

Considered: _____

WATER PERMIT NO. FC-11 49

HAP No. Same 987-2411

Name of Applicant Harold Dykstra

Post Office Address RR 3 Canton SD 57013

Amount of Water Claimed none Total Acres none

Source of Water Supply Beaver Creek

Water to be used for Flood Control Permit County Lincoln

About 1/2 miles N of Canton

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received July 21, 1989 Fee \$50.00 Remarks Erosion

control

Corrected Application Received _____ Period of Annual Use _____

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

WI-1 Description same as Application YES NO REMARKS _____

Diversion Point E 1/2 NW 1/4 Sect 14 T98N-R49W

Land to be Irrigated _____

Well Log: Driller NA Licensed YES NO

Depth of Well _____ REMARKS _____

Type of Map aerial PREPARED BY R. Lohman Reviewed and the Number

Assigned on July 26, 1989 By Susan Bowler

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

No. FC-11 Hydrologic Unit 10170203
Map No. same Basin Big Sioux
Newspaper Sioux Valley News Box 235 Canton SD 57013
(thru)

Flood Control Permit

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

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

Type of Application: Check one or more of the following

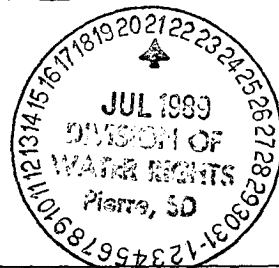
New ☐ Vested Right ☐ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

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

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

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



- Name of Applicant HAROLD DYKSTRA Phone No. 987-2411 ^{WK}
Post Office Address RR#3 CANTON State SD Zip Code 57013
(Street, RR or Box) (City)
- Amount of water claimed (c.f.s.) NA
- Source of water supply BEAVER CREEK
- Location of point of diversion E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 14-T98N-R49W

County LINCOLN
- Counties where water will be used NA
- Annual period during which water is to be used NA
- Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Propose to eliminate oxbows on Beaver Creek to control cropland erosion.

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

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

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

Signed Harold Dykstra

Subscribed and sworn to before me this 50th day of July 1989

[Signature]
Notary Public

FLOOD CONTROL PERMIT NO. FC-11

Date of first receipt of application July 21, 1989.

The Water Management Board approved Flood Control Permit No. FC-11 on September 28, 1989 for Harold Dykstra, RR 3, Canton SD 57013 authorizing construction of the flood control project subject to the following limitations and conditions:

1. The date from which applicant may claim right is July 21, 1989.
2. The whole of said work is to be completed on or before September 28, 1994.
3. The flood control project shall consist of a diversion channel 12 feet wide at the base and approximately 740 feet long to bypass oxbows on Beaver Creek and shall be located in the E 1/2 NW 1/4 Section 14-T98N-R49W.
4. Approval of the permit does not increase the likelihood of severity of downstream flood damages, does not impair existing water rights or endanger human life or property. The permit authorizes construction of the proposed project to alleviate cropland erosion.
5. The prior water rights of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to use the water must not be unlawfully impaired by this flood control permit.

WATER MANAGEMENT BOARD

By: 

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

OCT 3 1989

(date)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, July 21, 19 89

RECEIVED OF Harold Dykstra, RR #3, Canton, SD 57013

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

Fee for Application for Permit No. <u>FC-11</u> to Appropriate Water, to construct works and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

NOT TO SCALE

Robert W. Lehman
District Conservationist
SCS 7/30/89



May 31, 1989,
Canton, S.D. 570



MR. JAMES OLERKING,
Federal Building, Room 260,
Pierre, South Dakota 57501.

Dear Mr. Olerking,

I am writing you this letter as a follow-up to our telephone conversation yesterday. I agreed that I would let you know what I intended to do with the Beaver Creek that flows through my farm. Presently, as you know from having personally inspected the site, the Beaver continues to erode into my crop land, and dumping the fences into it as it does so. I enclose an aerial photo of my farm, and have drawn a sketch that indicates what I intend to do in order to correct the problem.

