

No. 941-1
 Map No. _____ Water Division No. 1 SULPHUR CREEK District _____
 (Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant Dent, or Game, Fish & Parks
 Post office address Pierce State South Dakota
 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 Miller Dam (artificial)
4. Amount of water claimed (cubic feet per second) 45 acre ft. (15 surface acre x 3 ft.) Maximum depth 20 ft.
5. Source of water supply run off
6. Location of point of diversion E $\frac{1}{2}$ Section 9, Twp 11 N, Rge 21 E
 _____ County Ziebach County
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 Hughes

I, J. A. Wadsworth 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 construction.

Subscribed and sworn to before me this 13th day of July, 1923

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No.

941-1

DEPT. OF GAME, FISH & PARKS
(Applicant)

PIERCE

(Post Office Address)

SOUTH DAKOTA
(State)

With the following modifications:

"VESTED RIGHT" CLAIMED

Date of first receipt of application JANUARY 16, 1970

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 265

WATER RIGHT PERMIT NO. 941-1

The Water Resources Commission hereby grants and issues this Water Right Permit No. 941-1 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 complete
3. The whole of said work is complete
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 46 ACRES 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 USE FOR PUBLIC RECREATION actually and beneficially applied for on or before JUNE 30 1956 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

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) _____

Post Office Address _____, State _____

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 _____ 45 acre ft. _____ c. f. s.

18. Present Use of Water

Amount of water now being used _____ 45 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. A. Hodgson, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed R. A. Hodgson

Subscribed and sworn to before me this 13th day of Jan, 1940

Edmund M. Russell
(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.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 941-1

(1) WHEREAS On the 16th day of January A. D. 19 70

the Department of Game, Fish and Parks

made Water Right Application No. 941-1 ^{Vested Right} for permit to use 45 ac. ft. annually of the waters of dry draws

County of Ziebach State of South Dakota for public recreation

purpose: and

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

^{Vested Right} Permit No. 941-1 with a date of priority of 1935

was issued to said applicant recognizing for the diversion of said water, ~~and provided for~~ the completion of construction of the water supply system therein described ~~on or before the~~ 4-11-19 and ~~for~~ the application to beneficial use of said water ~~on or before the~~ 4-11-19

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 45 acre feet annually ~~of water~~ 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 recreation 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
the holder _____ and owner _____ of said permit No. Vested Right 941-1 a water right, dating from 1935
_____ to use of 45 acre feet annually ~~within four feet of the waters~~
of dry draws

in the County of Ziebach 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 NPL, Section 9, T11N, R21W

and ~~as directed by the commission~~ stored in place

for the purpose of public recreation Miller Dam

Subject to any limitations listed in Water Right Permit No. 941-1 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. 941-1

Water Diversion No. 1 SULPHUR CREEK Water District

CERTIFICATE OF CONSTRUCTION

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

the holder of
 Vested Right / Permit No. 941-1, issued upon Application No. 941-1, bearing date of priority of 1935

authorizing the diversion of 45 acre feet annually ~~cu. ft. per second~~ of the waters of

dry draws County of Ziebach, State of South Dakota at points in the NE 1/4, Section 9, T11N, R21E

, for public recreation
Miller Dam

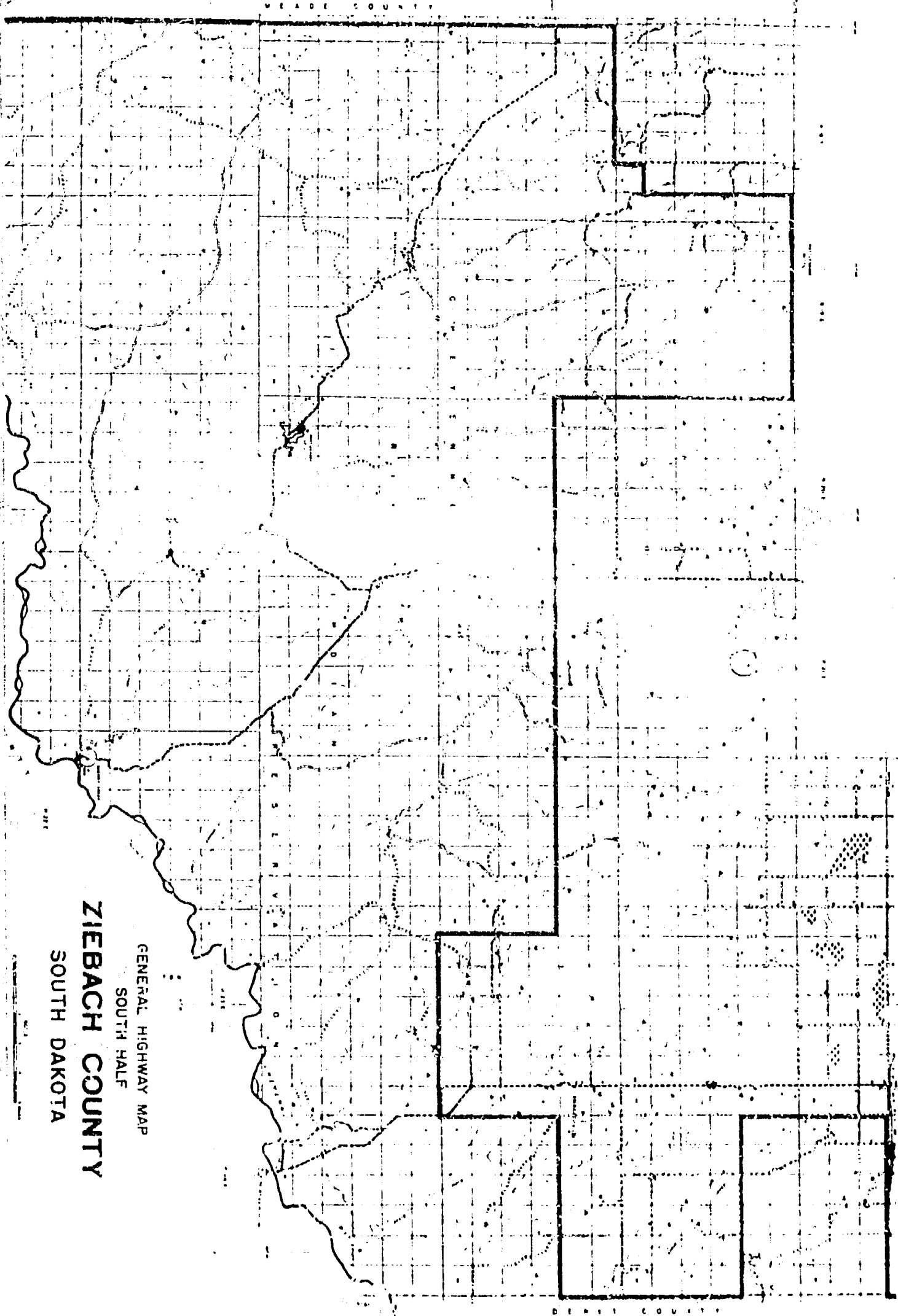
purposes, has complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are recognized as ~~known~~ satisfactory condition for diverting and conveying to the place of intended use 45 acre feet annually ~~cu. ft. per second~~ of water.

Date March 26, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer



GENERAL HIGHWAY MAP
SOUTH HALF
ZIEBACH COUNTY
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.

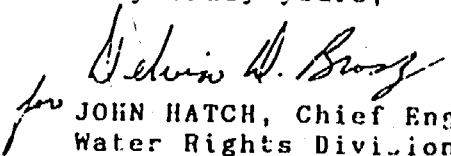


September 21, 1988
Richard Beringson, Secretary
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We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation 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