

Considered: \_\_\_\_\_

Flood Control WATER PERMIT NO. FC-5

MAP No. same

Name of Applicant Lake Poinsett Area Development Association

Post Office Address Lake Norden SD 57248 c/o Virgil Herriott

Amount of Water Claimed none Total Acres NA

Source of Water Supply Lake Poinsett & Big Sioux River

Water to be used for Flood control County Hamlin - Brookings

About 8 1/2 miles S of Castlewood

PROOF OF PUBLICATION: Received \_\_\_\_\_ Not Received \_\_\_\_\_

APPLICATION: Approved \_\_\_\_\_ Subject to \_\_\_\_\_

F.F.& C.L. Adopted \_\_\_\_\_ Not Approved \_\_\_\_\_ Deferred \_\_\_\_\_

PRIORITY \_\_\_\_\_ Date Received August 22, 1986 Fee \$50<sup>00</sup> Remarks propose to construct a flood control structure across L. Poinsett outlet

Corrected Application Received \_\_\_\_\_ Period of Annual Use \_\_\_\_\_

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

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_

Diversion Point Lake Poinsett outlet drainage:

SW 1/4 NW 1/4 section 13 - T113N - R52W

Land to be Irrigated NA

		○			
			13		

Well Log: Driller NA Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well \_\_\_\_\_ REMARKS \_\_\_\_\_

Type of Map Topo PREPARED BY Ron Duvall Reviewed and the Number

assigned on 8/25/86 By Ron Duvall

FORM 2: Application for uses other than irrigation (type or print)

Mail to: Water Rights Div.  
DWNR, Foss Bldg.  
Pierre, SD 57501  
(605) 773-3352

Estelline Journal  
Box 159 (Wed)  
Hamlin Co. Republican  
Box 38, Castlewood (Thurs)  
Waterloo Public Opinion  
Box 10

No. EC-5 Hydrologic Unit 10170202  
Map No. same Basin Big Sioux River  
Newspaper Brookings Daily Register P.O. Drawer 177 (daily)  
Hamlin Co. Herald Enterprise, Box 207 (Thurs)  
Arlington Sun, Box A (Wed)

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

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

Type of Application: Check one or more of the following



New  Vested Right  Future Use  Change Use   
 Amend Permit No. \_\_\_\_\_ with old priority date retained  
Change diversion point(s)  Add diversion point(s)  Other  Flood Control Permit  
 Application to: Change diversion point(s)  Add diversion point(s)  on Permit No. \_\_\_\_\_  
 Construction to use water reserved by Future Use Permit No. \_\_\_\_\_

1. Name of Applicant Lake Poinsett Area Development Association Phone No. 785-3195  
c/o Virgil Herriott  
Post Office Address Lake Norden, SD State 57248  
(Street, RR or Box) Zip Code

2. Amount of water claimed (c.f.s) None - Flood Control

3. Source of water supply Big Sioux and Lake Poinsett

4. Location of point of diversion Lake Poinsett outlet in the ~~SW~~<sup>SW 1/4 NW 1/4</sup> Section ~~12~~<sup>3</sup>, T113N, R52W

County Hamlin

5. Counties where water will be used \_\_\_\_\_

6. Annual period during which water is to be used N/A

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)  
This application is for a control structure across the Lake Poinsett outlet. The control structure will prevent inflows into Lake Poinsett from the Big Sioux during flood stage and control outflow from Lake Poinsett during low water years. This structure will reduce flood damages, bank erosion, and nutrient loading to Lake Poinsett.

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

STATE OF SOUTH DAKOTA  
County of Hamlin)<sup>ss</sup>

I, Virgil H. Herriott, President L.P.A.D.A. the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

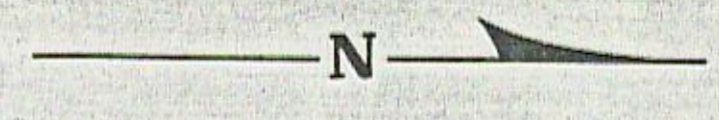
Signed Virgil H. Herriott

Subscribed and sworn to before me this 20 day of August 1986

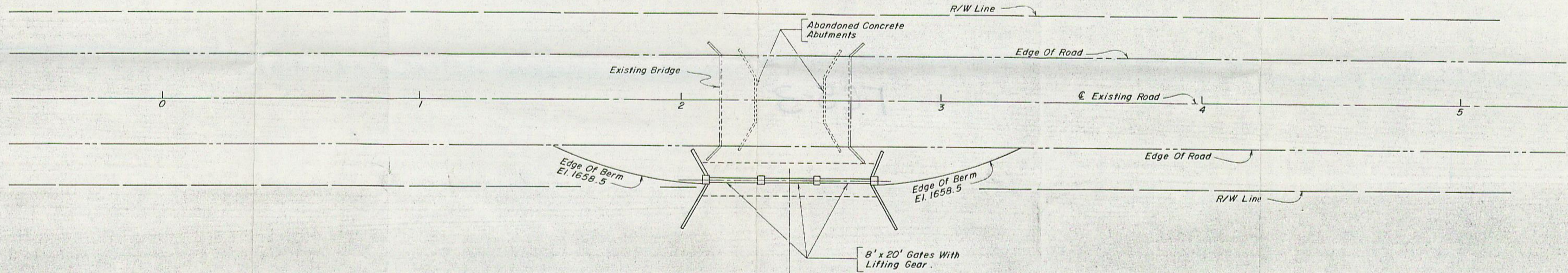
Linda S. Peterson  
Notary Public (or other qualified officer)

PLAN  
 SURVEYED BY  
 PLOTTED BY  
 NOTE BOOK NO. & DATE  
 #1. OF WAY CHECKED  
 No.

PROFILE  
 SURVEYED BY  
 PLOTTED BY  
 NOTE BOOK NO. & DATE  
 STRUCTURE NOTATIONS CHECKED  
 No.

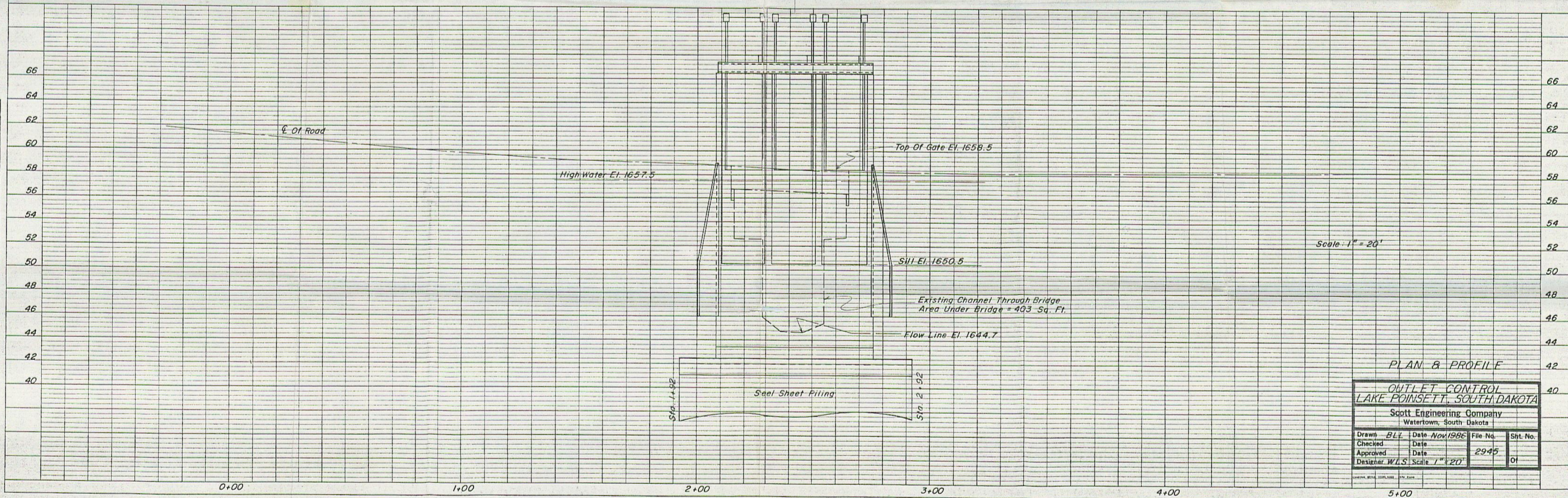


Section 14 - T113N - R52W



Section 13 - T113N - R52W

Center of Gates  
 Sta. 2 + 42



PLAN & PROFILE

OUTLET CONTROL LAKE POINSETT, SOUTH DAKOTA			
Scott Engineering Company Watertown, South Dakota			
Drawn	BLI	Date	Nov 1986
Checked		Date	
Approved		Date	2945
Designer	WLS	Scale	1" = 20'
File No.		Sht. No.	01

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. FC-5

Lake Poinsett Area Development Assn. c/o Virgil Herriott, Lake Norden  
(Applicant) (Post Office Address)

SD 57248 With the following qualifications.  
(State) (Zip Code)

see attached Flood Control Permit

~~Date of first receipt of application August 22, 19 86.~~

~~Date of return to applicant for correction, amendments or changes required \_\_\_\_\_, 19 \_\_\_\_\_.~~

~~Date of receipt of corrected application \_\_\_\_\_, 19 \_\_\_\_\_. Approved March 4, 19 87.~~

~~The Water Management Board hereby approves this Water Permit No. FC-5 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:~~

~~1. The date from which applicant may claim right is August 22, 19 86.~~

~~2. The equivalent of at least one-fifth of the specified work is to be completed on or before August 4, 19 89.~~

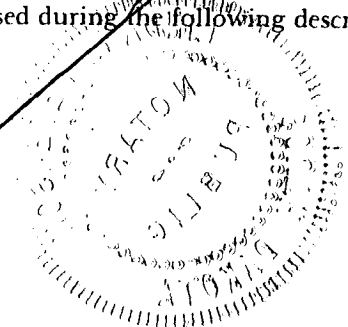
~~3. The whole of said work is to be completed on or before March 4, 19 92.~~

~~4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is March 4, 19 96.~~

~~5. The water appropriated shall be used for the purpose of \_\_\_\_\_~~

~~6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be unlawfully impaired by this appropriation.~~

~~7. The amount of the appropriation herein granted shall not exceed \_\_\_\_\_ cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water is actually and beneficially applied for \_\_\_\_\_ on or before \_\_\_\_\_, 19 \_\_\_\_; said water to be used during the following described annual period: \_\_\_\_\_~~



WATER MANAGEMENT BOARD

By: \_\_\_\_\_  
Chief Engineer

Division of Water Rights  
Dept. of Water and Natural Resources

\_\_\_\_\_, 19 \_\_\_\_\_

# Supplemental Information

(type or print in ink)

## 1. Well Information - Proposed construction

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

## 2. Dugout Information Estimates

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

## 3. Water Storage Dams

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

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

\_\_\_\_\_  
 \_\_\_\_\_

b) Freeboard \_\_\_\_\_

c) Crest Width 10'

Crest Length 300'

d) Height 10'

e) Outlet Dimensions: 3-10'x20' gates

Steel Gates

Spillway width \_\_\_\_\_

f) X & Y Slope 3:1

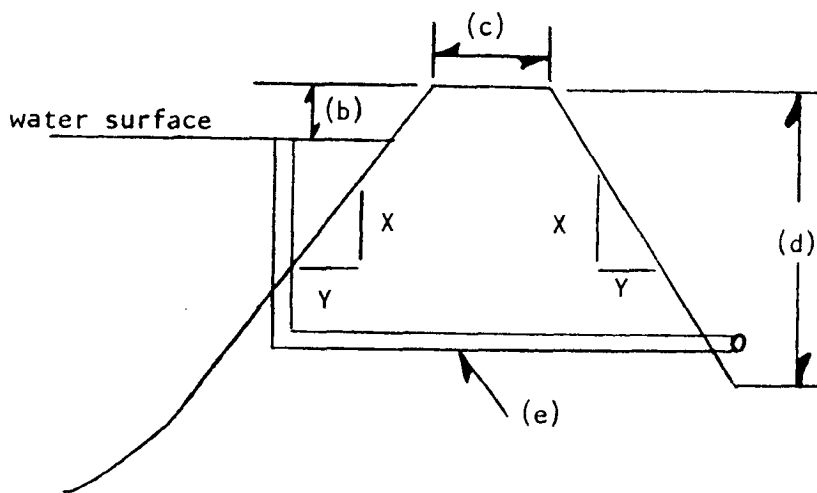
Upstream \_\_\_\_\_

Downstream 3:1

Surface Area of Impoundment ---

Storage --- acre feet

Drainage area above dam ---



\_\_\_\_\_  
 Signature of Applicant

FLOOD CONTROL PERMIT NO. FC-5

The Water Management Board hereby approves Flood Control Permit No. FC-5, Lake Poinsett Area Development Association, c/o Virgil Herriott, Lake Norden, South Dakota 57248 to construct a gated control structure on the Lake Poinsett outlet.

Approval of the permit does not increase the likelihood or severity of downstream flood damages, does not impair existing water rights or endanger human life or property. The permit authorizes construction of the proposed project to reduce flood damage, bank erosion and nutrient loading the lake with the following qualifications:

1. That the gated structure may be closed only during times when water is backed up from the Big Sioux River and may flow into the lake over the outlet.
2. That the gates may not be used to raise the water level in Lake Poinsett. The gates must remain open when the water level elevation of the lake is higher than the water level downstream of the outlet.
3. That the ordinary high water mark (High WM) elevation 1651.5 feet msl may not be affected by this Flood Control Permit and that the Board may review this permit if it appears that the High WM is being affected or a new High WM is being formed above or below the established High WM.
4. That the construction of the control structure, future maintenance and repair, and gate operation are the responsibility of the Lake Poinsett Area Development Association.
5. That the gates must be capable of being locked in position so unauthorized persons may not operate or tamper with the gates.

Date of first receipt of application August 22, 1986

Approved March 4, 1987

1. The date from which the applicant may claim right is August 22, 1986
2. The whole of said work is to be completed on or before March 4, 1992.
3. The project shall be used for the purpose of flood control on Lake Poinsett
4. The prior water rights of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of the water must not be unlawfully impaired by this flood control project.

WATER MANAGEMENT BOARD



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Chief Engineer, Water Rights Division  
Dept. of Water and Natural Resources

APR 30 1987

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN RE APPLICATION FOR FLOOD )  
CONTROL PERMIT NO. 5 )  
 ) FINDINGS OF FACT,  
 ) CONCLUSIONS OF LAW  
 ) AND FINAL DECISION

FINDINGS OF FACT

1. This proposal is to construct a gated control structure in the outlet channel of Lake Poinsett. The purpose of the structure is to prevent inflows into Lake Poinsett from the Big Sioux River during the flood stage of that river.

2. Lake Poinsett is subject to substantial erosion of its shoreline and to flooding during times of high water.

3. If the structure is built, it will reduce flood damage around the lake because the additional water from the Big Sioux will be unable to enter the lake. Likewise, the project will reduce erosion around the lake for the same reasons.

4. It is probable that during times of flooding, the Big Sioux River will be affected in a very limited way by the operation of the proposed gating. The river could be one-half inch higher than it would otherwise be. The Board finds that any effect on downstream flooding will be de minimis.

5. By stopping the water from entering Lake Poinsett during the flood season, the need is alleviated to release such water from that lake during later times of the

year. For this reason, the danger of prolonged flooding downstream is alleviated to some degree.

6. The record demonstrates that, as to the owners of property other than in the area to be benefitted by the project, the proposed structure will not, considering the factors outlined in both paragraphs 3 and 4 above, increase the likelihood or severity of flooding or endanger property.

7. The project will not endanger human life or impair existing water rights.

8. The applicant Lake Poinsett Area Development Association is qualified to perform reconstruction of the control structure, to provide for future maintenance and repair, and to provide gate operation.

9. Successful operation of the project requires that the gates installed be capable of being locked into position so that unauthorized persons may not operate or tamper with the gates.

#### CONCLUSIONS OF LAW

1. All notices required by the Constitution and statute have been given. The Board specifically finds that among others, attorney William J. Sanderson was given proper notice.

2. The grant of the permit will reduce the damage from erosion in the lake and from flooding in the immediate area of the lake.

3. The grant of the permit will not increase the likelihood of damage in areas other than the immediate project area because (a) the increase in levels of the Big Sioux will be de minimis in times of flooding and (b) the potential damage from those de minimis increases will be offset by the fact that the Big Sioux will be lower earlier in the year because Lake Poinsett will not be adding proportionally to its flows and hence the potential seriousness of floods later in the year will be reduced.

4. The permit should be granted with the qualifications as set out in the final decision.

#### FINAL DECISION

The application for Flood Control Permit No. 5 is granted with the following conditions and qualifications:

1. That the gated structure may be closed only during times when water is backed up from the Big Sioux River and may flow into the lake over the outlet.

2. That the gates may not be used to raise the water level in Lake Poinsett. The gates must remain open when the water level elevation of the lake is higher than the water level downstream of the outlet.

3. That the ordinary high water mark (High WM) elevation 1651.5 feet msl may not be affected by this Flood Control Permit and that the Board may review this permit if it appears that the High WM is being affected or a new High WM is being formed above or below the established High WM.

4. That the construction of the control structure, future maintenance and repair, and gate operation are the responsibility of the Lake Poinsett Area Development Association.

5. That the gates must be capable of being locked in position so unauthorized persons may not operate or tamper with the gates.

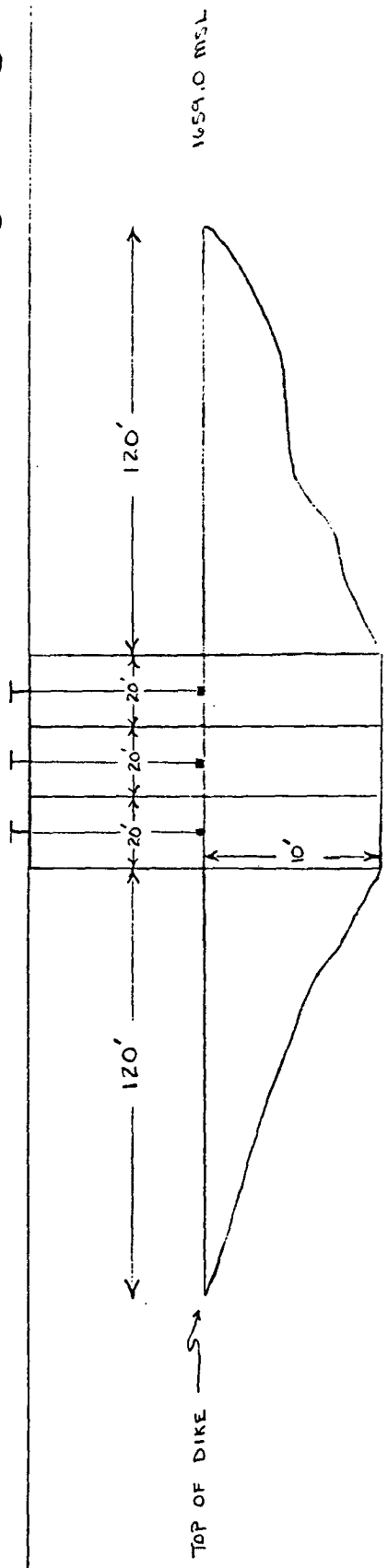
BY THE BOARD:

*Marian B. Gundersen*

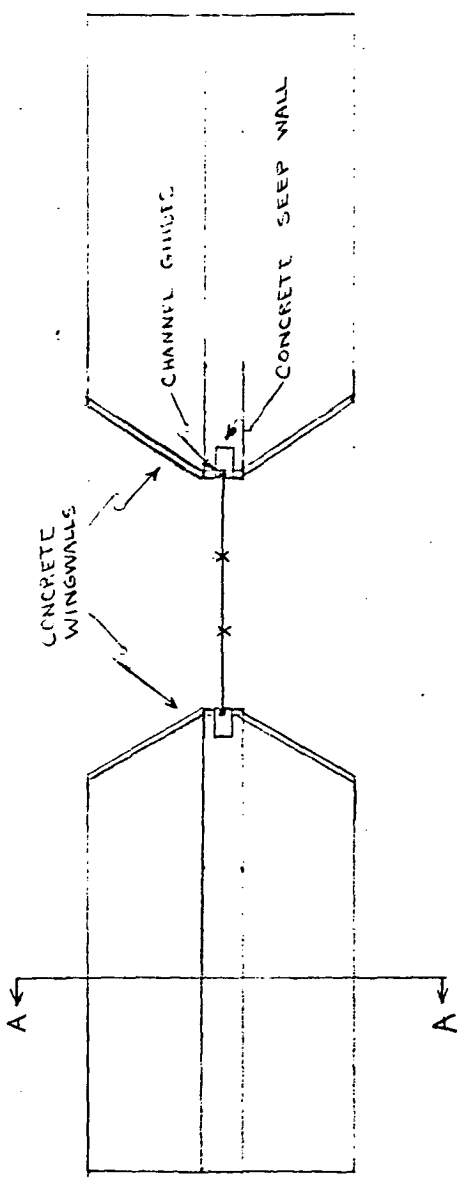
March 11, 1987

Proposed Structure

FRONT VIEW



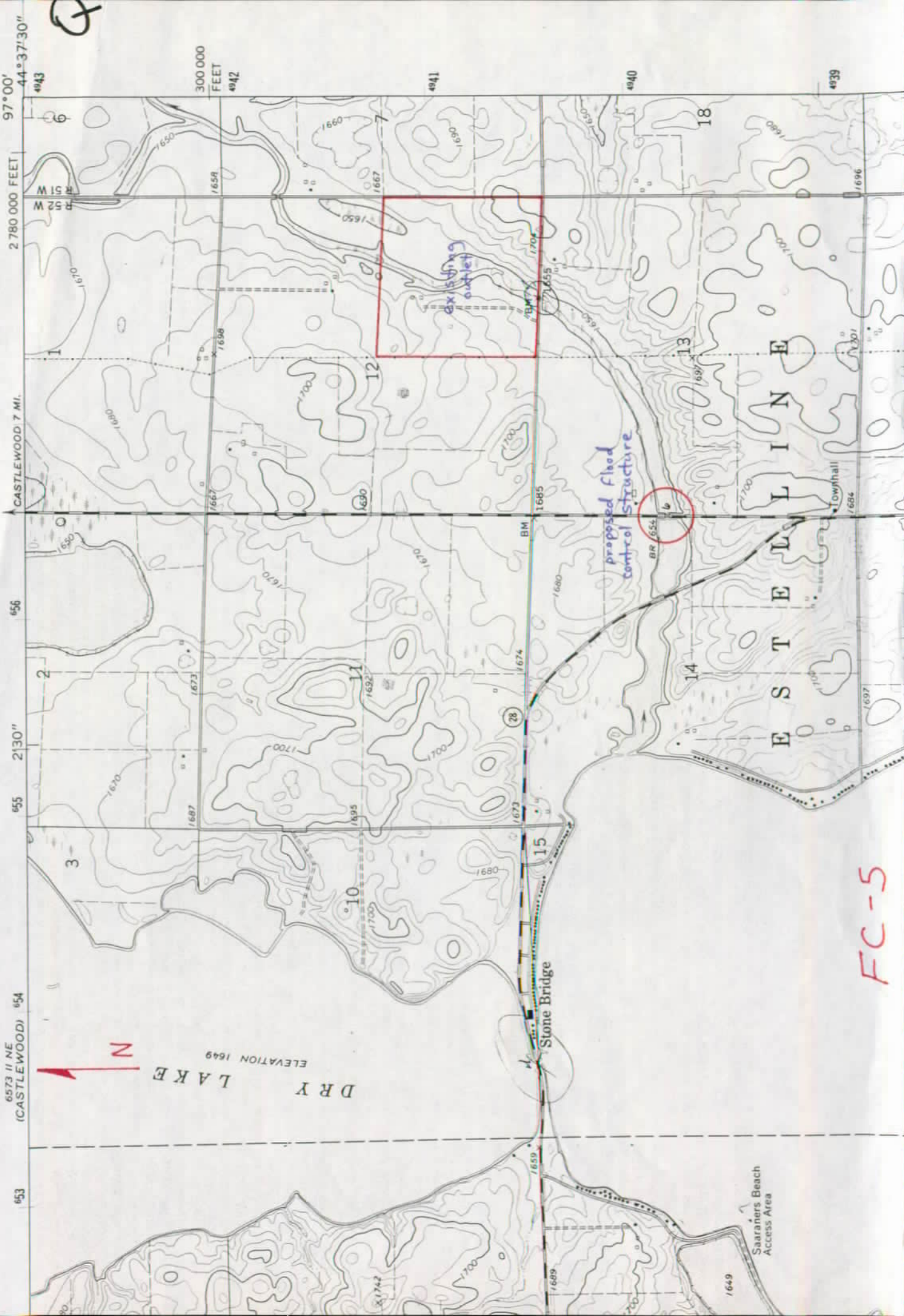
TOP VIEW



SCALE : VERT 1" = 10'  
 HORIZ 1" = 50'

Ron Duval  
Natural Resources Engineer  
8/25/86

LAKE POINSETT QUADRANGLE  
SOUTH DAKOTA  
7.5 MINUTE SERIES (TOPOGRAPHIC)



FC-5

# RECEIPT

Division of Water Rights

410532

South Dakota Department of Water and Natural Resources

Pierre, August 22, 19 86

RECEIVED OF Lake Poinsett Development Assn., 2701 S Holly, Sioux Falls SD 57105

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

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

By John Hatch  
Chief Engineer

JOHN HATCH

ks



**US Army Corps  
of Engineers**  
Omaha District

# Public Notice

**Reply to:**  
**Regulatory Branch**  
**P.O. Box 5**  
**Omaha, NE 68101-0005**

**Application No:** SD 2SB OXT 2 008953  
**Date:** September 18, 1986  
**Expiration Date:** October 17, 1986



MROOP-N-1  
Lake Poinsett Area Development Corporation  
Dike  
Lake Poinsett

**NOTICE OF PERMIT PENDING**

The application of the Lake Poinsett Area Development Corporation, c/o Virgil Herriott, Lake Norden, South Dakota 57248, for approval of plans and issuance of a permit under the authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Engineer District, Omaha, Nebraska.

The applicant requests permission to place fill material in the outlet channel of Lake Poinsett in conjunction with the construction of a gated dike structure located in the southwest quarter of Section 12, Township 113 North, Range 52 West, Hamlin County, South Dakota.

It is estimated that 4,000 cubic yards of earthen fill material will be used to construct the dike. The earthen dike will be placed across the outlet channel of Lake Poinsett. The dike, at its crest, will extend about 525 feet across the outlet channel. Three twenty-foot wide and electrically operated steel control gates will be constructed in the center of the dike structure. At its crest, the dike will be ten feet wide; the top elevation will be 1659 MSL. The side slopes will be 3-foot horizontal to 1-foot vertical. Approximately 520 cubic yards of rock riprap will be placed on the slopes of the earthen embankment, up to near the crest. The riprap will be at least 1-foot thick. The crest and part of the slopes will be seeded to a bromegrass and wheatgrass mixture. The gates will have cast rollers and be set in a poured concrete framework. A sedimentation control blanket will be placed over the earthen dam and underneath the riprap.

The purpose of the proposed project is to control the inflow from the Big Sioux River during high flow (flooding) periods and to control releases from Lake Poinsett during low water level (drought) periods. The control structure will help reduce flooding damages around Lake Poinsett.

Certification that the proposed project will not violate applicable water quality standards has been requested from the Regional Administrator, U.S. Environmental Protection Agency, Region VIII, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202-2413.

In compliance with the National Environmental Policy Act of 1969 and Section 106 of the National Historic Preservation Act of 1966, as amended, the The National Register of Historic Places and current supplements have been consulted. There are no sites included or which have been determined eligible for inclusion therein which will be affected by the proposed project.

In compliance with the Endangered Species Act, our preliminary review indicates that the proposal will not affect species designated as threatened or endangered pursuant to the Endangered Species Act or their critical habitat.

The decision whether or not to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposal on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R., Part 230).


Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this project. Requests for public hearings shall state, with particularity, the reason for holding a public hearing. The request must be submitted to the District Engineer, Omaha District, Corps of Engineers, P.O. Box 5, Omaha, Nebraska 68101-0005.

Any interested party (particularly officials of any town, city, county, state, federal agency, or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before October 17, 1986. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the District Engineer at the address listed in the previous paragraph. Mr. Richard Gebhart, telephone number (402) 221-4152, may be contacted for additional information.

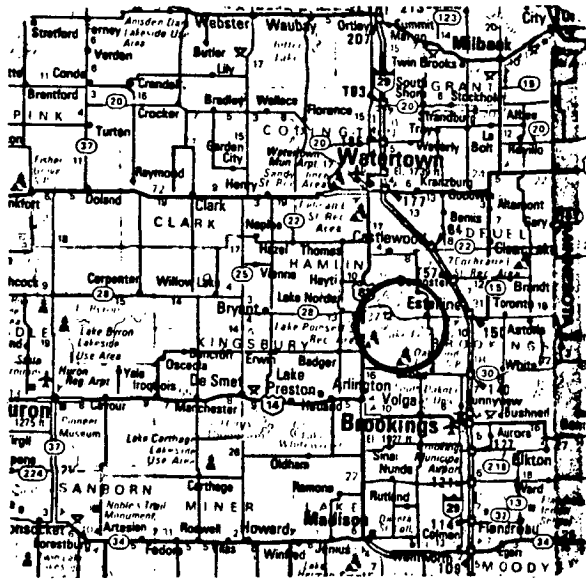
Comments received after the close of business on expiration date of public notice will not be considered.

A permit, if issued, will be under provisions of Section 404 of the Clean Water Act.

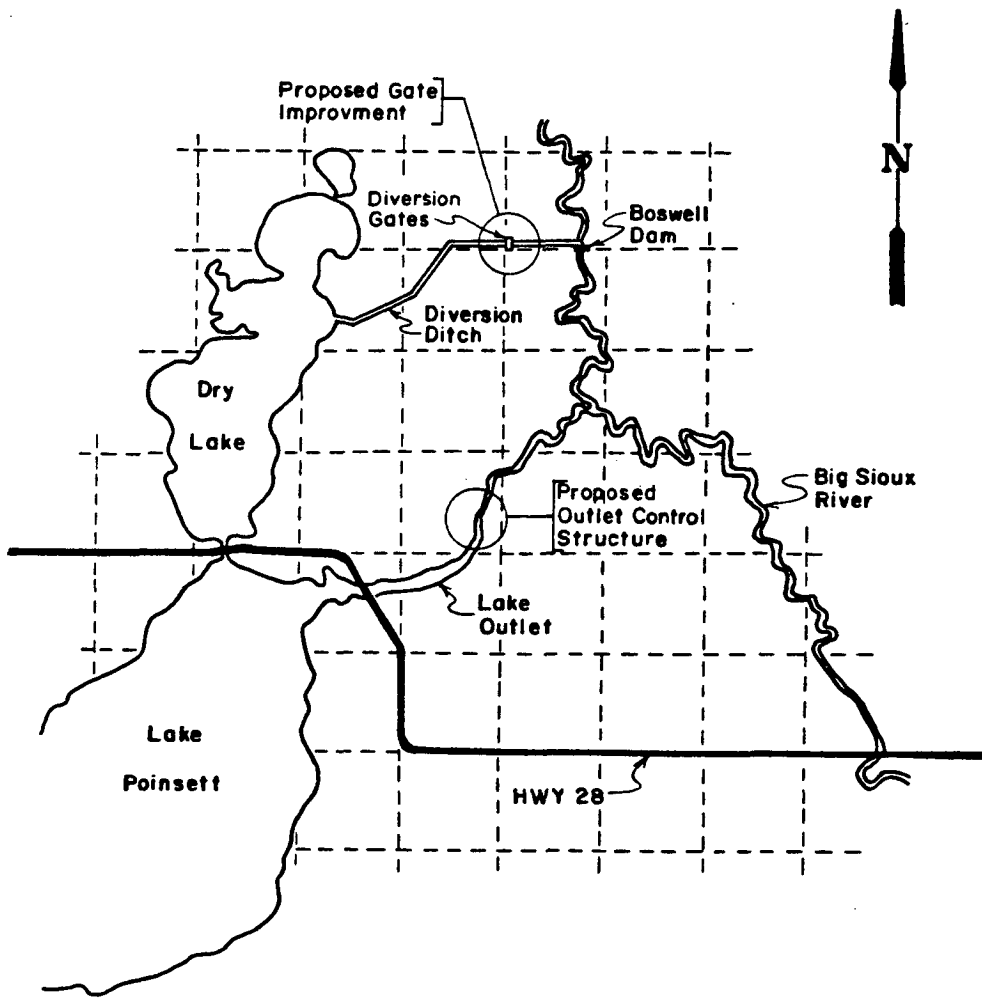
Drawings showing the location and extent of the work are attached to this notice.

  
John H. Morton, P.E.  
Chief, Regulatory Branch  
Operations Division

Attachments



VICINITY MAP

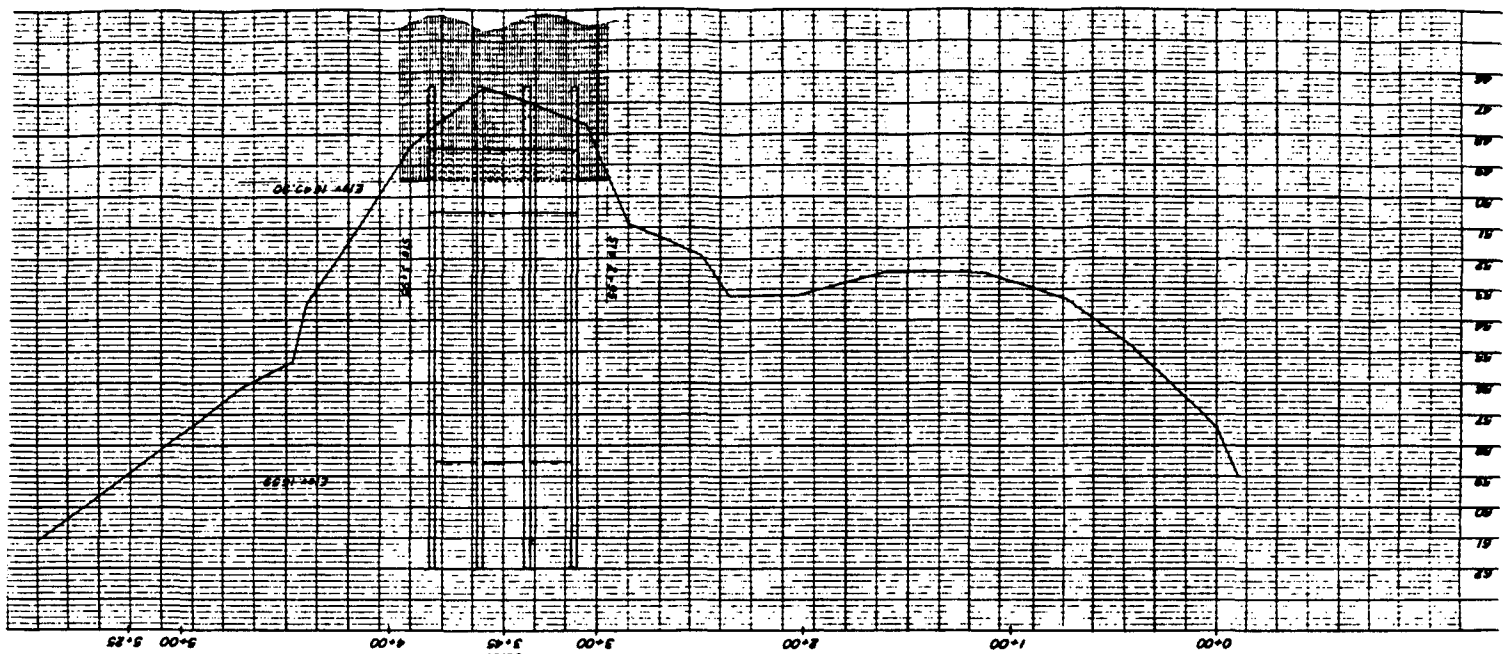


PROJECT LOCATION MAP

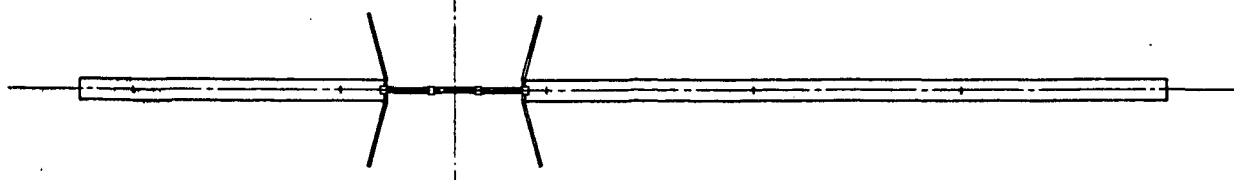
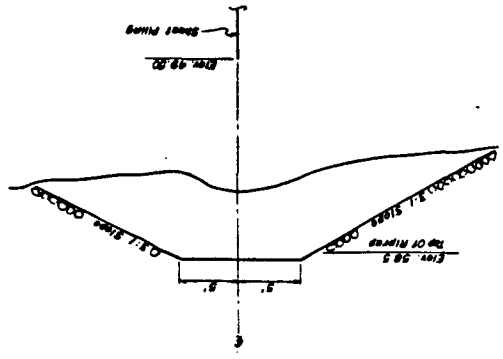
Gated dike structure in  
Lake Poinsett Outlet

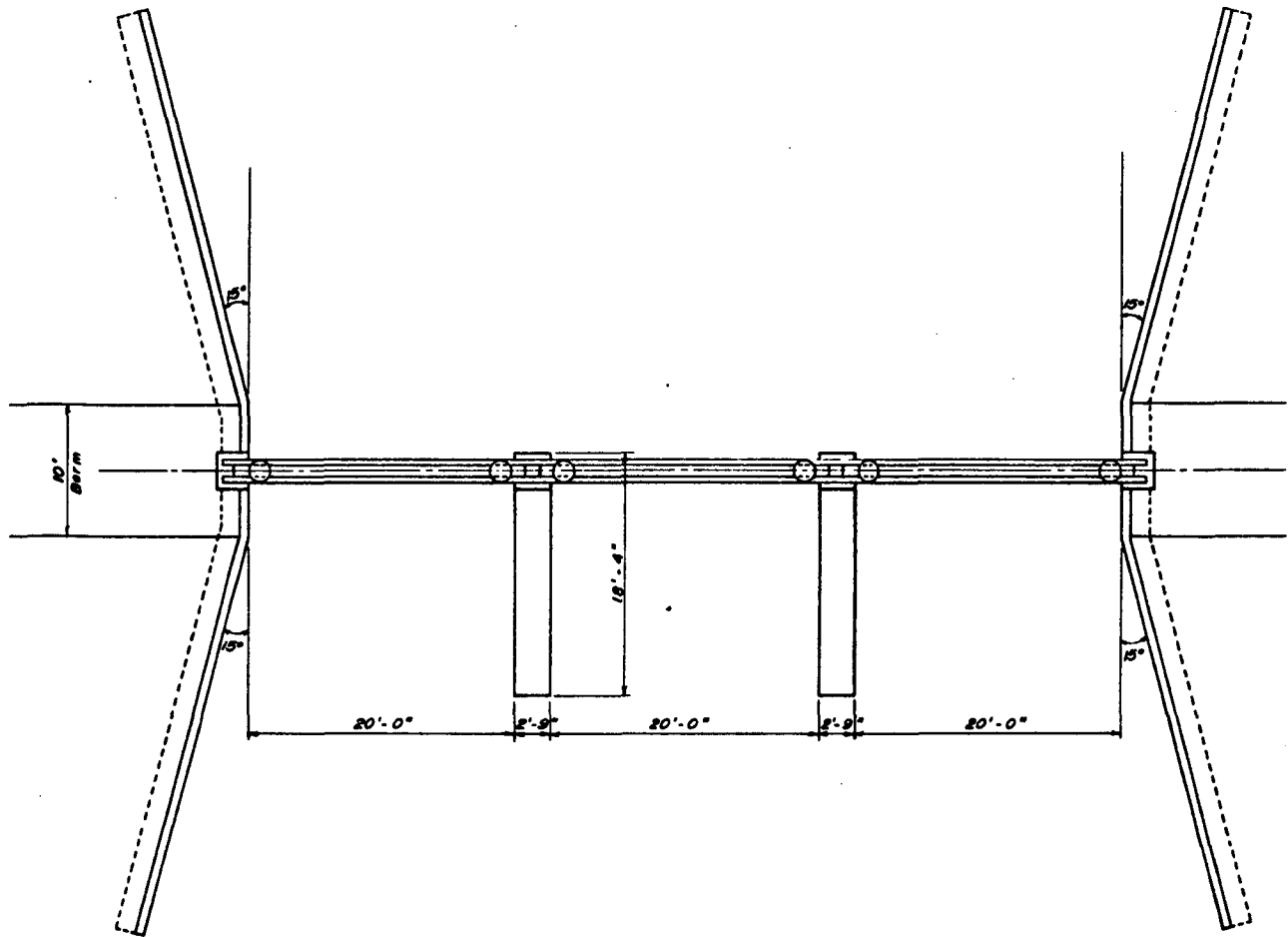
OF 3  
Lake Poinsett Area Develop Corp  
SD 2SB OXT 2 008953  
September 1986

EMBANKMENT TOP VIEW AND PROFILE

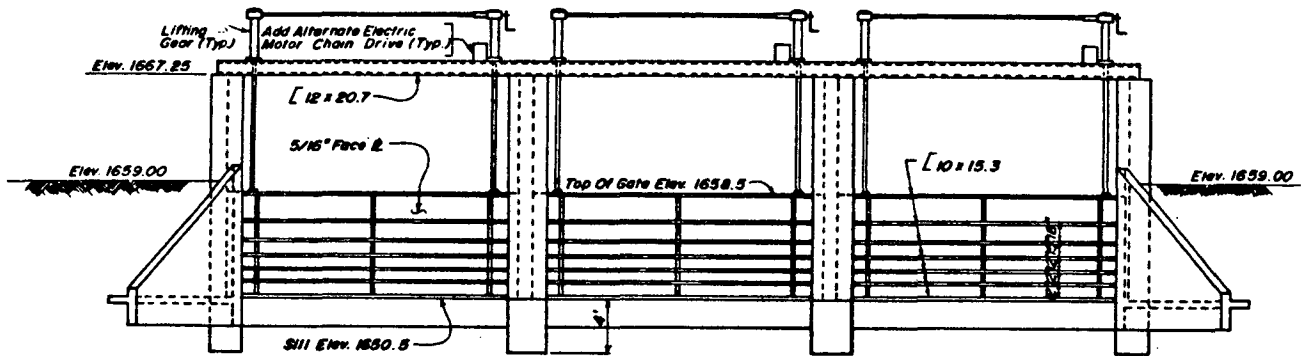


TYPICAL SECTION OF DAM





Top View



Profile

GATE STRUCTURE

Gated dike structure in  
Lake Poinsett Outlet

30F30  
Lake Poinsett Area Develop Corp  
SD 2SB OXT 2 008953  
September 1986

RECOMMENDATION OF CHIEF ENGINEER FOR FLOOD CONTROL PERMIT  
APPLICATION NO. FC-5, Lake Poinsett Area Development Association

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Flood Control Permit Application No. FC-5, Lake Poinsett Area Development Association, c/o Virgil Herriott, Lake Norden SD

The Chief Engineer is recommending APPROVAL of Flood Control Application No. FC-5 because 1) Project will reduce damage from flooding or erosion around the lake, 2) Project will not increase the likelihood or severity of flood damages downstream, 3) Project will not endanger human life or property, and 4) Project will not impair existing water rights with the following qualification:

1. That the gated structure may be closed only during times when water is backed up from the Sioux River and may flow into the lake over the outlet.
2. That the gates may not be used to raise the water level in Lake Poinsett to an elevation higher than the outlet elevation 1650.5 feet msl. The gates must remain open when the water level elevation of the Lake is higher than the water level downstream of the outlet.
3. That the ordinary high water mark (High WM) elevation 1651.5 feet msl may not be affected by this Flood Control Permit and that the Board may review this permit if it appears that the High WM is being affected or a new High WM is being formed above or below the established High WM.
4. That the construction of the outlet project, future maintenance and repair, and gate operation are the responsibility of the Lake Poinsett Area Development Association.
5. That the gates must be capable of being locked in position so authorized persons may not operate or tamper with the gates.

See the attached report for additional information.



JOHN HATCH, Chief Engineer  
September 5, 1986

Report on Application No. FC-5  
Lake Poinsett Area Development Assoc.  
August 28, 1986

The Lake Poinsett Area Development Association proposes to construct a gated control structure on or adjacent the present Lake Poinsett outlet. The control structure will prevent inflows into Lake Poinsett from the Big Sioux River during flood stage and control outflow from Lake Poinsett during low flow water years. The purpose of the structure is to reduce flood damage, bank erosion, and nutrient loading to the lake.

The proposed structure will be located at the Lake Poinsett outlet in the SE1/4 of Section 12, T113N, R52W. The structure will have an embankment height of 10 feet, a crest width of 10 feet and a crest length of 300 feet. Flows through the structure will be controlled by three 10' X 20' gates. The elevation at the top of the structure embankment will be set at an elevation of 1659 ft. msl. The outlet elevation or base of the structure, elevation 1650.5, will be unchanged.

#### Discussion

The plan proposes an embankment elevation of 1659.0. At this elevation, the 100 year flood on the Sioux River would be unable to enter the outlet of Lake Poinsett thereby stopping inflows into the lake through the outlet. Flood flows from the Big Sioux River would still be able to enter the lake via the diversion channel and Dry Lake by control of the Boswell Dam gates if the lake has room to store excess flows.

There are problems if Lake Poinsett is to be used for flood storage. A lower elevation would be required in Lake Poinsett in order to provide flood storage. To provide flood storage of 50,000 acre feet, a five foot fluctuation in water levels from elevation 1651 to 1646 would be necessary. Lake Poinsett is used for recreational pursuits where maintaining water levels, providing good water quality and reducing sedimentation are the primary objectives. Allowing Sioux River flows into the lake will increase siltation and water pollution in the lake. For a number of years, it has been a priority to make Lake Poinsett a good quality recreational area with only minor consideration given to utilizing the lake for flood control purposes.

The Ordinary High Water Mark has been established on Lake Poinsett at elevation 1651.5 ft. msl and the maximum outlet elevation at 1650.5. During high water years, the lake can exceed these elevations. Allowing Big Sioux River flows into the lake during times when the elevation exceeds the Ordinary High Water Mark can cause excessive damage to property around the lake, an influx of poor quality water, and additional sedimentation. Flood damage around the lake during 1986 was estimated at over \$2,000,000.

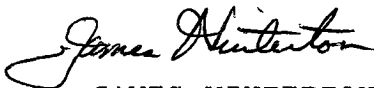
### Conclusions

The outlet of Lake Poinsett was never intended to be used nor should it be used to take the flood flows of the Sioux River. The 100 year flood on the Sioux River will inundate lands to approximately the 1660 ft. msl contour with or without the proposed structure. The effects downstream of the outlet from preventing back up waters entering Lake Poinsett will be very small, if noticable at all. If Lake Poinsett does have room to store flood waters during a high water year, there is the option of diverting the Sioux River flows into Lake Poinsett via the Boswell Dam and diversion ditch.

The proposed project will not interfere with nor adversely impact existing water rights. The project would provide benefits to the lake by being able to better control Big Sioux River flows into the lake.

The application for a flood control permit can be approved with the following qualifications:

- 1) That the gated structure may be closed only during times when water is backed up from the Sioux River and may flow into the lake over the outlet.
- 2) That the gates may not be used to raise the water level in Lake Poinsett to an elevation higher than the outlet elevation 1650.5 ft. msl. The gates must remain open when the water level elevation of the Lake is higher than the water level downstream of the Lake Poinsett outlet.



JAMES WINTERTON  
Natural Resources Engineer



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

September 5, 1986

NOTE:

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

Lake Poinsett Area Development Association  
c/o Virgil Herriott  
Lake Norden, South Dakota 57248

Dear Sir:

Your Application No. FC-5 for a permit to appropriate water for

flood control use, has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your intent to appropriate water has been sent to the Publisher of the  
Brookings Daily Register -----printed at Brookings, SD  
Hamlin County Herald Enterprise-----printed at Hayti, SD  
Arlington Sun-----printed at Arlington, SD

South Dakota. For your information, a copy of this notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

RON DUVALL  
Natural Resources Engineer

enclosures



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

September 5, 1986

Arlington Sun  
Box A  
Arlington, South Dakota 57212

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinett Area Development Application No. FC-5, in Hamlin County, South Dakota. Please <sup>Assoc.</sup> publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before September 10, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Kingsbury ) ss.

I, Cheryl Sturges hereby

certify that the annexed printed copy of Notice of Intent to Appropriate Water was taken from the Arlington Sun

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

Arlington Sun of Arlington

County of Kingsbury and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

Sept. 10, 1986  
Sept. 17, 1986

Cheryl Sturges  
(Signature)

bookkeeper  
(Title)

9-17-86  
(Date Signed)



Cost of Printing: \$48<sup>43</sup>  
124 lines  
21.7¢ per line  
8pt - 11 picas



**NOTICE OF HEARING on Application No. FC-5 For A Flood Control Permit**  
**NOTICE IS HEREBY GIVEN** that the Lake Poinsett Area Development Association whose mailing address is %Virgil Herriott, Lake Norden, South Dakota has made an application for a flood control permit. This application proposes construction of a gated control structure on or adjacent to the site of the existing Lake Poinsett outlet structure located in the SE ¼ Section 12, T113N, R52W. The proposed gated control structure will consist of an earth embankment 10 feet in height, 300 feet in length with a crest width of 10 feet and top crest elevation of 1659 feet mean sea level. The earth embankment will have three 10 feet by 20 feet gates for flow control. The elevation of the outlet structure will remain unchanged at 1650.5 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the elevation of the existing outlet is higher than downstream water levels. The proposed structure will not be used to increase the lake elevation above the existing outlet elevation of 1650.5 feet msl. The purpose of this project is to reduce flood damage, bank erosion and nutrient loading to the lake.  
Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application NO. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.  
This application will be considered by the Water Management Board during a special Board meeting conducted via telephone conference call in Room 425, Joe Foss Building, Pierre SD, October 9, 1986 at 9:00 a.m.  
The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by September 29, 1986. The petition

may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. If there are any written petitions in opposition to this application the hearing will automatically be continued until the next regular Board meeting December 10 & 11, 1986.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-17, 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, 46-5-30.5, 46-5-37; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they

are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by September 29, 1986.

9-17-2



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

September 5, 1986

Brookings Daily Register  
PO Drawer 177  
Brookings, South Dakota 57006

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-6, in Hamlin County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before September 11, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

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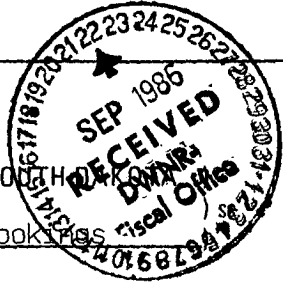
FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County Brookings

I, Douglas Anstaett

certify that the annexed printed copy of Notice of Intent to

Water was taken from the The Brookings Daily

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

City of Brookings

County of Brookings and State of South Dakota that the said notice was published in said newspaper on the two dates:

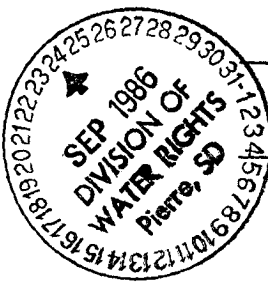
September 10, 1986

September 17, 1986

Douglas Anstaett  
(Signature)

Publisher  
(Title)

9/19/86  
(Date Signed)



Cost of Printing: \$52.70

Fifty two dollars and seventy cents

Legal S-166, 2x, Sept 10, 17  
NOTICE OF HEARING  
on Application No. FC-5

For A Flood Control Permit

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is c/of Virgil Herriott, Lake Norden, South Dakota has made an application for a flood control permit. This application proposes construction of a gated control structure on or adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12, T113N, R52W. The proposed gated control structure will consist of an earth embankment 10 feet in height, 300 feet in length with a crest width of 10 feet and top crest elevation of 1659 feet mean sea level. The earth embankment will have three 10 feet by 20 feet gates for flow control. The elevation of the outlet structure will remain unchanged at 1650.5 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the elevation of the existing outlet is higher than downstream water levels. The proposed structure will not be used to increase the lake elevation above the existing outlet elevation of 1650.5 feet msl. The purpose of this project is to reduce flood damage, bank erosion and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application NO. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.

This application will be considered by the Water Management Board during a special Board meeting conducted via telephone conference call in Room 425, Joe Foss Building, Pierre, SD, October 9, 1986 at 9:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny

the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by September 29, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. If there are any written petitions in opposition to this application the hearing will automatically be continued until the next regular Board meeting December 10 & 11, 1986.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-47; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. Those and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by September 29, 1986.



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

September 5, 1986

Hamlin County Herald Enterprise  
Box 207  
Hayti, South Dakota 57241

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-5, in Hamlin County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before September 11, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

No. FC-5

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Hamlin ) ss.

I, Lois K. Latt hereby

certify that the annexed printed copy of Notice of Intent to Appropriate Water was taken from the Herald Enterprise

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

Town of Hayti

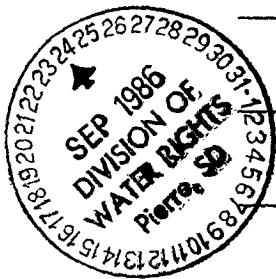
County of Hamlin and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

September 11, 1986  
September 18, 1986

Lois K. Latt  
(Signature)

Publisher  
(Title)

9-19-86  
(Date Signed)



Cost of Printing: \$54.90

**NOTICE OF HEARING**

**NOTICE OF HEARING ON APPLICATION NO. FC-5 FOR A FLOOD CONTROL PERMIT**

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is % Virgil Herriott, Lake Norden, South Dakota, has made an application for a flood control permit. This application proposes construction of a gated control structure on or adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12, T113N, R52W. The proposed gated control structure will consist of an earth embankment 10 feet in height, 300 feet in length with a crest width of 10 feet and top crest elevation of 1,659 feet mean sea level. The earth embankment will have three 10 feet by 20 feet gates for flow control. The elevation of the outlet structure will remain unchanged at 1,650.5 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during the flood stage. The gates will remain open when the elevation of the existing outlet is higher than downstream water levels. The proposed structure will not be used to increase the lake elevation above the existing outlet elevation of 1,650.5 feet msl. The purpose of this project is to reduce flood damage, bank erosion and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.

This application will be considered by the Water Management Board during a special Board meeting conducted via telephone conference call in Room 425, Joe Foss Building, Pierre, SD, October 9, 1986 at 9:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized

the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by September 29, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. If there are any written petitions in opposition to this application the hearing will automatically be continued until the next regular Board meeting December 10 & 11, 1986.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13; 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-47; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg., Pierre, SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by September 29, 1986.

# LAKE POINSETT AREA DEVELOPMENT ASSOCIATION



21 August 1986

Division of Water Rights  
Dept. of WNR, Foss Building  
Pierre, SD 57501



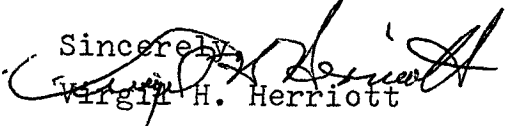
Dear Sir:

Enclosed is an application for permit for flood Control for your review and approval.

A check in the amount of \$50.00 is being mailed this date to you to accompany this application by our treasurer from Sioux Falls. I trust that the application and the check will come together in your office and that the application will be complete.

If additional information is needed, please advise me.

Sincerely,

  
Virgil H. Herriott

President

Water Management Board,

In ~~regard~~ regard to the outlet  
dam on Lake Bonsett - I'm opposed  
to that structure. Some of my  
families in the flood plains - and  
I am quite concerned about the  
effect of higher water.

Larry Knutson  
Box 20  
Estelline, S. P., 57234



September 25, 1986

Dear Sirs,

In regard to the notice of hearing on application No FC-5 for a flood control permit; I am against it because I feel by putting a dam on the outlet-inlet of Lake Poinsett it has the possibility of putting undue hardship on many people along the outlet and also people along the Big Sioux River.

My interest is I farm land along that outlet, NE 1/4 Section 12, T113N, R52W. I have pasture along the outlet and I am tired of feeding hay half the summer because my pasture is flooded.

In my opinion this dam will do no good to keep water out of Lake Poinsett because the percentage of water going into the lake is very small. In fact when it does, it is only in times that Lake Poinsett is very low. Much more study needs to be done before anything is done.

I am totally against the dam and raising existing height on Boswell diversion dam or gates. I recommend not to approve application No FC-5 because the project will have little effect if any flooding on Poinsett. It will have effect on flood damages downstream and will endanger human life or property and will endanger existing water rights.

Sincerely,  
Larry Bakke  
RR1 Box 120  
Estelline, South Dakota  
57234



September 25, 1986

Dear Sir,

In regard to application NO  
F C 5 for a flood control permit.  
I am fully against the idea,  
because I feel it would effect the  
land owners on the outlet and  
the sioux river. I feel it could  
raise the water level and  
possibly flood more land. I  
have lost pasture land and  
farm ground on both sides of  
the outlet, land description  
NW quarter section 13 T 113 N - R 52 W  
& NE quarter section 14 T 113 N - R 52 W.

I think dredging the sioux river  
would be more profitable in the  
future. I also feel the cost  
of this project will cost the  
taxpayers more money

Sincerely  
Richard Beane  
RR 1 Box 117  
Estelline S. D.  
57234



Dear Sirs,

I feel that the proposed structure would definitely cause flooding on my land, along with everyone else. I live in Estelline Township 113 Section 51. The Hydelwood Creek runs through it. When the Big Sioux is at flood stage the water backs up on the Hydelwood Creek. If you damm up the lake the only place the water has to go is down stream. It can't take the water fast enough now, even when water is rushing into Lake Poinsett and Dry Lake so you should be able to see what will happen if you let this project go through! While the damm is holding the Big Sioux out it will also be holding in all the water that comes in from the west.

The real solution to this problem is damming the Hydelwood and Stray Horse Creeks or other tributaries which cause the Sioux to flood in the first.

which cause the Sioux to flood in the first place. In dry years the Poinsett Damm would be helping no one while damms on the creeks would be saving our water instead of sending it down stream at a time when they don't want or need it either! I feel the people behind these damms would probably feel as I do about the Poinsett Damm but the difference is thousands of acres of land could be saved from flooding. Even Lake Poinsett would benefit because the Big Sioux should stay down so Lake Poinsett could drain like it should.

Sincerely,

Dale H. Williams

Dale Williams

R.F. 1 Box 151

Estelline, S.D.

57234



R2 Bx 91  
Castewood, SD, 57223  
9-25-86

Chief Engineer  
Water Management Board

Dear Sir:

I own the property on which the  
Lake Foinsett Association wants to place  
the outlet control structure in  
SE  $\frac{1}{4}$  Sec 12 T113N R52W.

I also farm 6 quarters of land either  
directly on the Soo River or just  $\frac{1}{4}$ - $\frac{1}{2}$  mile  
East of the Soo River.

I do not want the dam located on my  
property because of the pressure I would  
receive from other area farmers. I  
am also not in favor of the dam  
because it would raise the outlet &  
Soo River causing additional flooding  
of my land.

Sincerely  
Ronald E. Jongberg

cc Virgil Herrick

Subject - Lake Poinsett Dam and Diversion  
Ditch Gate Project

The Estelline Township Board of Supervisors while neutral on this project as a board do wish to express concern about possible damage to township roads and bridges from water and other problems this project might cause.

The board wishes to be heard on this matter before this project is approved.

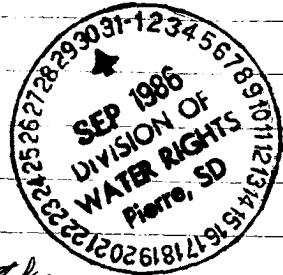
Letter by order of Estelline Township Supervisors.

Clerk - Willard Heimerger  
Box 23 RM1  
Estelline SD  
57234



RR2 Box 90  
Castlewood, S.D.  
September 27, 1986

Water Management Board  
Room 425 - Joe Loos Building  
Pierre, South Dakota



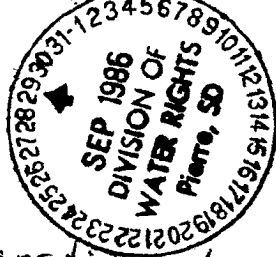
Dear Sirs:

This is in regard to the  
Application NOFC-5 for Flood  
Control Permit.

I live and farm in Estelline,  
12 W of Hamlin County. I am  
opposed to the application  
because of its location. I also  
feel the study was rushed  
and did not deal with  
normal conditions. Since the  
water only flows ~~the~~ toward  
Lake Poinset slowly for a  
few days, the dam proposed  
would be a waste of the  
tax payers money.

Sincerely yours,  
Arnold Jorgeling

Water Management Board



We rent land in section 6 of Township 113-51, Hamlin County.

We are opposed to the construction of the proposed dam in the lake Poinsett outlet. We don't feel it has been studied thoroughly enough

~~studied~~, because they weren't aware of several two natural waterways. (1) the original Inlet

(2) a branch off the outlet

This branch (2) goes through the farm we rent.

Our second concern is for the future, that LPADA might decide to use this dam to keep the water level up in the lake which would flood our land. (This was the LPADA's concern only several years ago.)

Sincerely,

RR2, Box 51  
Bruce 57220

David Linneman

Water Mang. Board



In regard to the dam they talk about putting in the Lake Poinsett outlet.

I am very much concerned what effect this would have on my farm buildings and land. Last spring, if the water would have been 2 or 3 in. higher we would have had water in our grain bin and up to house.

I would rather not see the dam put in as don't think it would benefit the lake and cause problems down the line.

Yours Truly  
Don Knutson  
Castlewood S.D 57223  
Rt. 2 Box 89



Dear Sirs;

My name is Todd Bjorklund, R.R. 2, Castlewood, S.D. I'm filing a formal complaint against the proposed building of a dam on the outlet waters of Lake Poinsett.

I feel that the proposed dam would cost too much, compared to the very few times it could ever be used. I also think the proposed site of the dam would be a detriment to the people who live along the outlet waters. It could also affect many acres of land along the Big Sioux River.

I think that much more surveying and research should be done. There has to be a better way to try to control the water, like dredging a few miles of the Sioux River, at the mouth of the outlet, so the water can go down stream faster and everybody can benefit. Then there's times when you have to let Mother Nature take care of its self.

Concerned:  
Todd Bjorklund

*RR 2, Box 93  
Castlewood 57223*

OFFICE OF  
COUNTY AUDITOR  
HAMLIN COUNTY

Hayti, South Dakota 57241  
P.O. Box 237

Nov. 14, 1986



S.Dak. Dept. of Water & Natural Resources  
Joe Foss Building  
523 East Capitol Ave.  
Pierre, S.Dak. 57501

Dear Sirs:

The Hamlin County Board of Commissioners requests consideration be taken when granting the permit to the Lake Poinsett Area Development Association so that water doesn't back up on county and township roads and cause further damage to both county roads and bridges. Their permit is asking for a control structure located at SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of 13-113-52 across the outlet channel.

Sincerely,

*Hamlin County Bd of Commissioners*

Hamlin County Board of Commissioners



# Sanderson, Ridout & Martens

Daniel D. Sanderson (1920-1980)

William James Sanderson  
William B. Ridout  
John G. Martens

Attorneys at Law

703 First Avenue South  
Estherville, Iowa 51334

Estherville Office

712 362-5885

712 362-3240

September 26, 1986

Department of Natural Resource Development  
Water Rights Commission  
Joe Foss Building  
Pierre, SD 57501

Attention: Chief Engineer

Dear Sir:

I own a farm located in Section 15 of Township 113 North, Range 51 West of the 5th P.M., in Hamlin County, South Dakota. On this farm is a location whereby the Hidewood Creek empties into the Big Sioux River and this farm experiences extreme flood conditions virtually every spring which causes long delays in planting and often times prohibits planting in certain areas of the farm. This farm also experiences flooding and wet conditions when heavy rainfalls are received in the area which in the past have caused us extensive delays in harvest and occasionally a large reduction in yield.

I received a phone call today from my tenant, Alan Fujent, of Estelline, South Dakota, and he informed me of a meeting he recently attended whereby it is being proposed that the inlet to Dry Lake be raised by approximately 2 feet which in his estimation and my estimation, together with many of the neighbors, would cause an increase in the flooding experienced by the farms located on the Big Sioux River and Hidewood Creek. I received no notice or no information of this proposed change which there is no doubt would create an extreme hardship on my farm together with many neighboring farms, both up and down the river.

I want you to treat this letter as a formal objection, both by myself and by Alan Fujent, who is also a landowner in the area, to any change in the Big Sioux watershed area unless such change is one which would reduce flooding rather than increase flooding of farmland as your proposed change would.

I would further like to be informed of any further hearings or meetings concerning this proposed project; and if possible, would request that you provide me with a copy of your rules and regulations with regard to water management such as is being proposed by this change. If there is any cost to procure such rules and regulations, I will gladly pay that cost.

Sincerely,



Wm. J. Sanderson



SOUTH




# Department of Water & Natural Resources

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

September 26, 1986

## NOTICE

TO: Lake Poinsett Area Development Association  
c/o Virgil Herriott  
Lake Norden SD 57248

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

SUBJECT: Automatic Continuance of Hearing on Flood Control  
Permit Application No. FC-5

A petition in opposition to Flood Control Permit Application No. FC-5 has been received from Ronald E Jongeling. Pursuant to the Notice of Hearing and SDCL 46-2A-4 and 46-2A-5, the hearing on Application No. FC-5 is automatically continued until the December 10 and 11, 1986 Water Management Board Meeting. The hearing on Flood Control Permit Application No. FC-5 will now be held in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD December 10, 1986 at 1:00 pm.

cc: Ronald E Jongeling  
Water Management Board





# Department of Water & Natural Resources

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

October 6, 1986

## NOTICE

TO: Persons Interested in Flood Control Permit Application  
No. FC-5, Lake Poinsett Area Development Association

FROM: *John Hatch* John Hatch, Chief Engineer  
Water Rights Division  
605 773-3352 *Jeri Winter*

SUBJECT: Automatic Continuance

Enclosed is a copy of the Notice to Lake Poinsett Area Development Association dated September 29, 1986. A letter petition from Ronald E Jongeling automatically continued the hearing on Flood Control Permit Application No. FC-5.

cc: Lake Poinsett Area Development Association  
Dan Doyle, Assistant Attorney General

Arnold Jongeling  
RR 2, Box 90  
Castlewood SD 57223

Willard Heismeyer  
Estelline Township Board  
Box 23, RR 1  
Estelline SD 57234

Larry Bakke  
RR 1, Box 120  
Estelline SD 57234

Lake Poinsett Area Develop.  
c/o Virgil Herroitt  
Lake Norden SD 57248

Richard Beare  
RR 1, Box 117  
Estelline SD 57234

Dale G Williams  
RR 1, Box 151  
Estelline SD 57234

David Linneman  
RR 2, Box 51  
Bruce SD 57220

Don Knutson  
Rt 2, Box 89  
Castlewood SD 57223

Larry Knutson  
Box 20  
Estelline SD 57234

Todd Bjorklund  
RR 2, Box 93  
Castlewood SD 57223

William J Sanderson  
703 1st Ave S  
Esterville IA 51334

Alan Fujent  
Estelline SD 57234



# LAKE POINSETT AREA DEVELOPMENT ASSOCIATION



5 November 1986



Water Rights Division  
Dept of W & NR  
Foss Building  
Pierre, SD 57501

Dear Sir:

This is to formally request that the Permit for Flood Control submitted by the Lake Poinsett Area Development Ass'n (No FC-5) be amended in item 4 to the following: Lake Poinsett outlet in the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 13, T113N, R52W.

The Hamlin County Commissioners yesterday voted unanimously to grant an easement or permit for construction of the control structure within the public right-of-way subject to our obtaining a flood control permit.

We hope that our application can now be considered by the Board at their December meeting. If further information is needed please let me know.

Sincerely,

Virgil H. Herriott, Pres.  
Lake Poinsett Area Development Ass'n  
RR 1, Box 46A  
Lake Norden, SD 57248


REVISED RECOMMENDATION OF CHIEF ENGINEER FOR REVISED FLOOD  
CONTROL PERMIT APPLICATION NO. FC-5,  
Lake Poinsett Area Development Association

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Revised Flood Control Permit Application No. FC-5, Lake Poinsett Area Development Association, c/o Virgil Herriott, Lake Norden SD

The Chief Engineer is recommending APPROVAL of Revised Flood Control Application No. FC-5 because 1) Project will reduce damage from flooding or erosion around the lake, 2) Project will not increase the likelihood or severity of flood damages downstream, 3) Project will not endanger human life or property, and 4) Project will not impair existing water rights with the following qualification:

1. That the gated structure may be closed only during times when water is backed up from the Sioux River and may flow into the lake over the outlet.
2. That the gates may not be used to raise the water level in Lake Poinsett to an elevation higher than the outlet elevation 1650.5 feet msl. The gates must remain open when the water level elevation of the Lake is higher than the water level downstream of the outlet.
3. That the ordinary high water mark (High WM) elevation 1651.5 feet msl may not be affected by this Flood Control Permit and that the Board may review this permit if it appears that the High WM is being affected or a new High WM is being formed above or below the established High WM.
4. That the construction of the control structure, future maintenance and repair, and gate operation are the responsibility of the Lake Poinsett Area Development Association.
5. That the gates must be capable of being locked in position so unauthorized persons may not operate or tamper with the gates.

See the attached report for additional information.

  
JOHN HATCH, Chief Engineer  
November 6, 1986

REVISED  
Report on Application No. FC-5  
Lake Poinsett Area Development Association  
November 5, 1986

This report is a revision of the August 28, 1986 report on Application No. FC-5 in response to the request by the Lake Poinsett Area Development Association to change the location of the proposed project upstream to the county right of way in the SW1/4NW1/4 of Section 13, T113N, R52W.

