

WATER PERMIT NO. 5777-3

Phone: 448-2544

Name of Applicant: Gerald A. Person

Post Office Address: RR 2, Box 123, Britton SD 57430

Amount of Water Claimed: 0.56 add'l Total Acres: 29 add'l (239 total)

Source of Water Supply: runoff

Water to be used for: irrigation County: Marshall

About 6 miles south of Britton

PRIORITY Date Received: 3-12-93 Fee: \$150 Remarks: Additional

land and increases the diversion rate authorized by Permit No. 4948-3

Corrected Application Received: 6-21-93 Period of Annual Use: April 1- Oct 31

WATER QUALITY APPROVAL RECEIVED: 7-6-93 APPROVED/CONDITIONAL (Circle one)

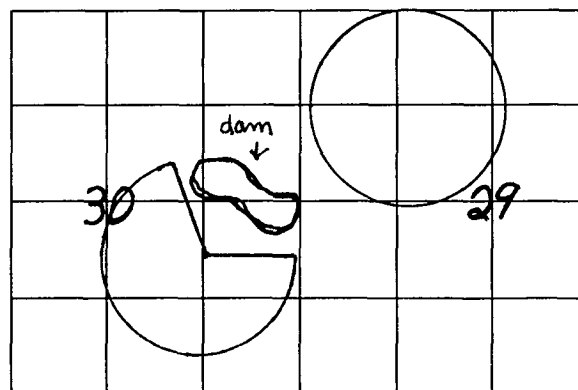
WI-1 Description same as Application YES X NO REMARKS:

Diversion Point: dam - S 1/2 NE 1/4 & NE 1/4

SE 1/4 Sec 30-T126N-R57W

Land to be Irrigated: NW 1/4 W 1/2 NE 1/4 Sec 29

& SW 1/4 NE 1/4, SE 1/4 Sec 30; all in T126N-R57W



Well Log: Driller: Licensed YES NO

Depth of Well: REMARKS:

Type of Map: aerial PREPARED BY: Mark D. Rath Reviewed and the Number

Assigned on: 7-9-93 By: Karen Schlaak

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 5777-3 Hydrologic Unit 10160003
Basin Dames River
Newspaper Britton Journal
(office use only)

Application For Soil/Water Compatibility Permit And Permit To Appropriate Water

Type of Application: New Vested Right X Amendment/Correction to Permit No. 4948-3
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)

1. Name of Applicant Gerald A. Person Phone 448-2544
(check one) Owner Tenant/lessee

Mailing Address RR 2, Box 123, Britton State SD 57430
(Street, RR, or Box) (City) (Zip Code)

2. Amount of water claimed 0.56 add'l CFS or **GPM ***AF Total Acreage 239 (add'l)
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout if applicable)

3. Source of water supply surface water

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) dam - located in the
S 1/2 NE 1/4 & NE 1/4 SE 1/4 of Section 30-T126N-R57W
 County Marshall

5. County or counties where water will be used Marshall

6. Annual period during which water is to be used April 1 - October 31

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

(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>see attachment "A"</u>			

8. Type of Irrigation: Gravity: Towline: Center Pivot: X Gun: Other (Specify):

9. Crops to be irrigated: corn, beans, sunflowers, small grains, alfalfa

10. Give a description of the project. (Attach sheet if more space is needed)

To add land and change location of some land to be irrigated.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach maps, soils information and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of Marshall SS

I, Gerald Person, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Gerald Person

Subscribed and sworn to before me this 18 day of June 19 93

Claudia Watkins

Notary Public

Marshall County, SD



Land irrigated in Section 29 T126N-R57W:

TOTAL	146 ac
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Land irrigated in Section 30 T126N-R57W:

TOTAL 93 ac



SOUTH DAKOTA
WATER PERMIT NO. 5777-3 FOR IRRIGATION

Date of first receipt of application June 21, 1993.

The Water Management Board approved Water Permit Application No. 5777-3 on July 8, 1998 for Gerald A. Person, PO Box 68, Britton SD 57430 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. 5777-3 appropriates an additional 0.56 cubic feet of water per second (cfs), adds 29 acres and changes the location of some of the irrigated acres authorized by Permit No. 4948-3. Water Permit No. 4948-3 authorizes the diversion of 2.85 cfs from a storage dam for the irrigation of 210 acres located in the NW ¼ and the W ½ NE ¼ of Section 29 and SE ¼ Section 30; all in T126N-R57W. An inspection of Permit No. 4948-3 found 239 acres being irrigated at a diversion rate of 3.41 cfs. The location of the 239 acres being irrigated is the NW ¼ and W ½ NE ¼ Section 29 and the SW ¼ NE ¼ and SE ¼ Section 30; all in T126N-R57W. The storage capacity of the dam is now 120 acre-feet of water and is located in the S ½ NE ¼ and NE ¼ SE ¼ Section 30-T126N-R57W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is June 21, 1993.
4. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The breach in the upstream dike shall be modified to have either a 6 foot bottom and 10 foot top width or an 18 inch culvert shall be placed in the dike breach. This modification is to be completed by August 15, 1998, and subsequently maintained.
4. Water Permit Nos. 4948-3 and 5777-3 authorize a dam with storage capacity of 120 acre-feet of water and sufficient water annually to maintain the water level to the elevation of the drop inlet spillway.

WATER MANAGEMENT BOARD

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

SEP 10 1998

date



NAME OF PERSON OR FILE: Gerald Person

ADDRESS: RR 2 Box 123 Britton SD 57430 COUNTY Marshall

DATE: June 18, 1992 TELEPHONE _____

RE: Classification of Irrigation Dam

COMMENTS:

On June 9, 1992, I talked to Gerald Person about the classification of his Irrigation Dam, located in the NE 1/4 of Section 30 - T126N-R57W. Explained to him that after Mark Rath inspected his Water Right, we discussed the location of his second home and the classification of his dam, and I told Mark that I needed to look at it. Mr. Person said his grandparents lived in the house only part time. He also said he planned to repair the erosion & back cutting that has occurred in the spillway channel.

The height of the home was 19 feet above the channel bottom. Since the dam is approximately the same height (21 feet) and there are several buildings, livestock, etc. in the downstream floodplain, I believe the dam should be classified as a Category 2 - Significant Hazard Dam.

Since the dam was constructed before the adoption of our Safety of Dams Rules (Oct. 27, 1986), it is exempt from spillway requirements. A small size Category 2 dam would be required to pass

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: _____

NAME OF PERSON OR FILE: Gerald Persen - Page 2
ADDRESS: _____ COUNTY _____

DATE: _____ TELEPHONE _____

RE: _____

COMMENTS:

a 100 year frequency event without overtopping the embankment. The Persen dam has a drainage area of 5500 acres, which would produce a peak discharge of approximately 1500 cfs. for a 100 year event. The spillway capacity of the Persen dam is approximately 2600 cfs. The dam currently has the capacity to pass the 100 year event; although, I told Mr. Persen he should consider adding some fill to the embankment crest to level off some settlement. I also told him the erosion & backcutting in the spillway channel needed to be repaired.

$$Q_{100} = 132 A^{\frac{0.65}{2}} S^{\frac{0.46}{2}} S_i^{\frac{0.67}{2}}$$

$$= 132 (8.6)^{\frac{0.65}{2}} 60^{\frac{0.46}{2}} 3.89^{\frac{0.67}{2}}$$

$$= 132 (4.05) (6.58) (0.40)$$

$$= 1410 \text{ cfs}$$

$$A = 5500 \text{ Ac} = 8.6 \text{ mi}^2$$

$$S = \text{Varies from 100 to 200}$$

$$\text{use } 60 \text{ ft/mile}$$

$$S_i = 3.89$$

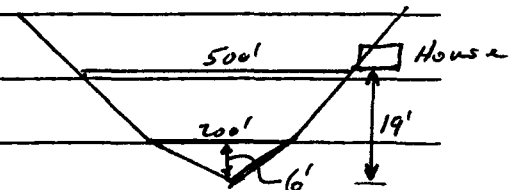
Spillway - 125 ft. wide w/ 4 ft head

D/S Channel - Approx.

$$Q = C L H^{\frac{3}{2}}$$

$$= 2.6 (125) (4)^{\frac{3}{2}}$$

$$= 2600 \text{ cfs}$$



File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Toni Shaul



June 30, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Gerald A. Person
Route 2 Box 123
Britton, SD 57430

Dear Mr. Person:

This letter is in reference to the water permit inspections that I made of your Water Permit Nos. 5034-3 and 4849-3 on June 2, 1992. At that time I found that the dam authorized by Water Permit No. 5034-3 that was to be located in NW1/4 SW1/4 of Section 29 T126N-R57W had not been constructed. Since the construction period for this dam expired on December 5, 1989 and the dam had not been built, I will schedule this permit for cancellation due to failure to construct. Tim Schaal, with the Division of Water Right's Dam Safety program, advised me that you are still considering constructing a dam. I am enclosing the application forms you will need to complete and submit before constructing the proposed dam.

In regard to the irrigated land authorized by Water Permit No. 4849-3, I found discrepancies in the location and number of acres irrigated. The water permit authorized the irrigation of 210 acres I found that a total of 239 acres were being irrigated. An application to add and change the location of irrigated acres needs to be filed with this office. I am enclosing partially completed application forms and the instruction sheet. You should carefully review, complete, sign before a notary public and submit to this office along with a \$150 fee. I contacted Jim Stukel with the Division of Conservation, they are not requiring a new water sample for the Soil/Water Compatibility Permit.

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

Sincerely,

Mark D. Rath
Natural Resources Engineer
Division of Water Rights
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 1, 1992

Gerald A. Person
Rt 2, Box 123
Britton SD 57430

Dear Mr. Person:

On June 30, 1992, you were sent applications forms for a permit to appropriate water based on an inspection of Water Permit No. 4849-3 by Mark Rath, an engineer with this office. This inspection showed that your system was not developed as originally permitted. This application is necessary to obtain a permit which will reflect your water use. To date, we have not received a response from you regarding this application.

Enclosed is another set of partially completed application forms. Please review the application and have it signed and notarized. Return the application with any additional information requested in the first letter to you.

Obtaining water permits that accurately reflect your water use ultimately benefits you by protecting your right to use water. Water Permit No. 4849-3 can not be licensed until this application is processed and a permit obtained to reflect your current water use in accordance with state statutes. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

Sincerely,

Karen Schlaak
Natural Resources Analyst
Phone: (605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 1993

Gerald A. Person
RR 2, Box 123
Britton SD 57430

Dear Mr. Person:

Enclosed is the your water permit application received on March 12, 1993. The application is being returned because it must be signed by a notary public.

Upon receipt of the notarized application, 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 9, 1993

Gerald A. Person
RR 2, Box 123
Britton SD 57430

Dear Mr. Person:

On March 12, 1993, you submitted an application (copy enclosed) for a permit to appropriate water for irrigation of additional acres not covered by Water Permit No. 4948-3. You were notified on March 15, 1993 (copy enclosed) that the application needed to be notarized. To date, we have not received the notarized application from you.

Obtaining a water permit ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

Please submit the notarized application as soon as possible to avoid jeopardizing your permit. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosure

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4780

WR#

OWNERS NAME: PERSON, GERALD A OWNERS ADDRESS: RR 2 BOX 123

BRITTON SD 57430

COUNTY LAND LOCATED IN: MARSHALL PHONE: 448-2544

LEGAL DESCRIPTION:

1. LOCATION: DAN: $5\frac{1}{2}$ NE $\frac{1}{4}$ & NE $\frac{1}{4}$ SE $\frac{1}{4}$ 30-T126N-R57W

☐ Well

☐ Surface

Depth: _____

LEGAL DESCRIPTION:

NW1/4 NW1/4 29-T126N-R57W = 33 A NE1/4 NW1/4 29-T126N-R57W = 37 A
SE1/4 NW1/4 29-T126N-R57W = 37 A SW1/4 NW1/4 29-T126N-R57W = 31 A
NW1/4 NE1/4 29-T126N-R57W = 4 A SW1/4 NE1/4 29-T126N-R57W = 4 A

SW1/4 NE1/4 30-T126N-R57W = 6 A NW1/4 SE1/4 30-T126N-R57W = 37 A
NE1/4 SE1/4 30-T126N-R57W = 24 A SE1/4 SE1/4 30-T126N-R57W = 11 A
SW1/4 SE1/4 30-T126N-R57W = 15 A

2. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: XXX GUN: _____ (Specify) _____ OTHER: _____

3. CROPS TO BE IRRIGATED: CORN, BEANS, SUNFLOWERS, SMALL GRAINS, ALFALFA

WATER QUALITY:

4. WATER SAMPLE NUMBER: 83-0039 7. ADJUSTED (SAR): 1.10
5. SALINITY (EC X 10⁶): 1080 8. PERCENT SODIUM: 10.98
6. SODIUM (SAR): 0.59

Requirements:

The mapping units of Forman-Buse loam (FaE) 15-25% slope; Mladen-Buse Complex (Kbk) 13-40% slope and Forman-Buse loams, eroded (FaG2) 6-9% slope are all subject to rapid runoff and a severe erosional hazard. These areas shall not be irrigated.

The mapped as Loamy Alluvial Land has a meandering stream channel and is subject to a water table and flooding. This area shall not be irrigated and shall remain in permanent vegetation.

[Signature]
Director, Division of Conservation

JUNE 28, 1993

Date

XXX APPROVED
____ DISAPPROVED
____ WAIVER

XXX REQUIREMENTS

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.



RECEIPT

413674

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, March 12, 19 93RECEIVED OF Gerald Person, RR 2 Box 123, Britton, SD 57430

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

Fee for Application for Permit No. <u>5777-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	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 _____		

(Any Other Work Provided by Law)	Total	150 00

By John Hatch
Chief Engineer

<u>Drainage Area</u>	<u>West</u>	<u>East</u>	
	4370 Ac.	2160 Ac.	$4370/640 = 6.8$
<u>DA = 6530 Ac. = 10.2 mi²</u>			$2160/640 = 3.4$

Slope East to West Total
 $1870 - 1440 / 5 = 86 \text{ ft/mile}$

Mile 1 $1840 - 1780 = 60 \text{ ft}$
 2 $1780 - 1630 = 150$
 3 $1630 - 1530 = 100$
 4 $1530 - 1460 = 70$
 5 $1460 - 1440 = 20$

$400 \text{ ft}/5 \text{ mile} = 80 \text{ ft/mile}$

Use Slope = 85 ft/mile

$S_i = 3.89 \text{ fig. 13}$

$Q_e = 21.2 A^{.48} S^{.44} S_i^{-1.16}$
 $= 21.2(10.2)^{.48} 85^{.44} 3.89^{-1.16}$
 $= 21.2(3.05)(7.06)(0.21)$
 $= 94.43 \text{ cfs say}$
 $Q_e = 95 \text{ cfs}$

$Q_s = 41.2 A^{.53} S^{.42} S_i^{-.91}$
 $= 41.2(10.2)^{.53} 85^{.42} 3.89^{-.91}$
 $= 41.2(3.42)(6.46)(0.29)$
 $= 264.42 \text{ cfs say}$
 $Q_s = 265 \text{ cfs}$

$Q_{10} = 57.7 A^{.56} S^{.43} S_i^{-.80}$
 $= 57.7(10.2)^{.56} 85^{.43} 3.89^{-.80}$
 $= 57.7(3.67)(6.76)(0.34)$
 $= 482.87 \text{ cfs say}$
 $Q_{10} = 480 \text{ cfs}$

$Q_{25} = 83.4 A^{.60} S^{.44} S_i^{-.72}$
 $= 83.4(10.2)^{.60} 85^{.44} 3.89^{-.72}$
 $= 83.4(4.03)(7.06)(0.38)$
 $= 892.3 \text{ cfs say}$
 $Q_{25} = 890 \text{ cfs}$

$Q_{50} = 106 A^{.63} S^{.45} S_i^{-.69}$
 $= 106(10.2)^{.63} 85^{.45} 3.89^{-.69}$
 $= 106(4.32)(7.38)(0.39)$
 $= 1323.67 \text{ cfs say}$
 $Q_{50} = 1325 \text{ cfs}$

$Q_{100} = 132 A^{.65} S^{.46} S_i^{-.67}$
 $= 132(10.2)^{.65} 85^{.46} 3.89^{-.67}$
 $= 132(4.52)(7.72)(0.40)$
 $= 1853.80 \text{ say}$
 $Q_{100} = 1850 \text{ cfs}$

Drainage Area

$$\text{Fryer Dam} - DA(A) = \underline{7.4 \text{ mi}^2}$$

$$\text{Persson Dam} - DA(A+B) = 7.4 + 2.8 = \underline{10.2 \text{ mi}^2}$$

$$\text{Slope} - \text{Fryer Dam } 1840 - 1530/3 = \underline{100 \text{ ft/mile}}$$

$$\text{Slope} - \text{Persson Dam D/S Fryer (B) Only} = 1530 - 1440/2 = \underline{45 \text{ ft/mile}}$$

$$S_i = 3.89$$

Fryer Dam

$$\begin{aligned} Q_2 &= 21.2 A^{.48} S^{.44} S_i^{-1.16} \\ &= 21.2 (7.4)^{.48} 100^{.44} 3.89^{-1.16} \\ &= 21.2 (2.61) (7.59) (0.21) \\ Q_2 &= \underline{87 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} V_2 &= 129 A^{.072} S_i^{-1.74} \\ &= 129 (7.4)^{.72} 3.89^{-1.74} \\ &= 129 (4.23) (0.09) \\ V_2 &= \underline{51 \text{ Ac} \cdot \text{Ft.}} \end{aligned}$$

$$\begin{aligned} Q_5 &= 41.2 A^{.53} S^{.42} S_i^{-1.91} \\ &= 41.2 (7.4)^{.53} 100^{.42} 3.89^{-1.91} \\ &= 41.2 (2.89) (6.92) (0.29) \\ Q_5 &= \underline{240 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} V_5 &= 222 A^{.72} S_i^{-1.69} \\ &= 222 (7.4)^{.72} 3.89^{-1.69} \\ &= 222 (4.23) (0.10) \\ V_5 &= \underline{95 \text{ Ac} \cdot \text{Ft.}} \end{aligned}$$

$$\begin{aligned} Q_{15} &= 83.4 A^{.60} S^{.44} S_i^{-1.72} \\ &= 83.4 (7.4)^{.60} 100^{.44} 3.89^{-1.72} \\ &= 83.4 (3.32) (7.59) (0.38) \\ Q_{15} &= \underline{790 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} V_{15} &= 403 A^{.75} S_i^{-1.59} \\ &= 403 (7.4)^{.75} 3.89^{-1.59} \\ &= 403 (4.48) (0.12) \\ V_{15} &= \underline{209 \text{ Ac} \cdot \text{Ft.}} \end{aligned}$$

Person Dam DA(B)

$$\begin{aligned}
 Q_2 &= 21.2 A^{.48} S^{.44} S_i^{-1.16} \\
 &= 21.2 (2.8)^{.48} 45^{.44} 3.89^{-1.16} \\
 &= 21.2 (1.64) (5.34) (0.21) \\
 Q_2 &= 38 \text{ cfs}
 \end{aligned}$$

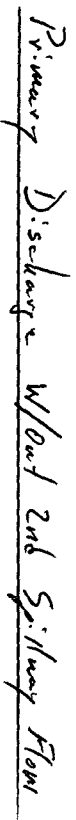
$$\begin{aligned}
 V_2 &= 129 A^{.72} S_i^{-1.74} \\
 &= 129 (2.8)^{.72} 3.89^{-1.74} \\
 &= 129 (2.10) (0.09) \\
 V_2 &= 25 \text{ Ac-Ft.}
 \end{aligned}$$

$$\begin{aligned}
 Q_5 &= 41.2 A^{.53} S^{.42} S_i^{-.91} \\
 &= 41.2 (2.8)^{.53} 45^{.42} 3.89^{-.91} \\
 &= 41.2 (1.73) (4.95) (0.29) \\
 Q_5 &= 102 \text{ cfs}
 \end{aligned}$$

$$\begin{aligned}
 V_5 &= 222 A^{.72} S_i^{-1.69} \\
 &= 222 (2.8)^{.72} 3.89^{-1.69} \\
 &= 222 (2.10) (0.10) \\
 V_5 &= 47 \text{ Ac-Ft.}
 \end{aligned}$$

$$\begin{aligned}
 Q_{25} &= 83.4 A^{.60} S^{.44} S_i^{-.72} \\
 &= 83.4 (2.8)^{.60} 45^{.44} 3.89^{-.72} \\
 &= 83.4 (1.85) (5.34) (0.38) \\
 Q_{25} &= 310 \text{ cfs}
 \end{aligned}$$

$$\begin{aligned}
 V_{25} &= 403 A^{.75} S_i^{-1.59} \\
 &= 403 (2.8)^{.75} 3.89^{-1.59} \\
 &= 403 (2.16) (0.12) \\
 V_{25} &= 100 \text{ Ac-Ft.}
 \end{aligned}$$



Pipe Flow 3' Dia CRP

$$Q = a \sqrt{\frac{2SH}{1 + K_u + K_L}}$$

$$\begin{aligned} H &= 10' \\ L &= 42 + 14 + 21 = 77 \\ K_m &= 1 \\ K_D &= 0.0246 \end{aligned}$$

$$Q = 7.07 \sqrt{\frac{2(32.2)(10)}{1 + 1 + 0.0246(17)}}$$

= 90 cfs

INTERNATIONAL

42-381 50 SHEETS 5 SQUARE
42-382 100 SHEETS 5 SQUARE
42-389 200 SHEETS 5 SQUARE

Made in U.S.A.

Nov. 16, 1993

Est. Cost

Northwestern Sheet & Iron Works (Watertown)

8ft Riser 54" Dia w/ 48" Stub

page (11) $657.82 \times 2 = \$1315.64$

48" Dia Barrel

page (1) $54.68 \times 77 = \$4210.36$

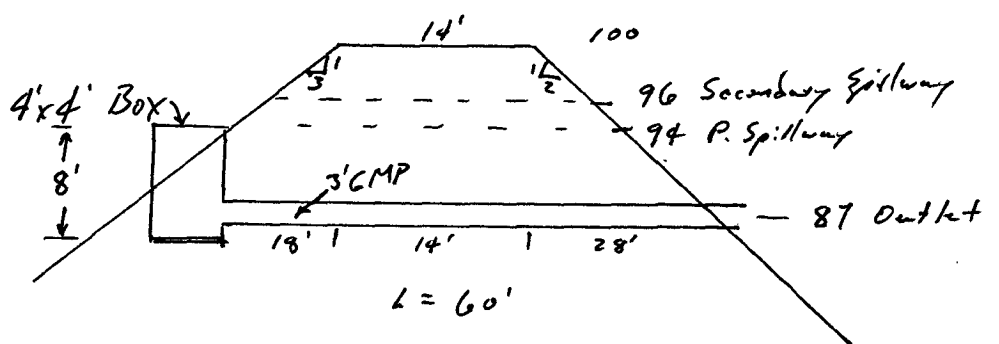
Bands - 4 12" wide

page (1) ~~$67.62 \times 4 = \$270.48$~~

page 14 Water Tight
 $161.11 \times 4 = \$644$

Anti-Sump Diaphragm Est \$500

Est Total = \$6670



Primary Spillway w/out Secondary Flow

Weir Flow 4' x 4' Box

$$Q = C L H^{3/2} \quad L = 16'$$

$$= 3(16) 1^{3/2} = \underline{48 \text{ cfs}}$$

$$= 3(16) 2^{3/2} = \underline{136 \text{ cfs}}$$

$$Q = C L H^{3/2}$$

$$= 3(16)(1.5)^{3/2} = \underline{88 \text{ cfs}}$$

Pipe Flow 3' Dia CMP

$$Q = a \sqrt{\frac{2.5 H}{1 + K_m + K_p L}}$$

$$a = \pi r^2 = 3.14(1.5)^2 = 7.07 \text{ ft}^2$$

$$H = 9 \text{ ft}$$

$$L = 60'$$

$$K_m = 1$$

$$K_p = 0.0246$$

$$Q = 7.07 \sqrt{\frac{2(32.2)(9)}{1 + 1 + (0.0246)60}}$$

$$= \underline{91 \text{ cfs}} \text{ w/2' Head}$$

$$Q = 7.07 \sqrt{\frac{2(32.2)(8)}{1 + 1 + (0.0246)60}}$$

$$= \underline{86 \text{ cfs}} \text{ w/1' Head}$$

* After 1.5' Head Spillway goes from Inlet Control (Box) to 3' CMP Control $Q_s \approx 100 \text{ cfs}$ for DA Below Fryer Dam

$$Q \text{ w/3' Head} = 96 \text{ cfs}$$

$$Q \text{ w/4' Head} = \underline{101 \text{ cfs}}$$

7/5/94

Person Dam & Upstream Road Survey

Tim Schanl
Lynn Beck

STA	+	HI	-	Elev
	10.79	110.79		100
			6.71	104.08
			3.35	107.44
			4.42	106.37
			5.16	105.13
			6.38	104.41
			7.03	103.76
			7.03	103.76
			11.10	99.69
			12.50	98.29
			7.0	103.79
			7.53	103.26
			6.93	103.86
			5.80	104.99
			4.85	103.94

H2O Below U/S Bridge

Top U/S Dike along H. E. Ford

& Road Above Bridge

" " 50' South

" "

" "

" "

" " About 18" CAPP

Top U/S ^(East) 18" CAPP

Invert ^(East) 18" CAPP

& Road 50' South

Base of Delaware Strait Bay

& Delaware Driveway

Road End South

Lowest Rock

Sta	+	HI	-	Elev
	10.95	110.95		100
			8.57	102.38
			8.34	102.61
			8.55	102.40
			7.90	103.05
			5.01	105.94
			5.43	105.52
			6.35	104.60
			6.40	104.55
			6.26	104.69
			5.85	105.10
			5.10	105.85
			4.45	106.50
			4.45	106.50
			3.55	107.40

H₂O at Dam

Bottom Earth Spillway

" "

" "

" "

Top of Dam N. End

" " 50'

" " 30'

" " 20'

" " 50'

" " 50'

" " 50'

" " 50'

" " 50'

" " 50 S. End

Survey Results - Survey completed on 7/5/94

Top of Dam - Varies 104.55 to 106 at N!S End

Bottom Earth Spillway - Varies 102.4 to 103.5 (N. Side)

H2O Level on 7/5/94 - 100 (2.4 Feet Below Spillway)

Top of U/S Dike (N. End) - 104.08

18" CMP U/S Road Invert - 98.29
(East End)

4 U/S Gravel Road - 103.76
(Low Spot)

Area Capacity DataOriginal Design

Dam Height = 20 ft.

Spillway 4 ft. Below Crest - 16 ft. Max. Depth

Surface Area = 25 Acres

$$25 \times 16 \times .5 = \underline{200 \text{ Ac.-Ft. Normal Capacity}}$$

If Spillway lowered 2 ft.

Dam Height = 20 ft.

Max. Depth = 14 ft.

Surface Area = 22.5 Acres

$$22.5 \times 14 \times .5 = \underline{158 \text{ Ac.-Ft. Normal Capacity}}$$

If Spillway lowered 4 ft.

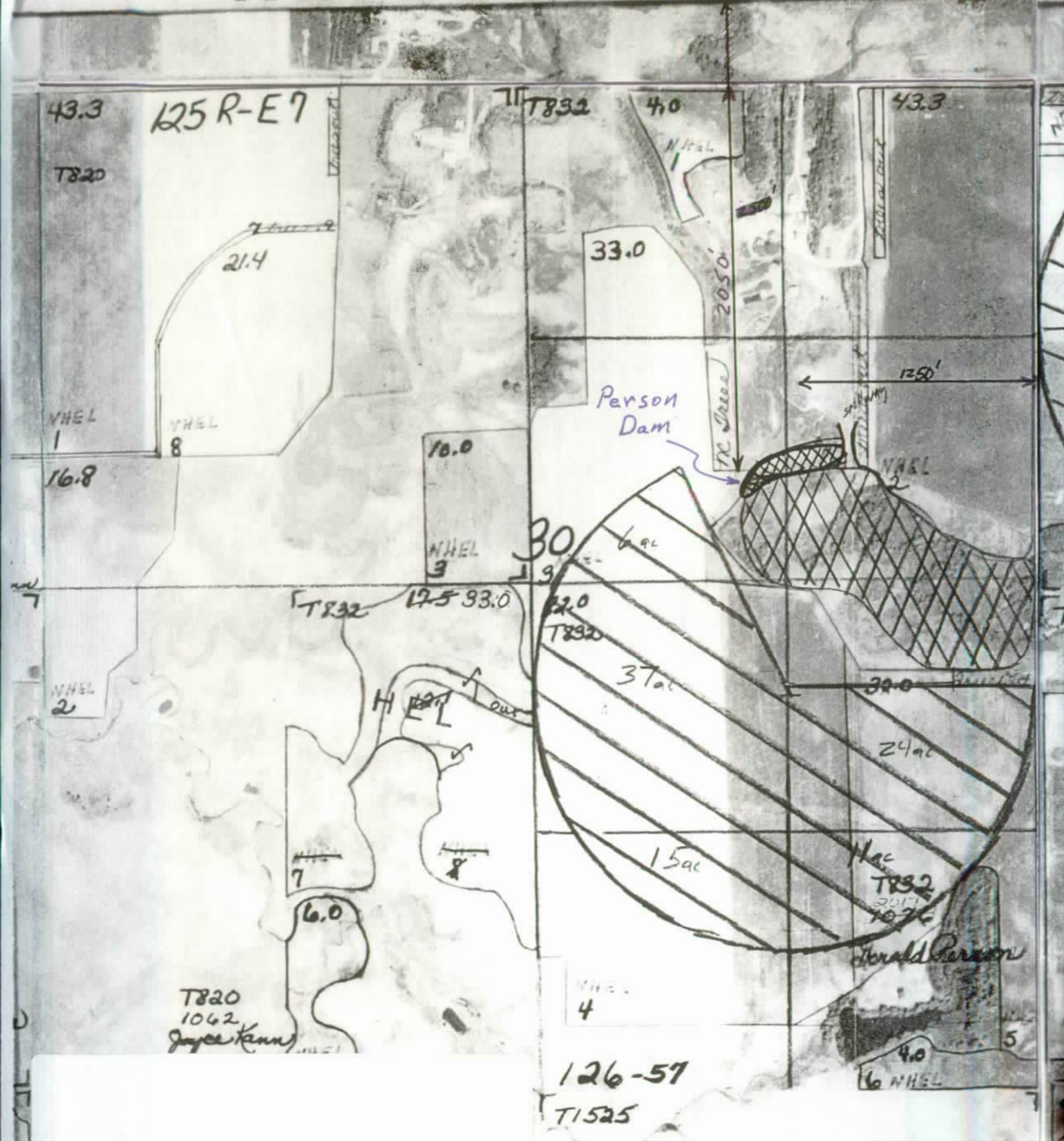
Dam Height = 20 ft.

Max. Depth = 12 ft.

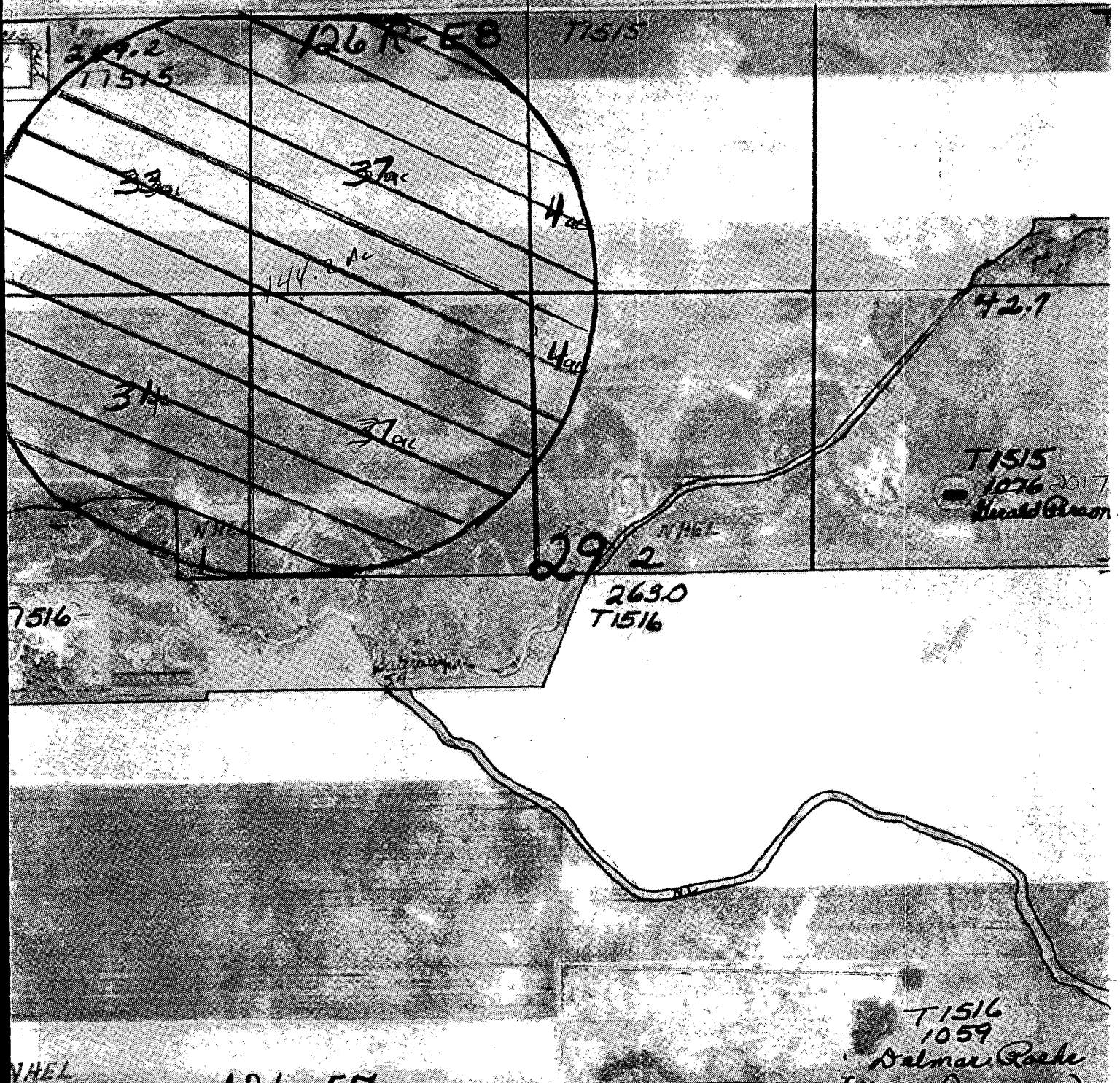
Surface Area = 20 Acres

$$20 \times 12 \times .5 = \underline{120 \text{ Ac.-Ft. Normal Capacity}}$$

NOT TO SCALE



NOT TO SCALE



126-57

126 R-E8

Water Permit No. 4948-3 & 5777-3

Timothy H. Schaal

August 28, 1998

5777.3

[illegible]

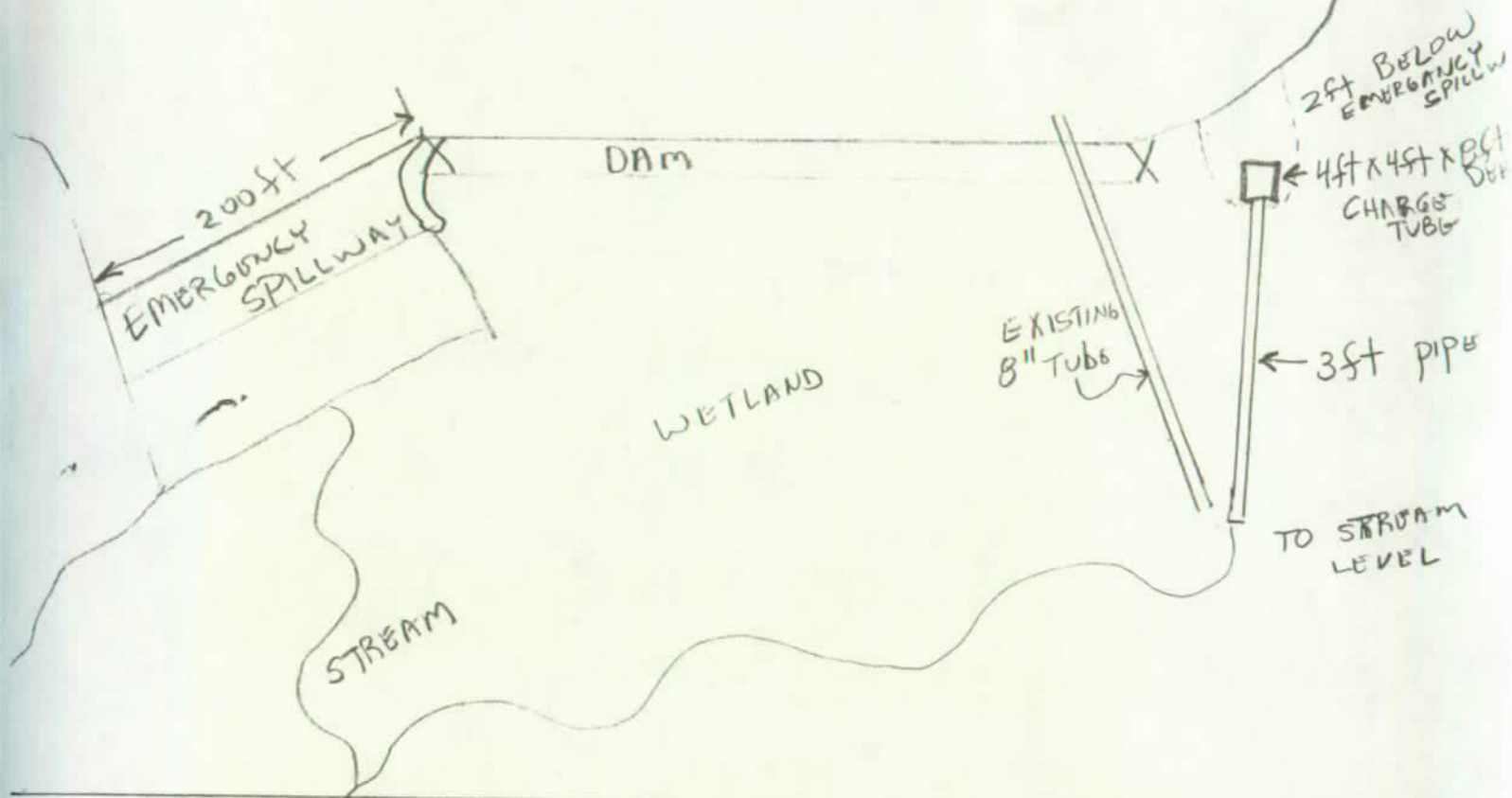
-FRYER DAM

BRITTON
23 FORL1465

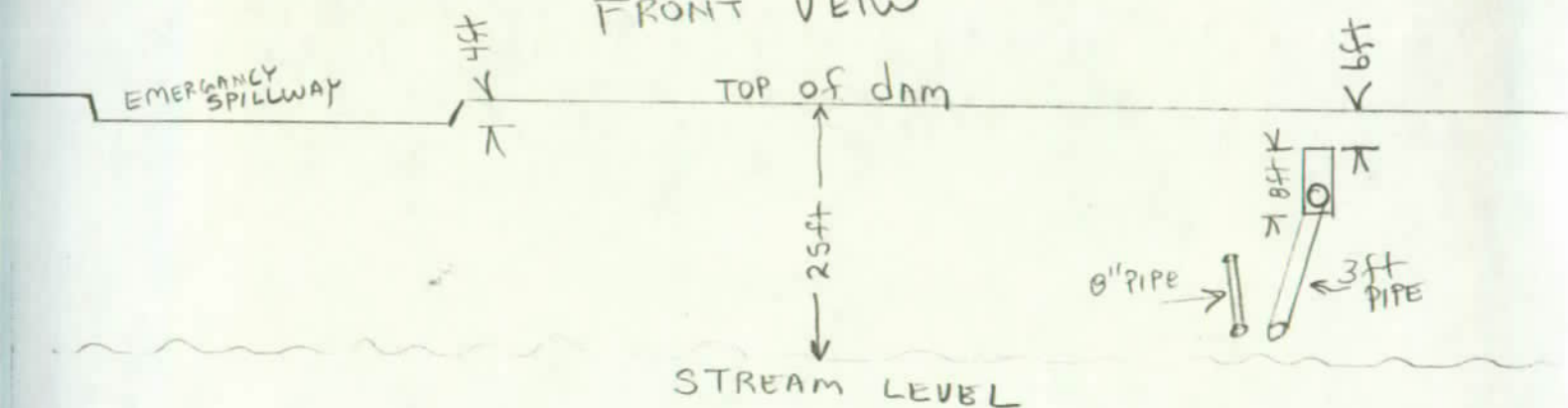
PERSON DAM
LOCATION MAP

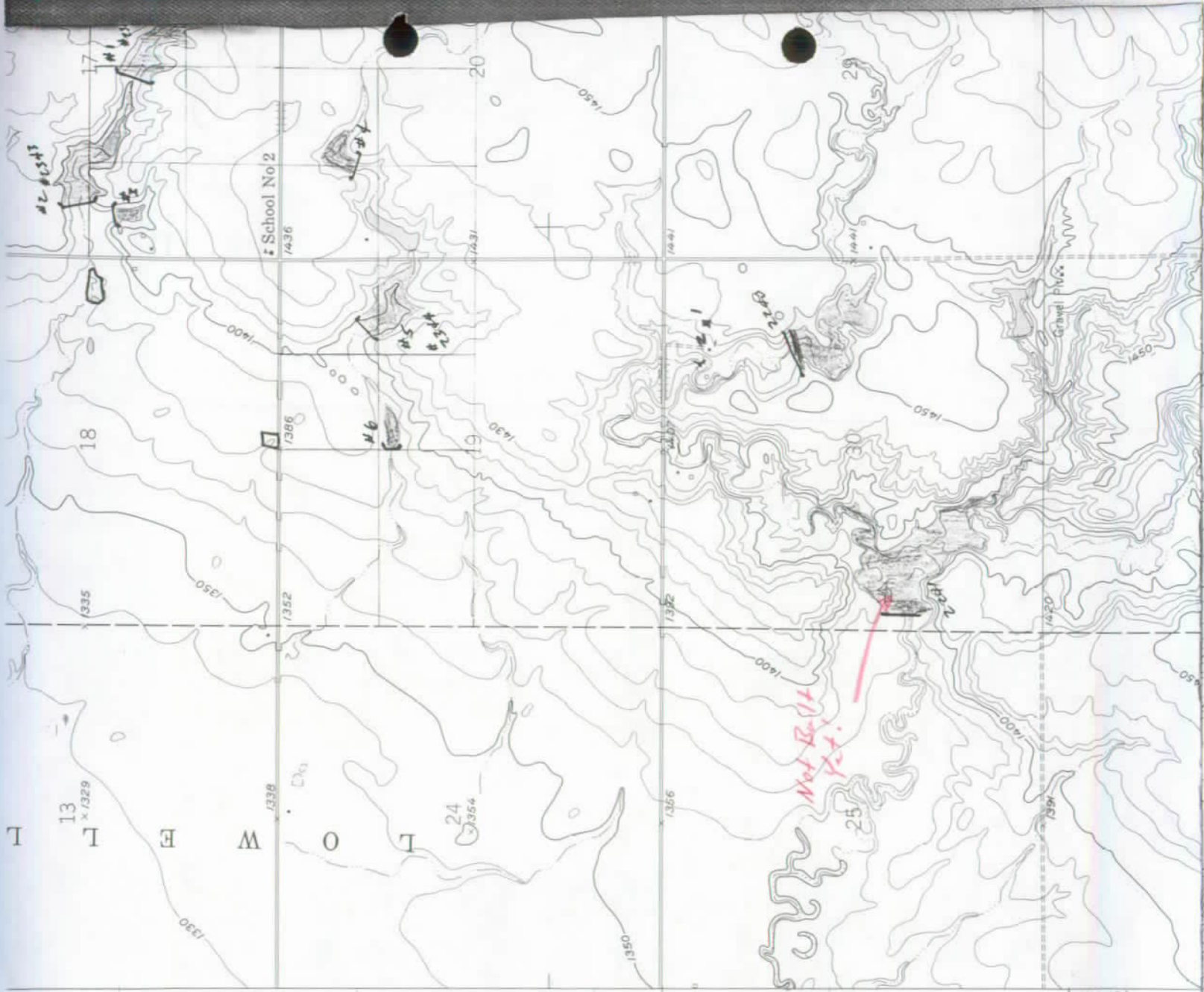
Top View

WATER



FRONT VIEW





(SPAIN)

42°30'N

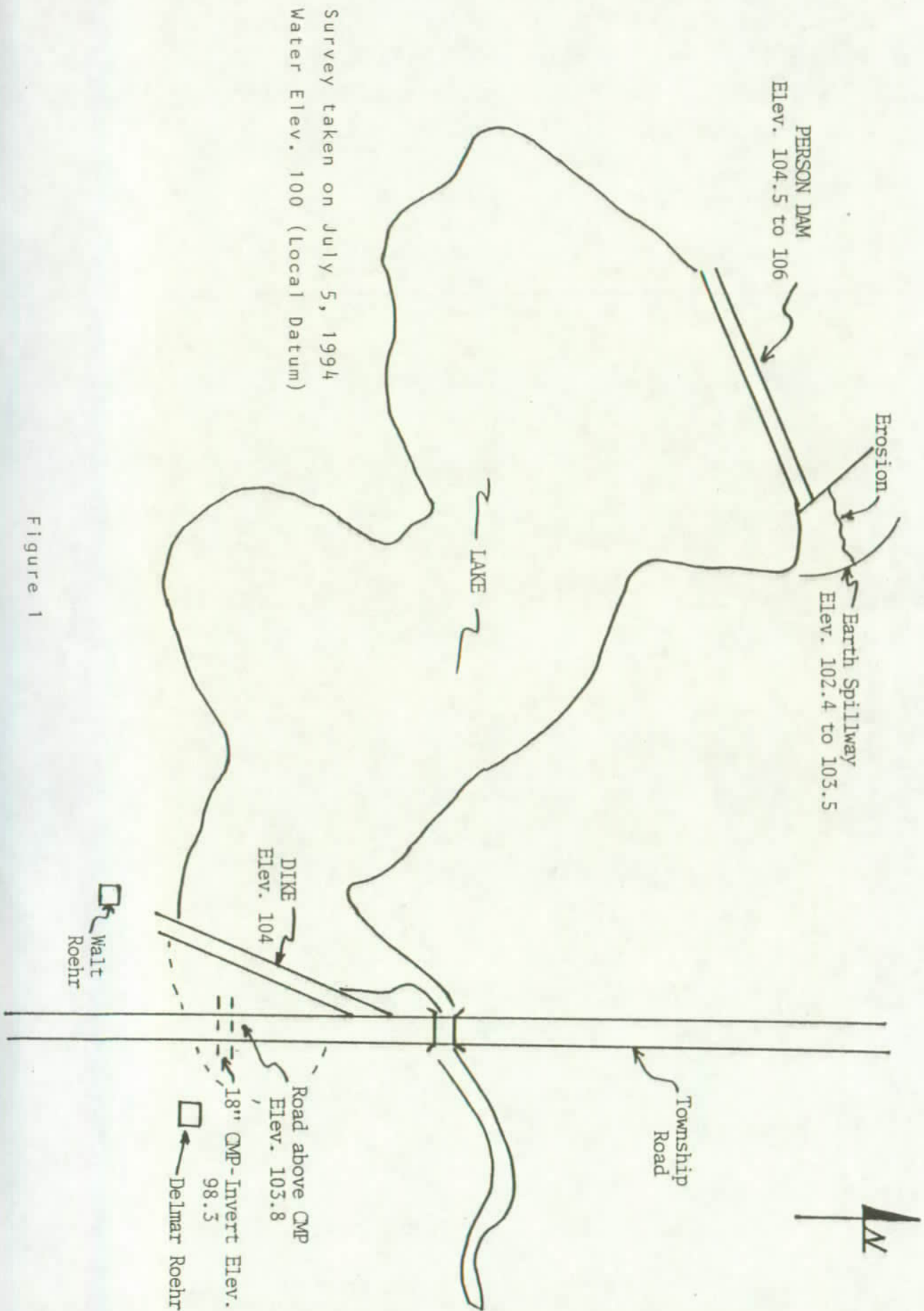
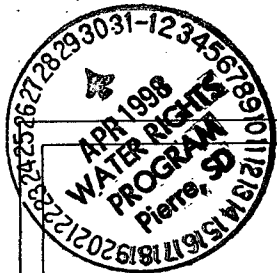


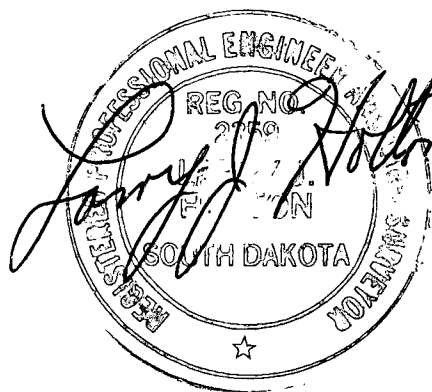
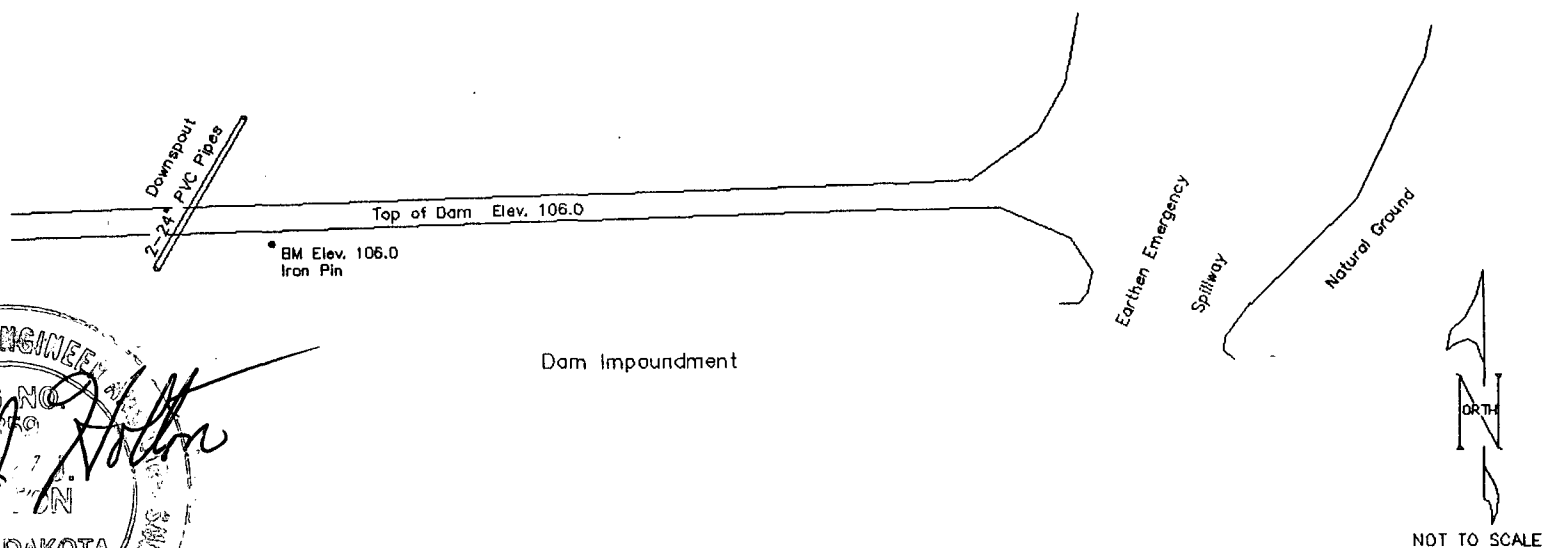
Figure 1



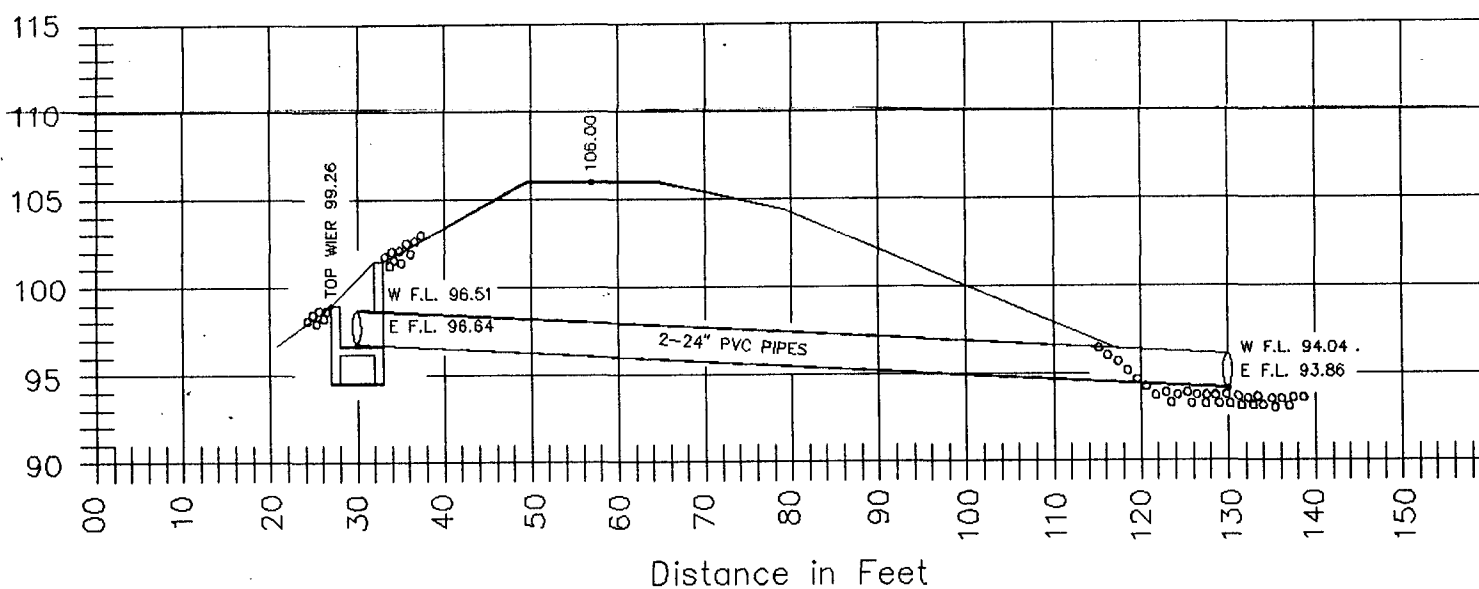
AS CONSTRUCTED

GERALD PERSON DAM

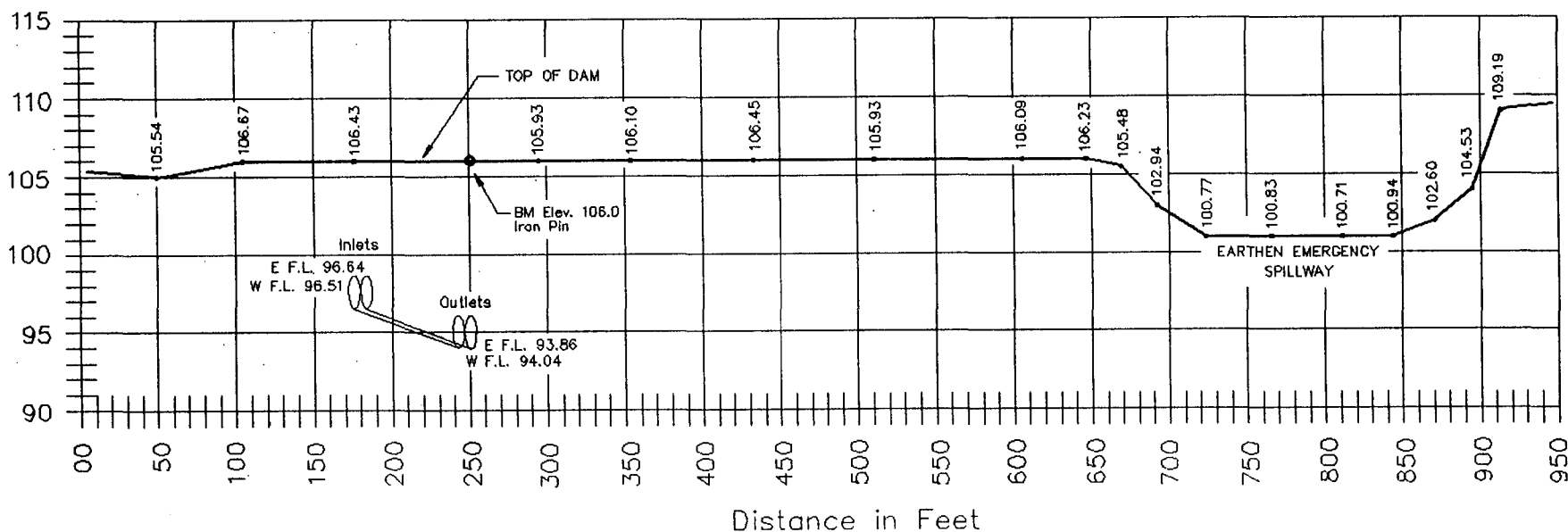
LOCATED IN THE S1/2, NE1/4 Section 30, T126N, R57W
(Waverley Twp.) Marshall County, South Dakota



CROSS SECTION OF DOWNSPOUT



PROFILE OF DAM & SPILL WAY



GERALD PERSON DAM REHABILITATION

LOCATION:

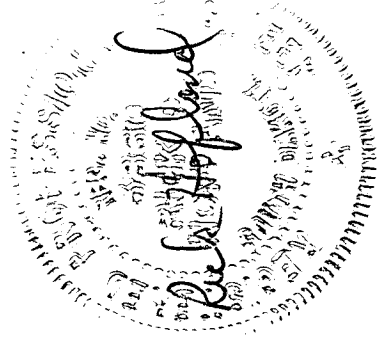
S1/2NE1/4 SECTION 30 - T126N R57W
MARSHALL COUNTY

PLANS PREPARED BY:

HOFLAND ENGINEERING

P.O. BOX 229
VEBLEN, S.D. 57270

202 SOUTH MAIN ST
CITIZENS BLDG., STE 300
P.O. BOX 1006
ABERDEEN, S.D. 57402



The purpose of these plans is to repair erosion to the existing earthen spillway of this dam, lower the existing earthen spillway, level the existing dam embankment, place a culvert in the existing dike, and construct a new drop inlet spillway to be used as the primary spillway.

These modifications will allow the dam to withstand a 100 year flood without being overtopped. They will also alleviate the flooding problem at the east end of the dam.

Flow Calculations:

- a) Calculate flow capacity of the Primary Drop Inlet Spillway before Emergency Earth Spillway is used:
 Emergency Earth Spillway Elev. = 100.8
 Top of Wier Drop Inlet Spillway Elev. = 98.3
 Center of 2-24" PVC discharge pipes at outlet end = 94.8

a) Wier Capacity $Q = CLH^{3/2}$ $C=3, L=14', H=2.5'$
 $Q = 3(14')(2.5')^{3/2} = \underline{166 \text{ cfs}}$

b) Discharge Pipes $Q = a \sqrt{\frac{2(32.2)H}{1+K_m+K_p}} L$
 $K_m=1 \quad K_p=.00735 \quad L=100' \quad H=100.8-94.8=6.0'$
 For 1 pipe $Q = 3.14 \sqrt{\frac{2(32.2)(6.0)}{1+.735}} = 37.3 \text{ cfs}$
 For 2 pipes $Q = \underline{74.6 \text{ cfs}}$

Therefore PVC Discharge Pipes control.
 The the Primary Drop Inlet Spillway will be able to handle a flow of 77.6 cfs before the Emergency Earth Spillway is used.

Flow Calculations:

- 2) Calculate flow capacity of Primary Drop Inlet Spillway plus Emergency Earth Spillway before the dam embankment is overtopped:
 Dam Embankment Elevation = 106.0
 Center of 2-24" PVC discharge pipes at outlet end = 94.8
 Emergency Earth Spillway Elevation = 100.8
 Emergency Earth Spillway Bottom Width = 110' with 3:1 side slopes.

a) Primary Drop Inlet Capacity (Discharge Pipes Control):
 $Q = a \sqrt{\frac{2(32.2)H}{1+K_m+K_p}} L$ $K_m = 1 \quad K_p = .00735$
 $Q \text{ for 1 pipe} = 3.14 \sqrt{\frac{2(32.2)(11.2)}{1+.735}} 100 = 51.0 \text{ cfs}$
 $Q \text{ for both pipes} = \underline{102 \text{ cfs}}$

b) Emergency Earth Spillway Capacity:
 $Q = C L H^{3/2}$ $C=2.6 \quad H=106.0-100.8=5.2'$
 $L = (5.2 \times 3:1 \text{ slopes}) + 110' \text{ bottom width}$
 $Q = 2.6 (25.6') (5.2')^{3/2} = \underline{3872 \text{ cfs}}$

c) Combined Capacity of Emergency Spillway plus Primary Spillway:
 $104 \text{ cfs} + 3872 \text{ cfs} = \underline{3976 \text{ cfs}}$

Flow Calculations:

- 3.) Calculate flow necessary to cause township road at east end of Dam to be submerged:
 Lowest elevation on sag curve in township road = 103.6'
 Center of 2-24" PVC discharge pipes at outlet end = 94.8'
 Emergency Earth Spillway Elevation = 100.8'

a.) Primary Drop Inlet Flow (Discharge Pipes Control):

$$Q = A \sqrt{\frac{2(32.2)H}{1 + K_L + (K_P)L}}$$

$$K_L = 1 \quad K_P = .00735$$

$$L = \frac{100'}{\frac{2(32.2)(8.8)}{1 + (.00735)(100)}} \quad H = 103.6' - 94.8' = 8.8$$

$$Q \text{ for 1 pipe} = 3.14 \sqrt{\frac{2(32.2)(8.8)}{1 + (.00735)(100)}} = 45.2 \text{ cfs}$$

$$Q \text{ for 2 pipes} = \underline{90 \text{ cfs}}$$

b.) Emergency Earth Spillway Flow:

$$Q = C L H^{3/2} \quad C = 2.6 \quad H = 103.6 - 100.8 = 2.8'$$

$$L = (2.8 \times 3:1 \text{ slopes}) + 110' \text{ bottom width}$$

$$Q = 2.6 (118.4) (2.8)^{3/2} = \underline{1442 \text{ cfs}}$$

- c.) The combination of the Primary Drop Inlet Spillway plus the Emergency Earth Spillway can handle a flow of 90 cfs + 1442 cfs = 1532 cfs before the township road at the east end of the dam is submerged.

Flow Calculations:

- 4.) Calculate depth of water over township road at east end of Dam during 100 year flood.
 - Lowest elevation on sag curve in township road = 103.6'
 - Center of 2-24" PVC discharge pipes at outlet end = 94.8'
 - Emergency Earth Spillway Elevation = 100.8'
 - Assume water level is at emergency spillway elevation when 100 year flood occurs.
 - 100 year flood flow is 1850 cfs for entire drainage area as per Tim Schaal's "Report on Gerald Person Dam" dated August 23, 1994.
 - Trial & Error gives elevation 104.0'

a.) Primary Drop Inlet Spillway Flow:

$$Q = \left(3.14 \sqrt{\frac{2(32.2)(9.2)}{2.735}} \right) 2 = \underline{92 \text{ cfs}}$$

b.) Emergency Earth Spillway Flow:

$$Q = 2.6 (118.6) (3.2)^{3/2} = \underline{1780 \text{ cfs}}$$

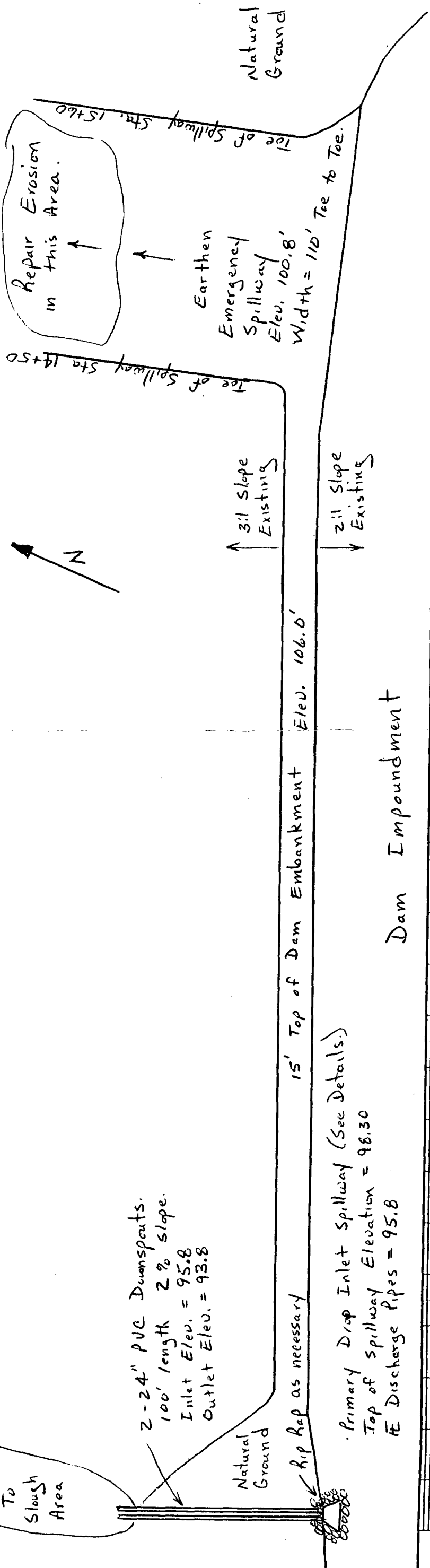
c.) Combined Spillways Flow:

$$92 \text{ cfs} + 1780 \text{ cfs} = \underline{1872 \text{ cfs}} = \text{approx 100 yr flood.}$$

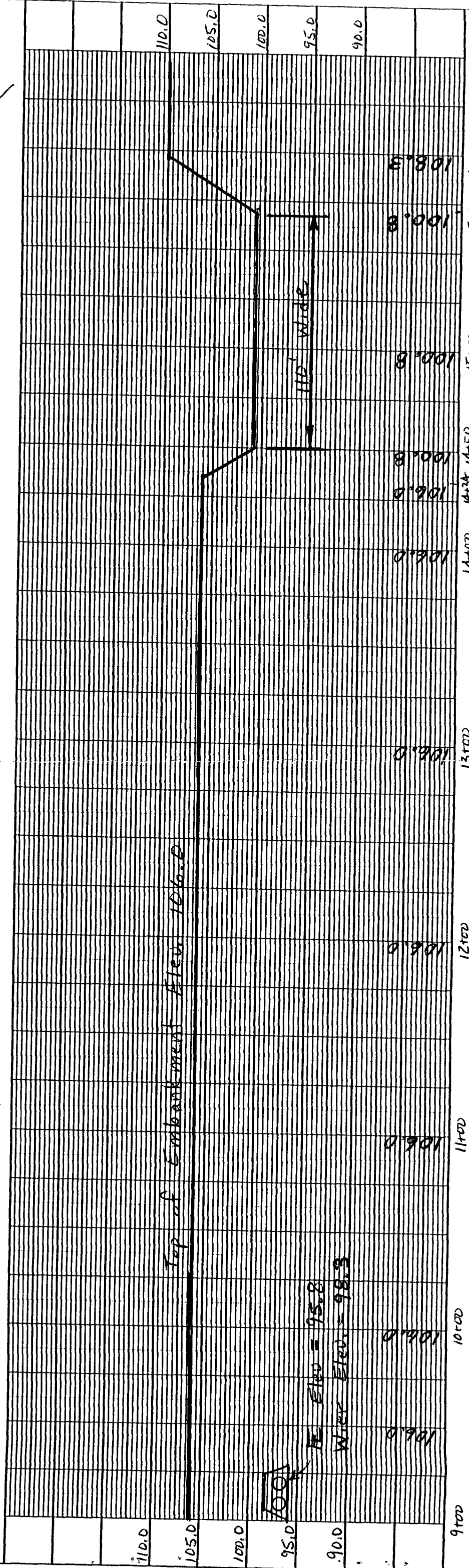
Above calculations indicate that the township road would be submerged under 0.2' of water in its lowest spot during a 100 year flood flow if the water level in the dam was at the emergency spillway level when this flow occurs.

Dam and Spillway Layout

Gerald Person Dam

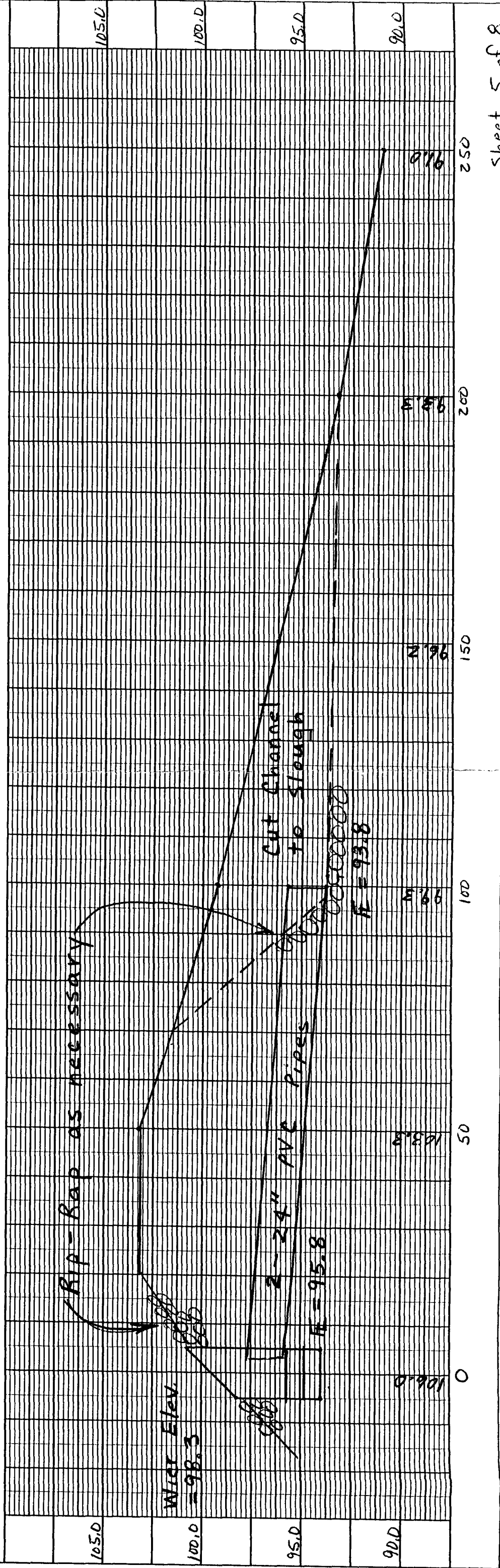
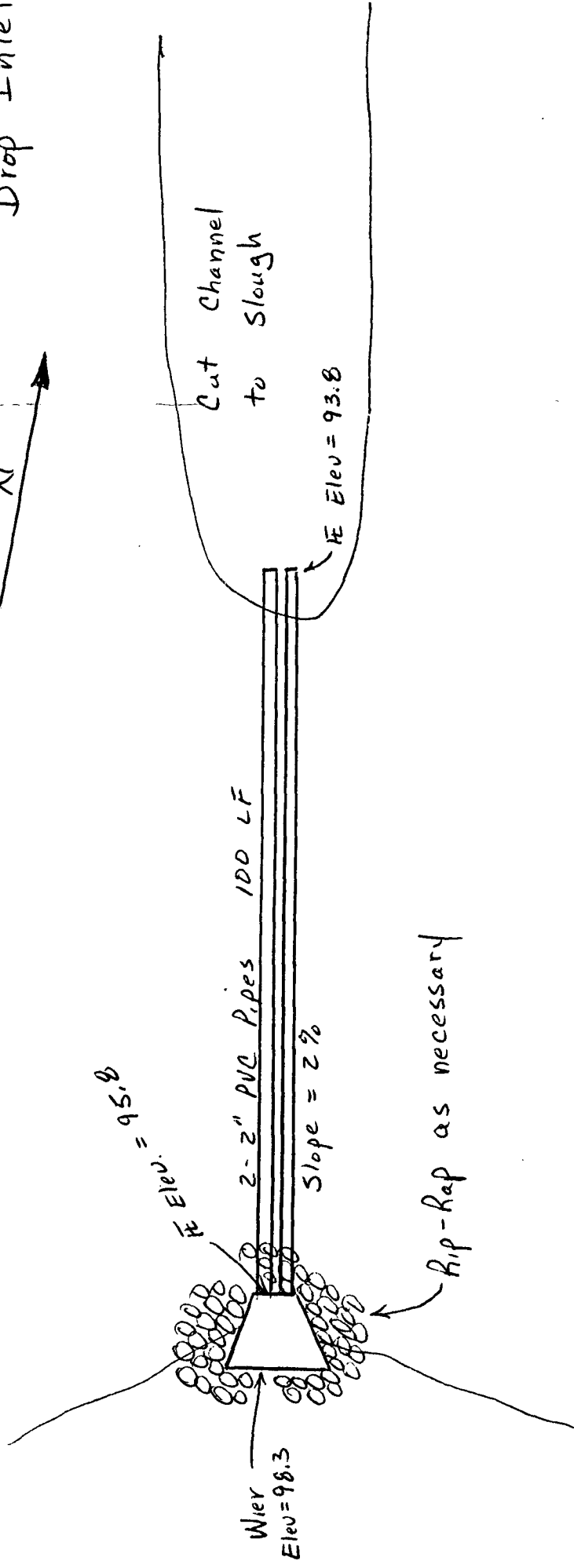


Dam Impoundment

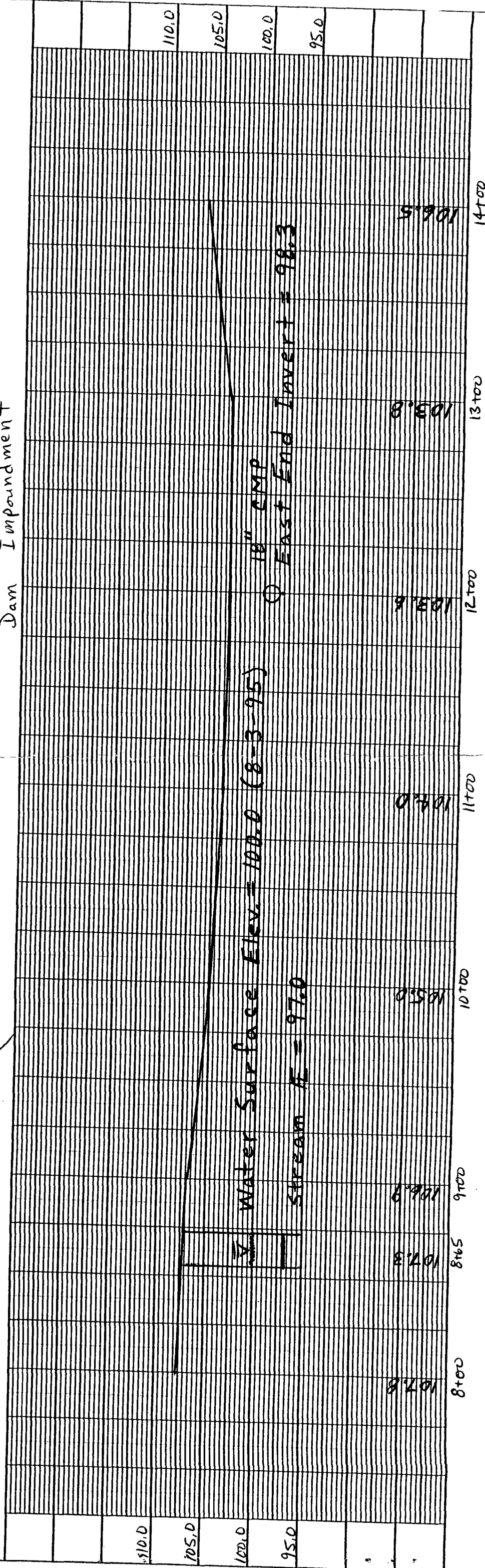
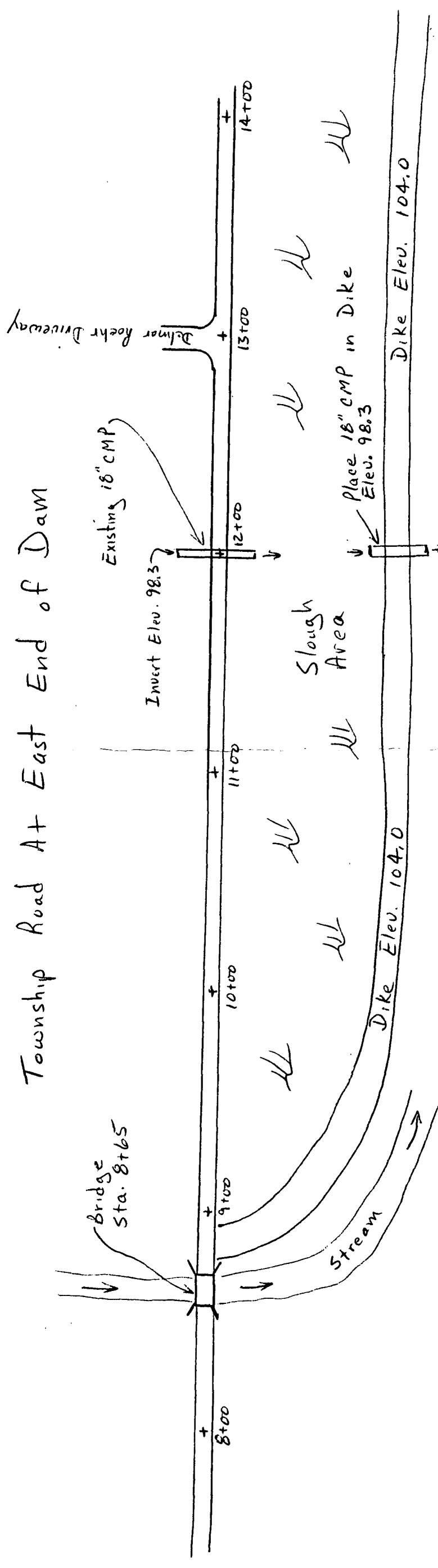


Drop Inlet Spillway

Gerald Person Dam



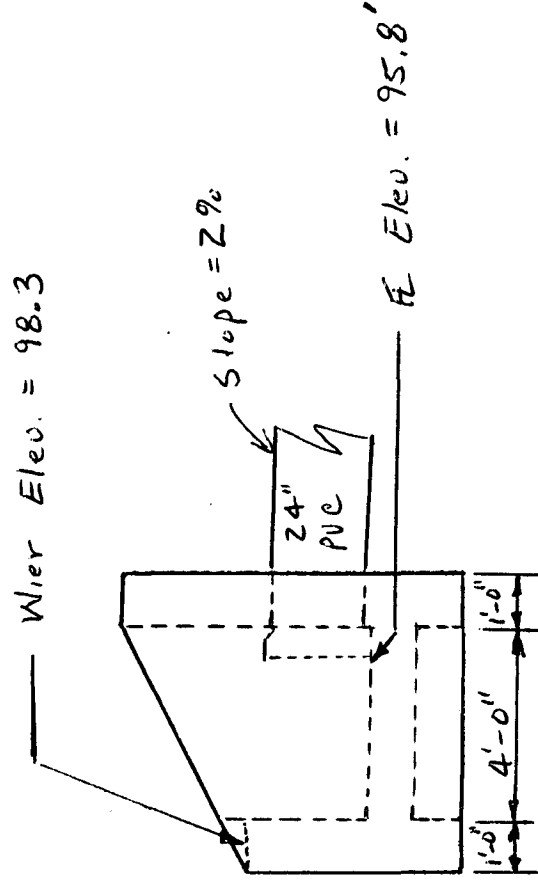
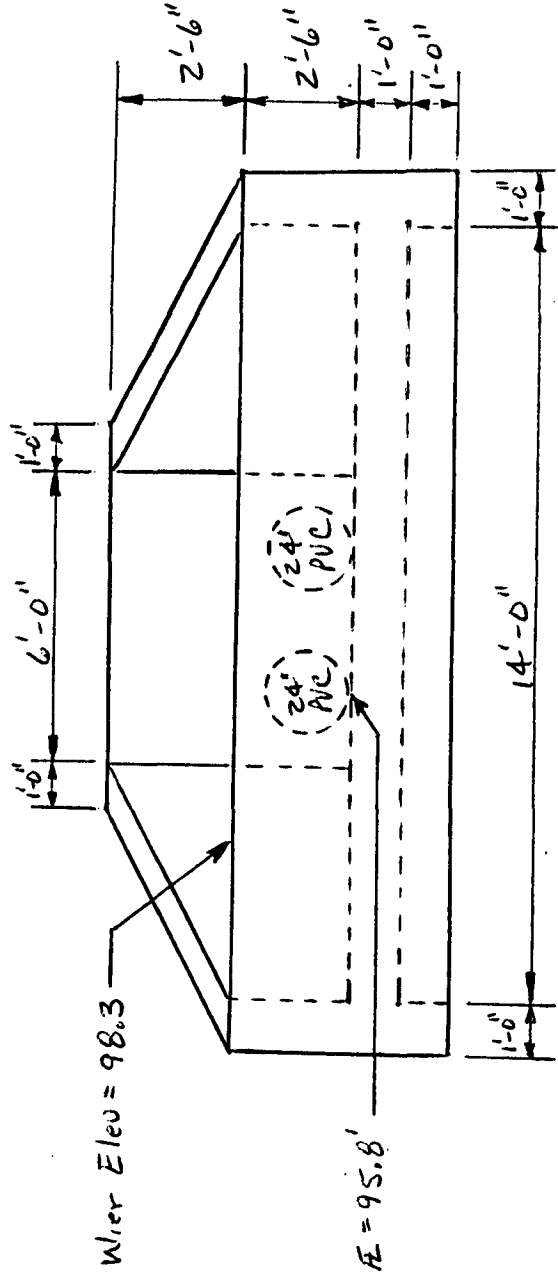
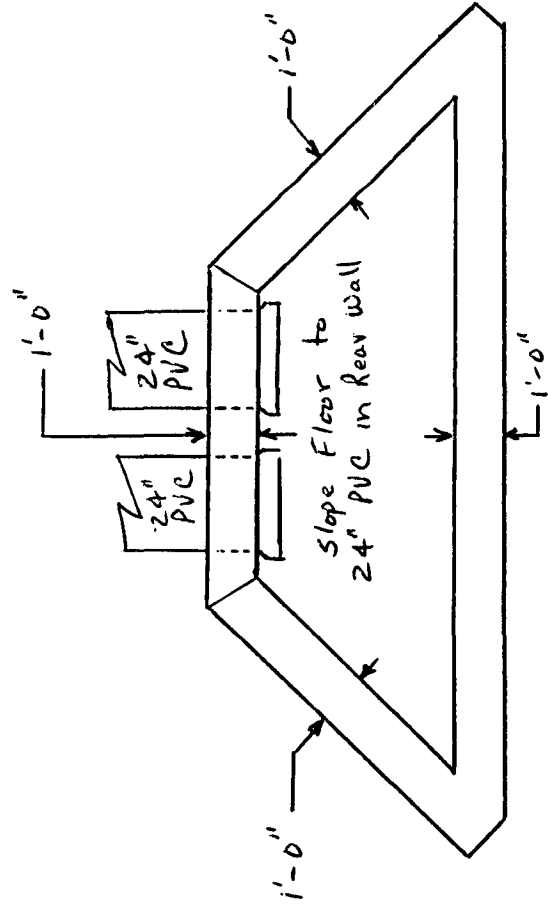
Township Road At East End of Dam



DROP INLET SPILLWAY BOX DETAILS

Gerald Person Dam

Notes: Place footings, floor, and wall monolithically,
Use 4000 psi concrete.
Place 24" PVC downspouts with bell end into
box, so downspouts cannot slip through wall
when under pressure.
Owner will construct grate to place over
box so debris will not plug downspouts.
Grate will have 6"x6" openings and be
constructed of #4 rebar.



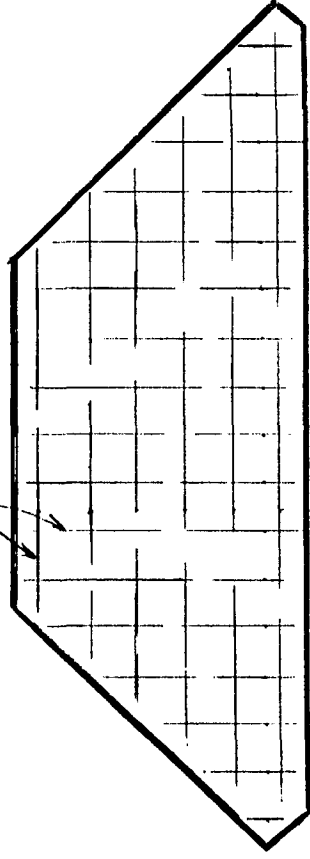
Scale: 1/4" = 1'

REINFORCING DETAILS

Gerald Person Dam

All rebar is to be cut and bent in the field.

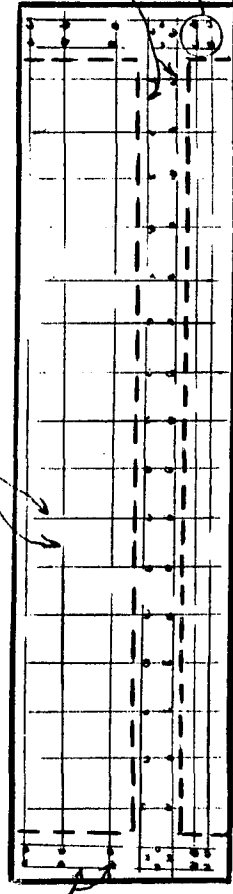
#4 rebar spaced 1'-0" C-C.
(2 layers)



Floor Reinforcing

Note: All corners of walls to be tied with L rebar bent to fit corner and tied to horizontal wall rebars. Legs to be 1'-6" each.

#4 Rebar Spaced 1'-0" C-C
(2 layers both horiz. and vert.)



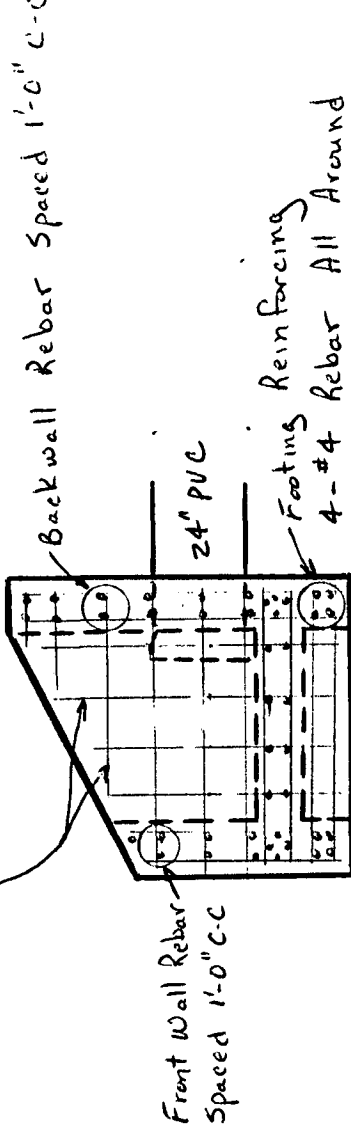
Sidewall Rebar
#4 Rebar
1'-0" C-C
Vert. & Horiz.

Floor Reinforcing
#4 Rebar Spaced 1'-0" C-C

Footing Reinforcing
4 - #4 rebars
(All around)

Front Wall Reinforcing

Sidewall Rebar
#4 Rebar - 2 layers Spaced 1'-0" C-C
Both Horiz. and Vert.



Front Wall Rebar
Spaced 1'-0" C-C

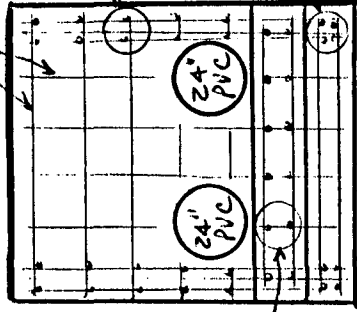
Back wall Rebar Spaced 1'-0" C-C

24" PVC

Footing Reinforcing
4 - #4 Rebar All Around

Side Wall Reinforcing

#4 Rebar Spaced 1'-0" C-C
(2 layers - front and back)



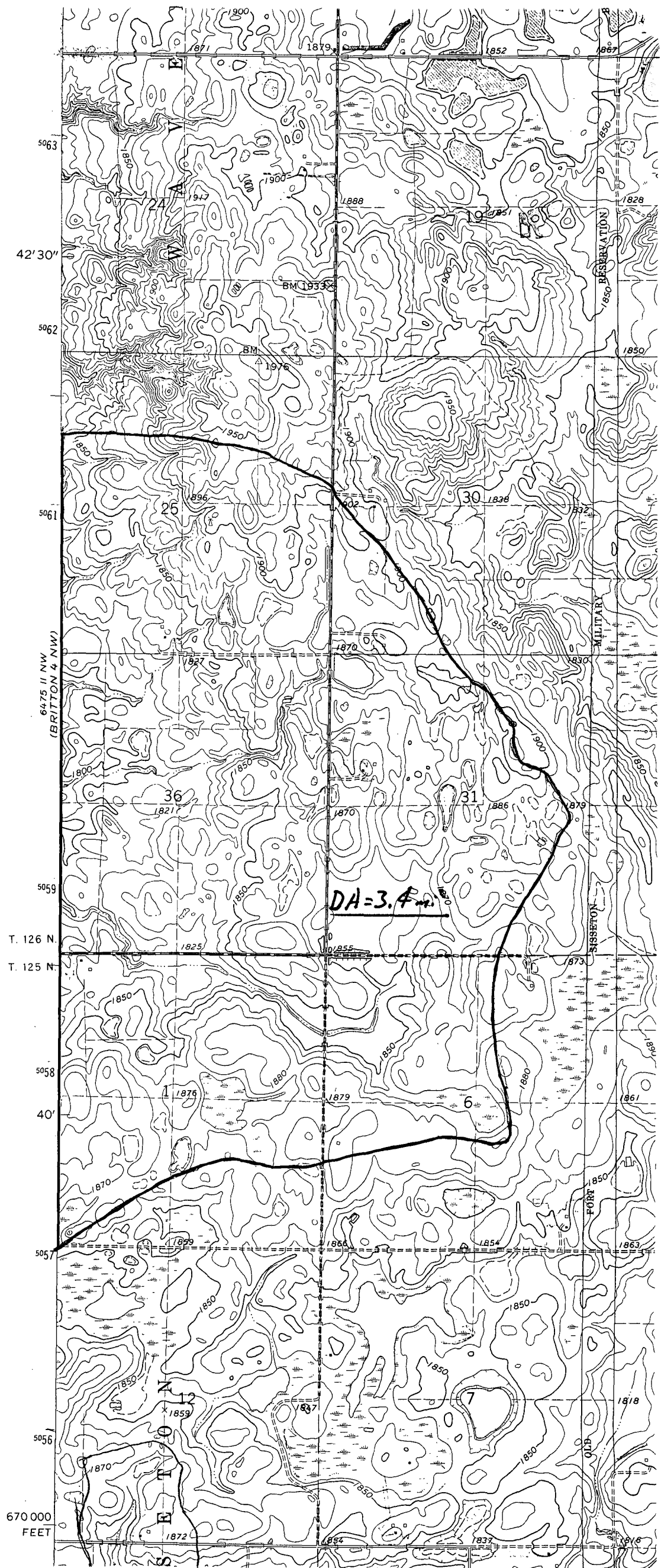
Sidewall Rebar
#4 Rebar 1'-0" C-C
Vert and Horiz.

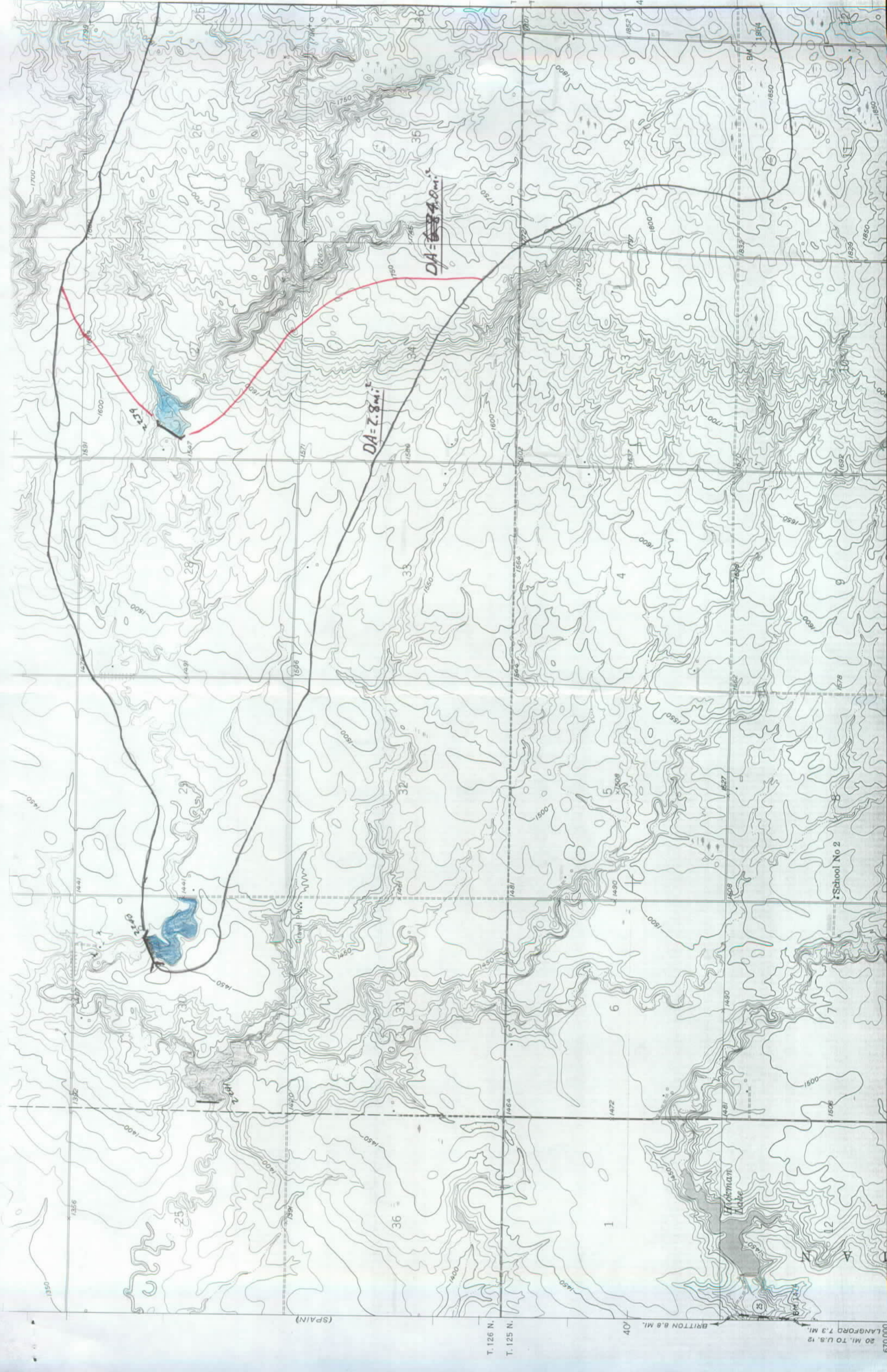
Floor Reinforcing
#4 Rebar (2 layers)
Spaced 1'-0" C-C

Footing Reinforcing
4 - #4 Rebar All Around

Back Wall Reinforcing

No Scale





T. 126 N.

T. 125 N.

40°

BRITTON 8.8 MI.

LANGFORD 7.3 MI.

20 MI. TO U.S. 12

670 000

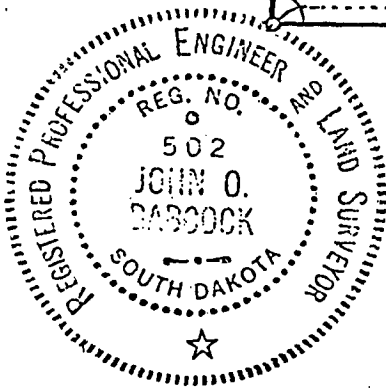
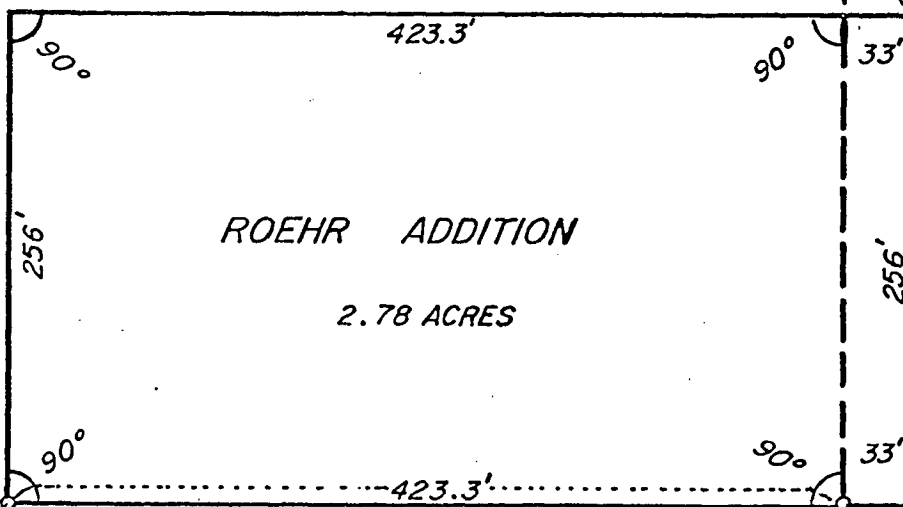
Copy

N.E. CORNER SEC. 30
T126N R57W

PLAT OF:

ROEHR ADDITION IN THE S.E. 1/4 OF
SEC. 30 T126N R57W IN THE COUNTY OF
MARSHALL.

1/4 LINE



John O. Babcock
REG. PROF. ENG. & LAND SURVEYOR
SCALE 1" = 100' APRIL 14, 1981
o = IRON PIN

#23390

STATE OF SOUTH DAKOTA, COUNTY OF MARSHALL - SS

FILED THIS 24 DAY OF Feb 1982 AT 11:00 O'CLOCK A.M. BOOK 3 PAGE 167
REGISTERED BY DEPUTY FEES \$

GERALD A. PERSON AND DEBRA L. PERSON, HUSBAND AND WIFE

grantor S. of MARSHALL County,
State of SOUTH DAKOTA for and in consideration of One Dollar and
Other Consideration - - - - - DOLLARS

GRANT, CONVEY AND WARRANT, TO Walter A. Roehr & Patricia K. Roehr

grantee S. of Britton P. O. the following described
real estate in the County of Marshall in the State of South Dakota:

Roehr Addition in the Southeast Quarter (SE $\frac{1}{4}$) of Section
Thirty (30), Township One Hundred Twenty-Six North (126N),
Range Fifty-Seven (57), West of the Fifth P.M., Marshall
County, South Dakota.

Transfer Fee
Paid \$ 1.50

23391

STATE OF SOUTH DAKOTA, COUNTY OF MARSHALL - SS
FILED THIS 24 DAY OF Feb 19 82 AT 11:05 O'CLOCK A. M. BOOK A20 PAGE 663
Charles Winkler DEPUTY FEE \$ 2.00
REGISTER OF DEEDS

Dated this 6th day of August, 1981

XX Gerald A. Person
GERALD A. PERSON
XX Debra L. Person
DEBRA L. PERSON

STATE OF SOUTH DAKOTA, }
County of Marshall } ss.

On this the 6th day of August, 1981, before me,

Mary Tisher the undersigned officer, personally appeared

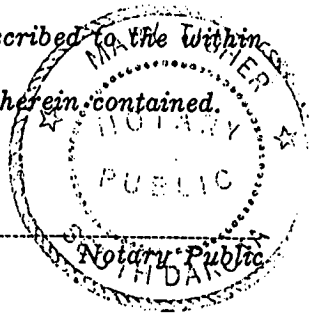
Gerald A. Person and Debra L. Person

known to me or satisfactorily proven to be the person.s whose name.s are subscribed to the within
instrument and acknowledged that t hey executed the same for the purposes therein contained.

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

Mary Tisher - Notary Public - S. Dak.
My commission expires My commission expires 2-10-82

Mary Tisher



O P T I O N

For and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, Walter Roehr and Patricia Roehr, Husband and Wife, of RR Britton, South Dakota, hereby grant an option to Gerald A. Person and Debra L. Person, Husband and Wife, of RR Britton, South Dakota to purchase the following-described real estate located in Marshall County, South Dakota:

Roehr Addition in the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty (30), Township One Hundred Twenty-six North (126N), Range Fifty-seven (57), West of the 5th, P.M., Marshall County, South Dakota.

The purchase price of the above-described property, should this option be exercised, shall meet and exceed the top bid received by the above referenced Walter Roehr and Patricia Roehr, and shall include compensation for any permanent improvements, such as buildings, which have been placed on the above-described property.

The parties agree that this Option shall remain in effect during the entire lifetime of the above-referenced Gerald A. Person.

Dated this 1st day of March, 1982, at Britton, Marshall County, South Dakota.

Walter Roehr
Walter Roehr

Patricia Roehr
Patricia Roehr

State of South Dakota)
) ss
County of Marshall)

On this, the 1st day of March, 1982, before me, Philip W. Morgan, the undersigned officer, personally

REPORT ON WATER PERMIT APPLICATION NO. 5777-3
GERALD A. PERSON
JUNE 23, 1993

Application No. 5777-3, Gerald A. Person, proposes to appropriate an additional 0.56 cubic feet of water per second (cfs), to add 29 acres and change the location of some of the irrigated acres authorized by Permit No. 4948-3. A June 2, 1992 water permit inspection of Permit No. 4948-3 found 239 acres located in NW1/4 and W1/2 NE1/4 of Section 29 and SW1/4 NE1/4 and SE1/4 NE1/4 of Section 30 were being irrigated from a 200 acre-feet (ac-ft) storage dam located in the S1/2 NE1/4 and NE1/4 SE1/4 of Section 30 at a diversion rate of 3.41 cfs, all in T126N-R57W. Permit No. 4948-3 authorizes the diversion of 2.85 cfs and storage of 200 ac-ft for the irrigation of 210 acres located in NW1/4 and the W1/2 NE1/4 of Section 29 and SE1/4 of Section 30, all in T126N-R57W. This project is located in Marshall County approximately 8 miles southeast of Britton.

Review of the Water Source

The source of water for this project is from surface water runoff which is captured and stored in a 200 ac-ft dam located on a dry draw waterway. The water way is a tributary to the Crow Creek Drain which is a man enhanced drainage way and drains the western two thirds of Marshall County and small parts of Day and Brown Counties. The Crow Creek Drain flows into the James River in northeastern Brown County approximately 1 mile downstream from Tacoma Park.

Review of Existing Water Rights

There are no other existing downstream water rights in the immediate vicinity. This proposed application would not be expected to cause adverse interference with any other existing water rights or domestic use.

Review of the Storage Dam

The June 2, 1992 water permit inspection found a Category II (significant hazard) storage dam with an eroded spillway. Tim Schaal, Division of Water Rights staff engineer with the Safety of Dams Program was notified of this condition. Mr. Schaal made an inspection of the dam on June 18, 1992 and informed Mr. Person that the erosion and backcutting needed to be repaired.

On July 20, 1993 Mr. Schaal inspected the dam following a July 17, 1993 rainstorm of 6 to 7 inches. He found the spillway had experienced another 50 foot of backcutting with only 25 to 30 feet of undamaged spillway remaining before the erosion reached the reservoir. Mr. Person was again notified and he indicated he was planning on making repairs to the dam.

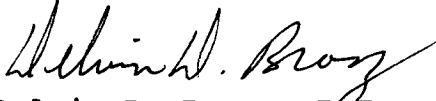
Conclusions

1. Application No. 5777-3 proposes to increase the diversion rate by 0.57 cfs, add 29 acres and change the location of some of the acres for irrigation authorized by Permit No. 4948-3.
2. There is not expected to be any adverse interference with existing water rights or domestic use.
3. There is a problem with erosion in the spillway that needs to be repaired. If approved this application should contain a qualification requiring that repairs be made.



Mark D. Rath
Natural Resources Engineer III

Approved by,



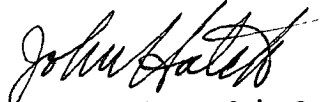
Delvin D. Brosz, P.E.
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5777-3, Gerald A. Person

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. 5777-3, Gerald A. Person, RR 2 Box 123, Britton, SD 57430.

The Chief Engineer is recommending DEFERRAL of Application No. 5777-3 until repairs are made to the spillway to ensure the integrity of the structure.

See report on application for additional information.


JOHN HATCH, Chief Engineer
August 10, 1993



**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.

August 11, 1993

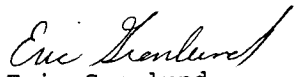
Gerald A. Person
RR 2 Box 123
Britton, SD 57430

Dear Mr. Person:

Water Permit Application No. 5777-3 for irrigation 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 Britton Journal printed at Britton, SD (Ph # 448-2281). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. The recommendation is for DEFERRAL of the application until repairs are made to the spillway. 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

August 11, 1993

Britton Journal
Box 69
Britton, SD 57430-0069

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5777-3 to be published twice. Please publish the first notice on August 18, 1993, 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 Gerald A. Person, RR 2 Box 123, Britton, SD 57430 (Ph # 448-2544).

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
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

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 August 18, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5777-3 to Appropriate Water
and to Amend Water Permit No. 4948-3

Notice is given that Gerald A. Person, RR 2 Box 123, Britton, SD 57430 has filed an application for a water permit to appropriate an additional 0.56 cubic feet of water per second (cfs), add 29 acres and change the location of some of the irrigated acres authorized by Permit No. 4948-3. Water Permit No. 4948-3 authorizes the diversion of 2.85 cfs and storage of 200 ac-ft for the irrigation of 210 acres located in the NW 1/4 and the W 1/2 NE 1/4 of Section 29 and SE 1/4 of Section 30, all in T126N-R57W. An inspection of Permit No. 4948-3 found 239 acres being irrigated at a diversion rate of 3.41 cfs. The location of the 239 acres being irrigated is the NW 1/4 and W 1/2 NE 1/4 of Section 29 and the SW 1/4 NE 1/4 and SE 1/4 of Section 30 which are irrigated from a 200 ac-ft storage dam located in the S 1/2 NE 1/4 and NE 1/4 SE 1/4 of Section 30, all in T126N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 5777-3 until repairs are made to the spillway to ensure the integrity of the structure. This application will be considered by the Water Management Board at 10:00 a.m., December 1, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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 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 22, 1993. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 East 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.

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. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request information on this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired. 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 22, 1993.

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

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Marshall) ss



I, Charles L. Card

certify that the attached printed Notice was

taken from the Britton Journal

printed and published in Britton

County of Marshall and State of

South Dakota. The notice was published in the newspaper on the following two dates:

August 18, 1993

August 25, 1993

Cost of Printing: \$44.44

Charles L. Card
(Signature)

publisher

(Title)

August 25, 1993

(Date Signed)

2T(Aug. 18-25)

NOTICE OF HEARING on Application No. 5777-3 to Appropriate Water

and to Amend Water Permit No. 4948-3

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PETITION REGARDING NOTICE OF HEARING
ON GERALD PERSON DAM

Paul Bremmon
RR
Britton, SD 57430

Curt Jones
RR
Britton, SD 57430

Walt Roehr
RR 2, Box 121A
Britton, SD 57430

Jim Kann
RR 2, Box 125
Britton, SD 57430

Leon Jones
RR
Britton, SD 57430

Delmar Roehr
RR 2, Box 122
Britton, SD 57430

Jim Peters
RR 2, Box 130A
Britton, SD 57430

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

ADDRESS: RR2 Box 123 Britton, SD 57430

COUNTY: Marshall

DATE: July 26, 1993

TELEPHONE: 448-2544 (H) 2381 (W)

RE: Dam Repair

COMMENTS:

On July 20, 1993, I investigated the Person Dam to check out the damage from the 6 to 7 inch rainfall they had on the 17th. The earthcut spillway experienced about another 50 feet of backcutting and only had an estimated 25 to 30 feet remaining before the erosion reached the reservoir. The center third of the embankment was overtopped; however, the good grass cover on the downstream slope withstood the overtopping.

July 26, 1993

I talked to Mr. Person today about the repair of his dam and to check on the condition of the dam after the storm they had on the 24th. He said they had 2 3/4 inches of rain throughout the day so they did not have a big runoff event. He said the spillway only ran a few inches deep and the erosion in the spillway channel did not increase.

He said he had plans to construct another earthcut spillway at the left abutment, add about 2 feet of fill to the center of the embankment, and repair the existing spillway by constructing a concrete structure. I told him if he did this we would probably need to approve plans and specifications. He seemed to think he could go look and some of the existing spillways in the area (WPA dams) and copy one of those. I told him he should talk to the SCS for assistance and maybe consider some kind of a drop inlet or culvert spillway as a primary and repair his existing earthcut spillway for a secondary.

He also asked about no plans and specifications because it was an emergency. I told him it kind of depended on the design and should talk to the SCS first and to be sure to let us know before he did anything.

File in permit of other file as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

ADDRESS: RR2 Box 123 Britton, SD 57430

COUNTY: Marshall

DATE: July 26, 1993

TELEPHONE: 448-2544 (H) 2381 (W)

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NAME: Timothy G. Schaal

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

ADDRESS: RR2 Box 123 Britton, SD 57430

COUNTY: Marshall

DATE: July 26, 1993

TELEPHONE: 448-2544 (H) 2381 (W)

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File in permit of other file as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal

Water Rights Division -DENR
Conversation or File Documentation

File No.

NAME OF PERSON OR FILE: Isabel Fryer (Curt Foster)

ADDRESS: _____

COUNTY: Marshall

DATE: July 27, 1993

TELEPHONE: 448-5325

RE: Dam Inspection

COMMENTS:

On July 20, 1993, I inspected the Fryer Dam to check out the damage from the 6 to 7 inch rainfall they had on the 17th. The earthcut spillway experienced some backcutting and eroded back approximately 100 feet with another 200 feet remaining before the reservoir. Some of this erosion may have occurred from a rainfall on July 4th.

The County road located 1/4 mile below the dam was washed out along the culvert. Some of this may have occurred on the 4th also.

A contractor was working on the spillway. They planned on diverting the flow so they could repair the erosion. They also planned on widening the spillway exit, spreading out the flow over the dropoff into the channel.

I talked to Curt Foster about this. We also talked about Gerald Person's dam and maybe having him lower the reservoir. I told him Mr. Person needs to repair his spillway and could maybe install a culvert to lower the reservoir some.

File in permit of other file as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal

United States
Department of
Agriculture
57006

Soil
Conservation
Service

PO Box 626
520 3rd Avenue
Brookings, SD



September 30, 1993

Gerald Person
Box 68
Britton SD 57430

Dear Mr. Person:

Based on the August 26, 1993 site visit by Pete Anderson, Agricultural Engineer, Brookings, South Dakota, we will not be able to provide technical assistance for the repair of the dam located in section 30-126-57. Due to the large drainage area above the dam, the time requirements to design the necessary improvements to the structure would be extensive. With current staffing and budget restriction we are not able to provide the personnel to this project.

Please contact Tom Martin or me if you have any questions.

Sincerely,


Gary J. Coplan
Area Conservationist

cc: Tom Martin, District Conservationist, SCS, Britton, SD
Dwight Hale, State Conservation Engineer, SCS, Huron, SD
Roy Boschee, Agricultural Engineer, SCS, Brookings, SD
Tim Schaal, SDDENR, Pierre, SD

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: GERALD PERSON

ADDRESS: Rt. 2, Box 123 Britton, SD

COUNTY: Marshall

DATE: October 25, 1993

TELEPHONE: 448-2544 (H) 2381 (W)

RE: Dam Repair

COMMENTS:

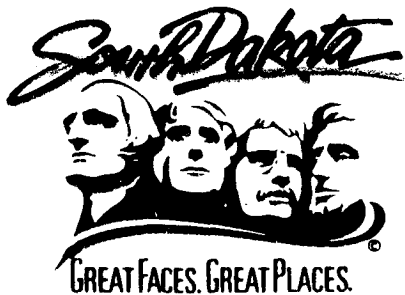
On October 20, 1993, I inspected the Person Dam. Mr. Person had not done anything to the spillway yet. I stopped and tried to talk to Mr. Person, but he was out of town. The low level was partially open, and the reservoir was down approximately 2 feet.

On October 21, 1993, I meet with Curt Foster (Twp. Supervisor) and Mr. And Mrs. Delmar Roehr and their son Walt (upstream neighbors). They are concerned with Mr. Person's dam causing them flooding problems. The reservoir level affects the township road and also property owned by the Roehrs. It appears that the reservoir level should be permanently lower 4 to 5 feet; however, this would need to be surveyed.

I told them they should send us a letter of complaint, but they asked if we could do something about it without a letter. I told them I would check into it.

File in permit of other file as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 3, 1993

NOTICE

TO: Gerald A. Person
RR 2, Box 123
Britton, SD 57430

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

SUBJECT: Deferral of Water Permit Application No. 5777-3, Gerald
A. Person

On December 1, 1993, the Water Management Board DEFERRED consideration of Water Permit Application No. 5777-3 until repairs are made to your dam and spillway to ensure the integrity of the dam structure. The plans and specifications for the repairs must be approved by the Water Rights Division prior to the actual repairs to the dam being made.

The Board will reconsider the application when the repairs have been made in accordance with Safety of Dam Rules. Notice will then be given of the future hearing time and place before the Board.

Please contact Eric Gronlund, staff engineer at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 3, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 3, 1993, regarding Deferral of Water Permit Application No. 5777-3, Gerald A. Person, addressed as stated below:

Gerald A. Person, RR 2, Box 123, Britton, SD 57430.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of December, 1993.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: **GERALD PERSON**

ADDRESS: Rt. 2, Box 123 Britton, SD

COUNTY: Marshall

DATE: February 22, 1994

TELEPHONE: 448-2544 (H) 2381 (W)

RE: Dam Repair--The following is a summary of my Phone Log dealing with the repair of Gerald Person's dam

COMMENTS:

July 19, 1993

Gerald Person called, said they had a big rain (6 to 7 inches) over the weekend. Penrhos Farms lost 2 dams, he had quite a bit more spillway erosion. Thinking about getting a contractor to redo spillway on south side.

July 26, 1993

I called Gerald, asked about 3 inch rain they had. He had spillway flow but not alot more damage. He talked about putting in concrete spillway, told him would need P&S, thought drop inlet would work.

July 30, 1993

Called SCS in Britton talked to Tom Martins, talked about Person Dam.

July 30, 1993

Called Person, told him to talk to SCS

July 30, 1993

Called Curt Foster, asked about Fryer Dam. He wants to talk about Person Dam.

Sept. 7, 1993

Called Curt Foster, talked about Fryer Dam and Person Dam. He (as Twp. Board Member) and upstream land owner (Roehr) want Person Dam water level dropped to stop flooding Twp. road and private property.

Sept. 7, 1993

Called Tom Martins, SCS Britton, said Pete Anderson, SCS Brookings, looked at Person Dam, thought drop inlet structure on left abut. would work.

Sept. 7, 1993

Called SCS Brookings, talked to Roy Bousche, talked about upstream flooding, said they would recommend at least 3 feet between spillways.

Oct. 5, 1993

Called SCS Britton, talked to Larry Mette, asked about Sept. 30, 1993 letter from SCS to Person stating they could not provide tech. assistance. Larry said because of drainage area size, P&S would need to go thru Huron and Lincoln. They could do repair to Fryer Dam, talked about drop inlet for Fryer Dam, told him they would need P&S since that would be change from original design.

Oct. 5, 1993

Called Gerald Person, said he had talked to SCS, planned to talk to Clark Eng. since they were doing work in town. SCS suggested concrete sill in secondary with rock gabions, with 3 or 4 foot dia. drop inlet.

Oct. 29, 1993

Gerald Person called, said he just talked to Delmar Roehr and thought everything was OK. Told him that is not what the Roehrs told me.

Nov. 8, 1993

Gerald Person called and still wanted to just go ahead and do the repair, told him NO!, we needed P&S. He said he talked to Clark Eng. and they told him they could not do P&S for him.

Nov. 8, 1993

Called Clark Eng., talked to Don Wagel, he said they could not do P&S in the time frame Person wanted, he wanted it yesterday, etc. Asked if Person made any commitments with them or could he look for someone else. Don said they made no agreements.

Nov. 9, 1993

Called Gerald Person, told him Clark Eng. sounded to busy and he should get someone else. Told him to have them call us to find out what to do.

Nov. 10, 1993

Called Larry Mette, SCS Britton, asked about consultants in area to work on Person Dam. Said Hofland Bros. in Veblin did some dams in Veblin area and Holton was an engineer in Sisseton.

Dec. 15, 1993

Ron Beto, James River....., said Marshall County Conservation District may have money for Person for dam repair.

Dec. 15, 1993

Called Gerald Person, told him about money, he was not interested in it because he thought there would be flood control restrictions (lower reservoir). Said he left message at Hofland Bros. but did not hear back from them.

Feb. 15, 1994

Walt Roehr called, concerned about possible flooding this spring. Asked about Person Dam, told him Gerald said he had outlet pipe open and reservoir was down 6 to 8 feet.

Feb. 16, 1994

Walt Roehr called again and asked about Person Dam and possibility of property being sold. Asked when will it be fixed, and who will fix it if it is sold? Told him Water Permit went with land and any new owner would need to fix it. He said reservoir level was down about 5 feet.

File in permit of other file as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 8, 1994

NOTICE

Gerald A. Person
RR 2, Box 1123
Britton, SD 57430

Dear Mr. Person:

I am writing in regard to your irrigation dam as authorized by Water Permit No. 4948-3, and deferred Water Permit Application No. 5777-3.

Permit No. 4948-3 was inspected for licensing purposes on June 2, 1992. As a result of this inspection, Application No. 5777-3 was filed to make necessary corrections. Application No. 5777-3 has been deferred and the licensing of Permit No. 4948-3 has been delayed pursuant to SDCL 46-5-30 until repairs are made to your dam and spillway and problems with the upstream dike are resolved.

The earthcut spillway has experienced considerable erosion. Another large runoff event could cause the erosion to continue backcutting and eventually reach the reservoir. In addition, the small continuous flows are causing erosion. Tim Schaal has discussed with you several times that a long term solution involves the addition of a drop inlet corrugated metal pipe to serve as a primary spillway. Approval of plans and specifications are needed prior to completion of repairs since this is a modification to the original design. Installation of a drop inlet at a lower elevation can also address the possible flooding problem associated with the dam.

We have received complaints about flooding of upstream land and a township road. It is our understanding that the dike at the upstream end of your reservoir was constructed to prevent upstream flooding. We have also been advised that the dike fails to prevent flooding as evidenced by the need to pump seepage water over the dike into the dam.

March 8, 1994
Gerald A. Person
Page 2 of 2

Please advise by April 4, 1994, of your intentions concerning repairs to the dam and your views concerning flooding of upstream property. If repairs to the dam are not initiated and flooding to upstream property is not remedied, if occurring, then we may need to request the Water Management Board to take action to address these problems. If you have questions or whoever may be working on plans and specifications has questions, please contact Tim Schaal (605) 773-3352.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

cy: Curt Foster
Delmar Roehr
Walt Roehr



Gerald Person
Britton, S.D.
605-448-2381
605-448-2544

Dear Water Management Board,

In regard to my storm damaged spillway on my irrigation dam, I would like to explain how I would repair the damage and avoid a problem in the future.

The first phase of the project would be to install a continuous flow pipe to handle the constant flow of the water we have had the last three years. At this time, we have an eight inch tube in the dam which used to handle the continuous flow in the dry years. We would put in a three foot tube to handle the continuous flow according to the attached drawing.

The charge tube for the 3 ft tube would be 4 ft X 4 ft X 8 ft deep and constructed out of cement. The 3 ft tube would be galvanize culvert except for the first 30 ft, which would be concrete or cast steel. The top of the charge tube would be 2 ft lower than the existing emergency spillway. This, of course, would lower the height of the water in the dam by 2 ft.

There has been discussion that I need a larger diameter draw down tube (6 ft to 8 ft). The bridge,

located 1000 ft downstream from my dam, is 12 ft wide and 3 ft deep. It would not handle anything of that size.

A 3 ft pipe fed with a large charge tube would handle the continuous flow from my watershed 18 of the last 20 years. The emergency spillway would not have ran more than 3 days of those 18 years and not at all for 15 of those 20 years. I believe the years of 1992 and 1993 are probably the most extreme water runoff years we will see for 50 to 100 years. My dam made it through both of them. My spillway was severely damaged, but if it is rebuilt to the condition it was in previous to the storms, I will have a safe structure, especially with a larger 3 ft continuous flow pipe.

The dam one mile upstream from my dam was allowed to repair their emergency spillway without any conditions and that is all I expect. I will add a larger continuous flow pipe to my structure to handle the extra watershed and runoff. I will also lower my water level by 2 ft, because of the height of the charge tube for the larger continuous flow pipe. Please advise me if I can start these repairs as soon as possible. I have been told I cannot do any repairs and retain my irrigation permit without consent of the Water Recourses Board. If there are regulations that I must follow, please send me those and the date they were put into effect.

I thank you for your concern and consideration. If there is anything more I can do, please contact myself or Dan Smiens, my attorney.

sincerely,

Dan Smiens

Gerald Person

Britton, S.D.
605-448-5964

Britton, S.D.
605-448-2544

SPd



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 5, 1994

Gerald A. Person
Britton Equipment Company
P.O. Box 68
Britton, SD 57430-0068

Dear Mr. Person:

I am writing in reference to the letter we received on June 30, 1994, explaining your thoughts for repairing your irrigation dam. I am also enclosing a copy of our Safety of Dams Rules, Chapter 74:02:08.

Although your attached sketch clearly shows your intentions, we can not accept them or authorize you to complete these repairs. Section 74:02:08:04 of our Safety of Dams Rules require plans and specifications prepared by a Registered Professional Engineer for the construction of new dams or alteration of existing dams.

Section 74:02:08:03 indicates that the intent of the Safety of Dams Rules is to provide minimum standards for the design, construction, alteration, maintenance, and repair of dams and to prevent loss of life. It also states that these standards are not intended to apply to ordinary maintenance and repair of dams if the work is performed in accordance with the original design prepared by an engineer and no change in hazard or purpose is involved.

You indicated in your letter that you want your dam to be treated the same as the Fryer Dam, which is located about two miles upstream from you. The repair at the Fryer Dam was considered to be ordinary maintenance and repair; therefore, plans and specifications were not required. The installation of a drop tube spillway at your dam is considered to be an alteration from the original design; therefore, approved plans and specifications prepared by a Registered Professional Engineer are required.

You also indicated there has been some discussion of a larger (6 ft. to 8 ft.) draw down tube through your dam. It is our understanding that the Soil Conservation Service (SCS) may have been looking at a spillway of this size along with 3 or 4 feet of freeboard. If the SCS became involved in the design of the drop spillway they have specific standards for both the primary spillway and the secondary spillway that they would need to meet.

Gerald Person
July 5, 1994
Page 2

Section 74:02:08:02 indicates that a Category 2 dams (your dam is classified as a Category 2 dam) constructed before October 27, 1986, are exempt from minimum spillway requirements. In the case of your dam, we are more concerned with the repair of the badly eroded earthcut spillway and prevention of upstream flooding than we are with specific requirements for the spillways.

Section 74:02:08:09 lists several items that minimum plans and specifications must contain. Since this is an alteration of an existing dam, we would not need all of this information. Besides being prepared by a Registered Professional Engineer, we would require elevations of both spillways, the top of dam, the upstream dike; and the upstream township road, bridge and culvert to evaluate upstream flooding potential. At this time we do not know what effect lowering the reservoir 2 feet will have on upstream flooding. We would also want to know what repairs would be made to the earthcut secondary spillway. Fill material should also be added to the top of dam to provide a level embankment crest.

If you have any questions on this matter, please feel free to contact Tim Schaal at (605) 773-3352.

Sincerely,



Gale N. Selken, P.E.
Natural Resources Engineer IV
for John Hatch, Chief Engineer
Water Rights Division

enclosure

c: Dan Smiens, Attorney w/ enclosure

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald A. Person

ADDRESS: RR 2, Box 1123 COUNTY: Marshall

DATE: July 11, 1994 TELEPHONE: 448-2381 (W)

RE: Dam Repair

COMMENTS:

Gerald Person stopped in the Office today to talk about the repair of his dam and our July 5, 1994 letter. He said if he understood our letter correctly, he could repair his damaged earth spillway now, and deal with the drop inlet spillway later. I told him that was correct, but we still needed to address the possible upstream flooding issue and complaints, and this matter should probably be heard before the Water Management Board. He said he understood that and wanted to get the damaged earth spillway repaired and seeded to have some grass cover for next spring. We talked about the Roehr property and the upstream road, he said the Township Board has no problem with his dam, and they stated this at a Board meeting and would get a copy of the minutes. He asked if he could pump water now, I told him I did not think we ever told him he could not irrigate, but we were deferring Water Permit Application No. 5777-3 and the licensing of Permit No. 4948-3 until the dam was repaired. We asked John Hatch if this was correct, he said it was but it was still a possibility.

We talked about bringing this matter before the Water Management Board and thought that Paul Bremmon and Leon Jones, Waverly Township Chairman and Clerk; Curt Jones; Delmar and Walt Roehr; and downstream landowners Jim Peters and Jim Kann should be noticed.

File in permit or other files as necessary. Use to document conversations and what the other party was told, why action or decision was made.

NAME: Timothy G. Schaal

FROM: Gronlund, Eric

TO: Tim Schaal

DATE: 07-18-94

TIME: 11:33

CC:

SUBJECT: Call from Walt Roehr

PRIORITY:

ATTACHMENTS:

Mr. ?Roehr? called 7/18/94 regarding the Person's dam and asked that I leave you a message:

They had 2.3 inches of rain and his dad's feedlot is nearly all flooded. The back water from the Person's dam is creeping up near the road. He not sure whether it would go over the road but it may as water continues to drain from the hills.

He also said he did some follow-up on the agreement that Mr. Person's states exists allowing the flooding of Roehr's land. According to Roehr's ATTORNEY the agreement was in the 1 year option to purchase the property he had. The option must have run out prior to Mr. Roehr's purchase of the property so he believe the agreement is null and void. The only thing filed with the deed is Person's has an option to purchase the land back if Roehr's decides to sell.

Mr. Roehr stated that he will be sending you a bunch of this paperwork next week.

He also inquired about this being brought before the Board. I said I knew there was some discussion of this however I didn't know if you and Ron had determined if it need to be public noticed or could just be brought before the board if all parties were noticed.

I think this is everthing we discussed.



July 27, 1994

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: Gerald A Person
RR 2, Box 123
Britton SD 57430
and interested parties (see attached list)

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

SUBJECT: Notice of Hearing concerning Person Dam

The Water Management Board will conduct a public hearing to consider action to be taken concerning a dam owned by Gerald A Person. The dam embankment is located in the S1/2 NE1/4 section 30-T126N-R57W and impounds water for irrigation purposes as authorized by Water Permit No. 4948-3 held by Mr. Person. The hearing will be held on August 31, 1994, at 11:30 am, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD 57501. The hearing time is an estimate and may be delayed due to consideration of prior agenda items.

In July 1993, the Person dam experienced severe erosion due to a 6 to 7 inch precipitation event. An inspection found damage to the spillway and embankment. Mr. Person indicated a desire to repair the damage, but concerns have also been raised with upstream flooding due to the existing spillway elevation. Repairs to the dam require submission of plans and specifications from a SD registered professional engineer, if the repairs alter the original design of the dam. The need to submit plans and specifications and the content of the plans will be affected by any Board decision requiring modification of the spillway elevation.

Issues to be considered by the Board include, but are not limited to, alleged upstream flooding caused by the dam and applicable requirements of the Safety of Dams rules Chapter 74:02:08 concerning possible dam modifications. After all testimony and evidence is taken at the hearing, the Board may: 1) issue an order to lower the spillway elevation to prevent upstream flooding if necessary flood easement(s) can not be obtained, 2) determine existing actions taken to alleviate/prevent flooding are sufficient, 3) rule on applicable provisions of the Safety of Dams rules relating to repair/modifications to the dam, 4) add a qualification to Water Permit No. 4948-3 relating to the Board's action, 5) modify the above actions, do some combination of the above actions, or take no action. The Board has legal authority and jurisdiction to consider these matters in accordance with SDCL 46-2-9 and 46-2-11 and the hearing will be conducted pursuant to SDCL 46-1-14, 46-4-1.1, 46-5-2, and 46-7-3.

(continued)

Gerald A Person - Notice of Hearing
July 27, 1994
Page 2 of 2

This hearing is an adversary proceeding. Any party has the right to be present and to be represented by an attorney. 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 August 22, 1994, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

Please contact Tim Schaal at (605) 773-3352 if you have any questions or requests for information concerning this hearing.

CERTIFICATION

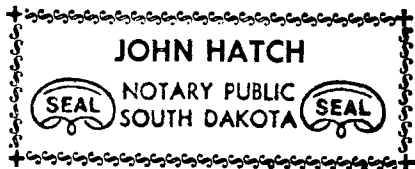
I hereby certify that on July 27, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated July 27, 1994, regarding Notice of Hearing concerning Person Dam addressed to:

Gerald A. Person
RR 2 Box 123
Britton, SD 57430
and interested parties (see attached list)

Jaci R Konop
JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of August, 1994.



John LaTash
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

REPORT ON
GERALD PERSON DAM
August 23, 1994

The Gerald Person Dam is located in the S 1/2 NE 1/4 of Section 30-T126N-R57W, in Marshall County. The Person Dam is classified as a Category 2, Significant Hazard dam and impounds 200 acre-feet of water for irrigation of 210 acres as authorized by Water Permit No. 4948-3.

Discussion:

Water Permit No. 4848-3 was inspected for licensing purposes on June 2, 1992. The inspection found 239 acres being irrigated and a badly eroded earth spillway at the dam. Water Permit Application No. 5777-3 has been filed by Mr. Person to correct the location of some of the irrigated acres and add additional acres to Water Permit No. 4948-3. However, Water Permit Application No. 5777-3 has been deferred and the licensing of Water Permit No. 4948-3 has been delayed pursuant to SDCL 46-5-30 until repairs to the dam and spillway are made.

In July of 1993, a 6 to 7 inch rainfall overtopped the dam and spillway causing additional erosion to the earth spillway and flooding to an upstream Township road and upstream adjacent property. A dike at the upstream end of the reservoir was constructed at the time of the original construction of the dam to help control upstream flooding. There has always been problems with the dike and upstream flooding. Reservoir water that seeps through the dike embankment is stored behind the dike and the dike also blocks surface water runoff coming from the upstream drainage. The water ponded behind the dike needs to be periodically pumped into the reservoir to prevent flooding.

A March 8, 1994 NOTICE was sent to Mr. Person indicating the need to repair the dam and spillway and address the upstream flooding conditions. A drop inlet type spillway as a primary spillway structure was suggested to help prevent erosion in the earth spillway and to address the upstream flooding issues. Since this would be an alteration of the original design of the dam, approval of plans and specifications prepared by a Registered Professional Engineer would be necessary.

The Person Dam is a Category 2, Small size dam. A dam of this size and hazard classification would be required to have the spillway capacity to pass a 100 year frequency event. However, Section 74:02:08:02 states that a Category 2 dam constructed before the Safety of Dams Rules became effective (October 27, 1986) are exempt from the minimum spillway design flood requirements. The Person Dam was constructed before the rules became effective.

The Person Dam has a drainage area of 10.2 square miles, 7.4 square miles are above the Fryer Dam, which is approximately 2 miles

page 2
Person Dam
Aug. 23, 1994

upstream of the Person Dam. A 100 year frequency event for the entire drainage area would be approximately 1850 cfs, without routing some of this event through the Fryer Dam. The embankment crest and earth spillway vary in elevation. The embankment crest varies from elevation 104.5 to 106 (Local Datum) and the earth spillway varies from 102.4 to 103.5. The current capacity of the spillway is approximately 1300 cfs; however, if the settlement in the embankment crest was leveled the spillway would have a capacity of approximately 2560 cfs.

Mr. Person submitted his own plans for a drop inlet spillway with a 4 foot by 4 foot concrete riser and a 3 foot diameter barrel. His design showed the elevation of the riser 2 feet below the earth spillway. This spillway would have a capacity of 90 cfs without using the earth spillway. A letter was sent to Mr. Person on July 5, 1994 stating that his design could not be accepted or approved since it was not prepared by a Registered Professional Engineer and we did not know what effect lowering the reservoir 2 feet would have on upstream flooding.

A survey was completed to determine the elevations of the embankment crest and spillway at the Person Dam and the elevations of the upstream dike and township road. The elevations, as shown on Figure 1, indicate that the reservoir level or primary spillway elevation would need to be approximately 4 feet below the earth spillway to eliminate flooding of upstream adjacent property.

A spillway with the same design as Mr. Person's and at an elevation 4 feet below the earth spillway would have a capacity of 100 cfs, which would be approximately a 5 year event for the 2.4 square mile drainage area between the Person and Fryer dams.

The Person Dam was originally designed to store 200 acre-feet of water at the full reservoir level or spillway elevation. This reservoir would have a surface area of 25 acres and a maximum depth of 16 feet. If the reservoir or spillway elevation was lowered 2 feet, the surface area would be reduced to approximately 22.5 acres and the maximum depth would be 14 feet. This would result in a storage capacity of 158 acre-feet. If the reservoir level or spillway was lowered 4 feet, the surface area would be reduced to 20 acres and the maximum depth would be 12 feet. This would result in a storage capacity of 120 acre-feet.

page 3
Person Dam
August 23, 1994

Conclusion:

SDCL 46-4-1.1 states "Any person owning land through which any nonnavigable stream passes may construct and maintain a dam across the nonnavigable stream if the course of the water is not changed, vested rights are not interfered with and no land flooded other than that belonging to the owner of the dam or upon which an easement for that flooding has been secured."

It is our recommendation that Mr. Person either 1) obtain flood easements for the flooded property and ensure that the township road is not flooded or 2) install a drop inlet spillway as a primary spillway at an elevation 4 feet below the elevation of the earth spillway. A culvert should also be installed through the upstream dike, or the dike breached, to eliminate the upstream flooding conditions.


Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by:


Gale N. Selken, P.E.
Natural Resources Engineer IV

August 19, 1994



Mr. Tim Schaal
Dept of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Tim:

Enclosed you will find the papers that you requested regarding my agreement with Gerry Person. I have highlighted areas that I feel may be of special interest to you.

I am writing as a concerned tax payer of Waverly Township. I have no problem with water on my own property, however I do not feel that it is right that the township road should be covered with water periodically. Not only do I have to move my equipment over that road to exit my property, but my wife needs to be able to use that road to get to work in Britton each day. (Even when Gerry does set up to pump water, the pipe is layed across the road - which blocks traffic and poses a hazard for people driving by.)

In the original option that I had with Gerry I agreed that it way okay for him to back water in the original creek bank. If the water would have stayed at that level, there would have been no problem with water on the road or road right-of-way or on the property owned by Delmar Roehr east of the road.

If you have any questions after reviewing these documents, please feel free to call. If you leave a message on our machine, I will return your call as soon as possible. I plan to be in Pierre on August 31st to attend the meeting.

Sincerely,

Walter Roehr
RR 2 Box 121A
Britton, SD 57430-9305
605-448-5850

Enclosures

11

PHILIP W. MORGAN
ATTORNEY AT LAW
768 - 7TH STREET
BRITTON, S. DAK. 57430

HAMILTON BUILDING
POST OFFICE BOX 901

AREA CODE 605
PHONE 448-5263

June 8, 1982

Mr. Tom Hansen
President
First National Bank
Britton, SD 57430

Dear Mr. Hansen:

I have today examined Abstract of Title No. 8587 covering the following property:

Roehr Addition in the Southeast Quarter
(SE $\frac{1}{4}$), Section Thirty (30), Township One
Hundred Twenty-six North (126N), Range
Fifty-seven (57), West of the 5th P.M.,
Marshall County, South Dakota,

consisting of fifty-five (55) entries as last certified to by the Marshall County Abstract and Title Insurance Company of Britton, South Dakota on the 1st day of March, 1982 at 9:00 A.M.

It is my opinion, based upon the abstract examined, that good and marketable title to such property is vested in

WALTER A. ROEHR and PATRICIA K. ROEHR,

Husband and Wife as Tenants in Common, of Rural Route Britton, Marshall County, South Dakota, subject to the following:

1. There is a mortgage, dated March 20, 1981, between Gerald A. Person and Debra L. Person, of Rural Route Britton, South Dakota, Mortgagors, and the United States of America acting through the Farmers Home Administration located at Huron, South Dakota, Mortgagees, said mortgage being in the amount of \$461,160.00 and securing six Promissory Notes with various rates of interest. This mortgage, which contains a Power of Sale, was filed for record in the Office of Register of Deeds for Marshall County at Britton, South Dakota on March 20, 1981 at 3:45 P.M. in Book 115 on Pages 444-447. (See Entry # 52.)

2. The foregoing mortgage is subject to an earlier mortgage between the same parties, dated July 1, 1980, in the amount of \$290,320.00. That mortgage was recorded in the aforementioned Register of Deeds' office on July 1, 1980 at 4:10 P.M. in Book 115 of Mortgages on pages 87-90. (See Entry # 50.)

Both of these secure the SE $\frac{1}{4}$ -30-126N-R57 of which the subject property has been a part. However, the Farmers Home Administration

COPY

Mr. Tom Hansen

- 2 -

June 8, 1982

has given a Partial Release, dated August 6, 1981, to Gerald A. Person and Debra L. Person of Britton, South Dakota which releases from the aforementioned mortgage liens the property-in-question, namely the Roehr Addition.

3. There is a Transmission Line Right-of-Way Easement, dated 6-21-51, running between Roy Pearson and Frances Person, Husband and Wife, to the East River Electric Power Cooperative at Madison, SD. This covers the SE $\frac{1}{4}$ -30-126N-R57 which gives the following: "The perpetual right to enter upon the lands... and construct, repair, operate and maintain distribution line or system, etc.; Agreement as to charges made for pole setting privilege." This Easement was recorded in the aforementioned Office on July 9, 1952 at 9:35 A.M. in Book Pm, Page 668. (See Entry # 44.)

4. There are real estate taxes in the total amount of \$560.82, plus interest, outstanding on the entire SE $\frac{1}{4}$ -30-126N-R57. These have not yet been divided between the Roehr Addition and the remaining quarter-section. All of these taxes are due on January 1, 1982. The first half, which is now delinquent, has been so since May 1, 1982. The second half, equally divided, will not be due until November 1, 1982.

Sincerely yours,

Philip W. Morgan

PWM:ml

Encl.

HAMILTON BUILDING
POST OFFICE BOX 901

PHILIP W. MORGAN
ATTORNEY AT LAW
758 - 7TH STREET
BRITTON, S. DAK. 57430

AREA CODE 605
PHONE 448-5263

June 8, 1982

Mr. and Mrs. Walter Roehr
Rural Route
Britton, SD 57430

Dear Walt and Patty:

Enclosed please find the completed legal opinion pertaining to your property, which is covered by Abstract # 8587. This opinion shows that you both have good title in and to the Roehr Addition, the subject of said abstract.

In reviewing the abstract, you will find that the title is held by the two of you as Tenants in Common. This means that each of you has an undivided one-half interest in the property which is a probate asset for each of you in that your one-half would not automatically pass to the other as it would in a joint tenancy situation. There have been many pros and cons written about joint tenancy assets. However, I feel that until a person starts to acquire a few hundred thousand dollars of wealth, it is probably better to use the joint tenancy approach. Therefore, if you wish this property to be put into joint tenancy, I will be glad to draw you a Deed which will take care of that matter.

In addition, it should be pointed out that, although the plat was accepted and then recorded on February 24, 1982, there has of yet not been any change made in the allocation of real estate taxes to you vis-a-vis Gerald and Debra Person. I think it is important that you, or I on your behalf, contact Mr. Orland Bremmon, Board of Equalization Director, to point this out. I note that Gerald Person is now delinquent as to the entire quarter-section, of which your acreage forms a part. You don't want to find yourselves being considered delinquent as to your relatively small tract of land, I am sure.

It is hard to realize that we started this matter approximately one year ago. At one point there was some need to move things along in relation to your drilling a well, I believe. In any event, I took it upon myself to pay the first installment of the CY 1980 taxes, which I paid on August 10, 1981. This pertained to the entire Southeast Quarter and was in the amount of \$260.83. I am enclosing a copy of the tax receipt for your information. I do not expect to hold you accountable for this in any manner. I would, however, ask that you keep this handy so that if you are on friendly terms with Gerry Person, you might mention to him at the appropriate time that this is the amount that he really owes me.

Mr. & Mrs. Walter Roehr
June 8, 1982
Page Two

If there are any questions after you have read all of this, please do not hesitate to contact me. It has been a pleasure assisting you and I only regret that it has taken so long.

Thank you. I remain,

Cordially,

Philip W. Morgan

PWM:ml

Encls.

P. S. Enclosed please find the abstract of title for your records.

PWM

TREASURER'S OFFICE, MARSHALL COUNTY, SOUTH DAKOTA

NO. 006920

BRITTON, SOUTH DAKOTA

1980

REAL ESTATE
TAX RECEIPT

overly-B. AG 22-45-1

DESCRIPTION	S.L.	T.B.	RNG.	ACRES
	30	126	57.	160

MILL LEVY	TAXABLE VALUATION	CONSOLIDATED TAX
.041010	12720	521.55

DATE PAID	PAID BY		
007042 AUG 10 1981	X		
	1st Pm't	2nd Pm't	Full Pm't
	FIRST INSTALLMENT	SECOND INSTALLMENT	
	260.92	260.92	
	TOTAL TAX		
	521.55		
INTEREST			
ADV.			
CERT.			
TOTAL			260.92

DUE JANUARY 2 1981
1ST 1/4 PAST DUE MAY 1, 1981
2ND 1/4 PAST DUE NOV. 1, 1981
TAX SALE DEC. 21, 1981

Roy Person
Britton, S.D. 57430

ANY TAX \$20.00 OR UNDER
HAS TO BE PAID IN FULL BY
APRIL 30, 1981

County Treasurer

Deputy

June 5, 1981

Mr. Walter Roehr
Rural Route
Britton, SD 57430

Dear Walter:

At the sake of some possible repetition, I am enclosing the form known as the Proprietor's Certificate which should be signed by Gerald Person and his wife, Debra before a Notary. If you can prevail upon them to do this, I will act as the Notary if you will thereafter bring the Certificate to my office.

I don't know what has happened here. Mary Lewis, my secretary, and I think that Mr. Michael Madsen at the local FmHA office may well have misplaced an earlier signed Proprietor's Certificate. He claims to know nothing about it. I am not trying to make an issue of it, but because of the apparent confusion I am simply sending this to you with the thought that we will start all over again, if that is actually the case, by having you obtain those signatures.

As I see it, we cannot complete the walk through the various offices in the Courthouse without having this Certificate. Therefore, the easiest thing is to obtain it now. I will await the return of it, signed by the Persons, to my office. Thank you. I remain,

Cordially,

Philip W. Morgan

PWM:ml

Encl.

C
O
P
Y

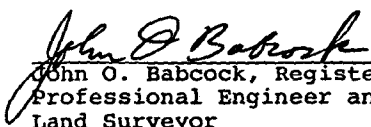
SURVEYOR'S CERTIFICATE

I, John O. Babcock, a Registered Professional Engineer and Land Surveyor, of Watertown, South Dakota, do hereby certify that at the instance and request of and under the direction of Gerald W. and Debra Person, ^{Husband and Wife,} owners, I did on and prior to April 14, 1981, layout and plat that parcel of land to be known and designated as:

ROEHR ADDITION IN THE S.E. 1/4 OF
SEC.30 T126N R57W IN THE COUNTY
OF MARSHALL
being formerly a portion of the South East 1/4 of Section 30,
Township 126 North, Range 57 West of the Fifth principal meridian,
Marshall County, South Dakota.

I further certify that the attached plat is a true and correct representation of said parcel of land so surveyed and platted by me.

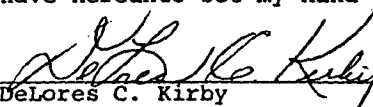
IN WITNESS WHEREOF I hereunto set my hand and official seal this 14th day of April 1981.


John O. Babcock, Registered
Professional Engineer and
Land Surveyor

STATE OF SOUTH DAKOTA
SS
COUNTY OF CODINGTON

On this the 14th day of April, 1981, before me, DeLores C. Kirby, the undersigned officer, personally appeared John O. Babcock, a duly Registered Professional Engineer and Land Surveyor in the State of South Dakota, known to me to be the person described in the foregoing instrument and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.


DeLores C. Kirby
Notary Public, State of South Dakota
My Commission Expires: March 30, 1984

(SEAL)

CERTIFICATE OF COUNTY DIRECTOR
OF EQUALIZATION

I do hereby certify that I have received a copy of the plat of ROEHR ADDITION IN THE S.E. 1/4 OF SEC. 30, T126N. R57W IN THE COUNTY OF MARSHALL.

Dated at Britton, South Dakota this 7th day of August, 1981.

Olaf Bremner
Director of Equalization of Marshall
County, South Dakota

CERTIFICATE OF COUNTY TREASURER

I do hereby certify that all taxes which are liens upon the property described in the foregoing Proprietor's Certificate relating to the plat of ROEHR ADDITION IN THE S.E. 1/4 OF SEC. 30, T126N, R57W IN THE COUNTY OF MARSHALL have been paid.

Dated at Britton, South Dakota this 10th day of August, 1981.

(SEAL)

Nelson Kristoff
County Treasurer of Marshall County,
South Dakota

APPROVAL BY COUNTY

I hereby certify that the following is a correct copy of the Resolution duly passed by the Board of Commissioners, Marshall County, South Dakota at a meeting held on the 6th day of August, 1981,

We, members of the Board of County Commissioners, Marshall County, South Dakota, do hereby certify that we have examined the plat of ROEHR ADDITION IN THE S.E. 1/4 OF SEC. 30, T126N, R57W IN THE COUNTY OF MARSHALL

, and
do hereby give our approval for this instrument to be recorded.

Gilford Hill
Chairman
Marion Cusick
County Auditor, Marshall County
South Dakota

APPROVAL BY ZONING COMMISSION

I hereby certify that the following is a correct copy of the Resolution duly passed by the Zoning Commission, Marshall County, South Dakota at a meeting held on the 10th day of August, 1981.

We, members of the Zoning Commission, Marshall County, South Dakota, do hereby certify that we have examined the plat of ROEHR ADDITION IN THE S.E. 1/4 OF SEC. 30 T126N, R57W IN THE COUNTY OF MARSHALL, and do hereby give our approval for this instrument to be recorded.

Cornelius Keintz
Chairman
Olaf Bremner
Secretary Zoning Commission
Marshall County, South Dakota

PROPRIETOR'S CERTIFICATE

We, Gerald W. and Debra Person, Husband & Wife, owners, of all that part of the South East 1/4 of Section 30, in Township 126 North, of Range 57 West of the Fifth Principal Meridian, Marshall County, South Dakota, lying within the plat hereinafter described, do hereby certify that we caused a portion of said tract of land to be platted into a parcel of land hereafter to be known as:

ROEHR ADDITION IN THE S.E. 1/4 OF
SEC. 30 T126N R57W IN THE COUNTY
OF MARSHALL

and that we caused the same to be platted on the annexed survey and plat certified to by John O. Babcock, a Registered Professional Engineer and Land Surveyor, and that said plat was made at the request of the undersigned and under their direction and for the purposes indicated thereon and herein.

We further certify that we are the absolute and unqualified owners, of all the land included in said plat and that the same is free from any encumbrance.

IN WITNESS WHEREOF the said proprietors hereunto set thier hands this 6th day of August, 1981.

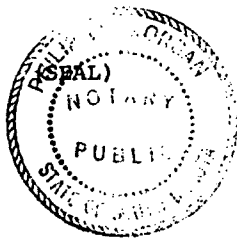
Gerald A. Person
Debra L. Person

STATE OF SOUTH DAKOTA
SS.
COUNTY OF MARSHALL

On this the 6th day of August, 1981, before me Philip W. Morgan, the undersigned officer, personally appeared Gerald W. & Debra Person, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Philip W. Morgan
South Dakota, Notary Public
State of South Dakota
My Commission expires: 8-12-83

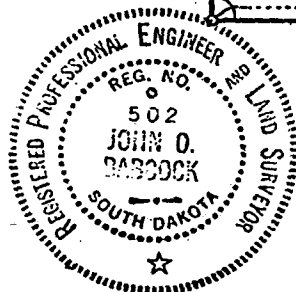
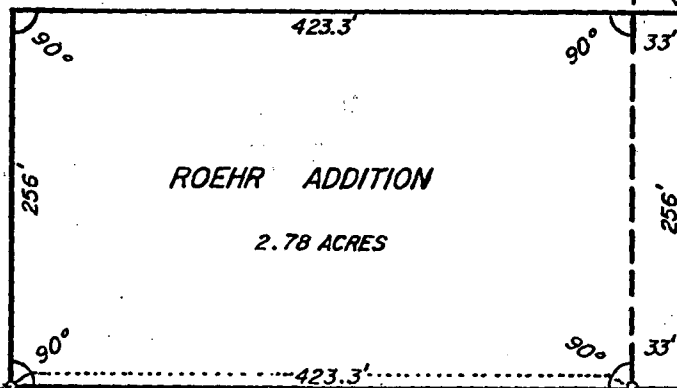


N.E. CORNER SEC. 30
T126N R57W

PLAT OF:

ROEHR ADDITION IN THE S.E. 1/4 OF
SEC. 30 T126N R57W IN THE COUNTY OF
MARSHALL.

1/4 LINE



John O. Babcock
REG. PROF. ENG. & LAND SURVEYOR
SCALE 1" = 100' APRIL 14, 1981
o = IRON PIN

PARTIAL RELEASE

Wm Morgan

KNOW ALL MEN BY THESE PRESENTS, That the United States of America, as owner and holder of the following-described instrument(s), made and executed by Gerald A. Person and Debra L. Person

Britton, SD 57430, County of Marshall, State of South Dakota, filed or recorded in the Register of Deeds office

Marshall County, State of South Dakota, to wit:

Lien Instrument	Mortgagee	Date of Instrument	Date Filed	Document, File or Book No.	Page No.
Real Estate Mortgage	U.S. of A., FmHA	7-1-80	7-1-80	115	87-90
Real Estate Mortgage	U.S. of A., FmHA	3-20-81	3-20-81	115	444-447

for value received does hereby release from the lien of said instrument(s) the following-described property (describe property in detail)

Roehr Addition in the Southeast Quarter (SE $\frac{1}{4}$), Section Thirty (30), Township One Hundred Twenty-Six (126) North, Range Fifty-seven (57), West of the 5th P.M.

STATE OF SOUTH DAKOTA, COUNTY OF MARSHALL - SS

FILED THIS 9 DAY OF June, 1982 AT 3:00 O'CLOCK P M. BOOK 111 PAGE 300
Claudia Liberman DEPUTY FEES \$ 2.00
REGISTER OF DEEDS

Only the above-described property is released from the lien of the aforesaid instrument(s). This release shall not affect or modify the obligations secured by the said lien instrument(s), and the said obligations shall continue in force and effect until fully paid satisfied, and discharged.

IN WITNESS WHEREOF, the United States of America has caused these presents to be signed the 6th

day of August, 1981.

WITNESSES:

UNITED STATES OF AMERICA
By Michael G. Madsen
Michael G. Madsen
Title County Supervisor
Farmers Home Administration
United States Department of Agriculture

STATE OF South Dakota
COUNTY OF Marshall

ACKNOWLEDGMENT

On this 6th day of August, 1981, before me, the subscriber,

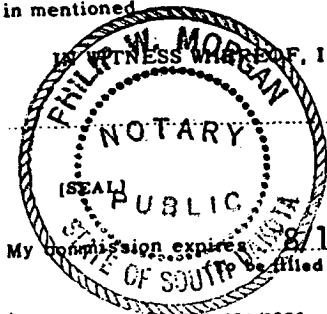
Notary Public, in and for the above county and State, appear:

Michael G. Madsen, known to me to be County Supervisor

Farmers Home Administration, United States Department of Agriculture, and the person who executed the foregoing instrument, and acknowledged to me that he executed the same as the free act and deed of the United States of America, for the uses and purposes therein mentioned.

In WITNESS WHEREOF, I have hereunto set my hand and seal at Britton, S.D.

the day and year aforesaid.



Philip W. Morgan
Philip W. Morgan
Notary Public (Signature)

My Commission Expires 8/12/83
(to be filled in if certifying officer is a notary public)

10150
6-516074

Gerald A. Person and Debra L. Person, Husband and Wife,
grantors, of Marshall County,

State of South Dakota for and in consideration of

ONE and NO/100 - - - - - (\$1.00) - DOLLARS
and other good and valuable consideration

GRANT, CONVEY AND WARRANT, TO Walter Roehr and Patricia Roehr,
Husband and Wife,

grantees, of RR Britten, Marshall County, SD P. O. the following described

real estate in the County of Marshall in the State of South Dakota:

Roehr Addition in the Southeast Quarter (SE $\frac{1}{4}$) of Section
Thirty (30), Township One Hundred Twenty-six North (126N),
Range Fifty-seven, West of the 5th P.M., Marshall County,
South Dakota.

Grantors and Grantees agree that if Grantees desire to sell
subject property during the lifetime of any and all parties,
the Grantors shall have the first option/opportunity to buy
said property at a price to be agreed upon between the parties.

Dated this 6th day of August, 19 81.

Debra L. Person
Gerald A. Person

STATE OF SOUTH DAKOTA,
County of Marshall ss.

On this the 6th day of August, 19 81, before me,

the undersigned officer, personally appeared

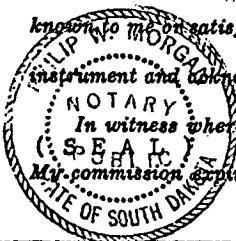
Gerald A. Person and Debra L. Person, Husband and Wife,

known to me or satisfactorily proven to be the person(s) whose name(s) are subscribed to the within
instrument and acknowledged that the Y executed the same for the purposes therein contained.

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

My commission expires August 12, 1983.

Philip W. Morgan
South Dakota Notary Public



TIM
THIS IS A
COVENANT NOT
TO SUE

STATE OF SOUTH DAKOTA)
COUNTY OF MARSHALL) SS

RELEASE OF CLAIMS
AND
COVENANT NOT TO SUE

IN CONSIDERATION of One and No/100 (\$1.00) Dollars,
receipt of which is hereby acknowledged, We, Walter Roehr and
Patricia Roehr, Husband and Wife of Rural Route Britton, County
of Marshall, State of South Dakota, on behalf of ourselves, our
heirs, legal representatives, and assigns, hereby release Gerald
A. Person and Debra L. Person, Husband and Wife, of Rural Route
Britton, County of Marshall, State of South Dakota, from all
liability, claims, demands, costs, charges and expenses incident
to any property damage and/or any personal injuries that may re-
sult from the back up, or flooding, of waters from a dam that is
known to all parties, that has been placed on property belonging
to Gerald A. Person and Debra L. Person, located near the follow-
ing property which has been purchased by Walter Roehr and Patricia
Roehr, to wit:

Roehr Addition in the Southeast Quarter
(SE $\frac{1}{4}$) of Section Thirty (30), Township
One Hundred Twenty-six North (126N),
Range Fifty-seven (57), West of the 5th
P.M., Marshall County, South Dakota.

This Release and Covenant covers all claims we now have,
or may have, in the future, known or unknown, against Gerald A.
Person and Debra L. Person, their heirs or legal representatives,
based upon the aforementioned dam and water therefrom, which
would result in property damage and/or personal injuries, as it
pertains to our property and to us.

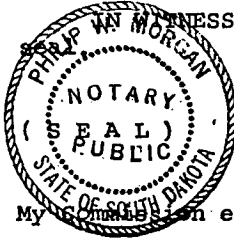
IN WITNESS WHEREOF, We have executed this Release and Covenant
not to Sue at Britton, South Dakota this 7th day of August, 1981.

Walter Roehr

Patricia Roehr

State of South Dakota)
) SS
County Of Marshall)

On this the 7th day of August, 1981, before me, the undersigned officer, personally appeared Walter Roehr and Patricia Roehr, known to me or satisfactorily proved to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same, for the purposes therein contained.



IN WITNESS WHEREOF, I hereunto set my hand and official

Philip W. Morgan
South Dakota Notary Public

My Commission expires 8-12-83.

Walt
Roehr
Cooper

TIM

THIS FHA OPTION INCLUDES
AGREEMENT TO BACK WATER
IN EXISTING CREEK

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

OPTION TO PURCHASE REAL PROPERTY

1. In consideration of the sum of \$ 1.00 in hand paid and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter called the "Seller"), who covenants to be the owner thereof, hereby, for the Seller and the Seller's heirs, executors, administrators, successors and assigns, offers and agrees to sell and convey to

Walter Roehr and Patricia Roehr, Husband and Wife,
Rural Route Britton, South Dakota 57430

(Name and Address)

(hereinafter called the "Buyer"), and hereby grants to the said Buyer the exclusive and irrevocable option and right to purchase, under the conditions hereinafter provided, the following-described property, located in Marshall

County, State of South Dakota :

(Insert here full and complete legal description, including volume and page where recorded, of the property including any water rights and water stock being purchased.)

Roehr Addition in the Southeast Quarter
(SE $\frac{1}{4}$) of Section Thirty (30), Township
One Hundred Twenty-six North (126N),
Range Fifty-seven (57), West of the 5th
P.M., Marshall County, South Dakota.

The title to said property is to be conveyed free and clear of all encumbrances except for the following reservations, exceptions and leases, and no others:

(Insert here a full statement of all reservations, exceptions and leases, including in the case of leases, the date of the termination of the lease, the correct name(s) and address(es) of the lessee(s) and, if recorded, the place of recordation)

Buyer and Seller agree that Seller may subsequently build a dam below the subject property which would back water into an existing creek located in the Northeastern corner of said property.

2. This option is given to enable the Buyer to obtain a loan insured or made by the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (hereinafter called the "Government"), for the purchase of said property. It is agreed that the Buyer's efforts to obtain a loan constitute a part of the consideration for this option and any downpayment will be refunded if a loan cannot be processed by FmHA.

(\$1,100.00)

3. The total purchase price for said property is \$ One Thousand One Hundred & No/100 Dollars said amount

☒ includes ☐ excludes the \$ One and No/100 Dollar (\$1.00) mentioned in paragraph 1.

4. The Seller agrees to pay all expenses of title clearance including, if required, abstract or certificate of title or policy of title insurance, continued down to the date of acceptance of this option and thereafter continued down to and including date of recordation of the deed from the Seller to the Buyer, costs of survey, if required, and attorney's fees; and the Seller agrees that, except as herein provided, all taxes, liens, encumbrances or other interests in third persons will be satisfied discharged, or paid by the Seller including stamp taxes and other expenses incident to the preparation and execution of the deed and other evidences of title. Title evidences will be obtained from persons and be in such form as the Government shall approve.

(Strike inapplicable language above or insert herein any different agreement regarding the paying of title clearance charges)

5. The Seller also agrees to secure for the Buyer, from the records of the County Agricultural Stabilization and Conservation Committee, aerial surveys of the property when available, all obtainable information relating to allotments and production history and any other information needed in connection with the consideration of the proposed purchase of the property.

6. The Seller further agrees to convey said property to the Buyer by general warranty deed (except where the law provides otherwise for conveyances by trustees, officers of courts, etc.) in the form, manner and at the time required by the Government, conveying to the Buyer a valid, unencumbered, indefeasible fee-simple title to said property meeting all requirements of the Government; that the purchase price shall be paid at the time of recording such deed; and that said lands, including improvements, shall be delivered in the same condition as they now are, customary use and wear excepted.

7. Taxes, water assessments and other general and special assessments of whatsoever nature for the year in which the closing of the transaction takes place shall be prorated as of the date of the closing of the transaction, it being expressly agreed that for the purpose of such proration the tax year shall be deemed to be the calendar year. If the closing of the transaction shall occur before the tax rate is fixed, the apportionment of taxes shall be on the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

(Insert here any different tax agreement)

8. This option may be exercised by the Buyer, at any time while the offer herein shall remain in force, by mailing, telegraphing or delivering in person a written notice of acceptance of the offer herein to Seller, at his residence, in the city of Rural Route Britton, County of Marshall, State of South Dakota.

The offer herein shall remain irrevocable for a period of twelve (12) months from the date hereof and shall remain in force thereafter until one (1) year from the date hereof unless earlier terminated by the Seller. The Seller may terminate

this offer at any time after the twelve (12) months' irrevocable period provided herein by giving to the Buyer ten (10) days' written notice of intention to terminate at the address of the Buyer. Acceptance of this option by the Buyer within ten (10) days after such notice is received by the Buyer shall constitute a valid acceptance of the option.

9. Loss or damage to the property by fire or from an act of God shall be at the risk of the Seller until the deed to the Buyer has been recorded, and in the event that such loss or damage occurs, the Buyer may, without liability, refuse to accept conveyance of title, or may elect to accept conveyance of title, in which case there shall be an equitable adjustment of the purchase price.

10. The Seller agrees that, irrespective of any other provision in this option, the Buyer, or the Buyer's assignees, may, if the option is accepted, without any liability therefore refuse to accept conveyance of the property described herein if the foresaid loan cannot be made or insured because of defects in the title to other land now owned by, or being purchased by, the buyer.

11. The Seller agrees to furnish, at Seller's expense, to the Buyer a certificate from a reliable firm certifying that the following described building(s) covered by this option (1) is now free of termite infestation and (2) either is now free of unrepaired termite damage or has suffered unrepaired termite damage which is specifically described in the certificate.

12. The Seller agrees to furnish, at the Seller's expense, to the Buyer evidence from the Health Department or a reliable and competent source that the waste disposal system for the dwelling is functioning properly, and the water supply for domestic use meets State Health Department requirements. This evidence must be in the Farmers Home Administration County Office before a loan will be approved.

13. The Seller hereby gives the Government or its agents consent to enter on said property at reasonable times for the purpose of inspecting or appraising it, in connection with the making of a loan to purchase the property.

Buyer and Seller agree that if Buyer at any time desires to sell subject property, Seller shall have the first option/opportunity to buy it at a price to be agreed upon between same.

14. Insert here conditions peculiar to this particular transaction.

(Sellers Telephone Number)

IN WITNESS WHEREOF, the Seller and the Buyer have set their hands and seals this 14th day of

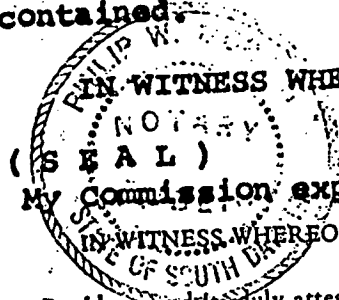
May, 19 81.

WITNESSES:

Gerald A. Person (Seller)*
Debra L. Person (Seller)*
Walter A. Bach (Buyer)
Patricia Bach (Buyer)

STATE OF SOUTH DAKOTA } SS
COUNTY OF MARSHALL }

On this 14th day of May, in the year 1981, before me, the undersigned officer, personally appeared Gerald A. Person, Debra L. Person, Walter A. Roehr and Patricia Roehr, known to me or satisfactorily proved to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same, for the purposes therein contained.



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(S E A L)

My Commission expires 8-12-83.

(For use if Seller is a corporation)

Philip W. Magn
South Dakota Notary Public

IN WITNESS WHEREOF, the Seller has caused its corporate name to be hereunto subscribed by its _____
President, and its duly attested corporate seal to be hereunto affixed by its _____

Secretary, at _____, State of _____

on the _____ day of _____, 19 ____.

(CORPORATE SEAL)

(Name of Corporation)

ATTEST: _____ By _____

Secretary. _____ President.

ACKNOWLEDGMENT



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 26, 1994

Gerald A Person
RR 2 Box 123
Britton, SD 57430

Curt Jones
RR
Britton, SD 57430

Walt Roehr
RR 2 Box 121A
Britton, SD 57430

Jim Kann
RR 2 Box 125
Britton, SD 57430

Leon Jones
RR
Britton, SD 57430

Delmar Roehr
RR 2 Box 122
Britton, SD 57430

Jim Peters
RR 2 Box 130A
Britton, SD 57430

Paul Bremmon
RR
Britton, SD 57430

RE: Gerald Person Dam

Gentelmen:

Enclosed, for your information, is a copy of the staff report on the Gerald Person Dam. This report will be presented to the Water Management Board at their August 31, 1994, meeting.

If you have any questions, please contact Tim Schaal at (605)773-3352.

Sincerely,

Eric Gronlund
Natural Resources Engineer
Water Rights Division

Encl.

Minutes of the 81st Meeting of the Water Management Board
August 31 and September 1, 1994

acre-feet) from the Ogallala Formation. Staff recommendation is to allow Future Use Permit No. 1660-2 to remain in effect and to be amended by adding the following qualification:

That Permit No. 1660-2 reserve for future use a total of 396 acre-feet annually. The diversion rate of 2.14 cfs is deleted from Permit No. 1660-2.

Mrs. Gunderson MOVED, SECONDED by Mr. Freeman that Future Use Permit No. 1660-2, City of Burke, be allowed to REMAIN in EFFECT with the staff recommended qualification. MOTION CARRIED.

Meeting recessed at 10:40 a.m.

Meeting reconvened at 11:03 a.m.

Consideration of Dismissal of Homestake Vested Water Right Application Nos. 1587-1, 1588-1, 1589-1, 1590-1, 1591-1, 1592-1 and 1594-1

See court reporter transcript which is on file. Exhibits are also on file.

Homestake Mining Company (HMC) made a motion to dismiss their Vested Water Right Applications based on the fact that they believed the filings were mandatory.

William Taylor made a motion for compensation, to have his attorneys fees paid and his expenses reimbursed on the basis that the Board has the power to set the terms and conditions from which they can bring this case to a close and start over again.

Mr. Freeman MOVED, SECONDED by Mrs. Gunderson to DENY Homestake Mining Company's motion to dismiss and DENY Mr. Taylor's motion for award of attorneys fees and expenses. Mr. Freeman also stated that this matter be treated henceforth as a mandatory filing from when the application was first filed on September 17, 1992. MOTION WITHDRAWN.

Mr. Freeman MOVED, SECONDED by Mrs. Gunderson to DENY Homestake Mining Company's motion to dismiss and DENY Mr. Taylor's motion for award of attorneys fees and expenses. Mr. Freeman stated the hearing would continue as before the motion to dismiss. MOTION CARRIED.

Mr. Taylor also had a motion that his attorneys fees be paid, if HMC's motion to dismiss would be denied, for attending the Board meeting and getting ready and preparing for the meeting.

Mr. Freeman MOVED, SECONDED by Mrs. Gunderson to DENY Mr. Taylor's alternate motion for attorneys fees. MOTION CARRIED.

Consideration of Issues on Gerald Person Dam

Is. Best introduced the Division file into the record.

minutes of the 81st Meeting of the Water Management Board
August 31 and September 1, 1994

In his report, Tim Schaal stated that the Gerald Person Dam is classified as a Category 2, Significant Hazard dam and impounds 200 acre-feet of water for irrigation of 210 acres as authorized by Water Permit No. 4948-3. A Category 2 dam means there is a potential for economic loss.

Water Permit Application No. 5777-3 has been filed by Mr. Person to correct the location of some of the irrigated acres and add additional acres to Water permit No. 4948-3. Water Permit Application No. 5777-3 has been deferred and the licensing of Water Permit No. 4948-3 has been delayed until repairs to the dam and spillway are made.

In July of 1993, a 6 to 7 inch rainfall overtopped the dam and spillway causing additional erosion to the earth spillway and flooding to an upstream township road and upstream adjacent property. A dike at the upstream end of the reservoir was constructed at the time of the original construction of the dam to help control upstream flooding.

A Notice was sent to Mr. Person on March 8, 1994, indicating the need to repair the dam and spillway and address the upstream flooding conditions. A drop inlet type spillway as a primary spillway structure was suggested to help prevent erosion in the earth spillway and to address the upstream flooding issues.

The Safety of Dams Rules state that a dam of this size and category should have a spillway capacity for a 100 year flood. The Person Dam was constructed before the rules became effective.

Mr. Schaal stated that the main issue is to figure out what elevation the drop inlet type spillway should be at to prevent flooding and maintain the reservoir level for irrigation.

Mr. Schaal also stated that plans and specifications prepared by a registered professional engineer are required since the dam safety rules indicate any alteration of a dam has to be designed by a registered professional engineer.

According to the elevations, it appears that the drop inlet type spillway should be approximately 4 feet below the elevation of the existing earth spillway. This would address the flooding of the upstream property.

The dam was originally designed to store 200 acre-feet of water at the full reservoir level or spillway elevation. If the reservoir level or spillway elevation was lowered 2 feet, the storage capacity would amount to 158 acre-feet. If the reservoir level or spillway elevation was lowered 4 feet, the storage capacity would amount to 120 acre-feet.

The Notice dated July 27, 1994, explained that after all testimony and evidence is taken at the hearing, the Board may: 1) issue an order to lower the spillway elevation to prevent

Minutes of the 81st Meeting of the Water Management Board
August and September 1, 1994

upstream flooding if necessary flood easement(s) can not be obtained, 2) determine existing actions taken to alleviate/prevent flooding are sufficient, 3) rule on applicable provisions of the Safety of Dams rules relating to the Board's action, 5) modify the above actions, do some combination of the above actions, or take no action.

In conclusion, Mr. Schaal reported that an owner of a dam cannot flood adjacent property unless he has the proper flood easements. It is the recommendation of the division that Mr. Person either obtain the easements, or lower the reservoir to eliminate the upstream flooding.

Chairman Rollag administered the oath to Gerald Person.

Mr. Person expressed that the major argument on the dam is the elevation of the dam once repairs are completed. The major spillway, approximately 200 feet wide and 4 feet deep, needs to be completely renovated. It is washed away to within approximately 30 to 40 feet of the reservoir. In order to complete the renovations, a continuous flow pipe should be installed, such as a culvert or a draw down tube. This should cover the continuous flows in the spring so the new dirt work will not be washed out.

Mr. Person expressed that one of the concerns was flooding the township road. In order to alleviate flooding of the township road, Mr. Person believed that the emergency earth spillway should be lowered by at least 1 foot. That would give approximately 2 feet of freeboard before it tops the road. Mr. Person stated he would lower the lowest elevation to approximately 101.4 feet.

Concerning the dike on the back water side next to the Delmar Roehr farm, it has been recommended that the dike be taken out or a culvert put in there. Mr. Person explained that if he were to install a culvert in that dike at an elevation of 104 feet, he would like to install a one-way valve to alleviate any rush floods that could happen from surface area runoff. Road flooding could be alleviated by installing a one-way valve to allow the water to run from Delmar Roehr's, but not run back, if the dam was fuller than the road dike.

Mr. Person proposed an agreement be made on the height of the structure that is going to control the maximum height of the dam once the "tube" has quit running. This would be the elevation at the top of the concrete on the draw down tube. If this is dropped 2 1/2 feet, this would give 1 1/2 foot of freeboard before it uses the earth spillway. In doing that, the culvert would have to be increased by more than 4 feet to feed the 3 foot culvert. Mr. Person declared he would like to install a draw down tube 2 1/2 feet below the level of the earth spillway (101.4 feet). The elevation of the concrete tube would be approximately 99 feet, lowering it 2 1/2 feet below the earthen spillway.

**Minutes of the 81st Meeting of the Water Management Board
August 31 and September 1, 1994**

Philip Morgan, attorney for Walt and Delmar Roehr, asked Mr. Person when he could get started on the renovations of his dam and how long would the renovations take? Mr. Person declared that the water level was down at the present time and repairs could begin immediately. Mr. Person also declared he would have to contact a couple of contractors and try to get them out to the dam as soon as possible.

Mr. Schaal stated that plans and specifications would also have to be prepared by a registered professional engineer.

Chairman Rollag administered the oath to Walt Roehr.

Mr. Roehr read from a written statement he handed out to the Board (copy of statement on file). In his statement, Mr. Roehr believed that the elevation of the earth spillway and the elevation of the road at it's lowest spot were too close to the same. Mr. Roehr would like the earth spillway lowered so that when they have a heavy rain or a quick thaw, the surface of the road will not get flooded. Mr. Roehr also expressed that one of his concerns was that if the earth spillway is not lowered, how often the water level would reach the earth spillway elevation.

Mr. Person related that the area flooded in approximately 1990 and 1993. Mr. Person believed that the area would have flooded whether his dam was there or not.

Mr. Schaal concurred with Mr. Person saying that when the water in the area flows, it causes natural flooding.

Mr. Roehr explained that Mr. Person had a good plan for the renovation of his dam, but there was the matter of establishing the elevations. Mr. Roehr declared that his dad, Delmar, has never signed an easement and does not care to sign an easement.

Mr. Morgan, speaking for Delmar Roehr, reported that Mr. Roehr's feedlot was in danger every time it flooded.

Mr. Person reported that he would have no problem with lowering the elevation of the draw down to a point where it would not back into anymore than the township right-of-way, which would be 66 feet from the center line of the township road.

Mr. Person reported that the spillway would be at 101.4 feet and the draw down tube would be approximately 3 1/2 feet lower.

Mr. Schaal reported that the permanent pool would be at an elevation of 99 feet and the invert in the culvert through the township road is at 98.3 feet. There would be potential for some water on the upstream side of the culvert.

Mr. Person explained that he did not have a problem getting an engineering study done on the dam, but the renovations on the dam might not get completed by fall 1994.

Minutes of the 81st Meeting of the Water Management Board
August 31 and September 1, 1994

In answer to a question from Mr. Freeman, Mr. Person declared that the dam was built in 1982.

In answer to a question from Chairman Rollag, Mr. Schaal explained that Mr. Person could put a culvert in the dike, with a gate on the reservoir side, to allow water that is being stored on the Roehr property to drain. This would depend on what the elevation is going to be.

Mr. Person reported that a one-way valve in the dike would be better than without the dike there at all. The water would stay in the channel and the pool height would be 1 foot lower even if the dam was level to the emergency spillway. Mr. Person explained that he was looking at a way to keep the water off the township road.

Mr. Person explained that he had contacted a construction firm to repair the spillway, but was informed by the Division that he could not repair the dam. Mr. Person was told that he had to have an engineering study done. Mr. Person intended to have the spillway repaired in 1993. Mr. Person explained that all he wanted to do was repair his dam.

Mr. Freeman MOVED, SECONDED by Mr. Brink to ADOPT the staff recommendation regarding the Gerald Person dam that states that Mr. Person install a drop inlet spillway as a primary spillway at an elevation 4 feet below the elevation of the earth spillway. A culvert needs to be installed through the upstream dike, or the dike breached, to eliminate the upstream flooding conditions. Any plans and specifications will have to be prepared by an engineer pursuant to ARSD Chapter 74:02:08, Safety of Dams.

Mr. Freeman MOVED, SECONDED by Mr. Brink to AMEND the motion to include a completion date of one year from now.

MOTION CARRIED.

Findings of Fact were waived by all parties.

Meeting recessed at 4:30 p.m.

Meeting reconvened at 4:41 p.m.

Consideration of Findings of Fact, Conclusions of Law and Final Decision

Outlet Elevation for Lake Alice

There were no proposed changes by the Division to the proposed Findings, Conclusions and Final Decision for the Outlet Elevation for Lake Alice.

Mr. Freeman MOVED, SECONDED by Mrs. Gunderson to ADOPT the Findings of Fact, Conclusions of Law and Final Decision for the



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

September 7, 1994

To: Gerald Person
P.O. Box 68
Britton, SD 57430

From: John Hatch, Chief Engineer
Water Rights Division

Subject: Water Management Board action concerning the Gerald
Person Dam

August
The Water Management Board at their ~~October~~ 31, 1994, hearing concerning your irrigation dam made a motion that ADOPTED the staff recommendation for installing a drop inlet spillway as a primary spillway at an elevation 4 feet below the elevation of the earth spillway. A culvert also needs to be installed through the upstream dike, or the dike breached, to eliminate the upstream flooding conditions. This motion included that plans and specifications, for the installation of the drop inlet spillway, will have to be prepared by a Registered Professional Engineer according to the Safety of Dams Rules, Chapter 74:02:08.

You have indicated that you would like to repair the damaged earth spillway as soon as possible to establish a grass cover before spring runoff. This notice will serve as authorization for you to start repair of the damaged earth spillway with the understanding that the Board's motion placed the elevation of the drop inlet spillway at the same elevation as the upstream (east) invert of the 18 inch CMP culvert near Delmar Roehr's mailbox.

c: Walt Roehr
Delmar Roehr

CERTIFICATION

I hereby certify that on September 8, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 7, 1994, regarding Water Management Board Action Concerning the Gerald Person Dam, addressed as stated below:

Gerald Person, P.O. Box 68, Britton, SD 57430.

Walt Roehr, RR 2, Box 121A, Britton, SD 57430.

Delmar Roehr, RR 2, Box 122, Britton, SD 57430.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of September, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 1, 1994

Stacy Mount
Farmers Home Administration
Box 218
Webster, SD 57275

Dear Ms. Mount

Enclosed is a excerpt from the minutes for the August 31 and September 1, 1994 Water Management Board Meeting. The Board basically told Mr. Person to install an additional spillway 4 feet lower than the existing earth spillway, repair the existing earth spillway, and have plans and specifications for this work completed by an Registered Engineer. They gave him 1 year, or until August 31, 1995, to complete this work (I think I told you October 1995 over the phone).

This work needs to be completed no matter who owns the property. If the property is sold, the new owner would be responsible for the dam.

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

Sincerely,

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

enclosure.

HOFLAND ENGINEERING

Box 229
Veblen, South Dakota 57270

(605) 738-2393



Box 1006
Suite 300, Citizens Building
202 S. Main St.
Aberdeen, SD 57402-1006
(605) 229-2776

August 25, 1995
Veblen, S. Dak. 57270

Mr. Tim Schaal
Natural Resources Engineer III
DENR
Joe Foss Building
523 East Capitol
Pierre, S. Dak. 57501-3181

Dear Tim,

Enclosed are plans for the rehabilitation of the Gerald Person dam. I was on the site on August 14, 1995 and the dirt contractor was in the process of filling the erosion area on the earthen spillway. I plan to be at the site again on August 28 or 29 to check on progress. I will call you next week and give you a progress report.

I hope these plans meet your requirements. They were put together pretty quickly, and are a little rough.

If you have any questions or comments, please call me.

Sincerely,

Rick Hofland, PE
Hofland Engineering

RICK HOFLAND
Veblen Office

RANDY HOFLAND
Aberdeen Office



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 1, 1995

Rick Hofland
Hofland Engineering
Box 229
Veblen, SD 57270

Dear Mr. Hofland:

We have reviewed the plans and specifications for the Gerald Person Dam Rehabilitation Project located in the S 1/2 NE 1/4 of Section 30-T126N-R57W, in Marshall County. The plans and specifications as submitted are approved.

Our review was to determine compliance with the requirements of the Water Management Board Safety of Dams Rules, Chapter 74:02:08. Approval of these plans and specifications does not release Mr. Person, as owner of the dam, from the responsibility for operating and maintaining the dam in good repair to ensure the safety of the dam.

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

Sincerely,

Gale N. Selken, P.E.
Natural Resources Engineer IV
for John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

c: Gerald Person, P.O. Box 68, Britton, SD 57430

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

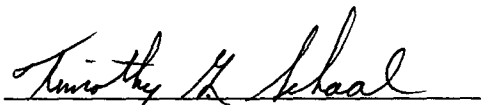
ADDRESS: P.O. Box 68, Britton SD 57430 COUNTY: Marshall

DATE: November 13, 1995

TELEPHONE: 448-2381 (work)

RE: Dam Repair

On November 7, 1995 I met with Gerald Person to inspect the work he has completed on his dam. The drop inlet primary spillway was constructed and appeared to be at the proper elevation, however, I told Mr. Person that we would need an as built survey from his engineer. We also talked about maybe trying to extend the outlet barrels. The earth spillway and top of dam were leveled; however, they were not seeded. Mr. Person said he wanted to wait until spring to do the seeding. Also, the upstream dike was inspected and there was not a culvert or breach in this dike as the Board directed. I told Mr. Person that these items would need to be completed before we could proceed with the deferred Water Permit Application No. 5777-3 and the licensing of Water Permit No. 4948-3.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 30, 1995

Gerald Person
PO Box 68
Britton, SD 57430

Dear Mr. Person:

I am writing to follow up on the conversation you had with Tim Schaal on November 7, 1995, when he inspected your dam.

Although the work that has been completed on the drop inlet primary spillway, the earthen secondary spillway and top of dam looked good, several additional items still need to be completed. The leveled earth spillway and the top of dam crest need to be seeded and the dike at the upper end of the reservoir needs to have a culvert with a gated end installed or the dike needs to be breached to eliminate upstream flooding. This was part of the Water Management Board's motion, which also included that the work must be completed by August 31, 1995. Also, we will need to have an "As Built" survey from your engineer comparing the elevations of the two spillways and top of dam crest to the invert of the upstream culvert.

Until this work is completed, no action can be taken on deferred Water Permit Application No. 5777-3 or on the licensing of Water permit No. 4849-3.

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

Sincerely,

Gale N. Selken, P.E.
Natural Resources Engineer IV
for John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 18, 1996

Delmar Roehr
RR 2, Box 122
Britton, SD 57430

Dear Mr. Roehr:

Enclosed is a copy of the plans for the repair of the Gerald Person Dam and a file document and letter to Mr. Person concerning my November 7, 1995, inspection of the dam. As mentioned in the letter, there are several items that still need to be completed. The upstream dike needs to be breached or have a culvert installed and the elevations need to be confirmed by Mr. Person's engineer. If the elevations check out, there could still be some upstream flooding due to the temporary storage of water above the spillway elevation.

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

Sincerely,

for

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

enclosures

c: Walt Roehr
Gerald Person

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

ADDRESS: PO Box 68, Britton SD 57430 COUNTY: Marshall

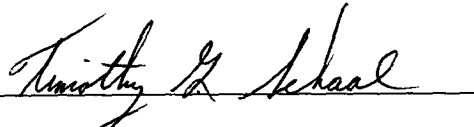
DATE: November 4, 1996

TELEPHONE: 448-2381 (work)

RE: Dam Repair

I talked to Gerald Person today about his dam repair project and Water Permit No. 4948-3 and deferred Water Permit Application No. 5777-3. I reminded Mr. Person that we still need final elevations of the spillways and he still needs to either breach the upstream dike or install a culvert through the dike. I told him we needed this information before we could proceed on the deferred Water Permit Application No. 5777-3 and licensing of Water Permit Application No. 4948-3. I also reminded him that the Water Management Board indicated that his project was to be completed by August 31, 1995.

Mr. Person said he understood and would probably breach the upstream dike and try to have the surveying completed within a month.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 14, 1997

Gerald Person
PO Box 68
Britton, SD 57430

Dear Mr. Person:

I am writing in reference to the previous conversations we have had regarding your irrigation dam located in the NE 1/4 of Section 30-T126N-R57W. Several items still need to be completed before we can proceed with the licensing of Water Permit No. 4948-3 and deferred Water Permit Application No. 5777-3.

The dike located at the upper end of the reservoir needs to be breached or have a gated culvert installed to allow the release of upstream runoff. We also need to have an "As Built" survey from your engineer comparing the elevations of the two spillways and the top of dam to the invert of the upstream culvert.

The Water Management Board's motion included that this work was to be completed by August 31, 1995. With the potential for flooding situations in South Dakota this spring, the potential for flooding to the upstream road is a concern. Every effort should be taken to get this work completed as soon as possible.

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

Sincerely,

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

c: Walt Roehr, RR 2, Box 121A, Britton, SD 57430



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 14, 1997

Gerald Person
PO Box 68
Britton, SD 57430

Dear Mr. Person:

I am writing in reference to the previous conversations we have had regarding your irrigation dam located in the NE 1/4 of Section 30-T126N-R57W. Several items still need to be completed before we can proceed with the licensing of Water Permit No. 4948-3 and deferred Water Permit Application No. 5777-3.

The dike located at the upper end of the reservoir needs to be breached or have a gated culvert installed to allow the release of upstream runoff. We also need to have an "As Built" survey from your engineer comparing the elevations of the two spillways and the top of dam to the invert of the upstream culvert.

The Water Management Board's motion included that this work was to be completed by August 31, 1995. With the potential for flooding situations in South Dakota this spring, the potential for flooding to the upstream road is a concern. Every effort should be taken to get this work completed as soon as possible.

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

Sincerely,

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

c: Walt Roehr, RR 2, Box 121A, Britton, SD 57430

March 26/1997



GERALD PERSON
C.O. BRITTON Equipment Co
Box 68
BRITTON S.DAK

Dear Tim Schaal,

I AM WRITING TO INFORM THE DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES THAT AS OF OUR LAST CONVERSATION THE DIKE AT THE UPPER END OF THE RESERVOIR IS BREACHED. I INSPECTED IT THE DAY I RECEIVED YOUR LETTER DATED 3/14/1997 AND IT REMAINS BREACHED.

I HAVE ALSO CONTACTED BUT NOT RECEIVED AN "AS BUILT" SURVEY FROM THE ENGINEER. I WILL CONTACT HIM AGAIN TO COMPLETE THIS. IF HE DOES NOT CAN WE CONTACT SCS OR ANOTHER ENGINEER TO CONFIRM THE LEVELS. I WOULD LIKE TO GET THIS COMPLETED.

SINCERELY,

Gerald Person

605-448-2381

I called Mr. Person on April 2, 1997, and told him the SCS could do the "As Built" survey.

Tim Schaal

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

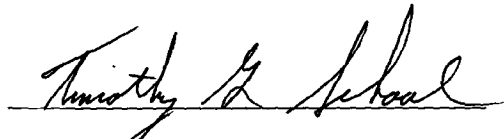
ADDRESS: PO Box 68, Britton SD 57430 COUNTY: Marshall

DATE: March 28, 1997

TELEPHONE: 448-2381 (work)

RE: Call from Walt Roehr

Mr. Roehr called today and said that the road went under water last night. He did say that it looked like the water has gone down some this morning. We talked about Mr. Person's dam and our discussion at the Water Management Board meeting concerning the peak runoff may still inundate the road but the time of inundation should be much less. He said he understood that, but was concerned about his father's health and his need for access in and out of his place. Mr. Roehr did say that Mr. Person did open the upstream dike last week.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

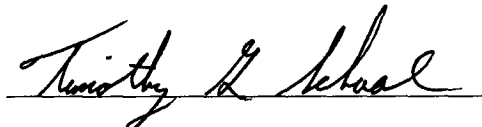
ADDRESS: PO Box 68, Britton SD 57430 COUNTY: Marshall

DATE: March 11, 1998

TELEPHONE: 448-2381 (work)

RE: Call from Curt Foster

Curt Foster called today and was upset about Gerald Person's dam. He still thinks Mr. Person is doing something wrong and asked about getting the Water Permits cancelled. I told him we were still waiting to get an "As Built" survey from Mr. Person and we would send Gerry another letter. We also talked about asking the Water Management Board for a declaratory ruling. Mr. Foster also asked about Irrigation Questionnaires and indicated Gerry has not irrigated in the last 5 years. I told Mr. Foster I would check them, but thought they may indicate no irrigation because of adequate moisture. I told Mr. Foster I would get back to him or send a letter.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

April 1, 1998

Mr. Gerald Person
P.O. Box 68
Britton, SD 57430

Re: Water Permit Application Nos. 5777-2 and 4948-3

Dear Mr. Person:

The South Dakota Department of Environment and Natural Resources Water Rights Program has asked me to correspond with you in reference to your irrigation dam located in the NE 1/4 of Section 30, T126N, R57W.

The permitting and licensing for this dam has been an ongoing process for several years, including a previous hearing before the South Dakota Water Management Board. During this hearing, which was conducted on August 31, 1994, the Board held that required work on this dam must be undertaken on or before August 31, 1995.

At this time, several items must still be completed before the Water Rights Program will be able to proceed with the licensing of Water Permit No. 4948-3 or deferred Water Permit Application No. 5777-3.

According to a letter to the Water Rights Program dated March 26, 1997, you have breached the dike at the upper end of the reservoir; however, the Water Rights Program still needs to have an "As Built" survey from your engineer. The survey is needed to show that the new spillway was constructed at the elevation indicated by the Water Management Board. It should also indicate the size and elevation of the breach in the upper dike.

The required information was to have been completed by August 31, 1995. It is my understanding that you are continuing to utilize this dam. Please file the required information with the Water Rights Program within the next 30 days. Otherwise, the Water Rights Program will be in a position to initiate legal action against you for failing to comply with the above-stated

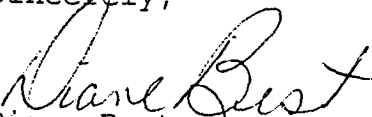
Mr. Gerald Person
April 1, 1998
Page 2

requirements. You may avoid additional proceedings if you fully comply in the next 30 days.

If you or your engineer have technical questions regarding compliance, please contact Tim Schaal at (605) 773-3352. Any questions from your attorney should be directed to me.

Thank you in advance for your prompt response.

Sincerely,


Diane Best
Assistant Attorney General

DB/do
cc Walt Roehr
bcc Tim Schaal ✓



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 1998

Curt Foster
RR #2, Box 126
Britton, SD 57430

Dear Mr. Foster:

Enclosed is a copy of the April 1, 1998, letter we sent Gerald Person regarding his irrigation dam. I also checked the irrigation questionnaires for the past 5 years. With the exception of reporting some irrigation in August of 1995 and 1996, your questionnaires (Isabel Fryer, Water Permit Nos. 5386-3 & 5577-3) and Mr. Person's questionnaires report no irrigation due to adequate moisture in your area.

If you have any questions, please feel free to contact me. I'm sure I will be up in your area this summer and will contact you regarding this matter.

Sincerely,

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

enclosure

HOLTON ENGINEERING, INC.

CONSULTING ENGINEERING, LAND SURVEYING AND QUALITY CONTROL
Sisseton, South Dakota 57262-0068

April 27, 1998

SD DEPT. OF ENVIRONMENT & NATURAL RESOURCES
WATER RIGHTS DIVISION
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SD 57501-3181



RE: Letter to Gerald A Person dated April 1, 1998
from Diane Best, Assistant Attorney General on
Water Permit Application Nos. 5777-2 and 4948-3

SUBJECT: As Constructed Survey and Drawings of the Dam in NE1/4
in Section 30, T126N, R57W, Marshall County, SD

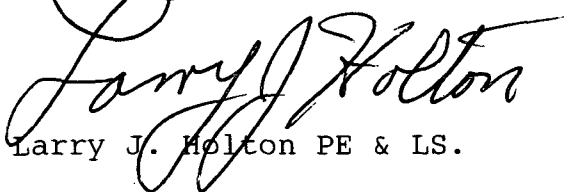
Gentlemen:

Field Survey of Dam and upstream road were conducted on April
15th and April 20th.

The two as Constructed Person Dam Located in the S1/2 of NE1/4 in
Section 30, T126N, R57W were made using the Field Survey data.

If you have any questions contact me.

Sincerely


Larry J. Holton PE & LS.

cc: Best
Person
file

Encl.: 2



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106

MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

May 1, 1998

Gerald Person
P.O. Box 68
Britton, SD 57430-0068

Re: Dam construction

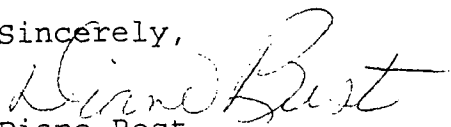
Dear Mr. Person:

On April 29, 1998, the Department of Environment and Natural Resources and the Office of Attorney General received documents from Holten Engineering, Inc. which include the "As Constructed" plans for the Gerald Person Dam. The DENR has reviewed these plans and finds that they are not consistent with the plans previously approved by the DENR and the requirements of the South Dakota Water Management Board. The plans previously approved by the DENR indicated that the spillway weir elevation would be at 98.3 rather than the 99.26 elevation stated in the "As Constructed" drawings. The elevation of 98.3 is the elevation specified by the South Dakota Water Management Board. Further, the breach in the upstream dike should also be at this elevation in order to allow the Roehr property to drain. Since these structures were not built in accordance with the State requirements, this situation will need to be corrected. The spillway weir must be lowered to 98.3, and the trench (breach) elevation must be at 98.3. Once these corrections are made, the DENR will need to see another "As Constructed" survey from your engineer.

Unfortunately, this matter has been pending for some time. If these corrections are not made and the "As Constructed" survey is not completed within the next sixty days, the DENR will be in a position to bring this matter back before the South Dakota Water Management Board for final resolution.

Thank you in advance for your prompt response.

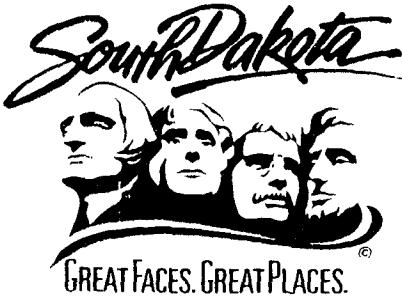
Sincerely,


Diane Best
Assistant Attorney General

DB/dh

cc Tim Schaal ✓





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 13, 1998

Walt Roehr
RR 2, Box 121A
Britton, SD 57430

Dear Mr. Roehr:

Enclosed is a copy of the letter we sent Gerald Person regarding his irrigation dam. We told him he needs to lower his new spillway and the breach in the upstream dike to elevation 98.3, which is the invert elevation of the upstream end of the culvert near your dad's mailbox.

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

Sincerely,

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

enclosure

c: Curt Foster

Schaal, Tim

From: Schaal, Tim
To: Best, Diane; Gronlund, Eric
Subject: RE: Gerald Person
Date: Friday, June 05, 1998 10:05AM

I talked to Gerald Person and he complained some about working on this with water going over the spillway. I told him there were things he could do with that and Diane would be sending a letter/notice for the July meeting. He said he would try to get it done before then, but if not he would take his chances with the Board. He said something about only getting a notch cut down the 1 foot and I said NO the full width of the weir needs to be cut down 1 foot.

>>>>>-----
>>>>>From: Best, Diane
>>>>>To: Gronlund, Eric; Schaal, Tim
>>>>>Subject: RE: Gerald Person
>>>>>Date: Friday, June 05, 1998 8:48AM

>>>>>
>>>>>Tim and I talked.
>>>>>I'll develop a proposed notice of hearing on this asap. If he
>>>>>fixes before the Board meeting, great. If not, let's get it
>>>>>going. If the Board wants to give him another bite, lets get
>>>>>it out of the way. Do you want to fill Hatch in?

>>>>>
>>>>>From: Gronlund, Eric
>>>>>>To: Best, Diane; Schaal, Tim
>>>>>>Subject: RE: Gerald Person
>>>>>>Date: Tuesday, June 02, 1998 8:13AM

>>>>>>
>>>>>>By this do you mean schedule for the July meeting in Brookings?
>>>>>>Do we have a formal request for extension of time to comply,
>>>>>>etc., etc.

>>>>>>-----
>>>>>>>From: Best, Diane
>>>>>>>To: Schaal, Tim
>>>>>>>Cc: Gronlund, Eric
>>>>>>>Subject: RE: Gerald Person
>>>>>>>Date: Monday, June 01, 1998 3:53PM

>>>>>>>
>>>>>>>Let's schedule this for the next water board meeting.

>>>>>>>
>>>>>>>>From: Schaal, Tim
>>>>>>>>To: Best, Diane
>>>>>>>>Subject: RE: Gerald Person
>>>>>>>>Date: Monday, June 01, 1998 1:15PM

>>>>>>>>
>>>>>>>>OK good, thanks
>>>>>>>>I would bet we don't hear from him very soon

>>>>>>>>-----
>>>>>>>>>From: Best, Diane
>>>>>>>>>To: Schaal, Tim
>>>>>>>>>Subject: Gerald Person
>>>>>>>>>Date: Monday, June 01, 1998 10:55AM

>>>>>>>>>
>>>>>>>>>Person did not call me. I tried to call Person again and he is
>>>>>>>>>in a meeting. I left a message for him to call me and if my
>>>>>>>>>line is busy to call you.

>>>>>>>>>
>>>>>>>>>
>>>>>>>>>
>>>>>>>>>
>>>>>>>>>

HOLTON ENGINEERING, INC.

CONSULTING ENGINEERING, LAND SURVEYING AND QUALITY CONTROL
Sisseton, South Dakota 57262-0068

June 29, 1998

TIM SCHAAL
SD DEPT. OF ENVIRONMENT & NATURAL RESOURCES
WATER RIGHTS DIVISION
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SD 57501-3181



RE: Gerald A Person Dam
Located in the S1/2 of NE1/4, Section 30, T126N, R57W
Marshall County, South Dakota

SUBJECT: Removal of Concrete in Weir and Excavating
Breach in Dike

Gentlemen:

Field Resurvey of Concrete Weir and Breach in Dike was conducted
by a survey crew on June 25th.

Attached is a drawing of elevation taken on concrete weir.

Contact Gerald Pearson by phone on June 26th and indicated that
additional excavation of 1 to 2 feet still needed in Breach in
Dike. He indicated on the phone this morning that addition
excavation was taken out of the Breach.

Faxing this to you and will also mail copy to you.

If you have any questions contact me.

Sincerely

Larry J. Holton
Larry J. Holton PE & LS.

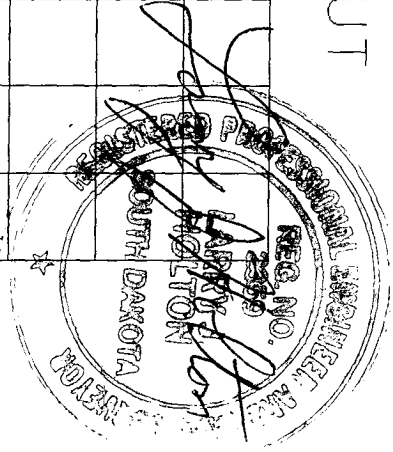
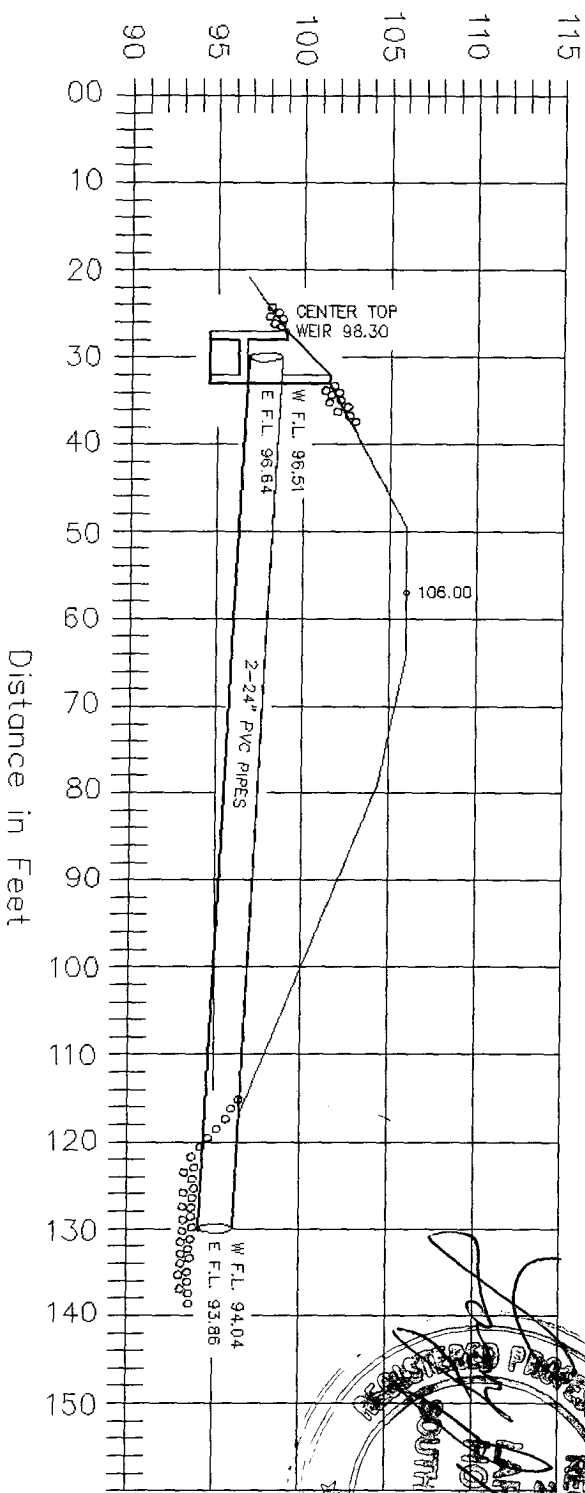
cc: Person
file

Encl.: 1

GERALD PIERSON DAM

LOCATED IN THE S1/2, NE1/4 Section 30, T126N, R57W
(Waverley Twp.) Marshall County, South Dakota

CROSS SECTION OF DOWNSPOUT



SEND CONFIRMATION REPORT

DATE/TIME 6-29-98 9:17AM
MACHINE ID 605 698 7084
MACHINE NAME DELANEY VANDERLINDEN
PAGE 1

JOB	REMOTE STATION	START TIME	DURATION	PAGES	MODE	RESULTS
898	605 773 6035	6-29-98 9:15AM	1'15"	2 / 2	EC	COMPLETED EC 14400

TOTAL

1'15" 2 / 2

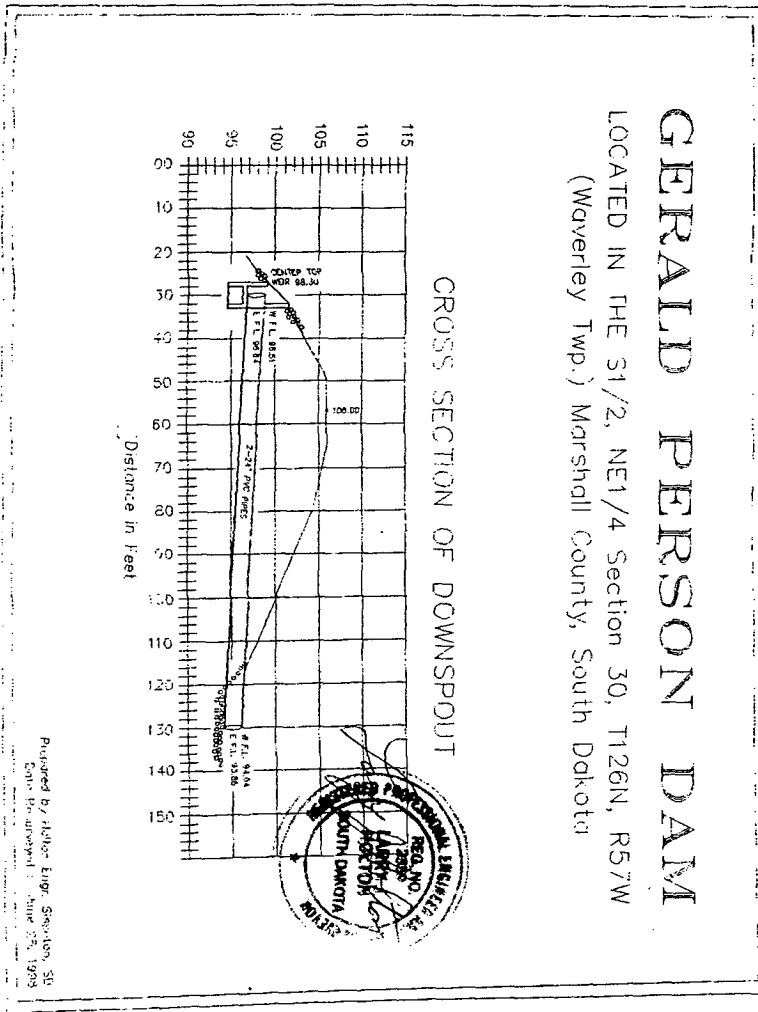
NOTE:

EC ERROR CORRECTION
96 9600 BPS SELECTED
48 4800 BPS SELECTED

CR CONFIDENTIAL RECEIVE
PI POLL-IN
PO POLL-OUT

MP MULTI-POLL
SA SUBADDRESS
PW PASSWORD

BC BROADCAST
MB MAILBOX
RD REMOTE DIAGNOSTICS



REPORT ON
DEFERED WATER PERMIT APPLICATION No. 5777-3
Gerald Person
July 6, 1998

Water Permit Application No. 4948-3 was approved on June 9, 1983 with a diversion rate of 2.86 cfs and storage of 200 acre-feet of water to irrigate 210 acres located in the SE $\frac{1}{4}$ of Section 30 and the NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29-T126N-R57W. An inspection of Water Permit No. 4948-3 was made on June 2, 1992. The inspection found that 239 acres were being irrigated in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 30 and the NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 29-T126N-R57W. Mr. Person filed Water Permit Application No. 5777-3 on June 21, 1993 to appropriate an additional 0.56 cfs, to add an additional 29 acres of irrigation and to change the location of some of the irrigated acres authorized by Water Permit No. 4948-3.

Discussion:

On December 1, 1993, Water Permit Application No. 5777-3 was deferred at the Water Management Board meeting until necessary repairs to the irrigation dam and spillway were made to ensure the integrity of dam. This also included approval of plans and specifications from a registered professional engineer. The earthcut spillway was severely eroded along with the embankment crest sagging in the center of the embankment.

On March 8, 1994, Mr. Person was sent a Notice advising him that Water Permit Application No. 5777-3 had been deferred and the licensing of Water Permit No. 4948-3 had been delayed pursuant to SDCL 46-5-30 until repairs to his dam were made. The Water Rights Program had also received several complaints about Mr. Person's dam causing upstream flooding. A drop inlet spillway was recommended to prevent erosion to the earthcut spillway and to lower the reservoir level to address the upstream flooding issues,

On July 27, 1994, Mr. Person was sent a Notice scheduling a hearing before the Water Management Board to discuss these issues.

On August 31, 1994, the Board gave Mr. Person one year to install a drop inlet spillway at an elevation 4 feet lower than the current spillway elevation and to breach or place a culvert through the upstream dike to address the upstream flooding issues.

On September 1, 1995, the plans and specifications were approved for a drop inlet spillway with a weir elevation at 98.3 and a breach in the upstream dike at the same elevation.

On November 7, 1995, an inspection was made and found that the drop inlet spillway was installed, the embankment crest leveled, and the erosion in the earthcut spillway repaired along with the elevation of the earthcut spillway lowered about 2 feet. The

breach in the upstream dike was not complete and Mr. Person was told this needed to be completed along with an "As Constructed" survey from his engineer to confirm the elevations.

On November 4, 1996, Mr. Person was reminded via a phone conversation that the upstream dike needed to be breached and the "As Constructed" survey completed.

On March 14, 1997, Mr. Person was sent a letter again reminding him of the requirements to breach the upstream dike and provide the "As Constructed" survey.

On March 26, 1997, Mr. Person sent the Water Rights Program a letter indicating that he had breached the upstream dike.

On April 2, 1997, Mr. Person was reminded via a phone conversation that he still needed to provide the "As Constructed" survey to confirm the elevations.

On April 1, 1998, Mr. Person was sent a letter from Diane Beat, Assistant Attorney General, giving him 30 days to submit the "As Constructed" survey.

On April 29, 1998, the Water Rights Program received the "As Constructed" survey; however, the survey showed that the elevations for the drop inlet spillway and breach in the upstream dike were not correct.

On May 1, 1998, Mr. Person was sent another letter from Diane Best stating the "As Constructed" survey indicated the wrong elevations and to correct them within 60 days and submit a new "As Constructed" survey confirming the elevations, or the matter would be heard before the Water Management Board for final resolution.

On June 16, 1998, Mr. Person was sent a Notice indicating that failure to lower the drop inlet spillway and breach in the upstream dike and confirm the elevations with an "As Constructed" survey prior to the July 8, 1998 Water Management Board meeting would result in the Chief Engineer recommending DENIAL of deferred Water Permit Application No. 5777-3 and SUSPENSION of Water Permit No. 4948-3.

On July 1, 1998, an inspection of Mr. Person's dam was made and found that the spillway weir and breach in the upstream dike had been lowered.

On July 6, 1998, the Water Rights Program received the "As Constructed" survey indicating the correct elevations.

Page 3
Application No. 5777-3
July 6, 1998

Conclusion:

Deferred Water Permit Application No. 5777-3 should be approved since Mr. Person has constructed a drop inlet spillway at an elevation four feet below the previous earthcut spillway and has breached the upstream dike as directed by the Water Management Board, and approval should not have any adverse effect on existing Water Permits/Rights.



Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by:



Gale N. Selken, P.E.
Natural Resources Engineer IV

[illegible]

BRIXTON

FRYER DAM

PERSON DAM

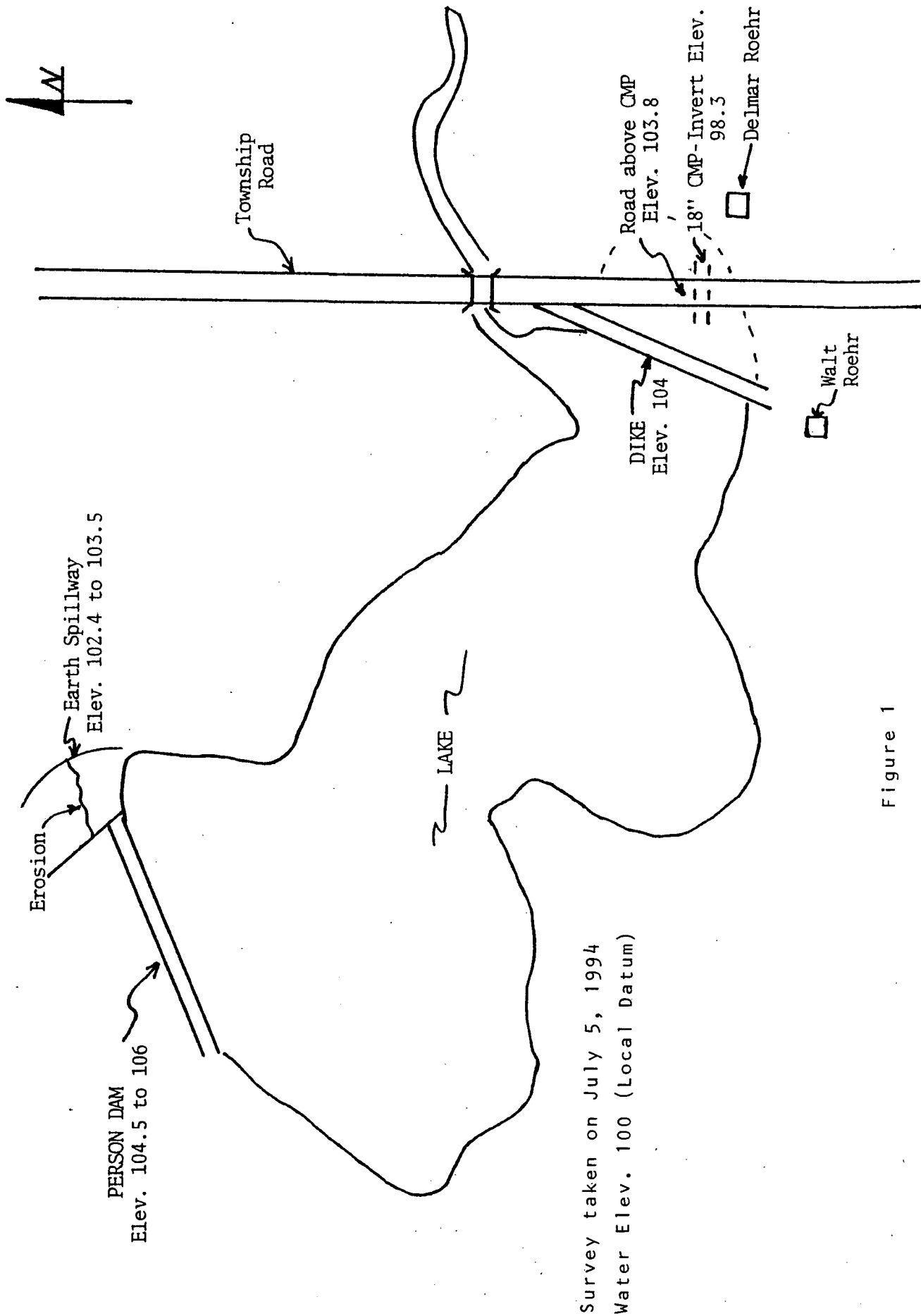


Figure 1

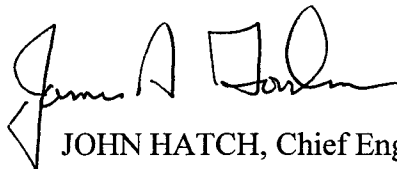
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5777-3, Gerald A. Person**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5777-3, Gerald A. Person, P.O. Box 68, Britton, SD 57430.

The Chief Engineer is recommending APPROVAL of Application No. 5777-3 because 1) Mr. Person has constructed a drop inlet spillway at an elevation four feet below the previous earth spillway and has breached the upstream dike as directed by the Water Management Board, 2) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 3) the proposed diversion can be developed without unlawful impairment of existing rights, 4) the proposed use is a beneficial use and 5) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


for  JOHN HATCH, Chief Engineer
July 6, 1998



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 16, 1998

NOTICE

TO: Gerald A. Person
P. O. Box 68
Britton, SD 57430
and interested parties (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

SUBJECT: Notice of Requirement to Comply with Established Drop Inlet Elevation on Dam or in the alternative Notice of Hearing on Water Permit Application No. 5777-3 and Notice of Hearing on Suspension of Water Permit No. 4948-3

On August 31, 1994, the Water Management Board considered what action should be taken concerning your dam located in the S1/2 NE1/4 and NE1/4 SE1/4 Section 30, T126N, R57W. The Board adopted the staff recommendation requiring that within one year you construct a drop inlet spillway as a primary spillway at an elevation four feet below the elevation of the current earth spillway. The drop inlet structure was installed in the fall of 1995. The Board also ordered that a culvert be installed through the upstream dike, or the dike breached, to eliminate upstream flooding conditions.

Your dam is the source of water for irrigation of land authorized by Water Permit No. 4948-3 and for pending Water Permit Application No. 5777-3. Consideration of Application No. 5777-3 and the licensing of Permit No. 4948-3 have been deferred until you comply with the Board's directive.

Although the drop inlet was installed in 1995, it was not until April 29, 1998, that an "as constructed" survey and drawings of the dam were received by the Water Rights Program. Our review of this information found that the drop inlet spillway was constructed at an elevation **one foot** above the Board's ordered elevation. A letter from Diane Best, Assistant Attorney General, dated May 1, 1998, advised that a hearing before the Water Management Board would be scheduled if corrections are not made to comply with the Board established drop inlet elevation and a new "as constructed" survey is not completed within 60 days of her letter. Additionally, the Board ordered installation of a culvert through the upstream dike or that the dike be breached. The "as constructed" survey must show the invert elevation of the culvert or at the breach to show you have complied with this Board order.

Notice is hereby given to correct the elevation on the drop inlet spillway on the dam to comply with the Board's set elevation of four feet below the elevation of the earth spillway. The Water Management Board will conduct a public hearing to consider your compliance with the Board's directive. The Board will also consider deferred Water Permit Application No. 5777-3 and the suspension of Water Permit No. 4948-3. **This hearing will be held on July 8, 1998, at 11:00 AM at the Staurolite Inn, 2515 E. Sixth Street, U.S. Highway 14 and I-29, Brookings, South Dakota.** The hearing time is an estimate and may be delayed due to consideration of prior agenda items.

The Board has legal authority and jurisdiction to consider Water Permit Application No. 5777-3 and suspension of Water Permit No. 4948-3 in accordance with SDCL 46-1-4, 46-1-6(3), 46-2-9, 46-2-11, 46-1-12, 46-1-14, and 46-2A-9. Application No. 5777-3 proposes to authorize additional acreage and a diversion rate to reflect the irrigation system as constructed. Notice of Hearing on Application No. 5777-3 was previously published in 1993 pursuant to SDCL 46-2A-4. Applicable provisions of the published notice of hearing, which is enclosed, still apply at this hearing.

In 1993, the Chief Engineer recommended deferral of Water Permit Application 5777-3. The Application was deferred pending repairs on the spillway of the project involved. The repairs were deemed necessary for the integrity of the structure.

Based upon the April 27 1998, filing, you have not constructed the repairs as required by the Board. Your failure to lower the drop inlet spillway by one foot and submit an "as constructed" survey prior to the Board meeting will result in a Chief Engineer's recommendation for DENIAL of Application No. 5777-3 and SUSPENSION of Water Permit No. 4948-3. At the hearing, the Chief Engineer will assert that you have failed comply with both the Chief Engineer's notice and the Water Management Board's requirement to install a drop inlet spillway at a set elevation. Pursuant to SDCL 46-1-12 the Water Management Board may suspend a water permit if the Board finds that an individual permittee has violated any term of the permit.

At hearing the Board may 1) approve, 2) approve with qualifications, 3) defer, or 4) deny Application No. 5777-3 and may 1) suspend for one year, 2) modify the permit or 3) take no action on Permit No. 4948-3 based on the facts presented at the public hearing.

The scheduled hearing is an adversary proceeding. Any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. The decision based on the hearing may be appealed to the circuit court and the Supreme Court as provided by law.

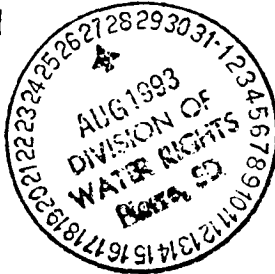
The Chief Engineer's recommendation may be revised on Application No. 5777-3 and the hearing on suspension of Permit No. 4948-3 cancelled if you conform to the Board's requirements.

If you have any questions, please contact Tim Schaal at (605) 773-3352.

enclosure

c: Diane Best, Assistant Attorney General

PROOF OF PUBLICATION



STATE OF SOUTH DAKOTA)
County of Marshall) ss

I, Charles L. Card

certify that the attached printed Notice was

taken from the Britton Journal

printed and published in Britton

County of Marshall and State of

South Dakota. The notice was published in the newspaper on the following two dates:

August 18, 1993

August 25, 1993

Cost of Printing: \$44.44

Charles L. Card
(Signature)

publisher

(Title)

August 25, 1993

(Date Signed)

2T(Aug. 18-25)

NOTICE OF HEARING
on Application No. 5777-3
to Appropriate Water
and to Amend Water Permit No. 4948-3

Notice is given that Gerald A. Person, RR 2 Box 123, Britton, SD 57430 has filed an application for a water permit to appropriate an additional 0.56 cubic feet of water per second (cfs), add 29 acres and change the location of some of the irrigated acres authorized by Permit No. 4948-3. Water Permit No. 4948-3 authorizes the diversion of 2.85 cfs and storage of 200 ac-ft for the irrigation of 210 acres located in the NW1/4 and the W1/2 NE1/4 of Section 29 and SE1/4 of Section 30, all in T126N-R57W. An inspection of Permit No. 4948-3 found 239 acres, being irrigated at a diversion rate of 3.41 cfs. The location of the 239 acres being irrigated is the NW1/4 and W1/2 NE1/4 of Section 29 and the SW1/4 NE1/4 and SE 1/4 of Section 30 which are irrigated from a 200 ac-ft storage dam located in the S1/2NE1/4 and NE1/4 SE1/4 of Section 30, all in T126N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 5777-3 until repairs are made to the spillway to ensure the integrity of the structure. This application will be considered by the Water Management Board at 10:00 a.m., December 1, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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 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 22, 1993. 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.

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. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request information on this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired. 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 22, 1993.

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; 46-5-1 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; and Board Rules ARSD 74:01:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Interested Parties in the Matter of Gerald Person Dam

Paul Bremmon
RR
Britton, SD 57430

Curt Jones
RR
Britton, SD 57430

Walter Roehr
RR 2, Box 121A
Britton, SD 57430

Jim Kann
RR 2, Box 125
Britton, SD 57430

Leon Jones
RR
Britton, SD 57430

Delmar Roehr
RR 2, Box 122
Britton, SD 57430

Jim Peters
RR 2, Box 130A
Britton, SD 57430

Philip W. Morgan
Attorney at Law
RR 2, Box 130A
Britton, SD 57430

CERTIFICATION

I hereby certify that on June 16, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 16, 1998, along with a copy of the list of Interested Parties and a copy of the Notice of Hearing, regarding Notice of Requirement to Comply with Established Drop Inlet Elevation on Dam or in the alternative Notice of Hearing on Water Permit application No. 5777-3 and Notice of Hearing on Suspension of Water Permit No. 4948-3, addressed as stated below, and on the attached Interested Parties list:

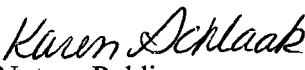
A copy of the above described Notice and attachments was sent Inter-office to:

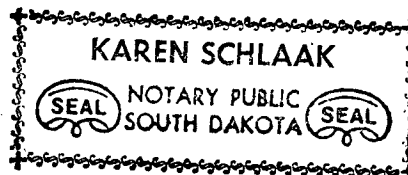
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of July, 1998


Notary Public



KAREN SCHLAAK, Notary Public
My Commission Expires
April 1, 2001

HOLTON ENGINEERING, INC.
CONSULTING ENGINEERING, LAND SURVEYING AND QUALITY CONTROL
Sisseton, South Dakota 57262-0068

July 6, 1998



TIM SCHAAL
SD DEPT. OF ENVIRONMENT & NATURAL RESOURCES
WATER RIGHTS DIVISION
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SD 57501-3181

RE: Gerald A Person Dam
Located in the S1/2 of NE1/4, Section 30, T126N, R57W
Marshall County, South Dakota

SUBJECT: Removal of Concrete in Weir and Excavating
Breach in Dike

Gentlemen:

Field Survey of New Breach in Earth Dike was conducted by a survey crew on Thursday July 2 as we had indicated to you on phone.

Attached is a drawing of elevation taken of the New breach in earth Dike.

Faxing this to you and will also mailing to you.

If you have any questions contact me.

Sincerely

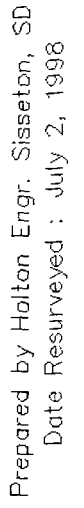
Larry J. Holton PE & LS.

cc: Person
file

Encl.: 1

GERALD PERSON DAM

PLAN VIEW TWP ROAD



HAMILTON BUILDING
POST OFFICE BOX 901

PHILIP W. MORGAN
ATTORNEY AT LAW
758 - 7TH STREET
BRITTON, SOUTH DAKOTA 57430

AREA CODE 605
PHONE 448-5263
FAX 448-2667

July 9, 1998

Timothy Schaal, P.E.
Natural Resources Engineer III
Water Rights Program
Department of Environment and Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181



Dear Mr. Schaal;

On behalf of Walt Roehr of Britton, SD and myself we would appreciate receiving a copy of the transcript of the hearing held in Brookings, SD this past Wednesday, July 8, 1998. This in conjunction with the matter you discussed here with Walt recently. Please forward it to this office and I will pass it on to Walt Roehr. Your courtesy in this regard would be appreciated. Thank you. I remain,

Sincerely,

Philip W. Morgan

Philip W. Morgan
PWM/tc



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 15, 1998

COPY

Philip W. Morgan
758 - 7th Street
Britton, SD 57430

Dear Mr. Morgan:

I am writing in response to your letter requesting a copy of the transcript of the July 8th hearing on the water permit issue regarding Gerald Person. Although a court report is present during Water Management Board proceedings, an actual transcript of hearings is not as a general course of business ordered. The court reporter at the hearing was Carol Johnson of Dakota Reporting from Sioux Falls if you would like to order a transcript for your client, Walt Roehr. The hearing was not very long so I assume the cost would be minimal.

We do prepare minutes of each Water Management Board meeting. These minutes provide a summary record of proceedings. The minutes are not intended as a verbatim record. I will send you a copy of the July 8th minutes upon the Board's approval of the July 8th minutes. I do not expect these minutes to be approved until October 1, 1998.

Please let me know if I may be of further assistance.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 15, 1998

NOTICE

TO: Gerald A. Person
P. O. Box 68
Britton, SD 57430
and interested parties (see attached list)

FROM: John Hatch, Chief Engineer
for Water Rights Program
(605) 773-3352

SUBJECT: Board Action on Water Permit Application No. 5777-3

On July 8, 1998, the Water Management Board approved Water Permit Application No. 5777-3 subject to a modification to the breach in the upstream dike. Specifically, the Board placed a qualification that either the breach in the upstream dike be modified and maintained to have a 6 foot bottom and 10 foot top width or that an 18 inch culvert be placed in the dike breach. The Board directed that this work be completed by August 15, 1998.

Enclosed is a copy of the qualifications that will be conditions on Water Permit No. 5777-3. Please note that qualification No. 4 reflects the current storage capacity of the dam since the drop inlet spillway has been installed at the proper elevation.

Water Permit No. 5777-3 will not be formally issued until the breach in the upstream dike has been properly modified. Please contact Tim Schaal when this work has been completed so he may schedule a time to conduct an onsite investigation. Failure to modify the breach by August 15, 1998, as directed by the Board will result in this issue being brought back before the Board.

If you have any questions, please contact Tim Schaal at (605) 773-3352.

enclosure

c: Diane Best, Assistant Attorney General

QUALIFICATIONS TO WATER PERMIT NO. 5777-3, Gerald A. Person

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The breach in the upstream dike shall be modified to have either a 6 foot bottom and 10 foot top width or an 18 inch culvert shall be placed in the dike breach. This modification is to be completed by August 15, 1998, and subsequently maintained.
4. Water Permit Nos. 4948-3 and 5777-3 authorize a dam with storage capacity of 120 acre feet of water and sufficient water annually to maintain the water level to the elevation of the drop inlet spillway.

Interested Parties in the Matter of Gerald Person Dam

Paul Bremmon
RR
Britton, SD 57430

Leon Jones
RR
Britton, SD 57430

Curt Jones
RR
Britton, SD 57430

Delmar Roehr
RR 2, Box 122
Britton, SD 57430

Walter Roehr
RR 2, Box 121A
Britton, SD 57430

Jim Peters
RR 2, Box 130A
Britton, SD 57430

Jim Kann
RR 2, Box 125
Britton, SD 57430

Philip W. Morgan
Attorney at Law
RR 2, Box 130A
Britton, SD 57430

CERTIFICATION

I hereby certify that on July 15, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 15, 1998, along with a copy of the Parties of Interested Parties, and a copy of Qualifications regarding Board Action on Water Permit Application No. 5777-3, addressed as stated below, and on the attached Interested Parties List:

Gerald A. Person, P.O. Box 68, Britton, SD 57430.

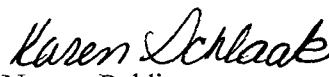
A copy of the above described Notice and attachments was sent Inter-office to:

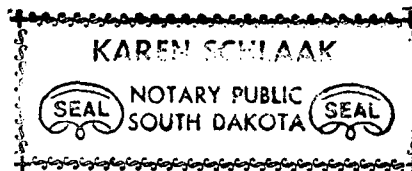
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of July, 1998


Notary Public



KAREN SCHLAAK, Notary Public
My Commission Expires
April 1, 2001

Permit No. 4948-3 & 5777-3**James 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, **August 14, 1998**, made a thorough examination of the water use system constructed by **Gerald Person** of **PO Box 68, Britton, SD 57430** holder of Permit No. **4948-3 & 5777-3**, bearing the priority of **February 23, 1983 (#4948-3) & June 21, 1993 (#5777-3)** authorizing the diversion of **3.41** cu. ft. per second and/or the storage of **120** acre-feet of the waters of **runoff** for **irrigation & livestock water** purposes, in **Marshall** County.

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

A. Works used to divert the water:

100 Hp International Harvester motor, Model No. 806 with 13 inch Berkley centrifugal pump, Model B4EYL1541, Capacity 1000 gpm
97 Hp Massey Ferguson motor, Model 3208 with 13 inch Berkley centrifugal pump, Model H1892NC, Capacity 900 gpm

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

Approximately 3000 feet of buried 8 inch PVC pipe

C. Works used to apply water to beneficial use:

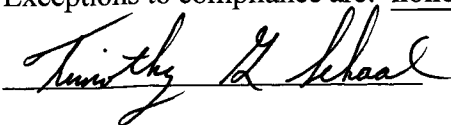
2 Olson Center Pivots

The system is in the following condition **good**. The point of diversion is located **2050 feet south & 1250 feet west of the NE corner of Section 30-T126N-R57W (S ½ NE ¼)**. The works are capable of diverting and conveying to the place of use **4.22 (1900 gpm)** cu. ft. per second of water and/or storing **120** acre-feet of water which is to be used for **irrigation and livestock water**. Water has been put to beneficial use to the maximum extent as follows:

NW ¼ NW ¼ Sec. 29-T126N-R57W---33 Ac.	SW ¼ NE ¼ Sec.30-T126N-R57W--- 6 Ac.
NE ¼ NW ¼ " " --37	NW ¼ SE ¼ " " --37
SE ¼ NW ¼ " " --37	NE ¼ SE ¼ " " --24
SW ¼ NW ¼ " " --31	SE ¼ SE ¼ " " --11
NW ¼ NE ¼ " " -- 4	SW ¼ SE ¼ " " --15
SW ¼ NE ¼ " " -- 4	

comprising a total of **239** acres of land and the license should be issued for **3.41** cfs and/or **120** acre-feet of storage. Applicable permit qualifications have been complied with: Yes **X**

Exceptions to compliance are: **none** Date Report Completed: **August 28, 1998**



Timothy G. Schaal, P.E.
 Natural Resources Engineer
 DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 4943-3 & 5777-3

DATE OF INSPECTION: August 14, 1998

NAME & ADDRESS OF INSPECTION CONTACT/ Gerald Person, PO Box 68, Britton, SD 57430

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: owner

NAME & ADDRESS OF PERMIT HOLDER: same

DIVERSION POINT LEGAL LOCATION: dam—2050 feet south & 1250 feet west of the NE corner of Section 30-T126N-R57W (S ½ NE ¼).

Pump:

- | | |
|------------------------------------|----------------------------|
| 1) Make <u>Berkley centrifugal</u> | <u>Berkley centrifugal</u> |
| 2) Model <u>B4EYL1541</u> | <u>H1892NC</u> |
| 3) Size <u>13 inches</u> | <u>13 inches</u> |
| 4) Capacity <u>1000 gpm</u> | <u>900 gpm</u> |

Motor:

- | | |
|--|------------------------|
| 1) Make <u>International Harvester</u> | <u>Massey Ferguson</u> |
| 2) Model No. <u>806</u> | <u>3208</u> |
| 3) Horsepower rating <u>100 Hp</u> | <u>97 Hp</u> |

DISTRIBUTION LINES OR CANALS:

- 1) Type Buried PVC 2) Size 8 inches 3) Length 3000 feet

SYSTEM TYPE:

Center pivot: 2

- | | |
|--|----------------------|
| 1) Make <u>Olson</u> | <u>Olson</u> |
| 2) Overall length <u>1320</u> feet | <u>1280 feet</u> |
| 3) Number of towers <u>11</u> | <u>9 towers</u> |
| 4) Distance between towers <u>XXX</u> feet | |
| 5) End gun <u>yes</u> | <u>yes</u> |
| 6) High or low pressure <u>high (75 psi)</u> | <u>high (75 psi)</u> |
| 7) Capacity <u>1000 gpm</u> | <u>900 gpm</u> |

DAM INFORMATION:

- 1) Height to crest 21 feet
- 2) Height to primary spillway 11 feet
- 3) Height to secondary spillway 13 feet
- 4) Crest width 15 feet
- 5) Crest length 500 feet
- 6) Spillway length XXX feet
- 7) Spillway width 100 feet
- 8) Approx. storage (Normal) 120 acre-feet
- 9) Approx. storage (Maximum) 400 acre-feet
- 10) Date constructed: 1983

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO

PERMIT QUALIFICATIONS AND REGULATIONS:

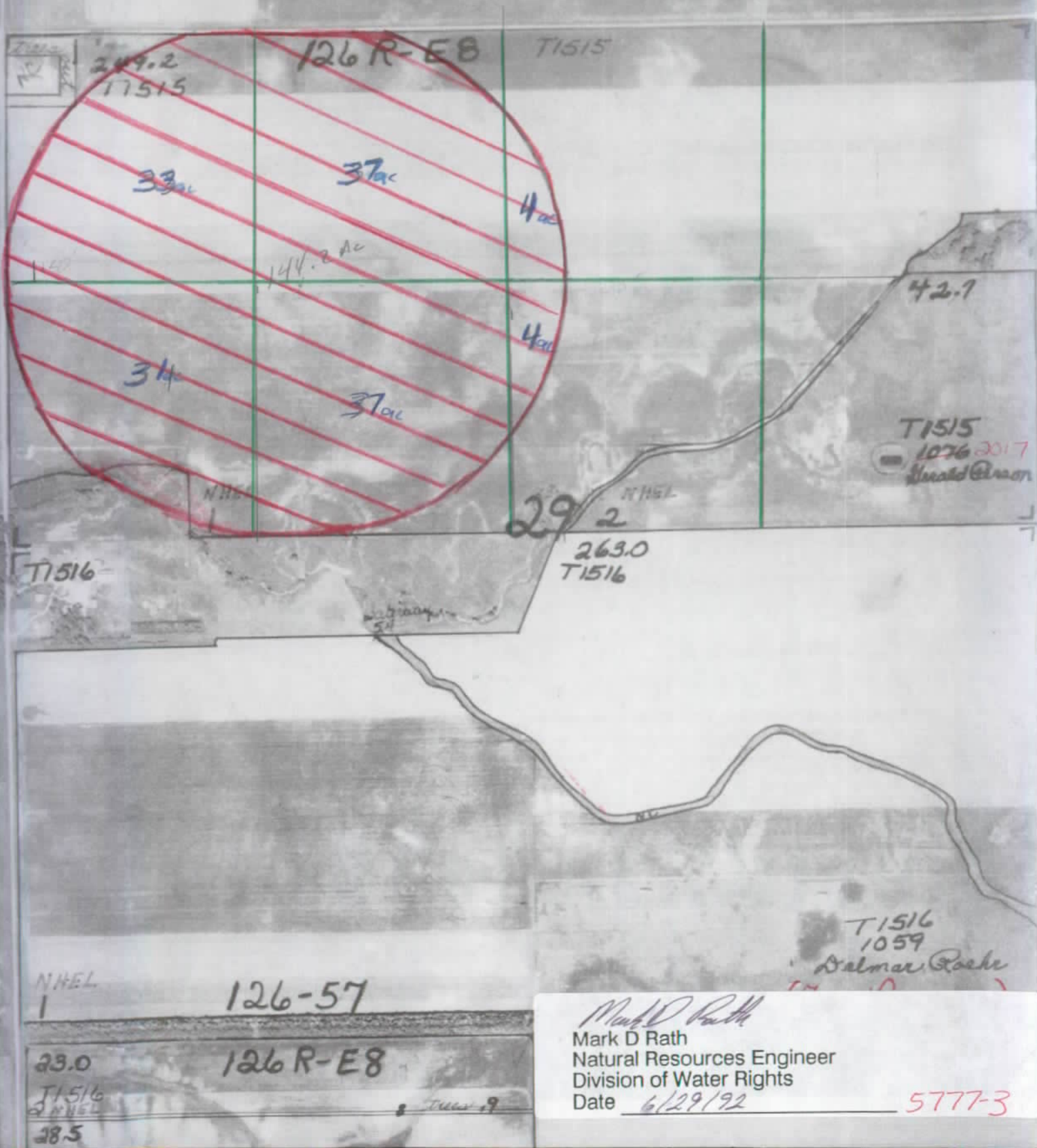
- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

NOT TO SCALE



Mark D Rath
Mark D Rath
Natural Resources Engineer
Division of Water Rights
Date 6/29/92

NOT TO SCALE



Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Gerald Person

ADDRESS: PO Box 68, Britton SD 57430 COUNTY: Marshall

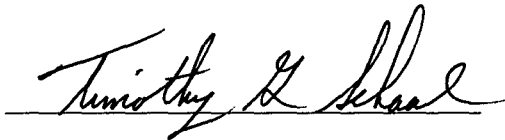
DATE: August 18, 1998

TELEPHONE: 448-2381 (work)

RE: Inspection of Upstream Dike

On August 14, 1998, I met with Mr. Person and inspected the breach in the upstream dike associated with his irrigation dam. On July 8, 1998, the Water Management Board placed a qualification on deferred Water Permit Application No. 5777-3 that the breach in the upstream dike was to be modified and maintained to have a 6 foot bottom and 10 foot top width or that an 18 inch culvert be placed in the dike breach. This work was to be completed by August 15, 1998.

Mr. Person had modified the breach so it had a 10 foot bottom width and a 20 foot top width. I told Mr. Person that the breach looked satisfactory and we would continue processing Water Permit Application No. 5777-3.

A handwritten signature in cursive script, reading "Timothy G. Schaal", written over a horizontal line.

Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 10 1998

Gerald A. Person
P.O. Box 68
Britton, SD 57430

Dear Mr. Person:

Enclosed is Water Permit No. 5777-3 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

The final inspection has been completed on this Permit, and we are ready to issue the Water License. Statutes require we charge \$50 for the inspection and issuance of the final papers. Upon receipt of this amount the Water License will be sent to you.

Very truly yours,

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

enclosures

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 415868

Pierre, September 21, 19 98

RECEIVED OF Britton Equipment & Feed Co. (Gerald A. Person), P.O. Box 68, Britton, SD 57430-0068
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. 5777-3

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

Joh. Hater (S)

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 5777-3

(1) Gerald A Person, PO Box 68, Britton, SD 57430-0068 made Application No. 5777-3, June 21, 1993 for a water permit to divert 0.56 cubic feet of water per second (cfs) from runoff impounded in a 120 acre feet storage dam, Marshall County, South Dakota for irrigation and livestock watering purposes. Permit No. 5777-3, with a priority date of June 21, 1993 was approved July 8, 1998 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.

Water Permit No. 5777-3 authorized an additional diversion rate, added acreage and changed the location of some of the irrigated acres described in Water Permit No. 4948-3. The applicable portions of Water Permit No. 4948-3 have been incorporated into this water license. A priority date of February 23, 1983 (established under No. 4948-3) will be retained for diversion of 2.85 cfs. A priority date of June 21, 1993 (established under No. 5777-3) is retained for diversion of 0.56 cfs.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of a storage dam impounding 120 acre feet of water with sufficient water annually to maintain the water level to the elevation of the drop inlet spillway and is entitled to divert 3.41 cubic feet of water per second for beneficial use. The location of the diversion point (spillway) is 2,050'S and 1,250'W of the NE corner of Section 30, T126N, R57W (S ½ NE ¼).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following **239 acres**:

Section 29, T126N, R57W				Section 30, T126N, R57W	
NW ¼ NW ¼	33 acres	NW ¼ NE ¼	4 acres	SW ¼ NE ¼	6 acres
NE ¼ NW ¼	37 acres	SW ¼ NE ¼	4 acres		
SE ¼ NW ¼	37 acres			NW ¼ SE ¼	37 acres
SW ¼ NW ¼	31 acres			NE ¼ SE ¼	24 acres
				SE ¼ SE ¼	11 acres
				SW ¼ SE ¼	15 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Gerald A Person, PO Box 68, Britton, SD 57430-0068, the holder and/or owner of Incorporated Water Right No. 5777-3 is issued a license to appropriate water, the right to divert 3.41 cubic feet of water per second from runoff stored in a 120 acre-feet dam. Storage of water in the dam includes sufficient water annually to maintain the water level to the elevation of the drop inlet spillway. The water is stored for livestock watering purposes and is conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license, with priority dates of February 23, 1983 and June 21, 1993 is subject to any limitations or qualifications listed in Incorporated Water Right No. 5777-3 and subject to South Dakota State Law.



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

OCT 1 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 1 1998

5777-3

Gerald A. Person
P.O. Box 68
Britton, SD 57430-0068

Dear Mr. Person:

Enclosed is Water License No. 5777-3 and Receipt No. 415868 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 5777-3 is the final document which completes the process of obtaining a water right.

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

Very truly yours,


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

gm
enclosures

NOTE: The applicable portions of Water Permit No. 4948-3 have been incorporated into this water license.



5777-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 19, 2001

NOTICE

TO: GERALD A PERSON, 1013 S MAIN, BRITTON, SD 57430 0068

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 10:00 am, March 7, 2001 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is(are) received in this office on/or before March 2, 2001, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GERALD A PERSON
1013 S MAIN
BRITTON SD 57430 0068

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
1-29-01

C. Signature
X *Chandra Moore* ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No
P.O. Box 68
Britton SD 57430

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

Gerald A. Person - 7000 0600 0026 9814-21

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 5, 2001

5777-3

Gerald A Person
PO Box 95
Britton, SD 57430-0095

Dear Mr. Person:

I am writing to acknowledge receipt of your 2000 irrigation questionnaire. You may disregard the January 19, 2001, "Notice" concerning reporting requirements for Water Right No. 5777-3.

I completed a questionnaire for you based on our February 2nd telephone conversation. The questionnaire reflects that you did not irrigate in 2000 due to excessive natural moisture. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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



5777-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 17, 2003

NOTICE

TO: GERALD A PERSON, 1001 6TH AVE, BRITTON, SD 57430
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program
SUBJECT: Reporting Requirement for 2002 Irrigation Questionnaire(s)

Our records indicate that the 2002 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 11, 2002. The Water Management Board has directed that owners of water permits who have not submitted the 2002 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 8:30 am, March 5, 2003 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

- 1 Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is(are) received in this office on/or before **February 28, 2003**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



5777-3

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Delivery Status

You entered 2301 0370 0000 7541 4067

Your item was delivered at 11:33 am on January 27, 2003 in BRITTON, SD 57430. The item was signed for by G PERSON.

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GERALD A PERSON
1001 6TH AVE
BRITTON SD 57430

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PS Form 153, February 2001



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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 31, 2003

5777-3

Gerald A Person
1001 6th Ave
Britton SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 2002 irrigation questionnaire. You may disregard the January 17, 2003, "Notice" concerning reporting requirements for Water Right No. 5777-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



5777-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 14, 2004

NOTICE

TO: GERALD A PERSON, 1001 6TH AVE, BRITTON, SD 57430
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaire(s)

Our records indicate that the 2003 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 8:30 am, March 3, 2004 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is(are) received in this office on/or before February 27, 2004, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



5777-3

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Current Status

You entered 2301 3460 0000 8515 9470

Your item was delivered at 9:47 am on January 20, 2004 in BRITTON, SD 57430. The item was signed for by G PERSON.

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2301 3460 0000 8515 9470

GERALD A PERSON
1001 6TH AVE
BRITTON SD 57430

Waiver of Signature ☐ YES ☐ NO

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www.state.sd.us/denr

February 7, 2004

5777-3

Gerald A Person
1001 6th Ave
Britton SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 2003 irrigation questionnaire. You may disregard the January 14, 2004, "Notice" concerning reporting requirements for Water Right No. 5777-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

In answer to your question on whether or not you could move one of your pivots to another piece of ground, yes you can. In order to do this, you will need to have your existing water right amended to change some acreage. I am enclosing a set of application forms and instruction sheet for this purpose.

Please review the materials and call if you have any questions. If you have any questions, please contact me.

Sincerely,

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



5777-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 20, 2005

NOTICE

TO: GERALD A PERSON, 1001 6TH AVE, BRITTON, SD 57430

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 8:30 am, March 2, 2005 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is(are) received in this office on/or before February 25, 2005, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



5777-3

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 0735

Your item was delivered at 11:23 am on January 21, 2005 in BRITTON, SD 57430. The item was signed for by A LABATTE.

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SIGNATURE CONFIRMATION NUMBER:
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GERALD A PERSON
1001 6TH AVE
BRITTON SD 57430

Waiver of Signature ☐ YES ☐ NO

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PS Form 150, July 2001



**DEPARTMENT of ENVIRONMENT
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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

February 28, 2005

5777-3

Gerald A Person
42479 116th St
Britton SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of the information for your 2004 irrigation questionnaire. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Right No. 5777-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2008

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 11, 2008** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is(are) received in this office on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3

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SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 3424	
GERALD A PERSON 42479 116th ST BRITTON SD 57430 2239	
Waiver of Signature ☐ YES ☐ NO	
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March 12, 2008

NOTICE OF ONE YEAR SUSPENSION OF WATER RIGHT

TO: Gerald A Person, 42479 116th St, Britton SD 57430-2239

FROM: Garland Erbele Chief Engineer
Water Rights Program 

SUBJECT: One Year Suspension of Water Right No. 5777-3

On March 11, 2008, the Water Management Board ordered:

That effective April 11, 2008, Water Right No. 5777-3 be suspended for the 2008 irrigation season for failure to submit the 2007 irrigation questionnaire.

If the 2007 irrigation questionnaire is received prior to April 11, 2008 the suspension will not take effect.

Suspension of a water right means water may not be pumped during the 2008 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2008 unless the irrigation questionnaire is submitted by April 11th.

After April 11th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2007 irrigation questionnaire and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 7, 2008 in Pierre, SD. The letter should include your reasons for not completing the 2007 irrigation questionnaire. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.

My commission
expires 4/1/13



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March 31, 2008

5777-3

Gerald Person
42479 116th St
Britton SD 57430

Dear Mr. Person:

On March 11th, the Water Management Board ordered Water Right No. 5777-3 be suspended if the 2007 irrigation questionnaire was not received prior to April 11, 2008. The questionnaire information for your water right has been received.

Since the irrigation questionnaire is on file, no violation has occurred and no suspension will take place. You are hereby authorized to irrigate during the 2008 irrigation season.

If you have any questions, please contact Genny McMath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



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January 23, 2009

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaire(s)

Our records indicate that the 2008 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 11, 2009** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office on/or before **March 6, 2009**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/efrms/secure/efrms/E0455V7-IQ.pdf>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3

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SIGNATURE CONFIRMATION NUMBER:
2303 2160 0000 0802 7231

GERALD A PERSON
42479 116th ST
BRITTON SD 57430 2239

Waiver of Signature ☐ YES ☐ NO

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February 4, 2009

5777-3

Gerald A Person
42479 116th St
Britton SD 57430

Dear Mr. Person:

I am writing to acknowledge receipt of your 2008 irrigation questionnaire. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for Water Right No. 5777-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



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January 22, 2010

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 10, 2010** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq/asp>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3

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- Notice Left, January 23, 2010, 11:47 am, BRITTON, SD 57430
- Sorting Complete, January 23, 2010, 8:07 am, BRITTON, SD 57430
- Notice Left, January 23, 2010, 7:29 am, BRITTON, SD 57430

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SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 9358

GERALD A PERSON
42479 116th ST
BRITTON SD 57430 2239

Waiver of Signature ☐ YES ☐ NO

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February 9, 2010

5777-3

Gerald A Person
42479 116th St
Britton SD 57430-2239

Dear Mr. Person:

I am writing to acknowledge receipt of your 2009 irrigation questionnaire. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right No. 5777-3.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

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



5777-3
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January 21, 2011

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2010 Irrigation Questionnaire(s)

Our records indicate that the 2010 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 15, 2010. The Water Management Board has directed that owners of water permits who have not submitted the 2010 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 9, 2011** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office on/or before **March 4, 2011**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3

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SIGNATURE CONFIRMATION NUMBER: 2303 2160 0000 0802 0492	GERALD A PERSON 42479 116th ST BRITTON SD 57430 2239	
	Waiver of Signature ☐ YES ☐ NO	
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February 10, 2011

5777-3

Gerald A Person
42479 116th St
Britton SD 57430-2239

Dear Mr. Person:

I am writing to acknowledge receipt of the information for your 2010 irrigation questionnaire. A form was completed for you based on your phone conversation with Ron Duvall with our program. The form indicates you did not irrigate in 2010 due to excess moisture in your area.

You may disregard the January 21, 2011, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



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January 24, 2012

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaire(s)

Our records indicate that the 2011 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 7, 2012** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office on/or before **March 2, 2012**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



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February 13, 2012

5777-3

Gerald A Person
42479 116th St
Britton SD 57430 2239

Dear Mr. Person:

I am writing to acknowledge receipt of your 2011 irrigation questionnaire.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



5777-3
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January 24, 2014

NOTICE

TO: GERALD A PERSON, 42479 116th ST, BRITTON, SD 57430 2239
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **9:00 am, March 6, 2014** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office on/or before **March 3, 2014**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



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February 27, 2014

5777-3

Gerald Person
42479 116th St
Britton SD 57530

Dear Mr. Person:

I am writing to acknowledge receipt of your 2013 irrigation questionnaire.

You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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



DEPARTMENT OF ENVIRONMENT
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October 28, 2014

5777-3

Gerald Person
11288 SD Hwy 27
Britton SD 57430 5619

Dear Mr. Person:

Enclosed is a "Notice" dated October 17, 2014 concerning the 2014 irrigation questionnaire.

The notice was originally mailed to 42479 116th St, Britton SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



5777-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaire(s)

Our records indicate your 2014 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

[English](#)[Customer Service](#)[USPS Mobile](#)[Register / Sign In](#)

USPS Tracking™

[Customer Service ›](#)

Have questions? We're here to help.

Tracking Number: 7013060000197482853

Your item was returned to the sender on February 7, 2015 at 9:14 am in BRITTON, SD 57430 because it was not claimed by the addressee.

Product & Tracking Information

Available Actions

Postal Product:

Features:

Certified Mail™

[Text Updates](#)

DATE & TIME

STATUS OF ITEM

LOCATION

[Email Updates](#)

February 7, 2015 , 9:14 am

Unclaimed

BRITTON, SD 57430

Your item was returned to the sender on February 7, 2015 at 9:14 am in BRITTON, SD 57430 because it was not claimed by the addressee.

January 20, 2015 , 12:56 pm

Notice Left (No Authorized Recipient Available)

BRITTON, SD 57430

January 20, 2015 , 5:07 am

Departed USPS Facility

HURON, SD 57399

January 16, 2015 , 9:45 pm

Arrived at USPS Origin Facility

HURON, SD 57399

January 16, 2015 , 6:16 pm

Departed Post Office

PIERRE, SD 57501

January 16, 2015 , 11:02 am

Acceptance

PIERRE, SD 57501

Track Another Package

Tracking (or receipt) number

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7013 0600 0001 9748 2853

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)Restricted Delivery Fee
(Endorsement Required)Postmark
Here

GERALD A PERSON

11288 SD HWY 27

BRITTON SD 57430 5619

PS Form 3800, August 2006

See Reverse for Instructions

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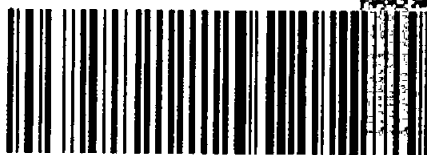
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

RETURN SERVICE REQUESTED

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™



7013 0600 0001 9748 2853



02 1R

\$ 03.78⁰

0002007087

JAN 16 2015

MAILED FROM ZIP CODE 57501

GERALD A PERSON
11288 SD HWY 27
BRITTO

Att LN
1-20
no
1st NOTICE
2nd NOTICE 1-26
RETURN

NIXIE 571 DE 1009 0002/11/15

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

5743085619 0002
575013182

BC: 57501318299 *0935-06732-16-43





5777-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 18, 2015

NOTICE

TO: Gerald A Person, 11288 SD Hwy 27, Britton SD 57430-5619

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Division 

SUBJECT: Unclaimed Certified Mail Concerning Violation of Water Right No. 5777-3

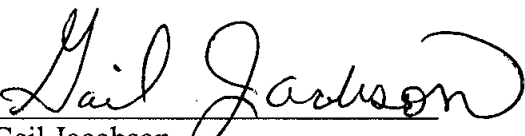
The attached notice was sent certified mail, return-receipt requested. The post office has returned the certified mail return-receipt requested envelope to our office marked "unclaimed". The envelope indicated the post office notified you twice to pick up and sign for the certified mail.

If you have any questions, please contact Genny McMath, (605) 773-3352.

CERTIFICATION

I hereby certify that on February 18, 2015, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated February 18, 2015 regarding unclaimed Certified – Irrigation Questionnaire addressed as stated below:

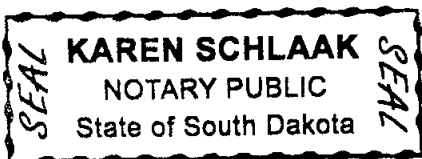
Water Right No. 5777-3 Gerald A Person, 11288 SD Hwy 27, Britton SD 57430


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of February, 20 15.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





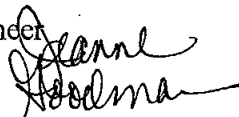
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 5, 2015

NOTICE OF ENTRY OF ORDER OF ONE YEAR SUSPENSION OF WATER RIGHT

TO: Gerald A Person, 11288 SD Hwy 27, Britton, SD 57430-5619

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: One Year Suspension of Water Right No. 5777-3

On March 4, 2015, the Water Management Board ordered:

Effective April 4, 2015, Water Right No. 5777-3 be suspended for the 2015 irrigation season for failure to submit the 2014 irrigation questionnaire.

If the 2014 irrigation questionnaire is received prior to April 4, 2015 the suspension will not take effect.

Suspension of a water permit or right means water may not be pumped during the 2015 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2015 unless the irrigation questionnaire is submitted by April 4th.

After April 4th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2014 irrigation questionnaire and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 6-7, 2015 in Pierre, SD. The letter should include your reasons for not completing the 2014 irrigation questionnaire. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 11, 2015

5777-3

Gerald A Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

On March 4th, the Water Management Board ordered Water Right No. 5777-3 be suspended if the 2014 irrigation questionnaire was not received prior to April 4, 2015. The questionnaire information for your water right was received March 10, 2015.

Since the irrigation questionnaire is on file, no violation has occurred and no suspension will take place. You may irrigate during the 2015 irrigation season.

If you have any questions, please contact Genny McMath at (605) 773-3352.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Goodman".

for Jeanne Goodman, Chief Engineer
Water Rights Program



5777-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 19, 2016

5777-3

Gerald A Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

I am writing to acknowledge receipt of your 2015 irrigation questionnaire.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



5777-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 21, 2018

5777-3

Gerald Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

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



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: UJYZJF**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

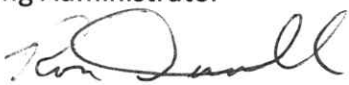
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 16, 2021

NOTICE

TO: Gerald A Person, 11288 SD Hwy 27, Britton SD 57430

FROM: Ron Duvall, Natural Resources Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program 

SUBJECT: Unclaimed Certified Mail Concerning Violation of Water Right No. 5777-3

The attached notice was sent certified mail, return-receipt requested. The post office has returned the certified mail to our office marked "**unclaimed**". The envelope indicated the post office notified you January 25th and January 30th to pick up and sign for the certified mail before returning it to us February 8th.

If you have any questions, please contact Genny McMath, (605) 773-3352.

CERTIFICATION

I hereby certify that on February 16, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, a first-class postage prepaid envelope containing a "NOTICE OF UNCLAIMED CERTIFIED MAIL" dated February 16, 2021 involving 2020 Irrigation Questionnaires following water rights/permits:

Water Right No. 4472-3

Darrell Biddle, 37461 287th St., Geddes, SD 57342

Water Right No. 2350-3

Bill Boyer, River Valley Farms, PO Box 486, Alcester, SD 57001-0486

Water Right No. 5777-3

Gerald A. Person, 11288 SD Hwy 27, Britton SD 57430

Water Right No. 6666-3

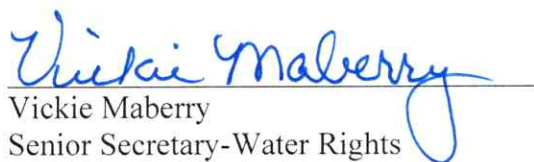
Brian Vilhauer, President, Dakota Trails Golf Course Inc., PO Box 165, Corsica SD 57328

Water Right No. 6316-3

Howard Athletic Club Inc., 508 E. Farmer Ave., Howard SD 57349-9017

Water Right No. 1703-1 & 1704-1

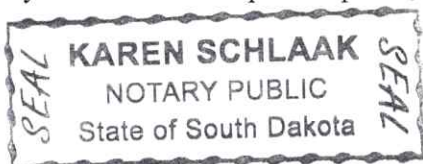
Mike & Debie Palmer, 7803 Palmer Ln., Rapid City SD 57702


Vickie Maberry
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of February, 20 21.


Karen Schlaak Notary Public
My Commission expires April 1, 2025





DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 17, 2021

5777-3

Gerald A Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

Thank you for calling concerning your 2020 irrigation questionnaire. I filled out a form for you based on our telephone conversation.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

During our conversation you indicated you may be changing systems. I am enclosing a copy of your water right to show you what is currently covered. If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: WXTCMW**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 8, 2022

5777-3

Gerald A Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

5777-3



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: QZAGSI**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

5777-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 27, 2023

5777-3

Gerald A Person
11288 SD Hwy 27
Britton SD 57430-5619

Dear Mr. Person:

I am writing to acknowledge receipt of your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right No. 5777-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: NHZAIB**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 24, 2025

5777-3

Gerald Person
11288 SD HWY 27
Britton SD 57430

Dear Mr. Person:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 5777-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2026

NOTICE

TO: GERALD A PERSON, 11288 SD HWY 27, BRITTON, SD 57430 5619

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 5777-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 5777-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held on **Wednesday, March 4, 2026 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5777-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 4, 2026** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: TKIOUN**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.