

WATER PERMIT NO. 8822-3

Name of Applicant: **Jim or Collin Klebsch**

Address: **38701 170th Street, Redfield SD 57469**

Phone: **605-460-2309**

Amount of Water Claimed: **5.34 cfs**

Total Acres: **250**

Source of Water Supply: **Surface**

Water to be used for: **Irrigation**

County: **Spink**

Type of Waste Disposal System:

Location: **Approx. 3 miles northeast of Redfield SD**

PRIORITY Date Received: **01-17-24**

Application/License Fee: **\$1,250.00**

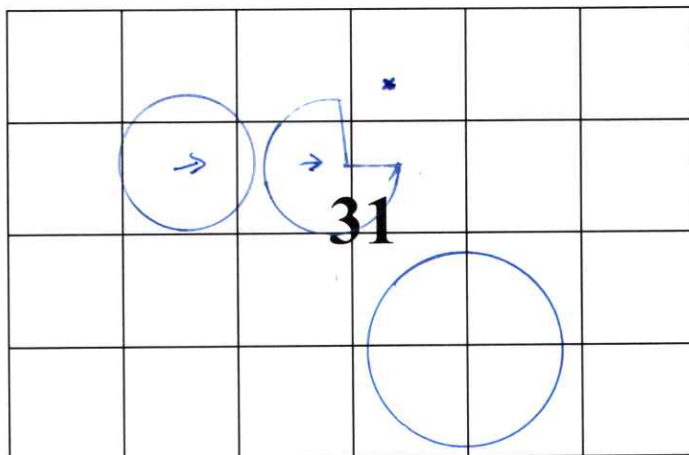
Corrected Application Received:

Period of Annual Use: **April 1 – September 30**

Remarks:

Diversion Point: **NW 1/4 NE 1/4 Sec 31 -T117N-R63W**

Land to be Irrigated: **NW 1/4, NE 1/4, SE 1/4 Sec 31 -T117N-R63W**



Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **01-23-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8822-3**

Date of first receipt of application January 17, 2024.

Date of return to applicant for corrections, amendments or changes January 23, 2024.

Date of receipt of corrected application January 30, 2024.

The Water Management Board approved Water Permit No. 8822-3 on December 4, 2024, for Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469, 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. 8822-3 appropriates 5.34 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NE 1/4 Section 31 for irrigation of 250 acres located in the NW 1/4, W 1/2 NE 1/4, SE 1/4 Section 31; all in T117N-R63W. Requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three miles northeast of Redfield 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 – September 30.
3. The date from which applicant may claim right is January 17, 2024.
4. One-fifth of the construction is to be completed on or before June 4, 2027.
5. All construction is to be completed on or before December 4, 2029.
6. Water is to be put to beneficial use on or before December 4, 2033.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. This permit does not authorize diversions from the James River any time when there is less than 50 cfs bypassing the USGS gaging station at Huron, SD, after pumping.
2. This permit does not authorize diversion of water from the James River after July 15th of each calendar year when there is less than 100 cfs bypassing the USGS gaging station at Huron, SD, after pumping, unless written orders have been issued by the Chief Engineer.
3. The 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.
4. Diversions under the permit are subject to senior water rights and any written orders issued by the Chief Engineer.
5. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
6. The Water Management Board retains jurisdiction in the event that additional information shows that changes need to be made to protect domestic uses or senior water rights.

WATER MANAGEMENT BOARD

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

JAN 07 2025
date



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

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8822-3</u> Hydrologic Unit <u>10160006</u>
	Basin <u>Middle James</u>
	Newspaper <u>Redfield Press</u>
	<u>Aberdeen American News</u> (office use only)

PAID
JAN 17 2024
Ck# 1330
Rec't# 11724

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 Jim or Collin Klebsch

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

Mailing Address 38701 170th St Redfield SD 57469
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-460-2309 Email WJK_01@hotmail.com

2. Amount of water claimed 250 ~~247.29~~ ⁵³⁴ *CFS or **GPM ***AF Total Acreage 250 ~~247.29~~
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply James River

4. Location of point of diversion NW corner of NE 1/4 Sec 31 63-T117
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used April - September³⁰

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

Land Description	Acres	Land Description	Acres
NW 1/4 Sec 31-63-T117	63.08		
NE 1/4 Sec 31 63-T117	50.37		
SE 1/4 Sec 31 63-T117	133.84		
total 247.29			

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

Attached is detailed map of center pivots in NW 1/4 NE 1/4 and SE 1/4 of Section 31 63-T117 with a total of ~~247.29~~ ²⁵⁰ acres to irrigate

\$10500 Requesting a diversion rate greater than statutory limit.

