

**WATER PERMIT NO. 6182-3**

Name of Applicant: **Oscar, Incorporated**

Address: **18892 390<sup>th</sup> Ave, Hitchcock SD 57348**

Phone: **605 266-2747**

Amount of Water Claimed: **10.2 cfs**

Total Acres: **718**

Source of Water Supply: **James River**

Water to be used for: **irrigation**

County: **Spink**

Type of Waste Disposal System: **NA**

Location: **approximately 8 miles northeast of Hitchcock**

**PRIORITY**      Date Received: **2-22-2000**

Fee: **\$475**

Corrected Application Received: **2-28-2000**

Period of Annual Use: **March 1 – November 30**

Remarks:

Diversion Point: **points between SW ¼ Sec 10**  
**and NE ¼ Sec 3; all in T114N-R62W**

Land to be Irrigated: **S ½, NW ¼ Sec 10, NE ¼**  
**SE ¼, E ½ NE ¼ Sec 3, SW ¼ Sec 1; all in T114N-**  
**R62W and SE ¼ Sec 35-T115N-R62W**

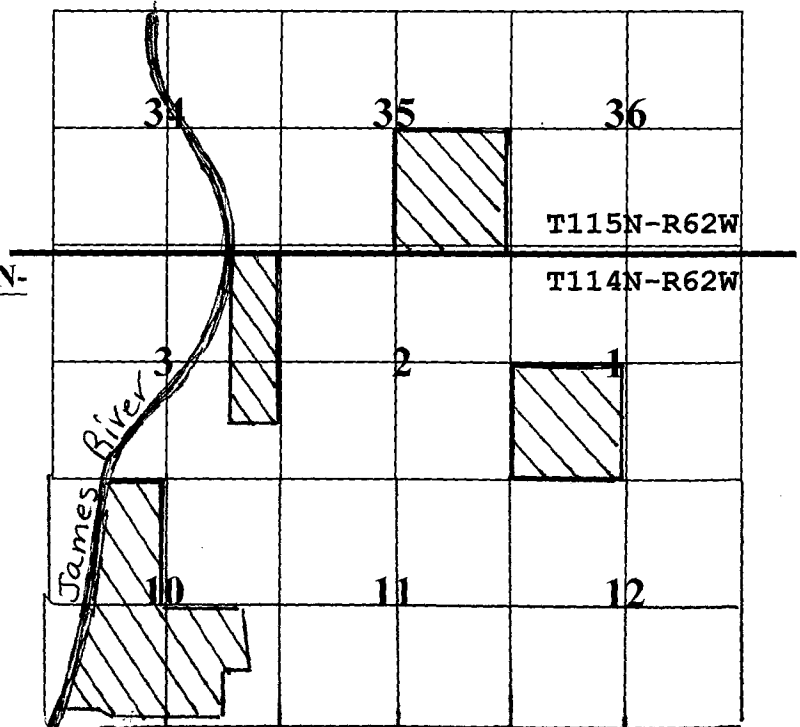
Depth of Well: **NA**

Well Driller: : **NA**

Remarks:

Type of Map: **topo**

Prepared by: **Ron Duvall**



Reviewed and the Number Assigned on: **2-28-2000**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA**  
**WATER PERMIT NO. 6182-3 FOR IRRIGATION**

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Date of first receipt of application February 22, 2000.

The Water Management Board approved Water Permit Application No. 6182-3 on May 3, 2000 for Oscar Incorporated, c/o Floyd Peterson, 18892 390<sup>th</sup> Ave, Hitchcock SD 57348 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. 6182-3 appropriates 10.2 cubic feet of water per second from the James River from points between and including the SW ¼ Section 10 and NE ¼ Section 3; T114N-R62W to irrigate 718 acres located in portions of the S ½, NW ¼ Section 10, NE ¼ SE ¼, E ½ NE ¼ Section 3, SW ¼ Section 1; T114N-R62W and SE ¼ Section 35-T115N-R62W.
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: March 1 – November 30.
3. The date from which applicant may claim right is February 22, 2000.
4. One-fifth of the construction is to be completed on or before November 3, 2002.
5. All construction is to be completed on or before May 3, 2005.
6. Water is to be put to beneficial use on or before May 3, 2009.
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. 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 downstream domestic use, including livestock water, and prior water rights/permits must be bypassed.
  - 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, diversion 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 to November 30, diversions from the James River are not authorized unless the Chief Engineer issues written orders allowing diversions.
  - Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

(continued)

**Water Permit No. 6182-3**

**Oscar Incorporated**

**Page 2**

2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

By: Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

**JUN 05 2000**

date



|                                                                                                                    |                                                   |                                                     |
|--------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-----------------------------------------------------|
| Mail to:<br>Water Rights Program<br>Joe Foss Building<br>523 E. Capitol<br>Pierre, SD 57501-3181<br>(605) 773-3352 | No. <u>6182-3</u>                                 | (office use only)<br>Hydrologic Unit <u>1016006</u> |
|                                                                                                                    | Basin <u>James River</u>                          |                                                     |
|                                                                                                                    | Newspaper <u>The Redfield Press, Redfield, 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 Oscar Incorporated Phone 266-2747  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address 18892 390<sup>th</sup> Ave, Hitchcock SD State 57348  
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 10.2 \*CFS or 10.8 \*\*GPM 718 \*\*\*AF Total Acreage 760  
(\*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) James River : Points between and including SW1/4 sec 10 and NE1/4 sec 3 ; all in T114N-R62W County Spink
- County or counties where water will be used Spink
- Annual period during which water is to be used Mar 1 - Nov 30
- 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>S1/2, NW1/4 sec 10 - 114N-62W</u>     | <u>320</u> | <u>278</u>       |       |
| <u>NE1/4 SE1/4, E1/2 NE1/4 sec 3 - "</u> | <u>120</u> |                  |       |
| <u>SE1/4 sec 35 - 115N-62W</u>           | <u>160</u> |                  |       |
| <u>SW1/4 sec 1 - 114N-62W</u>            | <u>160</u> |                  |       |

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

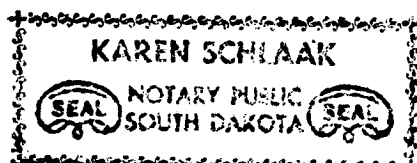
STATE OF SOUTH DAKOTA) SS  
County of Hughes

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, Floud Peterson, 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 Oscar Inc by Floud Peterson, Pres.

Subscribed and sworn to before me this 22<sup>nd</sup> day of February 19 2000

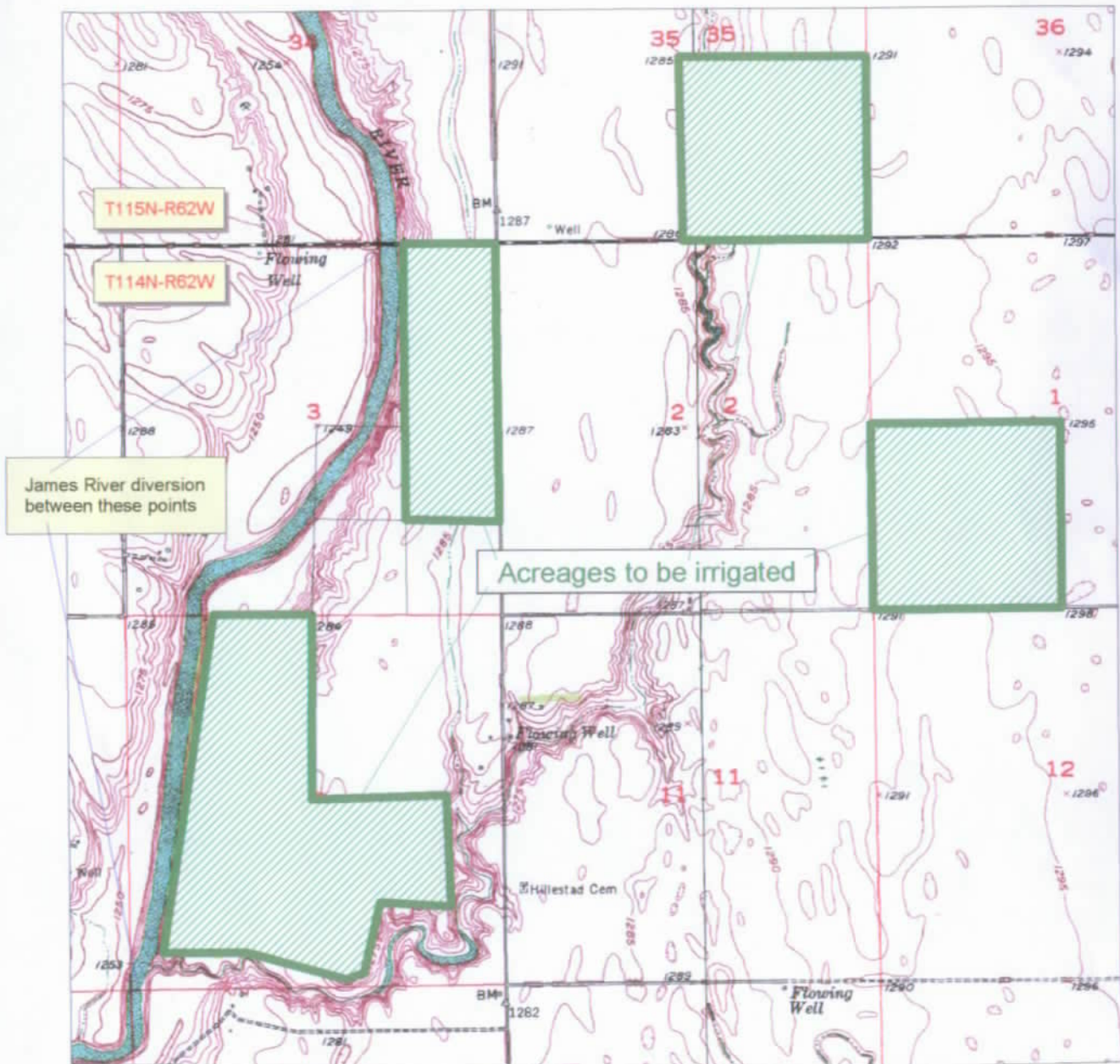


Karen Schlaak

Notary Public signature

KAREN SCHLAACK, Notary Public  
My Commission Expires

2000 0 2000 Feet

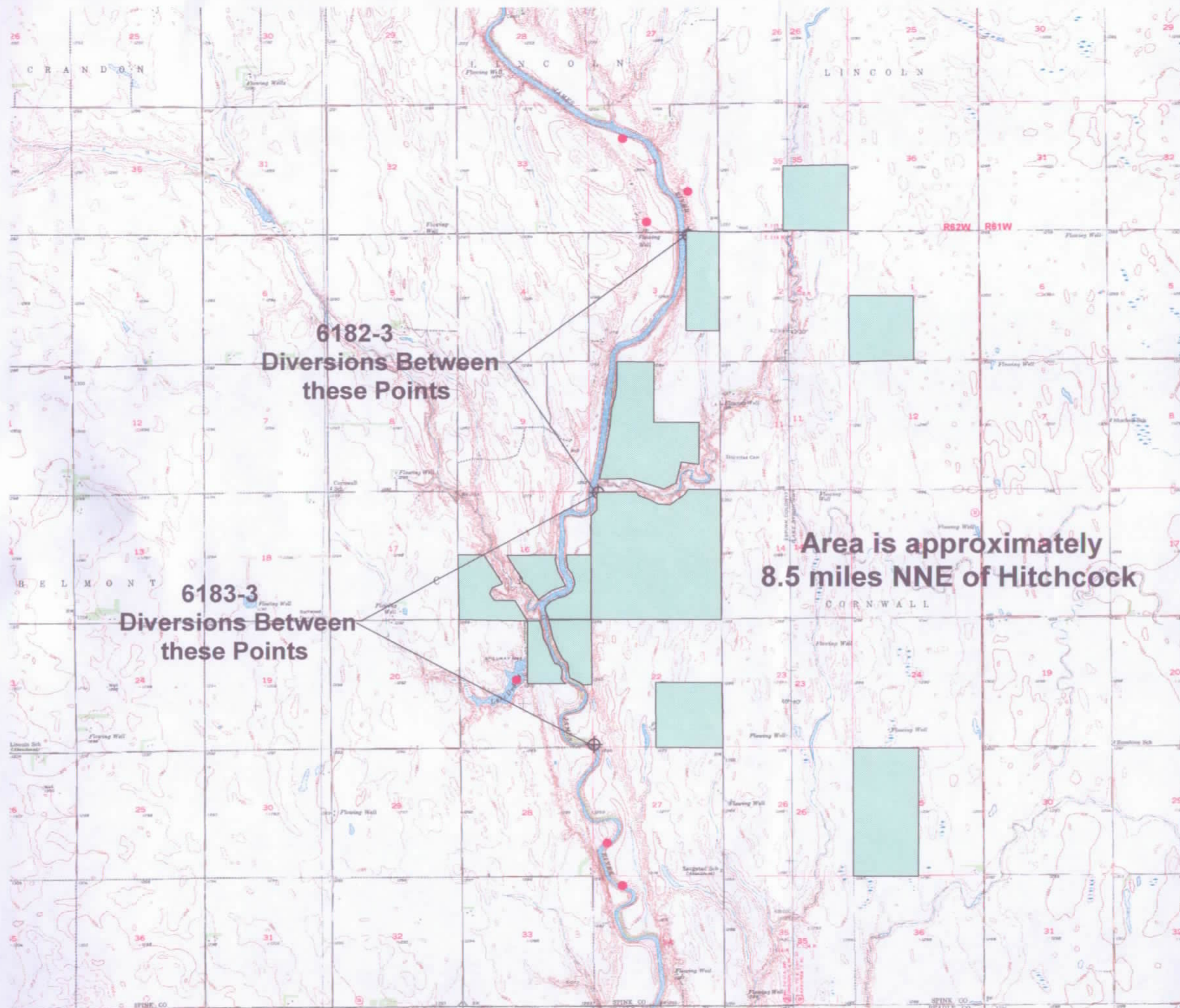


**South Dakota**  
Department of Environment  
& Natural Resources  
Water Rights

*Ken Durrall*

Application map for Oscar Incorporated  
February 25, 2000

6182-3



- Water Right License/Permit
- Irrigated Acreage

**OSCAR, INC**

Permits 6182-3 & 6183-3

# RECEIPT

## Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416401

Pierre, February 28, 2000

RECEIVED OF Oscar, Inc., 18892 - 390th Ave., Hitchcock, SD 57348-7707  
the following amount in fees for services rendered as provided for by law:

|                                                                                                                                 |       |        |
|---------------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>6182-3</u> to Appropriate Water, to construct<br>and to put water to beneficial use _____ | 475   | 00     |
| Fee for Application for Permit No. _____ to Appropriate Water, for Future<br>Use _____                                          |       |        |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                          |       |        |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water<br>License No. <u>6182-3</u> _____            | 50    | 00     |
| Fee for Filing Transfer Form _____                                                                                              |       |        |
| Fee for Filing Extension Request _____                                                                                          |       |        |
| Fee for _____                                                                                                                   |       |        |
| _____                                                                                                                           |       |        |
| _____                                                                                                                           |       |        |
| (Any Other Work Provided by Law)                                                                                                | Total | 525 00 |

By Harold Ebele  
Chief Engineer

## **WATER RIGHTS PROGRAM -- FILE DOCUMENTATION**

**NAME:** Oscar Incorporated c/o Floyd Peterson

**ADDRESS:** 18892 390<sup>th</sup> Avenue, Hitchcock SD 57348

**DATE:** February 28, 2000

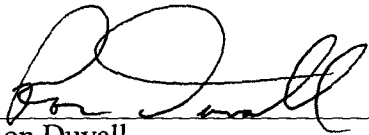
**TELEPHONE:** 266-2747

**RE:** James River appropriations for irrigation

### **COMMENTS:**

On February 24, 2000, Floyd Peterson returned my call regarding two water permit applications we completed in the office on February 22, 2000. Mr. Peterson instructed me to make the acreage reductions that I described to him over the phone. I then completed two maps for Mr. Peterson's permit applications showing the location of the acreages to be irrigated. The maps are dated February 25, 2000.

Mr. Peterson also indicated that he wanted deferred Application No. 4092-3 to be rescheduled for hearing by the Water Management Board.

A handwritten signature in black ink, appearing to read 'Ron Duvall', written over a horizontal line.

Ron Duvall

Natural Resources Engineer

Water Rights Program

## REPORT ON WATER PERMIT APPLICATIONS NO. 6182-3 & 6183-3

Oscar Incorporated

March 29, 2000

Water Permit Application No. 6182-3, Oscar Incorporated, proposes to appropriate 10.2 cubic feet of water per second (4578 gpm) from the James River in Spink County for irrigating 718 acres. Diversions for the proposed project would take place during the period March 1<sup>st</sup> through November 30<sup>th</sup> each year. The diversion points are to be between and including the SW  $\frac{1}{4}$  of Section 10 and NE  $\frac{1}{4}$  of Section 3 in T114N-R62W (Attachment 1).

Water Permit Application No. 6183-3, Oscar Incorporated, proposes to appropriate 21.4 cubic feet of water per second (9605 gpm) from the James River in Spink County for irrigating 1503 acres. Diversions for the proposed project would take place during the period March 1<sup>st</sup> through November 30<sup>th</sup> each year. The diversion points are to be between and including the NW  $\frac{1}{4}$  of Section 15 and SW  $\frac{1}{4}$  of Section 22 in T114N-R62W (Attachment 1).

### Review of Water Source and Existing Water Rights

The water source for the proposed project is the James River in Spink County, SD. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are within South Dakota. During low precipitation years the James River experiences extremely low flows and cannot be considered a reliable source of water.

In 1965 the South Dakota Water Rights Commission, a predecessor to the Water Management Board, placed a 300 cubic feet per second (cfs) diversion limit on the James River with a maximum combined diversion limit of 200 cfs from Huron, SD to the North Dakota border. Due to the backup of Missouri River water into the James River, the 300 cfs restriction has been applied from the North Dakota border to the Yankton-Hutchinson County line. Presently there are 120 licensed and permitted diversions totaling 249.72 cfs from the North Dakota border to the Yankton-Hutchinson County line. From the North Dakota border to Huron, SD there are 65 licensed and permitted diversions totaling 135.37 cfs. If the Oscar Incorporated applications are approved, the total river and the Huron to North Dakota reach diversion rates would still be below the established limits.

There are 26 senior water rights with withdrawals totaling 61.82 cfs located on the river from the proposed project site in Spink County downstream to Huron, SD. In the past, shut off orders have been issued to these licensed and permitted water right holders during periods of low flow in the James River (Attachment 4).

From 1943 to 1998 the U.S. Geological Survey's (USGS) Huron, SD stream flow gauge registered flows in the James River (Attachment 2) with a median of 50 cfs, a maximum of 22,800 cfs, and no flow 23.4 percent of the time. The typical irrigation season interval from March to November shows flows in the James River at Huron, SD with a median of 90 cfs and no flow 26 percent of the time. The median percentile hydrograph (attachment 3) shows a 50 percent probability of 155 cfs or greater flow in July and 71 cfs or greater flow in August. At the 75 percent probability, the hydrograph shows 43 cfs or greater flow in July and 4 cfs or greater flow in August.

There have been a number of water right/permits issued on the James River for the reach from Huron, SD to the North Dakota State line containing similar bypass qualifications. They are:

- No. 5027-3, Lake Byron Watershed District with a priority date of 6/14/84: April 1-June 30, sixty cfs or more bypassed after diversions for domestic use or prior water rights. Diversions not authorized after June 30 unless by written orders issued by the Chief Engineer.
- No. 5667-3, City of Huron with a priority date of 5/4/92: April 1-June 30, 54 cfs or more are being bypassed. June 30-September 30 diversions not authorized unless by written orders issued by the

Chief Engineer. October 1-March 31, 20 cfs or more is bypassed as measured at the Huron Third Street Dam.

- No. 5737-3, Spink Hutterian Brethren, Inc. with a priority date of 12/17/92: March 1-March 31 flow at Huron Third Street Dam is at least 20 cfs while pumping. April 1-June 30 flow at Third Street Dam exceeds 63 cfs while pumping. June 30-November 30 diversions not authorized unless by written orders issued by the Chief Engineer.
- No. 5796-3, Glendale Colony with a priority date of 11/24/93: March 1-March 31 flow at Huron Third Street Dam at 29 cfs while pumping. April 1-June 30 flow at Huron Third Street Dam exceeds 63 cfs while pumping. June 30-November 30 diversions not authorized unless by written orders from the Chief Engineer.

Applications Nos. 6182-3 and 6183-3 should have similar bypass qualifications in order to protect senior James River water rights/permits including the above four water rights/permits. If these two applications are approved, they should contain the following qualifications:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights/permits must be bypassed.
- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron, SD 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, SD Third Street Dam exceeds 63 cfs while pumping under this permit.
- From June 30 to November 30, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.

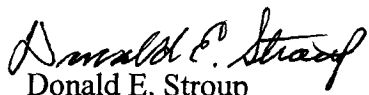
Because the number and the location of James River water rights continue to change, the Water Management Board, at some time in the future, may want to review the bypass qualifications for all James River water rights/permits. These qualifications may need to be adjusted to reflect the most current status of diversions from the James River.

#### Conclusions

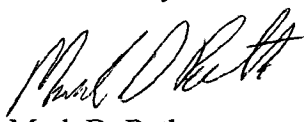
1. Water Permit Applications No. 6182-3 and 6183-3, Oscar Incorporated, propose to divert a total of 31.6 cfs (14,183 gpm) from the James River to irrigate 2221 acres in Spink County, SD.
2. Based upon data from the USGS Huron, SD gauging station, water is available in the James River during high and normal flow periods.
3. If these permits are approved, the total river and Huron to North Dakota reach diversion rates from the James River would still be within the limits set in 1965 by the Water Rights Commission.
4. The James River is susceptible to shutoff orders being issued by the Chief Engineer because of extremely low flows during dry periods.

5. If these applications are approved, they should contain the following qualifications:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights/permits must be bypassed.
- From March 1 to March 31, diversions from the James River are authorized only when the flow at the Huron, SD 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, SD Third Street Dam exceeds 63 cfs while pumping under this permit.
- From June 30 to November 30, diversions from the James River are not authorized unless by written orders issued by the Chief Engineer.
- Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.

  
Donald E. Stroup  
Natural Resources Engineer I  
Water Rights Program

Reviewed by:

  
Mark D. Rath  
Natural Resources Engineer III  
Water Rights Program

References:

U.S. Geological Survey Daily Mean Discharge Data retrieved from the National Water Information System Files (ADAPS)

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 6182-3, Oscar, Inc.**

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. 6182-3, Oscar, Inc., c/o Floyd Peterson, 18892 390<sup>th</sup> Ave., Hitchcock, SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 6182-3 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. 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 downstream domestic use, including livestock water, and prior water rights/permits must be bypassed.
- 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, diversion 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 to November 30, diversions from the James River are not authorized unless the Chief Engineer issues written orders allowing diversions.
- 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.



Garland Erbele, Chief Engineer  
March 31, 2000

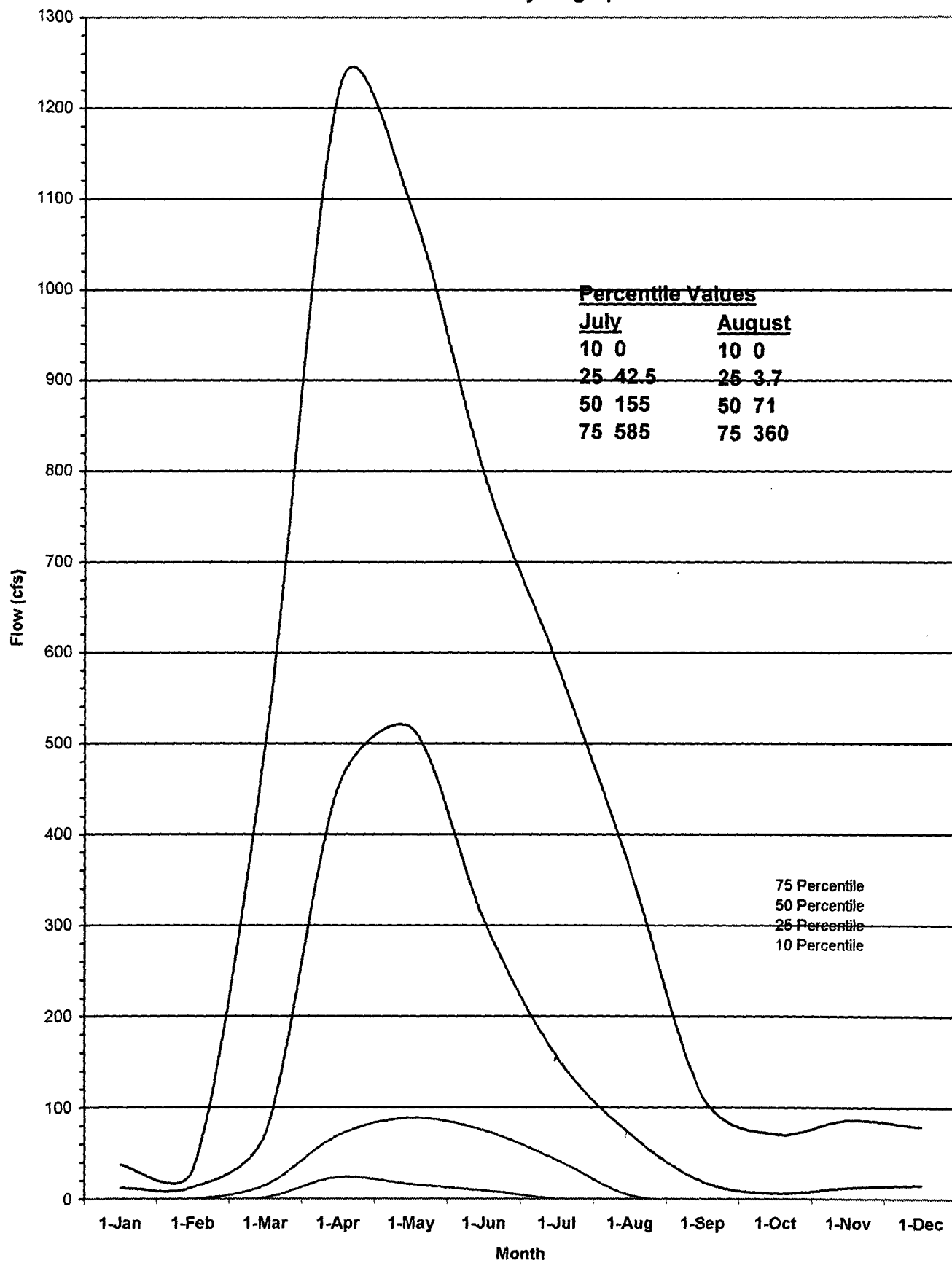
### Huron Gauging Station Statistics

|                     | <u>1943-1998</u> | <u>March-November Interval</u> |
|---------------------|------------------|--------------------------------|
| Number of Values    | 15411            | 11942                          |
| Number Zero Values  | 4708             | 3122                           |
| Median (cfs)        | 50               | 90                             |
| Mean (cfs)          | 381.6            | 494                            |
| Maximum (cfs)       | 22,800           | 22,800                         |
| 10 Percentile (cfs) | 0                | 0                              |
| 25 Percentile (cfs) | 1                | 6                              |
| 50 Percentile (cfs) | 50               | 90                             |
| 75 Percentile (cfs) | 297              | 534                            |
| 90 Percentile (cfs) | 1020             | 1300                           |

### Monthly Median Percentiles

| Jan | Feb | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep | Oct | Nov | Dec | Percentile |
|-----|-----|------|------|------|------|------|------|-----|-----|-----|-----|------------|
| 0   | 0   | 1    | 23   | 16   | 9    | 0    | 0    | 0   | 0   | 0   | 0   | <b>10</b>  |
| 0   | 0   | 15   | 70   | 89   | 75   | 43   | 4    | 0   | 0   | 0   | 0   | <b>25</b>  |
| 12  | 13  | 73   | 455  | 517  | 304  | 155  | 71   | 19  | 6   | 13  | 15  | <b>50</b>  |
| 37  | 33  | 707  | 1225 | 1085 | 794  | 585  | 360  | 113 | 71  | 86  | 79  | <b>75</b>  |
| 75  | 83  | 1230 | 2300 | 2236 | 1539 | 1178 | 1030 | 487 | 284 | 262 | 163 | <b>90</b>  |

**USGS Huron Gauge Station  
1943-1998 Median  
Percentile Hydrograph**



| James River Shutoffs |           |                                                                                     |
|----------------------|-----------|-------------------------------------------------------------------------------------|
| Year                 | Date      | Reach                                                                               |
| 1975                 | --        | No information, low flow year, probably Aug or earlier shutoff                      |
| 1976                 | July 27   | From Sand Lake Wildlife Refuge Dam to 3 <sup>rd</sup> St. dam Huron.                |
|                      | August 6  | From 3 <sup>rd</sup> St. dam to N Yankton Co. line                                  |
| 1977                 | May 11    | From Sand Lake Wildlife Refuge to 3 <sup>rd</sup> St. dam Huron                     |
|                      | June 6    | From ND line to 3 <sup>rd</sup> St. dam Huron                                       |
|                      | June 11   | From 3 <sup>rd</sup> St. dam Huron to I90 Mitchell                                  |
| 1978                 | --        | No information, very low flow year, probably Aug or earlier shutoff                 |
| 1979                 | --        | No information, low flow year, probably Aug or earlier shutoff                      |
| 1980                 | May 24    | From ND line to 3 <sup>rd</sup> St. dam Huron                                       |
|                      | May 29    | From 3 <sup>rd</sup> St. dam Huron to I90 Mitchell                                  |
|                      | June 10   | Rescinded May 29 order until further notice                                         |
|                      | June 10   | Rescinded Mar 24 order until June 26                                                |
|                      | July 17   | From 3 <sup>rd</sup> St. dam Huron to I90 Mitchell                                  |
|                      | August 4  | From I90 Mitchell to Yankton Co. line                                               |
|                      |           |                                                                                     |
| 1981                 | March 12  | From ND line to I90 Mitchell July 15 & August cutoff dates                          |
|                      | April 3   | Rescinded March 12 order                                                            |
|                      | April 16  | From ND line to I90 Mitchell – extended to April 21                                 |
|                      | June 4    | From I90 Mitchell to Yankton Co. line                                               |
| 1982                 | August 15 | From 3 <sup>rd</sup> St. dam Huron to Yankton Co. line                              |
|                      |           | Aug 10 <sup>th</sup> extended to Aug 25 <sup>th</sup> from Sand Lake to Yankton Co. |
| 1983                 | July 15   | July 15 <sup>th</sup> cutoff extended to Aug 1 <sup>st</sup> entire river           |
|                      | August 10 | Aug 10 <sup>th</sup> cutoff extended to Sep 1 <sup>st</sup> entire river            |
| 1984                 |           | No August 10 shutoff                                                                |
| 1985                 | June 22   | From ND to 3 <sup>rd</sup> St. dam Huron                                            |
|                      | June 27   | From Huron to I90 near Mitchell-Jul 15 <sup>th</sup> cutoffs I90 to Yankton Co.     |
| 1986                 |           | No August 10 shutoff                                                                |
| 1987                 |           | No August 10 shutoff                                                                |
| 1988                 | May 25    | From ND to 3 <sup>rd</sup> St. dam Huron                                            |
|                      |           | Extended to June 15 <sup>th</sup>                                                   |
|                      | July 4    | From 3 <sup>rd</sup> St. dam Huron to Yankton Co. line                              |
|                      |           | Extended to Jul 11 for permits before 1976 below I90                                |
|                      |           | Extended indefinitely for permits before 1976 I90 to Yankton Co.                    |
| 1989                 | July 20   | From ND to 3 <sup>rd</sup> St. dam Huron                                            |
|                      | August 3  | From 3 <sup>rd</sup> St. dam Huron to I90 near Mitchell                             |
| 1990                 | April 6   | From ND to Hutchinson-Yankton Co. line                                              |
|                      | May 30    | Rescinded April 6 order from Yankton Co. line to I90                                |
|                      | June 20   | Rescinded April 6 order from Huron to I90                                           |
|                      | June 29   | Rescinded April 6 order from James River diversion dam to Huron                     |
|                      | August 2  | Rescinded April 6 order from Ashton to JR diversion dam                             |
| 1991                 |           | Pumping beyond August 10 allowed                                                    |
| 1992                 | April 14  | From ND to I90 near Mitchell                                                        |
|                      | June 22   | Rescinded April 14 order from Huron to Ashton to I90                                |
|                      |           | Rescinded April 14 order for # 5027-3,5207-3,4354-3                                 |
|                      | June 23   | Rescinded April 14 order from Ashton to ND                                          |
| 1993-99              | --        | Pumping beyond August 10 allowed                                                    |



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

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

March 31, 2000

Oscar, Incorporated  
%Floyd Peterson  
18892 390<sup>th</sup> Ave.  
Hitchcock, SD 57348

Dear Mr. Peterson:

Water Permit Application Nos. 6182-3 and 6183-3 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 Redfield Press printed at Redfield, SD (Ph # (605) 472-0822). For your information, a copy of the notice, the recommendations of the Chief Engineer and a report 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  
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](http://www.state.sd.us/denr)

March 31, 2000

The Redfield Press  
Box 440  
Redfield, SD 57469-0440

*Deb called*

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 6182-3 and 6183-3 to Appropriate Water to be published twice. Please publish the first notice on April 5, 2000, 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 Oscar, Incorporated, %Floyd Peterson, 18892 390<sup>th</sup> Ave., Hitchcock, SD 57348 (Ph # (605) 266-2747).

**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  
Natural Resources Engineer  
605 773-3352

enclosures

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

Nos. 6182-3 & 6183-3

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

Date \_\_\_\_\_

We are in receipt of your letter of March 31, 2000, enclosing Notice of Hearing to Appropriate Water by Application Nos. 6182-3 & 6183-3 which was first published in our issue of \_\_\_\_\_. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

April 3, 2000

Doland Times-Record  
Box 223  
Turton SD 57477-0223

ATTENTION: Legal Public Notice

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Sincerely,

*Eric Gronlund /ks*

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

Nos. 6182-3 & 6183-3

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

Date \_\_\_\_\_

We are in receipt of your letter of April 3, 2000, enclosing Notice of Hearing to Appropriate Water by Application Nos. 6182-3 & 6183-3 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 5, 2000, with the second publication 7 days later. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NOS. 6182-3 and 6183-3 to Appropriate Water

Notice is given that Oscar, Incorporated, c/o Floyd Peterson, 18892 390<sup>th</sup> Ave, Hitchcock SD 57348 has filed the following applications for a water permit.

Application No. 6182-3 proposes to appropriate 10.2 cubic feet of water per second (cfs) from the James River from points between and including the SW  $\frac{1}{4}$  Section 10 and NE  $\frac{1}{4}$  Section 3; T114N-R62W to irrigate 718 acres located in portions of the S  $\frac{1}{2}$ , NW  $\frac{1}{4}$  Section 10, NE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , E  $\frac{1}{2}$  NE  $\frac{1}{4}$  Section 3, SW  $\frac{1}{4}$  Section 1; T114N-R62W and SE  $\frac{1}{4}$  Section 35-T115N-R62W.

Application No. 6183-3 proposes to appropriate 21.4 cfs from the James River from points between and including the NW  $\frac{1}{4}$  Section 15 and SW  $\frac{1}{4}$  Section 22; T114N-R62W to irrigate 1,503 acres located in portions of Section 15, S  $\frac{1}{2}$  Section 16, NE  $\frac{1}{4}$  Section 21, SE  $\frac{1}{4}$  Section 22, W  $\frac{1}{2}$  Section 25; T114N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6182-3 and 6283-3 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.

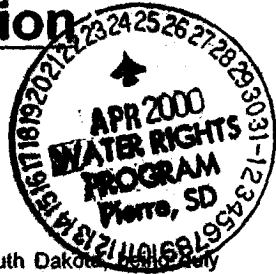
Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 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 24, 2000. 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 11:00 a.m., May 3, 2000, Floyd Matthew Training Center, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendations are 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 3, 2000, 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 24, 2000.

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 24, 2000, 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.

# Affidavit of Publication



## NOTICE OF APPLICATION NOS. 6182-3 AND 6183-3 TO APPROPRIATE WATER

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Application No. 6183-3 proposes to appropriate 21.4 cfs from the James River from points between and including the NW ¼ Section 15 and SW ¼ Section 22; T114N-R62W to irrigate 1,503 acres located in portions of Section 15, S ½ Section 16, NE ¼ Section 21, SE ¼ Section 22, W ½ Section 25; T114N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6182-3 and 6283-3 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.

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STATE OF SOUTH DAKOTA

SS

County of Spink

I, Alina E. Becker, of said County of Spink and State of South Dakota, hereby sworn, on her oath says: The Doland Times-Record is a weekly newspaper of general circulation printed and published in Doland, Spink County and the State of South Dakota, by Alina E. Becker and has been such newspaper during the times hereinafter mentioned: that the Doland Times-Record is a legal newspaper and has been in existence for more than one year immediately preceding the first publication herein mentioned, and has more than two hundred bonafide subscribers: that I, the undersigned, am publisher of said newspaper in charge of the advertising thereof, and have personal knowledge of all the facts stated in this affidavit: and that the advertisements headed

Notice of Application  
Nos. 6182-3 and 6183-3  
TO Appropriate Water  
a printed copy of which is hereto attached, was printed and published in the said

newspaper for two successive issues.

the first publication 33.90 4-5 20 00

the second publication 27.12 4-12 20 00

the third publication \_\_\_\_\_ 20 \_\_\_\_\_

the fourth publication \_\_\_\_\_ 20 \_\_\_\_\_

the fifth publication \_\_\_\_\_ 20 \_\_\_\_\_

the sixth publication 104 lines 20 \_\_\_\_\_

the seventh publication \_\_\_\_\_ 20 \_\_\_\_\_

the eighth publication \_\_\_\_\_ 20 \_\_\_\_\_

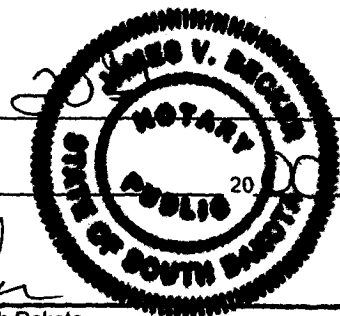
That \$ 61.02 being the full amount of the fee of publication of the annexed notice, insures solely to the benefit of the publisher of said newspaper: that no arrangement or understanding for a division thereof has been made with any person, and that no part thereof has been agreed to pay to any other person, whomsoever.

Alina E Becker

Subscribed and sworn to before me this

day of April

James V Becker  
Notary Public, Spink County, South Dakota



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 24, 2000, 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.

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(4-5-12 2f)

\*\*\*



## **Water Rights Program - File Documentation**

---

**NAME:** Floyd Peterson, Oscar, Inc.

**ADDRESS:** Hitchcock

**DATE:** 4-4-00      **COUNTY:** SP      **TELEPHONE:**

**RE:** Publication notice

**COMMENTS:**

Deb with the Redfield Press called 4-3-00 (Monday morning) and stated they did not receive the notice for Nos. 6182-3 and 6283-3 in time to be published on April 5, 2000.

We then e-mailed the notice to the Doland Times who said they could publish on April 5<sup>th</sup>.

The Doland Times is one of the three official papers for Spink County.

It was decided that we would go ahead and publish the notice in the Redfield Press on April 12 and 19<sup>th</sup> also, at our expense. We are doing this since the Redfield Press has a much larger circulation area.



Karen Schlaak  
Environmental Scientist



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

April 4, 2000

The Redfield Press  
Box 440  
Redfield, SD 57469-0440

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Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

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Water Rights Program  
Joe Foss Building  
Pierre SD 57501-3181

Nos. 6182-3 & 6183-3

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper

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# Affidavit of Publication

STATE OF SOUTH DAKOTA

SS

County of Spink

I, Billy L. Hansen, of said County and State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Billy L. Hansen, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

No. 81 Water Application - Peterson

a printed copy of which is hereto attached, was printed and published in said newspaper in 2 successive issues, to wit:

The first publication being made on April 12 2000

2nd April 19 2000 5th 20

3rd 20 6th 20

4th 20 7th 20

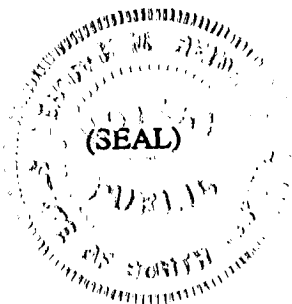
that the full amount of the fee charged for publishing the same to-wit: the sum of \$ 58.46, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.



Billy L. Hansen

Subscribed and sworn to before me this 13<sup>th</sup> day of April, 2000.

Deborah M. Reinbold  
Notary Public, Spink County, South Dakota



112.4.29 = 32.48 1st  
x 80/10 25.98 2nd  
58.46

122559

# Notice of Application appropriate water

No. 81

NOTICE OF APPLICATION NOS.  
6182-3 and 6183-3 to Appropriate  
Water.

Notice is given that Oscar,  
Incorporated, c/o Floyd Peterson,  
18892 390th Ave, Hitchcock SD 57348  
has filed the following applications for  
a water permit.

Application No. 6182-3 proposes to  
appropriate 10.2 cubic feet of water  
per second (cfs) from the James River  
from points between and including the  
SW 1/4 Section 10 and NE 1/4 Section  
3; T114N-R62W to irrigate 718 acres  
located in portions of the S 1/2, NW 1/4  
Section 10, NE 1/4 SE 1/4, E 1/2 NE 1/4  
Section 3, SW 1/4 Section 1; T114N-  
R62W and SE 1/4 Section 35-T115N-  
R62W.

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to appropriate 21.4 cfs from the James  
River from points between and includ-  
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1/4 Section 22; T114N-R62W to irri-  
gate 1,503 acres located in portions of

Section 15, S 1/2 Section 16, NE 1/4  
Section 21, SE 1/4 Section 22, W 1/2  
Section 25; T114N-R62W.

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Chief Engineer recommends  
APPROVAL of Application Nos. 6182-  
3 and 6283-3 because 1) unappropri-  
ated 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.

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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 rec-  
ommendations. The Chief Engineer's  
address is "Water Rights Program,  
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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  
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consider these applications at 11:00  
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These applications are made pur-  
suant 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, 46-6.1, 46-6-  
10, 46-6-13, 46-6-14, 46-6-26; and  
Board Rules ARSD 74:02:01 thru  
74:02:01:15. **Natlie H. Myers,**  
Secretary, Department of Environment  
and Natural Resources.

(April 12, 19)

PAYMENT REQUEST FORM

PAYEE: The Redfield Press  
Box 440  
Redfield, SD 57469-0440

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Publication of Notice of Application to Appropriate Water for  
Application Nos. 6182-3 and 6183-3, published on April 12 & 19, 2000.

AMOUNT: \$58.46

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

David Ershle

4/20/2000

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

JUN 05 2000

Oscar Incorporated  
%Floyd Peterson  
18892 390<sup>th</sup> Ave.  
Hitchcock, SD 57348

Dear Mr. Peterson:

Enclosed are Water Permit Nos. 6182-3 and 6183-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

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 systems 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.

Sincerely,

Garland Erbele, 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](http://www.state.sd.us/denr)

June 28, 2000

6182-3  
6183-3

Oscar Incorporated  
c/o Floyd Peterson  
18892 390<sup>th</sup> Ave  
Hitchcock, SD 57348

Dear Mr. Peterson:

This letter is in reference to your telephone request for an extension to the June 30<sup>th</sup> shutoff date to pump from the James River. Flows in the James River continue to be good, therefore you are authorized to continue pumping from the James River for irrigation under Water Permit Nos. 6182-3 and 6183-3 for the remainder of the 2000 irrigation season. If river flow conditions drastically change such that downstream senior water rights and domestic use are being adversely impacted, you will be contacted and a shutoff order may be issued at that time.

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

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program

enclosures

Hitchcock, SD  
August 29, 2002

RECEIVED

SEP 03 2002

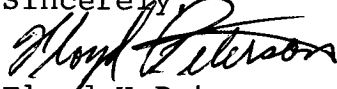
WATER RIGHTS  
PROGRAM

Mark Rath  
Department of Environment and Natural Resources  
523 East Capitol  
Pierre, SD 57501

Dear Mr. Rath,

I am requesting an extension to water longer from our permit numbers 6182-3 and 6183-3 from the James River in Spink County.

Sincerely,

A handwritten signature in cursive script, appearing to read "Floyd H. Peterson".

Floyd H Peterson  
Oscar Inc.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

September 3, 2002

6182-3

6183-3

Oscar Incorporated  
c/o Floyd Peterson  
18892 390<sup>th</sup> Ave  
Hitchcock, SD 57348

Dear Mr. Peterson:

This letter is in reference to your letter requesting an extension to pump from the James River. Flows in the James River continue to be good, therefore you are authorized to continue pumping from the James River for irrigation under Water Permit Nos. 6182-3 and 6183-3 for the remainder of the 2002 irrigation season.

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

Sincerely,

Mark D Rath  
for Garland Erbele, Chief Engineer  
Water Rights Program

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 16, 2003

6182-3  
6183-3

**NOTICE OF SHUT OFF ORDER**

To: Oscar Inc  
Floyd Peterson  
18892 390th Ave  
Hitchcock, SD 57348

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

Subject: Shut Off Order for James River Water Permit Nos. 6182-3 and 6183-3,  
Effective Immediately.

The flows in the James River have dropped to 37 cfs at Huron SD. In order to protect existing domestic use and senior water rights from the James River, effective immediately no pumping from the James River is authorized until January 1, 2004 or until further notice.

If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program, phone (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](http://www.state.sd.us/denr)

May 06, 2003

**RESCISSION OF SHUTOFF ORDER**

**No. 6182-3**

**No. 6183-3**

TO: Oscar Inc.  
Floyd Peterson  
18892 390<sup>th</sup> Ave.  
Hitchcock, SD 57348

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

SUBJECT: Rescission of Water Right Nos. 6182-3 & 6183-3 April 18, 2003 James River Shutoff Order

The April 18, 2003 Shutoff Order for Water Right Nos. 6182-3 and 6183-3 is being **rescinded immediately**. Recent precipitation in the area and a decision by Sand Lake National Wildlife Refuge (NWR) to draw Sand Lake down have changed the short term outlook for the James River. Sand Lake NWR has started to lower the water level in the refuge to re-establish vegetation destroyed during the high water level periods in the 1990s. The release of water from Sand Lake and precipitation in the James River basin have sufficiently increased the James River flow to the point diversions under Water Right Nos. 6182-3 and 6183-3 can be resumed.

We will continue to monitor James River conditions and if flows remain favorable, diversions will be allowed until the mandatory June 30<sup>th</sup> shutoff date qualified in Water Right Nos. 6182-3 and 6183-3. If after June 30<sup>th</sup> you wish to continue pumping from the James River, you will need to make a written request for an extension of time with the Chief Engineer, DENR Water Rights Program.

If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program, phone (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](http://www.state.sd.us/denr)

June 23, 2003

6182-3

6183-3

6400-3

Oscar Incorporated  
c/o Floyd Peterson  
18892 390<sup>th</sup> Ave  
Hitchcock, SD 57348

Dear Mr. Peterson:

This letter is in reference to your telephone request for an extension to the June 30<sup>th</sup> shutoff date to pump from the James River. Flows in the James River continue to be good therefore you are authorized to continue pumping from the James River for irrigation under Water Permit Nos. 6182-3, 6183-3 and 6400-3 until August 10, 2003. If at that time you wish to continue irrigating beyond August 10, you will need to contact this office and request another extension. Upon receipt of the request, we will reevaluate water availability conditions, and make a determination if another extension is warranted.

If river flow conditions drastically change between now and August 10, such that downstream senior water rights and domestic use are being adversely impacted, you will be contacted and a shutoff order may be issued at that time.

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

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

June 8, 2004

6182-3  
6183-3  
6400-3

Floyd Peterson  
Oscar Incorporated  
18892 390<sup>th</sup> Ave  
Hitchcock, SD 57348

Dear Mr Peterson:

This letter is in reference to your June 8, 2004 telephone call regarding water availability for irrigation from the James River for this summer. Due to the large amounts of precipitation falling recently in the James River basin in North Dakota and South Dakota, flows in the river continue to increase. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permits out of the James River to August 10, 2004. If you wish to request an additional extension beyond August 10, you will need contact us at that time and we will make the determination of water availability for James River for the remainder of the 2004 irrigation season.

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

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program

**Permit No. 6182-3**  
**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 these days, June 30, 2005, made a thorough examination of the water use system constructed by Oscar, Inc., c/o Floyd "Oscar" Peterson, 18892 390<sup>th</sup> Avenue, Hitchcock SD 57348 holder of Permit No. 6182-3, bearing the priority of February 22, 2000 authorizing the diversion of 10.2 cu. ft. per second of the waters of James River for irrigation purposes, in Spink County.

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

A. Works used to divert the water:

**Portable pumps and motor A 150 hp John Deere diesel (4045) and a 250 hp John Deere diesel each equipped with Cornell pumps are used as the power source.**

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

**An 8" aluminum pipelines are used to convey water from the river intakes to the center pivots or aluminum gated pipe**

C. Works used to apply water to beneficial use:

**There are three T-L 8 tower center pivot and the aluminum gated pipe on site in order to irrigate the bottom lands as represented on the map.**

The system is in the following condition excellent. The point of diversion is located between points located approximately 590 feet south and 1,305 feet west of the NE corner of Section 3, T114N, R62W ( Lat N 44.717750 W-098.264867) and 580 feet north and 475 east of the SW corner of Section 10, T114N, R62W (Lat N 44.69205 W-98.279783). The two points specified are the primary pump locations. The works are capable of diverting and conveying to the place of use 7.58 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

| Legal                        | Acres    | Legal                         | Acres    |
|------------------------------|----------|-------------------------------|----------|
| NW¼ SE¼ Sec. 35, T115N, R62W | 34 acres | NE¼ SE¼ Sec. 35, T115N, R62W  | 34 acres |
| SW¼ SE¼ Sec. 35, T115N, R62W | 34 acres | SE¼ SE¼ Sec. 35, T115N, R62W  | 34 acres |
|                              |          |                               |          |
| NE¼ NE¼ Sec. 3, T114N, R62W  | 4 acres  | NE ¼ SE ¼ Sec. 3, T114N, R62W | 31 acres |
| SE¼ NE¼ Sec. 3, T114N, R62W  | 33 acres |                               |          |
|                              |          |                               |          |
| NW¼ NW¼ Sec. 10 T114N R62W   | 12 acres | NE¼ NW¼ Sec. 10 T114N R62W    | 40 acres |
| SW¼ NW¼ Sec. 10 T114N R62W   | 17 acres | SE¼ NW¼ Sec. 10 T114N R62W    | 40 acres |
| NW¼ SW¼ Sec. 10 T114N R62W   | 25 acres | NE¼ SW¼ Sec. 10 T114N R62W    | 40 acres |
| SW¼ SW¼ Sec. 10 T114N R62W   | 18 acres | SE¼ SW¼ Sec. 10 T114N R62W    | 24 acres |
| NW¼ SE¼ Sec. 10 T114N R62W   | 39 acres | SW¼ SE¼ Sec. 10 T114N R62W    | 25 acres |
| NE ¼ SE ¼ Sec. 10 T114N R62W | 8 acres  |                               |          |

comprising a total of 492 acres of land and the license should be issued for 7.03 cfs.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: None

Date Report Completed: August 2, 2005

A handwritten signature in cursive script, appearing to read "Eric Gronlund", is written over a horizontal line.

Eric Gronlund  
Natural Resources Engineer  
DENR, Water Rights Program

## FIELD INVESTIGATION REPORT FOR PERMIT NO. 6182-3

|                                                                                          |                                                                                |
|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| DATE OF INVESTIGATION:                                                                   | June 30, 2005                                                                  |
| NAME & ADDRESS OF INVESTIGATION CONTACT/<br>RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE | Floyd "Oscar" Peterson<br>18892 390 <sup>th</sup> Avenue<br>Hitchcock SD 57348 |
| NAME & ADDRESS OF PERMIT HOLDER                                                          | Same                                                                           |

DIVERSION POINT LEGAL LOCATION: between points located approximately 590 feet south and 1,305 feet west of the NE corner of Section 3, T114N, R62W ( Lat N 44.717750 W-098.264867) and 580 feet north and 475 east of the SW corner of Section 10, T114N, R62W (Lat N 44.69205 W-98.279783). The two points specified are the primary pump locations.

### Pumps

| Pump # 3                   | Pump # 4               |
|----------------------------|------------------------|
| Make -- Cornell            | Make -- Cornell W 14   |
| Model -- 5RBF16PKG         | Model -- CFY 156 PKG   |
| Serial -- 13116            | Serial -- T34668 12.75 |
| Size -- 8" in and 10 " out | 8"                     |
| Capacity -- 2,500 gpm      | Capacity -- 900 gpm    |

### Motor

| Motor # 3                   | Motor # 4                   |
|-----------------------------|-----------------------------|
| Make -- John Deere (diesel) | Make -- John Deere (diesel) |
| Serial -- PE 4045T303819    | Serial -- PE 4045D39274     |
| Model -- 4045 T250          | Model -- 4045 150           |
| HP -- 250 hp                | HP -- 150 hp                |

### DISTRIBUTION LINES OR CANALS: from well to center pivot

1) Type aluminum      2) Size 8 inches      3) Length underground from  
diversion points to 3 pivot points approx. 10,000 feet

**SYSTEM TYPE:****Center pivot:**

- 1) Make all three pivots shown are T-L
- 2) Overall length 1200 feet
- 3) Number of towers 8
- 4) Distance between towers 150 feet
- 5) End gun Yes
- 6) High or low pressure medium
- 7) Capacity 850 GPM

Also present was gated pipe (unassembled because of sufficient rainfall) for irrigation of the bottom land. Did not count the number of 8" aluminum pipeline but estimate sufficient pipe to flood irrigate the bottom land shown on map.

**CHEMIGATION EQUIPMENT:** no chemigation at time of licensing investigation

**PERMIT QUALIFICATIONS:**

- 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

**Comments:** At the time of the licensing the area had sufficient rainfall and they had not irrigated any except the pivot authorized in the S ½ of Section 10. This pivot was operated because it was just completed. The picture of Pump #4 below supplies water to this pivot and the flood irrigation of the bottom lands. Pump # 3 had not yet been installed for the year but was viewed in the farmyard.

Arriving at a diversion capacity for this water permit is difficult. Oscar Peterson has a number of portable pump/motor units. Because of the portability of the pumps, he can with relative ease set up pumping intake to irrigate the lands authorized by this permit. Therefore, I propose the water license be issued based on the statutory limit (1cfs per 70 acres) for the areas that are developed for irrigation. I did not include the SW ¼ of Section 1 to be licensed. This quarter is being irrigated by Water Permit No. 4612A-3 from a well constructed in the Tulare:East James Aquifer. Although

Mr. Peterson says he has the ability to irrigate this ground using the James River, I did not see sufficient pipe or equipment to convey water to this quarter section located 3 miles away from the diversion point.

The pivot locations were not located using a GPS. This is the best representation of the pivot locations and estimate of acres developed.



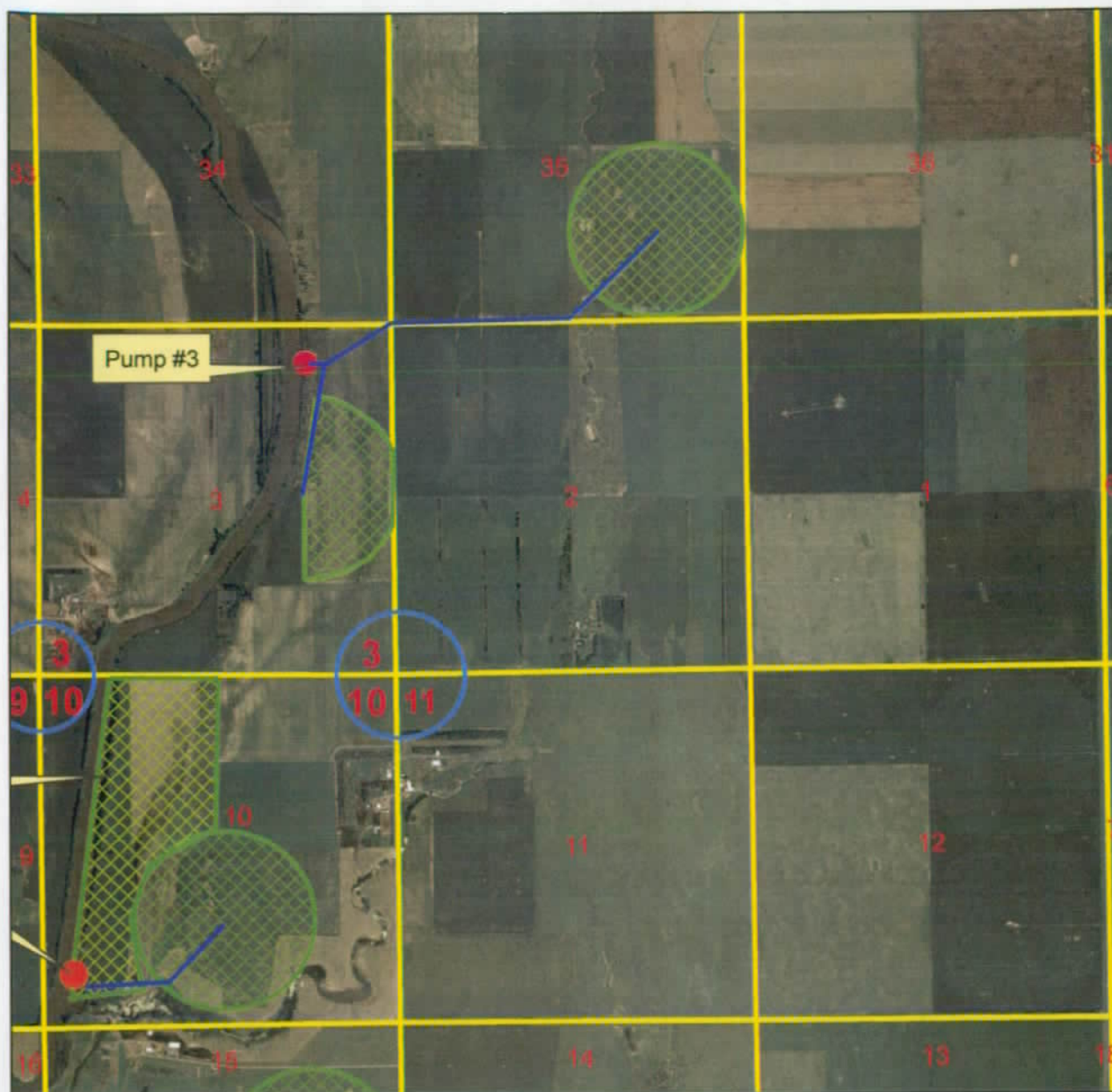
Pump site No. 4 located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 10, T114N, R62W



Center Pivot located in the SE  $\frac{1}{4}$  Section 35, T115N, R62W (picture taken from the S  $\frac{1}{4}$  corner looking to the northeast)



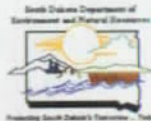
Aluminum pipe on site at pump station No. 3



0 1,450 2,900 5,800 8,700 11,600 Feet



Pump site # 3 is located approximately 590 feet south and 1305 feet west of  
the NE corner of Section 3, T114N, R62W  
Lat/Lon N44.717750 W-098.264867  
Pump site # 4 is located approximately 580 feet north and 475 feet east of  
the SW corner of Section 10, T114N, R62W  
Lat/Lon N44.69205 W-098.279783



*Eric Gronlund*  
Eric Gronlund  
Water Rights Program, DENR  
Licensing Investigation - June 30, 2005

# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 6182-3

(1) Oscar, Inc., c/o Floyd Peterson, 18892 390<sup>th</sup> Ave, Hitchcock SD 57348 made Application No. 6182-3, February 22, 2000 for a water permit to divert 10.2 cubic feet of water per second from the James River, Spink County, South Dakota for irrigation purposes. Permit No. 6182-3, with a priority date of February 22, 2000 was approved May 3, 2000 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 3, 2005 and for the application to beneficial use of water on or before May 3, 2009.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 6182-3 is issued a license, bearing a priority date of February 22, 2000 to appropriate 7.03 cubic feet of water per second from the James River to irrigate 492 acres.

