

SOUTH DAKOTA
VESTED WATER RIGHT NO. 6052-3

Date of Receipt of Claim February 20, 1998.

Date of Validation April 27, 1998.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 6052-3 for the US Fish & Wildlife Service, PO Box 25486, DFC, Denver CO 80225 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 6052-3 validates a vested water right claim for a 300 acre-foot impoundment known as Zell Lake. The dam is located in the SW ¼ SE ¼ Section 16 with water impounded in the W ½ SE ¼, W ½ NE ¼, E ½ NW ¼, NW ¼ NW ¼ Section 16; all in T117N-R66W.
2. The water is appropriated from runoff and Dove Creek and used to provide habitat for fish and wildlife propagation at the Zell Lake Waterfowl Production Area and may not exceed the amount of water needed for beneficial use for fish and wildlife propagation purposes.
3. The water is to be used during the following annual period: January 1 – December 31.
4. The priority date of the Vested Water Right is January 1, 1936.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Validation of No. 6052-3 authorizes sufficient water annually to maintain the water level to the spillway elevation of the dam.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

By: *John Hatch*
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 6 1998
date



STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 6052-3

(1) The US Fish & Wildlife Service, Denver Federal Center, PO Box 25486, Denver, CO 80225 made Application No. 6052-3, for validation of a vested right claim to appropriate 567 acre feet of water from runoff and Dove Creek, Faulk County, South Dakota, for fish and wildlife propagation purposes at the Zell Lake Waterfowl Production Area. Vested Water Right No. 6052-3 was validated April 27, 1998 for a 300 acre-feet impoundment known as Zell Lake, with a priority date of January 1, 1936. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) It is certified that the vested right owner is entitled to impound 300 acre feet of water for beneficial use with sufficient water annually to maintain the water level to the spillway elevation. The location of the spillway is in the SW ¼ SE ¼ Section 16, T117N, R66W. Zell Lake impounds water in the W ½ SE ¼, W ½ NE ¼, E ½ NW ¼ and the NW ¼ NW ¼ Section 16, T117N, R66W.

(3) Pursuant to Section 46-5-30.1 the US Fish & Wildlife Service, Denver Federal Center, PO Box 25486, Denver, CO 80225 the holder and/or owner of Vested Water Right No. 6052-3 with a priority date of January 1, 1936, is issued a license to impound 300 acre feet of water from runoff and Dove Creek in Zell Lake with sufficient water annually to maintain the water level to the spillway elevation. The water is to be used for the purpose of fish and wildlife propagation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 6052-3 and subject to South Dakota State Law.



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

JUL 6 1998

date



WATER PERMIT NO. 6052-3

Name of Applicant: US Fish & Wildlife Service

Address: PO Box 25486, DFC, Denver CO 80225

Phone: 303 236-5321

Amount of Water Claimed: 567 AF

Total Acres: NA

Source of Water Supply: Dove Creek

Water to be used for: fish & wildlife production

County: Faulk

Type of Waste Disposal System: NA

Location: 4 miles northwest of Zell

PRIORITY

Date Received: 2-20-1998

Fee: \$15

Corrected Application Received:

Period of Annual Use: January 1 - December 31

Remarks: for Zell Lake Waterfowl Production Area - claimed priority date of 1936

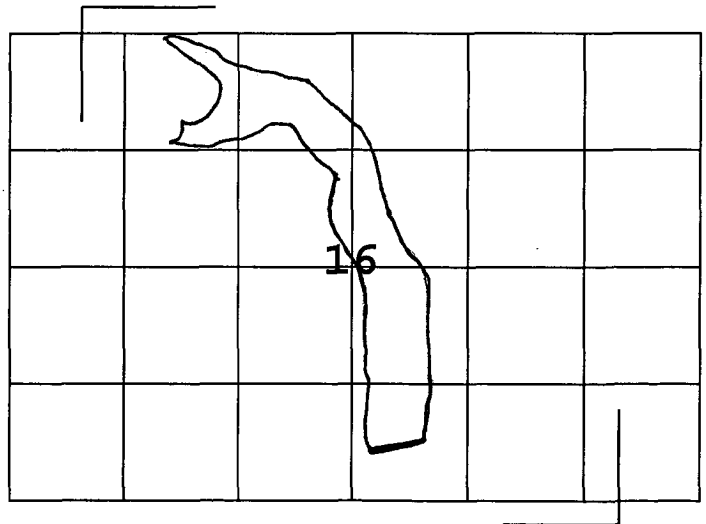
Diversion Point: SW 1/4 SE 1/4

Sec 16-T117N-R66W

Water Impounded: W 1/2 SE 1/4, W 1/2 NE 1/4,

E 1/2 NW 1/4, NW 1/4 NW 1/4 Sec 16-

T117N-R66W



Depth of Well:

Well Driller:

Remarks:

Type of Map: topo

Prepared by: Albert Bevilacqua, USFWS

Reviewed and the Number Assigned on: 2-24-1998

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Kenny

No lat/long
because Jeff has
work out click
in program for
Roberts Co.

FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>6052-3</u> Hydrologic Unit <u>10/6008</u>
	Basin <u>Dames River</u>
	Newspaper <u>Faulk Co. Record, Faulkton, SD</u>



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

Check use(s) of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☐ Commercial ☒ Fish & Wildlife ☐ Geothermal Heat
☐ Domestic (over 18 gpm) ☐ Industrial ☐ Other _____

Type of Application: ☐ New ☒ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant U.S. Fish and Wildlife Service Phone (303) 236-5321 x238
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address P.O. Box 25486, DFC, Denver, State Colorado 80225
(Street, RR. or Box) (Zip Code)
- Amount of water claimed _____ *CFS or _____ **GPM 567 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Dove Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) _____
SW SE Sec. 16 T117N, R66W, 5th PM Water Impounded: W1/2 SE1/4, W1/2 NE1/4,
E1/2 NW1/4, NW1/4 NW1/4 Sec. 16-T117N-66W County Faulk
- County or counties where water will be used Faulk
- Annual period during which water is to be used Jan. 1 through Dec. 31
- Give a description of the 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)
See Attachment No. 1 - Zell Lake WPA

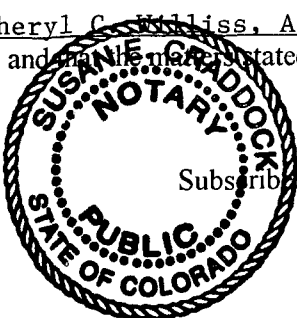
Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF ~~SOUTH DAKOTA~~ COLORADO

COLORADO SS

County of Jefferson

I, Cheryl C. Willis, Agent, the applicant, certify that I have read this application, have examined the attached map and ~~plans~~ plans stated are true and that I intend, and am able to complete the necessary construction.



Signed Cheryl C. Willis
Subscribed and sworn to before me this 17th day of February 19 98

Susan E. Craddock

Notary Public

My Commission Expires Aug. 05, 2001

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 _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

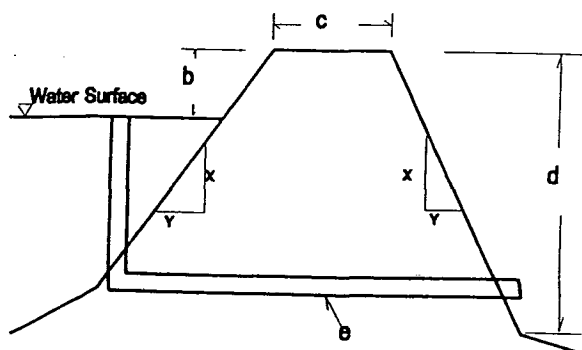
3. Dugout Information

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

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to 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:



- b) Freeboard _____ 5'
- c) Crest Width _____ 12'
Crest Length _____ 700'
- d) Height _____ 10.1'
- e) Primary Outlet Capacity _____ None
If pipe, diameter _____
- f) Secondary Spillway Capacity _____ 2240 cfs
Spillway Width _____ 60'
- g) X & Y Slope _____
Upstream _____ 2:1
Downstream _____ 2:1
- h) Surface Area of Impoundment _____ 100 acres
- i) Storage _____ 300 _____ Acre Feet
- j) Drainage Area Above Dam _____ 69.44 _____ Acres
SQ Miles

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) UNITED STATES FISH AND WILDLIFE SERVICE

Post Office Address P.O. BOX 25486, DFC DENVER, COLORADO 80225
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation None Known Date of Posting None Known

Date of recording None Known Recording date None Known
Where Book Page

B. Date of start of construction of water supply system 1935-1936

C. Date that water was first applied to beneficial use 1936

D. Name of owner of original water supply system Unknown - FWS acquired from the State of South Dakota
300 acre-feet storage plus

E. Amount of water originally applied to beneficial use 100 surface acres, 267 acre-feet seasonal use

F. Present Use of Water - Amount of water now being used same

Date that this water was first used FWS first used 1970

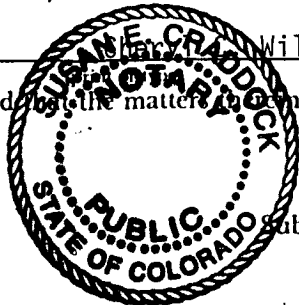
G. Chronological History of Water Use
See Attached



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.

Colorado
 State of South Dakota)
 County of Jefferson) ss

I, Cheryl A. Williss the applicant, certify that I have read the foregoing
 and that the matters therein stated are true.



Signed Cheryl A. Williss

Subscribed and sworn to before me February 17, 1998

My Commission Expires Aug. 05, 2001

Susan E. Craddock
 Notary Public or other qualified officer

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

See Attached

 (Print name) 19____

 (Print name) 19____

300 AF Storage (Based on 100 acres x 7.5' deepest x .4' average depth)

567 AF TOTAL

Average Precipitation = 21.29" *Earthinfo SD West2 1997 Summary - Orient Station*

* Over the 100 surface acre wetland, this results in a net seasonal use of 267 acre-feet annually.

Attachment to
Affidavit of
Water Use
Form 2B



ZELL LAKE WPA
FAULK COUNTY, SOUTH DAKOTA

G. Chronological History of Water Use

In 1970 the FWS acquired, from the State of South Dakota, the Zell Lake Waterfowl Production Area which contained Zell Lake and its dam. At that time it was determined that the original dam was constructed in the mid 1930's.

Use since acquisition has been under the authorities of the Migratory Bird Hunting and Conservation Stamp Act 16 U.S.C. 718(c), for the purpose(s) as a Waterfowl Production Area subject to all of the provisions of the Migratory Bird Conservation Act 16 U.S.C. 715d, for any other management purposes, for migratory birds, except the inviolate sanctuary provisions.

Because the dam has no control, runoff is allowed to fill the lake and evaporate naturally. In high water years, the lake fills until it overtops the spillway.

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.

The dam was in place when the FWS acquired the lands from the State of South Dakota in 1970. We, therefore, are relying upon information found in our files that reference the dam, the estimated date of construction, reference to its existence in county records, as well as discussions with the Chief Engineer's Office at that time.

Attachment to
Affidavit of
Water Use
Form 2B



ZELL LAKE WPA
FAULK COUNTY, SOUTH DAKOTA

G. Chronological History of Water Use

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Attachment to
Application for Permit
to Appropriate Water
Within the State of
South Dakota
Form 2

ZELL LAKE WPA
FAULK COUNTY, SOUTH DAKOTA

300 AF Storage *(Based on 100 acres x 7.5' deepest x .4'
average depth)*

+ 267 AF Seasonal *

567 AF TOTAL

Average Evaporation = 53.32" *Earthinfo SD West2 1997 Summary - Oahe
Dam Station*

Average Precipitation = 21.29" *Earthinfo SD West2 1997 Summary - Orient
Station*

Net Evaporation = 32.03 inches or 2.67 feet.

* Over the 100 surface acre wetland, this results in a net seasonal use
of 267 acre-feet annually.



REPORT ON
VESTED WATER RIGHT APPLICATION NO. 6052-3
US Fish & Wildlife Service
March 13, 1998

Vested Water Right Application No. 6052-3 has been filed by the US Fish & Wildlife Service (USFWS) to validate appropriation of a total of 567 acre-feet of water annually in Zell Lake Dam. Zell Lake Dam impounds 300 acre-feet of water and is located on Dove Creek in the SW ¼ SE ¼ of Section 16-T117N-R66W, in Faulk County. The additional 267 acre-feet is to offset evaporation. The water will be used to provide habitat for fish and wildlife production with a claimed priority date of January 1, 1936.

