

WATER PERMIT NO. 8241-3

Name of Applicant: Arne Svarstad

Address: 13797 392nd Ave, Aberdeen SD 57401

Phone: 605 228-8913

Amount of Water Claimed: 1.91 cfs

Total Acres: 134 acres

Source of Water Supply: James River

Water to be used for: irrigation

County: Brown

Type of Waste Disposal System:

Location: 2 miles northeast of Bath

PRIORITY

Date Received: 9-26-16

Application/License Fee: \$ 850

Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks: Lands were originally permitted under No. 7892-3

Diversion Point: normal flow SE 1/4 NE 1/4 Sec 29
and NE 1/4 SW 1/4 Sec 28; T122N-R62W

Land to be Irrigated: SW 1/4 Sec 27-T122N-R62W

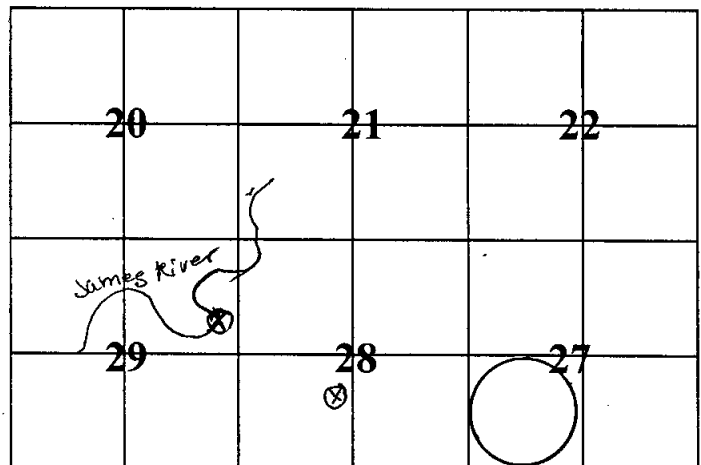
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:



Reviewed and the Number Assigned on: 9-27-16

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8241-3</u> (office use only) Hydrologic Unit <u>10160003</u>
	Basin <u>James River</u>
	Newspaper <u>American News - Aberdeen</u>
	<u>605.225.4100</u>

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SEP 26 2016
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.)

Application approved previously has not met the 115 of
Construction

1. Name to Appear on Irrigation Permit Arne Svarstad

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 13797 392nd Ave Aberdeen SD 57401
(Address) (City) (State) (Zip Code)

Phone 226-1142 Mobile 228-8913 Email hasvarstad@hotmail.com

2. Amount of water claimed 1.91 *CFS or **GPM ***AF Total Acreage 134
(*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 normal flow SE 1/4 NE 1/4 Section 29, T122N R62W,
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
high water NE 1/4 SW 1/4 Section 28, T122N R62W County Brown

5. County or counties where water will be used Brown

6. Annual period during which water is to be used April 1 - October 31

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 SW 1/4 Sec. 27, T122N R62W	33.5		
NE 1/4 SW 1/4 Sec. 27, T122N R62W	33.5		
SW 1/4 SW 1/4 Sec. 27, T122N R62W	33.5		
SE 1/4 SW 1/4 Sec. 27, T122N R62W	33.5		

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

I, Arne Svarstad, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

SOUTH DAKOTA
WATER PERMIT NO. 8241-3

Date of first receipt of application September 26, 2016.

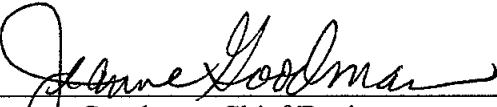
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8241-3 to Arne Svarstad, 13797 392nd Ave, Aberdeen SD 57401 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8241-3 appropriates 1.91 cubic feet of water per second (cfs) from the James River located in the SE 1/4 NE 1/4 Section 29-T122N-R62W during normal flows and the NE 1/4 SW 1/4 Section 28-T122N-R62W during high flood flows to irrigate 134 acres located in the SW 1/4 Section 27-T122N-R62W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is September 26, 2016.
4. The date of approval of Permit No. 8241-3 is December 19, 2016.
5. One-fifth of the construction is to be completed on or before June 19, 2019.
6. All construction is to be completed on or before December 19, 2021.
7. Water is to be put to beneficial use on or before December 19, 2025.
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 Ashton SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

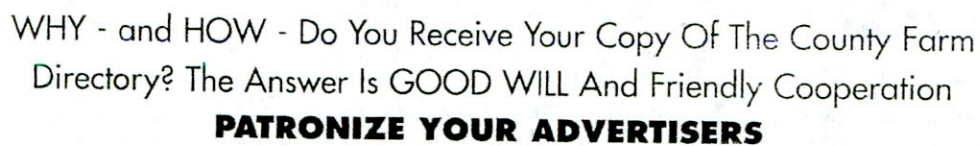
WATER MANAGEMENT BOARD

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

JAN 26 2017

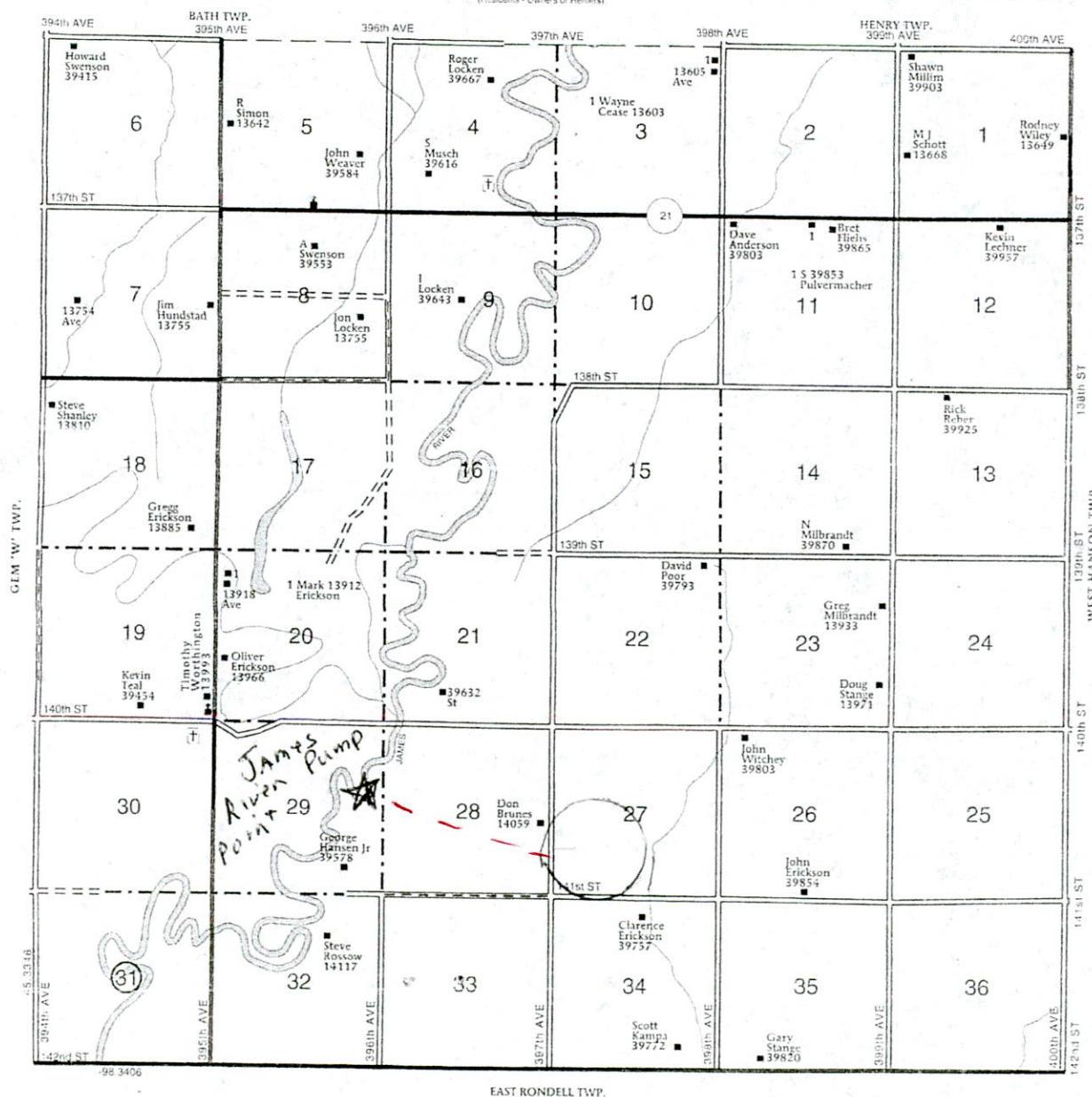
date



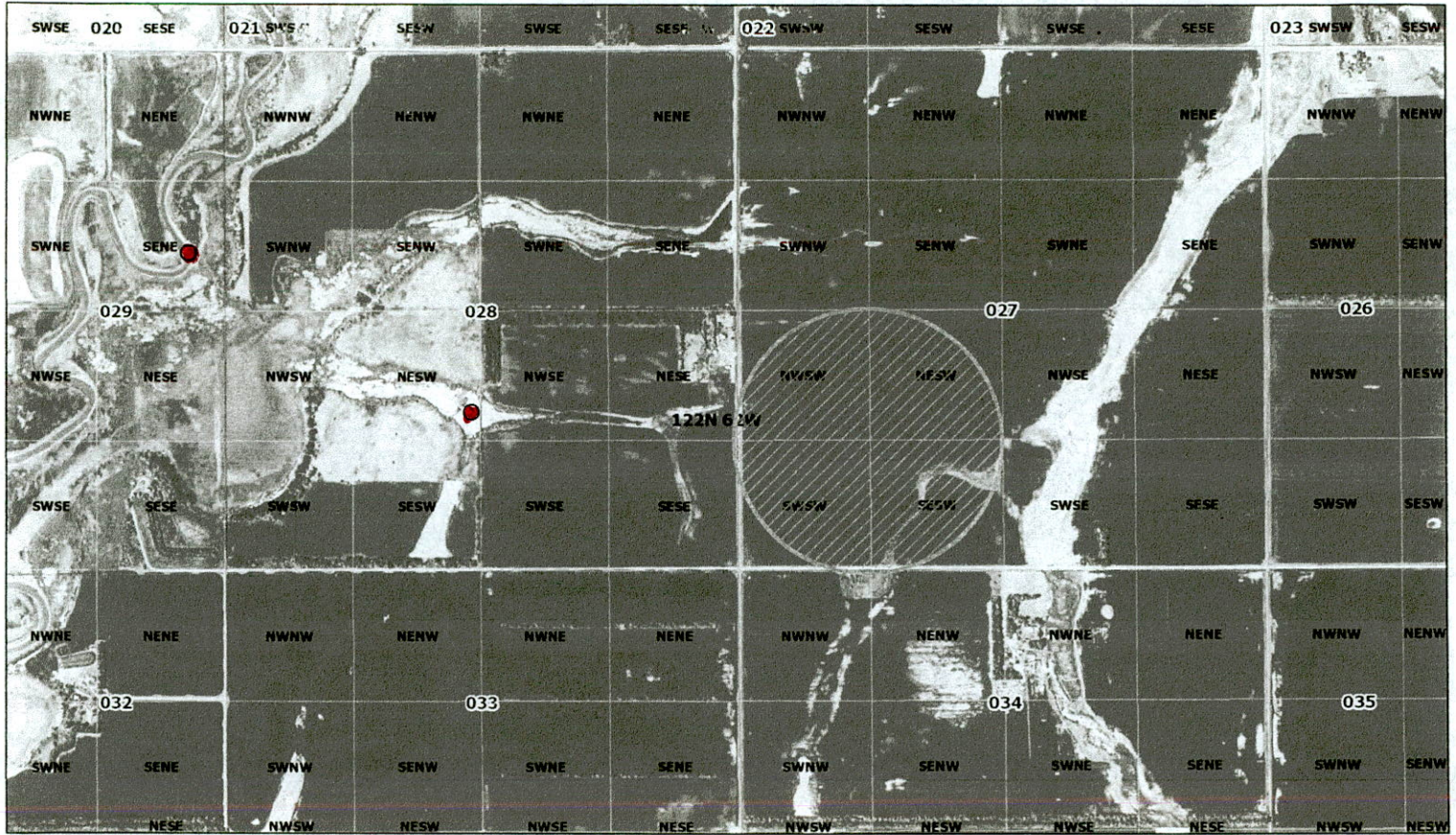


WATER RIGHTS
PROGRAM

R-62-W



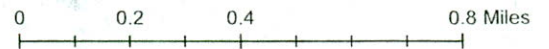
**WATER RIGHTS
PROGRAM**



Legend

- Proposed Diversion Sites
- Irrigated Area
- Section Boundaries - PLSS
- Quarter-Quarters

Prepared by Eric Gronlund
Natural Resources Engineer
DNR, Water Rights Program



RECEIVED

SEP 26 2016

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/26, 20 16

RECEIVED OF Arne N Sverstad 13979 392nd Ave Aberdeen SD 57201

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

Fee for Application for Permit No. <u>8241-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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. _____		
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	850 00

No. 07923

By Jean Goodman
Chief Engineer

Schlaak, Karen

From: Gronlund, Eric
Sent: Wednesday, September 21, 2016 2:40 PM
To: HOTMAIL.COM, BASVARSTAD
Cc: Schlaak, Karen
Subject: To: Arnie Svarstad -- water permit application forms
Attachments: 7892-3APPL.pdf; 7891-3APPL.pdf; E0499LDV5-IRRIG.pdf

Mr. Svarstad:

