

WATER PERMIT NO. 8605-3

Name of Applicant: Lenny Peterson

Address: 19111 Maple Ave, Hitchcock SD 57348

Phone: 605 354-4602

Amount of Water Claimed: 2.29 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: 6 1/2 miles east of Hitchcock

PRIORITY Date Received: 2-14-22

Application/License Fee: \$1050

Corrected Application Received: 2-28-22

Period of Annual Use: May 1 – September 30

Remarks: Existing groundwater Permit No. 6333B-3 for same acreage

Diversion Point: W 1/2 Sec 34-T114N-R62W

Land to be Irrigated: SW1/4 Sec 33-T114N-R62W

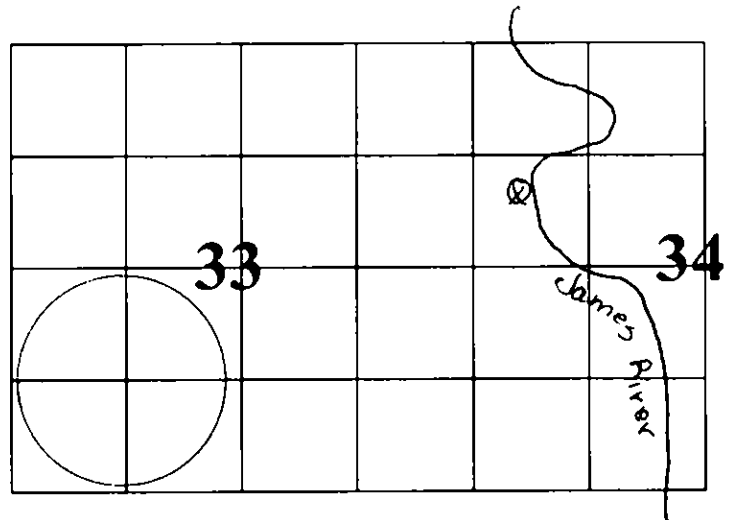
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:



Reviewed and the Number Assigned on: 2-3-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8605-3**

Date of first receipt of application February 14, 2022.

Date of return to applicant for corrections, amendments or changes February 22, 2022.

Date of receipt of corrected application February 28, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8605-3 to Lenny Peterson, 19111 Maple Ave, 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. 8605-3 appropriates 2.29 cubic feet of water per second (cfs) from the James River located in the W 1/2 Section 34 for irrigation of 160 acres located in the SW 1/4 Section 33; all in T114N-R62W. Water Right No. 6333B-3 authorizes irrigation of the same acreage from the Tulare:Hitchcock Aquifer. This site is located approximately 6 1/2 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 – November 30.
3. The date from which applicant may claim right is February 14, 2022.
4. The date of approval of Permit No. 8605-3 is May 31, 2022.
5. One-fifth of the construction is to be completed on or before December 1, 2024.
6. All construction is to be completed on or before May 31, 2027.
7. Water is to be put to beneficial use on or before May 31, 2031.
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 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 USGS gaging station at Huron, SD, after pumping.
3. Combinations of diversions under this Permit and Water Permit No. 6333B-3 may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation.
4. 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 Agriculture and Natural Resources

JUN 28 2022
date



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

RECEIVED

FEB 14 2022

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8605-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James R.</u>
	Newspaper <u>Redfield Press</u> <u>Plainsman</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 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 AVE HICKOCK SD 57348
(Address) (City) (State) (Zip Code)

MOBILE Phone 605-354-4602 Home Mobile 605-326-2793 Email KPeterson@venturecomm.net

2. Amount of water claimed 2.29 *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 W 1/2 Sec 34-114-62
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County SPIRK

5. County or counties where water will be used SPIRK

6. Annual period during which water is to be used April - November 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)

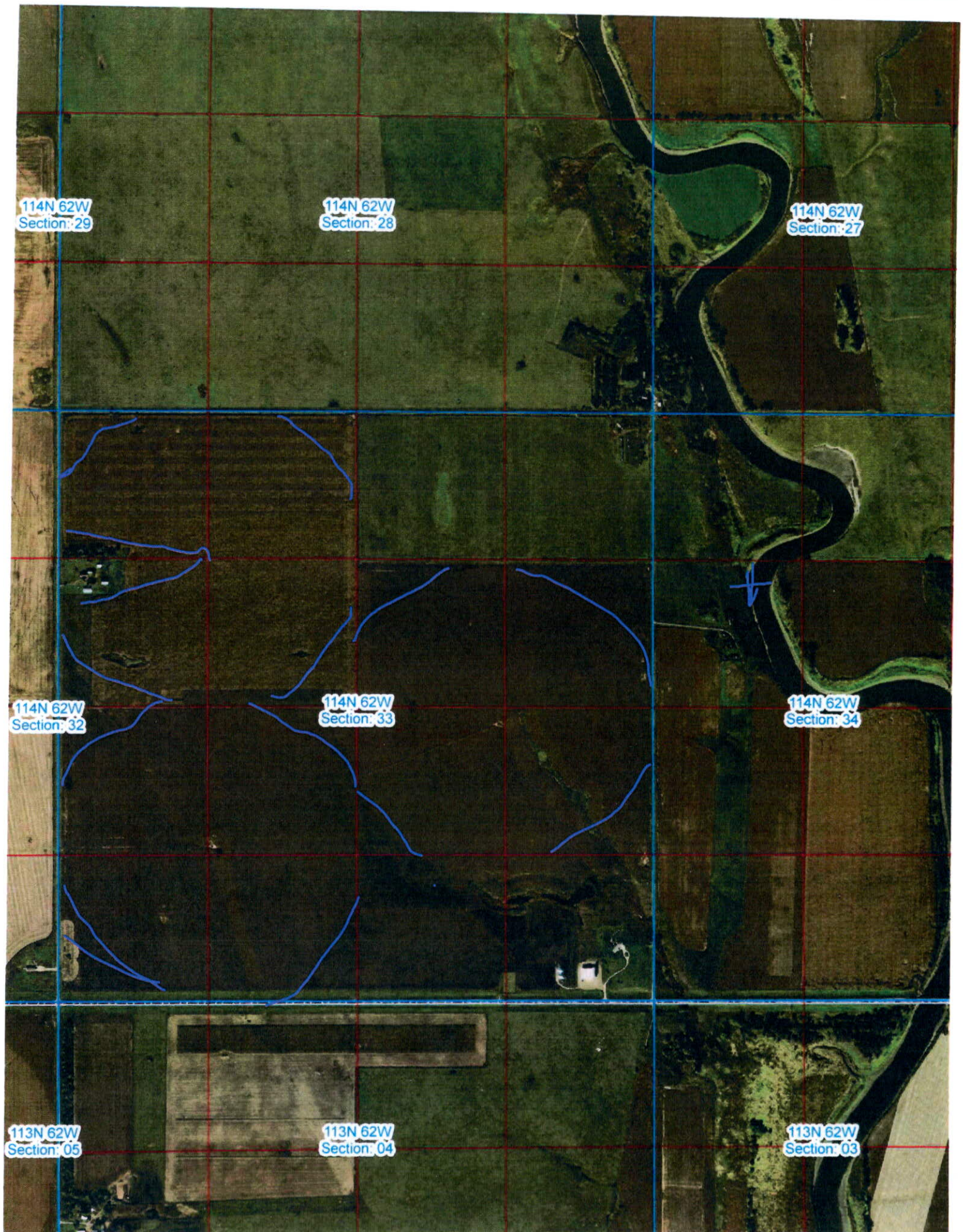
Land Description	Acres	Land Description	Acres
<u>SW 1/4 of 33-114-62</u>	<u>160</u>		

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

THIS LOCATION HAS A WELL PERMIT 6333B-3

I, 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.



114N 62W
Section: 29

114N 62W
Section: 28

114N 62W
Section: 27

114N 62W
Section: 32

114N 62W
Section: 33

114N 62W
Section: 34

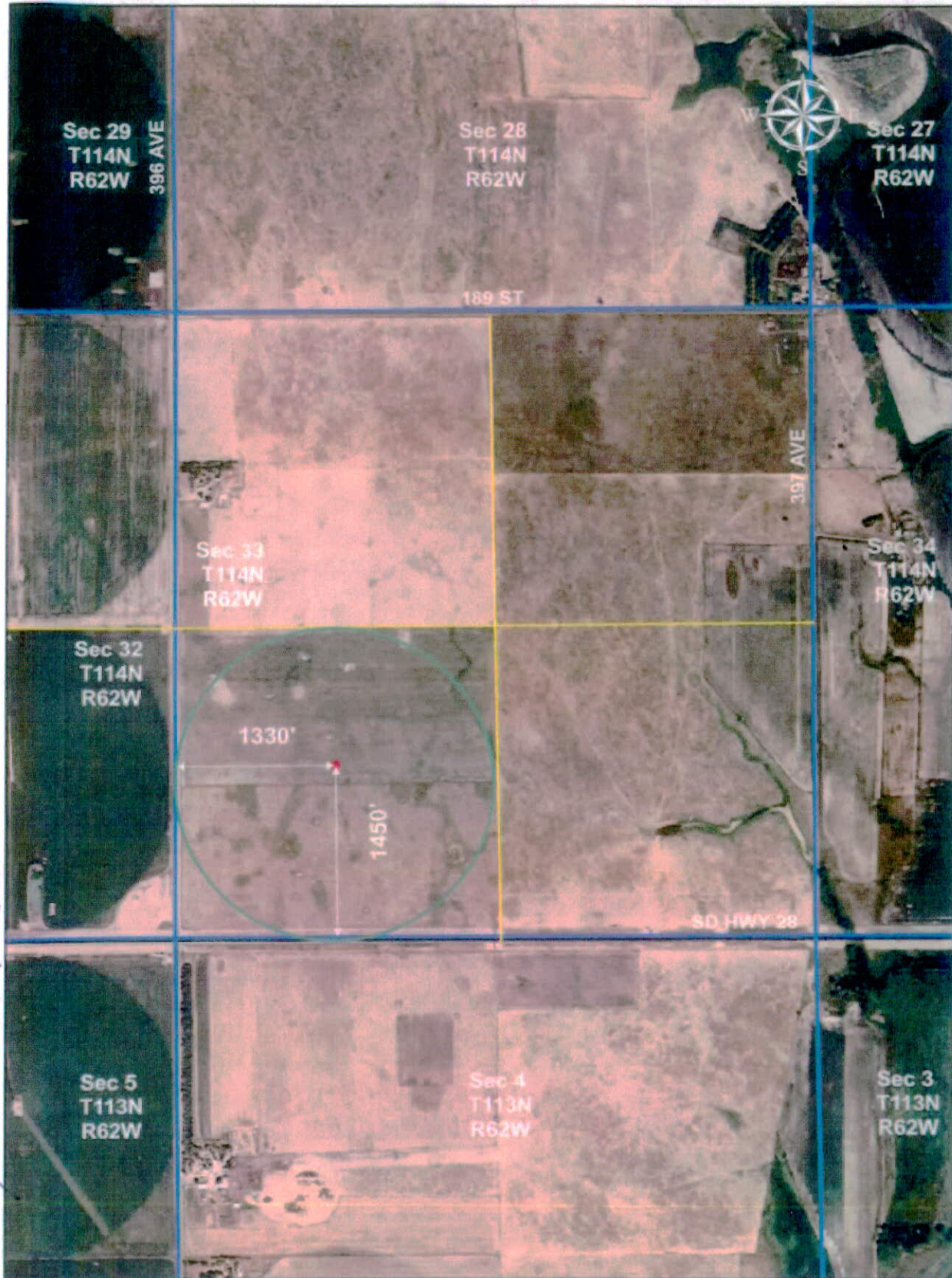
113N 62W
Section: 05

113N 62W
Section: 04

113N 62W
Section: 03

Peterson Farms
19111 Maple Ave
Hitchcock, SD 57348

Water Permit No. 6333B-3



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
December 4, 2007



0 950 1,900 3,800 Feet

Schlaak, Karen

From: kpeterson@venturecomm.net
Sent: Monday, February 28, 2022 9:29 AM
To: Schlaak, Karen
Subject: Re: [EXT] Water Permit applications from the James River
Attachments: Jim River Irrigation map Section 33.pdf

Good morning, Karen,

Lenny tried his best to draw the irrigation on the computer. He said to tell you the diversion point might change slightly north or south but it will be in that general area. Please let us know if you need anything else.

Thank you, Lenny and Karen Peterson

On 2022-02-22 08:14, Schlaak, Karen wrote:

Good Morning,

Attached is a map for your proposed irrigation projects from the James River. On the map, please outline the areas to be irrigated and mark the James River diversion point with an "X".

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date February 18, 2022

RECEIVED OF Lenny D/Karen D Peterson 19111 Maple Ave., Hitchcock SD 57348

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

Fee for Application for Permit No. <u>8605-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</u>
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>8605-3</u>	\$ <u>200.00</u>
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	\$ <u>1050.00</u>

By Eric Gronlund
Chief Engineer
unc



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8605-3, Lenny Peterson**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8605-3, Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348.

The Chief Engineer is recommending DEFERRAL of Application No. 8605-3 pursuant to South Dakota Codified Laws 46-2A-2 and 46-2A-7 to allow for further study of the appropriative limit restriction placed on the James River.

Eric Gronlund, Chief Engineer
March 28, 2022

NOTE: If pending Water Permit Application 8604-3 is approved, the appropriative limit on the James River will have reached the appropriation limit restriction of 300.0 cubic feet of water per second established by the Water Management Board. Therefore, the James River will be considered fully appropriated. Water Permit Application No. 8605-3 would subsequently only be able to be approved as a temporary use permit and be subject to future cancellation if the city of Aberdeen places James River water to beneficial use that is reserved under their future use permit. However, there are James River water rights/permits currently scheduled for cancellation at the Water Management Board meeting which, if cancelled, negate the need to issue Application No. 8605-3 as a temporary use permit. The deferral recommendation is for the re-evaluation of the appropriative limit restriction after the Water Management Board meeting on May 4, 2022.

REPORT ON WATER PERMIT APPLICATION NO. 8605-3

Lenny Peterson

March 22, 2022

Application No. 8605-3 proposes to appropriate 2.29 cubic feet of water per second (cfs) from the James River located in the W 1/2 Section 34 for irrigation of 160 acres located in the SW 1/4 Section 33; all in T114N-R62W. Water Right No. 6333B-3 authorizes irrigation of the same acreage from the Tulare-Western Spink Hitchcock Aquifer. This site is located approximately 6 miles east of Hitchcock SD.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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 domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

This report analyzes available information to determine whether the amendment may unlawfully impair existing rights in order for the Chief Engineer to make an official recommendation to the Water Management Board.

Review of the Proposed Water Source

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

The United States Geological Survey (USGS) operates a streamflow gaging station network in South Dakota. The USGS collects realtime stream flow data and retains a historical record of the flow data for each of these stations (USGS. 2022). Water Rights staff uses this flow data to help regulate water usage during dry periods and for performing flow analyses in determining the likelihood of water availability at a particular location. The USGS provides an online statistical package to help analyze the flow data.

Two of the measures considered are Mean, often referred to as average, and Median, otherwise referred to as 50th percentile, are statistical terms having a similar role in understanding the central tendency of a set of statistical results. Mean, often used to describe the middle value of a dataset, is calculated by determining the sum of the entries composing the dataset and then dividing that sum by the total number of entries in the dataset. Median, is the central value separating the higher half of values in a dataset from the lower half. The disadvantage of using mean to describe flow is the mean value can be significantly affected by any single value in the data set being very high or very low compared to the rest of the data values. In the analysis of long-term flow data, large flood event data values skew the calculated mean value giving an unreasonable expectation of a higher flow value over a period of time.

The USGS operates stream flow gaging station No. 06476000, on the James River at Huron, SD (USGS, 2022). Figure 1 shows plots of historical percentile data from 1943 to 2021 for this stream flow gage. Looking at the requested period of use at the 50th percentile, with flows at or below this level on average one out of two years, the median daily flow values range from over 650 cfs throughout May before steadily dropping to a low of 60 cfs by mid-August. During the period of proposed use at the 25th percentile level, with flow is at this level or below on average one out of four years, the median daily flow values range between 210 cfs in May before dropping below 20 cfs by mid to late August. During the period of proposed use at the 10th percentile level, with flow is at this level or below on average one out of ten years, the median daily flow values range between 40 cfs in May before near zero cfs by mid-July. Based upon the historical stream gaging data, there will be times when shutoff orders will need to be issued for this reach of the James River.

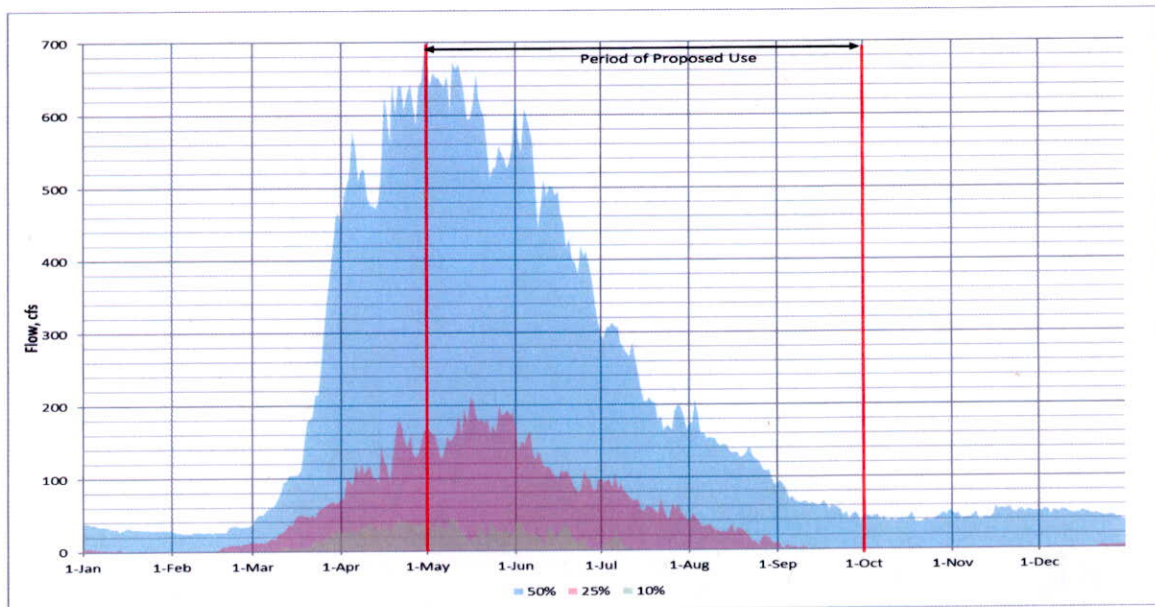


Figure 1. Daily percentile flow hydrograph for the USGS gaging station No. 06476000, 1943-2021, on the James River at Huron, SD, contributing drainage area 13,795 mi², (USGS, 2022).

Review of the James River Water Management Regulation

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed maximum appropriation limits over sections of the James River in South Dakota. A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2021). Of this restriction, a 200 cfs appropriation 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 appropriation limits.

In 2007, the SD Water Management Board adopted standardized qualifications. Existing water rights/permits were amended to include the standardized qualifications with the intent of using the same qualifications on future James River water rights/permits (Water Rights. 2012). In order to address times when water availability is scarce from the James River, the Water Management Board has placed the following qualifications on James River permits with diversions located between the Ashton and Huron gaging stations:

- 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 bypassing the USGS gaging station at Huron, SD, after pumping.

Review of Existing Water Rights/Permits

Currently there are 74 water rights/permits, another pending application and one future use permit appropriating, reserving or applying 196.87 cfs of the 200 cfs appropriation limit between North Dakota border and the USGS gaging station at Huron, SD, and there are 117 water rights/permits and one future use permit appropriating, reserving or applying for 300.00 cfs of the 300.00 cfs appropriation limit between the North Dakota border and the Yankton-Hutchinson County Line. If the other pending Water Permit Application No. 8604-3 whose source is the James River is approved, there will be 0.00 cfs available from the James River for appropriation under the 300 cfs limit and the river will be considered fully appropriated (Water Rights. 2022). However, there is an existing future use permit that has reserved 8.5 cfs of James River water that has not been developed and is available for appropriation under a temporary use permit as allowed under South Dakota Codified Law (SDCL) 46-5-39. If this permit is approved for 2.29 cfs as a temporary use permit, there would be 6.56 cfs remaining under of the 8.5 cfs reserved for future use.

There is Future Use Permit No. US594-3 bearing a priority date of November 7, 1963, held by the US Bureau of Reclamation for the reservation of 500 cfs from the James River and other sources. The majority of the water reserved by this permit and attributed to the James River would have

come from return flows created by the defunded and non-constructed Oahe Project with the water being diverted at the James River pumping plant. Originally the reservation of water was by Future Use Permit No. 1067-3 held by the Oahe Conservancy Sub-District but was transferred to the Bureau of Reclamation under Future Use Permit No. US594-3 in 1974. The remainder of Future Use Permit No. 1067-3 was cancelled by the Water Management Board in 2012. The status of this future use permit should be reviewed since the source of most of the water reserved was to be from a federal irrigation project that was never constructed and has been defunded (Water Rights. 2022).

Conclusions

1. The applicant proposes to appropriate 2.29 cubic feet of water per second (cfs) from the James River to irrigate 160 acres.
2. There is another pending water permit application from the James River. If the other pending permit is approved, there will be 0.00 cfs of the 300 cfs limit remaining in the James River between North Dakota border and the Yankton-Hutchinson County Line and the river will be considered fully appropriated.
3. There is an existing future use permit that has reserved 8.5 cfs of James River water that has not been developed and is available for appropriation under a temporary use permit.
4. If this permit is approved as a temporary use permit, there would be 6.56 cfs remaining under of the 8.5 cfs reserved for future use.
5. If approved the temporary use permit 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 bypassing the USGS gaging station at Huron, SD, after pumping.



Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2022. United States Geological Survey, National Water Information System, Stream Gaging Station Network for South Dakota.
2. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 4, 2022

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application No. 8605-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. The recommendation is for DEFERRAL to allow for further study of the appropriative limit restriction placed on the James River. To comply with South Dakota Codified Law 46-2A-2, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed.

The Water Rights Program is uncertain whether you want to proceed to public notice of the application with the deferral recommendation or wait to public notice the application until after the May 4th Board meeting. Please let us know your wishes.

Upon your direction to proceed to public notice, our Program will send notice electronically to the Redfield Press printed at Redfield (Ph # 605 472-0822) and the Plainsman printed at Huron (Ph # 605 353-7414). You will then need to contact the newspapers and authorize publication of this notice.

Please contact the Eric Gronlund at 605 773-3352 with any question.

Sincerely,

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER
PERMIT APPLICATION NO. 8605-3, Lenny Peterson**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8604-3, Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 8605-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. 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.
2. 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.
3. Combinations of diversions under this Permit and Water Permit No. 6333B-3 may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation.
4. 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
May 9, 2022

REPORT ON WATER PERMIT APPLICATION NO. 8605-3

Lenny Peterson

May 6, 2022

Application No. 8605-3 proposes to appropriate 2.29 cubic feet of water per second (cfs) from the James River located in the W 1/2 Section 34 for irrigation of 160 acres located in the SW 1/4 Section 33; all in T114N-R62W. Water Right No. 6333B-3 authorizes irrigation of the same acreage from the Tulare-Western Spink Hitchcock Aquifer. This site is located approximately 6 miles east of Hitchcock SD.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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 domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Water Source

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

The United States Geological Survey (USGS) operates a streamflow gaging station network in South Dakota. The USGS collects realtime stream flow data and retains a historical record of the flow data for each of these stations (USGS, 2022). Water Rights staff uses this flow data to help regulate water usage during dry periods and for performing flow analyses in determining the likelihood of water availability at a particular location. The USGS provides an online statistical package to help analyze the flow data.

Two of the measures considered are Mean, often referred to as average, and Median, otherwise referred to as 50th percentile, are statistical terms having a similar role in understanding the central tendency of a set of statistical results. Mean, often used to describe the middle value of a dataset,

is calculated by determining the sum of the entries composing the dataset and then dividing that sum by the total number of entries in the dataset. Median, is the central value separating the higher half of values in a dataset from the lower half. The disadvantage of using mean to describe flow is the mean value can be significantly affected by any single value in the data set being very high or very low compared to the rest of the data values. In the analysis of long-term flow data, large flood event data values skew the calculated mean value giving an unreasonable expectation of a higher flow value over a period of time.

The USGS operates stream flow gaging station No. 06476000, on the James River at Huron, SD (USGS, 2022). Figure 1 shows plots of historical percentile data from 1943 to 2021 for this stream flow gage. Looking at the requested period of use at the 50th percentile, with flows at or below this level on average one out of two years, the median daily flow values range from over 650 cfs throughout May before steadily dropping to a low of 60 cfs by mid-August. During the period of proposed use at the 25th percentile level, with flow is at this level or below on average one out of four years, the median daily flow values range between 210 cfs in May before dropping below 20 cfs by mid to late August. During the period of proposed use at the 10th percentile level, with flow at this level or below on average one out of ten years, the median daily flow values range between 40 cfs in May before near zero cfs by mid-July. Based upon the historical stream gaging data, there will be times when shutoff orders will need to be issued for this reach of the James River.

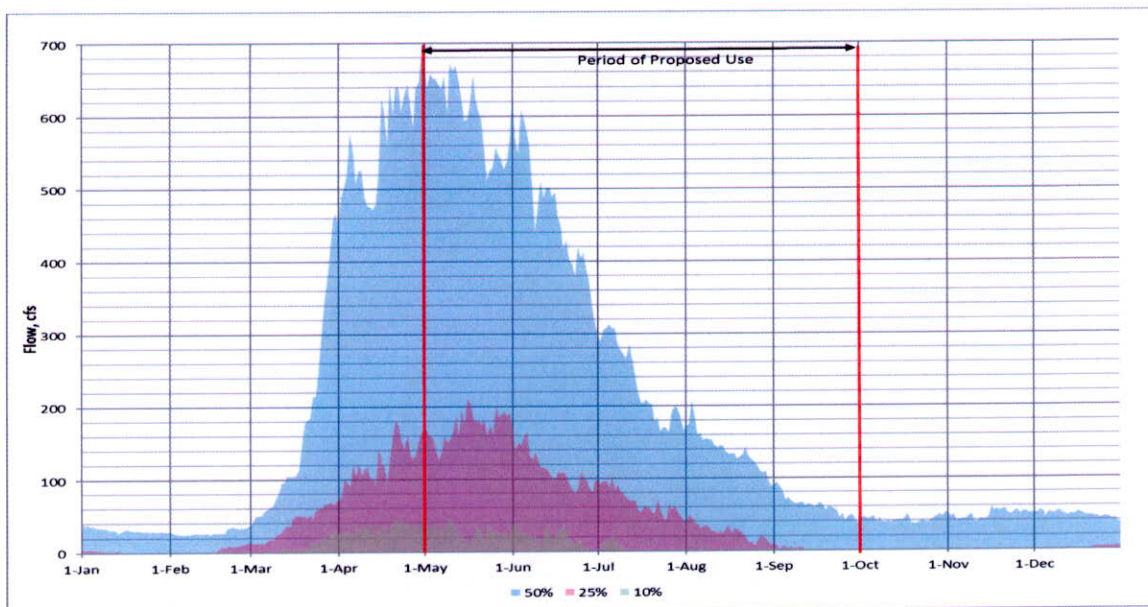


Figure 1. Daily percentile flow hydrograph for the USGS gaging station No. 06476000, 1943-2021, on the James River at Huron, SD, contributing drainage area 13,795 mi², (USGS, 2022).

Review of the James River Water Management Regulation

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed maximum appropriation limits over sections of the James River in South Dakota. A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota border to the Yankton-Hutchinson County Line (Water Rights. 2022). Of this restriction, a 200 cfs appropriation 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 appropriation limits.

In 2007, the SD Water Management Board adopted standardized qualifications. Existing water rights/permits were amended to include the standardized qualifications with the intent of using the same qualifications on future James River water rights/permits (Water Rights. 2022). In order to address times when water availability is scarce from the James River, the Water Management Board has placed the following qualifications on James River permits with diversions located between the Ashton and Huron gaging stations:

- 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 bypassing the USGS gaging station at Huron, SD, after pumping.

Review of Existing Water Rights/Permits

Currently there are 75 water rights/permits and one future use permit appropriating, reserving or applying 196.87 cfs of the 200 cfs appropriation limit between North Dakota border and the USGS gaging station at Huron, SD, and there are 115 water rights/permits and one future use permit appropriating, reserving or applying for 295.56 cfs of the 300.00 cfs appropriation limit between the North Dakota border and the Yankton-Hutchinson County Line. If this permit is approved for 2.29 cfs, there would be 2.15 cfs remaining of the 300.00 cfs appropriation limit and 0.84 cfs remaining of the 200.00 cfs appropriation limit. There is also an existing future use permit that has reserved 8.5 cfs of James River water that has not been developed and is available for appropriation under a temporary use permit as allowed under South Dakota Codified Law (SDCL) 46-5-39 (Water Rights. 2022).

There is Future Use Permit No. US594-3 bearing a priority date of November 7, 1963, held by the US Bureau of Reclamation for the reservation of 500 cfs from the James River and other sources. The majority of the water reserved by this permit and attributed to the James River would have come from return flows created by the defunded and non-constructed Oahe Project with the water being diverted at the James River pumping plant. Originally the reservation of water was by Future

Use Permit No. 1067-3 held by the Oahe Conservancy Sub-District but was transferred to the Bureau of Reclamation under Future Use Permit No. US594-3 in 1974. The remainder of Future Use Permit No. 1067-3 was cancelled by the Water Management Board in 2012. The status of this future use permit should be reviewed since the source of the majority of the water reserved was to be from a federal irrigation project that was never constructed and has been defunded (Water Rights. 2022).

Conclusions

1. The applicant proposes to appropriate 2.29 cubic feet of water per second (cfs) from the James River to irrigate 160 acres.
2. If this permit is approved, there will be 2.15 cfs of the 300 cfs limit remaining in the James River between North Dakota border and the Yankton-Hutchinson County Line and 0.84 cfs of the 200 cfs limit remaining in the James River between North Dakota border and the USGS gaging station in Huron.
3. If approved the permit 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 bypassing the USGS gaging station at Huron, SD, after pumping.



Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2022. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 11, 2022 11:44 AM
To: 'kpeterson@venturecomm.net'
Subject: Water Permit Application No. 8605-3
Attachments: 3407.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(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



RECEIVED

JUN 02 2022

OFFICE OF
WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Talaya Purcell, being duly sworn on oath, say that THE REDFIELD PRESS is a 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. I, Talaya Purcell, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#6357 NOTICE OF APPLICATION

was printed and published in said newspaper in 1 issue, to wit: The first publication being made on APRIL 6TH 2022. THIRTY SIX and .49/100 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.

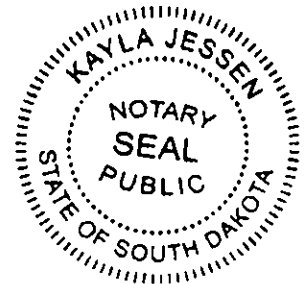
Talaya Purcell

Subscribed and sworn to before me this 6TH day of April, 2022

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2024



water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3362. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by April 18, 2022.

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 one time at the total approximate cost of \$36.49. (Apr. 8)

Notice of Application

#8357
NOTICE OF APPLICATION
NO. 8804-3 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 2.29 cubic feet of water per second from the James River located in the W 1/2 Section 34 for irrigation of 180 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 33; all in T14N-R82W. Water Permit No. 8201B-3 authorizes irrigation of the same acreage from the Tulare-Hitchcock Aquifer. This site is located approximately 8 miles east of Hitchcock SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8804-3 with qualifications because 1) unappropriated water is available, 2) existing domestic

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

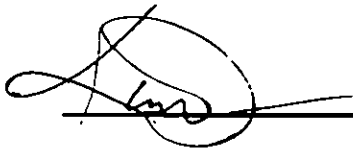
Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3362 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by April 18, 2022.

Proof Of Publication

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

Legal Notice Number: 1427

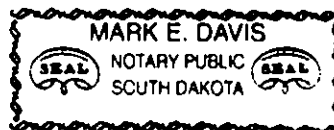
I, Kim Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately 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: Lenny Peterson was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 5/18/2022. That the full amount of the fee charged for the publishing \$ 42.81 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.



Subscribed and sworn to me before this date 5/18/22.


Notary Public, South Dakota

My Term Expires 12/27/2024



**NOTICE OF HEARING
on Application
No. 8605-3**

Notice is given that Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 2.29 cubic feet of water per second (cfs) from the James River located in the W 1/2 Section 34 for irrigation of 160 acres located in the SW 1/4 Section 33; all in T114N-R62W. Water Right No. 6333B-3 authorizes irrigation of the same acreage from the Tulare-Hitchcock Aquifer. This site is located approximately 6 1/2 miles east of Hitchcock SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8605-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case, hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application

shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/>, public or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 31, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/> public or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 31, 2022.

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 opposing the application. The hearing will be held on the 14th day of June, 2022 at 10:00 AM in the Water Management Board Room, 523 E Capitol, Pierre, SD 57501. Published one time at the total approximate cost of \$42.81.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 11, 2022 11:42 AM
To: 'Talaya Zens-Purcell'
Subject: 8605-3, Lenny Peterson
Attachments: 8605-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 18, 2022.

Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 (605 266-2793) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 11, 2022 11:42 AM
To: 'rcrandall@plainsman.com'
Subject: 8605-3, Lenny Peterson
Attachments: 8605-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 18, 2022.

Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 (605 266-2793) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

May 11, 2022

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application No. 8605-3 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 Redfield Press printed at Redfield (Ph # 605 472-0822) and the Plainsman printed at Huron (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 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 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 HEARING on Application No. 8605-3

Notice is given that Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 2.29 cubic feet of water per second (cfs) from the James River located in the W 1/2 Section 34 for irrigation of 160 acres located in the SW 1/4 Section 33; all in T114N-R62W. Water Right No. 6333B-3 authorizes irrigation of the same acreage from the Tulare:Hitchcock Aquifer. This site is located approximately 6 1/2 miles east of Hitchcock SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8605-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 31, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 31, 2022.

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_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 28 2022

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water Permit No. 8605-3 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

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**

JOE FOSS BUILDING
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



**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