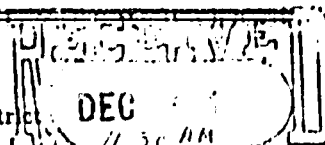


No. 923-3Water Division No. 3 WHEATSTONE CREEK District
(Blanks to be filled by the Engineer for the W. R. C.)

VESTED RIGHT **APPLICATION FOR PERMIT**

STATE WATER RESOURCES COMM
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 Pierrre, 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 NORTH RED IRON LAKE - Marshall County
As required to fill lake to outlet level - approximately 600
3. Amount of water claimed acre-foot-per-year cubic feet per second
Dry Draw
4. Source of water supply Two points located in the watershed - SW 1/4 Sec. 17, T 126, R 53
and SE 1/4 NW 1/4 Sec. 20, T 126, R 53
5. Location of point of diversion _____

_____ on _____ bank _____ 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 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 ofthe inundated portions of Sec. 17, & 20, T 126, R 53

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 _____

May be with 923-3

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. North Red Iron Lake

(a) Dam: Height 9 is a meandered lake. Maximum depth approximately 15 feet
feet; length at bottom feet; length at top

.....feet; thickness at bottomfeet; thickness at top

feet; slope at front water face; slope at back face

material used in construction

(b) Reservoir: Capacity when filledacre feet. Surface area at highwater
mark 200acres.

DEPTH AT OUTLET- FEET	SURFACE AREA AT EACH DEPTH A" OUTLET--ACRES	FEET	ACRE- FEET CAPACITY

(c)* Head gate: Widthfeet; 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

Subscribed and sworn to before me this

7 day of

December 1961

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,

JANUARY 25, 1963

This is to certify that the foregoing application was received by the Commission at 11:30 o'clock

a.m. upon the 8th day of DECEMBER, 1961

State Water Resources Commission

By:

Auston Jones
Chief Engineer, Executive Officer

Number of permit 423-3

Date of first receipt of application

December 8

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

JANUARY 25

1963

Recorded in Book

8

Page

11

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

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

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 600 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 a 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

during the following described annual period:

Continuously

Witness my hand this

25th

day of

JANUARY

1963

State Water Resources Commission

By:

W. A. Jones

Chief Engineer, Executive Officer

Certificate of Construction Issued

JANUARY 25, 1963

Water License issued

JANUARY 25, 1963

STATE OF SOUTH DAKOTA

WATER LICENSE No. . . . 923-3

WHEREAS, On the 8th day of December A. D. 1961
the Department of Game, Fish and Parks
of Pierre County of Hughes and State of
South Dakota duly made application (No. 924-3) Vested Right
to us for a permit to use 600 acres each
~~annually~~ of the waters of dry drawn annually
County of Marshall, State of South Dakota, for public recreation
purposes; and

WHEREAS, On the 25th day of January A. D. 1963,
Vested Right Permit No. 923-3 was issued to said applicant for the diversion of said water, and providing for the
 completion of the work of diversion therein described on exhibits and plans attached hereto, and for the application to beneficial use of said
 water on the above day, and

WHEREAS, On the 8th day of December A. D. 1961,
the holder of said permit duly made proof of the completion of adequate works for the diversion of 600 acre feet
annually ~~from the~~ second of said waters, as evidenced by our Certificate No. 3213
dated January 25, 1963 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 600 acre feet annually
priority of 1889 ~~from the~~ second of water, with date of
and,

WHEREAS, On the 8th day of December A. D. 1961
proof was duly made of the application to beneficial use of 670 acre feet annually
to be used in place for public recreation of said water;

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 permit No. 923-3
 a water right, dating from 1889 to the use of 600 acre feet
annually
~~subject to the use of~~ of the waters of dry draws
 in the County of Marshall and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted at points in the SW¹ SE¹ Section 17,
and in the SE¹ NW¹ Section 20, T 126N, R 53W
 and conducted ~~as follows:~~ 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 25th day of January A. D. Nineteen
 Hundred and Sixty-Two

State Water Resources Commission

By:

J.W. GRILES , 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. 923-3Water Division No. 3 WHEATSTONE Water District
CRICK**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 ofSouth Dakota, the holder Vested Right of Permit No. 923-3, issued upon ApplicationNo. 923-3, bearing date of priority of 1989, authorizing the diversion of600 acre feet annually ~~xxxxxx~~ of the waters of dry drawCounty of Marshall, State of South Dakota, at points in the SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 17 and in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20, T 126N, R 53W.for 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 as satisfactory~~xxxxxx~~ for diverting and conveying to the place of intended use 600 acre feet annually ~~xxxxxx~~and that ~~xxxxxx~~ the use of said water are described as follows,to-wit: to be used in place for public recreationWitness my hand this 25th day of January A. D. 1963.

State Water Resources Commission

By:

J. W. GRIMES, 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 - Two points located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 126, R 53 andSE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 20, T 126, R 53.

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 15 feet - 200 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 600 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. J. McAllister

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 7 day of December A. D. 1961

Edward Spenser
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 _____

9213-3

 **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.

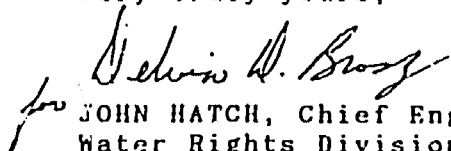


September 21, 1988
Richard Beringson, Secretary
Page 2

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,

A handwritten signature in dark ink, appearing to read "John Hatch", is written over the typed name. The signature is fluid and cursive.

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

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