

No. *U.S. 55-2*

**Office of State Engineer
DOCUMENT FILE**

*U.S. Dist. of Interior
Big Spring River
Maricopa 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, Flandreau 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 the force:

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 12 cubic feet per second of water, the point of diversion to be on the right bank a distance of 820 feet S. 38 degrees East from the N.W. Corner of NE₁ of NE₁ 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 NE₁ of NE₁ of Section 16, 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and the above said water is hereby withdrawn from future appropriation during the continuance of the right herein granted and contained.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 1933

Paul R. Rucker
State Engineer

February 14, 1936

Mr. Byron J. Denny,
Superintendent
Department of the Interior
Flandreau Indian School
Flandreau, South Dakota

Dear Sir:

This will acknowledge receipt of your letter of February 7, relative to and including notices of appropriation of water from the Big Sioux River for irrigation of Indian Gardens at Flandreau, South Dakota. We have drawn up withdrawal conforming with the information which you have supplied us and have canceled withdrawal U.S. 28, dated November 30, 1936 and substituted for same withdrawal which you submitted of the above date.

There is no charge to the Federal Government for this service, we are therefore returning the blank voucher unused.

Hoping that this withdrawal is now in conformity with the actual location. We are,

Very truly yours,

DEAN W. LOCHS,
State Engineer.

DWJ:dn
Enc.

17-8 50

STATE OF SOUTH DAKOTA
Notice of Appropriation

1
2
3 In accordance with the provisions of Section 8243 of the
4 Compiled Laws of the State of South Dakota, 1929, you as State En-
5 gineer of the State of South Dakota, are hereby notified that the
6 United States of America, acting by and through me, Byron J. Brophy
7 Superintendent of the Flandreau Indian School located at
8 Flandreau, South Dakota, duly authorized by Harold L. Ikes,
9 Secretary of the Interior, for this purpose, intends to utilize
10 certain amounts of the waters of streams flowing in and through the
11 State of South Dakota for certain specified purposes on definitely
12 described tracts of land within said State, hereinafter set forth
13 in detail, together with plans of the proposed works, which infor-
14 mation is hereto attached, marked "Exhibit A", and made a part
15 hereof; and the request is hereby made that the waters hereinafter
16 described be withheld from entry and not subject to further appro-
17 priation in accordance with the provisions of the Compiled Laws of
18 the State of South Dakota, 1929.

19 The purpose of the appropriation of the waters of these streams
20 is for the use of the Indians residing at the Flandreau Indian
21 Reservation, South Dakota, for the irrigation of subsistence gar-
22 dens being constructed by the United States.

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

30
31 Byron J. Brophy
32 Superintendent Flandreau Indian
School, Flandreau South
Dakota.

STATE OF SOUTH DAKOTA,

SS.

COUNTY OF Moody

Byron J. Buehly, being first duly sworn, on his oath, deposes and says: that he is the Superintendent of the Flanagan Indian School, residing at Flanagan, South Dakota; that he has been duly authorized by Harold L. Ikes, Secretary of the Interior, to make and file the foregoing Notice of Appropriation; that in his official capacity as such Superintendent and pursuant to authority therein vested by said Secretary of the Interior, he has hereunto subscribed his name to the above instrument.

Subscribed and sworn to before me this nineteenth day of February, 1936.

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

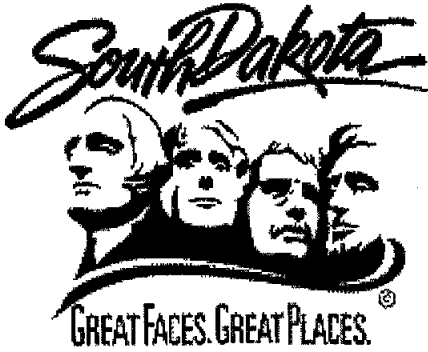
MARGARET A. MCKENZIE
Notary Public, Moody County, S. D.
My Commission Expires Sept 11, 1939

"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
FLADREAU INDIAN SCHOOL, SOUTH DAKOTA.

SOURCE OF WATER		POINT OF DIVERSION		LAND IRRIGATED	
Name of Stream	Acres Feet per annum	Rate of Diversion : Cubic feet per Second of Time	Bank : Bearing and Distance : Feet	From Public Survey Corner	Description of the Land Irrigated
Big Sioux River	100	2	Right S. 36° E. 620	N.W. Corner of NE 1/4 of Section 16, T. 107 N., R. 46 W., 5th P., Moody County, South Dakota.	Part of the NE 1/4 of NE 1/4 of Sec. 16, T. 107 N., R. 46 W., 5th P., Moody County, South Dakota.



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