

Considered: _____

WATER PERMIT NO. 485-1

MAP No. same 223-2043

Name of Applicant Leland Johnson

Post Office Address Box 636, Ft Pierre SD 57532

Amount of Water Claimed no add'l Total Acres 49.8 acres

Source of Water Supply Redwater River

Water to be used for irrigation County _____

About 5 miles S of Belle Fourche

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Mar 19, 1990 Fee 50⁰⁰ Remarks change div.
pt. for irrigation of 49.8 acres from Concordia ditch to Lower Power Canal

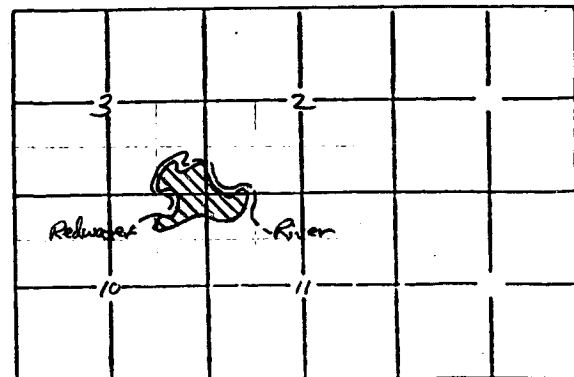
Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point Redwater River: SW $\frac{1}{4}$ NE $\frac{1}{4}$
section 4-T7N-R2E

Land to be Irrigated SE $\frac{1}{4}$ SE $\frac{1}{4}$ section 3; NE $\frac{1}{4}$ NE $\frac{1}{4}$
section 10; NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 11; SW $\frac{1}{4}$ SW $\frac{1}{4}$
section 2; all in T7N-R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map sa/s map PREPARED BY Thomas D. VerHulst Reviewed and the Number
assigned on Mar 23, 1990 By Ron Duval

**SOUTH DAKOTA
WATER PERMIT NO. 1485-1 FOR IRRIGATION**

Date of first receipt of application March 19, 1990.

Date Soil/Water Compatibility Permit received April 13, 1990.

The Water Management Board approved Water Permit Application No. 1485-1 on May 24, 1990 for Leland Johnson, Box 636, Fort Pierre, SD 57532 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. 1485-1 authorizes a change in the location of the Redwater River diversion point for a claimed diversion rate of 1.32 cubic feet of water per second from the Concordia Ditch to the Lower Power Canal for irrigation of 46.4 acres claimed under Vested Water Right Claim No. 1395-1. The Redwater River diversion point for the Lower Power Canal is located in the SW1/4 NE1/4 Section 4; and the 46.4 irrigated acres are located in the SE1/4 SE1/4 Section 3; NE1/4 NE1/4 Section 10; NW1/4 NW1/4 Section 11; SW1/4 SW1/4 Section 2; all in T7N, R2E. This permit does not authorize any increase in acres irrigated or in water appropriation from the Redwater River.
2. The amount of the appropriation may not exceed 3 acre feet per acre per year 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: May 1 - October 31.
3. The date from which applicant may claim right is June 24, 1879 (see No. 1395-1).
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. Permit No. 1485-1 which authorizes a change in the diversion point for a claimed diversion rate of 1.32 cfs to irrigate 46.4 acres with a claimed priority date of June 24, 1879, is subject to change depending upon validation of Concordia Ditch Company, Vested Water Right Claim No. 1395-1. *
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

By: 
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

MAR 14 1994

date

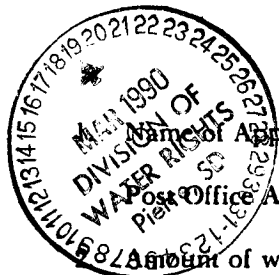
* Vested Water Right Claim No. 1395-1 was validated July 1, 1993. The validation did not require any changes to be made to Water Permit No. 1485-1.

(See instructions)

No. 1485-1 Hydrologic Unit 10120203
Basin Belle Fourche River
Newspaper Queen City Mail, Box 7 Tues/Sat 57723
Belle Fourche Daily Post, Box 400 57717

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☐ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☒ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____



Applicant Leland Johnson Phone No. 605-223-2043

Post Office Address Box 636 Ft. Pierre State SD 57532
(Street, RR or Box) (City) Zip Code

Amount of water claimed (c.f.s) 44 noad 1/1 Total acres irrigated 49.8 46.4

3. Source of Water supply Red water Creek

4. Location of point of diversion 2480' West & 2650' North of SE corner SEC 4, T7N-R2E
SW 1/4 NE 1/4

County Butte

5. Counties where water will be used Lawrence

6. Annual period during which water is to be used May 1 - October 31

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

Land Description	No. Acres Irr.
SE 1/4 SE 1/4 SEC 3 T7N-R2E	<u>15.6 12.2</u>
NE 1/4 NE 1/4 SEC 10 T7N-R2E	<u>17.1</u>
NW 1/4 NW 1/4 SEC 11 T7N-R2E	<u>15.7</u>
SW 1/4 SW 1/4 SEC 2 T7N-R2E	<u>1.4</u>

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____

9. Crops to be Irrigated: Alfalfa, Small grain, Sorghum

10. Give a description of proposed project. (Attach sheet if more-space is needed)

It is proposed to divert water for above said fields from the existing Lower Power Canal, rather than from Concordia Ditch. Water that supplies both Concordia Ditch and Lower Power Canal comes from Redwater Creek.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Hughes ss

I, Leland Johnson, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Leland Johnson

Subscribed and sworn to before me this 19th day of March 19 90

Judy R. Weisgram
Notary Public

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction N/A

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ 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 applicants property _____ On property owned by others _____

2. Dugout Information Estimates N/A

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

3. Water Storage Dams N/A

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should 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 _____

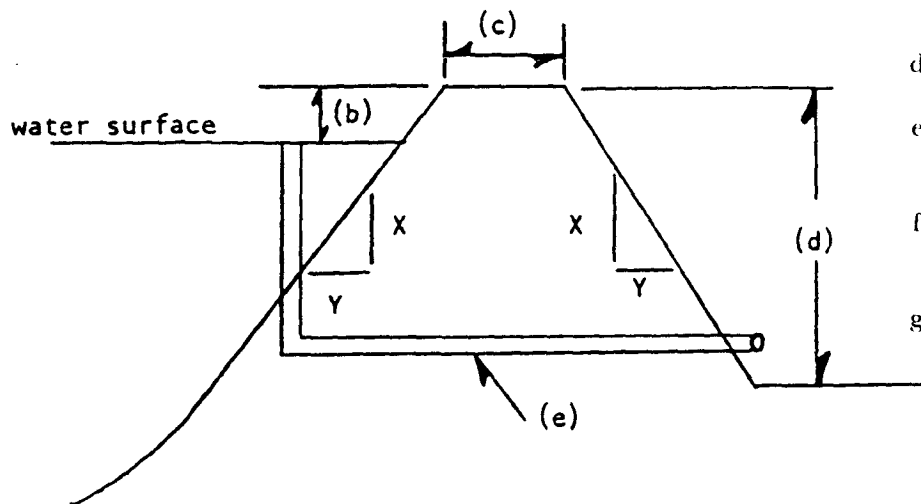
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

6411102

Pierre, _____ March 20 _____, 19 90

RECEIVED OF Leland Johnson Box 667, Fort Pierre, SD 57532-0667

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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 _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Halick

John Halick
Chief Engineer

Ba—Barnum silt loam. This deep, well drained, nearly level soil is on terraces and bottom lands. It is subject to occasional flooding for brief periods. Mapped areas are irregular in shape and range from 10 to 200 acres in size. Some areas are dissected by deep meandering channels. Slopes are mostly less than 1 percent but are as much as 3 percent in places.

Typically, the surface layer is brown silt loam in the upper 3 inches and brown very fine sandy loam in the lower 3 inches. The underlying material to a depth of 60 inches is light reddish brown, very friable loam. In places, the soil has less clay and more sand than is typical for the Barnum soil.

Included with this soil in mapping are small areas of St. Onge and Swint soils. These soils contain more silt and clay and have more organic matter to a greater depth than the Barnum soil, and are in the higher part of the landscape away from streams. The included soils make up about 10 percent of the map unit.

This soil is low in fertility and content of organic matter and is easily tilled. Available water capacity is high, and permeability is moderate. Runoff is slow.

Most areas of this soil are farmed. This soil has good potential for irrigated and dryland crops, rangeland, windbreaks, openland wildlife habitat, and rangeland wildlife habitat. It has poor potential for recreational uses, building sites, and sanitary facilities.

This soil is well suited to small grain and grasses and legumes for hay and pasture. Conserving moisture is the main management concern if this soil is used for cultivated crops. Stubble mulching, crop residue management, and minimum tillage help conserve moisture. Returning crop residue to the soil, green manure crops, and the regular addition of animal manure help improve fertility. Planting and harvesting of crops may be delayed during wet periods. Seeding this soil to tame pasture plants is an alternative use. Proper stocking rate, rotation grazing, application of fertilizer, and control of weeds help keep the pasture in good condition.

This soil is well suited to rangeland. The natural plant community is a mixture of mid and short grasses. Maintaining a good grass cover and ground mulch helps prevent soil blowing and improves the moisture supply for range plants. If the range is overgrazed, the more desirable taller grasses lose vigor and are replaced by less productive short grasses. Proper grazing use and deferred grazing help maintain or improve rangeland condition.

This soil is well suited to windbreaks and other types of woody plantings. All climatically adapted trees and shrubs grow well on this soil. Keeping crop residue on the surface during site preparation helps conserve moisture for optimum tree growth.

This soil is generally not suitable for building sites and sanitary facilities because of occasional flooding. If buildings are constructed on this soil, dikes are needed to protect the site from flooding.

If this soil is used for local roads and streets, the base material needs to be strengthened to support vehicular traffic. This map unit is in Capability unit 11c-1 and Silty range site.

Swint silt loam. This deep, well drained, nearly level soil is on terraces and alluvial fans. This soil is subject to occasional flooding for brief periods. The mapped areas are irregular in shape and range from 10 to 150 acres in size.

Typically, the surface layer is dark reddish gray silt loam about 5 inches thick. The subsurface layer is dark reddish gray, very friable silt loam about 6 inches thick. The underlying material to a depth of 44 inches is light reddish brown, very friable silt loam in the upper part and reddish brown silt loam in the lower part. Below this to a depth of 60 inches is light reddish brown, calcareous very fine sandy loam.

Included with this soil in mapping are small areas of Barnum and Vale soils. Barnum soil has less silt and clay and less organic matter in the surface layer than Swint soil. It is on the lower part of the landscape and nearer to streams than Swint soil. Vale soil has a stronger grade of structure than Swint soil and is on the upper part of the landscape. The included soils make up about 10 percent of the map unit.

This soil is high in natural fertility and moderate in content of organic matter. Available water capacity is high, and permeability is moderate. Runoff is slow.

Most areas of this soil are cropped. This soil has good potential for dryland and irrigated crops, rangeland, rangeland wildlife habitat, openland wildlife habitat, windbreaks and environmental plantings, and most recreational uses. It has poor potential for building sites, local roads and streets, and sanitary facilities.

This soil is well suited to small grain and grasses and legumes for hay. Conserving moisture is the main concern of management if this soil is used for cultivated crops. Stubble mulching, crop residue management, minimum tillage, and field windbreaks help conserve moisture. Returning crop residue to the soil, green manure crops, and the regular addition of animal manure helps improve and maintain fertility and content of organic matter. Planting and harvesting of crops may be delayed during wet periods.

Seeding this soil to tame pasture plants is an alternative use. Proper stocking rate, rotation grazing, application of fertilizers and control of weeds help keep the pasture in good condition.

This soil is well suited to rangeland. The natural plant community is a mixture of tall, mid, and short grasses.

Maintaining a good grass cover and ground mulch improves the moisture supply for rangeland plants. If the range is overgrazed, the more desirable taller grasses lose vigor and are replaced by less productive short grasses. Proper grazing use and deferred grazing help maintain or improve rangeland condition.

This soil is well suited to windbreaks and other types of woody plantings. Good survival can be expected if the soil is summer fallowed before planting and cultivation is continued after planting to control grass and weeds and conserve moisture.

This soil is suitable for picnic areas, playgrounds, and paths and trails. The hazard of flooding limits the use of this soil for camp areas.

This soil generally is not suitable for building sites, local roads and streets, and sanitary facilities because of occasional flooding. This map unit is in Capability unit 11c-2 and Silty range site.

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4472

WR#

OWNERS NAME: JOHNSON, LELAND OWNERS ADDRESS: Box 636
Fort Pierre, SD 57532

COUNTY LAND LOCATED IN: Lawrence PHONE: 223-2043

LEGAL DESCRIPTION:

☐ Well

☒ Surface

1. LOCATION 2480' West & 2650' North of SE Corner 4-T7N-R2E

Depth _____

Legal Description	Acres	Legal Description	Acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 3-T7N-R2E	15.6		
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 10-T7N-R2E	17.1		
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 11-T7N-R2E	15.7		
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 2-T7N-R2E	1.4		

2. TYPE OF IRRIGATION: GRAVITY XX TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED: Alfalfa, Small Grain, Sorghum

WATER QUALITY:

(per DWNR)

4. WATER SAMPLE NUMBER: Red Water River 7. ADJUSTED (SAR): _____

5. SALINITY (EC X 10⁶): 1700 8. PERCENT SODIUM 16.5

6. SODIUM (SAR): 1.31

Requirements:

The maximum allowable limits of salt and sodium buildup in the profile at the root zone (upper 12 inches of the soil profile) at the beginning of the growing season apply. They become applicable upon the issuing of a soil-water compatibility permit by the Division, or the Commission.



John Quick
Director, Division of Conservation

XXX APPROVED XXX REQUIREMENTS
____ DISAPPROVED
____ WAIVER

April 4, 1990
Date

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

Conversation or File Documentation

NAME OF PERSON OR FILE: Leland JohnsonADDRESS: Box 636, Ft. Pierre SD COUNTY Butte
LawrenceDATE: March 23, 1990 TELEPHONE 223-2043RE: Amount of water claimed

COMMENTS:

Contacted Leland Johnson regarding the amount of water claimed (1.40 cfs) on the application. Upon reviewing Water Permit No. 1476-1, I informed Mr. Johnson that Application No. 1485-1 was similar and no new appropriation of water was involved. Mr. Johnson agreed that this application involved a change of diversion points with no new water appropriation. I also informed Mr. Johnson that following determination of a diversion rate for Concordia Ditch, that a transfer (cfs) probably would need to be made from Concordia Ditch to the Lower Power Canal. Mr. Johnson indicated that should this application be approved, he would determine the amount of water being used to irrigate the 49.8 acres. Mr. Johnson indicated to proceed in a like manner as with No. 1476-1, and change the 1.4 cfs to no additional

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Ron C. Wall

Conversation or File Documentation

NAME OF PERSON OR FILE: Leland JohnsonADDRESS: St. Pierre COUNTY Butte-LawrenceDATE: 3-26-90 TELEPHONE 223-2043RE: Accreage transferred to Lower Power Canal.

COMMENTS:

After I contacted Mr. Johnson via telephone,
he stopped in the office. I told him that the total
accreage in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T 71N-R 2E, accord-
ing to Concordia Ditch, was 16.2 acres, from which, 4 acres
had been transferred to Lower Power Canal. On the new
application, however, ^{located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3} 15.6 more acres are proposed
be transferred to Lower Power Canal, which adds up to 19.6
acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T 71N-R 2E. Mr. Johnson
stated he believed 16.2 acres were correct, and the
new application should be corrected to show 12.2 acres
from Section 3 to be transferred to Lower Power Canal.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: MR Shad

Report on Water Permit Application No. 1485-1
Leland Johnson
March 26, 1990

Background

Vested Water Right Application No. 1485-1 proposes to change the location of the diversion point from the Concordia Ditch, located in the NE1/4 NW1/4 Section 10, T7N-R2E, in Lawrence County, to the Lower Power Canal, located in the SW1/4 NE1/4 Section 4, T7N-R2E, in Butte County. The water will be used to irrigate 46.4 acres located in the SE1/4 SE1/4 Section 3; NE1/4 NE1/4 Section 10; NW1/4 NW1/4 Section 11; and SW1/4 SW1/4 Section 2, all in T7N-R2E. The application is not requesting any additional water.

Discussion

Application No. 1485-1 requests to change the point of diversion for irrigation of 46.4 acres of land listed under Vested Water Right Claim No. 1395-1, Concordia Ditch, to the Lower Power Canal diversion point (Vested Water Right No. 1402-1). Lower Power Canal users agree with this change.

The priority date, claimed by the Concordia Ditch Company, for the 46.4 acres is June 24, 1879.

The amount of water recommended for validation of Vested Water Right Claim No. 1395-1 is 1.0 cubic foot per second (cfs) for each 35 acres of irrigation. The amount of water for irrigation of 46.4 acres would be 1.32 cfs. This diversion rate, however, depends upon validation of Concordia Ditch Company, Vested Claim No. 1395-1.

The acreage and the amount of water needed to irrigate 46.4 acres should be subtracted from the acreage and the water claimed by the Concordia Ditch Company and should be added to the Lower Power Canal Vested Water Right No. 1402-1.

Conclusions and Recommendations

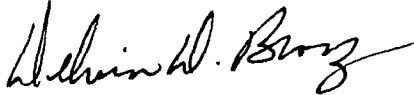
1. The 46.4 acres are claimed under Vested Water Right Claim No. 1395-1, Concordia Ditch Company.
2. If approved, the priority date for the 46.4 acres from the Lower Power Canal diversion point should remain as June 24, 1879, the priority date of Concordia Ditch Company.

3. No other diversion point exists between the Lower Power Canal and the Concordia Ditch Company's diversion points that may be adversely affected.
4. It is recommended that Application No. 1485-1 be approved for a claimed diversion rate of 1.32 cfs from the Redwater River via Lower Power Canal for irrigation of 46.4 acres with a priority date of June 24, 1879, with the low flow by-pass qualifications. The validated diversion rate for this application will depend upon validation of Concordia Ditch Company, Vested Water Right Claim No. 1395-1.
5. If approved, the acreage and the amount of water should be subtracted from the acreage and water claimed by Concordia Ditch Company, Vested Water Right Claim No. 1395-1, and added to the acreage and water of Lower Power Canal, Vested Water Right No. 1402-1.



M. RASSOOL AHADI
Natural Resources Engineer II
(605)773-3352

Approved By:



DELVIN D. BROSZ, P.E.
Natural Resources Engineer IV
(605)773-3352

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1485-1, Leland Johnson

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 1485-1, Leland Johnson, Box 636, Ft. Pierre SD.

The Chief Engineer is recommending APPROVAL of Application No. 1485-1 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualifications:

1. Permit No. 1485-1 which authorizes a change in the diversion point for a claimed diversion rate of 1.32 cfs to irrigate 46.4 acres with a claimed priority date of June 24, 1879, is subject to change depending upon validation of Concordia Ditch Company, Vested Water Right Claim No. 1395-1.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
April 12, 1990



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 18, 1990

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

Leland Johnson
Box 636
Ft. Pierre, SD 57532-0636

Dear Mr. Johnson:

Water Permit Application No. 1485-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publishers of the Queen City Mail and the Daily Post printed at Spearfish and Belle Fourche SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also 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 newspapers to authorize publication of your Notice of Intent to Appropriate Water and to arrange for payment. Early contact with the paper can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 18, 1990

Queen City Mail
Box 7
Spearfish, SD 57783

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 1485-1 to be published twice. Please publish the first notice on or before April 26, 1990 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Leland Johnson, Box 636, Ft. Pierre, SD 57532-0636.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer.
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 18, 1990

Belle Fourche Daily Post
Box 400
Belle Fourche, SD 57717-0400

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 1485-1 to be published twice. Please publish the first notice on or before April 26, 1990 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Leland Johnson, Box 636, Ft. Pierre, SD 57532-0636.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on or before April 26, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1485-1 to Change
Diversion Location

Notice is given that Leland Johnson, Box 636, Ft. Pierre, SD 57532-0636 has filed an application for a water permit to change the location of the Redwater River diversion point from the Concordia Ditch to the Lower Power Canal for irrigation of 46.4 acres. The Redwater River diversion point for Concordia Ditch is located in the NE1/4 NW1/4 Section 10 and the Redwater River diversion point for the Lower Power Canal is located in the SW1/4 NE1/4 Section 4; both in T7N-R2E. The 46.4 irrigated acres are located in the SE1/4 SE1/4 Section 3; NE1/4 NE1/4 Section 10; NW1/4 NW1/4 Section 11; SW1/4 SW1/4 Section 2; all in T7N-R2E. This application, if approved, does not authorize any increase in acres irrigated or in water appropriation from the Redwater River.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 1485-1 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. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown, SD on May 23, 1990 at 10:00 am. 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 that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by May 11, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must 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 legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by May 11, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Butte) ss.

I, Rhonda Schultzy

certify that the attached printed Notice was taken
 from the Belle Fourche Daily Post

A newspaper which during the whole time of publication of
 said notice herein after stated, has been and is printed and
 published in the _____

City of Belle Fourche

County of Butte and State of South Dakota;
 that the said notice was published in said newspaper on the
 following two dates:

Rhonda Schultzy

(Signature)

Bookkeeper

(Title)

(Date Signed)

Cost of Printing: \$39.23



NOTICE OF HEARING
on Applicant No. 1485-1
to change

Diversion Location

Notice is given that Leland Johnson, Box 636, Ft. Pierre, S.D. 57532-0636 has filed an application for a water permit to change the location of the Redwater River diversion point from the Concordia Ditch to the Lower Power Canal for irrigation of 46.4 acres. The Redwater River diversion point for Concordia Ditch is located in the NE1/4 NW1/4 Section 10 and the Redwater River diversion point for the Lower Power Canal is located in the SW1/4 NE1/4 Section 4; both in T7N-R2E. The 46.4 irrigated acres are located in the SE1/4 SE1/4 Section 3; NE1/4 NE1/4 Section 10; NW1/4 NW1/4 Section 11; SW1/4 SW1/4 Section 2; all in T7N-R2E. The application, if approved, does not authorize any increase in acres irrigated or in water appropriation from the Redwater River.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 1485-1 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. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown, SD on May 23, 1990 at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualification, 3) defer or 4) deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evi-

dence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by May 11, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must 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 legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by

law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by May 11, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:16.

2/4/21-28

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Lawrence) ss.

I, Karen C. Perry

certify that the attached printed Notice was taken
 from the The Queen City Mail

A newspaper which during the whole time of publication of
 said notice herein after stated, has been and is printed and
 published in the _____

City of Lead

County of Lawrence and State of South Dakota;
 that the said notice was published in said newspaper on the
 following two dates:

4/24/90

5/1/90

Karen C. Perry
 (Signature)

Accounts Receivable Clerk
 (Title)

May 1, 1990
 (Date Signed)

Cost of Printing: 41.52

NOTICE OF HEARING
 on Application
 No. 1485-1 to Change
 Diversion Location

Notice is given that Leland Johnson, Box 636, Ft. Pierre, SD 57532-0636 has filed an application for a water permit to change the location of the Redwater River diversion point from the Concordia Ditch to the Lower Power Canal for irrigation of 46.4 acres. The Redwater River diversion point for the Concordia Ditch is located in the NE1/4 NW1/4 Section 10 and the Redwater River diversion point for the Lower Power Canal is located in the SW1/4 NE1/4 Section 4; both in the T7N-R2E. The 46.4 irrigated acres are located in the SE1/4 SE1/4 Section 3; NE1/4 NE1/4 Section 10; NW1/4 NW1/4 Section 11; SW1/4 SW1/4 Section 2; all in T7N-R2E. This application, if approved, does not authorize any increase in acres irrigated or in water appropriation from the Redwater River.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 1485-1 because of 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water and 3) it is in the public interest. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown, SD on May 23, 1990 at 10:00 am. 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 that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by May 11, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must 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 legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by May 11, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

April 24, May 1
S-089





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

June 14, 1990

Leland Johnson
Box 636
Fort Pierre SD 57532

Dear Mr. Johnson:

I am writing in regard to action taken by the Water Management Board concerning Water Permit Nos. 1467-1 and 1485-1.

The board approved each of these permits to allow acreage formerly irrigated by the Concordia Ditch to be irrigated from the Lower Power Canal. The permits will be issued upon validation of the vested right claim for Concordia Ditch. The vested right claim is currently in deferred status to allow flow data to be collected for Concordia Ditch. Tentatively, the vested right claim for Concordia Ditch will be reconsidered by the Board in March 1991.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Duvall".

Ron Duvall
Natural Resources Engineer
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

March 1, 1994

No. 1485-1

Dwight Johnson
HCR 30, Box 172
Belle Fourche, SD 57717

Dear Mr. Johnson:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Permit No. 1485-1. The water permit is currently listed in the name of Leland Johnson.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

enclosure

South Dakota Department of Environment and Natural Resources

Pierre, _____ June 16, 19 95

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

By *[Signature]*
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 1485-1

Date: _____

I/We request that Water Permit No. 1485-1

formerly owned by: Leland Johnson

be transferred to: G. Eugene Johnson and Karol Joye Johnson

PO Box 255, Spearfish, SD 57783-0255

(Telephone No)

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

46.4 acres - SE 1/4 SE 1/4 Sec 3; NE 1/4 NE 1/4 Sec 10; NW 1/4 NW 1/4 Sec 11; SW 1/4 SW 1/4 Sec 2; all in T7N, R2E

I/We understand that the validity of Water Permit No. 1485-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

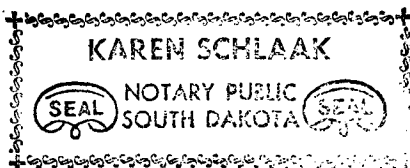
STATE OF SOUTH DAKOTA)

County of Hughes)

I/We _____ being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

[Signature]
(Signed)

Subscribed and sworn to before me this 16th day of June, 19 95.



Karen Schlaak
(Notary Public)

KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

MAR 14 1994

Leland Johnson
Box 636
Ft. Pierre, SD 57532

Dear Mr. Johnson:

Enclosed is Water Permit No. 1485-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

c: Dwight Johnson, HCR 30 Box 172, Belle Fourche, SD 57717



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

October 30, 1997

1485-1

G. Eugene and Karol Joyce Johnson
P.O. Box 255
Spearfish, SD 57783-0255

Dear Mr. and Ms. Johnson:

The investigation of your water use system was conducted on August 13, 1997, by Ron Duvall, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 1485-1. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

Permit No. 1485-1
Belle Fourche River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **August 13, 1997**, made a thorough examination of the water use system owned by **G. Eugene and Karol Joyce Johnson** of **PO Box 255, Spearfish SD 57783-0255** holder of Permit No. **1485-1**, bearing the priority of **June 24, 1879** authorizing the diversion of **1.32** cu. ft. per second of the waters of **Redwater River via the Lower Power Canal** for **irrigation** purposes, in **Lawrence** County.

I have to report on the conditions of the same as follows:

A. Works used to divert/transport the water:

Lower Power Canal to 12 inch buried pipe

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

Type **PVC** Size **12** inches Length **4,000+** feet
Type **PVC** Size **15** inches Length **≈ 130** feet

C. Works used to apply water to beneficial use:

Gated Pipe: 7 risers hooked to gated pipe

Length **630** feet (21 sections @ 30 feet per section)

The system is in the following condition **good**. The point of diversion is located **Redwater River: 330 feet E and 100 feet N from the center of section 4-T7N-R2E (SW¼NE¼) via Lower Power Canal**. The works are capable of diverting and conveying to the place of use **7.04 (see No. 1402-1)** cu. ft. per second of water which is to be used for **irrigation**. Water has been put to beneficial use to the maximum extent as follows:

SE¼SE¼ section 3-T7N-R2E	12.2 acres	SW¼SW¼ section 2-T7N-R2E	1.4 acres
NE¼NE¼ section 10-T7N-R2E	17.1 acres	NW¼NW¼ section 11-T7N-R2E	15.7 acres

comprising a total of **46.4** acres of land and the license should be issued for **1.32** cfs.

Applicable permit qualifications have been complied with: Yes **Y**

Exceptions to compliance are: **none**

Date report completed: **October 15, 1997**



Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR PERMIT NO. 1485-1

DATE OF INVESTIGATION	August 13, 1997
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	G. Eugene Johnson
NAME & ADDRESS OF PERMIT HOLDER	G. Eugene and Karol Joyce Johnson PO Box 255 Spearfish SD 57783-0255
DIVERSION POINT LEGAL LOCATION	Redwater River: 330 feet E and 100 feet N from the center of section 4-T7N- R2E (SW$\frac{1}{4}$NE$\frac{1}{4}$) via Lower Power Canal

Other permit(s) associated with the project: 1467-1 and 1402-1

DISTRIBUTION LINES OR CANALS:

1) Type PVC 2) Size 12 inches 3) Length 4,000+ feet

1) Type PVC 2) Size 15 inches 3) Length $\approx$ 130 feet

Water is diverted from the Redwater River via the Lower Power Canal

SYSTEM TYPE:

Gated Pipe: 7 risers hooked to gated pipe

1) Length 630 feet (21 sections @ 30 feet per section)

PERMIT QUALIFICATIONS:

1) Special qualifications to permit being abided by Y

2) All structures, wells and lands on map Y

3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period not applicable

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1485-1

(1) G Eugene and Karol Joyce Johnson, PO Box 255, Spearfish SD 57783-0255 made Application No. 1485-1, March 18, 1990 for a water permit for no additional water from the Redwater River, Lawrence County, South Dakota for irrigation purposes. Permit No. 1485-1, with a priority date of June 24, 1879 (established by Vested Right Water No. 1395-1) was approved May 24, 1990 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

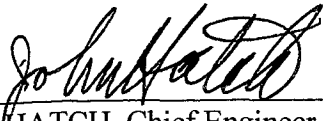
Water Permit No. 1485-1 authorized a change in the location of the Redwater River diversion point from the Concordia Ditch to the Lower Power Canal.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.32 cubic feet of water per second for beneficial use. The location of the diversion point is Redwater River: 330 feet east and 100 feet north from the center of Section 4-T7N-R2E (SW 1/4 NE 1/4) via Lower Power Canal.

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

All in T7N-R2E		
Section 2	SW 1/4 SW 1/4	1.4 acres
Section 3	SE 1/4 SE 1/4	12.2 acres
Section 10	NE 1/4 NE 1/4	17.1 acres
Section 11	NW 1/4 NW 1/4	15.7 acres
Total		46.4 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 G. Eugene and Karol Joyce Johnson, PO Box 255, Spearfish SD 57783-0255 the holder and/or owner of Water Permit No. 1485-1 is issued a license to appropriate water, the right to use 1.32 cubic feet of water per second from the Redwater River via the Lower Power Canal with a priority date of June 24, 1879 (established by Vested Water Right No. 1395-1) from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 1485-1 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program

JAN 07 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

JAN 07 1998

1485-1

G. Eugene and Karol Joyce Johnson
P.O. Box 255
Spearfish, SD 57783-0225

Dear Mr. and Ms. Johnson:

Enclosed is Water License No. 1485-1 and Receipt No. 415529 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 1485-1 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

ks
enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 31, 2000

No. 1485-1

Todd Young
404 Fruitdale Street
Spearfish, SD 57783

Dear Young:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 1485-1. The water right is currently listed in the name of G. Eugene and Karol Joyce Johnson. A copy of the water right is enclosed.

Mr. Young, please check the legal descriptions over carefully to ensure that the correct water right is being transferred. If not, I have enclosed blank transfer of ownership forms for you to use.

The transfer form should be checked over for accuracy and **signed by the new owner** in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Eric Gronlund
Water Rights Program
605 773-3352

enclosure

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416633

Pierre, September 18, 2000,

RECEIVED OF Todd Young, 404 Fruitdale St, Spearfish, SD 57783 (for Harvey Keene/Catherine Nott)
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 _____

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 Water Right No. 1485-1

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

250

250

By

Garland Erbele
Chief Engineer

Garland Erbele

IN

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 1485-1



Date: 9 15 00

We request that Water Right No. 1485-1

formerly owned by: G. Eugene and Karol Joyce Johnson, P.O. Box 255, Spearfish, SD 57783-0255

be transferred to: (name & address) Harvey Keene & Catherine Nott

PMB 163 135 E Lincoln's Spearfish, SD 57783 Telephone No. 605 733 0897

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

Diversion point – Redwater River: 330 feet east and 100 feet north from the center of Section 4, T7N, R2E (SW¼ NE¼) via Lower Power Canal for irrigation of 46.4 located as follows: SW¼ SW¼ Section 2 (1.4 acres), SE¼ SE¼ Section 3 (12.2 acres), NE¼ NE¼ Section 10 (17.1 acres) and the NW¼ NW¼ Section 11; all in T7N, R2E

I/We understand that the validity of Water Right No. 1485-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Lawrence)

I/We Harvey Keene & Catherine Nott being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Harvey Keene Catherine Nott
(Signed)

Subscribed and sworn to before me this 15 day of Sept., 2000.

MY COMMISSION EXPIRES
AUGUST 19, 2005

Carry Heuhauser
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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.



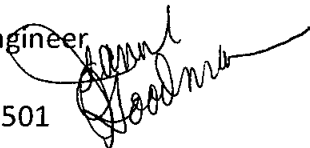
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 10, 2014

NOTICE

TO: Harvey Keene and Cathy Nott, 10983 Redwater Rd, Belle Fourche SD 57717

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program,
523 E Capitol, Pierre SD 57501 

SUBJECT: Removal of Irrigation Questionnaire Qualification from Water Right No. 1467-1

Pursuant to our "Notice" dated February 11, 2014 and following the March 6, 2014 Water Management Board meeting, the Board removed the mandatory irrigation questionnaire qualification from Water Right No. 1467-1.

This action was taken based on your irrigation system falling within the perimeters of Water Management Board Rule 74:02:01:14.02 stating all irrigation permit owners except water spreading permit owners shall report water use annually.

The Board action to remove the qualification means that you will no longer receive an irrigation questionnaire each year and do not have to report water use. The remaining qualification on Water Right No. 1467-1 which states "**Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed**" must still be followed.

Additionally, you will no longer need to report water use under Water Right No. 1485-1 which utilizes the same water use system. Water Right No. 1485-1 did not contain the mandatory irrigation questionnaire qualification therefore Board action was not required.

If you have any questions, please contact Genny McMath with the Water Rights Program at 605 773-3352.

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

RECEIVED

JUL 19 2019

WATER RIGHTS
PROGRAMWater Right/Permit No. 1485-1Date: July 17, 2019

PAID

JUL 19 2019

Ck# 150123I/We request that Water Right/Permit No. 1485-1 formerly owned by:Harvey Keene and Catherine M. Nott be transferred to:New Owner Name: Richard L. Hamm and Judith E. HammAddress: 10983 Redwater RdCity, State, Zip Belle Fourche SD 57717 Telephone No. 518-369-3696

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

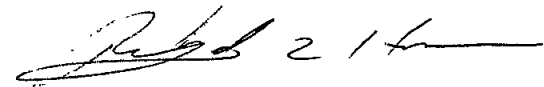
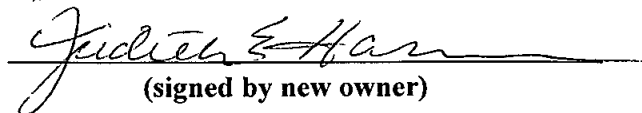
See Attached Legal Description

☒ I understand that the validity of Water Right/Permit No. 1485-1 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, Richard L. Hamm and Judith E. Hamm, 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.

RECEIVED

JUL 19 2019

WATER RIGHTS
PROGRAM

EXHIBIT "A"
LEGAL DESCRIPTION

File No.: 81376

Township 7 North, Range 2 East, B.H.M., Lawrence County, South Dakota:

Section 2: SW1/4SW1/4 lying South of the Redwater River EXCEPT that part deeded to the Chicago & Northwestern Railway Company in Book 247 Page 74

Section 3: SE1/4SE1/4 lying South of the Redwater River EXCEPT that part deeded to the Chicago & Northwestern Railway Company in Book 247 Page 74

Section 10: NE1/4NE1/4 lying South of the Redwater River;

Section 11: NW1/4NW1/4 lying South of the Redwater River;

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 19

20¹⁹

Black Hills Title, Inc. 245 N Main Street PO Box 459 Spearfish 57783

RECEIVED OF

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>1485-1</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. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **09169**

By Jeanne Goodman
Chief Engineer vm

1485-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 22, 2019

1467-1

1485-1

Richard L & Judith E Hamm
10983 Redwater Rd
Belle Fourche SD 57717

Dear Mr. & Mrs. Hamm:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on Water Right Nos. 1467-1 and 1485-1.

The ownership changes have been completed. Water Right Nos. 1467-1 and 1485-1, formerly held by Harvey Keene and Catherine M Nott are now listed in your names.

The receipts for the filing fees will be sent by copy of this letter to the Black Hills Title Company in Spearfish SD. If you have any questions, please let me know.

Sincerely,

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

c: Black Hills Title Inc., PO Box 459, Spearfish SD

PAID

JUN 23 2022

Ck# 3223

Rec't# _____

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

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

JUN 23 2022

OFFICE OF
WATER

Water Right/Permit No. 1485-1

Date: 6/17/22

I/We request that Water Right/Permit No. 1485-1 formerly owned by:
Richard L. Hamm and Judith E. Hamm be transferred to:

New Owner Name: Happy Jack's Family Trust

Address: 10983 Redwater Road

City, State, Zip Belle Fourche SD 57717 Telephone No. 307-281-0164

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

See attached Exhibit A - Legal Descriptions

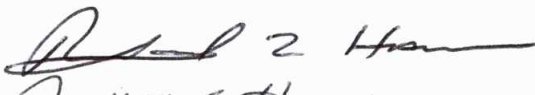
☒ I understand that the validity of Water Right/Permit No. 1485-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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.

Richard L. Hamm and Judith E. Hamm as Co-Trustees

I, of the Happy Jack Family Trust, the new owner, certify that the above information is true and correct.


Judith E. Hamm
(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.

Exhibit A - Legal Descriptions

Township 7 North, Range 2 East of the Black Hills Meridian, Butte County, South Dakota:

Section 2: SW1/4SW1/4 lying South of the Redwater River EXCEPT that part deeded to the Chicago & Northwestern Railway Company in Book 247 Page 74

Section 3: SE1/4SE1/4 lying South of the Redwater River EXCEPT that part deeded to the Chicago & Northwestern Railway Company in Book 247 Page 74

Section 10: NE1/4NE1/4 lying South of the Redwater River; and

Section 11: NW1 /4NW1 /4 lying South of the Redwater River.

1485-1

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 23, 2022

RECEIVED OF Richard/Judith Hamm 10983 Redwater Road 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	\$ _____
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>1485-1</u>	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>50.00</u>

By Eric Gronlund
Chief Engineer
vm

1485-1



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 28, 2022

1467-1

1485-1

Richard & Judith Hamm
10983 Redwater Rd
Belle Fouche SD 57717

Dear Mr. & Mrs. Hamm:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership of Water Right Nos. 1467-1 and 1485-1.

The ownership changes have been completed. Nos. 1467-1 and 1485-1 formerly listed in your names are now listed under "**Happy Jack's Family Trust**" in care of Richard L Hamm and Judith E Hamm, Co-Trustees.

Enclosed for your records are receipts for the filing fees that were paid. If I can answer any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 28, 2022

Ryan S Vogel
Richardson Law Firm
PO Box 1030
Aberdeen SD 57402-1030

Dear Mr. Vogel:

On behalf of Richard Hamm you filed a request to change the point of diversion authorized by Water Right Nos. 1467-1 and 1485-1. The current authorized diversion point is the headgate located in the SW 1/4 NE 1/4 Section 4-T007N-R02E which diverts water from the Redwater River via the Lower Power canal for irrigation. The request is to change the diversion point to be directly from the Redwater River in the SE 1/4 SE 1/4 Section 3-T007N-R02E.

Water Right No. 1467-1 appropriates 0.52 cubic feet of water per second (cfs) from the Redwater River to irrigate 18.3 acres in the SW 1/4 SW 1/4 Section 2 and SE 1/4 SE 1/4 Section 3; all in T007N-R02E. Water Right No. 1485-1 appropriates 1.32 cfs to irrigate 46.4 acres located in the SW 1/4 SW 1/4 Section 2, SE 1/4 SE 1/4 Section 3 NE 1/4 NE 1/4 Section 10 and NW 1/4 NW 1/4 Section 11; all in T007N-R02E. The water rights share a common priority date of June 24, 1879.

Upon review of the request and pursuant to SDCL 46-5-13.1, the change of diversion point location on the Redwater River to the SE 1/4 SE 1/4 Section 3-T007N-R02E is authorized as set forth above without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the diversion rate of 1.84 cfs from the Redwater River or irrigated acreage is authorized by the granting of the change of diversion point.

If you have any questions regarding the granting of the request for a change of diversion point, please contact Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Richard L and Judith E Hamm

ADDRESS: 10983 Redwater Rd

DATE: June 23, 2022

COUNTY: Butte

GENERAL DESCRIPTION OF AUTHORIZED PROJECT:

The vested water right holder is authorized to divert a total of 1.84 cfs from the Redwater River to irrigate a combined total of 64.7 acres in Sections 2, 3, 10, and 11: all in T7N-R2E with a June 24, 1879, priority date. The vested right holder is requesting a change of diversion from a ditch headgate located in the SW1/4 NE1/4 of Section 4 T7N-R2E and move it approximately 3.3 river miles downstream to the SE1/4 SE ¼ of Section 3 T7N-R2E. The vested water right holder is not requesting an increase in the diversion rate nor a change in the location of the authorized irrigated acres.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed, or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The source of water, the Redwater River, will not change.

- **If irrigation, no new land is irrigated**

There is no change requested in the location of the irrigated acres authorized by vested water right Nos. 1467-1 and 1485-1.

- **Review of Existing Diversions**

The source of water is from Redwater River. There is one existing vested water right located between the existing diversion point and the proposed diversion point. Since this existing vested right will be located upstream of the proposed diversion point, this change should not adversely affect this right.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Mark D. Rath, Natural Resources Engineer III
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Eric Gronlund, Chief Engineer
Water Rights Program

RICHARDSONLAWFIRM

RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP

ONE COURT STREET
POST OFFICE BOX 1030
ABERDEEN, SD 57402-1030

ROY A. WISE
JACK H. HIEB
ZACHARY W. PETERSON
KIMBERLY A. DORSETT
STACY M. JOHNSON
JOSHUA K. FINER
RYAN S. VOGEL
DOMINIC F. KING
CHRISTI M. WEIDEMAN

E-MAIL: rvogel@rwwsh.com

www.rwwsh.com

DWIGHT CAMPBELL	(1887-1964)
STANLEY R. VOAS	(1909-1972)
JAMES A. WYLY	(1939-2009)
LLOYD C. RICHARDSON, JR.	(1924-2012)
RICHARD L. RUSSMAN	(1967-2014)
WILLIAM K. SAUCK, JR.	(RETIRED)

TELEPHONE (605) 225-6310
FACSIMILE (605) 225-2743

June 22, 2022

VIA E-MAIL

(mark.rath@state.sd.us)

Mr. Mark Rath
South Dakota Department of
Agriculture & Natural Resources

Dear Mark:

**Re: Water Permits Nos. 1467-1 and 1485-1 -
Changing Diversion Points**

This letter is to inform you that Richard Hamm, who is the holder of the above-listed water permits, seeks to change the diversion point for the above listed permits pursuant to SDCL 46-5-13.1. Rich wishes to move the diversion point to within 150 feet east or west of N 44°35.530' W 103°51.196' on the Redwater River. He does not wish to change the flow or the irrigated acres.

Also, Rich has concerns regarding the existing diversion point as it appears it also is utilized by Permit #1402-1, which is held by Nancy L. Veal. Our understanding is that Ms. Veal has been deceased for quite some time, and this permit has not been transferred. It is our further understanding that the current owner of the land which utilized Permit #1402-1 is Tracy Vetter and/or Oak Meadow Limited Partnership.

Pg. 2

To: Mark Rath

Date: 6/21/22

By review of the statutes, specifically SDCL 46-5-37, the water appropriated pursuant to Permit #1402-1 has not been used for a period of three years and is forfeited; therefore, no one should be able to use the diversion point, if Rich's diversion point is changed. We are bringing this to your attention as Rich is concerned that if the headgate at the current diversion point is allowed to be used (it is currently plugged/shut by Tracy Vetter), Rich's side of the canal (and his land) will be flooded. Rich does not want to have any issues in the future regarding flooding. First, we are seeking clarification if Permit #1402-1 has been forfeited for non-use. If not, we are requesting assurances that if Permit #1402-1 is allowed to operate appropriate measures will be taken to ensure no flooding on Rich's land.

I appreciate your time and attention to this matter and look forward to hearing from you. If you have questions, please let me know.

Best regards,



Ryan S. Vogel

RSV/kkt

cc: Rich Hamm (e-mailed: juellhamm@mail.com)

Gronlund, Eric

From: Gronlund, Eric
Sent: Tuesday, June 28, 2022 11:37 AM
To: rvogel@rwwsh.com; ajimenez@rwwsh.com; Juellhamm@gmail.com
Cc: Rath, Mark; Mines Bailey, Ann (Ann.MinesBailey@state.sd.us)
Subject: Water Permits Nos. 1467-1 and 1485-1 - Changing Diversion Points
Attachments: Letter to Mark Rath 6-22-22 (00566013xC4BFD).PDF; DOC062822-06282022112152.pdf

Mr. Vogel:

You sent a letter to Mark Rath requesting a change of the Redwater River diversion point authorized by Water Right Nos. 1467-1 and 1485-1. Please find attached a letter granting the change of the diversion point.

Your letter also seeks clarification if Water Right No. 1402-1 has been forfeited for nonuse. The water right has not been cancelled. Your letter cites SDCL 46-5-37 which is the forfeiture for nonuse statute. However, SDCL 46-5-37.1 is the statute that provides a provision for the chief engineer to investigate whether or not a water right has been forfeited. It is unclear if your intention in the letter is a request to investigate as provided in SDCL 46-5-37.1. Please be aware that there are provision in rules for the legal excuse for the nonuse of water that may need factor into the consideration.

Finally, the letter seeks assurance that if Water Right No. 1402-1 is allowed to operate appropriate measures will be taken to ensure no flooding on Hamm's land. I am unable to provide blanket assurance that there will not be flooding. The issue regarding the Lower Power canal came up back in 2005 regarding the elevation that the culvert through Highway 85 was set. At that time, Department of Transportation staff indicated the new culvert was set to the same elevation at the previous culvert. They further indicated the culvert at this elevation will not function properly due to the severe sedimentation of the canal from not being maintained. Assuming that the canal has not been cleaned out it is likely the canal has much less carrying capacity than it historically had. As such, it may be unable to convey the water it once did due to not being maintained.

I have included Ann Mines Bailey who is legal counsel for the Water Rights Program in this response.

Eric Gronlund, Chief Engineer
Water Rights Program, SD DANR
605 773-3352

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Araceli Jimenez <ajimenez@rwwsh.com>
Sent: Wednesday, June 22, 2022 8:50:14 AM
To: Rath, Mark <Mark.Rath@state.sd.us>
Cc: Ryan Vogel <rvogel@rwwsh.com>; Juellhamm@gmail.com <Juellhamm@gmail.com>
Subject: [EXT] Water Permits Nos. 1467-1 and 1485-1 - Changing Diversion Points

Mark,

On behalf of Attorney Ryan S. Vogel, please find attached correspondence regarding the above-referenced matter.

Thank you,

Araceli Jimenez Magdaleno
Legal Assistant

RICHARDSONLAWFIRM

RICHARDSON, WYLY, WISE, SAUCK & HIEB, LLP

1 Court Street | Post Office Box 1030 | Aberdeen, SD 57402-1030 | [Map](#)

P (605) 225-6310 | F (605) 225-2743

www.rwwsh.com | www.facebook.com/RichardsonLawSD

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