

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE

No. *U.S. 2-2*

Office of State Engineer
DOCUMENT FILE

*La Creek Mig. Waterfowl Refuge
Dams No. 7-8-9-10 as
described in "Rep. of Exam.
of Works", dated 4-30-45.*

*Bureau Biological Survey
Twp 36 r. 37 E. R. 36 W.
Bennett County*

Location - Lake Creek

CERTIFICATE OF WITHDRAWAL
OF
PUBLIC WATERS

U. S. - 2

BENNETT COUNTY

LaCREEK

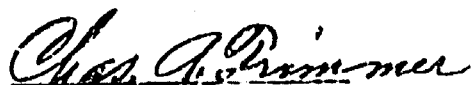
The Bureau of Biological Survey of the United States, Department of Agriculture, having made application for the withdrawal of certain hertofore unappropriated public waters of the State of South Dakota, and having complied with the requirements of the statute of the State of South Dakota providing for such withdrawal, such statute and authority being contained in and described as Vol. 2, Chapter 2, Article 1, Paragraph 8243 of the Revised Code of 1919, now therefore:

This is to Certify that all of the unappropriated waters of LaCreek lying in Bennett County in the State of South Dakota from its source in section 22, township 36N, range 38 west of the sixth principal meridian thru section 25, township 37 N, range 36 west of the sixth principal meridian together with all tributary and feeder streams, springs, rivers, draws, coolies and watershed which in any way, either directly or indirectly, contribute water to and/or help to maintain and increase the water flow of LaCreek, are hereby withdrawn from future appropriation during the continuance of the right herein granted and contained.

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 upon 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 statute hereinbefore referred to and under the authority of which this certificate is issued.

In accordance with the provisions of the statute hereinbefore referred to, this Certificate is executed at the State Capitol at Pierre, South Dakota on this 16th day of October 1934.


STATE ENGINEER

November 10th, 1937,

Mr. William Williamson,
Elke Building,
Rapid City, South Dakota.

Dear Mr. Williamson:

Replying your letter of November 8th, with reference to the Notice of Appropriation given by the Federal Agency with respect to the LaCreek area, and for which this office issued a withdrawal under Motion 8243, you are informed that this withdrawal includes only unappropriated waters and contains the following wording:

"This is to certify that all of the unappropriated waters of LaCreek lying in Donnell County in the State of South Dakota from its source in section 22, township 36N, range 38 west of the sixth principal meridian through section 25, township 37 N, range 38 west of the sixth principal meridian together with all tributary and feeder streams, springs, rivers, draws, coolies and watersheds which in any way, either directly or indirectly, contribute water to and/or help to maintain and increase the water flow of LaCreek, are hereby withdrawn from future appropriation during the continuance of the right herein granted and contained.

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 upon 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 wording is the same both in the LaCreek withdrawal and the Little White River withdrawal which includes all unappropriated waters of Little White River, from its source to its junction with LaCreek. I believe this will answer the question in your letter.

Very truly yours,

DENN W. LOVELL,
State Engineer.

DWL:33h

LAW OFFICES OF
WILLIAM WILLIAMSON
ELKS BUILDING
RAPID CITY, S. D.

November 9, 1937

RECEIVED

NOV 10 1937

OFFICE OF STATE ENGINEER
PIERRE, S. DAK

Mr. Dean W. Loucks, State Engineer
Pierre, South Dakota

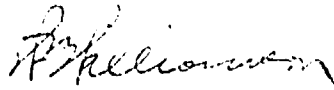
Dear Mr. Loucks:

With reference to the notice of appropriation given by the Federal Agency, with respect to the LaCreek area and for which I understand you have issued withdrawals under Section 8243, I should like to have the construction of your office and that portion of the section which reads, "the state engineer shall be authorized to withdraw from other appropriations the water so described and unappropriated at the date of such notice."

It would seem that this language means that withdrawals are only authorized except as to such waters which are not already appropriated.

Is there any clause in the withdrawals which you issued restricting such withdrawals to unappropriated waters.

Yours truly,



William Williamson.

