July 28, 2020

AGENDA

YANKTON COUNTY DRAINAGE COMMISSION

- ☐ Dan Grant
- ☐ Frank Kralicek, Jr.
- ☐ Kevin Kirschenman
- ☐ Craig Hansen
- ☐ Tom Bixler
- ☐ Cheri Loest
- ☐ David Healy
- ☐ Dylan Tacke
- ☐ Casey Kruse

7:00 P.M.

OPENING BUSINESS

1. Call Meeting to Order
2. Roll Call
3. Items to be added to Agenda
4. Approval of Agenda
5. Approve previous meeting minutes
6. Declare Conflict of Interest

7:05 P.M.

Gerald Eilers

Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as NE1/4 NE1/4 Exc LT H1 and the S1/2 NE1/4, Section 4, T95N, R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota.

7:10 P.M.

Greg Schmidt

Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as NW1/4 NE1/4 Exc LT H1 and the E1/2 NW1/4 Exc LT H1, Section 4, T95N, R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota.

7:15 P.M.

PUBLIC COMMENT

Meeting (Entity): Drainage Regular or Special Meeting: Regular
Date: 03/24/20 Time: 7 PM Location: Commission Chambers
DC ATTENDANCE: ☐DUMMER ☒KRALICEK ☐KIRSCHENMAN ☒HANSEN ☒BIXLER ☒LOEST ☐HEALY ☒GUNDERSON ☐KRUSE
STAFF ATTENDANCE: Atkinson, Vetter
APPROVAL OF MINUTES: MOTION BY: KRALICEK SECOND BY: LOEST
DRAINAGE: ☒KRALICEK ☒HANSEN ☒BIXLER ☒LOEST ☒GUNDERSON

MOTION TO APPROVE WITH CORRECTION OF ADDING CHECKMARKS TO BOXES UNDER APPROVAL OF AGENDA

APPROVAL OF AGENDA: MOTION BY: LOEST SECOND BY: BIXLER
DRAINAGE: ☒KRALICEK ☒HANSEN ☒BIXLER ☒LOEST ☒GUNDERSON
NO CONFLICT OF INTEREST

AGENDA ITEM: Zane Williams
ADDRESS/LEGAL: NE4 NE4 SECTION 7-95-54
COMMENTS: APPLICANT IS REQUESTING A DRAINAGE PERMIT TO INSTALL DRAIN TILE TO A DITCH ON APPLICANT'S PROPERTY WHICH EMPTIES INTO A BLUE LINE ON NEIGHBORING PROPERTY
3.09 AND 3.10 CRITERIA MET

MOTION: MOTION TO APPROVE ZANE WILLIAMS PERMIT

APPROVAL: MOTION BY: KRALICEK SECOND BY: BIXLER
DRAINAGE: ☒KRALICEK ☒HANSEN ☒BIXLER ☒LOEST ☒GUNDERSON

AGENDA ITEM: Adjourn
APPROVAL: MOTION BY: KRALICEK SECOND BY:
DRAINAGE: ☒KRALICEK ☒HANSEN ☒BIXLER ☒LOEST ☒GUNDERSON

Yankton County Drainage Commission
Yankton County Drainage Board

Applicant: **Gerald Eilers**

Drainage type:

☐ Lower Landowners ☐ Statewide / Intercounty
☐ Emergency Drainage ☐ Waive Permit ☐ Roadways

Section:

☒ Section 3.05 ☐ Section 3.06 ☐ Section 3.07 ☐ Section 3.09
☐ Section 5.09
0 Section 3.10 ☐ Section 3.11 ☐ Section 3.12 ☐ Section 3.13

Outlet size: 8"

Total feet of tile: 25800 ft

Waiver Required: YES

Township / County ROW Approval: No

Watercourse depth and grade: depth greater than two (2) feet and grade greater than .3%

☐ Appeal of Drainage Administrator

☐ Section 5.01 ☐ Section 5.02 ☐ Section 5.03 ☐ Section 5.04

DC: Article III, Section 3.05

Drainage Commission date: 07/28/20 Time: 7:05 P.M.

YANKTON COUNTY
DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

Applicant to complete numbered spaces only.

1. Job Address	SW of Intersection of 437 Ave & Hwy 46				
2. Legal Description of Drainage Site	E½ & SW¼ of the NE¼ of 95-56-4				
3. Owner	Mail Address		Zip	Phone	
Gerald Eilers	43724 SD Hwy 46	Utica	SD 57067	364 7472	
4. Contractor	Mail Address		Zip	Phone	
Gridline	25443 413th Ave	Mitchell	SD 57301	680 2900	

5. Feet of drainage pipe and outlet size
25800 ft pipe 8" outlet

6. Class of Work (Check One) ■ New ☐ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove

7. Describe Work: Installation of drain tile

8. Valuation of Work: $ 35000

Owner

Job Address

For Official Use Only-

SPECIAL CONDITIONS: _____

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:

PERMIT FEE 100 **Check #** 5331

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED EIGHTEEN (18) MONTHS OF ISSUANCE.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY DRAINAGE ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING DRAINAGE ACTIVITIES OR THE USE OF ANY PROPERTY.

Gerald Eilers 7-14-2020

Signature of Contractor or Authorized Agent — Date

Signature of Owner (if owner builder) — Date

BY THIS SIGNATURE, THE DRAINAGE ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

Type of Construction	☐ Blue Line Outlet
Total Feet of Pipe	☐ Drainage Ditch Outlet
Outlet Size	☐ Lake / Pond / Wetland Outlet
☐ Administrative Permit	☐ Drainage Board Permit

For County Officials Use Only

When properly validated (in this space), this is your permit.

The above application is hereby approved.

Drainage Permit Number: DP-20013

Post Construction? Y – N

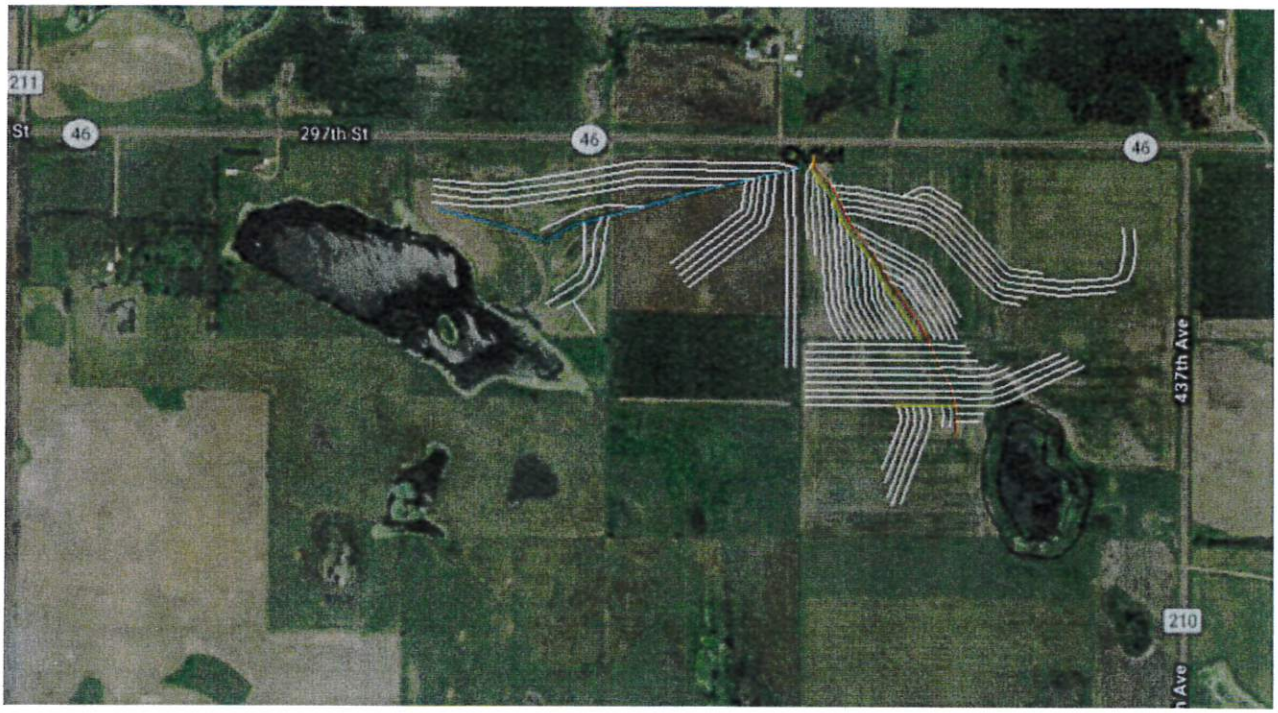
Drainage Administrator or Authorized Representative — Date

