

**SOUTH DAKOTA
WATER PERMIT NO. 6589B-3**

Date of first receipt of application No. 6589-3 was February 4, 2005.

Application No. 6589-3 described two separate water use systems. The Chief Engineer, on behalf of the Water Management Board, approved Water Permit No. 6589-3 on June 6, 2005. Water Permit No. 6589-3 is being divided and reissued to reflect the separate systems.

Glendale Colony, 17866 Glendale Drive, Frankfort SD 57440 is issued the following water permits 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. 6589A-3 appropriates 2.29 cubic feet of water per second (cfs) from the James River to irrigate 160 acres located in the S ½ Section 33-T116N-R62W utilizing the diversion point authorized by Water Right No. 1735-3 located in the NW ¼ SW¼ Section 33-T116N-R62W.
Water Permit No. 6589B-3 appropriates 2.29 cubic feet of water per second to irrigate 160 acres located in the NW ¼ Section 15-T115N-R62W utilizing the diversion point for Water Right No. 1734-3 located between points in the NE ¼ SW ¼ and SW¼ NE¼ Section 9-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: April 1 – October 31.
3. The date from which applicant may claim right is February 4, 2005.
4. One-fifth of the construction is to be completed on or before December 6, 2007.
5. All construction is to be completed on or before June 6, 2010.
6. Water is to be put to beneficial use on or before June 6, 2014.
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 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.
 - Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