Attached are application forms.

I have also attached the applications that you filed that are Nos. 7891-3 and 7892-3. These are the two application that my understanding have not met the 1/5 of construction.

Since the \$200 licensing fee was paid when the original applications were filed we will not be assessing that fee. However, we do need to collect the application filing fee. For 134 acres the application filing fee is \$850 for each application. I misspoke when on the phone that the fee was \$750 for each application – it is actually \$850. So the applications will need to be submitted with a total payment of \$1,700 made payable to the Water Rights Program,

Eric Gronlund



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8241-3, Arne Svarstad**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8241-3, Arne Svarstad, 13797 392nd Avenue, Aberdeen SD 57401.

The Chief Engineer is recommending APPROVAL of Application No. 8241-3 contingent on the Water Management Board first taking action to cancel two James River water rights because 1) there will be a reasonable probability that there is unappropriated water available for the applicant's proposed use upon the formal cancellation of the two existing James River water rights, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

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

Jeanne Goodman, Chief Engineer
December 2, 2016

REPORT ON WATER PERMIT APPLICATION NO. 8241-3

**Arne Svarstad
October 14, 2016**

Arne Svarstad, has filed Water Permit Application No. 8241-3, to appropriate 1.91 cubic feet of water per second (cfs) from the James River to irrigate 134 acres of land located in the SW $\frac{1}{4}$ Section 27 T122N-R62W. The diversion point to be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29 will be used during normal flows and the diversion point to be located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28 will be used during high flows, all in T122N-R62W. The annual period during which water is to be used is April through October.

Review of Water Source

The water source for the proposed project is the James River in Brown 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 Ashton, SD, approximately 72 river miles downstream of the proposed project. The historical data from 1945 to 2016 for the Ashton SD stream flow gage indicates 50-percent of the daily flow values for the month fall at or below 19-cfs to 305-cfs April through October of any given year. (Table 1 and Hydrograph 1)

