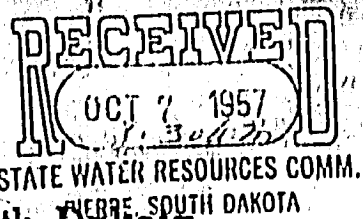


No. 500-3Water Division No. 7 James River District
(Blanks to be filled by the Engineer for the W. R. C.)

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 Aberdeen, a municipal corporation
Postoffice address Aberdeen, County BROWN, 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 City granted permit # 14.3 for identical appropriation Oct. 4, 1933, cancelled for non-use 5/26/47. This application for renewal of said permit and original application herewith referred to and made a part hereof.

(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)

Contract(b) Cash on hand, \$200,000

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work Willow Creek Dam
3. Amount of water claimed 12 cubic feet per second
4. Source of water supply Willow Creek
5. Location of point of diversion Sec. 19 - 1264-64
on right bank BROWN County.
6. Annual period or periods during which water is to be used Daily throughout year
7. To be used for:

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

(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.) Municipal water system ofCity of Aberdeen

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

(a) Nature of use _____

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 _____

381-3
Map No.

8. Estimated cost of work: \$142,687.00

(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 45 feet; length at bottom 900 feet; length at top ----- feet; thickness at bottom ----- feet; thickness at top ----- feet; slope at front water face 250; slope at back face 1 - 2 material used in construction Earth and concrete

(b) Reservoir: Capacity when filled 4100 acre feet. Surface area at highwater mark ----- acres.

DEPTH AT OUTLET- FEET	SURFACE AREA AT EACH DEPTH AT OUTLET- ACRES	ACRE- FEET CAPACITY
12		150
22		610
32		2460
42		4100

(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: 1 years.

11. Time required for complete application of water to the proposed beneficial use 1 years.

12. Choice of newspaper for publication of notice of intention to appropriate Aberdeen American-News, Aberdeen, South Dakota

STATE OF SOUTH DAKOTA

County of BROWN } ss.

I, F. W. Gordon, Acting Pres. of the Commission, 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