As we discussed yesterday Jim, I do not intend that the excavated dirt be used to fill the present channel, thereby complying with your directives. I do, however, intend to promote the flow into the new channel, as we discussed.

Since I hope to begin this work soon, I respectfully request that you will pass judgement on this request immediately, and forward any information that you feel that I should have access to prior to beginning the project, along with forwarding to me the Department's consent. Thank you Jim.

Sincerely,

Harry Dykstra...

June 9, 1989

Federal Building, Room 260
Pierre, South Dakota 57501



Mr. Harold Dykstra
Rural Route #3
Canton, South Dakota 57013

Dear Mr. Dykstra:

Reference is made to your letter dated May 31, 1989, and Department of the Army permit application with accompanying aerial photograph received June 1, 1989, concerning Section 404 permit requirements. After reviewing your proposal to construct a channel on Beaver Creek located in Section 14, Township 98 North, Range 49 West, Lincoln County, South Dakota, to reduce erosion on the existing channel and to dispose of the excavated material on an upland site in a stable manner than it will not enter waters of the United States, including wetlands, this office has determined that the project as proposed, will not require a Department of the Army permit. You should be advised that the new channel, upon completion, may be considered "waters of the United States" and subject to Section 404 permitting requirements.

However, if in the future you anticipate placing a structure or material in any waters of the United States, please provide this office with an application for review for possible permit requirements.

Although an individual Department of the Army permit pursuant to Section 404 of the Clean Water Act and/or Section 10 of the River and Harbor Act is not required for the project, this does not eliminate the requirement that you obtain other applicable Federal, state and local permits as required.

If you have any questions concerning this matter, please feel free to contact this office by writing the above address, or telephone Mr. James Oehlerking at (605) 224-8531, and reference to SD-88-NPR016.

Sincerely,

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

cf: Mr. Ron Duvahl
South Dakota Department
of Water and Natural Resources
Water Rights
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501



Department of Water & Natural Resources

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

July 7, 1989

Harold Dykstra
RR 3
Canton, SD 57013

Dear Mr. Dykstra:

This letter is in response to our telephone conversation of June 8, 1989 concerning the necessity of obtaining a water permit for an erosion control project in Lincoln County.

On June 13, 1989, we received a copy of the letter sent to you from James Suedkamp explaining that a Department of the Army permit pursuant to Section 404 of the Clean Water Act and/or Section 10 of the River and Harbor Act was not required. We did not receive a copy of the plans you referred to during our telephone conversation.

In order for us to make a determination as to whether or not your project requires a Flood Control Permit, please submit to us a copy of your plans. We will review them and let you know whether a State permit is necessary.

Feel free to contact Ron Duvall or myself if you have any questions.

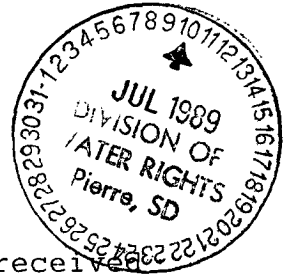
Sincerely,

Susan A. Bowar
Natural Resources Engineer
Water Rights Division
(605) 773-3352



July 8, 1989
Canton, So Dak. 57013

Ms. SUSAN A BOWAR,
Dept. of Water & Natural Resources,
Joe Foss Building,
523 E. Capitol,
Pierre, So. Dakota 57501-3181.



Dear Susan,

Thank you so much for your letter of July 7, which I received this morning. Since I am quite anxious to proceed with my intentions, I will respond to it immediately.

Shortly after visiting with you by telephone, two gentlemen, who I believed were with your department, came to the farm to observe the problem. I remember that they were there at the farm taking some pictures when we arrived at home. They were driving an official vehicle. They introduced themselves, and we discussed the project a bit, and they went on their way. They said that they had been at a meeting in Sioux Falls, and had some time before one of them was scheduled to fly to Denver, and decided to make the short trip to Canton. I guess, Susan, to be perfectly honest with you, after our visit, I thought I had the consent of your department to proceed. So, I am particularly glad that you dropped me this note, since I am determined that I get everything in order before I proceed.

