

Considered: \_\_\_\_\_

WATER PERMIT NO. 5392-3

45

HAP No. same 387-5660

Name of Applicant John Ulmer

Post Office Address Rt 1 Box 109, Menno, SD 57045

Amount of Water Claimed 2.0 cfs Total Acres 148

Source of Water Supply James River

Water to be used for irrigation County Hutchinson

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 \$250.00 Remarks \_\_\_\_\_

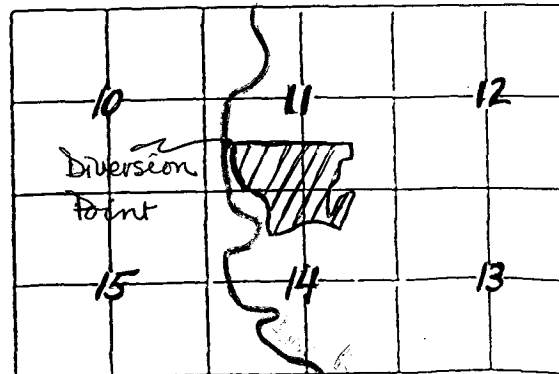
Corrected Application Received \_\_\_\_\_ Period of Annual Use May 1 - Sept 30

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

WI-1 Description same as Application YES NO REMARKS \_\_\_\_\_

Diversion Point ~420' W of the center of the  
SW 1/4 Sect 11-T97N-R58W

Land to be Irrigated SW 1/2 Sect 11-T97N-R58W  
N 1/2 Sect 14 - " "



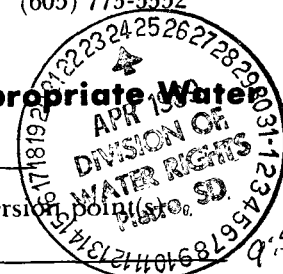
Well Log: Driller NA Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well \_\_\_\_\_ REMARKS \_\_\_\_\_

Type of Map aerial photo PREPARED BY Robert Benoit Reviewed and the Number assigned on Mar 12, 1990 By R. J. D. [Signature]

(See instructions)

No. 5392-3 Hydrologic Unit 10160011  
Basin James R.  
Newspaper Hutchinson Herald Box 537 Menno SD 5745  
(dated)



# 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 \_\_\_\_\_

- Name of Applicant JOHN ULMER Phone No. 387-5660
- Post Office Address RT. 1 BOX 109 MENNO State SO. DAK. Zip Code 57045  
(Street, RR or Box) (City)
- Amount of water claimed (c.f.s.) 2.11 Total acres irrigated 138.3 148
- Source of Water supply JAMES RIVER
- Location of point of diversion 1 mile South highway 18 bridge Olivet S.D.  
3950 South 900 ft. East NW corner 11-97-58 between Lot 110 Section 11 and  
Lot 1 Sec 14; all in 97N-58W County Hutchinson
- Counties where water will be used Hutchinson
- Annual period during which water is to be used May 1 June July August September 30
- List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

| Land Description                         | No. Acres Irr.   |
|------------------------------------------|------------------|
| <del>Fld. 1 T 3822 11&amp;14-97-58</del> | <del>115.8</del> |
| <del>" 2 " " " "</del>                   | <del>13.4</del>  |
| <del>" 3 " " " "</del>                   | <del>9.1</del>   |

| Land Description                      | No. Acres Irr. |
|---------------------------------------|----------------|
| Lot 10 Sec 11-T97N-R58W               | 9              |
| Lot 5 " "                             | 40             |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$ " " | 38             |
| Lot 1 Sec. 14-T97N-R58W               | 32             |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ " " | 29             |

Attach sheet if more space is needed  
Other: \_\_\_\_\_

- Type of Irrigation: Gravity: X Towline: \_\_\_\_\_ Center Pivot: \_\_\_\_\_ Gun: \_\_\_\_\_ (Specify) \_\_\_\_\_
- Crops to be Irrigated: Corn Soybeans and Alfalfa
- 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.

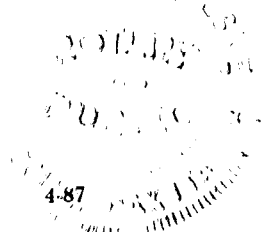
STATE OF SOUTH DAKOTA)  
County of Hutchinson)<sup>ss</sup>

I, John 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.

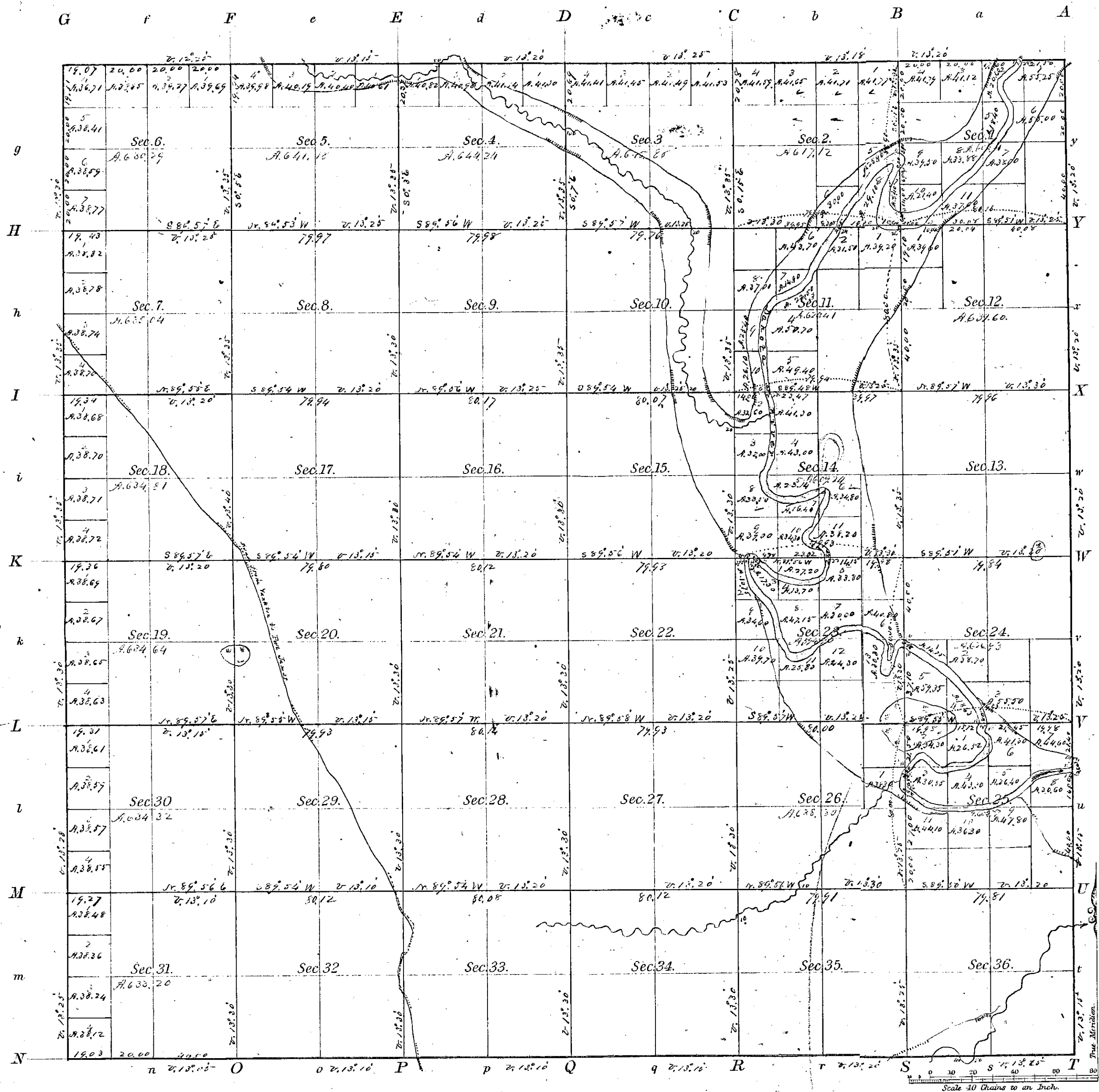
Signed John Ulmer

Subscribed and sworn to before me this 17<sup>th</sup> day of April 1989

Serge J. Schuch  
Notary Public



TOWNSHIP N° 97 NORTH RANGE N° 58 WEST OF THE 5th PRINCIPAL MERIDIAN



Total number of Acres. 22,807.81

| Survey Designated  | By Whom Surveyed      | Date of Contract | Amount of Surveys | When Surveyed  |
|--------------------|-----------------------|------------------|-------------------|----------------|
| SAW Township lines | Alfred H. Armstrong   | August 25, 1866  | M. Ch. 12         | September 1866 |
| Subdivisions       | George R. Proffer     | June 18th 1867   | 70. 15. 19        | August 1867    |
| E. Township line   | Frederick H. H. H. H. | January 29, 1868 | 6. 00. 00         | September 1868 |

The above Map of Township N° 97 North of Range N° 58 West of the 5th Principal Meridian Dakota Territory is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

Surveyor General's Office.  
Hankston 20, 2. August 26, 1867

William D. H. H.  
Chas. Gen.

Accepted:

Commissioner's letter "A"  
dated Sep. 23, 1867

App. #  
5392-3

| Meanders of the Right Bank of Dakota River |            |         |       |                    |          |       |         |
|--------------------------------------------|------------|---------|-------|--------------------|----------|-------|---------|
| Posts                                      | Courses    | Ch. Lk. | Posts | Courses            | Ch. Lk.  | Posts | Courses |
| 1                                          | S. 40° 21' | 12.00   | 1     | N. 61° 6'          | 7.70     |       |         |
|                                            | S. 9° 21'  | 3.00    |       | N. 61° 6'          | 10.00    |       |         |
|                                            | S. 25° 6'  | 11.00   |       | N. 72° 6'          | 9.50     |       |         |
|                                            | S. 13° 6'  | 7.00    |       | S. 85° 6'          | 6.00     |       |         |
|                                            | S. 32° 21' | 7.00    |       | S. 60° 6'          | 6.50     |       |         |
|                                            | N. 44° 21' | 3.00    |       | S. 10° 21'         | 18.00    |       |         |
|                                            | S. 45° 11' | 2.50    |       | S. 27° 6'          | 5.00     |       |         |
|                                            | S. 22° 21' | 5.00    |       | N. 72° 6'          | 7.00     |       |         |
|                                            | S. 35° 21' | 19.00   |       | N. 16° 6'          | 18.00    |       |         |
|                                            | S. 54° 21' | 30.00   |       | N. 74° 6'          | 8.25     |       |         |
|                                            | S. 62° 21' | 8.00    |       |                    |          |       |         |
|                                            | N. 80° 21' | 4.00    |       | 10 S. 57° 6'       | 4.50     |       |         |
|                                            |            |         |       | S. 50° 6'          | 18.00    |       |         |
| 2                                          | N. 42° 21' | 4.70    |       | S. 42° 6'          | 18.00    |       |         |
|                                            | N. 10° 21' | 2.50    |       | S. 24° 6'          | 18.00    |       |         |
|                                            | N. 11° 21' | 3.00    |       |                    |          |       |         |
|                                            | N. 25° 6'  | 9.50    |       | 11 S. 40° 21'      | 6.00     |       |         |
|                                            |            |         |       | N. 84° 6'          | 5.00     |       |         |
| 3                                          | S. 40° 21' | 5.50    |       | S. 9° 6'           | 4.00     |       |         |
|                                            | S. 22° 21' | 2.00    |       | S. 42° 21'         | 11.00    |       |         |
|                                            | N. 37° 21' | 2.10    |       | S. 76° 21'         | 18.00    |       |         |
|                                            |            |         |       | N. 47° 21'         | 12.00    |       |         |
| 4                                          | Point      | 4.00    |       | S. 35° 21'         | 11.80    |       |         |
|                                            | S. 25° 21' | 5.00    |       |                    |          |       |         |
|                                            | S. 45° 21' | 20.00   |       | 12 S. 25° 21'      | 6.00     |       |         |
|                                            | S. 35° 21' | 20.00   |       | S. 6° 21'          | 4.00     |       |         |
|                                            |            |         |       | S. 36° 6'          | 4.10     |       |         |
| 5                                          | S. 35° 21' | 12.00   |       |                    |          |       |         |
|                                            | S. 20° 21' | 13.00   |       | 13 S. 36° 6'       | 20.00    |       |         |
|                                            | S. 62° 21' | 20.00   |       | Point              | 20.00    |       |         |
|                                            | S. 30° 21' | 8.00    |       | N. 63° 6'          | 20.00    |       |         |
|                                            | S. 12° 21' | 14.00   |       | N. 45° 6'          | 13.00    |       |         |
|                                            | S. 43° 6'  | 27.00   |       | N. 85° 6'          | 10.00    |       |         |
|                                            |            |         |       | 14 S. 57° 6'       | 5.40     |       |         |
| 6                                          | S. 25° 6'  | 7.30    |       |                    |          |       |         |
|                                            | Point      | 20.30   |       | Water Cont. 2 hrs. |          |       |         |
|                                            | S. 38° 21' | 8.00    |       | Total              | 10 25 21 |       |         |
|                                            | S. 18° 21' | 4.00    |       |                    |          |       |         |
|                                            | S. 16° 6'  | 4.20    |       |                    |          |       |         |
|                                            | S. 30° 6'  | 5.00    |       |                    |          |       |         |
|                                            | S. 68° 6'  | 5.50    |       |                    |          |       |         |
|                                            | S. 76° 6'  | 4.00    |       |                    |          |       |         |
|                                            | N. 88° 6'  | 4.00    |       |                    |          |       |         |
|                                            | N. 86° 6'  | 8.00    |       |                    |          |       |         |
|                                            | N. 58° 6'  | 6.00    |       |                    |          |       |         |
|                                            | S. 20° 21' | 9.00    |       |                    |          |       |         |
|                                            | S. 16° 21' | 5.00    |       |                    |          |       |         |
|                                            | S. 37° 21' | 10.50   |       |                    |          |       |         |
|                                            | S. 63° 6'  | 12.00   |       |                    |          |       |         |
|                                            | S. 16° 6'  | 3.00    |       |                    |          |       |         |
| 7                                          | S. 5° 6'   | 4.00    |       |                    |          |       |         |
|                                            | S. 29° 21' | 2.30    |       |                    |          |       |         |
|                                            | S. 6° 21'  | 6.00    |       |                    |          |       |         |
|                                            | Point      | 7.50    |       |                    |          |       |         |
|                                            | N. 58° 21' | 14.00   |       |                    |          |       |         |
|                                            | N. 42° 21' | 6.70    |       |                    |          |       |         |
| 8                                          | N. 58° 21' | 3.00    |       |                    |          |       |         |
|                                            | Point      | 8.00    |       |                    |          |       |         |
|                                            | S. 19° 6'  | 1.70    |       |                    |          |       |         |
| 9                                          | S. 8° 21'  | 7.50    |       |                    |          |       |         |
|                                            | S. 28° 6'  | 10.00   |       |                    |          |       |         |
|                                            | S. 26° 6'  | 14.50   |       |                    |          |       |         |
|                                            | S. 5° 6'   | 14.50   |       |                    |          |       |         |
|                                            | S. 26° 6'  | 10.40   |       |                    |          |       |         |
|                                            | N. 80° 6'  | 7.00    |       |                    |          |       |         |

**SOUTH DAKOTA  
WATER PERMIT No. 5392-3 FOR IRRIGATION**

Date of first receipt of application April 24, 1989.

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

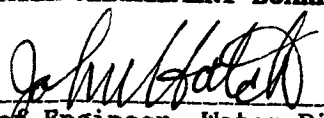
The Water Management Board approved Water Permit Application No. 5392-3 on May 24, 1990 for John Ulmer, Rt. 1, Box 109, Menno, SD 57045 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5392-3 appropriates 2.11 cubic feet of water per second from the James River to irrigate 148 acres. The point of diversion is to be located between Lot 10, Section 11 and Lot 1 Section 14 and the acreage to be irrigated is located in Lots 5, 10, SW1/4 SE1/4 Section 11; Lot 1, NW1/4 NE1/4 Section 14; 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**

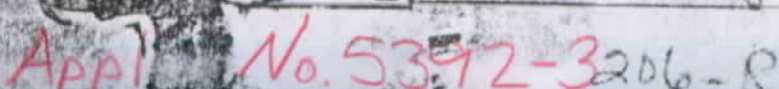
1. Permit No. 5392-3 does not authorize diversion of water from the James river After August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This permit is approved subject to the irrigation water use questionnaire submitted each year.

**WATER MANAGEMENT BOARD**

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

JUL 10 1990  
(date)

Olivat



# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, April 24, 19 89

RECEIVED OF John Ulmer, RR 1, Box 109, Menno SD 57045

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

|                                                                                                                              |       |        |
|------------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>5392-3</u> to Appropriate Water, to construct works and to put water to beneficial use | 250   | 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 | 250 00 |

By

John Hatch  
Chief Engineer

JOHN HATCH

ks

## 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 Duval

Department of Agriculture  
WI#1  
5/87

SOIL/WATER COMPATIBILITY PERMIT  
Division of Conservation

Office Use Only

4449

WR#

OWNERS NAME: John Ulmer OWNERS ADDRESS: Route 1, Box 109  
Manne, South Dakota 57045  
COUNTY LAND LOCATED IN: Hutchinson PHONE: 387-5660

LEGAL DESCRIPTION:

☐ Well

☒ Surface

1. LOCATION James River - Between Lot 10, Section 11 & Lot 1, Section 14; all in  
T97N-R58W  
Depth \_\_\_\_\_

| Legal Description        | Acres | Legal Description        | Acres |
|--------------------------|-------|--------------------------|-------|
| Lot 10 11-T97N-R58W      | 9     | NW1/4 NE1/4 14-T97N-R58W | 29    |
| Lot 5 11-T97N-R58W       | 40    |                          |       |
| SW1/4 SE1/4 11-T97N-R58W | 38    |                          |       |
| Lot 1 14-T97N-R58W       | 32    |                          |       |

2. TYPE OF IRRIGATION: GRAVITY: xx TOWLINE: \_\_\_\_\_ CENTER PIVOT: \_\_\_\_\_ GUN: \_\_\_\_\_ OTHER: \_\_\_\_\_  
(Specify) \_\_\_\_\_  
3. CROPS TO BE IRRIGATED: Corn, Soybeans and Alfalfa

WATER QUALITY:

4. WATER SAMPLE NUMBER: James River 7. ADJUSTED (SAR): \_\_\_\_\_  
5. SALINITY (EC X 10<sup>6</sup>): \_\_\_\_\_ 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 recommendations. 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.

*John Quirk*  
\_\_\_\_\_  
Director, Division of Conservation

February 28, 1990  
Date

xxx APPROVED xxx REQUIREMENTS  
DISAPPROVED  
WAIVER

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

## Conversation or File Documentation

NAME OF PERSON OR FILE: Daniel UlmerADDRESS: Box 433 COUNTY HutchinsonDATE: Feb. 21, 1990 TELEPHONE 387-5252RE: Revision to application for John Ulmer

## COMMENTS:

Daniel Ulmer stopped by the office with maps  
outlining the proposed location of pivots. One of  
the pivots included a small area not included on  
John Ulmer's application. Mr. Ulmer instructed me  
to include the 8 additional acres.

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: Ron L. Small

## **Report on Application No. 5392-3**

**John Ulmer  
March 23, 1990**

### **Background**

Water Permit Application No. 5392-3 requests appropriation of 2.11 cubic feet of water per second (cfs) from the James River. The diversion point will be located between Lot 10, Section 11, and lot 1, Section 14; T97N-R58W, in Hutchinson County. The water will be used to irrigate 148 acres of land located in Lots 5 and 10, SW1/4 SE1/4 Section 11; Lot 1, NW1/4 NE1/4 Section 14, 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 the 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 inspections showed that the total number of acres irrigated, as of June 1985, from the James River was 15,626.1 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 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 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."

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 the 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. Permit No. 2631A-3 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. 5392-3 be approved for a diversion rate of 2.11 cfs from the James River for irrigation of 148 acres, as stated in the application, with the following qualifications:
  - A) Permit No. 5392-3 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.

*Bassool 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. 5392-3, John 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. 5392-3, John Ulmer, Rt 1, Box 109, Menno SD.

The Chief Engineer is recommending APPROVAL of Application No. 5392-3 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. 5392-3 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. 5392-3 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.

John Ulmer  
RR #1 Box 109  
Menno, SD 57045

Dear Mr. Ulmer:

Water Permit Application No. 5392-3 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".

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

April 12, 1990

Hutchinson Herald  
Box 537  
Menno, SD 57045-0537

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 5392-3 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 John Ulmer, RR #1 Box 109, 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.

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NOTICE OF HEARING on Application No. 5392-3 to Appropriate Water

NOTICE OF HEARING

Notice is given that John Ulmer, RR #1 Box 109, Menno, SD 57045 has filed an application for a water permit to appropriate 2.11 cubic feet of water per second from the James River to irrigate 148 acres. The point of diversion is to be located between Lot 10, Section 11 and Lot 1 Section 14 and the acreage to be irrigated is located in Lots 5, 10, SW1/4 SE1/4 Section 11; Lot 1, NW1/4 NE1/4 Section 14; all in T97N-R58W.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5392-3 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 & 25, 1990

W. J. Headley

(Signature)

Owner/Publisher

(Title)

May 4, 1990

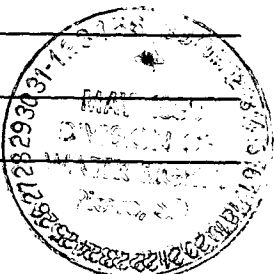
(Date Signed)

ally 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: \$32.08



## NOTICE OF HEARING on Application No. 5392-3 to Appropriate Water

Notice is given that John Ulmer,  
RR #1, Box 109, Menno, S. Dak.  
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water permit to appropriate 2.11 cubic  
feet of water per second from the  
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The point of diversion is to be located  
between Lot 10, Section 11 and Lot 1  
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gated is located in Lots 5, 10, SW¼  
SE¼ Section 11; Lot 1, NW¼ NE¼  
Section 14; all in T97N-R58W.

Pursuant to SDCL 46-2A-2, the  
Chief Engineer of the Water Rights  
Division recommends APPROVAL of  
Application No. 5392-3, 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 inter-  
est. This application will be consider-  
ed 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 hear-  
ing.

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 peti-  
tion 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 state-  
ment describing the petitioner's in-  
terest in the application, the petiti-  
oner's reasons for opposing or support-  
ing 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 pro-  
ceeding. 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 automatic-



# Department of Water & Natural Resources

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

JUL 10 1990

John Ulmer  
Rt 1, Box 109  
Menno SD 57045

Dear Mr. Ulmer:

Enclosed is Water Permit No. 5392-3 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,

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

5392-3

John Ulmer  
RT 1, Box 109  
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     |

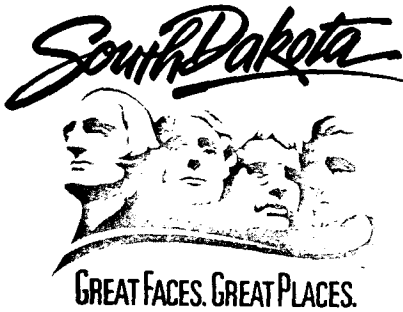
Note: The flow at Ludden is from in stream ice melt with little or no runoff occurring.

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**

5392-3

TO: John Ulmer  
RT 1, Box 109  
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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 21, 1995

John Ulmer  
RR 1 Box 109  
Menno, SD 57045

Dear John:

This is to follow up on our phone conversation on February 17, 1995 concerning your Water Rights.

Enclosed is an application for an extension of time to develop Water Permit No. 5392-3 which authorizes appropriation of 2.11 Cubic Feet of water per Second (CFS) from the James River to irrigate 148 acres in Sections 11 & 14; T97N R58W in Hutchinson County. Note that if you intend on drilling a well and using a center pivot, another application will need to be submitted to add another water source. Also enclosed, as requested, are two Water Permit Applications for irrigation in South Dakota.

Please give an explanation of why you are applying for an extension of time in part 8 of the application. Note that the application must be signed in the presence of a Notary Public. Please return the application with an application fee of \$50.00 in the self-addressed envelope provided.

If you have any questions, feel free to contact me at 605-773-3352.

Sincerely,

A handwritten signature in black ink that reads "Barry A. McLaury".

Barry A. McLaury  
Water Rights Division

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

DEC 30 1999

5392A-3  
5911-3

John Ulmer  
42963 Maxwell Dr.  
Menno, SD 57045

Dear Mr. Ulmer:

Enclosed are Water License Nos. 5392A-3 and 5911-3. These are the final water right documents completing your process of obtaining a Water Right. Enclosed are Receipt Nos. 416296 and 416297 in the amount of \$50.00 each which you paid for the investigation and issuance of the Water Licenses.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right Nos. 5392A-3 and 5911-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Very truly yours,

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

ks  
enclosures

**Note: The applicable portions of Water Permit No. 5392-3 are incorporated into this Water License No. 5392A-3.**