

Water Right Number U.S. 594-3

1. Considered NOVEMBER 13, 1974
2. Name of Applicant BUREAU OF RECLAMATION
3. Post Office Address HURON
4. Amount of water claimed MULTIPLE
5. Source of water supply MULTIPLE
6. Water to be used for IRRIGATION & OTHERS
Acres to be irrigated 190000
7. Water to be diverted and used in BIG HORN & SPINK MAINE County
about _____ Miles _____ of _____
8. Proof of Publication
Received 12-28-74
Not received _____
9. Application
Approved _____
Subject to _____
Not approved _____
Action deferred _____
10. Remarks _____

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 594-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Headle) ss.

Dorothy Murphy hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Huron Daily Plainsman

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City Huron of Huron

County of Headle and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

October 16, 1974

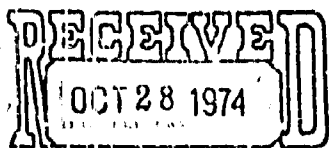
October 23, 1974

Dorothy Murphy
(Signature)
Bookkeeper

(Title)

October 23, 1974

(Date Signed)



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

PUBLIC NOTICE

F.P. 10-16-74 L.P. 10-23-74

NOTICE
INTENT TO
APPROPRIATE WATER
OF PIERRE, SOUTH DAKOTA
October 8, 1974
NOTICE OF INTENTION BY
THE UNITED STATES TO
UTILIZE CERTAIN SPECIFIED
WATERS.

Notice is hereby given that the
United States, Bureau of
Reclamation, Department of the
Interior has filed its intention with
the Water Rights Commission to
utilize certain specified waters in
compliance with South Dakota
Coded Laws of 1967, Section 46-5-42
and has applied for a U.S. With-
drawal of water in conformity with
the assignment of portions of Future
Use Water Permit No. 1267-3
transferred to the United States as
specified below.

(a) 1,440 cubic feet per second of
the stored water of Lake Oahe to be
diverted by the proposed Oahe
Pumping Plant. (b) 500 c.f.s. of
James River waters to be diverted
by the proposed James Pumping
Plant. (c) 14,000 acre feet annually
from Cresbard Creek. (d) 16,000
acre feet annually from Foster
Creek. (e) 16,000 acre feet annually
from Medicine Knoll Creek. (f)
446,000 acre feet for initial fill of the
proposed Blunt Reservoir with a
dam across Medicine Knoll Creek.
(g) 1,100 acre feet for initial fill of
the proposed Cresbard Reservoir
with a dam across Cresbard Creek.
(h) 5,100 acre feet for initial fill of
the proposed enlargement of Lake
Byron with the Byron Dam across
Foster Creek.

The Notice of Intention specifies
that it includes water sufficient to
irrigate 190,000 acres of land in the
authorized Oahe Unit (Act of August
3, 1968 (42 Stat. 6741)) and for
domestic, municipal, livestock,
industrial, water quality purposes,
or fish and wildlife needs, and such
other uses as may be authorized for
water diverted and delivered
through the Oahe Unit works.
Principal features to be constructed
to utilize the water include:

(a) Oahe Pumping Plant and
Pierre Canal with a capacity of 1,440
cubic feet per second diverting
stored water of Lake Oahe at a point
located in the NW 1/4 of Section 6,
T111N, R79W, 5th P.M. (b) Blunt
Reservoir with a capacity of 631,000
acre feet impounded by a dam ex-
tending from the SE 1/4 of Section 19
to the SE 1/4 of Section 29, all within
T113N, R75W, 5th P.M. (c) High-
more Canal and its extension
diverting 2130 cubic feet per second
from Blunt Reservoir at an outlet
located in SE 1/4 of Section 1, T113N,
R74W, 5th P.M. (d) Cresbard
Reservoir with a capacity of 37,300
acre feet impounded by Cresbard
Dam located in the SE 1/4 of Section
16, T119N, R67W, 5th P.M. (e)
Cresbard Canal and its extensions
diverting 3300 cubic feet per second
from an outlet located in Cresbard
Dam. (f) James Pumping Plant and
James Diversion Dam Reservoir at a point
located in the NW 1/4 of Section 13,
T113N, R62W, 5th P.M. (g)
Enlargement of Lake Byron by
66,100 acre feet to a total capacity of
71,000 acre feet by Byron Dam ex-
tending from the SE 1/4 of Section 20
to the SE 1/4 of Section 28, all within
T113N, R61W, 5th P.M. (h) Byron
Pumping Plant and East Main Canal
with a capacity of 1200 c.f.s.
diverting water from Lake Byron at
a point located in SE 1/4 of Section 18,
T113N, R60W, 5th P.M.

This Notice of Intention (U.S.
Withdrawal No. 594-3) will be con-
sidered by the Water Rights Com-
mission at Embassy Room No. 1,
Downtown Holiday Inn, Sioux Falls,
South Dakota upon the 11th day of
November, 1974, at 3:30 p.m.,
D.S.T. All interested persons may
appear and be heard.

Water Rights
Commission

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Hughes) ss.

I, John H. Hipple hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Daily Capital Journal

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

city of Pierre

County of Hughes and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

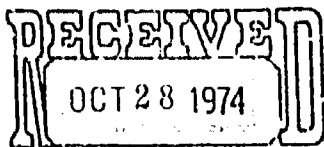
October 16, 1974;

October 23, 1974.

John H. Hipple
(Signature)

Business Manager
(Title)

October 23, 1974
(Date Signed)



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

No. 1802 - 21 dly - Oct. 16-23
U.S. Withdrawal No. 594-3
NOTICE INTENT TO
APPROPRIATE WATER

NOTICE OF INTENTION BY
THE UNITED STATES TO
UTILIZE CERTAIN SPECIFIED
WATERS.

Notice is hereby given that the
United States, Bureau of
Reclamation, Department of the
Interior has filed its intention
with the Water Rights Commis-
sion to utilize certain specified
waters in compliance with South
Dakota Coded Laws of 1967, Sec-
tion 46-5-42 and has applied for
a U. S. Withdrawal of water in
conformity with the assignment
of portions of Future Use Water
Permit No. 1061-3 transferred
to the United States as specified
below.

(a) 1,440 cubic feet per second
of the stored water of Lake
Oahe to be diverted by the
proposed Oahe Pumping Plant,
(b) 500 c.f.s. of James River
waters to be diverted by the
proposed James River Pumping
Plant, (c) 14,000 acre feet
annually from Cresbard Creek,
(d) 13,000 acre feet annually
from Foster Creek, (e) 16,800
acre feet annually from
Medicine Knoll Creek, (f) 446,
000 acre feet for initial fill
of the proposed Blunt
Reservoir with a dam across
Medicine Knoll Creek, (g)
1,100 acre feet for initial fill
of the proposed Cresbard
Reservoir with a dam across
Cresbard Creek, (h) 5,100
acre feet for initial fill of the
proposed enlargement of Lake
Byron with the Byron Dam
across Foster Creek.

This Notice of Intention
specifies that it includes water
sufficient to irrigate 190,000
acres of land in the authorized
Oahe Unit (Act of August 3, 1968
(82 Stat. 624)) and for
domestic, municipal, livestock,
industrial, water quality pur-
poses, or fish and wildlife needs,
and such other uses as may be
authorized for water diverted and
delivered through the Oahe Unit
works. Principal features to be
constructed to utilize the water
include:

(a) Oahe Pumping Plant and
Pierre Canal with a capacity
of 1,440 cubic feet per second
diverting stored waters of Lake
Oahe at a point located in the
NW 1/4 of Section 6, T111N,
R79W, 5th P.M. (b) Blunt
Reservoir with a capacity of
631,000 acre feet impounded by
a dam extending from the SE 1/4
of Section 19 to the SE 1/4 of
Section 29, all within T113N,
R75W, 5th P.M. (c) Highmore
Canal and its extension divert-
ing 2130 cubic feet per second
from Blunt Reservoir at an out-
let located in SE 1/4 of Section
1, T113N, R74W, 5th P.M. (d)
Cresbard Reservoir with a
capacity of 37,600 acre feet
impounded by Cresbard Dam
located in the SE 1/4 of Section
18, T119N, R67W, 5th P.M.
(e) Cresbard Canal and its
extensions diverting 3800 cubic
feet per second from an outlet
located in Cresbard Dam. (f)
James Pumping Plant and
James Canal with a capacity of
500 c.f.s. diverting water from
James River Diversion Dam
Reservoir at a point located in
the NW 1/4 of Section 13, T113N,
R62W, 5th P.M. (g) Enlarge-
ment of Lake Byron by 56,100
acre feet to a total capacity
of 73,000 acre feet by Byron
Dam extending from the SE 1/4
of Section 20 to the SE 1/4 of Sec-
tion 28, all within T113N,
R61W, 5th P.M. (h) Byron
Pumping Plant and East Main
Canal with a capacity of 1800
c.f.s. diverting water from
Lake Byron at a point located
in SE 1/4 of Section 12, T113N,
R60W, 5th P.M.

This Notice of Intention
(U. S. Withdrawal No. 594-3) will
be considered by the Water Rights
Commission at Embassy Room
No. 1, Downtown Policay Bldg,
Sioux Falls, South Dakota upon
the 13th day of November, 1974,
at 3:30 P.M., D.S.T. All interest-
ed persons may appear and be
heard.

WATER RIGHTS COMMISSION
Hurton F. Jones
Water Rights Specialist

Preliminary Statement respecting
U. S. Withdrawal No. 594-3 for
The Oahe Unit, PSMBP

1. Under Section 46-18-27, SDCL 1967, a conservancy subdistrict of South Dakota has authority to cooperate with and contract with the United States in the construction, operation and maintenance of a water resource project.

2. On January 1, 1969, the Oahe Conservancy Subdistrict entered into a contract with the United States for the construction, operation and maintenance of the Initial Stage of the Oahe Unit of the Pick-Sloan Missouri Basin Program. Article 21 of this contract reads as follows:

"WATER RIGHTS"

"21. The United States will make such withdrawals and filing of applications for appropriation of water as required for the establishment of water rights for the unit under the laws of the State of South Dakota, but this provision shall not prohibit C-District from initially acquiring such water rights: Provided, That such C-District rights shall be transferred to the United States upon initiation of construction by the United States and upon request of the Contracting Officer."

This contract was approved as to its terms by the South Dakota Conservancy District on December 5, 1968. Authorization for the contract was confirmed by the Supreme Court of South Dakota on March 29, 1971.

In re Oahe Conservancy Subdistrict, 185 N.W.2d 682 (1971).

3. Under Section 46-5-38, SDCL 1967, a conservancy subdistrict may appropriate water for its contemplated future needs in the same manner provided for appropriations for existing needs.

St. Lawrence v. Bd. of P. & C. Co. et al. 1974
185 N.W.2d 682

4. In 1964, the Oahe Conservancy Subdistrict acquired Permit No. 1067-3 for the future use of water needed for the Oahe Unit of the Pick-Sloan Missouri Basin Program.

5. Under Section 46-5-32, SDCL 1967, the assignment of permits is authorized.

6. On August 20, 1974, the Oahe Conservancy Subdistrict assigned a portion of its Permit No. 1067-3 to the United States. The assignment was received and filed by the South Dakota Water Rights Commission on September 11, 1974.

7. The United States has notified the Water Rights Commission of its intention to rely upon such assignment by the Oahe Conservancy Subdistrict; and of its application to the Commission for the withdrawal of any other waters needed in connection with the Initial Stage of the Oahe Unit, Pick-Sloan Missouri Basin Program, as authorized by the Act of August 3, 1968 (P.L. 90-453; 82 Stat. 624); whereupon the Commission directed that a hearing be set November 13, 1974, at Sioux Falls, South Dakota, and that notice thereof be published.

Mr. Chairman and members of the Water Rights Commission

My name is Gary Gilbert, I'm from Carpenter, South Dakota. My family and I live on and operate a family farm in northeastern Pondera and southeastern Spink counties. I'm happy to be here today to represent myself as well as other present that share my views concerning the Foster Creek drainage area. We have come a considerable distance at our own expense to present our position.

Each farmer concerned about this transfer of their future use ~~must~~ water rights to the U.S. Bureau of Reclamation ~~is~~ unable to attend this hearing due to unknown reasons for holding such a hearing so far removed from the affected areas. Consequently, I ~~have~~ with me a petition containing several names representing the position of those living along or affected by the Foster Creek drainage area. At this time I wish to read this petition.

I personally feel, as others, ~~have~~ that our water rights should remain with the Oahe Conservancy Sub-district. Presently, it's not understandable the Bureau of Reclamation is asking for the transfer of 16,200 acre feet of water from Foster Creek annually. How was it decided that a claim would be established of 16,000 acre feet annually for Foster Creek? There is no sufficient data to verify annual flows of the Foster Creek drainage area.

There is lack of information to describe the nature and source of the waters of Foster Creek upon which a right is to be established. We also find inadequate information to determine if intended use for these waters would be of greater then present or alternate uses.

We object to the granting of this water right to the Bureau of Reclamation until many of the severe questions concerning the Oahe Irrigation Project have been considered. No longer can anyone say that Oahe is a sound water project.

Until we as landowners and residents of the Foster Creek area can see the plans and the description of uses for the water we cannot except this proposal. Where is the information determining the amount of water used by the landowners for domestic, livestock, watering of gardens, and other uses. At this time it would be more desirable for the right to use these waters remain with the Oahe Sub-district until adequate information is developed on all possible uses.

I wish to submit this statement along with these petitions for the record of this hearing held by the Water Rights Commission by request of the U.S. Bureau of Reclamation dated November 13, 1974.

Gary Gilbert
Carpenter,
South Dakota 57322

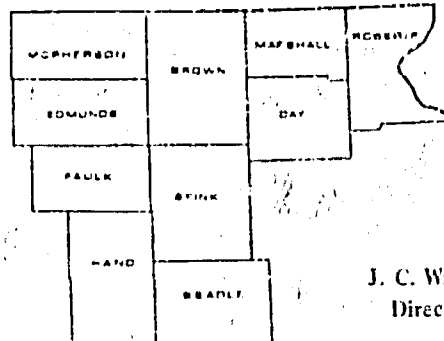
IV

SOUTH DAKOTA MODEL RURAL DEVELOPMENT PROGRAM

FOURTH PLANNING AND DEVELOPMENT DISTRICT COMMISSION

310 S. Lincoln

Aberdeen, South Dakota 57401



J. C. Wright
Director

November 12, 1974

To Whom It May Concern
Water Rights Commission
Pierre, South Dakota 57501

Gentlemen:

It has come to my attention that the Water Rights Commission is having a meeting in Sioux Falls tomorrow, November 13th, and part of the business at hand is to transfer the Water Rights from the Oahe Conservancy Sub-district to the Bureau of Reclamation and that this particularly concerns all of the streams in the James River Valley.

I feel that this should at least be postponed until after a hearing is held in the area that is primarily affected, namely the James River Valley. I cannot attest to the merits or demerits of this action, however, I do feel that the people should have an opportunity to hear what is going on and to express their views.

Furthermore, I cannot understand any great urgency for this action.

Yours truly,

Ben A. Anderson, President
Fourth Planning and Development
District Commission

BA/kms

Received at the November 13, 1974 hearing

To be included as part of the record

Mr. Chairman and members of the Water Rights Commission. I am Larry Tschetter and live within the water shed of Foster Creek. I very much appreciate this opportunity to express some of my neighbors and my concerns relative to the right to use the water in Foster Creek.

Like all of the other farmers in the water shed of Foster Creek, I was unaware till a couple of weeks ago that the Bureau of Reclamation is seeking to get rights to the water from Foster Creek. We believe there are some questions that should be answered before any action is taken.

Originally, farmers had dug a diversion ditch from Foster Creek to Lake Byron. Some time later the Dept. of Game, Fish and Parks took over the project and did some additional work in the area. It is our belief that the farmers of the area first established a right to the water of Foster Creek by the development of the diversion project. The water rights were later claimed by the Dept. of Game, Fish, and Parks.

In my opinion, there is inadequate information to determine if intended use for the water in Foster Creek would be more beneficial than the present use. There are thousands of people presently using and enjoying Lake Byron as it is.

There is insufficient information to describe the nature and source of the water of Foster Creek upon which a right is to be established.

How was it decided that a claim would be established on 16,000 acre-feet annually when actual flows of Foster Creek have never been determined. There is not adequate evidence to show that the claim of 16,000 acre-feet of annual flows in Foster Creek is accurate. In my opinion annual flows in Foster Creek are much less.

Information is insufficient to determine what effect the establishment of the water right might have on present and future use to residents of the area.

We respectfully request that the water right not be transferred to the Bureau of Reclamation until adequate information has been formulated and time be allowed for residents of the area to access the information relative to the water rights of Foster Creek. We would also request that another hearing be held within the areas involved.

Thank You!

Larry D. Tschetter
Hitchcock, South Dakota

Received at the November 13, 1968 hearing

PETITION

TO: South Dakota Water Rights Commission

Each of the undersigned is a landowner and resident in that area in northern Beadle County, southeastern Spink County, or southwestern Clark County which is drained into Foster Creek, and which is up stream from the site of the proposed Byron Dam for the Byron Reservoir which is planned to be developed as a holding pool for the Oahe Unit of the Pick-Sloan Missouri Basin Program.

This is the area which is generally involved in establishing a right to use 16,000 acre feet of water annually from Foster Creek as designated in Future Use Water Permit No. 1067-3 granted to the Oahe Conservancy Sub-District in 1964, and which is being considered for transfer to the United States Bureau of Reclamation.

We hereby request that you refrain from granting the United States Bureau of Reclamation the right to withdraw these waters from Foster Creek.

We wish that the right to use these waters remain at this time up to the discretion of the Oahe Conservancy Sub-District in order that the local people may further decide the use of these waters in the future.

Signature of Landowner	Address	Date of Signing
Albert R. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Edna W. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Dave J. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Glady's Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Willie W. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Shirley W. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Elgin J. Hofer	Hitchcock S. Dak.	Nov - 10 - 74
Donald Kitzman	Doland S. Dak.	Nov - 10 - 74
Jane Kitzman	Doland S. Dak.	Nov - 10 - 74
Wayne Kitzman	Doland S. Dak.	Nov - 10 - 74
Cecil Kitzman	Doland S. Dak.	Nov - 10 - 74
Thelma Kitzman	Doland S. Dak.	Nov - 10 - 74
Fred Lawrence	Doland S. Dak.	Nov - 10 - 74
Margaret Lawrence	Doland S. Dak.	Nov - 10 - 74
Mark Feldman	Doland S. Dak.	Nov - 10 - 74
Anna Feldman	Doland S. Dak.	Nov - 10 - 74
Barry Thompson	Doland S. Dak.	Nov - 10 - 74
Paul H. H. H.	Doland S. Dak.	Nov - 10 - 74
Mike J. H. H.	Doland S. Dak.	Nov - 10 - 74
John Kitzman	Doland S. Dak.	Nov - 10 - 74
Wayne Kitzman	Doland S. Dak.	Nov - 10 - 74
Mary Kitzman	Doland S. Dak.	Nov - 10 - 74
Arthur Kitzman	Doland S. Dak.	Nov - 10 - 74
Zack Kitzman	Doland S. Dak.	Nov - 10 - 74

PETITION

TO: South Dakota Water Rights Commission

Each of the undersigned is a landowner and/or resident in that area in northern Beadle County, southeastern Spink County, or southwestern Clark County which is drained into Foster Creek, and which is upstream from the site of the proposed Byron Dam for the Byron Reservoir which is planned to be developed as a holding pool for the Oahe Unit of the Pick-Sloan Missouri Basin Program.

This is the area which is generally involved in establishing a right to use 16,000 acre feet of water annually from Foster Creek as designated in Future Use Water Permit No. 1067-3 granted to the Oahe Conservancy Sub-District in 1964, and which is being considered for transfer to the United States Bureau of Reclamation.

We hereby request that you refrain from granting the United States Bureau of Reclamation the right to withdraw these waters from Foster Creek.

We wish that the right to use these waters remain at this time up to the discretion of the Oahe Conservancy Sub-District in order that the local people may further decide the use of these waters in the future.

Signature of Landowner	Address	Date of Signing
George A. Moore	Huron S. D.	11-12-74
Randall Ray Gross	Huron S. D.	11-12-74
Larry D. Tichler	Hitchcock S.D.	11-12-74
Orville H. Tichler	Carpenter, S.D.	11-12-74
Leonard W. Rame	Hitchcock S.D.	11-12-74
Alvin E. Tichler	Huron S. D.	11-12-74
E. Elton Schmieschel	Huron S. D.	11-12-74
Mary Schmieschel	Huron S. D.	11-12-74
Eli M. Hofer	Hitchcock S.D.	11-12-74
George J. Tichler	Huron S. D.	11-12-74
Garaf E. Hofer	Hitchcock S.D.	11-12-74
Johnnie M. Hofer	Hitchcock S.D.	11-12-74

PETITION

TO: South Dakota Water Rights Commission

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Signature of Landowner	Address	Date of Signing
Clark Colony	Raymond, S. Dak.	Nov 10 - 74
Harold Tschetter	Raymond, S. Dak.	Nov 10 - 74
Gladys Tschetter	Raymond, S. Dak.	Nov 10 - 74
Quinn Tschetter	Raymond, S. Dak.	Nov 10 - 74
Delores Tschetter	Raymond, S. Dak.	Nov 10 - 1974
William Tschetter	Raymond, S. Dak.	Nov 11, 1974
Jake J. Tschetter	Carpenter, S. Dak.	Nov 11, 1974
Ronald P. Tschetter	Carpenter, S. Dak.	Nov 12, 1974
Lucile H. Hilbert	Hitchcock, S. Dak.	Nov 12 - 1974
Mavis L. Hilbert	Hitchcock, S. Dak.	Nov 12 - 1974
Sally D. Hilbert	Carpenter, S. Dak.	Nov 12, 1974
Donna Hilbert	Carpenter, S. Dak.	Nov 12, 1974

PETITION

TO: South Dakota Water Rights Commission

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This is the area which is generally involved in establishing a right to use 16,000 acre feet of water annually from Foster Creek as designated in Future Use Water Permit No. 1067-3 granted to the Oahe Conservancy Sub-District in 1964, and which is being considered for transfer to the United States Bureau of Reclamation.

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We wish that the right to use these waters remain at this time up to the discretion of the Oahe Conservancy Sub-District in order that the local people may further decide the use of these waters in the future.

Signature of Landowner	Address	Date of Signing
Keith M. Galt	Hitchcock, S.D.	Mar. 11, 1974
Ralph E. Gilbert	Hitchcock, S.D.	Mar. 11, 1974
Robert E. Gilbert	Hitchcock, S.D.	Mar. 11, 1974
Kenneth K. Gilbert	Hitchcock, S.D.	Mar. 12, 1974

LeFollette, S.D. 57461
November 9, 1974

Department of Natural Resource Development;
Vern Butler
Water Rights Commission;
Office Building #2
Pierre, S.D. 57501

RECEIVED
NOV 12 1974
DEPT. OF NATURAL
RESOURCE DEVELOPMENT

Mr. Butler;

In regards to the hearing in Sioux Falls, November, 13, on the water rights to the Bureau of Reclamation, we would appreciate if there would be field hearings held in the area's involved (Foster Creek, James River, Medicine Knoll Creek) before a decision is made on this matter.

Sincerely,

Raymond Brown

James River Flood Control Association

NOV 11 1974
Filing
NO. 594-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Office Building Number 2, Pierre, South Dakota 57501

Phone 605/224-3151

November 1, 1974

Mr. George Piper, President
United Family Farmers, Inc.
Box 39A
Carpenter, South Dakota 57322

Dear Mr. Piper:

Reference is made to your letter of October 22, 1974 requesting information about the U.S. Withdrawal No. 594-3 filing.

U.S. Withdrawal No. 594-3 filing of the United States Bureau of Reclamation proposes to utilize certain specified waters. This filing is made for the same specified waters under two different and separate sections of South Dakota Compiled Laws of 1967.

One of these sections pertains to the procedure to be used by the United States in filing its intention to utilize certain specified waters. See Sections 46-5-42, 43, 44 and 45 of South Dakota Compiled Laws of 1967.

The other section pertains to appropriation of water under a future use permit. See Sections 46-5-38, 39 and 40 of South Dakota Compiled Laws of 1967 for information concerning a future use water permit.

The Oahe Conservancy Sub-District on November 7, 1963 made Future Use Water Right Application No. 1067-3 to appropriate water for contemplated future needs. Enclosed for your information is a copy of the published "Notice of Intention to Appropriate Water" for Future Use Water Right Application No. 1067-3. The Water Resources Commission on January 15, 1964 approved this future use water right application with the following qualification, "At such time as definite plans are made, specific applications for all or any part of the water granted under this withdrawal must be submitted prior to construction of facilities". This action of the Water Resources Commission reserved for future use, the specified waters, with a priority date of November 7, 1963.

Mr. George Piper

Page 2

November 1, 1974

On August 20, 1974 portions of Future Use Permit No. 1067-3 were transferred by Oahe Conservancy Sub-District to the U.S. Bureau of Reclamation. On September 11, 1974 this assignment of portions of Future Use Permit No. 1067-3 by motion of the Water Rights Commission was received, acknowledged and filed for record.

In U.S. Withdrawal No. 594-3 the Bureau of Reclamation in addition to filing a notice of intention to utilize certain specified waters under Section 46-5-42 of the Compiled Laws of South Dakota is also applying to use the water as provided in that portion of Future Use Permit No. 1067-3 assigned to the Bureau by the Oahe Conservancy Sub-District. The waters specified under the Section 46-5-42 U.S. Withdrawal filing are the same waters covered in the assignment of a portion of Future Use Water Right No. 1067-3.

Of those waters listed in your letter, water rights exist for diversions of water from the James River and Medicine Knoll Creek. Enclosed for your information are lists of these water rights. In addition the South Dakota Department of Game, Fish and Parks have filed a vested right claim (claimed priority date of 1931) for the diversion from Foster Creek and other natural drainage into Lake Byron of 5000 acre-feet annually to be used for fish and wildlife propagation, conservation and recreation purposes.

There are domestic, livestock watering and fish and wildlife use of the waters listed in your letter. None of these uses require the filing of water rights. Such use of water fluctuates from year to year and season to season as water may, or may not, be available. I do not believe such use of water can be accurately quantified.

There are approximately 360 sections of drainage area in Cresbard Creek watershed upstream from the proposed Cresbard Dam site. U.S. Geological Survey flow records are not available at the site to aid in estimating the average annual flow at this location. Based on the drainage area and runoff rates from similar watersheds, an estimated average annual runoff of 0.3 inches would produce 3800 acre-feet of water per year. Some years the annual runoff would exceed the average by a factor of 4 to 5.

There are approximately 120 sections of Foster Creek drainage area above the location of the Byron Dam on Foster Creek. Using the same approximations as used above on the Cresbard Creek estimate, the average annual runoff of Foster Creek drainage area would produce 2900 acre-feet of water per year.

At the proposed Blunt Reservoir site, U.S. Geological Survey flow records (March 1950-1973 period) indicate an average annual flow of 5.81 c.f.s. and an average annual runoff of 3,850 acre-feet from a drainage area of approximately 435 square miles. The annual runoff has been recorded as high as 20,640 acre-feet.

Mr. George Paper

Page 3

November 1, 1974

Approval of U.S. Withdrawal No. 594-3 as filed would reserve the specified waters for use of the Bureau of Reclamation with a priority date of November 7, 1963. This could result in a change in rank of the priority of some water rights when the water as specified in U.S. Withdrawal No. 594-3 is put to use. Some water rights will have to be acquired by the Bureau of Reclamation such as on the land to be inundated by the Blunt Reservoir. Future rights would be acquired in the manner specified by law, the same as now acquired, and would be subject to existing water rights at the time. Some temporary water rights might be authorized.

I am enclosing a copy of your letter and a copy of my letter to the Bureau of Reclamation and to the Osage Conservancy Sub-District to give these agencies an opportunity to comment further if they so desire.

Sincerely,

VERN W. BUTLER, Secretary
DEPARTMENT OF NATURAL RESOURCE
DEVELOPMENT

VWB/DD/bw

cc: Governor Richard Kneip
Kermit Sande, Attorney General
U.S. Bureau of Reclamation, Huron, S.D.
Osage Conservancy Sub-District, Huron, S.D.

bc: Copy to all Water Rights Commissioners



UNITED FAMILY FARMERS, INC.

Box 39A
Carpenter, South Dakota 57322

RECEIVED

OCT 24 1974

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

October 22, 1974

Mr. Vern W. Butler, Secretary
Department of Natural Resource Development
Office Building #2
Pierre, South Dakota 57501

Dear Mr. Butler:

I have seen recent public notice of intention by United States Bureau of Reclamation to secure use of certain specified waters of South Dakota for the initial phase Oahe Unit.

I would like to be supplied the following information relative to this issue.

1. An explanation of the functions, interpretations, and legal effects of a Future Use Water Permit.
2. The nature, purpose, and legal effects of Future Use Water Permit No. 1067-3.

Information provided in the public notice concerning Future Use Water Permit No. 1067-3 involves the following waters:

- (a) 1,440 c.f.s. of stored water of Lake Oahe.
- (b) 500 c.f.s. of James River water.
- (c) 14,000 acre feet annually from Creshard Creek.
- (d) 16,000 acre feet annually from Foster Creek.
- (e) 16,300 acre feet annually from Medicine Knoll Creek.
- (f) 446,000 acre feet for initial fill of proposed Blunt Reservoir.
- (g) 1,100 acre feet for initial fill of proposed Creshard Reservoir.
- (h) 5,100 acre feet for initial fill of proposed enlargement of Lake Byron.

1. Are any of the 8 above described waters presently being used for the purposes of irrigation, domestic, municipal, livestock, industrial, or fish and wildlife? What amounts of each of the 8 described waters may presently be used for each of these purposes?
2. How was it determined that any amounts of these 8 described waters are or are not presently being used for the purposes of irrigation, domestic, municipal, livestock, industrial, or fish and wildlife?

Page 2

Vern W. Butler

October 22, 1974

3. Please describe any existing rights on each of the 3 described waters. How and when may any of these rights have been established?
4. Please describe the location of the 14,000 acre feet annually in Cresbard Creek; the location of the 15,000 acre feet annually in Foster Creek; and the location of the 15,800 acre feet annually in Medicine Knoll Creek affected by Future Use Water Permit No. 1067-3.
5. What is the existing average annual flow of Cresbard Creek at the point of the proposed Cresbard Dam at SW $\frac{1}{4}$ Sec. 18, T119N, R67W, 5th P.M.?
6. What is the existing average annual flow of Medicine Knoll Creek at point of the proposed dam extending from SE $\frac{1}{4}$ of Sec. 19, to the SE $\frac{1}{4}$ of Sec. 29 all within T113N, R75W, 5th P.M.?
7. What is the existing average annual flow of Foster Creek at point of proposed Byron Dam extending from SE $\frac{1}{4}$ of Sec. 20 to the SE $\frac{1}{4}$ of Sec. 28 all within T113N, R61W, 5th P.M.?
8. What information was used to determine that Future Use Water Permit No. 1067-3 was required, and what decisions were made that the permit be requested?
9. Please describe any authorities and rights which could be established and all parties affected by any decision pending the hearing on Future Use Water Permit No. 1067-3 scheduled for November 13, 1974 in Sioux Falls, South Dakota. How might existing rights and authorities be changed? How might future rights and authorities be established?

Your immediate attention to this request is greatly appreciated.

Thank you.

Sincerely,

George Piper
George Piper
President

cc

cc Honorable Richard Kneip
Honorable Kermit Sande

Form 6 - Notice of Intention to appropriate water

No. 100703

(First Publication on or before December 19, 1963)

APPROPRIATION OF WATER

Office of State Water Resources Commission

Pierre, S. Dak., December 17, 1963

Notice is hereby given that the Osha Conservancy Sub-District Water Committee address in Huron, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for future beneficial use 7,400 cubic feet per second of water from the Missouri River (Lake Fort Randall), 7,000 cubic feet per second of water from the James River, 14,000 acre feet annually from Crookston Creek for storage in Crookston Reservoir (total available capacity 30,000 acre feet), 10,000 acre feet annually from Hunter Creek for storage in Lake Byron (total available capacity 100,000 acre feet), 14,000 acre feet annually from North Medicine Creek for storage in Mount Rushmore Reservoir (total available capacity 100,000 acre feet), 200,000 acre feet annually for storage in reservoirs whose locations have not been determined, and 400,000 acre feet for initial fill (dead storage) in Crookston, Blunt, and Byron Reservoirs, through the proposed diversions, the points of diversion of which are to be located as follows:

- Lake pumping plant - R#1, Section 6, T14N, R7W
- Blunt pumping plant - R#1, Section 29, T14N, R7W
- Byron pumping plant - R#1, Section 10, T14N, R6W
- James pumping plant - R#1, Section 13, T14N, R6W
- Crookston Canal Headworks - R#1, Section 10, T14N, R6W

Said water to be used in the future for the purpose of providing irrigation on 600,000 acres in the counties of Marshall, Day, Brown, Spink, Clark, Jackson, Hand, Hyde, Faulk, Edmunds, McPherson, Crookston, Minnehaha, Potter, Sully and Hughes, which comprise the Osha Conservancy sub-district, and for stockwater, fish and wildlife development, recreation, pollution abatement, flood control, municipal, and industrial purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of January, 1964, at 2:00 P.M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

BURTON F. JONES
Water Right Specialist

CC: (See list attached)

10/25/74

JAMES RIVER WATER RIGHTS

<u>E.R. No.</u>	<u>Holder of Record</u>	<u>Location</u> (S-T-R)	<u>Diversion</u> <u>Rate</u>	<u>Priority</u>	<u>Acres</u>
<u>Brown County</u>					
27-3	Tacoma Park Assoc.	24-124N-62W	.50	3-31-41	
100-3	Harold Weismantel	15-124-62	2.00	4-27-53	238.0
207-3	Charles Montag	25-125-62	.02	1937	2.0
1125-3	Chester Gullikson	3-123-62	1.98	8-19-64	139.0
1491-3	Chester Gullikson	4-123-62	1.94	1-15-68	136.0
1493-3	Shirley Treeby	5/17-128-61	1.49	1-31-68	103.7
<u>Beadle County</u>					
9-3	City of Huron	6-110-61	5.00	4-22-14	
9-3A	City of Huron	16-110-61	5.00	3-31-50	
37-3	Armour & Co.	6-110-61	2.25	11-4-42	
49-3	James River Lodge	17-110-61	.59	7-18-49	47.0
129-3A	Osborne Clothing	20/29-110-61	2.59	10-20-55	181.3
325-3	Yale Charbonneau	11/14-113-62	.74	10- -54	52.3
343-3	Huron Colony	30-113-61	2.46	1947	231.0
550-3	Alfred R. Barnes	25-113-62			
559-3	Osborne Clothing	7-110-61	.70	9-10-58	43.0
559-3A	Joe Halter	29-110-61	.39	12-3-53	27.3
809-3	Ralph Bales	17-110-61	2.01	12-3-58	140.5
1045-3	Alvin Gutormson	4/9-112-61	2.50	7-31-61	175.0
1122-3	Albert Decker	6/7-110-61	.72	7-5-63	31.2
1141-3	John M. Tschetter	10/11-111-61	2.70	8-17-64	189.0
		31/32-113-61	2.00	12-1-64	230.0
		4/5-112-61			
1151-3	Mrs. Everett Timm	32-110-61	2.00	12-17-64	140.0
1154-3	Donald Barton	15-111-61	2.00	12-23-64	142.0
1170-3	George Walters	15/22-112-61	3.60	3-2-65	330.0
1222-3	Ralph Bales	8/9-112-61	6.84	9-29-65	479.0
1253-3	Yale Charbonneau	10-113-62	.66	2-21-66	46.0
1276-3	Riverside Colony	22/23/26/27-			
1278-3	Alfred R. Barnes	112-61	8.00	1950	576.4
1337-3	John Tschetter	20-110-61	1.80	5-31-66	127.0
1410-3	Ted & Les Decker	10-113-62	1.30	12-12-66	92.0
		4/9/10-			
1429-3	St. Martins Cemetery	112-61	1.48	6-12-67	104.2
1895-3	Paul Ramsell	17-110-61	.14	6-19-67	10.0
1962-3	Alvin Gutormson	14/15-111-61	2.20	10-26-71	159.0
		6/7-110-61	.86	12-21-72	60.2

W.R. No.	Holder of Record	Location (S-T-R)	Diversion Rate	Priority	Acres
<u>Spink County</u>					
616-3	Haskell-Tompkins- Haskell	27/28-114-62	1.26	6-6-59	88.50
1032-3	Roy Robertson	7-116-62	1.42	2-4-54	100.00
1105-3	Leon Osborn	29/30-117-63	4.14	4-13-64	290.00
1143-3	Doane Allen	7-116-62	1.28	12-1-64	90.00
1143-3A	George Cluts	7-116-62	.42	12-1-64	30.00
1172-3	Lawrence G. Wright	21/23/23- 117-63	2.60	3-0-65	200.00
1225-3	Robert & Vianna Dvorak	23-117-63	3.33	10-5-65	261.00
1346-3	William Klebsch	13/24-117-64	1.78	6-1-67	125.00
1421-3	Fisher Grove Country Club	1-116-63	.78	4-7-67	55.00
1450-3	Glendale Colony	8/9-115-62	4.44	10-12-67	467.00
1538-3	Spink Hutterian Brethren	16/21/26- 115-62	4.00	3-19-68	381.80
1733-3	Glendale Colony	3-115-62	4.22	10-12-67 & 2-21-68	460.00
1734-3	Glendale Colony	10/15-115-62	6.84	11-4-68	480.00
1735-3	Glendale Colony	33-115-62	4.50	2-16-70	320.00
1757-3	Allen Kettering	9-119-63	.45	6-8-70	31.90
1798-3	Oscar Solheim	8-116-62	2.20	1-6-71	180.00
1935-3	Dale P. Peterson	9-119-63	1.23	3-30-72	86.60
1943-3	Glendale Colony	29-115-62	4.28	5-30-72	300.00

Sanborn County

200-3	R.F. Hagman	22-108-61	1.56	3-24-56	109.40
743-3	Allen & Dennis Hegg	3-108-61	1.90	9-29-60	134.20
1233-3	Martha & Robert Keen	20/29/106-60	1.02	12-6-65	72.00
1242-3	Charles Moody	34/35-106-60	2.44	12-22-65	245.00
1439-3	Willard & Marlin Jacoby	1/13/22- 106-61	3.00	8-9-67	210.00

Davison County

92-3	Ellwein Co.	23/26-104-60	2.20	2-7-53	158.00
93-3	Ellwein Co.	2-103-60	1.20	2-7-53	96.00
94-3	Ellwein Co.	35-104-60	1.00	2-7-53	75.00
280-3	Don Barber	24-103-60	1.33	1955	108.53
		19-103-59		& 1-29-57	
305-3	Iner Houska	10/11/15- 104-60	.89	9-27-56	100.00

W.R. No.	Holder of Record	Location (S-T-R)	Diversion Rate	Priority	Acres
(Davison County continued)					
310-3	Richard Hansen	10/11-104-60	.93	9-29-56	65.00
464-3	Jim-Rec-Ag, Inc.	30-104-60	5.00	4-20-57	350.00
690-3	Don Barber	13-103-60			
		18-103-59	.86	3-2-60	59.90
699-3	Al C. Bosworth	13-103-59			
		24-103-60	2.31	3-2-60	162.20
1159-3	Paul Van Overshede	2-104-60	1.80	2-2-65	125.40
1371-3	Mitchell Country Club	24-103-60	1.18	2-17-67	83.13
1393-3	V.R. Palmer	13-103-60	.75	4-13-67	52.50
		18-103-59			
1422-3	J.E. Koltas	2-104-60	2.00	1-2-68	354.00
1693-3	Mitchell Packing Co.	35-103-60	4.57	8-4-69	320.00
1809-3	Joseph W. Ellwein	22-104-60	2.28	12-21-70	160.00
1917-3	Walter Morrison	15-104-60	5.70	12-22-71	400.00

Hanson County

436-3	Rosedale Hutterian Brethren	14/23-102-59	1.05	4-5-45	74.00
608-3	Henry Roth	5-101-59	.56	5-5-59	55.03
1111-3	Norbert Geidel	31/32-103-59	.38	1-22-65	26.60
1215-3	Mitchell Packing Co.	31-103-59	1.16	8-13-65	81.40
1752-3	Jim-Rec-Ag, Inc.	36-106-60	2.28	6-8-70	160.00
1357-3	Jim Rec-Ag, Inc.	36-104-60	9.15	2-10-67	640.00
1369-3	H.E.W. Grazing Assoc.	18/19-103-59	6.86	4-10-67	480.40
1900-3	Rosedale Colony	11-102-59	3.00	9-16-71	223.50
1901-3	Rosedale Colony	23/25/26-102-54			
		30-102-58	15.00	9-16-71	1060.00
1902-3	Rockport Colony	31-102-58			
		5/6/7/8-101-58	10.30	9-16-71	721.00
1950-3	Norbert Geidel	31/32-103-59	1.71	7-3-72	121.00

Hutchinson County

126-3	Herbert L. Reich	1-97-58	3.60	10-19-54	265.00
459-3	Clifford Muchmore	3-99-59			
		27/34/35-100-59	1.90	4-20-57	205.20
563-3	Raymond Schaeffer	18-98-57	1.42	6-15-52	100.00
				& 3-4-59	
607-3	Henry Roth	15-100-59	.66	5-5-59	128.00
1303-3	Joseph T. Dilger	34/35-100-59	10.09	8-15-67	706.70
1742-3	Art Dannenbring	8-99-58	1.46	12-5-73	102.50
1929-3	Ray B. Gunderson	6-98-57	.42	3-15-72	29.40

MEDICINE CREEK BELOW PROPOSED BLUNT RESERVOIR (HUGHES CO.)

<u>W.R. No.</u>	<u>Holder of Record</u>	<u>Location</u> (S-T-R)	<u>Diversion</u> <u>Rate</u>	<u>Priority</u>	<u>Acres</u>
1532-3	Ervin Korkow	26/35-111-77	.79	2-29-68	55.60
1585-3	Merl Putnam	25-111-77	1.59	5-23-68	111.00
2084-3	LeRoy Nye	25-111-77	.74	4-29-74	52.00

WATER PERMITS WITHIN PROPOSED BLUNT RESERVOIR

1283-3	Rollin Barnes	16-113-74	9.14	5-13-66	640.00
1381-3	Alvin Thomas	4-114-74	1.81	3-23-67	127.00
1503-3	Joseph Fanger	30-113-75	2.85	2-8-68	200.00
1921-3	Theodore Schmitgen	21-113-75	7.77	1-12-72	544.00
1927-3	Robert F. Richards	4-114-74	1.70	2-22-72	320.00
1938-3	Garrett Reynolds	29-113-75	6.85	4-11-72	480.00

U.S. Withdrawal No. 594-3
filing

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Office Building Number 2, Pierre, South Dakota 57501
Phone 605/224-3151

October 31, 1974

Mr. Larry D. Tschetter
R.R. #3
Hitchcock, South Dakota 57548

Dear Mr. Tschetter:

Reference is made to your letter of October 22, 1974 asking for information about U.S. Withdrawal No. 594-3 filing, particularly as it applies to Future Use Permit No. 1067-3 and to Foster Creek. Following are answers to your questions in the order asked.

The proposed Byron Lake Dam would be located very close to the mouth of Foster Creek and all of the upstream Foster Creek drainage area of approximately 180 sections of land in Beadle, Spink and Clark counties would be involved.

U.S. Withdrawal No. 594-3 would in no way prevent the use of Foster Creek for livestock watering purposes.

U.S. Withdrawal No. 594-3 would not affect the recreational activities such as fishing, hunting, trapping, etc., in the Foster Creek Water Shed.

Existing South Dakota laws specify no water permit is needed to irrigate lands for gardens, lawns, etc., not greater than one-half acre in size, U.S. Withdrawal No. 594-3 would not stop this use of water.

Foster Creek is a creek which has not had its flows recorded and measured by the U.S. Geological Survey. In my opinion the 16,000 acre-feet as specified from Foster Creek in U.S. Withdrawal No. 594-3 is greater than the average annual runoff but is not greater than the maximum annual runoff. Under such conditions the Bureau of Reclamation ordinarily would be entitled to all of the creek flow not otherwise used for domestic, livestock watering and water of small parcels of land. No water right application has ever been received proposing irrigation from Foster Creek or its tributaries.

Mr. Larry D. Tschetter

Page 2.

October 31, 1974

U.S. Withdrawal No. 594-3 would not prevent the construction of dugouts and stockdams in the water shed of Foster Creek. It would not prevent irrigation from a dam having a drainage area of 160 acres or less.

No time limit has been set for the oral presentations at the November 13, 1974 hearing. However depending on the number of people who wish to be heard, the Chairman of the Water Rights Commission may set a time limit. Written presentations will also be accepted and considered by the Water Rights Commission.

Sincerely,

DONALD DRISCOLL, Chief Engineer
WATER RIGHTS COMMISSION

DD/bw

b.c. to Water Right Commissioners

Hitchcock, South Dakota
October 22, 1974

South Dakota Water Rights Commission
Burton F. Jones
Water Rights Specialist
Pierre, South Dakota

Dear Mr. Jones

I would appreciate some information on the public notice advertisement (Notice Intent to Appropriate Water of Pierre, South Dakota) which was published in the Daily Plainsman Oct. 16, 1974 in which the United States intends to utilize certain specified waters with Future Use Water Permit No. 1067-3.

Please describe the area of the water shed on Foster Creek in which the water right would be involved in the granting of the water permit.

Will people who have land along Foster Creek be able to use the creek for watering livestock?

Would the water permit have any affect on recreational activities such as fishing, hunting, trapping, or anything else?

Would farmers be able to use the water to irrigate parcels of land and gardens.

Will all of the water flowing down Foster Creek be given to the Bureau of Reclamation if the water permit is granted? If not, what portion (percent) of the annual average flow would be granted with approval of the water permit.

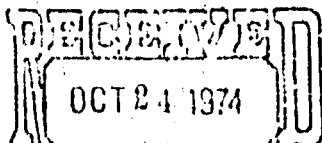
Would land owners be able to construct dugouts and stockdams in the flood plain and water shed of Foster Creek.

How much time will be allowed persons wishing to be heard when Future Use Water Permit No. 1067-3 is to be considered Nov. 15, 1974 and will it be necessary for persons to make a request to be heard prior to the day on which the Water Rights Commission will consider the water permit.

I would appreciate a response as soon as possible.

Thank You!

Sincerely Yours,
Larry B. Tschetter
Larry B. Tschetter
Hitchcock, South Dakota
R.R. 5 57348



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

SOUTH DAKOTA LEGAL SERVICES

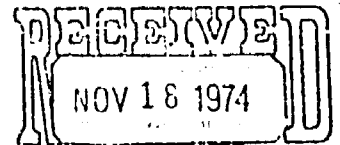
P. O. BOX 138

MISSION, SOUTH DAKOTA 57555

(605) 856-4444

15 November 1974

Director
Bureau of Reclamation
Omaha Regional Office
Water Rights Unit
Omaha, Nebraska 68108



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Dear Sir:

Due to office emergencies, a representative of South Dakota Legal Services was unable to attend the Bureau of Reclamation hearing on the Oahe Project on November 13, 1974.

If action was deferred on the project please accept my written comments enclosed in lieu of our appearance at the formal hearing. Please consider this letter as a request for a review in light of the memorandum now submitted if action towards initiation of the project was taken by the Bureau.

The attached comments raise serious questions regarding the process and procedures of the Bureau of Reclamation in informing the Sioux Tribes of South Dakota of the nature of the Oahe Unit, Pick-Sloan Missouri Basin Project, South Dakota. Specifically the initial stage of the Oahe Unit.

Was authorized for construction in accordance with the plans set out in the Secretary of the Interior's report dated October 29, 1966, and contained in house document no. 165 (90th Congress, 1st Sess.). These reports supported authorization of the initial stage of the unit by the Act of August 3, 1968 (82 Stat. 624).

The foregoing quotation from page I-1 of the Final Environmental Statement under the title "Authorization and Purpose" indicates the project has been considered by the Bureau of Reclamation for a considerable length of time. Continuing on page I-1 of the Final Environmental Statement under the title "Statement" the Bureau of Reclamation continues:

This Environmental Statement assesses the overall accumulative impacts of the Oahe Unit. The statement identifies and evaluates the environmental impacts of features planned for construction, and reviews the many alternatives for the entire

unit and individual features which were considered during the more than 30 years of planning.

The draft environmental statement was published and made available to the public August 4, 1972 and the Final Environmental Statement was published and made available to the public December 17, 1973.

The point obviously being made is that only now, in November, 1974, after 30 years of planning and only after the project and environmental statement are in their final stages, and in fact, underway, have the Sioux Tribes of South Dakota been "discovered" as possible affected parties.

"In order to understand the magnitude and potential regional economic and social benefits accruing because of the project the following quote is taken from page 1-3 under the title "Status":

Projects costs are estimated at \$252,750,000 and costs accrued to June 30, 1972, have totalled about \$6,265,000. In addition, \$43,000,000 assignable to Oahe Unit has been invested in main stem storage reservoirs and power facilities.

The purpose and/or objective of the comments which are attached and of this cover letter is neither to stop the project nor to hinder construction of a project considered for more than 30 years by the Bureau of Reclamation, but to assure that the benefits accruing from such a major investment of public monies actually accrue to those residents of the State of South Dakota who are in greatest need of additional water resource development and/or income. In other words, the objective is to provide for the Indian Tribes and individual Indian people in South Dakota direct or indirect benefits which accrue to the project.

These types of benefits could be made in actual remuneration to the individual Indian Tribes concerned or in the form of small reclamation projects for each of the reservations concerned. An example of such a project might be a pumping station and development of sprinkler irrigation for grain or grazing lands on Standing Rock and Cheyenne River Reservations with waters from Lake Oahe and similar projects on each of the other South Dakota reservations.

This approach is not considered to be unreasonable in that mitigating measures are being taken and are specifically referred to in the Final Environmental Statement with regard to wildlife, including ducks, geese, and other game animals and, rare and endangered species.

Large investments of public monies for "mitigation" for wildlife have long been considered legitimate even when the mitigation areas are not immediately contiguous to the project. Other types of benefits that might accrue to the individual Indian reservations in South Dakota might be favorable power rates from power generated by Missouri River Basin projects, development of income-producing recreation facilities on the reservations, or other public works projects such as community water systems that would be of benefit to the tribal populations.

If the Bureau of Reclamation with the approval of the Congress is going to continue to make tremendous investments of public monies in small areas geographically, and in terms of direct project beneficiaries, then the Bureau of Reclamation and the Congress should be prepared to spread the almost incredible benefits from such government expenditures to people in need throughout the region rather than to already high-income individuals in the immediate project area.

The foregoing statement is not something that is new or something that has been recently discovered; nor is it something that the Bureau of Reclamation or the Congress is unaware of. For the last decade economists, sociologists, and even an occasional project engineer have written extensive articles, dissertations, and arguments with regard to the distribution of benefits from reclamation projects in the American west.

This project poses an interesting and perhaps tragic dilemma for the tribes of South Dakota. Considering nothing other than the sheer expenditure of public monies, approaching \$300 million, the magnitude of the project is greater than the total amount of monies spent by the Federal Government on economic and social programs for Indian tribes in South Dakota during the past 100 years. This project is mute testimony of the "new awareness" of the Congress and the Administration to the needs of the Indian people of South Dakota.

Sincerely,

Terry L. Pechota

Enclosure

cc: Burton Jones
State Water Resources Commission
Pierre, South Dakota 57501

Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302

John Davidson, Jr.
Associate Professor of Law
University of South Dakota
Vermillion, South Dakota 57069

SOUTH DAKOTA LEGAL SERVICES

P. O. BOX 140

MISSION, SOUTH DAKOTA 57555

(605) 856-4444

Director
Bureau of Reclamation
Omaha Regional Office
Water Rights Unit
Omaha, Nebraska 68108

RE: Comments Regarding "Initial Stage, Oahe Unit, Pick-Sloan
Missouri Basin Program, Final Environmental Statement,"
Bureau of Reclamation, Department of the Interior, dated
December 17, 1973

General Comments

The proposed project referred to hereafter as the Oahe Unit is a major, in fact, one of the largest irrigation projects ever proposed in the South Dakota area. The Final Environmental Statement virtually ignores consideration of economic, social, and cultural impacts of the proposed project on a regional basis.

This total disregard for economic, social and cultural impacts affects the entire population of both the immediate project area and a region comprising the entire State of South Dakota. Included in this region is not only a large immigrant European population but a concentration of Native Americans who are citizens of South Dakota and of the United States and who have their own legally constituted governments.

With specific reference to the Final Environmental Statement for the benefit of those who are not familiar with the Oahe Unit, but who may be reviewing the following comments, the description of the project is quoted from the Summary statement:

The initial stage of development of Oahe Unit will provide for diversion of water from existing Lake Oahe on the Missouri River for irrigation of 190,000 acres of land, for municipal use in 17 towns and cities in and near the unit, for fish and wildlife developments at 18 locations, and for recreation developments at 5 locations. Some flood control will also be provided. Project facilities are located in Beadle, Brown, Edmunds, Faulk, Hand, Hughes, Hyde, Spink, and Sully Counties, South Dakota. Principal features include Oahe Pumping Plant, about 200 miles of main supply canals, 3 major regulating reservoirs, about 1,000 miles of small canals and laterals, 935 miles of open drains, and 2,970 miles of closed drains. Construction is scheduled to begin in 1974. Total construction time is about 17 years.

Specific Comments

Again referring to the Summary statement at the beginning of the Final Environmental Statement, and specifically to Paragraph 5, "List of Entities From Whom Comments Have Been Requested or Received with Respondents Indicated by '*'." no Indian tribes were contacted for review of the draft environmental statement and no Indian tribes or organizations are included in the list of agencies, entities or individuals contacted with regard to review of the draft or Final Environmental Statement. This is in spite of the fact that the Oahe Reservoir on the Missouri River borders Standing Rock and Cheyenne River Indian Reservations, and the Missouri River immediately downstream of Oahe Dam borders the Lower Brule and Crow Creek Indian Reservations. These four Indian reservations are to the west and southwest of the project area and location of proposed withdrawal of water from the Missouri River. In addition, the Sisseton Indian Reservation is immediately to the northeast of the actual area proposed for irrigation under the project, and the Flandreau Indian Reservation is immediately to the east. The Pine Ridge Indian Reservation and Rosebud Indian Reservation are located in southern South Dakota south and southwest of the project area also in the region impacted socially and economically.

The foregoing is brought to the attention of the Bureau of Reclamation, Secretary of Interior, and Commissioner of Indian Affairs, because the requirements of the National Environmental Policy Act, and the requirements of the new Principles and Standards for Planning Water and Related Land Resources, state that social and economic impact of proposed projects, especially water resource projects must be considered. Included in these requirements is an analysis of the impact on the entire region, not simply the actual area where facilities such as pumping stations, pipelines, canals and the actual irrigation project are located.

The reasoning behind both the National Environmental Policy Act and the new Principles and Standards for Planning Water and Related Land Resources is that large investments of public monies must result in benefits not only to the immediate project recipients, but to all social and economic groups within the region. For the purpose of consideration of this project, and with regard to the foregoing federal laws, it is reasonable to assume that the State of South Dakota in its entirety and including the foregoing mentioned Indian reservations are a part of the region impacted.

Because these considerations have not been taken in either the draft or Final Environmental Statement, it is formally requested that the impacts that have been neglected be formally reviewed, analyzed, studied and presented, including proposals for accrual of project benefits to all persons within the region (including residents of the Indian reservations within the boundaries of South Dakota) be immediately undertaken.

Item by Item Comments

With reference the Chapter IX, titled "Consultation and Coordination," there is no indication of any contact with a region Indian tribes during any of the draft and review process. This is highlighted in the bibliography for this environmental statement which has not cited even one Indian reservation's Overall Economic Development Plan or one Comprehensive Plan for an Indian reservation, although it repeatedly cites waterfowl, rare and endangered species of wildlife, water quality and water quantity references.

With reference to the Appendix of the Final Environmental Statement, the following evidence in support of the above statements is presented.

The October 25, 1972 letter of John Crow, Deputy Commissioner of Indian Affairs, page a-3, is categorically in error that "no Indian lands will be involved in the proposed project area, and there should not be any adverse environmental effects to the Indian environment."

It should be noted that the "area" and "environment" impacted includes all of South Dakota containing several Indian reservations and that the environment includes the area's social, economic and cultural human environments in addition to natural wildlife and water quality.

Mr. Crow simply abrogated his responsibility to South Dakota's Indian tribes which it was his responsibility to protect as their Trustee.

The December 15, 1972 letter from Region VIII, Environmental Protection Agency, Denver, Colorado, page a-47, supports the foregoing by stating four areas including economics "have not been adequately studied in the statement".

Specifically, page a-54, paragraph D, states: "The statement should indicate how many people will ultimately benefit directly from this project. Although the statement suggests the possibility of future development as a result of the project - industrial, commercial, recreational, and agricultural - more discussion of the exact benefits is needed."

Continuing with the EPA letter, page a-55, paragraph 2 the letter states: "Although CEQ guidelines stress consideration of environmental aspects in a project EIS under the National Environmental Policy Act, there is a policy of an 'obligation to weigh possible environmental effects of a proposal against effects on other public values the agency is mandated to consider.' For those persons and agencies not familiar with the Gage Project, this information would be extremely valuable in assessing the overall merits of the project."

Continuing with EPA's letter, and referring to its summary on page a-55, it states: "In view of the above considerations, EPA has assigned a category 3 to the review of this project. With a category 3, EPA takes issues with the proposed action unless major changes or additions are made which will adequately protect the environment. EPA feels that the proposed action, as described in the draft statement, needs major revisions from an environmental viewpoint."

In its own memorandum responding to the EPA's criticism the Bureau of Reclamation refers to Chapter III, Section E, of the Final Environmental Statement. Review of Chapter III reveals that the Bureau of Reclamation continues to ignore real regional impacts of a social or economic nature as required both by the National Environmental Policy Act and the Principles and Standards for Planning Water and Related Land Resources. In addition review of Chapter III reveals that the Bureau of Reclamation continues in the Final Environmental Statement to totally ignore the impact on South Dakota's large and very important Indian citizens.

The October 5, 1972 letter of the Director of the State Planning Agency of the State of South Dakota further supports the foregoing. It states page a-81, paragraph 2: "Unfortunately, the cultural and social impacts of this significant development cannot effectively be assessed under the methodology used here."

The November 6, 1972 letter from the Oahe Conservancy Subdistrict, page a-96, and its attached comments, especially a-103, clearly support the arguments presented above under the subtitle General Comments. The subdistrict under General Comments, paragraph 1, states: "Is it not correct that one of the purposes of an environmental statement is to discuss the anticipated impact that the development of a proposed project would have on the total environment? If this is true, such a statement should not necessarily be limited to the physical aspects but would also consider social, economic and cultural effects. The construction of the initial stage of the Oahe Unit would provide numerous and far reaching social, cultural and economic benefits to both state, region and the nation. It appears that the statement, while briefly making reference to the social, cultural and economic benefits, should treat them in greater detail."

The Bureau of Reclamation in responding to the Subdistrict's comments on page a-116, states, "These are generalized comments, most of which have been responded to in previous comments and responses. No additional response considered necessary."

The foregoing statement by the Bureau of Reclamation typifies its continuing neglect and its intransigent attitude with regard to social, economic and cultural impacts of water

resource projects. This attitude is unconscionable and intolerable in light of the unstable socio-cultural-economic environment of modern America; in light of the federal laws which the Bureau of Reclamation is mandated to obey with regard to water resource development projects; and, more importantly, in light of the large regional population of Native Americans who continue to struggle in 1974 in a depressed socio-economic situation. That social and economic considerations should continue to be ignored in light of the social and economic state of South Dakota's Indian reservations; and in light of the proven need by Native Americans in South Dakota for additional means of income which could accrue through such a project, is difficult to understand. The engineering mentality of Bureau of Reclamation decisionmakers should be commended for surviving as an anachronism of the Frontier Ethic in Contemporary America.

Recommendations

Because of the magnitude, 190,000 acres of lands to be brought under irrigation over a 17 year period, and the tremendous expenditure of public funds that this project poses in South Dakota, which is the home of not only South Dakotans of European origin, but is the aboriginal and ancestral home of Native Americans, the Indian tribes of South Dakota make the following recommendations and requests:

1. That the Bureau of Reclamation immediately and formally contact each Indian tribe in the Missouri River Basin of South Dakota including the Standing Rock Indian Reservation, Cheyenne River Indian Reservation, Lower Brule Indian Reservation, Crow Creek Indian Reservation, Sisseton Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Flandreau Indian Reservation and Yankton Indian Reservation, and specifically review the proposed project with them.

2. That the Bureau of Reclamation formally ask each Tribe what type of mitigating measures or water resource development projects each of the reservations require for their own economic development. These should include small reclamation projects, for example irrigated grain, pasture and alfalfa; public works projects such as community or rural water supplies; and other related projects needed by the Tribes.

3. That the Bureau of Reclamation be required by the Environmental Protection Agency at the Region VIII level and National level, by the Secretary of Interior, by the Bureau of Indian Affairs and by the Water Resources Council, to comply to the letter with the requirements of the National Environmental Policy Act of 1969 and with the Principles and Standards for Planning Water and Related Land Resources as required by Federal Law and as mandated by the Congress.

4. That the Bureau of Reclamation be required to present the information requested above not only to the individual

tribes, but to the Governor of the State of South Dakota and to the Chairman of the Indian Subcommittee of the Interior Committee of the United States Senate in a formal public hearing held by the Indian Subcommittee and State of South Dakota jointly either in South Dakota or in Washington, D.C. Representatives of each of the Indian reservations of the Missouri River Basin in South Dakota should be formally invited to this proceeding.

The foregoing action is requested because of the late date and the lack of prior opportunity for the respective Indian tribes to review the proposed projects and its environmental statements, and because of the tremendous expenditure of resources involved. It is believed that the expenditure for this total project over a 17 year period will equal if not exceed the total value of social and economic programs provided by the Federal Government for all of South Dakota's Indian tribes during the past 100 years.

Terry L. Pechota

cc: Burton Jones
State Water Resources Commission
Pierre, South Dakota 57501

Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302

John Davidson, Jr.
Associate Professor of Law
University of South Dakota
Vermillion, South Dakota 57069

November 19, 1974

Mr. William L. Piper
Carpenter, SD 57322

Dear Mr. Piper:

In response to your letter of November 4, 1974, I am providing the following information:

1. The names and addresses of the Water Rights Commissioners are attached.
2. The Water Rights Commission is established in conformance with Chapter 46-2, SDCL 1967, with Section 1 listing the members' qualifications and term of office and Section 9-12 outlining the broad authorities and responsibilities of the Commission. These duties and responsibilities were modified somewhat by the 1973 Reorganization Order as stated in SDCL 46-2-1.1 of the 1974 Supplement. Copy attached.
3. A copy of the testimony and minutes of the discussion covering the November 13, 1974 hearing on U. S. Withdrawal No. 594-3 will not be available until transcribed and approved by the Commission. The action of the Commission was to withdraw from other appropriations the waters described in the Notice of Intention by the United States to utilize certain specified waters as described in U. S. Withdrawal No. 594-3. The U. S. Withdrawal of water is in conformity with the assignment of portions of Future Use Water Permit No. 1067-3 transferred to the United States.

Very truly yours,

Vern W. Butler
Secretary

VWB:yjl

Attachments

cc: Mr. Donald Driscoll, Chief Engineer
Water Rights Commission

CERTIFICATE OF WITHDRAWAL OF
WATER FOR APPROPRIATION
TO
UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF RECLAMATION

U.S. Withdrawal No. 594-3, Oahe Unit

Stored Water of Lake Oahe
James River
Cresbard Creek
Foster Creek
Medicine Knoll Creek

The United States of America, Department of Interior, Bureau of Reclamation filed a "Notice of Intention" on August 23, 1974, and filed a revised "Notice of Intention" on August 27, 1974, of its intention to utilize certain unappropriated waters in the State of South Dakota in conformity with Section 46-5-42 of the Compiled Laws of South Dakota, 1967, as specified in this "Certificate of Withdrawal", and did make application to transfer, as appropriate and without loss of priority, the following portions of Future Use Permit No. 1067-3, acquired by Oahe Conservancy Sub-District for development of the Oahe Unit, which transfer is covered in Contract No. 14-06-600-10,079 between the United States and Oahe Conservancy Sub-District:

- (a) 1,440 cfs of the stored water of Lake Oahe to be diverted by the proposed Oahe Pumping Plant.
- (b) 500 cfs of James River waters to be diverted by the proposed James Pumping Plant.
- (c) 14,000 acre-feet annually from Cresbard Creek.
- (d) 16,000 acre-feet annually from Foster Creek.
- (e) 16,800 acre-feet annually from Medicine Knoll Creek.
- (f) 446,000 acre-feet for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek.
- (g) 1,100 acre-feet for initial fill of the proposed Cresbard Reservoir with a dam across Cresbard Creek.
- (h) 5,100 acre-feet for initial fill of the proposed enlargement of Lake Byron Dam across Foster Creek.

This application includes water sufficient to irrigate 190,000 acres of land in the authorized Oahe Unit and for domestic, municipal, livestock, industrial, water quality purposes, or fish and wildlife needs, and such other uses as may be authorized for water diverted and delivered through the Oahe Unit works. Principal features to be constructed to utilize the water include:

- (a) Oahe Pumping Plant and Pierre Canal with a capacity of 1,440 cubic-feet per second diverting stored waters of Lake Oahe at a point located in the NW $\frac{1}{4}$ of Section 6, T111N, R79W, 5th P.M.
- (b) Blunt Reservoir with a capacity of 631,000 acre-feet impounded by a dam extending from the SE $\frac{1}{4}$ of Section 19 to the SE $\frac{1}{4}$ of Section 29, all within T113N, R75W, 5th P.M.
- (c) Highmore Canal and its extension diverting 2130 cubic-feet per second from Blunt Reservoir at an outlet located in SE $\frac{1}{4}$ of Section 1, T113N, R74W, 5th P.M.
- (d) Cresbard Reservoir with a capacity of 37,600 acre-feet impounded by Cresbard Dam located in the SE $\frac{1}{4}$ of Section 18, T119N, R67W, 5th P.M.
- (e) Cresbard Canal and its extensions diverting 3300 cubic-feet per second from an outlet located in Cresbard Dam.
- (f) James Pumping Plant and James Canal with a capacity of 500 cubic-feet per second diverting water from James Diversion Dam Reservoir at a point located in the NW $\frac{1}{4}$ of Section 13, T113N, R62W, 5th P.M.
- (g) Enlargement of Lake Byron by 66,100 acre-feet to a total capacity of 73,000 acre-feet by Byron Dam extending from the SE $\frac{1}{4}$ of Section 20, to the SE $\frac{1}{4}$ of Section 28, all within T113N, R61W, 5th P.M.
- (h) Byron Pumping Plant and East Main Canal with a capacity of 1200 cubic-feet per second diverting water from lake Byron at a point located in SE $\frac{1}{4}$ of Section 18, T113N, R60W, 5th P.M.

This application covers not only the stored waters of Lake Oahe and unappropriated waters of said rivers and their tributaries and their sources of supply, but also all waste, seepage, and return flow waters from any operations or uses through, by means of, or in connection with said reclamation development, or otherwise, in conformity with Sections 46-2-10 and 46-5-14 of the Compiled Laws of South Dakota, 1967.

The waters, both those allowed to flow naturally and those conserved and controlled by said dams, will be used for domestic, municipal, livestock, irrigation, mining, or industrial purposes, fish and wildlife, and such other uses as the Congress of the United States has or shall hereafter authorize.

The Water Rights Commission in a motion, made and passed on November 13, 1974, authorized its Chief Engineer to prepare and execute a certificate of withdrawal of water from other appropriation, as specified in U.S. Withdrawal No. 594-3, Oahe Unit, to be reserved for the use of the United States Department of Interior, Bureau of Reclamation in accordance with Sections 46-5-32, 46-5-38, 46-5-42 and 46-5-43, 44 and 45 of the Compiled Laws of South Dakota, 1967.

Executed at Berre, South Dakota, this 5th day of
December, 1974.

Donald Driscoll
Donald Driscoll
Chief Engineer
Water Rights Commission
Department of Natural Resource Development

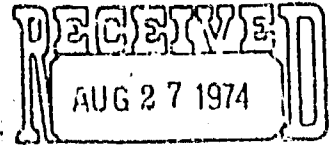


United States Department of the Interior

BUREAU OF RECLAMATION
Upper Missouri Region
P.O. Box 2553
Billings, Montana 59103

AUG 26 1974

IN REPLY
REFER TO: 450
870.



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

AIRMAIL

Mr. Donald Driscoll, Chief Engineer
Water Rights Commission
Office Building No. 2
Pierre, South Dakota 57501

Dear Mr. Driscoll:

In accordance with your wishes, as discussed between you and Messrs. Anesi and Bielefeld on Friday afternoon, August 23, we have revised the "Notice of Intention" to withdraw water for the Oahe Unit submitted with our letter of August 22, 1974. A copy of the revised notice is enclosed.

At your suggestion, we deleted the reference to withdrawal of Missouri River water (as distinguished from water stored in Lake Oahe) from the second paragraph on page 1 and in item (a) of both the withdrawals to be transferred from the Sub-District and the description of the Oahe Unit works. We added wording to the third paragraph so that there would be no question as to our intent to withdraw sufficient unappropriated water from the tributaries to fill the reservoirs and canals described in the Unit works.

Sincerely yours,

Regional Director

Enclosure (In duplicate)



Let's Clean Up America For Our 200th Birthday

NOTICE OF INTENTION TO THE WATER RIGHTS COMMISSION
DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT
STATE OF SOUTH DAKOTA

Oahe Unit, James Division
Pick-Sloan Missouri Basin Program, South Dakota

WHEREAS, the United States of America, under the Flood Control Act of December 22, 1944 (58 Stat. 887), is authorized to construct and to operate and maintain national works to conserve and control the waters of the Missouri River and its tributaries, and is further authorized in said Flood Control Act to utilize such conserved and controlled waters for beneficial consumptive uses and for beneficial uses in accordance with the national policy set forth in Section 1 of said Act of Congress of December 22, 1944, and pursuant to the provisions of the Act of June 17, 1902 (32 Stat. 388), as now or hereafter amended and supplemented, known as the Federal Reclamation Laws; and

WHEREAS, the United States of America, acting pursuant to such authorization and the Act of August 3, 1963 (82 Stat. 624) is preparing to construct, operate, and maintain certain works to conserve, control, and utilize the waters in storage in Lake Oahe, and waters of Missouri River tributaries for beneficial consumptive uses and for beneficial uses;

NOW, THEREFORE, the United States of America, represented by E. Richard Anesi, acting for R. L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, thereunto duly authorized by the Secretary of the Interior, in conformity with Section 46-5-42 of the Compiled Laws of South Dakota, 1967, hereby notifies the Secretary of and the Department of Natural Resources Development of the State of South Dakota and the Water Rights Commission thereof of its intention to utilize certain specified waters in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and does hereby make application for withdrawal of waters stored in Lake Oahe and for withdrawal of unappropriated waters of Medicine Knoll Creek, Cresbard Creek, James River and Foster Creek sufficient to fill the reservoirs and canals diverting therefrom as specified below for utilization in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and application is also hereby made for transfer, as appropriate and without loss of priority, of the following portions of Water Permit No. 1067-3, acquired by the Oahe Conservancy Sub-District for development of the Oahe Unit, which transfer is covered in Contract No. 14-06-600-10,079 between the United States and the Oahe Conservancy Sub-District:

- (a) 1,440 cfs of the stored water of Lake Oahe to be diverted by the proposed Oahe Pumping Plant.
- (b) 500 cfs of James River waters to be diverted by the proposed James Pumping Plant.
- (c) 14,000 acre-feet annually from Cresbard Creek.
- (d) 16,000 acre-feet annually from Foster Creek.

(e) 16,800 acre-feet annually from Medicine Knoll Creek. (Mistakenly identified as North Medicine Knoll Creek in Water Permit No. 1067-3.)

(f) 446,000 acre-feet for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek. (Location of dam mistakenly shown as across North Medicine Knoll Creek in Water Permit No. 1067-3.)

(g) 1,100 acre-feet for initial fill of the proposed Cresbard Reservoir with a dam across Cresbard Creek.

(h) 5,100 acre-feet for initial fill of the proposed enlargement of Lake Byron with the Byron Dam across Foster Creek.

This application includes water sufficient to irrigate 190,000 acres of land in the authorized Oahe Unit and for domestic, municipal, livestock, industrial, water quality purposes, or fish and wildlife needs, and such other uses as may be authorized for water diverted and delivered through the Oahe Unit works. Principal features to be constructed to utilize the water include:

(a) Oahe Pumping Plant and Pierre Canal with a capacity of 1,440 cubic-feet per second diverting stored waters of Lake Oahe at a point located in the NW $\frac{1}{4}$ of Section 6, T11N, R79W, 5th P.M.

(b) Blunt Reservoir with a capacity of 631,000 acre-feet impounded by a dam extending from the SE $\frac{1}{4}$ of Section 19 to the SE $\frac{1}{4}$ of Section 29, all within T11N, R75W, 5th P.M.

(c) Highmore Canal and its extension diverting 2130 cubic-feet per second from Blunt Reservoir at an outlet located in SE $\frac{1}{4}$ of Section 1, T11N, R74W, 5th P.M.

(d) Cresbard Reservoir with a capacity of 37,600 acre-feet impounded by Cresbard Dam located in the SE $\frac{1}{4}$ of Section 18, T11N, R67W, 5th P.M.

(e) Cresbard Canal and its extensions diverting 3300 cubic-feet per second from an outlet located in Cresbard Dam.

(f) James Pumping Plant and James Canal with a capacity of 500 cubic-feet per second diverting water from James Diversion Dam Reservoir at a point located in the NW $\frac{1}{4}$ of Section 13, T11N, R62W, 5th P.M.

(g) Enlargement of Lake Byron by 66,100 acre-feet to a total capacity of 73,000 acre-feet by Byron Dam extending from the SE $\frac{1}{4}$ of Section 20, to the SE $\frac{1}{4}$ of Section 28, all within T11N, R61W, 5th P.M.

(h) Byron Pumping Plant and East Main Canal with a capacity of 1200 cubic-feet per second diverting water from Lake Byron at a point located in SE $\frac{1}{4}$ of Section 18, T11N, R60W, 5th P.M.

This application covers not only the stored waters of Lake Oahe and unappropriated waters of said rivers and their tributaries and their sources of supply, but also all waste, seepage, and return flow waters from any operations or uses through, by means of, or in connection with said reclamation development, or otherwise, in conformity with Sections 46-2-10 and 46-2-14 of the Compiled Laws of South Dakota, 1967.

The said developments will be constructed by the Bureau of Reclamation, United States Department of the Interior, its authorized representative being the Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, Billings, Montana.

The waters, both those allowed to flow naturally and those conserved and controlled by said dams, will be used for domestic, municipal, livestock, irrigation, mining, or industrial purposes, fish and wildlife, and such other uses as the Congress of the United States has or shall hereafter authorize.

The attached drawings, No. 469-D-9, Blunt Dam; No. 469-D-48, Cresbard Dam; and No. 469-D-89, Byron Dam, show the proposed dams to impound and reregulate the water.

Further and additional standard plans of the conservation, control, and use works, as requested by the Water Rights Commission, will be filed in your office by the Regional Director, Upper Missouri Region, Bureau of Reclamation, Billings, Montana.

The right to file supplementary applications hereto to conform to the plans of the conservation, control, and use works as the same are constructed is hereby reserved.

Dated at Billings, Montana, this 26th day of August, 1974.

THE UNITED STATES OF AMERICA

By E. Richard Anesi
E. Richard Anesi

Acting for R. L. McPhail, Regional Director
Upper Missouri Region, Bureau of
Reclamation
United States Department of the
Interior

NOTICE OF INTENTION TO THE WATER RIGHTS COMMISSION
DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT
STATE OF SOUTH DAKOTA

Oahe Unit, James Division
Pick-Sloan Missouri Basin Program, South Dakota

WHEREAS, the United States of America, under the Flood Control Act of December 22, 1944 (58 Stat. 887), is authorized to construct and to operate and maintain national works to conserve and control the waters of the Missouri River and its tributaries, and is further authorized in said Flood Control Act to utilize such conserved and controlled waters for beneficial consumptive uses and for beneficial uses in accordance with the national policy set forth in Section 1 of said Act of Congress of December 22, 1944, and pursuant to the provisions of the Act of June 17, 1902 (32 Stat. 388), as now or hereafter amended and supplemented, known as the Federal Reclamation Laws; and

WHEREAS, the United States of America, acting pursuant to such authorization and the Act of August 3, 1968 (82 Stat. 624) is preparing to construct, operate, and maintain certain works to conserve, control, and utilize the waters in storage in Lake Oahe, and waters of Missouri River tributaries for beneficial consumptive uses and for beneficial uses;

NOW, THEREFORE, the United States of America, represented by E. Richard Anesi, acting for R. L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, thereunto duly authorized by the Secretary of the Interior, in conformity with Section 46-5-42 of the Compiled Laws of South Dakota, 1967, hereby notifies the Secretary of and the Department of Natural Resources Development of the State of South Dakota and the Water Rights Commission thereof of its intention to utilize certain specified waters in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and does hereby make application for withdrawal of waters stored in Lake Oahe and for withdrawal of unappropriated waters of Medicine Knoll Creek, Cresbard Creek, James River and Foster Creek sufficient to fill the reservoirs and canals diverting therefrom as specified below for utilization in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and application is also hereby made for transfer, as appropriate and without loss of priority, of the following portions of Water Permit No. 1067-3, acquired by the Oahe Conservancy Sub-District for development of the Oahe Unit, which transfer is covered in Contract No. 14-06-600-10,079 between the United States and the Oahe Conservancy Sub-District:

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(e) 16,800 acre-feet annually from Medicine Knoll Creek. (Mistakenly identified as North Medicine Knoll Creek in Water Permit No. 1067-3.)

(f) 446,000 acre-feet for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek. (Location of dam mistakenly shown as across North Medicine Knoll Creek in Water Permit No. 1067-3.)

(g) 1,100 acre-feet for initial fill of the proposed Cresbard Reservoir with a dam across Cresbard Creek.

(h) 5,100 acre-feet for initial fill of the proposed enlargement of Lake Byron with the Byron Dam across Foster Creek.

This application includes water sufficient to irrigate 190,000 acres of land in the authorized Oahe Unit and for domestic, municipal, livestock, industrial, water quality purposes, or fish and wildlife needs, and such other uses as may be authorized for water diverted and delivered through the Oahe Unit works. Principal features to be constructed to utilize the water include:

(a) Oahe Pumping Plant and Pierre Canal with a capacity of 1,440 cubic-feet per second diverting stored waters of Lake Oahe at a point located in the NW $\frac{1}{4}$ of Section 6, T111N, R79W, 5th P.M.

(b) Blunt Reservoir with a capacity of 631,000 acre-feet impounded by a dam extending from the SE $\frac{1}{4}$ of Section 19 to the SE $\frac{1}{4}$ of Section 29, all within T113N, R75W, 5th P.M.

(c) Highmore Canal and its extension diverting 2130 cubic-feet per second from Blunt Reservoir at an outlet located in SE $\frac{1}{4}$ of Section 1, T113N, R74W, 5th P.M.

(d) Cresbard Reservoir with a capacity of 37,600 acre-feet impounded by Cresbard Dam located in the SE $\frac{1}{4}$ of Section 18, T119N, R67W, 5th P.M.

(e) Cresbard Canal and its extensions diverting 3300 cubic-feet per second from an outlet located in Cresbard Dam.

(f) James Pumping Plant and James Canal with a capacity of 500 cubic-feet per second diverting water from James Diversion Dam Reservoir at a point located in the NW $\frac{1}{4}$ of Section 13, T113N, R62W, 5th P.M.

(g) Enlargement of Lake Byron by 66,100 acre-feet to a total capacity of 73,000 acre-feet by Byron Dam extending from the SE $\frac{1}{4}$ of Section 20, to the SE $\frac{1}{4}$ of Section 28, all within T113N, R61W, 5th P.M.

(h) Byron Pumping Plant and East Main Canal with a capacity of 1200 cubic-feet per second diverting water from Lake Byron at a point located in SE $\frac{1}{4}$ of Section 18, T113N, R60W, 5th P.M.

This application covers not only the stored waters of Lake Oahe and unappropriated waters of said rivers and their tributaries and their sources of supply, but also all waste, seepage, and return flow waters from any operations or uses through, by means of, or in connection with said reclamation development, or otherwise, in conformity with Sections 46-2-10 and 46-5-14 of the Compiled Laws of South Dakota, 1967.

The said developments will be constructed by the Bureau of Reclamation, United States Department of the Interior, its authorized representative being the Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, Billings, Montana.

The waters, both those allowed to flow naturally and those conserved and controlled by said dams, will be used for domestic, municipal, livestock, irrigation, mining, or industrial purposes, fish and wildlife, and such other uses as the Congress of the United States has or shall hereafter authorize.

The attached drawings, No. 469-D-9, Blunt Dam; No. 469-D-48, Cresbard Dam; and No. 469-D-89, Byron Dam, show the proposed dams to impound and reregulate the water.

Further and additional standard plans of the conservation, control, and use works, as requested by the Water Rights Commission, will be filed in your office by the Regional Director, Upper Missouri Region, Bureau of Reclamation, Billings, Montana.

The right to file supplementary applications hereto to conform to the plans of the conservation, control, and use works as the same are constructed is hereby reserved.

Dated at Billings, Montana, this 26th day of August, 1974.

THE UNITED STATES OF AMERICA

By E. Richard Anesi
E. Richard Anesi

Acting for R. L. McPhail, Regional Director
Upper Missouri Region, Bureau of
Reclamation
United States Department of the
Interior



United States Department of the Interior

BUREAU OF RECLAMATION

Upper Missouri Region

P.O. Box 2553

Billings, Montana 59103

AUG 22 1974

RECEIVED

AUG 3 1974

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

IN REPLY
REFER TO: 450
870.

Mr. Donald Driscoll, Chief Engineer
Water Rights Commission
Office Building No. 2
Pierre, South Dakota 57501

Dear Mr. Driscoll:

Enclosed is a notice of the intention of the United States of America to withdraw in the name of the United States certain waters of the Missouri River and its tributaries, to use waters stored in Lake Oahe, and to transfer to the United States certain portions of Water Permit No. 1067-3 acquired by the Oahe Conservancy Sub-District. This application relates to water use for the irrigation of 190,000 acres, for domestic, municipal, livestock, industrial, water supply purposes, fish and wildlife needs, and such other uses as may be authorized for the Oahe Unit of the Pick-Sloan Missouri Basin Program. Also enclosed is a copy of Mr. Anesi's authority to sign the notice.

Maps No. 469-D-9, Blunt Dam; No. 469-D-48, Cresbard Dam; and No. 469-D-89, Byron Dam will be furnished to you by our Project Manager at Huron along with a resolution by the directors of the Oahe Conservancy Sub-District transferring pertinent portions of Water Permit No. 1067-3 to the United States. You should make requests to that office for any further drawings or plans that you may require.

We plan to cover our intention to change the use of certain water stored in Lake Oahe from hydropower generation to irrigation in another application.

We would appreciate your consideration and taking action on this notice at the next meeting of the Commission on September 11 and 12, 1974.

We are pleased and thank you for the help you have given our Projects Office in the preparation of this notice.

Sincerely yours,

L. A. Steward

L. A. Steward Regional Director



Enclosures (in duplicate)

Let's Clean Up America For Our 200th Birthday

NOTICE OF INTENTION TO THE WATER RIGHTS COMMISSION
DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT
STATE OF SOUTH DAKOTA

Oahe Unit, James Division
Pick-Sloan Missouri Basin Program, South Dakota

WHEREAS, the United States of America, under the Flood Control Act of December 22, 1944 (58 Stat. 887), is authorized to construct and to operate and maintain national works to conserve and control the waters of the Missouri River and its tributaries, and is further authorized in said Flood Control Act to utilize such conserved and controlled waters for beneficial consumptive uses and for beneficial uses in accordance with the national policy set forth in Section 1 of said Act of Congress of December 22, 1944, and pursuant to the provisions of the Act of June 17, 1902 (32 Stat. 383), as now or hereafter amended and supplemented, known as the Federal Reclamation Laws; and

WHEREAS, the United States of America, acting pursuant to such authorization and the Act of August 3, 1968 (82 Stat. 624) is preparing to construct, operate, and maintain certain works to conserve, control, and utilize the waters in storage in Lake Oahe, and waters of Missouri River and its tributaries for beneficial consumptive uses and for beneficial uses;

NOW, THEREFORE, the United States of America, represented by E. Richard Anesi, acting for R. L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, thereunto duly authorized by the Secretary of the Interior, in conformity with Section 46-5-42 of the Compiled Laws of South Dakota, 1967, hereby notifies the Secretary of and the Department of Natural Resources Development of the State of South Dakota and the Water Rights Commission thereof of its intention to utilize certain specified waters in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and does hereby make application for withdrawal of waters stored in Lake Oahe and for withdrawal of all of the remaining unappropriated waters of Medicine Knoll Creek, Cresbard Creek, James River and Foster Creek.

Application is also hereby made for transfer, as appropriate and without loss of priority, of the following portions of Water Permit No. 1067-3, acquired by the Oahe Conservancy Sub-District for development of the Oahe Unit, which transfer is covered in Contract No. 14-06-600-10,079 between the United States and the Oahe Conservancy Sub-District:

(a) 1,440 cfs of Missouri River water (Lake Oahe) to be diverted by the proposed Oahe Pumping Plant.

(b) 500 cfs of James River waters to be diverted by the proposed James Pumping Plant.

(c) 14,000 acre-feet annually from Cresbard Creek.

(d) 16,000 acre-feet annually from Foster Creek.

(e) 16,800 acre-feet annually from Medicine Knoll Creek. (Mistakenly identified as North Medicine Knoll Creek in Water Permit No. 1067-3).

(f) 446,000 acre-feet for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek. (Location of dam mistakenly shown as across North Medicine Knoll Creek in Water Permit No. 1067-3).

(g) 1,100 acre-feet for initial fill of the proposed Cresbard Reservoir with a dam across Cresbard Creek.

(h) 5,100 acre-feet for initial fill of the proposed enlargement of Lake Byron with the Byron Dam across Foster Creek.

This application includes water sufficient to irrigate 190,000 acres of land in the authorized Oahe Unit and for domestic, municipal, livestock, industrial, water quality purposes, or fish and wildlife needs, and such other uses as may be authorized for water diverted and delivered through the Oahe Unit works. Principal features to be constructed to utilize the water include:

(a) Oahe Pumping Plant and Pierre Canal with a capacity of 1,440 cubic-feet per second diverting Missouri River and stored waters of Lake Oahe at a point located in the NW $\frac{1}{4}$ of Section 6, T11N, R79W, 5th P.M.

(b) Blunt Reservoir with a capacity of 631,000 acre-feet impounded by a dam extending from the SE $\frac{1}{4}$ of Section 19 to the SE $\frac{1}{4}$ of Section 29, all within T11N, R75W, 5th P.M.

(c) Highmore Canal and its extension diverting 2130 cubic-feet per second from Blunt Reservoir at an outlet located in SE $\frac{1}{4}$ of Section 1, T11N, R74W, 5th P.M.

(d) Cresbard Reservoir with a capacity of 37,600 acre-feet impounded by Cresbard Dam located in the SE $\frac{1}{4}$ of Section 18, T11N, R67W, 5th P.M.

(e) Cresbard Canal and its extensions diverting 3300 cubic-feet per second from an outlet located in Cresbard Dam.

(f) James Pumping Plant and James Canal with a capacity of 500 cubic-feet per second diverting water from James Diversion Dam Reservoir at a point located in the NW $\frac{1}{4}$ of Section 13, T11N, R62W, 5th P.M.

(g) Enlargement of Lake Byron by 66,100 acre-feet to a total capacity of 73,000 acre-feet by Byron Dam extending from the SE $\frac{1}{4}$ of Section 26, to the SE $\frac{1}{4}$ of Section 28, all within T11N, R61W, 5th P.M.

(h) Byron Pumping Plant and East Main Canal with a capacity of 1200 cubic-feet per second diverting water from Lake Byron at a point located in SE $\frac{1}{4}$ of Section 18, T11N, R60W, 5th P.M.

This application covers not only the stored waters of Lake Oahe and unappropriated waters of said rivers and their tributaries and their sources of supply, but also all waste, seepage, and return flow waters from any operations or uses through, by means of, or in connection with said reclamation development, or otherwise, in conformity with Sections 46-2-10 and 46-5-14 of the Compiled Laws of South Dakota, 1967.

The said developments will be constructed by the Bureau of Reclamation, United States Department of the Interior, its authorized representative being the Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, Billings, Montana.

The waters, both those allowed to flow naturally and those conserved and controlled by said dams, will be used for domestic, municipal, livestock, irrigation, mining, or industrial purposes, fish and wildlife, and such other uses as the Congress of the United States has or shall hereafter authorize.

The attached drawings, No. 469-D-9, Blunt Dam; No. 469-D-48, Cresbard Dam; and No. 469-D-89, Byron Dam, show the proposed dams to impound and regulate the water.

Further and additional standard plans of the conservation, control, and use works, as requested by the Water Right Commission, will be filed in your office by the Regional Director, Upper Missouri Region, Bureau of Reclamation, Billings, Montana.

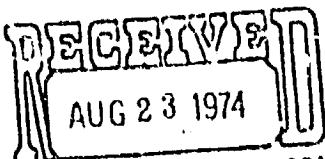
The right to file supplementary applications hereto to conform to the plans of the conservation, control, and use works as the same are constructed is hereby reserved.

Dated at Billings, Montana, this 21st day of August, 1974.

THE UNITED STATES OF AMERICA

By E. Richard Anesi
E. Richard Anesi

Acting for R. L. McPhail, Regional Director
Upper Missouri Region, Bureau of
Reclamation
United States Department of the
Interior



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

UNITED STATES GOVERNMENT

Memorandum

TO : Chief, Reservoir Regulation Branch
Through: Regional Supervisor, Division of Water & Land Operations
FROM : Regional Director

DATE: December 3, 1973

SUBJECT: Delegation of Signing Authority

You are hereby delegated authority to sign the following documents for me in connection with the acquisition of surface- and ground-water rights:

1. Application forms for permits to divert, use, or store water.
2. Notices of intention to appropriate water.
3. Notices of commencement of construction, completion of construction, and application of water to beneficial use.
4. Affidavits on maps and drawings.
5. Petitions to amend or correct original permits or filings.

This delegation does not include the authority to sign correspondence by which these documents are transmitted.

cc: 500, 150, 700, 400

State of Montana)
County of Yellowstone) ss

Acknowledgement

Before me, the undersigned authority for administering oaths, personally appeared Robert L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, to be sworn to be the person and office indicated, and acknowledged that he executed the above authorization.

In witness whereof I have hereunto set my hand and seal
this 3rd day of December.

Robert L. McPhail
Notary Public for the State of Montana
Residing at Billings, Montana
My commission expires Sept. 13, 1974



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

NOTICE OF INTENTION TO THE WATER RIGHTS COMMISSION
DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT
STATE OF SOUTH DAKOTA

Oahe Unit, James Division
Pick-Sloan Missouri Basin Program, South Dakota

WHEREAS, the United States of America, under the Flood Control Act of December 22, 1944 (58 Stat. 887), is authorized to construct and to operate and maintain national works to conserve and control the waters of the Missouri River and its tributaries, and is further authorized in said Flood Control Act to utilize such conserved and controlled waters for beneficial consumptive uses and for beneficial uses in accordance with the national policy set forth in Section 1 of said Act of Congress of December 22, 1944, and pursuant to the provisions of the Act of June 17, 1902 (32 Stat. 388), as now or hereafter amended and supplemented, known as the Federal Reclamation Laws; and

WHEREAS, the United States of America, acting pursuant to such authorization and the Act of August 3, 1968 (82 Stat. 624) is preparing to construct, operate, and maintain certain works to conserve, control, and utilize the waters in storage in Lake Oahe, and waters of Missouri River and its tributaries for beneficial consumptive uses and for beneficial uses;

NOW, THEREFORE, the United States of America, represented by E. Richard Anesi, acting for R. L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, thereunto duly authorized by the Secretary of the Interior, in conformity with Section 46-5-42 of the Compiled Laws of South Dakota, 1967, hereby notifies the Secretary of and the Department of Natural Resources Development of the State of South Dakota and the Water Rights Commission thereof of its intention to utilize certain specified waters in connection with the authorized development of the Oahe Unit, Pick-Sloan Missouri Basin Program, and does hereby make application for withdrawal of waters stored in Lake Oahe and for withdrawal of all of the remaining unappropriated waters of Medicine Knoll Creek, Cresbard Creek, James River and Foster Creek.

Application is also hereby made for transfer, as appropriate and without loss of priority, of the following portions of Water Permit No. 1067-3, required by the Oahe Conservancy Sub-District for development of the Oahe Unit, which transfer is covered in Contract No. 14-06-600-10,079 between the United States and the Oahe Conservancy Sub-District:

- (a) 1,440 cfs of Missouri River water (Lake Oahe) to be diverted by the proposed Oahe Pumping Plant.
- (b) 500 cfs of James River waters to be diverted by the proposed James Pumping Plant.
- (c) 14,000 acre-feet annually from Cresbard Creek.
- (d) 16,000 acre-feet annually from Foster Creek.

(e) 16,800 acre-feet annually from Medicine Knoll Creek. (Mistakenly identified as North Medicine Knoll Creek in Water Permit No. 1067-3).

(f) 446,000 acre-feet for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek. (Location of dam mistakenly shown as across North Medicine Knoll Creek in Water Permit No. 1067-3).

(g) 1,100 acre-feet for initial fill of the proposed Cresbard Reservoir with a dam across Cresbard Creek.

(h) 5,100 acre-feet for initial fill of the proposed enlargement of Lake Byron with the Byron Dam across Foster Creek.

This application includes water sufficient to irrigate 190,000 acres of land in the authorized Oahe Unit and for domestic, municipal, livestock, industrial, water quality purposes, or fish and wildlife needs, and such other uses as may be authorized for water diverted and delivered through the Oahe Unit works. Principal features to be constructed to utilize the water include:

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(d) Cresbard Reservoir with a capacity of 37,600 acre-feet impounded by Cresbard Dam located in the SE $\frac{1}{4}$ of Section 18, T11N, R67W, 5th P.M.

(e) Cresbard Canal and its extensions diverting 3300 cubic-feet per second from an outlet located in Cresbard Dam.

(f) James Pumping Plant and James Canal with a capacity of 500 cubic-feet per second diverting water from James Diversion Dam Reservoir at a point located in the NW $\frac{1}{4}$ of Section 13, T11N, R62W, 5th P.M.

(g) Enlargement of Lake Byron by 66,100 acre-feet to a total capacity of 73,000 acre-feet by Byron Dam extending from the SE $\frac{1}{4}$ of Section 20, to the SE $\frac{1}{4}$ of Section 28, all within T11N, R61W, 5th P.M.

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This application covers not only the stored waters of Lake Oahe and unappropriated waters of said rivers and their tributaries and their sources of supply, but also all waste, seepage, and return flow waters from any operations or uses through, by means of, or in connection with said reclamation development, or otherwise, in conformity with Sections 46-2-10 and 46-5-14 of the Compiled Laws of South Dakota, 1967.

The said developments will be constructed by the Bureau of Reclamation, United States Department of the Interior, its authorized representative being the Regional Director, Upper Missouri Region, Bureau of Reclamation, United States Department of the Interior, Billings, Montana.

The waters, both those allowed to flow naturally and those conserved and controlled by said dams, will be used for domestic, municipal, livestock, irrigation, mining, or industrial purposes, fish and wildlife, and such other uses as the Congress of the United States has or shall hereafter authorize.

The attached drawings, No. 469-D-9, Blunt Dam; No. 469-D-48, Cresbard Dam; and No. 469-D-89, Byron Dam, show the proposed dams to impound and reregulate the water.

Further and additional standard plans of the conservation, control, and use works, as requested by the Water Rights Commission, will be filed in your office by the Regional Director, Upper Missouri Region, Bureau of Reclamation, Billings, Montana.

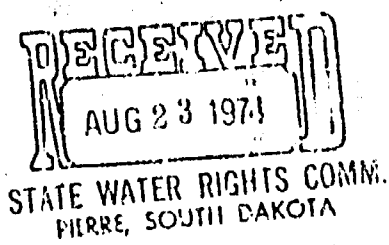
The right to file supplementary applications hereto to conform to the plans of the conservation, control, and use works as the same are constructed is hereby reserved.

Dated at Billings, Montana, this 21st day of August, 1974.

THE UNITED STATES OF AMERICA

By E. Richard Anesi
E. Richard Anesi

Acting for R. L. McPhail, Regional Director
Upper Missouri Region, Bureau of
Reclamation
United States Department of the
Interior



UNITED STATES GOVERNMENT

Memorandum

TO : Chief, Reservoir Regulation Branch
Through: Regional Supervisor, Division of Water & Land Operations
FROM : Regional Director
SUBJECT: Delegation of Signing Authority

DATE: December 3, 1973

You are hereby delegated authority to sign the following documents for me in connection with the acquisition of surface- and ground-water rights:

1. Application forms for permits to divert, use, or store water.
2. Notices of intention to appropriate water.
3. Notices of commencement of construction, completion of construction, and application of water to beneficial use.
4. Affidavits on maps and drawings.
5. Petitions to amend or correct original permits or filings.

This delegation does not include the authority to sign correspondence by which these documents are transmitted.

cc: 500, 150, 700, 400

State of Montana)
County of Yellowstone) ss

Acknowledgement

Before me, the undersigned authority for administering oaths, personally appeared Robert L. McPhail, Regional Director, Upper Missouri Region, Bureau of Reclamation, to be sworn to be the person and office indicated, and acknowledged that he executed the above authorization.

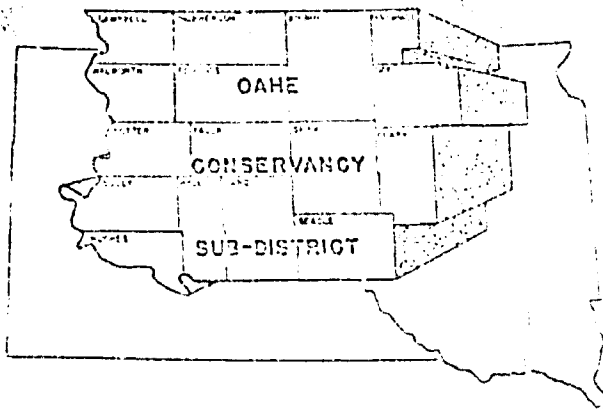
In witness whereof I have hereunto set my hand and seal this 3rd day of December.

Robert R. Rane
Notary Public for the State of Montana
Residing at Billings, Montana
My commission expires Sept. 12, 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FRED H. HOLSCHER - Faulkton
Chairman
LLOYD A. MILLER - Huron
Vice-Chairman
NELSON E. HUNDSTAD - Bath
Secretary
JAMES LEWIS - Huron
Manager-Treasurer

P. O. Box 78
Huron, South Dakota 57350
Telephone 605/352-4995



DIRECTORS

R. M. BEASTROM - Pierre
JERALD W. CAMERON - Pierpont
OPVILLE HILL - Bee Heights
R. D. HIPPLE - Pierre
FRED H. HOLSCHER - Faulkton
NELSON E. HUNDSTAD - Bath
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LLOYD A. MILLER - Huron
C. W. RENZ - Herreld
MELVIN ROFSCH - Roscoe
JAMES RUDDY - Huron

August 27, 1974

Mr. Vern Butler, Secretary
Department of Natural Resource Development
Office Building No. 2
Pierre, South Dakota 57501

Dear Mr. Butler:

At the August 20, 1974 regular meeting of the Oahe Conservancy Sub-District Board of Directors, the Board considered a request from the United States Department of Interior, Bureau of Reclamation to transfer a portion of Future Use Permit No. 1067-3, held by the Oahe Conservancy Sub-District, to satisfy that portion of the Master Contract-Oahe Unit pertaining to such transfer of future use water use permits.

I hereby certify that the following is a true and accurate excerpt of the minutes of the August 20, 1974 meeting of the Oahe Conservancy Sub-District Board of Directors:

ROBERT E. RASCHKE
MANAGER-TREASURER

The letter from P. L. Funkhouser of the Bureau of Reclamation was read to the Board of Directors by the Sub-District Manager.

Mr. Vern Butler

August 27, 1974

Page 2

Mr. Hipple moved, seconded by Mr. Mundstad that we notify the Water Rights Commission of the Department of Natural Resource Development that this Board requests transfer of a portion of existing water rights held in the name of the Oahe Conservancy Sub-District to the United States Government Department of Interior as follows:

- (a) 1,440 cfs of Missouri River water (Lake Oahe) to be diverted by the proposed Oahe Pumping Plant.
- (b) 500 cfs of James River waters to be diverted by the proposed James Pumping Plant.
- (c) 14,000 acre-feet annually from Cresbard Creek.
- (d) 16,000 acre-feet annually from Foster Creek.
- (e) 16,800 acre-feet annually from Medicine Knoll Creek. (Mistakenly identified as North Medicine Knoll Creek in Water Permit No. 1067-3.)
- (f) 446,000 acre-feet (inactive storage space) for initial fill of the proposed Blunt Reservoir with a dam across Medicine Knoll Creek. (Location of dam mistakenly shown as across North Medicine Knoll Creek in Water Permit No. 1067-3.)
- (g) 1,100 acre-feet for initial fill (inactive storage space) of the proposed Cresbard Reservoir with a dam across Cresbard Creek.
- (h) 5,100 acre-feet (inactive storage space) for initial fill of the proposed enlargement of Lake Byron with the Byron Dam across Foster Creek.

and that the letter of request from the Bureau of Reclamation be included as a part of these minutes. Motion carried.

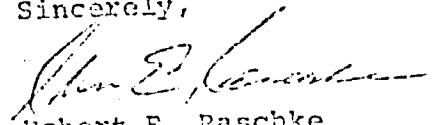
Mr. Vern Butler

August 27, 1974

Page 3

If you have any questions, do not hesitate to call on me.

Sincerely,



Robert E. Raschke
Manager-Treasurer

RER/cam

Enclosure

cc: Mr. Preston L. Funkhouser



IN REPLY
REFER TO: 770
500.

United States Department of the Interior

BUREAU OF RECLAMATION

Upper Missouri Region

P.O. Box 2553

Billings, Montana 59103

DEC 6 1974

Terry L. Pechota, Esq.
South Dakota Legal Services
P. O. Box 148
Mission, South Dakota 57555

Dear Mr. Pechota:

Thank you very much for your letter of November 16, 1974, wherein you express interest in the Oahe Unit of the Pick-Sloan Missouri Basin Program and suggest that the Indian communities of South Dakota be kept apprised of the Unit program.

We welcome very much the interest of South Dakotans in the multipurpose development authorized by the Oahe Unit Authorization Act of August 3, 1968 (P.L. 90-453; 82 Stat. 624); and we particularly welcome the interest of our Native Americans.

The Initial Stage of the Oahe Unit is designed, in part, to compensate the citizens of South Dakota for the agricultural lands taken from production to permit the main-stem impoundments on the Missouri River. The irrigation development of the Initial Stage should provide essential stockfeed during the recurrent periods of drouth which now again appear to be underway. The availability of such stockfeed should be of special benefit to Indian ranchers who could be obliged to sell off their base herds during periods of drouth, if such feed supplies were not available.

It has also been our experience that the availability of winterfeed supplies which is made possible by irrigation development, does much to complement the use and increase the value of dry rangeland in the neighborhood of the irrigation development. This circumstance should definitely advantage the Indian lands in the region.

Irrigation development on Indian Reservations is also an area in which this Bureau is very happy to participate and we work closely with the fine irrigation staffs of the Bureau of Indian Affairs, which, of course, has basic responsibility for this type of work. You will recall that Section 9(c) of the Flood Control Act of 1944 (58 Stat. 887), which authorized initiation of the reclamation and power developments of the Pick-Sloan Missouri Basin Program, stipulated that "irrigation of Indian trust and tribal lands, and repayment therefor, shall be in accordance with the laws relating to Indian lands."



Save Energy and You Serve America!