

WATER PERMIT NO. 8460-3

Name of Applicant: **Kyle Sueltz**

Address: **39605 120th St, Columbia SD 57433** Phone: **396-7418**

Amount of Water Claimed: **3.56 cfs** Total Acres: **475 acres**

Source of Water Supply: **James River**

Water to be used for: **irrigation** County: **Brown**

Type of Waste Disposal System:

Location: **approximately 7 miles SE Aberdeen**

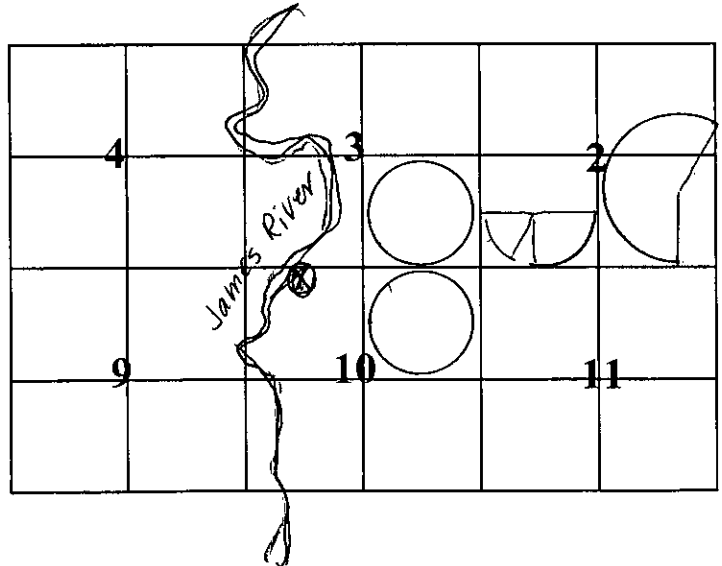
PRIORITY Date Received: **11-30-20** Application/License Fee: **\$ 1,550.00**

Corrected Application Received: Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **N 1/2 NW 1/4 Sec 10-T122N-**
R62W

Land to be Irrigated: **SE 1/4 Sec 3, NE 1/4 Sec 10,**
S 1/2 SW 1/2 and SE 1/4, S 1/2 NE 1/4 Sec 2; all in
T122N-R62W



Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **12-1-20**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

RECEIVED

NOV 30 2020

PAID

NOV 30 2020

Ck# 2722

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8460-3</u> (office use only) Hydrologic Unit <u>10160005</u> WATER RIGHTS PROGRAM
	Basin <u>James River</u>
	Newspaper <u>American News</u>

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 Kyle Suelztz

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

Mailing Address 39605 120th St Columbia ☒ SD ☒ 57433
(Address) (City) (State) (Zip Code)

Phone 396-2418 Mobile 396-7418 Email ksuelztz79@hotmail.com

2. Amount of water claimed 3.56 *CFS or 1600 **GPM ***AF Total Acreage 475
(*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 N 1/2 NW 1/4

4. Location of point of diversion surface diversion in NE 1/4 section 10-T122N-62W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Brown ☒

5. County or counties where water will be used Brown

6. Annual period during which water is to be used May 1 - Sept 30

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

Land Description	Acres	Land Description	Acres
SE 1/4 of 3 T-122N-62W	140		
NE 1/4 of 10 T-122N-62W	140		
S 1/2 of SW 2 T-122N-62W	70		
E 1/2 of SE 2 T-122N-62W & S 1/2 NE 1/4	125		

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

Install 4 pivots with surface diversion from James River. See attached map for fields and system layout.

I, Kyle Suelztz, the applicant, certify under
Name of Person Title (if applicable)

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

**SOUTH DAKOTA
WATER PERMIT NO. 8460-3**

Date of first receipt of application November 30, 2020.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8460-3 to Kyle Suelztz, 39605 120th St, Columbia SD 57433 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. 8460-3 appropriates 3.56 cubic feet of water per second from the James River located in the N 1/2 NW 1/4 Section 10 for irrigation of 475 acres located in the SE 1/4 Section 3, NE 1/4 Section 10, S 1/2 SW 1/4, SE 1/4, S 1/2 NE 1/4 Section 2; all in T122N-R62W. This site is located approximately 7 miles southeast of Aberdeen 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: May 1 – September 30.
3. The date from which applicant may claim right is November 30, 2020.
4. The date of approval of Permit No. 8460-3 is January 25, 2021.
5. One-fifth of the construction is to be completed on or before July 25, 2023.
6. All construction is to be completed on or before January 25, 2026.
7. Water is to be put to beneficial use on or before January 25, 2030.
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 near Ashton, 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

MAR 03 2021

date





I give permission for Kyle Suelz to acquire an irrigation permit on my land.

