

cc: Hanten & Nelson
Considered: _____

WATER PERMIT NO. 5018-3

MAP No. 5018-3

Name of Applicant Klondike Restoration & Preservation Inc

Post Office Address RR Box 20, Rock Rapids, IA

Amount of Water Claimed 360 ac feet of storage Total Acres _____

Source of Water Supply Big Sioux River

Water to be used for REC County Lincoln

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received 1st 4-12-84 Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F.& C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 3/28/84 Fee 250.00 Remarks _____
3/28/84

Corrected Application Received _____ Period of Annual Use 1/1 to 12/31

WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

not applicable

Diversion Point _____

NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21-T99N-R48W

Land to be Irrigated _____

N/A

Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map drawn PREPARED BY Delmar Koel PE Reviewed and the Number

assigned on 3/29/84

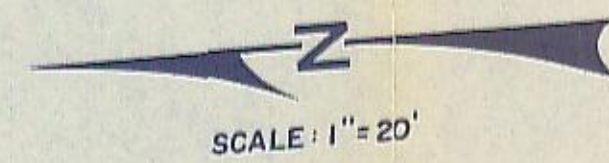
By Betty Westlund

Application For Permit To Appropriate Water Within The State Of South Dakota

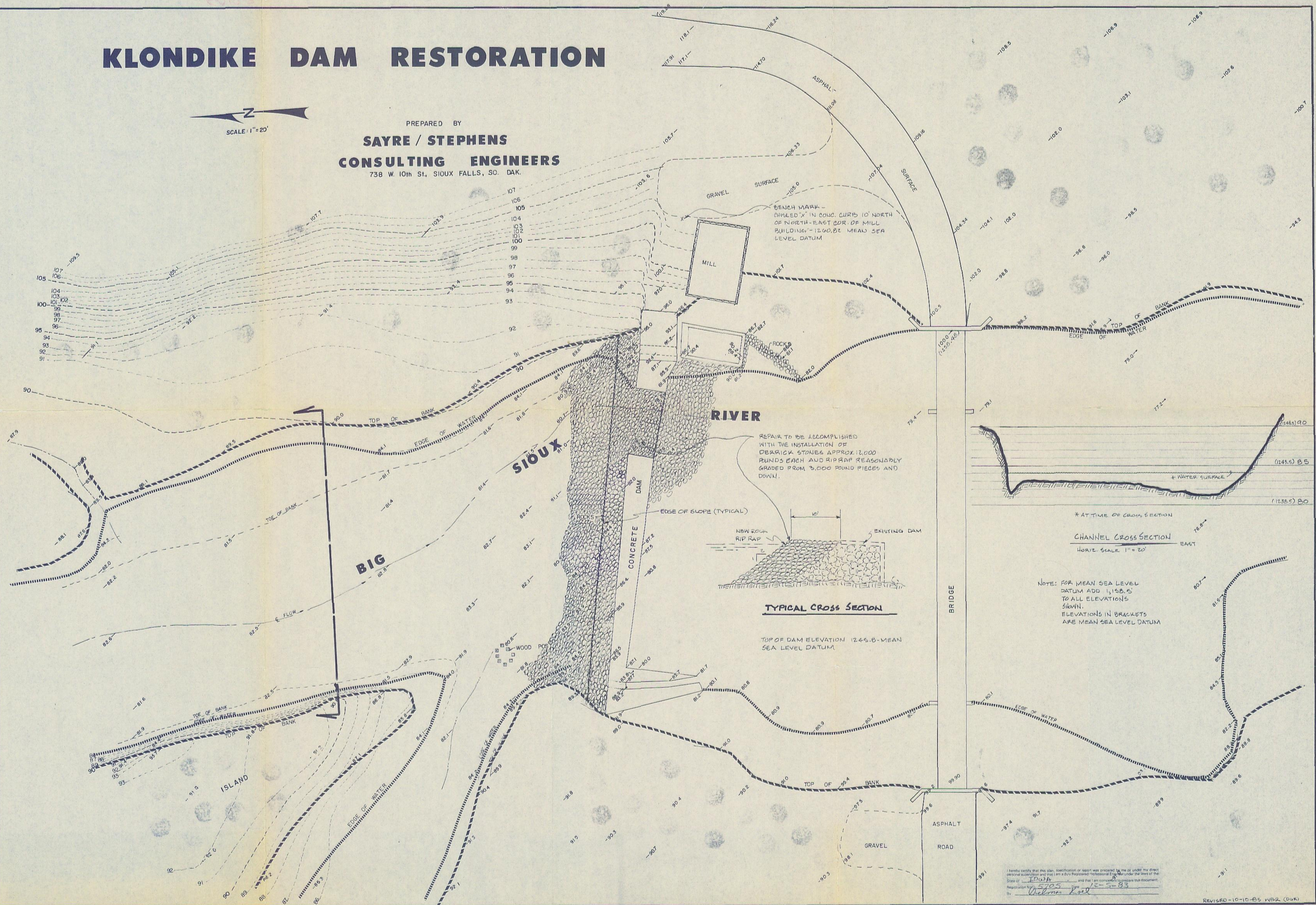
Type of Application: Check one or more of the following

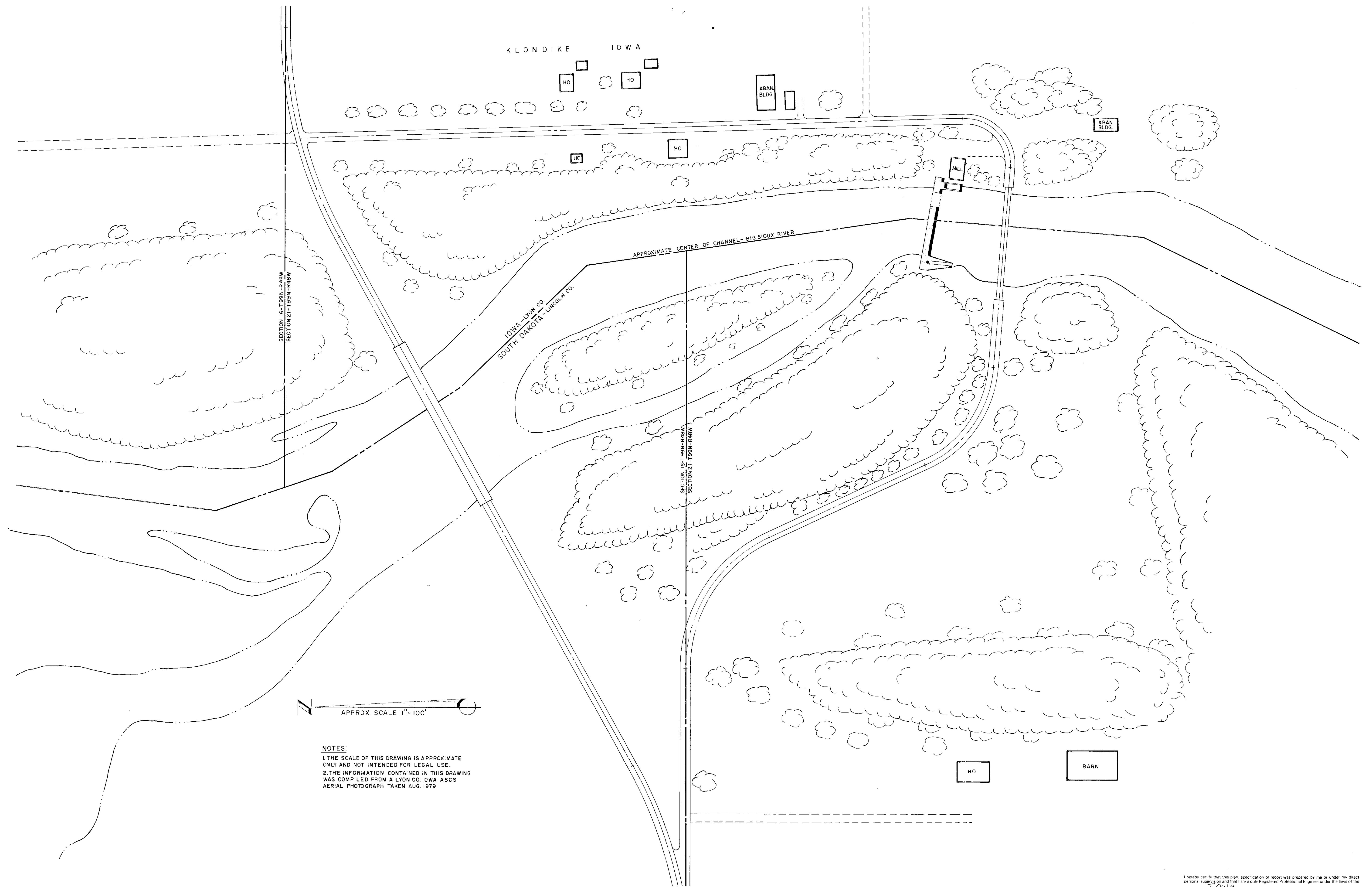
MARY ROSE WHITE
MY COMMISSION EXPIRES
September 30, 1984

KLONDIKE DAM RESTORATION



PREPARED BY
SAYRE / STEPHENS
CONSULTING ENGINEERS
738 W. 10th St., SIOUX FALLS, SO. DAK.





N
APPROX. SCALE 1"=100'

NOTES:
1. THE SCALE OF THIS DRAWING IS APPROXIMATE ONLY AND NOT INTENDED FOR LEGAL USE.
2. THE INFORMATION CONTAINED IN THIS DRAWING WAS COMPILED FROM A LYON CO. IOWA ASCS AERIAL PHOTOGRAPH TAKEN AUG. 1979.

I hereby certify that this plan, specification or report was prepared by me or under my direct personal supervision and that I am a duly Registered Professional Engineer under the laws of the State of IOWA and that I am competent to prepare this document.
Registration No. 5705 Date 1-5-83
By Dillon Koe

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 5018-3
Klondike Restoration & Preservation Inc. RR, Box 20 Rock Rapids
(Applicant) (Post Office Address)
Iowa (State) (Zip Code) With the following qualifications.

This permit is approved subject to flood easements being obtained for upstream lands to be flooded by this project.

Date of first receipt of application March 28, 1984.
 Date of return to applicant for correction, amendments or changes required —, 19—.
 Date of receipt of corrected application —, 19—. Approved May 14, 1984.

The Water Management Board hereby approves this Water Permit No. 5018-3 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is March 28, 1984.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before November 14, 1986.
3. The whole of said work is to be completed on or before May 14, 1989.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is May 14, 1993.
5. The water appropriated shall be used for the purpose of recreational
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 360 acre feet ~~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 to which water is actually and beneficially applied for recreation on or before May 14, 1993; said water to be used during the following described annual period: January 1st to December 31

WATER MANAGEMENT BOARD

By: John Hatch
Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
May 21, 1984

Supplemental Information

(type or print in ink)

**1. Well Information - Proposed construction**

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth of Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

Sayre/Stephens

Consulting Engineers

738 W 10th St

Sioux Falls SD

b) Freeboard NA

c) Crest Width 20 ft

Crest Length 150 ft

d) Height 7 ft

e) Outlet Dimensions:
Pipe diameter NA

Spillway width NA

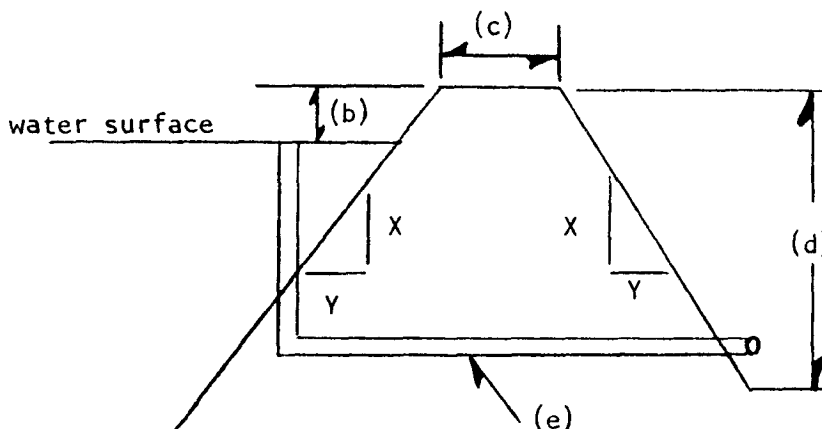
f) X & Y Slope
Upstream 1:2

Downstream vertical

Surface Area of Impoundment 72 ac

Storage 360 acre feet

Drainage area above dam NA



Signature of Applicant

Delmar Koel, Secretary

REPORT ON APPLICATION NO. 5018-3
KLONDIKE RESTORATION AND PRESERVATION INC.

March 29, 1984

Water Permit Application No. 5018-3 is to restore the Klondike Mill Dam located within the channel of the Big Sioux River in Section 21, T99N, R48W. The completed project will store approximately 360 acre feet of water.

Discussion

The Klondike Mill Dam was originally constructed in 1870. The mill has been abandoned for many years and a breach developed years ago near the center of the dam. The site was placed on the National Register of Historical Sites in 1975. The purpose of the restoration is to preserve the site and enhance recreational use of the area.

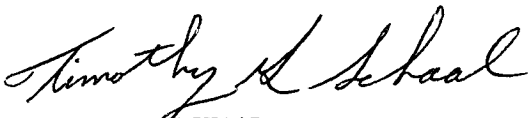
The proposed project will consist of using an estimated 800 cubic yards of rock to reinforce the existing dam. The material will be placed on the upstream side of the dam and in the breach area and will be placed to the same elevation as the existing dam. The rock will widen the top of the structure approximately 10 feet. The dam will have a height of approximately 7 feet, crest width of approximately 20 feet, and crest length of approximately 150 feet.

The Iowa Department of Water, Air & Waste Management modeled the project using the U.S. Army Corp of Engineers HEC-2 computer program to determine the effects of the dam. They determined at the natural bank full discharge of 6000 cfs (2 year frequency) the dam would cause the water surface elevation to rise approximately 3 feet immediately upstream of the dam causing some overbank flooding. The model also indicated that the structure "drowns out" and has no effect on the flow at a discharge of 12,000 cfs (5 year frequency).

The storage capacity of 360 acre feet was determined using a 150 foot wide channel, an average depth of 5 feet, and a length of approximately 4 miles.

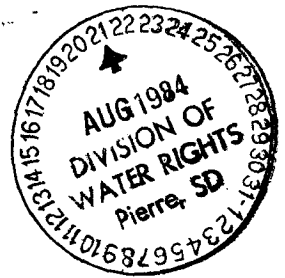
Conclusion

- 1) There is unappropriated water available for Water Permit Application No. 5018-3.
- 2) Flood easements will be obtained in the area upstream of the dam.



TIMOTHY G SCHAAL
Water Resources Engineer

EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That Stanley M. Olson and Herman O. Olson
of Lyon County, Iowa, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of Lincoln
State of South Dakota, to wit:

Bjorklund Tract One (1) in Section Twenty One (21),
Township Ninety Nine (99) North, Range Forty Eight (48),
Lincoln County, South Dakota.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 12th day of July, 1984.

Stanley H Olson

Herman Olson

State of Iowa)
County of Lyon) : ss.

On this 12th day of July, 1984 before me Arietta Beyenhof the undersigned officer or notary public, personally appeared Stanley H + Herman O. Olson, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that They executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Arietta Beyenhof

My Commission Expires 9-22-86



State of South Dakota,
County of Lincoln,
Filed for record this 26th day of
July A.D. 1984 at 3:00 o'clock
P. M. and duly recorded in Book X
of Misc on page 488
Paul Jones
Register of Deeds

By [Signature] Deputy

Lincoln Co.



RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT

APPLICATION NO. 5018-3, Klondike Restoration and Preservation Incorp.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5018-3, Klondike Restoration and Preservation, Inc. RR, Box 20, Rock Rapids IA.

The Chief Engineer is recommending APPROVAL of Application No. 5018-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

This permit is approved subject to flood easements being obtained for upstream lands to be flooded by this project.

See the attached report for additional information.

A handwritten signature in cursive script, reading "John Hatch".

JOHN HATCH, Chief Engineer
March 29, 1984

WP ~~or~~ ~~WR~~ No. 5018-3

Instruction to Newspaper - Publish first publication of the following Notice on or before April 5, 1984 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5018-3 to Appropriate Water
and/or to Amend Water Permit or Water Rights No. _____

Notice is hereby given that the Klondike Restoration & Preservation, Inc. whose mailing address is RR, Box 20, Rock Rapids, Iowa, ~~South Dakota~~ has made an application for a permit

to restore the Klondike Mill Dam located within the channel of the Big Sioux River in Section 21-T99N-R48W. The completed project will appropriate and store 360 acre feet of water for public recreational use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends

APPROVAL of Application No. 5018-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board ~~at~~ during a special Board Meeting conducted via telephone conference call
In Room 425, Joe Foss Building, Pierre, South Dakota, May 14 1984 at 9:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the ~~public~~ hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by May 3, 1984.

The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. If there are any written petitions in opposition to this application the hearing will be continued until the next regular Board meeting July 11, 1984.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; ~~(ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.~~

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 3, 1984.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Lincoln)

I, CONNIE RENLI hereby

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

Water was taken from the SIOUX VALLEY NEWS

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

Sioux Valley News of Canton

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

April 5, 1984

April 12, 1984

Connie Renli
(Signature)

Bookkeeper
(Title)

April 12, 1984
(Date Signed)

Cost of Printing: \$37.89

**NOTICE OF HEARING ON
APPLICATION NO. 5018-3 TO
APPROPRIATE WATER**

Notice is hereby given that the Klondike Restoration & Preservation Inc. whose mailing address is RR, Box 20, Rock Rapids, Iowa, has made an application for a permit to restore the Klondike Mill Dam located within the channel of the Big Sioux River in Section 21-T99N-R48W. The completed project will appropriate and store 360 acre feet of water for public recreational use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends approval of Application No. 5018-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board during a special Board Meeting conducted via telephone conference call in Room 425, Joe Foss Building, Pierre, South Dakota, May 14, 1984 at 9:00 a.m. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the hearing. Any interested person who may be affected and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by May 3, 1984. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. If there are any written petitions in opposition to this application, the hearing will be continued until the next regular Board meeting July 11, 1984.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10; 46-2A-12; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.



This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on the application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg., Pierre, SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by May 3, 1984.

RECEIPT

Division of Water Rights

No 4 9606

South Dakota Department of Water and Natural Resources

Pierre, March 28, 19⁸⁴

RECEIVED OF Klondike Restoration & Preservation, Inc., RR, Box 20, Rock Rapids, IA
the following amount in fees for services rendered as provided for by law: 512⁴⁶

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use <u>5018-3</u>	250	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	250 00

By John Hatch
Chief Engineer JOHN HATCH ms



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

5018-3

May 22, 1984

Klondike Restoration & Preservation, Inc.

RR, Box 20

Rock Rapids, Iowa 51246

Dear Sir:

Enclosed herewith is your Water Permit No. 5018-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 5018-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83

STATE OF SOUTH DAKOTA

OFFICE OF

THE ATTORNEY GENERAL

July 25, 1977

Mr. Richard F. Bogue
Lincoln County State's Attorney
206 East 5th Street
Canton, South Dakota 57013

OFFICIAL OPINION NO. 77-61

Klondike Dam: Ownership of dam
site on Iowa-South Dakota border.

Dear Mr. Bogue:

You have requested an opinion based on the following facts:

FACTS:

There exists an old milldam across the Big Sioux River on Section 16, Township 99, Range 48, touching both Iowa and South Dakota. The dam was built for mill purposes around 1870 by a person who owned the property on both sides of the Big Sioux River.

The dam has fallen into disrepair and the mill site itself has been purchased by private individuals. There is now a movement to restore the dam and to create a park area adjacent thereto, which involves the State of South Dakota, Lincoln County, the State of Iowa, and the Federal Government.

In an opinion issued by David W. Casjens, Lyon County Attorney for the State of Iowa, the State of Iowa was declared the owner of that portion of the dam structure, river bed, and banks of the river "located within the State of Iowa up to the high water mark."

The questions presented are:

QUESTIONS:

1. Who owns that portion of the bed and banks of the Big Sioux River located in the State of South Dakota at the site of the Klondike Mill Dam?
2. Who owns that portion of the dam structure located in the State of South Dakota?

IN RE QUESTION NO. 1:

Ownership of the bed and banks of the Big Sioux River can be determined only after addressing the threshold issue: Is the Big Sioux River a "navigable stream"?

The South Dakota Supreme Court has adopted a very broad definition of "navigable":

In the early history of the common law the rights of the public in navigable waters were confined to navigation. But the term "navigable" has been extended and includes waters that are not navigable in the ordinary sense. In Flisrand v. Madson, 35 S.D. 457, 152 N.W. 796, 798, it was held, after a consideration of the statutory provisions quoted and a review of many of the leading cases, that whether or not waters are navigable depends upon the natural availability of waters for public purposes taking into consideration the natural character and surroundings of a lake or stream. This division of lakes and streams into navigable and non-navigable is the equivalent to a classification of public and private waters.

Based on the above definition, I must conclude that the Big Sioux River is a "navigable" stream. Having made that determination, one must look to South Dakota statutes to define the law governing ownership of navigable stream beds and banks.

Mr. Richard F. Bogue
OFFICIAL OPINION NO. 77-61
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July 25, 1977

SDCL 43-17-2 explains the ownership rights of upland owners:

Except where the grant under which the land is held indicates a different intent, the owner of the upland, when it borders upon a navigable lake or stream, takes to the edge of the lake or stream at low-water mark, and all navigable rivers shall remain and be deemed public highways.

Between the high- and low-water mark, the State has qualified ownership of the land, not in a proprietary capacity, but as a public trustee. 1955-56, AGR 356, Official Opinion No. 76-99.

The upland owner has no ownership rights in land below the low-water mark, or in the bed of the stream. SDCL 43-17-1 provides:

The ownership of land below the ordinary high-water mark, and of land below the water of a navigable lake or stream, is regulated by the laws of the United States or by such laws of the state as the Legislature may enact.

Based on a reading of SDCL 43-17-1, SDCL 43-17-2, and AGR 1955-56, page 356, it is possible to conclude that the current upland owner owns the banks of the stream above the low-water mark, subject to the State's public trust in the strip of land between the low- and high-water marks.

Ownership of the riverbed was vested in the State of South Dakota upon admission to statehood in 1889:

On the public domain within states created out of territories, the states acquired title to the beds and banks up to high-water mark of that water which was navigable under the federal test on the date of admission of each such state. In these states, the federal government continued to hold nearly all of the remaining land as public domain, the newly admitted states acquiring only thin ribbons of land comprising the beds and banks of navigable waters. That may sound ridiculous, but it is true. Clark, Ed., Waters and Water Rights, Vol. 1, § 40.2, page 250 (1967).

The State conceded to private ownership, subject to the State's public trust, only those strips of land between the high- and low-water marks. SDCL 43-17-2; Flisrand v. Madson, 35 S.D. 457, 152 N.W. 796 (1915); Anderson v. Ray, 37 S.D. 17, 156 N.W. 591 (1916); State ex rel. Clark v. Deisch, 162 N.W. 365 (S.D. 1917). Title to lands below the low-water mark of navigable streams has remained vested in the State.

Title to the riverbed was not affected by over a century of "adverse possession," since title to the bed of streams cannot be acquired by prescription of adverse possession as against the United States or the State of South Dakota. Anno., 55 ALR2d 554 (1957), § 15, at 585-7. Title to the riverbed has been vested in the State since 1889. Prior to that time, ownership was vested in the federal government. Title could not have been divested by adverse possession, and the State has not voluntarily relinquished ownership. Therefore, title to the riverbed is in the State of South Dakota.

IN RE QUESTION NO. 2:

Ownership of the dam structure presents an interesting question. There is considerable doubt whether the person who constructed the dam around 1870 had the legal right to do so:

A riparian owner, whose lands border on a stream, the bed of which is owned by the state, has no right to use the water power of the river at that point, where the only practicable method for using that power requires the construction of a dike or dam extending into the river on the state-owned lands. 94 C.J.S. Waters, § 371, pages 451-2.

He probably was unaware of the fact that the Big Sioux River was subject to a navigational servitude. The status of the original navigational servitude is now a purely academic question--water over the dam.

The South Dakota Supreme Court has on two occasions allowed the owners of milldams constructed across navigable streams to acquire prescriptive rights to maintain the dams as originally constructed. In Tosini v. Cascade Milling Co., 117 N.W. 1037 (S.D. 1908), the court held that the person who constructed a dam across the Big Sioux River in Sioux Falls in the 1880's had acquired a prescriptive right to use the dam.

Mr. Richard F. Bogue
OFFICIAL OPINION NO. 77-61
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July 25, 1977

And in Shearer v. Hutterische Bruder Gemeinde, 28 S.D. 509, 134 N.W. 63 (1912), the Hutterite Colony was allowed to maintain its milldam across the James River as it was originally constructed in 1875. The decisions do not precisely define the nature of the prescriptive right acquired, but courts in other jurisdictions have deemed the upland owner who built a dam across a navigable river without objection by the State to be a licensee of the State. The upland owner thus acquires only a prescriptive easement--not legal title. Watervliet Hydraulic Co. v. State, 119 Misc. Rep. 743, 197 N.Y.S. 348 (1922); Re Commissioners of State Reservation, 37 Hun. 537, appeal dismissed, 102 N.Y. 734, 7 N.E. 916 (1885); Finch, Pruyn and Co. v. State, 122 Misc. 404, 203 N.Y.S. 165 (1924).

Assuming the original owner did acquire a prescriptive easement to maintain the dam, that easement could be passed on to subsequent grantees of the mill site:

The grant of a mill or factory or other plant operated by water power will pass as an appurtenance the dam and pond by which the power is supplied, or, according to the circumstances, the right to erect such a dam or to maintain and use the existing dam

In order for such rights and easements to pass by a conveyance of the mill or factory they must be legally appurtenant to the mill or factory conveyed. 93 C.J.S. Waters, § 217, pages 1065-6.

However, sometime during the past century, the subsequent grantees of the original owners allowed the milldam to fall into a state of disrepair. By so doing, any prescriptive easement which might have existed was extinguished by misuse. SDCL 43-13-13. (Had the easement not been extinguished, the State may have been required to pay nominal compensation for appropriation of the dam, even though the State had title to the riverbed. See, Watervliet Hydraulic Co. v. State, 119 Misc. Rep. 743, 197 N.Y.S. 348 (1922).)

With the easement extinguished, all interest in the dam reverted to the State.

Mr. Richard F. Bogue
OFFICIAL OPINION NO. 77-61
Page 6
July 25, 1977

Based on the foregoing, it is my opinion that:

1. The State of South Dakota owns the riverbed and banks of the South Dakota side of the Big Sioux River up to the low-water mark;
2. The upland owner owns the banks of the river down to the low-water mark, subject to a public trust in the strip of land between the high- and low-water marks; and
3. The State of South Dakota owns that portion of the dam structure located on the South Dakota side of the Big Sioux River.

Respectfully submitted,


WILLIAM C. JANKLOW
ATTORNEY GENERAL

WJJ:LEF:pk

DeWild Grant Reckert & Associates Co.

Architecture Engineering Planning

315 First Avenue
Rock Rapids, IA 51246
Telephone 712 472 2531

November 18, 1983

Mr. Tim Schall
Department of Water and Natural Resources
Division of Water Rights
Joe Foss Building
Pierre, South Dakota 57501

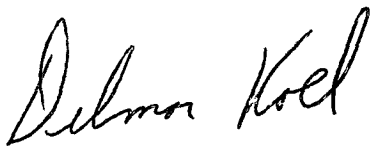
Re: Mill Dam Restoration near Klondike, Iowa

Dear Mr. Schall:

I am enclosing a copy of a letter from Mr. Jack Riessen with the Iowa Department of Water, Air and Waste Management. Mr. Riessen has suggested that I contact you regarding the project referenced above. Your office has previously been contacted regarding this project. In a letter dated Dec. 26, 1978 to me from Mr. John Hatch, it was stated that "The Department of Natural Resource Development does not require any permit or approval of a dam, per se, as long as it is not part of flood control facilities or does not become part of a water right approval." In any event, I intend to send a copy of the same information to you that I will be submitting to Mr. Riessen.

Very truly yours,

DEWILD GRANT RECKERT
& ASSOCIATES COMPANY



Delmar Koel, P. E.

DK:mrw
Enclosure

cc: Jack Riessen
: Lavonne Mydland





department of water, air and waste management

REC'D NOV 16 1983

November 15, 1983

Delmar Koel, P.E.
Secretary, Klondike Restoration and Preservation, Inc.
DeWild, Grant, Reckert and Associates Co.
315 First Avenue
Rock Rapids, Iowa 51246

Re: Milldam Restoration Near Klondike, Iowa

Dear Mr. Koel:

I am writing in response to your recent telephone conversations with George Hollins and Randy Clark in which you asked for guidance concerning permits needed for this project. As indicated by Allan Reinig in his letter to you dated December 11, 1978, (copy enclosed), approval from this Department (as successor to the Iowa Natural Resources Council) for the proposed restoration is necessary. Even if the original milldam had been approved pursuant to the statutory predecessor of Iowa Code Chapter 469, which is apparently not the case, approval would still be required for reconstruction of the dam.

In order to start our review of this project, please complete and return the enclosed Form 36 along with engineering plans as described below. Please note that the application must be submitted "by or on behalf of the persons who have responsibility by reason of ownership, lease or easement for the property in which the project site is located." It is our understanding that a private owner of the existing dam has never been identified. However, the Big Sioux River at this location is a meandered stream; this means that the bed and banks (to the normal high water line) on the Iowa side belongs to the State of Iowa. State land is generally controlled by the Iowa Conservation Commission. In addition, we understand that the Lyon County Conservation Board (Board) owns approximately three acres of land along the stream contiguous to state land (including the old mill structure) and that the Klondike Restoration and Preservation, Inc. (Corporation) has been awarded a state matching grant to restore the dam. Under these circumstances, we will accept a joint application by the Board and the Corporation for the purposes of expediting review of this project. However, assuming that all other criteria are satisfied, we would require documentation of approval from the Conservation Commission before this Department could issue a permit. You should contact:

Roy Downing
Iowa Conservation Commission
Wallace State Office Building
Des Moines, Iowa 50319

In order for us to analyze the hydraulic characteristics of the dam, you will need to submit two copies (certified by an engineer registered in Iowa) of a

W314A05.01(P01)

Delmar Koel, P.E.
Page 2
November 15, 1983

general layout plan showing the dam's dimensions, construction material, and any other data related to the reconstruction. A stream cross section should be included. Elevations should be based on the Mean Sea Level Datum. Using this information, we can determine the maximum water surface elevation caused by the dam and can project this elevation upstream of the dam to establish the limits of inundation. You then will be required to furnish additional information regarding landowners and flood easements as specified in Chapter 469 of the Iowa Code, and in 72.3(1)"c" and 72.3(3) of the Department's administrative rules (copies enclosed).

Please note that a public hearing may be held prior to departmental approval of the project.

You should also contact the U.S. Army Corps of Engineers and the State of South Dakota at the addresses listed below:

Mr. William Woodford
Chief, Operations Division
Department of the Army
Omaha District, Corps of Engineers
6014 U.S. Post Office and Courthouse
Omaha, Nebraska 68102

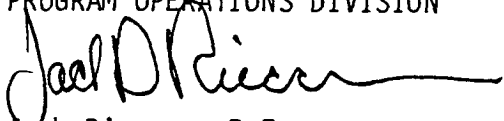
*- see letter
Oct 5, 78*

Mr. Tim Schall
Dept. of Water and Natural Resources
Division of Water Rights
Joe Foss Building
Pierre, South Dakota 57501

If you have questions, feel free to contact George Hollins at (515) 281-8980.

Sincerely,

PROGRAM OPERATIONS DIVISION



Jack Riessen, P.E.
Chief, Flood Plain Permits Branch

JDR:gmh:ka

Enclosure

W314A05.02(P01)



Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

November 28, 1983

Delmar Koel, PE
DeWild, Grant, Reckert & Associates
315 First Ave
Rock Rapids IA 51246

Dear Mr. Koel:

RE: Klondike Dam Restoration

Since the letter from our office dated December 26, 1978, we have had several changes in our Water Rights Laws and we now require a permit for a project such as this. Enclosed are the necessary application forms and an instruction sheet, please forward them to the applicant. We will also be interested in receiving the information you will be sending Mr. Riessen with the Iowa Department of Water Air and Waste Management.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Timothy G. Schaal".

TIMOTHY G SCHAAL
Water Resources Engineer

TGS:ks

enclosures

DeWild Grant Reckert & Associates Co.

Architecture Engineering Planning

315 First Avenue
Rock Rapids, IA 51246
Telephone 712 472 2531

December 2, 1983

Mr. Timothy G. Schaal
Water Resources Engineer
South Dakota Department of Water & Natural Resources
Joe Foss Building - 523 East Capitol
Pierre, South Dakota 57501



Re: Klondike Dam Restoration

Dear Mr. Schaal:

In response to your letter dated Nov. 28, 1983 and our phone conversation on Dec. 1, 1983, I am submitting the following information.

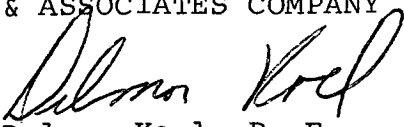
1. A copy of the recent grant application which includes a project description which outlines benefits to be derived by restoration.
2. A copy of a letter dated Oct. 5, 1978 from the Corps of Engineers to the Iowa State Historical Department. Reference is made to a letter from the Iowa State Historical Department dated Sept. 27, 1978. I do not have a copy of that letter in my file.
3. A copy of a letter dated Dec. 26, 1978 from Mr. John Hatch to me.

As I stated in my letter to you dated November 18th and in our phone conversation, I will also be submitting a copy of the same information to you that I will be submitting to Mr. Riessen with the Iowa Department of Water, Air & Waste Management.

If you have any other questions concerning this project, please call.

Very truly yours,

DEWILD GRANT RECKERT
& ASSOCIATES COMPANY



Delmar Koel, P. E.

DK:mrw
Enclosure

cc: Lavonne Mydland

SECTION V (CONTINUED)

- | | |
|-----------------------------|--------|
| 2) Number of hours per week | 40 |
| 3) Wage per hour | \$5.51 |

B. Describe how the proposed project or program will provide potential, continuing or reoccurring jobs and their impact on the community.

When completed, the total project will require the Lyon County Conservation Board to add one employee to staff to administer the project.

- 1) Number of potential, continuing or reoccurring jobs 1

SECTION VI PROJECT DESCRIPTION

- A. Project Title Klondike Dam and Mill Preservation
- B. Location: City Larchwood County Lyon
- C. Starting Date Nov. 20, 1983 Ending Date June Sept. 30, 1984
- D. Narrative Project Description (including number of people involved in implementing project and number of individuals to be served)

The Klondike Dam Restoration and Preservation organization group was established in 1977 and incorporated as a non-profit organization for the restoration of the dam and preservation of the site of an original mill in this area. The purpose of the restoration is to preserve a site of Historical Significance. It is a remnant of pioneer history. It was placed on the National Register of Historical Sites in 1975. Indian mounds are visible in the area and many Indian relics have been discovered on the site. It is the only remaining waterwheel-type grist mill in Northwest Iowa.

The restoration will enhance recreation, including fishing, boating, canoeing, camping, family gatherings and picnics. South Dakota has declared the Sioux River as the first state recreational canoe stream. By restoring the dam at its original elevation, the groundwater table for water supplies located upstream would be raised considerably, thereby enhancing water conservation.

The area gives shelter to numerous plant and animal species. Western prairie plants and woodland wild flowers are found in abundance. There are several primary animal species and it is an extremely good bird-watching area.

The project addresses the first phase need of the restoration project which is the re-establishment of the dam structure on the site. It has been determined that the least-cost approach to restoration and maintenance of the facility is to construct a rubble-filled structure similar to the original dam constructed in 1870.

The project will serve 3,635 persons, of which 1,438 have been identified as low and moderate income.

SECTION VII HISTORICAL, ETHNIC, CULTURAL AND TOURISM VALUE

Please specifically describe how the proposed project or program has historical, ethnic, culture and tourism value for the city, county or community involved.

The Klondike Dam and Mill Preservation group was formed under the auspices of the Lyon County Iowa Historical Society, Lyon County Iowa Board of Supervisors, Lyon County Iowa Conservation Board, Lincoln County South Dakota Board of Commissioners, Lincoln County South Dakota Conservation District, Augustana College Center for Western Studies and interested citizens from Iowa and South Dakota. The Governor of Iowa has responded with direction to the Iowa Conservation Commission and Iowa Natural Heritage Foundation to aid in the preservation of this site.

All agencies have acknowledged the desirability of restoring the site in that it is of local historic interest as a remnant of the pioneer history of the area, and it is of state historic interest because it is one of few remaining dam and mill structures capable of preservation.

The Iowa State Historical Department has indicated a desire to give the project additional attention; however, the division's cutback of their share of federal funds has limited their ability to proceed with funding for the project. The association has proceeded diligently for 5 years, holding fund-raising campaigns, approaching all known public sources of funding and have developed a set of plans addressing the rehabilitation of the dam structure.

SECTION VIII DESCRIPTION OF ORGANIZATION TO USE FUNDS AND SOURCES OF FUTURE FUNDING.

Klondike Dam and Mill Preservation, Inc.
Box 20
Rock Rapids, Iowa 51246
(as described in Section VII)

SECTION IX FIFTY PERCENT MATCH REQUIREMENT

Is your local match equal to 50% of the cost of the program?

Yes x No

50% Match Requirement

100% Cash	<u> </u>	25% In-Kind	<u> </u>
75% Cash	<u> </u>	50% In-Kind	<u> x </u>

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/773-3151

December 26, 1978

Delmar Koel, P.E.
Secretary, Klondike Restoration
and Preservation, Inc.
DEWILD, GRANT, RECKERT & ASSOC.
315 First Avenue
Rock Rapids, IA 51246

Dear Mr. Koel:

We have reviewed Mr. Anderson's letter of September 26, 1978 regarding restoration of the Klondike Mill Dam. Mr. Anderson asked for information on ownership of the dam, who is responsible for maintenance of the dam and whether or not a permit is required.

Based upon Attorney General Janklow's opinion 77-61 dated July 25, 1977, it appears the State of South Dakota owns that portion of the dam structure located on the South Dakota side of the Big Sioux River. As further information, SDCL 41-2-18 states that the Department of Wildlife Parks and Forestry (formerly Game, Fish & Parks), "---and except as otherwise provided by, shall have jurisdiction and authority for such purposes (conservation, protection, importation, and propagation and the hunting, taking, or killing of all game and fur-bearing animals, game birds, and harmless birds and animals) over all lands and waters owned, leased, or controlled by the state, including all meandered lakes, sloughes, marshes, and streams,--- and also including all lands to which the state has acquired any rights, title or interest for purposes of water conservation and recreation." On this basis I would assume the operation and maintenance of the Klondike dam rests with the Department of Wildlife, Parks and Forestry. Therefore, any restoration work should have the approval of the Department of Wildlife, Parks and Forestry.

By copy of this letter, along with the materials previously furnished this office, we are notifying the Department of Wildlife, Parks and Forestry of your interest in doing the restoration work.

With regard to other permits required, I would expect a Corps of Engineers Section 404 permit will be required.

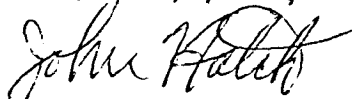
The Department of Natural Resource Development does not require any permit or approval of a dam, per se, as long as it is not part of flood control facilities or does not become part of a water right approval. On the other hand, safety of dams are a responsibility of this Department and any alleged unsafe facility can be inspected and repairs ordered if found to be a menace to life or property.

Delmar Kent, P.E.
December 26, 1978

A vested right for recreational purposes could be claimed for the original dam, since recreational use of the impounded waters was made prior to 1955. The dam can be rebuilt to the original level; however, reconstruction of the dam would be subject to safety of dams criteria and inspection.

The Department of Wildlife, Parks and Forestry should probably file a vested right for recreational use and under such filing could claim an early priority (1889) for recreational use.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gy

cc: Department of Wildlife, Parks & Forestry



U.S. POST OFFICE AND COURTHOUSE
OMAHA, NEBRASKA 68102

MROOP-N

5 October 1978

RECEIVED OCT 10 1978

Iowa State Historical Department
Division of Historic Preservation
Attn: Mr. Adrian D. Anderson
26 East Market Street
Iowa City, IA 52240

Dear Mr. Anderson:

Reference is made to your letter dated 27 September 1978 requesting information regarding the Corps' permitting authority for a reach of the Big Sioux River along Lyon County between South Dakota and Iowa.

The Corps' jurisdiction over the above reach of the Big Sioux River stems from Section 404 of the Federal Water Pollution Control Act as amended (F.W.P.C.A.). Section 404 regulates the discharge of dredged or fill material in our Nation's waterways, lakes, and wetlands.

Under current regulations the repair and maintenance of Kruger Mill Dam is exempt from Section 404 permit requirements.

However, stabilization of the structure may require an individual Department of the Army permit. Accordingly, prior to the commencement of any stabilization, a brief description of the project including a drawing depicting the proposed work should be submitted to this office for review and comment.

In answer to your question No. 2: As stated above, the Corps' responsibility in the Big Sioux River at this location pertains only to the discharge of dredged or fill material into the waterway and maintenance and/or protection would not fall under the purview of Section 404 of the F.W.P.C.A.

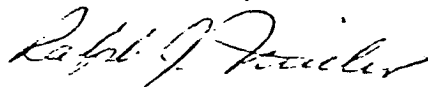
The intended effect of 33 C.F.R. 305 and Executive Order 11593 is to guide field operating agencies of the Corps of Engineers in the consideration of cultural resources during conduct of civil works programs under jurisdiction of the Chief of Engineers.

MROOP-N
Mr. Adrian D. Anderson

5 October 1978

If you have any further questions, contact this office or call Mr. Robert Sage at 402-221-4172.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Ralph J. Miller".

RALPH J. MILLER
Chief, Regulatory Functions Br.
Operations Division

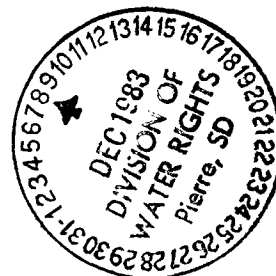
DeWild Grant Reckert & Associates Co.

Architecture Engineering Planning

315 First Avenue
Rock Rapids, IA 51246
Telephone 712 472 2531

December 5, 1983

Mr. Jack Riessen, P.E.
Chief, Flood Plains Permits Branch
Iowa Department of Water, Air & Waste Management
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319



Re: Klondike Mill Dam Restoration

Dear Mr. Riessen:

In accordance with your letter dated November 15, 1983, we are submitting the following information:

1. An application for a permit to construct
2. A general location plan drawing
3. A general layout plan showing the dams dimensions, construction material and other data. Also included on the drawing is a stream cross section. For mean sea level datum add 1,158.5' to all of the elevations shown. The top of the dam elevation is 1,245.8' mean sea level datum.

We are anxious to proceed with the reconstruction as soon as possible so would appreciate anything you could do to expedite this project.

Very truly yours,

DEWILD GRANT RECKERT
& ASSOCIATES COMPANY



Delmar Koel, P.E.

DK:kld

Enclosures

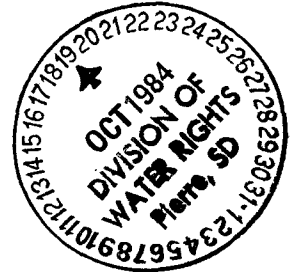
cc: Roy Downing
William Woodford
Tim Schall
LaVonne Mydland



department of water, air and waste management

October 12, 1984

Delmar Koel, P.E., Secretary
Klondike Restoration and Preservation, Inc.
DeWild, Grant, Reckert and Associates
315 First Avenue
Rock Rapids, IA 51246



RE: Klondike Mill Dam Restoration

Dear Mr. Koel:

Your application for approval to repair a mill dam has been approved. Enclosed is Flood Plain Development Permit Number FP 84-236 and an approved copy of the plans. The permit was issued subject to various conditions which you should review carefully.

Also enclosed is a WAWM Form 37, Notification of Completion of Construction. The Form 37 should be completed and returned within 30 days of the completion of construction.

Thank you for your patience and cooperation. If you should have any questions, please feel free to contact our office.

Sincerely,

PROGRAM OPERATIONS DIVISION

A handwritten signature in black ink, appearing to read 'Jack D. Riessen'.

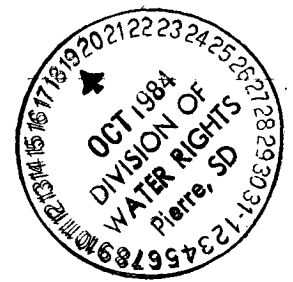
Jack D. Riessen, P.E.
Chief, Flood Plain Permits Branch

JDR:BB:rls/FPPW284K03.01

Enclosure

cc: Arietta Beyenhof

IOWA DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT
FLOOD PLAIN DEVELOPMENT PERMIT



PERMIT NUMBER: FP 84-236

PERMIT ISSUED TO: Lyon County Conservation Board
Rural Route 1
P. O. Box 41
Inwood, IA 51240

Klondike Restoration and
Preservation, Inc.
Rural Route, P. O. Box 20
Rock Rapids, IA 51246

PERMIT ISSUED BY: Jack D. Riessen
Jack D. Riessen
Chief, Flood Plain Permits

DATE: 10/12/84

PROJECT LOCATION: NW 1/4 of Section 21, T99N, R48W, Lyon County, Iowa

PERMITTED ACTIVITY: In accordance with the approved plans and subject to the following permit conditions, permittees are authorized to repair and maintain a mill dam on the flood plain of the Big Sioux River at the above described location.

BASIS FOR ISSUANCE: The decision to issue this permit was based on a staff review of the project with respect to relevant approval criteria contained in Chapter 72 of the Department's administrative rules (Agency 900, Iowa Administrative Code). Results of the staff review are summarized in the attached project review report by Brad Barrett dated September 27, 1984 and this report is a part of this permit.

PERMIT CONDITIONS:

1. Disclaimer. No legal or financial responsibility arising from the construction, operation or maintenance of the approved works shall attach to the State of Iowa or the Department due to issuance of this permit.
2. Maintenance. The permittee(s) and any successor in real estate on which the permitted activity is located shall be responsible for proper maintenance.
3. Other Permits, Licenses and Regulations. The permittee(s) shall be responsible for complying with all other local, state and federal statutes, ordinances, rules and permit requirements applicable to the construction, operation and maintenance of the approved works.
4. Revocation. This permit may be revoked by the Department if construction is not completed within three years of the date of issue.
5. Change in Plans. This permit only authorizes construction in accordance with the approved plans. No changes shall be made without prior authorization from the Department.

6. Lands, Easements and Rights-of-way. The permittee(s) shall be responsible for obtaining all lands, easements or rights-of-way necessary for the repair and maintenance of the approved works.

CERTIFICATION OF MAILING

I hereby certify that I have this 15th day of October, 1984
mailed Flood Plain Development Permit No. FP 84-236 to the permittee.

By H. Anderson

FLOOD PLAIN PROJECT SUMMARY REPORT

Project: Klondike Mill Dam Restoration
Big Sioux River
FP 84-236

By: Brad Barrett

Date: October 3, 1984



Project Description

The Lyon County Conservation Board and Klondike Restoration and Preservation, Inc., have submitted plans and an application requesting approval to restore a mill dam located within the channel of the Big Sioux River in the NW 1/4 of Section 21, T99N, R48W, Lyon County, Iowa. The dam is located near the town of Klondike and is commonly referred to as the Klondike Dam.

The proposed restoration consists of repairing an approximate 35 ft. wide breach in the dam near the east end by placing derrick stones weighing approximately 12,000 pounds each into the hole. The dam will then be stabilized by placing riprap ranging down from 3,000 pounds per stone behind the structure. The riprap will have an approximate 20 ft. top width with a 2 (horizontal) to 1 (vertical) backslope along the upstream side of the 180 ft. long dam.

The dam is located in a rural area. The overbanks are forested adjacent to and upstream of the dam and are planted in row crops downstream. There is an old bridge approximately 200 ft. downstream of the dam which obstructs both overbank areas with high approach grades.

Departmental Jurisdiction

The dam was constructed approximately 100 years ago and used as a mill dam for many years. The breach developed around 1970 after the structure was no longer used as a mill dam. There is no record of any State approval of the structure. The Big Sioux River is a border stream (classified meandered by the State) and drains approximately 6585 mi² at the site. Iowa Code Section 469.1 requires that permits be obtained from the Department for all dams constructed or maintained in Iowa's meandered streams. Departmental Rule 900-74.1, Iowa Administrative Code (IAC) provides that a permit is required to reconstruct a dam in a meandered stream. Therefore, even if the original dam had been approved under the statutory predecessor to Iowa Code Chapter 469, which is apparently not the case, a permit is still required for reconstruction of the dam.

Applicable Review Criteria

Iowa Code Section 469.5 provides that a permit shall be granted if the construction, operation, or maintenance of the dam will not materially obstruct existing navigation, materially affect other public rights, or endanger life or public health, and any water taken from the stream in connection with the project is returned to the stream at the nearest practicable place without being materially

diminished in quantity, polluted or rendered deleterious to fish life. By implication the Department must also consider how other landowners may be affected by the project since Iowa Code Subsection 469.2(5) requires that applicants specify the location and owners of each tract of land which may be affected by the construction, operation or maintenance of the dam.

Project Review

The project reach of the river (1000 ft. downstream and 1250 ft. upstream) was modeled using the U.S. Army Corps of Engineers HEC-2 computer program for the conditions with and without the dam at several flow rates. The valley cross sections used in the review were obtained from the submitted plans and INRC Order #76-71. Additional valley sections were synthesized using this information and a 1962 U.S.G.S topographic map. The results of the river modeling were analyzed to check the dam's effect on river stage at natural (without dam) bankful discharge and to determine the stage and discharge where the structure would drown out.

The results indicate that at the natural bankful discharge (6000 cfs), the dam causes the water surface elevation to rise approximately 3 ft. immediately upstream of the dam, creating premature overbank flow. The models also show that the structure drowns out near 12,000 cfs at a water surface elevation of 1252.5 ft. NGVD (6000 cfs and 12,000 cfs are approximately the 2 - and 5 year frequency discharges respectively; 1974 Becker Report).

The applicants have obtained permanent easements from the affected upstream landowners on the Iowa side of the river. The easements grant the right to store or detain water upon the associated property so long as the dam is restored to an elevation no higher than its original height.

The structure will be capable of withstanding the effects of normal and flood flows across its crest and against the abutments. No erosion problems are expected.

No water withdrawal will be associated with the construction or operation of the dam.

The applicants have contacted the Iowa Conservation Commission regarding the effects that the structure may have on fisheries and recreational use of the stream. The Commission considered the fisheries and recreational effects as well as wildlife and navigation and issued a Construction Permit approving the restoration work.

The project as proposed satisfies the statutory criteria of Iowa Code Section 469.5.

Recommendation

Approval is recommended with all applicable general conditions.



US Army Corps
of Engineers
Omaha District

Tim Schaaf

Public Notice

Reply to:

Permits Branch
PO Box 5
Omaha, NE 68101

Application No: IA-SD 2SB OXT 2 006033

Date: March 5, 1984

Expiration Date: April 3, 1984

MROOP-N-1

Klondike Restoration and Preservation Incorporation
Fill

Big Sioux River Mile 133.30

SOUTH DAKOTA DEPARTMENT OF
WATER AND NATURAL RESOURCES
OFFICE OF WATER QUALITY
30 DAY NOTICE

NOTICE OF PERMIT PENDING

The application of Klondike Restoration and Preservation Incorporation, Rural Route Box 20, Rock Rapids, Iowa 51246, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Engineer District, Omaha, Nebraska.

The applicant requests permission to place fill material in the Big Sioux River at mile 133.30 in conjunction with the reinforcement of the Klondike Mill Dam located in Section 21, Township 99 North, Range 48 West, Lincoln County, South Dakota and Lyon County, Iowa.

The proposed project will consist of using an estimated 800 cubic yards of rock to reinforce the existing dam. The material will be placed on the upstream side and will be placed to the same elevation as the existing dam. The rock will widen the top of the structure approximately 10 feet and will have a side slope of 2-foot horizontal to 1-foot vertical (see the attached drawing). The rock used will vary in size with the largest weighing approximately 12,000 pounds.

The purpose of the project is to preserve a site of historical significance.

Certification that the proposed activity will not violate applicable water quality standards has been requested from the Iowa Department of Environmental Quality, Water Quality Management Division, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319 and from the Regional Administrator, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295.

In compliance with the National Environmental Policy Act of 1969 and Section 106 of the National Historic Preservation Act of 1966, as amended, the National Register of Historic Places and current supplements have been consulted. There are no sites included or which have been determined eligible for inclusion therein which will be affected by the proposed project. The applicant appears to have coordinated their restoration efforts with the Iowa Historical Society, and the South Dakota Historical Preservation Center.

In compliance with the Endangered Species Act, our review indicates that the proposed activity will not affect species designated as threatened or endangered pursuant to the Endangered Species Act or their habitat.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the

public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food protection, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R., Part 230).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reason for holding a public hearing. The request must be submitted to the District Engineer, Omaha District, Corps of Engineers, P.O. Box 5, Omaha, NE 68101.

Any interested party (particularly officials of any town, city, county, state, federal agency, or local association whose interests may be affected by the proposed work) is invited to submit to this office written acts, arguments, or objections on or before, April 3, 1984. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this permit application.

Comments received after the close of business on expiration date of public notice will not be considered.

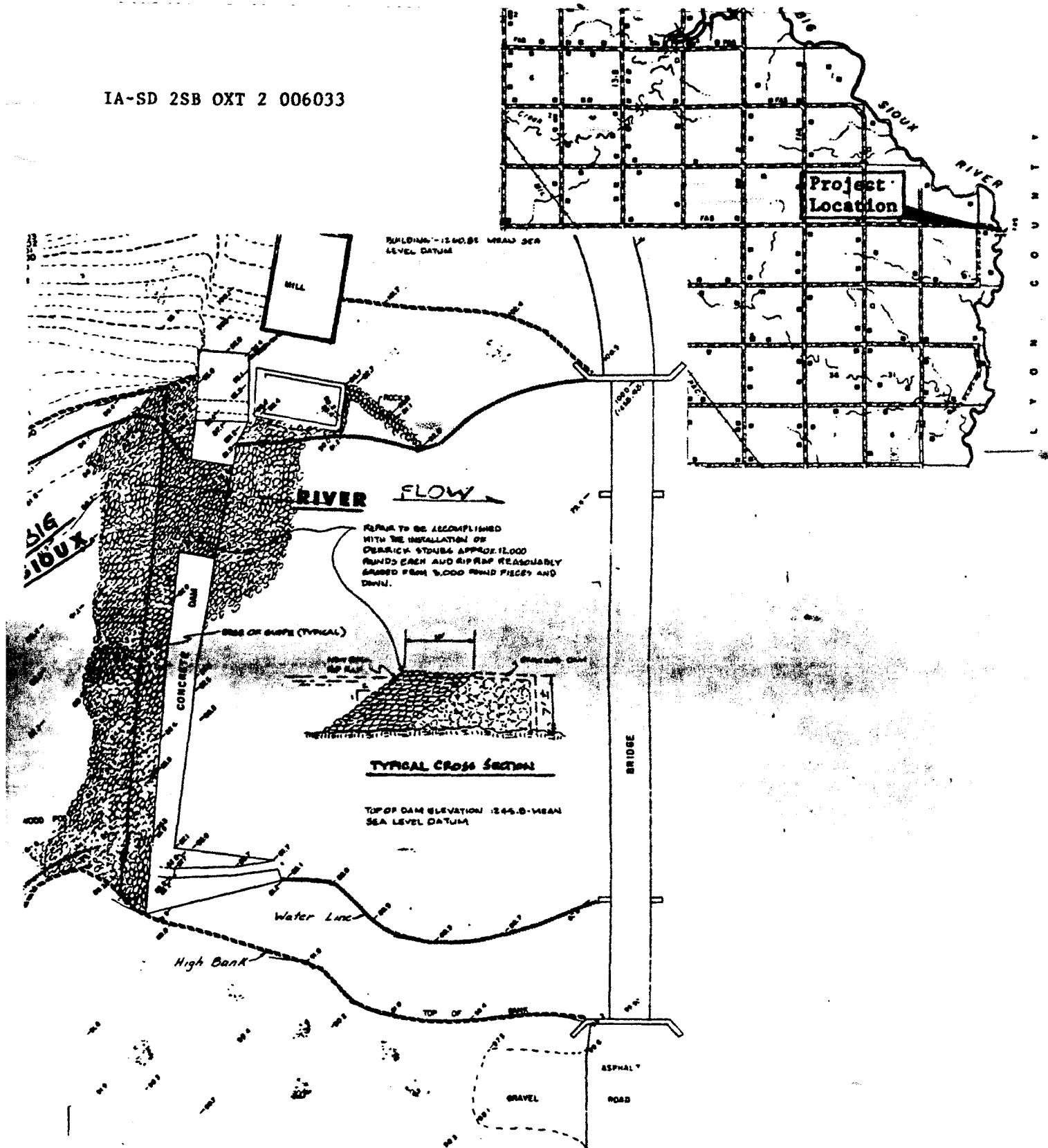
A permit, if granted, will be under the provisions of Section 404 of the Clean Water Act.

A drawing showing the location and extent of the work is attached to this notice.



Ralph J. Miller
Chief, Regulatory Branch
Operations Division

Attachment



PURPOSE: *Fill / Dam Repair*

DATUM

ADJACENT PROPERTY OWNERS:

1

2

Sec. 21, T. 99 N. R. 48 W.

IN Big Sioux River

AT Mile 133.30

COUNTY OF Lincoln, LYON STATE S.D., & IA

APPLICATION BY Klondike Restoration & Preservation

SHEET - 1 OF 1 DATE 2-9-84



department of water, air and waste management

March 9, 1984

Arietta Beyenhof
Secretary, Lyon County Conservation Board
R.R. 1 - Box 41
Inwood, IA 51240



Delmar Koel, P.E.
Secretary, Klondike Restoration and Preservation, Inc.
DeWild, Grant, Reckert and Associates Co.
315 First Avenue
Rock Rapids, IA 51246

RE: Milldam Restoration near Klondike, Iowa

Dear Mr. Koel and Ms. Beyenhof:

On December 7, 1983, you submitted plans and application to this Department's Flood Plain Permits Branch requesting approval to repair a low head dam across the Big Sioux River near Klondike, Iowa. The dam had never been approved by the State of Iowa and therefore its total effects on the river's flood plain had to be analyzed.

The flood plain staff has completed the engineering review of the submitted information. The review indicates that the project (based on the submitted information) fails to satisfy certain criteria listed in the Department's Administrative Rules. The criteria considerations are specifically addressed in the enclosed Summary of Engineering Review written by George Hollins and Randall Clark.

You have three options regarding the plans and application now on file. These are detailed below.

- 1) Submit information showing the land within the border of Iowa (and owners) affected by the reconstruction of the dam. Temporary flooding effects will occur on flood plain land upstream of the dam below the dam's drown out elevation of 1252.5 ft., NGVD. You must also show that you own or control (e.g., by easements) the affected property.
- 2) Request that the flood plain staff determine an elevation at which the breached area could be repaired that would not adversely affect land not owned or controlled by the applicants.
- 3) Request action on the plans and application now on file. Based on our review of the submitted information, it is likely that your application for approval would be denied.

FPPM066F04.01

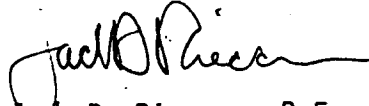
Arietta Beyenhof
Lyon County Conservation Board
Page 2
March 9, 1984

Please notify us in writing of your intentions within 21 days from your receipt of this letter.

If you have questions, please contact George Hollins at 515/281-8980 or Randy Clark at 515/281-6267.

Sincerely,

PROGRAM OPERATIONS DIVISION



Jack D. Riessen, P.E.
Chief, Flood Plain Permits Branch

JDR:GMH:m1a/FPPM066F04.02

Enclosure

cc: Ralph Miller, Omaha Corps
Steve Vander Horn, Rock Island Corps
Tim Schall, South Dakota Dept. of Water and Natural Resources
Monica Wnuk, DWAWM
Roy Downing, ICC
Mike Smith, DWAWM
Mr. Tim Schall, Dept. of Water & Natural Resources, Pierre, SD
Darrell Hayes, ICC
LaVonne Mydland

SUMMARY OF ENGINEERING REVIEW

Project: Klondike Dam Restoration

Applicants: Lyon County Conservation Board
Klondike Restoration and Preservation Inc.

Reviewed By: George Hollins/Randall Clark

Date: February 16, 1984

Project Description

The co-applicants have submitted plans and application requesting approval to restore a low head dam located within the channel of the Big Sioux River in the NW¼ of Section 21, T99N, R48W, Lyon County, Iowa. The dam is located near the town of Klondike and is commonly referred to as the Klondike Dam.

The proposed restoration consists of repairing an approximate 35 ft. wide breach in the dam near the east end by placing derrick stones weighing approximately 12,000 pounds each into the hole. The dam will then be stabilized by placing riprap ranging down from 3,000 pounds per stone behind the structure. The riprap will have an approximate 20 ft. top width with a 2 (horizontal) to 1 (vertical) backslope along the upstream side of the 180 ft. long dam.

The dam is located in a rural area. The overbanks are forested adjacent to and upstream of the dam and are planted in row crops downstream. There is an old bridge approximately 200 ft. downstream of the dam which obstructs both overbank areas with high approach grades.

Departmental Jurisdiction

The dam was constructed approximately 100 years ago and used as a mill dam for many years. The breach developed around 1970 after the structure was no longer used as a mill dam. There is no record of any State approval of the structure. The Big Sioux River is a border stream (classified meandered by the State) and drains approximately 6585 mi² at the site. Iowa Code Section 469.1 requires that permits be obtained from the Department for all dams constructed or maintained in Iowa's meandered streams. Departmental Rule 900-74.1, Iowa Administrative Code (IAC) provides that a permit is required to reconstruct a dam in a meandered stream. Therefore, even if the original dam had been approved under the statutory predecessor to Iowa Code Chapter 469, which is apparently not the case, a permit is still required for reconstruction of the dam. In addition, Departmental Rule 900-71.(3), under the authority of Iowa Code Chapter 455B, requires a permit for any low head dam on a rural stream draining ten or more square miles.

Applicable Review Criteria

Since this dam requires approval under both Chapter 469 and 455B of the Iowa Code, criteria for approval in Departmental Rule 72.3 (IAC) and Iowa Code Sections 469.3 and .5 will be utilized in this review. In view of the fact that the original structure was never approved by the State, the review must con-

sider the effects of the structure as a whole rather than only the effects of the reconstruction work.

Project Review

The project reach of the river (1000 ft. downstream and 1250 ft. upstream) was modeled using the U.S. Army Corps of Engineers HEC-2 computer program for the conditions with and without the dam at several flow rates. The results of the river modeling were analyzed to check the dam's effect on river stage at natural (without dam) bankful discharge and to determine the stage and discharge where the structure would drown out.

The results indicate that at the natural bankful discharge (6000 cfs), the dam causes the water surface elevation to rise approximately 3 ft. immediately upstream of the dam, creating premature overbank flow. The models also show that the structure drowns out near 12,000 cfs at a water surface elevation of 1252.5 ft. NGVD (6000 cfs and 12,000 cfs are approximately the 2 - and 5 year frequency discharges respectively; 1974 Becker Report).

The valley cross sections used in the review were obtained from the submitted plans and INRC Order #76-71. Additional valley sections were synthesized using this information and a 1962 U.S.G.S. topographic map.

Criteria relevant to the review and approval of the proposed work are discussed below:

a.) Identification of affected landowners and occupants.

Iowa Code Subsection 469.2(5) and Departmental Rule 900-72.3(1)"c", IAC require the applicants to submit information which will enable the Department to accurately identify landowners and occupants who may be affected by the operation of the dam. As the review showed upstream landowners would, in fact, be affected due to increased stages for discharges less than 12,000 cfs, the applicants must provide upstream landowner information. All flood plain land upstream of the dam which lies below elevation 1252.5 ft. NGVD and is within the Iowa border should be identified as to location and landowner.

b.) Opportunity for input from affected landowners and occupants.

Iowa Code Section 469.3 and Departmental Rule 900-72.3(1)"c", IAC require the Department to advise all potentially affected landowners and occupants of their opportunity to submit comments or to be heard concerning this project. If landowners or occupants wish to exercise the latter right, Iowa Code Section 469.4 requires that

an evidentiary hearing be commenced. Therefore, after receipt of the land ownership information described in (a) above, the Department must notify such owners of their opportunity for input.

c.) Effects on existing drainage and other landowners rights.

Departmental Rules 900-72.3(3)"b" and "c", IAC, prohibit adverse effects to drainage due to the permanent pool created by the dam and adverse effects from premature overbank flooding, unless the applicants demonstrate that they own or control (e.g., by easements) the affected property. While it may be necessary to await comments from landowners to determine if drainage will be adversely affected, it is clear that the dam will cause premature overbank flooding. Therefore, to satisfy Departmental Rule 900-72.3(3)"c", IAC, the applicants will have to show that they own the affected property or possess appropriate easements.

d.) Effects on fisheries and public recreational use of stream

The applicants have contacted the Iowa Conservation Commission regarding the effects that the structure may have on fisheries and recreational use of the stream. The Commission considered the fisheries and recreational effects as well as wildlife and navigation and issued a Construction Permit (attached) approving the restoration work, thus, satisfying the criteria of Departmental Rule 72.3(3)a, IAC.

e.) Stability and erosion

The structure will be capable of withstanding the effects of normal and flood flows across its crest and against the abutments. No erosion problems are expected. The project meets the criteria of Departmental Rule 72.3(3)e, IAC.

Conclusion

The project review indicates that the project meets certain requirements and that additional information must be submitted in order to adequately address other requirements. To continue the Departmental review of the project, it appears that the applicants have the following options:

1. Submit information showing the land, within the border of Iowa and the owners of such land, affected by the reconstruction of the dam (i.e. land subject to flooding at a river stage of 1252.5 ft. NGVD);

Summary of Engineering Review
Klondike Dam Renovation
Page 4

2. Request that the staff determine an elevation at which the breach area could be repaired to meet all requirements (the breach area would act as a low level outlet and have an elevation below the dam crest);
3. Request action on the application. Based on the submitted information, it is not likely that the application would be approved.

Judy Pawell

February 24, 1984

Roy Downing

Construction Permit:

To: Klondike Restoration and Preservation, Inc. and Lyon County Conservation Board

Of: Authorized Agent: Dewild, Grant, Reckert & Associates Co., 315 First Ave., Rock Rapids, Iowa 51246

Authorizing restoration work necessary for the repair of the existing Klondike Mill Dam on that portion of the Big Sioux River, lying within the boundaries of the State of Iowa, Lyon County. Issuance of this permit subject to the following conditions:

1. This permit is contingent upon all approvals under the jurisdiction of the Iowa Department of Water, Air and Waste Management, in particular those required in Chapters 455B and 469, Code of Iowa, 1983.
2. The permittee shall be responsible for the placement of a 4 foot square continuously visible, uniform waterway marking symbol on the dam to notify navigation on the river of a waterway obstruction, also the placement of any other buoys or signing required to assure safe navigation on the river at this location.
3. The applicants indemnify and save the State Conservation Commission and the state of Iowa harmless from any and all claims for any such injury or damage, excepting claims for injury or damage arising from activities of the Commission or the state in the use of said structure which are being conducted exclusively for the benefit of the commission or the state.

All construction shall be in accordance with the plans and specifications submitted with the application and now on file in the Central Office of the Iowa Conservation Commission. The Conservation Officer in charge of the area, Bill Fribley, 401 South Greene Street, Rock Rapids, Iowa 51246; 712/472-2927, shall be notified prior to the beginning of the construction and upon its completion so that he may ascertain that the state's rights are being protected.

This permit is granted subject to the permittee's obtaining all other permits from any governmental agency which may have jurisdiction in this

area. Permittee is reminded of the U. S. Army Corps of Engineers and Iowa Department of Water, Air, and Waste Management permit requirements in regard to dredging, filling, or construction activity. If it has not already been done, contact with these agencies should be made by permittee to determine if permits from them are required for this project.

RD/cje

cc: Iowa Department of Water, Air, and
Waste Management
U. S. Army Corps of Engineers
Conservation Officer Supervisor
Conservation Officer
Fish and Wildlife Section

Expiration Date: December 31, 1985.

STATE CONSERVATION COMMISSION

Application To Maintain A Permanent Structure

Name and Address of Applicant

Name, address of riparian property
owner or lessee if different than
applicantLyon County Conservation BoardRR 1 Box 41Inwood, Iowa 51240

Telephone no. during business hours

A/C(712) 753-2313A/C(712) 753-2327

Telephone no. during business hours

A/C()A/C()

TYPE OF

STRUCTURE Rubble Dam

IF DOCK -- GIVE

ASSIGNED DOCK #

LOCATION

Big Sioux River - Klondike Iowa

(Name of area, lake or stream section)

The undersigned applicants hereby agree that neither the State Conservation Commission nor the State of Iowa will be responsible for any injury to persons or damage to property arising out of or incident to the proposed construction or use of the permanent structure. The undersigned applicants hereby agree to indemnify and save the State Conservation Commission and the State of Iowa harmless from any and all claims for any such injury or damage, excepting claims for injury or damage arising from activities of the Commission or the State in the use of said structure which are being conducted exclusively for the benefit of the Commission or the State.

APPROVED

Director

SIGNED

Robert M Johnson
Applicant - Chairman LCCB -

Robert Johnson

DATE

3/7/84

DATE

3/11/84

SIGNED

Chairman-Klondike Restoration &
Preservation Committee

WATER RIGHTS DIVISION
(605) 773-3352

March 12, 1984

Ralph Miller
U.S. Army Corps of Engineers
Permits Branch
PO Box 5
Omaha, Nebraska 68101

Dear Mr. Miller:

This letter is in reference to Application No. IA-SD 25B OXT 2 006033 submitted by Klondike Restoration and Preservation Incorporation. The application concerns the proposed restoration of the Klondike Mill Dam located on the Big Sioux River in Section 21-T99N-R48W.

We are requesting that the issuance of a Section 404 permit be contingent on the applicant receiving a water permit from the South Dakota Water Management Board.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division

JH:TS:ms

cc: Klondike Restoration & Preservation Inc.



DEPARTMENT OF THE ARMY
OMAHA DISTRICT CORPS OF ENGINEERS
6014 U.S. Post Office and Courthouse
Omaha, Nebraska 68102

REPLY TO
ATTENTION OF:

March 15, 1984

Permits Branch
PO Box 5, Omaha, NE 68101

South Dakota Department of Water and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Gentleman:

Reference is made to the Public Notice of Permit Pending for:

Application No. Ia-SD 2SB OKT 2 006033

Applicant Klondike Restoration and Preservation, Inc.

Public Notice Date March 5, 1984

Comment Expiration Date April 3, 1984

Your letter regarding the above referenced project was
received by this office on March 13, 1984.

- ☐ Your comments will be considered in the drafting of the permit conditions if and when the permit is issued.
- ☐ A copy of your objection to the issuance of this permit is being forwarded to the applicant for resolution.
- ☐ A copy of your letter is being forwarded to the applicant for review and comment.
- ☐

Sincerely,


Ralph J. Miller
Chief, Regulatory Branch
Operations Division



EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That Ezra Petterson

of 3105 E 19th St., Sioux Falls, South Dakota, Grantor(s), for and in consideration of \$1.00, and the mutual covenants and agreements contained herein, does hereby grant, remise, and relinquish unto Klondike Dam Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock Rapids, Iowa, and its successor and assigns, a permanent easement over and upon the following described lands situate in the County of Lincoln State of South Dakota, to wit:

Lots one (1) and two (2) of Section sixteen (16), Lots four (4) and five (5), and the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section seventeen (17), (except Lot K in said SE $\frac{1}{4}$ of Section 17), all in Township ninety-nine (99), North, Range forty-eight (48), West of the 5th P.M., Lincoln County, South Dakota.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have an interest in maintaining the historical heritage of the immediate area, and more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned by GRANTEE, was constructed in or about the year 1884 and has now fallen into ruin, and the dam on the Big Sioux River was partially washed out in or about the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to restore the dam to its original and long-maintained height and must obtain easements from certain up-river riparian land owners in order to conduct and maintain such restoration to the original dam height, which restoration shall mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon the aforescribed real property as may be impounded detained, or collected by the operation, maintenance and improvement of the dam across the Big Sioux River located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so long as the dam is restored or returned to its original height and no higher or larger.

EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That Richard A Jaqua and Mary JoAnne Jaqua
of _____, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of Lincoln
State of South Dakota, to wit:

Lot one (1) of Section eight (8), Lots one (1), two (2), and three (3)
of Section seventeen (17), Lot five (5) of Section seven (7), Tract one (1),
of the Southwest Quarter (SW $\frac{1}{4}$) of Section seventeen (17), all in Township
Ninety-nine (99) North, Range Forty-eight (48) West, Lincoln County, South Dakota.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 21st day of May, 1984.

[Signature]
Mary Jeanne Jagua

State of South Dakota)
: ss.
County of Minnehaha)

On this 21st day of May, 1984 before me Arlo J. Flanders the undersigned officer or notary public, personally appeared Richard A. and Mary J. Jagua, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

[Signature]
Arlo J. Flanders

My Commission Expires 1-26-89

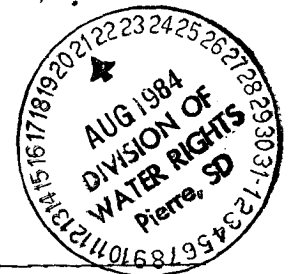
80250

State of South Dakota, }
County of Lincoln, }
Filed for record this 6th day of June A.D. 1984 at 8:30 o'clock
a. M. and duly recorded in Book X
of Misc on page 471
Hail Jones
Register of Deeds

By _____
Fee \$ 7.00 Deputy

Line. Co.

EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That VIRGIL E. SWANSON
of 2308 S. 4th Ave, Sioux Falls So. DAK, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of LINCOLN
State of SOUTH DAKOTA, to wit:

SWANSON'S TRACT 3, Section 7
TOWNSHIP 99 NORTH, RANGE 48 WEST
OF THE 5th P.M.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 31st day of MAY, 1984.

Virgil E. Swanson

State of S.D.)
 : ss.
County of Minnehaha)

On this 31st day of MAY, 1984 before me A.J. SWANSON the undersigned officer or notary public, personally appeared VIRGIL E. SWANSON, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

A. J. SWANSON
NOTARY PUBLIC
SOUTH DAKOTA
My Commission Expires Oct. 17, 1988
10-17-1988

82249

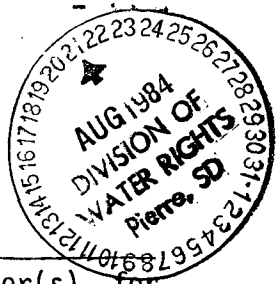
State of South Dakota, }
County of Lincoln, } ss.
Filed for record this 6th day of
June A.D. 1984 at 8:30 o'clock
a. M. and duly recorded in Book X
of Misc. on page 470
Paul Jones
Register of Deeds

By _____
Fee \$ N.C. Deputy

Line. Co.



EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That A. J. SWANSON
of PO Box 251 CANTON SD, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of LINCOLN
State of SOUTH DAKOTA, to wit:

SWANSON'S TRACT 2, Section 7
TOWNSHIP 99 NORTH, RANGE 48 WEST
OF THE 5th P.M.,

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 31st day of MAY, 1984.

Swanson

State of South Dakota) ss.
County of Lincoln)

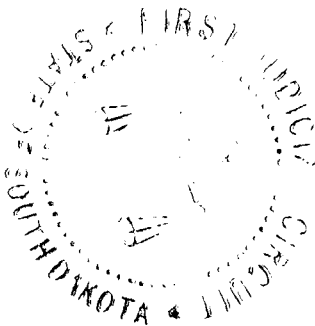
On this 31st day of May, 1984 before me Signor Perby the undersigned officer or notary public, personally appeared A. J. Swanson, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Signor Perby

My Commission Expires _____

Clerk of Courts
Canton, S. Dak.



80248

State of South Dakota, } ss
County of Lincoln, }
Filed for record this 6th day of June A.D. 1984 at 8:30 o'clock
a. M. and duly recorded in Book X
of Trac. on page 469
Paul Jones
Register of Deeds

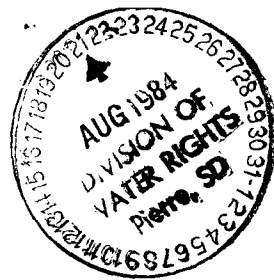
By _____ Deputy

Fee \$ N.C.

L. Co.



EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That Omar E. Petterson
of R.R. Canton, South Dakota, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of Lincoln
State of South Dakota, to wit:

Lots one (1) and two (2) of Section sixteen (16), Lots four (4) and
five (5), and the South Half of the Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$) of Section
seventeen (17), (except Lot K in said $SE\frac{1}{4}$ of Section 17), all in Township
ninety-nine (99), North, Range forty-eight (48), West of the 5th P.M.,
Lincoln County, South Dakota.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded, detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

✓

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 1st day of June, 1984.

Omar F. Pettersen

State of S.D.)
County of Lincoln) : ss.

On this 1 day of June, 1984 before me Helen
Nelson the undersigned officer or notary public, personally appeared Omar F. Pettersen, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Helen E. Nelson

My Commission Expires 3-1-1987

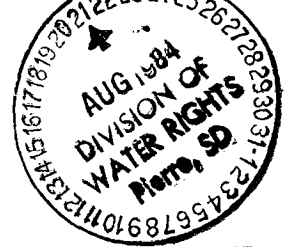
83247

State of South Dakota, }
County of Lincoln, } ss.
Filed for record this 6th day of
June A.D. 1984 at 8:30 o'clock
P.M. and duly recorded in Book X
of Miss on page 468
Paul Jones
Register of Deeds

By _____
Fee \$ 7.00 Deputy

Linc. Co.

EASEMENT



KNOW ALL MEN BY THESE PRESENTS:

That Ardys R Sorum
of 3008 E 19th St., Sioux Falls, South Dakota, Grantor(s), for
and in consideration of \$1.00, and the mutual covenants and agreements con-
tained herein, does hereby grant, remise, and relinquish unto Klondike Dam
Restoration and Preservation, Inc., Grantee, a nonprofit Iowa corporation of Rock
Rapids, Iowa, and its successor and assigns, a permanent easement over and
upon the following described lands situate in the County of Lincoln
State of South Dakota, to wit:

Lots one (1) and two (2) of Section sixteen (16), Lots four (4) and
five (5), and the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section
seventeen (17), (except Lot K in said SE $\frac{1}{4}$ of Section 17), all in Township
ninety-nine (99), North, Range forty-eight (48), West of the 5th P.M.,
Lincoln County, South Dakota.

for the following uses and purposes, and as limited herein:

WHEREAS, GRANTOR and GRANTEE each are owners of certain lands along the Big
Sioux River in Lincoln County, South Dakota or Lyon County, Iowa and each have
an interest in maintaining the historical heritage of the immediate area, and
more specifically the old Krueger mill and dam at Klondike, Lyon County, Iowa,

WHEREAS, the old Krueger mill and dam, the land sites for which are now owned
by GRANTEE, was constructed in or about the year 1884 and has now fallen into
ruin, and the dam on the Big Sioux River was partially washed out in or about
the year 1970, and

WHEREAS, in an effort to restore the mill and dam site, GRANTEE wishes to
restore the dam to its original and long-maintained height and must obtain
easements from certain up-river riparian land owners in order to conduct and
maintain such restoration to the original dam height, which restoration shall
mutually benefit GRANTOR and GRANTEE:

NOW THEREFORE, it is agreed that the easement heretofore granted shall be
limited, reserved and governed as follows:

1. GRANTEE shall have the right to store or detain any and all waters upon
the aforescribed real property as may be impounded detained, or collected by
the operation, maintenance and improvement of the dam across the Big Sioux River
located between Klondike, Lyon County, Iowa and Lincoln County, South Dakota, so
long as the dam is restored or returned to its original height and no higher or
larger.

2. GRANTOR releases GRANTEE from any liability for injury to person or property, including livestock, or any claim therefor, by reason of GRANTEE'S enjoyment and exercise of this easement.

IN WITNESS WHEREOF, GRANTOR(S) has executed this instrument on the 29th day of May, 1984.

Ardis R. Sorum

State of S. Dakota)
: ss.
County of Minnehaha)

On this 29th day of May, 1984 before me Paul C. Stubbe the undersigned officer or notary public, personally appeared Ardis R. Sorum, known to me or satisfactorily proven to be the person(s) whose name(s) is subscribed to the within instrument and having acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Paul C. Stubbe

My Commission Expires 1-28-89

SOUTH DAKOTA

80246

State of South Dakota, }
County of Lincoln, }
Filed for record this 6th day of June A.D. 1984 at 8:30 o'clock
a. M. and duly recorded in Book X
of Miss on page 7467
Paul James
Register of Deeds

By Lin. Co. Deputy
Fee \$ 7.00

John Hatch

STANLEY CONSULTANTS, INC.



October 6, 1989

South Dakota Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Gentlemen:

Re: Klondike Dam on the Big Sioux River

Stanley Consultants has been retained by Lyon County, Iowa to investigate the feasibility of rehabilitating or replacing Klondike Dam on the Big Sioux River. The Big Sioux River forms the border between Iowa and South Dakota in the project vicinity, and the location of the dam is shown on the attached figure. The existing dam has been subject to several breaches during the past ten years requiring significant repair efforts. The dam is considered to be approaching the end of its life span in its present configuration.

With a project such as this, we recognize the necessity for coordination between the various involved agencies. The purpose of this letter is to inform your agency of our activities at an early stage of the project. At this time we would appreciate your input of any special requirements or regulations pertinent to the planned dam work.

The existing overflow dam is about 8 to 9 feet high and has a length of about 200 feet. Original construction activity on the dam began over 100 years ago. The dam is located about 130 feet upstream from an abandoned bridge and 1,400 feet downstream from the present bridge connecting Lyon County Road A26 with South Dakota. The abandoned bridge will remain in place for recreation purposes. The current plan is to completely rehabilitate the existing dam or to site a new dam immediately downstream from the old dam structure. The operation of the facility will remain unchanged. We will, however, investigate the possibility of raising the dam crest height of a new structure by up to two feet and the feasibility of incorporating hydroelectric facilities in the new dam.

South Dakota Department of Water & Natural Resources
October 6, 1989
Page 2

Again, we look forward to your input on this project. I would appreciate it if you would route this letter through any other appropriate departments within your agency. For your information, I have included a list of the agencies who we have sent this letter to. Should you have any comments or questions, please contact me at 319/264-6312 or Ian McAlister at 319/264-6712.

Sincerely,

STANLEY CONSULTANTS, INC.



Bennett D. Reischauer, P.E.

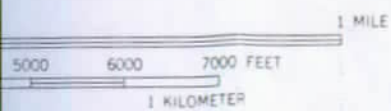
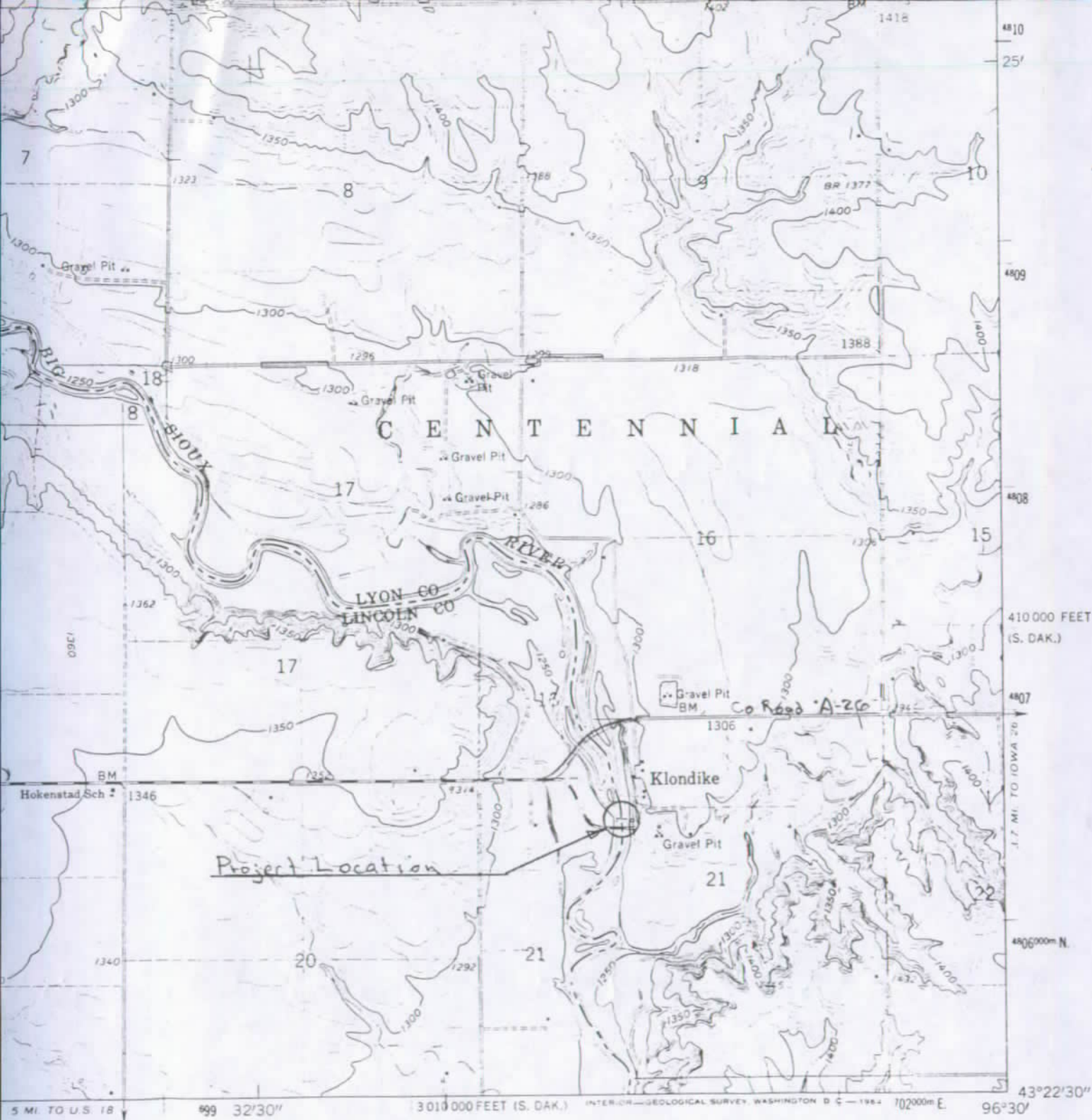
BDR:jae:10367

Enclosure

cc: Mr. Ken Mellema, Lyon County

p.s. A similar letter has been sent to the following agencies:

Iowa Department of Natural Resources
South Dakota Department of Water and Natural Resources
South Dakota Game, Fish, and Parks
U.S. Army Corps of Engineers, Omaha District
U.S. Department of Interior, Fish and Wildlife Service
Lincoln County, South Dakota



1" = 2000'
 ↑ N



QUADRANGLE LOCATION

ROAD CLASSIFICATION

- | | | | |
|-------------|-----------|-----------------|-------|
| Heavy-duty | ————— | Light-duty | ————— |
| Medium-duty | - - - - - | Unimproved dirt | |
| | | State Route | ○ |

KLONDIKE, IOWA — S. DAK.

N4322.5—W9630/7.5

1962

AMS 6670 I NE—SERIES V876

ICY STANDARDS
 RADO OR WASHINGTON 25, D. C.
 WA CITY, IOWA
 IS AVAILABLE ON REQUEST



Department of Water & Natural Resources

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

October 13, 1989

Bennett D. Reischauer, P.E.
Stanley Consultants, Inc.
Stanley Building
Muscatine, Iowa 52761

Re: Klondike dam on Big Sioux River

Mr. Reishchauer:

You have inquired about what requirements and regulations would be pertinent to the planned dam work.

The Department of Water and Natural Resources, Division of Water Rights has on file Water Permit No. 5018-3 issued to Klondike Restoration and Preservation Inc. The permit allows for the rebuilding of Klondike dam with the provision that flood easements be obtained and that the dam be rebuilt to the original crest elevation.

If the crest of the dam is to be raised during reconstruction Water Permit No. 5018-3 would have to be amended and plans and specifications for the dam would have to be submitted and approved. I am enclosing water right application forms and the current safety of dams rules.

If you have any additional comments or questions please contact this office.

Sincerely,

Gale N. Selken P.E.
Natural Resources Engr. IV
605 773-3352

enclosures





Department of Water & Natural Resources

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

December 18, 1989

Bennett D. Reischauer, P.E.
Stanley Consultants, Inc.
Stanley Building
Muscatine, Iowa 52761

Dear Mr. Reischauer, P.E.

Enclosed is a copy of Water Permit No. 5018-3 for Klondike Dam on the Big Sioux River. Also enclosed is a copy of our October 13, 1989 letter to you concerning Klondike Dam. This information was requested by Ian McKellister in a phone conversation I had with him today.

If you have any questions, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Timothy G. Schaal".

Timothy G. Schaal, P.E.
Water Resources Engineer
605 773-3352

enclosure

Permit No. ~~5655-3~~ 5018-3
Big Sioux River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, July 22, 1997 made a thorough examination of the water use system constructed by Klondike Restoration & Preservation Inc. of RR Box 20, Rock Rapids IA 51246 holder of Permit No. 5655-3, bearing the priority of March 28, 1984 authorizing the storage of 360 acre-feet of the waters of Big Sioux River for recreational purposes, in Lincoln County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

A rock filled dam with a concrete cap, 7 feet high, 8 foot crest, and a 160 foot long embankment.

B. Works used to transport water to place of use:

none

C. Works used to apply water to beneficial use:

none

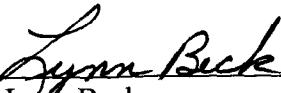
The system is in the following condition good. The point of diversion is located 594' S and 2112' E of the Nw corner of Section 21, T99N, R48W. The works are capable of storing 360 acre-feet of water which is to be used for recreation. Water has been put to beneficial use to the maximum extent as follows:

Storage of 360 acre feet of water for recreational use behind Klondike Dam.

The license should be issued for 360 acre-feet of storage.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none



Lynn Beck
Natural Resources Engineer
DENR, Water Rights Program

8-26-97

Date

712 477-2280

File 7-27-97 100

FIELD INVESTIGATION REPORT FOR PERMIT NO. 5018-3

DATE OF INVESTIGATION:	
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Bennett Reischauer 319 264-6600
NAME & ADDRESS OF PERMIT HOLDER	Klonelike Restoration & Preservation Inc. RR Box 20 Rock Rapids IA 51246
DIVERSION POINT LEGAL LOCATION	

Other permit(s) associated with the project: _____

Details of a well installation

(May 89)

Stensland Sand &

Gravel Co. (712) 477-2280

17211 Ashley Ave.
Larchwood, IA**WELL INFORMATION:****Casing:**

1) Well Drilling Firm: _____

1) Diameter _____ inches

2) No. of Wells _____

2) Length _____ feet

3) Depth(s) _____ feet

3) Type _____

4) Well log is available Y/N**Screen:**

5) Comment: _____

1) Type _____

2) Length _____ feet

3) Static water level _____ feet

Motor:**Pump:**

1) Make _____

1) Make _____

2) Model _____

2) Model No. _____

3) Size _____

3) Horsepower rating _____ hp

4) Capacity _____ GPM

DISTRIBUTION LINES OR CANALS:

1) Type _____

2) Size _____ inches

3) Length _____ feet

SYSTEM TYPE:**Center pivot:**

1) Make _____

5) End gun Y/N

2) Overall length _____ feet

6) High or low pressure _____

3) Number of towers _____

7) Capacity _____ GPM

4) Distance between towers _____ feet

REPORT ON INSPECTION OF PERMIT NO. 5018-3

DATE OF INSPECTION: 7-22-97

Other permit(s) associated with the project: none

NAME & ADDRESS OF INSPECTION CONTACT: looked at by myself

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: #

NAME & ADDRESS OF PERMIT HOLDER: Klondike Restoration & Preservation, Inc., RR Box 20,
Rock Rapids IA 51246.

**DIVERSION POINT LEGAL LOCATION: 594' S and 2112' E of the NW corner Section 21, T99N,
R48W in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21.**

DAM INFORMATION:

- 1) Height to crest 7 feet
- 2) Height to primary spillway na feet
- 3) Height to secondary spillway na feet
- 4) Crest width 8 feet
- 5) Crest length 160 feet
- 6) Spillway length na feet
- 7) Spillway width na feet
- 8) Approximate storage 360 ac-ft

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes

MAP NOT TO SCALE

THIS IS NOT AN OFFICIAL WETLAND MAP.



Lynn Beck
 Lynn Beck
 Natural Resources Engineer
 DENR, Water Rights Program
 7-30-97

99-48



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

August 27, 1997

5018-3

Lavonne Mydland, President
Klondike Restoration & Preservation, Inc.
RR, Box 20
Rock Rapids, IA 51246

Dear Ms. Mydland:

The investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5655-3, has been completed. Your final water right document, the Water License, can now be issued.

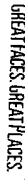
Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.



JOE FOSS BUILDING

57501-3181



Rock Rapids, IA 51246

100-100000

DCR#1

☐ Insufficient Address

- Veritas**



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

September 11, 1997

5018-3

Craig Van Otterloo, Executive Director
Lyon County Conservation Board
311 1st Ave E
Rock Rapids, IA 51246

Dear Mr. Van Otterloo:

I am contacting you in regard to Klondike Dam along the Sioux River between Lincoln County, South Dakota and Lyon County, Iowa. I obtained your name through DeWild, Grant & Reckert in Rock Rapids.

In 1984, the Klondike Restoration and Preservation, Inc., in Rock Rapids, Iowa obtained a water permit to restore Klondike dam (see enclosed copy). This summer, a staff engineer from our office conducted a field investigation of the dam for licensing purposes. We attempted to contact the Klondike Restoration and Preservation association and found they either no longer exist or are no longer at the same address. Our letter was directed to LaVonne Mydland, president of the association.

Do you have any information concerning the association or do you know who I could contact that might know. If the association no longer exists, the water permit could be transferred to a person or entity wishing to maintain the water right.

If I can answer any questions for you, please let me know. Thank you in advance for your help.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

encl



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

September 17, 1997

5018-3

Craig Van Otterloo, Executive Director
Lyon County Conservation Board
311 1st Ave E
Rock Rapids, IA 51246

Dear Mr. Van Otterloo:

Thank you for calling me in regard to the water permit for Klondike Dam. Enclosed, as we discussed, is a partially completed "Notice of Transfer of Ownership" form. You indicated during our telephone conversation that the Lyon County Conservation Board would be willing to have the permit transferred to their name.

Please review the form for accuracy and complete the portion titled "*be transferred to (name & address)...*". Upon completion, please sign the form in the presence of a notary public and return it to our office with a required filing fee of \$2.50.

During our conversation, I visited with you about the investigation and licensing of Water Permit No. 5018-3. You inquired why a license needed to be issued or a fee needed to be paid when Klondike Dam and more specifically the Sioux River, adjoined both South Dakota and Iowa.

I reviewed our water laws and visited with the Chief Engineer concerning your inquiry. Under South Dakota Water Laws a permit is required to construct a dam across a navigable watercourse for any purpose. This pertains to all entities, whether they are private, public or government agencies. Once an application is approved, the permit holder has five years in which to construct the project and another four years to put the water to beneficial use. After the time limit for completion of works has passed, an investigation is conducted for licensing purposes.

Our water laws also require us to assess a \$50.00 fee for the investigation and issuance of the water license. This fee is a one-time fee and is required prior to issuance of the water license. Is there a South Dakota counterpart to your agency that may have helped with repairs and maintenance of Klondike Dam? They may be willing to pay for part or all of the \$50.00 fee.

I hope I have addressed your concerns. In summary, if you still wish to maintain the water permit and have it transferred to your name, please complete and return the transfer of ownership form along with a total of \$52.50 (transfer - \$2.50 and license - \$50.00). If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

encl



May 20, 1998

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

Permit No. 5018-3

REMINDER NOTICE

TO: Craig Van Otterloo, Executive Director
Lyon County Conservation Board
311 1st Ave. E
Rock Rapids, IA 51246

FROM: John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Water License/Investigation Fee Requirement

On September 17, 1997, we advised you that a \$50.00 fee is due for the completed investigation of Water Permit No. 5018-3. The fee also covers issuance of your water license which is the final document in obtaining and perfecting a water right. Also, a partially completed Notice of Transfer of Ownership form was sent to you to be completed, and returned with an additional \$2.50 fee (\$52.50 total). Enclosed is an additional form.

To date, we have not received the \$52.50 fee; therefore, we can not issue nor transfer the water license. Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by any permit requirements.

Please remit the fee as soon as possible to obtain and transfer your water license. In addition, South Dakota water law does not allow water to be diverted until the license and transfer fee is paid. To avoid jeopardizing your ability to use water, please send the fee to the following address:

Department of Environment and Natural Resources
Water Rights Program
523 E Capitol
Pierre SD 57501-3181

Thank you for your prompt response. If you have any questions or believe our records are in error, please contact Genny McMath at (605) 773-3352.

Is your return an address completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Craig Van Otterloo, Executive Director
Lyon County Conservation Board
311 1st Ave. E
Rock Rapids, IA 51246

5018-3

4a. Article Number

Z 119 141-533

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

3-26-98

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *[Signature]*

PS Form 3811, December 1994

102595-97-B-0179

Domestic Return Receipt

Thank you for using Return Receipt Service.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

November 17, 1998

THIRD NOTICE
Permit No. 5018-3

NOTICE OF ORDER TO STOP DIVERTING WATER
UNDER PERMIT NO. 5018-3 FOR
FAILURE TO SUBMIT WATER LICENSE INSPECTION FEE

Craig Van Otterloo, Executive Director
Lyon County Conservation Board
311 1st Ave. E
Rock Rapids, IA 51246

Dear Mr. Van Otterloo:

On September 17, 1997, and May 20, 1998, you were notified the final inspection fee of \$50.00 is due before Water License No. 5018-3 can be issued. To date, the fee has not been received. Also, a transfer form was previously sent to you, enclosed is an additional form. Please sign, have notarized and return the form to this office with the required filing fee of \$2.50.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Pursuant to SDCL 46-2-17 and 46-2-18, you are ordered to stop diverting any water authorized by Permit No. 5018-3 until the \$50.00 final inspection fee and \$2.50 transfer of ownership (\$52.50 total) fee is paid. Please remit the License and transfer of ownership fee to the Department of Environment and Natural Resources, Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

2 **is your RETURN ADDRESS completed on the reverse side?**

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Craig Van Otterloo, Exec. Dir.
Lyon County Conservation Board
311 1st Ave. E
Rock Rapids, IA 51246

5018-3

4a. Article Number
P 422 707 492

4b. Service Type
☐ Registered
☐ Express Mail
☐ Return Receipt for Merchandise
☐ Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)
☒ Pam Jule

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

7. Date of Delivery
11-19-98

8. Addressee's Address (Only if requested and fee is paid)

☒ Certified
☐ Insured
☐ COD

Domestic Return Receipt

Thank you for using Return Receipt Service.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

June 6, 2002

Dear Water Right Holder;

I am writing all South Dakota water right holders who use water from the state's major rivers to let them know that shutoff orders are possible this summer. Certain areas of the state are experiencing the first major dry spell since the drought of 1988-1992. While recent precipitation has increased soil moisture conditions, river flows are still very low for this time of year.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses will begin to interfere with domestic use. If levels become critically low, the department will issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and rescind those orders accordingly if conditions improve.

We are only speculating that shutoff orders may become necessary. **This is not a shutoff order.** This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to sd.water.usgs.gov and click on "Realtime streamflow data via satellite".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Don Stroup at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182

TEMP RETURN SERVICE REQUESTED

RECEIVED

JUN 13 2002

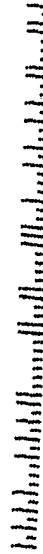
WATER RIGHTS
PROGRAM

Lyon 301

LYON CO. CONSERV BOARD
ROCK RAPIDS IA 51246

LYON301* 512462010 1502 02 06/10/02
RETURN TO SENDER
LYON SOIL & WATER CONSERVATION
PO BOX 326
ROCK RAPIDS IA 51246-0326
RETURN TO SENDER

57501-3182





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 18, 2003

David Thompson
National Parks Service
1709 Jackson Street
Omaha, NE 68102

Dear Mr. Thompson:

As we discussed the other day, enclosed is some information concerning Klondike Dam, located on the Big Sioux River near Canton, South Dakota.

South Dakota issued Water Permit No. 5018-3 in 1984, to the Klondike Restoration & Preservation, Inc. Iowa issued Permit Number FP 84-236 to the Lyon County Conservation Board & Klondike Restoration & Preservation, Inc. Since then, the Klondike Restoration & Preservation, Inc. has disbanded and we are currently in correspondence with the Lyon County Conservation Board to transfer Water Permit No. 5018-3 to them.

If you have any questions, please feel free to contact me.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program
(605) 773-3352

enclosures

RECEIVED

DEC - 7 2009

WATER RIGHTS
PROGRAM

SD EForm - 0495 V2 NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

Water Right/Permit No. 5018-3

Date: 12-2-09

I/We request that Water Right/Permit No. 5018-3 formerly owned by:

Klondike Restoration & Preservation, Inc.

be transferred to:

New Owner Name: Lyon & Sioux Rural Water System, Inc.

Address: 1107 1st Ave., PO Box 309

City, State, Zip Rock Rapids, IA 51246

Telephone No. 712-472-3755

Title to the following described land(s)/property has been transferred as described above:

594' S and 2112' E of the NW Corner Section 21, T99N, R48W
in the NE 1/4 NW 1/4 Section 21

☒ I understand that the validity of Water Right/Permit No. 5018-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Lyon & Sioux Rural Water System, Inc., the new owner, certify that the above information is true and correct.

Bonnie Koel, Administrative Manager
Lyon & Sioux Rural Water System, Inc.

Bonnie Koel
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/7, 20 09

RECEIVED OF Lyon & Sioux Rural water System PO Box 309 Rock Rapids IA 51246

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5018-3</u>	200	00
Fee for Filing Transfer Form <u>5018-3</u>	50	00
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	250 00

No. 04259

By [Signature] [Signature] [Signature]
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

May 28, 2010

5018-3

Bonnie Koel
Lyon & Sioux Rural Water System Inc
1107 1st Ave
PO Box 309
Rock Rapids IA 51246

Dear Ms. Koel:

I am writing to acknowledge the "Notice of Transfer of Ownership" form and filing fees you submitted for the ownership change and for inspection and licensing.

The permit formerly held by Klondike Restoration and Preservation, Inc has been transferred to Lyon & Sioux Rural Water System Inc. The ownership change became effective back in December when the paperwork was received.

Enclosed is your Receipt No. 04259 in the amount of \$250.00. You may keep this for your records.

Licensing will occur after an inspection has been completed. You will be contacted by a staff engineer prior to the inspection.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

December 28, 2012

Nate Hoogeveen
River Programs Coordinator
Iowa DNR
502 East 9th Street
Des Moines, IA 50319

Dear Mr. Hoogeveen:

We have reviewed the plans and specifications for the Klondike Dam to Rapids Conversion Project located on the Big Sioux River in Section 21-T99N-R48W; between Lincoln County, South Dakota and Lyon County, Iowa. The plans and specifications for the project are approved.

Our review was to determine compliance with the requirements of the Water Management Board Safety of Dams Rules, Chapter 74:02:08 and the conditions of Water Permit No. 5018-3, held by the Lyon & Sioux Rural Water System, Inc.

Water Permit No. 5018-3 has a Priority Date of March 28, 1984 to store 360 acre-feet of water above the Klondike Dam. It was originally issued to the Klondike Restoration and Preservation Inc. and later transferred to the Lyon and Sioux Rural Water System, Inc. in 2010. Since the Klondike Dam to Rapids Conversion Project will maintain the upstream reservoir at the current top of dam elevation, Water Permit No. 5018-3 will be sufficient for this project.

If you have any questions, please feel free to contact us.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer IV
for Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

c: Arden Petersen, SD GF&P, Sioux Falls
Bonnie Koel, Lyon & Sioux Rural Water System
Craig Von Otterloo, Lyon Co. Conservation Board
John Miller, SD DENR Surface Water Quality Program



RECEIVED
DEC 20 2012
WATER RIGHTS
PROGRAM

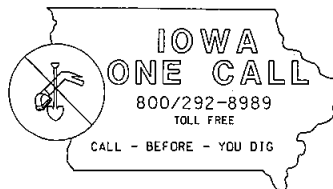
RECEIVED
DEC 20 2012
WATER RIGHTS
PROGRAM

PLANS PREPARED BY
IDNR ENGINEERING BUREAU
MANAGEMENT SERVICES DIVISION

ESTIMATE OF QUANTITIES		
ITEM NO.	DESCRIPTION	QUANTITY
1	MOBILIZATION	1,000 SQM
2	BASE STONE (2.5 OR GREATER SPECIFIC GRAVITY & 50% MEDIAL DIAMETER 2.5' OR GREATER) PLACEMENT ONLY	15,000 TONS
3	WEP STONE (2.5 OR GREATER SPECIFIC GRAVITY & MEDIAL DIAMETER 3' OR GREATER) PLACEMENT ONLY	15,000 TONS
4	CRUSHED STONE FILL 8 INCH MAXIMS MAT'L PLACEMENT ONLY	1,600 TONS
5	DAM REMOVAL	1,000 SQM
6	SEED, FERTILIZE, & MULCH	0.5 ACRES

QUANTITIES NOTES

1. ALL STONE QUANTITIES FOR PLACEMENT ONLY- MATERIAL BY OTHERS
2. DAM REMOVAL TO INCLUDE RUBBLIZING OF OLD DAM & REMOVAL OF ANY METAL. RUBBLIZED CONCRETE MAY BE USED AS SUB-BASE
3. FOR SEEDING USE A MIX OF 8 LBS PER ACRE OF VIRGINIA WILDRYE & 7 LBS PER ACRE OF ANNUAL RYEGRASS.



Value Engineering Soves - The Contractor is encouraged to take full advantage of Specification 1115.05 - Value Engineering Incentive Proposal. A pamphlet and conceptual proposal form will be available at the preconstruction conference.

[illegible]

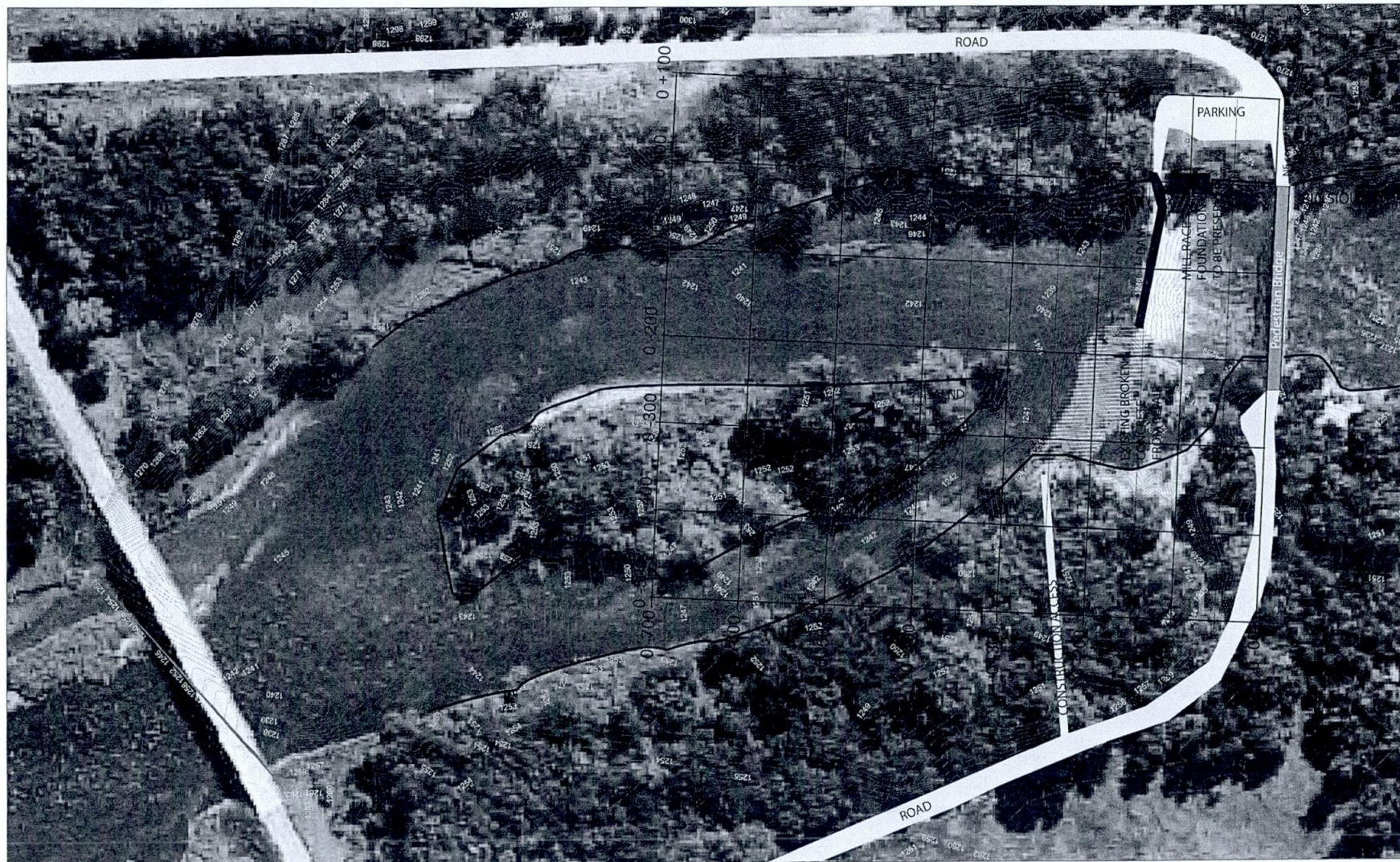
GENERAL NOTES

1. IMPOUNDMENT LEVEL MAY NOT BE SIGNIFICANTLY REDUCED FOR MORE THAN TWO DAYS UNLESS WATER SUPPLY AQUIFER LEVELS IMPROVE PRIOR TO CONSTRUCTION, PER THE ENGINEER.
2. SOME EXISTING WEIR STONES ARE ON-SITE A SHORT DISTANCE DOWN STREAM FROM THE DAM. SOME NATIVE STONE IS ALSO AVAILABLE. THE CONTRACTOR SHALL UTILIZE EXISTING STONE WHERE POSSIBLE.



Expiration Date 12/31/13
Certify pg 1-7

J. R. [Signature]




 IOWA DEPARTMENT OF NATURAL RESOURCES
 ENGINEERING BUREAU

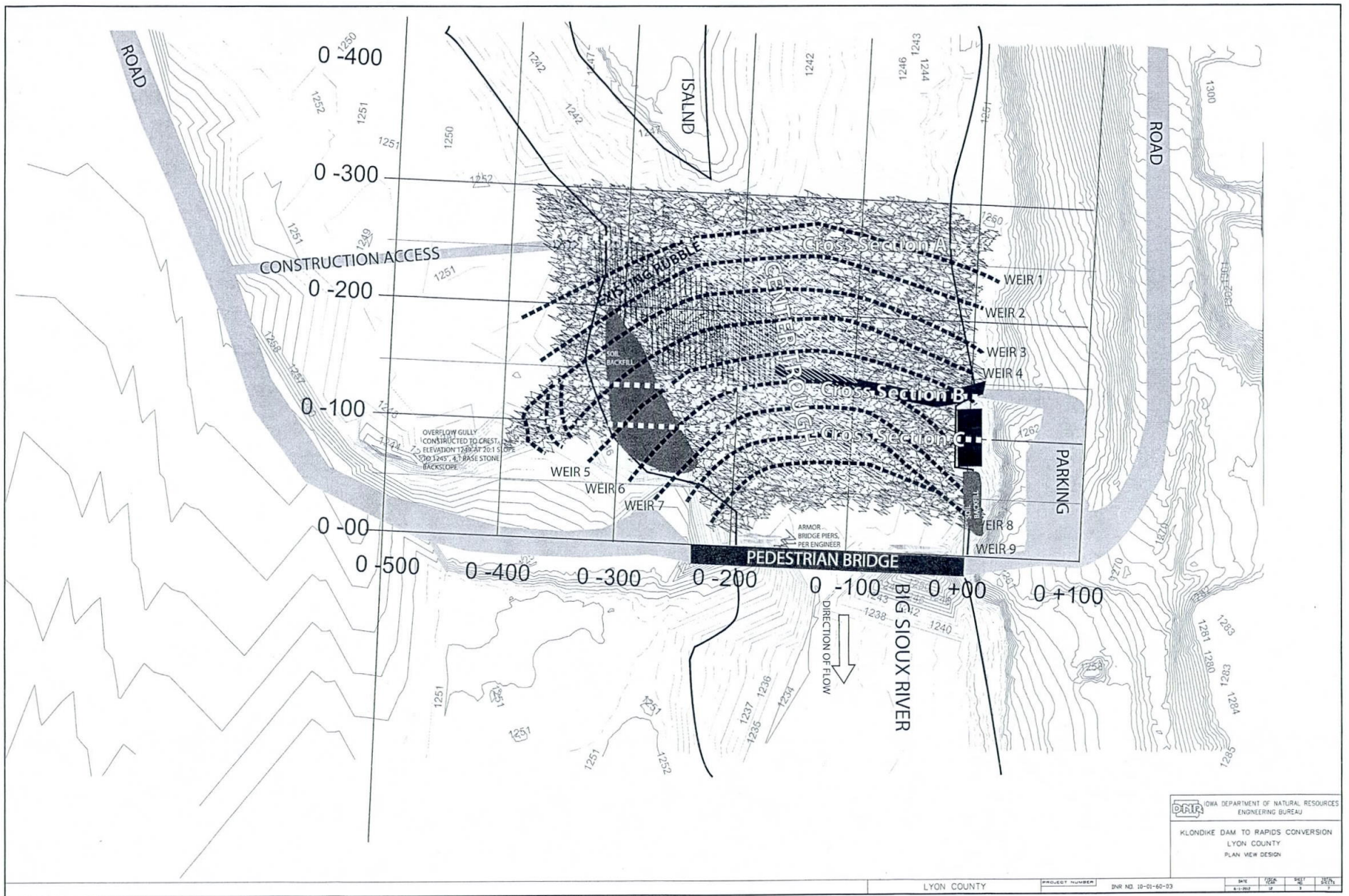
KLONDIKE DAM TO RAPIDS CONVERSION
 LYON COUNTY
 AERIAL BASE DRAWING

LYON COUNTY

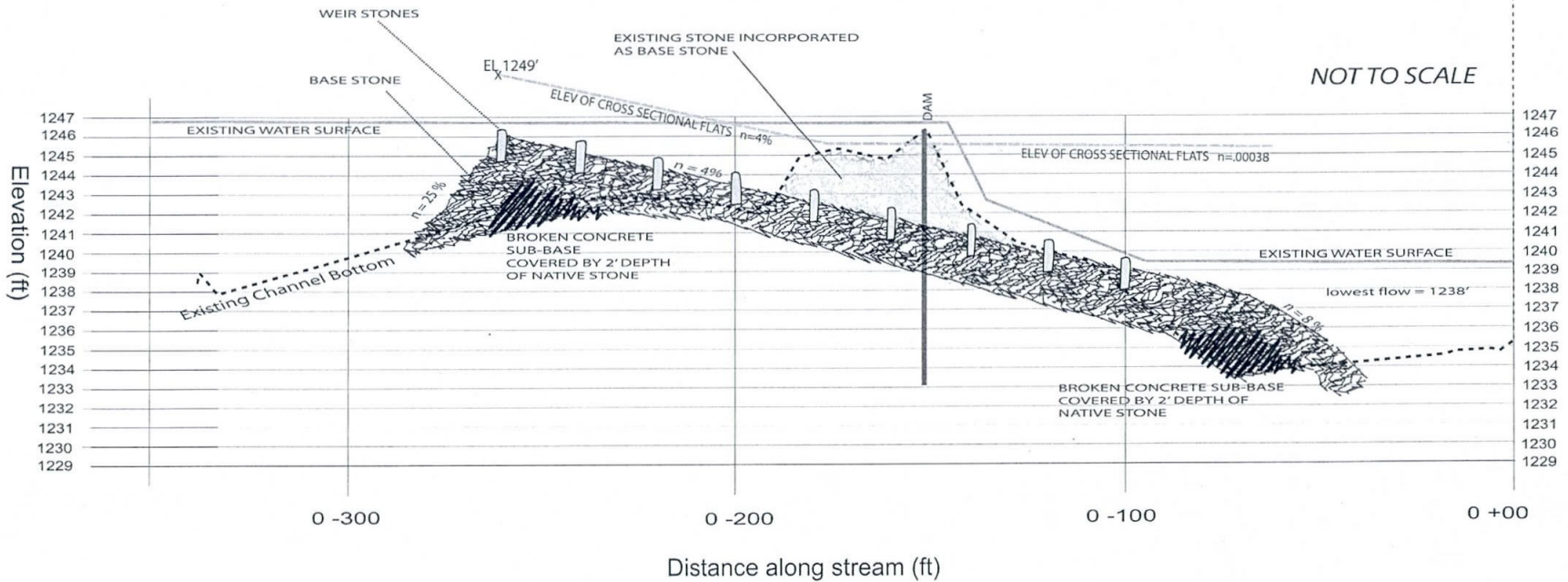
PROJECT NUMBER

DNR NO. 10-01-60-03

DNR	DATE	BY	CHKD	APPD
10-01-60-03	10/1/03	10/1/03	10/1/03	10/1/03



KLONDIKE DAM TO RAPIDS CONVERSION CENTERLINE PROFILE (ENERGY SLOPE)



DNR IOWA DEPARTMENT OF NATURAL RESOURCES
ENGINEERING BUREAU

KLONDIKE DAM TO RAPIDS CONVERSION
LYON COUNTY
CENTERLINE PROFILE

LYON COUNTY

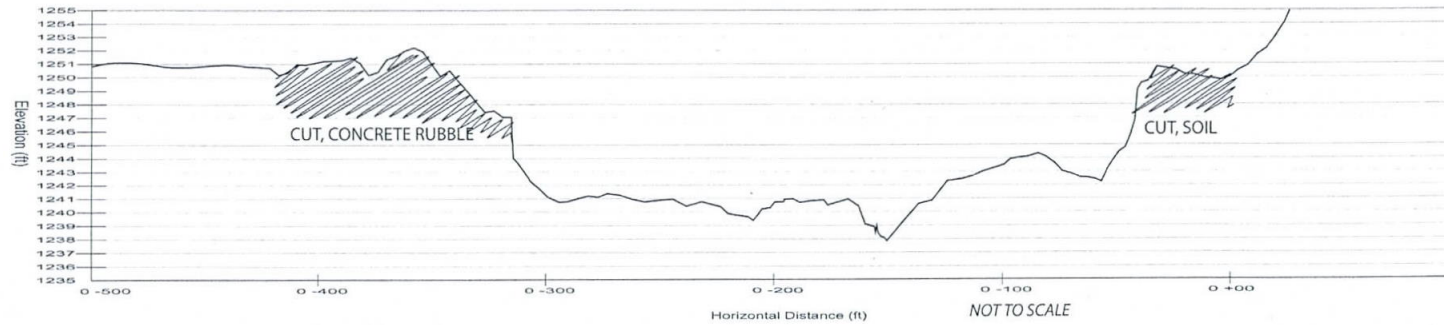
PROJECT NUMBER

DNR NO. 10-01-02-03

DATE	BY	CHKD	APPD
6/1/02	12	4	2005

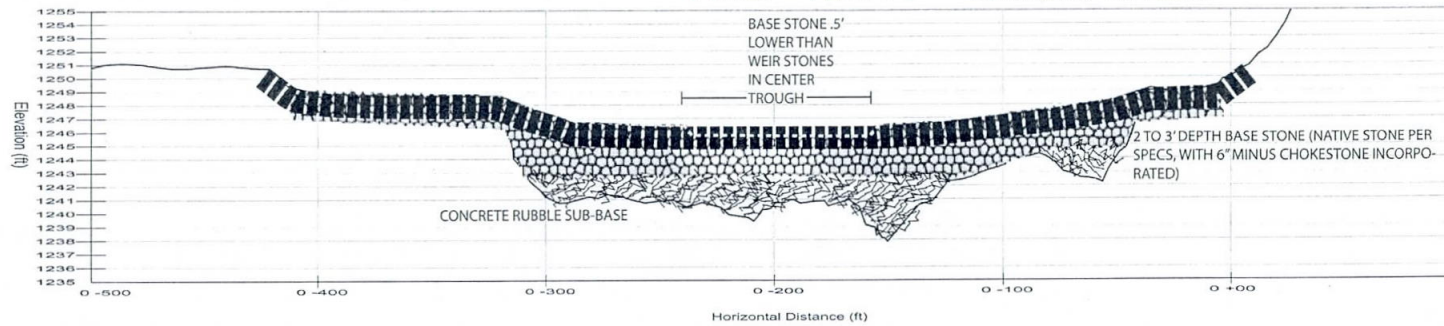
PROPOSED CROSS SECTION A, ALONG WEIR 1

CUTS



FILLS - WEIR 1

ARCH FROM PLAN VIEW IS COMPRESSED INTO WHITE DOTTED LINE FOR STATIONING; NOT TO SCALE



DNR IOWA DEPARTMENT OF NATURAL RESOURCES
ENGINEERING BUREAU

KLONDIKE DAM TO RAPIDS CONVERSION
LYON COUNTY
PROPOSED CROSS SECTION A

LYON COUNTY

PROJECT NUMBER

DNR NO. 10-01-60-03

DATE	BY	CHKD	APPD	REV
6-1-02	U			1

#1: CUT AT DAM

NOT TO SCALE

EXISTING DAM

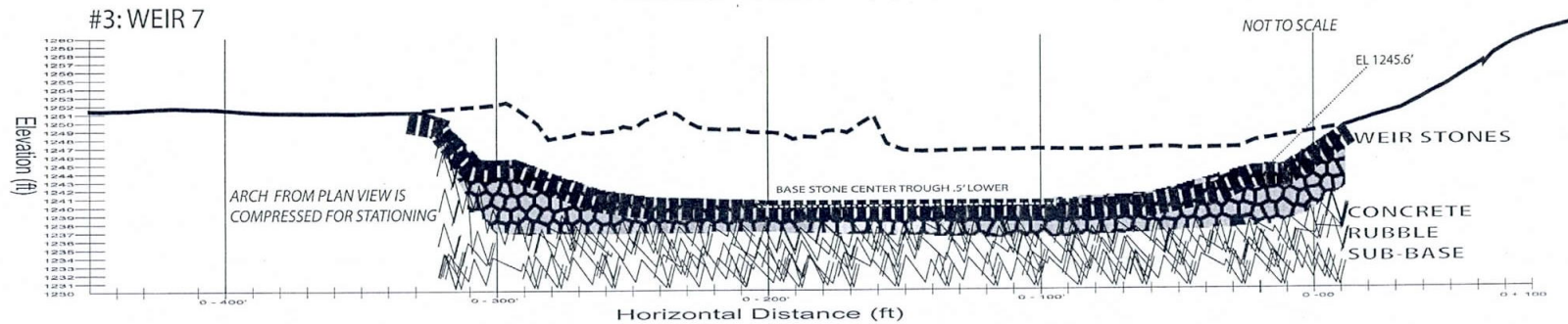
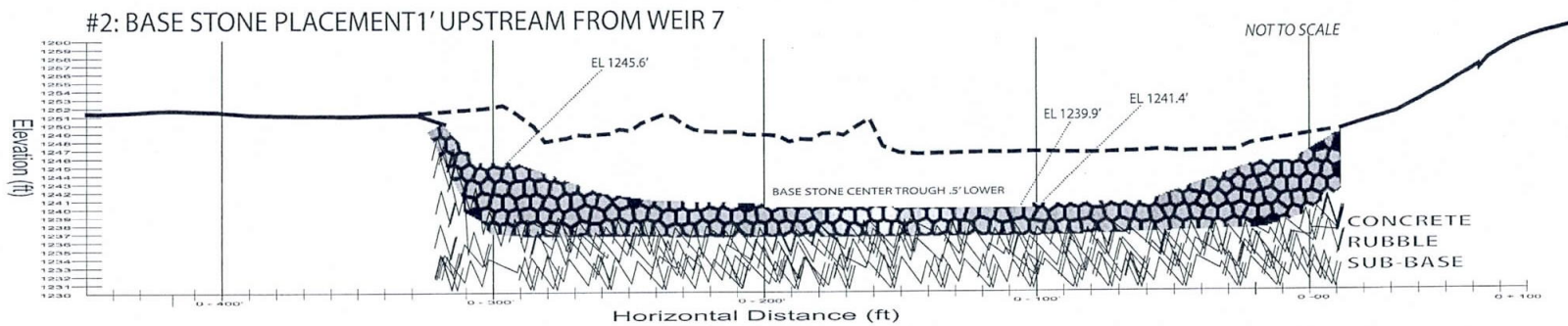
REMOVE DAM AND BROKEN CONCRETE TO MIN ELEV 1237'

DAM

CONCRETE RUBBLE FROM TEMP REPAIR: CUT MATERIAL RESERVED AS SUB BASE

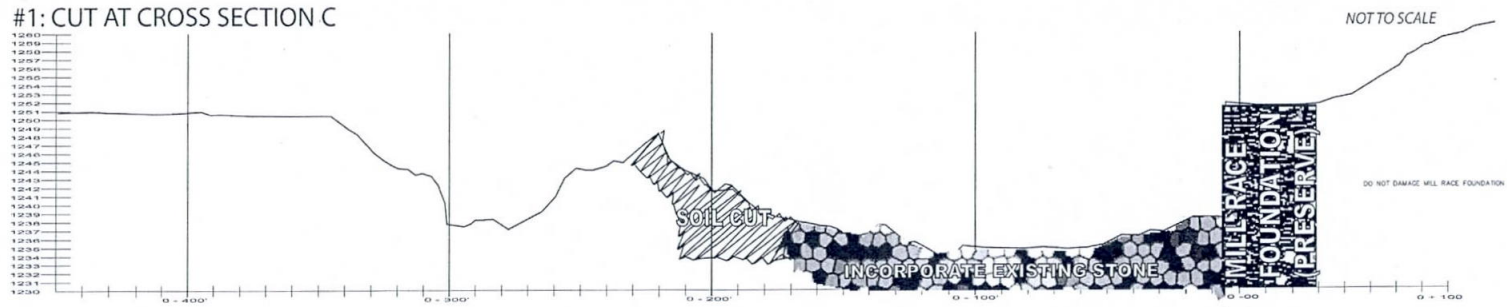
Elevation (ft)

Horizontal Distance (ft)

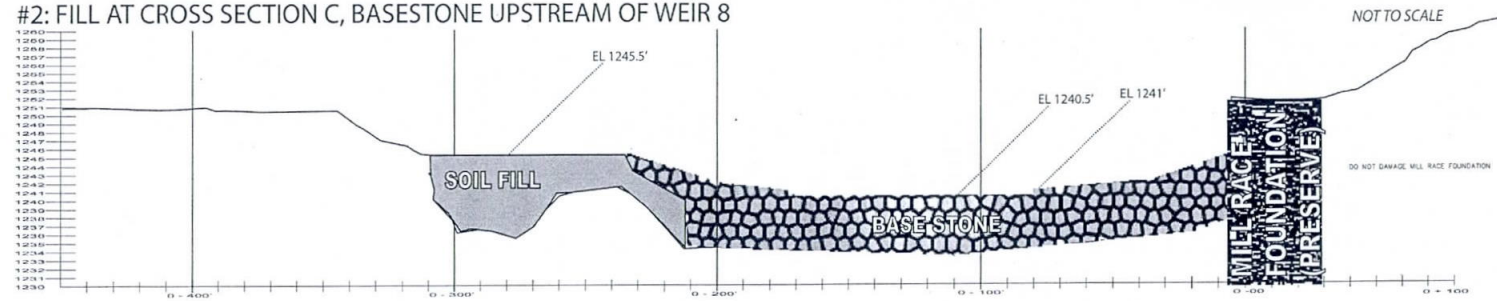


Proposed Cross Sections C: Vicinity Between Dam and Bridge

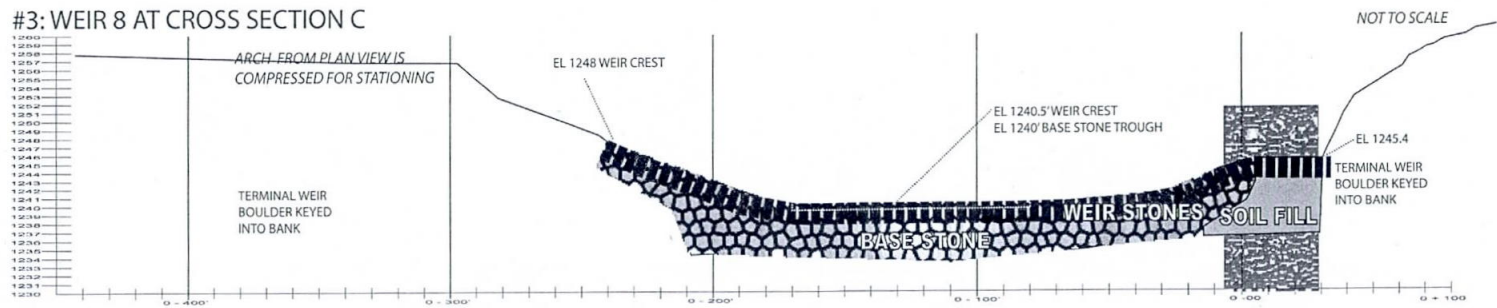
#1: CUT AT CROSS SECTION C



#2: FILL AT CROSS SECTION C, BASESTONE UPSTREAM OF WEIR 8



#3: WEIR 8 AT CROSS SECTION C



DNR IOWA DEPARTMENT OF NATURAL RESOURCES
ENGINEERING BUREAU
KLONDIKE DAM TO RAPIDS CONVERSION
LYON COUNTY
PROPOSED CROSS SECTION C

LYON COUNTY

PROJECT NUMBER

DNR NO. 10-01-00-03

DATE 10-01-00 10-01-00 10-01-00 10-01-00



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, ROCK ISLAND DISTRICT
PO BOX 2004 CLOCK TOWER BUILDING
ROCK ISLAND, ILLINOIS 61204-2004

RECEIVED
DEC 20 2012
WATER RIGHTS
PROGRAM

August 28, 2012

Operations Division

SUBJECT: CEMVR-OD-P-2012-0884

Nate Hoogeveen
Iowa DNR
502 East 9th Street
Des Moines, IA 50319

Arden Peterson
South Dakota Game, Fish & Parks
20641 SD Highway 1806
Fort Pierre, SD 57532

Craig Von Otterloo
Lyon County Conservation Board
311 1st Avenue East
Rock Rapids, IA 51246

Dear Mr. Hoogeveen, Mr. Peterson and Mr. Von Otterloo:

Our office reviewed all information provided to us in your application received July 10, 2012, concerning the proposed Klondike Dam removal and rock arch rapids construction on the Big Sioux River, in Section 21, Township 99 North, Range 48 West, Lyon County, Iowa.

Your project is covered under Nationwide Permit No. 27, as published in the enclosed Federal Register (77 FR 10184) on February 21, 2012, provided you meet the permit conditions for the nationwide permits, which are also included in the Federal Register, and the special conditions listed below. The Iowa Department of Natural Resources (IADNR) has issued Section 401 Water Quality Certification for this nationwide permit. The South Dakota Department of Environment and Natural Resources (SD DENR) has also issued Section 401 Water Quality Certification with conditions for this nationwide permit. SD DENR has issued the Section 401 Water Quality Certification with the condition that small nesting islands in the Missouri River are not created under this Nationwide Permit. The decision regarding this action is based on information found in the administrative record, which documents the District's decision-making process, the basis for the decision, and the final decision.

Please contact our office if the project plans change and there are different impacts caused by dredged or fill material into Corps' regulated waters. This may change your Department of the Army 404 authorization.

Special Conditions:

1. You are encouraged to conduct your construction activities during a period of low flow. You are required to remove all fill material used as a temporary crossing, causeway, or work pad to an upland, non-wetland site, to seed all disturbed areas with native grasses, and to implement appropriate measures to insure that sediments are not introduced into waters of the United States during construction of this project.

2. Bank and shoreline protection shall consist of suitable clean materials, free from debris, trash, and other deleterious materials. If broken concrete is used as riprap, all reinforcing rods must be cut flush with the surface of the concrete, and individual pieces of concrete shall not exceed 3 feet in any dimension. Asphalt, car bodies, and broken concrete containing asphalt are specifically excluded from this authorization.

This verification is valid for two years from the date of this letter, unless the nationwide permit is modified, reissued or revoked. It is your responsibility to remain informed of changes to the nationwide permit program. We will issue a public notice announcing any changes if and when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve months from that date to complete your activity under the present terms and conditions of this nationwide permit. If your project plans change, you should contact our office for another determination.

This letter contains an approved jurisdictional determination for the subject site. If you object to this jurisdictional determination, you may request an administrative appeal under Corps regulations found at 33 CFR Part 331. Enclosed is a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this approved jurisdictional determination, you must submit a completed RFA form to the Mississippi Valley Division Office at the following address:

Ms. Tonya Acuff
Administrative Appeals Officer
U.S. Army Corps of Engineers
Mississippi Valley Division
ATTN: CEMVD-PD-KM
Post Office Box 80 (1400 Walnut Street)
Vicksburg, Mississippi 39181-0080

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by October 26, 2012.

It is not necessary to submit an RFA form to the Division Office if you do not object to the approved jurisdictional determination contained in this letter.

This authorization does not eliminate the requirement that you must still acquire other applicable Federal, state, and local permits. If you have not already coordinated your project with the IADNR, please contact Mr. Kelly Stone in writing or telephone 515/281-4312 to determine if a floodplain development permit is required for your project. You should also contact Ms. Kelly Poole, of the IADNR Sovereign Lands Division in writing or telephone 515/281-8967 to determine if a sovereign lands construction permit is required or if this project may adversely impact Iowa threatened or endangered species or their habitat.

You are required to complete and return the enclosed "Completed Work Certification" form upon completion of your project in accordance with General Condition No. 30 of the nationwide permits.

The Rock Island District Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete the attached postcard and return it or go to our Customer Service Survey found on our web site at <http://per2.nwp.usace.army.mil/survey.html>. (Be sure to select "Rock Island District" under the area entitled: Which Corps office did you deal with?)

Should you have any questions, please contact our Regulatory Branch by letter, or telephone Rachel Perrine at 309/794-5329.

Sincerely,



for Daniel J. Hayes
Chief, Permit Evaluation Section
Regulatory Branch

When the structure(s) or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s), of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

Transferee

Date

Enclosures

Copies Furnished: (w/o enclosures)

Ms. Christine Schwake (3)
Iowa Department of Natural Resources
Water Resources Section
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319-0034

Mr. John Miller
South Dakota Department of Environment
and Natural Resources
523 East Capital
Pierre, South Dakota 57501

Mr. Nathan Morey
SD Regulatory Office
Omaha District Corps of Engineers
28563 Powerhouse Road, Rm 118
Pierre, SD 57501

COMPLETED WORK CERTIFICATION

Permit Number: CEMVR-OD-P-2012-0884

Name of Permittee: Iowa DNR, South Dakota Game, Fish & Parks and Lyon County Conservation Board

Project Location: Section 21, Township 99 North, Range 48 West, Lyon County, Iowa

Date of Issuance: August 28, 2012

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Engineer District,
Rock Island
ATTN: Regulatory Branch
Clock Tower Building
Post Office Box 2004
Rock Island, Illinois 61204-2004

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above reference permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Work completed



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

September 7, 2012

Nate Hoogeveen
Iowa DNR
502 East 9th Street
Des Moines, IA 50319

RECEIVED
DEC 20 2012
WATER RIGHTS
PROGRAM

RE: Proposed Removal of Klondike Dam and Replacement with Rock Arch Rapids (Big Sioux River)
Section 21, T99N, R48W; Lyon County, Iowa

Dear Mr. Hoogeveen:

Your application for a Flood Plain Development Permit in conjunction with South Dakota Game, Fish & Parks and Lyon County Conservation for the project at the above referenced location has been approved. Enclosed is Flood Plain Development Permit Number FP 2012-186 and an approved copy of the plans. The permit was issued subject to various conditions which you should review carefully. Please pay particular attention to conditions 7, and 8, which specify riprap requirements, and spoil disposal requirements, respectively. If you don't agree with any of these conditions, you have 30 days from the date of mailing of the permit to appeal. If you wish to appeal, it is suggested that you contact our Legal Services Section within 15 days to determine the correct procedure and format. Also, any person may appeal the issuance of this permit within the same 30-day period.

Also enclosed is a DNR Form 37, Notification of Completion of Construction. A Form 37 should be completed and returned within 30 days of the completion of construction.

The project may require a local Flood Plain Development permit consistent with the County's participation in the National Flood Insurance Program. If you have not yet done so, please contact the Lyon County Flood Plain Manager (Fred Christians at 712-472-8550) for assistance in applying for the local permit. The permittees are responsible for complying with all other local, state and federal statutes, ordinances, rules and permit requirements applicable to the construction, operation and maintenance of the approved works.

Please note that the project requires a Sovereign Land Construction Permit from the Department. It is my understanding that a Sovereign Lands Construction Permit (Construction Permit) has been completed and will be mailed to you in the same packet as this Flood Plain Permit. The Construction Permit contains conditions and instructions that the applicant is required to follow. You should be aware that construction may not begin until all necessary permits have been obtained.



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

August 1, 2012

Iowa Department of Natural Resources
Attn: Nate Hoogeveen
502 East 9th Street
Des Moines, IA 50319

RECEIVED
DEC 20 2012
WATER RIGHTS
PROGRAM

Subject: **Sovereign Lands Construction Permit 12-118**
Rock Arch Rapids Construction
Big Sioux River (Klondike Dam near Larchwood)
Lyon County
Section 21, Township 99N, Range 48W

Dear Mr. Hoogeveen:

As provided under Chapter 461A of the Code of Iowa, the Department of Natural Resources hereby grants permission to do the following work subject to stipulations stated herein and in the documents submitted in application for this permit which are now on file in the central office of the Department of Natural Resources. Any special conditions and stipulations contained in this permit shall take precedence over plans or specifications provided by the applicant.

As you are the authorized agent for this project, the Department requests that you provide copies of the permit and report of completion postcard to the South Dakota Department of Game, Fish and Parks (Attn: Arden Peterson) and to Lyon County Conservation (Attn: Craig Van Otterloo).

Work shall not begin in advance of contact with the Conservation Officer in charge of the area. You may contact Greg Harson at (712) 260-1006.

You are required to complete and return the enclosed "Report of Completion" postcard upon conclusion of the project in accordance with 571 IAC—13.18.

The permittee is authorized to replace the Klondike Dam with a rock arch rapids constructed at the same pool elevation as the dam for the purpose of improving navigational safety and fish passage.

The permittee shall have a copy of this permit on-site during construction.

Although this permit authorizes you to construct this project on state lands and/or waters, you must acquire other applicable federal, state and local permits before you begin construction. This project may also require a permit from the U.S. Army Corps of Engineers. If you have not already done so, you should contact Mr. Ward Lenz of the U.S. Army Corps of Engineers in writing or by telephone at (309) 794-5370 to determine if a Corps permit is required for this project.

Any construction activity that bares the soil of an area greater than or equal to one acre including clearing, grading or excavation may require a storm water discharge permit from the Department. Construction

Thank you for your patience and cooperation. If you have any questions, please contact Karen Smith, P.E. of our office at 515-281-4310.

Sincerely,



Kelly M. Stone, P.E.
Environmental Engineer Senior
Flood Plain Development Program
Water Resources Section

Enclosures

Copies: -IDNR FO #3

- Ward Lenz; Rock Island District, U.S. Army Corps of Engineers; P.O. Box 2004;
Rock Island, Illinois 612-2004
- Fred Christians; Assessor/Zoning Administrator; 206 S 2nd Avenue; Rock Rapids, IA 51246
- South Dakota Game, Fish, & Parks; c/o Arden Peterson; 20641 SD Highway 1806;
Fort Pierre, SD 57532
- Lyon County Conservation; c/o Craig Van Otterloo; 311 1st Avenue East; Rock Rapids,
IA 51246

IOWA DEPARTMENT OF NATURAL RESOURCES

FLOOD PLAIN DEVELOPMENT PERMIT

PERMIT NUMBER: FP 2012-186

PERMIT ISSUED TO:

Iowa DNR
502 East 9th Street
Des Moines, IA 50319

South Dakota Game, Fish & Parks
20641 SD Highway 1806
Fort Pierre, SD 57532

Lyon County Conservation
311 1st Avenue East
Rock Rapids, IA 51246

PERMIT ISSUED BY:



DATE: September 7, 2012

Kelly M. Stone, P.E.

Environmental Engineer Senior, Water Resources Section

PROJECT LOCATION: Section 21, T99N, R48W, Lyon County, Iowa

PERMITTED ACTIVITY: In accordance with the approved plans and subject to the following permit conditions, permittee is authorized to construct and maintain a rock arch rapids on the flood plain of Big Sioux River at the above-described location.

BASIS FOR ISSUANCE: The decision to issue this permit was based on a staff review of the project with respect to relevant approval criteria contained in Chapter 72 of the Department's administrative rules (Agency 567, Iowa Administrative Code) and applicable provisions of Iowa Code Sections 455B.262, .264, .275 and .277.

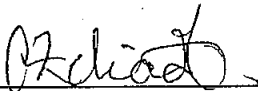
PERMIT CONDITIONS:

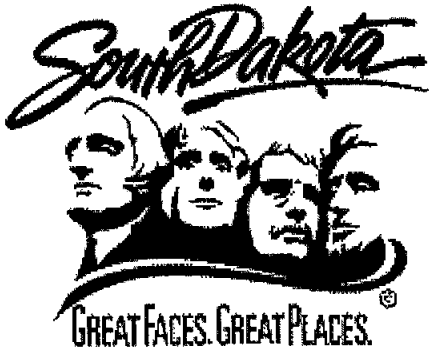
1. **Disclaimer.** No legal or financial responsibility arising from the construction, operation or maintenance of the approved works shall attach to the State of Iowa or the Department due to issuance of this permit.
2. **Maintenance.** The permittee and any successor in real estate on which the permitted activity is located shall be responsible for proper maintenance.
3. **Other Permits, Licenses and Regulations.** The permittee shall be responsible for complying with all other local, state and federal statutes, ordinances, rules and permit requirements applicable to the construction, operation and maintenance of the approved works.
4. **Revocation.** This permit may be revoked by the Department if construction is not completed within 3 years of the date of issue.
5. **Change in Plans.** This permit only authorizes construction in accordance with the approved plans. No changes shall be made without prior authorization from the Department.

6. **Lands, Easements and Rights-of-Way.** The permittee shall be responsible for obtaining all lands, easements or rights-of-way necessary for the construction and maintenance of the approved works.
7. **Revetment Requirement.** Acceptable revetment material includes: quarry rock, field stone and broken concrete. If broken concrete is used, all exposed reinforcing steel must be cut off flush with the surface of the concrete prior to placement. The revetment shall consist of a uniform mixture of sizes of material laid to form a compact surface capable of resisting erosion.
8. **Spoil Disposal.** If the riverbank is to be shaped prior to the placement of revetment and the construction of weirs, excess spoil material resulting from the shaping shall be removed from the flood plain or may be spread thinly (less than 0.5 feet thick) across the flood plain. The spoil material shall not be placed in an area that is, or could be, classified as a regulated wetland.

CERTIFICATION OF MAILING

I hereby certify that I have this 10 day of September, 2012 mailed Flood Plain Development Permit No. FP 2012-186 to the permittees.

By 



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 31, 2018

5018-3

LYON & SIOUX RWS INC
PO BOX 309
ROCK RAPIDS IA 51246

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear SIR,

I am writing to inform you of an effort the SD Dept. of Environment and Natural Resources Water Rights Program is undertaking to review and update a number of water right permits authorized to pump water from the Big Sioux River. Since your water right does not have a bypass qualification, we **are not** proposing to amend your permit by adding a bypass qualification. However, I do want to make you aware of what we are proposing for several other junior priority Big Sioux River permits.

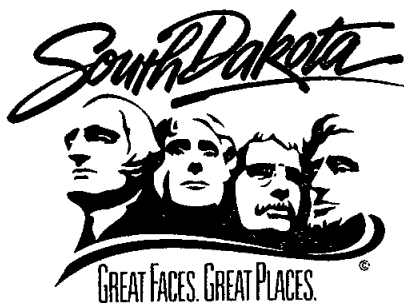
When a number of these Big Sioux River permits were issued, they contained a qualification requiring a minimum flow bypass before the user is able to pump water from the river. The bypass qualification was placed on these permits to protect the use of water by downstream senior priority water right holders and domestic water users, which includes livestock watering. The review found, with the passage of time, a number of senior water right permits have been cancelled due to abandonment or forfeiture. Consequently, it may be possible to lower the flow bypass limitation on the remaining permits. In other words, the amount of flow in the river can be lower and pumping will still be allowed. The review also found an inconsistency between permits on where the bypass flow is to be measured. The intent of this effort is to standardize and make consistent the bypass requirements for the remaining water users.

In order to amend a qualification on an existing water right permit, formal action by the SD Water Management Board is needed. In the next few weeks, you can expect to receive official notification scheduling a hearing before the Water Management Board. Again this does not pertain to amending your permit, only junior permit holders. If you wish to participate in the hearing you can, but you are not required to. There will be instructions with the notification on how to participate in the hearing if you so choose.

If you have any questions concerning this effort, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

for Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 12, 2018

5018-3

Lyon & Sioux RWS Inc
PO Box 309
Rock Rapids IA 51246

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear Sir:

The SD Department of Environment and Natural Resources (DENR) has evaluated the minimum flow bypass condition on water rights that pump from the Big Sioux River. The Chief Engineer is recommending amending the bypass qualification on 21 Big Sioux River water rights. The intent is to bring uniformity to the bypass requirement placed on water rights in past years. The water right you own or operate does not have a bypass qualification and will not be amended by the proposed action.

Even though your water right is not being amended, DENR wants to keep you informed of the proposed action since it involves the Big Sioux River. Enclosed is a notice to be published on or before February 15, 2018, in one newspaper from each of the seven counties that the Big Sioux River flows through. Also, the staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Mark Rath at 605 773-3352 or mark.rath@state.sd.us.

A hearing before the Water Management Board is scheduled at 11:30 AM, Wednesday, March 7, 2018 in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The enclosed notice provides information on the hearing and ability to file a petition in either support or opposition to the proposed amendment. The filing of a petition must be postmarked by February 26, 2018. Additionally filing a petition affords you the opportunity to participate in the March 7th hearing before the Board if you choose.

Again, this does not pertain to amending your water right, only junior water right holders with existing bypass requirements. If you have questions, please call. DENR is willing to work to answer any questions.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosure