

WATER PERMIT NO. 6370-3

Name of Applicant: Dennis Leland

Address: 1021 N Gale Road, Mitchell SD 57301

Phone: 605 996-9097

Amount of Water Claimed: 0.10 cfs

Total Acres: 2.8

Source of Water Supply: Firesteel Creek

Water to be used for: irrigation

County: Davison

Type of Waste Disposal System:

Location: in Mitchell

PRIORITY

Date Received: 11-20-02

Application/License Fee: \$100

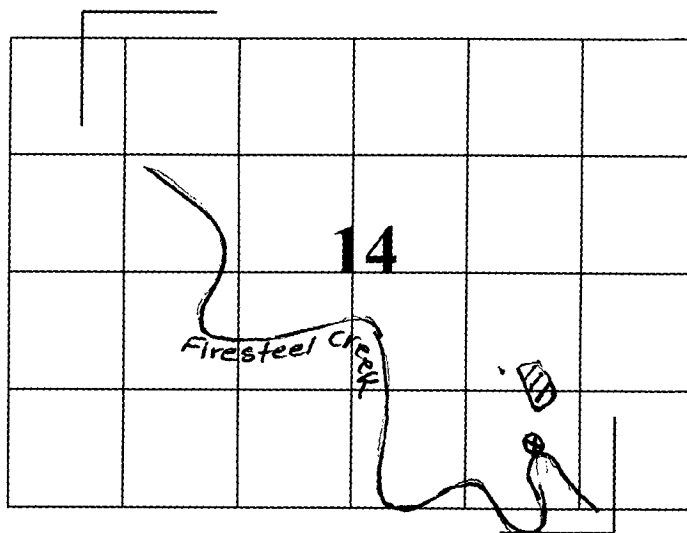
Corrected Application Received:

Period of Annual Use: March 1 – October 31

Remarks: irrigate lawn and garden

Diversion Point: SE ¼ SE ¼ Sec 14-T103N-R50W

Land to be Irrigated: E ½ SE ¼ (Lot 2 of Colella's
Subdivision) Sec 14-T103N R60W



Depth of Well: NA

Well Driller: : NA

Remarks:

Type of Map: aerial

Prepared by: Ray Gasmire, Ext. Agent

Reviewed and the Number Assigned on: 11-20-02

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 6370-3 FOR IRRIGATION

Date of first receipt of application November 20, 2002.

The Water Management Board approved Water Permit No. 6370-3 on March 5, 2003 for Dennis Leland, 1021 N Gale Rd, Mitchell SD 57301 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. 6370-3 appropriates 0.04 cubic feet of water per second (cfs) [18 gallons per minute] from Firesteel Creek located in the SE ¼ SE ¼ Section 14 to irrigate 2.8 acres located in the E ½ SE ¼ (Lot 2 Colella's Subdivision) Section 14; all in T103N-R60W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: March 1 – October 31.
3. The date from which applicant may claim right is November 20, 2002.
4. One-fifth of the construction is to be completed on or before September 5, 2005.
5. All construction is to be completed on or before March 5, 2008.
6. Water is to be put to beneficial use on or before March 5, 2012.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Diversion of water under Permit No. 6370-3 is subject to the city of Mitchell and Wild Oak Golf Club's existing prior water rights. Diversions by the permit holder may not impair existing prior rights and shall comply with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 07 2003

date



FORM 2: Application for irrigation in South Dakota
(type or print)

RECEIVED
NOV 20 2002
WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6370-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>Daily Republic</u>	<u>Mitchell</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

- Name of Applicant DENNIS LELAND Phone 605 996-9097
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address 1021 NORTH GALE ROAD, MITCHELL State SD 57301
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 2.04 *CFS or 1845 **GPM ***AF Total Acreage 2.8
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply FIRESTEEL CREEK.
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) (SE 1/4 SE 1/4)
N 47° 30' W 932.8 FEET FROM SE CORNER OF SECTION 14
T.103 N., R. 60 W MITCHELL TOWNSHIP County DAVISON
- County or counties where water will be used DAVISON
- Annual period during which water is to be used MARCH 1 TO OCTOBER 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
LOT 2 OF COLELLA'S SUBDIVISION	2.8		
IN THE SE 1/4 OF SEC 14 -			
T.103 N. - R 60 W OF THE			
5TH P.M. (E 1/2 SE 1/4)			

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

A 3HP SUBMERSIBLE PUMP WILL BE PLACED IN THE FIRESTEEL CREEK AT ABOVE DIVERSION POINT. WATER IS TO BE PUMPED 650 FEET VIA 1 1/2" BURIED PVC PIPE TO SUPPLY IRRIGATION SYSTEM. SYSTEM WILL IRRIGATE LAWN AND GARDEN.

