

WATER PERMIT NO. 8350-3

Name of Applicant: Lenny Peterson

Address: 19111 Maple, Hitchcock SD 57348 Phone: 354-4602

Amount of Water Claimed: 2.28 cfs Total Acres: 160

Source of Water Supply: James River

Water to be used for: irrigation County: Spink

Type of Waste Disposal System:

Location: 6 miles east of Hitchcock

PRIORITY Date Received: 4-20-18 Application/License Fee: \$1050

Corrected Application Received: Period of Annual Use: April 1 – October 31

Remarks:

Diversion Point: between NE 1/4 NE 1/4 Sec 28
and S 1/2 NW 1/4 Sec 34-T114N-R62W

Land to be Irrigated: NW 1/4 Sec 33-T114N-
R62W

Depth of Well: NA

Well Driller:

Remarks:

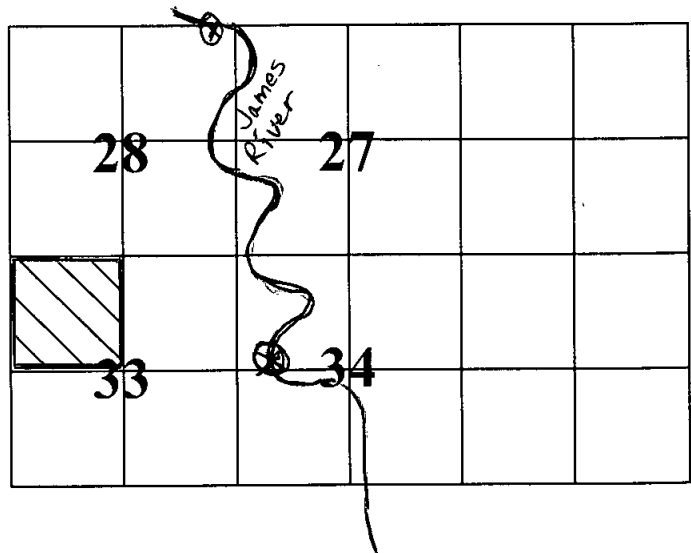
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-23-18

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 8350-3 FOR IRRIGATION

Date of first receipt of application April 20, 2018.

The Water Management Board approved Water Permit No. 8350-3 on July 12, 2018 for Lenny Peterson, 19111 Maple, 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. 8350-3 appropriates 2.28 cubic feet of water per second from the James River located between points in the NE 1/4 NE 1/4 Section 28 and the S1/2 NW 1/4 Section 34 for irrigation of 160 acres located in the NW 1/4 Section 33; all in T114N-R62W approximately 6 miles east of Hitchcock SD.
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 April 20, 2018.
4. One-fifth of the construction is to be completed on or before January 12, 2021.
5. All construction is to be completed on or before July 12, 2023.
6. Water is to be put to beneficial use on or before July 12, 2027.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Diversions 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 by the Chief Engineer.
 - b) This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Huron 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
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 20 2018

date



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>8350-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>Redfield Press</u>
	<u>Plainsman, Huron</u>

RECEIVED

APR 20 2018

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 Lenny Peterson

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

Mailing Address 19111 Maple Hitchcock SD 57348
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 354-4602 Email _____

2. Amount of water claimed 2.28 *CFS or **GPM ***AF Total Acreage 160
(*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 Sec 28

4. Location of point of diversion between NE 1/4 NE 1/4 and S1/2 NW 1/4 Section 34, T114N-R62W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Spink5. County or counties where water will be used Spink6. 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 Section 33-T114N-R62W	160		

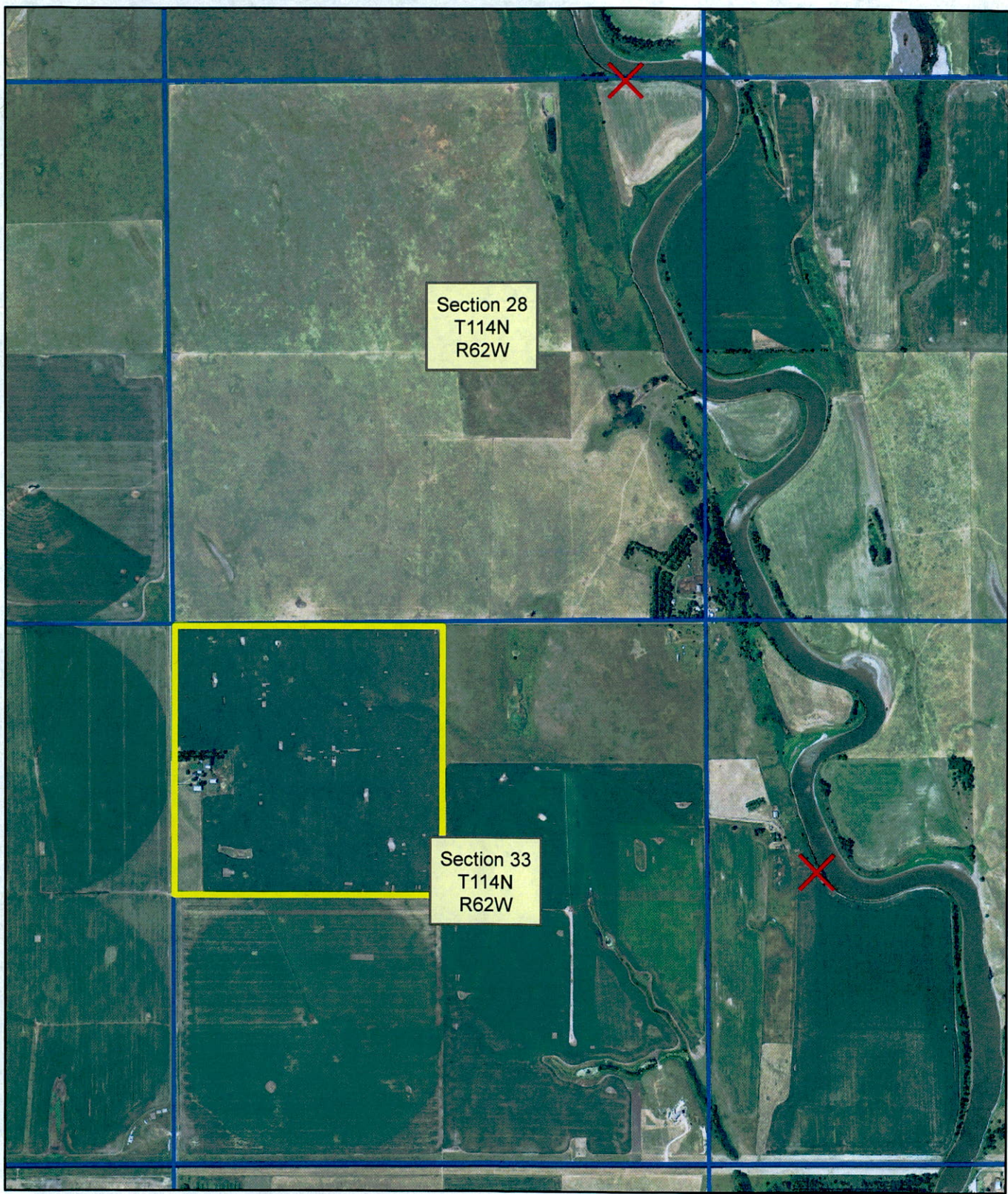
8. Give a description of the project. (Attach sheet if more space is needed)

The time period to complete construction of works under Water Permit No. 7376-3 held by Oscar Inc was September 17, 2017. Therefore Water Permit No. 7376-3 is subject to cancellation. I am applying to appropriate a portion of the water that reverts to the public and is regarded as unappropriated public water.

I, Lenny Peterson Lenny Peterson Owner, 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.

