

No. 774-3
 Water Division No. 3 Missouri River District
 (Blanks to be filled by the Engineer for the W. R. C.)
VESTED RIGHT
APPLICATION FOR PERMIT
 STATE WATER RESOURCES COMMISSION
 MONTANA

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 LAKE ANDES - CHARLES MIX COUNTY
As required to fill lake to outlet level - approximately 12,0-18
3. Amount of water claimed Acra feet per year cubic feet per second
4. Source of water supply ~~Charles Mix~~ Andes Creek and Draw's
5. Location of point of diversion SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3 T. 96 N. R. 64 W.; NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20 T. 97 N. R. 64 W.
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 31 T. 97 N. R. 64 W.; SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 9 T. 97 N. R. 64 W. County.
6. Annual period or periods during which water is to be used continuously
7. To be used for:

I. 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 ~~irrigation~~ use (giving location, etc.) Part of Sec. 3-2-1, 10, 11, T. 96 N-R 64
Part of Sec. 6, T. 96 N-R 64 W. Part of Sec. 31, 32, 33, 28, 29, 20, 21, 22, 16 and 9
all in T. 97 N-R 64 W.

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

(a) Nature of use Public Recreation Use

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, \$.....

9. Description of diversion works:

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

II. Dimension; of works. Information requested not applicable. ~~Wixom~~ Lake Andes is a meandered lake. Maximum depth is approximately 10 feet

(a) Dam: Heightfeet; length at bottomfeet; length at top

.....feet; thickness at bottomfeet; thickness at top

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

material used in construction

(b) Reservoir: Capacity when filled 20,080 acre feet. Surface area at highwater mark 4,016.26 acres.

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

(c)* Head gate: Widthfeet; heightfeet;

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 years. Not applicable - a meandered lake

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, Walter J. Fillmore, 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

Subscribed and sworn to before me this

21

day of

March

1961

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, JUNE 14, 1971

This is to certify that the foregoing application was received by the Commission at 11:00 o'clock
9 a.m. upon the 5TH day of APRIL, 1961

State Water Resources Commission

By:

Burton D. Jones
for Chief Engineer, Executive Officer

Number of permit 774-3

Date of first receipt of application APRIL 5, 1961

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 1889

Approved JUNE 14, 1971, Recorded in Book B 12 Page 9

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, 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 12,049 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~~ ~~cubic foot of water per acre of land for each acre of land~~ which water is actually USED FOR PUBLIC RECREATION

and beneficially ⁴applied for irrigation on or before JUNE 30 55, 1955; said water to be used during the following described annual period:

CONTINUOUSLY

Witness my hand this 14TH day of JUNE, 1971

State Water Resources Commission

By:

William D. Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued JUNE 14, 1971

Water License Issued JUNE 14, 1971

STATE OF SOUTH DAKOTA

WATER LICENSE NO. ... 774-3

(1) WHEREAS, On the 5th day of April A. D. 19 71

the Department of Game, Fish and Parks

made Water Right Application No. 774-3 Vested Right 12,048 acre feet annually of the waters of Ward, Andes Creek and dry draws

County of Charles Mix, State of South Dakota, for public recreation

purposes; and

(2) WHEREAS, On the 14th day of June A. D. 19 71

Vested Right 774-3, with a date of priority of 1889

was issued to said applicant recognizing for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 1st day of April 1971 and for the application to beneficial use of said water on or before the 1st day of April 1971

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 12,048 acre feet annually of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

water is used in place for public recreational purposes

(5) 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 Pierre, South Dakota
the holder _____ and owner Vested Right of said permit No. 744-3 a water right, dating from 1889
_____ to use of 12,048 acre feet annually ~~cubic feet per second~~ of the waters
of Andes Creek and dry draws

in the County of Charles Mix and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, T96N, R65W; and in
the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20; the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31, and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, T97N, R64W

and ~~conduct toward upon~~ stored in place

for the purpose of public recreation (Lake Andes)

Subject to any limitations listed in Water Right Permit No. 774-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 14th day of June A. D.
Nineteen Hundred and Seventy - One

WATER RESOURCES COMMISSION

By: _____
Chief Engineer, Executive Officer, J.W. GRIMES

Form 15.

Permit No. -774-3

Water Diversion No. -3- MISSOURI RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the Department of Game, Fish and Parks
_____ the holder _____ of
Vented Right 774-3, issued upon Application No. 774-3, bearing date of priority of 1889
_____ authorizing the diversion of 12,048-acre feet annually of the waters of _____
Andes Creek and draws County of Charles Mix, State of South Dakota at _____
points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, T96N, R65W; and in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20;
the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31; and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 9, T97N, R64W
_____, for public recreation (Lake Andes)
_____ purposes, has _____ 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 recognized as factory
condition for diverting and conveying to the place of intended 12,048-acre feet annually water.

Date June 14, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, 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. Wells and Andes Creek and Draw's - SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 3, T 96W R65; NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 20; T97R64
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 31 T 97 R64; SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 9-T 97-R64

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. A meandered lake - depth 10 feet - 4,016.26 acres

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 outlet level - approximately 12,048 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. A meandered lake. Used by the public for uses specified except for
that amount lost by evaporation and seepage.

(Sign) W J Gilmore

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 31 day of March A. D. 1961

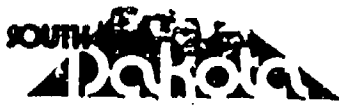
Witnesses. Edward Johnson

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 _____	



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.

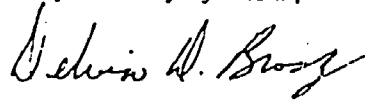


September 21, 1988
Richard Beringson, Secretary
Page 2

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,


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

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