

FLOOD CONTROL PERMIT NO. FC-35

Name of Applicant: **Lake Pelican Water Project District**

Address: **PO Box 172, Watertown SD 57201** Phone: **605 882-1449**

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

Source of Water Supply: **unnamed – intermittent drainage**

Water to be used for: **flood control** County: **Codington**

Type of Waste Disposal System: **NA**

Location: **south of Lake Pelican near Watertown**

PRIORITY Date Received: **12-11-08** Application/License Fee: **\$200**

Corrected Application Received: **3-25-09** Period of Annual Use:

Remarks: **Water quality project**

Diversion Point: **NW ¼ NW ¼ Sec 14-T116N-R53W**

Land to be Irrigated: **NA**

Depth of Well: **NA**

Well Driller:

Remarks:

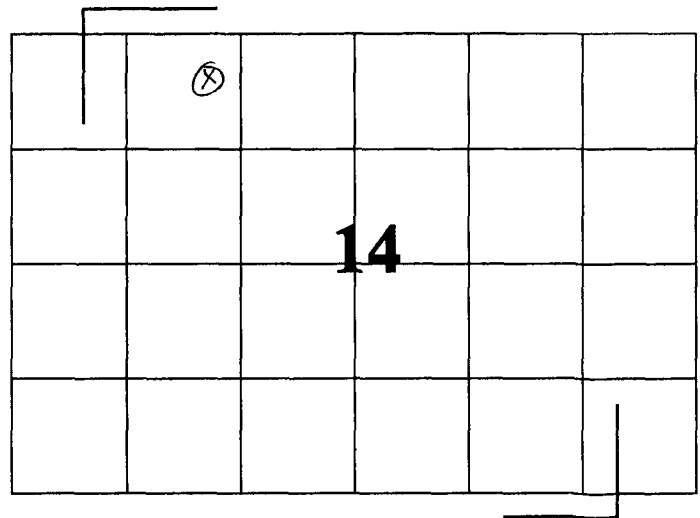
Type of Map: **aerial**

Prepared by: **Mike J Lapka, RLS**

Reviewed and the Number Assigned on: **3-26-09**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED
DEC 11 2008
WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)	
	No. <u>FC 35</u>	Hydrologic Unit <u>10170202</u>
	Basin <u>Sour River</u>	
	Newspaper <u>Public Opinion</u>	<u>PO Box 10</u> <u>Watertown 57201</u>

Application For Flood Control Permit Within The State Of South Dakota

- Name of Applicant Lake Pelican Water Project District
Address PO Box 172
(Street, RR or Box)
Watertown, SD 57201-7033 Phone No. (605) 882-1449
(City) (State) (Zip Code)
- Name of watercourse unnamed - intermittent drainage
- Location of project (e.g. SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 2-T89N-R58W)
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14-T, 116N R55W
- County or counties where project is located Codington
- 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 reports or other information that will help explain the project. (Attach sheet if more space is needed.)

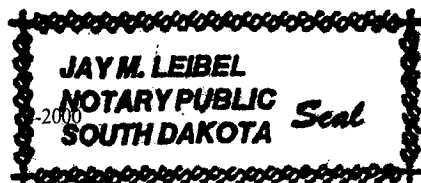
Attachment: Attach Map (see instructions)

STATE OF SOUTH DAKOTA) SS
County of Codington)

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

Signed John Egge

Subscribed and sworn to before me this 19th day of Nov. 20 08



[Signature]
Notary Public

**SOUTH DAKOTA
FLOOD CONTROL PERMIT NO. FC-35**

Date of first receipt of application December 11, 2008.

Date of return to applicant for corrections, amendments or changes December 12, 2008.

Date of receipt of corrected application September 16, 2009.

The Chief Engineer, on behalf of the Water Management Board, issues Flood Control Permit No. FC-35 to Lake Pelican Water Project District, c/o John Egge, Director, PO Box 172, Watertown SD 57201 subject to the following limitations, conditions and qualifications:

1. Flood Control Permit No. FC-35 authorizes construction of a structure designed to control the release of water for up to 36 hours to allow the suspended materials in the water to settle out. The structure is not intended to have a permanent pool of water on the upstream side. The project is located in the NW 1/4 NW 1/4 Section 14-T116N-R53W in Codington County just south of Lake Pelican.
2. A Perpetual Easement for the above mentioned property has been obtained and is on file with this permit.
3. The date of approval of Flood Control Permit No. FC-35 is October 26, 2009.
4. The date from which applicant may claim right is September 16, 2009.

