

STATE OF MINNESOTA  
BOARD OF ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE  
AND INTERIOR DESIGN

037E  
JUL 09 2010

In the Matter of  
James Lee Nelson,  
PROFESSIONAL ENGINEER  
License Number 41162

SETTLEMENT AGREEMENT  
AND  
CEASE AND DESIST ORDER

Board File No. 2010-0012

TO: Mr. James Lee Nelson  
Nelson Engineering Construction  
2610 Dakota Avenue  
South Sioux City, Nebraska 68776

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2008) and Minnesota Statutes section 326.111 (2008) to review complaints concerning the unauthorized practice of architecture, professional engineering, land surveying, landscape architecture, geoscience and interior design, and to take action pursuant to those statutes whenever appropriate.

The Board received a complaint concerning James Lee Nelson ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Settlement Agreement and Cease and Desist Order.

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between Respondent and the Committee as

follows:

1. Jurisdiction. Pursuant to Minnesota Statutes section 326.111, subdivision 3 (2008), the Board is authorized to issue an order requiring an unlicensed person to cease and desist from practicing architecture in the State of Minnesota. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Settlement Agreement and Cease and Desist Order.
2. Facts. This Settlement Agreement is based upon the following facts:
  - a. Respondent is not currently and never has been licensed by the Board as an architect in the State of Minnesota.
  - b. Respondent was first licensed to practice professional engineering in the State of Minnesota on June 11, 2001.
  - c. Respondent's professional engineering license is current, with an expiration date of June 30, 2010.
  - d. In a letter dated October 20, 2009, Respondent states: "You have the drawings that I signed and certified for the Frito Lay warehouse in Mankato. Copies of these were sent to me in your letter of September 17, 2009. I have enclosed a copy for your further information. Please note on the cover sheet the sheets covered by my seal." A true and correct copy of October 20, 2009 letter is attached as Exhibit A. A true and correct copy of the drawings sent with the October 20, 2009 letter is attached as Exhibit B.
  - e. Respondent prepared, signed and certified the drawings identified as A1.0 and A1.1 for the Fritolay Warehouse, Mankato, Minnesota project, dated

August 10, 2009. A true and correct copy of the drawings identified as A1.0 and A1.1 for the Fritolay Warehouse, Mankato, Minnesota project, dated August 10, 2009 is attached as Exhibit B.

f. Respondent's preparation of the drawings identified as A1.0 and A1.1 for the Fritolay Warehouse Mankato, Minnesota project, dated August 10, 2009, constitute the unlicensed practice of architecture.

g. In a letter dated September 22, 2009, Respondent states: "3. When the City of Mankato refused to honor my architectural engineering license we contracted with Brunton Architects of 300 St Andrews Drive, Suite 210, Mankato, MN 56001 to conform the plans to local specs. Their direction is exactly that—do what is necessary to conform the plans to local rules." and "6. When the City of Mankato refused to honor my license we hired the firm of Brunton Architects of Mankato. The owner is Cory Brunton and I do not have his license number. I can only assume that he is licensed." A true and correct copy of the letter dated September 22, 2009 is attached as Exhibit C.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1 and 2 (2008) and are sufficient grounds for the action specified below.

4. Enforcement Action. Respondent and the Committee agree that the Board may issue an Order in accordance with the following terms:

a. Cease and Desist Order. Respondent shall cease and desist from practicing architecture in Minnesota, and from further violations of Minnesota Statutes

sections 326.02 through 326.15 (2008) until such time as he becomes licensed as an architect in the State of Minnesota.

b. Civil Penalty. Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Board. Respondent shall submit a cashier's check or money order for One Thousand Dollars (\$1,000.00) to the Board within sixty (60) days of the date of the Board Order approving this Settlement Agreement and Cease and Desist Order.

5. Judicial Relief. If the Respondent violates paragraph 4 above, a district court of this state may, upon application of the Committee, enter an Order enjoining Respondent from such unauthorized practices, ordering Respondent to show cause why the required civil penalty has not been paid, and granting the Board its costs, reasonable attorney fees, and other appropriate relief.

6. Waiver of Respondent's Rights. For the purpose of this Settlement Agreement, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent and to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2008). Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order requiring the action specified in paragraph 4 herein. Respondent waives the right to any judicial review of this Settlement Agreement and Cease and Desist Order or the attached Board Order by

appeal, writ or certiorari, or otherwise.

7. Collection. In accordance with Minnesota Statutes section 16D.17 (2008), in the event this order becomes final and Respondent does not comply with the condition in paragraph 4(b) above, Respondent agrees that the Board may file and enforce the unpaid portion of the civil penalty as a judgment without further notice or additional proceedings.

8. Board Rejection of Settlement Agreement and Cease and Desist Order. In the event the Board in its discretion does not approve this Settlement Agreement and Cease and Desist Order, this Settlement Agreement shall be null and void and shall not be used for any purpose by either party hereto. If this Settlement Agreement is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2008), Respondent agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Settlement Agreement and the record.

9. Record. The Settlement Agreement, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Settlement Agreement.

10. Data Classification. Under the Minnesota Government Data Practices Act, this Settlement Agreement and Cease and Desist Order is classified as public data upon its issuance by the Board, Minnesota Statutes section 13.41, subdivision 5 (2008). All documents in the record shall maintain the data classification to which they are entitled

under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2008). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Settlement Agreement and Cease and Desist Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practice of architecture.

11. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Settlement Agreement and which is not directly related to the specific facts and circumstances set forth herein.

12. Entire Agreement. Respondent has read, understood, and agrees to this Settlement Agreement and Cease and Desist Order and is freely and voluntarily signing it. The Settlement Agreement and Cease and Desist Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

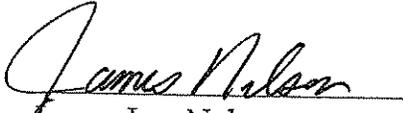
13. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

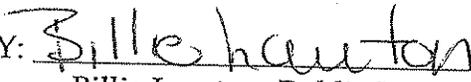
14. Service. If approved by the Board, a copy of this Settlement Agreement and Cease and Desist Order shall be served personally or by first class mail on Respondent. The Settlement Agreement shall be effective and deemed issued when it is

signed by the Chair of the Board.

RESPONDENT

COMPLAINT COMMITTEE

  
James Lee Nelson

BY:   
Billie Lawton, Public Member  
Complaint Committee Chair

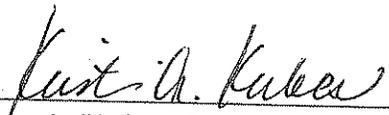
Dated: July 7, 2010, 2010

Dated: 7-21, 2010

**ORDER**

Upon consideration of the foregoing Settlement Agreement and based upon all the files, records and proceedings herein, all terms of the Settlement Agreement are approved and hereby issued as an Order of this Board on this the 22 day of July, 2010.

