

WATER PERMIT NO. 1390C-1

Name of Applicant: **Christopher & Hope Jackson**

Address: **18968 Helmer Rd, Belle Fourche SD 57717** Phone: **605 892-5845**

Amount of Water Claimed: **1.20 cfs** Total Acres: **24 acres**

Source of Water Supply: **Redwater River**

Water to be used for: **irrigation** County: **Butte**

Type of Waste Disposal System:

Location: **1 mile east of Belle Fourche**

PRIORITY Date Received: **3-21-13** Application/License Fee: **\$ 300**

Corrected Application Received: Period of Annual Use: **April 1 – October 31**

Remarks: **Amendment to Water Right No. 1390-3, McClure Ditch**

Diversion Point: **E 1/2 NW 1/4 Sec 13-T8E-R2E**

Land to be Irrigated: **E 1/2 NW 1/4 Sec 13-T8E-R2E**

Depth of Well: **NA**

Well Driller: **NA**

Remarks:

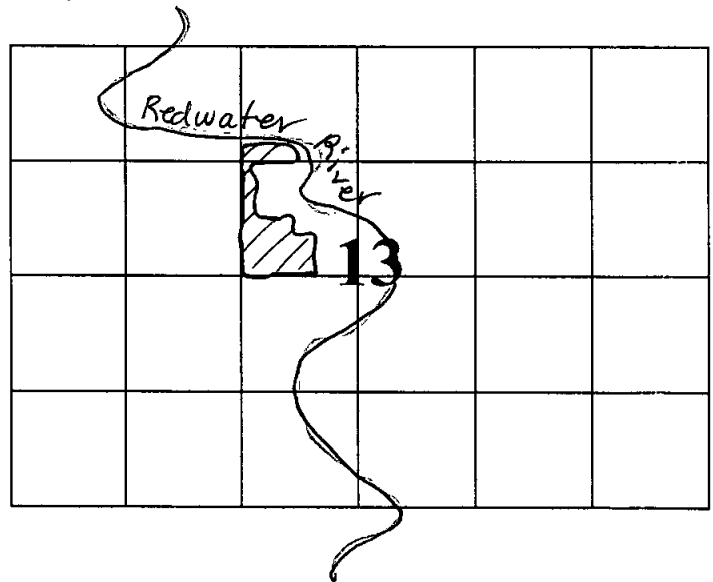
Type of Map:

Prepared by:

Reviewed and the Number Assigned on: **4-2-13**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

OCT 25 2013

Christopher & Hope Jackson
18968 Helmer Rd
Belle Fourche SD 57717

Dear Mr. & Mrs. Jackson:

Enclosed is Reissued Water Permit No. 1390C-1 For Irrigation. The permit is being reissued to change the Redwater River diversion point for the original McClure Ditch which was incorrectly listed as Section 23.8. The correct legal description of the Redwater River diversion point for McClure Ditch that is no longer in use is the NE 1/4 NW 1/4 Section 24-T8N-R2E.

If you have any questions, please contact this office.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

**REISSUED
SOUTH DAKOTA
WATER PERMIT NO. 1390C-1 FOR IRRIGATION**

Date of first receipt of application March 21, 2013.

The Water Management Board approved Water Permit No. 1390C-1 on July 11, 2013 for Christopher & Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 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. 1390C-1 changes the location of the Redwater River diversion point to irrigate 23.8 acres authorized for irrigation by Vested Water Right No. 1390-1. Vested Water Right No. 1390-1 has a May 12, 1879 priority date to appropriate 2.38 cubic feet of water per second (cfs) from the Redwater River via McClure Ditch to irrigate 83.6 acres. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 24-T8N-R2E. This permit changes the diversion point location to irrigate 23.8 acres of the 83.6 acres directly from Redwater River at a diversion rate of 0.68 cfs. This Redwater River diversion point and the 23.8 acres are both located in the E 1/2 NW 1/4 Section 13-T8N-R2E. Vested Water Right No. 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.
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 – October 31.
3. The date from which applicant may claim right is May 12, 1879.
4. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

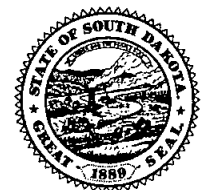
1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Jeanne Goodman
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 25 2013

date



Type of Application of Amendment

Mail to:
PMB 2020
DENR - Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

(office use only)
No. 1390C-1 Hydrologic Unit 10120203
Basin Belle Fourche River 605-892-2528
Newspaper Butte Co. Post 614 State St. Belle Fourche 57717
Black Hills Pioneer Box 7 Spearfish 57783 605-642-2761

