

WATER PERMIT NO. 5925-3

Name of Applicant: Jon & Loren Locken

Address: 13755 396 Ave, Bath SD 57427

Phone: 605 225-8322

Amount of Water Claimed: no additional water

Total Acres: 12 acres

Source of Water Supply: James River

Water to be used for: irrigation County: Brown

Type of Waste Disposal System: NA

Location: 4 miles southeast of Bath

PRIORITY Date Received: 4-9-96

Fee: \$150.00

Corrected Application Received:

Period of Annual Use: May 1 - September 30

Remarks: Additional acres on existing Water Permit No. 2639-3

Diversion Point: SW 1/4 SW 1/4 Sec 26-

T123N-R62W

Land to be Irrigated: N 1/2 SE 1/4

Sec 35-T123N-R62W

Depth of Well: NA

Well Driller: NA

Remarks:

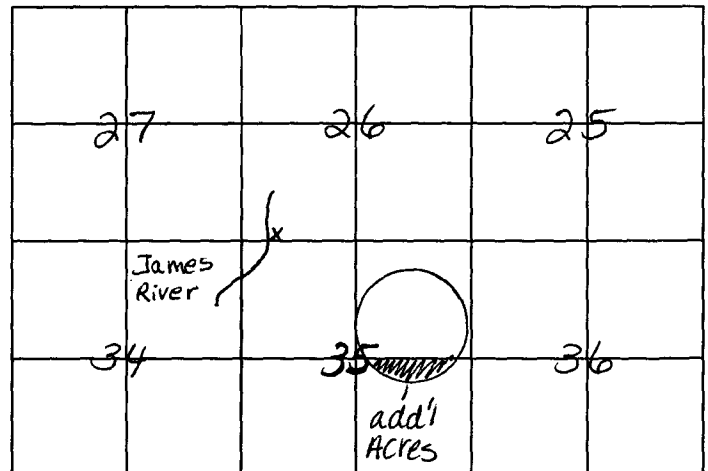
Type of Map: aerial

Prepared by: Judith A Schwal, FSA

Reviewed and the Number Assigned on: 4-9-96

By: Karen Schlaak

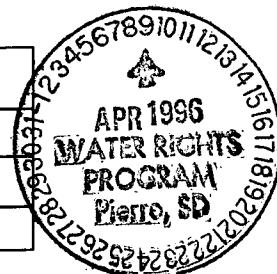
Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota
(type or print)

4/3/96
288

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>5925-3</u> Hydrologic Unit <u>10160003</u>
	Basin <u>James River</u>
	Newspaper <u>American News, Aberdeen, SD</u>



Application For Permit To Appropriate Water For Irrigation

Type of Application: X New Vested Right X Amendment/Correction to Permit No. 2639-3
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.) I would like to add 12 acres of New land to be irrigated by moving existing pivot point approx 450' south on NE35-123

1. Name of Applicant Jon and Loren Locken ☒ Owner ☐ Tenant/Lessee Phone 605-225-8322
Mailing Address 13755 396 AVE BATH (Street, RR, or Box) State SD 57427 (Zip Code)
2. Amount of water claimed no add CFS or **GPM ***AF Total Acreage 10.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
3. Source of water supply James River
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1023' E and 70' N from SW corner Sec 26 123 62
(SW1/4 SW1/4) County BROWN
5. County or counties where water will be used BROWN
6. Annual period during which water is to be used May 1 thru Sept 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
1 Section 35 NW 1/4 SE 1/4	6		
NE 1/4 SE 1/4	6		

8. Give a description of the project. (Attach sheet if more space is needed)

- See Attached sheet -

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of BROWN ss

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

Signed

Jonathan Locken

Subscribed and sworn to before me this 8th day of April 19 96

Scott A. Wilkins

Notary Public

Commission Expires November 18, 2002

SOUTH DAKOTA
WATER PERMIT NO. 5925-3

Date of first receipt of application April 9, 1996.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5925-3 to Jon and Loren Locken, 13755 396 Ave, Bath SD 57427 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. 5925-3 authorizes irrigation of 10.5 additional acres and changes acres authorized by Water Right No. 2639-3. Water Right No. 2639-3 appropriates 2.0 cubic feet of water per second from the James River located in the SW 1/4 SW 1/4 Section 26 to irrigate 253.5 acres located in the NW 1/4 Section 36 and the NE 1/4 Section 35; all in T123N-R62W. The pivot located in the NE 1/4 Section 35 will be moved approximately 450 feet south enabling it to complete a full rotation. A portion of the N 1/2 SE 1/4 Section 35-T123N-R62W will now be irrigated by the additional acres and change of acres caused by the pivot relocation. This permit does not increase the diversion rate authorized by Water Right No. 2639-3.
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 April 9, 1996 (for 10.5 additional acres).
4. The date of approval of Permit No. 5925-3 is June 24, 1996.
5. One-fifth of the construction is to be completed on or before December 24, 1998.
6. All construction is to be completed on or before June 24, 2001.
7. Water is to be put to beneficial use on or before June 24, 2005.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

(continued)

Water Permit No. 5925-3

Jon and Loren Locken

Page 2

4. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: _____

John Hatch

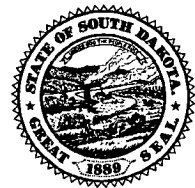
John Hatch, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

JUL 17 1996

date



BROWN COUNTY FSA
1707 4th AVE SE SUITE 200
ABERDEEN, SD 57401-5087

Scott A. Schwal
Program Assistant

NOT TO SCALE



Adlerstein, Sheryl
Judith A. Schwarz
Program Assistant

TO SCALE



Jon Locken
13755 396th Avenue
Bath, SD 57427



April 8, 1996

To Whom It May Concern:

Please consider my request for 12 additional acres of irrigation in Sec. 35-123-62.

In the past it has been an inefficient use of water and time to reverse the pivot when it came to the farm site. I would like to move the pivot approximately 450' south. This would enable me to make a full circle with the pivot. Realistically this should not use any more water than previously when the pivot has been reversed and re-irrigated the wettest part of the field.

I would like to maintain the acres and priority dates already established on water license #2639-3.

The withdrawal rate and water volume in my license is sufficient. I am only requesting to add approximately 12 acres. I own the land that will be added.

Thank you for your consideration.

Jon Locken

RECEIPT

414896

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ April 9, 19 96

RECEIVED OF Jon or Dana Locken, 17355 - 396th Ave., Bath, SD 57427-9611

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

Fee for Application for Permit No. <u>5925-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	150 00

By John Hatch (Signature)
Chief Engineer

Conversation or File Documentation

NAME OF PERSON OR FILE: Jon LockenADDRESS: BATH, SD COUNTY BROWNDATE: 5/22/96 TELEPHONE 605-225-8322RE: CLARIFYING THE APPLICATION REQUEST

COMMENTS:

I called Mr. Jon Locken to clarify his application. Based upon my calculations by shifting the center point south 450 ft will irrigate an additional 10.5 acre for a total of 132 acres. 12 of those acres will be located in the NW 1/4 of SE 1/4 of Section 35. Mr. Locken agreed that was correct.

I told him that I was writing the application report to recommend utilizing the existing qualifications from WR No 2639-3. I told him I had discussed the matter with the Chief Engineer and he agreed to do it this way for practicality.

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: Phil D. Smith

REPORT ON WATER PERMIT APPLICATION NO. 5925-3
JON AND LOREN LOCKEN
MAY 24, 1996

Application 5925-3, Jon and Loren Locken, proposes to add and change acres for irrigation currently authorized by Water Right No. 2639-3. Water Right No. 2639-3 appropriates 2.00 cubic feet of water per second (cfs) from the James River with a diversion point located in the SW1/4 SW1/4 of Section 26 to irrigate 253.5 acres located in the NW1/4 of Section 36 and the NE1/4 of Section 35; all in T123N-R62W. The proposed change will irrigate an additional 10.5 acres and move other irrigated acres. The irrigation project is located in Brown County approximately 9 miles southeast of Aberdeen.

Review of the Proposed Project and Existing Water Rights

The applicants propose to make changes to an irrigation project authorized by Water Right No. 2639-3. Water Right No. 2639-3 authorizes the irrigation of 253.5 acres of which 121.5 acres are located in the NE1/4 of Section 35 T123N-R62W. The center pivot located in this quarter section is currently unable to make a complete circle because of an existing farmstead located in the northwest corner of the northeast quarter section. The applicants intend to move the pivot point for the center pivot from the center of the NE1/4 to a point 450 feet south from the original pivot point. This will allow the center pivot to make an entire circle and will have the net effect of increasing the acres irrigated by 10.5 acres for a total of 132 acres. The proposed shift of the center pivot will change the location of some of the existing acres currently authorized for irrigation, see Table 1.

Table 1. Location of Irrigated Acres in Section 35 T123N-R62W.

Location of Irrigated Acres; all in Sec 35 T123N-R62W	Authorized by Water Right No. 2639-3	Proposed by Application No. 5925-3
NW1/4 NE1/4	22.5 acres	21.0 acres
NE1/4 NE1/4	33.0 acres	21.0 acres
SW1/4 NE1/4	33.0 acres	39.0 acres
SE1/4 NE1/4	33.0 acres	39.0 acres
NW1/4 SE1/4	0.0 acres	6.0 acres
NE1/4 SE1/4	<u>0.0 acres</u>	<u>6.0 acres</u>
TOTAL	121.5 acres	132.0 acres

Water Right No. 2639-3 authorizes the diversion of 2.00 cfs to irrigate a total of 253.5 acres. The applicants are not requesting any increase in the diversion rate for the additional 10.5 acres.

Review of Existing Water Rights and the Water Source

The water source for this irrigation project is from the James River. The James River has a 200 cfs appropriation limit for the river reach from the North Dakota state line to the Huron Third Street Dam. At this time there are 58 existing water rights/permits appropriating 120.22 cfs from this river reach. Because the applicants are not requesting an increase in the diversion rate for this project the James River appropriation limit will not be affected although there may be a slight increase in the annual volume diverted due to the increased acres.

The James River is not dependable as a continuous source of water. Many water rights/permits appropriating water from the James River are subject to specific qualifications addressing normal seasonal low flows and have historically been subject to shutoff orders. Water Right No. 2639-3 has been subject to the following qualifications:

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

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

Any new appropriation from the James River in this river reach would also need to be subject to these same qualifications or other qualifications in order to protect the water supply for senior rights and domestic use. If this permit is approved, it should be issued with the same qualifications as are on Water Right No. 2639-3.

Conclusions

1. Application No. 5925-3 proposes to add 10.5 acres and change the location of other acres for irrigation authorized by Water Right No. 2639-3
2. Application No. 5925-3 does not request an increase in the diversion rate from the James River beyond the 2.00 cfs authorized by Water Right No. 2639-3.
3. The water source for the irrigation project is the James River. The James River is not dependable as a continuous source of water. Many water rights/permits appropriating water from the James River are subject to specific qualifications addressing normal seasonal low flows and have historically been subject to shutoff orders.
4. If this permit is approved, it should be issued with the same qualifications that are on Water Right No. 2639-3.
5. If this permit is approved in order to protect existing senior water rights and domestic use, the permit should be issued with the following qualifications:

This permit does not authorize diversions 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.

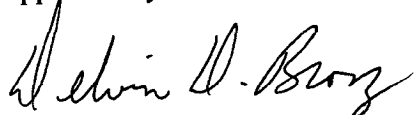
This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.

Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This permit is subject to these prior water rights if or when the reserved water supply is developed.



Mark D. Rath
Natural Resources Engineer III

Approved by:



Delvin D. Brosz, P.E.
Natural Resources Engineer IV

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5925-3, Jon and Loren Locken**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5925-3, Jon and Loren Locken, 13755 396 Ave., Bath, SD 57427.

The Chief Engineer is recommending APPROVAL of Application No. 5925-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been 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. This Permit does not authorize diversions 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. Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This Permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This Permit is subject to these prior water rights if or when the reserved water supply is developed.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.



JOHN HATCH, Chief Engineer
May 28, 1996



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

May 29, 1996

Jon and Loren Locken
13755 396 Ave.
Bath, SD 57427

Dear Jon and Loren:

Water Permit Application No. 5925-3 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 American News printed at Aberdeen, SD (Ph # (605) 225-4100). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are 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 Hearing 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 29, 1996

American News
P.O. Box 4430
Aberdeen, SD 57402-4430

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5925-3 to be published twice. Please publish the first notice on June 6, 1996, 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 Jon and Loren Locken, 13755 396 Ave., Bath, SD 57427 (Ph # (605) 225-8322).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Program
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 June 6, 1996, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 5925-3 to Appropriate Water
and Amend Water Right No. 2639-3

Notice is given that Jon and Loren Locken, 13755 396 Ave., Bath, SD 57427 have filed an application for a water permit to irrigate 10.5 additional acres and change acres authorized by Water Right No. 2639-3. Water Right No. 2639-3 appropriates 2.0 cubic feet of water per second from the James River located in the SW 1/4 SW 1/4 Section 26 to irrigate 253.5 acres located in the NW 1/4 Section 36 and the NE 1/4 Section 35; all in T123N-R62W. The pivot located in the NE 1/4 Section 35 will be moved approximately 450 feet south enabling it to complete a full rotation. A portion of the N 1/2 SE 1/4 Section 35, T123N-R62W will now be irrigated by the additional acres and change of acres caused by the pivot relocation. This application, if approved, does not authorize any increase in the diversion rate authorized by Water Right No. 2639-3.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5925-3 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 24, 1996.

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 the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Brown) SS

1. Roberta Dempsey

certify that the attached printed Notice was

taken from the Aberdeen
American News

printed and published in Aberdeen

County of Brown and State of

South Dakota. The notice was published in
 the newspaper on the following two dates:

June 6

June 13, 1996

Cost of Printing: 60.25

Roberta Dempsey
 (Signature)

Receptionist
 (Title)

June 13, 1996
 (Date Signed)



(No. 982 - June 6, 13 - 2T)
 NOTICE OF APPLICATION NO. 5925-3
 to Appropriate Water and
 Amend Water Right No. 2639-3

Notice is given that Jon and Loren Locken, 13755 396 Ave., Bath, SD 57427 have filed an application for a water permit to irrigate 10.5 additional acres and change acres authorized by Water Right No. 2639-3. Water Right No. 2639-3 appropriates 2.0 cubic feet of water per second from the James River located in the SW 1/4 SW 1/4 Section 26 to irrigate 253.5 acres located in the NW 1/4 Section 36 and the NE 1/4 Section 35; all in T123N-R62W. The pivot located in the NE 1/4 Section 35 will be moved approximately 450 feet south enabling it to complete a full rotation. A portion of the N 1/2 SE 1/4 Section 35, T123N-R62W will now be irrigated by the additional acres and change of acres caused by the pivot relocation. This application, if approved, does not authorize any increase in the diversion rate authorized by Water Right No. 2639-3.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5925-3 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

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The petition may be informal, but must include a statement describing the petitioner's interest in the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Meyers, Secretary, Department of Environmental and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 17 1996

Jon and Loren Locken
13755 396 Ave.
Bath, SD 57427

Dear Jon and Loren:

Enclosed is Water Permit No. 5925-3 authorizing construction of your water diversion system and beneficial use of the water, 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 Program
605 773-3352

enclosures

PLEASE NOTE: Certain changes may be made to your water permit usually without affecting the priority date. The location of a point of diversion may be changed or additional points of diversion may be approved if the water source remains unchanged; no additional water is appropriated; and, if irrigating, no additional land is irrigated. The change may be allowed without application or publication, if the Water Rights Program is contacted and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

A new water permit application is required to change water sources, increase the permitted diversion rate, or increase the irrigated acreage. If the application is approved, the water permit will receive a new priority date.



NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date 8-8-96

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

FROM: Jon and Loren Lorben 13755 396 AVE
(name) (address)
BATH SD 57427 605-225-8322
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5925-3

Water Permit No. 5925-3 states that the diversion system is to be constructed by 6-24-01, and that the water is put to beneficial use by
(date)

6-24-05
(date)

The diversion system was completed on 8-2-96
(date)

Applying the water to beneficial use was completed on 8-2-96
(date)

You may schedule an inspection so that the Water License may be issued.

Jon Lorben
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 18, 1997

5925-3

Jon Locken
137355 396th Ave
Bath, SD 57427

Dear Mr. Locken:

Thank you for the prompt return of your 1997 irrigation questionnaires. I wanted to take this opportunity to answer your inquiry concerning irrigation questionnaires for Water Right No. 2639-3 and Water Permit No. 5925-3.

Water Permit No. 5925-3 was obtained to allow additional acreage to be irrigated from what was authorized under No. 2639-3. When Water Permit No. 5925-3 was approved, it allowed five years for completion of the project. When the pivot is relocated and the additional acreage is irrigated, we will conduct a field investigation to determine the extent of development. Once this occurs a water license will be issued that combines 2639-3 and 5925-3.

Until a water license is issued, a questionnaire will be mailed out for both No. 2639-3 and 5925-3. However, since the area being irrigated is under one system, it is perfectly acceptable to include all the information on one form. We have many irrigators that complete the forms in this manner.

Hopefully I have addressed your concerns. If you have any other questions, please get in touch with me.

Sincerely,

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



5925-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 14, 2000

NOTICE

TO: JON & LOREN LOCKEN, 13755 396TH AVE, BATH, SD 57427
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1999 Irrigation Questionnaire(s)

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

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

The hearing will be held at 1:30 pm, March 1, 2000 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

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

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

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2000

2639-3
5925-3

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

Dear Sirs:

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

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

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 2, 2001

5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Sirs:

On August 8, 2000, the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5925-3, was completed by Stacy J Johnson, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416799

Pierre, March 22, 2001

RECEIVED OF Jon Locken Inc., 13755 396th Ave., Bath, SD 57427-6503

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. 5925-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By Darland Erbele
Chief Engineer

Permit Nos. 2639-3 & 5925-3

James River - Water District

Other permit/license(s) associated with project: **none**

Contact Person & Address: **Loren Locken, 1104 N 3rd St, Groton, SD 57445**

Report Of Examination Of Works

On, **August 8, 2000**, I made a thorough examination of the water use system constructed by **Jon & Loren Locken** of **13755 396th Ave, Bath, SD 57427** holder of Permit No. **5925-3**, bearing the priority of **April 9, 1996**, authorizing **adding 10.5 acres of irrigated land and change the irrigated land** and Permit No. **2639-3** bearing the priority of **December 29, 1975 & August 28, 1975**, authorizing the diversion of **2.0** cu. ft. per second of the waters for **irrigation** purposes, in **Brown** County.

The system is in the following condition **good**. The point of diversion is located **from the NE corner of Section 35 T123N-R62W it is 4290 feet west and 104 feet north** with a longitude of **-98.263624** and a latitude of **45.429681**. The works are capable of diverting and conveying to the place of use **2.00** cu. ft. per second of water that is to be used for **irrigation purposes**. Water has been put to beneficial use to the maximum extent as follows:

All land is in Section 35 T123N-R62W

NE ¼ NE ¼ 21 Acres

NW ¼ NE ¼ 21 Acres

SW ¼ NE ¼ 39 Acres

SE ¼ NE ¼ 39 Acres

NE ¼ SE ¼ 6 Acres

NW ¼ SE ¼ 6 Acres

All land is in Section 36 T123N-R62W

NW ¼ NW ¼ = 33 Acres

NE ¼ NW ¼ = 33 Acres

SW ¼ NW ¼ = 33 Acres

SE ¼ NW ¼ = 33 Acres

comprising a total of **264** acres of land and the license should be issued for **2.00** cfs.

Review of 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 **yes**
- 4) Exceptions to compliance are: **none**

Report On the Specifics of the System

Diversion Point Information:

Pump\ Motor:

- 1) Pump Make Berkley Centrifugal Pump
- 2) Pump Model B4JRBMCW
- 3) Capacity 900 GPM
- 4) Motor Make Deutz Diesel
- 5) Motor Model No. C-110-Hp3
- 6) Horsepower rating 100 hp

Distribution System:

- 1) Type Aluminum
- 2) Size 10 inches
- 3) Length 1325 feet
- 1) Type PVC
- 2) Size 10 inches
- 3) Length 3003 feet
- 1) Type PVC
- 2) Size 8 inches
- 3) Length 5080 feet

System Type:

Center pivot: Section 35

- 1) Make Zematic
- 2) Overall length 1320 feet
- 3) Number of towers 8 with center pivot
- 4) End gun yes
- 5) High or low pressure low
- 6) Capacity 900 GPM

System Type:

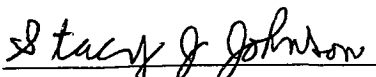
Center pivot: Section 36

- 1) Make Reinke
- 2) Overall length 1320 feet
- 3) Number of towers 10 without center pivot
- 4) End gun no
- 5) High or low pressure high
- 6) Capacity 900 GPM

Chemigation:

- 1) Does chemigate no

COMMENTS: For the pump size it has an eight inch intake pipe and a four inch exhaust pipe.



Stacy J. Johnson
Natural Resources Engineer
DENR, Water Rights Program

2-1-01
Date

Diversion Point

From the SE corner of Section 26 T123N-R62W
it is 4290 feet west and 104 feet north



Permit No. 5925-3

Section 35 T123N-R62W

NW 1/4 NE 1/4 = 21 Acres

NE 1/4 NE 1/4 = 21 Acres

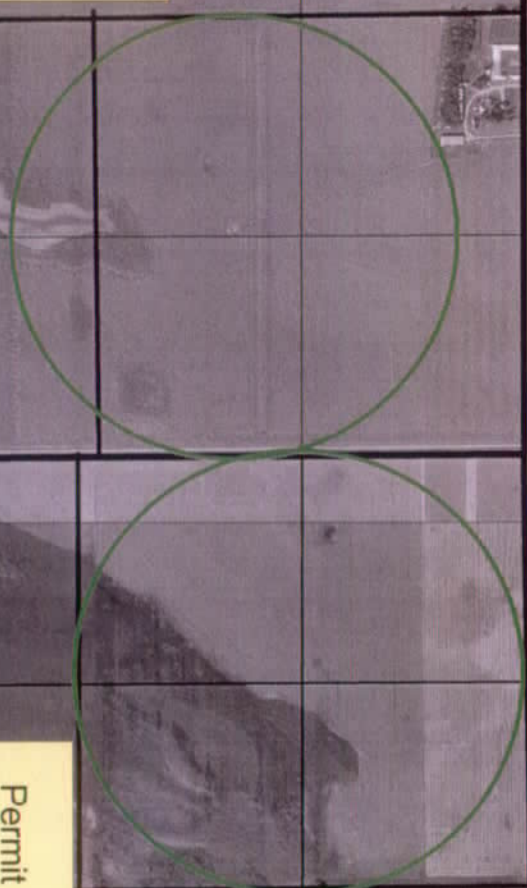
SW 1/4 NE 1/4 = 39 Acres

SE 1/4 NE 1/4 = 39 Acres

New Irrigated Acres

NW 1/4 SE 1/4 = 6 Acres

NE 1/4 SE 1/4 = 6 Acres



Permit No. 2639-3

Section 36 T123N-R62W

NE 1/4 NW 1/4 = 33 Acres

NW 1/4 NW 1/4 = 33 Acres

SW 1/4 NW 1/4 = 33 Acres

SE 1/4 NW 1/4 = 33 Acres

Stacy J Johnson 1-31-01

Stacy J Johnson

Natural Resources Engineer

SD DENR Water Rights Program

0.4

0

0.4 Miles



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5925-3

(1) Jon & Loren Locken, 13755 396th Ave, Bath SD 57427 made Application No. 5925-3, April 6, 1996 for a water permit to divert no additional water from the James River, Brown County, South Dakota for irrigation purposes. Permit No. 5925-3, with a priority date of April 6, 1996 was approved June 24, 1996 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before June 24, 2001 and for the application to beneficial use of said water on or before June 24, 2005.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on August 12, 1996. The *Notice* stated the diversion system was completed on August 2, 1996 and the water placed to beneficial use on August 2, 1996.

Water Right No. 2639-3 with priority dates of August 28 and December 29, 1975, authorizes 2.0 cubic feet of water per second to irrigate 253.3 acres. Permit No. 5925-3 authorized irrigation of 10.5 additional acres and a change of acreage. The applicable portions of Water Right No. 2639-3 are incorporated into No. 5925-3.

(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 2.00 cubic feet of water per second for beneficial use. The location of the diversion point is 4,290 feet west and 104 feet north of the northeast corner of Section 35-T123N-R62W (SW 1/4 SW 1/4).

(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 T123N-R62W							
priority date				priority date			
Sec 35	NE 1/4 NE 1/4	21 ac	8-28-1975	Sec 36	NW 1/4 NW 1/4	33 ac	8-28-1975
	NW 1/4 NE 1/4	21 ac	8-28-1975		NE 1/4 NW 1/4	33 ac	8-28-1975
	SW 1/4 NE 1/4	39 ac	8-28-1975		SW 1/4 NW 1/4	33 ac	12-29-1975
	SE 1/4 NE 1/4	39 ac	8-28-1975		SE 1/4 NW 1/4	33 ac	12-29-1975
	NE 1/4 SE 1/4	6 ac	4-9-1996				
	NW 1/4 SE 1/4	6 ac	4-9-1996				
Total 264 acres							

(4) Pursuant to South Dakota Water Law 46-5-30.1 Jon & Loren Locken, 13755 396th Ave, Bath SD 57427 the holders and/or owners of Incorporated Water Right No. 5925-3 are issued a license to appropriate water, the right to use 2.0 cubic feet of water per second from the James River with priority dates of August 28, 1975, December 29, 1975 and April 9, 1996 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 Incorporated Water Right No. 5925-3 and subject to South Dakota State Law.



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

APR 04 2001

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 04 2001

5925-3

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

Dear Mr. Locken:

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

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

Sincerely,

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

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

enclosures



5925-3

**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 14, 2004

NOTICE

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

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

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaire(s)

Our records indicate that the 2003 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4066B-3 & 5925-3. The request for the Questionnaire was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 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) 4066B-3 & 5925-3 qualification:

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

The hearing will be held at 8:30 am, March 3, 2004 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) 4066B-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **February 27, 2004**, 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.



5925-3

**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 30, 2004

4066B-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Sirs:

I am writing to acknowledge receipt of your 2003 irrigation questionnaires. You may disregard the January 14, 2004, "Notice" concerning reporting requirements for Water Right Nos. 4066B-3 and 5925-3.

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



5925-3
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 20, 2005

NOTICE

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

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4066B-3 & 5925-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 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) 4066B-3 & 5925-3 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 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) 4066B-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 25, 2005, 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.



5925-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 2, 2005

4066B-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Mr. Locken:

I am writing to acknowledge receipt of your 2004 irrigation questionnaires. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Right Nos. 4066B-3 and 5925-3.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 26, 2006

NOTICE OF SHUTOFF ORDER

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

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: James River Shutoff Order

Shutoff Order for Water Right No(s). 5925-3, 4066B-3

To protect the senior priority water rights and domestic use, the department is issuing shutoff orders to water right holders on the James River above Huron. Effective immediately, no diversions of water from the James River will be allowed for those permits with a priority date after January 1, 1975. Previous to this Order, diversions requiring written order from the Chief Engineer to divert James River water after July 1, have not been allowed.

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. The Huron gage is below 20 cubic feet per second, the required bypass for downstream domestic use. This order will be rescinded as soon as conditions improve. If conditions do not improve, 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.



5925-3

**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 26, 2007

NOTICE

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

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

SUBJECT: Reporting Requirement for 2006 Irrigation Questionnaire(s)

Our records indicate that the 2006 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4066B-3 & 5925-3. The request for the Questionnaire was dated October 20, 2006. The Water Management Board has directed that owners of water permits who have not submitted the 2006 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) 4066B-3 & 5925-3 qualification:

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

The hearing will be held at 10:30 am, March 7, 2007 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) 4066B-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before March 1, 2007, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:
<https://www.state.sd.us/eforms/secure/eforms/E0455V5-IQ.pdf>

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 2, 2007

4066B-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Sirs:

I am writing to acknowledge receipt of your 2006 irrigation questionnaires. You may disregard the January 26, 2007, "Notice" concerning reporting requirements for Water Right Nos. 4066B-3 and 5925-3.

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

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 11, 2007

TO: All James River Water Right Holders

FROM: Garland Erbele, Chief Engineer
Water Rights Program, DENR *Garland Erbele*

SUBJECT: Proposed Amendment to Conditions on James River Water Rights

As Chief Engineer of the Water Rights Program, I am proposing amending conditions placed on many James River water rights in order to provide consistency for the period when pumping is authorized from the river. Please find enclosed the Chief Engineer's recommendation and a notice being published in newspapers along the James River in South Dakota. The notice schedules a May 9th hearing before the Water Management Board regarding the amendment.

Water Rights on the James River contain a variety of shutoff dates and by-pass flow qualifications. To facilitate the administration of James River water rights, the Chief Engineer is recommending that the Water Management Board amend water rights to provide a standard August 10th shut-off date and bypass conditions relative to USGS gaging stations. Real time flows can easily be accessed via USGS's website at <http://waterdata.usgs.gov/sd/nwis/>. The proposed amendments will not impose any condition more restrictive than currently in place and all water rights will remain subject to senior water rights and any written orders issued by the Chief Engineer.

Please review the enclosed recommendation and public notice. If your water right is among those that will be amended the section in the recommendation dealing with your water right is highlighted. If there is no highlighted section in your enclosure, then there is no proposed change to your water right. If you have any questions about the proposed changes, I encourage you to contact Lynn Beck or Mark Rath at (605) 773-3352.

enclosure

Instruction to Newspaper - Publish first Notice on April 12, 2007 with the second publication 7 days later. The Water Rights Program is responsible for payment.

NOTICE OF CHIEF ENGINEER'S RECOMMENDATION FOR JAMES RIVER WATER RIGHTS

Notice is given that the Water Rights Program, Department of Environment and Natural Resources, 523 E Capitol Avenue, Pierre SD proposes to amend conditions placed on many James River water rights in South Dakota. The objective is to bring consistency among water rights for the period when pumping is authorized from the river. This requires the modification to the conditions placed on a number of existing water rights. The amendments will not increase the authorized diversion rate or number of irrigated acres authorized under existing James River water rights. Water rights held by cities for municipal use will not be amended by this proposed action.

Currently, water rights differ in the date that pumping must cease and the amount of water that must bypass a United States Geological Survey's gaging station to pump. The Water Rights Program has reviewed all James River water rights and determined that they can be modified to a standard shut-off date of August 10th of each calendar year. In addition, it is proposed that the bypass condition along the river is best managed in three segments identified by USGS gaging stations as follows.

North Dakota Border to the Ashton gage (northern segment)
Ashton gage to Huron gage (central segment)
Huron gage to gage near Scotland (southern segment)

Water rights that currently have a bypass condition within each segment will be conditioned with a 20 cfs bypass.

The proposed amendment will not impose any conditions more restrictive than the conditions currently in place on any water right. James River water rights holders will be provided personal notice of the proposed amendment to their water right.

The Chief Engineer recommends that the Water Management Board approve deletion of the existing shut-off and bypass conditions on applicable water rights and add the following qualifications to those James River water rights as set forth above.

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Ashton SD (or Huron and Scotland).

Any person interested in opposing or supporting this proposed amendment change shall file a written petition with the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". A petition filed by either an interested person or water right holder must be filed by April 30, 2007. The petition may be informal, but must include a statement describing the petitioner's interest, the petitioner's reasons for opposing or supporting the proposed change, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board hearing to consider the amendment to delete and add the above qualifications will be held at 11:00 AM, May 9, 2007 in the Floyd Matthew Training Center, 523 E Capitol Avenue, Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) defer, or 3) deny the amendment changes based on the facts presented at the public hearing. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

The May 9, 2007 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from any interested person opposing the amendments. The request for an automatic delay must be filed by April 30, 2007.

Any hearing will be an adversary proceeding. Any person filing a petition has the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by April 30, 2007, at the above Water Rights Program address to request copies of information pertaining to this action. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Water Rights Program if you have special needs for which special arrangements can be made.

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

REPORT ON AMENDMENT OF JAMES RIVER WATER PERMITS/RIGHTS

April 24, 2007

Purpose of this Study

The James River historical appropriations show a variety of shut-off and by-pass qualifications adopted at different times. It is the purpose of this study to bring the shut-off and by-pass qualifications of active permits in line with the intentions of the Water Management Board as adopted at the April 1980 and May 1987 Board Meetings. In addition, the study shows that future appropriations of water from the James River can also be administered as stated above.

Historical Summary of James River Water Permits/Rights

During the 1960's the Water Resources Commission (predecessor to the Water Management Board) set a 300 cubic feet per second (cfs) limit and an August 10th cutoff date for appropriations from the James River. It was also determined that 20 cfs of water should by-pass Huron, SD to provide for downstream domestic use. The diversion limit was further defined as a combined 200 cfs of water above Huron and in addition permits having a combined 300 cfs of water could be approved above the SD Hutchinson-Yankton county line.

The Commission set limit was reached in 1968 and applications were deferred until 1975 when cancellations and underdeveloped appropriations allowed for deferred applications to be approved until the 300 cfs limit was reached. Applications were once again deferred until 1979 when a similar situation allowed James River diversions to be approved. In 1980 appropriations on the James River were once again opened and based on studies of actual irrigation development and use, it was projected that a maximum of 50-percent of permitted acres were irrigated at any one time. In 1987 a recommendation was made to the Water Management Board to change the qualifications on those active water permits upstream of Huron, SD requiring alignment with the August 10th cut-off date and the 20-cfs by-pass at the Third Street Dam, and for those water permits downstream of Huron, SD to the August 10th cut-off date.

Most recently, in 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews James River water rights for non-use status and possible cancellation. Currently there is unappropriated water in the James River.

See Attachment 1 for a detailed historical review of James River shut-off and by-pass qualifications.

Review of James River Water Permits/Rights

Past inspections of James River water permits/rights have resulted in updates to the number of permits and amounts of water appropriated from the river. See Attachment 2 for a map of the James River permits/rights and Attachment 3 for a list of James River Water Rights including their use and qualifications.

Presently there are eighty-six (86) water rights on the James River reach from the North Dakota (ND) border to the SD Hutchinson-Yankton county line with 231.81-cfs total diversions. These

water rights are for direct diversion of water from the James River during the normal irrigation season. The James River reach from Huron, SD to the ND border presently has fifty-one (51) water rights with 144.83-cfs total diversions. The majority of these water rights are in Spink (25) and Beadle (16) Counties with 124.94-cfs total diversions. At this time there are no water rights in effect for direct diversion of water from the James River upstream of the James River Columbia, SD U.S Geological Survey (USGS) gaging station. Currently 68.19-cfs is available for appropriation on the James River from the ND border to the Hutchinson/Yankton County line, of which, not more than 55.17-cfs is available for appropriation above the USGS gage at Huron due to the 200-cfs limit.

This leaves thirty-five water rights with 86.98-cfs direct diversion from the James River during the normal irrigation season on the stretch below Huron to the Hutchinson/Yankton County line. The majority of these water rights are in Davison (10) and Hutchinson (13) counties with 64.66-cfs total diversions. Currently up to 68.19-cfs is available for diversion below Huron.

Water Availability at Current Appropriation

Currently 231.81-cfs is appropriated on the James River from the ND border to the Hutchinson/Yankton County line, of which, **144.83-cfs** is appropriated above the USGS gage at Huron and **86.98-cfs** is appropriated below Huron to the Hutchinson/Yankton County line. A study was conducted, by water rights staff, to determine the probability that water would be available during the irrigation season until August 10 of each calendar year if existing water permits/rights are brought in line with a common August 10 shut-off date.

The James River was divided into three river reaches between USGS gaging stations, ND border to the USGS gage at Ashton, SD; USGS gage at Ashton, SD to the USGS gage at Huron, SD; and USGS gage at Huron, SD to USGS gage near Scotland, SD. The water appropriated for irrigation and other uses for each of the three river reaches was calculated, see table below.

RIVER REACH	IRR	OTH	TOTALS
ND border to Ashton	16.85	6.5	23.35
Ashton to Huron	95.2	26.28	121.48
TOTAL	112.05	32.78	144.83
Huron to HT/YA Co. ln.	54.2	32.78	86.98
TOTAL	54.2	32.78	86.98

Once these values were obtained, a formula for actual water use at current appropriation was developed.

Stated under, **Historical Summary of Shut-Off and By-Pass Qualifications, 1980 – 1984**, in Attachment 1, the actual irrigation development and use on the James River were found to be a maximum of 50-percent. This conclusion was reached after Water Rights Staff conducted detailed hydrographic surveys of the availability of water in the river and studies of the anticipated effects of approving water permits based on projected development and use by appropriators. A similar study was conducted with current irrigation diversions on the James River. Irrigation questionnaires from 1996 – 2006 were reviewed to estimate maximum

pumping at any one time during the irrigation season. The maximum found in each river reach is as follows:

ND border to the gage at Ashton, SD	52%
Gage at Ashton to gage at Huron, SD	42%
Gage at Huron, SD to HT/YA Co. line	29%

Therefore, the 50-percent value is still applicable today.

Since reporting for other uses is limited, 100-percent pumping is assumed. In addition 20-cfs for domestic use was added. The resulting formula for maximum use is as follows:

$0.5(\text{IRR cfs}) + 1.0(\text{OTH cfs}) + 20 \text{ cfs}$ IRR – irrigation use OTH – other uses

RIVER REACH	IRR	50%IRR	OTH	DOM	NEEDED	% CHANCE AVAIL. AUG 10
ND border to Ashton	16.85	8.42	6.5	20	34.92	65
Ashton to Huron	95.2	47.6	26.28	20	93.88	56
Huron to HT/YA Co. ln.	54.2	27.1	32.78	20	79.88	57

In order to bring existing water permits/rights in line with a common August 10 shut-off date the percent chance that water will still be available August 10 must be calculated. This was done using James River flows based on 50 or more years of USGS stream flow data for each of the three river reaches. There is a 65% chance, or better, of flow being available in the reach from the ND border to the Ashton gage; 56% chance, or better, in the reach from the Ashton gage to the gage at Huron; 57% chance, or better, in the reach from the gage at Huron to the Scotland gage. A bar graph representing the above percent chance of water being available August 10th can be found in Attachment 4.

There are factors of safety built into the computations. All of the percent probabilities that water will be available at current appropriations were calculated using flow data collected from the James River during years pumping occurred. Also, while using a 50% figure for simultaneous irrigation pumping it is assumed that 100% of all other uses will be pumping at the same time.

Water Availability at Full Appropriation

In addition, the study shows that future appropriations of water from the James River can also be administered as stated above. Using estimates for future appropriations calculations showed that there is a 63% chance, or better, of flow being available in the reach from the ND border to the Ashton gage; 50% chance, or better, in the reach from the Ashton gage to the gage at Huron; 56% chance, or better, in the reach from the gage at Huron to the Scotland gage. A bar graph representing the above percent chance of water being available August 10th can be found in Attachment 5.

The same factors of safety apply to the calculations at full appropriation as those for calculations at current appropriations.

Proposed Amendment of James River Water Rights

The present appropriations from the ND-SD border to the Hutchinson-Yankton County line total 231.81-cfs. The present total appropriations are less than the 300-cfs limit set by the Water Resources Commission in 1965 and below the June 1985 appropriation total of 254.07-cfs that brought about the Water Management Board's adoption of qualification changes during the May 1987 meeting.

To facilitate the judicious administration of the use of James River water, the protection of the in-stream beneficial uses of the river for recreational use and as a fishery, to maintain good quality water as well as sufficient quantity and velocity of water, and bring the shut-off and by-pass qualifications of active permits in line with the intentions of the Water Management Board as adopted at the April 1980 and May 1987 Board Meetings; it is proposed that appropriations of water from the James River be administered by similar qualifications adopted at the May 1987 meeting without the prior right qualification for Future Use Permit No. 1067-3. Diversions will still be subject to senior water rights and any written orders by the Chief Engineer.

Although the James River is involved in Future Use Permit No. 1067-3, Oahe Conservancy Sub-District, this permit is predicated or conditioned upon Missouri River water being delivered to the James River through the Oahe Project. Presently Future Use Permit No. 1067-3 is allotted 6500-cfs of such water from the James River, but the status of the permit is questionable since the Oahe Project has been terminated.

The Chief Engineer, Water Rights Program, proposes that the Water Management Board take action as stated in the Chief Engineer's Recommendation.



Lynn Beck
Natural Resources Engineer Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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**CHIEF ENGINEER'S RECOMMENDATIONS FOR WATER RIGHTS
ON THE JAMES RIVER IN SOUTH DAKOTA**

Chief Engineer's Recommendation for Water Rights Above Huron:

The Chief Engineer is recommending that the Water Management Board amend the following permits/rights located above Huron as described:

ND Border to the gage at Ashton, SD

Water Permit No. 6427-3:

Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.
- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit.
- From July 1 - October 1, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

The Chief Engineer is also recommending that the Water Management Board approve the following Qualifications as standard for existing James River permits issued from the ND border to the gage at Ashton, SD.

Add:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Ashton, SD after pumping.
-

Gage at Ashton, SD to the gage at Huron, SD

Water Right No. 5027-3:

Delete: Qualification No. 1 "Low flows as needed for downstream domestic use and prior water rights must be bypassed. The minimum bypass at Huron for domestic use is 20 cfs. During the period of April 1 through June 30 of each calendar year, diversions are authorized only when 60 cfs or more are by-passed after diversion for domestic use or prior water rights, unless a lower flow by-pass based upon the need for water in Lake Byron verses the need for water downstream, is authorized by the Chief Engineer. This permit does not authorize diversion of water from the James River after June 30th of each calendar year unless written orders have been so issued by the Chief Engineer. In the management of the James River under this permit, flows will be monitored at all gaging stations, and cutoffs will be timed to insure water supplies for domestic use and prior water rights."

Water Permit No. 5737-3:

Delete: Qualification No. 1 "When pumping from the James River into the storage pond, low flows as needed for downstream domestic use, including livestock water, and prior water rights/permits must be by-passed. From March 1 – March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit. From April 1 – June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam exceeds 63 cfs while pumping under this Permit. From June 30 until November 30, diversions from the James River are not authorized unless allowed by written orders issued by the Chief Engineer. Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer."

Water Right Nos. 6182-3 & 6183-3; Water Permit Nos. 6398-3, 6400-3, & 6505-3:

Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.

- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 29 cfs while pumping under this Permit.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit
- From July 1 - October 1, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

Water Permit Nos. 6375-3, 6588-3, 6589A-3, 6589B-3, 6590-3, 6613-3, 6614-3, 6614A-3, & 6738-3:
Delete: Qualification No. 1

1. Diversion of water from the James River shall be in accordance with the following criteria:

- When pumping from the James River, low flows as needed for down stream domestic use, including livestock water and prior water rights must be by-passed.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron Third Street Dam is at least 63 cfs while pumping under this Permit
- From July 1 - October 31, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

The Chief Engineer is also recommending that the Water Management Board approve the following Qualifications as standard for existing James River permits issued below the gage at Ashton, SD to the gage at Huron, SD.

Add:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Water Right Nos. 1734-3, 1735-3, 1943-3, 1979-3, 2129-3, 2386-3, 2629-3, 4066A-3, 4066B-3, 4071-3, 5651-3, 5925-3, & Water Permit No. 6081-3.

Delete: "flowing over James River Dam" from Qualification No. 2.

Chief Engineer's Recommendation for Water Rights Below Huron:

Gage at Huron, SD to the gage near Scotland, SD

The Chief Engineer is recommending that the Water Management Board amend the following permits/rights located below the gage at Huron, SD as described:

Water Right Nos. 607-3 & 608-3:

Delete: "This permit is granted allowing withdrawal of water whenever 25 cfs or more is flowing past your diversion point."

Add: "This permit does not authorize diversions from the James River when less than 20 cfs is by-passing the gage near Scotland, SD after pumping."

Water Right Nos. 690-3 & 699B-3:

Delete: "Use of water under this water right is subject to flows in the James River of 15 cfs or more past your diversion point."

Add: "This permit does not authorize diversions from the James River when less than 20 cfs is by-passing the gage near Scotland, SD after pumping."

Water Permit No. 6534-3:

Delete: "July 15th" from Qualification No. 1.

Add: "August 10th" to Qualification No. 1.

Contact Lynn Beck, Water Rights Program staff engineer at (605) 773-3352 if you have questions regarding this recommendation.



Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

April 25, 2007

Attachment 1

HISTORY OF JAMES RIVER WATER PERMITS/RIGHTS QUALIFICATIONS

April 9, 2007

Historical Summary of Shut-Off and By-Pass Qualifications:

1965 - 1979

In 1965 the South Dakota (SD) Water Resources Commission, a predecessor to the SD Water Management Board, placed a 300 cubic feet per second (cfs) total diversion limit on the James River with a maximum combined total diversion limit of 200-cfs from Huron, SD to the North Dakota border. Due to Missouri River backwater into the James River, the 300-cfs restriction has been applied from the North Dakota border to the SD Yankton-Hutchinson County Line. The Water Resources Commission also set an automatic August 10th diversion shutoff date unless a written order from them or their legal representative was issued to the holder of a James River water right.

In May of 1968 the 300-cfs limit was reached and the SD Water Rights Commission, also a predecessor to the SD Water Management Board, adopted the policy of automatically deferring without advertising further water permit applications until it was determined that non-appropriated water was available in the James River.

It was determined at the November 1975 Water Rights Commission Meeting that water permits could again be issued for James River water within the 300-cfs limit because of prior permit cancellations. Permits were issued at that time to bring the total appropriations back to the 300-cfs limit.

Applications for James River water received after November 1975 were advertised and officially deferred at the January and March 1979 Water Rights Commission Meetings. The James River was withdrawn from further appropriations for one year at the March 1979 Water Rights Commission Meeting until further studies could be made to determine if there was non-appropriated James River water available.

1980- 1984

The James River was again opened for appropriation of water at the January 1980 Water Rights Commission Meeting. The following items pertaining to James River water use were noted in the July 1980 Findings of Fact, Conclusions of Law, and Final Decision resulting from this meeting:

- The Water Rights Staff had conducted detailed hydrographic surveys of the availability of water in the river and studies of the anticipated effects of approving water permits based on projected development and use by appropriators,
- Based on such studies of actual irrigation development and use, it is projected that a maximum of 50-percent of permitted acres will be irrigated at any one time,
- Based on such surveys and studies, there is non-appropriated water available during the spring and through July 15th of normal years,
- The determination of non-appropriated water availability was based strictly on naturally occurring flows and not on anticipated flows diverted into the river from the proposed Garrison Project,
- The Water Quality Staff conducted a detailed study of the river as a fishery,

- Citizens of South Dakota, as well as other states, make substantial use of the river for recreational fishing as well as other in stream beneficial uses,
- Those portions of the river below Huron, SD support a variety of fish and aquatic life as well as acting as a spawning ground for fish in the Missouri River,
- Protection of the in stream beneficial uses of the river requires good quality of water as well as sufficient quantity and velocity of water, and
- Protection of the in stream beneficial uses of the river could be accomplished while still approving additional permits for appropriation by imposing certain by-pass requirements on those issued for use downstream of Huron, SD.

1985 - 1987

In the spring of 1985 examinations were completed by Water Rights Program personnel to update the status of appropriations from the James River. As a result of the examinations, twenty-five (25) water permits were cancelled for non-development or forfeited for non-use. The actual appropriation amount of several other water permits were also reduced to the actual amount of water being used by the appropriator. As of June 1985 there were total appropriations of 254.07-cfs from the James River.

A recommendation was made to the Water Management Board at the May 1987 meeting to change the qualifications on those active water permits upstream of Huron, SD requiring alignment with the August 10th cut-off date and the 20-cfs by-pass at the Third Street Dam, and for those water permits downstream of Huron, SD to the August 10th cut-off date.

At the May 1987 Water Management Board Meeting it was proposed that for those James River permits downstream of Huron, SD the following qualifications be deleted:

- No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the board or its representative.
- To maintain instream flows for instream and domestic purposes, the permit does not authorize diversions when there is less than the following cubic-feet-per-second bypassing the Scotland Gaging Station:
 - (a) less than 80-cfs during any month of April,
 - (b) less than 70-cfs during any month of May,
 - (c) less than 50-cfs during any month of June, and
 - (d) less than 20-cfs during the remainder of the year.

and replaced with the following:

- 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's 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.

For those permits upstream of Huron, SD it was also proposed that the following qualifications be deleted:

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

and replaced with the following:

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

These proposals were adopted by the Water Management Board at the May 1987 meeting.

2003 - Present

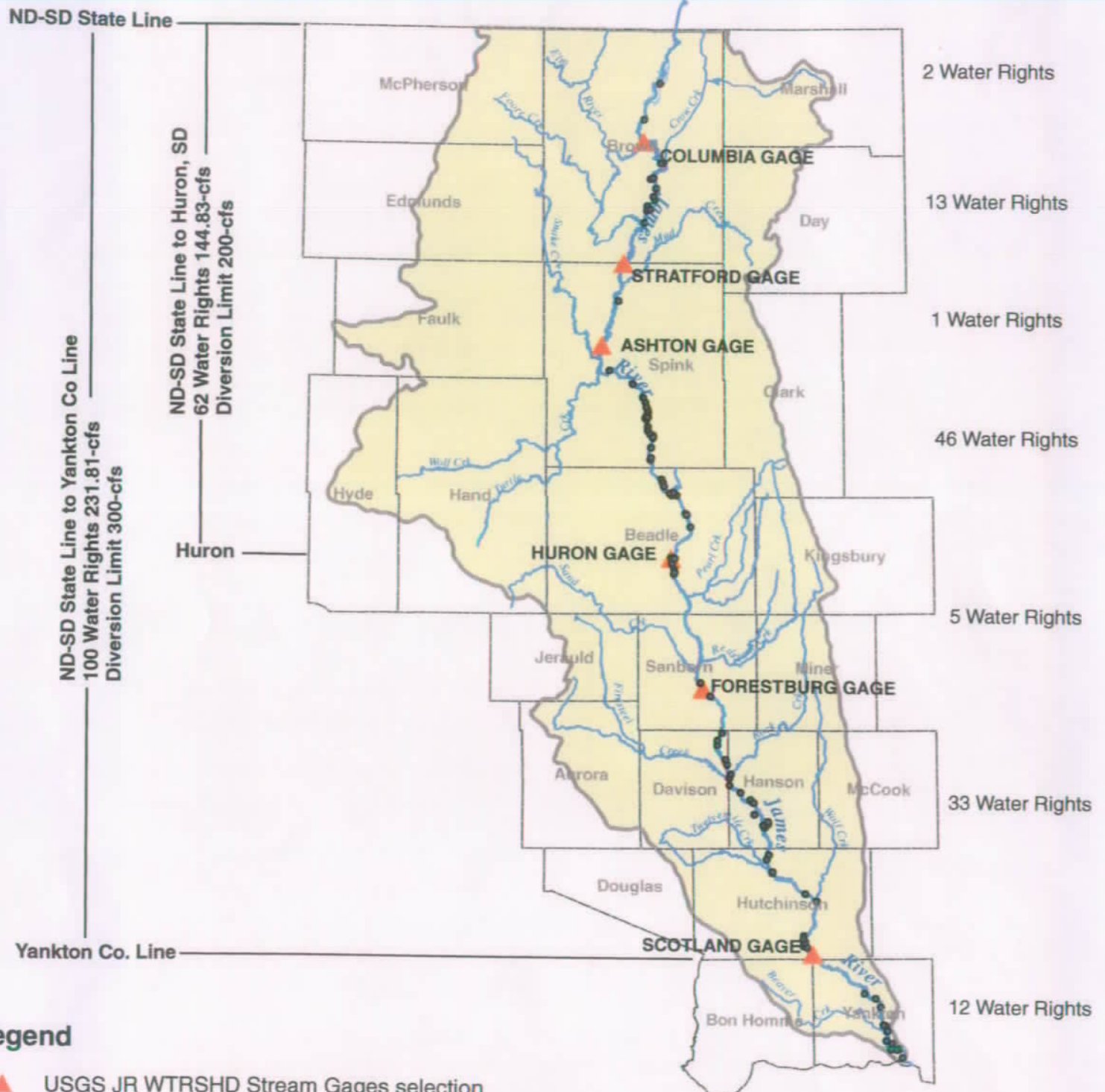
In 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews James River water rights for non use status and possible cancellation.

Presently there are eighty-six (86) water rights on the James River reach from the North Dakota (ND) border to the SD Hutchinson-Yankton county line with 231.81-cfs total diversions. These water rights are for direct diversion of water from the James River during the normal irrigation season. The James River reach from Huron, SD to the ND border presently has fifty-one (51) water rights with 144.83-cfs total diversions. The majority of these water rights are in Spink (25) and Beadle (16) Counties with 124.94-cfs total diversions. At this time there are no water rights in effect for direct diversion of water from the James River upstream of the James River Columbia, SD U.S Geological Survey (USGS) gaging station.

This leaves thirty-five water rights with 86.98-cfs direct diversion from the James River during the normal irrigation season on the stretch below Huron to the Hutchinson/Yankton County line. The majority of these water rights are in Davison (10) and Hutchinson (13) counties with 64.66-cfs total diversions.

Attachment 2 JAMES RIVER BASIN, SOUTH DAKOTA

Map showing James River Basin and water rights located between streamflow-gaging stations in South Dakota.
April 24, 2007



Legend

- ▲ USGS JR WTRSHD Stream Gages selection
- James River Water Rights
- ▲ USGS James River Stream Gages
- James River Watershed in SD

JAMES RIVER WATER RIGHTS BY GAGING STATION

WRTN ORD – Can't pump after the date without a "Written Order" from the Chief Engineer.

ABOVE HURON:

WR's above Columbia Gage: 2

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2	USE 3
US1-3	BN	1	10/16/1934	LC	0.000			FWP	DOM	REC
5516-3	BN	1	03/08/1991	LC	0.000	110 CFS AT DIV		FWP		
total					0.000					

WR's above Stratford Gage: 13

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
27-3	BN	2	03/31/1941	LC	0.500			FWP	REC
1817-3	BN	2	01/01/1935	LC	0.000	VR		REC	
5924-3	BN	2	04/03/1996	PE	0.000	FLOOD FLOWS		FWP	
1125-3	BN	2	08/19/1964	LC	1.980	20 CFS		IRR	
1491-3	BN	2	01/15/1968	LC	1.940	20 CFS		IRR	
6427-3	BN	2	06/26/2003	PE	6.000	60 CFS	WRTN ORD 7/1	FWP	
4066A-3	BN	2	09/03/1976	LC	0.680	20 CFS	WRTN ORD 8/10	IRR	
4066B-3	BN	2	09/03/1976	LC	0.650	20 CFS	WRTN ORD 8/10	IRR	
5925-3	BN	2	04/09/1996	LC	2.000	20 CFS	WRTN ORD 8/10	IRR	
5277-3	BN	2	01/25/1989	LC	2.300	20 CFS	WRTN ORD 8/10	IRR	
6081-3	BN	2	05/27/1998	PE	2.220	20 CFS	WRTN ORD 8/10	IRR	
2629-3	BN	2	11/17/1975	LC	1.440	20 CFS	WRTN ORD 8/10	IRR	
1841-3	BN	2	01/01/1935	LC	0.000	VR		REC	
total					19.710				

WR's above Ashton Gage: 1

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1
4071-3	SP	3	01/20/1977	LC	3.640	20 CFS	WRTN ORD 8/10	IRR
total					3.640			

ND to Ashton appropriated cfs = 23.35. 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 34.92.

WR's above Huron Gage: 46

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
1172-3	SP	4	03/08/1965	LC	1.500	20 CFS	WRTN ORD 8/10	IRR	
1421-3	SP	4	06/15/1967	LC	0.670	20 CFS	WRTN ORD 8/10	IRR	
2129-3	SP	4	10/10/1974	LC	1.690	20 CFS	WRTN ORD 8/10	IRR	
1943-3	SP	4	05/30/1972	LC	1.890	20 CFS	WRTN ORD 8/10	IRR	

PERMIT NO	CO	GAGE NO	PRIOR DATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
1735-3	SP	4	02/16/1970	LC	1.940	20 CFS	WRTN ORD 8/10	IRR	
6589A-3	SP	4	02/04/2005	PE	2.290	63 CFS	WRTN ORD 7/1	IRR	
6587-3	SP	4	11/04/1968	PE	1.910	20 CFS	WRTN ORD 8/10	IRR	
1733-3	SP	4	10/12/1967	LC	3.770	20 CFS	WRTN ORD 8/10	IRR	
6400-3	SP	4	02/10/2003	PE	6.860	63 CFS	WRTN ORD 7/1	IRR	
6590-3	SP	4	02/04/2005	PE	1.560	63 CFS	WRTN ORD 7/1	IRR	
1734-3	SP	4	11/04/1968	LC	3.750	20 CFS	WRTN ORD 8/10	IRR	
6589B-3	SP	4	02/04/2005	PE	2.290	63 CFS	WRTN ORD 7/1	IRR	
1450-3	SP	4	10/12/1967	LC	4.440	20 CFS	WRTN ORD 8/10	IRR	
6588-3	SP	4	02/04/2005	PE	0.000	63 CFS	WRTN ORD 7/1	IRR	
1538-3	SP	4	03/19/1968	LC	4.000	20 CFS	WRTN ORD 8/10	IRR	
2396-3	SP	4	10/10/1975	LC	1.880	20 CFS	WRTN ORD 8/10	IRR	
5737-3	SP	4	12/17/1992	PE	1.880	63 CFS	WRTN ORD 6/30	IRR	
6375-3	SP	4	01/02/2003	PE	5.350	63 CFS	WRTN ORD 7/1	IRR	
6738-3	SP	4	07/05/2006	PE	2.890	63 CFS	WRTN ORD 7/1	IRR	
2386-3	SP	4	09/24/1975	LC	1.280	20 CFS	WRTN ORD 8/10	IRR	
6398-3	SP	4	02/24/2003	PE	0.610	63 CFS	WRTN ORD 7/1	IRR	
1979-3	SP	4	03/27/1973	LC	3.760	20 CFS	WRTN ORD 8/10	IRR	
6182-3	SP	4	02/22/2000	LC	7.030	63 CFS	WRTN ORD 6/30	IRR	
6183-3	SP	4	02/22/2000	LC	7.830	63 CFS	WRTN ORD 6/30	IRR	
616-3	SP	4	06/06/1959	LC	1.140			IRR	
1027-3	BD	4	01/01/1936	LC	0.000	20 CFS		MUN	
6505-3	BD	4	04/26/2004	PE	1.560	63 CFS	WRTN ORD 7/1	IRR	
6613-3	BD	4	03/31/2005	PE	6.680	63 CFS	WRTN ORD 7/1	IRR	
6614-3	BD	4	03/31/2005	PE	1.890	63 CFS	WRTN ORD 7/1	IRR	
6614A-3	BD	4	03/31/2005	PE	0.000	63 CFS	WRTN ORD 7/1	IRR	
5651-3	BD	4	04/01/1947	LC	0.180	20 CFS	WRTN ORD 8/10	IRR	
2387-3	BD	4	12/12/1966	LC	3.500	20 CFS	WRTN ORD 8/10	IRR	
2390A-3	BD	4	09/26/1975	PE	1.890	20 CFS	WRTN ORD 8/10	IRR	
2390-3	BD	4	09/26/1975	LC	1.890	20 CFS	WRTN ORD 8/10	IRR	
5027-3	BD	4	06/14/1984	LC	12.000	60 CFS	WRTN ORD 6/30	REC	MUN
1276-3	BD	4	01/01/1949	LC	2.220	VR		IRR	
4866-3	BD	4	01/01/1949	LC	1.560	20 CFS	WRTN ORD 8/10	IRR	
2643-3	BD	4	02/06/1976	LC	1.620	20 CFS	WRTN ORD 8/10	IRR	
5321-3	BD	4	04/27/1989	LC	0.030	20 CFS	WRTN ORD 8/10	COM	
2049-3	BD	4	02/13/1974	LC	2.000	20 CFS	APRIL MAY JUNE	MUN	REC
9-3A	BD	4	03/31/1950	LC	5.000			MUN	
9-3	BD	4	04/22/1914	LC	5.000			MUN	

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1	USE 2
37A-3	BD	4	11/04/1942	PE	0.000	20 CFS		MUN	
37-3	BD	4	11/04/1942	LC	2.250			IND	
755-3	BD	4	12/23/1960	LC	0.000	2-15 CFS		MUN	
1022-3	BD	4	01/01/1936	LC	0.000	VR		MUN	
total					121.480				

Ashton to Huron appropriated cfs = 121.48, 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 93.88,

BELOW HURON:

WR's above Forestburg Gage: 5

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL WRTN ORD	USE 1
550-3	BD	5	09/10/1958	LC	0.600	20 CFS		IRR
559-3A	BD	5	12/03/1958	LC	2.010	15 CFS		IRR
US552-3	BD	5	04/25/1946	LC	0.000			IRR
5385-3	BD	5	01/01/1955	LC	1.360		WRTN ORD 8/10	IRR
5357-3	SA	5	01/01/1936	LC	0.000			REC
total					3.97			

WR's above Scotland Gage: 33

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL2	FL QUAL WRTN ORD	USE 1
5500-3	SA	6	03/06/1991	LC	0.250			WRTN ORD 8/10	IRR
1422-3	DN	6	01/02/1968	LC	2.000			WRTN ORD 8/10	IRR
305-3	DN	6	09/22/1956	LC	0.890				IRR
1917-3	DN	6	12/22/1971	LC	1.740			WRTN ORD 8/10	IRR
5207-3	DN	6	04/20/1957	LC	5.580				IRR
5022-3	DN	6	06/19/1984	LC	2.900	20 CFS PST DIV			IRR
4354-3	DN	6	04/06/1978	LC	29.000	20 CFS PST DIV			RWS
690-3	DN	6	03/02/1960	LC	0.860	15 CFS PST DIV			MUN
699B-3	DN	6	03/02/1960	LC	1.630	15 CFS PST DIV			IRR
280-3	DN	6	01/01/1955	LC	0.890				IRR
1693A-3	DN	7	08/04/1969	PE	1.330				IRR
5121-3	HS	7	01/28/1987	LC	0.880			WRTN ORD 8/10	IRR
1900-3	HS	7	09/16/1971	LC	1.550			WRTN ORD 8/10	IND
436-3	HS	7	04/05/1945	LC	1.050			WRTN ORD 8/10	IRR
4656-3	HS	7	09/16/1971	LC	5.820			WRTN ORD 8/10	IRR
608-3	HS	7	05/05/1959	LC	0.380	25 CFS PST DIV			IRR
1902-3	HS	7	09/16/1971	LC	4.750			WRTN ORD 8/10	IRR
4717A-3	HS	7	09/16/1971	LC	1.670			WRTN ORD 8/10	IRR
2411-3	HS	7	10/20/1975	LC	2.000			WRTN ORD 8/10	IRR
607-3	HT	7	05/05/1959	LC	0.660	25 CFS PST DIV			IRR
6534-3	HT	7	08/17/2004	PE	2.780			WRTN ORD 7/15	IRR
6125-3	HT	7	02/01/1999	PE	1.560			WRTN ORD 8/10	IRR

PERMIT NO	CO	GAGE NO	PRIORDATE	STATUS	CUR CFS	FL QUAL1	FL QUAL2	FL QUAL WRTN ORD	USE 1
5970-3	HT	7	12/13/1996	LC	1.440			WRTN ORD 8/10	IRR
4072-3	HT	7	01/24/1977	LC	0.480			WRTN ORD 8/10	IRR
2385-3	HT	7	09/23/1975	LC	1.300			WRTN ORD 8/10	IRR
6131-3	HT	7	03/22/1999	LC	0.770			WRTN ORD 8/10	IRR
5392A-3	HT	7	03/01/1990	LC	1.340			WRTN ORD 8/10	IRR
6506-3	HT	7	04/26/2004	PE	0.000			WRTN ORD 8/10	IRR
5391-3	HT	7	03/01/1990	LC	2.610			WRTN ORD 8/10	IRR
6132-3	HT	7	03/22/1999	LC	0.850			WRTN ORD 8/10	IRR
6082-3	HT	7	06/02/1998	PE	0.570			WRTN ORD 8/10	IRR
2631A-3	HT	7	11/25/1975	LC	1.700			WRTN ORD 8/10	IRR
6083-3	HT	7	06/02/1998	PE	1.780			WRTN ORD 8/10	IRR
total					83.01				

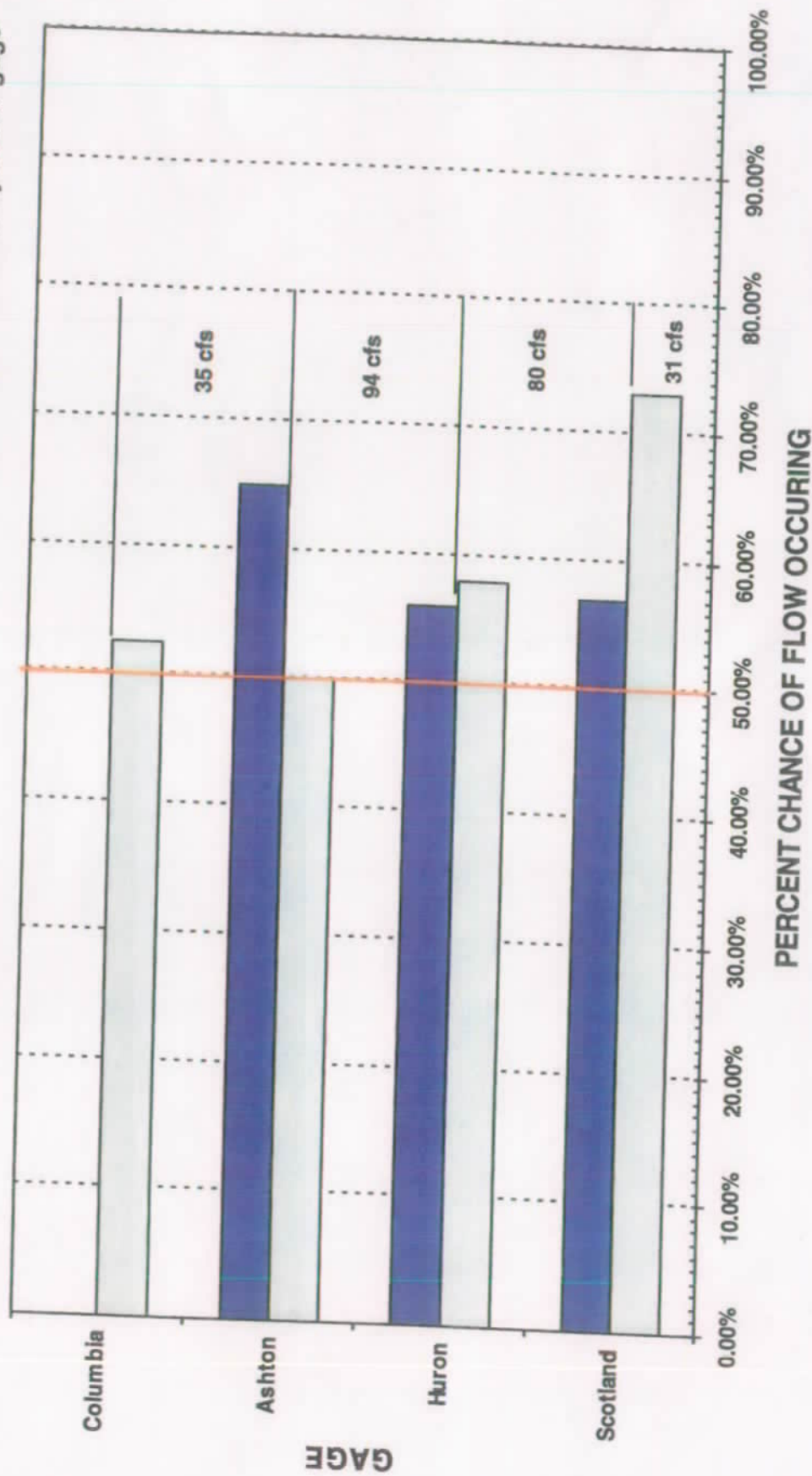
Huron to Scotland appropriated cfs = 86.98, 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 79.88.

% CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10TH

Cfs values are at 50% irrigation pumping and 100% other use diversion at current appropriation plus 20 cfs domestic.

■ % chance to satisfy above gage

□ % chance to satisfy below gage

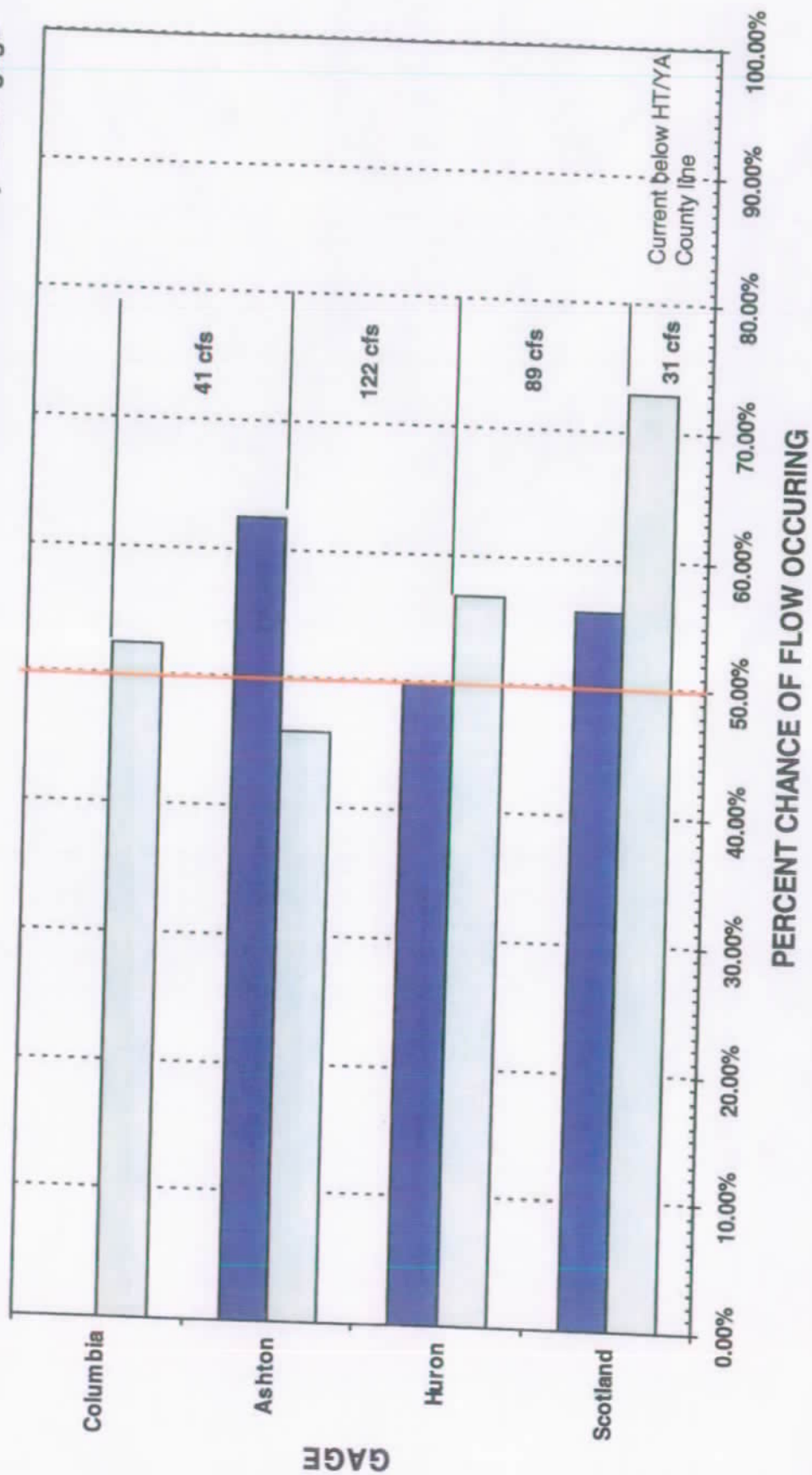


% CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10TH

Cfs values are at 50% irrigation pumping and 100% other use diversion when fully appropriated plus 20 cfs domestic.

■ % chance to satisfy above gage

□ % chance to satisfy below gage



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 21, 2007

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

FROM: Garland Erbele, Chief Engineer
Water Rights Program, DENR

SUBJECT: Amendment to Qualifications on Water Right Nos. 4066B-3 & 5925-3

On May 9th, the Water Management Board amended qualifications to Water Right No (s) 4066B-3 & 5925-3. This action was taken as set forth in notice sent to you on April 11, 2007 and published in James River basin newspapers and the staff report mailed to you on April 25, 2007.

Attached is a listing of the qualifications as amended and the portion deleted from the qualification to reflect the amendment to your water rights. Please file this with your water right records. All other qualifications listed on your water permits were not changed by the Board's action and remain in effect. For example, submittal of the annual irrigation questionnaire continues to be a qualification of your water permits.

If you have any questions about the Board's action or the amendment, please contact Lynn Beck at 605 773-3352.

Enclosure

Attachment to Water Right No. 5925-3

Amended Qualifications set by the Water Management Board on May 9, 2007

Qualifications as amended to Water Right No. 5925-3

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Delete portion of qualification on Water Right No. 5925-3

Deleted reference to by-passing water at James River Dam

CERTIFICATION

I hereby certify that on May 21, 2007 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 21, 2007 regarding Amendment to James River Qualifications addressed as stated below:

Marke Grasse, 38313 131st St, Aberdeen SD 57401
 Ron Wheeler, Lake Byron Watershed, PO Box 1363, Huron SD 57350
 Floyd Peterson, 18892 390th Ave Hitchcock SD 57348
 Reed Bixler, Bixler Farms, 39477 184th St, Hitchcock SD 57348
 Ruben Endander, 18239 398th Ave, Frankfort SD 57440
 Lyle Arden Bendenagel, 39586 176th St, Frankfort SD 57440
 Arne Svarstad, 13797 392nd Ave, Aberdeen SD 57401
 Alfred Locken, 39643 137th St, Bath SD 57427
 Jon & Loren Locken, 13755 396th Ave, Bath Sd 57427
 Keith Kettering, 39064 156th St, Mellette, SD 57461
 Roger Locken, Locken Ag, 39643 137th St, bath Sd 57427
 Orrin Roth, 26752 421st Ave, Parkston SD 57366
 Loren Roth, 42051 262nd St, Alexandria SD 57311
 Don Barber, 41321 Hwy 38, Mitchel ISD 57301
 Mary K Puetz, 910 Firesteel Dr, Mitchell SD 57301
 Russ Werning, 1543 Parkview Dr, Watertown SD 57201
 Harvey Wollman, 40004 184th St, Frankfort SD 57440
 John Wipf, Spink Colony, 18206 Spink Ln, Frankfort SD 57440
 Jerry Kleinsasser, Glendale Colony, 17866 Glendale Dr, Frankfort SD 57440
 Sam Waldner, Huron Colony, 40068 Huron Colony Ln, Huron SD 57350

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building

Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA))
COUNTY OF HUGHES) SS

Sworn to, before me, this 21st day of May, 2007.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2013



**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 18, 2008

NOTICE

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

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

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4066B-3 & 5925-3. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 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) 4066B-3 & 5925-3 qualification:

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

The hearing will be held at **10:00 am, March 11, 2008** 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) 4066B-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/efrms/secure/efrms/E0455V6-IQ.pdf>

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 25, 2008

4066B-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Sirs:

I am writing to acknowledge receipt of your 2007 irrigation questionnaires. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Right Nos. 4066B-3 and 5925-3.

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

If you have any questions, please contact me.

Sincerely,

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



5925-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2012

NOTICE

TO: JON & LOREN LOCKEN, 13755 396TH AVE, BATH, SD 57427
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaire(s)

Our records indicate that the 2011 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 4066B-3 & 5925-3. The request for the Questionnaire was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 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) 4066B-3 & 5925-3 qualification:

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

The hearing will be held at **10:00 am, March 7, 2012** 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) 4066B-3 & 5925-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 2, 2012**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.

5925-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 2012

4066B-3
5925-3

Jon & Loren Locken
13755 396th Ave
Bath SD 57427

Dear Sirs:

I am writing to acknowledge receipt of your 2011 irrigation questionnaires.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right Nos. 4066B-3 and 5925-3. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT 5925-3
and NATURAL RESOURCES

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

August 6, 2012

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 4066B-3, 5925-3**

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

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

Subject: James River Qualification Reminder for Permit No(s). 4066B-3, 5925-3

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

5925-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 10, 2015

Water Permit No. 5925-3

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

Dear Mr. Locken:

This letter is in reference to your July 27, 2015, telephone call regarding water availability and requesting permission to continue irrigation for Water Permit No. 5925-3 from the James River after the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to the end of the 2015 irrigation season.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 10, 2016

5925-3

Jon Locken
13755 396 Ave
Bath, SD 57427

Dear Mr Locken:

This letter is in reference to your August 10, 2016 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to September 1, 2016.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

August 11, 2017

5925-3

Jon Locken
13755 396 Ave
Bath, SD 57427

Dear Mr Locken:

This letter is in reference to the August 11, 2017 telephone call regarding water availability for irrigation from the James River for this summer and request to allow irrigation beyond the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to September 10, 2017.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 06, 2018

5925-3

Jon Locken
13755 396 Ave
Bath, SD 57427

Dear Mr Locken:

This letter is in reference to the August 03, 2018 telephone call regarding water availability for irrigation from the James River for this summer and request to allow irrigation beyond the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to September 1, 2018.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

September 4, 2018

5925-3

Jon Locken
13755 396 Ave
Bath, SD 57427

Dear Mr Locken:

This letter is in reference to the September 4, 2018 telephone call regarding water availability for irrigation from the James River for this summer and request to allow irrigation beyond the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to September 15, 2018.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 27, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who use water from the James River that river flow is much lower this year and to let them know that shutoff orders are possible this summer.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses will begin to interfere with domestic use. If river levels become critically low, the department may be forced to issue shutoff orders to protect domestic use, including livestock watering and those water rights that are most senior.

We are only cautioning that shutoff orders may become necessary. **This not a shutoff order.** This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shutoff orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and avoid wasting water.

If you are interested, the US Geological Survey has an Internet site showing river flows at 164 stream gauging stations across the state. To view the latest realtime stream flow, go to:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



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PIERRE SD 57501-3182
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August 16, 2021

Dear James River Water Right Holder:

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program