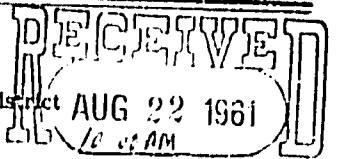


No. 826-3Water Division No. 3 Big Sioux River District 10
(Blanks to be filled by the Engineer for the W. R. C.)

VESTED RIGHT **APPLICATION FOR PERMIT**

STATE WATER RESOURCES COMM.
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 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 FLANDREAU DAM - Moody Co.
As required to fill lake to outlet level - approximately 60
 3. Amount of water claimed acre feet per year cubic feet per second _____
 4. Source of water supply Sioux River
 5. Location of point of diversion One point in the watershed located in the SE 1/4 of Sec. 22,
T 107, R 48. Outlet located in the SE 1/4 of Sec. 21 T 107 R 48 _____ 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 thereon, 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.) SE 1/4 of Sec. 21 and SW 1/4 of Sec. 22, T 107,
R 48.

- 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, \$135,000--

9. Description of diversion works:

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

II. Dimensions of works.

(a) Dam: Height 11.5 feet; length at bottom 175 feet; length at top 175 feet; thickness at bottom 40 feet; thickness at top 2 feet; slope at front water face 1:1 1/2; slope at back face 1:1.05; material used in construction Concrete

(b) Reservoir: Capacity when filled 50 acre feet. Surface area at highwater mark 20 acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	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 completed - not applicable11. Time required for complete application of water to the proposed beneficial use completed years12. 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 Walter J. FillmoreSubscribed and sworn to before me this 23rd day of August 19 51Edmund Johnson
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

"Vested right" Claimed

STATE OF SOUTH DAKOTA

County of

HUGHES

ss.

Pierre, South Dakota,

DECEMBER 12, 1962

This is to certify that the foregoing application was received by the Commission at 10:00 o'clock

am. upon the 22nd day of August, 1961.

State Water Resources Commission

By:

Burton J. Jones
Chief Engineer, Executive Officer

Number of permit 8216-3

Date of first receipt of application

AUGUST 22, 1961

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

1889

Approved

December 12, 1962

Recorded in Book

7

Page

270

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 ~~30~~ ³⁰ acre feet annually ~~nor 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 of 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:

Continuously

Witness my hand this

12TH

day of

December

1962

State Water Resources Commission

By:

Robert J. Jones

Chief Engineer, Executive Officer

Certificate of Construction Issued

December 12, 1962

Water License Issued

December 12, 1962

STATE OF SOUTH DAKOTA

WATER LICENSE No. 826-3

WHEREAS, On the 22nd 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. 826-3) vested right
to us for a permit to use 30 acre feet annually
of the waters of the Sioux River
County of Moody, State of South Dakota, for public recreation
purposes; and

WHEREAS, On the 12th day of December A. D. 1962
Vested Right recognizing
/Permit No. 826-3 was issued to said applicant for the diversion of said water, and providing for the
completion of the works of diversion therein described and for the
and for this application to beneficial use of said
water and for the
and,

WHEREAS, On the 22nd day of August A. D. 1961
the holder of said permit duly made proof of the completion of adequate works for the diversion of 30 acre feet
annually of said waters, as evidenced by our Certificate No. 826-3
dated December 13, 1962 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 30 acre feet annually
priority of 1889 and,

WHEREAS, On the 22nd day of August A. D. 1961
proof was duly made of the application to beneficial use of 30 acre 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 Pierre Vested Right
the holder and owner of said Permit No. 826-3
a water right, dating from 1889 to the use of 30 acre feet annually
cubic feet per second of the waters of the Sioux River
in the County of Moody and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at a point in the
SE¹ SW¹ Section 22, T107N, R48W
and ~~conveyed to the~~ stored 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 water 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 12th day of December A. D. Nineteen
Hundred and Sixty-Two.

State Water Resources Commission
By:

Chief Engineer, Executive Officer
J. W. BRIMES

STATE OF SOUTH DAKOTA

Water License No. -----

To -----

Source of Supply -----

County -----

A. A. T. ----- c. f. s. -----

Point of Diversion -----

Place of Use -----

Purpose -----

Date of Priority -----

Recorded -----

in Book ----- of ----- Page -----

Permit No. 826-3

Water Division No. 3 Big Sioux River 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. 826-3, issued upon Application

No. 826-3, bearing date of priority of 1889, authorizing the diversion of

30 acre feet annually of the waters of the Sioux River

County of Moody, State of South Dakota, at a point in the

SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22, T107N, R48W

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 for diverting and conveying to the place of intended use 30 acre feet annually

of water; and that the uses to which said water are described as follows,

to-wit: to be used in place for public recreation.

Witness my hand this 12th day of December A. D. 1902

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

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. Sioux River - One point in the watershed located in the SE 1/4 of Sec. 22, T. 107, R. 48

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. Concrete Dam - approximately 175 feet long and 11.5 feet high
Impoundment of 20 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, 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 60 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 1876 when dam was constructed, Used by the public for the
uses specified except for that amount lost by evaporation and seepage.

(Sign) Arthur J. Palmer

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 23 day of August, A. D. 1961.

Witnesses. Edmund B. Johnson

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 _____

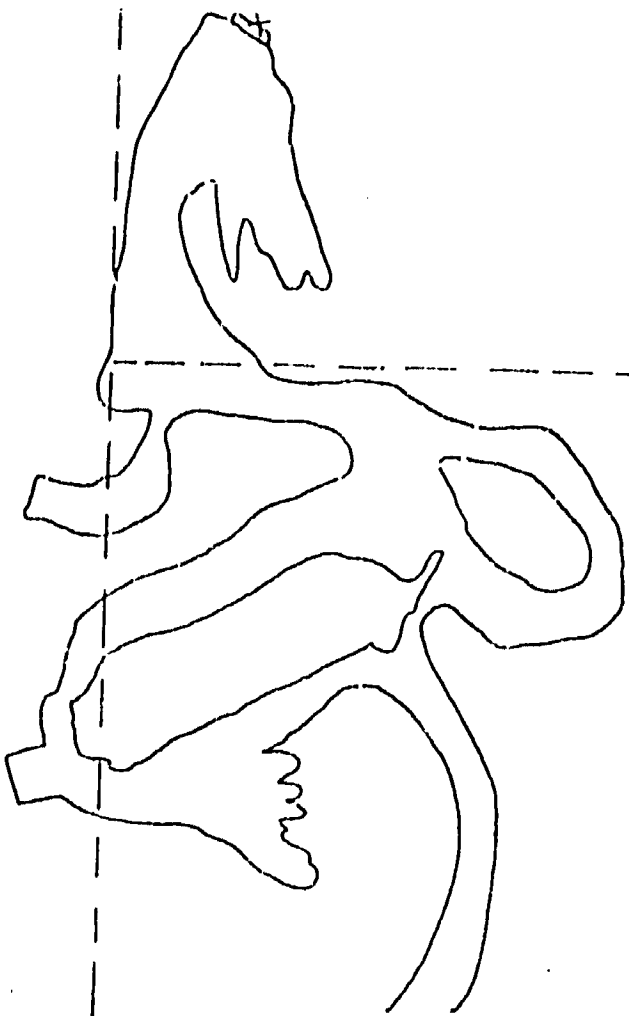
Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

22



N

FLANDREAU DAM
MOODY COUNTY
SEC. 21, 22 - TWP. 107 - RANGE 48
20 ACRES 8" - 1 MILE
5 JANUARY



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.

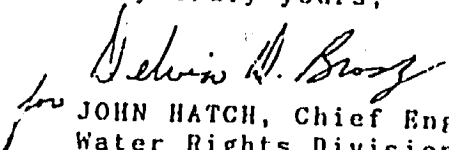


September 21, 1988
Richard Reringson, Secretary
Page 2

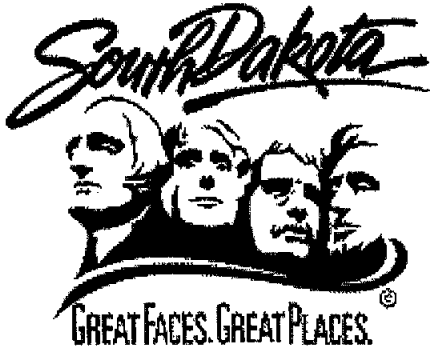
We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation process will take several years to complete, the results should be of benefit to the public and to your 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,


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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 31, 2018

119-3A 1576-3 28-3 826-3
857-3 859-3 880-3 890-3

SD GAME FISH & PARKS
ATTN: JOHN LOTT
523 E CAPITOL
PIERRE SD 57501

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear MR LOTT,

I am writing to inform you of an effort the SD Dept. of Environment and Natural Resources Water Rights Program is undertaking to review and update a number of water right permits authorized to pump water from the Big Sioux River. Since your water right does not have a bypass qualification, we **are not** proposing to amend your permit by adding a bypass qualification. However, I do want to make you aware of what we are proposing for several other junior priority Big Sioux River permits.

When a number of these Big Sioux River permits were issued, they contained a qualification requiring a minimum flow bypass before the user is able to pump water from the river. The bypass qualification was placed on these permits to protect the use of water by downstream senior priority water right holders and domestic water users, which includes livestock watering. The review found, with the passage of time, a number of senior water right permits have been cancelled due to abandonment or forfeiture. Consequently, it may be possible to lower the flow bypass limitation on the remaining permits. In other words, the amount of flow in the river can be lower and pumping will still be allowed. The review also found an inconsistency between permits on where the bypass flow is to be measured. The intent of this effort is to standardize and make consistent the bypass requirements for the remaining water users.

In order to amend a qualification on an existing water right permit, formal action by the SD Water Management Board is needed. In the next few weeks, you can expect to receive official notification scheduling a hearing before the Water Management Board. Again this does not pertain to amending your permit, only junior permit holders. If you wish to participate in the hearing you can, but you are not required to. There will be instructions with the notification on how to participate in the hearing if you so choose.

If you have any questions concerning this effort, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne Goodman".

 Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 12, 2018

119-3A, 1576-3, 28-3, 826-3
857-3, 859-3, 880-3, 890-3

SD Game, Fish & Parks
Attn: John Lott
523 E Capitol
Pierre SD 57501

Subject: Bypass Qualifications on Big Sioux River Water Rights

Dear Mr. Lott:

The SD Department of Environment and Natural Resources (DENR) has evaluated the minimum flow bypass condition on water rights that pump from the Big Sioux River. The Chief Engineer is recommending amending the bypass qualification on 21 Big Sioux River water rights. The intent is to bring uniformity to the bypass requirement placed on water rights in past years. The water right you own or operate does not have a bypass qualification and will not be amended by the proposed action.

Even though your water right is not being amended, DENR wants to keep you informed of the proposed action since it involves the Big Sioux River. Enclosed is a notice to be published on or before February 15, 2018, in one newspaper from each of the seven counties that the Big Sioux River flows through. Also, the staff report including affected water rights and the proposed changes is available at <http://denr.sd.gov/public> or contact Mark Rath at 605 773-3352 or mark.rath@state.sd.us.

A hearing before the Water Management Board is scheduled at 11:30 AM, Wednesday, March 7, 2018 in the Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The enclosed notice provides information on the hearing and ability to file a petition in either support or opposition to the proposed amendment. The filing of a petition must be postmarked by February 26, 2018. Additionally filing a petition affords you the opportunity to participate in the March 7th hearing before the Board if you choose.

Again, this does not pertain to amending your water right, only junior water right holders with existing bypass requirements. If you have questions, please call. DENR is willing to work to answer any questions.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

enclosure