RECEIVED

MAR 21 2013

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☒ Vested Right ☒ Amendment/Correction to Permit No. 1390-1

Predates Mar 2, 1955

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Change diversion point

1. Name of Applicant Christopher & Hope Jackson Phone 605-892-5845
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 18968 Helmer Rd Belle Fourche SD 57717
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 1.20 *CFS or 540 **GPM ***AF Total Acreage 23.8 acres
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Redwater River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Butte
out of River E 1/2 NW 1/4 section 13-T8N-R2E of Black Hills

5. County or counties where water will be used Butte6. Annual period during which water is to be used April 1 - Oct. 31

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.

(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>E 1/2 NW 1/4 section 13-T8N-R2E</u>	<u>23.8</u>		

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

The McClure Ditch was washed out @ gate on diversion point. The ditch is not salvageable, wanting to irrigate on my ~~24~~ 24 acres that have rights for irrigation. Need to make a declaration ruling concerning if water rights exist still due to abandonment of the McClure Ditch. Thanks

STATE OF SOUTH DAKOTA)

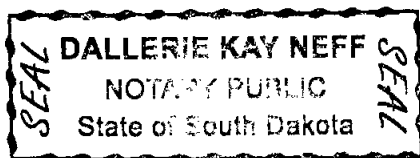
County of Butte) SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

I, Christopher Jackson, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

My Commission Expires
October 9, 2014

Applicant's signature

Subscribed and sworn to before me this 11 day of January 20 13

Notary Public signature

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicant's property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

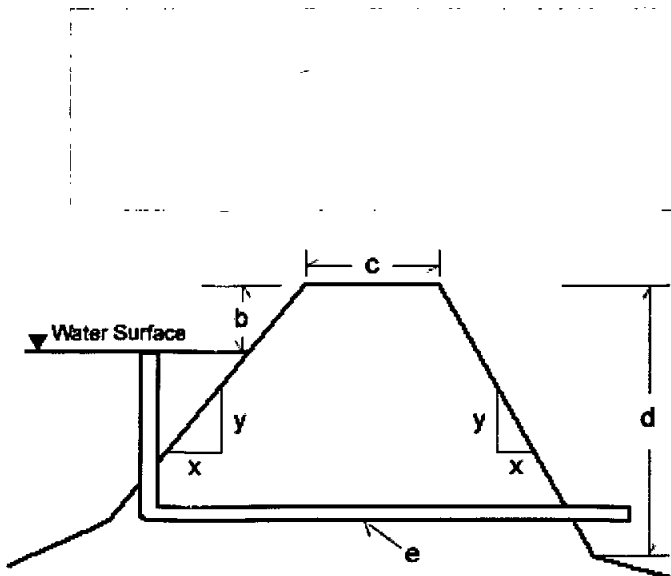
3. Dugout Information

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

SOUTH DAKOTA
WATER PERMIT NO. 1390C-1 FOR IRRIGATION

Date of first receipt of application March 21, 2013.

The Water Management Board approved Water Permit No. 1390C-1 on July 11, 2013 for Christopher & Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 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. 1390C-1 changes the location of the Redwater River diversion point to irrigate 23.8 acres authorized for irrigation by Vested Water Right No. 1390-1. Vested Water Right No. 1390-1 has a May 12, 1879 priority date to appropriate 2.38 cubic feet of water per second (cfs) from the Redwater River via McClure Ditch to irrigate 83.6 acres. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 23.8-T8N-R2E. This permit changes the diversion point location to irrigate 23.8 acres of the 83.6 acres directly from Redwater River at a diversion rate of 0.68 cfs. This Redwater River diversion point and the 23.8 acres are both located in the E 1/2 NW 1/4 Section 13-T8N-R2E. Vested Water Right No. 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.
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 – October 31.
3. The date from which applicant may claim right is May 12, 1879.
4. One-fifth of the construction of the new diversion point is to be completed on or before January 11, 2016.
5. All construction is to be completed on or before July 11, 2018.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

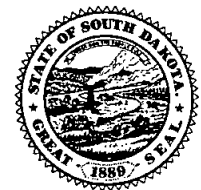
WATER MANAGEMENT BOARD

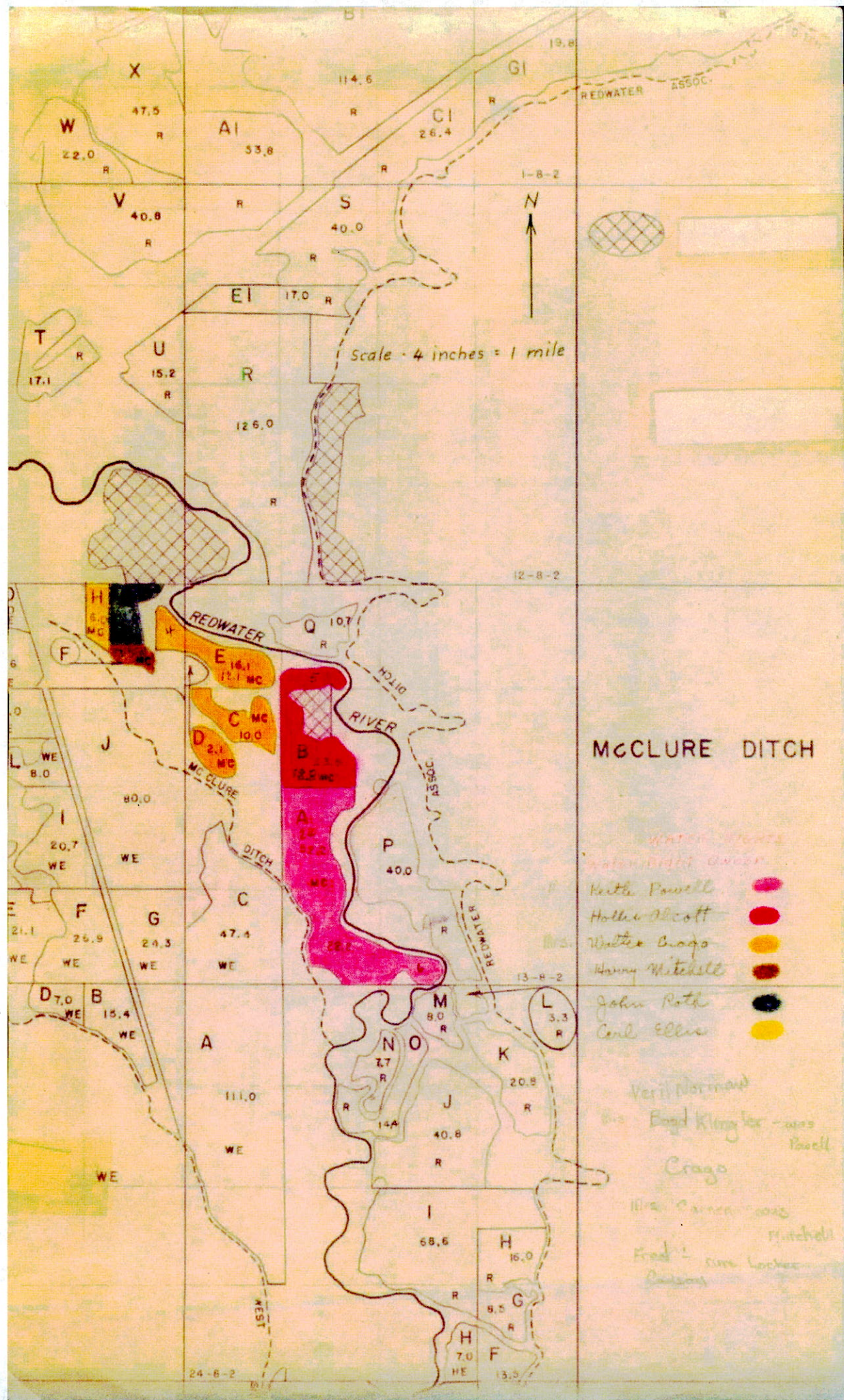
By: Jeanne Goodman

Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 29 2013

date





RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/25, 20 13

RECEIVED OF Christopher J Jackson 18968 Helmer Rd Belle Fourche SD 57717

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

Fee for Application for Permit No. <u>1390C-1</u> to Appropriate Water, to construct and to put water to beneficial use	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1390C-1</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	300 00

No. 06260

By David Erskine
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/5, 20 12

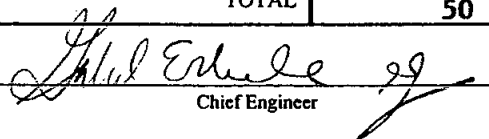
RECEIVED OF Christopher J Jackson 18968 Helmer Rd Belle Fourche SD 57717

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
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 <u>1390-1</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **05737**

By


Chief Engineer

RECEIVED

DEC - 5 2012

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 1390-1Date: 11/28/2012

I/We request that Water Right/Permit No. 1390-1 formerly owned by:
John Charlson ~ Alice Alcott be transferred to:

New Owner Name: Christopher Jackson / Hope JacksonAddress: 18968 Helmer RdCity, State, Zip Belle Fourche SD 57717 Telephone No. 605-892-5845

Title to the following described land(s)/property has been transferred as described above:

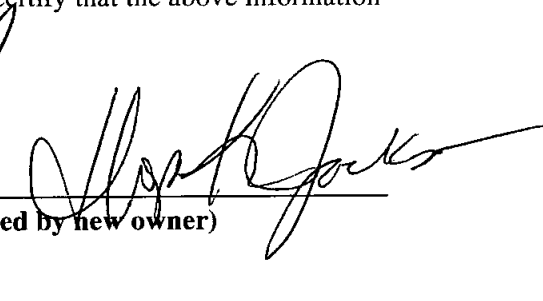
NW 1/4 of E 1/2 NW 1/4 of S13 T8N R2E BHM

☒ I understand that the validity of Water Right/Permit No. 1390-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Christopher Jackson / Hope Jackson, the new owner, certify that the above information is true and correct.

 
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1390C-1, Christopher and Hope Jackson**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1390C-1, Christopher and Hope Jackson, 18968 Helmer Rd, Belle Fourche SD, 57717.

The Chief Engineer is recommending APPROVAL of Application No. 1390C-1 for 0.68 cfs for irrigation of 23.8 acres and will retain a May 12, 1879 priority date because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 21, 2013

REPORT ON WATER PERMIT APPLICATION NO. 1390C-1

Christopher & Hope Jackson

April 5, 2013

Application No. 1390C-1 proposes to amend a portion of Vested Water Right No. 1390-1, held by McClure Ditch, by changing the diversion point for a portion of the irrigated acres and accompanying diversion authority from McClure Ditch to a direct diversion from Redwater River. Vested Water Right No. 1390-1 (May 12, 1879, priority date) appropriates 2.38 cubic feet of water per second (cfs) from Redwater River for irrigation of 83.6 acres via the ditch. The Redwater River diversion point for the McClure Ditch is located in the NE¼ NW¼ Section 24, T8N-R2E. This application proposes to change the diversion point location to irrigate 23.8 acres of the 83.6 acres directly from Redwater River at a diversion rate of 0.68 cfs. The proposed Redwater River diversion point and the 23.8 acres are both located in the E½ NW¼ Section 13, T8N-R2E in Butte County, South Dakota.

If this application is approved then Vested Water Right No. 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.

REVIEW OF THE PROPOSED PROJECT

Christopher Jackson, the owner of said acreage, has stated that the headgate to McClure Ditch has been washed out and that the ditch is not salvageable. Therefore, the applicant is wishing to amend a portion of Vested Water Right No. 1390-1 by severing the irrigated acreage (23.8 acres) from the McClure Ditch irrigated acreage (83.6 acres) and divert directly from Redwater River rather than attempt to utilize McClure Ditch for the delivery of water.

South Dakota Codified Law SDCL 46-5-31 allows for a change of the place of diversion.

SDCL 46-5-31. Change of use or place of diversion. Any appropriator of water may use the water for purposes other than for which it was appropriated, or may change the place of diversion, storage, or use, in a manner and under conditions approved by the Water Management Board, except that changes in irrigation permits shall be as prescribed by §§ 46-5-34 to 46-5-36, inclusive.

REVIEW OF THE PRORATED SHARE OF WATER

The applicant proposes to transfer only the pro-rata share of the May 12, 1879 McClure Ditch priority. Therefore, the 23.8 acres constitutes 28.5% prorated share of the McClure Ditch's 83.6 acres, thus the applicant is due 28.5% of McClure Ditch's 2.38 cfs, which is equal to 0.68 cfs.

REVIEW OF EXISTING WATER RIGHTS

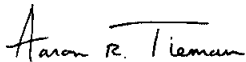
There are a total of 2 existing water rights/permits appropriating 1.1 cfs from Redwater River that are downstream of the proposed new diversion point from Redwater River. It should be noted that the two existing downstream water rights are previous diversion point transfers from McClure Ditch that occurred

in the late 1980's. Therefore, by adding a diversion point with no increase in the diversion rate or number of acres irrigated, no adverse impacts would be expected.

The applicants have inquired regarding of the McClure Ditch water right due to the condition of the McClure Ditch head gate on Redwater River. The State holds the burden of proof in cancellation proceedings. In this situation the McClure ditch head gate has been in a state of disrepair beyond the Jacksons' control. Board rule provides for legal excuse to include but not limited to climatic conditions, or operation of law beyond the applicants control. In this instance it appears the Jacksons have a legal excuse argument that would lead it going before the Board for the Board's determination.

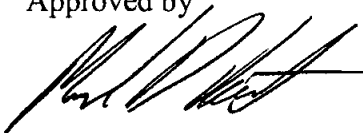
CONCLUSIONS

1. This application proposes to sever 23.8 acres and diversion authority of 0.68 cfs from Vested Right 1390-1 and divert directly from Redwater River rather than utilize McClure Ditch for the delivery of water.
2. SDCL 46-5-31 allows for a change in the place of diversion.
3. The applicant proposes to transfer only the pro-rata share of the May 12, 1879, McClure Ditch priority water for the 23.8 acres which is equal to 0.68 cfs.
4. This application proposes to amend an existing right by changing a diversion point with no increase in the diversion rate or number of acres irrigated, therefore, no adverse impacts to existing water rights would be expected.
5. The applicants have inquired regarding the status of the McClure Ditch water right due to the condition of the McClure Ditch head gate on Redwater River. It appears the Jacksons would have a legal excuse argument that would lead it going before the Board for its determination.



Aaron R. Tieman
Natural Resources Engineer II

Approved by



Mark D. Rath
Natural Resources Engineer III

BIBLIOGRAPHY

Water Right, 2013, Unpublished Water Rights Data, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

RECEIVED

JUN 10 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

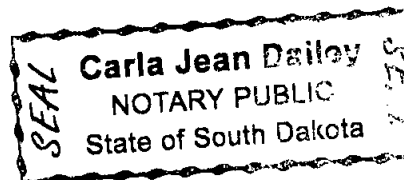
State of South Dakota
County of Butte

Karen L. Wallace, being duly sworn, says: That the *Butte County Post* is, and during all times hereafter mentioned, was a legal newspaper as deemed in SDCL 17-2-2, as amended, published at Belle Fourche, Butte County, South Dakota, By *Rapid City Journal*; that affidavit is and, during all of said times, was employed by the publisher of such newspaper and has personal knowledge of the facts stated in the affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following date(s):

Wed., June 5, 2013

That the full amount of the fee charged for publishing the same, to with, that of \$60.07, insures solely to the benefit of the publisher of said newspaper that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Karen Wallace
Karen Wallace, Customer Service



Subscribed and sworn to before me this 7th day of June, 2013.
Carla Jean Dailey
Notary Public, South Dakota

My commission expires May 24, 2018

rate of 1.20 cfs. The proposed Redwater River diversion point and the 23.8 acres are both located in the E 1/2 NW 1/4 Section 13-T8N-R2E.

If approved, Vested Water Right No. 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.

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 this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1390C-1 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

The Water Management Board will consider this application at 10 a.m. on July 11, 2013 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. 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.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The appli-

cant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 1, 2013. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature 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 July 11, 2013 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 or support the application. The request for an automatic delay must be filed by July 1, 2013. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by July 1, 2013 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 June 17, 2013. However, since this particular matter is a water permit application 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.

Steven M. Pirner
Secretary
Department of Environment and Natural Resources
Published once at the total approximate cost of \$60.07.

Published
Wed., June 5, 2013
Butte County Post

NOTICE OF HEARING on Application No. 1390C-1

Notice is given that Christopher and Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 have filed an application for a water permit to change the location of the Redwater River diversion point to irrigate 23.8 acres authorized for irrigation by Vested Water Right No. 1390-1. Vested Water Right No. 1390-1 has a May 12, 1879 priority date to appropriate 2.38 cubic feet of water per second (cfs) from the Redwater River via McClure Ditch to irrigate 83.6 acres. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 23.8-T8N-R2E. This application proposes to change the diversion point location to irrigate 23.8 acres of the 83.6 acres directly from Redwater River at a diversion

RECEIVED

JUN - 3 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice Of Hearing on
Application No 1390C-1

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 29th day of May, 2013, and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 56.98, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Letitia Lister
Subscribed and sworn to before me this 30 day of May, 2013

Jami Allen
Notary Public, Butte County, South Dakota
My commission expires: 3-7-2017

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If approved, Vested Water Right No. 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.

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 this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1390C-1 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

The Water Management Board will consider this application at 10 a.m. on July 11, 2013 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. 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.

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Contact Eric Gronlund by July 1, 2013 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 June 10, 2013. However, since this particular matter is a water permit application 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.

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Steven M. Pirner,
Secretary,
Department of
Environment and Natural
Resources

Published once at the
total approximate cost of
\$56.98.

#705
May 29



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

May 21, 2013

Butte Co Post
614 State St
Belle Fourche SD 57717

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 1390C-1. Please publish the notice once on May 29, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Christopher & Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 (Ph # 605-892-5845).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication.. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

May 21, 2013

Black Hills Pioneer
PO Box 7
Spearfish SD 57783

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and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

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

May 21, 2013

Christopher & Hope Jackson
18968 Helmer Rd
Belle Fourche SD 57717

Dear Sir

Water Permit Application No. 1390C-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Butte Co. Post printed at Belle Fourche SD (Ph # 605-892-2528) and the Black Hills Pioneer printed at Spearfish SD (Ph # 605-642-2761). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(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 May 29, 2013. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, May 28, 2013 9:59 AM
To: 'karen.wallace@rapidcityjournal.com'
Subject: FW: 1390C-1, Christopher & Hope Jackson
Attachments: 1390C-1public.wmb.docx

As requested, attached is the notice for Application No. 1390C-1, Christopher & Hope Jackson. Please publish the notice on June 5th and send us the affidavit ASAP.

Thanks

Karen Schlaak

Water Rights Program

Phone: 605 773-3352

Fax: 605 773-4068

*Karen called
& said they didn't
get notice on time to
publish May 29th.*

RECEIVED

JUN 10 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota
County of Butte

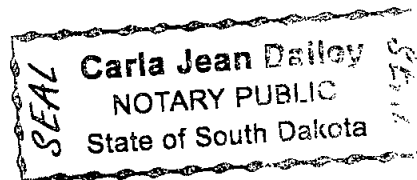
Karen L. Wallace, being duly sworn, says: That the *Butte County Post* is, and during all times hereafter mentioned, was a legal newspaper as deemed in SDCL 17-2-2, as amended, published at Belle Fourche, Butte County, South Dakota, By *Rapid City Journal*; that affidavit is and, during all of said times, was employed by the publisher of such newspaper and has personal knowledge of the facts stated in the affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following date(s):

Wed., June 5, 2013

That the full amount of the fee charged for publishing the same, to with, that of \$60.07, insures solely to the benefit of the publisher of said newspaper that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Karen Wallace

Karen Wallace, Customer Service



Subscribed and sworn to before me this 7th day of June, 2013.

Carla Jean Dalloy
Notary Public, South Dakota

My commission expires May 24, 2018

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Secretary
Department of Environment and Natural Resources
Published once at the total approximate cost of \$60.07.

Published
Wed., June 5, 2013.
Butte County Post

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Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 June 17, 2013. However, since this particular matter is a water permit application 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

AUG 29 2013

Christopher & Hope Jackson
18968 Helmer Rd
Belle Fourche SD 57717

Dear Sir:

Enclosed is Water Permit No. 1390C-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



1390C-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: CHRISTOPHER & HOPE JACKSON, 18968 HELMER RD, BELLE FOURCHE, SD 57717

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1390C-1. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1390C-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1390C-1 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 3, 2016

1390C-1

Christopher & Hope Jackson
18968 Helmer Rd
Belle Fourche SD 57717

Dear Mr. & Mrs. Jackson:

I am writing to acknowledge receipt of your 2015 irrigation questionnaire.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Permit No. 1390C-1. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1390C-1

I have this day **July 20, 2021** made a thorough examination of the water use system constructed by **Christopher and Hope Jackson, 18968 Helmer Rd., Belle Fourche SD 57717** of Permit No. **1390C-1**, bearing the priority of **5/12/1879** authorizing the diversion of **0.68** cu. ft. per second of the water from the Redwater River for **irrigation** purposes in **Butte** County.

Inspection contact & relationship to permit holder, if applicable: **John Jackson, father**
605-210-1574

A. Works used to divert the water:

Pump:

- 1) Make Pacer
- 2) Model SE2UL E51C
- 3) Size 2" centrifugal
- 4) Capacity 195 gpm

Power:

- 1) Source Gasoline
- 2) Horsepower rating 4

B. Works used to transport water to place of use:

- 1) Type HDPE
- 2) Size various inches
- 3) Length ----- feet

Comments: The pump is currently being used to irrigate 1 acre of trees using a drip system at approximately 2 gpm. The pump has been used for sprinkler and flood irrigation in previous years for trees and garden at rates up to 120 gpm using flood and sprinkler methods on approximately 5 acres.

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by **Yes:**
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: **N/A – Permit No. 1390C-1 changed diversion point and established a diversion rate of 0.68 cfs for 23.8 acres of the 83.6 acres authorized by Vested Water Right 1390-1.**

List any extended period of nonuse: **none**

- 3) Exceptions to compliance are: **only a portion of the 23.8 acres authorized under Permit No. 1390C-1 have been irrigated since the change of diversion point. The owner is considering obtaining a big gun sprinkler and larger pump to irrigate a larger portion of the acreage using the same diversion point.**

D. Condition and Location:

1. The system is in excellent condition with the point of diversion located as follows:
**SE¼ NW¼ S13 T8N R2E (1,795 ft. south and 2,026 ft. east of the NW corner section 13),
N 44.657631° W 103.821676°**
2. The works are capable of diverting and conveying to the place of use 0.43 cu. ft. per second (195 gpm) of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 13 T8N R2E

NE ¼ NW ¼ 3.8 acres

SE ¼ NW ¼ 20.0 acres

comprising a total of 23.8 acres of land and the license should be issued for **0.68** cfs.

3. All structures, wells and lands on map – yes

E. Comments or other permits associated with the project: Permit No. 1390C-1 changed the Redwater River diversion point for 23.8 acres of irrigation authorized by Vested Water Right No. 1390-1. Vested Water Right 1390-1 has a May 12, 1879 priority date to appropriate 2.38 cfs from the Redwater River via the McLure Ditch to irrigate 83.6 acres. This permit changes the diversion point for 23.8 of these acres and authorizes 0.68 cfs to be taken directly from the Redwater River. Vested Water Right 1390-1 is to be reduced by 0.68 cfs and 23.8 acres.



Steven Quissell
Water Rights Inspector
Department of Agriculture and Natural Resources
Water Rights Program

Date Report Completed: **8/6/2021**



Centrifugal Pump at Redwater River diversion

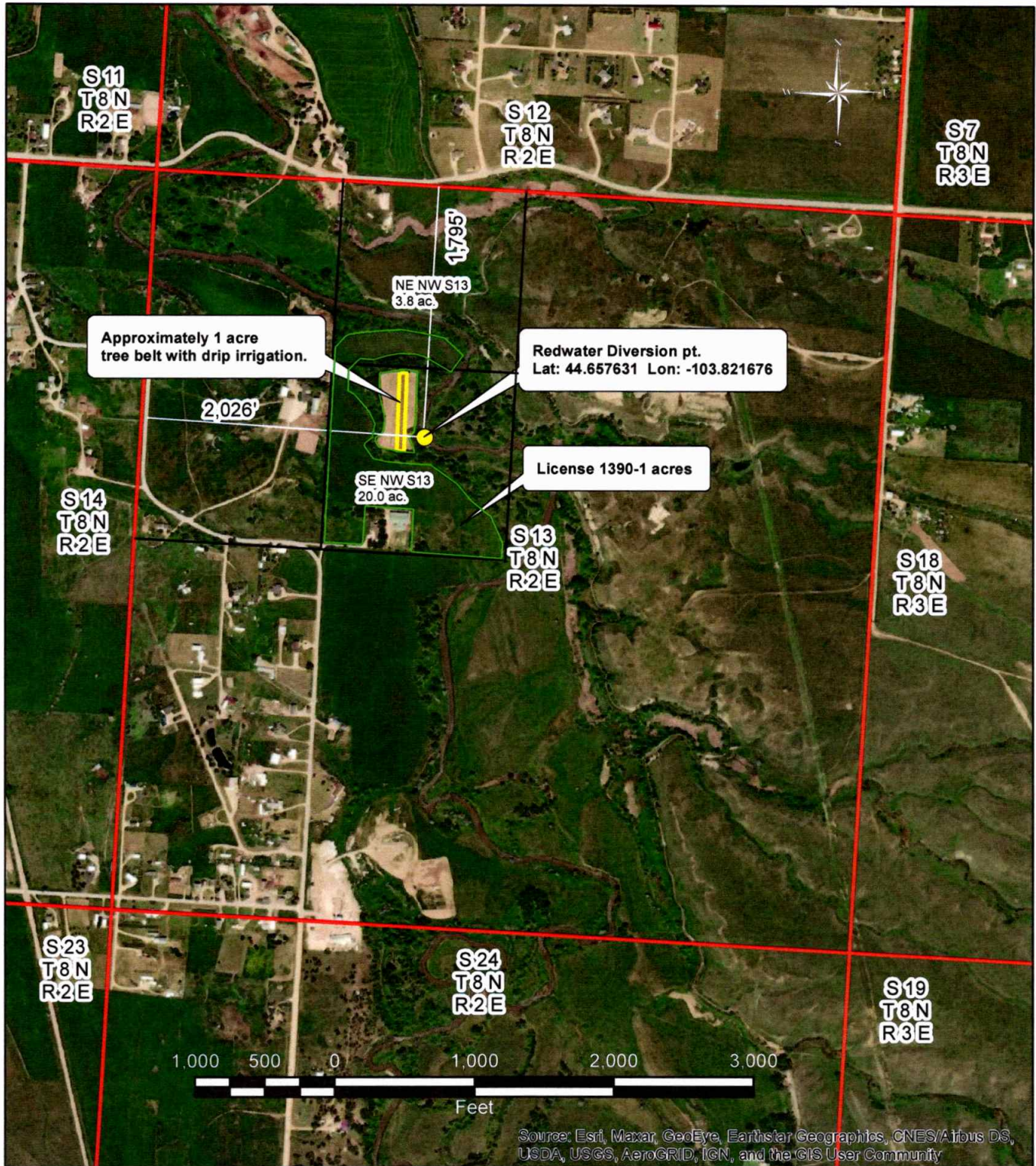


Looking upstream from Redwater diversion point



Drip irrigation of tree belt

Water Right No. 1390C-1
Christopher and Hope Jackson
7/28/2021



Steven Quissell

Steven Quissell
Water Rights Inspector
Department of Agriculture and Natural Resources
Water Rights Program





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 19 2022

1390C-1

Christopher & Hope Jackson
18968 Helmer Rd
Belle Fourche SD 57717

Dear Mr. & Mrs. Jackson:

Enclosed is Water License No. 1390C-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1390C-1

(1) Christopher & Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 made Application No. 1390C-1, March 1, 2013, for a water permit to divert 0.68 cubic feet of water per second from the Redwater River, Butte County, South Dakota for irrigation purposes. Permit No. 1390C-1, with a priority date of May 12, 1879, was approved July 11, 2013.

No. 1390C-1 changed the location of the Redwater River (via McClure Ditch) diversion point authorized under Vested Water Right No. 1390-1 from the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24 to the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, all in T8N, R2E.

(2) It is certified that the permit holders have complied with the provisions of South Dakota State Law relating to completion of the water supply system and are entitled to divert 0.68 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,795'S and 2,026'E of the NW corner of Section 13, T8N, R2E (SE $\frac{1}{4}$ NW $\frac{1}{4}$)
Latitude 44.657631, Longitude -103.821676

(3) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 13, T8N, R2E	NE $\frac{1}{4}$ NW $\frac{1}{4}$	3.8 acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	20.0 acres
	Total	23.8 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Christopher & Hope Jackson, 18968 Helmer Rd, Belle Fourche SD 57717 the holders and/or owners of Water Right No. 1390C-1 are issued a license to appropriate water, the right to use 0.68 cubic feet of water per second from the Redwater River with a priority date of May 12, 1879, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1390C-1 and subject to the following qualifications:

- Low flows as needed for downstream domestic use including livestock water and prior water rights must be bypassed.
- This water right is subject to the irrigation water use questionnaire being submitted each year.

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

JUL 19 2022
date