Discussion:

Zell Lake Dam was originally constructed in 1936 by the Works Progress Administration (WPA). The USFWS acquired the dam in 1970, from the State of South Dakota. Since the existing dam was constructed before the Water Management Board Safety of Dams Rules became effective in October 1986, it is exempt from the specific spillway capacity requirements of the Rules; although, the dam must be maintained in a safe condition pursuant to SDCL 46-7-3.

Zell Lake dam is listed on our Safety of Dams inventory (ID No. 662) as a Category 3, Low Hazard dam. It has a current height of 10 feet with a normal storage capacity of 300 acre-feet with a reservoir level at the spillway elevation, and a maximum storage capacity of 480 acre-feet with a reservoir level at the top of dam elevation. A dam of this size and hazard category would be required to have a minimum spillway design capable of passing a 25 year flood.

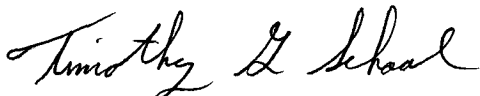
The dam has a drainage area of 69.44 square miles. A 25 year flood for this drainage area produces a peak runoff of 950 cfs and a 100 year flood produces a peak runoff of 2000 cfs. The dam has a 60 foot wide earthcut spillway with 5 feet of available head and has a maximum spillway capacity of approximately 2220 cfs.

The annual yield with a 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 560 acre-feet. The annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 7000 acre-feet. The annual yield for this drainage area with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 1500 acre-feet.

Zell Lake Dam is located in the SW ¼ SE ¼ of Section 16-T117N-R66W on Dove Creek, about 13 miles upstream of the confluence of Dove Creek and the South Fork of Snake Creek. There are no existing Water Permits/Rights located on Dove Creek, or the 13 miles of the South Fork of Snake Creek between the confluence of Dove Creek and the James River. Approval of Vested Water Right Application No. 6052-3 should not have any adverse effect on existing downstream Water Permits/Rights or domestic use, especially since the dam has been in existence since 1936.

Conclusions:

1. Zell Lake Dam has been in existence since 1936.
2. Vested Water Right Application No. 6052-3 should be approved since approval should not have any adverse effect on existing Water Permits/Rights.
3. If approved, the low flow bypass requirement for downstream domestic use should be a qualification on Vested Water Right Application No. 6052-3.



Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by:



Gale N. Selken, P.E.
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

RIGHT APPLICATION NO. 6052-3, U.S. Fish and Wildlife Service

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Validation of Vested Water Right Application No. 6052-3, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, CO 80225.

The Chief Engineer is recommending VALIDATION of Application No. 6052-3 for a 300 acre foot water impoundment known as Zell Lake because 1) water has been appropriated as described for fish and wildlife propagation with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Validation of No. 6052-3 authorizes sufficient water annually to maintain the water level to the spillway elevation of the dam.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
March 23, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

March 24, 1998

US Fish & Wildlife Service
Cheryl Williss, Agent
P.O. Box 25486, DFC
Denver, CO 80225

Dear Ms. Williss:

Water Permit Application No. 6052-3 for fish and wildlife production has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Faulk Co. Record printed at Faulkton, SD (Ph # (605) 598-6525). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 24, 1998

Faulk Co. Record
Box 68
Faulkton, SD 57348-0068

ATTENTION: Legal Department

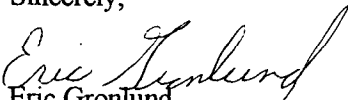
Enclosed is a Notice of Application No. 6052-3 to Appropriate Water to be published twice. Please publish the first notice on April 8, 1998, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The applicant is US Fish & Wildlife Service, Cheryl Williss, Agent, P.O. Box 25486, DFC, Denver, CO 80225 (Ph # (303) 236-5321).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Our fax number is 605 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

No. 6052-3

Date _____

We are in receipt of your letter of March 24, 1998 enclosing Notice of Application No. 6052-3 to Appropriate Water which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on April 8, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 6052-3 to Appropriate Water

Notice is given that the U.S. Fish & Wildlife Service, PO Box 25486, DFC, Denver CO 80225 has filed an application to validate a vested water right claim to appropriate a total of 567 acre-feet of water annually from runoff and Dove Creek in a dam located in the Zell Lake Waterfowl Production Area. The dam impounds 300 acre-feet of water with an additional 267 acre-feet to be appropriated to offset evaporation. The dam is located in the SW 1/4 SE 1/4 Section 16 with water impounded in the W 1/2 SE 1/4, W 1/2 NE 1/4, E 1/2 NW 1/4, NW 1/4 NW 1/4 Section 16; all in T117N-R66W. Water is used to provide habitat for fish and wildlife propagation with a priority claim date of January 1, 1936.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6052-3 because 1) water has been appropriated as described for fish and wildlife propagation with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 27, 1998.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

State of South Dakota

§

County of Faulk

James B. Moritz of said county, being first duly sworn, on oath says that he is the publisher of the **Faulk County Record**, a weekly newspaper printed and published in Faulkton in said County of Faulk and has a full and personal knowledge of all the facts therein 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 was and is printed wholly or in part in an office maintained at said place of publication; that the

Notice of Hearing To Validate Vested Water Right Application No. 6052-3 to Appropriate Water

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

Two (2)

successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

Wednesday, April 8, 1998
Wednesday, April 15, 1998

that the full amount of the fees for the publication of the annexed notice is **\$43.83**

James B. Moritz

Subscribed and sworn to before me this

13th day of May, 1998

Val Ramsdell

Notary Public
Faulk County, South Dakota

OK

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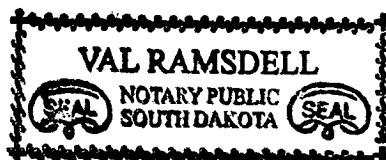
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Pursuant to SDCL 46-A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6052-3 because 1) water has been appropriated as described for fish and wildlife propagation with a priority date of January 1, 1936, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest. In accordance with SDCL 46-A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is

No. 114, April 8 & 15, 1998

Notice of Hearing To Validate Vested Water Right Application No. 6052-3 to Appropriate Water

Notice is given that the U.S. Fish & Wildlife Service, PO Box 25486, DFC, Denver CO 80225 has filed an



My Commission Expires
Jan. 17, 2005

WATER RIGHT PROGRAM

SOUTH DAKOTA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

FACSIMILE TRANSMITTAL SHEET

TO:	Ginger Price	FROM:	Eric Gronlund
COMPANY:	U.S. Fish and Wildlife Service	DATE:	March 24, 1998
FAX NUMBER:	303 236-4759	TOTAL NO. OF PAGES INCLUDING COVER:	5
PHONE NUMBER:		SENDER'S TELEPHONE NUMBER:	(605) 773-3352
RE:	Zell Lake	SENDER'S FAX NUMBER:	(605) 773-4068

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ AS YOU REQUESTED

NOTES/COMMENTS:

I faxing you the notice, report and recommendation for Vested Water Right Application No. 6052-3 for Zell Lake. Please review and contact me if you have any questions. A copy of this is also being sent to you via U.S. mail.

Please contact the newspaper immediately to authorize publication.

UNITED STATES GOVERNMENT

Memorandum



TO : Regional Supervisor, Division of Realty

DATE: November 17, 1969

FROM : Regional Engineer

EN-H-WA South Dakota

SUBJECT: WPA - Section 16, T117N, R66W, Faulk County, South Dakota

Recently Mr. Schnack of your division made a verbal request to our Hydraulics Branch concerning water rights for the subject wetland purchase area.

Our investigation to date has revealed that the State of South Dakota does not hold a water right for this impoundment. The Chief Engineer for South Dakota suggests that we go on record with his office for a vested right inasmuch as our Bureau has acquired the property.

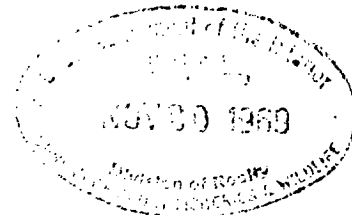
In order for us to properly go on record as having a vested right to the water stored annually in the impoundment, we need to know the approximate area and capacity of the impoundment at spillway level.

We would also like to know the following if possible:

1. Date dam was built *1935 ~ 1936 according to county auditor*
2. Maximum impoundment water depth (measured from spillway level) *approx 9 ft*
3. Number of years the dam did not fill, due to inadequate water supplies *as attempt to obtain this info.*
4. Answers to as many questions as possible on attached form R3-126, which is used in North Dakota and illustrates the information generally required.

Possibly your field personnel in Aberdeen could supply us with this information. The former landowner may be able to supply some of this data. Any other information relative to the history of the impoundment would also be useful.

John D. Umberger
John D. Umberger



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



Regional Director

January 12, 1970

Acting
Regional Engineer

BN-WA-Zell Lake
Tr(2a) Faulk Co. S.D.

Acceptance of Purchase (Mr. Garlick's memo 12-22-69)

We have the following comments with regard to the first two items in the subject memo:

1. We were advised by the South Dakota State Engineer in November 1969, that a vested water right would be granted by his office for the Zell Lake impoundment once we acquired the necessary property and made proper application.
2. Investigation was made to determine the area that would be flooded by Zell Dam, prior to the December 22, 1969, meeting in Burt Round's office. We are reasonably certain as to the area that will be flooded by the reconstructed dam without conducting a field survey, and we have so advised Realty of the minimum area that must be acquired either by flowage easement or fee purchase. Photo copies of five foot contour interval USGS quadrangle maps showing minimum area required were subsequently sent to the Acquisition officer at Aberdeen, South Dakota.

We see no reason to withhold acceptance of the option on Tract (2a) once options on the additional required lands are obtained as determined in the December 22, 1969, meeting. It will be necessary to obtain some additional field data on the dam itself to complete the water right filing. This will be done after the snow melts and it should not be allowed to delay acceptance of options for this area.

Edwin B. Stevenson

cc:

Refuges--RO
Realty--RO

CWStephan:ce

Stephan
1-12-70
Blair
1/12/70
Stevenson
1/12/70



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR

WR SD

Mail Stop 60189

MAILING ADDRESS:

Post Office Box 25486

Denver Federal Center

Denver, Colorado 80225-0486

STREET LOCATION:

134 Union Blvd.

Lakewood, Colorado 80228-1807

FEB 17 1998

Mr. John Hatch
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181



Dear Mr. Hatch:

In 1970 the Service acquired lands containing the Zell Lake and dam, in Faulk County, South Dakota, from the State of South Dakota. At that time, while planning repair to the spillway, the fact that there was no recorded water right was noted. Because the original dam was constructed in the 1930's, the South Dakota State Engineer's Office advised that the Service need only submit the proper documentation to validate the existing Vested right. (Copies of internal correspondence enclosed.)

Because repair work to this structure is again necessary, it has come to my attention that the proper vested water rights documents were never submitted.

Therefore, please find the following documents enclosed:

- 1) Application for Permit to Appropriate Water Within the State of South Dakota, Forms 2 and 2A, with attachment;
- 2) Affidavit of Water Use, Form 2B, with attachments;
- 3) Filing Map No. 6R-SD-611-WR-P-35.0; and
- 4) Fed Select Check in the amount of \$300 to cover filing fees.

Please notify this office of the newspaper selected, prior to publication of Notice of Hearing, so that the Authorizations of Advertisement can be forwarded to them.

Personnel from the Sand Lake National Wildlife Refuge will contact your office upon completion of the required repairs, so that an inspection can be accomplished.

Mr. Hatch

2

Please extend my thanks to Mr. Mark Rath of your office for the assistance he provided my staff in this effort.

Finally, please accept my apology for the Government's oversight in completing this requirement in a timely manner. I can only offer by way of an excuse that regional office jurisdiction for the area was transferred from Minnesota to Colorado and this case apparently "fell through the bureaucratic cracks." I do appreciate your consideration of the matter.

If you have any questions or require further information, please contact Ginger Price at (303) 236-5321, extension 238.

Sincerely,

A handwritten signature in cursive script, reading "Cheryl C. Williss".

Cheryl C. Williss
Chief, Division of Water Resources

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 24, 1998

Linda Coe
US Fish & Wildlife Service
PO Box 25486
Denver CO 80225

Dear Ms. Coe:

Enclosed is the check for \$300.00 which was submitted with the *Application for a Permit to Appropriate Water Within the State of South Dakota* for Zell Lake in Faulk County. As stated in your phone conversation with Eric Gronlund, the filing fee for a vested right application is \$15.00.

Please submit the required fee. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

FEDSELECT CHECK

Date

3/3/98

0000232

CHECK NUMBER

15.00

\$

DOLLARS

PAYEE NAME
South Dakota DENR

EXPENSE CATEGORY

PAYEE COPY

Check # 232



1419118

2109, 60189-1261

\$

15.00

ACCOUNT

MEMORANDUM INFORMATION

CHECK AMOUNT



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR

WR SD

Mail Stop 60189

MAILING ADDRESS:

Post Office Box 25486

Denver Federal Center

Denver, Colorado 80225-0486

STREET LOCATION:

134 Union Blvd.

Lakewood, Colorado 80228-1807

MAR 03 1998

Mr. Eric Gronlund
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181



Dear Mr. Gronlund:

In response to our telephone conversation regarding the *Application for a Permit to Appropriate Water Within the State of South Dakota, Zell Lake*, enclosed is Fedselect Check 232 in the amount of \$15 to cover the filing fee for a vested right application.

If you have any questions or require further information, please contact Ginger Price at (303) 236-5321, extension 238.

Sincerely,

Linda Coe
Water Rights Technician

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

JUL 6 1998

VR 6052-3

US Fish & Wildlife Service
%Cheryl Williss, Agent
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Dear Ms. Williss:

Enclosed are your Validated Vested Water Right and Water License No. 6052-3. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 415671

Pierre, March 6, 19 98

RECEIVED OF USFWS, P.O. Box 25486, Denver Federal Center, Denver, CO 80225-0486
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6052-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	15	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 _____		

(Any Other Work Provided by Law)	Total	15 00

By _____
Chief Engineer

John Hatch

US Fish & Wildlife Service
Zell Lake Dam

Zell Lake Dam

ID No 662

Cat. 3 - Low Hazard

DA = 69.44 mi.² = 44,442 Ac Mostly Max-Nisbell-Newman
Soils - Well Drained / Major P. holes, use CN = 76

SCS Annual Yield

$$DA = 69.44 \text{ mi.}^2 / 44,442 \text{ Ac}$$

$$ISO = 2$$

$$CN = 76$$

$$10\% = 1.9$$

$$1.9 \times 44,442 / 12 = 7000 \text{ Ac-Ft}$$

$$50\% = 0.40$$

$$0.40 \times 44,442 / 12 = 1500 \text{ Ac-Ft}$$

$$80\% = 0.15$$

$$0.15 \times 44,442 / 12 = 560 \text{ Ac-Ft}$$

From USGS WRI 80-80 - "Tech. of Est. Flood Peaks ... in SD"

$$\begin{aligned} Q_{25} &= 83.4 A^{.60} S^{.44} S_i^{-.72} \\ &= 83.4 (69.44)^{.60} (5)^{.44} (3.16)^{-.72} \\ &= 83.4 (17.73) (2.03) (0.44) \\ &= \underline{950 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} Q_{100} &= 132 A^{.65} S^{.46} S_i^{-.67} \\ &= 132 (69.44)^{.65} (5)^{.46} (3.16)^{-.67} \\ &= 132 (15.74) (2.09) (0.46) \\ &= \underline{2000 \text{ cfs}} \end{aligned}$$

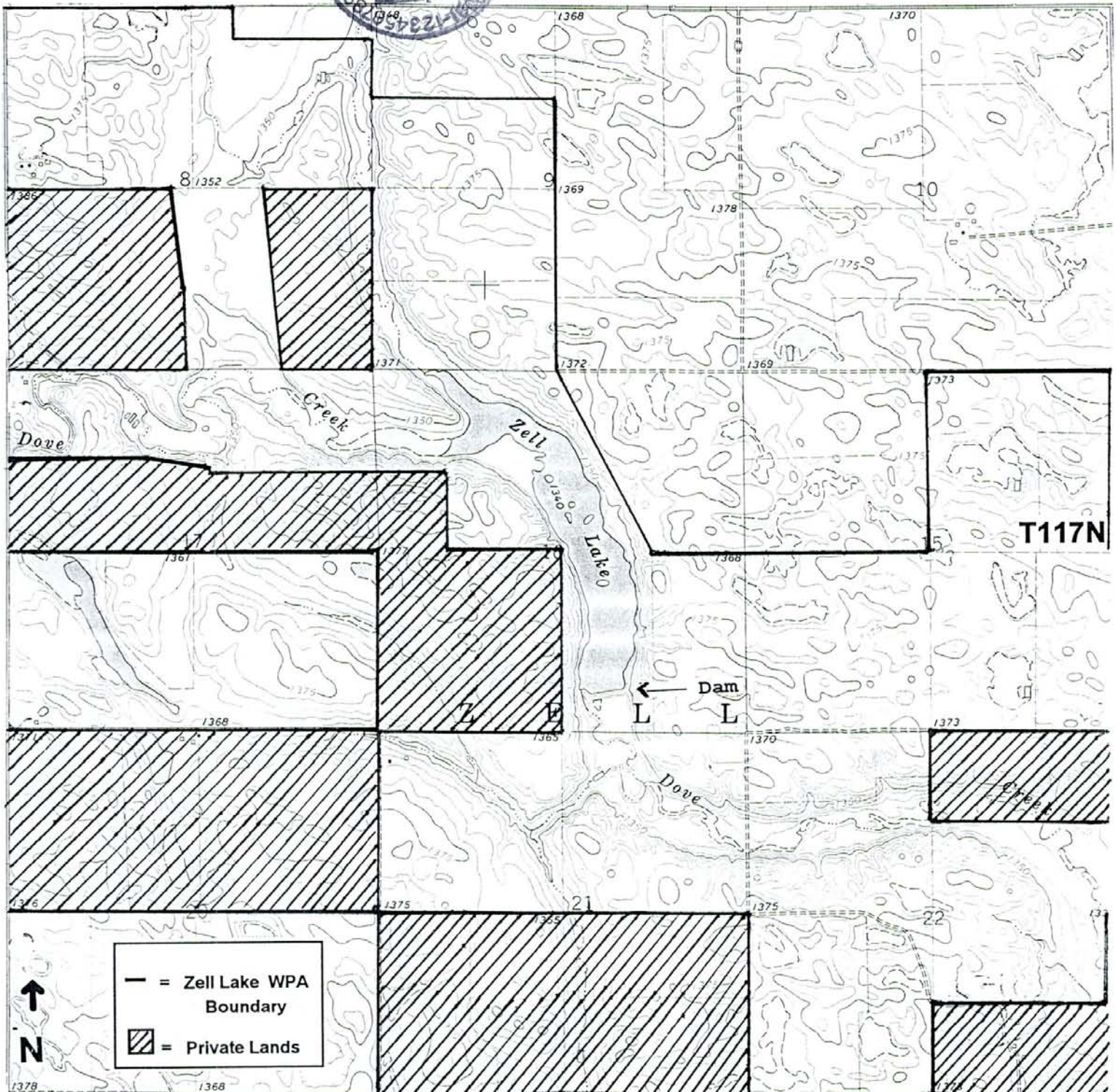
Spillway Flow

$$\begin{aligned} Q &= C L H^{3/2} \\ L &= 60' \\ H &= 5' \\ C &= 3.3 \\ &= (3.3)(60)(5)^{1.5} \\ &= \underline{2220 \text{ cfs}} \end{aligned}$$



R66W

ROCKHAM QUADRANGLE
SOUTH DAKOTA
7.5 MINUTE SERIES (TOPOGRAPHIC)



I, A.E. Bevilacqua, of Lakewood Colorado, do hereby certify that this map was prepared from notes and information obtained from an actual survey and that it correctly represents the facilities for the accompanying application.

Albert E. Bevilacqua
Regional Engineer

UNITED STATES DEPARTMENT OF INTERIOR
FISH AND WILDLIFE SERVICE

Water Rights Filing Map
No. 6R-SD-611-WR-P-35.0

ZELL LAKE WATERFOWL PRODUCTION AREA
FAULK COUNTY, SOUTH DAKOTA
(SAND LAKE WETLAND MANAGEMENT DISTRICT)

Dated 2/98

Page 1 of 1

6052-3