WV:BP

WITHDRAWAL NO. U.S. #2Lacreek Migratory Waterfowl Refuge
(Name of Project)Water Division No. 2South Fork White River Water District

NOTICE OF COMPLETION OF WORKS

P. O. Salt Lake City, UtahDate May 6, 1942

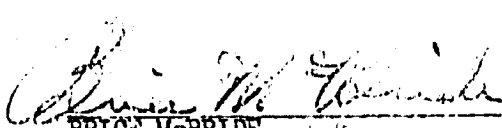
TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

Dear Sir: Notice is hereby given of the completion of the construction of the Lacreek Migratory Waterfowl Refuge, dikes and ditches, constructed and owned by the United States of America, Department of the Interior, Fish and Wildlife Service, (formerly the Bureau of Biological Survey), on the Lake Creek. 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 the United States of America, Department of the Interior, Fish and Wildlife Service.
2. The name and postoffice address of the proper corresponding official for said Federal Agency is Brice McBride, Sr.
Hydraulic Engineer, 436 Federal Bldg, Salt Lake City, Utah.
3. The project is located in _____ of Section _____
Township 36 and 37 N. Range 35 W.
4. Said water to be used for water conservation and propagation
of aquatic vegetation 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 will be reported
by Examining Engineer.

6. The amount of land for which said water is available is _____ acres, particularly described as follows:
will be reported by Examining Engineer .

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


BRUCE MCBRIDE

Sr. Hydraulic Engineer,
U. S. Fish and Wildlife Service
Department of the Interior

W.S. 2-2

LETTER OF AUTHORIZATION

for
INSPECTION

May 15 1942

Robert W. Dougall

Lacreek Migratory Waterfowl Refuge

Box 638, Minot, North Dakota

Lake Creek
(source of appropriation - stream)

Dear Sir:

The United States of America, Department of the Interior, Fish and Wildlife Service, (formerly the Bureau of Biological Survey), having filed "Notice of Intention" to utilize certain specified waters of this State, and there having been issued a withdrawal from further appropriation as provided in Section 61,0137, 1933 Revised Code of South Dakota and identified as Withdrawal No. U.S. #2, on Lake Creek (stream), County of Bennett, 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 dikes and ditches constructed and owned by the United States of America, Department of the Interior, Fish and Wildlife Service, on the Lacreek Migratory Waterfowl Refuge 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 instruction, 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,

Harold H. Loucks
State Engineer

CERTIFICATE OF CONSTRUCTION OF WORKS

and

APPROPRIATION

U. S. Water Right No. US 2-2

LACREEK MIG. WATERFOWL REFUGE
Name of Project

BENNETT County

SOUTH FORK WHITE RIVER Water District
Water Division No. 2.

TO ALL WHOM IT MAY CONCERN:

This is to Certify, that the United States of America, Department of Fish + Wild Life Service, has complied with the State Laws (Formerly Bureau of Biological Survey) and has been issued a withdrawal No. US 2 bearing date of Oct. 16, 1931, withdrawing from further appropriation a maximum of all of the unappropriated waters of LaCreek and tributaries in Bennett County, to be stored or used on the per second of water to be diverted through the LaCreek Mig. Waterfowl Refuge by means of dams No. 7, 8, 9, and 10, as described, ditch, canal or pipe line at a point located on the bank cribbed in the "Certificate of Examination of Works", dated April 30, 1945, foot distant from the corner of and on file in the State Engineers' Office Section Township Range for the purpose of irrigation, domestic, stockwater, and public recreation during the months of Jan. to Dec.; Inc. has fully complied with the provisions of the laws of the State of South Dakota relating to completion of the works as set out and described in Section 61.0137, that said works are completed in accordance with information filed in the office of the State Engineer, and a maximum amount of 23,710 ^{acre} cubic feet per second during the period of Jan. - Dec. is thereby appropriated for the above purposes bearing date of priority of Oct. 16, 1931.

Witness my hand this 22 day of May 1945.

