

March 23, 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.**

### **Ordell Oswald**

Applicant is requesting a Drainage Permit to install drain tile which outlets in a blue line at the property legally described as the East half of the Northeast Quarter (E1/2NE1/4) excluding Lot H2 of Section 12, T96, R56, West of the 5<sup>th</sup> P.M., County of Yankton, State of South Dakota.

**7:10 P.M.**

### **Mary Ann Van Schoianck**

Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as the North ½ of the Southeast 1/4, Section 12, T96N, R56W, County of Yankton, State of South Dakota.

**7:15 P.M.**

### **Jason Oswald**

Applicant is requesting a Drainage Permit to install drain tile which outlets in a culvert at the property legally described as Tract 6 Reisner Addition, SE 1/4, Section 12, T96N, R56W, County of Yankton, State of South Dakota as per plat book S20, Page 135

**7:20 P.M.**

### **John Gunderson**

Finalize permit

**7:25P.M.**

### **Public Comment**

**7:25 P.M.**

**Discussion on possible ordinance changes**

Meeting (Entity): Drainage Regular or Special Meeting: Regular  
Date: 02/23/2021 Time: 7:00PM Location: Chambers  
DC ATTENDANCE: ☒ GRANT ☒ KRALICEK ☐ KIRSCHENMAN ☒ HANSEN ☒ BIXLER ☒ LOEST  
☒ HEALY ☐ TACKE ☒ KRUSE  
STAFF ATTENDANCE: Vetter/Conkling  
APPROVAL OF MINUTES: MOTION BY: Loest SECOND BY: Kralicek  
DRAINAGE: ☒ GRANT ☐ KRALICEK ☐ KIRSCHENMAN ☒ HANSEN ☐ BIXLER ☒ LOEST  
☒ HEALY ☐ TACKE ☒ KRUSE

APPROVAL OF AGENDA: MOTION BY: Loest SECOND BY: Kralicek  
DRAINAGE: ☒ GRANT ☒ KRALICEK ☐ KIRSCHENMAN ☒ HANSEN ☐ BIXLER ☒ LOEST  
☒ HEALY ☐ TACKE ☒ KRUSE

AGENDA ITEM: Gerald Eilers  
ADDRESS/LEGAL: 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  
COMMENTS: Chad Eilers spoke for applicant

MOTION: Approve application as presented

APPROVAL: MOTION BY: Kralicek SECOND BY: Grant  
DRAINAGE: ☒ GRANT ☒ KRALICEK ☐ KIRSCHENMAN ☒ HANSEN ☐ BIXLER ☒ LOEST  
☒ HEALY ☐ TACKE ☒ KRUSE

AGENDA ITEM: Greg Schmidt  
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: None

MOTION: Approve application as presented

APPROVAL: MOTION BY: Hansen SECOND BY: Loest

DRAINAGE:        ☒GRANT ☒KRALICEK ☐KIRSCHENMAN ☒HANSEN ☐BIXLER ☒LOEST  
                      ☒HEALY ☐TACKE ☒KRUSE

AGENDA ITEM:     John Gunderson – JHGAS Farms  
ADDRESS/LEGAL:   NW4 10/95/55 and SW1/4 Exc W33’ Section 10, Township 95, Range 55, Yankton  
                              County, South Dakota  
COMMENTS:        Commissioners Healy and Loest recused themselves  
                              John Gunderson spoke for applicant  
                              David Healy asked a question about the application regarding notices  
MOTION:            Approve the application as presented  
APPROVAL:         MOTION BY:        Hansen                SECOND BY:       Grant  
DRAINAGE:         ☒GRANT ☒KRALICEK ☐KIRSCHENMAN ☒HANSEN ☐BIXLER ☐LOEST  
                              ☐HEALY ☐TACKE ☒KRUSE

AGENDA ITEM:     Larry Lyngstad  
ADDRESS/LEGAL:   SE1/4 of Section 10, Township 95, Range 55, West of the 5<sup>th</sup> PM, Yankton County,  
                              South Dakota  
COMMENTS:        \_\_\_\_\_  
                              \_\_\_\_\_  
                              \_\_\_\_\_  
MOTION:            Commission determined the project was incomplete and did not need a permit.  
                              Advised applicant to complete the plan with drawings and apply for a permit  
APPROVAL:         MOTION BY:        \_\_\_\_\_ SECOND BY:       \_\_\_\_\_  
DRAINAGE:         ☐GRANT ☐KRALICEK ☐KIRSCHENMAN ☐HANSEN ☐BIXLER ☐LOEST  
                              ☐HEALY ☐TACKE ☐KRUSE

AGENDA ITEM:     Public Comment  
ADDRESS/LEGAL:   \_\_\_\_\_  
COMMENTS:        NONE  
                              \_\_\_\_\_  
                              \_\_\_\_\_  
                              \_\_\_\_\_

MOTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVAL: MOTION BY: \_\_\_\_\_ SECOND BY: \_\_\_\_\_  
DRAINAGE: ☐ GRANT ☐ KRALICEK ☐ KIRSCHENMAN ☐ HANSEN ☐ BIXLER ☐ LOEST  
☐ HEALY ☐ TACKE ☐ KRUSE

AGENDA ITEM: Discussion of possible ordinance changes  
ADDRESS/LEGAL: \_\_\_\_\_  
COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MOTION: NO ACTION TAKEN  
Motion to adjourn

APPROVAL: MOTION BY: Grant SECOND BY: Healy  
DRAINAGE: ☒ GRANT ☒ KRALICEK ☐ KIRSCHENMAN ☒ HANSEN ☐ BIXLER ☒ LOEST  
☒ HEALY ☐ TACKE ☒ KRUSE

AGENDA ITEM: \_\_\_\_\_  
ADDRESS/LEGAL: \_\_\_\_\_  
COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MOTION: \_\_\_\_\_  
\_\_\_\_\_

APPROVAL: MOTION BY: \_\_\_\_\_ SECOND BY: \_\_\_\_\_  
DRAINAGE: ☐ GRANT ☐ KRALICEK ☐ KIRSCHENMAN ☐ HANSEN ☐ BIXLER ☐ LOEST  
☐ HEALY ☐ TACKE ☐ KRUSE

AGENDA ITEM: \_\_\_\_\_  
ADDRESS/LEGAL: \_\_\_\_\_  
COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MOTION: \_\_\_\_\_

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APPROVAL:

MOTION BY: \_\_\_\_\_ SECOND BY: \_\_\_\_\_

DRAINAGE:

☐ GRANT ☐ KRALICEK ☐ KIRSCHENMAN ☐ HANSEN ☐ BIXLER ☐ LOEST  
☐ HEALY ☐ TACKE ☐ KRUSE

# YANKTON COUNTY DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

*Applicant to complete numbered spaces only.*

|                                                                                                                                                                                                                                          |                                              |       |              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-------|--------------|
| 1. Job Address                                                                                                                                                                                                                           | 43975 293 <sup>rd</sup> St. Menno, SD 57045  |       |              |
| 2. Legal Description of Drainage Site                                                                                                                                                                                                    | E 1/2 of NE 1/4 EXC Lot H2 Section 12 96-56  |       |              |
| 3. Owner                                                                                                                                                                                                                                 | Mail Address                                 | Zip   | Phone        |
| Ordell Oswald                                                                                                                                                                                                                            | 29033 444 <sup>th</sup> Ave Viborg, SD 57070 | 57070 | 605-327-3477 |
| 4. Contractor                                                                                                                                                                                                                            | Mail Address                                 | Zip   | Phone        |
| Gridline Tile & Excavation                                                                                                                                                                                                               | 25433 413 Ave Mitchell, SD 57301             | 57301 | 605-680-2900 |
| 5. Feet of drainage pipe and outlet size                                                                                                                                                                                                 |                                              |       |              |
| 62,400 ft - 3 outlets - 6", 8", 8"                                                                                                                                                                                                       |                                              |       |              |
| 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:                                                                                                                                                                                                                        |                                              |       |              |
|                                                                                                                                                                                                                                          |                                              |       |              |
| 8. Valuation of Work: \$ 90,000                                                                                                                                                                                                          |                                              |       |              |

Owner

Job Address

For Official Use Only-

SPECIAL CONDITIONS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           |                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application Accepted By:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Site Plans Checked By: | Approved for Issuance By: | PERMIT FEE                                                                                                                                                                                                                                                                                                                 |
| <p style="text-align: center;"><b>NOTICE</b></p> <p>THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED EIGHTEEN (18) MONTHS OF ISSUANCE.</p> <p>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.</p> |                        |                           | Check #                                                                                                                                                                                                                                                                                                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | Type of Construction                                                                                                                                                                                                                                                                                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | Total Feet of Pipe                                                                                                                                                                                                                                                                                                         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | Outlet Size                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | <input type="checkbox"/> Administrative Permit                                                                                                                                                                                                                                                                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | <input type="checkbox"/> Blue Line Outlet<br><input type="checkbox"/> Drainage Ditch Outlet<br><input type="checkbox"/> Lake / Pond / Wetland Outlet<br><input type="checkbox"/> Drainage Board Permit                                                                                                                     |
| Signature of Contractor or Authorized Agent _____ Date _____<br>Signature of Owner (if owner builder) _____ Date _____<br>BY THIS SIGNATURE, THE DRAINAGE ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION                                                                                                                                                                                                                                                                                                                                                                                                      |                        |                           | <p><b>For County Officials Use Only</b></p> <p>When properly validated (in this space), this is your permit.</p> <p>The above application is hereby approved.</p> <p>Drainage Permit Number: _____</p> <p>Post Construction?    Y        N</p> <p>Drainage Administrator or Authorized Representative _____ Date _____</p> |

# YANKTON COUNTY DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

*Applicant to complete numbered spaces only.*

|                                                                                                                                                                                                                                          |                                                             |     |              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|-----|--------------|
| 1. Job Address                                                                                                                                                                                                                           | 43975 293 <sup>rd</sup> St. Menno, SD 57045                 |     |              |
| 2. Legal Description of Drainage Site                                                                                                                                                                                                    | SE 1/4 of Section 12-96-56 N 1/2 of SE 1/4 Section 12       |     |              |
| 3. Owner                                                                                                                                                                                                                                 | Mail Address                                                | Zip | Phone        |
|                                                                                                                                                                                                                                          | Mary Ann Van Schoiack 11248 Hwy 71 Savannah, MO 64485       |     | 816-387-3519 |
| 4. Contractor                                                                                                                                                                                                                            | Mail Address                                                | Zip | Phone        |
|                                                                                                                                                                                                                                          | Gridline Tile & Excavation 25433 413 Ave Mitchell, SD 57301 |     | 605-680-2900 |
| 5. Feet of drainage pipe and outlet size                                                                                                                                                                                                 |                                                             |     |              |
| 62,400 ft - 3 outlets - 6", 8", 8"                                                                                                                                                                                                       |                                                             |     |              |
| 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:                                                                                                                                                                                                                        |                                                             |     |              |
|                                                                                                                                                                                                                                          |                                                             |     |              |
|                                                                                                                                                                                                                                          |                                                             |     |              |
|                                                                                                                                                                                                                                          |                                                             |     |              |
| 8. Valuation of Work: \$ 90,000-                                                                                                                                                                                                         |                                                             |     |              |

Owner

Job Address

For Official Use Only-

SPECIAL CONDITIONS:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           |                                                                                                                                                                                                                                                                                                                            |                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Application Accepted By:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Site Plans Checked By: | Approved for Issuance By: | PERMIT FEE                                                                                                                                                                                                                                                                                                                 |                                                       |
| <p style="text-align: center;"><b>NOTICE</b></p> <p>THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED EIGHTEEN (18) MONTHS OF ISSUANCE.</p> <p>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.</p> |                        |                           | Check #                                                                                                                                                                                                                                                                                                                    |                                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |                           | 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 type="checkbox"/> Administrative Permit                                                                                                                                                                                                                                                                             | <input type="checkbox"/> Drainage Board Permit        |
| <p>Signature of Contractor or Authorized Agent _____ Date _____</p> <p>Signature of Owner (if owner builder) _____ Date _____</p> <p>BY THIS SIGNATURE, THE DRAINAGE ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION</p>                                                                                                                                                                                                                                                                                                                                                                                       |                        |                           | <p><b>For County Officials Use Only</b></p> <p>When properly validated (in this space), this is your permit.</p> <p>The above application is hereby approved.</p> <p>Drainage Permit Number: _____</p> <p>Post Construction?    Y        N</p> <p>Drainage Administrator or Authorized Representative _____ Date _____</p> |                                                       |



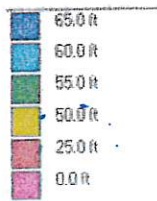
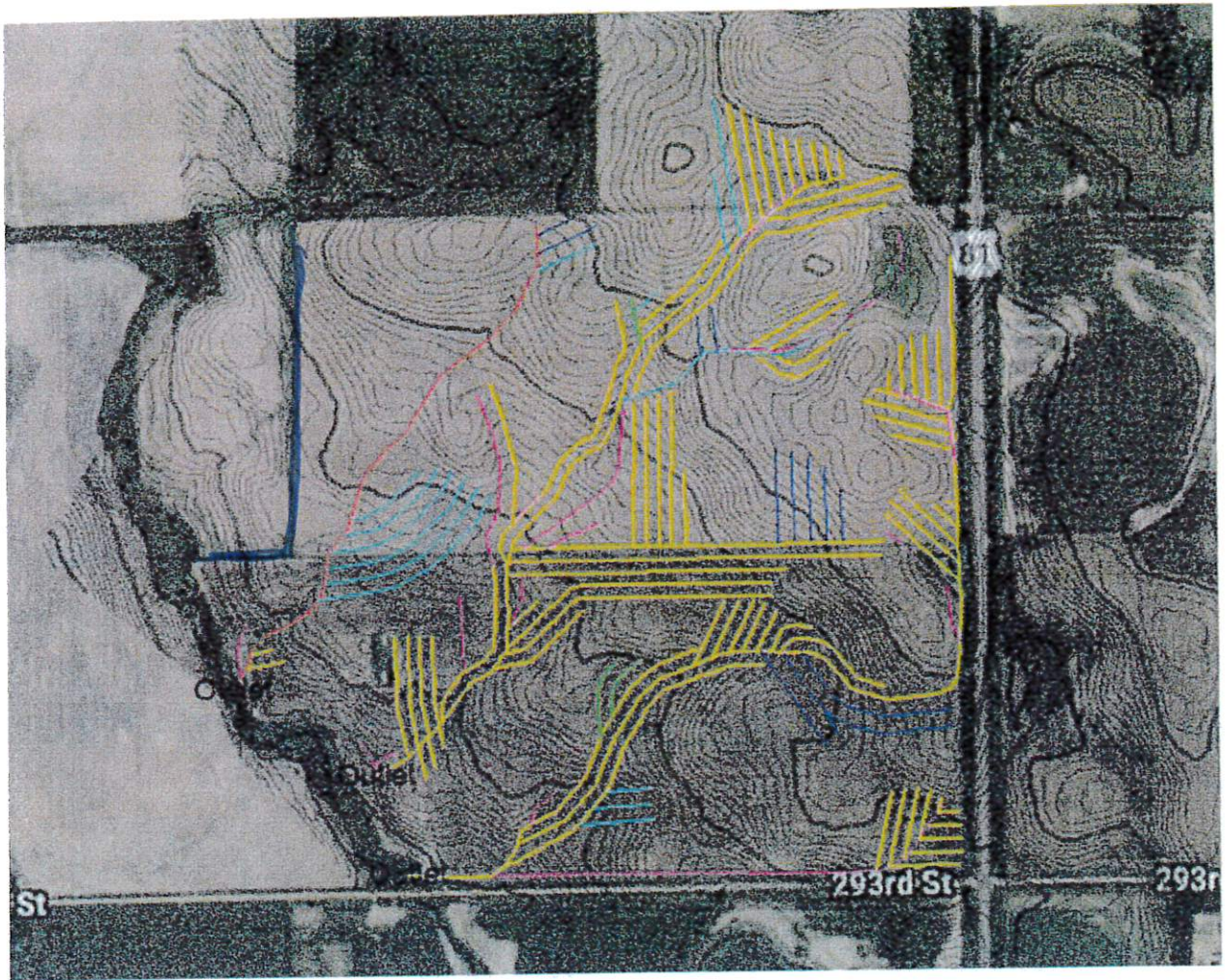
# YANKTON COUNTY DRAINAGE PERMIT APPLICATION

Each drainage site must have a separate site plan

*Applicant to complete numbered spaces only.*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------|
| 1. Job Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 43975 293 <sup>rd</sup> St. Menard, SD 57045    |                           |                                                                                                                                                                                                                                                                                                                                                       | Owner | Job Address |
| 2. Legal Description of Drainage Site                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | SE 1/4 of section 12-96-56 Tract 6 Reiser Addn. |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| 3. Owner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Mail Address                                    | Zip                       | Phone                                                                                                                                                                                                                                                                                                                                                 |       |             |
| Jason Oswald                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 603 E 20 <sup>th</sup> St Yankton, SD           | 57078                     | 605-640-8835                                                                                                                                                                                                                                                                                                                                          |       |             |
| 4. Contractor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Mail Address                                    | Zip                       | Phone                                                                                                                                                                                                                                                                                                                                                 |       |             |
| Gridline Tile & Excavation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 25433 413 Ave. Mitchell, SD                     | 57301                     | 605-680-2900                                                                                                                                                                                                                                                                                                                                          |       |             |
| 5. Feet of drainage pipe and outlet size                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| 62,400 ft - 3 outlets - 6", 8", 8"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| 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:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| 8. Valuation of Work: \$ 90,000-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| <p>For Official Use Only-</p> <p>SPECIAL CONDITIONS: _____</p> <p>_____</p> <p>_____</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                 |                           |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| Application Accepted By:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Site Plans Checked By:                          | Approved for Issuance By: |                                                                                                                                                                                                                                                                                                                                                       |       |             |
| <p style="text-align: center;"><b>NOTICE</b></p> <p>THIS PERMIT WILL EXPIRE IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED EIGHTEEN (18) MONTHS OF ISSUANCE.</p> <p>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.</p> |                                                 |                           | <p><b>PERMIT FEE</b></p> <p>Type of Construction <input type="checkbox"/> Blue Line Outlet</p> <p>Total Feet of Pipe <input type="checkbox"/> Drainage Ditch Outlet</p> <p>Outlet Size <input type="checkbox"/> Lake / Pond / Wetland Outlet</p> <p><input type="checkbox"/> Administrative Permit <input type="checkbox"/> Drainage Board Permit</p> |       |             |
| <p>Signature of Contractor or Authorized Agent _____ Date _____</p> <p>Signature of Owner (if owner builder) _____ Date _____</p> <p>BY THIS SIGNATURE, THE DRAINAGE ADMINISTRATOR IS AUTHORIZED TO ENTER UPON THE PROPERTY DESCRIBED FOR THE PURPOSE OF INSPECTION</p>                                                                                                                                                                                                                                                                                                                                                                                       |                                                 |                           | <p><b>For County Officials Use Only</b></p> <p>When properly validated (in this space), this is your permit.</p> <p>The above application is hereby approved.</p> <p>Drainage Permit Number: _____</p> <p>Post Construction? Y N</p> <p>Drainage Administrator or Authorized Representative _____ Date _____</p>                                      |       |             |







# Certified Wetland Determination

Field Office: Yankton FO

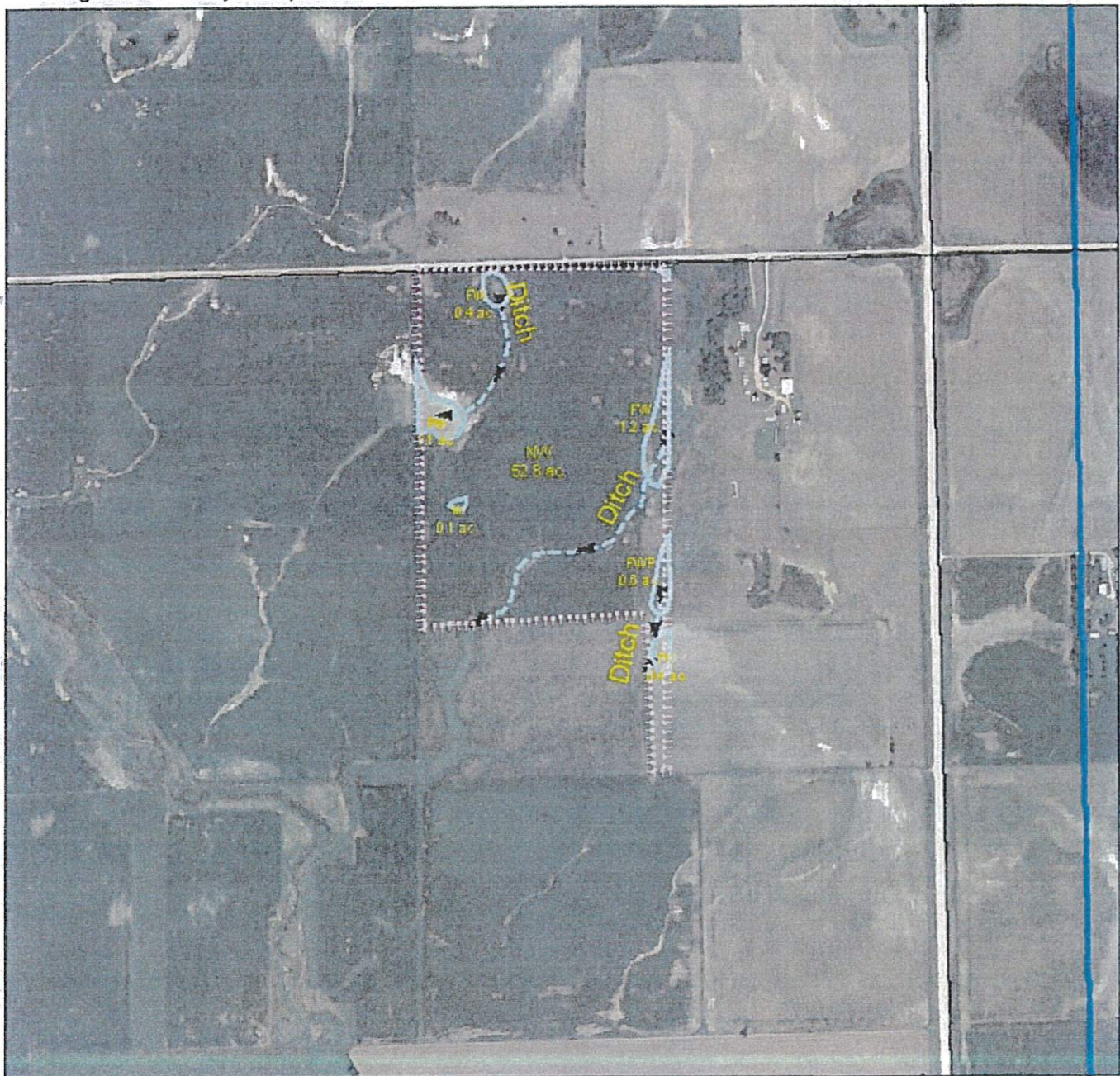
Certified By: S Auch

Legal Desc: S 12, T 96N, R 56W

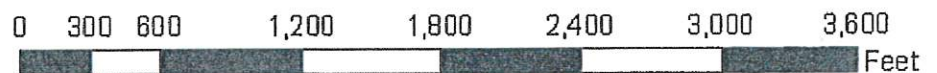
Agency: USDA-NRCS

Certified Date: 8/3/2010

Tract: 7081



## 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  
 NI Not Inventoried Potential Waters of the US  
 See NRCS CPA-O 26E for definitions and additional info.





# Certified Wetland Determination

Field Office: Yankton FO

Certified By: SAuch

Legal Desc: S 12, T 96N, R 56W

Agency: USDA-NRCS

Certified Date: 8/3/2010

Tract: 7082



## 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  
 NI Not Inventoried Potential Waters of the US  
 See NRCS CPA-O26E for definitions and additional info.

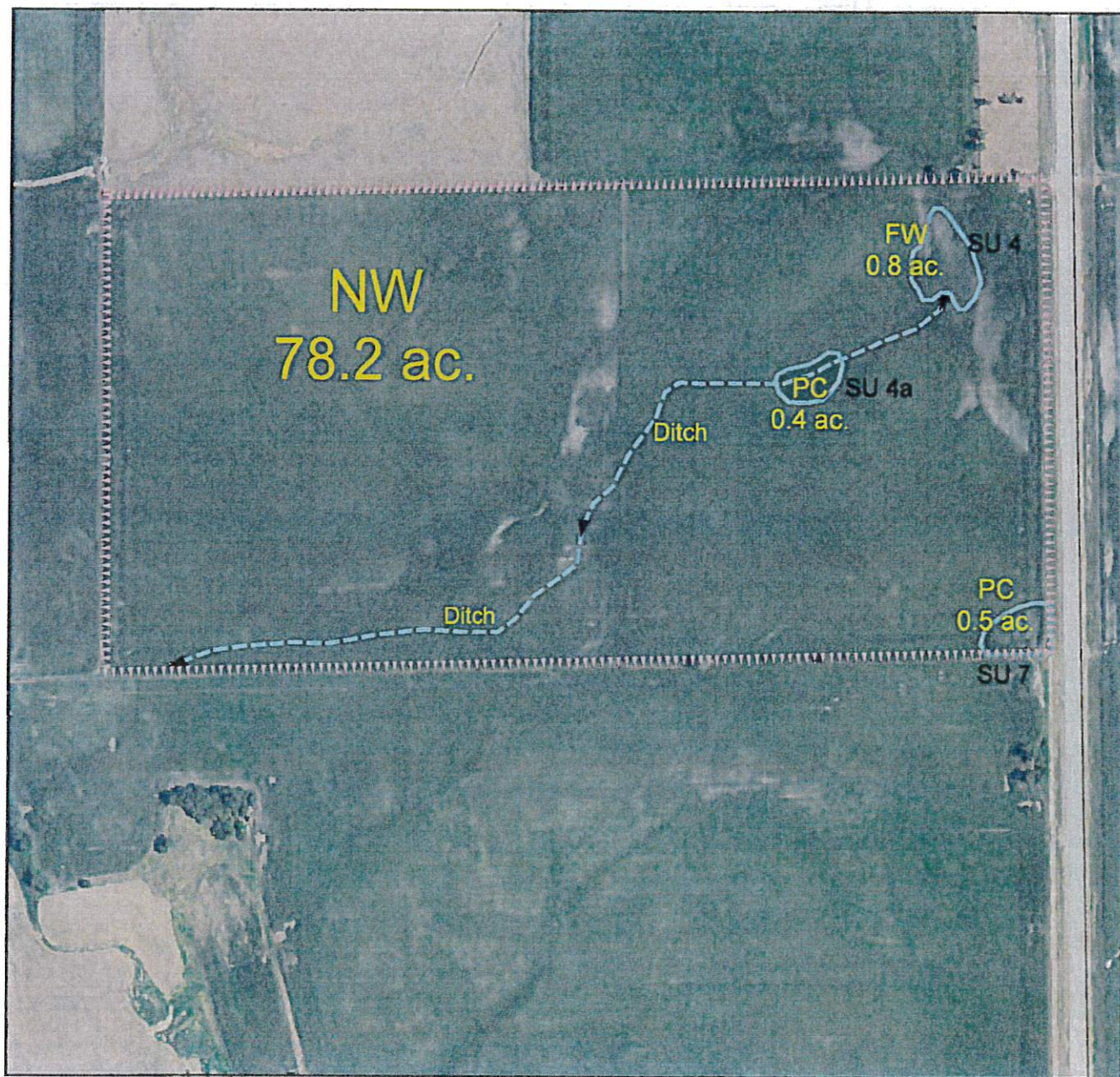




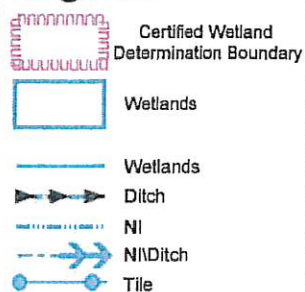
# Certified Wetland Determination

Field Office: Yankton FO  
Certified By: D Hobbick  
Legal Desc: N2SE4 12-96-56

Agency: USDA-NRCS  
Certified Date: 5/5/15  
Tract: 7084



## 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.

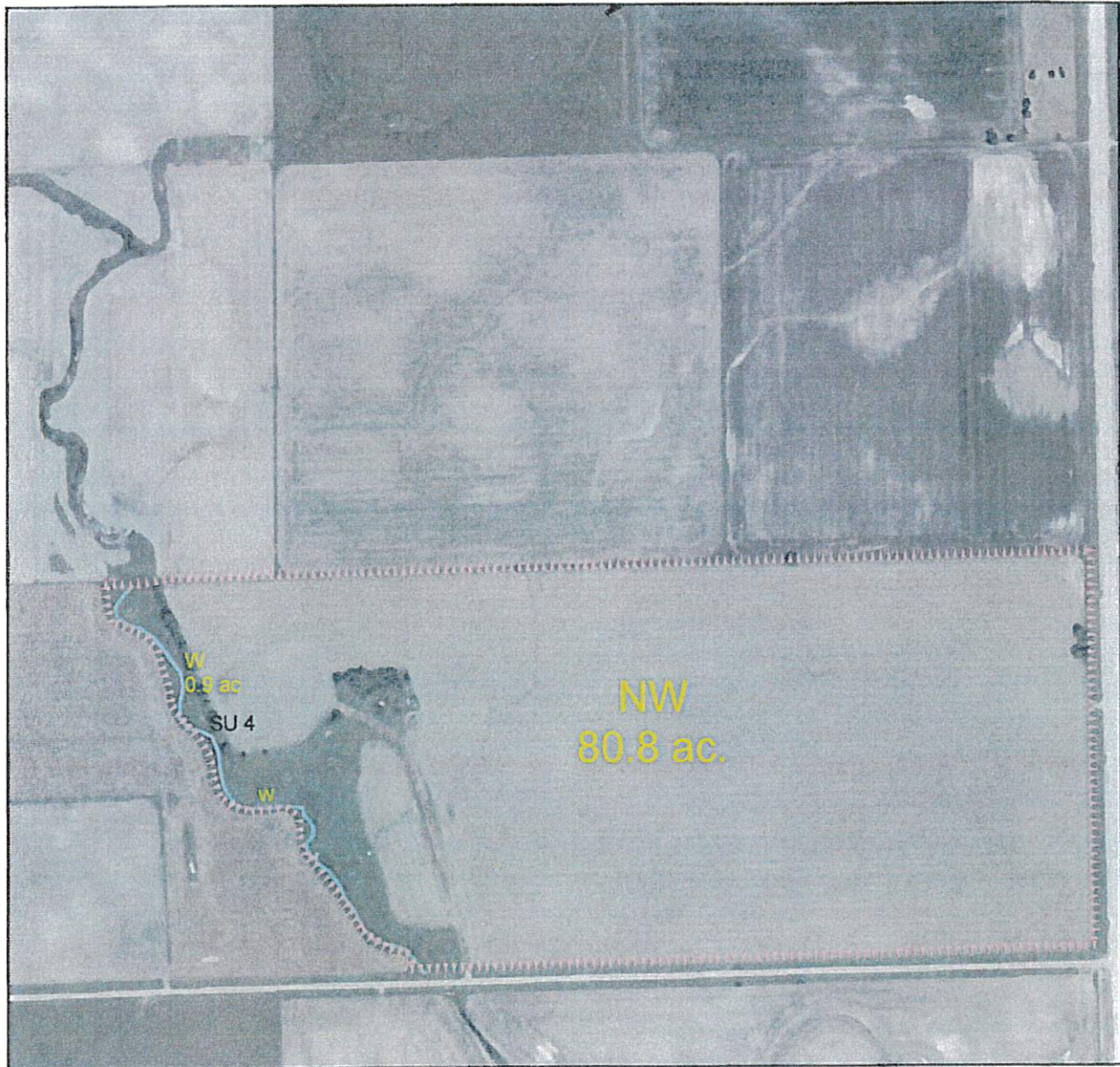




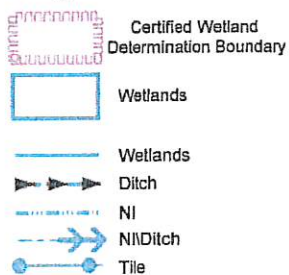
# Certified Wetland Determination

Field Office: Yankton FO  
Certified By: D Hobbick  
Legal Desc: S2SE4 12-96-56

Agency: USDA-NRCS  
Certified Date: 8/23/16  
Tract: 7563



## Legend



0 210 420 840 1,260 1,680 2,100 Feet

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.





Permit No. \_\_\_\_\_

**WAIVER FOR PERFORMING DRAINAGE WORK  
YANKTON COUNTY, SOUTH DAKOTA**

I/We Ron Schaeffer am/are aware of the proposed drainage work being  
(Downstream Property Owner)  
Proposed by Ordell Oswald, MaryAnn in the E1/2 of Section 12-96N56W  
VanSchoiack and Dean A. VanSchoiack,  
and Jason Oswald and Sherri Oswald  
(Upstream Property Owners) (Legal Description)

And do not object to the drainage as proposed to run through my property.

Additional Notes:

Ron Schaeffer  
Signature

1 Mar 2021  
Date

43656 291st St  
Address

Meano SD 57045  
City, State, Zip

605-660-1111  
Phone

Permit No. \_\_\_\_\_

**WAIVER FOR PERFORMING DRAINAGE WORK  
YANKTON COUNTY, SOUTH DAKOTA**

I/We Jason Oswald and Sherri Oswald am/are aware of the proposed drainage work being  
(Downstream Property Owner)  
Proposed by Ordell Oswald, MaryAnn in the E1/2 of Section 12-96N56W  
VanSchoiack and Dean A. VanSchoiack  
(Upstream Property Owners) (Legal Description)

And do not object to the drainage as proposed to run through my property.

Additional Notes:

Jason Oswald  
Signature

3-1-21  
Date

603 E 20<sup>th</sup> St  
Address

Yankton, SD 57079  
City, State, Zip

605-660-8835  
Phone

Sherri Oswald  
Signature

3-1-21  
Date

603 E 20<sup>th</sup> St.  
Address

Yankton, SD 57078  
City, State, Zip

605-660-9139  
Phone

Permit No. \_\_\_\_\_

**WAIVER FOR PERFORMING DRAINAGE WORK  
YANKTON COUNTY, SOUTH DAKOTA**

|                                                                           |                                              |                                                  |
|---------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------------|
| I/We                                                                      | Mary Ann VanSchoiack and Dean A. VanSchoiack | am/are aware of the proposed drainage work being |
|                                                                           | (Downstream Property Owner)                  |                                                  |
| Proposed by                                                               | Ordell Oswald                                | In the S1/2NE1/4 of Section 12-96N56W            |
|                                                                           | (Upstream Property Owner)                    | (Legal Description)                              |
|                                                                           |                                              |                                                  |
|                                                                           |                                              |                                                  |
|                                                                           |                                              |                                                  |
| And do not object to the drainage as proposed to run through my property. |                                              |                                                  |
| Additional Notes:                                                         |                                              |                                                  |
|                                                                           |                                              |                                                  |
|                                                                           |                                              |                                                  |
|                                                                           |                                              |                                                  |
|                                                                           |                                              |                                                  |

Signature

*Mary Ann VanSchoiack*

Date

*2/26/2021*

Address

*11248 Highway 71*

City, State, Zip

*Savannah, MO 64485*

Phone

*816-387-3519*

Signature

*Dean VanSchoiack*

Date

*2-26-2021*

Address

*11248 Highway 71*

City, State, Zip

*Savannah, MO 64485  
816-261-1361*

## NOTIFICATION OF DRAINAGE ACTION

March 4, 2021

Jason Oswald  
603 E 20<sup>th</sup> St  
Yankton, SD 57078

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:

*Request for Drainage Permit to install drain tile which outlets in a natural drainage at the property legally described as Tract 6 Reisner Addition, SE 1/4, Section 12, T96N, R56W, County of Yankton, State of South Dakota as per plat book S20, Page 135*

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 7:15 P.M. on the 23 day of march, 2021, in the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Sincerely,

Jason Oswald  
Petitioner

## NOTIFICATION OF DRAINAGE ACTION

March 4, 2021

Mary Ann Van Schoiack  
11248 HWY 71  
Savannah, MO 64485

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:

*Request for Drainage Permit to install drain tile which outlets in a natural drainage at the property legally described as the North ½ of the Southeast 1/4, Section 12, T96N, R56W, 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 23 day of March, 2021, in the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Sincerely,

Mary Ann Van Schoiack  
Petitioner



## NOTIFICATION OF DRAINAGE ACTION

March 4, 2021

Ordell Oswald  
29033 444 Ave  
Viborg, SD 57070

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:

*Request for Drainage Permit to install drain tile which outlets in a natural drainage at the property legally described as the East half of the Northeast Quarter (E1/2NE1/4) excluding Lot H2 of Section 12, T96, R56, West of the 5<sup>th</sup> P.M., 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 23 day of March, 2021, in the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton South Dakota.

Sincerely,

Ordell Oswald  
Petitioner

Jamesville Hutterian Brethren  
29568 436 Ave  
Utica, SD 57067

Steve Nielson  
29320 US HWY 81  
Irene, SD 57037

Ronald Schaeffer  
43656 291<sup>st</sup> St  
Menno, SD 57045

## **Yankton County Drainage Permit Number DP-20-015 Dated August 6, 2020**

Location: Sec 10, 95-55 Yankton County.

Topography: Fairly level. General direction of drainage from east to southwest.

Gundersons, later as JHGAS Farms, LLC, ("JHGAS") owns the W½.

Lyngstads own the SE ¼ which is partially drained through JHGAS.

David Healy owns the NE ¼ which drains on to both Lyngstads and JHGAS's properties.

Healy tiled in 2014, using a line under JHGAS's NW¼. In October 2013, owners of the S½ of Sec 10, Lyngstad's SE¼ and JHGAS's SW¼, commenced a joint drainage project, Yankton County Drainage Permit #45. Easements were signed between the parties and to allow crossing a Walshtown Twp rights of way.

In August of 2020 JHGAS applied for and received an Administrative Drainage Permit DP-20-015, ("DP-20-015") for farm tile drainage starting in Sec 10, 95-55 and with an outlet in Sec 16, 95-55. DP-20-015 was an administrative action and did not require notification or publication.

Prior to construction, and with notification to Yankton County, JHGAS moved the outlet less than 10% of its total distance from Sec 16, 95-55 to Sec 10, 95-55, which is allowed by YCDO Section 3.03.1(a). Both properties in Sec 16 and Sec 10 are owned by JHGAS. The modification to DP-20-015 used a natural waterway that begins in Sec 10, 95-55 and continues into Sec 15, 95-55 which then enters a USGS recognized "Blue Line" stream. The County was notified of the modification before work commenced. The modification did not increase the size of the outlet, nor the area drained, nor the volume of water in the watershed. No objections were raised. After construction, a question was raised by a Drainage Commissioner. JHGAS blocked drainage pending review.

On December 29, 2020, the Yankton County Drainage Commission ("YCDC") planned to meet to discuss a request to modify DP-20-015. JHGAS requested ratification of the modification. Notice of the meeting date and time of the December meeting, and the purpose of the meeting were sent to affected landowners with land one-half (1/2) mile upstream and one (1) mile downstream of the actual outlet of the project. The County Drainage Administrator was notified of the mailing and names of those to whom it been sent. A notarized affidavit of mailing was not completed. No one filed a written complaint within the ten-day objection period. The Drainage Administrator opined that the Affidavit of Mailing was not required for an Administrative Permit. The December 29<sup>th</sup> meeting was cancelled due to weather.

On January 26, 2021, YCDC on did meet to consider a formal request from JHGAS for the Drainage Administer to ratify a modification of DP-20-015. David Healy, Drainage Commissioner was recused from voting but was allowed to participate in discussion. Healy did not file a written complaint within the ten (10) days period after the mailing date on affidavit of mailing, as specified in YCDO 3.05, or any time afterward. Healy owns property more than one-half (1/2) mile upstream from the outlet in DP-20-015. Healy land drains onto the JHGAS land. Healy property is not affected by DP-20-015 or drainage pursuant to it.

At the January 26, 2021 meeting, JHGAS was directed to send notices and file an affidavit of mailing pursuant to Yankton County Drainage Ordinance (“YCDO”) Section 3.04, and to request an updated easement from Walshtown Township. On January 29, 2021, JHGAS delivered to the Planning & Zoning Office at 321 West Third Street, Yankton, SD 57078: #1. A copy of a signed and notarized Affidavit of Mailing listing the names with addresses for the landowners on January 28, 2021 proving notice was mailed, and #2. A copy of the letter sent to the affected landowners. No written objections were received after this Notice was given. JHGAS obtained the easement from Walshtown Township to use right of way under 299<sup>th</sup> Street, which was delivered to the Drainage Administrator, by email on January 29, 2021.

Required Notice for the meeting had been given and the YCDC met on February 23, 2021. Commissioners present: Craig Hansen, Dan Grant, David Healy, Casey Kruse, Cheri Loest, and Frank Kralicek. For the item involving JHGAS, Commissioners Loest and Healy were recused.

A question was raised about notices. The Drainage Administrator said notice had been given though it is not required in for a permit modification. The Drainage Administrator acknowledged there had been no written comments from either the December or January mailings.

After public comment was closed, and after discussion, the YCDC moved and seconded a motion to direct the Drainage Commissioner to modify DP-20-015 with the outlet located in the SW1/4 of Sec 10, 95-55 and approve the modification based on these determinations:

- A) The area drained, affected properties, and outlet size are not changed. The new outlet is appropriate under YCDO Sec 3.05.2 as drainage is into a “Naturally Defined Waterway”.
- B) DP-20-015 was properly issued under the YCDO based on Section 3.05.
- C) Notice was not required for DP-20-015, as it was an Administrative Permit. However, Yankton County was notified prior to modification and construction by JHGAS.
- D) Construction was started on a timely basis.
- E) Healy was not required to receive notice. Healy’s land abuts and is dominant; JHGAS property is subservient. Healy’s property is more than one-half (½) mile upstream from the outlet and is not affected.
- F) Prior to the February 23, 2021 meeting, JHGAS provided, as requested, an Affidavit of Mailing and a new Walshtown Township easement for use of the township right of way.
- G) At the February 23, 2021 meeting the YCDC recognized that:
  - a. All prerequisites or conditions have been met;
  - b. The as-built outlet location is a drainage improvement; it reduces erosion risks in a natural, well-defined waterway with erosion protection.
- H) The YCDC directed the Drainage Administrator to issue a modification to DP 20-015 that shows the “as installed’ outlet. The rest of DP-20-015 is unaffected.
- I) JHGAS may operate the valve and the drainage project without restriction.

Motion was made and seconded to approve the modification to DP 20-015 for the reasons noted above. The Motion was carried.

Officials for Yankton County, Yankton, SD 57078:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Gary Vetter, Yankton County Drainage Administrator

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Rob Klimisch, Yankton County State's Attorney



## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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Revision: changes from Feb 23, 2021, meeting to be discussed on Mar 23

### **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.**

**YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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**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**

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## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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### **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 of 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**

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**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.

**Landowner or owner** - Any individual, firm or corporation, public or private, or public agency,

## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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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**

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**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-dot and dash~~ blue line in the most 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**

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**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**

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## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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### **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)~~ 100 feet of the proposed outlet location in the preliminary plan. Distances greater than 100 feet must obtain administrative approval for the change.
- a.b. All required easements and any required maintenance agreements ~~and / or easement~~ shall be provided.
- b.c. 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.
- e.d. 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).
- e.e. All signed waivers, including a complete "811 call" notification, for performing drainage work in Yankton County.
- e.f. 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.g. 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.h. 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.i. 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~~ certified mail receipt 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. Certified mailing receipts shall become part of the permanent record. The Applicant's shall, at the applicant's expense, give notice by postage mail with affidavit of mailing. The Planning Department shall give notice~~ of the application for drainage permit to the following parties:

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1. As detailed above, All all abutting property owners and (as detailed above) all property owners one-half (1/2) mile above and one (1) mile below the outlet of the proposed drainage or documented Blue Line.
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 (both permanent and intermittent blue lines) as defined herein and as delineated on the most recently published USGS 7.5 minute topographic maps.  
The blue line must be on the applicant's property.
- ~~1.2~~ A proposed drainage project which outlets directly into the legally recognized rivers and streams (both permanent and intermittent blue lines) as defined herein and as delineated on the most recently published USGS 7.5 minute topographic maps but crosses a roadway or abutting property in order to reach the blue line. All parties 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 notified landowner files a written objection within ten (10) days after the certified mailing date.
- ~~2.3~~ A proposed drainage project which outlets directly into a permanent or intermittent stream which is NOT listed on the USGS 7.5 minute topographic maps ~~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~~

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## YANKTON COUNTY DRAINAGE ORDINANCE # 19

(blue lines) as defined herein parties 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-notified landowner files a written objection within ten (10) days after the certified mailing date ~~stated on the affidavit of mailing~~.

### Drainage Commission:

1. A proposed drainage project which does not outlet directly 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 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:

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## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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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:
  - 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**

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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.



## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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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.

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### **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.

## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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### **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.

## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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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.

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### **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 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.

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### **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

## **YANKTON COUNTY DRAINAGE ORDINANCE # 19**

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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.

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.