MINNESOTA BOARD OF  
ARCHITECTURE, ENGINEERING,  
LAND SURVEYING, LANDSCAPE  
ARCHITECTURE, GEOSCIENCE AND  
INTERIOR DESIGN

By:   
Kristine A. Kubes, J. D.  
Board Chair

**NELSON** ENGINEERING  
CONSTRUCTION

OCT 23 2009

P.O. Box 86  
South Sioux City, Nebraska 68776  
(402) 494-6927  
(402) 494-6068 Fax

October 20, 2009

Lynette DuFresne  
Minnesota Board of Architecture, Engineering, Land surveying, Landscape Architecture, Geoscience &  
Interior Design  
85 E 7<sup>th</sup> Place Suite 160  
St Paul, Minnesota 55101

Re: James Nelson File No. 2010-0012

Dear Lynette:

This letter is in answer to your letter of October 15, 2009.

You have the drawings that I signed and certified for the Frito Lay warehouse in Mankato. Copies of these were sent to me in your letter of September 17, 2009. I have enclosed a copy for your further information. Please note on the cover sheet the sheets covered by my seal.

I did not sign or certify the electrical plan dated 8/24/2009 or any other electrical plan for this project. Although this sheet has a blank labeled "Engineered by" there was no engineering involved. As I pointed out in my letter of September 22, 2009 these plans were for the use of design/build electrical companies and are an indication of where the tenant wants light fixtures and where they need to be switched. It is my responsibility as the coordinating professional to do exactly that. As your letter of September 17, 2009 pointed out, Minnesota Statute section 326.02 (2006) subdivision 3 (2006) defines engineering as "application of the principals of mathematics and applied engineering sciences etc." Obviously there are no "mathematics and applied engineering sciences" required for this drawing. There is no conductor sizing, no panel specifications, no fixture selection, no circuiting and no specifications of any kind. It is an outline of what is expected from the design professional selected by the successful electrical contractor on this project.

The drawing E1.0 was prepared by a draftsman under my personal supervision.

The drawings were submitted to the City of Mankato by James Lindgren who is a project manager employee of mine.

I can recall no other project that I have done in Minnesota.

Nelson Engineering Construction, Inc.

  
James Nelson PE  
President

**EXHIBIT A**

called geoscientist), or certified interior designer, unless such person is qualified by licensure or certification under Minnesota Statutes section 326.02 (2006) to Minnesota Statutes section 326.15 (2006). This subdivision does not preclude an individual who retired from one of the professions listed in this subdivision from using the designation architect, professional engineer, land surveyor, landscape architect, professional geoscientist, or certified interior designer as long as the designation is preceded by the word "retired" and the individual was licensed or certified in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license or certification was not subsequently revoked by the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design.

Minnesota Statutes section 326.02, subdivision 2 (2006), Practice of architecture, provides:

Any person shall be deemed to be practicing architecture, within the meaning of Minnesota Statutes section 326.02 (2006) to Minnesota Statutes section 326.15 (2006), who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications.

Minnesota Statutes section 326.02, subdivision 3 (2006), Practice of professional engineering, provides:

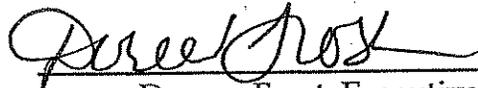
Any person shall be deemed to be practicing professional engineering within the meaning of Minnesota Statutes section

326.02 (2006) to Minnesota Statutes section 326.15 (2006) who holds out as being able to perform or who does perform any technical professional service, such as planning, design or observation of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private structures, buildings, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the principles of mathematics and the physical and applied engineering sciences, acquired by education or training, and by experience.

Minnesota Rules 1800.4200 Certification and Signature on Plans, provides:

Subpart 3. C. A professional engineer may engage in practice in any branch of engineering; provided, however, that a professional engineer who certifies and signs plans, specifications, or other documents may be required to establish, to the satisfaction of the board, that the work was performed according to recognized and acceptable standards and practice.

Minnesota Board of Architecture, Engineering,  
Land Surveying, Landscape Architecture,  
Geoscience, and Interior Design



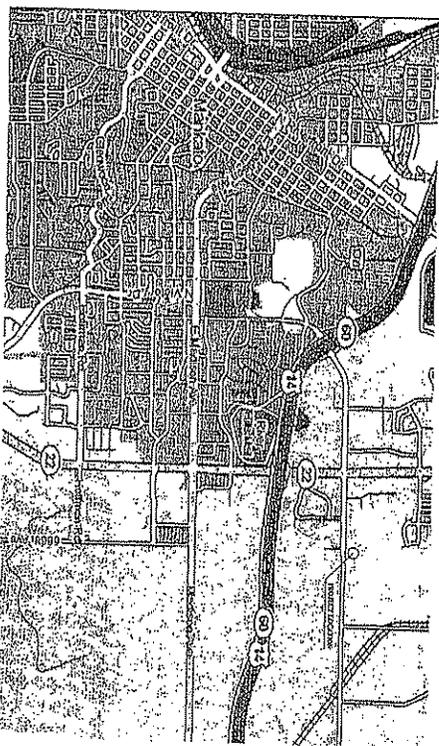
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Doreen Frost, Executive Director

September 15, 2009

# FRITOLAY WAREHOUSE

## MANKATO, MINNESOTA



*MB*

**CODE REQUIREMENTS**

MINNESOTA BUILDING CODE - 2003  
 MINNESOTA ELECTRICAL CODE - 2004  
 MINNESOTA MECHANICAL CODE - 2004  
 MINNESOTA PLUMBING CODE - 2004  
 MINNESOTA FIRE CODE - 2004  
 MINNESOTA ENERGY CODE - 2004  
 MINNESOTA ENVIRONMENTAL CODE - 2004  
 MINNESOTA LAND USE CODE - 2004  
 MINNESOTA ZONING CODE - 2004  
 MINNESOTA HEALTH CODE - 2004  
 MINNESOTA SAFETY CODE - 2004  
 MINNESOTA TRANSPORTATION CODE - 2004  
 MINNESOTA UTILITIES CODE - 2004  
 MINNESOTA WASTE MANAGEMENT CODE - 2004  
 MINNESOTA WATER SUPPLY CODE - 2004  
 MINNESOTA WINDSTORM PROTECTION CODE - 2004  
 MINNESOTA WOOD PRESERVATION CODE - 2004  
 MINNESOTA YACHTING CODE - 2004  
 MINNESOTA ZOOLOGICAL CODE - 2004

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**SHEET INDEX**

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**EXHIBIT B**

FRITOLAY WAREHOUSE  
 MANKATO, MINNESOTA  
 TITLE SHEET

**T1.0**



**FRITOLAY WAREHOUSE  
 MANKATO, MINNESOTA  
 TITLE SHEET**

DATE: 11/20/09  
 DRAWN BY: J. NELSON  
 CHECKED BY: H. SPEIGHT

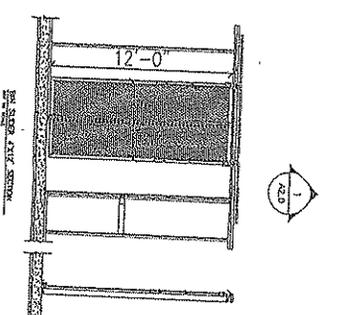
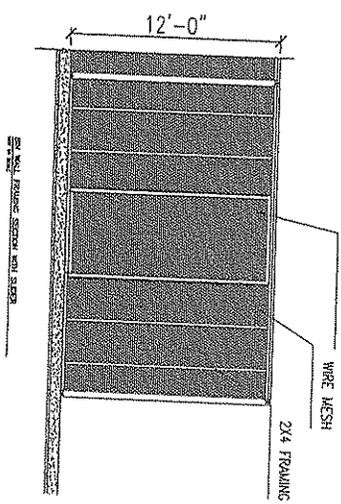
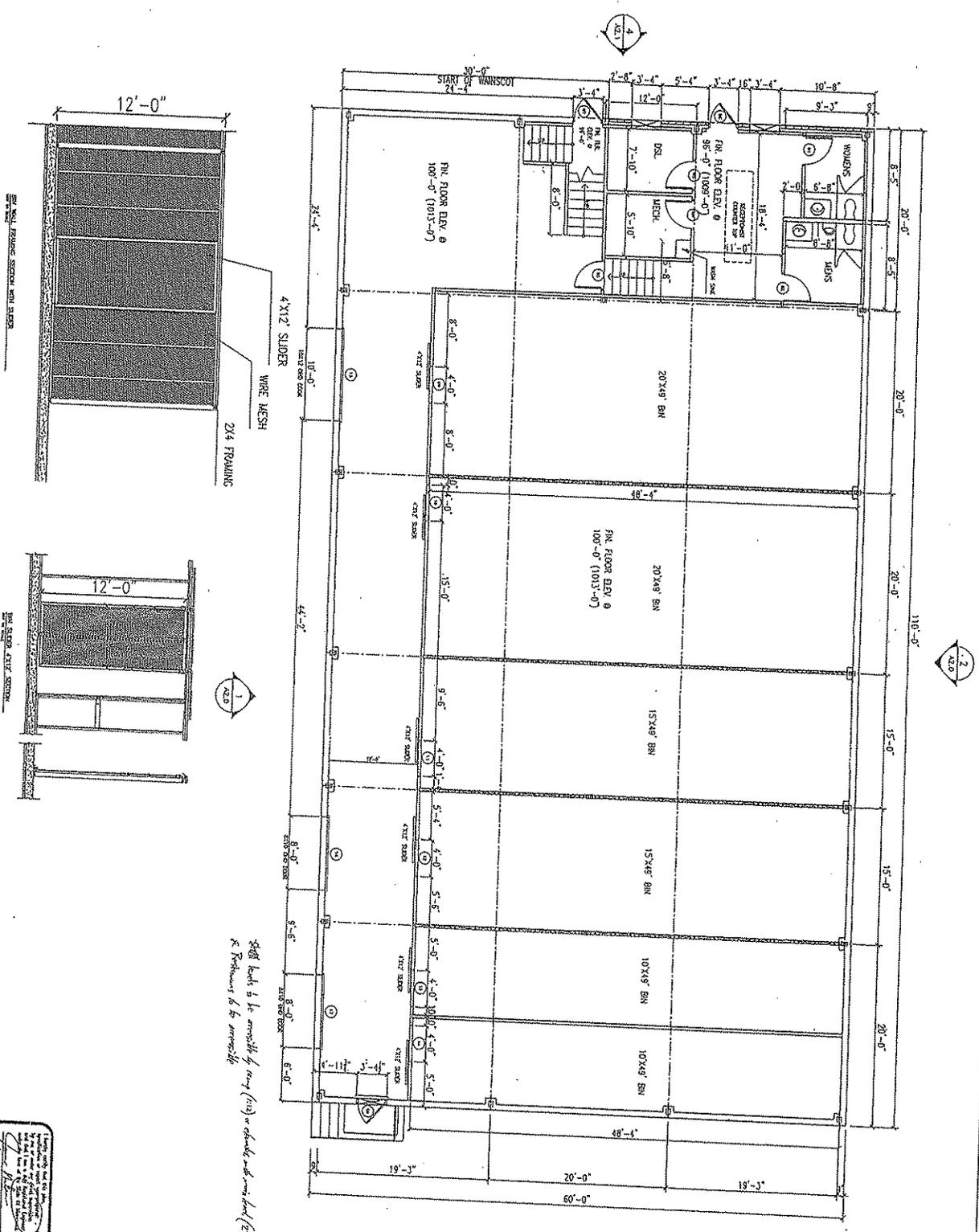
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**NELSON** ENGINEERING  
 CONSTRUCTION

2400 1st St. N.  
 Mankato, MN 56001

TEL: (507) 831-1122  
 FAX: (507) 831-1124

THE BOARD OF PROFESSIONAL ENGINEERS OF THE STATE OF MINNESOTA HAS REVIEWED THIS DOCUMENT AND HAS DETERMINED THAT IT COMPLIES WITH THE MINNESOTA ENGINEERING ACT. THIS REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE DOCUMENT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN. THE ENGINEER ASSUMES FULL RESPONSIBILITY FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.



8000 leads to be arranged by owner (11/13) or otherwise with owner's consent (11/13/2004)  
 K. Robinson & Co. Inc. (11/13/2004)

Professional Engineer  
 License No. 11111  
 State of Minnesota  
 Date: 11/13/2004

**A1.0**  
 FLOOR PLAN



**FRITOLAY MANKATO, MN  
 MAIN FLOOR PLAN**

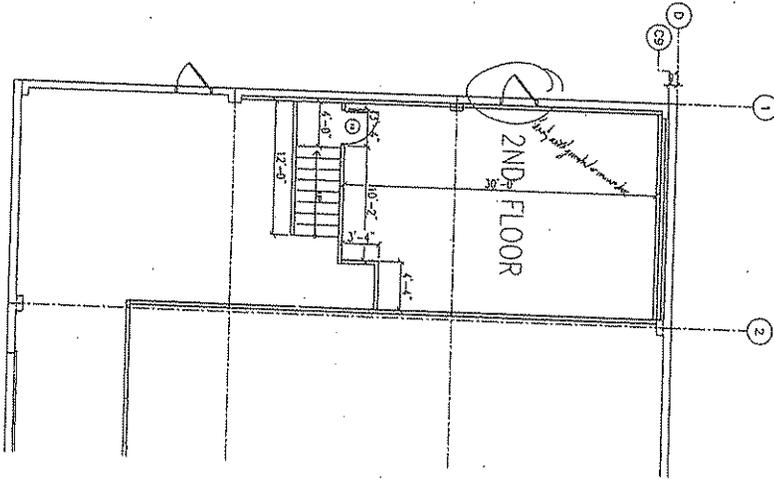
NO.	DATE	BY	CHKD.	REVISIONS
1	11/13/04	J. NELSON	M. PERPENT	

