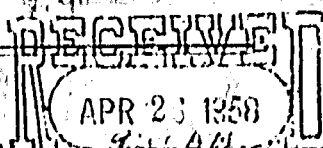


No. 533-3Water Division No. 3

(Blanks to be filled by the Engineer for the W. R. C.)

Big Sioux RiverSTATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

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

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

I. If a corporation An agency of the State Government

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

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

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Labor

- (b) Cash on hand, \$ _____ (c) Treasury stock, \$ _____
 (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work sometimes known as Lake Madison Diversion Ditch
 3. Amount of water claimed 1800 cubic feet per second
 4. Source of water supply Silver Creek
 5. Location of point of diversion 250' W of the NE corner SW 1/4 NE 1/4 Sec. 21, T 106 R 52W
 _____ on left bank Lake County.
 6. Annual period or periods during which water is to be used year around
 7. To be used for:

1. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? _____

- (a) Number of acres to be irrigated _____ acres.

(b) Legal subdivisions to be irrigated _____

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

- (c) Statement as to domestic use (giving location, etc.) _____

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

- (a) Nature of use Wildlife and Fish Culture and Public Recreation

Name any of the above uses claimed

- (b) Amount of power to be generated _____ horse power.

Amount claimed for engine _____ hp

- (c) Location of plant _____

- (d) Method of developing power _____

- (e) Point where water will be returned to stream Lake Madison

Map No. 407-3

8. Estimated cost of work:

(a) Head Gates, \$-----

(c) Fluming, \$-----

(e) Other structures -----

(d) Canal-earth, \$ 500.00

(b) Pumping plant, \$-----

Rock, \$-----

Total, \$-----

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Ditch

II. Dimensions of works:

(a) Dam: Height ----- feet; length at bottom ----- feet; length at top -----

feet; thickness at bottom ----- feet; thickness at top -----

feet; slope at front water face -----; slope at back face -----

material used in construction -----

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

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	ACRE-Feet CAPACITY

(c)* Head gate: Width ----- feet; height ----- feet;

Material -----

(d) Canal: Total length ----- miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At 0 Mile	5 feet	20 feet	36 feet	50 feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work ----- years.

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

12. Choice of newspaper for publication of notice of intention to appropriate -----

STATE OF SOUTH DAKOTA

County of Higley } ss.

I, Cecil Duncan (Chairman) being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Cecil Duncan

Subscribed and sworn to before me this 23 day of April 1958

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

my Commission Expires 2-20-59

Remarks by State Water Resources Commission:

"Vested Right" claimed

STATE OF SOUTH DAKOTA

County of

Hughes

SS.

Pierre, South Dakota,

April 28, 1958

This is to certify that the foregoing application was received by the Commission at 9:00 o'clock

a.m. upon the 26 day of April, 1958

State Water Resources Commission

By:

J. O. Bremer

Chief Engineer, Executive Officer

Number of permit 533-3

Date of first receipt of application April 26, 1958

Date of return to applicant for correction, amendments or changes required as follows: 19

Date of receipt of corrected application: 19

Date from which applicant may claim right 1932 19

Approved April 28, 1958 Recorded in Book 4 Page 223

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

Completed, 19

2nd. The whole of said work is to be completed on or before Completed, 19

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

Completed, 19

4th. The water appropriated shall be used for the purpose of propagation of wildlife, fish culture and public recreation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 1,800 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of flow for each acre of land to which water is actually and beneficially applied for irrigation on or before Completed, 19; said water to be used during the following described annual period:

when natural flows occur.

Witness my hand this 28 day of April, 1958

State Water Resources Commission

By:

J. O. Bremer

Chief Engineer, Executive Officer

Certificate of Construction issued April 28, 1958

Water License issued April 28, 1958

STATE OF SOUTH DAKOTA

WATER LICENSE No....533-3...

WHEREAS, On the 26th day of April A. D. 19 58

The South Dakota Game, Fish, and Parks Commission

of Pierre County of Hughes and State of South Dakota duly made application (No. 533-3) to us for Vested Right 1800

cubic feet per second of the waters of Silver Creek

County of Lake, State of South Dakota, for Wildlife, fish culture, and public recreation purposes; and

WHEREAS, On the 28th day of April A. D. 19 58

Vested Right Permit No. 533-3 was issued to said applicant for the diversion of said water, and recognizing

completion of the works of diversion therein described ~~you state to be~~ XXXX

in 1932

~~XXXX~~

and ~~for the~~ application to beneficial use of said

water ~~XXXX~~ XXXX in 1932 ~~XXXX~~

and,

WHEREAS, On the 26th day of April A. D. 19 58

the holder of said permit duly made proof of the completion of adequate works for the diversion of 1800

cubic feet per second of said waters, as evidenced by our Certificate No. 533-3

dated April 28, 1950 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 1800 cubic feet per second of water, with date of

priority of 1932 ~~XXXX~~ ~~XXXX~~

WHEREAS, On the 26th day of April A. D. 19 58

proof was duly made of the application to beneficial use of 1800 cubic feet per second of said water;

in Lake Madison located in Lake County, South Dakota

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to the South Dakota Game, Fish and Parks Commission
of Pierre, South Dakota the holder and owner of said ^{Vested Right} permit No. 533-3
a water right, dating from 1932 to the use of 1800
cubic feet per second of the waters of Silver Creek
in the County of Lake and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at 250 feet west of the NE
Corner of the SW 1/4, Sec. 106 N, R 52 W
and conducted to ~~xxxxxx~~ Lake Madison in Lake County, South Dakota

for the ~~purpose~~ propagation of Wildlife, fish culture and public recreation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
State, and subject, also to the local or community customs, rules and regulations which have been or may be
adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
which such water may be taken, when such rules and regulations have for their object the economical use of such
water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 28th day of April A. D. Nineteen
Hundred and Fifty-eight

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

Permit No. 533-3
Big SiouxWater Division No. 3 River Silver Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

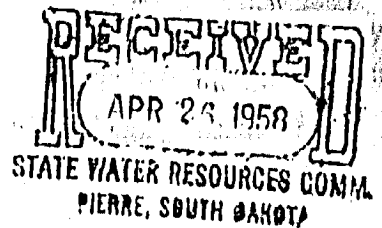
This is to Certify, That the South Dakota Game, Fish, and Parks Commission
 of Pierre, County of Hughes, and State of South Dakota, the holder of Vested Right Permit No. 533-3, issued upon Application No. 533-3, bearing date of priority of 1932, authorizing the diversion of 1800 cu. ft. per second of the waters of Silver Creek County of Lake, State of South Dakota, at 250 feet west of the NE corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 21, T 106N, R 52W, for wildlife, fish culture and public recreation purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 1800 cu. ft. per second of water; and that the ~~uses of said water are described as follows~~ use of said water are described as follows, to-wit: for the propagation of wildlife, fish culture and public recreation in Lake Madison, Lake County, South Dakota

Witness my hand this 23th day of April A. D. 19 58

State Water Resources Commission

By:

J. W. GRINES, Chief Engineer, Executive Officer

Location No. 533-3Water Division No. 3Water District Big Sioux River

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. Edmund S. Jacobsen, 305 N. Harrison, Civil Engineer, Pierre, S. D.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. South Dakota Department of Game, Fish and Parks, Pierre, S. D.

Chief Engineer; Commission Request

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. none

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Silver Creek, Lake County, Diversion point near the NE corner of the SW 1/4 NE 1/4 Sec. 21, T 106, R 52W

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

Ans. works consist of a ditch 20' bottom width by 1000 ft. in length to conduct up to 1800 cu. ft/sec. into Lake Madison. Sometimes known as Lake Madison Diversion Ditch, constructed in 1932.

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

Ans. Water is used for fishing, wildlife and recreation purposes in Lake Madison

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

Ans. Used for fish, recreation, and wildlife purposes

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

Ans. total flow

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. _____

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. ^{1932 & 1/2} In continuous use since established in ~~1932~~ to late summer of 1956

A visual inspection indicated that the channel has carried water at a depth of four feet at times, which would amount to the capacity stated in question no. 5.

(Sign) Edmund S. Jackson

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in PIERRE, County of Hughes

State of South Dakota, on this 23RD day of April A. D. 1958

Witnesses. Alvin H. Hume
By Commission Expires 2-20-59

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. _____

PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water _____ c. f. s.

Source _____

County _____

Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

533-3

SOUTH DAKOTA
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

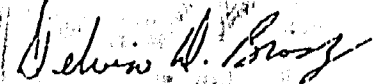
Richard Beringson, Secretary

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.

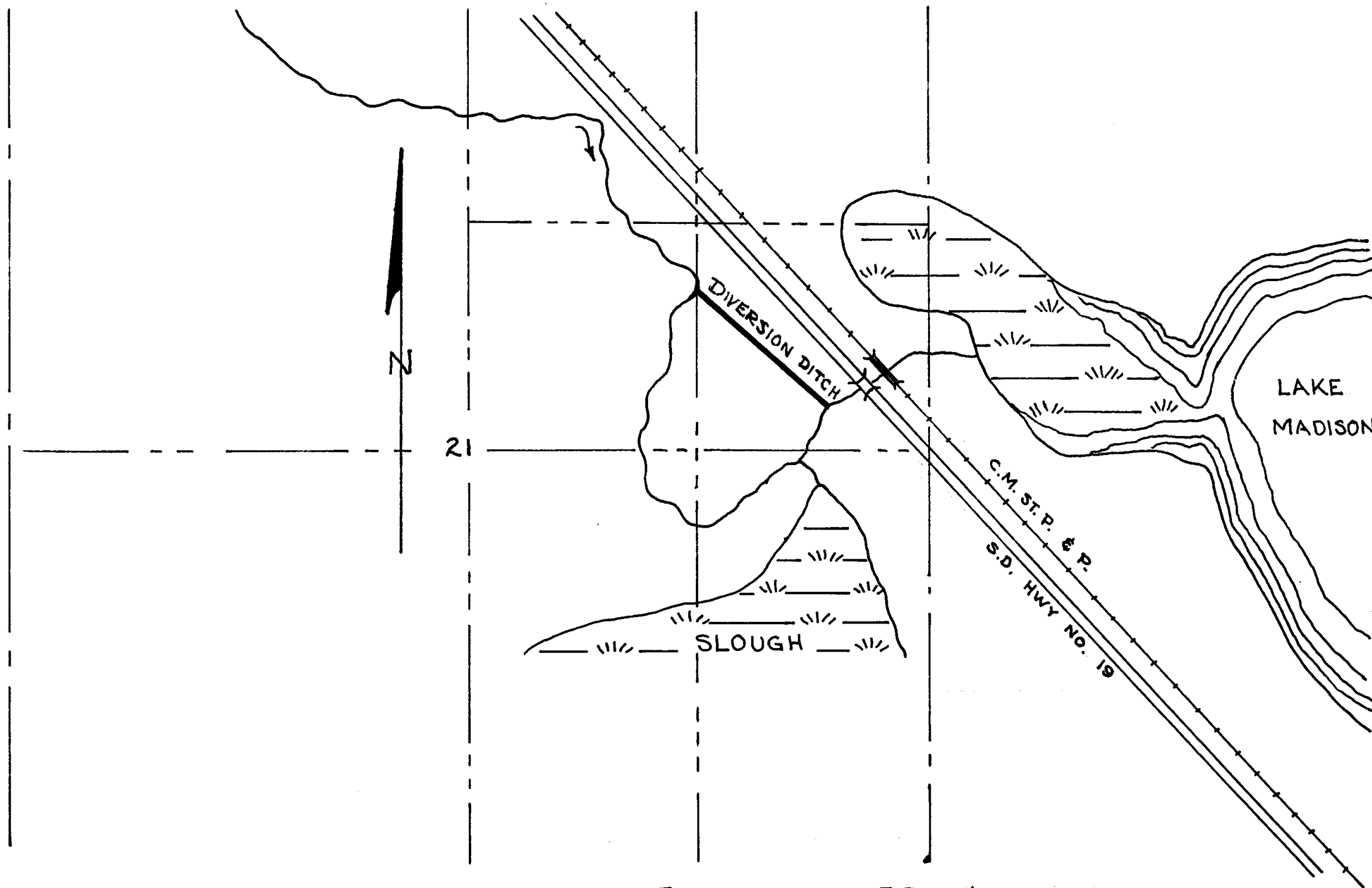
Please advise if you have any questions.

Very truly yours,



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

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



T 106N, R 52 W
LAKE MADISON DIVERSION

GAME AND FISH DEPARTMENT
TRACED FROM MAP BY L.E. HOWE

DATED 1932

SCALE 1" = 660'

Map No. 407-3
(Appl. No. 533-3)



United States Department of the Interior
FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



Huron Wetland Acquisition Office
Room 307, Federal Bldg.
200 4th Street SW
Huron, SD 57350
PHONE: (605) 352-7014 Fax: (605) 352-7015

November 24, 2009

RECEIVED

NOV 25 2009

WATER RIGHTS
PROGRAM

Genny McMath
Dept. of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Ms. McMath:

Please advise if there are any water rights on file or pending on the following legal description in **Lake County**:

T. 106 N., R. 52 W., 5th P.M.

Section 21, all that part of the NW1/4 of the NE1/4 of sec. 21 lying northeasterly of State Hwy. 19, to include abandoned railroad right-of-way and except Parcel No. One and except Parcel No. Two of the plat of the Lake county W.A. No. 10 and except Lot H-2.

Thank you for your time and consideration.

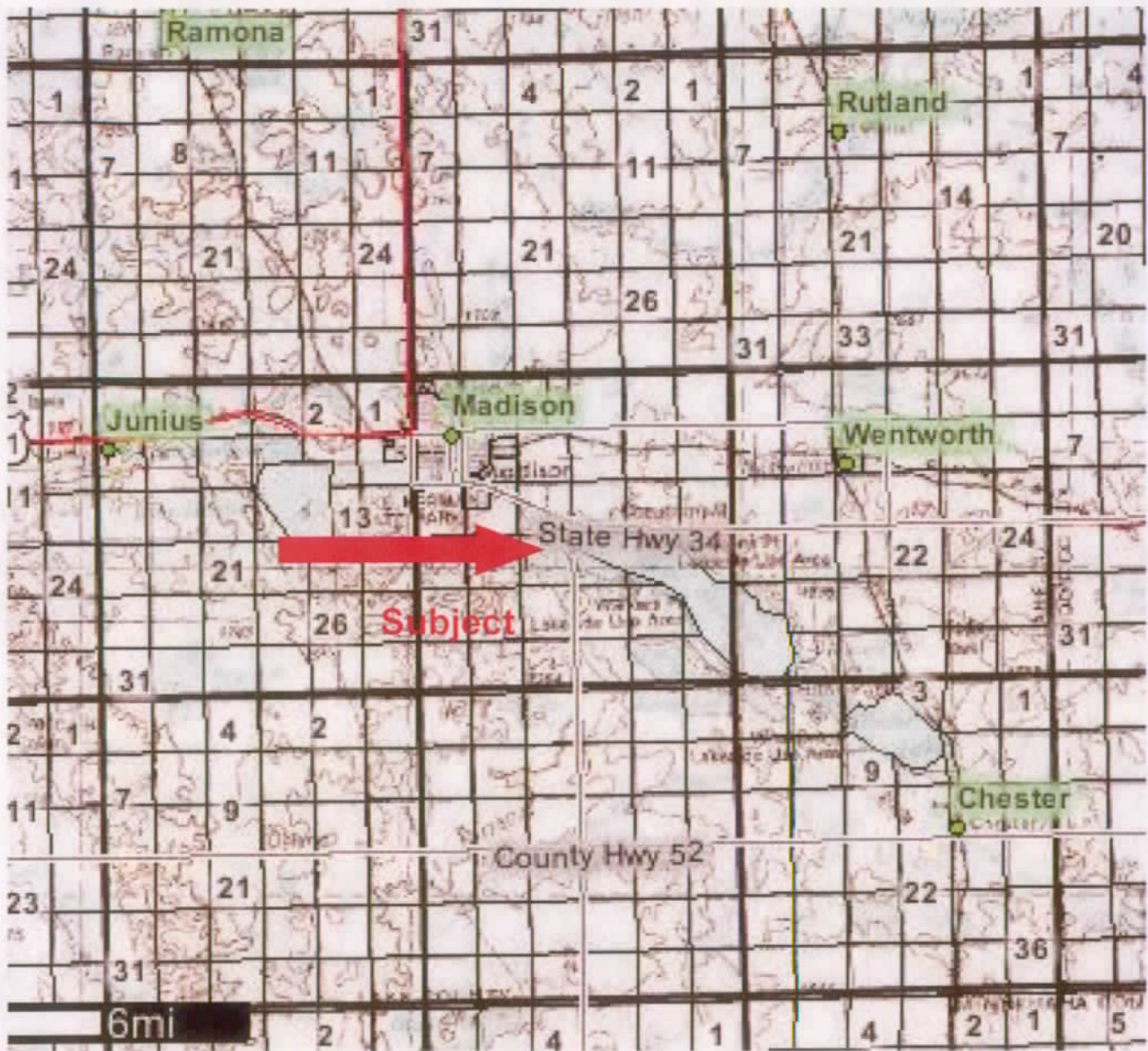
Sincerely,

James Gropper
Realty Specialist

RECEIVED

NOV 25 2009

WATER RIGHTS
PROGRAM



Lake County, State of South Dakota

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RECEIVED
NOV 25 2009
WATER RIGHTS
PROGRAM



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RECEIVED

NOV 25 2009

WATER RIGHTS
PROGRAM



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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

December 2, 2009

James Gropper, Realty Specialist
US Fish & Wildlife Service
Federal Bldg Room 307
200 4th St SW
Huron SD 57350

Dear Mr. Gropper:

I am writing in regard to your inquiry on water rights or location notices on file for land in Lake County described as follows:

- **NW ¼ NE ¼ Section 21, T106N, R52W**

The only water right we have in that whole quarter is Vested Water Right Claim No. 533-3 for Game, Fish and Parks. It allows diversion of water from Silver Creek into Lake Madison for recreational and fish & wildlife propagation. I enclosed a copy for your review.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure