

FLOOD CONTROL PERMIT NO. FC-28

Name of Applicant: Hamlin County

Address: PO box 297, Hayti SD 57241

Phone: 605 783-3626

Amount of Water Claimed: Total Acres: NA

Source of Water Supply: Opdahl Slough

Water to be used for: flood control project County: Hamlin

Type of Waste Disposal System: NA

Location: 5 miles northwest of Hayti

PRIORITY Date Received: 3-17-1999

Fee: \$150

Corrected Application Received: 3-30-1999

Period of Annual Use: January 1-December 31

Remarks:

Diversion Point: Section 10-T114N-R54W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: NA

Remarks:

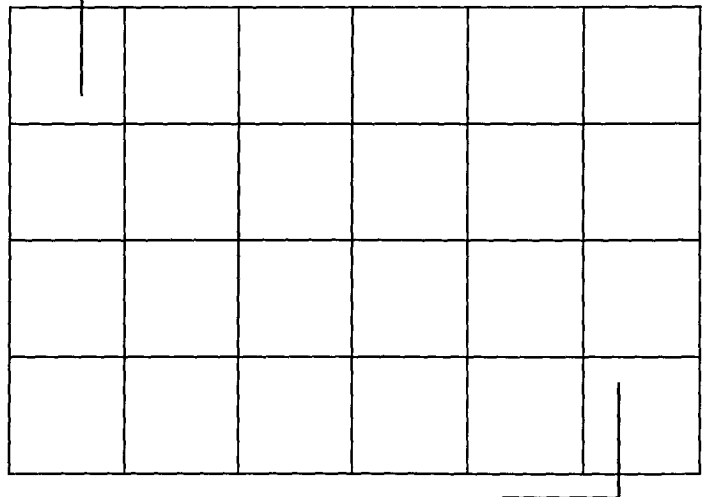
Type of Map: topo

Prepared by: Rodney S DeJong, PE

Reviewed and the Number Assigned on: 3-30-1999

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for flood control permit
(type or print)

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre, SD 57501-3181
605 113-3352

No. FC-28 Hydrologic Unit 10170201
Basin Sioux River
Newspaper Hamlin County Herald Enterprise, Hayti 57241-0207
(Office use only)



APPLICATION FOR A FLOOD CONTROL PERMIT WITHIN THE STATE OF SOUTH DAKOTA

1 Name of Applicant Hamlin County

Address PO Box 297

(Street, RR or Box)

Hayti
(City)

SD
(State)

57241
(Zip Code)

Phone No. 605-783-3626

2 Name of watercourse Opdahl Slough

3 Location of project (legal description) Section 10 T114N R54W

4 County or counties where project is located Hamlin County

5 Give a brief description of the proposed project including the type of project (Dam, Dikes, Channel Modifications, etc.) and purpose for 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.)

See Attached

Attachment: Attach map (see instruction)

STATE OF SOUTH DAKOTA)

County of HAMLIN)SS

I, BURT TULSON - HAMLIN COUNTY COMMISSION CHAIRMAN 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.

Signed

Burt Tulson

Subscribed and sworn to before me this 16 day of March 1999

Steve Opdahl Hamlin County Auditor
Notary Public

**SOUTH DAKOTA
FLOOD CONTROL PERMIT NO. FC-28**

Date of first receipt of application March 17, 1999.

Date of return to applicant for corrections, amendments or changes March 22, 1999.

Date of receipt of corrected application March 26, 1999.

The Water Management Board approved Flood Control Permit No. FC-28 on March 7, 2001 for the Hamlin County c/o Larry Saathoff, Hamlin County Highway Superintendent, PO Box 297, Hayti SD 57241 authorizes the flood control project subject to the following limitations, conditions and qualifications:

1. Flood Control Permit No. FC-28 authorizes an outlet structure for Opdahl Slough. Hamlin County proposes to install approximately 6,500 feet of buried 18 inch pipe to lower the water level of Opdahl Slough to alleviate flooding for the purposes of protecting 3 area roads. The pipeline's inlet will be constructed with a bottom elevation of 1,694.25 feet mean sea level (fmsl) and will be located in the SE ¼ SE ¼ Section 3 and NE ¼ NE ¼ Section 10; all in T114N-R54W. The pipeline will pass through portions of Section 10 and the NE ¼ Section 15-T114N-R54W. The pipeline's outlet elevation will be approximately 1,689.05 fmsl and located in the W ½ NE ¼ Section 15-T114N-R54W. Water discharged from the outlet will flow into a tributary creek of Lake Marsh.
2. The project will reduce the damage from flooding of 3 area roads and will not increase the likelihood or severity of flood damages downstream.
3. The date from which applicant may claim right is March 17, 1999.

QUALIFICATIONS

1. Hamlin County shall consult with all affected parties in the event that water levels raise creating unsafe travel conditions on Hamlin County Road J. The control structure shall not be opened until all affected parties have signed consenting to the opening of the outlet structure. Affected parties include all landowners with property adjacent to Opdahl Slough, downstream landowners on the flowage to Lake Marsh, USFWS, NRCS, SDGFP, SDDENR, the Hamlin County Conservation District, and the Hamlin County Drainage Board.

When Opdahl Slough's water surface elevation lowers to 1,694.25 feet mean sea level, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place.

2. The control structure shall not be opened for more than twelve (12) consecutive months.
3. The control structure will remain closed until Hamlin County has gone through the process as listed above. The process set forth in Qualification No. 1 shall be repeated each time the water levels raise again creating unsafe travel conditions on Hamlin County Road J.

(continued)

FC-28

Hamlin County

Page 2

4. Hamlin County is responsible for operation, maintenance and security of the water control structure. Should the inlet structure be illegally tampered with and the inlet opened, Hamlin County shall securely close the inlet within 48 hours of notification by the Natural Resource Conservation Service.
5. Flood Control Permit No. FC-28 is subject to securing necessary easements.
6. The Water Management Board retains jurisdiction of Flood Control Permit No. FC-28 in the event that additional information shows that this project causes adverse downstream impacts.

WATER MANAGEMENT BOARD

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

APR 04 2001

date



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N^o 416080

Pierre, March 26, 1999

RECEIVED OF Aason Engineering Co., Inc., 1022 Sixth St. SE, Watertown, SD 57201
the following amount in fees for services rendered as provided for by law:

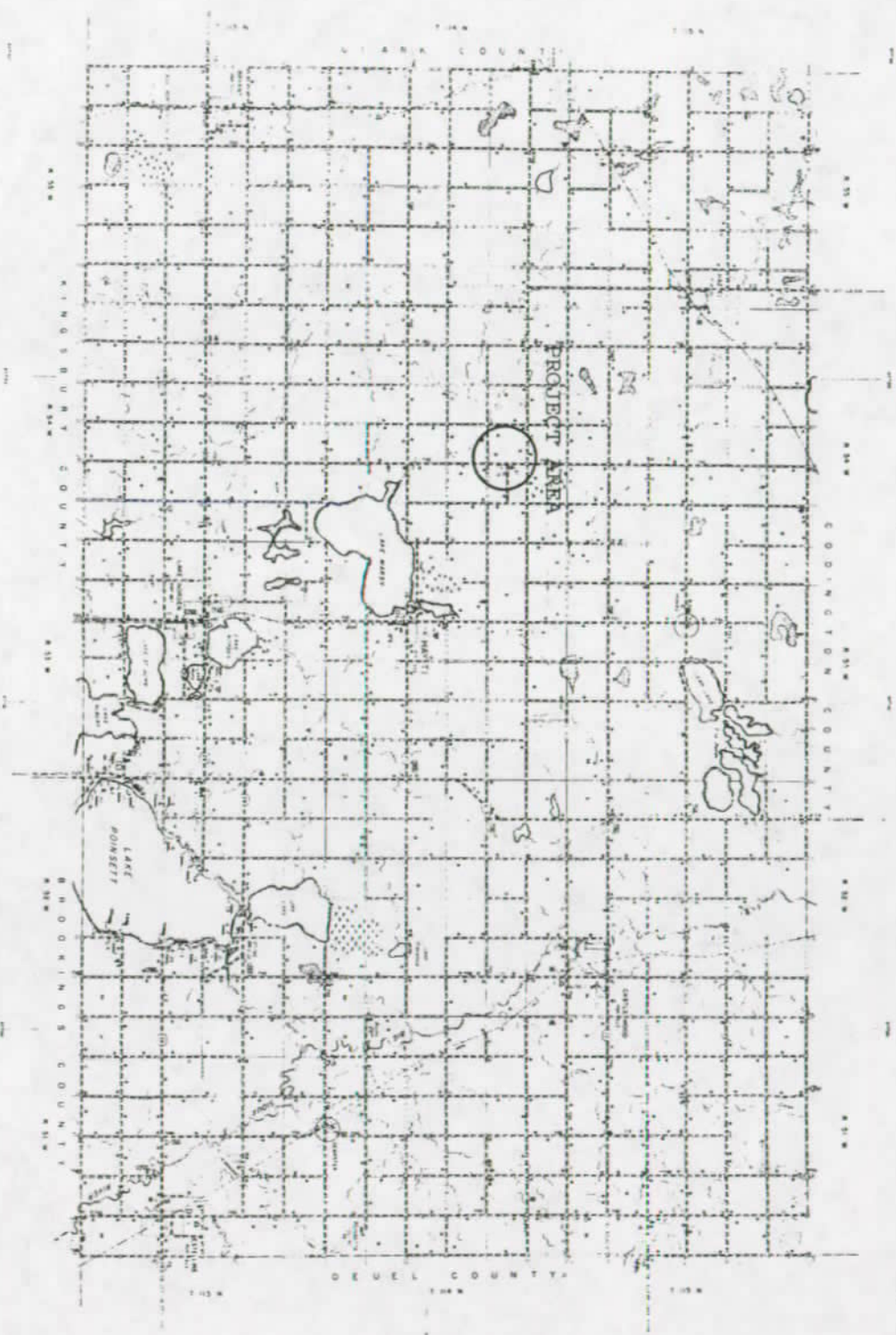
Fee for Application for Permit No. <u>FC-28</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

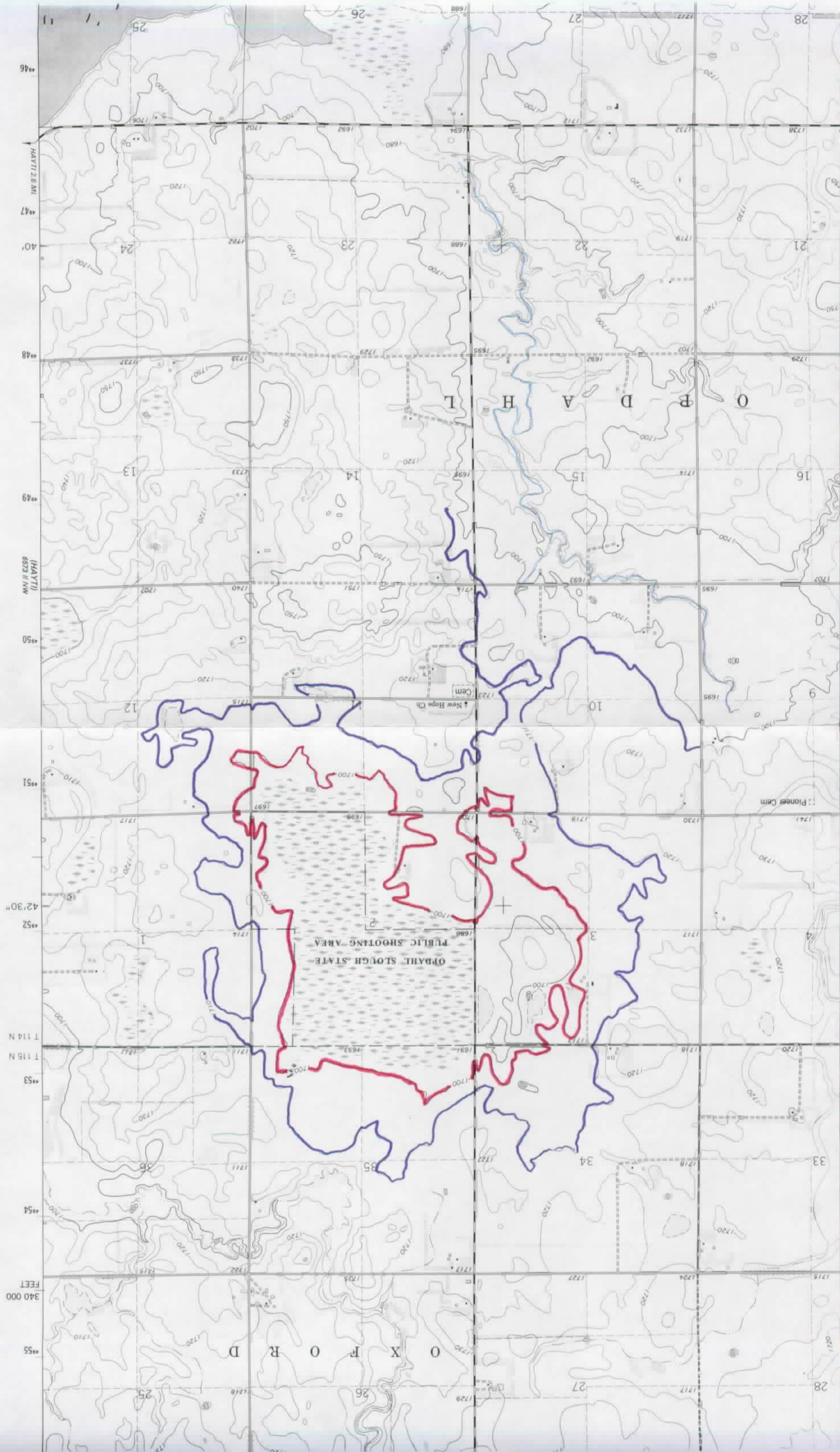
(Any Other Work Provided by Law)	Total	200 00

By _____
Chief Engineer

John Hatch (Signature)

HAMLIN COUNTY

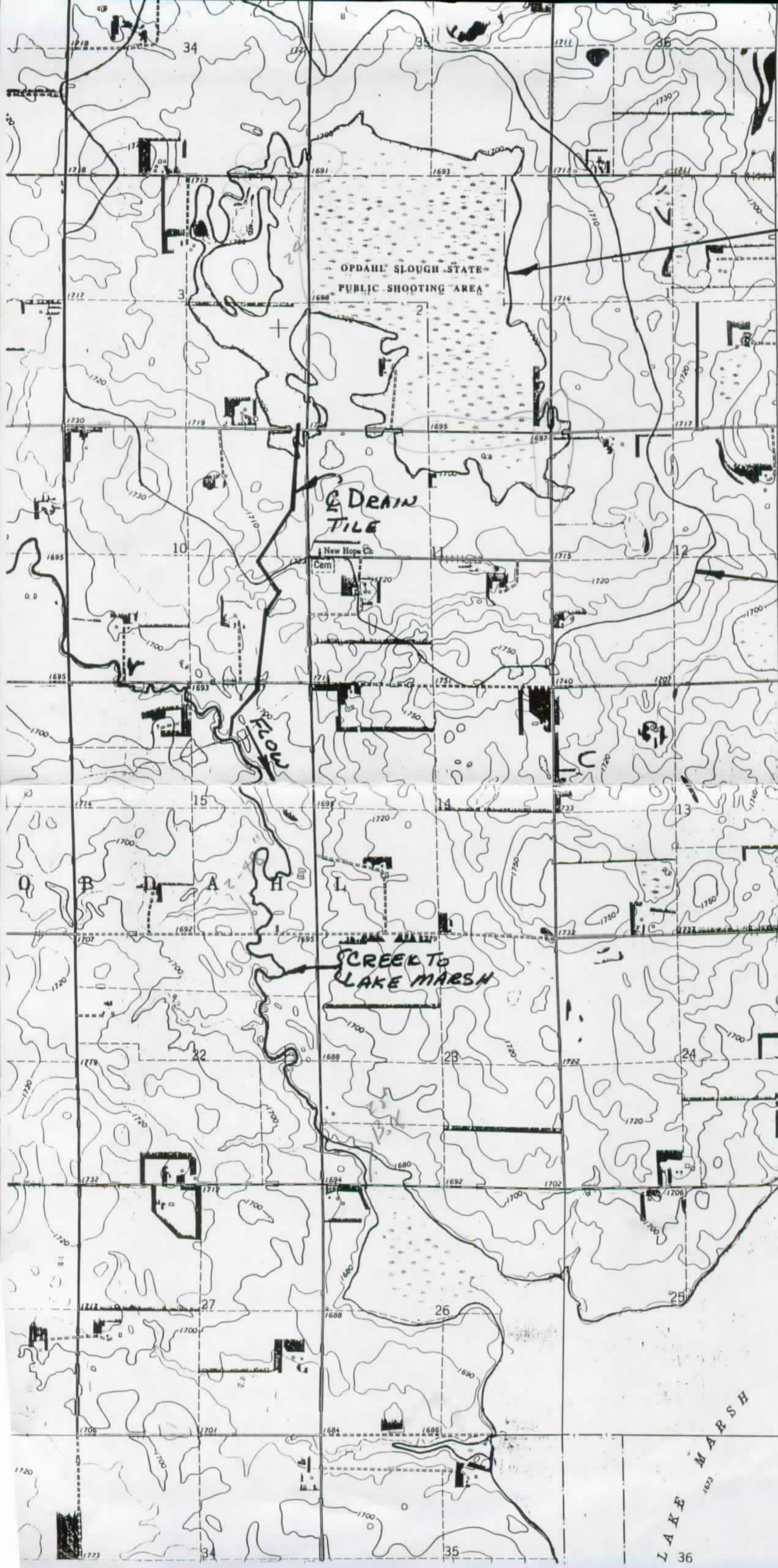
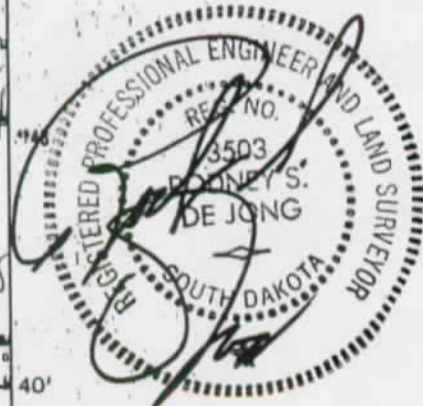




BRYANT NE
QUAD
N HAMUN Co.
SECTION 2
T 114 N
R 54 W

LIMITS OF
FLOODING
815 ACRES

DRAINAGE
AREA
2815 ACRES



O X F O R D

OPDAHL SLOUGH STATE
PUBLIC SHOOTING AREA

PROPOSED
Route

New Hope Ch

Cem

January 15, 1999

Re: Opdahl Slough

Greg Maag
First District of Local Governments
124 First Ave NW
Watertown, SD 57201

Dear Greg:

As per our conversation last Wednesday, enclosed you will find a cost estimate for construction and a map showing the construction location on the above noted site.

The proposed work is to install a drain tile to the south of Opdahl Slough, which will remove floodwaters from the surface of the slough. The tile installation would start on the north side of the township road located on the southerly boundary of Section 3 and end in the NE1/4 of Section 15. On the inlet, a trash guard would be installed to prevent any debris and rodents entering the tile system. On the outlet, a rodent guard would be in place to prevent the same. Also, near the inlet, a gate would be provided to control the water elevation to prevent complete drainage of the slough area. This would be considered a temporary drainage structure since the gate can close the system. The size of the tile would be 18" and both plastic and concrete pipe would be used. If an alternate pipe is feasible, it will be considered. The plastic pipe will be used up to a depth of 29 feet then concrete pipe will be used for depths over 29 feet. Metal pipes will be used on the inlet and outlet for the ease of metal end sections connections and blending into the ground in these areas.

It is estimated that 6000 LF of plastic pipe, 500 LF of concrete pipe, 40 LF of metal pipe and appurtenances are required to install the drain tile. The estimated cost is approximately \$133,675.00 and does not include engineering, right of way easements, and administrative costs. Taxes would be a part of the bid items and would be included in the unit costs of the item.

A wetland map from NRCS office in Hamlin County is in route to your office.

If you need anything else or have any questions, please give me a call.

Respectfully,

Rodney De Jong, PE/LS
Aason Engineering Company, Inc

Enclosures (2)

First District Association of Local Governments

94 First Avenue NW

PO Box 1207

Watertown, SD 57201

Phone: (605) 882-5115

FAX: (605) 882-5049

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MEMO TO: State Historical Preservation Officer
Office of Water Quality, SD DENR
Office of Groundwater Quality, SD DENR
Office of Air Quality, SD DENR
Office of Solid Waste, SD DENR
Office of Drinking Water, SD DENR
SD Department of Game, Fish & Parks
U.S. Fish & Wildlife Service
U.S. Corps of Engineers, Planning Division
NRCS, State Office
NRCS, Hamlin County Office

FROM: Gregory J. Maag, Program Coordinator *GJM*

DATE: February 17, 1999

RE: CDBG Environmental Review

Hamlin County has been awarded a Community Development Block Grant from the Governor's Office of Economic Development to assist in the repair of roads in the county. The County is proposing to install a drain system to remove flood waters from Opdahl Slough in the county. The project would include approximately 6,500 LF of 18" pipe, a gate device and other necessary appurtenances to complete the system. See the attached letter from the project engineer. The removal of the flood waters on this slough will open up three different roads that are currently under water. One of these roads is a county road that serves the Hamlin County High School.

A map showing the project location is enclosed for your information. In order to complete the environmental review record, we are requesting your comments on this project.

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

February 24, 1999

Gregory J. Maag, Program Coordinator
First District Association of Local Governments
PO Box 1207
Watertown SD 57201

Dear Mr. Maag:

It has been brought to my attention that Hamlin County proposes to install a pipeline to drain water from Opdahl Slough. The project is to lower the water level of the slough and provide flood relief to three inundated roads. I am writing to make you aware of flood control permitting that will be required prior to project construction.

For this project, state law will require a flood control permit. A permit for flood control works may be issued only if the project will reduce the damage from flooding or erosion in the area proposed to be benefited, the project will not increase the likelihood or the severity of flood damages in areas other than the project area or the area proposed to be benefited, the project will not endanger human life or property and the project will not impair existing rights.

Enclosed are flood control permit application forms and an instruction sheet. Completion of the application will require design criteria including the pipeline's inlet and outlet elevations, pipeline size, an engineering analysis of impacts downstream on the pipeline outlet and an operation and maintenance plan. The information provided to us indicates an inlet gate is intended to allow closure of the system. It is important at the project's inception that operating criteria be established on when this gate will be opened and closed.

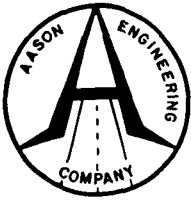
The application for a flood control permit will need to be public noticed and a hearing scheduled before the Water Management Board. The time frame for obtaining a permit varies depending on whether anyone contests the application. It can take three months from when a complete application is received to obtain a flood control permit if the application is not contested and longer if contested.

Please feel free to contact Eric Gronlund of my staff at (605) 773-3352 if you have questions on either flood control permit requirements or completing the application.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure



Aason Engineering Company, Inc.

1022 Sixth Street SE
Watertown, South Dakota 57201-5210
Telephone: 605-882-2371 • Fax: 605-882-1042

1310 South Main #309
Brookings, South Dakota 57006
Telephone: 605-697-6650

March 16, 1999

Re: Opdahl Slough

Eric Gronland
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Dear Eric Gronland:

Enclosed you will find two applications for the flood permit on the above noted subject. Please take the necessary action to have a hearing scheduled before the Water Management Board. If you need anything else, please me a call.

Respectfully yours,

Rodney De Jong, PE/LS
Aason Engineering Company, Inc

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Hamlin County Flood Control Application – Opdahl Slough

ADDRESS: COUNTY:

DATE: March 24, 1999 TELEPHONE:

RE: Call from Rod De Jong, Aason Engineering

COMMENTS:

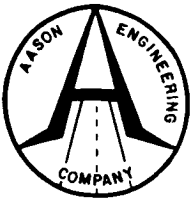
Mr. De Jong received my March 22nd letter regarding Hamlin County's flood control application. He was going to respond in writing but the following is a synopsis of our conversation.

- They will be sending in the application filing fee.
- The proposed inlet elevation of 1694.25 fmsl is based on the elevation necessary to keep the county road from flooding. Mr. De Jong estimated the normal slough elevation to be 1693 fmsl.
- Easements are not in place at this time, they are in the process of obtaining. Mr. De Jong understood that an affected landowner contested the application that it may cause the application to be deferred until the issue is resolved.
- Mr. De Jong will provide specific elevations for operating criteria.

Mr. De Jong asked whether we would still be able to schedule the application for the May meeting. I told him that the first publication of the notice of hearing will need to be April 8th and this means I will have to have the report and recommendation completed by April 1st. I told him we would do our best to get it scheduled for May but that I could not provide a guarantee.

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: 



Aason Engineering Company, Inc.

1022 Sixth Street SE
Watertown, South Dakota 57201-5210
Telephone: 605-882-2371 • Fax: 605-882-1042

1310 South Main #309
Brookings, South Dakota 57006
Telephone: 605-697-6650

March 24, 1999

Re: Opdahl Slough

Eric Gronland
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Dear Eric Gronland:

As per our phone conversation earlier today and as per your letter dated March 22, 1999, enclosed you will find a check for \$200.00 to cover the filing fees.

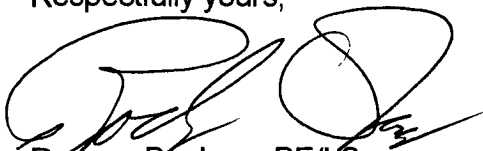
To answer your second question, according to the quadrangle map, the elevation of the slough appears to 1693.0. This is the elevation listed at the north quarter corner. The elevation on the northwest corner is listed at 1691.0. The proposed elevation is 1694.25 that is above these two elevations. The intent is not to drain the slough.

In regards to your third question, the easements on the downstream land are being obtained presently. Hopefully by the time of the hearing, all the easements will be in place. As I indicated on the phone, one landowner requested a payment of \$10,000 per quarter which would be \$30,000 across his land. It appears he has changed his mind and would accept a payment of considerable lesser amount. The remaining owners have indicated verbally that they would be receptive to the project. Nothing is in writing to date.

Lastly, the gate would be closed for elevations of anything lower than the flowline of 1694.25 and would be opened at 1695.00, which would be the shoulder of the north-south county road.

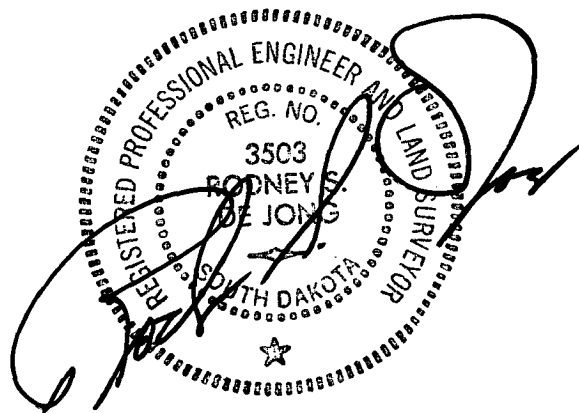
If you need anything else, please give me a call.

Respectfully yours,


Rodney De Jong, PE/LS
Aason Engineering Company, Inc

Opdahl Slough is located in central western Hamlin County, 3 ½ miles north and 3 ½ miles west of Hayti. Normally, the slough covers approximately 500 acres but with the recent wet weather years in eastern South Dakota, now the slough is in flood stage covering approximately 815 acres. The contributing drainage area to the slough area is approximately 2,815 acres and would be considered a small drainage basin. With the abnormally high amount of precipitation in recent years, the flooding has inundated County Road J that is along the westerly side of the slough. The depth of flooding over the road has been as much as 20 inches and fluctuates with the dry to wet climate of the seasons. The flooding has almost inundated a couple of County and Township roads along the East Side of the slough as well. The floodwaters has been as high as the shoulder of the roads with some spot puddles on the gravel surfacing as well.

The legal description for the normal slough area is Section 2 T114N R54W Hamlin County, South Dakota. Now the slough cover portions of 7 other sections surrounding Section 2.



Alternatives

In 1997, 5 alternatives were considered in attempt to provide solutions to relieve the problem of the flooding and provide ingress and egress for the public such as buses, fire and ambulance service.

The first alternate was to do nothing and this was deemed impracticable since this does not alleviate the flooding problems.

The second alternative was to drain the floodwater off to the NE in Section 35. This was ruled not feasible since there is not enough elevation drop and this may cause additional flooding downstream in areas to the east where there is flooding problems already.

The third alternate considers installing a drain tile with ditching across Section 1 and this also was considered impracticable as well. This alternate would also add additional floodwaters to the areas as considered in the second alternative.

The fourth alternate was to install a drain tile along the south side of Section 1 in lieu of the north side as was considered in the third option. This option was dismissed for the same reasons as the third option.

The last alternate considered was to raise the grade across the slough to provide ingress and egress in the area. This alternate was very costly at \$300,385. This option seems the most feasible but was put on hold due to the lack of available borrow material available for raising the roadbed and due to lack of funding such a project. This would not solve the flooding for the area residents as well.

In 1998, a couple of other alternatives were evaluated as well. Pumping of the slough was considered but was considered too costly and may be only temporary. If high precipitation continues, the pumping would need to be done again and the same costs incurred would occur again. Installing a drain tile to the south or to the southwest was evaluated.

Installing a drain tile with some trenching to the southwest would cost \$189,335. This was dismissed due to the cost and in evaluating the elevation

drop needed for the tile, this may not be feasible due to the lack of elevation differential. Installing a drain tile to the south appears to be the most feasible economically and would work with providing enough drop for the pipe to be self-cleaning. The cost is estimated at \$133,675.

Proposed Work

With installing the drain tile to the south being the most feasible, other factors need to be considered as well. A few questions need to be answered before the project can become a reality. One, what is the proposed work? Two, what impact will the additional waters have on the downstream landowners and homes? Third, what impact will this be on the local landowners where the drain tile be installed? Fourth, who will maintain and operate the system in times of flooding? Fifth, what impact will the drain tile have on the environment?

The proposed work will be installing the drain tile from the north side of the township road along the north side of Section 10 with an inlet gate to control the elevation and outlet into a creek in Section 15. The proposed pipe would be corrugated plastic 18" in size in those areas where the depth permits installation of such and using reinforced concrete where depths exceed 28 feet. The proposed inlet elevation is set at 1694.25 and the proposed outlet elevation is 1689.05. This elevation was used to provide a freeboard of 9 inches from the shoulder of the county road and would not remove all of the flood waters from the slough area. The total estimated length is 6500 lineal feet and the slope of the pipe would be 0.0008'/ft. This slope is the minimum to maintain a velocity of 2 feet per second, which is needed to have the pipe self-cleaning. Both temporary and permanent easements are needed for construction and maintenance of the system. Documents for obtaining the required easements have been prepared and the landowners have been contacted regarding such. On the inlet, a trash guard is to be installed to prevent any debris entering the system and plugging such. Also, this guard is intended to prevent any rodents entering the system from this end as well. On the outlet, a rodent screen is to be installed to prevent rodents entering the system. With the outlet velocity being around 6.8 feet per second at the pipe's capacity, no outlet erosion protection is required. Lastly, a control structure will be installed on the inlet to regulate the inflow to the drain tile as well as regulate when the flood waters is to be drained off.

To answer the second question, what impact will the additional waters affect downstream owners, is minimal. The outlet of this drain tile is in one of the creeks contributing to the inlet of Lake Marsh. The drainage basin of this creek is approximately 48 square miles and has a computed volume of 1154 cfs for a 25 year flow using the formulas from Techniques for Estimating Flood Peaks, Volumes and Hydrographs on Small Streams in South Dakota prepared by the USGS in cooperation with SDDOT 1980. The flows in the 1998 edition are somewhat higher. Using the 1980 volumes, the depth of flow in the channel is 3.8 feet and the additional flow of 12 cfs from the 18-inch drain tile would add only 0.02 feet to the water surface profile elevation. This is negligible when considering the overall picture of the channel flow. To evaluate the effect on Lake Marsh, if all of the floodwaters are taken off Opdahl Slough (considered to be 2.75 feet) then Lake Marsh would raise 3 inches comparing area to area. Since Lake Marsh has an outlet at Hayti, the 3 inches rise would not be noticed since the floodwaters would flow out just as quickly as they are entering Lake Marsh. The controlling outlet structures at Hayti (triple 48" CMP under the abandoned RR Grade) are considerably larger than the 18" drain tile. Considering the foregoing overall, the impact to the downstream drainage basin is minimal. With the impact being minimal, no easements for the increase water elevation need to be acquired.

The answer to the third question considering the impact to the local landowners is that the impact would be overall positive in nature. The floodwaters would be drained off over a period of time estimated at 94 days and the farmers would gain back those areas, which was inundated by such. The negative impact would be those landowners where the drain tile crosses their property. Since the pipe would be buried except for the inlet and outlet areas, the owners should not experience much of an impact except for providing an easement for possible maintenance in the future. Any maintenance on the system may disturb the cropland on the surface and the landowners would be compensated for any damage done to their crops or cropland. The owners of the property where the inlet and outlet structures are located have indicated they

would benefit more with the drain tile draining the flood waters off than not doing anything or raising the county roadway.

In response to the fourth question, Hamlin County would assume the responsibility to maintain the system and to operate the inlet structure controlling the water elevation. Maintenance and operating procedures will be addressed later in this report.

Lastly, what is the impact to the local environment? The installation of the tile will be along those areas that are designated as wetlands. The construction will impact the areas during the time of installation but the work will be required to restore the area back to the original condition before work begin. The intent of the project is to have the least impact to the environmental concerns and provide a solution for the flooded areas. The inlet and outlet of the drain tile is in the drainage swale areas and are not intended to provide any draining of any wetlands. Where the construction disturbs grassland or pastureland, the grass would be reseeded and restored. In cropland areas, the construction sequence would need to separate the topsoil from the overburden of the pipe in order that the topsoil could be replaced on top for farming.

Operation and Maintenance

Hamlin County would be responsible for the operation and maintenance of the drain tile system. Consideration for how much and when needs to be evaluated for the operation of the inlet control structure. Realizing this, the following should be followed:

1) Operation

a) Inspection

i) Inspect the entire system annually

(1) Inspect the inlet for any debris caught on the screen

(2) Inspect the screens for any damage to prevent any rodents entering system

(3) Inspect the inlet control structure for leakage and damage

(4) Check the outlet area for erosion

(5) Ensure the inlet is clear of silt for clear passage of drainage

(6) Check the system for vandalism

b) Operation

i) Open the gate only when the need to drain flood waters from the slough is present

ii) Close the gate when flood waters are removed

iii) Close the system when any damage may arise when the public welfare is in danger

iv) Ensure the gate is locked to prevent any vandalism to the system or unauthorized operation of such

2) Maintenance

a) Remove any debris and silt from the inlet as needed

b) Restore any erosion that may occur on the outlet or on the inlet

c) Replace the inlet control timbers as needed when rotten



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 22, 1999

Rodney De Jong
Aason Engineering Company
1022 Sixth Street SE
Watertown SD 57201-5210

Dear Mr. De Jong:

I am writing in regard to the flood control application for controlling the water level at Opdahl Slough that you filed on behalf of Hamlin County. I attempted to contact you by phone to discuss the application. Since you have been out of the office I am writing for further clarification and additional information to complete the application.

- First, the submitted application did not include the required filing fee. The application filing fee of \$200 must be submitted prior to processing the application. (Application fee = \$150, Licensing fee = \$50, **Total = \$200**)
- Does the proposed inlet elevation of 1694.25 fmsl equate to Opdahl Slough's normal surface area? Your narrative states this elevation will give 9" of freeboard for the county road.
- What is the status (timeframes) for obtaining easements for the pipeline? Generally, easements have been required prior to an application being processed in similar flood control permitting situations. If this is not feasible we may be able to qualify the permit subject to the easements being obtained. However, I want you to know that if the application is contested by an affected landowner, it is very likely the application would be deferred until the easement issue is resolved.
- Finally, your narrative states that Hamlin County will be responsible for the operation and maintenance of the flood control works. However, the operation section of the submitted plan does not describe the criteria for when the gate will be opened or closed. We will want the operating plan to state elevations of when the gates will be opened and closed? This will prevent future misunderstandings.

If you have any questions, please do not hesitate to contact me at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

File No. FC-28

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Rodney DeJong, Aason Engineering Co.

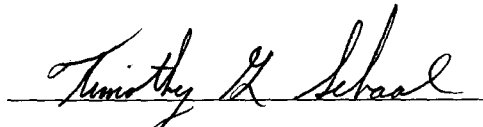
ADDRESS: 1022 Sixth Street, Watertown SD, 57201 COUNTY: Hamlin

DATE: March 31, 1999

TELEPHONE: 697-6650

RE: Hamlin Co. Flood Control Application FC-28

I talked to Rodney DeJong, from Aason Engineering, today about the Hamlin County Flood Control FC-28 application. We talked about the proposed outlet and downstream conditions, such as the current Lake March elevation, normal elevation and outlet capacity. He said he would send me some of their survey information regarding Lake Marsh. He also indicated that he did not believe that the proposed Opdahl Slough outlet would have much affect on Lake Marsh.

A handwritten signature in cursive script, reading "Timothy G. Schaal", written over a horizontal line.

Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program

**RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL
APPLICATION NO. FC-28, Hamlin County**

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 Flood Control Application No. FC-28, Hamlin County, c/o Burt Tulson, Commission Chairman, PO Box 297, Hayti SD 57241.

The Chief Engineer is recommending APPROVAL of Application No. FC-28 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or the severity of flood damages downstream, 3) necessary easements will be obtained, 4) will not impair existing water rights, and 5) it is in the public interest.

1. Hamlin County is responsible for operation and maintenance of the control structure.
2. Flood Control Permit No. FC-28 is subject to operation of the inlet control structure such that when Opdahl Slough's water surface elevation lowers to 1,694.25 fmsl or below, the inlet control structure on the pipeline will be closed. The control structure will remain closed until Opdahl Slough attains an elevation of 1,695.0 fmsl.
3. Permit No. FC-28 is subject to necessary easements being obtained prior to construction.
4. That the Water Management board is retaining jurisdiction of Flood Control Permit No. FC-28 in the event that additional information shows that this project causes adverse downstream impacts.

See report on application for additional information.



JOHN HATCH, Chief Engineer
April 1, 1999



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 14, 1999

Hamlin County
%Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241

Dear Chairman Tulson:

Enclosed is a copy of the report and recommendation prepared on Hamlin County's Flood Control Application No. FC-28 for the project intended at Opdahl Slough.

This application is being scheduled for a hearing before the Water Management Board at 9:30 AM, May 5th, in the conference room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., in Pierre.

If you have any questions on the report or recommendation, please contact Tim Schaal or myself at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

cc: Rodney DeJong, Aason Engineering, 1022 Sixth St. SE, Watertown SD 57201-5210
Tim Olson, SD Dept. of Game, Fish & Parks

Affidavit of Publication

STATE OF SOUTH DAKOTA, County of Hamlin, ss

LeeAnne Archer of said County and State being first duly sworn, on his oath says: That The Hamlin County Herald Enterprise is a weekly newspaper of general circulation, printed and published in Hayti in said County and State by LeeAnne Archer, that the 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 prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; and has been such newspaper during the time hereinafter mentioned; and that I, LeeAnne Archer, the undersigned, am publisher of said newspaper, in charge of the advertising department thereof and have personal knowledge of all facts stated in this affidavit; and that the advertisement headed:

Notice of Hearing on Flood Control

a printed copy of which is hereto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for 2 successive weeks, the first publication made on the 7 day of April, 1999, and the last publication on the 14 day of April, 1999.

The 1st publication made on the 7 day of April 1999

The 2nd publication made on the 14 day of April 1999

The 3rd publication made on the _____ day of _____ 1999

The 4th publication made on the _____ day of _____ 1999

The 5th publication made on the _____ day of _____ 1999

The 6th publication made on the _____ day of _____ 1999

The 7th publication made on the _____ day of _____ 1999

The 8th publication made on the _____ day of _____ 1999

The 9th publication made on the _____ day of _____ 1999

The 10th publication made on the _____ day of _____ 1999

That the full amount of the fees for publication of the annexed notice is \$ 67.16 and insures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any person whomsoever.

LeeAnne Archer

Subscribed and sworn to before me this 15 day of April, 1999

Marlene Muninga

Notary Public

My commission expires _____

My Commission Expires November 10, 2002

NOTICE OF HEARING on Flood Control Application No. FC-28

Notice is given that Hamlin County, c/o Burt Tulson, Commission Chairman, P.O. Box 297, Hayti SD 57241, has filed an application to authorize construction of an outlet for Opdahl Slough. Hamlin County proposes to install approximately 6,500 feet of buried 18 inch pipe to lower the water level of Opdahl Slough to alleviate flooding for the purpose of protecting three area roads. The pipeline inlet will be constructed with a bottom elevation of 1,694.25 feet mean sea level (fmsl) and will be located in the SE 1/4 SE 1/4 Section 3 and NE 1/4 NE 1/4 Section 10; all int T114N, R54W. The pipeline will pass through portions of Section 10 and the NE 1/4 Section 15, T114N, R54W. The pipeline's outlet elevation will be approximately 1,689.05 fmsl and located in the W 1/2 NE 1/4 Section 15, T114N, R54W. Water discharged from the outlet will flow into a tributary creek of Lake Marsh.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No FC-28 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or the severity of flood damages downstream, 3) necessary easements will need to be obtained, 4) will not impair existing water rights, and 5) it is in

the public interest.

Any person interested in opposing or supporting the application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 5751 (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 26, 1999. 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.

The Water Management Board will consider this application at 9:30 AM, May 5, 1999, in the Conference Room, Floyd Matthew Center, 523 E. Capitol Ave., Pierre, SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The hearing date will be automatically delayed for at least 20 days upon

written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 26, 1999.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by April 26, 1999, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-6-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-47, 46-5-48; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Nettie Myers, Secretary
Department of Environment and Natural Resources



Instruction to Newspaper - Publish first Notice on April 7, 1999, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Flood Control Application No. FC-28

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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 1, 1999

Hamlin County Herald Enterprise
Box 207
Hayti, SD 57241-0207

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Flood Control Application No. FC-28 to Appropriate Water to be published twice. Please publish the first notice on April 7, 1999, 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 Hamlin County, %Burt Tulson, Commission Chairman, P.O. Box 297, Hayti, SD 57241.

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

-----CU T HERE-----

No. FC-28

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

Date _____

We are in receipt of your letter of April 1, 1999, enclosing Notice of Hearing to Appropriate Water by Flood Control Application No. FC-28 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 57501-3181
www.state.sd.us/denr

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

April 1, 1999

Hamlin County
%Burt Tulson, Commission Chairman
P.O. Box 297
Hayti, SD 57241

Dear Mr. Tulson:

Flood Control Application No. FC-28 for flood control 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 Hamlin County Herald Enterprise printed at Hayti, SD (Ph # (605) 783-3836). A copy of the notice is enclosed. A copy of the recommendation of the Chief Engineer and a report on the application will be sent to you in the near future. 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.

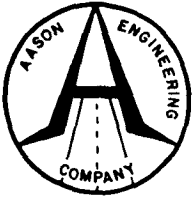
Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

c: Rodney DeJong, Aason Engineering, 1022 Sixth St. SE, Watertown, SD 57201-5210

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.



Aason Engineering Company, Inc.

1022 Sixth Street SE
Watertown, South Dakota 57201-5210
Telephone: 605-882-2371 • Fax: 605-882-1042

1310 South Main #309
Brookings, South Dakota 57006
Telephone: 605-697-6650

April 5, 1999

RE: Opdahl Slough

Eric Gronland
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Dear Eric Gronland:

SHAW
Last week, Tim [redacted] of your office contacted me regarding a couple of items on the above noted project. The first item was in regards the surface area of Lake Marsh. It appears to be approximately 3500 acres under its flood stage and somewhat less at its normal surface elevation of 1673 according to the quadrangle map. Last August, the water elevation was approximately 1674.2.

ELEV. 1680 ←
The second item was the outlet elevation of Lake Marsh which we don't have. We shot the inlet elevations of the pipe under the abandoned RR bed which are around 1670.5, 1670.6 & 1671.6. The outlet elevation on the box culvert under SD 21 is 1671.9. This should give you an idea of the outlet elevation of Lake Marsh.

Lastly, the outlet of Lake Marsh does eventually get to Lake Poinsett but the impact of drainage these flood waters and as well as the length of time to drain the area should have minimal impact. Especially if all the flood waters from Opdahl Slough only raises Lake Marsh approximately 3 inches if none of the flood waters run out of Lake Marsh.

If you have any questions, please give me a call.

Sincerely,

Rodney DeJong, PE/LS

Cc: Larry Saathoff]



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



April 23, 1999

Mr. John Hatch, Chief Engineer
Water Rights Program
S.D. Department of Environment and Natural Resources
Foss Building, 523 East Capitol Ave.
Pierre, SD 57501

RE: Flood Control Permit Application No. FC-28, Opdahl Slough, Hamlin County
Petition to Become Party of Record

Dear Mr. Hatch:

The South Dakota Department of Game, Fish and Parks (GF&P) has reviewed the notice of hearing, report and Chief Engineer's recommendations for the above referenced flood control permit application.

Pursuant to SDCL 1-26 we request that GF&P be made a party of record in the proceedings for this application. GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). GF&P owns, in fee title, the majority of Opdahl Slough and manages it as a public Game Production Area. GF&P also holds a vested water right claim for Lake Marsh (Water License No. 1592-3) for recreational and fish and wildlife propagation purposes. Lake Marsh will be the receiving water for drainage from Opdahl Slough. Filing for party status in this proceeding will ensure our ability to protect our interests in water and habitat management within the subject watershed.

Thank you for the opportunity to comment.

Sincerely,

Tim Olson
Water Permits Coordinator

cc: Mr. Burt Tulson, Hamlin County Commission Chairman
Doug Alvine, SDGF&P, Watertown

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
Madison Wetland Management District
P. O. Box 48

On Hwy. 19, 3/4 Mile South of Hwy. 34 Junction
Madison, South Dakota 57042
Telephone: (605) 256-2974

April 26, 1999



Chief Engineer
Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

Chief Engineer:

We were not notified of the Flood Control Permit application no. FC-28 filed by Hamlin County until 2:00 PM April 26, this afternoon.

I have personally worked with Hamlin County Commission regarding the flooding of this County road along with the local County NRCS office. There has never been any mention or intent to file for a Flood Control Permit. This was supposed to be emergency drainage measures in which the County would have complete control over the permit process as established under 46A-10A-15, it was only DENR's interpretation of an Environmental Assessment that threw the county into this process, un-beknown to all the participating parties.

By issuing a Flood Control Permit, this has the potential for the applicant to mitigate for wetland loss, which they do not want to do. They had used the example followed by Brookings County for the wetland by the town of Sinai and Deuel County permit process for the wetland by the town of Astoria (both involved public waters). Amongst numerous other wetlands that have been handled locally under County Drainage Codified Laws that did not have federal funding.

This ruling by DENR pits the State Water Management Board against local control by the County Drainage Board. If this process were to be followed there would be no need to continue to have County Drainage Boards.

The County would always have the right to apply for a Flood Control Permit if it was deemed necessary, if the emergency permit does not meet their needs and then they could further evaluate the need to mitigate for any wetland loss that may occur.

I think it would not be in the best interest of Hamlin County to pursue this permit. DENR should re-evaluate when and how they want to take over the permit process versus the County Drainage Board pursuant to 46A-10A-15. This hearing should not be held until these questions are answered.

Sincerely,

Thomas R. Tornow

Thomas R. Tornow
Refuge Manager

cc: Hamlin County & Rodney DeJong



04-26-99
407 2nd Street
Hayti, South Dakota
605-783-3746

Don Farrell, Engineer
WATER RIGHTS PROGRAM
523 East Capitol
Pierre, South Dakota

RE: OUTLOTS: Part of OL in NW 28-114-53
AND
North 300' of OL 1 east of creek
Hayti Village, Hayti Township
Hamlin County, South Dakota

Flood Control Application No. FC-28

We, as owners and residents of the above mentioned properties, very definitely want it to be known and to go on record that we are highly concerned as to the future outcome of the proposal for construction of the outlet for Opdahl Slough.

Now we are saying, quote, "future outcome", unquote, or any flooding of our land that could be created as a result of the release of the water over a given period of time.

As stated in the newspaper article, dated 04-14-99, quote, "Water discharged from the outlet will flow into a tributary creek of Lake Marshall". unquote. OUR CREEK IS THE OUTLET.

Imperative! This is where we come to the major problem which we address, that being the flooding of our property to the south of our home, which we built in 1976.

The properties are located adjacent to the creek outlet. We have some very high water over the past 13 years; ie In 1997, we observed the water moving approximately 5 feet closer to our home (during a 1 hour's time) as a result of water flowing over the highway at Lake Marshall.

We do support progress such as this new outlet and we do not actually oppose it as long as our home and our land are not jeopardized by flooding, as a result of it.

You will be able to better understand our problem area in the copy of the aerial photo which will follow this faxed letter in the mail.

There is a possible alternative to the proposed plan which could be implemented. It would eliminate any future flooding for residents on the south edge of Hayti and improve your drainage plan as well.

All people involved need to be considered; in town, as well as rural.

Page 1 of 2

04-26-99

James and Suzanne Johnson

Recommendation No. 1:

Location - 5/10 mi. south of Hayti, along highway

Using 18 inch drainage pipe and/or culvert, divert water directly into the creek. Alternative would be a drainage ditch.

Recommendation No. 2:

Location - 3/10 mi. south of Hayti along highway

Piping directly into the creek from the lake. This is the area where the 1997 flooding problem created a huge deep "channel" eroded by water over the highway and down the ditch flowing northeast.

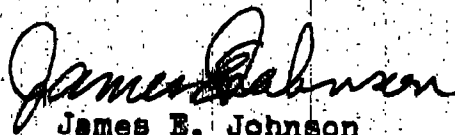
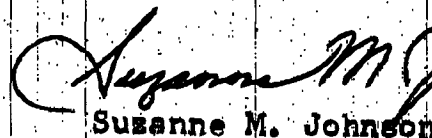
THEREFORE, one of the above suggestions would result in BY-PASSING THE RESIDENTIAL PROPERTY COMPLETELY.

We can support our past history of flooding with excellent documentation and photos for illustration.

We definitely want a response from your department and will wait to hear from you in the very near future.

Thank you for your time and consideration on this matter.

SINCERELY,


James E. Johnson
Suzanne M. Johnson

Enclosures

FAX COVER SHEET

Date: 04/26/99 Log No.

Time: 1:00 Number of Pages:
(including cover sheet)

TO: Mr./Ms. Ron Duvall

or Dept. Env. & Nat'l Res.

FAX: 605-773-6035

James E. Johnson
on 407 2nd St. Hayti

SD 57241

FAX #:

SPECIAL
INSTRUCTIONS:

- ☐ Confidential
☐ Urgent
☒ Please reply
☐ For your information

COPY TO:

MESSAGE:

Response to:

Flood Control Appeal
No. FC-28

04-26-99 Deadline

If not received correctly, please call: 783

Printed in U.S.A.



RETYPE FOR CLARITY

04-26-00
407 2nd Street
Hayti, South Dakota
605-783-3746

Ron Duvall, Engineer
Water Rights Program
523 East Capitol
Pierre, South Dakota

Re: OUTLOTS: Part of OL in NW 28-114-53
AND
North 300' of OL 1 east of creek
Hayti Village, Hayti Township
Hamlin County, South Dakota

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We definitely want a response from your department and will wait to hear from you in the very near future.

Thank you for your time and consideration on this matter.

SINCERELY,

James E. Johnson

Suzanne M. Johnson

Enclosures



04/25/99 Mobile Homes

Other side of railroad
culverts -

East side of Hwy.



James & Suzanne Johnson
P.O. Box 286
Hayti, SD 57241-0286



Bridge washed out

08/25/99

Washed out Bridge at bottom
of drive.

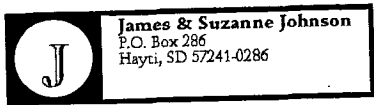


James & Suzanne Johnson
P.O. Box 286
Hayti, SD 57241-0286



04/25/99

Mobile Homes



Creek down below hill near
washout



Outlet - west side of Hwy

4/25/99

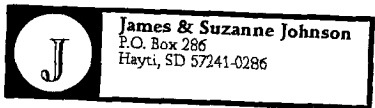


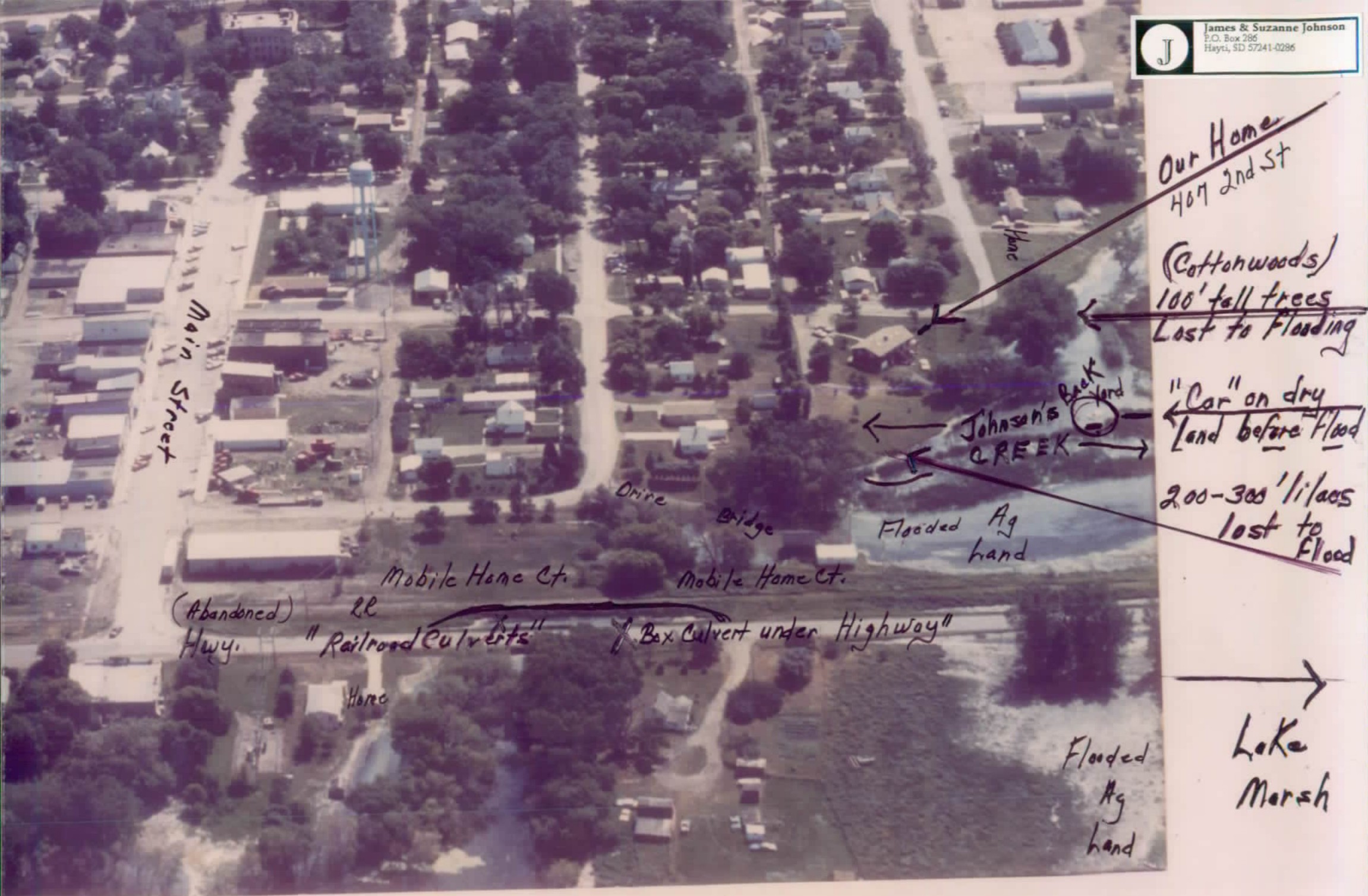
James & Suzanne Johnson
P.O. Box 286
Hayti, SD 57241-0286



04/25/99 Railroad Culverts

In years to come, if you're
going to drain everything
through here; you are going
to have a problem.





Aerial Photo - Southwest Corner - Hayti Village



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 28, 1999

Rod DeJong
Aason Engineering
1022 Sixth Street SE
Watertown SD 57201-5210

Dear Mr. DeJong:

I am writing in regard to the question you asked about the emergency drainage measures at Opdahl Slough. You asked when the one year period goes into effect under the emergency drainage measures provided by SDCL 46A-10A-15. In other words, when does the one year clock start ticking. Is it when the county adopts an emergency measure or when the emergency measure is in place? In the case of Opdahl Slough this becomes an issue because construction of the pipeline may require a substantial amount of time.

I discussed this briefly with an Assistant Attorney General who we work closely with on water right issues. Her advice was that the county should consult with the county states attorney for an legal opinion on the intent of the one year period. With that being said, we did informally discuss this issue. It appears to me that SDCL 46A-10A-15 does not contemplate a large construction effort but instead temporary emergency measures that are easily implemented. As such, the words "date it becomes effective" in the statute seem to reference when the drainage board adopts the emergency drainage measure. But as I said before the county should consult with the states attorney on this issue.

I hope this information is helpful. Please let me know if I may be of further assistance.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 28, 1999

Thomas R. Tornow
U.S. Fish and Wildlife Service
P.O. Box 48
Madison SD 57042

Dear Mr. Tornow:

As you requested, enclosed is a copy of a January 28, 1998, letter to the Deuel County Drainage Board regarding Lake Astoria. I believe that letter is clear that if the project becomes permanent by installing a valved tile line, a flood control permit is then required. Simply stated, even if operated only on a temporary basis under county emergency drainage authority, a permanent structure with a control mechanism establishes a new lake outlet. The state, through the Water Management Board, has jurisdiction and is responsible to determine natural outlet elevations. When permanent alterations to the natural outlet elevation are proposed, a flood control permit is necessary.

You also asked when the one year period goes into effect under the emergency drainage measures provided by SDCL 46A-10A-15. In other words, when does the one year clock start ticking. Is it when the county adopts an emergency measure or when the emergency measure is in place? In the case of Opdahl Slough this becomes an issue because construction of the pipeline may require a substantial amount of time.

I discussed this briefly with an Assistant Attorney General who we work closely with on water right issues. Her advice was that the county should consult with the county states attorney for an legal opinion on the intent of the one year period. With that being said, we did informally discuss this issue. It appears to me that SDCL 46A-10A-15 does not contemplate a large construction effort but instead temporary emergency measures that are easily implemented. As such, the words "date it becomes effective" in the statute seem to reference when the drainage board adopts the emergency drainage measure. But as I said before the county should consult with the states attorney on this issue.

I hope this information is helpful. Please let me know if I may be of further assistance.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 28, 1999

NOTICE

TO: Hamlin County Commission
c/o Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

SUBJECT: Revised Recommendation for Continuance of Flood Control Permit Application
No. FC-28, Hamlin County

Enclosed is a copy of the Chief Engineer's revised recommendation for Hamlin County's Flood Control Application No. FC-28 for Opdahl Slough. This application proposed an outlet pipeline to lower the water level of Opdahl Slough. The revised recommendation is to continue the May 5th hearing on Application No. FC-28.

Hamlin County proposes to construct emergency flood control facilities as allowed under South Dakota Codified Laws 46-5-48 and 46A-10A-15 to lower Opdahl Slough to alleviate flooding of three roads. These statutes in conjunction with each other allow construction of temporary emergency facilities for the immediate protection of property. Emergency flood control measures are limited to six months with an opportunity to renew for one additional period of six months.

After one year, the emergency drainage measures must be disabled unless Hamlin County pursues the process of obtaining a state flood control permit. Disabling the outlet may be accomplished by plugging the inlet of the pipeline with concrete for a minimum distance. Simply closing and locking an inlet valve does not adequately disable the structure since an outlet mechanism still exists. A flood control permit is needed if a permanent structure is installed because it establishes an outlet.

A hearing before the Water Management Board on Application No. FC-28 is still scheduled for 9:30 AM, May 5, 1999, in the Conference Room, Floyd Matthew Center, 523 E. Capitol Ave., Pierre SD. At that time we will present the revised recommendation to the Board requesting a continuance of the hearing on the application.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

enclosure

c: Diane Best, Assistant Attorney General
Rodney DeJong, Aason Engineering
Dixie Opdahl, Hamlin County Auditor

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL
APPLICATION NO. FC-28, Hamlin County**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Flood Control Application No. FC-28, Hamlin County, c/o Burt Tulson, Commission Chairman, PO Box 297, Hayti SD 57241.

The Chief Engineer is recommending that the scheduled May 5th hearing on Application No. FC-28 be CONTINUED following discussions with the applicant's consultant.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
April 28, 1999

NOTE: Pursuant to SDCL 46-5-48 which allows construction of temporary emergency facilities, Hamlin County is proposing to construct an outlet pipeline to lower Opdahl Slough's water level to alleviate flooding of three roads. SDCL 46A-10A-15 limits the emergency drainage measures to be in effect for no more than one year.

PARTIES OF RECORD

FLOOD CONTROL PERMIT APPLICATION NO. FC-28, Hamlin County

APPLICANT

Hamlin County
c/o Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241

PETITIONERS

James and Suzanne Johnson
407 2nd Street
P.O. Box 286
Hayti SD 57241-0286

Thomas R. Tornow
U.S. Fish and Wildlife Service
P.O. Box 48
Madison SD 57042

Tim Olson, Water Permits Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 E. Capitol
Pierre SD 57501-3182

CERTIFICATION

I hereby certify that on April 28, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 28, 1999, along with a copy of the Revised Recommendation Chief Engineer, and a copy of the Parties of Record List, regarding Revised Recommendation for Continuance of Flood Control Permit Application No. FC-28, Hamlin County, addressed as stated below, and on the attached Parties of Record List:

Hamlin County Commission, %Burt Tulson, Commission Chairman; P.O. Box 297, Hayti, SD 57241.

Rodney DeJong, Aason Engineering, 1002 Sixth Street SE, Watertown, SD 57201-5210.

Dixie Opdahl, Hamlin County Auditor, P.O. Box 237, Hayti, SD 57241.

A copy of the above described Notice and attachments was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

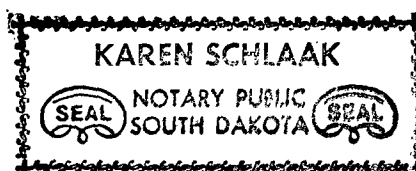
Tim Olson, Water Permits Coordinator, Game, Fish & Parks, Joe Foss Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of April, 1999


Notary Public



KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

May 11, 1999

NOTICE

TO: Hamlin County Commission
c/o Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

SUBJECT: Continuance of Flood Control Permit Application No. FC-28, Hamlin County

On May 5, 1999, the Water Management Board continued Hamlin County's Flood Control Permit Application No. FC-28.

Hamlin County may construct temporary emergency facilities to lower Opdahl Slough's water level pursuant to South Dakota Codified Laws 46-5-48 and 46A-10A-15. Any emergency flood control measure is limited to six month with an opportunity to renew for one additional period of six months. To implement the emergency measures the County must follow procedures set forth in SDCL 46A-10A-15.

Flood Control Permit Application No. FC-28 will remain on continued status for the next year. After one year, Hamlin County will need to either pursue its application for a flood control permit or disable any outlet structure constructed as an emergency flood control measure. If the outlet pipeline is permanently disabled, Hamlin County may withdraw its flood control permit application.

Next May, the Water Rights Program will contact Hamlin County on the status of the flood control measures. If you have any questions, please contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General
Rodney DeJong, Aason Engineering
Dixie Opdahl, Hamlin County Auditor

PARTIES OF RECORD

FLOOD CONTROL PERMIT APPLICATION NO. FC-28, Hamlin County

APPLICANT

Hamlin County
c/o Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241

PETITIONERS

James and Suzanne Johnson
407 2nd Street
P.O. Box 286
Hayti SD 57241-0286

Thomas R. Tornow
U.S. Fish and Wildlife Service
P.O. Box 48
Madison SD 57042

Tim Olson, Water Permits Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 E. Capitol
Pierre SD 57501-3182

CERTIFICATION

I hereby certify that on May 11, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 11, 1999, along with a copy of the Parties of Record List, regarding Continuance of Flood Control Permit Application No. FC-28, Hamlin County, addressed as stated below and on the attached Parties of Record List:

Rodney DeJong, Aason Engineering, 1002 Sixth Street SE, Watertown, SD 57201-5210.

Dixie Opdahl, Hamlin County Auditor, P.O. Box 237, Hayti, SD 57241.

A copy of the above described Notice and attachment was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

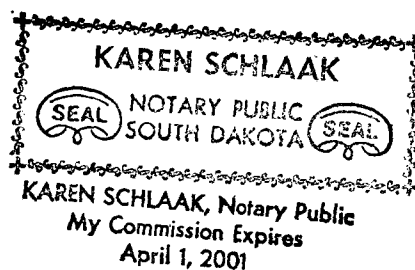
Tim Olson, Water Permits Coordinator, Department of Game, Fish & Parks, Joe Foss Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of May, 1999


Notary Public



PARTIES OF RECORD

FLOOD CONTROL PERMIT APPLICATION NO. FC-28, Hamlin County

APPLICANT

Hamlin County
c/o Burt Tulson, Commission Chairman
P.O. Box 297
Hayti SD 57241

PETITIONERS

James and Suzanne Johnson
407 2nd Street
P.O. Box 286
Hayti SD 57241-0286

Thomas R. Tornow
U.S. Fish and Wildlife Service
P.O. Box 48
Madison SD 57042

Tim Olson, Water Permits Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 E. Capitol
Pierre SD 57501-3182



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 15, 2000

Hamlin County Commission
c/o Dixie Opdahl, County Auditor
P.O. Box 237
Hayti SD 57241

SUBJECT: Hamlin County's Flood Control Permit Application No. FC-28 for Opdahl Slough

Dear Mrs. Opdahl:

I ask that you provide the Hamlin County Commission a copy of this letter regarding the pipeline constructed to lower the water level of Opdahl Slough.

Last spring Hamlin County filed a flood control application for authorization to construct a pipeline to lower the water level of Opdahl Slough. The County desired to alleviate flooding of three area roads. The application was public noticed and set for hearing before the state Water Management Board. During the public notice process, the U.S. Fish and Wildlife Service petitioned stating that by issuing a flood control permit there is the potential Hamlin County would be required to mitigate for wetland loss. The mitigation process would be time consuming and would have delayed the project.

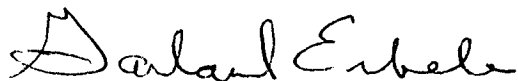
Since county drainage laws allow for temporary facilities for the immediate protection of property, Hamlin County chose to implement an emergency flood control facility pursuant to the county drainage laws. Emergency flood control measures are limited to six months with an opportunity to renew for one additional period of six months. Based on this information, the Water Management Board on May 5, 1999 continued Hamlin County's Flood Control Permit Application No. FC-28 for one year. Hamlin County was informed that after the one year, the County would need to either pursue its application for a flood control permit or disable any outlet structure constructed as an emergency flood control measure.

On a recent trip to Watertown, I stopped by Opdahl Slough to view the project. The pipeline was constructed and the outlet was discharging to the Lake Marsh drainage. A control structure was also in place at the inlet. In its current configuration the pipeline establishes a controlled outlet for Opdahl Slough.

Once the one year time period has ended for the emergency flood control measure, Hamlin County will need to decide whether to proceed obtaining the flood control permit or disable the outlet structure. As stated last year, simply closing and locking an inlet valve does not adequately disable the structure since an outlet mechanism exists. Disabling the outlet may be accomplished by permanently plugging the inlet of the pipeline with concrete. A flood control permit is needed if the pipeline remains in an operational state with a control structure installed because it establishes a new outlet for Opdahl Slough.

I ask that you let me know Hamlin County's intentions by July 7, 2000. If you have any questions, please contact Eric Gronlund at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Garland Erbele".

Garland Erbele, Chief Engineer
Water Rights Program

c: Larry Saathoff, Highway Superintendent, P.O. Box 297, Hayti, SD 57241
Rodney DeJong, Aason Engineering
Diane Best, Assistant Attorney General



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 6, 2000

Larry Saathoff
Hamlin County Highway Superintendent
P.O. Box 297
Hayti, SD 57241

Dear Mr. Saathoff:

I am writing as a follow-up to your telephone conversation with Eric Gronlund of my staff regarding Hamlin County's emergency flood control measure on Opdahl Slough. Hamlin County constructed a pipeline outlet on Opdahl Slough for the purpose of protecting county roads under an emergency drainage measure. As you are aware, the statutes authorizing this type of emergency measure allow temporary facilities for up to one year.

In a June 15th letter I asked about Hamlin County's intentions regarding the pipeline once the year has expired. The options are to proceed with the pending flood control permit application or permanently disable the pipeline. The pipeline and control structure currently establishes a new outlet for Opdahl Slough.

The pipeline/outlet became operational on November 1, 1999 and has drained Opdahl slough within 3 inches of the desired level. You asked when the one year period for operation under the emergency measure expires. The statute is open to interpretation whether the one year begins when the county adopts the measure or the emergency measure becomes operational. From a water rights perspective, I am willing to allow pipeline operation to continue until November 1, 2000, as a temporary emergency measure.

Hamlin County will need to determine whether to pursue the flood control permit or disable the pipeline. The period between now and November 1st provides an opportunity to make this decision.

The U.S. Fish and Wildlife expressed concerns with the permanency of having a flood control permit issued and the potential this has to require mitigation of wetland loss. However, the state can not simply relinquish jurisdiction in the matter of establishing new outlets for this type of water body. If Hamlin County decides to proceed with the flood control permit application, I believe that operating criteria can be put in place that are satisfactory to everyone.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

cc: Tom Tornow, U.S. Fish and Wildlife Service, P.O. Box 48, Madison, SD 57042

**UNITED STATES
DEPARTMENT
OF AGRICULTURE**

**NATURAL
RESOURCES
CONSERVATION
SERVICE**

**P.O. BOX 165
HAYTI, SD 57241
(605) 783-3611 Ext. 3
FAX: (605) 783-3412**

October 5, 2000

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182



Mr. Erbele:

This letter is in regards to the Hamlin County Flood Control Permit Application No. FC-28 for Opdahl Slough. On August 22, 2000 I met with the Hamlin County Commissioners and Larry Saathoff, Highway Superintendent to discuss the United States Department of Agriculture's (USDA) position on this matter.

The commissioners expressed concern because your department is requiring them to permanently disable the flood control structure or pursue their application for a Flood Control Permit. I indicated that if they would pursue that Flood Control Permit process it would require mitigation of the wetlands lost functions and values and would most likely become a very complicated and expensive endeavor.

I did indicate that USDA would not require mitigation if the County could create a secure locking mechanism for the inlet structure. This lock must completely shut off all flow and could not be opened unless they applied for a Temporary Minimal Effect Agreement and all adjoining and downstream landowners signed off on the agreement. All other federal, state, and local permits would also need to be obtained prior to reopening.

On October 5, 2000 I accompanied Larry Saathoff, Hamlin County Hwy Superintendent to the inlet structure located in the SE1/4 3-114-54. Mr. Saathoff explained how the inlet would be shut off and permanently protected using a steel cover that would be welded shut. I carefully reviewed the structure and felt very confident the design would indeed provide a secure lock for the inlet structure.

It is unlikely the outlet would need to be reopened any time in the near future, but if it should I see no reason to completely disable the structure for future emergency situations. The inlet site is located along an easily accessible road and would be very easy to monitor from a compliance standpoint. I would encourage your department to consider the option Mr. Saathoff has proposed instead of requiring the destruction of the existing emergency outlet structure.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information should contact USDA's TARGET Center at 202-720-2600. USDA is an equal opportunity provider and employer.

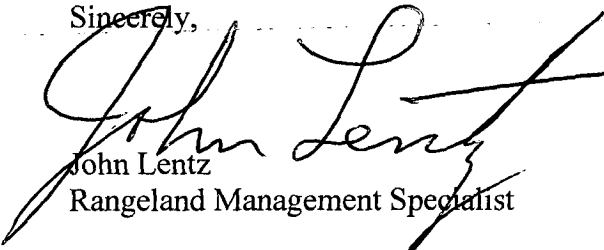
**UNITED STATES
DEPARTMENT
OF AGRICULTURE**

**NATURAL
RESOURCES
CONSERVATION
SERVICE**

**P.O. BOX 165
HAYTI, SD 57241
(605) 783-3611 Ext. 3
FAX: (605) 783-3412**

If you have any question regarding this matter please feel free to contact me at (605) 783-3611 extension 3.

Sincerely,



John Lentz
Rangeland Management Specialist

CC: Robert Rommeriem, Chairman, Hamlin County Conservation District
Hamlin County Commisioners
David Beitelspacher, CED, Hamlin Count Farm Service Agency

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HAMLIN COUNTY HIGHWAY DEPARTMENT
P.O. BOX 297
HAYTI, SD 57241



October 12, 2000

Department of Environment and Natural Resource
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Mr. Erbele;

After much discussion Hamlin County will close drainage pipe with control blocks in control structure and weld cover on so no one can open it.

U.S. Fish and Wildlife and NRCS are in agreement with handling it in this manner. Hamlin County will not open again unless all proper agreements are in place.

Water is now .5 of a mile from inlet to pipe. Water is down 2-3 feet below road surface.

Pictures enclosed.

If you have any questions please feel free to call me at 605-783-3626.

Thank you,

Larry Saathoff
Hamlin County Highway Supt.



Inlet CHANNEL
.5 mi to WATER



COVER OVER INLET



BLOCK for CONTROL STRUCTURE



BLOCKS in CONTROL STRUCTURE



Cover Welded on Box



OUTLET PIPE END COVERED



ROADS AFFECTED BY WATER



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 15, 2000

Larry Saathoff
Hamlin County Highway Supt.
PO Box 297
Hayti SD 57241

Dear Mr. Saathoff:

I am writing regarding the pending flood control permit application filed by Hamlin County for the outlet structure constructed on Opdahl Slough. Hamlin County filed this application on March 17, 1999. Concerns were raised during the public notice process with the permanency of having a state flood control permit issued. It was felt that having a state permit in place may require mitigation for wetland loss. This mitigation process is said to be a complicated and expensive process.

In your October 12, 2000 letter you state that the County is willing to close the drainage pipe and weld a cover on the control structure. However, under this scenario an outlet for Opdahl Slough still exists which under state water rights law requires a permit.

I contacted John Lentz with the Natural Resources Conservation Service to discuss ways to resolve this issue. We agreed a flood control permit could be issued without requiring mitigation for wetland loss if it contained a qualification listing specific operating criteria. These criteria must define when the structure must be closed and the process for reopening the control structure. Below is a draft qualification to address this issue. Please review, I welcome any comments on content or verbiage.

1. Flood Control Permit No. FC-28 is subject to operation of the inlet control structure as follows:
 - Hamlin County shall consult with the Natural Resources Conservation Service (NRCS) to obtain a Minimal Effect Determination prior to opening the inlet control structure. The control structure shall not be opened until all affected parties have signed a Minimal Effect Determination.
 - When Opdahl Slough's water surface elevation lowers to 1,694.25 feet mean sea level, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place. The control structure will remain closed until Hamlin County has gone through the Minimal Effect Determination process as listed above.

continued

- This process shall be repeated each time the inlet control structure is operated.
2. Hamlin County is responsible for operation and maintenance of the control structure.
 3. Permit No. FC-28 is subject to securing necessary easements.
 4. The Water Management Board retains jurisdiction of Flood Control Permit No. FC-28 in the event that additional information shows that this project causes adverse downstream impacts.
-

Please provide any comments by December 15th. After incorporating any changes, we will schedule the flood control permit for consideration by the Water Management Board.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Eric Gronlund
Water Rights Program
(605) 773-3352

- c: John Lentz, NRCS, PO Box 165, Hayti SD 57241
Tom Tornow, US Fish and Wildlife Service, PO Box 48, Madison SD 57042
Leslie Petersen, Water Permit Coordinator, SD G,F&P, 523 E. Capitol Ave., Pierre SD



United States
Department of
Agriculture

Natural
Resources
Conservation
Service

North Hwy 21, Box 165
Hayti, SD 57241
Phone: (605) 783-3611 Ext 3
Fax: (605) 783-3412

November 27, 2000

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182



Mr. Gronlund:

This letter is in response to the letter you sent Mr. Saathoff on November 15, 2000 in regards to the Opdahl Slough flood control permit. After reviewing the letter I feel the wording to be included in Flood Control Permit No. FC-28 will work with a few minor changes as follows:

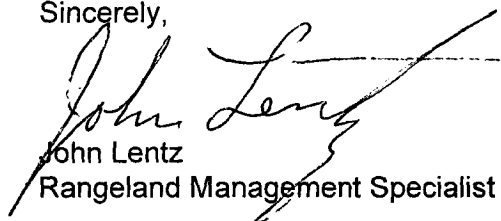
Hamlin County shall consult with the Natural Resources Conservation Service (NRCS) to obtain a Minimal Effect Determination prior to opening the inlet control structure. The control structure shall not be opened until all affected parties have signed a new Minimal Effect Agreement. Affected parties include US Fish and Wildlife Service, SD Game, Fish, and Parks Department, all landowners with property adjacent to Opdahl Slough, all downstream landowners adjacent to the stream between the pipe outlet and Lake Marsh, Natural Resources Conservation Service, Hamlin County Conservation District, SD Department of Environment and Natural Resources, and the Hamlin County Drainage Board. Failure to obtain the Minimal Effect Determination would result in a converted wetland determination and would make all landowners adjacent to Opdahl Slough ineligible to receive any USDA benefits.

When Opdahl Slough's water surface elevation lowers to 1,694.25 feet mean sea level, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place. The control structure will remain closed until Hamlin County has gone through the Minimal Effect Determination process as listed above. Should the inlet structure be illegally tampered with and the inlet opened, the Hamlin County Commissioners are responsible for closing and securing the inlet within 48 hours of notification by the Natural Resources Conservation Service. Failure to complete this action will cause the converted wetland determination to be initiated.

This process shall be repeated each time the the inlet control structure is operated. The opening and time of operation will be dependent on the Minimal Effect Determination Agreement that will be drafted according to the USDA regulations in place at the time. The structure under no circumstances will be allowed to operate for more than 12 months.

The United States Department of Agriculture assumes no liability under this agreement and is acting only under the jurisdiction set forth under the 1985 Food Security Act as Amended. All other federal, state, and local permits must be applied for by Hamlin County.

Sincerely,



John Lentz
Rangeland Management Specialist

CC: Tom Tornow, USFWS

Larry Saathoff, Hamlin County Highway Department

David Beitelspacher, Hamlin County Farm Service Agency



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Madison Wetland Management District
On Hwy. 19, 3/4 Mile South of Hwy 34 Junction
P.O. Box 48, Madison, SD 57042
Telephone: (605) 256-2974
Fax (605) 256-9432
Email Address R6RW_MDW@FWS.GOV



December 1, 2000

Eric Gronlund
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Mr. Gronlund:

This letter is in response to the letter you sent Mr. Saathoff on November 15, 2000 in regards to the Opdahl Slough outlet structure. If the Flood Control Permit No. FC-28 is necessary, the current proposed verbiage sounds similar to the guidelines required by the County drainage boards for issuance of emergency temporary drainage permits with the exception that the Water Management Board retains jurisdiction. I think this proposal, with a little adjustment to the wording, should adequately address the concerns of all parties.

As to the wording in the operation of Flood Control Permit FC-28, I do not feel comfortable with temporary drainage procedures being initiated through a Minimal Effect Determination. As we all know, Farm Bills change every 5 to 7 years, and most recently the whole Minimal Effect process went through an overhaul. I think the most consistent approach is to stay with the emergency provisions of the State Drainage Law(SDCL 46A-10A-15) and the procedures for counties to issue emergency temporary drainage permits. This procedure could be the same as you listed but in 1. paragraph one state:

In the event that water levels should raise again creating unsafe travel conditions on Hamlin County Road J; Hamlin County shall consult with all affected parties, to include all landowners with property on Opdahl Slough and all downstream landowners on the flowage to Lake Marsh, and all other parties of jurisdiction such as SD DENR, USDA, Army Corp of Engineers(OR just list all government parties that have been involved to date). Consultation shall be by certified letter or by notice to each party to attend County hearing.

Paragraph two state:

In order to protect the public general welfare, Hamlin County may adopt emergency drainage procedures through this consultation process to allow the lowering of Opdahl Slough water levels to an elevation of 1694.25 MSL for a period not to exceed 12 months after which time the structure will be securely closed. This process shall be repeated each time an emergency condition exists for travel on County Road J.

2. Hamlin County is responsible for operation, maintenance, and the security of the water control structure.

Lines 3. And 4. are OK.

Thank you for allowing comment and clarifying a procedure to the benefit of all the parties involved with the water levels of Opdahl Slough.

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

Sincerely,

Thomas R. Tornow

Thomas R. Tornow
Refuge Manager

cc: John Lentz, NRCS
Larry Saathoff, Hamlin Co. Rd. Supt.
Leslie Petersen, SD GF&P



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



December 8, 2000

Eric Gronlund
Department of Environment and Natural Resources
523 East Capitol Ave- Foss Building
Pierre, SD 57501

Re: Hamlin County outlet structure- pending flood control permit

Dear Eric:

This letter is in response to the letter dated November 15, 2000 that was sent to Mr. Larry Saathoff regarding the Opdahl Slough flood control permit. After the review of the letter, we feel that the wording of Flood Control Permit No. FC-28 will be adequate with a few minor changes.

When Opdahl Slough's surface water elevation lowers to 1,694.25 fmsl, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place. The control structure shall remain closed until Hamlin County has gone through the Minimal Effect Determination process as listed below. This operational process shall be repeated each time there is an emergency situation pertaining to travel on County Road J.

If the opening of the inlet control structure is necessary, Hamlin County shall consult with the Natural Resources Conservation Service (NRCS) to obtain a Minimal Effect Determination prior to the opening of the structure. The structure should not be opened until all affected parties have signed the agreement. The affected parties may include the US Fish and Wildlife Service, SD Department of Game, Fish and Parks, landowners with property adjacent to Opdahl Slough, NRCS, downstream landowners adjacent to the stream between the pipe outlet and Lake Marsh, the Hamlin County Conservation District, SD Department of Environment and Natural Resources, and the Hamlin County Drainage Board.

If illegal tampering of the control structure happens to occur, it is the responsibility of Hamlin County to securely close the inlet within 48 hours of notification by the NRCS.

Under no circumstances should the inlet structure be operational for more than twelve consecutive months.

Thank you for the opportunity to provide comments on this project.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Petersen".

Leslie Petersen

Aquatic Resource Coordinator

CC: John Lentz; NRCS; N Hwy 21, Box 165; Hayti, SD 57241
Tom Tornow; USFWS; PO Box 48; Madison, SD 57042
Larry Saathoff; Hamlin County Highway Supt.; PO Box 297; Hayti, SD 57241



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL PERMIT
APPLICATION NO. FC-28, Hamlin County**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Flood Control Permit Application No. FC-28, Hamlin County, c/o Larry Saathoff, Hamlin County Highway Superintendent, PO Box 297, Hayti SD 57241.

The Chief Engineer is recommending APPROVAL of Application No. FC-28 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or the severity of flood damages downstream, 3) necessary easements will be obtained, 4) will not impair existing water rights, and 5) it is in the public interest with the following qualifications:

1. Hamlin County shall consult with all affected parties in the event that water levels raise creating unsafe travel conditions on Hamlin County Road J. The control structure shall not be opened until all affected parties have signed consenting to the opening of the outlet structure. Affected parties include all landowners with property adjacent to Opdahl Slough, downstream landowners on the flowage to Lake Marsh, USFWS, NRCS, SDGFP, SDDENR, the Hamlin County Conservation District, and the Hamlin County Drainage Board.

When Opdahl Slough's water surface elevation lowers to 1,694.25 feet mean sea level, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place.

2. The control structure shall not be opened for more than twelve (12) consecutive months.
3. The control structure will remain closed until Hamlin County has gone through the process as listed above. The process set forth in Qualification No. 1 shall be repeated each time the water levels raise again creating unsafe travel conditions on Hamlin County Road J.
4. Hamlin County is responsible for operation, maintenance and security of the water control structure. Should the inlet structure be illegally tampered with and the inlet opened, Hamlin County shall securely close the inlet within 48 hours of notification by the Natural Resource Conservation Service.
5. Flood Control Permit No. FC-28 is subject to securing necessary easements.
6. The Water Management Board retains jurisdiction of Flood Control Permit No. FC-28 in the event that additional information shows that this project causes adverse downstream impacts.

Garland Erbele, Chief Engineer
January 31, 2001

REPORT ON FLOOD CONTROL APPLICATION No. FC-28

Hamlin County

March 31, 1999

Flood Control Application No. FC-28 has been filed by Hamlin County to construct a pipeline outlet for Opdahl Slough. Hamlin County proposes to install approximately 6500 feet of buried 18 inch diameter pipe to lower the water level of Opdahl Slough to alleviate flooding of three area roads. The pipeline inlet will be constructed at elevation 1694.25 feet mean sea level (fmsl) and will be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3-T114N-R54W. The pipeline outlet will be constructed at elevation 1689.05 and will be located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 15-T114N-R54W. The water will discharge to an unnamed tributary creek, which flows into Lake Marsh.

Project Description

Opdahl Slough is located in central Hamlin County about five miles northwest of Hayti and has a drainage area of approximately 4.4 square miles. It normally has a surface area of approximately 500 acres with a water level at 1693 fmsl. Due to the recent high precipitation and runoff, the water level at times has been as high as 1697 fmsl with a surface area of approximately 815 acres. The natural outlet elevation for Opdahl Slough is at approximately 1708 fmsl. Opdahl Slough would have a surface area of approximately 1650 acres at elevation 1708 fmsl. The increased water level and flooding has inundated County Road J, which is a north-south road along the west edge of Opdahl Slough, by as much as 20 inches.

Hamlin County has considered several options. These options varied from doing nothing; to constructing similar pipeline options in different directions, with the water still draining into Lake Marsh; to raising the road grade on County Road J. The proposed option was selected over the other pipeline options due to cost and possible impacts to existing flooded areas. The road grade raise would cost approximately \$300,385 compared to the \$134,000 cost for the proposed pipeline.

Lake Marsh has a drainage area of over 150 square miles. This includes the drainage area for Opdahl Slough and several other areas that have previously been ditched into Lake Marsh. The current water level of Lake Marsh is at approximately elevation 1674 fmsl, with a surface area of approximately 2800 acres. The controlling outlet structure for Lake Marsh is three 48 inch diameter CMP conduits under an abandoned railroad grade in Hayti.

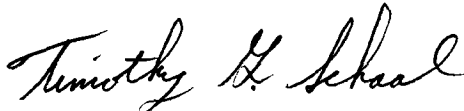
The drainage area for the unnamed tributary above the pipeline outlet would be approximately 48 square miles. A 25-year frequency event for this drainage would produce a peak of approximately 1154 cfs. The 6500 feet of 18 inch pipe from Opdahl Slough would add only 12 cfs to this flow or about 0.02 feet to the water surface profile of the tributary. Comparing the water surface areas for Opdahl Slough and Lake Marsh, the 2.75 feet (elevation 1697 to 1694.25) from Opdahl Slough would only add several inches of water to Lake Marsh, which has been as high as elevation 1680 fmsl with a surface area of approximately 3500 acres. Considering that

this water will not be released instantaneously, the drainage areas and the size of the Lake Marsh outlet, the proposed project should have little effect on the surface area of Lake Marsh.

The Hamlin County Commission also acts as the County Drainage Board. The County Highway Superintendent will be in charge of the operation of the gate structure on the Opdahl Slough outlet. The gate will be opened when the water level reaches elevation 1695 fmsl.

Conclusions

1. The Opdahl Slough outlet structure will reduce flooding to upstream roads resulting in increased public safety. It will reduce costly flood damage to County and Township roads.
2. Flood Control Permit Application No. FC-28 should be approved since the project will reduce damage from flooding or erosion, will not increase the likelihood or the severity of flood damages in areas other than the project area, and will not impair existing water rights.
3. The County will need to obtain easements from the landowners whose property the pipeline crosses.



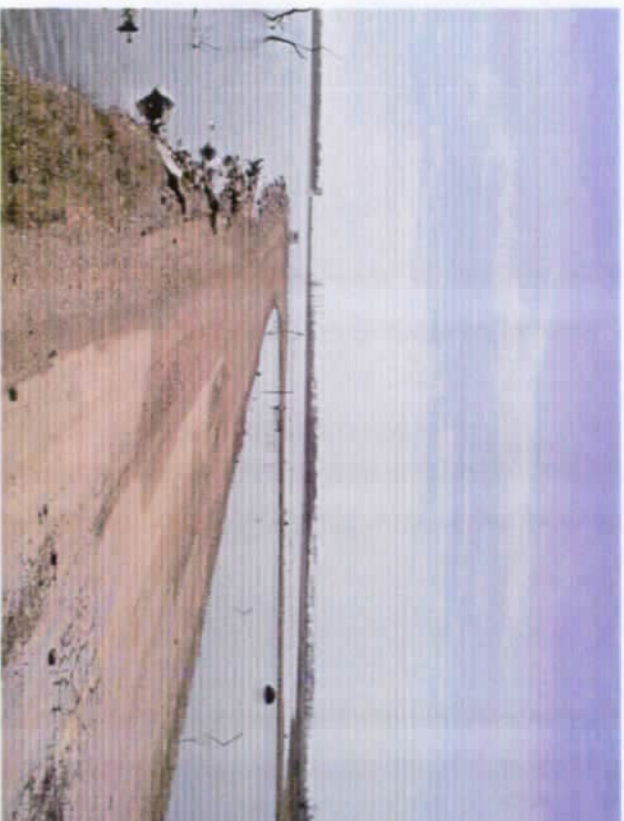
Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program

Approved by:



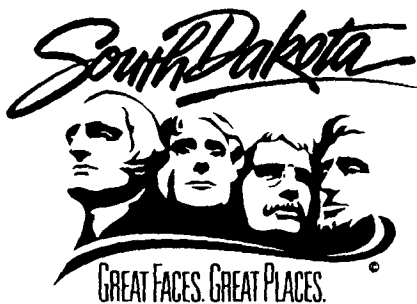
Gale N. Selken, P.E.
Natural Resources Engineer IV
Water Rights Program

Opdahl Slough--North/South County Road west side of slough looking north



Opdahl Slough NW corner looking south

Lake Marsh outlet looking west



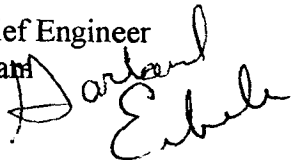
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 1, 2001

NOTICE

TO: Larry Saathoff
Hamlin County Highway Superintendent
P.O. Box 297
Hayti SD 57241
and Parties of Record (see attached list)

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

SUBJECT: Scheduling of Water Management Board hearing on Flood Control Permit Application No. FC-28, Hamlin County

The Water Management Board will consider Hamlin County's Flood Control Permit Application No. FC-28 at 8:45 AM on March 7, 2001 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

Enclosed is the Chief Engineer's revised recommendation on this application. This revised recommendation was developed through consultation with the SD Department of Game, Fish and Parks, US Fish and Wildlife Service and the Natural Resource Conservation Service.

The Water Management Board continued this application on May 5, 1999, and Hamlin County proceeded with temporary emergency facilities under county drainage law to lower Opdahl Slough. However, emergency flood control measures are limited to six months with an opportunity to renew for one additional period of six months. A flood control permit is now needed because Hamlin County intends for the pipeline to remain operation with control structure installed. This project establishes a new outlet for Opdahl Slough.

Applicable provisions of the notice of hearing published April 7 and 14, 1999 in the Hamlin County Herald Enterprise will still apply at the March 7th hearing.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General
Rodney DeJong, Aason Engineering
Dixie Opdahl, Hamlin County Auditor
John Lentz, NRCS, Box 165, Hayti SD 57241

PARTIES OF RECORD

FLOOD CONTROL PERMIT APPLICATION NO. FC-28, Hamlin County

APPLICANT

Hamlin County
c/o Larry Saathoff
Hamlin County Highway Superintendent
P.O. Box 297
Hayti SD 57241

PETITIONERS

James and Suzanne Johnson
407 2nd Street
P.O. Box 286
Hayti SD 57241-0286

Thomas R. Tornow
U.S. Fish and Wildlife Service
P.O. Box 48
Madison SD 57042

Leslie Petersen, Water Permits Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 E. Capitol
Pierre SD 57501-3182

CERTIFICATION

I hereby certify that on February 1, 2001 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 1, 2001 regarding Scheduling of Hearing on Water Right Permit Application #6228-3, Goodwin Heritage Cattle LLC addressed as stated below:

Hamlin County

% Larry Saathoff

Hamlin County Highway Superintendent

PO Box 297

Hayti, SD 57241

James & Suzanne Johnson

407 2nd Street

PO Box 286

Hayti, SD 57241-0286

Dixie Opdahl

Hamlin County Auditor

PO Box 237

Hayti, SD 57241

John Lentz

HRCS

Box 165

Hayti, SD 57241

Thomas R Tornow

US Fish & Wildlife Service

PO Box 48

Madison, SD 57042

Rodney De Jong

Aason Engineering Company Inc.

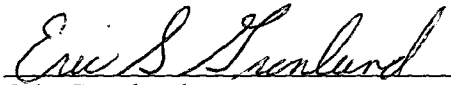
1022 Sixth Street SE

Watertown SD 57201

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building

Leslie Petersen, Water Permits Coordinator, Game Fish & Parks, Foss Building



Eric Gronlund

Natural Resource Engineer

Water Rights

STATE OF SOUTH DAKOTA)

) SS

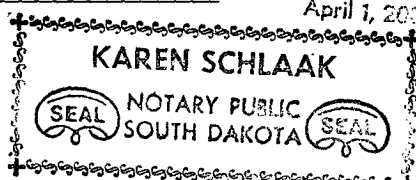
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of February, 2000.



Karen Schlaak
Notary Public

KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 04 2001

Larry Saathoff
Hamlin County Highway Superintendent
PO Box 297
Hayti SD 57241

Dear Mr. Saathoff:

Enclosed is Flood Control Permit No. FC-28 as approved by the Water Management Board and receipt for the \$200.00 filing fee.

If you have any questions pertaining to the permit, please contact this office.

Sincerely,

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

enclosures

**United States Department of Agriculture
Natural Resources Conservation Service
P.O. Box 165, Suite 300 Hwy 28
Hayti, SD 57241-0165
(605) 783-3611**

**RECEIVED
MAY 23 2002
WATER RIGHTS
PROGRAM**

Minimal Effect Agreement

This agreement is to stipulate the conditions which must be created and maintained in order to receive a "Minimal Effect" determination. Such determinations will allow temporary drainage to lower a wetland area. The drainage will occur on Opdahl Slough located in Hamlin County. This drainage will be used to lower the water level of a wetland area and prevent continued flooding of the adjacent road.

By signing below, you are agreeing to the terms set forth and understand that any actions taken which will diminish the value of the wetland will result in the loss of the minimal effect determination. You are also agreeing that NRCS officials have the right to access the wetland area involved and monitor whether the conditions are being properly maintained to the satisfaction of the United States Department of Agriculture.

TERMS:

1. The purpose of this agreement is to temporarily lower the elevation of Opdahl Slough to 1694.25' mean sea level thereby restoring safe travel conditions to flooded roads. This will be accomplished by opening the existing inlet structure attached to the outlet pipe.
2. The drainage will be used only on a TEMPORARY basis, not to exceed 6 months (Approximately April 15, 2002 – October 15, 2002).
3. The County Highway Superintendent will notify NRCS in writing when the inlet is opened and again when it is closed.
4. If this activity permanently damages the wetland, it will be considered a converted wetland (CW+Yr). This would make all owner/operators of land in or adjacent to the wetland ineligible for USDA benefits.
5. The Natural Resources Conservation Service assumes no liability for actions completed on the land. This agreement is not a drainage permit! NRCS approval of these activities is only as it concurs with the Swampbuster provisions of the Farm Bill. All Federal, State, and local drainage laws must be adhered to by the county and landowners involved. Make sure all permits are obtained from the SD Department of Environment and Natural Resources, US Army Corps of Engineers, and the US Fish and Wildlife Service.
6. This agreement will not be in effect and no drainage is allowed until all of the following parties have read and signed this document.

SIGNATURES: SEE ATTACHED PAGES

Myron M. Carlson
COUNTY DRAINAGE BOARD

Perry Seethoff
HAMLIN COUNTY HIGHWAY SUPT.

Thomas R. Tornow
US FISH AND WILDLIFE SERVICE

Douglas P. Albrie - Regional Supervisor
SD GAME, FISH, AND PARKS

HAMLIN CONSERVATION DISTRICT

Harold Enbich
SD DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

Milton Lakness
MILTON LAKNESS

Popham & Popham Jr
POPHAM & POPHAM JR OPERATION

Wayne Thue
WAYNE THUE

David Leiseth
DAVID LEISETH

Dale Everson
DALE EVERSON

Benita Lakness
BENITA LAKNESS

Dennis Holt
DENNIS HOLT

By Perry Seethoff,
as for Phone Call

7:06 AM 4/11/02

Removed due to letter
dated 5/20/02: John Lent 5/21/02

~~RANDY FREDERICK~~

Scott Popham
SCOTT POPHAM

Mike Popham
MICHAEL POPHAM

Tony Opdahl
TONY OPDAHL

Charles Danielson by Clayton Larson
CHARLES DANIELSON

Clayton Larson
CLAYTON LARSON

Charlotte Larson
CHARLOTTE LARSON

Michael Prouty
MICHAEL PROUTY

Duane Stevenson
DUANE STEVENSON

Matt Stevenson
MATT STEVENSON

Randy and Cindy Frederick

18806 446th Ave.

Hayti, SD 57241

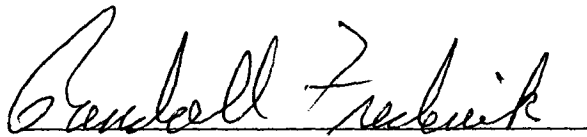
Phone/Fax: 605-783-3710

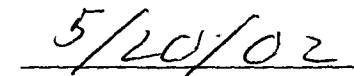
rfred@tnics.net

May 20, 2002

To whom it may concern:

I give my permission for water to be drained from Opdahl Slough across my property from this date until July 1, 2003.


Signature


Date

FC28-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

JUL 06 2023

Hamlin County
c/o Larry Saathoff
PO Box 297
Hayti SD 57241

(FC28-3)
FC-28

Dear Mr. Saathoff:

Enclosed is Water License No. FC-28. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. FC-28 (FC28-3)

(1) Hamlin County; c/o Larry Saathhoff, Hamlin County Highway Superintendent, PO Box 297, Hayti SD 57241, made Application No. FC-28, March 17, 1999, for a water permit to authorize the construction of an outlet structure for Opdahl Slough, Hamlin County, South Dakota. Permit No. FC-28 was approved March 7, 2001, for the purpose installing a buried pipeline to lower the water level of Opdahl Slough and alleviate flooding to protect three (3) area roads.

The Water Management Board determined the pipeline's inlet to be 1,694.25 feet mean seal level (fmsl) and the pipeline's outlet is to be 1,689.05 fmsl. Water discharged from the outlet will flow into a tributary creek of Lake Marsh.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the flood control project. The location of the structure is:

- The pipeline passes through portions of Section 10 and the NE ¼ of Section 15 with inlets in the SE ¼ SE ¼ of Section 3 and NE ¼ NE ¼ of Section 10 and an outlet in the W ½ NE ¼ of Section 15, all within T114N R54W.
- Outlet: Latitude 44.70261 Longitude -97.29071

(3) Pursuant to South Dakota Water Law 46-5-30.1 Hamlin County, the holder and/or owner of Water Right No. FC-28 is issued a license for flood control purposes. FC-28 carries a priority date of March 17, 1999.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. FC-28 and subject to the following qualifications:

1. Hamlin County shall consult all affected parties in the event that water levels raise creating unsafe travel conditions on Hamlin County Road J. The control structures shall not be opened until all affected parties have signed consenting to the opening of the outlet structure. Affected parties include all landowners with property adjacent to Opdahl Slough, downstream landowners on the flowage to Lake Marsh, USFWS, NRCS, SDGFP, SDDENR, the Hamlin County Conservation District, and the Hamlin County Drainage Board.

When Opdahl Slough's water surface elevation lowers to 1,694.25 feet mean sea level, the inlet control structure on the pipeline shall be closed with control blocks and the cover welded in place.

2. The control structure shall not be open for more than twelve (12) consecutive months.
3. The control structure will remain closed until Hamlin County has gone through the process as listed above. The process set forth in qualification No. 1 shall be repeated each time the water levels raise again creating unsafe travel conditions on Hamlin County Road J.

continued

4. Hamlin County is responsible for operation, maintenance, and security of the water control structure. Should an inlet structure be illegally tampered with the and inlet opened, Hamlin County shall securely close the inlet within 24 hours of notifications by the Natural Resource Conservation Service.
5. Flood Control Right No. FC-28 is subject to securing necessary easements.
6. The Water Management Board retains jurisdiction of Flood Control Right No. FC-28 in the event that additional information shows that this project causes adverse downstream impacts.

Eric Gronlund

Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUL 06 2023

date



Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. FC-28 FC28-3

I have this day, May 8, 2023, made a thorough examination of the water use system constructed by Hamlin County c/o Larry Saathoff, Hamlin County Superintendent, PO Box 297, Hayti, SD 57241 of Permit No. FC-28, bearing the priority of March 17, 21999 authorizing an outlet control structure for the Opdahl Slough for flood control purposes, in Hamlin County.

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

The mailing address and telephone number in the Permit materials are current.

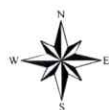
The photo of the outlet cover shows an iron plate 3 feet by 3 feet by 2 inches which is estimated to weigh about 735 lbs. Also, there appears to be some spot welds on some corners as determined by feel under the edge of the plate (could not actually see under the plate due to soil restrictions). The cover appears to be sufficient for the satisfaction of permit requirements.



Darrell W DeBoer

Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: May 9, 2023



0 0.05 0.1 0.2 0.3 0.4 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program