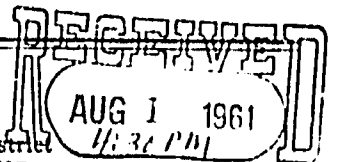


No. 792-3

Water Division No. 3 Big Sioux River District
(Blanks to be Filled by the Engineer for the W. R. C.)

VESTED RIGHT APPLICATION FOR PERMIT

STATE WATER RESOURCES COMMISSION
PIERRE SOUTH DAKOTA

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 Pierrre, 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.)

- J. 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 BRANDT LAKE - Lake County
As required to fill lake to outlet level - approximately 2300
 3. Amount of water claimed acre-foot-per-second cubic feet per second _____
 4. Source of water supply Skunk Creek
 5. Location of point of diversion One point in the watershed located in the SW 1/4 Sec. 4,
T 105, R 51. Outlet located in the NE 1/4 Sec. 9, T 105, R 51.
 _____ on _____ bank _____ County.
 6. Annual period or periods during which water is to be used All year round
 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 domestic use (giving location, etc.) To the high water mark of the
inundated portions of Sec. 3, 4, 9 and 10 T 105, R 51.

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

- (a) Nature of use Public recreational purposes
 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. Dimensions of works. Information requested not applicable. Brandt Lake is a

(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 ----- 930 ----- 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 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 ----- years. Not applicable - a meandered lake
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 ----- 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 ----- 1st ----- day of ----- August ----- 19 ----- 01

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, DECEMBER 7, 1962

This is to certify that the foregoing application was received by the Commission at 4:30 o'clock
P.m. upon the 1ST day of AUGUST, 1961.

State Water Resources Commission

By:

Burton J. Jones
for Chief Engineer, Executive Officer

Number of permit 792-3

Date of first receipt of application AUGUST 1, 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, 19____

Approved December 7, 1962, Recorded in Book 7 Page 240

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~~ _____, 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 2800 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 practice 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 time for each acre of land to which water is actually~~ used for public recreation was

and beneficially ~~applied for~~ ~~to~~ ~~be~~ ~~used~~ on or before June 30, 55, 19____; said water to be used during the following described annual period:

continuously
Witness my hand this 7th day of December, 1962

State Water Resources Commission

By:

George B. Jones
Chief Engineer, Executive Officer

Certificate of Construction issued December 7, 1962

Water License issued December 7, 1962

An Ordinary High Water Mark was established on Brant Lake at an elevation of 1598.3 feet msl at the December 2, 1981 Water Management Board Meeting.

At the same meeting, Game, Fish & Parks Water Right No. 792-3 was clarified to allow the water level at Brant Lake to be maintained no higher than 1597.8 msl.

Permit No. 792-3Water Division No. 3 Big Sioux 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 Pierre, County of Hughes, and State of South Dakota, the holder Vested Right of Permit No. 792-3, issued upon Application No. 792-3, bearing date of priority of 1889, authorizing the diversion of 2800 acre feet annually ~~xxxxxxx~~ of the waters of Skunk Creek

County of Lake, State of South Dakota, at a point in the
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T105N, R51W

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 ~~xxxxxx~~ satisfactory 2800 acre feet annually ~~xxxxxx~~ for diverting and conveying to the place of intended use xxxxxx of water; and that the ~~lands proposed to be irrigated by~~ use of said water are described as follows, to-wit: to be used in place for public recreation.

Witness my hand this 7th day of December A. D. 1962

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

STATE OF SOUTH DAKOTA

WATER LICENSE No. 792-3

WHEREAS, On the 1st day of August A. D. 1961

the Department of Game, Fish and Parks

of Pierre County of Hughes and State of South Dakota duly made application (No. 792-3) to us for a Vested Right permit to use 2800 acre feet annually 6000 feet per second of the waters of Skunk Creek County of Lake, State of South Dakota, for public recreation purposes; and

WHEREAS, On the 7th day of December A. D. 1962 Vested Right / Permit No. 792-3 was issued to said applicant... for the diversion of said water, and recognizing the completion of the works of diversion therein described and for the application to beneficial use of said water and, and,

WHEREAS, On the 1st day of August A. D. 1961 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 2800 acre feet annually 6000 feet per second of said waters, as evidenced by our Certificate No. 792-3 dated December 7, 1962 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 2800 acre feet annually 6000 feet per second of water, with date of priority of 1839 and,

WHEREAS, On the 1st day of August A. D. 1961 proof was duly made of the application to beneficial use of 2800 acre feet annually 6000 feet per second of said water; to be used in place for public recreation.

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
Broad Lake - Lake Co.

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. Skunk Creek - one point in the watershed located in the SW $\frac{1}{4}$ Sec. 4, T 105,
R 51, Outlet located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 9, T 105, R 51.

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 15 feet - 930 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 2800 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) Walter P. Hillman

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 1st day of August A. D. 1961
Witnesses. Edward Bohmer
11-6-65

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 -----

December 14, 1962

Mr. Walter J. Fillmore, Director
Department of Game, Fish and Parks
Pierre, South Dakota

Dear Walt:

Enclosed herewith are your "Vested Right" Permit, Certificate of Completion of Works and Water License for the following applications:

<u>No.</u>	<u>Name of Lake</u>	<u>County</u>
633-3	Lonesome Lake	Day
635-3	Hillebrands Lake	Day
639-3	Waubay Lake	Day
787-3	Round Lake	Lake
788-3	Milwaukee Slough	Lake
789-3	Kud Lake	Lake
790-3	Lake Madison	Lake
791-3	Green Lake	Lake
✓ 792-3	Brandt Lake	Lake
793-3	Badus Lake	Lake

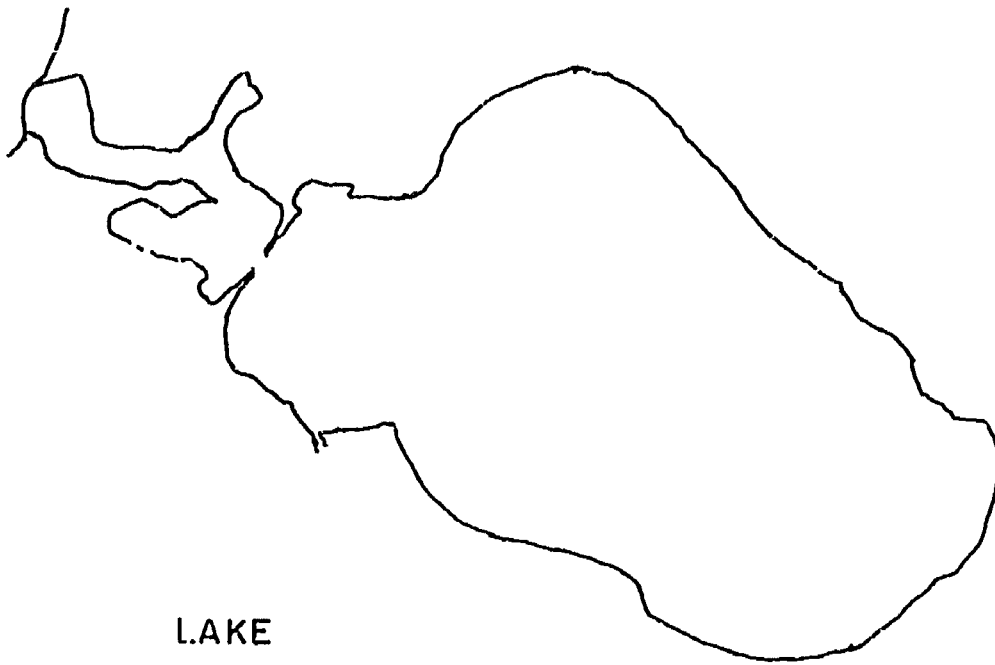
Sincerely,

J. . GRIMES
Chief Engineer and
Executive Officer

JWG:mf
Encl. as above

ORDINARY HIGH WATER MARK
INVESTIGATION FOR

BRANT LAKE



LAKE
COUNTY



Department of
Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

ORDINARY HIGH WATER MARK INVESTIGATION
FOR BRANT LAKE
JULY, 1981

The Water Management Board pursuant to SDCL 43-17-21 is mandated to establish the Ordinary High Water Mark (OHWM) on public lakes in South Dakota. This report contains the results of the investigation conducted by the Water Rights Division to determine the elevation of the OHWM and outlet structure for Brant Lake.

The ordinary high water mark is coordinated with the upper level of a lake. The determination of the OHWM is derived from the examination of the bed and banks of the lake to ascertain where the continuous presence and action of the water has left a distinct mark either by erosion, destruction of terrestrial vegetation, or some other easily recognized characteristic. In examining a lake for the determination of this level, it is necessary to consider the size, watershed, topography, soils and general characteristics of the lake.

The principle field investigation for this report was conducted in July, 1981. At this time the examination of the shoreline, banks, and vegetation of Brant Lake was conducted. The shoreline areas selected for study were those least affected by man. Public access areas and gradually sloping beaches provide the best OHWM indicators.

Brant Lake is located in Lake County, Sections 3, 4, 5, 9, and 10; Township 105 North; Range 51 West (see page 4). The lake has a surface area of 1000 acres and a watershed area of 7,658 acres (see page 5). The average depth of Brant Lake is ten feet with a maximum depth of fourteen feet (see page 6). The lake has a small watershed to lake area ratio with recharge of waters coming from precipitation runoff from its immediate watershed, over flow waters from Round Lake, Lake Madison, and Lake Herman, and extensive aquifer connection. The overflow waters of Brant Lake are to the southeast through Skunk Creek to the Big Sioux River.

Elevations in this report are referenced to a South Dakota Department of Transportation bench mark. This bench mark is located in the middle of the south section line of Section 15; Township 106 North, Range 52 West, on the north side of highway 34, across from the entrance to the Grandview, on a brass disk below a steel post marked BM, elevation 1628.24 feet mean sea level (msl) (see page 4).

Trees which are the largest and most permanent expression of upland growth, are used to determine a relationship of the ground in which the tree grows to the OHWM level. Records of ordinary high water levels are reflected in the well established trees along a lake's shoreline. Cottonwood, ash, and willow are the most predominant trees that grow along the shores of South Dakota's lakes. Experimentation and research have shown that most trees will not survive if water levels exceed one half to one tree diameter below the base elevation of the tree for more than 25% of the growing season. Consideration must be given to the characteristics of the soil, slope of the ground, effects of water and

(Conclusions)

From the examination of the bed and banks of Brant Lake and of the vegetation found on the shore, it has been found that the OHWL has been at an elevation of 1597.8 ft. msl. This condition has existed for a long enough period of time, to establish the OHWM at an elevation of 1598.3 feet msl.

Recommendations

The outlet elevation and the ordinary high water mark for Brant Lake were not specified when Vested Water Right No. 792-3 was filed by the Department of Game, Fish and Parks on August 1, 1961.

The recommendation to the Water Management Board is that the OHWM be established, based on the evidence presented, at an elevation of 1598.3 ft. msl.

Based on the water level elevation needed to establish this OHWM, it is recommended to the Board that Vested Right No. 792-3 be clarified to establish the maximum elevation at which the Game, Fish and Parks Department can maintain the lake level. Based upon the evidence, this level would be at an elevation not to exceed 1597.8 ft. msl.

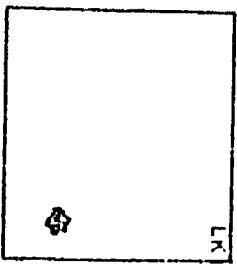
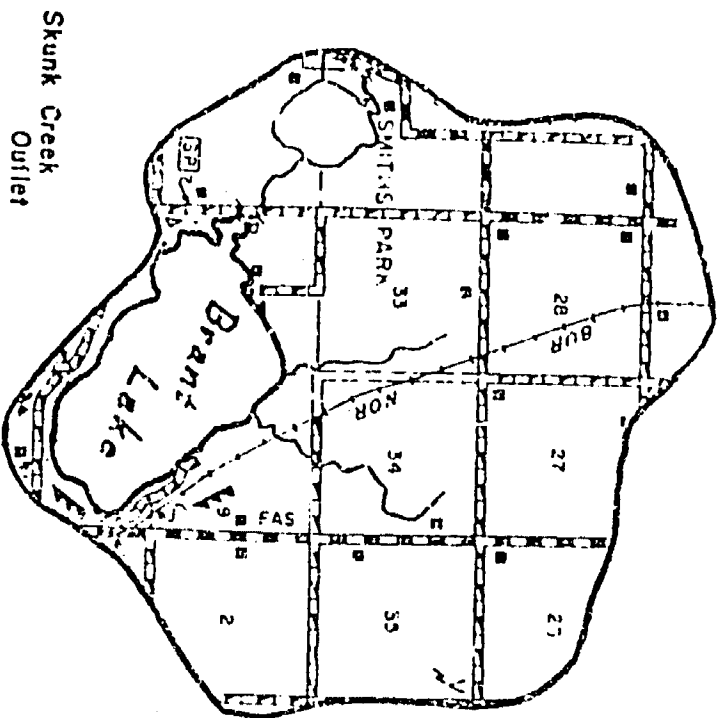
Jerry Steffen, Natural Resource Engineer
Division of Water Rights
Department of Water and Natural Resources

For information regarding OHWM bench marks established around Brant Lake, contact the Department of Water and Natural Resources, Water Rights Division, Pierre, South Dakota.

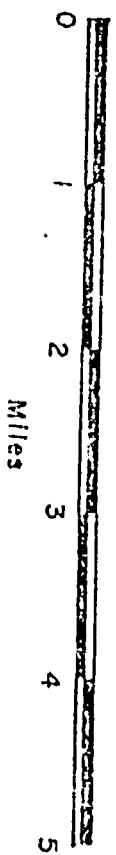
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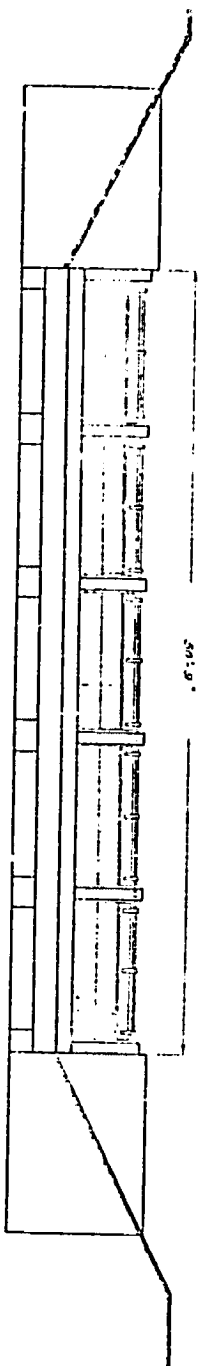
Brant Lake

Surface area 1000 acres
Watershed 7658 acres



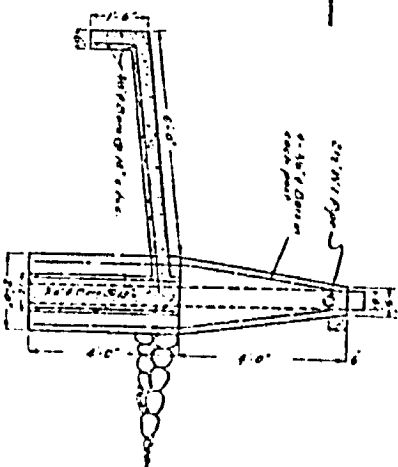
Scale



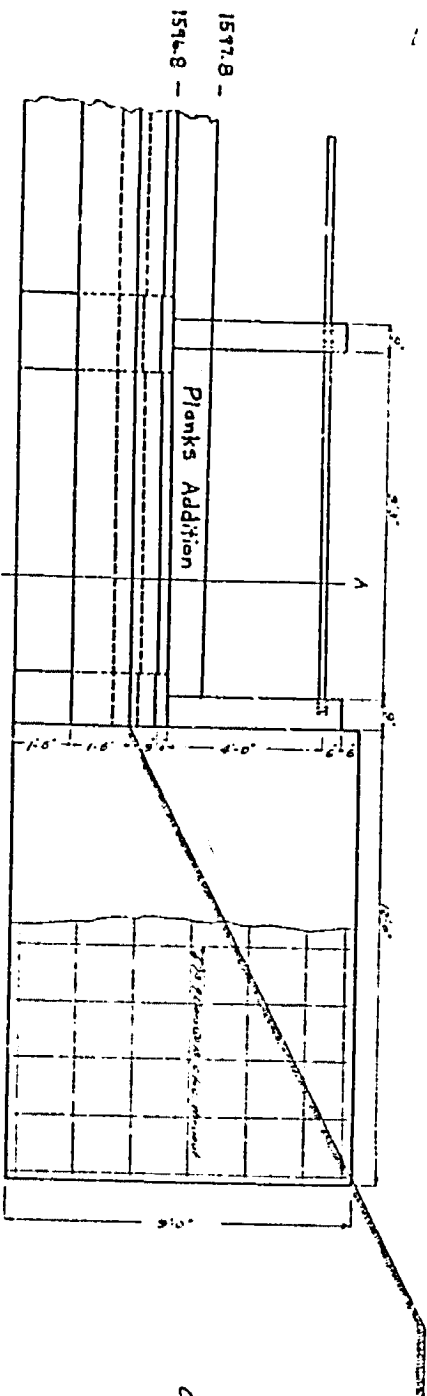


FRONT ELEVATION
Sheet 10.8'

Qualifiers
 27.25 Angus Concrete
 33.00 Grainger Supply
 25.00 Jacobs Structural Steel
 2005 - " Grainger
 22.50 " Common etc



SECTION AT A-A



DETAIL OF FRONT ELEVATION
Scale 1/2" = 1'

STATE DUNE AND FISH CROPP.
CONCRETE CONTAINERS FOR FISH SCREENS
OUTLET TO BRAINT LAKE
AT
LAKE COUNTRY
April 14, 1938

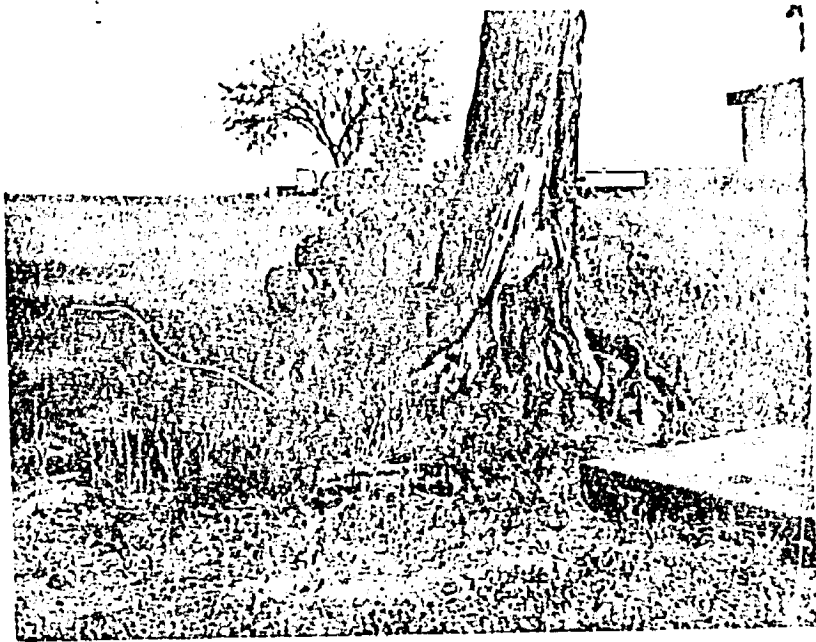


Photo No. 3: North Shoreline

Cottonwood 1.7 diameter
 Base Lakeside - 1598.1
 Elev. Landside - 1599.2
 Ave. - 1598.7

$$\text{OHWM } 1598.7 - 0.5 (1.7) = 1597.8$$



Photo No. 4 - North Shoreline

Cottonwood 1.2 - 1.5 diameter
 Base Lakeside - 1598.1
 Elev. Landside - 1599.5
 Ave. - 1599.8

$$\text{OHWM} - 1598.8 - 0.5 (1.5) = 1598.1$$



Photo No. 5: North Shoreline

Cottonwood 1.5 diameter
 Base -- Lakeside - 1598.3
 Elev. -- Landside - 1598.0
 Ave. - 1598.6

OHWM - 1598.6 - 0.5 - (1.5) = 1597.9



Photo No. 6: North Shoreline

	Cottonwood:	foreground 1.8 ft. dia.	background 1.5 ft. dia.
Base	Lakeside:	1598.3	: 1598.7
Elev.	Landside:	1599.2	: 1599.5
	Ave.	1598.7	: 1599.1
OHWM	- 1598.7 - 0.5 - (1.8)	1597.8	
OHWM	- 1599.1 - 0.5 - (1.5)	1598.4	



Photo No. 7: Lakeside Base Elevation - 1598.8
 Lateral Roots - 1599.2
 Lateral Roots - 1599.5
 Lateral Roots - 1599.7
 Lateral Roots - 1599.6

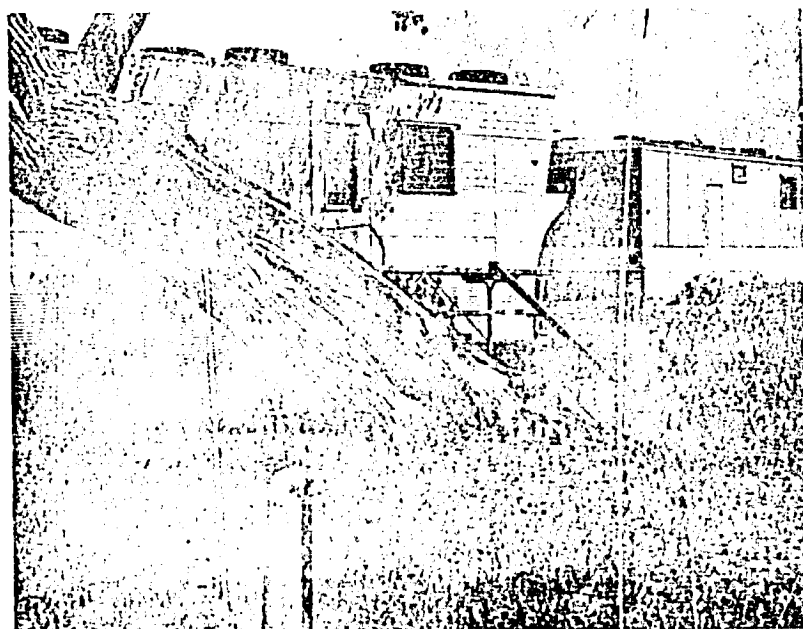


Photo No. 8: North Shoreline
 Cottonwood 2.6 ft. dia.
 Lakeside - 1599.2
 Landside - 1599.5
 Ave. - 1599.6
 CHSP - 1599.6 (2.6) - 1599.2



Photo No. 9: North Shoreline

(Left to right)
 Lakeside Base Elev. 1599.7
 Lakeside Base Elev. 1599.4

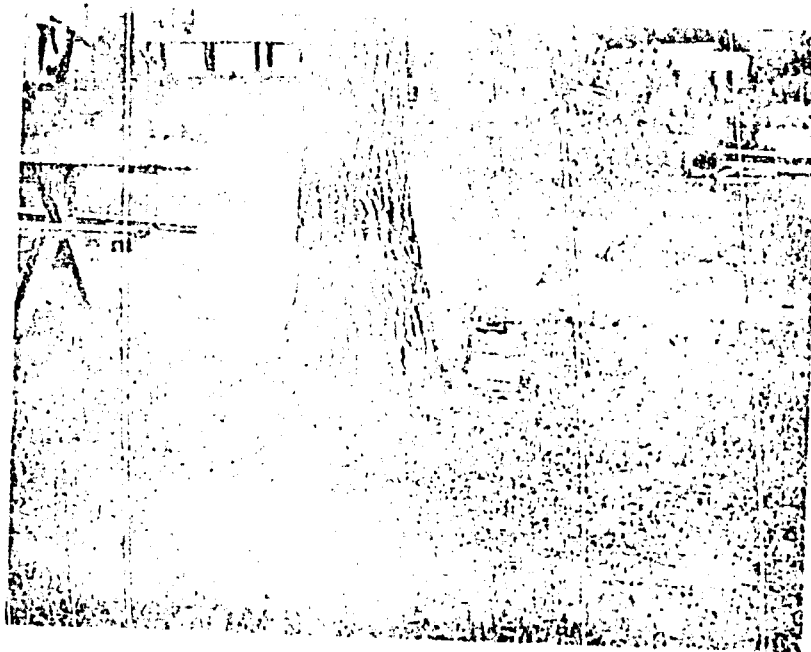


Photo No. 10: Wetlandwood 1.4 ft. dia.
 Base Lakeside - 1599.2
 Base Landside - 1599.4
 Ave. - 1599.3
 OHWM - 1599.4

Water Rights Division - DWR
Conversation or File Documentation

File No. 792-3

NAME OF PERSON OR FILE: SD Dept of Game, Fish and Parks - Brandt Lake

ADDRESS: _____ COUNTY _____

DATE: _____ TELEPHONE _____

RE: Ordinary High Water Mark Determination

COMMENTS:

December 2, 1981 - Water Management Board Minutes

Mr. Harms MOVED, SECONDED by Mr. Decker that the Ordinary High Water Mark be
established at an elevation of 1598.3 ft. msl for Lake Brandt and Vested Right
No. 792-3 is hereby clarified to allow the water level in Brandt Lake to be
maintained no higher than 1597.8 ft. msl. ACTION CARRIED.

For more information see the OHWM file.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



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.

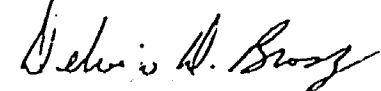


September 21, 1988
Richard Beringson, Secretary
Page 2

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