

No. *11173-2*

**Office of State Engine
DOCUMENT FILE**

Dept. Agr. - Forest Service
Custer Co.

Priority: July 10, 1937

Sec. 12, T. 4 S. R. 1 E

C. 64 acres

CERTIFICATE OF CONSTRUCTION OF WORKS
and
APPROPRIATION

U. S. Water Right No. 173-2

Billy Hay Den No. 1 Reservoir
Name of Project

Fall River Water District

TO ALL WHOM IT MAY CONCERN:

This is to Certify, that the United States of America, Department of
Agriculture, Forest Service, has complied with the
State Laws and has been issued a withdrawal Now 173 bearing date of
July 10, 1939 withdrawing from further appropriation 0.64 acre-
feet per annum of water for storage; of the waters of Billy Hay Den Creek,
County of Custer, State of South Dakota, at a point S. 84 20' E.,
5030 feet distant from the NW Cor. Sec. 12, T. 43, R. 1E.
for livestock, fish culture, domestic, fire protection, recreation purposes;
has fully complied with the provisions of the laws of the State of South
Dakota relating to completion of the works set out and described in
Section 61.0137, that said works are completed in accordance with infor-
mation filed in the office of the State Engineer, and 0.64 acre-feet
per year is thereby appropriated for the above purposes bearing date of
priority of July 10, 1939.

Witness my hand this 9th day of January 1940.

State Engineer.

Form 23A

WITHDRAWAL NO. US 173

Water Division No. 2

Fall River Water District

CERTIFICATE OF EXAMINATION OF WORKS

Report of Examining Engineer

OFFICE OF STATE ENGINEER

Date December 5
By Walter Walking

Billy Hay Pen No. 1 Reservoir
Project Name and Number

Billy Hay Pen Creek
Source of Appropriation
(Stream)

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated August 11 1939 I have made a thorough examination of Billy Hay Pen No. 1 Reservoir reservoir, ditch, or pipe line constructed by the United States of America, Department of Agriculture, Forest Service, Region 2, Denver, Colorado, holder of withdrawal No. US 173 issued upon Notice of Intention bearing date July 7 1939, authorizing the withdrawal from further appropriation of 0.64 acre feet, or second feet of the waters of Billy Hay Pen Creek, tributary of Tepce Canyon (Creek) for livestock, fish culture, domestic, fire protection, irrigation, recreation, purposes. I have to report on the condition of the same as follows:

The impounded and diversion works comprise:

Dam: Type Earth fill Foundation earth
Size: Max. Length 50 ft. Maximum height to spillway flow line 2.2 ft. Freeboard 2 ft.
Section: Upstream slope 3:1
Downstream slope 2:1
Top width 8 ft.
V rdage (Approx.) 80 cu. yds.
Reservoir: Area Normal Pool Level 0.16 acres
Capacity 0.16 acre feet
Nature of Shore line Grassy
Spillway: Type open channel Location south end
Width 15 ft. Depth 2 ft.
Capacity 40 cubic feet per sec.
Outlet: Size _____ Control _____
Location _____
Ditches: Open Earth _____ Open rock _____
Pipe _____ Length _____
Section _____ Capacity _____
Location or as shown on plans _____

The system is in the following condition: Good

The outlet of the reservoir or the point of diversion of the ditch, canal or pipe line is located 3.84°20'E. 5030 ft.
distant from the NW Corner of Section 12 Township 49
Range. 1E

The works are capable of utilizing 0.64 acre-feet of water annually or second-feet of water.

The legal subdivisions to be irrigated are

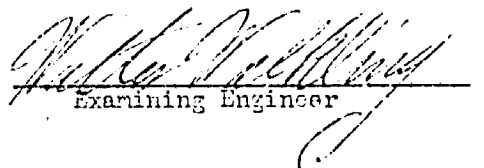
comprising a total of acres of land.

The domestic and stockwater uses comprise household purposes and water for livestock

The utilization for Public recreational, game and fish propagation and fire protection comprises bathing, rearing fish and water supply for fire fighting equipment.

The project was completed 1935

Witness my hand, this 5th day of December A.D. 19 39.


Examining Engineer

Profile Center Line Sillway
3% maximum grade

LETTER OF AUTHORIZATION
for
Inspection

August 11, 1931

Major MallittRapid City, S. Dak.

Elly Day Res. No. 1 Reservoir
Name of Project
Water Division No. 2
Fall River Water District
Elly Day Res. No. 1 Reservoir
Source of Appropriation
(Stream)

Dear Sir:

The United States of America, Department of Agriculture, Forest Service, Denver, Colorado, having filed "Notice of Intention" to utilize certain specified waters of the State, and there having been issued a withdrawal from further appropriation as provided in Section 61.0137, 1939 Revised Code of South Dakota and identified as Withdrawal No. U.S. 173, on Elly Day Res. No. 1 Reservoir (stream) County of Custer on the Harpur Forest, has informed this office that the construction for the diversion, storage, appropriation and application of water to beneficial use has been fully completed and is ready for examination.

You are, therefore, hereby authorized to arrange with the holder of said withdrawal for an examination of the Elly Day Res. No. 1 Reservoir, ditch, or pipe line constructed and owned by the United States of America, Department of Agriculture, Forest Service, on the Harpur Forest and also an inspection to determine the amount of water stored and applied to beneficial use.

In this examination you will ascertain whether or not the constructed works comply fully with the plans submitted and are capable of using quantities of water as set forth in the "Notice of Intention", and give in complete form all the information which is suggested by the statements in the Certificate of Inspection which is herewith enclosed, in the attached instructions, and such other information as will enable the State Engineer to act intelligently and judiciously in the matter of determining the status of completion of the projects.

You should also arrange with the holder of the withdrawal for the payment of your fee for this service and such proper expenses as you incur in making this examination and report and taking the testimony.

Very truly yours,

Wm. H. Lusk
State Engineer.

WITHDRAWALS No. U. S. 193

RECEIVED

JUL 24 1939

Billy Hay Pen No. 1 Reservoir
Name of ProjectOFFICE OF STATE ENGINEER
PIERRE, S. DAK.Water Division No. 2Fall River Water District

NOTICE OF COMPLETION OF WORKS

P.O. Denver, ColoradoDate July 21, 1939

TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

Dear Sir: Notice is hereby given of the completion of the construction of Billy Hay Pen No. 1 reservoir, ditch, or pipe line constructed and owned by the United States of America, Department of Agriculture, Forest Service on the Harney Forest. The project provides for the diversion and storage or direct diversion of quantities of water as shown on the plans and reports submitted and the project has been completed in accordance with the said plans and reports, terms and conditions of withdrawals heretofore issued by the State Engineer of the State of South Dakota or as shall be hereafter reported by the Examining Engineer.

1. The proper name of the Federal Agency holding said withdrawal is United States of America, Department of Agriculture, Forest Service.
2. The name and postoffice address of the proper corresponding official for said Federal Agency is Regional Forester, Denver, Colorado.
3. The project is located in NE 1/4 of Section, 12, Township 4 S, Range 1 E.
4. Said water to be used for livestock, fish culture, domestic, fire protection, irrigation, recreation purposes.
5. The amount of water which said completed works are capable of impounding or conducting to the place of intended use is as shown by information previously submitted or as shall be hereafter reported by the Examining Engineer Walter Walkling.
6. The amount of land for which said water is available is acres, particularly described as follows:

I hereby certify that the facts set forth in the above notice are true.

James L. Brownlee
JAMES L. BROWNLEE
Assistant Regional Forester
Division of Engineering

FORM A

CERTIFICATE OF WITHDRAWAL
of
WATER FOR APPROPRIATION
to the
UNITED STATES OF AMERICA
DEPARTMENT OF AGRICULTURE
FOREST SERVICE.

No. U. S. 173

Willy Hay Pen No. 1 Reservoir
Name of Project

Water Division No. 2
Fall River Water District
Willy Hay Pen Creek

Custer

County

Source of Appropriation - Stream

The United States of America, Department of Agriculture, Forest Service, having filed "Notice of Intention" to utilize certain heretofore unappropriated public waters of the State of South Dakota, in accordance with the requirements of the statutes of the State of South Dakota, such statutes and authority being contained in Section 61,0137 1934 Revised Code of South Dakota, now therefore:

This is to certify that there is hereby reserved, of the heretofore unappropriated waters of Willy Hay Pen Creek, the annual amount of 0.54 acre-feet of water to maintain storage in Willy Hay Pen No. 1 reservoir created by damming said stream at a point S. 24 - 20'E., 5030 feet distant from the N. Corner of Section 12, Township 4S. Range 18. The purpose of such storage is Livestock, fish culture, domestic, fire protection, irrigation, recreation.

This is to certify that there is hereby reserved, of the heretofore unappropriated waters of a maximum of cubic feet per second to be diverted through the ditch, canal or pipe line at a point located on the bank feet distant from the Corner of Section , Township Range for the purpose of during the months of .

This certificate and withdrawal shall in no manner prejudice, alter, amend or affect the rights of any prior appropriator or prior appropriation of water, nor of any application for appropriation pending on the date of this certificate, but the rights and privileges of any and all such prior appropriators or applicants for appropriation of water shall remain inviolate and intact, the same as if the within withdrawal had not been made.

This certificate shall be and is subject to cancellation in accordance with the provisions of the statutes hereinbefore referred to and under the authority of which this certificate is issued.

In accordance with the provisions of the statutes hereinbefore referred to, this certificate is executed at the State Capitol at Pierre, South Dakota, this 10th day of July 1939.

State Engineer

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WATER RESOURC
Water Rights

NOTICE OF INTENTION
to the
STATE ENGINEER
of the
STATE OF SOUTH DAKOTA

RECEIVED
JUL 10 1939
OFFICE OF STATE ENGINEER
PIERRE, S. DAK

Reservoir
Billy Hay Pen No. 1 / Project
Harney Forest
South Dakota

Denver, Colorado.

July 7, 1939
Date

Notice of Intention to divert, store and appropriate water for beneficial uses from certain streams in South Dakota by the United States of America, Department of Agriculture, Forest Service.

The United States of America, Department of Agriculture, Forest Service, through its officers duly appointed to administer the National Forests in South Dakota, hereby notifies the State Engineer of South Dakota of its intentions to appropriate, by construction, diversion, storage and beneficial use, the unappropriated public waters of South Dakota, under Section 31.0137 of the 1939 Revised Code of South Dakota. Application is hereby made for the withdrawal of certain unappropriated public waters of the State of South Dakota in an amount sufficient to maintain storage in Billy Hay Pen No. 1 Reservoir, or to satisfy the requirements of the _____ ditch, canal or pipe line,

and the following information is furnished:

1. Representative of the United States of America authorized to act in procurement of water rights.

Ans. Regional Forester, United States Department of Agriculture,
Forest Service, Region 2, Denver, Colorado.

2. Name of intending appropriator.

Ans. United States of America, Department of Agriculture, Forest
Service.

3. Name and address of agency representing intending appropriator.

Ans. United States Department of Agriculture, Forest Service, Region
2, Denver, Colorado.

4. Name of reservoir, ditch, canal or pipe line.

Ans. Billy Hay Pen No. 1 Reservoir

5. County in which water is to be diverted, stored and appropriated.

Ans. Custer County

6. Name of stream from which water is to be diverted, stored and appropriated.

Ans. Billy Hay Pen Creek

7. The outlet of the reservoir or the point of diversion of ditch,

canal or pipe line is located S. 84⁰, 20' E., 5050 foot

distant from the NW Corner of Section 12 Township 4 S.

Range. 1 E.

8. Uses to which water directly diverted or diverted and stored, is to be put.

Ans. Livestock, fish culture, domestic, fire protection, irrigation, recreation.

9. The available capacity of reservoir in acre feet.

Ans. 0.16 acre feet

10. The carrying capacity of ditch, canal or pipe line in cubic feet per second.

Ans.

11. Acre feet of water to be appropriated annually for diversion and storage in reservoir.

Ans. 0.34 acre feet.

12. Cubic feet of water per second to be appropriated for direct diversion by ditch, canal, or pipeline.

Ans.

13. Location of lands to be irrigated.

Ans.

14. Class of plans accompanying "Notice of Intention".

Ans. Standard plans.

ALLEN S. PECK,

Regional Forester

By  Acting .