

(Revised April 1992)

UNITED STATES DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
GRANT OF EASEMENT FOR WATERFOWL HABITAT PROTECTION

RECORDED  
INDEXED  
APR 25 1996  
FBI - SD

THIS INDENTURE, by and between Albert C. Heyd and Ardith E. Heyd also known as Ardith Heyd, his wife, of Leola, South Dakota,

hereinafter referred to as Grantors, and the UNITED STATES OF AMERICA, hereinafter referred to as United States, acting by and through the Secretary of the Interior or his authorized representative.

WITNESSETH:

WHEREAS, the Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718d(c); the Fish and Wildlife Act of 1956, 16 U.S.C. 742a-742j; the Emergency Wetlands Resources Act of 1986, 16 U.S.C. 3901; and the Land and Water Conservation Fund Act, 16 U.S.C. 460 [9(a)(1)], authorize the Secretary of the Interior to acquire lands and waters or interests therein for the development, advancement, management, conservation, and protection of fish and wildlife resources. The purpose of this easement is to protect the habitat quality of the lands described on Exhibit A and such lands shall be maintained to provide cover, especially nesting cover, and food for a varied array of aquatic, terrestrial, and avian wildlife, particularly waterfowl and threatened and endangered species. The lands described on Exhibit A are hereinafter referred to as a wildlife management area, and

WHEREAS, the lands described below contain habitat suitable for use as wildlife management areas.

NOW, THEREFORE, for and in consideration of the sum of Thirty-four thousand two hundred-- Dollars (\$34,200.00), the Grantors hereby grant to the United States, commencing with the acceptance of this indenture by the Secretary of the Interior or his authorized representative, an easement which includes a right of use for the maintenance of the lands described on Exhibit A, as wildlife management areas, in perpetuity, including the right of ingress to and egress on, over, across and through any and all lands of the Grantors, as described below, by authorized representatives of the United States. No rights herein are granted to the general public for access to or entry upon the land subject to this grant of easement for any purpose. The lands described on Exhibit A are located within, and the aforementioned right of ingress and egress extends on, over, across and through any and all lands within the following-described legal subdivision(s) in MCPHERSON County, State of South Dakota, to-wit:

T. 125 N., R. 68 W., 5th P. M.

sec. 7, lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$  also described as the NW $\frac{1}{4}$

sec. 10, S 1,254' of the SW $\frac{1}{4}$ , S 792' of the SE $\frac{1}{4}$

sec. 15, E $\frac{1}{2}$ , E 1,782' of the S $\frac{1}{2}$ NW $\frac{1}{4}$ , E 1,782' of the SW $\frac{1}{4}$

sec. 16, SE $\frac{1}{4}$

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SUBJECT, however, to all statutory rights-of-way and other valid existing rights-of-way for highways, roads, railroads, pipelines, canals, laterals, electrical transmission lines, telegraph and telephone lines, cable lines, and all mineral rights.

The conveyance hereunder shall be effective on the date of the execution of this indenture by the Secretary of the Interior or his authorized representative; provided, however, that such acceptance must be made within 12 calendar months from date of the execution of this indenture by the Grantors, or any subsequent date as may be mutually agreed upon in writing by the parties hereto prior to the expiration of such date; and provided further, however, that in the event such acceptance is not made by such date, this indenture shall be null and void.

The Grantors, for themselves, and for their heirs, successors and assigns, lessees, and any other person claiming under them, covenant and agree that they will cooperate in the maintenance and protection of the habitat areas, delineated on the map(s) attached hereto as Exhibit A, as wildlife management areas for the protection of fish and wildlife resources and to maintain the quality of these lands to provide cover for wildlife, especially nesting cover, and food for a varied array of aquatic, terrestrial, and avian wildlife, particularly waterfowl, and threatened and endangered species. To that end and for the purpose of accomplishing the intent of this indenture, the Grantors, for themselves or for their heirs, successors, and assigns, lessees, or any other person or person claiming under them covenant and agree as follows:

1. Grantors will cooperate in maintenance of the wildlife management area by maintaining permanent vegetative cover, consisting of grasses, forbs and low-growing shrubs, on said habitat areas, as follows: There shall be no haying or mowing or seed harvesting for any reason until after July 15 in any calendar year, no alteration of grassland, wildlife habitat or other natural features by digging, plowing, disking or otherwise destroying the vegetative cover, and no agricultural crop production upon the habitat areas delineated on Exhibit A, unless prior approval in writing is granted by the U.S. Fish and Wildlife Service; except that grazing the aforesaid lands is permitted at any time throughout the calendar year without approval in writing.
2. Grantors will pay taxes and assessments, if any, which may be levied against the land.
3. Noxious weed control and emergency control of pests necessary to protect the public good are allowed and will be the responsibility of the Grantors, subject to Federal and State Statutes and Regulations. However, mowing/haying noxious weed is prohibited in accordance with the easement terms stated above.

4. This easement and the covenants and agreements contained herein shall run with the land and shall be binding on all persons and entities who shall come into ownership or possession of the lands subject to this easement. The Grantor successors and assigns shall notify the Regional Director, U.S. Fish and Wildlife Service in writing of any sale or transfer at least 30 days following the sale or transfer of any portion of the lands subject to this easement.

Copies of the above-referenced map(s), Exhibit A, are on file in the Office of the Regional Director, U.S. Fish and Wildlife Service.

It is understood that this Indenture imposes no other obligations or restrictions upon the Grantors and that neither they nor their successors, assigns, lessees, nor any other person or party claiming under them shall, in any way, be restricted from utilizing all of the subject lands in the customary manner for agricultural purposes except as provided herein.

It is further understood that the rights and interests granted to the United States herein shall become part of the National Wildlife Refuge System and shall be administered by the U.S. Fish and Wildlife Service, pursuant to the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd.

SPECIAL PROVISIONS

1. This indenture shall not be binding upon the United States until accepted on behalf of the United States by the Secretary of the Interior or his authorized representative, although this indenture is acknowledged by the Grantors to be presently binding upon them and to remain so until the expiration of said period for acceptance, as hereinabove described, by virtue of the payment to the Grantors, by the United States, of the sum of One Dollar, the receipt of which is hereby expressly acknowledged by Grantors.

2. Notice of acceptance of this Indenture shall be given the Grantors by certified mail addressed to

~~\_\_\_\_\_~~

shall be effective upon the date of mailing, and such notice shall be binding upon all Grantors without sending a separate notice to each.

3. Payment of the consideration will be made by a United States Treasury check after acceptance of this indenture by the Secretary of the Interior or his authorized representative and after the Attorney General, or in appropriate cases, the Solicitor of the Department of the Interior shall have approved the easement interest thus vested in the United States.

IN WITNESS WHEREOF the Grantors have hereunto set their hands and seals this 12<sup>th</sup> day of October, 1995

Albert C. Heyd (L.S.)  
 Albert C. Heyd  
 \_\_\_\_\_ (L.S.)

Ardith E. Heyd (L.S.)  
 Ardith E. Heyd  
 \_\_\_\_\_ (L.S.)

ACKNOWLEDGMENT

STATE SOUTH DAKOTA )  
 ) ss  
 COUNTY McPHERSON )

On this 12<sup>th</sup> day of October in the year 1995 before me personally appeared

Albert C. Heyd and Ardith E. Heyd also known as Ardith Heyd

his wife, known to me to be the persons(s) described in and who executed the foregoing instrument and acknowledged to me that they (he/she) executed the same as their (his/her) free act and deed.

ROGER J. TURNQUIST  
 SEAL NOTARY PUBLIC SEAL  
 SOUTH DAKOTA

(SEAL) My commission expires

Roger J. Turnquist  
 Notary Public

My Commission expires 2-18-2003

ACCEPTANCE

The Secretary of the Interior, acting by and through his authorized representative, has executed this agreement on behalf of the United States this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

APR 24 1996

UNITED STATES OF AMERICA  
 DEPARTMENT OF THE INTERIOR

By: \_\_\_\_\_

Title: CHIEF, DIVISION OF REALTY  
 U.S. Fish and Wildlife Service

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UNITED STATES DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
EXHIBIT "A"

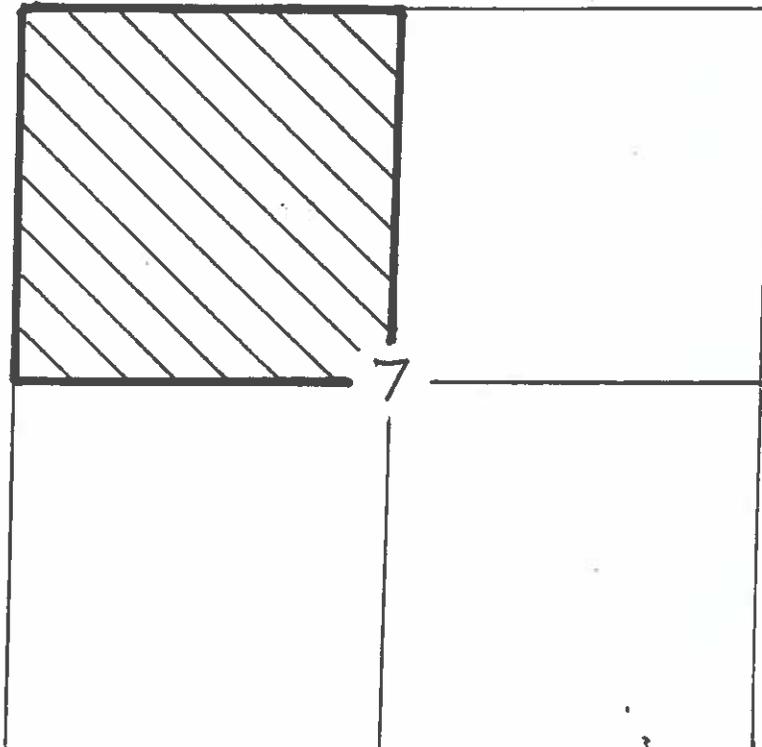
Map 1 Of 4

TRACT 661G,1,2

WILDLIFE MANAGEMENT AREA McPherson COUNTY, STATE OF SOUTH DAKOTA

T. 125 N., R. 68 W., 5th PRINCIPAL MERIDIAN

sec. 7, lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$  also described as the NW $\frac{1}{4}$



Scale: 4 Inches = 1 Mile

This map delineates lands referred to in the easement conveyance dated 10-12-95 which the parties of the first part agree to maintain as a Wildlife Management Area.

LEGEND

*Albert C. Heyd*  
Landowner Signature



Boundary of Easement Description



Lands covered by provisions of the easement

Prepared by: Roger J. Turnquist Date: 10-11-95

UNITED STATES DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
CONVEYANCE OF EASEMENT FOR WATERFOWL MANAGEMENT RIGHTS

PREPARED BY:  
FISH & WILDLIFE SERVICE  
P O BOX 1207  
ABERDEEN SD 57402-1207  
605 + 265-7557

THIS INDENTURE, by and between Albert C. Heyd and Ardith E. Heyd also known as Ardith Heyd,  
his wife, of Leola, South Dakota,

parties of the first part, and the UNITED STATES OF AMERICA, acting by and through the Secretary of the Interior or his  
authorized representative, party of the second part

WITNESSETH:

WHEREAS, the Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718d(c); the Fish and Wildlife Act of 1956, 16  
U.S.C. 742a-742j; the Emergency Wetlands Resources Act of 1986, 16 U.S.C. 3901; and the Land and Water Conservation Fund Act,  
16 U.S.C. 4601-9(a)(1), authorize the Secretary of the Interior to acquire small wetland or pothole areas suitable for use as  
waterfowl production areas:

WHEREAS, the lands described below contain or include small wetland or pothole areas suitable for use as waterfowl  
production areas:

NOW, THEREFORE, for and in consideration of the sum of Fourteen thousand and fifty---  
Dollars (\$ 14,050.00) the parties of the first part do hereby convey to the United States, commencing with the acceptance  
of this indenture by the Secretary of the Interior or his authorized representative which acceptance must be made within  
12 months of the execution of this indenture by the parties of the first part, or any subsequent date as may be mutually  
agreed upon during the term of this option, a permanent easement (in perpetuity) or right of use for the maintenance of the  
land described below as a waterfowl production area, including the right of ingress to and egress on, over, across and  
through any and all lands as described below by authorized representatives of the United States.

The lands covered by this conveyance are those wetland areas, including lakes, ponds, marshes, sloughs, swales, swamps,  
potholes, and other wholly or partially water-covered areas, now existing or subject to recurrence through natural or man-  
made causes, delineated on the map(s) attached hereto as Exhibit A and incorporated herein by this reference; provided,  
always, that the lands covered by this conveyance shall include any enlargements of said wetland areas resulting from normal  
or abnormal increased water. The lands described on Exhibit A, and the aforementioned right of ingress to and egress extends  
on, over, across and through any and all lands within the following described legal subdivision(s) in McPherson  
County, State of South Dakota, to-wit:

- T. 125 N., R. 68 W., 5th P. M.
- sec. 4, lots 3 & 4, S $\frac{1}{2}$ NW $\frac{1}{4}$  also described as the NW $\frac{1}{4}$
- sec. 7, lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$  also described as the NW $\frac{1}{4}$
- sec. 10, S $\frac{1}{4}$
- sec. 15, All
- sec. 16, SE $\frac{1}{4}$

Date Recorded: 5/15/96  
Book 41MR  
Page 594-600

Subject, however, to all valid existing rights-of-way for highways, roads, railroads, pipelines, canals, laterals,  
electrical transmission lines, telegraph and telephone lines, cable lines, and all mineral rights.

The parties of the first part, for themselves, their heirs, successors and assigns, covenant and agree that they will  
cooperate in the maintenance of the aforesaid lands as a waterfowl production area by not draining, causing or permitting the  
draining by construction of ditches, or by any means, direct or indirect, whether through the transfer of appurtenant water  
rights or otherwise of any surface waters in or appurtenant to these wetland areas delineated on Exhibit A; by not filling,  
causing or permitting the filling in with earth or any other material or leveling, causing or permitting the leveling of any  
part or portion of said delineated wetland areas; and by not burning, causing or permitting the burning of any wetland  
vegetation on any part or portion of said delineated wetland areas. It is understood and agreed that this indenture imposes  
no other obligations or restrictions upon the parties of the first part and that neither they nor their successors, assigns,  
lessees, or any other person or party claiming under them shall in any way be restricted from carrying on farming practices  
such as grazing at any time, hay cutting, plowing, working and cropping wetlands when the same are dry of natural causes, and  
that they may utilize all of the subject lands in the customary manner except for the draining, filling, leveling, and  
burning provisions mentioned above.

Copies of the above-referenced map(s), being Exhibit A, are on file in the Office of the Regional Director, U.S. Fish  
and Wildlife Service.

SPECIAL PROVISIONS

1. This indenture shall not be binding upon the UNITED STATES OF AMERICA until accepted on behalf of the United States  
by the Secretary of the Interior or his authorized representative, although this indenture is acknowledged by the  
parties of the first part to be presently binding upon the parties of the first part and to remain so until the  
expiration of said period for acceptance, as hereinabove described, by virtue of the payment to parties of the first  
part, by the UNITED STATES OF AMERICA, of the sum of One Dollar, the receipt of which is hereby expressly  
acknowledged by parties of the first part.

2. Notice of acceptance of this agreement shall be given the parties of the first part by certified mail addressed to Mr. Albert C. Heyd, [REDACTED] and such notice shall be binding upon all the parties of the first part without sending a separate notice to each.
3. It is further mutually agreed that no Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract is made for the general benefit of such incorporation or company.
4. Payment of the consideration will be made by a United States Treasury check after acceptance of this indenture by the Secretary of the Interior or his authorized representative and after the Attorney General, or in appropriate cases, the Solicitor of the Department of the Interior shall have approved the easement interest thus vested in the United States.

IN WITNESS WHEREOF the parties of the first part have hereunto set their hands and seals this 12<sup>th</sup> day of October, 1995

Albert C. Heyd (L.S.)      Ardith E. Heyd (L.S.)  
 Albert C. Heyd      Ardith E. Heyd also known as Ardith Heyd

\_\_\_\_ (L.S.)      \_\_\_\_\_ (L.S.)

ACKNOWLEDGMENT

STATE SOUTH DAKOTA )  
 ) ss  
 COUNTY OF McPherson )

On this 12<sup>th</sup> day of October, 1995 before me personally appeared

Albert C. Heyd and Ardith E. Heyd, also known as Ardith Heyd, his wife, known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that they (he/she) executed the same as their (his/her) free act and deed.

**ROGER J. TURNQUIST**  
 SEAL NOTARY PUBLIC SEAL  
 SOUTH DAKOTA

Roger J. Turnquist  
 Notary Public

My commission expires: \_\_\_\_\_

My Commission expires 2-18-2003

ACCEPTANCE

The Secretary of the Interior, acting by and through his authorized representative, has executed this agreement on behalf of the United States this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

APR 24 1996

THE UNITED STATES OF AMERICA  
 By: [Signature]  
 Title: **CHIEF, DIVISION OF REALTY**  
 U.S. Fish and Wildlife Service

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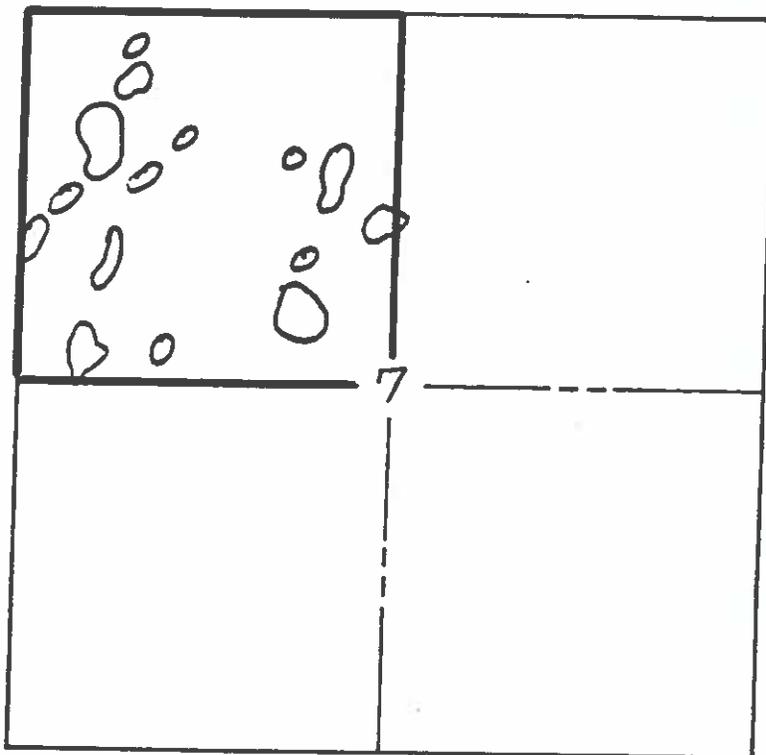
UNITED STATES DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
EXHIBIT "A"

Map 2 of 5

TRACT 661X.1.2

WATERFOWL PRODUCTION AREA McPherson COUNTY, STATE OF South Dakota  
EASEMENT AUTHORIZED BY MIGRATORY BIRD HUNTING STAMP ACT OF MARCH 16, 1934, AS AMENDED.  
T. 125 N., R. 68 W., 5th PRINCIPAL MERIDIAN

sec. 7, lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$  also described as the NW $\frac{1}{4}$



Scale: 4 Inches = 1 Mile

This map delineates wetlands referred to in the easement conveyance dated 10-12-95 which the parties of the first part agree to maintain as a waterfowl production area. The lands covered by this conveyance include any enlargement of the delineated wetland areas resulting from normal or abnormal increased water.

LEGEND

-  Boundary of Easement Description
-  Wetlands covered by provisions of the easement
-  Nonfunctional drainage facilities which the landowner agrees NOT to repair or clean out

Albert C Heyd  
Landowner Signature

Prepared by: Roger J. Turnquist Date: 10-11-95