STATE OF SOUTH DAKOTA) SS
County of DAVISON

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

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

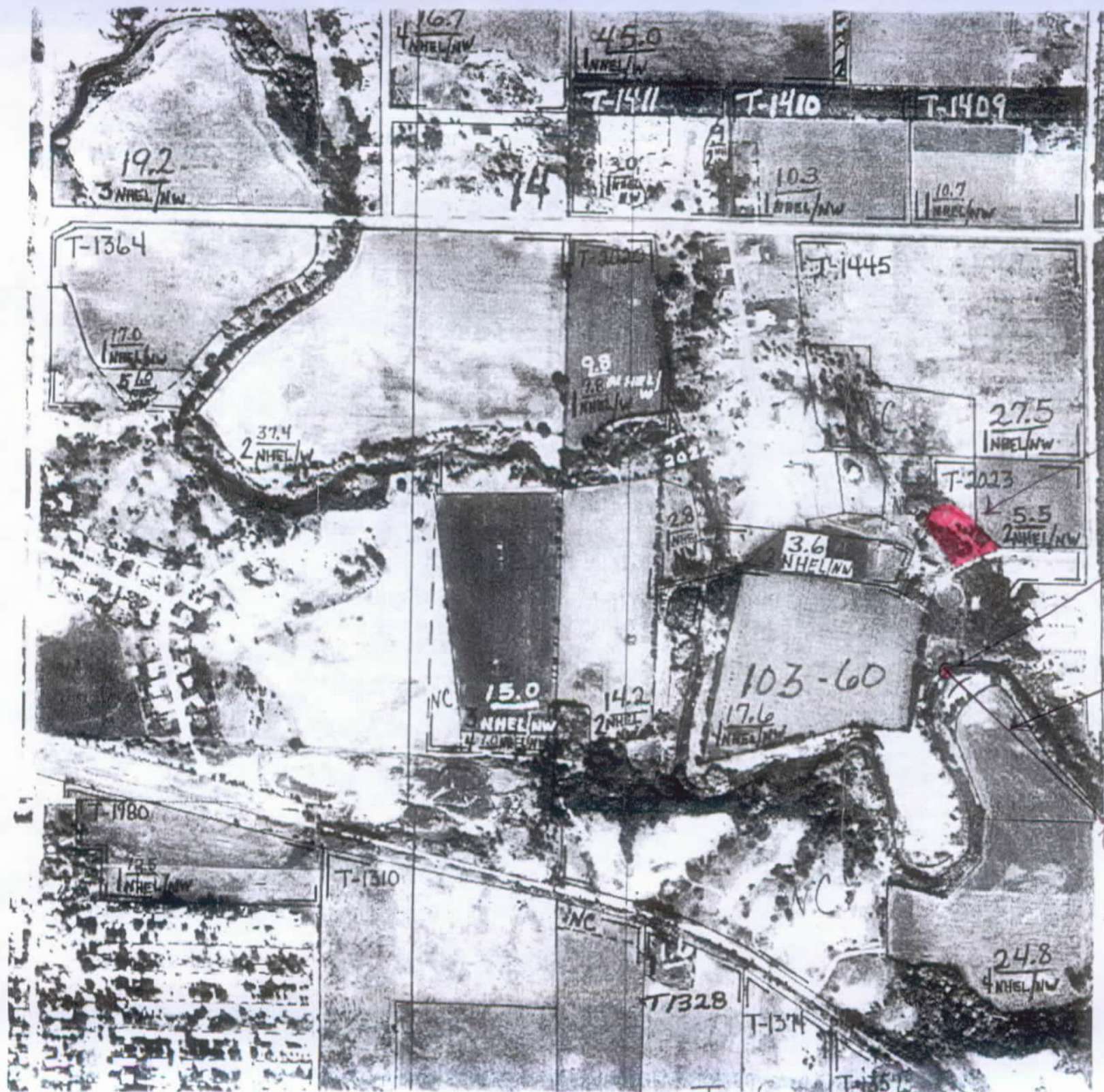
Applicant's signature

Subscribed and sworn to before me this 18 day of November 20 02

Notary Public signature

my Comm. exp: 6/29/05

Ray Hamer
Davison Co. Est. Ed.
11/18/02



AREA TO
BE IRRIGATED
~2.8 ACRES

POINT OF
DIVERSION
(PSMP LOCATION)

N47°30' W
932.8 FT.

FIRESTEEL
CREEK

SE. CORNER OF
SECTION 14
T-103 N., R. 60 W
MITCHELL TWP
DAVISON COUNTY.

6370-3

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 20, 20 02

RECEIVED OF Dennis Deland, 1021 N Gale Rd., Mitchell SD 57301

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

Fee for Application for Permit No. <u>6370-3</u> 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. <u>6370-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100.00

No.

000337

By

Dennis Deland
Chief Engineer *gm*

WATER PERMIT APPLICATION No. 6370-3

**Dennis Leland
1021 N. Gale Rd.
Mitchell, SD 57301
(605)996-9097**

Water Permit Application No. 6370-3, Dennis Leland, proposes to appropriate 0.04 cubic feet of water per second (cfs) from Firesteel Creek in the SE¼ SE¼ Section 14 T103 N R60W to irrigate approximately 2.8 acres of lawn and garden at the same location (Attachment 1). Annual use would be from March 1 to October 1.

Review of Proposed Project

The applicant proposes to pump water from Firesteel Creek approximately 4.5 stream miles below Lake Mitchell in Davidson County, SD for irrigation purposes (Attachment 2). Water will be pumped through buried PVC pipe approximately 650 feet to irrigate approximately 2.8 acres of lawn and garden.

Water Source and Existing Water Rights

Firesteel Creek rises in Jerauld County, SD and flows south-southeast into Lake Mitchell, a man-made reservoir created to serve as the main drinking water supply for Mitchell, SD along with boating, fishing, and other recreational uses for area residents. Firesteel Creek drains a watershed of approximately 360,000 acres before flowing into Lake Mitchell. From Lake Mitchell, Firesteel Creek flows approximately nine (9) stream miles joining with the James River east of Mitchell, SD (Attachment 2).

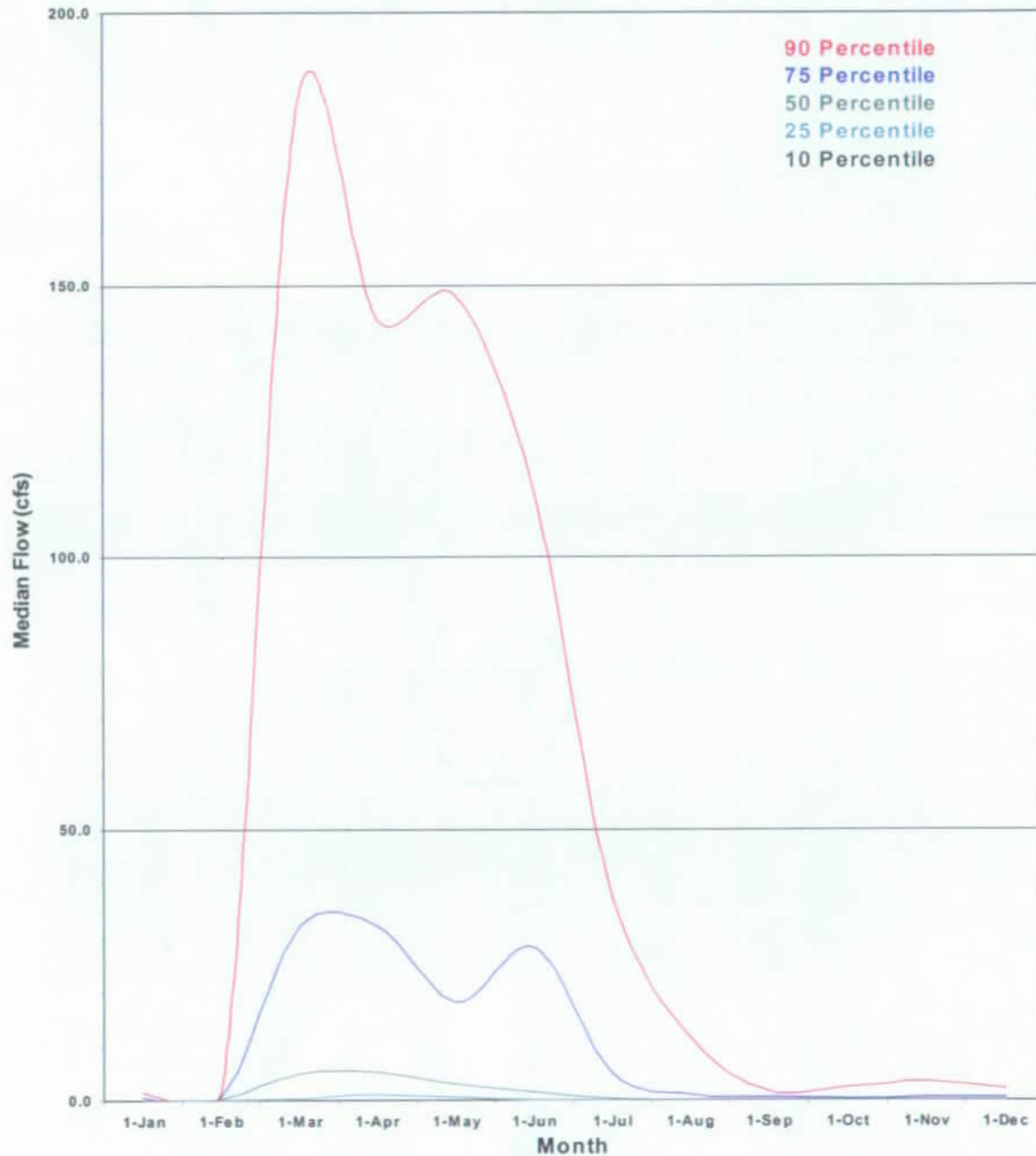
The U.S. Geological Survey (USGS) maintains a gaging station on Firesteel Creek approximately 8 stream miles above Lake Mitchell. Historical data (Table 1 and Hydrograph 1) from 1955 through 2001 for this gaging station show there is a 50-percent probability the median flow in Firesteel Creek could range from zero (0) to 5.1-cfs or greater for any given March through October yearly period. There is a 75-percent probability the median flow in Firesteel Creek at this same location could be in the zero (0) to 0.9-cfs range or greater for the same period of any given year.

Table 1. Firesteel Creek Monthly Median Flow (cfs)

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	0.0	0.0	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
25	0.0	0.0	0.3	0.9	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
50	0.1	0.2	5.0	5.1	3.0	1.6	0.2	0.0	0.0	0.1	0.1	0.1
75	0.5	0.9	32.0	32.0	18.0	28.0	4.9	1.0	0.4	0.3	0.6	0.6
90	1.4	2.0	184.5	143.6	148.0	111.9	37.5	11.4	1.8	2.5	3.5	2.2

Hydrograph 1.

Firesteel Creek
Mt. Vernon
1955-2001



The USGS historical data indicates Firesteel Creek is not a reliable source of water throughout the summer and early fall months during years of normal and below precipitation.

The City of Mitchell, SD holds Vested Water Right No. 426-3 that originally was for an appropriation of 15-cfs from Firesteel Creek-Lake Mitchell for municipal use. This right was later amended from the 15-cfs withdrawal to an impoundment of 10,560 acre-feet in Lake

Mitchell. Mitchell, SD also holds Future Use Permit No. 427-3 for 5,756 acre-feet annual storage in Lake Mitchell.

Given that Firesteel Creek-Lake Mitchell is not a reliable source of water during years of normal and below precipitation, the City of Mitchell, SD also obtained Licensed Water Right No. 4354-3 to augment their drinking water system. Water Right No. 4354-3 authorizes the diversion of 29-cfs of water from the James River for the as-required annual total storage of 8430 acre-feet of water in Lake Mitchell. The City of Mitchell, SD plans to be connected to the Bon Homme-Yankton Rural Water System in late 2003.

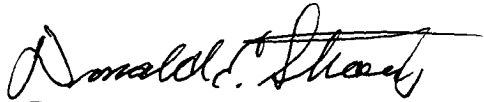
The Wild Oak Golf Club holds senior Water Right No. 1371-3 and Water Permit No. 6314-3 for the combined total appropriation of 0.67-cfs of water from Firesteel Creek downstream of this project's proposed diversion point. These senior appropriations allow the maximum diversion rate of 0.67-cfs of water from Firesteel Creek to two holding ponds before application to the land during the April 1st to November 1st period.

In May 1981 Larry Little, then Mitchell City Engineer, inquired about obtaining an irrigation permit from Firesteel Creek below Lake Mitchell. Replying to this inquiry, the Water Rights Program Chief Engineer advised *non-approval would be recommended to the Water Management Board because unappropriated water was not available during the irrigation season. During years of normal and below precipitation, available water along this reach of Firesteel Creek would be runoff from the stream's limited watershed below Lake Mitchell. Senior Water Right No. 1371-3 located below Lake Mitchell would have first priority for any available water.*

Mr. Backlund, President of Wild Oak Golf Club, stated during verbal communications that he did not have a problem with Mr. Leland's application to withdraw water from Firesteel Creek as long as it was realized that the club has a senior right to the water.

Conclusions

1. Water Permit Application No. 6370-3, Dennis Leland, proposes to appropriate 0.04 cubic feet of water per second (cfs) from Firesteel Creek below Lake Mitchell for irrigation of 2.8 acres of lawn and garden.
2. USGS historical data for Firesteel Creek indicates the stream is not a reliable source of water during the irrigation season. There will be periods during drought conditions when water is not available.
3. Availability of unappropriated water is limited during the irrigation season from the Firesteel Creek reach below Lake Mitchell to the James River confluence.
4. The applicant understands that in periods of drought when water availability may be limited, domestic use and senior water rights take precedence and his use may be restricted or terminated until conditions improve.



Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

Reviewed by:



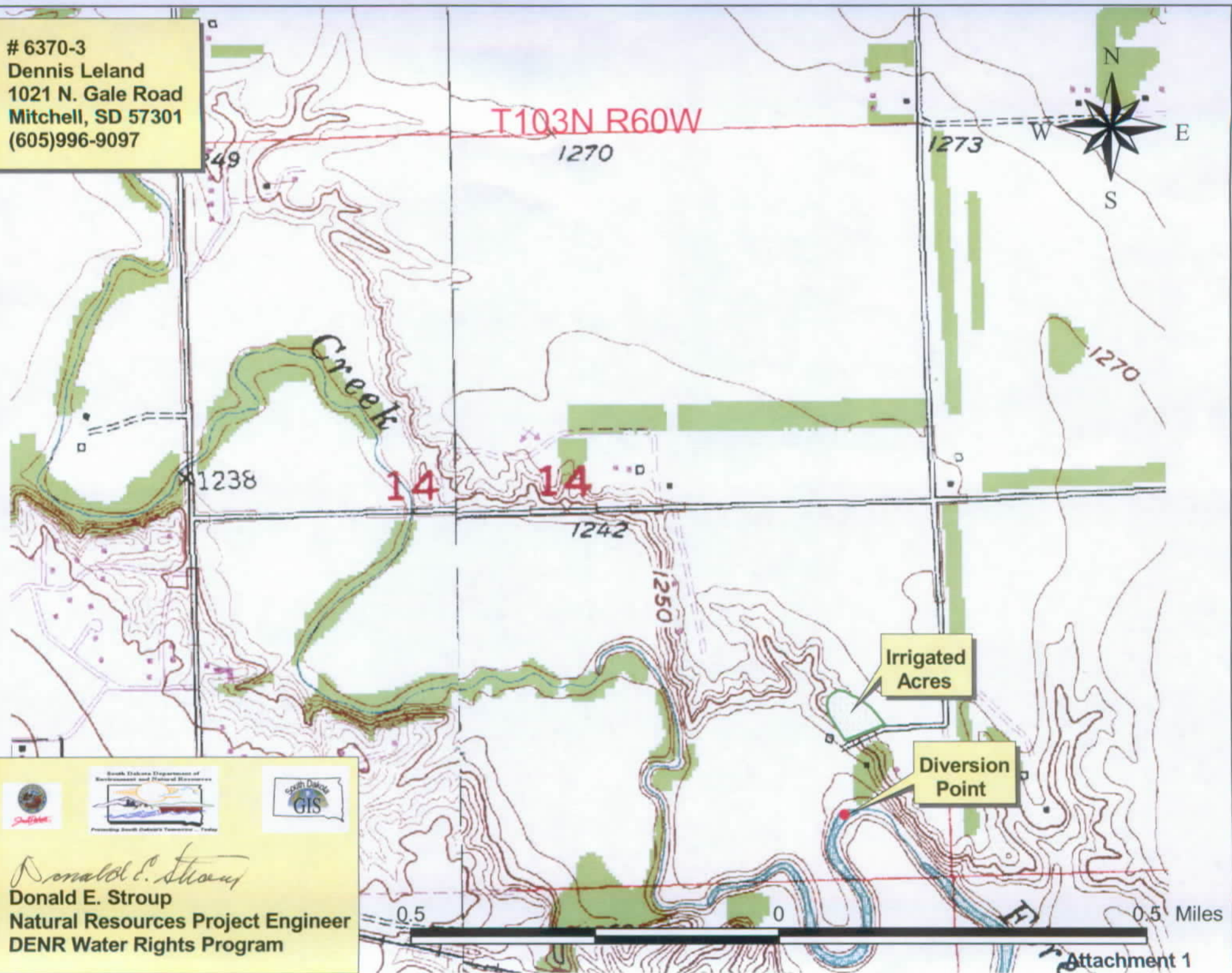
Mark D. Rath
Natural Resources Engineering Specialist
DENR Water Rights Program

References

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

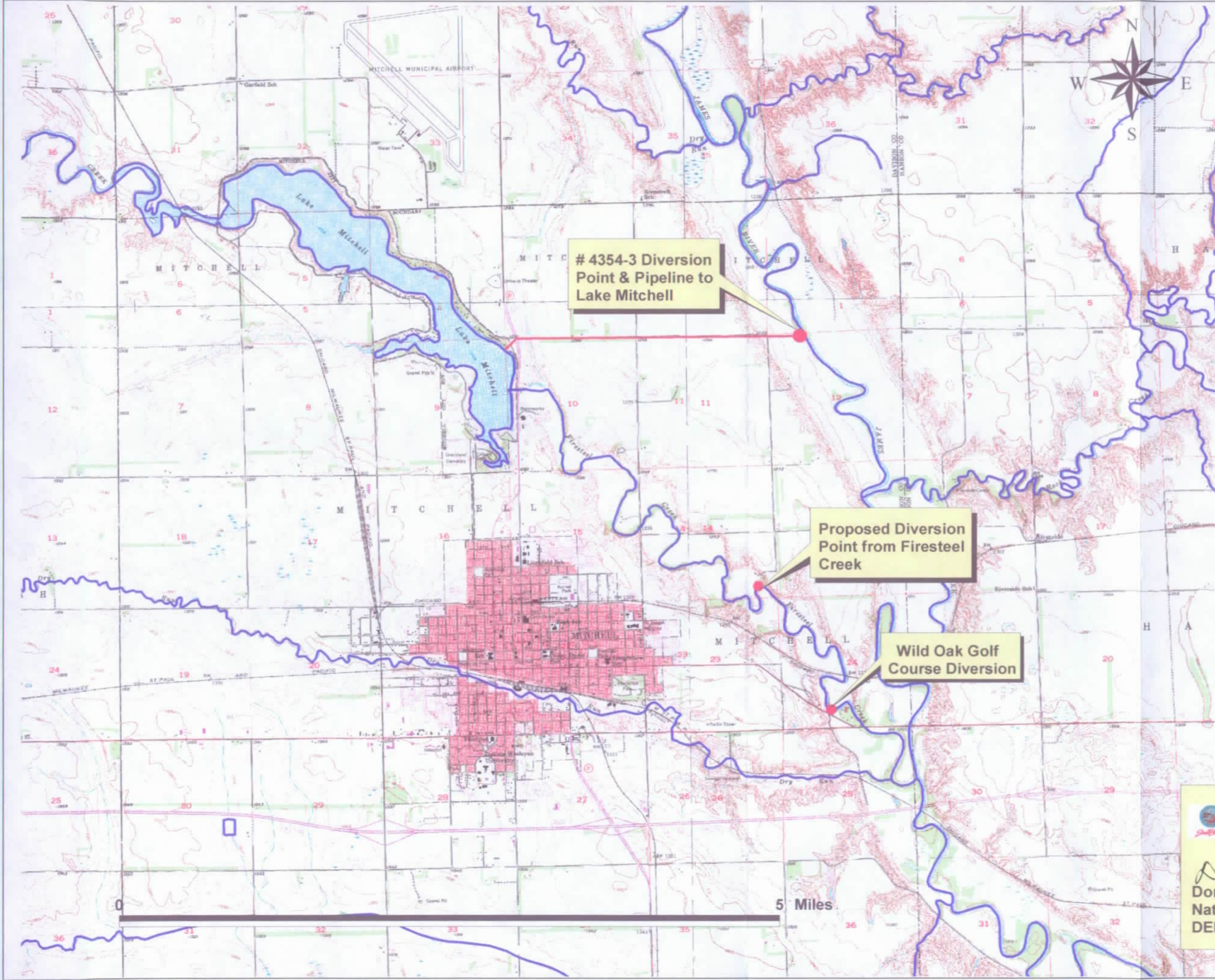
USGS National NWISWeb Water Information System, Historical Stream Flow for South Dakota

6370-3
Dennis Leland
1021 N. Gale Road
Mitchell, SD 57301
(605)996-9097




Donald E. Stroup
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

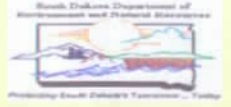
6370-3
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(605)996-9097



4354-3 Diversion
Point & Pipeline to
Lake Mitchell

Proposed Diversion
Point from Firesteel
Creek

Wild Oak Golf
Course Diversion


Donald E. Stroup
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6370-3, Dennis Leland**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6370-3, Dennis Leland, 1021 N. Gale Road, Mitchell SD 57301.

The Chief Engineer is recommending DENIAL of Application No. 6370-3 because 1) unappropriated water is not available on Firesteel Creek for the applicant's proposed use, 2) the proposed diversion may unlawfully impair existing water rights, and 3) it is not in the public interest to issue a new water permit authorizing additional diversions from Firesteel Creek.

See report on application for additional information.

Garland Erbele, Chief Engineer
December 13, 2002

NOTE: In order to approve a permit, state law states that unappropriated water must be available, existing rights may not be unlawfully impaired, and the use must be beneficial and in the public interest. I am recommending denial because unappropriated water is not available from Firesteel Creek and an existing downstream right may be unlawfully impaired by your diversion. Therefore, the application can not be considered as being in the public interest. However, state law does allow you to make a domestic use of water without obtaining a state permit. Specifically, under domestic use any household may irrigate up to one acre without obtaining a permit if the diversion rate from the water source does not exceed 18 gallons per minute on an average daily basis (with a maximum pump rate of 25 gallons per minute).



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 17, 2002

Leslie Petersen
SD Dept. of Game, Fish and Parks
523 E. Capitol Avenue
Pierre SD 57501

Dear Leslie:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the denial recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on January 13 and 20, 2003 scheduling a March 5th hearing before the Water Management Board. Please be aware that we will proceed with this application only if Mr. Leland authorizes publication of the notice in the newspaper. However, this is the Game, Fish and Parks opportunity to petition to intervene, if you so choose. Petitions must be submitted by February 21, 2003

This information is being sent to keep you informed of water right permitting issues along Firesteel Creek.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 17, 2002

David Backlund, President
Wild Oak Golf Club
117 S Lawler
Mitchell SD 57301

Dear Mr. Backlund:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the denial recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on January 13 and 20, 2003 scheduling a March 5th hearing before the Water Management Board. Please be aware that we will proceed with this application only if Mr. Leland authorizes publication of the notice in the newspaper. However, this is the Club's opportunity to petition to intervene, if you so choose. Petitions must be submitted by February 21, 2003

This information is being sent to the Golf Club as a downstream water right holder on Firesteel Creek.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 17, 2002

Tim McGannon, Public Works Director
City of Mitchell
612 N. Main Street
Mitchell SD 57301-0278

Dear Mr. McGannon:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the denial recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on January 13 and 20, 2003 scheduling a March 5th hearing before the Water Management Board. Please be aware that we will proceed with this application only if Mr. Leland authorizes publication of the notice in the newspaper. However, this is the city's opportunity to petition to intervene, if you so choose. Petitions must be submitted by February 21, 2003

This information is being sent to you to keep you informed of water right permitting issues along Firesteel Creek.

Sincerely,

A handwritten signature in black ink that reads "Eric Gronlund".

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

December 17, 2002

Dennis Leland
1021 N Gale Road
Mitchell SD 57301

Dear Mr. Leland:

Water Permit Application No. 6370-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. The Chief Engineer's recommendation is for DENIAL of the Application No. 6370-3. For your information, a copy of the notice, the recommendation of the Chief Engineer and a staff report are enclosed.

Please review the report and recommendation. If you wish to proceed with the application and schedule a March 5, 2003 hearing before the Water Management Board, you must contact the Daily Republic, PO Box 1288, Mitchell SD 57301 (Ph#605-996-5514) to authorize publication of your notice of hearing. A copy of the notice was sent to the Daily Republic with instructions to publish only if you authorize publication. You must contact the newspaper by January 6th, if you want to proceed with a March 5, 2003 hearing.

If the notice is published on January 13, 2003 and January 20, 2002, a hearing will then be scheduled at 10:00 A.M., March 5, 2003 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue in Pierre SD.

State law provides that if the Chief Engineer recommends denial of an application, the applicant has 20 days from the date the recommendation was mailed to state whether they intend to oppose the recommendation. Failure to submit a statement of intent to oppose the recommendation to deny constitutes withdrawal of the application. If you authorize the newspaper to publish the notice this will constitute your formal intent to oppose the recommendation. You may also choose to delay consideration of the application until the May 7, 2003 Board meeting. If you want to delay the hearing, do not authorize publication of the notice at this time. Contact me by January 6th to state your intent to proceed with the application but wait until the May 7, 2003 meeting. Failure to either publish the notice or contact me by January 6th will constitute a withdrawal of the application.

Please contact me if you have any questions.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605)773-3352

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 17, 2002

Daily Republic
PO Box 1288
Mitchell SD 57301

ATTENTION: Legal Public Notice

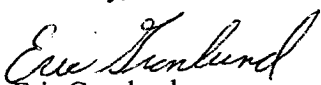
Enclosed is a Notice of Hearing on Application No. 6370-3 to Appropriate Water to be published twice. Please publish the first notice on January 13, 2003 with the second publication 7 days later.

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 Dennis Leland, 1021 North Gale Road, Mitchell SD 57301 (Ph # 605-996-9097).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 6370-3

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

Date _____

We are in receipt of your letter of December 16, 2002 enclosing Notice of Hearing to Appropriate Water by Application No. 6370-3 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 January 13, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6370-3 to Appropriate Water

Notice is given that Dennis Leland, 1021 North Gale Road, Mitchell SD 57301 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from Firesteel Creek located in the SE ¼ SE ¼ Section 14 to irrigate 2.8 acres located in the E ½ SE ¼ (Lot 2 Colella's Subdivision) Section 14; all in T103N-R60W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DENIAL of Application No. 6370-3 because 1) unappropriated water is not available on Firesteel Creek for the applicant's proposed use, 2) the proposed diversion may unlawfully impair existing water rights, and 3) it is not in the public interest

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 21, 2003. 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 the petitioner's legal counsel, if legal counsel is obtained.

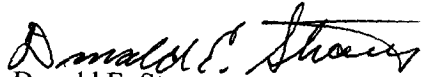
The Water Management Board will consider this application at 10:00 A.M. March 5, 2003 in the Matthew Training Center, 523 E. Capitol Ave., Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 2003 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 21, 2003.

Any hearing may be an adversarial proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by February 21, 2003, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Water Rights Program – DENR
Conversation or File Documentation

On 12/24/02 I spoke with Mr. Backlund, President of Wild Oak Golf Club, about Mr. Leland's application for diversion of water from Firesteel Creek. Mr. Backlund did not have a problem with Mr. Leland's application as long as it was realized that the club has a senior right to the water.



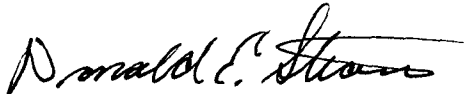
Donald E. Stroup

Natural Resources Project Engineer
DENR Water Rights Program

Water Rights Division - DENR

Conversation or File Documentation

On 12/31/02 I spoke with Mr. Leland about his application for a permit to irrigate from Firesteel Creek. I advised him that a new permit for the golf course had been issued and missed when I did the report on his application and that the report should be redone with a different recommendation. Mr. Leland stated that he would send a letter requesting a change to lower the diversion rate, to defer the application, and not to public notice the present permit application.

A handwritten signature in black ink, appearing to read "Donald E. Stroup", with a stylized flourish at the end.

Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

January 5, 2003

Dennis Leland
1021 North Gale Rd
Mitchell, SD 57301
Ph 605-996-9097

Eric Gronlund & Donald E. Stroup
Natural Resource Engineers
Dept. of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Eric and Don:

This letter is in response to the phone conversations of this past week. I am requesting that my application hearing be delayed and that the chief engineers denial of my application (#6370-3) be reviewed and if appropriate reversed.

