

No. 150-2
 Water Division No. 2 Bad River District
 (Blanks to be filled by the Engineer for the W. R. C.)

STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

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 City of Philip
 Postoffice address Philip, County Haakon, State South Dakota

- I. If a corporation
- (a) Name of same
 - (b) Date and place of incorporation
 - (c) Amount of capital stock
 - (d) Amount paid in
 - (e) Names and addresses of directors

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

- (b) Cash on hand, \$
 (c) Treasury stock, \$
 (d) Bonds to be issued, \$
 (e) Other resources, \$

2. Name of diversion work Lake Waggoner Dam
 3. Amount of water claimed 0.43 cubic feet per second or 280,000 gals/day
 4. Source of water supply Grindstone Creek
 5. Location of point of diversion 2490 feet south and 730 feet west from the NE
Corner of Sec. 1, T. 1N, R. 20E bank Haakon County.
 6. Annual period or periods during which water is to be used continuous
 7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkler or combination system?

- (a) Number of acres to be irrigated _____ acres.

- (b) Legal subdivisions to be irrigated

(NOTE—A list of lands to be irrigated, giving each subdivision and acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.) Municipal at Philip, S. Dak.

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use
 Name any of the above uses claimed

- (b) Amount of power to be generated _____ horse power.

Amount claimed for engine cooling _____

- (c) Location of plant _____

- (d) Method of developing power _____

- (e) Point where water will be returned to stream _____

8. Estimated cost of work:

(a) Head Gates, \$.....

(b) Pumping plant, \$.....

(c) Fluming, \$.....

(d) Canal-earth, \$.....

Rock, \$.....

(e) Other structures \$.....

Total, \$.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Lake Waggoner was a WPA project and now a Game, Fish and Parks Dam and is used as the City reservoir.

II. Dimensions of works:

(a) Dam: Height 32 feet; length at bottom 800 feet; length at top 1000 feet; thickness at bottom 160 feet; thickness at top 30 feet; slope at front water face 3:1; slope at back face 1 1/2:1; material used in construction Rolled Earth

(b) Reservoir: Capacity when filled 786 acre feet. Surface area at highwater mark 100 acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	ACRE-Feet CAPACITY
20	90	786
10	30	120

(c)* Head gate: Width feet; height feet;

Material

(d) Canal: Total length miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work completed ~~XXXX~~