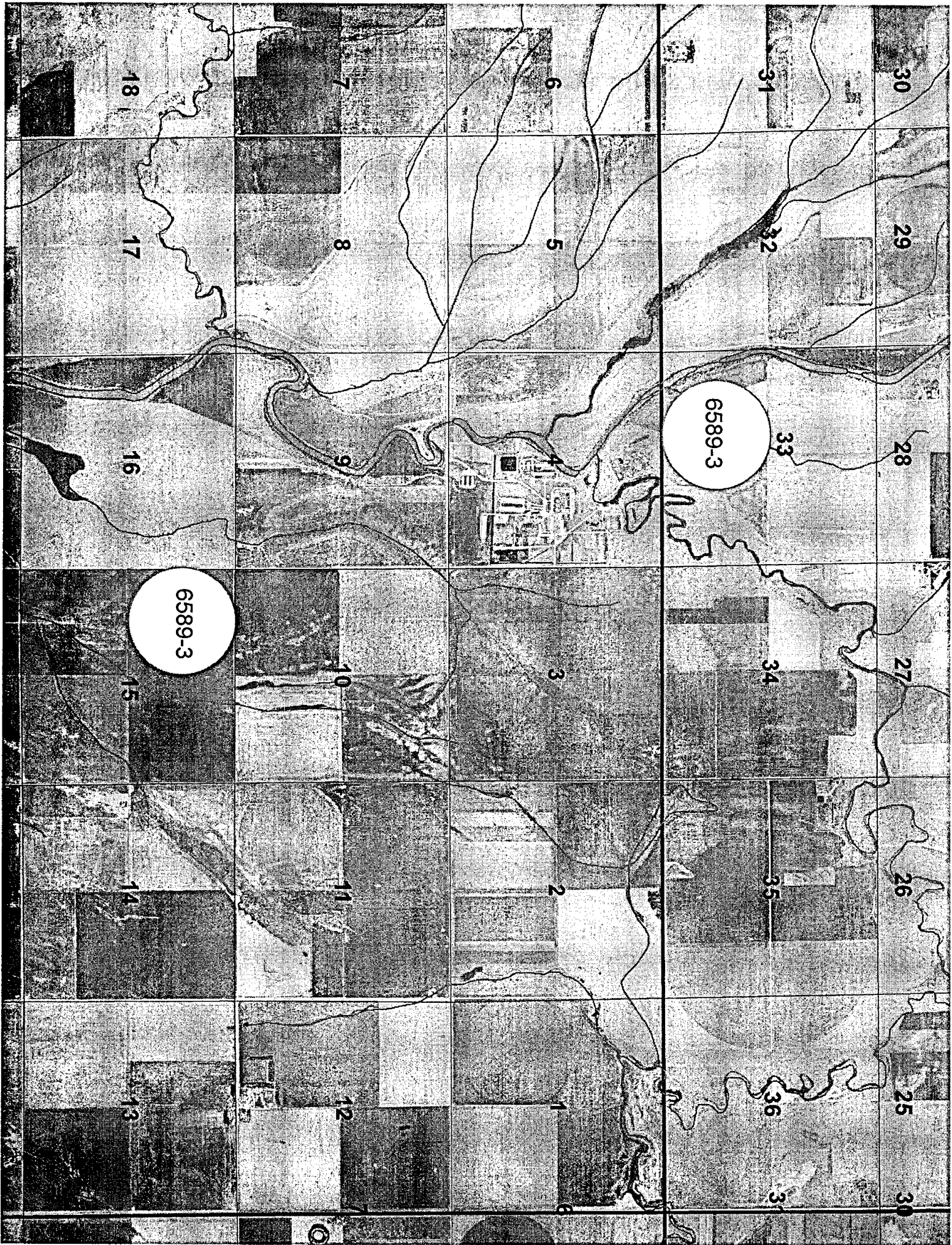
WATER MANAGEMENT BOARD

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

JUL 28 2005

date





Glendale Colony
17866 Glendale Drive
Frankfort, SD 57440

6589-3

T115N R62W

Diversion
Point

3



Donald E. Stroup

Donald E. Stroup
Natural Resources Project Engineer
DNR Water Rights Program

REPORT ON WATER PERMIT APPLICATION 6589-3

**Glendale Colony
17866 Glendale Dr.
Frankfort, SD 57440
May 9, 2005**

Water Permit Application No. 6589-3, Glendale Colony, proposes to appropriate 4.58 cubic feet per second (cfs) of water from the James River to irrigate 320 acres.

The applicant proposes to irrigate 160 acres located in the S1/2 Sec. 33-T116N-R62W utilizing the diversion point authorized by Water Right No. 1735-3 located in the NW 1/4 SW1/4 Sec.33-T116N-R62W. The associated diversion rate increase at this diversion point is 2.29 cfs.

This application also proposes to irrigate 160 acres located in the NW 1/4 of Sec. 15-T115N-R62W utilizing the diversion point for Water Right No. 1734-3 located between points in the NE 1/4 SW 1/4 and SW1/4 NE1/4 Sec. 9-T115N-R62W. The associated diversion rate increase at this diversion point is 2.29 cfs. The annual period of use requested is from April 1 through October 1. The proposed project is in Spink County approximately 5 miles south of Frankfort, SD.

Review of the Water Source

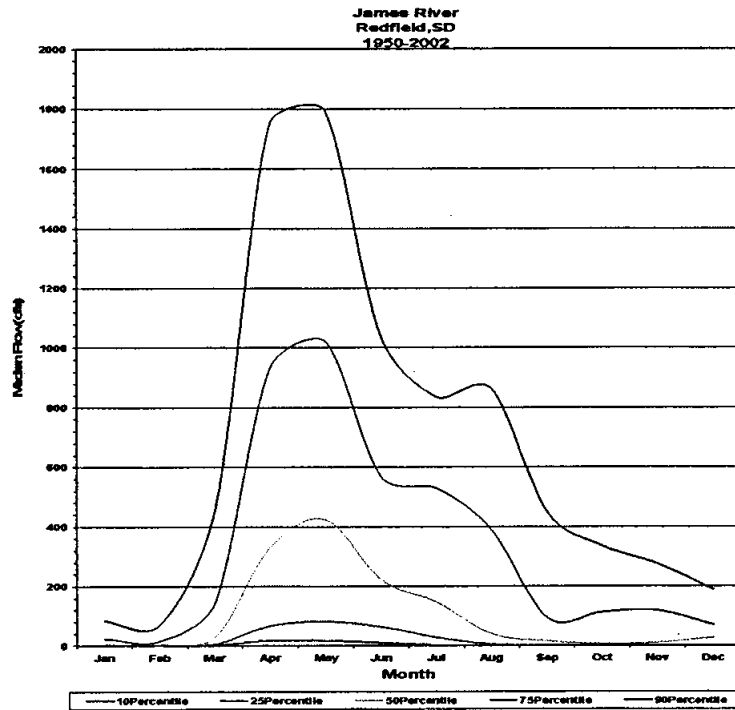
The water source for the proposed project is the James River in Spink County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation the James River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

The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Redfield, SD. The historical data from 1950 through 2002 for the stream flow gage located approximately 12 miles upstream from the proposed project indicate that there is a 50-percent probability monthly median flow could range from 5 to 422-cfs or greater during the April through October interval of any given year. There is a 75-percent probability monthly median flows at this same location could range from 0 to 81-cfs or greater for the same period. (Table 1 and Hydrograph 1)

Table 1. James River Monthly Median Flow (cfs) Redfield, SD

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10 Percentile	0	0	1	17	15	9	0	0	0	0	0	0
25 Percentile	0	0	5	67	81	63	26	4	0	0	0	0
50 Percentile	4	3	30	332	422	221	146	38	15	5	9	26
75 Percentile	22	14	145	933	1020	566	527	386	93	112	118	70
90 Percentile	83	70	456	1747	1796	1035	835	861	447	334	274	189

Hydrograph 1

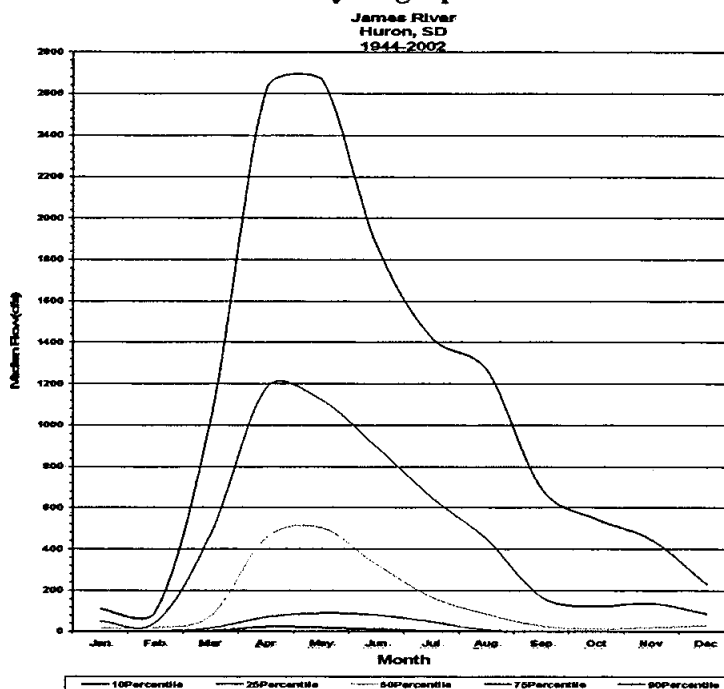


The USGS also operates a stream flow gaging station approximately 30 miles downstream from the proposed project near Huron, SD. The historical data from 1944 to 2002 for the Huron, SD stream flow gage indicate there is a 50-percent probability monthly median flows could range from 13 to 502-cfs for any given April through October annual period. There is a 75-percent probability monthly median flows could be 0 to 89-cfs or greater during the same period. (Table 2 and Hydrograph 2)

Table. 2 James River Monthly Median Flow (cfs) Huron, SD

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10 Percentile	0	0	2	21	18	10	0	0	0	0	0	0
25 Percentile	0	0	15	70	89	80	48	6	0	0	0	0
50 Percentile	16	16	78	455	502	325	168	85	27	13	21	29
75 Percentile	47	42	474	1183	1120	893	648	447	167	123	137	87
90 Percentile	109	94	1039	2627	2664	1866	1421	1266	688	543	445	231

Hydrograph 2



USGS historical data for the Redfield and Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal to wetter climatic conditions for the April through July annual period. During late summer and early fall months, the James River cannot be considered a reliable source of water.

As noted at the July 1980 Water Rights Commission Meeting, Findings of Fact, Conclusion of Law, and Final Decision, the presumption can be made that the stream flow rates recorded at the gaging stations cited above are post withdrawal of no more than 50-percent of those water right allocations authorized upstream of the gage's location during the normal irrigation season.

Review of Existing Water Rights

In 1965 the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed a 300-cfs diversion limit on the James River in South Dakota with a maximum combined diversion limit of 200-cfs from Huron, SD to the North Dakota border. Due to the Missouri River backwater 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 75 Water Rights with diversions totaling 178.38-cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North Dakota border to Huron, SD there is 38 Water Rights with diversions totaling 117.44-cfs. These figures are for actual diversions for irrigation from the James River and do not include water storage rights, SD Game Fish and Parks rights, or U.S. Fish and Wildlife Service rights. (Attachment 1) If this application

and the three other pending applications for Glendale Colony are approved, diversions from both the total river and the Huron, SD to North Dakota river reach would still be below the established limits.

There have been a number of Water Rights issued for the past 20 years on the James River for the reach from Huron to the North Dakota state line with flow bypass qualifications protecting senior Water Rights:

- No. 5027-3, Lake Byron Watershed District priority date 6/14/84: April 1-June 30, 60 cfs or more bypassed after diversions for domestic use or prior Water Rights. Diversions are not authorized after June 30 unless by written orders issued by the Chief Engineer.
- No. 5667-3, City of Huron priority date 5/4/92: April 1-June 30 flow at Third Street Dam exceeds 63-cfs while pumping. June 30-November 30 diversions not authorized unless written orders from the Chief Engineer. October 1- March 30 diversions not authorized unless by written orders from the Chief Engineer.
- No. 5737-3, Spink Hutterian Brethren, Inc. priority date 12/17/92: March 1-March 31 flow at Huron Third Street Dam at least 20-cfs. 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 from the Chief Engineer.

Application No. 6589-3 should contain the following bypass qualifications for the 320 acres and 4.58-cfs diversion rate as noted below to protect senior James River Water Rights and domestic water use:

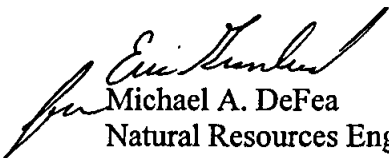
- Low flows as needed for downstream domestic use; including livestock and prior Water Rights must be by-passed.
- From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron, SD Third Street Dam is at least 63-cfs while pumping.
- From July 1 to October 31, 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.

If approved with qualifications, the applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic water use on the James River.

