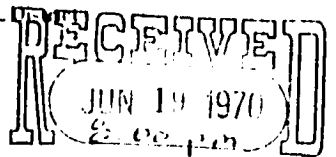


Water Right Number 1760-3

1. Considered July 22, 19 70
2. Name of Applicant James Hepper
3. Post Office Address Tolstoy, South Dakota
4. Amount of Water claimed 6.86
5. Source of Water supply Dugout and sloughs
6. Water to be used for irrigation
Acres to be irrigated 480
7. Water to be diverted and used in Potter County
about 5 miles SOUTH of TOLSTOY
8. Proof of Publication
Received 7-21-70
Not Received _____
9. Application
Approved _____
Subject to _____
Not Approved _____
Action Deferred _____
10. Remarks:

No. 1766-3Map No. 1283.3 Water Division No. 3 JAMES RIVER
(Blanks to be filled by the Engineer for the W. R. 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 James Hepper
Postoffice address Tobstoy S State SD
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor
3. Name of diversion work Hepper Irrigation Project
4. Amount of water claimed (cubic feet per second) 6.86
5. Source of water supply Dug out & Soughs
6. Location of point of diversion Point No 1 - 3200' W & 1000' S - Point No 2 - 2100' W & 1320' S - 05 NE Corner Sec 11 - T119 - R73 & Point No 3 - 2280' - W & 1000' N of SE Corner Sec 11 - T119 - R73 County Potter
7. Annual period or periods during which water is to be used April 1st to Nov 1st
8. Use to be made of water (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use. Total number of acres to be irrigated 480

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.
<u>NW 1/4 Sec 11 - T119 - R63</u>	<u>160</u>		
<u>SW 1/4 Sec 11 - T119 - R63</u>	<u>160</u>		
<u>W 1/2 NE 1/4 Sec 11 - T119 - R63</u>	<u>80</u>		
<u>W 1/2 SE 1/4 Sec 11, T119 - R63</u>	<u>80</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 3 years. Additional time required to complete application of water to the proposed beneficial use 5 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Horn Review, Horn SD
12. Principal Features of the Proposed Water Supply System.

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

Pumping Plant.

