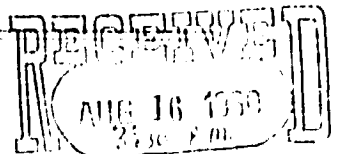


No. 132-3Water Division No. 3 Missouri River District
(Blank to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMM.
Ft. Pierre, S. D.

VESTED RIGHT **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 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 Manalain Lake - Brule Co.
As required to fill lake to spillway outlet - approximately
 3. Amount of water claimed 324 acre-feet per year cubic feet per second
 4. Source of water supply American Creek
 5. Location of point of diversion SW 1/4 Sec. 17 T. 104 R. 70
 on _____ bank _____ County.
 6. Annual period or periods during which water is to be used continuously
 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 ~~XXXXXX~~ giving location, etc.) Sec. 17, 20 & 21 T 104 R70

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, \$ 27,000-----

9. Description of diversion works:

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

II. Dimensions of works.

(a) Dam: Height 21-----feet; length at bottom 400-----feet; length at top 500-----feet; thickness at bottom 120-----feet; thickness at top 24-----feet; slope at front water face 3:1-----; slope at back face 2:1-----; material used in construction clay-----

(b) Reservoir: Capacity when filled 650-----acre feet. Surface area at highwater mark 108-----acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	FEET	ACRE-FOOT 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-----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 applicable11. 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

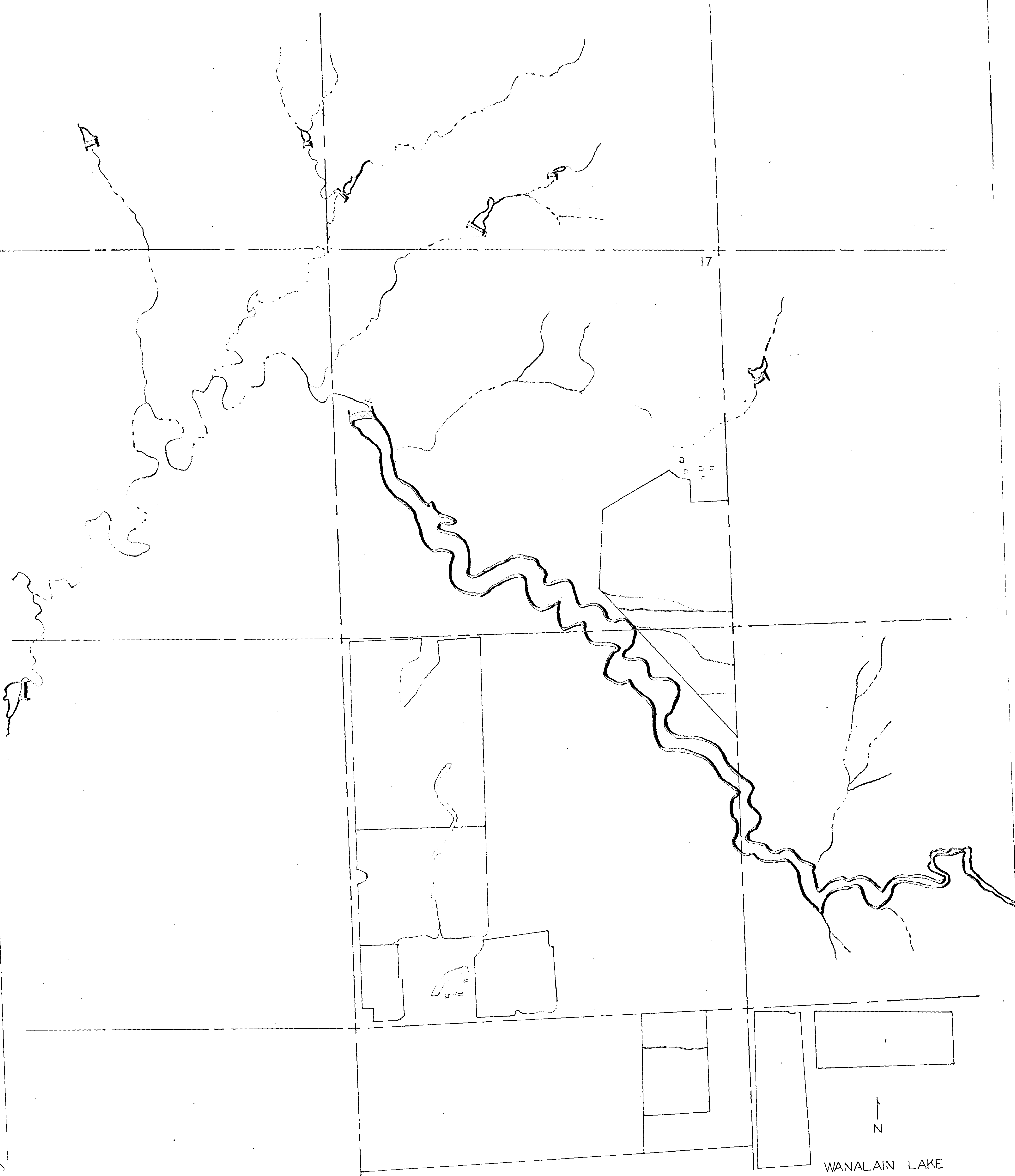
STATE OF SOUTH DAKOTA

County of Hughes

ss.

I, Harry R. Kosciward, 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. KosciwardSubscribed and sworn to before me this 15 day of May 1960John L. Johnson
Notary Public (or other qualified officer.)



17

N

WANALAIN LAKE
T 104 R 70
BRULE CO.
SD. DEPT. GAME FISH PARKS

(WR-#732-3)

WR-#732-3

Remarks by State Water Resources Commission:

"Vested Right"

STATE OF SOUTH DAKOTA

County of Hughes } ss.

Pierre, South Dakota, April 20, 1961

This is to certify that the foregoing application was received by the Commission at 3:30 o'clock

2 p.m. upon the 16th day of August, 1960

State Water Resources Commission

By:

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

Number of permit 7323

Date of first receipt of application August 16, 1960

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 1935, 19____

Approved April 20, 1961, Recorded in Book 6 Page 230

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 _____, 19____

2nd. The whole of said work is ~~to be~~ completed on or before _____, 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 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 324 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 ~~shall be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually~~ used for public recreation

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

Witness my hand this 20th day of April, 1961

State Water Resources Commission

By:

William J. [Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued April 20, 1961

Water License Issued April 20, 1961

Permit No. 732-3MISSOURI
Water Division No. 3 RIVER Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the South Dakota Department of Game, Fish and Parksof Pierre, County of Hughes, and State of
South Dakota, the holder Vested Right of Permit No. 732-3, issued upon Application
No. 732-3, bearing date of priority of 1935, authorizing the diversion of324 acre feet annually ~~xxxxxxxxxxxx~~ of the waters of American CreekCounty of Brule, State of South Dakota, at a point in theSW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17, T 104N; R 70W, for Public recreationpurposes, 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 ~~xxxxxx~~ **recognized as** satisfactory~~xxxxxxxx~~ for diverting and conveying to the place of intended use 324 acre feet annually ~~xxxxxx~~~~xxxxxxxx~~ of water; and that ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ the use of said water are described as follows,to-wit: to be used in place for public recreation

Witness my hand this _____ day of _____ A. D. 19____

State Water Resources Commission

By:

J.W. GRIMES - Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 732-3

WHEREAS, On the 16th day of August A. D. 1960

The South Dakota Department of Game, Fish and Parks

of Pierre County of Hughes and State of South Dakota duly made application (No. 732-3) to us for Vested Right a permit to use 32 1/2 acre feet annually of the waters of American Creek County of Brule, State of South Dakota, for Public recreation purposes; and

WHEREAS, On the 20th day of April A. D. 1961 Vested Right Permit No. 732-3 was issued to said applicant recognising for the diversion of said water, ~~XXXXXX~~ the completion of the works of diversion therein described on or before the ~~XXXXXX~~ day ~~XXXXXX~~ and for the application to beneficial use of said water on or before the ~~XXXXXX~~ day ~~XXXXXX~~ and,

WHEREAS, On the 16th day of August A. D. 1960 the holder of said permit duly made proof of the completion of adequate works for the diversion of 32 1/2 acre feet annually ~~XXXXXX~~ of said waters, as evidenced by our Certificate No. 732-3 dated April 20, 1961 confirming the completion of works of sufficient capacity for 32 1/2 acre feet annually diverting and conveying to the place of intended use ~~XXXXXX~~ of water, with date of priority of 1935 ~~XXXXXX~~ and,

WHEREAS, On the 16th day of August A. D. 1960 proof was duly made of the application to beneficial use of 32 1/2 acre feet annually ~~XXXXXX~~ of said water; 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 South Dakota Department of Game, Fish and Parks
of Pierre the holder and owner of Vested Right of sale/permit No. 732-3
a water right, dating from 1935 to the use of 324 acre-foot
cubic feet per second of the waters of American Creek annually
in the County of Brule and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinbelow mentioned, to be diverted at a point in the
SW 1/4 NW 1/4 Section 17, T 104N, R 70W
and ~~conveyed to the holder~~ to be used 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 20th day of April A. D. Nineteen
Hundred and Sixty-One

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 -----

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. American Creek - SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17 T 104 R 70

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, 21 feet HighImpoundment of 108 acres at dam site

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, conservatin 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. No required to fill lake to spillway outlet - approximately 324 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 1935 when dam was constructed. Used by the public
for the uses specified except for that amount lost by evaporation and seepage

(Sign) Sam, R. L. Lward

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 Revere, County of Thayer

State of South Dakota, on this 15 day of August A. D. 1960
Edward B. Johnson
} Witnesses.

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 _____



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.

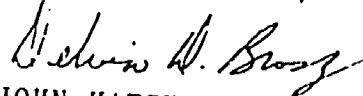


September 21, 1988
Richard Reringson, Secretary
Page 2

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