Dean J. Loucks
State Engineer

WITHDRAWAL NO. U.S.#2-2Water Division No. 2South Fork White River

Water District

CERTIFICATE OF EXAMINATION OF WORKS

Report of Examining Engineer

Date Aug. 13, 1944Lacreek Mig. Waterfowl RefugeBy: Robert W. DougallLake Creek(Source of Appropriation)

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated May 15, 1942, I have made a thorough examination of Lacreek Migratory Waterfowl Refuge, constructed by the United States of America, Fish and Wildlife Service, holder of withdrawal No. U.S.#2, issued upon Notice of Intention bearing date October 16, 1934, authorizing the withdrawal from further appropriation the waters of La Creek (Lake Creek), tributary of South Fork Little White for water conservation and propagation of aquatic vegetation, fish, and recreation.

I have to report on the condition of the same as follows:

The impounded and diversion works comprise:

Dam No.	Dam		Size	Max Ht. to Spill	Flow Line Elev. Feet.	Free-board
	Type	Foundation	Max lnth. Feet			
7	earth fill with core trench where sandy	clay and sand	6,000	7 ft.	36.94	4 ft.
8	earth fill with core trench where sandy	clay and sand	6,000	7 ft.	80.16	4 ft.
9	earth fill with core trench where sandy	clay and sand	6,600	10 ft.	70.21	4 ft.
10	Earth fill with core trench where sandy	clay and sand	2,200	6 ft.	62.86	4 ft.

#	Section				Reservoir		
	Dam : Upstream : No. : Slope	Downstream : Slope	Top : Width	Yardage : Approx.	Area Norm. : Pool Level : (acres)	Cap. : Ac-ft.	Shore-line : Nature
7	15-1 below water line, 3-1 above water line.	3-1	15 ft.	96,000	564	1650	Marsh in sandy loam cr clay.
8	15-1 below water line, vertical above.	3-1	20 ft.	96,000	468	1366	ditto
9	ditto	3-1	20-30 ft.	100,000	1562	4469	ditto
10	ditto	3-1	15-20 ft.	20,500	1064	3523	ditto
Total				312,500	3658	11008	

Dam No.	Spillway					Outlet		
	Type	Location	Width ft.	Capacity c.f.s.	Depth ft.	Size	Control	Location
7	conc. wall.	NE cor. SE 1/4 SW 1/4 Sec. 17, T. 36 N. R. 36 W.	64	1500	4	2-3' x 3' cast iron gates	ball-brg. hand wheel gate lift	in center of spillway in creek channel
8	ditto	near center Sec. 16, T 36 N, R 36 W.	64	1500	4	ditto	ditto	ditto
9	ditto	near NE cor. NW 1/4 SW 1/4 Sec. 16, T 36 N, R 36 W.	64	1500	4	ditto	ditto	ditto
10	ditto	SE 1/4 SW 1/4 Sec. 25, T 37 N R 36 W.	64	1500	4	ditto	ditto	ditto

The System is in the following condition: Considerable additional dirt has been added to dikes, and retaining walls on spillway structures are heavier than the original plans show. No. 10 spillway elevation is 2 ft. lower than original plans showed. Dikes, while washed by wave action in some places, are safe and in good shape. Spillways and gate structures, excellent condition.

Dam No.	Point of Diversion	Capable of Utilization Annual Acre-feet	Legal Sub-divisions Flooded - acres.
7	1450 ft. N. of $S\frac{1}{4}$ cor Sec 17, T 36 N, R 36 W.	1650 ac-ft storage, plus seasonal use of 1920 ac-ft.	$SW\frac{1}{4}$ Sec 17, $SE\frac{1}{4}$ NW $\frac{1}{4}$ Sec 17, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 17, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 17, SE $\frac{1}{4}$ Sec 18, NE $\frac{1}{4}$ Sec 19, NW $\frac{1}{4}$ Sec 20, SW $\frac{1}{4}$ Sec 20, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 19, T 36 N, R 36 W - total 640.
8	150 ft. N of the center Sec 16, T 36 N, R 36 W.	1366 ac-ft storage, plus seasonal use of 1554 ac-ft.	NW $\frac{1}{4}$ Sec 21, SW $\frac{1}{4}$ Sec 16, S $\frac{1}{2}$ NW $\frac{1}{4}$ Sec 16, SE $\frac{1}{4}$ Sec 17, NE $\frac{1}{4}$ Sec 20, T 36 N, R 36 W, - total 518.
9	1250 ft. E. and 70 ft S. of $W\frac{1}{4}$ cor. Sec. 2, T 36 N, R 36 W.	4469 ac-ft storage, plus seasonal use of 6036 ac-ft.	Sec 3, $SW\frac{1}{4}$ SW $\frac{1}{4}$ Sec 4, $W\frac{1}{4}$ Sec 2, Sec 10, Sec 11, Sec 15, $W\frac{1}{4}$ Sec 14, E $\frac{1}{2}$ Sec 6, T 36 N, R 36 W. total 2012.
10	675 ft. W. and 810 ft. N of SE cor. Sec 25, T 37 N, R 36 W.	3523 ac-ft storage plus seasonal use of 3192 ac-ft.	E $\frac{1}{2}$ Sec 35, $S\frac{1}{2}$ cor NW $\frac{1}{4}$ Sec 25, $E\frac{1}{2}$ Sec 26, $W\frac{1}{4}$ Sec 36, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 36, E $\frac{1}{2}$ Sec 35, T 37 S, R 36 W. NW $\frac{1}{4}$ Sec 3, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 2, T 36 N, R 36 W. - total 1064.
Total		11,008 ac-ft storage plus 12,702 " seasonal use 43,710	4,234

Notice of Completion of Works filed May 11, 1942.

Witness my hand, this 30th day of April A. D. 1945

Robert H. Dargatzis
Examining Engineer

(Maps filed, stamped "REC'D" by State Engineer March 18, 1945. Maps dated 1934-35, Sheets 1-17 inclusive, no Sheet 3, see note on Sheet 2)

SUPPLEMENTAL
CERTIFICATE OF CONSTRUCTION OF WORKS
AND
APPROPRIATION

Supplemental U. S. Water Right No. U. S. 2-2 La Creek Migratory Waterfowl Refuge
Name of Project

Bennett County

So. Fork White River Water District
Water Division No. 2

TO ALL WHOM IT MAY CONCERN:

This is to Certify, that the United States of America, Department of the Interior Fish and Wildlife Service, has complied with the State Laws and has been issued a withdrawal No. U. S. 2-2 bearing date of October 16, 1934 withdrawing from further appropriation all of the unappropriated waters of La Creek and tributaries in Bennett County to be stored or used on the La Creek Waterfowl Refuge by means of Dams #7, 8, 9 and 10 as described in the Certificate of Examination of Works, dated April 30, 1945 and on file in the State Engineer's Office.

It is further certified that the U. S. of America, Department of the Interior has acquired by deed from Emily Swartz under date of May 27, 1940, the right to appropriate, withhold or otherwise divert out of the waters covered by Water License #253-2, dated June 9, 1930, and issued by Charles A. Trimmer, State Engineer of South Dakota to Central West Public Service Co., which Water License was assigned by the trustees of the Central West Public Service Co. to Fred W. Swartz by written assignment dated December 3, 1946 and filed in the office of the State Engineer February 10, 1937, for the purposes of Migratory Waterfowl Refuge constructed on said stream above the power plant owned by Emily Swartz, adjacent to her Water Permit and/or all of the waters covered by said Water License #253-2 that are flowing in La Creek above the U. S. Dam, known as Dam #10, situated on La Creek in Section 25, T. 37 N., R. 36 W., 6th Principle Meridian. It is further certified that the U. S. of America, Department of the Interior, Fish and Wildlife Service has fully complied with provisions of the laws of the State of South Dakota relating to completion of works as set out and described in Section 61.0137, that said works are completed in accordance with information filed in the office of State Engineer and the waters as described above are hereby appropriated for the purpose of irrigation, domestic, stock water and public recreation and over a continuous period.

The date of priority from which the above unappropriated waters may be claimed is October 16, 1934 and their priority of the right to appropriate, withhold or otherwise divert out of the waters covered by Water License #253-2 shall be May 27, 1940. This date being the date on which the deed to such water was made and entered into.

Witness my hand this 11th day of March 1948.


State Engineer

Arthur G. Huey, Regional Engineer
United States Department of Interior
Fish and Wildlife Service
Office of Regional Director
828 Plymouth Building
Minneapolis 2, Minnesota

Re: La Creek Mig. Waterfowl Refuge
Withdrawal No. U.S. 2-2

Dear Mr. Huey:

A check of our files shows that a certificate of Construction and Appropriation was issued for Withdrawal No. U.S. 2-2 LaCreek, May 22, 1945.

We are enclosing herewith a Supplemental Certificate of Construction of Works and Appropriation covering that portion of the water appropriated under Water Right No. 253-2 and acquired by the United States by deed, which flows in LaCreek above the U.S. Dam #10 situated as described.

This completes the documents to be filed in the Office of State Engineer covering the above Water Right.

It would be desirable however to have the certificates of Construction and Appropriation recorded in the State Engineers office. The charge for recording is the stated in our letter Re: Little White River.

Also as stated in the above communication we are required to charge a fee of one dollar for issuing certificates and that amount is therefore due this office.

Very truly yours,

Dean W. Loucks
State Engineer

DWL/ed

REFER TO: File 1-3 for letter dated October 8 from John N. Ball, Project
Coordinator, U. S. Department of Agriculture, St. Chas. Hotel
Pierre, S. Dak. ALSO FOR: Telegram dated Oct. from W. F. Darling
to John N. Ball.

For letter to McBride, See

File Withdrawal #1

U/S 2-22
Refer to U.S. 1-3
for letter to Arthur G. Huey
Dated March 11, 1948

August 23, 1952

George H. Hietter
Sr. Water Facilities Engineer
Farmers Home Administration
Huron, South Dakota

Re: Water Right Application
Little White River
SE $\frac{1}{4}$ Sec. 24 & NE $\frac{1}{4}$ Sec. 25
T-37 R- 37
Barnett County
Otto J. Becker

Dear Mr. Hietter:

This is in reply to your letter of August 7 in which you inquire concerning the possibility of getting a Water Right at the above referred to location for Mr. Otto J. Becker who is the land owner.

This location is within the area covered by the Water Right granted to the U. S. Fish and Wild Service in connection with the LaCreek Refuge. Before we could grant a Water Permit in this area, it would be necessary for us to have a written statement from the U. S. Fish and Wild Service to the effect that they will release the amount applied for and release same for further use.

If you wish to file an application for Mr. Becker, same will be received and reviewed and rejected. With this information the Federal Authorities may consent to release the amount of water applied for by Mr. Becker, in which event this Office will reconsider the application and if otherwise satisfactory will grant same.

This procedure has been used through the U. S. Reclamation Bureau. However, we have never had occasion to refer same to the U. S. Fish and Wild Life Service. I am not at all sure what their attitude will be toward releasing small amounts for private use.

Yours very truly,

DEAN W. LOUCKS
State Engineer

DWL:RW

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
Huron, South Dakota

AUG 7 1952

RECEIVED

Mr. Dean W. Louken
State Engineer
Pierre, South Dakota

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Dear Mr. Louken:

I wish to make inquiry concerning the possibility of getting a Water Right for one cubic foot of water to be diverted from Little White River for irrigation purposes on land adjacent to the river in SE $\frac{1}{4}$, Sec. 24, and NE $\frac{1}{4}$, Sec. 25, T-37, R-37, in Bennett County.

Mr. Otto J. Becker is owner of this land, and it is his desire to develop a small irrigation project using water from the Little White River. I would appreciate an early reply.

Very truly yours,

George M. Hietter

George M. Hietter,
Senior Water Facilities Engineer
Farmers Home Administration

265-2; 573-2; 767-2; 768-2
and US. 2-2

COMMISSION

South Dakota

John Garhart, Spearfish

~~xxxxxx~~

Lester Bruc, Parker

Carl Cronin, Gettysburg

Lauren A. Davis, Belle Fourche

Milton E. Fischer, Milbank

Richard Lommen, Harrisburg

Clarence D. Mortenson, Hayes

Dick Fisher, Cresbard

WATER RESOURCES COMMISSION

STATE OFFICE BUILDING

PIERRE, SOUTH DAKOTA 57501

J. W. Grimes

Chief Engineer
and
Executive Officer

Phone
224-5911 Ext. 343
Area Code 605

September 5, 1967

Mr. John D. Umberger, Regional Engineer
Fish and Wildlife Service
1006 West Lake Street
Minneapolis, Minnesota 55408

Re: EH-WR-LaCreek

Dear Mr. Umberger:

This is in answer to your request for a list of water right filings in the White River Water District and above the LaCreek Wildlife Refuge. This summer we have undertaken an investigation of our water right filings in Water Division #2 which includes the White River and its tributaries. For the White River Water District, this investigation is now about three-fourths completed and should be finished by the middle of December. After its completion, we will be able to give you a much better list of valid water rights than we can at this time. In our investigation we are cancelling all those water rights that have been forfeited and all those where no construction has taken place. We would hope that we can defer sending you the list of filings until this investigation is completed.

The following is a list of the current water rights on file for the watershed above the La Creek Refuge.

<u>Permit No.</u>	<u>Name</u>	<u>Priority</u>	<u>Sec.</u>	<u>Twp.</u>	<u>Rge.</u>	<u>Am't</u>	<u>Purpose</u>
265-2	Cedar Creek Ranch	5/20/33	25	36	37	4.45	Irr.
			30	36	36		
573-2	Carl A. Mickeel	Sept. 1950	23/24/26-36-38			6.06	Irr.
767-2	R.H. & R.M. Johnson	1898	21	36	37	2.59	Irr.
768-2	H.C. & Nellie Todd	1898	16/17/20-36-37			1.70	Irr.

Mr. John Umberger

Page 2.

September 5, 1967

Our investigation has indicated that the above are valid rights and have been in continuous use. It is our understanding that the owner of the Cedar Creek Ranch, Mr. Gene Brown, has made an arrangement with the Department of Interior concerning withdrawals of water from Lake Creek. Mr. Brown is currently in the process of furnishing this office with a copy of this agreement which will be incorporated in his water right file.

The Mickeel filing is the only one junior to the Refuge but covers only the use of flood waters for waterspreading from Dry Draws.

The Johnson and Todd filings have been perfected under the Vested Right portion of the South Dakota water laws and the priority is based upon an old irrigation Location Notice filed in 1898.

Please feel free to call upon us if this office can be of any further assistance.

Sincerely,

RICHARD SCHMOYER
Water Rights Specialist
Water Resources Commission

RS/bw

July 21, 1971

Mr. John D. Umberger
Regional Engineer
Fish and Wildlife Service
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

Dear Mr. Umberger:

Your letter of July 8, 1971 inquires about water right filings in the White River District. There are both a White River and Little White River District. I assume you are interested only in the Little White River District and so will send you information for this district only. If you also want the information for the much larger White River District let me know and we will assemble that information for you.

Enclosed are copies of water rights, or filings, in Shannon, Bennett, Todd and Mellette Counties. On these sheets the red UP S means within the Little White River District and upstream from the La Creek Refuge. The red D.S. means it is within the Little White River District and downstream from La Creek Refuge. I assume you are primarily interested in the surface flows, but the ground water rights are also indicated. If the information sheets shows that the water right has neither been cancelled nor licensed, that indicates a question exists as to the status of the water right.

Supplemental Certificate of Construction of Works and Appropriation of Water No. 2-2 signed by the State Engineer on March 11, 1948 allocates the unappropriated waters of La Creek to the Fish and Wildlife Service. This office considers this a valid water right.

Certificate of Construction of Works and Appropriation of Water No. 3-2, signed by the State Engineer on February 10, 1948, allocates the unappropriated waters of Little White River to its junction with La Creek to be diverted to the La Creek National Wildlife Refuge.

Mr. John D. Umberger

Page 2.

U.S. No. 2-2 & 3-2

Preliminary investigation by the Staff of the Water Resources Commission indicated that a diversion canal was constructed but diversion of water from Little White River to La Creek Refuge has not been made for many years, if ever. If this is the true condition, U.S. Withdrawal No. 3-2 is no longer a valid water right inasmuch as South Dakota Water Laws provide that when any person (by definition this would include the Fish and Wildlife Service) entitled to the use of appropriated water fails to beneficially use the water for a period of three years, or longer, such water shall revert to the public.

I, would appreciate any comments from you about this U.S. Withdrawal No. 3-2, diversion of water from the Little White River. It appears that the Water Resources Commission has an obligation at an early date, to notify the Fish and Wildlife Service that the Commission is scheduling cancellation of U.S. Withdrawal No. 3-2.

Enclosed as requested is the "Thirty-Second Report of the State Engineer".

Sincerely,

J.W. CRIMES
Executive Officer
Water Resources Commission

JWG/DD/hw
Encl: As stated

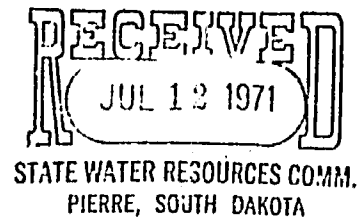


United States Department of the Interior

FISH AND WILDLIFE SERVICE
BUREAU OF SPORT FISHERIES AND WILDLIFE IN REPLY REFER TO: EN-H-WR-LaCreek
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

July 8, 1971

Mr. Joseph W. Grimes
Chief Engineer
State Water Resources Commission
State Office Building
Pierre, South Dakota 57501



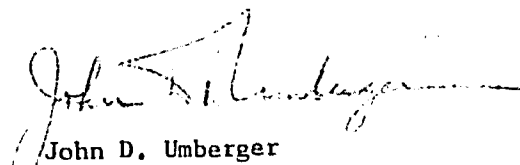
Dear Mr. Grimes:

In August 1967 we made inquiry to your office concerning water right filings in the White River District, Water Division No. 2. In his reply dated September 5, 1967, Mr. Schmoyer mentioned that your office had undertaken an investigation of the water right filings for that division which when completed would provide a more complete list of all valid water rights.

Assuming that your investigation is now completed we would appreciate receiving a copy of any summary report dealing with water right filings in this division. If this is not available we would like to have your most current list of water rights filings as they relate to the LaCreek National Wildlife Refuge in Bennett County South Dakota. If possible, we would also like a copy of the biennial report entitled "Thirty-Second Report of the State Engineer".

Thank you for providing us with assistance in this matter.

Sincerely,


John D. Umberger
Regional Engineer





United States Department of the Interior
FISH AND WILDLIFE SERVICE

IN REPLY REFER TO:

AREA OFFICE: SOUTH DAKOTA—NEBRASKA
POST OFFICE BOX 250
PIERRE, SOUTH DAKOTA 57501

September 19, 1976

RECEIVED

SEP 16 1976

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

Mr. John Knecht
Tuthill, SD

Dear John:

About a month ago, I received a phone call from you requesting the release of enough water from the Lacreek National Wildlife Refuge to assure a flow downstream past your farm. I contacted Refuge Manager Burgess and determined that the releases were several times the 0.50 cubic feet per second which is our target for a minimum flow through this period of the year. On September 3, you called again and insisted that the Refuge should be releasing sufficient water to assure a flow past your property. The early September flows have varied from 1.40 cubic feet per second to 7.50 cubic feet per second and have averaged 5.14 cubic feet per second. These releases are considerably more than we will be able to release on many future occasions at this time of year. We have also removed the beaver and the beaver dam between Pool 10 and the downstream refuge boundary. There are approximately nine beaver dams below the refuge boundary and above your property. We have no authority to tamper with those beaver dams which are on private lands or Indian trust lands. On September 2, the area had been flown and there was an estimated 30 surface acres on one property between the refuge boundary and your property. With the hot, dry weather which is encountered in South Dakota during this time of year, the evaporation-transpiration losses from the water impounded above your property will probably continue to assure no flow past your farm.

This appears to be a problem which will have to be settled between you and the other landowners in the immediate vicinity. The Refuge is currently exceeding our required flows and the flows that we will be able to make in many future situations. I can see no way that the Refuge can be blamed for your current problems.

Sincerely yours,

Charles L. Goswami
Assistant Area Manager, RCW

cc: Regional Director, Denver, CO (RCW)
SD Natural Resources Development Department ✓
Chairman - Bennett County Commissioners
File
CLS:mjn