

Considered: _____

WATER PERMIT NO. 5251-3

HAP No. same 303-236-5321

Name of Applicant US Fish and Wildlife Service

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

Amount of Water Claimed sufficient to fill to 1597msl Total Acres 1/4

Source of Water Supply runoff into wetland area

Water to be used for fish & wildlife County Charles Mix

About 6 miles NE of Geddes.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

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

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

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

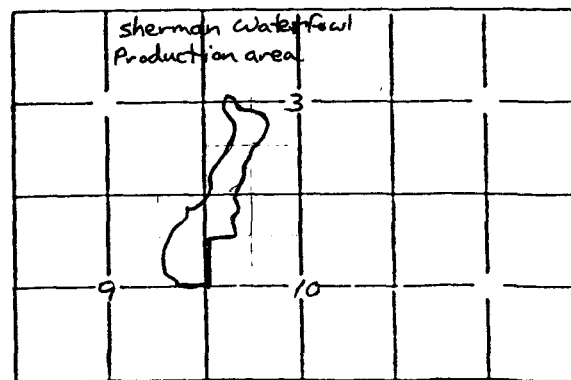
WI-1 Description same as Application YES _____ NO _____ REMARKS NA

Diversion Point Sherman WPA : 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

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 6, 1989 By Ron D. Wall

No. 5251-3 Hydrologic Unit 10140101
Map No. same Basin Missouri River
Newspaper Charles Mix Co. News, Box 157 (Thurs)
57342

Platte Enterprise Box 346 Platte 57369

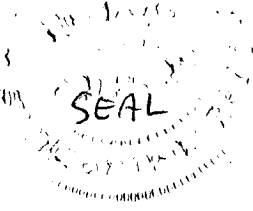
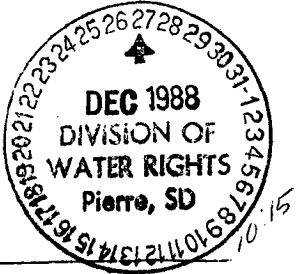
Application For Permit To Appropriate Water Within The State Of South DakotaCheck use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
Domestic ☐ (above 18gpm) Other ☒ Fish and Wildlife

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. _____
United States of America1. Name of Applicant 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) 1591.7 Zip Code2. Amount of water claimed (c.f.s) storage to elevation 1591 msl, estimated 336 acre-feet in
storage on WPA property.3. Source of water supply local runoff - closed basin4. Location of point of diversion water collected in a natural wetland located in
Sections 3, 9 & 10, T98N R66W. 112 surface acres in USA ownership/Sherman WPA
County 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)

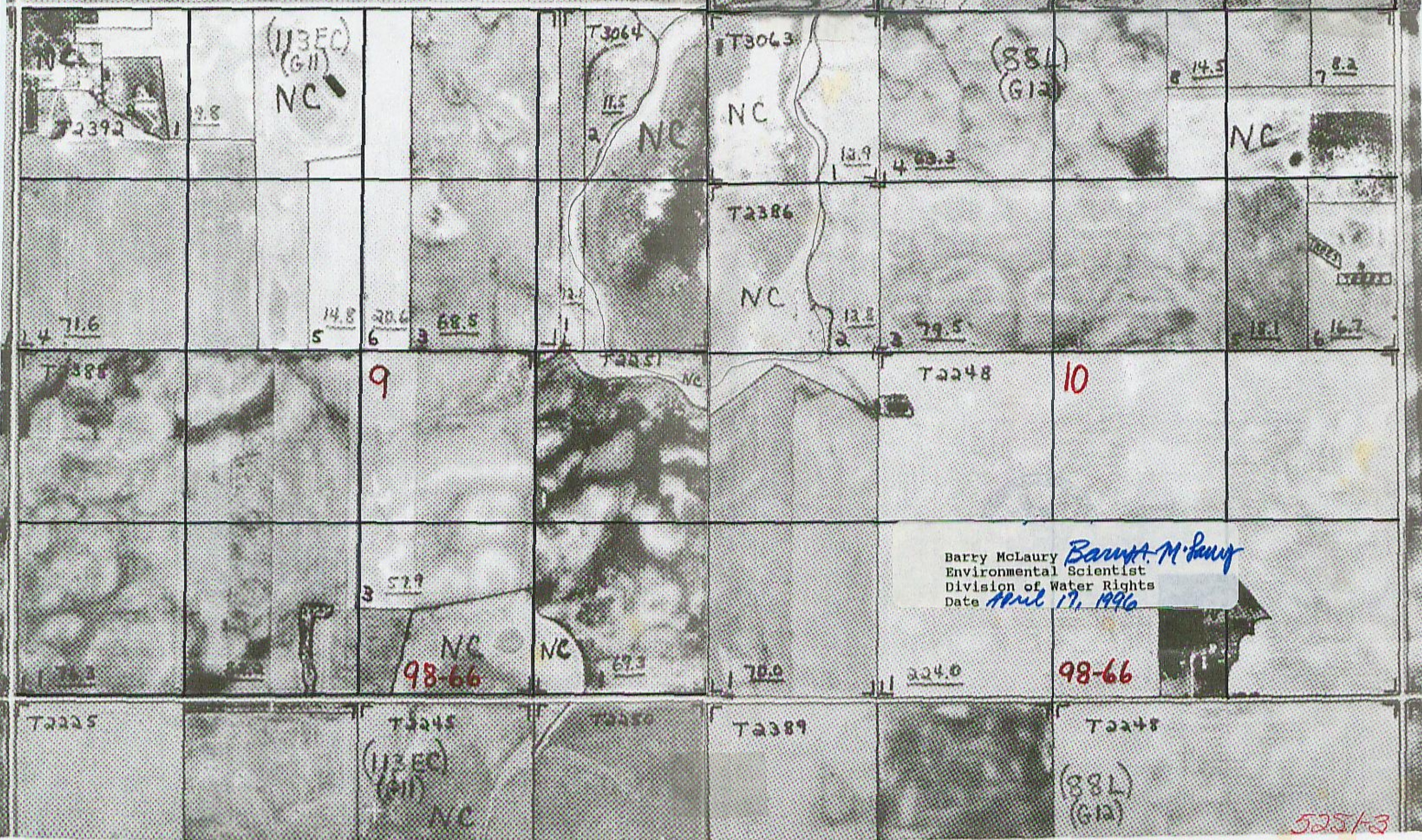
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

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 22 day of December, 1988Juris J. Eglite
Notary Public (or other qualified officer)
my Commission expires 11-25-92

NOT TO SCALE



NOT TO SCALE



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. 5251-3**

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. 5251-3 on March 1, 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. 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 in accordance with the permit qualification. 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.
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. 5251-3 establishes first priority to 271 acre feet of an undivided interest in a total of 323 acre feet of water stored in a natural slough on both the Sherman Waterfowl Production Area and private land at elevation 1591.7 fmsl.

