

No.

213282

Office of State Engineer
DOCUMENT FILE

Division of Indian Affairs
Big Spring River
Moody County

CERTIFICATE OF WITHDRAWAL OF
WATER FOR APPROPRIATION

TO

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF INDIAN AFFAIRS

MOODY COUNTY

BIG SIOUX RIVER

Name of Stream

The United States Department of the Interior, Bureau of Indian Affairs, Flaudreau Indian School, having made application for the withdrawal of certain heretofore unappropriated public waters of the State of South Dakota, and having complied with the requirements of the statute of the State of South Dakota providing for such withdrawal, such statute and authority being contained in and described as Vol. 2, Chapter 2, Article 1, Paragraph 8243 of the Revised Code of 1919, now, therefore:

This is to certify that there is hereby reserved, of the heretofore unappropriated waters of Big Sioux River, the annual amount of 100 acre-feet of water to be diverted at a maximum rate of 2 cubic feet per second of water; the point of diversion to be on the left bank a distance of 250 feet xxx degrees South from the N.W. Corner of NE¹/₄ of NE¹/₄ of Section 16, T. 107 N., R. 48 W., 5th P.M., which water is to be used for the irrigation of certain lands in parts of the E¹/₄ of NE¹/₄ of Section 16, and part of the SE¹/₄ of Section 2, all in T. 107 N., R. 48 W., 5th P.M. Moody County, South Dakota and the above said water is hereby withdrawn from future appropriation during the continuance of the right herein granted and contained.

This certificate and withdrawal shall in no manner prejudice, alter, amend or effect the rights of any prior appropriator or prior appropriation of water, nor of any application for appropriation pending upon the date of this certificate, but the rights and privileges of any and all such prior appropriators or applicants for appropriation of water, shall remain inviolate and intact, the same as if the within withdrawal had not been made.

This certificate shall be and is subject to cancellation in accordance with the provisions of the statute hereinbefore referred to and under the authority of which this certificate is issued.

In accordance with the provisions of the statute hereinbefore referred to, this certificate is executed at the State Capitol at Pierre, South Dakota, this seventh day of February 1938.

Clarence W. Loucks
State Engineer.

CERTIFICATE OF WITHDRAWAL

OF

PUBLIC WATERS

MOODY CO.

BIG SIOUX RIVER

The United States Department of the Interior, Bureau of Indian Affairs, Flandreau Indian Reservation, having made application for the withdrawal of certain heretofore unappropriated public waters of the State of South Dakota, and having complied with the requirements of the statute of the State of South Dakota providing for such withdrawal, such statute and authority being contained in and described as Vol. 2, Chapter 2, Article 2, Paragraph 8243 of the Revised Code of 1919, now therefore:

This is to certify that there is hereby reserved, of the heretofore unappropriated waters of Big Sioux River, the amount of two (2) cubic feet per second of said waters; the point of diversion to be on the Right bank of the said stream at S Bearing and 250 feet from the Center Sec. 21, T. 107 N., R. 48 W., 5th P. M., which water is to be used for the irrigation of certain lands in part of Sec. 21, T. 107 N., R. 48 W., 5th P. M., and the above said waters are hereby withdrawn from future appropriation during the continuance of the right herein granted and contained.

This certificate and withdrawal shall in no manner prejudice, alter, amend or effect the rights of any prior appropriator or prior appropriation of water, nor of any application for appropriation pending upon the date of this certificate, but the rights and privileges of any and all such prior appropriators or applicants for appropriation of water shall remain inviolate and intact, the same as if the within withdrawal had not been made.

This certificate shall be and is subject to cancellation in accordance with the provisions of the statute hereinbefore referred to and under the authority of which this certificate is issued.

In accordance with the provisions of the statute hereinbefore referred to, this Certificate is executed at the State Capitol at Pierre, South Dakota, on this 30th day of November, 1956.

Dean W. Louerz,
State Engineer.

STATE OF SOUTH DAKOTA
Notice of Appropriation

In accordance with the provisions of Section 8243 of the Compiled Laws of the State of South Dakota, 1929, you as State Engineer of the State of South Dakota, are hereby notified that the United States of America, acting by and through me, Byron J. Brophy, Superintendent of the Flandreau Indian School located at Flandreau, South Dakota, duly authorized by Harold L. Ickes, Secretary of the Interior, for this purpose, intends to utilize certain amounts of the waters of streams flowing in and through the State of South Dakota for certain specified purposes on definitely described tracts of land within said State, hereinafter set forth in detail, together with plans of the proposed work which information is hereto attached, marked "Exhibit A", and made a part hereof; and the request is hereby made that the waters hereinafter described be withheld from entry and not subject to further appropriation in accordance with the provisions of the Compiled Laws of the State of South Dakota, 1929.

The purpose of the appropriation of the waters of these streams is for the use of the Indians residing at the Flandreau Indian Reservation, South Dakota, for the irrigation of subsistence gardens being constructed by the United States.

By this aforesaid Notice of Appropriation, the United States is not seeking to establish a date of priority to the use of the waters described in "Exhibit A" attached hereto. Notice is hereby given you that the United States is not waiving any legal rights it may claim to the date of priority to its use of the waters or the quantity of the waters of these streams pursuant to federal statutes and decisions of the United States courts.

Byron J. Brophy
Superintendent Flandreau Indian
School Flandreau South
Dakota.

1 STATE OF SOUTH DAKOTA,

SS

2 COUNTY OF Moody

3 Bryan J. Bradley, being first duly sworn,
4 on his oath, deposes and says, that, he is the Superintendent
5 of the Hanckey Indian School, residing at Hanckey,
6 South Dakota; that he has been duly authorized by Harold L.
7 Ickes, Secretary of the Interior, to make and file the fore-
8 going Notice of Appropriation; that in his official capacity
9 as such Superintendent and pursuant to authority therein vested
10 by said Secretary of the Interior, he has hereunto subscribed
11 his name to the above instrument.

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Subscribed and sworn to before me this 20th day of February,
1938.

Margaret A. McKenzie
Notary Public for the State of
South Dakota. Residing at
Hanckey, South Dakota.
My commission expires _____.

MARGARET A. MCKENZIE
Notary Public, Moody County, S. D.
My Commission Expires Sept 11, 1939

"EXHIBIT A"

- I. Schedule of Diversions of Water for Irrigation Purposes on lands of the Flandreau Indian School, South Dakota.
- II. Plan of Irrigation Development at the Flandreau Indian School, Flandreau, South Dakota.

SCHEDULE OF DIVERSIONS OF WATER FOR IRRIGATION PURPOSES ON THE
~~ANDREAU~~ INDIAN SCHOOL, SOUTH DAKOTA.

SOURCE OF WATER		QUANTITY OF WATER		POINT OF DIVERSION		LAND IRRIGATED	
Total Diversion:		Rate of Diversion:		Distance:		Description of the	
per annum		Cubic Feet per		Second of Time		Land Irrigated	
Name of Stream		Acre-Feet		Bank		Bearing and Feet	
Big Sioux River		100		2		Left: South 250	
						N.W. Corner of NE 1 of NE 1 of Section 16, T. 107 N., R. 46 W., 5th P.M., Moody County, South Dakota.	
						Part of the NE 1 of NE 1 of Section 15, and Part of the SE 1 of Section 9, all in T. 107 N., R. 46 W., 5th P.M., Moody County, South Dakota.	

STATE OF SOUTH DAKOTA
Notice of Appropriation

RECEIVED

NOV 30 1936

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

In accordance with the provisions of Section 8243 of the Compiled Laws of the State of South Dakota, 1929, you as State Engineer of the State of South Dakota, are hereby notified that the United States of America, acting by and through me, Byron J. Brophy, Superintendent of the Flandreau Indian School located at Flandreau, South Dakota, duly authorized by Harold L. Ickes, Secretary of the Interior, for this purpose, intends to utilize certain amounts of the waters of streams flowing in and through the State of South Dakota for certain specified purposes on definitely described tracts of land within said State, hereinafter set forth in detail, together with plans of the proposed works, which information is hereto attached, marked "Exhibit A", and made a part hereof; and the request is hereby made that the waters hereinafter described be withheld from entry and not subject to further appropriation in accordance with the provisions of the Compiled Laws of the State of South Dakota, 1929.

The purpose of the appropriation of the waters of these streams is for the use of the Indians residing at the Flandreau Indian School, South Dakota, for the irrigation of subsistence gardens being constructed by the United States.

By this aforesaid Notice of Appropriation, the United States is not seeking to establish a date of priority to the use of the waters described in "Exhibit A" attached hereto. Notice is hereby ^{you} given that the United States is not waiving any legal rights it may claim to the date of priority to its use of the waters or the quantity of the waters of these streams pursuant to federal statutes and decisions of the United States courts.

Byron J. Brophy
Superintendent Flandreau Indian
School, Flandreau, South
Dakota.

1 STATE OF SOUTH DAKOTA,
2 COUNTY OF Moody ss.

3 Byron W. Bradley, being first duly sworn, on his oath,
4 deposes and says: that he is the Superintendent of the Flandreau
5 Indian School, residing at Flandreau, South Dakota;
6 that he has been duly authorized by Harold L. Ickes, Secretary of
7 the Interior, to make and file the foregoing Notice of Appropria-
8 tion; that in his official capacity as such Superintendent and
9 pursuant to authority therein vested by said Secretary of the
10 Interior, he has hereunto subscribed his name to the above instru-
11 ment.

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Subscribed and sworn to before me this 22 day of November, 1935.

Margaret A. McKenzie
Notary Public for the State of
South Dakota. Residing at
Flandreau, South Dakota.
My commission expires _____

MARGARET A. MCKENZIE
Notary Public, Moody County, S. D.
My Commission Expires Sept 11, 1937

"EXHIBIT A"

- I. Schedule of Diversions of Water for Irrigation Purposes
on lands of the Flandreau Indian School, South Dakota.
II. Plan of Irrigation Development at the Flandreau Indian
School, Flandreau, South Dakota.

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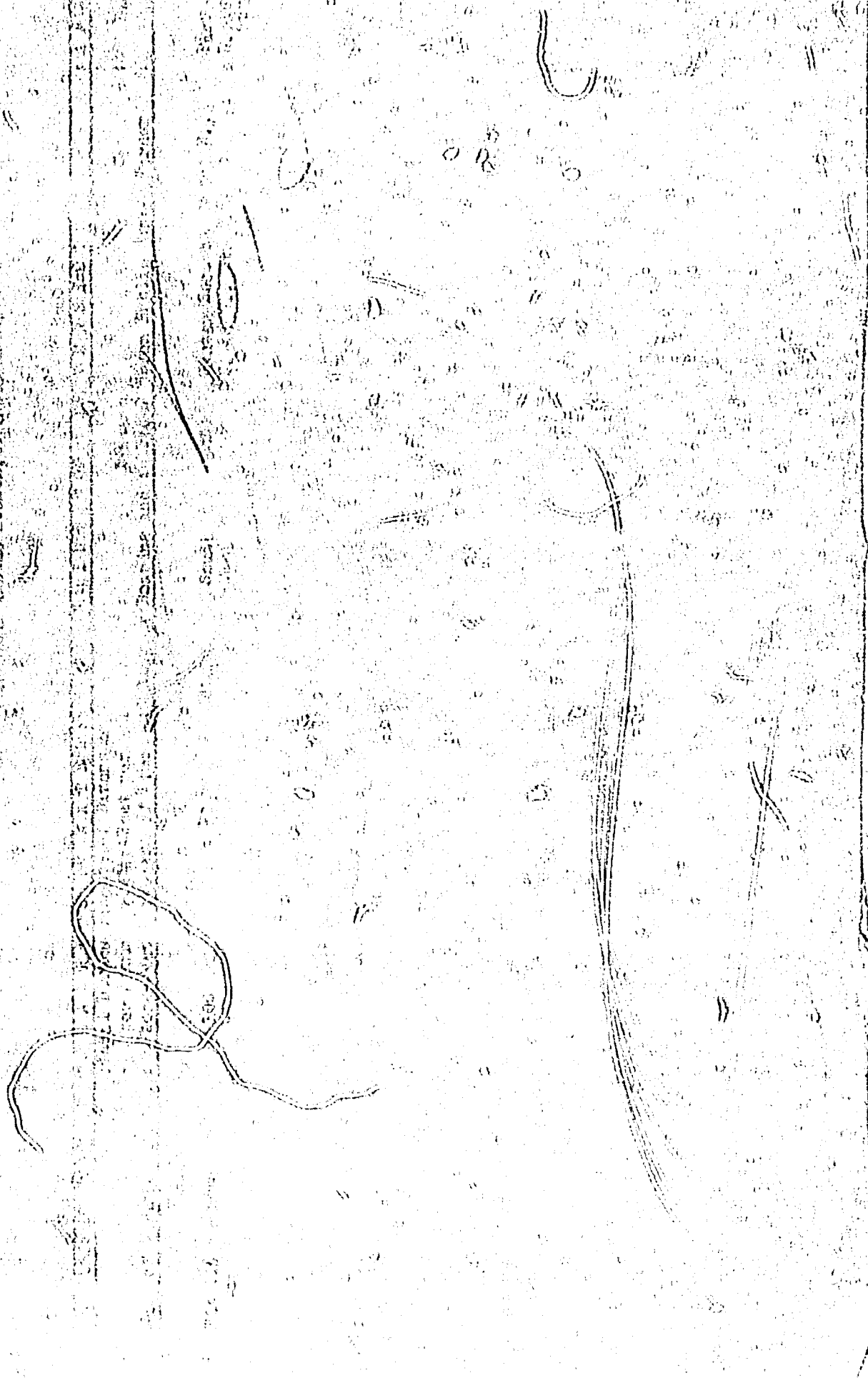
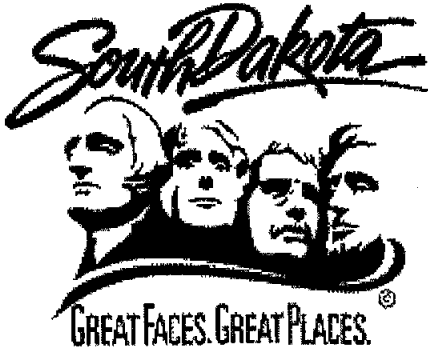


TABLE OF DIVERSIONS OF WATER FOR IRRIGATION PURPOSES AT THE
FLANDREAU INDIAN SCHOOL, SOUTH DAKOTA.

SOURCE OF WATER		QUANTITY OF WATER		POINT OF DIVERSION		LAND IRRIGATED	
		: Total Diversion:				: Description of the	
		: per Annum				: Land Irrigated.	
Name of Stream		: Acre-Feet		: Second of Time		: Bearing and Distance	
Big Sioux River		28		100		Right	
				2		South	
						250	
						Center Sec. 21, T. 107 N.,	
						R. 48 W., 5th P.M.	
						Part of Sec. 21, T. 107 N.,	
						R. 48 W., 5th P.M.	



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 31, 2018

US28-3 US50-3 US513-3 US514-3
US515-3 US516-3

US BUREAU OF INDIAN AFFAIRS
115 4th AVENUE, SE, SUITE 400
ABERDEEN SD 57401

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear SIR,

I am writing to inform you of an effort the SD Dept. of Environment and Natural Resources Water Rights Program is undertaking to review and update a number of water right permits authorized to pump water from the Big Sioux River. Since your water right does not have a bypass qualification, we **are not** proposing to amend your permit by adding a bypass qualification. However, I do want to make you aware of what we are proposing for several other junior priority Big Sioux River permits.

When a number of these Big Sioux River permits were issued, they contained a *qualification requiring a minimum flow bypass* before the user is able to pump water from the river. The bypass qualification was placed on these permits to protect the use of water by downstream senior priority water right holders and domestic water users, which includes livestock watering. The review found, with the passage of time, a number of senior water right permits have been cancelled due to abandonment or forfeiture. Consequently, it may be possible to lower the flow bypass limitation on the remaining permits. In other words, the amount of flow in the river can be lower and pumping will still be allowed. The review also found an inconsistency between permits on where the bypass flow is to be measured. The intent of this effort is to standardize and make consistent the bypass requirements for the remaining water users.

In order to amend a qualification on an existing water right permit, formal action by the SD Water Management Board is needed. In the next few weeks, you can expect to receive official notification scheduling a hearing before the Water Management Board. Again this does not pertain to amending your permit, only junior permit holders. If you wish to participate in the hearing you can, but you are not required to. There will be instructions with the notification on how to participate in the hearing if you so choose.

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

Sincerely,

for Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 12, 2018

US 28-3, US 50-3, US 513-3,
US 514-3, US 515-3, US 516-3

US BUREAU OF INDIAN AFFAIRS
115 4TH AVE SE, SUITE 400
Aberdeen SD 57401

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear Sir:

The SD Department of Environment and Natural Resources (DENR) has evaluated the minimum flow bypass condition on water rights that pump from the Big Sioux River. The Chief Engineer is recommending amending the bypass qualification on 21 Big Sioux River water rights. The intent is to bring uniformity to the bypass requirement placed on water rights in past years. The water right you own or operate does not have a bypass qualification and will not be amended by the proposed action.

Even though your water right is not being amended, DENR wants to keep you informed of the proposed action since it involves the Big Sioux River. Enclosed is a notice to be published on or before February 15, 2018, in one newspaper from each of the seven counties that the Big Sioux River flows through. Also, the staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Mark Rath at 605 773-3352 or mark.rath@state.sd.us.

A hearing before the Water Management Board is scheduled at 11:30 AM, Wednesday, March 7, 2018 in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The enclosed notice provides information on the hearing and ability to file a petition in either support or opposition to the proposed amendment. The filing of a petition must be postmarked by February 26, 2018. Additionally filing a petition affords you the opportunity to participate in the March 7th hearing before the Board if you choose.

Again, this does not pertain to amending your water right, only junior water right holders with existing bypass requirements. If you have questions, please call. DENR is willing to work to answer any questions.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosure