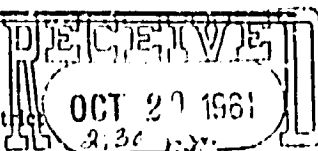


No. 843-3Water Division No. 3 BIG SIOUX RIVER District 2, 30
(Blanks to be filled by the Engineer for the W. R. C.)

VESTED RIGHT **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 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 Mitchell, Brookings County
As required to fill lake to outlet level - approximately 540
3. Amount of water claimed acre feet per year cubic feet per second _____
4. Source of water supply Dry Draw
One point in the watershed located in the SW 1/4 Sec 1 -
5. Location of point of diversion Sec. 16, T-111, R-52
_____ 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. 16, 21 T 111 - R 52

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

(a) Nature of use public recreational uses
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 Mitchell 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 ----- 180 ----- 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 ----- 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. Killmore, 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. Killmore*

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

Edward B. Killmore
 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 27, 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

893-3

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 27, 1962

Recorded in Book

7

Page

323

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 540 acre feet annually; 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, 55

during the following described annual period:

Witness my hand this

27TH

day of

December

1962.

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued

December 27, 1962

Water License Issued

December 27, 1962

STATE OF SOUTH DAKOTA

WATER LICENSE No.... 893-3...

WHEREAS, On the 20th day of October A. D. 1961
 the Department of Game, Fish and Parks
 of Pierrre County of Hughes and State of
South Dakota duly made application (No. 893-3) to us for a Vested Right permit to use 540 acre feet
Annually cubic feet per second of the waters of a dry draw
 County of Brookings, State of South Dakota, for Public recreation
 purposes; and

WHEREAS, On the 27th day of December A. D. 1962
 permit No. 893-3 was issued to said applicant... for the diversion of said water, recognizing the
 completion of the works of diversion therein described on or before the XXXXXX
XXXXXX and for the application to beneficial use of said
 water on or before the XXXXXX
 and,

WHEREAS, On the 27th day of October A. D. 1961
 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 540 acre feet
Annually cubic feet per second of said waters, as evidenced by our Certificate No. 893-3
 dated December 27, 1962 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 540 acre feet annually
 priority of 1962 and,

WHEREAS, On the 20th day of October A. D. 1961
 proof was duly made of the application to beneficial use of 540 acre feet annually cubic feet 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 said Vested Right permit No. 893-3
a water right, dating from 1889 ----- to the use of 510 acre feet annually,
cubic feet per second of the waters of a dry draw -----
In the County of Brookings ----- and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinafel w mentioned, to be diverted at a point in the SW 1/4 SE 1/4, Section 16,
T 111N, R 52W -----
and ~~and subject to the laws of the State of South Dakota~~ 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 27th 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. 893-3

Water 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 Parks
of Pierre, County of Hughes, and State of
South Dakota, the holder ^{Vested Right} of Permit No. 893-3, issued upon Application
No. 893-3, bearing date of priority of 1889, authorizing the diversion of
~~540 acre-feet annually and one second~~ of the waters of a dry draw
County of Brookings, State of South Dakota, at a point in the
SW 1/4 SE 1/4 Section 16, T 111N, R 52W
for Public recreation
purposes, i.e. 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 ~~found~~ ^{recognized as} satisfactory
~~condition~~ for diverting and conveying to the place of intended use 540 acre-feet annually ~~xxxx~~
~~per second~~ of water; and that the ~~xxxx~~ ^{xxxx} use of said water are described as follows,
to-wit: to be used in place for public recreation

Witness my hand this 27th day of December A. D. 19 62

State Water Resources Commission

By:

J.W. ORLES, Chief Engineer, Executive Officer

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 water shed located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 16,

T 111 - R 52

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 6 feet - 180 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 540 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) *A. McElmer*

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
Edmund Robinson
} 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 _____	

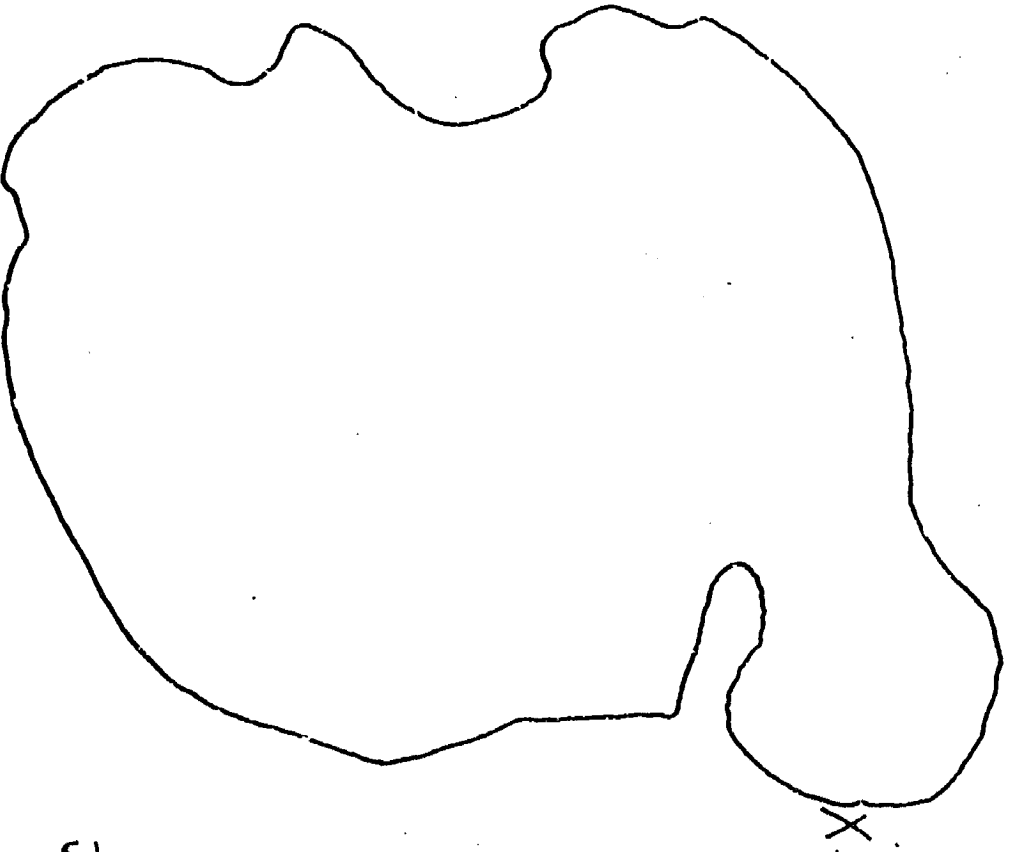
Date of recording _____	

Received and filed _____	

DEPARTMENT OF GAME, FISH & PARKS
STATE OFFICE BUILDING
PIERRE, SOUTH DAKOTA

Lake Mitchell
Brookings Co.
16, 21-111-52

17	16
20	21



Scale 8" = 1 mile

16	15
21	22

John Popowski
Jan. 21, 1959

**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.

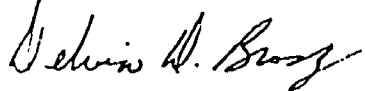


September 21, 1988
Richard Beringson, Secretary
Page 2

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 Divisio
605 773-3352

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