

WATER PERMIT NO. 6892-3

Name of Applicant: **Hicks Brothers**

Address: **14527 474th Ave, Milbank SD 57252** Phone: **605 432-6113**

Amount of Water Claimed: **28.7 AF** Total Acres: **NA**

Source of Water Supply: **runoff**

Water to be used for: **fish & wildlife propagation and livestock** County: **Roberts**

Type of Waste Disposal System:

Location: **2 miles northwest of Summit**

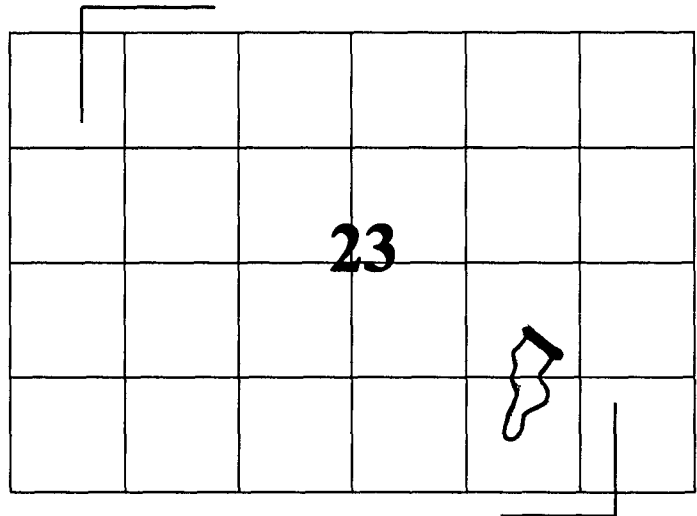
PRIORITY Date Received: **9-10-07** Application/License Fee: **\$200**

Corrected Application Received: Period of Annual Use: **January 1 – December 31**

Remarks:

Diversion Point: **NE ¼ SE ¼ Sec 23-T122N-R51W**

Water Impounded: **E ½ SE ¼ Sec 23-T122N-R51W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Thomas L Wickstrom, USFWS**

Reviewed and the Number Assigned on: **9-10-07**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6892-3</u>	(office use only) Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Sisseton Courier</u>	<u>PO Box 169 57262</u>
	<u>605-698-7642 (Thurs)</u>	

RECEIVED
SEP 10 2007
WATER RIGHTS
PROGRAM

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

Check use(s) of water:

- | | | | |
|---|---|--|--|
| ☐ Municipal | ☐ Suburban Housing | ☐ Recreational | ☐ Institutional |
| ☐ Rural Water System | ☐ Commercial | ☒ Fish & Wildlife | ☐ Geothermal Heat |
| ☐ Domestic (over 18 gpm) | ☐ Industrial | ☒ Other <u>livestock</u> | |

Type of Application: (check one)

- ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

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

- Name of Applicant Paul Hicks Hicks Brothers Phone (605) 432-6113
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 14527 474th Ave Milbank State SD 57252
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed _____ *CFS or _____ **GPM 28.7 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Watershed above dam.
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Roberts
Embankment in NE1/4SE1/4 Section 23, T. 122 N., R. 51 W. Water impounded; E 1/2 SE 1/4
Sec 23 T 122N R 51W
- County or counties where water will be used Roberts
- Annual period during which water is to be used annually Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

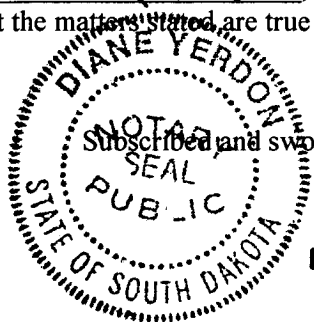
Rebuild embankment to route water through new spillway. See attached plan.

STATE OF SOUTH DAKOTA)

County of Roberts SS

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

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



Applicant's signature Robert Hicks

Subscribed and sworn to before me this 7th day of Sept 20 07

Diane Yerdon
Notary Public signature

DIANE YERDON, Notary Public
My Commission Expires
August 21 2011

**SOUTH DAKOTA
WATER PERMIT NO. 6892-3**

Date of first receipt of application September 10, 2007.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6892-3 to Hicks Brothers, 14527 474th Ave, Milbank SD 57252 authorizing the reconstruction of the dam and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6892-3 authorizes impoundment 28.7 acre-feet of water from runoff by reconstructing a dam located in the NE ¼ SE ¼ Section 23 with water impounded in the E ½ SE ¼ Section 23; all in T122N-R51W.
2. The water appropriated shall be used for the purpose of fish and wildlife propagation and livestock water purposes and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 6892-3 is November 2, 2007.
5. The date from which applicant may claim right is September 10, 2007.
6. One-fifth of the construction is to be completed on or before May 2, 2010.
7. All construction is to be completed on or before November 2, 2012.
8. Water is to be put to beneficial use on or before November 2, 2016.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 6892-3 authorizes a dam with a storage capacity of 28.7 acre-feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

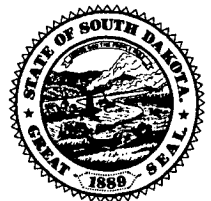
WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 23 2008

date



(type or print in ink)

1. Well Information - Proposed Construction

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

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

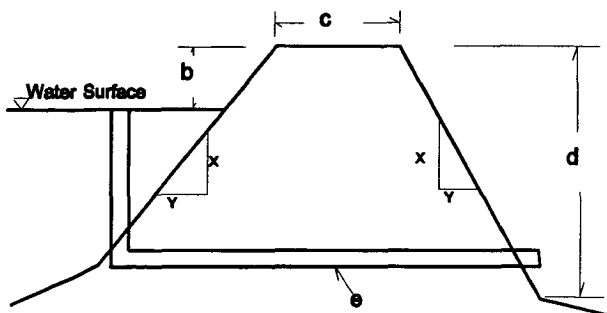
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

Konechene Engineering
Dave Konechene, PE
104 Capitol Hill Drive
Pierre, SD 57501



- b) Freeboard _____ 3
- c) Crest Width _____ 12
Crest Length _____ 350
- d) Height _____ 21
- e) Primary Outlet Capacity _____ 21.8 cfs
If pipe, diameter 30" inlet w/15" outlet
- f) Secondary Spillway Capacity _____ 620 cfs
Spillway Width _____ 40'
- g) X & Y Slope _____
Upstream _____ 3:1
Downstream _____ 3:1
- h) Surface Area of Impoundment _____ 3.7
- i) Storage _____ 28.7 Acre Feet
- j) Drainage Area Above Dam _____ 209.0 Acres



Paul Hicks
Roberts County
Embankment Repair



0 0.5 1 1.5 Miles

 Embankment Repair



Thomas L. Wickstrom
Fish & Wildlife Biologist

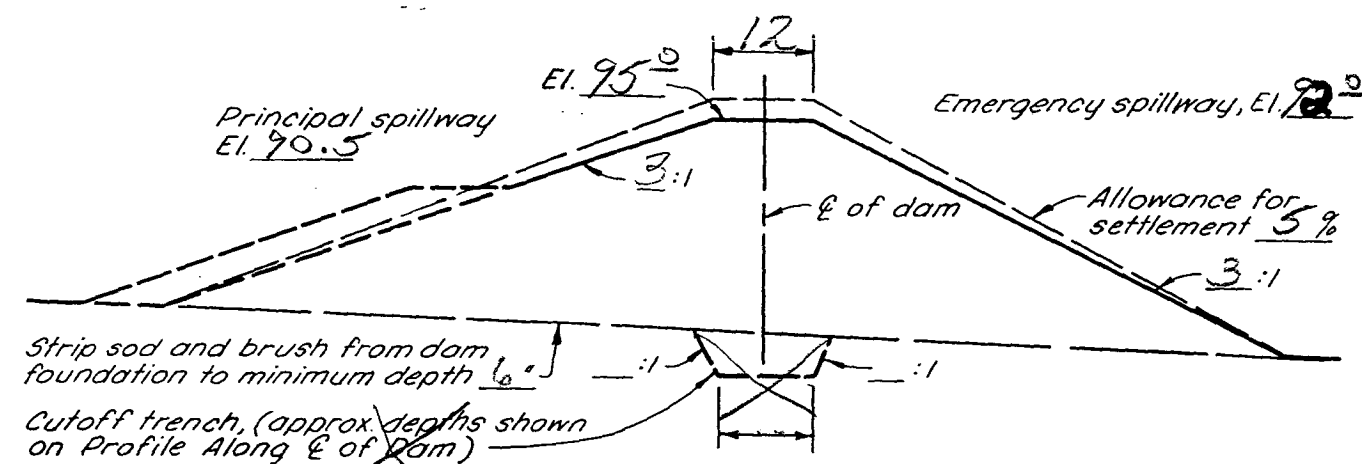


70.5
75
76.5

LOCATION

[illegible]

see top pg



TYPICAL CROSS SECTION OF DAM

S.D. CONSTRUCTION AND MATERIAL SPECIFICATIONS:

EARTH DAM

SD-2 Clearing & Grubbing
SD-75 Earth Fill
SD-9 Drain Fill
SD-55 Plastic Pipe

OPERATOR: Paul Hicks

CONSERVATION DISTRICT: _____

SKETCH PLAN OF DAM AND RESERVOIR AREA

Approximate scale 1" = _____

REFERENCE: GUIDE PLAN NO. 1.0

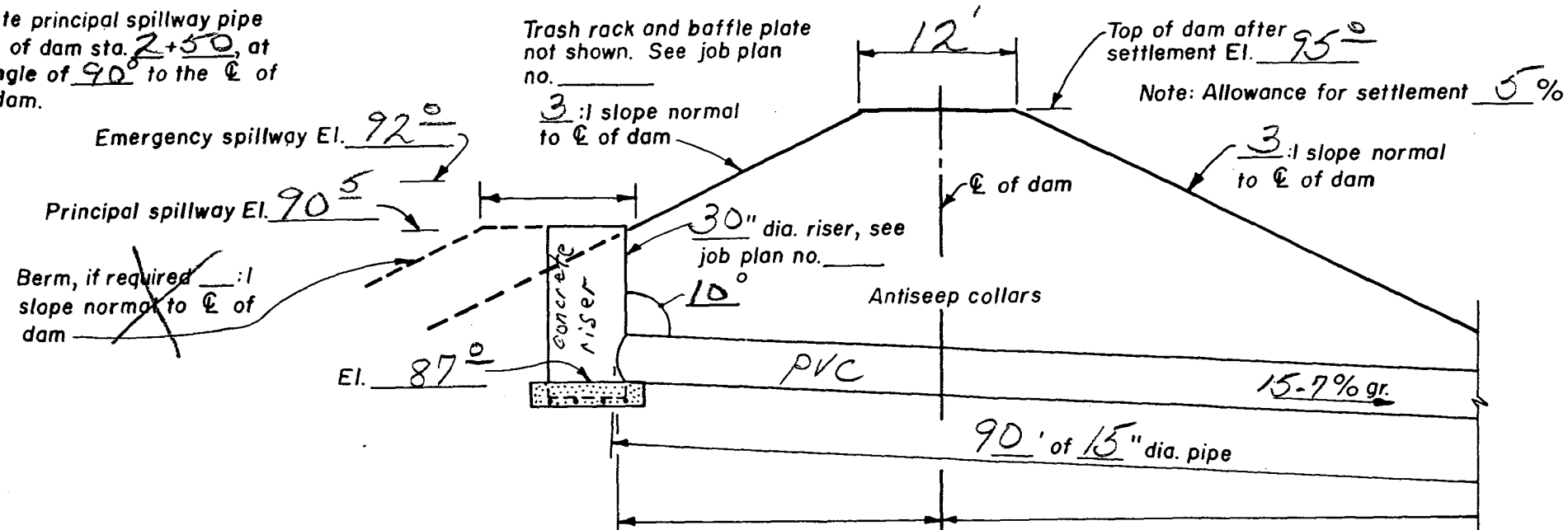
JOB PLAN NO. 1.0

USDA-SCS-LINCOLN NEBR 1972

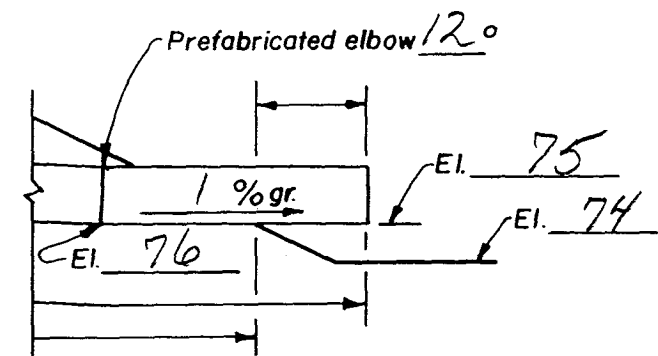
		Date	Approved by.....	
Designed.....			Title.....	
Drawn.....			Title.....	
Traced.....			Sheet	Drawing No.
Checked.....			No	
			of	

(Rev. 4-73) 5,N-29,073.1a(1.

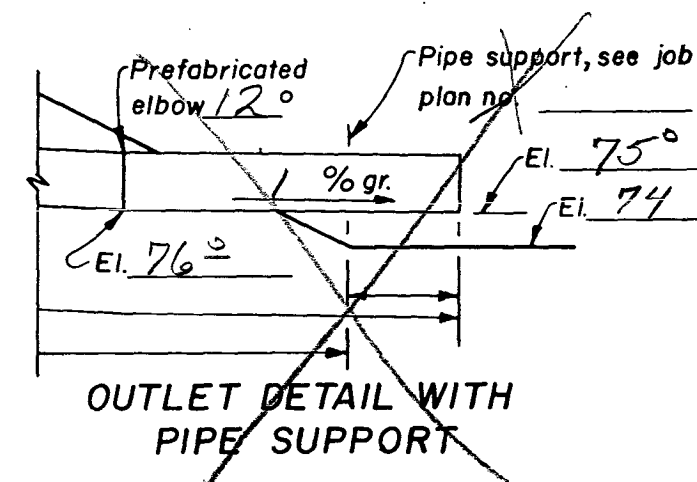
Locate principal spillway pipe
at C of dam sta. 2+50, at
an angle of 90° to the C of
the dam.



CROSS SECTION OF DAM ALONG C OF PRINCIPAL SPILLWAY
(Not to scale)



OUTLET DETAIL WITHOUT PIPE SUPPORT



~~OUTLET DETAIL WITH
PIPE SUPPORT~~

Sec. _____, T. _____, R. _____
County _____

LOCATION
CORRUGATED METAL PIPE
DROP INLET PRINCIPAL SPILLWAY

OPERATOR Pgs1 Hicks

CONSERVATION DISTRICT _____

**U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE**

Date _____		Approved by _____
Designed _____		Title _____
Drawn _____		Title _____
Traced _____	Sheet _____	Drawing No. _____
Checked _____	No _____	
	of _____	

SPECIFICATION NOTES

1. ELBOW, IF REQUIRED, MAY BE FABRICATED BY CONTINUOUS WELDING SEPERATE PIPE SECTIONS OR BY FABRICATING A CONTINUOUS WELDED JOINT ON THE UPSTREAM END OF LAST SECTION OF PIPE.
2. PIPE WALL THICKNESS SHALL BE _____ GAGE OR _____ INCHES.

Use PVC SDR-35
& standard PVC elbow
Reinforced concrete
riser shall meet ASTM-C 478

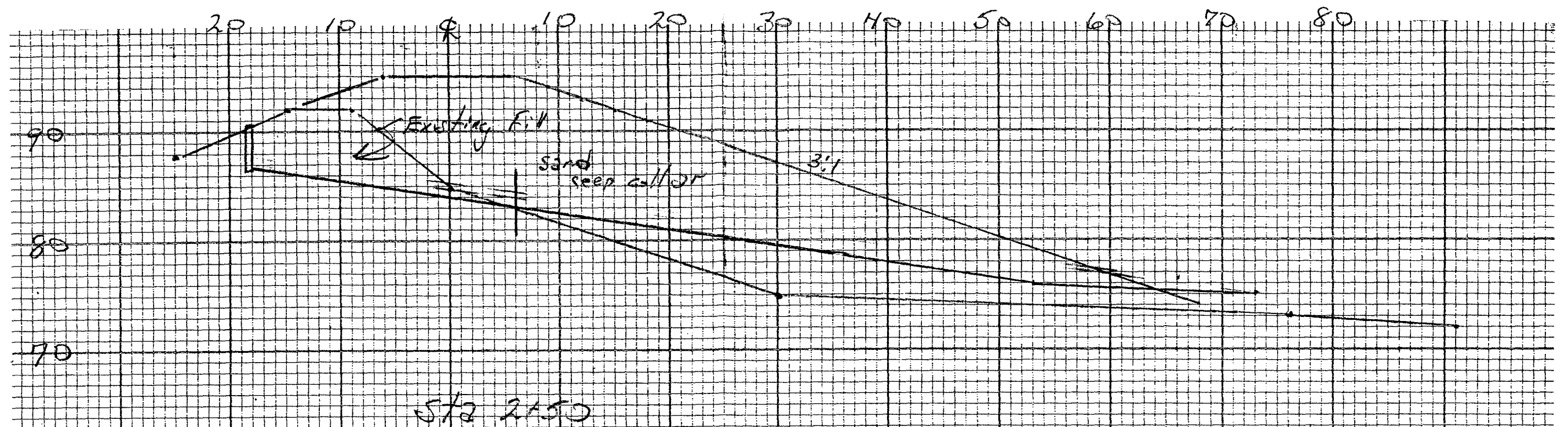
TABLE OF QUANTITIES

[illegible]

APPLICABLE STANDARD S.C.S. SPECIFICATIONS

Rev. 8/80
JOB PLAN NO. 2.0

REFERENCE: GUIDE PLAN NO. 2.0

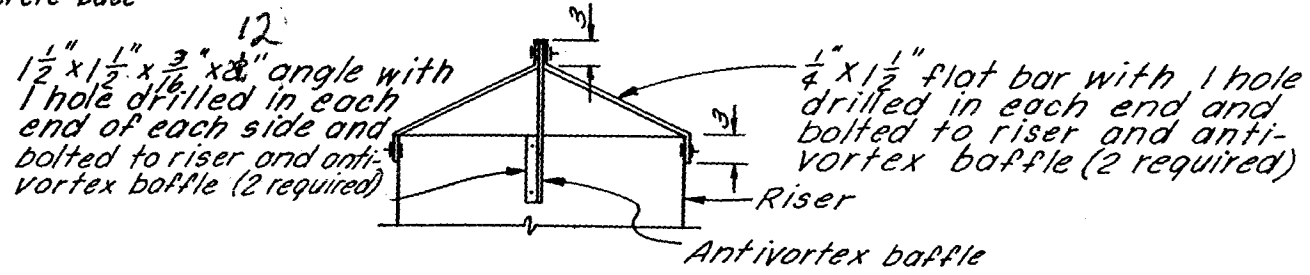
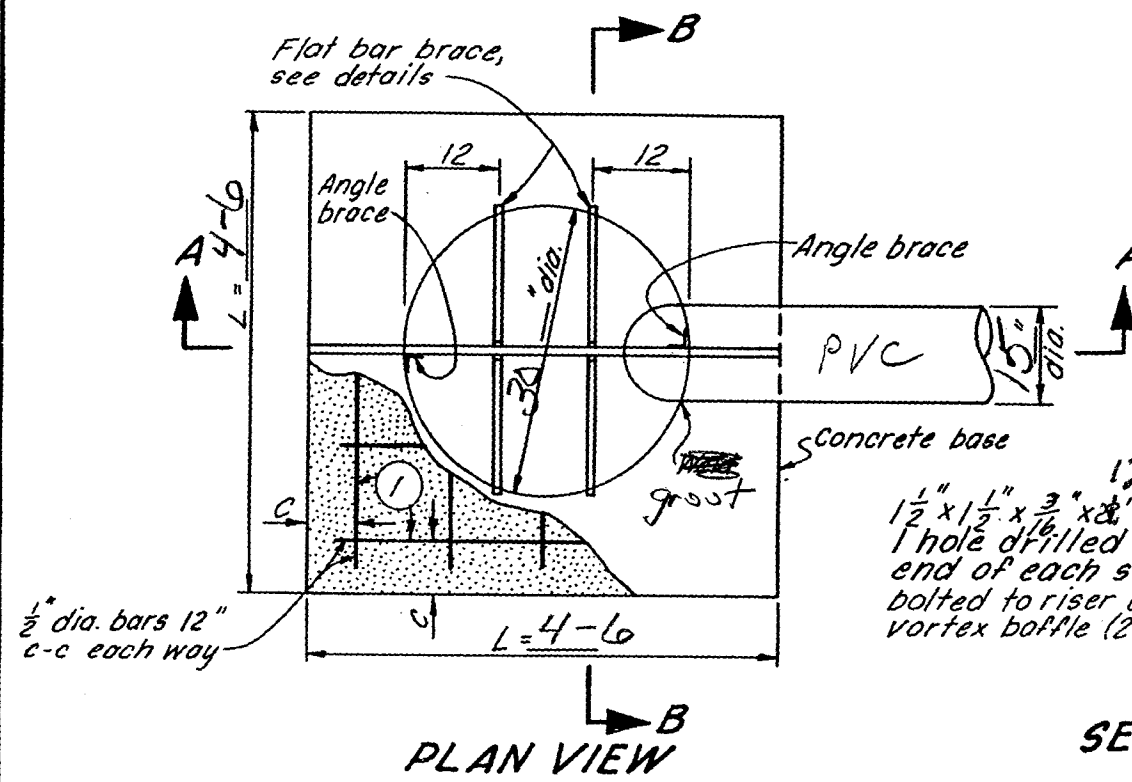


CROSS SECTION AT CREST OF EMERGENCY SPILLWAY AND PROFILE ALONG C OF DAM

Paul Hicks

STEEL SCHEDULE AND CONCRETE QUANTITIES

RISER DIA. IN.	BARREL DIA. IN.	BAR SIZE	MARK	TYPE	NO. REQ'D.	LENGTH FT.-IN.	TOTAL LENGTH FT.-IN.	TOTAL WT. LB.	CONC. CU. YD.	C IN.	L FT.-IN.
30	15	4	1	STR	10	4-0	40-0	27	0.8	3	4-6

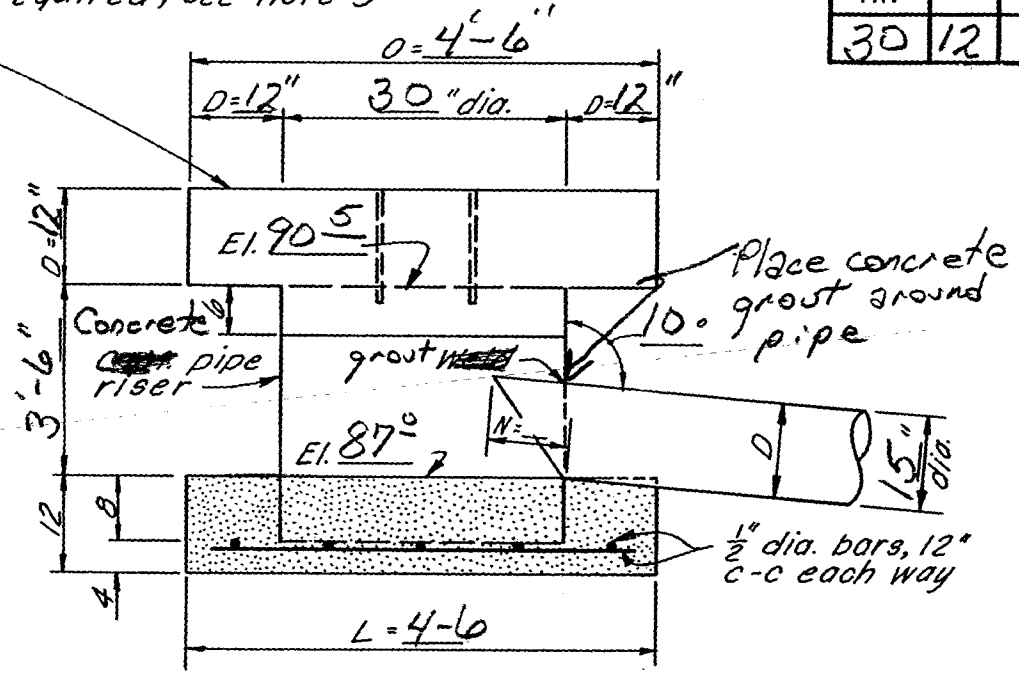


SECTIONAL ELEVATION B-B

STRUCTURAL STEEL AND ANTIVORTEX BAFFLE QUANTITIES

RISER DIA. IN.	D IN.	N IN.	O FT.-IN.	BAFFLE AREA SQ. FT.	BAFFLE WT. LB.	1/4" X 1 1/2" FLAT BAR LENGTH, FT. IN.	NO. REQ'D.	FLAT BAR WT. LB.	1 1/2" X 3/16" ANGLE INCHES	NO. REQ'D.	ANGLE WT. LB.
30	12	9	4-6	6	34	2-0	4	11	12	2	2.5

Antivortex baffle required, 0.138" thick, 14" trash rack is required, see note 3



SECTIONAL ELEVATION A-A

- NOTES:
1. ALL CUTS SHALL BE SAW OR SHEAR CUTS.
 2. ALL GALVANIZING DAMAGED BY CUTTING, DRILLING, OR WELDING SHALL BE REPAIRED BY PRIMING WITH TWO COATS OF ZINC DUST-ZINC OXIDE PRIMER.
 3. FOR TRASH RACK AND BAFFLE DETAILS, SEE PLAN SERIES 6.
 4. ALL BOLTS SHALL HAVE A NUT AND SPLIT WASHER.
 5. ALL BOLTS, NUTS, AND WASHERS SHALL BE GALVANIZED, CADMIUM PLATED, OR STAINLESS STEEL.
 6. HOLES IN BRACES SHALL BE SPACED AND LOCATED TO MATCH CORRUGATIONS IN RISER AND BAFFLE.

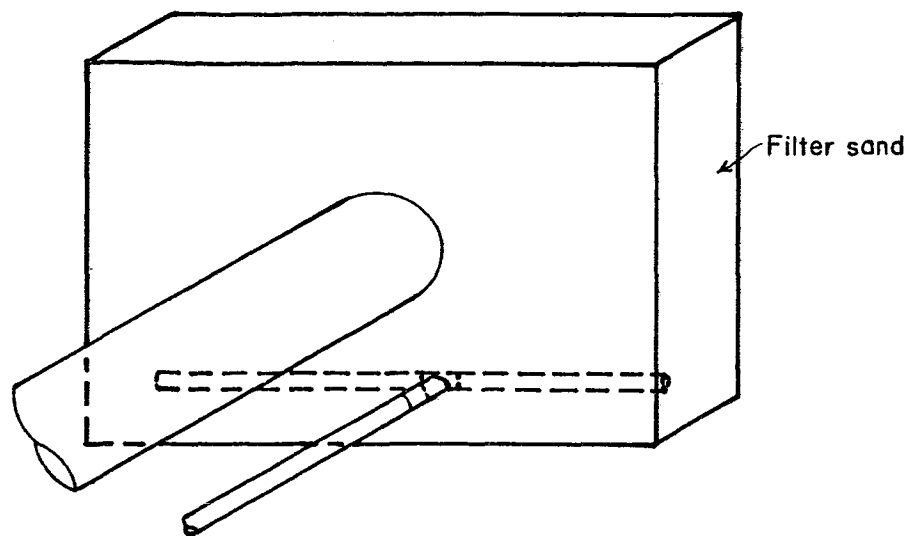
RISER AND HOOD INLET COMBINATION

OPERATOR: <u>P201 Hicks</u>	
CONSERVATION DISTRICT: _____	
U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
Designed: _____	Date: _____
Drawn: _____	Approved by: _____
Traced: _____	Title: _____
Checked: _____	Title: _____
	Sheet No. _____
	Drawing No. _____

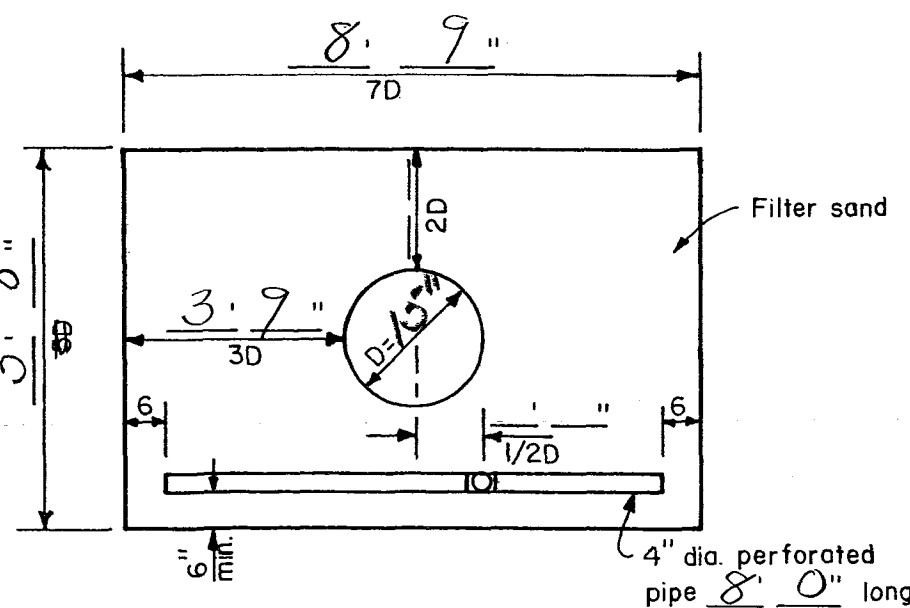
REFERENCE: GUIDE PLAN NO. 5.4

JOB PLAN NO. 5.4

9-
21
3
6-3



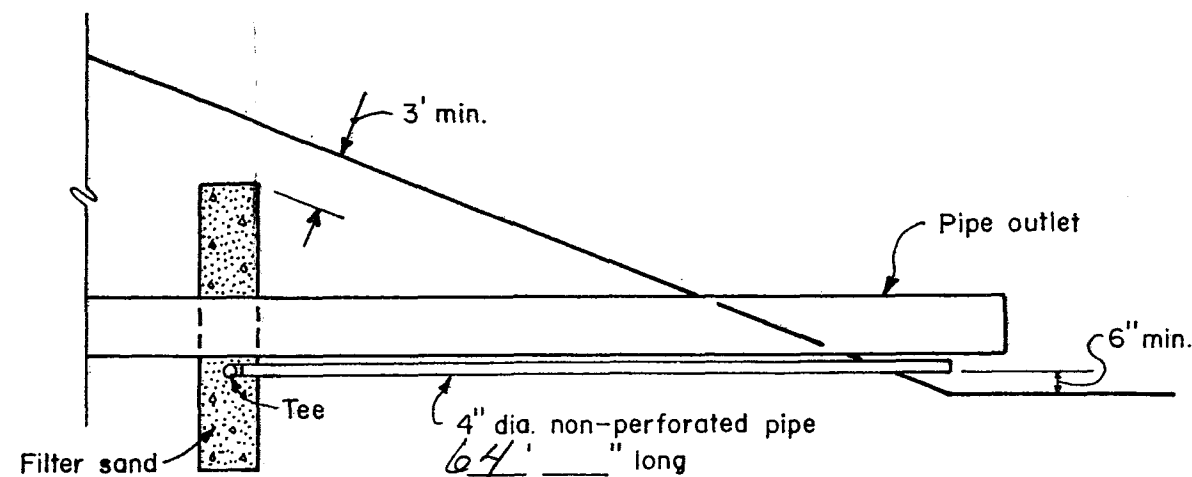
ISOMETRIC VIEW



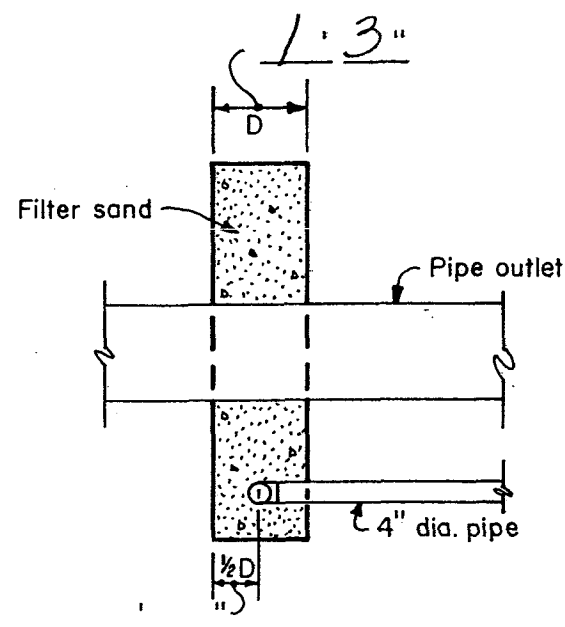
UPSTREAM VIEW

NOTE:

1. THE 4" DIA. PIPE SHALL BE ASTM D1785, SCHEDULE 40, PVC.
2. PROVIDE AN ANIMAL GUARD ON DRAIN OUTLET PIPE. DRILL 2, 1/2" DIA. HOLES, ON $\frac{1}{4}$ 6" FROM END OF PIPE AND PLACE A 3/8" DIA., 5 1/2" LONG GALVANIZED STEEL BOLT THRU THEM AND SECURE WITH A NUT (PLACE BOLT HORIZONTAL).



OUTLET DETAIL



SIDE VIEW

FILTER GRADATION

SIEVE SIZE	PERCENT PASSING
3/8"	100
4	95-100
8	80-100
16	50-85
30	25-60
50	10-30
100	2-10

See spec SD-9
Revised

Sec. _____, T. _____, R. _____

_____ County

LOCATION

SAND ANTISEEP COLLAR

OPERATOR Paul Hicks

CONSERVATION DISTRICT _____

Designed _____		Date _____	
Drawn _____		Approved by _____	
Traced _____		Title _____	
Checked _____		Sheet No. _____	
		Drawing No. _____	

JOB PLAN NO. 3.8

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/10, 20 07

RECEIVED OF Hicks Brothers 14527 474TH ave Milbank SD 57252

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

Fee for Application for Permit No. <u>U 892-3</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. <u>U 892-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	200 00

No.

03159

By

Harland Erbe

Chief Engineer

Water Permit Application No. 6892-3 Hicks Brothers

Top of Dam Elev. - 95
2nd Spillway Elev. - 92
P. Spillway Elev. - 90.5
Dis Emb. Top Elev. - 74

Cat. 3 - Low Hazard Dam

HT. = 21 ft

Normal Storage Capacity - 28.7 Ac-Ft
Int Storage Capacity - 35
Max Storage Capacity - 53

Int Capacity x Eff HT. = $35 \times 17 = 595$ ≤ 3000 i.e. 25yr
Minimum Spillway Design

From USGS WRI 98-4055 "Tech for Est Peak Flows ... in 50"

DA = 209 Ac = 0.33 mi²

Region A - $P_{II} = 0.95$

$$\begin{aligned} Q_{25} &= 218 CA^{.513} P_{II}^{4.80} \\ &= 218 (0.33)^{.513} (0.95)^{4.80} \\ &= 218 (.5662) (0.7818) \\ &= \underline{96.49 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} Q_{100} &= 362 CA^{.521} P_{II}^{4.47} \\ &= 362 (0.33)^{.521} (0.95)^{4.47} \\ &= 362 (.5612) (0.7951) \\ &= \underline{161.53 \text{ cfs}} \end{aligned}$$

Secondary Spillway Capacity

$$\begin{aligned} Q &= CLH^{3/2} \quad C = 2.6 \\ &= 2.6 (40) (3)^{1.5} \quad L = 40 \\ &= \underline{540 \text{ cfs}} \quad H = 3 \end{aligned}$$

Section 74:02:08:09

1. Topo Map - OK
2. Dam Axis Profile - OK
3. Dam Max K-Sec. - OK
4. Area - Capacity - OK
5. Outlet Details - OK
6. Spillway Rating - OK
7. Spillway Details - OK
8. Specs - std. NRCS - OK
9. EPP - N/A Cat. 3 - OK

NRCS Annual Yield

DA = 209 Ac ISO = 2% CN = 70

$$\begin{aligned} 40\% \text{ chance} &= 0.09 \\ 0.09 \times 209/12 &= 1.6 \text{ Ac-Ft} \end{aligned}$$

$$\begin{aligned} 50\% \text{ chance} &= 0.28 \\ 0.28 \times 209/12 &= 5.0 \text{ Ac-Ft} \end{aligned}$$

$$\begin{aligned} 10\% \text{ chance} &= 1.60 \\ 1.60 \times 209/12 &= 28 \text{ Ac-Ft} \end{aligned}$$

6892-3

NRCS Annual Yield

LN# 72324

Dennis Reynolds Dam

SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 31-T122-R50

$$DA = 540 A \quad ISO = 2\frac{1}{2} \quad CN = 70$$

$$50\% \text{ chance} = 0.28$$

$$0.28 \times 540/12 = \underline{12.6 A - Ft}$$

$$DA = 331 (540 - 209)$$

$$50\% \text{ chance} = 0.28$$

$$0.28 \times 331/12 = \underline{7.7 A - Ft}$$



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 4, 2007

Hicks Brothers
14527 474th Ave.
Milbank, SD 57252

Dear Mr. Hicks:

We have reviewed the plans and specifications for your dam project located in the NE ¼ SE ¼ of Sec. 23-T122N-R51W, in Roberts County. The plans and specifications for the construction of the dam are approved. Approval of the plans and specifications does not authorize construction of the dam. The construction of the dam may not begin until Water Permit No. 6892-3 is 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 you, as owner of the dam, from the responsibility for operating and maintaining the dam in good repair to ensure the safety of the dam.

The dam will be classified as a small size Category 3, Low Hazard dam with a dam height of 21 ft. and a normal storage capacity of 28.7 acre-feet and a maximum storage capacity of 58 acre-feet.

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

Sincerely,

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

c: Dave Konechne, Konechne Engineering



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6892-3, Hicks Brothers**

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. 6892-3, Hicks Brothers, c/o Robert Hicks, 14527 474th Avenue, Milbank SD 57252.

The Chief Engineer is recommending APPROVAL of Application No. 6892-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 6892-3 authorizes a dam with a storage capacity of 28.7 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer
October 4, 2007

REPORT ON
WATER PERMIT APPLICATION NO. 6892-3
Hicks Brothers
October 3, 2007

Water Permit Application No. 6892-3 has been filed by the Hicks Brothers, c/o Robert Hicks, to impound 28.7 acre-feet of water from runoff by reconstructing a dam located in the NE ¼ SE ¼ of Section 23-T122N-R51W, in Roberts County. The application also requests impoundment of sufficient water to maintain water to the outlet elevation. The water will be used for fish and wildlife production and livestock water purposes.

Discussion:

The dam will be classified as a small size, Category 3, Low Hazard dam. The dam has been designed by Konechne Engineering. The plans and specifications have been reviewed and will be approved; however, construction of the dam can not begin until Water Permit Application No. 6892-3 is approved.

The reconstructed dam will be 21 feet high with a normal storage capacity of 28.7 acre-feet with a reservoir level at the primary spillway elevation, and a maximum storage capacity of 58 acre-feet with a reservoir level at the top of dam elevation. A dam of this size and hazard classification is required to have a minimum spillway design capable of passing a 25-year frequency event.

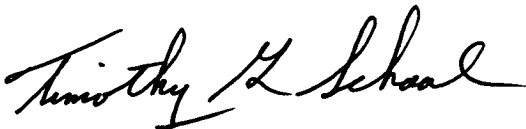
The dam has a drainage area of 209 acres or 0.33 square miles. The dam is designed to have a 30 inch diameter concrete riser with a 15 inch PVC barrel with 4.5 feet of freeboard as the primary spillway, and a 40 foot wide earthcut secondary spillway with 3.0 feet of freeboard. A 25 year frequency event produces a peak runoff of approximately 100 cfs and a 100 year frequency event produces a peak runoff of approximately 162 cfs. The earthcut spillway will have a capacity of approximately 540 cfs.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 1.6 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 5.0 acre-feet and the annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 28 acre-feet.

The Hick Brothers Dam will be located in the NE ¼ SE ¼ of Section 23-T122N-R51W on an unnamed tributary to the North Fork of the Whetstone River, about 10 miles upstream of the confluence of the unnamed tributary and the Whetstone River. There are no existing Water Permits filed between the proposed dam and the Whetstone River; however, Dennis Reyelts filed Location Notice No. 72324 in September, 1990 for a dam located in the SW ¼ NW ¼ of Sec. 31-T122N-R50, about one mile downstream of the Hicks Brothers Dam. The Reyelts Dam has a storage capacity of 10.3 acre-feet, with 6.3 acre-feet claimed annually. It has a total drainage area of approximately 540 acre. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, for the 331 acres of drainage area not associated with the Hick Brother Dam, is expected to be 7.7 acre-feet.

Conclusions:

1. Water Permit Application No. 6892-3 should be approved since unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights.
2. If approved, the low flow bypass requirement for domestic use should be a qualification on Water Permit Application No. 6892-3.



Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist

RECEIVED

OCT 29 2007

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Roberts) SS

I, Sylvia Deutsch

certify that the attached printed Notice was
taken

from the Sisseton Courier

printed and published in Sisseton

County of Roberts and

state of South Dakota. The notice was
published

in the newspaper on the following two dates:

October 16, 2007

October 23, 2007

Cost of Printing \$39.08

NOTICE OF APPLICATION
NO. 6892-3

To Appropriate Water

Notice is given that Hicks Brothers, c/o Robert Hicks, 14527 474th Ave., Milbank, SD 57252 has filed an application for a water permit to impound 28.7 acre-feet of water from runoff by reconstructing a dam located in the NE1/4SE1/4 Section 23 with water impounded in the E1/2SE1/4 Section 23; all in T122N-R51W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6892-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial

use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant's address is 14527 474th Ave., Milbank, SD 57252. The Chief Engineer's address is Water Rights Program, Room 200, 523 E. Capitol, Pierre, SD 57501 (605-773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 2007.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

Steven M. Pinner, Secretary
Dept. of Environment and
Natural Resources

Oct. 16-23-2007

Sylvia Deutsch
(Signature)

Sec'y-Treas.
(Title)

October 23, 2007
(Date Signed)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 4, 2007

Sisseton Courier
PO Box 169
Sisseton SD 57262

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 6892-3 to Appropriate Water to be published twice. Please publish the first notice on October 16, 2007 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Hicks Brothers, 14527 474th Ave, Milbank SD 57252 (Ph # 605-432-6113).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 6892-3

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

Date _____

We are in receipt of your letter of October 4, 2007 enclosing Notice to Appropriate Water by Application No. 6892-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

October 4, 2007

Hicks Brothers
14527 474th Ave
Milbank SD 57252

Dear Mr. Hicks:

Water Permit Application No. 6892-3 for fish and wildlife use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Sisseton Courier printed at Sisseton SD (Ph # 605-698-7642). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

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.

Instruction to Newspaper - Publish first Notice on October 16, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6892-3 to Appropriate Water

Notice is given that Hicks Brothers, c/o Robert Hicks, 14527 474th Ave, Milbank SD 57252 has filed an application for a water permit to impound 28.7 acre-feet of water from runoff by reconstructing a dam located in the NE ¼ SE ¼ Section 23 with water impounded in the E ½ SE ¼ Section 23; all in T122N-R51W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6892-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 2007.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JAN 23 2000

Hicks Brothers
14527 474th Ave
Milbank SD 57252

Dear Sirs:

Enclosed is Water Permit No. 6892-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet ? *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

6892-3

PAID

APR 29 2025

Ck# 6153

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: SD DANR, Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 6892-3

RECEIVED

Date: Apr. 23, 2025

APR 29 2025

I/We request that Water Right/Permit No. 6892-3 formerly owned by:
Hicks Brothers - Milbank, SD

OFFICE OF
WATER
be transferred to:

New Owner Name: Howard + Cathy Cleveland

Address: 2664 207th St.

mobile: 507-828-0609

City, State, Zip Canby MN 56220

email: clevefam@frontier.net.net

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

Impoundment of 28.7 acre-feet of water from runoff into a dam
E 1/2 SE 1/4 Section 23; all in T122N, R51W

☒ I understand that the validity of Water Right/Permit No. 6892-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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

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

I, Cathy + Howard Cleveland, the new owner, certify that the above information is true and correct.

Cathy Cleveland + Howard Cleveland
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following reasons:

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

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

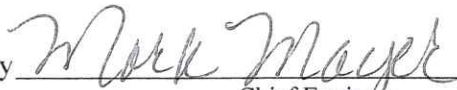
Date April 30th 2025

RECEIVED OF Howard & Cathy Cleveland 2664 207th St Canby MN 56220

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. _____	\$ _____
Fee for Filing Transfer Form #6892-3 _____	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>50.00</u>

By


Chief Engineer

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 6892-3

I have this day, October 4, 2024, made a thorough examination of the water use system constructed by Hicks Brothers, 14527 474th Ave, Milbank, SD 57252 of Permit No. 6892-3, bearing the priority of September 10, 2007 authorizing the storage of 28.7 acre-feet of the waters of water source for fish and wildlife propagation and livestock water purposes, in Roberts County.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in fair condition with the point(s) of diversion located as follows: PRINCIPAL SPILLWAY OUTLET LOCATION From the SE corner Sec 23 T122R R51W, 1330 ft N & 220 ft W, Lat 45.32947 Long -97.00130 (NE ¼ SE ¼)
2. The works are capable of storing 28.7 acre-feet of water which is to be used for type of fish and wildlife propagation and livestock water use.

The license should be issued for 28.7 acre-feet of storage.

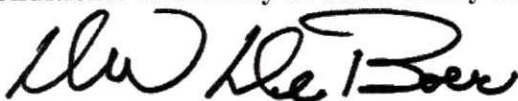
3. All structures, wells and lands on map Y

F. Comments or other permit(s) associated with the project:

FSA maps and the ArcGIS program were used to construct the attached dam and conservation pool location. The structure appears to have been constructed in accord with the proposed dimensions.

The emergency spillway to the north has good vegetation. Much of the conservation pool has extensive sedimentation which reduces the total reservoir capacity.

It is my understanding that Ms. Catherine Cleveland, 2664 207th St, Canby, MN 56220, (507/828-0609) owns the property but that has not been verified by this Inspector although the Roberts County Plat Book indicates that is the case. I visited with Mr. Bob Hicks, 14527 474th Ave, Milbank, SD 57252, (605/949-1963) a few years ago as I was unable to complete the field inspection at that time due to muddy farm lane conditions. There may be some family connection between the two.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: October 7, 2024



PHOTO #1. Looking northwest along the dam crest showing no vegetation on the crest due to cattle traffic. Also, there is no vegetation on the upstream side of the dam as this is where cattle access the water for drinking purposes. Note the curvature of the dam and the location of the principal outlet spillway.

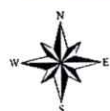
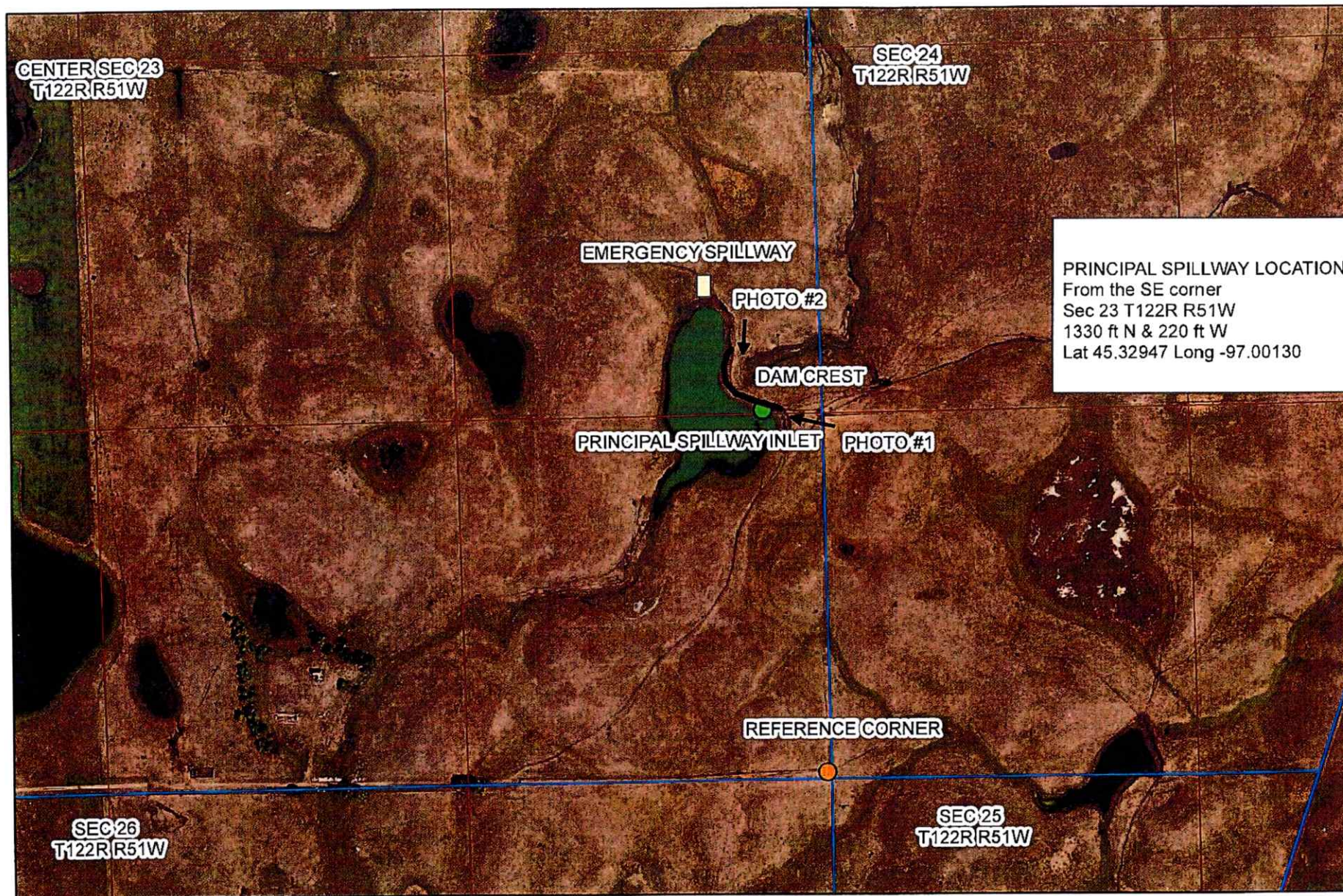


PHOTO #2. Looking southeast at the downstream side of the dam showing some loss of vegetation where cattle travel, but in general there is good grass on the downslope. Did not see any serious erosion problems beyond a limited area shown in the photo. The white pipe is the principal spillway outlet.

**Report of Examination of Works and/or Application of Water to Beneficial
Use For Permit No. 6892-3**



PHOTO #3. Shows the 30-inch concrete drop principal spillway with the anti-vortex plate. Also note the evidence of cattle hoof prints where they access the water for drinking purposes.



0 400 800 1,600 2,400 3,200 Feet

Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

APR 29 2025

Howard & Cathy Cleveland
2664 207th St
Canby, MN 56220

No. 6892-3

Dear Mr. & Mrs. Cleveland:

Enclosed is Water License No. 6892-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

So 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.

Sincerely,

Mark Mayer, PE
Director of Office of Water
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6892-3

(1) Hicks Brothers, made Application No. 6892-3, September 10, 2007, for a water permit to impound 28.7 acre-feet of water from runoff in a dam, Roberts County, South Dakota for fish and wildlife propagation and livestock water purposes. Permit No. 6892-3, with a priority date of September 10, 2007, was approved November 2, 2007, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 2, 2012, and for the application to beneficial use of water on or before November 2, 2016.

Ownership of Permit No. 6892-3 was transferred to Howard & Cathy Cleveland, 2664 207th St, Canby, MN 56220 on April 30, 2025.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to impound 28.7 acre-feet of water for beneficial use. The location of the dam is: (within former boundaries of the Sisseton Wahpeton Indian Reservation)

- 1,330 feet N and 220 feet W from the SE corner Section 23, T122N, R51W (NE ¼ SE ¼)
(Latitude 45.32947 and Longitude -97.00130)

(3) The water is to be used during the following described annual period: January 1 – December 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

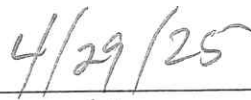
(5) Pursuant to South Dakota Water Law 46-5-30.1 Howard & Cathy Cleveland, the holder and/or owner of Water Right No. 6892-3 is issued a license to appropriate water, the right to impound 28.7 acre-feet of water from runoff, with a priority date of September 10, 2007, from the location specified in (2) of this license for fish and wildlife propagation and livestock water purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6892-3 and subject to the following qualifications:

1. Water Permit No. 6892-3 authorizes a dam with a storage capacity of 28.7 acre-feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.



Mark Mayer, PE
Director of Office of Water



date