F. W. Gordon City of Aberdeen, a Municipal Corp.

Subscribed and sworn to before me this 4th day of October 1957

John W. Gordon
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

PLAN OF

Rehabilitation of Willow Creek Water Supply

22 MILES NORTHWEST OF

Aberdeen, So. Dakota

J. CLIFTON HURLBERT
MABEL J. CONNELL
FRANCIS McNEARY
FRED W. GERDES
FRANK ZICK
JOHN WEST

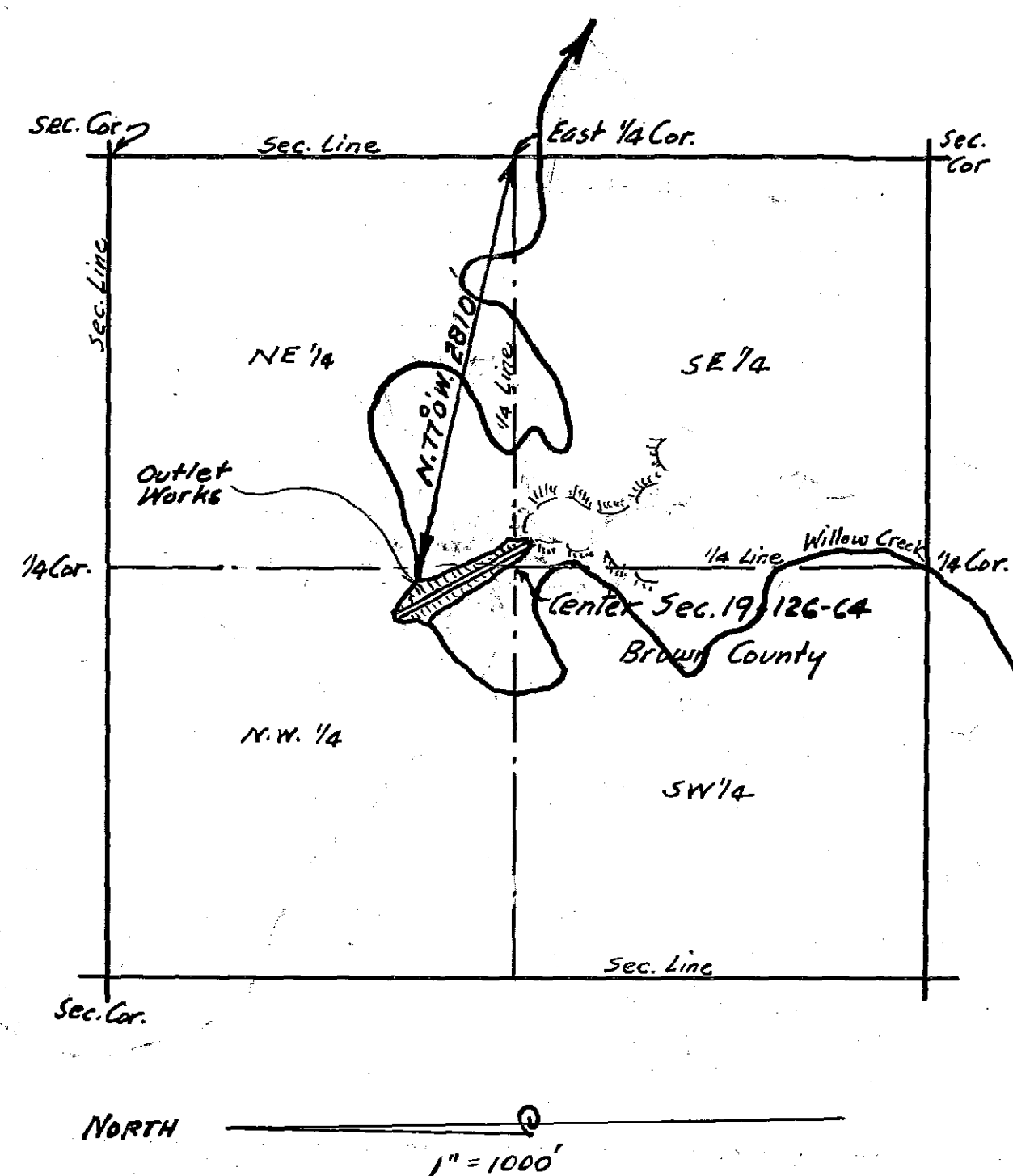
MAYOR
AUDITOR
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER

ARTHUR S. MANNES, CONSULTING ENGINEER

ABERDEEN, So. DAKOTA

APRIL 1957

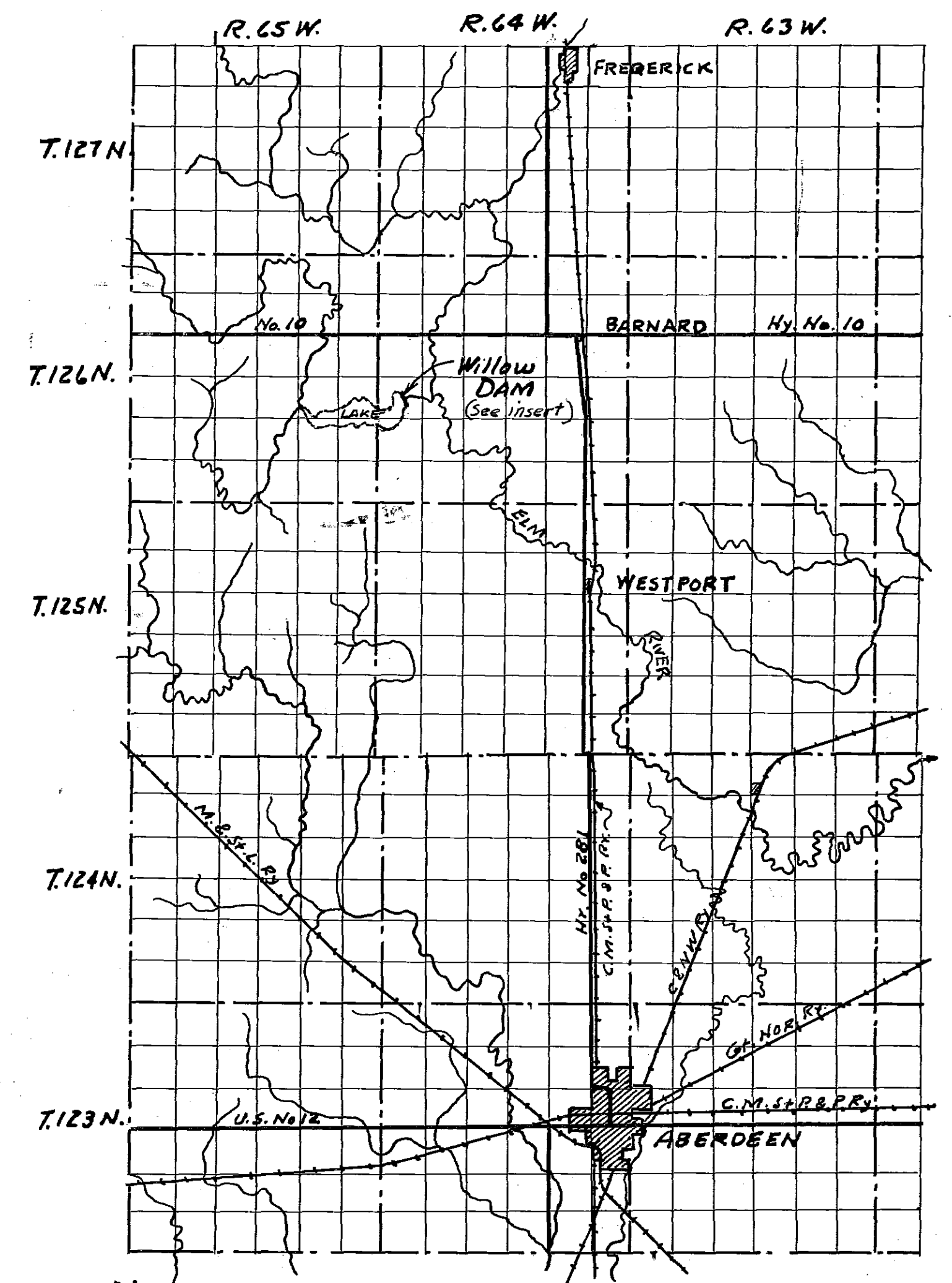
Revised Aug. 1957



I hereby certify that I have surveyed the location of the Outlet Works of the Willow Creek Dam, which is correctly shown on this plat.

Signed this 2nd day of January 1958.

Arthur Mannes
Reg. Prof. Engineer
& Land Surveyor.



MAP SHOWING
LOCATION OF WILLOW CREEK DAM
22 Miles Northwest of

ABERDEEN, S.D.

Map No. 381-3
(Appl. No. 500-3)

RECEIVED
JAN 13 1958
STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA

County of Hughes

Pierre, S. Dakota,

October 11, 1957

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock

9 a.m. upon the 7 day of October, 1957

State Water Resources Commission

By: J. W. Rimmer

Chief Engineer, Executive Officer

Number of permit 500-3

Date of first receipt of application October 7, 1957

Date of return to applicant for correction, amendments or changes required as follows: _____, 10____

Date of receipt of corrected application _____, 10____

Date from which applicant may claim right October 7, 1957

Approved December 11, 1957, Recorded in Book 4 Page 198

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 _____

June 11, 1958

2nd. The whole of said work is to be completed on or before December 11, 1958

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

December 11, 1959

4th. The water appropriated shall be used for the purpose of municipal use

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 12.00 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 exercise of the best husbandry, and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before December 11, 1959, said water to be used during the following described annual period:

Continuously

Witness my hand this 25 day of January, 1958

State Water Resources Commission

By: J. W. Rimmer

Chief Engineer, Executive Officer

Certificate of Construction Issued December 30, 1963

Water License Issued December 30, 1963

Permit No. 500-3Water Division No. 3 James River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the City of Aberdeen

~~of~~ _____, County of Brown, and State of South Dakota, the holder of Permit No. 500-3, issued upon Application No. 500-3, bearing date of priority of October 7, 1957, authorizing the diversion of 12.0 cu. ft. per second of the waters of Willow Creek

County of Brown, State of South Dakota, at a point N77°W, 2180 feet from the E¹ corner, Section 19, T126N, R64W

for municipal purposes, has ^s 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 found in satisfactory condition for diverting and conveying to the place of intended use 12.0 cu. ft. per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: to be distributed through the City water system for municipal use.