To address problems with my application:

I am amending my application to request a pump rate of 0.04 cfs or 18 gpm, which is within the statutory limit of 1cfs/70 acres.

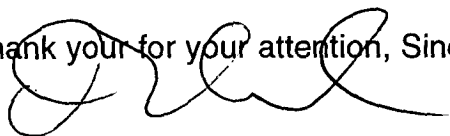
Mr. Backlund (owner of wild oak county club) was contacted by Mr. Stoup and I am informed that my request will not adversely affect his water right, and that he doesn't have any problem with my request to pump upstream from him.

I understand that in periods of water unavailability or drought that the senior water right holder takes precedence and that I can be "shut off".

The Firesteel creek below the Lake Mitchell dam is not accurately reflected in the USGS gaging station 8 miles upstream from the dam. The site I propose to pump from the creek is "spring fed" and has not ceased flowing, even during periods of no flow over the dam, for the past 6 years (I have no personal experience with it prior to that time).

If this information will result in an engineer's approval of my application (#6370-3) then please send me an updated notice of application for newspaper publication so that I may advance the application process.

Thank you for your attention, Sincerely.



Dennis Leland

RECEIVED

JAN 07 2003

WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6370-3, Dennis Leland**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6370-3, Dennis Leland, 1021 N. Gale Road, Mitchell SD 57301.

The Chief Engineer is recommending APPROVAL of Application No. 6370-3 because 1) water is available to be appropriated subject to the city of Mitchell's upstream future use permit from Firesteel Creek, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Diversion of water under Permit No. 6370-3 is subject to the city of Mitchell and Wild Oak Golf Club's existing prior water rights. Diversions by the permit holder may not impair existing prior rights and shall comply with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year

See report on application for additional information.

Garland Erbele, Chief Engineer
January 24, 2003

NOTE: Firesteel Creek is not a reliable source of water during years of normal or below normal precipitation. If the City of Mitchell develops water reserved from Firesteel Creek for their municipal use it could mean an additional reduction of flows below the dam. Furthermore, this permit is subject to shut-off orders if the downstream prior right held by Wild Oak Golf Club is being impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2003

Tim McGannon, Public Works Director
City of Mitchell
612 N. Main Street
Mitchell SD 57301-0278

Dear Mr. McGannon:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the revised recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on February 4 and 11, 2003 scheduling a March 5th hearing before the Water Management Board. Petitions to intervene must be submitted by February 21, 2003 if the city desires to participate in the hearing.

If you recall we sent you a letter on December 17th regarding this application. At that time, the Chief Engineer recommended denial of the application. This recommendation has been revised to approval with qualifications based on our discussions with the applicant and Wild Oak Golf Club.

This information is being sent to keep the city informed of water right permitting issues along Firesteel Creek.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2003

David Backlund, President
Wild Oak Golf Club
117 S Lawler
Mitchell SD 57301

Dear Mr. Backlund:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the revised recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on February 4 and 11, 2003 scheduling a March 5th hearing before the Water Management Board. Petitions to intervene must be submitted by February 21, 2003 if the Golf Club desires to participate in the hearing.

If you recall we sent you a letter on December 17th regarding this application. At that time, the Chief Engineer recommended denial of the application. This recommendation has been revised to approval with qualifications based on our discussions with the applicant and Wild Oak Golf Club.

This information is being sent to keep the Golf Club informed of water right permitting issues along Firesteel Creek.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2003

Leslie Petersen
SD Dept. of Game, Fish and Parks
523 E. Capitol Avenue
Pierre SD 57501

Dear Leslie:

I am writing regarding Water Permit Application No. 6370-3 filed by Dennis Leland. This application proposes to appropriate water from Firesteel Creek downstream of Lake Mitchell for irrigation of a lawn and garden.

Enclosed is a copy of the revised recommendation, report and notice of hearing on this application. The notice is to be published in the Daily Republic on February 4 and 11, 2003 scheduling a March 5th hearing before the Water Management Board. Petitions to intervene must be submitted by February 21, 2003 if G,F&P desires to participate in the hearing.

If you recall we sent you a letter on December 17th regarding this application. At that time, the Chief Engineer recommended denial of the application. This recommendation has been revised to approval with qualifications based on our discussions with the applicant and Wild Oak Golf Club.

This information is being sent to keep G,F&P informed of water right permitting issues along Firesteel Creek.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

January 27, 2003

Dennis Leland
1021 N Gale Road
Mitchell SD 57301

Dear Mr. Leland:

Water Permit Application No. 6370-3 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 Publisher of the Daily Republic printed at Mitchell, SD (Ph # 605-996-5514). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 2002

Daily Republic
PO Box 1288
Mitchell SD 57301

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6370-3 to Appropriate Water to be published twice. Please publish the first notice on February 4, 2003 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 Dennis Leland, 1021 North Gale Road, Mitchell SD 57301 (Ph # 605-996-9097).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 6370-3

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

Date _____

We are in receipt of your letter of January 27, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6370-3 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 February 4, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6370-3 to Appropriate Water

Notice is given that Dennis Leland, 1021 North Gale Road, Mitchell SD 57301 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from Firesteel Creek located in the SE ¼ SE ¼ Section 14 to irrigate 2.8 acres located in the E ½ SE ¼ (Lot 2 Colella's Subdivision) Section 14; all in T103N-R60W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6370-3 because 1) water is available to be appropriated subject to the city of Mitchell's upstream future use permit from Firesteel Creek, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 21, 2003. 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 the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 10:00 A.M. March 5, 2003 in the Matthew Training Center, 523 E. Capitol Ave., Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 2003 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 21, 2003.

Any hearing may be an adversarial proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by February 21, 2003, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

RECEIVED
FEB 18 2003
WATER RIGHTS
PROGRAM

**NOTICE OF
APPLICATION NO. 6370-3
to Appropriate Water**

Notice is given that Dennis Leland, 1021 North Gale Road, Mitchell SD 57301 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from Firesteel Creek located in the SE 1/4 SE 1/4 Section 14 to irrigate 2.8 acres located in the E 1/2 SE 1/4 (Lot 2 Colella's Subdivision) Section 14; all in T103N-R60W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6370-3 because 1) water is available to be appropriated subject to the city of Mitchell's upstream future use permit from Firesteel Creek, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 21, 2003. 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 the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 10:00 A.M. March 5, 2003 in the Matthew Training Center, 523 E. Capitol Ave., Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 2003 hearing date will be automatically delayed for at least 20 days upon written

AFFIDAVIT OF PUBLICATION

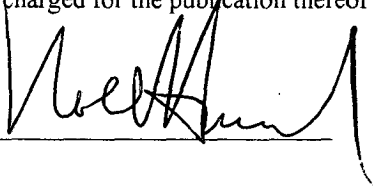
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Noel Hamiel of said county, being, first duly sworn, on oath, says; that he is the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 2 issue(s), to wit:

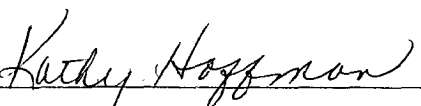
February 4 2003

February 11 2003

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$ 153.90

Signed: 

Subscribed and sworn to before me this 11 day of February 2003



Notary Public

County of Hanson, S.D.

My Commission Expires: 10.8.2003

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 21, 2003.

Any hearing may be an adversarial proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by February 21, 2003, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.
Steven M. Pirner,
Secretary,
Department of
Environment and Natural
Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 07 2003

Dennis Leland
1021 North Gale Rd
Mitchell SD 57301

Dear Mr. Leland:

Enclosed is Water Permit No. 6370-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

6370-3

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**

Date AUGUST 5, 2003

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED**AUG - 6 2003****WATER RIGHTS
PROGRAM**

FROM:

DENNIS LELAND

(name)

1021 NORTH GAVE ROAD

(address)

MITCHELL SD 57301

(city, state, zip)

605-996-9097

(phone)

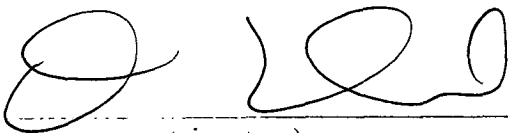
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 6370-3 states that the water use system is to be constructed by
MARCH 5, 2008, and water is to be put to beneficial use by MARCH 5, 2012
(date) (date)

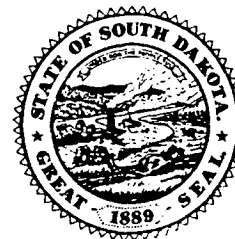
The water use system was completed on AUGUST 4, 2003
(date)

Applying the water to beneficial use was completed on AUGUST 7, 2003
(date)

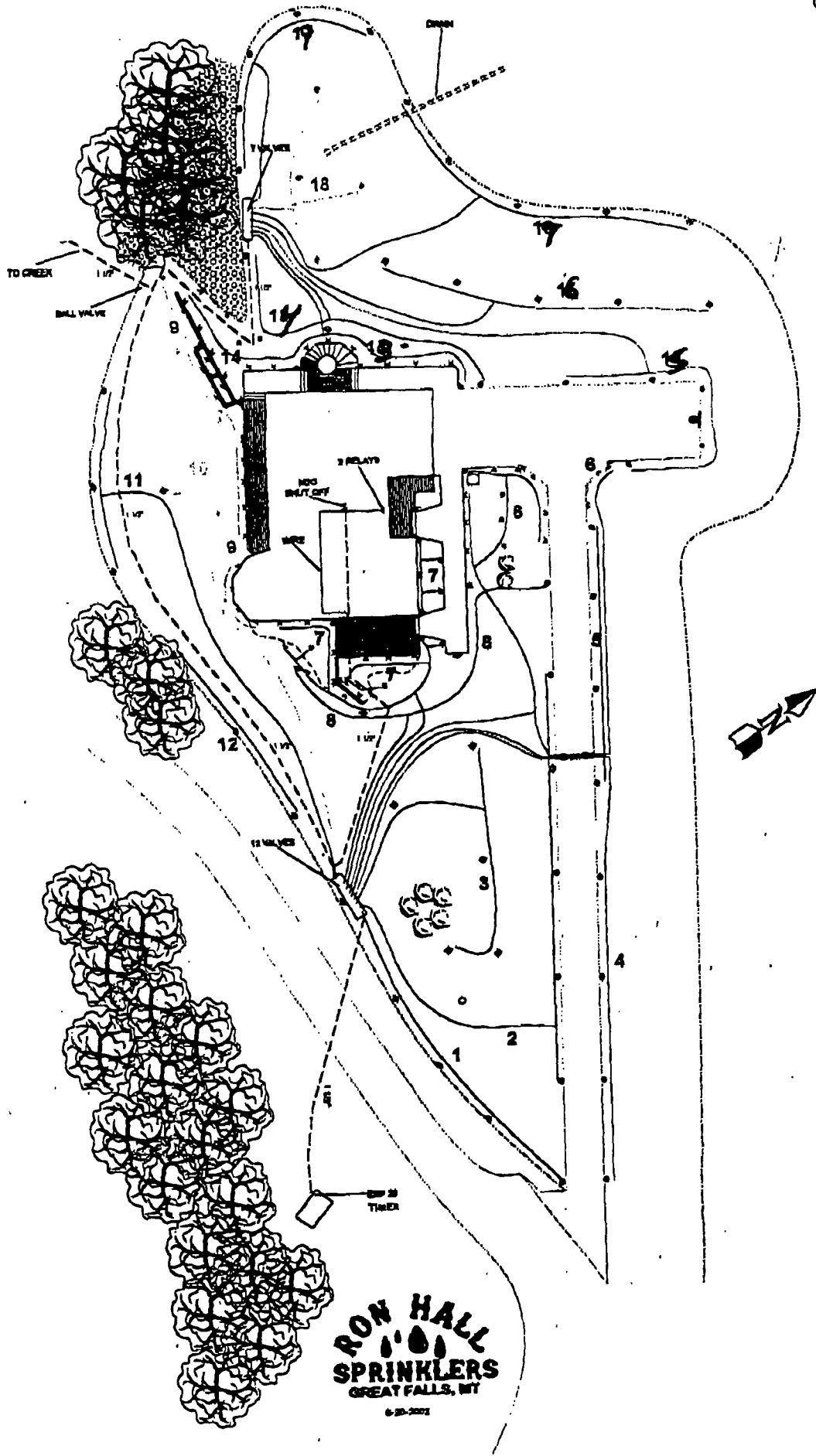
You may schedule an investigation so that the water license may be issued.



(signature)

DENNIS LELAND

6370-3



RON HALL
SPRINKLERS
GREAT FALLS, MT
6-20-2002

RSH
DSSNA

Permit No. 6370-3
James 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 26, 2004, made a thorough examination of the water use system constructed by Dennis Leland of 1021 N Gale Rd, Mitchell SD 57301 holder of Permit No. 6370-3, bearing the priority of November 20, 2002 authorizing the diversion of 0.04 cu. ft. per second of the waters of Firesteel Creek for irrigation purposes, in Davison County.

Inspection contact & relationship to permit holder, if applicable: **Dennis Leland & spouse**

A. Works used to divert the water:

Motor/pump:

- | | |
|---------------------------------|----------------------------------|
| 1) Make <u>submersible unit</u> | 3) Horsepower rating <u>3</u> hp |
| 2) Model No. <u>unknown</u> | 4) Capacity <u>18 gpm</u> |

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

Water is diverted from the creek via a buried PVC pipeline to irrigate turf, landscape and a garden area. Each zone of the turf irrigation system is designed to operate using 18 gpm.

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Exceptions to compliance are: none

The system is in good condition with the point of diversion located as follows: Firesteel Creek: 800 feet W and 525 feet N from the SE corner section 14-103N-60W (SE¼SE¼ - Latitude 43.71836 Longitude -97.99001). The works are capable of diverting and conveying to the place of use 0.04 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

SE¼SE¼ sec 14-T103N-R60W ≈ 0.9 acres

comprising a total of 0.9 acres of land and the license should be issued for 0.04* cfs.

All structures, wells and lands on map Y

Comments or other permit(s) associated with the project: **A pump rate of 0.04 cfs (18 gpm) is allowable under the domestic use definition in SDCL 46-1-6(7) for irrigation of areas not exceeding 1 acre.**



Ron Duvall

Natural Resources Engineer
DENR, Water Rights Program

Date report completed: November 17, 2004

Scale: 1 inch equals 335 feet

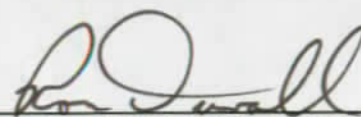
470

Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Completed by:


Ron Duvall, Natural Resources Engineer
Water Rights Program

Diversion point(s) located using GeoExplorer II GPS

Date: Nov 17, 2004

Water Right No. 6370-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 19 2004

6370-3

Dennis Leland
1021 N Gale Rd
Mitchell SD 57301

Dear Mr. Leland:

Enclosed is your Water License No. 6370-3. The license is the final document which completes the process of obtaining a water right. Also included is a map of the area prepared by the engineer who conducted the investigation.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6370-3

(1) Dennis Leland, 1021 N Gale Rd, Mitchell SD 57301 made Application No. 6370-3, November 20, 2002 for a water permit to divert 0.04 cubic feet of water per second from Firesteel Creek, Davison County, South Dakota for irrigation purposes. Permit No. 6370-3, with a priority date of November 20, 2002 was approved March 5, 2003 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 5, 2008 and for the application to beneficial use of water on or before March 5, 2012.

On August 6, 2003, the permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*". The "*Notice*" indicated the water use system was completed on August 4, 2003 and the water applied to beneficial use on August 7, 2003.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Dennis Leland the holder and/or owner of Water Right No. 6370-3 is issued a license, bearing a priority date of November 20, 2002 to appropriate 0.04 cubic feet of water per second from Firesteel Creek to irrigate 0.90 acres.

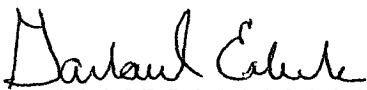
The diversion point is located on Firesteel Creek 800'W and 525'N of the SE corner of Section 14, T103N, R60W (SE ¼ SE ¼).

The acres authorized for irrigation are as follows:

Section 14, T103N, R60W SE ¼ SE ¼ 0.9 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6370-3 including the following qualifications:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
- Diversion of water under Permit No. 6370-3 is subject to the city of Mitchell and Wild Oak Golf Club's existing prior water rights. Diversions by the permit holder may not impair existing prior rights and shall comply with any written orders issued by the Chief Engineer.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 19 2004

date





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



May 16, 2014

6370-3

Dennis Leland
1021 N Gale Rd
Mitchell SD 57301

Dear Mr. Leland:

Thank you for returning your 2013 irrigation questionnaire pertaining to Water Right No. 6370-3. In reviewing your questionnaire, we have concerns over the amount of water you reported.

Water Right No. 6370-3 (copy enclosed) allows you to use up to two acre-feet of water per acre each year. On your irrigation questionnaire, however, you reported substantially more water use. You reported the following information for 2013:

- **acres irrigated** – 0.90 acres;
- **acre feet of water reported** – 10.27 acre feet
- **acre feet of water allowed under water right** – 1.80 acre feet (0.9 acres x 2 acre feet per acre)

We realize that in any given year, water use may be more or less depending on climatic conditions. Many times irrigators do not keep track of the days or hours actually pumped and estimate numbers for the questionnaires in an effort to get them completed and back in on time. While we appreciate you returning the form in a timely manner each year, we need the questionnaire to reflect as accurate information as possible to ensure everyone is using only that amount of water appropriated to them.

The information we receive each year from irrigators across the state is very valuable. The water use data supplied by irrigators is one of the tools we use to help determine if an aquifer or stream may or may not be nearing full appropriation. Our goal is to protect existing water rights and ensure that additional water rights do not impair those existing water users.

If you did indeed apply that much water in 2013, you are exceeding the limits of your water right and need to be cutting back to within authorized use as outlined in your water right. If you estimated your water use and have not kept track of days irrigated and water used, please ensure the information reported each year is as accurate as possible.

As stated before, the information you provide is very valuable to us. If you have any questions, please contact us.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: DENNIS LELAND, 1021 N GALE RD, MITCHELL, SD 57301

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6370-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 6370-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6370-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: MULIJW**

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



**DEPARTMENT of AGRICULTURE
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PIERRE SD 57501-3182
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January 24, 2022

6370-3

Dennis Leland
1021 N Gale Rd
Mitchell SD 57301

Dear Mr. Leland:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 6370-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



6370-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 23, 2023

Dennis Leland
102 N Gale Rd
Mitchell SD 57301

6370-3

Dear Mr. Leland:

I am writing in regard to your Water Right No. 6370-3. The water permit authorizes diversion of water from Firesteel Creek, Davison County, for the irrigation of 0.90 acres within Section 14, T103N, R60W (SE ¼ SE ¼).

In reviewing your 2022 irrigation questionnaire, we have found discrepancies in the amount of water used and have some concerns. Enclosed is a copy of your questionnaire for reference purposes.

Water Right No. 6370-3 allows you to use up to two acre-feet (ac-ft) (24 inches) of water, per acre, per year. On the questionnaire you reported substantially more water use. The following information is what was reported and what is authorized:

- 0.90 acres irrigated
- Reported water use – 4.9 ac-ft of water (approximately 65.5 inches)
- Authorized water use – 1.8 acre-feet (0.90 acres x 2 ac-ft per year)

We realize that water use depends greatly on climactic conditions and may vary year to year. However, it is very rare that irrigators come close to the 24 inches per acre that is authorized. Typical water use is between 8 and 12 inches per acre. Often, irrigators do not keep track of their days or hours actually pumped and estimate numbers for the questionnaires in an effort to get them completed and back in on time. While we appreciate returning the forms in a timely manner each year, we need the forms to reflect accurate information to ensure everyone is limiting their use to the amount of water appropriated to them.

The information we receive each year from irrigators across the state is very valuable. The water use data supplied by irrigators is one of the tools we use to help determine whether an aquifer or stream is nearing full appropriation.

If you do in fact apply as much water as claimed on your questionnaire, you are exceeding the limits of your water license and will have to reduce your discharge to stay within the authorized limit. If you simply estimated your water use, we ask that you please ensure the information reported is as accurate as possible. As stated before, the information you provide to us is very valuable. If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us