Conclusions

- 1) This application proposes to appropriate a total of 4.58 cubic feet per second (cfs) of water from the James River to irrigate 320 acres. Specifically, 160 irrigated acres are to be located in the S1/2 Sec. 33 utilizing the diversion point authorized by Water Right No. 1735-3 located in the NW ¼ SW¼ Sec.33. The associated diversion rate increase at this diversion point is 2.29 cfs n T116N-R62W

- 2) This application also proposes to irrigate 160 acres located in the NW ¼ of Section 15. The associated diversion rate increase is 2.29 cfs utilizing the diversion point for Water Right No. 1734-3 located in Section 9; all in T115N-R62W.
- 3) USGS historical data for the Redfield and Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal and greater stream flow conditions for the April through July annual period.
- 4) If Application No. 6589-3 is approved, the following qualifications should be included:
 - Low flows as needed for downstream domestic use; including livestock 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, SD Third Street Dam is at least 63-cfs while pumping.
 - From July 1 to October 31, 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.
- 4) If this application is approved, the total river diversion of 178.38-cfs is below the 300-cfs limit. For the reach from Huron, SD to the North Dakota state line, the total diversion will be 117.44-cfs, less than the 200-cfs, well within the limits set by the Water Rights Commission.


Michael A. DeFea
Natural Resources Engineer
DENR Water Rights Program

Reviewed by:


Mark Rath
Natural Resources Engineering Specialist
DENR 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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6589-3. Glendale Colony**

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. 6589-3, Glendale Colony, c/o Jerry Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 6589-3 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 must be by-passed.
 - From April 1 to June 30, diversions from the James River are authorized only when the flow at the Huron SD 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.
 - 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
May 11, 2005

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Spink) SS

I, Janet Johnson

certify that the attached printed Notice was taken

from the _____

Dept of Envir. & Nat Resources

printed and published in Redford Press

County of Spink and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

May 18th

May 25th

Cost of Printing May 18th - 55.13

May 25th - 44.10 total 99.23

Janet Johnson
(Signature)

Office Assistant
(Title)

May 25th, 2005
(Date Signed)

RECEIVED

MAY 31 2005

WATER RIGHTS
PROGRAM

Notice to Appropriate Water

#216

NOTICE OF APPLICATION NOS. 6587-3, 6588-3, 6589-3 and 6590-3 to Appropriate Water

Notice is given that Glendale Colony, c/o Jerry Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440 has filed the following four applications for water permits.

Application No. 6587-3

Application No. 6587-3 proposes to transfer 126 acres covered by Water Right No. 1943-3 and 136 acres and diversion authority of 1.91 cubic feet of water per second (cfs) authorized by Water Right No. 1734-3.

Water Right No. 1943-3 appropriates 2.00 cfs from the James River in these NE 1/4 SE 1/4 of Section 29 to irrigate 258 acres in the S 1/2 of Section 29 all in T116N-R62W. The applicant proposes to sever diversion

authority of 126 acres and relocate them in the NE 1/4 of Section 3-T115N-R62W. The remaining 132 acres of irrigation authorized by No 1943-3 will remain in the S 1/2 of Section 29-T116N-R62W, and the 2.00 cfs of diversion rate will remain with these acres.

Water Right No. 1734-3, appropriates 5.66 cfs from the James River between the points in the NE 1/4 SW 1/4 and the SW 1/4 NE 1/4 of Section 9 to irrigate 404 acres in the W 1/2 of Section 10 and the NW 1/4 of Section 15; all in T115N-R62W. The applicant proposes to sever diversion authority of 136 acres and relocate them to the SE 1/4 of Section 3. The associated diversion rate of 1.91 cfs will be moved and taken at a diversion point authorized by Water Right No. 1733-3 located in between the NE 1/4 NW 1/4 and the SE 1/4 SW 1/4 of Section 4; all in T115N-R62W. The remaining 268 acres of irrigation located in Section 10 covered by No. 1734-3 will retain 3.75 cfs of the diversion rate.

The relocation of the 262 acres to the E 1/2 of Section 3 combined with 268 acres located in the W 1/2 of Section 3 authorized by No. 1733-3, will allow for a total of 530 acres with a combined diversion rate of 5.68 cfs. The applicant is proposing to utilize a full section pivot.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Kleinsasser indicates this change is to allow for more efficient irrigation of the land for irrigation.

Application No. 6588-3

Application No. 6588-3 proposes to irrigate 130 acres located in the SE 1/4 Section 8-T115N-R62W. Water Right No. 1450-3 appropriates 4.44 cfs from the James River located in the SE 1/4 SE 1/4 Section 8 to irrigate 467 acres located in the W 1/2, NE 1/4 Sec 8; all in T115N-R62W. This application will accommodate a full section pivot in Section 8. No increase in the diversion rate with authorized by this application.

Application No. 6589-3

Water Permit Application No. 6589-3 proposes to appropriate 4.58 cfs from the James River to irrigate 320 acres.

The applicant proposes to irrigate 160 acres located in the S 1/2 Section 33-T116N-R62W utilizing the diversion point authorized by Water Right No. 1735-3 located in the NW 1/4 SW 1/4 Section 33-T116N-R62W. The associated diversion rate increase at this diversion point is 2.29 cfs.

This application also proposes to irrigate 160 acres located in the NW 1/4 of Section 15-T115N-R62W utilizing the diversion point for Water Right No. 1734-3 located between points in the NE 1/4 SW 1/4 and SW 1/4 NE 1/4 Section 9-T115N-R62W. The associated diversion rate increase at this diversion point is 2.29 cfs.

Application No. 6590-3

Application No. 6590-3 proposes to appropriate an additional 1.56 cfs from the James River to irrigate 320 acres located in the E 1/2 Section 9-T115N-R62W utilizing the same pump station authorized by Water Right No. 1734-3. Water Right No. 1734-3 appropriates 5.66 cfs from the James River located in the SW 1/4 NE 1/4 Section 9-T115N-R62W to irrigate 404 acres in the W 1/2 Section 10 and NW 1/4 Section 15-T115N-R62W. The James River pump station may be moved within the E 1/2 Section 9-T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6587-3, 6588-3, 6589-3 and 6590-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or

the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 June 6, 2005.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

(May 18, 25)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 28 2005

Glendale Colony
c/o Jerry Kleinsasser
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

Enclosed are the following: Reissued Water License Nos. 1734-3 and 1943-3 and Water Permit Nos. 6587-3, 6588-3, 6589A-3, 6589B-3 and 6590-3.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed for the five water permits. Please return the 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 license may be issued, thus completing the acquisition of a water right.

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

Sincerely,

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

enclosures

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

Date 9-1-05

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

RECEIVED
SEP 08 2005
WATER RIGHTS
PROGRAM

FROM:

Glendale Colony
(name)

17866 Glendale Dr.
(address)

Frankfort S.D. 57440
(city, state, zip)

605-472-0772
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 6589B-3 states that the water use system is to be constructed by

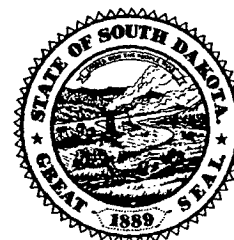
June 6, 2010 (date), and water is to be put to beneficial use by June 6, 2014 (date).

The water use system was completed on 8-1-05 (date).

Applying the water to beneficial use was completed on 8-1-05 (date).

You may schedule an investigation so that the water license may be issued.

Jerry Klumpp
(signature)





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 7, 2006

JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 6590-3 6589B-3 6589A-3 6588-3

To: GLENDALE HTRN BRTH
17866 GLENDALE DR
FRANKFORT SD 57440

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

Subject: James River Qualification Reminder for Permit No(s). 6590-3
6589B-3 6589A-3 6588-3.

Qualifications on your water right indicate that you are not authorized to divert James River water after June 30th. 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.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 11, 2007

TO: All James River Water Right Holders

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

SUBJECT: Proposed Amendment to Conditions on James River Water Rights

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

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

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

enclosure

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

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

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

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

North Dakota Border to the Ashton gage (northern segment)

Ashton gage to Huron gage (central segment)

Huron gage to gage near Scotland (southern segment)

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

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

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

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

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

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

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

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

Any hearing will be an adversary proceeding. Any person filing a petition has the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by April 30, 2007, at the above Water Rights Program address to request copies of information pertaining to this action. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Water Rights Program if you have special needs for which special arrangements can be made.

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

REPORT ON AMENDMENT OF JAMES RIVER WATER PERMITS/RIGHTS

April 24, 2007

Purpose of this Study

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

Historical Summary of James River Water Permits/Rights

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

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

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

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

Review of James River Water Permits/Rights

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

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

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

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

Water Availability at Current Appropriation

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

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

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

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

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

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

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

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

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

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

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

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

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

Water Availability at Full Appropriation

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

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

Proposed Amendment of James River Water Rights

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

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

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

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



Lynn Beck
Natural Resources Engineer Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Chief Engineer's Recommendation for Water Rights Above Huron:

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

ND Border to the gage at Ashton, SD

Water Permit No. 6427-3:

Delete: Qualification No. 1

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

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

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

Add:

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

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

Water Right No. 5027-3:

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

Water Permit No. 5737-3:

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

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

Delete: Qualification No. 1

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

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

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

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

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

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

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

Add:

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

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

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

Chief Engineer's Recommendation for Water Rights Below Huron:

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

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

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

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

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

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

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

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

Water Permit No. 6534-3:

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

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

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



Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

April 25, 2007

Attachment 1

HISTORY OF JAMES RIVER WATER PERMITS/RIGHTS QUALIFICATIONS

April 9, 2007

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

1965 - 1979

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

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

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

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

1980- 1984

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

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

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

1985 - 1987

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

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

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

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

and replaced with the following:

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

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

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

and replaced with the following:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20-cfs of water is by-passing the Third Street Dam in Huron.
- Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This permit is subject to these prior water rights if or when the reserved water supply is developed.

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

2003 - Present

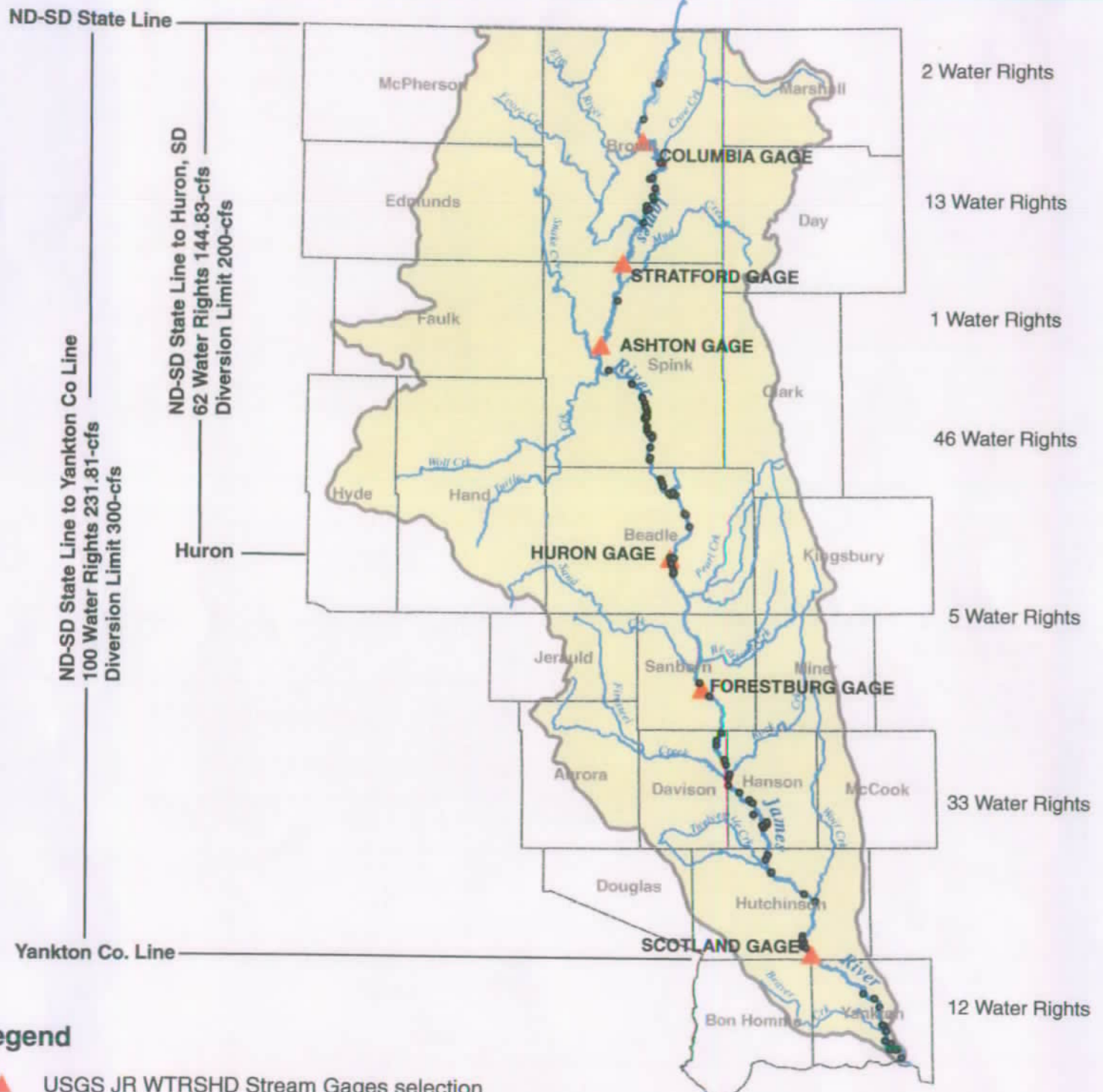
In 2003 Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews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

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

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

Attachment 2 JAMES RIVER BASIN, SOUTH DAKOTA

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



Legend

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

JAMES RIVER WATER RIGHTS BY GAGING STATION

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

ABOVE HURON:

WR's above Columbia Gage: 2

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

WR's above Stratford Gage: 13

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

WR's above Ashton Gage: 1

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

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

WR's above Huron Gage: 46

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

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

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

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

BELOW HURON:

WR's above Forestburg Gage: 5

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

WR's above Scotland Gage: 33

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

PERMIT NO	CO	GAGE NO	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
total					83.01				IRR