Witness my hand this 30th day of December A. D. 1963

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 500-3

WHEREAS, On the 7th day of December A. D. 1957
the City of Aberdeen

xxx County of Brown and State of
South Dakota duly made application (No. 500-3) to us for a permit to use 12.0
cubic feet per second of the waters of Willow Creek
County of Brown, State of South Dakota, for municipal
purposes; and

WHEREAS, On the 25th day of January A. D. 1958
Permit No. 500-3 was issued to said applicant for the diversion of said water, and providing for the
completion of the works of diversion therein described on or before the 11th day of
December A. D. 1958 and for the application to beneficial use of said
water on or before the 11th day of December A. D. 1959
and,

WHEREAS, On the 29th day of October A. D. 1963
the holder of said permit duly made proof of the completion of adequate works for the diversion of 12.0
cubic feet per second of said waters, as evidenced by our Certificate No. 500-3
dated December 30, 1963 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 12.0 cubic feet per second of water, with date of
priority of October 7, 1957 and,

WHEREAS, On the 29th day of October A. D. 1963
proof was duly made of the application to beneficial use of 12.0 cubic feet per second of said water;
for municipal use by the City of Aberdeen

We hereby grant and confirm to the City of Aberdeen

the holder and owner of said permit No. 500-3.

a water right, dating from October 7, 1957 to the use of 12.0 *

cubic feet per second of the waters of Willow Creek

In the County of Brown and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point N77°W, 2180 feet from the E1 corner, Section 19, T126N, R64W

and conducted to ~~and upon~~ the Aberdeen city water system

for the purpose_____ of _____ municipal use

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 30th day of December A. D. Nineteen
Sixty-Three
Hundred and _____

State Water Resources Commission,

By:

J. W. GRIMES
Chief Engineer, Executive Officer

- * This water right includes the right to store that amount of water that can be stored in Willow Creek Dam having a capacity of 4,100 acre feet when full.

STATE OF SOUTH DAKOTA

Water License No. _____

-----T0

Source of Supply -----

[illegible]

Am: ----- C. f.

Point of Diversion

Place of Use

Purpose: _____

Date of Priority _____

Recorded

Book of Page

500-3

1024-3, 2102-3, 2551-3

April 1, 1976

Earl Coyne
918 South First Street
Aberdeen, South Dakota 57401

Dear Mr. Coyne:

Enclosed is a copy of a letter from J.W. Grimes dated April 12, 1973 outlining the City of Aberdeen's water permits up until that date.

Since that time additional permits have been granted.

Permit No. 1024-3 was granted May 1, 1963, with priorities of .31 c.f.s. from 1921 and .11 from February 26, 1963. This Permit covers two artesian wells used at Wylie Park.

Permit No. 2102-3 was granted September 11, 1974, with a priority date of July 24, 1974. This permit was issued to pump water in the amount of 18.56 c.f.s. from the Elm River during periods when excess water is flowing over the No. 1 Aberdeen dam on the Elm River.

Permit No. 2551-3 was granted March 17, 1976, with a priority of February 20, 1976. This permit was issued to pump 5.0 c.f.s. from ground water from the Eyestone Gravel Pit.

Future use Permit No. 192-3 defines the area of future development as ground water areas along the Elm River between Section 19, T125N, R63W, and Section 15, T124N, R63W, plus the Pickus and Eyestone gravel pits.

If you have further questions, feel free to contact this office.

Sincerely,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/BFJ/bw
Encl: as stated

original filed in 2551-3

15-3; 192-3; and
500-3

J.W. GRIMES

COMMISSION

Carl Cremin, Galtysburg
W. Neil F. ...
...
...
Stanley, ...
Richard Lommen, Harrisburg
Clarence D. Mortenson, Hayes
Elvern Varilek, Geddes

South Dakota

Water Resources Commission

Chief Engineer
and
Executive Officer

State Office Building #2

PIERRE, SOUTH DAKOTA 57501

PHONE 605/24-3584

April 12, 1973

Mr. Bruce R. Elms
Black & Veatch, Consulting Engineers
12075 East 45th Ave., Suite 333
Denver, Colorado 80239

Your Ref: Project 5990, File A.

Dear Mr. Elms:

Your letter of April 4, 1973 requests information about the City of Aberdeen's water rights pertaining to Elm River, Elm Lake, Willow Creek Reservoir and Elm Channel Reservoirs Nos. 1, 2, 3 and 4. In addition you request copies of Aberdeen permits to appropriate water from the Elm River.

Water Permit No. 15-3 and Water License No. 15-3.

Priority Date: December 23, 1933.

Authorizes the construction of two dams and water purification and pumping plant and the diversion of 12.0 c.f.s. of water.

A copy of the permit and license are enclosed as requested. Note the two dams mentioned in the permit as compared to channel dams 1, 2, 3 and 4 as mentioned in your letter.

Future Use Water Permit No. 192-3.

Priority Date: May 4, 1956.

Authorizes the diversion of 11.0 c.f.s. of ground water along Elm River (shallow gravel deposits) in specified area. To date there has been no permanent development under this permit.

Water License 500-3.

Priority date: October 7, 1957.

Authorizes the storage of 4,100 acre-feet of water in Willow Creek Dam and a diversion rate of 12.0 c.f.s.

No water rights of record have been filed on Elm Lake. However a water right has become "vested" for Elm Lake. See Section 46-1-9 of the enclosed "Excerpts".

Mr. Bruce R. Elms

April 12, 1973

Page 2.

Elm Lake was a W.P.A. Lake, constructed about 1936. It was sponsored by the Department of Game, Fish and Parks, City of Aberdeen, and Brown County, with each agency contributing some financial aid. The last three agencies on at least one occasion, 1962, jointly financed spillway repairs.

Correspondence in this office indicates the City of Aberdeen can use any water that may exist in the top 12 feet of the storage area, and may release such water for municipal purposes. No official copies of such agreement is on file in this office.

I believe a written water right record should be prepared for the Elm Lake "vested right" and this record should be filed in this office.

Some modernization of water right No. 15-3 may be advisable.

If clarification of the water right record is within the scope of your agreement with the City of Aberdeen, this office will assist in any way possible.

Sincerely,

J.W. GRINES
Executive Officer and
Chief Engineer
Water Resources Commission

JWG/DD/bw
Encl: As stated

Permit No. 500-3Water Division No. 3JamesRiver Water District**Certificate of Examination of Works****Report of Examining Engineer**

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____ 19____, I have this day made a thorough examination of the diversion works constructed by the City of Aberdeen, of Brown County, South Dakota, holder of Permit No. 500-3, issued upon Application No. 500-3, bearing date of priority of October 7, 1942, authorizing the diversion of 12 cu. ft. per second of the waters of Willow Creek for municipal purposes. I have to report on the condition of the same as follows:

The diversion works comprise: 900 ft. long earthen dam 4.5 ft. Max. height upstream face of dam riprapped. Concrete spillway in left abutment drawdown levels is shown by the plans on file.

and the system is in the following condition: Good

The point of diversion is located N 77° 00' W 2810 feet from the NW corner of section 19, T126N, R69W.

The works are capable of diverting and conveying to the place of use 12 cu. ft. per second of water, which is to be used for municipal purposes.

The legal sub-divisions to be irrigated are: _____

_____ comprising a total of _____ acres of land.

The domestic use intended comprises _____

The utilization for power, mining, or other beneficial uses comprises: _____

Witness my hand, this 29 day of October, A. D. 1943.

—SEAL—

Donald Marshall

Examining Engineer.

Field and Office Engineer
State Water Resources Commission

Permit No. 500-3Water Division No. 3 Janna River Water Distr.**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.) Aberdeen, S. D.(Date) March 21, 1960

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

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of Willow Creek cu. ft. per second of the waters of the state from Willow Creek Dam through the Municipal purposes Dam completed Dec. 1, 1958 in accordance with the terms and conditions 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 City of Aberdeen
2. The postoffice address of such person or the place of business of such corporation is Aberdeen
County of Brown State of South Dakota
3. The number of such permit is 500-3 and the date set for the completion of such work is December 11, 1959
4. Said water to be used for Municipal 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 accompanying the application for such permit, is 12 cubic feet per second.
6. The amount of land for which said water is available is City of Aberdeen acres, particularly described as follows: _____

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

City of Aberdeen

(Signature of Owners)

J. Clifton Hurlbert-Mayor

Minda C. Johansen
Minda C. Johansen, Auditor

10-18-56
12-1-56
CITY OF ABERDEEN
SOUTH DAKOTA

192-13
500-3

OFFICE OF
CITY ATTORNEY

October 18, 1956

Mr. Joe Grimes, Chief Engineer
Water Resources Commission
Pierre, South Dakota

Dear Mr. Grimes:

As you no doubt know, a short time ago the voters of Aberdeen authorized a bond issue for the purpose of repairing and reconstructing the spillway and the Willow Creek Dam as part of the water system of the city.

The Governor wrote our water resources committee that Aberdeen's water rights for use of water in the reservoir were cancelled because of non-use, and suggested that we contact you regarding reinstatement.

As you know, the city owns all of the land in the reservoir, and Willow Creek, I believe, is what could be termed a dry run as it is only for a very short time in the spring that there is any flow.

I presume that we should make application along the lines followed in our application for ground water which we had before the commission a short time ago, but would appreciate your suggestions as to when and how to make this application.

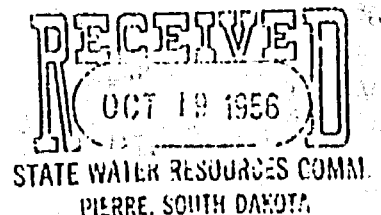
The city has employed Art Mannes to draw the plans for this job, and has provided that they shall, of course, be approved by the State Engineer. The plans have not as yet been drawn, and I presume that the height of the dam, spillway, etc. should be definitely established before application is made.

I would appreciate hearing from you on this matter.

Yours truly,

F. W. Noll
F. W. Noll

FWN:mb



*the 15921
file*

CITY OF ABERDEEN
SOUTH DAKOTA

OFFICE OF
CITY ATTORNEY

October 18, 1957

RECEIVED
OCT 19 1957
STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Mr. J. W. Grimes, Chief Engineer
State Water Resources Commission
Pierre, South Dakota

Dear Mr. Grimes:

I am enclosing herewith the copy of a letter to Mr. Schraeder, the director of the Game, Fish, and Parks Commission, and also copy of the proposed agreement I sent to him. We certainly would appreciate your efforts in informing the Commission of the facts in this case and the need for this agreement.

With reference to the City's application on the Willow Creek, Mr. Mannes is preparing the sketch desired by your department, and it will be sent to you very shortly.

With best personal regards, I am

Yours truly,

F. W. Noll

F. W. Noll
City Attorney

FWN:mb
Enc. 2

October 18, 1957

Mr. Thomas A. Schrader, Director
Game, Fish, and Parks Commission
Pierre, South Dakota

Dear Mr. Schrader:

You will no doubt recall my visit with you a couple of weeks ago when with Mr. Grimes, we discussed reducing to writing the agreement under which the City of Aberdeen is taking water from Elm Lake, in order that the rights of both the Game, Fish, and Parks Commission and the City can be definitely established and the proper records made by the Water Resources Commission.

In accordance with that conference, I have prepared a tentative agreement between the Commission and the City, and I am enclosing herewith two copies for your consideration. If there is any other conditions which you feel should be incorporated, let me know, and of course I will re-draft the agreement. If this sets forth the wishes of both the Commission and the City, I would appreciate your bringing it up at the next Commission meeting with your favorable recommendation.

I am sending a copy to Mr. Grimes and also a copy of this letter, in order that he may know that we are attempting to straighten out this matter.

Yours very truly,

F. W. Noll
City Attorney

FWN:mb
Enc. 2
cc. Mr. Grimes

AGREEMENT

- (1) WHEREAS, the City of Aberdeen, Brown County, and the Department of Fish and Game of the State of South Dakota in 1936 jointly sponsored a W.P.A. project for the construction of a dam on the Elm River to be known as Elm Dam, and certain smaller dams, which said Elm Dam was to be constructed on the Southeast quarter (SE¹/₄) of Section Thirty One (31), Township One Twenty Eight (28), Range Sixty Five (65), Brown County, for the purpose of impounding water back of said dam, and
- (2) WHEREAS, the City of Aberdeen contributed to the sponsors share of said W.P.A. project the sum of \$15,000.00 in return for which the City of Aberdeen was to acquire rights to the use of water impounded behind said Elm Dam for municipal purposes, provided, however, that such use should be limited so that no more water should be used from said Elm Lake at any time which would lower the level of the lake more than twelve feet (12') from the top of the spillway of said dam.
- (3) WHEREAS, said dam was constructed in 1936 and 1937 in accordance with the above agreement, and
- (4) WHEREAS, the records of the W.P.A. project setting forth in detail the agreement heretofore set forth are not presently available, and
- (5) WHEREAS, the City of Aberdeen has since the construction of said dam, and in accordance with the above agreement, from time to time let water down from said dam for municipal uses of the City of Aberdeen, and
- (6) WHEREAS, the City has in all respects at all times refrained from using more water than was permitted by the agreement above set forth, and has at all times lived up to the agreement with the Department of Fish and Game, and has refrained from lowering said lake beyond the distance permitted, and

AGREEMENT

(1) WHEREAS, the City of Aberdeen, Brown County, and the Department of Fish and Game of the State of South Dakota in 1936 jointly sponsored a W.P.A. project for the construction of a dam on the Elm River to be known as Elm Dam, and certain smaller dams, which said Elm Dam was to be constructed on the Southeast quarter (SE¹) of Section Thirty One (31), Township One Twenty Eight (28), Range Sixty Five (65), Brown County, for the purpose of impounding water back of said dam, and

(2) WHEREAS, the City of Aberdeen contributed to the sponsors share of said W.P.A. project the sum of \$15,000.00 in return for which the City of Aberdeen was to acquire rights to the use of water impounded behind said Elm Dam for municipal purposes, provided, however, that such use should be limited so that no more water should be used from said Elm Lake at any time which would lower the level of the lake more than twelve feet (12') from the top of the ~~surface~~ crest of said dam.

(3) WHEREAS, said dam was constructed in 1936 and 1937 in accordance with the above agreement, and

(4) WHEREAS, the records of the W.P.A. project setting forth in detail the agreement heretofore set forth are not presently available, and

(5) WHEREAS, the City of Aberdeen has since the construction of said dam, and in accordance with the above agreement, from time to time let water down from said dam for municipal uses of the City of Aberdeen, and

(6) WHEREAS, the City has in all respects at all times refrained from using more water than was permitted by the agreement above set forth, and has at all times lived up to the agreement with the Department of Fish and Game, and has refrained from lowering said lake beyond the distance permitted, and

(7) WHEREAS, the City of Aberdeen and the Game, Fish, and Parks Commission desire to reduce said above described agreement in writing in order that the rights of the City and of the Game, Fish, and Parks Commission may be definitely defined in order to authorize the allocation of water rights by the State Water Resources Commission of the State of South Dakota under the provisions of Chapter 430 of the Laws of 1955.

NOW THEREFORE IT IS AGREED between the City of Aberdeen, a municipal corporation, hereinafter referred to as the City, and the Game, Fish, and Parks Commission, hereinafter referred to as the Commission, as follows:

(8) THAT CERTAIN AGREEMENT between the City and the Commission referred to in Paragraph (2) of this Agreement is hereby in all things approved and ratified, and the City is hereby granted the right to the use of water now, or which may hereafter be, impounded back of Elm Dam, known as Elm Lake, for municipal purposes, provided however, that said City at no time shall draw water from said lake which would lower the level of the lake more than twelve feet (12') from the top of the spillway of said dam.

(9) IT IS FURTHER AGREED that the City shall at its own expense at all times keep in repair the valves located in said dam and through which water passes to the Elm River.

(10) THE CITY FURTHER AGREES that it will use only such water from the Elm Lake as is needed for municipal purposes and will not waste or permit said valves to be opened unless such water is needed for municipal purposes of the City of Aberdeen.

Dated this _____ day of _____, 1957.

ATTEST:

City Auditor

CITY OF ABERDEEN, a municipal corporation

BY _____
Mayor

GAME, FISH, & PARKS COMMISSION

BY _____
Director

520-3
December 27, 1956

Mr. Clifton Hurlbert, Mayor
City of Aberdeen
Aberdeen, South Dakota

Dear Mr. Hurlbert:

During our recent discussion regarding application forms for the City of Aberdeen, I stated that forms had been sent to you and to Mr. Noll. Please accept my apology for this statement, because I find myself unable to find copies of such correspondence. However, information which you may find helpful is included in this letter.

As it relates to municipalities, the new state water laws provide for the following:

- (1) "Vested Rights" to the use of water for municipal purposes in the amount of water that was developed and used, or in the process of development and use, on the effective date of the Act, July 1, 1955, was recognized. The vested right water user is required by the water laws to establish a water right record with the Water Resources Commission. Special procedures have been set up by the Water Resources Commission for water users to establish their water right record. Aberdeen has established a record of their vested rights.
- (2) A special and unique privilege is extended to South Dakota municipalities by the new water laws. By application, a town or city may arrange for withdrawal of water from further appropriation by others and reserve a reasonable amount of such water for the future needs of the municipality. As you know, city

October 2, 1957

Mr. F. W. Noll
City Attorney
Aberdeen, South Dakota

Dear Mr. Noll:

A copy of the Willow Creek water right application from the City of Aberdeen is enclosed as you requested during your recent visit. This right was cancelled in 1947 because of the failure of Willow Creek dam in 1943.

Also enclosed are application forms and instructions for reapplication for the Willow Creek water right. Request for Permit to Appropriate water and other water right application procedures will be those by which new water rights are acquired.

Application forms and instructions are enclosed for establishing a record of Aberdeen's vested right to store and use water in Elm Lake. This request should follow completion of the City's agreement with the Department of Game, Fish and Parks so that you may specify in the application the amount of water storage space claimed by Aberdeen as a vested right. It will be helpful if a copy of the City's agreement with the Department of Game, Fish and Parks is attached to your application.

As I stated during our visit, I will be pleased to help if you consider it desirable.

Sincerely,

J. W. Grimes
Chief Engineer

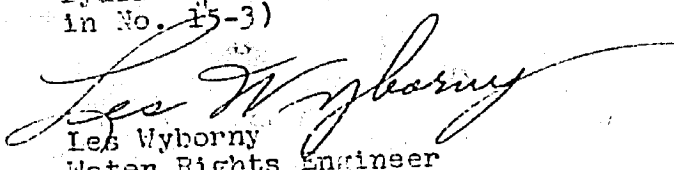
JWG:ls
Enc's.

14-3
15-3
500-3

This Application No. 500-3, is submitted by the City of Aberdeen for a permit to rehabilitate the existing Willow Creek dam and reservoir.

A previous Application No. 14-3, was submitted on October 4, 1933, was approved on November 29, 1933 and Permit No. 14-3 was issued on December 14, 1933 by Chas. S. Trimmer, then State Engineer, referring also to this same structure.

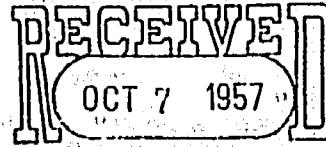
Permit No. 14-3 was cancelled because of non-use of the water for 3 years and the applicant was notified May 26, 1947. (See letter dated May 26, 1947 from Dean W. Loucks, then State Engineer, to Lydia W. Kohnhoff, City Auditor, City of Aberdeen which is filed in No. 15-3)


Les Wyborny
Water Rights Engineer
October 11, 1957

CITY OF ABERDEEN
SOUTH DAKOTA

OFFICE OF
CITY ATTORNEY

October 4, 1957



STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Mr. J. W. Grimes, Chief Engineer
State Water Resources Commission
Pierre, South Dakota

Dear Mr. Grimes:

I am enclosing herewith application of the City of Aberdeen for a renewal of their water rights for the Willow Creek Dam which is now being repaired. I, as usual, found it rather difficult to fit my application to your blanks, but did the best I could and by reference to the old application and incorporating it as a part, I possibly get under the wire. If there is any other information desired, of course we will be more than glad to furnish it. I also am enclosing city warrant in the sum of Five Dollars (\$5.00), examination fee as provided by the rules, and a voucher. The city's bookkeeping system requires this voucher, and I wish that you would sign and return either to me or the City Auditor.

Within a short time I will prepare an agreement for submission to the State Game Fish and Parks Commission relative to the use of water from Elm Lake, and when I do I will let you know, and when this matter is up before the State Game, Fish and Parks Commission I would appreciate you appearing before the Commission, if convenient, and advise them as to just what we are attempting to do.

The City certainly appreciates the help and cooperation we have received from your office. Thanks very much.

Yours truly,

F. W. Koll
City Attorney

FWN:mb