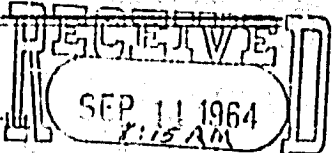


1153-2

1. Considered 3-17, 1968
2. Name of Applicant Edna E. Williams
3. Post Office Address Maple Hill
4. Amount of water claimed 4400 Acres Per Annum
5. Source of water supply Spring Creek
6. Water to be used for Recreation
- Acres to be irrigated —
7. Water to be diverted and used in Carroll County about
2 miles N of Primer
8. Proof of Publication Received —
 Not Received —
9. Application Approved —
 Subject to —
 Not Approved —
 Action deferred —

10. Remarks:

No. 1153-3Water Division No. 3 MISSOURI RIVER District
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant R. H. Burnell, Regional Director, U.S.D.I., Fish & Wildlife Service,
Bureau of Sport Fisheries & Wildlife, Region 3, Minneapolis, Minnesota
 Postoffice address 1006 West Lake Street, Hennepin County, Minnesota

I. If a corporation: Acting for and on behalf of the UNITED STATES OF AMERICA,

- (a) Name of same pursuant to the Act of Congress known as "the Fish and
Wildlife Coordination Act" 48 Stat. 401,
 (b) Date and place of incorporation
 (c) Amount of capital stock as amended, 16 U.S.C. 661 et seq. Sections 3 and
4, and under the authority provided by the Act of
 (d) Amount paid in
 (e) Names and addresses of directors December 22, 1944 (Public Law 534, 78th
Congress, 2nd Session for the construction of Oahe Dam and Reservoir.)

(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)
Constructed by the U. S. Army Omaha District, Corps of Engineers
 (b) Cash on hand, \$
 (c) Treasury stock, \$
 (d) Bonds to be issued, \$
 (e) Other resources, \$

2. Name of diversion work Pocasse National Wildlife Refuge (Spring Creek subinapoundment)
 3. Amount of water claimed 3800 ac-ft storage plus 4400 ac-ft of seasonal use
eligible feet per second
 4. Source of water supply Spring Creek and Oahe Reservoir (see exhibit "A")
 5. Location of point of diversion Sec. 16, T.128N., R.73W.
on Campbell County.
 6. Annual period or periods during which water is to be used January 1 to December 31
 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 domestic use (giving location, etc.)~~

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

(a) Nature of use Management of Fish & Wildlife Resources, Pocasse National
Wildlife Refuge 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 (see exhibit "A") Nonconsumptive
use except for seasonal evaporation (estimated max. 4400 acre-feet)

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
 (c) Flaming, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures \$..... Total, \$.....

9. Description of diversion works:

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

Reservoir Dam constructed by U. S. Army Omaha District, Corps of Engineers, Omaha, Nebraska during 1950-51

II. Dimensions of works:

(a) Dam: Height 23 feet; length at bottom 2500 feet; length at top 3200 feet; thickness at bottom 170 feet; thickness at top 32 feet; slope at front water face 1:3; slope at back face 1:3; material used in construction impervious earthfill & stone riprap, concrete control works
 (b) Reservoir: Capacity when filled 8800 acre feet. Surface area at highwater mark 2000 acres.

DEPTH AT OUTLET-Feet Elevation (msl)	SURFACE AREA AT EACH elev. in FEET DEPTH AT OUTLET--ACRES	ACRE-Feet CAPACITY
1590	0	0
1600	40	500
1605	300	1600
1610	674	3750
1612	880	4800
1615	1220	6900
1617	1480	8800
1620	2000	13500

(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.....years.

11. Time required for complete application of water to the proposed beneficial use.....years. beneficial use began July 1962

12. Choice of newspaper for publication of notice of intention to appropriate "Daily Plainsman" Huron, South Dakota, and "Pollock Pioneer" Pollock, South Dakota

STATE OF SOUTH DAKOTA

County of Hennepin } ss.

I, R. W. Burwell

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

Subscribed and sworn to before me this 16 day of July 1964

Notary Public (or other qualified officer)
 WILLIAM J. SCHMITZ
 Notary Public, Hennepin County, Minn.
 My Commission Expires Aug. 23, 1968.



VICINITY MAP
SCALE IN MILES
0 1 2 3 4

"AS-BUILT" INDEX

TITLE	DRG. NO.	GROUP NO.
General Plan & Index	MO156-420E1.2	
Rehabilitation Plan	MO156-420E2.4	
Grading Detail "A"	MO156-420E3.2	
Grading Detail "B"	MO156-420E4.1	
Profile and Sections	MO156-420E5.2	
Record of Borings - Sheet 1	MO156-420E6.1	
Record of Borings - Sheet 2	MO156-420E7.1	
North Approach Road	MO156-420E8.1	
Plan, Profile & Section	MO156-420E9.1	
Control and Spillway Structures	MO156-421E1.1	
Sections	MO156-421E1.1	
Control Structure	MO156-421E2.2	
Inlet & Outlet Details	MO156-421E3.2	
Control Structure	MO156-421E3.2	
Slide Gate Details	MO156-421E4.1	
Control Structure	MO156-421E4.1	
Gate Guide Details	MO156-421E5.1	
Control Structure	MO156-421E5.1	
Reinforcement Details	MO156-421E6.1	
Spillway Structure	MO156-421E6.1	
Concrete Details	MO156-421E7.1	
Spillway Structure	MO156-421E7.1	
Reinforcement Details	MO156-421E8.1	
Spillway Structure	MO156-421E8.1	
Guardrail Details	MO156-421E9.2	
Miscellaneous Details	MO156-421E9.2	

DRG. FURNISHED BY:
St. Paul Foundry & Mfg. Co., and
Armco Drainage & Metal Products, Inc.

Gate Guides - Assembly	E1
Gate Guides - Details	1
Slide Gate - Rail Posts & Anchors	2
Trash Rack & Anchors	1
Guard Railing & Details	2
Control Structure	3
Control Structure	3
Spillway Structure	4
Spillway Structure	4
Wall Elevation	5
Top Slab Plan	6
Outlet Structure - Reinf.	7
Spigot Back	2-7-2000
Spigot Back	2-7-2000
Tension Lift CPE-12	2-7-2000
Tension Lift CPE-12	2-7-2000
Section thru CPE-12 Lift showing Stem	2-7-2000
Cover & Position Indicator	AV-1-000
Threaded Bridge Stem Splice	AV-1-000
Fully Adjustable Stem Guides	AV-1-000
Stem Cover for Enclosed Lifts	AV-1-000
Model CPE-12 Lift	AV-1-000
Control Structure - Dec. 1 & 2	1
Control Structure - Dec. 1 & 2	2
Control Structure - Dec. 1 & 2	3
Control Structure - Dec. 1 & 2	4
Control Structure - Dec. 1 & 2	5
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Control Structure - Dec. 1 & 2	98
Control Structure - Dec. 1 & 2	99
Control Structure - Dec. 1 & 2	100

3-0-60 REVISED TO SHOW "AS-BUILT" CONDITIONS.
W.J. 1153-3 Revised and items. Draw released
with this addition.

U. S. ARMY ENGINEER DISTRICT, OMAHA CORPS OF ENGINEERS OMAHA, NEBRASKA	
DESIGNED BY: R.L.W.	MISSOURI RIVER
DRAWN BY: C.J.R.	OMAHA RESERVOIR
TRACED BY: C.J.R.	SPRING CREEK SUB-IMPOUNDMENT
REVIEWED BY: L.J.S.	POLLOCK, SOUTH DAKOTA
APPROVED BY: [Signature]	GENERAL PLAN AND INDEX
DATE: JUNE 1960	
MO 156-420E1.2	



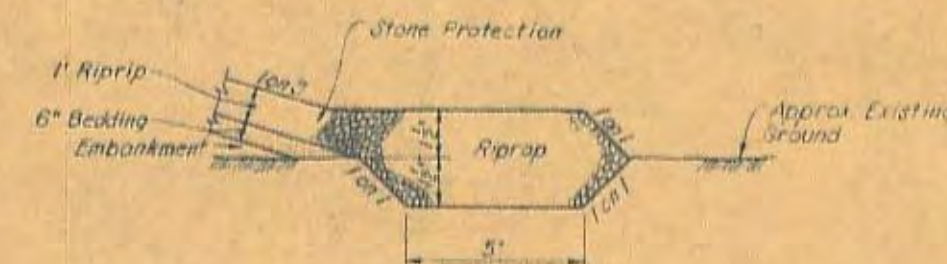
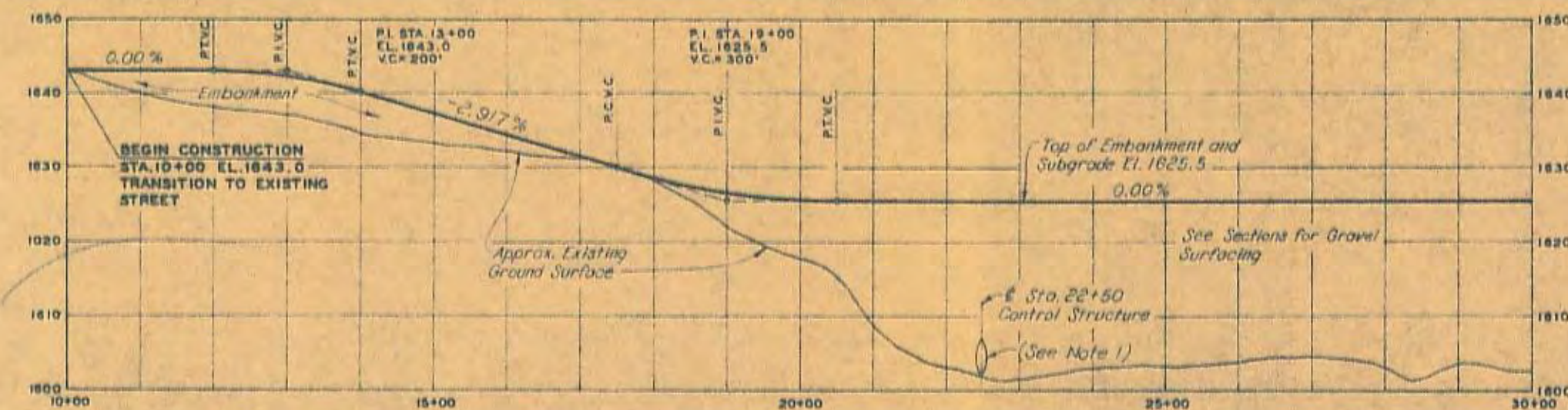
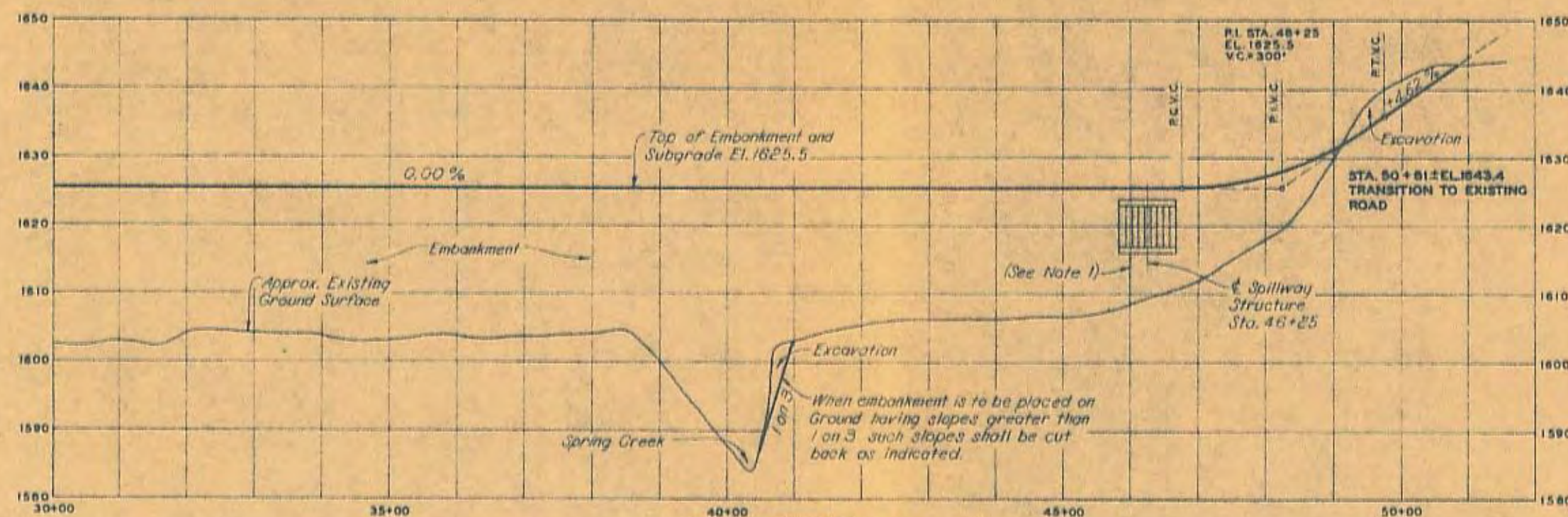
SCALE: 1 INCH = 500 FEET
0 500 1000

THIS PLAN ACCOMPANIES CONTRACT NO.
DA-35-286-40 61-236 MODIFICATION NO.

Map # 780 (W/R 1153-3)

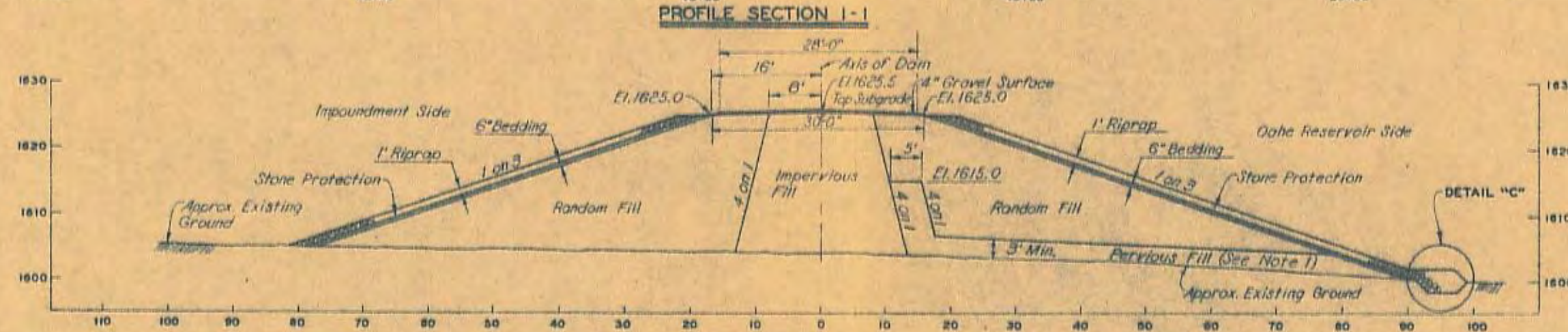
A FULLY REPRODUCIBLE "RECORD COPY" MUST BE MADE
BEFORE EVERY ADDENDUM AND/OR MODIFICATION
ADDENDUM NO. DATE
MODIFICATION DATE

Sheet

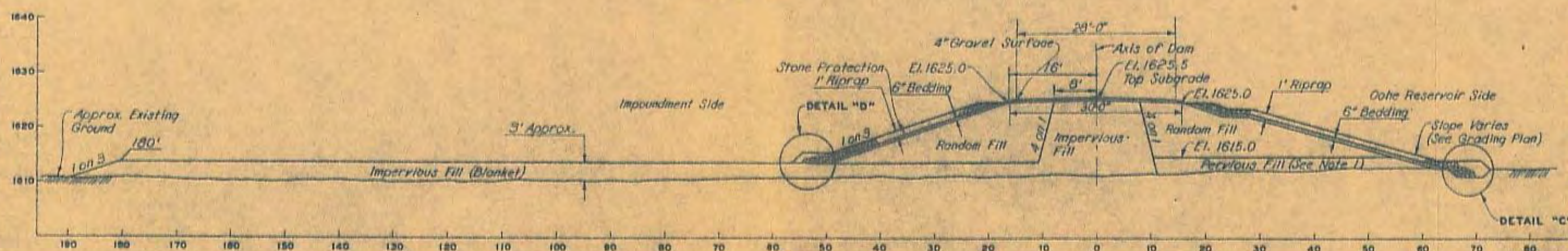
DETAIL "C"
NO SCALEDETAIL "D"
NO SCALE

GENERAL NOTE:

1. Impervious fill to be substituted for pervious or random fill within 5' of any structure.
2. All elevations shown refer to feet above M.S.L., 1929 General Adjustment.



SECTION 2-2

HORIZ. SCALE: 1"=10'
VERT. SCALE: 1"=10'

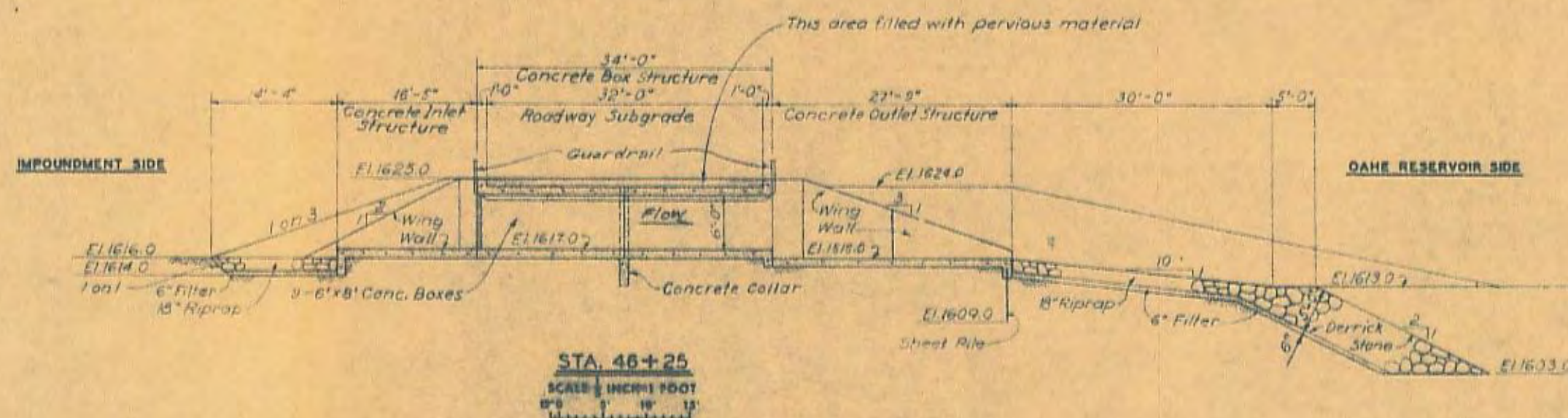
SECTION 3-3

SCALE: 1"=10'



U. S. ARMY ENGINEER DISTRICT, OMAHA CORPS OF ENGINEERS OMAHA, NEBRASKA	
MISSOURI RIVER Oahe Reservoir SPRING CREEK SUB-IMPOUNDMENT POLLOCK SOUTH DAKOTA PROFILE AND SECTIONS	
DESIGNED BY: R. L. W.	DATE: JUNE 1960
DRAWN BY: L. H. G.	SCALE AS SHOWN
TRACED BY: L. H. G.	SHEET: MO156-420E 5.2
CHECKED BY: L. J. E.	APPROVED: [Signature]
IN CHARGE: [Signature]	DESIGNED BY: [Signature]
APPROVED: [Signature]	DESIGNED BY: [Signature]

THIS PLAN ACCOMPANIES CONTRACT NO.
DA-28-056-401-236 MODIFICATION NO.

[illegible][illegible]

THIS PLAN ACCOMPANIES CONTRACT NO.
DA-55-085-ENG. 61-238 . MODIFICATION NO.

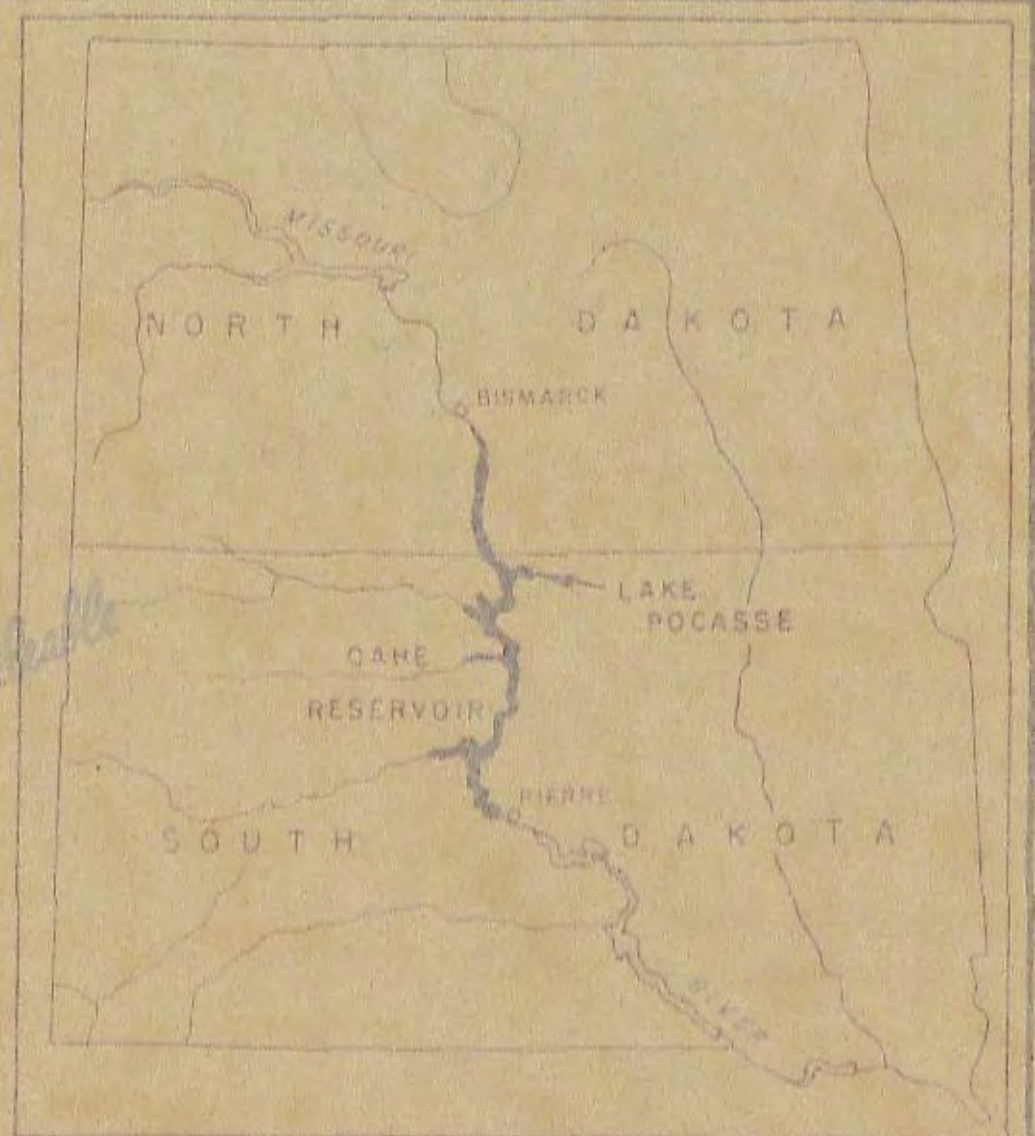


W. J. Hammond
FBI - S. E. DISTRICT CHARGE

MOI56-42IE 1.1

1153-3

NORTH DAKOTA
SOUTH DAKOTA



LOCATION MAP



LEGEND

- BOUNDARY OF LAND ACQUIRED IN FEE TITLE
- MAXIMUM OPERATING POOL ELEV. 1620.0
- LANDS TO BE INCLUDED UNDER THE GENERAL PLAN IN ACCORDANCE WITH THE FISH AND WILDLIFE COORDINATION ACT.
- GENERAL PLAN LANDS TO BE USED FOR PUBLIC RECREATION

This is to certify that this map, exhibit A, was prepared from data shown on Corps of Engineers drawing - Oahe Reservoir real estate sheet no. 22 dated May 22, 1962. Exhibit "A" is also attached to the general plan for land use on the Oahe Reservoir signed by the South Dakota Director, Dept. of Game, Fish and Parks 7/16/63, by the Secretary of the Interior 11/7/63 and by the Secretary of the Army 10/4/63.

R. W. Burwell
R. W. Burwell
Regional Director

Date: July 16, 1964

UNITED STATES	
DEPARTMENT OF THE ARMY	DEPARTMENT OF THE INTERIOR
STATE OF SOUTH DAKOTA	
DEPARTMENT OF GAME, FISH AND PARKS	
Oahe Reservoir	
(Lake Pocasse)	
Campbell County, South Dakota	
General Plan for Fish and Wildlife Management	
EXHIBIT A	
DSFW CRWG MC 3-7-85	JUNE 1963

Remarks by State Water Resources Commission:

REPLACEMENT OF STORED WATER IN LAKE POCASSE
FROM SPRING CREEK FLOWS IS LIMITED TO ONE
FILLING OF THE RESERVOIR PER CALENDAR YEAR

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, MARCH 22, 1965

This is to certify that the foregoing application was received by the Commission at 8:15 o'clock
9 m. upon the 14TH day of SEPTEMBER, 1964

State Water Resources Commission

By:

Sturton Jones
for Chief Engineer, Executive Officer

Number of permit 1153-3

Date of first receipt of application SEPTEMBER 14, 1964

Date of return to applicant for correction, amendments or changes required as follows: DECEMBER 24, 1964

Date of receipt of corrected application JANUARY 11, 1965

Date from which applicant may claim right SEPTEMBER 14, 1964

Approved MARCH 10, 1965, Recorded in Book 8 Page 318

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 ~~not~~ completed ~~within~~

2nd. The whole of said work is ~~not~~ completed ~~within~~

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is SEPTEMBER 10, 1965

4th. The water appropriated shall be used for the purpose of PUBLIC RECREATION
IN MANAGEMENT OF FISH & WILDLIFE RESOURCES, POCASSE NATIONAL WILDLIFE REFUGE

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 1,400 ACRE FEET ANNUALLY
~~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 acre-foot (43,750) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for water, or before~~ SEPTEMBER 10, 1965; said water to be used during the following described annual period:

CONTINUOUSLY

Witness my hand this 22ND day of MARCH, 1965

State Water Resources Commission

By:

J. C. Shivers
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

Remarks by the Applicant:

The subimpoundment known as Lake Pocasse, constructed on the Spring Creek Arm of Oahe Reservoir, was built by the Corps of Engineers as a modification of a project structure for the announced purpose of providing for a national wildlife refuge. This consisted of modifications of a causeway and bridge into a dam with appropriate water-control structures under authority provided by the Fish and Wildlife Coordination Act.

Duration 2.4

Calc. Net Hydrology App. 1.1 0.22

gross evaporation 3.5

Precipitation, apr. Nov. 1.1

Net evap. 2.4

Date	% evap.	x Net Evap.	loss	End Level
Apr. 1	6.4	x 2.4	.15	1617.00
May 1	13.2		.32	1616.68
June 1	18.4		.44	1616.24
July 1	19.6		.47	1615.77
Aug 1	18.0		.43	1615.34
Sept. 1	10.8		.26	1615.08
Oct. 1	5.6		.13	1614.95
Nov. 1	2.4		.06	1614.89
Dec. 1				1614.83
			2.26	

WATER LICENSE NO. 1153-3

(1) WHEREAS, On the 14th day of September A. D. 1964 the Fish and Wildlife Service made Water Right Application No. 1153-3 for a permit to use 4,400 acre feet annually of the waters of Spring Creek and Oahe Reservoir County of Campbell State of South Dakota, for Public Recreation in Management of Fish & Wildlife resources, Pocasse Nat'l Wildlife Refuge

(2) WHEREAS, On the 10th day of March A. D. 1965 Permit No. 1153-3 with a date of priority of September 14, 1964 was issued to said applicant 5 for the diversion of said water, and provided for the completion of construction of the water supply system therein described under the day of 4-10-1965 and for the application to beneficial use of said water on or before the 10th day of September A. D. 1965

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 4,400 acre feet annually 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 to be used for Public Recreation in Management of Fish and Wildlife resources, Pocasse National Wildlife Refuge.

(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 Fish and Wildlife Service

of Minneapolis, Minnesota

the holder s and owner s of said permit No. 1153-3 a water right, dating from September 14, 1964

to use of 4,400 acre foot annually of the water

of Spring Creek and Oahe Reservoir

in the County of Campbell and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at the Spring Creek Subimpoundment located in W.

Section 16, T128-R73W

and ~~subject to storage~~ water to be stored in place for Public Recreation in Management
of Fish and Wildlife resources, Pocasse National Wildlife Refuge.

Subject to any limitations listed in Water Right Permit No. 1153-3 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 June A. D.

Nineteen Hundred and Seventy-eight

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer JOHN HATCH

Permit No. 1153-3

Water Diversion No. 3 Missouri River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That The Fish and Wildlife Service

_____ the holder _____ of
Permit No. 1153-3, issued upon Application No. 1153-3, bearing date of priority of September 14,
1964 authorizing the diversion of 4,400 acre feet annually ~~cubic feet per second~~ of the waters of Spring
Creek & Oahe Reservoir County of Campbell, State of South Dakota ~~in~~
in the Spring Creek Subimpoundment located in W1/2, Section 16, T128N-R76W

_____, for Public Recreation in Management of Fish and
Wildlife resources, Pocasse National Wildlife Refuge

purposes, have 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 4,400 acre feet annually ~~cubic feet per second~~ of water.

Date June 26, 1978

By: WATER RIGHTS COMMISSION
John Hatch
JOHN HATCH, Chief Engineer

on or before February 11, 1965
(First Publication)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., January 29, 1965

Notice is hereby given that the Fish and Wildlife Service whose postoffice address is Minneapolis, Minnesota, has made an application in accordance with

the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 4400 acre annually feet of water per second of time from the Spring Creek and Oahe Reservoir through the Pocasse Reservoir, the point of diversion of which is to be located on the

in the 16th of Section 16 Twp. 128N Range 78W. Said water to be used for the purpose of providing irrigation on the for

public recreation through the management of fish and wildlife resources at the Pocasse National Wildlife Refuge

purpose.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 10th day of March, 1965, at 2 P. M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

BURTON F. JONES
Water Right Specialist

CC: Mr. E. L. McKay, Publisher
Follock Pioneer
Pollock, S. Dak.

STATE OF SOUTH DAKOTA

Office of
WATER RESOURCES COMMISSION

Pierre, S. D.

REF: E H - R Pocassa, S.D.

Mr. John D. Umberger, Regional Engineer _____ January 29, 1965
 Fish and Wildlife Service _____
 1006 W. Lake Street _____
 Minneapolis, Minn. 55408 _____
 Dear Mr. Umberger: _____

You are hereby notified that your recreation application No. 1153-3 for a permit to appropriate water from Spring Creek ~~for through~~ the Pocassa Reservoir has been examined and found to comply with the water laws of South Dakota and the regulations thereunder. You are now instructed to publish a notice of your intentions in relation to this proposed appropriation once a week for four consecutive weeks in some paper of general circulation in the locality of the stream system in which the works are to be located, in accordance with Section 61.0112 of Chapter 430 of the Session Laws of 1955.

A notice is enclosed herewith, which you are directed to publish in the Pollock Pioneer printed at Pollock, South Dakota, in compliance with law, you making the necessary arrangements with the publisher as indicated in the letter to him, also enclosed.

The proof publication, also sent herewith, must be filed in the Water Commission office on or before March 10 65, 19 ~~XXXXXX~~ In case of failure to file satisfactory proof within the time stated your application will thereafter be treated as an original application filed on the date of receipt of proof of publication in proper form. It is to your interest, thereof, to see that the proof is promptly returned.

Very truly yours,

State Water Resources Commission

By:

~~XXXXXXXXXXXXXXXXXXXX~~
 BURTON F. JONES
 Water Right Specialist

Encls: Form 8,10,11
 Copy Form 9

Also enclosed is receipt #3-896 in the amount of \$8.00 for the cash payment submitted with you letter of January 5, 1965. We are advertising this in the Pollock Pioneer only, which we feel is sufficient.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

SS.

County _____

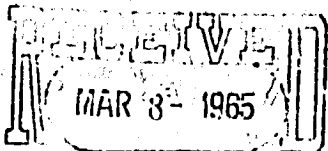
Elmer L. Mackay being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the _____

Pollock Pioneer a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the _____ Town of Pollock County of Campbell and State of South Dakota; that the said notice was published in said newspaper on the following dates:

Feb 4 1965111825

In each and every issue of the full number thereof, the first publication being made on the 4th day of Feb. 1965 and the last publication on the 25th day of Feb. 1965, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was Editor the printer and publisher of the said newspaper.

Subscribed and sworn to before me this 28th day of February, A. D. 1965



STATE WATER RESOURCES COMM.

PIERRE, SOUTH DAKOTA

Notary Public Campbell County, S. D.

JOHN FOLLOCK, NOTARY PUBLIC
Campbell County, South Dakota
My Commission Expires March 3, 1966

APPROPRIATION OF WATER
STATE OF SOUTH DAKOTA
Office of State Water
Resources Commission,
Pierre, S. Dak., January 29, 1965
Notice is hereby given that the
Fish and Wildlife Service whose
postoffice address is Minneapolis,
Minnesota, has made an appli-
cation in accordance with the pro-
visions of the water laws of South
Dakota for a permit to appropriate
for beneficial use, 4400 acre feet
of water annually from Spring Creek
and Oahe Reservoir through the
Pocahontas Reservoir, the point of
diversion of which is to be located
in the NW 1/4 of Section 16 Twp. 128N.
Range 73W. Said water to be used
for the purpose of public recreation
through the management of fish
and wildlife resources at the Po-
casson National Wildlife Refuge.
This application will be taken
up by the State Water Resources
Commission at their office at Pierre
for consideration upon the 10th
day of March, 1965, at 2 p.m. All
interested persons may appear and
be heard.
Appropriate action will be taken
by the Water Resources Commission
after suitable time has elapsed
for the consideration of any or all
information presented.
State Water Resources Commission
By: BURTON F. JONES
4:22 Water Right Specialist

United States
Department of the Interior
Office of the Solicitor
P. O. Box 1538
Billings, Montana 59101

July 24, 1964

Memorandum

To: Regional Director, Bureau of Sport Fisheries and Wildlife,
Minneapolis, Minnesota - Attn: Mr. Doeling

and

Regional Director, BR, Billings, Montana
Attention: 400, 700

From: Field Solicitor

Subject: Water Right Filing - Pocasse National Wildlife Refuge
(Spring Creek Subimpoundment)

You have by now received a copy of Mr. J. W. Grimes letter to Mr. Mendell of this office of July 20, 1964, suggesting new language for paragraph 4 of the written report he submitted to the South Dakota Water Resources Commission July 16, 1964 recommending approval of the Oahe Conservancy Subdistrict's Application No. 1094-3 for withdrawal of waters of Spring Creek and the Missouri River (Oahe Reservoir) for future use for irrigation, municipal and industrial water supplies, stock water, recreational use and for fish and wildlife purposes.

On the face of it, Mr. Grimes' proposed amendment to his prior recommendation appears not unreasonable with the exceptions of the requirement that the works which would put the water to beneficial use be scheduled for construction within a five-year period of the date of the permit, if that is what is meant, and the limitation of one filling of the reservoir annually. We suggested to Mr. Grimes that we would accept a requirement for re-examination of the future-use permit at ten-year intervals. A five-year limitation is not a withdrawal for future use. The provision that water would be put to beneficial use within four years after completion of construction, if that is what is meant, is, we think, not too unrealistic, and we think could be accepted. There is normally a time limit set for the application of water to beneficial use after construction.

We will appreciate your comments on Mr. Grimes' proposal at your early convenience so that we may answer him further in the light of your particular needs and necessities. By copy of this letter, Mr. Von Seggern's comments are requested.

A. E. Bielefeld
Field Solicitor

cc:

Mike Madden, County Extension Agent, Mound City, S.D.

C. W. Renz, Oahe Conservancy Sub-District Board Director, Herreid, S.D.

M. E. Von Seggern, BR, Box 825, Huron, S.D.

James Lewis, Manager, Oahe Conservancy Sub-District, 1848 Dakota So.
Huron, S.D.

J. W. Grimes, Chief Engr. & Executive Officer, S.D. Water Resources Comm.
Pierre, S. D.

United States
Department of the Interior
Office of the Solicitor
P. O. Box 1538
Billings, Montana 59101

July 24, 1964

Mr. J. W. Grimes
Chief Engineer and Executive Officer
South Dakota Water Resources Commission
State Office Building
Pierre, South Dakota 57501

Dear Mr. Grimes:

Thank you for your kind letter of July 20, 1964, in which you suggest alternate language for paragraph 4 of your written recommendation submitted to the State Water Resources Commission July 16, 1964, with respect to the allowance of future use Application No. 1094-3 filed by the Oahe Conservancy Sub-district.

The language you suggest appears to be generally satisfactory to this office with one exception, but we are requesting the Bureau of Sport Fisheries and Wildlife, Minneapolis, and the Bureau of Reclamation, Billings, to comment thereon before writing you further.

Our principal reservation to your suggestion has to do with the time limits therein contained, which seem to us unduly restrictive. We will discuss this in a later letter.

Best wishes.

Sincerely yours,

A. E. Bielefeld
Field Solicitor

cc:

Regional Director, Bureau of Sport Fisheries and Wildlife-Attn: Mr. Doeling
Regional Director, Bureau of Reclamation, Billings, Mont.-Attn: 400 & 700
Mike Madden, County Extension Agent, Mound City, S.D.
C. W. Renz, Oahe Conservancy Sub-District Board Director, Herreid, S.D.
M. E. Von Seggern, Bureau of Reclamation, Box 825, Huron, S.D.
James Lewis, Manager, Oahe Conservancy Sub-District, 1848 Dakota So.
Huron, S.D.



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

P. O. Box 1538
Billings, Montana 59101

RECEIVED
SEP 11 1964
STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

September 11, 1964

Mr. J. W. Grimes
Chief Engineer and Executive Officer
South Dakota Water Resources Commission
State Office Building
Pierre, South Dakota 57501

Dear Mr. Grimes:

This is in further reply to your letter of July 20, 1964 to Mr. Mondell of this office and supplements our letter to you of July 24, 1964. We have received the comments of, and instructions from Region 3, Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, and of Region 6, Bureau of Reclamation, both agencies of the United States Department of the Interior. The following is based on their views as well as those of this office.

We suggest that the future use permit for which application was made by the Oahe Conservancy Subdistrict be amended to eliminate from it any reference to the Pocasse National Wildlife Refuge or its use of water. If this elimination from the Conservancy Subdistrict's application is granted, the United States will take no part in the further consideration of that application.

We enclose herewith the original and a copy of an application on your Form 2, "Application for Permit to Appropriate Water within the State of South Dakota," executed by R. W. Burwell, Regional Director, Region 3, Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, United States Department of the Interior, on behalf of the United States of America for the Pocasse National Wildlife Refuge (Spring Creek Subimpoundment) in Campbell County, South Dakota, pursuant to Section 61.0110, et seq., South Dakota Code of 1939, as amended.

You will note that in item 3 of the Application the amount of water claimed is 8,800 acre-feet instead of the 11,000 acre-feet which you indicated was the capacity of the Pocasse Reservoir to its spillway crest at elevation 1617 m.s.l. The Bureau of Sport Fisheries and Wildlife obtained this 8,800 acre-feet figure from the Corps of Engineers' topography drawing 117A and they believe it to be accurate. The United States asks only the right to take 4,400 acre-feet annually of the waters of Spring Creek to maintain the level of the reservoir, which is less than the one filling a year which you suggested. The United States believes that the 4,400 acre-feet is as much as it can use beneficially under present circumstances and, if a water right ..

allowed on that basis, it will leave additional free water for allowance for upstream use. This will be to the advantage of the potential users under the Conservancy Subdistrict's future use reservation.

We think that this procedure will be to the advantage of all concerned. It will permit the United States the right to use the minimum amount of water essential for fish and wildlife resources management and for the carrying out of its obligations under its treaties with Great Britain of August 16, 1916 and with the United Mexican States of February 7, 1936. It will make the maximum amount of water available for other developments.

There is forwarded under separate cover a reproducible tracing and one print of Bureau of Sport Fisheries and Wildlife's Drawing MD 3-7-86 (Exhibit "A"), a map of the Lake Pocasse impoundment, which we trust will be adequate under your regulations.

If there is any further information your Commission requires in connection with this Application for Permit, please advise this office and we will submit whatever is required, so far as possible.

On behalf of the Agencies we represent, and for ourselves, we wish to express our sincere thanks and appreciation to you and your Commission for the courtesy and consideration which you have shown us during the consideration of this matter.

With my best wishes, I am,

Sincerely yours,

A. E. Bielefeld
A. E. Bielefeld
Field Solicitor

Enclosure

Enclosure (under sep. cover)

cc:

Mike Madden, County Extension Agent, Mound City, South Dakota
C. W. Renz, Oahe Conservancy Sub-District Board Director, Herreid, So. Dak.
James Lewis, Manager, Oahe Conservancy Sub-District, 1848 Dakota So., Huron, So. Dak.
Supervisor, Missouri River Basin Studies, P. O. Box 1381, Billings, Montana
Field Solicitor, Minneapolis, Minnesota
Regional Director, Bureau of Sport Fisheries and Wildlife, Minneapolis, Minn.
Regional Director, Bureau of Reclamation, Billings, Montana - Attn: 700 & 400
M. E. Von Seggern, Bureau of Reclamation, Box 825, Huron, South Dakota

1153-3, 1209-3
1264-3, 1287-3

September 2, 1966

Mr. R. W. Burnell
Bureau of Sport Fisheries and Wildlife
2000 West Lake Street
Minneapolis, Minnesota

Dear Mr. Burnell:

Recently, this office received two irrigation water right applications proposing water use from Spring Creek in Campbell County and proposing diversion from Lake Pocasse. One of the applicants, Hanson and Sons, wrote to you about his application, apparently concerned about the effect upon your water rights (No. 1153-3) and about easement privileges across federally-owned land for his irrigation facilities (refer to your answer of July 11, 1966, MR-2 Pocasse).

There is unappropriated water available for these irrigation applications in accord with understandings reached during the processing of your water right 1153-3, including public hearings thereon. These understandings are contained in letter of September 24, 1964 from the Field Solicitor, Mr. A. E. Bielefeld, sent with your water right application 1153-3. Unappropriated water being available, it is mandatory under state law for the Water Resources Commission to grant the irrigation water rights as requested, subject to satisfaction of prior water rights and subject to other property rights involved. Such permits to appropriate water as may be issued do not, of course, include any rights or privileges in property required to obtain access to the water.

Since diversion is proposed from Lake Pocasse instead of Spring Creek proper, the Commission desires to stipulate in the irrigation permits a practical means whereby your water right and other prior water rights may be satisfied before irrigation water under these permits is diverted.

To do this a draw down rule curve for the water surface of Lake Pocasse seems to be the best control. Such a rule curve "Drawdown (9.5')\" is shown on the attached chart. Stipulations in the irrigation permits will provide that irrigation water may be diverted during the irrigation months only when the surface of Lake Pocasse is higher than the elevations shown by the "Drawdown (9.5')\" rule curve. This protects your water rights and limits the irrigation

R. W. Burroll

2.

September 2, 1966

withdrawals to remaining unappropriated water. As among the various irrigators, including Mr. Leslie Knudson with whom you have made special arrangements, (Refer your letter of Nov. 8, 1965 to Mr. Fay Kerr, RR-R Pocatello) priority of right will govern during periods of water shortage.

Your comments concerning the rule curve operation are requested. In this respect, the attached "Water Rights Memo" may be helpful.

Sincerely,

J. W. Grimes

JWG:ls

cc w/ encls. A. E. Bialafeld
Regional Solicitor
Dept. of the Interior
P. O. Box 1538
Billings, Montana 59101

WATER RESOURCES COMMISSION

Water Right Memo

Sept. 1966

Water Rights - Lake Pocasse - Campbell County

1153-3 P. & W. Service

1209-3 Leolia Knudson

Appl. 1284-3 Hanson & Sons

Appl. 1287-3 Johnson Eros.

1153-3 - 6800 acre feet initial storage to elevation 1617

4400 acre feet annual stored water replacement

Not to exceed one refilling per year

Starting with a full reservoir, anticipated use of 4400 acre feet during a year will leave 4400 acre feet in Lake Pocasse at surface elevation 1611.2, a drawdown of 5.8 feet, before refill the following year (elevation - area - capacity tabulation in application 1153-3).

During the average year, Lake Pocasse is expected to fill (as result of snowmelt by say April 1). Beneficial use in Lake Pocasse under this water right consists of evapotranspiration from the water surface. The seasonal percentage rate of evapotranspiration for the Missouri Slope, Oaha Unit, is estimated (Append. C-Hydrology, May 1965, pg C-15). Applied to the 5.8 foot drawdown in Lake Pocasse, the following result:

Month	%	x 5.8'	Elev.
Jan.	.8	.05	1611.46 Jan. 1
Feb.	1.2	.07	1611.41 Feb. 1
Mar.	2.4	.14	1611.34 Mar. 1
			1611.20
			5.80
Apr.	6.4	.37	1617.00 Apr. 1
May	13.2	.77	1616.63 May 1
June	18.4	1.07	1615.86 June 1
July	19.6	1.14	1614.79 July 1
Aug.	18.0	1.04	1613.65 Aug. 1
Sept.	10.8	.62	1612.61 Sept. 1
Oct.	5.6	.32	1611.99 Oct. 1
Nov.	2.4	.14	1611.67 Nov. 1
Dec.	1.2	.07	1611.63 Dec. 1

Based upon these data and assumptions, elevation-area-capacity-drawdown curves are attached.

Annual gross evapotranspirational drawdown of 5.8 feet (4400 acre feet of annual use) is excessive considering the characteristics of Lake Pocasse. The lake does not have significant areas of the relatively large water-using plants usually associated with wildlife refuges. It has the normal characteristics of a reservoir, in which case a gross evaporation depth of 3.0 feet or so is a reasonably close estimate.

