

WATER PERMIT NO. 6131-3

Name of Applicant: Daniel Ulmer

Address: Box 433, Menno SD 57045

Phone: 605 387-5243

Amount of Water Claimed: 1.71 cfs

Total Acres: 120 acres

Source of Water Supply: James River

Water to be used for: irrigation

County: Hutchinson

Type of Waste Disposal System: NA

Location: 2 miles south of Olivet

PRIORITY

Date Received: 3-22-1999

Fee: \$225

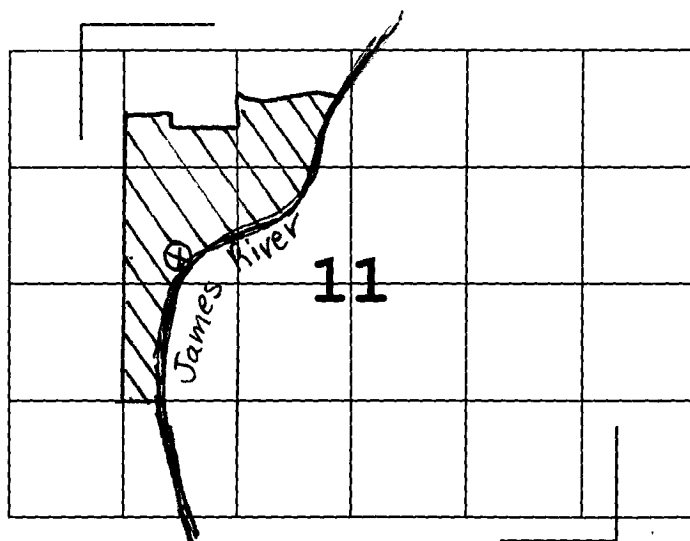
Corrected Application Received:

Period of Annual Use: April 1 – October 1

Remarks:

Diversion Point: Lot 8, Section 11-T97N-R58W

Land to be Irrigated: NW ¼ NW ¼, Lots
6, 7, 8 & 9 Section 11-T97N-R58W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Robert A Remnolz

Reviewed and the Number Assigned on: 3-22-1999

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 6131-3 FOR IRRIGATION

Date of first receipt of application March 22, 1999.

The Water Management Board approved Water Permit Application No. 6131-3 on May 5, 1999 for Daniel Ulmer,
Box 433, Menno SD 57045 authorizing the construction of the water use system and the placing of water to
beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6131-3 appropriates 1.67 cubic feet of water per second from the James River located in
Lot 8 of Section 11 to irrigate 117 acres located in the NW ¼ NW ¼ and Lots 6, 7, 8 & 9; all in Section 11-
T97N-R58W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is
actually and beneficially applied for irrigation. The water is to be used during the following described annual
period: April 1 – October 1.
3. The date from which applicant may claim right is March 22, 1999.
4. One-fifth of the construction is to be completed on or before November 5, 2001.
5. All construction is to be completed on or before May 5, 2004.
6. Water is to be put to beneficial use on or before May 5, 2008.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully
impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 6131-3 does not authorize diversion of water from the James River after August 10th of each
calendar year, nor at any time when the river flow is obviously low, unless written orders have been issued
by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued
by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 3 1999

date



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6131-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>Freeman Courier, Freeman, SD</u>	



Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant Daniel Ulmer (check one) ☒ Owner ☐ Tenant/lessee Phone 605-387-5243
Mailing Address Box 433 Menno State SD 57045
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.67 *CFS or 170 **GPM ***AF Total Acreage 117 acres
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply James River
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 2450' South and 850ft east of the NW corner of Sec 11-97-58 NW 3-17-99 Lot 8 County Hutchinson
- County or counties where water will be used Hutchinson
- Annual period during which water is to be used April 1st to Oct 1st
- 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
<u>NW 1/4 11-97-58</u>	<u>90</u>		
<u>NW 1/4 - SW 1/4 11-97-58</u>	<u>27</u>		
<u>NW 1/4 NW 1/4, Lots 6, 7, 8 & 9</u>			

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

An irrigation travelling gun would be used to irrigate land.

STATE OF SOUTH DAKOTA) SS
County of Hutchinson

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)

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

Applicant's signature Daniel Ulmer

Subscribed and sworn to before me this 17TH day of MARCH 19 99

Jerome E Hoff
Notary Public signature
My Commission Expires 2/15/2005

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N^o 416074

Pierre, _____ March 22, 19 99

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

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

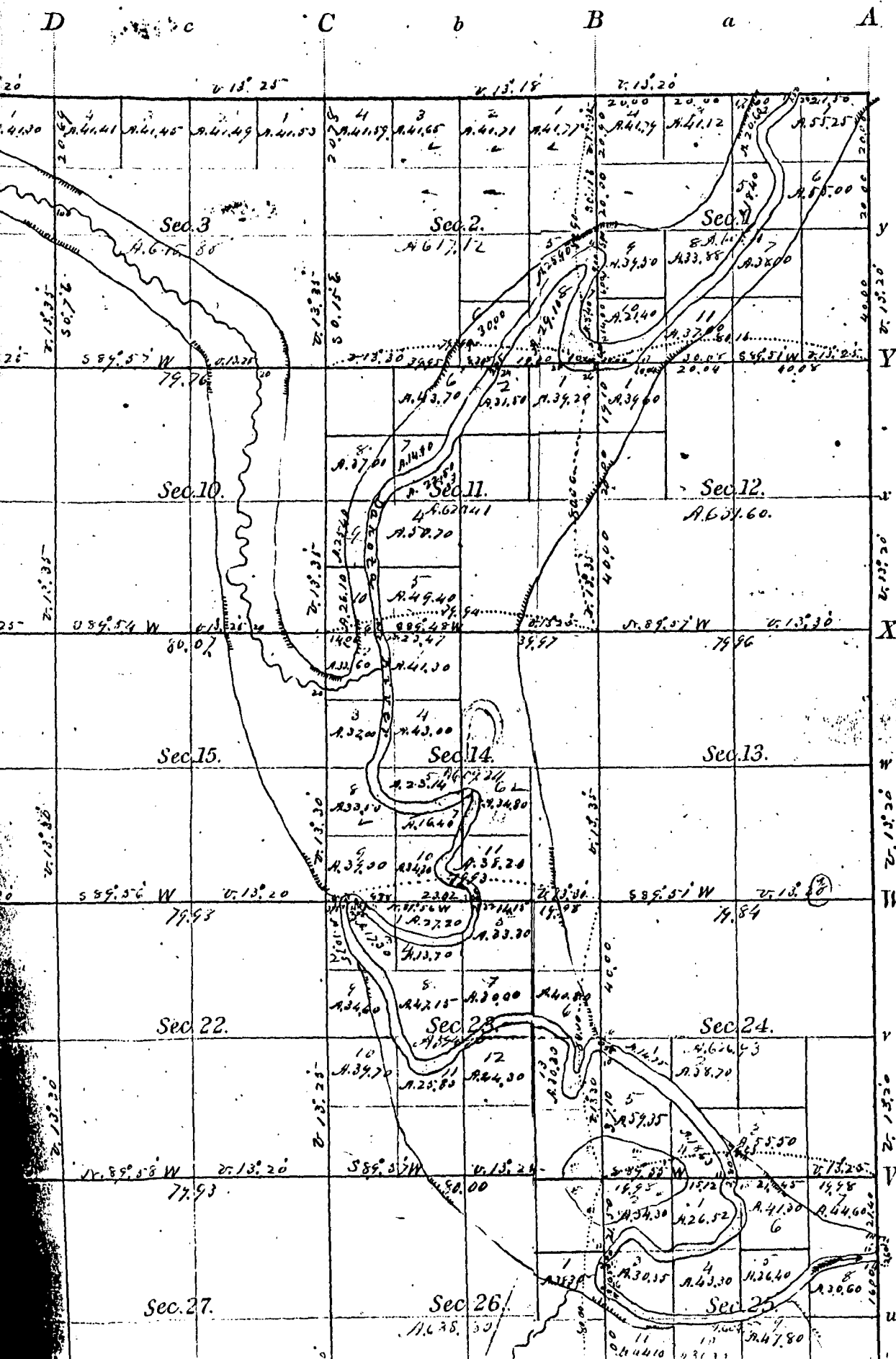
Fee for Application for Permit No. <u>6131-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	225	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6131-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	275 00