WATER MANAGEMENT BOARD

By: _____

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

JUN 13 1989

(date)

 **Department of
Water & Natural Resources**

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

October 11, 1988

John Jave, Asst. Refuge Manager
USDI, Fish and Wildlife Service
Lake Andes National Wildlife Refuge
RR #1, Box 77
Lake Andes, South Dakota 57356

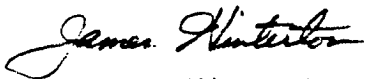
Dear Mr. Jave:

In response to your letter to John Hatch, Chief Engineer, dated September 21, 1988 concerning Paul Wojciechowski's irrigation from a wetland area. We have reviewed the water right files and have found no water permit for Paul Wojciechowski. If the diversion from the slough was being used for anything other than domestic use, then it appears the Mr. Wojciechowski was in violation of the State's Water Right Laws. Because of this questionable use, we will contact Mr. Wojciechowski concerning this matter.

For your information, I have enclosed a copy of the water right laws, the general rules and application forms for the appropriation of water. Our files show no water rights held by the Fish and Wildlife Service for the Sherman Waterfowl Production Area. In order for you to protect your interests to the waters contained in the Sherman Waterfowl Production Area, we suggest that the Fish and Wildlife Service obtain a water right for the storage contained in the refuge. Without a water right, the storage contained in the Refuge Area may be available for appropriation to anyone that makes application for the use of the water. If the refuge has been in operation and owned by the Fish and Wildlife Service since prior to 1955, it may qualify for a vested right. After 1955, a new appropriation of water is necessary in accordance with the procedures outlined in SDCL 46-2A.

If you have any further questions or questions on the enclosed material please do not hesitate to contact us.

Very truly yours,



James Winterton
Natural Resources Engineer
605 773-3352

Enclosures: Water Right Laws
General Rules
Application Forms 2, 2A, 2B
and Instructions
(non irrigation)





Department of Water & Natural Resources

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

October 13, 1988

Paul Wojciechowski
RR #1, Box 20
Geddes, South Dakota

Dear Mr. Wojciechowski:

I am writing because of a Fish and Wildlife Service inquiry about you irrigating from a slough area which is connected to what is known as the Sherman Waterfowl Production Area (see the enclosed copy of the letter from John Jave). Our files do not show that you have a water right for the use of water for irrigation purposes. Therefore, I have enclosed a copy of the water right laws and the general rules for our information.

I must inform you that if you are irrigating, that a water permit is required. The only exemption to this is for domestic use (livestock watering and individual household use). Otherwise, you would be in violation of the water laws and subject to civil penalties.

If what the Fish and Wildlife Service told us is incorrect, please let us know. We will be in the area to inspect your compliance with the water laws during the next irrigation season.

Very truly yours,

James Winterton
Natural Resources Engineer
605 773-3352

enc: Water Right Laws
General Rules
Letter from John Jave, US F&W Service

cc: John Jave, Asst. Refuge Manager, US Fish and Wildlife
Service





United States Department of the Interior
FISH AND WILDLIFE SERVICE

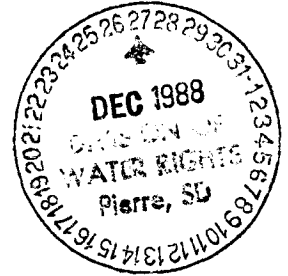
MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

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.

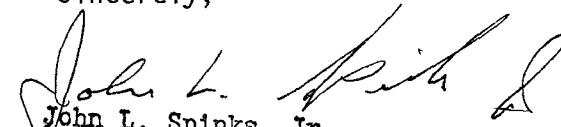
Accordingly, enclosed are Applications for Permits to Appropriate Water for the Sherman and Varilek Waterfowl Production Areas in Charles Mix County. Also enclosed are Filing Map No. 6R-SD-173-WR-P-15.0, one page; Filing Map No. 6R-SD-173-WR-P-16.0, one page; and a Government Purchase Order in the amount 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

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411640

Pierre, February 15, 1989

RECEIVED OF US Fish & Wildlife Service, PO 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>5251-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	250	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	250 00

By

John Hatcher
Chief Engineer

ORDER FOR SUPPLIES OR SERVICES

PAGE OF PAGES

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

1

1

1. DATE OF ORDER 12-20-88	2. CONTRACT NO. (If any) OM	3. ORDER NO. 60181-0324-89	4. REQUISITION/REFERENCE NO.
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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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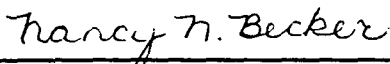
9. ACCOUNTING AND APPROPRIATION DATA 64550-1261	10. REQUISITIONING OFFICE EN
--	---------------------------------

9a. OBJECT CLASS 2619	11. BUSINESS CLASSIFICATION (Check appropriate box(es)) ☐ SMALL ☒ OTHER THAN SMALL ☐ DISADVANTAGED 8(a) ☐ MINORITY ☐ WOMEN OWNED ☐ LABOR SURPLUS ☐ INTER-AGENCY
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12. F.O.B. POINT NA	14. GOVERNMENT B/L NO. NA	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date) NA	16. DISCOUNT TERMS NET
13. PLACE OF INSPECTION AND ACCEPTANCE NA			

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)
	21. MAIL INVOICE IN TRIPLICATE TO: (Include ZIP Code)					17(I). GRAND TOTAL
BILL ISSUING OFFICE					\$475.00	

22. UNITED STATES OF AMERICA BY (Signature) 

23. NAME & WARRANT NUMBER (Typed)

NANCY N. BECKER FWS-6-6-002
TITLE: CONTRACTING/ORDERING OFFICER

PURCHASE ORDER TERMS AND CONDITIONS

52.252-2. CLAUSES INCORPORATED BY REFERENCE (Apr 84).—This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request the Contracting Officer will make their full text available.

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

52.203-1 Officials Not to Benefit (Apr 84)

52.203-3 Gratuities (Apr 84)

52.203-5 Covenant Against Contingent Fees (Apr 84)

52.212-9 Variation in Quantity (Apr 84)
(In the preceding clause, the permissible variations are stated in the schedule)

52.222-3 Convict Labor (Apr 84)

52.222-4 Contract Work Hours and Safety Standards Act—
Overtime Compensation—(Mar 86)

52.222-26 Equal Opportunity (Apr 84)

52.222-36 Affirmative Action for Handicapped Workers
(Apr 84)

52.225-3 Buy American Act—Supplies (Apr 84)

52.232-1 Payments (Apr 84)

52.232-8 Discounts for Prompt Payment (Jul 85)

52.233-1 Disputes (Apr 84)
(With Alternate 1)

52.243-1 Changes—Fixed Price (Apr 84)

52.249-1 Termination for Convenience of the Government
(Fixed Price) (Short Form) (Apr 84)

CODE OF FEDERAL REGULATIONS REFERENCES
(29 CFR Chapter 4)

29 CFR 4.6 Service Contract Act of 1965 (Jan 84)

29 CFR 4.7 Service Contract Act of 1965-Contracts
of \$2,500 or less (Jan 84)

NOTE.—If desired, this order (or a copy thereof) may be used by the Contractor as the Contractor's invoice, instead of a separate invoice, provided the following statement, (signed and dated) is on (or attached to) the order: "Payment is requested in the amount of \$475.⁰⁰. No other invoice will be submitted." However, if the Contractor wishes to submit an invoice, the following information must be provided: contract number (if any), order number, item number(s), description of supplies or services, sizes, quantities, unit prices, and extended totals. Prepaid shipping costs will be indicated as a separate item on the invoice. Where shipping costs exceed \$100 (except for parcel post), the billing must be supported by a bill of lading or receipt. When several orders are invoiced to an ordering activity during the same billing period, consolidated periodic billings are encouraged.

X Kon Swartz, Natural Resources Engineer III

RECEIVING REPORT

Quantity in the "Quantity Accepted" column on the face of this order has been: ☐ inspected, ☐ accepted. ☐ received by me and conforms to contract. Items listed below have been rejected for the reasons indicated.

SHIPMENT NUMBER	PARTIAL		DATE RECEIVED	SIGNATURE OF AUTHORIZED U.S. GOV'T. REP.	DATE
	FINAL				
TOTAL CONTAINERS		GROSS WEIGHT	RECEIVED AT	TITLE	

REPORT OF REJECTIONS

[illegible]

REPORT OF NONCONFORMING ITEMS ACCEPTED

[illegible]

East WPA

11/12/39

L. Line - 1.4'

Tint - DWR T

2.0'

Bill Wilson 3 FWS

June 30

BM2 - 4.60

1619.54

Ice

11.92

1612.22

Top S. S. 20 Culvert

10.32

1613.76

Top N. S. 20 Culvert

7.63

1614.46

Top of 1st tree (120)

8.60

1615.51

24 Culvert

BM2 - 1619.54

L. Bottom

1610.82

1610.22

Lawrence 2/15 tra

Gr. 2.60

West WPA

BM2 5.42

1597.60

Ice

12.38

1590.64

Slope change

17.23

1591.74

depths - 3.4'

L. Bottom

1597.24

3.5'

1597.14

Water Rights Division - DWNR
Conversation or File Documentation

File No. 5251-3

NAME OF PERSON OR FILE: U.S. Fish and Wildlife Service

ADDRESS: _____ COUNTY Charles Mix

DATE: January 16, 1989 TELEPHONE _____

RE: Water Permit Application No. 5251-3

COMMENTS:

On January 12, 1989 I inspected and surveyed the slough located on the Sherman National Waterfowl Production Area in Charles Mix County. The inspection was conducted with Bill Wilson and Jon Jave, U.S. Fish and Wildlife Personnel. The purpose of the inspection was to determine if the elevation of 1591.0 fmsl listed on the application was reasonable. According to Fish and Wildlife, this elevation represented the natural or ordinary high water level of the slough.

It was agreed on at the site that an elevation of 1591.7 fmsl would better represent the natural or ordinary water level of the slough. There is a definite slope and vegetation change at or near this elevation.

The application has been changed from 1591.0 to 1591.7 fmsl at the request of the Fish and Wildlife Service.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Jim Colby



Department of Water & Natural Resources

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

January 18, 1989

Bill Wilson, Refuge Manager
Lake Andes National Wildlife Refuge
RR 1 Box 77
Lake Andes, SD 57356

Dear Mr. Wilson:

I am writing in regard to the Sherman and Varilek WPAs and my recent survey on January 12, 1989. For your information, the following is a list of elevations surveyed:

Sherman WPA

ice level.....1590.64 fmsl
slope change.....1591.74
slough bottom (1st hole).....1587.24
(2nd hole).....1587.14

Varilek WPA

ice level.....1612.22
slough bottom (1st hole).....1610.82
(2nd hole).....1610.22
culvert
south side - top.....1613.76
south side - invert.....1611.76
north side - top.....1614.46
north side - invert.....1612.46
base of large tree
east side of slough.....1615.51

Water Permit Application No. 5251-3 for the Sherman WPA has been changed from an elevation of 1591.0 fmsl to 1591.7 fmsl as you requested. If I may answer any questions please contact this office.

Sincerely,

Tim Tollefsrud
Natural Resources Engineer
Division of Water Rights
(605)773-3352



Water Permit Application No. 5251-3

Storage Capacity

Sherman WPA, Charles Mix Co.

Elevation	ΔE	Surface Area	Aug. S.A.	ΔU
1587.14		0		
	1.36		25.5	35
1588.5		51		
	3.2		90	280
1591.7		129		
				323

total storage - 323 acre feet.

Tract No. _____

Levellers Chas. M. & Co. TP-15(23) (136)

Station	Height of Instrument	Vertical Angle	True Dist.	Horizontal Angle	True Bearing
BM-1	-2.884				1586.94
TP-1	+8.642	+0.808			1590.63
TP-2	-7.127	+4.165			1586.16
TP-1			-2.213	+4.914	1591.02
TP-3	+4.718	+4.175			1597.46
TP-4	-9.286	-2.789			-7.507 1589.96
TP-1			-1.271	+8.015	1597.48
TP-5	-5.558	+4.989			1427.4 1604.23
TP-6	4.872	+1.5783			+2.1341 1625.58
TP-1	+10.709	-7.466	-7.466	-12.338	1613.84
TP-7	-3.014	-0.590			-11.299 1601.93
TP-8	+2.970	-4.200			-1.186 1600.14
TP-9	-0.109	-0.109			-3.079 1597.68
TP-9	-2.341	+5.009			+5.118 1602.19
TP-10	-1.232	-3.060			-0.719 1602.06
TP-11	-1.990	9.969			+11.201 1613.84
TP-11	+11.528	-4.360			+7.630 1620.89
TP-12	+3.617	-6.352			-17.880 1653.01
TP-13	-1.509				-5.126 1597.88
TP-14	+8.881				1597.92
TP-15	-5.712	+3.136			-5.745 92.15
TP-16	+5.176	-6.823			-1.111 91.08
TP-17	-1.906	-1.143			-6.319 84.73

Weather: _____

View: K. C. WallerR. E. Frantzen,
Lake Andes NW

BM-1 Geol. Surv. by 3 DWR, 1975 (350' N. 36' E.)

15. Row pole from 11' to 17', 7984, 8674

TP-1 "X" on stand of conc. cul. Ely of road
hwy 50 1 mi. E. of 17th. (11/7)TP-2 Trail N. edge from pole 55' of Rd. Ely of road
Depart 1 above ground. (3 mi. E. of 17th) (11/7)TP-3 Soil N. edge from pole 55' of Rd. Ely of road
1 above ground. (3 mi. E. of 17th) (11/7)TP-4 11' N. of center post on N. side of road
Rd, 1/4 mi. E. of 17th. 7984, 8674

SURVEY NOTES DETERMINING
ELEVATIONS (msl) ON THE
WALLER & SHEPHERD WPPAS.

Station	Instrument	Vertical Angle	True Angle	True Distance
BM-1	85	55	55	8.5150
TP-15	+3.772	+7.027	+8.933	92.65
BM-1	-2.794	-6.566	15.8108	1586.94
	13.726	13.865	15) 0.14	0.01
	0.14			
BM-2	-9.890		1597.60	
TP-1	-2.503	+16.639	1623.73	
TP-2	+1.369	-4.646	2.59	
BM-3	-0.713	-2.082	1619.58	
BM-3	-0.712		25.29	
TP-3	-0.470	+5.080	17.90	
TP-4	+10.318	-7.863	1597.51	
BM-4	-1.888	-10.071	1597.60	
BM-4	-7.034	-1.974	5) 8.09	
TP-1	+1.327	-0.563	1597.60	
TP-4	-10.437	-10.437	1609.27	
TP-2	+6.576	+1.230	1592.21	
BM-2	-9.568	-0.003	1603.97	
BM-4	-0.003	-6.344	1597.40	
		-9.387	1597.60	
		9.384	0.16	
			1586.22	

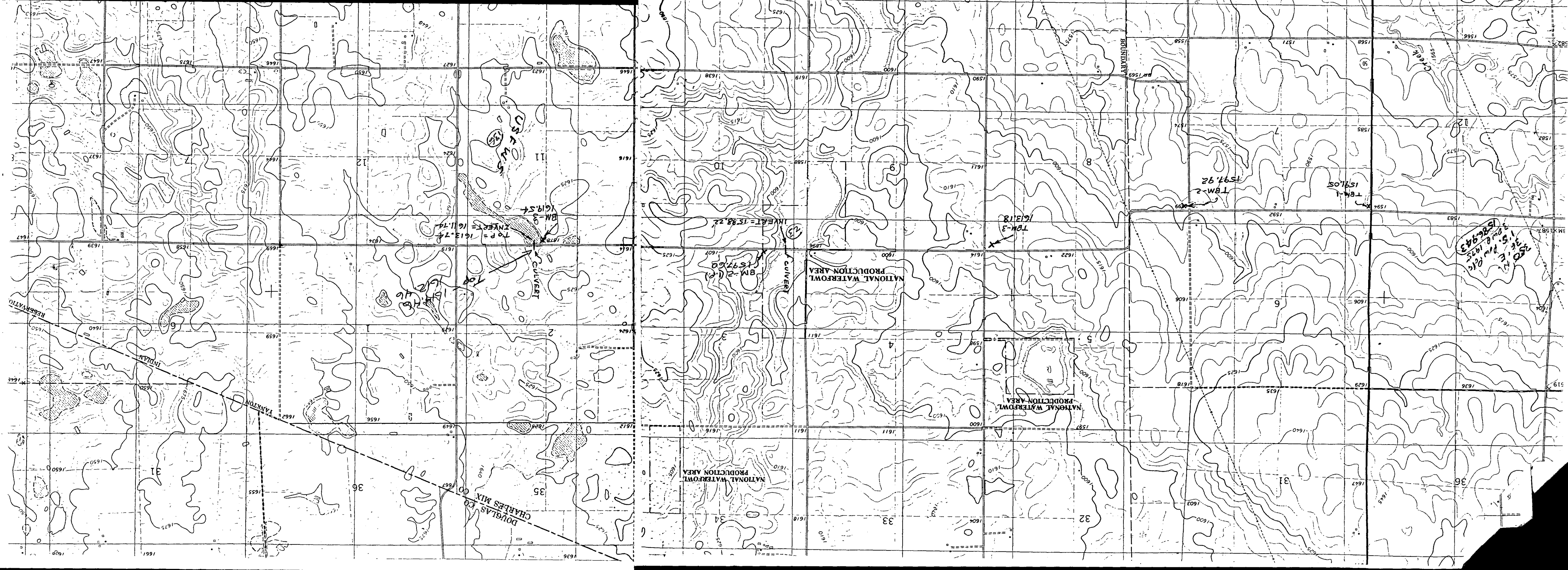
Weather:

Crew:

BM-3 near NW cor. T-136) 1/4 11 1984, 8600
(1' ± S. of car post, on sly red clay) An
alum. capped post set flush.

BM-4 Nail on Ely edge of fr. car. post approx 1' above
ground at SW cor. T-133 (Cell 116 sec 9)

Top of camp sly sand, 18 mi. W of 1300
Trust of camp above. (Apparently 36" corr)



REPORT ON APPLICATION NO. 5251-3
U.S. Fish and Wildlife Service
January 17, 1989

Water Permit Application No. 5251-3 requests sufficient annual runoff to fill the slough in the Sherman National Waterfowl Production Area (WPA) to an elevation of 1591.7 feet mean sea level (fmsl). The slough is located in portions of the SW1/4 of Section 3; E1/2 of the NE1/4 of Section 9; W1/2 of the W1/2 of Section 10; 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 Sherman WPA. A portion of the slough extends onto private property in the SW1/4 of the NW1/4 and the NW1/4 of the SW1/4 of Section 10 - T98N - R66W. According to FWS, the owner of this property, Paul Wojciechowski, has at times pumped from the slough for irrigation purposes. According to Division of Water Rights records, Mr. Wojciechowski does not have a water permit. Mr. Wojciechowski was informed in a letter dated October 13, 1988 that a water permit would be required in order for him to irrigate out of the slough.

Approval of Water Permit No. 5251-3 would allow the FWS to store water in the slough to an elevation of 1591.7 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.

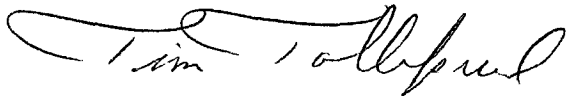
The slough was inspected and surveyed on January 12, 1989 with FWS personnel to determine if an elevation of 1591.7 fmsl was reasonable. It was agreed that this elevation is the natural or ordinary water level of the slough. There is a definite slope and vegetation change at or near this elevation.

The slough has a total surface area of 129 acres with the water level at an elevation of 1591.7 fmsl. Approximately 108 surface acres or 84% of the slough is within the boundaries of the Varilek WPA. Approximately 21 acres or 16% of the slough is outside the boundaries of the WPA.

The slough has an approximate storage capacity of 323 acre feet with the water elevation of 1591.7 fmsl. There is approximately 271 acre feet within the boundaries of the WPA and 52 acre feet on property outside the WPA. The approximate depth of the slough with the water elevation at 1591.7 fmsl is 4.6 feet.

CONCLUSIONS

1. The elevation of 1591.7 fmsl represents an ordinary or natural water level of the slough located on the Sherman National WPA.
2. Approximately 16% of the slough is outside the boundaries of the WPA when the water level is at an elevation of 1591.7 fmsl.
3. Approval of this permit would entitle the FWS to an annual appropriation of 271 acre feet to an elevation of 1591.7 fmsl. This permit would not necessarily allow the storage of water on another landowner's property, but gives the FWS prior right to 271 acre feet of water in the slough. This would allow the protection of their interests in the WPA.
4. Recommend approval of Water Permit Application No. 5251-3 for sufficient runoff to fill the slough to an elevation of 1591.7 fmsl. The total appropriation for this permit should not exceed 271 acre feet.



Tim Tollefsrud
Natural Resources Engineer
Division of Water Rights

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5251-3, 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. 5251-3, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver CO.

The Chief Engineer is recommending APPROVAL of Application No. 5251-3 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. 5251-3 establishes first priority to 271 acre feet of an undivided interest in a total of 323 acre feet of water stored in a natural slough on both the Sherman Waterfowl Production Area and private land at elevation 1591.7 fmsl.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
January 24, 1989

**South Dakota 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.**

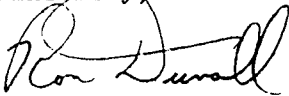
US Fish and Wildlife Service
Cheryl Williss
PO Box 25486
Denver Federal Center
Denver CO 80225

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



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.

