

WATER PERMIT NO. 7834-3

Name of Applicant: Mike Neuharth

Address: 28787 433rd Ave, Menno SD 57045 Phone: 605 661-7747

Amount of Water Claimed: 1.78 cfs Total Acres: 115 acres

Source of Water Supply: James River

Water to be used for: irrigation County: Hutchinson

Type of Waste Disposal System:

Location: 2 miles northwest of Menno

PRIORITY Date Received: 4-15-13

Application/License Fee: \$ 950

Corrected Application Received: 4-22-13

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: SE 1/4 SE 1/4 Sec 36-T98N-R58W and NW 1/4 SW 1/4 Sec 31-T98N-R57W

Land to be Irrigated: SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 Sec 31-T98N-R57W and E 1/2 SE 1/4 Sec 36-T98N-R58W

Depth of Well: NA

Well Driller:

Remarks:

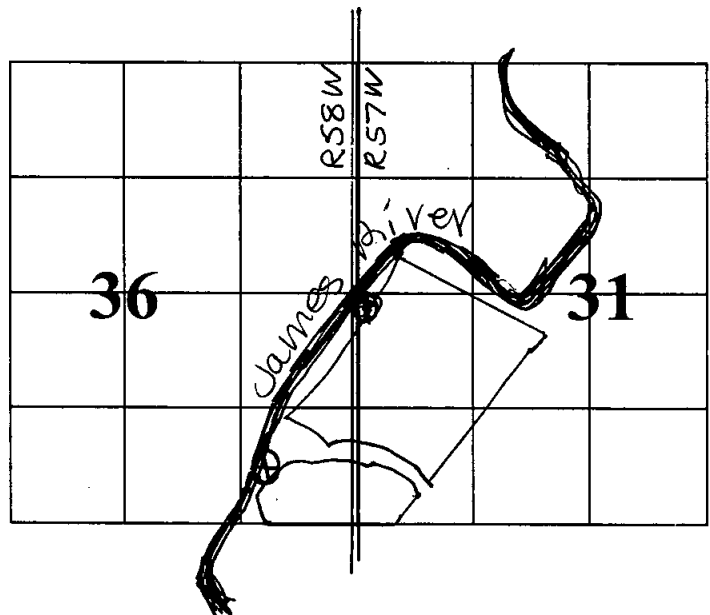
Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 4-22-13

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>7834-3</u> (office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u> <u>605-3875155</u>
	Newspaper <u>Hutchinson Herald Box 506 Menno</u> <u>605-665-7811</u> <u>57045</u>
	<u>Daily Press & Dakotan 319 Walnut Yankton 57028</u>

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APR 15 2013
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.)

1. Name to Appear on Irrigation Permit Mike Neuharth

(check one) ☐ Owner ☒ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 28787 433rd Ave Menno SD 57045
(Address) (City) (State) (Zip Code)

Home Phone 605-661-7747 Cell 605-661-7747 Email neuharthm@hotmail.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 115
(*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 T98N-R58W

4. Location of point of diversion SE 1/4 SE 1/4 Section 36 and NW 1/4 of Section 31 SW 1/4
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
Sec 31- T98N-R57W County Hutchinson

5. County or counties where water will be used Hutchinson

6. Annual period during which water is to be used May- September 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.

(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
T98N R58W SE 1/4 of SE 1/4 sec 36	40		
T98N R57W W 1/2 of S 1/2 sec 31	75		
see map for acreage breakdown			

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

I plan to irrigate using water from the James River. The method of irrigation would be a traveling gun but in the future may switch to a pivot which is why I am claiming 800 GPM

I, Mike Neuharth, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

SOUTH DAKOTA
WATER PERMIT NO. 7834-3

Date of first receipt of application April 15, 2013.

Date of return to applicant for corrections, amendments or changes April 15, 2013.

Date of receipt of corrected application April 22, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7834-3 to Mike Neuharth, 28787 433rd Ave, Menno SD 57045 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7834-3 appropriates 1.78 cubic feet of water per second from the James River located in the SE 1/4 SE 1/4 Section 36-T98N-R58W and the NW 1/4 SW 1/4 Section 31-T98N-R57W for irrigation of 115 acres located in the SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 Section 31-T98N-R57W and E 1/2 SE 1/4 Section 36-T98N-R58W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is April 15, 2013.
4. The date of approval of Permit No. 7834-3 is July 8, 2013.
5. One-fifth of the construction is to be completed on or before January 8, 2016.
6. All construction is to be completed on or before July 8, 2018.
7. Water is to be put to beneficial use on or before July 8, 2022.
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. Diversion of water from the James River shall be in accordance with the following criteria:
 - 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 James River when there is less than 20-cfs bypassing the USGS gaging station at Scotland SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

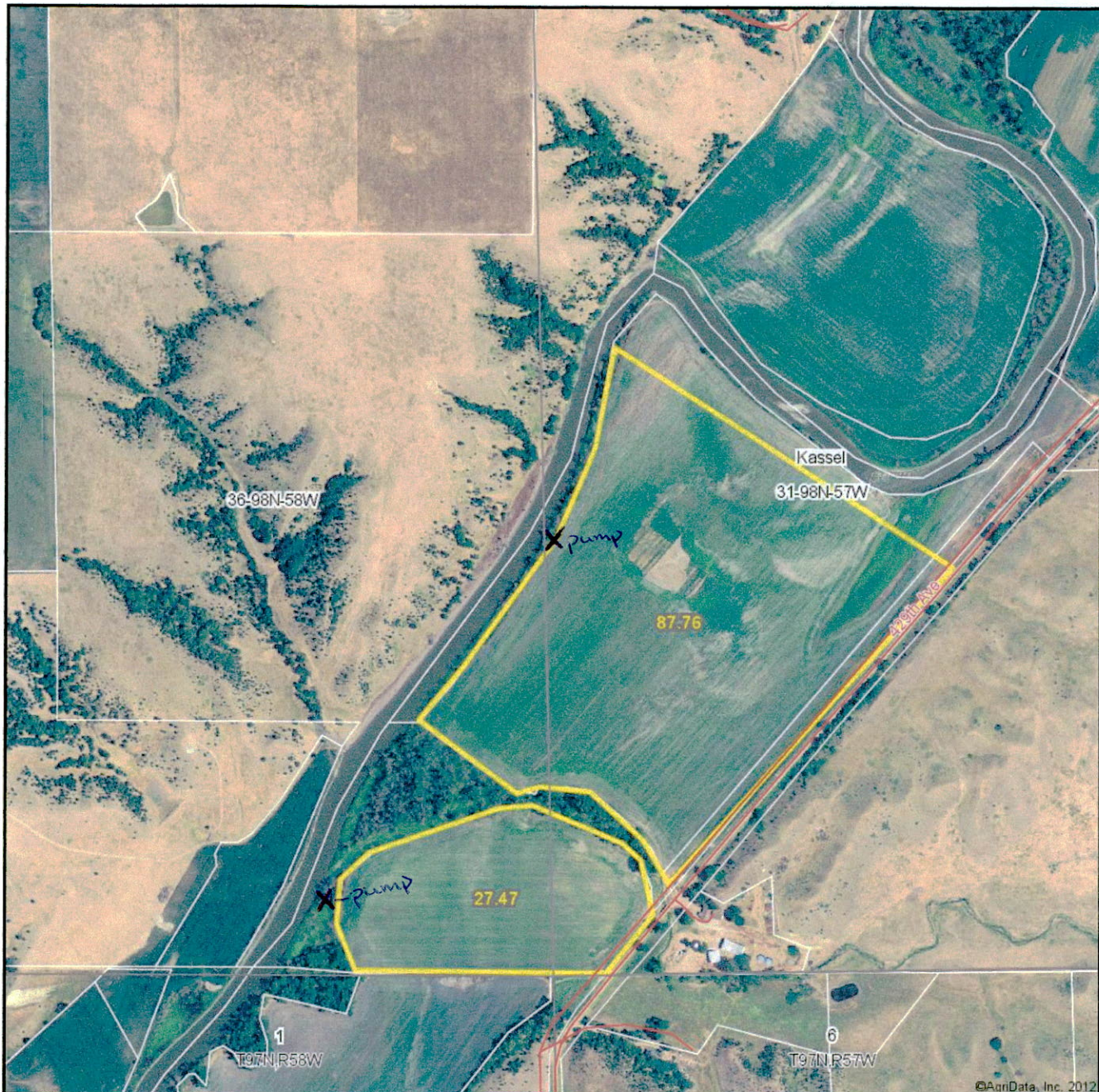
By: 
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 29 2013

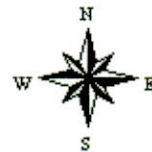
date



Aerial Map



Maps provided by:

©AgriData, Inc. 2013
www.AgriDataInc.com31-98N-57W
Hutchinson County
South Dakotamap center: 43° 15' 43.22, 97° 38' 19.61
scale: 10107

4/12/2013

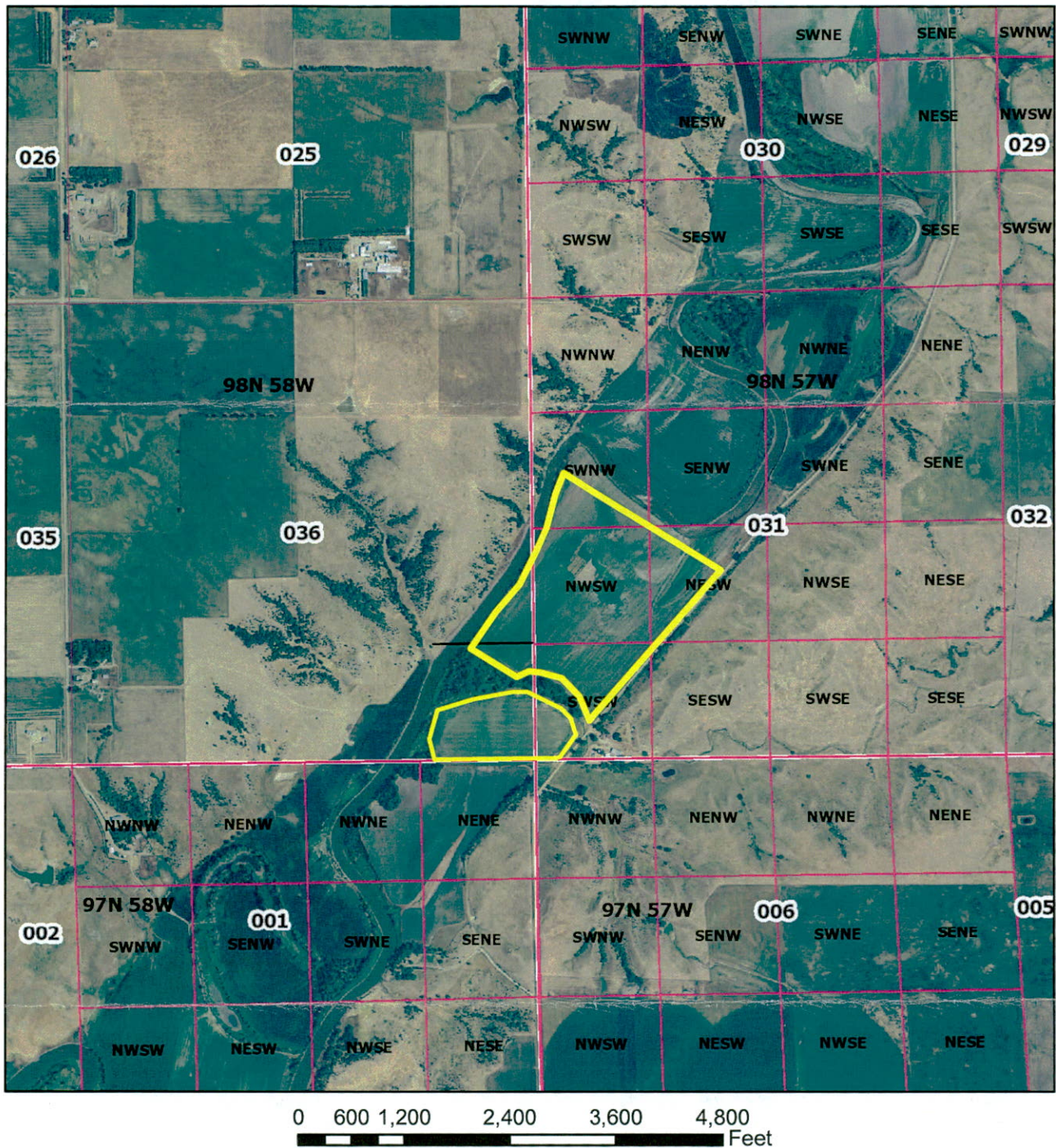
Field borders provided by Farm Service Agency as of 5/21/2008. Aerial photography provided by Aerial Photography Field Office.

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Neuharth Application



SW 1/4 NW 1/4 Section 31, T98N, R57W - 8.3 acres
 NW 1/4 SW 1/4 Section 31, T98N, R57W - 39.5 acres
 NE 1/4 SW 1/4 Section 31, T98N, R57W - 13.6 acres
 SW 1/4 SW 1/4 Section 31, T98N, R57W - 22.3 acres

NE 1/4 SE 1/4 Section 36, T98N, R58W - 8.1 acres
 SE 1/4 SE 1/4 Section 36, T98N, R58W - 23.2 acres

TOTAL - 115 acres

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APR 22 2013

WATER RIGHTS
PROGRAM

Eric Gronlund

Eric Gronlund
 Water Rights Program, DENR
 acreage breakdown based on map
 provided with application



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

RECEIVED OF Michael Neuharth 43033 284th St Menno SD 57045 Date 4/22, 20 13

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

Fee for Application for Permit No. <u>7834-3</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>7834-3</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. **06311**

By Jeanne Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

April 15, 2013

Mike Neuharth
28787 433rd Ave
Menno SD 57045

Dear Mr. Neuharth:

Thank you for submitting the *Application for a Permit to Appropriate Water* from the James River in Hutchinson County. In order to complete the application, the following is required.

- Enclosed is an aerial photo map which duplicates the map submitted with the application. This map lists a breakdown of the number of acres located within each quarter, quarter of Sections 31 and 36. Do you agree with these amounts?
- The application/license filing fee to irrigate 115 acres will be \$950.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures



**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. 7834-3, Mike Neuharth**

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. 7834-3, Mike Neuharth, 28787 433rd Avenue, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 7834-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) as conditioned 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:
 - 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 James River when there is less than 20-cfs bypassing the USGS gaging station at Scotland SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

A handwritten signature in black ink that reads "Jeanne Goodman".

Jeanne Goodman, Chief Engineer
June 21, 2013

REPORT ON WATER PERMIT APPLICATION NO. 7834-3

Mike Neuharth

June 4, 2013

Mike Neuharth, has filed Water Permit Application No. 7834-3 to appropriate 1.78 cubic feet of water per second (cfs) from the James River to irrigate 115 acres of land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31-T98N-R57W and E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36-T98N-R58W. The diversion point is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36, T98N-R58W. The applicant is asking for a diversion rate greater than the statutory limit of 1-cfs per 70 acres of land to be irrigated due to method of irrigation. The annual period of use is May 1 through September 30.

Review of Project

The project will irrigate 115 acres of land located along the James River in Hutchinson County. The method of irrigation is to be a traveling gun system to be replaced by a center pivot in the future. At the requested diversion rate of 1.78-cfs, water will be applied at 1.08-cfs per 70 acres, slightly above the statutory limit. The diversion rate is requested to accommodate the future center pivot system.

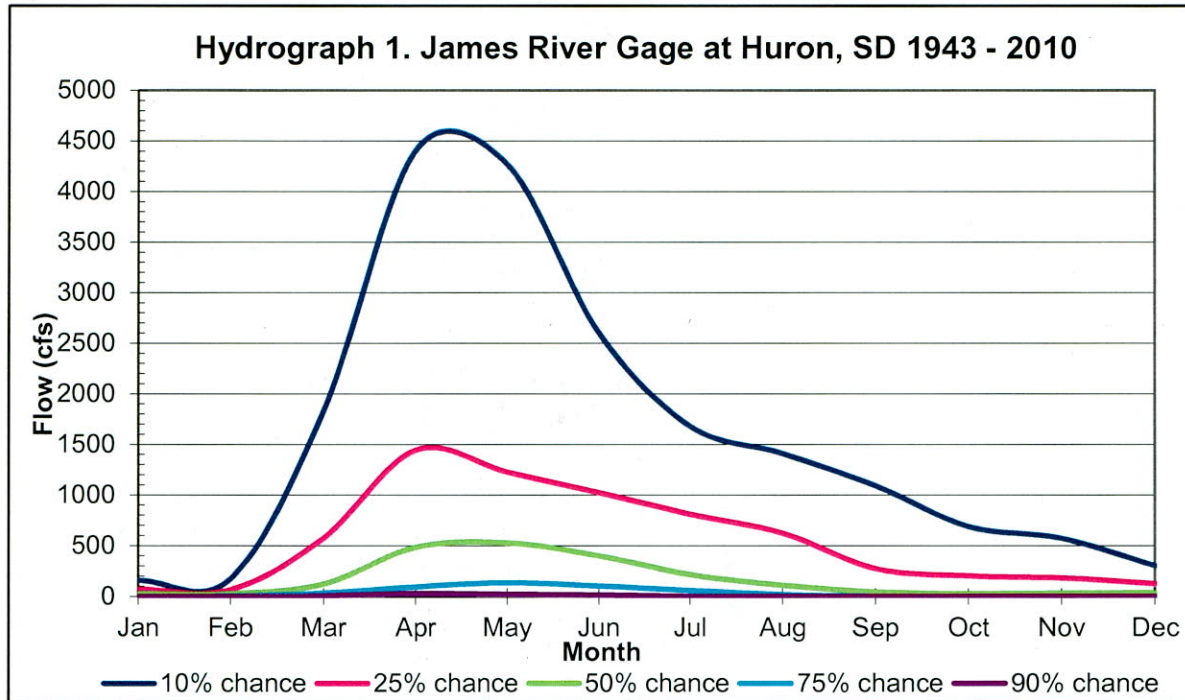
Review of Water Source

The water source for the proposed project is the James River in Hutchinson 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 Huron, SD, approximately 100 river miles upstream of the proposed project. The historical data from 1944 to 2010 for the Huron, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 40 to 525-cfs May through September of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 0 to 131-cfs for the same time period. (Table 1 and Hydrograph 1)

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

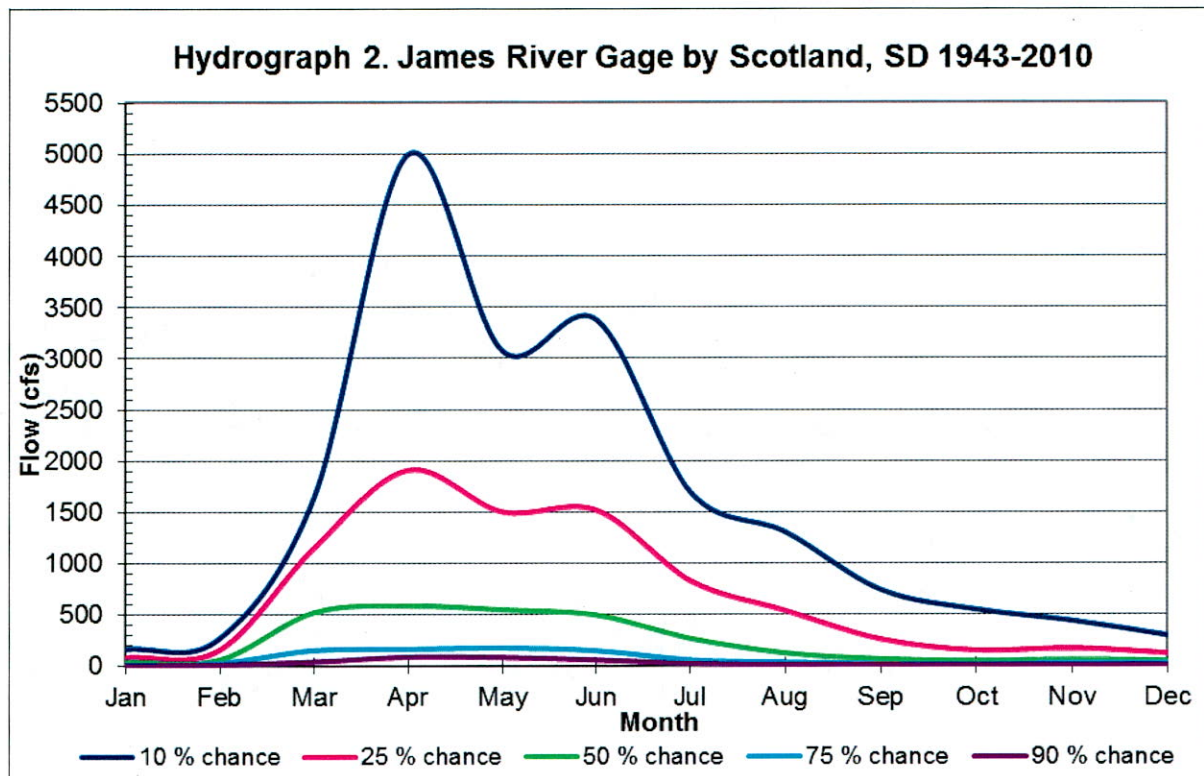
Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10% chance	155	172	1831	4404	4262	2597	1677	1407	1088	687	570	299
25% chance	68	64	574	1442	1224	1021	808	620	271	200	179	121
50% chance	24	23	120	482	525	397	212	107	40	24	30	33
75% chance	0	2	29	91	131	99	56	15	0	0	0	0
90% chance	0	0	5	27	19	12	0	0	0	0	0	0



