

WATER PERMIT NO. 6691-3

Name of Applicant: Neil Bien

Address: 10770 436 Ave, Veblen SD 57270-5304

Phone: 605 448-2173

Amount of Water Claimed: 48 AF

Total Acres: NA

Source of Water Supply: runoff

Water to be used for: fish & wildlife propagation

County: Marshall

Type of Waste Disposal System:

Location: 14 miles east of Britton

PRIORITY

Date Received: 2-7-06

Application/License Fee: \$200

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: SE ¼ SW ¼ Sec 18-T127N-R55W

Water Impounded: E ½ SW ¼, W ½ SE ¼ Sec 18-T127N-R55W

Depth of Well: NA

Well Driller:

Remarks:

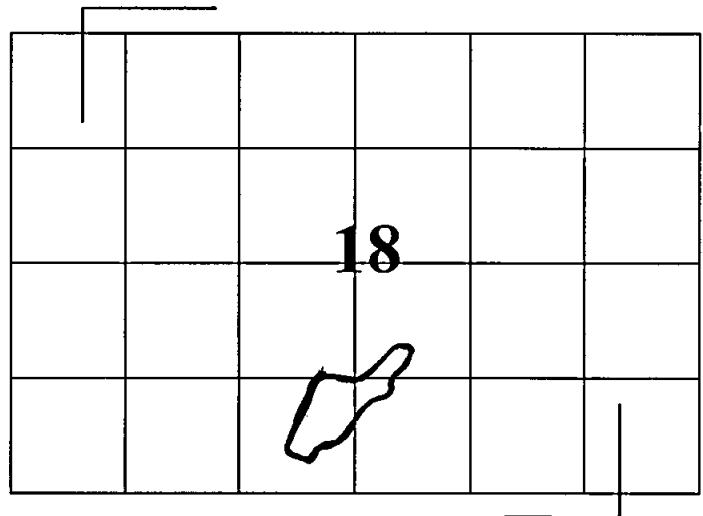
Type of Map: plat

Prepared by: David F Konechne, PE

Reviewed and the Number Assigned on: 2-7-06

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>6691-3</u> (office use only) Hydrologic Unit <u>09020105</u>
	Basin <u>Red Rainy</u>
	Newspaper <u>Britton Journal</u> <u>Britton</u>

RECEIVED
FEB 07 2006
WATER RIGHTS
PROGRAM

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: (check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ 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.)

- Name of Applicant Neil Bien Phone (605) 448-2173
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address 10770 436 Av Veblen State SD 57270-5304
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed _____ *CFS or _____ **GPM 48.00 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Watershed above embankments
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Marshall
SE1/4SW1/4 Section 18, T. 127 N., R. 55 W. Water Impounded: E1/2 SW1/4, W1/2 SE1/4
Sec 18-T127N-R55W
- County or counties where water will be used Marshall
- Annual period during which water is to be used Annually Jan 1-Dec 31
- 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)

Build two embankments to pond wildlife water. the first embankment will be 17.0 feet high, sloped 3:1 front and back sides, 220 feet long. The second will be 8.0 feet high. Emergency spillway will be 20 feet wide. Embankment will pond 10.0 acres of water.

STATE OF SOUTH DAKOTA)

County of Marshall 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, Neil Bien, 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 Neil Bien

Subscribed and sworn to before me this 6th day of February 20 06

Jan A. Kirschner
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 6691-3**

Date of first receipt of application February 7, 2006.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6691-3 to Neil Bien, 10770 436 Ave, Veblen SD 57270-5304 authorizing the dam and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6691-3 authorizes impoundment of 48 acre-feet of water from runoff by constructing a dam located in the SE ¼ SW ¼ Section 18 with water impounded in the E ½ SW ¼, W ½ SE ¼ Section 18; all in T127N-R55W.
2. The water appropriated shall be used for the purpose of fish and wildlife propagation and livestock watering 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: January 1 – December 31.
4. The date of approval of Permit No. 6691-3 is April 10, 2006.
5. The date from which applicant may claim right is February 7, 2006.
6. One-fifth of the construction is to be completed on or before October 10, 2008.
7. All construction is to be completed on or before April 10, 2011.
8. Water is to be put to beneficial use on or before April 10, 2015.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 6691-3 authorizes a dam with a storage capacity of 48 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

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

APR 27 2006
date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

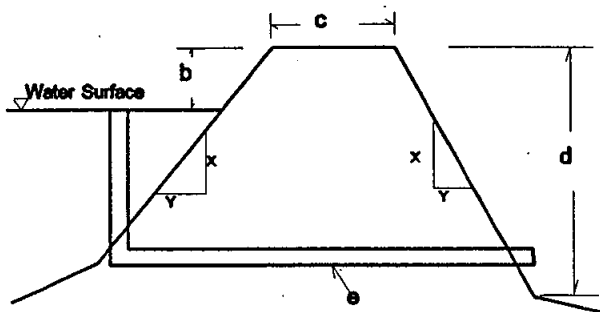
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

Waubay NWR
44401 134A Street
Waubay, SD 57273-5301



- b) Freeboard _____ 3
- c) Crest Width _____ 12
- Crest Length _____ 220 and 200
- d) Height _____ 17.0 and 8.0
- e) Primary Outlet Capacity _____
- If pipe, diameter _____ na
- f) Secondary Spillway Capacity _____ 83 cfs
- Spillway Width _____ 20
- g) X & Y Slope _____
- Upstream _____ 3:1
- Downstream _____ 3:1
- h) Surface Area of Impoundment _____ 10.0
- i) Storage _____ 48.0 Acre Feet
- j) Drainage Area Above Dam _____ 231.0 Acres

storage top of Dam - 68 Acre Feet

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 7, 20 06

RECEIVED OF Neil Bien, 10770 436th Ave, Veblen SD 57270

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

Fee for Application for Permit No. <u>66691-3</u> to Appropriate Water, to construct and to put water to beneficial use	150	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. <u>66691-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	200.00

No.

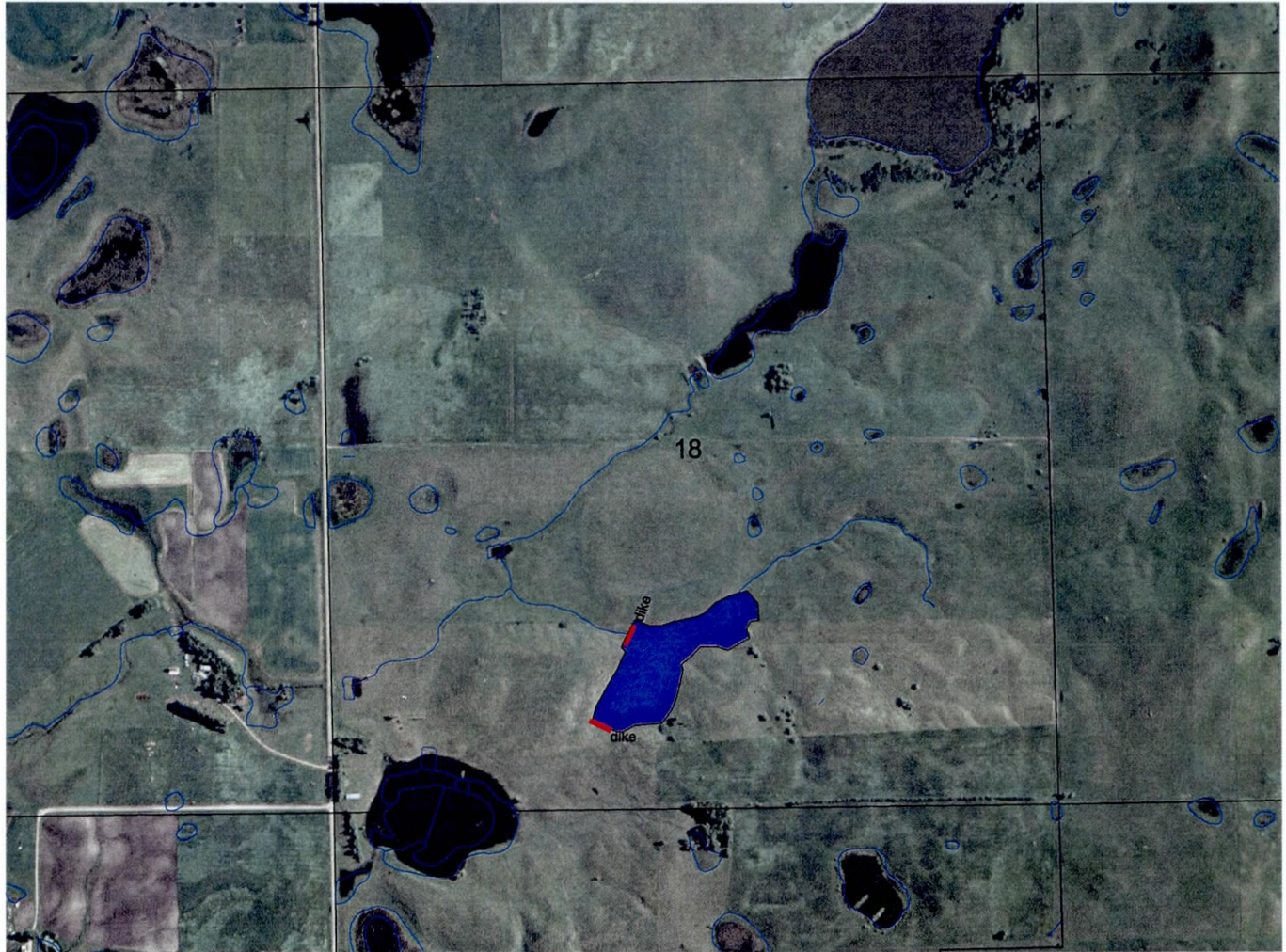
02225

By

Darland Elvele
Chief Engineer
gm



Neil Bien Marshall County Wetland Creation

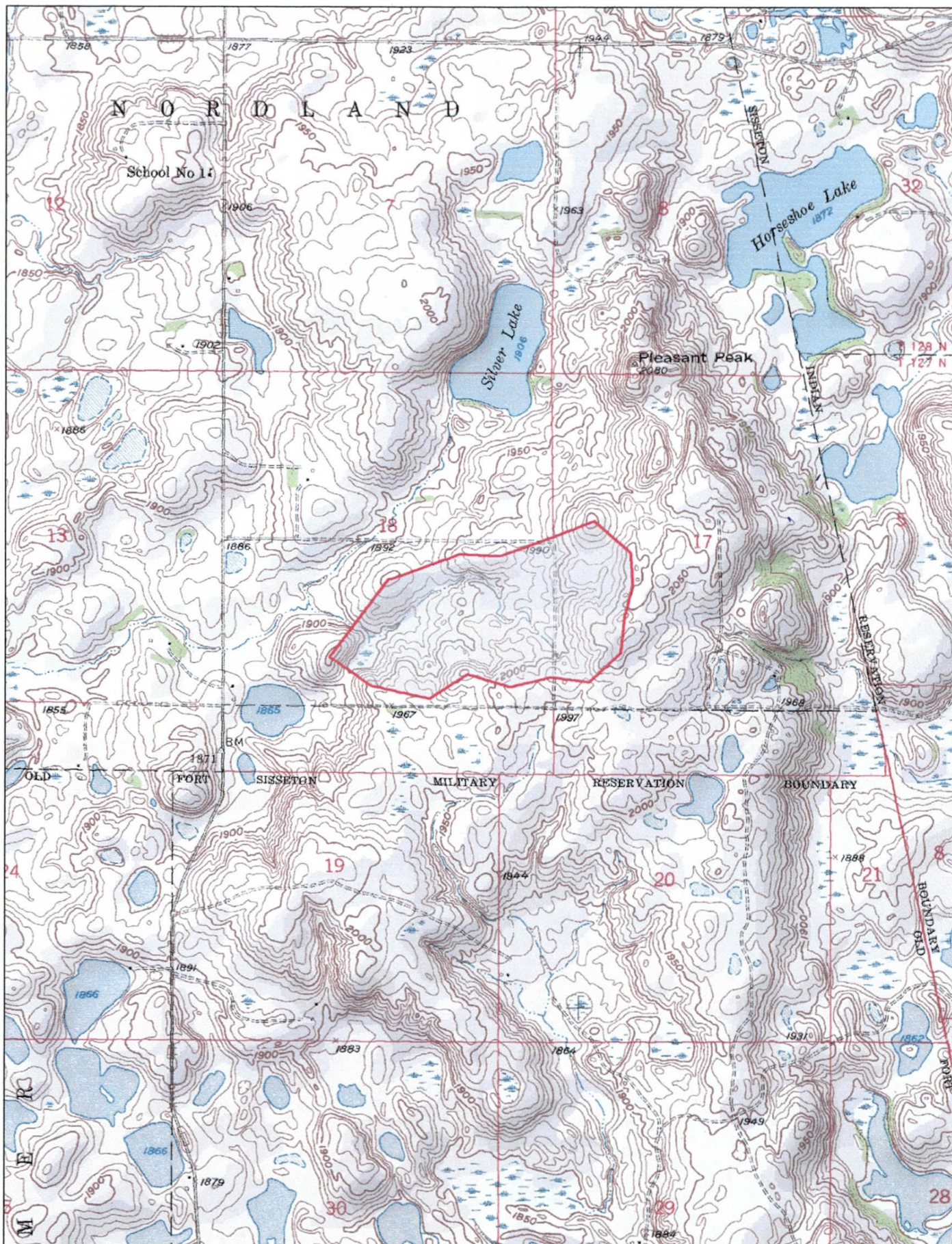


0 0.5 1 1.5 Miles

*ATW
Fish & Wildlife
Biologist, Waboy NWR*



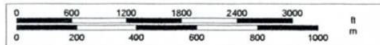
6691-3



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www.delorme.com

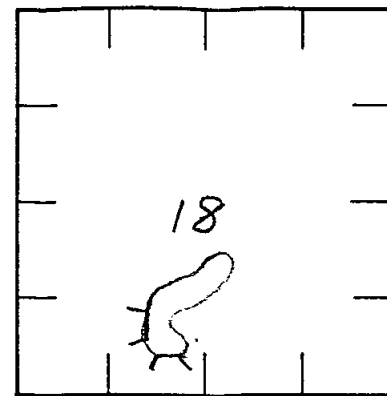
Scale 1 : 25,000

1" = 2080 ft



STRUCTURE DATA

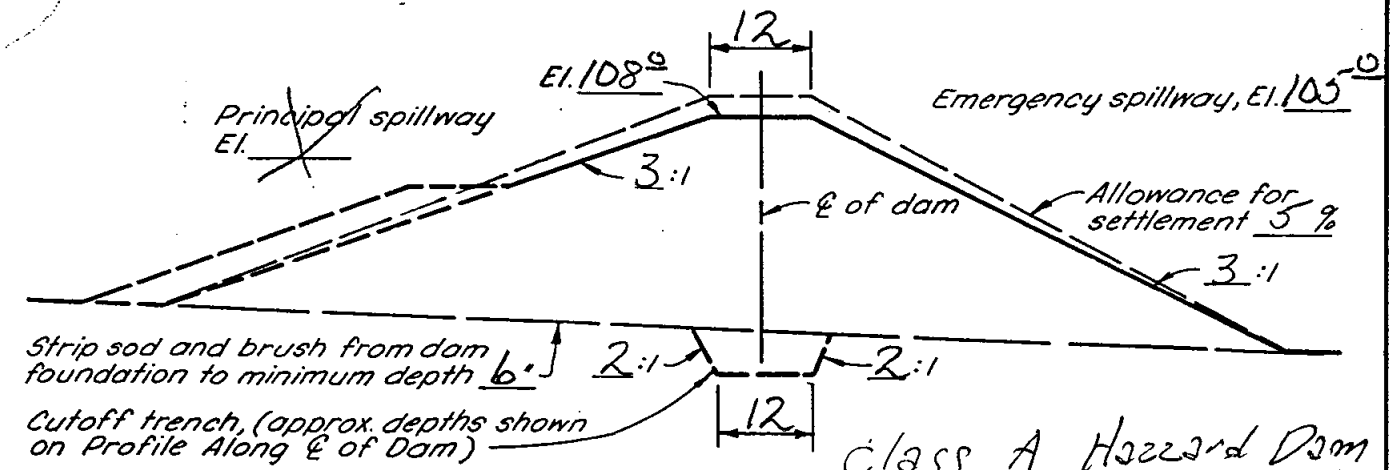
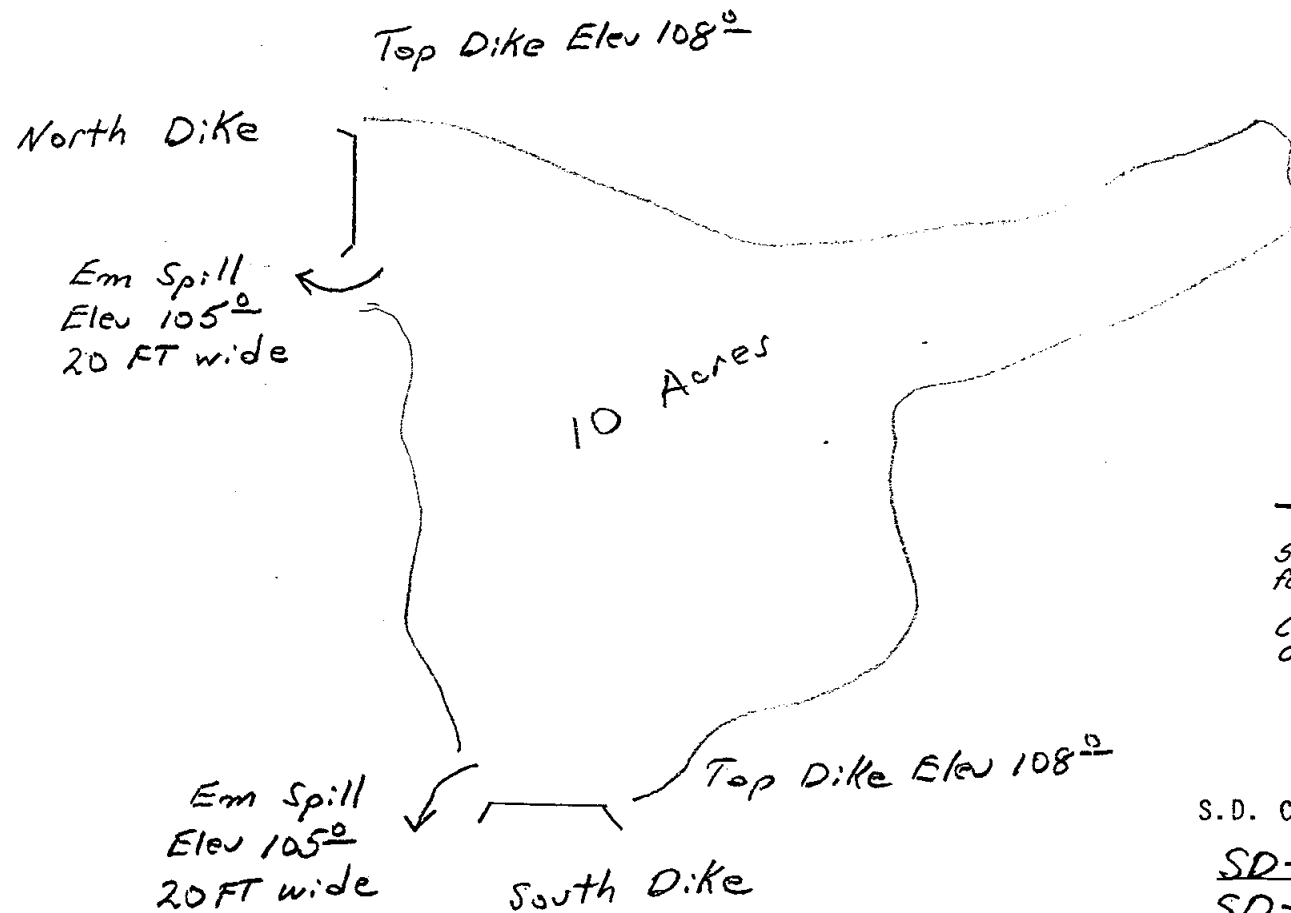
DRAINAGE AREA	ANNUAL YIELD	PEAK RUNOFF	EMERG. SPLWY. CAPACITY	WATER DEPTH	SURFACE AREA	SEDIMENT STORAGE	TOTAL STORAGE
ACRES	AC. FT.	25-YR.	C. F. S.	FEET	ACRES	AC. FT.	AC. FT.
231	1.2	17.8	83	12	10	—	48



SE SW sec. 18 T. 127 N. R. 55 W
Marshall County

LOCATION

TABLE OF QUANTITIES

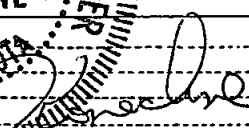
[illegible]

TYPICAL CROSS SECTION OF DAM

S.D. CONSTRUCTION AND MATERIAL SPECIFICATIONS:

SD-2 Clearing & Grubbing
SD-7s Earth Fill

EARTH DAM

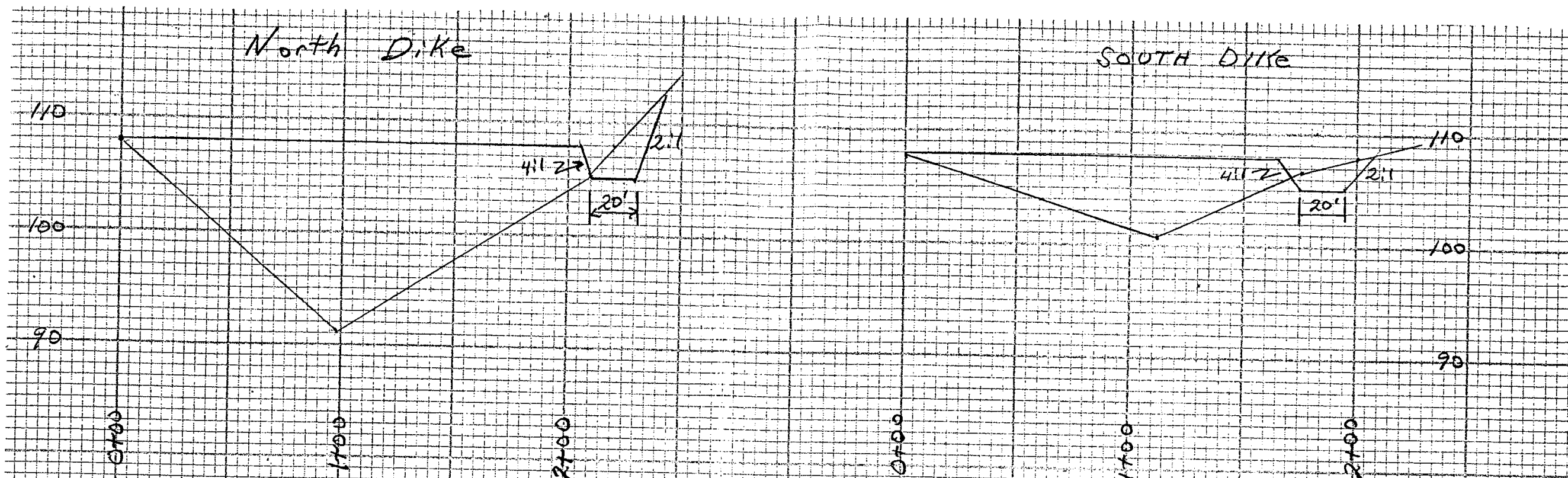
OPERATOR: <u>Ne</u>	
CONSERVATION	CF: <u>16-10-16</u> Co.
	
DAVID F. KONECHNE REGISTERED PROFESSIONAL ENGINEER STATE OF NEW MEXICO No. 3208	
Designed: <u>Tom W. Konechne</u>	Date: _____
Drawn: _____	Approved by: <u>DAVID F. KONECHNE</u>
Traced: _____	
Checked: _____	Drawing No. _____ No. _____ of _____

SKETCH PLAN OF DAM AND RESERVOIR AREA

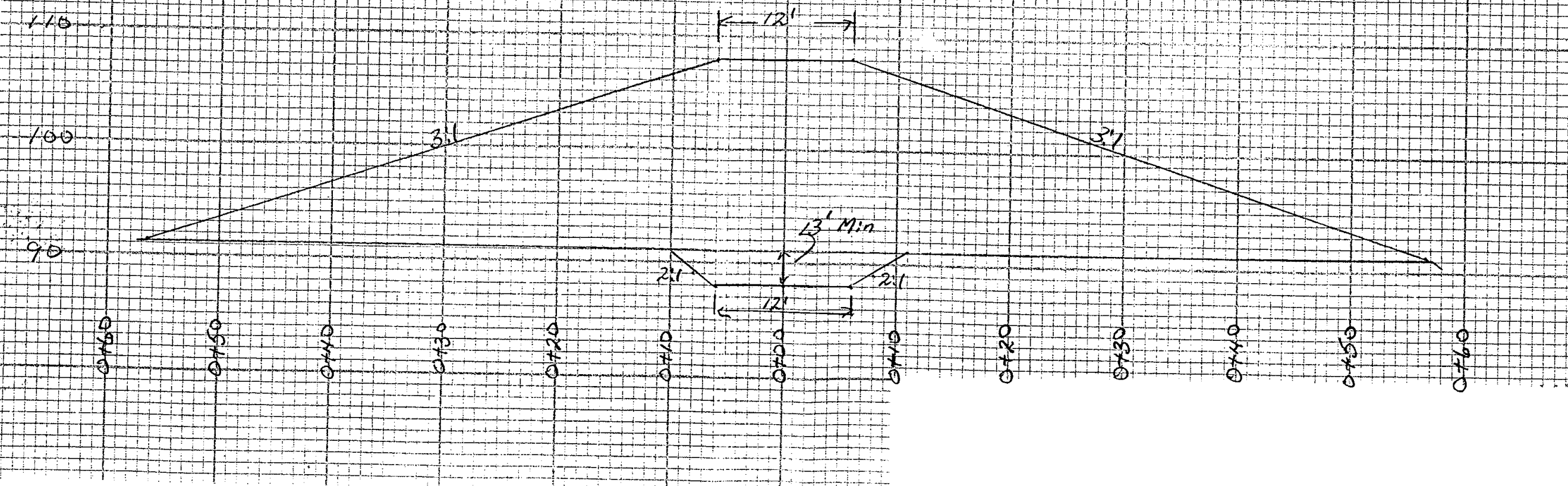
Approximate scale 1" = Not to Scale

REFERENCE: GUIDE PLAN NO. 1.0

JOB PLAN NO. 1.0



CROSS SECTION AT CREST OF EMERGENCY SPILLWAY AND PROFILE ALONG C OF DAM



Client : Neil Bien
 County : Marshall
 Practice: Pond

State: SD

By: DFK
 Checked: _____

Date: _____
 Date: _____

Drainage Area : 203 Acres
 Curve Number : 75
 Watershed Length : 5280 Feet
 Watershed Slope : 2.2 Percent
 Time of Concentration: 1.57 Hours
 Rainfall Type : II

Storm Number	1	2	3	4	5	6	7
Frequency (yrs)	1	2	5	10	25	50	100
24-Hr Rainfall (in)	1.9	2.3	3.1	3.7	4.2	4.8	5.3
Ia/P Ratio	0.35	0.29	0.22	0.18	0.16	0.14	0.13
Runoff (in)	0.33	0.54	1.03	1.45	1.82	2.29	2.69
Unit Peak Discharge (cfs/acre/in)	0.307	0.344	0.373	0.386	0.394	0.402	0.407
Peak Discharge (cfs)	21	38	78	113	145	187	222

$$V_r = \frac{0.54 \text{ in} \times 203 \text{ Ac}}{12} = 9.1 \text{ Ac-Ft}$$

$$\text{Surface} = 12 \text{ Ac}$$

$$\text{Depth} = 8 \text{ ft}$$

Water Permit Application No 6691-3

Neil Bien

Top of Dam Elev. - 108
 P. Spillway Elev. - 105
 A. Dike DIS Top Elev. - 100
 S. Dike DIS Top Elev. - 91

8 ft.

17 ft

Cat. 3 - Low Hazard Dam

Normal Storage Capacity - 48 Ac-Ft
 Max Storage Capacity - 68 Ac-Ft

Max Capacity x Ht. = $68 \times 17 = 1156 < 3000 \therefore 25$ year
Minimum Spillway Design

From USGS WRI 98-4055 "Tech. for Est. Peak Flows ... SD streams"

$$DA = 231 \text{ ac} = 0.36 \text{ mi}^2$$

Region 3A

$$P_{II} = 0.85$$

$$\begin{aligned} Q_{25} &= 218 CA^{.513} P_{II}^{4.80} \\ &= 218 (.36)^{.513} (.85)^{4.80} \\ &= 218 (.5921) (.4584) \\ &= \underline{60 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} Q_{100} &= 362 CA^{.521} P_{II}^{4.47} \\ &= 362 (.36)^{.521} (.85)^{4.47} \\ &= 362 (.5873) (.4836) \\ &= \underline{103 \text{ cfs}} \end{aligned}$$

Spillway Capacity

$$\begin{aligned} Q &= CLH^{3/2} \quad C = 2.6 \\ &= 2.6 (40) (3)^{1.5} \quad L = 2 \times 20 = 40 \\ &= \underline{540 \text{ cfs}} \quad H = 3 \end{aligned}$$

Section 74:02:08:09

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

NRCS Annual Yield

$$CN = 75 \quad DA = 231 \quad IS_3 = 2^{1/2}$$

$$\begin{aligned} 80\% \text{ chance} &= 0.17 \\ 0.17 \times 231^{1/2} &= \underline{3.2 \text{ Ac-Ft}} \end{aligned}$$

$$\begin{aligned} 50\% \text{ chance} &= 0.6 \\ 0.6 \times 231^{1/2} &= \underline{11.5 \text{ Ac-Ft}} \end{aligned}$$

$$\begin{aligned} 10\% \text{ chance} &= 2.20 \\ 2.2 \times 231^{1/2} &= \underline{42 \text{ Ac-Ft}} \end{aligned}$$



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 13, 2006

Neil Bien
10770 436th Ave.
Veblen, SD 57270-5304

Dear Mr. Bien:

We have reviewed the plans and specifications for your dam project located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 18-T127N-R55W, in Marshall County. The plans and specifications for the construction of your dam are approved. Approval of the plans and specifications does not authorize construction of the dam. The construction of the dam may not begin until Water Permit No. 6691-3 is approved.

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

The Bien Dam will be classified as a small size Category 3, Low Hazard dam with a dam height of 17 ft. and a normal storage capacity of 48 acre-feet and a maximum storage capacity of 68 acre-feet.

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

Sincerely,

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

c: Tom Wickstrom, Waubay NWR



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 14, 2006

Leslie Petersen
SD Dept. of Game, Fish and Parks
523 E. Capitol Avenue
Pierre SD 57501

Dear Leslie:

Neil Bien has applied for a water permit to construct a dam on an unnamed tributary and Wild Rice Creek in Marshall County. Enclosed is a copy of the report, recommendation and public notice prepared on the application.

This information is being sent to you because of the GF&P holds a water right for White Lake Dam located approximately 8 miles downstream. If you have any questions, please feel free to contact Tim Schaal or myself.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures

REPORT ON
WATER PERMIT APPLICATION No. 6691-3
Neil Bien
March 10, 2006

Water Permit Application No. 6691-3 has been filed by Neil Bien to impound 48 acre-feet of water by constructing a dam located in the SE ¼ SW ¼ of Section 18-T127N-R55W, in Marshall County. The application also requests impoundment of sufficient water to maintain water at the outlet elevation. The water will be used for fish and wildlife production and livestock watering purposes.

Discussion:

The dam will be classified as a small size, Category 3, Low Hazard dam. The US Fish and Wildlife Service has designed the dam. The plans and specifications have been reviewed and will be approved; however, construction of the dam can not begin until Water Permit Application No. 6691-3 is approved.

The dam will consist of two embankments. The south embankment will be 17 feet high and the north embankment will be 8 feet high. The reservoir will have a normal storage capacity of 48 acre-feet with a reservoir level at the primary spillway elevation, and a maximum storage capacity of 68 acre-feet with a reservoir level at the top of dam elevation. A dam of this size and hazard classification is required to have a minimum spillway design capable of passing a 25-year frequency event.

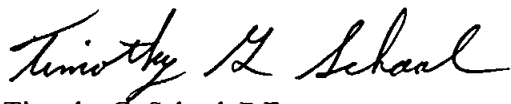
The dam has a drainage area of 231 acres or 0.36 square miles. The dam is designed to have two 20 foot wide earthcut spillways with 3.0 feet of available freeboard. A 25 year frequency event produces a peak runoff of approximately 60 cfs and a 100 year frequency event produces a peak runoff of approximately 103 cfs. The two earthcut spillways have a combined capacity of approximately 540 cfs.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 3.2 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 11.5 acre-feet and the annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 42 acre-feet.

The Bien Dam will be located in the SE ¼ SW ¼ of Section 18-T127N-R55W on an unnamed tributary to Wild Rice Creek, about 2.0 miles upstream of the confluence of the unnamed tributary and Wild Rice Creek. The Department of Game, Fish and Parks holds Water Right No. 949-3 for 660 acre-feet of storage in White Lake Dam, which is located about 8 miles downstream of the proposed project. Approval of Water Permit Application No. 6691-3 will not have any adverse effect of Water Right No. 949-3.

Conclusions:

1. Water Permit Application No. 6691-3 should be approved since unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights.
2. If approved, the low flow bypass requirement for downstream domestic use should be a qualification on Water Permit Application No. 6691-3.



Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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. 6691-3, Neil Bien**

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. 6691-3, Neil Bien, 10770 436th Avenue, Veblen SD 57270-5304.

The Chief Engineer is recommending APPROVAL of Application No. 6691-3 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) it is in the public interest with the following qualifications:

1. Water Permit No. 6691-3 authorizes a dam with a storage capacity of 48 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer
March 14, 2006

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA County of Marshall.

2T(March 22-29)

NOTICE OF APPLICATION NO.

6691-3 to Appropriate Water

Notice is given that Neil Bien, 10770 436th Ave. Veblen, SD 57270-5304, has filed an application for a water permit to impound 48 acre-feet of water from runoff by constructing a dam located in the SE 1/4 SW 1/4 Section 18 with water impounded in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 18; all in T127N-R55W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock watering.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6691-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is beneficial use of water, and 4) 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 April 10, 2006.

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. Pimer, Secretary, Department of Environment and Natural Resources.

county, being first duly sworn on oath says that he is publisher of the BRITTON JOURNAL, a weekly newspaper printed and published in the City of Britton, in the County of Marshall, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly and has been published within said County for fifty-two successive weeks, next prior to the publication of the notice herein mentioned and is printed wholly or in part in an office at said place of publication;

that the Notice of Application No. 6691-3
to Appropriate Water

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this affidavit, was published in said newspaper at least once each week for two successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

March 22, 2006

March 29, 2006

RECEIVED

APR 11 2006

WATER RIGHTS
PROGRAM

that the full amount of the fee charged for the publication of said notice inures to the benefit of publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whomsoever, and that the fee for the publication thereof

Thirty-five and 08/100

DOLLARS

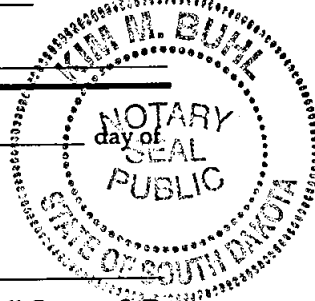
Subscribed and sworn to before me this

29th
March A.D., 2006

Kim M. Buhl

Notary Public, Marshall County, S. D.

My Commission Expires March 12, 2010



Instruction to Newspaper - Publish first Notice on March 22, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6691-3 to Appropriate Water

Notice is given that Neil Bien, 10770 436th Ave, Veblen SD 57270-5304 has filed an application for a water permit to impound 48 acre-feet of water from runoff by constructing a dam located in the SE ¼ SW ¼ Section 18 with water impounded in the E ½ SW ¼, W ½ SE ¼ Section 18; all in T127N-R55W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock watering.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6691-3 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. 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 April 10, 2006.

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

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

March 14, 2006

Britton Journal
PO Box 69
Britton SD 57430-0069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 6691-3 to Appropriate Water to be published twice. Please publish the first notice on March 22, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Neil Bien, 10770 436th Ave, Veblen SD (Ph # 605-448-2173).

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-----

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

No. 6691-3

Date _____

We are in receipt of your letter of March 14, 2006 enclosing Notice to Appropriate Water by Application No. 6691-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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.**

March 14, 2006

Neil Bien
10770 436 Ave
Veblen SD 57270-5304

Dear Mr. Bien:

Water Permit Application No. 6691-3 for fish & wildlife propagation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Britton Journal printed at Britton, SD (Ph # 605-448-2281). You will need to contact the newspaper and authorize publication of this notice. 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also 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.



APR 27 2006

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Neil Bien
10770 436 Ave
Veblen SD 57270-5304

Dear Mr. Bien:

Enclosed is Water Permit No. 6691-3 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 12-20-06

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

FROM: Neil Bien
(name)
10770 436 Ave.
(address)
Veblen, S.D. 57270
(city, state, zip)

(605) 448-2173
(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. 6691-3 states that the water use system is to be constructed by
9-10-06, and water is to be put to beneficial use by 6-1-07
(date) (date)

The water use system was completed on 9-7-06
(date)

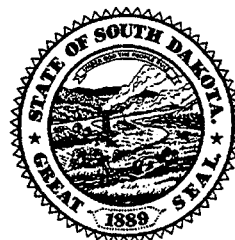
Applying the water to beneficial use was completed on _____
(date)

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

Neil Bien
(signature)

RECEIVED

DEC 26 2006

WATER RIGHTS
PROGRAM

Permit No. 6691-3
Red Rainy - 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, **August 28, 2007**, made a thorough examination of the water use system constructed by **Neil Bien** of **10770 436 Ave., Veblen, SD 57270-5304** holder of Permit No. **6691-3**, bearing the priority of **February 7, 2006** authorizing the storage of **48** acre-feet of the waters of **runoff** for **fish & wildlife propagation** purposes, in **Marshall** County.

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

A. Works used to divert the water:

A reservoir with 2 dams (North dam—17 ft. high & South dam—8 ft. high) and a normal storage capacity of 48 acre-feet.

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

N/A

C. Works used to apply water to beneficial use:

A reservoir with 2 dams (North dam—17 ft. high & South dam—8 ft. high) and a normal storage capacity of 48 acre-feet.

The system is in the following condition **good**. The point of diversion is located **North dam—2200 ft. east & 1220 ft. north of the SW corner of Sec. 18-T127N-R55W (SE ¼ SW ¼); Lat. 45.80815 Long. -97.472249 and South dam—2000 ft. east & 450 ft. north of the SW corner of Sec. 18-T127N-R55W (SE ¼ SW ¼); Lat. 45.806095 Long. -97.473204.** The works are capable of storing **48** acre-feet of water which is to be used for **fish & wildlife propagation**. Water has been put to beneficial use to the maximum extent as follows:

A reservoir with 2 dams (North dam—17 ft. high & South dam—8 ft. high) and a normal storage capacity of 48 acre-feet.

and the license should be issued for **48** acre-feet of storage.

Applicable permit qualifications have been complied with: Yes **X**

Exceptions to compliance are: **none** -- Note: I had the dam heights for the North & South dams reversed in my P&S review and Application Report.

Date Report Completed: **March 25, 2008**



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

REPORT ON INSPECTION OF PERMIT NO. 6691-3

DATE OF INSPECTION: August 28, 2007

NAME & ADDRESS OF INSPECTION CONTACT/ Tom Wickstrom, USFWS, Waubay National Wildlife Refuge, 44401 134A St., Waubay, SD 57273

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: partner

NAME & ADDRESS OF PERMIT HOLDER: Neil Bien, 10770 436 Ave., Veblen, SD 57270-5304

DIVERSION POINT LEGAL LOCATION: North dam—2200 ft. east & 1220 ft. north of the SW corner of Sec. 18-T127N-R55W (SE ¼ SW ¼); Lat. 45.80815 Long. -97.472249 and South dam—2000 ft. east & 450 ft. north of the SW corner of Sec. 18-T127N-R55W (SE ¼ SW ¼); Lat. 45.806095 Long. -97.473204.

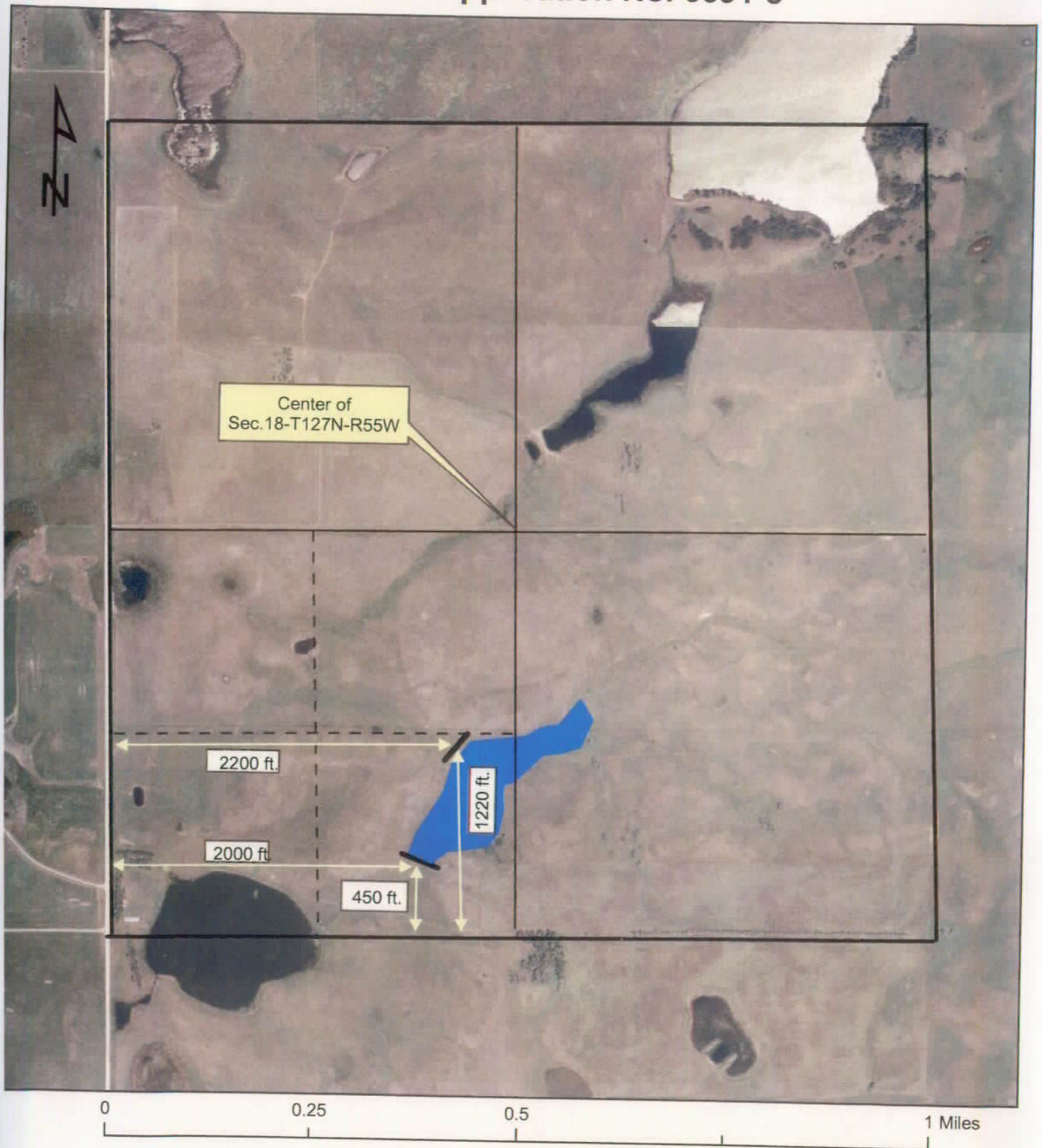
DAM INFORMATION: (1 reservoir w/ 2 dams/dikes)

	<u>North Dam</u>	<u>South Dam</u>
1) Height to crest	17 ft.	8 ft.
2) Height to primary spillway	14 ft.	N/A
3) Height to secondary spillway	N/A	N/A
4) Crest width	12 ft.	12 ft.
5) Crest length	220 ft.	200 ft.
6) Spillway length	N/A	N/A
7) Spillway width	20 ft.	N/A
8) Approx. storage (Normal)	48 ac.-ft.	48 ac.-ft.
9) Approx. storage (Maximum)	68 ac.-ft.	68 ac.-ft.
10) Date constructed:	<u>September 7, 2006</u>	

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

Water Permit Application No. 6691-3



Timothy G. Schaal

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

3/25/08

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6691-3

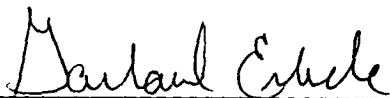
(1) Neil Bien, 10770 436 Ave, Veblen SD 57270-5304 made Application No. 6691-3, February 7, 2006 for a water permit to impound 48 acre feet of water from runoff, Marshall County, South Dakota for fish and wildlife propagation and livestock watering purposes. Permit No. 6691-3, with a priority date of February 7, 2006 was approved April 10, 2006 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before April 10, 2011 and for the application to beneficial use of water on or before April 10, 2015.

(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, the holder and/or owner of Water Right No. 6691-3 is issued a license, bearing a priority date of February 7, 2006 to impound 48 acre feet of water for fish and wildlife propagation and livestock watering purposes.

This reservoir has two dams. The location of the storage dams (spillways) North dam – 2,200 feet east and 1,220 feet north of the southwest corner Section 18 and South dam – 2,000 feet east and 450 feet north of the southwest corner of Section 18; all in T127N-R55W (SE ¼ SW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6691-3, including the following now applicable qualifications:

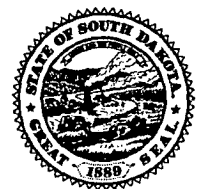
- Water Permit No. 6691-3 authorizes a dam with a storage capacity of 48 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.



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

APR 09 2008

date





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

APR 09 2006

6691-3

Neil Bein
10770 436th Ave
Veblen SD 57270

Dear Mr. Bein:

Enclosed is Water License No. 6691-3. This is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

cc: Tom Wickstrum, USFW, Waubay Nat'l Wildlife Service, 4440 134 A St, Waubay SD 57273