

Originally received 8-24-93

FORM 2: Application for flood control permit (type or print)

Mail to: Water Rights Division

No. EC-15 Hydrologic Unit James River
Map No. _____ Basin 10160003
Newspaper American News

Foss Building
523 E. Capitol
Pierre, SD 57501-3181

APPLICATION FOR A FLOOD CONTROL PERMIT WITHIN THE STATE OF SOUTH DAKOTA

1. Name of Applicant Lower Crow Creek Improvement Assn
Address RR2 Box 169
(Street, RR or Box)
Groton SD 57445 Phone No. 605-397-8161
(City) (State) (Zip Code)
2. Name of watercourse James River and Crow Creek Drainage
3. Location of project (legal description) Site #1 ~~SE 1/4 of NE 1/4 of 24-124-62~~
Site #2 ~~NE 1/4 of NW 1/4 of 7-124-61~~
Site #3 ~~NE 1/4 of NW 1/4 of 6-124-61~~
Site #4 ~~SE 1/4 of NW 1/4 of 30-124-61~~
4. County or counties where project is located Site #4
5. Give a brief description of the proposed project including the type of project (Dam, Dikes, Channel Modification, etc.) and purpose for 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.) Request - Pump permit

1. To remove water from the Lower Crow Creek area (3000 acres) at sites 2, 3, 4. request 35 CFS each location
2. To pump water from the Crow Creek drainage ditch into the James River (site #1.) Marshall & Brown county watershed district (approx 250,000 acres) we request 100 CFS at location No 1 \$150.00 Check enclosed.

Attachment: Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of Brown) ss

I, George Alberts, Jr. 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

George Alberts Jr.
Subscribed and sworn to before me this 10th day of September 19 93

Carol Mispfeldt
Notary Public

City Commission expires: 1-23-2000



RECEIPT

413893

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____

September 13, 19 93

RECEIVED OF George Alberts Jr., RR 2 Box 169, Groton SD 57445

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

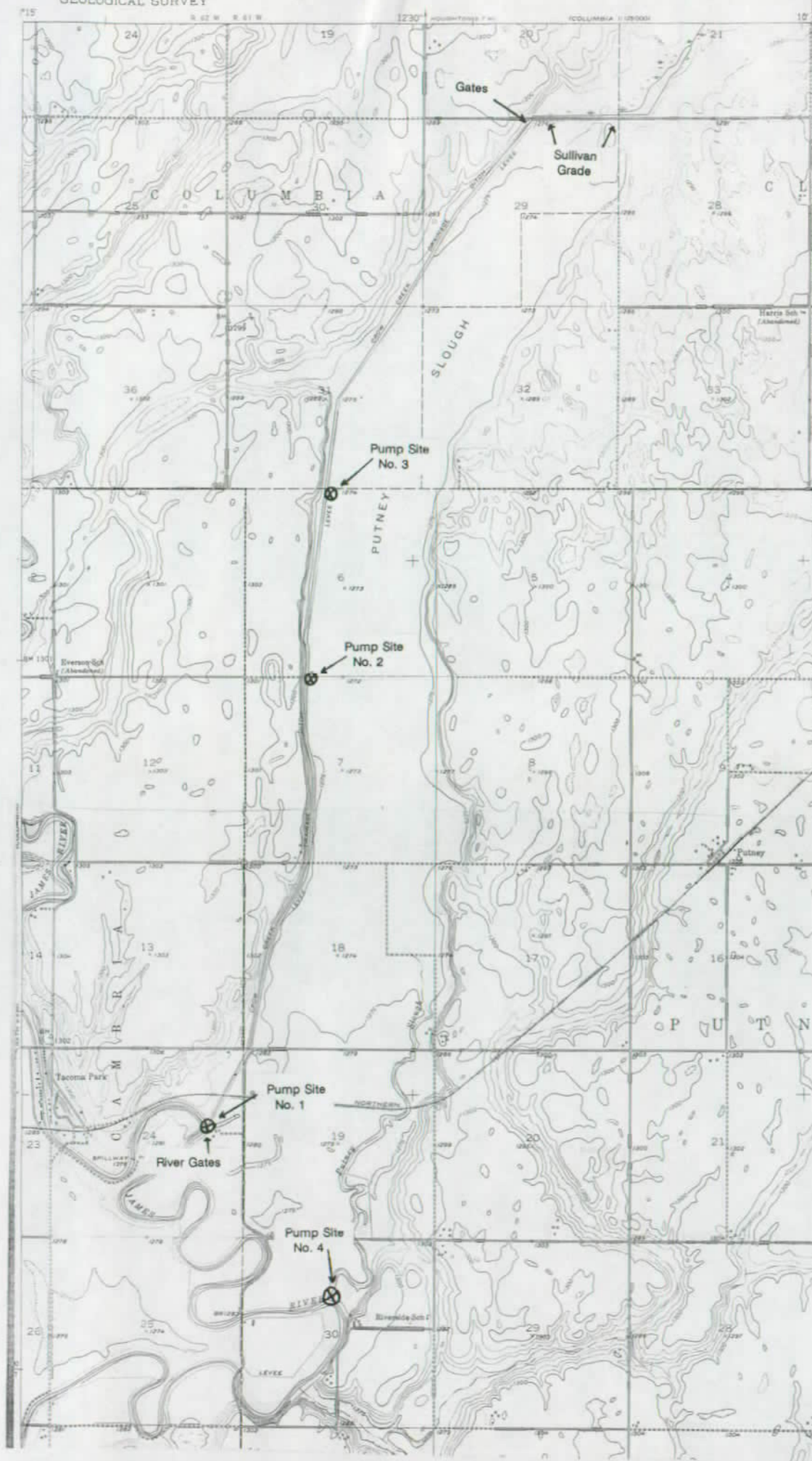
Fee for Application for Permit No. <u>FC-15</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting 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 _____

Chief Engineer

John Hatch



Loren K. Schaller, CED



NOT TO SCALE



ABERDEEN, SD 57401-3087
Lorenk. Schaller, CED

01 5087
Challenger, CED TO SCALE



F-2187

N $\frac{1}{2}$ of ~~E~~ $\frac{1}{2}$ of NW $\frac{1}{4}$ of 7-124-6

Side # 2

2174

M-13

CRP
(90-99)

7

59.5

T2187

174
T2187

124-61

14.5

2187

FC-15

Received from
BROWN COUNTY ASCS OFFICE
1707 4th AVENUE SE SUITE 200
ABERDEEN, SD 57401 5087

Lorenk. Schaller, CED

NOT TO SCALE



← Pump Site #3

268 N $\frac{1}{2}$ E $\frac{1}{2}$ of NW $\frac{1}{4}$ of 6-124-61

M-13

124-61

882

T-2187

80

234.4

T-2174

FC-15

Received from
BROWN COUNTY ASCS OFFICE
1707 4th AVENUE SE SUITE 200
ABERDEEN, SD 57401 5087

Lorenk. Schaller, CED

NOT TO SCALE



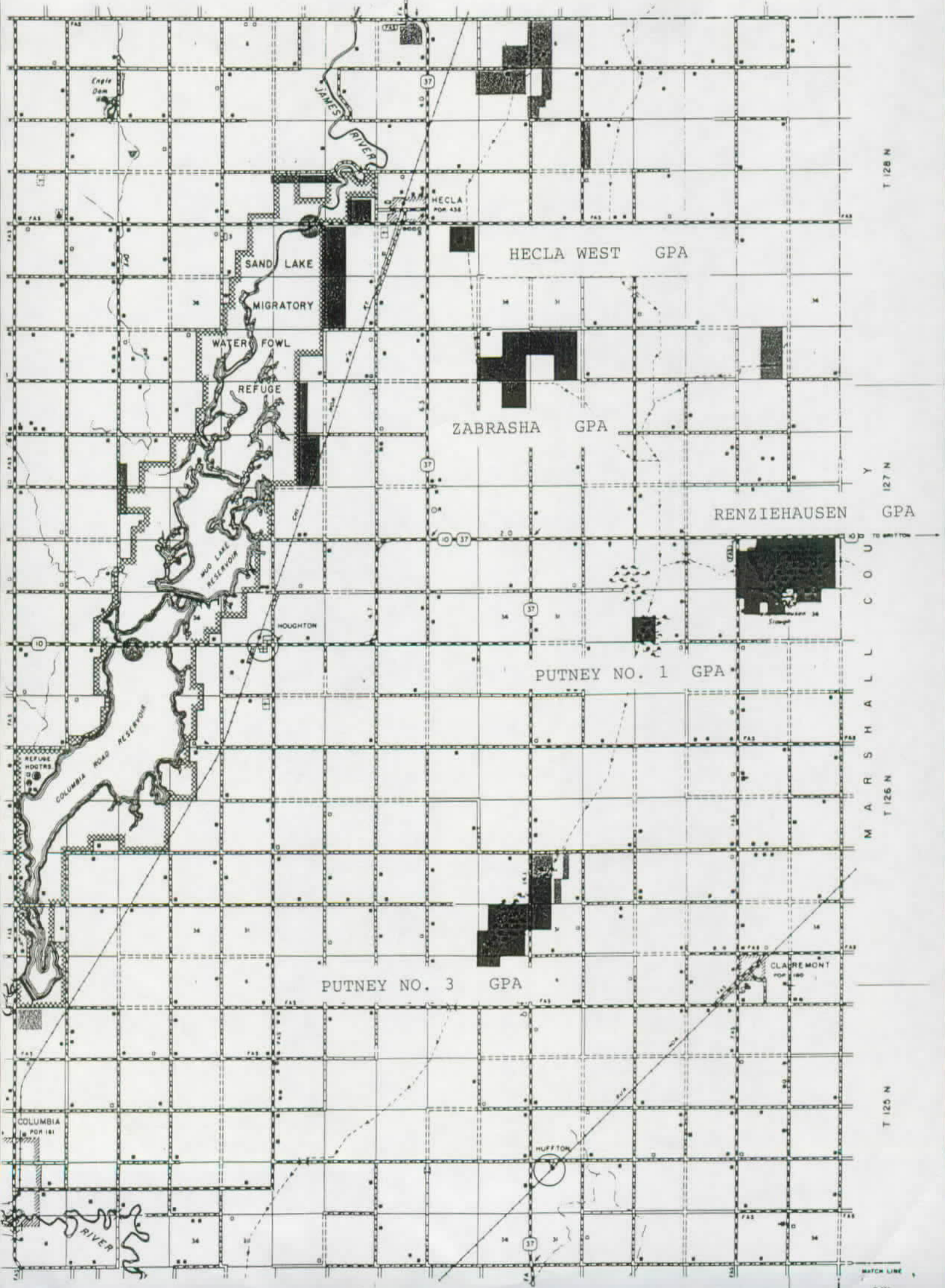
FC-15

R 62 W

R 61 W

R 60 W

SARGENT
COUNTY





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 25, 1993

Lower Crow Creek Improvement Assn.
George Alberts, Jr.
RR 2, Box 169
Groton SD 57445

Dear Mr. Alberts:

In regard to your application for a Flood Control Permit received on August 24, 1993, the following information needs to be submitted and clarified in order to process the application.

1. Enclosed is the map submitted with the application. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office).

2. On Item No. 3 of the application, the location of the project, please indicate the quarter-quarter (40 acre parcel) location for each Site. From the map submitted with the application it would appear that the location of the sites are as follows:

Site #1 - E 1/2 NE 1/4 Section 24-T124N-R62W *SE 1/4 of NE 1/4 of 24-124-62*
Site #2 - NE 1/4 NW 1/4 Section 7-T124N-R61W *NE 1/4 of NW 1/4 of 7-124-61*
Site #3 - NE 1/4 NW 1/4 Section 6-T124N-R61W *NE 1/4 of NW 1/4 of 6-124-61*
Site #4 - W 1/2 NE 1/4 Section 30-T124N-R61W *SE 1/4 of NE 1/4 of NW 1/4 of 30-124-61*

Do you agree with these site locations? Because of the size of the map it is difficult to determine the exact locations. *yes*

3. How many acres are located in this watershed area? How many acres will directly benefit from the proposed flood control permit? Besides Marshall and Brown Counties, are there any other counties within the drainage basin? *No*
3000 acres in L.C. Creek Improvement Assn. - 250,000 acres in Brown Marshall watershed

4. The filing fee for this flood control permit will be \$150.00.

Fee enclosed

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

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

REPORT ON FLOOD CONTROL PERMIT APPLICATION NO. FC-15
LOWER CROW CREEK IMPROVEMENT ASSOCIATION
OCTOBER 12, 1993

Flood Control Permit Application No. FC-15, Lower Crow Creek Improvement Association, proposes to pump excess water from the Crow Creek drainage system into the James River under certain conditions. The application proposes to divert water from Putney Slough into Crow Creek drainage ditch, at a rate up to 50 cubic feet of water per second (cfs) from two diversion points located in the NE1/4 NW1/4 of Section 6 and NE1/4 NW1/4 of Section 7 all in T124N-R61W. The application also proposes to divert from Crow Creek drainage ditch into the James River, at a rate of up to 100 cfs at a point located in the SE1/4 NE1/4 of Section 24 T124N-R61W and from Putney Slough into the James River at a rate of up to 25 cfs, at a point located in the SE1/4 NW1/4 of Section 30 T124N-R61W. The maximum diversion rate that would be pumped directly into the James River is 125 cfs. The proposed project would be located in Brown County approximately 15 miles northeast of Aberdeen.

Background

The Crow Creek drainage system, a network of stream channels and of drainage canals drains approximately 396,000 acres (600 mi²) in Marshall and northeastern Brown counties. The headwaters of the eastern portion of the Crow Creek basin are located on the western slope of the Coteau des Prairies in an area known as the Sisseton Hills. The drainage system drains the Sisseton Hills area in a westerly direction dropping off sharply to a relatively flat lake plain area. At the Brown-Marshall County line, Crow Creek ditch water flows through Renzienhausen Slough. The eastern branch of the ditch then joins up with the northern branch of the ditch system, which drains northeastern Brown County. The Crow Creek ditch follows a southwesterly course and eventually ditch water empties into the James River at a point just below Tacoma Park (USACE, 1980).

The initial portion of the Crow Creek drainage ditch system was constructed in the late 1910's and early 1920's in the lake plain area, with additions and improvements to the system constructed over the years. The system consists of natural stream channels, drainage ditches, laterals, a series of dikes, levees and gates. A set of gates and dikes located at the James River restricts river water from backing into the ditch and into Putney Slough from the James River during high river flow. The Crow Creek drainage ditch runs along the west side of Putney Slough and is separated from the slough by a levee. At the north end of Putney Slough, there is a road grade, known as Sullivan Grade, which acts as a dike. There is another set of gates on the ditch at the Sullivan Grade which separates Putney Slough and the lower portion of the ditch from the upper portion of the drainage basin. The gradient of the ditch in the lower portion is only 0.2 feet per mile. The mean sea level elevation (msl) of the bottom of the James River at the point where

Crow Creek outlets, is 1272.0 feet msl. There is a raise of only 3.0 feet in the lower 15 miles of the Crow Creek ditch (USSCS, 1967).

During periods of low river flow, the river gates and the Sullivan Grade gates are allowed to remain open. This allows the drainage ditch to discharge water directly to the river. When the flow in the river increases the river gates can be closed. When the gates are closed any water from the Crow Creek drainage system is held behind these gates. This water can only be released when river flow is low and the river gates are opened. This application requests approval for the installation of pumps to de-water the Crow Creek drainage system when the river gates are closed.

Review of the Proposed Project

The project proposes to pump water from two areas (Figure 1). First, pumps are to be installed at a site next to the river gates. The purpose of these pumps is to divert water from the Crow Creek ditch and pump it into the river at pump site No. 1. These pumps are to be used during periods when the river gates are closed and there is water in the drainage ditch. Second, pumps are to be installed at three sites on Putney Slough. The pump at site No. 4 will pump water directly to the river from the slough. The pumps at site Nos. 2 and 3 will pump water from the slough into the Crow Creek drainage ditch. This water will either be allowed to run directly into the river when the gates are open or will be pumped into the river at pump site No. 1 when the river gates are closed.

This project is being proposed to allow the Crow Creek drainage ditch to be pumped during high James River flows when the gates to the river are closed. During these times, flow in the James River increases to a point where water backs up in the Crow Creek ditch, effectively restricting drainage and/or causing flood damage. To avoid backup of James River water into the ditch, the river gates are closed.

Effects of the Project

There are two existing water rights/permits for storage of water along the Crow Creek drainage ditch. These are for waterfowl and wildlife production in Renziehausen Slough, held by the SD Department of Game Fish and Parks. There should be no adverse effects to these water rights/permits by the proposed project. There are several water rights/permits located on the James River downstream from the Crow Creek ditch river gates. This project would be adding to the flow in the river so it would not adversely affect these water rights/permits from a water availability standpoint.

Channel capacities of the James River particularly within the Lake Dakota Plain area, tend to be small. These small channel capacities are caused by minimal channel slope, small lowhead dams, inadequate bridge openings which catch debris that obstructs flow,

and increasing flood stages (USACE, 1980). Table 1., shows the changing channel capacities over several years in the upper James River in South Dakota.

Table 1. Changing channel capacities in the upper James River in South Dakota (USACE, 1992).

<u>Location</u>	<u>Channel Capacities, cfs</u>			
	<u>1944</u>	<u>1980</u>	<u>1985</u>	<u>1989</u>
Sand Lake Outlet	400	200	150	50
Columbia Gage	1500	700	475	400
Tacoma Park	1500	425	400	400
U.S. Highway 12	900	300	325	400
Moccasin Creek Confl.	800	400	250	150
Stratford Gage	1000	500	400	750
Mud Creek Confl.	1000	1000	1000	750
Ashton	900	1700	1900	1000
Snake Creek Confl.	3000	3000	2150	1000

The reach of river from Tacoma Park downstream to the Moccasin Creek confluence has channel capacities based on the 1989 survey, ranging from 400 cfs on the upstream portion to 150 cfs on the downstream portion. Based on this data, this project has the potential to add to flooding problems downstream from the river gates, if the applicants are allowed to divert during high river flows. SDCL 46-2A-11 states "A permit for flood control works may be issued only if the project will reduce damage from flooding or erosion in the area proposed to be benefitted, the project will not increase the likelihood or severity of flood damages in areas other than the project area or the area proposed to be benefitted." If this permit is approved, the pumping rate would have to be adjusted such that flow in the river channel downstream from the pump sites would not cause overbank flooding conditions. Natural river flow in the river would have to be determined and the allowable pump rate would need to be adjusted accordingly.

The U.S. Geological Survey (USGS) maintains several river gaging stations on the James River in South Dakota. The James River station at Columbia has measured river flow in the river reach upstream from the Crow Creek drain confluence for several years. Table 2, shows flow hydrograph data for the Columbia gage.

Table 2. Flow hydrograph for the James River at Columbia, 39 years of record.

	<u>Probability of Flow (cfs)</u>				
	<u>10%</u>	<u>30%</u>	<u>50%</u>	<u>70%</u>	<u>90%</u>
OCT	165	29	2	0	0
NOV	170	51	8	0	0
DEC	88	33	6	0	
JAN	22	10	0	0	0
FEB	29	4	0	0	0
MAR	126	21	10	2	0
APR	1113	395	181	44	1
MAY	770	448	126	46	1

JUN	448	182	102	25	0
JUL	363	193	67	5	0
AUG	256	65	4	0	0
SEP	133	39	1	0	0

The flow hydrograph data indicate that during April through June there is a 30 percent probability that flows in the range of 180 to 450 cfs can be expected in this section of river. There is 50 percent probability that flows exceeding 180 cfs can be expected during April. If this permit is approved, there will be times during which the applicant will not be able to pump until flows in the river decrease below flood levels. In order to avoid potential downstream flooding problems, if this application is approved, the permit should contain the following qualification:

Pumping is authorized only when the James River downstream from the pump sites is not at overbank flooding conditions after pumping. Pump rates must be adjusted to avoid overbank flooding conditions. The Chief Engineer shall be contacted for approval prior to the start of pumping.

There have been extreme weather conditions that have occurred in the upper James River Basin during the Summer and Fall of 1993. Large amounts of precipitation fell in the river basin in Northeastern South Dakota and Eastern North Dakota. This has caused the James River to be at overbank flood stage in portions of the upper James basin, for an extended period of time.

The Crow Creek drainage basin has also been subject to above normal runoff conditions. The Crow Creek drainage system gates at both the James River and at the Sullivan Grade were closed in 1993. So much water backed up behind the Sullivan Grade that the water overtopped the road grade. In order to reduce the damages at the Sullivan Grade and upstream, the gates at the Sullivan Grade were opened and the levee between the Crow Creek ditch and Putney Slough was breached allowing Putney Slough to flood.

It is anticipated that the proposed project could not be utilized during extreme runoff conditions, for example, during 1993. Pumping would not be allowed because of the overbank flooding conditions in the James River downstream from the proposed pump sites. SDCL 46-2A-11 does not allow a flood control project to be utilized, if it increases the likelihood or severity of flood damages in areas other than the project area or the area proposed to be benefitted. During overbank flooding conditions, the applicant would not be able to pump to the river until downstream overbank flooding along the James River ceased, and flooding would not reoccur after the applicant began to pump.

If Flood Control Permit Application No. FC-15 is approved, the times when water could be pumped from Crow Creek Drain or Putney Slough and still not increase flooding problems downstream would be limited.

Conclusions

1. This application proposes to pump water from Putney Slough into the Crow Creek ditch and to the James River. The application also proposes to pump water from the Crow Creek ditch into the James River.
2. Adverse impacts to existing water users would not be expected.
3. SDCL 46-2A-11 states "A permit for flood control works may be issued only if the project will reduce damage from flooding or erosion in the area proposed to be benefitted, the project will not increase the likelihood or severity of flood damages in areas other than the project area or the area proposed to be benefitted".
4. Potential downstream flooding problems could occur, if pumping and pumping rates are not carefully managed. Pumping could occur only on a limited basis.
5. If approved, this permit should contain the following qualification.

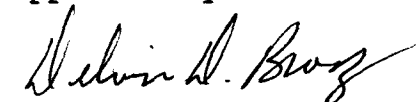
Pumping is authorized only when the James River downstream from the pump sites is not at overbank flooding conditions after pumping. Pump rates must be adjusted to avoid overbank flooding conditions. The Chief Engineer shall be contacted for approval prior to the start of pumping.

6. There will be times when flooding conditions exist, for example, 1993, that the flood control project will not be able to be utilized until conditions improve.



Mark D. Rath
Natural Resources Engineer III

Approved by:



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

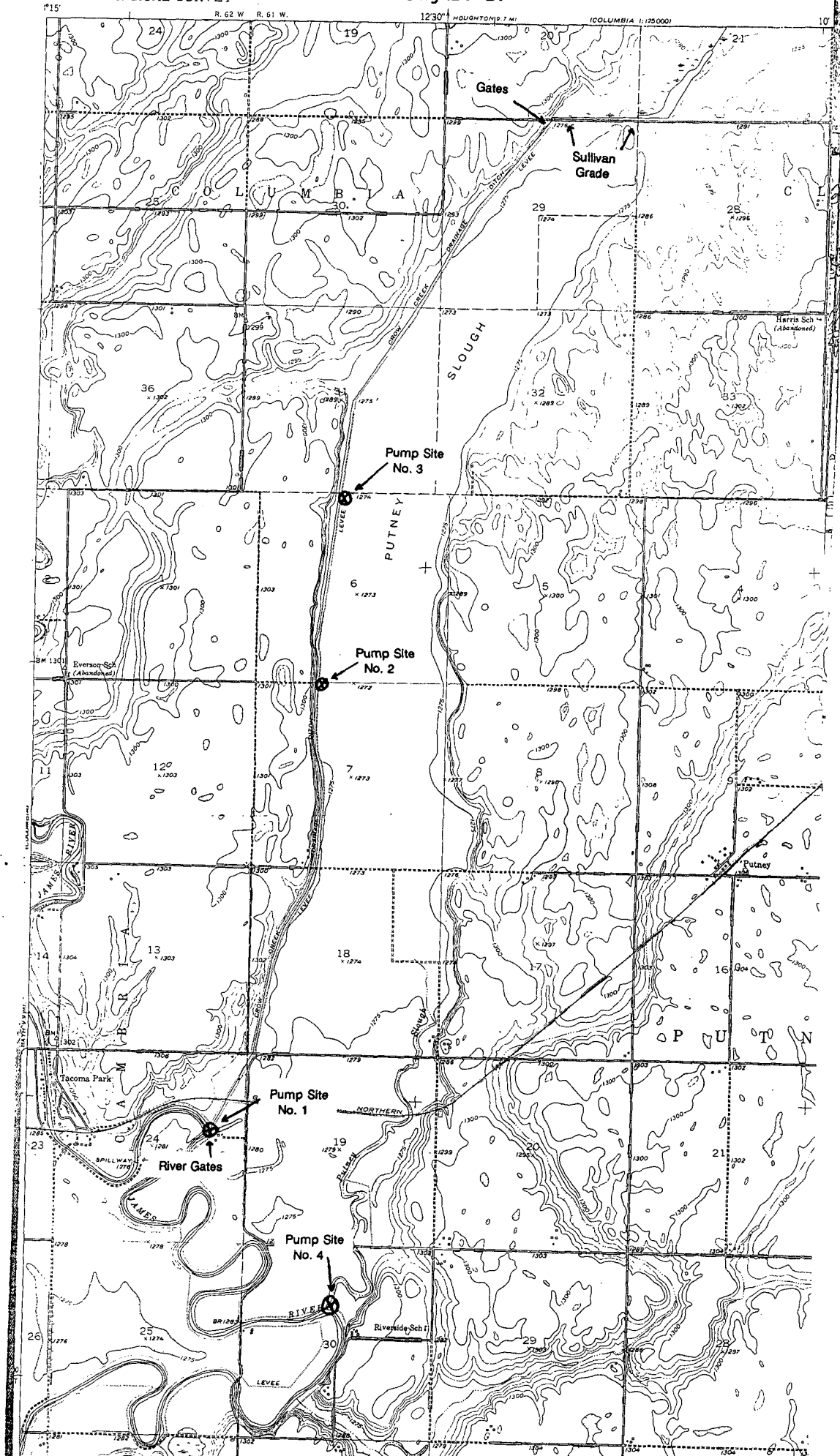
References

USACE. 1980. James River Basin, North and South Dakota Subregional Analysis, Technical Paper Flooding. US Army Corps of Engineers, Omaha District.

USACE. 1992. Reconnaissance Report, James River Basin, South Dakota, Environmental Initiative. US Army Corps of Engineers, Omaha District.

USSCS. 1967. Crow Creek Watershed - Suspension Report. US Soil Conservation Service. Huron SD.

Figure 1.

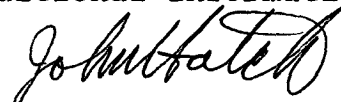


RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL PERMIT
APPLICATION NO. FC-15

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 Flood Control Permit Application No. FC-15, Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445.

The Chief Engineer is recommending DEFERRAL of Flood Control Permit Application No. FC-15 until information on the public policy and public interest issues related to this project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

See report on application for additional information.


JOHN HATCH, Chief Engineer
October 26, 1993



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 1993

Duane Muxen
HC 2 Box 29
Doland, SD 57436

Robert L. Ewart
HC 66 Box 59
Northville, SD 57465

Lyle Leinen
RR 3 Box 361
Redfield, SD 57469

Clyde C. Binger
Box 134
Tulare, SD 57476

Richard C. Mueller
934 East 3rd Street
Redfield, SD 57469

RE: Flood Control Permit for Lower Crow Creek Improvement Assn.

Dear Commissioners:

Enclosed please find a copy of the report, recommendation of the Chief Engineer, and the Notice of Hearing for the Flood Control Permit Application for the Lower Crow Creek Improvement Association in Brown County. The Notice of Hearing is to be published on November 3, 1993, at the American News and the Redfield Press with the second publication 7 days later. This information is being sent to you because the application could affect James River flows in the Brown County and Spink County areas.

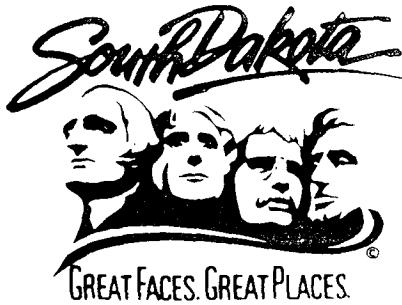
As stated in his recommendation, the Chief Engineer is recommending Deferral of Flood Control Permit Application No. FC-15 until information on the public policy and public interest issues related to this project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

If you have any questions or concerns, please contact me at (605)773-3352.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 1993

Dennis Feickert
3155 W. Richmond Road
Aberdeen, SD 57401

June Schliebe
1815 Spruce Drive
Aberdeen, SD 57401

Tom Fischbach
RR 1 Box 48
Warner, SD 57479

Julie J. Pfeifer
1706 S. 3rd Street
Aberdeen, SD 57401

DeWayne Storley
RR 2
Aberdeen, SD 57401

RE: Flood Control Permit for Lower Crow Creek Improvement Assn.

Dear Commissioners:

The Brown County Commission has expressed an interest in the above-referenced matter. Enclosed please find a copy of the report, recommendation of the Chief Engineer, and the Notice of Hearing. The Notice of Hearing is to be published on November 3, 1993, at the American News and Redfield Press with the second publication 7 days later.

As stated in his recommendation, the Chief Engineer is recommending Deferral of Flood Control Permit Application No. FC-15 until information on the public policy and public interest issues related to this project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

If you have any questions or concerns, please contact me at (605)773-3352.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**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 NEWSPAPERS RIGHT AWAY.

October 28, 1993

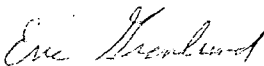
George Alberts, Jr.
Lower Crow Creek Improvement Assn.
RR 2 Box 169
Groton, SD 57445

Dear Mr. Alberts:

Flood Control Permit Application No. FC-15 for pumping 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 Publishers of the American News printed at Aberdeen, SD (Ph # 225-4100) and Redfield Press printed at Redfield, SD (Ph # 472-0822). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have 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 newspapers have 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.

c:  Sommers, Deputy States Attorney, 22 Court Street, Aberdeen, SD 57401



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 28, 1993

Redfield Press
Box 440
Redfield, SD 57469

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. FC-15 to be published twice. Please publish the first notice on November 3, 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 Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445 (Ph # 397-8161).

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 28, 1993

American News
PO Box 4430
Aberdeen, SD 57402-4430

ATTENTION: Legal Department

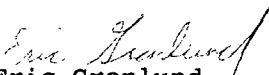
Enclosed is a Notice of Hearing on Application No. FC-15 to be published twice. Please publish the first notice on November 3, 1993, with the second publication 7 days later.

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 Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445 (Ph # 397-8161).

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

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 November 3, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. FC-15 for a Flood Control Permit

Notice is given that the Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445 has filed an application for a flood control permit to pump excess water from the Crow Creek drainage system into the James River at locations approximately 15 miles northeast of Aberdeen. The application proposes to divert water from Putney Slough into Crow Creek drainage ditch, at a rate of up to 50 cubic feet of water per second (cfs) from two diversion points located in the NE 1/4 NW 1/4 of Section 6 and the NE 1/4 NW 1/4 of Section 7-T124N-R61W. The application also proposes to divert from Crow Creek drainage ditch into the James River, at a rate of up to 100 cfs at a point located in the SE 1/4 NE 1/4 of Section 24-T124N-R61W, and from Putney Slough into the James River at a rate of up to 25 cfs, at a point located in the SE 1/4 NW 1/4 of Section 30-T124N-R61W. The maximum diversion rate that would be pumped directly into the James River is 125 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. FC-15 until information on the public policy and public interest issues related to this project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 22, 1993. 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.

The Water Management Board will consider this application at 9:00 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. The December 1, 1993, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 22, 1993.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-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, 46-5-48; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

ss.

Roberta Dempsey BEING DULY SWORN, ON HIS OATH SAYS:

That the ABERDEEN AMERICAN NEWS is a DAILY newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned, that affiant is an employee and principal clerk of said publisher and has personal knowledge of all the facts stated in this affidavit; that the advertisement headed notice of hearing legal #532

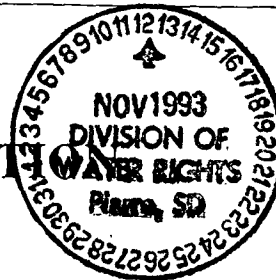
a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each week for 2 successive weeks. The first publication being made on the 3rd day of November. The second publication being made on the 10th day of November. The third publication being made on the day of . The fourth publication being made on the day of . The fifth publication being made on the day of . The sixth publication being made on the day of . The seventh publication being made on the day of . The eighth publication being made on the day of . The ninth publication being made on the day of .

That said newspaper is a legal newspaper, being published five days or more each week, having a bona fide circulation of more than two hundred copies daily, having been published in the English language within the said County of Brown for more than one year next prior to the first publication of said notice, and is printed in whole in an office maintained at the place of publication of said newspaper. That the whole amount of the fee paid for the publication of the annexed notice is \$ 85.66, which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Subscribed and sworn to before me this 10th day of

November 19 93

Ella Jaash
Notary Public, Brown County, S. D.
My commission expires 7-17-95
daily circulation 19930



(No. 532 - Nov. 3, 10 - 21)
NOTICE OF HEARING
on Application No. FC-15
for a Flood Control Permit

Notice is given that the Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445, has filed an application for a flood control permit to pump excess water from the Crow Creek drainage system into the James River at locations approximately 15 miles northeast of Aberdeen. The application proposes to divert water from Putney Slough into Crow Creek drainage ditch, at a rate of up to 50 cubic feet of water per second (cfs) from two diversion points located in the NE 1/4 NW 1/4 of Section 6 and the NE 1/4 NW 1/4 of Section 7-T124N-R61W. The application also proposes to divert from Crow Creek drainage ditch into the James River, at a rate of up to 100 cfs at a point located in the SE 1/4 NE 1/4 of Section 24-T124N-R61W, and from Putney Slough into the James River at a rate of up to 25 cfs, at a point located in the SE 1/4 NW 1/4 of Section 30-T124N-R61W. The maximum diversion rate that would be pumped directly into the James River is 125 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. FC-15 until information on the public policy and public interest issues related to his project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)" and the applicants mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 22, 1993. 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.

The Water Management Board will consider this application at 9:00 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. The December 1, 1993, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 22, 1993.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL L46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-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, 46-5-48; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Spink) ss

I, Margaret Mundstich

certify that the attached printed Notice was

taken from the Redfield Press

printed and published in Redfield

County of Spink and State of

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

November 3, 1993

November 10, 1993

Cost of Printing: \$48.15

Margaret Mundstich
(Signature)

Bookkeeper
(Title)

November 10, 1993
(Date Signed)



Application for flood control permit

No. 76

NOTICE OF HEARING on Application No. FC-15 for a Flood Control Permit

Notice is given that the Lower Crow Creek Improvement Association, RR 2 Box 169, Groton, SD 57445 has filed an application for a flood control permit to pump excess water from the Crow Creek drainage system into the James River at locations approximately 15 miles northeast of Aberdeen. The application proposes to divert water from Putney Slough into Crow Creek drainage ditch, at a rate of up to 50 cubic feet of water per second (cfs) from two diversion points located in the NE 1/4 NW 1/4 of Section 6 and the NE 1/4 NW 1/4 of Section 7-T124N-R61W. The application also proposes to divert from Crow Creek drainage ditch into the James River, at a rate of up to 100 cfs at a point located in the SE 1/4 NE 1/4 of Section 24-T124N-R61W, and from Putney Slough into the James River at a rate of up to 25 cfs, at a point located in the SE 1/4 NW 1/4 of Section 30-T124N-R61W. The maximum diversion rate that would be pumped directly into the James River is 125 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. FC-15 until information on the public policy and public interest issues related to this project, and the intended operation of the proposed flood control project are provided. Evidence and testimony presented at the Water Management Board hearing may help to provide this information.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 22, 1993. 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.

The Water Management Board will consider this application at 9:00 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. The December 1, 1993, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 22, 1993.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 22, 1993, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-1, 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, 46-5-48; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Robert E. Roberts,
Secretary,
Department of Environment
and Natural Resources.

(November 3, 10)

November 4, 1993

Mr. John Hatch
Chief Engineer
Water Rights Division
Foss Building, 523 E. Capitol
Pierre, SD 57501



Dear Mr. Hatch,

I received a copy of the "Report on Flood Control Permit Application No. FC-15". It addressed our problem quite well and was well written. I believe that a workable solution could be designed when actual river and ditch elevations, flood staging, and storage areas are taken into consideration. I would like to be allowed to offer testimony in the hearings for Flood Control Permit No. FC-15: Pumping Permit for Lower Crow Creek Improvement Association.

I live at the confluence of the Lower Crow Creek Drainage Ditch and the James River. My family owns the land that some of the pumps would conceivably be installed. Some of our land is included in the assessment area of the Improvement Association.

I am in support of the permit although I have some reservations about the process of pumping:

1.) I do not feel our Improvement Association should be responsible for pumping the whole amount of water from the entire watershed area, and I will not allow pumps to be placed on our land until the obligated parties are identified. (This point should have nothing to do with issuing the permit.)

2.) "Flooding" on the James River is a vague term. A case in point is the problem that dams on the river have caused us. In 1979-80, our association contended that a dam was holding water back on us: As we stood on Chet Gullickson's dam, your Engineers measured at least 1' of head upstream compared to the downstream level. We then went to the Gates on the ditch at my house and measured a depth of at least 2' of water. Although your department determined that we were not being affected, I believe that we were being "Flooded" by this dam.

Another example of "Flooding" could be construed by low land having water on it, waiting to drain, while the natural water level of the river is not allowing this water to enter the river. I question if water 12 feet deep on land is really worse than water 11.9 feet deep. Similarly, I believe there is a point where the water being pumped would be insignificant when compared to the

natural water flow and existing flooding.

I would much appreciate a more specific definition of "Flooding" before the hearing is initiated, and would hope that the permit will include a specific river elevation that control pumping activities to avoid any ambiguities.

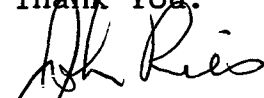
By a committance to a specific elevation, we might have an opportunity to convince landowners above the Sullivan Grade that they could share in the pumping costs. By involving that area, (an area that was to be draining naturally) we could conceivably make a storage area for water during periods when the James is too high to pump into.

Not many people realize that the water was within 6 inches of flowing over the Sullivan Grade before the heavy rains in the watershed area (Britton area). This was due to the River Elevation being very close to the Ditch Elevation: Even though the River was not flooding, we couldn't get the ditch to drain.

I have lived at my farm for 30+ years, and I've seen the Ditch cut out sediment to a depth of 3 feet when it was able to flow. But more often, I've witnessed water within 2-4 inches of the level of the river for months at a time: The ditch was not able to flow.

I believe we are asking for an opportunity to make a storage area so that water will not flow over the Sullivan Grade again. The drainage ditch was not our idea: We are trying to live within the law. The court order gave us more water than the James River, in it's currently managed state, will allow us to get rid of, consequently flooding us. Although the State Engineer said this would not happen, it has. We need some help.

Thank You.


John Ries

**PARTIES OF RECORD
FLOOD CONTROL PERMIT APPLICATION NO. FC-15
LOWER CROW CREEK IMPROVEMENT ASSOCIATION**

APPLICANT

Lower Crow Creek Improvement Assn.
George Alberts, Jr.
RR 2, Box 169
Groton, SD 57445

PETITIONERS

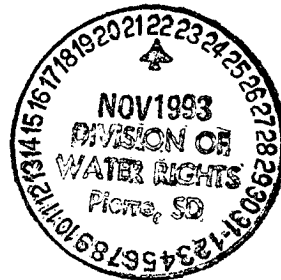
Timothy J. Olson
Water Permits Coordinator
Department of Game, Fish & Parks
Foss Building
523 East Capitol
Pierre, SD 57501-3182

John Ries
RR 2, Box 150
Groton, SD 57445



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



November 19, 1993

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Environment & Natural Resources
Foss Building, 523 E. Capitol
Pierre, SD 57501

Dear Mr. Hatch:

The Department of Game, Fish and Parks (GF&P) has received and reviewed the report prepared by your staff regarding **Flood Control Permit Application No. FC-15** filed by the Lower Crow Creek Improvement Association. The permit application is for the pumping of water from Putney Slough into the Crow Creek drainage ditch, from Crow Creek drainage ditch into the James River and from Putney Slough into the James River. Please consider this correspondence a formal petition by the Department of Game, Fish and Parks to be made a party in this matter.

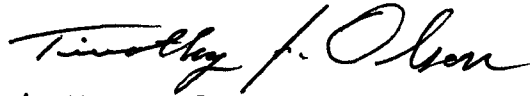
The above referenced report indicated that your staff had reviewed the proposed project for potential effects to GF&P's water rights to store water in Renzienhausen Slough Game Production Area and concluded that the proposed pumping project would not affect those rights. Since there is a means to control water levels at Renzienhausen, we agree with this conclusion. However, we are concerned that the proposed project may affect our management efforts on the four other Game Production Areas located along the Crow Creek drain system in Brown County (see attached map). Because these areas are in part managed for waterfowl production, we rely on the available water in the Crow Creek system to supply water to the sloughs within the GPA's. The majority of the Putney Slough No. 3 GPA located approximately 5 miles up the drain from the Sullivan grade was acquired by GF&P in 1943 and is strongly influenced by water levels in the lower portion of the Crow Creek drainage system. Due to its proximity to the Sullivan grade and a lack of means to control water levels, we are concerned that the proposed pumping project may compromise our management efforts on this GPA by decreasing amounts of water available. We have similar concerns about the effects to the other GPA's upstream.

Since the four GPA's are publicly owned land and are managed for wildlife production and public use we request that your staff and the Water Management Board formally consider the potential influence the flood control project may have on these areas. Until such an evaluation is completed as part of an overall public interest review of the project we request that the application be deferred. Furthermore, we also

believe that such a review should also include some discussion regarding the need to address flooding issues on a watershed scale through structural, non-structural and land use conservation measures (e.g. water retention, wetland restoration, waterway management, tillage practices, etc.).

Thank you for your assistance on this matter. If you have any questions or wish to discuss this matter further, please call me at 773-6208.

Sincerely,

A handwritten signature in cursive script, reading "Timothy J. Olson". The signature is written in dark ink and is positioned above the printed name and title.

Timothy J. Olson
Water Permits Coordinator

cc: Doug Hansen
Gary Richter
Jerry Streckfuss



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 22, 1993

George Alberts, Jr.
Lower Crow Creek Improvement Assn.
RR 2, Box 169
Groton, SD 57445

Dear Mr. Alberts:

Enclosed is a copy of a letter of petition our office received from the Department of Game, Fish and Parks on Flood Control Permit Application No. FC-15.

If you have any questions, please feel free to contact Eric Gronlund at (605) 773-3352.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 22, 1993

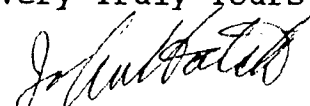
John Ries
Rt 2, Box 150
Groton, SD 57445

Dear Mr. Ries:

I am writing in response to your November 4, 1993 letter concerning Flood Control Permit Application No. FC-15 for Lower Crow Creek Improvement Association. You requested a specific definition for the term "flooding". South Dakota Codified Laws Chapter 46A-10B defines flooding as: "a general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters or the unusual and rapid accumulation or runoff of surface water from any source;"

If you have any further questions concerning this matter, please feel free to contact Mark Rath, phone (605) 773-3352.

Very Truly Yours,


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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 14, 1993

NOTICE

TO: George Alberts, Jr.
Lower Crow Creek Improvement Association
RR 2, Box 169
Groton, SD 57445
and Parties of Record (see attached sheet)

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

SUBJECT: Deferral of Flood Control Permit Application No. FC-15,
Lower Crow Creek Improvement Association

On December 1, 1993, the Water Management Board DEFERRED consideration of Flood Control Permit Application No. FC-15. The Board did not believe the application contained the necessary information to approve the application.

SDCL 46-2A-11 states that a permit for flood control works may be issued only if the project will reduce the damage from flooding or erosion in the area proposed to be benefitted, the project will not increase the likelihood or the severity of flood damages in areas other than the project area or the area proposed to be benefitted, The project will not endanger human life or property and the project will no impair existing water rights.

The Board deferred the application until the applicant addressed: 1) a plan of operation; 2) impacts to existing game production areas; 3) impacts of pumping to downstream lands; and 4) proposed benefits. The Board suggested that a study be conducted by the applicant to answer many of these questions.

The Board will reconsider the application when additional information is submitted that addresses the Board's concerns. Notice will then be given of the future hearing time and place before the Board.

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

c: Diane Best, Assistant Attorney General

PARTIES OF RECORD
FLOOD CONTROL PERMIT APPLICATION NO. FC-15
LOWER CROW CREEK IMPROVEMENT ASSOCIATION

APPLICANT

Lower Crow Creek Improvement Assn.
George Alberts, Jr.
RR 2, Box 169
Groton, SD 57445

PETITIONERS

Timothy J. Olson
Water Permits Coordinator
Department of Game, Fish & Parks
Foss Building
523 East Capitol
Pierre, SD 57501-3182

John Ries
RR 2, Box 150
Groton, SD 57445

CERTIFICATION

I hereby certify that on December 14, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 14, 1993, regarding Deferral of Flood Control Permit Application No. FC-15, Lower Crow Creek Improvement Association, and a copy of the Parties of Record, addressed as stated below:

George Alberts, Jr., Lower Crow Creek Improvement Association, RR 2,
Box 169, Groton, SD 57⁴45^{NR}.

John Ries, RR 2, Box 150, Groton, SD 57⁴45^{NR}.

Copies Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Timothy J. Olson, Water Permits Coordinator, Department of Game, Fish & Parks, Joe Foss Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st 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: Ron Beto, JRWDD File No. FC-15

Address: Huron, SD County: Brown

Date: 12/15/1993 Telephone: 352-0600

RE: Emergency Flood Control Permit to Pump Putney Slough

Comments:

I returned Ron Beto's phone call. He asked if the Lower Crow Creek people could pump under an emergency flood control permit. I told him I discussed this with John Hatch and the Water Management Board (WMB) was specific in their ruling for deferral of FC-15 that they wanted an operating plan in place before any pumping could be allowed. I told him that an emergency permit has the same statutory requirements to not transfer flooding downstream and that the Lower Crow Creek people have not addressed this issue, and so a emergency permit cannot be issued based on the WMB's decision.

He said he thought the issue was cloudy on what the WMB wanted. He asked me if I thought a committee representing the different interests to determine when pumping could occur would be acceptable. I told him that we have had problems dealing with the committee associated with the Lake Poinsett flood control permit and that I did not think this was a good solution. I told him that I would foresee the Lower Crow Creek people hiring a consultant engineer to study the situation as a whole and then submit to us a proposal on when pumping could be allowed. I told him that the WMB indicated that the applicants do their own study and that the Division of Water Rights staff would not do the study for them. Mr. Beto indicated he understood this.

Mr. Beto said that he thought the WMB did not understand that the applicants would only use the pumps in normally wet years but would not use them during unusually wet years. I asked him why the Crow Creek people would want to pump now since it would probably be futile and expensive to pump at this time. I told him pumping 12,000 ac-ft (assuming 3000 ac * 4 feet deep) at 44 ac-ft per day would take 272 days to pump the water.

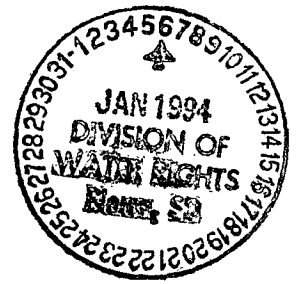


Mark D Rath
Natural Resources Engineer

LAW OFFICES OF
BENNETT, MAIN & FREDERICKSON
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084

MAX MAIN
JOHN R. FREDERICKSON
KEVIN S. BAILEY

January 5, 1994



OF COUNSEL
DONN BENNETT

Gale Selken
Natural Resource Engineer
Division of Water Rights
Joe Foss Building
500 East Capitol
Pierre, SD 57501

✓ Mark Rath
Natural Resource Engineer
Division of Water Rights
Joe Foss Building
500 East Capitol
Pierre, SD 57501

RE: Pumping of Putney Slough; Our File #2764.001093.

Dear Gale and Mark:

Thank you for taking the time to visit with me on December 23, 1993 about the above-referenced matter. As you know, I represent a number of the landowners to the north of Brown County Road #11, commonly referred to as "Sullivan Grade." Any activities that may affect my clients' ability to continue to drain the water presently being held back by the Sullivan Grade is of paramount concern. This letter will serve as a written request to be placed on the mailing list with regard to any application for any permit to allow the pumping of the waters from Putney Slough into the James River.

It is my understanding there is presently on file with your office a request to pump the water from the Putney Slough into the James River or into the lower Crow Creek drainage ditch. The Board of Water Management has asked for additional information concerning the times and rates of pumping and, more importantly, the possible effects on other drainage in the area. This letter will also serve as a written request for copies of any information that has been filed or submitted to your office with regard to this permit application and any future information concerning the pumping permit. Also, please provide me with any notice of hearing on the permit application.

I look forward to receiving a copy of Mark's file with regard to this matter. If you have any questions, please feel free to contact me.

Sincerely,

BENNETT, MAIN & FREDERICKSON, P.C.

John R. Frederickson
John R. Frederickson

JRF/cl



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 16, 1994

John R. Frederickson
Bennett, Main & Frederickson
618 State Street
Belle Fourche, SD 57717-1489

Dear Mr. Frederickson:

Per your request, enclosed you will find a copy of the file for Flood Control Permit Application No. FC-15, Lower Crow Creek Improvement Association.

The fee for this information is .20 per page, with the first 10 pages being free. Please pay the amount on the enclosed Invoice.

If we can be of further assistance, please feel free to contact our office.

Sincerely,

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

enclosures



MEMORANDUM

To: John Hatch, Chief Engineer
Water Rights Division
Department of Environment & Natural Resources
523 East Capitol
Pierre, SD 57501-3181

From: George Alberts, Jr.
Lower Crow Creek Improvement Assn.
RR 2, Box 169
Groton, SD 57445

Subject: Flood Control Permit Application No. FC-15

Following Deferral of Flood Control Permit Application No. FC-15 by the Water Management Board on December 1, 1993, the Lower Crow Creek Improvement Association offers the following comments:

1. Flood stage on the James River is defined as eleven feet at Columbia, fourteen feet at Stratford and thirteen feet at Ashton by the U.S. Weather Service.
2. We propose that pumping not be allowed when the James River is plus or minus one foot of flood stage at any of these locations. The reason for this is that the stage where pumping is apt to increase the likelihood or the severity of flood damages in acres other than the project area. It is only when the James River approaches flood stage that pumping may cause additional flooding. Once the river is over one foot above flood stage, the addition of the pumped water is insignificant because water spreads out over the lake plain area. The attached HEC-2 model from the U.S. Army Corps of Engineers for the Bath to Columbia area demonstrates this.
3. We anticipate that pumping would only occur about one year out of three. It would be needed in years of average to slightly above precipitation so land in Putney Slough could be farmed. In dry years, it would not be necessary and in very wet years the volume of water would make it impractical.

4. The proposed pumps do not have the capacity to dewater the entire area above Sullivan Grade and landowners above the grade do not want all the water removed. Any potential damage to game production areas above Sullivan Grade could be abated by closing the gates on Sullivan Grade.
5. The Lower Crow Creek Improvement Association has pumped water for nearly fifty years without any problems. All we are requesting is that this arrangement be formalized with approval of Flood Control Permit Application No. FC-15.

*Thank you
Lower Crow Creek Improvement Assn.
George Albright, Jr. President*

August 5, 1994



Mr. Timothy J. Olson
Water Permit Co-ordinator
Dept of Game, Fish & Parks
523 East Capitol,
Pierre, SD 57501

Dear Mr. Olson,

I am writing in regard to the water pumping permits which we applied for and were discussed at the hearing held at Pierre in December of 1993. We are trying to get the information together so it can be presented to the hearing board for approval.

I discussed the matter with Jerry Streckfuss at the State Game & Fish Dept. in Aberdeen, SD. He is familiar with the area and knows our past pumping program. He thought it would not be a problem.

Our plan would be not pumping any thing below the 3ft. level at the confluence of the Crow Creek drainage ditch and the James River. However, the gates would remain open for further drainage. This would not drain the game production area to the north as it never has in the past years.

We hope this plan will meet with your approval and that you will notify the Dept. of Water Resources of your approval.

May we hear from you in the next two weeks.

Thank You,

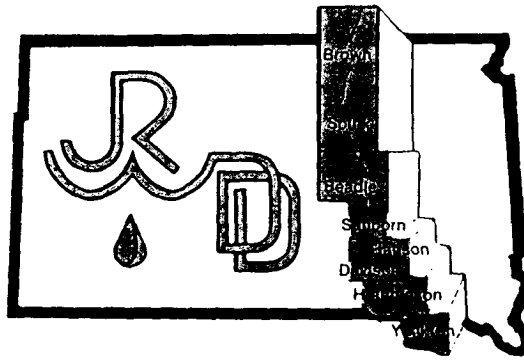
George Alberts, Jr.
Pres. of Lower Crow Creek Association

CC: John Hatch, Chief Engineer
State Dept. of Natural Resources
Pierre, SD 57501

James River Water Development District

STAFF

Ron Beto, Manager
Brenda Wilkening, Admin. Asst.
City Hall P.O. Box 849
Huron, SD 57350
605-352-0600



BOARD OF DIRECTORS

DON BARBER-Mitchell
CLINTON BAUER-Freeman
DAN KOUPAL-Mitchell
RAY METTLER-Menno
WAYNE MILLER-Aberdeen
ROBERT MILLS-Huron
RANDY STANLEY-Claremont
LAUREN STUCK-Mellette
IRVING WESSEL-Huron

August 11, 1994



Tim Olson, Water Permits Coordinator
Game, Fish and Parks
523 E. Capitol
Pierre, SD 57501

Dear Tim:

I am writing to address your concerns about Flood Control Permit No. FC-15 which involves pumping water from Putney Slough.

First, The concept is to pump water from internal drainage of the 3000 acre Putney Slough area. These pumps should have minimal effect on water coming down the Crow Creek Drain.

Second, water levels in the Wildlife Production Areas (WPAs) can be controlled by the gates at Sullivan Grade. This is compatible with landowner desires above Sullivan Grade to use the water for subirrigation.

Third, if for some reason there is a problem with maintaining water levels in the WPA's, the James River Water Development District would provide financial assistance for structural modifications to retain water in the WPA's.

The James River Water Development District and local landowners are interested in maintaining water levels in the WPA's and will do whatever is necessary to keep those areas productive. I hope this answers your concerns about any adverse impacts of FC-15.

Sincerely,

Ron Beto, Manager

CC: Jerry Streckfuss



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



November 30, 1994

Mr. George Alberts
Lower Crow Creek Association
RR 2, Box 169
Groton, SD 57445

Dear Mr. Alberts:

This letter is to follow up on our meeting earlier this month at the Sand Lake National Wildlife Refuge Headquarters. We appreciated the opportunity to sit down and discuss the various issues related to water management in Putney Slough with you and the other landowners in attendance. Such meetings where open dialogue and constructive discussion are possible obviously play an important role in resolving issues as complex as those regarding Putney Slough and the Lower Crow Creek drainage.

At the December 1, 1993 Water Management Board meeting when your original flood control permit application (No. FC-15) was considered and deferred, we expressed concern that improved pumping facilities at Putney Slough and along the Lower Crow Creek drain may adversely affect water levels in the upstream state Game Production Areas (GPA's) and federal Waterfowl Production Areas (WPA's). As we discussed during our recent meeting at the refuge, if your association wants to continue with its past drainage activities, we recommend that your association refile an application with the Department of Environment and Natural Resources (DENR) to obtain authorization to continue historic pumping activities at the slough. We would likely have little objection to such an approach if the application addresses the four issues raised in the Water Management Board's December 14, 1993 deferral notice. As part of a new application to DENR, we also suggest that you include supporting materials such as signed affidavits demonstrating actual historic drainage efforts, and a plan indicating how the system will be managed, including how the Sullivan Grade gates have and will be operated to assure that impacts to upstream GPA's are minimized. To our knowledge, historic pumping included the use of two 16" PTO pumps at the concrete wall behind the Ries farm at the downstream end of the Crow Creek ditch and two similar pumps to the north to move water from the slough into the ditch.

The concerns that we have expressed regarding the dewatering of Putney Slough and the Lower Crow Creek drain have primarily been the result of the proposal to significantly increase the pumping rates well beyond historic levels. We purchased and have managed the

GPA's along the Crow Creek drain system knowing that they were and would likely continue to be subject to a certain amount of drainage. However, when the increased pumping was proposed we became concerned that our management efforts on the GPA's, much of which are geared toward waterfowl and other species that utilize wetland habitats, may be hampered by decreased water availability.

We hope that this letter has clarified our position regarding the Lower Crow Creek Association's flood control permit application. We look forward to a continued working relationship with your group, other landowners in the watershed, local governmental entities, and Sand Lake Refuge staff to develop long term solutions to drainage problems at Putney Slough and along the Crow Creek drainage. If you have any questions regarding this matter, please do not hesitate to give me a call at 773-6208.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Olson".

Tim Olson
Water Permits Coordinator

pc: Mary Coleman and Jerry Streckfuss, GF&P, Aberdeen
John Koerner, Sand Lake National Wildlife Refuge
John Hatch, SDDENR, Pierre ✓

Conversation or File Documentation

NAME OF PERSON OR FILE: JOHN RIESADDRESS: 12747 400th AVE GEDTON COUNTY BROWNDATE: 1/6/96 ⁵⁷⁴⁴⁵ TELEPHONE 397-8320RE: PUMPING FROM PUTNEY SLOUGH

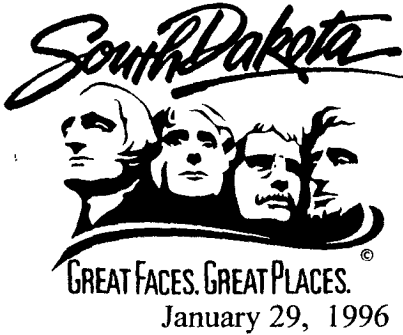
COMMENTS:

Mr. RIES called, said that if Putney Slough Buyout goes through and the wetland is restored, his land could be surrounded on three sides by water. Mr. RIES wanted to know if he would need a Flood Control Permit to pump seepage water from his land to the James River. I told him I would discuss it in the office and get back to him. I told him that we already had a deferred Flood Control permit application on file. He said that he had discussed the matter with the rest of the Putney Slough land owners and they agreed to keep the lower Crow Creek Improvement Association Action. I told him that the existing application could be used as long as any change would not be to major. Mr. RIES requested copies of FC-15 Application and related correspondence.

1-10-96 I called Mr. RIES told him that we had discussed the matter in house and that it was our opinion that a Flood Control Permit would be required for pumping seepage. Also that John thought that the change in the project would be significant enough to require a readvertised & deferred FC-15 were to be used.

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: Mark D. Smith



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

John Ries
12747 400th Ave
Groton, SD 57445

Dear Mr. Ries:

I am writing this letter in reference to your January 10, 1996 telephone conversation with Mark Rath concerning flood control permits. You stated that the portion of Putney Slough south of Brown County Hwy 13 may be separated from the rest of the slough due to a possible buy out. Landowners in this southern portion of Putney Slough are concerned about seepage water and in the ability to evacuate this water. A flood control permit will be required to pump seepage water to the James River.

Currently a deferred flood control permit application is on file for the Lower Crow Creek Improvement Association. The proposed project you described is significantly different in magnitude than the deferred project and will require a separate application. South Dakota Codified Law (SDCL) 46-2A-11 requires that a flood control permit can only be issued if the project will reduce flooding in the area proposed to be benefited and will not increase the likelihood or severity of flood damages in other areas. Any application will require submittal of a detailed plan specifying how, when, and at what rate the pumps will be operated in order to avoid downstream flooding.

Enclosed is a copy of the flood control application form and instruction sheet. If you wish to make the application, please complete, sign before a notary public and return to this office along with a signed map, the operational plan, and a \$150 filing fee.

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 15, 1996

John Ries
12747 400th Ave.
Groton, SD 57445

Dear Mr. Ries:

I am writing in regard to our telephone conversation concerning flood control permits. Currently a deferred flood control permit application is on file for the Lower Crow Creek Improvement Association.

There are certain statutory requirements that need to be met prior to a flood control permit being issued. SDCL 46-2A-11 requires that a flood control permit can only be issued if the project will reduce flooding in the area proposed to be benefited and will not increase the likelihood or severity of flood damages in other areas. Any application will require submittal of a detailed plan specifying how the proposed project will be constructed and operated in order to avoid downstream flooding.

Enclosed is a copy of the flood control application form and instruction sheet. If an application is made, the enclosed form needs to be completed, signed before a notary public and returned to this office along with a signed map, the operational plan, and a \$150 filing fee.

If you have any questions, please contact Mark Rath or myself at (605) 773-3352.

Sincerely,

Delvin Brosz
Natural Resource Engineer IV
Water Rights Program

enclosure