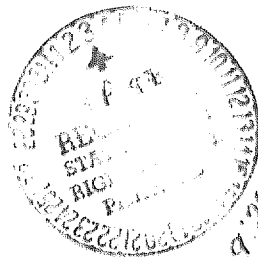


1432.2

1. Considered 9-29, 1976
2. Name of Applicant JAMES S. NELSON
3. Post Office Address PHILIP
4. Amount of water claimed 5.52 (2 DAMS - 772 AC FT STORAGE)
5. Source of water supply WITCHERHOLE & DRY CREEKS
6. Water to be used for IRRIGATION
Acres to be irrigated 386.5
7. Water to be diverted and used in HARKON County
about 10E, 6N miles _____ of PHILIP
8. Proof of Publication Received 10-4-76
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:

No. 1213-2 District 2
 Map No. 1213-2 Water Division No. 2 BAD RIVER
 (Blanks to be filled by the Engineer for the W. R. C.)



APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant James S. Nelson
 Postoffice address Box 241, Philip, State South Dakota
 If a corporation show date and place of incorporation -0-
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor
3. Name of diversion work James S. Nelson Irrigation Project No. 2
4. Amount of water claimed (cubic feet per second) 5.52 cfs
5. Source of water supply Witcherhole Creek - Dry Creek
6. Location of point of diversion See attached sheet
- County Haakon
7. Annual period or periods during which water is to be used March 1 to November 1
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use, Total number of acres to be irrigated 386.5

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.	Land Description	No. Acres Irr.
<u>See attached sheet</u>			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Pioneer Review
12. Principal Features of Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Reservoir on Witcherhole Creek & Pump to Reservoir No. 2

B. Works proposed to transport water to place of use.

Pipe & Gravity

C. Works proposed to apply water to beneficial use.

Sprinkler & GravityEstimated Total Cost \$ 80,000 to 100,000

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
 (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

I, James S. Nelson, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction

Signed

James S. NelsonSubscribed and sworn to before me this 31 day of August, 1926
Walter L. Anderson
 Notary Public (or other qualified officer)

R-22-E



All lands described are owned by "James S. Nelson"

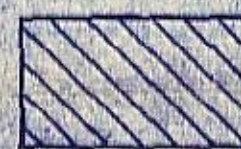
LOCATION OF LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NE ¹ NW ¹	11	2N	22E	0.8
2	NW ¹ NE ¹	11	2	22	1.0
3	SW ¹ NW ¹	11	2	22	13.0
4	SE ¹ NW ¹	11	2	22	25.0
5	SW ¹ NE ¹	11	2	22	10.5
6	NW ¹ SW ¹	11	2	22	14.0
7	NE ¹ SW ¹	11	2	22	7.0
8	SW ¹ SW ¹	11	2	22	12.5
9	NW ¹ NW ¹	14	2	22	7.0
10	NE ¹ NW ¹	14	2	22	7.5
11	NW ¹ NE ¹	14	2	22	6.0
12	SW ¹ NW ¹	14	2	22	13.0
13	SE ¹ NW ¹	14	2	22	34.0
14	SW ¹ NE ¹	14	2	22	40.0
15	SE ¹ NE ¹	14	2	22	38.0
16	NW ¹ SW ¹	14	2	22	3.5
17	NE ¹ SW ¹	14	2	22	29.5
18	NW ¹ SE ¹	14	2	22	38.5
19	NE ¹ SE ¹	14	2	22	29.0
20	SE ¹ SW ¹	14	2	22	19.5
21	SW ¹ SE ¹	14	2	22	0.5
22	SE ¹ SE ¹	14	2	22	2.0
23	NE ¹ NW ¹	23	2	22	13.5
24	NW ¹ NE ¹	23	2	22	1.0
25	SE ¹ NW ¹	23	2	22	2.5
26	SW ¹ NE ¹	23	2	22	20.0
CHANGE OF LAND					TOTAL 386.5
27	SW ¹ NE ¹	2	2	22	5
28	SE ¹ NE ¹	2	2	22	7
29	NW ¹ SE ¹	2	2	22	30
30	NE ¹ SE ¹	2	2	22	38
31	SW ¹ SE ¹	2	2	22	10
32	SE ¹ SE ¹	2	2	22	13
33	SW ¹ SE ¹	2	2	22	7
34	SE ¹ SE ¹	2	2	22	9
35	NW ¹ NE ¹	11	2	22	32
36	NE ¹ NE ¹	11	2	22	38
37	SW ¹ NE ¹	11	2	22	6
38	SE ¹ NE ¹	11	2	22	10
					TOTAL 386.5



LAND to be excluded



LAND to be included



Scale: 1" = 660'

JAMES S. NELSON IRRIGATION PROJECT

NO. 2

(JAMES S. NELSON)

Heaven County, South Dakota

Keith Kuchendeker, Manager

West River Conservancy, Ltd. District

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1432-2
JAMES S. NELSON Box 241, Philip
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57567 With the following modifications
 (State)

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE, INCLUDING
 LIVESTOCK WATERING AND PRIOR WATER RIGHTS MUST BE BYPASSED.
 APPROVAL OF THIS PERMIT AUTHORIZES STORAGE OF 770 ACRES
 FEET OF WATER ANNUALLY

Date of first receipt of application SEPTEMBER 3 19 76
 Date of return to applicant for correction, amendments or changes required _____ 19 ____
 Date of receipt of corrected application _____ 19 ____
 Approved SEPTEMBER 24 19 76 Recorded in Book 15 Page 242
 WATER RIGHT PERMIT NO. 1432-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1432-2 authorizing the construction of
 the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right
 Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is SEPTEMBER 3 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MARCH 24 19 79
3. The whole of said work is to be completed on or before SEPTEMBER 24 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith SEPTEMBER 24 19 83
5. The water appropriated shall be used for the purpose of IRRIGATION
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of
 water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 5.52 cubic feet per second; neither shall it
 exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial use,
 served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be
 limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is
 actually and beneficially applied for irrigation on or before SEPTEMBER 24 19 83 and water to be used during the
 following described annual period: MARCH 1 TO NOVEMBER 1

Witness my hand this 22ND day of NOVEMBER 19 76

WATER RIGHTS COMMISSION

By

John Hall
 Chief Engineer, Executive Officer

Certificate of Construction issued _____ 19 ____

Water License issued _____ 19 ____

JAMES S. NELSON IRRIGATION PROJECT NO. 2

AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NE $\frac{1}{4}$ NW $\frac{1}{4}$	11	2N	22E	0.5
2	NW $\frac{1}{4}$ NE $\frac{1}{4}$	11	2N	22E	1.0
3	SW $\frac{1}{4}$ NW $\frac{1}{4}$	11	2N	22E	13.0
4	SE $\frac{1}{4}$ NW $\frac{1}{4}$	11	2N	22E	23.0
5	SW $\frac{1}{4}$ NE $\frac{1}{4}$	11	2N	22E	10.5
6	NW $\frac{1}{4}$ SW $\frac{1}{4}$	11	2N	22E	14.0
7	NE $\frac{1}{4}$ SW $\frac{1}{4}$	11	2N	22E	7.0
8	SW $\frac{1}{4}$ SW $\frac{1}{4}$	11	2N	22E	12.5
9	NW $\frac{1}{4}$ NW $\frac{1}{4}$	14	2N	22E	7.0
10	NE $\frac{1}{4}$ NW $\frac{1}{4}$	14	2N	22E	7.5
11	NW $\frac{1}{4}$ NE $\frac{1}{4}$	14	2N	22E	6.0
12	SW $\frac{1}{4}$ NW $\frac{1}{4}$	14	2N	22E	13.0
13	SE $\frac{1}{4}$ NW $\frac{1}{4}$	14	2N	22E	34.0
14	SW $\frac{1}{4}$ NE $\frac{1}{4}$	14	2N	22E	40.0
15	SE $\frac{1}{4}$ NE $\frac{1}{4}$	14	2N	22E	38.0
16	NW $\frac{1}{4}$ SW $\frac{1}{4}$	14	2N	22E	3.5
17	NE $\frac{1}{4}$ SW $\frac{1}{4}$	14	2N	22E	29.5
18	NW $\frac{1}{4}$ SE $\frac{1}{4}$	14	2N	22E	38.5
19	NE $\frac{1}{4}$ SE $\frac{1}{4}$	14	2N	22E	29.0
20	SE $\frac{1}{4}$ SW $\frac{1}{4}$	14	2N	22E	19.5
21	SW $\frac{1}{4}$ SE $\frac{1}{4}$	14	2N	22E	0.5
22	SE $\frac{1}{4}$ SE $\frac{1}{4}$	14	2N	22E	2.0
23	NE $\frac{1}{4}$ NW $\frac{1}{4}$	23	2N	22E	13.5
24	NW $\frac{1}{4}$ NE $\frac{1}{4}$	23	2N	22E	1.0
25	SE $\frac{1}{4}$ NW $\frac{1}{4}$	23	2N	22E	2.5
26	SW $\frac{1}{4}$ NE $\frac{1}{4}$	23	2N	22E	20.0
TOTAL					386.5

DIVERSION POINTS:

On Dry Creek: 63 rods S56°00'E of the NW corner of Sec. 11, T2N, R22E; 133 rods N41°30'E of the SW corner of Sec. 11, T2N, R22E; 113 rods S37°30'E of the NW corner of Sec. 14, T2N, R22E; and 193 rods S40°30'W of the NE corner of Sec. 23, T2N, R22E.

Form 7A Wells, Dugouts or Water Storage Dams (Supplement to form 2)

12 Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc.)
- (3) Perforated Screen
Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

- (1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

- (2) Distance to nearest existing household or livestock watering wells.

(On same owner's property _____ rds. On property owned by others _____ rds.)

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Reservoir #1

Height..... 23 ft
Max. Water Depth.... 19 ft
Surface Area..... 78 A
Storage Capacity.... 592 AF

Reservoir #2

Height..... 30 ft
Max. Water Depth.... 27 ft
Surface Area..... 15 A
Storage Capacity.... 160 AF


Signature of Applicant

1432-2

Publish first publication, on or before September 16, 1975

NOTICE INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

September 7, 1975Notice is hereby given that James S. Nelson

whose post office address is Phillip, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use Creeks

3.52 cubic feet of water per second of time from the Witcherhole & Dry through the Phillip, the point of diversion of which are to be located in the NE1/4SW1/4, Section 11; SW1/4SW1/4, Section 14; SW1/4SW1/4

of Section 23, Twp. 2N, Range 22E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

NW1/4, W1/4NE1/4, N1/4SW1/4, SW1/4SW1/4, Section 11; NW1/4, NE1/4, NW1/4SW1/4, SW1/4SW1/4, Section 14; E1/4NW1/4, W1/4NE1/4, Section 23, T2N, R22E

This application No. 1432-2 will be considered by the Water Rights Commission at their office at Pierre upon the 20th day of September, 1975, at 10:00 A.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: James S. Nelson, Box 241, Phillip, S. D. 57567

 **Department of
Water & Natural Resources**

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

March 31, 1986

James S. Nelson
Box 73
Phillip, SD 57567

Notice

Re: Violation of Requirement to Submit 1985 Irrigation Questionnaire

Our records indicate that the 1985 Irrigation Questionnaire has not been submitted for Water Permit No(s) 1432-2. The request for the Questionnaire was dated November 13, 1985. The Water Management Board has directed that owners of water permits who have not submitted 1985 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

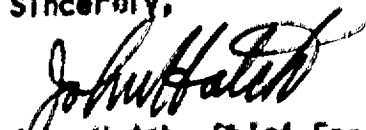
The hearings will be held at 2:00 p.m., May 14, 1986 in Room 216, Joe Foss Building, Pierre, South Dakota.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11, and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 1432-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.

Sincerely,



John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

Note: If the questionnaire(s) is received in this office before the May 14 hearing date, your name will be deleted from the agenda for the hearings.



Department of Water & Natural Resources

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

May 20, 1986

NOTICE OF AMENDMENT TO WATER PERMIT(s)

To: James S Nelson
Box 73
Philip SD 57567

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Amendment to Water Permit No(s) . 1432-2

Pursuant to the provisions of the notice dated March 31, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No(s). 1432-2 to add the following qualification:

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

The addition of this qualification to your Permit means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.



Department of Water & Natural Resources

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

Attachment to Water Permit No. 1432-2

Pursuant to the provisions of the notice dated May 20, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No. 1432-2 to add the following qualification:

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

Department of Water & Natural Resources

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

March 23, 1987

JAMES S NELSON
BOX 73
PHILIP, SD 57567

NOTICE

Re: Violation of Water Permit No(s). 1432-2

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 1432-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1432-2 qualification:

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

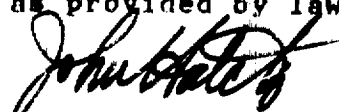
The hearing(s) will be at 2:00 pm, May 6, 1987, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 1432-2 until either the 1986 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.


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

NOTE: If the questionnaire(s) is received in this office before the hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.

 **Department of
Water & Natural Resources**

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

April 29, 1987

1432-2

James S Nelson
Box 73
Philip, SD 57567

Dear Mr. Nelson:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaire. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit No. 1432-2 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,



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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 17, 2003

NOTICE

TO: JAMES S NELSON, PO BOX 73, PHILIP, SD 57567 0073
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2002 Irrigation Questionnaire(s)

Our records indicate that the 2002 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1432-2. The request for the Questionnaire was dated October 11, 2002. The Water Management Board has directed that owners of water permits who have not submitted the 2002 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) 1432-2 qualification:

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

The hearing will be held at 8:30 am, March 5, 2003 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) 1432-2 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 on/or before February 28, 2003, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

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.



1432-2

Track & Confirm

Delivery Status

You entered 2301 0370 0000 7541 3978

Your item was delivered at 11:30 am on January 21, 2003 in PHILIP, SD 57567. The item was signed for by J NELSON.

[Shipment History >](#)
[Request Delivery Record >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)


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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 0370 0000 7541 3978

Post
At
(Place)

JAMES S NELSON
PO BOX 73
PHILIP SD 57567 0073

mailing.

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

- ☐ Priority Mail
☐ Package Services

(See Reverse)

PS Form 153, February 2001

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: James S Nelson, PO Box 73, Philip SD 57567-0073

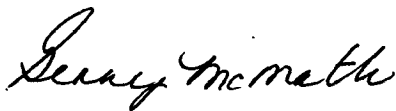
DATE: February 25, 2003

RE: 2002 irrigation questionnaire

COMMENTS:

In reviewing past irrigation questionnaires, I noticed that Mr. Nelson indicated on the 2001 irrigation questionnaire that he has not irrigated for 17 years and only uses his storage dams for livestock watering. Since he has not returned the 2002 irrigation questionnaire and I am unable to get ahold of him, I am making an assumption that the information he would supply would be the same as the year before.

His name and water permit are being deleted from the March, 2003 WMB meeting agenda. An investigation will need to be conducted to determine the size of the storage dam(s). Once this is completed, a water license can be issued for domestic purposes.



Genny McMath
Environmental Scientist

Permit No. 1432-2
Bad 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, October 30, 2012, made a thorough examination of the water use system for Mark J. Nelson (new owner) of 22468 Cronk Road, Philip, SD 57567 holder of Permit No. 1432-2, bearing the priority of September 3, 1976 authorizing the storage of 772 acre-feet of the waters of Witcherhole Creek and dry draw for Irrigation purposes, in Haakon County.

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

A. Works used to divert the water:

A 30 foot high earth Dam with a normal storage capacity of 108 ac-ft.

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

N/A

C. Works used to apply water to beneficial use:

A 30 foot high earth Dam with a normal storage capacity of 108 ac-ft.

The system is in the following condition good. The point of diversion is located 1320 feet north & 1550 feet east of the SW corner of Sec.11-T2N-R22E (E ½ SW ¼) (Lat. 44.14327, Long. -101.44145). The works are capable of storing 108 acre-feet of water which is to be used for Domestic use (livestock water). Water has been put to beneficial use to the maximum extent as follows:

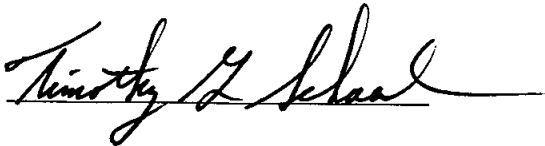
A 30 foot high earth Dam with a normal storage capacity of 108 ac-ft.

and the license should be issued for 108 acre-feet of storage.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: No longer any irrigation and Dam No. 1 has been breached. Also Mark J. Nelson is the new owner and we need a transfer of ownership.

Date Report Completed: December 12, 2012



Timothy G. Schaal, P.E.
Natural Resources Engineer IV
DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 1432-2

DATE OF INSPECTION: October 30, 2012

NAME & ADDRESS OF INSPECTION CONTACT: Mark J. Nelson (new owner)
22468 Cronk Road, Philip, SD 57567

NAME & ADDRESS OF PERMIT HOLDER: same

DIVERSION POINT LEGAL LOCATION: 1320 feet north & 1550 east of the SW corner of
Section 11-T2N-R22E (E ½ SW ¼) (Lat. 44.14327, Long. -101.44145).

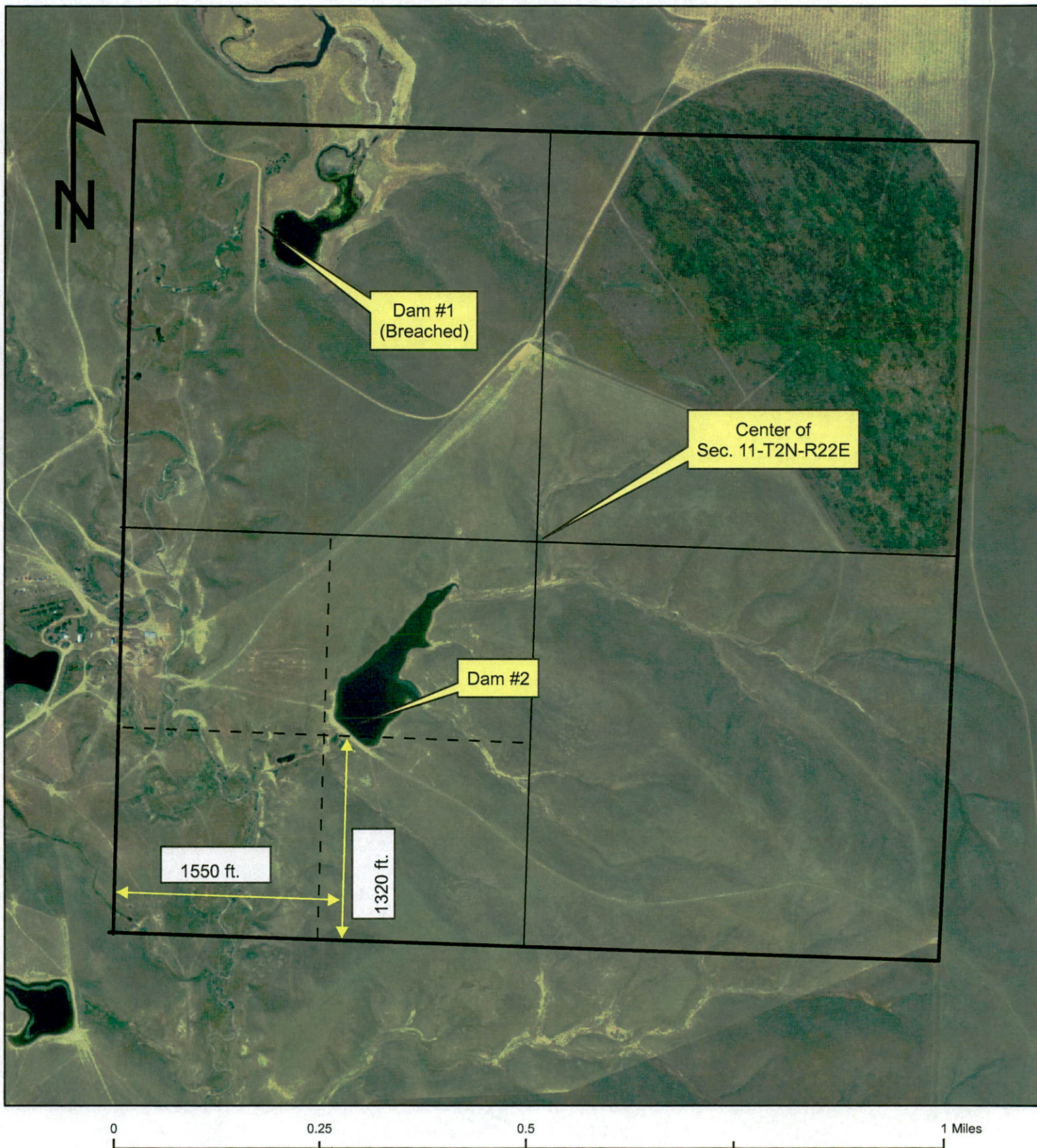
DAM INFORMATION:

- 1) Height to crest 30 feet
- 2) Height to primary spillway 27 feet
- 3) Height to secondary spillway XXX feet
- 4) Crest width 12 feet
- 5) Crest length 400 feet
- 6) Spillway length XXX feet
- 7) Spillway width 40 feet
- 8) Approx. storage (Normal) 108 acre-feet ($27 \times 10 \times .4 = 108$)
- 9) Approx. storage (Maximum) 144 acre-feet ($30 \times 12 \times .4 = 144$)

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

Water Permit Application No. 1432-2



Timothy G. Schaal

Timothy G. Schaal, P.E.
Natural Resources Engineer IV
SD DENR, Water Rights Program

12/12/12

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

In February, 2013, I spoke with Garland Erbele, Chief Engineer for the Water Rights Program about permits involving storage dams and abandoned irrigation use.

In his opinion, if a water permit was unlicensed and licensing investigation found irrigation use had been abandoned, a water license should be issued for the system as it was developed meaning the irrigation component would not be included on the license. The license would reflect only the storage dam with use listed as domestic livestock watering.

In all licensing investigations, a water license is issued for only what was developed as long as it does not exceed permitted amounts and the same concept should be applied in cases with storage dams.

If the Water Rights Program finds a system with irrigation use abandoned or forfeited and the water right is already licensed, that specific water right would need to be brought before the Water Management Board to have the irrigation component removed. Basically, the difference would be that if irrigation was abandoned prior to licensing, the removal of the irrigation component would be handled through licensing. If irrigation is abandoned or forfeited after the license is issued, Board action is required.



Genny McMath
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 7, 2013

1432-2

Mark J Nelson
22468 Cronk Rd
Philip SD 57567

Dear Mr. Nelson:

I am contacting you in regard to Water Permit No. 1432-2, currently listed in the name of James Nelson. In October 30, 2012, Tim Schaal with our program conducted a field investigation of the area described in the permit for licensing purposes.

Water Permit No. 1432-2 authorizes diversion of water from Witcherhole Creek and a dry draw tributary into two storage dams for irrigation of 386.5 acres. The investigation found the land had not been irrigated for many years and Dam #1 on Witcherhole Creek had breached with no plans of repair anticipated. Dam #2 was in place and used for livestock watering purposes.

With the investigation completed, the permit is now ready for licensing. The license will be issued for storage of 108 acre feet of water in a storage dam located in the SW ¼ Section 11, T2N, R22E for domestic use. The irrigation component of the original permit will be removed. Prior to licensing, state law requires that we charge a \$50.00 fee for the investigation and issuance of the water license.

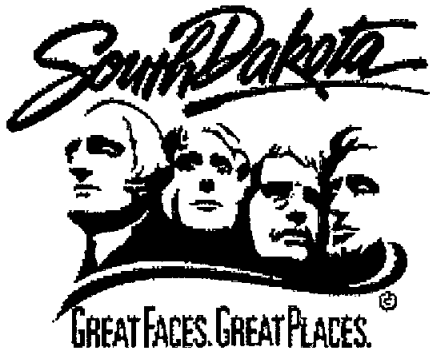
It is our understanding that an ownership change is needed. Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00.

The total due for the ownership change and licensing is \$100. The check or money order for the fee can be made payable to the "Water Rights Program". Unless future changes are made which require additional permitting or if land ownership changes again, no further fees will be required.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 31, 2013

1432-2

Mark J Nelson
22468 Cronk Rd
Philip SD 57567

Dear Mr. Nelson:

On May 7th I contacted you in regard to the transfer of ownership and licensing of Water Permit No. 1432-2. The letter requested completion of a "transfer of ownership form" and submission of fees totaling \$100 for the ownership change and the inspection and issuance of the water license. To date, we have not received anything back from you.

In the event you no longer have the original form, enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Once the ownership change has been completed and filed, the permit is ready for licensing. The license will be issued for storage of 108 acre feet of water in a storage dam located in the SW ¼ Section 11, T2N, R22E for domestic use.

The total due for the ownership change and licensing is \$100. The check or money order for the fee can be made payable to the "Water Rights Program". Unless future changes are made which require additional permitting or if land ownership changes again, no further fees will be required.

If you have any questions, please contact me.

Sincerely,


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

enclosure



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



June 26, 2014

1432-2

Mark J Nelson
22468 Cronk Rd
Philip SD 57567

Dear Mr. Nelson:

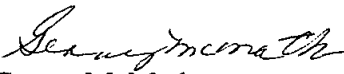
On May 7th and July 31st 2013, I contacted you in regard to the transfer of ownership and licensing of Water Permit No. 1432-2, currently listed in the name of James S Nelson. The letters requested completion of a "transfer of ownership form" and submission of fees totaling \$100 for the ownership change and the inspection and issuance of the water license. To date, we have not received anything back from you.

In the event you no longer have the original form, enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Once the ownership change has been completed and filed, the permit is ready for licensing. The license will be issued for storage of 108 acre feet of water in a storage dam located in the SW ¼ Section 11, T2N, R22E for domestic use.

The total due for the ownership change and licensing is \$100. The check or money order for the fee can be made payable to the "Water Rights Program". Unless future changes are made which require additional permitting or if land ownership changes again, no further fees will be required. Enclosed is a postage paid envelope for your convenience in returning the completed transfer form and filing fees.

Licensing of the water permit will allow continued impoundment of water for domestic purposes. If you have any questions, please contact me.

Sincerely,


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

enclosures

RECEIVED

JUL - 2 2014

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1432-2

Date: _____

I/We request that Water Permit No. 1432-2

formerly owned by: James S Nelson

be transferred to: (name & address) Mark J Nelson, 22468 Kronk Rd, Philip SD 57567

Telephone No. _____

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

Storage dam located in the E ½ SW ¼ Section 11, T2N, R22E

I/We understand that the validity of Water Permit No. 1432-2 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 Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Mark J Nelson, the new owner, certify that the above information is true and correct.

Mark J Nelson
(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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 2, 20 14

RECEIVED OF Mark Nelson, 22468 Kronk Rd, Philip SD 57567

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. <u>1432-2</u>	50	00
Fee for Filing Transfer Form <u>1432-2</u>	50	00
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	100.00

No. **06901**

By

Jeanne Shodman
Chief Engineer

(KS)

Licensing of Irrigation Water Permit for Stock Watering

NAME: Mark J. Nelson (new owner)

ADDRESS: 22468 Cronk Road, Philip, SD 57567

DATE: June 24, 2013

COUNTY: Haakon

TELEPHONE: 605-859-2187

AUTHORITY

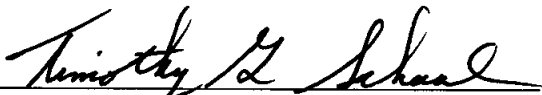
Pursuant to SDCL 46-5-31.1, if permitted irrigation use from a storage dam is abandoned or forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder.

REQUEST

On October 30, 2012, I visited with Mark J. Nelson about Water Permit No. 1432-2 and their two irrigation dams on Witcherhole Creek and a dry draw tributary. He indicated that they had not used the permit for irrigation for many years and Dam No.1 located on Witcherhole Creek had breached and they had no plans of repairing it at this time. I explained to him that Water Permit 1432-2 should be scheduled to cancel the irrigation portion of the permit, and then we could license the existing 108 acre-foot storage dam (Dam No. 2) for livestock water.

RECOMMENDED ACTION

Based on the above request, it is recommended that the water license be issued for stock watering.



Timothy G. Schaal, P.E.

Natural Resources Engineer IV

Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-31.1 that:

This addition of stock watering does not impair existing water rights and no diversion of water will be made from the stock dam. Licensing of the water permit for stock watering may occur without application or publication pursuant to SDCL 46-2A-4.



Jeanne Goodman, Chief Engineer

Water Rights Program



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



1432-2

JUL 07 2014

Mark J Nelson
22468 Kronk Rd
Philip SD 57567

Dear Mr. Nelson:

Enclosed is Water License No. 1432-2. 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.

Also enclosed for your records is Receipt No. 06901 in the amount of \$100 which you paid for the inspection and issuance of the water license and for the ownership change. Water Right No. 1432-2 formerly held by James S Nelson is now listed in your name.

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.

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1432-2

(1) James S Nelson, Philip SD made Application No. 1432-2, September 3, 1976 for a water permit to divert 5.52 cubic feet of water per second, with storage of 770 acre feet annually from two storage dams on Witcherhole Creek and a dry draw, located in Haakon County, South Dakota to be used for irrigation purposes. Permit No. 1432-2, with a priority date of September 3, 1976 was approved September 29, 1976 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 29, 1981 and for the application to beneficial use of said water on or before September 29, 1983.

Water Permit No. 1432-2 authorized irrigation of 386.5 acres from two storage dams located in the NW ¼ and SW ¼ Section 11, T2N, R22E. On October 30, 2012, an investigation of the water use system for licensing purposes found the land was no longer irrigated and the dam in the NW ¼ Section 11 had been breached and was no longer used. The storage dam in the SW ¼ of Section 11 still exists and is used for domestic livestock water purposes.

Pursuant to SDCL 46-5-31.1, stock watering may be added as a water use to a license provided no diversion is made from the dam. The Chief Engineer made a finding that the addition of stock watering does not impair existing water rights.

On July 2, 2014, Water Permit No. 1432-2 was transferred from James S Nelson to Mark J Nelson.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to impound 108 acre feet of water annually for beneficial use.

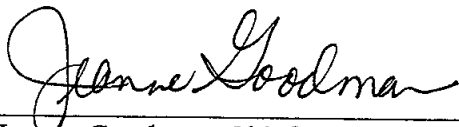
The location of the storage dam (spillway) is: 1,320 feet north and 1,550 feet east of the SW corner of Section 11, T2N, R22E (E ½ SW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Mark J Nelson, 22468 Kronk Rd., Philip SD 57567 the holder and/or owner of Water Right No. 1432-2 is issued a license to appropriate water, the right to impound 108 acre feet of water annually in a dry draw storage dam with a priority date of September 3, 1976 from the location specified in (2) of this license for domestic use purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1432-2 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 authorizes storage of 108 acre feet of water annually.



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

JUL 07 2014

date