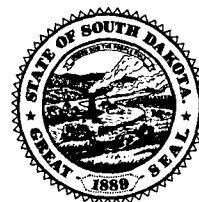
WATER MANAGEMENT BOARD

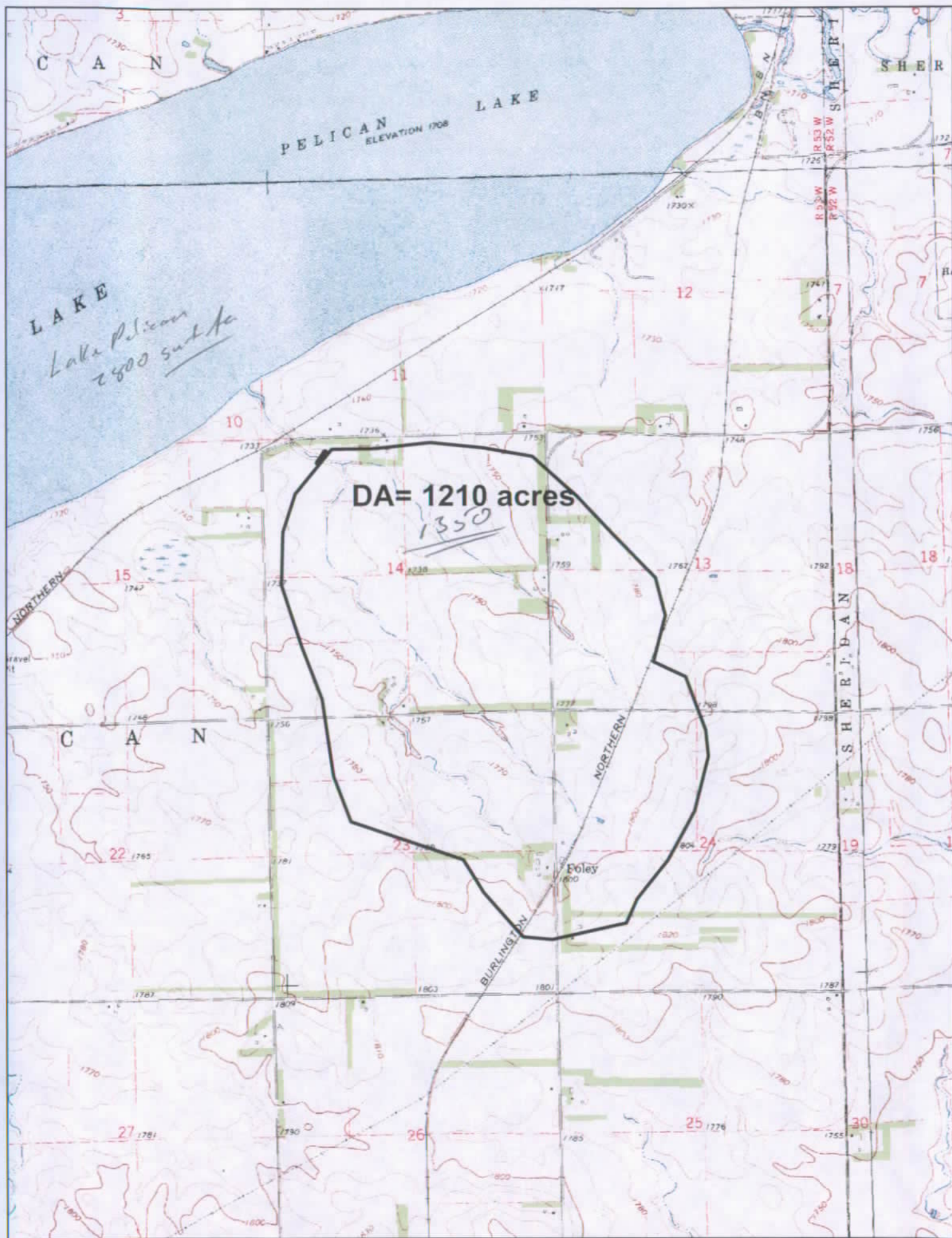
By: Garland Erbele

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

JAN 18 2010

date











RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/11, 20 08

RECEIVED OF Lake Pelican water Project Dist PO Box 172 Watertown SD 57201

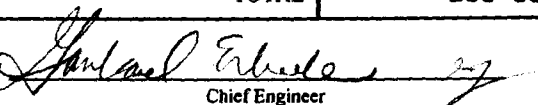
The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	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. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	200 00

No.

03812

By


Chief Engineer

Gronlund, Eric

From: Erbele, Garland
Sent: Tuesday, February 19, 2008 1:42 PM
To: Gronlund, Eric; Rath, Mark; Schaal, Tim
Subject: FW: Pelican group continues flood control project

-----Original Message-----

From: Templeton, Dave
Sent: Tuesday, February 19, 2008 1:19 PM
To: DENR SECRETARY'S OFFICE; Erbele, Garland
Subject: FW: Pelican group continues flood control project

-----Original Message-----

From: Madison, Ken
Sent: Tuesday, February 19, 2008 1:15 PM
To: Templeton, Dave; Feeney, Jim; Stueven, Gene; Nadenicek, Joe; Smith, Kim
Cc: Cofer, Jay; Pederson, Mike
Subject: Pelican group continues flood control project

PublicOpinion.com Watertown, SD
The best part of your day!

Local News

Pelican group continues flood control project

By Terry O'Keefe, Staff Writer

Published: Monday, February 18, 2008 10:33 AM CST

A group that formed in opposition to the Mahoney Creek dam project nearly a decade ago has announced the completion of its second flood control structure project.

John Egge, a member of the board of directors of the Lake Pelican Water Project District, said the most recent dam structure was completed in November south of Lake Pelican at a cost of about \$17,500. Egge said this is significant because the organization is now in a position where its study costs have been paid along with other ancillary costs for designing a very large project and is now able to move forward with physical construction of some 800 flood control structures they want to build.

After the massive flooding of 1997, the city of Watertown proposed building a large structure north of Watertown known as the Mahoney Creek Dam, something that went through three public votes before finally being approved.

By the time that was accomplished, the original price estimate of about \$25 million for the Mahoney Creek project was considered no longer valid and a new study by the U.S. Army Corps of Engineers was determined to be needed. State funding of \$5 million for the project was lost when it did not proceed on time and now the study is being done by the corps in bits and pieces.

Watertown Public Works Director Herb Blomquist said last week money has been appropriated in the 2008 federal budget to help move the study forward.

"There is \$344,000 for fiscal year 2008 to continue the study, not complete it," Blomquist said. "We'll know the final costs soon.

"But we have been doing bits and pieces over the last couple years."

Blomquist said the study is not looking solely at the Mahoney Creek project, but is doing a review of all flood control

alternatives.

The Lake Pelican group has completed its study which was done by Barr Engineering of Minneapolis, a firm they say specializes in the design and construction of small flood control structures.

The organization encompasses a large area around and north of Watertown as a taxing district which generates its revenue. Its first project was a small dam a few miles west of South Shore completed a couple of years ago. The second structure was completed in November, Egge said, and is designed to control water flow and sediment intake from approximately 1,350 acres flowing into the south side of Lake Pelican.

The Lake Pelican group has based its projects on the theory that hundreds of small flood control structures are just as effective and less intrusive than one large dam, such as the Mahoney Creek project.

"There could be as many as 800 small structures," Egge said. "But if you get 150 done, you take the head off the top."

While the process has been slow in getting off the ground since the group formed a number of years ago, Egge said construction of the structures should now speed up.

"It would be possible to see two or three a year because the surface water plan is complete and paid for," he said. "So the money we collect now will go toward (construction) projects."

"If we keep pecking at it, the high water problem goes away."

Egge said the Lake Pelican group paid about \$340,000 to Barr for its study which covered an area of roughly 200,000 acres of land.

"They (Barr) specialize in the natural approach — they make it look like Mother Nature did it," Egge said. "It works very naturally and is a watershed-wide approach that impacts a number of issues."

He said that approach contrasts with larger projects such as Oahe Dam and other large dams.

"They all silted in because they didn't do any (prior) watershed work to hold the silt back," Egge said.

Egge said although the Lake Pelican Water Project District is an entity on its own, the group is also open to working with other groups or government agencies to reach its goals.

"We have plans on the board where we could be partnering with other entities," Egge said.

Egge said the district's third structure is scheduled for construction this spring in the Waverly area.



FC32-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 13, 2008

John Egge, Board Member
Lake Pelican Water Project District
4002 20th Avenue SW
Watertown SD 57201-7033

Dear Mr. Egge:

A recent article appeared in the Watertown Public Opinion regarding the flood control project efforts of the Lake Pelican Water Project District. The article focused on the second dam structure that was completed last November and future structures planned by the District. This letter is intended to inform the District of the requirement to obtain a flood control permit for these flood control structures.

Pursuant to South Dakota Codified Law 46-5-47, a permit for flood control permit is required to construct facilities on any watercourse to control floods for the purpose of preventing or alleviating damage. Furthermore, SDCL 46-2A-11 states that the permit 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, the project will not endanger human life or property and the project will not impair existing rights. The District in their application must demonstrate that the requirements of the statute are met.

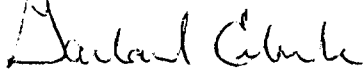
The District went through the flood control permitting process in 2002 for the first project west of South Shore. Flood Control Permit No. FC-32 obtained for this first structure is enclosed. At the time the Water Management Board considered this application, the city of Watertown intervened and filed a motion that an Environmental Impact Statement (EIS) be prepared for the project. At the time of hearing, the city's engineer illustrated that putting ill-placed detention structures within the watershed may actually increase the flooding downstream. The Board determined not to exercise its discretion to direct the preparation of an EIS at that time since the application before them was for one structure. However, they concluded that as future flood structures are planned it will be necessary to analyze the downstream flood effect of the existing and proposed structures. The Board stated if it is not possible or practicable to permit such an analysis on a step-by-step basis, they left the door open to consider a future request for an environmental impact statement.

The newspaper article states that construction of the structures should speed up. I want to take this opportunity to remind the District of the flood control permitting requirement for the project.

Enclosed are application forms to complete for the second structure already constructed and for future structures. If the project has progressed to a point where the location, design and analysis of a number of detention structures has been determined, it is possible that they can be included on one application. Construction of any detention structures may not take place until a state flood control permit and necessary easements are obtained.

If you have any questions regarding the flood control permitting requirements, please contact Eric Gronlund at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Garland Erbele".

Garland Erbele, Chief Engineer
Water Rights Program

enclosure

ARNESON, ISSENHUTH, LEIBEL & PARENT, LLP
ATTORNEYS AT LAW

THOMAS M. ISSENHUTH
JAY M. LEIBEL
PHILIP R. PARENT

205 NORTH EGAN
P.O. BOX 28
MADISON, SOUTH DAKOTA 57042-0028

TELEPHONE NO.
605-256-9161
FAX NO.
605-256-9213

December 2, 2008

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**WATER RIGHTS
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Department of Environment & Natural
Resources

Eric Gronlund
Joe Foss Building
523 E. Capitol
Pierre, South Dakota 57501

RE: Lake Pelican Water Project District

Dear Mr. Gronlund:

Enclosed please find an Application for Flood Control Permit with attachments as well as a check in the sum of \$200.00.

This is submitted with apologies in response to a letter written by Garland Erbele to the Lake Pelican Water Project District Board on March 13, 2008. I am responsible for the tardiness of this application and I personally take the blame for the delay. The Water Project District sent this to me last spring and I neglected to send it on to the Director, John Egge for his signature so it is my responsibility for it being late. This was brought to my attention recently by them and I am submitting it now for consideration.

If you have any questions please don't hesitate to contact me.

Very truly yours,

ARNESON, ISSENHUTH, LEIBEL & PARENT

By

Jay M. Leibel

JML/cd

ATTACHMENT TO FLOOD CONTROL PERMIT
QUESTION #5

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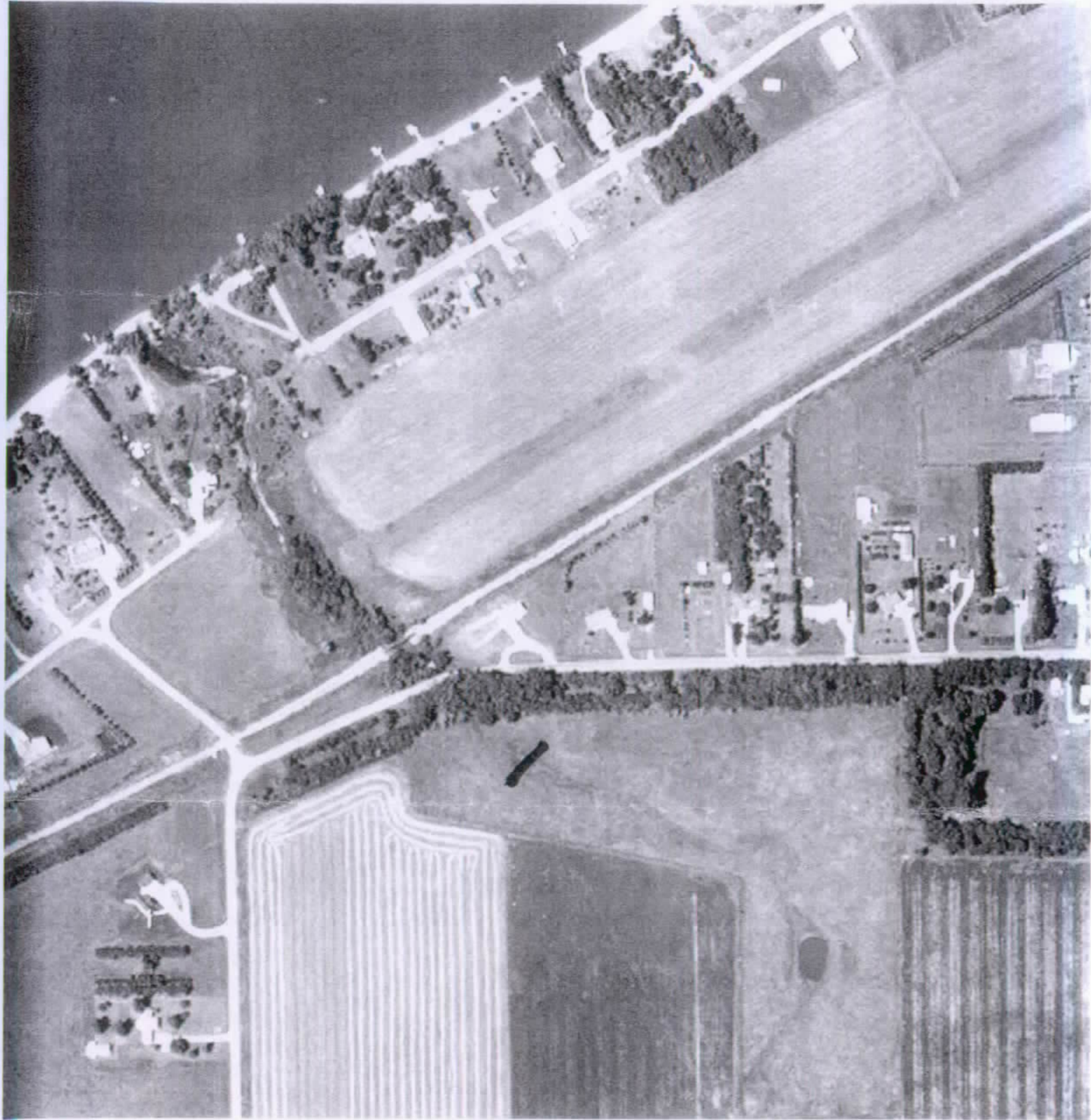
This is a water quality project designed to control the release of water for up to 36 hours which allows the suspended materials in the water to settle out.

The total length of the structure is 105 feet with 35 feet of 18 inch high perforated corrugated steel in the center. Behind this "overflow area" is a splash guard consisting of geotech filter paper covering an area of 65 feet x 20 feet. On either side is 35 feet of siding in the form of a fence.

This is a typical design used by the US Fish and Wildlife and SD Department of Game, Fish and Parks.

It is located is the Northwest Quarter of the Northwest Quarter of Section 14 of Pelican Township, Codington County, South Dakota.

CODINGTON_2004



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Scale 1:4347





Prepared By:



**Civil
Design
Inc**

Civil Engineers & Land Surveyors
Brookings, South Dakota





December 12, 2008

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Jay M Leibel
Arneson, Issenhuth, Leibel & Parent
PO Box 28
Madison SD 57042-0028

Dear Mr. Leibel:

Thank you for submitting the *Application for a Flood Control Permit* on behalf of the Lake Pelican Water Project District. In order to complete the application the following is required.

- Enclosed is the aerial photo map submitted with the application. The map needs to reference the proposed structure in relation to a government section corner or quarter corner by direction and distance.
- 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.
- Also, please complete Item No. 3 of the application by including the township and range location of this proposed project.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 6, 2009

Jay M Leibel
Arneson, Issenhuth, Leibel & Parent
PO Box 28
Madison SD 57042-0028

Dear Mr. Leibel:

On December 11, 2008, you submitted *an Application for a Flood Control Permit* on behalf of the Lake Pelican Water Project District. You were notified what additional information was required to complete the application. A copy of that letter is enclosed. To date, we have not received the required information.

We will proceed with the application once the additional information is submitted.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
Phone: (605) 773-3352
karen.schlaak@state.sd.us

enclosure

ARNESON, ISSENHUTH, LEIBEL & PARENT, LLP
ATTORNEYS AT LAW

THOMAS M. ISSENHUTH
JAY M. LEIBEL
PHILIP R. PARENT

205 NORTH EGAN
P.O. BOX 28
MADISON, SOUTH DAKOTA 57042-0028

TELEPHONE NO.
605-256-9161
FAX NO.
605-256-9213

March 23, 2009

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MAR 25 2009

**WATER RIGHTS
PROGRAM**

Department of Environment & Natural
Resources
Karen Schlaak
Joe Foss Building
523 E. Capitol
Pierre, South Dakota 57501

RE: Lake Pelican Water Project District

Dear Ms. Schlaak:

Enclosed please find the survey map showing the exact location of the sediment structure.

We believe this meets your requirements. If not or you questions please don't hesitate to contact me.

Very truly yours,

ARNESON, ISSENHUTH, LEIBEL & PARENT

By

Jay M. Leibel

JML/cd

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: **John Egge**

ADDRESS: **Lake Pelican Water Project District** COUNTY: **Codington**

DATE: **April 15, 2009** TELEPHONE: **X882-1449**

RE: **FC 35 Application**

I called John today and asked him to send us some more information so we could process the application; specifically we need some P&S info. So we could tell the size of the dam (weir) and if it had an adequate spillway, etc. I also mentioned that there should be some easement information included with the application, since the project will be located on land not owned by the District. He said he would try to get that information as soon as he could.

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

Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist
Water Rights Program

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SEP 16 2009

WATER RIGHTS
PROGRAM



September 14th , 2009

Tim Schall,

This is the easement that you requested from the Lake Pelican Water Project District. As you noticed that this is a \$1.00 Perpetual Easements with no Real Estate purchase.

For your information Only:

In the Value Engineering Report put out by the U.S. Army Corps of Engineering is stating that Implement of the LPWPD plan that the Real Estate(Flowage Easement) would cost \$29,668.20. As you can see by the Perpetual Easement that I'm sending you that figure is false, we have a \$1.00 cost into each easements with no Real Estate purchase.

Sincerely,

Vicky Maag

Vicky Maag

Chairman

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SEP 16 2009

WATER RIGHTS
PROGRAM

Doc# 2007-6793 3pp
State of South Dakota }
County of Codington } SS. Fees 14-
OFFICE OF REGISTER OF DEEDS
Filed this 14th day of Dec
2007 at 10:40 o'clock A m
Book 45 Page 910
Ann Seitel
REGISTER OF DEEDS/DEPUTY

Prepared by: Jay M. Leibel
Arneson, Issenhuth, Leibel & Parent, LLP
PO Box 28
Madison, SD 57042
(605) 256-9161

(Reserved for Register of Deeds)

PERPETUAL EASEMENT

For and in consideration of One and no/100 (\$1.00) Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, RANDALL S. BIRCHALL, REBECCA I. HINTON, and JANNELLE R. OLSON, as tenants in common, of 28674 Evergreen, Pierre, South Dakota, 57501; Iowa; Sioux Falls, South Dakota; and 521 Northwest Second Street, Watertown, South Dakota, 57201; respectively hereafter referred to as "GRANTORS", does hereby grant unto Lake Pelican Water Project District, a political subdivision of the State of South Dakota, Watertown, Codington County, South Dakota, hereafter referred to as "LPWPD", a perpetual and permanent right, privilege and easement, over, through and across the real property situated in Codington County, South Dakota described as:

The northwest corner of the Northwest Quarter (NW1/4) of Section 14,
Township 116 North, Range 53 West of the 5th P.M., Codington County,
South Dakota

For the sole purpose of, for, or in connection with the construction, operation, maintenance, and inspection of the following described works of improvement on the above described land; for the flowage of any waters in, over, upon or through such works of improvement and the above described real estate; and for the temporary storage and detention, either or both, of any waters that are impounded, stored, or detained by or in connection with the construction, operation, maintenance, and inspection of a flood control structure.