Enclosed, please find a copy of my letter of request to the Corp. Also, I include a copy of a soil map of the area that we intend to do the work, with a sketch of what changes we hope to make in the channel. I have circled the problem areas.

Susan, I wonder if you would act on this immediately, since I have pretty much arranged for the work to be done. Also, maybe you would be so kind as to inform me as to whether I need to seek the approval of any other agency or persons, or have I covered all the bases after dealing with you people and the Corp?

I am thanking you in advance Susan.

Most Sincerely,

Harry Dykstra
Harry Dykstra...



Department of Water & Natural Resources

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

July 14, 1989

Mr. Harold Dykstra
RR 3
Canton, SD 57013

Dear Mr. Dykstra:

This is in response to the letter I received from you on July 10, 1989.

After reviewing the map that you submitted, it appears that a State flood control permit is necessary.

I am enclosing a partially completed application form and the map you submitted. Please review, sign, and notarize the application form and return it along with the required \$50 application fee. The map needs to be signed by either a South Dakota Registered Professional Engineer, a South Dakota Licensed Land Surveyor, or by a government employee who normally prepares maps (ASCS or SCS) and returned.

Please feel free to contact me if you have any questions.

Sincerely,

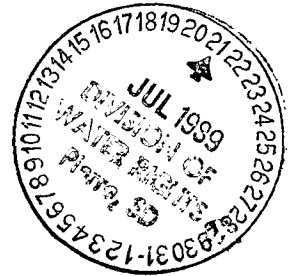
Susan A. Bowar
Natural Resources Engineer
Water Rights Division
(605) 773-3352

enclosure



July 20, 1989

MS. SUSAN A. BOWAR
Natural Resources Engineer
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Dear Ms. Bowar:

I am responding to your letter of July 14, 1989.

As requested, I have had the map properly signed. Also, I have enclosed my check for \$50 which represents the required fee for application.

In addition to the information that I have already provided to you in regard to this project, I can add the following. It appears that the length of the area that I intend to excavate is approximately 45 rods. The channel bottom will be approximately 12 feet wide, and the top will be about 25 feet wide.

Mr. Ron Du Val suggested this morning that I again state the purpose for wanting to do the work. It is to correct an on going problem of erosion into our cropland, and dumping fences into the creekbed.

I hope that this information is sufficient. If however, additional information is desired, please do not hesitate to get in touch with me.

Respectfully,

A handwritten signature in dark ink, appearing to read "Harry Dykstra".

Harry Dykstra...

Report on Application No. FC-11
Harold Dykstra
August 9, 1989

Flood Control Permit Application No. FC-11 submitted by Harold Dykstra of Canton, South Dakota, proposes to construct a diversion channel to redirect flows around sinuous meanders of Beaver Creek. The diversion channel is to be approximately 740 feet long with a bottom width of 12 feet and top width of 25 feet. The diversion channel will be located in the E1/2 NW1/4 of Section 14, T98N, R49W in Lincoln County. The purpose of the project is to alleviate property damage and cropland erosion.

Hydrologic Impact

The proposed modification will eliminate 3200 feet of the existing channel in favor of a new 1200 foot bypass channel. The new channel will include approximately 740 feet of a newly excavated cut but will also utilize 450 feet of the existing channel which will be interconnected with portions of the excavated waterway. The bypass channel will trend in a north-south direction and change to an east-west orientation. This shortening of the channel will increase the gradient in this section of the stream from approximately 8 feet/mile to 20 feet/mile (USGS Topographic Map, 1962). Because the channel does not follow a straight path and also incorporates portions of the old stream bed, this increase in the channel gradient should not significantly affect the velocity in the waterway. The channel should be seeded with grass and riprapped on the undercut banks to prevent bank erosion.

