

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 230

Water Div. No. 2 Battle Creek Water Dist.

Application Received Mar 5, 1918

Maps Received

Acknowledgment Mar 15, 1918

Notice for Pub. Mailed

Receipt from Newspaper

Copy of Newspaper Rec'd.

Notice of Correction

Proof of Pub. Rec'd. May 21, 1918

Hearing May 14, 1918

Approved

Recorded and Filed

REMARKS:

Notice of recording fees sent
May 21, 1918.

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument which it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota

this 14th day of May 1918

Homer M. Derr
State Engineer.

No. 230

Division No. 2

Battle Creek Water District.

PERMIT

to appropriate water from

French Creek

Custer County, South Dakota.

Name of applicant

C. L. Edgerton

Name of diversion works

Weeping Willow Ditch.

Date of first receipt at office of State Engineer March 5, 1918.

Returned to applicant for Correction

- - - - - 19

Corrected application received

- - - - - 19

Date of water right

March 5, 1918.

Recorded in Book 2 Page 332 & 333

One-fifth of work to be completed

November 14, 1920.

Whole work to be completed

May 14, 1923.

Final proof of use of water

May 14, 1923.

Approved May 14, 1918.

Homer M. Derr.

State Engineer.

No. 230

Water Division No. 2 Battle Creek Water District.

(Blanks to be filled by the State Engineer.)

COPY

APPLICATION FOR A PERMIT **To Appropriate Water Within the State of South Dakota**

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

I. Name of applicant C. L. Edgerton
 Postoffice address Fairburn, County Custer, State South Dakota

1. If a corporation:

- (a) Name of same _____
 (b) Date and place of incorporation _____
 (c) Amount of capital stock _____
 (d) Amount paid in _____
 (e) Names and addresses of directors: _____

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Direct labor
 (b) Cash on hand, \$ _____ (c) Treasury stock, \$ _____
 (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion works Weeping Willow Ditch
 3. Quantity of water claimed 4.46 cubic feet per second.
 4. Source of water supply French Creek
 5. Location of point of diversion S. 2° 40' E. from NE Cor. Sec. 27 T. 4 S. R. 7
E.B.H.M. 77 feet. on left bank.
 (Right or left bank looking down stream.)
 6. Annual periods during which water is to be used Irrigating season.

7. To be used for:

1. Irrigation or domestic use:

- (a) Number of acres to be irrigated 311.85 acres.
 (b) Legal subdivisions to be irrigated _____

NW 1/4 of NW 1/4 Sec. 27, 16.46 acres;	NE 1/4 of NW 1/4 of Sec. 27, 29.58 acres;
SW 1/4 of NW 1/4 Sec. 27, 1.35 "	SE 1/4 of NW 1/4 of Sec. 27, 17.78 "
NE 1/4 of SW 1/4 Sec. 27, 2.15 "	NW 1/4 of NE 1/4 of Sec. 27, 35.82 "
NE 1/4 of NE 1/4 " 27, 24.72 "	SW 1/4 of NE 1/4 of " 27, 40.00 "
SE 1/4 of NE 1/4 " 27, 39.17 "	NW 1/4 of SE 1/4 of " 27, 37.89 "
SW 1/4 of SE 1/4 " 27, 5.88 "	NE 1/4 of SE 1/4 of " 27, 7.86 "
NW 1/4 of NW 1/4 " 26, 14.53 "	SW 1/4 of NW 1/4 of Sec. 26, 27.75 "
NE 1/4 of NW 1/4 " 26, .04 "	SE 1/4 of NW 1/4 of " 26, 10.87 "
Total 311.85 acres.	

8. Estimated cost of works:
- | | | |
|--------------------------|----------------------------|----------|
| (a) Head gates, \$ 40.00 | (b) Pumping plant, \$ | |
| (c) Fluming, \$ | (d) Canal-earth, \$ 400.00 | Rock, \$ |
| (e) Other structures, \$ | Total, \$ 440.00 | |

9. Description of diversion works:

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

Water taken from bottom of Creek without dam.

II. Dimensions of works:

(a) Dam: Height _____ feet; length at bottom _____ feet; length at top _____ feet; thickness at bottom _____ feet; thickness at top _____ feet; slope of front (water) face _____; slope of back face _____; material used in construction _____

(b) Reservoir; Capacity when filled _____ acre feet. Surface area at highwater mark _____ acres.

DEPTH AT OUTLET—FEET	SURFACE AREA AT EACH _____ FEET OF DEPTH AT OUTLET—ACRES	CAPACITY ACRE-FEET

(c) Head gate: Width 4 feet: height 3 feet;
Material _____

(d) Canal: Total length _____ miles

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work five years.
11. Time required for complete application of water to the proposed beneficial use five years.
12. Choice of newspaper for publication of notice of intention to appropriate _____

Custer County News, Fairburn, S. D.

STATE OF SOUTH DAKOTA,
County of Pennington

I G. E. Youngberg, being first duly sworn
on my oath depose and say That my relation to the above described undertaking is that of _____

Engineer

that I have read the above and
(owner, manager, engineer.)

foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed G. E. Youngberg

Subscribed and sworn to before me this 2nd day of March 1918.

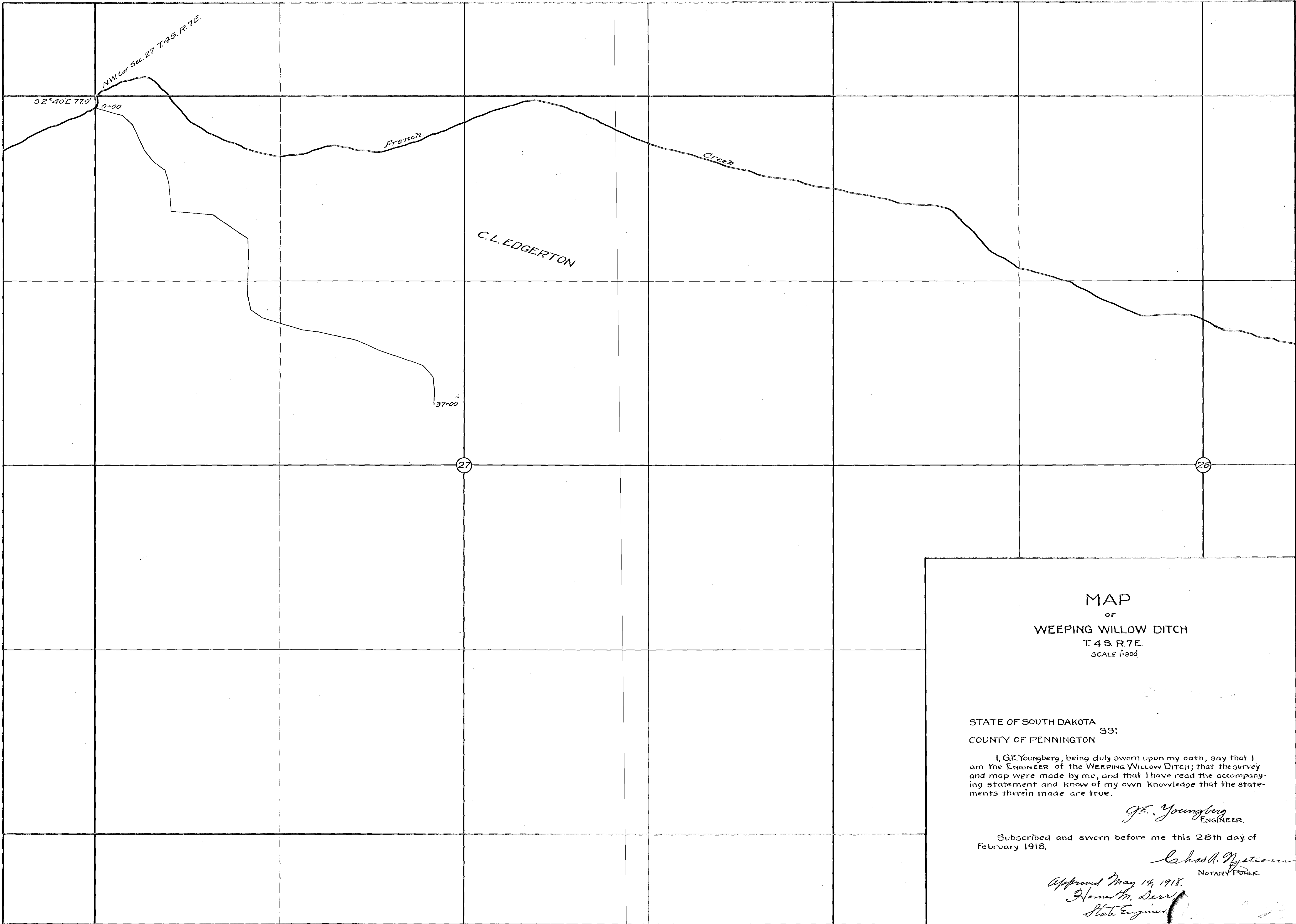
(S E A L)

Chas. A. Nyetrom

Notary Public (or other qualified officer.)

RECEIVED
MAR 7 1918
OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

RECEIVED
MAR 7 1918
OFFICE OF STATE ENGINEER
PIERRE, S. DAK.



MAP
OF
WEeping WILLOW DITCH
T.4S. R.7E.
SCALE 1"=300'

STATE OF SOUTH DAKOTA 39:
COUNTY OF PENNINGTON

I, G.E. Youngberg, being duly sworn upon my oath, say that I am the ENGINEER of the WEeping WILLOW DITCH; that the survey and map were made by me, and that I have read the accompanying statement and know of my own knowledge that the statements therein made are true.

G.E. Youngberg
ENGINEER.

Subscribed and sworn before me this 28th day of February 1918.

Chas. A. Nyström
NOTARY PUBLIC.

Approved May 14, 1918.
Homer M. Derr
State Engineer

C.L. Edgerton

Remarks by State Engineer:

No protests were made against the granting of this permit.

STATE OF SOUTH DAKOTA
County of Hughes) ss.

Pierre, South Dakota, May 14, 1918.

This is to certify that the foregoing application was received at this office at 9 o'clock
a. m. upon the 5 day of March 1918. and that after examination it
was found to comply with the provisions of the Irrigation Code of
South Dakota. Notice of intention to appropriate was published,
proof of publication was duly filed, and a hearing was held in this
office May 14, 1918.

Harner M. Derr

State Engineer.

Number of permit 230-2

Date of first receipt of application March 5, 1918.

Date of return to applicant for correction ----- 19

Date of receipt of corrected application ----- 19

Date from which applicant may claim right March 5, 1913.

Approved May 14, 1918. Recorded in Book 2 Page 832 & 333.

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions.

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before November 14, 1920.

2nd. The whole of said work is to be completed on or before May 14, 1923.

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is May 14, 1923.

4th. The water appropriated shall be used for the purpose of irrigation.

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed -4.46- cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before May 14, 1923; said water to be used during the following described annual periods.

During the irrigating season.

Witness my hand this 14th day of May 1918.

Harner M. Derr

State Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 230-2

(1) WHEREAS, On the 5th day of March A. D. 1918
C. L. Edgerton, Jr.

made Water Right Application No. 230-2 for a permit to use 4.5 cubic feet per second of the waters of French Creek
 County of Custer, State of South Dakota, for irrigation purposes; and

(2) WHEREAS, On the 14th day of May A. D. 1918
 Permit No. 230-2 with a date of priority of April 10, 1909

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 14th day of May A. D. 1923 and for the application to beneficial use of said water on or before the 14th day of May A. D. 1923

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 3.46 cubic feet per second 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,
 to irrigate the following lands all in T4S, R7E

Section 28	NE $\frac{1}{4}$ NE $\frac{1}{4}$	7 acres	
Section 27	NW $\frac{1}{4}$ NW $\frac{1}{4}$	30 "	
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	4 "	
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	11 "	
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	37 "	
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	27 "	
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	12 "	* The applicable portions of Permits No. 68-2, 69-2 and 0223-2 have been incorporated into this Water License 230-2
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40 "	
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	26 "	
	NN $\frac{1}{4}$ SW $\frac{1}{4}$	12 "	
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	33 "	
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	3 "	
		242 acres	

(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 C. L. Edgerton Jr.

_____ of Fairbairn
the holder _____ and owner _____ of said permit No. 230-2 a water right, dating from April 10, 1909
_____ to use of 3.46 cubic feet per second of the waters
of French Creek

in the County of Custer and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at Point "A" - 50' South and 700' east of NE
corner, Section 28; Point "B" - 100 ft south of NE corner, Section 28; Point "C" -
950' south and 320' west of NE corner, Section 27 - all in T4S-R7E, for irrigation

and conducted to and upon portions of lands in Sections 27 and 28, T4S, R7E more fully
described on the face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 230-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 5th day of August A. D.
Nineteen Hundred and Eighty-One

WATER MANAGEMENT BOARD

By:

John Hatch
Chief Engineer, Executive Officer
JOHN HATCH

Permit No. 230-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That C. L. Edgerton, Jr.

the holder _____ of
Permit No. 230-2, issued upon Application No. 230-2, bearing date of priority of April 10,
1909 authorizing the diversion of 4.5 cu. ft. per second of the waters of _____
French Creek County of Custer, State of South Dakota at _____
Point "a" - 50' south & 700' east of N $\frac{1}{4}$ corner, Section 28; Point "B" - 100'
south of NE corner, Section 28; Point "C" - 950' south & 320' west of N $\frac{1}{4}$
corner, Section 27 - XXX all in T4S, R7E, for irrigation

purposes, has 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 found in satisfactory
condition for diverting and conveying to the place of intended use 15 cu. ft. per second of water.

Date August 5, 1981

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

(First Publication _____ 191____)

APPROPRIATION OF WATER.

Office of the State Engineer,

Pierre, S. D., March 15, 1918.

Notice is hereby given that C. L. Edgerton,
 whose postoffice address is Fairburn, Custer County,
 S. D., has made an application in accordance with the provisions of the
 irrigation laws of South Dakota for a permit to appropriate for beneficial
 use 4.46 cubic feet of water per second of time from French Creek
through the Weeping Willow Ditch
 the point of diversion of which is to be located upon the left
 bank of said stream in the NW 1/4 of the NW 1/4 of section
27 township 4 S., range 7 E., B.H.U., said water
 to be used for the purpose of irrigation
 upon the NW 1/4; NE 1/4; SW 1/4; SE 1/4; NE 1/4; NW 1/4; NE 1/4; SW 1/4;
SE 1/4; NW 1/4; SW 1/4; NE 1/4; XXXXXXXXXX XXXXXXXXXX of Section
26, and NW 1/4; SW 1/4; NE 1/4; SE 1/4 of Section 27, all in T. 4 S.,
 R. 7 E., B.H.U.

This application will be taken up by the state engineer at his office
 at Pierre for consideration and appropriate action upon the 14th
 day of May, 1918, at 6 a. m., at which time all persons
 who believe that the prior rights would be injuriously affected, or that
 the allowance of the permit would be detrimental to the public welfare,
 and also parties making the application and to be benefited, are notified
 to be present either by sworn affidavit or in person for the purpose of
 presenting any relative testimony.

Homer M. Derr.

State Engineer.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of Custer

} ss

Ch. F. Remick being duly

sworn, deposes and says the annexed printed copy of Notice

Intention to appropriate Water was taken from the

Custer County Press & Herald a newspaper which

during the whole time of publication of said notice herein-

after stated, has been and is printed and published in the

town of Fairburn County ofCuster and State of South Dakota,

That the said notice was published in said newspaper on the

following dates:

March 21st and 28th, andApril 4th and 11th

in each and every issue of the full number thereof, the first

publication being made on the 21st day of March1918 and the last publication on the 11th day ofApril 1918, upon which days or times

of publication aforesaid the newspaper was regularly pub-

lished, and that during the whole time of said publication

he was editor the printer and publisher of

the said newspaper.

Ch. F. RemickSubscribed and sworn to before me this 30th day of May A. D. 1918Notary Public Custer County, S. D.

APPROPRIATION OF WATER

Office of the State Engineer, Pierre,
South Dakota, March 15, 1918.

Notice is hereby given that C. L. Edgerton, whose postoffice address is Fairburn, Custer County, South Dakota, has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 4.49 cubic feet of water per second of time from French Creek through the Weeping Willow Ditch, the point of diversion of which is to be located upon the left bank of said stream in the NW 1-4 of the NW 1-4 of Section 27, Township 4 South, Range 7 East, B. H. Meridian, said water to be used for the purpose of irrigation upon the NW 1-4 of NW 1-4; NE 1-4 of NW 1-4; SW 1-4 of NW 1-4; NW 1-4 of NE 1-4; NE 1-4 of NE 1-4; SW 1-4 of NE 1-4; SE 1-4 of NE 1-4; NW 1-4 of SE 1-4; of Section 29, and NW 1-4 of NW 1-4; SW 1-4 of NW 1-4; NE 1-4 of NW 1-4; SE 1-4 of NW 1-4 of Section 27, all in Township 4 South, Range 7 East, B. H. Meridian.

This application will be taken up by the State engineer at his office at Pierre for consideration and appropriate action upon the 14th day of May, 1918, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.

HOMER M. DERR,
State Engineer.

First publication March 21, 1918.

0223-2

68-2

69-2

730-7

8-5-81

Clark L. Elg, Jr.

West "do" Point "Kendall"

consist of High rocks with

rocks and also Middle River

High small rock down to about

up low flow High flow well

about 100 yds. East. No stone on

West. It also runs like the water but

it also runs out of the bottom of the creek

which is the same as the creek

below main bridge. Main bridge

is pretty good condition

The low part of Highway

Permit No. 230-2Water Division 2Upper Cheyenne
Battle Creek Water District

10120109

REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

10: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by C. L. Edgerton, Jr.at Fairburn, S. Dak. holderof Permit No. 230-2 bearing date of priority of April 10, 1909authorizing the diversion of 4.5 cu. ft. per second of the waters of French Creekfor Irrigation purposes, in Custer County.

I have to report on the condition of the same as follows:

The Water Use System consists of

A. Works used to divert the water:

Head Gates at all three diversion points. High water
in French Creek will flow into Diversion Ditches

B. Works used to transport water to place of use:

Diversion Ditches

C. Works used to apply water to beneficial use:

Diversion Ditch and Spreader Dikes and DitchesThe system is in the following condition: FairThe point of diversion is located PL "A" = 150' S and 700' E of N 4 COR SEC. 28;
PT. B = 100 ft S of NE COR SEC. 28; PT. C = 950 ft S and
320 ft W of N 4 COR SEC. 27. All in T4S R7EThe works are capable of diverting and conveying to the place of use 15 CFS. (Est)cu. ft. per second of water which is to be used for: IrrigationWater has been put to beneficial use to the maximum extent as follows: In Sec. 28, T4S, R7E.NE 1/4 NE 1/4 = 7 Ac. In Sec 27, T4S R7E: NW 1/4 NW 1/4 = 30 Ac;
NE 1/4 NW 1/4 = 14 Ac. SW 1/4 NW 1/4 = 11 Ac. SE 1/4 NW 1/4 = 37 Ac;
NW 1/4 NE 1/4 = 27 Ac. NE 1/4 NE 1/4 = 12 Ac. SW 1/4 NE 1/4 = 40 Ac. SE 1/4 NE 1/4 = 26 Ac;
NE 1/4 SW 1/4 = 12 Ac. NW 1/4 SE 1/4 = 33 Ac. NE 1/4 SE 1/4 = 3 Ac.comprising a total of 242 acres of land. $242 \div 70 = 3.46 \text{ CFS.}$

License for 3.46 CFS.

This Form 12 includes the applicable portions of
Permits No. 65-2, 69-2, 230-2 and 0223-2Date August 5, 1980Leroy J. Mernagh
(Signature)

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

No 4 8409

PIERRE, August 4, 1981

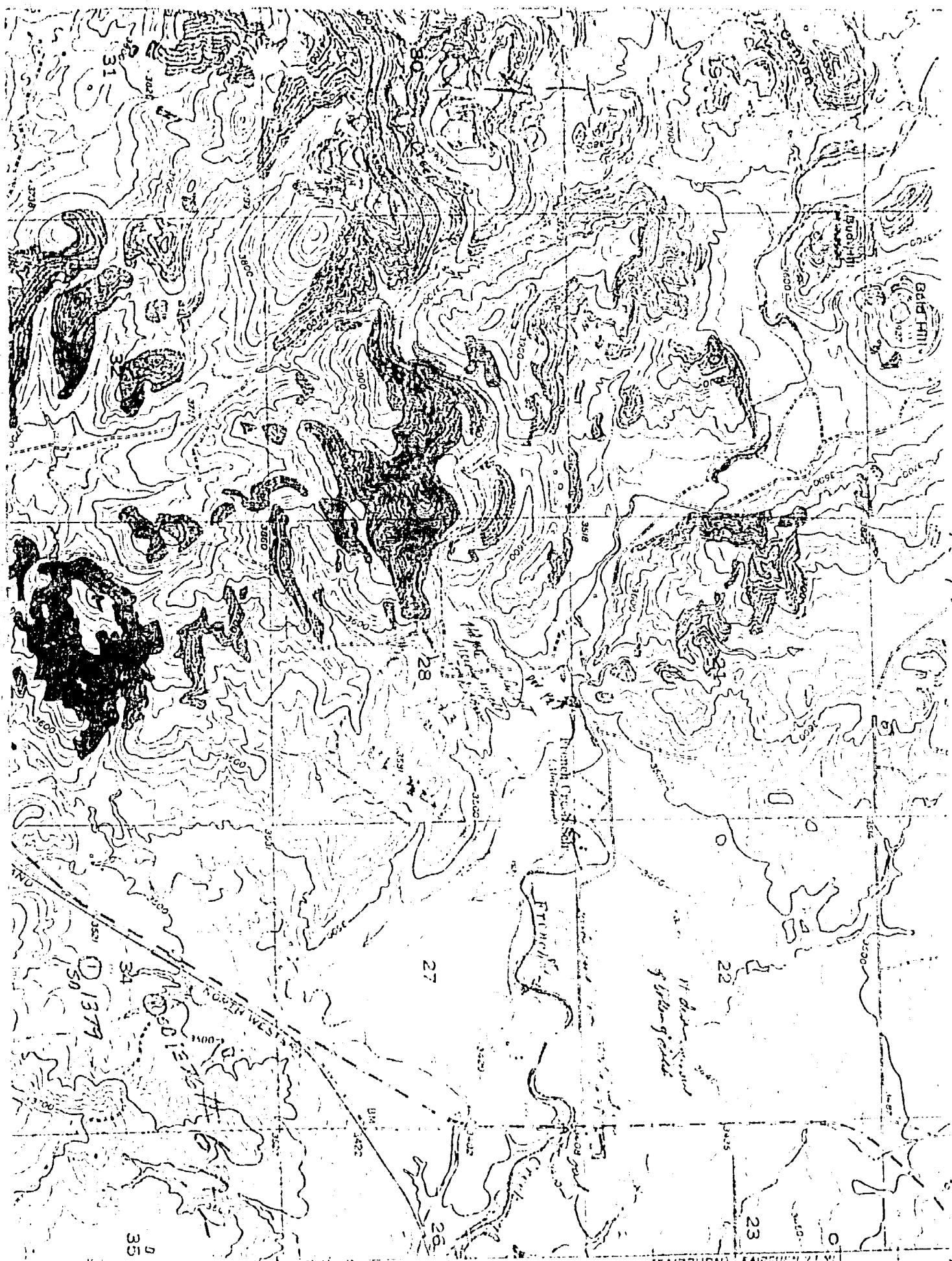
RECEIVED OF Charles and Frances Edgerton, Fairburn, SD 57736

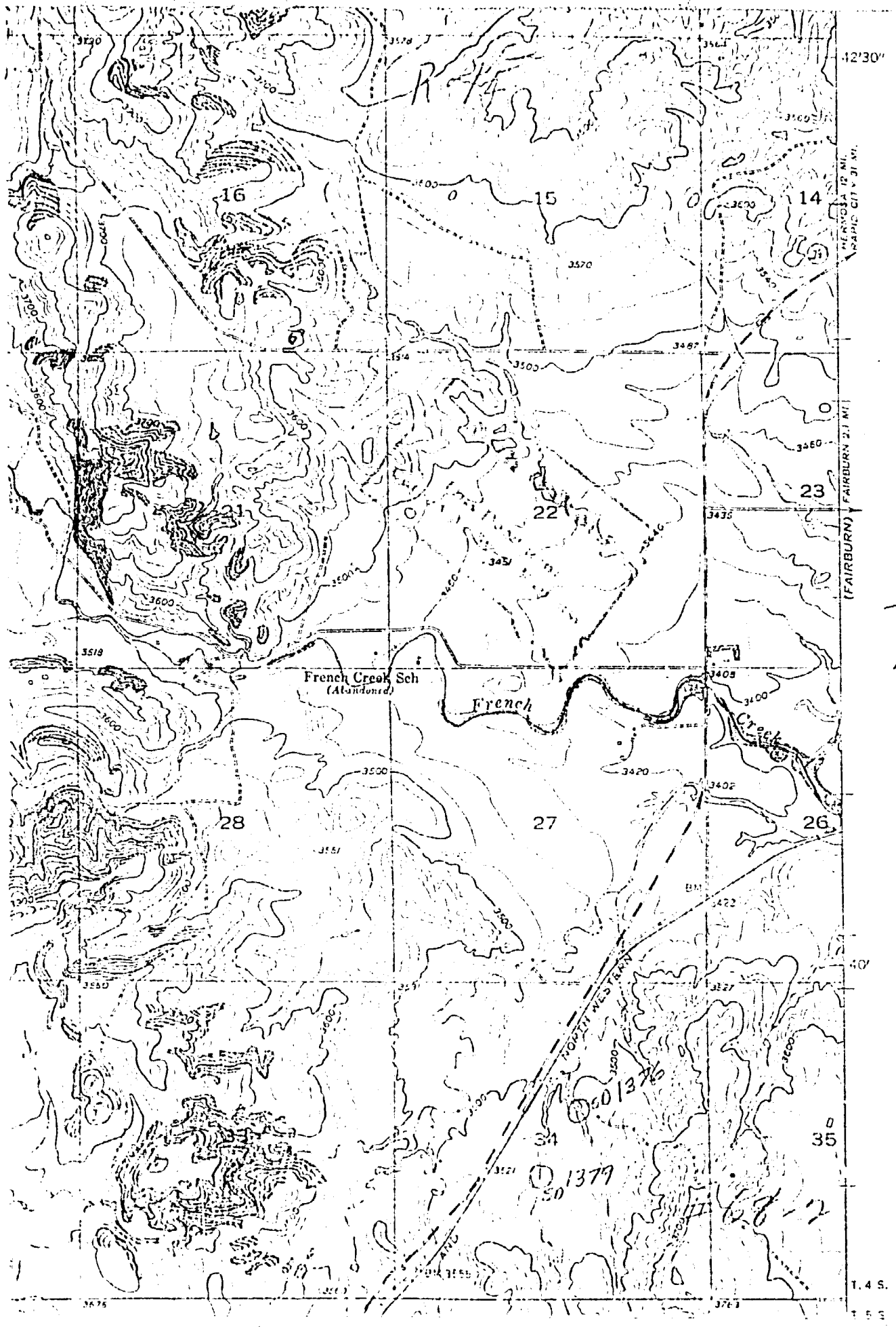
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and issuing Cert. of Construction No. 830-2	12	00
Fee for Inspecting Beneficial Use, and issuing Water License No. 230-2		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL	12	00

WATER RIGHTS COMMISSION

By *[Signature]*
Chief Engineer, Executive Officer
JOHN HATCH / (lt)





T
115

68-2

1.4 S.

1.5 S.

218-L

NE 1/4 NW 1/4 4 AC

NW 1/4 NW 1/4 30 AC

NE 1/4 NE 1/4 7 AC

SE 1/4 NW 1/4 37 AC

NW 1/4 SE 1/4 33 AC

SE 1/4 NE 1/4 2.6 AC

NE 1/4 SE 1/4 3 AC

NE 1/4 NW 1/4 12 AC

SW 1/4 NE 1/4 40 AC

219

6.7

1.0

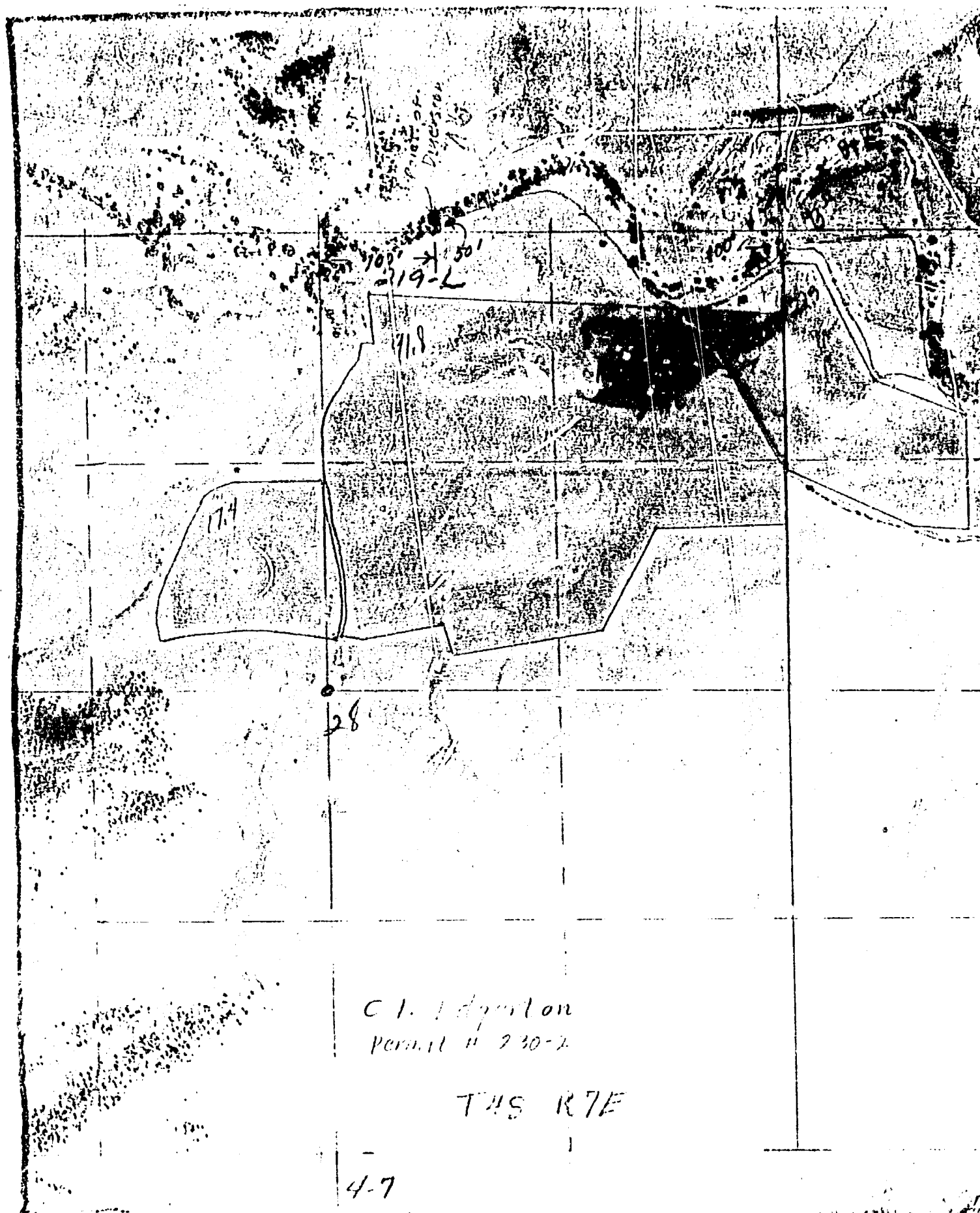
C.L. Edgerton

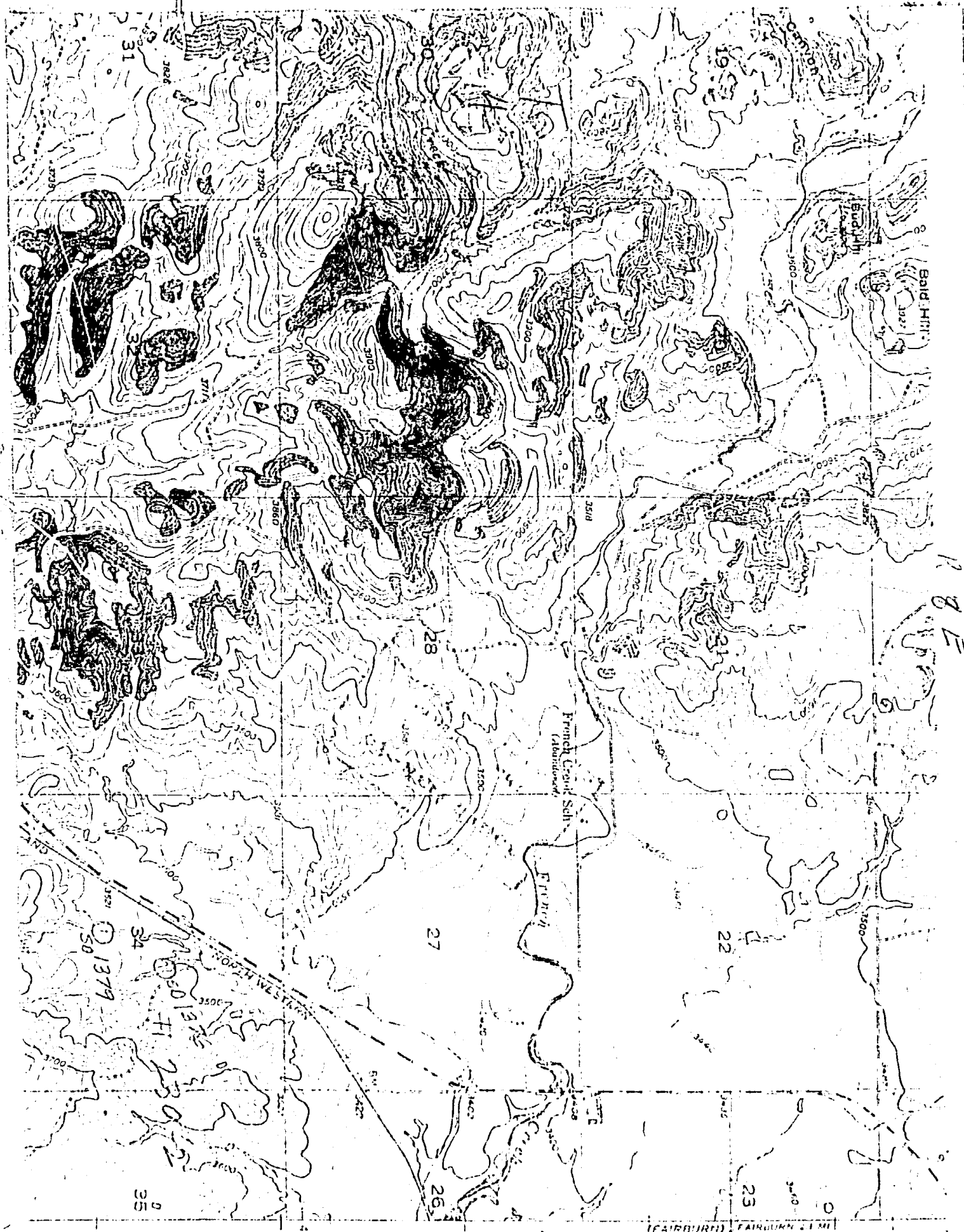
Permit

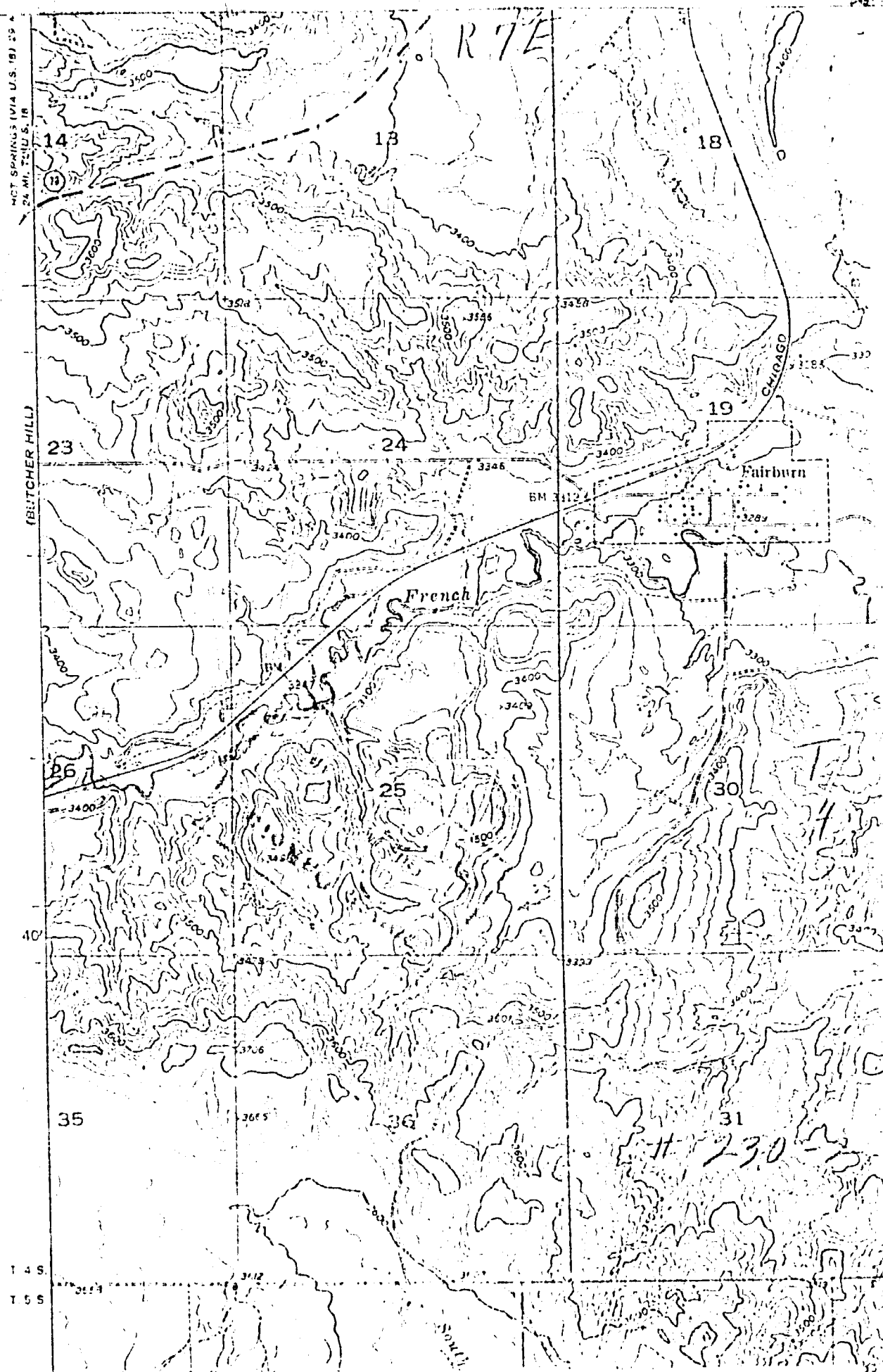
218-L

4-7

219







SOUTH DAKOTA

VESTED WATER RIGHT NO. 230-2 FOR IRRIGATION

Date of Receipt of Claim March 5, 1918.

Date of Validation May 6, 1992.

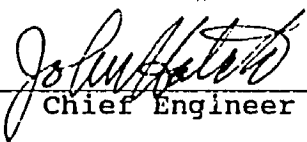
The Water Management Board validated Vested Water Right Claim No. 230-2 for irrigation purposes for C.L. Edgerton, Jr. & Francis Edgerton, PO Box 147, Hermosa SD 57744 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 230-2 appropriates 3.46 cubic feet of water per second from French Creek with the points of diversion located in the NE 1/4 NW 1/4 Section 27; NW 1/4 NE 1/4, NE 1/4 NE 1/4 Section 28; to irrigate 242 acres located in the NE 1/4 NE 1/4 Section 28; NW 1/4, NE 1/4, NE 1/4 SW 1/4, N 1/2 SE 1/4 Section 27; all in T4S-R7E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: January 1 - December 31.
3. The priority date of the Vested Water Right is April 10, 1909.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Validation of No. 230-2 incorporates the applicable portions of Permit Nos. 68-2, 69-2 and 0223-2 into No. 230-2 and cancels the abandoned or forfeited portions of Permit Nos. 68-2, 69-2 and 0223-2.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

DEC 24 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



230-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

DEC 24 1992

C. L. Edgerton, Jr.
c/o Francis Edgerton
PO Box 147
Hermosa SD 57744

Dear Mr. Edgerton:

The Water Management Board has validated the enclosed Vested Water Right No. 230-2. This validation gives legal status to the claim and is the final document for your vested right.

As long as you use the water beneficially, as stated in the validation, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure

Water Rights Program -- File Documentation

NAME: Dave Reyelts

ADDRESS: 55534 Wildwood Drive, Rapid City SD 57702

DATE: April 29, 1997

COUNTY: Custer

TELEPHONE: 348-8823

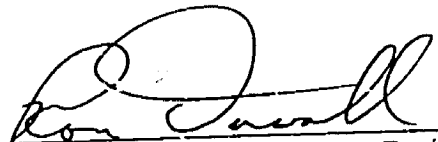
RE: Status of Vested Water Right No. 230-2

COMMENTS:

Dave Reyelts called on April 29, 1997, concerning the status of a ditch running through his property in the NE¼ section 28-T4S-R7E. Mr. Reyelts indicated that he has problems with access to his property due to the ditch. Therefore, if the ditch was no longer in use, Mr. Reyelts was interested in plugging the ditch to provide better access.

In response to Mr. Reyelts request, I investigated to see if any active water rights existed for the irrigation ditch and found Vested Right No. 230-2, C. L. Edgerton. Leroy Mernaugh completed an on-site investigation of Vested Right No. 230-2 in August of 1980 and the vested right was validated in May of 1992. To determine if the ditch was still in use, I called Frances Edgerton (C. L. is deceased) to determine if the ditch is still in use. Ms. Edgerton stated that the ditch has not been abandoned but has not been used lately due to lack of water in French Creek. I informed Ms. Edgerton of my conversation with Mr. Reyelts and she indicated that she in no way wants the ditch to be plugged. I also informed Ms. Edgerton of how a water right can be forfeited due to nonuse and pointed out that the ditch needs to be maintained in a usable condition so that when water is available it can be used for irrigation. Ms. Edgerton indicated that the ditch is usable and that she will inspect the ditch for any needed maintenance.

On April 30, 1997, Mr. Reyelts returned my call to him concerning my conversation with Ms. Edgerton. Mr. Reyelts said a neighbor in the area indicated that the ditch has not been used for 35 plus years. I told Mr. Reyelts how a water right can be abandoned and/or forfeited and that legal excuses do exist for nonuse of water such as problems with water availability. I also informed Mr. Reyelts that he must petition the Water Management Board for a declaratory ruling if he plans to pursue whether or not Vested Right No. 230-2 is a valid water right. If filing a petition, I told Mr. Reyelts he will need to be prepared to make a showing that the vested right has been forfeited due to nonuse which can be very difficult to do. I mailed Mr. Reyelts a copy of the statutes and rules concerning forfeiture of water rights and petition for a declaratory ruling. Finally, I suggested Mr. Reyelts may want to approach Ms. Edgerton with the possibility of putting in a ditch crossing with a culvert.



Ron Duvall, Natural Resources Engineer
Water Rights Program