

No. 431-3Water Division No. 3Big Sioux River District NEBRASKA  
(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 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 MARTHA - Marshall County  
As required to fill lake to outlet level - approximately 315  
3. Amount of water claimed acre feet per year cubic feet per second  
4. Source of water supply Dry Draw  
5. Location of point of diversion One point in the watershed located in the NE 1/4 Sec. 13,  
T 125, R 53 N, 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 portions of Sec. 12, T. 125, 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

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 Martha is a  
meandered lake. Maximum depth is approximately 10 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-----105-----acres.

| DEPTH AT<br>OUTLET-Feet | SURFACE AREA AT EACH<br>DEPTH AT OUTLET--ACRES | FEET | ACRE-Feet<br>CAPACITY |
|-------------------------|------------------------------------------------|------|-----------------------|
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |
|                         |                                                |      |                       |

(c)\* Head gate: Width-----feet; height -----feet;  
Material -----

(d) Canal: Total length -----miles.

| LOCATION BELOW<br>HEADGATE | DEPTH      | BOTTOM<br>WIDTH | WIDTH AT<br>WATER-LINE | GRADE<br>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 -----7----- day of -----December----- 19-----61

-----Edward B. Johnson-----  
Notary Public (or other qualified officer.)

11-6-65

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 12<sup>th</sup> day of DECEMBER, 1961

State Water Resources Commission

By:

Anton Z. Jones  
Chief Engineer, Executive Officer

Number of permit 931-3

Date of first receipt of application DECEMBER 12, 1963

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 19

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

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 315 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 ~~was~~

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

Continuously  
Witness my hand this 25<sup>th</sup> day of JANUARY, 1963

State Water Resources Commission

By:

Anton Z. 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. 931-3

WHEREAS, On the 12th day of December A. D. 1961

the South Dakota Department of Game, Fish and Parks

of Pierre County of Hughes and State of South Dakota  
 duly made application (No. 931-3) to us for a Vested Right  
 annually permit to use 315 acre feet  
 of the waters of a dry draw  
 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. 931-3 was issued to said applicant... recognizing  
 for the diversion of said water, and providing for the  
 completion of the works of diversion therein described on or before the  
 A. D. 1963 and for the application to beneficial use of said  
 water on or before  
 and,

WHEREAS, On the 12th day of December A. D. 1961  
 the holder of said permit duly made proof of the completion of adequate works for the diversion of 315 acre feet  
 annually of said waters, as evidenced by our Certificate No. 931-3  
 dated January 25, 1963 confirming the completion of works of sufficient capacity for  
 diverting and conveying to the place of intended use 315 acre feet annually  
 of water, with date of  
 priority of 1889 and,

WHEREAS, On the 12th day of December A. D. 1961  
 proof was duly made of the application to beneficial use of 315 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 South Dakota Department of Game, Fish and Parks  
of Pierre <sup>Vested Right</sup> the holder and owner of said permit No. 931-3  
a water right, dating from 1889 to the use of 315 acre feet  
annually  
~~under the~~ of the waters of a dry draw  
in the County of Marshall and State of South Dakota, or so much thereof as may be  
necessray for the purposes hereinbelow mentioned, to be diverted at a point in the SE<sup>1</sup> NW<sup>1</sup>, Section 13,  
T125N, R53W  
and ~~conduct~~ 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  
Sixty-Three  
Hundred and \_\_\_\_\_

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. 931-3

Water 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 South Dakota Department of Game, Fish and Parks

of Pierre, County of Hughes, and State of South Dakota, the holder of Vested Right Permit No. 931-3, Issued upon Application

No 931-3, bearing date of priority of 1889, authorizing the diversion of

315 acre feet annually of the waters of a dry draw

County of Marshall, State of South Dakota, at a point in the

SE 1/4 Section 13, T125N, R53W

for public recreation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of recognized as

completion of the works of diversion set out and described in said Permit; that said works are found to be satisfactory

for diverting and conveying to the place of intended use 315 acre feet annually

of water; and that the works proposed to be constructed use of said water are described as follows,

to-wit: to be used in place for public recreation

Witness 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, S. Dak.

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. One point in the watershed located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 13, T 125, 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 10 feet - 105 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 315 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) J. Williams

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 \_\_\_\_\_, County of \_\_\_\_\_

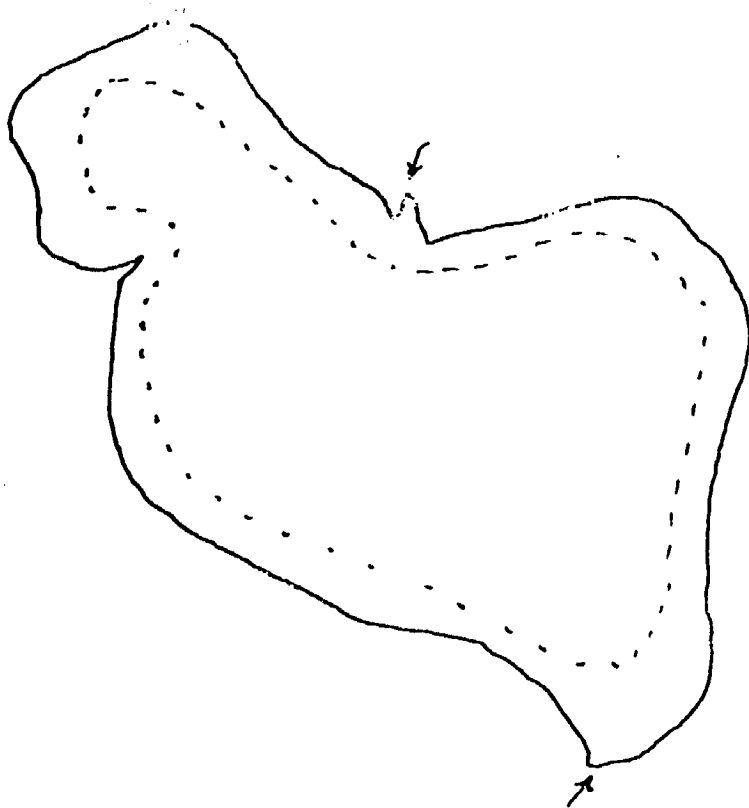
State of South Dakota, on this 7 day of December, A. D. 1961

Witnesses.

Edward J. Johnson  
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. _____                                         |  |
| <b>PROOF OF APPLICATION OF<br/>WATER TO BENEFICIAL USE</b> |  |
| <b>PETITION OF HOLDER</b>                                  |  |
| Amount of Water _____ C. F. S.                             |  |
| Source _____                                               |  |
| County _____                                               |  |
| Purpose _____                                              |  |
| Place of Use _____                                         |  |
| Date of recording _____                                    |  |
| Received and filed _____                                   |  |



*Martha Lake*

DEPT. GAME, FISH & PARKS  
Pierre, South Dakota

|    |        |
|----|--------|
| 13 | Co.    |
| 2  | Rodato |

931-3

 **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.

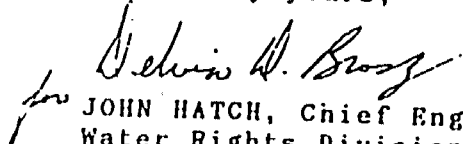


September 21, 1988  
Richard Beringson, Secretary  
Page 2

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,

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

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