

No. *U.S. 513-2*

**Office of State Engineer
DOCUMENT FILE**

*U. S. Dept. of Interior
Bureau of Indian Affairs
Haskell Indian School
Big Horn River*

Form A

CERTIFICATE OF WITHDRAWAL
of
WATER FOR APPROPRIATION
to the
UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

Withdrawal No. US 513

Flandreau Indian School Pumping Proj. No. 1

Name of Project

Water Division No. 3

Big Sioux River Water District

Moody

Big Sioux River

County

Source of Appropriation-Stream

The United States of America, Department of the Interior,
Flandreau Indian Tribal Lands, having filed "Notice of Intention" to
utilize certain heretofore unappropriated public waters of the State of South
Dakota, in accordance with the requirements of the statutes of the State of South
Dakota, such statutes and authority being contained in Section 61.0137 1939
Revised Code of South Dakota, now therefore;

This is to certify that there is hereby reserved, of the heretofore unappro-
priated waters of The Big Sioux River, the annual amount of 250 acre-
feet of water ~~xxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxx~~
by damming said stream at a point due north 180
feet distant from the S¹ Corner of Section 23, Township 10^N, Range 48^W.
The purpose of such ~~xxxxxxxx~~ diversion is Irrigation

This is to certify that there is hereby reserved, of the heretofore unappro-
priated waters of The Big Sioux River a maximum of 4 cubic feet
per second to be diverted through the Indian School ditch, canal
or pipe line at a point located on the Left bank 180
feet distant from the S¹ Corner of Section 23
Township 10^N, Range 48^W for the purpose of Irrigation
during the months of January to December except
that the said above amount shall not exceed the legal limit of 1 cu.ft. per sec. for
each 70 acres irrigated.

This certificate and withdrawal shall in no manner prejudice, alter, amend
or affect the rights of any prior appropriator or prior appropriation of water,
nor of any application for appropriation pending on the date of this certificate,
but the rights and privileges of any and all such prior appropriators or appli-
cants 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 statutes hereinbefore referred to and under the authority
of which this certificate is issued.

In accordance with the provisions of the statutes hereinbefore referred to,
this certificate is executed at the State Capitol at Pierre, South Dakota, this
20th day of April 1940.

Donal W. Loucks
State Engineer

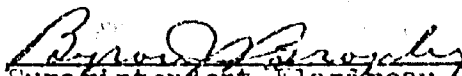
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STATE OF SOUTH DAKOTA
Notice of Appropriation OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

In accordance with the provisions of Sec. 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 and Reservation 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 on 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.


Superintendent Flandreau Indian
School and Reservation, Flandreau,
South Dakota.

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OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

STATE OF SOUTH DAKOTA,)
COUNTY OF MOODY.) SS.

BYRON J. DROPHY, being first duly sworn, on his oath, deposes and says: that he is the Superintendent of the Flandreau Indian School and Reservation, residing at Flandreau, South Dakota; that he has been duly authorized by Harold L. Iokes, 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.

Byron J. Drophy

Subscribed and sworn to before me this 22nd day of April 1940.

Margaret A. McFadden
Notary Public for the State of
South Dakota. Residing at
Flandreau, South Dakota.
My commission expires Sept. 11, 1943.

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OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

"EXHIBIT A"

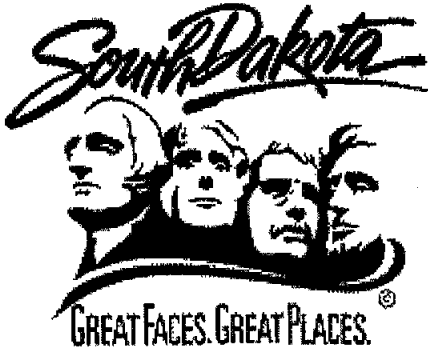
- I. Schedule of Diversions of Water for Irrigation Purposes on lands of the Flandreau Indian School and Reservation, South Dakota.
- II. Plan of Irrigation Development at the Flandreau Indian School and Reservation, Flandreau, South Dakota.

U. S. DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Schedule of Diversions of Water for Irrigation
of
Tlandreau Indian Tribal Lands
Tlandreau, South Dakota

SOURCE OF WATER	QUANTITY OF WATER	POINT OF DIVERSION	LAND IRRIGATED
Name of Stream	Total Diversion : Per annum : Acre-Feet : Rate of Diversion : Cubic Feet per Second of Time	Distance : Bank : Bearings and : Feet : From Public Survey Corner	Description of : the land : Irrigated
Big Sioux River No. 1 250	4	Left North 180	SW Corner Section 25, T.107N., R.48W., 5th P.M., Moody County, South Dakota Part of the W2 of the SW Section 25, T.107, R.48W., 5th P.M., Moody County South Dakota
Big Sioux River No. 2 30	0.75	Left N. 79-30'E. 1280	SW Corner Section 25 T.107N., R.48W., 5th P.M., Moody County, South Dakota Part of the SW Section 25, T.107N., R.48W., 5th P.M., Moody County, S. 1.
Big Sioux River No. 3 175	0.75	Right S. 79-0'W. 630	SW Corner Section 14, T.107N., R.48W., 5th P.M., Moody County, South Dakota Part of NW Section 14, T.107N., R.48W., 5th P.M., Moody County, South Dakota

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PIERRE S. DAK.
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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