

WATER PERMIT NO. FC-23

Name of Applicant: SD Dept. of Game, Fish and Parks

Address: 523 E Capitol, Pierre SD

Phone: 773-3387

Amount of Water Claimed: Total Acres: NA

Source of Water Supply: Lake Oliver

Water to be used for: flood control County: Deuel

Type of Waste Disposal System: NA

Location: 10 miles southeast of Clear Lake

PRIORITY Date Received: 2-26-1997 Fee: NA

Corrected Application Received: Period of Annual Use:

Remarks: Construct an outlet structure to restrict Lake Oliver flows from entering Lake Cochrane

Diversion Point: NW 1/4 Sec 4-T114N-R47W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: NA

Remarks:

Type of Map: topo

Prepared by: Jeffrey Peters, GF&P

Reviewed and the Number Assigned on: 2-28-97

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for flood control permit

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

No. FC-23 Hydrologic Unit 0702003
Basin Minnesota - Whetstone
Newspaper Clear Lake Courier, Box 830, Clear Lake, SD 57226-0830
(office use only)



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

1. Name of Applicant South Dakota Department of Game, Fish and Parks

Address Joe Foss Building, 523 E. Capitol Ave.

(Street, RR or Box)

Pierre

(City)

SD

(State)

57501

(Zip Code)

Phone No. (605) 773-3387

2. Name of watercourse Lake Oliver outlet

3. Location of project (legal description) outlet - NW 1/4 of Section 4, T114N, R47W

4. County or counties where project is located Deuel County

5. Give a brief description of the proposed project including the type of project (Dam, Dikes, Channel Modifications, 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.)

In 1995, the Water Management Board established the elevation for the Lake Oliver outlet at 1683.6 feet mean sea level. The Board also determined the outlet location for Lake Oliver as being located in the NW1/4 Section 4, T114N, R47W near fire location 162 (currently the Wengler property). The SD Dept. of Game, Fish and Parks makes application in accordance with SDCL 46-5-47 for a flood control permit for a proposed outlet structure to restrict Lake Oliver flow from entering Lake Cochrane under certain conditions. The purpose is to address water quality concerns for Lake Cochrane during months when algae blooms may occur. See operating plan for conditions and elevations when water will be stored and released.

Necessary flowage and construction easements have been obtained from affected landowners. A copy is attached.

Attachment: Project Location Map, Operating Plan, Project Layout Drawings

STATE OF SOUTH DAKOTA)

County of Deuel SS

I, John L. Roper the applicant, certify that I have read this application, have examined the attachments and that the matters are true and that I intend, and am able to complete the necessary construction.

Signed

John Roper, Secretary of Game, Fish & Parks

Subscribed and sworn to before me this 26th day of February 19 97

[Signature]

Notary Public

**SOUTH DAKOTA
FLOOD CONTROL PERMIT NO. FC-23**

Date of first receipt of application February 26, 1997.

The Water Management Board approved Flood Control Permit No. FC-23 on April 29, 1997 for the South Dakota Department of Game, Fish and Parks, 523 E Capitol, Pierre SD 57501 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Flood Control Permit No. FC-23 authorizes construction of a outlet structure for Lake Oliver in Deuel County. The outlet structure is to be operated to allow Lake Oliver waters to be held above the established outlet elevation under specific operating criteria. The purpose of the permit is allow seasonal storage of water on private land and Deuel County land around Lake Oliver to address potential water quality concerns by restricting Lake Oliver water from entering Lake Cochrane during months when algae blooms may occur.

The Water Management Board has determined that the Lake Oliver outlet is 1683.6 feet mean sea level (fmsl) at a point located in the NW 1/4 Section 4-T114N-R47W near Fire Location No. 162.

2. This flood control permit will not increase the likelihood or severity of flood damages downstream, necessary easements have been obtained for seasonal storage of water on private land and Deuel County land around Lake Oliver, the project will not endanger human life or property, the project will not impair existing water rights, and it is in the public interest because seasonal storage of water, above the outlet elevation 1,683.6 fmsl, through operation of the outlet structure will restrict Lake Oliver water from flowing into Lake Cochrane during months when algae blooms may occur, and under specific operating criteria will have a positive affect on Lake Cochrane water quality.
3. The date from which applicant may claim right is February 26, 1997.
4. All construction is to be completed on or before April 29, 2002.

QUALIFICATIONS

1. Flood Control Permit No. FC-23 is subject to operation of the control structure as follows:

October 16 through June 14 - the control structure will remain open to lower the Lake Oliver water level to the established outlet elevation of 1,683.6 fmsl.

June 15 through October 15 - the control structure will be closed and Lake Oliver water will be stored up to an elevation of 1,685.0 fmsl.

When the elevation of 1,685.0 fmsl is reached, water will spill uncontrolled over the weir. If a precipitation event occurs during June 15 through October 15 that causes flow over the wier to reach an elevation of 1,685.3 fmsl, the control structure will be opened until Lake Oliver attains an elevation of 1,684.3 fmsl.

(continued)

Flood Control Permit No. FC-23
South Dakota Department of Game, Fish and Parks
Page 2

2. The South Dakota Department of Game, Fish and Parks is responsible for operation and maintenance of the control structure.

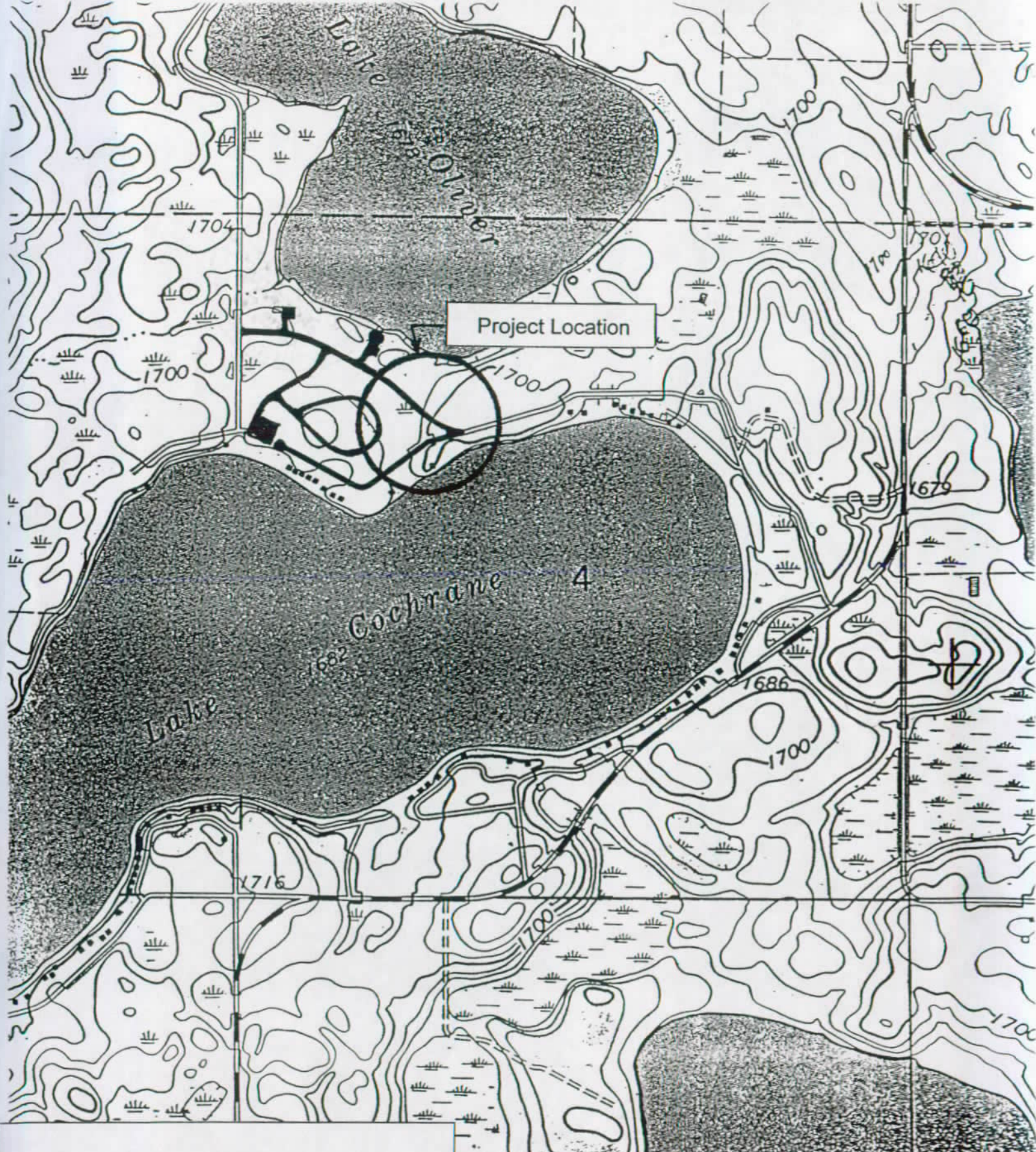
WATER MANAGEMENT BOARD

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

JUN 11 1997

date





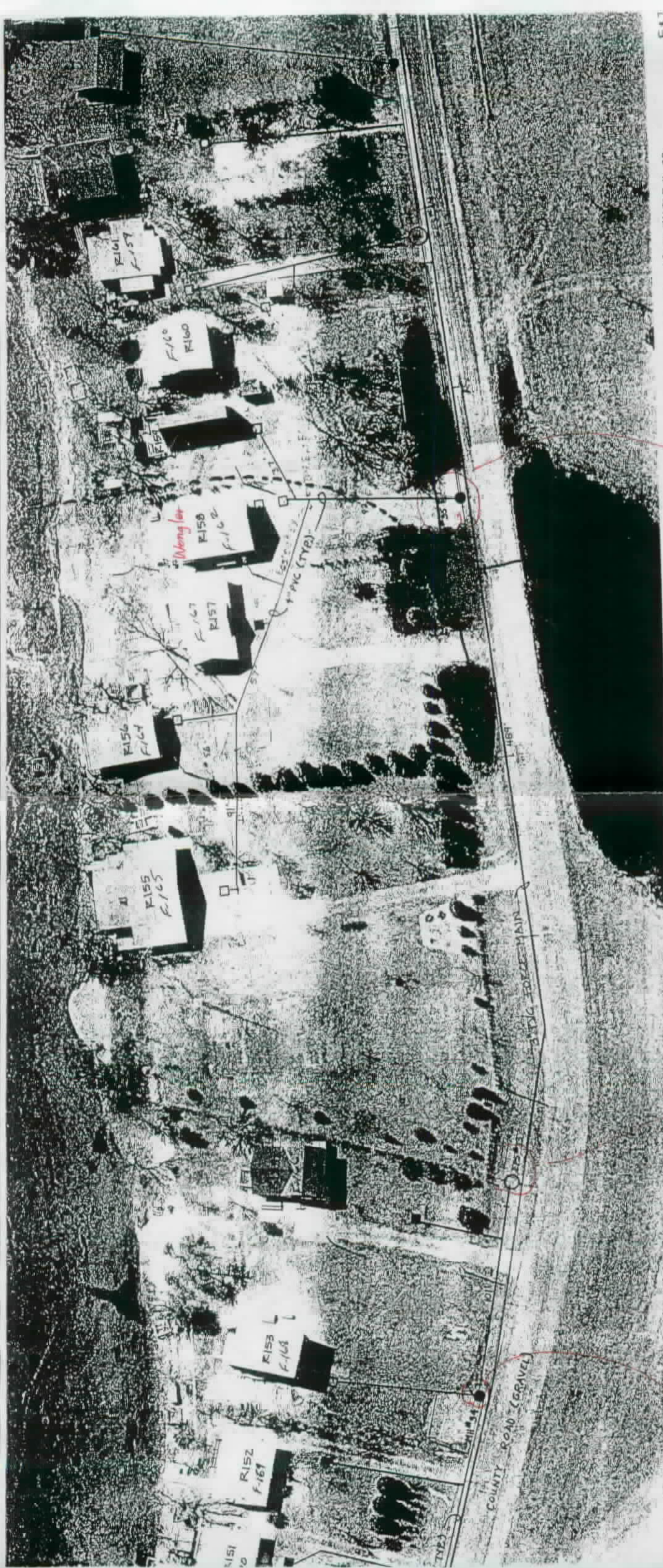
Project Location

Lake Oliver Outlet
Section 4, T114N, R47W
Deuel County, S.D.
Map Scale 1"=1000'

Prepared by Jeffrey D. Peters
Buildings Engr. II

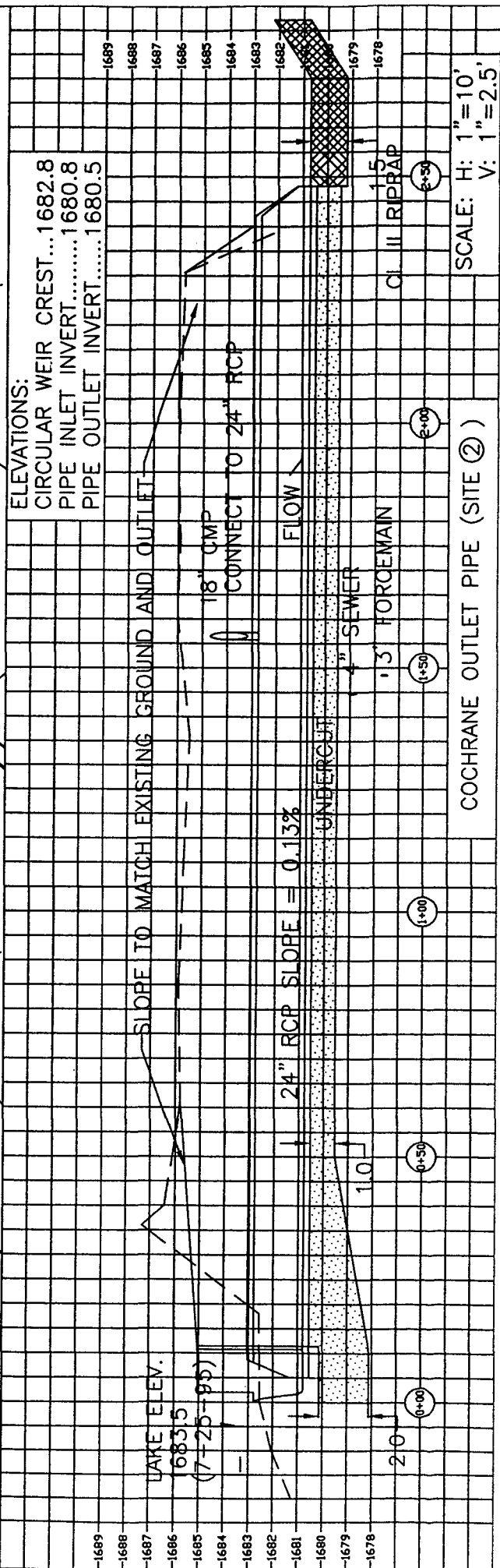
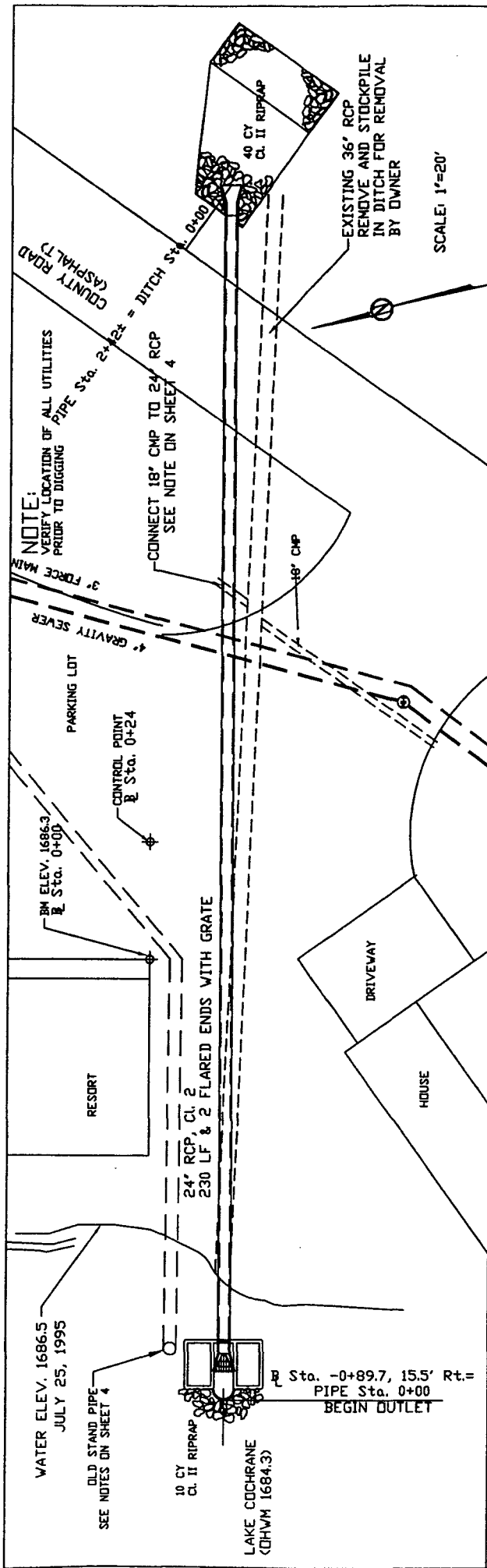
GF&P

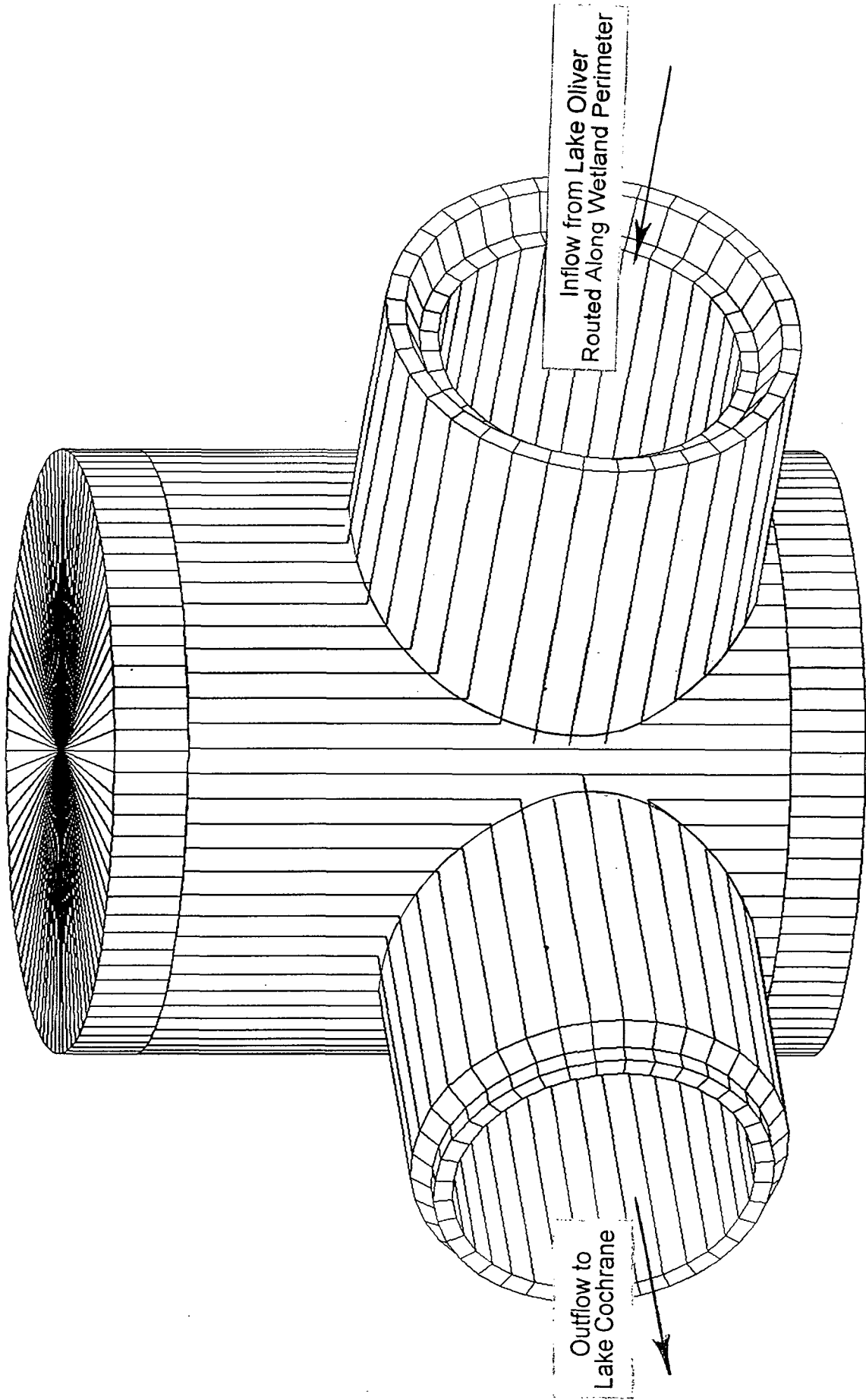
2-26-97



F+I AND		F+I AND	
R 151	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 158	F+I APPROX. 44' LF 4" PVC SEWER SERVICE, TIE TO EXISTING SEPTIC TANK.
R 152	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 159	F+I APPROX. 37 LF 4" PVC SEWER SERVICE AND SERVICE WYE, TIE TO EXISTING SEPTIC TANK.
R 153	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 160	F+I APPROX. 30 LF 4" PVC SEWER SERVICE AND SERVICE WYE, TIE TO EXISTING SEPTIC TANK.
R 154	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 161	F+I STAND. 4' MANHOLE # 35 AND 3.6 VFE ADDITIONAL MANHOLE.
R 155	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 162	F+I APPROX. 103 LF 4" PVC SEWER SERVICE AND SERVICE WYE TIE TO EXISTING SEPTIC TANK.
R 156	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 163	REMOVE EXISTING SEPTIC TANK. F+I 1000 GAL. SEPTIC TANK, APPROX. 112 LF 4" PVC SEWER SERVICE TO MH # 36.
R 157	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.	R 164	F+I APPROX. 65 LF 4" PVC SEWER SERVICE AND SERVICE WYE, TIE TO EXISTING SEPTIC TANK.
R 158	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 159	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 160	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 161	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 162	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 163	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		
R 164	SEPTIC TANK, APPROX. 120 LF 4" PVC SEWER SERVICE WYE TIE TO EXISTING SEPTIC TANK.		

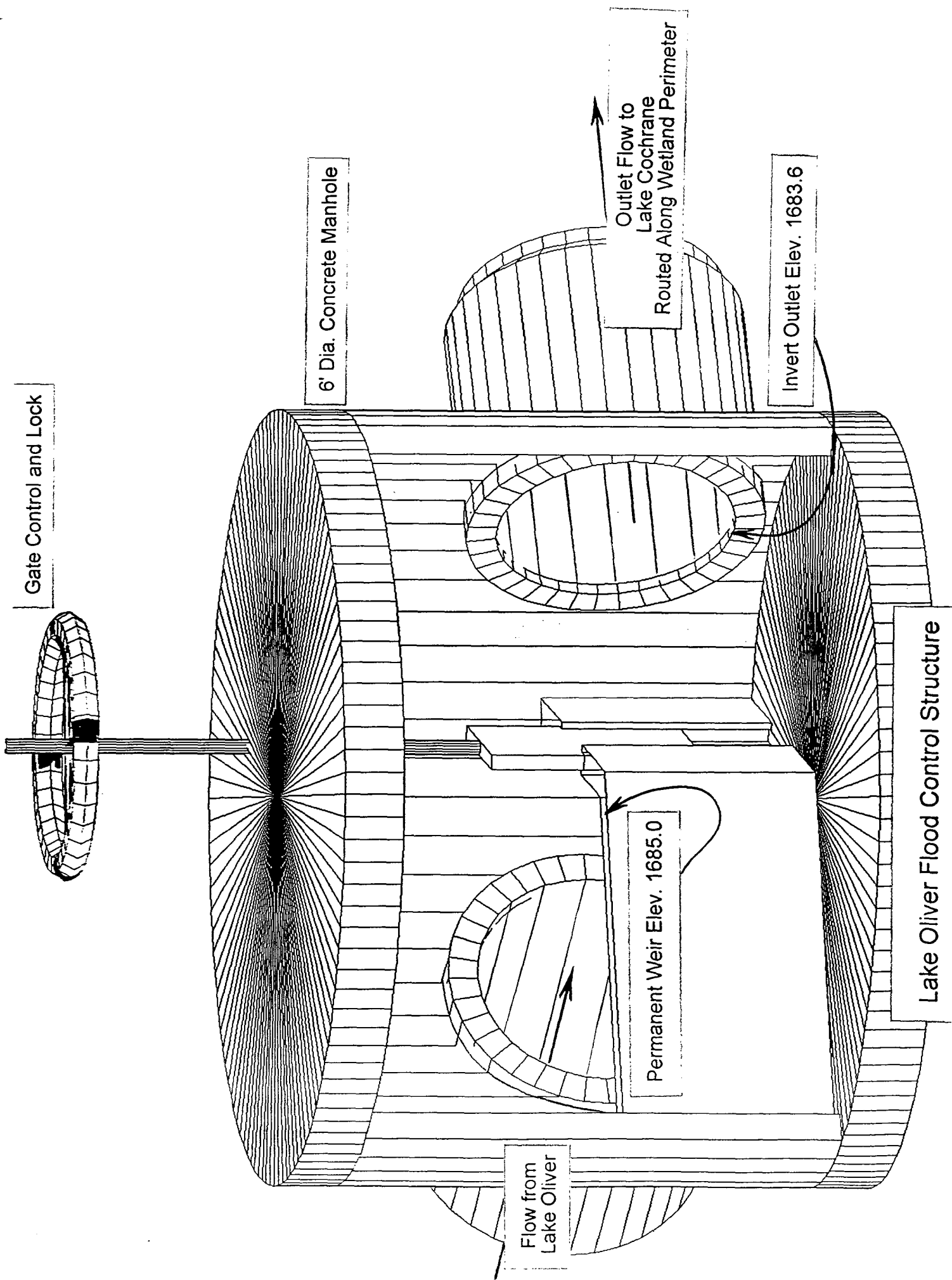
Cochrane Inlet

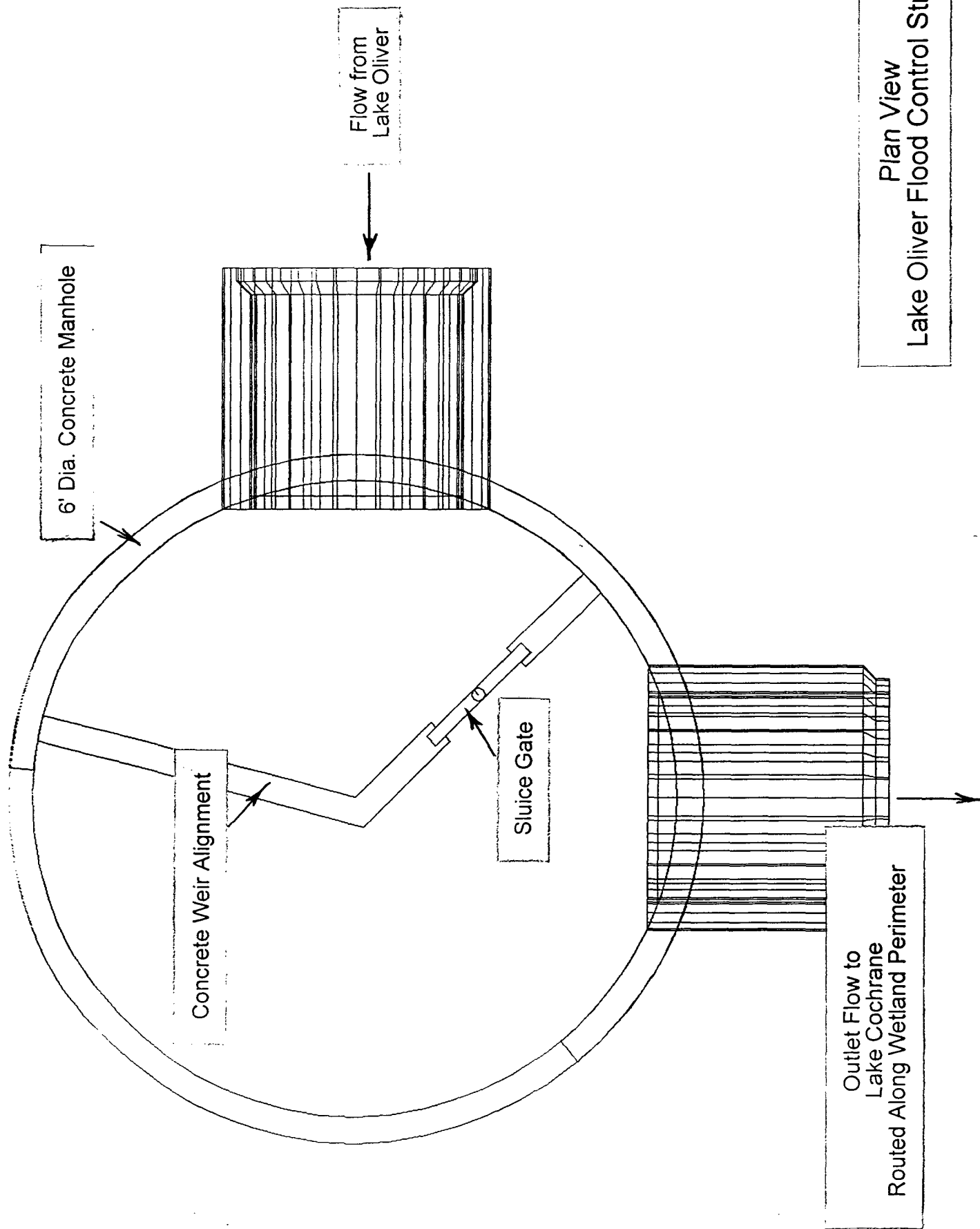




Transition Manhole - North of Cabin Road
Through Wengler's to Lake Cochrane

Provided By: *Jeffrey Peters, P.E.*
W. J. Peters, Engr. II
So. Dak. Dept. of Game, Fish & Parks





Plan View
Lake Oliver Flood Control Structure

Schedule "B" - Alignment "B"					
Item No.	Item Description	Unit	Est. Units	Unit Price	Extended Amount
1	Mobilization	LS	1	\$ 7,000.00	\$ 7,000.00
2	Site Prep & Dewatering	LS	1	\$ 4,500.00	\$ 4,500.00
3	Excavation	CY	1889	\$ 7.50	\$ 14,167.50
4	Geosynthetic Clay Liner (GCL)	SY	874	\$ 10.00	\$ 8,740.00
5	Topsoil	CY	140	\$ 10.00	\$ 1,400.00
6	Seeding	SY	1680	\$ 2.00	\$ 3,360.00
7	Furnish 30" RCP	LF	60	\$ 29.95	\$ 1,797.00
8	Install 30" RCP	LF	60	\$ 40.00	\$ 2,400.00
9	Furnish 24" RCP	LF	258	\$ 20.30	\$ 5,237.40
10	Install 24" RCP	LF	258	\$ 40.00	\$ 10,320.00
11	Embankment for 24" RCP	CY	187	\$ 7.00	\$ 1,309.00
12	Furnish 30" Flared End Section	EA	2	\$ 759.80	\$ 1,519.60
13	Install 30" Flared End Section	EA	2	\$ 500.00	\$ 1,000.00
14	Furnish 24" Flared End Section	EA	1	\$ 350.00	\$ 350.00
15	Install 24" Flared End Section	EA	1	\$ 400.00	\$ 400.00
16	Undercut	CY	119	\$ 10.00	\$ 1,190.00
17	Filter Fabric	SY	513	\$ 2.00	\$ 1,026.00
18	Oliver Outlet Structure	LS	1	\$ 6,900.00	\$ 6,900.00
19	Cochrane Inlet Structure	LS	1	\$ 6,900.00	\$ 6,900.00
subtotal:					\$ 79,516.50
PROJECT TOTAL:					\$ 109,211.56

It will be the Owner's option to accept or reject one or both of the following Schedules

Schedule A - Alignment "A"

Item No.	Item Description	Unit	Est. Units	Unit Price	Extended Amount
1	Mobilization	LS	1	\$ 7,000.00	\$ 7,000.00
2	Site Prep & Dewatering	LS	1	\$ 4,500.00	\$ 4,500.00
3	Excavation	CY	3427	\$ 6.20	\$ 21,247.40
4	Geosynthetic Clay Liner (GCL)	SY	2000	\$ 9.50	\$ 19,000.00
5	Topsoil	CY	260	\$ 10.00	\$ 2,600.00
6	Seeding	SY	3120	\$ 1.50	\$ 4,680.00
7	Furnish 30" RCP	LF	36	\$ 29.95	\$ 1,078.20
8	Install 30" RCP	LF	36	\$ 40.00	\$ 1,440.00
9	Furnish 24" RCP	LF	258	\$ 20.30	\$ 5,237.40
10	Install 24" RCP	LF	258	\$ 40.00	\$ 10,320.00
11	Embankment for 24" RCP	CY	187	\$ 7.00	\$ 1,309.00
12	Furnish 30" Flared End Section	EA	2	\$ 759.80	\$ 1,519.60
13	Install 30" Flared End Section	EA	2	\$ 500.00	\$ 1,000.00
14	Furnish 24" Flared End Section	EA	1	\$ 350.00	\$ 350.00
15	Install 24" Flared End Section	EA	1	\$ 400.00	\$ 400.00
16	Undercut	CY	95	\$ 10.00	\$ 950.00
17	Filter Fabric	SY	513	\$ 2.00	\$ 1,026.00
18	Oliver Outlet Structure	LS	1	\$ 6,900.00	\$ 6,900.00
19	Cochrane Inlet Structure	LS	1	\$ 6,900.00	\$ 6,900.00
20	Cl. II Riprap	CY	25	\$ 36.00	\$ 900.00
				subtotal:	\$ 98,357.60
				PROJECT TOTAL:	\$ 128,052.66

Wengler's Pipe - Base Bid

Item No.	Item Description	Unit	Est. Units	Unit Price	Extended Amount
1	Mobilization	LS	1	\$ 7,000.00	\$ 7,000.00
2	Site Prep & Dewatering	LS	1	5000.00	\$ 5,000.00
3	Furnish 24" RCP	LF	203	23.62	\$ 4,794.86
4	Install 24" RCP	LF	203	40.00	\$ 8,120.00
5	Furnish 24" Flared End Section	EA	2	350.00	\$ 700.00
6	Install 24" Flared End Section	EA	2	400.00	\$ 800.00
7	Embankment for 24" RCP	CY	6	20.00	\$ 120.00
8	Undercut	CY	79	15.00	\$ 1,185.00
9	Cl. II Riprap	CY	25	40.00	\$ 1,000.00
10	Topsoil	CY	23	10.00	\$ 230.00
11	Seeding (Residential Type)	SY	138	5.40	\$ 745.20
				TOTAL:	\$ 29,695.06



DEPARTMENT OF GAME, FISH AND PARKS

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



WILDLIFE RESTORATION
P R O G R A M

February 4, 1997

Mr. Mike Wengler
507 17th St. South
Brookings, SD 57006



Mr. Lyle Tobin
RR 1 Box 198
Lake Cochrane
Gary, SD 57237

Re: Lake Oliver Outlet Structure

Gentlemen:

This letter will serve as an update and overall summary of the plans to complete the construction of the Lake Oliver Outlet Structure.

In our recent meetings and in follow-up correspondence, we have outlined three design alternatives to comply with the mandates of the Water Management Board (WMB) and, to the fullest extent possible, address the water quality concerns for Lake Cochrane.

We have cooperatively reviewed the design schematics and cost/benefit opinions furnished for each of the three options. In your letter to me dated 1/18/97, you informed me that the Lake Cochrane Board of Directors has gone on record as accepting construction option #3 with certain modifications.

In order to summarize the overall agreements we have reached and to address the process we must adhere to in order to move toward a planned construction start date in late August or early September, I have outlined the following issues.

Flowage and Construction Easements:

Agreements have been reached with John Lair and Lee Cleveland, the Lake Oliver property owners and Mike Wengler, owner of the property at the outlet. Both Mr. Lair and Mr. Cleveland will be paid \$2.00 per foot for their affected Lake Oliver shoreline in exchange for their execution of a proper

flowage easement to periodically raise the surface waters of Lake Oliver up to 1685.0 FMSL. This is 1.4 ft. over the outlet elevation of 1683.6 as set by the WMB for Lake Oliver.

The total cost of the Lair and Cleveland easements is \$8,976.00. Both landowners have agreed that their easement would be contingent upon the project being completed.

Mike Wengler has agreed to a construction easement across his property at the outlet area for a cost of \$1,500.00.

The total cost of these three easements is \$10,476.00. These costs will be added to the total cost of the project.

Funding Issues:

As we have discussed, Game, Fish and Parks' maximum expenditure to complete the outlet structure at Lake Oliver is \$100,000. In addition, as we discussed at our December 5, 1996 meeting, this outlet issue has to be solved this year (1997), even if it means reverting to the "original" plan of following the existing natural waterway in the event we cannot execute one of our three planned options to route the water away from the existing wetlands.

The Lake Cochrane Improvement Association has recommended that option #3 be pursued. The estimated cost opinion for option #3 is \$205,555.04. Add the cost of the three easements required and the estimated cost of option #3 becomes \$216,031.04. This means that the Lake Cochrane Improvement Association is responsible for raising approximately \$116,000 for their matching share of project option #3.

In order to start construction by September 1, 1997, we need to have the plans ready to advertise for bids by July 1, 1997 with a bid opening of August 1, 1997. In addition, we need to apply for a Nationwide 404 wetland permit a minimum of 40 days prior to any construction activity.

I have already budgeted the \$100,000 GFP share of the project. It is critical that members of the Lake Cochrane Association understand that your \$116,000 share of the option #3 project costs be raised by June 1, 1997 so the project can proceed on schedule. If the project is delayed into the winter months, costs will rise dramatically.

If the \$116,000 share has not been raised by June 1, 1997, my fallback position is that we pursue construction option #2 (estimated cost of \$166,391 including the easements). If the Association's share cost of \$66,391 for option #2 is not available for some reason, then we would have no choice but to proceed with our original plans to route the outlet through the natural waterway as mandated by the WMB and to complete that construction by November 1, 1997.

Water Management Board Issues:

If the flood control permit application is to be advertised for the April 29-30, 1997 meeting, we need to mail the publication notice by March 26, 1997. GFP will move to have a completed application by

March 14, 1997. The next regular WMB meeting is July 9, 1997, so we definitely need to make the April meeting in order to stay on schedule.

Besides the information contained in our schematics, the flood control application will need to include an operating plan for the control structure. Everyone will need to know and understand under what conditions and elevations water will be stored and released; how decisions to store or release water will be reached, and who will operate the control structure. GFP will initiate a draft water management plan for discussion. That plan will have to be discussed and agreed upon prior to our April meeting with the WMB.

Some Final Comments:

Please remember that the cost opinions attached to the proposed construction options are only our best estimate opinions at this point and are primarily for comparison purposes. We feel that they are in the ballpark, but we still have to develop the design and final engineering cost estimates.

It's critical that everyone understand that we must move forward in solving the flooding problems associated with Lake Oliver/Lake Cochrane this year. I believe we have set reasonable goals and have a doable project with a fallback strategy. Let's work together to make this solution a reality.

If you have any questions, please contact me at (605) 773-3387.

Sincerely,



John L. Cooper
Secretary

- c. Governor William J. Janklow
- Nettie Myers
- Senator Harold Halvorsen
- Representative Larry Diedrich
- Representative Robert Weber
- Jay Gilbertson



DEPARTMENT OF GAME, FISH AND PARKS

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

GREAT FACES. GREAT PLACES.

February 26, 1997

Mr. Mike Wengler
507 17th Street South
Brookings, SD 57006

Mr. Lyle Tobin
RR 1 Box 198
Lake Cochrane
Gary, SD 57237

Re: Lake Oliver Flood Control Permit Application

Gentlemen:

As a follow-up to my February 4, 1997, letter, we are presently preparing a new flood control permit application for consideration by the Water Management Board at the April 29 & 30 meeting. The components of this new application will be in draft form in a few days. When complete, we will meet with you to review the proposed operating plan. All details of the application must be agreed upon by March 14 to facilitate the legal publication of the new application on March 26, 1997.

We would ask that the Lake Association take action to withdraw the existing flood control permit application. This is necessary in order that the WMB publish and consider a new application. The existing Lake Association application is identified as No. EC-21 and dated August 23, 1996. **FC-21**

I look forward to meeting with you soon to go over the final details of the new application. If you have any questions, please contact me at (605)773-3387.

Sincerely,

John L. Cooper
Secretary

JLC*cn

cc: Governor William J. Janklow
Nettie Myers
Senator Harold Halvorsen
Representative Larry Diedrich
Representative Robert Weber
Jay Gilbertson

AGREEMENT AND GRANT OF EASEMENT

This AGREEMENT AND GRANT OF EASEMENT is made by and between LOREN P. SEVERSON and LA VONNE SEVERSON, husband and wife, whose address is RR 1 Box 140, Gery, S.D. 57237, hereafter referred to as GRANTOR; and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks acting through its Secretary, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as STATE.

RECITALS

WHEREAS, GRANTOR is the owner of real property situated in Deuel County, South Dakota and described as:

Lots One (1), Two (2), and Five (5) and the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of Section Five (5), Township One Hundred and Fourteen (114) North and the Southeast Quarter (SE1/4) of Section Thirty-Two (32) in Township One Hundred and Fifteen (115), Range Forty-seven (47) West of the 5th PM; and

WHEREAS, GRANTOR's property is in the general vicinity of Lake Oliver; and

WHEREAS, STATE desires to obtain and GRANTOR agrees to establish, grant, and convey to STATE a nonexclusive permanent easement on certain property of GRANTOR and release of liability for the purpose of facilitating the ability of the STATE, the State of South Dakota, or any other entity to permanently maintain the water outlet elevation of Lake Oliver in excess of its ordinary high water mark (OHWM) of 1,683.6 feet msl as established by the South Dakota Water Management Board; and

WHEREAS, GRANTOR and STATE acknowledge and agree that

maintaining and impounding water in Lake Oliver at an elevation in excess of its established OHWM will, at various and uncertain times and lengths of duration, impound water on and over a portion of the above described property of GRANTOR.

NOW, THEREFORE, GRANTOR, in consideration of receipt of \$1 and other valuable consideration, and STATE declare, covenant and agree as follows:

1. Agreement and Grant of Easement. GRANTOR establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement over and on a portion of the above described property of GRANTOR that is necessary in all flood events to accept impoundment and flowage of water which may accumulate over GRANTOR's property resulting from construction of facilities on and between Lake Oliver and Lake Cochrane which enables and permits impoundment of water in Lake Oliver above its OHWM with the outlet elevation design of the structures which may be constructed to be at 1,685 feet msl during the entire duration of this easement which will be part of the public waters of the State.

2. Release of liability. GRANTOR releases the STATE and the State of South Dakota and any of their officers, employees, representatives, and assigns from any and all liability which may occur due to any of their acts or conduct arising or resulting from the easement contained herein and doing any damage to said property.

3. Binding Effect. The covenants, agreements and

obligations herein contained shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The unenforceability of any provision contained in this easement shall not affect or impair the validity of any other provision of this easement.

4. Effective Date. The effective date shall be the date upon which this easement is signed by GRANTOR and delivered to the STATE.

IN WITNESS WHEREOF, the GRANTOR and STATE have executed this easement as of the day affixed hereto.

GRANTOR

Loren Severson executed this 11 day of March, 1997.

LaVonne Severson executed this 1 day of March, 1997.

STATE

By John Kloss executed this 20th day of March, 1997.
Its Secretary

STATE OF SOUTH DAKOTA

SS

COUNTY OF DEUEL

On this the 11 day of March, 1997, before me, the undersigned officer, personally appeared Loren P. Severson and La Vonne Severson, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged to me they executed the same for the purposes therein stated.

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

Delmar J. Samke
Notary Public, South Dakota

NOTARY SEAL

My Commission expires: Apr. 16, 2000

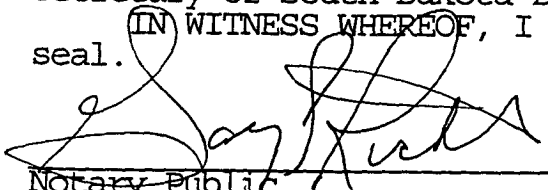
STATE OF SOUTH DAKOTA

SS

COUNTY OF HUGHES

On this the 20th day of March, 1997, before me, the undersigned officer, personally appeared John Cooper, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged to he executed the same for the purposes therein stated as Secretary of South Dakota Department of Game, Fish and Parks.

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


Notary Public
South Dakota

NOTARY SEAL

My Commission expires: July 8, 2001

This Document (OLIVER4.WP) was prepared by:
Gary L. Richter
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752

AMENDED AGREEMENT AND GRANT OF EASEMENT

This AMENDED AGREEMENT AND GRANT OF EASEMENT is made by and between DEUEL COUNTY by its lawfully constituted Board of County Commissioners acting through its Chairman pursuant to a valid Resolution, whose address is Deuel County Courthouse, Clear Lake, South Dakota 57226, hereafter referred to as GRANTOR; and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks acting through its Secretary, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as STATE.

RECITALS

WHEREAS, GRANTOR has the authority to control and manage its property and the public highways by, between, or adjacent to Lakes Oliver and Cochrane in Deuel County, South Dakota on property described as:

Section Four (4) in Township One Hundred and Fourteen (114) North and Sections Thirty-Two and Thirty-Three (32) and (33) in Township One Hundred and Fifteen (115), Range Forty-seven (47) West of the 5th PM; and

WHEREAS, GRANTOR's property and roads are in the general vicinity of and adjacent to or contiguous to Lake Oliver; and

WHEREAS, STATE desires to obtain and GRANTOR agrees to establish, grant, and convey to STATE a nonexclusive permanent easement on certain property and roads of GRANTOR and release of liability for the purpose of facilitating the ability of the STATE, the State of South Dakota, or any other entity to permanently maintain the water outlet elevation of Lake Oliver in excess of its ordinary high water mark (OHWM) of 1,683.6 feet msl as established by the South Dakota Water

Management Board; and

WHEREAS, GRANTOR and STATE acknowledge and agree that maintaining and impounding water in Lake Oliver at an elevation in excess of its established OHWM will, at various and uncertain times and lengths of duration, impound water on and over a portion of the above described property and roads of GRANTOR.

NOW, THEREFORE, GRANTOR, in consideration of receipt of \$1 and other valuable consideration, and STATE declare, covenant and agree as follows:

1. Agreement and Grant of Easement. GRANTOR establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement over and on a portion of the above described property and roads of GRANTOR that is necessary in all flood events to accept impoundment and flowage of water which may accumulate over GRANTOR's property and roads resulting from construction of facilities on and between Lake Oliver and Lake Cochrane which enables and permits impoundment of water in Lake Oliver above its OHWM with the outlet elevation design of the structures which may be constructed to be at 1,685 feet msl during the entire duration of this easement which will be part of the public waters of the State.

2. Release of liability. GRANTOR releases the STATE and the State of South Dakota and any of their officers, employees, representatives, and assigns from any and all liability which may occur due to any of their acts or conduct

arising or resulting from the easement contained herein and doing any damage to said roads, property and right of ways.

3. Binding Effect. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The unenforceability of any provision contained in this easement shall not affect or impair the validity of any other provision of this easement.

4. Effective Date. The effective date shall be the date upon which this easement is signed by GRANTOR and delivered to the STATE.

IN WITNESS WHEREOF, the GRANTOR and STATE have executed this easement as of the day affixed hereto.

GRANTOR

Marion Amundson executed this 11 day of March, 1997.
Its Chairman

ATTEST: Paul L. Dyden
County Auditor

STATE

By John L. [Signature] executed this 20th day of March, 1997.
Its Secretary

STATE OF SOUTH DAKOTA
SS
COUNTY OF DEUEL

On this the 11 day of March, 1997, before me, the undersigned officer, personally appeared Martin Amundson and Sam L. Trader, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged to me they executed the same for the purposes therein stated as Board Chairman and County Auditor.

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

Delaine Amundson
Notary Public, South Dakota

NOTARY SEAL

My Commission expires: Oct. 16, 2000

STATE OF SOUTH DAKOTA
SS
COUNTY OF HUGHES

On this the 20th day of March, 1997, before me, the undersigned officer, personally appeared John Cooper, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged to he executed the same for the purposes therein stated as Secretary of South Dakota Department of Game, Fish and Parks.

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

Gary L. Richter
Notary Public
South Dakota

NOTARY SEAL

My Commission expires: Aug 18, 2001

This Document (OLIVER.WP) was prepared by:
Gary L. Richter
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752



AGREEMENT AND GRANT OF EASEMENT

This AGREEMENT AND GRANT OF EASEMENT, hereafter referred to as AGREEMENT, is made by and between MICHAEL C. WENGLER and LAUREL A. WENGLER, husband and wife, whose address is 507 17th Avenue South, Brookings, South Dakota 57006, hereafter referred to as GRANTOR, and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as GRANTEE.

RECITALS

WHEREAS, GRANTOR is the owner of real property situated in Deuel County, South Dakota which is described as:

Lot Twenty-One (21) of Bostic Beach Addition to Government Lots Three (3) and Five (5), Section Four (4), Township One Hundred and Fourteen (114) North, Range Forty-seven (47) West of the 5th P.M, according to the recorded plat thereof,

hereafter referred to as PROPERTY OF GRANTOR; and

WHEREAS, that in a mutual, joint and cooperative endeavor and effort to facilitate, accommodate, allow and permit the:

A. Storage, drainage and impoundment of the waters of Lakes Oliver and drainage to Lake Cochrane (PURPOSES)

it is deemed reasonable and necessary that GRANTEE be permitted to utilize a portion of PROPERTY OF GRANTOR for purposes of construction and maintenance of structures, drainageways and improvements allowing, permitting and facilitating the above referenced PURPOSES; and

WHEREAS, GRANTOR and GRANTEE have orally agreed upon the terms of this AGREEMENT and each desires to incorporate the same into this written AGREEMENT.

NOW, THEREFORE, IT IS FURTHER AGREED AS FOLLOWS:

GRANTOR, upon condition that the GRANTEE is able to obtain all easements that are necessary to commence work on a Lake Oliver permanent Outlet Control and Waterway System and elects to proceed thereon and upon tender of payment of \$1,500 by GRANTEE to GRANTOR, grants and conveys to GRANTEE and its successors, assigns, contractors, agents and employees the exclusive and perpetual right, power, privilege, easement and right of way over, under, on, across and above the West Twelve (12) Feet of PROPERTY OF GRANTOR for purposes of egress and ingress, furnishing any utilities, and construction of and maintenance to any and all structures, drainageways and improvements deemed necessary by GRANTEE to facilitate, accommodate, allow or permit storage, impoundment, drainage, movement and flow of waters of Lakes Oliver and Cochrane pursuant to the stated PURPOSES and according to any and all plans and specifications of the GRANTEE.

It is further agreed that during the term of this AGREEMENT and in accordance with said plans and specifications, GRANTEE shall have the incidental rights and privileges on all PROPERTY OF GRANTOR to excavate, dig, remove, fill or otherwise manipulate the land; and move or remove any obstructions in the furtherance of the construction, installation, maintenance or repair of facilities, structures and improvements placed thereon. Further, GRANTEE may use additional areas of PROPERTY OF GRANTOR deemed reasonably necessary by GRANTEE for purposes of construction of and reasonable maintenance to any improvements placed thereon.

GRANTEE agrees to exercise regular and reasonable care of any of the improvements made upon such premises and may make such changes as are found necessary for the proper construction and maintenance thereof.

It is agreed that all areas utilized by GRANTEE for purposes of this AGREEMENT shall be graded and restored as near as is practicable in the construction and maintenance of improvements and left in a good, workmanlike manner and that GRANTOR shall not construct improvements on or in any way obstruct the Twelve (12) Foot exclusive easement and authorizations granted to GRANTEE.

This AGREEMENT shall be binding upon and shall inure to the benefit of the GRANTOR and GRANTEE and their successors in interest and assigns, shall run with the land and pass with any conveyance or transfer thereof as an easement appurtenant thereto. This AGREEMENT shall be construed as a covenant running with PROPERTY OF GRANTOR.

Michael C. Wengler
MICHAEL C. WENGLER, GRANTOR

Executed on Feb. 11, 1997.

Laurel A. Wengler
LAUREL A. WENGLER, GRANTOR

Executed on Feb 11, 1997.

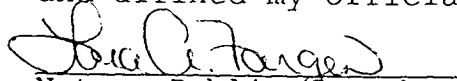
John Cooper
STATE OF SOUTH DAKOTA by JOHN
COOPER, Secretary of Game, Fish
and Parks, GRANTEE

Executed on Feb 28, 1997.

State of South Dakota
County of Brookings SS

On this 11th day of February, 1997, before me, the undersigned Notary Public for the State of South Dakota, personally appeared MICHAEL C. WENGLER, known to me to be the

person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same for the purposes stated therein. IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal this day.


Notary Public for the
State of South Dakota

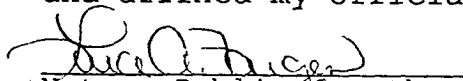
NOTARY SEAL

My Commission Expires on 7/31/97.

State of South Dakota
SS

County of Brookings

On this 11th day of February, 1997, before me, the undersigned Notary Public for the State of South Dakota, personally appeared LAUREL A. WENGLER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same for the purposes stated therein. IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal this day.


Notary Public for the
State of South Dakota

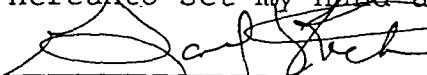
NOTARY SEAL

My Commission Expires on 7/31/97.

State of South Dakota
SS

County of Hughes

On this 28th day of Feb, 1997, before me, the undersigned Notary Public for the State of South Dakota, personally appeared JOHN COOPER, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same for the purposes stated therein as Secretary of the Department of Game, Fish and Parks of the State of South Dakota. IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal this day.


Notary Public for the
State of South Dakota

NOTARY SEAL

My Commission Expires on July 18, 2001.

Document (WENGLER1.WP) prepared by:
Gary L. Richter
Department of Game, Fish and Parks
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752

AGREEMENT AND GRANT OF EASEMENTS

This AGREEMENT AND GRANT OF EASEMENT is made by and between the DEUEL COUNTY NATIONAL BANK of Clear Lake, South Dakota and LEE CLEVELAND and VIVIAN CLEVELAND, husband and wife, hereafter referred to as GRANTOR; and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks acting through its Secretary, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as STATE.



RECITALS

WHEREAS, GRANTORS are the owners of real property situated in Deuel County, South Dakota and described as:

North Half of the Southeast Quarter (N1/2SE1/4) and the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4), and Lot One (1), all in Section Thirty Three (33), Township One Hundred Fifteen (115) North, Range Forty Seven (47), West of the 5th PM, Deuel County, South Dakota, less Lot H1 therein; and

WHEREAS, GRANTOR's said property is immediately adjacent to and contiguous to Lake Oliver; and

WHEREAS, STATE desires to obtain and GRANTOR agrees to establish, grant, convey to STATE a nonexclusive permanent easement on certain property of GRANTOR for the purpose of facilitating the ability of the STATE, the State of South Dakota, or any other entity to permanently maintain the water outlet elevation of Lake Oliver in excess of its ordinary high water mark (OHWM) of 1,683.6 feet msl as established by the South Dakota Water Management Board; and

WHEREAS, GRANTOR and STATE acknowledge and agree that maintaining and impounding water in Lake Oliver at an

elevation in excess of its established OHWM will, at various and uncertain times and lengths of duration, impound water on and over a portion of the above described property of GRANTOR.

NOW, THEREFORE, GRANTOR and STATE, upon condition that the STATE is able to obtain all easements that are necessary to commence work on a Lake Oliver permanent Outlet Control and Waterway System and elects to proceed thereon and upon tender of payment of \$3,432 by STATE to GRANTOR, covenant and agree as follows:

1. Agreement and Grant of Easement. GRANTOR establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement over and on a portion of the above described property of GRANTOR that is necessary in all flood events to accept impoundment and flowage of water which may accumulate over GRANTOR's property resulting from construction of facilities on and between Lake Oliver and Lake Cochrane which enables and permits impoundment of water in Lake Oliver above its OHWM with the outlet elevation design of the structures which may be constructed to be at least 1,685 feet msl during the entire duration of this easement which will be part of the public waters of the State.

2. Agreement and Grant of Access. GRANTOR further establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement and right-of-way for public access and use upon, through and over a portion of the above

described property of GRANTOR which is described as that property of GRANTOR which lies between the water's edge of Lake Oliver and to a point fifteen (15) feet landward from the contour of property of GRANTOR which is adjacent to Lake Oliver at an elevation of 1,685 feet msl.

3. Commencement of Easement. The parties agree that this Easement shall commence at any time provided all conditions precedent to this Easement have been satisfied.

4. Release of liability. GRANTOR releases the STATE and the State of South Dakota and any of their officers, employees, representatives, and assigns from any and all liability which may occur due to any of their acts or conduct arising from the Easement contained herein and doing any damage to said property.

5. Binding Effect. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The unenforceability of any provision contained in this easement shall not affect or impair the validity of any other provision of this easement.

IN WITNESS WHEREOF, the GRANTOR and STATE have executed this Easement as of the day affixed hereto.

GRANTOR:

Lee Cleveland executed this 10th day of February, 1997.

William Cleveland executed this 10th day of February, 1997.

Roger A. Berge
Deuel County National Bank this 10th day of February, 1997.

STATE:

By [Signature] executed this 25 day of FEB, 1997.
Its Secretary

STATE OF Deuel SD SS
COUNTY OF Deuel

On this the 10 day of February, 1997, before me, the undersigned officer, personally appeared Lee Cleveland and Vivian Cleveland, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

[Signature]
Notary Public, _____

NOTARY SEAL

My Commission expires: 7-27-2004

STATE OF SD SS
COUNTY OF Deuel

On this the 10 day of February, 1997, before me, the undersigned officer, personally appeared Roger Berge, who acknowledged himself to be the Branch Mgr. of the Deuel County National Bank, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

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

[Signature]
Notary Public, _____

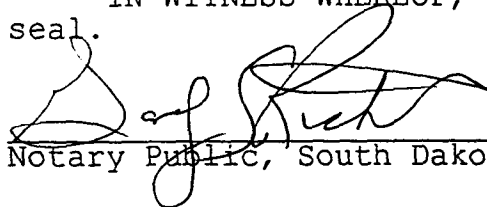
NOTARY SEAL

My Commission expires: 7-27-2004

STATE OF SOUTH DAKOTA
SS
COUNTY OF HUGHES

On this the 25th day of February, 1997, before me, the undersigned officer, personally appeared John Cooper, who acknowledged himself to be the Secretary of the Department of Game, Fish and Parks, and that he, as such Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

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


Notary Public, South Dakota

NOTARY SEAL

My Commission expires: 7-18-2001

This Document (OLIVER3.WP) was prepared by:
Gary L. Richter
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752

AGREEMENT AND GRANT OF EASEMENTS

This AGREEMENT AND GRANT OF EASEMENT is made by and between JOHN R. LAIR and KAREN J. LAIR, husband and wife, hereafter referred to as GRANTOR: and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks acting through its Secretary, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as STATE.



RECITALS

WHEREAS, GRANTOR is the owner of real property situated in Deuel County, South Dakota and described as:

Northwest Quarter (NW1/4) and Lots Two (2) and Three (3), Section Thirty-Three (33), Township One Hundred Fifteen (115) North, Range Forty-Seven (47), West of the 5th PM, Deuel County, South Dakota; and

WHEREAS, GRANTOR's said property is immediately adjacent to and contiguous to Lake Oliver; and

WHEREAS, STATE desires to obtain and GRANTOR agrees to establish, grant, convey to STATE a nonexclusive permanent easement on certain property of GRANTOR for the purpose of facilitating the ability of the STATE, the State of South Dakota, or any other entity to permanently maintain the water outlet elevation of Lake Oliver in excess of its ordinary high water mark (OHWM) of 1,683.6 feet msl as established by the South Dakota Water Management Board; and

WHEREAS, GRANTOR and STATE acknowledge and agree that maintaining and impounding water in Lake Oliver at an elevation in excess of its established OHWM will, at various and uncertain times and lengths of duration, impound water on

and over a portion of the above described property of GRANTOR.

NOW, THEREFORE, GRANTOR and STATE, upon condition that the STATE is able to obtain all easements that are necessary to commence work on a Lake Oliver permanent Outlet Control and Waterway System and elects to proceed thereon and upon tender of payment of \$5,544 by STATE to GRANTOR, covenant and agree as follows:

1. Agreement and Grant of Easement. GRANTOR establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement over and on a portion of the above described property of GRANTOR that is necessary in all flood events to accept impoundment and flowage of water which may accumulate over GRANTOR's property resulting from construction of facilities on and between Lake Oliver and Lake Cochrane which enables and permits impoundment of water in Lake Oliver above its OHWM with the outlet elevation design of the structures which may be constructed to be at least 1,685 feet msl during the entire duration of this easement which will be part of the public waters of the State.

2. Agreement and Grant of Access. GRANTOR further establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement and right-of-way for public access and use upon, through and over a portion of the above described property of GRANTOR which is described as that property of GRANTOR which lies between the water's edge of

Lake Oliver and to a point fifteen (15) feet landward from the contour of property of GRANTOR which is adjacent to Lake Oliver at an elevation of 1,685 feet msl.

3. Commencement of Easement. The parties agree that this Easement shall commence at any time provided all conditions precedent to this Easement have been satisfied.

4. Release of liability. GRANTOR releases the STATE and the State of South Dakota and any of their officers, employees, representatives, and assigns from any and all liability which may occur due to any of their acts or conduct arising from the Easement contained herein and doing any damage to said property.

5. Binding Effect. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The unenforceability of any provision contained in this easement shall not affect or impair the validity of any other provision of this easement.

IN WITNESS WHEREOF, the GRANTOR and STATE have executed this Easement as of the day affixed hereto.

GRANTOR:

John R. Lair executed this 10 day of Feb., 1997.
J. Karen J. Lair executed this 10 day of Feb., 1997.

STATE:

By John Blagden executed this 25 day of FEB, 1997.
Its Secretary

STATE OF MINN.

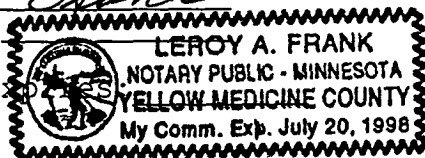
COUNTY OF YELLOW MEDICINE ^{SS}

On this the 10th day of FEB., 1997, before me, the undersigned officer, personally appeared John R. Lair and Karen J. Lair, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

Leroy A. Frank
Notary Public,

My Commission expires



NOTARY SEAL

STATE OF SOUTH DAKOTA

^{SS}

COUNTY OF HUGHES

On this the 25th day of February, 1997, before me, the undersigned officer, personally appeared John Cooper, who acknowledged himself to be the Secretary of the Department of Game, Fish and Parks, and that he, as such Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

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

Gary L. Richter
Notary Public, South Dakota

NOTARY SEAL

My Commission expires: 7-18-2001

This Document (OLIVER2.WP) was prepared by:
Gary L. Richter
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752

AGREEMENT AND GRANT OF EASEMENT



This AGREEMENT AND GRANT OF EASEMENT is made by and between DEUEL COUNTY by its lawfully constituted Board of County Commissioners acting through its Chairman pursuant to a valid Resolution, whose address is Deuel County Courthouse, Clear Lake, South Dakota 57226, hereafter referred to as GRANTOR; and the STATE OF SOUTH DAKOTA by and through the Department of Game, Fish and Parks acting through its Secretary, whose address is 523 East Capitol, Pierre, South Dakota 57501, hereafter referred to as STATE.

RECITALS

WHEREAS, GRANTOR has the authority to control and manage it property and the public highways by, between, or adjacent to Lakes Oliver and Cochrane in Deuel County, South Dakota on property described as:

Section Four (4), Township One Hundred and Fourteen (114) North, Range Forty-seven (447) West of the 5th PM;
and

WHEREAS, GRANTOR's property and roads are in the general vicinity of and adjacent to or contiguous to Lake Oliver; and

WHEREAS, STATE desires to obtain and GRANTOR agrees to establish, grant, and convey to STATE a nonexclusive permanent easement on certain property and roads of GRANTOR and release of liability for the purpose of facilitating the ability of the STATE, the State of South Dakota, or any other entity to permanently maintain the water outlet elevation of Lake Oliver in excess of its ordinary high water mark (OHWM) of 1,683.6 feet msl as established by the South Dakota Water

Management Board; and

WHEREAS, GRANTOR and STATE acknowledge and agree that maintaining and impounding water in Lake Oliver at an elevation in excess of its established OHWM will, at various and uncertain times and lengths of duration, impound water on and over a portion of the above described property and roads of GRANTOR.

NOW, THEREFORE, GRANTOR, in consideration of receipt of \$1 and other valuable consideration, and STATE declare, covenant and agree as follows:

1. Agreement and Grant of Easement. GRANTOR establishes, grants, and conveys to the STATE and public a nonexclusive perpetual easement over and on a portion of the above described property and roads of GRANTOR that is necessary in all flood events to accept impoundment and flowage of water which may accumulate over GRANTOR's property and roads resulting from construction of facilities on and between Lake Oliver and Lake Cochrane which enables and permits impoundment of water in Lake Oliver above its OHWM with the outlet elevation design of the structures which may be constructed to be at 1,685 feet msl during the entire duration of this easement which will be part of the public waters of the State.

2. Release of liability. GRANTOR releases the STATE and the State of South Dakota and any of their officers, employees, representatives, and assigns from any and all liability which may occur due to any of their acts or conduct

arising or resulting from the easement contained herein and doing any damage to said roads, property and right of ways.

3. Binding Effect. The covenants, agreements and obligations herein contained shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The unenforceability of any provision contained in this easement shall not affect or impair the validity of any other provision of this easement.

4. Effective Date. The effective date shall be the date upon which this easement is signed by GRANTOR and delivered to the STATE.

IN WITNESS WHEREOF, the GRANTOR and STATE have executed this easement as of the day affixed hereto.

GRANTOR

Maryn Amundson executed this 10 day of February 1997.
Its Chairman

ATTEST: Paul L. Darden
County Auditor

STATE

By John H. Logan executed this 25 day of FEB, 1997.
Its Secretary

STATE OF SOUTH DAKOTA

SS

COUNTY OF DEUEL

On this the 10 day of February, 1997, before me, the undersigned officer, personally appeared Sam L. Jaden and Marianne Grundson, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged to me they executed the same for the purposes therein stated as Board Chairman and County Auditor.

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

Rolanne Runkle
Notary Public, South Dakota

NOTARY SEAL

My Commission expires: Oct. 16, 2000

STATE OF SOUTH DAKOTA

SS

COUNTY OF HUGHES

On this the 25th day of February, 1997, before me, the undersigned officer, personally appeared John J. Logan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged to he executed the same for the purposes therein stated as Secretary of South Dakota Department of Game, Fish and Parks.

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

Gary L. Richter
Notary Public
South Dakota

NOTARY SEAL

My Commission expires: 7-18-2007

This Document (OLIVER.WP) was prepared by:

Gary L. Richter
523 East Capitol
Pierre, South Dakota 57501
(605) 773-4752



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 1997

Canby News
P.O. Box 129
Canby, MN 56220

**SUBJECT: Department of Game, Fish and Park's Flood Control Permit Application for
Outlet Structure at Lake Oliver, Deuel County, SD**

The Canby News has published articles regarding the water issues at Lake Cochrane and Lake Oliver; therefore, I am sending the enclosed notice of hearing on Flood Control Application No. FC-23 for your information. Please use this information as you feel appropriate to inform your readers. I am not requesting that the Canby News publish all or any part of this enclosure as a legal notice.

The enclosed notice of hearing schedules an April 29, 1997, hearing before the Water Management Board. The procedure for filing a petition is contained in the enclosed notice of hearing. Publication of the notice of hearing will occur April 2 and 9, 1997, in the Clear Lake Courier, Deuel County, SD.

Lake Cochrane Association's pending Flood Control Permit Application No. FC-21 to divert Lake Oliver outflow around Lake Cochrane is expected to be withdrawn from consideration at the time of the hearing on Application No. FC-23.

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

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



March 31, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**TO: Lake Cochrane, Lake Oliver and Downstream Property Owners
Other Interested Parties**

SUBJECT: Department of Game, Fish and Park's Flood Control Permit Application

The Department of Game, Fish and Park's has filed a flood control permit application for an outlet works for Lake Oliver in Deuel County. The outlet works is to be managed to allow Lake Oliver waters to be held above the established outlet elevation under specific operating criteria. The purpose of the application is to allow seasonal storage of water on private land and Deuel County land around Lake Oliver to address water quality concerns. The enclosed notice of hearing schedules an April 29, 1997, hearing before the Water Management Board. Publication of the notice of hearing will occur April 2 and 9, 1997, in the Clear Lake Courier.

Lake Cochrane Association's pending Flood Control Permit Application No. FC-21 to divert Lake Oliver outflow around Lake Cochrane is expected to be withdrawn from consideration at the time of the hearing on Application No. FC-23.

If you wish to participate in the April 29, 1997, hearing to support or oppose Application No. FC-23, a petition to intervene must be filed by April 21, 1997. The procedure for filing a petition is contained in the enclosed notice of hearing.

If you would like a copy of the staff report or have any questions, please contact Gale Selken or myself at (605) 773-3352.

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

STUART ALMOS
PO BOX 872
CLEAR LAKE, SD 57226

MARVIN AMUNDSON
DEUEL COUNTY COMMISSIONER
RR 1, BOX 223
CLEAR LAKE, SD 57226

SELMER ANDERSON
RR 1, BOX 179A
CLEAR LAKE, SD 57226

JOYCE ATKIN
GARY, SD 57237

ADRIANA BATES
725 6TH AVE.
BROOKINGS, SD 57006

DAROLD AND PEGGY BAUMAN
RR 1, BOX 168
GARY, SD 57237

WILLIS BEECHER, CHAIRMAN
BOARD OF MANAGERS
LAC QUI PARLE - YELLOW BANK
WATERSHED DISTRICT
RR 1, BOX 81
CANBY, MN 56220

LORI V. BENZ
RR 1, BOX 404
GARY, SD 57237

SHERWOOD AND ELIZABETH BERG
808 CHRISTINE AVE. #301
BROOKINGS, SD 57006

STEPHEN AND CATHERINE BILLION
1510 CARTER PLACE
SIOUX FALLS, SD 57105

DOUG ALVINE
DEPARTMENT OF GAME, FISH & PARKS
400 W. KEMP
WATERTOWN, SD 57201-3457

GORDON ANDERSON
RR 1, BOX 78
ASTORIA, SD 57213

LARRY AND JANET ANSEEUW
RT 1, BOX 230-5
GARY, SD 57237

LEANNE BARTHLE
907 N. SPRING
SIOUX FALLS, SD 57104

JOHN AND CHAR BAUER
302 W. 6TH ST., BOX 31
ELKTON, SD 57026

MARIANNE BEEBOUT
RR 1, BOX 213
GARY, SD 57237

AL BENDER, STATE CLIMATOLOGIST
WATER RESOURCES INSTITUTE, SDSU
BROOKINGS, SD 57007

DONALD AND ELLEN BERG
1900 OLWIEN ST.
BROOKINGS, SD 57006

VIOLET BIEVER
PO BOX 104
OELRICHS, SD 57763

SUSAN E. BOETTCHER
708 4TH ST., APT. 3
BROOKINGS, SD 57006-2155

ROY BOSCHKEE
23801 GOLDEN HILLS DR.
RAPID CITY, SD 57701-9295

LESLIE BOSTIC
2200 W. 39TH ST.
SIOUX FALLS, SD 57105

OSCAR BREN
DEUEL COUNTY COMMISSIONER
PO BOX 36
ASTORIA, SD 57213

RANDY BROWN, 8WM-GW
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**RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL PERMIT
APPLICATION NO. FC - 23, SD Department of Game, Fish and Parks**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Flood Control Permit Application No. FC-23, SD Department of Game, Fish and Parks, c/o John Cooper, Secretary, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501.

The Chief Engineer is recommending APPROVAL of Application No. FC - 23 because 1) the project will not increase the likelihood or severity of flood damages downstream, 2) necessary easements have been obtained for seasonal storage of water on private land and Deuel County land around Lake Oliver, 3) the project will not endanger human life or property, 4) the project will not impair existing water rights, and 5) it is in the public interest because seasonal storage of water, above the outlet elevation 1,683.6 fmsl, through operation of the outlet structure will restrict Lake Oliver water from flowing into Lake Cochrane during months when algae blooms may occur, and under specific operating criteria will have a positive affect on Lake Cochrane water quality with the following qualifications:

1. Flood Control Permit No. FC-23 is subject to operation of the control structure as follows,
 - ⇒ October 16 through June 14 - the control structure will remain open to lower the Lake Oliver water level to the established outlet elevation of 1,683.6 fmsl.
 - ⇒ June 15 through October 15 - the control structure will be closed and Lake Oliver water will be stored up to an elevation of 1,685.0 fmsl.
 - ⇒ When the elevation of 1,685.0 fmsl is reached, water will spill uncontrolled over the weir. If a precipitation event occurs during June 15 through October 15 that causes flow over the weir to reach an elevation of 1,685.3 fmsl, the control structure will be opened until Lake Oliver attains an elevation of 1,684.3 fmsl.
2. The South Dakota Department of Game, Fish and Parks is responsible for operation and maintenance of the control structure.

See report on application for additional information.



JOHN HATCH, Chief Engineer
March 31, 1997

FLOOD CONTROL APPLICATION FC-23
SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS
LAKE OLIVER OUTLET
MARCH 17, 1997

Flood Control Application No. FC-23 has been submitted by the Department of Game, Fish and Parks to provide outlet works for Lake Oliver, Deuel County. The purpose of the application is to allow the seasonal storage of water on private land and Deuel County land around Lake Oliver to address water quality concerns. This will be accomplished by restricting Lake Oliver water from entering Lake Cochrane during months when algae blooms may occur.

In 1995, the Water Management Board established the elevation for Lake Oliver outlet at 1683.6 feet mean sea level. The Board also determined that the outlet location for Lake Oliver is located in the NW1/4 of Section 4, T114N-R47W near fire location 162 on property currently owned by Mike and Laurel Wengler. During the hearing before the Board in 1995, the water quality of Lake Oliver verses the water quality of Lake Cochrane was a major issue. Flood Control Application No. FC-23 proposes to allow seasonal storage of waters on lands around Lake Oliver to address the potential water quality issue while still allowing the installation of the outlet works from Lake Oliver to Lake Cochrane.

The applicable statutes regarding this issue are:

SDCL 46-2A-11 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 benefited, 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 benefited, the project will not endanger human life or property and the project will not impair existing water rights, except to the extent that such rights are extinguished or compensated through agreement or exercise of the power of eminent domain.

SDCL 46-5-47 No person may construct facilities on any watercourse to control floods for the purpose of preventing or alleviating damage without a permit issued pursuant to the procedure contained in chapter 46-2A. The permit may be approved subject to conditions deemed necessary, including, but not limited to, conditions to safeguard water supplies for existing water permits and licenses, to assure the safety of works and to prevent damage to property. No person may construct works in a manner not approved in the permit for those works. This section applies only to watercourses whose flow exceeds that of a dry-draw as defined in subdivision 46-1-6 (8).

Flood Control Application FC-23 proposes to install a control structure with a overflow weir to allow water to flow from Lake Oliver to Lake Cochrane under certain conditions. The control structure will have a bottom elevation of 1683.6 fmsl (established outlet elevation) and under the proposed operation plan will remain opened during the period 16 October to 14 June. During the period of 15 June to 15 October when the waters of Lake Oliver may experience algae blooms the gate will remain closed and water will be stored until an elevation of 1685.3 feet is reached.

When the water level reaches an elevation of 1685.0 feet water will spill uncontrolled over the weir. In the event that summer rains raise the water level of Lake Oliver to 1685.3 or above, the water will be lowered to 1684.3 fmsl through the gate structure. The 1685.3 elevation is above the ordinary high water mark elevation of 1684.3 feet mean sea level. The Department of Game, Fish and Parks has obtained easements from all individuals owning land around Lake Oliver to allow for the seasonal storage of water. In addition, the Department of Game, Fish and Parks has obtained an easement from Mr. and Mrs. Wengler to install the outlet works across their property from Lake Oliver to Lake Cochrane.

The actual design of the outlet location will not be determined until some time in the future. There are three proposed outlet designs (see attachments), the final outlet design will depend on financial considerations. In all cases the termination point of the piping will be through the Wengler property.

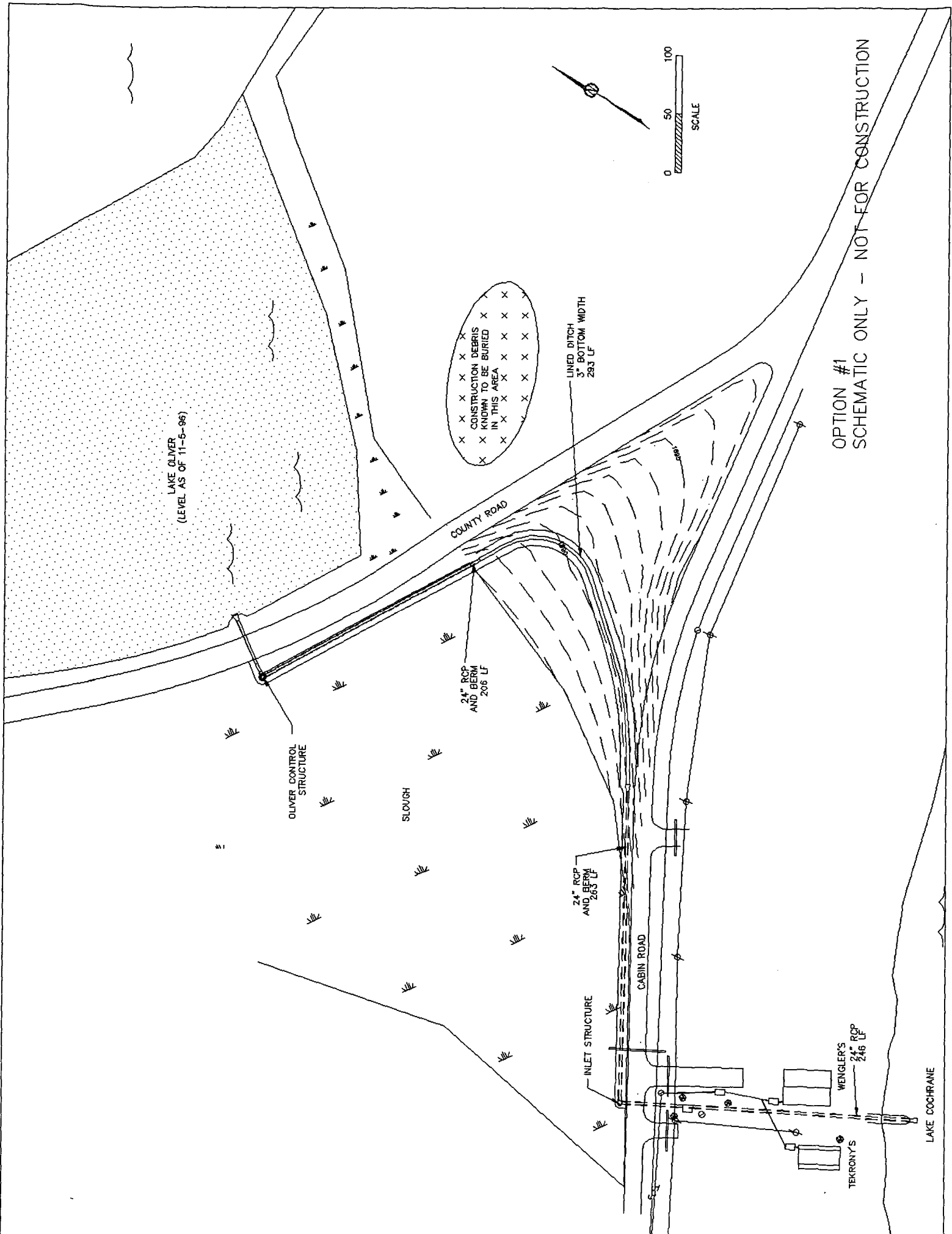
The Department of Game, Fish and Parks personnel will be responsible for the operation and control of the outlet control structure.

CONCLUSIONS:

1. The Department of Game, Fish and Parks has made application through Flood Control Application FC-23 to install the control structure from Lake Oliver to Lake Cochrane at the elevation and location established by the Water Management Board.
2. The Department of Game, Fish and Parks in order to address the potential water quality concerns has obtained easements to allow the seasonal storage of water above the outlet elevation of Lake Oliver during periods when the potential water quality of Lake Oliver may impact the water quality of Lake Cochrane.
3. Easements have been obtained from all land owners having lands that could be affected by the storing of waters in Lake Oliver above the ordinary high water mark.
4. The project meets the requirements of SDCL 46-2A-11 and 46-5-47, is feasible and will address the water quality issues while still allowing the installation of the outlet control structure for Lake Oliver.
5. The Department of Game, Fish and Parks will be responsible for the operation and control of the outlet works.



Gale N. Selken P.E.
Natural Resources Engineer IV
Water Rights Program
Department of Environment and Natural Resources



OPTION #1
SCHEMATIC ONLY - NOT FOR CONSTRUCTION

LAKE OLIVER
(LEVEL AS OF 11-5-96)

SLOUGH

OUTLET CONTROL
STRUCTURE

LINED DITCH —
3' BOTTOM WIDTH
253 LF

24" RCP
AND BERM
263 LF

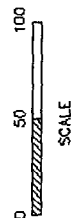
INLET STRUCTURE

CABIN ROAD

COUNTY ROAD

30" RCP
108 LF

CONSTRUCTION DEBRIS
KNOWN TO BE BURIED
IN THIS AREA



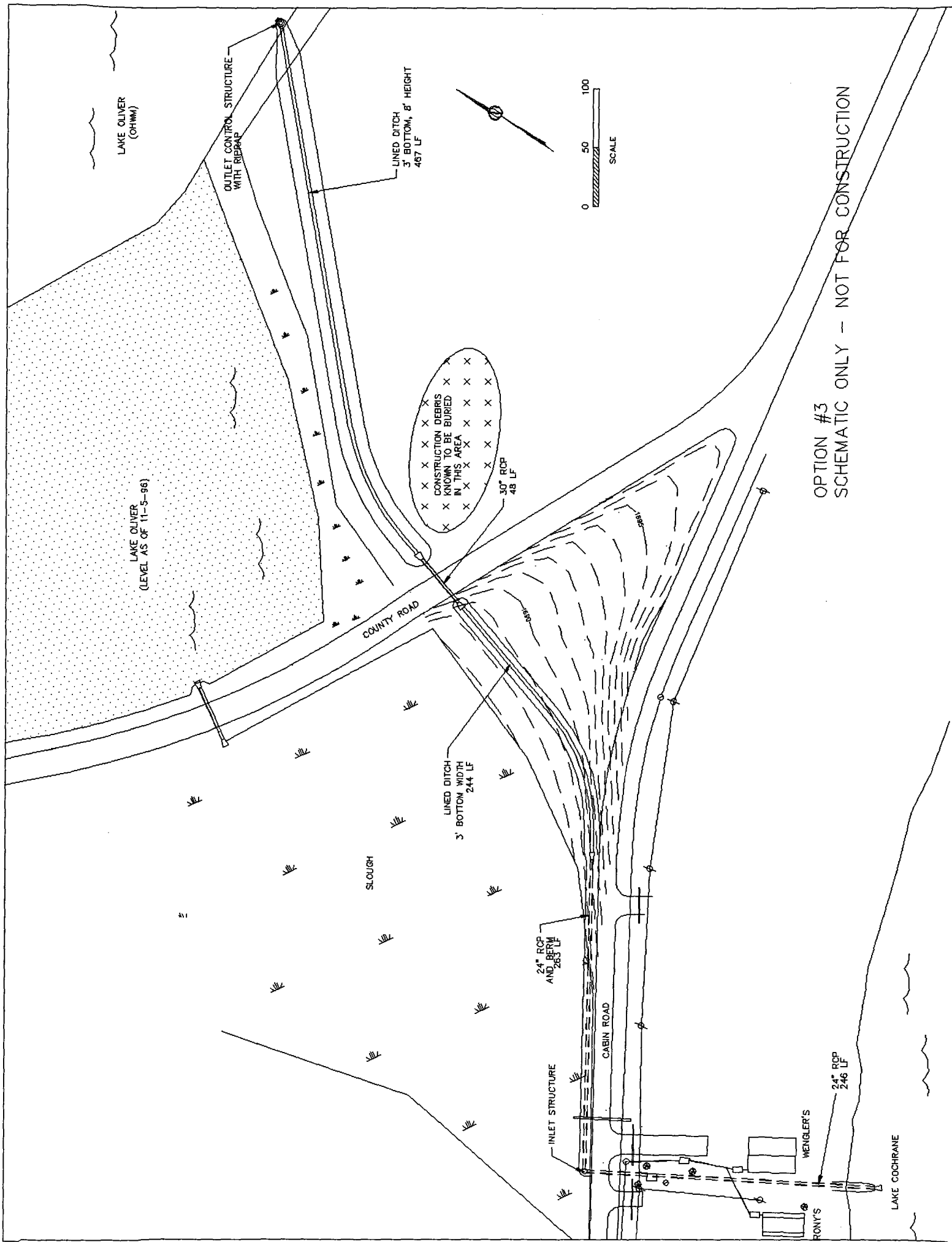
OPTION #2
SCHEMATIC ONLY — NOT FOR CONSTRUCTION

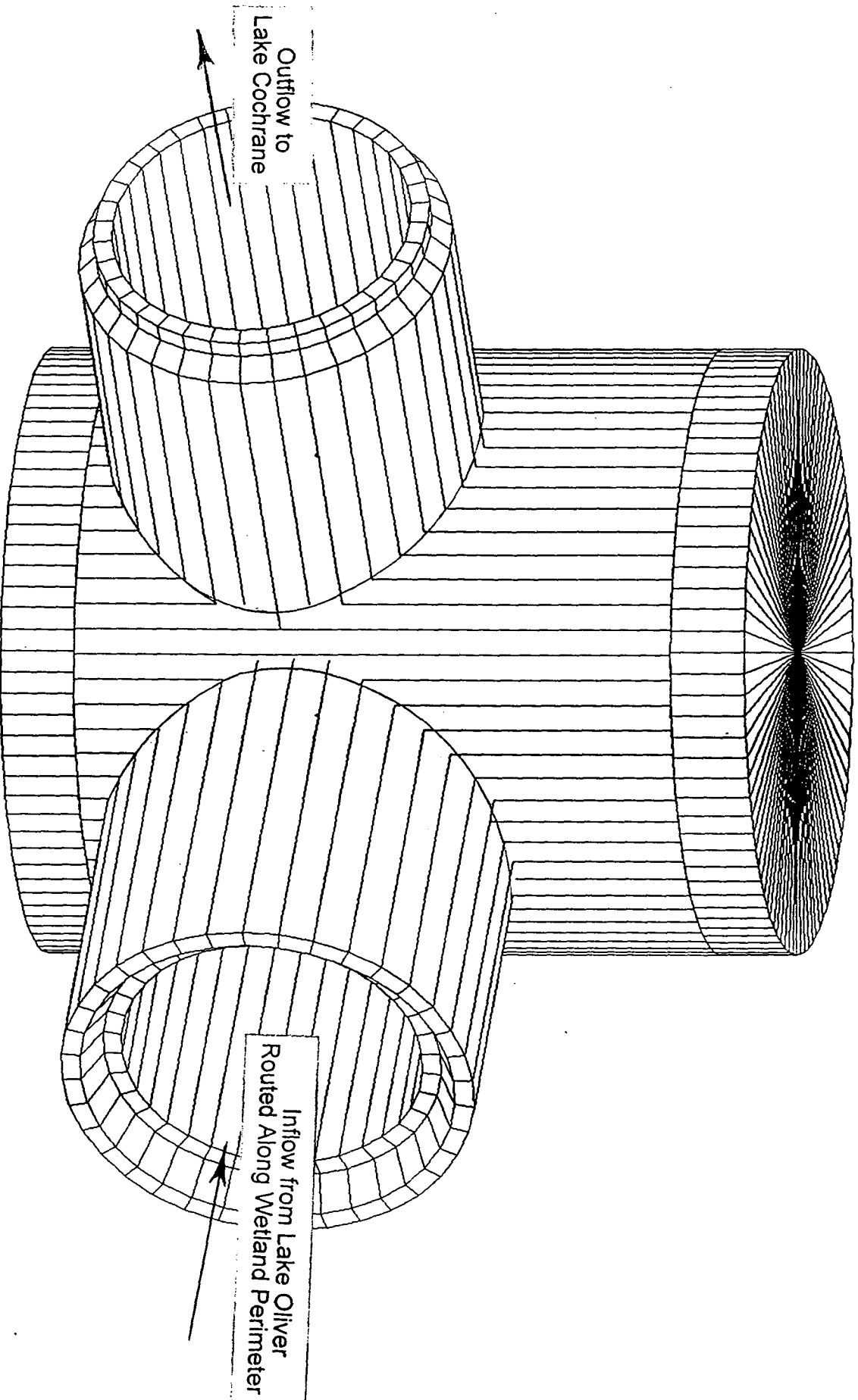
24" RCP
246 LF

WENGLER'S

TEKRONY'S

LAKE COCHRANE



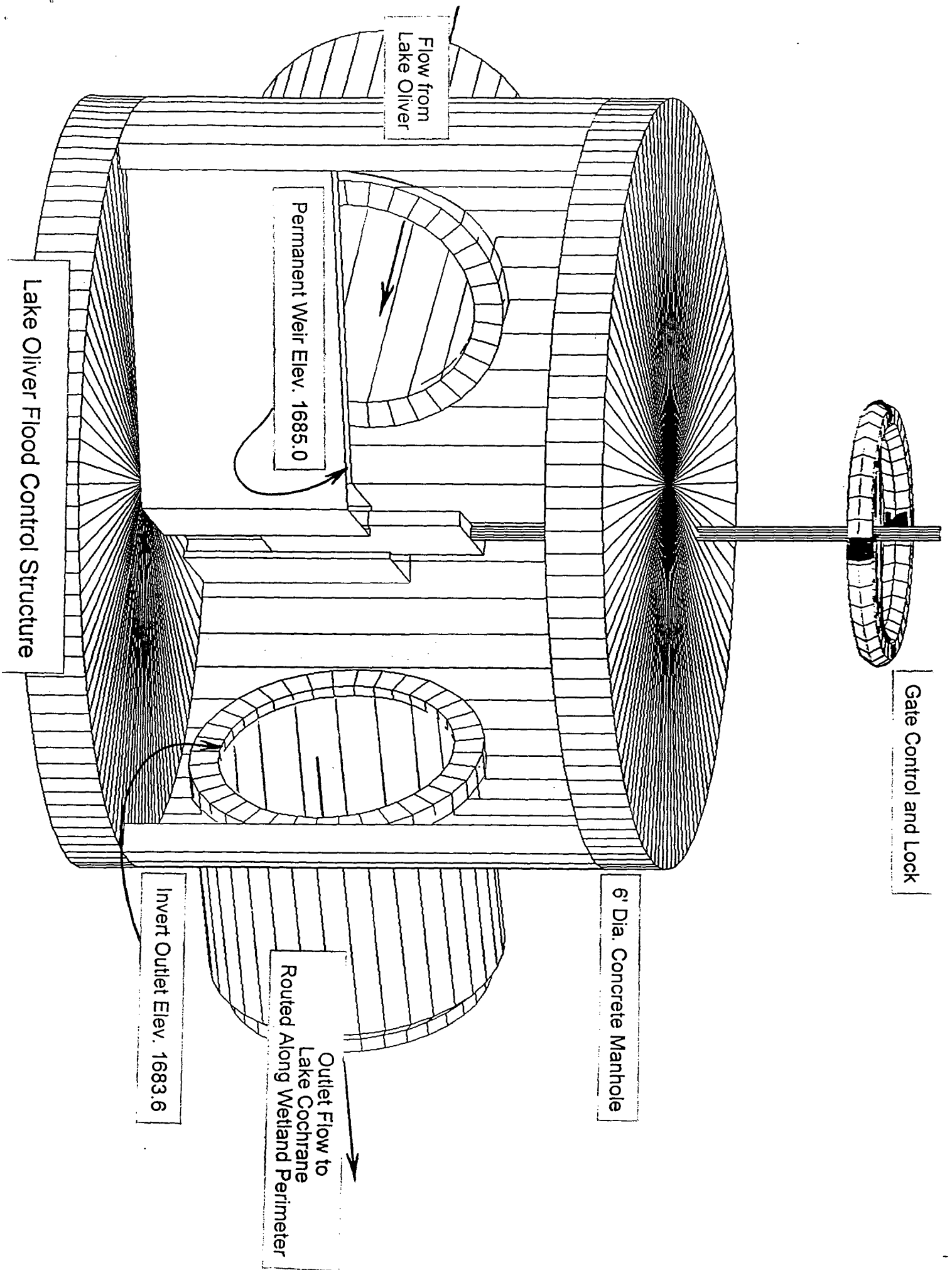


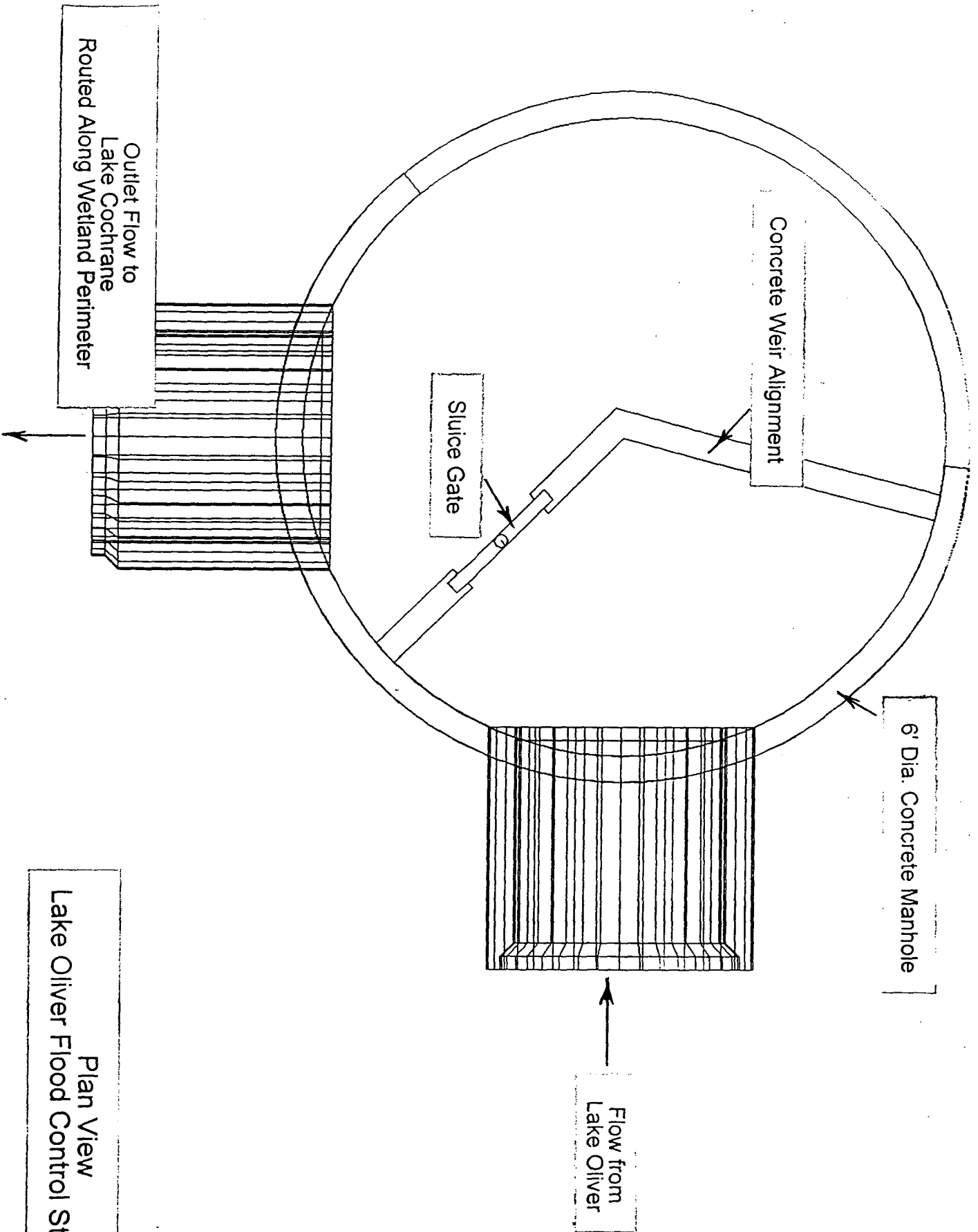
Transition Manhole - North of Cabin Road
Through Wengler's to Lake Cochrane

Provided By:

Jeffrey Deters, P.E.
Billings Eng'r. II

S.Dak. Dept. of Game, Fish & Park





Plan View
Lake Oliver Flood Control Structure

Instruction to Newspaper - Publish first Notice on April 2, 1997 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Flood Control Application No. FC-23

Notice is given that the South Dakota Department of Game, Fish and Parks, Joe Foss Building, 523 East Capitol Ave., Pierre, SD 57501 has filed an application for a flood control permit for an outlet structure for Lake Oliver in Deuel County. The outlet structure is to be operated to allow Lake Oliver waters to be held above the established outlet elevation under specific operating criteria. The purpose of the application is to allow seasonal storage of water on private land and Deuel County land around Lake Oliver to address potential water quality concerns by restricting Lake Oliver water from entering Lake Cochrane during months when algae blooms may occur.

The Water Management Board has determined that the Lake Oliver outlet is 1683.6 feet mean sea level (fmsl) at a point located in the NW1/4 Section 4, T114N, R47W near Fire Location No. 162.

Flood Control Application No. FC-23 proposes to install a control structure with a weir to control Lake Oliver flow into Lake Cochrane. **The proposed operation of the control structure and weir is:**

October 16 through June 14 - the control structure will remain open to lower the Lake Oliver water level to the established outlet elevation of 1,683.6 fmsl.

June 15 through October 15 - the control structure will be closed and Lake Oliver water will be stored up to an elevation of 1,685.0 fmsl.

When the elevation of 1,685.0 fmsl is reached, water will spill uncontrolled over the weir. If a precipitation event occurs during June 15 through October 15 that causes flow over the weir to reach an elevation of 1,685.3 fmsl, the control structure will be opened until Lake Oliver attains an elevation of 1,684.3 fmsl.

The Department of Game, Fish and Parks has obtained easements from landowners around Lake Oliver to allow for the seasonal storage of Lake Oliver water to an elevation of 1,685.0 fmsl. The maintenance and operation of the control structure will be the responsibility of the Department of Game, Fish and Parks.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. FC-23 because 1) the project will not increase the likelihood or severity of flood damages downstream, 2) necessary easements have been obtained for seasonal storage of water on private land and Deuel county land around Lake Oliver, 3) will not endanger human life or property, 4) will not impair existing water rights, and 5) is in the public interest because seasonal storage of water above the outlet elevation 1683.6 fmsl through operation of the outlet structure to restrict Lake Oliver water from flowing into Lake Cochrane during months when algae blooms may occur, and under specific operating criteria will have a positive affect on Lake Cochrane water quality.

Any person interested in opposing or supporting the 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 recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 21, 1997. 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 the application at 1:15 PM, April 29, 1997, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items. The Chief Engineer's recommendation and proposed operation of the control structure is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application based on the facts presented at the public hearing. The 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 April 21, 1997.

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 April 21, 1997, at the above Water Rights Program address to request copies of information pertaining to the application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

The 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, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-47, 46-5-48; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie Myers, Secretary, Department of Environment and Natural Resources.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

The undersigned Gary DeJong
being first duly sworn, on oath deposes and says:
That he is in charge of the advertising department of the
Clear Lake Courier; which newspaper is published by Gary
DeJong; that the Clear Lake Courier is a weekly newspaper
printed and published in Clear Lake, Deuel County, South
Dakota and the undersigned has full and personal knowledge
of all facts hereinafter stated; that said newspaper is a legal
newspaper and has a bona-fide circulation of at least two
hundred copies weekly, and has been published within said
County for fifty-two successive weeks next prior to the
publication of the notice herein mentioned, and was and is
printed wholly or in part in an office maintained at said place
of publication, that the

Notice of Hearing

a printed copy of which, taken from the paper in which the
same was printed, is attached to this sheet, and is made a
part of the Affidavit, was published in said newspaper at

least once in each week for two successive
weeks, on the day of each week on which said newspaper was
regularly published, to wit:

On Wednesday April 2, 19 97

On Wednesday April 9, 19 97

On Wednesday _____, 19 _____

On Wednesday _____, 19 _____

On Wednesday _____, 19 _____

On Wednesday _____, 19 _____

that the full amount of the fees for the publication of the

annexed notice is \$ 91.49

[Signature]

Subscribed and sworn to before me this 24

day of April, 19 97

[Signature]

Notary Public, South Dakota
Michelle Gross

My Commission Expires

My Commission Expires
January 29, 1998

NOTICE OF HEARING ON FLOOD CONTROL APPLICATION No. FC-23

Notice is given that the South Dakota
Department of Game, Fish and Parks,
Joe Foss Building, 523 East Capitol
Ave., Pierre, SD 57501 has filed an
application for a flood control permit for
an outlet structure for Lake Oliver in
Deuel County. The outlet structure is to
be operated to allow Lake Oliver waters
to be held above the established outlet
elevation under specific operating criteria.
The purpose of the application is to
allow seasonal storage of water on private
land and Deuel County land around Lake
Oliver to address potential water quality
concerns by restricting Lake Oliver water
from entering Lake Cochrane during months
when algae blooms may occur.

The Water Management Board has
determined that the Lake Oliver outlet
is 1683.6 feet mean sea level (fmsl) at a
point located in the NW1/4 Section 4,
T114N, R47W near Fire Location No.
162.

Flood Control Application No. FC-23
proposes to install a control structure
with a weir to control Lake Oliver flow
into Lake Cochrane. **The proposed
operation of the control structure
and weir is:**

October 16 through June 14 - the
control structure will remain open to
lower the Lake Oliver water level to the
established outlet elevation of 1,683.6
fmsl.

June 15 through October 15 - the
control structure will be closed and
Lake Oliver water will be stored up to an
elevation of 1,685.0 fmsl.

When the elevation of 1,685.0 fmsl is
reached, water will spill uncontrolled
over the weir. If a precipitation event
occurs during June 15 through October
15 that causes flow over the weir to
reach an elevation of 1,685.3 fmsl, the
control structure will be opened until
Lake Oliver attains an elevation of
1,684.3 fmsl.

The Department of Game, Fish and
Parks has obtained easements from
landowners around Lake Oliver to allow
for the seasonal storage of Lake Oliver
water to an elevation of 1,685.0 fmsl.
The maintenance and operation of the
control structure will be the responsibility
of the Department of Game, Fish and
Parks.

Pursuant to SDCL 46-2A-2, the Chief
Engineer recommends APPROVAL of
Application No. FC-23 because 1) the
project will not increase the likelihood
or severity of flood damages downstream,
2) necessary easements have
been obtained for seasonal storage of
water on private land and Deuel county

land around Lake Oliver, 3) will not
endanger human life or property, 4) will
not impair existing water rights, and 5)
is in the public interest because seasonal
storage of water above the outlet
elevation 1683.6 fmsl through operation
of the outlet structure to restrict
Lake Oliver water from flowing into
Lake Cochrane during months when
algae blooms may occur, and under
specific operating criteria will have a
positive affect on Lake Cochrane water
quality.

Any person interested in opposing or
supporting the 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 recommendations.
The Chief Engineer's address is "Water
Rights Program, Foss Building, 523 E
Capitol, Pierre SD 57501, (605) 773-
3352" and the applicant's mailing
address is given above. A petition filed
by either an interested person or the
applicant must be filed by April 21,
1997. 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.

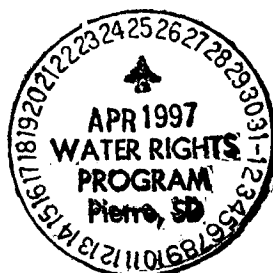
The Water Management Board will
consider the application at 1:15 P.M.,
April 29, 1997, in the Conference Room,
Floyd Matthew Training Center, Joe
Foss Building, 523 E Capitol Ave.,
Pierre SD 57501. The agenda time is an
estimate and may be delayed due to
prior agenda items. The Chief Engineer's
recommendation and proposed
operation of the control structure is not
final or binding upon the Board. The
Board is authorized to 1) approve, 2)
approve with qualifications, 3) defer, 4)
deny the application based on the facts
presented at the public hearing. The
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
April 21, 1997.

Any hearing will be an adversary proceeding.
Any person filing a petition
and/or the applicant have the right to
be presented 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
April 21, 1997, at the above Water
Rights Program address to request
copies of information pertaining to the
application, to assure access to the
hearing by the handicapped or to obtain
an interpreter for the hearing impaired.

The 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, 46-2A-20, 46-2A-
21; 46-5-1 thru 46-5-11, 46-5-13 thru
46-5-15, 46-5-24, 46-5-25, 46-5-30.2,
46-5-30.4, 46-5-31, 46-5-47, 46-5-48;
and Board Rules ARSD 74:02:01:01
thru 74:02:01:15.

Nettie Myers, Secretary
Department of Environment
and Natural Resources.

April 2 & 9





March 27, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Clear Lake Courier
Box 830
Clear Lake, SD 57226-0830

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. FC-23 to be published twice. Please publish the first notice on April 2, 1997, 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 South Dakota Department of Game, Fish and Parks, John Cooper, Secretary, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501 (Ph # (605) 773-3387).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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 Program
Joe Foss Building
Pierre SD 57501-3181

No. FC-23

Date _____

We are in receipt of your letter of 3/27/97 enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of Clear Lake Courier. 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

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

March 27, 1997

South Dakota Department of Game, Fish & Parks
John Cooper, Secretary
Joe Foss building
523 E. Capitol Ave.
Pierre, SD 57501

Dear Secretary Cooper:

Flood Control Application No. FC-23 for flood control use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Clear Lake Courier printed at Clear Lake, SD (Ph # (605) 874-2499). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

PARTIES OF RECORD

FLOOD CONTROL PERMIT APPLICATION NO. FC-23
South Dakota Department of Game, Fish and Parks

APPLICANT

John Cooper, Secretary
SD Dept. of Game, Fish and Parks
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

PETITIONERS

John and Karen Lair
413 L. Q. P. Ave.
Canby, MN 56220

Allen Van Merveren
RR 1, Box 26
Colman, SD 57017

Canby, Minnesota
April 7, 1997

To: South Dakota Dept. of Game, Fish & Parks
Joe Foss Bldg 523 East Capitol Ave.
Pierre, SD 57501

Chief Engineer, Water Rights Program
Foss Bldg. 523 E Capitol
Pierre, SD 57501

From: John R. & Karen J. Lair (by John R. Lair)
413 L. Q. P. Ave.
Canby, MN 56220



Re: Flood Control Application No. FC-23

The above captioned application received and contents noted.

We note this to be a "Flood Control Application" but addresses "water quality concerns. We have no objection to the proposed operation of the weir for the June 15 through October 15 as it included a statement to address "excess precipitation" that would give rise to a concern.

However, the October 16 through June 14 does not cover our concern for "flood control" as no flood control is written into a so called "flood control application". The necessity is there to incorporate flood control in this operation; the years of 1993 and now 1997 provides positive proof that flood control is needed.

We respectfully request that the operation of the weir include an operational statement that will provide for the storing of water in Lake Oliver at any period of time that downstream flooding is occurring. Interstate co-operation will be needed but such co-operation will enhance good will between the two states.

Thank you for the consideration of our concerns. We shall be represented at the April 29th hearing.

Respectfully submitted,
John R. & Karen J. Lair

John R. Lair
by: John R. Lair

Dept of ENVIRONMENT
And NATURAL RESOURCES
Eric Gronlund;



4/10/97

Dear Sir:

AS OWNER OF LAKE CULVER, WE ARE
ALWAYS CONCERNED ABOUT WATER MOVEMENT
IN THAT AREA.

IF YOU GO BACK TO THE MINUTES OF
THE MEETING HELD IN WATERTOWN LAST
YEAR, YOU WILL FIND THAT I WAS THE
ONE WHO PROPOSED A DAM OR A BERM
TO BE BUILT BETWEEN THE TWO LAKES.

I WOULD BE OPPOSED TO DIVERTING
WATER TO LAKE CULVER, BECAUSE ANY
WATER THAT ISN'T GOOD ENOUGH FOR
LAKE COCHRAN, WOULDN'T BE GOOD ENOUGH
FOR LAKE CULVER EITHER. THE LAKE
CULVER LAND IS FOR SALE.

Sincerely

Alan L. Mewer

RR1 BOX 26

COLMAN SD 57017



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 11 1997

South Dakota Department of Game, Fish & Parks
%John Cooper, Secretary
523 East Capitol
Pierre, SD 57501

Dear Mr. Cooper:

Enclosed is Flood Control Permit No. FC-23 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 Program
(605) 773-3352

Enclosure

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. FC - 23

I have this day, June 25, 2021, made a thorough examination of the water use system constructed by SD Dept of Game, Fish & Parks, 53E Capitol, Pierre, SD 57501 of Permit No. FC - 23, bearing the priority of February 26, 1997 authorizing the construction of an outlet structure for Lake Oliver, in Deuel County.

D. Compliance with Permit Requirements:

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

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: From the NW corner of Sec 4 T114N-R47W, 1150 ft S & 1480 ft E, Lat 44.71480 Long -96.47465, (NE1/4 NW 1/4 Sec 4).
2. All structures, wells and lands on map Y

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

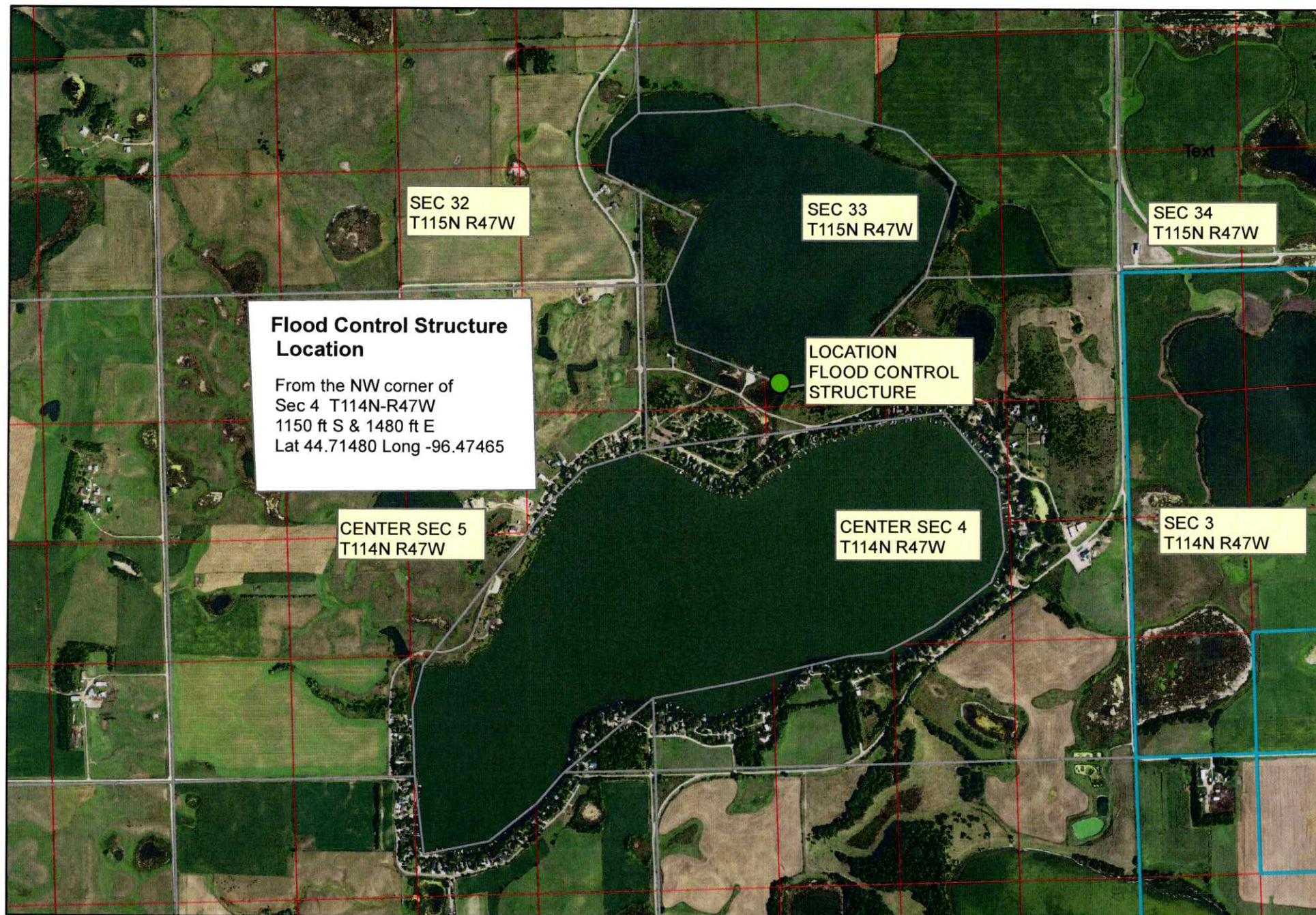
The flood control structure was inspected and found to be in very good condition. A tour of the structure with Mr. John Appelen, a local resident (303/828-6300) who is actively involved with the maintenance of the structure, was very helpful.

An FSA imagery was used for the map of the area.



Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: June 26, 2021



0 0.175 0.35 0.7 1.05 1.4 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 01 2021

FC-23

Hilary Morey
SD Dept of Game, Fish and Parks
523 E Capitol
Pierre SD 57501

Dear Ms. Morey:

Enclosed is Water License No. FC-23. This is the final water right document completing the process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. FC-23**

(1) The South Dakota Department of Game, Fish & Parks, 523 E Capitol, Pierre SD 57501 made Application No. FC-23, February 26, 1997 for a flood control permit to authorize construction of an outlet structure for Lake Oliver in Deuel County. FC-23 was approved April 29, 1997 for the purpose of allowing seasonal storage of water on private land and Deuel County land around Lake Oliver to address potential water quality concerns by restricting Lake Oliver water from entering Lake Cochrane during months when algae blooms may occur.

The Water Management Board determined the Lake Oliver outlet is 1,683.6 feet mean sea level (fmsl) at a point located in the NW ¼ Section 4, T114N, R47W near Fire location No. 162.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the flood control project. The flood control structure is located as follows:

- 1,150'S & 1,480'E of the NW corner of Section 4, T114N, R47W (NE ¼ NW ¼ Sec 4)
Latitude 44.71480, Longitude -96.47465

(3) Pursuant to South Dakota Water Law 46-5-30.1 the South Dakota Department of Game, Fish & Parks, 523 E Capitol, Pierre SD 57501 the holder and/or owner of Water Right No. FC-23 is issued a license for flood control purposes. FC-23 carries a priority date of February 26, 1997.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. FC-23 and subject to operation of the control structure as follows:

- October 16 through June 14: the control structure will remain open to lower the Lake Oliver water level to the established outlet elevation of 1,683.6 fmsl.
- June 15 through October 15: the control structure will be closed, and Lake Oliver water will be stored up to an elevation of 1,685.0 fmsl.
- When the elevation of 1,685.0 fmsl is reached, water will spill uncontrolled over the weir. If a precipitation event occurs during June 15 through October 15 that causes flow over the weir to reach an elevation of 1,685.3 fmsl, the control structure will be opened until Lake Oliver attains an elevation of 1,684.3 fmsl.
- The South Dakota Department of Game, Fish and Parks is responsible for operation and maintenance of the control structure.



Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUL 01 2021

date

