

No. 949-3
 Water Division No. 3 JAMES RIVER District DEC 20 1931
 (Blank 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 Piarsa, 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 WHITE LAKE - Marshall County
As required to fill lake to outlet level - approximately 660
 3. Amount of water claimed acre-foot-per-year-cubic feet per second
 4. Source of water supply city Run Creek
One point in the watershed located in the SW 1/4 NW 1/4, Sec. 36,
 5. Location of point of diversion T. 128, R. 57
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.) S&C. 36, T. 128, R. 57, NE 1/4, NW 1/4 Sec. 1,
S 1/2 Sec. 25, T. 128, R. 57

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, \$-36,110.34

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

II. Dimensions of works.

(a) Dam: Height 38 feet; length at bottom 520 feet; length at top 750 feet; thickness at bottom 216 feet; thickness at top 16 feet; slope at front water face 3:1; slope at back face 2:1; material used in construction clay

(b) Reservoir: Capacity when filled 2640 acre feet. Surface area at highwater mark 220 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 completed - not applicable11. Time required for complete application of water to the proposed beneficial use completed years12. Choice of newspaper for publication of notice of intention to appropriate not applicable

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 Walter J. FillmoreSubscribed and sworn to before me this 21 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 28, 1963

This is to certify that the foregoing application was received by the Commission at 8:45 o'clock
a.m. upon the 22ND day of DECEMBER, 1961

State Water Resources Commission

By:

John Tom Jones
Chief Engineer, Executive Officer

Number of permit

949.3

Date of first receipt of application

DECEMBER 22, 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

1934

Approved

JANUARY 28, 1963

Recorded in Book

8

Page

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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 660 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

January 28, 1963

said water to be used

during the following described annual period:

continuously

Witness my hand this

28TH

day of

JANUARY

, 1963

State Water Resources Commission

By:

John Tom Jones

Chief Engineer, Executive Officer

Certificate of Construction Issued

JANUARY 28, 1963

Water License issued

JANUARY 28, 1963

STATE OF SOUTH DAKOTA

WATER LICENSE No. 949-3

WHEREAS, On the 22nd 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. 949-3) to us for Vested Right permit to use 660 acre feet
annually of the waters of a dry draw
County of Marshall, State of South Dakota, for public recreation
purposes; and

WHEREAS, On the 23th day of January A. D. 1963
Vested Right Permit No. 949-3 was issued to said applicant for the diversion of said water, recognizing the
completion of the works of diversion therein described and providing for the
and XXXXXXXX application to beneficial use of said
water and, A. D. 1963

WHEREAS, On the 22nd day of December A. D. 1961
the holder of said permit duly made proof of the completion of adequate works for the diversion of 660 acre feet
annually of said waters, as evidenced by our Certificate No. 949-3
dated January 28, 1963 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 660 acre feet annually
priority of 1934 of water, with date of
and,

WHEREAS, On the 22nd day of December A. D. 1961
proof was duly made of the application to beneficial use of 660 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 South Dakota Department of Game, Fish and Parks

of Pierre the holder and owner Vested Right of sale/permit No. 949-3

a water right, dating from 1934 to the use of 600 acre feet

annually
~~water right~~ 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 SW¹/₄ NE¹/₄ Section 36,
T128N, R57W

and ~~water right~~ 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 28th day of January A. D. Nineteen
Hundred and Sixty-Three

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Amt _____ C. F. S. _____

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 949-3Water Division No. 3 James 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 Permit No. 949-3, issued upon Application No. 949-3, bearing date of priority of 1934, authorizing the diversion of 660 acre feet annually of the waters of a dry draw County of Marshall, State of South Dakota, at a point in the SW 1/4 NE 1/4 Section 36, T122N, R57W

for 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 satisfactory condition for diverting and conveying to the place or intended use 660 acre feet annually

of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: to be used in place of public recreation