DRAINAGE COMMISSION

SECTION 3.09 EVALUATION OF PERMIT APPLICATIONS	
1. THE FLOW OR QUANTITY OF WATER TO BE DRAINED WILL NOT OVERBURDEN THE WATER COURSE INTO WHICH THE WATER WILL BE DRAINED.	
2. THE DRAINAGE WILL NOT FLOOD OR ADVERSELY AFFECT THE LAND OF THE LOWER PROPRIETORS, OR IN THE CASE OF AN IMPEDIMENT TO DRAINAGE WHETHER SUCH AN IMPEDIMENT WILL NOT FLOOD OR ADVERSELY AFFECT UPSTREAM LAND OWNERS (SEE SECTION 3.10)	
3. EASEMENTS WILL BE GRANTED WHERE REQUIRED.	
4. THE DRAINAGE WILL NOT NEGATIVELY AFFECT AGRICULTURAL PRODUCTIVITY.	
5. THE LAND AFFECTED OR THE LAND DRAINED IS AND WILL REMAIN RURAL IN CHARACTER.	
6. WHEN THE LAND TO BE DRAINED IS RURAL LAND, THE PRESUMPTION AND FACTORS SET FORTH IN SDCL 46A-10A-20 WILL BE SATISFIED.	
7. ADEQUATE PRECAUTIONS HAVE BEEN TAKEN TO ENSURE THAT ROADWAYS WILL NOT BE NEGATIVELY IMPACTED.	
8. RECOMMENDATIONS FROM THE DRAINAGE COMMISSION IN THE "FINDINGS OF FACT".	
9. SUCH OTHER FACTORS THE DRAINAGE BOARD DETERMINES TO BE PERTINENT TO THE APPLICATION.	
SECTION 3.10 CRITERIA TO DETERMINE WHETHER DRAINAGE WILL ADVERSELY AFFECT LANDS OF LOWER LANDWONERS	
1. DRAINAGE INTO RECEIVING WATERCOURSES WHICH DO NOT HAVE SUFFICIENT CAPACITY TO HANDLE THE ADDITIONAL FLOW AND QUANTITY OF WATER SHALL BE CONSIDERED TO HAVE AN ADVERSE EFFECT. THE APPLICANT SHALL BE RESPONSIBLE TO PROVIDE SUFFICIENT EVIDENCE WITH THIRD PARTY VERIFICATION WHEN REQUESTED BY THE DRAINAGE COMMISSION OR THE DRAINAGE BOARD.	
2. WHETHER DRAINAGE IS ACCOMPLISHED BY REASONABLY IMPROVING AND AIDING THE NORMAL AND NATURAL SYSTEM OF DRAINAGE ACCORDING TO ITS REASONABLE CARRYING CAPACITY, OR IN THE ABSENCE OF A PRACTICAL NATURAL DRAIN, A REASONABLE ARTIFICIAL DRAIN SYSTEM IS ADOPTED.	
3. THE AMOUNT OF WATER PROPOSED TO BE DRAINED.	
4. THE DESIGN AND OTHER PHYSICAL ASPECTS OF THE DRAIN.	
5. THE IMPACT OF SUSTAINED FLOWS.	
6. RECOMMENDAITONS FROM THE DRAINAGE COMMISSION IN THE "FINDINGS OF FACT".	

GRIDLINE
FIELD TILE INSTALLATION

Eilers & Schmidt – 4 - 95N 56W – Tile Map Estimate – 3/27/2020

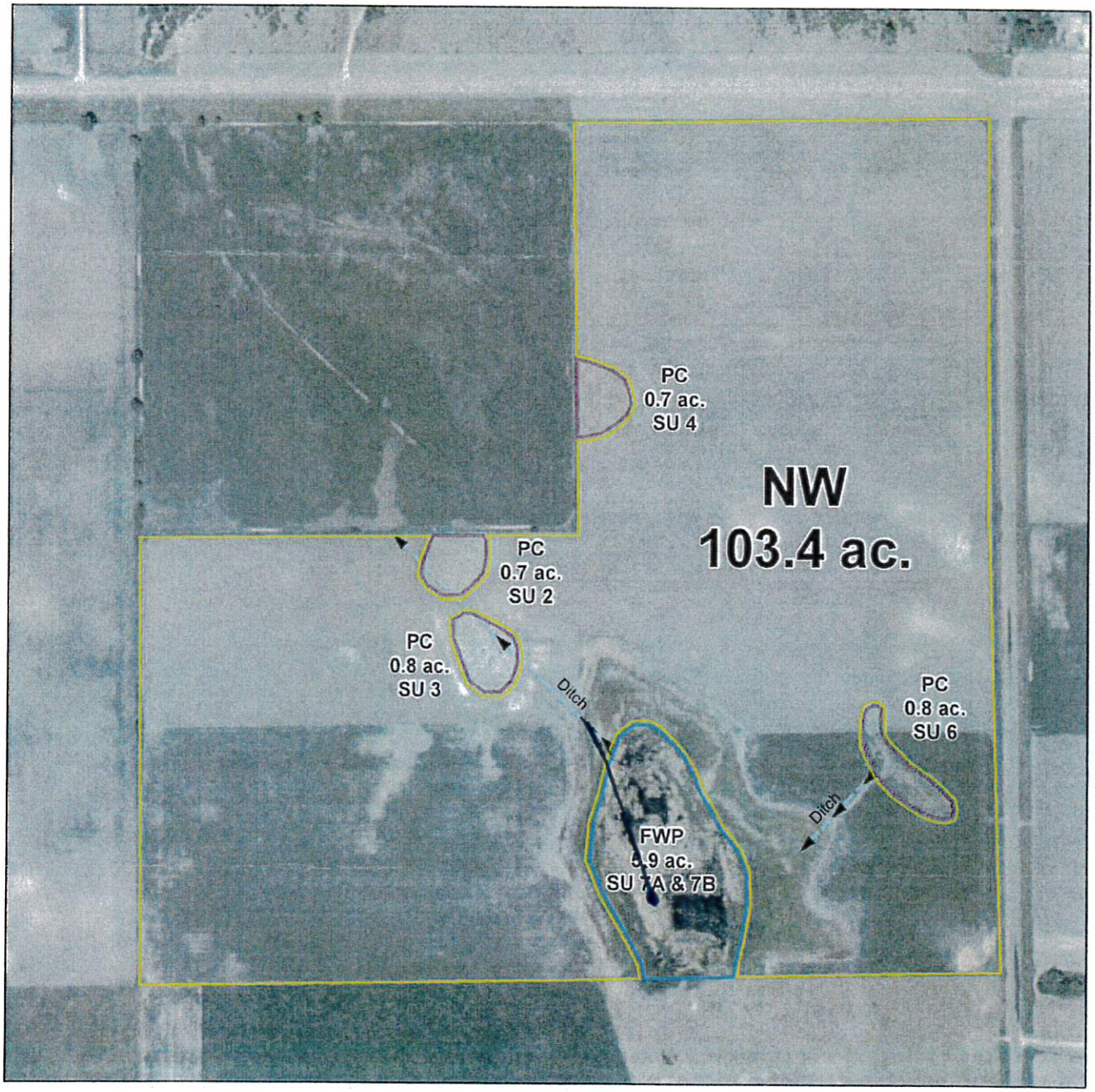


4 in	61135 ft
6 in	1870 ft
8 in	2129 ft
10 in	2669 ft

Certified Wetland Determination

Field Office: Yankton FO
Certified By: B. Stemper
Legal Description: NE4NE4 & S2NE4 4-95-56

Agency: USDA-NRCS
Certified Date: 8/29/2019
Tract: 5732



0 345 690 1,380 2,070 2,760 Feet

Legend

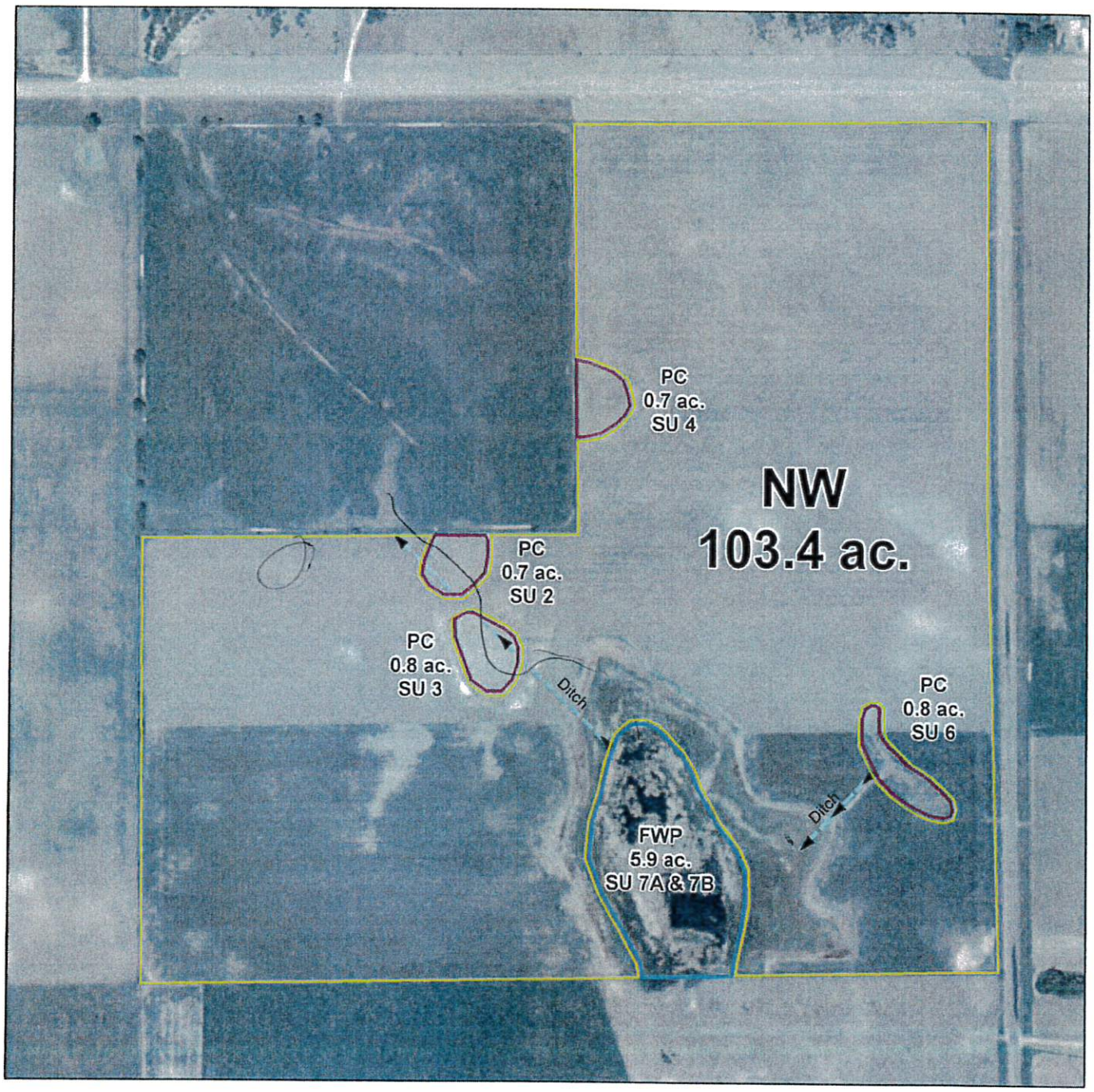
PC NW
FWP Ditch

W Wetland
FW Farmed Wetland drained or modified & cropped prior to 12-23-1985, but still meets wetland critieria
PC Prior Converted
NW Non Wetland
See NRCS CPA-026E for definitions and additional info.

Certified Wetland Determination

Field Office: Yankton FO
Certified By: B. Stemper
Legal Description: NE4NE4 & S2NE4 4-95-56

Agency: USDA-NRCS
Certified Date: 8/29/2019
Tract: 5732



0 345 690 1,380 2,070 2,760 Feet

Legend

PC NW
FWP Ditch

W Wetland
FW Farmed Wetland drained or modified & cropped prior to 12-23-1985, but still meets wetland critieria
PC Prior Converted
NW Non Wetland
See NRCS CPA-026E for definitions and additional info.

USDA United States Department of Agriculture

Natural Resources Conservation Service

NRCS-CPA-26E
9/2012

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Gerald Eilers 43724 SD Hwy 46 Utica, SD 57067	Request Date:	6/24/19	County:	Yankton
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	5732	FSA Farm No:	4382

Section I - Highly Erodible Land

	(Y/N)
Is a soil survey now available for making a highly erodible land determination?	
Are there highly erodible soil map units on this farm?	

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust(Y/N)	Acres	Determination Date

The Highly Erodible Land determination was completed in the

Section II - Wetlands

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
5,6,	NW		103.4	8/29/19	8/29/19
6,	PC		3.0	8/29/19	8/29/19
5,6,	FWP		5.9	8/29/19	8/29/19

The wetland determination was completed in the ____ It was mailed to the person on 8/30/2019

Remarks:

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature Designated Conservationist	Date
	8/30/2019

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

This form is available electronically.

AD-1026
(10-30-14)

(See Page 2 for Privacy Act and Paperwork Reduction Act Statements)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

HIGHLY ERODIBLE LAND CONSERVATION (HELC) AND WETLAND CONSERVATION (WC) CERTIFICATION

Read attached AD-1026 Appendix before completing form.

PART A – BASIC INFORMATION

1. Name of Producer	2. Tax Identification Number *(Last 4 digits)*	3. Crop Year
GERALD EILERS	0138	2019

4. Names of affiliated persons with farming interests. *Enter "None," if applicable.*
NONE

Affiliated persons with farming interests must also file an AD-1026. See item 7 in the Appendix for a definition of an affiliated person.

5. Check one of these boxes if the statement applies; otherwise continue to Part B.

A. ☐ The producer in Part A does not have interest in land devoted to agriculture. Examples include bee keepers who place their hives on another person's land, producers of crops grown in greenhouses, and producers of aquaculture AND these producers do not own/lease any agricultural land themselves. **Note:** Do not check this box if the producer shares in a crop.

B. ☐ The producer in Part A meets all three of the following:
- does not participate in any USDA program that is subject to HELC and WC compliance except Federal Crop Insurance,
- only has interest in land devoted to agriculture which is exclusively used for perennial crops, except sugarcane, and
- has not converted a wetland after February 7, 2014.

Perennial crops include, but are not limited to, tree fruit, tree nuts, grapes, olives, native pasture and perennial forage. A producer that produces alfalfa should contact the Natural Resources Conservation Service at the nearest USDA Service Center to determine whether such production qualifies as production of a perennial crop.

Note: *If either box is checked, and the producer in Part A does not participate in Farm Service Agency (FSA) or Natural Resources Conservation Service (NRCS) programs, the full tax identification number of the producer must be provided, but establishment of detailed farm records with FSA is not required. Go to Part D and sign and date.*

PART B – HELC/WC COMPLIANCE QUESTIONS

Indicate YES or NO to each question. *If you are unsure of whether a HEL determination, wetland determination, or NRCS evaluation has been completed, contact your local USDA Service Center.*	YES	NO
6. During the crop year entered in Part A or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity (including sugarcane) on land for which an HEL determination has not been made?		X
7. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:		
A. Create new drainage systems, conduct land leveling, filling, dredging, land clearing, or excavation that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* 2019	X	
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* _____		X
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* _____ Note: *Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.*		X

Note: *If "YES" is checked for item 7A or 7B, then Part C must be completed to authorize NRCS to make an HELC/WC and/or certified wetland determination on the identified land. If "YES" is checked for item 7C, NRCS does not have to conduct a certified wetland determination.*

8. Check one or both boxes, if applicable; otherwise, continue to Part C or D.

A. ☐ Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the first time the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.

B. ☐ Check this box if either of the following applies to the producer and crop year entered in Part A:
- Is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request, must be completed).
- Is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request, must be completed).

PART C – ADDITIONAL INFORMATION

9. If "YES" was checked in item 6 or 7, provide the following information for the land to which the answer applies:

A. Farm and/or tract/field number: F4362M T5732
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.

B. Activity: INSTALL DRAIN TILE

C. Current land use *(specify crops)*: CROPLAND

D. County: YANKTON

PART D – CERTIFICATION OF COMPLIANCE

I have received and read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:

- all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions.
- NRCS may verify whether a HELC violation or WC has occurred.
- a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences.
- affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.

Producer's Certification:

I hereby certify that the information on this form is true and correct to the best of my knowledge.

10A. Producer's Signature *(By)*	10B. Title/Relationship *(If Signing in Representative Capacity)*	10C. Date *(MM-DD-YYYY)*
Kendall S Lee		6-24-19
FOR FSA USE ONLY *(for referral to NRCS)* Sign and date if NRCS determination is needed.	11A. Signature of FSA Representative	11B. Date *(MM-DD-YYYY)* 6-24-19

IMPORTANT: If you are unsure about the applicability of HELC and WC provisions to your land, contact your local USDA Service Center for details concerning the location of any highly erodible land or wetland and any restrictions applying to your land according to NRCS determinations before planting an agricultural commodity or performing any drainage or manipulation. Failure to certify and properly revise your compliance certification when applicable may: (1) affect your eligibility for USDA program benefits, including whether you qualify for reinstatement of benefits through the Good Faith process; and (2) result in other consequences.

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Food Security Act of 1985 (Pub. L. 99-198), and the Agricultural Act of 2014 (Pub. L. 113-79). The information will be used to certify compliance with HELC and WC provisions and to determine producer eligibility to participate in and receive benefits under programs administered by USDA agencies. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated) and USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of producer ineligibility to participate in and receive benefits under programs administered by USDA agencies.*

This information collection is exempted from the Paperwork Reduction Act as specified in the Agricultural Act of 2014 (Pub. L. 113-79, Title II, Subtitle G, Funding and Administration). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE.***

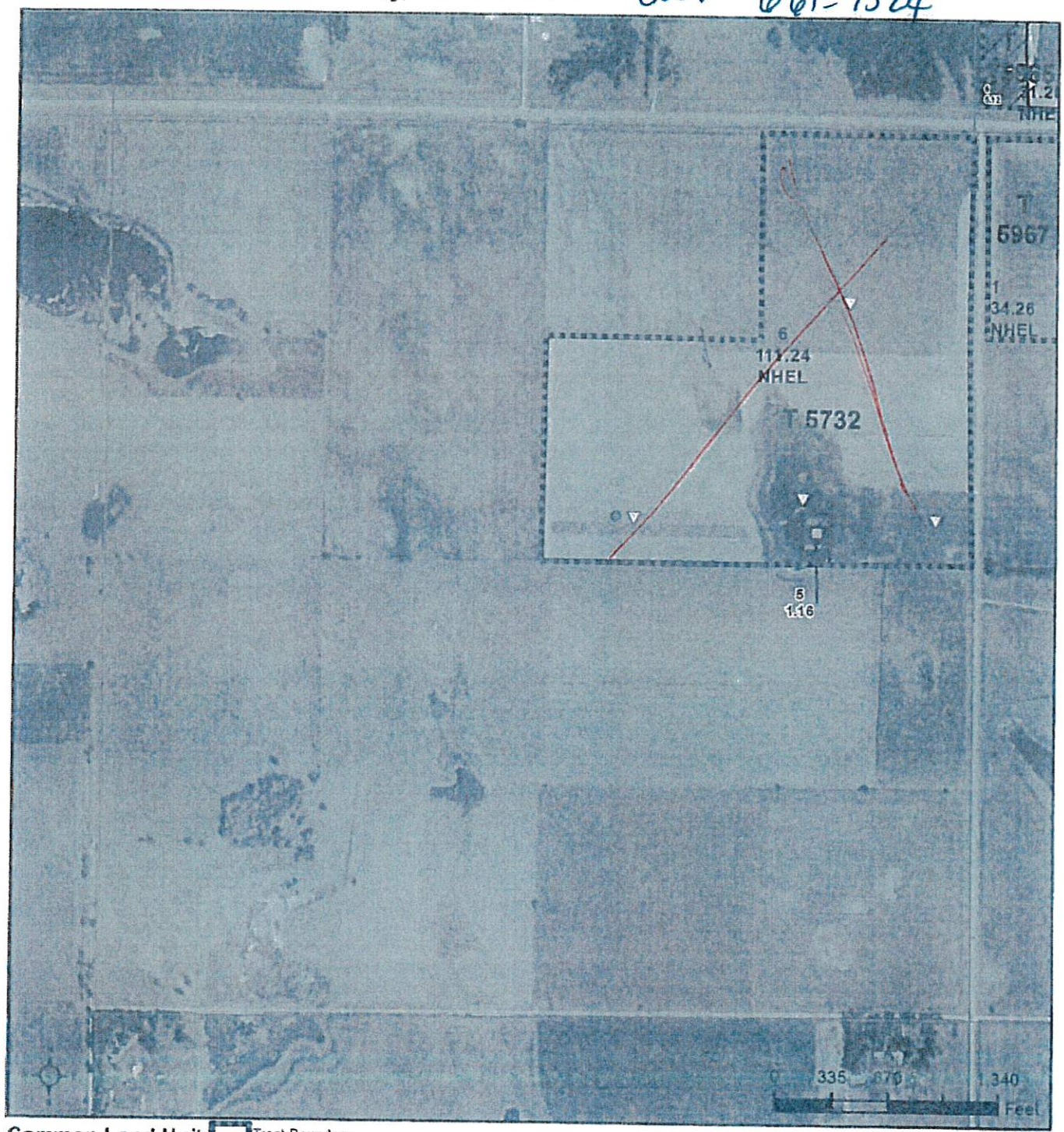
The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at ***http://www.ascr.usda.gov/complaint_filing_cust.html****, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at* ***program.intake@usda.gov****. USDA is an equal opportunity provider and employer.*

USDA United States Department of Agriculture

Yankton County, South Dakota

Carl - 661-7324



Common Land Unit Tract Boundary

Non-Cropland

Cropland

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

2019 Program Year

Map Created April 05, 2019

Farm 4382

4 -95N -56W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery The producer accepts the data 'as is' and assumes all risks associated with its use USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs Wetland identifiers do not represent the size, shape, or specific determination of the area Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS)

USDA

United States Department of Agriculture

8/29/2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Gerald Eilers
43724 SD Hwy 46
Utica, SD 57067

Dear Gerald:

As a result of your request for an evaluation of proposed wetland activity via form AD-1026, Natural Resources Conservation Service (NRCS) is issuing a preliminary certified wetland determination.

The regulations for the Wetland Conservation (WC) compliance provisions of the 1985 Food Security Act, as amended, are found at Title 7 Code of Federal Regulations (7 CFR) §12. The purposes of the provisions are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland.

The regulations describe several exemptions (7 CFR §12.5 (b)) from ineligibility and outline the NRCS involvement in implementing the WC Compliance provisions. This determination was conducted in accordance with the current federal wetland delineation procedures as found in the most current versions of the National Food Security Act Manual (NFSAM), the 1987 United States Army Corps of Engineers (USACE) Wetland Delineation Manual, Technical Report Y-87-1, the USACE Regional Supplements, and/or State Offsite Methods/Mapping Conventions.

With this letter the NRCS is issuing a **preliminary technical determination,** in accordance with the WC Compliance provisions. This preliminary technical determination was conducted by the NRCS on 8/29/19. The attached NRCS-CPA-026E, Highly Erodible Land and Wetland Conservation Determination, and map depict the wetland exemptions, referred to as "labels". The area identified other than Non-Wetland is wetland for the following reasons:

Presence of Hydrophytic Vegetation:
Hydrophytic vegetation means plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content (16 U.S.C.§3801(a)(12)).

Presence of Hydric Soils:
Hydric soil means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation (16 U.S.C.§3801(a)(13)).

Presence of Wetland Hydrology:
Wetland hydrology means inundation or saturation of the site by surface or groundwater during the growing season at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation. (7 CFR §12.2).

The wetland area(s) were evaluated for applicable exemptions and labeled accordingly.

Natural Resources Conservation Service
2914 N Broadway Ave, Yankton, South Dakota 57078
Voice: 605.665.2662 Fax: 877.487.3708
An Equal Opportunity Provider and Employer

You may appeal this preliminary technical determination in accordance with the laws and federal regulations set forth at 7 CFR §614, the NRCS Appeals Procedures, 7 CFR §780, the Food Security Act Appeals Procedures, and 7 CFR §11, the National Appeals Division (NAD) Rules of Procedure, as follows:

- **You may request a field review and reconsideration** by the NRCS in accordance with 7 CFR 614.7(b). Any request for field review and reconsideration will be conducted with you or your authorized representative present, where you will be able to present evidence that NRCS may not have previously considered. The NRCS will consider all new information.

- To request a field review and reconsideration, you must contact the NRCS, in writing, **no later than 30 days** from the date that you receive this notification at:

  Yankton Service Center
  2914 N Broadway Ave
  Yankton, SD 57078

- **If you do not request a field review, you may request mediation** of the preliminary technical determination in accordance with 7 CFR 614.7(a)(2). Mediation is completed in good faith. Parties mediating a dispute are not free to make their own law or policy and mediation is not a means to obtain a result not otherwise permissible under statue, regulations, or generally applicable agency policy and program procedures. Within these parameters, mediation of disputes can produce benefits when the mediation reveals additional relevant facts and new insights.

  To request mediation you must contact in writing **no later than 30 days** from the date that you receive this notification the office of:

  Asst State Conservationist for Compliance
  Natural Resources Conservation Service
  200 Fourth Street SW
  Huron, South Dakota 57350-2475
  Phone: (605) 352-1287
  Fax: (855) 256-2565

- **You may request a waiver of your rights** to this preliminary review and reconsideration or mediation in accordance with 7 CFR §614.7(d) if you want an immediately-final wetland technical determination by writing to the State Conservationist at:

  Jeffrey J. Zimprich
  Natural Resources Conservation Service
  200 Fourth Street SW
  Huron, South Dakota 57350-2475
  Phone: (605) 352-1200
  Fax: (855) 256-2565

If you do not select any of your preliminary appeal rights, this preliminary technical determination will become both a final technical determination in accordance with 7 CFR §614.8(a)(1) and a certified wetland determination in accordance with 7 CFR §12.30(c). A technical determination becomes a final USDA decision when the time to request appeal expires without appealing the decision. A final technical determination becomes appealable 30 days after receipt of the preliminary technical decision.

If the final technical determination is a result of the expiration of the 30-day period following receipt of this preliminary technical determination, it may be appealed, **within 30 days**, to either of the following:

- Appeal to the Yankton Farm Service Agency County Committee
  OR
- Appeal to the NAD at the following address:

  National Appeals Division, Western Regional Office
  755 Parfet Street, Suite 494
  Lakewood, Colorado 80215-5506
  Phone: (800) 541-0483 or (303) 236-2862
  TTY: (800) 497-0253
  Fax: (303) 236-2820

It is your responsibility to ensure that your actions do not impact wetlands protected by a United States Fish and Wildlife Service (FWS) or any other conservation easement. For any questions regarding FWS conservation easements on the tract or adjacent land, please contact the wetland management district office located in Lake Andes, SD, at **(605) 487-7603**. For any other easements, please contact the local NRCS office.

This preliminary technical determination has been conducted for the purpose of implementing the WC compliance provisions of the 1985 Food Security Act, as amended. This determination may not be valid for the Clean Water Act. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or Other Waters, you should request a jurisdictional determination by contacting the United States Army Corps of Engineers (USACE) at **(605) 224-8531**, Pierre, SD, before starting the work.

There may be opportunities to utilize mitigation if you have an interest in converting the labeled wetlands (W's), farmed wetlands (FW's), and farmed wetland pasture (FWP), found in this determination. Mitigation is the compensation of lost wetlands through wetland restoration, enhancement, or the creation of new wetlands. Mitigation can not occur at the expense of the federal government. Mitigated wetlands must be in the same local watershed as the wetlands you wish to convert. The landowner must grant an easement that remains in effect as long as the original wetland remains converted and the easement will be recorded on public land records for the mitigated wetlands. All of the above activities, as well as, a mitigation plan, must be completed before any wetland conversions could occur.

If you are the owner of this tract of land and have a tenant, I urge you to discuss this letter and accompanying NRCS-CPA-026E with your tenant. Likewise, if you are the tenant of this tract of land, I urge you to discuss this letter with your landlord.

The 2014 Farm Bill connected producer eligibility for federal crop insurance premium subsidy to compliance with the wetland conservation provisions. Eligibility for most USDA programs is lost for any wetland conversions that have occurred after December 23, 1985. However, only wetland conversions that occur after February 7, 2014, result in ineligibility for federal crop insurance premium subsidy.

Sincerely,

Brian Stemper
Wetland Specialist
Cc:
David Charles, CED, FSA, Yankton FO
Ryan Frickel, DC, NRCS, Yankton FO

USDA

United States Department of Agriculture

10/25/2019

Gerald Eilers
43724 Hwy 46
Utica, SD 57067

SUBJECT: Replacing Ditch with a Tile Line

Dear Gerald,

I have enclosed the signed agreement for replacing the ditch coming out of the Farmable Wetland (FW) with a tile inlet riser/tile line in Tract 5732 4-95N-56W located in Yankton County. As we discussed in the field on October 17th, 2019, the inlet riser can be set to an elevation that allows for no ponding as would normally occur if the ditch was maintained to the original scope and effort. Also as stated in the agreement the ditch would then have to be filled, and the producer would provide NRCS with the map following completion showing location of the tile inlet/tile lines.

If you have any other questions, especially after you talk to the tiling contractor, please contact me either at the Yankton County NRCS office at 605-665-2662 or by calling my work cell phone at 605-419-1887.

Sincerely,

Brian Stemper
Wetland Specialist

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

SD-CPA-17
Rev. 3/06

GUIDELINES FOR REPLACING A DITCH WITH A TILE LINE

Replacing a ditch with a tile line into or near a wetland identified on the attached photo is acceptable provided the following conditions are met.

1. The producer is responsible for obtaining all federal, state, Tribal, and local permits that apply to this activity. If tile will be placed inside a wetland boundary (including prior converted (PC)), or if the ditch itself is determined to be "Waters of the United States" by the U.S. Army Corps of Engineers (COE), a "404" permit from the COE will be needed prior to approval by the Natural Resources Conservation Service (NRCS) (**COE telephone (605) 224-8531**). Forms are available on the Internet at: **http://www.usace.army.mil/inet/usace-docs/forms/.**

2. The flow line of the tile can be no deeper than the bottom of the original ditch flow line if perforated tile is used. Tile below the ditch bottom must be nonperforated (solid) tile.

3. The ditch will be plugged by one of the following two methods (check to indicate which method is selected):

   X A. The entire ditch shown on the attached photo will be filled and compacted with like soil to an elevation that is consistent with the natural ground level. That condition must be maintained in the future.

   ____B. The ditch will be plugged and compacted with like soil at the location shown on the attached photo. The ditch plug will meet South Dakota NRCS standards and dimensions as shown on the attached form SD-ENG-14. That condition must be maintained in the future.

4. Any size of tile is acceptable, provided tile capacity does not exceed ditch capacity. Tile made of any material may be used.

5. Surface inlets are only allowed as marked on the attached map. Inlets or other stand pipes installed within wetland basins will be constructed of nonperforated (solid) pipe below the existing wetland outlet elevation. Existing wetland water levels must be maintained.

6. The tile line must outlet in the same drainageway and upstream of any wetlands located in the drainageway. (Water must not bypass downstream wetlands.)

7. The producer agrees to provide the NRCS with a map of the constructed tile line(s) with construction receipts. The map must show the locations and depths (or elevations) of both perforated and nonperforated tile.

8. No trees will be removed from wetlands without first obtaining a Minimal Effect Agreement from the NRCS.

9. Other wetlands will not be altered.

10. Any change from what is planned could potentially result in a converted wetland (CW+year), loss of benefits, and/or a violation of the Clean Water Act.

11. Both parties must agree to these guidelines prior to construction.

Producer Chad M Eilers Date Oct 17 19

NRCS Rep. [signature] Date 10/17/19

Representing Gerald L Eilers

AFFIDAVIT OF MAILING
Yankton County Drainage Ordinance #19

I, Gerald Eilers, hereby certify that on the 14 day of July, 2020, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Drainage Action to all owners of property lying one half (1/2) mile upstream and one (1) mile downstream of a proposed drainage project's outlet to the most recent address of the recipient known to your Affiant.

A true and correct copy of the Notice of Drainage Action notification letters are attached as Exhibit #1 or #2.

A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

Dated the 16 day of July, 2020.

Gerald Eilers
(Name)
Affiant

Subscribed and sworn to before me this 16th day of July, 2020.

Rita K. Mueller
Notary Public – South Dakota
My commission expires: 8-1-2021

(SEAL)

NOTIFICATION OF DRAINAGE ACTION

July 17, 2020

Gerald Eilers
43724 SD Hwy 46
Utica, SD 57067

Dear Yankton County Resident:

The Yankton County Drainage Ordinance requires written notification be provided to the owners of real property lying one half (1/2) mile upstream and one (1) mile downstream of a proposed drainage project's outlet. Your property was identified via land ownership records provided by the Yankton County Director of Equalization Office. The Ordinance also requires notification of said owners to be made by depositing such notice with the United States Post Office for first class delivery. Please take a moment to review the notice of drainage action described below:

> *Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as NE1/4 NE1/4 Exc LT H1 and the S1/2 NE1/4, Section 4, T95N, R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota.*

The complete application may be reviewed during normal business hours, Monday-Friday 9:00 AM to 5:00 PM, Yankton County Government Center, 321 West Third St., Yankton, S.D.

In accordance with Section 3.05 of the Yankton County Drainage Ordinance the proposed action must come before the Drainage Commission. *Written objections may include traditional (letter) and electronic (email), provided, both the objecting party and reason for objection are clearly identified.*

All objections filed will become part of the public record and public review before the Yankton County Drainage Commission. As such, you are hereby notified that a public hearing will be held before the Yankton County Drainage Commission, Yankton County, South Dakota, commencing at 7:05 P.M. on the 28th day of July, 2020, in the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Sincerely,

Gerald Eilers
Petitioner

EILERS, GERALD REVOCABLE TRUST (D
43724 SD HWY 46
UTICA SD 57067

JAMESVILLE HUTTERIAN BRETHREN (D)
29568 436 AVE
UTICA SD 57067

SCHMIDT, ANALYN FMLY PRTCTN TR (D)
% KIM AUCH
2921 JULIE ST
YANKTON SD 57078

SD DEPT OF GAME FISH & PARKS (D)
523 EAST CAPITOL AVE
PIERRE SD 57501

Yankton County Drainage Commission
Yankton County Drainage Board

Applicant: **Greg Schmidt**

Drainage type:

☐ Lower Landowners ☐ Statewide / Intercounty
☐ Emergency Drainage ☐ Waive Permit ☐ Roadways

Section:

☒ Section 3.05 ☐ Section 3.06 ☐ Section 3.07 ☐ Section 3.09
☐ Section 5.09
0 Section 3.10 ☐ Section 3.11 ☐ Section 3.12 ☐ Section 3.13

Outlet size: 4", 6", 8"

Total feet of tile: 5000, 2000, 2000 ft

Waiver Required: YES

Township / County ROW Approval: No

Watercourse depth and grade: depth greater than two (2) feet and grade greater than .3%

☐ Appeal of Drainage Administrator

☐ Section 5.01 ☐ Section 5.02 ☐ Section 5.03 ☐ Section 5.04

DC: Article III, Section 3.05

Drainage Commission date: 07/28/20 Time: 7:10 P.M.

YANKTON COUNTY
DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

Applicant to complete numbered spaces only.

1. **Job Address** 43646 SD Hwy 46 Utica SD

2. **Legal Description of Drainage Site** central township
T-95-N R-56-W Section 4 Yankton Co.

3. **Owner** Greg Schmidt **Mail Address** 43646 SD Hwy 46 **Zip** 57067 **Phone** 605
Analyn Schmidt trust Utica SD 57067 661-05[illegible]

4. **Contractor** **Mail Address** **Zip** **Phone**
GridLine

5. **Feet of drainage pipe and outlet size**
5000 Ft 4" 2000'-6" 2000' 8" 8"&6" outlets

6. **Class of Work (Check One)** ☒ New ⊞ Addition ☐ Alteration ☐ Repair ☐ Move ☐ Remove

7. **Describe Work:**
Install Drainage tile on approximately 80 Acres

8. **Valuation of Work:** $ 40,000 – 50,000

Owner Analyn Schmidt trust

Job Address 43646 SD Hwy 46 Utica SD

For Official Use Only-

SPECIAL CONDITIONS: _____

Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:

PERMIT FEE 100.00 **Check #** 8934

NOTICE

THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED EIGHTEEN (18) MONTHS OF ISSUANCE.
I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE YANKTON COUNTY DRAINAGE ORDINANCE OR ANY OTHER FEDERAL, STATE, OR LOCAL LAW REGULATING DRAINAGE ACTIVITIES OR THE USE OF ANY PROPERTY.

[signature] Trustee 7/17/20
Signature of Contractor or Authorized Agent Date

Signature of Owner (if owner builder) Date
BY THIS SIGNATURE, THE DRAINAGE ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION

Type of Construction	☐ **Blue Line Outlet**
Total Feet of Pipe	☐ **Drainage Ditch Outlet**
Outlet Size	☐ **Lake / Pond / Wetland Outlet**
☐ **Administrative Permit**	☐ **Drainage Board Permit**

For County Officials Use Only

When properly validated (in this space), this is your permit.

The above application is hereby approved.

Drainage Permit Number: DP-20-014

Post Construction? Y N

Drainage Administrator or Authorized Representative Date

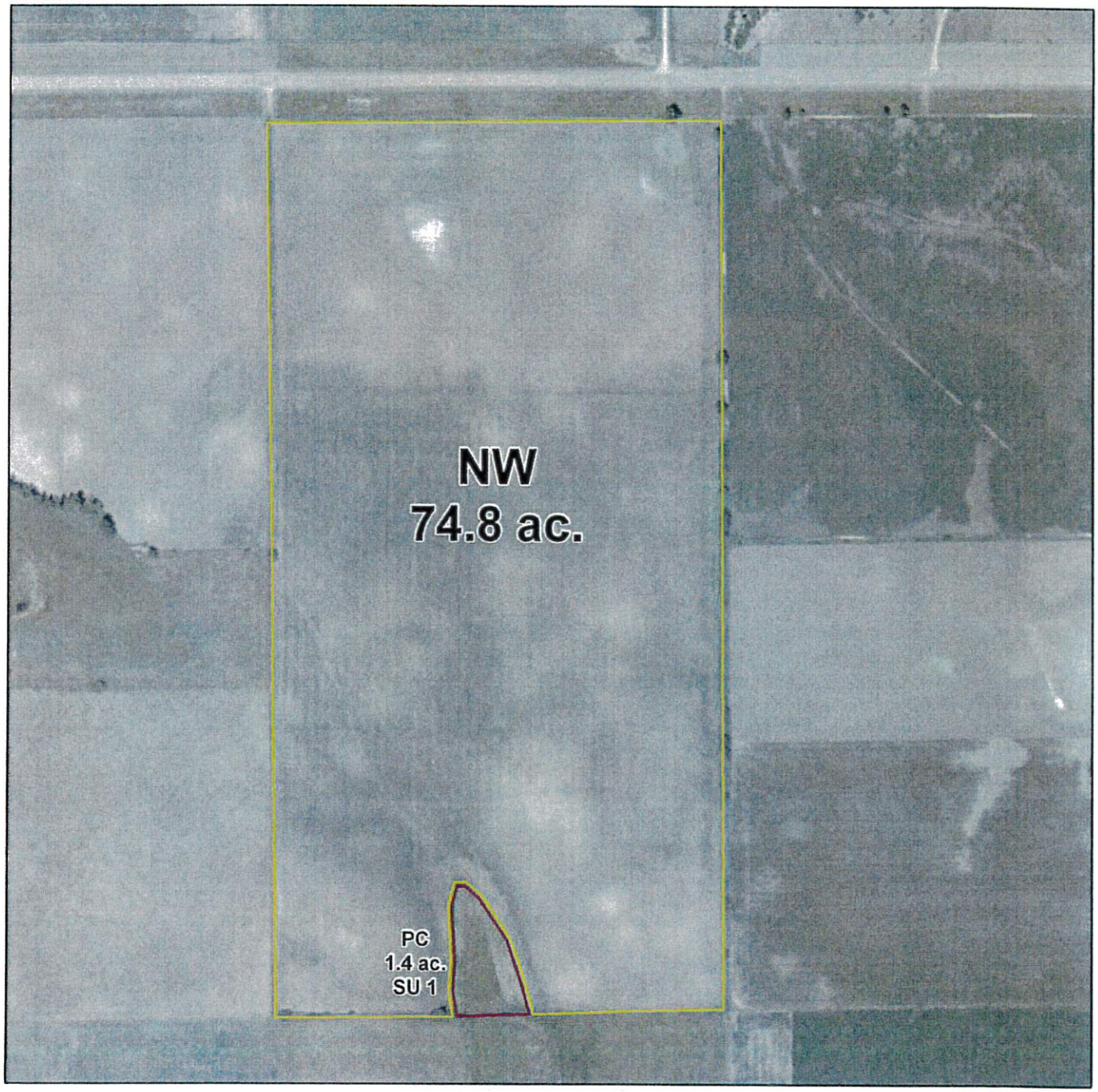
DRAINAGE COMMISSION

SECTION 3.09 EVALUATION OF PERMIT APPLICATIONS	
1. THE FLOW OR QUANTITY OF WATER TO BE DRAINED WILL NOT OVERBURDEN THE WATER COURSE INTO WHICH THE WATER WILL BE DRAINED.	
2. THE DRAINAGE WILL NOT FLOOD OR ADVERSELY AFFECT THE LAND OF THE LOWER PROPRIETORS, OR IN THE CASE OF AN IMPEDIMENT TO DRAINAGE WHETHER SUCH AN IMPEDIMENT WILL NOT FLOOD OR ADVERSELY AFFECT UPSTREAM LAND OWNERS (SEE SECTION 3.10)	
3. EASEMENTS WILL BE GRANTED WHERE REQUIRED.	
4. THE DRAINAGE WILL NOT NEGATIVELY AFFECT AGRICULTURAL PRODUCTIVITY.	
5. THE LAND AFFECTED OR THE LAND DRAINED IS AND WILL REMAIN RURAL IN CHARACTER.	
6. WHEN THE LAND TO BE DRAINED IS RURAL LAND, THE PRESUMPTION AND FACTORS SET FORTH IN SDCL 46A-10A-20 WILL BE SATISFIED.	
7. ADEQUATE PRECAUTIONS HAVE BEEN TAKEN TO ENSURE THAT ROADWAYS WILL NOT BE NEGATIVELY IMPACTED.	
8. RECOMMENDATIONS FROM THE DRAINAGE COMMISSION IN THE "FINDINGS OF FACT".	
9. SUCH OTHER FACTORS THE DRAINAGE BOARD DETERMINES TO BE PERTINENT TO THE APPLICATION.	
SECTION 3.10 CRITERIA TO DETERMINE WHETHER DRAINAGE WILL ADVERSELY AFFECT LANDS OF LOWER LANDWONERS	
1. DRAINAGE INTO RECEIVING WATERCOURSES WHICH DO NOT HAVE SUFFICIENT CAPACITY TO HANDLE THE ADDITIONAL FLOW AND QUANTITY OF WATER SHALL BE CONSIDERED TO HAVE AN ADVERSE EFFECT. THE APPLICANT SHALL BE RESPONSIBLE TO PROVIDE SUFFICIENT EVIDENCE WITH THIRD PARTY VERIFICATION WHEN REQUESTED BY THE DRAINAGE COMMISSION OR THE DRAINAGE BOARD.	
2. WHETHER DRAINAGE IS ACCOMPLISHED BY REASONABLY IMPROVING AND AIDING THE NORMAL AND NATURAL SYSTEM OF DRAINAGE ACCORDING TO ITS REASONABLE CARRYING CAPACITY, OR IN THE ABSENCE OF A PRACTICAL NATURAL DRAIN, A REASONABLE ARTIFICIAL DRAIN SYSTEM IS ADOPTED.	
3. THE AMOUNT OF WATER PROPOSED TO BE DRAINED.	
4. THE DESIGN AND OTHER PHYSICAL ASPECTS OF THE DRAIN.	
5. THE IMPACT OF SUSTAINED FLOWS.	
6. RECOMMENDAITONS FROM THE DRAINAGE COMMISSION IN THE "FINDINGS OF FACT".	

Certified Wetland Determination

Field Office: Yankton FO
Certified By: B. Stemper
Legal Description: E2NW4 4-95-56

Agency: USDA-NRCS
Certified Date: 12/18/2019
Tract: 343



0 335 670 1,340 2,010 2,680 Feet

Legend

PC NW

W Wetland
FW Farmed Wetland drained or modified & cropped prior to 12-23-1985, but still meets wetland critieria
PC Prior Converted
NW Non Wetland
See NRCS CPA-026E for definitions and additional info.

USDA

United States Department of Agriculture

12/18/2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Greg Schmidt
43646 SD Hwy 46
Utica, SD 57067

Dear **Greg:**

As a result of your request for an evaluation of proposed wetland activity via form AD-1026, Natural Resources Conservation Service (NRCS) is issuing a preliminary certified wetland determination.

The regulations for the Wetland Conservation (WC) compliance provisions of the 1985 Food Security Act, as amended, are found at Title 7 Code of Federal Regulations (7 CFR) §12. The purposes of the provisions are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland.

The regulations describe several exemptions (7 CFR §12.5 (b)) from ineligibility and outline the NRCS involvement in implementing the WC Compliance provisions. This determination was conducted in accordance with the current federal wetland delineation procedures as found in the most current versions of the National Food Security Act Manual (NFSAM), the 1987 United States Army Corps of Engineers (USACE) Wetland Delineation Manual, Technical Report Y-87-1, the USACE Regional Supplements, and/or State Offsite Methods/Mapping Conventions.

With this letter the NRCS is issuing a **preliminary technical determination,** in accordance with the WC Compliance provisions. This preliminary technical determination was conducted by the NRCS on 12/18/19. The attached NRCS-CPA-026E, Highly Erodible Land and Wetland Conservation Determination, and map depict the wetland exemptions, referred to as "labels". The area identified other than Non-Wetland is wetland for the following reasons:

Presence of Hydrophytic Vegetation:
Hydrophytic vegetation means plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content (16 U.S.C.§3801(a)(12)).

Presence of Hydric Soils:
Hydric soil means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation (16 U.S.C.§3801(a)(13)).

Presence of Wetland Hydrology:
Wetland hydrology means inundation or saturation of the site by surface or groundwater during the growing season at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation. (7 CFR §12.2).

The wetland area(s) were evaluated for applicable exemptions and labeled accordingly.

