

No. 624-2  
 Water Division No. 2 17E PONCA CREEK District  
 (Blanks to be filled by the Engineer for the W. R. C.)

STATE WATER RESOURCES COMM.  
 SOUTHERN DISTRICT  
 SOUTHERN 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 South Dakota Department of Game, Fish and Parks  
 Postoffice address Pierre County Hughes 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 BERRY LAKE - Gregory County  
As required to fill lake to spillway outlet approximately  
 3. Amount of water claimed 90 acre feet per year cubic feet per second  
 4. Source of water supply Willow Creek  
 5. Location of point of diversion SE 1/4 Sec. 32 T. 96 R. 70  
 \_\_\_\_\_ on \_\_\_\_\_ bank \_\_\_\_\_ County.  
 6. Annual period or periods during which water is to be used continuously  
 7. To be used for:

#### I. Irrigation or domestic use: Gravity, overhead sprinkling 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 fraction with 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 ~~irrigation~~ (giving location, etc.) SE 1/4 Sec. 32 T. 96 R. 70

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

- (a) Nature of use Public Recreation area

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, \$6000.....

9. Description of diversion works:

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

II. Dimensions of works.

(a) Dam: Height 26 feet; length at bottom 450 feet; length at top 600 feet; thickness at bottom max 104 feet; thickness at top 14 feet; slope at front water face 3:1; slope at back face 2:1 material used in construction clay  
 (b) Reservoir: Capacity when filled 240 acre feet. Surface area at high water mark 30 acres.

| DEPTH AT<br>OUTLET-Feet | SURFACE AREA AT EACH<br>DEPTH AT OUTLET--ACRES | ACRE-Feet<br>CAPACITY |
|-------------------------|------------------------------------------------|-----------------------|
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |
|                         |                                                |                       |

(c) Head gate: Width..... feet; height..... feet;  
 Material .....

(d) Canal: Total length ..... miles.

| LOCATION BELOW<br>HEADGATE | DEPTH      | BOTTOM<br>WIDTH | WIDTH AT<br>WATER-LINE | GRADE<br>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 - not applicable years.  
 11. Time required for complete application of water to the proposed beneficial use not applicable years.  
 12. Choice of newspaper for publication of notice of intention to appropriate not applicable

STATE OF SOUTH DAKOTA

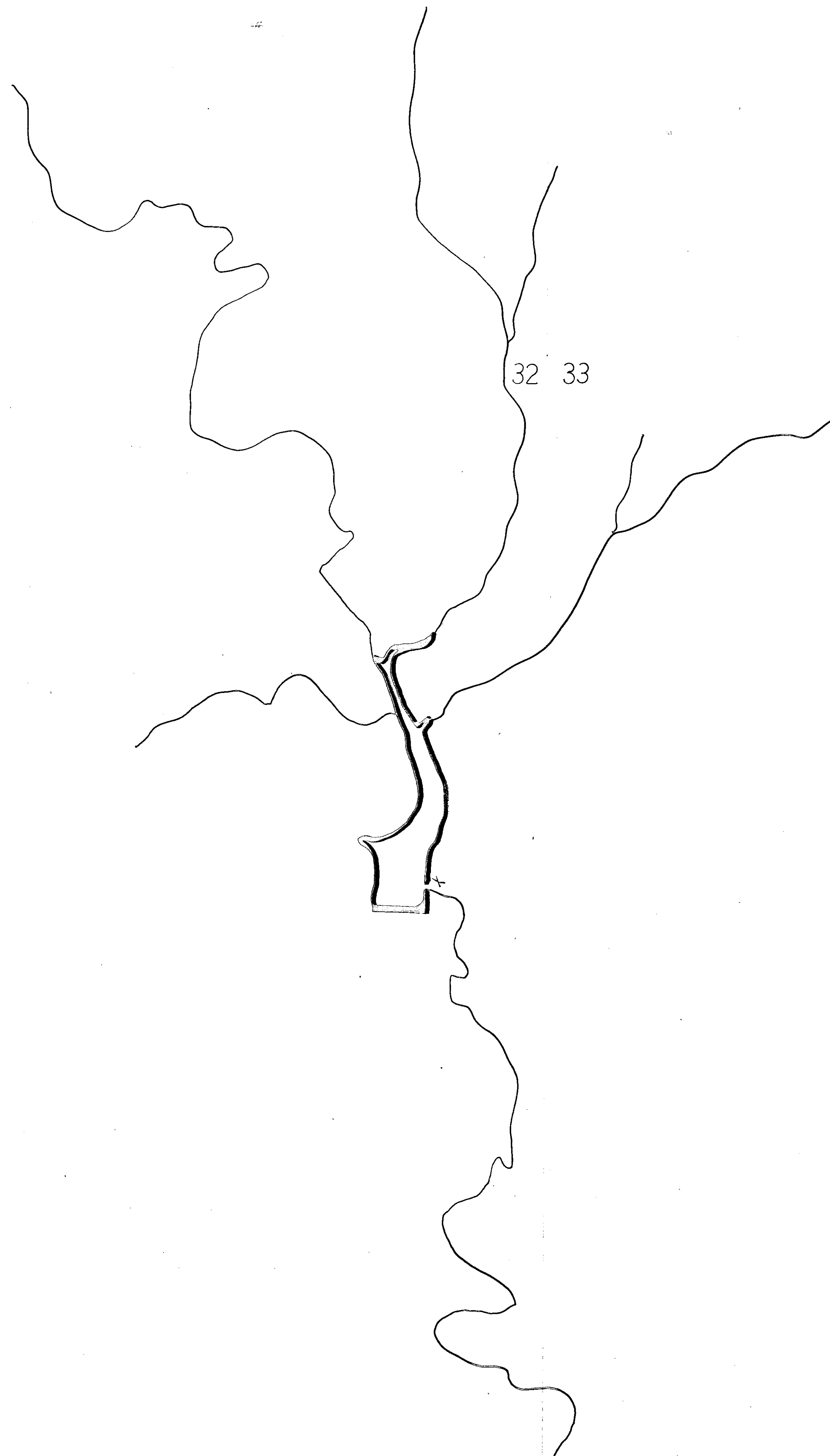
County of Hughes ss.

I, Harry B. Woodward, 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 Harry B. Woodward

Subscribed and sworn to before me this 15 day of Aug 1962

Edward D. Johnson  
 Notary Public (or other qualified officer.)



32 33

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N

BERRY LAKE  
T96 R70  
GREGORY CO.  
S.D. DEPT. GAME FISH PARKS

*V.R. # 624-2*

W.R. # 624-2

Remarks by State Water Resources Commission:

*"Waters Right"*

STATE OF SOUTH DAKOTA

County of

*Hughes*

ss.

Pierre, South Dakota,

*April 18*

19*61*

This is to certify that the foregoing application was received by the Commission at *3:30* o'clock

*pm* upon the *16th* day of *August*, 19*60*

State Water Resources Commission

By:

*Arthur J. [Signature]*  
Chief Engineer, Executive Officer

Number of permit *624.2*

Date of first receipt of application *August 16*, 19*60*

Date of return to applicant for correction, amendments or change, required as follows: \_\_\_\_\_, 19\_\_\_\_

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_

Date from which applicant may claim right *1935*, 19\_\_\_\_

Approved *April 18*, 19*61*, Recorded in Book *6* Page *221*

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 is ~~to be~~ completed ~~on or before~~ \_\_\_\_\_, 19\_\_\_\_

2nd. The whole of said work is ~~to be~~ completed ~~on or before~~ \_\_\_\_\_, 19\_\_\_\_

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

*COMPLETED*, 19\_\_\_\_

4th. The water appropriated shall be used for the purpose of *public recreation*

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 *40 acre feet annually* 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

*used for public recreation*

and beneficially ~~applied for irrigation~~ on or before *June 30*, 19*55*; said water to be used during the following described annual period:

*Continuously*

Witness my hand this *18th* day of *April*, 19*61*

State Water Resources Commission

By:

*[Signature]*  
Chief Engineer, Executive Officer

Certificate of Construction Issued *April 18*, 19*61*

Water License Issued *April 18*, 19*61*

STATE OF SOUTH DAKOTA

WATER LICENSE No. 624-2

WHEREAS, On the 16th day of August A. D. 1960  
The South Dakota Department of Game, Fish and Parks

of Pierre County of Hughes and State of  
South Dakota duly made application (No. 624-2) to us for a permit to use 90 acre feet annually  
of the waters of Willow Creek  
County of Gregory, State of South Dakota, for Public Recreation  
purposes; and

WHEREAS, On the 18th day of April A. D. 1961  
Vested Right Permit No. 624-2 was issued to said applicant for the diversion of said water, and recognizing  
completion of the works of diversion therein described on or before the  
and forth application to beneficial use of said  
water and,  
and,

WHEREAS, On the 16th day of August A. D. 1960  
the holder of said permit duly made proof of the completion of adequate works for the diversion of 90 acre feet  
annually of said waters, as evidenced by our Certificate No. 624-2  
dated April 18, 1961 confirming the completion of works of sufficient capacity for  
diverting and conveying to the place of intended use 90 acre feet annually  
priority of 1935 and,

WHEREAS, On the 16th day of August A. D. 1960  
proof was duly made of the application to beneficial use of 90 acre feet annually  
to be used in place for public recreation

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 South Dakota Department of Game, Fish and Parks  
of Pierre the holder and owner of said permit No. 624-2  
a water right, dating from 1935 to the use of 90 acre feet  
cubic feet per second of the waters of Willow Creek annually  
In the County of Gregory and State of South Dakota, or so much thereof as may be  
necessary for the purposes hereinafter mentioned, to be diverted at A point in the SE 1/4 SE 1/4,  
Station 32, T 96N, R 70W  
and ~~used in place~~ used in place

for the purpose of public recreation

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 18th day of April A. D. Nineteen  
Hundred and Sixty-one

State Water Resources Commission

By:

J.W. GRIMES ,

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. 624-2

Water Division No. 2 FONCA CREEK Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That The South Dakota Department of Game, Fish and Parks

of Pierre, County of Hughes, and State of

South Dakota, the holder Vested Right, 624-2, Issued upon Application

No. 624-2, bearing date of priority of 1935, authorizing the diversion of

90 acre feet annually, cu. ft. per second of the waters of Millou Creek

County of Gregory, State of South Dakota, at a point in the

SE 1 SE 2, Section 32; T 26N; R 70W

for public recreation

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 recognized as

satisfactory for diverting and conveying to the place of intended use 90 acre feet annually

per second of water; and that the use of said water are described as follows,

to-wit: to be used in place for public recreation

Witness my hand this 1.8th day of April A. D. 1961

State Water Resources Commission

By:

J.W. CRIMES, Chief Engineer, Executive Officer

Location No. ....

Water Division No. .... Water District

**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

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

Ans. South Dakota Department of Game, Fish and Parks, Pierre, 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. ....

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. Willow Creek - SE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 32 T 96 R. 70

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. Earth Dam - approximately 450 feet long and 26 feet highImpoundment of 30 acres at dam site

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. Fish and wildlife propagation, conservation and recreation

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

Ans. Used in place in lake or reservoir

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

Ans. As required to fill lake to spillway outlet approximately 90 acres-feet perQues. 9. <sup>year</sup> 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. ~~Used in use ever since 1935 when dam was constructed. Used by the public~~  
~~for the uses specified except for that amount lost by evaporation and seepage~~

(Sign) Henry P. Woodward

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 Beauregard County of Thurgood State of South Dakota, on this 1st day of Aug A. D. 1940

Edmund B. Johnson  
} 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. -----                                         |  |
| <b>PROOF OF APPLICATION OF<br/>WATER TO BENEFICIAL USE</b> |  |
| <b>PETITION OF HOLDER</b>                                  |  |
| Amount of Water ----- c. f. s.                             |  |
| Source -----                                               |  |
| County -----                                               |  |
| Purpose -----                                              |  |
| Place of Use -----                                         |  |
| Date of recording -----                                    |  |
| Received and filed -----                                   |  |

**SOUTH DAKOTA**  
**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.

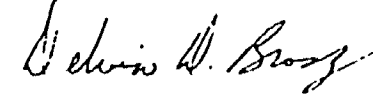


September 21, 1988  
Richard Beringson, Secretary  
Page 2

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,



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

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