

No. 1770-8

Map No. _____ Water Division No. 3 WHETSTONE CREEK District _____
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant: City of Milbank
Postoffice address Milbank State South Dakota
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Completed
3. Name of diversion work Lake Farley
4. Amount of water claimed (~~XXXXXXXXXXXX~~) 255 acre feet annually
5. Source of water supply Local Runoff
6. Location of point of diversion Near NE Corner of SE $\frac{1}{4}$ Section 1, Township 120N, Range 48W.
County Deuel

7. Annual period or periods during which water is to be used Continuous
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Public Recreation
9. This is an artificial public lake having a surface area of about 85 acres.
~~XXXXXXXXXXXX~~ ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres ~~XXXXXXXXXXXX~~

Land Description	No. Acres xx	Land Description	No. Acres Irr.
NE $\frac{1}{4}$ Sec 1, T120N, R48W	35		
SE $\frac{1}{4}$ Sec 1, T120N, R48W	50		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system completed years. Additional time required to complete application of water to the proposed beneficial use completed years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication NA
12. Principal Features of the Proposed Water Supply System.
- A. Works proposed to divert water from its natural source.
Earth diversion Dam and concrete spillway
- B. Works proposed to transport water to place of use.
- C. Works proposed to apply water to beneficial use.
Ponded water used for recreation use.

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)
HUGHES)
~~XXXXXXXXXXXX~~)
County of _____)

I, Howard Sawrey, Mayor the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed [Signature]

Subscriber and sworn to before me this 1924 day of June 1920

[Signature]
Notary Public or other qualified officer

Richard W. [Signature] WRC.

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1770-3

CITY OF MILBANK
(Applicant)

(Post Office Address)

SOUTH DAKOTA
(State)

With the following modifications:

"VESTED RIGHT" CLAIMED

Date of first receipt of application _____ **AUGUST 7** _____, 19 **73**

Date of return to applicant for correction, amendments or changes required _____, 19____

Date of receipt of corrected application _____ 19____

Approved SEPTEMBER 10, 1970, Recorded in Book 11 Page 182

WATER RIGHT PERMIT NO.

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1770-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1910, 17
2. The equivalent of at least one-fifth of the work above specified is ~~not~~ completed unsubstantiated, 1910
3. The whole of said work is ~~not~~ completed unsubstantiated, 17
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED, 17
5. The water appropriated shall be used for the purpose of PUBLIC RECREATION

6. 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.

7. The amount of the appropriation herein granted shall not exceed 265 ACRE FEET ANNUALLY; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial uses served~~, and if for the irrigation purposes said appropriation must be limited to no more than ~~7 acre feet per year~~ and be limited to ~~the period from January 1st to June 30th~~. (1) FOR THE PURPOSES OF THIS APPROPRIATION, SAID WATER IS LIMITED TO THAT WHICH WATER IS ACTUALLY AND BENEFICIALLY APPLIED FOR IRRIGATION ON OR BEFORE JUNE 30, 1955.
- following described annual period: CONTINUOUSLY

Witness my hand this 11TH day of SEPTEMBER 19 70

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued SEPTEMBER 11, 1970

Water License Issued SEPTEMBER 11 1970

Form 2A Wells, Dugouts or Water Storage Dams (Supplement to form 2)

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

(1) Drill Hole Diameter _____, Depth _____

(2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc)

(3) Perforated Screen.

Type _____, Diameter _____, Length _____

(4) Gravel Pack. Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

(2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Height of Embankment 20'

width at top of embankment 8'

width at bottom of embankment 60'

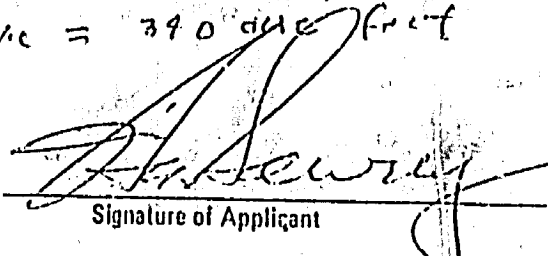
Length of embankment 1000'

Concrete Spillway 130' x 12' with 15' drop

Maximum depth of lake = 10'

surface area of lake = 85 acres

storage capacity of lake = 390 acre feet


Signature of Applicant

Form 2B - Affidavit of Water Use (Supplement to Form 2)

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE

Name of Applicant (Same as Form 2) City of Milbank
Post Office Address Milbank, State South Dakota
If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting _____ Date of Filing _____
Recording Date _____

14. Date of start of construction of water supply system 1910

15. Date that water was first applied to beneficial use 1910

16. Name of owner of original water supply system Milwaukee R. R.

17. Amount of water originally applied to beneficial use 255 ac. ft. annually ~~xxx~~

18. Present Use of Water

Amount of water now being used 255 ac. ft. ann. ~~xxx~~

Date that this amount of water was first used Same

19. Chronological History of Water Use

Lake Farley was sold to the City of Milbank and converted to public recreation purposes before July 1, 1955.

Attach to this Form 2B. any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

I, Howard Sawney, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed

Subscribed and sworn to before me this 15th day of June, 1970

W. H. Woodard Fishel & Co.
(Notary Public or other qualified Officer)

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

Reverend E. J. Gandy
Milton E. Fischer

WATER LICENSE NO. . . 1770-3

(1) WHEREAS, On the 7th day of August A. D. 19 70
the City of Milbank

made Water Right Application No. 1770-3 for a ^{Vested Right} permit to use 255 ac.ft. annually ~~of the waters~~
of local runoff
County of Grant, State of South Dakota, for Public recreation

(2) WHEREAS, On the 11th day of September A. D. 19 70
^{Vested Right} Permit No. 1770-3, with a date of priority of 1910

was issued to said applicant for the diversion of said water, and ^{recognized} ~~was issued~~ for the completion of construction of the water
supply system therein described ~~XXXXXXXXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ and for the
application to beneficial use of said water ~~XXXXXXXXXXXX~~ ~~XXXXXXXX~~ ~~XXXXXXXX~~

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 255 acre feet annually ~~XXXXXXXX~~
~~XXXXXXXX~~ 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 is stored in place in Lake Farley for public recreation purposes.

(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 ~~XXX~~ the City of Hilbank

~~the holder~~ the holder ~~and owner~~ and owner of said/permit No. 1770-3 a water right, dating from 1910 to use of 255 acre feet annually ~~XXXXXX~~ of the waters of local runoff

in the County of Grant and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point near the NE Corner of the SE½, Section 1, T120N, R48W

~~XXXXXXXXXXXXXXXXXXXX~~ scored in place in Lake Farley

for the purpose of public recreation

Subject to any limitation: listed in Water Right Permit No. 1770-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 11th day of September A. D.
Nineteen Hundred and Seventy

WATER RESOURCES COMMISSION

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

Permit No. 1770-3

Water Diversion No. 3 WHEATSTONE CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That THE City of Milbank

Vested Right
/ Permit No. 1770-3, issued upon Application No. 1770-3, bearing date of priority of 1910
authorizing the diversion of storage of 255 acre feet annually of the waters of
local runoff County of Grant, State of South Dakota at a
point near the NE Corner, of the SE 1/4, Section 1, T120N, R48W
for public recreation

purposes, has 8 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 255 acre feet annually of water.

Date September 11, 1970

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer



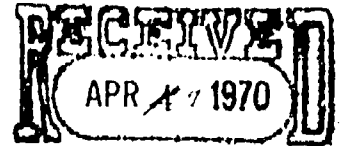
United States Department of the Interior

FISH AND WILDLIFE SERVICE
BUREAU OF SPORT FISHERIES AND WILDLIFE
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

IN REPLY REFER TO:
EN-WA-South Dakota

April 3, 1970

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



STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

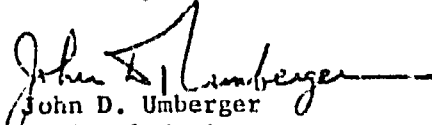
Dear Mr. Grimes:

Our Bureau has been asked to investigate the feasibility of acquiring a tract of land located near the northwest edge of Milbank, South Dakota. Any acquisition would be made under the small wetlands program.

We would like to know if your office has any record of a water right, date of original construction, or other pertinent data relating to the Lake Farley Dam which is included in the area under investigation? The dam is located in the E $\frac{1}{2}$ Section 1, T120N, R49W, Grant County, South Dakota.

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Sincerely,


John D. Umberger
Regional Engineer

May 1, 1970

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

Your Ref: EN-WA-South Dakota

Dear Mr. Umberger:

Your letter of April 3, 1970 inquires if there is any water right recorded in this office pertaining to Lake Farley Dam in the E $\frac{1}{2}$ of Section 1, Township 120N, Range 48W, Grant County.

There is no water right recording pertaining to Lake Farley Dam in Section 1, Township 120N, Range 48W filed in this office.

However, this office has checked with Milbank officials and have been informed that Lake Farley Dam was constructed by the Railroad over 60 years ago and that the Dam, and land, was sold to the City of Milbank prior to July 1, 1955.

Under such circumstances, the City of Milbank has a vested water right to Lake Farley Dam, and this is a valid water right in all respects.

Section 46-1-9 (1), South Dakota Compiled Laws 1967 states the definition of the pertinent vested right as follows: "The right of a riparian, owner to continue the use of water having actually been applied to any beneficial use at the time of the passage of this chapter or within three years immediately prior thereto to the extent of the existing beneficial use made thereof."

Section 46-1-10 Determination of vested rights states: "All vested rights as hereinbefore defined acquired before the effective date of this chapter are hereby in all respects validated."

Mr. John D. Unberger
May 1, 1970
Page 2.

The Water Resources Commission has a procedure whereby such "Vested Rights" can be filed in the office of the Water Resources Commission, and such filing would be advisable for Lake Farley Dam.

Sincerely,

J. W. Grimes

JWG/DD/sjb
cc--Mr. Howard Sawrey, Mayor
Milbank, South Dakota

Mr. Milton Fischer, Member
Water Resources Commission
Milbank, South Dakota