The Lake Poinsett Area Development Association proposes to construct a gated control structure in the outlet channel to be located on the east side of the bridge located on north-south road to Castlewood. The control structure will prevent inflows into Lake Poinsett from the Big Sioux River during flood stage. The purpose of the structure is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Flows through the structure will be controlled by three 10 feet by 20 feet gates. The elevation at the top of the structure embankment will be approximately 1659 ft. msl. The normal outlet elevation for Lake Poinsett will remain unchanged at elevation 1650.5 ft. msl.

#### Discussion

The plan proposes an embankment elevation of 1659.0. At this elevation, the 100 year flood on the Sioux River would be unable to enter Lake Poinsett thereby stopping inflows into the lake though the outlet channel. Flood flows from the Big Sioux River would still be able to enter the lake via the diversion channel and Dry Lake by control of the Boswell Dam gates.

There are problems if Lake Poinsett is to be used for flood storage. First, a lower elevation must be maintained in Lake Poinsett in order to provide flood storage. To provide flood storage of 50,000 acre feet, a five foot fluctuation in water levels from elevation 1651 to 1646 would be necessary. Lake Poinsett is used for recreational purposes. Maintaining desirable water levels, providing good water quality and reducing sedimentation are primary objectives. Allowing Sioux River flows into the lake increases situation and water pollution in the lake. For a number of years, it has been the priority to make Lake Poinsett a good quality recreational area with only minor consideration given to using the lake for flood control purposes.

The Ordinary High Water Mark has been established on Lake Poinsett at elevation 1651.5 ft. msl and the maximum outlet elevation at 1650.5. During high water years, the lake can exceed these elevations. Allowing Big Sioux River flows into the lake during times when the elevation exceeds the Ordinary High Water Mark can cause excessive damage to property around the lake, an

influx of poor quality water, and additional sedimentation. Flood damage around the lake during 1986 was estimated at over \$2,000,000.

Conclusions

The outlet of Lake Poinsett was never intended to be used nor should it be used to take the flood flows from the Sioux River. The 100 year flood on the Sioux River will inundate lands to approximately the 1660 ft. msl contour with or without the proposed structure. The effects downstream of the outlet from preventing back up waters entering Lake Poinsett will be very small, if noticeable at all.

The proposed project will not interfere with nor adversely impact existing water rights. The project would provide benefits to the lake by helping to stop Big Sioux River flows from entering the lake.

The application for a flood control permit can be approved with the following qualifications:

- 1) That the gated structure may be closed only during times when water is backed up from the Sioux River and may flow into the lake over the outlet.
- 2) That the gates may not be used to raise the water level in Lake Poinsett to an elevation higher than the outlet elevation 1650.5 ft. msl. The gates must remain open when the water level elevation of the Lake is higher than the water level downstream of the Lake Poinsett outlet.



JAMES WINTERTON  
Natural Resources Engineer



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

NOTE:

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

Lake Poinsett Area Development Association  
c/o Virgil Herriott  
RR 1, Box 46A  
Lake Norden, South Dakota 57248

Dear Mr. Herriott:

Your Application No. FC-5 for a permit to appropriate water for flood control use, has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your intent to appropriate water has been sent to the Publisher of the Brookings Daily Register published at Brookings; Arlington Sun published at Arlington; Hamlin County Herald Enterprise published at Hayti; Estelline Journal published at Estelline; Hamlin County Republican published at Castlewood; Watertown Public Opinion published at Watertown in SD. For your information, a copy of this notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

RON DUVALL  
Natural Resources Engineer

enclosures



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Brookings Daily Register  
PO Drawer 177  
Brookings, South Dakota 57006

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-5, in Brookings County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 13, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_  
TO: Water Rights Division  
Joe Foss Building  
Pierre SD 57501-3181

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Brookings ) ss.

I, Douglas Anstaett hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Brookings Daily Register

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

City of Brookings

County of Brookings and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

November 13, 1986

November 20, 1986

Douglas Anstaett  
(Signature)

Editor & Publisher  
(Title)

11/14/86  
(Date Signed)

Cost of Printing: \_\_\_\_\_

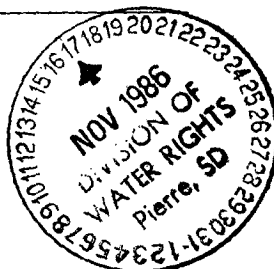
Fifty six dollars and ten cents

Legal 500, 2x, Nov. 13, 20  
Readvertisement of  
NOTICE OF HEARING on  
Flood Control Application  
No. FC-5

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is RR1, Box 46A, c/o Virgil Herriott, Lake Norden, South Dakota made an application for a flood control permit on August 22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Register and on September 11 and 18, 1986 in the Hamlin County Herald Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW 1/4 NW 1/4 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 at 1:00 p.m.



The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. Petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petitioners are still parties to the hearing on No. FC-5.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg. Pierre, SD (605 773-3352) for assistance to the hearing date. The time

ing will be automatically extended for at least 15 days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Arlington Sun  
Box A  
Arlington, South Dakota 57212

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-5, in Kingsbury County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 12, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVAL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Kingsbury ) ss.

Cheryl Sturges hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Arlington Sun

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

city of Arlington

County of Kingsbury and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

Nov. 12, 1986

Nov. 19, 1986

Cheryl Sturges  
(Signature)

bookkeeper/owner  
(Title)

11-19-86  
(Date Signed)



Cost of Printing: \$ 51<sup>17</sup>

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE OF HEARING  
ON FLOOD CONTROL  
Application No. FC-5**

**NOTICE IS HEREBY GIVEN**

that the Lake Poinsett Area Development Association whose mailing address is RR 1, Box 46A, c/o Virgil Herriott, Lake Norden, South Dakota made an application for a flood control permit on August 22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Register and on September 11 and 18, 1986 in the Hamlin County Herald Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW 1/4 NW 1/4 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood

damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property and 4) will not impair existing water rights. This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 at 1:00 p.m. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected

ted by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. Petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petitioners are still parties to the hearing on No. FC-5.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2 46-5-30.4, 46-5-31; 46-5-47 and board rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court, as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Estelline Journal  
Box 159  
Estelline, South Dakota 57234

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Application No. FD-5, in Hamlin County, South Dakota. Please **Assoc.** publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 12, 1986.

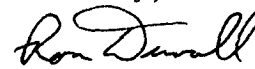
The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

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Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

  
RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_  
TO: Water Rights Division  
Joe Foss Building  
Pierre SD 57501-3181

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

# Affidavit of Publication

STATE OF SOUTH DAKOTA,  
 County of Hamlin

Charles F. Cecil, of said county, being first duly sworn, on oath says that he is the publisher or manager of The Estelline Journal, a weekly newspaper printed and published in Estelline, said County of Hamlin, and has full and personal knowledge of all the facts herein 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-one 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 #151

Notice of Hearing

\_\_\_\_\_ a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for 2 successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

Nov. 13, 1986, \_\_\_\_\_, 19\_\_\_\_  
Nov. 20, 1986, \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_, 19\_\_\_\_; \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_, 19\_\_\_\_; \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_, 19\_\_\_\_; \_\_\_\_\_, 19\_\_\_\_

that the full amount of the fees for the publication of the annexed notice is \$ 54.44

C. F. Cecil

Subscribed and sworn to before me this 6<sup>th</sup>

day of December, 1986

Mary Cecil

Notary Public

724x.43<sup>9</sup>/<sub>10</sub> = 54.44

**on Flood Control Application No. FC-5**

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is RR1 Box 46A, c-o Virgil Herriott, Lake Norden, South Dakota made an application for a flood control permit on August 22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Register and on September 11 and 18, 1986 in the Hamlin County Herald Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/2 Section 12-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW 1/2 NW 1/2 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood of severity of flood damages downstream, 3) will not endanger human life or property and 4) will not impair existing water rights.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota December 10, 1986 at 1:00 p.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and address of the petitioner or the petitioner's legal counsel if legal counsel is obtained. The applicant

need not be resubmitted. The original petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petitions need not be resubmitted to the hearing on No. FC-5.

This application is subject to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15;

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the hand-carrying and receiving Water Rights Division, Joe Foss

Bldg, Pierre 505 775-3362) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.





# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Hamlin County Republican  
Box 38  
Castletown, South Dakota 57223

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-5, in Hamlin County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 13, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

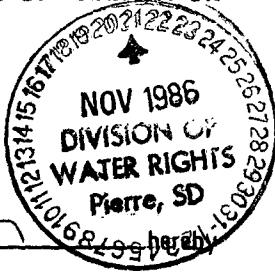
NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

No. FC-5

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Hamlin ) ss.



I, Donna Holman

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Hamlin County Republican

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

city of Castlewood

County of Hamlin and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

November 13, 1986

November 20, 1986

Donna Holman  
(Signature)

Publisher  
(Title)

Nov. 20, 1986  
(Date Signed)

Cost of Printing: 133 x .43

\$ 57.19

11/20/86 Ardeell L. Strait  
notary

# NOTICE OF HEARING

Readvertisement of NOTICE OF HEARING on Flood Control Application No. FC-5

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is RRI, Box 46A, c/o Virgil Herriott, Lake Norden, South Dakota made an application for a flood control permit on August 22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE1/4 Section 13-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW1/4NW1/4 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights. This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 at 1:00 p.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. Petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petitioners are still parties to the hearing on No. FC-5.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11; 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg., Pierre SD (605 773-2352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Watertown Public Opinion  
PO Box 10  
Watertown, South Dakota 57201

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. FC-5, in Codington County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 13, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVALL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

LAKE POINSETT

PROOF OF

READVERTISEMENT OF NOTICE OF HEARING ON FLOOD CONTROL APPLICATION NO. FC-5

Notice is hereby given that the Lake Poinsett Area Development Association whose mailing address is RR 1, Box 46A, c-o Virgil Herriott, Lake Norden, South Dakota made an application for a flood control permit on August

STATE OF SOUTH DAKOTA )
) ss.
County Codington )

I, Monica K. Saathoff hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Watertown Public Opinion

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

city of Watertown

County of Codington and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

November 13th, 1986

November 20th, 1986

Monica K. Saathoff (Signature)

Bookkeeper (Title)

November 20th, 1986 (Date Signed)

Cost of Printing: 96.90

22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Register and on September 11 and 18, 1986 in the Hamlin County Herald Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW 1/4 NW 1/4 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the lake, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 at 1:00 p.m.

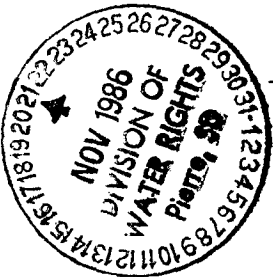
The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. Petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petition...

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-5-47; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the hand-capped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre, SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

(November 13, 20, 1986)



11/20/86



# Department of Water & Natural Resources

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

Water Rights Division  
605 773-3352

November 6, 1986

Hamlin County Herald Enterprise  
Box 207  
Hayti, South Dakota 57241

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Lake Poinsett Area Development Assoc.  
Application No. EC-5, in Hamlin County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before November 13, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication 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 before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVAL  
Natural Resources Engineer

cc: applicant

\*\*\*\*\* CUT HERE \*\*\*\*\*

FIRST Publication Transmittal No. \_\_\_\_\_ Date \_\_\_\_\_

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

We are in receipt of your letter dated \_\_\_\_\_ and Notice of Hearing to Appropriate Water by Application No. \_\_\_\_\_. The notice was first published in our issue dated \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME \_\_\_\_\_ NEWSPAPER \_\_\_\_\_

*Equal Opportunity Employer*

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Hamlin ) ss.

I, Lois K. Latt hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Herald Enterprise

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

Town of Hart

County of Hamlin and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

November 13, 1986

November 20, 1986

Lois K. Latt  
(Signature)

Publisher  
(Title)

11-20-86  
(Date Signed)

Cost of Printing: \$57.53

Readvertisement of NOTICE OF HEARING on Flood Control Application No. FC-5

Notice is hereby given that the Lake Poinsett Area Development Association, whose mailing address is RR1, Box 46A, c/o Virgil Herriott, Lake Norden, South Dakota, made an application for a flood control permit on August 22, 1986. The original Notice of Hearing was published on September 10 and 17, 1986 in the Arlington Sun and Brookings Daily Register and on September 11 and 18, 1986 in the Hamlin County Herald Enterprise. The original advertisement gave notice of a proposed flood control project to be constructed adjacent to the site of the existing Lake Poinsett outlet structure located in the SE 1/4 Section 12-T113N-R52W. This readvertisement of the original notice is to change the location of the proposed flood control project to the SW 1/4 NW 1/4 Section 13-T113N-R52W. This application proposes construction of a gated control structure consisting of an earth embankment with three 10 feet by 20 feet gates for flow control with an approximate top crest elevation of 1659.0 feet mean sea level. The proposed structure is to prevent inflows into Lake Poinsett from the Big Sioux River by closing the three gates during flood stage. The gates will remain open when the existing outlet elevation of 1650.5 feet msl is higher than downstream water levels. The gated control structure is not to be used to raise the water level in Lake Poinsett to an elevation higher than the 1650.5 feet msl outlet elevation. The purpose of this project is to reduce flood damage, bank erosion, and nutrient loading to the lake.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. FC-5 because the project 1) will reduce damage from flooding or erosion around the outlet structure, 2) will not increase the likelihood or severity of flood damages downstream, 3) will not endanger human life or property, and 4) will not impair existing water rights.

This application will be considered by the Water Management Board, Room 216, Joe Foss Building, Capitol Building, South Dakota, on November 30, 1986 at 1:00 p.m.



The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition. Petitions previously received in response to the original notice of hearing for No. FC-5 need not be resubmitted. The original petitioners are still parties to the hearing on No. FC-5.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-5-47 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the [redacted] recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN, Joe Foss Bldg., Pierre, SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least [redacted] days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986. 46-47

South Dakota  
Department of  
Game, Fish and Parks

Office of the Secretary

Sigurd Anderson Building

445 East Capitol

Pierre, South Dakota 57501

(605) 773-3387

November 24, 1986

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



Dear Mr. Hatch:

The South Dakota Department of Game, Fish and Parks has reviewed the public notice and revised recommendations of the Chief Engineer for revised flood control permit application FC-5.

The Department concurs with the goals of the project as identified in the public notice. In an effort to enhance the capability of the proposed structure to reduce nutrient loadings to the lake, GF&P recommends qualification No. 2 of the Chief Engineers recommendations be amended to read as follows:

- 2) "That the gates may not be used to raise the water level in Lake Poinsett. The gates must remain open when the water level of the lake is higher than the water level downstream of the outlet."

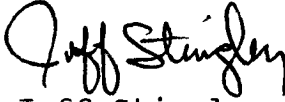
Amending qualification No. 2 will preclude misuse of the outlet gates for the purposes of filling Lake Poinsett when the lake is low and the Big Sioux River is high. Big Sioux River water is generally of poorer quality than Lake Poinsett so the net result of allowing unregulated amounts of water to flow in via the outlet is overall lowered water quality of the lake and enhanced nuisance algae blooms.

Furthermore, the opportunity for Lake Poinsett to take on Big Sioux River water exists administratively via the Lake Poinsett Diversion Committee and physically via the Lake Poinsett Diversion and Boswell Dam.

Mr. John Hatch, Chief Engineer  
Page 2  
November 24, 1986

Thank you for the opportunity to comment on this proposed project. If you have any questions please contact Ron Koth (605-773-5511) of my staff.

Sincerely,



Jeff Stingley  
Secretary

JS/RK/ld

cc: Virgil Herriott


**SOUTH Dakota** Department of  
**Water & Natural Resources**

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

December 15, 1986

NOTICE

TO: Persons Interested in Flood Control Permit Application  
No. FC-5, Lake Poinsett Area Development Association

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

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and  
Final Decision

The Water Management Board has directed Mr. Guhin, the Board's attorney to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision regarding approval of Flood Control Permit Application No. FC-5, Lake Poinsett Area Development Association. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 pm, March 4, 1987, Room 216, Joe Foss Building, Pierre SD.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to the Board and other interested parties by February 11, 1987. Any comments pertaining to the proposed Findings, Conclusions and Decision are to be mailed to the Board and other interested parties by February 20, 1987.

The public hearing on Application No. FC-5 was completed December 10, 1986. No additional testimony will be received on March 4, 1987.

FC-5  
those attending 12-10-86  
meeting & Petitioners

Larry Rust ✓  
RR 1, Box 124  
Estelline SD 57234

Arnold Jongeling  
RR 2, Box 90  
Castlewood SD 57223

Lake Poinsett Area Devel. Ass'n  
%Virgil Herriott  
RR 1, Box 46A  
Lake Norden SD 57248

Steve Lowrie  
PO Box 10  
Watertown SD 57201

David Linneman  
RR 2, Box 51  
Bruce SD 57220

Larry Bakke ✓  
RR 1, Box 120  
Estelline SD 57234

G R Famer  
4608 Vista LN  
Sioux Falls SD 57105

Don Knutson  
Rt 2, Box 89  
Castlewood SD 57223

Dale G Williams ✓  
Rt 1, Box 151  
Estelline SD 57234

Lloyd D Myers  
Box 58  
Lake Norden SD 57248

Todd Bjorklund  
RR 2, Box 93  
Castlewood SD 57223

Willard Meismeyer  
RR 1, Box 23  
Estelline SD 57234

Larry & Charlene Parliament  
Box 65  
Hayti SD 57241

Wm. J. Sanderson  
703 1st Ave S  
Estherville IA 51334

Gerald L. Spilde  
RR 1, Box 144  
Estelline SD 57234

Roger Kuyper ✓  
820 N Waits  
Sioux Falls SD 57104

Hamlin County Commission  
PO Box 237  
Hayti SD 57241

Einer & Linda Salmonson  
RR 1, Box 26  
Estelline SD 57234

Mickey Woodden  
2108 S Willow Ave  
Sioux Falls SD 57105

Jeff Stingley, Secretary  
Dept. of Game, Fish & Parks  
Anderson Bldg.

Jerry L Siegel ✓  
Rt 3, Box 204  
Brookings SD 57006

Don Porter ✓  
1305 Riverdale Rd  
Sioux Falls SD 57105

Ron Koth  
Dept. of Game, Fish & Parks  
Anderson Bldg.

Richard Beare  
RR 1, Box 117  
Estelline SD 57234

Richard Korstad  
915 E 34  
Sioux Falls SD 57101

Ron & Cheryl Jongeling  
RR 2, Box 91  
Castlewood SD 57223

Willard Heismeyer  
Rt 1, Box 23  
Estelline SD 57234

Todd Bjorkland  
RR 2, Box 93  
Castlewood SD 57223

Larry Knutson  
Box 20  
Estelline SD 57234



# Sanderson, Ridout & Martens

Daniel D. Sanderson (1920-1980)

William James Sanderson  
William B. Ridout  
John G. Martens

Attorneys at Law

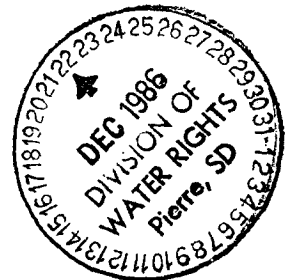
703 First Avenue South  
Estherville, Iowa 51334

Estherville Office

712 362-5885

712 362-3240

December 19, 1986



Department of Water and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3181

Attention: John Hatch, Chief Engineer

Re: Flood Control Permit Application No. FC-5 - Lake Poinsett Area  
Development Association

Dear Mr. Hatch:

I am in receipt of your Notice dated December 15, 1986, whereby you indicate that the Water Management Board will receive proposed Findings of Fact, Conclusions of Law, and a Final Decision which it will consider on March 4, 1987. Also in this Notice you refer to a public hearing which was held on December 10, 1986, which hearing I had no knowledge of and did not receive any notice with regards to said hearing.

You should note from your file that I made a prior request of your Department to be advised of any hearings which would be held in regards to this matter and also made a request for the rules and regulations of your Commission in regards to matters of this type. I received no information since that previous letter except for this Notice and apparently my requests have been ignored.

I would like to specifically request a copy of the proposed Findings, Conclusions and Final Decision which your Notice indicates will be mailed to interested parties prior to February 11, 1987.

Again, I want to express my objection to this flood control project as it will cause extreme damage to the farm that I own an interest in which is located on the point where the Hidewood Creek flows into the Big Sioux River. We have experienced extreme flooding and substantial damage to crops which we feel has been primarily caused by the inability of the Big Sioux River to take the runoff from the Hidewood Creek which backs up across our farm, and any project which would increase the flow of the Big Sioux River will compound the flooding we presently experience.

I am presently contacting adjoining farmers in the area of my farm and will be arranging for representation in South Dakota to review the proceedings of your Department with regards to this flood control application, and

Department of Water and Natural Resources  
Page Two  
December 19, 1986

hopefully to explore other possibilities which would diminish the flooding being experienced by the farmers in our area rather than compounding the problem as it exists today should this application be approved.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wm. J. Sanderson".

Wm. J. Sanderson

WJS:ms



# Department of Water & Natural Resources

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

January 8, 1987

JAN 8 1987

William J. Sanderson, Attorney  
703 1st Ave S  
Esterville IA 51334

Dear Mr. Sanderson:

I am writing in response to your letter dated December 19, 1986. You stated that you were unaware of the December 10, 1986 public hearing for Flood Control Permit Application No. FC-5, Lake Poinsett Area Development Association.

On September 26, 1986 a notice was mailed to the Lake Poinsett Area Development Association informing the Association that the hearing on FC-5 had been automatically continued until December 10, 1986 at 1:00 pm. On October 6, 1986 a notice was sent by first class mail to all persons interested in Flood Control Permit Application No. FC-5. This notice informed the persons that the September 26, 1986 notice was enclosed with the October 6, 1986 notice. In checking the files, the certification of mailing list shows that copies of these notices were mailed to you.

I have enclosed copies of Water Rights Law, State of South Dakota and Water Right, General Rules. Mr. Guhin the Water Management Board Attorney will be mailing proposed Findings, Conclusions and a Final Decision to interested parties by February 11, 1987.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

enclosures

cc: John Guhin, Assistant Attorney General ✓  
Dan Doyle, Assistant Attorney General



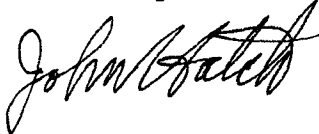
# Department of Water & Natural Resources

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

March 13, 1987

## NOTICE

TO: Persons Interested in Flood Control Permit Application  
No. FC-5, Lake Poinsett Area Development Association

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

SUBJECT: Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that a final Decision including Findings of Fact and Conclusions of Law were adopted by the Water Management Board for approval of Flood Control Permit Application No. FC-5, Lake Poinsett Area Development Association which was considered at the December 10, 1986 meeting.

The final Decision, Findings and Conclusions are on file in this office and signed copies will be furnished upon request. South Dakota Statutes provide that the decisions of the Board may be appealed to the Courts.

FC-  
those attending 12-10-86  
meeting & Petitioners

Larry Rust  
RR 1, Box 124  
Estelline SD 57234

Arnold Jongeling  
RR 2, Box 90  
Castlewood SD 57223

Lake Poinsett Area Devel. Ass'n  
%Virgil Herriott  
RR 1, Box 46A  
Lake Norden SD 57248

Steve Lowrie  
PO Box 10  
Watertown SD 57201

David Linneman  
RR 2, Box 51  
Bruce SD 57220

Larry Bakke  
RR 1, Box 120  
Estelline SD 57234

G R Famer  
4608 Vista LN  
Sioux Falls SD 57105

Don Knutson  
Rt 2, Box 89  
Castlewood SD 57223

Dale G Williams  
Rt 1, Box 151  
Estelline SD 57234

Lloyd D Myers  
Box 58  
Lake Norden SD 57248

Todd Bjorklund  
RR 2, Box 93  
Castlewood SD 57223

Willard Meismeyer  
RR 1, Box 23  
Estelline SD 57234

Larry & Charlene Parliament  
Box 65  
Hayti SD 57241

Wm. J. Sanderson  
703 1st Ave S  
Estherville IA 51334

Gerald L. Spilde  
RR 1, Box 144  
Estelline SD 57234

Roger Kuyper  
820 N Walts  
Sioux Falls SD 57104

Hamlin County Commission  
PO Box 237  
Hayti SD 57241

Einer & Linda Salmonson  
RR 1, Box 26  
Estelline SD 57234

Mickey Woodden  
2108 S Willow Ave  
Sioux Falls SD 57105

Jeff Stingley, Secretary  
Dept. of Game, Fish & Parks  
Anderson Bldg.

Jerry L Siegel  
Rt 3, Box 204  
Brookings SD 57006

Don Porter  
1305 Riverdale Rd  
Sioux Falls SD 57105

Ron Koth  
Dept. of Game, Fish & Parks  
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Richard Beare  
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Estelline SD 57234

Richard Korstad  
915 E 34  
Sioux Falls SD 57101

Ron & Cheryl Jongeling  
RR 2, Box 91  
Castlewood SD 57223

Willard Heismeyer  
Rt 1, Box 23  
Estelline SD 57234

Todd Bjorkland  
RR 2, Box 93  
Castlewood SD 57223

Larry Knutson  
Box 20  
Estelline SD 57234





**US Army Corps  
of Engineers**  
Omaha District

# Public Notice

**Reply to:**  
**Regulatory Branch**  
**Federal Building, Room 253**  
**Pierre, South Dakota 57501**

**Application No:** SD 2SB OXT 2 008953  
**Date:** April 16, 1987  
**Expiration Date:** May 7, 1987

MROOP-N-1  
Lake Poinsett Area Development Corporation  
Control Structure  
Lake Poinsett

21-DAY NOTICE



**AMENDMENT NUMBER I**  
**NOTICE OF PERMIT PENDING**

The application of the Lake Poinsett Area Development Corporation, c/o Virgil Herriott, Lake Norden, South Dakota 57248, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Engineer District, Omaha, Nebraska.

On September 18, 1986, a public notice (SD 2SB OXT 2 008953) was distributed for public review. The Lake Poinsett Area Development Corporation proposed to place fill material in the inlet/outlet channel of Lake Poinsett in conjunction with the construction of a gated dike structure located in the southeast quarter of Section 12, Township 113 North, Range 52 West, Hamlin County, South Dakota.

The applicant now proposes to place a concrete structure with control gates on the east side of the existing 50-foot span bridge on Castlewood Road in the northwest quarter of Section 13, Township 113 North, Range 52 West, Hamlin County, South Dakota (see attachments for location). The proposed work would consist of placing a concrete framed control structure with three (3) 8-foot by 20-foot gates with lifting gears. The top elevation of the gates would be at elevation 1658.50. The sill elevation would be at 1650.50.

The purpose of the project is to control the inflow from the Big Sioux River during high flow (flooding) periods and to control releases from Lake Poinsett during low water level (drought) periods. The control structure will help reduce flooding damages around Lake Poinsett.

Certification that the proposed project will not violation applicable water quality standards has been requested from the Regional Administrator, U.S. Environmental Protection Agency, Region VIII, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado.

In compliance with the National Environmental Policy Act of 1969 and Section 106 of the National Historic Preservation Act of 1966, as amended, the National Register of Historic Places and current supplements have been consulted. There are no sites

included or which have been determined eligible for inclusion therein which will be affected by the proposed project. The subject area has not been previously examined for cultural resources. However, the proposed construction zone will occur within an existing man-made causeway and bridge connection over the Lake Poinsett inlet/outlet channel and will unlikely contain significant cultural resources.

In compliance with the Endangered Species Act, our review indicates that the proposed activity will not affect species designated as threatened or endangered pursuant to the Endangered Species Act or their critical habitat.

The decision whether to issue a permit will be based on an evaluation of the problem impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R. Part 230).

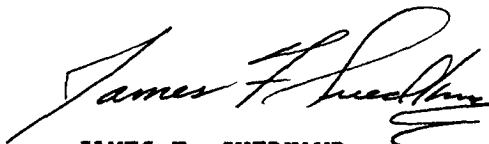
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reason for holding a public hearing. The request must be submitted to the U.S. Army Corps of Engineers, Regulatory Branch, Federal Building, Room 253, Pierre, South Dakota 57501.

Any interested party (particularly officials of any town, city, county, state, federal agency, or local association whose interests may be affected by the proposed work) is invited to submit to this office written facts, arguments, or objections on or before May 7, 1987. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this permit application. All replies to the Public Notice should be addressed to the address listed in the previous paragraph. Mr. Steve Naylor, telephone number (605) 224-8531, may be contacted for additional information.

Comments received after the close of the business on the expiration date of the public notice will not be considered.

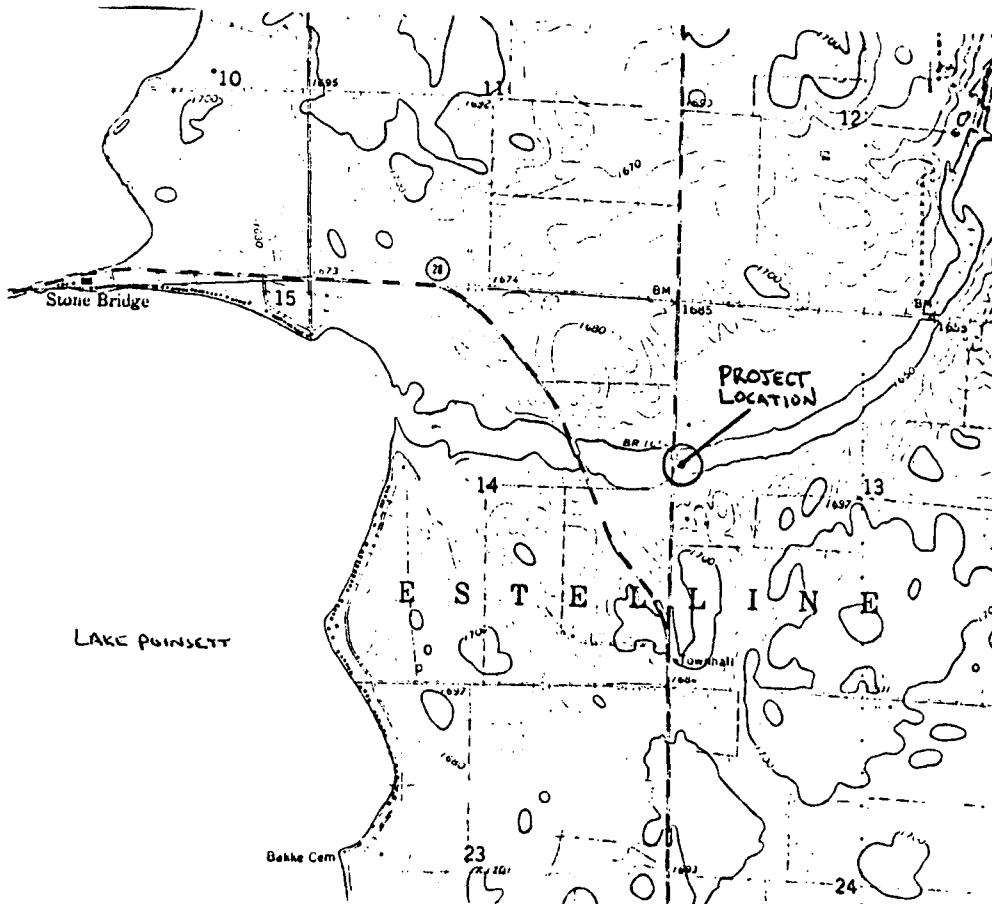
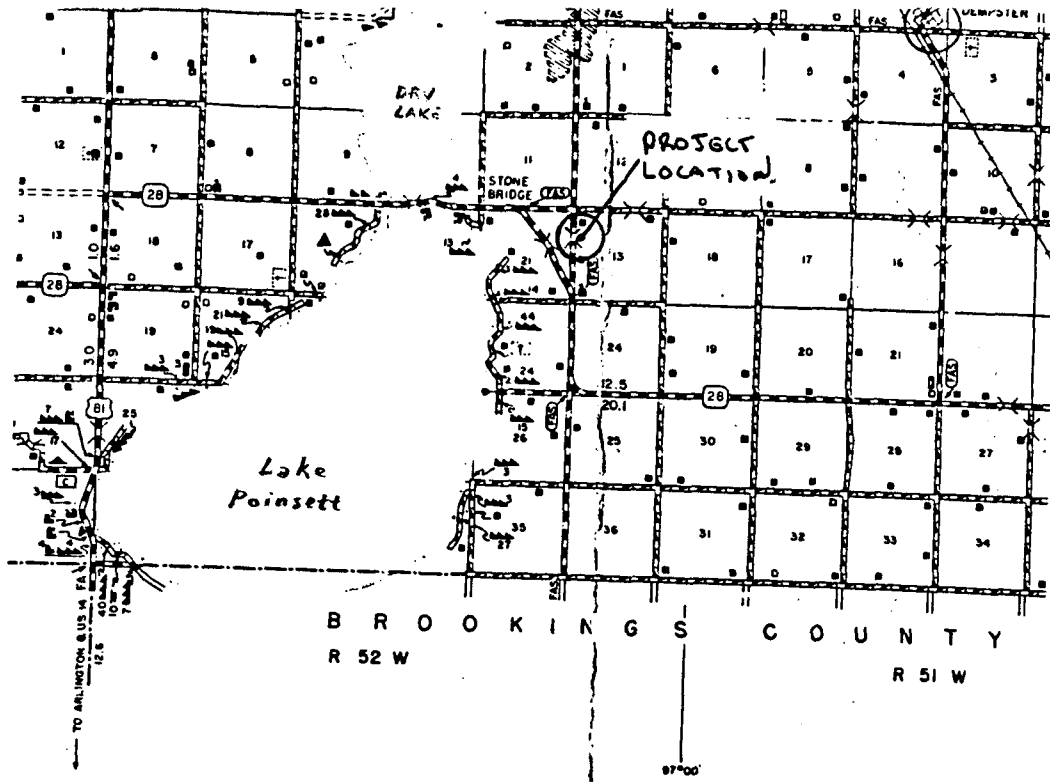
A permit, if granted, will be under the provisions of Section 404 of the Clean Water Act.

Drawings showing the location and extent of the work are attached to this notice.

A handwritten signature in cursive script, reading "James F. Suedkamp". The signature is written in black ink and is positioned above the typed name and title.

JAMES F. SUEDKAMP  
Environmental Resource Specialist  
Regulatory Branch  
Operations Division

Attachments



PURPOSE: CONTROL GATE STRUCTURE

DATUM

ADJACENT PROPERTY OWNERS:

1

2

SD 2SBOX 2 008953

AMENDMENT No. 2

190 FORM 15 MAY 1

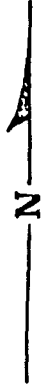
IN LAKE POINSETT  
AT

COUNTY OF HAMLIN

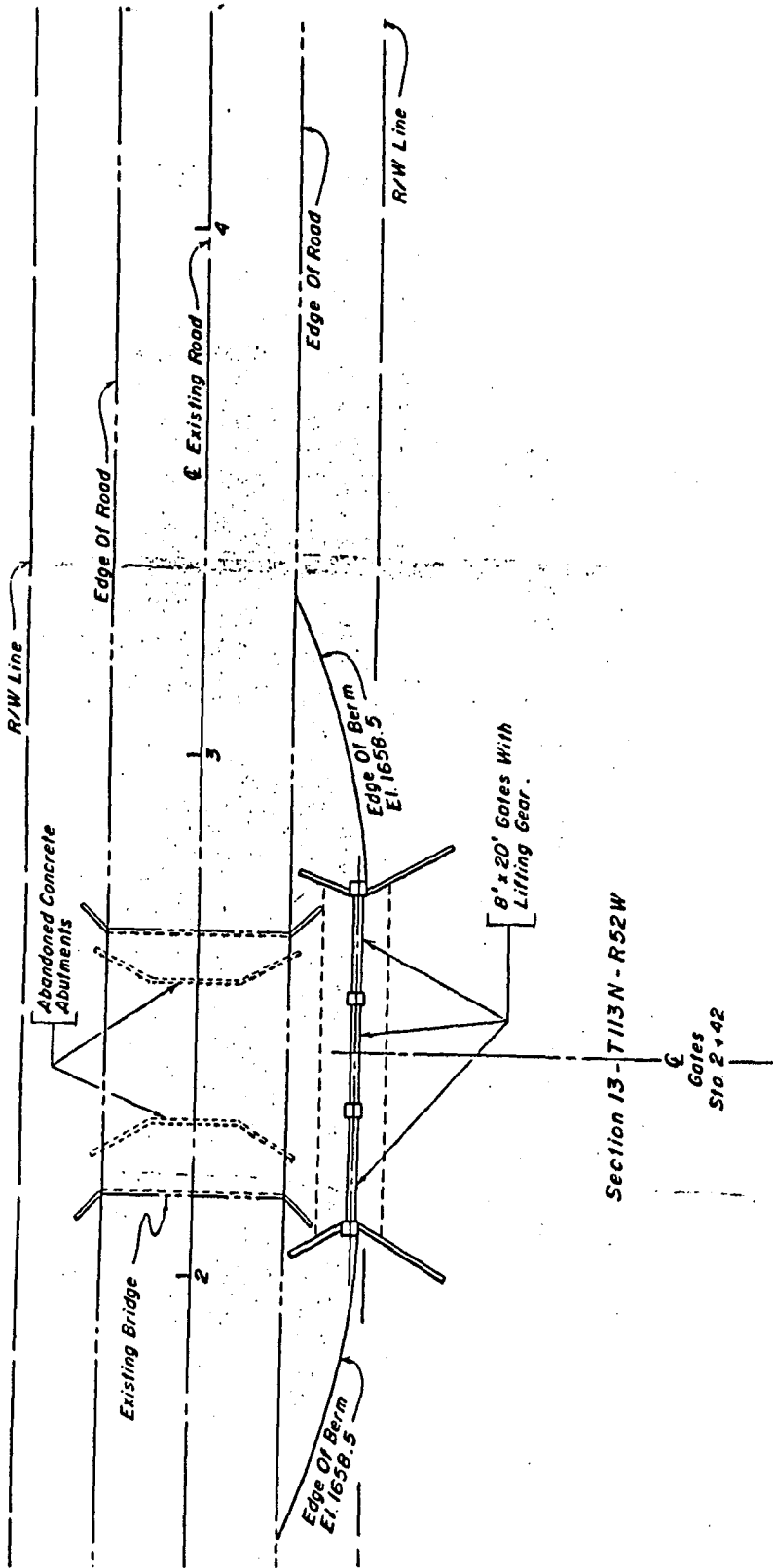
STATE SD

APPLICATION BY LK. POINSETT AREA DEVELOP CORP.

SHEET 1 OF 4 DATE APRIL 1987



Section 14 - T113N - R52W



PURPOSE: CONTROL GATE STRUCTURE

DATUM

ADJACENT PROPERTY OWNERS:

1

2

SD 2SBOX T 2 008953

AMENDMENT No. 2

IPO FORM 15 MAY 5

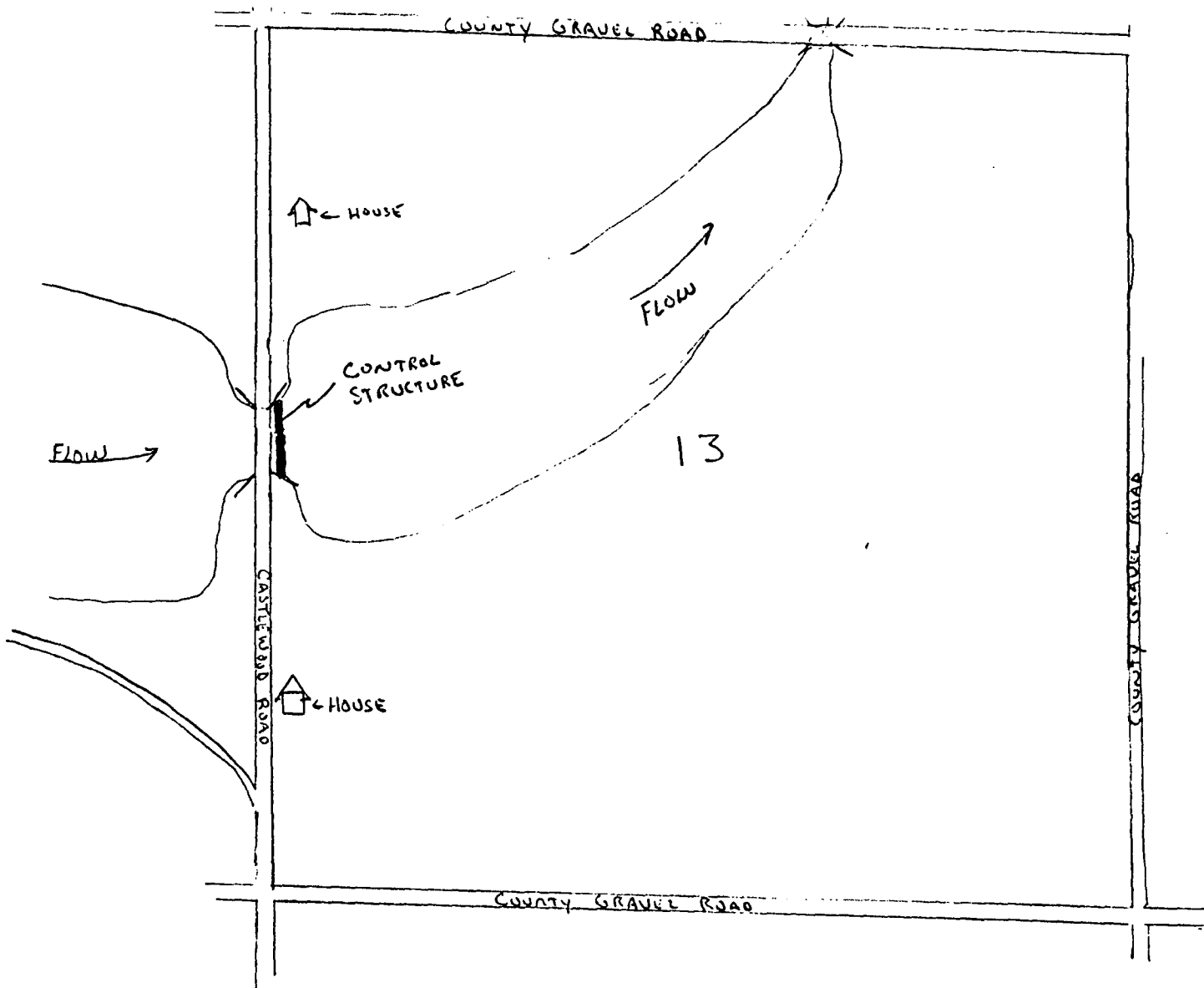
IN LAKE POINSETT  
AT

COUNTY OF HAMLIN

STATE SD

APPLICATION BY LK. POINSETT AREA DEVELOP CORP.

SHEET 3 OF 4 DATE APRIL 1987



PURPOSE: CONTROL GATE STRUCTURE

DATUM

ADJACENT PROPERTY OWNERS:

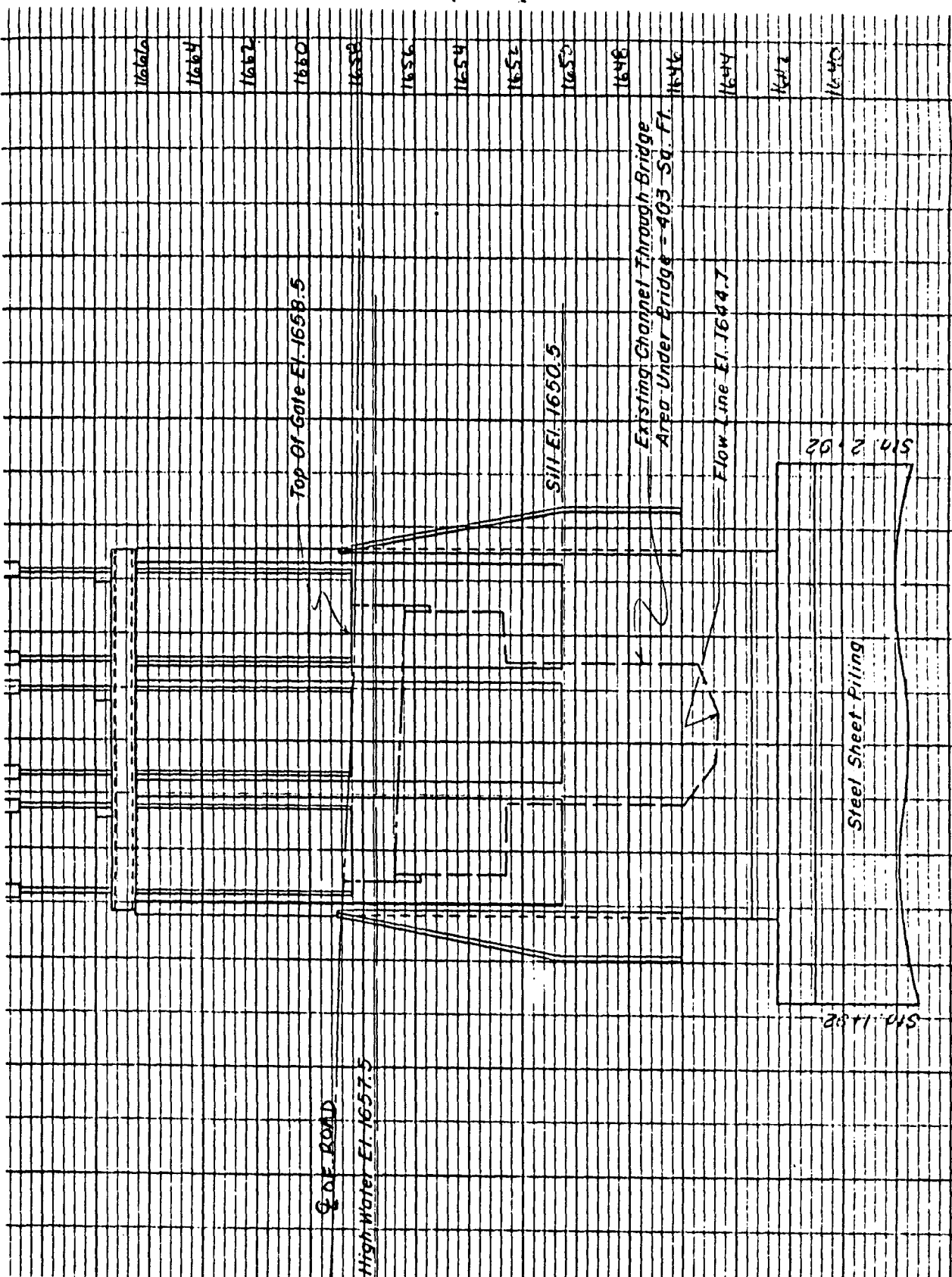
- 1
- 2

SD 25B OXF 2 008953  
AMENDMENT No. 1

SD FORM 15 MAY 71

IN LAKE POINSETT  
AT

COUNTY OF HAMLIN STATE SD  
APPLICATION BY LK. POINSETT AREA DEVELOP CORP  
SHEET 2 OF 4 DATE APRIL 1987



PURPOSE: CONTROL GATE STRUCTURE

DATUM

ADJACENT PROPERTY OWNERS:

1

2

SD 2SBOX T 2 008953

AMENDMENT No. 2

1PO FORW 15 MAY 1

IN LAKE POINSETT  
AT

COUNTY OF HAMLIN

STATE SD

APPLICATION BY LK. POINSETT AREA DEVELOP CORP.

SHEET 4 OF 4 DATE APRIL 1987



# Department of Water & Natural Resources

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

WATER RIGHTS DIVISION  
(605) 773-3352

APR 30 1987

Lake Poinsett Area Development Association  
c/o Virgil Herriott  
Lake Norden, South Dakota 57248

Dear Mr. Herriott:

Enclosed is your Flood Control Permit No. FC-5 as approved by the State Water Management Board. Please advise if you have any questions on the Permit.

Very truly yours,

A handwritten signature in cursive script that reads "John Hatch". The signature is written in black ink and is positioned above the typed name.

John Hatch, Chief Engineer  
Water Rights Division

JH:ms  
Enc.

**SOUTH DAKOTA**  
**Department of**  
**Water & Natural Resources**

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

April 26, 1990

Irwin Bultje  
Lake Poinsett Area Development Association  
5001 Thurman Drive  
Sioux Falls SD 57106

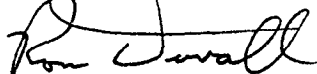
Dear Mr. Bultje:

I am writing to advise you about Flood Control Permit No. FC-5 held by the Lake Poinsett Area Development Association. Enclosed is a copy of No. FC-5 and a copy of the Findings of Fact, Conclusions of Law and Final Decision adopted by the Water Management Board when No. FC-5 was approved.

The permit allows construction of a gated control structure in the outlet channel of Lake Poinsett for purposes of preventing inflows from the Big Sioux River into Lake Poinsett. Approval of No. FC-5 is subject to five qualifications as listed on the enclosed permit. The qualifications identify when the control structure may be opened and closed (the structure must remain open unless water is entering the lake due to flooding on the Big Sioux River); allow for review of the permit; outline responsibility for construction and maintenance of the structure; and require security measures.

If you have any questions regarding No. FC-5 or the permit qualifications, then please contact me.

Sincerely,



Ron Duvall  
Natural Resources Engineer  
605 773-3352

enc.

cc: Ron Koth, Department of Game, Fish & Parks

NAME OF PERSON OR FILE: Lake Poinsett

ADDRESS: \_\_\_\_\_ COUNTY \_\_\_\_\_

DATE: 5-30-91 TELEPHONE \_\_\_\_\_

RE: Outlet gates

COMMENTS:

on May 29, 91 Stan Lungquist - Hamlin County Conservation Officer, GF&P, called Bill Stewart (DRM) stating that the Lake Poinsett outlet gate was closed and the Lake level was about 6 inches too high.

I called Erwin Bultje of the Lake Poinsett Area Development Association on 5-30-91. Mr. Bultje stated that control of the gate had been turned over to the Water Project District, Mark Swanson, President (office phone - 332-9900).

I called Mr. Swanson. He stated that the gate had been closed to prevent the Sioux River from backing into the Lake. Now they can't find someone to open the gate. H-D Electric use to open the gate but have refused to do it now. It takes a bank of 12 volt batteries to run the motor to open the gate. Mr. Swanson stated that he will be traveling to Lake Poinsett on Sunday and will get the gate open.

Stan Lungquist stated that was ok and will call me on Monday to report status of the gate

Called Stan Lungquist on June 6, 1991. He stated that due to heavy rains in the area the Sioux River has come up and the gate needed to be closed. He will let me know if the gate isn't opened when the river recedes. DDB

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Erwin W. Bultje

Water Rights Division -DENR  
Conversation or File Documentation

NAME OF PERSON OR FILE: Lake Poinsett Area Development Assoc.

ADDRESS: Lake Norden, SD

COUNTY: Hamlin

DATE: 7/31/91

TELEPHONE:

RE: Operation of Outlet Gates

COMMENTS: Tim Olson with the Game, Fish, and Parks contacted me regarding the outlet gates on Lake Poinsett. According to the regional CO, one of the gates was partially open and the other two were completely closed.

I contacted Butch Apple with the Lake Poinsett Water Development Board (RR 2, Box 111, 100 N. Lake Dr. Castlewood, SD 57223, Phone 785-3975). He said one of the gates is completely open but the other two are closed. He said the reason for that is lack of personnel to operate the gates and also because they are in process of redesigning the gates. He also said it is hard to get to them because they are working on redesigning the gates. I told him based on the permit qualification, the gates must stay open at all time except when Big Sioux River backs up water and causes water to flow into the lake. I asked him if the Big Sioux River was backing up water? He said no. He said he was aware of the qualification. I told him as long as the changes, they want to make, are not approved by the Water Management Board, they should stick to the present permit qualifications and open all three gates. Mr. Apple stated that he was not sure why the responsibility of operating the lake was given to the Lake Poinsett Water Development Board.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



M. RASSOOL AHADI

Natural Resources Engineer III  
DENR, Water Rights Division

# EAST DAKOTA WATER DEVELOPMENT DISTRICT

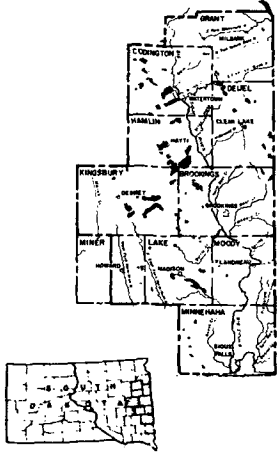
Office  
524 Seventeenth Avenue  
BROOKINGS, SOUTH DAKOTA 57006  
TELEPHONE (605) 692-5185

## BOARD OF DIRECTORS

EARL P. ACHESON, CHAIRMAN, Chester  
WILLIAM F. DEMPSEY, VICE CHAIRMAN, Brookings  
DOUGLAS L. FETEN, SECRETARY, Clear Lake  
RICHARD E. BROWN, Sioux Falls

ARTHUR B. deWIT, Sioux Falls  
CURTIS O. EGGERS, Sioux Falls  
WALLACE L. REDLIN, Watertown  
GERHARD A. REDMAN, Arlington  
HOBERT A. STORER, Colman

JERRY L. SIEGEL  
Manager-Treasurer



March 25, 1992

John Hatch  
Water Rights Division  
Dept. of Environment & Natural Resources  
Joe Foss Building  
Pierre, SD 57501



Dear John:

At the Lake Poinsett Water Project District Board of Directors meeting, there was discussion concerning operation and responsibility for the outlet gates. Regarding Flood Control Permit No. FC-5 (attached) has responsibility for the gates been officially changed from the Lake Poinsett Area Development Association to the Water Project District?

Thank you.

Sincerely,

Karen Heim  
Adm. Asst.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

April 1, 1992

Karen Heim  
Administrative Assistant  
East Dakota Water Development District  
524 Seventeenth Avenue  
Brookings, SD 57006

Dear Ms. Heim:

I am writing in answer to your letter of March 25, 1992 regarding Flood Control Permit No. FC-5.

The permit has not been transferred from the Lake Poinsett Area Development Association to the Water Project District.

Enclosed is a partially completed Notice of Transfer of Ownership form. Please complete the form and have it signed in the presence of a Notary. The completed form should be returned to the Division of Water Rights with a \$2.50 fee.

If we can answer any questions, please contact us.

Very truly yours,

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

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer  
Water Rights Division, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

No. FC-5



Date: April 25th 1992

I\We request that Flood Control Permit No. FC-5

formerly owned by: Lake Poinsett Area Development Association

be transferred to: (name & address) Lake Poinsett Water Project District

P.O. Box 123, Brookings, SD (Telephone No.) \_\_\_\_\_

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

Lake Poinsett outlet structure is located in the SE 1/4 Section 12, T113N, R52W

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

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

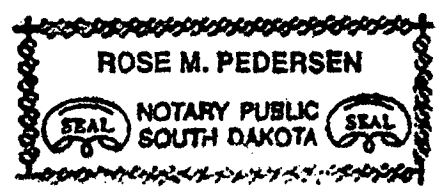
STATE OF SOUTH DAKOTA )  
County of Hamlin )

I\We Lake Poinsett Water Project District being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Jaye Ulmer - Chairman  
(Signed)

Subscribed and sworn to before me this 25 day of April, 19 92.

Rose M. Pedersen  
(Notary Public)



# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

418201

Pierre, \_\_\_\_\_ May 1 \_\_\_\_\_, 19 92

RECEIVED OF Lake Poinsett Water Project Dist, PO Box 123, Brookings, SD 57006

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____ FC Permit No. FC-5	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	<b>Total</b>	2 50

By John Hatch  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

May 4, 1992

No. FC-5

Lake Poinsett Water Project District  
P.O. Box 123  
Brookings, SD 57006

Dear Sirs:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Flood Control Permit No. FC-5.

Our records now show you as the owner of Flood Control Permit No. FC-5.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl F. Frost".

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

enclosure



BS

BM, 321 1658.33

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025

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543

N330 334 1684.87

1624.83

.01

grad

Benchmark	Elev.
BM-6	1657.35
BM-7	
N330	1684.879
G94	1655.328

Description:
Nail in wooden post $\approx$ 45' E of rd. and 130' S of approach to house. SW-NW Section 7-113-51.
Nail in post, painted red, 15' W and 45' N of NW cr. house in fence line. E. side of post $\approx$ 2' from gravel. SW-NW Section 7-113-51.
Quadr. No. 440971
U.S.C. & G. Survey; 8.0 mi. W. along St. Hwy. 23 from Chicago & Northwestern RR station at Estelline, SD, at a road +, 730' W. of the $\&$ N-S rd., 460' S. of the $\&$ E-W rd. 316' SW of power pole, 1.5' W. of reference post 1/5' N of a fence, set in top of concrete post projecting 0.6' above ground. Stamped "N330 1949"
Quadr. No. 440971
U.S.C. & G. Survey; 7.4 mi. W. along St. Hwy. 23 from Chicago & Northwestern RR station at Estelline, SD, at a 50' conc. bridge in the center of the top of the Al concrete curb, 9' N of $\&$ of rd. and $\approx$ 1/2' higher than rd. A standard 4 1/2" x 3 1/2" x 1 1/2" "G94 1949"

10-18-94

Overcast

15-20 mph 35 mph

50°

L. Beck

M. Rath

Run from BM N330  
to Gates



Outlet Survey Lake Peinsett to Outlet Gates

#	HI	-	Elev.
1.	4.02		1659.62
2.		12.60	1651.04
3.	12.02	Void GNS	
4.	12.24	1663.28	1651.04
5.		12.75	1650.53
6.		12.71	1650.57
7.	2.80	1687.68	1684.879
8.	1.06	1684.19	4.55 1683.13
9.	1.00	1675.25	9.94 1674.25
10.	0.45	1666.19	9.51 1665.74
11.	3.75	1662.96	6.98 1659.21
12.			<del>1650.53</del> <del>1653.51</del>
13.	7.24	1666.45	3.75 1659.21
14.	10.13	1675.98	0.70 1665.75
15.	11.95	1686.18	1.75 1674.23
16.	5.24	1688.29	3.13 1683.05
17.			3.33 1684.96
18.	3.92	1663.13	1659.21
19.			12.66 1650.47

17 Sept 98  
GNSK JSI

Sunny 10 to 14 wind

1. BM, south side stone bridge between Lake Peinsett and Dry Lake center of deck painted red 1659.62

2. Water Surface

3. Water Surface, upside of Bridge <sup>between 13-14</sup>

4. Water Surface, upstream of Bridge T113-52

5. North - Weir on outlet gates 13-14 T113NR-52W

6. South - Weir on outlet gates 13-14 T113NR52W

Gates were completely open

7. N330, 1949 NE Sec 14 T113N-R52W

8. TP<sub>1</sub>

9. TP<sub>2</sub>

10. TP<sub>3</sub>

11. TP<sub>4</sub>

12. Weir - ~~North~~ <sup>South</sup> side (bust in notes see 18.)

13. TP<sub>5</sub> (TP<sub>4</sub>)

14. TP<sub>6</sub> (TP<sub>3</sub>)

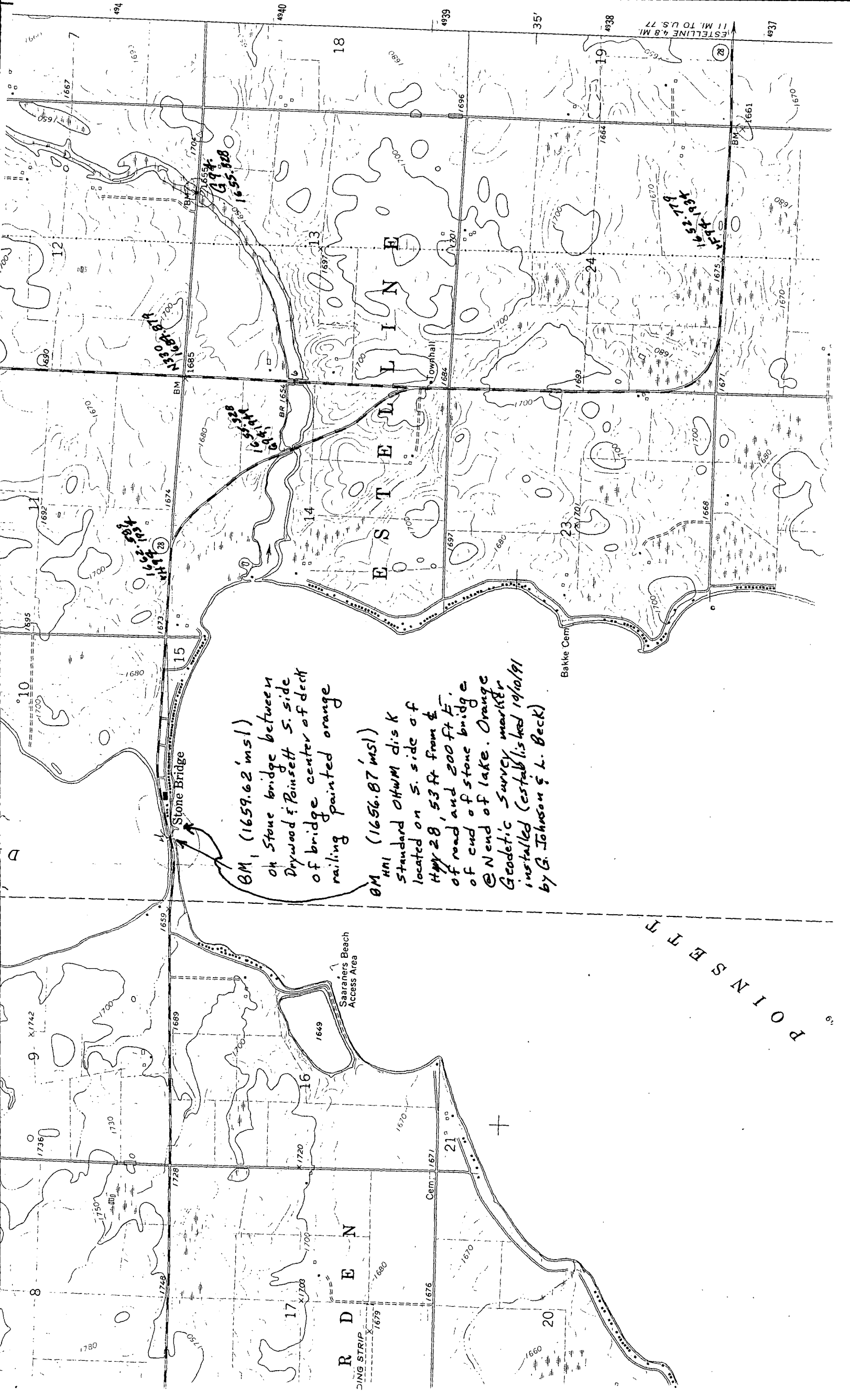
15. TP<sub>7</sub> (TP<sub>2</sub>)

16. TP<sub>8</sub> (TP<sub>1</sub>)

17. N330, 1949

18. Reshoot from turning pt. 11 to sill

BM(HM) is tipped out not usable



BM<sub>1</sub> (1659.62 msl)  
 on Stone bridge between  
 Drywood & Painsett S. side  
 of bridge center of deck  
 railing painted orange

HHI<sub>1</sub> (1656.87 msl)  
 standard O.H.W.M. disk  
 located on S. side of  
 Hwy 28, 53 ft from E.  
 of road and 200 ft E.  
 of end of stone bridge  
 @ N end of lake. Orange  
 Geodetic Survey marker  
 installed (established 19/01/91  
 by G. Johnson & L. Beck)

PAINSETT

RD DEN

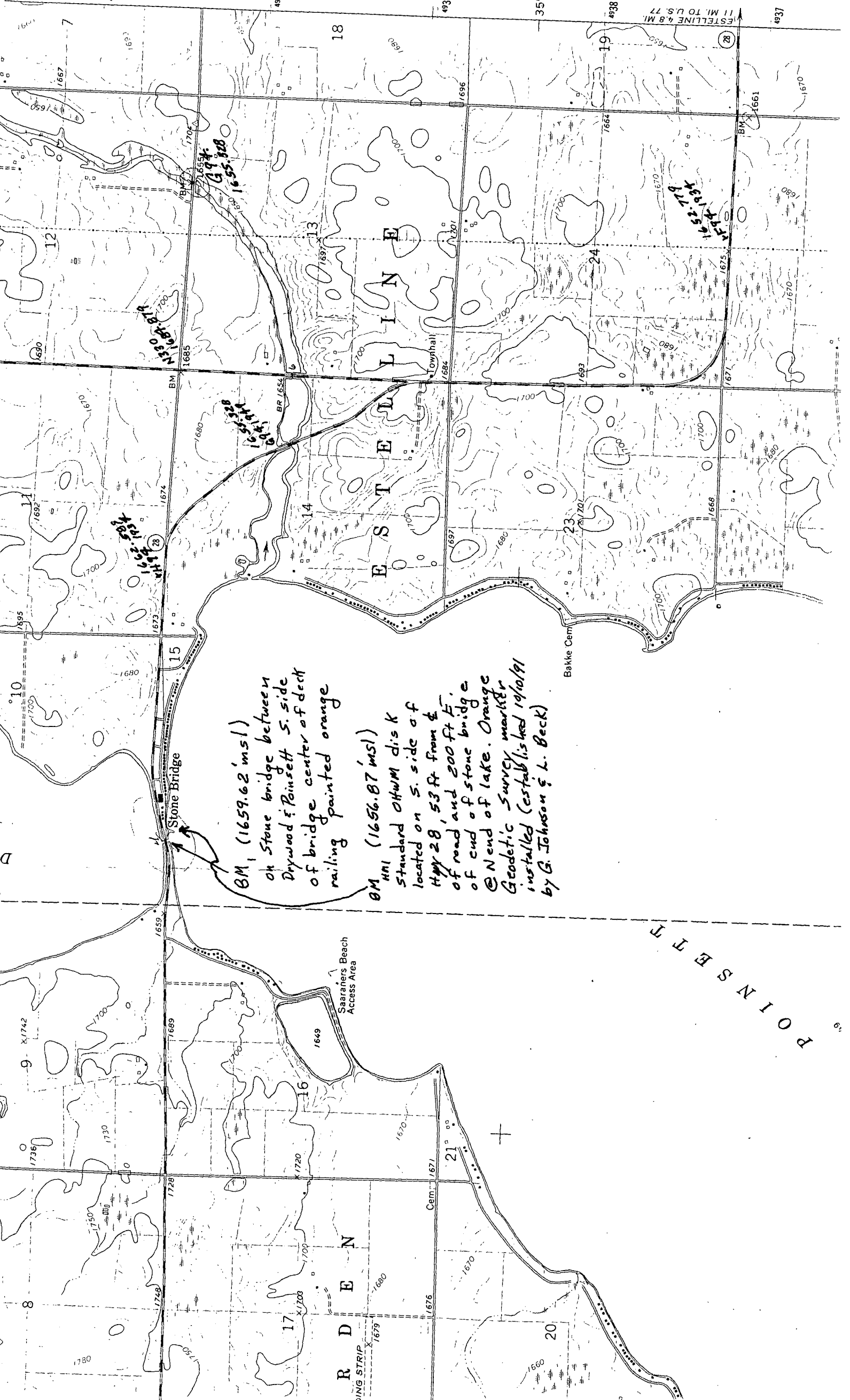
ESTELLE

Stone Bridge

Saarans Beach  
Access Area

Bakke Cem

ESTELLE 4.8 MI.  
11 MI. TO U.S. 77





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

September 5, 1996

FC-5

Lake Poinsett Water Project District  
Charles Arneson, Secretary-Treasurer  
P.O. Box 265  
Hayti, SD 57241-0265

Dear Mr. Arneson:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Flood Control Permit No. FC-5, has been completed. Your final water right document, the Water License, can now be issued.

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

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

Sincerely,

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

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

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE PETITION )	
FOR A DECLARATORY RULING CON- )	DIVISION'S PROPOSED
CERNING OPERATION OF THE )	FINDINGS OF FACT,
GATED STRUCTURE ON THE OUTLET )	CONCLUSIONS OF LAW AND
BETWEEN LAKE POINSETT AND THE )	FINAL DECISION
BIG SIOUX RIVER )	

FINDINGS OF FACT

1. On September 28, 1994, Robert Harrenga (hereinafter "Harrenga") filed a request for a declaratory ruling asserting that operation of outlet gates on the channel between Lake Poinsett and the Big Sioux River in Hamlin County should cease.

2. The outlet gates between Lake Poinsett and the Big Sioux River were authorized pursuant to Flood Control Permit No. 5 (FC-5), issued by this Board. FC-5 authorized the Lake Poinsett Area Development Association to construct and maintain a gated control structure in the Lake Poinsett outlet channel. Among other things, authorization contained conditions that (a) the gated outlet structure may be closed only during times when water is backed up from the Big Sioux River and may flow into the lake over the outlet, and (b) the gates may not be used to raise the water level in Lake Poinsett--the gates must remain open when the water level elevation of the lake is higher than the water level downstream of the outlet.

3. Harrenga's request urges that operation of the gates cease and that inflows from the Big Sioux River be allowed to enter Lake Poinsett during high flows. Thus, Petitioner is requesting that Flood Control Permit No. 5 be revoked.

4. Harrenga testified that in his opinion the gate is being operated in accordance with FC-5. No testimony was provided at hearing which would tend to indicate otherwise. This Board finds, therefore, that the gated control structure was operated according to FC-5.

5. Harrenga asserts that use of the gated structure (as authorized) causes flooding to his farmland and has saturated the basement floor and walls of his farm house.

6. Although FC-5 was issued in 1987, the gates were first used in 1992. The gates have not been operated during normal spring runoff due to the high amounts of precipitation and flooding that has occurred since the gates were installed. The gates have been closed on seven separate occasions for a total of 75 days, nine percent of the time.

7. The outlet elevation of Lake Poinsett is 1650.5 feet above mean sea level (fmsl). Typically, when inflows from the Big Sioux River have occurred, the lake level has been above this elevation. As the lake level rises above elevation 1650.5 fmsl, the elevation at which inflows can occur rises, thus reducing the amount of inflow. Water that would be stored in Lake Poinsett due to inflow from the Big Sioux River would empty from the lake, via the outlet channel, once the river stage fell below the lake level. If this water was not allowed to enter the lake, it would move down river as flood waters receded.

8. At the hearing, water levels measured along the outlet channel and on Lake Poinsett taken during 1972 (before the

gates were authorized) were compared with measurements and outlet channel measurements taken during the period from 1992 to 1994 (after the gates began operation). Water level measurements taken during 1972 demonstrate that water flowed from the Big Sioux River through the outlet channel into Lake Poinsett during the spring of 1972. Also, data from 1972 shows a greater volume of inflow into Lake Poinsett for longer periods via the outlet channel than other floods of record with available data. The Board finds that, in order to analyze the affect of the closed gates, the 1972 data allows for an analysis most favorable to Harrenga's position.

9. Based upon 1972 water level measurements and analysis presented by the Division, the Board finds that the amount of flooding and time of inundation along the outlet channel is largely dependent upon (a) the amount of flood stage in the Big Sioux River, (b) the water elevation of Lake Poinsett, and (c) the amount of inflow to Lake Poinsett from the west.

10. Water flowing into Lake Poinsett from the Big Sioux River reached a total volume of 1,007 acre feet of water during a 29-day period from May 30, 1972, to June 28, 1972. Based upon the 1972 high water level measurements and analysis, the Board finds that storage of 1,007 acre feet in Lake Poinsett resulted in a .1 foot (1.2 inches) rise in lake level. This 1.2 inch rise in lake level was one-third of the total inflow to Lake Poinsett from May 30 to June 28, 1972.

11. Utilizing the 1972 historic comparison, operation of the gates would cause flooding to approximately 140 additional acres (acreage in addition to that which would occur absent the gates). The 140 additional acres would be inundated for a period of 5.25 days. Of the 140 acres, the calculated additional flooding which would fall on the Harrenga property would vary from one to three acres and would lie along the outlet channel.

12. Surveyed water elevations in the fall of 1994 reflect a high water table. Standing water in a ditch at the Harrenga house (unconnected to the outlet channel) had an elevation of 1652.6 fmsl. Observation wells within a three-mile radius of the Harrenga house (wells HN57B, HN75A, HN77E, and HN77G) show the water table in the area to be approximately 1653 fmsl in the fall of 1994. In the fall of 1994, the elevation of the water table near Harrenga's house was near 1653 fmsl.

13. The high water table in the fall of 1994 is consistent with a steadily rising trend which has occurred since 1990, due to high yearly precipitation amounts.

14. In contrast to historic flood years (1969, 1972, and 1986), recent groundwater level measurements have not shown a significant decrease in the year following flood events. For example, groundwater level measurements dropped one foot to three feet in the years following 1969, 1972, and 1986. Average groundwater level measurements have, however, remained high since 1992 with a four-inch drop since 1993 and a one-foot rise again in 1994.

15. The approximate elevation of Harrenga's basement floor is 1651.5 fmsl.

16. A high water table is the cause of the wet conditions in Harrenga's basement.

17. Harrenga's house lies in the flood plain.

18. The high water table contributes to the ponding in a pasture near the Harrenga house.

19. Water in the Harrenga basement is also attributable to drainage around the house. For example, a downspout or rain gutter at the house is disconnected allowing water to flow alongside the house and to a nearby window well. Also, a sump pump discharges close to the house allowing for discharge water to circulate back into the Harrenga basement.

20. The Board recognizes that, generally, sediment buildup may occur when water velocity is decreased due to structures in waterways. In this proceeding, however, the extent of sediment buildup has not been demonstrated. Moreover, the effect of any such buildup on Harrenga's property has not been shown by Harrenga.

21. Although Harrenga asserts that a surge or hydraulic ram effect has caused flooding on his property, the Board credits the testimony of Division Engineer Beck that study of this issue is unnecessary due to the gentle slope of the elevations in the outlet channel. A surge or hydraulic ram effect occurs as a result of greater differences in elevation and/or velocity than those present in this case.

22. Harrenga has not demonstrated that FC-5 has failed to accomplish its permitted purpose, i.e., to reduce damage from flooding and erosion and to improve water quality. Indeed testimony at hearing demonstrates that use of the gates has reduced the risk of flooding and soil erosion at Lake Poinsett.

23. Harrenga has not demonstrated that the gated outlet structure increases the likelihood or severity of flood damages in areas other than the project area or the area benefitted. Given the small acreage involved and the short period of inundation, damage due to flooding resulting from the gates has not been shown even considering the 1972 date, which is most favorable to Harrenga's position.

24. Harrenga has not demonstrated that the gated outlet structure would endanger human life or that any damage to his property is caused by the gated outlet structure.

25. Harrenga has not asserted that the project would impair existing water rights in any manner.

#### CONCLUSIONS OF LAW

1. This Board has jurisdiction to issue declaratory rulings pursuant to SDCL 1-26-15 and ARSD 74:02:01:46 through 74:02:01:48.

2. This Board has jurisdiction to issue, amend, and revoke flood control permits pursuant to SDCL §§ 46-2A-11, 46-2A-12, and 46-5-47.

3. Under SDCL 46-2A-11, flood control works are authorized only (a) if the project would reduce damage from

flooding or erosion in the area proposed to be benefitted, (b) the project would not increase the likelihood or severity of flood damages in areas other than the project area or the area proposed to be benefitted, (c) the project would not endanger human life or property, and (d) the project would 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.

4. This Board concludes that the criteria set forth in SDCL 46-2A-11 with respect to issuance of flood control permits is also applicable to revocation of flood control permits. Thus, a person seeking to revoke a flood control permit would be required to show that the flood control project would no longer meet the criteria set forth in SDCL 46-2A-11.

5. This request for declaratory ruling seeks to revoke a currently existing flood control permit in that it requests cessation of operation of the gates authorized by FC-5. Thus, the standards set forth in SDCL 46-2A-11 apply.

6. Harrenga has not demonstrated that the gated control structure, authorized by FC-5, will no longer reduce damage from flooding or erosion in the area proposed to be benefitted. Indeed, evidence and testimony offered at hearing demonstrated that the use of the outlet gates does indeed reduce damage from flooding along the shorelines of Lake Poinsett since the flood gate operates to restrict the rate of flows into Lake Poinsett for those inflows coming from the Big Sioux River.

7. Also, Harrenga has not demonstrated that continued use of the project would increase the likelihood or severity of flood damages in areas other than the project area or the area proposed to be benefitted. Indeed, testimony offered by Division staff indicated that any possible flooding would, at most, affect from one to three acres lying alongside the outlet channel on the Harrenga property for a period of 5.25 days. Considering the drainage around the Harrenga house, the high water table in the area, the short time period of any possible potential flooding resulting from operation of the gates, and the acreage involved, the project cannot be said to increase the likelihood or severity of flood damages in areas other than the project area. If, however, the likelihood or severity of flood damages has, indeed increased, such increase would, at most, be de minimis.

8. Harrenga has not shown that the flood control project authorized by FC-5 operates to endanger life or property. No testimony was offered with respect to the human life question. Both Harrenga and other parties to the proceeding did, however, offer lengthy testimony regarding the property question. Given the high water table conditions, and the drainage around the Harrenga house, this Board cannot conclude that operation of the flood control gates has endangered Harrenga's property.

9. Harrenga offered no testimony with respect to whether operation of the flood control works would impair existing water rights.

10. Harrenga has not demonstrated that Flood Control Permit No. 5 should be revoked under SDCL 46-2A-11.

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law the action requested as a result of this declaratory ruling request (revocation of FC-5) is hereby denied.

Dated this 14<sup>th</sup> day of July, 1995.

BY THE BOARD:

  
\_\_\_\_\_

d-wmb3.db(do)

# RECEIPT

415100

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, \_\_\_\_\_ September 16, 19 96

RECEIVED OF Lake Poinsett Water Project Dist., P.O. Box 265, Hayti, SD 57241-0265

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>FC-5</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		
_____		
_____		
(Any Other Work Provided by Law)	<b>Total</b>	50 00

By John Hatch (CF)  
Chief Engineer

FC-5  
PULLFUT TRHU Aug '96

LAKE POINSETT WATER PROJECT DISTRICT

DEPTH OF WATER FLOW OVER THE OUTLET STRUCTURE IS EXPRESSED  
IN INCHES

<u>DATE</u>	<u>TIME</u>	<u>DEPTH</u>
9-5-93	10:00 AM	40 1/4
9-6-93	7:05 AM	40
9-11-93	7:55 AM	37
9-24-93	7:40 AM	35 1/2
9-30-93	7:35 AM	33 1/2
10-5-93	7:30 AM	31
10-13-93	7:35 AM	28 1/2
10-19-93	7:10 AM	27
10-27-93	7:10 AM	25
11-2-93	6:55 AM	23 1/2
12-9-93	11:00 AM	22
3-1-94	10:10 AM	23 3/4
3-9-94	6:00 PM	25 1/2
3-10-94	12:00 PM	26--38
3-16-94	6:00 PM	28--56
3-18-94	6:00 PM	31--57
3-21-94	7:30 AM	33--54
3-28-94	6:00 PM	37--37 1/2
5-3-94	1:40 PM	36 3/4
5-4-94	6:53 AM	36 1/2
5-10-94	7:02 AM	35 1/2
5-12-94	6:50 AM	35
5-14-94	6:55 AM	36 1/2
5-23-94	6:55 AM	32 1/2
5-26-94	6:00 PM	32
5-29-94	11:00 AM	30 1/2
6-1-94	6:45 AM	28 1/2
6-5-94	8:25 AM	29
6-6-94	11:55 AM	29
6-11-94	7:25 AM	28 1/4
6-14-94	6:40 AM	27 1/2
6-17-94	6:00 PM	29 1/2
6-19-94	7:15 AM	30 1/2
6-21-94	7:15 AM	32
6-25-94	8:00 AM	32 1/4
7-1-94	6:25 AM	30
7-9-94	7:50 AM	30
7-16-94	6:40 AM	30
7-18-94	7:45 AM	29
7-23-94	8:00 AM	27 1/2
8-3-94	7:00 AM	22 1/2
8-5-94	6:45 PM	21 1/2
8-11-94	7:25 AM	27--43 1/2
8-11-94	7:12 PM	27--46 1/2
8-12-94	6:42 AM	27--46 1/2
8-13-94	7:50 AM	27--37
8-13-94	7:50 PM	27--30

8-14-94	12:10 PM	27 1/2--20
8-18-94	7:10 AM	25
10-23-94	3:00 PM	12

ON THE DATES WHERE TWO NUMBERS APPEAR THE GATES WERE CLOSED DUE TO WATER LEVELS BEING HIGHER IN THE OUTLET THAN IN THE LAKE. THE FIRST NUMBER EXPRESSED IS THE LEVEL OF THE LAKE, THE SECOND NUMBER EXPRESSED IS THE LEVEL IN THE OUTLET.

March 13, 1995 Gates Closed 1:30 p.m.  
 March 16, 1995 Gates Opened 7:10 p.m.  
  
 March 26, 1995 Gates Closed 11:30 a.m.  
 April 5, 1995 Gates Opened 7:30 a.m.  
  
 April 10, 1995 Gates Closed 4:15 p.m.  
 April 11, 1995 Gates Opened 7:15 a.m.  
  
 April 15, 1995 Gates Closed 9:15 a.m.  
 April 29, 1995 Gates Opened 2:20 p.m.

From Outlet .4 mile N, 17 E Bridge, 7-14-95, Water 6" above  
 base of bridge --  
 .3 E, .8 N (Harrenga's bridge) 7" below bridge

			Elevation of Outlet sill	
5-2-95	7:02 a.m.	45 1/2"	over	1650.5
5-3-95	7:15 a.m.	46 1/2"	over	"
5-4-95	6:58 a.m.	46"	over	"
5-10-95	6:45 a.m.	50 1/2"	over	"
5-16-95	7:15 a.m.	52 1/2"	over	"
5-17-95	6:45 a.m.	52 1/2"	over	"
5-18-95	6:47 a.m.	52 1/2"	over	"
5-23-95	7:05 a.m.	52 3/4"	over	"
5-24-95	6:37 a.m.	52 1/2"	over	"
5-25-95	6:40 a.m.	52 1/4"	over	"
5-26-95	6:35 a.m.	52"	over	"
5-28-95	6:30 a.m.	54"	over	"
5-30-95	6:35 a.m.	55"	over	"
5-31-95	6:42 a.m.	55 1/4"	over	"
6-2-95	6:29 a.m.	55"	over	"
6-3-95	6:57 a.m.	55"	over	"
6-4-95	7:21 a.m.	55"	over	"
6-6-95	8:53 p.m.	55"	over	"
6-9-95	6:49 a.m.	54"	over	"
6-10-95	6:38 a.m.	55"	over	"
6-13-95	6:43 a.m.	54"	over	"
6-14-95	6:44 a.m.	54"	over	"
6-15-95	7:15 a.m.	53 1/2"	over	"
6-18-95	6:03 a.m.	52 1/4"	over	"
6-25-95	11:02 a.m.	48 1/2"	over	"
6-26-95	6:55 a.m.	48 1/2"	over	"
6-27-95	6:29 a.m.	47 1/2"	over	"
6-28-95	6:41 a.m.	47"	over	"
7-7-95	6:40 a.m.	45"	over	"
7-8-95	6:42 a.m.	45"	over	"
7-9-95	6:18 a.m.	44"	over	"
7-12-95	1:19 p.m.	42 1/4"	over	"
7-13-95	7:05 a.m.	42 1/4"	over	"
7-14-95	6:25 a.m.	42"	over	"



# Lake Poinsett Water Project District

## 1994 outlet gates

March 9th-closed 6 p.m.

(spring run-off and melting)

March 29th -open 6:30 a.m. water level 33 3/4"

May 2 (Harringa letter to have boards from Boswell gates removed)

June 13--rain storms

June 14th 1" rain

June 17- 1½" rain

June 18th closed 5 p.m.

June 20th open 4 p.m.

August 9th---4" rain, 6" White, Toronto, Brookings

(water flooding Skunk Creek, backing up Sioux River)

August 10th closed 8:40 p.m.

Aug. 14th open 12:10 p.m.

Threatening call from Harringa

Aug. 30th---1½-2" rain

Sept. 3rd--3" rain

Outlet ran open all winter.

Going into spring '95 9½" below nhwm



# Lake Poinsett Water Project District

## 1995 Outlet Gates

March 13 closed 1:20 p.m.

March 16th open 7:10 p.m.

March 26th closed 11:30 a.m.

April 11 open 4:15 p.m.

April 15th closed 9:15 a.m.

April 28th open 2:20 p.m.

LAKE POINSETT WATER PROJECT DISTRICT  
OUTLET CONTROL STRUCTURE LOG

All values are expressed in inches or fractions thereof from the outlet structure sill. The sill is placed at an elevation of 1650.50 feet above sea level.

<u>DATE</u>	<u>TIME</u>	<u>ELEVATION DATA OR COMMENTS</u>
3-13-95	1:20 PM	Gates closed
3-16-95	7:10 PM	Gates opened
3-26-95	11:30 AM	Gates closed
4-5-95	7:30 AM	Gates opened
4-10-95	4:15 PM	Gates closed
4-11-95	7:15 AM	Gates opened
4-15-95	9:15 AM	Gates closed
4-29-95	2:20 AM	Gates opened
5-2-95	7:02 AM	45 1/2
5-3-95	7:15 AM	46 1/2
5-4-95	6:58 AM	46
5-10-95	6:45 AM	50 1/2
5-16-95	7:15 AM	52 1/2
5-17-95	6:45 AM	52 1/2
5-18-95	6:47 AM	52 1/2
5-23-95	7:05 AM	52 3/4
5-24-95	7:37 AM	52 1/2
5-25-95	6:40 AM	52 1/4
5-26-95	6:35 AM	52
5-28-95	6:30 AM	54
5-30-95	6:35 AM	55
5-31-95	6:42 AM	55 1/4
6-2-95	6:29 AM	55
6-3-95	6:57 AM	55
6-4-95	7:21 AM	55
6-6-95	8:53 PM	55
6-9-95	6:49 AM	54
6-10-95	6:38 AM	55
6-13-95	6:43 AM	54
6-14-95	6:44 AM	54
6-15-95	7:15 AM	53 1/2
6-18-95	6:03 AM	52 1/2
6-25-95	11:02 AM	48 1/2
6-26-95	6:55 AM	48 1/2
6-27-95	6:29 AM	47 1/2
6-28-95	6:41 AM	47
7-7-95	6:40 AM	45
7-8-95	6:42 AM	45
7-9-95	6:18 AM	44
7-12-95	1:19 PM	42 1/4
7-13-95	7:05 AM	42 1/4
7-14-95	6:24 AM	42
7-15-95	6:44 AM	41 1/4
7-16-95	7:50 AM	40 3/4
7-19-95	8:00 AM	39 1/2

## PAGE TWO

7-20-95	6:29 AM	38 1/2
7-22-95	7:49 AM	37 1/2
7-23-95	9:20 AM	36 1/2
7-24-95	6:34 AM	36 1/2
8-4-95	5:30 PM	33
8-5-95	6:57 AM	34
8-6-95	7:34 PM	34 1/2
8-7-95	8:00 AM	33 1/2
8-8-95	6:54 AM	33
8-9-95	6:29 AM	32 1/2
8-11-95	7:12 AM	31 1/2
8-12-95	7:07 AM	31
8-15-95	6:55 AM	30 1/4
8-16-95	6:50 AM	29 1/2
8-20-95	7:28 AM	28
8-21-95	7:03 AM	27 1/2
8-22-95	6:40 AM	27
8-23-95	6:55 AM	26 1/2
8-24-95	6:42 AM	26
8-25-95	7:45 AM	26
8-26-95	7:14 AM	26
8-31-95	7:10 AM	25
9-3-95	10:20 AM	24
9-6-95	7:07 AM	24
9-9-95	7:06 AM	22 1/2
9-10-95	7:47 AM	22
9-27-95	7:09 AM	16
9-28-95	6:58 AM	15 1/2
9-29-95	4:00 PM	15 1/4
10-1-95	4:00 PM	Gates closed
10-3-95	6:00 PM	Gates opened
10-7-95	8:17 AM	23
10-10-95	8:10 AM	24
10-12-95	7:14 AM	23 1/2
10-26-95	1:00 PM	22 1/2
10-29-95	6:00 PM	Gates closed
11-3-95	12:30 PM	Gates opened
11-4-95	12:19 PM	25
12-19-95	12:05 PM	23
2-20-96	11:03 AM	19
3-13-96	12:30 PM	Gates closed
3-19-96	7:30 AM	Gates opened
3-23-96	9:30 PM	Gates closed
3-26-96	1:00 PM	Gates opened
3-28-96	7:30 AM	Gates closed
3-29-96	6:30 AM	Gates opened
4-1-96	7:00 PM	Gates closed
4-2-96	7:00 AM	Gates opened
4-9-96	12:34 PM	31
4-10-96	10:30 AM	31
4-16-96	10:50 AM	32
4-18-96	2:55 PM	32

## PAGE THREE

4-26-96	3:30 PM	30 1/2
4-28-96	11:18 AM	29 1/2
4-30-96	8:59 AM	28 3/4
5-2-96	9:28 AM	28
5-3-96	7:30 AM	28
5-4-96	7:52 PM	27 3/4
5-6-96	8:25 AM	29
5-7-96	7:03 AM	29
5-8-96	8:49 AM	29
5-9-96	6:00 PM	Gates closed
5-11-96	5:30 PM	Gates opened
5-13-96	6:42 PM	30 1/2
5-14-96	1:48 PM	30 3/4
5-16-96	7:23 AM	31
5-17-96	8:34 AM	31
5-20-96	8:00 AM	Gates closed
5-22-96	4:00 PM	Gates opened
5-26-96	10:58 AM	33 3/4
5-27-96	12:30 PM	Gates closed
5-28-96	7:58 AM	Gates opened
5-29-96	10:25 AM	34 1/2
5-30-96	9:45 AM	34 1/2
5-31-96	2:47 PM	35 3/4
6-1-96	7:02 AM	Gates closed
6-4-96	6:52 AM	Gates opened
6-6-96	6:00 PM	40
6-8-96	9:48 AM	40
6-9-96	7:45 AM	40
6-10-96	8:02 AM	39 1/2
6-12-96	7:48 AM	38 3/4
6-13-96	7:30 AM	38 1/2
6-14-96	8:20 AM	38 1/4
6-16-96	7:15 PM	38 1/4
6-19-96	7:15 PM	37 1/2
6-20-96	4:07 PM	37
6-21-96	9:15 AM	37
6-22-96	6:58 AM	36 1/2
6-23-96	2:49 PM	36
6-24-96	7:14 AM	35 1/2
6-25-96	11:45 AM	34 1/2
6-26-96	8:11 PM	34 1/2
6-27-96	4:10 PM	34
6-28-96	11:08 AM	33 1/2
6-29-96	7:08 PM	33
6-30-96	8:54 AM	32 1/2
7-1-96	7:02 AM	32 1/2
7-2-96	7:02 AM	31 1/2
7-3-96	1:39 PM	30 1/2
7-4-96	9:03 AM	30
7-5-96	7:08 AM	29 1/2
7-6-96	8:10 AM	29 1/2
7-7-96	8:34 AM	28 1/2

## PAGE FOUR

7-10-96	7:36 PM	26
7-11-96	2:11 PM	25 1/2
7-12-96	7:17 AM	25 1/2
7-13-96	7:16 AM	25
7-14-96	5:58 AM	24 1/2
7-15-96	7:26 AM	24
7-16-96	6:48 AM	23 1/2
7-17-96	7:29 AM	22 1/2
7-18-96	7:20 AM	22 1/2
7-19-96	7:18 AM	22
7-20-96	8:10 AM	21 1/2
7-21-96	11:32 AM	20 3/4
7-22-96	7:26 AM	20 3/4
7-23-96	7:10 AM	20 1/4
7-24-96	7:12 AM	19 3/4
7-25-96	7:10 AM	19
7-26-96	6:47 AM	18 1/2
7-27-96	9:10 AM	18
7-28-96	8:12 AM	17 1/2
7-29-96	6:39 PM	17 1/2
7-30-96	7:08 PM	17
7-31-96	8:31 AM	16 1/2
8-1-96	6:42 PM	16
8-2-96	6:37 PM	15 1/2
8-3-96	8:03 AM	15 1/2
8-4-96	5:15 PM	15
8-5-96	8:36 AM	14 3/4
8-6-96	7:16 AM	14 3/4
8-7-96	6:33 AM	15 3/4
8-8-96	7:27 PM	14 3/4
8-9-96	7:24 AM	14 1/2
8-10-96	7:58 AM	14
8-11-96	5:22 PM	13 1/2
8-12-96	6:55 AM	13 1/2
8-13-96	7:06 AM	13
8-14-96	7:15 AM	12 1/2
8-15-96	7:50 AM	11 1/2
8-16-96	7:21 PM	10 3/4
8-17-96	8:23 AM	10 1/2
8-18-96	9:27 AM	10
8-19-96	7:31 AM	9 1/2
8-20-96	8:10 AM	9 1/2
8-21-96	7:26 AM	8 3/4

**REPORT ON INSPECTION OF FLOOD CONTROL PERMIT NO. FC-5**

**DATE OF INSPECTION: 8/15/1996**

Contact Person & Address: **Joyce Ulmer, 158 E Lake Drive, Estelline, SD**

**PROJECT LEGAL LOCATION: From the NW corne of Sec 13 T113N-R52W:  
2260 ft South**

**Description of Flood Control Works: Control gates installed on the inlet/outlet channel between Lake Poinsett and the Big Sioux River (Figure 1). The gates are closed only when water backing up the channel from the Big Sioux River is higher than the water level in Lake Poinsett.**



Figure 1. The flood control gates installed on the inlet/outlet channel between Lake Poinsett and the Big Sioux River.

P O I N S E T T

D R

Sararant's Beach  
Access Area

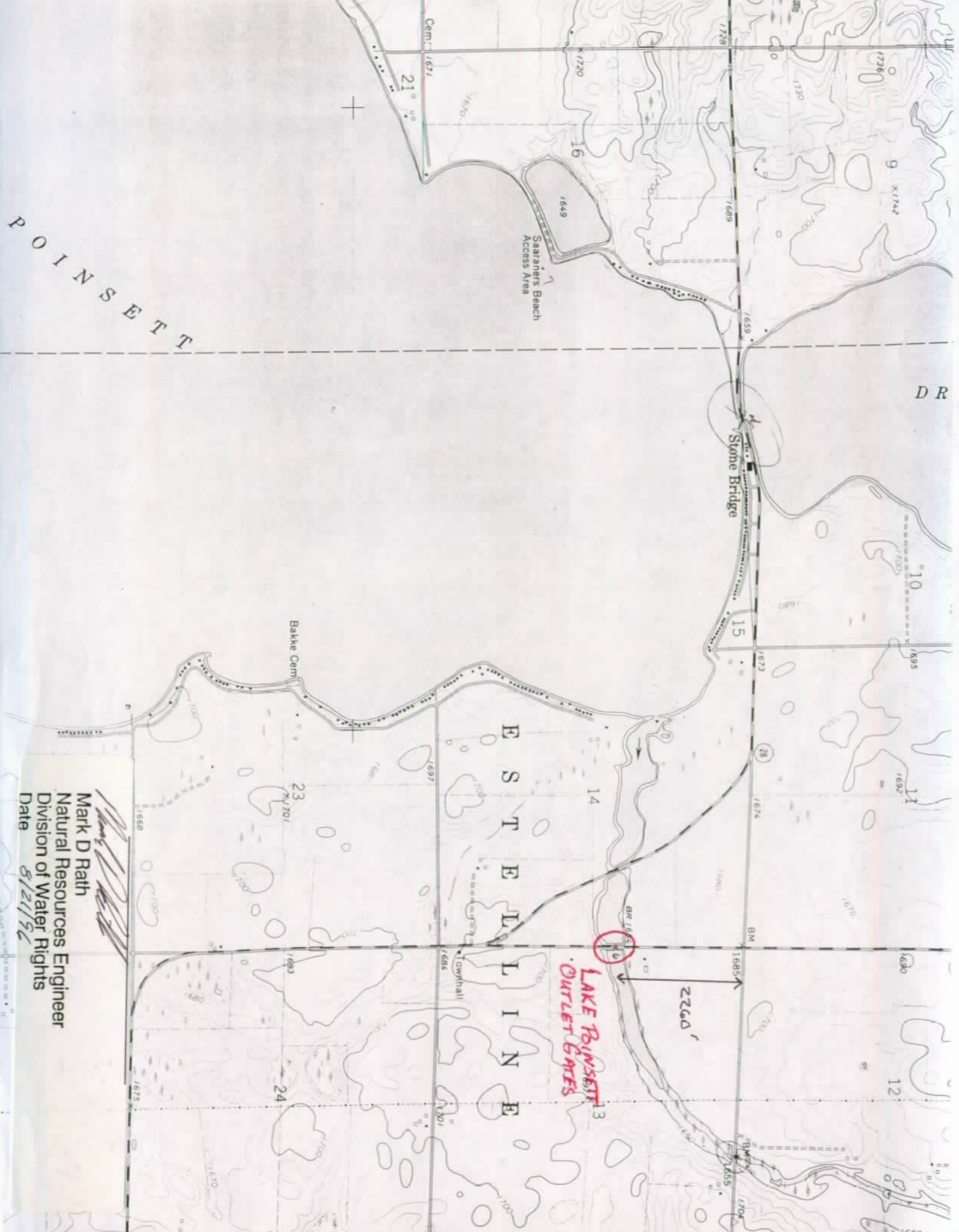
Stone Bridge

E S T E L L I N E

LAKE RAINSETT  
OUTLET GATES

2260'

Mark D Rath  
Natural Resources Engineer  
Division of Water Rights  
Date 8/21/92



**Flood Control Permit No. FC-5**  
**Big Sioux River - Water District**

**Report Of Examination Of Works**

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

On, August 15, 1996, I made a thorough examination of the flood control project constructed by the Lake Poinsett Water Project District of % Charles Arneson, Sec-Tres., Box 265, Hayti, SD 57241-0265 holder of Flood Control Permit No. FC-5, bearing the priority of August 22, 1986, authorizing the construction and operation of the flood control project, in Hamlin County.

I have to report on the conditions of the same as follows:

A. Description of the flood control works:

Control gates installed on the inlet/outlet channel between Lake Poinsett and the Big Sioux River (Figure 1). The gates are closed only when water backing up the channel from the Big Sioux River is higher than the water level in Lake Poinsett. The gates are controlled through the use of electric motors.

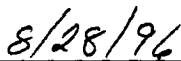
The system is in the following condition good. The flood control project is located from the NW corner of Sec 13 T113N-R52W: 2260 ft South.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none



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



Date

STATE OF SOUTH DAKOTA

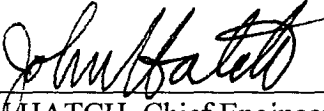
FLOOD CONTROL WATER LICENSE NO. FC-5

(1) The Lake Poinsett Area Development Association made Application No. FC-5, August 22, 1986 for a flood control permit which authorized construction of a gated control structure on the Lake Poinsett outlet to reduce flood damage, bank erosion and nutrient loading to the lake. Lake Poinsett is located in Hamlin County, South Dakota. Flood Control Permit No. FC-5, with a priority date of August 22, 1986 was approved March 4, 1987 and issued to the applicant with construction of the described system to be completed on or before March 4, 1992.

On May 1, 1992, Flood Control Permit No. FC-5 was transferred to the Lake Poinsett Water Project District.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the water supply system. Control gates are installed on the inlet/outlet channel between Lake Poinsett and the Big Sioux River. The gates are closed only when water backing up the channel from the Big Sioux River is higher than the water level in Lake Poinsett. The gates are controlled through the use of electric motors. The flood control project is located 2,260 feet south of the NW corner of Section 13, T113N, R52W.

(3) Pursuant to South Dakota Water Law 46-5-30.1 the Lake Poinsett Water Project District, % Charles Arneson, Secretary-Treasurer, PO Box 265, Hayti, SD 57241-0265 the holder and/or owner of Flood Control Water Permit No. FC-5 is issued a license to appropriate water, the right to divert water for flood control purposes. This license, with a priority date of August 22, 1986, is subject to any limitations or qualifications listed in Flood Control Water Permit No. FC-5 and subject to South Dakota State Law.

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

OCT 15 1996  
\_\_\_\_\_  
date





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

OCT 15 1996

FC-5

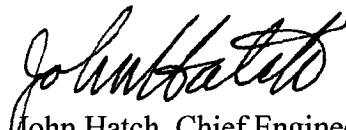
Charles Arneson, Secretary-Treasurer  
Lake Poinsett Water Project District  
PO Box 265  
Hayti SD 57241-0265

Dear Mr. Arneson:

Enclosed is your Flood Control Water License No. FC-5. This is the final document completing your process of obtaining a flood control permit. Also enclosed is receipt No. 415100 in the amount of \$50.00 which you paid for the investigation and issuance of the water license.

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

Very truly yours,



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

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 18, 1998

Martin Keller  
Senior Project Manager  
Regulatory Branch Army Corps of Engineers  
P.O. Box 5  
Omaha, Nebraska 68101-0005

Dear Mr. Keller:

In your October 6, 1998, letter you requested answers to a broad variety of questions concerning matters involved in the Declaratory Ruling Request in the matter of Flood Control Permit No. 5 held by the Lake Poinsett Water Project District, flood control applications and permits, and nutrient loading. Under South Dakota Codified Law, Chapter 1-27 you are entitled to come and look at documents pertaining to your request and make whatever copies you feel you need. Much of what is in the files regarding the Harrenga matter has already been provided to the Corps of Engineers (Corps) office in Omaha. We are not going to attempt to reopen this matter or answer questions that require further investigation and analysis. Colonel Volz's April 2, 1997 letter states that the information reviewed did not constitute significant new information concerning the original 404 permit, therefore Corps staff was instructed to conclude its efforts.

You now state that the scope of your inquiry is broad and the Corps's interest and concerns extend beyond the flood control permit for the outlet gates on Lake Poinsett. If your interest is to review the Corps's procedure for issuing 404 permits, the Corps will need to come to its own conclusions. Again you are welcome to come and review our documents and procedures for issuing flood control permits.

**RESPONSE TO QUESTIONS:**

- a. **We were advised that the Game and Parks Department permit for the structure below the existing water control structure was one of the first permits for lake level control. Would we be able to obtain a copy of that permit and any cross section elevations at that site?**

Since the outlet structure was placed at a historical elevation that would maintain Lake Poinsett's Ordinary High Water Mark (OHWM), which was created by nature, a permit to construct the outlet was not required. The South Dakota Department of Game, Fish, and Parks (GFP) has two Water Rights for diversion of water from the Big Sioux River into Lake Poinsett dating back to 1941 and 1955. GFP also has a Vested Water Right for storage of water in Lake Poinsett. A cross section for the site of GFP's overflow weir does not exist.

- b. How many permits such as the one at Lake Poinsett have you issued (in general)? How many requests for water level modifications have been submitted and how many approved? If possible, provide examples for reference.**

There are six flood control permits that involve lake outlets. The other lake outlets are at the historical or natural elevations.

- c. The South Dakota Geologic Survey report (Hydrology of Lake Poinsett) of 1971 noted that two issues needed to be addressed with this project (water control structure). One was to have the cooperation of the downstream landowners and the other was a maintenance plan for the outlet. We are aware that the effort by the Water District to obtain the support of the downstream landowners failed and Mrs. Ulmer is not aware of a maintenance plan (based on a personal conversation). These would seem to be key components in the development of this project. How did DENR take them into account?**

The project mentioned in the 1971 report is the overflow weir (outlet) constructed by GFP in 1973. A permit was not needed for the 1973 GFP structure.

In the matter of the current gated structure authorized by Flood Control Permit No. 5 (FC-5), a qualification on the permit states "The construction of the control structure, future maintenance and repair, and gate operation are the responsibility of the Lake Poinsett Area Development Association." The maintenance and repair refer to the structure. The report on Application No. FC-5 states that the "effects downstream of the outlet from preventing back up water entering Lake Poinsett will be very small, if noticeable at all." After testimony at a public hearing, the Board approved FC-5 and the decision was not appealed.

At the time of the 1994-1995 investigation for the Declaratory Ruling Request in the matter of FC-5 a request was made of GFP for any plans and cross sections for the structure built in the early 1970's. GFP could not find any plans or cross sections in their files. All we have is a cost estimate prepared by Banner and Associates in Brookings, South Dakota. Banner no longer had the plans for the project. Following a public hearing for the Declaratory Ruling Request the Board ruled that the Declaratory Ruling Request be denied.

- d. Given the conditions in eastern South Dakota over the last ten years, has the ordinary high water elevation been checked for Lake Poinsett?**

No, OHWM's are set by the Water Management Board (Board) and are final unless an appeal is made to the courts. Under SDCL 43-17-25 the board must reconsider the OHWM if a request is made within 60 days following the publication of the order establishing the OHWM and additional information or data is made available to the board in the request. The 60 days of course have past. Also refer to answer i.

- e. Lake Kampeska (through an as yet unidentified applicant) may also seek a water control structure permit. The people around Lake Poinsett are concerned about the impacts of that project. Will DENR press for a cumulative impact study to identify long-term concerns?**

We have not received an application for a control structure on Lake Kempeska. When an application is received it will be determined if the applicant needs to supply more information in order to process the application.

- f. In regard to additional projects along the Big Sioux River, would DENR support a detailed alternatives analysis to identify potential non-structural or structural alternatives?**

DENR would not oppose any entity conducting analysis in regard to projects on the Big Sioux River. However we do not expect to initiate any studies. We will answer questions of a regulatory nature.

- g. What is the current status of the Section 319 Watershed Project prepared by the South Dakota DENR? Has any progress been made in dealing with the areas of concern noted in the 1972 Geologic Survey report?**

We believe you are referring to the 1971 Geologic Survey report.

The 319 project assessment is complete and implementation has started. Current problems were identified and the recent study is more specific and pertinent than the 1971 Geologic Survey report.

- h. The revised report on Application No FC-5 dated November 5, 1986, states that the Lake Poinsett elevation would be 1650.5 with an ordinary high water mark (OHW) of 1651.5. Based on our meeting and comments by Ms. Beck, is this a correct statement?**

The established outlet elevation is 1650.5 fmsl and the established OHWM is 1651.5 fmsl.

- i. The report of November 5, 1986 also notes that allowing flood flows to enter Lake Poinsett through the outlet could damage property on the lake when the ordinary high water mark is exceeded (1651.5). Based on some of the comments I heard at the meeting, am I to understand that OHW defines the limit someone can construct to on the lake? Where does the 100-year flood boundary fit in? I understand that the state could be responsible for damages above ordinary high water. Why?**

Flood events are not taken into consideration when establishing an OHWM because flood events are not "ordinary". "Ordinary High Water Mark" is a term defined by the decisions of the courts of this state. Two of which are:

In the case of Flisrand v. Madson, 35 S.D. 457, 152 N.W. 796, (1915) the court wrote:

Neither high or low water mark means the highest or lowest point reached by the waters of a lake during periods of extreme and continued freshets, or periods of extreme and continued drought, but does mean the high and low points of variation of such waters under ordinary conditions, unaffected by either extreme.

In the case of Anderson v. Ray, 37 S.D. 17, 156 N.W. 591 (1916) the South Dakota Supreme Court wrote:

In the case of freshwater rivers and lakes - in which there is no ebb and flow of the tide, but which are subject to irregular and occasional changes of height, without fixed quantity of time, except that they are periodical, recurring with the wet or dry seasons of the year - high water mark, as a line between the riparian owner and the public, is to be determined by examining the bed and banks, and ascertaining where the presence and action of the water are so common and usual, and so long-continued in all ordinary years, as to mark upon the soil of the bed a character distinct from that of the banks, in respect to vegetation, as well as respects the nature of the soil itself.

An OHWM also defines the public's right of access along a lake's shoreline as provided for in SDCL 43-17-2. The statute provides that all navigable rivers and lakes are public highways within 50 feet landward from the water's edge, provided that the outer boundary of such public highway may not expand beyond the OHWM and may not contract within the OLWM. Thus, the public has the right to use a strip of land up to 50 feet wide below the OHWM beginning at the water's edge or the OLWM for public purposes.

The state is not responsible for flood damages above the OHWM.

- j. The November 5<sup>th</sup> report also states that the outlet was never intended to be used for taking flood flows. Since the natural outlet was a floodwater inlet and outlet for the Big Sioux River overflows, please explain the statement in the report?**

The intent of the statement was that there would be problems if Lake Poinsett is to be intentionally used for flood storage. In order for the lake to provide significant flood storage, a much lower elevation would have to be maintained in order to prevent flood flows from reaching property-damaging elevations. Lakes such as Lake Poinsett are not operated to provide flood storage.

- k. The reference to 50,000 acre-foot flood storage in the November 5<sup>th</sup> report seems arbitrary, lacking additional information on flood storage. Has a detailed analysis been done on flood storage capacity of Lake Poinsett? If so, can I get a copy? Why would providing floodwater storage fly in the face of the state decision to support recreation?**

No detailed study on flood storage in Lake Poinsett beyond the 1971 report has been done. The 1971 report states that 38,037 acre-feet of floodwater was added during the Big Sioux River flood in 1969. This natural event increased the elevation of Lake Poinsett from 1649.9 to 1653.8 fmsl. Also, see answer j.

- l. Throughout the written material, the application for FC-5, Findings of Fact and Conclusions, the report on the Declaratory Ruling Request (1995), the importance of the water control structure for flood control is emphasized. However, using 1972 data and the projected sill elevation, the Report on the Declaratory Ruling Request states that some 1,007 acre-feet of water entered the lake applying 1972 flood levels. I also understand that the 1972 event was similar to 1992, is that right? Also, the depth of the 1,007 acre-feet would raise Lake Poinsett by only 0.1 foot, is this correct?**

Using the best data available at the time, the figures in the Report on Declaratory Ruling Request in the Matter of FC-5 are correct. Lake levels at the start of the 1972 flood more closely resembled the lake levels in Poinsett when the gates have been closed. Where data was available it showed that Lake Poinsett's water level was most often above 1652 fmsl when the gates were closed and at the beginning of the 1972 flood Lake Poinsett's water level was 1652.8 fmsl. Also calculations using water elevation measurements at the bridges across the outlet channel, during the flood of 1969 and 1972, show that over the growing season in 1969, 900 acres to 1260 acres were inundated and in 1972, 820 acres to 1731 acres were inundated. The inundated acres include the area of the channel bottom..

- m. The letter from James Dornbush regarding the Harrenga petition is inconsistent with the argument of Ms. Beck (that several wet years resulting in a high water table are the sole cause of damage to the Harrenga property). Did DENR respond to the position of Dr. Dornbush? If so, is a copy of that response available?**

Nowhere in the Declaratory Ruling Request Report does it claim that the high water table is the sole reason for damage to Mr. Harrenga's property. Several reasons are given under the section in the report titled "Controlling

Factors". Dr. Dornbush was not responded to because he was not a party to the Board action and did not testify. The letter was ruled as hearsay by the Board and not accepted into evidence.

**n. The position of Dr. Dornbush that outflows in the outlet channel are insufficient to keep the sediment levels from building up has been echoed by others that I have interviewed (that a sediment barrier exists in the outlet channel due to lack of outlet flows). Since DENR has rejected that position as a factor in the Harrenga matter, how does the agency explain the interest expressed in this issue in the Geologic Survey report of 1972 as well as the view of Dr. Dornbush?**

We believe you are referring to the 1971 Geologic Survey report.

No one rejected the possibility of sediment in the outlet channel. The only available cross sections previous to the construction of the gated structure were at the bridges across the outlet channel. Therefore a determination of the affect of the gates on sediment in the channel could not be made. The gates do not hamper outlet flow in the channel because the permit is qualified to say that the gates can not be closed when Lake Poinsett is higher than the Big Sioux River. Again Dr. Dornbush did not testify and his letter was not accepted as evidence.

**o. In an unnamed report (I don't have a cover page, therefore, I am enclosing a copy), a 1971 report by Skille is referenced (we would appreciate a copy) and an analysis of the sources of pollutants within the Lake Poinsett watershed is discussed. I would ask for a review of the following scenario, ... (as stated in your letter)...**

We believe the referred to report is a draft of part of the Phase I Diagnostic Feasibility Study Final Report for Lake Poinsett Hamlin County, South Dakota, South Dakota Clean Lakes Program, Division of Financial and Technical Assistance, South Dakota Department of Environment and Natural Resources, 1996. The Report by J.M. Skille is an M.S. Thesis entitled Nutrient Transport in the Lake Poinsett System, South Dakota State University, Brookings, South Dakota, 1971. We are not going to make any comments on the report.

**p. Photographs of the outlet area prior to 1992 do suggest that the outlet channel was narrower, with more defined banks than at present. I realize that this has only been touched on in the past but what would you consider a reasonable explanation for this condition?**

We do not have the photographs.

**q. In the Water Management Board Meeting of March 1995, Ms. Best notes that when water stops flowing, sediment will drop out. Does it appear possible that sediment building has caused the water table, on a local basis, to rise downstream of the water control structure? This, in turn, is leading to some of the downstream cropland and pasture losses since 1992?**

Data from Water Right observation wells in the area indicated similar water level elevations during other times of recharge in years prior to operation of the gates. This was discussed at the Board hearing on the declaratory ruling request and the transcript would be helpful to you.

**r. Would you consider it reasonable to review sediment buildup downstream, as well as the surge effect, to determine what role they might have along the outlet channel below the water control structure?**

Although it may be reasonable to perform analysis of the sediment buildup and surge effect in the outlet channel, the state is not going to initiate such studies in response to federal regulatory concerns.

- s. **We are aware of the threats of litigation against several of the agencies involved. Reading the record of the March 8-9 meeting, I sense that several of the Board members were aware that the potential for problems existed but were concerned about pursuing the matter due to the risk of litigation. If that risk was removed and a less tedious environment created; a process already underway, would DENR be willing to sit down with the involved parties to consider problems and options? What constraints, if any, would DENR seek to place on such a review?**

Any negotiations would be between the Lake Poinsett Water Project District and the downstream landowners. Since the Board's decision was not appealed, other than answering regulatory questions, we do not plan to take further action on this matter.

Though you state that your investigation is beyond the Harrenga matter many of your questions are directly related to the Board hearing. Therefore, I suggest that you obtain the transcript of the March 8 and 9, 1995, Water Management Board hearing in the matter of "Declaratory Ruling Request in the Matter of Flood Control Permit No. 5" by contacting Carla Bachand, Capitol Reporting, (605) 224-7611. The transcript may help to answer some of your questions.

Very truly yours,



John Hatch, P.E., Chief Engineer  
Water Rights Program

- c Joyce Ulmer, Lake Poinsett Water Project District  
Jay Gilbertson, East Dakota Water District

## Evaluation of the effects of the flood gate operations on the Big Sioux flood plain

June 17, 2009

- The analysis compared the estimated magnitude of flooding within the Big Sioux 100 yr flood plain with the flood control gates closed versus the flood control gates open, for the area of interest from immediately above the confluence of the Lake Poinsett outlet channel to a point 2 mile downstream of Bruce, (approximately 1 day travel time at flood stage).
- Utilized available hydrologic modeling runs using the Aquarius model to determine estimated flow into Lake Poinsett with flood gates wide open with the lake capable of taking the entire modeled inflow amount. (Modeling performed by Watershed Protection Staff for water quality analysis)
- Assumptions
  1. Lake Poinsett will be capable of receiving the entire portion of the Big Sioux the inlet channel is capable of passing when the gates are open.
  2. Flow in the river continued to flowing downstream beyond the area of interest for both scenarios.
- Utilized available USGS gaging station flow data near Castlewood to determine 100 yr flood event.
  1. 100 yr event equates to approximately a 12 to 12.5 ft river stage, 2600 to 3600 cfs.
  2. Use the March/April 2007 Big Sioux flood event for the analysis due to its similarity to a 100 yr event at the Castlewood gaging station.
  3. Measured velocity of river during flood events is approximately 2 ft/sec, equates to 1.33 mph.
  4. Obtained GIS FEMA Firm map coverage's for the Big Sioux flood plain in Hamlin and Brookings Counties.
  5. Digitized the area of the 100 yr flood plain from immediately above the confluence of the Lake Poinsett outlet channel to a point 2 mile downstream of Bruce.  
(~23200 ac)

- Over the period of the spring flood event (3/28/07 to 5/18/07), the model estimated the average daily inflow in cfs into the lake with the gates wide open which was then converted into a 24 hour volume. The standard weir equation was used:

$$Q = C_w * L * h^{3/2}$$

Where Q - flow

C<sub>w</sub> - weir coefficient = 3.33

L - width

h – depth over weir

- Using the 100 yr FEMA flood zone in the area of interest, calculated the difference in the water surface elevation for the gates closed and if the gates were open.
- The analysis estimated maximum difference of about 1/2 of an inch.



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# Big Sioux Flood Plain DENR Exh. 10