The U.S. Geological Survey (USGS) also operates a stream flow gaging station on the James River at Scotland, SD, approximately 12 river miles downstream of the proposed project. The historical data from 1943 to 2010 for the Scotland, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 60 to 543-cfs May through September of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 16 to 170-cfs for the same time period. (Table 2 and Hydrograph 2)

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

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10 % chance	162	266	1648	4996	3074	3378	1695	1302	738	546	435	292
25 % chance	84	155	1150	1907	1500	1516	827	534	255	146	166	117
50 % chance	37	56	518	581	543	490	262	119	60	42	54	43
75 % chance	16	26	148	158	170	143	52	29	16	16	22	20
90 % chance	6	13	38	84	80	54	21	10	8	4	6	7



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. As an example, during normal climatic conditions, a July median flow at the Stratford gage of 262-cfs represents water bypassing the gage after 50% of the upstream appropriated irrigation withdrawals have taken place.

USGS historical data for the Huron, SD and Scotland, SD stream flow gages indicate that water is available in the James River during normal to wetter climatic conditions for the May through September annual period. During normal to dryer climatic conditions for the May through September annual period the James River cannot be considered a reliable source of water. To address low flow conditions the James River may be subject to shut-off orders.

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 North Dakota border to Huron, SD. 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 108 Water Rights with diversions from the James River totaling 294.90-cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North

Dakota border to Huron, SD there are 72 Water Rights with diversions from the James River totaling 183.53-cfs. If approved, Water Permit Application 7834-3 would bring the total diversion from the James River from the North Dakota border to the Yankton-Hutchinson County Line to 296.68-cfs. The North Dakota border to Huron, SD river reach would remain at 183.53-cfs. This leaves 3.32-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line.

The closest water right diverting water from the James River is located 3 miles downstream of this project. Water Right No. 6131-3, owned by Daniel Ulmer, authorizes 0.77-cfs. There are three other water rights located within approximately five miles downstream of this application. See Table 1 for a list of the six downstream water rights.

The closest water right diverting water from the James River upstream of this project is 9 miles. Water Right No. 2385-3, owned by Clinton Bauer, authorizes 1.3-cfs.

Downstream James River Water Rights

WR No.	Appx. Distance Downstream From Application (miles)	Diversion (cfs)	WR Holder
6131-3	3.1	0.77	Daniel Ulmer
6506-3	3.7	0.00	Mark Rames
5392A-3	4	1.34	John Ulmer
6132-3	5.2	0.85	Daniel Ulmer

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

Review of Qualifications

In 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based on this review, the Chief Engineer recommended amending the existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and amended the existing water rights/permits. In addition, it was the intent that future appropriations of water from the James River be administered with the same amended qualifications.

Therefore, if approved, Application No. 7834-3 should contain the following qualifications.

- 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 Scotland, SD after pumping.

Conclusions

1. Water Permit Application No. 7834-3, Mike Neuharth, proposes to irrigate 115 acres of land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31-T98N-R57W and E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 36-T98N-R58W. The diversion point is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 36, T98N-R58W.
2. USGS historical data for the Huron and Scotland, SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the May through September annual period.
3. The applicant is asking for a diversion rate greater than the statutory limit of 1-cfs per 70 acres of land to be irrigated due to method of irrigation.
4. If Application No 7834-3 is approved, the following qualifications should be included:
 - 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 Scotland, SD after pumping.
5. If Application No. 7834-3 is approved, the total James River diversion of 296.68-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, would remain at 183.53-cfs, within the 200-cfs limit set by the Water Rights Commission.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

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JUN 28 2013

WATER RIGHTS
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County of Hutchinson)

) ss.

