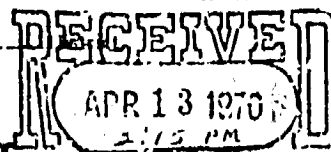


No. 1073-2

Map No. _____

Water Division No. 2WHITE RIVER
(Blanks to be filled by the Engineer for the W. P. C.)

APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Department of Game, Fish & Parks
 Post-office address Pierre State South Dakota
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Completed
3. Name of diversion work Dybing Lake (perpetual State Use Easement)
4. Amount of water claimed (cubic feet per second) Local Watershed 60 ACRE FEET
5. Source of water supply SE $\frac{1}{4}$ and NW $\frac{1}{4}$ of Sec. 26, Twp. 105, Rge. 77W
6. Location of point of diversion NW $\frac{1}{4}$ of Sec. 26, Twp. 105, Rge. 77

County Lynan

7. Annual period or periods during which water is to be used Public recreation
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) _____
9. For irrigation use, _____ Total number of acres to be irrigated _____

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system NA years. Additional time required to complete application of water to the proposed beneficial use NA years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication NA
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

20 surface acres14' maximum depth

B. Works proposed to transport water to place of use.

C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)STATE OF SOUTH DAKOTA)
) ss.

County of _____

I, R. A. Hargens, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed R. A. HargensSubscribed and sworn to before me this 10th day of April, 1970.Alvin Hargens
Notary Public (or other qualified officer)

(My Commission Expires 8-30-70)

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1073-2
DEPT OF GAME, FISH & PARKS PIERRE
 (Applicant) (Post Office Address)
SOUTH DAKOTA With the following modifications:
 (State)

"VESTED RIGHT" CLAIMED

Date of first receipt of application APRIL 13 19 70
 Date of return to applicant for correction, amendments or changes required _____ 19 ____
 Date of receipt of corrected application _____ 19 ____
 Approved APRIL 6 19 71, Recorded in Book 11 Page 311

WATER RIGHT PERMIT NO. 1073-2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1073-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1974
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed before
3. The whole of said work is ~~to be~~ completed before
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED
5. The water appropriated shall be used for the purpose of PUBLIC RECREATION
6. The prior right of all persons to, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 60 ACRE FEET ANNUALLY (which first was measured: neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial use~~ used for public recreation and if for the irrigation purpose, said appropriation must be limited to not more than ~~seven feet per acre per year~~ and is limited to not more than one acre foot (1.57) of water per acre of land to which water is actually and beneficially applied for irrigation on or before JUNE 30 19 55 said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 6TH day of APRIL 19 71

WATER RESOURCES COMMISSION

By:

[Signature]
 Chief Engineer, Executive Officer

Certificate of Construction Issued APRIL 6 19 71

Water License Issued APRIL 6 19 71

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Dept. of Game, Fish and Parks

Post Office Address State Office Building Pierre, State South Dakota

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (if available)

Date of Posting _____ Date of Recording _____

Recording Date _____

14. Date of start of construction of water supply system 1934 WPA Structure

15. Date that water was first applied to beneficial use 1934

16. Name of owner of original water supply system State of South Dakota

17. Amount of water originally applied to beneficial use 200 acre feet XXXXX

18. Present Use of Water

Amount of water now being used 200 acre feet XXXXX

Date that this amount of water was first used 1934

19. Chronological History of Water Use

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)

County of _____) ss.

I, RA Hodgins, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

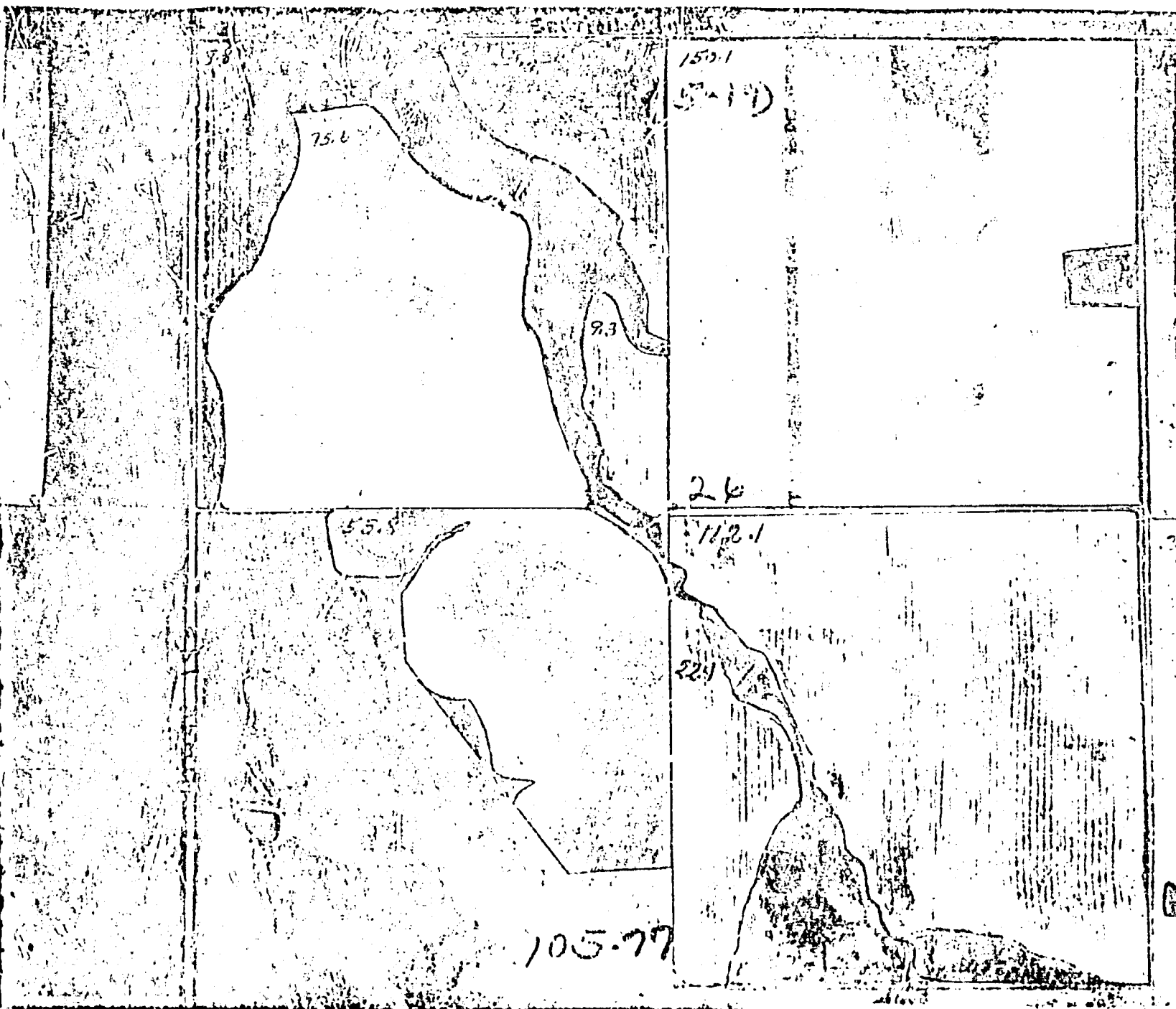
Signed RA Hodgins

Subscribed and sworn to before me this 10th day of April, 1970

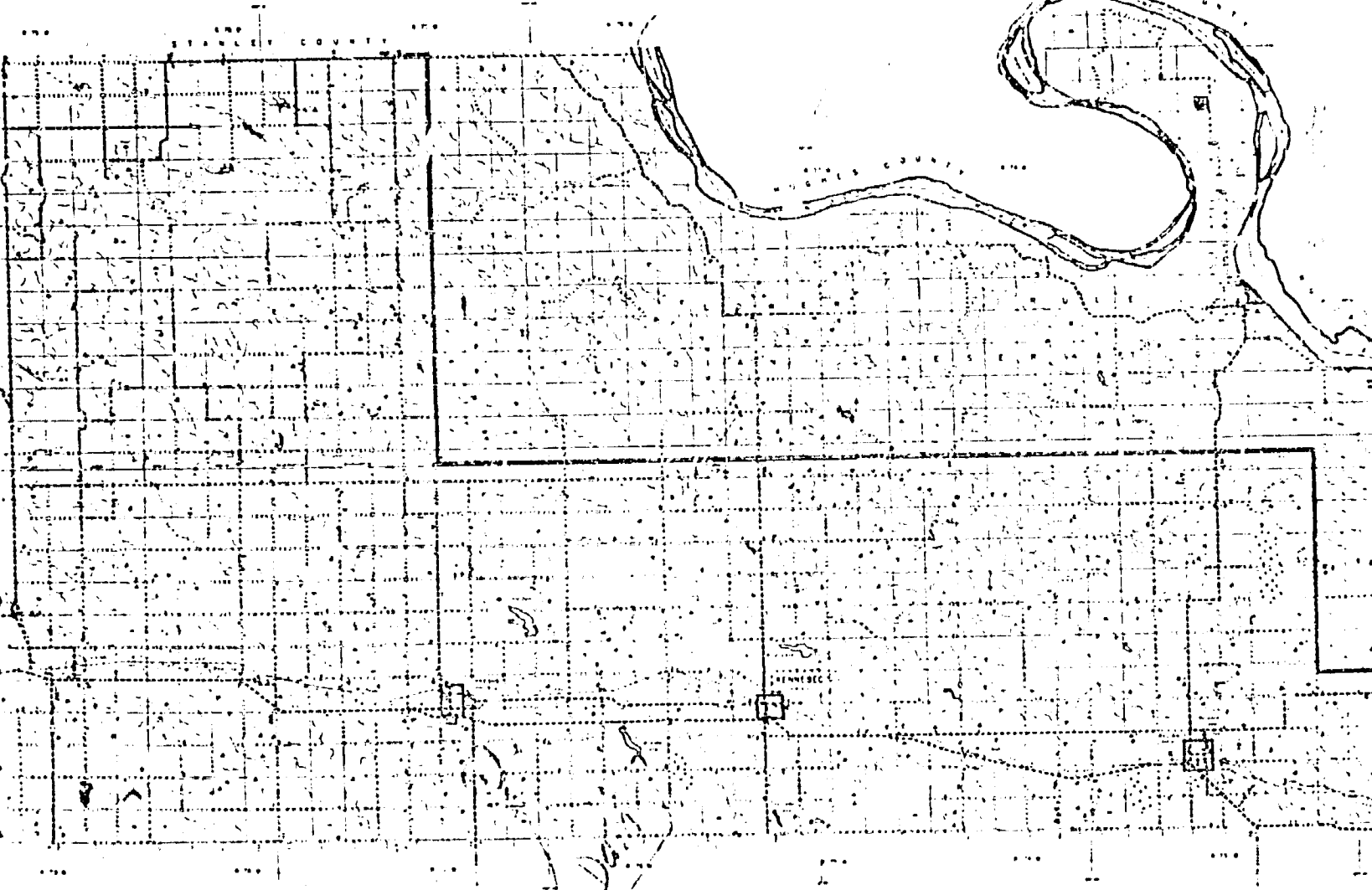
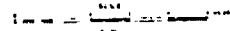
Alvin H. Allen
(Notary Public or other qualified Officer)

My Commission Expires 8-30-76

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.



GENERAL HIGHWAY MAP
NORTH HALF
LYMAN COUNTY
SOUTH DAKOTA



Dybing Dam

WATER LICENSE NO. 1073-2

(1) WHEREAS, On the 13th day of April A. D. 19 70
the Department of Game, Fish and Parks

made Water Right Application, No. 1073-2 Vested Right 60 acre feet annually
of a dry draw
County of Lyman State of South Dakota, for public recreation

purpose; and

(2) WHEREAS, On the 6th day of April A. D. 19 71
Vested Right 1073-2 Permit No. 1073-2 with a date of priority of 193

was issued to said applicant recognizing for the diversion of said water, and provided for the completion of construction of the water
supply system therein described on or before the day of April 19 71 and for the
application to beneficial use of said water on or before the day of April 19 71

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert 60 acre feet annually
of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to the application of water to beneficial use of the following extent,
water is used for public recreational purposes

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to _____
the Department of Game, Fish and Parks

_____ of **Pierre, South Dakota**

the holder _____ and owner **Vested Right** of said permit No. **1073-2** water right, dating from **1934**

_____ to use of **60 acre feet annually** ~~cubic feet per second~~ of the waters of **a dry draw**

in the County of **Lyman** and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at **a point in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, T105N, R77W**

and ~~removed to and upon~~ **stored in place**

for the purpose of **public recreation (Dybbing Lake)**

Subject to any limitations listed in Water Right Permit No. **1073-2** and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this **6th** day of **April** A. D.
Nineteen Hundred and **Seventy-one**

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer **J.W. CRIMES**

Form 15.

Permit No. 1073-2

Water Diversion No. 2 WHITE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the Department of Game, Fish and Parks

the holder of
Vested Right Permit No. 1073-2, issued upon Application No. 1073-2, bearing date of priority of 1934
authorizing the diversion of 60 acre feet annually of the waters of
a dry draw County of Lyman, State of South Dakota at
a point in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 26, T105N, R77W

for public recreation (Dybing Lake)
purposes, in 8 complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are recognized as
condition for diverting and conveying to the place of intended use 60 acre feet annually of water.

Date: April 6, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

**Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

Richard Beringson, Secretary
Department of Game, Fish and Parks
Anderson Building
445 E Capitol
Pierre SD 57501

Dear Mr. Beringson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for lakes for the following reasons:

1. Until the outlet elevation for each lake is surveyed and the outlet elevation is set by the Water Management Board.
2. To allow the Vested Water Right Claim to be amended, if necessary, as follows:
 - a) Include the outlet elevation;
 - b) To correct the amount of water claimed;
 - c) To add the qualification that a vested claim is subject where necessary to installation of a concrete outlet structure to assure retention of the outlet as the established elevation; and
 - d) To add any amendments and qualifications necessary to clarify a Vested Right Claim.

Also, that I intend to oppose validation of all Department of Game, Fish and Parks Vested Water Right Claims for dams to allow the Vested Water Right Claim to be amended, if necessary, as follows:

1. To include the spillway elevation;
2. To correct the amount of water claimed; and
3. To add any amendments and qualifications necessary to clarify a Vested Right Claim.

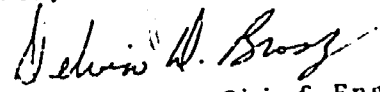


September 21, 1988
Richard Beringson, Secretary
Page 2

We will be working with your staff on these validations. We have already discussed settling outlet elevations before validating claims for lakes. Although the work necessary to complete the validation process will take several years to complete, the results should be of benefit to the public and to your Department. As the work is completed we validate each claim, the claim will be presented to the Water Management Board for validation.

Please advise if you have any questions.

Very truly yours,


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

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