

January 26, 2021

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.

JHGAS Farms LLC

Applicant is requesting a Modification of Drainage Permit to move newly installed tile from the NE1/4 of Section 16, T95N, R55W to the SW1/4 of Section 10, T95N, R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota.

7:10 P.M.

Larry Lyngstad

Applicant is requesting connection to the JHGAS Farms LLC project and a Drainage Permit to install drain tile in the SW1/4 of Section 10, T95N, R55W, hereinafter referred to as Walshtown Township, County of Yankton, State of South Dakota.

7:15 P.M.

PUBLIC COMMENT

7:20 P.M.

Discussion on possible ordinance changes

Meeting (Entity): Drainage Regular or Special Meeting: REGULAR
Date: 09/22/20 Time: 7 PM Location: Commission Chambers
DC ATTENDANCE: ☒ GRANT ☒ KRALICEK ☐ KIRSCHENMAN ☐ HANSEN ☒ BIXLER ☐ LOEST
☐ HEALY ☒ TACKE ☒ KRUSE
STAFF ATTENDANCE: Atkinson, Vetter
APPROVAL OF MINUTES: MOTION BY: Kralicek SECOND BY: Grant
DRAINAGE: ☒ GRANT ☒ KRALICEK ☒ BIXLER ☒ TACKE ☒ KRUSE

APPROVAL OF AGENDA: MOTION BY: Kralicek SECOND BY: Bixler
DRAINAGE: ☒ GRANT ☒ KRALICEK ☒ BIXLER ☒ TACKE ☒ KRUSE

AGENDA ITEM: **GERALD EILERS - Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert**
ADDRESS/LEGAL: 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
COMMENTS: Bryce Gillen spoke on behalf of applicant

MOTION: Move to Deny Permit

APPROVAL: MOTION BY: Grant SECOND BY: Bixler
DRAINAGE: ☒ GRANT ☒ KRALICEK ☒ BIXLER ☒ TACKE ☒ KRUSE

AGENDA ITEM: **Greg Schmidt - Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert**
ADDRESS/LEGAL: NW1/4 NE1/4 Exc LT H1 and the E1/2 NW1/4 Exc LT H1, Section 4, T95N, R56W
COMMENTS: Bryce Gillen spoke on behalf of applicant

MOTION: Motion to Deny until easements are obtained

APPROVAL: MOTION BY: Kralicek SECOND BY: Grant
DRAINAGE: ☒ GRANT ☒ KRALICEK ☒ BIXLER ☒ TACKE ☒ KRUSE

Adjourn: Motion: Kralicek Second: Bixler

For information on this permit or the appeal process,
contact Yankton County Planning & Zoning at 605-260-4445.
All drainage permits are subject to the appeal process.

DRAINAGE PERMIT

Issued by
Yankton County

Permit No. DP-20-015 Date 8/6/20

Work Authorized Drain Tile

Located at NW 1/4 & SW 1/4 Excl W 333'
10-9555

Expires 18 months from date of issue.

NOTICE: This notice is posted along property's frontage visible
from the nearest public access point or upon the available right-of-way and
upon the property in a conspicuous location.

VIOLATIONS ARE SUBJECT TO PROSECUTION.



YANKTON COUNTY DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

07.010.300.160
07.010.400.100

Applicant to complete numbered spaces only.

1. Job Address				Owner	Job Address																										
2. Legal Description of Drainage Site	NW4 10/95/55 & SW 1/4 Excl W33' 10/95/55																														
3. Owner	Mail Address	Zip	Phone																												
JHARRIS Farms LLC	29875 443 AVE IRENE SD 57037	57037	605 263 3850																												
4. Contractor	Mail Address	Zip	Phone																												
Boake Hlavak Const, Irene SD																															
5. Feet of drainage pipe and outlet size	20,000 Feet 12" Out let (southwest) 12" Connection New 6" Connection New Existing																														
6. Class of Work (Check One)	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Addition <input checked="" type="checkbox"/> Alteration <input checked="" type="checkbox"/> Repair <input type="checkbox"/> Move <input type="checkbox"/> Remove																														
7. Describe Work:	Install Tilt Drainage & Repair Existing																														
8. Valuation of Work:	\$ 30,000																														
For Official Use Only- SPECIAL CONDITIONS:																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Application Accepted By:</td> <td style="width: 25%;">Site Plans Checked By:</td> <td style="width: 25%;">Approved for Issuance By:</td> <td style="width: 25%;">PERMIT FEE 100</td> <td style="width: 20%;">Check #</td> </tr> <tr> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> <td></td> <td></td> </tr> <tr> <td colspan="3" rowspan="4"> 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. </td> <td>Type of Construction</td> <td><input type="checkbox"/> Blue Line Outlet</td> </tr> <tr> <td>Total Feet of Pipe</td> <td><input type="checkbox"/> Drainage Ditch Outlet</td> </tr> <tr> <td>Outlet Size</td> <td><input type="checkbox"/> Lake / Pond / Wetland Outlet</td> </tr> <tr> <td><input checked="" type="checkbox"/> Administrative Permit</td> <td><input type="checkbox"/> Drainage Board Permit</td> </tr> <tr> <td colspan="5"> 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-20-015 Post Construction? Y <input checked="" type="checkbox"/> N Drainage Administrator or Authorized Representative <i>[Signature]</i> Deputy <i>[Signature]</i> 8/6/20 Date </td> </tr> </table>						Application Accepted By:	Site Plans Checked By:	Approved for Issuance By:	PERMIT FEE 100	Check #	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>			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.			Type of Construction	<input type="checkbox"/> Blue Line Outlet	Total Feet of Pipe	<input type="checkbox"/> Drainage Ditch Outlet	Outlet Size	<input type="checkbox"/> Lake / Pond / Wetland Outlet	<input checked="" type="checkbox"/> Administrative Permit	<input type="checkbox"/> 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-20-015 Post Construction? Y <input checked="" type="checkbox"/> N Drainage Administrator or Authorized Representative <i>[Signature]</i> Deputy <i>[Signature]</i> 8/6/20 Date				
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Signature of Contractor or Authorized Agent: <i>[Signature]</i> Date: 6th Aug 2020 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																															



Overview



Legend

- Townships
- Sections
- Parcels
- City Limits
- Streets and Roads
- County Zoning District**
- <all other values>
- COMMERCIAL
- ETJ
- HIGH DENSITY RESIDENTIAL
- LAKE SIDE COMMERCIAL
- LOW DENSITY RESIDENTIAL
- MODERATE DENSITY RESIDENTIAL
- PLANNED UNIT DEVELOPMENT
- PUBLIC
- RURAL TRANSITIONAL
- Streams
- Floodplain**
- 100 YEAR FLOOD NO BFE; 100 YEAR FLOOD WITH BFE
- 500 YEAR FLOOD

Parcel ID - 07.010.400.100
 Owner - JHGAS FARMS LLC (D)
 Acres - 156

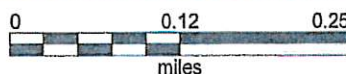
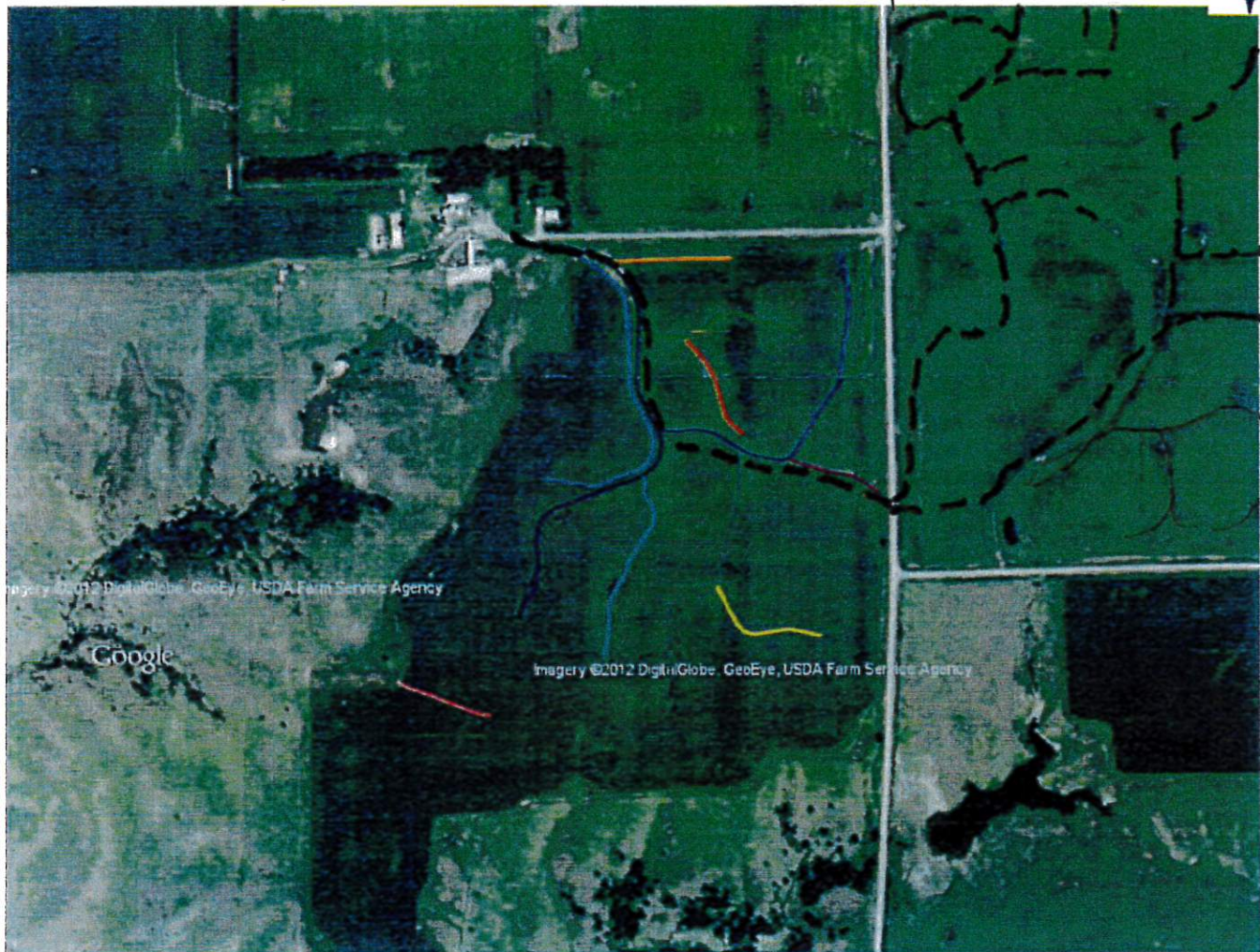
Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 8/6/2020
 Last Data Uploaded: 8/5/2020 10:09:57 PM

Developed by

Existing + Proposed Tiles driveway Length Opt A

SW 1/4 Sec 10 SE 1/4 Sec 9



----- Proposed

Client: John G
 Farm: south of
 Field: driveway
 Name: Drainage - Planned

2017.41 ft
1490.42 ft
1455.98 ft
1181.73 ft
786.72 ft
681.51 ft
557.62 ft
541.14 ft
488.71 ft
450.54 ft
398.90 ft
393.72 ft



Write a description for your map.

Write a description for your map.

Legend

Google Earth

Image USDA Farm Service Agency

NW 1/4 of sec 10
443rd Ave

—proposed—

सु. वि. म. इ. म.

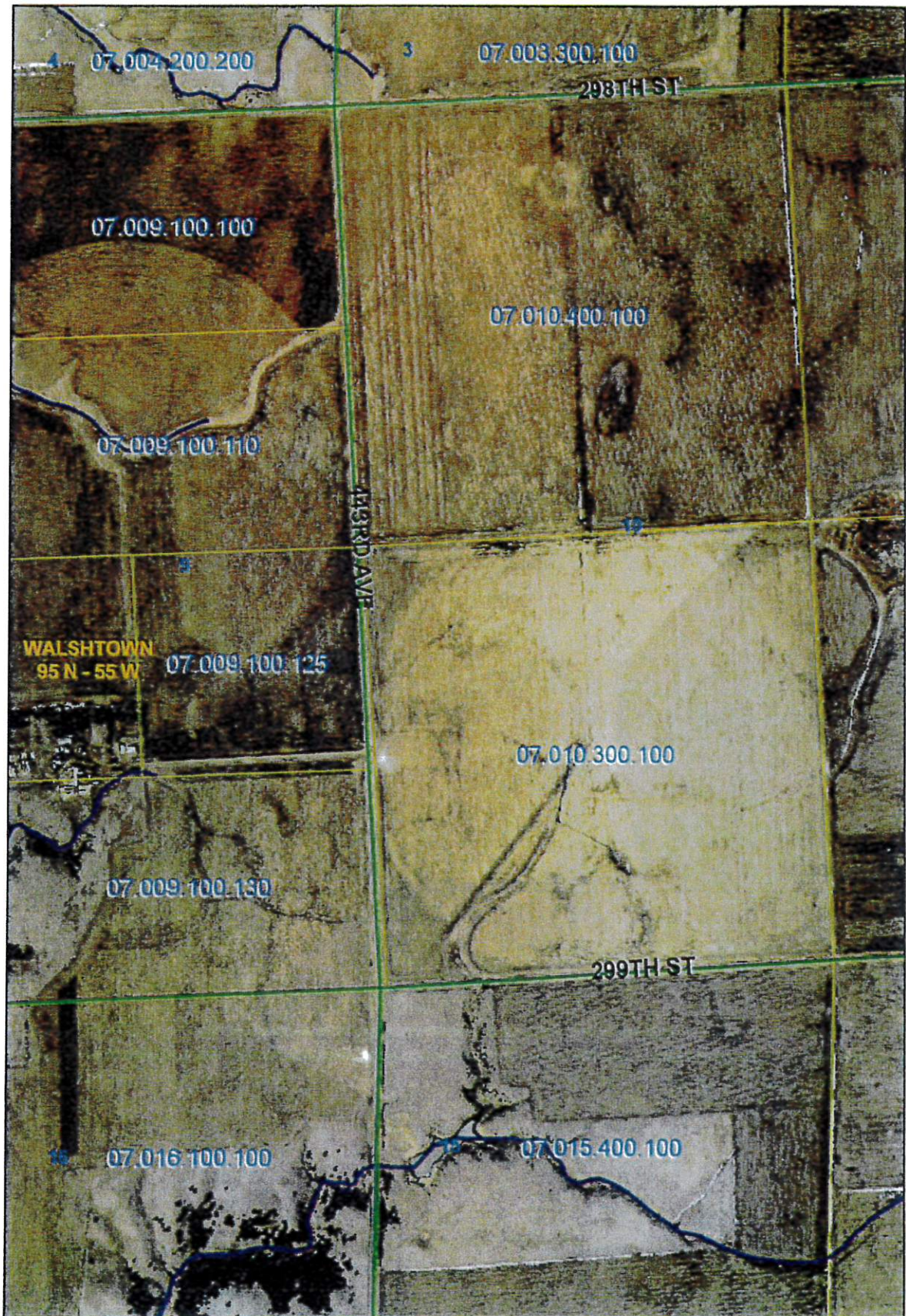
1000 ft

Z

NW $\frac{1}{4}$ of Sec 10



Blue Line Map 95-55

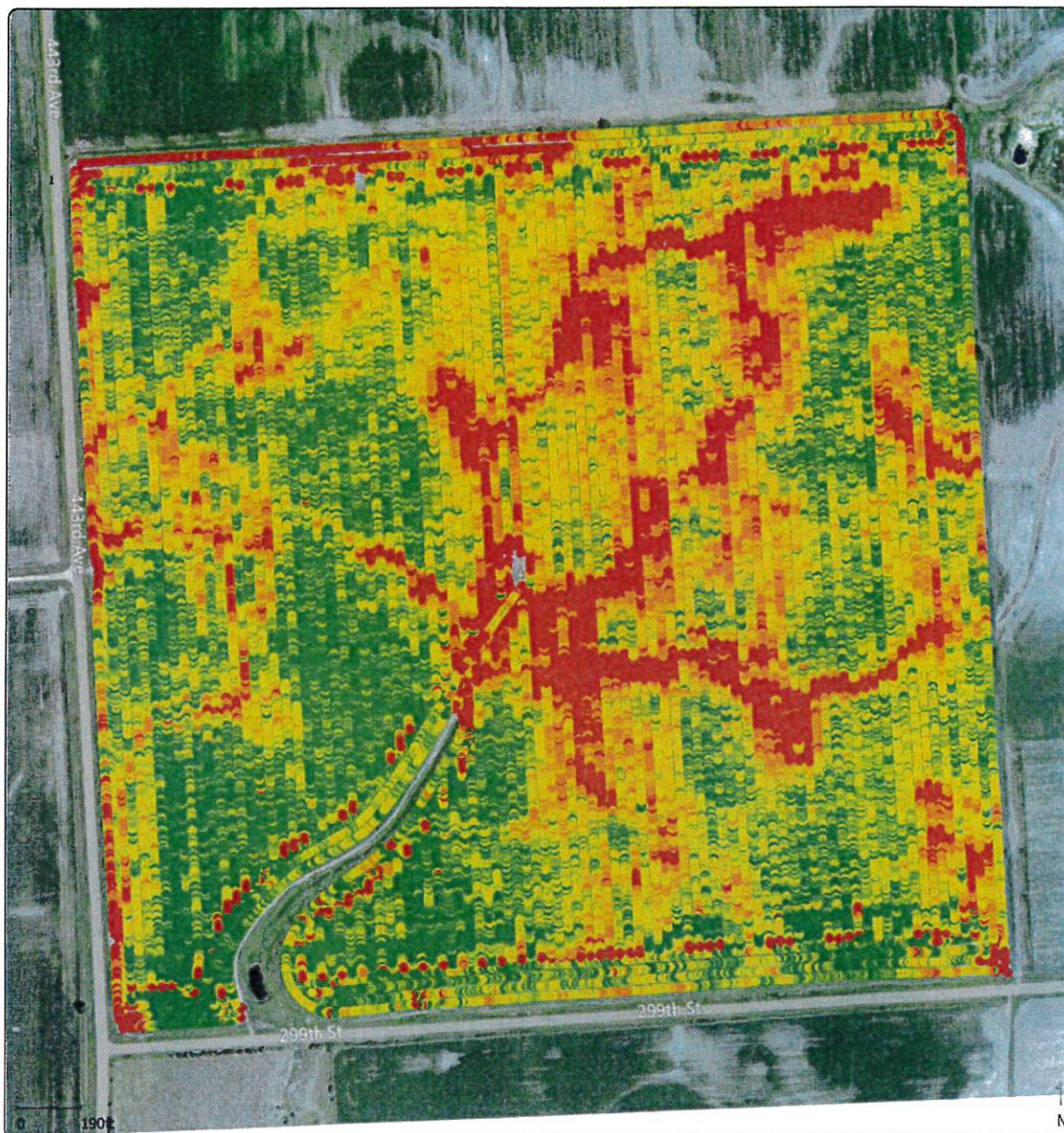


Grain Harvest 2014 - The Quarter(207-02)



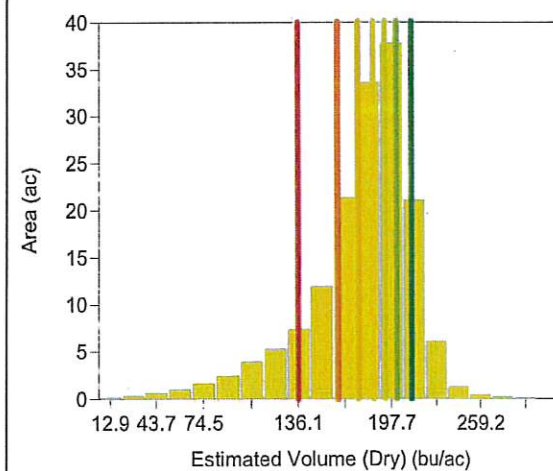
Year : 2014
 Operation : Grain Harvest
 Crop / Product : 207-02
 Area : 155.99 ac
 Avg. Yield : 178.07 bu/ac
 Total Estimated Volume (Dry) : 27,778 bu

Estimated Volume (Dry)		
	(bu/ac)	
211.06 -	1,747.15 (18.80 ac)	
200.96 -	211.06 (19.92 ac)	
192.98 -	200.96 (20.14 ac)	
185.16 -	192.98 (19.86 ac)	
175.37 -	185.16 (20.37 ac)	
161.57 -	175.37 (19.87 ac)	
135.21 -	161.57 (18.86 ac)	
5.24 -	135.21 (18.16 ac)	



John Gunderson | Home | The Quarter 2014 | Grain Harvest | 207-02 | Harvest - 1

Dataset	Area ac	Average Moisture %	Est. Volume (Dry) bu	Avg. Yield (Dry) bu/ac	Date Logged
L0:Harvest	16.41	16.77	2,898.9	176.63	11/05/2014
L0:Harvest	71.84	17.14	12,848	178.83	11/06/2014
L0:Harvest	67.73	17.34	12,031	177.62	11/07/2014
Totals	155.99	17.19 Average	27,778	178.07 Average	11/05/2014 - 11/07/2014

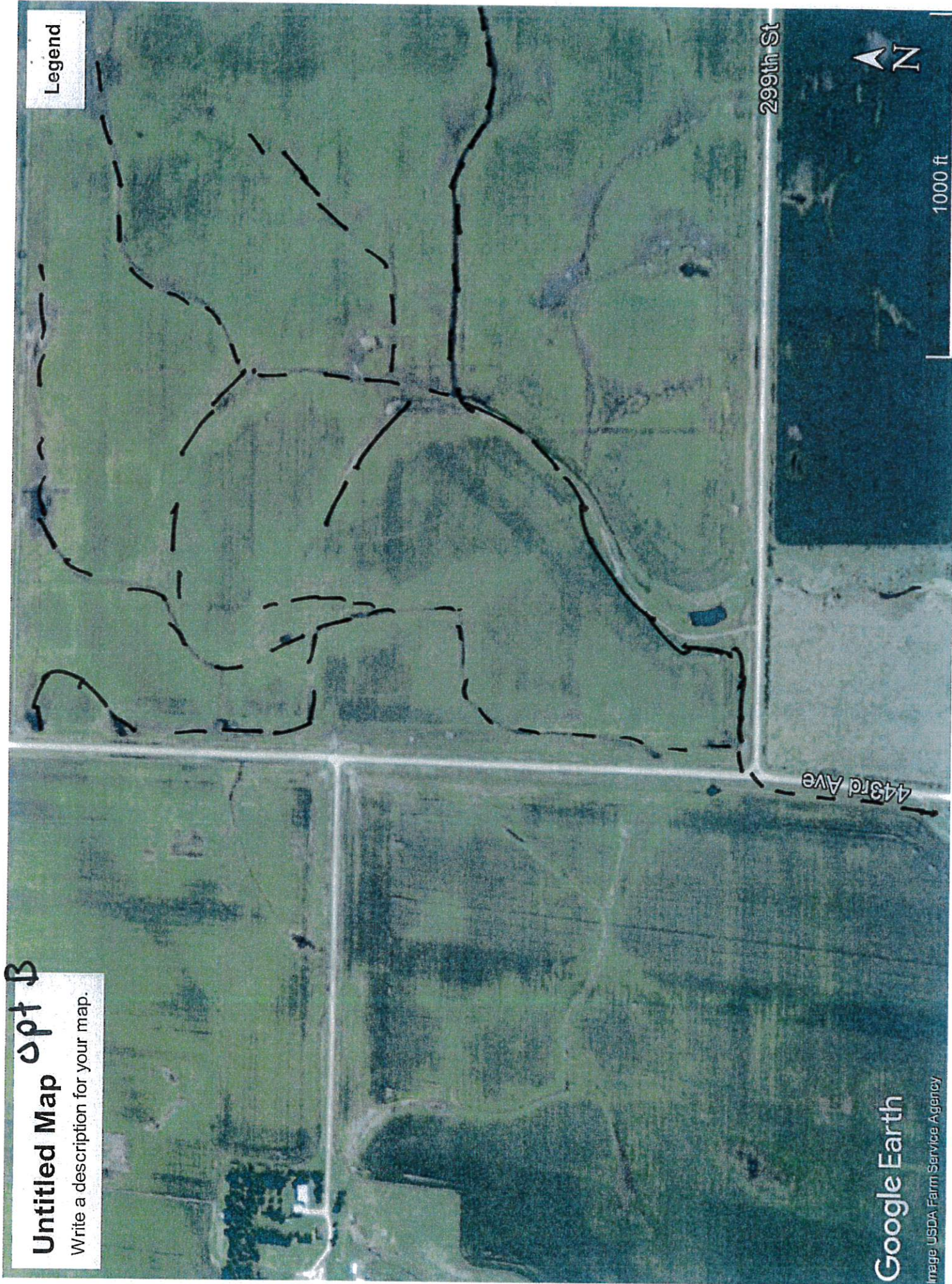


Opt B

Untitled Map

Write a description for your map.

Legend



1000 ft

Google Earth

Image USDA Farm Service Agency

Untitled Map

Write a description for your map.

Legend

- AGL M E2 SAGINAW
- AGL M E5

299th St

Google Earth

Image: U.S. Geological Survey

1000 ft

N

Easement and Right of Way Agreement
Option A

Grantor: Walshtown Township, Yankton County South Dakota
Bob Habeck, Chairman (30157 444 Ave Mission Hill, SD 57046)

Grantee: JHGAS Farms LLC, John H Gunderson, Manager (29875 443 Ave, Irene, SD 57037)

The Grantor, Walshtown Township, Yankton County South Dakota, for One Dollar (\$1.00) and other consideration does grant a permanent easement to the Grantee, JHGAS Farms LLC, an easement to:

- 1) Cross township road 443 Ave between 298 Street and 299 Street.
- 2) Easement is for field drainage tile. Starting in Section 10, 95-55 and continuing to a defined blue line streams in the Section 9, 95-55, both parcels of land owned by JHGAS Farms LLC.
- 3) The section of the tile drainage that passes through the Township Easement shall be non-perforated tile.
- 4) JHGAS FARMS LLC shall be responsible for repairing and maintaining the roadway for issues caused by the installation of the field drainage tile after construction through the right of way for 5 years.
- 5) The Easement way shall be no wider than forty (40) feet wide.
- 6) Grantee will pay all reasonable costs and expenses that result from the Grantee's, or Grantee's agent(s), that result from the use of the Easement Area. Except to the extent the damages are caused by the negligence, recklessness or willful misconduct of the Grantor, or anyone acting on the Grantor's behalf.
- 7) Both Parties recognize and acknowledge the existence of an underground electrical powerline, previously granted an easement, and installed in the work area. Work in this area is the responsibility of JHGAS Farms LLC and its agents.

For Walshtown Township:


Robert Habeck
For JHGAS Farms LLC

Date.....

8-4-2020
8-4-2020

..... Date.....

Easement and Right of Way Agreement

Grantor: JHGAS FARMS LLC, John H Gunderson, Manager (29875 443 Ave, Irene, SD 57037) Owner of Section 9, and the E1/2 of Sec 15, Twp 95 Rng 55 of the 5th PM.

Grantee: JHGAS Farms LLC, John H Gunderson, Manager (29875 443 Ave, Irene, SD 57037) Owner of the W1/2 of Sec 10, Twp 95 Rng 55 of the 5th PM.

The Grantor, JHGAS Farms LLC, John H Gunderson, Manager, for One Dollar (\$1.00) and other consideration does grant a permanent easement to the Grantee, JHGAS Farms LLC, an easement to:

Easement is for field drainage tile. Starting in Section 10, 95-55 and continuing to a defined blue line streams in the Section 9 and Sec 15 of Twp 95 Rng 55 of the 5th PM.

- 1) JHGAS FARMS LLC, or the successor dominant landowner shall be responsible for maintaining the drainage tile for issues caused by the installation of the field drainage tile after construction through the right of way for 5 years. Should the drainage tile usage be shared between the dominant and subservient landowners, costs for repairs and maintenance shall be shared on a pro-rata basis.
- 2) The Easement way shall be no wider than forty (40) feet wide.
- 3) There shall be no open surface inverts to this tile, except for air relief, which would not allow for entry of surface water to the drainage tile system.
- 4) Grantee will pay all reasonable costs and expenses that result from the Grantee's, or Grantee's agent(s), that result from the use of the Easement Area. Except to the extent the damages are caused by the negligence, recklessness or willful misconduct of the Grantor, or anyone acting on the Grantor's behalf.
- 5) Both Parties recognize and acknowledge the existence of an underground electrical powerline, and existing water supply pipelines, previously granted an easement, and installed in the work area. Installation is the responsibility of JHGAS Farms LLC and its agents.
- 6) This easement is binding on all subsequent landowners.

For JHGAS Farms LLC, Grantor

John H Gunderson

Date 6 Aug 2020

For JHGAS Farms LLC, Grantee

John H Gunderson

Date 6 Aug 2020

Gary Vetter

From: macola@iw.net
Sent: Tuesday, December 1, 2020 9:39 AM
To: Gary Vetter
Subject: Fwd: Gunderson
Attachments: 2020 Corn Quarter Tile Lines.pdf

Mr. Vetter

In compliance with discussions with Rob Klimish and Cheri Loest, I forward this email to you. Cheri Loest has the easements.

John H Gunderson

----- Original Message -----

Subject: Gunderson
Date: 2020-11-30 10:30
From: macola@iw.net
To: Cheri Loest <cheri@co.yankton.sd.us>

Cheri

Attached is the sketch of the proposed tile lines and outlet.

I sent the easements on Friday.

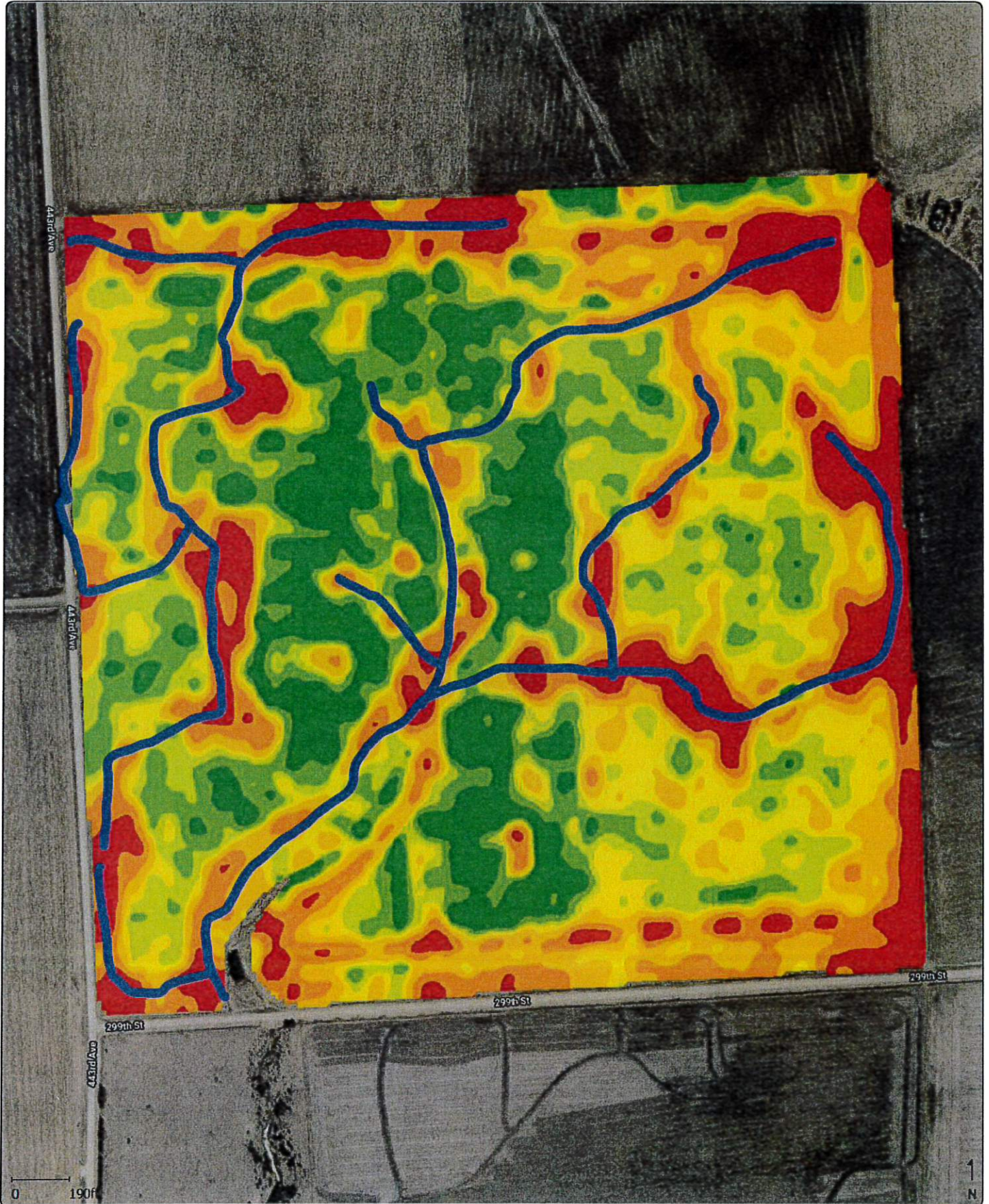
Notes on our Drainage Permits

30 November 2020

To whom it may concern:

- We are moving our outlet for the newly installed tile from the NE1/4 of Sec 16 to the SW1/4 of Sec 10 (See Attached Map). The outlet size is unchanged. The water destination is unchanged.
- All land described lies in Walshtown TWP TWP 95 RNG 55.
- The water from Sec 10 drains into a recognized Blue Line in the NW1/4 of Sec 15.
- As of Friday, 28Nov2020, Larry and Kristi Lyngstad are not interested in installing tile at this time.
- The Lyngstad land, the SE1/4 of Sec 10 drains onto our land the SW1/4 of Sec 10.
- JHGAS land drains onto Lyngstad land in the NW1/4 of Sec 15.
- Lyngstads and JHGAS have acknowledged existing easements from 2013 from their land to ours and from our land to theirs on the NW1/4 of Sec 15.
- JHGAS is leaving a corridor for Lyngstads to drain/tile their land on SW1/4 of Sec 10.

SMS Map



Gary Vetter

From: macola@iw.net
Sent: Friday, December 11, 2020 10:37 AM
To: Gary Vetter
Cc: Cheri Loest; gaschief@iw.net; Andy Gunderson; Annicka Gunderson; Ross Den Herder
Subject: Re: Gunderson
Attachments: 2020 Gunderson Tile Lines as Installed.pdf

Cheri & Gary

The easements remain the same.

Attached is the sketch of our installation.

Lyngstad will provide their sketch.

Our installers are still at work, so this is my sketch, but I hope to have their work-drawing by the meeting.

John

On 2020-12-09 10:16, Gary Vetter wrote:

Good morning,

We will plan on having the Drainage Commission meeting for the Gunderson/Lyngstad project on Tuesday, December 29 at 7PM.

Thanks,
Gary Vetter
Development Services Director
Yankton County
(605) 260-4445
gary@co.yankton.sd.us

From: Cheri Loest
Sent: Wednesday, December 9, 2020 10:12 AM
To: macola@iw.net
Cc: Gary Vetter <gary@co.yankton.sd.us>
Subject: Re: Gunderson

For the drainage meeting review, please forward a copy of your final plan and updated easements to Gary Vetter for him to include in the packet. *I copied him so you have his email.* This will be a modification of your existing permit.

- Cheri

From: Cheri Loest <cheri@co.yankton.sd.us>
Sent: Sunday, December 6, 2020 12:57 PM
To: macola@iw.net <macola@iw.net>
Subject: Re: Gunderson

After looking at your map closer and matching it with the notes I took, I want to clarify one thing.

Does your tile outlet directly discharge into the blue line?

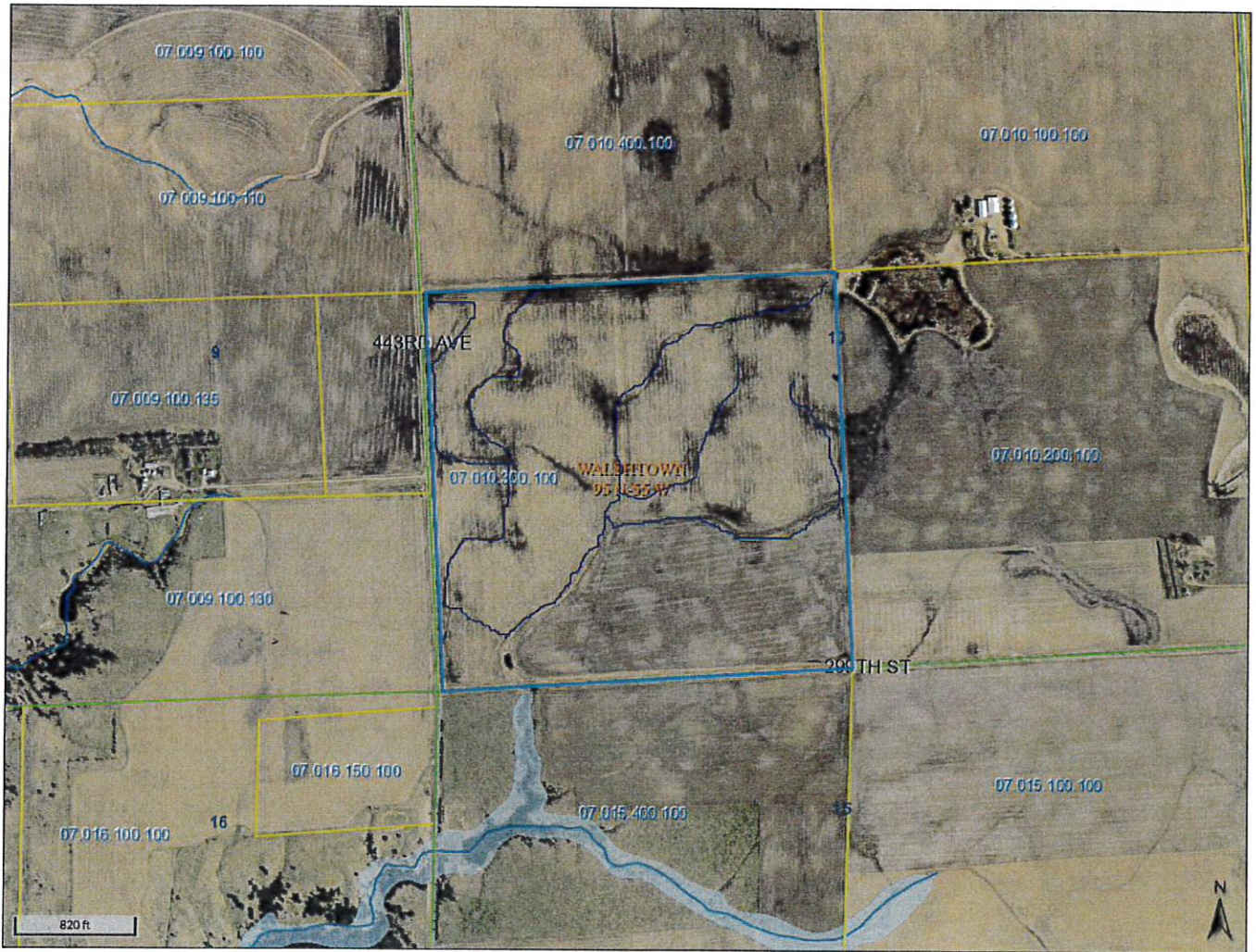
From our conversation, I thought you were moving your outlet onto the Lyngstad property so its outlet was *directly* into their blue line. From your drawing, it looks like your outlet is on your property, drains through the ditch and over the Lyngstad land. If that's the case, then it does require Drainage Commission approval in that it "does not outlet into a permanent or intermittent stream".