State of South Dakota)

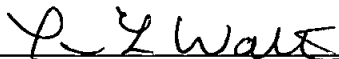
Tim L. Waltner, of said county and state, being duly sworn, depose and says: That the Hutchinson Herald is a weekly newspaper of general circulation and a legal newspaper as required by law, printed and published in the county of Hutchinson and state of South Dakota by Tim L. Waltner, and has been published during the time hereinafter mentioned. I, Tim L. Waltner, the undersigned, am publisher of said newspaper and have full knowledge of all the facts stated in this affidavit, and I have caused this advertisement headed Approp. Water - Neuharth

a printed copy of which is hereto attached, was printed and published in the said newspaper for one successive week.

The first publication on:
June 26, 2013

the second publication on:
and the third publication on:

That the full amount of the fees charged for publication to-wit: The sum of \$23.81 insures solely to the benefit of the publisher of the Hutchinson Herald, that no agreement or understanding for any division thereof has been made with any other person whomsoever, and the amount of \$23.81 for publishing legal notices.



Subscribed and sworn to before me this 30th day of June 2013.



Notary Public
Commission expires: 10/9/18

Publication fee: \$23.81
Notary fee:
Total: \$23.81

**NOTICE OF APPLICATION NO. 7834-3
to Appropriate Water**

Notice is given that Mike Neuharth, 28787 433rd Ave, Menno SD 57045 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from the James River located in the SE 1/4 SE 1/4 Section 36-T98N-R58W and the NW 1/4 SW 1/4 Section 31-T98N-R57W for irrigation of 115 acres located in the SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 Section 31-T98N-R57W and E 1/2 SE 1/4 Section 36-T98N-R58W. The applicant is requesting a diversion rate greater than the statutory limit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7834-3 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 July 8, 2013.

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. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at an
approximate cost of \$23.00
01-19HH

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YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Notice of Application No. 7834-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 26th DAY OF June 2013
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$27.97 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND 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.

PUBLISHED ON: 6/26/2013

FILED ON: 6/26/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26th DAY OF June 2013

Miner O. Pinner

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

6/11/2019

Notice is given that Mike Neu-
harth, 28787 433rd Ave. Menno
SD 57045 has filed an application
for a water permit to appropriate
1.78 cubic feet of water per sec-
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in the SE 1/4 SE 1/4 Section
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for irrigation of 115 acres located
in the SW 1/4 NW 1/4, N 1/2 SW
1/4, SW 1/4 SW 1/4 Section
31-T98N-R57W and E 1/2 SE
1/4 Section 36-T98N-R58W.
The applicant is requesting a di-
version rate greater than the statu-
tory limit.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends AP-
PROVAL of Application No.
7834-3 because 1) unappropriated
water is available, 2) existing
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water, and 4) it is in the public in-
terest. In accordance with SDCL
46-2A-23, the Chief Engineer will
act on this application, as recom-
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opposing the application or the
applicant files a petition contest-
ing the Chief Engineer's recom-
mendation. 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 writ-
ten petition with BOTH the appli-
cant and Chief Engineer. The ap-
plicant must file a petition if con-
testing the Chief Engineer's recom-
mendation. The Chief Engi-
neer'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 inter-
ested person or the applicant must
be filed by July 8, 2013.

The petition may be informal, but
must include a statement describ-
ing the petitioner's interest in the
application, the petitioner's rea-
sons for opposing or supporting
the application, and the signature
and mailing address of the peti-
tioner or the petitioner's legal
counsel, if legal counsel is ob-
tained. Contact Eric Gronlund at
the above Water Rights Program
address to request copies of infor-
mation pertaining to this applica-
tion. Steven M. Pinner, Secretary,
Department of Environment and
Natural Resources.

Published once at the total ap-
proximate cost of \$27.97.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 21, 2013

Hutchinson Herald
PO Box 506
Menno SD 57045

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7834-3 to Appropriate Water. Please publish the notice once on June 26, 2013. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Mike Neuharth, 28787 433rd Ave, Menno SD 57045 (Ph # 605-661-7747).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund/KS

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 21, 2013

Daily Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7834-3 to Appropriate Water. Please publish the notice once on June 26, 2013. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Mike Neuharth, 28787 433rd Ave, Menno SD 57045 (Ph # 605-661-7747).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund /ks

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, June 21, 2013 11:07 AM
To: 'neuharth@hotmail.com'
Subject: Application No. 7834-3
Attachments: Sbizhub 42113062111110.pdf

Eric Gronlund asked me to send you the attached info regarding the your water permit application. Please contact the two papers to authorize publication and arrange for payment ASAP. Paper copies being mailed today.

Karen Schlaak
Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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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.

June 21, 2013

Mike Neuharth
28787 433rd Ave
Menno SD 57045

Dear Mr. Neuharth:

Water Permit Application No. 7834-3 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 Hutchinson Herald printed at Menno SD (Ph # 605-357-5158) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. 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 /KS

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
enclosures

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

Instruction to Newspaper - Publish the Notice on June 26, 2013. 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. 7834-3 TO APPROPRIATE WATER

Notice is given that Mike Neuharth, 28787 433rd Ave, Menno SD 57045 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from the James River located in the SE 1/4 SE 1/4 Section 36-T98N-R58W and the NW 1/4 SW 1/4 Section 31-T98N-R57W for irrigation of 115 acres located in the SW 1/4 NW 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4 Section 31-T98N-R57W and E 1/2 SE 1/4 Section 36-T98N-R58W. The applicant is requesting a diversion rate greater than the statutory limit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7834-3 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 July 8, 2013.

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 once at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
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PMB 2020
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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

AUG 29 2013

Mike Neuharth
28787 433rd Ave
Menno SD 57045

Dear Mr. Neuharth:

Enclosed is Water Permit No. 7834-3 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,

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

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



August 8, 2014

No. 7834-3

Mike Neuharth
28787 433rd Ave
Menno SD 57045

Dear Neuharth:

This letter is in reference to your telephone call regarding water availability and requesting permission to continue irrigation for Water Permit No. 7834-3 from the James River after the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to the end of the 2014 irrigation season.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program

7834-3
RECEIVED

DEC 01 2014

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 11-13-14TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181FROM: Mike Neuhauss

(name)

28787 433rd Ave

(address)

Menno, SD 57045

(city, state, zip)

605-661-7747

(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. 7834-3 states that the water use system is to be constructed by7-15-14

(date)

, and water is to be put to beneficial use by 7-15-14

(date)

The water use system was completed on 7-15-14

(date)

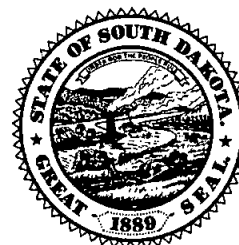
Applying the water to beneficial use was completed on 7-15-14

(date)

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

Mike Neuhauss

(signature)





**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



December 11, 2014

7834-3

Mike Neuharth
28787 433rd Ave
Menno SD 57045

Dear Mr. Neuharth:

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,

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



7834-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

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

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7834-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 7834-3 qualification:

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

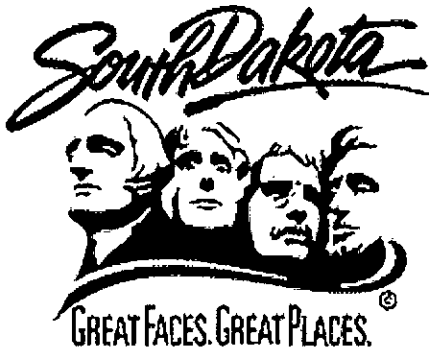
The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 7834-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: VKACDS**

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



7834-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 18, 2020

7834-3

Mike Neuharth
28494 County Rd 11
Olivet SD 57052 6604

Dear Mr. Neuharth:

I am writing to acknowledge receipt of your 2019 irrigation questionnaire.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit No. 7834-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



**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



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

January 20, 2023

NOTICE

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

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6131-3 & 7834-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6131-3 & 7834-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6131-3 & 7834-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: HCCXKB**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 7, 2023

6131-3
7834-3

Mike Neuharth
28494 County Rd 11
Olivet SD 57052

Dear Mr. Neuharth:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 6131-3 & 7834-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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