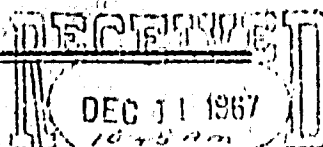


No. 1472-3

Water Division No. 3 MINNESOTA RIVER District  
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COUNCIL  
PIERRE SOUTH DAKOTAVESTED RIGHT  
APPLICATION FOR PERMIT

## To appropriate Water within the State of South Dakota

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

1. Name of applicant South Dakota Department of Game, Fish and Parks  
Postoffice address Pierre, County Hughes, State S. Dak.

## I. If a corporation

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

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

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

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

(b) Cash on hand, \$ (c) Treasury stock, \$

(d) Bonds to be issued, \$ (e) Other resources, \$

2. Name of diversion work FOX LAKE - Deuel County  
As required To fill lake to outlet level - approximately 825 acre  
3. Amount of water claimed feet per year cubic feet per second  
4. Source of water supply Dry draw  
5. Location of point of diversion Sec 30, T114, R47 & Sec. 24, 25, T.114, R48  
No visible sign  
on Deuel bank Deuel County.  
6. Annual period or periods during which water is to be used continuously  
7. To be used for:

## I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?

(a) Number of acres to be irrigated acres.

(b) Legal subdivisions to be irrigated

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

(c) Statement as to domestic use (giving location, etc.) To the ordinary high water markof the inundated portion of Sec 30, T114, R47 & Sec. 24, 25, T.114, R48

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

(a) Nature of use public recreation purposes

(Name any of the above uses claimed)

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

Amount claimed for engine cooling

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

## 8. Estimated cost of work:

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

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

(c) Fluming, \$-----

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

Rock, \$-----

(e) Other structures ----- \$-----

Total, \$-----

## 9. Description of diversion works:

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

## II. Dimensions of works. Information requested not applicable. Fox Lake is a meandered

(a) Dam: Height ----- feet, length at bottom approximately 4 feet, length at top

----- feet; thickness at bottom ----- feet; thickness at top -----

feet; slope at front water face -----; slope at back face -----

material used in construction -----

(b) Reservoir: Capacity when filled 440 ----- acre feet. Surface area at highwater mark ----- acres.

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

(c)\* Head gate: Width ----- feet; height ----- feet;  
Material -----

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

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work ----- years.

11. Time required for complete application of water to the proposed beneficial use ----- years.

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

## STATE OF SOUTH DAKOTA

County of Hughes ss.

I, A. Hodgins, 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

A. Hodgins

Subscribed and sworn to before me this 8th day of December 19 67

Notary Public (or other qualified officer.)

\*Each diversion must have a headgate or measuring device.

H. E. Bowers, Notary Public

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA

County of

HUGHES

ss.

Pierre, South Dakota, FEBRUARY 7, 1968

This is to certify that the foregoing application was received by the Commission at 10:45 o'clock  
a.m. upon the 11<sup>TH</sup> day of DECEMBER, 1967

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Number of permit 1472-3

Date of first receipt of application DECEMBER 11, 1967

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

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

Date from which applicant may claim right 1889, 19\_\_\_\_

Approved JANUARY 10, 1968 Recorded in Book 10 Page 78

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

1st. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~on or before~~ \_\_\_\_\_

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

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

COMPLETED \_\_\_\_\_

4th. The water appropriated shall be used for the purpose of PUBLIC RECREATION

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 825 ACRES PER ANNUALLY  
cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works,  
nor the least amount of water that experience may hereafter indicate as necessary for the production of crops  
in the ~~vicinity of the best tract lands~~ and for other said appropriation must be limited to not more than one  
fourteenth (1/14) of two cubic feet of water per second of time for each acre of land to which water is actually  
USED FOR PUBLIC RECREATION WAS

and beneficially ~~applied for irrigation~~ on or before JUNE 30, 1955, said water to be used  
during the following described annual period:

CONTINUOUSLY

Witness my hand this

7<sup>TH</sup> day of FEBRUARY, 1968

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Certificate of Construction issued

FEBRUARY 7, 1968

Water License issued

FEBRUARY 7, 1968

Permit No. 1472-3Water Division No. 3 MINNESOTA Water District  
RIVER**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the Department of Game, Fish and Parksof Pierre, County of Hughes, and State ofSouth Dakota, the holder Vested Right of Permit No. 1472-3 Issued upon ApplicationNo. 1472-3, bearing date of priority of 1889, authorizing the diversion of  
825 acre feet annuallyof the waters of dry drawsCounty of Deuel, State of South Dakota, at a point in theSE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 25, T114N, R46Wfor public recreationpurposes, has fully complied with the provisions of the laws of the State of South Dakota, relating to proof of  
completion of the works of diversion set out and described in said Permit; that said works are recognized as  
825 acre feet annuallycondition for diverting and conveying to the place of intended use withuse of said water and that the land use of said water are described as follows,to-wit: to be used in place for public recreationWitness my hand this 7th day of February A. D. 1968