I, Collin Klebsch, the applicant, certify under

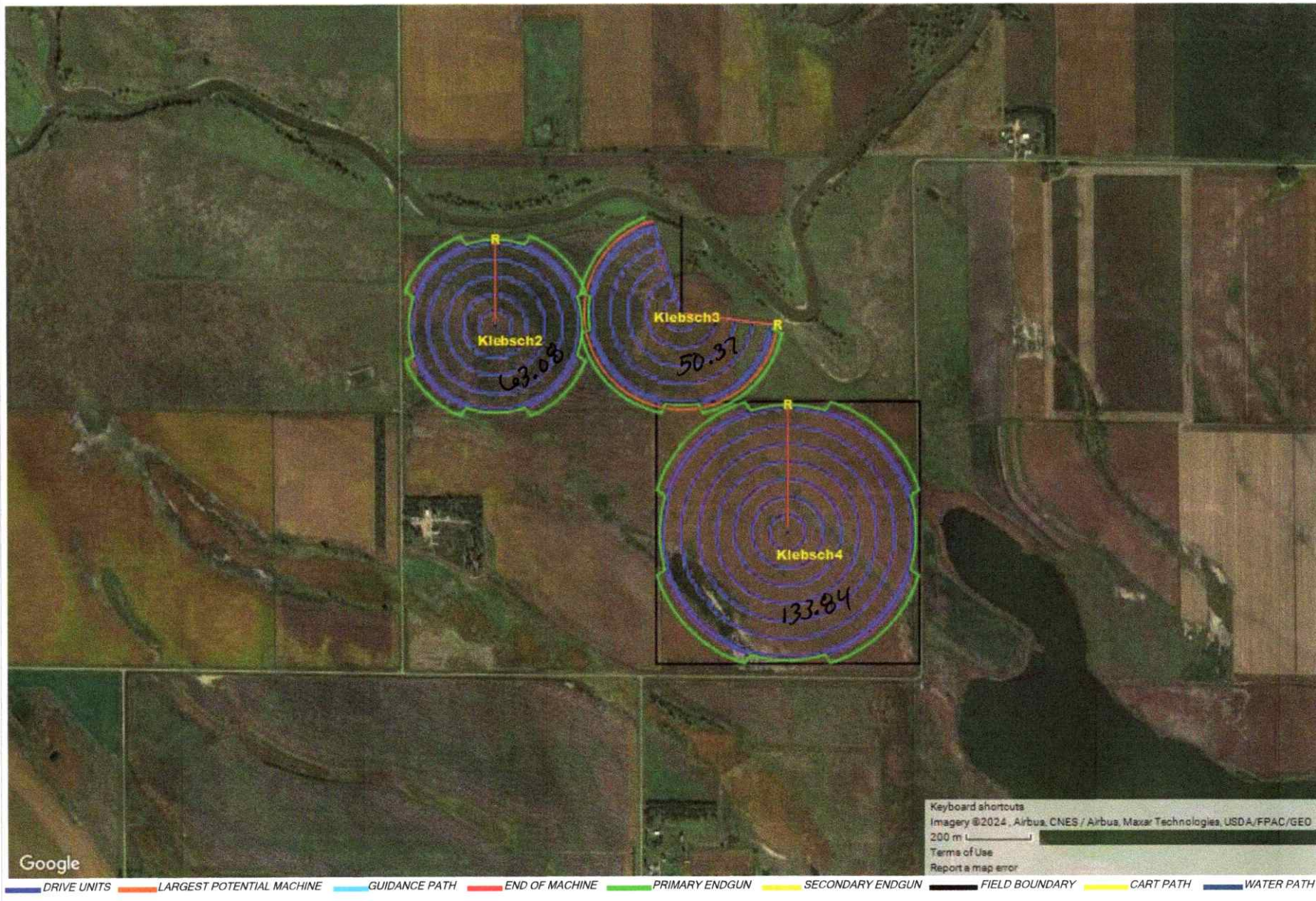
Name of Person

Title (if applicable)

OFFICE OF

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

Map Summary Report



FARMERS IMPLEMENT & IRR. - 3023 Hwy 14 Bypass, Brookings, SD, 57006, United States

117N 64W
Section: 24

117N 63W
Section: 19

117N 63W
Section: 20

170 ST

117N 64W
Section: 25

117N 63W
Section: 30

117N 63W
Section: 29

388 AVE

389 AVE

10160006 Middle James

117N 64W
Section: 36

117N 63W
Section: 31

117N 63W
Section: 32

172 ST

10160009 Turtle

116N 64W
Section: 02

116N 64W
Section: 01

116N 63W
Section: 06

116N 63W
Section: 05

387 AVE

212

389 AVE

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 17, 2024

RECEIVED OF Jim/Collin Klebsch 38701 170th Street Redfield SD 57469

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

Fee for Application for Permit No. <u>8822-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>1050.00</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. _____	\$ _____
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
zm

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, January 23, 2024 2:26 PM
To: cjk_01@hotmail.com
Subject: Water Permit Applications

Good Afternoon,

I am in receipt of your 4 water permit applications for irrigation. Based on these applications the fee breakdown is as follows:

1st application \$950.00
2nd application \$1,050.00
3rd application \$750.00
4th application \$100.00

You sent a check for \$2,750.00 however, the grand total is \$2,850.00. We need a check for an additional \$100.00. Please send the money as soon as possible. Once I receive the funds, I will process these applications.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**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. 8822-3 JIM OR COLLIN KLEBSCH**

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 deferred Water Permit Application No. 8822-3 - Jim or Collin Klebsch, 38704 170th Street, Redfield SD 57469.

The Chief Engineer is recommending APPROVAL of the above-listed water permit application because 1) there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversions can be developed without unlawfully impairing 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 diversions from the James River any time when there is less than 50 cfs bypassing the USGS gaging station at Huron, SD, after pumping.
2. This permit does not authorize diversion of water from the James River after July 15th of each calendar year when there is less than 100 cfs bypassing the USGS gaging station at Huron, SD, after pumping, unless written orders have been issued by the Chief Engineer.
3. The 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.
4. Diversions under the permit are subject to senior water rights and any written orders issued by the Chief Engineer.
5. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
6. The Water Management Board retains jurisdiction in the event that additional information shows that changes need to be made to protect domestic uses or senior water rights.

See report on application for additional information.

Eric Gronlund, Chief Engineer
November 14, 2024



**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. 8822-3, Jim or Collin Klebsch**

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. 8822-3, Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469.

The Chief Engineer is recommending DEFERRAL of Application No. 8822-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses.

At the Water Management Board hearing to be scheduled on this matter, the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. If you intend to oppose this DEFERRAL recommendation, the public notice of hearing will provide details on filing a petition in opposition to the chief engineer's recommendation.

See report on application for additional information.

Eric Gronlund, Chief Engineer
March 28, 2024

REPORT ON WATER PERMIT APPLICATION NOS. 8821-3, 8822-3, 8823-3, 8824-3
Jim or Colin Klebsch
15 March 2024

Application No. 8821-3 proposes to appropriate 0.81 cubic feet of water per second (cfs) from the James River located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, for the irrigation of 100 acres located in the SE $\frac{1}{4}$ of Section 13, all in T117N-R64W. This site is located approximately 4.5 miles northeast of Redfield, South Dakota in Spink County.

Application No. 8822-3 proposes to appropriate 5.34 cubic feet of water per second from the James River located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31 for the irrigation of 250 acres located in the NW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 31, all in T117N-R63W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 3 miles northeast of Redfield, South Dakota in Spink County.

Application No. 8823-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24 for the irrigation of 100 acres located in the SE $\frac{1}{4}$ of Section 23 and the N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 3.5 northeast of Redfield, South Dakota in Spink County.

Application No. 8824-3 proposes to appropriate 0.75 cubic feet of water per second from the James River located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13 for irrigation of 100 acres located in the SE $\frac{1}{4}$ of Section 13, all in T117N-R64W. This site is located approximately 4.5 miles northeast of Redfield, South Dakota in Spink County.

South Dakota Codified Law (SDCL) 46-1-4

"It is hereby declared that, because of conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this state is limited to an amount of water reasonably required for the beneficial use to be served, and such right does not extend to the waste or unreasonable use or unreasonable method of diversion of water."

SDCL 46-2A-2

"Within sixty days of receipt of a completed application, the chief engineer shall recommend in writing approval, disapproval or deferral until further notice and shall schedule the application for hearing by the Water Management Board. The recommendation shall include any terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity which are consistent with this chapter, necessary to protect the public interest and related to matters within the jurisdiction of the chief engineer or the board."

Review of Proposed Water Source

Originating in North Dakota, the James River flows southward across South Dakota and empties into the Missouri River east of Yankton, SD. The river has a total length of approximately 710

miles, with 475 miles in South Dakota (Young, 1973). The river's elevation decreases about 460 feet over a distance of 710 miles, which gives the river an average gradient of only 0.7 feet per mile (Young, 1973). This is extremely flat and travel times of water are measured in weeks, rather than hours or days (USACE, 2018). 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, 2024). Water Rights staff use 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. Water in the James River is managed in South Dakota by splitting the James River into three sections, associated with three different USGS streamgages: No. 06473000 James River at Ashton, No. 06476000 James River at Huron, and No. 06478500 James River near Scotland. A map showing the locations of the three USGS streamgages on the James River monitored by the Water Management Board (WMB), can be seen on Figure 1.