WATER PERMIT APPLICATION FOR LENNY PETERSON



diversion point



Irrigated acres
within boundaries

0 425 850

1,700 2,550 3,400
Feet



Building site in NW 1/4 Section 33 will remain

Eric Gronlund
Water Rights Program
based on representation by Lenny Peterson

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 23, 2018

RECEIVED OF Lenny or Karen Peterson 19111 Maple Ave Hitchcock, SD 57348-6812

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

Fee for Application for Permit No. <u>8350-3</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. <u>8350-3</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	1050 00

No. 08658

By

Jeanne Goodman
Chief Engineer

Jm

REPORT ON WATER PERMIT APPLICATION NO. 8350-3

Lenny Peterson

June 6, 2018

Application No. 8350-3 proposes to appropriate 2.28 cubic feet of water per second from the James River located between points in the NE 1/4 NE 1/4 Section 28 and the S1/2 NW 1/4 Section 34 for irrigation of 160 acres located in the NW 1/4 Section 33; all in T114N-R62W. This site is located approximately 6 miles east of Tulare SD in Spink County.

Review of Water Source, Water Management and Current Appropriations

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

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 from the North Dakota border to the Yankton-Hutchinson County Line 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. Lynn Beck with the Water Management Board prepared a report on water availability on the James River at current appropriation on May 24, 2016. The report included that maintaining the current diversion limits is appropriate. The Water Management Board affirmed the diversion limits at their July 6, 2016 meeting when considering Water Permit Application Nos. 8047-3, 8048-3 and 8123-3. The Water Management Board has followed through and retained these same James River appropriation limits, (Water Rights. 2018).

In 2007 Water Rights staff made a review of all the existing James River water rights and available stream flow gaging station information from the multiple gages the U.S. Geological Survey (USGS) operates on the James River in South Dakota (USGS. 2018). This review lead to a Chief Engineer recommendation and subsequent Water Management Board decision amending all of the James River water rights/permits diverting water in the river reach from the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2018).

Following the hearing all of the James River water rights/permits contained the following qualification:

- 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.

The water rights diverting in the most northern reach of river upstream from USGS gaging station near Ashton SD contained the following qualification:

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

The water rights diverting in the most central reach of river between USGS gaging station near Ashton SD to the USGS gaging station at Huron, SD contained this qualification:

- 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.

The water rights diverting in the most lower reach of river between USGS gaging station at Huron, SD to USGS gaging station near Scotland SD contained this qualification:

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

This application proposes to divert water in the river reach below Ashton and above Huron. If Application No. 8350-3 is approved it 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 Huron, SD after pumping.

The 300 cfs diversion limit from the North Dakota border to the Yankton-Hutchinson County Line, the 200 cfs diversion limit from the North Dakota border to Huron, SD along with the flow bypass limit and August 10 shutoff date qualification addresses the water availability to reasonably supply a limited amount of water diversion from the river. These diversion limits do not guarantee water will be available during extremely dry climatic conditions for all permitted uses.

Presently there are 108 Water Rights with diversions from the James River totaling 300.00-cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 70 Water Rights with diversions from the James River totaling 179.27-cfs. Based upon the James River appropriation limits the river is fully appropriated from the North Dakota border to the Yankton-Hutchinson County Line, (Water Rights. 2018).

Under normal circumstances, a recommendation for denial or deferral of this application would be made until sufficient water would become available under the current James River appropriation limit restrictions. However two other James River permits are being considered at this time for cancellation due to non-construction with requests for reinstatement of only a portion of the total diversion rate available. If Water Permit Nos. 7375-3 and 7376-3 are cancelled, a total of 11.25 cfs would become available from the James River for appropriation. Application Nos. 8352-3 and 8353-3 seek to reinstate 8.96 cfs. If approved there will be 2.29 cfs available for appropriation. This amount is sufficient to cover the 2.28 cfs requested by this application and staying slightly below the 300 cfs limit from the James River in the North Dakota border to the Yankton-Hutchinson County Line reach.

Conclusions

1. Application No. 8350-3 proposes to appropriate 2.28 cfs from the James River.
2. The Water Management Board has in place a 300 cfs diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County Line with a maximum combined diversion limit of 200 cfs from the North Dakota border to Huron, SD. Currently the 300 cfs limit has been met and the river is considered fully appropriated.
3. Due to the limits placed upon James River appropriations, this permit can be approved only if Water Permits Nos. 7375-3 and 7376-3 are cancelled. This would free up a total of 11.25 cfs for appropriation. At the same time Application Nos. 8352-3 and 8353-3 seek to reinstate 8.96 cfs. If these applications for reinstatement are approved there will be 2.29 cfs available for appropriation from the North Dakota border to the Yankton-Hutchinson County Line. This amount is sufficient to cover the amount requested by this application.
4. If Water Permits Nos. 7375-3 and 7376-3 are not cancelled prior to consideration of this application, then it is recommended consideration of this permit be deferred.

5. If No. 8350-3 is approved, it 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 Huron, SD after pumping.



Mark D. Rath

Natural Resources Engineer III

References

1. USGS. 2018. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2018. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8350-3, Lenny Peterson**

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. 8350-3, Lenny Peterson, 1911 Maple Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 8350-3 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. Diversions 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 by the Chief Engineer.
 - b) This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Huron 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, reading "Jeanne Goodman". The signature is written in a cursive, flowing style.

Jeanne Goodman, Chief Engineer
June 12, 2018

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

RECEIVED

JUL 05 2018

WATER RIGHTS
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I, MCKENDZIE CASTILLO, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

PETERSON FARMS- #3711 WATER RIGHTS

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 19TH Day JUNE 2018. That the full amount of the fee charged for publishing SEVENTY-FOUR & 57/100 dollars insures to the benefit of the publisher of said newspaper; 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 whom so ever.

Mckendzie Castillo

Subscribed and sworn to me before this 20TH Day of JUNE 2018.

[Signature]

Notary Public, South Dakota

My term expires 03/11/2022
Legal #3711

2000 - Legals

F.P. 06-18-18

**NOTICE OF HEARING
ON APPLICATION**

**NO. 8350-3 to
Appropriate Water**

Notice is given that Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 2.28 cubic feet of water per second from the James River located between points in the NE 1/4 NE 1/4 Section 28 and the S1/2 NW 1/4 Section 34 for irrigation of 160 acres located in the NW 1/4 Section 33; all in T114N-R62W, approximately 6 miles east of Hitchcock SD.

SDCL 146-2A-4 (10) (b) (3)

vides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8350-3 with qualifications because upon cancellation of Water Permit No. 7376-3 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. The Chief Engineer's recommendation with qualifications, the application, and staff report 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.

The Water Management Board will consider this application at 1:00 pm, on July 12, 2018 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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

2000 - Legals

must be filed by July 2, 2018.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 12, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by July 2, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "If the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is July 2, 2018. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1

2000 - Legals

thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-6-60.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

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

No. 3711 (adv.)
Published once at the
total approximate cost of
\$74.57.

Affidavit of Publication

RECEIVED
JUL 05 2018
WATER RIGHTS
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STATE OF SOUTH DAKOTA,
County of Spink: ss.

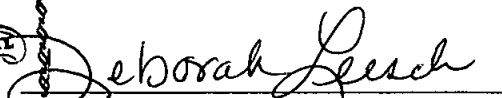
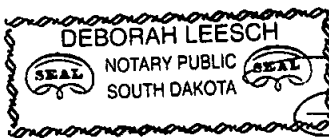
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield,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

#2908 HEARING NOTICE

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on June 20th, 2018, that Fifty-one and .06/100 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 20th day of June, 2018.


Notary Public, South Dakota

My commission expires 10/09/2019

Hearing Notice

2908

NOTICE OF HEARING ON APPLICATION

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SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8350-3 with qualifications because upon cancellation of Water Permit No. 7376-3 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. The Chief Engineer's recommendation with qualifications, the application, and staff report 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.

The Water Management Board will consider this application at 1:00 pm. on July 12, 2018 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 2, 2018.

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Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$51.06. (June 20)

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 13, 2018 1:51 PM
To: rcrandall@plainsman.com
Subject: 8350-3, Lenny Peterson
Attachments: 8350-3public.wmb1.docx; FORM8.FRM.doc

Attached is a notice to be published on June 20, 2018.

Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 (605 354-4602) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 13, 2018 1:50 PM
To: psterner@redfieldpress.com
Subject: 8350-3, Lenny Peterson
Attachments: 8350-3public.wmb1.docx; FORM8.FRM.doc

Attached is a notice to be published on June 20, 2018.

Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 (605 354-4602) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352





**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 NEWSPAPERS RIGHT AWAY.**

June 13, 2018

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application No. 8350-3 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 Redfield Press printed at Redfield SD (Ph # 605 472-0822) and the Plainsman printed at Huron SD (Ph # 605 353-7414). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers 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 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.

NOTICE OF HEARING ON APPLICATION NO. 8350-3 to Appropriate Water

Notice is given that Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 2.28 cubic feet of water per second from the James River located between points in the NE 1/4 NE 1/4 Section 28 and the S1/2 NW 1/4 Section 34 for irrigation of 160 acres located in the NW 1/4 Section 33; all in T114N-R62W approximately 6 miles east of Hitchcock SD.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8350-3 with qualifications because upon cancellation of Water Permit No. 7376-3 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. The Chief Engineer's recommendation with qualifications, the application, and staff report 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.

The Water Management Board will consider this application at 1:00 pm. on July 12, 2018 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 2, 2018.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 12, 2018 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by July 2, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is July 2, 2018. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

JUL 20 2018

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water Permit No. 8350-3 authorizing construction of the 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 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

August 10, 2022

8350-3
8604-3
8605-3

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

This letter is in reference to your August 10, 2022, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the Huron are sufficient at this time to allow an extension. 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 and allow you to divert through the end of the 2022 irrigation season.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station James River at Huron drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

8350-3 8604-3
8605-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Permit No. 8350-3, 8604-3, 8605-3

WATER RIGHTS PROGRAM—FILE DOCUMENTATION

NAME: Lenny Peterson

ADDRESS: 19111 Maple Ave, Hitchcock SD 57348

DATE: 08/12/2024 **PHONE:** 605-354-4602 **EMAIL:** kpeterson@venturecomm.net

RE: Request to extend pumping past the August 10th cutoff on James River

COMMENTS:

Mr. Lenny Peterson called on August 12, 2024 requesting to continue pumping from the James River past the August 10 cutoff date.

RECOMMENDED ACTION:

Approved and told Mr. Peterson that a letter would be sent out to confirm the request.

Brittan Hullinger, Engineer 1
SD DANR, Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 14, 2024

8350-3
8604-3
8605-3

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson,

This letter is in reference to your August 12, 2024, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the USGS stream gaging station James River at Huron are sufficient at this time to allow an extension. 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 and allow you to divert through the end of the 2024 irrigation season.

In the event that dry climatic conditions in the river basin cause river flow to significantly decrease and flow measured at the USGS stream gaging station James River at Huron drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8350-3

I have this day, November 5, 2025, made a thorough examination of the water use system constructed by Lenny Peterson, 19111 Maple, Hitchcock, SD 57348 of Permit No. 8350-3, bearing the priority of April 20, 2018 authorizing the diversion of 2.28 cu. ft. per second of the waters of the James River for Irrigation purposes, in Spink County.

A. Works used to divert the water: (Portable Pumping Plant on bank of James River)

Pump:

- 1) Make Unknown
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 800 GPM

Motor:

- 1) Make Unknown
- 2) Model No. Unknown
- 3) Horsepower rating Unknown hp

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

- 1) Type Buried PVC
- 2) Size 8 inches
- 3) Length 15,000 feet

Comments: xx

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make T & L
- 2) Overall length 1300 feet
- 3) Number of towers 7
- 4) End gun Y
- 5) Capacity 800 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: RIVER PUMPING PLANT LOCATION From the NW corner Sec 34 T114N R62W, 2020ft S & 970 ft E, Lat 44.64150 Long -98.27848 (SW 1/4 NW 1/4).
2. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

<u>legal description/acreage</u>	<u>legal description/acreage</u>
All land in Sec 33 T114N R62	
NW 1/4 NW 1/4 - 29 acres	
NE 1/4 NW 1/4 - 31 acres	
SE 1/4 NW 1/4 - 33 acres	
SW 1/4 NW 1/4 - 26 acres	

comprising a total of 119 acres of land and the license should be issued for 1.70 cfs.
3. All structures, wells and lands on map Y

F. Comments or other permit(s) associated with the project:

Used FSA photos and ArcGIS to construct the project map.

Used the reported flow rate of the 2024 IQ to establish 800 gpm system flow. Only river water used for this pivot.

There is an electrical box on the river bank for the pumping unit.

Mailing address and phone number are current.

Talked to Mr. Lenny Peterson on the phone regarding the Permit.



Darrell DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: November 17, 2025



0 875 1,750 3,500 5,250 7,000 Feet



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 16 2026

8350-3

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water License No. 8350-3. 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.

So 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. If you have any questions, please contact Amanda Dewell, Permitting Administrator, at 605-773-3352.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
SD DANR – Water Rights Program

NOTE: The investigation found your irrigation system is capable of diverting 1.78 cubic feet of water per second (cfs) which is equivalent to approximately 800 gallons per minute. The statutory limit for 119 acres is 1.70 cfs (equivalent to approximately 760 gpm). Diversion of water under this water license is limited to 1.70 cfs.

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8350-3

(1) Lenny Peterson, 19111 Maple Ave, Hitchcock, SD 57348, made Application No. 8350-3, April 20, 2018, for a water permit to divert 2.28 cubic feet of water per second from the James River, Spink County, for irrigation purposes. Permit No. 8350-3, with a priority date of April 20, 2018, was approved on July 12, 2018, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 12, 2023, and for the application to beneficial use of water on or before July 12, 2027.

(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 2.28 cubic feet of water per second for beneficial use. The location of the diversion point is:

- River Pump Location: 2020 ft S & 970 ft E of the NW corner Section 34-T114N-R62W (SW $\frac{1}{4}$ NW $\frac{1}{4}$) (Latitude 44.64150 & Longitude -98.27848)

(3) 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 purposes. The water is to be used during the following described annual period: April 1 – October 31.

(4) 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 33-T114N-R62W
NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 29 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 31 acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 33 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 26 acres
TOTAL: 119 acres

(5) Pursuant to South Dakota Water Law 46-5-30. I, Lenny Peterson, the holder and/or owner of Water Right No. 8350-3, issued a license to appropriate water, the right to use 1.70 cubic feet of water per second, from the James River, with a priority date of April 20, 2018, 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 Water Right No 8350-3 and subject to the following qualifications:

1. Diversion of 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 by the Chief engineer.
 - b) This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Adam Mathiowetz, PE
Acting Chief Engineer
SD DANR – Water Rights Program

JUN 16 2026
date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 10, 2026

8350-3
8604-3
8605-3

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson,

This letter is in reference to your August 10, 2026, request for an extension to pump water from the James River, beyond the annual August 10th shutoff date.

Flows in the James River, in the reach between North Dakota and the USGS stream gaging station at Huron are sufficient, at this time, to allow an extension. Since there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your Water Permits and Rights appropriating water from the James River, allowing diversions through August 24, 2026.

If continued use is needed beyond August 24, 2026, please contact the Water Rights Program for an additional extension. At this time, we are only granting extensions for the James River in two-week increments, since the forecast is for continued hot and dry conditions throughout August.

In the event that dry climactic conditions in the river basin cause river flows to significantly decrease, and flow measured at the USGS stream gaging station at Huron drops below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in and James River can be monitored by going to the following website:
<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

If you have any questions, please contact Whitney Kilts with the Water Rights Program at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD - DANR