Natural Resources Conservation Service
2914 N Broadway Ave, Yankton, South Dakota 57078
Voice: 605.665.2662 Fax: 877.487.3708
An Equal Opportunity Provider and Employer

You may appeal this preliminary technical determination in accordance with the laws and federal regulations set forth at 7 CFR §614, the NRCS Appeals Procedures, 7 CFR §780, the Food Security Act Appeals Procedures, and 7 CFR §11, the National Appeals Division (NAD) Rules of Procedure, as follows:

- **You may request a field review and reconsideration** by the NRCS in accordance with 7 CFR 614.7(b). Any request for field review and reconsideration will be conducted with you or your authorized representative present, where you will be able to present evidence that NRCS may not have previously considered. The NRCS will consider all new information.

- To request a field review and reconsideration, you must contact the NRCS, in writing, **no later than 30 days** from the date that you receive this notification at:

  Yankton Service Center
  2914 N Broadway Ave
  Yankton, SD 57078

- **If you do not request a field review, you may request mediation** of the preliminary technical determination in accordance with 7 CFR 614.7(a)(2). Mediation is completed in good faith. Parties mediating a dispute are not free to make their own law or policy and mediation is not a means to obtain a result not otherwise permissible under statue, regulations, or generally applicable agency policy and program procedures. Within these parameters, mediation of disputes can produce benefits when the mediation reveals additional relevant facts and new insights.

  To request mediation you must contact in writing **no later than 30 days** from the date that you receive this notification the office of:

  Asst State Conservationist for Compliance
  Natural Resources Conservation Service
  200 Fourth Street SW
  Huron, South Dakota 57350-2475
  Phone: (605) 352-1287
  Fax: (855) 256-2565

- **You may request a waiver of your rights** to this preliminary review and reconsideration or mediation in accordance with 7 CFR §614.7(d) if you want an immediately-final wetland technical determination by writing to the State Conservationist at:

  Jeffrey J. Zimprich
  Natural Resources Conservation Service
  200 Fourth Street SW
  Huron, South Dakota 57350-2475
  Phone: (605) 352-1200
  Fax: (855) 256-2565

If you do not select any of your preliminary appeal rights, this preliminary technical determination will become both a final technical determination in accordance with 7 CFR §614.8(a)(1) and a certified wetland determination in accordance with 7 CFR §12.30(c). A technical determination becomes a final USDA decision when the time to request appeal expires without appealing the decision. A final technical determination becomes appealable 30 days after receipt of the preliminary technical decision.

If the final technical determination is a result of the expiration of the 30-day period following receipt of this preliminary technical determination, it may be appealed, **within 30 days**, to either of the following:

- Appeal to the Yankton Farm Service Agency County Committee
  OR
- Appeal to the NAD at the following address:

  National Appeals Division, Western Regional Office
  755 Parfet Street, Suite 494
  Lakewood, Colorado 80215-5506
  Phone: (800) 541-0483 or (303) 236-2862
  TTY: (800) 497-0253
  Fax: (303) 236-2820

It is your responsibility to ensure that your actions do not impact wetlands protected by a United States Fish and Wildlife Service (FWS) or any other conservation easement. For any questions regarding FWS conservation easements on the tract or adjacent land, please contact the wetland management district office located in Lake Andes, SD, at **(605) 487-7603**. For any other easements, please contact the local NRCS office.

This preliminary technical determination has been conducted for the purpose of implementing the WC compliance provisions of the 1985 Food Security Act, as amended. This determination may not be valid for the Clean Water Act. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or Other Waters, you should request a jurisdictional determination by contacting the United States Army Corps of Engineers (USACE) at **(605) 224-8531**, Pierre, SD, before starting the work.

There may be opportunities to utilize mitigation if you have an interest in converting the labeled wetlands (W's), farmed wetlands (FW's), and farmed wetland pasture (FWP), found in this determination. Mitigation is the compensation of lost wetlands through wetland restoration, enhancement, or the creation of new wetlands. Mitigation can not occur at the expense of the federal government. Mitigated wetlands must be in the same local watershed as the wetlands you wish to convert. The landowner must grant an easement that remains in effect as long as the original wetland remains converted and the easement will be recorded on public land records for the mitigated wetlands. All of the above activities, as well as, a mitigation plan, must be completed before any wetland conversions could occur.

If you are the owner of this tract of land and have a tenant, I urge you to discuss this letter and accompanying NRCS-CPA-026E with your tenant. Likewise, if you are the tenant of this tract of land, I urge you to discuss this letter with your landlord.

The 2014 Farm Bill connected producer eligibility for federal crop insurance premium subsidy to compliance with the wetland conservation provisions. Eligibility for most USDA programs is lost for any wetland conversions that have occurred after December 23, 1985. However, only wetland conversions that occur after February 7, 2014, result in ineligibility for federal crop insurance premium subsidy.

Sincerely,

Brian Stemper
Wetland Specialist
Cc:
David Charles, CED, FSA, Yankton FO
Ryan Frickel, DC, NRCS, Yankton FO

United States Department of Agriculture

Natural Resources Conservation Service

NRCS-CPA-26E
9/2012

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Greg Schmidt 43646 SD Hwy 46 Utica, SD 57067	Request Date:	10/31/19	County:	Yankton
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	343	FSA Farm No:	3280

Section I - Highly Erodible Land

	(Y/N)
Is a soil survey now available for making a highly erodible land determination?	
Are there highly erodible soil map units on this farm?	

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust(Y/N)	Acres	Determination Date

The Highly Erodible Land determination was completed in the

Section II - Wetlands

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
3,	NW		74.8	12/18/19	12/18/19
3,	PC		1.4	12/18/19	12/18/19

The wetland determination was completed in the

It was mailed to the person on 12/19/2019

Remarks:

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature Designated Conservationist	Date
Brian Stamper	12/18/2019

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Certified Wetland Determination

Field Office: Yankton FO
Certified By: B. Stemper
Legal Description: NW4NE4 4-95-56

Agency: USDA-NRCS
Certified Date: 12/18/2019
Tract: 345

0 162.5 325 650 975 1,300 Feet

Legend

PC NW
Ditch

W Wetland
FW Farmed Wetland drained or modified & cropped prior to 12-23-1985, but still meets wetland critieria
PC Prior Converted
NW Non Wetland
See NRCS CPA-026E for definitions and additional info.

United States Department of Agriculture

Natural Resources Conservation Service

NRCS-CPA-26E
9/2012

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Greg Schmidt 43646 SD Hwy 46 Utica, SD 57067	Request Date:	10/31/19	County:	Yankton
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	345	FSA Farm No:	3280

Section I - Highly Erodible Land

	(Y/N)
Is a soil survey now available for making a highly erodible land determination?	
Are there highly erodible soil map units on this farm?	

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust(Y/N)	Acres	Determination Date

The Highly Erodible Land determination was completed in the

Section II - Wetlands

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
1,	NW		30.7	12/18/19	12/18/19
1,	PC		5.3	12/18/19	12/18/19

The wetland determination was completed in the | It was mailed to the person on 12/19/2019

Remarks:

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature Designated Conservationist	Date
Brian Stemper	12/18/2019

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

This form is available electronically. (See Page 2 for Privacy Act and Paperwork Reduction Act Statements)

AD-1026
(10-30-14)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

HIGHLY ERODIBLE LAND CONSERVATION (HELC) AND WETLAND CONSERVATION (WC) CERTIFICATION

Read attached AD-1026 Appendix before completing form.

PART A – BASIC INFORMATION

1. Name of Producer	2. Tax Identification Number (Last 4 digits)	3. Crop Year
Greg Schmidt 43646 SD Highway 46 Utica, SD 57067	6786	2020

4. Names of affiliated persons with farming interests. *Enter "None," if applicable.*

None

Affiliated persons with farming interests must also file an AD-1026. See Item 7 in the Appendix for a definition of an affiliated person.

5. Check one of these boxes if the statement applies; otherwise continue to Part B.

A. ☐ The producer in Part A does not have interest in land devoted to agriculture. Examples include bee keepers who place their hives on another person's land, producers of crops grown in greenhouses, and producers of aquaculture AND these producers do not own/lease any agricultural land themselves. **Note:** Do not check this box if the producer shares in a crop.

RECEIVED
OCT 31 2019
YANKTON CO. FSA

B. ☐ The producer in Part A meets all three of the following:
- does not participate in any USDA program that is subject to HELC and WC compliance except Federal Crop Insurance;
- only has interest in land devoted to agriculture which is exclusively used for perennial crops, except sugarcane; and
- has not converted a wetland after February 7, 2014.

Perennial crops include, but are not limited to, tree fruit, tree nuts, grapes, olives, native pasture and perennial forage. A producer that produces alfalfa should contact the Natural Resources Conservation Service at the nearest USDA Service Center to determine whether such production qualifies as production of a perennial crop.

Note: *If either box is checked, and the producer in Part A does not participate in Farm Service Agency (FSA) or Natural Resources Conservation Service (NRCS) programs, the full tax identification number of the producer must be provided, but establishment of detailed farm records with FSA is not required. Go to Part D and sign and date.*

PART B – HELC/WC COMPLIANCE QUESTIONS

Indicate YES or NO to each question. *If you are unsure of whether a HEL determination, wetland determination, or NRCS evaluation has been completed, contact your local USDA Service Center.*	YES	NO
6. During the crop year entered in Part A or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity (including sugarcane) on land for which an HEL determination has not been made?		✓
7. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:		
A. Create new drainage systems, conduct land leveling, filling, dredging, land clearing, or excavation that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* 2019	✓	
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* ____		✓
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? *If "YES", indicate the year(s):* ____ **Note:** *Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.*		✓

Note: *If "YES" is checked for Item 7A or 7B, then Part C must be completed to authorize NRCS to make an HELC/WC and/or certified wetland determination on the identified land. If "YES" is checked for Item 7C, NRCS does not have to conduct a certified wetland determination.*

8. Check one or both boxes, if applicable; otherwise, continue to Part C or D.

A. ☐ Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the first time the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.

B. ☐ Check this box if either of the following applies to the producer and crop year entered in Part A:
- Is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request, must be completed).
- Is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request, must be completed).

PART C – ADDITIONAL INFORMATION

9. If "YES" was checked in Item 6 or 7, provide the following information for the land to which the answer applies:

A. Farm and/or tract/field number: Farm #3280, tract #343 and #345, fields 1 and 3.
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.

B. Activity: Install new drain tile.

C. Current land use *(specify crops)*: beans, corn, and cover crops.

D. County: Yankton

PART D - CERTIFICATION OF COMPLIANCE

I have received and read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:

- all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions.
- NRCS may verify whether a HELC violation or WC has occurred.
- a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences.
- affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.

Producer's Certification:

I hereby certify that the information on this form is true and correct to the best of my knowledge.

10A. Producer's Signature (By)	10B. Title/Relationship *(If Signing in Representative Capacity)*	10C. Date *(MM-DD-YYYY)*
[signature]		10/30/19
FOR FSA USE ONLY *(for referral to NRCS)* Sign and date if NRCS determination is needed.	11A. Signature of FSA Representative	11B. Date *(MM-DD-YYYY)*
[signature]		10/31/2019

IMPORTANT: If you are unsure about the applicability of HELC and WC provisions to your land, contact your local USDA Service Center for details concerning the location of any highly erodible land or wetland and any restrictions applying to your land according to NRCS determinations before planting an agricultural commodity or performing any drainage or manipulation. Failure to certify and properly revise your compliance certification when applicable may: (1) affect your eligibility for USDA program benefits, including whether you qualify for reinstatement of benefits through the Good Faith process; and (2) result in other consequences.

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Food Security Act of 1985 (Pub. L. 99-198), and the Agricultural Act of 2014 (Pub. L. 113-79). The information will be used to certify compliance with HELC and WC provisions and to determine producer eligibility to participate in and receive benefits under programs administered by USDA agencies. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated) and USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of producer ineligibility to participate in and receive benefits under programs administered by USDA agencies.*

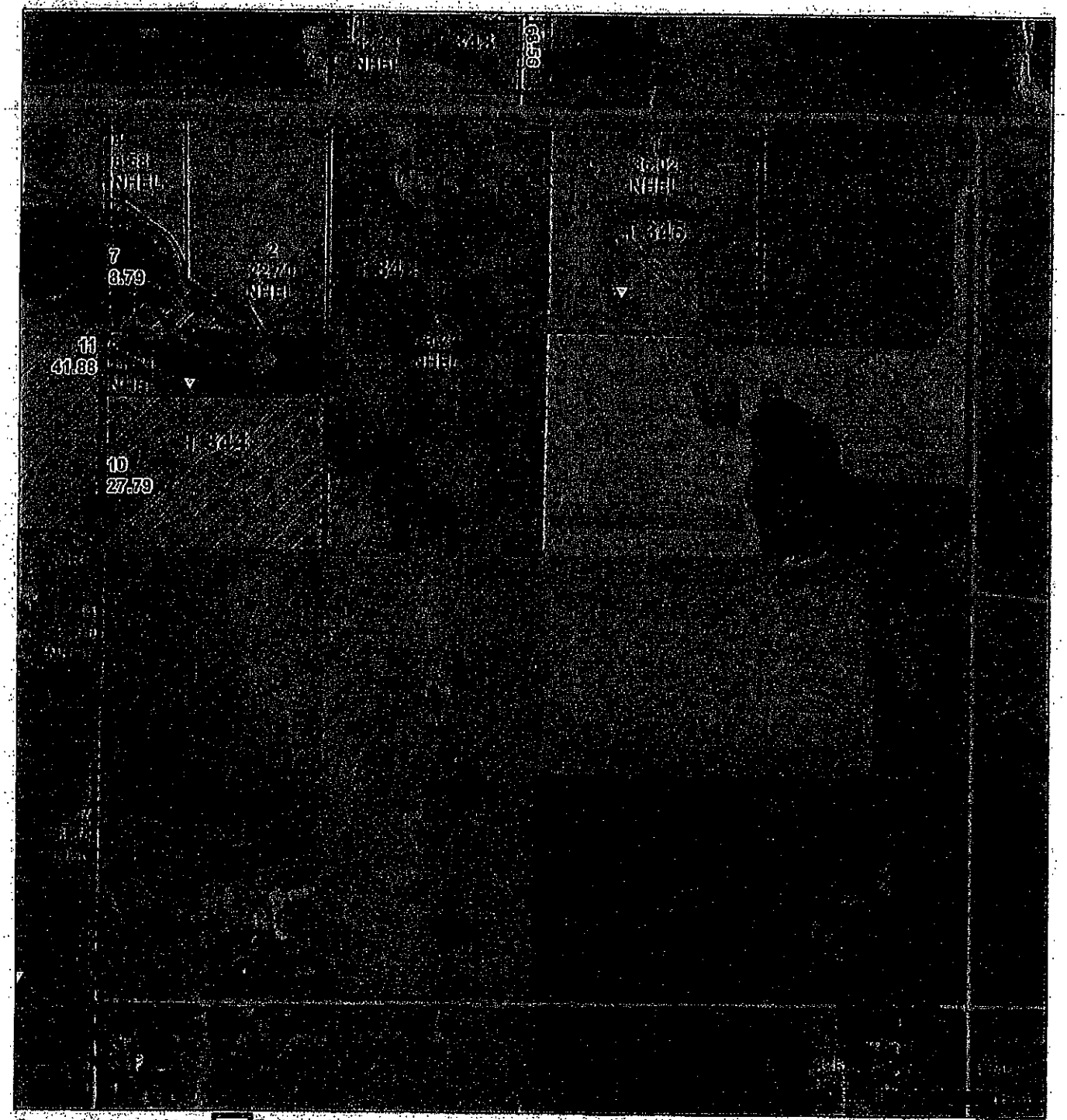
This information collection is exempted from the Paperwork Reduction Act as specified in the Agricultural Act of 2014 (Pub. L. 113-79, Title II, Subtitle G, Funding and Administration). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. **RETURN THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE.**

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. USDA is an equal opportunity provider and employer.

USDA United States Department of Agriculture

Yankton County, South Dakota



Common Land Unit Tract Boundary

Non-Cropland

Cropland

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

2019 Program Year

Map Created April 05, 2019

Farm **3280**

4 -95N -56W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

AFFIDAVIT OF MAILING
Yankton County Drainage Ordinance #19

I, Coreg Schaefer hereby certify that on the 13 day of July, 2020, I mailed by first class mail, postage prepaid, a true and correct copy of the Notice of Drainage Action to all owners of property lying one half (1/2) mile upstream and one (1) mile downstream of a proposed drainage project's outlet to the most recent address of the recipient known to your Affiant.
A true and correct copy of the Notice of Drainage Action notification letters are attached as Exhibit #1 or #2.
A true and correct copy of the mailing list for owners of real property is attached as Exhibit #1A or #2A.

Dated the 13th day of July, 2020.

(Name)
Affiant

Subscribed and sworn to before me this 13th day of July, 2020.

Becky K Souchek
Notary Public – South Dakota
My commission expires: 12-01-2022

(SEAL)

BECKY K. SOUCHEK NOTARY Seal PUBLIC STATE OF SOUTH DAKOTA

NOTIFICATION OF DRAINAGE ACTION

July 17, 2020

Greg Schmidt
43646 SD Hwy 46
Utica, SD 57067

Dear Yankton County Resident:

The Yankton County Drainage Ordinance requires written notification be provided to the owners of real property lying one half (1/2) mile upstream and one (1) mile downstream of a proposed drainage project's outlet. Your property was identified via land ownership records provided by the Yankton County Director of Equalization Office. The Ordinance also requires notification of said owners to be made by depositing such notice with the United States Post Office for first class delivery. Please take a moment to review the notice of drainage action described below:

> *Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as NW1/4 NE1/4 Exc LT H1 and the E1/2 NW1/4 Exc LT H1, Section 4, T95N, R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota.*

The complete application may be reviewed during normal business hours, Monday-Friday 9:00 AM to 5:00 PM, Yankton County Government Center, 321 West Third St., Yankton, S.D.

In accordance with Section 3.05 of the Yankton County Drainage Ordinance the proposed action must come before the Drainage Commission. *Written objections may include traditional (letter) and electronic (email), provided, both the objecting party and reason for objection are clearly identified.*

All objections filed will become part of the public record and public review before the Yankton County Drainage Commission. As such, you are hereby notified that a public hearing will be held before the Yankton County Drainage Commission, Yankton County, South Dakota, commencing at 7:10 P.M. on the 28th day of July, 2020, in the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Sincerely,

Greg Schmidt
Petitioner

EILERS, GERALD REVOCABLE TRUST (D
43724 SD HWY 46
UTICA SD 57067

JAMESVILLE HUTTERIAN BRETHREN (D)
29568 436 AVE
UTICA SD 57067

SCHMIDT, ANALYN FMLY PRTCTN TR (D)
% KIM AUCH
2921 JULIE ST
YANKTON SD 57078

SD DEPT OF GAME FISH & PARKS (D)
523 EAST CAPITOL AVE
PIERRE SD 57501