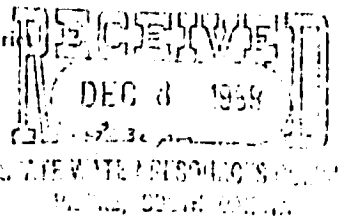


No. 938-1Map No. _____ Water Division No. 1 **SULPHUR CREEK** District _____
(Blanks to be Filled by the Engineer for the W. R. C.)**VESTED RIGHT
APPLICATION FOR PERMIT****To Appropriate Water within the State of South Dakota**

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Dept. of Game, Fish & Parks
Postoffice address Pierre State South Dakota 57501
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work Durkee Lake (artificial)
4. Amount of water claimed (cubic feet per second) 255 acre ft. (85 surface ac. x 3 ft.) Max. depth: 30 ft.
5. Source of water supply run-off
6. Location of point of diversion NE 1/4, Section 28, Twp. 12 N, Rge. 17 E Black Hills Meridian

County Meade

7. Annual period or periods during which water is to be used continuous
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) public recreation
9. For irrigation use, Total number of acres to be irrigated _____

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system _____ years. Additional time required to complete application of water to the proposed beneficial use _____ years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication _____
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

B. Works proposed to transport water to place of use.

C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout or if storage of water is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of MeadeI, A. A. Anderson, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSubscribed and sworn to before me this 5th day of April 1969

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 938-1
DEPT OF GAME, FISH & PARKS PIERRE
 (Applicant) (Post Office Address)

SOUTH DAKOTA With the following modifications:
 (State)

"VESTED RIGHT" CLAIMED

Date of first receipt of application DECEMBER 8, 1969
 Date of return to applicant for correction, amendments or changes required ---, 19---
 Date of receipt of corrected application ---, 19---
 Approved MARCH 26, 1971, Recorded in Book 11 Page 262

WATER RIGHT PERMIT NO. 938-1

The Water Resources Commission hereby grants and issues this Water Right Permit No. 938-1 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1935.
2. The equivalent of at least one fifth of the work above specified is ~~to be~~ completed completed.
3. The whole of said work is ~~to be~~ completed completed.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED.
5. The water appropriated shall be used for the purpose of PUBLIC RECREATION.

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 injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 255 ACRE FEET ANNUALLY; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial use~~ beneficially used for public recreation 445 actually and ~~beneficially applied for irrigation~~ beneficially used for public recreation on or before JUNE 30, 1955; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 26TH day of MARCH, 1971

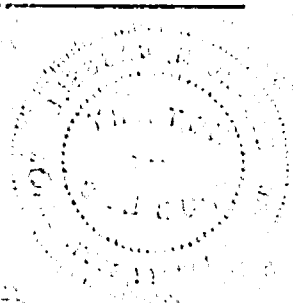
WATER RESOURCES COMMISSION

By:

[Signature]
 Chief Engineer, Executive Officer

Certificate of Construction Issued MARCH 26, 1971

Water License Issued MARCH 26, 1971



WATER LICENSE NO. 938-1

(1) WHEREAS, On the 8th day of December A. D. 19 69

the Department of Game, Fish and Parks

Vented Right
made Water Right Application No. 938-1 for ~~permit to use~~ 255 ac.ft. annually of the waters
of dry draws

County of Mcade State of South Dakota, for Public recreation

purpose and

(2) WHEREAS, On the 26th day of March A. D. 19 71

Vented Right

Permit No. 938-1 with a date of priority of 1935

was issued to said applicant recognizing for the diversion of said water ~~and~~ the completion of construction of the water
supply system therein described ~~on or before the~~ day of 4-11-70 and ~~for~~ the
application to beneficial use of said water ~~on or before the~~ day of 4-11-70

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert 255 acre feet annually
~~amount~~ of water for beneficial use and.

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to the application of water to beneficial use of the following extent.

water is used for public recreational purposes

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to _____
the Department of Game, Fish and Parks

_____ of _____ **Pierre, South Dakota**
Vested Right
the holder _____ and owner _____ of said permit No. **938-1** a water right, dating from **1935**
_____ to use of **255 acre feet annually** ~~in the~~ ~~feet per second~~ of the waters
of **dry draws**

in the County of **Meade** and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at **Points in the NE 1/4, Section 28, T12N, R17E**

and ~~conduct to and from~~ **stored in place**

for the purpose of **public recreation** *Sioux Lake*

Subject to any limitations listed in Water Right Permit No. **938-1** and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this **26th** day of **March** A. D.
Nineteen Hundred and **Seventy-one**

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, **J.W. GRIMES**

Permit No. 938-1

Water Diversion No. 1 SULPHUR CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the Department of Game, Fish and Parks

Vested Right

_____ the holder _____ of

Permit No. 938-1, issued upon Application No. 938-1, bearing date of priority of 1935

authorizing the diversion of 255 acre feet annually ~~or 11 per second~~ of the waters of _____

dry draws County of Meade, State of South Dakota at _____

points in the NE 1/4, Section 28, T12N, R17E

_____, for Public recreation - Durbin Lake

purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are ~~found in~~ ^{recognized as} satisfactory ~~condition~~ for diverting and conveying to the place of intended use 255 acre feet annually ~~or 11 per second~~ of water.

Date March 26, 1971

WATER RESOURCES COMMISSION

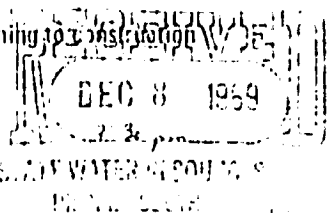
By:

J.W. GRIMES, Executive Officer

Form 2B - Affidavit of Water Use (Supplement to Form 2)

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE



Name of Applicant (Same as Form 2) Dent. of Game, Fish & Parks

Post Office Address Pierre, State South Dakota 57501

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting _____ Date of Recording _____

Recording Date _____

14. Date of start of construction of water supply system 1889 - 1935

15. Date that water was first applied to beneficial use 1889

16. Name of owner of original water supply system State of South Dakota

17. Amount of water originally applied to beneficial use 255 acre ft. c. f. s.

18. Present Use of Water

Amount of water now being used 255 acre ft. c. f. s.

Date that this amount of water was first used _____

19. Chronological History of Water Use

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)

County of Hughes) ss.

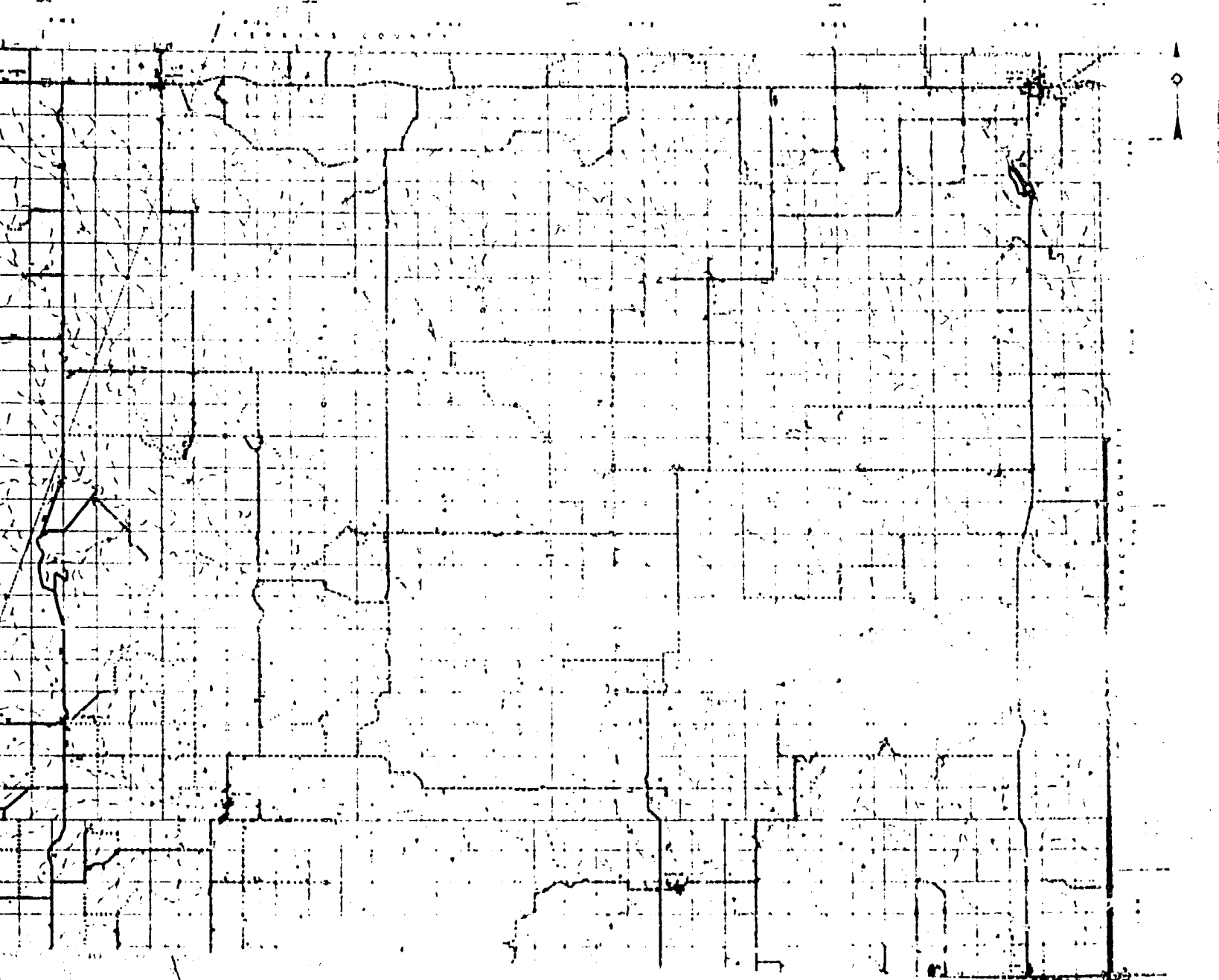
I, R. C. Hodgins, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed _____
Subscribed and sworn to before me this 5th day of April, 1969
E. W. Smith
(Notary Public - or other qualified Officer)

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

GENERAL HIGHWAY MAP
NORTH HALF

MEADE COUNTY
SOUTH DAKOTA





South Dakota Department of Water & Natural Resources

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

September 21, 1988

Richard Beringson, Secretary
Department of Game, Fish and Parks
Anderson Building
445 E Capitol
Pierre SD 57501

Dear Mr. Beringson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for lakes for the following reasons:

1. Until the outlet elevation for each lake is surveyed and the outlet elevation is set by the Water Management Board.
2. To allow the Vested Water Right Claim to be amended, if necessary, as follows:
 - a) Include the outlet elevation;
 - b) To correct the amount of water claimed;
 - c) To add the qualification that a vested claim is subject where necessary to installation of a concrete outlet structure to assure retention of the outlet as the established elevation; and
 - d) To add any amendments and qualifications necessary to clarify a Vested Right Claim.

Also, that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for dams to allow the Vested Water Right Claim to be amended, if necessary, as follows:

1. To include the spillway elevation;
2. To correct the amount of water claimed; and
3. To add any amendments and qualifications necessary to clarify a Vested Right Claim.

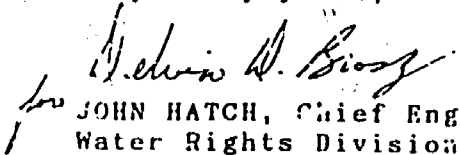


September 21, 1988
Richard Beringson, Secretary
Page 2

We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation process will take several years to complete, the results should be of benefit to the public and to your Department. As the work is completed to validate each claim, the claim will be presented to the Water Management Board for validation.

Please advise if you have any questions.

Very truly yours,


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

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