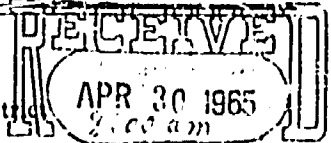


VESTED RIGHT APPLICATION

Form 3--Application for Permit to Appropriate Water--Original

No. 760-1
Water Division No. 1 BELLE FOURCHE RIVER
(Blanks to be filled by the Engineer for the W. R. C.)



APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable.)

1. Name of applicant ~~GEORGE D. GUIDINGER~~ HENRY THOMPSON
Postoffice address Belle Fourche, County Butte, State South Dakota

- I. If a corporation
- (a) Name of same
 - (b) Date and place of incorporation
 - (c) Amount of capital stock
 - (d) Amount paid in
 - (e) Names and addresses of directors

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)
Accomplished
- (b) Cash on hand, \$
 - (c) Treasury stock, \$
 - (d) Bonds to be issued, \$
 - (e) Other resources, \$

2. Name of diversion work Guidinger-Thompson Dam
3. Amount of water claimed max 9.74 cubic feet per second
4. Source of water supply Bitter Creek and tributaries
5. Location of point of diversion (see aerial photo and plat SW 1/4 SW 1/4 SECTION 12 TION R 2 E on Butte bank Butte County.
6. Annual period or periods during which water is to be used May through October
7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity
(a) Number of acres to be irrigated 100 680 acres.

(b) Legal subdivisions to be irrigated in 40 acre tracts SEE ATTACHMENT
(NOTE--A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.)
plus livestock water

II. Stockwatering, mining, milling, power, fish culture, fire protection, and public recreation:

- (a) Nature of use
Name any of the above uses claimed
- (b) Amount of power to be generated horse power.
Amount claimed for engine cooling
- (c) Location of plant
- (d) Method of developing power
- (e) Point where water will be returned to stream

VIR

8. Estimated cost of work: In excess of \$10,000.00

(a) Head Gates, \$-----

(b) Pumping plant, \$-----

(c) Fluming, \$-----

(d) Canal-earth, \$-----

Rock, \$-----

(e) Other structures ----- \$-----

Total, \$-----

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Dams, headgate and ditches

II. Dimensions of works.

(a) Dam: Height 15 1/2 feet; length at bottom 1/3 mile feet; length at top 1/4 mile feet; thickness at bottom APPROX. 60 feet; thickness at top 24 feet; slope at front water face -----; slope at back face same material used in construction Dirt, car bodies and steel

(b) Reservoir: Capacity when filled 720 acre feet. Surface area at highwater mark ----- acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	FEET	ACRE-FEET CAPACITY

(c)* Head gate: Width three feet; height three feet; Material Three foot pipe, steel and wood

(d) Canal: Total length ----- miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work COMPLETED years.

11. Time required for complete application of water to the proposed beneficial use COMPLETED years.

12. Choice of newspaper for publication of notice of intention to appropriate -----

DOES NOT APPLY

STATE OF SOUTH DAKOTA

County of BUTTE

83.

I, Jesse D. Guidinger

, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Jesse D. Guidinger

Subscribed and sworn to before me this 27 day of April 19 65

[Signature]
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED, WITH PRIORITY DATE
ESTABLISHED BY POSTING OF LOCATION NOTICE
1472-1.

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, NOVEMBER 22, 1965

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock
9 a.m. upon the 30TH day of APRIL, 1965

State Water Resources Commission

By: [Signature]

Chief Engineer, Executive Officer

Number of permit 760-1

Date of first receipt of application APRIL 30, 1965

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right NOVEMBER 15, 1965

Approved NOVEMBER 22, 1965 Recorded in Book 9 Page 64

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is ~~to be completed on or before~~ _____

2nd. The whole said work is ~~to be completed on or before~~ _____, 19____

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

COMPLETED, 19____

4th. The water appropriated shall be used for the purpose of IRRIGATION

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 9.74
cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works,
nor the least amount of water that experience may hereafter indicate as necessary for the production of crops
in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-
seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water ~~is~~ actually
WAS

and beneficially applied for irrigation on or before JUNE 30, 1955, said water to be used
during the following described annual period:

MAY THRU OCTOBER
Witness my hand this 22ND day of NOVEMBER, 1965

State Water Resources Commission

By: [Signature]

Chief Engineer, Executive Officer

Certificate of Construction Issued NOVEMBER 22, 1965

Water License Issued NOVEMBER 22, 1965

Remarks by the Applicant:

LANDS TO BE IRRIGATED - ALL IN TION, R3E

SECTION 10	NE ⁴ SE ⁴	15	ACRES
	SE ⁴ SE ⁴	36	"
	SW ⁴ SE ⁴	22	"
SECTION 11	NW ⁴ SW ⁴	20	"
	NE ⁴ SW ⁴	24	"
	SE ⁴ SW ⁴	40	"
	SW ⁴ SW ⁴	40	"
	NW ⁴ SE ⁴	13	"
	NE ⁴ SE ⁴	5	"
	SE ⁴ SE ⁴	14	"
SECTION 12	SW ⁴ SE ⁴	32	"
	SW ⁴ SW ⁴	8	"
SECTION 13	NW ⁴ NW ⁴	12	"
	SW ⁴ NW ⁴	21	"
SECTION 14	NW ⁴ SW ⁴	9	"
	NW ⁴ NW ⁴	35	"
	NE ⁴ NW ⁴	40	"
	SE ⁴ NW ⁴	24	"
	SW ⁴ NW ⁴	13	"
	NW ⁴ NE ⁴	40	"
	NE ⁴ NE ⁴	38	"
	SE ⁴ NE ⁴	40	"
	SW ⁴ NE ⁴	40	"
	NW ⁴ SE ⁴	19	"
SECTION 15	NE ⁴ SE ⁴	23	"
	NW ⁴ NE ⁴	11	"
	NE ⁴ NE ⁴	36	"
	SE ⁴ NE ⁴	12	"
TOTALS		632	ACRES

STATE OF SOUTH DAKOTA

WATER LICENSE No. 760-1

WHEREAS, On the 30th day of April A. D. 1965
 JESSE D. GUIDINGER

of Belle Fourche County of Butte and State of
 South Dakota duly made application (No. 760-1) to us for a Vested Right permit to use 9.74
 cubic feet per second of the waters of Bitter Creek
 County of Butte State of South Dakota, for irrigation
 purposes; and

WHEREAS, On the 22nd day of November A. D. 1965
 Vested Right Permit No. 760-1 was issued to said applicant for the diversion of said water, and providing for the
 completion of the works of diversion therein described on or before the day of
 and for the application to beneficial use of said
 water and,

WHEREAS, On the 30th day of April A. D. 1965
 the holder of said permit duly made proof of the completion of adequate works for the diversion of 9.74
 cubic feet per second of said waters, as evidenced by our Certificate No. 760-1
 dated November 22, 1965 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 9.74 cubic feet per second of water, with date of
 priority of November 15, 1949 and,

WHEREAS, On the 30th day of April A. D. 1965
 proof was duly made of the application to beneficial use of 9.74 cubic feet per second of said water;
 for irrigating 682 acres in portions of Sections 10, 11, 12, 13, 14 and 15, all in
 T10N, R3E

NOW, THEREFORE By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to Jerse D. Guidinger
of Belle Fourche the holder and owner of said Vested Right permit No. 760-1
a water right, dating from November 15, 1949 to the use of 9.74
cubic feet per second of the waters of Bitter Creek
in the County of Butte and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10,
T10N, R3E

and conducted to and upon portions of Sections 10, 11, 12, 13, 14 and 15, T10N, R3E,
more specifically described in the Certificate of Completion of Works

for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
State, and subject, also to the local or community customs, rules and regulations which have been or may be
adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
which such water may be taken, when such rules and regulations have for their object the economical use of such
water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 22nd day of November A. D. Nineteen
Sixty-Five
Hundred and _____

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

Permit No. 760-1Water Division No. 1 Belle Fourche River
Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Jesse D. Guidinger

of Belle Fourche, County of Butte, and State of South Dakota
 the holder of Tested Right of Permit No. 760-1, Issued upon Application
 No. 760-1, bearing date of priority of November 15, 1949, authorizing the diversion of
9.74 cu. ft. per second of the waters of Bitter Creek
 County of Butte, State of South Dakota, at a point in the
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T10N, R3E
irrigation, for

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of
 completion of the works of diversion set out and described in said Permit; that said works are recognized as
satisfactory for diverting and conveying to the place of intended use 9.74 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,
 to-wit: All in T10N, R3E

Section 10	NE $\frac{1}{4}$ SE $\frac{1}{4}$	15 acres	Section 13	NW $\frac{1}{4}$ NW $\frac{1}{4}$	12 acres
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	36 "		SW $\frac{1}{4}$ NW $\frac{1}{4}$	21 "
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	22 "		NW $\frac{1}{4}$ SW $\frac{1}{4}$	9 "
Section 11	NW $\frac{1}{4}$ SW $\frac{1}{4}$	20 "	Section 14	NW $\frac{1}{4}$ NW $\frac{1}{4}$	35 "
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	24 "		NE $\frac{1}{4}$ NW $\frac{1}{4}$	40 "
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40 "		SE $\frac{1}{4}$ NW $\frac{1}{4}$	24 "
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40 "		SW $\frac{1}{4}$ NW $\frac{1}{4}$	13 "
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	13 "		NW $\frac{1}{4}$ NE $\frac{1}{4}$	40 "
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	5 "		NE $\frac{1}{4}$ NE $\frac{1}{4}$	26 "
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	14 "		SE $\frac{1}{4}$ NE $\frac{1}{4}$	40 "
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	32 "		SW $\frac{1}{4}$ NE $\frac{1}{4}$	40 "
Section 12	SW $\frac{1}{4}$ SW $\frac{1}{4}$	8 "		NE $\frac{1}{4}$ SE $\frac{1}{4}$	19 "
				NE $\frac{1}{4}$ SE $\frac{1}{4}$	23 "
			Section 15	NW $\frac{1}{4}$ NE $\frac{1}{4}$	11 "
				NE $\frac{1}{4}$ NE $\frac{1}{4}$	36 "
				SE $\frac{1}{4}$ NE $\frac{1}{4}$	12 "
				Total	682 "

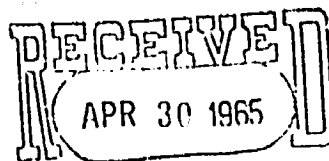
Witness my hand this 22nd day of November A. D. 1965

State Water Resources Commission

By: J. W. GRIMES
 Chief Engineer, Executive Officer

Location No. _____

Water Division No. _____ Water District _____

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. JESSE D. GUIDINGER, BELLE FOURCHE, SOUTH DAKOTA

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent.) your position with reference to same, and your authority for appearing in its behalf

Ans. _____

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. 1950 (See file in office of State Engineer)

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Bitler Creek and tributaries runoff

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Dams, headgate and ditches. Height of dam-15 1/2 feet; length at bottom - 1/8 mile;length at top - 1/8 mile; thickness at bottom-approximately 60 feet; thickness at top-24 feet; slope at front water face- three feet; slope at back face- same; material usedin construction - dirt, car bodies and steel. Capacity when filled- 120 acre feet.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Irrigation in 40 acre tracts (See aerial photo and plat)

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. _____

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 14.1 CFS

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. _____

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Since this dam was completed in 1950, the water stored in such dam and the runoff from Bitter Creek and tributaries has been used beneficially each year by the applicant for the purpose of irrigating the area as shown in the aerial photo and plat. During a two-year period, subsequent to 1950, there was no runoff from Bitter Creek or the tributaries so that the applicant used the water stored in the dam and removed the same by pumping and irrigating as much of the land as there was water to irrigate. During each one of these years the water from the dam and the runoff from Bitter Creek and tributaries has been put to beneficial use in irrigating during the months of May through October of each year. Whenever there was sufficient water in the dam for use, a full irrigation of all of the land was had.

(Sign)

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Belle Fourche, County of Butte

State of South Dakota, on this 27 day of April, A. D. 1965

Witnesses.

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. _____

PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water _____ c. f. s.

Source _____

County _____

Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

Form 20.

N^o 760-1

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Resources Commission
State Office Building No. 2
Pierre, South Dakota 57501

Date January 28, 1971

This is to notify you that title to the lands described as follows:

Portions of SE $\frac{1}{4}$, Section 10; S $\frac{1}{2}$, Section 11; SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$,
Section 12, NE $\frac{1}{2}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14; NE $\frac{1}{4}$, Section 15, all in T10N, R3E
as described in Water Permit No. 760-1

formerly owned by Jessie D. Guidinger, Belle Fourche

has been transferred to Henry Thompson, Belle Fourche

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 760-1 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Resources Commission as evidence of the change of ownership.

