

WATER PERMIT NO. 8353A-3

Name of Applicant: Oscar Inc

Address: 209 27th St NW, Huron SD 57350 Phone:

Amount of Water Claimed: 2.28 cfs Total Acres: 160 acres

Source of Water Supply: James River

Water to be used for: irrigation County: Spink

Type of Waste Disposal System:

Location: 8 miles northeast of Hitchcock

PRIORITY Date Received: 8-14-20 Application/License Fee: \$ 100

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

Remarks: Transfer 160 acres authorized under No. 8353-3 to location of acreage authorized by No. 7349-3.

Diversion Point: SW 1/4 NW 1/4 Sec 10-T114N-R62W

Land to be Irrigated: S 1/2 Sec 3; NE 1/4, E 1/2 NW 1/4 Sec 10; all in T114N-R62W

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 8-18-20

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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		10			

**SOUTH DAKOTA
WATER PERMIT NO. 8353A-3**

Date of first receipt of application August 14, 2020.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8353A-3 to Oscar Inc, c/o Floyd Peterson, 209 27th St NW, Huron SD 57350 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. 8353A-3 amends Water Permit No. 8353-3 by transferring the irrigated acreage and point of diversion to the location authorized by Water Right 7349-3. Water Permit No. 8353-3 appropriates 2.28 cfs from the James River located in the NW 1/4 NW 1/4 Section 27 for irrigation of 160 acres located in the NW 1/4 Section 25; all in T114N-R62W. This permit authorizes moving the location of the 160 acres and 2.28 cfs diversion authority approximately 3 miles northwest with the James River diversion point to be located in the SW 1/4 NW 1/4 Section 10 to irrigate a portion of the lands authorized by Water Right No. 7349-3. Water Right No. 7349-3 appropriates 2.76 cfs from a dugout (alluvium along James River) located in the SE 1/4 NW 1/4 Section 10 to irrigate 193 acres located in the S 1/2 SE 1/4 Section 3; NE 1/4, E 1/2 NW 1/4 Section 10; all in T114N-R62W. No increase in the diversion rate or number of acres being irrigated is authorized by this permit.
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: March 1 – October 31.
3. The date from which applicant may claim right is April 26, 2018 (established under No. 8353-3).
4. The date of approval of Permit No. 8353A-3 is November 9, 2020.
5. One-fifth of the construction is to be completed on or before May 9, 2023.
6. All construction is to be completed on or before November 9, 2025.
7. Water is to be put to beneficial use on or before November 9, 2029.
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. 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.
2. This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the gage at Huron SD after pumping.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 19 2021
date



AUG 14 2020

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8353A-3</u>	(office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Bedfield Press</u>	
	<u>Plainsman</u>	

WATER RIGHTS
PROGRAM

PAID

AUG 14 2020

Ck# 504

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 8353-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

transfer 160 acres authorized under Permit No. 8353-3 to the location of acreage authorized by Water Right No. 7349-3

1. Name to Appear on Irrigation Permit Oscar Inc

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

Mailing Address 209 27th St. NW Huron SD 57350
(Address) (City) (State) (Zip Code)

Phone 605 352-2728 Mobile _____ 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

4. Location of point of diversion NW 1/4 SW 1/4 Section 10-T114N-R62W
SW 1/4 NW 1/4 (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used March 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)

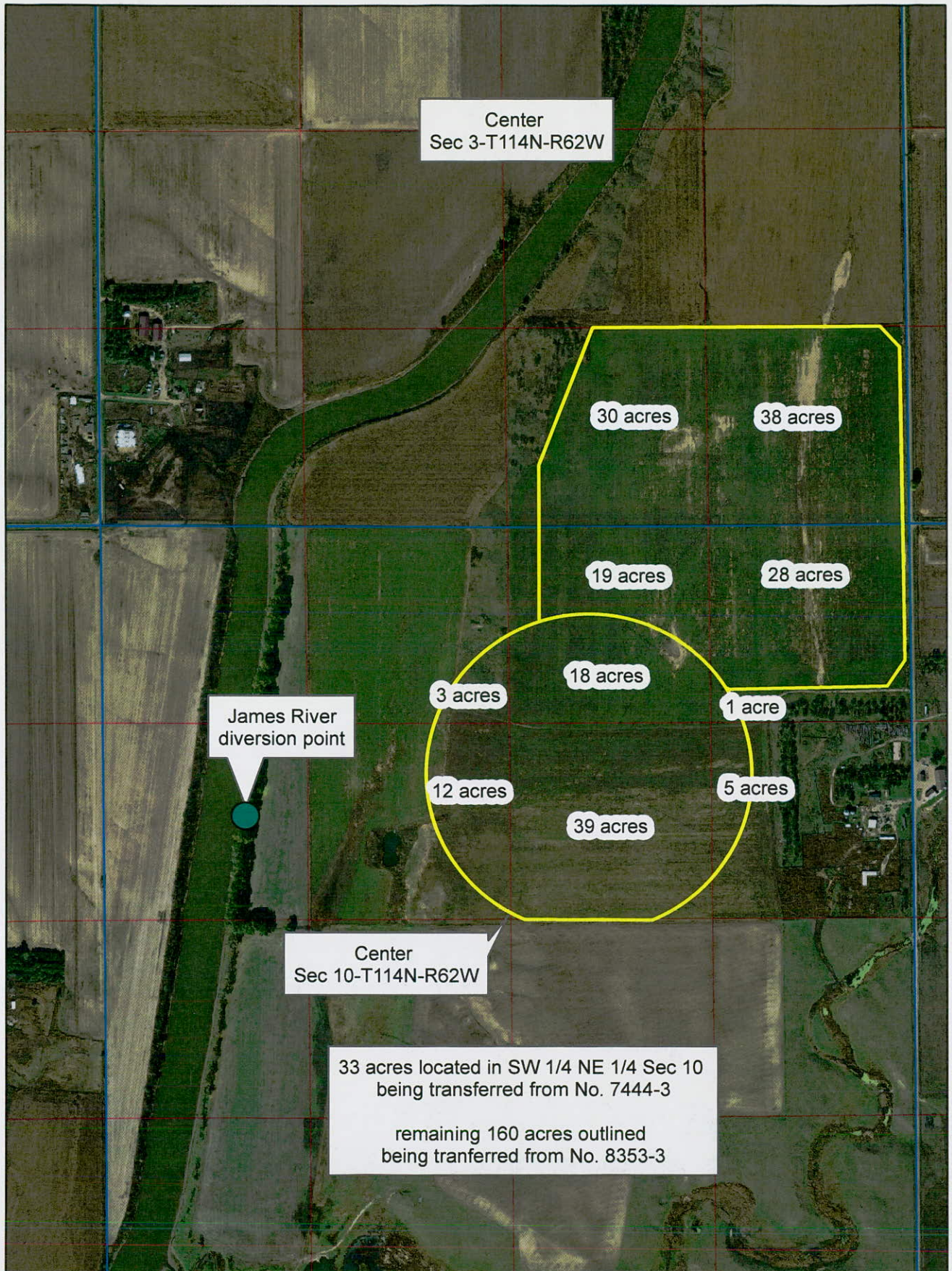
Land Description	Acres	Land Description	Acres
S 1/2 SE 1/4 Section 3-T114N-R62W	68	SW 1/4 NE 1/4 Section 10-T114N-R62W	6
N 1/2 NE 1/4 Section 10-T114N-R62W	66		
E 1/2 NW 1/4 Section 10-T114N-R62W	15		
SE 1/4 NE 1/4 Section 10-T114N-R62W	5		

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

Transfer acres and diversion rate authority to new land.

I, Oscar Inc by Lloyd H. Peterson President _____, 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.



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date August 14, 2020

RECEIVED OF Oscar Inc. 209 27th St. NW Huron SD 57350

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

Fee for Application for Permit No. <u>8353A-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$100.00
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. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$100.00

By *Eric Gronlund*
Chief Engineer

vm

Water Rights Program - DENR

File Documentation

County: *Spink*

Name of Person: *Oscar Inc. (Floyd Peterson)*

File: *7444A-3 & 8353A-3*

Address: *209 27th St NW, Huron SD 57350*

Date: *September 22, 2020*

RE: *Annual Authorized Irrigation Period*

Comments:

Floyd Peterson returned my call concerning the differences in the annual authorized irrigation period for the two water permits he was proposing to amend. He said to use the March 1 to October 31 that was on No. 8353A-3 for both permit applications.



Mark D Rath

Natural Resources Engineer

Water Rights Program – DENR

File Documentation

County: Spink

Name: Oscar Inc. (Floyd Peterson)

File: 7444A-3 & 8353A-3

Address: 209 27th St NW, Huron, SD, 57350

Date: October 15, 2020

RE: Cancellation of Water Right 7349-3

Comments:

I talked with Floyd Peterson about Water Right No. 7349-3. This call was necessary because the write up our department produces with details regarding the application stated that Water Right No. 7349-3 was subject to cancellation. Mr. Floyd said that he wanted to keep that permit and not cancel it.



Blaise M. Hansen
Natural Resource Engineer



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8353A-3, Oscar Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8353A-3, Oscar Inc., 209 27th St. NW, Huron SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 8353A-3 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

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

See report on application for additional information.

Eric Gronlund
Eric Gronlund, Chief Engineer
October 16, 2020

**REPORT ON WATER PERMIT APPLICATION NOS. 7444A-3 & 8353A-3
OSCAR INC. C/O FLOYD PETERSON
OCTOBER 13, 2020**

Application Nos. 7444A-3 and 8353A-3 propose to amend two existing water permits (Water Permit Nos. 7444-3 and 8353-3 respectively) by transferring diversion rate authority and irrigated acreage to the location authorized under Water Right No. 7349-3. Water Right No. 7349-3 appropriates 2.75 cubic feet of water per second (cfs) from a dugout located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10, to irrigate 193 acres located in the S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 3 and the NE $\frac{1}{4}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 10; all in T114N-R62W. Application Nos. 7444A-3 and 8353A-3, if approved, will combine for a diversion rate authority of 2.76 cfs to irrigate 193 acres. The water source for Application Nos. 7444A-3 and 8353A-3 is the James River at a location in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 10-T114N-R62W with no increase in the diversion rate authority or number of acres irrigated authorized by these applications.

Water Permit No. 7444-3 appropriates 1.93 cfs from the James River at a diversion point located NW $\frac{1}{4}$, NW $\frac{1}{4}$, Section 27 for the irrigation of 135 acres located in the NW $\frac{1}{4}$, Section 26; all in T114N-R62W. Application No. 7444A-3 proposes to transfer 0.47 cfs and 33 acres, approximately 2.5 miles northwest, to the irrigated acres authorized by Water Right No. 7349-3. Water Permit No. 7444-3 will be reissued for the remaining 1.46 cfs and 102 acres, while retaining the diversion point and legal description for the remaining acres authorized in the original permit.

Water Permit No. 8353-3 appropriates 2.28 cfs from the James River at a diversion point located NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 27 for irrigation of 160 acres located in the NW $\frac{1}{4}$, Section 25; all in T114N-R62W. Application No. 8353A-3 proposes to transfer all 2.28 cfs and all 160 acres, approximately 3.0 miles northwest, to the location authorized by Water Right No. 7349-3. If Application No. 8353A-3 is approved, Water Permit No. 8353-3 will be subject to cancellation.

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

Review of the Proposed Project and Water Source

Applications Nos. 7444A-3 and 8353A-3 propose to transfer a combined diversion rate authority of 2.75 cfs from the James River and 193 irrigated acres from Water Permit Nos. 7444-3 and 8353-3 to the irrigated area authorized by Water Right No. 7349-3 (Figure 1). If approved, Water Permit No. 8353-3 will transfer its full authorized diversion rate authority (2.28 cfs) and acreage (160 acres) and therefore, will be subject to cancellation. Water Permit No. 7444-3 is authorized a diversion rate authority of 1.93 cfs to irrigate 135 acres. Under Water Permit No. 7444A-3, it will transfer a diversion rate of 0.47 cfs and 33 acres to the irrigated area authorized by Water Right No. 7349-3. The remainder of Water Permit No. 7444-3 will be reissued to reflect its remaining diversion rate (1.46 cfs) and acreage (102 acres).

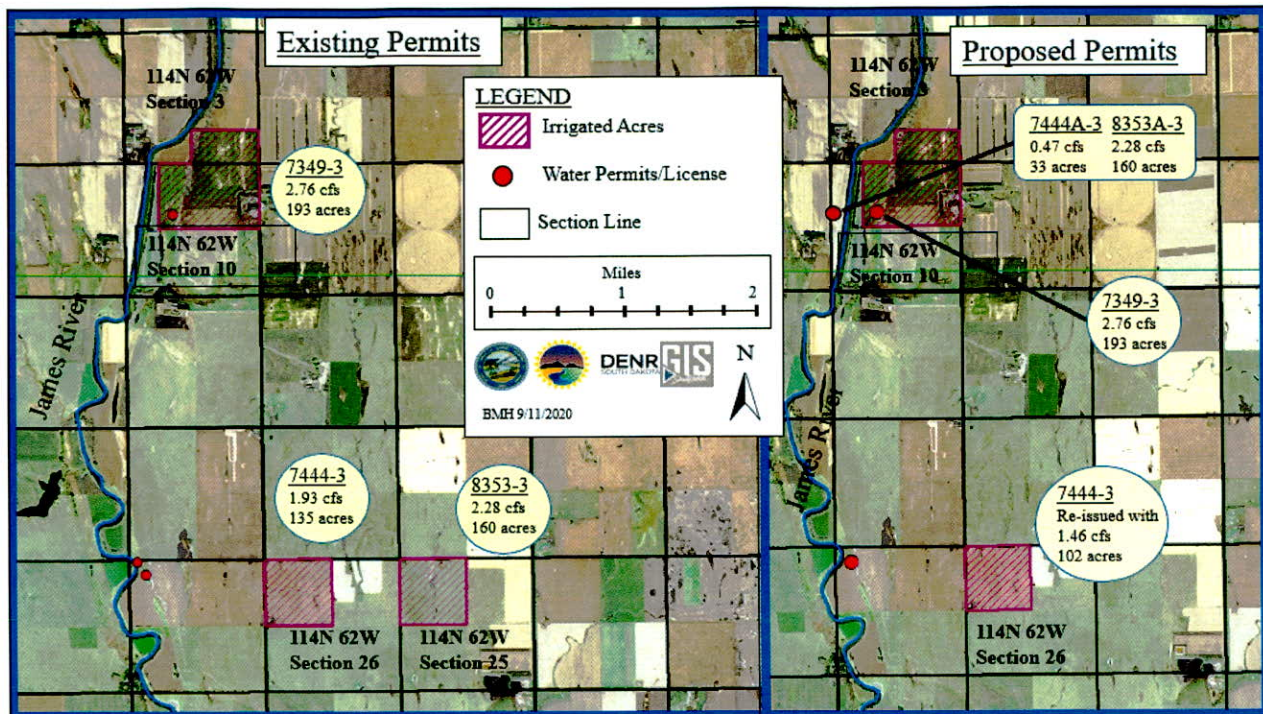


Figure 1 depicts the existing locations and proposed changes to irrigated acres and diversion locations. Permit No. 8353-3 will be cancelled, Permit No. 7444-3 will be re-issued, and Application Nos. 7444A-3 and 8353A-3 will be issued as new permits.

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.

Mean, often referred to as the average, and median, also referred to as the 50th percentile, are statistical terms which delineate the predominant tendency of a data set. Mean is often considered a representative value of a data set and is calculated by summing of the data values then dividing that sum by the total number values in the data set. A median value is considered the central value which divides the data set into a set of values higher than the central value and a set of values lower than the central value. The 50-percentile represents the amount of water expected once out of every two years. The U.S. Geological Survey (USGS) operates stream flow gaging station No. 06476000, on the James River near Huron, SD, located approximately 21 river miles downstream of the proposed project (USGS, 2020). Figure 2 is a graph comparing daily mean flow values versus daily median flow values, from the years 1952 - 2019, obtained from gaging station No. 06476000. The mean line shows that 100 cfs of water is available from March through December and that 300 cfs of water is available from mid-March through beginning of October. In contrast, the median line shows 100 cfs available from mid-March through August and 300 cfs only available from the end of April to the beginning of July. The most significant difference is that the

mean line shows almost three times the amount of water available for the irrigation season. This can be expected because the mean value is significantly affected by anomalous high or low values within the data set, which tends to skew the mean value toward the anomaly. As a result, the mean flow line predicts considerably more water being available over a longer period of time when compared to the median line. Moreover, it shows how the mean line responds to high flow events during the spring meltwater season.

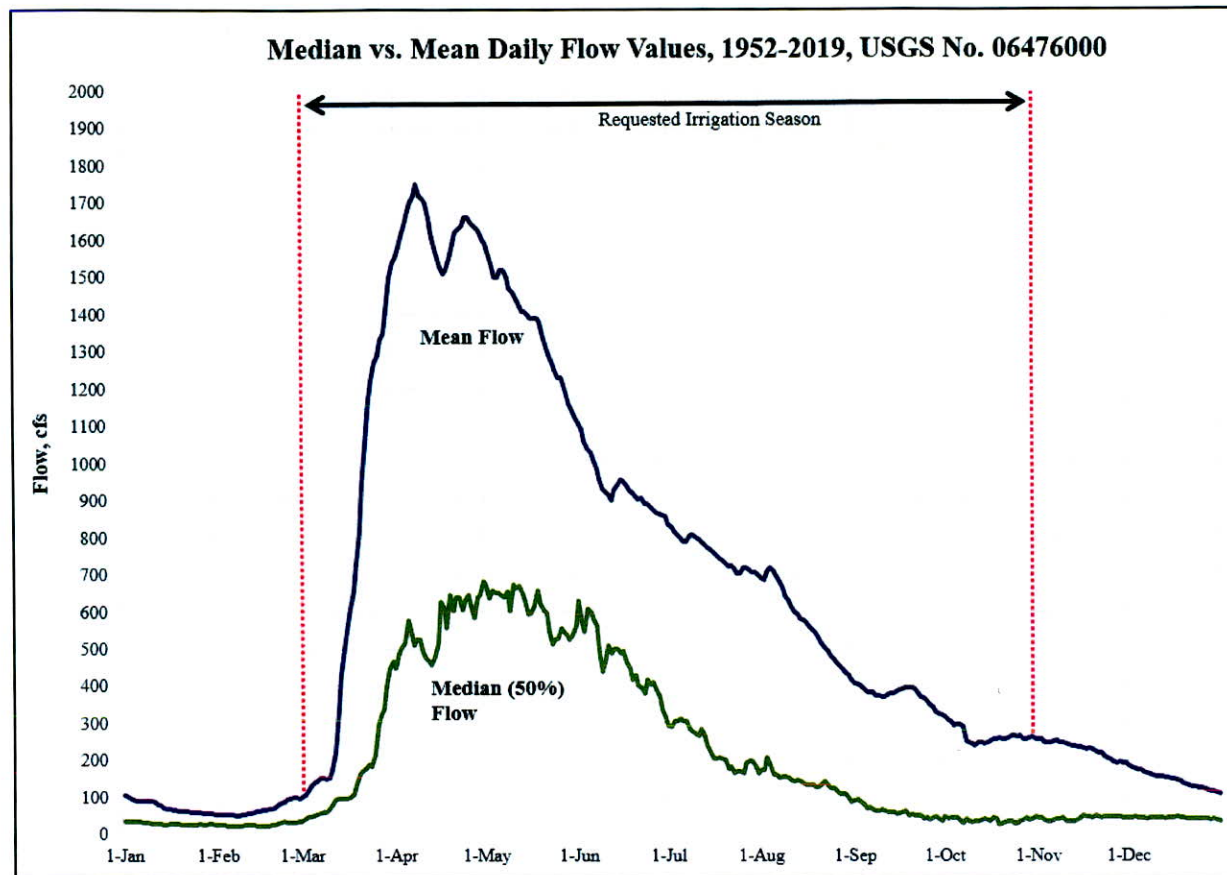


Figure 2. USGS gaging station No. 06476000 James River near Huron, Median versus Mean of daily flow values 1952-2019. Contributing drainage area of 13,795 mi² (USGS, 2020).

Figure 3 shows plots of historical percentile data from 1952 to 2019 for gaging station No. 06476000. At the 50-percentile level, the mean daily flow values are minimal or not registering in January and February, then steadily increases to 100 cfs by April. While flow does reach 200 cfs or greater, at least 100 cfs is maintained until the beginning of July. Flow then steadily decreases back to minimal or not registering by mid-September and maintains this condition for the remainder of the winter months. At the 10-percentile level, winter flows are not registering until early March before increasing to around 50 cfs during the month of April. From mid-May to mid-June, base flow fluctuates between 5 cfs and 50 cfs until it ceases to register all together from mid-August until the end of December.

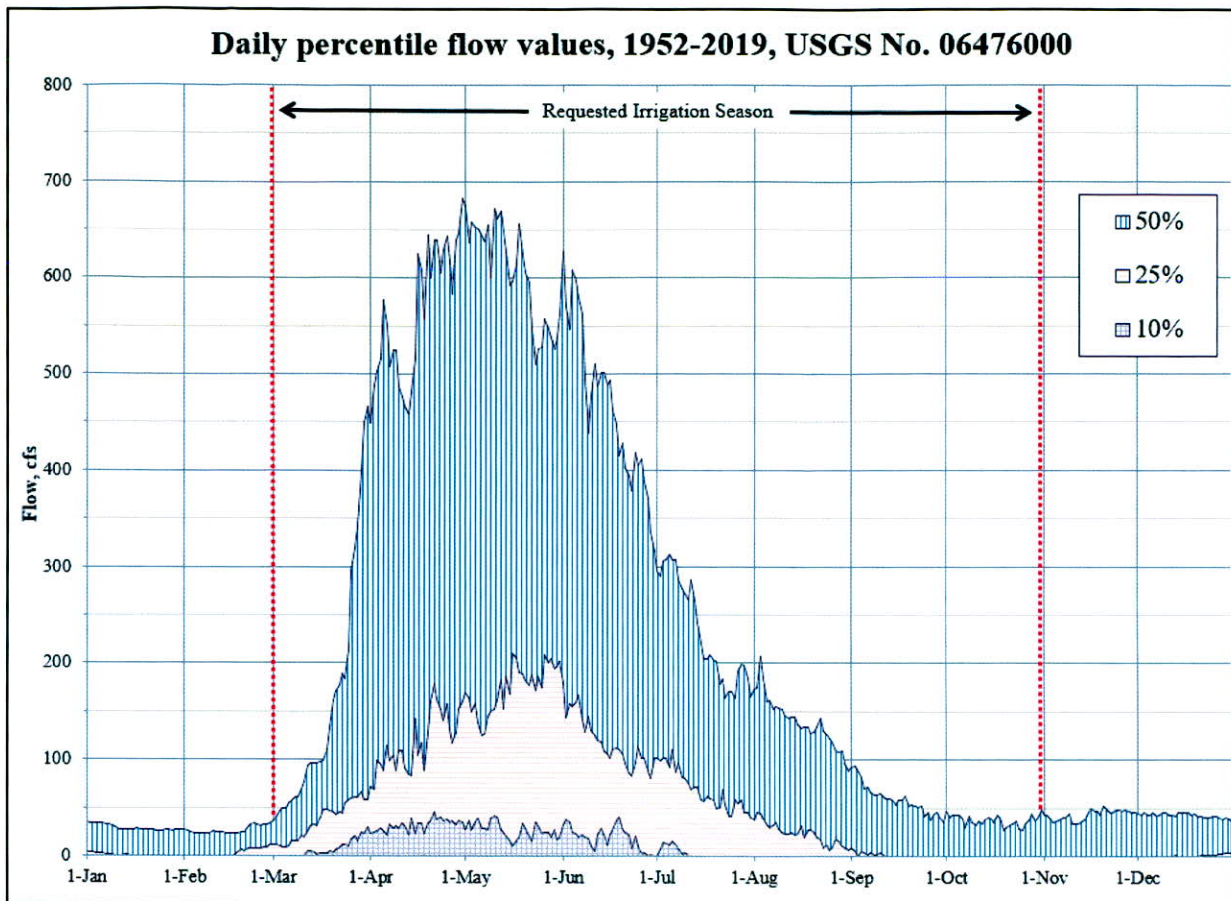


Figure 3. Daily percentile flow hydrograph for USGS gaging station No. 06476000, 1952-2019, on the James River near Huron, SD, contributing drainage area of 13,795 mi² (USGS, 2020).

The USGS operates stream flow gaging station No. 06473000, on the James River near Ashton, SD, located approximately 23 river miles upstream of the proposed project (USGS, 2020). Figure 4 shows plots of historical percentile data from 1946 to 2019 for this stream flow gage. At the 50-percentile level, the mean daily flow values are minimal or not registering in January through March, then sharply increase to 100 cfs by mid-April. While flow does reach 150 cfs or greater, at least 100 cfs is maintained until the end of August. Flow then steadily decreases back to minimal or not registering by mid-September and maintains this condition for the remainder of the winter months. At the 10-percentile level, winter flows are not registering until April before increasing to around 25 cfs by May. From May to mid-July, base flow fluctuates between 5 cfs and 25 cfs until it ceases to register altogether from August until the end of December.

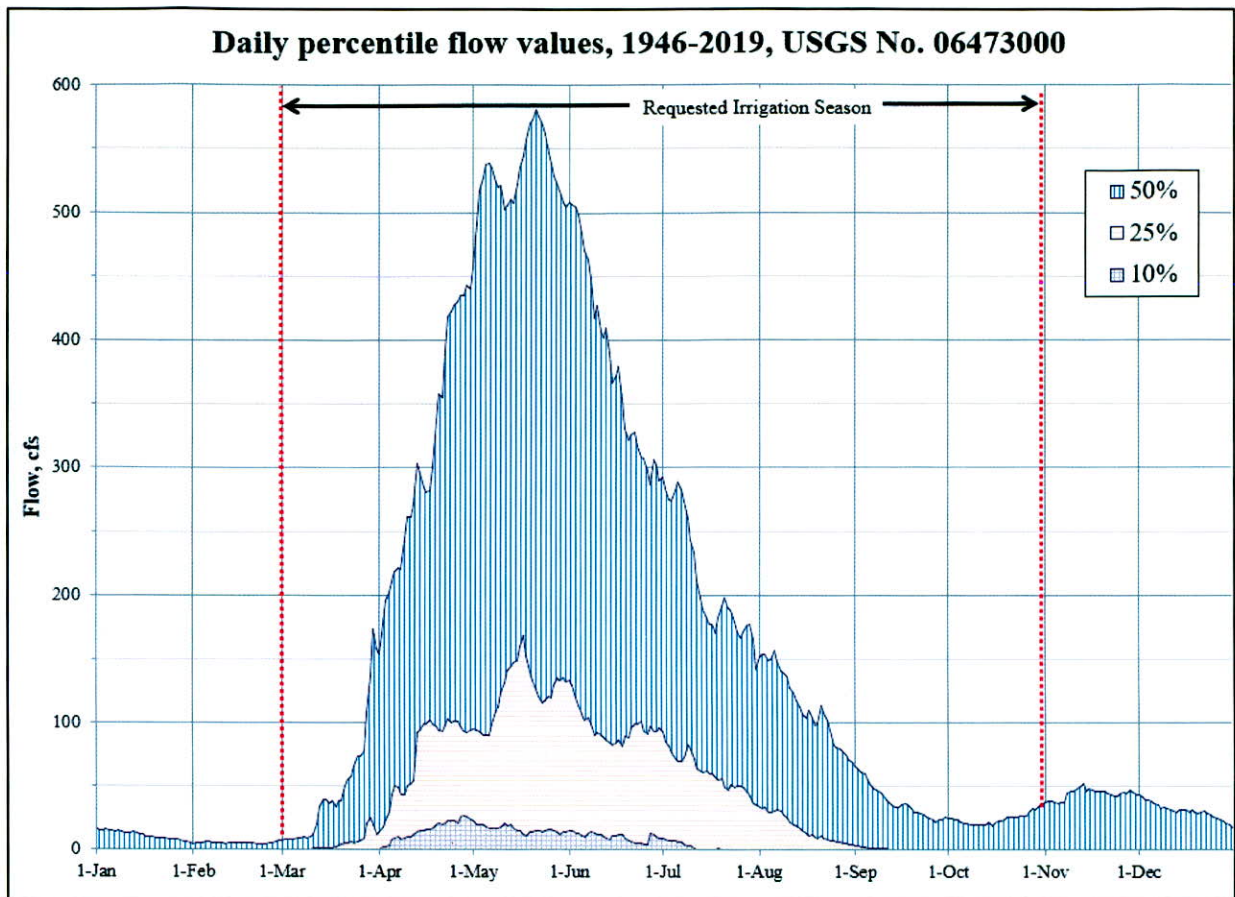


Figure 4. Daily percentile flow hydrograph for the USGS Stream Gage No. 06473000, 1946-2019, on the James River near Ashton, SD, contributing drainage area 8,333 mi², (USGS, 2020).

USGS historical data for the Mitchell SD and Ashton SD stream flow gages show similar results and indicate that annually, water is available in the James River during normal to wetter climatic conditions occurring during the April through October 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 Existing Water Rights and Current Appropriations

In 1965 the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed a combined maximum 300-cfs diversion limit on the James River in South Dakota with a diversion limit of 200-cfs from the North Dakota border to the USGS gaging station in Huron, SD. Due to the Missouri River backwater into the James River, the 300-cfs restriction has been applied in the river reach from the North Dakota border to the Yankton-Hutchinson County Line (SD Water Rights. 2020). The Water Management Board has adopted these James River diversion limits. Presently in the reach from the North Dakota border to the Yankton-Hutchinson County Line, there are 109 Water Rights/Permits permitted to divert 270.99 cfs from the James River. This current level of appropriation is within 29.01 cfs of the Water Management Board set limits. From

the North Dakota border to Huron, SD, there are 70 Water Rights/Permits with diversions from the James River totaling 179.26 cfs. This leaves 20.74 cfs to be appropriated anywhere in the reach from the North Dakota border to Huron (SD Water Rights. 2020). There is also one future use permit (No. US594-3) reserving 500 cfs for the US Bureau of Reclamation.

Discussion and Review of Qualifications

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

In 2007, Water Rights staff reviewed the shut-off and by-pass qualifications on all the existing James River water rights/permits. Based on this review, the Chief Engineer recommended modifying existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and modified the qualifications on existing water rights/permits to reflect these standard qualifications. In addition, it was the intent that future appropriations of water from the James River be administered with the same standardized qualifications, (SD Water Rights. 2020). Therefore, if approved, Application Nos. 7444A-3 and 8353A-3 should contain this standardized language in any qualifications.

There will be no increase in the diversion rate authority or number of acres irrigated by these applications so there is no impact on the amount of water appropriated from the James River. However, there is one existing Water Right between the existing location and proposed location that is not maintained by Oscar, Incorporated. This location change will likely not adversely affect this permit.

Conclusions

1. The applicant proposes to make changes to existing Water Right Nos. 7349-3, 7444-3, and 8353-3 by transferring diversion authority and changing the location for some of the irrigated acres.
2. Water Right No. 7349-3 appropriates 2.76 cfs from a dugout adjacent to the James River to irrigate 193 acres. Permit Application Nos. 7444A-3 and 8353A-3 will have a combine diversion rate authority of 2.75 cfs from the James River to irrigate the same 193 acres authorized under Water Right No. 7349-3.
3. Water Permit No. 7444-3 is authorized a diversion rate of 1.93 cfs from the James River to irrigate 135 acres. Application No. 7444A-3 proposes to transfer 0.47 cfs and 33 acres to the location authorized by Water Right No. 7349-3. The remaining balance of 1.46 cfs and 102 acres will remain under Water Permit No. 7444-3.
4. Water Permit No. 8353-3 is authorized a diversion rate of 2.28 cfs from the James River to irrigate 160 acres. Application No. 8353A-3 proposes to transfer all 2.28 cfs and 160 acres to the location authorized by Water Right No. 7349-3. If Application No. 8353A-3 is approved, Water Permit No. 8353-3 will be subject to cancellation.
5. The water source for the proposed project is the James River in Spink County. There will be no increase in the diversion rate authority or number of acres irrigated by these

applications. Therefore, unappropriated water is not a consideration and these applications will not adversely impact existing appropriative or domestic users.

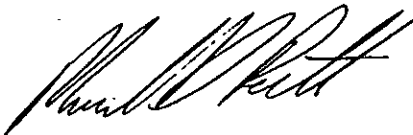
6. In accordance with the Water Management Board (2007) adopting standardized qualifications, if approved, Application Nos. 7444A-3 and 8353A-3 should contain the following qualifications:

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



Blaise M. Hansen
Natural Resources Engineer I

Reviewed by:



Mark D. Rath
Natural Resources Engineer III

References

1. United States Geological Survey. 2020. *National Water Information System – USGS Surface-Water Daily Statistics for South Dakota*. 9 Sept. 2020: <https://waterdata.usgs.gov>.
2. Water Rights. 2020. *Water Right/Permit Files*. SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

Legal Notice Number: 0519

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 a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: OSCAR INC- WATER RIGHTS, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 10/28/20. That the full amount of the fee charged for the publishing \$ 49.34 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 date 10/31/20.

[Signature]
Notary Public, South Dakota

My Term Expires 03/11/2022

RECEIVED

NOV 16 2020

WATER RIGHTS
PROGRAM

PLAINSMAN

2000 - Legals

F. P. 10-28-20

NOTICE OF APPLICATION

**NOS. 7444A-3 and
8353A-3 to Amend
Water Permit Nos.
7444-3 and 8353-3**

Notice is given that Oscar Inc., c/o Floyd Peterson, 209 27th St NW, Huron SD 57350 has filed the following applications. Application No. 7444A-3 proposes to amend Water Permit No. 7444-3 by transferring a portion of the irrigated acreage and point of diversion to the location authorized by Water Right No. 7349-3. Water Permit No. 7444-3 appropriates 1.93 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NW 1/4 Section 27 for irrigation of 135 acres located in the NW 1/4 Section 26; all in T114N-R62W. This application proposes to move the location of 33 acres of the 135 acres and 0.47 cfs diversion authority approximately 2 1/2 miles northwest with the James River diversion point to be located in the SW 1/4 NW 1/4 Section 10 to irrigate a portion of the lands authorized by Water Right No. 7349-3. Water Right No. 7349-3 appropriates 2.76 cfs from a dugout (alluvium along James River) located in the SE 1/4 NW 1/4 Section 10 to irrigate 193 acres located in the S 1/2 SE 1/4 Section 3; NE 1/4, E 1/2 NW 1/4 Section 10; all in T114N-R62W. Water Permit No. 7444-3 will be reissued for the remaining 102 acres and 1.46 cfs. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Application No. 8353A-3 proposes to amend Water Permit No. 8353-3 by transferring the irrigated acreage and point of diversion to the location authorized by Water Right 7349-3 also. Water Permit No. 8353-3 appropriates 2.28 cfs from the James River located in the NW 1/4 NW 1/4 Section 27 for irrigation of 160 acres located in the NW 1/4 Section 25; all in T114N-R62W. This application proposes to move, the location of the 160 acres and 2.28 cfs diversion authority approximately 3 miles northwest to irrigate the remaining acreage authorized by Water Right No. 7349-3 as described above. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Application Nos. 7444A-3 and 8353A-3 combined will authorize a total of 2.75 cfs from the James River to irrigate 193 acres. Water Permit No. 8353-3 will be subject to cancellation. The proposed amended site location for both applications is approximately 8 miles northeast of Hitchcock SD.

South Dakota Codified Law 46-5-34 allows for an irrigation right to be severed from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Peterson indicates his justification for these changes are the land is more suitable for irrigation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7444A-3 and 8353A-3 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendations with qualifications, the applications, and staff report are available at <http://denr.sd.gov/> public or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting the 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 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 November 9, 2020. 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 applications 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 the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

No. 0519 (adv.)
Published once at the
total approximate cost of
\$49.34.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, October 19, 2020 1:12 PM
To: Stacy Carroll
Subject: 7444A-3 and 8353A-3, Oscar Inc
Attachments: 7444A-3&8353A-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on October 28, 2020.

Oscar Inc, c/o Floyd Peterson, 209 27th St NW, Huron SD 57350 (605 352-2728) 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
Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, October 19, 2020 1:10 PM
To: Ruby Crandall
Subject: 7444A-3 and 8353A-3, Oscar Inc
Attachments: 7444A-3&8353A-3public.short.docx; FORM8.FRM.doc

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Karen Schlaak

Water Rights Program
(605) 773-3352





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SOUTH DAKOTA

**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.**

October 19, 2020

Oscar Inc.
c/o Floyd Peterson
209 27th St NW
Huron SD 57350

Dear Mr. Peterson:

Water Permit Application Nos. 7444A-3 and 8353A-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plainsman printed at Huron SD (Ph # 605 353-7414) and the Redfield Press printed at Redfield SD (Ph # 605 472-0822). 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 publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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 applications.

NOTICE OF APPLICATION NOS. 7444A-3 and 8353A-3
to Amend Water Permit Nos. 7444-3 and 8353-3

Notice is given that Oscar Inc., c/o Floyd Peterson, 209 27th St NW, Huron SD 57350 has filed the following applications. Application No. 7444A-3 proposes to amend Water Permit No. 7444-3 by transferring a portion of the irrigated acreage and point of diversion to the location authorized by Water Right No. 7349-3. Water Permit No. 7444-3 appropriates 1.93 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NW 1/4 Section 27 for irrigation of 135 acres located in the NW 1/4 Section 26; all in T114N-R62W. This application proposes to move the location of 33 acres of the 135 acres and 0.47 cfs diversion authority approximately 2 1/2 miles northwest with the James River diversion point to be located in the SW 1/4 NW 1/4 Section 10 to irrigate a portion of the lands authorized by Water Right No. 7349-3. Water Right No. 7349-3 appropriates 2.76 cfs from a dugout (alluvium along James River) located in the SE 1/4 NW 1/4 Section 10 to irrigate 193 acres located in the S 1/2 SE 1/4 Section 3; NE 1/4, E 1/2 NW 1/4 Section 10; all in T114N-R62W. Water Permit No. 7444-3 will be reissued for the remaining 102 acres and 1.46 cfs. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Application No. 8353A-3 proposes to amend Water Permit No. 8353-3 by transferring the irrigated acreage and point of diversion to the location authorized by Water Right 7349-3 also. Water Permit No. 8353-3 appropriates 2.28 cfs from the James River located in the NW 1/4 NW 1/4 Section 27 for irrigation of 160 acres located in the NW 1/4 Section 25; all in T114N-R62W. This application proposes to move the location of the 160 acres and 2.28 cfs diversion authority approximately 3 miles northwest to irrigate the remaining acreage authorized by Water Right No. 7349-3 as described above. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Application Nos. 7444A-3 and 8353A-3 combined will authorize a total of 2.75 cfs from the James River to irrigate 193 acres. Water Permit No. 8353-3 will be subject to cancellation. The proposed amended site location for both applications is approximately 8 miles northeast of Hitchcock SD.

South Dakota Codified Law 46-5-34 allows for an irrigation right to be severed from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Peterson indicates his justification: for these changes are the land is more suitable for irrigation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7444A-3 and 8353A-3 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendations with qualifications, the applications, and staff report are available at <http://denr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting the 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 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 November 9, 2020.

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 applications 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 the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

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PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

7444-3

7444A-3

8353A-3

JAN 19 2021

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

Dear Mr. Peterson:

Enclosed are Water Permit Nos. 7444A-3 and 8353A-3 authorizing construction of the water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits. Also enclosed is Reissued Water Permit No. 7444-3 reflecting the transferred acres and diversion authority.

Two Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are 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,

Eric Gronlund, 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



6231-3 7349-3 8353A-3
**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 17, 2024

Oscar Peterson
209 27th Street NW
Huron SD 57350

Dear Oscar:

You stopped in the office on Friday, December 13th regarding three water permits/rights that you received irrigation questionnaires. The question is why you were getting three questionnaires for what you thought was irrigation of the same acres. The short answer to your question is each water permit/right appropriates water from a different water source. A copy of the water license/permit and map is each water right/permit. Below is an explanation.

Water Right No. 6231-3 appropriates water from a small dam on a spring fed stream the originates on the Olsen property. The dam is located very close to where the small stream flows into the James River. The authorized irrigated acres include the southern pivot and a strip of land adjacent to the James River. If you'll recall your original application was contested by Mr. Olsen

Water Right No. 7349-3 was originally held by Michael Sentell. The water right appropriates water from a dugout completed into the alluvium along the James River. The irrigated acres total 193 acres from the two center pivots as shown on the map.

Water Permit No. 8353A-3 appropriates water directly from the James River to irrigate 160 acres which are portions of land authorized by Water Right No. 7349-3. Water Permit No. 8353A-3 was an amendment which transfer the diversion point and irrigated acres to this location.

The reason you get three separate irrigation questionnaires for acreage that is for the same two center pivot (except for the strip along the James River authorized by Water Right No. 7349-3) is that you need to specifically report based on which of the three water sources is used.

Hope this help resolve the confusion. If any of these water sources are no longer used and you want the water right/permit cancelled, please let me know.

Sincerely,

Eric Gronlund
Water Right Program, DANR
605 773-3352
Eric.gronlund@state.sd.su

enclosure