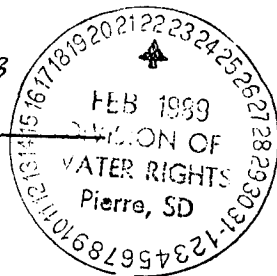
Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application Nos. 5250-3 and 5251-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. 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 45250-3



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: \$36.27

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 W $\frac{1}{2}$ Section 3; E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 9; NW $\frac{1}{4}$ NW $\frac{1}{4}$ 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 $\frac{1}{2}$ 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 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, I-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 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.



United States Department of the Interior
FISH AND WILDLIFE SERVICE
LAKE ANDES NATIONAL WILDLIFE REFUGE COMPLEX
RR #1, BOX 77
LAKE ANDES, SOUTH DAKOTA 57356



September 21, 1988

John Hatch, Chief Engineer
SD Department of Water & Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501



Dear Mr. Hatch:

I am requesting a copy of the state regulations pertaining to irrigation permits to pump from natural wetlands.

This station administers the Lake Andes Wetland Management District which consists of over 120 units managed for waterfowl production and wetland protection.

Irrigation from natural wetlands seems to have become more common in this area because of an abundance of water in 1986-87 followed by a drought in 1988.

The U.S. Fish and Wildlife Service administers the Sherman Waterfowl Production Area in Charles Mix County. The FWS owns approximately 90% of the wetland basin. In 1988, the neighboring landowner (Paul Wojciechowski, R.R. 1, Box 20, Geddes, SD) who owns only about 10% of the basin, irrigated from his portion. He used a pump with a six inch intake and supply line.

Does Mr. Wojciechowski need a permit to pump from this wetland? What rights does the FWS have to protect this public water resource? Removal of water from this wetland basin is in conflict with the objectives for which this waterfowl production area was established. I assume Mr. Wojciechowski has a basic water right to a portion of the water stored in the basin.

Enclosed find a map of the Sherman Waterfowl Production Area that includes a portion of Mr. Wojciechowski's land and the pump location. Any information you can supply will be helpful. Thank you.

Sincerely,

John Jave
Asst. Refuge Manager

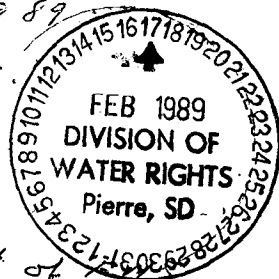
Encl.

Besser L D

Feb. 14, 1989

To Chief Engineer Water Rights Div.

U. S. Fish and Wildlife Service:



am writing concerning the request of
to the right to hold run off water in their
lake, I feel most of the run off water coming
into this lake is from other peoples land
so the way their application reads is
that if there is not 1591.7 fmsl in the
lake nobody else is intitled to any of
the water. I don't feel that they are
intitled to more of the water than is on their
land. if we don't get a lot of spring rain the
lake won't even reach the 1591.7 fmsl
and I feel I am still entitled to what water
is on my land the way the land lays
my side will be dry long before theirs would
also I think you are wrong when you came
up with the 1591.7 fmsl is the ordinary or
natural water level maybe in the last 30
so years but I think if you would take a
10 year average. you better lower it about
2 feet also the water at this level would
(1591.7)

cause a lot of eroding on the shoulders of the county road that runs through the lake. I know that as the lake dries up I won't be able to irrigate much out of it with the set up I have got (traveling gun)

I can usually only pump at nights because of the wind during the day so I won't pump that much out of a lake that size

The way I figure it if I put 6 inches of water on 40 acres and the lake covers 129 acres I would only use about 2 inches out of the whole lake. They must realize that evaporation is going to take way more out of this lake than a pump this size can and nobody can control this and every year we don't get a lot of rain the lake is going to get less and less water in it and there is not going to be 271 acre feet of water running into this lake. I don't want to use more water than is on my land but I think I am entitled to whatever is on my property whether or not there is a level of 1591.7 ft msl or not. sooner or later this lake is going to be dry whether or not anybody is pumping it or not.

Paul Wojciechowski
RR1 Box 20 Hedden, N.D.



United States Department of the Interior
FISH AND WILDLIFE SERVICE



IN REPLY REFER TO:

BA/EN
WR SD
Mail Stop 60190

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

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

FEB 24 1989



Chief Engineer
Water Rights Division
Foss Building, 523 E. Capitol
Pierre, South Dakota 57501-3181

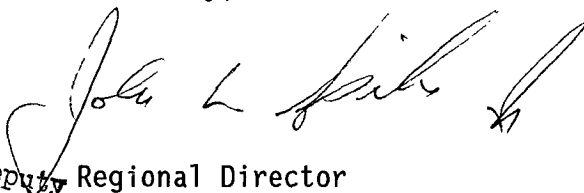
Dear Sir:

The Fish and Wildlife Service (Service) submitted Water Permit Application Nos. 5250-3 and 5251-3 to protect the waterfowl breeding habitat at Varilek and Sherman Waterfowl Production Areas (WPA) in Charles Mix County. You have recommended to the Water Management Board that these applications be approved.

If approved, the permits would protect the Service's interest in two wetlands, owned jointly by the United States and private landowners. The permits establish the natural water level for each wetland and identify the proportion of water stored at that natural elevation which is protected from diversion by other users. That proportion of the water which occurs on private land at each WPA is available for appropriation by the private landowners.

The Wetlands Acquisition Program was established to enable the United States to meet its responsibilities under the Migratory Bird Treaties with Mexico and Great Britain, and WPA's acquired by the Service under that program are open to public uses such as hunting, trapping and birdwatching. Because of the cyclical nature of water availability at these prairie potholes, it is important that higher as well as lower water levels be protected, and we believe that it is clearly in the public interest to do so. We would interpret these permits as protecting the Service's proportionate share of the water at all elevations, including those above the established natural levels.

Sincerely,


Deputy Regional Director



United States Department of the Interior
FISH AND WILDLIFE SERVICE



IN REPLY REFER TO:

BA/EN
WR SD
Mail Stop 60190

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

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

FEB 24 1989



Mr. Paul Wojciechowski
Route 1, Box 20
Geddes, South Dakota 57342

Dear Mr. Wojciechowski:

We have received your letter concerning the Fish and Wildlife Service's (Service) Water Permit Application No. 5251-3 for the Sherman Waterfowl Production Area (WPA) in Charles Mix County. The application was submitted in an effort to protect the waterfowl breeding habitat on this WPA, not to deprive you of your right to utilize water which occurs on your land.

If approved by the Water Management Board (Board), this permit will allow the Service to maintain water levels on the WPA. The elevation of 1591.7 feet msl was identified as the natural level of the wetland by an engineer from the Division of Water Rights. At this elevation, 84 percent of the slough is within the boundaries of the WPA and 16 percent is on your property. You may use that 16 percent, or 52 acre-feet, assuming you receive a permit to do so from the Board. The 271 acre-feet under the Service's water right would be protected from diversion.

We understand that you have submitted an application to irrigate your lands by pumping from this slough. We will not object to your application as long as you are restricted to pumping only the water which occurs on your land. In a telephone conversation yesterday between Cheryl Williss of my staff and Tim Tollefsrud and Ron Duvall of the Division of Water Rights, it was agreed that a survey of this wetland was needed. This survey would determine the proportion of the slough within the WPA boundaries at various elevations, and would also identify the amount of water which you could pump at those elevations. We would be willing to install a gauge which will allow both you and Service personnel to determine the elevation of the slough each spring, and by consulting the area-capacity table for the wetland, to identify the amount of water which would be protected under each permit.

We believe that the water rights permit process provides a way for both you and the Service to protect our respective interests in this water. We would be agreeable to drafting a written agreement to cover the interests and responsibilities of both parties. If you would like to have a written

Paul Wojciechowski

2

agreement, or if you have any questions about the Service's management of the WPA, please contact Bill Wilson at Lake Andes National Wildlife Refuge at 487-7603.

Sincerely,

/s/ WILLIAM A. GOOBY
William A. Godby
Regional Engineer

cc: ✓ Ron Duvall
Tim Tollefsrud
Water Management Board
Foss Building, 523 East Capitol
Pierre, South Dakota 57501-3181



Department of Water & Natural Resources

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

March 8, 1989

NOTICE

TO: John L Spinks, Jr., Deputy Regional Director
US Fish and Wildlife Service
PO Box 25486, Denver Federal Center
Denver CO 80225

Paul Wojciechowski
RR 1, Box 20
Geddes SD 57342

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

A handwritten signature in cursive script, reading "John Hatch".

SUBJECT: Approval of Water Permit Application No. 5251-3, US
Fish & Wildlife Service

This Notice is to inform you that on March 1, 1989, the Water Management Board approved Water Permit Application No. 5251-3. The permit is approved subject to the following qualification:

Approval of Permit No. 5251-3 establishes first priority to 271 acre feet of an undivided interest in a total of 323 acre feet of water stored in a natural slough on both the Sherman Waterfowl Production Area and private land at elevation 1591.7 fmsl.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

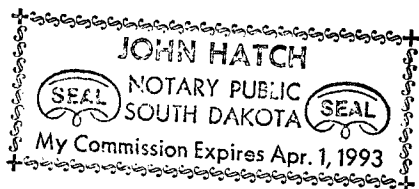
CERTIFICATION

I hereby certify that on March 8, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice on Approval of Water Permit Application No. 5251-3 addressed as stated on the notice.

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of March, 1989.



John Hatch
Notary Public

Feb 17, 1989
(date)

page 1

Parties of Record before Water Management Board regarding Water
Permit Application No. 5251-3, US Fish and Wildlife
Service

Proponent:

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

Opponent:

Paul Wojciechowski
RR1, Box 20
Geddes SD 57342



United States Department of the Interior
FISH AND WILDLIFE SERVICE



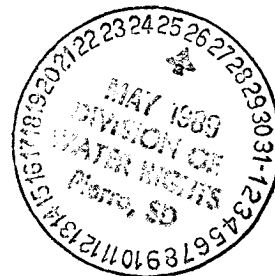
IN REPLY REFER TO:

BA/WTR
Mail Stop 60189

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

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

MAY 24 1989



Mr. James Winterton
South Dakota Department of
Water and Natural Resources
523 East Capitol, Foss Building
Pierre, South Dakota 57501-3181

Dear Mr. Winterton:

Glen Larson of my staff spoke with you last week about development of an area-capacity table at the Sherman Waterfowl Production Area in Charles Mix County. We plan to install a staff gauge and survey the area as needed this summer. The gauge and survey can be used by Mr. Paul Wojciechowski and Refuge personnel in determining water availability under Water Permit Nos. 5251-3 and 5284-3.

Enclosed is the area-capacity table, as well as a summary of the methodology and assumptions employed to develop it.

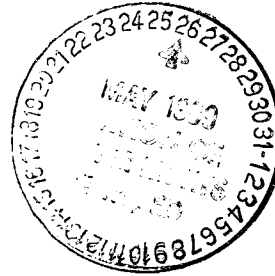
We would appreciate your comments on the table and methodology before we schedule the field trip. Please contact Glen Larson at 303/236-5322.

Sincerely,

George R. Smith
Acting Regional Hydrologist

Enclosures

Methods and Assumptions
Sherman WPA



$$\text{Volume} = \frac{(\text{Top area} + \text{Bottom area}) \cdot \text{Height}}{2}$$

or

$$323 \text{ AF} = \frac{(129 + x) \cdot 4.6}{2}$$

x or bottom area = 11.42 acres

Assumptions from Report on Allocation No. 5251-3

Full Capacity = 323 acre-feet
Surface Area when full = 129 acres
Depth = 4.6 feet
Mean sea level at full = 1591.7 feet

Area-capacity table Sherman WPA
Lake Andes NWR

Depth	Elev	Area	Vol/.1	T. Vol	16%vol
4.6	1591.7	129.0	12.8	323.0	51.7
4.5	1591.6	126.4	12.5	310.2	49.6
4.4	1591.5	123.9	12.3	297.7	47.6
4.3	1591.4	121.3	12.0	285.5	45.7
4.2	1591.3	118.8	11.8	273.4	43.8
4.1	1591.2	116.2	11.5	261.7	41.9
4.0	1591.1	113.7	11.2	250.2	40.0
3.9	1591.0	111.1	11.0	239.0	38.2
3.8	1590.9	108.6	10.7	228.0	36.5
3.7	1590.8	106.0	10.5	217.2	34.8
3.6	1590.7	103.4	10.2	206.8	33.1
3.5	1590.6	100.9	10.0	196.6	31.4
3.4	1590.5	98.3	9.7	186.6	29.9
3.3	1590.4	95.8	9.4	176.9	28.3
3.2	1590.3	93.2	9.2	167.4	26.8
3.1	1590.2	90.7	8.9	158.2	25.3
3.0	1590.1	88.1	8.7	149.3	23.9
2.9	1590.0	85.6	8.4	140.6	22.5
2.8	1589.9	83.0	8.2	132.2	21.2
2.7	1589.8	80.4	7.9	124.0	19.8
2.6	1589.7	77.9	7.7	116.1	18.6
2.5	1589.6	75.3	7.4	108.5	17.4
2.4	1589.5	72.8	7.1	101.0	16.2
2.3	1589.4	70.2	6.9	93.9	15.0
2.2	1589.3	67.7	6.6	87.0	13.9
2.1	1589.2	65.1	6.4	80.4	12.9
2.0	1589.1	62.5	6.1	74.0	11.8
1.9	1589.0	60.0	5.9	67.9	10.9
1.8	1588.9	57.4	5.6	62.0	9.9
1.7	1588.8	54.9	5.4	56.4	9.0
1.6	1588.7	52.3	5.1	51.0	8.2
1.5	1588.6	49.8	4.8	45.9	7.3
1.4	1588.5	47.2	4.6	41.1	6.6
1.3	1588.4	44.7	4.3	36.5	5.8
1.2	1588.3	42.1	4.1	32.1	5.1
1.1	1588.2	39.5	3.8	28.0	4.5
1.0	1588.1	37.0	3.6	24.2	3.9
0.9	1588.0	34.4	3.3	20.6	3.3
0.8	1587.9	31.9	3.1	17.3	2.8
0.7	1587.8	29.3	2.8	14.3	2.3
0.6	1587.7	26.8	2.5	11.5	1.8
0.5	1587.6	24.2	2.3	8.9	1.4
0.4	1587.5	21.7	2.0	6.6	1.1
0.3	1587.4	19.1	1.8	4.6	0.7
0.2	1587.3	16.5	1.5	2.8	0.4
0.1	1587.2	14.0	1.3	1.3	0.2
-0.0	1587.1	11.4	0.0	0.0	0.0





**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

414941

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>5251-3</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 Hutton (F)
Chief Engineer



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR
WR SD
Mail Stop 60189

MAILING ADDRESS:

Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:

134 Union Blvd.
Lakewood, Colorado 80228



John Hatch, Chief Engineer
Department of Environment and
Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

MAY 01 1996

Dear Mr. Hatch:

In response to your letter of April 24, enclosed is a Money Order in the amount of \$100 to cover inspection fees and issuance of Water Licenses for Water Permit Nos. 5250-3 (Varilek Waterfowl Production Area) and 5251-3 (Sherman Waterfowl Production Area) located in Charles Mix County.

If you have questions or require further information, please contact me at (303) 236-5321.

Sincerely,

Linda Coe
Water Rights Technician

Enclosure

STATE OF SOUTH DAKOTA

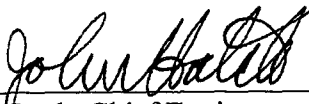
WATER LICENSE NO. 5251-3

(1) US Fish & Wildlife Service (USFWS) of PO Box 25486, Denver Federal Center, Denver CO 80225 made Application No. 5251-3, December 27, 1988 for a water permit to store sufficient runoff water annually to fill the Sherman National Waterfowl Production Area to elevation 1591.7 feet mean sea level (msl) in Charles Mix County, South Dakota for fish & wildlife propagation purposes. Permit No. 5251-3, with a priority date of December 27, 1988 was approved March 1, 1989, establishing first priority for the USFWS to 271 acre feet of an undivided interest in a total of 323 acre feet of water stored in a natural slough on both the Sherman 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 1591.7 feet mean sea level for beneficial use. The wetland area (129 surface acres) is located in the W 1/2 of Section 3 and 10; and the E 1/2 of Section 9, all in 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 271 acre feet of an undivided interest in a total of 323 acre feet of water stored in a natural slough on both the Sherman 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. 5251-3 is issued a license to store sufficient runoff water annually to maintain the water level at an outlet elevation of 1591.7 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. 5251-3 and subject to South Dakota State Law.



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

JUN 27 1996

date



REPORT ON INSPECTION OF PERMIT NO. 5251-3

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: W1/2 of sections 3 & 10, E1/2 of section 9; all in T98N R66W.

SYSTEM TYPE:

NATURAL WETLAND

This natural wetland has a maximum storage capacity of 336 acre-feet of water and a surface area of 129 acres when full. Water is collected in a natural wetland and is known as the Sherman Waterfowl Production Area (WPA), located in sections 3, 9, & 10; all in T98N R66W.

HISTORY OF PERMIT:

On November 21, 1988, staff from the Water Rights Division & US Fish & Wildlife set Mean Sea Level Bench Marks at the WPA. These Bench Marks would be used to determine the elevation of the slough for an adjacent landowner, Paul Wojciechowski. Mr. Wojciechowski applied for a water permit to pump water from the slough and may irrigate from the slough only with US Fish & Wildlife Service consent. He was granted Water Permit No. 5284-3.

This permit, 5251-3, allows the Wildlife Service to maintain the water levels on the slough. An elevation of 1591.7 was identified as the natural level of the wetland by a staff engineer with the Division of Water Rights. At this elevation, 84 percent of the slough is within the boundaries of the WPA and 16 percent is on Mr. Wojciechowski's property. Mr. Wojciechowski can divert this 16 percent or 52 acre-feet. The remaining 271 acre-feet in the WPA is then protected by this Water Permit No. 5251-3.

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

Permit No. 5251-3
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. **5251-3**, bearing the priority of **December 27, 1988** authorizing ~~storage of 323 acre-feet or~~ **sufficient runoff water annually to fill the Sherman Waterfowl Production Area (WPA) to an elevation of 1591.7 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 maximum storage capacity of 336 acre-feet of water and a surface area of 129 acres when full. Water is collected in a natural wetland and is known as the Sherman Waterfowl Production Area (WPA), located in sections 3, 9, & 10; all in T98N R66W.

HISTORY OF PERMIT:

On November 21, 1988, staff from the Water Rights Division & US Fish & Wildlife set (MSL) Bench Marks at the WPA. These Bench Marks would be used to determine the elevation of the slough for an adjacent landowner, Paul Wojciechowski. Mr. Wojciechowski applied for a water permit to pump water from the slough and may irrigate from the slough only with US Fish & Wildlife Service consent. He was granted Water Permit No. 5284-3. This permit, 5251-3, allows the Wildlife Service to maintain the water levels on the slough. An elevation of 1591.7 was identified as the natural level of the wetland by a staff engineer with the Division of Water Rights. At this elevation, 84 percent of the slough is within the boundaries of the WPA and 16 percent is on Mr. Wojciechowski's. Mr. Wojciechowski can divert this 16 percent or 52 acre-feet. The remaining 271 acre-feet in the WPA is then protected by this Water Permit No. 5251-3.

The system is in the following condition **good**. The point of diversion is located **W1/2 of sections 3 & 10, E1/2 of section 9; all in T98N R66W**. The works are capable of storing **323** 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

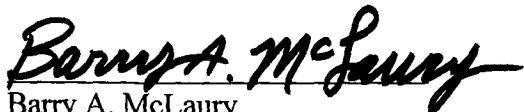
SECTION 3
SECTION 9
SECTION 10

W1/2
E1/2
W1/2

comprising a total of **129** surface acres and the license should be issued for ~~323 acre-feet of storage or~~ **sufficient runoff water annually to fill the Sherman Waterfowl Production Area (WPA) to an elevation of 1591.7 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