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA

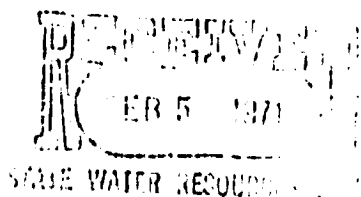
County of Butte) ss.

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

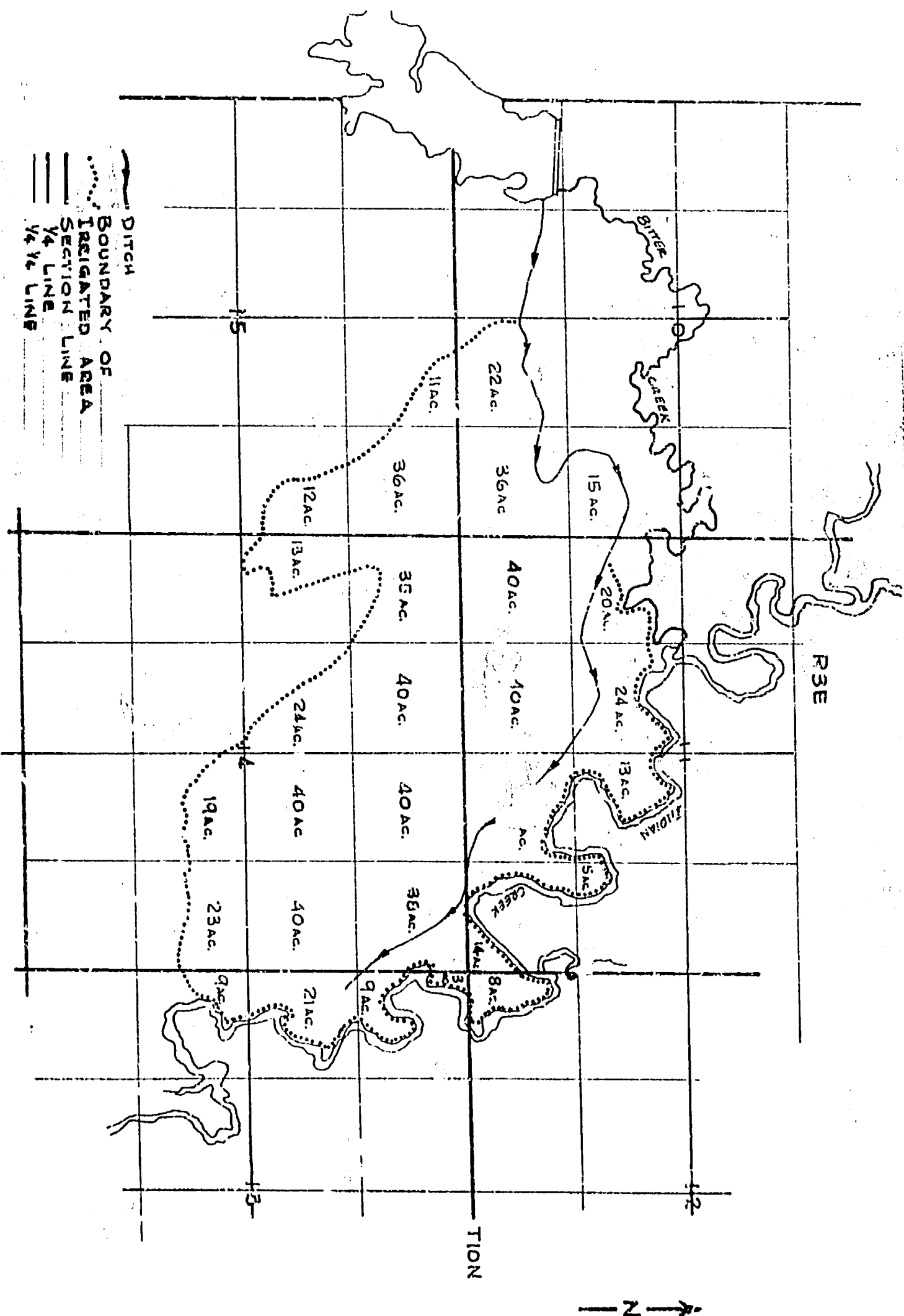
Henry Thompson
(Signed)

Subscribed and sworn to before me this 30th day of February, 1971

Darwin J. Meyer
(Notary Public)



**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**



Water Rights Division
605 773-3352

October 6, 1982

760-1

Myrtle C Thompson
P.O. Box 94
Belle Fourche SD 57717

Dear Mrs. Thompson:

In reference to your recent Irrigation questionnaire return, enclosed please find our Form 20, Notice of Transfer.

Please check over the form, date, sign and have notarized before returning it to our office with a \$2.50 filing fee. The water right will then be transferred to your name.

If you have any questions, please contact this office.

Sincerely,

GENNY YOUNG
Water Rights Specialist

GY:ks

enclosure

NO. 760-1

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: Oct 14, 1982

This is to notify you that the title to the lands described as follows:

682 acres - portions of Sections 10, 11, 12, 13, 14 and 15, T10N, R3E

formerly owned by Henry Thompson

has been transferred to Myrtle C Thompson, Box 94, Belle Fourche SD 57717

(please include complete mailing address)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 760-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of Butte) ss.

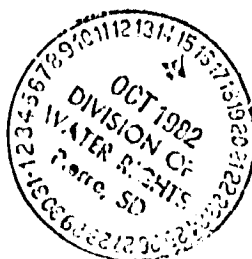
I, Myrtle C Thompson being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Myrtle C Thompson
(Signed)

Subscribed and sworn to before me this 14 Day of October, 1982

Robert J. Brown
(Notary Public)

Notary Public, BUTTE COUNTY, S. DAK.
My Commission Expires SEPT. 19, 1985



RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8979

PIERRE, October 15, 1982

RECEIVED Of Myrtle C. Thompson, For 94, Della French, SD 8979

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and issuing Cert. of Construction No.		
Fee for Inspecting Beneficial Use, and issuing Water License No.		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing Transfer of WR# 760-1	8	50
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By John Hatchers
Chief Engineer, Executive Officer

No. 760-1

 **Department of
Water & Natural Resources**
Joe Foss Building Water Rights Division
Pierre, South Dakota 57501 Phone (605) 773-3352

October 26, 1982

Myrtle C Thompson
Box 94
Belle Fourche SD 57717

Dear Ms. Thompson:

Enclosed is receipt No. 4 8979 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 760-1.

Our records now show you as the owner of this Water Right.

Sincerely,

KAREN SCHLAAK
Administrative Secretary

enclosure

**South Dakota Department of
Water & Natural Resources**

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

March 23, 1987

MYRTLE C THOMPSON
BOX 94
BELLE FOURCHE, SD 57717

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire

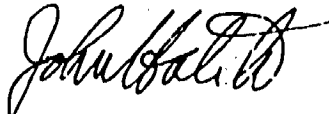
Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 760-1. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 2:00 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

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

1. Amend Permit No(s). 760-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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


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

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

740-1

South Dakota Department of
Water & Natural Resources

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

April 14, 1987

Myrtle C Thompson
Box 94
Belle Fourche, SD 57717

Dear Ms. Thompson:

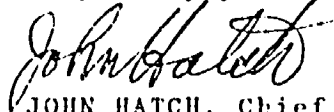
A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

On April 8, 1987, our office received a call from your lessor concerning the irrigation questionnaire for Water Right No. 760-1. He indicated your irrigation system was a spreader type system with no pumping involved. Water Management Board Rules state that permit holders with water spreading systems are not required to submit irrigation questionnaires.

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

If you have any questions, please contact us.

Very truly yours,



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

 **Department of
Water & Natural Resources**
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

NOTICE

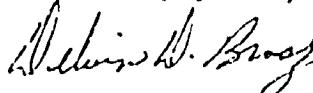
Myrtle C. Thompson
Box 94
Belle Fourche SD 57717

Dear Ms. Thompson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 760-1 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,



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



**SOUTH Dakota Department of
Water & Natural Resources**

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

December 1, 1988

Vested Water Right
Claim No. 760-1

Myrtle C. Thompson
Box 94
Belle Fourche SD 57717

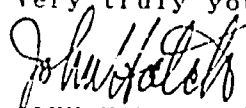
Dear Mrs. Thompson:

Enclosed is a copy of a letter received from the U.S. Department of Interior, Bureau of Reclamation. The Bureau of Reclamation is opposing those vested water right claims in Pennington, Perkins, Butte and Fall River counties which have never been investigated by the Division of Water Rights. Earlier, you received a letter stating that I was opposing your claim until an investigation can be completed.

After the investigation has been completed, you and the Bureau of Reclamation will be notified as to the date, place and time of the hearing on your vested water right claim. At that time all parties of record will have an opportunity to testify on the validation.

If we can answer any questions, please contact us.

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



760-1



Phone 948-3806

12/15/88

10419 N 54th St
Scottsdale, AZ

85253

S.D. Dept of Water & Natural Resources,

Sir,

A few days ago, I rec'd a letter from
you - regarding the contracting of some
water rights on my ranch, about 11 mi North
of Belle Fourche.

was quite busy at the time so I just
scanned the letter quickly - removed it from
envelope to have copy made to mail
to my nephew, Mr Peter L Bueh, who is
buying the ranch from me, but some how
I cannot find it now, only the envelope!
So I'm hoping you will mail to me another copy
here in AZ (address above) and also a copy of it
to Mr Peter L Bueh at.

Hwy 85 N. Box 45

Belle Fourche, S.D. 57717

The letter was postmarked Dec 1 at Pierre.
Mr Hatch's name was mentioned - Don't he
live in Belle Fourche?

Thank you,

Myrtle Thompson

sent to be held
address 12/31/88

South Dakota Department of
Water & Natural Resources

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

May 12, 1989

760-1

Pete Buer
Hwy 85 N
Box 45
Belle Fourche, SD 57717

Dear Mr. Buer:

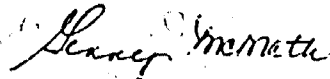
It has come to our attention that Vested Water Right Claim No. 760-1, listed in the name of Myrtle Thompson should be transferred to your name. Enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change.

Please check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50. The vested right claim will then be transferred to your name.

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

If you have any questions, please contact me.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
606 773-3352

enclosure





NO. 760-1

NOTICE OF TRANSFER OF WATER RIGHTS

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 5/22/89

This is to notify you that the title to the lands described as follows:

260 acres - SE $\frac{1}{4}$ Section 10; SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11; N $\frac{1}{2}$ Section 14;

N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 15; all in T10N, R3E

formerly owned by Myrtle Thompson

has been transferred to PETER L. O'DONNELL L. BUER Highway 85 N Box 45
BELLE FOURCHE S.D.
(please include complete mailing address) 57717

together with any rights to the beneficial use of water thereon as evidenced by

~~Vested Right Claim~~
~~XXXXXXXXXXXX~~ No. 760-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of BUTTE) ss.

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

Peter L. Buer
(Signed)

Subscribed and sworn to before me this 22nd day of May, 1989

Joseph T. Nelson
(Notary Public)

Notary Public, BUTTE COUNTY, S. DAK.
My Commission Expires JULY 27, 1989

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, June 1, 1989, 19 89

RECEIVED OF Peter L. Buer, Hwy 85N Box 45 Belle Fourche, SD 57717

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____ Vested Right Claim No. 760-1	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By John Hotal
Chief Engineer



Department of Water & Natural Resources

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

July 14, 1989

Peter L. Buer
Hwy 85N, Box 45
Belle Fourche, SD 57717-9998

Dear Mr. Buer:

Enclosed is Receipt No. 411780 in the amount of \$2.50 which you paid for the transfer of Water Right No. 760-1.

Our records now reflect you as the owner of this Water Right.

Sincerely, .

Marie R. Arthur

MARIE R. ARTHUR
Secretary
for Genny McMath
Natural Resources Analyst
Water Rights Division
(605) 773-3352



SOUTH DAKOTA Department of
Water & Natural Resources
J. e Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

March 28, 1991

760-1

Peter L or Donna L Buer
Hwy 85 N, Box 45
Belle Fourche SD 57717

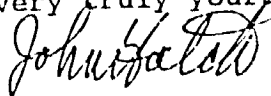
Dear Mr. & Ms. Buer:

The Water Management Board has validated the enclosed Vested Water Right No. 760-1. This validation gives legal status to your claim.

The diversion rate and the number of acres validated are based on an inspection that was conducted by the Division of Water Rights. If you do not agree with these numbers, please contact us immediately.

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

Very truly yours,



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

enclosure

760-1

SOUTH DAKOTA

VALIDATION OF VESTED WATER RIGHT CLAIM NO. 760-1 FOR IRRIGATION

Date Claim Accepted For Filing April 30, 1965.

