

Considered: _____

WATER PERMIT NO. 5048-3

MAP No. Same

Name of Applicant S. D. Dept. Game, Fish & Parks

Post Office Address 445 E Capitol Pierre, S.D.

Amount of Water Claimed 380 acre feet/year Total Acres _____

Source of Water Supply Unnamed Creek (Mud Lake)

Water to be used for REC County Roberts

About 7 miles NW of Wilmont

PROOF OF PUBLICATION: Received ~~11-1-85~~ 11-1-85 Not Received _____

APPLICATION: Approved 12-4-86 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 1-22-85 Fee N.A. Remarks W.R. Staff

1942 investigated 3-27-85

Corrected Application Received _____ Period of Annual Use Jan. 1 to Dec. 31

WATER QUALITY APPROVAL RECEIVED N/A APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point sec. 10 T123N-R50W

Land to be Irrigated _____

Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map USGS Topo PREPARED BY Ron Koth Reviewed and the Number

assigned on 2-22-85 By R.C. Larson

No. 5048-3 Hydrologic Unit 07020001
 Map No. same Basin Minnesota Whetstone
 Newspaper Sisseton Courier Box 169 (Thurs)

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☒
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☐ Vested Right ☒ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant S.D. Department of Game, Fish and Parks Phone No. 773-3387Post Office Address 445 E. Capitol Pierre, SD State 57501
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s.) 380 acre feet annually (see attached amendment)3. Source of water supply unnamed creek in partially closed basin4. Location of point of diversion Mud Lake T123N, R50W, Sec 10_____ County Roberts5. Counties where water will be used Roberts6. Annual period during which water is to be used 01-01 through 12-31 annually

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Water is required to maintain recreational and waterfowl uses of area that is
 owned by Game, Fish and Parks.

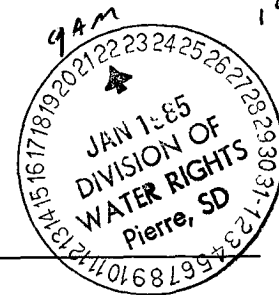
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map
 (see instruction)

STATE OF SOUTH DAKOTA)
 County of Hughes)^{ss}

I, South Dakota Department of Game, Fish and Parks the applicant, certify that I have read
 the foregoing application, 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 Forrest M. Koth Resource Staff SpecialistSubscribed and sworn to before me this 21st day of January 1985Charles E. Keeler

Notary Public (or other qualified officer)



WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. _____

(Applicant)

(Post Office Address)

(State)

(Zip Code)

With the following qualifications.

See Form VR-2

Date of first receipt of application _____, 19____.

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

Date of receipt of corrected application _____, 19____. Approved _____, 19____.

The Water Management Board hereby approves this Water Permit No. _____ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19____.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is _____, 19____.
5. The water appropriated shall be used for the purpose of _____

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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed _____ cubic feet per second; 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 to which water is actually and beneficially applied for _____ on or before _____, 19____; said water to be used during the following described annual period: _____

WATER MANAGEMENT BOARD

By: _____

Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

_____, 19____

WILMOT QUADRANGLE
304 - SOUTH DAKOTA
151 - MINNESOTA

FEET

LINE 2 (Cont'd)

WILMOT QUAD. - 304 S.D. - 151 MINN.

- 4 36 19.2 UE 53 C, 2.0 mi N. of tablet, 23 ft N., 30 ft E. and 0.7 ft higher than rd. W. at offset crossroads, at W. side of a power pole the head of a RR. spike driven in an angle, painted "53 C" 1197.11
- 37 20.3 Reference mark, 160 ft SSW. of BM, 21 ft S., 32 ft W. of crossroads, on S. end of a 24-in. steel corrugated culvert and "X" cut with a hacksaw 1178.72
- 38 20.3 Wilmot, 6.0 mi N., 1.0 mi W. of; 3.0 mi S., 3.8 mi E. of Peever, T. 123 and 124 N., R. 50 W.; near cor. secs. 1, 2, 35 and 36, 134 ft N., 21 ft E. and 5.8 ft lower than crossroads, 99 ft N., 1.0 ft W. of a fence cor., 1.0 ft S. of a witness post, on a copper coated steel rod, a standard tablet, stamped "54 KEE 1970" 1173.412
- 39 20.9 UE 54 A, 0.7 mi W. of tablet, 36 ft N. and 6.0 ft W. and 1.4 ft higher than rd. at fence N., 8 ft S. of a fence at N. side of a power pole the head of a RR. spike, painted "54 A" 1203.25
- 41 21.0 UE 54 B, Wilmot NW. Flt No. 1 - Photo 3-523 A 1, rd. at fence N. 1198.5
- 41 21.3 UE 54 C, 1.1 mi W. of tablet centerline of T-rd. N., not painted 1198.622
- 42 22.0 UE 54 D, 1.8 mi W. of tablet, centerline of T-rd. N., about 3 ft of gravel is being applied to surface this data, not painted 1209.0
- 43 22.3 UE 54 E, Wilmot NW. Flt. No. 1 3-522 "A", rd. at crest 1201.0
- 44 22.7 UE 54 F, 2.5 mi W. of tablet, 0.6 mi E. of 55 KEE 1970, 11 ft N., 61 ft W. and 1.4 ft lower than a RR. crossing, on NE. wingwall of a small bridge, a chiseled square 1177.46
- 45 23.0 UE 54 G, 0.5 mi E. of 55 KEE 1970, centerline of crossroads, not painted 1188.2
- 46 23.2 Reference mark, 140 ft SE. of tablet, on a very large projecting rock by itself a chiseled square; painted "RM" 1206.74
- * 47 23.2 Peever, 3.0 mi S., 0.8 mi E. of, T. 124 N., R. 50 W., near E. sixteenth cor. of secs. 20 and 29; 2.0 ft W. and 52.0 ft S. and 4.8 ft higher than rd. at fence S., 2.0 ft SW. of a fence cor., 1.0 ft W. of a witness post on a copper-coated steel rod a standard tablet stamped "55 KEE 1970" 1210.883
- 49 24.0 UE 55 B, 0.9 mi W. of tablet, 90 ft N., 38 ft E. and 8.5 ft lower than T-rd. E., near center of E. headwall of a box culvert, a chiseled square 1215.98
- 51 25.1 UE 55 D, 1.9 mi W. of tablet, 230 ft S., 30 ft E. and 2.3 ft lower than T-rd. W., on E. end of on 48-in. steel corrugated culvert and "X" cut with a hacksaw; painted "55 D" 1269.82

