT: Violation of Water Permit No(s) 5391-3, 5456-3

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 5391-3, 5456-3. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will determine the action to be taken for violation of Water Permit No(s) 5391-3, 5456-3 qualification:

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

The hearing will be held at 9:45 am, March 6, 1996 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) 5391-3, 5456-3 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.

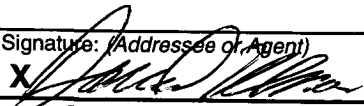
If the questionnaire(s) is(are) received in this office on/or before March 1, 1996, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath 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.

Printed on the reverse side?

SENDER: ■ Complete items 1 and/or 2 for additional services. ■ Complete items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered.	I also wish to receive the following services (for an extra fee): 1. ☐ Addressee's Address 2. ☐ Restricted Delivery Consult postmaster for fee.
---	--

Is your RETURN

3. Article Addressed to: DANIEL ULMER BOX 433 MENNO SD 57045	4a. Article Number Z 161 984 099
	4b. Service Type ☐ Registered ☒ Certified ☐ Express Mail ☐ Insured ☐ Return Receipt for Merchandise ☐ COD
5. Received By: (Print Name)	7. Date of Delivery 1/31/96
6. Signature: (Addressee or Agent) 	8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 1, 1996

5391-3
5456-3

Dan Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

I am writing to acknowledge receipt of your 1995 irrigation questionnaires. You may disregard the January 30, 1996, **Notice of Violation of Water Permit Nos. 5391-3 and 5456-3.**

I completed questionnaires for you based on our February 1, 1996, telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Enclosed, as you requested, is a set of water permit application forms. Thank you for calling and if you have any questions, please contact me.

Sincerely,

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

enclosures

Permit No. 5391-3
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, **August 9, 1999**, made a thorough examination of the water use system constructed by **Daniel Ulmer** of **Box 433, Menno SD 57045** holder of Permit No. **5391-3**, bearing the priority of **March 1, 1990** authorizing the diversion of **3.02** cu. ft. per second from the **James River** for **irrigation** purposes, in **Hutchinson** County.

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

A. Works used to divert the water:

A Berkley pump with 4" impeller powered by a 65 Hp John Deere motor, all mounted on a trailer

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

Aluminum pipe with screen is placed into the James River and aluminum pipe is used to transport the short distance to the center pivot

C. Works used to apply water to beneficial use:

Two 1290 feet long T-L Irrigation center pivots are in place

The system is in the following condition **fair, etc.** The point of diversion is located **approximately 910 feet east and 275 feet north of the SW corner of Section 14 & approximately 435 feet east of the center of Section 23; all in T97N, R58W.** The works are capable of diverting and conveying to the place of use **1.78**** cu. ft. per second of water is to be used for **irrigation**. Water has been put to beneficial use to the maximum extent as follows:

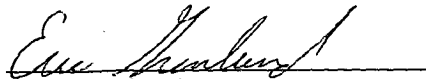
All in T97N, R 58W

SE NE Section 15	8 acres	Lot 1 Section 23	18 acres	SW SE Section 23	6 acres
E ½ SE ¼ Section 15	7 acres	Lot 9 Section 23	4 acres		
Lot 7 Section 14	3 acres	Lot 10 Section 23	4 acres		
Lot 8 Section 14	18 acres	Lot 11 Section 23	18 acres		
Lot 9 Section 14	25 acres	Lot 12 Section 23	36 acres		
Lot 10 Section 14	28 acres	Lot 13 Section 23	8 acres		

comprising a total of **183** acres of land and the license should be issued for **2.61** cfs.

Applicable permit qualifications have been complied with: Yes **X**

Exceptions to compliance are: **yes** Date Report Completed: **December 16, 1999**



Eric Gronlund

Natural Resources Engineer

DENR, Water Rights Program

**** Although Mr. Ulmer showed me only one portable pump unit, if he had another pump he'd be able operate more than just one of the systems. For this reason the diversion rate that should be associated with this water right is based on the number of acres irrigated.**

FIELD INVESTIGATION REPORT FOR PERMIT NO. 5391-3, Daniel Ulmer

DATE OF INVESTIGATION:	August 9, 1999
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	
NAME & ADDRESS OF PERMIT HOLDER	Daniel Ulmer Box 433 Menno SD 57045
DIVERSION POINT LEGAL LOCATION	<u>approximately 910 feet east and 275 feet north of the SW corner of Section 14 & approximately 435 feet east of the center of Section 23; all in T97N, R58W</u>

WATER SUPPLYSource: James River**Pump:**

- 1) Make Berkley
- 2) Model B-4J
- 3) Size 4" impeller
- 4) Capacity 800 GPM

Motor:

- 1) Make John Deere
- 2) Type No. 4219DF-01
- 3) Horsepower rating 65 hp
- 4) Serial No. 5878741

** this is a portable pump/motor set up

DISTRIBUTION LINES OR CANALS:

- 1) Type aluminum
- 2) Size 8 inches
- 3) Length feet

SYSTEM TYPE:**Center pivot:**

- 1) Make T-L Irrigation (both)
- 2) Overall length 1290 feet (each)
- 3) Number of towers 10 tower (both)
- 4) End gun each
- 5) High or low pressure high
- 6) Capacity 800 GPM

Big gun:

- 1) Make Water Winch
- 2) Model T-45 Serial No. 0527
- 3) Nozzle 1 1/4 inch (end)
- 4) Capacity - approx. 600 gpm
- 5) There is a 660 reel of 4 1/2" flex hose and Mr. Ulmer has over 3000 feet of 8" aluminum pipe

CHEMIGATION EQUIPMENT:

- 1) Does chemigate No

PERMIT QUALIFICATIONS AND REGULATIONS:

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

A review of the Irrigation Questionnaire shows that Mr. Ulmer has not irrigated this acreage. This land is located right next to the James River. The land is James River bottom-land and is very susceptible to flooding. It was easily visible at the time of my licensing investigation that flooding had taken place on this land earlier in the year. In fact the land in the location of the southern most pivot was not planted to crop in 1999 because of flooding.

Mr. Ulmer indicated that those areas not covered by the center pivots would be irrigated using a big gun. Additionally the map shows the diversion point from the James River for use by the pivots. If operating the big gun, the diversion point may be located in different locations. The original permit allowed this by stating the diversion point was located between approximately 250 west of the W $\frac{1}{4}$ corner Section 14 and approximately 1,320 feet east and 2000 feet north of the SW corner Section 23; all in T97N, R58W

The pump and big gun were housed in a farm shed at the time of the licensing investigation, the center pivot were in place. Both pivots are hydraulic drives.

Center pivots were installed early in 1995. All construction was to be completed by May 25, 1995. The concrete pivot pads had 1995 printed into them.

The northern windshield wiper pivot is also authorized for irrigation by Water Permit No. 5915-3 from a well. The well has not been constructed. All construction under Water Permit No. 5915-3 is to be completed by April 29, 2001. Mr. Ulmer was made aware of this fact (see file No. 5915-3).

Licensing of Acreage Outside of Permitted Area

NAME: Daniel Ulmer**ADDRESS:** Box 433, Menno SD 57045**DATE:** January 11, 2000 **COUNTY:** Hutchinson **TELEPHONE:****AUTHORITY**

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 183 acres as compared to 212 acres authorized by the permit. A total of six acres that will be irrigated in the SW ¼ SE ¼ Section 23 were not listed or public noticed under the original water permit. Licensing of the permit will result in a reduction in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

Yes, the acreage is directly adjacent to the original acreage authorized for irrigation.

- **Owned by Same Property Owner**

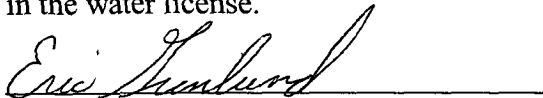
This was not formally checked at the time of the licensing investigation. The center pivot makes an approximate ½ rotation. The 6 acres in the SW ¼ SE ¼ of Section 23 were determined by the acreage coverage for a pivot of this length.

- **Developed Prior to Expiration of Construction Period**

Yes, the system was to be completed by May 24, 1995. The pivots were installed in the spring of 1995. A portion of the acreage is to be irrigated using a big gun. Mr. Ulmer has the pipe, big gun and pump/motor but has not irrigated due to flooding (see field investigation report).

RECOMMENDED ACTION

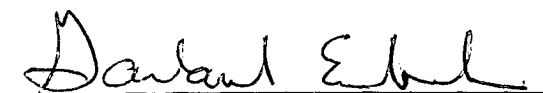
Based on the above criteria, it is recommended that the 6 acre area in the SW ¼ SE ¼ Section 23 be included in the water license.



Eric Gronlund
Water Rights Program

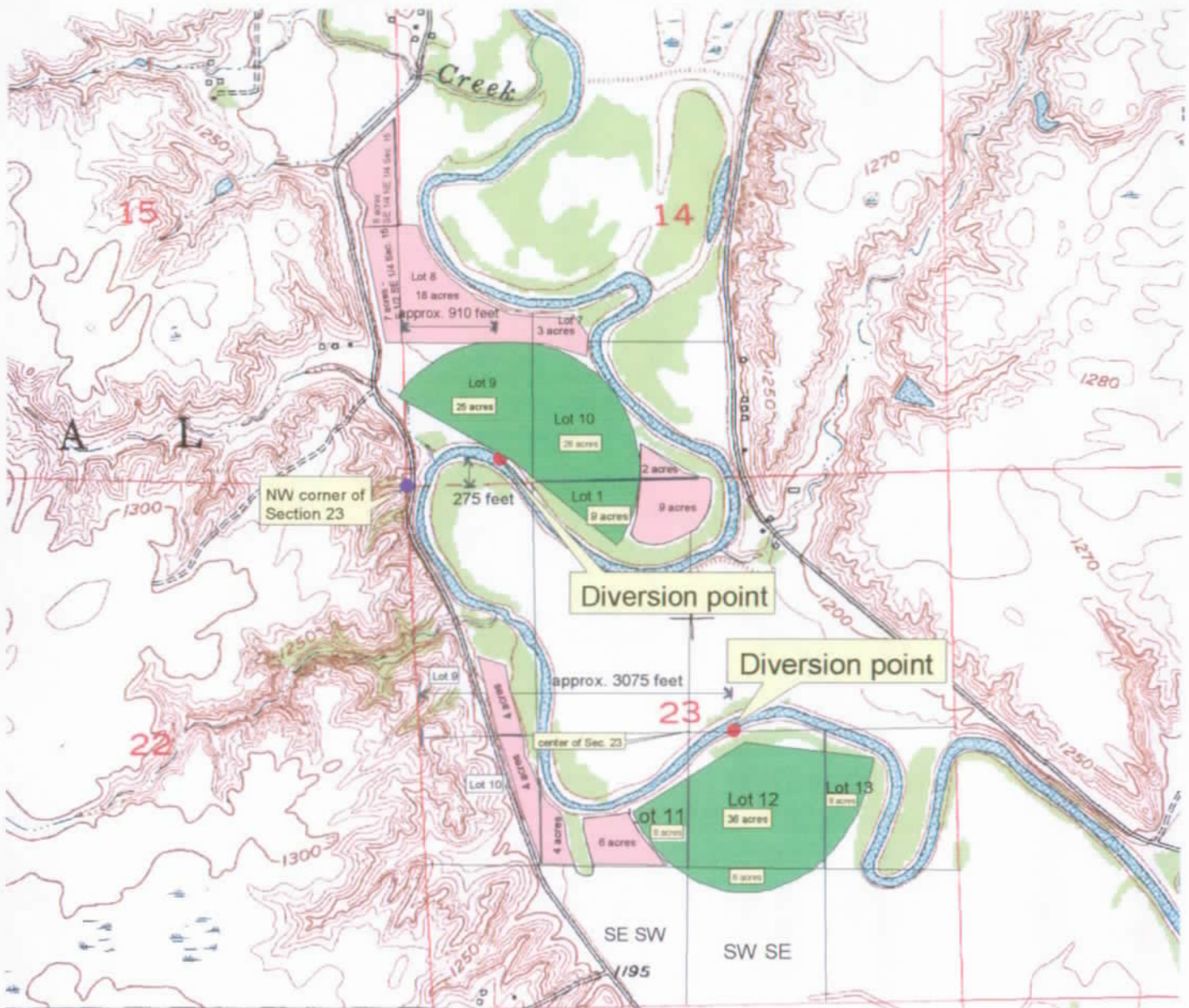
The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Garland Erbele, Chief Engineer
Water Rights Program

Water Permit No. 5391-3, Daniel Ulmer

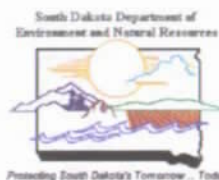


1000 0 1000 2000 3000 4000 5000 Feet

James River diversion points located approximately 275 feet north and 910 feet east of SW corner (Lot 9) of Section 14 & approximately 435 feet east of the center (Lot 12) of Section 23

center pivot

big gun



Pursuing South Dakota's Tomorrow... Today

Eric Gronlund

Eric Gronlund
Water Rights Program
Licensing Investigation
Conducted - August 9, 1999



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 12, 2000

5391-3

Daniel Ulmer
Box 433
Menno SD 57045

Dear Mr. Ulmer:

The investigation of your water use systems was conducted on August 6, 1999 by Eric Gronlund, staff engineer included the extent of application of water to beneficial use, as developed under Water Permit Nos. 5391-3, 6131-3 and 6132-3. The final water right document, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. A review of the files indicates the \$50.00 license fee was submitted for Nos. 6131-3 and 6132-3 when the applications were filed last March. It will only be necessary to submit the fee for No. 5391-3.

Please submit \$50 to: **Department of Environment & Natural Resources**
 Water Rights Program
 523 E. Capitol
 Pierre, SD 57501-3181

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416368

Pierre, January 28, 2000

RECEIVED OF Dan Ulmer, Box 433, Menno, SD 57045

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. 5391-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By *Harold E. Ebel*
Chief Engineer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5391-3

(1) Daniel Ulmer, Box 433, Menno SD 57045 made Application No. 5391-3, April 24, 1989 for a water permit to divert 3.02 cubic feet of water per second from the James River, Hutchinson County, South Dakota for irrigation purposes. Permit No. 5391-3, with a priority date of March 1, 1990 was approved May 24, 1990 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 24, 1995 and for the application to beneficial use of said water on or before May 24, 1999.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) It is certified that the permit holder 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 2.61 cubic feet of water per second for beneficial use. The location of the diversion points are approximately 910 feet east and 275 feet north of the southwest corner of Section 14 (Lot 9) and approximately 435 feet east of the center of Section 23 (Lot 12); all in T97N-R58W.

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

All in T97N-R58W					
Section 15	SE ¼ NE ¼	8 acres	Section 23	Lot 1	18 acres
Section 15	E ½ SE ¼	7 acres	Section 23	Lot 9	4 acres
			Section 23	Lot 10	4 acres
Section 14	Lot 7	3 acres	Section 23	Lot 11	18 acres
Section 14	Lot 8	18 acres	Section 23	Lot 12	36 acres
Section 14	Lot 9	25 acres	Section 23	Lot 13	8 acres
Section 14	Lot 10	28 acres	Section 23	SW ¼ SE ¼	6 acres
Total 183 acres					

(4) Pursuant to South Dakota Water Law 46-5-30.1 Daniel Ulmer, Box 433, Menno SD 57045 the holder and/or owner of Water Right No. 5391-3 is issued a license to appropriate water, the right to use 2.61 cubic feet of water per second from the James River with a priority date of March 1, 1990 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 Right No. 5391-3 and subject to South Dakota State Law.

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

MAR 01 2000

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 01 2000

5391-3
6131-3
6132-3

Daniel Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

Enclosed are Water License Nos. 5391-3, 6131-3 and 6132-3. Also enclosed is Receipt No. 416368 for \$50.00 which was assessed for an investigation and issuance of Water License No. 5391-3. The receipts for Water License Nos. 6131-3 and 6132-3 were mailed to you at an earlier date. Water License Nos. 5391-3, 6131-3 and 6132-3 are the final documents which complete the process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water Licenses, 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

ks
enclosures

RECEIVED

AUG 12 2002

WATER RIGHTS
PROGRAM

August 8, 2002

Dept. of Environment & Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, South Dakota 57501-3181

Dear Eric:

I am requesting an extension on my irrigation permit #5391-3 to irrigate out of the James River, past the deadline of August 10, 2002.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel Ulmer".

Daniel Ulmer
PO Box 433
Menno, SD 57045
605-387-5243

Report on Application No. 5391-3
Daniel Ulmer
April 2, 1990

Background

Water Permit Application No. 5391-3 requests appropriation of 3.02 cubic feet of water per second (cfs) from the James River. The diversion point will be located between points approximately 250 feet east of the W1/4 corner of Section 14 and approximately 1320 feet east and 2,000 feet north from the southwest corner of Section 23; all in T97N-R58W, in Hutchinson County. The water will be used to irrigate 212 acres of land located in the SE1/4 NE1/4, E1/2 SE1/4 Section 15; Lots 7, 8, 9, and 10, Section 14; Lots 1, 2, 9, 10, 11, 12, 13, Section 23; all in T97N-R58W. A gravity system of irrigation will be used to apply water to the land.

Discussion

During the 1960's, the Water Resources Commission, a predecessor to the Water Management Board, set a 300 cfs limit on appropriations from the James River. At the May 1965 Commission meeting, the 300 cfs limit and the August 10th cutoff date were placed on the James River (R. Duvall, 1987).

In March, 1979, the Water Rights Commission decided to withdraw the James River from further appropriation for one year until additional study was conducted to determine whether or not unappropriated water was available in the James River.

During the Spring of 1985, water permits/rights on the James river were inspected. The inspection showed that the total number of acres irrigated, as of June 1985, from the James River was 15626.1 acres with an appropriation of 190.36 cfs (R. Duvall, 1987).

In addition, the Cities of Huron and Mitchell are authorized a total appropriation of 41 cfs and the Dakota Pork Industries is authorized to divert 2.25 cfs from the river.

More recent James River irrigation Permits below Huron have been conditioned with the following qualification:

"This permit does 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 these permits shall be in accordance with any written orders issued by the Chief Engineer."

As of February 7, 1990, 133 active water permits/rights exist on the James River, above Yankton County, diverting a total of 283.32 cfs from the river for irrigation of 19,532.1 acres. Twenty percent of water permits have not been inspected.

The only immediate permit holder in the area of this application is Merrit Ulmer, who holds Water Permit No. 2631A-3. This water permit authorizes a diversion rate of 1.7 cfs for irrigation of 119.4 acres with a priority date of November 25, 1975. The diversion points are located in the SW1/4 NW1/4 and SW1/4 NE1/4 Section 23, T97N-R58W.

Conclusions and Recommendations

1. The total present diversion rate from the James River is below the 300 cfs diversion limit for the James River.
2. It is recommended that Water Permit Application No. 5391-3 be approved for a diversion rate of 3.02 cfs from the James River for irrigation of 212 acres, as stated in the application, with the following qualifications:
 - A) Permit No. 5391-3 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.
 - B) Irrigation questionnaire to be submitted annually.

Rassool Ahadi/KS
M. RASSOOL AHADI
Natural Resources Engineer II
(605)773-3352

Approved By:

Delvin D. Brosz
DELVIN D. BROSZ, P.E.
Natural Resources Engineer IV
(605)773-3352

Reference: Duvall, R.J., "Report on Amendment of James River Water Permits/Rights With July 15 Cutoff Date", April 22, 1987. Department of Water and Natural Resources Water Rights Division, Pierre, South Dakota 57501.

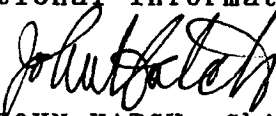
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5391-3, Daniel Ulmer

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. 5391-3, Daniel Ulmer, Rt 1, Box 34, Menno SD.

The Chief Engineer is recommending APPROVAL of Application No. 5391-3 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:

1. Permit No. 5391-3 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 is approved subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
April 11, 1990

NOTE: Shutoff orders to James River Irrigators have been issued for 1990 irrigation season. No irrigation is authorized during 1990 under Permit No. 5391-3 unless flow conditions improve.



Department of Water & Natural Resources

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

April 12, 1990

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

Daniel Ulmer
RR #1 Box 34
Menno, SD 57045

Dear Mr. Ulmer:

Water Permit Application No. 5391-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Hutchinson Herald printed at Menno SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Intent to Appropriate Water and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

A handwritten signature in cursive script that reads "Eric Gronlund". The signature is written in dark ink and is positioned above the typed name and title.

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

RECEIVED
SOUTH DAKOTA
WATER & NATURAL RESOURCES
JOE FOSS BUILDING
PIERRE, SD
APR 12 1990

April 12, 1990

Hutchinson Herald
Box 537
Menno, SD 57045

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 5391-3 to be published twice. Please publish the first notice on or before April 19, 1990 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Daniel Ulmer, RR #1 Box 34, Menno, SD 57045.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on or before April 19, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5391-3 to Appropriate Water

Notice is given that Daniel Ulmer, RR #1 Box 34, Menno, SD 57045 has filed an application for a water permit to appropriate 3.02 cubic feet of water per second from the James River to irrigate 212 acres. The James River diversion points are to be located between approximately 250 feet east of the W1/4 corner Section 14 and approximately 1320 feet east and 2000 feet north of the SW corner Section 23; all in T97N-R58W. The acreage to be irrigated is located in the SE1/4 NE1/4, E1/2 SE1/4 Section 15; Lots 7, 8, 9, 10 Section 14; Lots, 1, 2, 9, 10, 11, 12, 13 Section 23; all in T97N-R58W.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5391-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown, SD on May 23, 1990 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by May 11, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by May 11, 1990.

This application is made pursuant to 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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Hutchinson) ss.

I, William J. Headley

certify that the attached printed Notice was taken
 from the Hutchinson Herald

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

City _____ of Menno

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

April 18, 1990 & April 25, 1990

W. J. Headley
 (Signature)

Owner/Publisher
 (Title)

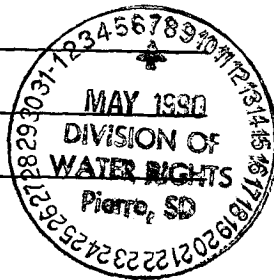
May 4, 1990
 (Date Signed)

Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by May 11, 1990.

This application is made pursuant to 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; and board Rules ARSD 74:02:01:01 thru 74:02:01:15.

(Publish April 18 & 25, 1990)

Cost of Printing: \$35. 57



NOTICE OF HEARING
on Application No. 5391-3
to Appropriate Water

Notice is given that Daniel Ulmer, RR #1, Box 34, Menno, S. Dak. 57045 has filed an application for a water permit to appropriate 3.02 cubic feet of water per second from the James River to irrigate 212 acres. The James River diversion points are to be located between approximately 250 feet east of the W 1/4 corner Section 14 and approximately 1320 feet east and 2000 feet north of the SW corner Section 23; all in T97-N-R58W. The acreage to be irrigated is located in the SE 1/4 NE 1/4; E 1/2 SE 1/4 Section 15; Lots 7, 8, 9, 10 Section 14; Lots 1, 2, 9, 10, 11, 12, 13 Section 23; all in T97N-R58W.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5391-3 because, 1. unappropriated water is available, 2. existing rights will not be unlawfully impaired, 3. it is a beneficial use of water and 4. it is in the public interest. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy. 212, Watertown, S. Dak., on May 23, 1990, at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1. approve, 2. approve with qualifications, 3. defer, or 4. deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by May 11, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, S. Dak. 57501 (605 773-3352)." The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing a supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the



Department of Water & Natural Resources

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

JUL 10 1990

Daniel Ulmer
Rt 1, Box 34
Menno SD 57045

Dear Mr. Ulmer:

Enclosed is Water Permit No. 5391-3 as approved by the Water Management Board authorizing you to construct your water diversion system and put the water to beneficial use, not exceeding the limits as specified in the Water Permit.

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 the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is stylized with a large, looped "J" and a cursive "Hatch".

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

enclosures

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

April 2, 1991

5391-3

Daniel Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

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

5391-3

TO: Daniel Ulmer
RR1 Box 34
Menno, SD 57045

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.

<u>DATE</u>	<u>LUDDEN</u>	<u>COLUMBIA</u>	<u>ASHTON</u>	<u>HURON</u>	<u>FORESTBURG</u>	<u>SCOTLAND</u>
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



5391-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

TO: DANIEL ULMER, BOX 433, MENNO, SD 57045

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 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) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, 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) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3 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 24, 2006**, 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.



Track & Confirm

Current Status

You entered 2303 2160 0000 0799 5500

Your item was delivered at 10:30 am on January 25, 2006 in MENNO, SD 57045. The item was signed for by D ULMER.

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2303 2160 0000 0799 5500

DANIEL ULMER
BOX 433
MENNO SD 57045

Waiver of Signature ☐ YES ☐ NO

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2006

Daniel Ulmer
Box 433
Menno SD 57045

RE: Water Permit or Right Nos. 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3

Dear Mr. Ulmer:

I am writing to acknowledge receipt of your 2005 irrigation questionnaires. You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Permit or Right Nos. 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



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August 1, 2006

NOTICE OF SHUTOFF ORDER

TO: DANIEL ULMER
PO BOX 433
MENNO SD 57045

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: James River Shutoff Order

Shutoff Order for Water Right No(s). 5391-3 6083-3 6082-3 6131-3 6132-3

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.

McMath, Genny

From: Murphy, Leslie
Sent: Thursday, December 08, 2011 5:02 PM
To: Gronlund, Eric; McMath, Genny
Subject: FW: Daniel Ulmer - water permits

FYI- cancel them. Thanks!

From: VanderBeek, Steve
Sent: Thu 12/8/2011 2:38 PM
To: Murphy, Leslie; Petersen, Arden (GFP)
Subject: RE: Daniel Ulmer - water permits

Dan Ulmer called me just over an hour ago to say he spoke with Eric about this. Eric and Dan are correct. We purchased the yellow shaded area at this time last year. We won't be irrigating the property and do not need a well either. Both permits can be cancelled.

Steve

-----Original Message-----

From: Murphy, Leslie
Sent: Thursday, December 08, 2011 1:03 PM
To: VanderBeek, Steve; Petersen, Arden (GFP)
Subject: FW: Daniel Ulmer - water permits

What are you two guys doing over there!?

Read Eric's email below and let me know if we are keeping the water right or cancelling it on our GFP property and I'll pass the word on...

-----Original Message-----

From: Gronlund, Eric
Sent: Thursday, December 08, 2011 11:42 AM
To: Murphy, Leslie
Cc: McMath, Genny
Subject: Daniel Ulmer - water permits

Dan Ulmer called indicating that he sold land to GF&P in T97N, R58W of Hutchinson County. The land in question has Water Right No. 5391-3 (James River) and Water Permit No. 5915A-3 (well). Attached is a map depicting DENR's understanding of the land ownership for the acres authorized by the water rights and a copy of each water right/permit.

In the case of WR No. 5391-3. Mr. Ulmer still owns the acres represented in blue and desires to keep that water right. GF&P acres are represented in yellow. What is GF&P's intention regarding the water right? If it is to maintain the water right on GF&P acres, a transfer of ownership for those acres will need to be submitted and the water right will be split accordingly. If GF&P does not desire to maintain the water right of its acres, DENR will proceed to split the water right and cancel GF&P's portion.

Water Permit No. 5915A-3 proposed a well. This permit is on only the land owned by GF&P according to Mr. Ulmer. Mr. Ulmer conveyed to me that a well was never constructed. Since the time to complete construction

of works has expired, this water permit is subject to cancellation. DENR intends to schedule No. 5915A-3 for cancellation. If GF&P feels differently, please let me know.