The primary pump locations are: between points located approximately 590 feet south and 1,305 feet west of the northeast corner of Section 3-T114N-R62W (NW ¼ NE ¼) and 580 feet north and 475 feet east of the southwest corner of Section 10-T114N-R62W (SW ¼ SW ¼). The acres authorized for irrigation are as follows:

| Section 35-T115N-R62W |          | Section 3-T114N-R62W |          |
|-----------------------|----------|----------------------|----------|
| NW ¼ SE ¼             | 34 acres | NE ¼ NE ¼            | 4 acres  |
| SW ¼ SE ¼             | 34 acres | SE ¼ NE ¼            | 33 acres |
| NE ¼ SE ¼             | 34 acres |                      |          |
| SE ¼ SE ¼             | 34 acres | NE ¼ SE ¼            | 31 acres |
| Section 10-T114N-R62W |          |                      |          |
| NW ¼ NW ¼             | 12 acres | NW ¼ SW ¼            | 25 acres |
| SW ¼ NW ¼             | 17 acres | SW ¼ SW ¼            | 18 acres |
| NE ¼ NW ¼             | 40 acres | NE ¼ SW ¼            | 40 acres |
| SE ¼ NW ¼             | 40 acres | SE ¼ SW ¼            | 24 acres |
|                       |          |                      |          |
| NW ¼ SE ¼             | 39 acres |                      |          |
| NE ¼ SE ¼             | 8 acres  |                      |          |
| SW ¼ SE ¼             | 25 acres |                      |          |
|                       |          | Total 492 acres      |          |

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6182-3 including the following now applicable qualifications:

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

- When pumping from the James River, low flows as needed for downstream domestic use, including livestock water, and prior water rights/permits must be bypassed.
- 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.

(continued)

Water License No. 6182-3

Oscar, Inc.

Page 2

- 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 – November 30, diversions from the James River are not authorized unless the Chief Engineer issues written orders allowing diversions.
- Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

SEP 30 2005

date





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

Oscar Inc.  
c/o Floyd Peterson  
18892 390<sup>th</sup> Ave  
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed are the following: Water License Nos. 4612A-3, 6182-3, 6183-3, 6196-3, 6200-3, 6231-3 and 6332-3. These are the final water right documents completing the process of obtaining Water Rights.

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

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

July 7, 2006

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER  
WATER RIGHT NO(s). 6400-3 6183-3 6182-3**

To: OSCAR INC  
18892 390TH AVE  
HITCHCOCK SD 57348

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

Subject: James River Qualification Reminder for Permit No(s). 6400-3  
6183-3 6182-3

Qualifications on your water right indicate that you are not authorized to divert James River water after June 30<sup>th</sup>. Please, consider this a reminder and cease diversion if you have not already done so. You may resume diversion on the date stated in the qualifications on your water right.



6182-3

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://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 9<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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.

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

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:

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

| RIVER REACH            | IRR   | 50% IRR | OTH   | DOM | NEEDED | % CHANCE<br>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 10<sup>th</sup> 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 10<sup>th</sup> 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 bypass 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 10<sup>th</sup> 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 30<sup>th</sup> 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 10<sup>th</sup> 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.

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**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 15<sup>th</sup>" from Qualification No. 1.

**Add:** "August 10<sup>th</sup>" 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 10<sup>th</sup> 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 15<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 15<sup>th</sup> 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 10<sup>th</sup> 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 15<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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**

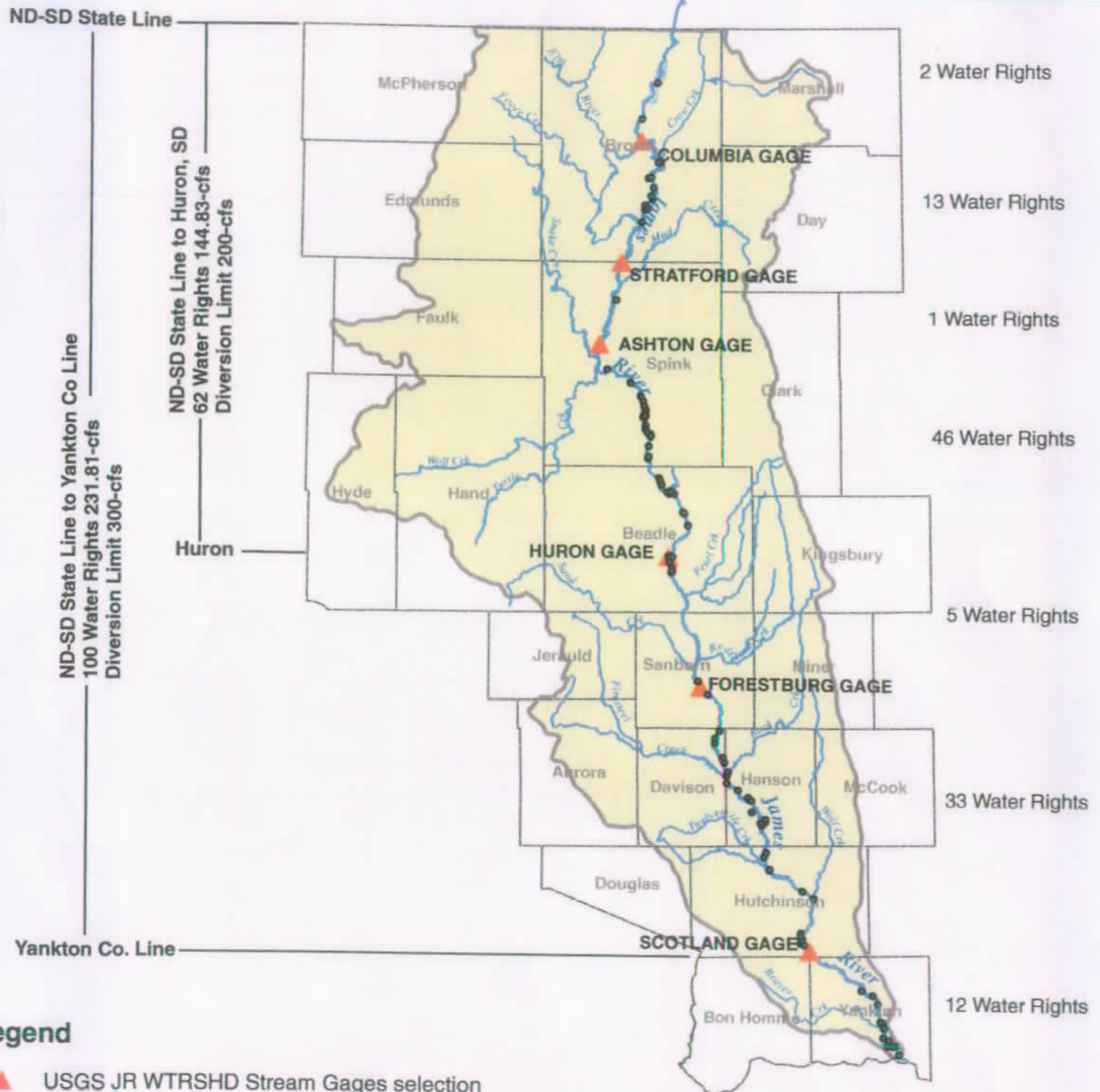
In 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews 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 | PRIOR DATE | 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 | PRIOR DATE | 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   | 20 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          |                  | IRR   |       |
| total     |    |         |            |        | 19.710  |             |                  | REC   |       |

WR's above Ashton Gage: 1

| PERMIT NO | CO | GAGE NO | PRIOR DATE | 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 | PRIOR DATE | 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 | 110 CFS PST DIV |                  | IRR   |
| 4354-3    | DN | 6       | 04/06/1978 | LC     | 29.000  | 20 CFS PST DIV | 110 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   |                |                 |                  | 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 | PRIOR DATE | 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   |
| <b>total</b> |    |         |            |        | <b>83.01</b> |          |          |                  |       |

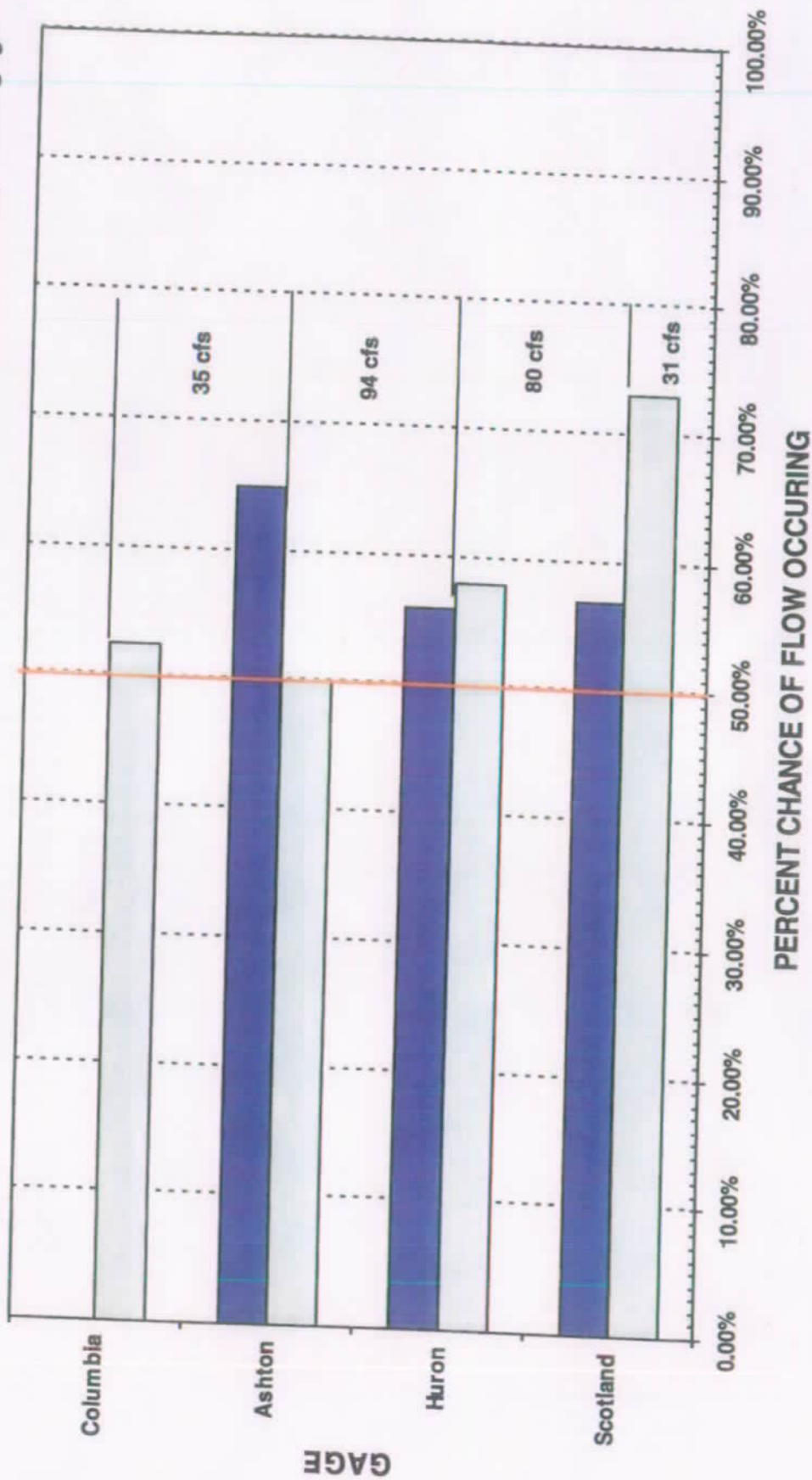
Huron to Scotland appropriated cfs = 86.98. 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 79.88.

# % CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10<sup>TH</sup>

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

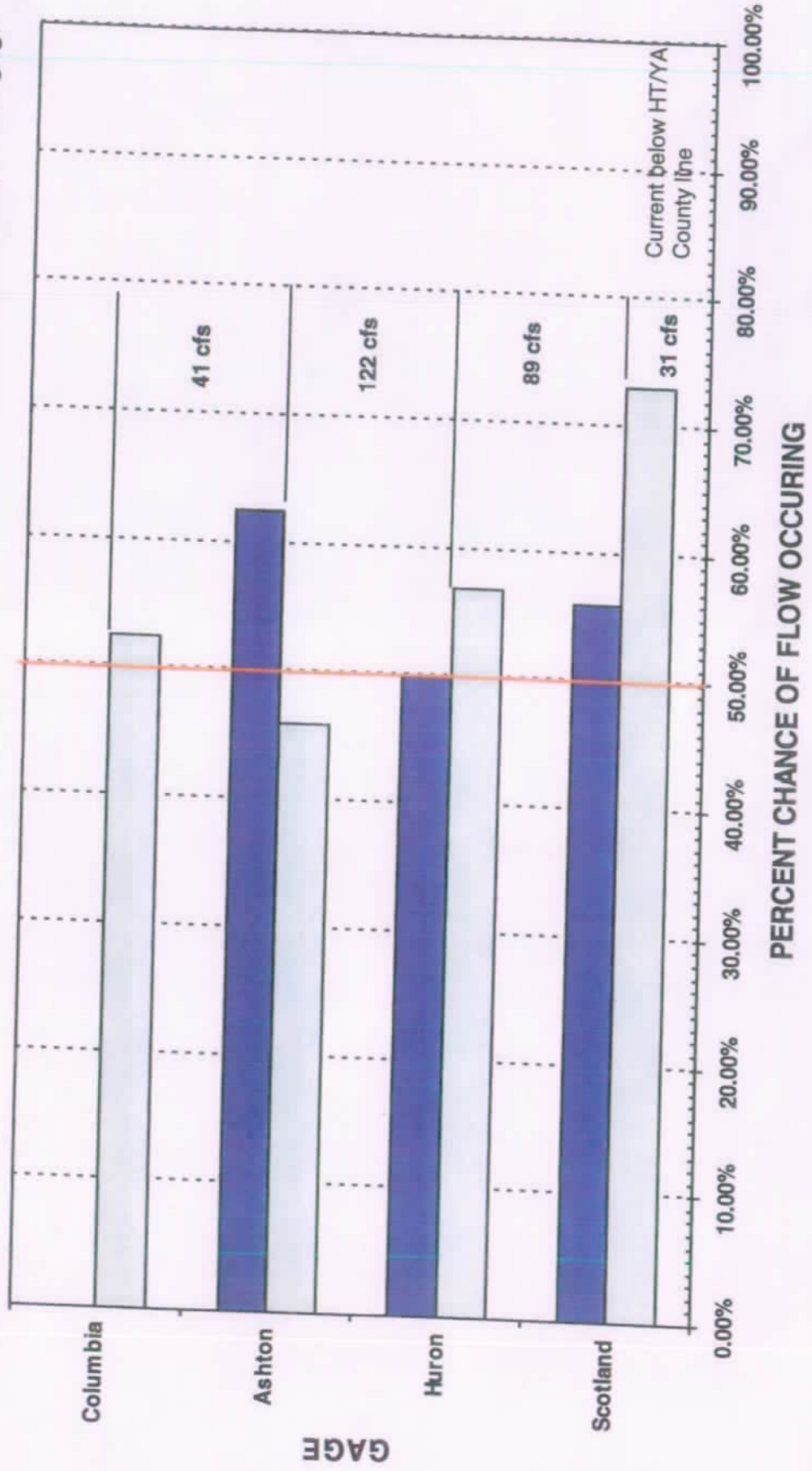


# % CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10<sup>TH</sup>

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](http://www.state.sd.us/denr)

May 21, 2007

**NOTICE**

TO: FLOYD PETERSON  
OSCAR INC  
18892 390<sup>TH</sup> AVE  
HITCHCOCK SD 57348

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

SUBJECT: Amendment to Qualifications on Water Right Nos. 6182-3, 6183-3 and Permit No. 6400-3

On May 9<sup>th</sup>, the Water Management Board amended qualifications to Water Right Nos. 6182-3, 6183-3 and Permit No. 6400-3. 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 deleted qualification which reflects the Board's action to your water rights. Please file this with your water permit records. All other qualifications listed on your water rights 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 permit.

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. 6182-3

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

**Qualifications as amended to Water Right No. 6182-3**

- This permit does not authorize diversion of water from the James River after August 10<sup>th</sup> 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.

**Qualifications as deleted Water Right No. 6182-3**

- 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.

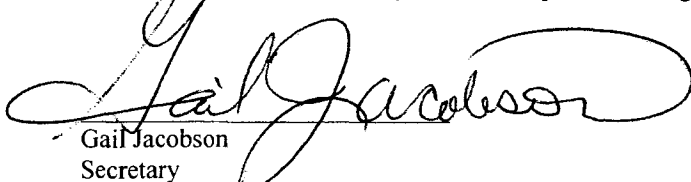
## CERTIFICATION

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

) SS

COUNTY OF HUGHES )

Sworn to, before me, this 21<sup>st</sup> day of May, 2007.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2013



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 21, 2010

Floyd Peterson  
209 27<sup>th</sup> St NW  
Huron SD 57350-5010

RE: Water Right or Permit Nos. 616-3, 1509-3, 3255-3, 4612A-3, 5601-3 6182-3, 6183-3,  
6196-3, 6200-3, 6231-3, 6312A-3, 6332-3, 6400-3, 6655-3, 6711A-3, 6331A-3, 7125-3  
& 7183-3

Dear Oscar:

Enclosed is a "Notice" dated October 15, 2010 concerning the 2010 irrigation questionnaires.

The notice was originally mailed to 18892 30<sup>th</sup> Ave, Hitchcock 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  
Environmental Scientist  
Water Rights Program  
(605) 773-3352  
email: [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us)

enclosures



6182-3  
**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

August 6, 2012

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER  
WATER RIGHT NO(s). 6182-3, 6183-3, 6400-3, 7183-3**

To: OSCAR INC  
209 27TH ST NW  
HURON SD 57350

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

Subject: James River Qualification Reminder for Permit No(s). 6182-3, 6183-3, 6400-3,  
7183-3

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

August 9, 2012

Oscar Inc  
209 27<sup>th</sup> St NW  
Huron SD 57350

Dear Mr. Peterson:

In response to a telephone call on August 9, 2012 requesting an extension to pump from the James River beyond the August 10<sup>th</sup> cutoff, you are authorized to pump under Water Right Nos. 6400-3, 6182-3, 6183-3, and 7183-3 subject to the following:

- No irrigation from the James River beyond August 24, 2012 for the 2012 irrigation season
- Flows remain available for downstream domestic users and prior water rights
- Flows past the Huron gaging station remain above 20 cubic feet per second after pumping

We will continue to monitor the James River and if conditions warrant, you may be shutoff prior to August 24, 2012, with no prior notice given. If you have any questions, please contact Lynn Beck or Mark Rath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

August 24, 2012

Oscar Inc  
209 27<sup>th</sup> St NW  
Huron SD 57350

Dear Mr. Peterson:

In response to a telephone call on August 24, 2012 requesting an extension to pump from the James River beyond the August 10<sup>th</sup> cutoff, you are authorized to pump under Water Right Nos. 6400-3, 6182-3, 6183-3, and 7183-3 subject to the following:

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

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

Sincerely,

Garland Erbele, 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



**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 10<sup>th</sup> 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