By _____
Chief Engineer

John Hatch

58 WEST OF THE 52nd PRINCIPAL MERIDIAN



Meanders of the		
Posts	Courses	Ch ² L
1	S. 40° 11'	12
	S. 9° 11'	3
	S. 20° 6'	11
	S. 12° 6'	7
	S. 32° 11'	7
	S. 40° 11'	3
	S. 45° 11'	2
	S. 22° 11'	5
	S. 35° 11'	13
	S. 54° 11'	30
	S. 62° 11'	8
	N. 80° 11'	4
2	N. 42° 11'	4
	N. 10° 11'	2
	N. 25° 6'	9
3	N. 42° 11'	5
	N. 10° 11'	2
	N. 17° 11'	2
4	N. 42° 11'	4
	S. 20° 11'	5
	S. 45° 11'	20
	S. 35° 11'	20
5	S. 35° 11'	12
	S. 20° 11'	12
	S. 62° 11'	20
	S. 30° 11'	8
	S. 12° 11'	14
	S. 45° 6'	27
6	S. 25° 6'	7
	S. 45° 11'	22
	S. 35° 11'	8
	S. 15° 11'	4
	S. 10° 6'	4
	S. 30° 6'	5
	S. 68° 6'	5
	S. 74° 6'	4
	N. 80° 6'	4
	N. 26° 6'	8
	N. 58° 6'	6
	S. 20° 11'	9
	S. 16° 11'	5
	S. 37° 11'	10
	S. 63° 6'	12
	S. 15° 6'	3
	S. 5° 6'	1

REPORT ON WATER PERMIT APPLICATION NO. 6131-3

Daniel Ulmer
March 25, 1999

Application No. 6131-3, Daniel Ulmer, proposes to divert 1.67 cubic feet of water per second (cfs) from the James River. The diversion is located in Lot 8 (SW¼ NW¼) of Section 11 T97N-R58W. The water will be used to irrigate 117 acres located in the NW¼ NW¼ and Lots 6, 7, 8, and 9 of Section 11 T97N-R58W. The proposed project is located 2 miles south of Olivet in Hutchinson County.

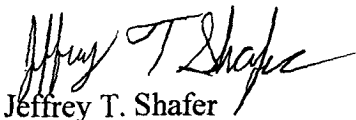
Review of Water Source and Existing Water Rights

The applicant proposes to appropriate 1.67 cfs from the James River to irrigate 117 acres of land. Historically the James River has experienced periods of extremely low flow during dry periods. In 1965, the South Dakota Water Resources Commission, predecessor to the Water Management Board, imposed a 300 cfs appropriation limit from the James River. Because of the availability of backup water from the Missouri River on the lower reach, the 300 cfs limit has been considered from the North Dakota border to the Yankton-Hutchinson county line. The Water Management Board has also placed qualifications on junior priority James River water rights, requiring an August 10th cutoff for irrigation each year. Even with the appropriation limit and the August 10th cutoff, there have been periods of low flow requiring the Chief Engineer to issue shutoff orders. During periods of high flows, the Chief Engineer may extend the irrigation season beyond the August 10th cutoff with a written order.

There are currently 120 existing water rights/permits appropriating 247.71 cfs from the James River between the North Dakota state line and the Yankton/Hutchinson county line. Also, Water Permit Application No. 6125-3, for a diversion rate of 1.56 cfs, is pending. If this application is approved it should include the August 10th shutoff qualification. The applicant should be aware, even though less than a total of 300 cfs will be appropriated that during dry periods this permit may be subject to shutoff orders issued by the Chief Engineer.

Conclusions

1. The application proposes to appropriate 1.67 cfs from the James River for irrigation.
2. In 1965 the South Dakota Water Resources Commission, predecessor to the Water Management Board, imposed a 300 cfs appropriation limit from the James River. There are currently 120 water rights/permits appropriating 247.71 cfs, which is below the 300 cfs appropriation limit.
3. If this application is approved it should contain the August 10th shutoff qualification. The applicant should also be aware that during dry periods this permit may be subject to shutoff orders issued by the Chief Engineer. During periods of high flows, the Chief Engineer may extend the irrigation season beyond the August 10th cutoff with a written order.


Jeffrey T. Shafer

Natural Resources Engineer I

Approved by:


Delvin D. Brosz, P.E.

Natural Resources Engineer IV

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6131-3, Daniel Ulmer**

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. 6131-3, Daniel Ulmer, Box 433, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 6131-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Permit No. 6131-3 does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.



JOHN HATCH, Chief Engineer
March 25, 1999



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

March 26, 1999

Daniel Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

Water Permit Application Nos. 6131-3 and 6132-3 for irrigation use have 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 Freeman Courier printed at Freeman, SD (Ph # (605) 925-7033). For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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 applications.

Sincerely,

Eric Gronlund /ks

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 26, 1999

Freeman Courier
Box 950
Freeman, SD 57029-0950

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 6131-3 and 6132-3 to Appropriate Water to be published twice. Please publish the first notice on April 7, 1999, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Daniel Ulmer, Box 433, Menno, SD 57045 (Ph # (605) 387-5243).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund /KS

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

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

Nos. 6131-3 & 6132-3

Date _____

We are in receipt of your letter of March 26, 1999, enclosing Notice of Hearing to Appropriate Water by Application Nos. 6131-3 & 6132-3 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 April 7, 1999, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 6131-3 and 6132-3 to Appropriate Water

Notice is given that Daniel Ulmer, Box 433, Menno SD 57045 has filed the following applications for water permits. Application No. 6131-3 proposes to appropriate 1.67 cubic feet of water per second (cfs) from the James River located in Lot 8 of Section 11 to irrigate 117 acres located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and Lots 6, 7, 8 & 9; all in Section 11-T97N-R58W.

Application No. 6132-3 proposes to appropriate 0.85 cfs from the James River located in Lot 6 to irrigate 60 acres located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and Lots 4, 5, 6 & 11; all in Section 14-T97N-R58W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6131-3 and 6132-3 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.

Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. 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 April 26, 1999. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 10:00 a.m., May 5, 1999, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The May 5, 1999, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by April 26, 1999.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have 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 26, 1999, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11; 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA)
 County of Hutchinson) SS

I, Jim L. Walther

certify that the attached printed Notice was taken

from the Free Press

printed and published in Free Press

County of Hutchinson and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

April 7, 1999

April 14, 1999

Cost of Printing \$56.41

Mary Ann Beckner
 (Signature)

Office Manager
 (Title)

April 15, 1999
 (Date Signed)

Notice of Application Nos. 6131-3 and 6132-3 to Appropriate Water

Notice is given that Daniel Ulmer, Box 433, Menno SD 57045 has filed the following applications for water permits. Application No. 6131-3 proposes to appropriate 1.67 cubic feet of water per second (cfs) from the James River located in Lot 8 of Section 11 to irrigate 117 acres located in the NW 1/4 NW 1/4 and Lots 6, 7, 8 & 9; all in section 11-T97N-R58W.

Application No. 6132-3 proposes to appropriate 0.85 cfs from the James River located in Lot 6 to irrigate 60 acres located in the SW 1/4 NE 1/4 and Lots 4, 5, 6 & 11; all in Section 14-T97N-R58W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6131-3 and 6132-3 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.

Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. 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 April 26, 1999. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Water Management Board will consider these applications at 10:00 a.m., May 5, 1999, Floyd Matthew Training

Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The May 5, 1999, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by April 26, 1999.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have 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 26, 1999, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 3 1999

Daniel Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

Enclosed are Water Permit Nos. 6131-3 and 6132-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Two Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return these completed forms after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water licenses may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Very truly yours,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 12, 2000

5391-3

Daniel Ulmer
Box 433
Menno SD 57045

Dear Mr. Ulmer:

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

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

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

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

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

Permit No. 6131-3
James River - Water District

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

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

I have this day, August 9, 1999, made a thorough examination of the water use system constructed by **Daniel Ulmer** of **Box 433, Menno SD 57045** holder of Permit No. **6131-3**, bearing the priority of **March 22, 1999** authorizing the diversion of 1.67 cu. ft. per second from the **James River** for **irrigation** purposes, in **Hutchinson** County.

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

A. Works used to divert the water:

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

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

Aluminum pipe with screen is placed into the James River and aluminum pipe is used to transport water to the big gun

C. Works used to apply water to beneficial use:

A Water Winch big gun

The system is in the following condition fair, etc. The point of diversion is located approximately 810 east and 2980 feet north of SW corner (Lot 8) of Section 11; all in T97N, R58W. The works are capable of diverting and conveying to the place of use 1.33 cu. ft. per second of water is to be used for **irrigation**. Water has been put to beneficial use to the maximum extent as follows:
All in T97N, R 58W

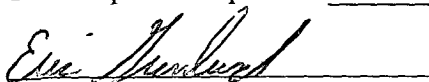
NW NW Section 11	9 acres	Lot 8 Section 11	22 acres
Lot 6 Section 11	13 acres	Lot 9 Section 11	5 acres
Lot 7 Section 11	5 acres		

comprising a total of 54 acres of land and the license should be issued for 0.77 cfs.

Applicable permit qualifications have been complied with: **yes**

Exceptions to compliance are: **none**

Date Report Completed: December 20, 1999



Eric Grönlund

Natural Resources Engineer

DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR PERMIT NO. 6131-3, Daniel Ulmer _____

DATE OF INVESTIGATION:	August 9, 1999
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	
NAME & ADDRESS OF PERMIT HOLDER	Daniel Ulmer Box 433 Menno SD 57045
DIVERSION POINT LEGAL LOCATION	<u>approximately 810 east and 2980 feet</u> <u>north of SW corner (Lot 8) of Section</u> <u>11; all in T97N, R58W</u>

WATER SUPPLY Source: James River**Pump:**

- | | |
|----------------------------|----------------------------|
| 1) Make <u>Berkley</u> | 2) Model <u>B-4J</u> |
| 3) Size <u>4" impeller</u> | 4) Capacity <u>800</u> GPM |

Motor:

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

** this is a portable pump/motor set up

DISTRIBUTION LINES OR CANALS:

- 1) Type aluminum 2) Size 6 inches 3) Length 4,500 feet

* Mr. Ulmer has approximately 4,500 feet of aluminum pipe

SYSTEM TYPE:**Big gun:**

- | | |
|---------------------------------|---|
| 1) Make <u>Water Winch</u> | 2) Model <u>T-45</u> Serial No. <u>0527</u> |
| 3) Nozzle <u>1 ¼ inch (end)</u> | 4) Capacity – <u>approx. 600 gpm</u> |
- 5) There is a 660 reel of 4 ½" flex hose and Mr. Ulmer has over 3000 feet of 8" aluminum pipe

CHEMIGATION EQUIPMENT:

- | | |
|-----------------------------|-----------------------------------|
| 1) Does chemigate <u>No</u> | 2) Main line check valve <u>#</u> |
|-----------------------------|-----------------------------------|

PERMIT QUALIFICATIONS AND REGULATIONS:

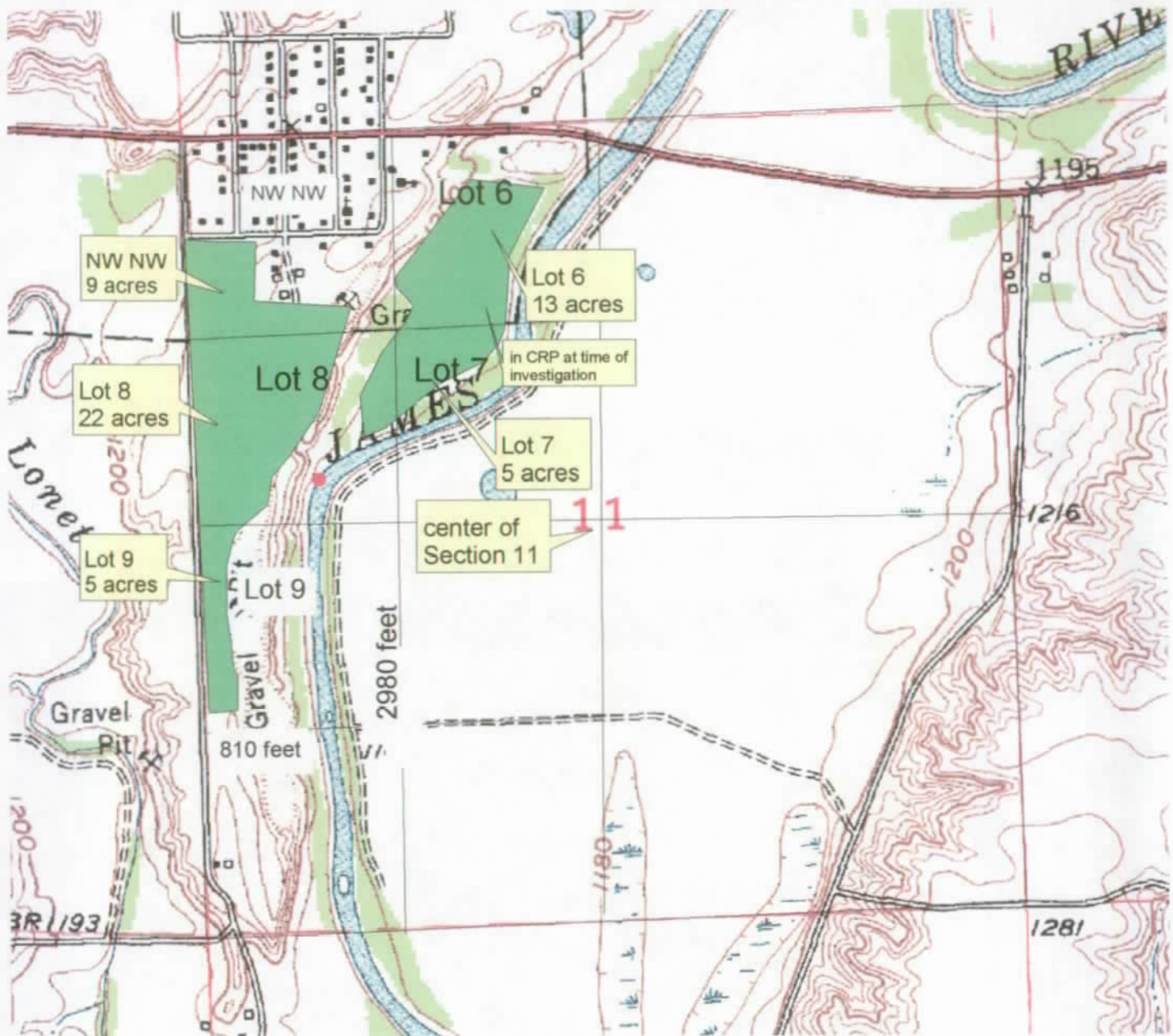
- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period see comments below

This water permit was obtained in 1999. A notice of completion of work has not been filed. Mr. Ulmer has until May 5, 2004 to complete construction and until May 5, 2008 to put water to beneficial use. However, since Mr. Ulmer has the equipment he intends to use for irrigating, I viewed the equipment for the purposes of licensing the permit. The system was not in place. This is a portable system and would need to be moved to irrigate the various parcels.

Mr. Ulmer did not irrigate this acreage because of flooding in 1999. There were no crops planted on this property in 1999. The property in Lots 6 and 7 is located right next to the James River. This land is James River bottom-land and is very susceptible to flooding. Lots 6 and 7 were in the CRP program but Mr. Ulmer indicated they would be coming out of the program soon.

Portion of this acreage are going to be very difficult to irrigate due to land slopes and the rolling nature of a portion of the land

The pump and big gun were housed in a farm shed at the time of the licensing investigation.



James River diversion point - approximately 2,980 feet North and 810 feet East of SW corner (Lot 8) Section 11, T97N, R58W

South Dakota Department of Environment and Natural Resources



Protecting South Dakota's Tomorrow ... Today

Eric Gronlund

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

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6131-3

(1) Daniel Ulmer, Box 433, Menno SD 57045 made Application No. 6131-3, March 22, 1999 for a water permit to divert 1.67 cubic feet of water per second from the James River, Hutchinson County, South Dakota for irrigation purposes. Permit No. 6131-3, with a priority date of March 22, 1999 was approved May 5, 1999 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 5, 2004 and for the application to beneficial use of said water on or before May 5, 2008.

(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 0.77 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 810 feet east and 2,980 feet north of the southwest corner (Lot 8) of Section 11-T97N-R58W (SW ¼ NW ¼ Lot 8).

(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:

Section 11-T97N-R58W			
NW ¼ NW ¼	9 acres	Lot 8	22 acres
Lot 6	13 acres	Lot 9	5 acres
Lot 7	5 acres		
Total 54 acres			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Daniel Ulmer, Box 433, Menno SD 57045 the holder and/or owner of Water Right No. 6131-3 is issued a license to appropriate water, the right to use 0.77 cubic feet of water per second from the James River with a priority date of March 22, 1999 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Right No. 6131-3 and subject to South Dakota State Law.

Darland Erbele

MAR 01 2000

GARLAND ERBELE, Chief Engineer

date

Water Rights Program

Department of Environment and Natural Resources





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 01 2000

5391-3
6131-3
6132-3

Daniel Ulmer
Box 433
Menno, SD 57045

Dear Mr. Ulmer:

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

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

Sincerely,

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

ks
enclosures



6131-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

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

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5391-3, 5915A-3, 6063A-3, 6082-3, 6083-3, 6131-3 & 6132-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **February 24, 2006**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2006

Daniel Ulmer
Box 433
Menno SD 57045

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

Dear Mr. Ulmer:

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

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

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 1, 2006

NOTICE OF SHUTOFF ORDER

TO: DANIEL ULMER
PO BOX 433
MENNO SD 57045

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: James River Shutoff Order

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

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

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

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

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

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 6, 2012

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 5391A-3, 6131-3, 6132-3**

To: DANIEL ULMER
PO BOX 433
MENNO SD 57045

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

Subject: James River Qualification Reminder for Permit No(s). 5391A-3, 6131-3, 6132-3

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.

6131-3



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 23, 2020

NOTICE

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

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6131-3 & 6132-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 6131-3 & 6132-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** 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) 6131-3 & 6132-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing 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: <https://denr.sd.gov/iq> using this password: KQAAIP

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.



6131-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 27, 2020

NOTICE OF ENTRY OF ORDER FOR ONE YEAR SUSPENSION OF WATER RIGHTS

TO: Daniel Ulmer, PO Box 433, Menno SD 57045

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: One Year Suspension of Water Right Nos. 6131-3 and 6132-3

On February 26, 2020, the Water Management Board ordered:

Effective March 26, 2020, Water Right Nos. 6131-3 and 6132-3 be suspended for the 2020 irrigation season for failure to submit the 2019 irrigation questionnaires.

If the 2019 irrigation questionnaires are received prior to March 26, 2020, the suspensions will not take effect.

Suspension of a water permit or right means water may not be pumped during the 2020 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2020 unless the 2019 irrigation questionnaires are submitted by March 26, 2020.

After March 26th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2019 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 6-7, 2020 in Pierre, SD. The letter should include your reasons for not completing the 2019 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.

6131-3

CERTIFICATION

I hereby certify that on February 27, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 27, 2020 regarding Water Management Board action taken February 26, 2020 for Irrigation Questionnaire violations addressed as stated below:

One Year Suspensions:

Water Right No. 6947-3

Joel Adler, 48353 149th St, Milbank SD 57252

Water Permit No. 7655-3

Thomas Brady, 265 Antler Dr., Yankton SD 57078

Water Right Nos. 2698-2 & 2721-2

Neil & Lupita Fanning, 220 Rangely Ct., Simi Valley CA 93065

Water Right No. 5947-3

Sean Davis, Fish Lake Country Club, 24385 393rd Ave., Letcher SD 57359

Water Permit Nos. 7008A-3 and 7009A-3

Roger D Hanson, 615 E 72nd St., Kansas City MO 64131

Water Right No. 7043-3

Corey Johannsen, 502 Main St., Tolstoy SD 57475

Donald & Dianna Stotz, 14850 328th Ave, Tolstoy SD 57475

Water Right No. 876-1

Gene E Johnson, 19610 US Hwy 85, Belle Fourche SD 57717

Water Right No. 1213B-1

Charles & Cathy Kimbril, 19027 137th Ave, Vale SD 57788

Water Right No. 410B-2

Kathi Koester, PO Box 206, Custer SD 57730-0206

Water Permit No. 8253-3

James Makens, Makens Oak Tree LLP, 42563 168th St, Clark SD 57225

Water Permit Nos. 5849-3 and 6194-3

Josh Oakley, Meadow Creek Golf Course, PO Box 511, Volga SD 57071-0511

Water Right Nos. 2521-3 and 2934-3

Henry Decker, Pembroke Hutterian Inc., 35955 139th St, Ipswich, SD 57451 7103

Water Right Nos. 5566-3 & 7615-3 and Water Permit No. 7616-3

Wayne Reiersen, 30048 Reiersen Pl., Pollock SD 57648

Water Permit No. 2350-3

Bill Boyer, President, River Valley Farms, PO Box 486, Alcester SD 57001 0486

Water Right No. 4737-3

RUS Farms Real Estate LLC, 3283 Dogwood Ave., Rock Valley IA 51247

Water Right No. 2954-3

Lane Tekrony, 47840 180th St, Clear Lake SD 57226-5405

Water Right Nos. 6131-3 and 6132-3

Daniel Ulmer, PO Box 433, Menno SD 57045 0433

Water Right Nos. 2631A-3 and 5451-3
Merritt Ulmer, PO Box 433, Menno SD 57045-0433
Merritt & Marie Ulmer, 1402 S Cage #217, Pharr TX 78577

Water Right No. 553-1
Richard W Kieffer, 14555 Hamlet Pl, Sturgis SD 57785

Three Year Suspensions:

Water Right No. 6168-3
Robert Hattum, 21744 W Bend Rd, Harrold SD 57536

Water Right No. 2106-2
Stuart Rice, 2300 Skyline Ranch Rd, Rapid City SD 57701

Amendments:

Water Right Nos. 804-2 & 995-2
Robert Berry, 23331 Hwy 14, Midland SD 57552

Water Right No. 766-2
Gene Fortune, PO Box 60, Interior SD 57750 0060

Water Right Nos. 516-1 and 715-1
Lawrence Woodward, PO Box 220, Dupree SD 57623 0220

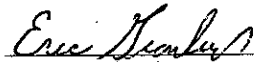
Both Suspend and Amendments

Water Right No. 960-3 and Water Permit No. 472A-3
Chad Binger, 18309 383rd Ave, Tulare SD 57476

Water Right Nos. 2579-3, 4353-3, 5774-3, 6424-3, 6606-3, 6870-3, 7193-3, 7490-3 & 7491-3
Jonathan Wollman, Claremont Colony, 46271 184th St, Castlewood SD 57223

Water Right Nos. 3012-3 and 7323B-3
Mark Morlock, 33820 112th St., Eureka SD 57437-6005
Marvin Morlock, 11072 339th Ave, Eureka SD 57437-6003

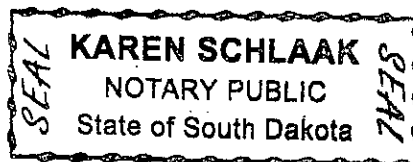
Water Right No. 399-2 and Water Permit No. 2668-2
Steve L Simunek, 27851 S Buffalo Gap Rd, Oral SD 57766


Eric Gronlund
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of February, 2020.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025



6131-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 4, 2020

Daniel Ulmer
PO Box 433
Menno SD 57045-0433

RE: Water Right Nos. 2631A-3 & 5451-3 (Merritt Ulmer)
Water Right Nos. 6131-3 & 6132-3 (Daniel Ulmer)

Dear Mr. Ulmer:

On February 26th the Water Management Board ordered Water Right Nos. 2631A-3, 5451-3, 6131-3 and 6132-3 suspended if the 2019 irrigation questionnaires were not received prior to March 26, 2020. The questionnaire information for the water rights has been received.

Since the irrigation questionnaires are on file, no violation has occurred, and no suspension will take place. You may irrigate during the 2020 irrigation season.

I forwarded you an email concerning ownership of land for Merritt Ulmer but have not heard back from you. Enclosed are "Notice of Transfer of Ownership" forms. If they should be transferred, please complete and return them to our office with a filing fee of \$50 each (\$100 total). The check or money order can be made payable to the Water Rights Program.

If you have any questions, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Water Rights Program
605 773-3352

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

Dear James River Water Right Holder:

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

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

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

6131-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 28, 2021

6131-3

6132-3

Daniel Ulmer
159 Crestview Dr
Yankton SD 57078-6721

Dear Mr. Ulmer:

Enclosed is a "Notice" dated October 22, 2021 concerning the 2021 irrigation questionnaires.

The notice was originally mailed to PO Box 433, Menno SD. The post office notified us that your address has changed, and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 8, 2021

6131-3

Mike Neuharth
28494 County Rd 11
Olivet SD 57052

Dear Mr. Neuharth:

Thank you for visiting with me about the ownership change needed for Water Right No. 6131-3.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of the water right and associated map for you to keep in your records. If I can answer any questions, please let me know.

Sincerely,

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

enclosures

6131-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 6, 2022

6131-3

Mike Neuharth
28494 County Rd 11
Olivet SD 57052

Dear Mr. Neuharth:

I am contacting you regarding ownership of land described in Water Right No. 6131-3 listed under Daniel Ulmer. In December 2021 we spoke on the phone about the water right and the need for an ownership change. To date, we have not received anything back from you in the way of an ownership change.

In the event you do not have the original transfer form, enclosed is another partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions, please let me know.

Sincerely,

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

enclosures

6131-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date August 18, 2022RECEIVED OF Mike Neuharth 28494 Co. Rd. 11, Olivet SD 57052

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>6131-3</u>	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>50.00</u>

By Eric Gronlund
 Chief Engineer
vm

PAID

AUG 18 2022

Ck# 2115

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

AUG 18 2022

OFFICE OF
WATER

No. 6131-3 Rec't#

Date: 8-10-22

I/We request that Water Right No. 6131-3

formerly owned by: Daniel Ulmer

be transferred to: (name & address) Mike Newhart 28494 CO RD 11
Okla, SD 57052

Telephone No. 605-661-7747

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

54 acres - NW 1/4 NW 1/4 and Lots 6, 7, 8 and 9, T97N, R58W

I/We understand that the validity of Water Right No. 6131-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

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

Mike Newhart

(Signed by new owner)

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

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 22, 2022

6131-3

Mike Neuharth
28494 Co Rd 11
Olivet SD 57052

Dear Mr. Neuharth:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 6131-3.

The ownership change has been completed. Water Right No. 6131-3 formerly held by Daniel Ulmer is now listed in your name.

Enclosed is a receipt for the filing fee you paid. Also included is the copy of the water right you sent back to us. The copy is yours to keep for your records. If I can answer any questions for you, please let me know.

Sincerely,

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

enclosures



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: MIKE NEUHARTH, 28494 COUNTY ROAD 11, OLIVET, SD 57052 6604

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6131-3 & 7834-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 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) 6131-3 & 7834-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** 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) 6131-3 & 7834-3 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 before the **March 8, 2023** hearing 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: <https://danr.sd.gov/iq> using this password: HCCXKB**

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 AGRICULTURE
and NATURAL RESOURCES**

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

February 7, 2023

6131-3
7834-3

Mike Neuharth
28494 County Rd 11
Olivet SD 57052

Dear Mr. Neuharth:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 6131-3 & 7834-3. 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
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us