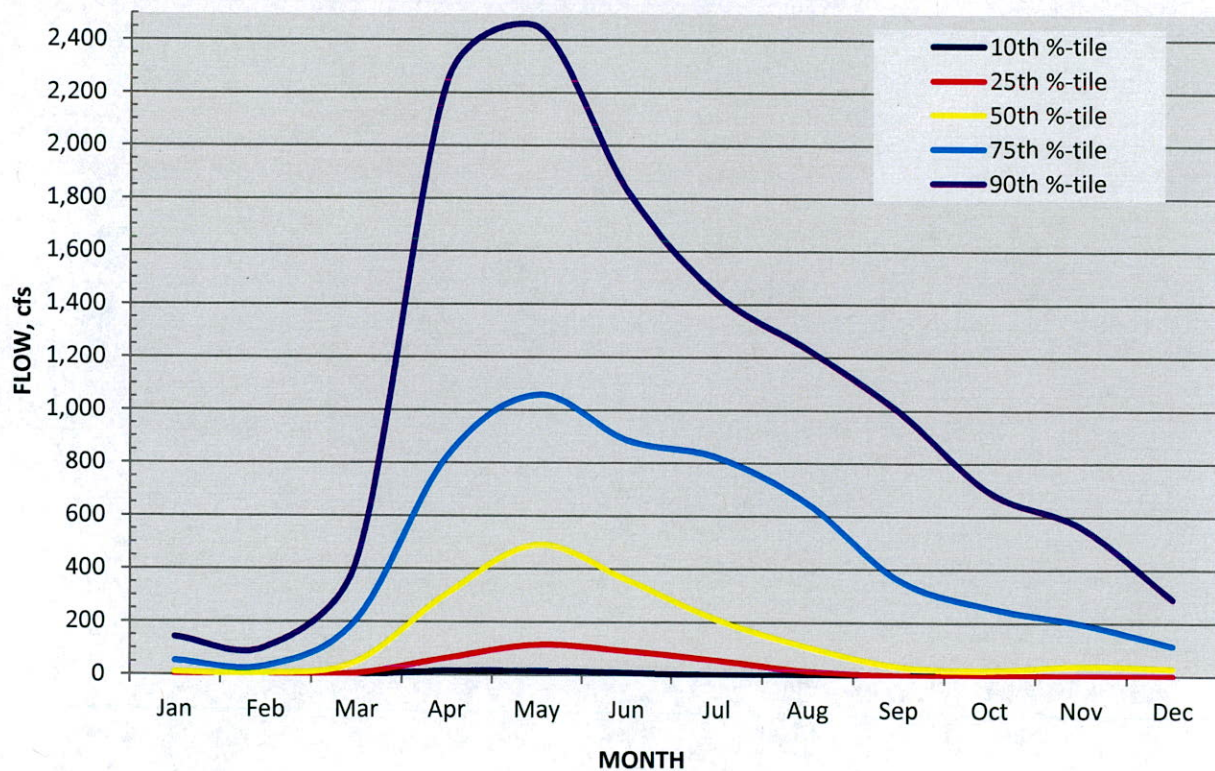
For a dataset of flow observations a percentile value denotes the percent of observations that fall at or below the percentile value. For example, Table 1 indicates that for the 25th percentile, 25% of the flow observations in August fall at or below 15-cfs.

To calculate the values in Table 1 and Table 2, the percentiles of the daily flow for each month were calculated for the period of record. The daily percentiles were averaged to get a percentile value for the month. See pages 2 and 3 for tables and hydrographs.

Table 1. James River Percentile of Monthly Mean Flow (cfs) Ashton, SD

Percentile	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10%tile	0	0	0	14	14	8	1	0	0	0	0	0
25%tile	0	0	4	62	113	90	55	15	1	0	0	0
50%tile	9	4	47	305	489	358	209	105	32	19	35	26
75%tile	52	32	208	826	1057	886	821	648	360	255	195	112
90%tile	142	103	430	2253	2448	1829	1437	1230	996	692	561	288

**Hydrograph 1
James River gage at Ashton, SD 1945 - 2016**

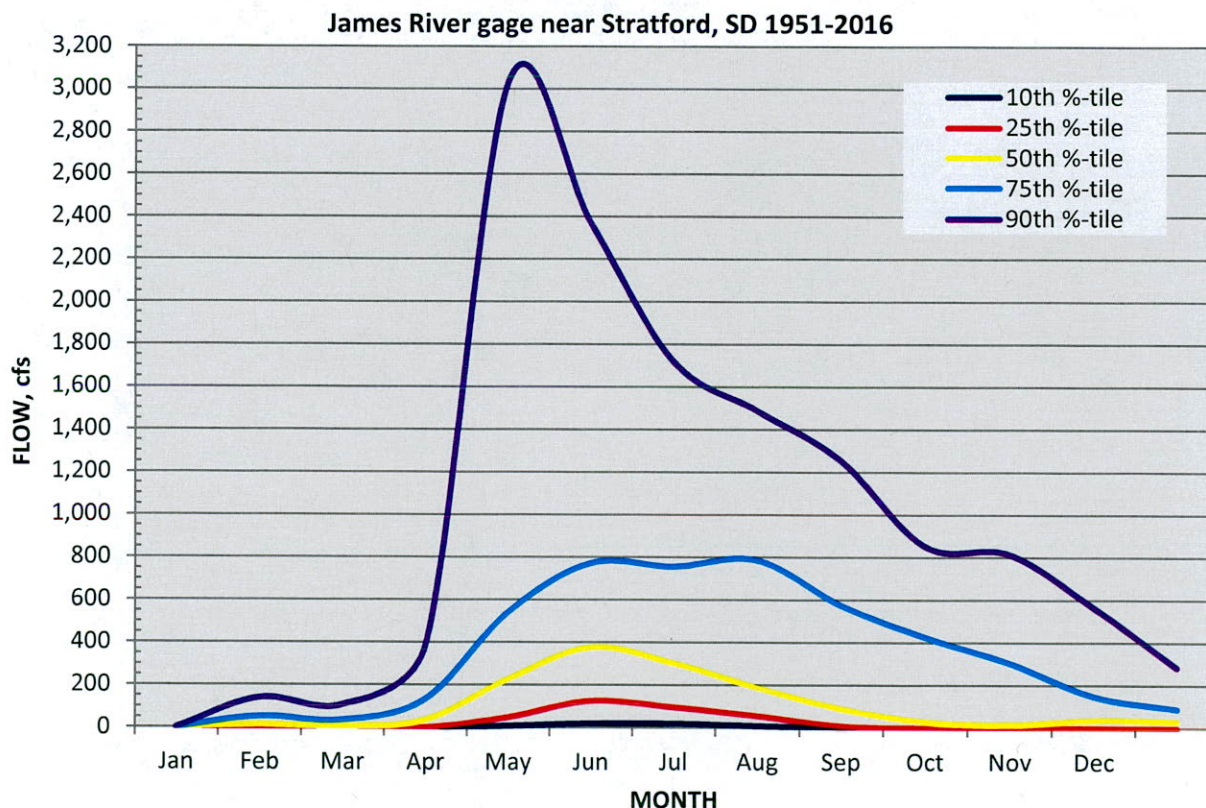


The USGS operates a stream flow gaging station on the James River located closer to the proposed project. The gage is near Stratford, SD, approximately 31 river miles downstream of the proposed project. The historical data from 1950 to 2016 for the Stratford SD stream flow gage indicates 50-percent of the daily flow values for the month fall at or below 15-cfs to 374-cfs April through October of any given year. (Table 2 and Hydrograph 2)

Table 2. James River Monthly Mean Flow (cfs) Stratford, SD

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%tile	0	0	0	8	19	18	8	0	0	0	0	0
25%tile	0	0	1	49	125	96	55	10	0	0	0	0
50%tile	13	5	35	224	374	301	186	87	28	15	35	30
75%tile	51	35	134	541	772	756	786	574	424	302	147	88
90%tile	139	108	386	3037	2370	1719	1488	1254	852	814	565	283

Hydrograph 2



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 Ashton gage of 209-cfs represents water bypassing the gage after 50% of the upstream appropriated irrigation withdrawals have taken place.

USGS historical data for the Ashton SD and Stratford SD stream flow gages show similar results and indicate water is available in the James River during normal to wetter climatic conditions for the April through October annual period. During late summer and early fall months, 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 Current Appropriation

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 the 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 99 Water Rights with diversions from the James River totaling 299.76-cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 65 Water Rights with diversions from the James River totaling 179.27-cfs.

There are two water permits held by this applicant that failed to meet the requirement that one fifth of the construction be completed by May 12, 2016. Water Permit Nos. 7891-3 and 7892-3 combined, authorized appropriation of 3.82-cfs from the James River, upstream of Huron, SD. If the permits are cancelled, diversions from the total river would decrease to 295.94-cfs, and the North Dakota border to Huron, SD, river reach would decrease to 175.45-cfs. This leaves 4.06-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line.

Water Permit Application No. 8240-3, filed by this applicant, is requesting diversion authority of 1.91-cfs from the James River. If approved 2.15-cfs would be available to appropriate anywhere from the North Dakota border to the Yankton-Hutchinson County Line.

Table 3. Appropriation and Available Water for Appropriation from the James River

	CFS
Appropriated	-299.76
Pending cancellation 7891-3	1.91
Pending cancellation 7892-3	1.91
Pending approval 8240-3	-1.91
Total	-297.85
WMB Appropriation Limit	300
Available appropriation	2.15

Assuming Water Permit Nos. 7891-3 and 7892-3 are cancelled and Water Permit Application No. 8240-3 is approved, approval of Water Permit Application 8241-3 would bring the total diversion from the James River from the North Dakota border to the Yankton-Hutchinson County Line to 299.76-cfs and the North Dakota border to Huron, SD, river reach to 179.27-cfs.

This leaves 0.24-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line.

Review of Existing Water Rights

There is one water right authorizing diversion of water from the James River in the same location as this project. Water Permit No. 7892-3 is held by this applicant and is recommended for cancellation due to failure to meet the one fifth of construction completed within 2½ years requirement, freeing up 1.91-cfs for appropriation from the James River. There are a total of three water rights within five miles downstream of this application. See Table 3 for details of these water rights.

Table 3. Downstream James River Water Rights

WR No.	Appx. Distance Downstream From Application (miles)	Diversion (cfs)	WR Holder
7892-3	same location	1.91	Arne Svarstad, to be cancelled
8044-3	3.3	3.3	Kevin Rossow
7890-3	4.7	1.91	Arne Svarstad

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. 8241-3 should contain the following qualifications:

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

Conclusions

1. Water Permit Application No. 8241-3, proposes to appropriate 1.91 cubic feet of water per second (cfs) from the James River to irrigate 134 acres of land located in the SW $\frac{1}{4}$ Section 27 T122N-R62W. The diversion point to be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29 will be used during normal flows, and the diversion point to be located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 28 will be used during high flows; all in T122N-R62W. The annual period during which water is to be used is April through October.
2. USGS historical data for the Stratford SD and Ashton SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the April through October annual period.
3. If Application No 8241-3 is approved, the following qualifications should be included:
 - 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 Ashton SD after pumping.
4. If Water Permit Nos. 7891-3 and 7892-3 are cancelled and Application Nos. 8240-3 and 8241-3 are approved, the total James River diversion of 299.76-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, is 179.27-cfs, within the 200-cfs limit set by the Water Rights Commission. This leaves 0.24-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

RECEIVED

DEC 12 2016

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brown) SS

I, May Bush

certify that the attached printed Notice was taken

from the Aberdeen News

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was published

in the newspaper on the following date:

Dec 8, 2016

Cost of Printing \$ 54.10

May Bush

(Signature)

Adv Billing Specs

(Title)

(No. 167939)
(December 8, 2016 - 1T)

**NOTICE OF APPLICATION
NOS. 8240-3 and 8241-3
to Appropriate Water**

Notice is given that Arne Svarstad, 13797 392nd Ave, Aberdeen SD 57401 has filed the following applications for a water permit.

Application No. 8240-3 proposes to appropriate 1.91 cubic feet of water per second (cfs) from the James River located between points in the NW 1/4 NW 1/4 Section 26 and the SE 1/4 NE 1/4 Section 27 to irrigate 134 acres located in the NE 1/4 Section 28; all in T123N-R62W.

Application No. 8241-3 proposes to appropriate 1.91 cfs from the James River located in the SE 1/4 NE 1/4 Section 29-T122N-R62W during normal flows and the NE 1/4 SW 1/4 Section 28-T122N-R62W during high flood flows to irrigate 134 acres located in the SW 1/4 Section 27-T122N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8240-3 and 8241-3 with qualifications because 1) unappropriated water is available due to the cancellation of Permit Nos. 7891-3 and 7892-3, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendations with qualifications, the applications, and staff reports are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 19, 2016.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the applications pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$54.10.



Jacobson, Gail

From: Aberdeen News Legals <aan-legals@aberdeennews.com>
Sent: Friday, December 02, 2016 1:23 PM
To: Jacobson, Gail; Nancy Zantow
Subject: Re: notice sent this a.m.

Hi Gail,
I just finished it and scheduled it for Dec. 8th. Thanks!
Carla

From: Jacobson, Gail <Gail.Jacobson@state.sd.us>
Sent: Friday, December 2, 2016 7:13:37 PM
To: Nancy Zantow
Subject: notice sent this a.m.

I e-mailed a legal notice to aan-legals@aberdeennews.com this morning from DENR – Water Rights for an Arne Svarstad. Usually Karen Schlaak emails them. I would like a confirmation that you received it.

Thanks

Gail Jacobson
DENR – Water Rights
523 E Capitol Ave
Pierre SD 57501
605-773-3352 – Phone
605-773-4068 – Fax
gail.jacobson@state.sd.us



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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(S) RIGHT AWAY.**

December 2, 2016

Arne Svarstad
13797 392nd Ave
Aberdeen SD 57401

Dear Mr. Svarstad:

Water Permit Application Nos. 8240-3 and 8241-3 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 American News printed at Aberdeen SD (Ph # 605-225-4100). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports 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
Natural Resources Engineer
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NOS. 8240-3 and 8241-3 to Appropriate Water

Notice is given that Arne Svarstad, 13797 392nd Ave, Aberdeen SD 57401 has filed the following applications for a water permit.

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Application No. 8241-3 proposes to appropriate 1.91 cfs from the James River located in the SE 1/4 NE 1/4 Section 29-T122N-R62W during normal flows and the NE 1/4 SW 1/4 Section 28-T122N-R62W during high flood flows to irrigate 134 acres located in the SW 1/4 Section 27-T122N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8240-3 and 8241-3 with qualifications because 1) unappropriated water is available due to the cancellation of Permit Nos. 7891-3 and 7892-3, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendations with qualifications, the applications, and staff reports are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 19, 2016.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the applications pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JAN 26 2017

Arne Svarstad
13797 392nd Ave
Aberdeen SD 57401

Dear Mr. Svarstad:

Enclosed are Water Permit Nos. 8240-3 & 8241-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

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

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

Sincerely,

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

enclosures



8241-3
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 26, 2018

NOTICE

TO: ARNE SVARSTAD, 13797 392ND AVE, ABERDEEN, SD 57401
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7888-3, 7890-3, 8240-3 & 8241-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 7888-3, 7890-3, 8240-3 & 8241-3 qualification:

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

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 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) 7888-3, 7890-3, 8240-3 & 8241-3 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 7, 2018** 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: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 5, 2018

7888-3
7890-3
8240-3
8241-3

Arne Svarstad
13797 392nd Ave
Aberdeen SD 57401

Dear Mr. Svarstad:

I am writing to acknowledge receipt of your 2017 irrigation questionnaires.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit Nos. 7888-3, 7890-3, 8240-3 & 8241-3. 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 black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

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



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

January 19, 2024

NOTICE

TO: ARNE SVARSTAD, 13797 392ND AVE, ABERDEEN, SD 57401

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 7888-3, 7890-3, 8241-3 & 8240A-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 7888-3, 7890-3, 8241-3 & 8240A-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 6, 2024 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) 7888-3, 7890-3, 8241-3 & 8240A-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 6, 2024** 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 Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: OMMEQR**

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.



7888-3, 7890-3, 8240A-3
8241-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 25, 2024

7888-3
7890-3
8240A-3
8241-3

Arnie Svarstad
13797 392nd Ave
Aberdeen SD 57401

Dear Mr. Svarstad:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 7888-3, 7890-3, 8240A-3, and 8241-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us