

Considered: _____

WATER PERMIT NO. 5690-3

Phone: 882-4947

Name of Applicant: BJ'S FOOD & SPIRITS

Post Office Address: PO Box 286, Watertown SD 57201

Amount of Water Claimed: 31 gpm Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Codington

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received: 7-22-92 Fee: \$50 Remarks _____

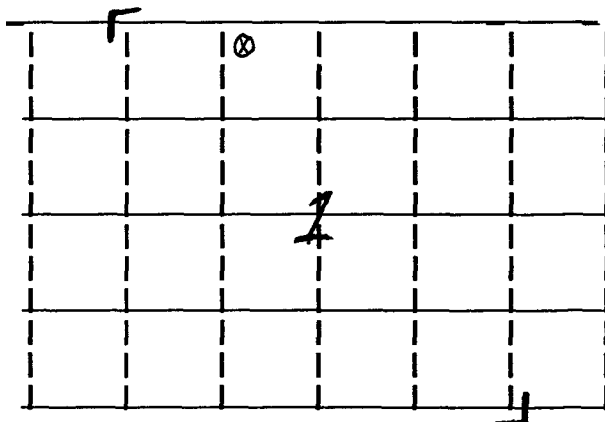
Corrected Application Received 7/27/92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: NE 1/4 NW 1/4 Sec 1-T116N-R53W

Land to be Irrigated: _____



Well Log: Driller: _____ Licensed YES _____ NO _____

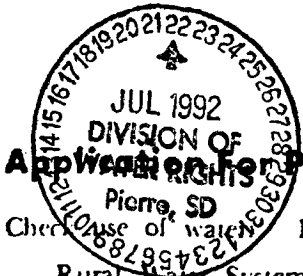
Depth of Well: 15' REMARKS well log not available

Type of Map: aerial PREPARED BY: Cathy Dally Reviewed and the Number

Assigned on 7-22-92 By Karen Schlaak

Mail to: Water Rights Div.
523 E. Capitol
Pierre, SD 57501
(605) 773-3352

No. 5690-3 Hydrologic Unit 10170202
Map No. _____ Basin Big Sioux River
Newspaper Public Opinion, PO Box 10



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

Check one or more of the following:
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 WELL HAS BEEN IN USE SINCE BUILDING + BUSINESS STARTED (ABOUT 20 years)
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 BJ's Food + Spirits Phone No. 882-4947
Post Office Address P.O. Box 286, Watertown SD, State 57201
(Street RR or Box) (City) (Zip Code)
2. Amount of water claimed (c.f.s.) 31gpm (10.07 cfs) 1850 GPH (gallons per hour)
3. Source of water supply Well
4. Location of point of diversion WEST HIGHWAY 212 WATERTOWN, SD
60V LOT 3 SEC 1-116-53 (NE 1/4 NW 1/4)
County CODINGTON
5. Counties where water will be used CODINGTON
6. Annual period during which water is to be used YEAR AROUND 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)
EXISTING WELL

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 Codington) ss

I, Lavern Zamora, 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 Lavern Zamora
Subscribed and sworn to before me this 30th day of July 1992
Willis Delbert
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 5690-3**

Date of first receipt of application July 22, 1992.

Date of return to applicant for corrections, amendments or changes July 22, 1992.

Date of receipt of corrected application July 27, 1992.

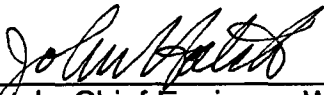
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5690-3 to BJ's Food & Spirits, PO Box 286, Watertown SD 57201 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5690-3 appropriates 31 gallons per minute (0.07 cubic feet of water per second) from one well (Big Sioux:North Aquifer) 15 feet deep located in the NE 1/4 NW 1/4 (Government Lot 3) Section 1-T116N-R53W.
2. The water appropriated shall be used for the purpose of supplying water to the business and may not exceed the amount of water needed for beneficial use for commercial purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 5690-3 is November 11, 1992.
5. The date from which applicant may claim right is July 22, 1992.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

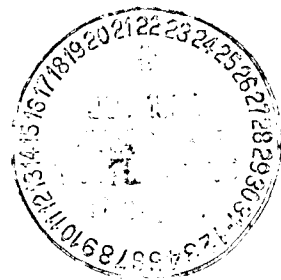
WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer, Water Rights Division
Department of Environment and Natural Resources

MAR 5 1993
date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 4" Depth 15'
- b) Casing Type PVC Diameter 4" Thickness 5/16"
- c) Screen Type POINT Diameter 1 1/4" Thickness 1/8"
- d) Gravel Pack Thickness NONE Length of Gravel Pack NONE
- e) Depth to Top of Water Bearing Material 8'
- f) Depth to Water (ground surface to water level) 8'
- g) Distance to nearest existing domestic well:
On applicants property NONE 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 _____

e) Primary Outlet Capacity _____

If Pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway width _____

g) X & Y Slope

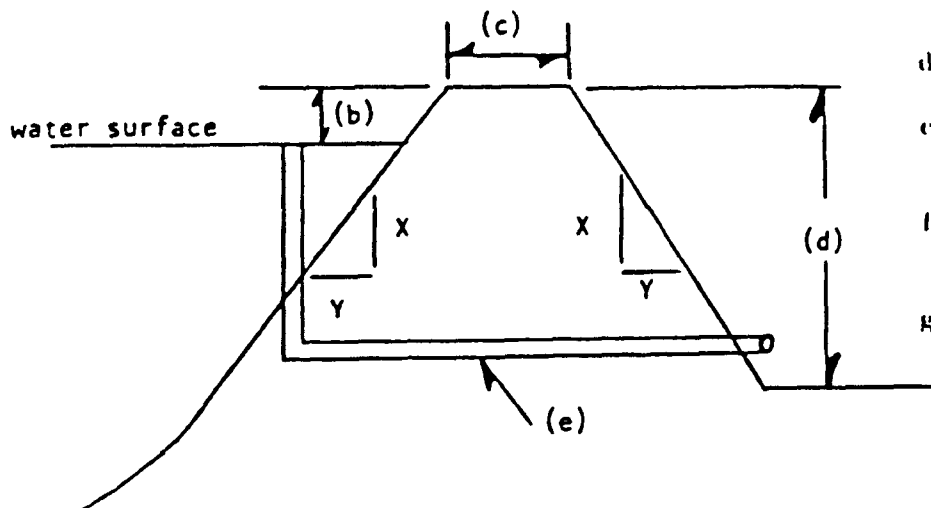
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