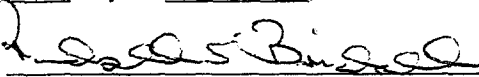
It is agreed that:

1. This easement includes the rights of ingress and egress at any time over and upon the above described land and the balance of the Northwest Quarter of said land if necessary to accomplish the construction, operation, maintenance and inspection of such works of improvement. LPWPD will exercise its right of ingress and egress on public roads and lands except at appropriate locations designated jointly by the Grantors and LPWPD. LPWPD will not unduly cross lands without authorization. LPWPD will be obligated to repair any damage to Grantors' adjoining lands that might result from said crossing.

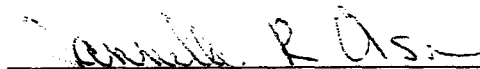
2. LPWPD or its successors or assigns, shall be responsible for operating and maintaining the above described works of improvement. LPWPD assumes risk of and shall indemnify and save Grantors harmless from and against any and all claims, demands, actions, or of suits in law or in equity; including costs and expenses incident thereto, and for all reasonable attorney fees for or on account of injury, damage, or loss to the person or property of others caused by LPWPD while construction, operating, maintaining or inspecting the sheet pile/rock weir structure or that may be caused by LPWPD in its exercise of any of the rights herein granted by Grantors to LPWPD.
3. There is reserved to Grantors, their heirs and assigns, the right and privilege to use the above described land of Grantors and any other land of Grantors adjoining said land as specified above, at any time, in any manner and for any purpose not inconsistent with the full use and enjoyment by LPWPD
4. This instrument incorporates and describes all of the grants, undertakings, conditions and considerations of the parties, in executing and delivering this instrument, represents that they have not relied upon any promises, inducements or representations of LPWPD or its agents or employees, except such as are set forth herein.
5. By this agreement LPWPD does hereby have and hold the aforesaid easement in, over and upon the above described land of Grantors, with any and all the rights, privileges and appurtenances thereto belonging to LPWPD.
6. This instrument and the benefits and obligations herein contained shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the parties hereto.

IT WITNES WHEREOF, the parties of the first part have hereunto set their hands and seals this

7 day of November, 2007


RANDALL S. BIRCHALL


REBECCA I. HINTON


JANNELLE R. OLSON

STATE OF SOUTH DAKOTA)

: ss

COUNTY OF HUGHES)

On this 7 day of October, 2007, before me the undersigned officer, personally appeared RANDALL S. BIRCHALL, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he has signed the same for the purposes therein contained.



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

[Signature]

Notary Public, South Dakota

My commission expires: 2-12-10

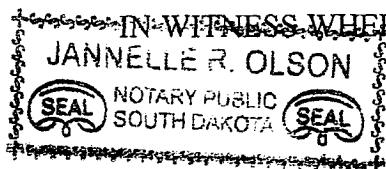
SEAL

STATE OF SOUTH DAKOTA)

: SS

COUNTY OF *Codington*)

On this 13 day of December, 2007, before me the undersigned officer, personally appeared REBECCA I. HINTON, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she has signed the same for the purposes therein contained.



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

Jannelle R. Olson

Notary Public, South Dakota

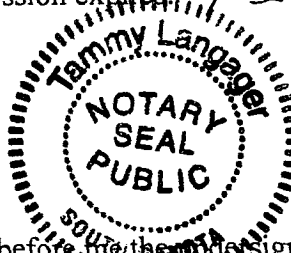
My commission expires: 9-21-2010

SEAL

STATE OF SOUTH DAKOTA)

: SS

COUNTY OF CODINGTON)



On this 13 day of December, 2007, before me the undersigned officer, personally appeared JANNELLE R. OLSON, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she has signed the same for the purposes therein contained.

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

Tammy Langer

Notary Public, South Dakota

My commission expires: 10-9-2013

SEAL

COST ANALYSIS – INITIAL COSTS

COST ANALYSIS INITIAL COSTS							
CONSTRUCTION ELEMENT		ORIGINAL CONCEPT			ALTERNATIVE CONCEPT		
Description	Unit	Quantity	Cost/Unit	Total	Quantity	Cost/Unit	Total
Low-Head Dam	EA			\$0	32	\$200,000	\$6,400,000
Road Raise (Gravel-Surface Road)	EA			\$0	437	\$25,000	\$10,912,500
Road Raise (Paved Road)	EA			\$0	49	\$50,000	\$2,425,000
Culvert Size Reductions	EA			\$0	697	\$15,000	\$10,455,000
New Culvert Installation	EA			\$0	34	\$25,000	\$850,000
Culvert Size Increases	EA			\$0	10	\$25,000	\$250,000
Diversions to Adjacent Crossings	EA			\$0	49	\$60,000	\$2,940,000
Real Estate (Flowage Easement)	AC			\$0	16,482	\$1,800	\$29,668,200
				\$0			\$0
Mahoney Dam Construction	LS	1	13,866,662.00	\$13,866,662			\$0
Mahoney Real Estate	LS	1	13,152,150.00	\$13,152,150			\$0
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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 1, 2009

Lori Marscheider
Public Works Secretary
City of Watertown
PO Box 910
Watertown SD 57201-0910

Dear Ms. Marscheider:

Please find enclosed the report, recommendation and public notice for a flood control permit application filed by the Lake Pelican Water Project District. The public notice is scheduled to be published October 9 and 16, 2009 in the Public Opinion. The date to intervene is October 26, 2009.

This is an existing structure that was built prior to securing the flood control permit. Please forward this information to the appropriate staff person in the Public Works Department. In 2002, the city of Watertown contested an application filed by the District for a detention structure north east of Watertown.

Please let this staff person know that they may call me to get an abridged history of the contested case between the District and city in their previous application.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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**RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL PERMIT
APPLICATION NO. FC-35, Lake Pelican Water Project District**

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-35, Lake Pelican Water Project, c/o John Egge, PO Box 172, Watertown SD 57201

The Chief Engineer is recommending APPROVAL of Application No. FC-35 because 1) the project does not increase the likelihood or the severity of flood damages downstream, 2) necessary easements have been obtained, 3) it will not impair existing water rights, and 4) it is in the public interest.

See report on application for additional information.

Garland Erbele, Chief Engineer
September 30, 2009

REPORT ON
WATER PERMIT APPLICATION No. FC-35
Lake Pelican Water Project District
September 25, 2009

Flood Control Application No. FC-35 has been filed by the Lake Pelican Water Project District (LPWPD) to construct a water quality control structure located in the NW ¼ NW ¼ of Section 14-T116N-R53W, in Codington County.

Discussion:

SDCL 46-2A-11 states 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

Both Lake Pelican and Lake Kampeska are relatively shallow lakes and have experienced severe sedimentation resulting from upstream watershed erosion and shoreline erosion. The original depth of Lake Pelican is believed to have been about 25 feet. Presently, Lake Pelican has a maximum depth of 8 feet with an average depth of 6 feet.

The LPWPD already has two Flood Control Permits. The Water Management Board (Board) approved FC-19 on October 3, 1996; to construct a water quality diversion weir located in the inlet/outlet channel to Lake Pelican in the NW ¼ NW ¼ of Section 6-T116N-R52W. The weir controls sediment and nutrient loading to Lake Pelican from the Big Sioux River during spring runoff events. The Board approved FC-32 on January 29, 2002, to construct a flood control dam located in the NW ¼ NE ¼ of Section 24-T119N-R52W, in the upper Soo Creek basin. The flood control dam reduces the peak runoff from a 100 year event from the 943 acre or 1.47 square mile watershed.

In January 2003, Barr Engineering Company prepared a report titled "Comprehensive Water Resources Management Plan-Big Sioux River Headwater Study Area" for the LPWPD. The purpose of the Comprehensive Water Resources Management Plan was to provide an integrated natural resources and watershed-based approach to provide flood protection and enhance water quality throughout the Lake Pelican Water Project District. Some of the benefits of the plan would be a significant flood and peak flow reduction in the Big Sioux River and significant reduction of sediment and nutrient loads to the Big Sioux River, Lake Pelican and Lake Kampeska.

Although the study area dealt mainly with the watershed to the north of Lake Kempeska and Lake Pelican, the LPWPD chose the site for the water quality control structure, which is south of Lake Pelican, because the upstream watershed displayed signs of high sediment and nutrient loading. The project is expected to reduce the sediment and nutrient loading contributing to Lake Pelican.

The water quality control structure will be located in the NW ¼ NW ¼ of Section 14-T116N-R53W just to the south of Lake Pelican and on an unnamed tributary to Lake Pelican, about one-half mile upstream of the confluence of the unnamed tributary and Lake Pelican. The Department of Game, Fish and Parks holds Water Right No. 880-3 for the storage of 10,500 acre-feet of water in Lake Pelican. The approval of Water Permit Application No. FC-35 should not have any adverse effect on the amount of water stored in Lake Pelican.

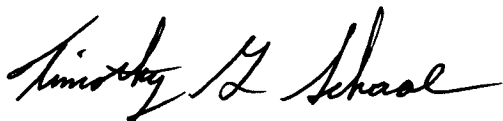
There are no other Water Rights/Permits located on the unnamed tributary between the water quality control structure and Lake Pelican. The LPWPD has received a Perpetual Easement for this project area.

The water quality control structure will be too small to meet the requirements of the Safety of Dams Rules, Chapter 74:02:08. The structure will be a design typically used by the US Fish & Wildlife Service for water quality control structures. It will have a total length of 105 feet with 35 feet of 18 inch high perforated corrugated steel in the center. The area behind this "overflow area" is protected from erosion with riprap.

The project has a drainage area of approximately 1350 acre and is designed to control the release of water for up to 36 hours, which allows the suspended materials in the water to settle out.

Conclusions:

1. The applicant has determined the water quality structure will reduce the sediment and nutrient loading into Lake Pelican.
2. Flood Control Application No. FC-35 should be approved since the project will reduce the damage from flooding or erosion within the local watershed, will not increase the likelihood or the severity of flood damages in areas other than the project area, will not endanger human life and the project will be a beneficial use and is in the public interest.
3. A Perpetual Easement for the above mentioned property has been obtained and is on file with this application.



Timothy G. Schaal, P.E.

Natural Resources Engineering Specialist

References:

Barr Engineering Company report, 2003, Comprehensive Water Resources Management Plan—Big Sioux River Headwaters Study Area, Barr Engineering Company, Minneapolis, MN

SD Department of Environment and Natural Resources, 2009, Water Rights program files

RECEIVED

OCT 21 2009

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of CODINGTON) SS

I, MONICA K. SAATHOFF

certify that the attached printed Notice was
taken

from the _____

WATERTOWN PUBLIC OPINION

printed and published in WATERTOWN

County of CODINGTON and

state of South Dakota. The notice was
published

in the newspaper on the following two dates:

OCTOBER 9TH, 2009

OCTOBER 16th, 2009

Cost of Printing 106.96

(Signature)

BOOKKEEPER

(Title)

OCTOBER 16th, 2009

(Date Signed)

DENR

NOTICE OF FLOOD CONTROL APPLICATION NO. FC-35

Notice is given that the Pelican Lake Water Project District, c/o John Egge, Director, PO Box 172, Watertown SD 57201 has filed a flood control application for a structure designed to control the release of water for up to 36 hours to allow the suspended materials in the water to settle out. The structure is not intended to have a permanent pool of water on the upstream side. The project is located in the NW 1/4 NW 1/4 Section 14-T116N-R53W in Codington County just south of Lake Pelican.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. FC-35 because 1) the project does not increase the likelihood or the severity of flood damages downstream, 2) necessary easements have been obtained, 3) it will not impair existing water rights, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management

Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 26, 2009.

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

Published twice at the total approximate cost of \$102.00.

(October 9 & 16, 2009)

All legal notices in the Public Opinion and other South Dakota newspapers can be found at www.sdpublicnotices.com



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 1, 2009

Public Opinion
PO Box 10
Watertown SD 57201

ATTENTION: Legal Public Notice

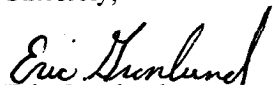
Enclosed is a Notice on Flood Control Application No. FC-35 to be published twice. Please publish the first notice on October 9, 2009 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Lake Pelican Water Project District, c/o John Egge, PO Box 172, Watertown SD 57201. (Ph #605-882-1449).

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

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. FC-35

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

Date _____

We are in receipt of your letter of October 1, 2009 enclosing Notice of Flood Control Application No. FC-35 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

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

October 1, 2009

Pelican Lake Water Project District
c/o John Egge
PO Box 172
Watertown SD 57201

Dear Mr. Egge:

Flood Control Application No. FC-35 use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on October 9, 2009 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF FLOOD CONTROL APPLICATION NO. FC-35

Notice is given that the Pelican Lake Water Project District, c/o John Egge, Director, PO Box 172, Watertown SD 57201 has filed a flood control application for a structure designed to control the release of water for up to 36 hours to allow the suspended materials in the water to settle out. The structure is not intended to have a permanent pool of water on the upstream side. The project is located in the NW ¼ NW ¼ Section 14-T116N-R53W in Codington County just south of Lake Pelican.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. FC-35 because 1) the project does not increase the likelihood or the severity of flood damages downstream, 2) necessary easements have been obtained, 3) it will not impair existing water rights, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 26, 2009.

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

Published twice at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
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www.state.sd.us/denr

JAN 13 2010

Lake Pelican Water Project District
c/o John Egge – Director
PO Box 172
Watertown SD 57201

Dear Mr. Egge:

Enclosed is Flood Control Permit No. FC-35 as approved by the Water Management Board. If you have any questions pertaining to the permit, please contact this office.

Sincerely,

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

Enclosure

FC 35-3**Schaal, Tim**

From: Schaal, Tim
Sent: Friday, September 10, 2010 1:35 PM
To: Schaal, Tim; 'David.M.Huber@wellsfargo.com'
Subject: RE: Dam

Dave--I wanted to send a e-mail as a follow up to our phone conversation this morning and to have something for the file. As we discussed, I did have a chance on September 8, 2010, to visit the site of the weir constructed by the Lake Pelican Water Project District authorized by Flood Control Permit No. FC-35. I could not see where this weir would contribute to problems in the NE 1/4 of Sec. 14-T116N-R53W. I do know there have been other issues associated with neighbors in the area and the District, and felt that some of these other issues may be the cause for concern. As I stated this morning, if you or your clients still want to meet at the site, please let me know and that could be arranged. Also, please let me know if you have any questions.

Thanks

Tim Schaal
SD DENR
773-3352

-----Original Message-----

From: Schaal, Tim
Sent: Friday, May 28, 2010 9:25 AM
To: 'David.M.Huber@wellsfargo.com'
Subject: RE: Dam

Thanks Dave--I'm not sure yet when I will be up there, but will let you know in advance.

Tim

-----Original Message-----

From: David.M.Huber@wellsfargo.com [mailto:David.M.Huber@wellsfargo.com]
Sent: Friday, May 28, 2010 9:18 AM
To: Rath, Mark
Cc: Schaal, Tim
Subject: RE: Dam

Mark,

Thanks for getting back to me. Really appreciate it.

Tim,

Look forward for the opportunity to view the dam with you. Do you possibly have any idea when you may be in that area? I live in Mitchell so it would be helpful for me to have some lead time to arrange my schedule. Below is my contact info.

Thanks

09/10/2010

Schaal, Tim

From: Rath, Mark
Sent: Wednesday, January 06, 2010 11:39 AM
To: 'David.M.Huber@wellsfargo.com'
Cc: Schaal, Tim
Subject: RE: Atten: Mark Rath
David,

After the snow melt has occurred this spring, contact either me or Tim Schaal (605) 773-3352 and we will have somebody stop and take a look at the situation.

Mark Rath
Natural Resources Engineer
SD DENR

-----Original Message-----

From: Duvall, Ron
Sent: Wednesday, January 06, 2010 11:01 AM
To: Rath, Mark
Cc: Smith, Kim
Subject: FW: Atten: Mark Rath

Mark,

To your attention...

-----Original Message-----

From: David.M.Huber@wellsfargo.com [mailto:David.M.Huber@wellsfargo.com]
Sent: Wednesday, January 06, 2010 10:53 AM
To: DENR INTERNET INFORMATION
Subject: Atten: Mark Rath

