

Considered: _____

WATER PERMIT NO. 5122-3

MAP No. same

Name of Applicant U.S. Fish and Wildlife Service

Post Office Address P.O. Box 25486, DFC, Denver CO 80225

Amount of Water Claimed 245 ac-ft Total Acres NA

Source of Water Supply runoff to slough area

Water to be used for Fish & Wildlife County Marshall

About 1 1/2 miles N of Lake City.

PROOF OF PUBLICATION: Received ☒ Not Received ☐

APPLICATION: Approved 5/6/87 Subject to _____

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

PRIORITY _____ Date Received 11/24/86 Fee 250⁰⁰ Remarks _____

4/7/87

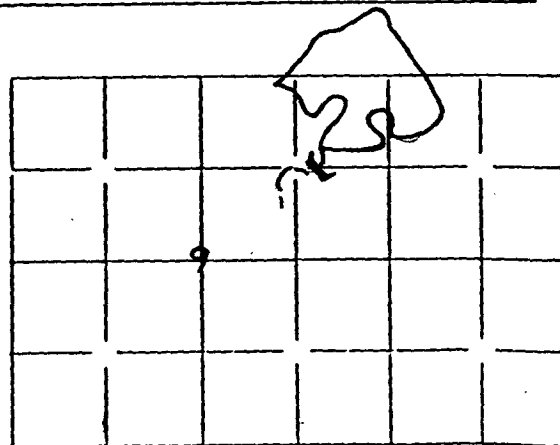
Corrected Application Received 12/29/86 Period of Annual Use Jan 1 - Dec 31

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

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

Diversion Point dam: near center of the
NE 1/4 section 9 - T126 N - R55W

Land to be Irrigated NA



Well Log: Driller NA Licensed YES ☐ NO ☐

Depth of Well _____ REMARKS _____

Type of Map Topo PREPARED BY Fish & Wildlife Service Reviewed and the Number
assigned on March 10, 1987 By Ron D. Swall

Mail to: Water Rights Div.
DWNR, Foss Bldg.
Pierre, SD 57501
(605) 773-3352

No. 5122-3 Hydrologic Unit 10160010
Map No. same Basin James River
Newspaper Britton Journal, Box 69 (Wed)

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 ☒ Fish and Wildlife

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

Change 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. _____

UNITED STATES OF AMERICA, Department of Interior,

1. Name of Applicant Fish and Wildlife Service Phone No. (303) 236-5322

Post Office Address P.O. Box 25486, Denver Federal Center, Denver, State CO 80225
(Street, RR or Box) Zip Code

2. Amount of water claimed (c.f.s.) Natural Flow 245 Acre-feet

3. Source of water supply Surface Runoff

4. Location of point of diversion DAM - SE1/4 NE1/4 Section 9, T.126N., R.55W.

Full supply level - 7835.6 feet mean sea level

_____ County Marshall

5. Counties where water will be used Marshall

6. Annual period during which water is to be used January 1, through December 31

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)

This project will be completed with refuge equipment and materials. No engineering design or plans are required. It is the intent of the Service to restore the wetland to its original capacity by placing a dam and stoplog structure in the existing ditch that drains the wetland basin.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction) Filing Map No. 6R-SD-562-WR-P-9.0

STATE OF COLORADO)
County of Jefferson)ss

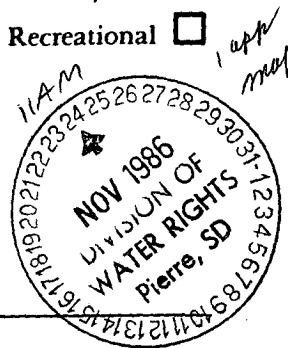
I, Danny M. Regan the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Danny M. Regan
Regional Director

Subscribed and sworn to before me this 18th day of November 19 86

Susan E. Craddock
Notary Public (or other qualified officer)

My Commission Expires 08/05/89



The Water Management Board hereby approves Water Permit Application No. 5122-3
U.S. Fish and Wildlife Service (Applicant) P.O. Box 25486, D.F.C. Denver (Post Office Address)
CO (State) 80225 (Zip Code) With the following qualifications.

The top of the spillway (outlet) elevation may not exceed 1836.5 msl.

Date of first receipt of application November 24, 1986.

Date of return to applicant for correction, amendments or changes required December 15, 1986.

Date of receipt of corrected application April 7, 1987. Approved May 6, 1987.

The Water Management Board hereby approves this Water Permit No. 5122-3 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 April 7, 1987.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before October 6, 1989.
3. The whole of said work is to be completed on or before May 6, 1992.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is May 6, 1996.
5. The water appropriated shall be used for the purpose of providing habitat for waterfowl and wildlife production.
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 245 ~~cubic feet per second~~ ^{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 to which water is actually and beneficially applied for waterfowl & wildlife production on or before May 6, 1996; said water to be used during the following described annual period: Jan 1 - Dec 31

WATER MANAGEMENT BOARD

By: John Bates
 Chief Engineer
 Division of Water Rights
 Dept of Water and Natural Resources
 JUL 17 1987
 _____, 19____

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth of Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