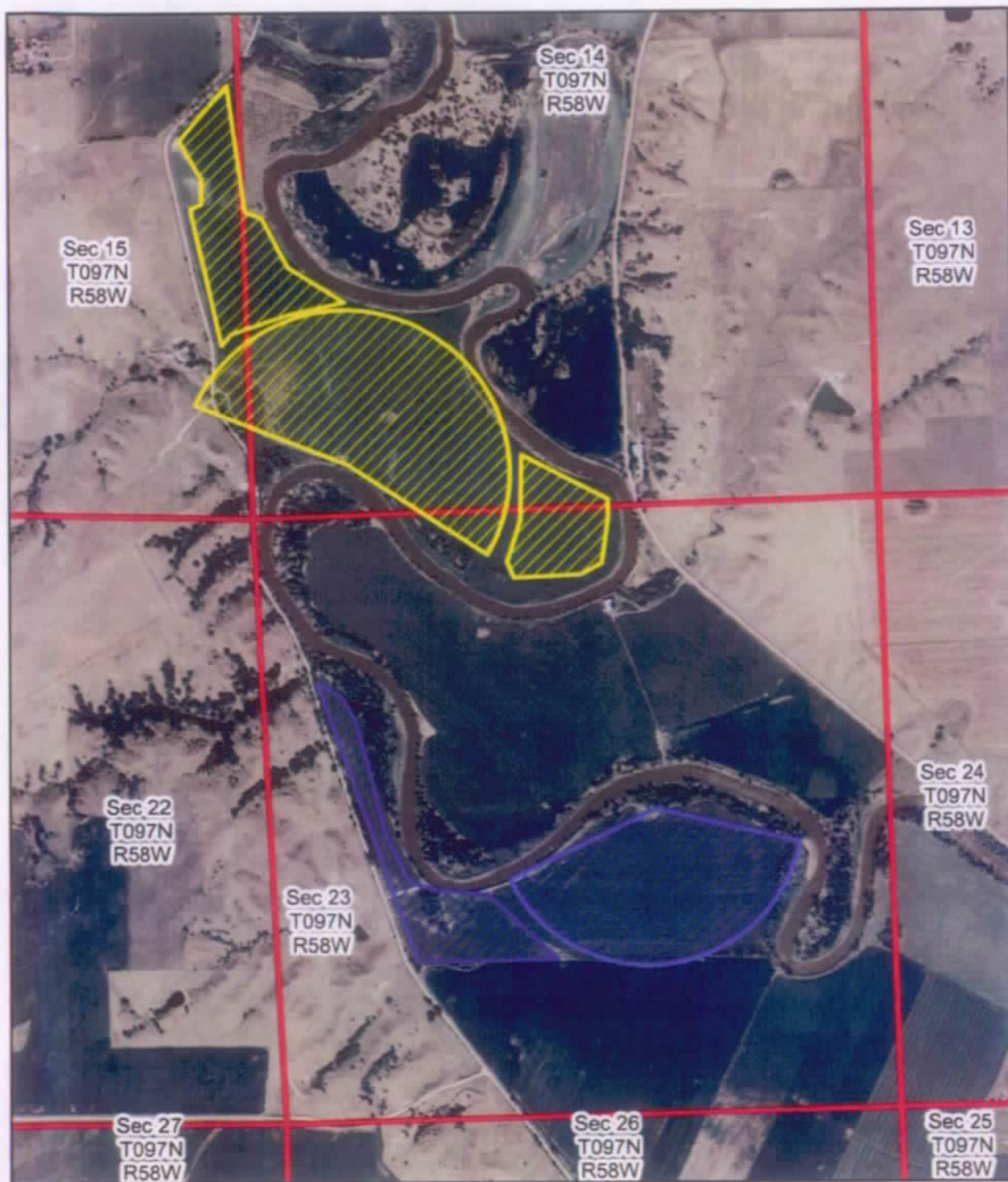
I'll bet this is currently pretty wet ground.

Eric Gronlund
Water Rights Program, DENR
605 773-4062

FILE DOCUMENTATION
DIVISION OF WATER LICENSE NO. 5391-3 INTO
WATER RIGHT NOS. 5391A-3 AND 5391B-3

Water Right No. 5391-3 authorizes irrigation of 183 acres in portions of Sections 14, 15 and 23, T97N, R58W. Due to a change in ownership on a portion of the acreage, Water Right No. 5391-3 is being divided and reissued to reflect separate ownership as follows:

- **Water Right No. 5391A-3 – Daniel Ulmer, PO Box 433, Menno SD 57045:** authorizing diversion of 1.08 cfs from the James River for irrigation of 76 acres in Lots 9, 10, 11, 12 & 13 and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23, T97N, R58W;
- **Water Right No. 5391B-3 –** authorizes diversion of 1.53 cfs for irrigation of 107 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15; Lots 7, 8, 9 & 10 Section 14 and Lot 1 of Section 23, all in T97N, R58W. **SD Department of Game, Fish & Parks, as the new owner of the property, has requested the cancellation of this water permit. Issuance of No. 5391B-3 will be withheld pending cancellation by the Water Management Board.**



GF&P



ULMER





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 28, 2012

Dan Ulmer
PO Box 433
Menno SD 57045

Dear Mr. Ulmer:

In response to the telephone call on August 28, 2012 requesting an extension to pump from the James River beyond the August 10th cutoff, you are authorized to pump under Water Right No 5391-3. subject to the following:

- No irrigation from the James River beyond September 7, 2012 for the 2012 irrigation season
- Flows remain available for downstream domestic users and prior water rights
- Flows past the Scotland gaging station remain above 20 cubic feet per second after pumping

We will continue to monitor the James River and if conditions warrant, you may be shutoff prior to September 7, 2012, with no prior notice given. If you have any questions, please contact Lynn Beck or Mark Rath at (605) 773-3352.

Sincerely,

A handwritten signature in black ink that reads "Garland Erbele".

Garland Erbele, Chief Engineer
Water Rights Program