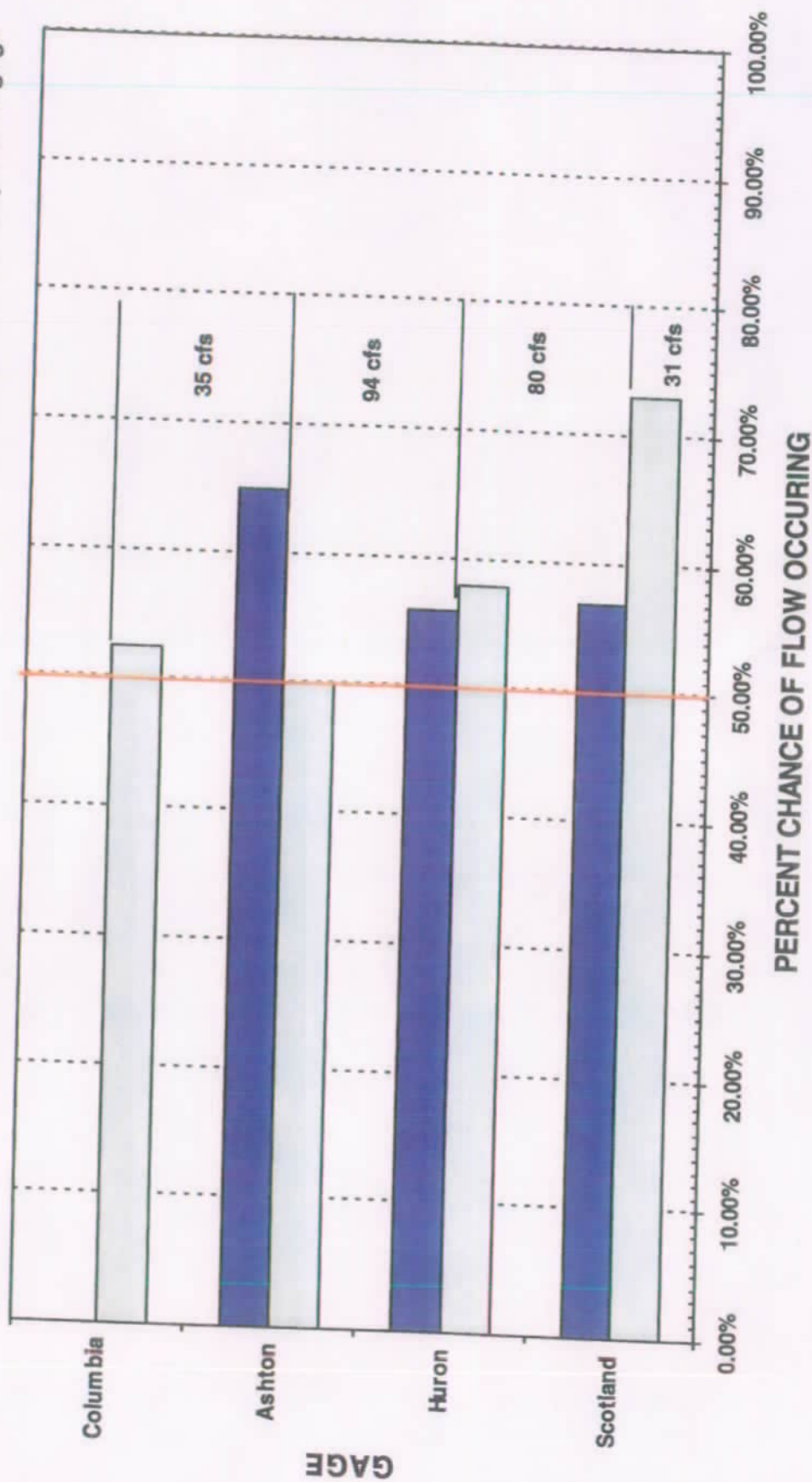
Huron to Scotland appropriated cfs = 86.98, 50% irrigation pumping plus 100% other use pumping and 20 cfs for domestic use, current needed cfs = 79.88.

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

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

■ % chance to satisfy above gage

□ % chance to satisfy below gage

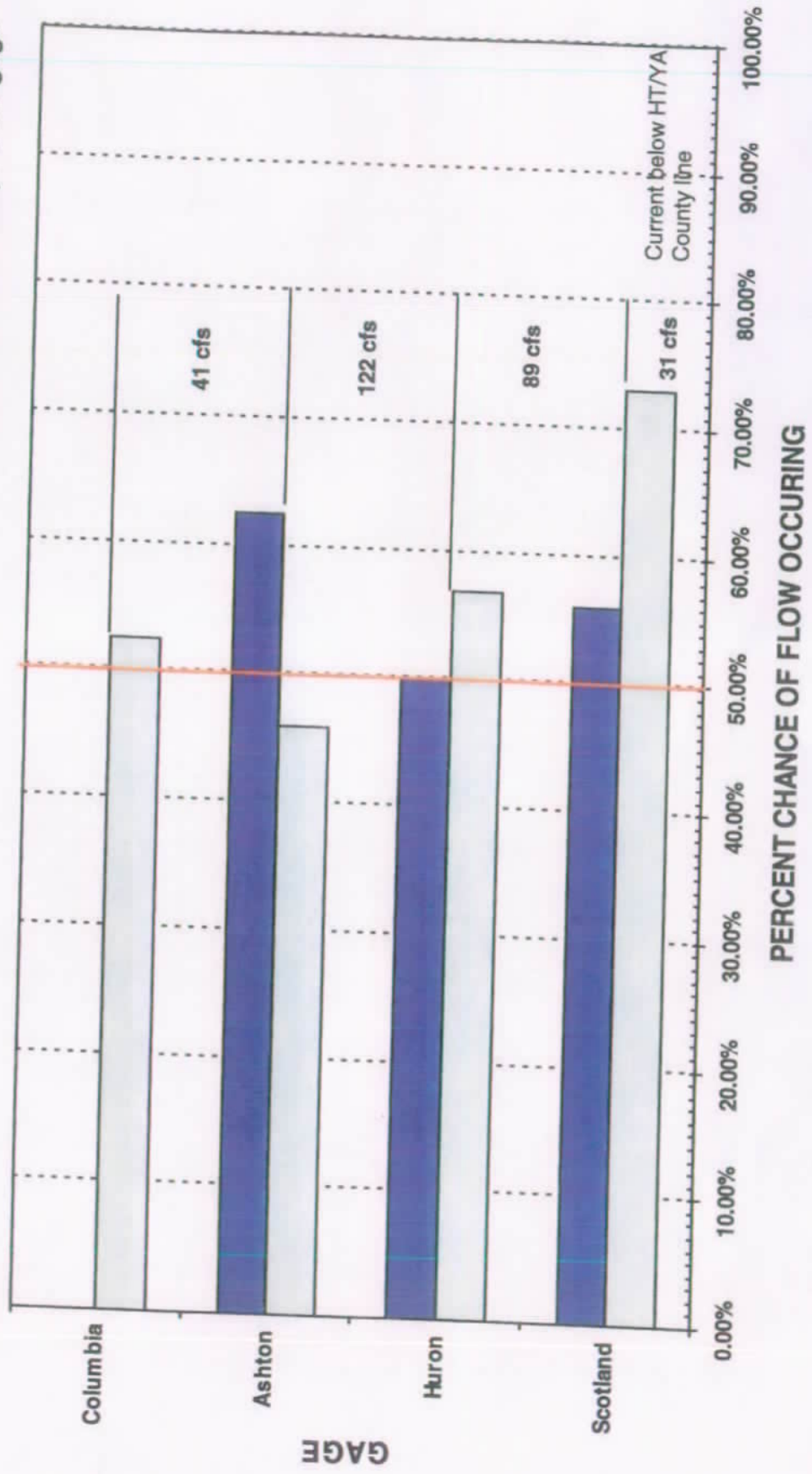


% CHANCE OF FLOW BEING AVAILABLE FOR DIVERSION THRU AUGUST 10TH

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

■ % chance to satisfy above gage

□ % chance to satisfy below gage





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 21, 2007

NOTICE

TO: JERRY KLEINSASSER
GLENDALE COLONY
17866 GLENDALE DR
FRANKFORT SD 57440

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

SUBJECT: Amendment to Qualifications on Water Right Nos. 1734-3, 1735-3 and 1943-3
and Water Permit Nos. 6588-3, 6589A-3, 6589B-3 & 6590-3

On May 9th, the Water Management Board amended qualifications to Water Right Nos. 1734-3, 1735-3 and 1943-3 and Water Permit Nos. 6588-3, 6589A-3, 6589B-3, & 6590-3. 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 permits. Please file these attachments with your water right records. All other qualifications listed on your water permits were not changed by the Board's action and remain in effect. For example, submittal of the annual irrigation questionnaire continues to be a qualification of your water 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 Permit No. 6589B-3

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

Qualifications as amended to Water Permit No. 6589B-3

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

Qualifications as deleted Water Permit No. 6589B-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 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.

CERTIFICATION

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

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

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

Diane Best, Assistant Attorney General, Capitol Building

Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA))
COUNTY OF HUGHES)) SS

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

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



6589B-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). 1450-3, 1733-3, 1734-3, 1735-3, 1943-3, 6587-3, 6588-3, 6589A-3,
6589B-3, 6590-3

To: GLENDALE HTTRN BRTH
17866 GLENDALE DR
FRANKFORT SD 57440

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

Subject: James River Qualification Reminder for Permit No(s). 1450-3, 1733-3, 1734-3,
1735-3, 1943-3, 6587-3, 6588-3, 6589A-3, 6589B-3, 6590-3

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

SEP 11 2013

1734-3
6589B-3
6590-3

Jerry Kleinsasser
Glendale Colony
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

Enclosed is Water License No. 6590-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

The applicable portions of Water Right No. 1734-3 and Water Permit No. 6589B-3 have been incorporated into Water License No. 6590-3. As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures