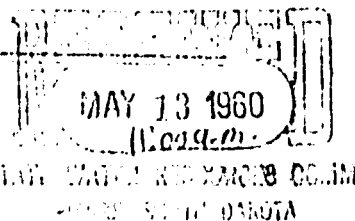


No. 713-3Water Division No. 3 Missouri River District
(Blanks to be filled by the Engineer for the W. R. C.)**APPLICATION FOR Vested Right PERMIT****To Appropriate Water within the State of South Dakota**

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

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

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

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

2. Name of diversion work OTOZA LAKE - Hughes County
As required to fill lake to spillway outlet - approximately
 3. Amount of water claimed 90 acre feet per year feet per second _____
 4. Source of water supply Flood waters - Day-Run-Creek North Medicine Creek
NE 1/4 SE 1/4
 5. Location of point of diversion NE 1/4 SE 1/4; S. 6; T. 112; R. 76 W
 _____ on _____ bank _____ County.

6. Annual period or periods during which water is to be used continuously
 7. To be used for:

- I. Irrigation or ~~XXXXXXXX~~ 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.) Sec. 6; Twp. 112; Range 76

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

- (a) Nature of use Public Recreation uses
 Name any of the above uses claimed _____
 (b) Amount of power to be generated _____ horse power.
 Amount claimed for engine cooling _____
 (c) Location of plant _____
 (d) Method of developing power _____
 (e) Point where water will be returned to stream _____

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
(c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....
(e) Other structures \$..... Total, \$ 6,000.00

9. Description of diversion works:

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

II. Dimensions of works.

(a) Dam: Height 18 feet; length at bottom 400 feet; length at top 650 feet; thickness at bottom 102 feet; thickness at top 13 feet; slope at front water face 3:1; slope at back face 2:1 material used in construction clat
(b) Reservoir: Capacity when filled 159 acre feet. Surface area at highwater mark 30 acres.

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

(c)* Head gate: Width.....feet; height.....feet;
Material
(d) Canal: Total lengthmiles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work completed - not applicable years.

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

12. Choice of newspaper for publication of notice of intention to appropriate not applicable

STATE OF SOUTH DAKOTA }
County of Hughes } ss.

I, Harry R. Woodward, 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 Harry R. Woodward

Subscribed and sworn to before me this 12 day of May 1962

Edward D. Bohannon
Notary Public (or other qualified officer.)

Remarks by State Water Resources Commission:

"Vested Right" Claimed

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

May 18

1960

This is to certify that the foregoing application was received by the Commission at 11:00 a.m. upon the 13th day of May, 1960.

State Water Resources Commission

By:

Benjamin J. [Signature]
for Chief Engineer, Executive Officer

Number of permit

713-3

Date of first receipt of application

May 13

1960

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

Date of receipt of corrected application

Date from which applicant may claim right

1937

Approved

May 18

1960

Recorded in Book

6

Page

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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

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

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

completed

4th. The water appropriated shall be used for the purpose of 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 90 acre feet annually 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 time for each acre of land to which water is actually used for public recreation

and beneficially applied for irrigation on or before June 30, 1955, said water to be used during the following described annual period:

Witness my hand this

18th

day of

May

1960

State Water Resources Commission

By:

[Signature]

Chief Engineer, Executive Officer

Certificate of Construction Issued

May 18

1960

Water License Issued

May 18

1960

STATE OF SOUTH DAKOTA

WATER LICENSE No. 713-3

WHEREAS, On the 13th day of May A. D. 1960
 the Department of Game, Fish and Parks
 of Pierre County of Hughes and State of
South Dakota duly made application (No. 713-3) to us for a vested right
 permit to use 90 acre feet
~~of the waters of~~ North Medicine Creek annually
 County of Hughes, State of South Dakota, for public recreation
 purposes; and

WHEREAS, On the 13th day of May A. D. 1960
vested right recognizing
 Permit No. 713-3 was issued to said applicant for the diversion of said water, and ~~providing~~
 completion of the works of diversion therein described, ~~for the purpose of~~ recognizing
~~and for the application to beneficial use of said~~
 water ~~on the~~ and for the application to beneficial use of said
 and,

WHEREAS, On the 13th day of May A. D. 1960
vested right
 the holder of said permit duly made proof of the completion of adequate works for the diversion of 90 acre feet
annually ~~of said waters~~ of said waters, as evidenced by our Certificate No. 713-3
 dated May 18, 1960 confirming the completion of works of sufficient capacity for
feet annually
 diverting and conveying to the of intended use 90 acre ~~of water~~ of water, with date of
 priority of 1937 ~~and,~~

WHEREAS, On the 13th day of May A. D. 1960
 proof was duly made of the application to beneficial use of 90 acre ~~of said water~~ feet annually
to be used in place for public recreation

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 Department of Game, Fish and Parks
of Pierrra the holder and owner of said ^{vested right} permit No. 713-3
a water right, dating from 1937 to the use of 90 acre feet
~~for the purpose~~ ^{annually} of the waters of North Medicine Creek
in the County of Hughes and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinabelow mentioned, to be diverted at a point in the NE 1/4 Sec 6,
T 112N R 76 W
and ~~under the license~~ in place

for the purpose of 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 18th day of May A. D. Nineteen
Hundred and sixty

State Water Resources Commission

By:

J.W. GRIMES, pp 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. 713-3

Water Division No. 3 Missouri River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN.

This is to Certify, That the Department of Game, Fish and Parks

of Pierrre, County of Hughes, and State of South Dakota, the holder vested right of Permit No. 713-3 issued upon Application No. 713-3 bearing date of priority of 1937, authorizing the diversion of 90 acre feet annually of the waters of North Medicine Creek County of Hughes, State of South Dakota, at a point in the NE 1/4 SE 1/4 Section 6, T 112N R 76W, for 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 recognized as satisfactory work for diverting and conveying to the place of intended use 90 acre feet annually of water; and that the land use of said water are described as follows, to-wit: to be used in place for public recreation

Witness my hand this 18th day of May A. D. 1960

State Water Resources Commission

By:

J.W. GRIMES, pp Chief Engineer, Executive Officer

Location No.

Water Division No. Water District

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

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

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. _____

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

Ans. _____

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

Ans. NR¹ & SE¹ Sec. 6; Twp. 112; R. 76 - flood waters Dry Run Creek

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. Earth Dam - approximately 400 feet long, 18 feet high

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. Fish and Wildlife propagation, conservation and recreation

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

Ans. Used in place in lake or reservoir

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

Ans. As required to fill lake to spillway outlet - approximately 90 acre feet per year

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.

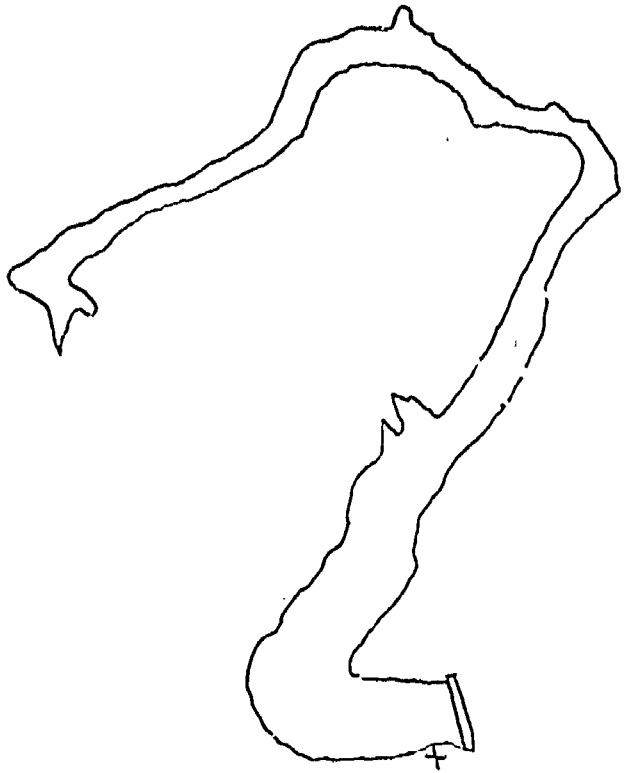
Ans. ~~Been in use ever since 1937 when dam was constructed. Used by the~~
~~public for the uses specified except for that amount lost by evaporation~~
~~and seepage.~~

(Sign) *Wm. J. ...*

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 *Sioux*, County of *Hughes* State of South Dakota, on this *13* day of *May* A. D. 19*36*
} Witnesses. *Edmund D. Johnson*

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 -----	



6

OToza Lake
Hughes County
Dept Game Fish & Parks
Sec 6 Twp 112 Range 16



Department of Water & Natural Resources

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

September 21, 1988

Richard Beringson, Secretary
Department of Game, Fish and Parks
Anderson Building
445 E Capitol
Pierre SD 57501

Dear Mr. Beringson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for lakes for the following reasons:

1. Until the outlet elevation for each lake is surveyed and the outlet elevation is set by the Water Management Board.
2. To allow the Vested Water Right Claim to be amended, if necessary, as follows:
 - a) Include the outlet elevation;
 - b) To correct the amount of water claimed;
 - c) To add the qualification that a vested claim is subject where necessary to installation of a concrete outlet structure to assure retention of the outlet as the established elevation; and
 - d) To add any amendments and qualifications necessary to clarify a Vested Right Claim.

Also, that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for dams to allow the Vested Water Right Claim to be amended, if necessary, as follows:

1. To include the spillway elevation;
2. To correct the amount of water claimed; and
3. To add any amendments and qualifications necessary to clarify a Vested Right Claim.

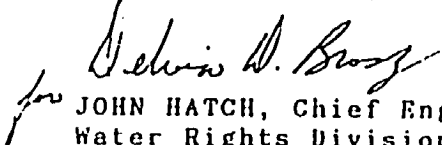


September 21, 1988
Richard Beringson, Secretary
Page 2

We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation process will take several years to complete, the results should be of benefit to the public and to your Department. As the work is completed to validate each claim, the claim will be presented to the Water Management Board for validation.

Please advise if you have any questions.

Very truly yours,


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

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