

WATER PERMIT NO. 7972-3

Name of Applicant: Nelson Ag Holdings LLC

Address: 44023 306th St, Yankton SD 57078 Phone: 605 661-4154

Amount of Water Claimed: 1.89 cfs Total Acres: 140

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Yankton

Type of Waste Disposal System:

Location: 6 miles northeast of Yankton

PRIORITY Date Received: 2-13-14 Application/License Fee: \$ 1050

Corrected Application Received: 2-20-14 Period of Annual Use: april 1 – October 31

Remarks:

Diversion Point: Center NE 1/4 Sec 5-T94N-R54W

Land to be Irrigated: NE 1/4 Sec 5-T94N-R54W

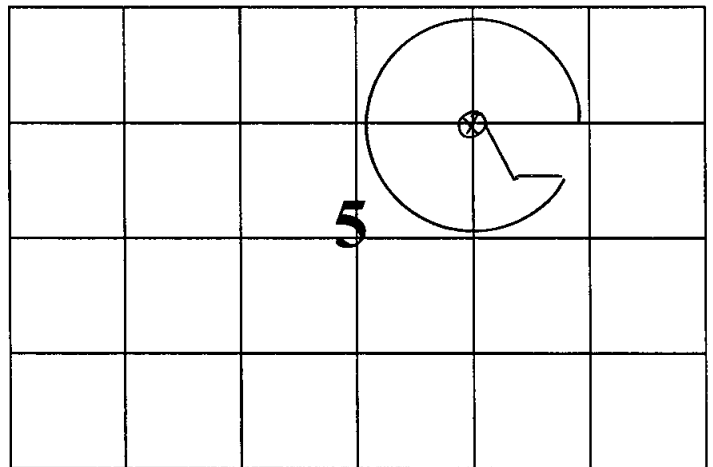
Depth of Well: 160 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:



Reviewed and the Number Assigned on: 2-20-14

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

(office use only)
No. 7972-3 Hydrologic Unit 10170102
Basin Vermillion River
Newspaper Press & Dakotan 605-665-7811
319 Walnut Yankton 57078

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Application For Permit To Appropriate Water For Irrigation

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

(Use predates Mar 7 1955)

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

NELSON AG HOLDINGS LLC

1. Name to Appear on Irrigation Permit

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

Mailing Address 44023 306th St YANKTON SD 57078
(Address) (City) (State) (Zip Code)

Home Phone 605-665-7216 cell 605-661-4154 Email MNFARMS@BYELECTRIC.COM

2. Amount of water claimed 1.89 *CFS or 850 **GPM ***AF Total Acreage 140
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam dugout or annual use if applicable)

3. Source of water supply WELL

4. Location of point of diversion ONE WELL CENTER OF NE 1/4 SEC 5, T94N R54W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County

5. County or counties where water will be used YANKTON

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

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>NE 1/4 NE 1/4 Sec 5 94-54</u>	<u>31</u>	<u>SE 1/4 NE 1/4 Sec 5 94-54</u>	<u>28</u>
<u>NW 1/4 NE 1/4 Sec 5 94-54</u>	<u>31</u>	<u>excluding Jutted add</u>	
<u>SW 1/4 NE 1/4 Sec 5 94-54</u>	<u>38</u>		

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

I, Dan Nelson, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

SOUTH DAKOTA
WATER PERMIT NO. 7972-3

Date of first receipt of application February 13, 2014.

Date of return to applicant for corrections, amendments or changes February 13, 2014.

Date of receipt of corrected application February 20, 2014.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7972-3 to Nelson Ag Holdings LLC, c/o Darrell Nelson, 44023 306th St, Yankton SD 57078 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. 7972-3 appropriates 1.89 cubic feet of water per second from one well to be completed into the Lower James Missouri Aquifer (160 feet deep) located in the center of the NE 1/4 Section 5 for irrigation of 140 acres located in the NE 1/4 Section 5; all in T94N-R54W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is February 13, 2014.
4. The date of approval of Permit No. 7972-3 is May 5, 2014.
5. One-fifth of the construction is to be completed on or before November 5, 2016.
6. All construction is to be completed on or before May 5, 2019.
7. Water is to be put to beneficial use on or before May 5, 2023.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7972-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

MAY 22 2014

date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many 1 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

c) Well Depth 160 Depth to Top of Water Bearing Material 40 Depth to Water from Surface 60

d) Distance to nearest existing domestic well:

On applicant's property _____ On property owned by others 1000'

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System _____

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

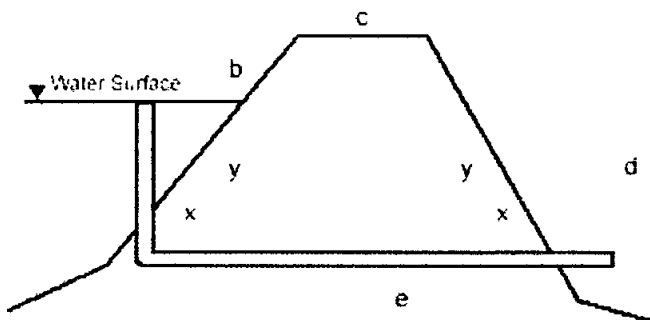
Upstream _____

Downstream _____

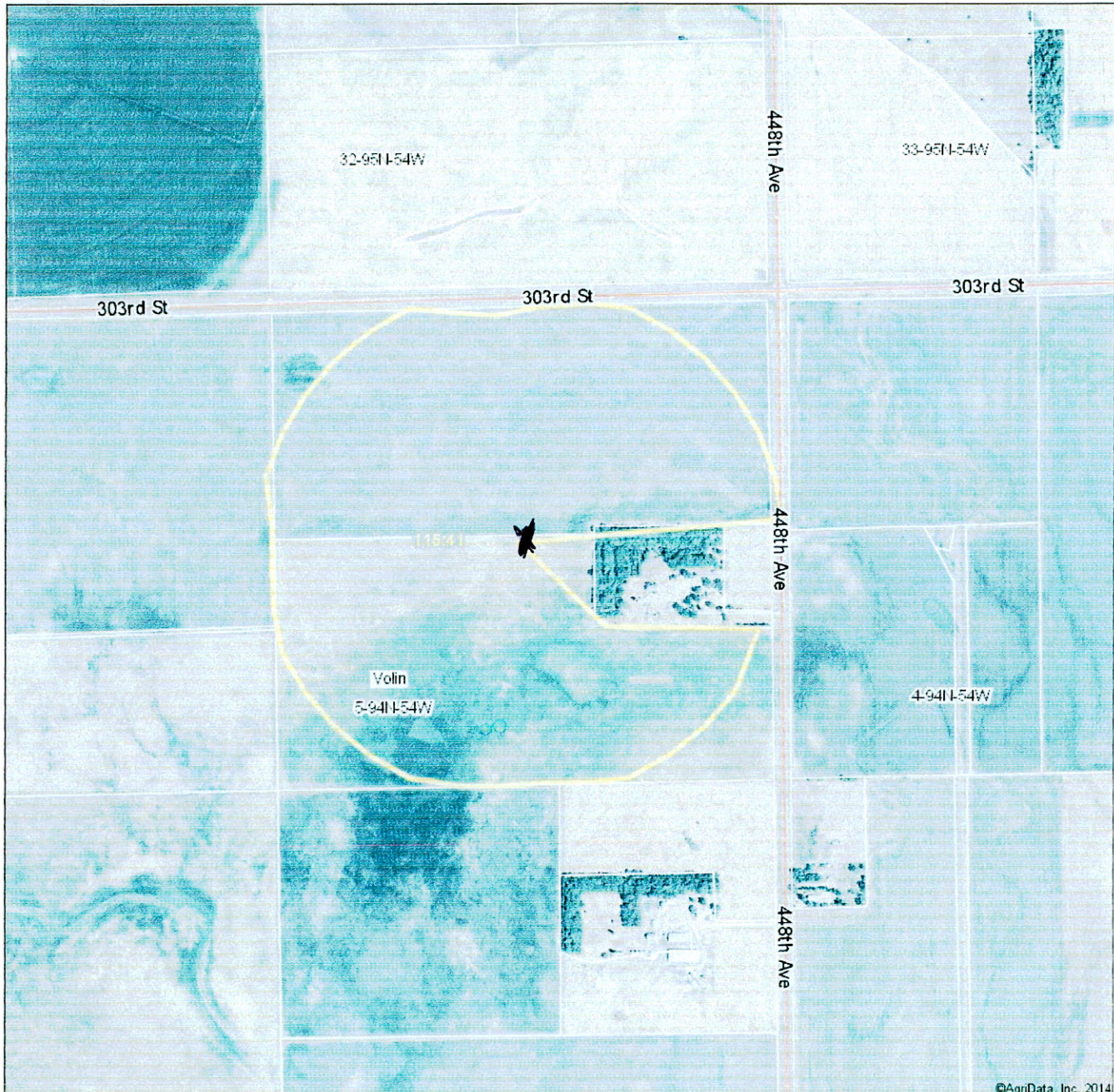
h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Aerial Map



Maps Provided By:
surety
CUSTOMIZED ONLINE MAPPING
© AgriData, Inc. 2013 www.AgriDataInc.com

5-94N-54W
Yankton County
South Dakota

map center: 42° 59' 32.5, 97° 14' 38.23

scale: 9450



2/11/2014

Field borders provided by Farm Service Agency as of 5/21/2008. Aerial photography provided by Aerial Photography Field Office.

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2/11/2014 9:03 AM

Sec 31
T095N
R54W

Sec 32
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Sec 33
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Sec 6
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Sec 4
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Sec 8
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Sec 9
T094N
R54W

W1/4 CORNER

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EXHIBIT "A"

PARCEL 1:

The North Half of the Northeast Quarter ($N1/2NE1/4$) of Section 5, Township 94 North, Range 54 West of the 5th P.M., Yankton County, South Dakota, excepting Lot R-4 and also excepting a strip of land 7 feet wide parallel to and adjacent to the regular public road right of way along the East side thereof.

PARCEL 2:

The South Half of the Northeast Quarter ($S1/2NE1/4$) excepting Tract 2 of Juttelstad's Addition thereof, of Section 5, Township 94 North, Range 54 West of the 5th P.M., Yankton County, South Dakota, and also excepting a strip of land 7 feet wide parallel to and adjacent to the regular public road right of way along the East side thereof.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/13, 20 14

RECEIVED OF Nelson Ag Holdings LLC 44023 306th St Yankton SD 57078

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

Fee for Application for Permit No. <u>7972-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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>7972-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. **06749**

By J. Darrell Nelson
Chief Engineer



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



February 13, 2014

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Nelson Ag Holdings LLC
c/o Darrell Nelson
44023 306th St
Yankton SD 57078

Dear Mr. Nelson:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Yankton County. In order to complete the application, the following is required.

- Enclosed is the aerial photo map submitted with the application. Please mark the proposed well location with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



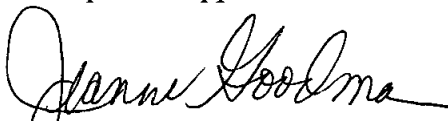
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7972-3, Nelson Ag Holdings LLC**

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. 7972-3, Nelson Ag Holdings LLC, c/o Darrell Nelson, 44023 306th Street, Yankton SD 57078.

The Chief Engineer is recommending APPROVAL of Application No. 7972-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 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. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7972-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
April 16, 2014

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7972-3
NELSON AG HOLDINGS
C/O DARRELL NELSON
APRIL 15, 2014

Water Permit Application No. 7972-3 proposes to appropriate water at a maximum diversion rate of 1.89 cubic feet of water per second (cfs) from one well to be completed into the Lower James Missouri aquifer. The well is expected to be 160 feet deep and is to be located in the approximate center of the NE ¼ Section 5 for irrigation of 140 acres located in the NE ¼ Section 5; all in T94N-R54W in Yankton County.

AQUIFER: Lower James Missouri aquifer (LJM)

AQUIFER CHARACTERISTICS:

The Lower James Missouri aquifer is composed of glacial outwash consisting of fine sand to cobble gravel and can be found under water table or artesian conditions depending on location (Bugliosi, 1986; Lindgren and Hansen, 1990). The aquifer is generally under artesian conditions. The Lower James Missouri aquifer is estimated to underlie 191,700 acres and contains an estimated 2,795,400 acre-feet (ac-ft) of recoverable water in storage (Hedges et. al, 1982). The aquifer extends from Yankton County north into Hutchinson County and southeast into a small portion of Clay County. The aquifer is hydraulically connected to the Choteau, Lower James Missouri: Scotland, Niobrara and the Missouri: Elk Point aquifers, and the James and Missouri Rivers (Bugliosi, 1986; Lindgren and Hansen, 1990). The proposed well site is one-half mile north of the boundary between the Lower James Missouri and Missouri: Elk Point aquifers. The boundary between the aquifers is the point at which the aquifer goes from primarily buried and confined to unconfined (Hedges et. al, 1982). However, the outwash deposit is generally continuous.