State Water Resources Commission

By:

**J.W. GRIMES**  
Chief Engineer, Executive Officer

## STATE OF SOUTH DAKOTA

## WATER LICENSE No. .... 1472-3.

WHEREAS, On the 11th day of December A. D. 1967  
 the Department of Game, Fish and Parks

of Pierre County of Hughes and State of  
South Dakota duly made application (No. 1472-3) to us for a permit to use 825 acre feet  
annually of the waters of dry draws  
 County of Deuel, State of South Dakota, for public recreation  
 purposes; and

WHEREAS, On the 7th day of February A. D. 1968  
 Permit No. 1472-3 was issued to said applicant for the diversion of said water, recognizing  
 completion of the works of diversion therein described and for the application to beneficial use of said  
water and,

WHEREAS, On the 11th day of December A. D. 1967  
 the holder of said permit duly made proof of the completion of adequate works for the diversion of  
825 acre feet annually of said waters, as evidenced by our Certificate No. 1472-3  
 dated February 7, 1968 confirming the completion of works of sufficient capacity for  
 diverting and conveying to the place of intended use 825 acre feet annually  
 priority of 1889 and,

WHEREAS, On the 11th day of December A. D. 1967  
 proof was duly made of the application to beneficial use of 825 acre feet annually  
to be used in place for public recreation purposes

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,  
We hereby grant and confirm to the Department of Game, Fish and Parks  
of Pierre the holder and owner of said vested right Permit No. 1472-3  
a water right, dating from 1889 to the use of 825 acre feet  
annually second of the waters of dry draws  
In the County of Deuel and State of South Dakota, or so much thereof as may be  
necessary for the purposes hereinbelow mentioned, to be diverted at a point in the SW 1/4 Sec 4,  
Section 25, T114N, R48W  
and conducted to and stored in place

for the purpose of public recreation subject to any limitations listed  
in the Permit to Appropriate Water, and

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

WITNESS, My hand and seal of our office at Pierre, South Dakota,  
this 7th day of February A. D. Nineteen  
Hundred and Sixty-eight

State Water Resources Commission

By:

J.W. GRIMES  
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. \_\_\_\_\_

To \_\_\_\_\_

Source of Supply \_\_\_\_\_

County \_\_\_\_\_

Am't \_\_\_\_\_ c. f. s.

Point of Diversion \_\_\_\_\_

Place of Use \_\_\_\_\_

Purpose \_\_\_\_\_

Date of Priority \_\_\_\_\_

Recorded \_\_\_\_\_

in Book \_\_\_\_\_ of \_\_\_\_\_ Page \_\_\_\_\_

Location No. \_\_\_\_\_

Water Division No. \_\_\_\_\_ Water District \_\_\_\_\_

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

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

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

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

Ans. \_\_\_\_\_

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

Ans. \_\_\_\_\_

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

Ans. Dry draw - no visible sign

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

Ans. A meandered lake - depth 4 feet - 275 acres

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

Ans. Fish and wildlife propagation, conservation and recreation

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

Ans. Used in place in lake or reservoir

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

Ans. As required to fill lake to outlet level - approximately 825 acre feet per year

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

Ans. \_\_\_\_\_

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

Ans. A meandered lake. Used by the public for uses specified except for  
that amount lost by evaporation and seepage

(Sign)

R. A. Higgins

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

State of South Dakota, on this 8th day of December A. D. 1967

Witnesses.

H. E. Bowers  
H. E. Bowers, Notary Public  
My Commission Expires 25th, 1968

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

Location No. \_\_\_\_\_

PROOF OF APPLICATION OF  
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water \_\_\_\_\_ c. f. s.

Source \_\_\_\_\_

County \_\_\_\_\_

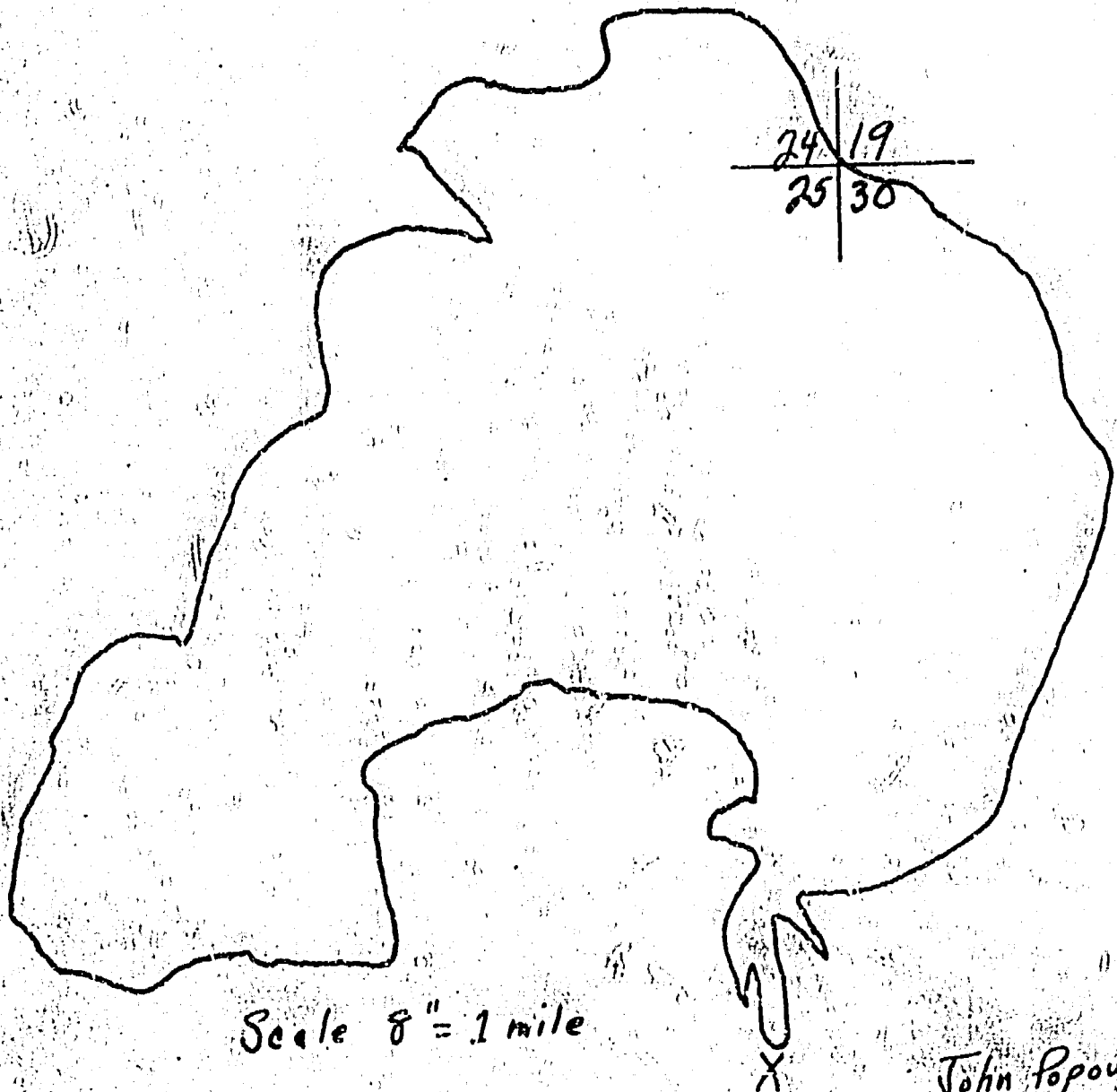
Purpose \_\_\_\_\_

Place of Use \_\_\_\_\_

Date of recording \_\_\_\_\_

Received and filed \_\_\_\_\_

Fox Lake  
Deuel Co.  
30-114-47  
24, 25-114-48



Scale 8" = 1 mile

John Popowski  
Feb. 2, 1959

1472-3

**South Dakota**  
**Department of**  
**Water & Natural Resources**

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

September 21, 1988

Richard Beringson, Secretary  
Department of Game, Fish and Parks  
Anderson Building  
445 E Capitol  
Pierre SD 57501

Dear Mr. Beringson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for lakes for the following reasons:

1. Until the outlet elevation for each lake is surveyed and the outlet elevation is set by the Water Management Board.
2. To allow the Vested Water Right Claim to be amended, if necessary, has follows:
  - a) Include the outlet elevation;
  - b) To correct the amount of water claimed;
  - c) To add the qualification that a vested claim is subject where necessary to installation of a concrete outlet structure to assure retention of the outlet as the established elevation; and
  - d) To add any amendments and qualifications necessary to clarify a Vested Right Claim.

Also, that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for dams to allow the Vested Water Right Claim to be amended, if necessary, as follows:

1. To include the spillway elevation;
2. To correct the amount of water claimed; and
3. To add any amendments and qualifications necessary to clarify a Vested Right Claim.



September 21, 1988  
Richard Beringson, Secretary  
Page 2

We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation process will take several years to complete, the results should be of benefit to the public and to your Department. As the work is completed to validate each claim, the claim will be presented to the Water Management Board for validation.

Please advise if you have any questions.

Very truly yours,

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

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