The bypass channel dimensions are expected to be 8 feet deep with a 12 foot bottom width and a 25 foot topwidth (Dykstra, Phone Conversation, 1989). Using Manning's equation with a roughness coefficient of 0.035 and a slope of 20 feet/mile, a bank full discharge of approximately 1100 cubic feet per second (cfs) was calculated. A USGS gaging station is located on Beaver Creek near Canton, South Dakota about 2 miles south of the project area. The gage has been in operation since the fall of 1982 and in the 5 years of published records the average flow at the station was 61 cfs, with the maximum discharge exceeding 2500 cfs in 2 of the 5 years. This indicates that the proposed bypass channel may periodically overtop its banks (USGS Stream flow data, 1982-1987). Mr. Dykstra has advised that the original channel hardly ever floods; only about two times in the past 25 years. The proposed waterway is located on land owned by the applicant. The majority of any overbank flow would occur on his land.

Approximately 100 feet below the bypass channel the stream leaves the applicant's property. No significant increase in downstream flooding should occur from the construction of this waterway. The water may move through the channel more quickly because the stream will bypass some of the upstream bottlenecks, but no significant impacts should result.

If approved, the new channel should prevent property damage adjacent to the old stream meanders by eliminating the stream flow through them. Runoff and other erosive forces may still cause some damage on the steep banks, but there should be a major reduction in damage potential. The cost effectiveness of constructing the channel versus the damage caused by the stream undercutting is not known.

Existing Water Rights

This application does not authorize any consumptive use of water or any storage of the stream flows. No permits are located in the area which withdraw water from Beaver Creek. The city of Canton does include the area under their Future Use permits (WRD Permit Files, 1989). No water rights holders will be affected by this application.

Information submitted with the application indicated that Mr. Dykstra had contacted the Corps of Engineers concerning the need for a Section 404 Permit. He has been advised that a 404 Permit is not required for this project (WRD Permit Files, 1989).

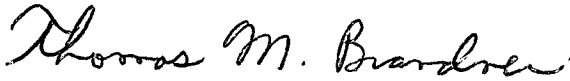
The flood control project will bypass 3200 feet of stream channel and stop flow to that portion of the stream. Because the cut off portion of the channel is entirely within the applicant's property no other domestic users will be affected by the loss of this water source.

Conclusions

1. Permit Application No. FC-11 is a request for flood control on Beaver Creek in Lincoln County.
2. The application is for construction of a diversion channel around an area of stream meanders that have been undercutting the banks causing property and cropland damage.
3. The proposed project should prevent future damage by eliminating the undercutting and erosion of the banks.
4. No existing water permits will be affected by this flood control application.
5. The diversion channel is entirely within property owned by the applicant.

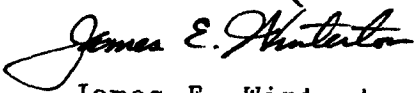
6. Flow in this bypass channel may overtop the banks on a periodic basis.

7. No significant increase in downstream flooding should result from construction of the waterway.



Thomas M. Brandner
Natural Resources Engineer

Approved by:



James E. Winterton
Natural Resources Engineer

References

Dykstra, Harold, August, 1989, Phone Conversation with the permit applicant, Canton, South Dakota.

USGS, 1962, Canton Quadrangle 7.5 Minute Series Topographic Map, United States Geological Survey, Denver, Colorado.

USGS, 1982-1987, Water Resources Data, South Dakota, United States Geologic Survey Water Data Report, Prepared in cooperation with the State of South Dakota and with other Agencies, Huron, South Dakota.

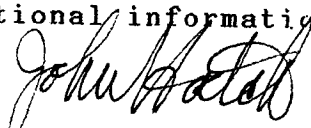
Water Rights Division, 1989, Permit Files, DWNR, Joe Foss Bldg., Pierre, South Dakota.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. FC-11, Harold Dykstra

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Flood Control Permit Application No. FC-11, Harold Dykstra, RR 3, Canton SD.

The Chief Engineer is recommending APPROVAL of Application No. FC-11 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property and 4) will not impair existing water rights.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
August 11, 1989



Department of Water & Natural Resources

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

August 17, 1989

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

Harold Dykstra
RR #3
Canton, SD 57013

Dear Mr. Dykstra:

Water Permit Application No. FC-11 to alleviate cropland erosion 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 Sioux Valley News printed at Canton SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures





Department of Water & Natural Resources

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

August 17, 1989

Sioux Valley News
Box 255
Canton, SD 57013

Dear Sir:

Enclosed is a Notice of Hearing on Application No. FC-11 to be published twice. Please publish the first notice on or before August 24, 1989 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Harold Dykstra, RR #3, Canton, SD 57013.

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

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

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Ron Duvall
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



Instruction to Newspaper - Publish first Notice on or before August 24, 1989 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. FC-11 for a Flood Control Permit

Notice is given that Harold Dykstra, RR #3, Canton, SD 57013 has filed an application for for a Flood Control Permit. This application proposes construction of a diversion channel to divert flows around oxbows on Beaver Creek. The diversion channel bottom will be approximately 12 feet wide and will extend approximately 740 feet. The project is located in the E1/2 NW1/4 Section 14-T98N-R49W. The purpose of the project is to alleviate cropland erosion.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-11 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights. This application will be considered by the Water Management Board in Room 216 of the Joe Foss Building at 523 E. Capitol, Pierre, SD on September 27, 1989 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny this application based on the facts presented at the public hearing.

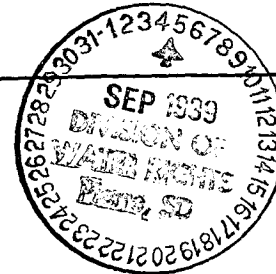
Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by September 15, 1989. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by September 15, 1989.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-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; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
 County Lincoln)



I, Sonja Oakland
 certify that the attached printed Notice was taken
 from the Sioux Valley News

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

City _____ of _____ Canton, SD
 County of Lincoln and State of South Dakota
 that the said notice was published in said newspaper on the
 following two dates:

August 24, 1989

August 31, 1989

Sonja Oakland
 (Signature)

Bookkeeper
 (Title)

August 30, 1989
 (Date Signed)

Cost of Printing: \$38.66

NOTICE OF HEARING **On Application NO. FC-11 for** **A Flood Control Permit**

Notice is given that Harold Dykstra, RR 3, Canton, SD 57013 has filed an application for a Flood Control Permit. This application proposes construction of a diversion channel to divert flows around oxbows on Beaver Creek. The diversion channel bottom will be approximately 12 feet wide and will extend approximately 740 feet. The project is located in the E 1/2 NW 1/4 Section 14-T98N-R49W. The purpose of the project is to alleviate cropland erosion.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-11 because 1) the project will reduce damage from flooding, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights. This application will be considered by the Water Management Board in Room 216 of the Joe Foss Building at 523 E. Capitol, Pierre, SD on September 27, 1989 at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 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 September 15, 1989. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol,

Pierre, SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact with Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by September 15, 1989.

THIS APPLICATION IS MADE PURSUANT TO SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 26-2A-1 thru 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; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. (8-24, 31)

SOUTH Dakota Department of
Water & Natural Resources

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

OCT 3 1989

Harold Dykstra
RR 3
Canton SD 57013

Dear Mr. Dykstra:

Enclosed is Flood Control Permit No. FC-11 as approved by the Water Management Board. If you have any questions pertaining to the Permit, please contact this office.

Very truly yours,



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

enclosure



SOUTH Dakota Department of
Water & Natural Resources

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

October 16, 1989

Harold Dykstra
RR 3
Canton SD 57013

Dear Mr. Dykstra:

I am writing in regard to your phone conversation with Ron Duvall, staff engineer, on October 11, 1989 regarding an extension of the diversion channel authorized by Flood Control Permit No. FC-11. The proposed extension is to bypass an additional oxbow located at the north end of the area described on the flood control permit.

Permit No. FC-11 authorizes construction of channel work approximately 740 feet long within the E1/2 NW1/4 section 14-T98N-R49W. The proposed channel extension as described to Ron Duvall is located within the above described area and would consist of approximately 200 to 300 feet of additional channel. Construction of the channel extension on the north edge of the project area is permissible if completed in compliance with the conditions specified by Permit No. FC-11.

Please contact us if you have any questions.

Very truly yours,



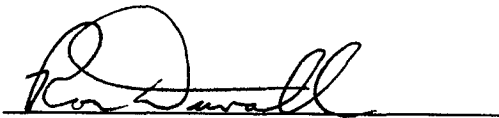
John Hatch, Chief Engineer
Water Rights Division
605 773-3352



NAME: Harry Dykstra PERMIT NO. FC-11
ADDRESS: RR 3, Canton SD COUNTY: Lincoln
DATE: July 16, 1990
SUBJECT: Design of project authorized by FC-11

Harry Dykstra called to determine if the project authorized by Flood Control Permit No. FC-11 could be modified without amending FC-11. Mr. Dykstra indicated the size of the proposed bypass channel was to be reduced from a 12 feet base to a 6 or 8 feet base. The material removed during construction of the channels is not to be placed in the existing stream channels, according to Mr. Dykstra.

Reduction of the channel size will not impact downstream landowners and should not affect upstream landowners because the existing channel can carry flows exceeding the capacity of the bypass channel. I informed Mr. Dykstra that no amendment of FC-11 is needed since the proposed changes outlined by Mr. Dykstra should not adversely impact downstream or upstream landowners. The proposed modifications also will not expand the scope of the project. Del Brosz and John Hatch were also consulted concerning these modifications.

A handwritten signature in dark ink, appearing to read "Ron Duvall", is written over a horizontal line.

Ron Duvall, Natural Resources Engineer

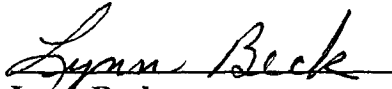
REPORT ON INSPECTION OF FLOOD CONTROL PERMIT NO. FC-11

DATE OF INSPECTION: 7-22-97

Contact Person & Address: Harold Dykstra, RR3, Canton SD 57013

PROJECT LEGAL LOCATION: E $\frac{1}{2}$ of the NW $\frac{1}{4}$ Section 14, T98N, R49W

Description of Flood Control Works: The project redirects flows past sinuous meanders of Beaver Creek by cutting out three meanders thereby straitening the channel. 740 feet of new channel was constructed which eliminated approximately 2900 feet of meander in Beaver Creek.



Lynn Beck

Natural Resources Engineer

DENR, Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 5, 1997

FC-11

Harold Dykstra
RR 3
Canton, SD 57013

Dear Mr. Dykstra

The investigation of your water use system, including the extent of application of water to beneficial use, as developed under Flood Control Permit No. FC-11, has been completed. Your final water right document, the Water License, can now be issued.

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

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

Sincerely,


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

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

RECEIPT

Division of Water Rights

415446

South Dakota Department of Environment and Natural Resources

Pierre, _____ August 22, 19 97

RECEIVED OF Harold Dykstra, 102 W 5th/No. 201, Canton, SD 57013

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>FC-11</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

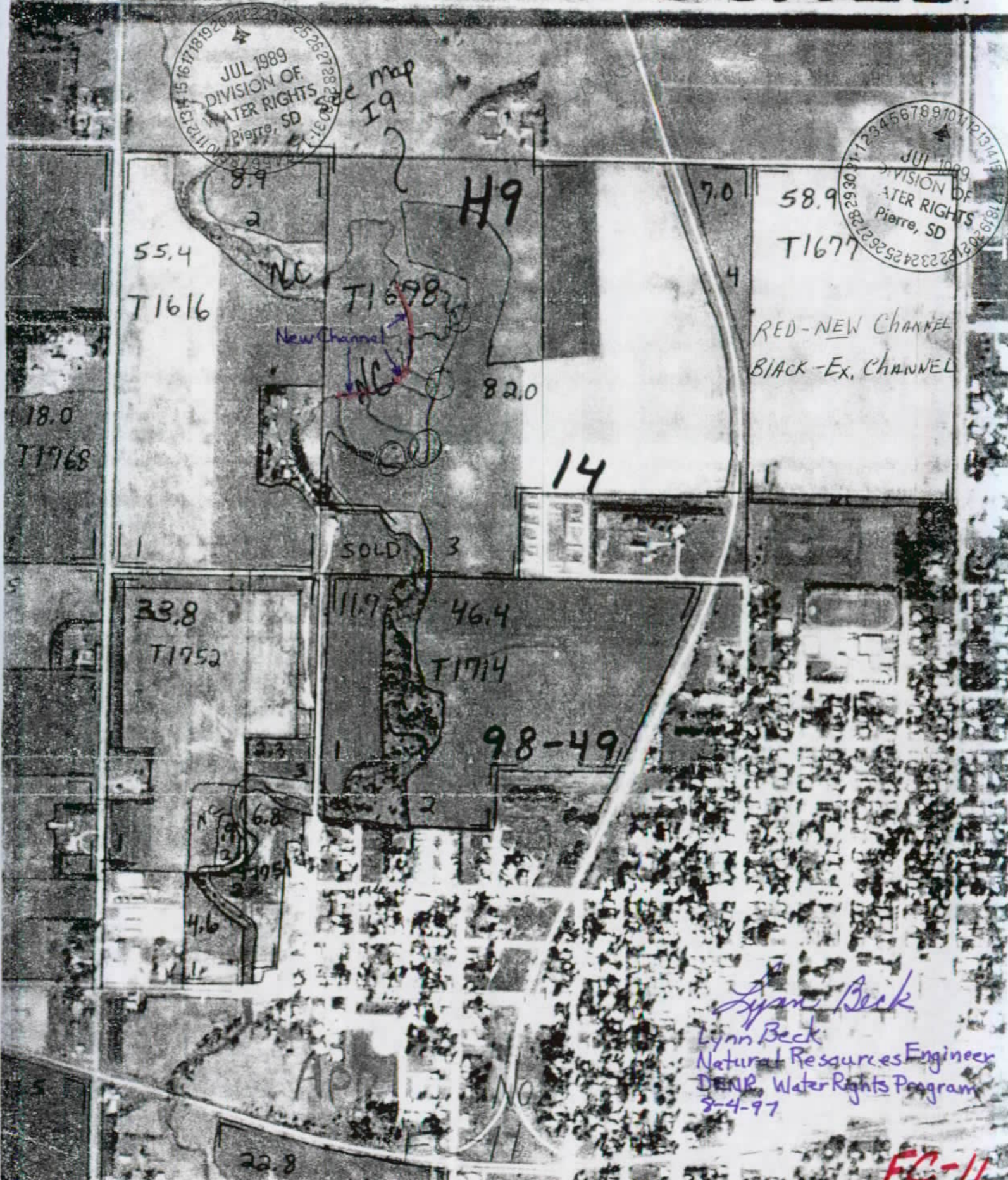
By

Chief Engineer

JOHN HATCH

(Signature)

NOT TO SCALE



Lynn Beck
Lynn Beck
Natural Resources Engineer
DWR, Water Rights Program
8-4-97

FC-11

STATE OF SOUTH DAKOTA

FLOOD CONTROL WATER LICENSE NO. FC-11

(1) Harold Dykstra, 102 W 5th, No. 201, Canton SD 57013 made Application No. FC-11, July 21, 1989 for a flood control permit consisting of a diversion channel to bypass flows on Beaver Creek, Lincoln County, South Dakota. Permit No. FC-11, with a priority date of July 21, 1989 was approved September 28, 1989 and issued to the applicant with construction and operation of the project to be completed on or before September 28, 1994.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the flood control project which consists of a diversion channel 740 feet long to bypass oxbows on Beaver Creek. The channel eliminated approximately 2,900 feet of meander on Beaver Creek. The location of the diversion channel is in the E 1/2 NW 1/4 Section 14-T98N-R49W.

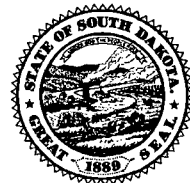
(3) Pursuant to South Dakota Water Law 46-5-30.1 Harold Dykstra, 102 W 5th, No. 201, Canton SD 57013 the holder and/or owner of Permit No. FC-11 is issued a license for flood control purposes along Beaver Creek with a priority date of July 21, 1989 from the location specified in (2) of this license. This license is subject to any limitations or qualifications listed in Flood Control Permit No. FC-11 and subject to South Dakota State Law.



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

OCT 8 1997

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 8 1997

FC-11

Harold Dykstra
102 W. 5th #201
Canton, SD 57013

Dear Mr. Dykstra:

Enclosed is your Flood Control Water License No. FC-11. This is the final document completing your process of obtaining a flood control permit. Also enclosed is Receipt No. 415446 in the amount of \$50.00 which you paid for the investigation and issuance of the water license.

If you have any questions concerning the enclosed license, please contact us.

Very truly yours,

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

gm
enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 9, 1997

Harold Dykstra
102 West 5th, No. 201
Canton, SD 57013

Dear Mr. Dykstra:

I am writing in response to our telephone conversation regarding the diversion channels to bypass oxbows on Beaver Creek. By the time you receive this letter you will have already received a copy of Water License No. FC-11. During our discussion you inquired about constructing another diversion channel to bypass an oxbow.

I have reviewed the file for No. FC-11. The construction period for works to be completed under this permit was September 28, 1994. After the construction period past, a licensing investigation was scheduled to determine to what extent the project was developed. The product of this investigation, conducted by Lynn Beck, is the flood control water license recently issued.

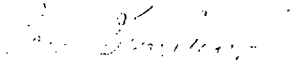
Unfortunately, the undeveloped portion of the original project can not be constructed after September 28, 1994. I believe that a new flood control permit is necessary for any additional work that you want to construct. Although you may not characterize this project as flood control, state law requires a flood control permit to construct facilities on any watercourse for the purpose of preventing or alleviating damages. Your project fits under that description because you want to straighten the Beaver Creek channel and add slope for the purpose of preventing erosion that damages crop land and fencing. Damage occurs when flow winds through the meandered channel. Mr. Dykstra, I am aware that some individual may conduct these type of activities without obtaining a permit, however, I can not simply tell you that it is allowable without first obtaining a flood control permit.

I am enclosing a copy of an application form and instruction sheet to file for a flood control permit. I understand that the bypass you want to construct is on an oxbow to the north of the already constructed bypasses. If this is the entire scope of your project, Lynn Beck who has been onsite and viewed the proposed location, will be able to prepare the map fulfilling that application requirement. However, if you have additional plans you may need to get assistance from a professional engineer or the NRCS for preparation of the map.

Finally, I encourage you to contact James Oehlerking [phone (605) 224-8531] with the Corps of Engineers to discuss federal permitting requirements. A June 9, 1989, letter from the Corps of Engineers on your original project stated that the project as proposed will not require a Department of Army permit. The letter went on to say that if you anticipate future projects to please provide them with an application for review for possible permit requirements.

Please feel free to give me a call if you have any questions.

Sincerely,



Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure