

1. Considered January 31, 1979
2. Name of Applicant Poland W Slah
3. Post Office Address Bath, SD
4. Amount of Water Claimed 2.4
5. Source of Water Supply James River
6. Water to be used for Irrigation
7. Acres to be irrigated 170 maximum acre feet
8. Water to be diverted and used in Brown County about 9 miles East of Aberdeen
9. PROOF OF PUBLICATION Received 1-11-79

Not Received _____

APPLICATION

Approved 1-10-80 EFJCL 7-29-80

Subject to Below Sand Lake to James

Not Approved Division Dam Canal

Action deferred 1-31-79; 2-1-79; 3-28-79

Priority _____ Date Received 10-18-76 Application Complete yes ☒ no _____ FEE \$8.00

Remarks _____

Date information and/or fee or corrected Application received _____
Period of Annual use May - October

WATER QUALITY

Received yes _____ no _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application yes _____ no _____ Remarks _____

Disapproved _____

Returned _____

Diversion Point _____

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 14-123-62

Lands to be irrigated _____

SW $\frac{1}{4}$ & W $\frac{1}{4}$ SE $\frac{1}{4}$ 15-123-62

WELL LOG

Remarks _____

Driller _____ Licensed yes _____ no _____

Depth _____

MAP Map No. 3305-3 Map located in Water Right X Map file _____
 Type of Map Aerial Prepared by SCS

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 1-31-79
Betty Westlund
 (Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no / Remarks _____

REMARKS Date
 F.F. & C Final Decision, including F.F. & C of Law were adopted 7-24-80
 OF LAW, Date
 FINAL Final Decision mailed to parties and/or parties notified that Final Decision
 DECISIONS was adopted _____
 ETC.

Remarks _____

No. 406B-3
 Map No. 3305-3 Water Division No. 3 JAMES RIVER District _____
 (Blanks to be filled by the Engineer for the W. R. C.)


APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant ROLAND SIEH
 Postoffice address RR #1, BATH, State SOUTH DAKOTA 57427
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) CONTRACT
3. Name of diversion work SIEH IRRIGATION PROJECT
4. Amount of water claimed (cubic feet per second) 2.4
5. Source of water supply JAMES RIVER
6. Location of point of diversion SIDE N + 60 YDS E OF SW COR OF SEC 14 - 123-62

County BROWN7. Annual period or periods during which water is to be used MAY/OCTOBER8. Use to be made of water. (Irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION9. For irrigation use, Total number of acres to be irrigated 170

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
NW SW 15 123-62	15	NW SE 15 123-62	25
NE SW ..	35	SW SE 15 123-62	25
SW SW ..	35		
SE SW ..	35		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 2 years. Additional time required to complete application of water to the proposed beneficial use 2 years.

11. Choice of newspaper for Notice of Intent to appropriate Water publication ABERDEEN AMERICAN NEWS

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

PUMP

B. Works proposed to transport water to place of use.

PIPE

C. Works proposed to apply water to beneficial use.

CENTER PIVOTEstimated Total Cost \$ 40,001.00
 Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water is proposed. Attach map.
 (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of BrownI, ROLAND SIEH, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned Roland SiehSubscribed and sworn to before me this 15th day of Oct. 1976.

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 4068-3
ROLAND SIEH R.R. #1, BATH
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57427 With the following modifications:
 (State)

SEE ATTACHMENT for qualifications:

Date of first receipt of application _____, 19 76
 Date of return to applicant for correction, amendments or changes required _____, 19 _____
 Date of receipt of corrected application _____, 19 _____
 Approved July 24, 19 80, Recorded in Book 21 Page 264
 WATER RIGHT PERMIT NO. 4068-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 4068-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is October 18, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before July 24, 19 81
3. The whole of said work is to be completed on or before July 24, 19 82
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is July 24, 19 84
5. The water appropriated shall be used for the purpose of IRRIGATION
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 2.4 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purpose, said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventh (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before July 24, 19 84; said water to be used during the following described annual period: May - October

Witness my hand this 3rd day of September, 19 80

WATER RIGHTS COMMISSION

By:

John Hatch
 Chief Engineer, Executive Officer

JOHN HATCH

Certificate of Construction Issued _____, 19 _____
 Water License Issued _____, 19 _____

Below Sand Lake to James Diversion Dam

This Permit No. 4068-3 is approved subject to the following qualifications:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, in any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under this Permit, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualifications.
3. The permit holder under this Permit shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.

Permit No. 4068-3, Roland W. Sieh, Bath, S.D.

RECEIVED

1980 6 17

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED GROUND WATER IRRIGATION ONLY)

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

NAME Mr. Roland W. Sieh

ADDRESS RR # 1, Bath, South Dakota 57427

COUNTY Brown

LEGAL DESCRIPTION

1. WELL LOCATION Excess Water Stud from Jones River -
2. LOCATION OF AREA TO BE IRRIGATED S 1/2 Section 15- 123-62

TYPE OF IRRIGATION

3. GRAVITY TOWLINE ✓ CENTER PIVOT GUN
4. CROPS TO BE IRRIGATED Alfalfa -

WATER QUALITY

5. SAMPLE NUMBER
6. SALINITY (EC X 10⁶)
7. SODIUM (SAR)
8. RESIDUAL SODIUM CARBONATE (meq/l.)

I do hereby certify that a chemical analysis of the ground water representative of that used to irrigate shall be acquired from South Dakota State University and:
the soils information has been acquired from South Brown Conservation District,
County Extension office or Soil Conservation Service.
and:
that the legal description for the location of the well and land to be irrigated is true
and correct.

Roland W. Sieh
APPLICANT'S SIGNATURE

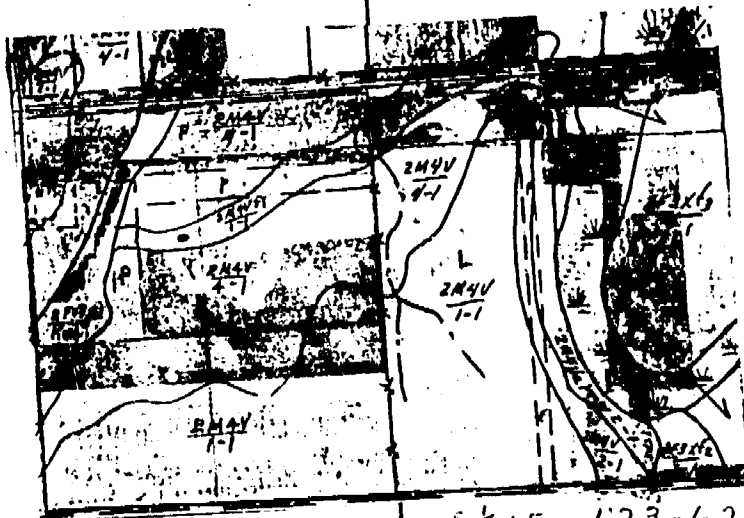
SUBSCRIBED AND SWORN BEFORE ME THIS
14 DAY OF March 19 78.

Betty J. Ez
(TITLE, R. SEAL)
Brown County, State of South Dakota
My Commission Expires 4-1-79

APPROVED/DISAPPROVED

(SOILS INFORMATION ON REVERSE SIDE)

MAP



5 1/2 15 - 123 - 62

NARRATIVE

IIc2 - 2M4V;1-1 & 2M4V;2-1

IIc3 - 2M4Vf1;k-1

IIe1 - 2M4V;4-1

IIw1 - 2F2Vf2;k-1

IIw2 - 2F23XF2;1-1 & 2F3XF3;1-1

VIe3 - 2M4Va1;12-1

We expect to store water from the Jones River in an old river channel for use during the summer. There would be storage for about 50 acre feet of water. We plan on digging out the old channel as time goes by to make it hold more water - it has been stopped off by the Railroad fill and is not a part of the river. The State Highway has already done some of the work when they built the new highway.

INSTRUCTIONS FOR PREPARING FORM W1 #1

LEGAL DESCRIPTION:

Line 1 - show legal description to nearest 40 acres.
Line 2 - show legal description to nearest 40 acres.

TYPE OF IRRIGATION:

Complete lines 3 and 4.

SOILS INFORMATION: (please see example on reverse side)

Residents of counties with published or up-to-date soil surveys shall contact their local Conservation District for a copy of the soils map for the area to be irrigated and the narrative explanation of the map.

Residents of counties with no up-to-date soil survey information shall contact the Soil Conservation Service or their local Conservation District to obtain the best information available. If soil survey information is not available, the applicant is requested to obtain this information from a private consultant or professional soil classifier.

WATER QUALITY:

The applicant must send a sample of the ground water to be used for irrigation to the Water Quality Laboratory, Water Resources Research Institute, South Dakota State University, Brookings, South Dakota 57006.

A report of the analysis will be mailed to the State Conservation Commission by the Water Quality Laboratory. The applicant will also receive an analysis report for his records.

Certification must be completed by applicant and notarized or attested to by Register of Deeds, Registered Professional Engineer, or Conservation District Official.

RECEIVED

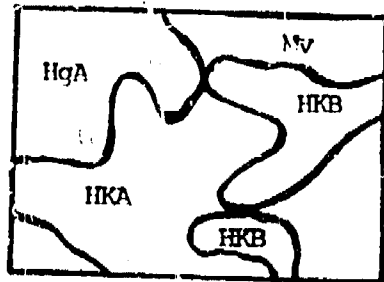
MAR 16 1978

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

E X A M P L E

SOILS INFORMATION

SE 1/4, Section 23, T-2N, R-51E



- HgA Highmore - DeGrey silt loams - 0-2% slopes.
DeGrey soils have a shallow clay-pan and have slow to very slow permeability generally not suitable for irrigation.
- HKA Highmore - Fakin silt loams - 0-2% slopes
Soils have a high available water capacity and moderate permeability.
- HKB Highmore - Fakin silt loams - 2-5% slopes
Same physical composition as HKA - moderate erosion problems.
- Mv Munjor fine sandy loam - 0-2% slopes
Moderately rapid permeability, moderate or high available water capacity.

E X A M P L E

No. 964

Jan. 2 8 9

2T

Form 0 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 964

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, Pam Scepaniak hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the January 9, 1979

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Aberdeen

County of Brown and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

January 2, 1979

January 9, 1979

Pam Scepaniak
(Signature)

Clerk
(Title)

January 9, 1979
(Date Signed)

(No. 964 - Jan. 2 & 9 - 2T)
NOTICE OF HEARING
ON APPLICATION
TO APPROPRIATE WATER
PIERRE, SOUTH DAKOTA 57501
December 22, 1978

Notice is hereby given Roland W. Sieh whose post office address is Bath, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-1 thru 46-2-11; 46-2-13; 46-3-1 thru 46-3-8; 46-3-10 thru 46-3-22; 46-3-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 2.4 cubic feet of water per second of time from the James River through the Sieh Irrigation Project, the point of diversion of which is to be located in the SW1/4 SW1/4 of Section 14, Twp. 123N, Range 62W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

SW1/4 and W1/2 SE1/4, Section 15, T123N, R62W.

This Application No. 4048.3 will be considered by the Water Rights Commission at The GOEA Auditorium, 411 E. Capitol, Pierre, SD upon the 31st day of January, 1979 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing. This hearing is an advisory proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION
Betty Westlund, Water Rights Specialist



No. 4068-3

Publish first publication, on or before January 5, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

December 22, 1978

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address is Bath, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 2.5 cubic feet of

water per second of time from the James River through the Sieh Irrigation Project, the point(x) of diversion of which is(~~xxx~~) to be located in the SW 1/4 SW 1/4

of Section 14, Twp. 123N, Range 62W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

SW 1/4 and W 1/4 SE 1/4, Section 15-1123N-R62W.

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The SDEA Auditorium, 411 E. Capitol, Pierre, SD upon the 31st day of January, 1979

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This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

Betty Westlund,
Water Rights Specialist

cc: Roland W. Sieh, R.R. #1, Box 15, Bath, SD 57427

March 1, 1978

Roland Sieh
Bath, South Dakota 57427

Dear Roland:

In response to your telephone conversation, I am providing the enclosed information:

1. A copy of the Corps of Engineers "Applications for Department of the Army Permits for Activities in Waterways."
2. A copy of the W-1 forms for water quality - soil compatibility
3. A list of Game, Fish and Parks Commissioners

You have on file with this office W.R. Application #4068-1 covering 170 acres with a diversion of 2.3 cfs from the James River. This was filed in 1976. As indicated to you earlier, the natural flows of the James River have been appropriated up to the 300 cfs limit adopted by the Water Rights Commission. Your application is in a deferred status until such time existing water rights are cancelled from either nondevelopment or forfeiture or supplemental flows are provided to the James River.

As with most streams and rivers in the state, the James River does experience flood flows most years which are not appropriated. If these flows could be captured and stored they would be available for irrigation use. If you wish to amend W.R. Application #4068-3, it is suggested a letter outlining your plan of storage, along with an appropriate map be submitted to this office. We would have to field check the proposal before taking it to the Water Rights Commission. Also it will be necessary to submit a W-1 form on soil-water compatibility to the Conservation Commission. Your local Soil Conservation Service Office can help with this. An

Roland Siegel
March 1, 1978
Page Two

amendment in the statutes in 1977 required both surface and groundwater to meet soil-water compatibility tests. Further information can be obtained from Al Griffiths, Conservation Division, Dept. of Agriculture (224-3258).

Also as requested is a list of the Game, Fish and Parks Commissioners.

Very truly yours,

Vern W. Butler
Secretary

VWB:gjh

enclosures

cc: John Hatch



Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

Roland Sieh
Bath,
SD 57427

4068-3

December 6, 1978

TO: Persons with pending applications for water rights from the James River.
FROM: John Hatch, Chief Engineer, Water Rights Commission

This notice is being written to all persons who have made application for a water right from the James River, which have been deferred with no official action taken by the Water Rights Commission.

The Commission has directed the Staff to advertise the pending applications for hearing, so official action can be taken. Water conditions have not changed on the James River, and no water is presently available for appropriation. The Commission expects to defer the applications at the time of the public hearing until such time as water becomes available. During the deferred period, the applications will retain the priority of the date of receipt by this office.

Will you please notify this office, before January 1, 1979, if you wish your application advertised for hearing. If you wish to withdraw your application, before advertising, it will be returned along with the fee.

Also, the following checked items will be required before we can process your application:

1. Fee in the amount of \$8.00.
2. The map submitted with your application does not show the diversion point and lands to be irrigated. Please obtain an aerial photo.
3. The map has not been signed by a licensed land surveyor, or a South Dakota Registered Professional Engineer or by a governmental employee who prepares such maps as a regular part of his governmental employment.

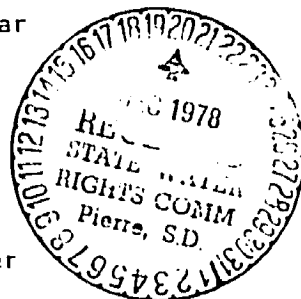
*The diversion point
is at the intersection of
US Highway 12 and James River
Section 14*

J. Hatch

Very truly yours,

John Hatch

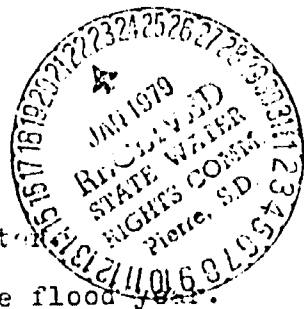
JOHN HATCH, Chief Engineer
Water Rights Commission



JH/bt

TO: Water Rights Commission

Subject: Plans for Sieh Irrigation Project



1. Plan to store approximately 200 acre feet water.
2. Would be able to store 500 acre feet in large flood year.
3. Could release water from diversion point to flow by gravity to my pumping plant.
4. Could obtain water either by small bridge on railroad or through diversion point.
5. Remove silt from old river channel and use material for planned new dike. The river channel was cut off when the railroad was built.
6. The necessary diversion culverts have been installed by Highway Dept. as drainage. They belong to the Sieh land and are not controlled by the Dept. of Highway. This project will not interfere with U. S. 12 unless the whole valley is flooded.
7. Approximately 500 acres of surface drainage can enter my system.
8. As I am unable to attend the Commission meeting on January 31, 1979, I would ask the commission if there are any objections to my application to defer their decision until the next meeting, at which time I could be there.

Thank you,

Roland W. Sieh

Roland W. Sieh
Bath, South Dakota

Enclosed detail map of plans on Sections 14 and 15.

February 5, 1979

Mr. Roland Sieh
RR #1
Bath, SD 57427

Dear Mr. Sieh:

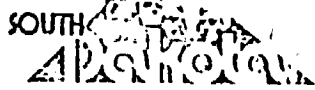
For your information the Water Rights Commission at their January 31, 1979 meeting have placed your Application No. 4068-3 in a deferred status.

If you have any questions feel free to contact this office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bt



4005-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

March 19, 1979

TO: Applicants and Persons Concerned with James River Applications
Considered January 31, 1979

FROM: John Hatch, Chief Engineer, Water Rights Commission

SUBJECT: Submission of Proposed Findings of Fact and Conclusion of Law

The Water Rights Commission will continue the contested case hearing on James River Applications considered January 31 and February 1, 1979, on March 28, 1979 at 10:00 A. M. or as soon thereafter as this matter comes before the Commission. The hearing will be held in the Community Room of the City Hall, 222 East Dakota, Pierre SD.

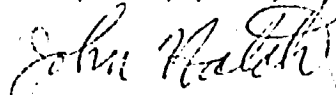
The Water Rights Commission at the January 31 and February 1, 1979 Commission hearing passed a motion to allow all parties to prepare and submit proposed Findings of Fact and Conclusions of Law and a proposed decision for the Commission to consider. The Commission may consider and the Commission may adopt the Findings of Fact and Conclusions of Law and a final decision made on the James River Applications considered January 31, 1979.

The Oahe Conservancy Sub-District has submitted a petition to contest the Commission's January 31 deferral of the James River Applications. The petition asks the Commission to reject all pending James River Applications. The Commission may consider and may adopt a motion to reconsider its January 31st motion to defer in order to entertain the Sub-District's petition.

This hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

BEFORE THE SOUTH DAKOTA
BOARD OF WATER MANAGEMENT

In the matter of James River)
Water Permit Application Nos.)
1914-3, 1915-3, 2629-3,)
2629-3, 2632-3, 2635-3,)
2640-3, 2641-3, 2642-3,)
2643-3, 2645-3, 2654-3,)
2873-3, 2874-3, 2877-3,)
2879-3, 2880-3, 4066-3,)
4067-3, 4068-3, 4069-3,)
4072-3, 4073-3, 2633-3,)
2534-3, 2637-3, 2638-3,)
2639-3, 2646-3, 2703-3,)
2755-3, 4065-3, 4070-3,)
4071-3, 4074-3, 2602-3,)
4496-3, 4494-3, 4495-3,)

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND FINAL DECISION

A hearing was held before the Board of Water Management on April 10 and 11, 1980, in Huron, South Dakota to consider the above-entitled matters. Present at the hearing were the following board members: Mr. Dennis Decker, Mrs. Marian Gunderson, Mr. Wendell Hanson, Mr. Leland Harms, Mr. Ray Rylance and Mr. Merwyn Walter. Appearing at the hearing as counsel for the Board was Mr. Robert Timm, Assistant Attorney General; appearing for the Department of Water and Natural Resources was Mr. Curtis Wilson, Assistant Attorney General and appearing for the Omaha Conservancy Subdistrict was Ms. Betty Ganje, Attorney at Law. Based upon the files of the Board of Water Management (hereinafter referred to as the Board) and the testimony and evidence presented at the hearing, the Board makes the following Findings of Fact, Conclusions of Law and Final Decision.

FINDINGS OF FACT

1. That the Water Resources Commission (a predecessor to the Board) based on the information then available, set a 300 cfs limit and an August 10th cutoff date for diversions from the James River at its May, 1965 meeting. Water permits continued to be approved until May of 1968 when the 300 cfs limit was reached at which time the Water Rights Commission (a predecessor to the Board) adopted a policy of

automatically deferring without advertising further applications until it was determined that water was available. At the November, 1975, meeting of the Commission it was determined that additional water permits could be issued within the 300 cfs limit because of cancellation of prior permits. Further permits were issued at that time to bring the total permitted appropriations up to the 300 cfs limit. Additional permits were received after November of 1975 and were advertised and officially deferred at the January and March, 1979 meetings of the Water Rights Commission. The James River was withdrawn from further appropriation for one year at the March, 1979 meeting so that additional studies could be made to determine if there was unappropriated water available.

2. That the James River was reopened for appropriation at the January, 1980 meeting of the Board in order to allow advertising of deferred and pending applications and that all applications have been regularly advertised and affidavits of publication have been received.

3. That the Oahe Conservancy Subdistrict filed a petition at the March, 1979 meeting contesting all deferred applications and the Department of Water and Natural Resources moved to dismiss the petition.

4. That the Oahe Conservancy Subdistrict has a Future Use Permit No. 1067-3 for appropriations from the James River in connection with the proposed Oahe Project.

5. That granting the deferred applications for James River Water will have no effect on any interest, pecuniary or otherwise, of the Oahe Conservancy Subdistrict to water in the James River.

6. That these deferred applications for permits for James River water, to the extent they may conflict with the Oahe Conservancy Subdistrict's Future Use Permit No. 1067-3, are subject to that permit.

7. That the Water Rights staff has conducted detailed hydrographic surveys of the availability of water in the James River and studies of the anticipated effects of

approving additional water permits based on projected development and use by appropriators.

8. That based on the studies of actual irrigation development and use, it is projected that a maximum of fifty percent of permitted acres will be irrigated at any one time.

9. That based on such surveys and studies there is unappropriated water available during the spring and through July 15th of normal years.

10. That the determination that there is unappropriated water available is based strictly on flows naturally occurring in the James River and is not based in any way upon anticipated flows which may be diverted into the James River by the proposed Garrison Project in North Dakota.

11. That the Water Quality staff has conducted a detailed study of the James River as a fishery entitled: "An Instream Flow Recommendation for the Protection of Warm Water Fishery Propagation on the James River."

12. That citizens of South Dakota, as well as other states, make substantial use of the James River for recreational fishing as well as other instream beneficial uses.

13. That the James River, particularly those portions below the city of Huron, South Dakota, supports a variety of fish and aquatic life as well as acting as a spawning ground for fish in the Missouri River.

14. That protection of the instream beneficial uses of the James River requires both good quality water as well as sufficient quantity and velocity of water.

15. That protection of the instream beneficial uses of the James River may be accomplished while still approving additional permits for appropriation from the James River by imposing on those permits for diversions below the city of Huron certain by-pass requirements.

16. That it is in the public interest and consistent with making the fullest beneficial use of the

waters of the James River to approve the following water permits subject to the following restrictions:

- A. Above Sand Lake - No. 2640-3; No. 2634-3
 1. Water may not be diverted under these permits until water is by-passing the lower most Sand Lake dike.
 2. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
 3. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
 4. The permit holders shall complete and return the Irrigation questionnaire each year to the Board or its representative.
 5. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and these applications are approved subject to these prior rights if or when the Oahe Subdistrict

develops the reserve water supply.

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and this application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.

5. With regard to Application No. 2602-3

only, approval authorizes off-stream

storage of 368 acre feet of water annually.

- C. Diversion Dam to Third Street Dam, Huron, South Dakota - No. 2879-3; No. 2643-3; No. 4070-3.

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.

2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

- D. Below Huron - July 15th Cut-off

No. 1915-3	No. 2633-3
No. 2642-3	No. 2654-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative.

Diversions shall be in accordance with written orders, if any, of the board or its representative.

2. To maintain instream flows for instream and domestic purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:

- (a) less than 80 cfs during any month of April;

- (b) less than 70 cfs during any month of May;

- (c) less than 50 cfs during any month of June;

- (d) less than 20 cfs during the remainder of the year.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

E. Below Huron - August 10 Cut-Off - No. 1914-3

1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board.

2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Flood Flow Storage - No. 4494-3, No. 4495-3

1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.
2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

17. That the plans of development of the pending permit applications are feasible under the above-listed restrictions.

CONCLUSIONS OF LAW

1. That this Board has jurisdiction over the subject matter and parties to this proceeding.

2. That the Oahe Conservancy Subdistrict has no interest in this matter entitling them to intervene.

3. That the general welfare of the State requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

4. That this Board has authority pursuant to SDCL Chapter 34A-2-11 and SDCL 46-5-18 to impose by-pass restrictions on appropriations from the James River to protect instream and domestic uses, recreational uses and the fish and aquatic life in the James River.

5. That all legal requirements for the pending applications have been met and that the applications for water permits should be approved.

FINAL DECISION

I.

That the Motion to Dismiss the Petition of the Oahe Conservancy Subdistrict is hereby granted.

II.

That Water Permit Applications Nos. 1914-3, 1915-3, 2628-3, 2629-3, 2632-3, 2635-3, 2640-3, 2641-3, 2642-3, 2643-3, 2645-3, 2654-3, 2873-3, 2874-3, 2877-3, 2879-3, 2880-3, 4066-3, 4067-3, 4068-3, 4069-3, 4072-3, 4073-3, 2633-3, 2634-3, 2637-3, 2638-3, 2639-3, 2646-3, 2703-3, 2755-3, 4065-3, 4070-3, 4071-3 and 4074-3 shall be approved subject to the following qualifications:

- A. Above Sand Lake - No. 2640-3; No. 2634-3
1. Water may not be diverted under these permits until water is by-passing the lower most Sand Lake dike.
 2. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
 3. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
 4. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
 5. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and these applications are approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and this application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.
5. With regard to Application No. 2602-3 only, approval authorizes off-stream storage of 368 acre feet of water annually.

2. For instream flow purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:

- (a) less than 80 cfs during any month of April;
- (b) less than 70 cfs during any month of May;
- (c) less than 50 cfs during any month of June;
- (d) less than 20 cfs during the remainder of the year.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Below Huron - August 10 Cut-Off - No. 1914-3

1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Flood Flow Storage - No. 4494-3, No. 4495-3

1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.
2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.
3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

C. Diversion Dam to Third Street Dam, Huron, South Dakota - No. 2879-3; No. 2643-3; No. 4070-3.

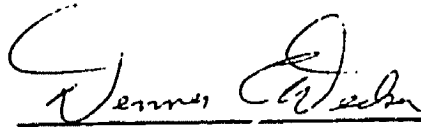
1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

D. Below Huron - July 15th Cut-off

No. 1915-3	No. 2633-3
No. 2642-3	No. 2654-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the board or its representative.

Dated this 24th day of July, 1980.


Chairman


Secretary

41068-3



DEPARTMENT OF THE ARMY
OMAHA DISTRICT CORPS OF ENGINEERS
6014 U.S. POST OFFICE AND COURTHOUSE
OMAHA, NEBRASKA 68102



REPLY TO
ATTENTION OF:
Permits Branch
PO Box 5, Omaha, NE 68101

MROOP-N

25 August 1981

SUBJECT: Dike and Dugout Construction By Roland Sieh in Section 14 and 15,
Township 123 North, Range 62 West, Brown County, SD; Permit
Not Required No. SD 2SB OXT 2 003877

Mr. Roland Sieh
PO Box 15
Bath, South Dakota 57427

Dear Mr. Sieh:

On 19 August, Mike Freel, of my staff, met with you and discussed your
diking project in the SW $\frac{1}{4}$ of Sec 14, T123N, R62W, Brown County, South
Dakota.

This meeting and subsequent investigation of the area revealed that the
dike materials had not encroached onto wetland areas although some wetland
areas do exist to the east of your dike location. Therefore, the work you
have already completed and the minor additional work you described during
the on-site meeting do not require a 404 permit. This does not, however,
obviate the requirement to obtain state and local assent as required by law.

You are cautioned, however, that in the event you decide to initiate further
work in this area, you should contact this office in advance so a wetland
determination may be made. If you should have any questions please contact
me at (402) 221-4133.

Sincerely,

RALPH J. MILLER
Chief, Regulatory Functions Branch
Operations Division

✓ CF: John Hatch
Water Rights Commission
Pierre, SD 57649



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

July 23, 1986

No. 4494-3

4068-3

Roland Sieh
RR 1, Box 15
Bath SD 57427

Dear Mr. Sieh:

Enclosed herewith is, Water License No. 4494-3. This is the final water right document completing your process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

Enclosures

Applicable portions of Water Permit No. 4068-3 are incorporated into this Water License No. 4494-3.

WNR-817 3/83
Transmittal of Water License



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 24, 1987

NOTICE

TO: Roland W Sieh
RR 1, Box 15
Bath SD 57427

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Amendment of Water Permit No. 4068-3 Incorporated into
Water Right No. 4494-3

Notice is given that the Water Management Board will consider deleting and adding the following qualifications to Water Permit No. 4068-3.

Qualifications to be deleted:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

Qualifications to be added:

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.

2. This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior water rights if or when the reserved water supply is developed.

The hearing to consider amendment of Water Permit No. 4068-3 to delete and add the above qualifications will be held May 6, 1987 at 4:15 pm, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The hearing is based on the results from inspection of James River water permits/rights completed in the spring of 1985. The attached report "Status of James River Water Rights" summarizes the results of the inspections. The proposed amendment to Water Permit No. 4068-3 is based on the decrease in James River water appropriation from 443.92 cubic feet of water per second to 254.07 cfs. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

After all evidence is taken at the hearing, the Board may issue a decision to delete and add the above qualifications, postpone any action or taken no action. This hearing is an adversary proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

May 18, 1987

NOTICE

Roland W Sieh
RR 1, Box 15
Bath SD 57427

Dear Mr. Sieh:

This letter is in response to action taken by the Water Management Board to amend Water Permit No. 4068-3. The Board amended Water Permit No. 4068-3 by deleting and adding the qualifications on the enclosed "Attachment" which should be placed with the permit. The action was taken pursuant to the notice to you dated April 24, 1987.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

ATTACHMENT TO WATER PERMIT NO. 4068-3

ROLAND SIEH

The Water Management Board amended Water Permit No. 4068-3 at the May 6, 1987 Board meeting to delete and add the following qualifications:

Qualifications deleted:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed in insure water supplies to fulfill the prior water rights and domestic qualification.
3. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

Qualifications added:

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This permit is subject to these prior water rights if or when the reserved water supply is developed.

Sheet 4 of 6

OPERATOR
OWNER

FARM NO. NAME AND ADDRESS FARMLAND CROPLAND

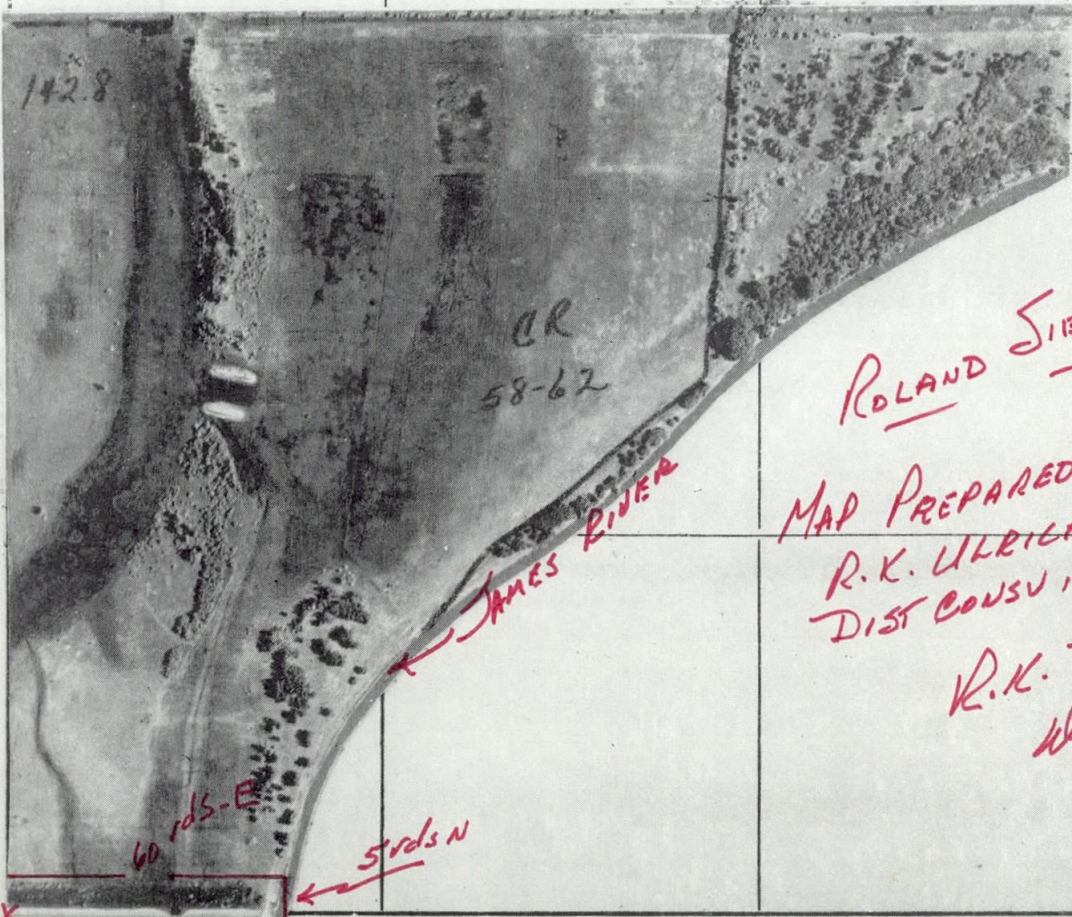
47-007-4-M148

Tract No. _____

Farm No. _____

Operator _____

Owner _____



ROLAND SIEH
MAP PREPARED BY
R.K. ULDRICH
DIST CONSV, SCS, BROWN CO.
R.K. Uldrich
W.C.

X
SW

Legal Description 14-123-62

MAP NO 3305-3 APP NO 4068-3