

Considered: _____

Vested Right Claim

WATER PERMIT NO.

5357-3

MAP No. same 495-4230

Name of Applicant Cecil Cassens

Post Office Address Route 1, Box 4, Forestburg SD 57338

Amount of Water Claimed _____ Total Acres NA

Source of Water Supply James River

Water to be used for recreation County Sanborn

About 2 miles S of Forestburg

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received Sept 18, 1989 Fee 15⁰⁰ Remarks _____

Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

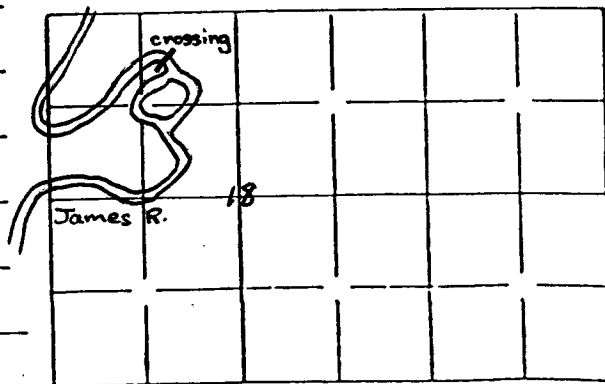
WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

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

Diversion Point dam: NE 1/4 NW 1/4 section 18 -

T106N-R60W

Land to be Irrigated NA



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Gordon Ferguson ASCS Reviewed and the Number assigned on October 13, 1989 By Ron Duvall

No. 5357-3 Hydrologic Unit 10160011
 Map No. same Basin James River
 Newspaper Woonsocket News, Box 218 (Thurs)
57385

523 E. Capitol
 Pierre, SD 57501
 (605) 773-3352

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

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☒
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

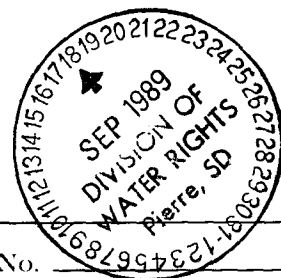
New ☐ Vested Right ☒ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____

☐ Construction to use water reserved by Future Use Permit No. _____



1. Name of Applicant Cecil Cassens Phone No. 605 495 4230

Post Office Address R. 1 Box 4 Forestburg State SD 57338
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) Maintain a water depth of 4' to 5' deep directly above = 370 AF
crossing.

3. Source of water supply Natural runoff. James River

4. Location of point of diversion Section 18-106-60. See areal map enclosed.

County Sanborn

5. Counties where water will be used Sanborn

6. Annual period during which water is to be used Jan 1 - Dec 31

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

See attached sheets concerning the project.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
 County of Sanborn)^{ss}

I, Cecil Cassens the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Cecil Cassens

Subscribed and sworn to before me this 15 day of September 1989

Darwin F. Bertram

SOUTH DAKOTA

VESTED WATER RIGHT NO. 5357-3

Date of Receipt of Claim September 18, 1989.

Date of Validation December 6, 1989.

The Water Management Board validated Vested Water Right Claim No. 5357-3 for Cecil Cassens, Route 1, Box 4, Forestburg SD 57338 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 5357-3 authorizes impoundment of 370 acre-feet of water by a James River crossing (dam) located in the NE1/4 NW1/4 section 18-T106N-R60W. No diversion of water from the James River is authorized by this vested right.

2. The appropriated water is used to create an impoundment and may not exceed the amount of water needed for beneficial use for recreational purposes.

The water is to be used during the following annual period:
January 1 - December 31.

3. The priority date of the Vested Water Right is: January 1, 1936.

4. The water use system has been constructed and water has been applied to beneficial use.

5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

QUALIFICATIONS

That validation of Vested Water Right No. 5357-3 authorizes storage of 370 acre-feet with an overflow elevation of 1216.2 feet msl.

WATER MANAGEMENT BOARD

By: _____

John Hatcher
Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

MAR 14 1990

date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 5357-3

(1) Cecil Cassens of RR 1, Box 4, Forestburg SD 57338 made Application No. 5357-3, September 18, 1989 for validation of a vested right claim to impound 370 acre feet of water by a James River crossing (dam), Sanborn County, South Dakota for recreational purposes. Vested Water Right No. 5357-3 was validated December 6, 1989, with a priority date of January 1, 1936. Construction of the described water supply system and application to water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to impound 370 arce feet of water with an overflow elevation of 1216.2 feet msl for beneficial use. The location of the dam is: the NE 1/4 NW 1/4 Section 18, T106N, R60W. No diversion of water from the James River is authorized by this vested right.

(3) Pursuant to Section 46-5-30.1 Cecil Cassens of RR 1, Box 4, Forestburg SD 57338 the holder(s) and/or owners(s) of Vested Water Right No. 5357-3 is issued a license to impound 370 acre feet of water by a James River Crossing (dam) with a priority date of January 1, 1936 from the location specified in (2) of this license. The water is to be used for the purpose of recreational use. This license is subject to any limitations or qualifications listed in Vested Water Right No. 5357-3 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Division
Department of Water and Natural
Resources

MAR 14 1990

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 to 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

- b. Freeboard _____

- c. Crest Width _____

Crest Length _____

- d. Height 5'

- e. Primary Outlet Capacity _____
 If Pipe, diameter _____

- f. Secondary Spillway Capacity 6
 Spillway width 10'

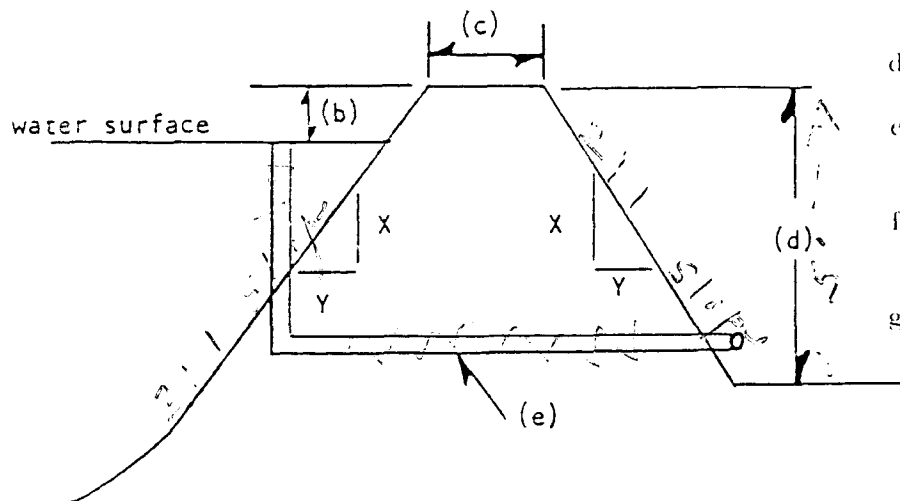
- g. X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Chief Engineer
 Signature of Applicant

Don Smith, 12-3-44

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Cecil Cassens
 Post Office Address R. 1 Box 4 Forestburg, SD 57338
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

 Date of recording _____ Recording date _____
Where Book Page
B. Date of start of construction of water supply system originally 1864

C. Date that water was first applied to beneficial use _____

D. Name of owner of original water supply system _____

E. Amount of water originally applied to beneficial use _____

F. Present Use of Water - Amount of water now being used _____

Date that this water was first used 1936 (restored)

G. Chronological History of Water Use

see attachment 4a

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

County of Sanborn) ss

I, Cecil Cassens the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Cecil CassensSubscribed and sworn to before me September 15, 1989

My Commission Expires June 25, 1993

Barbara E. Ferguson
 Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing,
 and that the matters therein stated are true.

(Print name) 19_________
(Print name) 19____

1

N.

Location - Sect. 18-106-60
AND OWNERSHIP

Sanborn County

old Barn → 

Twp Road

Grassland + wood land
owner - Lyra Jopp, Woonsocket, S.D.

Cropland
owner - Lyra Jopp
Woonsocket, S.D.

Tenant -
Jeff Shoud
Hatcher, S.D.

owner
Ethel Cassen

Jamez River →

Grassland +
wood land.

owner
Carlton
Cassens
Forestburg, S.D.

4.9
Acre
Island

owner
Ethel Cassens
Forestburg, S.D.

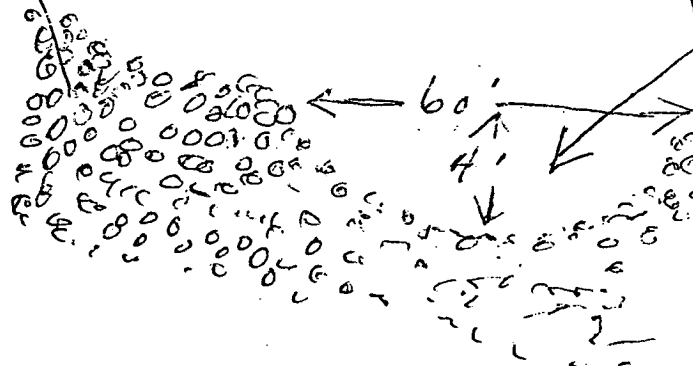
Project

2

River

N.

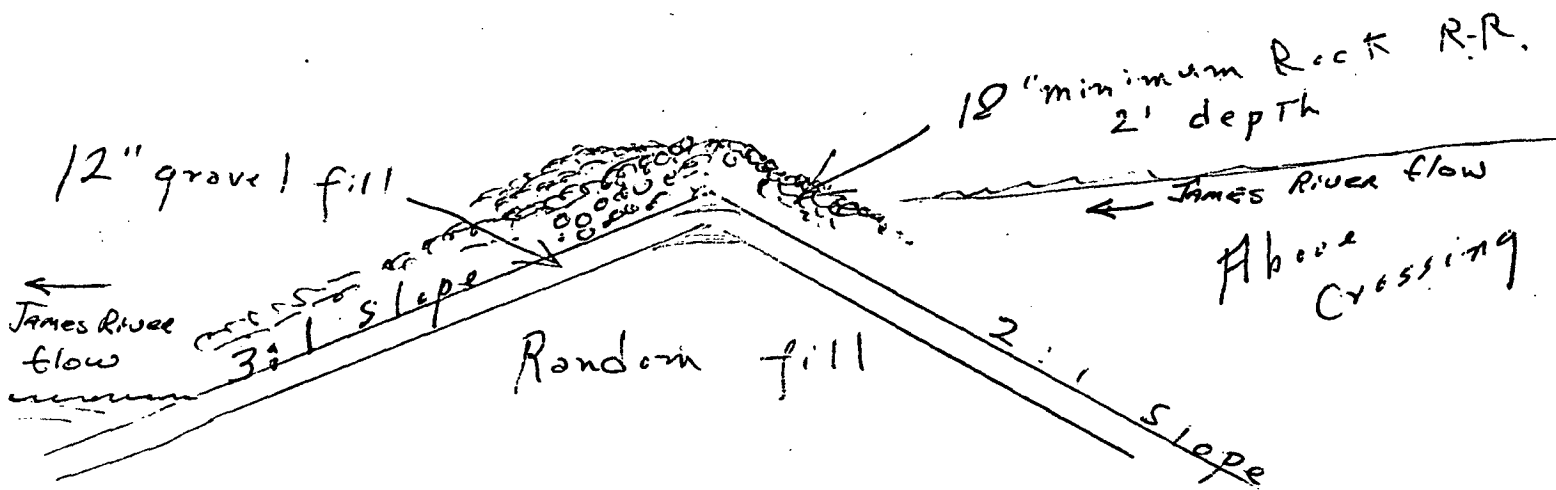
Part of
Crossing
To be
Restored.



PLAN VIEW - Profile

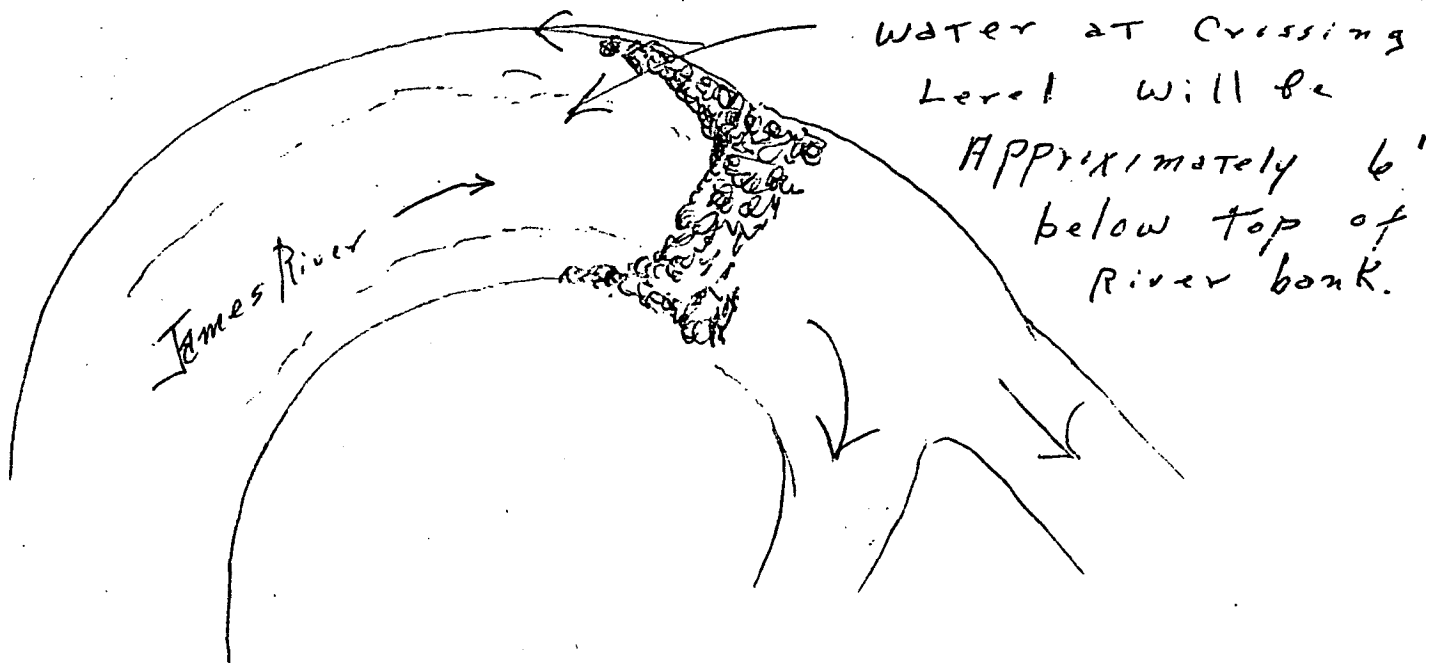
S.

#3

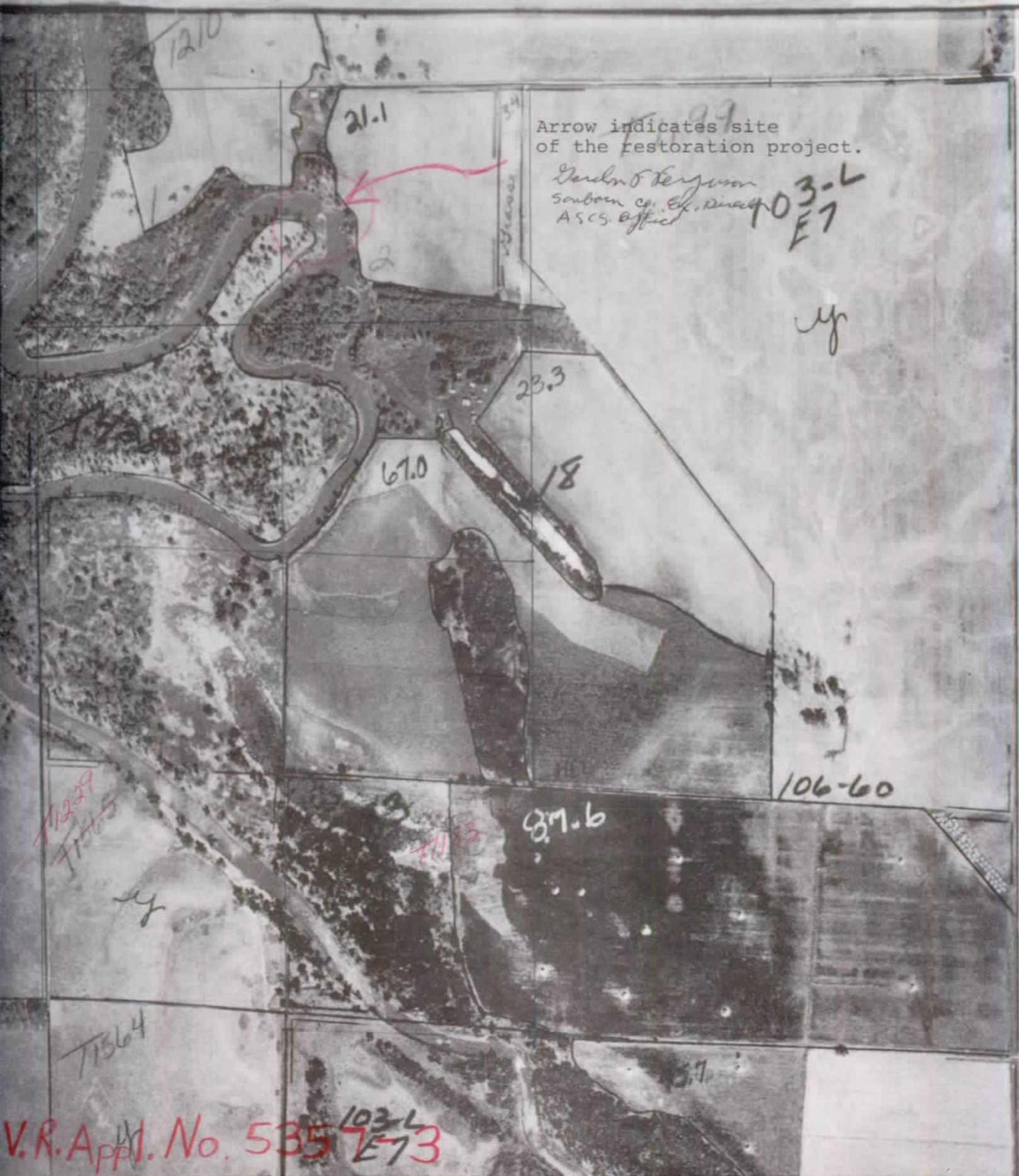


Approximately 200-300 cu yds Total Aggregate-Rock-gravel

#4



NOT TO SCALE



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411926

Pierre, October 4, 19 89

RECEIVED OF Cecil Cassens, RR #1 Box 4, Forestburg, SD 57338

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

Fee for Application for Permit No. <u>53573</u> to Appropriate Water, to construct works and to put water to beneficial use	1500
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	1500

By

John Hatch
Chief Engineer

4a. Activity.

December 2, 1988

Restore historical rock crossing on the James River in Sanborn County, South Dakota. Location Section 18-106-60, first known as Sibley Crossing, constructed in 1864 when General Sibley pursued the Indians across the James River after the New Ulm Massacre--later known as Rodee Crossing--in the early 1930's, it was restored again by the Public Works Administration.

Now, part of the Crossing on the north side is washed out and causing river bank erosion. We plan to restore the damaged part of the Crossing to the original level of the Crossing, which would keep the water back of the Crossing to a depth of approximately 4 to 6 feet, overflow would again be diverted into the main river channel.

We would follow engineer's specifications--there is an abundance of rock near the location and local equipment is available for construction. Full coordination would be followed with James River Water Development District and the Sanborn County Water Shed District.

4b. Purpose.

To correct bank erosion--provide habitat for fish and wildlife--for recreation--to subirrigate the surrounding area. Farmers and ranchers consider this beneficial in the production of livestock.

We would like this scenic area preserved.


Cecil Cassens
R. 1 Box 4
Forestburg, SD 57338

See exhibits 1, 2, 3 and 4 attached hereto.



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
215 NORTH 17TH STREET
OMAHA, NEBRASKA 68102-4978

REPLY TO
ATTENTION OF

September 11, 1989

Federal Building, Room 260
Pierre, South Dakota 57501

Mr. Cecil Cassens
Route #1, Box 4
Forestburg, South Dakota 57338

Dear Mr. Cassens:

We have reviewed your request for Department of the Army authorization for the restoration of a crossing to divert water into the center of the channel located in Section 18, Township 106 North, Range 60 West, Sanborn County, South Dakota.

Based on the information you provided, this office has determined that your proposed work within South Dakota is authorized by the Department of the Army Nationwide Permit found at 33 CFR § 330.5(a)(3). Enclosed is a fact sheet which fully describes this Nationwide Permit and lists the Special Conditions which must be adhered to for this authorization to remain valid.

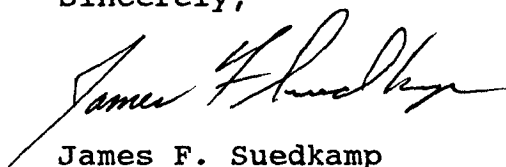
Although an Individual Department of the Army permit will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state or local permits as required. Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.

Should you at any time become aware that either a threatened or endangered species or their critical habitat exist within your project area, you must immediately notify this office.

You are advised that this verification of the nationwide permit authorization is valid until September 11, 1991.

If you have any questions concerning this determination, please feel free to contact this office at (605) 224-8531 and reference to Nationwide Permit application number SD-89-0229.

Sincerely,

A handwritten signature in cursive script, appearing to read "James F. Suedkamp".

James F. Suedkamp
SD Field Office Manager
Regulatory Branch
Operations Division

Enclosure

R. 1 Box 4
Forestburg, SD 57338
September 15, 1989

Water Rights Division
523 E. Capitol
Pierre, SD 57501



Dear Sirs:

After visiting your office about one year ago and our recent telephone conversation concerning a historic crossing on the James River, I am sending necessary application forms and information needed to apply for vested water right permit.

Enclosed find type and purpose of the project, approval from the Corps of Engineers provided under law (33 C.F.R. Part 330.5 Nationwide Permits), Water Rights Division Forms, Map, and \$15.00 check.

We have one local newspaper serving Sanborn County, The Woonsocket News, Woonsocket, SD 57385.

If you need any further information, please call or write.

Very truly yours,

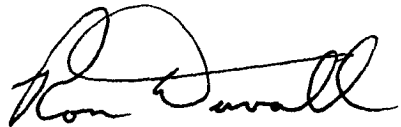

Cecil Cassens

NAME: Cecil Cassens
ADDRESS: RR 1, Box 4, Forestburg SD 57338
DATE: October 11, 1989
REGARDING: Phone conversation with Cecil Cassens concerning
vested right claim for James River crossing

Cecil Cassens called to determine the status of the vested right claim submitted on September 18, 1989. I informed Mr. Cassens that the application had not been reviewed but would be soon. Mr. Cassens was interested with proceeding with the restoration as soon as possible since the river flow is low and the weather is good. I informed Mr. Cassens that the earliest the claim could be considered would be the December Board meeting, but I could not make any guarantees. I also told Mr. Cassens that an on-site inspection would be needed prior to the application being considered by the Water Management Board.

I asked Mr. Cassens about the priority date to be assigned this application. Mr. Cassens stated that the dam was rebuilt in 1936 by the Public Works Administration and this was the claimed priority date. Mr. Cassens instructed me to add this date to the Affidavit of Water Use. According to Mr. Cassens, most of the damage to the crossing had occurred within the last 3 years.

Mr. Cassens was interested in proceeding with the repair work as soon as possible because the river is low and the weather is good. I informed Mr. Cassens that if a valid vested right claim does exist then the Water Rights Division can not prohibit any needed repair or maintenance work. I then informed Mr. Cassens that the Water Management Board would determine whether or not the claim is valid. If the claim is denied, then either a new application would need to be approved or else the repair work would need to be removed.



Conversation or File Documentation

NAME OF PERSON OR FILE: Cecil CassensADDRESS: R 1, Box 4, Forestburg COUNTY: SanbornDATE: Oct 13, 1989 TELEPHONE: _____RE: Estimated storage behind crossing

COMMENTS:

Assuming a maximum depth of 5 feet, water is impounded for a distance of approximately 10 miles upstream following the flood plain. This 10 mile distance consists of approximately 90,000 feet of river length. Assuming an average river width of 90 feet the surface area is 186 acres. Therefore, the approximate storage is:

Based on SCS method -

$186 \text{ SA} \times 5 \text{ feet deep} \times \text{factor of } 0.4 \approx 370 \text{ ac-ft}$
of storage

This is only a rough approximation.

I contacted Cecil Cassens regarding this storage estimate and Mr. Cassens agreed that the estimate could be used for this application.

Report on Application No. 5357-3
Cecil Cassens
October 30, 1989

Application No. 5357-3 submitted by Cecil Cassens requests the validation of a vested right claim for an impoundment of approximately 370 acre feet of water on the James River. The impoundment is created by a crossing dam on the James River. The location of the structure is in the NE1/4NW1/4 of section 18; T106N-R60W. The structure stores water at a depth of approximately 5 feet with the dam crest being approximately 6 feet below the top of the river bank. This application claims a 1936 priority date for the storage of 370 acre feet for recreational purposes. No pumping or diversion from the impoundment is authorized by this application.

DISCUSSION

Cecil Cassens requests a vested right based on the date that the Public Works Administration restored the crossing. The history of water use is as follows:

The crossing was first known as Sibley Crossing constructed in 1864 when General Sibley pursued the Indians across the James River after the New Ulm Massacre. It was later known as Rodee Crossing. The crossing was washed out in the early part of the century and in the 1930's it was restored by the Public Works Administration.

The structure is again in need of some restoration work, therefore this request is being made to verify the right to maintain this structure.

According to Cecil Cassens, the north portion of the crossing was washed out 2 to 3 years ago. Because of the wash out, river bank erosion is occurring. The plans are to restore the damaged part of the crossing to the original level. This would keep the water behind the crossing at a depth of 4 to 6 feet and the overflow would again be diverted into the main river channel.

The project is being coordinated with the James River Water Development District and the Sanborn County Watershed District. The purpose of the restoration work is to correct the bank erosion and provide for fish and wildlife habitat and recreation. An elevation of the crossing crest has not been set. The crossing should be surveyed to determine the elevation to which it can be restored.

Jim Ollerking, Corps of Engineers, was contacted regarding the structure. He stated that he conducted an inspection of the crossing. He did note that a portion of the structure was washed out. The Corps has approved the restoration work.

CONCLUSIONS AND RECOMMENDATION

Application No. 5357-3 is to validate a vested right claim to store water behind a crossing on the James River. A portion of the crossing was washed out only 2 to 3 years ago. There has been no abandonment or forfeiture for nonuse in excess of 3 years according to statements made by Cecil Cassens. A survey of the crossing elevation is needed for incorporation of the mean sea level elevation into the vested right claim. It is recommended that the vested right claim be validated with a January 1, 1936 priority date subject to the establishment of a mean sea level crest elevation on the crossing prior to the hearing.

A handwritten signature in cursive script, appearing to read "James Winterton".

James Winterton
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 5357-3, Cecil Cassens

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 Validation of Vested Water Right Application No. 5357-3, Cecil Cassens, Route 1, Box 4, Forestburg SD.

The Chief Engineer is recommending VALIDATION of Application No. 5357-3 for storage of 370 acre feet of water behind a James River crossing dam. The height of the dam is approximately 5 feet with the dam crest approximately 6 feet below the top of the river bank. Validation is recommended provided the actual feet above mean sea level (msl) elevation is determined prior to December 6, 1989. The msl elevation will be made part of the vested right validation. Validation is recommended because 1) water has been appropriated as described for recreational use with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications:

That validation of Vested Water Right No. 5357-3
authorizes storage of 370 acre feet with an overflow
elevation of _____ feet msl.

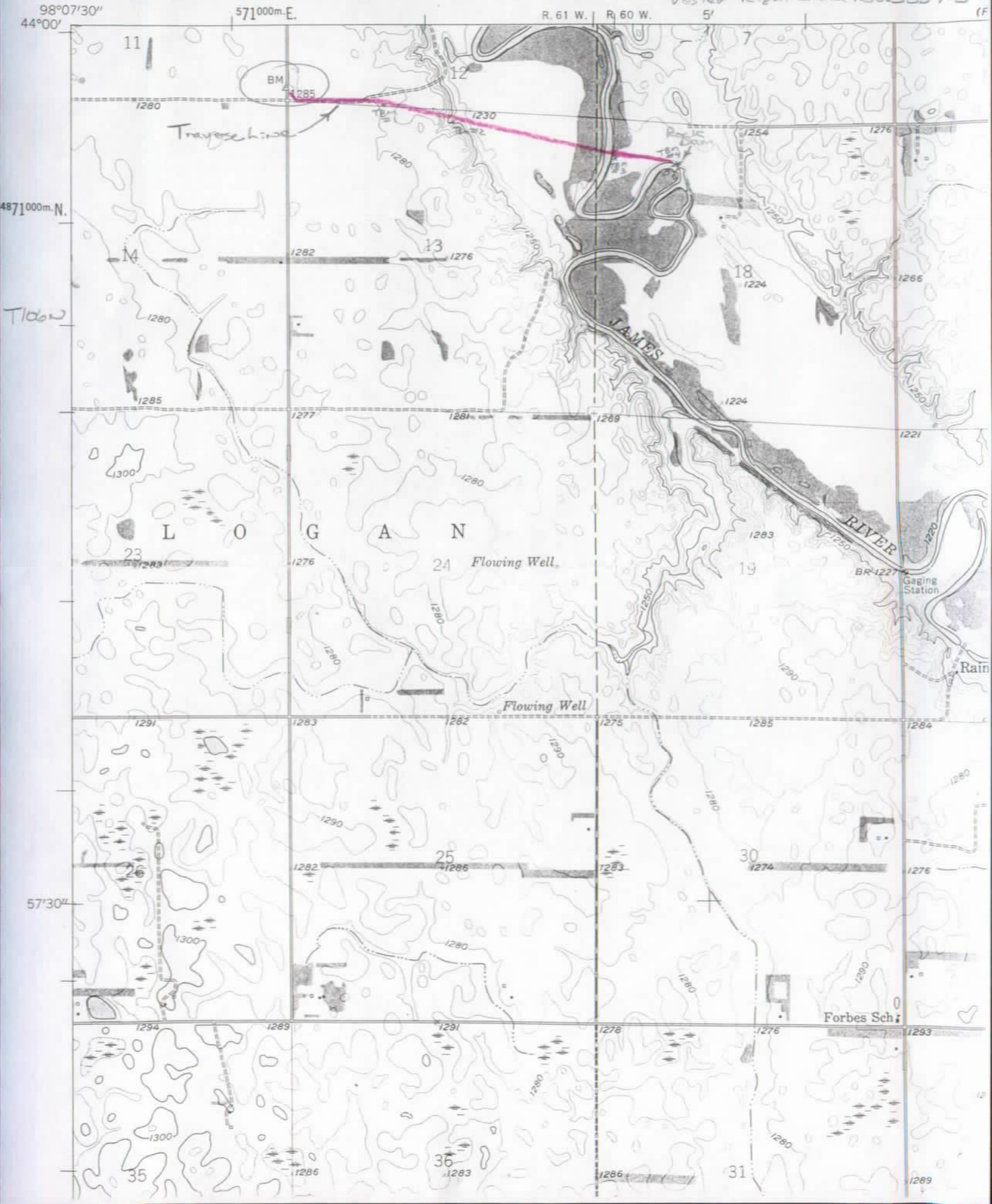
See the attached report for additional information.


JOHN HATCH, Chief Engineer
October 31, 1989

125 000)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

Land Survey to "line in" crest elevation
of Rock Dam to mean sea
level.
Vested right claim No. 5357-3



THIRD-ORDER LEVELS
NATIONAL GEODETIC VERTICAL DATUM OF 1929

Davidson & Sanborn Counties

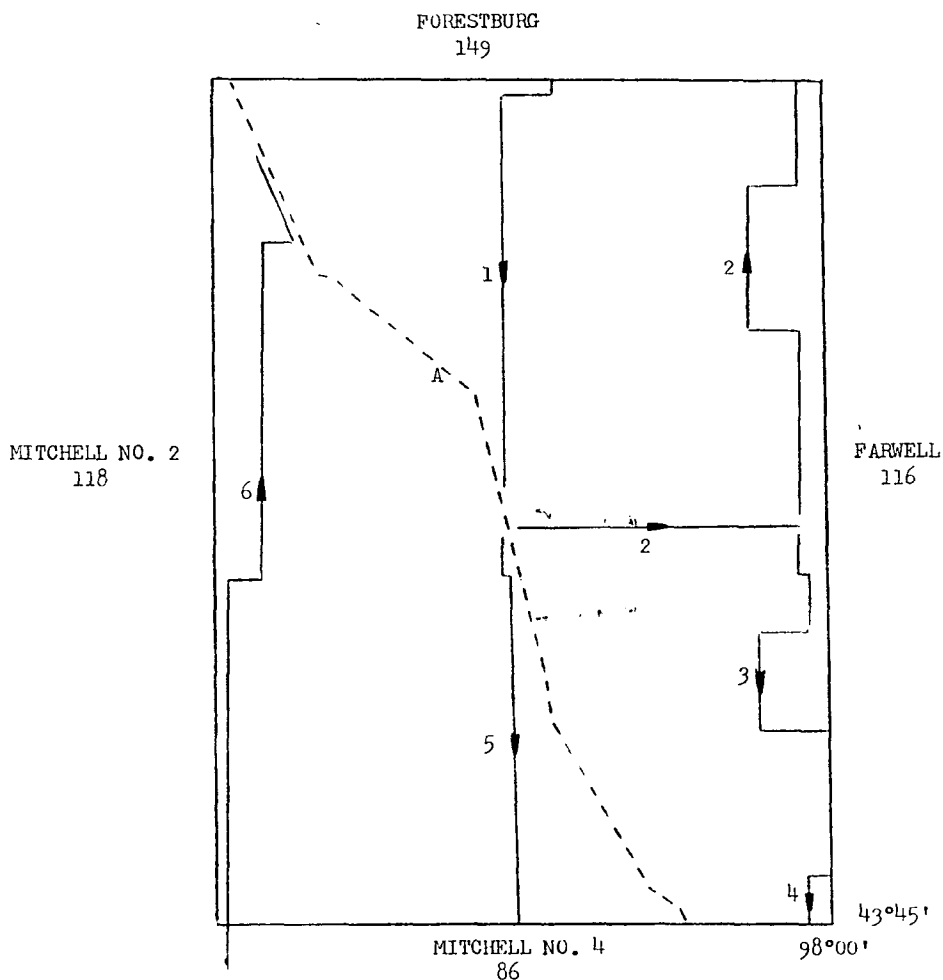
Final Adjustment of 1975

Edition of: 2-6-76

PR: ADP/LB/cb

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

43-098-11
LETCHER QUADRANGLE
117 - SOUTH DAKOTA
N4345-W9800/15
DIAGRAM NK 14-2
MITCHELL



N.G.S. (USC&GS) VERTICAL CONTROL DATA
A. Quadrangle No. 430981

LINE 1

FEET

E.B. Shafer, 1954; Book CV-608

Forestburg, 2 mi S. of, 210 ft N. and 37 ft W. of dim crossroads, near cor. of secs. 11, 12, 13 and 14, T. 106 N., R. 61 W., 1 ft W. of fence and on a slight rise, in concrete post; standard tablet stamped "TT 1 LB 1954" 1285.069

Reference mark No. 2, 343 ft S. of tablet, 35 ft S. and 30 ft W. and same elevation as cross track road, 10 ft S. and 1 ft W. of corner fence post; top of small granite boulder; chiseled square 1282.86

Reference mark No. 1, 335 ft NE. of tablet, 97 ft E. of center of road, on SW. corner of concrete walk leading to front entrance of farm house 1299.36

Forestburg, about 3.5 mi S. and 1 mi W. of, 39 ft W. of N.-S. road, 426 ft S. of private drive to house on E. side of road, 750 ft N. of E.-W. fence, near quarter cor. secs. 22 and 23, T. 106 N., R. 61 W., 1 ft W. of powerline pole, in concrete post; standard tablet stamped "TT 2 LB 1954" (Destroyed 5-75, AJK) 1300.084

Reference mark No. 2, 780 ft S. of tablet, 48 ft E. of center of road, 18 ft E. and 3 ft N. of corner fence post; on top of large granite boulder, chiseled square 1291.06

UE 2 A, 0.7 mi S. of tablet, 53 ft S. and 34 ft E. and 6 ft higher than center of crossroads, top of large granite boulder, chiseled square 1291.63

Letcher, 4 mi N. of, 260 ft N. and 38 ft E. of crossroads, near cor. secs. 26, 27, 34 and 35, T. 106 N., R. 61 W., 21 ft N. of private drive, 1 ft W. of power line pole and 2 ft E. of fence; in concrete post, standard tablet stamped "TT 3 LB 1954" (Not found, probably destroyed, 5-75 A.J.K.) 1297.57

Reference mark No. 1, 170 ft N. of tablet, 25 ft E. of center of road, in base on W. side of northernmost tree of a group of small trees; top of R.R. spike 1291.04

UE 3 A, 0.5 mi S. of tablet, 58 ft S. and 35 ft W. and 0.9 ft lower than center of road at fence E.-W., on top of large granite boulder; chiseled square 1289.57

Letcher, 2 mi N. of, 520 ft N. and 38 ft W. of crossroads, near cor. secs. 2, 3, 10 and 11, T. 105 N., R. 61 W., 140 ft S. of fence W., and 3 ft W. of power line pole, in top of concrete post; a standard tablet stamped "TT 41 DC 1953" 1297.127

Reference mark No. 1, 145 ft SE. of tablet, 40 ft E. of center of road, in base on W. side of small poplar tree; top of R.R. spike 1295.56

Reference mark No. 2, 540 ft S. of tablet, 15 ft S. and 25 ft W. and same elevation as center of crossroads, on S. end of 14-in. iron pipe culvert; punched hole 1297.8

UE 41 A, 0.6 mi S. of tablet, 28 ft W. of center of road at fence E.-W., 2 ft SE. of Easternmost of double power line pole, same elevation as center of road, top of small granite rock; chiseled square 1298.17

Letcher, at E. edge of, 750 ft N. and 36 ft W. of crossroads, near cor. secs. 14, 15, 22 and 23, T. 105 N., R. 61 W., 26 ft S. of a street and 2 ft W. of power pole; in concrete post, standard tablet stamped "TT 4 LB 1954" 1298.607

James River Rock Dam, Sanborn County

Vested Right Validation Nov. 9, 1989

NO. 5857-3

10-15 MPH wind, overcast, 55°
25 MPH

David Brown, DWR, Water Rights
Terry Mills, James River Water Development
District Water-Project Coordinator, Honor
Cecil Castings

Station	BS	FS	Elevations	Comments
BM 1565 (D) IT 146174			1285.07	Heading Post
(2) T	1.05		1286.12	
(3) T.P.		7.76	1278.36	
(4) T	4.34		1282.70	
(5) T.P.		2.08	1280.62	
(6) T	4.70		1285.32	Linearly
TBM #2		1.95	1283.40	Corrected elevation
(7) T	2.03		1283.37	
(8) T	10.95		1285.40	Heading back west no loop & Tripod
(9) T.P.		4.85 5.22	1280.55	Heading back west
(10) T	3.35 4.88		1283.90	
(11) T.P.		6.00 7.25	1277.90	
(12) T	8.22 8.51		1286.12	
BM 1565 (D) TT 146175		1.11 1.09	1285.01	
Total	Σ 23.69	Σ 23.75	1 mile traverse, duplicated 1/2 of Survey (did not close)	
TBM #2				
(7) T			1283.40	
(4) T	3.43		1286.83	
(5) T.P.		8.87	1277.96	
(6) T	1.39		1279.35	
(17) T.P.		10.04	1269.31	
(18) T	0.13		1269.44	

Station	BS	FS	Elevation	Comments
(19) T.P.		9.35	1260.09	
(20) T.	0.65		1260.74	
(21) T.P.		9.89	1250.85	
(22) T.	0.91		1251.76	
(23) T.P.		9.78	1241.98	
(24) T.	0.98		1242.96	
(25) T.P.		10.05	1232.91	
(26) T.	3.00		1236.01	
(27) T.P.		9.82	1226.19	
(28) T.	2.80		1228.99	
(29) T.P.		6.47	1222.52	
(30) T.	4.37		1226.89	
(31) T.P.		5.30	1221.59	
(32) T.	4.76		1226.35	
(33) T.P.		2.83	1223.52	
(34) T.	5.94		1229.46	
(35) T.P.		4.90	1224.56	
(36) T.	5.78		1230.34	
(37) T.B.M.#3		5.26	1225.27	
(38) T.	5.08		1230.16	
(39) T.P.		6.15	1224.01	
(40) T.	3.94		1227.95	
(41) T.P.		6.50 6.49	1221.45	

0.19'
 linearly corrected,
 correction exceeds
 Primary, Secondary
 & Tertiary Control
 Structures

East side of
 James River

Heading into river

3/5

Station	BS	FS	Elev.	Comments
(42) ⁽⁴⁰⁾ T	5.20		1226.65	
(43) T.P.		4.55	1222.10	
(44) ⁽⁴³⁾ T	6.45		1228.55	
(45) T.P. ⁽⁴⁴⁾		2.26	1226.29	
(46) ⁽⁴⁵⁾ T	9.94		1236.23	
(47) T.P.		2.00	1234.23	
(48) ⁽⁴⁷⁾ T	9.99		1244.22	
(49) T.P.		0.61	1243.61	
(50) ⁽⁴⁹⁾ T	9.45		1253.06	
(51) T.P.		0.57	1252.49	
(52) ⁽⁵¹⁾ T	10.19		1262.63	
(53) T.P.		0.43	1262.25	
(54) ⁽⁵³⁾ T	10.16		1272.41	
(55) T.P.		0.47	1271.94	
(56) ⁽⁵⁵⁾ T	9.70		1281.64	
(57) T.P.		1.41	1280.73	
(58) ⁽⁵⁷⁾ T	6.54		1286.77	
(59) TBM #1		2.99 3.0	1283.78	← off by 0.38 ft wind blowing 25+ mph
Totals	Σ 120.88	Σ 120.50	1 mile traverse	
(32) ⁽³¹⁾ TBM #3			1225.27	
(31) T	4.77		1230.04	

4/5

Station	BS	FS	Elevations	Comments
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(61) Top		6.02	1224.02	
(62) TI	3.38		1227.40	
(63) rock Pan		10.55	1216.85	
		10.52	1216.88	
		11.00	1216.40	
		11.24	1216.16	
		11.06	1216.34	
		11.20	1216.20	
		11.28	1216.12	
		11.64	1215.76	
		11.40	1216.00	
		12.03	1215.37	
		11.75	1215.65	
washed out		12.52	1214.88	
		11.86	1215.54	
		11.96	1215.44	
		11.64	1215.76	
		11.35	1216.05	
		11.65	1215.75	
		11.24	1216.16	
		11.26	1216.14	
(64) BM #4		9.86	1217.56	
scratched X on boulder			1217.54	
(65) back	9.45		1226.99	

Rock AD
Top of Elevations
1216.00

Corrections
add 0.02'
to readings

Corrected
Linearly

(64) BM #4
scratched X on boulder

(65) back

5/5

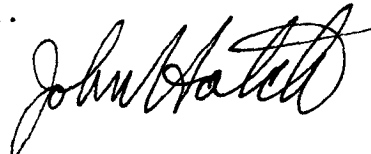
<u>Station</u>	<u>BS</u>	<u>FS</u>	<u>Elevation</u>
(66) I.P. (66)	1.00	1.55	1225.44
(67) π	4.75		1230.19
(68) BM# Easter By Jones R.		4.88	1225.31

REVISED RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF
VESTED WATER RIGHT APPLICATION NO. 5357-3, Cecil Cassens

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 5357-3, Cecil Cassens, Route 1, Box 4, Forestburg SD.

The Chief Engineer is recommending VALIDATION of Application No. 5357-3 for storage of 370 acre feet of water behind a James River crossing dam. The height of the dam is approximately 5 feet with the dam crest approximately 6 feet below the top of the river bank. Validation is recommended because 1) water has been appropriated as described for recreational use with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications:

That validation of Vested Water Right No. 5357-3 authorizes storage of 370 acre feet with an overflow elevation of 1216.2 feet msl.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized, cursive script.

JOHN HATCH, Chief Engineer
November 14, 1989

SOUTH Dakota Department of
Water & Natural Resources

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

November 1, 1989

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT THE
NEWSPAPER RIGHT AWAY.

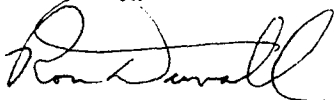
Cecil Cassens
Route 1, Box 4
Forestburg SD 57338

Dear Mr. Cassens:

Your Application No. 5357-3 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Woonsocket News printed at Woonsocket SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,



Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

November 1, 1989

Woonsocket News
Box 218
Woonsocket SD 57385

ATTENTION: Legal Department

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 5357-3 to be published twice. Please publish the notice on or before November 9, 1989 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Cecil Cassens, Route 1, Box 4, Forestburg SD 57338.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: ATTN: Ron Duvall
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on or before November 9, 1989 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 5357-3 to Appropriate Water

Notice is given that Cecil Cassens, Route 1, Box 4, Forestburg SD 57338 has filed an application to validate a vested water right claim for impoundment of approximately 370 acre-feet of water by a James River crossing (dam) located in the NE 1/4 NW 1/4 Section 18-T106N-R60W. The restoration of the dam across the James River is to store water at a depth of approximately 5 feet with the dam crest being approximately 6 feet below the top of the river bank. This application claims a 1936 priority date for storage of 370 acre-feet for recreational purposes. No diversion of water from the James River is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 5357-3 for storage of 370 acre-feet of water behind the crossing dam. Validation is recommended provided the actual feet above mean sea level (msl) elevation is determined prior to December 6, 1989. The msl elevation will be made a part of the vested right validation. Validation is also recommended because 1) water has been appropriated as described for recreation use with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD on December 6, 1989 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by November 24, 1989. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by November 24, 1989.

This application is made pursuant to 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; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Sanborn) ss.

I, Gerald W. Klaas

certify that the attached printed Notice was taken
from the 2) consort 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 _____

City Sanborn of 2) consort

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

November 9, 1989

November 16, 1989

Gerald W. Klaas
(Signature)

Publisher
(Title)

Nov. 16, 1989
(Date Signed)

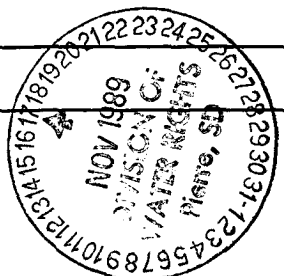
Cost of Printing: \$45.65

NOTICE OF HEARING To Validate Vested Water Right Application No. 5357-3 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 5357-3 for storage of 370 acre-feet of water behind the crossing dam. Validation is recommended provided the actual feet above mean sea level (msl) elevation is determined prior to December 6, 1989. The msl elevation will be made a part of the vested right validation. Validation is also recommended because 1) water has been appropriated as described for recreation use with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E. Capitol, Pierre SD on December 6, 1989 at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the application based on the facts presented at the public hearing.

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State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by November 24, 1989.

This application is made pursuant to 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; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

W7-21



Department of Water & Natural Resources

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

November 15, 1989

Cecil Cassens
Rt 1, Box 4
Forestburg SD 57338

Dear Mr. Cassens:

Enclosed is a copy of the Revised Recommendation of the Chief Engineer for Validation of Vested Water Right Application No. 5357-3. This application will be considered on December 6, 1989 as stated in the notice.

Sincerely,

A handwritten signature in cursive script that reads "Karen Schlaak".

KAREN SCHLAAK
Senior Secretary
Water Rights Division
605 773-3352

enclosure



Department of Water & Natural Resources

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

MAR 14 1990

5357-3

Cecil Cassens
RR 1, Box 4
Forestburg SD 57338

Dear Mr. Cassens:

Enclosed are your Validated Vested Water Right and Water License No. 5357-3. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

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

enclosures



Department of Water & Natural Resources

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

April 2, 1991

5357-3

Cecil Cassens
Rt 1, Box 4
Forestburg, SD 57338

Dear Mr. Cassens:

I am contacting irrigators and water users on the James River to advise of the low flow conditions in the James River and potential of shut off orders being issued. Due to the continuing drought, the James River basin, in both North Dakota and South Dakota, is supplying the river with below normal runoff.

The following is the latest flow (cfs) information on the river:

Date	Ludden	Columbia	Ashton	Huron	Forestburg	Scotland
3/28/91	79.1	0.0	6.6	2.3	19.2	23.7
3/29/91	79.1	0.0	6.3	13.0	17.9	22.8
4/01/91	79.1	0.0	6.1	11.1	18.5	10.0

Note: The flow at Ludden is from in stream ice melt with little or no runoff occurring.

We will continue to closely monitor the flow in the river. Unless flow conditions improve in the next two to three weeks, shut off orders may have to be issued to all James River water users except for the City of Huron, which has senior water rights.

If you have any questions, feel free to contact Mark Rath or Del Brosz. Phone (605) 773-3352.

Very truly yours,

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