completed

11. Time required for complete application of water to the proposed beneficial use ~~XXXXXX~~

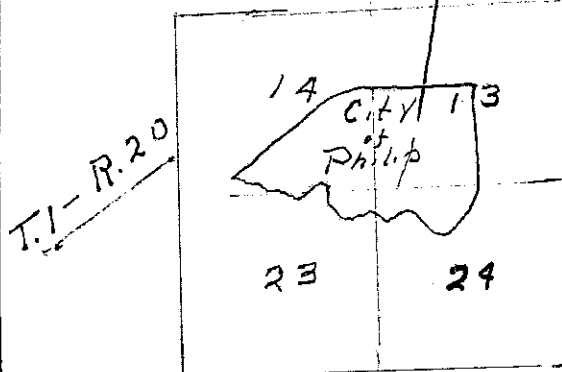
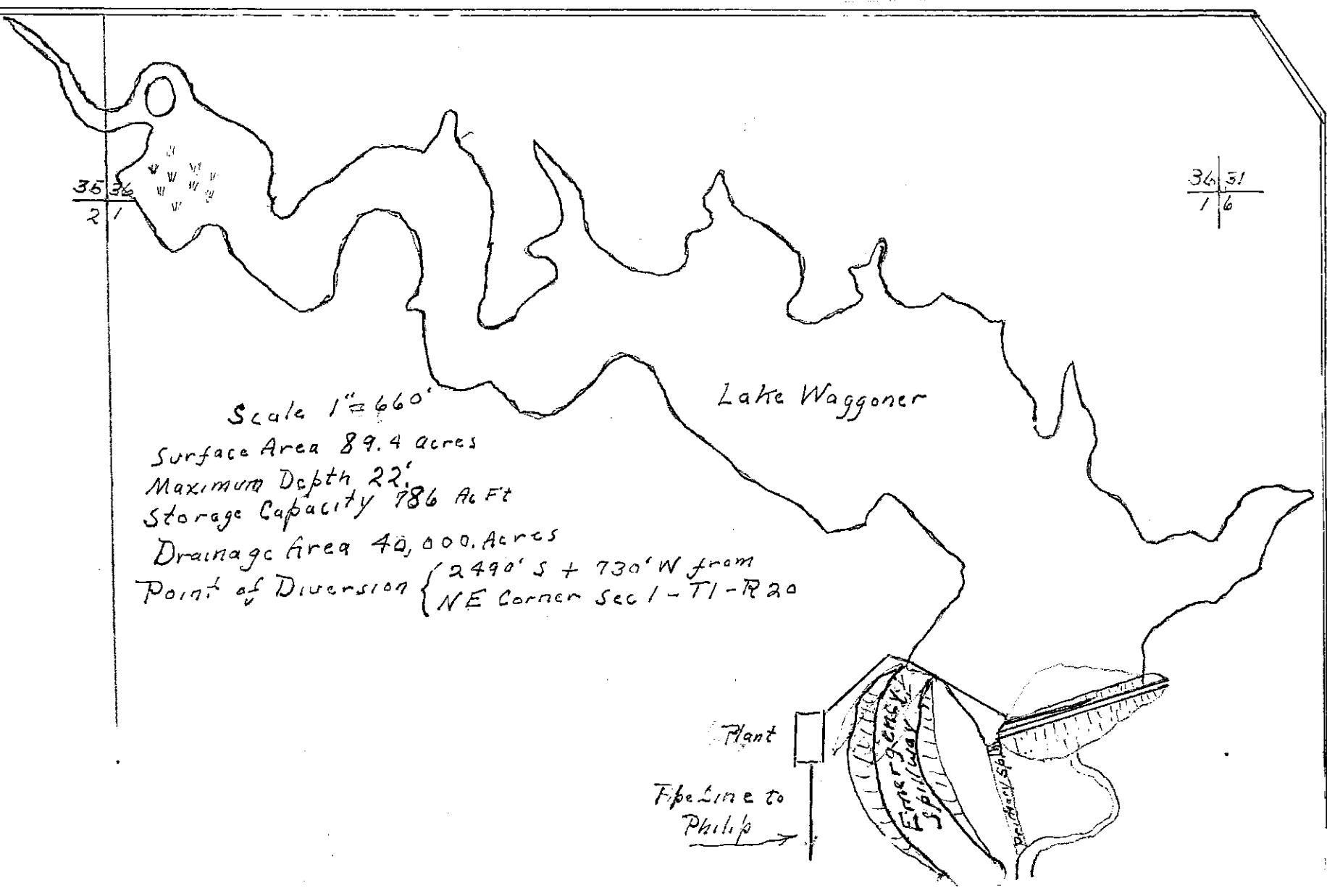
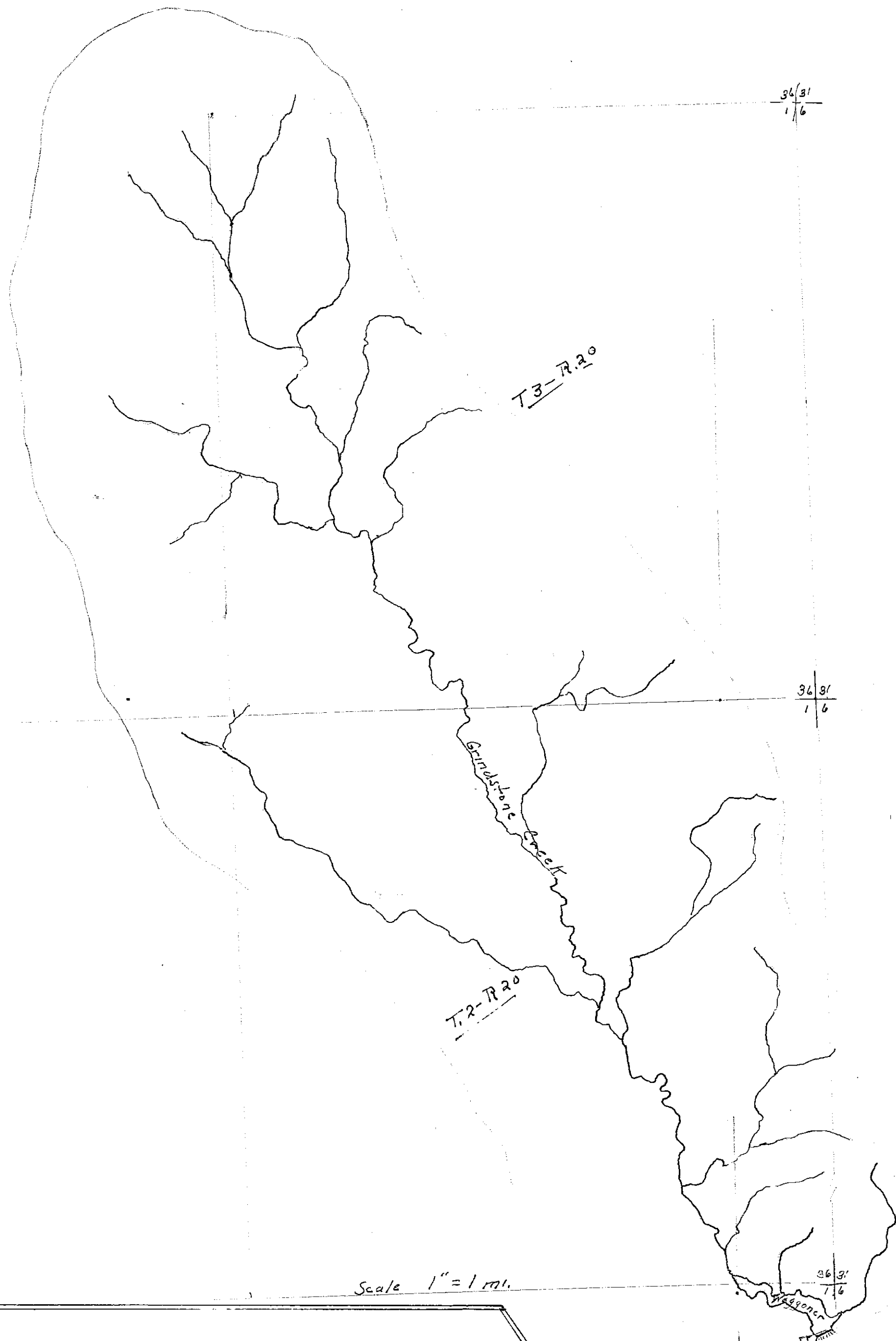
12. Choice of newspaper for publication of notice of intention to appropriate

STATE OF SOUTH DAKOTA

County of Hughes } ss.

I, Roy Heigens 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, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Roy HeigensSubscribed and sworn to before me this 3 day of August 1956Donald D. Russell
Notary Public (or other qualified officer.)



(W 430-2)

Remarks by State Water Resources Commission:

"Vested Right" Claimed

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

August 30

1956

This is to certify that the foregoing application was received by the Commission at 11:00 o'clock:

a.m. upon the 3 day of August 1956

State Water Resources Commission

By:

Joe Brimer

Chief Engineer, Executive Officer

Vested Right
Number of permit 430-2

Date of first receipt of application August 3 1956

Date of return to applicant for correction, amendments or changes required as follows: 19

Date of receipt of corrected application 19

Date from which applicant may claim right 1948 19

Approved August 30 1956, Recorded in Book 3 Page 172

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified ^{was} ~~is to be~~ completed on or before

1948 19

2nd. The whole of said work ^{was} ~~is to be~~ completed on or before 1948 19

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

1948 19

4th. The water appropriated shall be used for the purpose of Municipal 19

5th. 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.

6th. The amount of the appropriation herein granted shall not exceed 0.43 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for ^{municipal uses} ~~irrigation~~ on or before 1948 19; said water to be used during the following described annual period:

Continuous

Witness my hand this 30 day of August 1956

State Water Resources Commission

By:

Joe Brimer

Chief Engineer, Executive Officer

Certificate of Construction Issued August 30 1956

Water License Issued August 30 1956

STATE OF SOUTH DAKOTA

WATER LICENSE No...430-2...

WHEREAS, On the 3rd day of August A. D. 1956

the City of Philip

of Philip County of Haukon and State of
South Dakota duly made application (No. 430-2) Vested Right
 to us for a permit to use 0.43
 cubic feet per second of the waters of Grindstone Creek
 County of Haukon, State of South Dakota, for Municipal
 purposes; and

WHEREAS, On the 30th day of August A. D. 1956

Vested Right Permit No. 430-2 was issued to said applicant... for the diversion of said water, and recognizing
 completion of the works of diversion therein described ~~XXXXXX~~ in 1948 ~~XXXX~~
~~XXXXXX~~ and ~~XXXX~~ application to beneficial use of said
 water ~~XXXXXX~~ in 1948 ~~XXXX~~ ~~XXXXXX~~
 and,

WHEREAS, On the 3rd day of August A. D. 1956

Vested Right
 the holder of said permit duly made proof of the completion of adequate works for the diversion of 0.43
 cubic feet per second of said waters, as evidenced by our Certificate No. 430-2
 dated August 30, 1956 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 0.43 cubic feet per second of water, with date of
 priority of 1948 ~~XXX~~ ~~XX~~,

WHEREAS, On the 3rd day of August A. D. 1956

proof was duly made of the application to beneficial use of 0.43 cubic feet per second of said water;
for municipal purposes in and by the residents of the City of Philip.

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 City of Philip
of Philip, South Dakota, the holder and owner Vested Right of said permit No. 430-2
a water right, dating from 1948 to the use of 0.43
cubic feet per second of the waters of Grindstone Creek
in the County of Haakon and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinbelow mentioned, to be diverted at 2490 feet South and 730 feet
West of the NE Cor. of Sec. 1, T 1N, R 20E
and conducted to ~~XXXXX~~ the residents of the City of Philip

for the purpose of domestic, industrial, fire protection, and similar
municipal water uses.

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
State, and subject, also to the local or community customs, rules and regulations which have been or may be
adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
which such water may be taken, when such rules and regulations have for their object the economical use of such
water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 30th day of August A. D. Nineteen
Hundred and Fifty-six

State Water Resources Commission

By:

J. W. Crimes
J. W. Crimes, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 430-2Water Division No. 2 Red River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That The City of Philipof Philip, County of Haskell, and State of South Dakota, the holder Vested Right of Permit No. 430-2, issued upon Application No. 430-2, bearing date of priority of 1948, authorizing the diversion of0.43 cu. ft. per second of the waters of Bridestone Creek County of Haskell, State of South Dakota, at 2490 feet South and 730 feet west of the NE Cor. of Sec. 1, T. 1N, R. 20E, for Municipal water supply purposes, has fully 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 satisfactory condition for diverting and conveying to the place of intended use 0.43 cu. ft. per second of water; ~~and~~ for municipal use in and by the residents of the City of Philip.Witness my hand this 30th day of August A. D. 1956

State Water Resources Commission

By: Joe Crimes
J. W. Crimes, Chief Engineer, Executive Officer

COPY OF RECORD OF ACTION BY
THE GAME, FISH AND PARKS COMMISSION
RELATIVE TO
LAKE WAGGONER, HAAKON COUNTY, SOUTH DAKOTA

October, 1942

A letter from R. V. Millstead, President of the Chamber of Commerce, Philip, South Dakota, relative to conditions at Lake Waggoner, was presented to the Commission.

October, 1942

Moved by Beaulieu, seconded by Kahler, that the Commission appropriate not to exceed \$150.00 for the purchase of materials and supplies for assistance in repairing the Lake Waggoner Dam.

March, 1944

Moved by Dunn, seconded by Beaulieu, that the Commission appropriate not to exceed \$3,000.00 for necessary repairs at Lake Waggoner in Haakon County, such repairs to be under the supervision of and subject to the approval of the Department's engineer.

October, 1944

Moved by Kahler, seconded by Pattee, that the Commission authorize the repair of Waggoner Dam at Philip on a cost plus 15 percent basis, estimated total cost of approximately \$7,500.00.

January, 1945

Recommended postwar project - completing spillway, repairs at estimated cost of \$8,000.00.

January, 1947

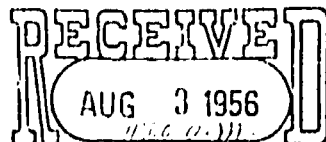
Moved by Burke, seconded by Johns, that the Commission grant the application of the City of Philip to use water from Waggoner Lake provided that such water used shall not exceed 100 acre feet per year, and provided further that the water will not be drawn lower than six feet below the crest of the existing spillway.

May, 1951

Moved by Burke, seconded by McKay, that the Commission authorize the repair of one wing wall of the spillway at Lake Waggoner in Haakon County.

August, 1951

Moved by Jensen, seconded by McKay, that the Commission approve a contract with Jack Wampler for the repair of the Lake Waggoner spillway at a cost of \$180.00.

Location No. 171-2Water Division No. 2 Bad River Water DistrictSTATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Roy Heiens, Philip, South Dakota

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. City of Philip, Philip, South Dakota, Superintendent of
Water Department

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. ---

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Grindstone Creek and Lake Waggoner. 2490 feet south and
730 feet west from the NE Cor. Sec. 1, T 1N, R 20E

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. 6" CIP Force main to 100000 gallon storage and 8" to city
distribution system. System capable of delivering 238,000 gpd or more.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Municipal uses in the City of Philip distribution system

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. Municipal, Fire protection, and domestic

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 280,000 gallons per day

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. ---

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. The following peak pumping rates were attained: 1943-100,000 gpd;
1949-120,000 gpd; 1950-175,000 gpd; 1951-195,000 gpd; 1952-215,000 gpd;
1953-230,000 gpd; 1954-250,000 gpd; 1955-280,000 gpd; and 1956-280,000 gpd.

The dam was completed as a WPA project in 1940 or 1941. The pumping station was constructed and use started in 1948.

(Sign) Reg. Thomas

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Pierre, County of Hughes

State of South Dakota, on this 3 day of August A. D. 1956

Donald Driscoll
Witnesses.

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No.-----	
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	
PETITION OF HOLDER	
Amount of Water ----- c. f. s.	
Source -----	
County -----	
Purpose -----	
Place of Use -----	
Date of recording -----	
Received and filed -----	

SOUTH DAKOTA

VESTED WATER RIGHT CLAIM NO. 430-2

Date of Receipt of Claim August 3, 1956.

Date of Validation March 4, 1992.

The Water Management Board validated Vested Water Right Claim No. 430-2 for the City of Philip, PO Box 408, Philip SD 57567 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 430-2 appropriates 0.43 cubic feet of water per second from Grindstone Creek and Lake Waggoner located in the SE 1/4 NE 1/4 Section 1-T1N-R2CE.
2. The appropriated water is used for supplying water to the City of Philip and may not exceed the amount of water needed for beneficial use for municipal purposes.

The water is to be used during the following annual period:
January 1 - December 31.

3. The priority date of the Vested Water Right is January 1, 1948.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

John H. H. H.
Chief Engineer

MAY 13 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAY 13 1992

City of Philip
Kay Reckling, Finance Officer
PO Box 408
Philip SD 57567-0408

Dear Ms. Reckling:

The Water Management Board has validated the enclosed Vested Water Right No. 430-2. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,

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

enclosure

430-2

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: City of Philip – Vested Water Right No. 430-2

ADDRESS: COUNTY: Haakon

DATE: October 27, 2003 TELEPHONE: 859-2175

RE: Telephone conversation with Tom Lesselyoung

COMMENTS:

I contacted Mr. Lesselyoung, Philip's Public Works Director, regarding the status of Vested Water Right No. 430-2. This right is for water from Grindstone Creek and Lake Waggoner. I contacted him because I was preparing to conduct a licensing investigation trip to the area. I knew that the city of Philip connected to the West River / Lyman Jones Rural Water System and wanted to know whether the city intended to abandon its water use under No. 430-2. I also wanted to know if he knew the status of the Bad River RWS, which also connected to West River/Lyman Jones, because I had been unable to get a hold of their representative.

Mr. Lesselyoung stated that the city intends to maintain their system authorized by Vested Water Right No. 430-2 as a back-up water supply. I explained that under the Board rule pertaining to standby use, the diversion works are to be maintained in working condition for immediate use upon demand.

Mr. Lesselyoung stated that the Bad River RWS is also served by the new rural water system but that they still maintain a tee connected to the city's diversion. This means that the Bad River RWS water permit will still need to be inspected.

NAME:

Eric Henderson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 26, 2004

Tom Lesselyoung
Public Works Director
City of Philip
PO Box 408
Philip SD 57567

Dear Mr. Lesselyoung:

You contacted me at the urging of the Drinking Water Program to discuss the city of Philip's water rights. The city of Philip is connected to the West River Lyman Jones rural water system. You indicated that city no longer intends to divert from Lake Waggoner but does plan to use the well for geothermal heating, the fish farm and at the golf course.

The following summarizes the city of Philip's municipal water rights

- Water Right Nos. 574-2 and 1858-2, combined, appropriate 1.22 cubic feet of water per second (550 gpm) from the well.
- Vested Water Right No. 430-2 appropriates 0.43 cubic feet of water per second (193 gpm) from Grindstone Creek and Lake Waggoner.

The historic practice has been for water from the well to be discharged to the lake and then water was diverted from the lake to meet municipal use demands. After being used for geothermal heating, water from the well is returned to a cooling pond or two ponds on the golf course. Water from the well has also been diverted directly to Grindstone Creek below the lake to provide livestock water.

The city can continue to provide water under their water rights from the well for municipal uses such as providing geothermal heating, fish farming and use at the golf course. The well is to be valved and the flow reduced to the amount needed or to a minimum when not being used.

It is my understanding that the physical diversion of water from Lake Waggoner will no longer take place. If that is the case, Vested Water Right No. 430-2 should be cancelled since the diversion of water from the lake has been abandoned. Please let me know if you concur and I will schedule this water right for cancellation.

Finally, the Bad River Rural Water System also holds a water permit from Lake Waggoner. I understand that this system has been served by the city and is now also connected to the West River Lyman Jones system. You indicated that the city's diversion works to the lake have been severed. Logically, this would mean that the Bad River RWS's water permit is also likely subject to cancellation. I have been unable to reach the contact person for them to discuss this issue. Certainly you do not speak for them but I'd appreciate any knowledge you can provide regarding whether my understanding of the status of Bad River's water permit is correct.

Please feel free to contact me and we'll work to get the water rights to accurately reflect the water use taking place.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund

Water Rights Program, DENR
(605) 773-3352