

WATER PERMIT NO. 7183-3

Name of Applicant: Oscar, Inc.

Address: c/o Floyd Peterson, 18892 390th Ave, Hitchcock SD 57348 Phone: 605 266-2747

Amount of Water Claimed: 0.75 cfs (add'l) Total Acres: 83.6 acres (add'l)

Source of Water Supply: James River

Water to be used for: irrigation County: Spink

Type of Waste Disposal System: NA

Location: 6 miles northeast of Hitchcock

PRIORITY Date Received: 1-27-10 Application/License Fee: \$950

Corrected Application Received: Period of Annual Use: May 1 – November 1

Remarks: Transfer diversion authority and acres authorized by WR No. 616-3 and add'l diversion rate and acres

Diversion Point: NW 1/4NW ¼ Sec 27-T114N-R62W

Land to be Irrigated: NE 1/4, E ½ NW ¼ Sec 27-T114N-R62W

Depth of Well: NA

Well Driller:

Remarks:

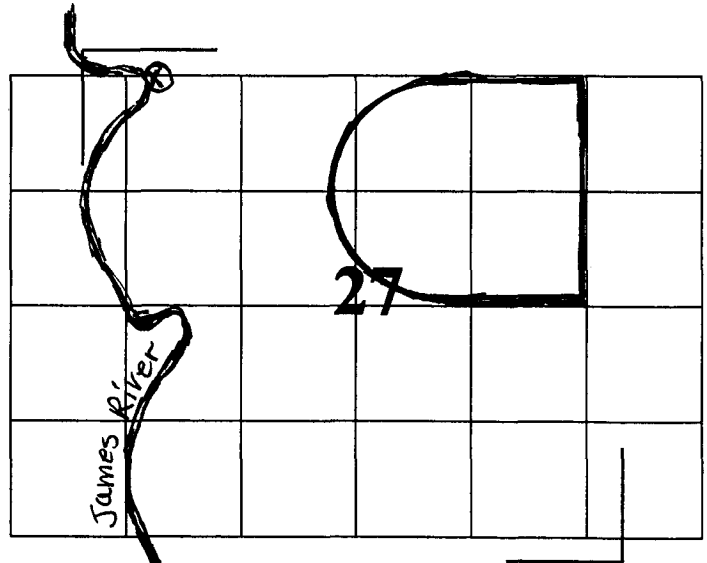
Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 1-28-10

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No.	<u>7183-3</u>	(office use only) Hydrologic Unit	<u>10160006</u>
	Basin	<u>James River</u>		
	Newspaper	<u>Redfield Press PO Box 440</u>		
		<u>605-472-0822</u>		<u>57469</u>

RECEIVED
JAN 27 2010
WATER RIGHTS
PROGRAM

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.)

Project involves transfer of diversion authority and acres authorized by WR No. 616-3 and applying for additional diversion rate and acres from the James River to accommodate a standard center pivot.

Total 164 acres 850 gpm

1. Name of Applicant Oscar Inc. -- c/o Floyd Peterson Phone 605 266-2747

(check one) ☐ Owner ☐ Tenant/lessee

Mailing Address 18892 390th Avenue Hitchcock SD 57348
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 0.75 ^{add} *CFS or 83.6 **GPM ***AF Total Acreage 83.6 add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply James River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Spink
NW 1/4 NW 1/4 Section 27, T114N, R62W

5. County or counties where water will be used Spink

6. Annual period during which water is to be used May 1st through November 1st

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 NE 1/4 Section 27, T114N, R62W*	37	SE 1/4 NE 1/4 Section 27, T114N, R62W	40
SW 1/4 NE 1/4 Section 27, T114N, R62W*	37	NE 1/4 NW 1/4 Section 27, T114N, R62W*	5
NE 1/4 NE 1/4 Section 27, T114N, R62W	40	SE 1/4 NW 1/4 Section 27, T114N, R62W*	5
* acreage retaining priority of WR 616-3 is acres		the W1/2 NE 1/4 & E1/2 NW 1/4 Section 27	

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

See letter from Tim Anderson agreeing to the transfer of acreage he purchased under WR No. 616-3. Objective of the application is to transfer the acres to an upland site less apt to flood and accommodate more efficient center pivot irrigation. This is entail the transfer of the 80.4 acres under WR No. 616-3 and 83.6 new acres and 0.75 cfs additional diversion rate authority from the James River.

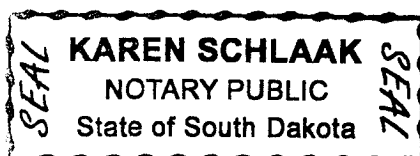
STATE OF SOUTH DAKOTA)
County of Hughes) SS

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

I, Floyd 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. c/o Floyd Peterson

Subscribed and sworn to before me this 28th day of January 20 10



Karen Schlaak
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7183-3**

Date of first receipt of application January 27, 2010.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7183-3 to Oscar Inc., c/o Floyd Peterson, 18892 390th 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. 7183-3 authorizes the following: 1) amendment of Water Right No. 616-3 to transfer the irrigated acreage to other land, 2) changes the diversion point location, 3) appropriates an additional 0.75 cubic feet of water per second (cfs) and 4) irrigation of an additional 83.6 acres. Water Right No. 616-3 appropriates 1.14 cfs from the James River located in the E 1/2 NE 1/4 Section 28 to irrigate 80.4 acres located in the E 1/2 NE 1/4 Section 28 and W 1/2 NW 1/4 Section 27; all in T114N-R62W. This permit authorizes moving the location of the 80.4 acres one-half mile east to the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 27-T114N-R62W. This permit also authorizes the appropriation of an additional 0.75 cfs from the James River diversion point to irrigate an additional 83.6 acres located in the NE 1/4 Section 27. The James River diversion point will now be located in the NW 1/4 NW 1/4 Section 27-T114N-R62W. This permit and Water Right No. 616-3 authorize a total diversion rate of 1.89 cfs for irrigation of 164 acres.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – November 1.
3. The date from which applicant may claim right is January 27, 2010 (additional 0.75 cfs and 83.6 acres).
4. The date of approval of Permit No. 7183-3 is May 3, 2010.
5. One-fifth of the construction is to be completed on or before November 3, 2012.
6. All construction is to be completed on or before May 3, 2015.
7. Water is to be put to beneficial use on or before May 3, 2019.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 7183-3 is subject to the diversion causing no adverse impact to the Topeka Shiner in the James River.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The 80.4 acres and 1.14 cfs diversion rate authority under Water Right No. 616-3 that transferred and are located primarily in the W 1/2 NE 1/4 and E 1/2 NW 1/4 Section 24, T113N, R62W shall retain the June 6, 1959 priority and the original qualification:
 - Use of water under this permit is subject to flows in the James River of 25 cfs or more past your diversion point.

(continued)

Water Permit No. 7183-3

Oscar, Inc.

Page 2

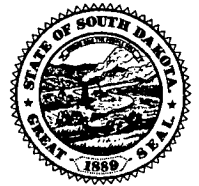
4. The additional 0.75 cfs diversion rate authority and 83.6 acres located primarily in the E ½ NE ¼ Section 24, T113N, R62W shall have a January 27, 2010 priority date and the following conditions:
- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, 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.

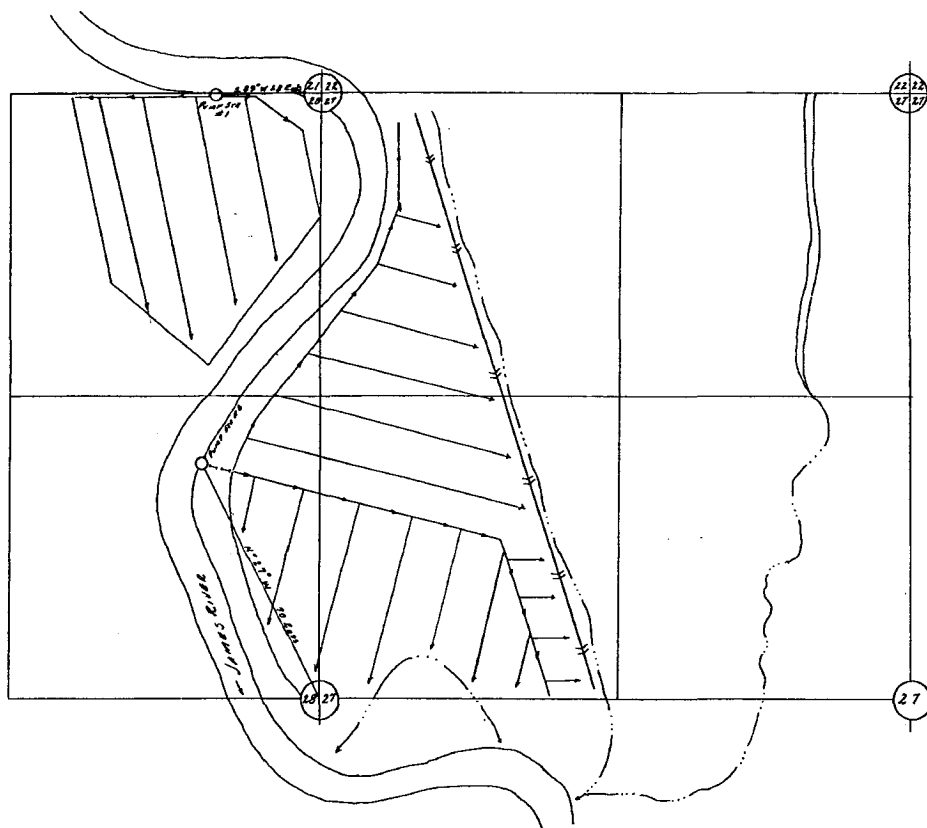
WATER MANAGEMENT BOARD

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

JUL 14 2010

date





Lands to be Irrigated

Location	Sec.	Twp	Range	Acres
NE 1/4	28	11N	66W	80.7
SE 1/4	27	11N	66W	80.7
SW 1/4	27	11N	66W	80.7
SW 1/4	28	11N	66W	80.7
Total				322.8

