

Considered: _____

WATER PERMIT NO. 5250-3

HAP No. same 303-236-5321

Name of Applicant U.S. Fish and Wildlife Service

Post Office Address PO Box 25486, DFC, Denver CO 80225

Amount of Water Claimed sufficient to fill to 1614 msl Total Acres _____

Source of Water Supply runoff into wetland area (Varilek W.P.A.)

Water to be used for Fish + wildlife County Charles Mix

About 6 miles NE of Geddes.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved 3/2/89 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Dec 27, 1988 Fee _____ Remarks _____

12/27/88

Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

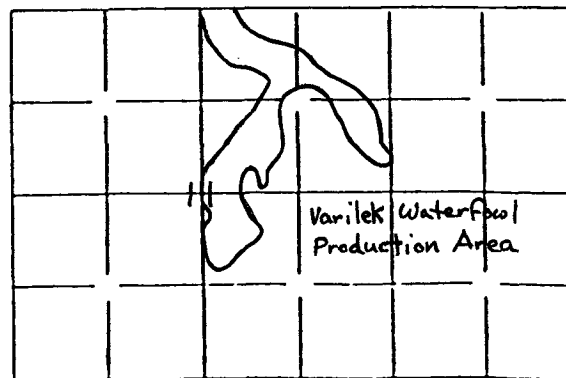
WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point Varilek WPA : E 1/2 section 11-

T98N-R66W

Land to be Irrigated _____



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map topo PREPARED BY William A. Godby Reviewed and the Number assigned on January 5, 1989 By [Signature]

No. 5250-3 Hydrologic Unit 10140101
 Map No. Same Basin Missouri River
 Newspaper Charles Mix Co. News, Box 157 (thurs)
57342

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
 Domestic ☐ (above 18gpm) Other ☒ Fish and Wildlife

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant United States of America
Fish and Wildlife Service Phone No. 303/236-5321Post Office Address P.O. Box 25486, Denver Federal Center, Denver State Colorado 80225
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) storage to elevation 1614 msl, estimated 204 acre-feet in
storage on WPA property.3. Source of water supply local runoff - closed basin4. Location of point of diversion water is collected in a natural wetland located E1/2
Section 11, T98N R66W. 68 surface acres in USA ownership/Varilek WPACounty Charles Mix5. Counties where water will be used Charles Mix6. Annual period during which water is to be used January 1 through December 31

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF ~~SOUTH DAKOTA~~ COLORADO
County of Jefferson ssI, John L. Spinks, Jr., the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed John L. Spinks, Jr.
REGIONAL DIRECTORSubscribed and sworn to before me this 22nd day of December, 19 88Juris J. Eglite
Notary Public (or other qualified officer)
my Commission expires 11-25-92

SEAL

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. _____

(Applicant)

(Post Office Address)

(State)

(Zip Code)

With the following qualifications.

Date of first receipt of application _____, 19____.

Date of return to applicant for correction, amendments or changes required _____, 19____.

Date of receipt of corrected application _____, 19____. Approved _____, 19____.

The Water Management Board hereby approves this Water Permit No. _____ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19____.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is _____, 19____.
5. The water appropriated shall be used for the purpose of _____

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed _____ cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water is actually and beneficially applied for _____ on or before _____, 19____; said water to be used during the following described annual period: _____

WATER MANAGEMENT BOARD

By: _____

Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

**SOUTH DAKOTA
WATER PERMIT No. 5250-3**

Date of first receipt of application December 27, 1988.

Date of receipt of corrected application February 15, 1989.

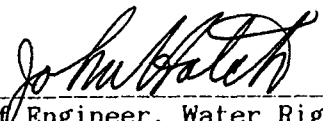
The Water Management Board approved Water Permit Application No. 5250-3 on March 2, 1989 for the US Fish and Wildlife Service, PO Box 25486, DFC, Denver CO 80225 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5250-3 is for sufficient runoff water annually to fill the Varilek National Waterfowl Production Area (WPA) to elevation 1614.0 feet msl in accordance with the permit qualification. The Varilek WPA is located in the E 1/2 Section 11-T98N-R66W.
2. The water appropriated shall be used for the purpose of providing fish and wildlife habitat and may not exceed the amount of water needed for beneficial use for fish and wildlife propagation.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is December 27, 1988.
5. One-fifth of the construction is completed.
6. All construction is completed.
7. Water is put to beneficial use.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

Approval of Permit No. 5250-3 establishes first priority to 139 acre feet of an undivided interest in a total of 190 acre feet of water stored in a natural slough on both the Varilek National Wildlife Production Area and private land at elevation 1614 fmsl.

WATER MANAGEMENT BOARD

By: 
Chief Engineer, Water Rights Division
Department of Water and Natural Resources

JUN 13 1989
(date)

ORDER FOR SUPPLIES OR SERVICES

PAGE OF PAGES

1

1

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER 12-20-88	2. CONTRACT NO. (If any) OM	3. ORDER NO. 60181-0324-89	4. REQUISITION/REFERENCE NO.
------------------------------	--------------------------------	-------------------------------	------------------------------

5. ISSUING OFFICE (Address correspondence to) U.S. FISH AND WILDLIFE SERVICE P.O. Box 25486, DFC Denver, CO 80225 236-4773	6. SHIP TO: (Consignee and address, ZIP Code) SHIP VIA:
---	--

7. TO: CONTRACTOR (Name, address and ZIP Code) South Dakota Department of Water and Natural Resources Foss Building, 523 East Capitol Pierre, South Dakota 57501	8. TYPE OF ORDER ☒ A. PURCHASE — Reference your _____ Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. ☐ B. DELIVERY — Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.
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9. ACCOUNTING AND APPROPRIATION DATA 64550-1261	10. REQUISITIONING OFFICE EN
9a. OBJECT CLASS 2619	11. BUSINESS CLASSIFICATION (Check appropriate box(es)) ☐ SMALL ☒ OTHER THAN SMALL ☐ DISAD. VANTA. GED & (a) ☐ MIN. ORITY ☐ WOMEN OWNED ☐ LABOR SUR. PLUS ☐ INTER-AGENCY
12. F.O.B. POINT NA	14. GOVERNMENT B/L NO. NA
13. PLACE OF INSPECTION AND ACCEPTANCE NA	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date) NA
	16. DISCOUNT TERMS NET

17. SCHEDULE (See reverse for Rejections)

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (G)
1.	Filing Fee - Application for Permit to Appropriate Water within the State of South Dakota - Varilek WPA 68 surface acres	1	ea		\$225.00	
2.	Filing Fee - Application for Permit to Appropriate Water within the State of South Dakota - Sherman WPA 112 surface acres Lake Andes WMD	1	ea		250.00	
SEE BILLING INSTRUCTIONS ON REVERSE		18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.	17(H). TOT (Cont. pages)	17(I). GRAND TOTAL
		21. MAIL INVOICE IN TRIPLICATE TO: (Include ZIP Code) BILL ISSUING OFFICE			\$475.00	

22. UNITED STATES OF AMERICA BY (Signature) <i>Nancy N. Becker</i>	23. NAME & WARRANT NUMBER (Typed) NANCY N. BECKER FWS-6-6-002 TITLE: CONTRACTING/ORDERING OFFICER
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United States Department of the Interior
FISH AND WILDLIFE SERVICE

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

IN REPLY REFER TO:

BA/EN
WR SD
Mail Stop 60190

DEC 22 1988



South Dakota Department of Water
and Natural Resource Development
Foss Building, 523 East Capitol
Pierre, South Dakota 57501-3181

Gentlemen:

In September 1988, personnel at the Lake Andes National Wildlife Refuge contacted your office to inquire about South Dakota regulations governing pumping for irrigation from a natural wetland owned in part by the Fish and Wildlife Service (Service). The response, dated October 11, 1988 (copy attached), explained that a water permit was required, and also suggested that the Service apply for a water right to protect water levels in the marsh.

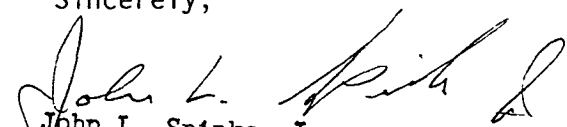
Accordingly, enclosed are Applications for Permits to Appropriate Water for the Sherman and Varilek Waterfowl Production Areas in Charles Mix County. Also enclosed are Filing Map No. 6R-SD-173-WR-P-15.0, one page; Filing Map No. 6R-SD-173-WR-P-16.0, one page; and a Government Purchase Order in the amount of \$475 to cover filing fees. Please sign on the reverse where indicated and return to this office, or issue an invoice, and payment will be forwarded.

The amount of the filing fees was calculated using an assumed average depth of 3 feet for each wetland area. We will obtain an accurate figure for the average depth at each area once the ice is thick enough to take measurements, and forward an additional payment if warranted.

Please advise this office of the name and address of the newspaper selected to publish the Notices of Application so that we can forward the required Authorizations of Advertisement prior to publication.

If you have any questions or require further information, please contact Cheryl Williss at 303/236-5321.

Sincerely,


Deputy John L. Spinks, Jr.
Regional Director

Enclosures

Water Permit Application No. 5250-3

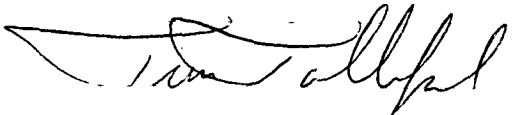
U.S. FWS

January 17, 1989

Storage capacity of slough on Varilek WPA

Elev.	ΔE	Surface Area (acres)	Δ Ave. S.A.	ΔV (ac.ft)
1610.22		0		
	1.78	x	27	48
1612		54		
	2	x	71	142
1614		88		
				190

total - 190 acre feet

 Dan Allport

REPORT ON APPLICATION NO. 5250-3
U.S. Fish and Wildlife Service
January 17, 1989

Water Permit Application No. 5250-3 requests sufficient annual runoff to fill the slough in the Varilek National Waterfowl Production Area (WPA) to an elevation of 1614 feet mean sea level (fmsl). The slough is located in portions of the NE1/4, NW1/4 of the SE1/4, and NE1/4 of the NW1/4 of Section 11; SW1/4 of the SE1/4 and SE1/4 of the SW1/4 of Section 2; all in T98N - R66W, Charles Mix County. The water will be used to provide habitat for fish and wildlife.

DISCUSSION

U.S. Fish and Wildlife Service (FWS) is applying for a water permit to protect their interest in the Varilek WPA. A portion of the slough extends onto private property in the SW1/4 of the SE1/4 and SE1/4 of the SW1/4 of Section 2 and the NE1/4 of the NW1/4 of Section 11; all in T98N - R66W. FWS is concerned that the owner of this property might possibly divert water from the slough for irrigation purposes. FWS would like to have a prior right to the use of the water to protect the objectives for which the WPA was established.

Approval of Water Permit Application No. 5250-3 would allow the FWS to store water in the slough to an elevation of 1614 fmsl. According to FWS, this elevation represents the ordinary water level of the slough and not the extreme or highest water level ever reached in the slough.

The slough was inspected and surveyed on January 12, 1989 with FWS personnel to determine if an elevation of 1614 fmsl was reasonable. It was agreed that this elevation is the natural or ordinary water level of the slough. There are several well established trees above this elevation and this elevation coincides with a slope change and a vegetation change.

The slough has a total surface area of 88 acres with the water level at an elevation of 1614 fmsl. Approximately 64 acres or 73% of the slough are within the Varilek WPA. Approximately 24 acres or 27% of the slough is located outside the boundaries of the WPA.

The slough has an approximate storage capacity of 190 acre feet with the water level at an elevation of 1614 fmsl. There is approximately 139 acre feet within the boundaries of the WPA and 51 acre feet on property outside the WPA. The approximate depth of the slough with the water level at an elevation of 1614 fmsl is 3.8 feet.

CONCLUSIONS

1. The elevation of 1614 fmsl represents an ordinary or natural water level of the slough located on the Varilek National WPA.
2. Approximately 27% of the slough is outside the boundaries of the WPA when the water level is at an elevation of 1614 fmsl.
3. Approval of this permit would entitle the FWS to an annual appropriation of 139 acre feet to an elevation of 1614 fmsl. This permit would not necessarily allow the storage of water on another landowner's property but give the FWS prior right to 139 acre feet of water in the slough. This would allow the protection of the FWS interests in the Varilek WPA.
4. Recommend approval of Water Permit Application No. 5250-3 for sufficient runoff to fill the slough to an elevation of 1614 fmsl. The total appropriation for this permit should not exceed 139 acre feet.



Tim Tollefsrud
Natural Resources Engineer
Division of Water Rights

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5250-3, U.S. Fish and Wildlife Service

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5250-3, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver CO.

The Chief Engineer is recommending APPROVAL of Application No. 5250-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

Approval of Permit No. 5250-3 establishes first priority to 139 acre feet of an undivided interest in a total of 190 acre feet of water stored in a natural slough on both the Varilek National Wildlife Production Area and private land at elevation 1614 fmsl.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
January 24, 1989



Department of Water & Natural Resources

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

January 25, 1989

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

US Fish and Wildlife Service
Cheryl Williss
PO Box 25486
Denver Federal Center
Denver CO 80225

Dear Ms. Williss:

Application Nos. 5250-3 and 5251-3 for permits to appropriate water for fish and wildlife use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your intent to appropriate water has been sent to the Publisher of the Platte Enterprise printed at Platte SD. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Intent to Appropriate Water and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures





Department of Water & Natural Resources

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

January 25, 1989

Platte Enterprise
Box 546
Platte SD 57369

Dear Sir:

Enclosed is a Notice of Hearing on Application Nos. 5250-3 and 5231-3 to be published twice. Please publish the first notice on or before February 2, 1989 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is the US Fish and Wildlife Service, Cheryl Williss, PO Box 25486, DFC, Denver CO 80225.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Ron Duvall
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application Nos. _____ which was first published in our
issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



Instruction to Newspaper - Publish first Notice on or before February 2, 1989 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARINGS on Application Nos. 5251-3 and 5250-3 to Appropriate Water

Notice is given that the US Fish and Wildlife Service, PO Box 25486, DFC, Denver CO 80225 has filed Application Nos. 5250-3 and 5251-3 for water permits. Application No. 5251-3 is for sufficient runoff water annually to fill the Sherman National Waterfowl Production Area (WPA) to elevation 1591.7 feet mean sea level (msl). The Sherman WPA is located in a portion of the W 1/2 Section 3; E 1/2 NE 1/4 Section 9; NW 1/4 NW 1/4 Section 10; all in T98N-R66W and water is to be used to provide habitat for fish and wildlife.

Application No. 5250-3 is for sufficient runoff water annually to fill the Varilek National WPA to elevation 1614.0 feet msl. The Varilek WPA is located in the E 1/2 Section 11-T98N-R66W and water is to be used to provide habitat for fish and wildlife.

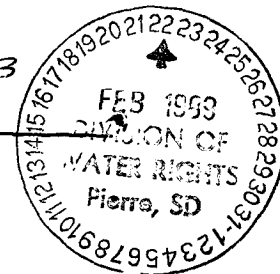
Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application Nos. 5250-3 and 5251-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. These applications will be considered by the Water Management Board at the Howard Johnson's, Roosevelt Room, 1-90 at LaCrosse, Rapid City SD on March 1, 1989 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny these applications based on the facts presented at the public hearing.

Any interested person that intends to participate in a hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by February 17, 1989. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in an application, the petitioner's reasons for opposing or supporting an application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on these applications or to assure access to the hearing by the handicapped.

These hearings are adversary proceedings. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of a hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by February 17, 1989.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

No. 5251-3 & 5250-3



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Charles Mix) ss.

I, Ralph Nachtigal hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Platte Enterprise

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Platte

County of Charles Mix and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

2-2-89

2-9-89

Ralph Nachtigal
(Signature)

Editor & Publisher
(Title)

2-21-89

(Date Signed)

Cost of Printing: _____

\$36.77

time of a hearing will also be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by February 17, 1989.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1; 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

NOTICE OF HEARINGS ON
APPLICATION NOS. 5251-3 and 5250-3
TO APPROPRIATE WATER

Notice is given that the U.S. Fish and Wildlife Service, P.O. Box 25486, DFC, Denver, CO 80225 has filed Application Nos. 5250-3 and 5251-3 for water permits. Application No. 5251-3 is for sufficient runoff water annually to fill the Sherman National Waterfowl Production Area (WPA) to elevation 1591.7 feet mean sea level (msl). The Sherman WPA is located in a portion of the W½ Section 3; E½ NE¼ Section 9; NW¼NW¼ Section 10; all in T98N-R66W and water is to be used to provide habitat for fish and wildlife.

Application No. 5250-3 is for sufficient runoff water annually to fill the Varilek National WPA to elevation 1614.0 feet msl. The Varilek WPA is located in the E½ Section 11-T98N-R66W and water is to be used to provide habitat for fish and wildlife.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application Nos. 5250-3 and 5251-3 because: 1. Unappropriated water is available. 2. Existing rights will not be lawfully impaired. 3. It is a beneficial use of water and 4. It is in the public interest. These applications will be considered by the Water Management Board at the Howard Johnson's, Roosevelt Room, 1-90 at LaCrosse, Rapid City, S.D., on March 1, 1989 at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to: 1. Approve. 2. Approve with qualifications. 3. Defer or 4. Deny these applications based on the facts presented at the public hearing.

Any interested person that intends to participate in a hearing before the Board by presenting evidence or cross-examining witnesses according to SDC 1-26, must file a written petition with BOTH the applicant and Chief Engineer by February 17, 1989. The Chief Engineer's address is "Water Rights Division", Foss Building, 523 E. Capitol, Pierre, SD 57501 (605-773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in an application, the petitioner's reasons for opposing or supporting an application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on these applications or to assure access to the hearing by the handicapped.

These hearings are adversary proceedings. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The



Department of Water & Natural Resources

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

JUN 13 1989

John L Spinks, Jr., Regional Director
US Fish and Wildlife Service
PO Box 25486
DFC
Denver CO 80225

Dear Mr. Spinks:

Enclosed are Water Permit Nos. 5250-3 and 5251-3 as approved by the Water Management Board authorizing construction of the water system and the application of water beneficial use, not exceeding the limits as specified in the Water Permits.

We will schedule an inspection so that the Water Licenses may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures



Permit No. 5250-3
Missouri River - Water District

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

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, March 19, 1996, made a thorough examination of the water use system constructed by the US Fish & Wildlife Service of PO Box 25486, DFC, Denver, CO 80225 holder of Permit No. 5250-3, bearing the priority of December 27, 1988 authorizing storage of 139 acre-feet or sufficient runoff water annually to fill the Varilek Waterfowl Production Area (WPA) to an elevation of 1614.0 feet Mean Sea Level (MSL) from surface water runoff for Fish & Wildlife Production purposes, in Charles Mix County.

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

A. Works used to apply water to beneficial use:

NATURAL WETLAND

This natural wetland has a storage capacity of 190 acre-feet (88 surface acres) of which 139 acre-feet will be of first priority to the USF&W Service. Approximately 139 acre-feet of water is stored on USF&W Service property while the remaining amount is stored on private land. Water is collected in a natural wetland and is known as the Varilek Waterfowl Production Area (WPA), located in the E1/2 of section 11; T98N R66W.

The system is in the following condition good. The point of diversion is located in the E1/2 of section 11; T98N R66W. The works are capable of storing 190 acre-feet of water which is to be used for Fish & Wildlife Production. Water has been put to beneficial use to the maximum extent as follows:

T98N R66W

SECTION 11

E1/2

comprising a total of 88 surface acres and the license should be issued for 139 acre-feet of storage or sufficient runoff water annually to fill the Varilek Waterfowl Production Area (WPA) to an elevation of 1614.0 feet MSL.

Applicable permit qualifications have been complied with: Yes ☒ No

Exceptions to compliance are: None Date Report Completed: April 17, 1996


Barry A. McLaury
Natural Resources Scientist
DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 5250-3

Other permit(s) associated with the project: **None**

DATE OF INSPECTION: **March 19, 1996**

NAME OF INSPECTION CONTACT: **Steven Spawn, Private Lands Specialist.**

NAME & ADDRESS OF PERMIT HOLDER: **US Fish & Wildlife, PO Box 25486, DFC, Denver, CO 80225**

DIVERSION POINT LEGAL LOCATION: **E1/2 of section 11; T98N R66W.**

SYSTEM TYPE:

NATURAL WETLAND

This natural wetland has a maximum storage capacity of 190 acre-feet of water and a surface area of 88 acres when full. Water is collected in a natural wetland and is known as the Varilek Waterfowl Production Area (WPA), located in section 11; T98N R66W.

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by **Y**
- 2) All structures, wells and lands on map **Y**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **N/A**



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

April 24, 1996

5250-3
5251-3

Cheryl Williss
US Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Dear Ms. Williss:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit Nos. 5250-3 and 5251-3, has been completed. Your final water right documents, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee per permit for the inspection and issuance of the Water Licenses. Upon receipt of the \$100.00 fee from you, we will begin processing your Water Licenses.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Water Permit No. 5250-3 is in the Varilek National Wildlife Production area, and Water Permit No. 5251-3 is in the Sherman Waterfowl Production area, both located in Charles Mix County, South Dakota.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411639

Pierre, February 15, 1989

RECEIVED OF US Fish & Wildlife Svc., Box 25486, DFC, Denver, CO 80225

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

Fee for Application for Permit No. <u>5280-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
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	225 00

By John Hatch/mca
Chief Engineer

RECEIPT

414940

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, May 6, 19 96

RECEIVED OF U.S.F.W.S., P.O. Box 25486, DFC, Denver, CO 80225-0486

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5250-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch (CE)
Chief Engineer

STATE OF SOUTH DAKOTA

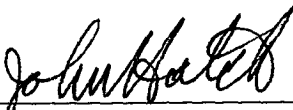
WATER LICENSE NO. 5250-3

(1) US Fish & Wildlife Service (USFWS) of PO Box 25486, Denver Federal Center, Denver CO 80225 made Application No. 5250-3, December 27, 1988 for a water permit to store sufficient runoff water annually to fill the Varilek National Waterfowl Production Area to elevation 1614.0 feet mean sea level (msl) in Charles Mix County, South Dakota for fish & wildlife propagation purposes. Permit No. 5250-3, with a priority date of December 27, 1988 was approved March 2, 1989, establishing first priority for the USFWS to 139 acre feet of an undivided interest in a total of 190 acre feet of water stored in a natural slough on both the Varilek Waterfowl Production Area and private land.

(2) It is certified that the USFWS has complied with the provisions of South Dakota State Law and is entitled to store sufficient runoff water annually to maintain the water level at an outlet elevation of 1614.0 feet mean sea level for beneficial use. The wetland area (88 surface acres) is located in the E 1/2 of Section 11 T98N, R66W.

(3) The USFWS has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use and retains the first priority to 139 acre feet of an undivided interest in a total of 190 acre feet of water stored in a natural slough on both the Varilek Waterfowl Production Area and private land.

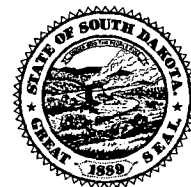
(4) Pursuant to South Dakota Water Law 46-5-30.1 the US Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, CO 80225 the holder and/or owner of Water Permit No. 5250-3 is issued a license to store sufficient runoff water annually to maintain the water level at an outlet elevation of 1614.0 feet msl with a priority date of December 27, 1988 from the location specified in (2) of this license, for the purpose of fish and wildlife propagation. This license is subject to any limitations or qualifications listed in Water Permit No. 5250-3 and subject to South Dakota State Law.



John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 27 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

JUN 27 1996

5250-3
5251-3

Cheryl Williss
US Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Dear Ms. Williss:

Enclosed are Water License Nos. 5250-3 and 5251-3 and Receipt Nos. 414940 and 414941 for \$50.00 each which was assessed for an inspection and issuance of the licenses. Water License Nos. 5250-3 and 5251-3 are the final documents which completes the process of obtaining a water right.

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

Very truly yours,

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

gm
enclosures

T 99 N
T 98 N

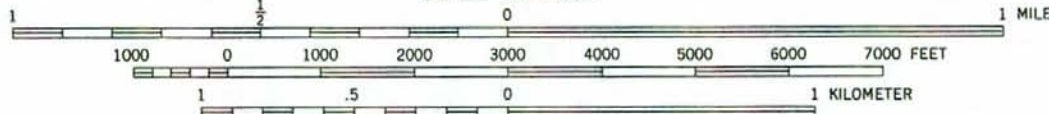
GEDDES SE QUADRANGLE
SOUTH DAKOTA
7.5 MINUTE SERIES (TOPOGRAPHIC)

R 66 W

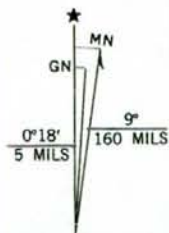
VARILEK
NATIONAL WATERFOWL
PRODUCTION AREA

WPA BOUNDARY

SCALE 1:24 000



NATIONAL GEODETIC VERTICAL DATUM OF 1929



I, William A. Godby, Regional
Engineer, do hereby certify that
this map was prepared under my
direction and correctly represents
the works for the accompanying
application.

William A. Godby
William A. Godby

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
ENGINEERING

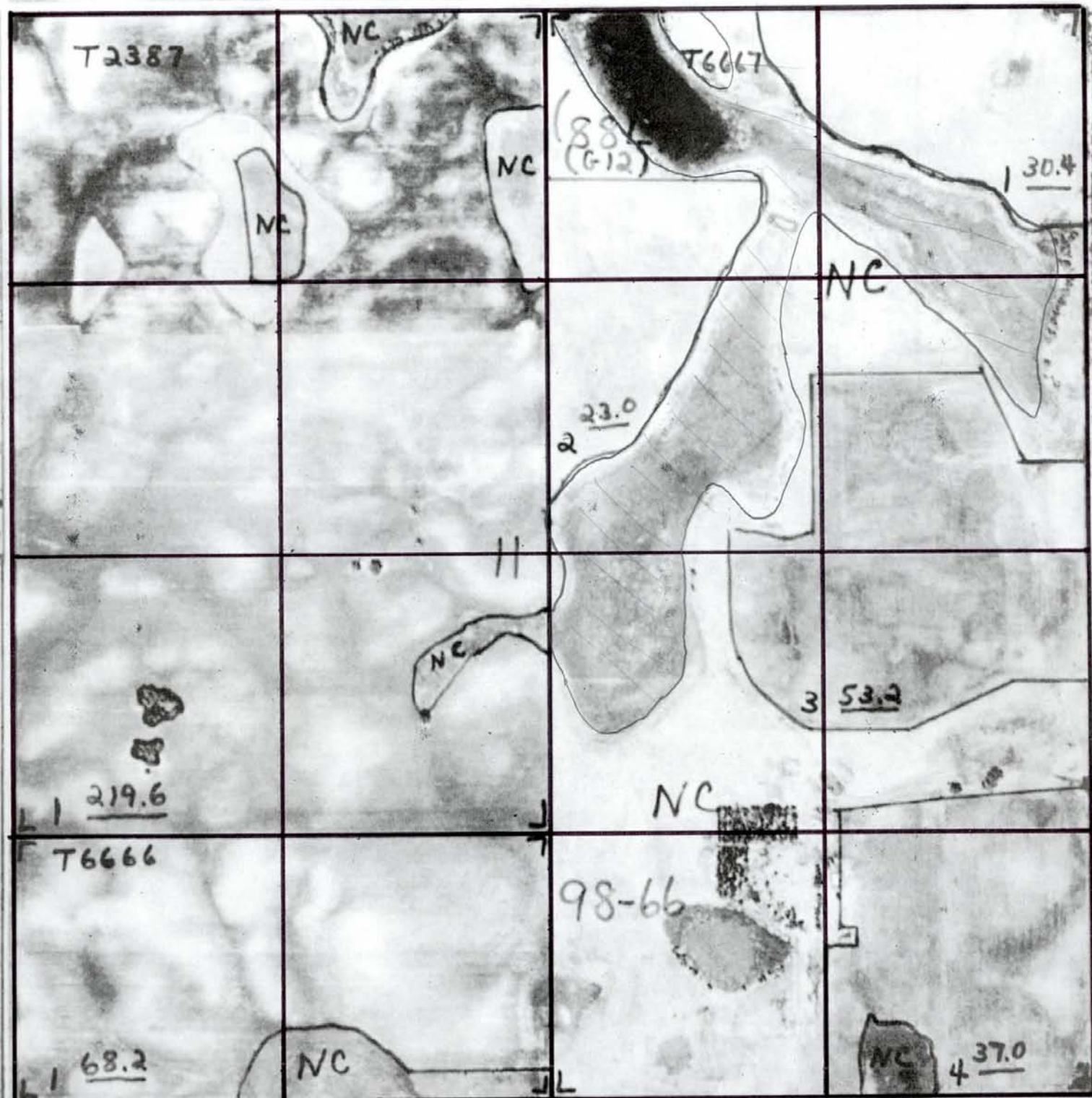
LAKE ANDES
WETLAND MANAGEMENT DISTRICT
CHARLES MIX CO. SOUTH DAKOTA

WATER RIGHTS FILING MAP

DESIGNED LC	DRAWN JFG	CHECKED CW	DATE 12-88	DENVER, COLO.
DRAWING NO. 6R-SD-173-WR-P-15.0				SHEET 1 OF 1

Appl. No. 5250-3

NOT TO SCALE



Barry McLaury
 Environmental Scientist
 Division of Water Rights
 Date *April 17, 1996*