Figure 1. Map showing locations of three James River USGS streamgages in South Dakota (USGS, 2024).

Since the 1990's, there has been an increasing trend of streamflow in the James River (USGS, 2024; Hirsch and De Cicco, 2015). Streams in the eastern Dakotas have experienced the greatest increases in streamflow during the last 60 years in comparison to any other USGS gaged stream in the United States (Norton et al., 2022). In 2020, the USGS Gage No. 06471000 James River at Columbia, was measured above flood stage for more than 518 consecutive days (Norton et al., 2022). Since then, the National Weather Service has updated its flood severity categories to reflect flow changes to the James River (NWS, 2023).

Using the R packages EGRET and dataRetrieval (Hirsch et al., 2015), daily mean flow data for their entire respective record from three streamgages on the James River were used for statistical analyses. Figures 2 through 4 show three different discharge statistics and their smoothed values for the USGS streamgage at Huron, SD, one of three James River gages monitored by the Water Management Board. The smoothing method used by EGRET is based on locally weighted scatterplot smoothing (Lowess), and the curves are resistant to the influence of one or two years with extremely high or low flows (Hirsch et al., 2015).

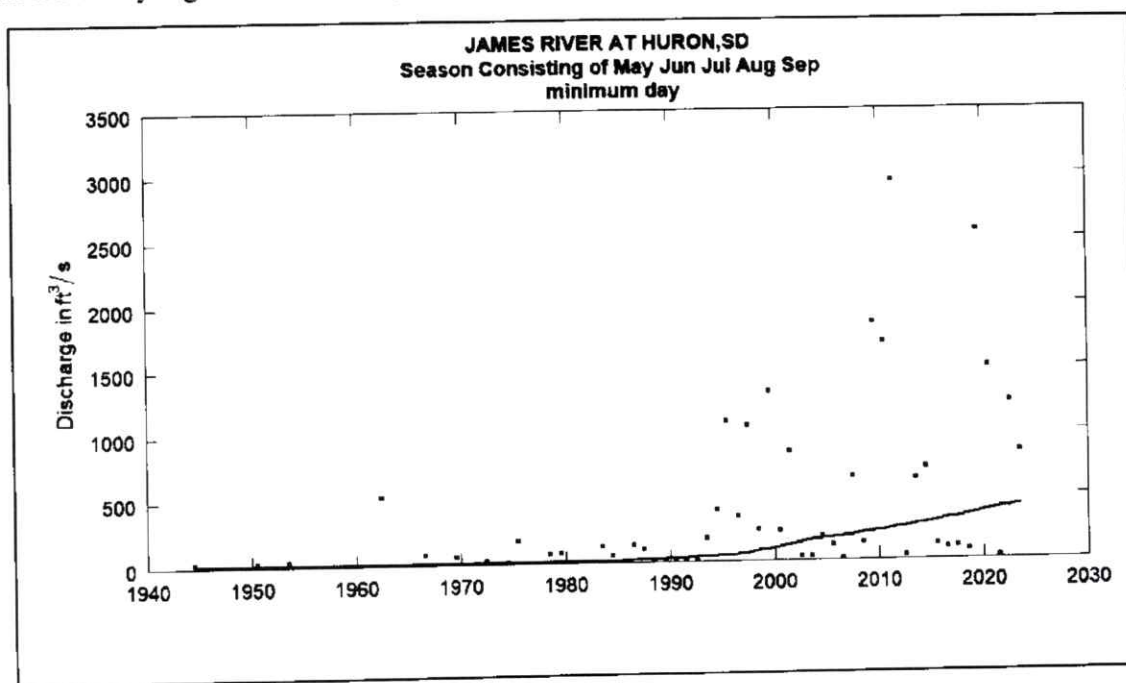


Figure 2. Annual minimum 1-day daily mean discharge at the USGS Gage No. 06476000 James River at Huron, SD for the months of May, June, July, August, and September (Hirsch et al., 2015; USGS, 2024).

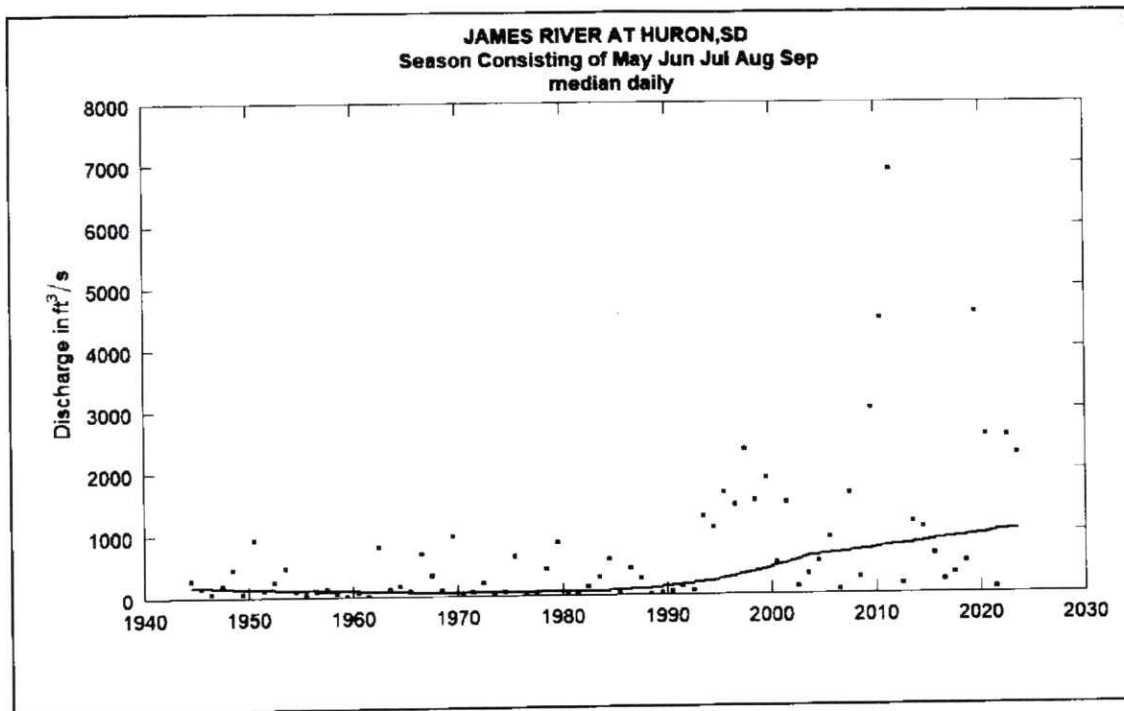


Figure 3. Annual median of daily mean discharges at the USGS Gage No. 06476000 James River at Huron, SD for the months of May, June, July, August, and September (Hirsch et al., 2015; USGS, 2024).

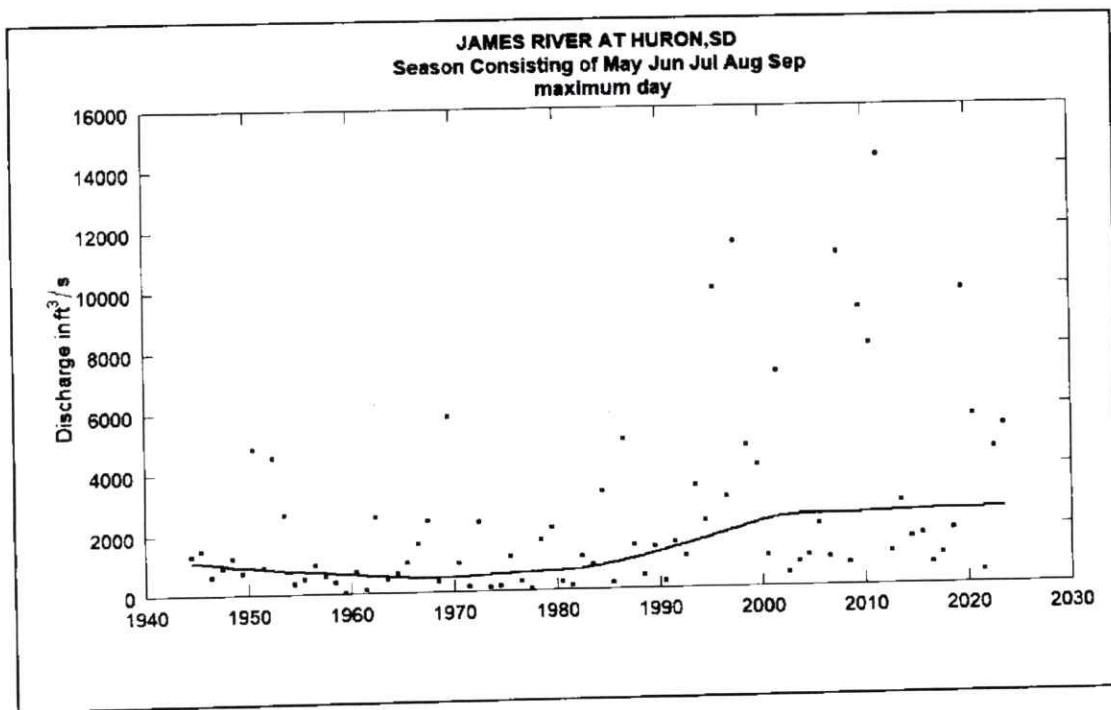


Figure 4. Annual maximum 1-day daily mean discharge at the USGS Gage No. 06476000 James River at Huron, SD for the months of May, June, July, August, and September (Hirsch et al., 2015; USGS, 2024).

Figures 2 through 4 show three different flow statistics to give an overall impression of James River streamflow from 1944 to 2023. For the annual minimum flow, annual median flow, and annual maximum flow, the data show a rise after the 1990's. The other two gages on the James River monitored by the WMB show similar trends.

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 (Water Rights, 2024). A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota-South Dakota border to the Yankton-Hutchinson County Line (Water Rights, 2024). 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. The report which led to the appropriation limits on the James River also states that several hundred additional cfs could be approved with a July 1st cutoff date (Water Rights, 2024). However, no water permits above the established 300/200 cfs limits were ever issued with or without a July 1st cutoff date.

In 2007, the SD Water Management Board adopted standardized qualifications (Beck, 2007) for the James River. 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, 2024). In order to address times when water availability is scarce from the James River, the Water Management Board has placed the following qualifications on certain James River permits:

- James River Permits do 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.
- James River Permits do not authorize diversion from the James River when there is less than 20 cfs bypassing the USGS gaging station within the stretch of river where the closest downstream USGS gage is at Ashton, at Huron, or near Scotland.

Review of Existing Water Rights/Permits

Currently there are 77 water rights/permits and two future use permits appropriating or reserving 199.19 cfs of the 200.00 cfs appropriation limit between the North Dakota-South Dakota border and the USGS gaging station at Huron, SD, and there are 116 water rights/permits and two future use permits appropriating or reserving 298.92 cfs of the 300.00 cfs appropriation limit between the North Dakota-South Dakota border and the Yankton-Hutchinson County Line (Water Rights, 2024). If Water Permit Application No. 8821-3 was approved, there will be 0.00 cfs available from the James River for appropriation under the 200 cfs limit and 0.27 cfs available for appropriation under the 300 cfs limit (Water Rights, 2024). Besides these four pending applications, there is also a fifth pending application to divert James River water.

Future Use Permit No. US594-3 held by the U.S. Bureau of Reclamation reserves 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, 2024).

Future Use Permit No. 8512-3 held by the City of Aberdeen reserves 8.5 cfs in the stretch of the James River which limits appropriation to 200 cfs. When a water source is otherwise fully appropriated, state law provides for a temporary use permit to be granted to put water to beneficial use reserved by a future use permit. However, temporary use permits are effective only until such time as the future use permit holder wants to use the water reserved by the future use permit. If that occurs, the temporary use permit holder would be given six months' notice of cancellation of their temporary use permit.

There is currently no rule or law in South Dakota which allows temporary use permits to become a regular water permit while retaining the same priority date as the temporary use permit. If Application Nos. 8822-3, 8823-3, and 8824-3 are approved, those permits would be temporary use water permits based on the current flow thresholds on the James River, which limit appropriation to 200 cfs in the stretch where the applications for this report are located.

Review of the Current Appropriation Limits

Due to this influx of new applications, it seems prudent to take a fresh look at the current appropriation limits and qualifications that are placed on James River water permits to determine if they remain reasonable and allow water to be put to beneficial use to the fullest extent that the James River is capable of supporting, while protecting existing rights and domestic use.

Water Rights engineers use statistical analysis on flow data before making recommendations to the Chief Engineer and the Water Management Board as they make water management decisions. Two methods to measure the central tendency of a dataset are the mean, often referred to as average, and the median, otherwise referred to as 50th percentile. The mean is the sum of all data values divided by the sample size. The median is the central value of a distribution when the data are sorted by magnitude (Helsel et al., 2020). 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 skew the calculated mean value giving an unreasonable expectation of a higher flow value over a period of time. For this reason, the median is used to measure central tendency, because it is minimally affected by the magnitude of any single observation (Helsel et al., 2020).

Monthly median flow values were calculated from historical daily flow data collected at the Ashton, Huron, and Scotland USGS streamgages on the James River. The median monthly flow values for the months of May through September were calculated for three periods of record: the earliest year of record to 1989, 1990 to 2022, and the full period of record. Three bar graphs for each of the streamgages can be seen in Figures 5 through 7.

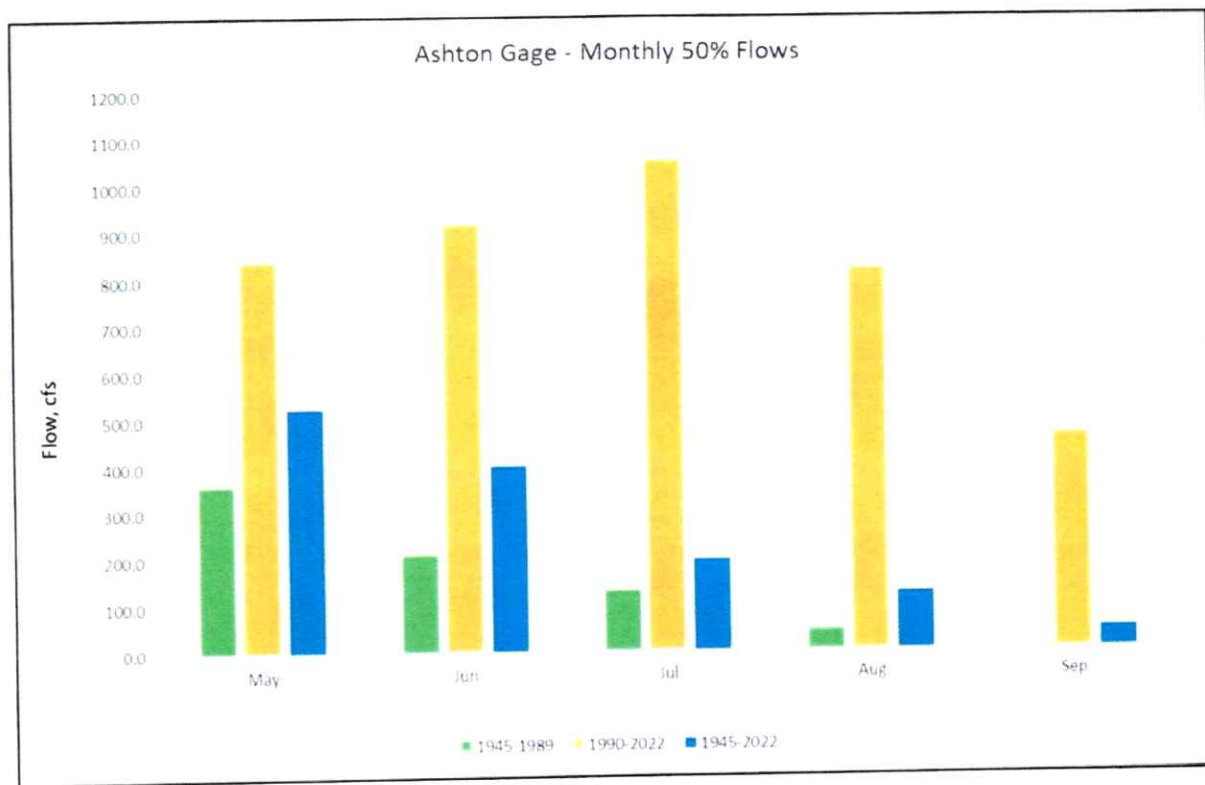


Figure 5. Monthly 50th percentile flow hydrograph for the USGS gaging station No. 06473000 James River at Ashton, SD, for the years 1945 to 1989, 1990 to 2022, and the full period of record. The contributing drainage area is 8,333 mi² (USGS, 2024).

The 50th percentile monthly streamflow collected at the USGS gaging station No. 06473000 James River at Ashton, SD (Figure 5) shows that the 1990 to 2022 median monthly values are significantly larger than median monthly values for the period of 1945 to 1989. The lowest and highest difference for monthly median flows are 455 cfs for September to 923 cfs for July.

Comparing the 1990 to 2022 median monthly values to those over the entire period of record, 1945-2022, the flows are still larger in the past 30 years. The lowest and highest difference for monthly median flows are 40 cfs for September to 187 cfs for July. Analyzing the entire period of record gives a better indication of what can be expected over a long period of time, considering both the wet and dry cycles that the river experiences.

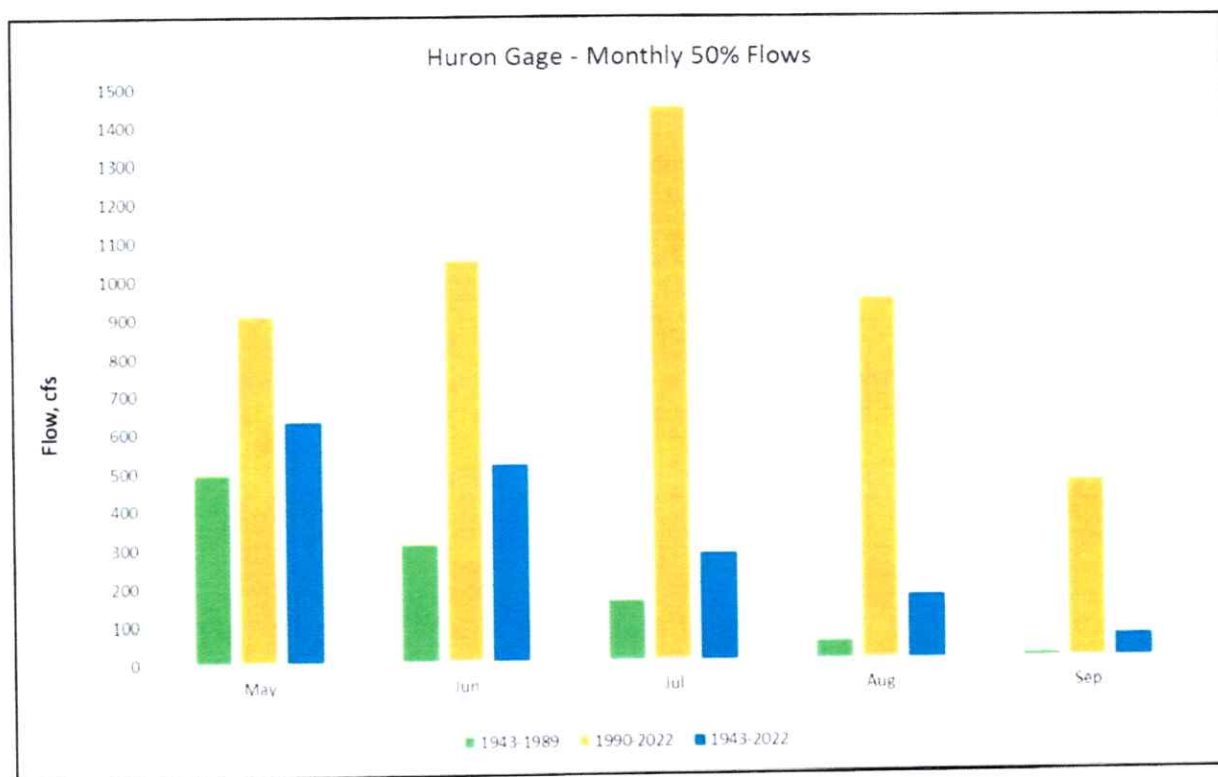


Figure 6. Monthly 50th percentile flow hydrograph for the USGS gaging station No. 06476000 James River at Huron, SD, for the years 1943 to 1989, 1990 to 2022, and the full period of record. The contributing drainage area is 13,795 mi² (USGS, 2024).

The 50th percentile monthly streamflow collected at the USGS gaging station No. 06476000 James River at Huron, SD (Figure 6) shows that the 1990 to 2022 median monthly values are significantly larger than median monthly values for the period of 1943 to 1989. The lowest and highest difference for monthly median flows are 451 cfs for September to 1,293 cfs for July.

Comparing the 1990 to 2022 median monthly values to those over the entire period of record, 1943 to 2022, the flows are still larger in the past 30 years. The lowest and highest difference for monthly median flows are 49 cfs for September to 207 cfs for July. Analyzing the entire period of record gives a better indication of what can be expected over a long period of time, considering both the wet and dry cycles that the river experiences.

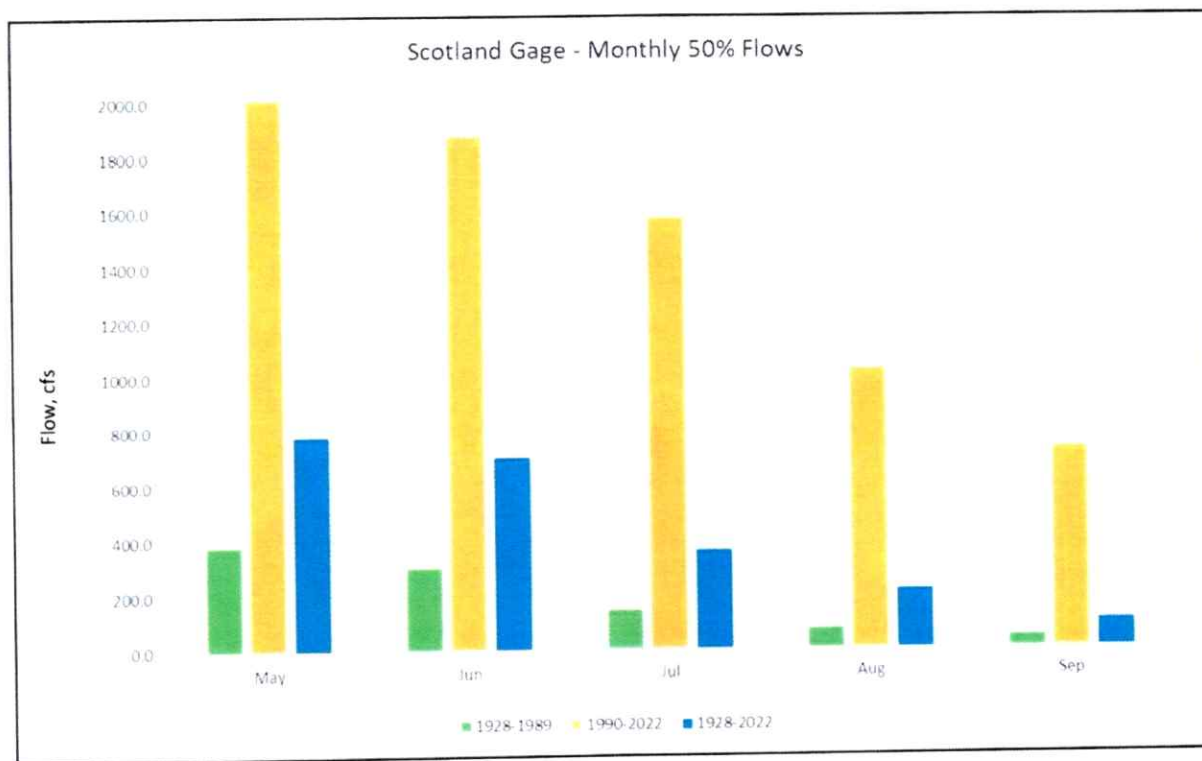


Figure 7. Monthly 50th percentile flow hydrograph for the USGS gaging station No. 06478500 James River near Scotland, SD, for the years 1928 to 1989, 1990 to 2022, and the full period of record. The contributing drainage area is 18,616 mi² (USGS, 2024).

The 50th percentile monthly streamflow collected at the USGS gaging station No. 06478500 James River near Scotland, SD (Figure 7) shows that the 1990 to 2022 median monthly values are significantly larger than median monthly values for the period of 1929 to 1989. The lowest and highest difference for monthly median flows are 690 cfs for September and 1,632 cfs for May.

Comparing the 1990 to 2022 median monthly values to those over the entire period of record, 1928 to 2022, the flows are still larger in the past 30 years. The lowest and highest difference for monthly median flows are 55 cfs for September to 403 cfs for July. Analyzing the entire period of record gives a better indication of what can be expected over a long period of time, considering both the wet and dry cycles that the river experiences.

Discussion

Current qualifications on the James River include a 300 cfs limit, and of that restriction, no more than 200 cfs can be appropriated in the stretch between the North Dakota-South Dakota border and the USGS gaging station at Huron, SD. Additionally, there are minimum flow shutoff levels and a mandatory August 10th shutoff date.

Due to changing streamflow conditions on the James River and the recent influx of new applications, Water Rights staff believes a review is warranted to determine if new qualifications can be crafted to allow issuance of permits in excess of the 300/200 cfs limit while still protecting existing water rights and domestic uses. While the central tendency of streamflow for the James River flow has significantly increased since the 1990's, there are still intermittent years where flow in the river is low and unreliable. Even though the last 30 years have shown significantly increasing streamflow trends during the irrigation season (Figures 2 through 4, 5 through 7) (Hirsch and De Cicco, 2015; Norton et al., 2022; USGS, 2024), a thorough review with careful recommendations to the Board is warranted because increased streamflow trends may or may not continue. Any changes to the regulatory framework need to ensure that existing water right holders and domestic water users are protected. This effort should be undertaken prior to determine whether applications that would otherwise be issued as temporary use permits can be qualified in a manner to allow issuance as standard water permits.

Public notice should be provided in counties adjoining the James River of any future Water Management Board meetings in which modification of the 1965 appropriation limit is being considered by the Board.

Conclusions

1. Water Permit Application Nos. 8821-3, 8822-3, 8823-3, and 8824-3 should be deferred for a more in-depth investigation of the current appropriation limit restrictions and bypass limits placed on the James River.
2. Upon completing an analysis, a recommendation may be made to:
 - Retain or modify the 300 cfs appropriation limit on the James River from the North Dakota-South Dakota border to the Yankton-Hutchinson County line.
 - Retain or modify the 200 cfs appropriation limit on the James River from the North Dakota-South Dakota border to the USGS gaging station at Huron, SD.
 - If approval of water permit applications in excess of the 300/200 cfs limitation is allowed, recommend qualifications to be attached to new permits to protect existing water rights and domestic uses.


Mark D. Rath

Natural Resources Engineer III
SD DANR, Water Rights Program


Brittan R. Hullinger
Natural Resources Engineer I
SD DANR, Water Rights Program

References

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- Young, J.B. 1973. Analysis of the seasonal variations of streamflow and water quality of the James River in South Dakota. South Dakota State University.



**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.**

March 28, 2024

Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Dear Sirs:

Water Permit Application Nos. 8821-3, 8822-3, 8823-3, and 8824-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. The notices have been sent to the Redfield Press printed in Redfield SD (Ph # 605 472-0822) and the American News printed in Aberdeen SD (see attachment for contact number). You will need to contact the newspapers and authorize publication of these notices. For your information, a copy of the notices, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notices 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 Notices 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 notices. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
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.

Instruction to Newspaper – Publish the Notice on April 10, 2024. The applicant is responsible for payment.

NOTICE OF HEARING on Application Nos. 8821-3, 8822-3, 8823-3, 8824-3 to Appropriate Water

Notice is given that Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469 has filed four applications to appropriate water from the James River for irrigation purposes.

Application No. 8821-3 proposes to appropriate 0.81 cubic feet of water per second from the James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8822-3 proposes to appropriate 5.34 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NE 1/4 Section 31 for irrigation of 250 acres located in the NW 1/4, W 1/2 NE 1/4, SE 1/4 Section 31; all in T117N-R63W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three miles northeast of Redfield SD.

Application No. 8823-3 proposes to appropriate 1.56 cubic feet of water per second (cfs) from the James River located in the NE 1/4 SW 1/4 Section 24 for irrigation of 100 acres located in the SE 1/4 Section 23 and the N 1/2 SW 1/4, SW 1/4 SW 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three and one-half miles northeast of Redfield SD.

Application No. 8824-3 proposes to appropriate 0.75 cubic feet of water per second from the James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD.

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

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8821-3, 8822-3, 8823-3, 8824-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The Chief Engineer’s recommendations with qualifications, the applications, and staff reports 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.

The Water Management Board will consider these applications at 9:30 AM (Central Time) on May 8, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that one or more of these applications, 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 an 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 one or more of the applications with BOTH the applicant and Chief Engineer. A petition opposing an 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 April 22, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of an application on the petitioner, the petitioner's reasons for opposing an application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 8, 2024 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose an application. The request for an automatic delay must be filed by April 22, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on one or more of the applications 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 April 22, 2024.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 22, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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

Published once at an approximate cost of _____.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, March 28, 2024 12:07 PM
To: aan-legals@aberdeennews.com
Subject: Klebsch - Public Notices
Attachments: 8821-3 Klebsch public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 10, 2024.

Jim and Collin Klebsch, 38701 170th Street, Redfield SD 57469, 605-460-2309 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 Ave, Pierre SD 57501.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, March 28, 2024 12:06 PM
To: Redfield Office
Subject: Klebsch - Public Notices
Attachments: 8821-3 Klebsch public.wmb_final.docx; FORM8.FRM.doc

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





South Dakota

GANNETT

Order Confirmation

Not an Invoice

Account Number:	1409248
Customer Name:	Jim and Collin Klebsch
Customer Address:	Jim and Collin Klebsch 38701 170Th ST Redfield SD 57469-6105
Contact Name:	Jim Klebsch
Contact Phone:	(605) 945-0593
Contact Email:	rachel.rodriguez@state.sd.us
PO Number:	

Date:	03/28/2024
Order Number:	10015623
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	350.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
ABD The American News	1	04/10/2024 - 04/10/2024	Public Notices
ABD aberdeennews.com	1	04/10/2024 - 04/10/2024	Public Notices

As an incentive for customers, we provide a discount off the total order cost equal to the 3.99% service fee if you pay with Cash/Check/ACH. Pay by Cash/Check/ACH and save!

Total Cash Order Confirmation Amount Due	\$106.50
Tax Amount	\$0.00
Service Fee 3.99%	\$4.25
Cash/Check/ACH Discount	-\$4.25
Payment Amount by Cash/Check/ACH	\$106.50
Payment Amount by Credit Card	\$110.75

Order Confirmation Amount	\$106.50
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Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Thursday, March 28, 2024 4:39 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 10015623 Klebsch - Public Notices
Attachments: 10015623.pdf

Good Afternoon,

Please find your order confirmation and proof of ad attached.

Your ad is set to run in the American News on April 10. The order **cost is \$106.50** which includes an affidavit, that will be mailed to you 7-10 business days after the last day of the ad printing.

All orders are subject to a 3.99% service fee if paid with a credit card. As an incentive for customers, we provide a discount off the order cost equal to the 3.99% service fee if you pay with ACH. Pay by ACH and Save!
Final Order cost provided at time of payment and via a receipt.

Your notice is scheduled to run per your request and will publish unless you reply to this email requesting changes or to cancel.

If you would like to utilize our online self-serve ad portal to place your legal notices in the future, please visit your local publication's online classifieds legal section. There, you can conveniently submit and immediately preview your notices anytime, 24/7.

Thank you!

Brittany Grady
Public Notice Representative



LocaliQ



**USA TODAY
NETWORK**

Office 844-254-5287

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Thursday, March 28, 2024 12:07 PM
To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>
Subject: 10015623 Klebsch - Public Notices

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

LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Jim Klebsch
Jim and Collin Klebsch
38701 170th ST
Redfield SD 57469-6105

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

04/10/2024

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.
Sworn to and subscribed before on 04/10/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$106.50

Order No: 10015623

of Copies:

Customer No: 1409248

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

MARIAH VERHAGEN
Notary Public
State of Wisconsin

**NOTICE OF HEARING on
Application Nos. 8821-3,
8822-3, 8823-3, 8824-3 to
Appropriate Water**

Notice is given that Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469 has filed four applications to appropriate water from the James River for irrigation purposes.

Application No. 8821-3 proposes to appropriate 0.81 cubic feet of water per second from the James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8822-3 proposes to appropriate 5.34 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NE 1/4 Section 31 for irrigation of 250 acres located in the NW 1/4, W 1/2 NE 1/4, SE 1/4 Section 31; all in T117N-R63W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three miles northeast of Redfield SD.

Application No. 8823-3 proposes to appropriate 1.56 cubic feet of water per second (cfs) from the James River located in the NE 1/4 SW 1/4 Section 24 for irrigation of 100 acres located in the SE 1/4 Section 23 and the N 1/2 SW 1/4, SW 1/4 SW 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately three and one-half miles northeast of Redfield SD.

Application No. 8824-3 proposes to appropriate 0.75 cubic feet of water per second from the James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD.

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

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8821-3, 8822-3, 8823-3, 8824-3 until

the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The Chief Engineer's recommendations with qualifications, the applications, and staff reports 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.

The Water Management Board will consider these applications at 9:30 AM (Central Time) on May 8, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

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The petition shall be in writing and shall include a statement describing the unique injury upon approval of an application on the petitioner, the petitioner's reasons for opposing an application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 8, 2024 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose an application. The request for an automatic delay must be filed by April 22, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

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by publication, and the applicable date to give notice to the Chief Engineer is April 22, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board. As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published April 10 at the total approximate cost of \$106.50 and may be viewed free of charge at www.sdpublicnotices.com.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Cindy Crook, 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, Cindy Crook, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#7349 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication being made on April 10th, That Eighty-Four and 01/100 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.

Cindy Crook

Subscribed and sworn to before me this 10th, day of April, 2024

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2024



Notice of Hearing

#7349

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Application No. 8821-3 proposes to appropriate 0.81 cubic feet of water per second from the James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8822-3 proposes to appropriate 5.34 cubic feet of water per second (cfs) from the

James River located in the NW 1/4 SE 1/4 Section 13 for irrigation of 100 acres located in the SE 1/4 Section 13; all in T117N-R64W. This site is located approximately four and one-half miles northeast of Redfield SD. The Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8821-3, 8822-3, 8823-3, 8824-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applica-

tions. 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 one or more of the applications with BOTH the applicant and Chief Engineer. A petition opposing an 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 April 22, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of an application on the petitioner, the petitioner's reasons for opposing an application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due pro-

ceedings shall be conducted in accordance with the rules of procedure for contested cases. The hearing shall be held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 22, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, April 2, 2024 8:26 AM
To: cjk_01@hotmail.com
Subject: Klebsch - Public Notices
Attachments: Klebsch Recs.pdf; Klebsch Ltr.pdf; Klebsch PubNotices.pdf; Invoice_AmericanNews.pdf

Good morning,

Attached is a copy of the report, chief engineer's recommendations, and information regarding the public notices for your water permit applications. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is also being mailed to you today.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 14, 2024

NOTICE OF HEARING

TO: Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

FROM: Amanda Dewell, Water Rights Permitting Administrator 
SD DANR, Water Rights Program

SUBJECT: Scheduling of Hearing on Deferred Water Permit Application Nos. 8821-3,
8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3

On May 8, 2024, the Water Management Board (Board) deferred Water Permit Application Nos. 8821-3, 8822-3, 8832-3, and 8824-3, and on July 10, 2024, the Board deferred Water Permit Application Nos. 8867-3, 8868-3, 8869-3, and 8870-3; all until the Fall/Winter 2024, allowing for a complete hydrologic analysis determining whether the 300/200 cubic feet of water per second (cfs) appropriation threshold on the James River should be retained or modified and, if modified to allow appropriations in excess of 300/200 cfs, what qualifications should be attached to new water permits to protect existing James River water right holders and domestic users. The Water Rights staff report is complete and the recommendation to the Board is to adopt the report allowing appropriations in excess of the 300/200 cfs threshold with appropriate qualifications. Enclosed is the draft report *Re-examining James River Management* and, based on the draft report, revised Chief Engineer's recommendations dated November 14, 2024, concerning Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3.

The Chief Engineer's revised recommendations for the above-listed applications is that the Board APPROVE all of the applications based on 1) a report entitled *Report to the Water Management Board On Reexamining James River Management* which concludes there is a reasonable probability unappropriated water is available, 2) with qualifications, the proposed diversions can be developed without unlawful impairment of existing domestic uses and water rights, 3) the 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.

The Water Management Board will conduct the hearing to reconsider deferred Water Permit Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3, at 10:00 AM (Central Time), on Wednesday, December 4, 2024, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda.

This Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) take no action/continue deferral, 4) deny the applications after reaching a conclusion based on facts presented at the hearing.

If you intend to oppose the recommendations that the Board approve the above-listed applications with the qualifications listed on the recommendations, please file a petition opposing the recommendations by November 25, 2024. A petition form is enclosed for your use if you intend to oppose the recommendations. If you support the recommendations, no petition needs to be filed.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notice published in the Aberdeen American News and the Redfield Daily Press on April 10, 2024, and June 12, 2024, still apply.

NOTE: At the December 4 Board meeting, prior to the Board considering your deferred applications, the Board will be presented a final version of the report re-examining the 300/200 cfs thresholds on the James River. The Board is not obligated to adopt the James River Management Plan as presented by the Water Rights staff. Any changes made by the Board may impact the Chief Engineer's recommendations concerning your applications, including whether your applications can be acted upon at the December 4, 2024, meeting.

Questions regarding the hearing process may be directed to Ron Duvall (ron.duvall@state.sd.us) or Amanda Dewell (amanda.dewell@state.sd.us), Water Rights Program (605) 773-3352.

Cc: Jennifer Verleger, Assistant Attorney General
Legal Counsel for Chief Engineer

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated November 14, 2024, regarding Water Permit Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3 – Jim or Collin Klebsch, draft report *Reexamining James River Management*, revised recommendations dated November 14, 2024, and an applicant's petition form were served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on November 14, 2024.

Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

Above also Sent Inter-office to:

Jennifer Verleger, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of Nov, 2024.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 9, 2024

NOTICE OF ENTRY OF ORDER

TO: Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Jennifer L. Verleger, Assistant Attorney General
Legal Counsel for the Chief Engineer
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

FROM: Amanda Dewell, Permitting Administrator
SD DANR, Water Rights Program

SUBJECT: Deferral of Water Permit Application Nos. 8821-3, 8822-3, 8823-3, and 8824-3, Jim or Collin Klebsch

Notice is given that on May 8, 2024, the South Dakota Water Management Board deferred Application Nos. 8821-3, 8822-3, 8823-3, and 8824-3 until Fall/Winter 2024, as recommended by the Chief Engineer. As noted in the Chief Engineer's recommendation, deferral of the applications is to allow time for completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified, and if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses.

c: David McVey, Assistant Attorney General, Legal Counsel for SD Water Management Board

CERTIFICATION

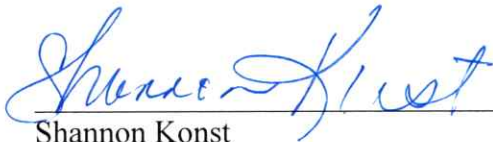
The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated May 9, 2024, regarding deferral of Water Permit Application Nos. 8821-3, 8822-3, 8823-3, and 8824-3, Jim or Collin Klebsch, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on May 9, 2024.

Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Above was also Sent Inter-office to:

Jennifer L. Verleger, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



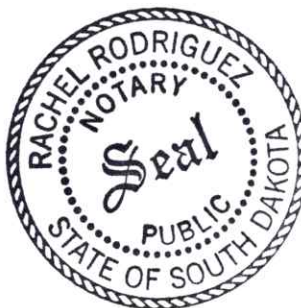
Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May, 20 24.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JAN 07 2025

Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Dear Sirs:

Enclosed are Water Permit Nos. 8821-3, 8822-3, 8823-3 and 8824-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

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

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

Sincerely,

Eric Gonlund, 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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8822-3

Name of Applicant: Jim or Collin Klebsch

Date of Posting: 4/8/2024

Date of Removal: 1/7/2025

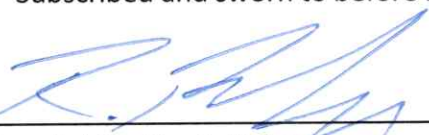


Ron Duvall, Engineer III

1/7/2025

Date

Subscribed and sworn to before me, a notary public, this 7th day of Jan, 2025.



Notary Public - South Dakota
My commission expires:
Rachel Rodriguez
My Commission Expires
May 16, 2029

(SEAL)

