

No. 871-3
 Water Division No. 3 JAMES RIVER District
 (Blanks to be filled by the Engineer for the W. R. C.)
VESTED RIGHT
APPLICATION FOR PERMIT STATE WATER RESOURCES COMM.
 OCT 20 1981
 2.30 pm

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 CHERRY LAKE - Clark County
As required to fill lake to outlet level - approximately 2055
 3. Amount of water claimed one-foot-per-year cubic feet per second
 4. Source of water supply Dry Draw
 5. Location of point of diversion Two points in the watershed located in the SE $\frac{1}{4}$ Sec. 26,
SW $\frac{1}{4}$ Sec. 36, Range 113, R 56
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 ordinary high water mark

of the inundated portion of Sec. 35, T. 112, R. 56

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

- (a) Nature of use Public recreation 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. Cherry Lake is a

(a) Dam: Height ~~meandered lake~~ Maximum depth approximately 12 feet feet; length at bottomfeet; length at topfeet; thickness at bottomfeet; thickness at topfeet; slope at front water face; slope at back face
material used in construction
(b) Reservoir: Capacity when filledacre feet. Surface area at highwater mark.....685.....acres.

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

(c)* Head gate: Width.....feet; 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 workyears. **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 [Signature]

Subscribed and sworn to before me this 20 day of October 1961

[Signature]
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 21, 1962

This is to certify that the foregoing application was received by the Commission at 2:30 o'clock

p.m. upon the 20th day of October, 1961

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Number of permit

871-3

Date of first receipt of application

October 20, 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 21, 1962, Recorded in Book

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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

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 2,055 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 of time for each acre of land to which water was 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

21st

day of

December

1962

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued

December 21, 1962

Water License Issued

December 21, 1962

Permit No. 871-3

Water Division No. 3 James 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 of Vested Right permit No. 871-3, issued upon Application
No. 871-3 bearing date of priority of 1889, authorizing the diversion of
2055 acre feet annually of the waters of a dry draw
County of Clark, State of South Dakota, at points in the
SE 1/4 SE 1/4, Section 26, and in the SW 1/4 SE 1/4, Section 36, T113N, R56W
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 2055 acre feet annually
water; and that the use of said water are described as follows,
to-wit: to be used in place for public recreation

Witness my hand this 21st day of December A. D. 1962

State Water Resources Commission

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

STATE OF SOUTH DAKOTA

WATER LICENSE No. 871-3

WHEREAS, On the 20th day of October A. D. 1961

the Department of Game, Fish and Parks

of Pierre County of Hughes and State of South Dakota
 duly made application (No. 871-3) to us for ~~a~~ permit to use 2055 acre feet annually
 of the waters of a dry draw
 County of Clark public recreation
 State of South Dakota, for purposes; and

Vested Right WHEREAS, On the 21st day of December A. D. 1962
 Permit No. 871-3 was issued to said applicant... for the diversion of said water, recognizing
 completion of the works of diversion therein described ~~XXXXXX~~ ~~XXXXXX~~
~~XXXXXX~~ and ~~XXXXXX~~ application to beneficial use of said
 water ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~
 and,

WHEREAS, On the 20th day of October A. D. 1961
 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 2055 acre feet
 annually ~~XXXXXX~~ of said waters, as evidenced by our Certificate No. 871-3
 dated December 21, 1962 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 2055 acre feet annually
 priority of 1889 ~~XXXXXX~~ and,

WHEREAS, On the 20th day of October A. D. 1961
 proof was duly made of the application to beneficial use of 2055 acre feet annually
 to be used in place for public recreation ~~XXXXXX~~

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. 871-3
a water right, dating from 1889 to the use of 2055 acre feet annually
~~of the waters of~~ a dry draw
In the County of Clark and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at points in the SE¹ SE¹ Section 26,
and in the SW¹ SE¹ Section 36, T113N, R56W
and ~~known as~~ 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 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 21st day of December A. D. Nineteen
Hundred and Sixty-Two

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 _____

April 11, 1963

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

Dear Walt:

Enclosed herewith are your "vested right" permits to appropriate water, certificate of completion of works and water licenses for the following applications:

<u>No.</u>	<u>Name of Lake</u>	<u>County</u>
867-3	Antelope Lake	Clark
868-3	Cottonwood Lake	Clark
869-3	Lone Tree Lake	Clark
870-3	Reid Lake	Clark
✓ 871-3	Cherry Lake	Clark
872-3	Clear Lake	Clark
873-3	Bailey Lake	Clark
874-3	Willow Lake	Clark
875-3	Mud Lake	Clark
875-3	Cottonwood Lake	Codington

Sincerely,

J. W. GRIMES
Chief Engineer, Executive Officer

JWG:mf
Encls. as above

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. Dry Draw - two points in the watershed located in the SE $\frac{1}{4}$ sec. 26 and SW $\frac{1}{4}$ sec. 36, Range 113, R 56

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 12 feet - 685 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 2055 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) [Signature]

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 20 day of October A. D. 1961
[Signature]
Witnesses. 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 -----	

871-3



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.

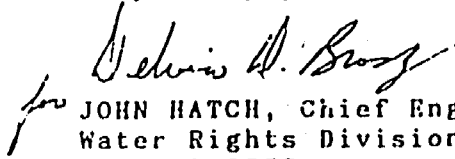


September 21, 1988
Richard Beringson, Secretary
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We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation 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