NO.	DATE	BY	CHKD.	REVISIONS
1	11/13/04	J. NELSON	M. PERPENT	

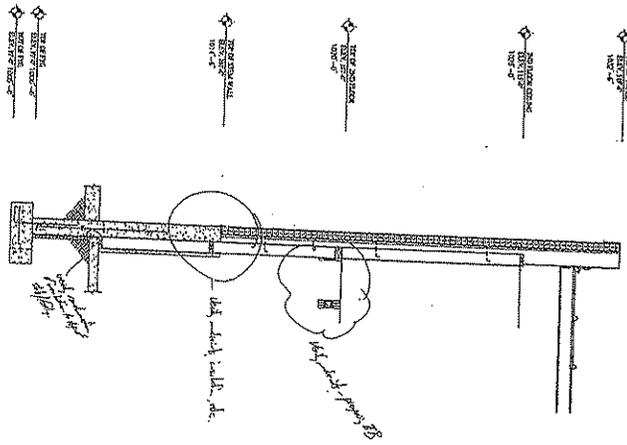
**NOSEN** ENGINEERING  
 CONSTRUCTION  
 2110 11th St. S.W.  
 Minneapolis, MN 55411  
 TEL: (612) 844-4444  
 FAX: (612) 844-4444

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SECOND FLOOR PLAN  
1/2" = 1'-0"



WALL SECTION  
1/2" = 1'-0"



Professional Engineer  
J. Nelson  
No. 1123

A1.1

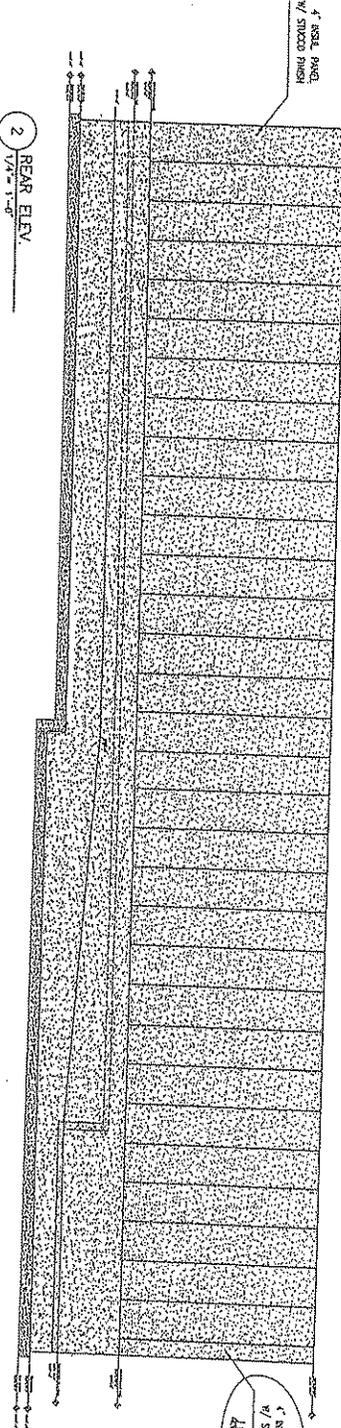


PROJECT: FRITOLAY MANKATO, MN  
SECOND FLOOR PLAN  
AND WALL SECTION  
DATE: 06/20/02  
SCALE: 1/2" = 1'-0"  
DESIGNED BY: J. NELSON  
CHECKED BY: J. NELSON  
INSPICED BY: J. NELSON

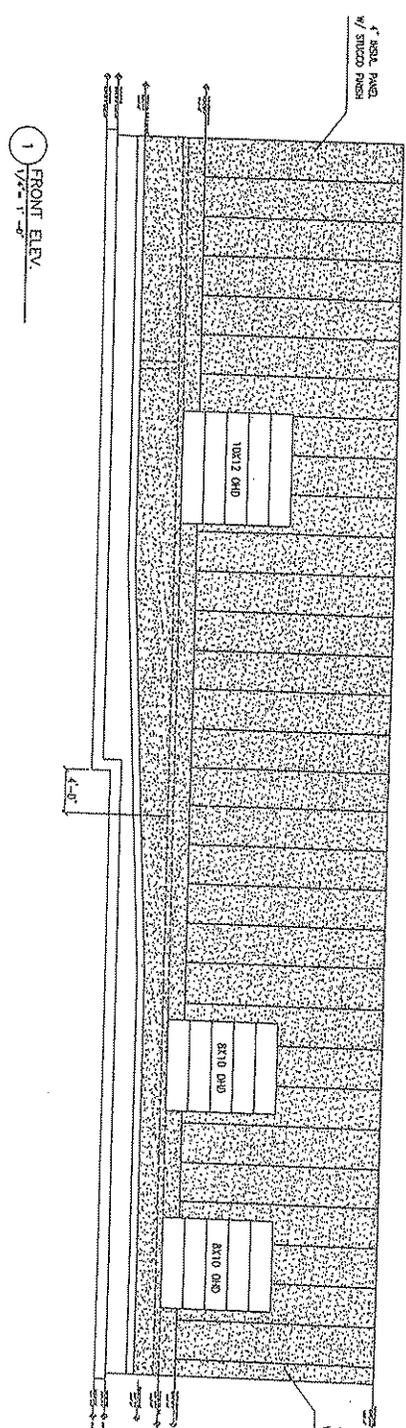
NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

**MOSEY**  
ENGINEERING  
CONSTRUCTION  
© JUNE 8, 2002  
2410 OLIVE AVE.  
SOUTH BEND, IN 46614  
TEL: (317) 331-8337  
FAX: (317) 331-8344

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2 REAR ELEV.  
1/4" = 1'-0"



1 FRONT ELEV.  
1/4" = 1'-0"

4" INSUL. PANEL  
W/ STUCCO FINISH

4" INSUL. PANEL  
W/ STUCCO FINISH

Professional Engineer  
State of Minnesota  
No. 14,312  
Date: 10/11/00  
10/11/00

A2.0



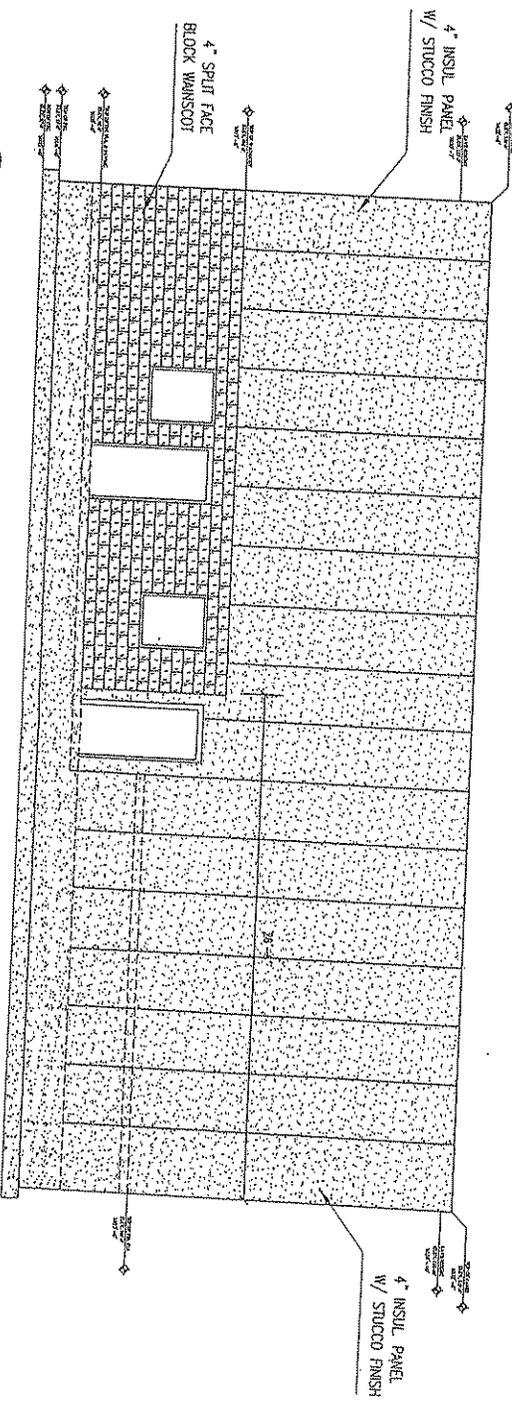
PROJECT: FRITOLAY WAREHOUSE  
MANKATO, MN  
ELEVATIONS  
DATE: AS NOTED  
DRAWN BY: J. HELSON  
CHECKED BY: M. RAPPENHOF

NO.	DATE	BY	REVISION

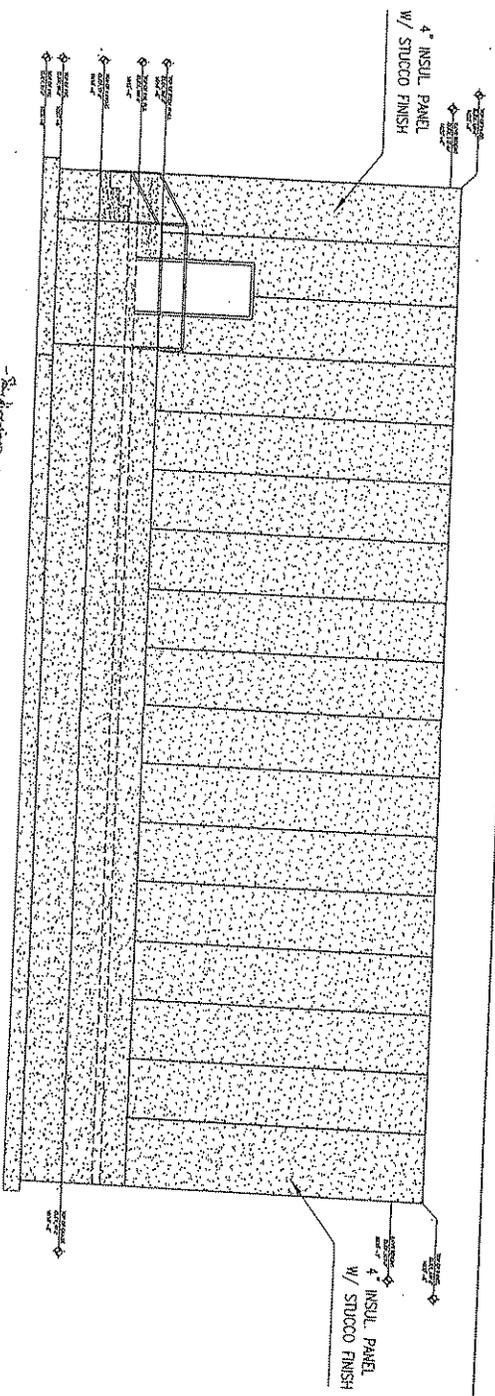
**MOSEY** ENGINEERING  
CONSTRUCTION  
© JULY, P. 2000  
3142 South Ave.  
St. Paul, MN 55108, MN, 55108  
TEL: (612) 814-1111  
FAX: (612) 814-1111

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4 LEFT SIDE ELEV.  
3/8" = 1'-0"



3 RIGHT SIDE ELEV.  
3/8" = 1'-0"



See Elevation of top of Wall H. etc.

Professional Engineer  
M. Nelson  
No. 10,000

A2.1



FRITOLAY WAREHOUSE  
MANKATO, MN  
ELEVATIONS  
DATE: 10/20/66  
DRAWN BY: J. NELSON  
CHECKED BY: R. SPEIGHT

REV.	DATE	REMARKS
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

**NELSON** ENGINEERING  
CONSTRUCTION  
6002 N. W. 10th St.  
Minneapolis, MN 55412  
TEL: (612) 835-1111

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# DOOR AND FRAME SCHEDULE

MARK	SIZE			MATL	GLAZING	LOUVER		FRAME		FIRE RATING LABEL	NOTES
	WD	HGT	THK			WD	HGT	MATL	EL		
1	3'-0"	7'-0"	1 3/4"	WD	---	0	0"	---	---	---	Rest rm
2	3'-0"	7'-0"	1 3/4"	WD	---	0	0"	---	---	---	Rest rm
3	3'-0"	7'-0"	1 3/4"	WD	---	0	6"	---	---	---	Dsl rm
4	3'-0"	7'-0"	1 3/4"	Hld	---	0	0"	---	---	1 HR	Mech rm
5	3'-0"	7'-0"	1 3/4"	WD	---	0	0"	---	---	---	hall entry
6	3'-0"	7'-0"	1 3/4"	STL	---	0	0"	---	---	---	exi
7	3'-0"	7'-0"	1 3/4"	STL	---	0	0"	---	---	---	exi
8	3'-0"	7'-0"	1 3/4"	STL	---	0	0"	---	---	---	exi
9	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
10	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
11	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
12	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
13	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
14	4'-0"	12'-0"	1 3/4"	WD	---	0	0"	---	---	---	bin slider
15	10'-0"	10'-0"	2"	STL	---	0	0"	---	---	---	overhead door
16	8'-0"	10'-0"	2"	STL	---	0	0"	---	---	---	overhead door
17	8'-0"	10'-0"	2"	STL	---	0	0"	---	---	---	overhead door
18	3'-0"	7'-0"	1 3/4"	WD	---	0	0"	---	---	---	conference rm

*AS SHOWN BY THE DRAWING, THE DOOR IS TO BE INSTALLED WITH THE GLAZING ON THE EXTERIOR SIDE OF THE DOOR.*

1. This drawing is the property of Nelson Engineering Construction, Inc. and shall remain the property of Nelson Engineering Construction, Inc. if it is used for any other project without the written consent of Nelson Engineering Construction, Inc.

**A30**

DOOR SCHEDULE

DATE: 7/11/07

BY: J. NELSON

**FRITOLAY MANKATO DOOR SCHEDULE**

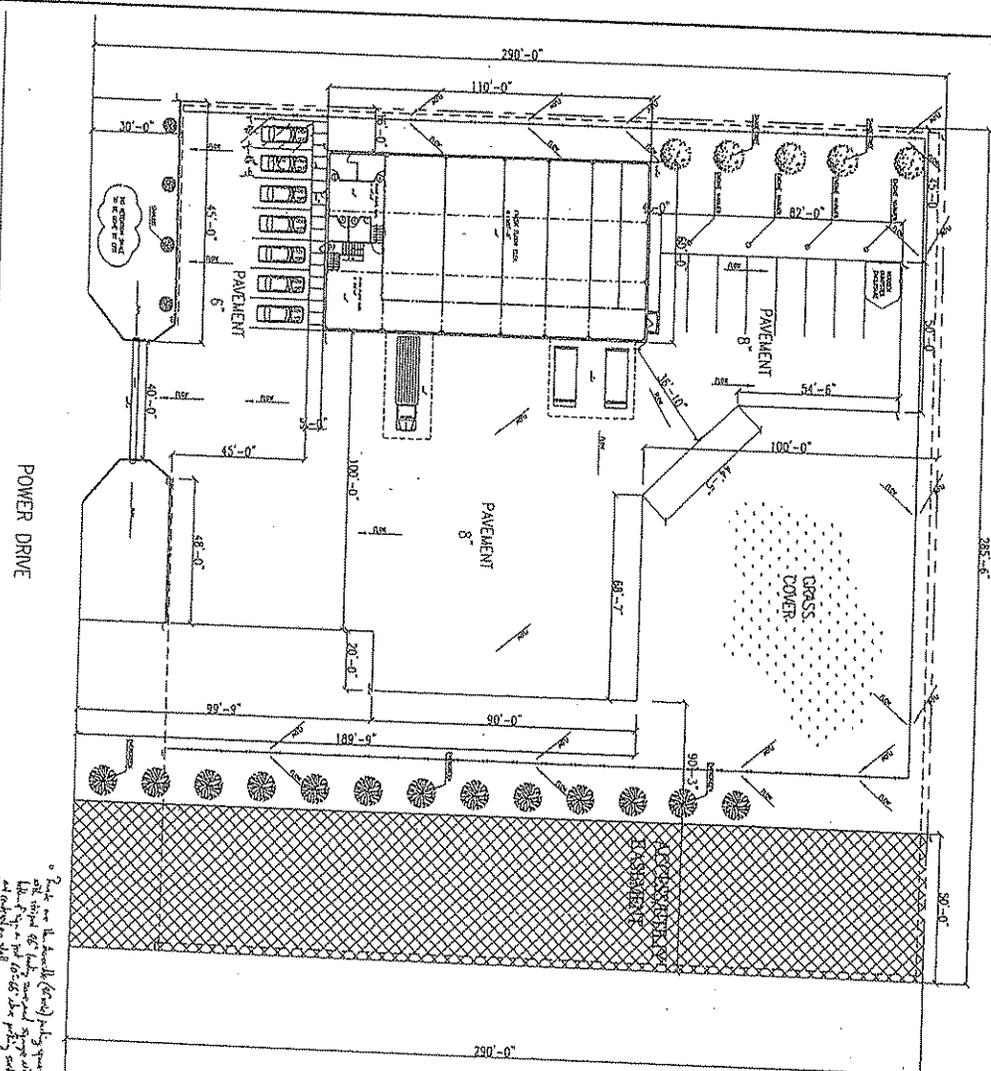
NOT TO SCALE / NELSON ENGINEERING CONSTRUCTION

NO.	DATE	BY	REVISION

**NELSON ENGINEERING CONSTRUCTION**

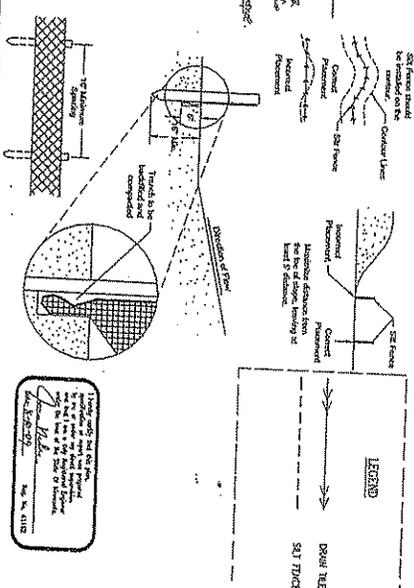
2414 South Ave. #200  
 South St. Louis, MO 63114  
 TEL: (314) 411-0127  
 FAX: (314) 411-8536

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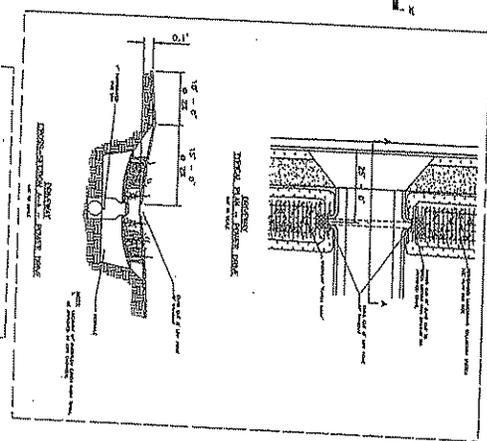
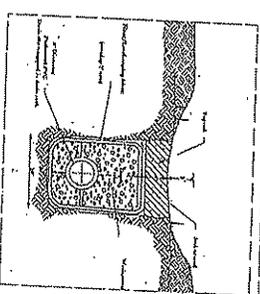


Contact City Public Works Dept  
 (Ask for) Mr. Anderson regarding  
 C-10 work area  
 763-275-8224

Notes on the drawing (found) during  
 site visit for the proposed  
 work. The site is a flat, open  
 area with a few trees and  
 a concrete wall.  
 \*Note the street lighting  
 poles and signs.



PERFORATED DRAIN TILE  
 NOT TO SCALE



**C10**

**FRITOLAY MANKATO, MN WAREHOUSE SITE PLAN**

DATE: 1-15  
 DRAWN BY: J. NELSON  
 CHECKED BY: H. SPEIGHT

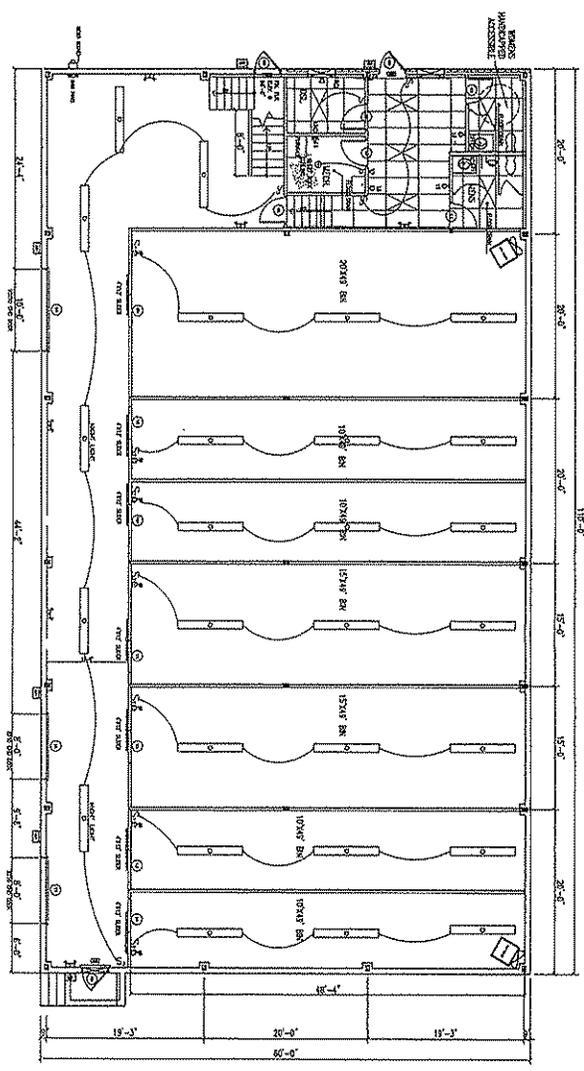
NO.	DATE	DESCRIPTION
1	1-15	ISSUED FOR PERMITS

**NELSON ENGINEERING CONSTRUCTION**

310 5th St. N.  
 56101-1000  
 TEL: (507) 431-1411  
 FAX: (507) 431-1444

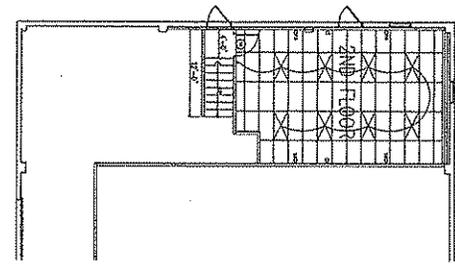
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- LEGEND:**
- ⊕ 15 MIN. TIMED SWITCH
  - ⊕ SINGLE SWITCH
  - ⊕ RECEPTACLE QUAD
  - ⊕ OUTLET SET @ HT AS NOTED
  - ⊕ WALL PAK LIGHT
  - ⊕ PHONE JACK
  - ⊕ LIGHT

- LEGEND:**
- ⊕ EMERGENCY LIGHTS
  - ⊕ EXIT SIGN
  - ⊕ 1X8 FLUORESCENT LIGHT
  - ⊕ 2X4 FLUORESCENT LIGHT
  - ⊕ 200 AMP ELECTRICAL PANEL
  - ⊕ RECEPTACLE



**E1.0**

REVISIONS

NO.	DATE	DESCRIPTION

**ELECTRICAL**

PROJECT NO. 02-0000

DATE 11/11/00

**FRILOLAY MANKATO ELECTRICAL PLAN**

DATE: 11/11/00

DESIGNED BY: J. NELSON

CHECKED BY: H. SPEIGHT

NO.	DATE	REVISIONS

**NELSON ENGINEERING CONSTRUCTION**

2110 Oakdale Ave.  
 56705 Mankato, MN 56001

TEL: (507) 434-8822  
 FAX: (507) 434-8004

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**NELSON** ENGINEERING  
CONSTRUCTION

SEP 25 2009

P.O. Box 86  
South Sioux City, Nebraska 68776  
(402) 494-6927  
(402) 494-6068 Fax

September 22, 2009

Lynette DuFresne  
Minnesota Board of Architecture, Engineering, Land surveying, Landscape Architecture, Geoscience &  
interior Design  
85 E 7<sup>th</sup> Place Suite 160  
St Paul, Minnesota 55101

Re: James Nelson File No. 210-0012

Dear Lynette

I graduated in Civil Engineering with a structural emphasis from Iowa State University in 1963. I obtained my license in Architectural Engineering in April of 1970 and have been designing, building, and certifying plans since that time. I have designed and built literally hundreds of industrial projects with total value in the hundreds of millions of dollars in Iowa, Nebraska, and South Dakota. A partial listing of some of the recent ones is available on our website of Nelsonec.com.

My license in Iowa, which is the basis for the license by comininity in Minnesota, is in Architectural Engineering. At the time it was issued it allowed for the practice of all of the disciplines to my level of expertise mentioned in your letter except for electrical. I specifically tested in the Architectural Engineering field because I knew what I was going to do and Architectural Engineering included exactly what I wanted to do and have been doing for the last forty years. It has never been questioned before in any jurisdiction including such cities as Omaha, Nebraska, Sioux City, Iowa, Cedar Rapids Iowa, the state agencies of Nebraska, and a host of other towns throughout the Midwest. The ability to cover these various related parts of a project to my level of expertise is especially important on smaller projects such as the one in question because the coordination between the various disciplines is many times greater than doing the actual work.

The Frito Lay building in question is a six thousand square foot warehouse. My firm designed/ built and will own it as well as five similar warehouses for Frito Lay in Iowa, Nebraska, and South Dakota already completed. We also designed/ built and lease approximately four hundred and fifty thousand square feet of warehouses for other customers. I did all of the structural, civil, and architectural engineering work on each of them. I am not and do not claim to be an architect. I never do work on projects to be built by others but only by my own firm. My design work is limited to industrial projects. It has never been the opinion of other building officials that there has been any pure architectural work on the projects but it all falls under the bailiwick of Architectural Engineering. I have and consult the latest codes and references. All projects that I design are intended to be entirely compliant with all codes and ordinances. I do deal in many jurisdictions and all have their own idiosyncrasies and quirks. It is

**EXHIBIT C**

especially disconcerting to me that the rules for my profession as I and many others have practiced it are apparently changing.

I did not stamp the electrical plans on this project and I am not qualified to do so. I did draw the lighting layout dictated by Frito Lay and listed the service size that they requested. I did no specifications or circuiting, conductor sizing or any of the other things required for an electrical design. It has always been my understanding that this type of work is the responsibility of the coordinating professional which I have been on these projects. The electrical layout was included in our plans and given to electrical contractors with the instructions to get all professional designs and permits necessary to build this project. The electrical contractor will provide properly designed and stamped plans for the project which is and always has been the intent.

The City of Mankato is apparently unaware of the discipline of Architectural Engineering as I and many others have been practicing it. When our permit application was questioned we hired the Architectural firm of Brunton Architects, 300 St Andrews Drive, Mankato , MN 56001 (Cory Brunton) to conform the plans to local requirements.

Detailed answers to your questions are as follows:

1. We have no marketing materials other than our website. Our work is obtained from referrals and word of mouth. Most of our customers are repeat clients that we have worked for many times. (such as Frito Lay) Our website is [Nelsonec.com](http://Nelsonec.com). A copy of our letterhead and my business card is enclosed.
2. My duties on the Frito Lay project are to coordinate with the tenant, obtain financing, buy the land, layout the building, and do the limited civil, structural, and architectural engineering up to my level of expertise on this project. (this is the sixth one for Frito Lay) I also supervised the project manager that hired the construction subcontractors and outside consultants for the project. I have the sole responsibility to Frito Lay to provide them with their desired end product at a price they can afford and meet all local codes. The building is a pre-engineered building with light loads and no unusual requirements other than the elevations at the dock doors.
3. When the City of Mankato refused to honor my architectural engineering license we contracted with Brunton Architects of 300 St Andrews Drive, Suite 210, Mankato, MN 56001 to conform the plans to local specs. Their direction is exactly that--do what is necessary to conform the plans to local rules.
4. I graduated in Civil Engineering from Iowa State University in 1963. I had special emphasis on structural engineering. After my tour of military service I worked with a design build firm for eleven years under the supervision of several different engineers.  
I tested for and obtained my license in Architectural Engineering in 1970. A considerable part of this test was structural engineering. Another part of it was to lay out a typical structure and design a typical bay. I had to draw a site plan. Just like I do today!!!  
I have had my own construction company for thirty three years. During that period I have designed and built hundreds of projects. We do industrial work almost exclusively. Our

construction volume last year was nearly \$85,000,000 with about \$15,000,000 in design /build projects.

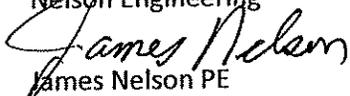
I am licensed in Iowa, Nebraska, South Dakota, and Minnesota. Most of my work has been in Nebraska and South Dakota. All licenses are current and I have never had a complaint of any kind before. Our website (nelsonec.com) shows several significant projects that we have completed in the last few years. I did the structural, civil, and architectural engineering work on all of them. I could give you a list of many more projects but these should give you an idea. I do work only to the extent of my expertise and hire outside consultants to do anything beyond that.

5. I do no Architectural work as I have no talent, experience, license or education to do so. I am an architectural engineer and that is exactly what I have been educated in, tested for, licensed in, and have been doing for over forty years.
6. When the City of Mankato refused to honor my license we hired the firm of Brunton Architects of Mankato. The owner is Cory Brunton and I do not have his license number. I can only assume that he is licensed.
7. I am a professional engineer with expertise in the civil, structural, and architectural engineering required on this project. The job is the ultimate in simplicity with only the design of the foundations for a light pre-engineered building required. The civil engineering consists of getting the grades correct to have storm water flow to the city drainage ditch and the layout of an elementary parking lot. The building warehouse was not designed to handicapped standards at the owner's request. He wants the warehouse to be available only to the route drivers from Frito Lay. (Chips and nuts disappear too easily!)

These drivers must have the capacity to load and unload trucks, drive the trucks, get in and out of them and deliver product to multiple clients and stores throughout the day. Other jurisdictions have all recognized that fact and have not required handicapped access to the warehouse floor. Common sense can work! The interior was dictated by the tenant with little latitude for modification. It was and still is my belief that I am licensed to perform this work and my forty plus years of experience on HUNDREDS of projects in multiple jurisdictions in large metropolitan areas throughout my trade territory should confirm that. I did no electrical design work or certify electrical drawings and am not qualified to do so. I am qualified as the coordinating professional to set the requirements to the electrical engineer that will do that work.

Please advise if you need any further information

Nelson Engineering



James Nelson PE

President

**IOWA STATE UNIVERSITY**  
**SCHOOL OF SCIENCE AND TECHNOLOGY**

hereby confers upon

**James Lee Nelson**

the degree  
**Bachelor of Science**

with all the Honors and Distinctions belonging to this Degree in consideration  
of the satisfactory completion of the Course of Study prescribed in  
**Civil Engineering**

Given at Ames, Iowa, on the twentieth day of July, in the  
year of our Lord one thousand nine hundred and sixty-three.

*Amos H. Hyman*  
President of the State Board of Regents



*James M. ...*  
President of the Authority

# THE IOWA STATE BOARD OF ENGINEERING EXAMINERS

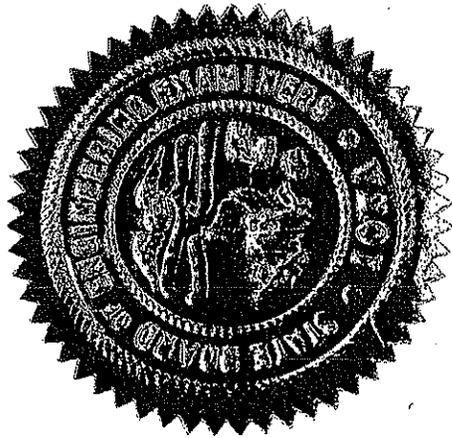
## CERTIFIES

JAMES L. NELSON

TO HAVE BEEN DULY REGISTERED, HAVING DEMONSTRATED HIS PROFESSIONAL QUALIFICATIONS, AND HE IS HEREBY LICENSED TO PRACTICE, IN THE STATE OF IOWA, AS A

## PROFESSIONAL ENGINEER

HE WAS EXAMINED IN THE ARCHITECTURAL FIELD OF PRACTICE  
ISSUED AT DES MOINES  
THIS SEVENTEENTH DAY OF APRIL, 1970



*Benjamin W. Black*

Chairman

*W. H. Johnson*

Secretary

Applicant

CERTIFICATE NUMBER 6355

**State of South Dakota  
Board of Technical Professions**

*By virtue of authority vested by law, and after due consideration, does hereby certify that*

**James L. Nelson**

*has been issued this certificate as*

**Professional Engineer**

**Registration Number: 6896**

**Expiration: 08/31/2011**



*Randy Bacon*

Randy D. Bacon, Chairman

*Drake T. Olson*

Drake T. Olson, Secretary

*Mark Humphreys*

Mark Humphreys, Executive Director

**James L Nelson**  
is licensed to practice  
**Civil Engineering**  
In the State of Nebraska  
Until **December 31, 2010**  
License Number: **E-9453**

*Jchoobineh*

Secretary, Board of Engineers and Architects

Minnesota State Board of Architecture, Engineering,  
Land Surveying, Landscape Architecture,  
Geoscience and Interior Design

This is to certify that

**James L. Nelson**

is a licensed

**Professional Engineer**

41162  
License Number

05/21/2008  
Effective Date

06/30/2010  
Expiration Date



**STATE OF IOWA**

IOWA DEPARTMENT OF COMMERCE  
PROFESSIONAL LICENSING AND REGULATION

THE PERSON NAMED BELOW, HAVING MET THE REQUIREMENTS  
AND BEING IN GOOD STANDING IN OTHER RESPECTS, IS ISSUED

LICENSURE AS AN  
ACTIVE PE  
CERTIFICATE NO. 06355  
JAMES L. NELSON

EXPIRES 12/31/2009

# **NELSON** ENGINEERING CONSTRUCTION



**James Nelson P.E.**  
*President*



2610 Dakota Ave. • P.O. Box 86  
South Sioux City, NE 68776  
[www.NelsonEC.com](http://www.NelsonEC.com)

(402) 494-6927  
FAX (402) 494-6068  
[BestBuilder2000@aol.com](mailto:BestBuilder2000@aol.com)