Scale: 1" = 300'

→ Irrigation ditch
 → Drainage ditch

— Pipe line
 - - - Intermittent stream
 O Pump sites

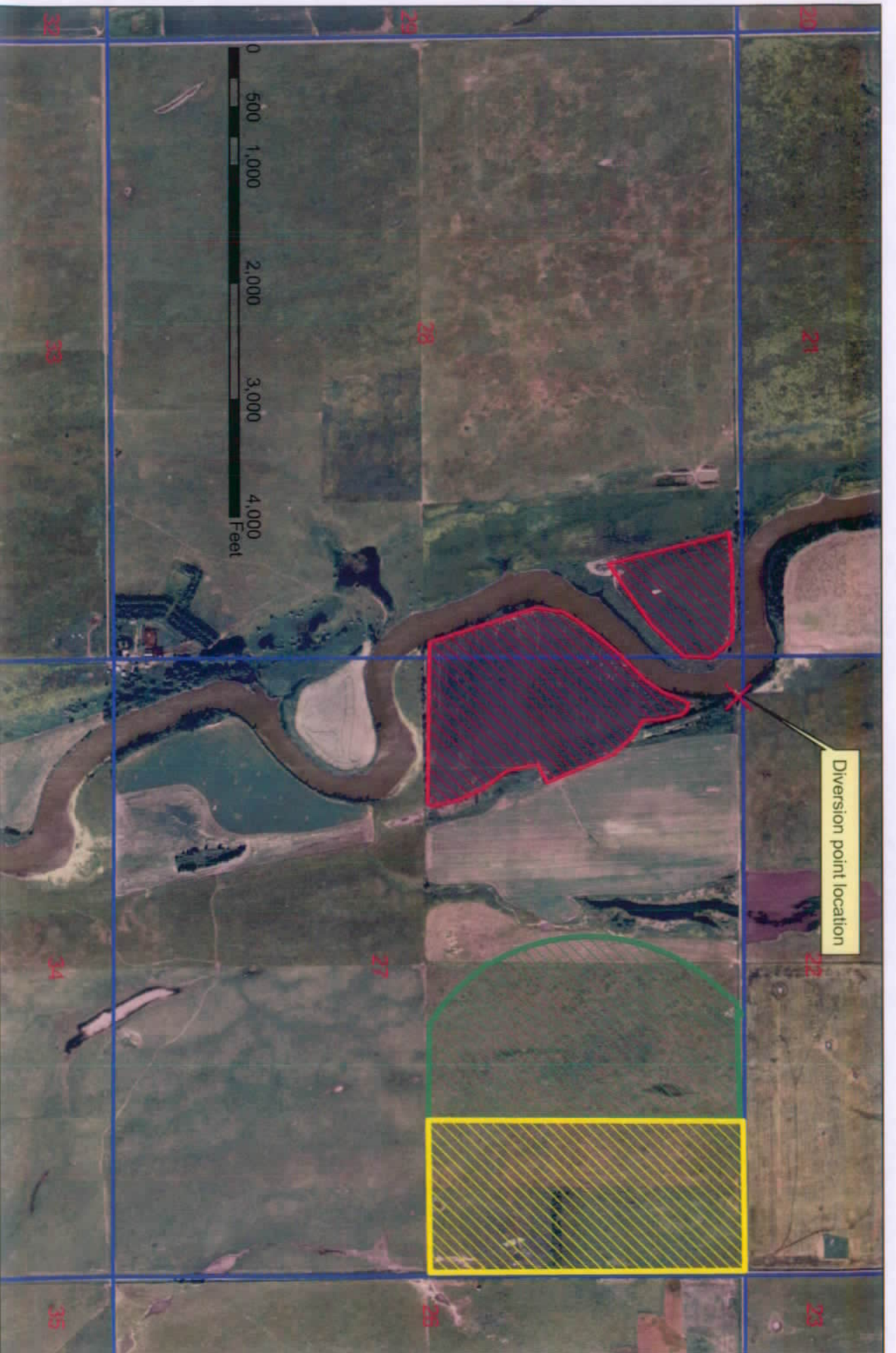
RECEIVED
 JAN 27 2010
 WATER RIGHTS
 PROGRAM

I, WILLIAM M. FINE do hereby certify that
 this map identifies the lands of the HASKELL #1
IRRIGATION PROJECT
 SIGNATURE: William M. Fine
 TITLE: ASS. ENGINEER
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE
 SUBMITTED AND SWORN TO before me this 28 day of
DEC, 1952 A.D.
Michael Johnson
 NOTARY PUBLIC

**HASKELL #1
 IRRIGATION PROJECT**
 SPIKE County, South Dakota
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

Designed	Date	Approved by
Drawn		Title
Traced		Title
Checked		Sheet No. of
		Drawing No.

Oscar Inc Application to Transfer Acreage under WR No. 616-3 and Add New Acreage



Original lands under WR No. 616-3



New Acres



Transfer land to retain WR No. 616-3 priority

Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
January 27, 2010

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

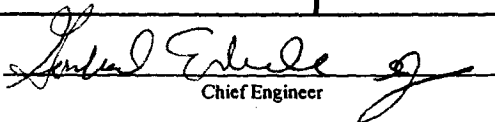
Date 1/27, 2010

RECEIVED OF Oscar Inc 18892 390th Ave Hitchcock SD 57348

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

Fee for Application for Permit No. <u>7183-3</u> to Appropriate Water, to construct and to put water to beneficial use	750	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7183-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	950 00

No. 04421

By 
Chief Engineer

Tim Andersson is agreeable
to the transfer of Acres
under water rights 616-3
To Oscar due, N¹/₂ 27-114-62

Tim Anderson
Jan. 19, 2010



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7183-3, 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. 7183-3, Oscar Inc., c/o Floyd Peterson, 18892 390th Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7183-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Permit No. 7183-3 is subject to the diversion causing no adverse impact to the Topeka Shiner in the James River.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The 80.4 acres and 1.14 cfs diversion rate authority under Water Right No. 616-3 that transferred and are located primarily in the W ½ NE ¼ and E ½ NW ¼ Section 24, T113N, R62W shall retain the June 6, 1959 priority and the original qualification:

Use of water under this permit is subject to flows in the James River of 25 cfs or more past your diversion point.

4. The additional 0.75 cfs diversion rate authority and 83.6 acres located primarily in the E ½ NE ¼ Section 24, T113N, R62W shall have a January 27, 2010 priority date and the following conditions:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, 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.

See report on application for additional information.

Garland Erbele, Chief Engineer
April 7, 2010

REPORT ON WATER PERMIT APPLICATION 7183-3

Oscar Inc.

c/o Floyd Peterson

18892 390th Avenue

Hitchcock, SD 57348

March 26, 2010

Water Permit Application No.7183-3, Oscar Inc., proposes to appropriate 0.75 cubic feet per second (cfs) of water from the James River located in the NW ¼ NW ¼ Sec. 27 to irrigate 83.6 acres located in the NE ¼, E ½ NW ¼; all in Sec. 19-T114N-R62W. The applicant also proposes to: 1) amend Water Right No. 616-3 to transfer the irrigated acres to other land and 2) change the diversion point location.

Water Right No. 616-3 appropriates 1.14 cfs of water from the James River located in the E ½ NE ¼ Section 28 to irrigate 80.4 acres located in the E ½ NE ¼ Section 28 and the W ½ NW ¼ Section 27; all in T114N-R62W. This application proposes to move the location of the 80.4 acres one-half mile east to the E ½ NW ¼, W ½ NE ¼ Section 27-T114N-R62W. This application also proposes to appropriate an additional 0.75 cfs from the James River to irrigate the additional 83.6 acres in the NE ¼ Section 27. The James River diversion point will now be located in the NW ¼ NW ¼ Section 27-T114N-R62W. This application and Water Right No. 616-3, if approved, will authorize a total diversion rate of 1.89 cfs for irrigation of 164 acres.

The annual period of use requested is from May 1 through November 1.

Review of the Water Source

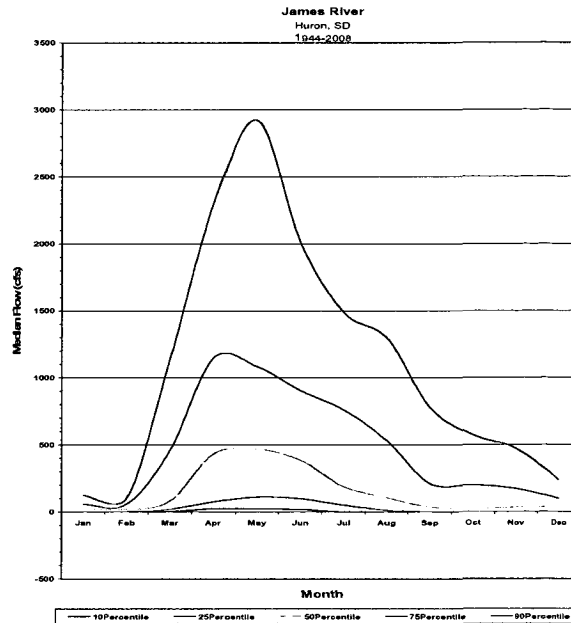
The water source for the proposed project is the James River in Beadle County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation the James River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

The USGS operates a stream flow gaging station approximately 20 miles downstream from the proposed project near Huron, SD. The historical data from 1944 to 2008 for the Huron, SD stream flow gage indicate there is a 50-percent probability monthly median flows could range from 24 to 468 cfs for any given May through November annual period. There is a 75-percent probability monthly median flows could be 0 to 111 cfs or greater during the same period. (Table 1 and Hydrograph 1)

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

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	0	0	3	23	22	18	0	0	0	0	0	0
75%	0	0	19	74	111	98	50	12	0	0	0	0
50%	22	20	78	429	468	384	187	105	35	24	32	34
25%	55	58	457	1145	1080	903	758	529	211	201	171	98
10%	123	100	1138	2300	2918	2004	1486	1294	777	571	471	236

Hydrograph 1



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

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 94 Water Rights with diversions totaling 223.45 cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North Dakota border to Huron, SD there is 59 Water Rights with diversions totaling 135.72 cfs. If Water Permit Application 7183-3 is approved, diversions from both the total river and the Huron, SD to North Dakota river reach would still be below the established limits.

Review of the Proposed Project

The first proposal is to change the diversion point to the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27-T114N-R62W and relocated 80.4 irrigated acres authorized by Water Right No. 616-3 approximately one-half mile east to the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 27-T114N-R62W. The priority date of June 6, 1959 will be retained. The second proposal is to appropriate an additional 0.75 cfs from the James River to irrigate the additional 83.6 acres in the NE $\frac{1}{4}$ Section 27 under a new priority date.

In the spring of 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based upon this study, the Chief Engineer recommended amending the existing qualifications in order to standardize them. In May of 2007 the Water Management Board adopted these standardized qualifications and amended the existing James River water rights/permits. The intent with the amended qualifications was they would be placed on future appropriation from the James River also.

Therefore, if approved, the portion of Application No. 7183-3 amending Water Right No 616-3 should contain the same qualifications listed in No. 616-3. The portion of Application No 7183-3 covered by the 2010 priority date should contain the following bypass qualifications to protect senior James River Water Rights and domestic water use:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, 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.

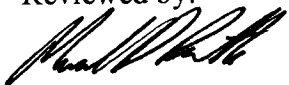
Conclusion

- 1) Water Permit Application No. 7183-3 proposes to change the diversion point and relocate 80.4 irrigated acres authorized by Water Right No. 616-3. The priority date of June 6, 1959 will be retained. The applicant also proposes to appropriate an additional 0.75 cfs from the James River to irrigate the additional 83.6 acres under a new priority date.
- 2) USGS historical data for the Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the annual period of use.
- 3) If Application No. 7183-3 is approved, the following qualifications should be included for the portion covered by the 2010 priority date:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, 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.
- 3) If this application is approved, the total river diversion would be 223.45 cfs which is less than the 300 cfs limit. For the reach from Huron, SD to the North Dakota state line, the total diversion will be 136.47 cfs, well within the 200 cfs limit set by the Water Rights Commission.



Mike DeFea
Natural Resources Project Engineer
DENR, Water Rights Program

Reviewed by:



Mark Rath
Natural Resources Engineering Specialist
DENR, Water Rights Program

Notice of Application

#265

NOTICE OF APPLICATION NO.

7183-3 to Appropriate Water

Notice is given that Oscar Inc., c/o Floyd Peterson, 18892 390th Ave, Hitchcock SD 57348 has filed an application for a water permit to: 1) amend Water Right No. 616-3 to transfer the irrigated acreage to other land, 2) change the diversion point location, 3) appropriate an additional 0.75 cubic feet of water per second (cfs) and 4) irrigation of an additional 83.6 acres. Water Right No. 616-3 appropriates 1.14 cfs from the James River located in the E 1/2 NE 1/4 Section 28 to irrigate 80.4 acres located in the E 1/2 NE 1/4 Section 28 and W 1/2 NW 1/4 Section 27; all in T114N-R62W. This application proposes to move the location of the 80.4 acres one-half mile east to the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 27-T114N-R62W. This application also proposes to appropriate an additional 0.75 cfs from the James River diversion point to irrigate an additional 83.6 acres located in the NE 1/4 Section 27. The James River diversion point will now be located in the NW 1/4 NW 1/4 Section 27-T114N-R62W. This application and Water Right No. 616-3, if approved, will authorize a total diversion rate of 1.89 cfs for irrigation of 164 acres.

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 is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Peterson indicates this transfer proposes to move the irrigation project to an upland site which is less apt to flood and will accommodate a center pivot system.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7183-3 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 this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 3, 2010.

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

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

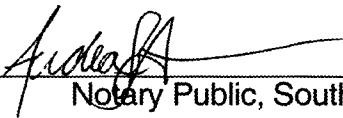
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, 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:

265 Notice of Application

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 Apr. 14th and the last publication being made on Apr. 21st that the Sixty-one and .04/100 Dollars, 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.



Subscribed and sworn to before me this 21st day of Apr., 2010.



Notary Public, South Dakota

My commission expires 04/06/2016.

RECEIVED

MAY 05 2010

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

April 8, 2010

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7183-3 to Appropriate Water to be published twice. Please publish the first notice on April 14, 2010 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Inc., c/o Floyd Peterson, 18892 390th 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

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

No. 7183-3

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

Date _____

We are in receipt of your letter of April 8, 2010 enclosing Notice to Appropriate Water by Application No. 7183-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

April 8, 2010

Oscar Inc
Floyd Peterson
18892 390th Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application No. 7183-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Redfield Press printed at Redfield SD (Ph # 605-472-0822). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

enclosures

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

Instruction to Newspaper - Publish first Notice on April 14, 2010 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7183-3 to Appropriate Water

Notice is given that Oscar Inc., c/o Floyd Peterson, 18892 390th Ave, Hitchcock SD 57348 has filed an application for a water permit to: 1) amend Water Right No. 616-3 to transfer the irrigated acreage to other land, 2) change the diversion point location, 3) appropriate an additional 0.75 cubic feet of water per second (cfs) and 4) irrigation of an additional 83.6 acres. Water Right No. 616-3 appropriates 1.14 cfs from the James River located in the E ½ NE ¼ Section 28 to irrigate 80.4 acres located in the E ½ NE ¼ Section 28 and W ½ NW ¼ Section 27; all in T114N-R62W. This application proposes to move the location of the 80.4 acres one-half mile east to the E ½ NW ¼, W ½ NE ¼ Section 27-T114N-R62W. This application also proposes to appropriate an additional 0.75 cfs from the James River diversion point to irrigate an additional 83.6 acres located in the NE ¼ Section 27. The James River diversion point will now be located in the NW ¼ NW ¼ Section 27, T114N, R62W. This application and Water Right No. 616-3, if approved, will authorize a total diversion rate of 1.89 cfs for irrigation of 164 acres.

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 is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Peterson indicates this transfer proposes to move the irrigation project to an upland site which is less apt to flood and will accommodate a center pivot system.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7183-3 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 this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 3, 2010.

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

Published twice at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 14 2010

Oscar Inc
Floyd Peterson
18892 390th Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water Permit No. 7183-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system 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.

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

October 21, 2010

Floyd Peterson
209 27th 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 30th 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,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures

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

MAIL TO: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

Date December 2, 2010

RECEIVED

DEC - 2 2010

**WATER RIGHTS
PROGRAM**

FROM: Oscar, Inc. - Floyd Peterson
(name)

209 27th St NW
(address)

Huron SD 57350
(city) (state) (zip)

(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. 7183-3 states that the water use system is to be constructed by

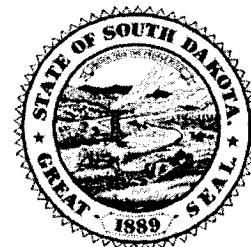
May 3, 2015, and water is to be put to beneficial use by May 3, 2019
(date) (date)

The water use system was completed on August 2010
(date)

Applying the water to beneficial use was completed on not run yet
(date)

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

Oscar Inc. Floyd Peterson





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 9, 2010

7183-3

Floyd Peterson
Oscar Inc
209 27th St NW
Huron SD 57350

Dear Mr. Peterson:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



**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 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

August 9, 2012

Oscar Inc
209 27th 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 10th 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 27th 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 10th 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

Permit No. 7183-3 & 616-3
James River - Water District

Contact Person & Address: **Floyd Peterson, 18892 390th Ave, Hitchcock SD 57348**

Report Of Examination Of Works

On, **August 27 2013**, I made a thorough examination of the water use system constructed by **Oscar, Inc** holder of Water Right No. **616-3**, bearing the priority of **June 6, 1959** authorizing the diversion of **1.14** cu. ft. per second and Permit No. **7183-3**, bearing the priority of **January 27 2010** authorizing the diversion of **0.75** cu. ft. per second of the waters of **the James River** for **irrigation** purposes, in **Spink** County.

The system is in the following condition **good**. The point of diversion is located **from the NW corner of Sec 27 T114N-R62W, 300 ft E 50 ft S** with latitude of **44.661614** and a longitude of **-98.280193** as determined using **GPS**. The works are capable of diverting and conveying to the place of use **1.89** 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:

All land is located in **Sec 27-T114N-R62W**

<u>NW ¼ NE ¼ - 37 ac</u>	<u>NE ¼ NE ¼ - 32 ac</u>	<u>SE ¼ NE ¼ - 32 ac</u>	<u>SW ¼ NE ¼ - 37 ac</u>
<u>NE ¼ NW ¼ - 5 ac</u>	<u>SE ¼ NW ¼ - 5 ac</u>		

comprising a total of **148** acres of land and the license should be issued for **1.89** cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by **yes**
- 2) All structures, wells and lands on map **yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **yes**.
- 4) Exceptions to compliance are: **none**

Report On the Specifics of the System

Diversion Point Information:

Pump:

- 1) Make Cornell 2) Model 6RB-F18 3) Size 6 4) Capacity 2400 GPM

Motor:

- 1) Make John Deere 2) Model No. 6066HF285 3) Horsepower rating 200 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type PVC 2) Size 10 inches 3) Length 5000 feet

SYSTEM TYPE:

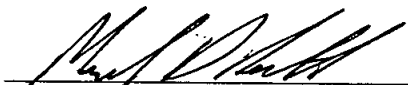
Center pivot:

- 1) Make T-L 2) Overall length 1320 feet
3) Number of towers 2 4) End gun yes
5) High or low pressure lo 6) Capacity 850 GPM

CHEMIGATION EQUIPMENT:

- 1) Does chemigate yes 2) Main line check valve yes
3) Inspection port/air relief yes 4) Low pressure drain yes
5) Discharge is 20' from source yes 6) Interlock type electric
7) Injection pump type positive 8) Injection check valve yes
9) Injection line check valve or positive displacement pump yes
10) All chemigation equipment appears to be installed in the proper position and complies with chemigation laws and rules yes

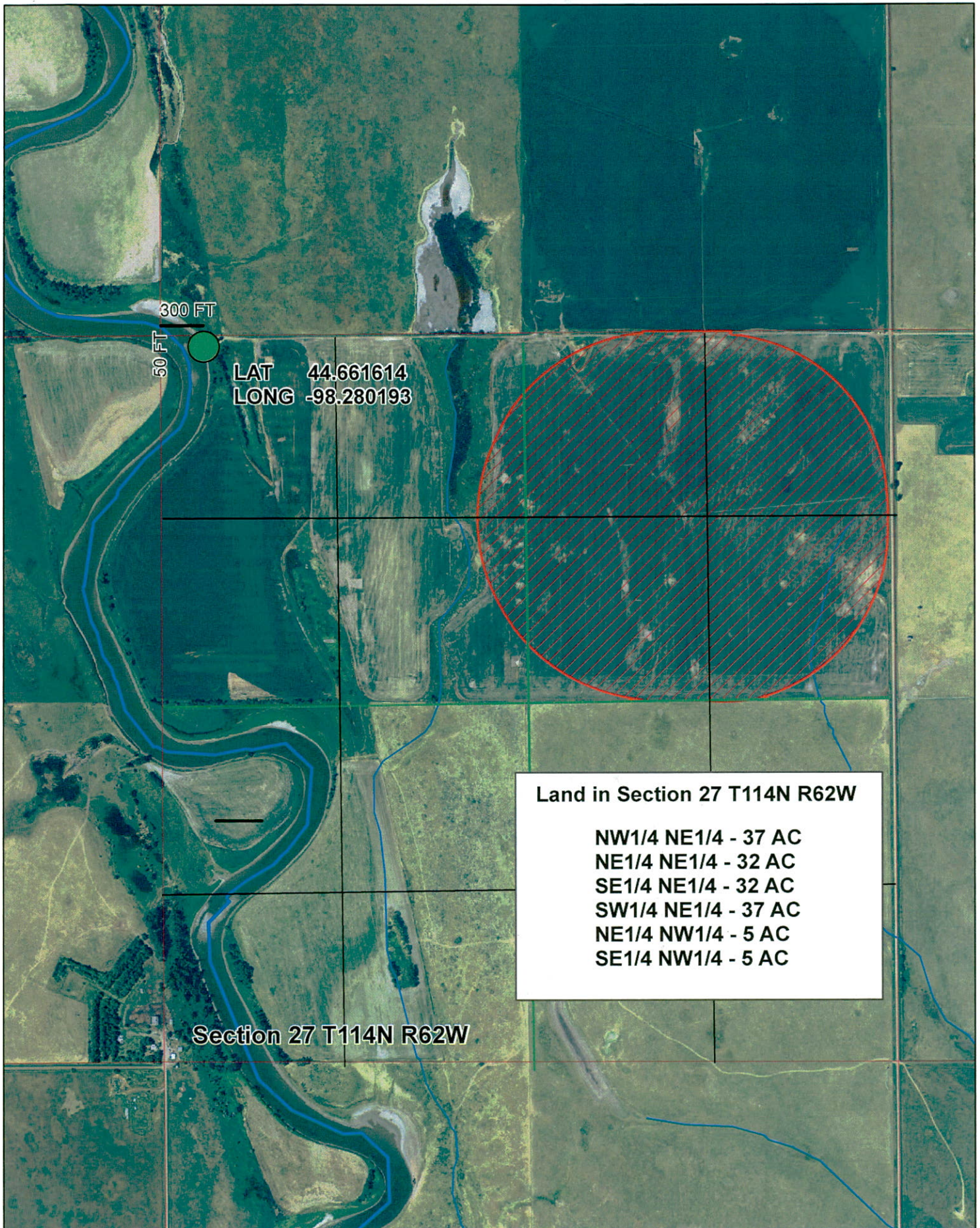
Comments : River pump is utilized by multiple irrigation systems covered under other permits including Water Right No. 6183-3 held by Oscar, Inc and Water Right No. 7234-3 for Petersen Farms so has a greater total capacity than is authorized by this permit. The system capacity is limited by the center pivot capacity.



Mark D. Rath
Natural Resources Engineer III
DENR, Water Rights Program

9-3-2013

Date



NO. 7183-3



1,600

800

0

1,600 Feet

Mark V. Smith
9-3-2013

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7183-3**

(1) Oscar Inc., % Floyd Peterson, 209 27th St NW, Huron SD 57350-5010 made Application No. 7183-3, January 27, 2010 for a water permit to divert 0.75 cubic feet of water per second (cfs) from the James River, Spink County, South Dakota for irrigation purposes. Permit No. 7183-3, with a priority date of January 27, 2010 was approved May 3, 2010 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, 2015 and for the application to beneficial use of said water on or before May 3, 2019.

Water Permit No. 7183-3 authorized the following 1) an amendment to Water Right No. 616-3 to transfer the irrigated acreage to other land, 2) changed the diversion point location, 3) appropriated an additional 0.75 cfs and 4) added 83.6 acres of additional land to the proposed irrigation project.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on December 2, 2010 indicating the project was completed in August 2010. Based on completion of the project and following the field investigation of the water use system, Water License No. 7183-3 is being issued for the system as it was developed. The applicable portions of Water Right No. 616-3 have been incorporated into Water License No. 7183-3.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.89 cubic feet of water per second for beneficial use. The location of the diversion point is 300 feet east and 50 feet south of the NW corner of Section 27, T114N, R62W (NW ¼ NW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

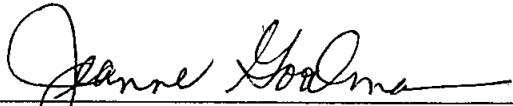
Section 27, T114N, R62W			
NW ¼ NE ¼	37 acres	NE ¼ NW ¼	5 acres
NE ¼ NE ¼	32 acres	SE ¼ NW ¼	5 acres
SE ¼ NE ¼	32 acres		
SW ¼ NE ¼	37 acres	Total	148 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Oscar Inc., % Floyd Peterson, 209 27th St NW, Huron SD 57350-5010 the holder and/or owner of Incorporated Water Right No. 7183-3 is issued a license to appropriate water, the right to use 1.89 cubic feet of water per second from the James River with priority dates of June 6, 1959 (1.14 cfs and 80.4 acres) and January 27, 2010 (0.75 cfs and 67.6 acres) from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 7183-3 and subject to the following qualifications:

- Permit No. 7183-3 is subject to the diversion causing no adverse impact to the Topeka Shiner in the James River.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

- The 80.4 acres and 1.14 cfs diversion rate authority under Water Right No. 616-3 that transferred and is located primarily in the E $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 27, T114N, R62W shall retain the June 6, 1959 priority along with the original qualification:
 - a) Use of water under this permit is subject to flows in the James River of 25 cfs or more past your diversion point.
- The additional 0.75 cfs diversion rate authority and the developed 67.6 acres located primarily in the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 27, T114N, R62W shall have a January 27, 2010 priority date and the following conditions:
 - a) This permit does not authorize diversion of water from the James River after August 10th of each calendar year 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.
 - b) 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.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 11 2013

date



7183-3



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

616-3
7183-3

Floyd Peterson
Oscar Inc
209 27th St NW
Huron SD 57350 5010

Dear Mr. Peterson:

Enclosed is Water License No. 7183-3. 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.

On the water license, please note the qualifications that are listed. When Water Permit No. 7183-3 was originally issued, it contained qualifications relevant to both Water Right No. 616-3 and Water Permit No. 7183-3. The legal descriptions described in the qualifications were inadvertently listed as Section 24, T113N, R62W. These descriptions were corrected during the licensing process as being in Section 27, T114N, R62W.

Upon licensing, the applicable portions of Water Right No. 616-3 were incorporated into No. 7183-3. 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



**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 10th unless you contact the Water Rights Program and receive permission to continue to divert water.

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program