U.S. Fish and Wildlife Service
 Waubay National Wildlife Refuge
 R.R. 1, Box 79
 Waubay, SD 57273
 Phone (605) 947-4521

b) Freeboard _____ 2.7 feet

c) Crest Width _____ 10 feet

Crest Length _____ 100 feet

d) Height _____ 6.3 feet

e) Outlet Dimensions:
 Pipe diameter _____ 18" CMP

Spillway width _____ 20 feet

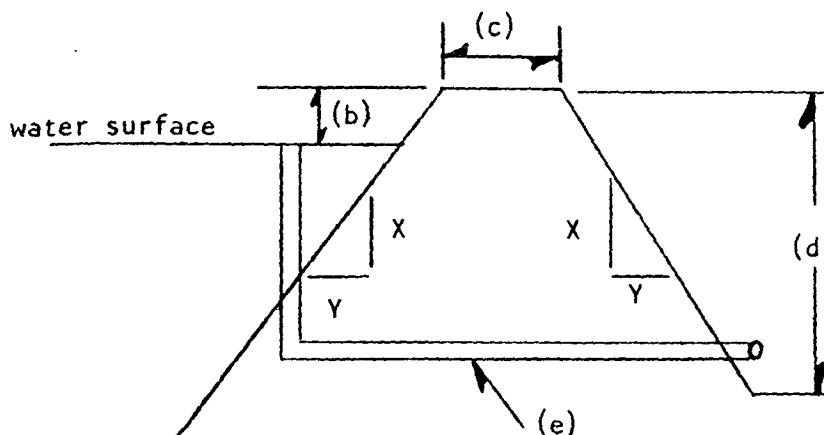
f) X & Y Slope
 Upstream _____ 1:2

Downstream _____ 1:2

Surface Area of Impoundment _____ 70 acres

Storage _____ 245 acre feet

Drainage area above dam _____ 300 acres



Danny M. Regan
 Signature of Applicant Regional Director

HILLHEAD QUADRANGLE
SOUTH DAKOTA—MARSHALL CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

HINMAN WPA
BOUNDARY

LAKE CITY QUADRANGLE
SOUTH DAKOTA—MARSHALL CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)

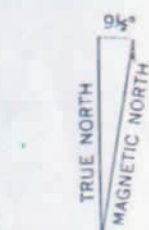
DITCH AND
WETLAND
OVERFLOW

STRUCTURE

T 127 N
T 126 N

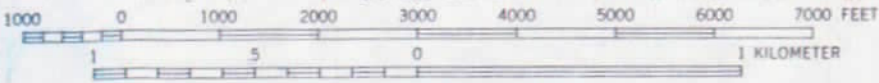
Ron Duvall
Natural Resources Engineer
3/10/89

UNITED STATES DEPARTMENT OF THE INTERIOR			
FISH AND WILDLIFE SERVICE			
ENGINEERING			
HINMAN			
WATER FOWL PRODUCTION AREA			
MARSHALL COUNTY, SO. DAK			
WATER RIGHTS FILING MAP			
DESIGNED	DRAWN	CHECKED	DATE
GC	JG	CW	11-89
DRAWING NO.			
6H-SD-562-WR-P-9.0			
1 OF 1			



APPROXIMATE MEAN
DECLINATION, 1958

SCALE 1:24000



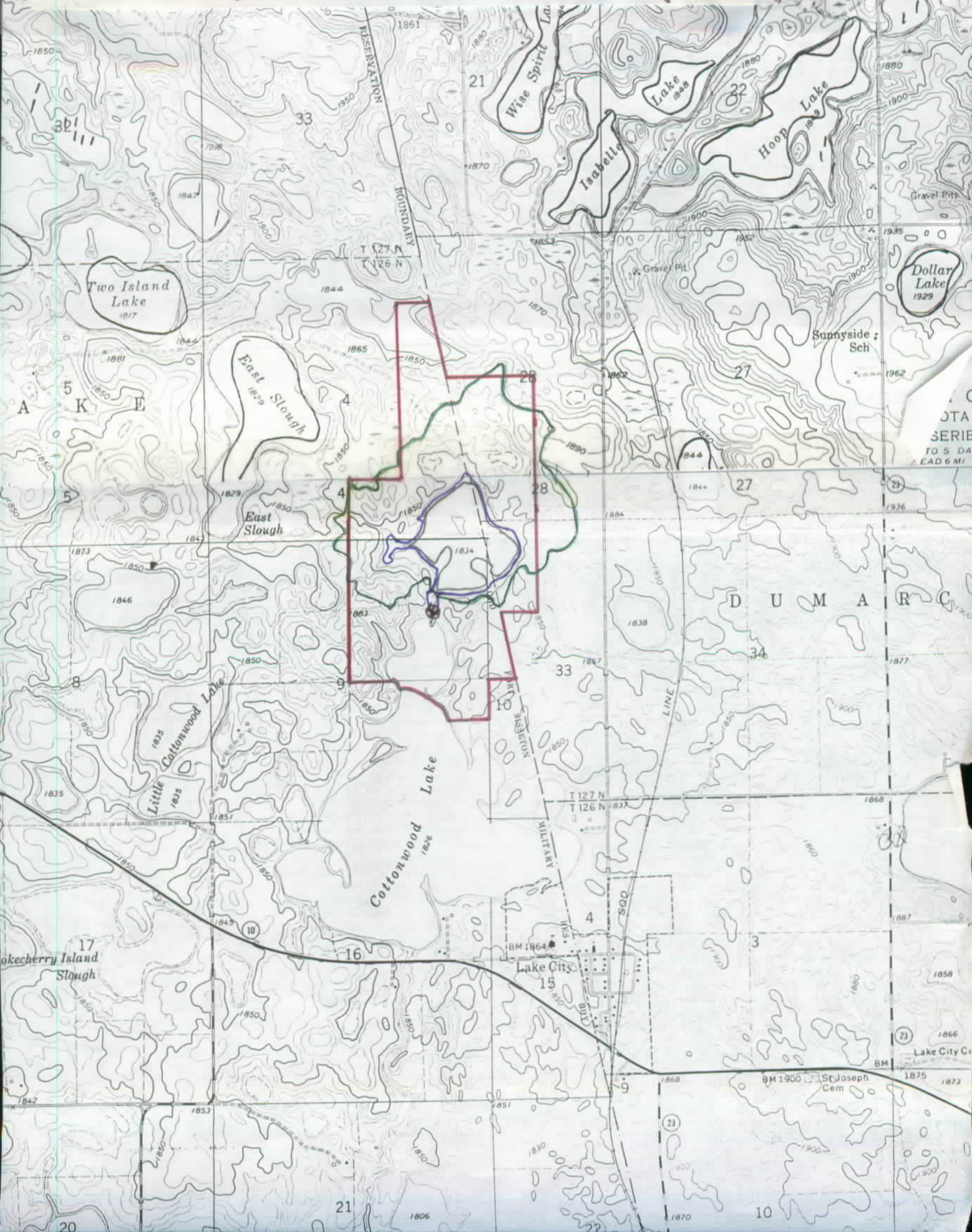
CONTOUR INTERVAL 10 FEET
DATUM IS MEAN SEA LEVEL

Appl. No. 5122-3

Application No. 5122-3 (U.S. Fish + Wildlife)

-  = Project Drainage Area
-  = Hinman Waterfowl Production Area Boundary
-  = Estimated Project Impoundment Area
-  = Proposed Project Dam Site
-  = Original Slough Area

(3-20-87)
(Tom Brandner)





— = Cottonwood Lake Drainage

— = Wetland Drainage

Torn Brandner 3-20-87

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410811

Pierre, 5122-3 April 7, 19 87

RECEIVED OF U.S. Fish & Wildlife, PO Box 25486, DFC, Denver, CO 80225

the following amount in fees for services rendered as provided for by law: Inv.#60181-0194-87 5122-3

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	225 00

By

John Hatch

Chief Engineer

JOHN HATCH

ms



United States Department of the Interior
FISH AND WILDLIFE SERVICE

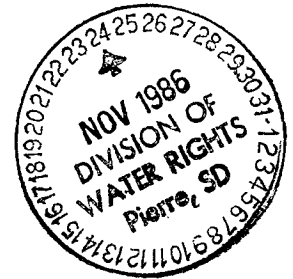
MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

IN REPLY REFER TO:

BA/EN
WR SD
MAIL STOP 60190

NOV 18 1986



South Dakota Department of Water
and Natural Resource Development
Water Rights Division
Foss Building
523 East Capitol
Pierre, SD 57501-3181

Gentlemen:

Enclosed please find the following documents pertaining to the
Hinman Waterfowl Production Area in Marshall County:

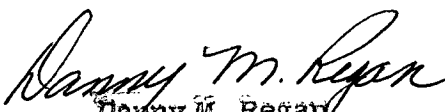
1. Form 2, Application for Permit to
Appropriate Water.
2. Form 2A, Supplemental Information.
3. Filing Map No. 6R-SD-562-WR-P-9.0,
1 Sheet.
4. Government Purchase Order in the amount
of \$225 to cover filing fees.

Please advise this office of the name and address of the
newspaper selected to publish the Notice of Application so that
we can forward the required Authorization of Advertisement prior
to publication.

Also, please sign the Purchase Order where indicated and return
to this office or send an invoice so that payment can be issued.

If you have any questions or require further information, please
contact Ginger Chesy of our Division of Water Resources at (303)
236-5322.

Sincerely,


Danny M. Regan
Acting Regional Director

Enclosures (4)

SOUTH DAKOTA Department of
Water & Natural Resources

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

December 15, 1986

Ginger Chesy, Division of Water Resources
US Fish & Wildlife Service
PO Box 25486, DFC
Denver CO 80225

Dear Ms. Chesy:

This letter is in response to the water permit application for the Hinman Waterfowl Production Area received on November 24, 1986. The application fee purchase order submitted with the application is not correct. The enclosed instruction sheet outlines the fee structure for water appropriations. The correct application fee for 245 acre-feet of water annually is \$250.00.

Please remit another purchase order for the correct application fee. The application cannot be processed until the correct fee has been received. Contact us if you have any questions.

Sincerely,



RON DUVALL
Natural Resources Engineer

RD:ks

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE NA		PAGE OF PAGES 1 1	
2. AMENDMENT/MODIFICATION NO. 1		3. EFFECTIVE DATE 12-18-86		4. REQUISITION/PURCHASE REQ. NO. NA		5. PROJECT NO. (If applicable) NA	
6. ISSUED BY U. S. Fish & Wildlife Service P. O. Box 25846, DFC Denver, CO 80225 303 236-4772				7. ADMINISTERED BY (If other than Item 6) CODE			
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) South Dakota Department of Water and Natural Resources Foss Building 523 East Capitol Pierre, SD 57501-3181				9A. AMENDMENT OF SOLICITATION NO. 9B. DATED (SEE ITEM 11) 10A. MODIFICATION OF CONTRACT/ORDER NO. X 60181-0194 10B. DATED (SEE ITEM 13) 10-30-86			
CODE		FACILITY CODE					

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

INCREASE \$25.00

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(V)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: 52.243-1
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☒ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

P. O. 60181-0194 87 is hereby modified as follows:

Filing fee is increased to \$250.00

New order total: \$250.00

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) NANCY N. BECKER FWS 6-6-002	
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY <u>Nancy N. Becker</u> (Signature of Contracting Officer)	16C. DATE SIGNED 12-18-86



United States Department of the Interior
FISH AND WILDLIFE SERVICE

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

IN REPLY REFER TO:

BA/EN
WR SD
MAIL STOP 60190

DEC 22 1986



Mr. Ron Duvall
Natural Resources Engineer
South Dakota Department of
Water and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Dear Mr. Duvall:

Enclosed please find Amended Government Purchase Order in the amount of \$250 correcting the amount of filing fees for the Hinman Waterfowl Production Area.

Please accept our apology for this inconvenience.

Sincerely,

Robert G. Green
Regional Hydrologist

Enclosure

Report on Application No. 5122-3
U.S. Fish & Wildlife Service
February 20, 1987

Water Permit Application No. 5122-3 was submitted for the U.S. Fish & Wildlife Service to store 245 acre-feet of water annually in the Hinman Waterfowl Production Area located in Marshall County, approximately 1 1/2 miles north of Lake City. This project proposes to restore the wetland area by constructing a dam across an existing drainage ditch and storing surface runoff. The dam (outlet) is to be located near the center of the NE 1/4, Section 9, T126N, R55W, and will be equipped with a water level control structure to prevent the production area water level from exceeding 1836.5 ft. mean sea level (msl). The water will be used for waterfowl habitat and wildlife production.

Background

At some unknown date in the past, a ditch had been dug in the outlet channel which subsequently drained some of the wetland. This permit was submitted to restore the wetland to its original capacity by placing a dam and stoplog structure in the existing ditch that drains the wetland basin.

At the maximum elevation of 1836.5 ft. msl the wetland area will have a surface area of approximately 70 acres. This would be an increase of about 25 acres from the 1834 ft. msl elevation indicated on the topographic map. The dam site and any additionally flooded acreage will be entirely confined within the Hinman Waterfowl Production Area; therefore no privately owned lands will be affected. The drainage basin covers 300 acres of which about 90 percent is also within the refuge.

Existing Water Rights

One existing water right may be affected by this project. The South Dakota Game, Fish & Parks Department holds Vested Water Right Claim No. 933-3 on Cottonwood Lake located less than 100 yards downstream from the proposed dam site. This vested right claim is for 900 acre-feet annually or the amount of water required to fill the lake to the outlet elevation.

According to the topographic map, when the water in the refuge wetland area reaches an elevation between 1834 and 1840 ft. msl it will drain south into Cottonwood Lake. The exact elevation at which this overflow will occur has not been surveyed. John Kerner of the U.S. Fish & Wildlife Service at the Waubay Refuge in Day County estimated that the dam would raise the maximum pool

elevation about 1 1/2 feet above the present outlet elevation. This would increase the wetland capacity by approximately 100 acre-feet. This project will impact Vested Water Right Claim No. 933-3 because it will impound water that would normally drain to Cottonwood Lake. An additional complication arises because the northern portion of the lake is located inside the refuge, indicating some confusion over jurisdiction of the area between the U.S. Fish & Wildlife Service and the S.D. Game, Fish & Parks Department.

Cottonwood Lake covers an immediate drainage area of approximately 4.2 square miles, including the wetland drainage. The wetland has a .47 square mile drainage area. Therefore the wetland area constitutes only 11% of the immediate drainage area of Cottonwood Lake and would contribute only a small amount of overflow water to the lake. Thus, this application will have only a minor impact on Vested Right Claim No. 933-3. Department of Game, Fish & Parks personnel were notified of this application and stated they had no objection to its approval.

Conclusions

1. There is unappropriated water available for Water Permit No. 5122-3.
2. The lands subject to flooding by construction of the dam are located within the Waterfowl Production Area and no privately owned property will be affected.
3. Vested Water Right Claim No. 933-3, owned by the S.D. Game, Fish & Parks Department, will be affected by this project under high water conditions, but the interference will be minor. Department of Game, Fish & Parks personnel have stated they have no objection to approval of this application.
4. Approval of this application is recommended with the qualification that the outlet or maximum pool elevation not exceed 1836.5 ft.msl.



Tom Brandner
Natural Resources Engineer

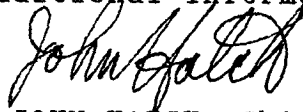
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5122-3, US Fish and Wildlife Service

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 Water Permit Application No. 5122-3, US Fish and Wildlife Service, PO Box 25486, DFC, Denver CO.

The Chief Engineer is recommending APPROVAL of Application No. 5122-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

The top of the spillway (outlet) elevation may not exceed 1836.5 ft. msl.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
February 24, 1987

No. 5122-3

Instruction to Newspaper - Publish first publication of the following Notice on or before April 1, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5122-3 to Appropriate Water
~~and/or to Amend Water Permit or Water Right No. _____~~

Notice is hereby given that the U.S. Fish & Wildlife Service whose mailing address is P.O. Box 25486, DFC, Denver, Colorado, ~~South Dakota~~ has made an application for a permit to store 245 acre-feet of water annually in the Hinman Waterfowl Production Area. This project proposes to restore the wetland area by constructing a dam (outlet) equipped with a water level control structure across the existing drainage ditch. The dam is to be located near the center of the NE $\frac{1}{4}$ Section 9-T126N-R55W. The outlet elevation is not to exceed 1836.5 feet mean sea level. Water is to be used to provide habitat for waterfowl and wildlife production.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5122-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, May 6 1987 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny 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 April 24, 1987. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons 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 46-5-30.4, 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.~~

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 April 24, 1987.

Duplicate

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Marshall.

C. L. Card of said county, being first duly sworn on oath says that he is publisher of the BRITTON JOURNAL, a weekly newspaper printed and published in the City of Britton, in the County of Marshall, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly and has been published within said County for fifty-two successive weeks, next prior to the publication of the notice herein mentioned and is printed wholly or in part in an office at said place of publication;

2T(Apr. 1-8)

NOTICE OF HEARING on Application No. 5122-3 to Appropriate Water

Notice is hereby given that the U. S. Fish & Wildlife Service whose mailing address is P. O. Box 25486, DFC, Denver, Colorado, has made an application for a permit to store 245 acre-feet of water annually in the Hinman Waterfowl Production Area. This project proposes to restore the wetland area by constructing a dam (outlet) equipped with a water level control structure across the existing drainage ditch. The dam is to be located near the center of the NE 1/4 Section 9-T126N-R55W. The outlet elevation is not to exceed 1836.5 feet mean sea level. Water is to be used to provide habitat for waterfowl and wildlife production.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5122-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, May 6, 1987 at 10:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny 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 April 24, 1987. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons 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.

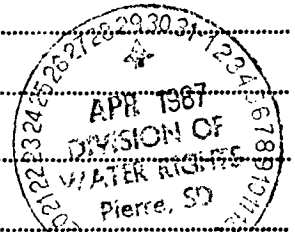
that the

Notice of Hearing (# 5122-3)

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this affidavit, was published in said news-

paper at least once each week for *two* successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

April 1, 1987
April 8, 1987



that the full amount of the fee charged for the publication of said notice inures to the benefit of publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whomsoever, and that the fee for the publication thereof

Thirty nine and 13/100 DOLLARS.

Subscribed and sworn to before me this *8th* day of *April*, A. D. 19 *87*.

[Signature]
Notary Public, Marshall County, S. D.

My Commission Expires June 10, 1994

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 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

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, DWRN, 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 April 24, 1987.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

JUL 17 1987

U. S. Fish & Wildlife
PO Box 25486, DFC
Denver, Colorado 80225

Dear Sir:

Enclosed herewith is your Water Permit No. 5122-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 5122-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

JOHN HATCH, Chief Engineer
Water Rights Division

JH: ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83



NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date July 31, 1987

TO: Water Rights Division, DWRN
Joe Foss Building
Pierre SD 57501-3181

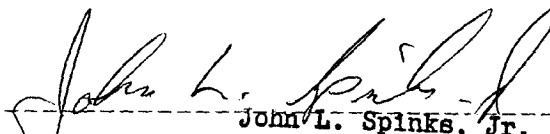
United States of America, Department of the Interior, Fish and Wildlife Service,
FROM: P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225
name address city

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5122-3.

Water Permit No. 5122-3 states that the diversion system is to be constructed by 05-06-92, and that the water it put to beneficial use by 05-06-96.

The diversion system was completed on 04-01-87.
Applying the water to beneficial use was completed on 04-01-87.

You may schedule an inspection so that the Water License may be issued.


signature John L. Spinks, Jr.
Deputy Regional Director

Permit No. 5122-3James River Water District
10160010**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by U.S. Fish & Wildlife Service of P.O. Box 25486 Denver, CO 80225 holder of Permit No. 5122-3, bearing the priority of April 7 1987 authorizing the diversion of 245 ac-ft annually ~~cu. ft. per second~~ of the waters of surface runoff for wildlife habitat purposes, in Marshall County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

6' High Dam
Crest - 11' Wide & 100' Long
Natural Spillway at 1832.3 ft. msl

B. Works used to transport water to place of use:

2' of Freeboard
18" CMP outlet w/ Stoplog Bay

C. Works used to apply water to beneficial use:

The system is in the following condition GoodThe point of diversion is located SE 1/4 NE 1/4 Section 9, T126N, R55W
1400'S & 1200' W of the NE Corner of Sect. 9The works are capable of storing at ~~diverting and conveying~~ the place of use ≈ 130 ac-ft
ac-ft ~~cu. ft. per second~~ of water which is to be used for wildlife habitat

Water has been put to beneficial use to the maximum extent as follows: _____

Water License 5122-3 allows the USF&W
Service the right to sufficient water (≈ 130 ac-ft)
to fill the dam to its full supply level of
1832.30 Feet mean sea level (outlet elevation).

comprising a total of _____ acres of land and the license should be issued for ≈ 130 ac-ft at a

Full supply level of 1832.3 ft. msl.
Applicable permit qualifications have been complied with Yes ☒ Yes ☐ No

Exceptions to compliance are: _____ Date 7-14-88

James L. Wendt
(signature)

Survey of Dam

Total Station

<u>Sta.</u>	<u>BS</u>	<u>IS</u>	<u>Level</u>
			1874.56 - BM (M42)
π_1	-12.27		1886.83
		12.07	1878.90
π_2	-4.40		1703.30
		-36.34	1866.96
π_3	29.01		1837.75
		16.28	1854.18
π_4	14.64		1839.54
		-14.88	1874.66 - Cottonwood Lake Level

Level

		1824.66 - lake level
π_{1A}	12.46	1837.12
	8.38	1828.74 - Base Culvert (US Slope)
	2.77	1834.35 - Crest
	2.60	1834.52 - "
	8.72	1828.40 - Base US Slope
	8.21	1828.91 - Base Culvert (DS Slope)
	8.67	1828.45 - Base DS Slope
	4.77	1832.33 - Low Area (Spillway)
	4.20	1832.25 - " " "
	4.65	1832.42 - " " "

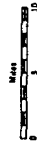
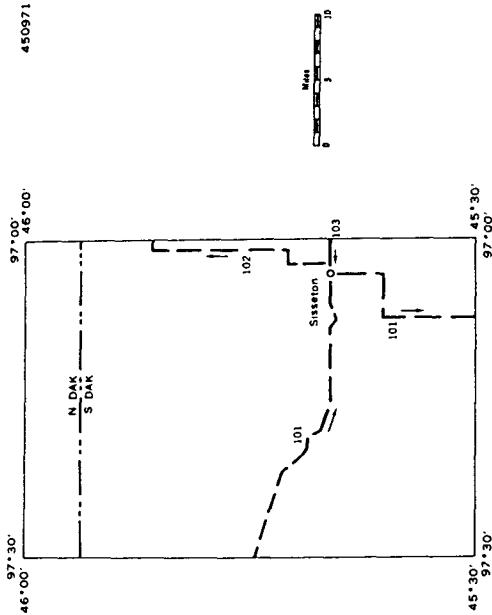
Height of Sloping Dam - 3.8'

VERTICAL CONTROL DATA

by the
Coast and Geodetic Survey
SEA LEVEL DATUM OF 1929

PUBLISHED AND PRINTED BY:
U.S. DEPARTMENT OF COMMERCE
COAST AND GEODETIC SURVEY
WASHINGTON D.C.

QUAD #50971 PAGE NO. I
S. DAK.
LATITUDE 45°30' TO 46°00'
LONGITUDE 97°00' TO 97°30'
DIAGRAM NL 14-9 MILEBANK



M 62.--About 1.8 miles east along State Highway 10 from the public school at Lake City, Marshall County, about 210 feet east of a cross road, just south of a cemetery, at a 3-foot corrugated-iron culvert, and in the top of the west end of the south concrete retaining wall. A standard disk, stamped "N 62 1934."

N 62.--About 3.5 miles east along State Highway 10 from the public school at Lake City, Marshall County, about 40 feet north of the junction with a road leading east, at a 6-foot concrete culvert, and in the center of the top of the west concrete foot wall. A standard disk, stamped "N 62 1934."

DESCRIPTION OF BENCH MARK

Designation	P 62 RESET 1950	State	South Dakota	County	Marshall
Nearest town	Lake City	County		Chief of party	
Distance and direction from nearest town	5.0 miles east			Leveling date	May 1951
Character of mark	Standard disk			Stamping	"P 62 RESET 1950"
Established by	Coast and Geodetic Survey				
Detailed description					

5.0 miles east along State Highway 10 from the public school at Lake City, Marshall County, at a concrete bridge, in the southwest hand-rail, and 4 feet above ground. A standard disk, stamped "P 62 RESET 1950." NOTE.--This bench mark was established and its elevation determined by engineers of the State Highway Department in May 1951.

The line follows old Highway 81 which is located west of the present Highway 81.

LINE 101

J 62.--About 3.7 miles west along State Highway 10 from the public school at Lake City, Marshall County, on a north-and-south road, about 1/4 mile north of a curve, at a 4-foot concrete box culvert, and in the center of the top of a concrete head wall. A standard disk, stamped "J 62 1934."

K 62.--About 1.7 miles west along State Highway 10 from the public school at Lake City, Marshall County, about 2-1/2 poles or approximately 250 feet west of a turn to the south, in a clump of trees bordering a dry lake, and 33 feet north of the center line of the highway. A standard disk, stamped "K 62 1934" and set in the top of a concrete post.

L 62.--At Lake City, Marshall County, on State Highway 10, at the south entrance to the public school, in the top of the west end of the top concrete step, and 6 inches from the corner of the entrance. A standard disk, stamped "L 62-1934."

Q 62.--About 7.5 miles east along State Highway 10 from the public school at Lake City, Marshall County, about 3 poles south of a turn, about 115 feet north of a 3-foot corrugated-iron culvert, 33 feet west of the center line of the highway, and 4 feet southwest of a pole. A standard disk, stamped "Q 62 1934" and set in the top of a concrete post.

R 62.--About 8.9 miles east along State Highway 10 from the public school at Lake City, Marshall County, 45 feet northwest of a private road, at a 4-foot concrete box culvert, and in the center of the top of the southwest concrete foot wall. A standard disk, stamped "R 62 1934."

S 62.--About 10.3 miles east along State Highway 10 from the public school at Lake City, Marshall County, at the junction with a side road leading north, 33 feet west of the center line of the road, 37 feet north of the center line of the highway, and 8 feet south of a pole. A standard disk, stamped "S 62 1934" and set in the top of a concrete post.

PUBLISHED AND PRINTED BY:
U.S. DEPARTMENT OF COMMERCE
COAST AND GEODETIC SURVEY
WASHINGTON D.C.

VERTICAL CONTROL DATA

by the
Coast and Geodetic Survey
SEA LEVEL datum of 1929

QUAD 450971 PAGE NO. 1
S. DAK. 45°30' TO 46°00'
LONGITUDE 97°00' TO 97°30'
DIAGRAM NL 14-9 MILBANK

LINE 101
(Second-order)

The field work (L-2030) was done
in May and June 1934 by a party super-
vised by E. E. Stohsner.

These elevations are based on a
supplementary adjustment of 1934.

BENCH MARK	ADJUSTED ELEVATION (METERS)	ADJUSTED ELEVATION (FEET)
J 62	555.452	1822.345
K 62	566.321	1858.005
L 62	568.299	1864.488
M 62	571.366	1874.557
N 62	561.613	1843.215
P 62 RESET (1950)		1832.460
Q 62	561.371	1841.765
R 62	561.883	1843.444
S 62	600.118	1968.897
T 62 RESET (1950)	No elev. available	
U 62 RESET (1950)		2010.364
V 62	520.279	1706.949
W 62	431.536	1415.798
X 62 RESET (1950)		1253.669
Y 62	366.861	1203.610
Z 62	320.527	1051.254
A 63	430.610	1412.760
B 63	573.623	1881.961
C 63	611.185	2005.196
D 63	620.567	2035.977
E 63	614.836	2017.181

LINE 102
(Second-order)

The field work (L-3034) was done
in August 1934 by a party supervised
by E. E. Stohsner.

These elevations are based on a
supplementary adjustment of 1934.

BENCH MARK	ADJUSTED ELEVATION (METERS)	ADJUSTED ELEVATION (FEET)
B 92	368.454	1208.836
C 92	362.555	1189.483
D 92	347.699	1140.742
P.T.S. 8 1198 (USGS)	359.424	1178.219
	365.277	1198.319
E 92	361.896	1187.320
F 92	360.236	1181.874
G 92	374.045	1227.179
1228 (USGS)	374.399	1228.341
H 92	373.448	1225.221
J 92	373.238	1224.532
K 92	367.180	1204.656

LINE 103
(Second-order)

The field work (L-3461) was done
in September 1934 by a party supervised
by E. E. Stohsner.

These elevations are based on a
supplementary adjustment of 1938.

BENCH MARK	ADJUSTED ELEVATION (METERS)	ADJUSTED ELEVATION (FEET)
H 93 RESET (1939)		1168.605
J 93 RESET (1962)		1199.035

LICENSE FOR PERMIT NUMBER 5122-3

1. Legal location of wells: _____

dams & structures: SE 1/4 NE 1/4 9-126-55

2. Well Information: Well Drilling Firm _____

No. of wells _____ Depth _____

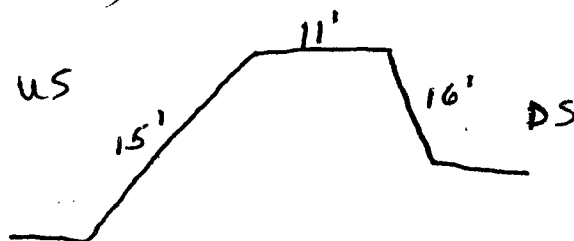
Casing	a) diameter _____	Screen	a) type _____
	b) length _____		b) length _____
	c) type _____	Static Water Level	_____
Pump	a) make _____	Motor	a) make _____
	b) model _____		b) model no. _____
	c) size _____		c) horsepower rating _____
	d) capacity _____ GPM		d) motor efficiency rating _____
	e) turbine pump no. of stages _____		

3. Distribution lines:

a) size of lines _____

b) type _____

c) length _____



4. Dam information:

a) height to crest 6'

b) height to spillway 4'

c) crest width 11'

d) crest length 100'

e) spillway length 50'

f) spillway width 60' (Low Area)

g) approx. storage 130 ac-ft

i) Outlet tubes:

1) diameter 1 1/2'

2) type Corrugated Metal Pipe

3) valued (Y/N) N

4) valve type None

h) Distribution lines or canals:

1) size _____

2) type _____

3) length _____

5) location on structure

center

Stop log Bay Present

5. System Type: a) sideroll:

1) length _____ feet

2) diameter of pipe _____

3) make, model & number of sprinklers _____

4) spacing of sprinklers _____

5) nozzle size _____

b) towline:

1) length _____ feet

2) make, model & number of sprinklers _____

3) spacing of sprinklers _____

4) nozzle size _____

5. System Type: c) center pivot

- 1) make _____
- 2) number of towers _____
- 3) distance between towers _____
- 4) overall length _____
- 5) End gun (Y/N) _____
- 6) high or low pressure _____
- 7) make & size of nozzles _____
- 8) PSI reading while system is running _____
- 9) GPM _____

g) Gun

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size _____
- 7) hose length _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

YES

NO

Check Items

____ NA

____ ✓

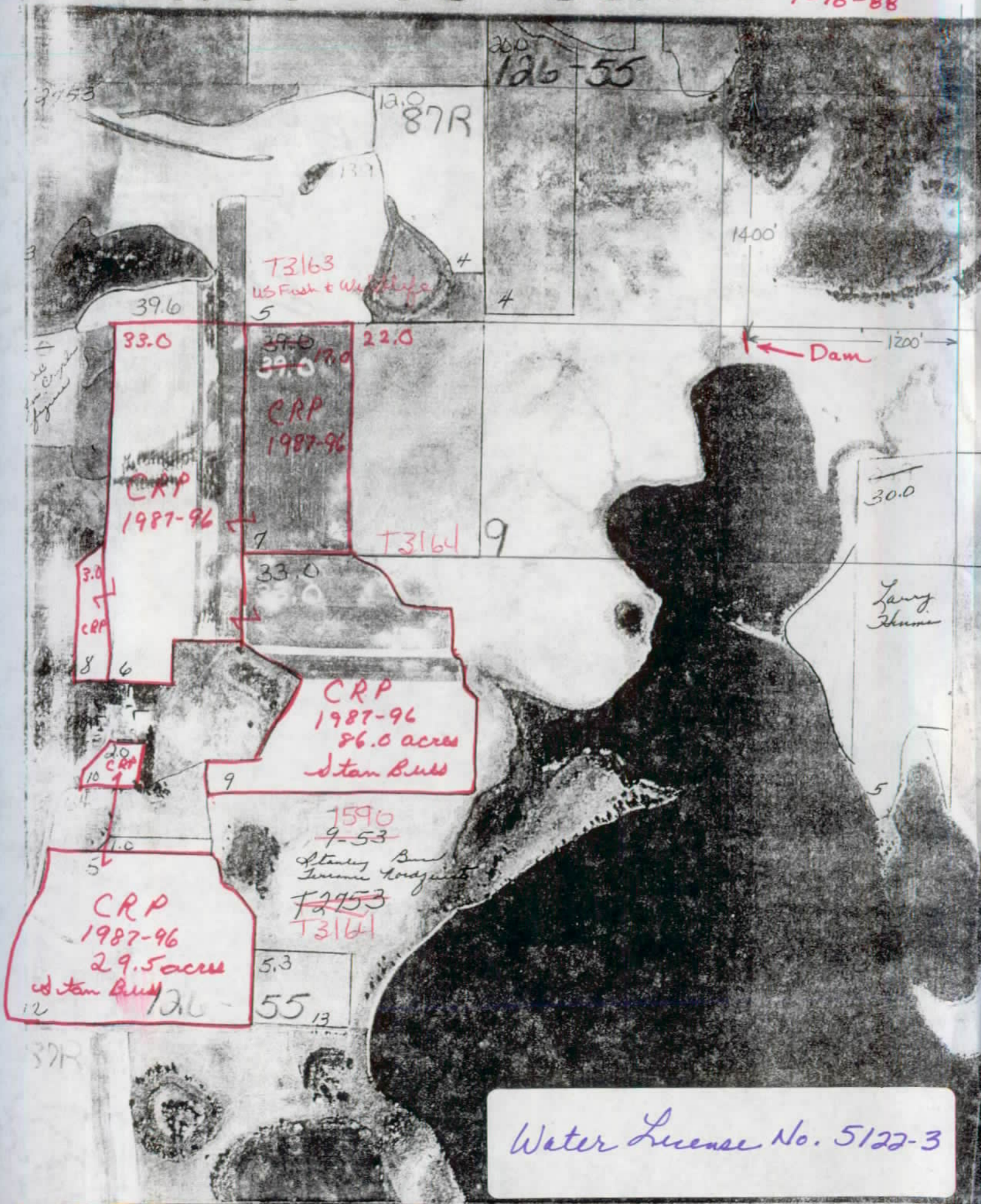
____ ✓

1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.
2. Special Qualifications to permit being abided by.
3. All Structures, wells and lands on map.

REMARKS:

NOT TO SCALE

James L. Wendt
N.R. Engineer
7-18-88



Water License No. 5122-3



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 5122-3

July 19, 1988

U.S. Fish & Wildlife Service
PO Box 25486, DFC
Denver, Colorado 80225

Dear Sir:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 5122-3 has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuing of the Water License. Upon receipt of the \$50.00 fee from you, your Water License will be sent to you.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until this \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Maxine Stirling
Secretary

NOTE: On check or money order, please indicate the number of the water permit. This insures proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411354

Pierre, August 15, 1988

RECEIVED OF U.S. Fish & Wildlife Service, PO Box 25486, DFC, Denver CO 80225

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5122-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By

John Hatch

Chief Engineer

JOHN HATCH

ms



Department of
Water & Natural Resources

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

SEP 14 1989

U.S. Fish & Wildlife Service
PO Box 25486, DFC
Denver CO 80225

Dear Sir:

Enclosed is Water License No. 5122-3. This is the final water right document completing your process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, the State Water Law provides that you have a continuing right to use the water.

Very truly yours,

A handwritten signature in cursive script that reads "John Hatch".

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

enclosures



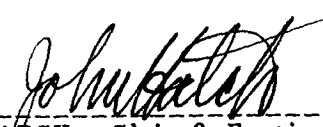
STATE OF SOUTH DAKOTA
WATER LICENSE NO. 5122-3

(1) U.S. Fish and Wildlife Service of PO Box 25486, Denver Colorado 80225 made Application No. 5122-3, November 24, 1986 for a water permit to store 245 acre feet of water annually from surface runoff, Marshall County, South Dakota for providing habitat for waterfowl and wildlife production. Permit No. 5122-3 with a priority date of April 7, 1987 was approved May 6, 1987 and issued to applicant(s) for diversion of water with construction of the described water supply system to be completed on or before May 6, 1992 and for the application to beneficial use of said water on or before May 6, 1996.

(2) It is certified that the applicant 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 store sufficient water (approximately 130 acre feet annually) to fill the dam to its full supply level of 1832.30 feet mean sea level (outlet elevation). The location of the dam is 1400 feet south and 1200 feet west of the NE corner of Section 9, T126N, R55W (SE 1/4 NE 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. The water is stored in place for the purpose of providing wildlife habitat for waterfowl and wildlife production.

(4) Pursuant to Section 46-5-30.1 the U.S. Fish & Wildlife Service of PO Box 25486, Denver Colorado 80225 the holder(s) and/or owner(s) of Water Permit No. 5122-3 is issued a license to appropriate water, the right to store sufficient water (approximately 130 acre feet annually) to fill the dam to it's full supply level of 1832.30 feet msl with a priority date of April 7, 1987 from the location specified in (2) of this license. This license is subject to any limitations or qualifications listed in Water Permit No. 5122-3 and subject to South Dakota State Law.



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

SEP 14 1989