Mark,

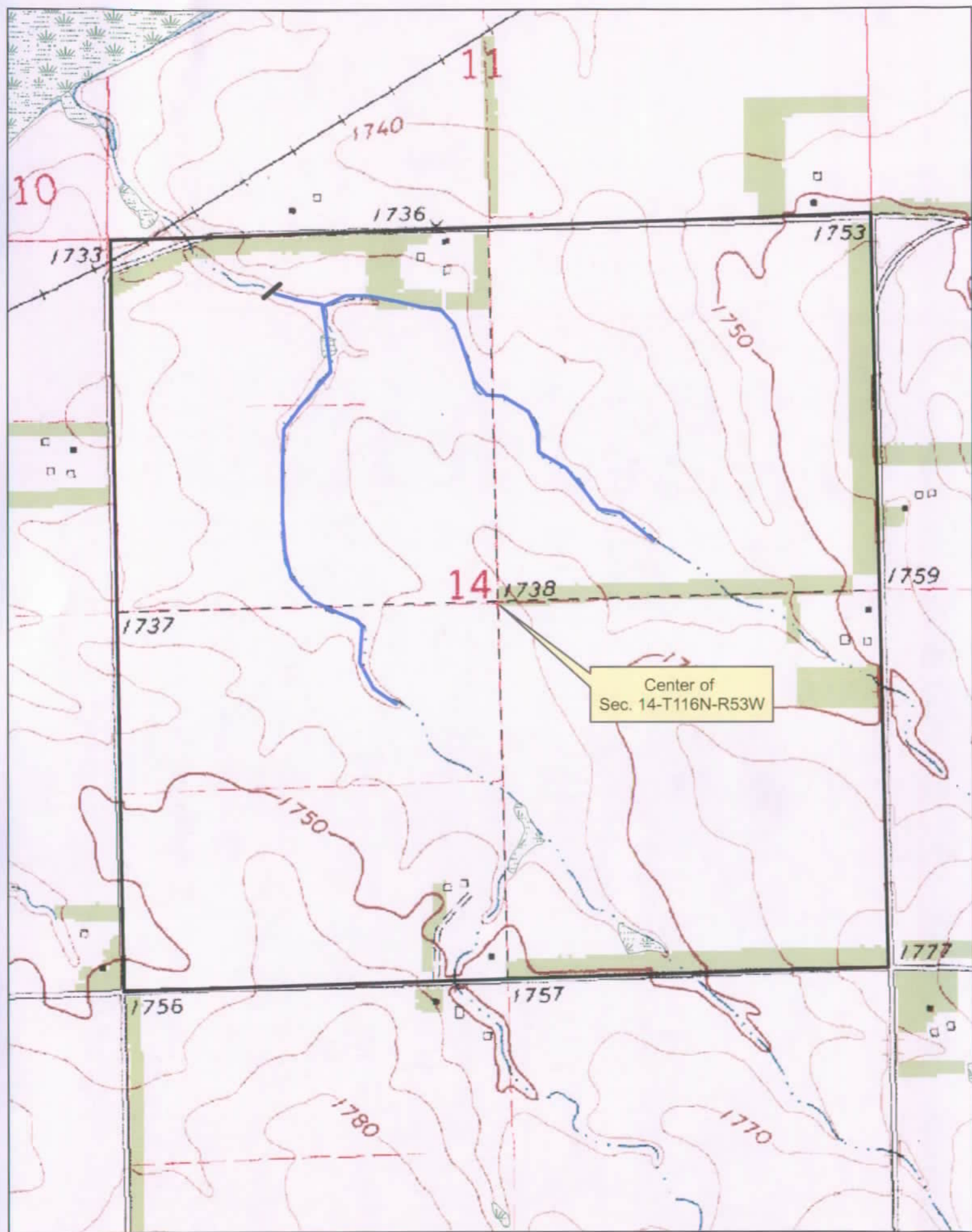
Thanks for taking the time to visit with me on January 4th, 2010. As you recall, Wells Fargo is co-trustee for the Ferdinand Tesch Trust (Carol Tesch is co-trustee). The trust owns land in the S ½ NE ¼ 14-116-53 in Codington County (just south of Pelican Lake). Currently this property is rented to Tom Tesch (remainder beneficiary of the trust).

The reason for contacting your office has to deal with the weir (dam) that was constructed in the NW ¼ of 14-116-53 the Pelican Lake Association in the fall of 2008. The region has received an above average amount of moisture over the past year. This has caused several acres to become "swampy" on the west end of the trust property that normally do not experience these types of conditions. The co-trustees and tenant have some concerns that this "weir" may be adding to the problem.

You indicated that your office would be happy to meet with us at the property site this spring and assess the situation.

Am I correct in my assumption that someone from your office will be willing to meet with us this spring?

Dave Huber
AVP-Trust Asset Administrator
605-995-3543 Fax 605-995-3557
1-800-456-0041 MAC# 9730-011
PO Box 987, Mitchell, SD 57301
david.m.huber@wellsfargo.com





Center of
Sec. 14-T116N-R53W

Lake Pelican Water Project District Weir



Lake Pelican Water Project District Weir



REPORT ON INSPECTION OF FLOOD CONTROL PERMIT NO. FC35.

Big Sioux River - Water District

Report of Examination of Works

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

On, **February 29, 2016**, I made a thorough examination of the flood control project constructed by **Lake Pelican Water Project District** of **PO Box 172, Watertown SD 57201** holder of Flood Control Permit No. **FC35-3**, bearing the priority of **September 16, 2009** authorizing the construction and operation of the flood control project, in **Codington County**.

Contact Person & Address: **Ken Bunde, District President cell (605) 880-6725**

Project Legal Description: **From the NW corner of Sec 14 T116N-R53W: 390 feet south and 1150 feet east, latitude 44.86047 longitude -97.16336**

Description of flood control works: **A sheet pile low head detention dam a 105 long. The center 35 foot wide overflow section is cutout providing an 18 inches high weir. There is a rock splash area located immediately on the downstream side of the structure.**



The system is in the following condition **good**.

Applicable permit qualifications have been complied with: **yes**

Exceptions to compliance are: **none**



Mark D. Rath
Natural Resources Engineer
DENR, Water Rights Program

3-10-16
Date



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Mark D Rath
Natural Resources Engineer
03-03-2016



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

MAR 23 2016

FC 35

Ken Bunde, District President
Lake Pelican Water Project District
PO Box 172
Watertown SD 57201

Dear Mr. Bunde:

Enclosed is Water License No. FC 35. This is the final water right document completing the process of obtaining a Water Right. Included with the license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

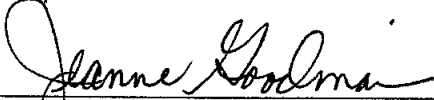
WATER LICENSE NO. FC-35

(1) Lake Pelican Water Project District, PO Box 172, Watertown SD 57201 made Application No. FC-35, December 11, 2008 for a flood control permit to authorize construction of a structure designed to control the release of water for up to 36 hours to allow the suspended materials in the water to settle out. The project is located in Codington County, South Dakota. Permit No. FC-35, with a priority date of September 16, 2009 was approved October 26, 2009.

(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 works located 390 feet south and 1,150 feet east of the NW corner of Section 14, T116N, R53W (NW ¼ NW ¼) consists of a 105 feet long sheet pile low head detention dam. The center 35 foot wide overflow section is cutout providing an 18 inch high weir. A rock splash area is located immediately on the downstream side of the structure.

(3) Pursuant to South Dakota Water Law 46-5-30.1 Lake Pelican Water Project District, PO Box 172, Watertown SD 57201 the holder and/or owner of Permit No. FC-35 is issued a license for flood control purposes. No. FC-35 carries a priority date of September 16, 2009.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Flood Control Permit No. FC-35.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 23 2016

date