Scott Suelz 12-15-20

I give permission for Kyle Suelz to acquire an irrigation permit on my land.

Loel Schott
12-14-2020

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, December 10, 2020 2:44 PM
To: ksultz79@hotmail.com
Subject: Water Permit Applications

As stated in our phone conversation this afternoon, please send us a note signed by Scott Sultz and Loel Schott stating they are in agreement with you applying for permits on land owned by them.

Thanks,

Karen Schlaak
Water Rights Program
(605) 773-3352



DENR
SOUTH DAKOTA



Scott Sueltz
 525 Stewart Dr.
 Aberdeen, SD 57401

Loel Schott
 13668 399th Ave
 Groton, SD 57445

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date November 30, 2020

RECEIVED OF Kyle/Christa Suelztz 39605 120th St Columbia SD 57433

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

Fee for Application for Permit No. <u>8460-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$1350.00
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>8460-3</u>	\$200.00
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	\$1550.00

By Eric Gronlund
Chief Engineer
vm



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. 8460-3, Kyle Sultz**

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. 8460-3, Kyle Sultz, 39605 120th St, Columbia, SD 57433.

The Chief Engineer is recommending APPROVAL of Application No. 8460-3 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. 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 near Ashton, 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, Chief Engineer
January 8, 2021

REPORT ON WATER PERMIT APPLICATION NO. 8460-3
KYLE SUELTZ
JANUARY 4, 2021

Application No. 8460-3 seeks to appropriate 3.56 cubic feet of water per second (cfs) from the James River located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 10 for irrigation of 475 acres located in the SE $\frac{1}{4}$ Section 3; the NE $\frac{1}{4}$ Section 10; the S $\frac{1}{2}$ SW $\frac{1}{4}$, the SE $\frac{1}{4}$, and the S $\frac{1}{2}$ NE $\frac{1}{4}$, Section 2; all in T122N-R62W. The site is located approximately seven miles southeast of Aberdeen, SD, in Brown County.

Review of the Proposed Project and Water Source

Application No. 8460-3 (shown in Figure 1) proposes to appropriate a diversion rate of 3.56 cfs to irrigate 475 acres. The water source is the James River in Brown County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation, the James River experiences extremely low flows and cannot be considered a reliable source of water.

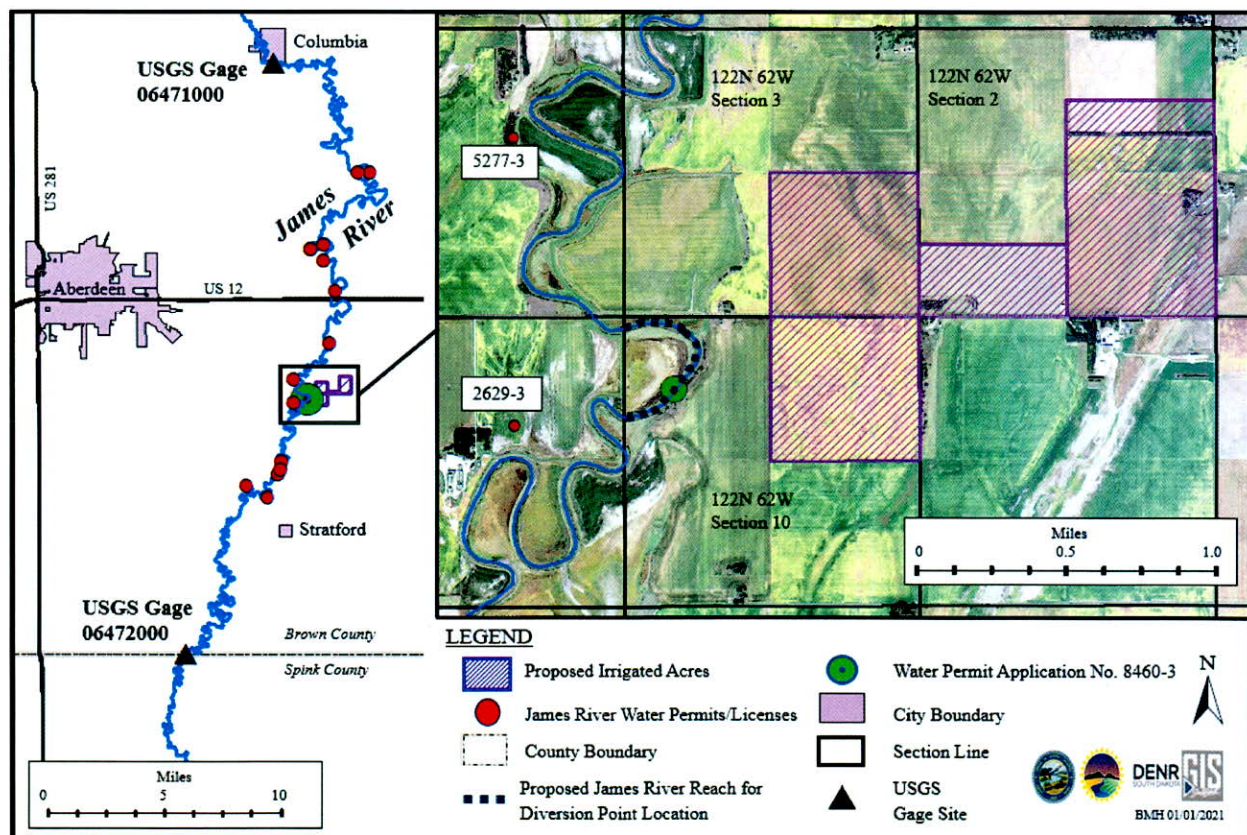


Figure 1. Map showing the location for the proposed irrigated acres, pertinent USGS gaging stations, and the reach on the James River for the proposed diversion point for Application No. 8460-3.

Mean, often referred to as the average, and median, 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 50th 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. 06471000, on the James River near Columbia, SD, located approximately 45 river miles upstream of this proposed application (USGS, 2020). Figure 2 is a graph containing daily mean flow values and daily median flow values, from the years 1974 - 2020, obtained from gaging station No. 06471000. The mean line shows that the flow rate of water steadily declines from 50 cfs in January to approximately 20 cfs by mid-March. Flow then sharply increases to approximately 1020 cfs by the end of April before sharply decreasing to approximately 590 cfs by mid-June. Flow then increases slightly to around 620 cfs by mid-July before decreasing to approximately 250 cfs by the beginning of October. Flow remains at least at this level until the beginning of November before it steadily decreases to approximately 50 cfs by the end of December. The median line shows flow decreasing from around 30 cfs in January to the low teens through mid-March. Flow then sharply increases to just above 450 cfs at the beginning of May before decreasing to approximately 250 cfs by the end of June. Flow remains at least at this level until mid-August before sharply decreasing to 150 cfs by the beginning of September. Flow oscillates around this level until the beginning of November before steadily decreasing to approximately 30 cfs by the end of December.

Both plots in Figure 2 illustrate peaks and trends over similar time frames. The most significant difference is that the mean line shows at least 100 cfs or more of water is available for the requested irrigation season. Another important difference is that the mean line does not indicate any decrease in flow as it rises to over 1000 cfs over the month of April. This can be expected because the mean value is significantly affected by anomalous high values or low values within the data set tied to extreme events like floods or droughts. In this case, the high flow values produced by the spring runoff result in the mean line predicting considerably more water being available over a longer period of time when compared to the median line. Because the median value is not skewed toward anomalous data values, the median value is more representative of the historical flow characteristics for a stream location.

Hydrograph percentile data are shown in Figure 3 for USGS gaging station No. 06471000, from 1974 to 2020, on the James River near Columbia, SD. Percentile values are utilized to estimate water availability. The 50th percentile is the amount of water expected 1 out of every 2 years; the 25th percentile is the amount of water expected 1 out of every 4 years; the 10th percentile is the amount of water expected 1 out of every 10 years. At the 50th percentile, the mean daily flow values are below 50 cfs until mid-March before drastically increasing to over 550 cfs by the beginning of May. Flow then declines to 450 cfs by June, 250 cfs by July and 150 cfs by the end of August. While flow does fluctuate to 300 cfs or greater, at least 200 cfs is available through mid-August. Flow stays above 100 cfs until the beginning of November before decreasing to approximately 50 cfs by the end of the year. At the 10th percentile, flow is almost negligible and does not increase to above 4 cfs for the entire year.

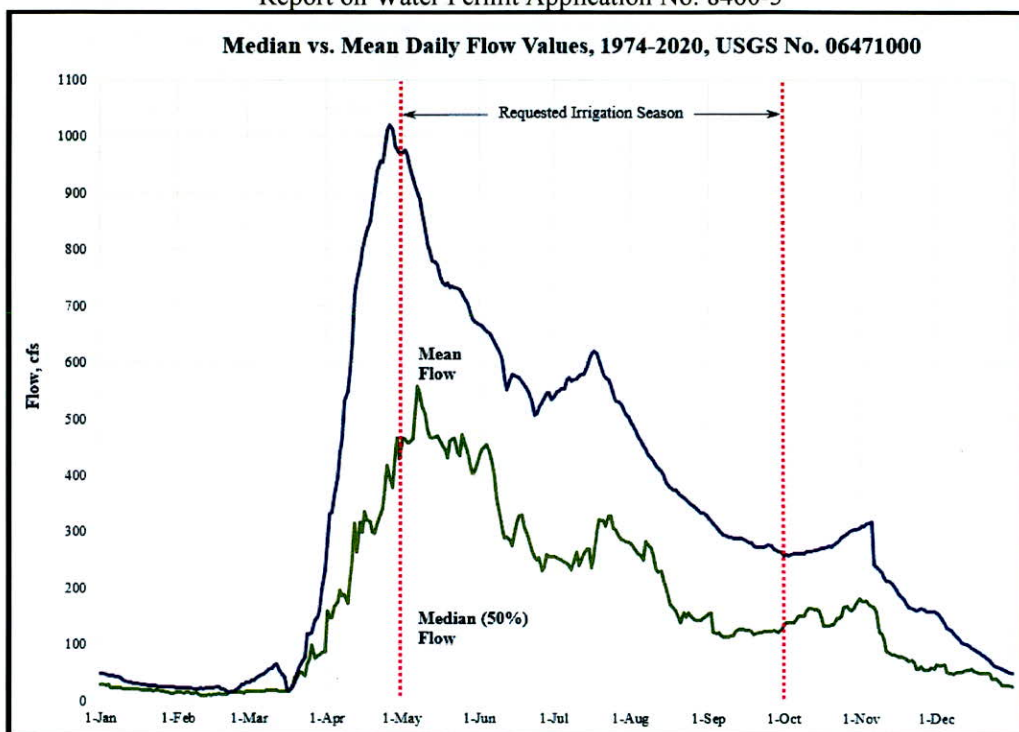


Figure 2. USGS gaging station No. 06471000 James River near Columbia, SD, Median versus Mean of daily flow values 1974-2020. Contributing drainage area of 4,965 mi² (USGS, 2020).

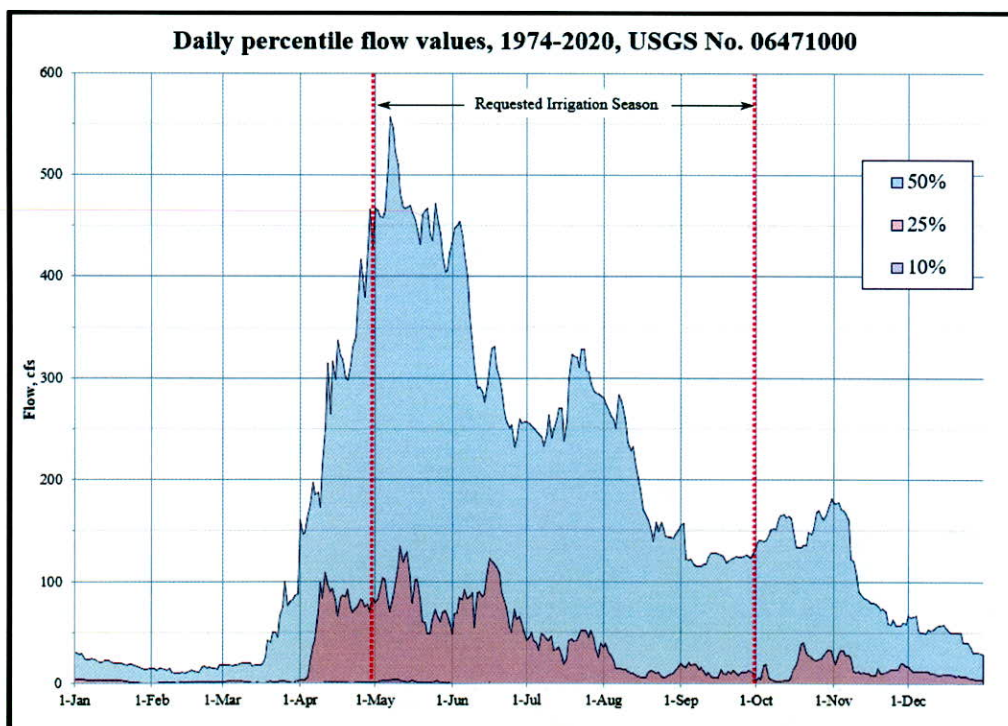


Figure 3. Daily percentile flow hydrograph for USGS gaging station No. 06471000, 1974-2020, on the James River near Columbia, SD, contributing drainage area of 4,965 mi² (USGS, 2020).

The USGS operates stream flow gaging station No. 06472000, on the James River near Stratford, SD, located approximately 32 river miles downstream of the proposed project (USGS, 2020). Figure 4 shows plots of historical percentile data from 1950 to 2019 for this stream flow gage. At the 50th percentile, the mean daily flow values are below 30 cfs until mid-March then drastically increase to over 400 cfs by the beginning of May. While flow does briefly exceed 450 cfs, at least 250 cfs is maintained until the beginning of July before steadily decreasing to approximately 50 cfs by the beginning of September. It then reduces to around 50 cfs by October and maintains this condition for the remainder of the winter months. At the 10th percentile, winter flow is negligible until the beginning of April. Flow peaks to approximately 50 cfs for a brief period in May but, 30 cfs is maintained to the beginning of August before declining to essentially zero flow by the September. Negligible flow conditions are maintained for the remainder of the year.

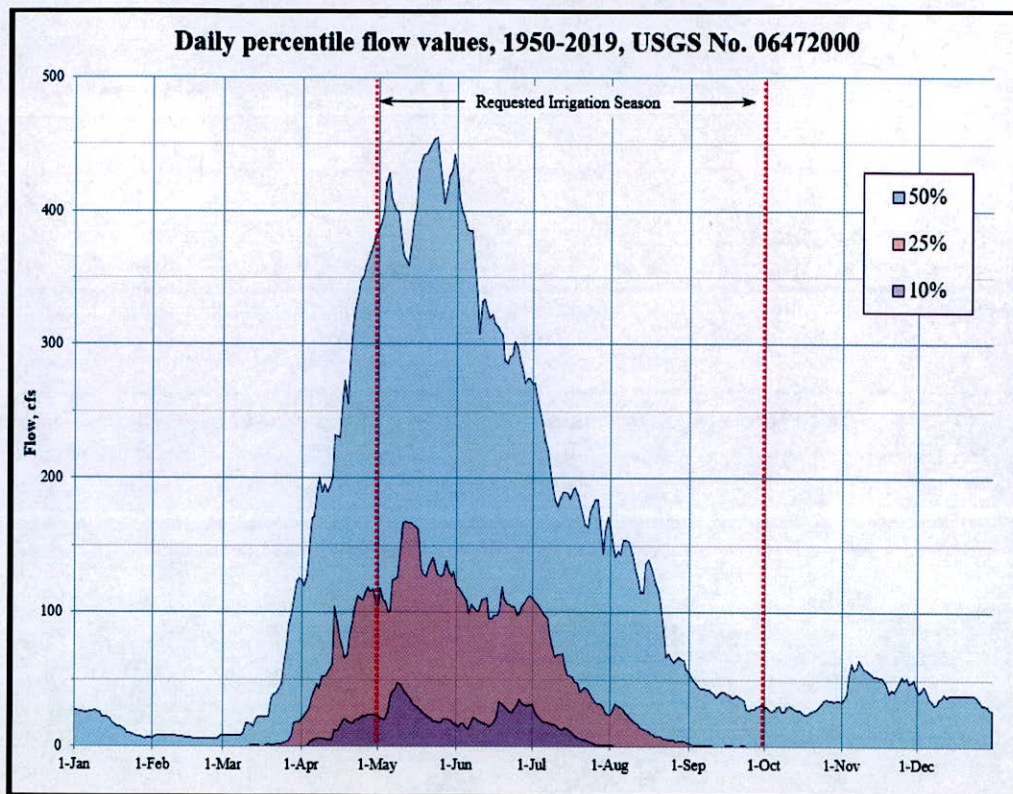


Figure 4. Daily percentile flow hydrograph for the USGS gaging station No. 06472000, 1950-2019, on the James River near Stratford, SD, contributing drainage area 7,653 mi², (USGS, 2020).

USGS historical median data for the Columbia and Stratford stream flow gages show similar water availability for the requested irrigation season. Annually, spring runoff for the 50th percentile is shown by the drastic increase of flow to 400 cfs by the beginning of May. Flow is maintained above 200 cfs through the end of July then followed by a steady decrease to below 50 cfs through September. Both hydrographs indicate that water is available in the James River during normal to wetter climatic conditions occurring during the April through July period. During late summer and early fall months, the James River cannot be considered a reliable source of water. To address low flow conditions, a shutoff date of August 10 is placed on all new James River permits.

Review of Existing Water Rights and Current Appropriations

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed maximum diversion limits over sections of the James River in South Dakota. Due to Missouri River backwater into the James River, a 300 cfs diversion limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2020). Of this restriction, a 200 cfs diversion limit restriction was placed from the North Dakota border to the USGS gaging station in Huron, SD. The SD Water Management Board has adopted these diversion limits.

This application, if approved, will impact both diversion restrictions. Presently there are 109 water rights/permits appropriating 270.99 cfs of the 300 cfs diversion limit between the North Dakota border and the Yankton-Hutchinson County Line. Additionally, there are 3 pending permits, Nos. 8447-3, 8448-3, and 8449-3, which propose to appropriate a combined 11.37 cfs from a section of the James River south of Huron. If this application (with 3.56 cfs) and the pending applications are approved, there will be 285.92 cfs of the 300 cfs limit diverting water from the James River. Of the 109 water rights/permits diverting water, 70 are within the reach between the North Dakota border to the USGS gaging station in Huron. With a total diversion of 179.26 cfs, there remains 20.74 cfs of the 200 cfs available for appropriation. If this application (with 3.56 cfs) is approved, there will be 182.82 cfs of the 200 cfs diverting water from this section of the James River. There are two Locken Farms water rights/permits within one mile (as shown in Figure 1) of the proposed diversion reach. Both are for irrigation use, with Permit No. 5277-3 licensed to divert 2.57cfs and Permit No. 2629-3 licensed to divert 1.44 cfs.

There is also one future use permit (No. US594-3) reserving 500 cfs for the US Bureau of Reclamation. Excluding the future use permit, if this application and the pending applications are approved, there will be 285.92 cfs (of the 300 cfs limit) and 182.82 cfs (of the 200 cfs limit) that are appropriating water from the James River. Therefore, unappropriated water is available in both sections of the James River that possess diversion limit restrictions.

Discussion and Review of Qualifications

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).

Following the hearing, the James River water rights/permits contained 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 rights and any written orders issued by the Chief Engineer.

Report on Water Permit Application No. 8460-3

The water rights diverting in the most northern reach of the river upstream from the USGS gaging station near Ashton, SD, contain 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.

Therefore, if approved, Application No. 8460-3 should contain this standardized language in any qualifications.

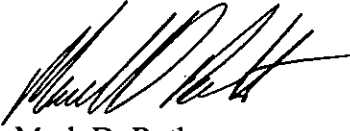
Conclusions

1. Application No. 8460-3 seeks to appropriate 3.56 cfs from the James River to irrigate 475 acres located approximately seven miles southeast of Aberdeen, SD.
2. The water source for the proposed project is the James River in Brown County. There is currently 29.01 cfs of water available for appropriation anywhere in the James River reach from the North Dakota border to the Yankton-Hutchinson County Line. However, only 20.74 cfs of water is available for appropriation between the North Dakota border and the USGS gaging station in Huron, SD. Consequently, unappropriated water is available, and this application will not adversely impact existing appropriative or domestic users.
3. In addition to this application, there are 3 pending application proposing to appropriate 11.37 cfs from the James River reach south of Huron, SD. If this application and the pending applications are approved, there will be 285.92 cfs (of the 300 cfs limit) appropriating water from the James River.
4. If this application is approved, there will be 182.82 cfs (of the 200 cfs limit) appropriating water from the James River reach between the North Dakota border and the USGS gaging station in Huron, SD.
5. In accordance with the Water Management Board (2007) adopting standardized qualifications, if approved, Application No. 8460-3 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 near Ashton, 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*. 31 October 2020: <https://waterdata.usgs.gov>.
2. Water Rights. 2020. *Water Right/Permit Files*. SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, January 6, 2021 4:10 PM
To: 'Kyle Suelz'
Subject: Water Permit Application No 8460-3
Attachments: 0349.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper as soon as possible to authorize publication on January 15, 2021 and arrange for payment. This information is being mailed to you today.

Karen Schlaak
Water Rights Program
(605) 773-3352



DENR
SOUTH DAKOTA

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Mary Vance being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal # 926666

Kyle Sueltz

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each Day for 1 Day.

The first publication being made on the 15th day of January, 2021

The second publication being made on the _____ day of _____, 2021

The third publication being made on the _____ day of _____, 2021

The fourth publication being made on the _____ day of _____, 2021

The fifth publication being made on the _____ day of _____, 2021

The sixth publication being made on the _____ day of _____, 2021

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 33.43, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

Mary Vance

Subscribed and sworn to before me this 24th day of February, 2021

Daily Circulation 8,000

[Signature]

Notary Public, Brown County, SD.

My commission expires March 20, 2025.

RECEIVED

FEB 08 2021

WATER RIGHTS PROGRAM

NOTICE OF APPLICATION NO. 8460-3
to Appropriate Water

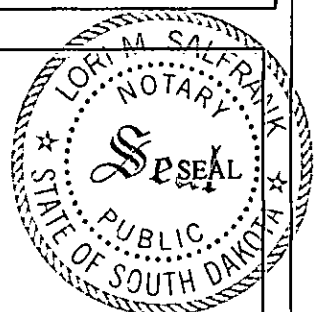
Notice is given that Kyle Sueltz, 39605 120th St. Columbia SD 57433 has filed an application for a water permit to appropriate 3.56 cubic feet of water per second from the James River located in the N 1/2 NW 1/4 Section 10 for irrigation of 475 acres located in the SE 1/4 Section 3, NE 1/4 Section 10, S 1/2 SW 1/4, SE 1/4, S 1/2 NE 1/4 Section 2; all in T122N-R62W. This site is located approximately 7 miles southeast of Aberdeen SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8460-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://dwr.sd.gov/public> or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 25, 2021.

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

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 recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition. Published once at the total approximate cost of \$33.43.



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, January 6, 2021 4:06 PM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 8460-3, Kyle Sultz
Attachments: 8460-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on January 15, 2021.

Kyle Sultz, 39605 120th St, Columbia SD 57433 (605 396-7418) 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





DENR
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 NEWSPAPER RIGHT AWAY.**

January 7, 2021

Kyle Sultz
39605 120th St
Columbia SD 57433

Dear Mr. Sultz:

Water Permit Application No. 8460-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the American News printed at Aberdeen SD (Ph # 605 225-4100). You will need to contact the 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 newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper 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,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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 APPLICATION NO. 8460-3 to Appropriate Water

Notice is given that Kyle Suelztz, 39605 120th St, Columbia SD 57433 has filed an application for a water permit to appropriate 3.56 cubic feet of water per second from the James River located in the N 1/2 NW 1/4 Section 10 for irrigation of 475 acres located in the SE 1/4 Section 3, NE 1/4 Section 10, S 1/2 SW 1/4, SE 1/4, S 1/2 NE 1/4 Section 2; all in T122N-R62W. This site is located approximately 7 miles southeast of Aberdeen SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8460-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, 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 this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 25, 2021.

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

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 recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 08 2021

Kyle Suelzt
39605 120th St
Columbia SD 57433

Dear Mr. Suelzt:

Enclosed is Water Permit No. 8460-3 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,

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