

WATER PERMIT NO. 5878A-3

Name of Applicant: McCook Lake Recreation Assoc.

Address: 83 North Shore Dr, McCook Lake SD

Phone: 605 232-4542

Amount of Water Claimed: 12.81 cfs

Total Acres: NA

Source of Water Supply: Missouri River

Water to be used for: recreation and fish & wildlife propagation

County: Union

Type of Waste Disposal System:

Location: south end of McCook Lake

PRIORITY Date Received: 3-22-2001

Fee: \$50

Corrected Application Received:: 4-6-2001

Period of Annual Use: March 1 – December 1

Remarks: changes period of annual use and location of the Missouri River diversion point as authorized by Permit No. 5878-3

Diversion Point:

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: :

Remarks:

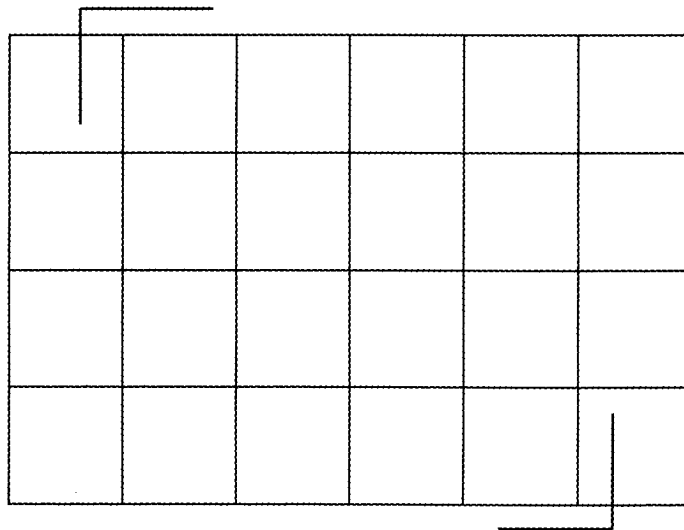
Type of Map: topo

Prepared by: Jeff Snoozy, RLS

Reviewed and the Number Assigned on: 4-6-01

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>5878A-3</u>	(office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>Elk Point Leader - Courier, Elk Point</u>	

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

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☒ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☒ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application: ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. _____

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

1. Name of Applicant M^cCook Lake Recreation Assn. Phone 605-232-4542
(check one) Owner Tenant/lessee
Mailing Address #83-NORTH SHORE DR. M^cCOOK LAKE State S.D. 57049
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 12.89 *CFS or **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply MISSOURI RIVER

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
along section line between SW1/4 Sec 17 and SE1/4 Sec 18-T89N-R48W
(SD Survey) County Union

5. County or counties where water will be used Union

6. Annual period during which water is to be used MARCH 1st - DEC. 1st (change)

7. Give a description of the 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)

Move pump & pipe upstream to cross under Adams Nature Area Land. We will use same pumps & new pipe. We no longer use any wells or other sources of water, so need just one permit.

STATE OF SOUTH DAKOTA)
County of Union SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Dave Nitzschke, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Dave Nitzschke

Subscribed and sworn to before me this 6th day of March 20 01

MY COMMISSION EXPIRES 03/16/03 Sallie Peters
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 5878A-3**

Date of first receipt of application March 22, 2001.

Date of return to applicant for corrections, amendments or changes March 22, 2001.

Date of receipt of corrected application April 6, 2001.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5878A-3 to McCook Lake Recreation Association, #83 North Shore Dr., McCook Lake SD 57049 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. 5878A-3 expands the annual period of use and changes the location of the diversion point. Water Right No. 5781-3 and Permit No. 5878-3 appropriate a total of 12.89 cubic feet of water per second from the Missouri River to maintain the water level of McCook Lake for recreational use. Water Permit No. 5878-3 authorizes an annual period of use from April 1st thru November 1st. This permit authorizes the annual period of use be expanded to March 1st thru December 1st. This permit also changes the location of the Missouri River diversion point as authorized by Water Permit Nos. 5878-3 and 5781-3 from the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21-T89N-R48W to a point along the section line between the SW $\frac{1}{4}$ Section 17 and the SE $\frac{1}{4}$ Section 18, T89N, R48W (SD Survey). No increase in the diversion rate is authorized.
2. The water appropriated shall be used for the purpose of supplying water for recreational use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: March 1 – December 1.
4. The date of approval of Permit No. 5878A-3 is June 4, 2001.
5. The date from which applicant may claim right is August 18, 1995.
6. One-fifth of the construction is to be completed on or before December 4, 2003.
7. All construction is to be completed on or before June 4, 2006.
8. Water is to be put to beneficial use on or before June 4, 2010.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Water Permit Nos. 5781-3, 5878-3 and 5878A-3 authorize diversion of Missouri River water only when the McCook Lake water elevation is below 1090.3 fmsl.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 03 2001

date



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416801

Pierre, March 28, 2001

RECEIVED OF Mc Cook Lake Recreation Assn., PO Box 1185, North Sioux City, SD 57049
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 _____	50	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. _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	100 00

By

Darland Erbe
Chief Engineer

gm

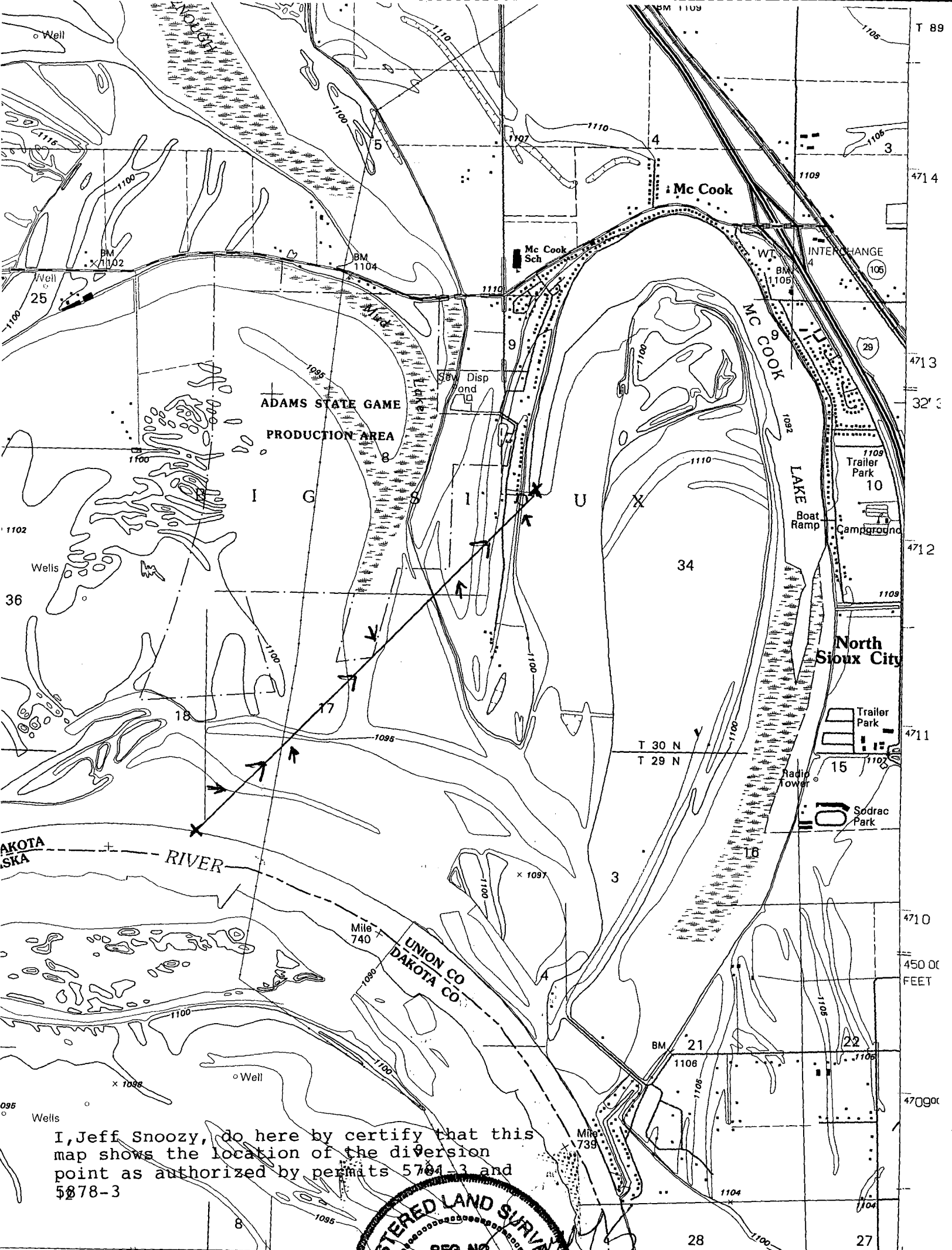
1000 0 1000 Feet



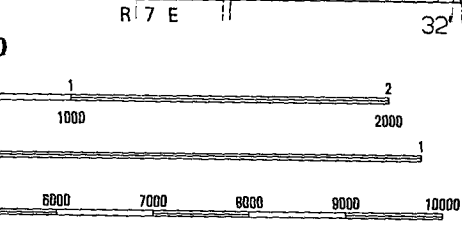
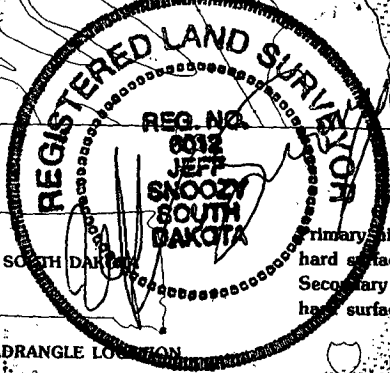
South Dakota
Department of Environment
& Natural Resources
Water Rights

Ron Duvall, Nat. Res. Engineer
September 4, 2002

No. 5878A-3



I, Jeff Snoozy, do hereby certify that this map shows the location of the diversion point as authorized by permits 5784-3 and 5878-3



QUADRANGLE LOCATION

1	2	3
4		5
6	7	8

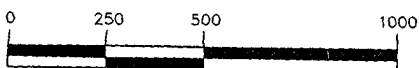
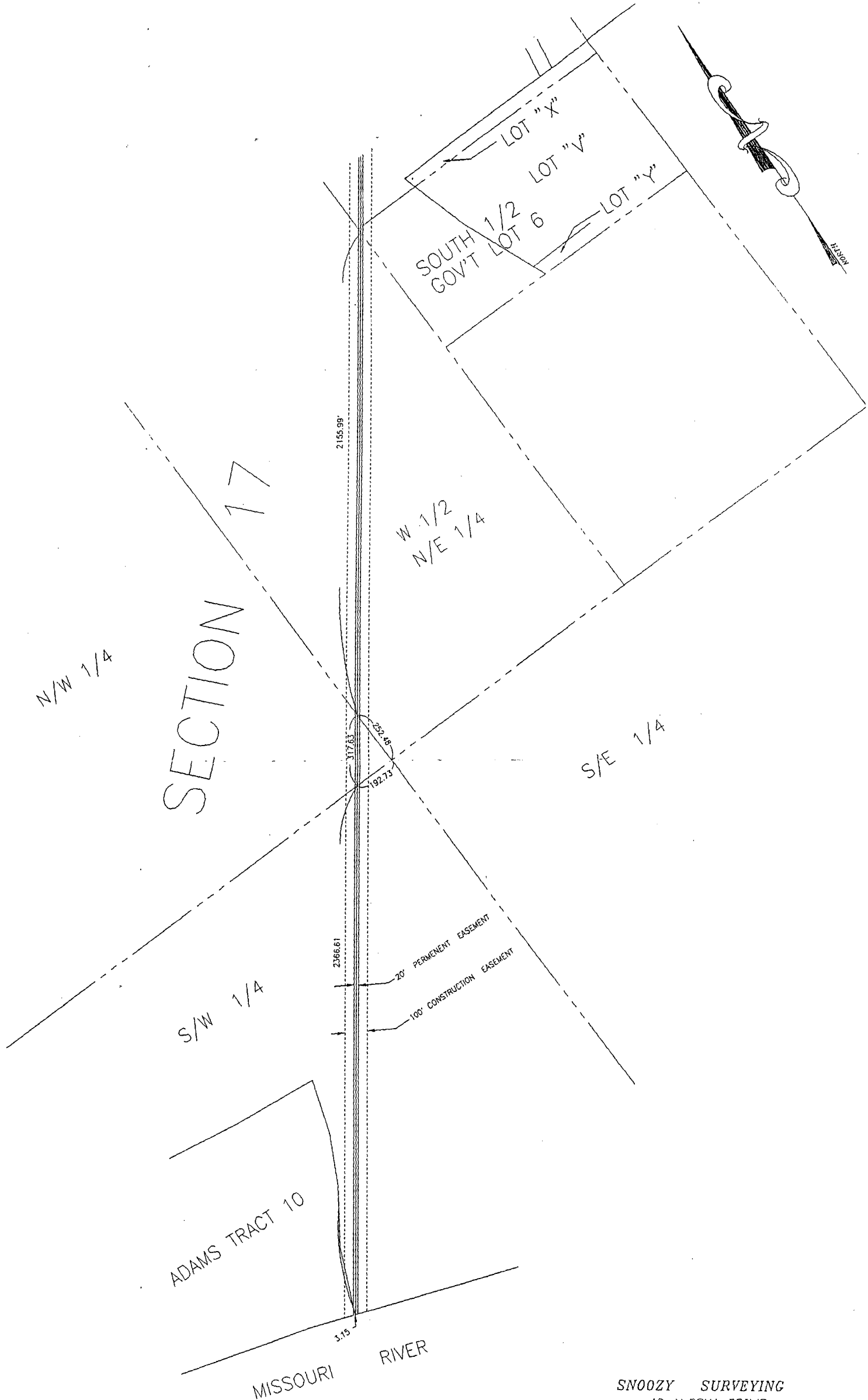
- 1 Elk Point
- 2 Elk Point NE
- 3 Millerville
- 4 Ponca
- 5 Sioux City North
- 6 Waterbury
- 7 Jackson
- 8 Sioux City South

INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-1995
ROAD CLASSIFICATION

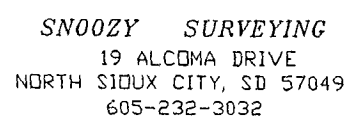
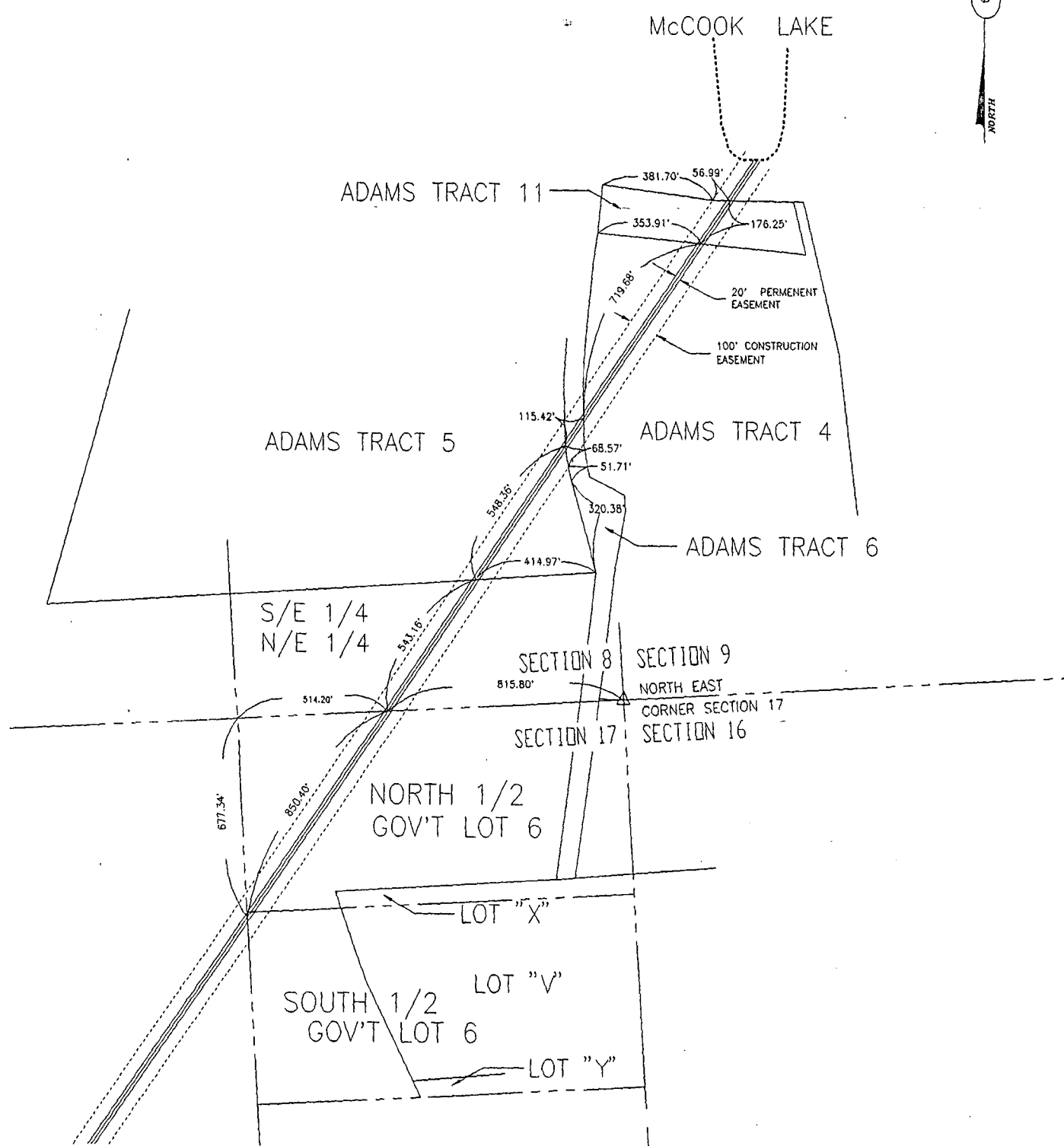
- Primary highway
- hard surface
- Secondary highway
- hard surface
- Light-duty road, hard or improved surface
- Unimproved road
- Interstate Route
- U.S. Route
- State Route

JEFFERSON, S. DAK.-NEBR.-IOWA
42096-E5-TF-024

1994 5878A-3



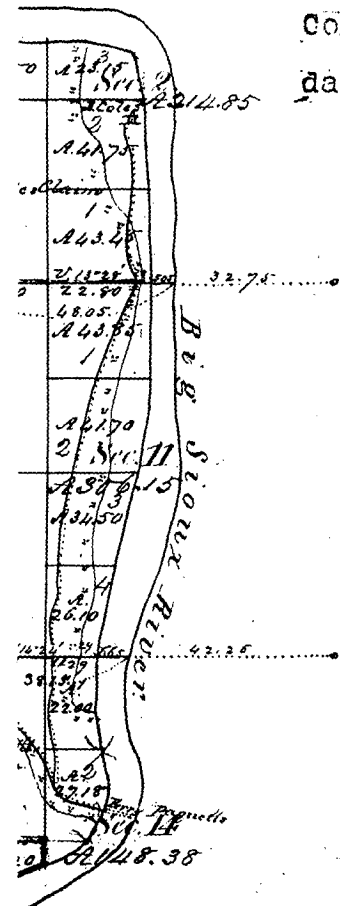
SNOOZY SURVEYING
19 ALCOMA DRIVE
NORTH SIOUX CITY, SD 57049
605-232-3032



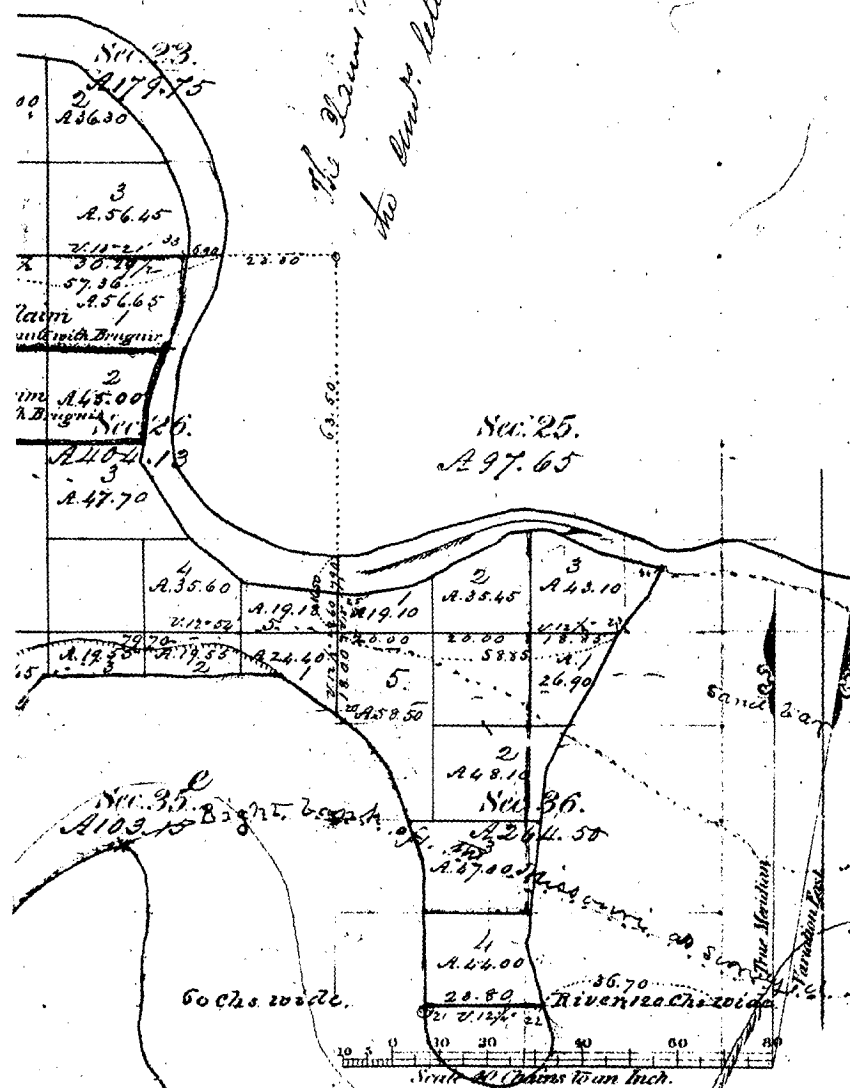
5th Mer. Dakota.

Accepted:

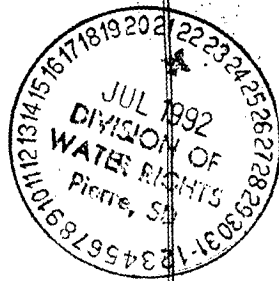
Commissioner's letter ~~to~~
dated Feb. — 1861



The claims listed on this plan were ordered to be cancelled by the Comptroller of Public Works 14th Feb 1861



Meanders of Missouri & Big Sioux Rivers.									
Posts	Courses	(Ch. & Lk.)	Posts	Courses	(Ch. & Lk.)	Posts	Courses	(Ch. & Lk.)	
Missouri River									
Left bank, down stream				N. 42 E.	29.00		S. 8 W.	8.00	
				East	48.50		S. 5 W.	5.00	
			20	S. 55 E.	14.35		S. 20 W.	19.00	
1	S. 15 E.	450		S. 56 E.	5.00		S. 10 W.	13.00	
	S. 17 E.	17.00		S. 40 E.	12.00		S. 30 E.	19.00	
	South	20.00		S. 20 E.	20.00	25	S. 50 E.	15.00	
	S. 14 W.	15.00		S. 1/2 E.	31.24		S. 84 E.	19.00	
2	S. 12 E.	27.00	21						
	S. 7 E.	25.00	22	S. 15 W.	13.00	Total	Mls 23,	Chs. 67,	Lks. 62
	S. 6 W.	20.00		S. 5 E.	39.00				
	S. 12 W.	18.00	23	S. 29 E.	32.50				
3	S. 20 W.	19.00							
				S. 29 E.	9.00				
4	S. 20 W.	5.00		S. 15 E.	7.00				
			24	S. 69 W.	13.50				
	S. 20 W.	23.50		S. 72 W.	13.00				
	S. 12 W.	5.00		S. 86 W.	7.00				
	S. 9 E.	19.00		S. 62 W.	22.00				
5	S. 80 E.	10.00		S. 79 W.	13.00				
			25	S. 84 W.	3.90				
	S. 71 E.	15.00							
	S. 65 E.	42.00	Big Sioux River:						
6	S. 7 E.	30.40	Right bank, down stream						
7	S. 54 E.	54.20	26	S. 10 E.	10.20				
				S. 30 E.	10.00				
	S. 14 E.	10.00		S. 60 E.	8.00				
8	S. 22 1/2 E.	17.75	27	S. 85 E.	36.10				
	S. 23 E.	1.00		S. 85 E.	16.00				
	S. 13 E.	12.50		S. 89 E.	13.00				
	S. 65 E.	25.00		S. 72 E.	10.00				
	S. 65 E.	31.00		S. 12 E.	10.00				
9	S. 40 E.	15.00	28	S. 3 1/2 E.	40.10				
	S. 25 E.	7.40		S. 1 1/2 W.	26.00				
10	S. 26 E.	14.00		S. 8 W.	14.00				
				S. 13 W.	20.00				
	S. 26 E.	6.60	29	S. 11 W.	21.50				
	S. 21 E.	10.00							
	S. 5 E.	27.50		S. 3 W.	12.50				
	S. 10 E.	10.00		S. 10 E.	15.50				
11	South	8.00		S. 6 W.	5.00				
				S. 23 W.	8.00				
	S. 5 W.	14.00		S. 52 W.	8.50				
12	S. 20 W.	28.20		S. 67 W.	17.00				
			30	S. 76 W.	8.00				
	S. 26 W.	30.00							
13	S. 37 W.	15.00		S. 70 W.	11.50				
				S. 60 W.	4.00				



The above Map of Township N^o 89 North of Range N^o 48 West 5th
Principal Meridian Dakota is strictly conformable to the field notes
the survey thereof on file in this Office which have been examined and approved.
Attorney General's Office }
Wm. Lewis }
ibng in Feb'y 4th 1861 } Sur. Gen.

EASEMENT/RIGHT OF WAY AGREEMENT

WHEREAS:

The South Dakota Parks and Wildlife Foundation, Inc. and The South Dakota Department of Game, Fish and Parks, hereinafter referred to as GRANTORS, their successors and assigns, both of which are located at 523 East Capitol Ave., Pierre, SD, 57501, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, does hereby grant and convey to The McCook Lake Recreation Association Inc., hereinafter referred to as GRANTEE, its successors and assigns, located at McCook Lake, SD 57049, the receipt of which is hereby acknowledged; the right to erect, construct, install and lay a 24 inch waterline for the expressed purpose of transporting water from the Missouri River to McCook Lake, and thereafter use, operate, inspect, repair, maintain, replace and remove water pipes, connections, valves and all other devices used in connection with the operation of a water delivery system, over, across and through the land of the GRANTORS, situated in Union County, State of South Dakota, said land being described as follows and detailed on the attached survey map:

Adams Tract Ten (10) in Section Seventeen (17), and Adams Tracts Four (4) Five (5) and Six (6) in Section Eight (8), and Adams Tracts Four and Eleven (11) in Section Nine (9) all of which are located in Township 89 North, Range 48 West of the 5th P.M. and; the Southwest quarter (SE $\frac{1}{4}$), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$, NW $\frac{1}{4}$), the Northeast Quarter (NE $\frac{1}{4}$), and Government Lot 6 of Section Seventeen (17) of Township 89 North Range 48 West of the 5th P.M. and; the Southeast Quarter of the Southeast (SE $\frac{1}{4}$, SE $\frac{1}{4}$) of Section Eight (8), Township 89 North Range 48 West as platted and filed in the Union County, South Dakota Register of Deeds office,

together with the right of ingress and egress over the adjacent lands of the GRANTORS, their successors and assigns for the purposes of this agreement for as long as the GRANTEE uses the line to deliver water to McCook Lake.

Additionally, the GRANTEE agrees, in further consideration of the easement, to install, at an appropriate place in the water delivery pipeline selected by the GRANTORS, a T-Section segment of water pipeline to which a secondary water pipeline may or could be attached at a later date by the GRANTORS. GRANTEE agrees to mark the T-Section of the water pipeline for later identification. Negotiations and documentation for the volume of water to be delivered and the total cost of the water to be delivered, not to exceed the the McCook Lake Recreation Association's cost to deliver the water to the cutoff, will be scheduled prior to construction of the secondary water pipeline.

This easement/letter of agreement is a permanent Twenty Foot (20') easement, Ten Feet (10') on each side of the following described centerline, and a temporary One Hundred Foot (100') construction, Fifty Feet (50') on each side of said centerline. The centerline of said easement has a bearing of N 36 06' 28" E, is 7,959.56 feet long extending from the Missouri River to McCook Lake. (See attached survey record.)

The GRANTEE, their successors and assigns, by reason of the installation, operation, and maintenance of the structures or improvements referred to herein agree to reshape and/or reseed, as necessary, any disturbed area to the original state. The GRANTEE covenants to maintain the agreement area in good repair so that no unreasonable damage will result from its use to the land of the GRANTORS, their successors and assigns. GRANTEE agrees to accept financial responsibility for any damage to crops as a result of pipeline failure and/or maintenance and repair activities.

The grant and other provisions of this agreement shall constitute a covenant running with the land for the benefit of the GRANTEE, its successors and assigns, only as long as the land is used by GRANTEE for the above stated purpose.

IN WITNESS WHEREOF, the GRANTORS and GRANTEE have executed this instrument this _____ day of _____, 20____.

[Signature]
John Cooper, Secretary
South Dakota Dept. of Game, Fish and Parks
Grantor

[Signature]
Timothy M. Bjork, Executive Director
South Dakota Parks and Wildlife Foundation
Grantor

[Signature]
Official Representative
McCook Lake Recreation Association
Grantee

STATE OF SOUTH DAKOTA)

COUNTY OF Union)

On this the 14th day of February, 2001 before me David Nitzsche
the undersigned officer, personally appeared _____

Known to me or satisfactorily proven to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

My Commission expires: MY COMMISSION EXPIRES 03/16/03

[Signature]
Notary Public, South Dakota

STATE OF SOUTH DAKOTA)

COUNTY OF Hwyler)

On this the 20th day of July, 2001 before me [Signature]
the undersigned officer, personally appeared John S. Cooper
and Timothy M. Bjork

Known to me or satisfactorily proven to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

My Commission expires: July 18, 2001

[Signature]
Notary Public, South Dakota



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 14, 2001

Dave Nitzschke
McCook Lake Recreation Association
~~315 Lake Shore Drive, Box 1185~~ #83-NORTH SHORE DRIVE
McCook Lake SD 57049

Dear Mr. Nitzschke:

On the recent 2000 South Dakota Water Use Questionnaire submitted for the McCook Lake Recreation Association you inquired about extending the pumping period. Currently, the Association holds water rights from the Missouri River and ground water wells to maintain the McCook Lake's water level. Although the dates when pumping is allowed varies with the specific water rights; in general, pumping is allowed from April 1st thru November 1st. The Association wants to change the period of pumping to March 1st thru December 1st.

A change to the pumping period is an amendment to the existing water rights held by the Association. Amending the water rights will require an application to be submitted. A copy of the application forms is enclosed. Separate applications will need to be submitted to amend the Missouri River water right and the ground water well water right since they are different water sources. For each of the two applications, a \$100 application/licensing fee will also need to be submitted. I also want to make you aware that these applications to amend will need to be public noticed as part of the water right permitting process.

Finally, we understand that the Association may be investigating moving the location of their Missouri River diversion point. If this is the Association's intent, you can include the change of diversion point on the same application as amending the pumping period from the Missouri River.

Please feel free to contact me if you have any questions. I am willing to assistance you in getting the water rights so the accurately reflect the Association's operation of the water system.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 23, 2001

Dave Nitzschke
McCook Lake Recreation Association
83 North Shore Drive
McCook Lake SD 57049

Dear Mr. Nitzschke:

Thank you for submitting the *Application for a Permit to Appropriate Water* to change the location of the diversion point as authorized by Water Permit Nos. 5781-3 and 5878-3.

Enclosed is the map submitted with the application. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS office).

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure



Karen -

If there is anything else, please let me know.

Thanks,

Dave Nitzschke



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5878A-3, McCook Lake Recreation Association**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5878A-3, McCook Lake Recreation Association, c/o Dave Nitzschke, 83 North Shore Drive, McCook Lake SD 57049.

The Chief Engineer is recommending APPROVAL of Application No. 5878A-3 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualification:

Water Permit Nos. 5781-3, 5878-3 and 5878A-3 authorize diversion of Missouri River water only when the McCook Lake water elevation is below 1090.3 fmsl.

See report on application for additional information.

Garland Erbele, Chief Engineer
May 9, 2001

REPORT ON WATER PERMIT APPLICATION NO. 5878A-3
McCook Lake Recreation Association
April 20, 2001

Water Permit Application No. 5878A-3, McCook Lake Recreation Association, proposes to expand the annual period of use and change the location of the diversion point of Water Permit No. 5878-3. Water Permit No. 5878-3 is authorized to an annual period of use from April 1st thru November 1st. This application proposes changing the annual period of use to March 1st thru December 1st. This application also proposes to change the location of the Missouri River diversion point as authorized by Water Permit Nos. 5878-3 and 5781-3 from the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21 T89 N-R48 W to a point along the section line between the SW $\frac{1}{4}$ Section 17 and the SE $\frac{1}{4}$ Section 18, T89N-R48W. No increase in the diversion rate is requested by this application. This project is located 2.4 miles southwest of North Sioux City in Union County.

Review of the Proposed Project and Existing Water Rights

The applicant holds Water Permit No. 5878-3 and Water Right No. 5781-3. Water Right No. 5781-3 is authorized to increase the diversion rate of Water Permit No. 4330-3 from 1.27 cubic feet per second (cfs) of water to 6.22 cfs. Water Permit No. 5878-3 has authority to increase the diversion rate of Water Right No. 5781-3 from 6.22 cfs to 12.89 cfs during the period of April 1st to November 1st. The water is used for recreation and to maintain the water level in McCook Lake. The diversion point for the water right and water permit mentioned above is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21 T89 N-R48 W.

Water Permit Application No. 5878A-3 proposes to expand the annual period of use from April 1st thru November 1st to March 1st thru December 1st. This application also proposes to change the location of the Missouri River diversion point currently authorized by Water Permit Nos. 5878-3 and 5781-3 from the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21 T89 N-R48 W to a point along the section line between the SW $\frac{1}{4}$ Section 17 and the SE $\frac{1}{4}$ Section 18, T89N-R48W. This application will use the diverted water for recreation and fish and wildlife propagation. No increase in the diversion rate is requested by this application. The total diversion rate authorized shall not exceed 12.89 cfs at any given time from the Missouri River.

The McCook Lake Recreation Association also holds Water Right No. 1606-3 and Water Permit No. 4565-3 for diverting groundwater from two wells for recreational use to maintain the water level in McCook Lake. At a December 2 and 3, 1981, Water Management Board Hearing, the Water Management Board established the maximum elevation that McCook Lake can be maintained at by artificial means as 1090.3 feet mean sea level (msl). At the time Water Right No. 1606-3 and Water Permit No. 4565-3 were amended to allow pumping only when McCook Lake's water elevation is below 1090.3 feet msl. This qualification also applies to Water Right No. 5781-3 and Water Permit No. 5878-3. If approved, this permit should contain this same qualification.

There is one water right located approximately 2,500 feet northeast of the proposed project. This water right is authorized to take 3 cfs of water from the Missouri River for irrigation purposes. This water right should not be expected to be adversely impacted if this application is approved.

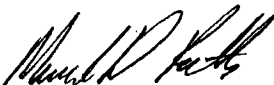
The source of water for this project is from the Missouri River at a point below Gavins Point Dam. Water quantity should not be a problem. Water Permit No. 5878-3 was approved on September 25, 1995. The Water Rights Program has no record of complaints concerning this project. Adverse affects to existing water rights and water permits would not be expected.

Conclusions

1. Water Permit Application No. 5878A-3 proposes to expand the annual period of use and change the location of the diversion point of Water Permit No. 5878-3.
2. The total diversion rate authorized under Water Permit No. 5878-3 and this proposed project, if approved, shall not exceed 12.89 cfs at any given time from the Missouri River.
3. There is one water right located approximately 2,500 feet northeast of the proposed project. This water right should not be adversely impacted if this application is approved.
4. The source of water for this project is from the Missouri River. Adverse affects to existing water rights and water permits would not be expected.
5. This application will use the diverted water for recreation and fish and wildlife propagation.
6. The Water Management Board has established the maximum elevation that McCook Lake can be maintained at by artificial means as 1090.3 feet msl. If approved this permit should contain this qualification.

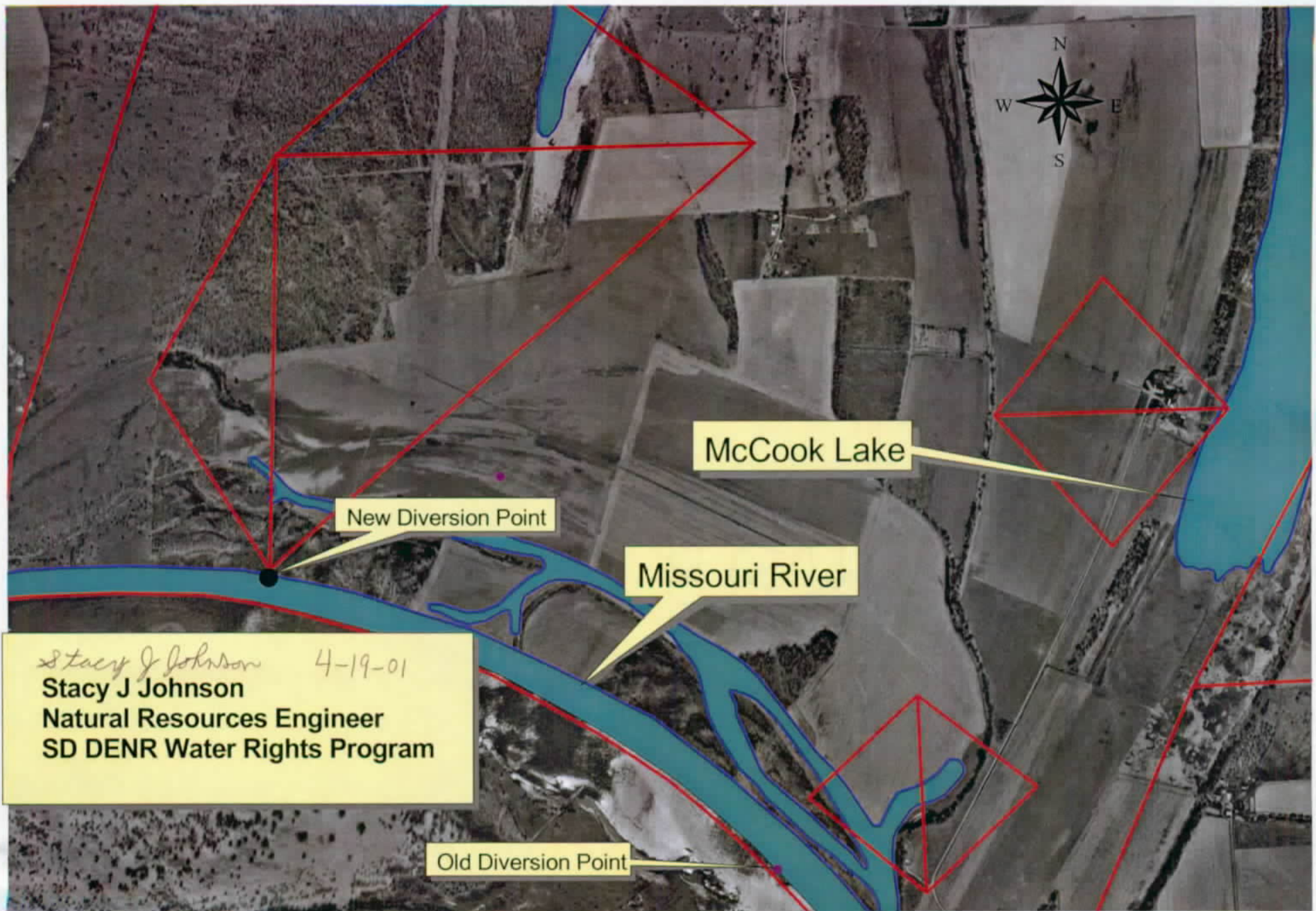

Stacy J. Johnson
Natural Resources Project Engineer

Reviewed by:


Mark D. Rath
Natural Resources Engineering Specialist

References

Water Rights Program files, "Water Permits Nos. 3807-3, 5781-3, and 5878-3 ", DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501.



0.5 0 0.5 Miles

● Water Permits and Water Rights



- Water Permits and Water Rights

**NOTICE OF APPLICATION NO.
5878A-3 TO APPROPRIATE
WATER TO AMEND WATER
PERMIT NO. 5878-3**

Notice is given that McCook Lake Recreation Association, c/o Dave Nitzschke, #83 North Shore Dr., McCook Lake, SD 57049 has filed an application for a water permit to expand the annual period of use and change the location of the diversion point. Water Right No. 5781-3 and Permit No. 5878-3 appropriate a total of 12.89 cubic feet of water per second from the Missouri River to maintain the water level of McCook Lake for recreational use. Water Permit No. 5878-3 authorizes an annual period of use from April 1st through November 1st. This application requests the annual period of use be expanded to March 1st thru December 1st. This application also proposes to change the location of the Missouri River diversion point as authorized by Water Permit No. 5878-3 and 5781-3 from the NW1/4 SW1/4 Section 21-T89N-R-48W to a point along the section line between the SW1/4 Section 17 and the SE1/4 Section 18, T89N, R48W (SD Survey). No increase in the diversion rate is requested by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5878A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 4, 2001.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Publish: May 17 & 24, 2001

20-5

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Union) SS

I, Susan Odson

certify that the attached printed Notice was taken

from the

Leader-Courier

printed and published in Elk Point

County of Union and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

May 17, 2001

May 24, 2001

Cost of Printing \$45.23

Susan Odson
(Signature)

Affidavits Coordinator
(Title)

May 23, 2001
(Date Signed)



Instruction to Newspaper - Publish first Notice on May 17, 2001 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 5878A-3 to Appropriate Water
to Amend Water Permit No. 5878-3

Notice is given that McCook Lake Recreation Association, c/o Dave Nitzschke, #83 North Shore Dr., McCook Lake SD 57049 has filed an application for a water permit to expand the annual period of use and change the location of the diversion point. Water Right No. 5781-3 and Permit No. 5878-3 appropriate a total of 12.89 cubic feet of water per second from the Missouri River to maintain the water level of McCook Lake for recreational use. Water Permit No. 5878-3 authorizes an annual period of use from April 1st thru November 1st. This application requests the annual period of use be expanded to March 1st thru December 1st. This application also proposes to change the location of the Missouri River diversion point as authorized by Water Permit Nos. 5878-3 and 5781-3 from the NW ¼ SW ¼ Section 21-T89N-R48W to a point along the section line between the SW ¼ Section 17 and the SE ¼ Section 18, T89N, R48W (SD Survey).

No increase in the diversion rate is requested by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5878A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 4, 2001.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

May 9, 2001

Dave Nitzschke
McCook Lake Recreation Association
#83 North Shore Dr.
McCook Lake, SD 57049

Dear Mr.Nitzschke:

Water Permit Application No.5878A-3 for recreational and Fish & Wildlife use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Elk Point Leader-Courier printed at Elk Point, SD (Ph # 605-356-2632). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 9, 2001

Elk Point Leader-Courier
Box 310
Elk Point, SD 57025-0310

ATTENTION: Legal Public Notice

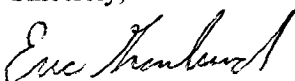
Enclosed is a Notice of Hearing on Application No. 5878A-3 to Appropriate Water to be published twice. Please publish the first notice on May 17, 2001 with the second publication 7 days later.

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 Dave Nitzschke, Mc Cook Lake Recreation Association, #83 North Shore Dr., Mc Cook Lake, SD 57049 (Ph # 605-232-4542).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 5878A-3

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of May 9, 2001 enclosing Notice of Hearing to Appropriate Water by Application No. 5878A-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 03 2001

Dave Nitzschke
Mc Cook Lake Recreation Association
#83 North Shore Dr.
Mc Cook Lake, SD 57049

Dear Mr. Nitzschke:

Enclosed is Water Permit No. 5878A-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

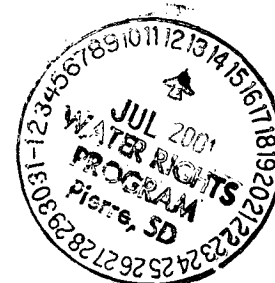
Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date July 10, 2001

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181



FROM: McCook Lake Recreation Association
(name)

#83 - North Shore Drive
(address)

North Sioux City, So. Dak. 57049 605-232-4542
(city, state, zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

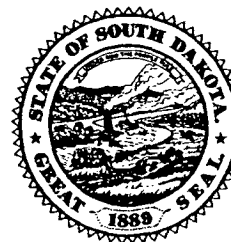
Water Permit No. 5878A-3 states that the water use system is to be constructed by 5-10-2001, and water is to be put to beneficial use by 6-1-2001.
(date) (date)

The water use system was completed on 5-10-2001.
(date)

Applying the water to beneficial use was completed on 6-1-2001.
(date)

You may schedule an investigation so that the water license may be issued.

Dave Nitzschke
(signature)



Permit No. 5878A-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, **June 18, 2002**, made a thorough examination of the water use system constructed by **McCook Lake Recreation Association** of **#83 North Shore Drive, McCook Lake SD 57049** holder of Permit Nos. **5878A-3, 5878-3 and 5781-3 (4430-3)**, bearing the priority of **August 18, 1995 (Nos. 5878A-3 & 5878-3), August 12, 1993 (5781-3), and August 17, 1979 (4430-3)** authorizing the diversion of **6.67 (5878-3), 4.95 (5781-3), 1.27 (4430-3) for a total combined diversion of 12.89** cu. ft. per second of the waters of **Missouri River** for **recreational** purposes, in **Union** County.

Inspection contact & relationship to permit holder, if applicable: **Dave Nitzschke & Todd Cook**

A. Works used to divert the water:

West Pump:

- 1) Make **Gorman Rupp**
- 2) Serial **1081826**

West Motor:

- 1) Make **Lincoln**
- 2) Frame No. **3641**
- 3) Horsepower rating **60** hp

East Pump:

- 1) Make **Gorman Rupp**
- 2) Serial **996032**

East Motor:

- 1) Make **Unknown Electric**
- 2) Horsepower rating **60** hp

Combined diversion rate of approximately 5,800 gpm to maintain McCook Lake water levels.

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

- 1) Type **PVC**
- 2) Size **24** inches
- 3) Length **≈ 8,000** feet

C. Compliance with Permit Requirements:

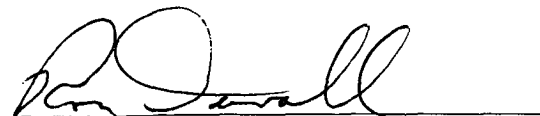
- 1) Permit qualifications being abided by **Y**
- 2) Exceptions to compliance are: **none**

The system is in **good** condition with the point of diversion located as follows: **Missouri River (SW $\frac{1}{4}$ SW $\frac{1}{4}$): 1,200 feet E and 650 feet N from the SW corner section 17-T89N-R48W (Lat 42.51952 Long -96.54178)**. The works are capable of diverting and conveying to the place of use **12.89** cu. ft. per second of water which is to be used for **recreational purposes**. Water has been put to beneficial use to the maximum extent and the license should be issued for **12.89** cfs.

All structures, wells and lands on map **Y**

Comments or other permit(s) associated with the project:

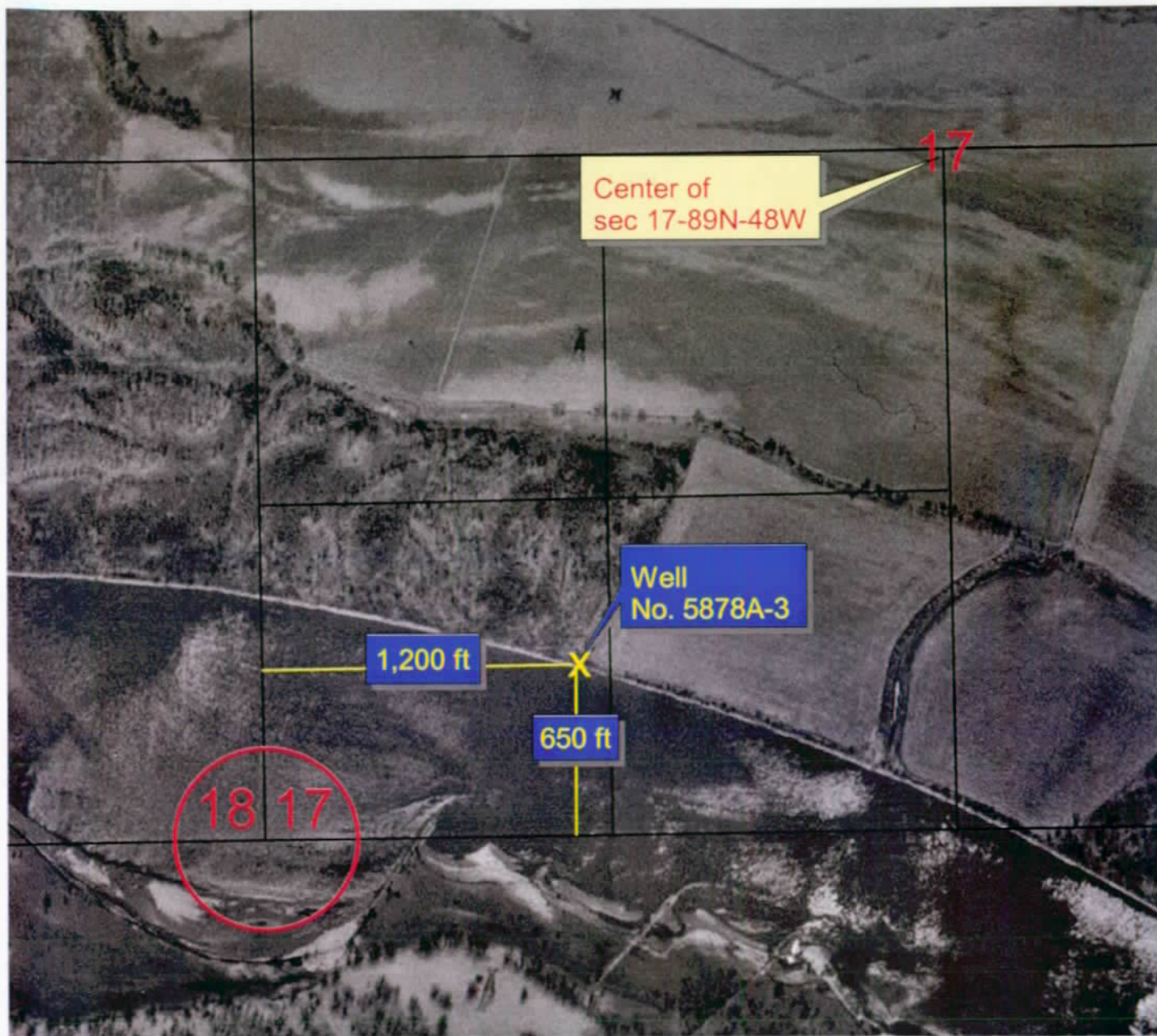
Permit No. 5878A-3 changes the location of the Missouri River diversion point. Nos. 5878-3 and 5781-3 (4430-3) need to be incorporated into No. 5878A-3 with the priority dates and diversion rates specified above.



Ron Duvall
 Natural Resources Engineer
 DENR, Water Rights Program

Date report completed: **September 4, 2002**

1000 0 1000 Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Ron Duvall, Nat. Res. Engineer
September 4, 2002

No. 5878A-3

1000 0 1000 Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Ron Duvall, Nat. Res. Engineer
September 4, 2002

No. 5878A-3

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 5878A-3

(1) McCook Lake Recreation Association, #83 North Shore Drive, McCook Lake, SD 57049 made Application No. 5878A-3, March 22, 2001 for a water permit to expand the annual period of use and change the location of the diversion point on existing permits. Water Permit Nos. 5781-3 and 5878-3 appropriated a total of 12.89 cubic feet of water per second from the Missouri River, Union County, South Dakota for recreational purposes. Permit No. 5878A-3, with a priority date of August 18, 1995 (established under No. 5878-3) was approved June 4, 2001 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 4, 2006 and for the application to beneficial use of water on or before June 4, 2010.

On July 13, 2001, the permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*". The "*Notice*" indicated the system was completed on May 10, 2001 and water placed to beneficial use on June 1, 2001.

The applicable portions of Water Permit Nos. 5781-3 and 5878-3 have been incorporated into this License. Priority dates are as follows:

August 18, 1995 (Nos. 5878A-3 & 5878-3) – 6.67 cfs
August 12, 1993 (No. 5781-3) – 4.95 cfs
August 17, 1979 (No. 4430-3) – 1.27 cfs
(No. 4430-3 was previously incorporated into No. 5781-3)

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, McCook Lake Recreation Association the holder and/or owner of Incorporated Water Right No. 5878A-3 is issued a license, bearing priority dates of August 17, 1979, August 12, 1993 and August 18, 1995 to appropriate 12.89 cubic feet of water per second from the Missouri River for recreational purposes. The diversion point is located as follows: 1,200'E and 650'N of the SW corner of Section 17, T89N, R48W (SW ¼ SW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 5878A-3 including the following qualification:

- Water Permit Nos. 5781-3, 5878-3 and 5878A-3 authorize diversion of Missouri River water only when the McCook Lake water elevation is below 1090.3 fmsl.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 17 2002

date





SEP 17 2002

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

5878A-3

Dave Nitzschke
McCook Lake Recreation Association
#83 North Shore Drive
McCook Lake SD 57049

Dear Sir:

Enclosed is Water License No. 5878A-3. Water License No. 5878A-3 is the final document which completes the process of obtaining a water right.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Note: The applicable portions of Water Permit Nos. 5781-3 and 5878-3 have been incorporated into Water License No. 5878A-3.