**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

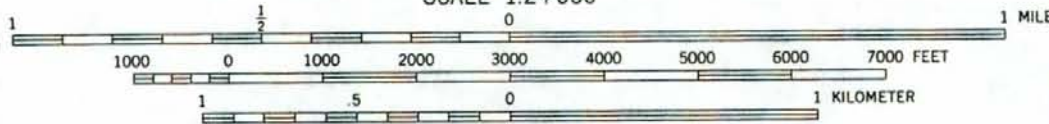
gm
enclosures

GEDDES QUADRANGLE

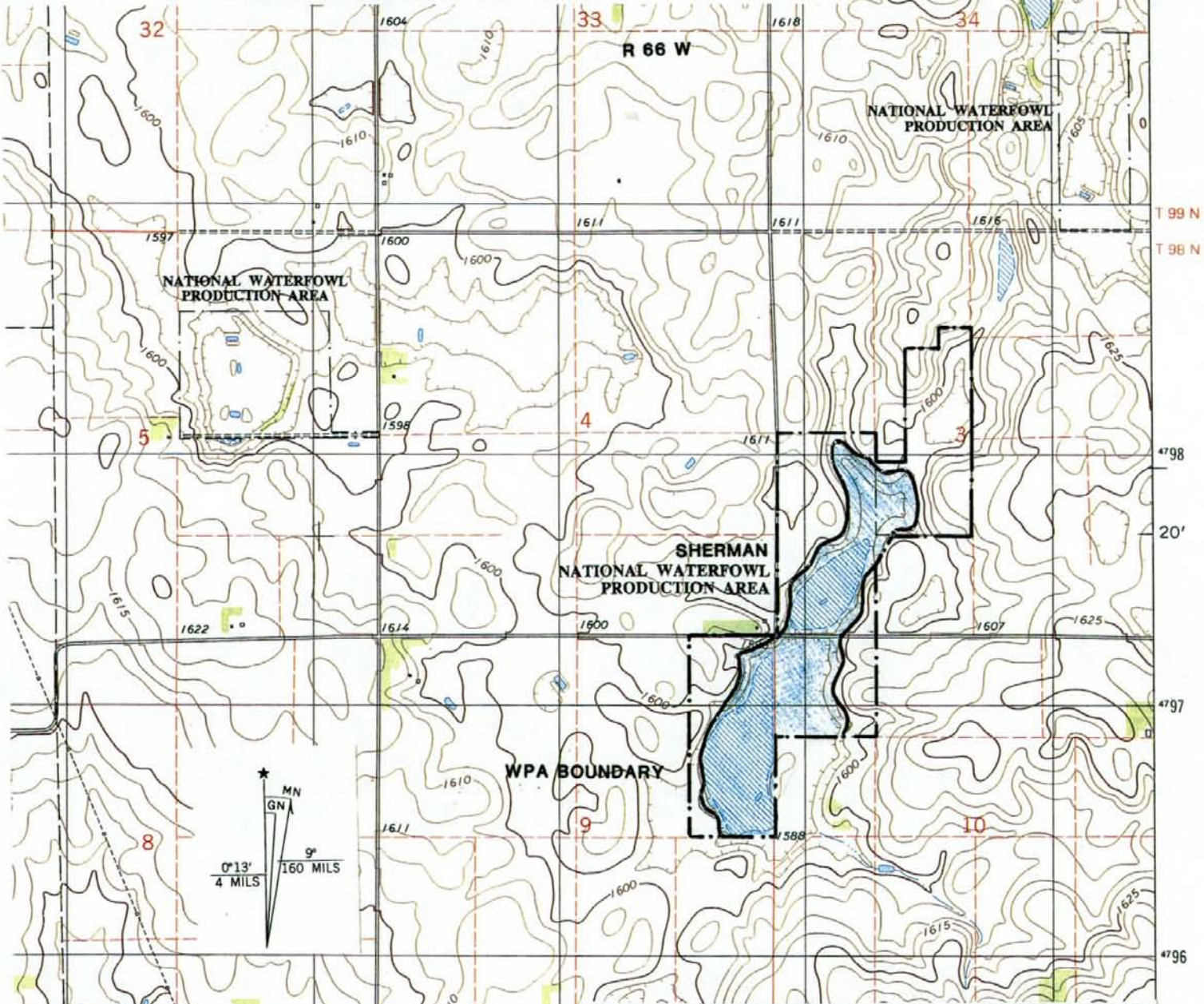
SOUTH DAKOTA

7.5 MINUTE SERIES (TOPOGRAPHIC)

SCALE 1:24 000



CONTOUR INTERVAL 5 FEET
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

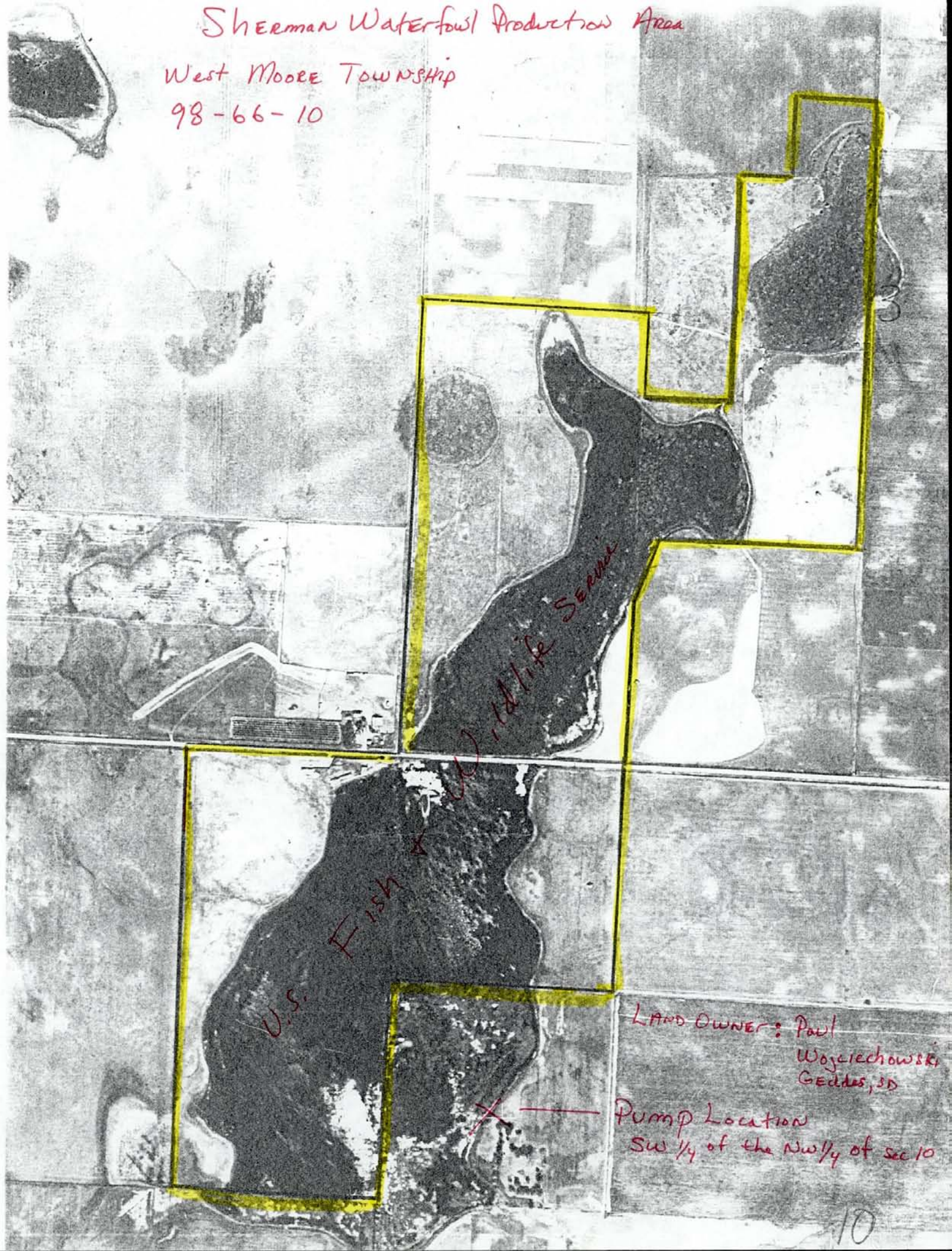
DESIGNED LC	DRAWN JFG	CHECKED CW	DATE 12-88	DENVER, COLO.
DRAWING NO. 6R-SD-173-WR-P-16.0				SHEET 1 OF 1

Appl. No. 5251-3

Sherman Waterfowl Production Area

West Moore Township

98-66-10



LAND OWNER: Paul
Wojciechowski
Geddes, SD

Pump Location
SW 1/4 of the NW 1/4 of sec 10