Cheri

From: macola@iw.net <macola@iw.net>
Sent: Monday, November 30, 2020 10:30 AM
To: Cheri Loest <cheri@co.yankton.sd.us>
Subject: Gunderson

Cheri
Attached is the sketch of the proposed tile lines and outlet.
I sent the easements on Friday.
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To whom it may concern:

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- JHGAS land drains onto Lyngstad land in the NW1/4 of Sec 15.
- Lyngstads and JHGAS have acknowledged existing easements from 2013 from their land to ours and from our land to theirs on the NW1/4 of Sec 15.
- JHGAS is leaving a corridor for Lyngstads to drain/tile their land on SW1/4 of Sec 10.



Gary Vetter

From: Cheri Loest
Sent: Tuesday, December 15, 2020 10:34 AM
To: macola@iw.net; Ross Den Herder
Cc: Gary Vetter
Subject: Re: Gunderson

Please copy Gary Vetter on these emails. It ensures all documents are recorded in the office file and are provided at the meeting. - Cheri

From: macola@iw.net <macola@iw.net>
Sent: Tuesday, December 15, 2020 10:25 AM
To: Cheri Loest <cheri@co.yankton.sd.us>; Ross Den Herder <rossdenherder@dhlaw.co>
Subject: Gunderson.

Cheri

Below is the letter and addresses for the notification letter for the Drainage Commission Hearing on 29Dec2020. Just to be safe I went a little above and below the 1/2 mile above and 1 mile below required. I did not include the drainages to the north and south as they won't be receiving water from the tile.

Y'Obd'Svt

John

Letter Follows:

John H Gunderson

Grace Ann Schiefen

Andrew H Schiefen Gunderson

Annicka K Schiefen Gunderson

JHGAS FARMS LLC

29875 443 Ave

Irene, SD 57037

605-263-3850

605-661-6752

Parcel ID - 07.016.400.100

SEES, ROSEMARY J (D)

29948 NE JIM RIVER RD

MISSION HILL SD 57046

Dear Rosemary and the family,

We received a drainage permit, DP-20-015 in 2020. We have changed the outlet location for that drainage tile located in Section 10, 95-55 from Section 15 to Section 10. Nothing else, including the size of the outlet, in that permit changed. The only change is in the location of the outlet.

Because of that change of the outlet location, The Yankton County Drainage Commission has requested that we appear at a hearing on December 29, 2020 to review the permit and the changes. You are welcome to attend that hearing at the Yankton County Administrative Building at 7:00 pm on that date. If you have any questions before the hearing, please feel free to call us or stop by to discuss this hearing.

For the Family,

John H Gunderson

Addresses Notice letter was sent to:

Parcel ID - 07.015.400.100

LYNGSTAD, LAWRENCE D & Kristi

29928 444 AVE

VOLIN SD 57072

Parcel ID - 07.010.100.100

HEALY, DAVID J

30848 444 AVE

MISSION HILL SD 57046

Owner - JHGAS FARMS LLC (D)

29875 443 Ave

Irene, SD 57037

Parcel ID - 07.016.300.100

Owner - KEELEY, GERALD A (D)

SCHRAMM, JOANNE REV TRUST

(D)

SCHRAMM, TERRENCE REV TRUST

(D)

44238 302 ST

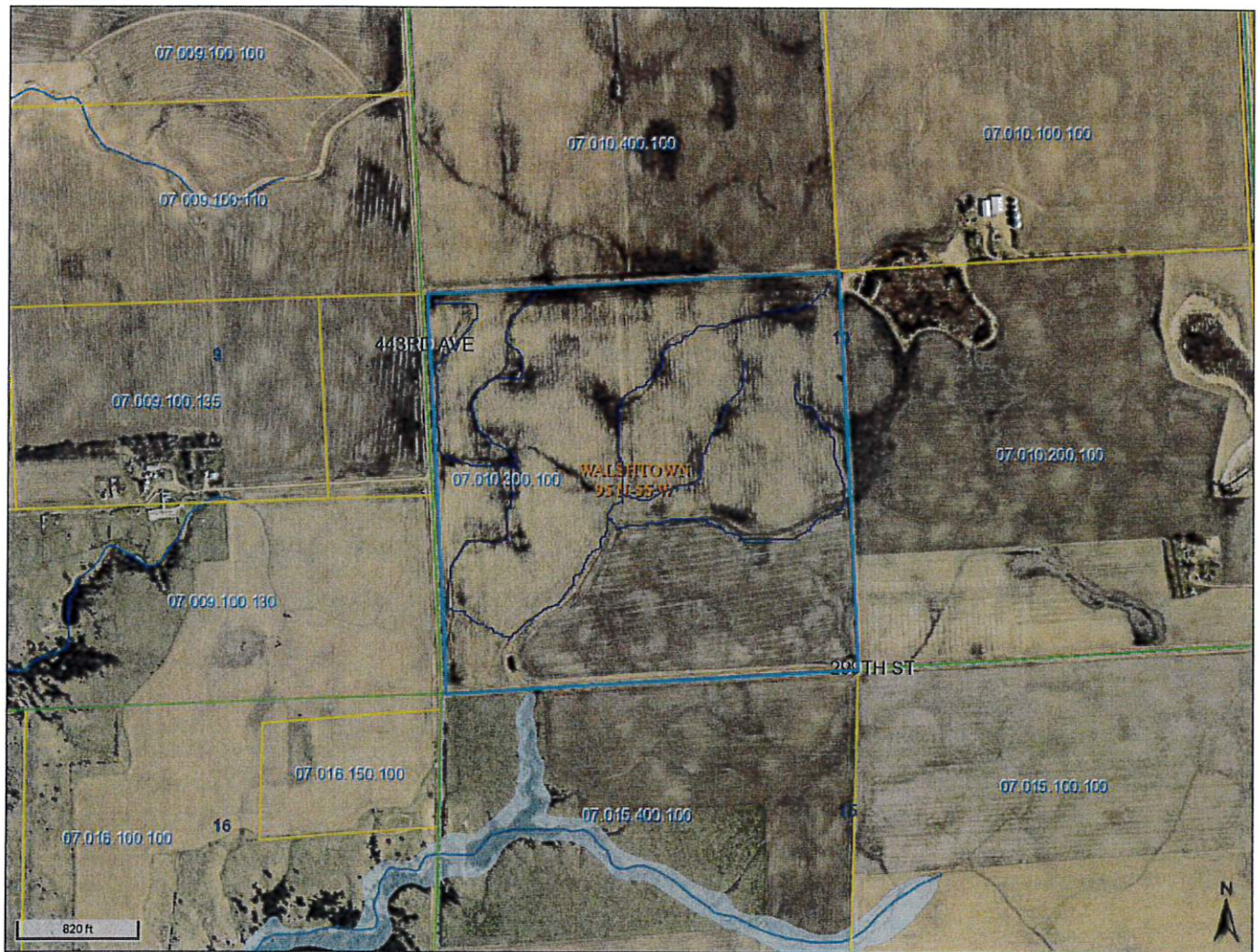
MISSION HILL SD 57046

Parcel ID - 07.016.400.100

SEES, ROSEMARY J (D)

29948 NE JIM RIVER RD

MISSION HILL SD 57046



Parcel ID - 07.010.200.100
Address - 29891 444 AVE
Owner - LYGSTAD, LARRY D (D)
LYGSTAD, KRISTIE (D)

Parcel ID - 07.010.100.100 Address - 29851 444 AVE Owner - HEALY, DAVID J (D) HEALY, MARGARET L (D)	Deed Holder HEALY, DAVID J 30848 444 AVE MISSION HILL SD 57046
---	--

Parcel ID - 07.010.400.100
Owner - JHGAS FARMS LLC (D)
Acres - 156

Parcel ID - 07.015.400.100 Owner - LYGSTAD, LAWRENCE D (D) LYGSTAD, KRISTIE L (D)	Deed Holder LYGSTAD, LAWRENCE D 29928 444 AVE VOLIN SD 57072
---	--

Parcel ID - 07.016.150.100 Address - 29907 443 ST Owner - JHGAS FARMS LLC (D)	Property Address 29907 443 ST Sec/Twp/Rng 16/95/55	07.016.150.100
--	---	----------------

Deed Holder KEELEY, GERALD A 44238 302 ST MISSION HILL SD 57046	Parcel ID - 07.016.300.100 Address - 44202 300 ST Owner - KEELEY, GERALD A (D) SCHRAMM, JOANNE REV TRUST (D) SCHRAMM, TERRENCE REV TRUST (D)
---	---

Parcel ID - 07.016.400.100
Owner - SEES, ARTHUR L (D)
SEES, ROSEMARY J (D)
Acres - 160

Owners
Deed Holder
SEES, ARTHUR L

29948 NE JIM RIVER
RD
MISSION HILL
SD 57046

Parcel ID - 07.010.200.100

Parcel ID - 07.015.400.100

LYNGSTAD, LAWRENCE D & Kristi

29928 444 AVE

VOLIN SD 57072

Parcel ID - 07.010.100.100

HEALY, DAVID J

30848 444 AVE

MISSION HILL SD 57046

Owner - JHGAS FARMS LLC (D)

29875 443 Ave

Irene, SD 57037

Parcel ID - 07.016.300.100

Owner - KEELEY, GERALD A (D)

SCHRAMM, JOANNE REV TRUST (D)

SCHRAMM, TERENCE REV TRUST (D)

44238 302 ST

MISSION HILL SD 57046

Parcel ID - 07.016.400.100

SEES, ROSEMARY J (D)

29948 NE JIM RIVER RD

MISSION HILL SD 57046

John H Gunderson

Grace Ann Schiefen

Andrew H Schiefen Gunderson

Annicka K Schiefen Gunderson

JHGAS FARMS LLC

29875 443 Ave

Irene, SD 57037

605-263-3850

605-661-6752

Parcel ID - 07.016.400.100

SEES, ROSEMARY J (D)

29948 NE JIM RIVER RD

MISSION HILL SD 57046

Dear Rosemary and the family,

We received a drainage permit, DP-20-015 in 2020. We have changed the outlet location for that drainage tile located in Section 10, 95-55 from Section 15 to Section 10. Nothing else, including the size of the outlet, in that permit changed. The only change is in the location of the outlet.

Because of that change of the outlet location, The Yankton County Drainage Commission has requested that we appear at a hearing on December 29, 2020 to review the permit and the changes. You are welcome to attend that hearing at the Yankton County Administrative Building at 7:00 pm on that date.

If you have any questions before the hearing, please feel free to call us or stop by to discuss this hearing.

For the Family,

John H Gunderson

Addresses Notice letter was sent to:

Parcel ID - 07.015.400.100

LYNGSTAD, LAWRENCE D & Kristi

29928 444 AVE

VOLIN SD 57072

Parcel ID - 07.010.100.100

HEALY, DAVID J

30848 444 AVE

MISSION HILL SD 57046

Owner - JHGAS FARMS LLC (D)

29875 443 Ave

Irene, SD 57037

Parcel ID - 07.016.300.100

Owner - KEELEY, GERALD A (D)

SCHRAMM, JOANNE REV TRUST (D)

SCHRAMM, TERRENCE REV TRUST (D)

44238 302 ST

MISSION HILL SD 57046

Parcel ID - 07.016.400.100

SEES, ROSEMARY J (D)

29948 NE JIM RIVER RD

MISSION HILL SD 57046

**YANKTON COUNTY
DRAINAGE APPLICATION # _____**

(Type or Print)

OWNER: JHGAS FARMS LLC

OWNERS ADDRESS: 29875 443 AVE, IRENE SD 57037

OWNERS DAYTIME PHONE#: 605.263.3850

DATE OF DRAINAGE PERMIT REQUEST: _____

JOB ADDRESS: SAME

DRAINAGE PROPERTY PARCEL NUMBER: _____

LEGAL: SW1/4 OF SEC 10 & SE1/4 OF SEC 9 & NE1/4 SEC 15 ALL IN TWP95 RNG55 WEST OF 5THPM

TOWNSHIP: WALSHTOWN **SECTION:** 9.10.15

U.S. NATURAL RESOURCES CONSERVATION SERVICE: NO WETLANDS

VESTED DRAINAGE RIGHTS ON PROPERTY: YES

TOWNSHIP / YANTKON COUNTY HIGHWAY / SOUTH DAKOTA DOT: WALSHTOWN

MUNICIPALITY / COUNTY AFFECTED BY PERMIT: NONE

SOUTH DAKOTA GAME, FISH & PARKS: N/A

SOUTH DAKOTA DENR: N/A

AFFECTED SECTION OF DRAINAGE ORDINANCE: _____

DRAINAGE DETAILS: TILE DRAINAGE ON OWNERS PROPERTY TO BLUE LINE LOCATED ON OWNERS PROPERTY

DRAINAGE PERMIT APPROVAL / DENIAL: _____

DRAINAGE ADMINISTRATOR SIGNATURE: _____

Applications will not be accepted nor acted upon until the following information has been provided by the applicant:

- A) Detailed Site Plan (Refer to handout)
- B) One-Call 811 Request Form
- C) Application Fee(s)

SCHEDULED FOR DRAINAGE COMMISSION ACTION (Date): _____

SCHEDULED FOR DRAINAGE BOARD ACTION* (Date): _____

***TENTATIVE DATE:** Final date announced at Drainage Commission Meeting

APPLICATION FEE: _____

CHECK #: _____

RECEIPT #: _____

The undersigned acknowledges/declares that all the facts and representations stated in this application are true and by signing, acknowledges the cost and the procedure for the processing of the application and certifies that the property described by the legal description is not delinquent. The undersigned understands all applicable regulations in the Yankton County Drainage Ordinance, Yankton County Floodplain Ordinance and Yankton County Zoning Ordinance.

Name of Applicant

Date

Signature of Applicant/Owner

Date

Easement and Right of Way Agreement

Grantor: JHGAS FARMS LLC, John H Gunderson, Manager (29875 443 Ave, Irene, SD 57037) Owner of Section 9, and the E1/2 of Sec 15, Twp 95 Rng 55 of the 5th PM.

Grantee: JHGAS Farms LLC, John H Gunderson, Manager (29875 443 Ave, Irene, SD 57037) Owner of the W1/2 of Sec 10, Twp 95 Rng 55 of the 5th PM.

The Grantor, JHGAS Farms LLC, John H Gunderson, Manager, for One Dollar (\$1.00) and other consideration does grant a permanent easement to the Grantee, JHGAS Farms LLC, an easement to:

Easement is for field drainage tile. Starting in Section 10, 95-55 and continuing to a defined blue line streams in the Section 9 and Sec 15 of Twp 95 Rng 55 of the 5th PM.

- 1) JHGAS FARMS LLC, or the successor dominant landowner shall be responsible for maintaining the drainage tile for issues caused by the installation of the field drainage tile after construction through the right of way for 5 years. Should the drainage tile usage be shared between the dominant and subservient landowners, costs for repairs and maintenance shall be shared on a pro-rata basis.
- 2) The Easement way shall be no wider than forty (40) feet wide.
- 3) There shall be no open surface inverts to this tile, except for air relief, which would not allow for entry of surface water to the drainage tile system.
- 4) Grantee will pay all reasonable costs and expenses that result from the Grantee's, or Grantee's agent(s), that result from the use of the Easement Area. Except to the extent the damages are caused by the negligence, recklessness or willful misconduct of the Grantor, or anyone acting on the Grantor's behalf.
- 5) Both Parties recognize and acknowledge the existence of an underground electrical powerline, and existing water supply pipelines, previously granted an easement, and installed in the work area. Installation is the responsibility of JHGAS Farms LLC and its agents.
- 6) This easement is binding on all subsequent landowners.

For JHGAS Farms LLC, Grantor



Date

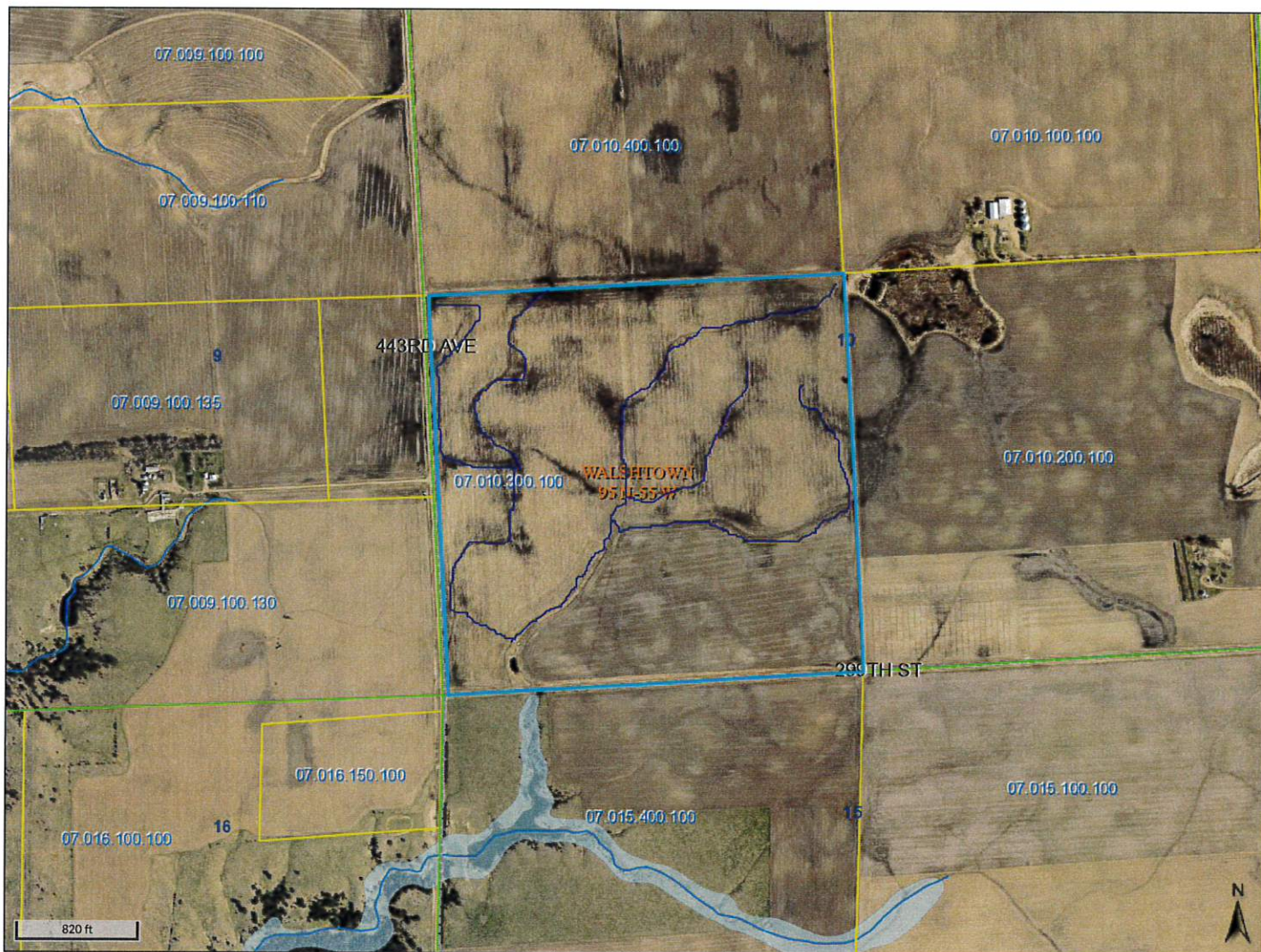
6 Aug 2020

For JHGAS Farms LLC, Grantee



Date

6 Aug 2020



YANKTON COUNTY DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

Applicant to complete numbered spaces only.

1. Job Address	29891 444th Ave Volin, SD 57072		
2. Legal Description of Drainage Site			
3. Owner	Mail Address	Zip	Phone
Larry/Kristie Lyngstad	29891 444 Ave Volin, SD	57072	
4. Contractor	Mail Address	Zip	Phone
Bakke Hlawace Farm Drainage	44650 Hwy 46	57037	661-8609 661-8133
5. Feet of drainage pipe and outlet size			
25,000 Outlet Size 12"			
6. Class of Work (Check One) <input checked="" type="checkbox"/> New <input type="checkbox"/> Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Repair <input type="checkbox"/> Move <input type="checkbox"/> Remove			
7. Describe Work:			
New Tile			
2644' 12" Tile with no hole in John Cauderson			
8. Valuation of Work: \$ 55,000			

Owner

Job Address

For Official Use Only-

SPECIAL CONDITIONS: _____

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

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.

Carey Hlawace 12/9/20
Signature of Contractor or Authorized Agent Date

Larry Lyngstad 12-9-20
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

PERMIT FEE

Check #

Type of Construction

☐ Blue Line Outlet

Total Feet of Pipe

☐ Drainage Ditch Outlet

Outlet Size

12"

☐ Lake / Pond / Wetland Outlet

☐ Administrative Permit

☐ Drainage Board Permit

For County Officials Use Only

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

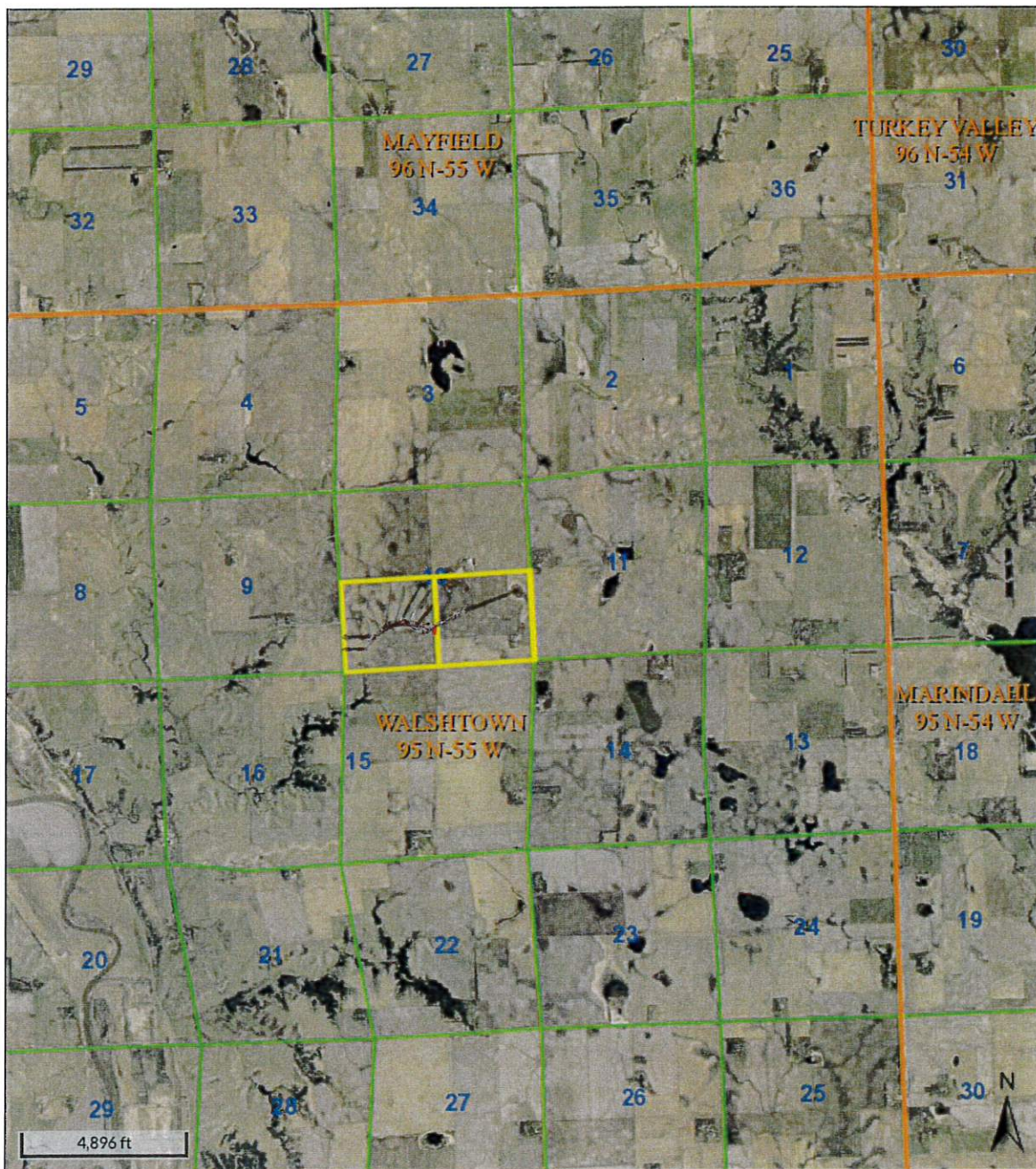
The above application is hereby approved.

Drainage Permit Number: _____

Post Construction? Y N

Drainage Administrator or Authorized Representative

Date



Overview



Legend

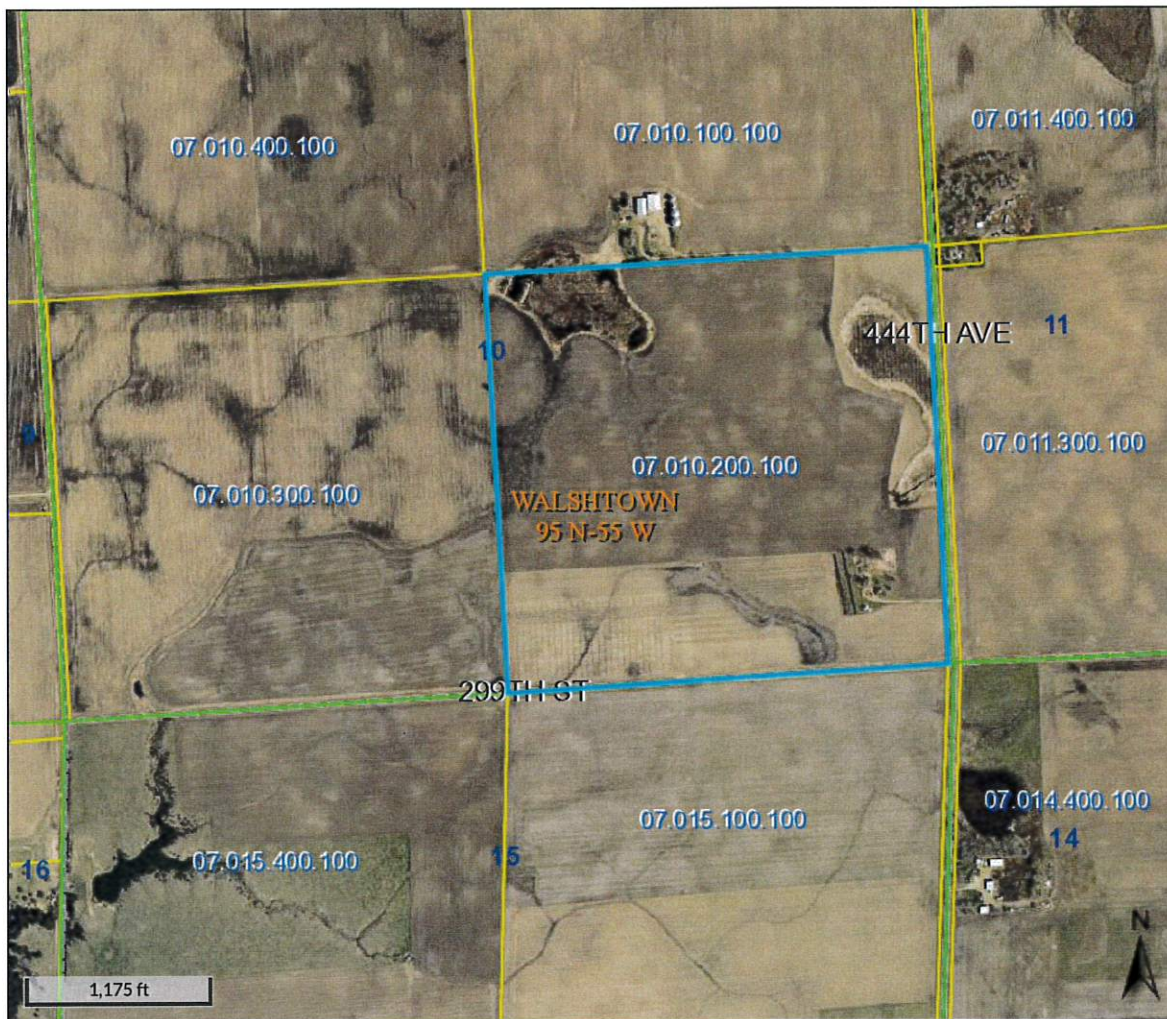
- Townships
- Sections
- City Limits

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 12/8/2020
Last Data Uploaded: 12/7/2020 10:39:26 PM

Developed by  **Schneider**
GEOSPATIAL

2644' 12" in John



Overview



Legend

-  Townships
-  Sections
-  Parcels
-  City Limits
-  Streets and Roads

Parcel ID - 07.010.200.100
Address - 29891 444 AVE
Owner - LYGSTAD, LARRY D (D)
LYGSTAD, KRISTIE (D)
Acres - 163.67

Disclaimer: Yankton County digital cadastral data are a representation of recorded plats and surveys for use within the Geographic Information System for purposes of data access and analysis. These and other digital data do not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership or use.

Date created: 12/9/2020
Last Data Uploaded: 12/9/2020 8:24:30 AM

Developed by  **Schneider**
GEOSPATIAL

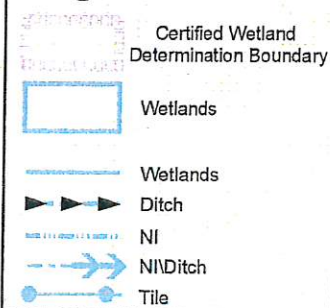
Certified Wetland Determination

Field Office: Yankton FO
 Certified By: Armstrong
 Legal Desc: S 10, T 95N, R55W

Agency: USDA-NRCS
 Certified Date: 12/9/13
 Tract: 5779



Legend



W Wetland
 FW Farmed Wetland Drained or modified & cropped prior to 12-23-1985, but still meets wetland criteria
 PC Prior Converted
 NW Non Wetland
 See NRCS CPA-O26E for definitions and additional info.



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name	LARRY LYGSTAD	Request Date:	1/15/13	County:	Yankton
Address:	29928 444TH AVE VOLIN SD 57072				
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	5779	FSA Farm No.:	6461

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

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 d

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
All	FW		8.4	11/7/13	12/9/13
All	NW		129.1	11/7/13	12/9/13
All	PC		13.8	11/7/13	12/9/13
All	W		7.4	11/7/13	12/9/13
	WX		0.1	11/7/13	12/9/13

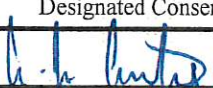
The wetland determination was completed in the

Field

It was mailed to the person on

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
		12/9/2013

YANKTON COUNTY DRAINAGE ORDINANCE # 19

ARTICLE I GENERAL PROVISIONS

SECTION 1.01.

TITLE

These regulations shall be referred to as the Drainage Ordinance of Yankton County.

SECTION 1.02.

AUTHORITY

The authority for this ordinance is promulgated under SDCL 46A-10A and SDCL 46A-11.

SECTION 1.03.

PURPOSE

These regulations shall govern the drainage of water within Yankton County and are designed to enhance and promote the physical, economic, and environmental management of the county; protect the tax base; prevent inordinate adverse impacts on servient properties; encourage land utilization that will facilitate economical and adequate productivity of all types of land; lessen government expenditure; conserve and develop natural resources; and preserve the important benefits provided by wetlands.

SECTION 1.04.

DRAINAGE COMMISSION

The Yankton County Commission shall appoint nine (9) members to the Yankton County Drainage Commission. The YC Drainage Commission members shall serve a three year term and shall not have term limits. The Drainage Commission shall meet at such times as may be necessary to accomplish the purposes of their duties, but may not meet less than once every six months.

SECTION 1.05.

DRAINAGE BOARD

The Yankton County Commission shall constitute the Yankton County Drainage Board. The YC Drainage Board shall meet at such times as may be necessary to accomplish the purposes of their duties, but may not meet less than once every six months.

SECTION 1.06.

BOARD OF RESOLUTION

The Yankton County Commission shall constitute the Yankton County Board of Resolution.

SECTION 1.07.

ADMINISTRATIVE OFFICIAL

The provisions of this Ordinance shall be administered and enforced by the Planning & Zoning Administrator, as the Yankton County Drainage Administrator, appointed by the Yankton County Commissioners.

SECTION 1.08.

REPEAL OF CONFLICTING ORDINANCES.

All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

**ARTICLE II
DEFINITIONS**

SECTION 2.01.

DEFINITIONS

For the purposes of this ordinance, certain terms and words are hereby defined. Any word not herein defined shall be as defined in any recognized Standard English dictionary.

Abut - Having a common border with, or being separated from such a common border by a Right-of-way, alley or easement; for the purposes of this Ordinance the 'abut' shall be synonymous with 'adjacent' or 'adjoining'.

Benefitted Area - The area within a drainage district or coordinated drainage area that receives the direct benefit from the drainage projects which have been constructed, or are to be constructed, within the district or drainage area.

Blue Line Stream - Any stream shown as a solid or broken blue line on 7.5 Minute Series quadrangle maps prepared by the U.S. Department of the Interior Geological Survey (USGS). A blue line stream may be any creek, stream or other flowing water feature, perennial or ephemeral, indicated on USGS quadrangle maps, with the exception of man-made watercourses. The United States Army Corps of Engineers uses USGS blue line stream markings as a preliminary indicator of "Waters of the United States". Streams identified on USGS maps in such a manner are therefore generally subject to federal environmental regulations.

Board of Resolution – The Yankton County Commission shall serve as the Yankton County Board of Resolution.

Closed drain or blind drain - A man-made drain or drainage scheme utilizing pipes, tiles or other materials and constructed in such a way that flow of water is not visible.

Drainage Board – The Yankton County Commission shall serve as the Drainage Board.

Drainage Commission - The Yankton County Drainage Commission, composed of nine members appointed by the Yankton County Commission; or any county drainage commission created under the terms of this ordinance.

Coordinated drainage area - A defined geographic area containing one or more parcels of real property and established under the provisions of this chapter 46A-11 by a board or commission to provide a planned network or method or natural or man -made drainage, or both, to benefit all parcels of real property involved.

Dominant estate - Any parcel of real property, usually at a higher elevation, which holds a common law or statutory legal right to drain water onto other real property.

Drain - A means of draining either surface or subsurface water through a system of ditches, pipes or tiles, natural, man-made or natural with man-made improvements.

YANKTON COUNTY DRAINAGE ORDINANCE # 19

Drainage Administrator - An official duly appointed by the Commission who is responsible for the administration and enforcement of this ordinance.

Drainage Board - Any county board designated under the terms of SDCL 46A-10A-2 or 46A-10A-34.

Drainage District - A drainage area with multiple owners that was established under state law prior to July 1, 1985 in which all planning, construction and maintenance of the drainage system conform with a master plan for the district and are funded through an assessment on the benefitted acres within the district.

Drainage Map - Any map adopted by resolution of the commission that delineates the extent of county drainage, drainage project, or a coordinated drainage area.

Drainage Plan - A document which may illustrate by maps, charts, and other descriptive matter the policies of the commission to interrelate all man-made and natural systems and activities relating to drainage under its jurisdiction.

Drainage Project - Any man-made improvements constructed or installed with the intent to drain water.

Drainage scheme - A plan or system by which water is drained from one or more parcels of real property onto one or more parcels of real property.

Engineer - A professional, registered engineer.

Entity - For the purposes of this ordinance the term “entity” shall include a person, estate, trust, corporation, company, partnership, limited liability company, limited liability partnership, governmental unit or any similar organization.

Established water course - A fixed and determinate route, either natural or man-made, by which water has flowed from one parcel of real property to another and by which water has been discharged upon a servient estate for a period of time, on such a regular basis and in such quantities as to make it a predictably continuous activity.

Governing body - A board of county commissioners, a city council or a city commission.

Hydric Soil - Soil types which are formed under saturated conditions.

Hydrophitic Vegetation - Vegetative types typically adapted for life in saturated soil conditions.

Lake - A land depression having a greater depth of water and having more permanent standing water than either a slough or pond. This definition classifies lakes as type five wetlands or “inland open freshwater” as defined in U.S. Fish & Wildlife Service Circular 39.

YANKTON COUNTY DRAINAGE ORDINANCE # 19

Landowner or owner - Any individual, firm or corporation, public or private, or public agency, who has legal title to real property as shown by the records of the register of deeds of the county in which the real property is situated. If the real property is sold under a contract for deed and the contract is of record in the office of the register of deeds for the respective county, both the recorded owner of the real property and the purchaser as named in the contract for deed are deemed owners of the real property.

Lateral drain - For the purpose of regulating the drainage of water means a drain constructed after the establishment and construction of the original drain or drainage system (for which a permit was obtained) and which flows into such original drain or drainage system.

Legal drain - A drain or drainage scheme that:

- (a) Is vested under the provisions of SDCL 46A-10 and SDCL 46A-11;
- (b) Has been constructed by a person or by a unit of government under the provisions of past or present law; or
- (c) Has been granted a drainage permit.

Maintenance – see Routine Maintenance

Meandered lake - Any pond, slough, or lake which has had its boundaries established by metes and bounds in the survey of public lands by government of the United States.

Modifications to Any Drain - Modification to any drain shall mean constructing, relocating, extending, deepening, widening, straightening or otherwise altering a surface drain, closed drain, man-made or natural drain, natural water course, ditch, or any other drain for the purpose of a natural water course.

Municipality - A city or town, however organized.

Natural drain - A drainage system which operates as part of a natural water course, as defined herein.

Natural water course - A fixed and determinate route by which water naturally flows from one parcel of real property to another due to the conformation of the land and by which water is discharged upon the land receiving the water. It is not necessary that the force or volume of the flow of water be sufficient to form a channel having a well-defined bed or banks.

Official Control - Any ordinance, order, regulation, map, or procedure adopted by a commission to regulate drainage.

Ordinance - Any ordinance, as defined in subdivision 7-18A-1(2), adopted by a commission to regulate drainage of both rural and urban areas to provide coordination of drainage projects, individual drainage efforts and drainage areas and to foster conformity with any county drainage plan.

Party of record - Any person who submits oral or written testimony and evidence for the record of the state engineer's public hearing.

Permanent - A drainage project fixed and in place for a period of time exceeding six months.

YANKTON COUNTY DRAINAGE ORDINANCE # 19

Permitted Drainage - Any drainage project that has been submitted to the Yankton County Drainage Commission and has received an authorized permit to drain.

Persons - A person, firm, partnership, association, corporation, or any other type of private legal relationship, and any governmental organization, which includes, but is not limited to, any agency of the United States, a state agency, and any political subdivision of the state.

Pond - A land depression where the soil is covered with six inches (15 centimeters) to three feet (0.91 meters) or more of water throughout the growing season. This definition classifies ponds as type four wetland or “inland deep marshes” as defined in U.S. Fish & Wildlife Service Circular 39.

Private drain - A drainage system or scheme designed, constructed and maintained by a landowner primarily for his own benefit or a natural drain, whether or not actively maintained, that provides a benefit primarily to one landowner.

Rural or rural area - Any territory outside a municipality.

Routine maintenance - Any maintenance performed on a vested and/or properly registered drainage system provided:

- (a) The repair or replacement of a closed or lateral drain does not increase the size, capacity or length of the existing drain and the original location of the drain are not altered.
- (b) The removal of sediment or vegetation from a surface drain with man-made improvements if the maintenance does not exceed the original depth and capacity of the channel and the original location of the drain is not altered.
- (c) The filling in of a drain to repair damage caused by erosion.

Servient estate - Any parcel of real property, usually at a lower elevation, which is subject to a legal right allowing a dominant estate to drain water onto it.

Slough - Includes three types (refer to U.S. Fish & Wildlife Service Circular 39):

- (a) Type one sloughs are “seasonally flooded basins or flats” which includes land depressions where the soil is covered with water, or is waterlogged, during variable seasonal periods but is usually well drained during much of the growing season.
- (b) Type two sloughs are “inland fresh meadows” which includes land depressions where the soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches (centimeters) of its surface.
- (c) Type three sloughs are “inland shallow fresh marshes” which includes land depressions where the soil is usually waterlogged throughout the growing season and is often covered with as much as six inches (15 centimeters) or more of water.

Stream, Intermittent - A natural drainage channel indicated by a solid blue line in the recently published USGS 7.5 minute quadrangle map.

Stream , Permanent - A natural drainage channel indicated by a solid blue line in the most recently published USGS 7.5 minute quadrangle map.

YANKTON COUNTY DRAINAGE ORDINANCE # 19

Sub-watershed - The area drains into a specified lake or waterway as identified by the Natural Resources Conservation Services and displayed or described on the “Yankton County Hydrology Map.”

Surface Drain - A man-made drain on the surface of the ground.

Unit of local government - A municipality, an irrigation district, a water project district, a water user district, a township, a sanitary district, a conservation district or other special district, as defined by South Dakota Codified Law.

Vested drainage right - A right to drain water from one property to another, which was established on the basis of SDCL 46A-10A or 46A-11A. Any natural right acquired before July 1, 1985, is deemed vested if recorded at the Register of Deeds before July 1, 1991.

Water management board - The state board in SDCL 1-40-15.

Watershed - The area which drains into a slough, pond, or lake.

Wetland – Those areas which have a predominance of hydric soil, are inundated or saturated by water for at least 15 days during a growing season, and under normal circumstances support hydrophytic vegetation. Reference maps may include the U.S. Natural Resources Conservation Services wetland maps and the U.S. Fish & Wildlife Service National Wetlands Inventory.

ARTICLE III

DRAINAGE PERMITS

SECTION 3.01.

PERMITS REQUIRED

A drainage permit shall be required prior to commencing the excavation for, or the construction, installation, or modification of, a drainage project including, but not limited to, the following:

1. Construction or installation of a surface or closed drain.
2. Any draining, filling, diverting, in whole or in part, of a pond, wetland, or lake or filling of a drain.
3. Construction of any lateral drain.
4. Modification of any permitted or vested drainage with the intent of deepening or widening any drainage channel, increasing the size and/or depth of any drainage tile, or the extending or rerouting any drainage work.
5. Improvements to a drainage district or a coordinated drainage area which were not included in the original plans.
6. Modification of any permitted or vested drainage which has the effect of causing an impediment to existing drainage.

SECTION 3.02.

PERMITS NOT REQUIRED

A drainage permit shall not be required for the routine maintenance of a drain previously permitted by the Yankton County Drainage Board / Drainage Administrator. Landowners intending to perform routine maintenance of vested drainage, permitted drainage, or other drainage as defined herein are not required to obtain a permit, however, landowners shall notify the drainage administrator prior to performing routine maintenance.

SECTION 3.03.

APPLICATION FOR A DRAINAGE PERMIT

Any person required to obtain a drainage permit under this ordinance shall file an application on a form as provided by the County and the required filing fee with the Yankton County Drainage Administrator.

Drainage Permits issued on the basis of plans and applications approved by the Drainage Administrator authorize only the drains or impediments set forth in such approved plans and specifications. Any drainage or impediments to drainage at variance without authorization shall be deemed a violation of this ordinance and shall be punishable as provided by this ordinance.

1. An Application for a Drainage Permit, accompanied with the appropriate fee to be established by resolution shall be completed by the landowner requesting the Drainage Permit. Completed applications shall be returned to the Drainage Administrator for review. To be considered complete, the application form shall be accompanied by the following additional items:

YANKTON COUNTY DRAINAGE ORDINANCE # 19

- a. A detailed, preliminary site plan, including a map with property legal description, showing the location of the proposed construction. The site plan shall include a description of the length, type, depth and size of the drain, and the location of the proposed outlet, supported by latitude / longitude coordinates (GPS). The actual outlet shall be placed within 10% (actual location difference/total distance of project) of the proposed outlet in the preliminary plan. All required maintenance agreement and / or easement shall be provided.
- b. Identification of sub-watershed(s) to be affected using best available data which shall be deemed to include the Yankton County Hydrology Map as well as any other data which identifies watershed boundaries, provided the source of such information is noted.
- c. A copy of any recorded South Dakota Vested Drainage Records and/or a copy of the U.S. Natural Resources Conservation Service (NRCS) or NRCS-CPA-026, with certified drainage systems and referenced wetland maps (where applicable).
- d. All signed waivers, including a complete “811 call” notification, for performing drainage work in Yankton County.
- e. Any application for any drainage into a road right-of-way must include the written approval of the township board (when applicable) and Yankton County Commission.
- f. Any application for a proposed drainage project which would involve any underground construction on a county road right-of-way must include a validated permit from Yankton County for occupancy for underground construction on county roads right-of-way.
- g. Any application for a proposed drainage project which is determined to be of statewide or inter-county significance must be provided to the other counties affected by the applicant.
- h. Any other information which the Drainage Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

If the Drainage Administrator determines that the application is incomplete or if the information contained therein is insufficient to make an informed decision on the application, the application shall be returned to the applicant for revision.

SECTION 3.04.

NOTIFICATION TO OTHER PARTIES

A good faith effort must be made by the applicant to notify all property owners of land with the following provisions. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with “Notice of Hearing” forms for this purpose and the notices shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date and supported by affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least seven (7) days prior to the hearing date.

The Applicant’s shall, at the applicant’s expense, give notice by postage mail with affidavit of mailing, of the application for drainage permit to the following parties:

1. All property owners (as detailed above) one-half (1/2) mile above and one (1) mile below the outlet of the proposed drainage or documented Blue Line.

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2. A signed statement from the Applicant and Contractor, if applicable, acknowledging each parties understanding of the proposed project, the drainage ordinance, and zoning regulations applicable to the project as proposed.
3. The Drainage Administrator may also request that the applicant provide a detailed survey prepared by a professional engineer or surveyor.
4. Any county which will be directly affected by the water to be drained.
5. Any municipality which appears to the Drainage Administrator to be adjacent to the property to be drained or its drain outlet as described in the application.
6. The South Dakota Departments of Game, Fish & Parks and Department of Interior US Fish and Wildlife Service if directly affected and provided they have a recorded property interest in the water course into which the water is to be drained adjacent to the property to be drained or its drain outlet as described in the application.
7. The South Dakota Department of Environment & Natural Resources.
8. The applicable street authority (e.g. Township Supervisor(s), Yankton County Highway Superintendent, South Dakota Department of Transportation) for the right-of-way of any highway or roadway within their jurisdiction which will be directly affected by the water to be drained.
9. The local U.S. Natural Resources Conservation Service.

SECTION 3.05.

AUTHORITY OF DRAINAGE ADMINISTRATOR TO GRANT DRAINAGE PERMITS

The Drainage Administrator shall have the authority to grant or deny a drainage permit for the following projects. All other drainage permit applications shall be Yankton County Drainage Commission / Yankton County Drainage Board public hearings.

Administrative Permits:

1. A proposed drainage project which outlets directly from the applicant's property into the legally recognized rivers and streams (blue lines) as defined herein and as delineated on the most recently published USGS 7.5 minute topographic maps.
2. A proposed drainage project which outlets directly into a permanent or intermittent stream not listed in #1 (above). All landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet (or legally recognized rivers and streams (blue lines) as defined herein) have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***. A permit may be issued if no abutting landowner files a written objection within ten (10) days after the mailing date stated on the affidavit of mailing.

Drainage Commission:

1. A proposed drainage project which does not outlet into a permanent or intermittent stream. All landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***. The Yankton County Drainage Commission public hearing will provide "Findings of Fact". The Yankton County Drainage Board shall review the YC Drainage Commission "Finding of

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Fact” (Section 3.09. or Section 3.10. or Section 3.11. or Section 3.12.); in conformance with Section 3.08.

2. A proposed drainage project which outlets directly or indirectly into a public or private road right of way. All landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***. The Yankton County Drainage Commission public hearing will provide “Findings of Fact”. The Yankton County Drainage Board shall review the YC Drainage Commission “Finding of Fact” (Section 3.09. or Section 3.10. or Section 3.11. or Section 3.12.); in conformance with Section 3.08.
3. A proposed drainage project which outlets into a permanent or intermittent stream, which does not outlet into a permanent or intermittent stream or which outlets directly or indirectly into a public or private road right of way; but has state and /or inter-county significance. All landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***. The Yankton County Drainage Commission public hearing will provide “Findings of Fact”. The Yankton County Drainage Board shall review the YC Drainage Commission “Finding of Fact” (Section 3.09. or Section 3.10. or Section 3.11. or Section 3.12.); in conformance with Section 3.08.
4. A proposed drainage project which outlets potentially drain water from one watershed with the intent to discharge the water into a different watershed. All landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***. The Yankton County Drainage Commission public hearing will provide “Findings of Fact”. The Yankton County Drainage Board shall review the YC Drainage Commission “Finding of Fact” (Section 3.09. or Section 3.10. or Section 3.11. or Section 3.12.); in conformance with Section 3.08.

SECTION 3.06.

AUTHORITY OF THE COUNTY TO WAIVE PERMIT HEARING

The Yankton County Drainage Board is granted authority to issue drainage permits without hearing in the following instances, subject to the conditions as specified below:

1. Construction or installation of a surface or closed drain which meets the following criteria:
 - a. Does not outlet directly into creeks or streams identified on the most recently published USGS 7.5-minute topographic maps;
 - b. Does not outlet directly into lakes, or ponds as defined herein;
 - c. Does not outlet directly into a right-of-way;
 - d. The drain or impediment does not cross a right-of-way; and
 - e. The discharged water is contained entirely on the property from which it originated until it is absorbed or evaporated; or
2. Construction or installation of an impediment to drainage, a surface, or closed drain subject to the following conditions:

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- a. The Drainage Administrator finds the application to be complete and in order
 - b. The applicant delivers with the application written consent from all persons who appear to the officer to own land adjacent to the property to be drained or its drain outlet as described in the application.
 - c. The applicant has filed a copy of the application with those parties designated in ***Section 3.04 Notification to Other Parties*** of this Ordinance by certified mail addressed to the addresses provided in the application form; or
3. Modifications that do not qualify as routine maintenance, as defined herein, of a drain or impediment of a drain permitted by the Yankton County Drainage Commission subject to the following conditions:
- a. The Drainage Administrator finds the application to be complete and in order
 - b. The applicant delivers with the application written consent from all persons who appear to the officer to own land adjacent to the property to be drained or its drain outlet as described in the application.

Nothing in this section requires the Drainage Board to grant an application without hearing, and the officer may refer any application to the Drainage Commission for hearing as provided in Section 3.05.

SECTION 3.07.

EMERGENCY DRAINAGE

In order to protect the public general welfare, the requirement for a permit, hearing, and notice thereon may be waived by the Yankton County Drainage Board in order to facilitate temporary emergency drainage. Within 14 days of the adoption or renewal of temporary emergency drainage, the Drainage Board will hold at least one public hearing with the time and place of the hearing published at least ten days in advance. An emergency measure is limited to six months from the date it becomes effective and may be renewed for six months by the Drainage Board, but it may not be in effect for more than one year. If the emergency drainage is to be permanent, a permit must be obtained and all hearings must be conducted as outlined throughout this ordinance.

SECTION 3.08.

HEARING BY DRAINAGE BOARD

For all hearings required pursuant to this article, the County shall, publish notice in a newspaper of general circulation in the area of the proposed drainage once a week for two consecutive weeks. The final published notice shall be published not more than fifteen days, or less than five days, before the date set for the hearing. The Applicant shall give notice to all landowners having land abutting the proposed drainage project for at least one-half (1/2) mile above and one (1) mile below the proposed outlet have received a copy of the drainage permit application materials as required in ***Section 3.04 Notification to Other Parties***.

1. All persons who appear to the officer to own land adjacent to the property to be drained or its drain outlet as described in the application.

2. Any person who has notified the County in writing of the person's objection to the drainage project proposed,
3. All those parties indicated in *Section 3.04 Notification to Other Parties* and this Ordinance.

Following notification, the Drainage Board shall conduct a public hearing on a drainage permit application or the appeal of an administrative decision.

SECTION 3.09.

EVALUATION OF PERMIT APPLICATIONS

The Drainage Board shall grant a Drainage Permit to those applicants which demonstrate the following:

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 LANDOWNERS

The Drainage Board or its designated official shall be guided by the following criteria:

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. Recommendations from the Drainage Commission in the "Findings of Fact".

SECTION 3.11.

**CRITERIA FOR DETERMINING WHETHER DRAINAGE IS OF STATEWIDE OR
INTERCOUNTY SIGNIFICANCE**

In determining whether the proposed drainage is of statewide or intercounty significance, the Commission shall be guided by the following criteria:

1. Drainage which would affect property owned by the state or its political subdivisions.
2. Drainage of sloughs, ponds, or lakes having recognized fish and wildlife values.
3. Drainage or partial drainage of a meandered lake.
4. Drainage which would have a substantial effect on another county.
5. Drainage which would convert previously noncontributing areas (based on twenty-five year event – 4% chance) into permanently contributing areas.
6. Recommendations from the Drainage Commission in the “Findings of Fact”.

For good cause, the Drainage Board may classify any proposed drainage as having statewide or intercounty significance, or the Drainage Board may determine that certain proposed drainage is not of statewide or intercounty significance.

SECTION 3.12.

**HEARING ON APPLICATIONS OF STATEWIDE OR INTERCOUNTY
SIGNIFICANCE**

Upon determination of an application of statewide or intercounty significance, the Drainage Board shall set the date, time and place for a public hearing on the application. The purpose of the hearing is to establish a record on which to base a decision as to whether the application to drain shall be granted, and if so, under what conditions the water is to be drained. A hearing shall not be required for a drainage project which is not of statewide or intercounty significance. However, the Drainage Board may hold hearings on such applications at its discretion.

SECTION 3.13.

APPEALS OF DECISIONS MADE BY THE DRAINAGE ADMINISTRATOR

Any decision of the Drainage Administrator may be appealed to the Drainage Board. The applicant or any person aggrieved by a decision shall file a written appeal with the Drainage Administrator within ten (10) working days of the Drainage Administrator’s decision. Upon such filing, the Drainage Administrator shall forward the appeal to the Drainage Board.

SECTION 3.14.

OFFICIAL MAPS

The official map for recording all permitted and vested projects shall be the 7.5 minute topographic illustrations published by the U.S. Geological Survey. The official maps shall be on record in the county Planning and Zoning office.

SECTION 3.15.

DRAINAGE PERMIT FEES

- General Drainage - \$100.00 plus \$10 per additional non abutting parcel
- Drainage Permits issued pursuant to Section 3.05. (1),(2) shall be \$50.00
- Drainage District or Coordinated Drainage Area - \$100 plus \$10 per additional parcel

Application materials for drainage permits may be obtained at the office of the Yankton County Planning and Zoning.

SECTION 3.16.

DRAINAGE INSPECTION FEE

Drainage work performed without first obtaining a required permit shall be subject to an inspection fee of \$500.00, in addition to any permit fees, and to cover additional expenses incurred by the County.

SECTION 3.17.

CONDITIONS TO PERMITS

Conditions may be attached to a drainage permit to ensure that the proposed drainage is accomplished in accordance with the purposes of this ordinance.

SECTION 3.18.

EXPIRATION OF DRAINAGE PERMITS

A drainage permit shall expire and become null and void if the authorized construction is not commenced within eighteen (18) months of the effective date of the permit unless written approval of an extension is given unless otherwise stated by the Board as a condition of granting the Drainage Permit.

**ARTICLE IV
ADMINISTRATION AND ENFORCEMENT**

SECTION 4.01.

POWERS AND DUTIES

The Drainage Administrator is hereby authorized and directed to enforce all the provisions of this ordinance and establish rules for its administration. The Drainage Administrator in conjunction with the Yankton County Commission may designate technical officers and/or inspectors, attorneys, or other employees that shall be authorized to assist in the administration and enforcement of this ordinance.

SECTION 4.02.

DISTURBING PUBLIC RIGHT-OF-WAYS PROHIBITED

No person or contractor shall cut a ditch within a public right-of-way, remove silt or soil, alter, obstruct, or otherwise disturb such right-of-way in any way. Such activity shall be a violation of this ordinance and state statute. Any person may request the County Highway Superintendent or Township Board of Supervisors to authorize the clean out and maintenance of a public right-of-way or ditch in order to restore it to its original condition. Township Board of Supervisors does not need a drainage permit to clean out and maintain the township public right-of-ways or ditches.

SECTION 4.03.

RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Drainage Administrator or an authorized representative has reasonable cause to believe that there exists upon any premises an ordinance violation, the Drainage Administrator or an authorized representative may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the Drainage Administrator by this ordinance, provided that if such property be occupied, the Drainage Administrator shall first present proper credentials and request entry; and if such property be unoccupied, the Drainage Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry. If such entry is refused, the Drainage Administrator or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Drainage Administrator or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any property shall fail or neglect, after proper request is made as herein provided, to promptly permit entry thereon by the Drainage Administrator or an authorized representative for the purpose of inspection and examination

pursuant to this ordinance.

SECTION 4.04.

ACTIVITIES WITHOUT NOTICE

The Yankton County Drainage Board may at any time and on its own motion, without notice, remove silt, debris, weeds and other vegetative growth, repair damaged structures, retard and/or restore an unapproved drainage or may take any other action as necessary to maintain the approved drainage improvements.

SECTION 4.05.

STOP ORDER AND INJUNCTION

Whenever any work is being done contrary to the provisions of this ordinance, the Drainage Administrator may order the work stopped by notice in writing served on any persons engaged in or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Drainage Administrator to proceed. In the event of a violation or threatened violation of this ordinance, the Drainage Board, may institute injunction or other appropriate action or proceedings, in addition to other remedies, to prevent the unlawful construction or use of any drainage work.

SECTION 4.06.

ASSESSMENT AGAINST PROPERTY

Any and all costs associated with the replacement, repair, restoration, or reconstruction to a condition prior to the work performed in violation of this ordinance may be assessed against all of the landowners' real property. Assessments shall be levied in the same manner and method as other assessments pursuant to SDCL 46A-10A and 46A-11.

SECTION 4.07.

INSPECTION FEES

Any person performing drainage activities without a permit as required under Sections 3.01. and 3.02. shall pay an inspection fee of \$500 in addition to the permit fee. These fees are in addition to the remedies set forth in other sections of this ordinance and may be assessed and collected in the same manner set forth in Section 4.06.

SECTION 4.08.

VIOLATION AND PENALTY

Any person draining water without a permit is guilty of a Class 1 misdemeanor and may be subject, in addition to any criminal penalty, a civil penalty not to exceed \$1000 per day of violation. Any person violating any other provisions of this ordinance is guilty of a Class 2

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misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day the violation continues may constitute a separate offense.

Violating the terms and conditions of a permit, or violating the ordinances which constitute the permit system, is punishable by a maximum \$1000 fine, thirty (30) days in jail, or both.

SECTION 4.09.

OTHER VIOLATIONS PURSUANT TO STATE STATUTE

In addition to violations and penalties set forth in Section 4.08.; South Dakota statutes provide for the following offenses and penalties:

- a. SDCL 31-32-7 Destruction, etc., of highway grade or ditch – Violation as misdemeanor.
- b. SDCL 31-32-8 Civil liability for violating preceding sections.
- c. SDCL 31-32-9 Duty of governing body to remove obstructions or repair – Recovery of expense from wrongdoer – Temporary obstruction for building purposes.
- d. SDCL 31-32-1 Intentionally damaging highway or bridge – Felony.
- e. SDCL 31-12-44 Repairs for wind and water erosion assessed to private landowner.
- f. SDCL 31-21-13 Obstruction of ditch as misdemeanor.
- g. SDCL 31-21-12 Civil liability for obstruction of ditch.
- h. SDCL 31-21-11 Entry upon land for maintenance of ditch.
- i. SDCL 31-32-3.1 Intentional dumping on highway right-of-way prohibited – Violation as misdemeanor.

**ARTICLE V
DRAINAGE COMPLAINTS**

SECTION 5.01.

JURISDICTION ON DRAINAGE DISPUTES

Any landowner may take a drainage dispute directly to circuit court. Whereas the Board of Resolution is composed of the same officials as the Drainage Board in accordance with SDCL 46A-10A-34, the Board of Resolution has jurisdiction to address drainage disputes in the unincorporated area of Yankton County under the following circumstances:

1. The drainage or impediment to drainage was performed prior to September 10, 1991.
2. New information or evidence exists which was not available for consideration by the Drainage Board when the permit for the specified drainage project was issued.

SECTION 5.02.

FILING A COMPLAINT

Any aggrieved landowner may file a drainage complaint by setting forth the facts of the drainage dispute in writing and submitting it to the Yankton County Planning and Zoning office. The complaint shall include the name and address of the complainant, the location of the property which has suffered damage or may suffer damage, the name and address of the respondent, the name and address of the landowner (if different than the respondent), and the location of the property against which the complaint is being registered. The complaint shall fully describe the nature of the complaint and include any damages the complainant feels have been incurred, along with documentation in support of those damages. When possible, the complaint should detail the type and location of work, and when the work occurred. The Board of Resolution may require that a drainage complaint include expert reports from a professional engineer or surveyor at the complainant's expense. These expert reports may be requested by the Board of Resolution at the time that it initially reviews and accepts jurisdiction of the drainage complaint, or if after it has been presented with information at a hearing, the Board of Resolution may determine that expert reports are necessary in order to proceed.

Upon acceptance of jurisdiction of a drainage complaint by the Board of Resolution, the Drainage Administrator shall serve the respondent with a notice and a copy of the drainage complaint by certified mail, return receipt requested.

SECTION 5.03.

HEARING ON COMPLAINT

Upon receiving the return receipt or notification that the certified mail was refused by the respondent, the Drainage Administrator shall schedule a hearing. The Drainage Administrator shall notify all affected parties by postage prepaid, certified mail of the date and time for the hearing not less than seven (7) days prior to the public hearing. If after notice, either party cannot attend the scheduled hearing and wants to appear personally, said party shall, not less than five (5) business days prior to the scheduled hearing, request a continuance. The request for continuance must be provided to both the Board of Resolution and all other affected parties. The Board of Resolution may in its sole discretion grant or refuse the request for a continuance.

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At the time set for hearing, any interested individual shall have the opportunity to appear and be heard. The parties may submit affidavits and/or oral testimony and other evidence for consideration by the Board of Resolution. In lieu of appearing personally, a party may submit its evidence to the County Auditor prior to the hearing to be submitted to the Board of Resolution for consideration. Failure of a party to appear at such hearing shall result in the hearing being held with whatever party does appear, and the Board of Resolution shall consider all evidence submitted to it.

The Board of Resolution may make a decision regarding the drainage dispute at the hearing, may defer the item pending additional information from either of the disputing parties, or may hold additional hearings on the dispute. Complaints may be upheld upon an affirmative vote of three-fourths of the full membership of the Board of Resolution. Any decision shall be consistent with the provisions of SDCL 46A-10A-20. Both parties shall be notified by first class mail of the Board of Resolution's decision.

SECTION 5.04.

APPEAL OF BOARD DECISION

Any affected party may appeal the Board of Resolution's decision on a drainage dispute to circuit court. Such appeal shall commence within twenty (20) days from the decision by the Board of Resolution per SDCL 46A-10A-35.