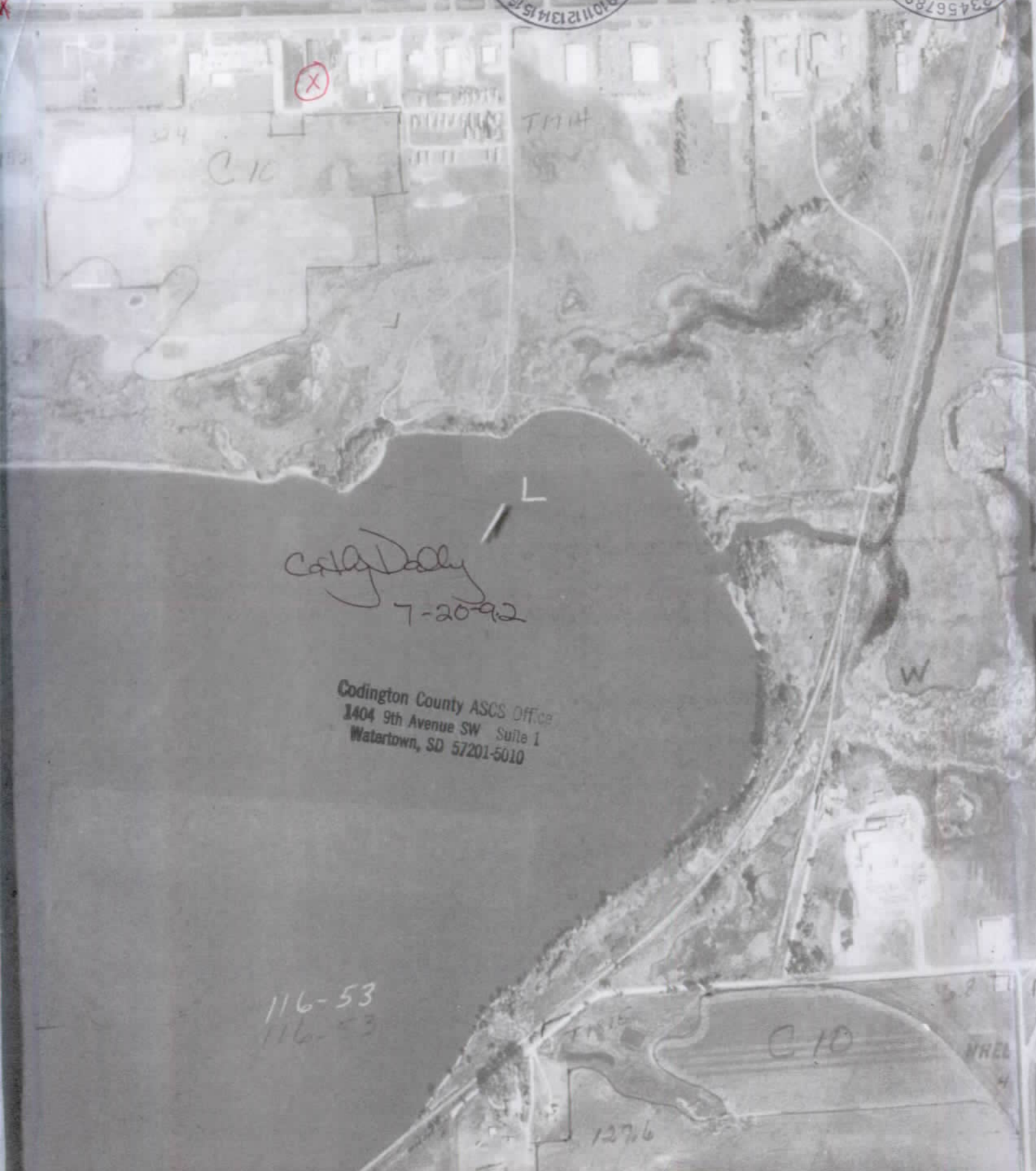
Drainage area above dam _____



Signature of Applicant _____

NW corner
Sec 1-116-53
approx 1300 East and
350 South.

NOT TO SCALE



Cody Daily
7-20-92

Codyington County ASCS Office
1404 9th Avenue SW Suite 1
Watertown, SD 57201-5010

116-53
116-53

127.6

C10

WHEE

RECEIPT

413329

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, July 22, 1992RECEIVED OF BJ's Steakhouse, PO Box 286, Watertown SD 57201

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

Fee for Application for Permit No. <u>5690-3</u> to Appropriate Water, to construct works and to put water to beneficial use	50 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	50 00

By

Chief Engineer

JOHN HATCH

ks



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

June 19, 1991

LAVERN ZAMOW
BJ'S FOOD AND SPIRITS
PO BOX 286
WATERTOWN SD

Dear MR. ZAMOW:

I am writing to follow-up on my October 1990 letter concerning the requirement to apply for a water permit. We have not received any response from you on this matter and would appreciate your earliest reply.

Based on information we have received from the Office of Drinking Water, we believe you may need a water permit. A water permit must be obtained for any water use except for domestic uses. Water use by commercial businesses, such as campgrounds, tourist attractions, resorts, cafes, gas stations, etc. must be permitted regardless of the amount or type of water use. Schools using more than 18 gallons of water per minute must also be permitted. Please complete and return the enclosed application forms, with the required fee, to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by July 31, 1991.

If you need assistance completing the application forms or if you do not believe you need a water permit, please contact Don Frye at (605) 773-3352.

Thank you for your attention to this matter.

Very truly yours,

Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division
enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 12, 1992

LAVERN ZAMOW
BJ'S FOOD AND SPIRITS
PO BOX 286
WATERTOWN SD

Dear MR. ZAMOW:

I am writing to follow-up on my October 1990 and June 19, 1991 letters regarding the need for a permit to appropriate water for use in your facility. Based on the information we have, we believe you need a permit. We would appreciate your earliest attention to this matter.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, except for private domestic use, a water permit is required to use water from any water source. Examples of commercial enterprises that require permits for private water supplies are: truckstops, motels, restaurants, tourist attractions, bars, clubs, commercial campgrounds and any other business operation. Examples of institutions that require permits for private water supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute or use water outside of the school building.

An existing business or institution without a required water permit has no legal right to the use of water. Water users without a water permit are not protected if their water use is interfered with by someone who has a water right. If you believe you already have a water permit or if you have a permit issued under another name, please contact us.

We have previously sent you water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501". If you have questions, or don't believe you need a water permit, contact Don Frye, Natural Resources Analyst (605-773-3352).

Very truly yours,

RON DUVALL, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 16, 1992

Lavern Zamow
BJ's Food and Spirits
PO Box 286
Watertown SD 57201

Dear Mr. Zamow:

I am writing to follow-up to my October 1990, June 19, 1991, November 5, 1991 letters and my phone call to Marty Higgins on July 16, 1992 regarding the legal requirement that you obtain a permit to appropriate water for use in your facility. **Without a water permit, you have no legal right to the use of water and the Chief Engineer can issue a shut off order if the illegal use of water continues.**

Enclosed are water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by August 14, 1992. If you have questions or need assistance contact Don Frye, Natural Resources Analyst (605-773-3352).

Sincerely,

RON DUVALL, Natural Resources Engineer
Water Rights Division
enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 22, 1992

BJ's Food & Spirits
LaVern Zamow
PO Box 286
Watertown SD 57201

Dear Mr. Zamow:

In regard to your water permit application received on July 22, 1992, enclosed is the aerial photo submitted with your application. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office). The name Cathy Dally appears on the map. If she qualifies as stated above, please have her title listed below her signature.

Upon receipt of the above, further processing of your application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

Dear Karen;
we bought BJ's Food &
Spirits 2 years ago. Prior to
that it had used the well as
a food operation for 20 years.
What happened to the permits
before we bought it?

Thanks

L. Zamow

REPORT ON APPLICATION NO. 5690-3
for BJ's Food and Spirits
September 9, 1992

Application No. 5690-3 proposes to appropriate 31 gpm (0.07 cfs) from one well approximately 15 feet deep located in the NE 1/4 NW 1/4 of section 1, T116N R53W in Codington County. The water is for commercial use.

AQUIFER - BIG SIOUX NORTH (BS-N)

The Big Sioux North aquifer is an unconfined glacial outwash (sand and gravel) under water table conditions at this site. The aquifer underlies 67,300 acres and contains an estimated 151,430 acre feet of recoverable water in storage in Codington County (Hedges, 1982). The aquifer is hydraulically connected to the Big Sioux River to the east, area lakes Kampeska to the north and Pelican to the south. Ground water movement is regionally from north to south through this area with the two lakes and the Big Sioux River locally affecting the ground water levels (Hansen, 1990). Generally these hydrologic boundaries affect the water levels by acting as discharge zones for ground water to move from the aquifer to the surface water.

The Division of Water Rights monitors 4 observation wells completed into the Big Sioux North aquifer which are within 3 miles of this site. Water levels for these wells show good response to climatic conditions, that is, rising fairly rapidly during wet years (recharge) and gradually declining during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/rights in this immediate area. Interference will not be a concern.

CONCLUSIONS

1. Water is available from the Big Sioux North aquifer.
2. The aquifer is unconfined and under water table conditions. Interference is not expected to be a concern.
3. Very little information concerning the construction of this well is available. The well appears to be a sandpoint driven into a permanent surface casing consisting of 15 feet of 4 inch diameter PVC pipe. Whether or not the well meets SD Well Construction Standards can not be determined.

4. BJ's Food and Spirits is connected to the City of Watertown's municipal sewer system.

Sale N. Selken
for James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hansen, D.S., 1990, Water Resources of Codington and Grant Counties, South Dakota, USGS WRI 89-4147, USGS, Huron, SD, 57350.

Hedges, L.S., 1982, Evaluation of Ground Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 1992, Unpublished Observation Well Records for Codington County, SD, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5690-3, BJ's Food & Spirit

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 5690-3, BJ's Food & Spirit, c/o Lavern Zamow, PO Box 286, Watertown, SD 57201.

The Chief Engineer is recommending APPROVAL of Application No. 5690-3 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) it is in the public interest with the following qualifications:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.


for JOHN HATCH, Chief Engineer
September 18, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

October 7, 1992

Lavern Zamow
BJ's Food & Spirits
PO Box 286
Watertown, SD 57201

Dear Mr. Zamow:

Water Permit Application No. 5690-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Public Opinion printed at Watertown, SD (Ph # 886-6901). 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 prior to publication 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 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 7, 1992

Public Opinion
PO Box 10
Watertown, SD 57201-0010

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5690-3 to be published twice. Please publish the first notice on October 14, 1992, 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 BJ's Food & Spirits, PO Box 286, Watertown, SD 57201 (Ph # 882-4947).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ 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 October 14, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5690-3 to Appropriate Water

Notice is given that BJ's Food & Spirits, PO Box 286, Watertown, SD 57201 has filed an application for a water permit to appropriate 31 gallons per minute (0.07 cubic feet of water per second) from one well (Big Sioux:North Aquifer) 15 feet deep located in the NE 1/4 NW 1/4 (Government Lot 3) Section 1-T116N-R53W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5690-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 1992. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 5690-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for November 11, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the November 11, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The November 11, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 2, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by November 2, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
 County Codington)

I, Monica K. Saathoff

certify that the attached printed Notice
 from the Watertown Public Opinion

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

_____ city _____ of Watertown

County of Codington and State
 that the said notice was published in said
 following two dates:

October 14th, 1992

October 21st, 1992

(Signature)

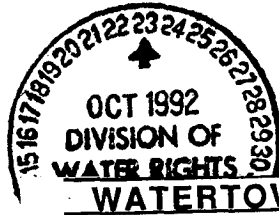
Bookkeeper

(Title)

October 21st, 1992

(Date Signed)

Cost of Printing: \$135.72



NOTICE OF HEARING ON APPLICATION NO. 5690-3 TO APPROPRIATE WATER

Notice is given that B.J's Food & Spirits, PO Box 286, Watertown, SD 57201 has filed an application for a water permit to appropriate 31 gallons per minutes (0.07 cubic feet of water per second) from one well (Big Sioux: North Aquifer) 15 feet deep located in the NE 1/4 NW 1/4 (Government Lot 3) Section 1-T116N-R53W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5690-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

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773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 1992. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 5690-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for November 11, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the November 11, 1992 hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The November 11, 1992 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 2, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by November 2, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

(October 14, 21, 1992)

15/4 @ 4.4



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 5 1993

Lavern Zamow
BJ's Food & Spirits
PO Box 286
Watertown, SD 57201

Dear Mr. Zamow:

Enclosed is Water Permit No. 5690-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the 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
605 773-3352

enclosures

Permit No. 5690-3
Big Sioux River - Water District

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

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

I have this day made a thorough examination of the water use system constructed by BJ's Food and Spirits of P.O. Box 286, Watertown, SD 57201 holder of Permit No. 5690-3, bearing the priority of July 22, 1992 authorizing the diversion of 0.07 cu. ft. per second of the waters of Big Sioux - North Aquifer for commercial purposes, in Codington County.

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

- A. Works used to divert the water:
One 15' deep well with Fairbank Morse pump and 2 motors; pump capacity is 31 gpm, 2-motors with a 3.4 hp each, model no. 1103025417. Sand point well with 4" casing and 1 1/4" screen.
- B. Works used to transport water to place of use:
1" copper throughout the building.
- C. Works used to apply water to beneficial use:
Water used commercially in restaurant

The system is in the following condition good. The point of diversion is located 1580' E and 350' S of the NW 1/4 corner Sec. 1-T116N-R53W. The works are capable of diverting and conveying to the place of use 0.07 cu. ft. per second of water which is to be used for commercial use in a restaurant. Water has been put to beneficial use to the maximum extent as follows:
commercial use in restaurant.

The license should be issued for 0.07 cfs.

Applicable permit qualifications have been complied with: Yes ☒ No

Exceptions to compliance are: none

Date: 7-1-93

Lynn Beck
Lynn Beck
Natural Resources Engineer
DENR, Water Rights Division

REPORT ON INSPECTION OF PERMIT NO. 5690-3

DATE: 7-1-93

Other permit(s) associated with the project: none

DIVERSION POINT LEGAL LOCATION: 1580' E and 350' S of the NW 1/4 corner Sec. 1-T116N-R53W.

WELL INFORMATION:

- 1) Well Drilling Firm: unknown.
- 2) No. of Wells 1
- 3) Depth(s) 15 feet
- 4) Well log is available N
- 5) Comment: Well has been in use for approximately 20 years, previous owners did not have a permit for the well.

Casing:

- 1) Diameter 4 inches
- 2) Length 15 feet
- 3) Type pvc

Screen:

- 1) Type sand point
- 2) Length feet
- 3) Static water level feet

Pump:

- 1) Make Fairbanks-Morse
- 2) Model
- 3) Size
- 4) Capacity 31 GPM

Motor:

- 1) Make 2-Fairbanks-Morse
- 2) Model No. 1103025417
- 3) Horsepower rating 3/4 each hp

DISTRIBUTION LINES OR CANALS: Didn't know size or length.

- 1) Type copper
- 2) Size 1 inches
- 3) Length unknown feet

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit
N/A
- 2) Special qualifications to permit being abided by Y

- 3) All structures, wells and lands on map Y
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 5690-3

(1) BJ's Food and Spirits of PO Box 286, Watertown SD 57201 made Application No. 5690-3, July 22, 1992 for a water permit to appropriate 0.07 cubic feet of water per second from groundwater (one well), Codington County, South Dakota for commercial purposes. Permit No. 5690-3, with a priority date of July 22, 1992 was approved November 11, 1992 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.07 cubic feet of water per second for beneficial use. The location of the diversion point is (Government Lot 3) 1580 feet E and 350 feet S of the NW 1/4 corner of Section 1-T116N-R53W (NE 1/4 NW 1/4).

(3) The applicant has complied with the provisions of South Dakota Water law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 BJ's Food and Spirits of PO Box 286, Watertown SD 57201 the holder and/or owner of Water Permit No. 5690-3 is issued a license to appropriate water, the right to use 0.07 cubic feet of water per second from groundwater (one well) with a priority date of July 22, 1992 from the location specified in (2) of this license. The water is used for commercial purposes. This license is subject to any limitations or qualifications listed in Water Permit No. 5690-3 and subject to South Dakota State Law.



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

NOV 14 1994

date

NOT TO SCALE



Prepared by:

Lynn Beck
Lynn Beck
Natural Resource Engineer
DNR, Water Rights Division
8-9-93

Cathy Daily
7-20-92

Codington County ASCS (17 CE)
2404 9th Avenue SW - South
Watertown, SD 57201-5011

116-53

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5690-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 10, 1994

5690-3

Lavern Zamow
BJ's Food and Spirits
P.O. Box 286
Watertown, SD 57201

Dear Mr. Zamow:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 5690-3, 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 inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl F. Frost".

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

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

RECEIPT

Division of Water Rights

414024

South Dakota Department of Environment and Natural Resources

Pierre, _____ February 3, 19 94

RECEIVED OF BJ's Food and Spirits, W Hwy 212, Watertown, SD 57201

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>5690-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Hatch



NOV 14 1994

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

5690-3

Lavern Zamow
BJ's Food and Spirits
P.O. Box 286
Watertown, SD 57201

Dear Mr. Zamow:

Enclosed is Water License No. 5690-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 414024 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5690-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Very truly yours,

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

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enclosures