Also drawdown associated with use of 4400 acre feet does not correlate well as between the capacity and area curves of Lake Pocasse as tabulated in application 1153-3. The drawdown of 5.8 feet comes from the capacity curve. The drawdown from the area curve calculates roughly at 3.5 feet.

1480 acres area at 1617
1040 acres area at 1613.5
 2) 2520
 1260

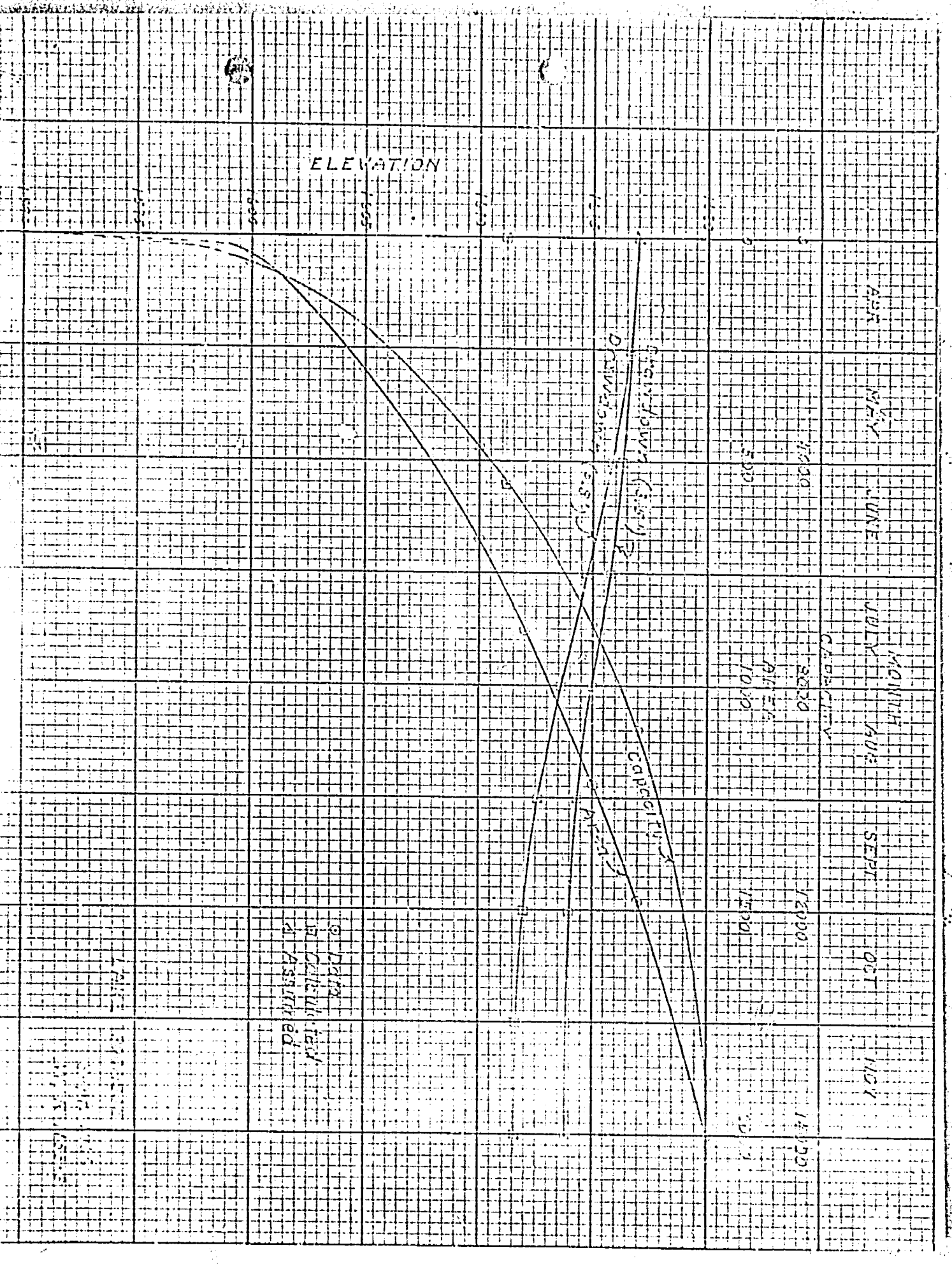
3.5

$\frac{1260}{1260} = 3.5$

It appears, therefore, that satisfaction of water right 1153-3 should be based upon a gross drawdown annually of 3.5 feet starting with the lake at 1617 on April 1. A drawdown curve based on 3.5 feet (other data and assumptions same) is shown on the attached chart.



ELEVATION





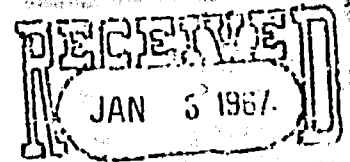
IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

P. O. Box 1538
Billings, Montana 59103

December 29, 1966

State Water Resources Commission
State Office Building
Pierre, South Dakota



Attention: Mr. J. W. Grimes, Executive Officer

STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

Gentlemen:

The Minneapolis office of the Bureau of Sport Fisheries and Wildlife has referred to us for handling your letter to them of September 2, 1966 to which was attached a "Water Right Memo" of your office dated September, 1966, proposing a method of dealing with the Bureau of Sport Fisheries and Wildlife's impoundment of 8,800 acre-feet of water in Lake Pocasse.

As we understand it, you propose that a curve be prepared indicating the average loss of water from Lake Pocasse throughout the year due to evapotranspiration. No water will be released from the Lake for irrigation or other beneficial use. According to your proposal any water in the Lake, at any time, in excess of the amount allowed for that date by application of the drawdown curve would be considered unappropriated water of the State of South Dakota. As such, it would be subject to permits for appropriation issued by your office. The "Water Right Memo" gives curves for annual losses of 5.8 feet and 3.5 feet. The period of time shown on your plotted curves is from the first part of April through November.

When Mr. Doeling of the Minneapolis Regional Office, Bureau of Sport Fisheries and Wildlife, Mr. Von Seggern of the Huron, South Dakota office of the Bureau of Reclamation and Mr. Mondell of this office appeared at a meeting of the State Water Commission July 16, 1964, it was made entirely clear that the purpose of the request for 4,400 acre-feet of water from Spring Creek annually was to maintain a constant level in Lake Pocasse of 1,617 feet m.s.l. for public recreation, for the propagation of fish and wildlife and the protection of migratory waterfowl pursuant to the United States obligations under its Migratory Bird Treaties with Great Britain and the United Mexican States. The Bureau of Sport Fisheries and Wildlife is of the opinion a maximum of 4,400 acre-feet of water annually will be needed to maintain the 1,617 m.s.l. level of the Lake. Therefore, there would never be water in the Lake surplus to the needs of United States.

We do not think South Dakota law contemplates enforcement by the Commission of a rule for filling Lake Pocasse contrary to what is required for the beneficial use to which the water is put. The last sentence of Paragraph

1 of Section 61.0101, enacted as part of Chapter 430, Session Laws of South Dakota 1955 reads:

"The right to water or to the use or flow of water in or from any natural stream or water course in this state is, and shall be, limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of diversion of water." (Emphasis supplied).

We submit that neither the use nor the method of diversion of water in Lake Pocasse is unreasonable. The beneficial use, to which the water is put, that is, for public recreation and the protection and propagation of fish and wildlife, requires the maintenance of a fixed level of the lake.

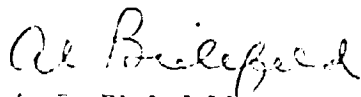
Your proposal of declaring water in the Lake Pocasse impoundment surplus to the needs of the Bureau of Sport Fisheries and Wildlife and subject to appropriation by third parties by pumping from the lake would appear to be contrary to Article 61.0121 of the 1960 Supplement to the South Dakota Code of 1939. That section of the Code provides, among other things, that if water is impounded in excess of the needs of the impounder for irrigation or any other beneficial use for which it has been appropriated, such surplus water must be delivered at reasonable rates for storage or carriage to any person entitled to its use for beneficial purposes.

The substance of this section is found in the laws of many, if not all, of the irrigation states. The interpretation of such provisions has always been that if the owner or operator of a reservoir has more water than he can use beneficially for his own purposes he must sell such surplus water at a reasonable price. An assiduous examination of the decisions of the irrigation states, particularly those of South Dakota, fails to disclose any case supporting the theory that impounded waters in a reservoir may, by application of a rule curve, or otherwise, be found surplus to the appropriation as of a particular date and made subject to appropriation by third parties. The sale of such water, not its appropriation is what the statutes direct. Application of such a rule curve where the water is beneficially used for irrigation, power generation or similar purposes involving release of water from a reservoir would put state authorities in a position of telling the reservoir owner how much water he was to use for irrigation or power generation each day. The proposal seems equally inapplicable to appropriations for recreation and fish and wildlife purposes. Your proposal is, we believe, foreign to the theories of water rights obtaining in South Dakota or in any of the western states.

We will be glad to hear from you on the subjects discussed above.

With best wishes, I am,

Sincerely yours,

A handwritten signature in cursive script, reading "A. E. Bielefeld". The signature is written in dark ink and is positioned above the printed name and title.

A. E. Bielefeld
Field Solicitor, Billings

Mr. Bielefeld

1153-3

February 6, 1967

Mr. A. E. Bielefeld
Department of the Interior
P. O. Box 1538
Billings, Montana 59103

Dear Mr. Bielefeld:

From the contents of your letter of December 29, 1966, it seems that I did not outline the situation and proposal clearly enough in my letter of September 2, 1966, to Mr. Burwell concerning water rights in Spring Creek flows for benefits in Lake Pocasse related to applications by others for permits to appropriate water from Spring Creek for irrigation purposes.

Water right 1153-3 in the name of the Bureau of Sport Fisheries and Wildlife provides for 8800 acre feet for initial fill of Lake Pocasse, which has been accomplished, and for 4400 acre feet of annual use or so much thereof as required from Spring Creek to refill Lake Pocasse once each calendar year (copy of Permit to Appropriate Water attached for ready reference). Separately, Lake Pocasse is part of Oahe Reservoir, consequently, operation of Oahe Reservoir may have additional effects upon Lake Pocasse.

This delineation of rights in Spring Creek waters reflects the intent of the parties at that time to separate the application for water rights for Lake Pocasse from that for future use by the Oahe Conservancy Sub-District and to provide water for other developments (refer your letter of Sept. 11, 1964, to me - copy enclosed for ready reference).

During each calendar year after Lake Pocasse is refilled and subject to satisfaction of other prior water rights, Spring Creek flows are considered to be unappropriated waters. It is mandatory under state law that such unappropriated water be made available for other beneficial use by applicants therefore.

A. E. Bielefeld

2.

February 6, 1967

My letter of September 2, 1966, to Mr. Burwell requested comments upon a plan by which water rights in Spring Creek flows for use in Lake Pocasse can be satisfied and by which limitations upon junior water rights can be proscribed.

The "rule curves" including analysis, which was attached to my letter of September 2, 1966, to Mr. Burwell, were developed from (1) annual consumptive use of 4400 acre feet in relationship to the Lake Pocasse storage capacity information supplied by Mr. Burwell in his Application 1153-3 (identified as "Drawdown (5.8')") and (2) gross rates of evapotranspiration during a normal year applied to Pocasse Lake water area information in Application 1153-3 (identified as "Drawdown (3.5')").

A third "rule curve" (Drawdown 2.4') (copy enclosed) has been prepared. This curve shows the effects of average evapotranspiration consumptive use of water modified by average amounts of precipitation on the water surface of Lake Pocasse during the period April 1 - November 30 of each year.

Rehearing on Application 1284-3 and hearing on Application 1287-3 are being scheduled before the Water Resources Commission at 10:00 AM, March 16, 1967, at Pierre, South Dakota. It is my intention to recommend to the Commission that unappropriated water exists in Spring Creek in the amount of and when the elevation of the water surface of Lake Pocasse is higher than that shown on the "rule curve", Drawdown 2.4' and, consequently, that Applications 1284-3 and 1287-3 be granted to use such unappropriated water with a restriction that the water may be diverted only when the water surface elevation in Lake Pocasse is higher than that shown by "rule curve", Drawdown 2.4'.

Comments are solicited. Should you desire, presentations may be made, personally or written, to the Commission on March 16, 1967. I hope, however, that the arrangement outlined herein for protection of water rights in Lake Pocasse under Permit 1153-3 are satisfactory.

Sincerely,

JWG:ls
cc R. W. Burwell

J. W. Grimes

1153-3, 1209-3
1284-3, 1287-3

September 2, 1966

Mr. E. W. Burwell
Bureau of Sport Fisheries and Wildlife
1006 West Lake Street
Minneapolis, Minnesota

Dear Mr. Burwell:

Recently, this office received two irrigation water right applications proposing water use from Spring Creek in Campbell County and proposing diversion from Lake Pocasse. One of the applicants, Linson and Sons, wrote to you about his application, apparently concerned about the effect upon your water rights (No. 1153-3) and about easement privileges across Federally-owned land for his irrigation facilities (refer to your answer of July 11, 1966, HLR Pocasse).

There is unappropriated water available for these irrigation applications in accord with understanding reached during the processing of your water right 1153-3, including public hearings thereon. These understandings were contained in letter of September 24, 1964 from the Field Solicitor, Mr. A. H. Bielefeld, sent with your water right application 1153-3. Unappropriated water being available, it is mandatory under state law for the Water Resources Commission to grant the irrigation water rights as requested, subject to satisfaction of prior water rights and subject to other property rights involved. Such permits to appropriate water as may be issued do not, of course, include any rights or privileges in property required to obtain access to the water.

Since diversion is proposed from Lake Pocasse instead of Spring Creek proper, the Commission desires to stipulate in the irrigation permits a practical means whereby your water right and other prior water rights may be satisfied before irrigation water under these permits is diverted.

To do this, a draw down rule curve for the water surface of Lake Pocasse seems to be the best control. Such a rule curve "Drawdown (3.5')\" is shown on the attached chart. Stipulations in the irrigation permits will provide that irrigation water may be diverted during the irrigation months only when the surface of Lake Pocasse is higher than the elevations shown by the "Drawdown (3.5')\" rule curve. This protects your water rights and limits the irrigation

R. W. Burwell

2

September 2, 1966

withdrawals to remaining unappropriated water. As among the various irrigators, including Mr. Leslie Knudsen with whom you have made special arrangements, (Refer your letter of Nov. 6, 1965 to Mr. Ray Kerr, BLM-Pocatello) priority of right will govern during periods of water shortage.

Your comments concerning the rule curve operation are requested. In this respect, the attached "Water Rights Memo" may be helpful.

Sincerely,

J. W. Grimes

JWG:1
cc w/ encls. A. E. Bialafeld
Regional Solicitor
Dept. of the Interior
P. O. Box 1538
Billings, Montana 59101

WATER RESOURCES COMMISSION

Water Right Memo

Sept. 1966

Water Rights - Lake Pocasse - Campbell County

1153-3 F. & W. Service

Appl. 1264-3 Hanson & Sons

1209-3 Leola Knudson

Appl. 1287-3 Johnson Bros.

1153-3 - 8835 acre feet initial storage to elevation 1617

4400 acre feet annual stored water replacement

Not to exceed one refilling per year

Starting with a full reservoir, anticipated use of 4400 acre feet during a year will leave 4400 acre feet in Lake Pocasse at surface elevation 1611.2, a drawdown of 5.8 feet; before refill the following year (elevation - area - capacity tabulation in application 1153-3).

During the average year, Lake Pocasse is expected to fill as result of snowmelt by say April 1. Beneficial use in Lake Pocasse under this water right consists of evapotranspiration from the water surface. The seasonal percentage rate of evapotranspiration for the Missouri Slope, Cane Unit, is estimated (Append. C-Hydrology, May 1965, pg C-15). Applied to the 5.8 foot drawdown in Lake Pocasse, the following results:

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Based upon these data and assumptions, elevation-area-capacity-drawdown curves are attached.

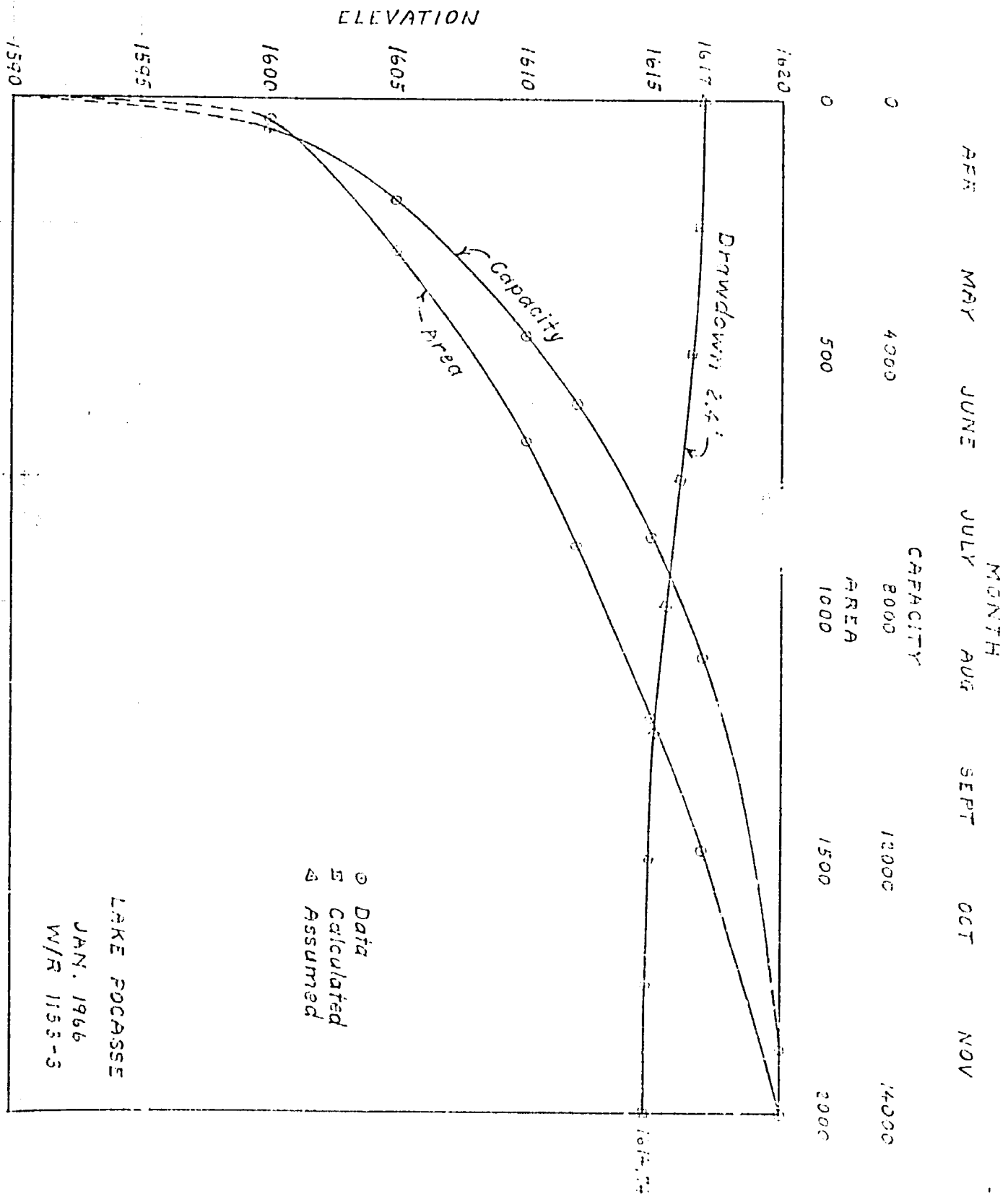
Annual gross evapotranspiration (based on 5.8 feet drawdown of annual use) is excessive considering the characteristics of Lake Pocasse. The lake does not have significant areas of the relatively large water-using plants usually associated with wildlife refuges. It has the normal characteristics of a reservoir, in which case a gross evaporation depth of 3.0 feet or so is a reasonably close estimate.

Also drawdown associated with use of 4400 acre feet does not correlate well as between the capacity and area curves of Lake Pocasse as tabulated in application 1153-3. The drawdown of 5.8 feet comes from the capacity curve. The drawdown from the area curve calculates roughly as 3.5 feet.

1400 acres area at 1617
 1040 acres area at 1613.5
 2)2520 3.5
 1260

4400 " 3.5
 1260

It appears, therefore, that satisfaction of water right 1153-3 should be based upon a gross drawdown annually of 3.5 feet starting with the lake at 1617 on April 1. A drawdown curve based on 3.5 feet (other data and assumptions same) is shown on the attached chart.



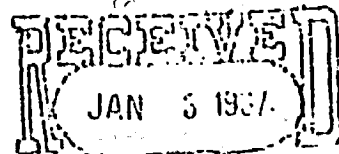


UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

P. O. Box 1533
Billings, Montana 59103

December 29, 1966

State Water Resources Commission
State Office Building
Pierre, South Dakota



Attention: Mr. J. W. Grimes, Executive Officer

STATE WATER RESOURCES COM.
PIERRE, SOUTH DAKOTA

Gentlemen:

The Minneapolis office of the Bureau of Sport Fisheries and Wildlife has referred to us for handling your letter to them of September 2, 1966 to which was attached a "Water Right Memo" of your office dated September, 1966, proposing a method of dealing with the Bureau of Sport Fisheries and Wildlife's impoundment of 3,800 acre-feet of water in Lake Pocasse.

As we understand it, you propose that a curve be prepared indicating the average loss of water from Lake Pocasse throughout the year due to evapotranspiration. No water will be released from the lake for irrigation or other beneficial use. According to your proposal any water in the lake, at any time, in excess of the amount allowed for that date by application of the drawdown curve would be considered unappropriated water of the State of South Dakota. As such, it would be subject to permits for appropriation issued by your office. The "Water Right Memo" gives curves for annual losses of 5.8 feet and 3.5 feet. The period of time shown on your plotted curves is from the first part of April through November.

When Mr. Doeling of the Minneapolis Regional Office, Bureau of Sport Fisheries and Wildlife, Mr. Von Soggen of the Huron, South Dakota office of the Bureau of Reclamation and Mr. Mondell of this office appeared at a meeting of the State Water Commission July 16, 1964, it was made entirely clear that the purpose of the request for 4,400 acre-feet of water from Spring Creek annually was to maintain a constant level in Lake Pocasse of 1,617 feet m.s.l. for public recreation, for the propagation of fish and wildlife and the protection of migratory waterfowl pursuant to the United States obligations under its Migratory Bird Treaties with Great Britain and the United Mexican States. The Bureau of Sport Fisheries and Wildlife is of the opinion a maximum of 4,400 acre-feet of water annually will be needed to maintain the 1,617 m.s.l. level of the lake. Therefore, there would never be water in the lake surplus to the needs of United States.

We do not think South Dakota law contemplates enforcement by the Commission of a rule for filling Lake Pocasse contrary to what is required for the beneficial use to which the water is put. The last sentence of Paragraph

1 of Section 61.0101, enacted as part of Chapter 430, Session Laws of South Dakota 1955 reads:

"The right to water or to the use or flow of water in or from any natural stream or water course in this state is, and shall be, limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of diversion of water." (Emphasis supplied).

We submit that neither the use nor the method of diversion of water in Lake Pocasse is unreasonable. The beneficial use to which the water is put, that is, for public recreation and the protection and propagation of fish and wildlife, requires the maintenance of a fixed level of the lake.

Your proposal of declaring water in the Lake Pocasse impoundment surplus to the needs of the Bureau of Sport Fisheries and Wildlife and subject to appropriation by third parties by pumping from the lake would appear to be contrary to Article 61.0121 of the 1960 Supplement to the South Dakota Code of 1939. That section of the Code provides, among other things, that if water is impounded in excess of the needs of the impounder for irrigation or any other beneficial use for which it has been appropriated, such surplus water must be delivered at reasonable rates for storage or carriage to any person entitled to its use for beneficial purposes.

The substance of this section is found in the laws of many, if not all, of the irrigation states. The interpretation of such provisions has always been that if the owner or operator of a reservoir has more water than he can use beneficially for his own purposes he must sell such surplus water at a reasonable price. An assiduous examination of the decisions of the irrigation states, particularly those of South Dakota, fails to disclose any case supporting the theory that impounded waters in a reservoir may, by application of a rule curve, or otherwise, be found surplus to the appropriation as of a particular date and made subject to appropriation by third parties. The sale of such water, not its appropriation is what the statutes direct. Application of such a rule curve where the water is beneficially used for irrigation, power generation or similar purposes involving release of water from a reservoir would put state authorities in a position of telling the reservoir owner how much water he was to use for irrigation or power generation each day. The proposal seems equally inapplicable to appropriations for recreation and fish and wildlife purposes. Your proposal is, we believe, foreign to the theories of water rights obtaining in South Dakota or in any of the western states.

We will be glad to hear from you on the subjects discussed above.

With best wishes, I am,

Sincerely yours,

A. E. Bielefeld

A. E. Bielefeld
Field Solicitor, Billings

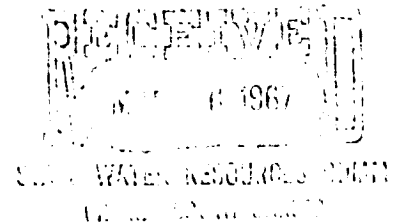


IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

P. O. Box 1538
Billings, Montana 59103

March 3, 1967



Honorable Joseph W. Grimes
Chief Engineer and Executive Officer
South Dakota Water Resources Commission
State Office Building
Pierre, South Dakota 57501

Dear Mr. Grimes:

Thank you very much for your letter of February 6, 1967, with which there was enclosed copy of the Lake Pocasse Permit No. 1153-3, copy of my letter of September 11, 1964, and copy of a proposed rule curve covering withdrawal from lake Pocasse.

You have been very kind in restating your proposal for use of the Pocasse water right. We regret very much that we continue unable to endorse the use of the rule curve.

The difficulty with acceptance of the suggested rule curve is that it would condone reduction of the 1617 elevation of the Pocasse reservoir by junior appropriators. This would defeat the design and purpose of the Pocasse development.

The Pocasse development was undertaken to promote the conservation of fish and wildlife and public recreation. Accomplishment of this purpose requires a constant lake level. The government's application for a storage permit was, accordingly, drafted to carry out this purpose. The government applied for and received the right to a full reservoir, plus 4400 acre-feet per year to "continuously" maintain the reservoir at its full elevation of 1617 feet. This is consonant with the statement made in the fourth paragraph of my letter of September 11, 1964, which reads:

"The United States asks only the right to take 4,400 acre-feet annually of the waters of Spring Creek to maintain the level of the reservoir, which is less than the one filling a year which you suggested."

Thus, to allow a draft on the reservoir by junior appropriators would not only defeat the purpose of the Pocasse development, but would constitute the relinquishment of a vested government right. Such relinquishment can only be authorized by the Congress.

At the risk of appearing presumptuous, I wish to emphasize three aspects of the proposed rule curve operation which would cause us concern in endorsing such operation.

(1) The data supporting the rule curve suggests that the Pocasse storage right entitles the United States only to a single, annual "topping off" of the reservoir, instead of the right, within the 4400 acre-feet annual allowance, of "continuously" maintaining the reservoir at the required elevation of 1617 feet. A storage right is not so limited. As the court states in Windsor Reservoir & Canal Co. v. Lake Supply Ditch Co., 44 Colo. 214, 98 Pac. 729, at pp. 733-734:

"...Necessarily the capacity of a reservoir, which the statute expressly says is the extent of its appropriation, is what the reservoir will hold at one time, not what can be stored in it by successive fillings; otherwise the capacity would vary, depending not on what the reservoir will hold, but on how many times it can be filled in one year. When we speak of the capacity of a barrel or bottle, we mean the number of gallons or ounces it will hold when filled once, not many times. When we ask about the capacity of a room, or hall, we want to know how many people it will hold at one time, not how many may be crowded into it during the course of a year or a month....An appropriation acquired by building a reservoir and storing water in it, and thereafter using it on lands, is measured by its holding or storage capacity. The quantity of water which may, in any one year, be lawfully stored therein upon one appropriation, is not the number of cubic feet that may be run into it as the result of successive fillings and emptyings, but what it will hold as the result of a single filling. While the owner of a ditch, in his use of water, is not, as we have said, restricted to its carrying capacity once filled, but may use water during the period of time for which it was appropriated, so long as he has need of it, the appropriation for a reservoir, in the nature of things, is measured by the quantity of water which it will hold at one filling...." (Underlining provided).

See also North Sterling Irr. Dist. v. Riverside Reservoir & Land Co., 119 Colo. 50, 200 P.2d 933, 935; In re Waters of Rogue River & its Tributaries, 102 Ore. 60, 201 Pac. 724, 725; 2 Kinney, Irrigation and Water Rights, 2d Ed., p. 1478; 1 Wiel, Water Rights, 3d Ed., 411; 67 C.J. 1028; and 93 C.J.S. 972.

If a storage right were merely an annual "topping off" right, and not an annual right to direct flows equal to the capacity of the reservoir, there would be little benefit from carryover storage. For example, under a

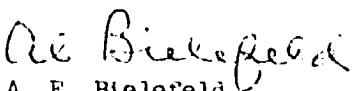
"topping off" rule, if a reservoir operator began the season with a full reservoir, he would have no right to begin preparing for the next season when water might be short. In such case, the value of his reservoir would be minimal.

(2) The amended rule curve now gives credit for precipitation. But it fails to give credit for the storage of out-of-season flows which would otherwise go to waste. For example, let us suppose that in 1966 a reservoir operator has stored and used all the water to which his storage permit entitled him. If water thereafter comes into his reservoir in 1966, for which water there is no demand and which would otherwise go to waste, he is entitled to store it for later use and his 1967 right will not thereby be penalized. Federal Land Bank v. Morris, 112 Mont. 445, 116 P.2d 1007, at p. 1011.

(3) Use of the proposed rule curve would entitle a junior appropriator to take water already in the possession of the United States. If we were to assume that such water was surplus and was available, the right to its use could not be acquired in the manner proposed. Section 61.0121 of the 1960 Supplement to the South Dakota Code of 1939 provides that in a situation of this type, the intending appropriator shall first apply to the reservoir owner. Only upon a refusal of the reservoir owner to deliver such "surplus" at reasonable rates, may the intending appropriator apply to the State Water Resources Commission.

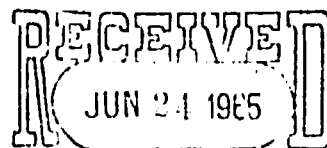
In the circumstances, I regret that we cannot endorse the use of the proposed rule curve and must respectfully protest the allowance of any application for the use of water to which the United States is entitled under the Lake Pocasse Permit No. 1153-3.

Sincerely yours,


A. E. Bielerfeld
Field Solicitor, Billings

cc:

R. W. Burwell, Regional Director, Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minnesota 55403



Permit No.

Water Division No. Water District STATE WATER RESOURCES COMM. PIERRE SOUTH DAKOTA

Notice of Application of Water to Beneficial Use

(This blank must be filled out by holder of permit and forwarded to the State Water Resources Commission at least sixty days before the time set for application of water.)

(P. O.) Minneapolis, Minnesota 55408(Date) June 14, 1965

TO THE STATE WATER RESOURCES COMMISSION OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given that on the 22 day of July 1962, at Pollock County of Campbell State of South Dakota, ~~before~~ of 4400 acre-feet of seasonal use ~~of 4400 acre-feet of seasonal use~~ of the waters of Spring Creek and Oahe Reservoir ~~of the waters of Spring Creek and Oahe Reservoir~~ was made in accordance with the terms and conditions of Permit No. 1153-3 heretofore issued by the Water Resources Commission of South Dakota.

1. The name and postoffice address of the person or corporation holding said permit are R. H. Burwell, Regional Director, U. S. Department of the Interior, Bureau of Sport Fisheries and Wildlife, Region 3, Minneapolis, Minnesota 55408.

2. The use to which said water has been applied is public recreation in management of fish and wildlife resources

3. The amount applied to beneficial use is 8800 acre-feet storage and 4400 acre-feet seasonal use

4. The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated) see Dwy. No. MO 5-7-86 (Exhibit "A" to Permit No. 1153-3)

5. The name of the canal or ditch or other works by which said water is conducted to such place of use is natural inflow from Spring Creek

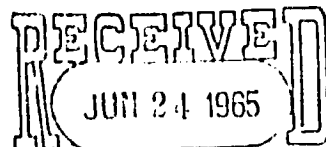
6. The right to take the water from such works is based upon permit No. 1153-3

7. The source of supply from which such water is diverted is Spring Creek

8. The date of priority which said user is prepared to establish is September 14, 1964

(Sign)

W. P. Schaefer
W. P. Schaefer, Acting Regional Director



Permit No. _____

STATE WATER RESOURCES COMM.

Water Division No. _____

Water District _____

PIERRE SOUTH DAKOTA

NOTICE OF COMPLETION OF WORKS

This blank must be filled out by the holder of permit and forwarded to the Executive Officer at least 60 days before the time set for completion of works

(P. O.) Minneapolis, Minnesota 55408(Date) June 14, 1965

TO THE STATE WATER RESOURCES COMMISSION
OF SOUTH DAKOTA, PIERRE:

DEAR SIRs: Notice is hereby given of the completion of the works for the diversion of 8800 acre-feet
storage plus 4400 acre-feet of seasonal use of the waters of the state from Spring
Creek and Oahe Reservoir
through the Spring Creek Subinmpoundment
for public recreation in management of fish and wildlife resources purposes
In accordance with the terms and con-
ditions of a certain permit heretofore issued by the Water Resources Commission of the State of South Dakota.

1. The name of the person or corporation holding said permit is R. W. Burwell, Regional Director,
U.S.D.I., Bureau of Sport Fisheries and Wildlife, Region 3, Minneapolis, Minnesota.

2. The postoffice address of such person or the place of business of such corporation is 1006 West Lake Street
County of Heppner State of Minnesota

3. The number of such permit is 1153-3 and the date set for the completion of such work is
(work was completed at time of permit application)

4. Said water to be used for public recreation in management of fish & wildlife resources purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of
water which said works are capable of conducting to the place of intended use, in accordance with the plans ac-
companying the application for such permit, is natural inflow rate from Spring Creek in
at pool elevation 1617 cubic feet per second.

6. The amount of land for which said water is available is 1450 surface acres,
at pool elevation 1617
particularly described as follows: See Dwg. No. PG 3-7-86 (Exhibit "A" to Permit No. 1153-3)

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

W. P. Schaefer
s/ W. P. Schaefer, Acting Regional Director

(Signature of Owners) _____

Attached drawings

Title	Dwg. No.
1) General Plan & Index	156-42031.2
2) Profile & sections	156-42035.2
3) Control & Spillway structure sections	156-42131.1

1962 1963 1964 1965 1966

FIELD	0	2.2	0	0	3.4
MALE	0	0	0	0	0
F.P.D.	1,040	207	0	211	3145
MA	1,410	215	430	726	274
	950	43	460	516	425
JUNE	1,180	23	5080	2160	1816
JULY	2,670	0	640	512	758
AUGUST	1,100	0	37	1.8	90
SEPT	62	0	1.2	0	1.1
OCT	20	0	0	18	4.1
NOV	14	0	16	29	180
DEC	13	0	65	29	100
TOTAL	10,329	1,249	7,270	3,831	14,715

HERREID GAGE

1962

1963

1964

1965

1966

WATER YEAR
AC FT
ANNUALCY

10,310

1,280

7,250

3,770

14,790

5 37,900

7,480

USE

8800

3000

3000

3000

3000

MAY THROUGH SEPT

4,861

4.82

6,838

2,990

782

5 15,863

3,173

EXISTING
W/R

1153-3

1209-3

1284-3

1287-3

F & W. SERVICE

LESLIE KNUTSON

HANSEN & SON

JOHANSON BROS

LESLIE KNUTSON

AMOUNT

4,400 AC FT

1.92 CFS

2.54 "

.43 "

.80 "

AVE. ANN. USE (AC FT)

148000 @ 2' 2960

134.7 AC @ 1' 135

177.5 AC @ 1' 177

30 AC @ 1' 30

3302

56 @ 1' 56

3358

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 6467

June 20 1973

PIERRE, _____, 10

RECEIVED OF Donald Driscoll, Fish and Wildlife Service, Pierre, SD
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____		
Fee for inspecting Construction and Issuing Cert. of Construction No. <u>1153-3</u>	5	00
Fee for inspecting Beneficial Use and Issuing Water License No. <u>1153-3</u>		
Fee for Issuing Location Certificate-Dry Draw, No. _____		
Fee for filing _____		
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for _____ (any other work as provided by law)		
TOTAL	5	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
John Hatch, 6/27/73

February 6, 1967

Mr. A. H. Bielefeld
Department of the Interior
P. O. Box 1580
Billings, Montana 59103

Dear Mr. Bielefeld:

From the contents of your letter of December 29, 1966, it seems that I did not outline the situation and proposal clearly enough in my letter of September 2, 1966, to Mr. Burwell concerning water rights in Spring Creek flows for benefits in Lake Pocasse related to applications by others for permits to appropriate water from Spring Creek for irrigation purposes.

Water right 1153-3, in the name of the Bureau of Sport Fisheries and Wildlife provides for 330 acre feet for initial fill of Lake Pocasse, which has been accomplished, and for 4400 acre feet of annual use or so much thereof as required from Spring Creek to refill Lake Pocasse once each calendar year (copy of Permit to Appropriate Water attached for ready reference). Separately, Lake Pocasse is part of Cane Reservoir, consequently, operation of Cane Reservoir may have additional effects upon Lake Pocasse.

This delineation of rights in Spring Creek waters reflects the intent of the parties at that time to separate the application for water rights for Lake Pocasse from that for future use by the Cane Conservancy Sub-District, and to provide water for other developments (refer your letter of Sept. 11, 1964, to me - copy enclosed for ready reference).

During each calendar year after Lake Pocasse is refilled and subject to satisfaction of other prior water rights, Spring Creek flows are considered to be unappropriated waters. It is mandatory under state law that such unappropriated water be made available for other beneficial use by applicants therefore.

A. N. Stoltzfeld

2.

February 6, 1967

My letter of September 2, 1966, to Mr. Burwell requested comments upon a plan by which water rights in Spring Creek flows for use in Lake Pocasse can be satisfied and by which limitations upon junior water rights can be prescribed.

The "rule curves" including analysis, which was attached to my letter of September 2, 1966, to Mr. Burwell, were developed from (1) annual consumptive use of 4400 acre feet in relation-ship to the Lake Pocasse storage capacity information supplied by Mr. Burwell in his Application 1153-3 (identified as "Drawdown (5.0')") and (2) gross rates of evapotranspiration during a normal year applied to Pocasse Lake water area information in Application 1153-3 (identified as "Drawdown (3.5')").

A third "rule curve" (Drawdown 2.4') (copy enclosed) has been prepared. This curve shows the effects of average evapotranspiration consumptive use of water modified by average amounts of precipi-tation on the water surface of Lake Pocasse during the period April 1 - November 30 of each year.

Behaving on Application 1234-3 and hearing on Application 1237-3 and being scheduled before the Water Resources Commission at 10:00 AM, March 16, 1967, at Pierre, South Dakota. It is my intention to recommend to the Commission that unappropriated water exists in Spring Creek in the amount of and when the elevation of the water surface of Lake Pocasse is higher than that shown on the "rule curve", Drawdown 2.4' and, consequently, that Applications 1234-3 and 1237-3 be granted to use such unappropriated water with a restriction that the water may be diverted only when the water surface elevation in Lake Pocasse is higher than that shown by "rule curve", Drawdown 2.4'.

Comments are solicited. Should you desire, presentations may be made, personally or written, to the Commission on March 16, 1967. I hope, however, that the arrangement outlined herein for protection of water rights in Lake Pocasse under Permit 1153-3 are satisfactory.

Sincerely,

J. S. L.
cc: A. N. Stoltzfeld

G. A. Grimes

Murphy, Leslie

From: Coughlin, Paul
Sent: Thursday, March 15, 2018 9:35 AM
To: Murphy, Leslie; McCormick, Dan; Jost, Dan; Lott, John
Subject: RE: 1153-3.pdf

In early 2001 the USFWS terminated their Coop Agreement with the COE for the refuge, transferring management to SDGFP under the Stewardship Program (i.e. mitigation program) existing at the time (see email clip below). Title to the Lake Pocasse property transferred to SDGFP in 2007 with the Title VI land transfer.

Paul Coughlin | Terrestrial Habitat Program Administrator

South Dakota Game, Fish and Parks
 523 East Capitol Avenue | Pierre, SD 57501
 605.773.4194 | paul.coughlin@state.sd.us



-----Original Message-----

From: Coughlin, Paul
Sent: Thursday, February 16, 2006 3:03 PM
To: McCormick, Dan
Subject: FW: Pocasse Area

fyi.

-----Original Message-----

From: Thomas, Alan D NWO [<mailto:alan.d.thomas@usace.army.mil>]
Sent: Tuesday, February 14, 2006 7:46 AM
To: Coughlin, Paul
Cc: Sheffield, Philip R NWO; Somsen, Russell A NWO; Banel, John J NWO; Brey, Debra K NWO; Stasch, Eric D NWO
Subject: Pocasse Area

Good Morning Paul - In response to your telephone call yesterday concerning the Lake Pocasse area and whether or not the Corps was going to put the area in a lease or license to show it had authorization to work within the area, I am providing this e-mail.

The US Fish and Wildlife Service submitted a March 13, 2001, notification to the Corps of their intention to terminate the Cooperative Agreement (#DACW45-3-67-5111) with the Corps of E termination notification indicated that it was the intent of the U.S. Fish and Wildlife Service to allow the State of South Dakota, Department of Game, Fish and Parks to manage the area or agreement they had with the Corps. This correspondence was followed by a letter to the US Fish and Wildlife Service, dated May 21, 2001, indicating that the area would become part of the Program.

Areas within the Stewardship Program are not placed within a lease or license. Therefore, this e-mail serves as documentation that it is the Corps intent to allow the State Department of Game, Fish and Parks, to manage the area until it is transferred under Title VI.

I hope this provides the information you were looking for

Al Thomas

From: Murphy, Leslie
Sent: Thursday, March 15, 2018 8:58 AM
To: McCormick, Dan; Jost, Dan; Lott, John; Coughlin, Paul
Subject: FW: 1153-3.pdf

DENR says that USFWS transferred the Lake Pocasse use over to GFP and that we should transfer the water right to GFP. I was just checking with anyone who may know if this is something that indeed happened, because I have no idea.

From: McMath, Genny
Sent: Wednesday, February 28, 2018 3:21 PM
To: Murphy, Leslie; Lott, John
Subject: 1153-3.pdf

I am told from USFWS that they transferred the Lake Pocasse use over to GFP. Transfer forms for transferring the water right are available on our website at:

<http://denr.sd.gov/des/wr/wr.aspx>

Let me know if you have any questions!

Genny

Voucher

1153-3

APPL. AREA	34	VOUCHER #: N06803J062
DATE	03/19/2018	
NUMBER		
DATA TYPE	1	

CR
DR

FROM:
TO:

LINE	COMP	ACCOUNT	CENTER	DESC	AMOUNT	DR CR	USER CODE
1	3122	52040300	0610730	Transfer of Water Right	50.00	DR	
2					50.00	CR	
3						DR	
4						CR	
5						DR	
6						CR	
7						DR	
8						CR	
9						DR	
10						CR	
TOTAL					50.00	DR	
TOTAL					50.00	CR	
VOUCHER TOTAL					100.00		

Description of service, product, or transfer

I declare and affirm under the penalties of perjury that this claim has been examined by me, and to the best of my knowledge and belief, is in all things true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to non-discrimination in federally assisted programs.


AUTHORIZATION

JEREMY TENTINGER
AUTHORIZATION

03/19/2018

1153-3



SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

March 21, 2018

Ms. Jeanne Goodman
South Dakota Department of Environment and Natural Resources
Water Rights Division
523 East Capitol Avenue
Pierre, SD 57501

RE: Transfer of Water Right No. 1153-3 – Lake Pocasse

Dear Jeanne,

The South Dakota Department of Game, Fish and Parks, Division of Wildlife, would like to transfer Water Right No. 1153-3 from the United States Fish and Wildlife Service (USFWS) to the Department of Game, Fish and Parks (SDGFP). In early 2001, the USFWS terminated their cooperative agreement with the U.S. Army Corps of Engineers for the Pocasse Refuge, and transferred management of the area to SDGFP. Title to the Pocasse property transferred to SDGFP in 2007 with the Title VI land transfer.

If you have any questions, please contact me at 605.773.6208.

Sincerely,

Leslie Murphy
Environmental Review Coordinator
523 East Capitol Avenue
Pierre, SD 57501
Leslie.Murphy@state.sd.us



NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 1153-3Date: 3-21-18I/We request that Water Right/Permit No. 1153-3 formerly owned by:U.S. Fish and Wildlife Service

be transferred to:

New Owner Name: South Dakota Department of Game, Fish and ParksAddress: 523 East Capitol AvenueCity, State, Zip Pierre SD 57501 Telephone No. 605.773.6208

Title to the following described land(s)/property has been transferred as described above:

Pocasse National Wildlife Refuge - Lake Oahe, Spring Creek Impoundment.
Township 128 North, Range 78 West, Section 16

☒ I understand that the validity of Water Right/Permit No. 1153-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, South Dakota Dept. of Game, Fish and Parks, the new owner, certify that the above information is true and correct.

Leslie Murphy for SDGFP
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

April 26, 2018

1153-3

Leslie Murphy
SD Dept. of Game, Fish & Parks
523 E Capitol Ave
Pierre SD 57501

RE: Spring Creek Impoundment – Campbell County

Dear Leslie:

On March 21, 2018, the Department of Game, Fish and Parks submitted an ownership change for Water Right No. 1153-3.

The ownership change has been processed. Water Right No. 1153-3 formerly held by the US Fish and Wildlife Service is now listed in the name of SD Department of Game, Fish and Parks.

If you have any questions concerning the water right, please contact our office.

Sincerely,

A handwritten signature in black ink, reading "Genny McMath". The signature is fluid and cursive, with the first name "Genny" and last name "McMath" clearly distinguishable.

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us