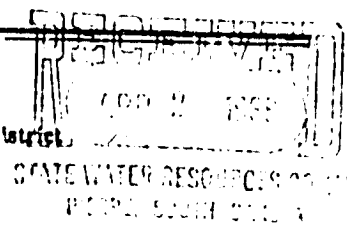


No. 1549-3
 Water Division No. 3 JAMES RIVER District 1
 (Blanks to be filled by the Engineer for the U. S. R. C.)



VESTED RIGHT APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota

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

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

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

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

- II. Method of accomplishing the work and financial resources of the applicant:
- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)
 - (b) Cash on hand, \$
 - (c) Treasury stock, \$
 - (d) Bonds to be issued, \$
 - (e) Other resources, \$

2. Name of diversion work: GERVEN LAKE - Faulk County
 As required to fill lake to outlet level - approximately 60
 3. Amount of water claimed acre feet per year cubic feet per second
 4. Source of water supply Drainage run-off
 5. Location of point of diversion One point in the watershed located in the NW 1/4 Sec. 29, T 118, R 67 on bank County.
 6. Annual period or periods during which water is to be used continuously
 7. To be used for:

- I. Irrigation or domestic use. Gravity, overhead sprinkling or combination system?
- (a) Number of acres to be irrigated acres.

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

- (c) Statement as to domestic use (drinking location, etc.) To the ordinary high water mark of inundated portion of Sections 30 & 29, T 118, R 67

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

- (a) Nature of use Public recreational uses
 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

v/r.

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.

- (a) Dam: Height.....11.....feet; length at bottom200.....feet; length at top200.....feet; thickness at bottom128.....feet; thickness at top16.....feet; slope at front water face4:1.....; slope at back face4:1.....; material used in constructionEarth fill.....
- (b) Reservoir: Capacity when filled90.....acre feet. Surface area at highwater mark30.....acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	FEET	ACRE-FOOT CAPACITY

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

(d) Canal: Total lengthmiles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LEVEL	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.)

completed - not applicable

10. Time required for completion of workyears.

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 appropriatenot applicable.....

STATE OF SOUTH DAKOTA

County ofHughes.....

I,R. 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.....

Subscribed and sworn to before me this27th.....day ofMarch.....1968.....

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

H. E. Bowers, Notary Public
My Commission Expires

"VESTED RIGHT" CLAIMER

Pierre, South Dakota, APRIL 16 1968

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Number of permit 1049

Date of first receipt of application -----, 1955

Date of return to applicant for correction, amendment or changes required as follows: _____, 19____

Date of receipt of corrected application 19.....

Date from which applicant may claim right 1736

Approved APRIL 16, 1968, Recorded in Book 10 Page 152

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 ~~and before~~ -----

2nd. The whole of said work is ~~to be~~ completed ~~and before~~ _____, 19____.

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

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 60 acre feet annually cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops on the remainder of the best irrigable land; and said appropriation is hereby limited to not more than one acre with (1/40) of one cubic foot of water per second of time for each acre of land to which water is actually ^{used}

USED FOR PUBLIC EDUCATION

and beneficially ~~utilized~~ ^{used} for irrigation on or before JUNE 30, 1968; said water to be used during the following described annual period:

Witness my hand this

CONTINUOUSLY
11TH day of APRIL, 1968

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued

Water License issued

APRIL 16, 1968

APRIL 16, 1968

Permit No. 1549-3Water Division No. 3 JAMES RIVER Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the Department of Game, Fish and Parks

of Pierre, County of Hughes, and State of South Dakota, the holder of Vested Right Permit No. 1549-3, issued upon Application No. 1549-3, bearing date of priority of 1936, authorizing the diversion of 60 acre feet annually of the waters of a dry draw County of Faulk, State of South Dakota, at a point in the NW 1/4, SE 1/4, Section 29, T10N, R67W, for public recreation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are recognized as satisfactory condition for diverting and conveying to the place of intended use 60 acre feet annually

~~XXXXXX~~ of water; and that the ~~XXXXXX~~ use of said water are described as follows, to-wit: to be used in place for public recreation purposes.

Witness my hand this 13th day of April A. D. 1968

State Water Resources Commission

By: J.W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 1549-3

WHEREAS, On the 2nd day of April A. D. 1968
 the Department of Game, Fish and Parks
 of Pierre County of Hughes and State of
South Dakota duly made application (No. 1549-3) to us for a Vested Right
 permit to use 60 acre feet
annually of the waters of a dry draw
 County of Faulk, State of South Dakota, for Public recreation
 purposes; and

WHEREAS, On the 16th day of April A. D. 1968
Vested Right
 Permit No. 1549-3 was issued to said applicant... for the diversion of said water, and recognizing
 completion of the works of diversion therein described on or before the XXXX
XXXX and for the application to beneficial use of said
 water on or before the XXXX
 and,

WHEREAS, On the 2nd day of April A. D. 1968
 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 60 acre
feet annually of said waters, as evidenced by our Certificate No. 1549-3
 dated April 16, 1968 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 60 acre feet annually
 priority of 1936 and,

WHEREAS, On the 2nd day of April A. D. 1968
 proof was duly made of the application to beneficial use of 60 acre feet annually
to be stored and used in place for public recreation

NOW, THEREFORE, By the virtue of the authority vested in us by the law, of the State of South Dakota,
We hereby grant and confirm to the Department of Game, Fish and Parks
of Pierre Vested right the holder.... and owner.... of said permit No. 1549-3
a water right, dating from 1936 to the use of 60 acre feet
annually
~~of the waters of~~ a dry draw
in the County of Faulk and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at a point in the NW 1/4 NW 1/4 SE 1/4,
Section 29, T118N, R67W.
and ~~conducted through~~ 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 16th day of April A. D. Nineteen
Hundred and Sixty-eight

State Water Resources Commission

By:

J.W. GRIMES
Chief Engineer, Executive Officer

Location No.

Water Division No. Water District

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

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

Ans. South Dakota Department of Game, Fish and ParksGerken Lake, Faulk County

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and office 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. One point in the watershed located in the NW 1/4 Sec. 29, T 118; R 67.

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

Ans. Earth Dam - approximately 200 feet long, 11 feet highImpoundment of 30 acres at dam site

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

Ans. Fish and wildlife propagation, conservation and recreation

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

Ans. Used in place in lake or reservoir

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

Ans. As required to fill lake to outlet level - approximately 60 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. 16. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Been in use ever since 1936 when dam was constructed. Used by the
public for the uses specified except for that amount lost by evaporation and
seepage

(Sign)

R. A. Ludzins

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 _____, County of Hughes

State of South Dakota, on this 27th day of March A. D. 1948

Witnesses.

A. E. Bowers
H. E. Bowers, Notary Public

My Commission Expires
July 25th, 1949.

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.

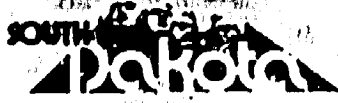


Sec. 29

GERKEN REFUGE

T 113 R. 67 SEC. 29, 2

1549-3



Department of Water & Natural Resources

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

September 21, 1988

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

Dear Mr. Beringson:

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

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

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

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

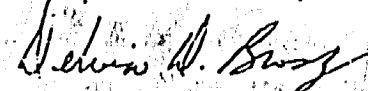


September 21, 1988
Richard Beringson, Secretary
Page 2

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

Please advise if you have any questions.

Very truly yours,



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

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