SUMMIT QUAD. - 305

- 54 26.2 UE 42 A (Described in Line 1) 1325.45

LINE 3

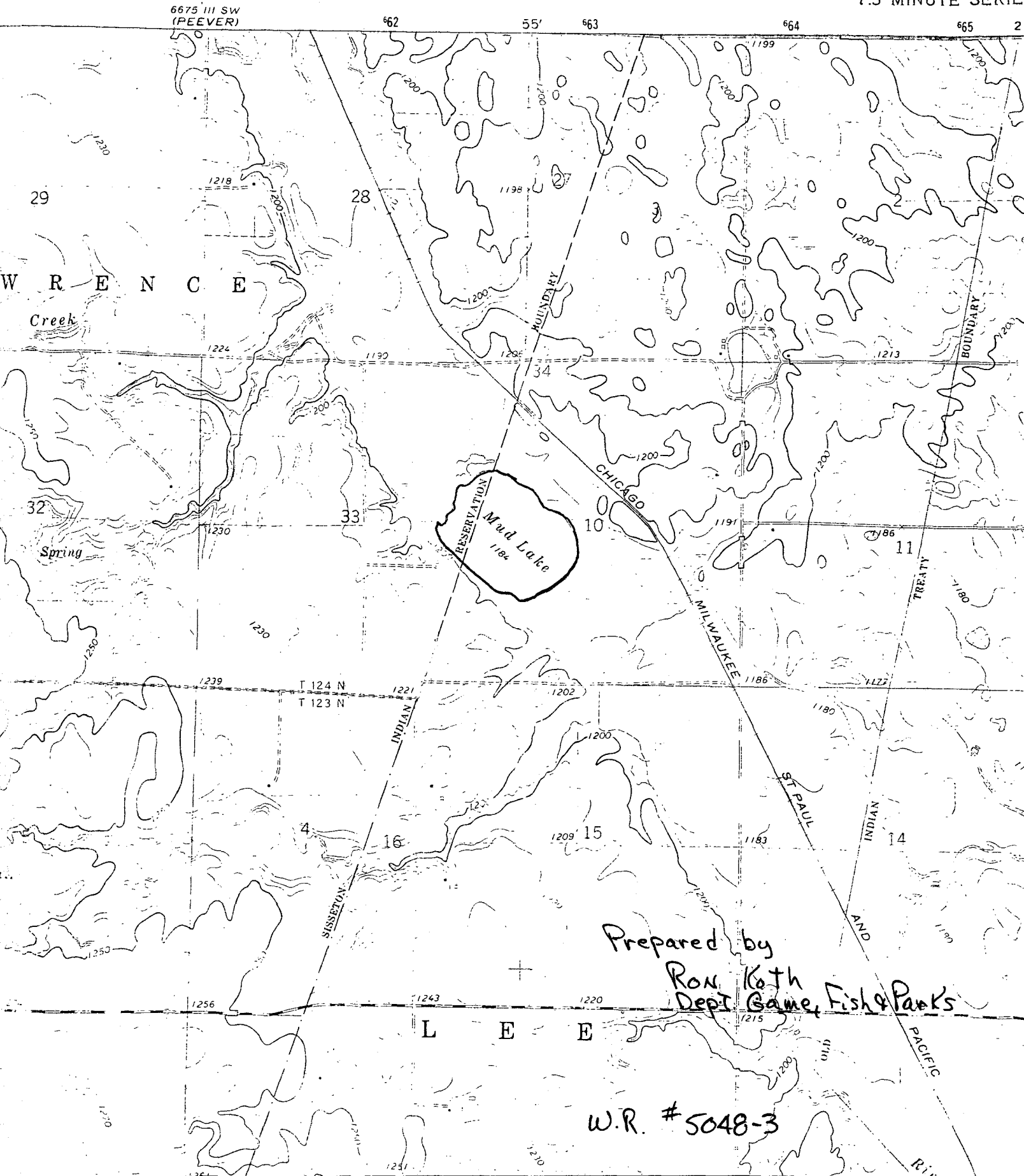
R.C. Gideon, 1970; Book CV-2608

WILMOT QUAD. - 304 S.D. - 151 MINN.

- 1 34 0.0 3.5 mi NW. along the Chicago, Milwaukee, St. Paul & Pacific RR. from Marvin, Grant County, at bridge 0312, 3 ft E. of the NW. cor., and 5.5 ft N. of the centerline of the N. track. A standard USC&GS disk, stamped "1818.677 D 19 1931" and set in the top of a concrete post. 1818.678

- 4 20 9.6 UE 50 B, 1.1 mi N. of tablet, centerline of rd. at fence E., not painted 1289.2
- 21 10.1 UE 50 C, 1.5 mi N. of tablet, 32 ft S., 20 ft W. and 1.8 ft lower than crossroads, 2.0 ft NE. of SW. end of a 36-in. steel corrugated culvert, the top of rivet in center of the culvert, a painted "50 C" 1276.65
- 22 11.1 Marvin, 7.5 mi N., 1.3 mi E. of, 3.0 mi S., 1.0 mi W. of Wilmot, T. 122 N., R. 50 W., near cor. secs. 12, 13, 23 and 24; 303 ft S., 27 ft W. of crossroads; 16 ft N. of second pole S., of crossroads; 2.0 ft E. of a fence, 0.5 ft N. of a witness post, on a copper coated steel rod, a standard tablet stamped "51 KEE 1970" 1269.037
- 23 11.1 Reference mark, 330 ft NE. of tablet, 15 ft N., 27 ft E. and 4.3 ft lower than crossroads, on N. end of a 14-in. steel corrugated culvert, a punched hole, painted, "RM" 1263.99
- 24 11.6 UE 51 A, 0.5 mi N. of tablet, 14 ft W. and 1.4 ft higher than rd. at drain near center of W. railing of a concrete box culvert, a chiseled square; painted "51 A" 1242.52
- 25 12.2 UE 51 B, 1.0 mi N. of tablet, 212 ft N., 53 ft W. and 0.3 ft lower than crossroads, 5.0 ft N. of SE. cor. of concrete porch at E. entrance to an abandoned school; a chiseled square; painted "51 B" 1250.71
- 26 13.1 UE 51 C, 2.0 mi N. of tablet, 34 ft S., 18 ft E. and 4.6 ft lower than crossroads, on E. end of a 24-in. steel corrugated culvert, a painted square 1234.11
- 27 13.8 UE 51 D, 2.7 mi N. of tablet, 0.4 mi S. of 52 KEE 1970; 16 ft N., 14 ft W. and 1.1 ft lower than centerline of a small wooden bridge, on top of most north westerly pole piling, a copper nail and washer; painted "51 D" 1198.11
- 29 14.2 Wilmot, 1.0 mi W. of, T. 122 and 123 N., R. 50 W., near cor. secs. 1, 2, 35 and 36, 15 ft N., 220 ft W. and 1.2 ft higher than crossroads, set in E. end of N. curbing of a concrete bridge on State Hwy. 15, a standard tablet stamped "52 KEE 1970" 1201.517
- 30 15.2 UE 52 A, 1.0 mi N. of tablet, 34 ft N., 33 ft E. and 0.9 ft lower than crossroads, at W. side of a power pole, the head of a RR. spike; painted "52 A" 1215.55
- 31 16.2 UE 52 B, 2.0 mi N. of tablet, centerline of crossroads, 25 ft SE. of NW. end of a wooden bridge, in wooden floor a copper nail and washer; painted "52 B" 1170.20
- 32 17.2 Reference mark, 300 ft S. 30 ft W. of tablet, 30 ft S., 69 ft W. of entrance to abandoned school, 32 ft E. of porch at entrance to school on N. side of concrete base of a flag pole, a chiseled square; painted "RM" 1178.47
- 33 17.2 Wilmot, 3.0 mi N., 1.0 mi W. of; T. 123 N., R. 50 W., cor. secs. 13, 14, 23 and 24, 54 ft N., 39 ft W. and 2.9 ft lower than crossroads, 3 ft N., 5 ft W. of a fence cor., on a copper coated steel rod, a standard tablet stamped "53 KEE 1970" 1178.366
- 34 17.8 UE 53 A, 0.6 mi N. of tablet, centerline of a small nail and washer, not painted 1173.15
- 35 18.7 UE 53 B, 1.5 mi N. of tablet, 20 ft N., 31 ft W. and 0.4 ft lower than crossroads; at E. side of a telephone pole, the head of a RR. spike; painted "53 B" (spike is slanted) 1189.11

WILMOT NW
SOUTH DAKOTA
7.5 MINUTE SERIES



Memorandum

TO: File

From: Del Brosz

Date: April 1, 1985

Re: Investigation of Vested Right Application on
Mud Lake

on March 27, 1985 Greg Powell and I investigated Mud Lake located in sections 10 & 33, T123N, R50W, of Roberts County.

The investigation of the Lake included surveying the water surface and outlet elevations, identifying landowners and determining the water surface area of the Lake.

The area of Mud Lake as outlined on the map submitted with the application is approximately 70 acres. None of the slough area around the Lake was included in the outlined area of the map. Game, Fish & Parks owns most of the outlined Lake area. Henry Alexis and the Alexis Est. own a portion of the Lake on the northwest side. This portion is inside the Sisseton Indian Reservation Boundary.

The water surface elevation was measured at an elevation of 1189.6 msl and the bottom of the outlet channel at 1183.4. These measurements were made at the railroad bridge crossing Snake Creek in the SE⁴ of Section 10.

Water was observed to be flowing from the Slough-Lake into the creek.

Game, Fish & Parks has applied for 380 acre feet of water annually. This would be equal to 5.4 acre feet per acre. This seems high. GF&P should revise the application by increasing the area applied for by including the slough area or decreasing the amount of water claimed annually.

Game, Fish & Parks should be required to supply letters of agreement from private landowners that will be affected by the water right. Those lands on which GF&P is applying for the Vested Right.

Game, Fish & Parks purchased mud Lake in 1960 and 1978. This is after the March 2, 1955 date that applies to a Vested Right. GF&P should submit affidavits showing that the area was in the same condition prior to March 2, 1955 as it is now.

Survey Field Notes

Mud Lake

3/27/85

Mud Lake.

Sta	BS	HI	FS	Elev
Bm	4.96	1183.33		1178.37
TP ₁	9.46	1183.62	9.17	1174.16
TP ₂	3.72	^{1181.36} 1181.36	5.98	1177.64
TP ₃	5.14	81.31	5.19	76.17
TP ₄	3.93	80.28	4.96	76.35
TP ₅	2.69	79.45	3.52	76.76
TP ₆	3.48	79.40	3.53	75.92
TP ₇	3.81	80.17	3.04	76.36
TP ₈	3.85	81.46	2.56	77.61
TP ₉	3.82	81.82	3.46	78.00
TP ₁₀	4.24	83.48	2.58	79.24

Date	Weather	Party
3/27/85	Ptly Cldy	D. Brose - Rod. G. Powell - Instrument

BM - Brass Cap - ^{SE} corner of section 14, T123N, R50W
"53. NEE 1970"

- Top of culvert

Sta	BS	HI	FS	Elev
TP ₁₁	4.25	1185.03	2.70	1180.78
TP ₁₂	5.67	88.93	1.77	83.26
TP ₁₃	4.25	90.29	2.89	86.04
TP ₁₄	4.82	92.07	3.04	87.25
TP ₁₅	4.40	94.56	1.91	90.16
9.99 GP			9.99	84.57
11.19 GP			11.19	83.37
TP ₁₆	1.92	91.88	4.40	90.16
TP ₁₇	1.15	87.19	5.84	86.04
TP ₁₈	2.40	83.18	6.41	80.78
TP ₁₉	3.17	81.17	5.18	78.00
TP ₂₀	2.80	79.16	4.81	76.36

- RR spike SE wingwall of bridge across snake creek in the SE² section 10, T123N, R50W
- Water surface elevation
- Elevation of bottom of outlet slough

Sta	BS	HI	FS	Elev
TP ₂₁	2.59	79.35	2.40	76.76
TP ₂₂	4.74	81.42	2.67	76.68
	3.27	81.74	2.95	78.47
			3.38	78.36

BM- "53 KEE 1970"

April 23, 1985

MEMO TO: Ron Koth
Department of Game, Fish & Parks

FROM: John Hatch, Chief Engineer
Division of Water Rights



SUBJECT: Vested Right Applications for Renziehausen Slough, Black Slough, (Mud Lake) and Blythe Slough

Del Brosz and Greg Powell, Water Rights Division Engineers, have reviewed and completed field investigations of the above four Vested Right applications. Before the applications are presented to the Water Management Board, I believe the following changes are necessary:

A. Renziehausen Slough:

1. The Board cannot recognize this application in its present form as a Vested Right. The completion of a waterfowl production enhancement project involving a system of control gates, pumps and dikes would exceed the original Vested Right. Approval of a new application would be necessary to complete these changes. Vested Rights are defined in SDCL 46-1-8.
2. If the enhancement project is eliminated, this application can be recognized as a Vested Right provided:
 - a. The Vested Right recognition is limited to water on land owned by the Department of Game, Fish & Parks. If private land is to be included, letters of agreement or easements from the landowner(s) must accompany the application.
 - b. Evidence is provided that the water has been used consistently for the beneficial use for which the vested right is being claimed.
 - c. A date that water was first applied to beneficial use must be included on the Affidavit of Water Use. This should be supported by the documentation in b.

- d. The annual amount of water claimed will be limited to the amount necessary to fill the slough to the elevation of the outlet. The outlet elevation of the slough will be set at 1283.0 ft msl.

B. Black Slough:

1. The Board can not recognize this application as a Vested Right. Mr. Brosz and Mr. Powell visited with Mr. Harvey Binger, Wildlife Conservation Officer, on March 26, 1985. Mr. Binger stated that Ducks Unlimited was planning to construct a control structure at the outlet of the slough. This control structure would raise the water level in the slough making the slough suitable for waterfowl production. Mr. Binger stated that the slough was useless at the present time. Engineers were at the site on March 26, 1985 conducting engineering surveys for Ducks Unlimited. The Department of Game, Fish & Parks should submit a Water Permit application for the Ducks Unlimited project.

C. Mud Lake:

1. This application can be recognized as a Vested Right provided:
 - a. Letters of agreement or easements are included with the application from private landowner(s) whose land will be covered by water claimed by the Vested Right.
 - b. Evidence is provided that the water has been used consistently for the beneficial use for which the vested right is being claimed.
 - c. A date that water was first applied to beneficial use must be included on the Affidavit of Water Use. This should be supported by the documentation in b.
 - d. The application indicates if the Vested Right is to be limited to Mud Lake or if the surrounding slough is to be included? The surface area of Mud Lake is 70 acres. The annual amount of Water claimed should be limited to the amount necessary to fill the lake and, if included, the slough area to the elevation of the outlet. The outlet elevation will be set at 1184.0 msl.

D. Blythe Slough

1. This application can be recognized as a Vested Right, provided:
 - a. Additional documentation is included showing that the slough was used for wildlife and recreational purposes prior to March 2, 1955.
 - b. A date that water was first applied to beneficial use must be included on the Affidavit of Water Use. This should be supported by the documentation in a.

- c. Since Blythe Slough is a closed basin without an outlet that is used, the annual amount of water will be limited to the normal water surface elevation of slough. The elevation is to be provided by GF&P on the application.

It will also be necessary to provide a map for each application that shows the area being applied for.

cc: Dan Doyle, Assistant Attorney General

C41601KS.WR

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF ROBERTS)

AFFIDAVIT

MARLOWE R. UREIM, being first duly sworn
on oath, deposes and states as follows:

1. That he has resided in ROBERTS County,
South Dakota, for 48 years, and that he is thoroughly familiar
with the area commonly known as MUD LAKE, and being
more particularly described as follows:

GOVT LOTS 2 AND 3 AND THE NE 1/4 OF THE SW 1/4 OF SECTION 10,
TOWNSHIP 123 NORTH AND RANGE 50 WEST AND THE NW 1/4 OF
THE SE 1/4 OF SECTION 10, TOWNSHIP 123 NORTH AND RANGE 50 WEST.

2. That his knowledge and familiarity with the area has
been acquired by virtue of the fact that he has, for the last 48
years, resided within 1 miles of said described land, and that
he has personal knowledge of the use to which the land was put, at
all times from January 1, ¹⁹⁴²~~1955~~, to the present; he was further
acquainted with VERNE SMITH, who was owner of ^{PART OF} the
above-described property prior to 20 JULY 1960.

3. The undersigned hereby states, from his personal
knowledge, that the above-described land area is now, and was, at
all times from before January 1, ¹⁹⁴²~~1955~~, and continuing to the
present, a natural wetland area beneficial to wildlife and public
recreation, and the area has now, and always has had, from before

January 1, ¹⁹⁴²~~1955~~, and continuing to the present, intrinsic use as a
wildlife production area, and all of said uses have continued
uninterrupted from before January 1, ¹⁹⁴²~~1955~~, to the date of this
Affidavit.

Dated this 8th day of May, 1985.

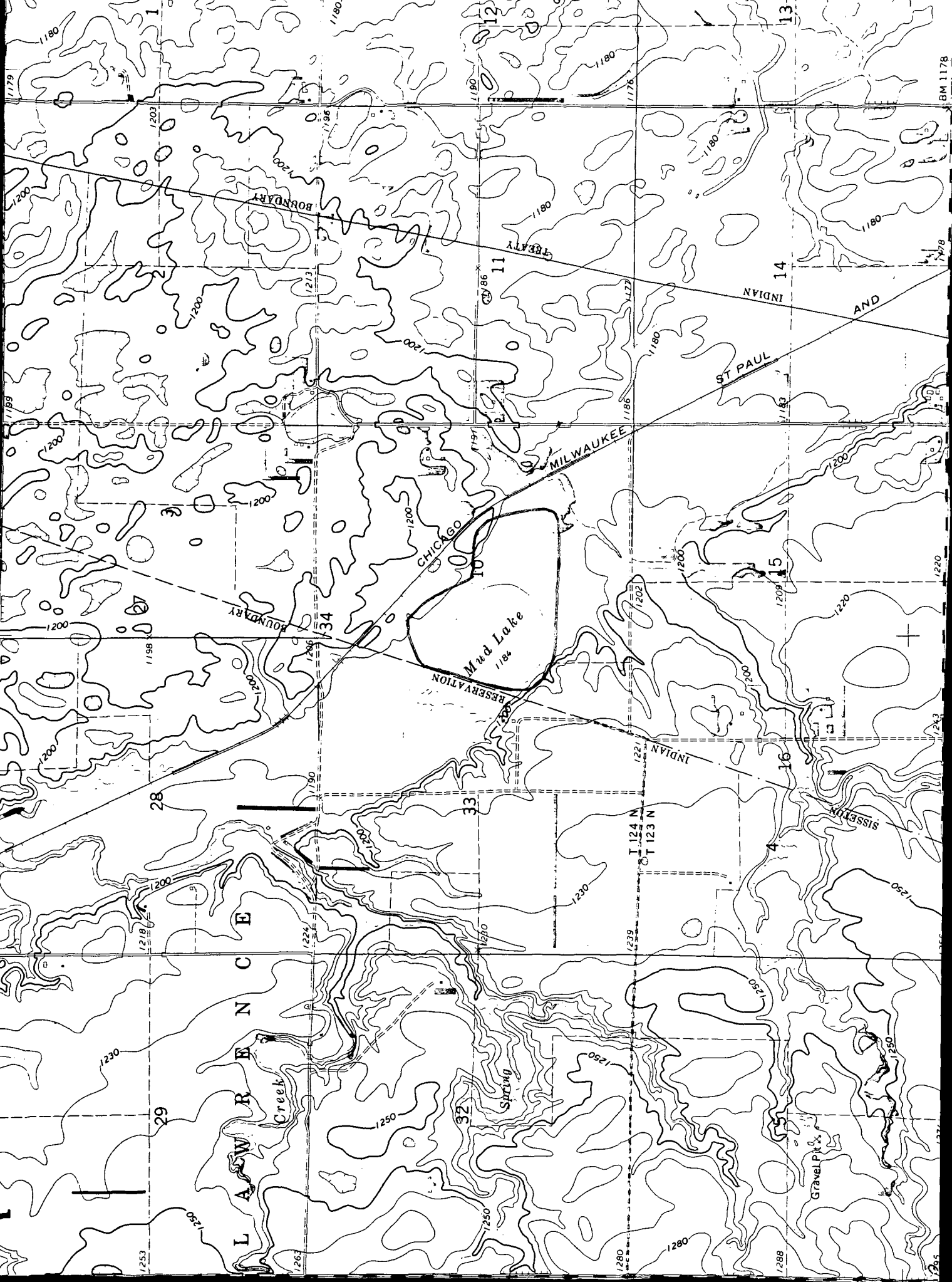
Markus R. Vessin
Affiant

Subscribed and sworn to before me, a notary public, this 8th
day of May, 1985.

Malgorzata Lindahl
Notary Public, South Dakota

My Commission expires: March 30, 1988

SEAL



**South Dakota
Department of
Game, Fish and Parks**

**Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381**

September 19, 1985



MEMO TO: Mr. John Hatch
Chief Engineer
Division of Water Rights

FROM: Ron Koth
Water Permits Coordinator



SUBJECT: Vested Water Right Applications

Following recognition of vested water rights on Black Slough, Marshall County, using the ad hoc protocol established by Board of Water Management and your staff, the Department of Game, Fish and Parks would request that the same protocol be used for recognition of vested water rights on the following areas.

1. Renziehausen Slough, Brown County
2. Blythe Slough, Codington County
3. Mud Lake, Roberts County

Vested water right applications for these three areas were previously submitted (17 December 1984 and 21 January 1985) and amended by my May 7 and 14, 1985 memos to you. It is my understanding that field inspections have been conducted so the only remaining procedure is to publicly notice the recognition and to bring them before the Board of Water Management.

If you have any questions please contact me at 773-5511.

RK/ld

**South Dakota
Department of
Game, Fish and Parks**

Division of Administration

Sigurd Anderson Building

445 East Capitol

Pierre, South Dakota 57501

MEMORANDUM



TO: John Hatch, Chief Engineer

FROM: Ron Koth
Water Permits Coordinator

May 7, 1985

SUBJECT: Vested Water Right Applications

As per your memo of April 23, 1985, vested water right applications submitted for the following wetland areas: Renziehausen Slough (Sec 25 & 26, T127N, R60W), Black Slough (Sec 3 & 4, T126N, R56W), and Blythe Slough (Sec 27 & 28, T117N, R55W) contained verbage in section seven of page one, that would make them ineligible for vested water rights. This verbage was originally inserted as descriptive information on what could potentially occur on these sloughs if they were selected as development areas by Ducks Unlimited.

To date, no project plans have been finalized on any of the above wetland areas but the Department of Game, Fish and Parks does want to acquire vested water rights to maintain the present use of the areas, regardless of any potential development plans.

Please amend the three above mentioned applications (Sec. 7) to the following, "Water will be used in place for wildlife and public recreational purposes." We understand that if a slough is selected for a development project that will alter or control water levels or transport through the slough(s), a new water right application will need to be filed to reflect the project and its works.

The additional documentation and maps of these areas will be provided as soon as possible, hopefully by May 13, 1985 at the latest, so your staff will have the opportunity for review prior to the May Board of Water Management meeting.

RK/ld

cc: Gay Simpson, GF&P

**South Dakota
Department of
Game, Fish and Parks**

Division of Administration

Sigurd Anderson Building

445 East Capitol

Pierre, South Dakota 57501

May 14, 1985

MEMO TO: John Hatch, Chief Engineer
Water Rights

FROM: Ron Koth, Water Permits Coordinator
Game, Fish and Parks

Ron Koth

SUBJECT: Vested Water Right Applications



Please find attached the documentation and/or changes needed for vested water right applications on Renziehausen Slough, Black Slough, Blythe Slough, and Mud Lake in addition to the previously requested amendment found in my May 7, 1985 memo to you.

Renziehausen Slough:

- (1) Water and wetland areas in Renziehausen Slough have probably been in that condition since at least 1935 when the Department of Game, Fish and Parks purchased the first wetland parcel. Water and wetland purchases were made from 1935-1947 from several private owners. The remainder of land owned by GF&P is upland and was purchased from other public and private owners from 1955-1963. Since water areas were purchased prior to 1955 and have been continually managed by GF&P for wildlife and recreational purposes, vested water rights should be applicable. Please use 1935 as the date that water was first applied to beneficial use.
- (2) The attached map supercedes the previously submitted map. The outlined lands reflect the outlet elevation of 1283.0 msl as set by your staff. All lands within the outlined area are owned by the Department of Game, Fish and Parks.

Black Slough:

- (1) The attached affidavit should fulfill the continuity of use requirement that water and wetland areas in Black Slough have been used since at least 1946 to the present for the same purposes. Please use 1946 as the date that water was first applied to beneficial use in lieu of other documentation.
- (2) The attached map supercedes the previously submitted map. The outlined lands on the attached map reflect the outlet elevation of

1769.65 msl as surveyed by your staff on 3-27-85. All lands within the outlined area are owned by the Department of Game, Fish and Parks.

- (3) As a result of using 1769.65 msl as the outlet elevation the amount of water claimed on the vested right application should be 315 acre feet annually, rather than 500 acre feet annually.

Mud Lake:

- (1) The attached affidavit should fulfill the continuity of use requirement that water and wetland areas in Mud Lake have been used since at least 1942 to the present for the same purposes. Please use 1942 as the date that water was first applied to beneficial use in lieu of other documentation.
- (2) The attached map supercedes the previously submitted map. The outlined maps on the attached map reflect the outlet elevation of 1184.0 msl as recommended in your 4-23-85 memo. All lands within the outlined area are owned by the Department of Game, Fish and Parks.
- (3) As a result of using the 1184.0 msl outlet elevation the amount of water claimed on the vested right application should be 310 acre feet annually rather than 380 acre feet annually.

Blythe Slough:

- (1) The attached affidavit should fulfill the continuity of use requirement that water and wetland areas in Blythe Slough have been used for the same purposes from 1944 to the present. Please use 1944 as the date that water was first applied to beneficial use in lieu of other documentation.
- (2) The attached map supercedes the previously submitted map. The lands outlined on the attached map reflect an outlet elevation of 1713.0 msl as recommended by Greg Powell of your staff. All lands within the outlined area are owned by the Department of Game, Fish and Parks.
- (3) As a result of using 1713.0 msl as the normal elevation of the slough, the amount of water claimed on the vested water right application should be 570 acre feet annually, rather than 600 acre feet annually.

Thank you for your assistance in quantifying these vested water rights.

RK/ld

Attch:

REPORT ON VESTED RIGHT APPLICATIONS
RENZIEHAUSEN SLOUGH, BLACK SLOUGH, MUD LAKE, BLYTHE SLOUGH
SUBMITTED BY GAME, FISH & PARKS

May 14, 1985

These applications are for vested water rights for wildlife and public recreational purposes.

Renziehausen Slough, Application No. 5051-3, requests a vested water right on approximately 398 surface acres located in portions of Sections 25, 26, 35 and 36 all of T127N, R60W. The application requests water to the outlet elevation of 1283.0 feet msl. as surveyed by Del Brosz and Greg Powell of the Division of Water Rights. The priority date for which this application may be approved is 1935, as evidenced by land purchases and an affidavit.

Black Slough, Application No. 5050-3, requests a vested water right on approximately 103 surface acres located in portions of Section 33 and 34 of T127N, R56W and Sections 3 and 4 of T126N, R56W. The application requests water to the outlet elevation of 1769.65 feet msl as surveyed by Del Brosz and Greg Powell. The priority date for which this application may be approved is 1946, as evidenced by an affidavit signed by Godtfred Damgaard.

Mud Lake, Application No. 5048-3, requests a vested water right on approximately 119 surface acres located in portions of Section 10, T123N, R50W. The application requests water to the elevation of 1184.0 feet msl. as surveyed by Del Brosz and Greg Powell. The priority date for which this application may be approved is 1942 as evidenced by an affidavit signed by Marlowe Vriem.

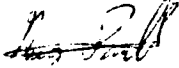
Blythe Slough, Application No. 5049-3, requests a vested water right an approximately 362 acres located in Sections 27 and 28 of T117N, R55W. The application requests water to the elevation of 1713.0 feet msl. as identified on a U.S.G.S. topographic map. The priority date for which this application may be approved is 1944 as evidenced by an affidavit signed by Bruce Florey.

These vested right applications are for a one-time-fill to the respective identified elevations. The applications are being submitted with the proposed modifications by Ducks Unlimited being deleted by Game, Fish and Parks.

Conclusions

1. The Water Rights Staff believes that a substantiated claim does exist for a vested water right.
2. The documentation for the applications shows that Slough Areas have been used for wildlife and public recreation purposes dating from 1935 for Renziehausen Slough, 1946 for Black Slough, 1942 for Mud Lake, and 1944 for Blythe Slough. The present conditions of the slough areas have existed since prior to 1955 and therefore will not alter, change, or adversely affect existing water rights.

3. Recommendation: The applications should be recognized as vested rights at the elevations and acreages surveyed by the Water Right Staff with a qualification that any alteration of present conditions proposed will require approval by the Water Management Board.



GREG POWELL

Natural Resources Engineer

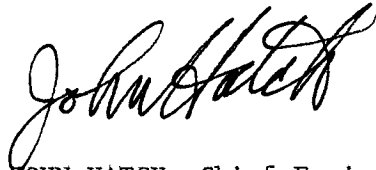
RECOMMENDATION OF CHIEF ENGINEER

FOR APPLICATION NO. 5048-3 FOR RECOGNITION OF A VESTED RIGHT CLAIM

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Application No. 5048-3 for recognition of a Vested Right Claim for Mud Lake by the South Dakota Department of Game, Fish and Parks.

The Chief Engineer is recommending RECOGNITION of Application No. 5048-3 because 1) the water has been appropriated since 1942 for wildlife and public recreation purposes, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use of water and 4) in the public interest.

See the attached report for additional information.

A handwritten signature in black ink, appearing to read "John Hatch". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Hatch".

JOHN HATCH, Chief Engineer
October 9, 1985

No 5048-3

Instruction to Newspaper - Publish first publication of the following Notice on or before October 24, 1985 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No 5048-3 to ~~Appropriate Water~~ recognize and/or to Amend Water Permit or Water Right No. _____

a Vested Water Right Claim.

Notice is hereby given that S.D. Dept. of Game, Fish & Parks whose mailing address is 445 E. Capitol, Pierre, South Dakota has made an application for a permit

recognition of a vested water right claim on Mud Lake located in Section 10 T123N-R50W. The claim is for sufficient water to fill the lake annually to the outlet elevation 1184.0 feet msl. Total storage at elevation 1184.0 is approximately 310 acre feet.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends RECOGNITION of Vested Water Right Application No. 5048-3 because 1) Water has been appropriated since 1942 for wildlife and public recreation purposes, 2) the use has been developed without unlawful impairment of existing rights, 3) is a beneficial use of water, and 4) in the public interest.

Recognition of this

This application will be considered by the Water Management Board at Howard Johnson's Badlands Room, 2211 LaCrosse, Rapid City, S.D. on December 4 19 85 at ~~10:00 am~~ 9:30 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by November 22, 1984. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; (ground) ~~46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05~~

74:02:01:19 thru 74:02:01:22

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 22, 1985.

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) South Dakota Department of Game, Fish and Parks

Post Office Address 445 E. Capitol Pierre, South Dakota 57501
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____
Where Book Page

B. Date of start of construction of water supply system _____

C. Date that water was first applied to beneficial use _____

D. Name of owner of original water supply system _____

E. Amount of water originally applied to beneficial use 380 acre feetF. Present Use of Water - Amount of water now being used 380 acre feet

Date that this water was first used _____

G. Chronological History of Water Use

Mud Lake was purchased by Game, Fish and Parks from private owners in 1960 and 1978. The area has been in slough and marshland and has only been used for wildlife and recreational purposes.

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)

ss

County of Hughes)

I, South Dakota Department Game, Fish & Parks the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed RONALD M. KOPK Resource Staff SpecialistSubscribed and sworn to before me January 21, 1985, 19____Charles E. HeelerNotary 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.

_____, 19____
(Print name)_____, 19____
(Print name)

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County ROBERTS) ss.

I, JACK ADAMS hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the SISSETON COURIER

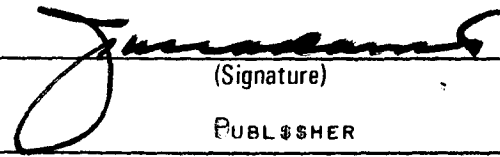
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

CITY of SISSETON

County of ROBERTS and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

OCT. 24, 1985

OCT. 31, 1985


(Signature)
PUBLISHER
(Title)
OCT. 31, 1985
(Date Signed)

Cost of Printing: \$42.61
97 LINES @ 24.4¢, 80% SECOND WEEK

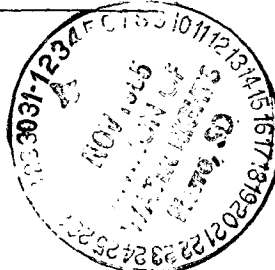
NOTICE OF HEARING
ON APPLICATION NO. 5048-3
TO RECOGNIZE A VESTED
WATER RIGHT CLAIM

Notice is hereby given that S.D.
Dept. of Game, Fish and Parks,
whose mailing address is 445 E.
Capitol, Pierre, South Dakota, has
made an application for recognition
of a vested water right claim on Mud
Lake, located in Section 10 T123N-
R50W. The claim is for sufficient
water to fill the lake annually to the
outlet elevation 1184.0 feet msl.
Total storage at elevation 1184.0 is
approximately 310 acre feet.

Pursuant to SDCL 46-2A-2 the
Chief Engineer of the Water Rights
Division recommends
RECOGNITION of Vested Water
Right Application No. 5048-3 because
1) water has been appropriated
since 1942 for wildlife and public
recreation purposes, 2) the use has
been developed without unlawful
impairment of existing rights, 3) is a
beneficial use of water, and 4) in the
public interest.

Recognition of this application
will be considered by the Water
Management Board at Howard
Johnson's Badlands Room, 211
LaCrosse, Rapid City, SD on
December 4, 1985 at 9:30 a.m.

The recommendation of the Chief
Engineer is not final or binding upon
the Board and the Board is
authorized to make a determination
on this application after it reaches a
conclusion based upon facts
presented at the public hearing. Any
interested person who may be af-
fected by a Board decision and who
intends to participate in the hearing
before the Board and present
evidence or cross-examine wit-
nesses according to SDCL 1-26, must
file a written petition with BOTH the
Applicant and the Chief Engineer by
November 22, 1985. The petition may
be informal, but it must include a
statement describing the petitioner's
interest in the application, the
reason for the petitioner's opposition
to or support of the application, and
the signature and mailing address of
the petitioner or his legal counsel if
legal counsel is obtained. The ap-
plicant need not file a petition.



This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 23, 1985. (Oct. 24-31—2w)



Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

FEB 11 1986

Ronald M Koth, Resources Staff Specialist
SD Department of Game, Fish and Parks
Anderson Building
Pierre SD 57501

Dear Mr. Koth:

Enclosed are your Vested Right Permits and Water Licenses No. 5048-3, 5049-3 and 5051-3. The Water License is the final water right document completing your process of obtaining a vested water right.

As long as you use the water beneficially, as stated in the Water Licenses, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosures

State of South Dakota

VESTED Water License No. 5048-3

(1) SD Dept. of Game, Fish and Parks
of 445 E Capitol, Pierre, South Dakota

made Application No. 5048-3, January 22, 1985 for recognition of a vested right
for sufficient water to fill Mud Lake annually to the outlet elevation of 1184.0 ft msl
cubic feet per second of water from

Roberts County, South Dakota for recreation and wildlife purposes.

Vested Right
Permit No. 5048-3, with a priority date of 1942
recognized December 4, 1985 and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before and for the application to beneficial use of said
water on or before

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of
the construction of the water supply system and is entitled to divert cubic feet per second of water
for beneficial use. The location of the diversion point(s) is sufficient water annually to fill Mud
Lake, located in Section 10, T123N, R50W, to the outlet elevation 1184.0 ft. msl.

and

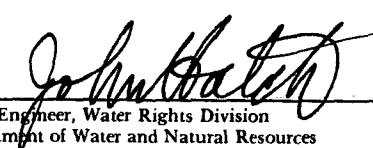
(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use ~~to the following extent,~~ this Vested Right claim is for sufficient water to fill Mud Lake annually to the outlet elevation of 1184.0 ft msl. Total storage at elevation 1184.0 msl is approximately 310 acre feet.

(4) Pursuant to §46-5-30.1 the SD Dept. of Game, Fish and Parks
of 445 E Capitol, Pierre SD

the holder(s) and/or owner(s) of ~~Water Permit~~ ^{Vested Right} No. 5048-3 is issued a license to appropriate water, the right to use for sufficient water to annually fill Mud Lake to the outlet elevation of 1184.0 ft msl
~~cubic feet per second of water from~~ with a priority date
of 1942
of _____ from the location specified in (2) of this license. The water to be
stored as
~~conducted to and upon lands~~ specified in (3) of this license for the purpose of recreation and wildlife use

This license is subject to any limitations or qualifications listed in ~~Water Permit~~ ^{Vested Right} No. 5048-3 and subject to South Dakota State Law.

This Water License No. 5048-3 is based upon a Vested Right Claim filed with the Water Management Board.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources

FEB 11 1986

VESTED WATER RIGHT

The Water Management Board hereby recognizes Vested Water Right No. 5048-3

SD Dept. of Game, Fish and Parks

445 E Capitol, Pierre

(applicant)

(post office address)

South Dakota 57501

(state)

(zip code)

Date of receipt of Application January 22, 19 85.

Recognized December 4, 19 85.

The Water Management Board hereby recognizes the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19 42.
2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.
3. The water appropriated is used for the purpose of recreation, wildlife.
4. The prior rights 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 unlawfully impaired by this appropriation.
5. The amount of appropriation hereby recognized shall not exceed the outlet elevation of 1184.0 ft msl ~~cubic feet per second of time; 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 to which water has been actually and beneficially applied for recreational & wildlife use. The water to be used during the following described period January 1 to December 31.
This Vested Right claim is for sufficient water to fill Mud Lake annually to the outlet elevation, 1184.0 ft. msl. Total storage at elevation 1184.0 msl is approximately 310 acre feet.

WATER MANAGEMENT BOARD

By: John H. Hatt

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

FEB 11 1986

, 19 85



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.

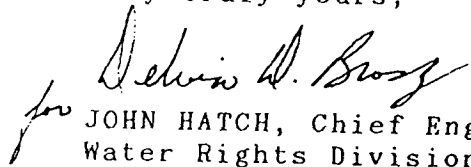


September 21, 1988
Richard Beringson, Secretary
Page 2

We will be working with your staff on these validations. We have already discussed 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,


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

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

SOUTH DAKOTA

VESTED WATER RIGHT NO. 5048-3

Date of Receipt of Claim January 22, 1985.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 5048-3 for the South Dakota Department of Game, Fish and Parks, 523 E. Capitol, Pierre, South Dakota 57501 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 5048-3 authorizes sufficient runoff water annually to fill Mud Lake to the outlet elevation of 1184.0 feet mean sea level (msl). Total storage at elevation 1184.0 feet msl. is approximately 310 acre feet. Mud Lake is located in Section 10, T123N, R50W in Roberts County.
2. The appropriated water is used for to fill Mud Lake and may not exceed the amount of water needed for beneficial use for recreational and wildlife purposes.

The water is to be used during the following annual period:
January 1 - December 31

3. The priority date of the Vested Water Right is: January 1, 1942
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

MAR 17 1993

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

MAR 17 1993

Tim Olson
Dept of Game, Fish and Parks
523 E Capitol
Pierre SD 57501

Dear Mr. Olson:

The Water Management Board has validated the enclosed Vested Water Right No. 5048-3. This validation gives legal status to the claim and is the final document for your vested right.

As long as you use the water beneficially, as stated in the validation, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure