

No. 882-3Water Division No. 3

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

Big Sioux River

District

OCT 23 1961

STATE WATER RESOURCES COMM.

PUGH SOUTH DAKOTA

APPLICATION FOR PERMIT**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 ParksPostoffice 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 PUNISHED WOMAN'S LAKE - Codington CountyAs required to fill lake to outlet level - approximately 12003. Amount of water claimed acre feet per year cubic feet per second4. Source of water supply DRY DRAWOne point in the watershed located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14,5. Location of point of diversion T. 119, 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 ordinary high water markof the inundated portion of Sec. 14, 15, 16, T 119, 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. Punished Woman's Lake

(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..... 400..... 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 1961

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

11-6-35

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:

Durston Z Jones
for Chief Engineer, Executive Officer

Number of permit 882-3

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 312

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 1200 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 was

used for public recreation

and beneficially ~~applied for irrigation~~ June 30, 1955; said water to be used during the following described annual period:

Continuously
Witness my hand this 26th day of December, 1962.

State Water Resources Commission

By:

George B. Smith
Chief Engineer, Executive Officer

Certificate of Construction Issued December 26, 1962

Water License Issued December 26, 1962

STATE OF SOUTH DAKOTA

WATER LICENSE No. 882-3

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. 882-3) to us for a ^{Vested right} permit to use ~~1200 acre feet~~ ^{annually} ~~cubic feet per second~~ 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. 882-3 was issued to said applicant for the diversion of said water, ^{recognizing} ~~understanding~~ the completion of the works of diversion therein described ~~as follows~~ and for the application to beneficial use of said water on or before the ~~date~~ 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 1200 acre feet ~~annually~~ ^{annually} ~~cubic feet per second~~ of said waters, as evidenced by our Certificate No. 882-3 dated December 26, 1962 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 1200 acre feet annually ~~cubic feet per second~~ 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 1200 acre feet annually ~~cubic feet per second~~ 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 ----- of ^{Vented Right} ----- 882-3 -----
a water right, dating from ----- 1889 ----- to the use of ----- 1200-acre-feet -----
~~thousand feet~~ annually
of the waters of ----- the local watershed -----
in the County of ----- Codington ----- and State of South Dakota, or as much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at ----- a point in the NE 1/4, Section 14,
T 119N, R 51W -----
and ~~any other water~~ ----- 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. 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 -----

Permit No. 882-3Water 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 Parksof Piarrre, County of Hughes, and State ofSouth DakotaVested Rightthe holder of Permit No. 882-3, issued upon ApplicationNo. 882-3, bearing date of priority of 1882, authorizing the diversion of1200 acre feet annually ~~xxxxxx~~ of the waters of a dry drawCounty of Codington, State of South Dakota, at a point in the NE 1/4 SW 1/4Section 14, T. 119N, R. 51Wfor public recreationpurposes, 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 assatisfactory for diverting and conveying to the place of intended use 1200 acre feet annually ~~xxxx~~per second of water; and that the ~~xxxxxx~~ 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. 19 62

State Water Resources Commission

By:

J.W. GRIMES, Chief Engineer, Executive Officer

877-3; 878-3; 879-3; 880-1; 881-3; 882-3; 883-2; 884-3; 885-3; 886-3

April 25, 1961

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	Elbow Slough	Codington
879-3	Lake Nicholson	Codington
880-3	Lake Pelican	Codington
881-3	Grass Lake	Codington
882-3	Punished Woman's Lake	Codington
883-3	Mc Killigons Lake	Codington
884-3	Medicine Lake	Codington
885-3	Horseshoe Lake	Codington
886-3	Round Lake	Codington

Sincerely,

J.W. ORMEB

JWJ/ba

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 - one point in the watershed located in the NE 1/4 of Sec. 14,T 119, 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 7 feet - 400 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 1200 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. M. Moore

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. 1951
Edna B. Moore
} 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 _____	



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.

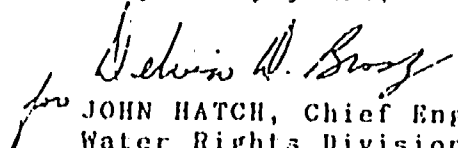


September 21, 1988
Richard Reringson, Secretary
Page 2

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

Water Rights Division - DENR

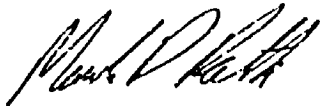
File Documentation

Name of Person: SD Dept of Game Fish and Parks File No. 4953-3, 882-3 & Punished Woman Lake OHWM File
Address: Foss Bldg, Pierre, SD County: Codington
Date: 8/27/1996 Telephone: #
RE: Status of OHWM and outlet elevation for Punished Woman Lake

Comments: On August 14, 1996, I made a field investigation of Vested Water Right Claim No. 882-3 for water in Punished Woman Lake and Water Permit No. 4953-3 to increase the outlet elevation by 0.7 feet. The Water Management Board at the July 19, 1983 hearing formally set the OHWM at 1845.7 fmsl and outlet elevation at 1845.2 fmsl for Punished Woman Lake. At that hearing the Water Management Board recognized that the outlet structure had been modified in 1971 such that the outlet was raised by 0.7 feet which also raised the OHWM by the same amount. SD GF&P had applied for Permit No. 4953-3 on April 12, 1983 which was also granted July 19, 1983 by the Water Management Board at the same time the OHWM and outlet elevations were set. In 1988 Barbara J. Rude petitioned the Water Management Board to reconsider the OHWM and outlet elevation for Punished Woman Lake. The Water Management Board ruled that the OHWM be lowered to 1845.0 fmsl, the outlet elevation be lowered to 1844.5 fmsl, and Permit No. 4953-3 be canceled.

At the time of my inspection, the file for Permit No. 4953-3 had not been updated to reflect that the Water Management Board had taken formal action to cancel the permit in 1988. SD GF&P has since 1988 removed the 0.7 foot extension to the outlet (see attached photographs).

The following actions should be taken: Vested Water Right Claim No. 882-3 should be validated for sufficient water annually to maintain the water level at an outlet elevation of 1844.5 feet mean sea level. The file for Permit No. 4953-3 should be updated to reflect that the Water Management Board took formal action to cancel it in 1988.



Mark D Rath
Natural Resources Engineer

HUGHES IMAGE SYSTEMS

**FOLLOWING
IS BEST
DOCUMENT
AVAILABLE**

HUGHES IMAGE SYSTEMS



HUGHES IMAGE SYSTEMS

**FOLLOWING
ARE BEST
DOCUMENTS
AVAILABLE**

HUGHES IMAGE SYSTEMS

Application No. 1447-1 was denied at the last meeting. Application No. 1447-1 requested a 150 gpm bypass. This application will only allow pumping if 500 gpm is below the diversion point. If Application No. 1447-1 is approved, it will be the first appropriation used when 500 gpm is bypassed.

Ron Koth stated Stewart Gulch was a significant 1/8 mile stream and it does contribute between 26 and 40% of the flow into Whitetail and Whitewood Creek. They are all classified as cold water permanent fisheries. Stewart Gulch contributes a significant amount of juvenile brook trout. It also contributes a constant supply of 50 to 52 degree water to the two creeks. Should that flow be diminished it would shorten the amount of stream available for a cold water marginal fishery. The 500 gpm bypass should not effect the fishery potential.

Max Main attorney for Golden Reward Mining Company stated the application is the same as 1441-1 except for the 500 gpm bypass. Golden Reward believes feels this would be a good source of water.

Mr. Hatch stated the recommended qualifications are written so the bypass figure could be reevaluated by the Board after more information is developed. The water temperature is crucial in maintaining the fishery. Any change in the qualifications would have to be done before the permit is licensed.

Chairman Gunderson administered the oath to Joe Bowar.

Mr. Bowar stated in regard to the NPDRS permits, with backing from the Legislature, the State will become the issuing authority for the permit. In the future, this Board will be dealing with the surface water discharge permits.

Mr. Brink MOVED, SECONDED by Mr. Rolling that Application No. 1447-1 be APPROVED with the staff recommended qualifications. MOTION CARRIED with Chairman Gunderson voting NO.

Petition for Declaratory Ruling Regarding the Ordinary High Water Mark and Outlet Elevation for Punished Woman Lake

Gale Selken presented a report prepared on the request for a declaratory ruling (copy on file). Mr. Selken stated the staff has no opposition to the petition. Staff agrees the outlet elevation should be lowered. That was the staff's recommendation in 1982 when the OHWM was originally considered.

Ron Koth stated the 0.7 feet increase in the outlet elevation was made because of public interest, to add more water to the lake. When the 0.7 was placed on the outlet structure there was significant damage and destabilizing of the sandy shoreline. The Division of Water Resources Management is conducting a feasibility study for the restoration of Punished Woman Lake which will address the bank stabilization problems. The Department of Game, Fish and Parks would like to see the study completed before any changes are made.

Mr. Guhin stated before the board can proceed with the hearing, a legal basis to proceed must be established, otherwise the Board has no jurisdiction.

Harold Deering stated there is the question of the significant natural changes or not, which can not be addressed until the evidence is presented. Then the Board can make that determination. Mr. Deering questioned if there were parties present today which were parties at the original OHWM hearing and bound by the prior determination of the Board. If a mistake was made, when the Board authorized the OHWM in 1982, based on unnatural conditions there has clearly been an unconstitutional taking of property without compensation. Mr. Deering stated he believed the board had the jurisdiction to correct an unconstitutional act if it determines that it was unconstitutional.

Chairman Gunderson administered the oath to Dr. Wayne Houtcopper.

Mr. Houtcopper stated he was Director of the Clean Lakes Program with the Division of Water Resources Management. Mr. Houtcopper stated they are currently conducting a Phase I, Diagnostic Feasibility Study Program on the lake which deals with a number of the lake problems, including inflake water quality, shoreline erosion conditions, sedimentation and watershed problems. The water level has caused continual erosion on the beaches which has not reached the angle of repose and stabilized. Mr. Houtcopper further explained the erosion. If sediment removal is done, at the end of the study and the water level is left where it is there will be that much more sediment to remove. Mr. Houtcopper stated they support the request to remove the cap from the outlet spillway.

Chairman Gunderson administered the oath to Dan Marquart.

Mr. Marquart stated he was representing the Punished Woman Lake Association. The Lake Association is currently involved in conducting a diagnostic feasibility study as explained by Mr. Houtcopper. In 1971 the 8 inch cap was added to the spillway. The effects of changing the natural shoreline are visible. Mr. Marquart submitted photos of the Punished Woman Lake (photos 1-18).

Mr. Freeman asked if the Board should wait for consideration of the matter until the study is completed.

Mr. Rollag MOVED, SECONDED by Mr. Brink to ACCEPT the Petition for Declaratory Ruling Regarding the Ordinary High Water Mark and Outlet Elevation for Punished Woman Lake. MOTION CARRIED.

Mr. Rollag MOVED, SECONDED by Mrs. Loucks to RETURN the Ordinary High Water Mark Elevation to 1845.0 feet msl as recommended by staff in their 1984 report. MOTION CARRIED.

Mr. Rollag MOVED, SECONDED by Mrs. Loucks to RETURN the Outlet Elevation to 1844.5 feet msl as recommended by staff in their 1984 report. MOTION CARRIED.

Mr. Hatch stated in 1983 Water Permit Application No. 4953-3 was issued to the Department of Game, Fish and Parks to increase the storage capacity of the lake and to raise the outlet by 0.7 feet. The Department of Game, Fish and Parks still has Vested Right Claim No. 882-3.

Mr. Freeman MOVED, SECONDED by Mr. Brink to DEFER cancellation of Water Right No. 4953-3 until the conclusion of this meeting.
MOTION CARRIED.

Ordinary High Water Mark -- Willow Lake

Jim Wendte presented the report on the Ordinary High Water Mark Investigation for Willow Lake and Mud Lake (copy on file). Mr. Wendte stated a letter was received from Matt Valentine (copy on file). Mr. Valentine was concerned that this action would raise the water level in the lake. Mr. Wendte stated he talked with Mr. Valentine and indicated to him that it was not our intention to raise the lake level. The recommended elevation will change the present elevation only slightly. Water will enter on Mr. Valentines land approximately the same time that it heads out the outlet, with the recommended outlet elevation.

Chairman Gunderson administered the oath to Martin Warkenthein.

Mr. Warkenthein stated they felt that possibly the water level should be a little higher. The Department of Game, Fish and Parks uses the area for a production area and would like to see it as low as they can. Adding a couple inches to the elevation would help keep more water in Willow Lake. It will not hurt anybody. Mr. Warkenthein stated he has talked to everyone around the lake but Matt Valentine. Willow Lake does not take the silt, Mud Lake does.

Mr. Freeman MOVED, SECONDED by Mr. Brink to adopt the following:

1. That the Ordinary High Water Mark for Willow Lake and Mud Lake be established at an elevation of 1767.7 feet msl.
2. That the outlet elevation for Willow Lake and Mud Lake be set at 1767.2 feet msl and that Vested Water Right Claim No. 874-3 be amended to establish the outlet elevation at 1767.2 feet msl and to include Mud Lake in No. 874-3.
3. That Vested Water Right Claim No. 874-3 be amended to correct the amount of water claimed from "as required to fill lake to outlet level - approximately 950 acre-feet per year" to "sufficient water to fill Willow Lake and Mud Lake annually to the outlet elevation of 1767.2 feet msl".
4. That Vested Water Right Claim No. 874-3 be amended with the qualification that No. 874-3 is subject to installation of a concrete outlet structure to assure retention of the outlet at elevation 1767.2 feet msl.

MOTION CARRIED.

Meeting recessed at 6:00 pm.

Meeting reconvened 8:30 am, October 6, 1988.

Consideration of Proposed Chemigation Rules Chapter 74:02:09

Delvin Brosz presented the board with a copy of the Proposed Chemigation Rules with the suggested changes by the Office of

the City of Canton. Well No. 2 is abandoned. Staff recommendation is for approval with the Well Interference Qualification, the Public Water Supply Well Construction Qualification and the following:

1. That the City of Canton report to the Chief Engineer annually the amount of water withdrawn each year from the Dakota Formation.

5217-3, City of Canton SD

Application is to construct one new well and place to beneficial use 0.50 cfs reserved by Future Use Permit No. 1262-3. This application also proposes to transfer authority to divert 0.17 cfs from well No. 5 (drilled in 1946) described on Vested Water Right Claim No. 1262-3 to the proposed replacement well. The transfer of diversion authority from well No. 5 also transfers the 1946 priority date for diversion of 0.17 cfs to the replacement well. This application authorizes a total of 0.67 cfs from the replacement well (Dakota Sandstone Formation) 520 feet deep for municipal use by the City of Canton. Well No. 5 is to be used as an observation well. Staff recommendation is for approval with the Well Interference Qualification, the Public Water Supply Well Construction Qualification and the following:

1. That the City of Canton report to the Chief Engineer annually the amount of water withdrawn each year from the Dakota Formation.

5218-3, City of Canton SD

Application is to appropriate 1.34 cfs from 2 wells (Dakota Sandstone Formation) 558 to 590 feet deep. The water is to be used for municipal purposes by the City of Canton. Staff recommendation is for approval with the Well Interference Qualification, the Public Water Supply Well Construction Qualification and the following:

1. That the City of Canton report to the Chief Engineer annually the amount of water withdrawn each year from the Dakota Formation.

Mr. Lloyd MOVED, SECONDED by Mr. Rickenbach that Water Permit Application Nos. 1445-1, 2059-2, 2061-2, 2174A-3, 5170-3, 5204-3, 5205-3, 5206-3, 5207-3, 5210-3, 5211-3, 5212-3, 5215-3, 5216-3, 5217-3, 5218-3 be APPROVED with the staff recommended qualifications. MOTION CARRIED.

Declaratory Ruling Regarding the Ordinary High Water Mark and Outlet Elevation for Punished Woman Lake (continued)
The Board discussed what actions were previously taken by the Board.

Mr. Rollag MOVED, SECONDED by Mr. Brink that Water Permit No. 4953-3 be CANCELLED.

Mr. Rollag MOVED, SECONDED by Mr. Brink that the meeting be adjourned. MOTION CARRIED.

Meeting adjourned at 12:30 pm.

Marion B. Gunderson
Chairman

Frank E. Brink
Secretary



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Memo to File

Punished Woman Lake in Codington County

VWR No. 882-3

The WMB originally set the OHWM and outlet elevations in July 1983, these were revised in October 1988.

The OHWM was revised by the Water Management Board on October 5, 1988.

OHWM elevation 1845.0 fmsl NGVD29

The outlet elevation was revised by the Water Management Board on October 5, 1988.

Outlet elevation 1844.5 fmsl NGVD29.