Witness my hand this 28th day of January A. D. 1963

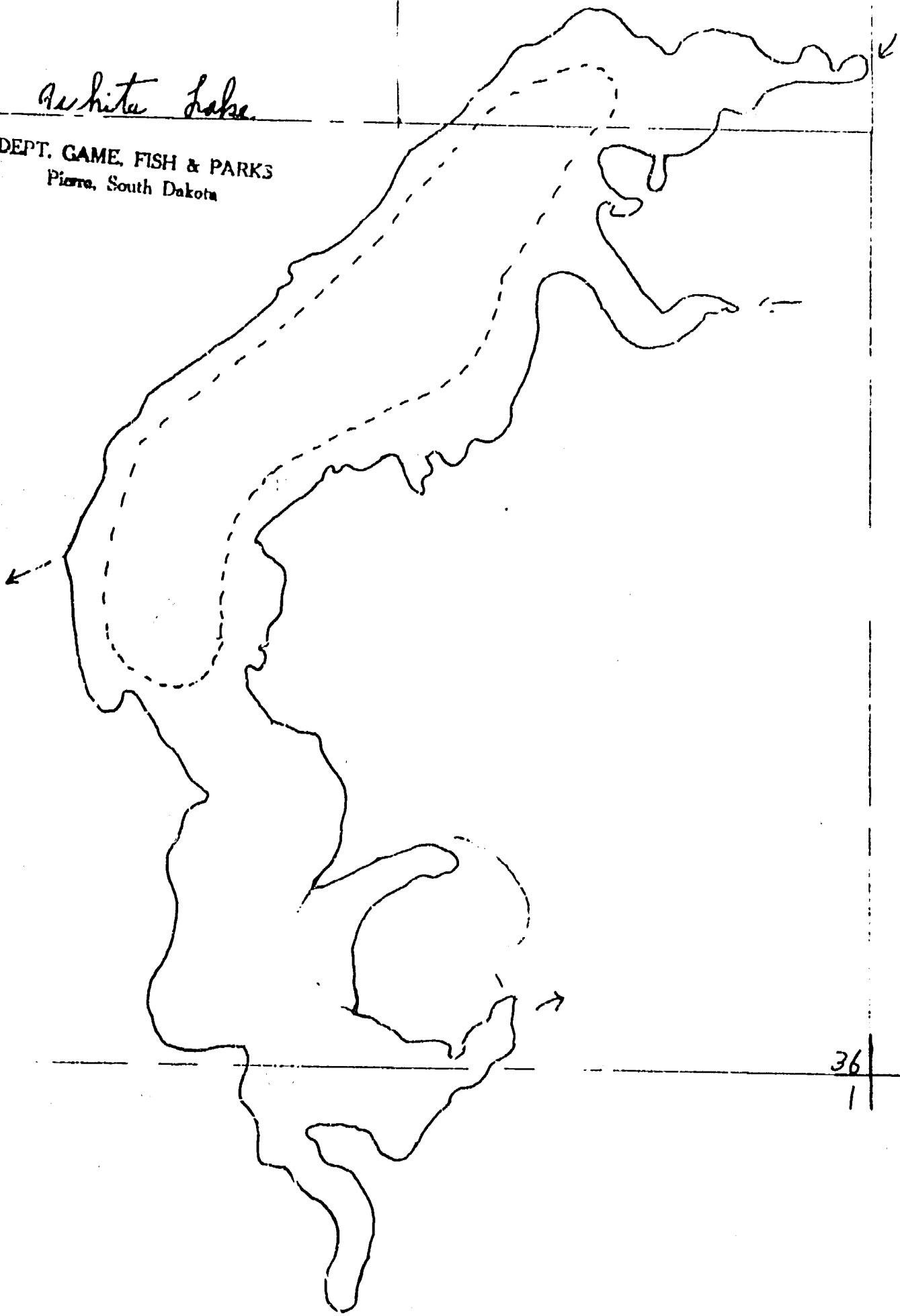
State Water Resources Commission

By: J. W. GRIMES
Chief Engineer, Executive Officer

25
36

Archita Lake

DEPT. GAME, FISH & PARKS
Pierre, South Dakota



14
1

36
1

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 Run Creek - one point in the watershed located in the SW 1/4, Sec. 36,
T 128, R 57.

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. Earth Dam - approximately 540 feet long - 38 feet high
Impoundment of 220 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 660 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. Been in use ever since 1934 when dam was constructed. Used by the public
for the uses specified except for that amount lost by evaporation and
seepage. Rebuilt 1937

(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 Pierre, County of Hughes

State of South Dakota, on this 21 day of December 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
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

August 5, 1980

Mr. Franzen
Box 211
Britton SD 57430

Dear Mr. Franzen:

Your inquiry to this office regarding the present water rights for the city are as follows:

949-3, Water Right for Municipal use, .67 cfs from White Lake. The Point of Diversion located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, T128N, R57W.

949-3, Water Permit for Municipal use, 1.5 cfs from groundwater. The well is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, T128N, R57W.

The Department of Game, Fish and Parks have a Vested Water Right No. 949-3, from a well draw in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, T128N, R57W, to use 600 acre feet annually to fill the Lake to outlet level for public recreation.

The Department of Game Fish and Parks still have an interest in White Lake. A copy of an agreement made between the City of Britton and the Dept of Game, Fish and Parks in January 1974 is enclosed. Their recommendation will be to oppose any application made for additional water to be taken from White Lake for irrigation of fairways for golf course.

We are enclosing our application forms which you requested, if you still desire to make application from groundwater. Since the application will be for irrigation, a soil/water compatibility permit approval will be required from the State Conservation Commission.

A filing fee for irrigation purposes will also be required by this office. (See application sheet for amount).

If you have any further questions please contact this office.

Sincerely,

W. J. TUND
Water Rights Specialist

W. J. Tund, GP & F

Equal Opportunity Employer

**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.

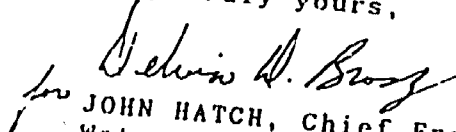


September 21, 1988
Richard Beringson, Secretary
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We will be working with your staff on these validations. We have already discussed setting outlet elevations before validating claims for lakes. Although the work necessary to complete the validation 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