

Water Division No. 3

(Blanks to be filled by the Engineer for the W. R. C.)

No. 879-3Big Sioux River

District

OCT 23 1938

9:30 a.m.

APPLICATION FOR PERMIT

STATE WATER RESOURCES COMMISSION

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 NICHOLSEN - Codington County

As required to fill lake to outlet level - approximately 2400

3. Amount of water claimed
- acres feet per year
- cubic feet per second

4. Source of water supply
- Dry Draw

5. Location of point of diversion
- No visible sign

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 markof the inundated portion of Sec. 12, 14, 23, 24 T. 118, R. 55 & Sec. 19 T. 118, R. 54

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. Lake Nicholson is a meandered lake. Maximum depth is approximately 5 feet

(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.....100.....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 20 day of October 1964

Notary Public (or other qualified officer.)

11-6-65

*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 26, 1962

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock
a.m. upon the 23rd day of October, 1961.

State Water Resources Commission

By: [Signature]

for Chief Engineer, Executive Officer

Number of permit 879-3

Date of first receipt of application October 23, 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 26, 1962, Recorded in Book 7 Page 309

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, 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 2400 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 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

With my hand this 26th day of December, 1962

State Water Resources Commission

By: [Signature]

Chief Engineer, Executive Officer

Certificate of Construction Issued December 26, 1962

Water License Issued December 26, 1962

Permit No. 879-3Water Division No. 3 BIG SIOUX Water District
RIVER

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the Department of Game, Fish and Parksof Pierre, County of Hughes, and State of
South Dakota, the holder Vested Right 879-3 of Permit No. 879-3, issued upon ApplicationNo. 879-3, bearing date of priority of 1889, authorizing the diversion of2400 acre feet annually ~~of the waters of~~ the local watershedCounty of Codington, State of South Dakota, at a point in Lat 3,Section 14, T 110N, R 55Wfor 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 ~~found~~ satisfactorycondition for diverting and conveying to the place of intended use 2400 acre feet annually ~~of the~~~~of the~~ of water; and that ~~the use of said water are described as follows~~to-wit: to be used in place for public recreationWitness my hand this 26th 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. 879-3

WHEREAS, On the 23rd 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. 879-3) to us for a permit to use 2400 acre feet annually

of the waters of the local watershed

County of Codington, State of South Dakota, for public recreation

purposes; and

WHEREAS, On the 26th day of December A. D. 1962

Vested Right

Permit No. 879-3 was issued to said applicant for the diversion of said water, recognizing the

completion of the works of diversion therein described

and under application to beneficial use of said

water

and,

WHEREAS, On the 23rd day of October A. D. 1961

the holder of said permit duly made proof of the completion of adequate works for the diversion of 2400 acre feet

annually of said waters, as evidenced by our Certificate No. 879-3

dated December 26, 1962 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 2400 acre feet annually of water, with date of

priority of 1889 and,

WHEREAS, On the 23rd day of October A. D. 1961

proof was duly made of the application to beneficial use of 2400 acre feet annually 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 Department of Game, Fish and Parks
of Pierre the holder and owner Vested Right of said license No. 879-3
a water right, dating from 1889 to the use of 2400 acre feet annually
cubic feet per second of the waters of the local watershed
In the County of Codington and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at a point in Lot 1, Section 14,
T 148N, R 55W.
and ~~conducted to and upon~~ 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 26th day of December A. D. Nineteen
Hundred and Sixty-Two

State Water Resources Commission

By:

J.W. GRIFFES, 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 _____

877-3; 878-3; 879-3; 880-3; 881-3; 882-3; 883-2; 884-3; 885-3; 886-3

April 24, 1963

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

Dear Mr. Filmore:

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

No.	Lake	County
877-3	Dry Lake	Codington
878-3	Unnamed Slough	Codington
879-3	Lake Nicholson	Codington
880-3	Lake Pellican	Codington
881-3	Grass Lake	Codington
882-	Punished Woman's Lake	Codington
883-3	No Killigons Lake	Codington
884-3	Medicine lake	Codington
885-2	Horseshoe Lake	Codington
886-3	Round Lake	Codington

Sincerely,

J.W. GRIMES

JWG/bw

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- No visible sign

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 5 feet - 800 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 2400 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 Piotta, 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 -----	

**South Dakota 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.

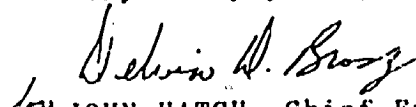


September 21, 1988
Richard Beringson, Secretary
Page 2

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,


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

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