Date of Validation September 27, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 760-1 for irrigation purposes for Peter L or Donna L Buer, Highway 85 North, Box 45, Belle Fourche, South Dakota 57717 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 760-1 appropriates 3.7 cubic feet of water per second from Bitter Creek and stores 720 acre feet of water annually in a reservoir to irrigate 260 acres. The diversion point is located in the SW 1/4 SW 1/4, Section 10, T10N, R3E. The irrigated acres are located in the SE 1/4, Section 10, SW 1/4, SE 1/4, Section 11, NW 1/4, NE 1/4, Section 14, and N 1/2 NE 1/4, Section 15; all in T10N, R3E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per year for each acre of irrigated land. The water is to be used during the following annual period: May 1 - October 31.
3. The priority date of the Vested Water Right is November 15, 1949.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: John H. Helt
Chief Engineer
Division of Water Rights
Dept. of Water and Natural Resources

MAR 28 1991

date

_____ Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Hwy Thompson (X-owner)
Pete Buer (present owner) of Hwy 85 North/ Belle Fourche 57/17 ^{Bok 45} holder of
 Permit No. 760-1, bearing the priority of November 15 19 49 authorizing
 the diversion of 9.74 cu. ft. per second of the waters of Surface water-Bitter Creek
 for irrigation purposes, in Butte County.

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

A. Works used to divert the water:

A dam 1000-720 acre feet capacity.

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

Earthen irrigation ditches, 2 feet deep, 2 feet wide, approximately 3½ miles long.

C. Works used to apply water to beneficial use:

Gravity system of irrigation is used.

The system is in the following condition goodThe point of diversion is located approximately 920 feet N., 1200 feet E., from the southwest
corner of Section 10, T10N-R3E (SW 1/4 SW 1/4)The works are capable of diverting and conveying to the place of use 10⁺
 cu. ft. per second of water which is to be used for IRRIGATION

Water has been put to beneficial use to the maximum extent as follows: _____

see attached sheetcomprising a total of 260.0 acres of land and the license should be issued for 3.7 cfsApplicable permit qualifications have been complied with X Yes NoExceptions to compliance are: _____ Date 4/18/89_____
(signature)M. J. McDaniel

760-1

Acreage Being Irrigated Under VR# 760-1

T10N-R3E

Section 10

SW $\frac{1}{4}$ SE $\frac{1}{4}$	23.0	ac.		
SE $\frac{1}{4}$ SE $\frac{1}{4}$	37.0	ac.		
NE $\frac{1}{4}$ SE $\frac{1}{4}$	12.8	ac.	Subtotal	72.8 acres

Section 11

NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.0	ac.		
SW $\frac{1}{4}$ SW $\frac{1}{4}$	36.0	ac.		
SE $\frac{1}{4}$ SW $\frac{1}{4}$	15.2	ac.	Subtotal	54.2 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1.3	ac.	Subtotal	1.3 acres

Section 14

SE $\frac{1}{4}$ NE $\frac{1}{4}$	20.0	ac.		
NE $\frac{1}{4}$ NE $\frac{1}{4}$	2.0	ac.		
SW $\frac{1}{4}$ NE $\frac{1}{4}$	20.5	ac.		
NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.2	ac.	Subtotal	62.7 acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$	24.0	ac.		
NE $\frac{1}{4}$ NW $\frac{1}{4}$	23.5	ac.		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	6.5	ac.	Subtotal	54.0 acres

Section 15

NE $\frac{1}{4}$ NE $\frac{1}{4}$	9.5	ac.		
NW $\frac{1}{4}$ NE $\frac{1}{4}$	5.5	ac.	Subtotal	15.0 acres

TOTAL 260 acres

1760-1

LICENSE FOR PERMIT NUMBER 767-1

1. Legal location of wells: NA

dams & structures: SW 1/4 SW 1/4 Section 10, T10N-R3E

2. Well Information: Well Drilling Firm NA

No. of wells _____ Depth _____

Casing a) diameter _____ Screen a) type _____
b) length _____ b) length _____
c) type _____ Static Water Level _____

Pump a) make _____ Motor a) make _____
b) model _____ b) model no. _____
c) size _____ c) horsepower rating _____
d) capacity _____ GPM d) motor efficiency rating _____
e) turbine pump _____
no. of stages _____

3. Distribution lines:

- a) size of lines 2 feet wide, 2 feet deep
- b) type Earthen- irrigation ditch
- c) length 3.1 miles

4. Dam information:

- a) height to crest 25 feet
- b) height to spillway 18 feet
- c) crest width 12 feet
- d) crest length 900 feet
- e) spillway length _____
- f) spillway width 30 feet
- g) approx. storage 720-1000 acre-feet
- h) Distribution lines or canals:
 - 1) size 30 feet wide, 10 feet deep
 - 2) type earthen
 - 3) length 2000 feet

i) Outlet tubes:

- 1) diameter _____
- 2) type _____
- 3) valued (Y/N) _____
- 4) valve type _____
- 5) location on structure _____

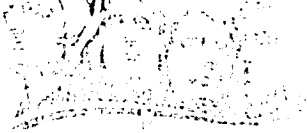
5. System Type: a) sideroll:

- 1) length _____ feet
- 2) diameter of pipe _____
- 3) make, model & number of sprinklers _____
- 4) spacing of sprinklers _____
- 5) nozzle size _____

b) towline:

- 1) length _____ feet
- 2) make, model & number of sprinklers _____
- 3) spacing of sprinklers _____
- 4) nozzle size _____

South Dakota



GREAT FACES. GREAT PLACES.

APR 25 1991

DEPARTMENT OF WATER & NATURAL RESOURCES

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

760-1

Peter L or Donna L Buer
Hwy 85 N, Box 45
Belle Fourche, SD 57717

Dear Mr. & Mrs. Buer:

Enclosed is your Vested Water Right License No. 760-1. This document should have been included with the validated vested right issued and forwarded to you on March 28, 1991.

The vested right license includes a detailed description of the irrigated lands and the point of diversion from Bitter Creek. As stated in our March 28th letter, as long as you use the water beneficially, as stated in the vested right validation and license, State Water Laws provide that you have a continuing right to use the water.

If you have any questions concerning the enclosed license, please contact us.

Very truly yours,

John Hatch

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

enclosure

760-1

STATE OF SOUTH DAKOTA
VESTED RIGHT WATER LICENSE NO. 760-1 FOR IRRIGATION

(1) Jesse D Guidinger, Belle Fourche, SD was originally issued a water license for Vested Right Claim No. 760-1, November 22, 1965. The claim was for diversion of 9.74 cubic feet per second of water from Bitter Creek to irrigate of 582 acres in Sections 10, 11, 12, 13, 14 & 15 T10N, R3E.

Transfers filed with the vested right claim are as follows:
February 5, 1971, Jesse D Guidinger to Henry Thompson
October 15, 1982, Henry Thompson to Myrtle C Thompson
May 31, 1989, Myrtle C Thompson to Peter L or Donna L Buer

Vested Water Right No. 760-1 was validated September 27, 1989 with a priority date of November 15, 1949. The validation was based upon an April 18, 1939 inspection of the water use system. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

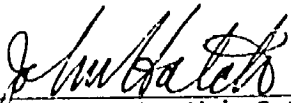
(2) The applicant is entitled to divert 3.70 cubic feet of water per second for beneficial use with storage of 720 acre feet of water annually. The location of the diversion point is approximately 920 feet north and 1200 feet east of the southwest corner of Section 10, T10N, R3E (SW1/4 SW1/4).

The location of the irrigated acreage is as follows:

T10N, R3E Section 10	SW 1/4 SE 1/4	23.0	acres
	SE 1/4 SE 1/4	37.0	"
	NE 1/4 SE 1/4	12.8	"
Section 11	NW 1/4 SW 1/4	3.0	"
	SW 1/4 SW 1/4	36.0	"
	SE 1/4 SW 1/4	15.2	"
	SW 1/4 SE 1/4	1.3	"
Section 14	SE 1/4 NE 1/4	20.0	"
	NE 1/4 NE 1/4	2.0	"
	SW 1/4 NE 1/4	20.5	"
	NW 1/4 NE 1/4	20.2	"
	NW 1/4 NW 1/4	24.0	"
	NE 1/4 NW 1/4	23.5	"
	SE 1/4 NW 1/4	6.5	"
Section 15	NE 1/4 NE 1/4	9.5	"
	NW 1/4 NE 1/4	5.5	"
TOTAL		260.0	acres

760-1

(3) Pursuant to Section 46-5-30.1, Peter L or Donna L Buer,
Highway 85 North, Box 45, Belle Fourche, SD 57717 the holders and
owners of Vested Water Right No. 760-1, are issued a license to
appropriate 3.70 cubic feet of water per second from Bitter Creek
with a priority date of November 15, 1949 from the location
specified in (2) of this license. The water is to be used for
the purpose of irrigation. This license is subject to any
limitations, conditions or qualifications listed in Vested Water
Right No. 760-1 and subject to South Dakota State Law.

 APR 25 1991
JOHN HATCH, Chief Engineer
Water Rights Division
Dept of Environment and
Natural Resources



United States Department of the Interior

BUREAU OF RECLAMATION

Great Plains Region
Belle Fourche Projects Office
P.O. Box 226
Newell, South Dakota 57760-0226



WTR 4.10
BF-430

AUG 18 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
523 E. Capitol
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter
Dated April 20, 1993) (Water Rights)

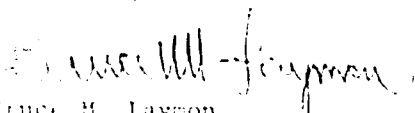
Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claim as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,


Bruce M. Laymon
Project Manager

cc: Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57766

Mr. James E. Winterton, Project Manager
Belle Fourche Irrigation District
PO Box 225
Newell SD 57760



760-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 2009

Peter L. Buer
11599 Brooker Rd.
Belle Fourche, SD 57712-6412

Dear Mr. Buer:

We have reviewed the plans and specifications for the Ducks Unlimited Restoration Project for your dam located in the SW ¼ of Sec. 10-T10N-R3E, in Butte County. The plans and specifications for your project are approved.

Our review was to determine compliance with the requirements of the Water Management Board Safety of Dams Rules, Chapter 74:02:08. Approval of these plans and specifications does not release you, as owner of the dam, from the responsibility for operating and maintaining the dam in good repair to ensure the safety of the dam.

The Guidinger Dam (SD ID No. 00675) is classified as an intermediate size Category 3, Low Hazard dam with a dam height of 24 feet and a normal storage capacity of 572 acre-feet and a maximum storage capacity of 1310 acre-feet.

As we discussed, your dam is authorized under Vested Water Right No. 760-1. The Water License for this permit will need to be reissued to reflect the change in storage capacity to 572 acre-feet.

If you have any questions, please feel free to contact us.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist
for Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

c: Roger Smith, Ducks Unlimited
Steve Fairbairn, USFWS
Tom Quinn, NRCS Belle Fourche

Water Rights Division -DENR
Conversation or File Documentation

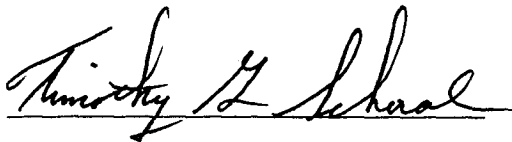
NAME OF PERSON OR FILE: Peter L. Buer

ADDRESS: 11599 Broker Rd., Belle Fourche, SD 57712-6412 COUNTY: Butte

DATE: June 10, 2009 TELEPHONE: 892-4341

RE: Ducks Unlimited Project to repair existing dam

I talked to Mr. Buer today about the proposed Ducks Unlimited project to repair the existing dam (Guidinger Dam, SD ID No. 00675) associated with Vested Water Right No. 760-1. I told him the Ducks Unlimited plans looked good and I would be sending out an approval letter soon. We also discussed the irrigation and he explained that the head gate has been open to allow irrigation, however, due to drought issues and the on going spillway erosion, the system has not operated lately. We discussed the new spillway elevation (2041) and the irrigation headgate elevation (2939), so there should be about 3 feet of water and 200 acre-feet of storage for irrigation when the reservoir is at the full or spillway elevation. We also discussed the DU design with the drop inlet primary spillway and this design should help prevent the spillway erosion problems they have had in the past. I also mentioned that with the new spillway, the authorized storage capacity associated with Vested Water Right No. 760-1 will need to be changed to 572 acre-feet. We also discussed the flood easement he has with his adjacent neighbors. I told him I would send him a copy of Vested Water Right No. 760-1 for his records



Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist
Water Rights Program

Ducks Unlimited Project
Pete Bauer Wetland Restoration
Water Right No. 760-1

Top of Dam Elev. - 2946 } Cat. 3 - Low Hazard Dam
2nd Spillway Elev. - 2943 }
P. Spillway Elev. - 2941 } Ht. = 24 ft.
DIS Emb. Toe Elev. - 2922 }

Normal Storage Capacity - 572 Ac-Ft
Int. Storage Capacity - 825
Max. Storage Capacity - 1310

Int. size dam - Max. Capacity > 1000 Ac-Ft i. 100 yr
Minimum Spillway Design

From USGS WRI 98-4055 "Tech. for Est. Peak Flows ... in SO"
Region C DA = 10.33 mi²

$$\begin{aligned} Q_{100} &= 379 CA^{.566} \\ &= 379 (10.33)^{.566} \\ &= 379 (3.7496) \\ &= \underline{1420 \text{ cfs}} \end{aligned}$$

Secondary Spillway Capacity

$$\begin{aligned} Q &= CLH^{3/2} \quad C = 2.6 \\ &= (2.6)(300)(3)^{1.5} \quad L = 300 \\ &= \underline{4050 \text{ cfs}} \quad H = 3 \end{aligned}$$

Section 74:02:08:09

1. Topo Map - OK
2. Dam Axis Profile - OK
3. Dam Max X-Sec. - OK
4. Area Capacity - OK
5. Outlet Details - OK
6. Spillway Rating - OK
7. Spillway Details - OK
8. Specs. - std DU - OK
9. EPR. N/A Cat. 3 - OK

NRCS Annual Yield

$$DA = 6611 \text{ Ac} \quad CN = 72 \quad ISO = 1\frac{1}{2}$$

$$\begin{aligned} 80\% \text{ chance} &= 0.06 \\ 0.06 \times 6611\frac{1}{2} &= \underline{33 \text{ Ac-Ft}} \end{aligned}$$

$$\begin{aligned} 50\% \text{ chance} &= 0.18 \\ 0.18 \times 6611\frac{1}{2} &= \underline{100 \text{ Ac-Ft}} \end{aligned}$$

$$\begin{aligned} 10\% \text{ chance} &= 1.1 \\ 1.1 \times 6611\frac{1}{2} &= \underline{606 \text{ Ac-Ft}} \end{aligned}$$

Schaal, Tim

From: Roger Smith [rsmith@ducks.org]
Sent: Thursday, August 21, 2008 3:31 PM
To: Schaal, Tim
Cc: Steve_fairbairn@fws.gov; Rick Warhurst
Subject: RE: Buer Plans and Design Report

As the design engineer, I am always more comfortable with easements or at least some type of Management Agreement. We need to bring the neighbors officially into the process somehow. I worry about such things, particularly if grazing has increased and now subject to loss. I know we have verbal approval from Mr. Leitner as I wanted to touch that base before we started the design.

In the Design Report I stated that there would be impacts off of Pete's Buer's property. Only the individual landowners are in a position to determine if those impacts are positive or negative.



ROGER SMITH
Director of Conservation Services
Great Plains Regional Office
2525 River Road Bismarck, ND 58503
Office # - 701-355-3553
Fax # - 701-355-3557
Cell # - 701-400-6283
Email - rsmith@ducks.org
www.ducks.org

From: Tim.Schaal@state.sd.us [mailto:Tim.Schaal@state.sd.us]
Sent: Thursday, August 21, 2008 2:54 PM
To: Roger Smith
Cc: Steve_fairbairn@fws.gov
Subject: RE: Buer Plans and Design Report

Thanks Roger--There is already a Water Right (#760-1) for this dam. There is the question is it still a valid permit with the beach or partial breach and number of years it has been breached. Since it is not a complete breach and empty reservoir, I'm thinking we can go with the existing permit. However, after the repair is made we should relicense it for the 571.9 acre-feet of storage which looks like that amount is closer to what the original dam held than the 720 it is licensed for.

Steve--with a new permit application we would be looking for easements, do you see a need here for easement for property flooding or even the 2nd spillway construction ?? are the neighbors OK with the repair ??

Tim

-----Original Message-----

From: Roger Smith [mailto:rsmith@ducks.org]
Sent: Wednesday, August 20, 2008 2:20 PM
To: Schaal, Tim
Cc: Steve_fairbairn@fws.gov
Subject: Buer Plans and Design Report

The 2 copies of stamped plans and 1 Design Report for the Buer project are on their way to Pierre via UPS

11/03/2008

ground. I would expect them either Friday or Monday. I am attaching the Design Report here if you need more copies, or if not having is holding anything up. The stamped plans did not change from the plans submitted. Is there anything I need to fill in terms of an application?



ROGER SMITH
Director of Conservations Services
Great Plains Regional Office
2525 River Road Bismarck, ND 58503
Office # -701-355-3553
Fax # - 701-355-3557
Cell # - 701-400-6283
Email - rsmith@ducks.org
www.ducks.org

DESIGN REPORT

For

**PETE BUER WETLAND
WETLAND**

RECEIVED

AUG 22 2008

**WATER RIGHTS
PROGRAM**



**Ducks Unlimited, Inc.
2525 River Road
Bismarck, ND 58501**

PROJECT: BuerWetland
SD -418-08

LOCATIONS: SW¼, SW¼ SECTION 10, TWP-10N, RGE.-3E
Latitude 44° 50' 19.85" Longitude 103° 44' 54"
Butte County, South Dakota

MARSH DATA: Full Service Level (FSL) @ 2941.0
114.3 Surface Acres @ FSL
571.94 Acre-Feet Capacity @ FSL
Maximum Depth - 13.0'

PROJECT DATA: Top of Dam - elevation 2946.0 (Top of compacted fill add 4" for topsoil)
Primary Spillway - elevation 2941.0
Emergency Spillway - elevation 2943.0 (Top of finished grade)
Side Slopes - Downstream - 3: 1
Side Slopes - Upstream 9:1 below elev. 2938.0, 3:1 above elev. 2938.0

*Int. Size
1310 Ac-Ft Top of Dam*

CLASSIFICATION: Based on the classification criteria outlined in Chapter 74:02:08 "Safety of Dams," it is recommended that the proposed reconstructed dam be classified as a small, Category 3 dam. No loss of life and minimal economic loss is expected should failure occur. The product of the "maximum storage capacity" times the "effective height" is greater than 3000 ((1310 acre-feet x (2938.0-2822.5)). The minimum spillway requirement for a small, Category 3 dam is a 50-year event. A 100-year design standard was used in the Buer Wetland design. (See chart Page 4)

PRELIMINARY RISK ASSESSMENT: The proposed dam reconstruction is planned on the Bitter Creek 1.9 miles above its confluence with Indian Creek, a tributary to Horse Creek, a tributary to the Belle Fourche River. There are no roadway crossings on Indian Creek for 13 miles downstream of the Buer Dam. There are no major highways that cross Indian Creek.

PROJECT HISTORY: The USGS quad lists the name of the reservoir as Guidinger Reservoir. The construction history of the dam is unknown to Ducks Unlimited. A head cut developing in the emergency spillway on the right abutment no longer allows the dam to retain water above elevation 2934. The reservoir remaining below elevation 2934 is 36.2 acres with a volume of 74.1 acre-feet. There is evidence that a past emergency spillway on the left abutment was abandoned and the dam extended. There is no evidence that the dam has ever contained a primary spillway. The upstream face of the embankment has been exposed to wave erosion. Sufficient embankment width remains so that the integrity of the dam has not been compromised.



LANDOWNERSHIP:

The majority of the existing embankment and proposed improvements is in Section 10 owned by Pete Buer. A portion of the existing embankment and proposed improvements is in Section 9 and owned by Todd Leitner. A portion of the reservoir is owned by Pete Buer, Todd Leitner, and Lewis Kessel. A description of ownership is as follows.

Section 9	Todd Leitner
Section 10	Pete Buer
Section 15	N $\frac{1}{2}$ - Pete Buer
Section 15	S $\frac{1}{2}$ - Lewis Kessel
Section 16	S $\frac{1}{2}$ - Lewis Kessel
	NW $\frac{1}{4}$ - Lewis Kessel
	W $\frac{1}{2}$ NE $\frac{1}{4}$ - Lewis Kessel
	W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ - Lewis Kessel
	E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ - Pete Buer

A map showing landownership at the time of the design is included in this report.

IRRIGATION COMPONENT: The reservoir serves as an irrigation storage reservoir and currently has the infrastructure capable of diverting flows east to approximately 380 acres of alpha and tame grass. An inlet structure consisting of gated 24 inch CMP with a concrete headwall and having an invert elevation of 2939.53 currently exists. Flows are directed to the irrigated grass through an excavated channel. Some cleanout may be required in order for the irrigation system to function. This project will not be addressing the existing irrigation system but will reestablish irrigation capabilities.

PROPOSED PROJECT: The project consists of removing car bodies and reconstructing the existing embankment face, installing a primary spillway and constructing a new emergency spillway on the left abutment. The embankment will be excavated to allow for the installation of a riser / barrel type water control structure. The primary spillway will align with what appears to be the original channel. The top of the original embankment varied from 2945.3 to 2947.0. The embankment top will be reconstructed to 2946.0 (top of compacted fill). A 12' top width will be maintained at the dam crest. Rock rip rap will be placed on the face of the embankment between elevation 2938.0 and 2942.0 and around the primary spillway intake and outlet.



The integrity of the embankment appears to be intact. An existing bench of varying width exists at the approximate elevation of 2945. The upstream face of the embankment will be excavated at 3:1 slopes from the existing upstream shoulder to elevation 2938.0. A berm of varying width and having a minimum width of 10' will be created by excavating at 0% slope to daylight at elevation 2938.0. The cross sectional area of the reconstructed embankment will be less than the cross sectional area of the existing embankment.

Material removed for structure installation will be used for structure backfill and be compacted to 95% (Standard Proctor) and at -1% to +3% of optimum moisture. The embankment will be extended on the right abutment consisting of compacted material and constructed to elevation 2946.0.

PRIMARY SPILLWAY: The structure will have fixed level water control capabilities at elevation 2941.0. Variable level water control will be provided by a separate structure having the capability of retaining water at 4" increments between elevations 2934.0 and 2941.0. The structure will consist of a riser that will act as a fixed level circular weir and be 72 inch diameter made of 10 gage corrugated metal pipe. The outlet barrel will be a ~~72~~⁴⁸ inch, 10 gage corrugated metal pipe at a 0% slope at elevation 2922.0. All corrugated metal materials will be coated with a 10-mill polymeric film laminate both inside and outside. A protected plunge pool will be located at the discharge end of the outlet pipe.

EMERGENCY SPILLWAY: The emergency spillway will be excavated having a 300' bottom width and 3:1 slopes. The top of the finished spillway grade, after replacing 4" of topsoil, will be 2943.0 or 2 feet above the crest of the primary spillway, and 3' below the dam crest. The length of the level crest at its minimum spillway centerline is 27' feet. The new emergency spillway will outlet onto an undisturbed well vegetated slope then into a natural channel. The emergency spillway and receiving channel is on property owned by Todd Leitner.

HYDROLOGY / HYDRAULICS: A hydrologic analysis of surface water runoff was performed using two methods. A peak discharge was determined from regression equations developed in WATER-RESOURCE INVESTIGATIONS REPORT 80-80 USGS. HydroCAD software using the TR-20 method was used to determine the inflow hydrograph and route the runoff events through the primary and emergency spillways. Peak inflows developed by the regression equations yielded much lower peak inflows than those developed by HydroCAD. Inflows developed by the more conservative HrdCAD model were used for design purposes. Other assumptions made in developing inflow hydrographs by the TR-20 METHOD were:

Rain Duration = 24 hours

Rain Table # = Type I 24 hr Rainfall

Antecedent moisture condition = 2

Inflow hydrographs developed from the TR-20 METHOD were routed through the primary and emergency spillways. This yielded outflow hydrographs revealing peak discharges at maximum reservoir elevations corresponding to various runoff events. The following table is a summary of that printout:

PARAMETERS:

WATERSHED - 10.33 Square Miles

TIME OF CONCENTRATION - 5.8 Hours

CURVE # - 76

Event	Peak Inflow	Peak Outflow		Peak Discharge	Maximum WSP	Freeboard
		Primary	Emergency			
5 yr	419	113	0	113	2,942.50	3.50
10 yr	574	162	0	162	2,942.91	3.09
25 yr	866	214	100	314	2,943.47	2.53
50 yr	1,123	227	297	524	2,943.79	2.21
100 yr	1,395	238	534	772	2,944.05	1.95

*Soil Infiltration Index values used in Regression Equations is 1.9.

**Calculated from top of compacted fill, excluding topsoil.

***A spillway-rating curve for the primary and emergency spillways is contained within this report.

DROUGHT ANALYSIS: Using NRCS methods, the 80% and 50% annual runoff will generate 100 and 250 acre-feet respectively (using isogram map #1½, and curve number 72). The annual requirement assuming an evaporative loss of approximately 3.0 feet is 275 acre-feet. Annual dry cycles are considered to be beneficial to waterfowl habitat. It is expected that without subsurface contributions, the reservoir will experience periods of drought sufficient to limit the availability of water for irrigation some years.

SOIL INVESTIGATION: A preliminary investigation determined that suitable quantities of acceptable material are likely. It is anticipated that bag samples will be taken for the purpose of conducting proctor tests. Compacted fill specifications will be used during construction. Moisture /density tests will be taken during construction at the discretion of the engineer. Compaction specifications require that material be placed at 95% (standard proctor) and at +3% to -1% of optimum moisture content.

IMPACTS TO SURROUNDING PROPERTY: It was difficult to determine the historic reservoir elevation prior to the failure of the emergency spillway. The elevation of the emergency spillway was estimated to be 2941 based on the inlet elevation of the irrigation diversion structure. It appears the embankment has never been overtopped and that maximum reservoir elevations did not exceed elevation 2944.0. Although the reservoir will impact property owned by Todd Leitner and Lewis Kessel it is the opinion of the design engineer that the project will restore the reservoir close to historic full service levels. Due to the increased capacity of the primary and emergency spillways, the maximum pool elevation will be less than what could have been achieved historically. It is possible land use outside of Pete Buer's ownership has changed to accommodate the lower existing maximum pool elevation due to the spillway failure.

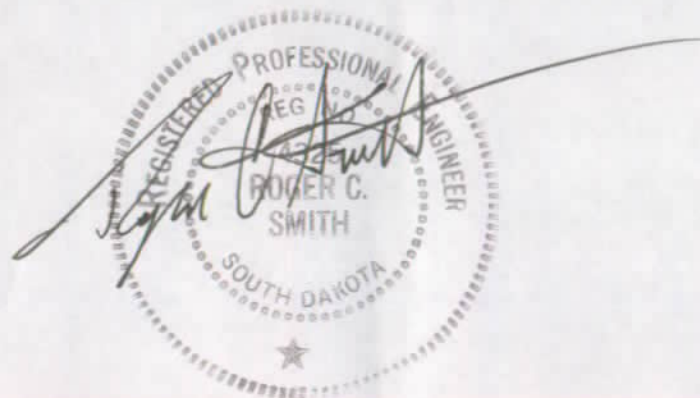
By the construction of the new emergency spillway the possibility exists that flows will be diverted onto land owned by Todd Leitner where no flows would presently or historically have existed. It is predicted that events between the 10-year and 25-year frequency could use the emergency spillway. The duration of flows through the emergency spillway will depend on the characteristics of the runoff event but the hydrologic model used in the design predicts the duration of flows in the emergency spillway to be less than 24 hours. The receiving channel is vegetated and it is anticipated that given the low frequency and short duration, the emergency spillway and receiving channel will accept flows without damage.

A summary of the land ownership containing the dam and associated reservoir is contained at the end of this report.

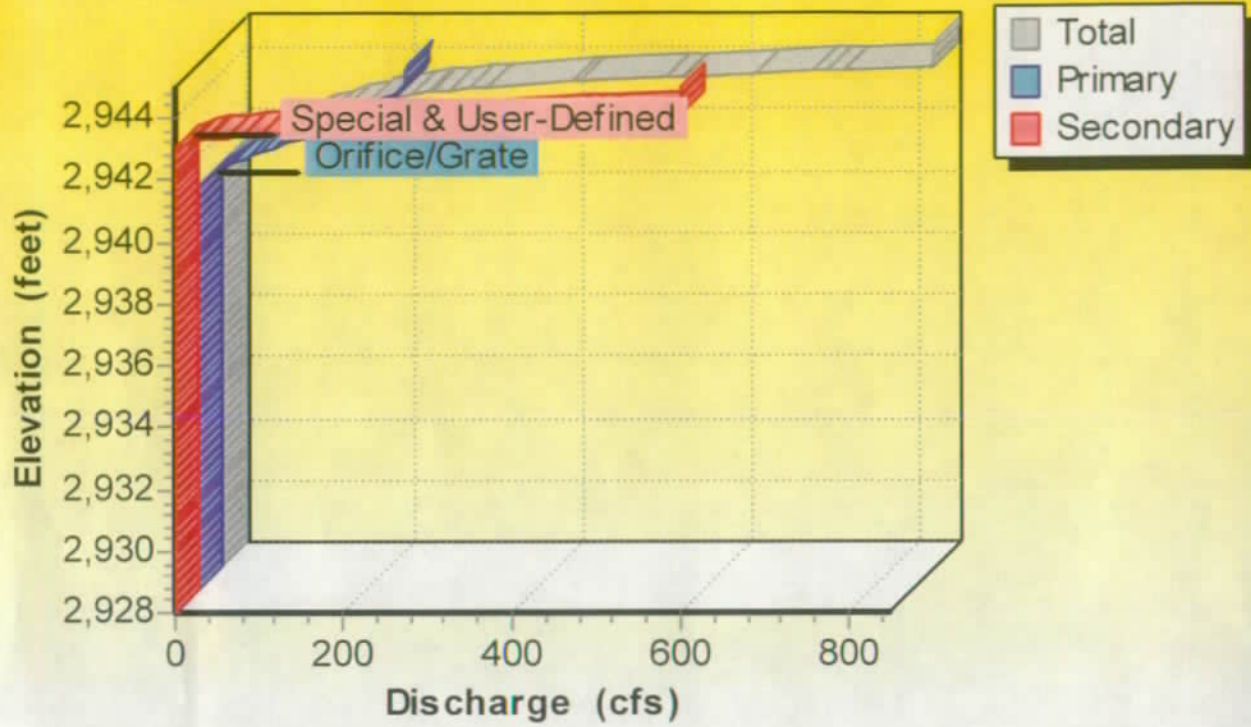
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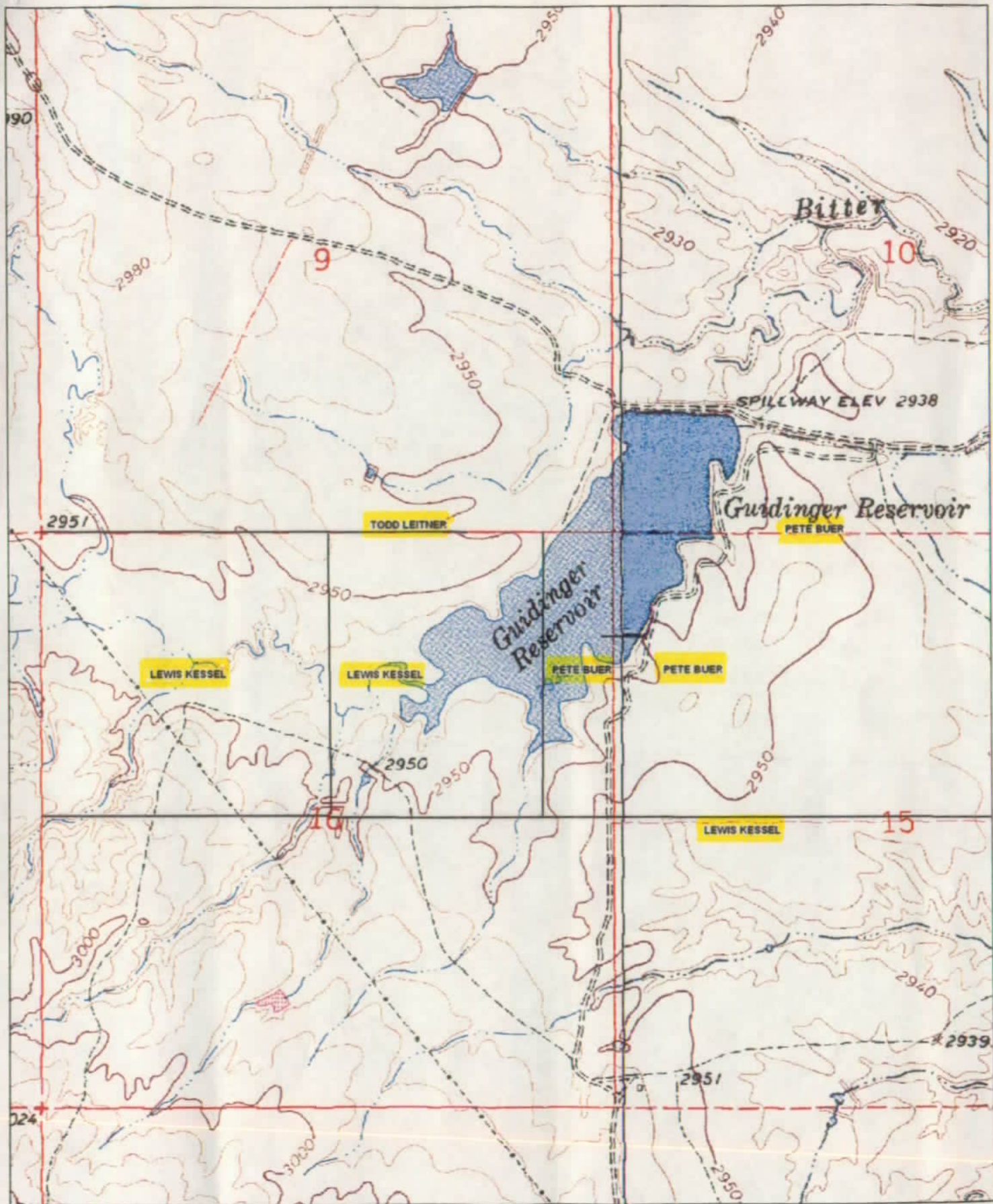
Submitted By:

Roger Smith, P.E (#-4325)
Regional Engineer
Ducks Unlimited
Great Plains Regional Office



Stage-Discharge





Statement of Control of Rented/Leased Land and Permission to Install
Conservation Practices for the Purpose of the Conservation Security
Program (CSP), Conservation Stewardship Program (CStP),
Environmental Quality Incentives Program (EQIP), or
the Wildlife Habitat Incentives Program (WHIP)

To the best of my knowledge, I/we plan to continue to rent or lease the land identified below to the identified operator(s) for the length of the proposed CSP, CStP, EQIP, or WHIP contract period. In addition, I grant permission to install structural and/or vegetative conservation practices/activities on the land I own identified below recognizing the conservation practices/activities will need to be maintained for the lifespan of the conservation practice(s)/activity(ies).

Tract	Section	Township	Range
	9	10N	3E

Operator's Name: Pete Buer

Anticipated Agreement Period: 2008 thru 2018

Landowner(s) Signature: Todd Leitner

Printed Landowner(s) Name: Todd Leitner

Date: 12/16/2008

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WATER RIGHTS
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Statement of Control of Rented/Leased Land and Permission to Install
Conservation Practices for the Purpose of the Conservation Security
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Tract	Section	Township	Range
	16	10N	3E

Operator's Name: Pete Buer

Anticipated Agreement Period: 2008 thru _____

Landowner(s) Signature: Louis W Kessel

Printed Landowner(s) Name: Louis Kessel

Date: _____

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JUN - 5 2009
WATER RIGHTS
PROGRAM

Statement of Control of Rented/Leased Land and Permission to Install
Conservation Practices for the Purpose of the Conservation Security
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Tract	Section	Township	Range
	16	10N	3E

Operator's Name: Pete Buer

Anticipated Agreement Period: 2008 thru _____

Landowner(s) Signature: Vinette Kessel

Printed Landowner(s) Name: Vinette Kessel

Date: _____

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JUN - 5 2009
WATER RIGHTS
PROGRAM



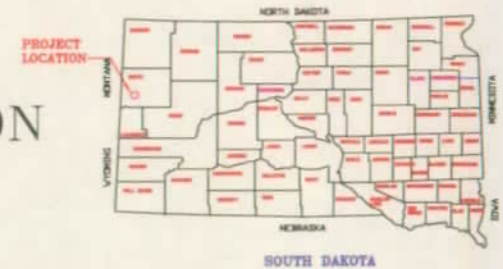
DUCKS UNLIMITED

PROJECT

PETE BUER WETLAND RESTORATION

SW1/4, SW1/4 SECTION 10, T10N, R3E
SE1/4, SW1/4 SECTION 9, T10N, R3E
NE1/4, NE1/4 SECTION 15, T10N, R3E
NW1/4, SECTION 16, T10N, R3E

BUTTE COUNTY, SOUTH DAKOTA
IN COOPERATION WITH
U.S. FISH & WILDLIFE SERVICE



SPECIFICATIONS

101	GENERAL CONDITIONS
102	SUPPLEMENTAL CONDITIONS
201	MOBILIZATION
202	SITE PREPARATION
203	EXCAVATION
204	EMBANKMENT CONSTRUCTION
205	WATER
206.206A	WATER CONTROL STRUCTURE/APPROPRIANCES
207	CULVERT INSTALLATION
208	CAST-IN-PLACE REINFORCED CONCRETE
209	RIPRAP PLACEMENT
207	EXISTING STRUCTURE REMOVAL (CAR BODIES)
311	TOE DRAIN INSTALLATION

PLAN INDEX

1	COVER SHEET
2	PROJECT TOPOGRAPHY
3	PLAN, PROFILE, AND SECTION
4	WATER CONTROL STRUCTURE LAYOUT
5	EMBANKMENT SECTIONS
6	EMBANKMENT SECTIONS
7	WATER CONTROL STRUCTURE DETAILS

QUANTITIES

MOBILIZATION	1 L.S.
SITE PREPARATION	1 L.S.
EXCAVATION	
STRUCTURE/OUTLET CHANNEL EXCAVATION	5,236 C.Y.-P*
BREACH EXCAVATION	2,077 C.Y.-P*
EMBANKMENT FACE EXCAVATION	3,236 C.Y.-P*
EMBANKMENT CONSTRUCTION	7,580 C.Y.-DHC**
WATER	75 M-GAL***
WATER CONTROL STRUCTURE INSTALLATION	
72" x CMP RISER	1 EA.
54" x INTAKE RISER	1 EA.
DRAW DOWN STRUCTURE (AGRIDRAIN IN-LINE STRUCTURE)	1 EA.
CULVERT INSTALLATION	
48" x CMP	100 L.F.
18" x FYC SDR-35 (DRAWDOWN)	102 L.F.
RIPRAP PLACEMENT	
CLASS I (EMBANKMENT FACE)	800 C.Y.-P
CLASS II (PLUNGE POOL)	80 C.Y.-P
CAR BODY REMOVAL AND DISPOSAL	1 L.S.

NOTES: (P) = PERCENT YARDS - PLAN SHOWS THAT THE PERCENT WILL BE BASED ON A PLAN QUANTITY BASED.
(DHC) = INCIDENTAL - DEFENSE THAT THE QUANTITY IS BASED ON THE INFORMATION PROVIDED AND THIS WORK IS INCIDENTAL TO ANY OTHER PAY ITEM.
(M-GAL) = MILLION GALLONS OF WATER USED FOR IRRIGATION PURPOSES ONLY. PAYMENT WILL BE BASED ON ACTUAL QUANTITY USED. SEE SPECIFICATIONS FOR DETAILS.

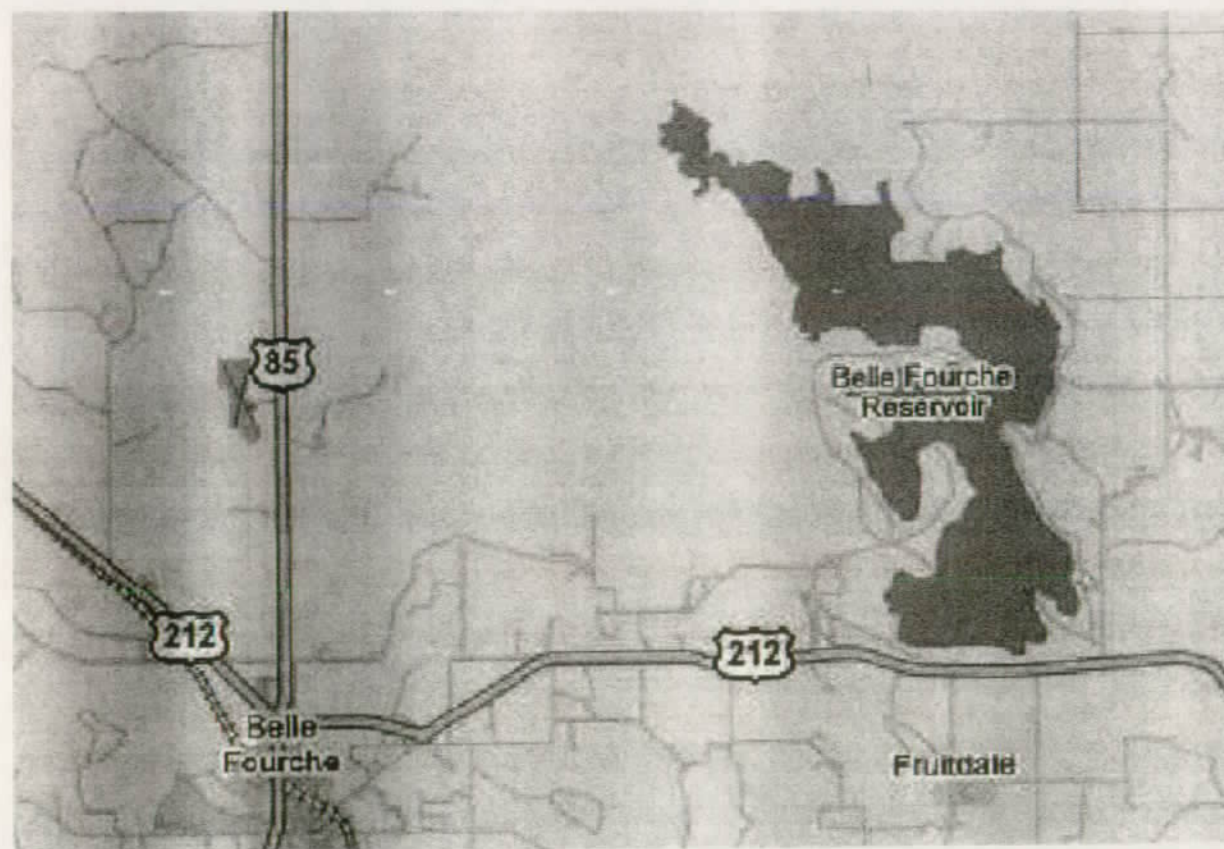
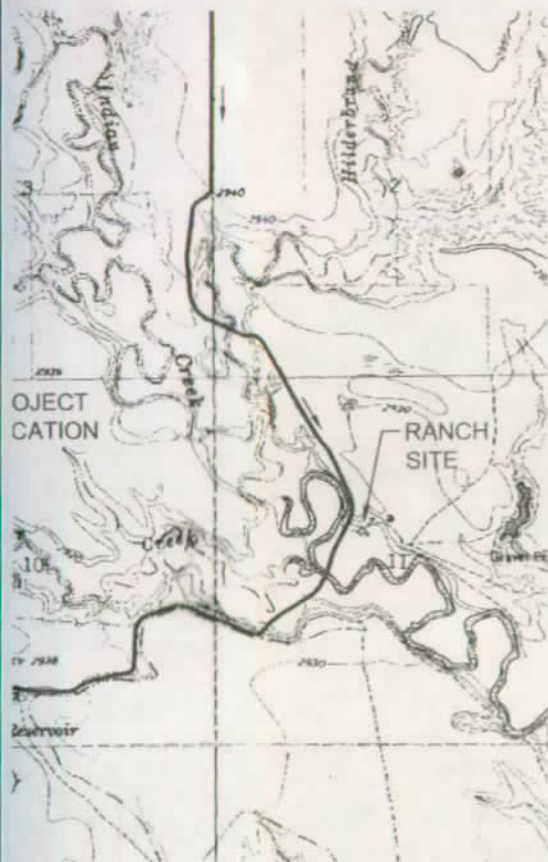


▲ ACCESS POINT IS APPROXIMATELY 14 MILES NORTH OF BELLE FOURCHE ON HWY 85. GO WEST ON BROOKINGS ROAD FOR 4.3 MILES, THEN SOUTH, FOLLOWING THE ROAD THROUGH THE RANCH PROPERTY.

AGENCY CONTACT:
U.S. FISH & WILDLIFE SERVICE
STEVE FAIRBARN
605-642-7730 EXT 212
LANDOWNER CONTACT:
PETE BUER 605-682-4341

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of South Dakota.
Sign: C. Smith, P.E.
Date: May 14, 2008

DUCKS UNLIMITED INC. 1101 PLAIN, AUBURN, SD 57005 DATE: 5-14-2008 SHEET NO: 1 OF 7	PROJECT NO. SD-118-B PETE BUER WETLAND RESTORATION PROJECT QUANTITIES AND PROJECT LOCATION MAPS DESIGNED BY: BKN	APPROVED BY: BKN DATE: 5-14-2008
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LOCATION MAP

NOT TO SCALE

▲ ACCESS POINT IS APPROXIMATELY 14 MILES NORTH OF BELLE FOURCHE ON HWY 85. GO WEST ON BROOKER ROAD FOR ±3 MILES, THEN SOUTH, FOLLOWING THE ROAD THROUGH THE RANCH PROPERTY.



AGENCY CONTACT:
US FISH & WILDLIFE SERVICE
STEVE FAIRBAIRN
605-642-7730 EXT 212

LANDOWNER CONTACT:
PETE BUER 605-892-4341

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.

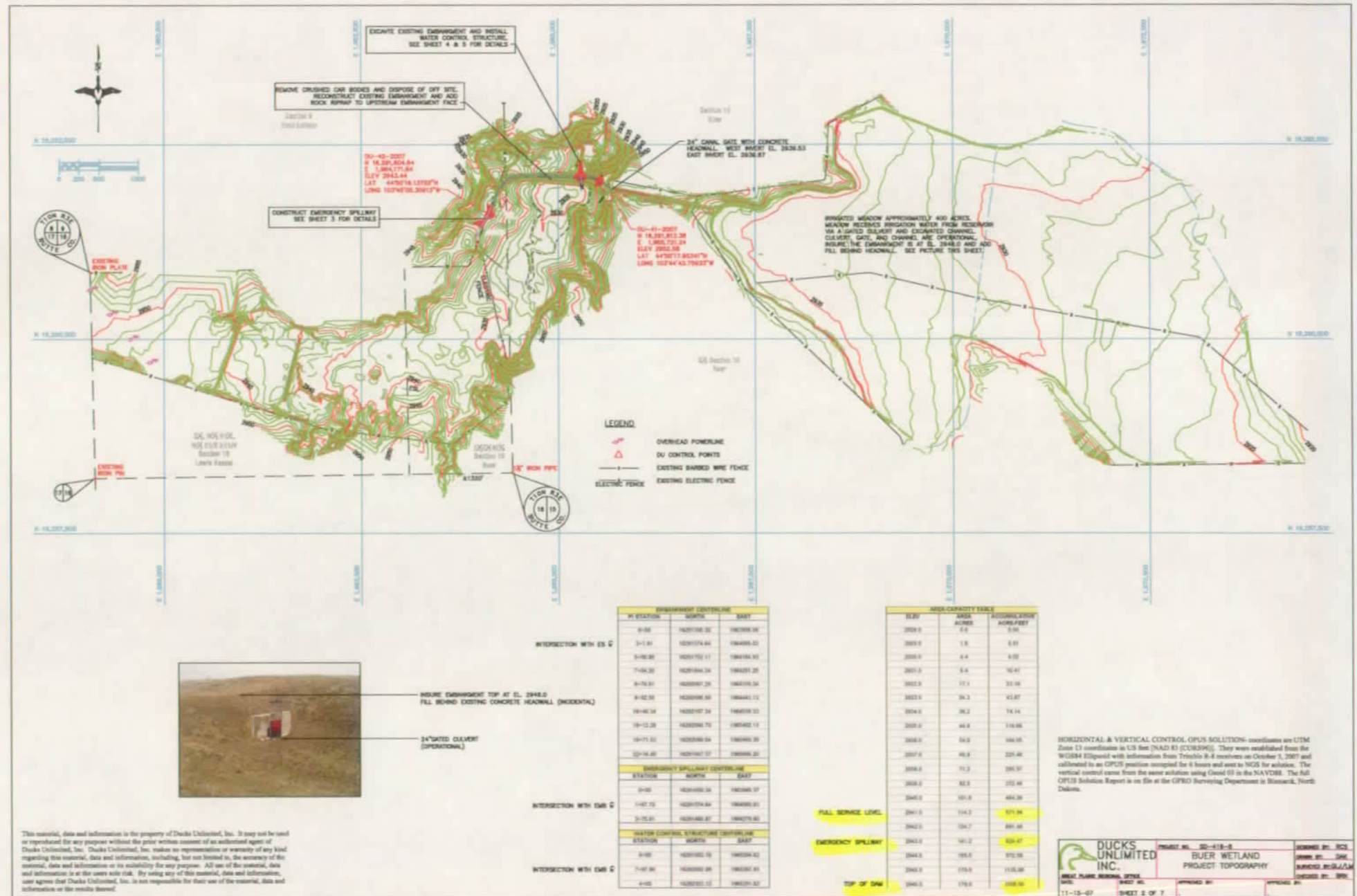
[Signature]
Roger C. Smith, P.E.

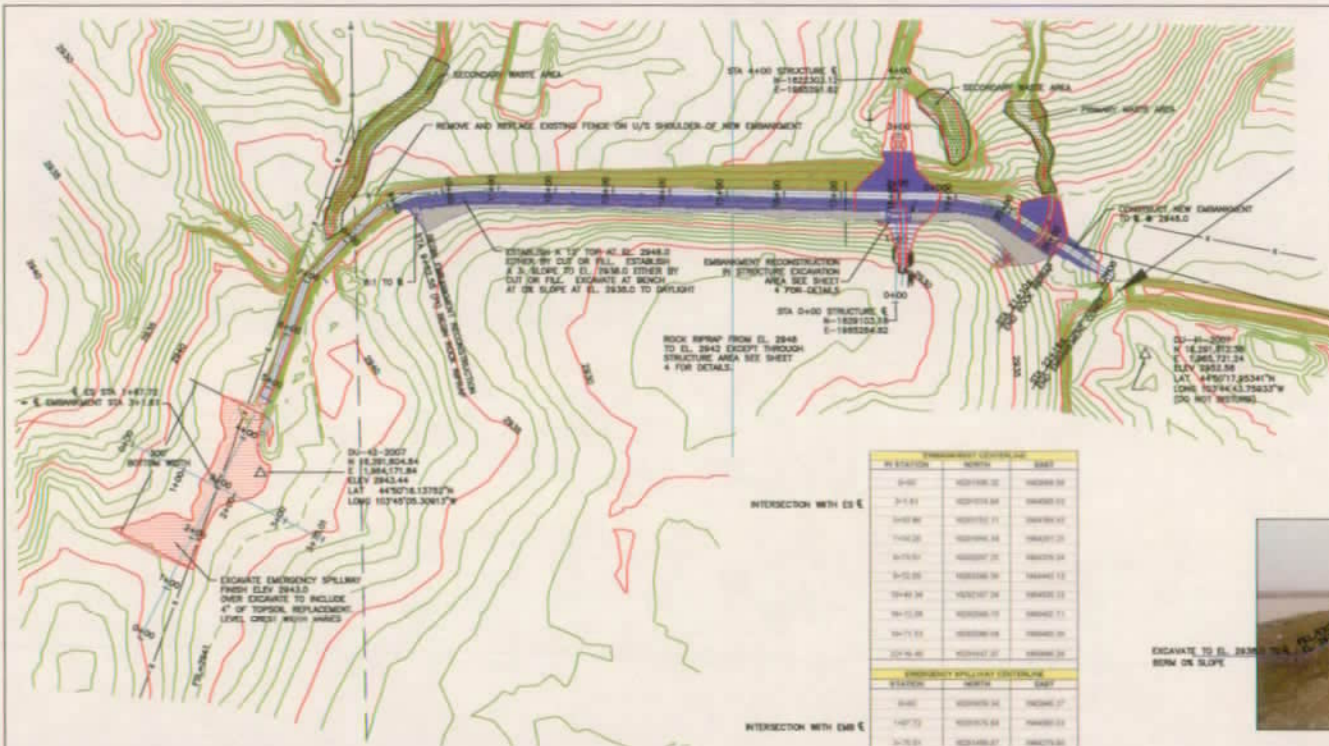
Date: 8-19-08 Reg No. 9415

Revision Number	Sheet Number	Revisions	Date	By
	ALL	Redline corrections and change intake.	6/27/08	DRW

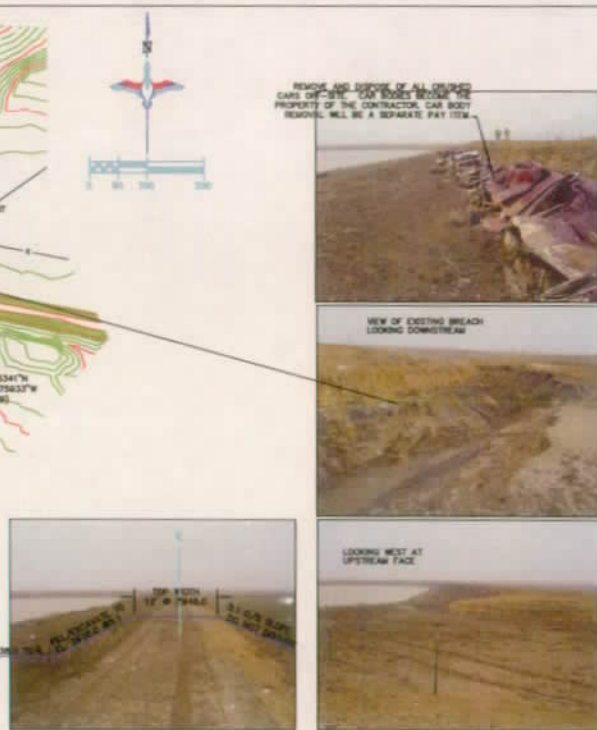
 DUCKS UNLIMITED INC. GREAT PLAINS REGIONAL OFFICE	PROJECT NO. SD-418-8	DESIGNED BY: RCS
	PETE BUER WETLAND RESTORATION PROJECT QUANTITIES AND PROJECT LOCATION MAPS	
DATE: 3-14-2008	SHEET NO. 1 OF 7	APPROVED BY: <i>[Signature]</i> APPROVED BY:

DRAWN BY: RCS
SURVEYED BY: GJ
CHECKED BY: BRK

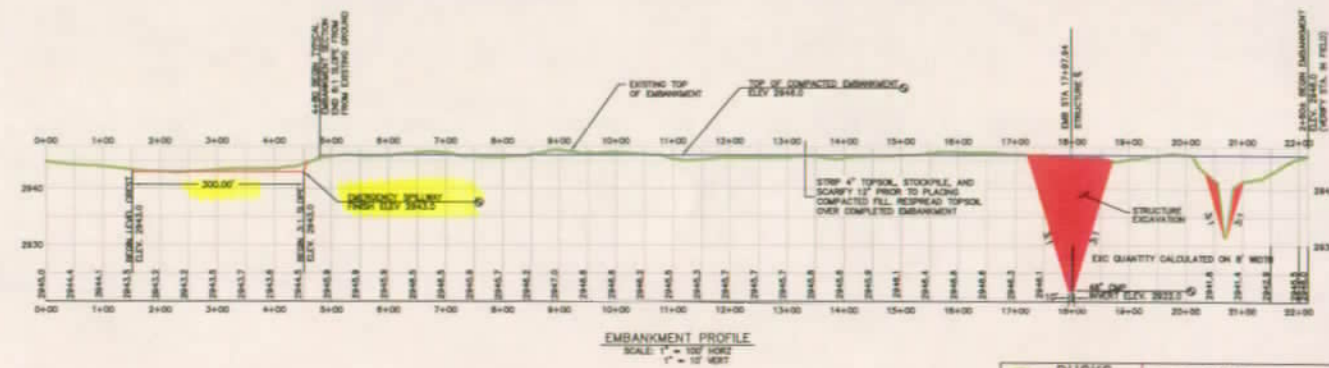
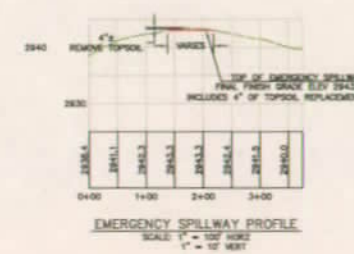


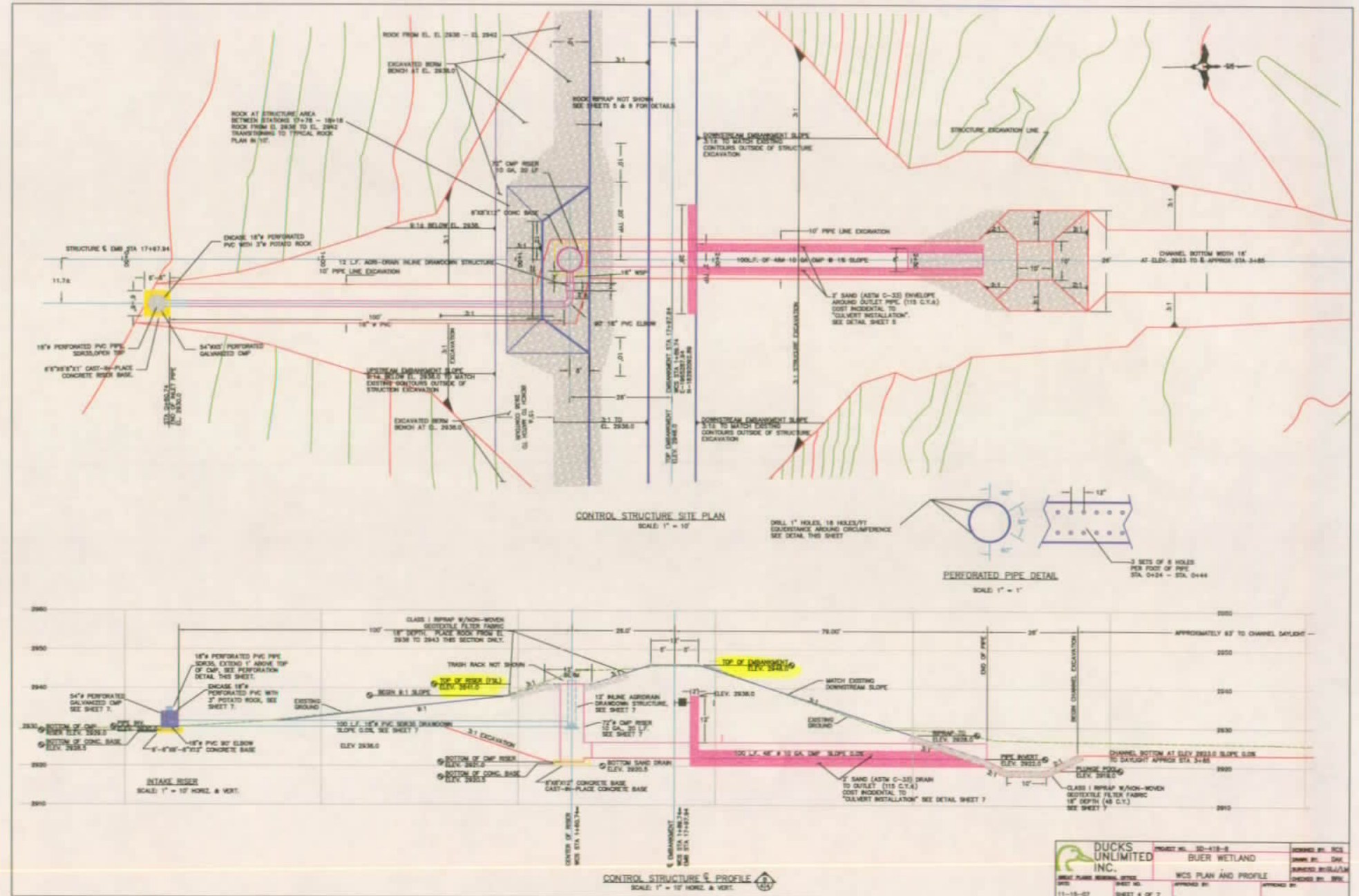


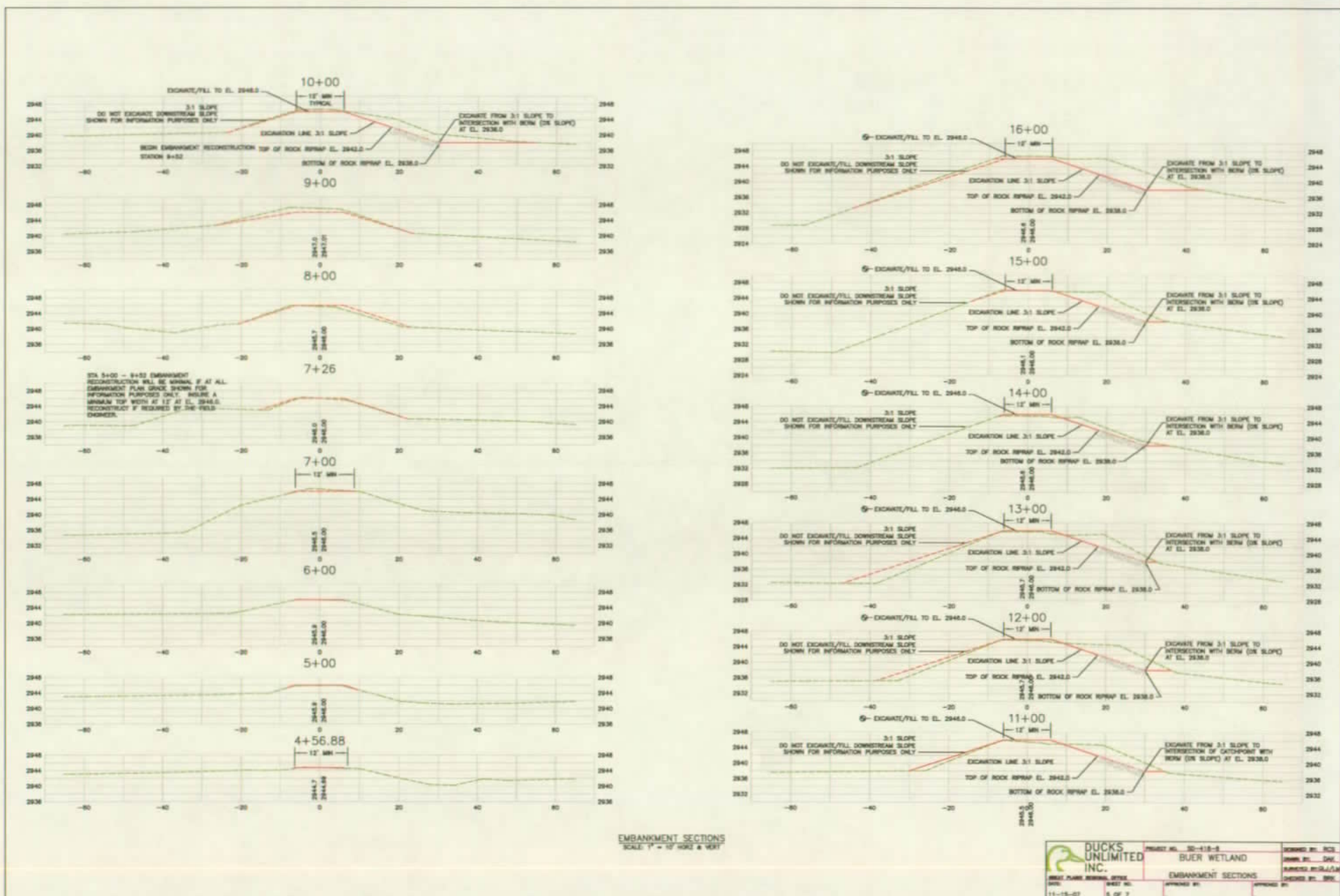
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3+00	100.00	10.00
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5+00	100.00	10.00
6+00	100.00	10.00
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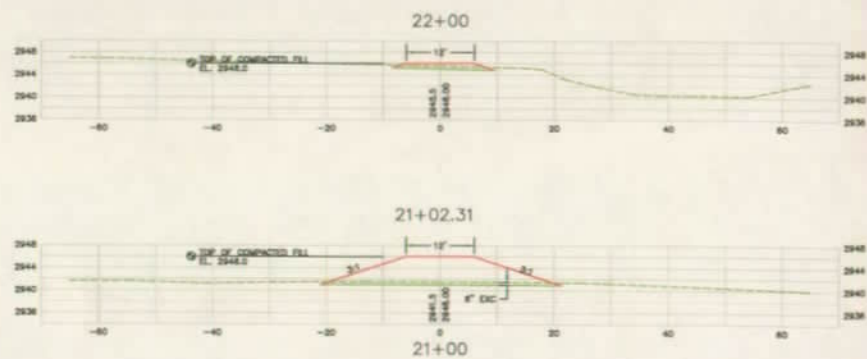
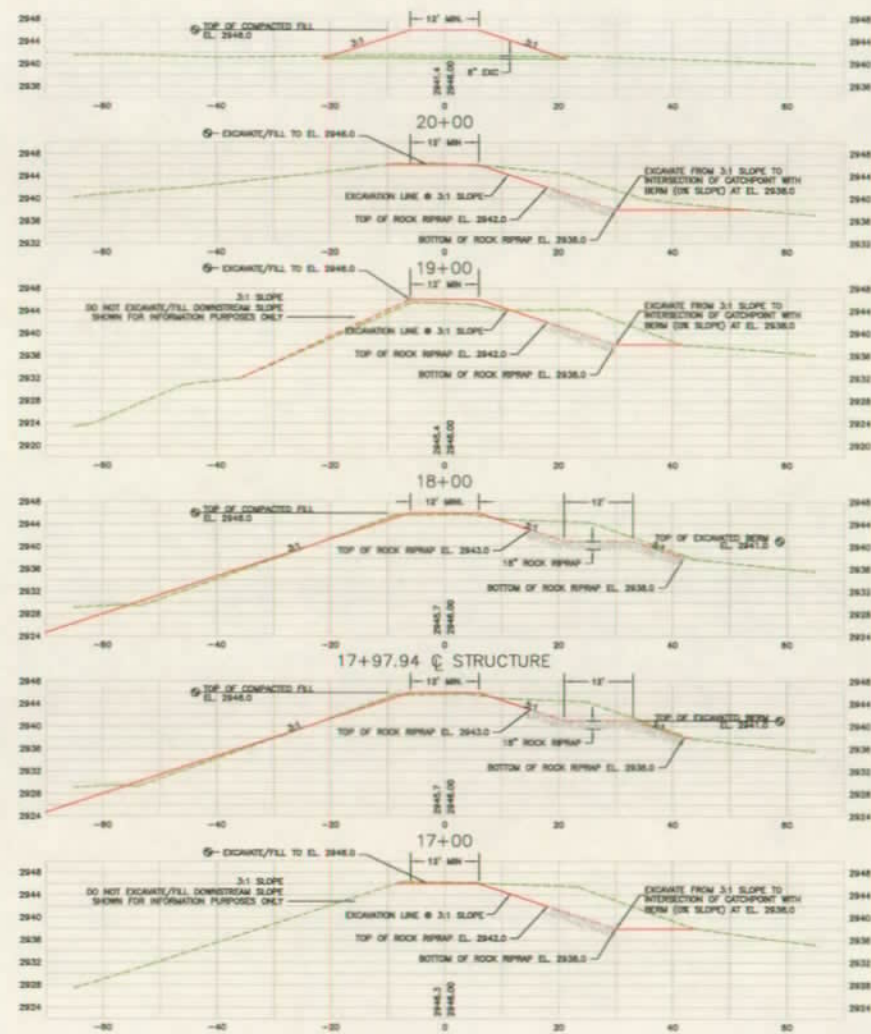


UTILITIES NOTE:
BEFORE THE START OF CONSTRUCTION, THE OWNER OF ANY UTILITIES INVOLVED MUST BE NOTIFIED. THE EXCAVATOR/CONTRACTOR IS RESPONSIBLE FOR OBTAINING THIS NOTICE AT LEAST 48 HOURS PRIOR TO ANY EXCAVATION. SEE ONE CALL 1-800-281-7474

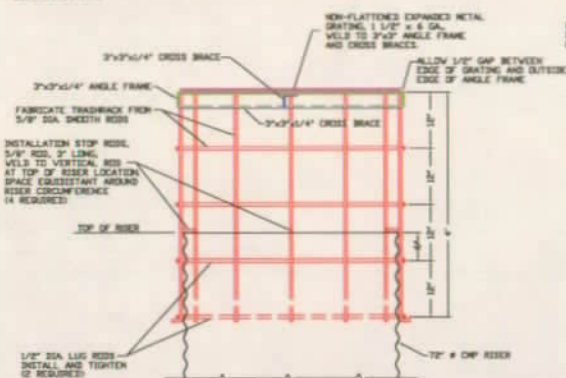
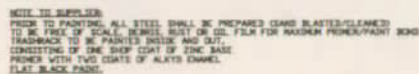




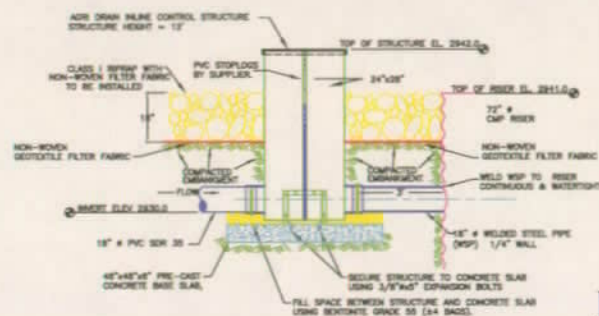




EMBANKMENT SECTIONS
SCALE: 1" = 10' HORIZ & VERT

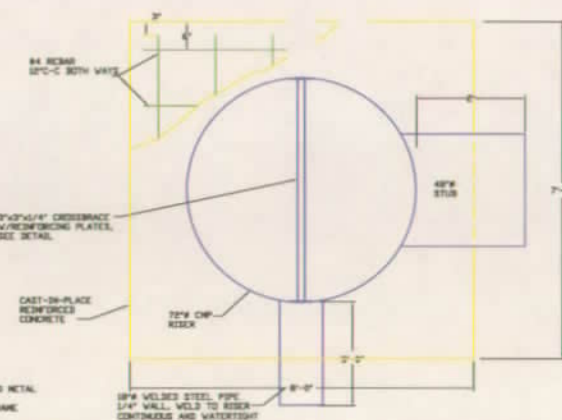


TRASHRACK DETAIL
NOT TO SCALE

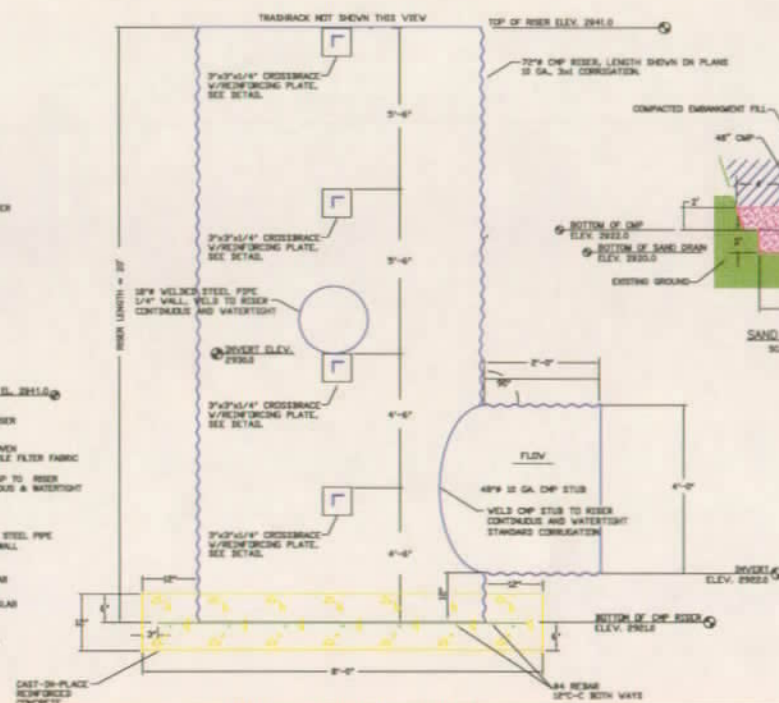


NOTE:
COST OF INLINE WATER CONTROL STRUCTURE AND INSTALLATION SHALL BE PER
AS BID ITEM "WATER CONTROL STRUCTURE INSTALLATION" HAND BACKFILL
AROUND AGRODRAM STRUCTURE AS PER MANUFACTURER'S RECOMMENDATION.

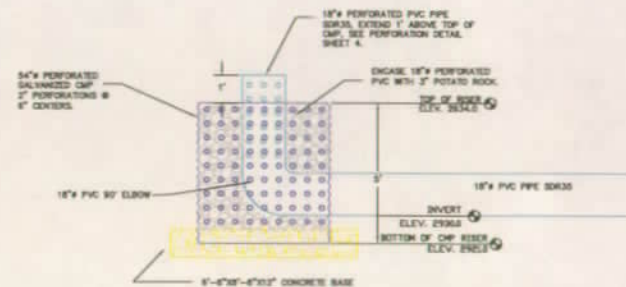
INLINE DRAWDOWN STRUCTURE PROFILE
NOT TO SCALE



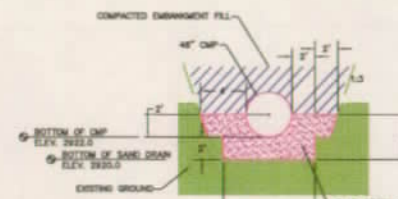
CONTROL STRUCTURE PLAN
NOT TO SCALE



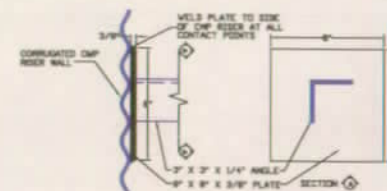
CONTROL STRUCTURE PROFILE
NOT TO SCALE



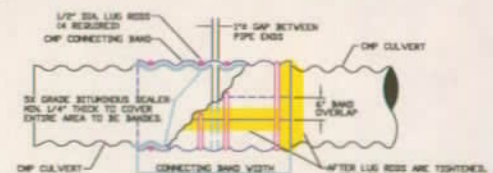
INTAKE RISER
SCALE: 1" = 1'



SAND DRAIN DETAIL



CROSS BRACE REINFORCING PLATE
NOT TO SCALE



NOTE TO SUPPLIERS:
IF ANNULAR PIPE IS USED, USE A 2 FT. WIDE
ANNULAR BAND. IF HELICAL PIPE WITH 4
CORRUGATIONS RIVELLED TO ANNULAR IS USED,
USE A 21 INCH WIDE ANNULAR BAND. SEE
SPECIFICATION 207.8.

CONNECTING BAND DETAIL
NOT TO SCALE