A test well log was not submitted with this application. However, existing geologic information is available to evaluate this application. The top of the aquifer material is between 60 and 80 feet below grade and may be up to 140 feet thick (SDGS, 2014; Water Rights, 2014c). The static water level is approximately 50 to 60 feet below grade (Water Rights, 2014c).

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for this applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and effects on existing rights from the aquifer that are pertinent to this application.

WATER AVAILABILITY:

This application proposes to appropriate water from the Lower James Missouri aquifer. Actual water use, if this application is approved, will likely be less than 280 acre-feet annually (ac-ft/yr).

The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.” If the source of the water is older or lower than the Greenhorn Formation and a public water system has applied for a permit, the Board need not consider the recharge/withdrawal issue. In this case, the aquifer is not stratigraphically lower than the Greenhorn Formation and the applicant is not a public water system.

Hydrologic Budget:

Recharge:

Recharge to the Lower James Missouri aquifer occurs due to infiltration of precipitation where the aquifer is at or near land surface, upward leakage from the bedrock aquifers, and inflow from the surrounding glacial aquifers (Bugliosi, 1986). Hedges and others (1985) estimated the recharge rate, based on a regional flow-net analysis of the aquifer to be 1.5 inches per year for the unconfined portion of the aquifer. However, Hedges and others (1985) put the Lower James Missouri aquifer in the “Buried Unconfined” category when using the flow-net analysis. The Lower James Missouri is primarily under confined conditions. That would mean the recharge rate of Hedges and others (1985) is likely higher than the actual recharge rate. However, Hedges’ and others’ (1985) recharge rate is the best information available. Therefore, using this recharge rate and the area of the aquifer, the annual recharge to the Lower James Missouri aquifer is estimated to be 23,963 ac-ft/yr.

Discharge:

Discharge from the Lower James Missouri aquifer occurs due to evapotranspiration in areas where the aquifer is at or near land surface, seepage to the James River, and well withdrawals (Bugliosi, 1986). Currently, there are 129 water rights/permits appropriating and four pending permits to appropriate water from the Lower James Missouri aquifer (Water Rights, 2014b). There are also many well completion reports on file with the SD DENR-Water Rights Program for domestic wells that appear to be completed in the Lower James Missouri aquifer (Water Rights, 2014c). However, the annual withdrawal of water for domestic use is a small fraction of the total withdrawal side of the hydrologic budget.

The amount of water that can be expected to be withdrawn through water rights/permits authorizing water use for non-irrigation purposes at the current appropriation level can be estimated by assuming water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time. The expected average annual withdrawal by non-irrigation appropriations from the Lower James Missouri aquifer is estimated to be 1,323 ac-ft/yr (Water Rights, 2014b).

Table 1 shows the irrigation withdrawal from the Lower James Missouri aquifer. The 1979-2012 average annual irrigation withdrawal from the Lower James Missouri aquifer is 2,528 ac-ft/yr (Water Rights, 1980-2013). It should be noted that there has been a constant build out of water rights/permits over the period of record.

Hydrologic Budget:

Using Hedges and others (1985) recharge estimate there is approximately 20,112 ac-ft/yr of recharge in excess of expected average annual withdrawal from the Lower James Missouri aquifer. Even the maximum reported annual use by non-irrigation appropriations is much less than the estimated average annual recharge. Therefore, there is a reasonable probability that there is unappropriated water available for this proposed appropriation.

Year	Permits Reporting	Appropriation (ac-ft/yr)	Pumpage Reported (ac-ft/yr)
2012	93	28626.7	13058.45
2011	89	27367.1	4147.47
2010	85	25731.1	665.37
2009	84	25451.1	1463.27
2008	79	23891.7	4494.03
2007	56	17477.7	3425.91
2006	50	15627.1	3630.92
2005	48	14749.1	2866.63
2004	47	14525.1	2886.65
2003	53	17373.1	2843.15
2002	53	17108.1	4061.52
2001	53	17208.1	2940.09
2000	51	17048.1	3751.08
1999	50	15992.1	2102.15
1998	53	16915.1	2787.03
1997	50	17072.1	2320
1996	49	17240.1	2102.99
1995	41	15088.1	1483.32
1994	45	17094.1	1918.17
1993	45	16241.9	230.44
1992	45	16791.9	1159
1991	42	15497.9	2599
1990	35	12673.1	2928.1
1989	31	10909.1	2144.8
1988	31	11769.5	2744.9
1987	30	11613.5	1041.6
1986	30	11613.5	989.6
1985	27	10033.1	1483
1984	28	12283.1	1360
1983	27	9883.1	1306.54
1982	23	9440.1	1301.25
1981	27	13053	1835
1980	23	11561	1299
1979	22	11265.0	588
Max	93	28626.7	13058.5
Min	22	9440.1	230.4
Avg.	46.9	16065.1	2528.2

Table 1 - Irrigation water use from the Lower James Missouri aquifer (Water Rights, 1980-2013)

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program monitors 31 observation wells completed into the Lower James Missouri aquifer with 17 in Yankton County (Water Rights, 2014a). Water levels in the observation wells show response to climatic conditions. The water levels rise (recharge) during wet years and gradually decline during dry years. However, the hydrographs for 13 of the observation wells have a declining trendline across the period of record (see Figure 1).

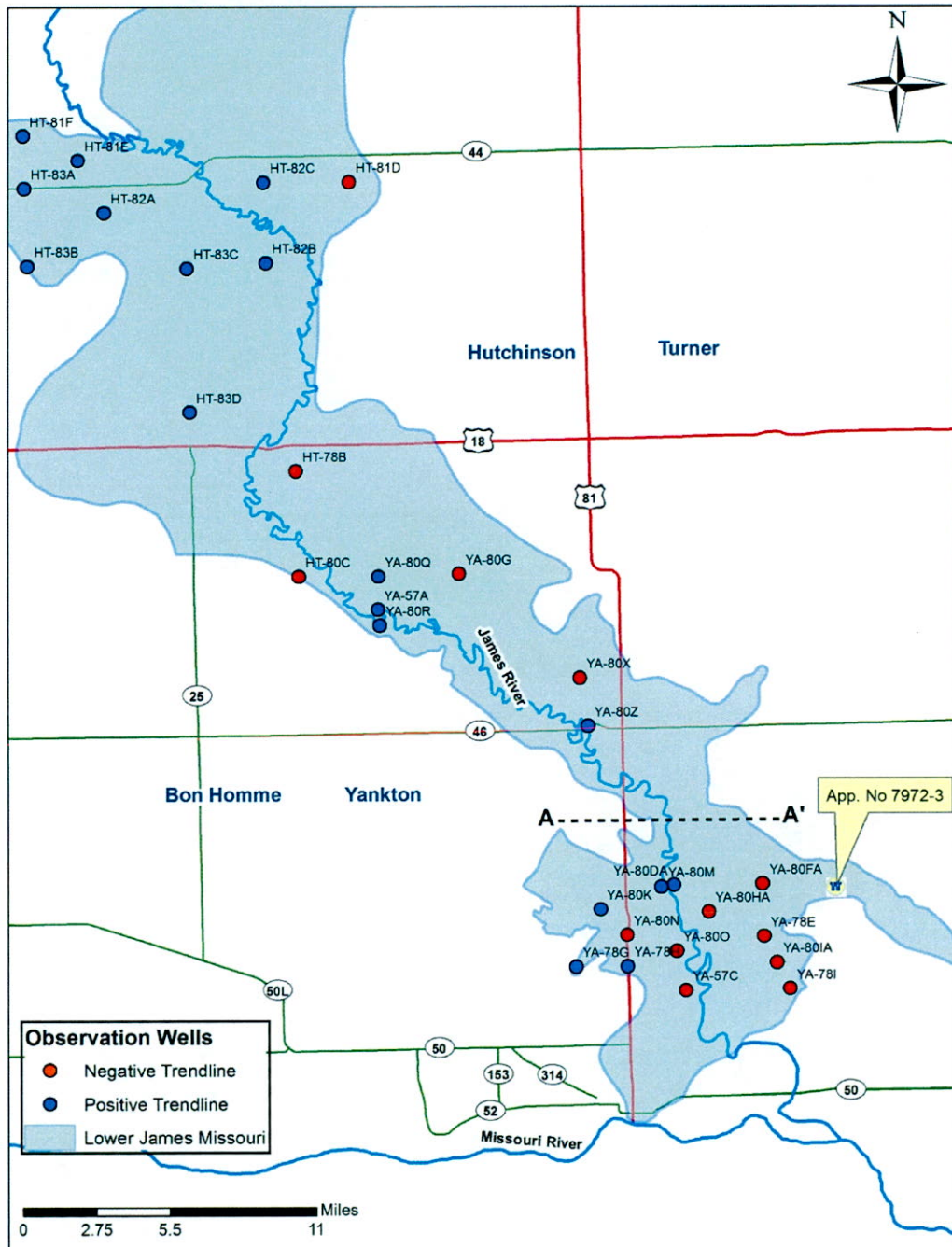


Figure 1- Map of the Lower James Missouri aquifer observation wells (Water Rights, 2014a)

To explain the declining trendline in the observation wells, the wells need to be broken into two groups: observation wells north of the line A-A' and observation wells south of A-A'. All of the

observation wells north of line A-A' with a negative trendline have had recent development nearby, and the water level has yet to equilibrate. Also, the temporal effects of pumping are skewing the trendline downward. Observation wells HT-81D and HT-82C, in the northeast corner of the aquifer, are very good examples of this.

Observation wells HT-81D and HT-82C are 3.2 miles apart. Observation well HT-81D has a decreasing trendline and HT -82C has an increasing trendline (see Figure 2). There are seven water rights/permits authorized to withdraw water from the Lower James Missouri aquifer within one mile of HT-81D. The nearest water rights/permits authorized to withdraw water from the Lower James Missouri aquifer to HT-82C are more than two miles away. Figure 2 shows the hydrographs for the observation wells converted into feet above mean sea level (fmsl).

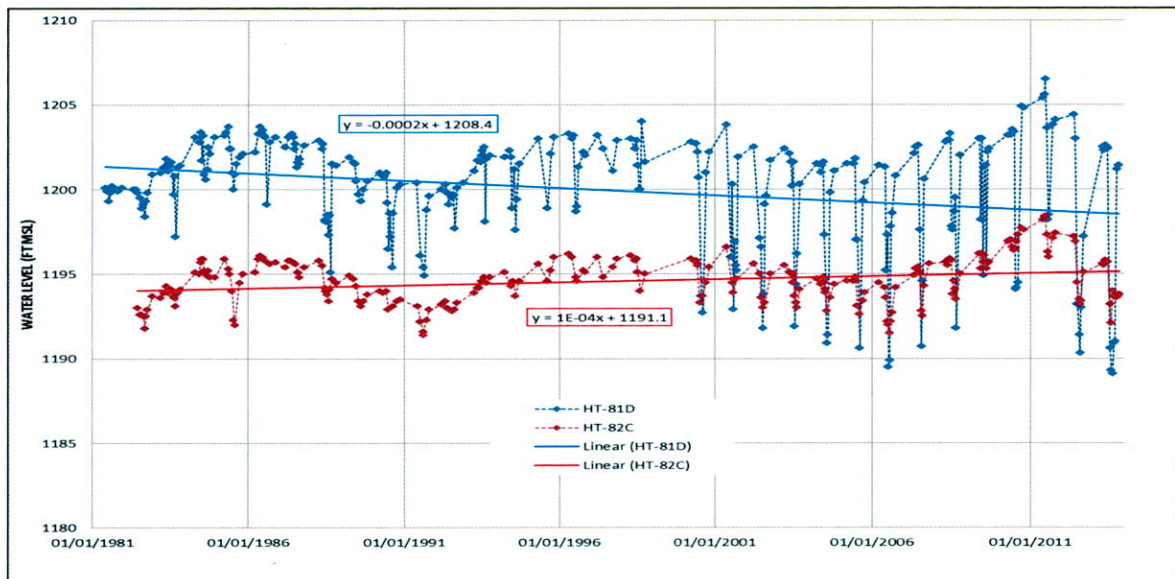


Figure 2- Hydrographs for observation wells HT-81D and HT-82C in fmsl (Stonesifer, 2014)

Overlays of the hydrographs for these wells show the only difference in water levels is from the effects of local pumping on HT-81D (see Figure 3). Therefore, the decreasing trendline of these wells is attributed to the localized pumping and does not indicate overall annual water levels in the aquifer are decreasing. North of line A-A' in Figure 1 the potentiometric surface of the aquifer has not significantly changed over the period of record showing no change in the stress on the aquifer.

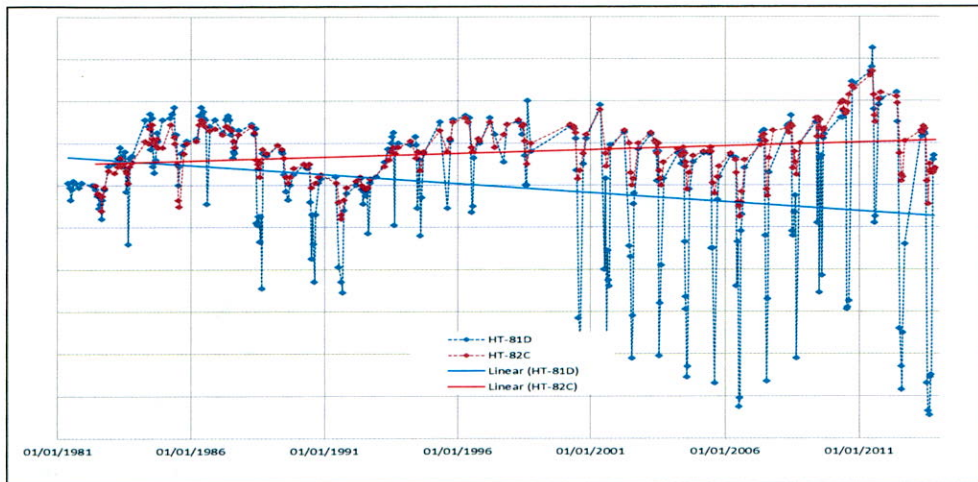


Figure 3- Overlay of observation wells HT-81D and HT-82C (Stonesifer, 2014)

The Lower James Missouri aquifer south of line A-A' from Figure 1 has a significant hydraulic connection to the Missouri: Elk Point aquifer. South of line A-A' the potentiometric surface of the Lower James Missouri aquifer follows the gradual decline of the potentiometric surface of the Missouri: Elk Point aquifer.

The Missouri: Elk Point aquifer shares a significant hydraulic connection to the Missouri River. As the Missouri River has entrenched, the water level in the aquifer has declined. Figure 4 shows the stage trend curves of the Missouri River at Yankton from 1931 to 2007 (Cowman, 2014). Since the Gavins Point Dam was closed off, the Missouri River has entrenched approximately 10 feet. Therefore, the declining water levels in the observation wells completed into the Lower James Missouri aquifer south of line A-A' in Figure 1 of this report are attributed to the entrenchment of the Missouri River and are not due to withdrawals exceeding recharge to the aquifer.

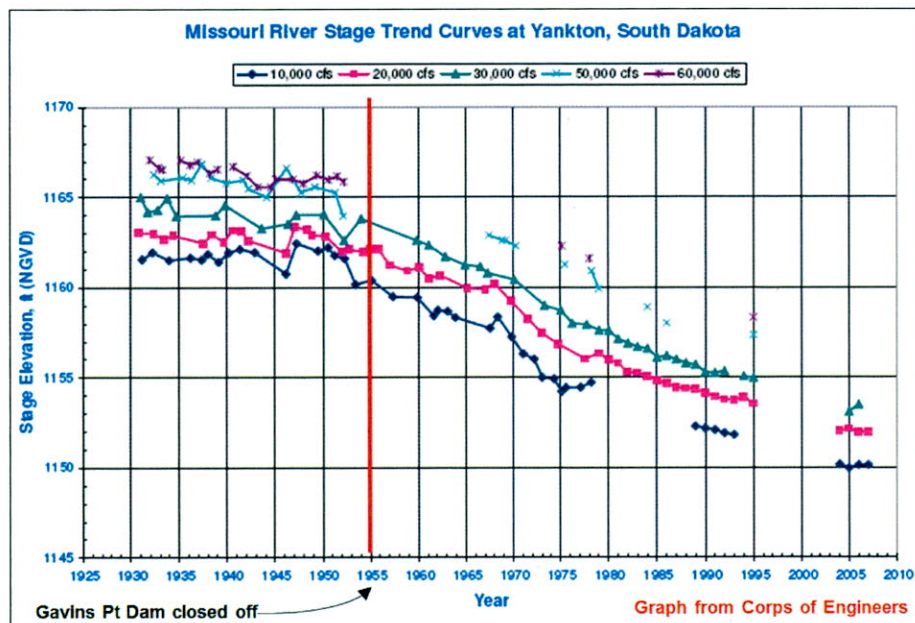


Figure 4- Missouri River Stage Trend Curves at Yankton, South Dakota (Cowman, 2014)

In addition to the hydraulic connection between the southern portion of the Lower James Missouri aquifer and the Missouri: Elk Point aquifer, the cumulative annual precipitation is below normal by several inches. From January 2012 through December 2013, the weather station at the Yankton airport reported 43.7 inches of precipitation (NOAA, 2014). The normal for that area for two years is 50.2 inches of precipitation (SDSU, 2014).

The nearest observation well to the proposed well site is YA-80FA. The observation well is approximately 2.8 miles west of the proposed well site. The observation well is south of line A-A' in Figure 1, and shows a declining water level trendline. The hydrograph shows the cyclic nature of climatic effects on the water level as well as the general decline caused by the hydraulic connection to the Missouri River of the southern portion of the Lower James Missouri aquifer.

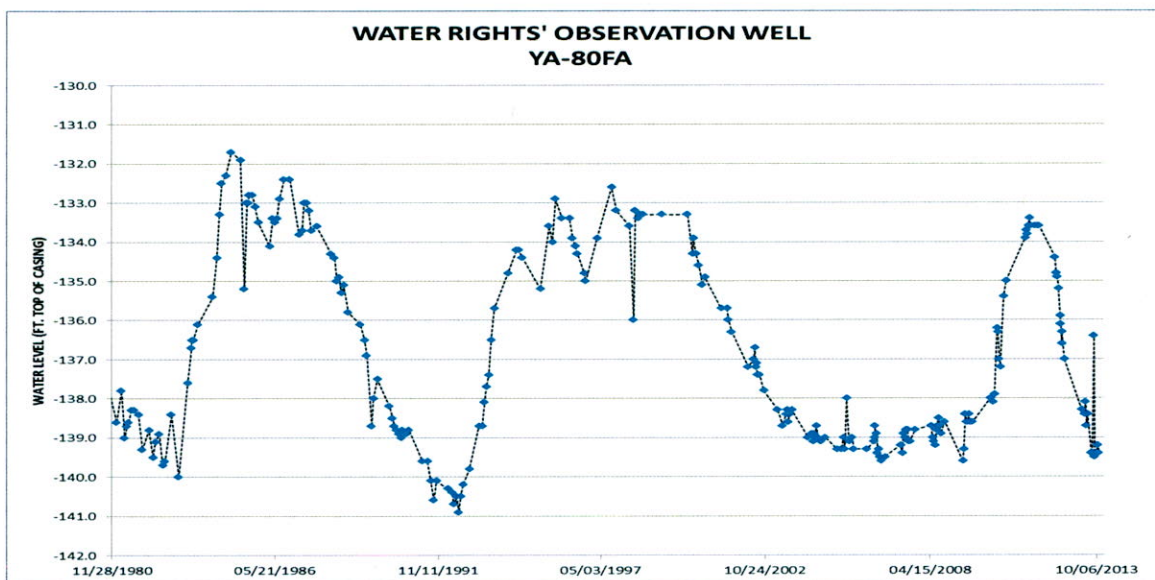


Figure 5- Hydrograph of DENR-Water Rights' observation well YA-80FA (Water Rights, 2014a)

EXISTING WATER RIGHTS:

The proposed well site is within one-half mile of the boundary between the Missouri: Elk Point and the Lower James Missouri aquifers as defined by Hedges and others (1982). Due to the continuous nature of the outwash deposit that constitutes the Missouri: Elk Point and Lower James Missouri aquifers in this area, potential impacts from pumping the well proposed application needs to be considered for both aquifers.

There are three water rights/permits that authorize wells to be completed into the Lower James Missouri aquifer and one water right that authorize a well to be completed into the Missouri: Elk Point aquifer within approximately one mile of the proposed well site (Water Rights, 2014b). There are a number of domestic wells on file with the SD DENR-Water Rights Program within approximately one mile of the proposed well site. The nearest well authorized by a water right/permit is approximately 0.7 miles northwest, and the nearest domestic well on file is approximately one-quarter mile west of the proposed well site. (Water Rights, 2014b and 2014c). The hydrograph of the nearest observation well (see Figure 5) shows very little effect of

pumping on the water level. The observation well is within one mile of two water rights/permits authorizing wells and several domestic wells completed into the Lower James Missouri aquifer within one mile.

Since the Lower James Missouri is under artesian conditions at the proposed well site, drawdown may extend some distance from the pumped well. It may be possible that drawdown from this proposed appropriation may be measurable in the nearby domestic and appropriative right wells. However, the impact of drawdown is not expected to be significant due to the distance between wells and the proliferation of high capacity wells in the area.

SDCL 46-6-6.1 does not protect artesian head pressure as a means of delivery and the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. To balance interests between irrigation use and delivery of water by artesian pressure, the Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs”

Depending on the specific characteristics of the Lower James Missouri aquifer at the well site proposed by this application, some existing well owners may need to lower their pumps to accommodate for deeper water levels. However, when considering the statute (SDCL 46-6-6.1) and rule (ARSD 74:02:04:20(7)), well interference from the proposed appropriation is not likely to cause a significant impact. Therefore, there is a reasonable probability that any interference will not be adverse.

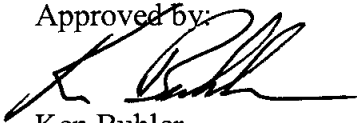
CONCLUSIONS:

1. Water Permit Application No. 7972-3 proposes to appropriate water at a maximum diversion rate of 1.89 cfs from the Lower James Missouri aquifer for the irrigation of 140 acres.
2. There is a reasonable probability that unappropriated water is available for this proposed appropriation based on a hydrologic budget.
3. Several of the observation wells completed into the Lower James Missouri aquifer show a declining water level trendline. Recent development or hydraulic connection to the Missouri River explains the declining trendline in the observation wells. Therefore, based on observation well data recharge is not being exceeded by withdrawals.
4. There is a reasonable probability that the diversion rate requested by this application can be made without adversely impacting existing water rights/permits and domestic users.



Adam Mathiowetz
SD DENR-Water Rights Program

Approved by:



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

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Water Rights. 2014a. Observation Well Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2014b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2014c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

RECEIVED

APR 30 2014

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Application No. 7972-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 25th DAY OF April 2014
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$25.82 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND 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.

PUBLISHED ON: 4/25/2014

FILED ON: 4/25/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 25th DAY OF April

2014

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

Notice is given that Nelson Ag Holdings LLC, c/o Darrell Nelson, 44023 306th St, Yankton SD 57078 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from one well to be completed into the Lower James Missouri Aquifer (160 feet deep) located in the center of the NE 1/4 Section 5 for irrigation of 140 acres located in the NE 1/4 Section 5; all in T94N-R54W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7972-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 May 5, 2014.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$25.82.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



April 16, 2014

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7972-3 to Appropriate Water. Please publish the notice once on April 25, 2014. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Nelson Ag Holdings LLC, c/o Darrell Nelson, 44023 306th St, Yankton SD 57078. (Ph # 605-665-7216).

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

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



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

April 16, 2014

Nelson Ag Holdings LLC
Darrell Nelson
44023 306th St
Yankton SD 57078

Dear Mr. Nelson:

Water Permit Application No. 7972-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
enclosures

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

Instruction to Newspaper - Publish the Notice on April 25, 2014. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7972-3 to Appropriate Water

Notice is given that Nelson Ag Holdings LLC, c/o Darrell Nelson, 44023 306th St, Yankton SD 57078 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from one well to be completed into the Lower James Missouri Aquifer (160 feet deep) located in the center of the NE 1/4 Section 5 for irrigation of 140 acres located in the NE 1/4 Section 5; all in T94N-R54W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7972-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 May 5, 2014.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of _____.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182
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MAY 22 2014

Nelson Ag Holdings
Darrell Nelson
44023 306th St
Yankton SD 57078

Dear Mr. Nelson:

Enclosed is Water Permit No. 7972-3 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,

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

enclosures



7972-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 16, 2015

NOTICE

TO: NELSON FAMILY PARTNERSHIP, DARRELL NELSON, 44023 306TH ST, YANKTON, SD 57078

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program



SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** 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) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

7972-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 27, 2015

Darrell Nelson
Nelson Family Partnership
44023 306th St
Yankton SD 57078

RE: Irrigation Questionnaires for Permit or Right Nos. 1661-3, 2600A-3, 3369B-3, 4251-3, 4443-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3

Dear Mr. Nelson:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for the above listed Water Permits and Water Rights. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



7972-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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January 15, 2016

NOTICE

TO: NELSON FAMILY PARTNERSHIP, DARRELL NELSON, 44023 306TH ST, YANKTON, SD 57078

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

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

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



7972-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 26, 2016

Darrell Nelson
44023 306th St
Yankton SD 57078

RE: Water Right or Permit Nos. 1661-3, 2600A-3, 3369B-3, 4251-3, 4443-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3 & 7972-3

Dear Mr. Nelson:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires for the above listed water permits and water rights. You may disregard the January 15, 2016, "Notice" concerning reporting requirements. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

With respect to the ownership changes needed, I have enclosed partially completed transfer forms for use in filing the ownership changes. Copies of the corresponding water rights and permit are also included. Please review the forms and make any necessary corrections. Upon completion, the forms need to be signed and returned to our office with a required filing fee of \$50.00 each (total of \$300). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

Enclosures: Transfer forms & copies of Water Right Nos. 3369B-3, 4251-3, 4443-3, 2600A-3, 5414-3 and Water Permit No. 7199-3.



7982-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: NELSON FAMILY PARTNERSHIP, DARRELL NELSON, 44023 306TH ST, YANKTON, SD 57078

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 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) 2600A-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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://denr.sd.gov/iq> using this password: VTCLLD**

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 10, 2020

Darrell Nelson
Nelson Family Partnership
44023 306th St
Yankton SD 57078

RE: Water Right/Permit Nos. 1661-3, 2600A-3, 3369B-3, 4251-3, 4443-3, 4551-3, 5414-3, 6178-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3

Dear Mr. Nelson:

I am writing to acknowledge receipt of your 2019 irrigation questionnaires.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for the above listed water rights and permits. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7972-3**

I have this day, April 7, 2020, made a thorough examination of the water use system constructed by Nelson Ag Holdings LLC, 44023 306th St., Yankton, SD 57078, holder of Permit No. 7972-3, bearing the priority of February 13, 2014 authorizing the diversion of 1.89 cu. ft. per second of the waters of groundwater (Lower James Missouri Aquifer) for the irrigation of 140 acres located in Yankton County.

Inspection contact: Darrell Nelson

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Hammond-Wetmore Drilling
- 2) No. of Wells: 1
- 3) Depth: 151 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 16 inches
- 2) Length: 111 feet
- 3) Type: PVC

Screen:

- 1) Diameter: 16 inches
- 2) Length: 40 feet
- 3) Type: PVC
- 4) Static water level: 63 feet

Pump:

- 1) Make: Hydroflo
- 2) Model: 7HH-2
- 3) Capacity: 750 GPM

Motor:

- 1) Make: Grundfos
- 2) Model No.: Unknown
- 3) Horsepower rating: 50 hp

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

- 1) Type: Galvanized
- 2) Size: 8 inches
- 3) Length: 15 feet

C. Works used to apply water to beneficial use:

Center Pivot

- 1) Make: Zimmatic
- 2) Overall length: 1,260 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 750 GPM

Chemigation Equipment:

- 1) Does chemigate: Yes
- 2) Main line check valve: Yes
- 3) Inspection port/air relief: Yes
- 4) Low pressure drain: Yes
- 5) Discharge is 20' from source: Needs Hose
- 6) Interlock type: Electrical
- 7) Injection pump: Positive Displacement
- 8) Injection check valve: Yes
- 9) Injection line check valve or positive displacement pump: Yes

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The systems are in good condition with the point(s) of diversion located as follows:
The well is 1,320 feet west and 1,330 feet south of the northeast corner of Section 5-T94N-R54W (Latitude 42.992420, Longitude -97.244560, SW1/4NE1/4).
2. The works are capable of diverting and conveying to the place of use 1.67 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: All in Section 5-T94N-R54W

<u>NW1/4NE1/4</u>	<u>32 acres</u>
<u>NE1/4NE1/4</u>	<u>29 acres</u>
<u>SW1/4NE1/4</u>	<u>34 acres</u>
<u>SE1/4NE1/4</u>	<u>21 acres</u>

comprising a total of 116 acres of land and the license should be issued for 1.67 cfs.

3. All structures, wells and lands on map: Yes

F. Comments or other permit(s) associated with the project: I visited with Mr. Nelson about keeping a hose at the site to make sure discharges from the chemigation system are at least twenty feet from the well.

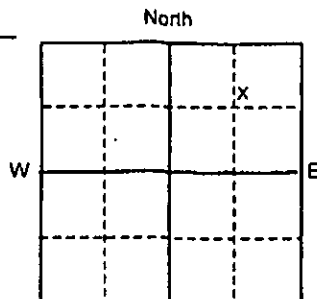
Keith DeJong

Keith DeJong
Water Rights Inspector
DENR, Water Rights Program

Date report completed: April 20, 2020

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE ¼ NE ¼ Sec 8 Twp 94N Rg 54WCounty YANKTONPlease mark well
location with an "X"

Well Completion Date

May 20, 2014

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,300.0 ft. from DOMESTIC WELL (identify source)

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well
METHOD OF DRILLING:
REVERSE ROTARY

CASING DATA:

☐ Steel ☒ Plastic ☐ Other
 If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16.00 IN	0.0 FT	111.0 FT	22.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
BENTONITE	50	9.5 Lb/gal	0.0 Ft	100.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
TREMI METHOD

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 16.00 Inches Length 40.0 Feet
Material PVCSlot Size .050 Set From 111.0 Feet to 151.0 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____
☒ No, Why Not? _____
 Lab to which water quality sample sent for analysis _____
Well Owner: DARRELL NELSON

Business Name: _____

Address: 44023 306TH STCity, State, Zip: YANKTON SD 57078

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP SOIL	0	2
GLACIAL TILL - BROWN	2	24
MEDIUM SAND	24	39
CLAY - BROWN TO BLUE	39	65
GRAVEL W/ ROCKS	65	94
SAND - MED TO FINE	94	115
GRAVEL & COAL	115	122
SAND & GRAVEL	122	151

STATIC WATER LEVEL 63.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other

Pumping Level Below Land Surface

83.0 Ft. After 3.0 Hrs. pumped 1,100.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 666 and this report is true and accurate.Drilling firm: HAMMOND-WETMORE DRILLING, LLC

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

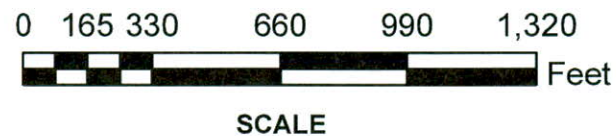
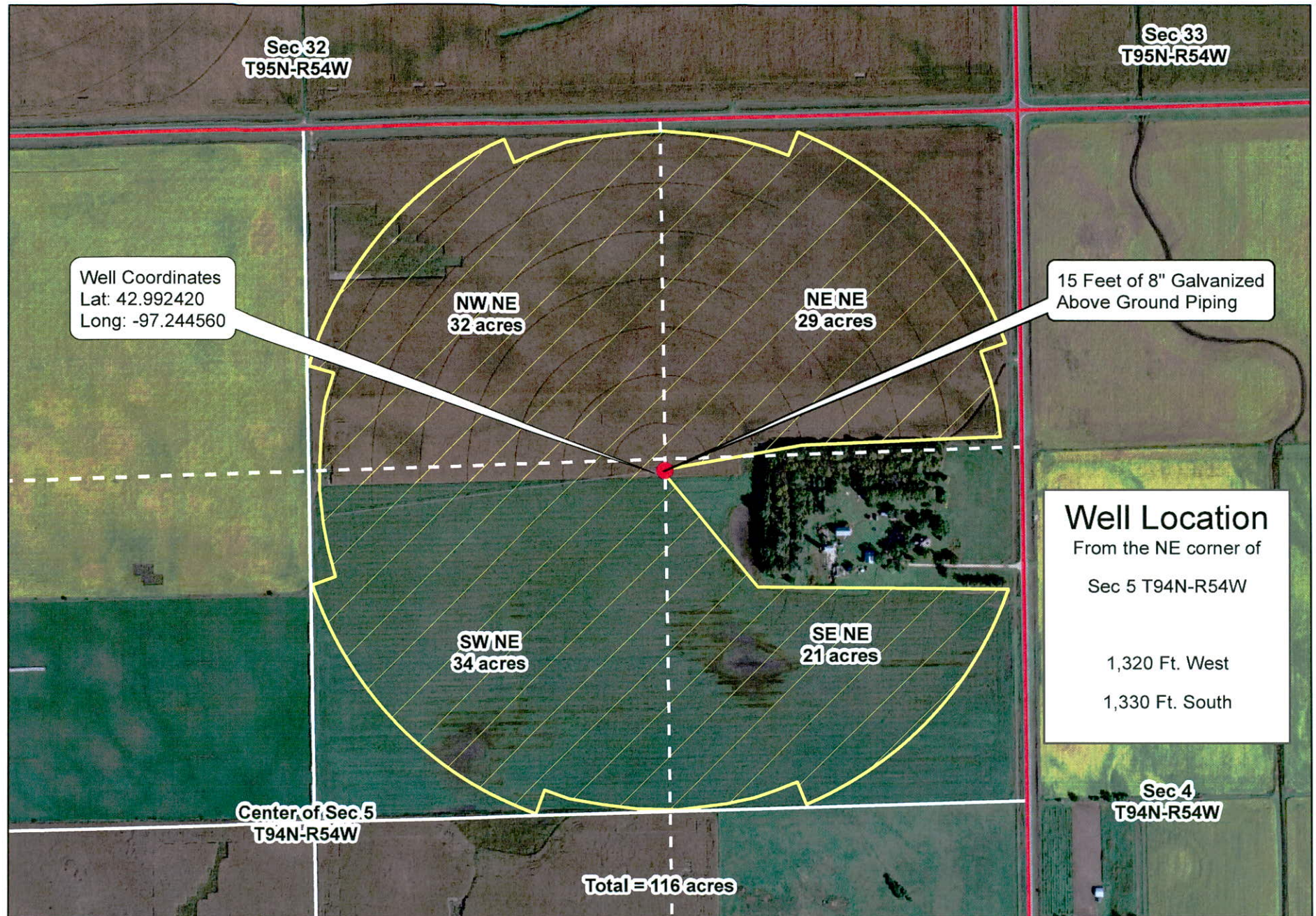
RECEIVED

Date: 9/24/14

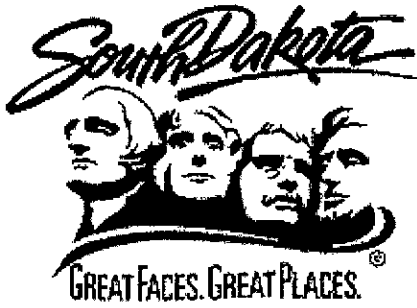
SEP 26 2014

WATER RIGHTS
PROGRAM

Water Right No. 7972-3



Keith DeJong
Keith DeJong, PE
Staff Engineer
April 20, 2020



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

MAY 26 2020

7972-3

Darrell Nelson
Nelson Ag Holdings LLC
44023 306th St
Yankton SD 57078

Dear Mr. Nelson:

Enclosed is Water License No. 7972-3. 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.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

The staff engineer noted in his report your chemigation equipment did not have a hose on site for discharges. Please ensure that the low pressure drain outlets at least 20 feet from the water source when you are applying chemicals or fertilizer through the system.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7972-3**

(1) Nelson Ag Holdings, LLC, 44023 306th St, Yankton SD 57078 made Application No. 7972-3, February 13, 2014 for a water permit to divert 1.89 cubic feet of water per second from ground water, one well (Lower James Missouri Aquifer), Yankton County, South Dakota for irrigation purposes. Permit No. 7972-3, with a priority date of February 13, 2014 was approved May 5, 2014 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 5, 2019 and for the application to beneficial use of water on or before May 5, 2023.

(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 divert 1.67 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,320'W and 1,330'S of the NE corner of Section 5, T94N, R54W (approximate center of the NE ¼)
Latitude 42.992420, Longitude -97.244560

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

T94N, R54W Section 5	NW ¼ NE ¼	32 acres
	NE ¼ NE ¼	29 acres
	SW ¼ NE ¼	34 acres
	SE ¼ NE ¼	21 acres
Total		116 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Nelson Ag Holdings, LLC, 44023 306th St, Yankton SD 57078 the holder and/or owner of Water Right No. 7972-3 is issued a license to appropriate water, the right to use 1.67 cubic feet of water per second from ground water, one well (Lower James Missouri Aquifer) with a priority date of February 13, 2014 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7972-3 and subject to the following qualifications:

- The well approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by Permit No. 7972-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was drilled in May, 2014 by Hammond-Wetmore Drilling LLC. A copy of the well completion report is on file with the Water Rights Program.*

continued

- This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.

MAY 26 2020

Eric Gronlund

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

date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 14, 2025

NOTICE

TO: DARRELL & DENNIS NELSON, 44023 306TH ST, YANKTON, SD 57078 6008

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaires

Our records indicate your 2024 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2600A-3, 4551-3, 5414-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, 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) 2600A-3, 4551-3, 5414-3, 6704-3, 6756-3 & 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1661-3, 3369B-3, 4251-3 & 4443-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: URZTFB**

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
and NATURAL RESOURCES**

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

January 17, 2025

1661-3, 2600A-3, 3369B-3, 4251-3,
4443-3, 4551-3, 5414-3, 6704-3,
6756-3, 7138-3, 7199-3,
7544-3, 7972-3 & 8348-3

Nelson Farms Inc
44023 306th St
Yankton SD 57078

Dear Mr. Nelson:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 1661-3, 2600A-3, 3369B-3, 4251-3, 4443-3, 4551-3, 5414-3, 6704-3, 6756-3, 7138-3, 7199-3, 7544-3, 7972-3 & 8348-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

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