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

Portable Pipe

C. Works proposed to apply water to beneficial use.

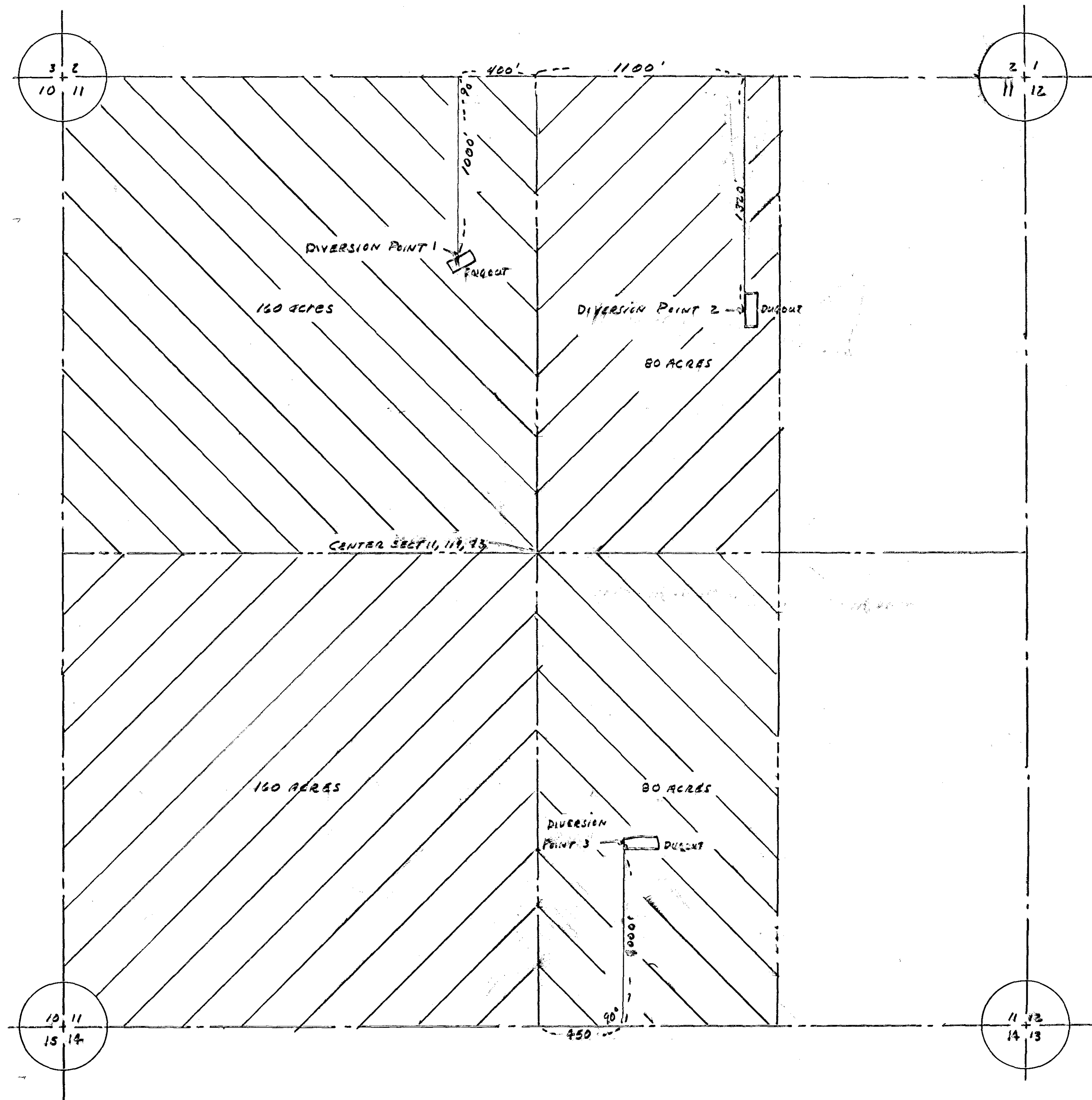
SprinklerEstimated Total Cost \$3600⁰⁰Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of _____

I, James Hepper 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 constructionSigned James HepperSubscribed and sworn to before me this 17th day of June, 1970FLOYD DUFFIN
Notary Public, POTTER COUNTY, S. DAK.
My Commission Expires JULY 19, 1971

Notary Public (or other qualified officer)



AREAS BY LEGAL SUBDIVISION:

ACRES	SECTION	TOWNSHIP	RNG
160	NW 1/4-11	119	73
160	SW 1/4-11	119	73
80	W 1/2, NE 1/4-11	119	73
80	W 1/2, SE 1/4-11	119	73
480 TOTAL			

SURVEYOR'S CERTIFICATE

STATE OF SOUTH DAKOTA) ss
 COUNTY OF BEADLE)
 I, HARLAN W. MEYER, A REGISTERED LAND SURVEYOR
 IN AND FOR THE STATE OF SOUTH DAKOTA, DO HEREBY
 CERTIFY THAT AT THE REQUEST OF JAMES HEPER
 SOLE OWNER, I HAVE SHOWN THE LAND PROPOSED TO BE IRRIGATED
 WITHIN HIS OWNERSHIP BOUNDARIES ON JUNE 15, 1970 FOR WHICH
 APPLICATION FOR APPROPRIATIVE WATER RIGHT IS MADE AND
 THIS MAP IS A TRUE REPRESENTATION OF THE SAME
 WITNESS MY HAND AND SEAL THIS 15TH DAY OF JUNE 1970
Harlan W. Meyer
 REGISTERED LAND SURVEYOR #495

SCALE 1" = 400'

JAMES HEPER IRRIGATION PROJECT #1
 SHOWS AREAS TO BE IRRIGATED & DIVERSION POINTS WHERE
 WATER WILL BE DIVERTED FOR PERMIT TO APPROPRIATE WATER

OWNER
 SURVEYOR

JAMES HEPER
 HARLAN W. MEYER
 JUNE 1970

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1760-3

JAMES HEPPER
(Applicant)

TOLSTOY
(Post Office Address)

SOUTH DAKOTA With the following modifications:
(State)

**APPROVAL OF THIS PERMIT DOES NOT AUTHORIZE THE
DIVERSION OF WATER FOR IRRIGATION PURPOSES FROM THE
SLOUGH WITHOUT THE CONSENT OF ALL OTHER LANDOWNERS
OF LAND CONTAINING THE WATER.**

Date of first receipt of application JUNE 19 19 70

Date of return to applicant for correction, amendments or changes required — 19 —

Date of receipt of corrected application — 19 —

Approved JULY 22 19 70, Recorded in Book 11 Page 165

WATER RIGHT PERMIT NO. 1760-3

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1760-3 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 JUNE 19 19 70
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 22 19 72
3. The whole of said work is to be completed on or before JULY 22 19 73
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 22 19 75
5. The water appropriated shall be used for the purpose of IRRIGATION

6. 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.

7. The amount of the appropriation herein granted shall not exceed 6.86 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and 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 JULY 22 19 75; said water to be used during the following described annual period: APRIL 1 TO NOVEMBER 1

Witness my hand this 28TH day of JULY 19 70

WATER RESOURCES COMMISSION

By: [Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued JANUARY 2 19 73

Water License Issued JANUARY 2 19 73

Permit No. 1760-3Water Diversion No. 3 JAMES RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That James Hepper

_____ the holder _____ of
Permit No. 1760-3, issued upon Application No. 1760-3, bearing date of priority of June 19, 1970
_____ authorizing the diversion of 6.86 cu. ft. per second of the waters of _____
dugout and sloughs County of Potter, State of South Dakota at Point #1,
3200' West and 1000' South, Point #2, 2100' West and 1320' South, both from the NE
cor. Sec. 11, T119N, R73W; Point #3, 2280' West and 1000' North of the SE Corner,
Sec. 11, T119N, R73W. for irrigation

_____ has _____ 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 1.66 cu. ft. per second of water.

Date January 2, 1973

WATER RESOURCES COMMISSION

By

J.W. GRIMES, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1760-3

(1) WHEREAS, On the 19th day of June A. D. 19 70
James Hepper

made Water Right Application No. 1760-3 for a permit to use 6.86 cubic feet per second of the waters of dugout and sloughs

County of Potter State of South Dakota, for irrigation purposes, and

(2) WHEREAS, On the 28th day of July A. D. 19 70
 Permit No. 1760-3 with a date of priority of June 15, 1970

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 22nd day of July A. D. 19 73 and for the application to beneficial use of said water on or before the 22nd day of July A. D. 19 75

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 1.66 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,

for irrigating the following land in Section 11, T119N, R73W

NW $\frac{1}{4}$ 160 acres

SW $\frac{1}{4}$ 160 acres

W $\frac{1}{2}$ NE $\frac{1}{4}$ 80 acres

W $\frac{1}{2}$ SE $\frac{1}{4}$ 80 acres

Total 480 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 James Hepper

_____ of Tolstoy, S.D.

the holder _____ and owner _____ of said permit No. 1760-3 a water right, dating from June 19, 1970

_____ to use of 1.66 cubic feet per second of the waters of dugout and sloughs

in the County of Potter and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at Point #1, 3200' West and 1000' South, Point #2, 2100' West and 1320' South, both from the NE Cor. Sec. 11, T119N, R73W; Point #3, 2280' West and 1000' North of the SE Corner, Section 11, T119N, R73W.

and conduct to and upon portions of Section 31, T119N, R73W, more fully described on the face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 1760-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 2nd day of January A. D.
Nineteen Hundred and Seventy-three

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

1760-3

Publish first publication, on or before June 25, 1970NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

June 25, 1970James Hepper

Notice is hereby given that

whose post office address is Tolstoy, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 6.86 cubic feet of water per second of time from the sloughs and ditches through the Hepper Irrigation Project, the point of diversion of which is to be located in the _____

SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Twp. 119N, Range 73W. Said water to be used for the purpose

of providing irrigation on the following described land:

W $\frac{1}{2}$ and W $\frac{1}{2}$ E $\frac{1}{2}$, Section 11, T119N, R73WThis application No. 1760-3 will be considered by the Water Resources Commission at their office atPierre upon the 22nd day of July, 1970, at 2:00 P. M. All interested persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES, Water Rights Specialistcc: James Hepper, Tolstoy, S.D

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

No. 1760-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Potter) ss.

I, Robert Senn hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Hoven Review

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 Hoven

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

June 25, 1970

July 2, 1970

July 9, 1970

July 16, 1970

Robert Senn
(Signature)

Owner
(Title)

July 16, 1970
(Date Signed)

NOTICE

INTENT TO APPROPRIATE
WATER

Pierre, South Dakota 57501

June 2, 1970

Notice is hereby given that
James Hepper, whose post office
address is Tolstoy, South Dakota,
has made an application in ac-
cordance with the provisions of
the water laws of South Dakota
for a permit to appropriate for
beneficial use 0.88 cubic feet of
water per second of time from
sloughs and dugouts through the
Hepper Irrigation Project, the
point of diversion of which is to
be located in the SW 1/4 SE 1/4
NW 1/4 NE 1/4 and NE 1/4 NW 1/4 of
Section 11, Twp. 119N, Range
73W. Said water to be used for
the purpose of providing irriga-
tion on the following described
land:

W 1/2 and NW 1/4 E 1/2, Section

11, T119N, R73W.

This application No. 1760-3 will
be considered by the Water Re-
sources Commission at their of-
fice at Pierre upon the 22nd day
of July, 1970, at 2:00 P. M. All
interested persons may appear
and be heard.

WATER RESOURCES

COMMISSION

By: BURTON F. JONES,

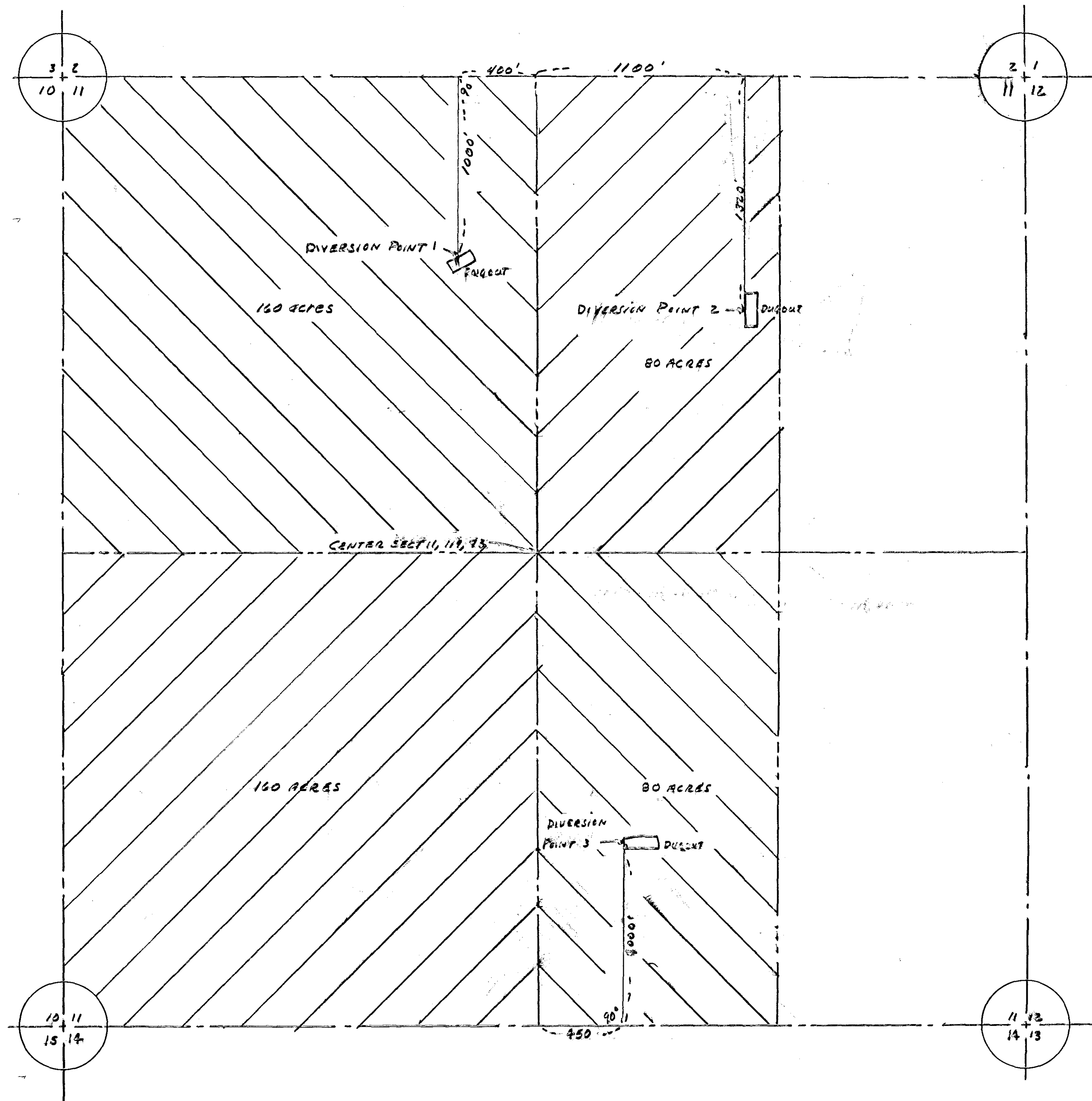
Water Rights Specialist

cc: James Hepper, Tolstoy, S. D.

15-18c

RECEIVED
JUL 25 1970

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA



AREAS BY LEGAL SUBDIVISION:

ACRES	SECTION	TOWNSHIP	RNG
160	NW 1/4-11	119	73
160	SW 1/4-11	119	73
80	W 1/2, NE 1/4-11	119	73
80	W 1/2, SE 1/4-11	119	73
480 TOTAL			

SURVEYOR'S CERTIFICATE

STATE OF SOUTH DAKOTA) ss
 COUNTY OF BEADLE)
 I, HARLAN W. MEYER, A REGISTERED LAND SURVEYOR
 IN AND FOR THE STATE OF SOUTH DAKOTA, DO HEREBY
 CERTIFY THAT AT THE REQUEST OF JAMES HEPER
 SOLE OWNER, I HAVE SHOWN THE LAND PROPOSED TO BE IRRIGATED
 WITHIN HIS OWNERSHIP BOUNDARIES ON JUNE 15, 1970 FOR WHICH
 APPLICATION FOR APPROPRIATIVE WATER RIGHT IS MADE AND
 THIS MAP IS A TRUE REPRESENTATION OF THE SAME
 WITNESS MY HAND AND SEAL THIS 15TH DAY OF JUNE 1970

Harlan W. Meyer
 REGISTERED LAND SURVEYOR #495

SCALE 1" = 400'

JAMES HEPER IRRIGATION PROJECT #1
 SHOWS AREAS TO BE IRRIGATED & DIVERSION POINTS WHERE
 WATER WILL BE DIVERTED FOR PERMIT TO APPROPRIATE WATER

OWNER
 SURVEYOR

JAMES HEPER
 HARLAN W. MEYER
 JUNE 1970

Permit No 1760-3

Water Division 3 JAMES RIVER Water District

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

TO: 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 JAMES
HEPPER of TOLSTOY holder
of Permit No. 1760-3, bearing date of priority of JUNE 19, 1970
authorizing the diversion of 6.84 cu. ft. per second of the waters of DUGOUT & SLOUGHS
for IRRIGATION purposes, in POTTER 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:
CORNELL 4" PUMP W/ 6" OUTLET & 8" INLET
POWERED BY CHRYSLER INDUSTRIAL 225 ENGINE
(PROPANE)

B. Works used to transport water to place of use,
1/2 MILE 6" MAINLINE

C. Works used to apply water to beneficial use.
2 - 1/4 MILE SPRINKLER LINES
WITH RAINBIRD #40 SPRINKLER HEADS - 13/64 ORIFICES

The system is in the following condition: GOOD
POINT #1 - 3200' W & 1000' S } BOTH FROM THE NE COR.
The point of diversion is located POINT #2 - 2100' W & 1325' S } SECTION 11, T119N, R73W
POINT #3 - 2280' W & 1000' N OF THE SE COR. SECTION 11, T119N, R73W

The works are capable of diverting and conveying to the place of use 1.66
cu. ft. per second of water which is to be used for: IRRIGATION

Water has been put to beneficial use to the maximum extent as follows ALL IN SEC 11, T119N, R73W

NW ⁴	160
SW ⁴	160
W ⁴ NE ⁴	80
W ⁴ SE ⁴	80

comprising a total of 480 acres of land.

NOVEMBER 29, 1972
Austin Jones
(Signature)
WATER RIGHT SPECIALIST
WATER RESOURCES COMM.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

October 31, 2013

1760-3

James Hepper
PO Box 23
Tolstoy SD 57475 0023

Dear Mr. Hepper:

I am writing in regard to the irrigation questionnaire you submitted for Water Right No. 1760-3.

On the form you indicated the land is be enrolled in the Conservation Reserve Program. It is my understanding from a phone conversation with Mrs. Hepper that the land is in CRP through 2016. South Dakota water law allows this practice while retaining water rights if the following criteria as discussed in SDCL 46-5-37.2 are met:

- Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:
 1. the water source is not fully appropriated;
 2. if the withdrawal from use does not prevent approval of new permits from the same source, and;
 3. if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

Beginning in 2014, we will hold up on mailing the annual irrigation questionnaire to you until the land comes out of CRP and is again eligible for irrigation. If any changes occur prior to 2016 such as address or ownership changes, please notify our office. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

August 1, 2017

1760-3

Edith Hepper
PO Box 83
Tolstoy SD 57475

Dear Mrs. Hepper:

I am contacting you in regard to Water Right No. 1760-3 listed in the name of James Hepper (copy enclosed).

Irrigators in South Dakota are required to submit an annual irrigation questionnaire reporting how much water was pumped during the irrigation season. Our records show the land authorized for irrigation under Water Right No. 1760-3 has been in the Conservation Reserve Program through 2016.

The purpose of my letter is to find out the status of irrigation on your property. Please take a few minutes and answer the questions on the attached sheet and return it in the envelope provided. **If you have made a decision not to maintain the water right, let me know that as well.**

Thank you in advance for your help in updating the water right.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

RECEIVED

AUG 15 2017

WATER RIGHTS
PROGRAM

Water Right No. 1760-3
James Hepper

Water Right No. 1760-3 authorizes diversion of water from a dugout and sloughs for irrigation of 480 acres in Section 11, T119N, R73W.

A plat book for Potter County indicates the land is held in under the "James & Edith Hepper Trust". Is this still the case?

Yes ☒

No ☐ (If no, please list the name and mailing address of the new owner)

Has the land been re-enrolled in CRP:

Yes ☒ through calendar year 2027

No ☐

If the land has not been re-enrolled in CRP, we will begin mailing irrigation questionnaires to you for annual reporting. Questionnaires are mailed to irrigators in October each year and are due back in December.

For informational purposes:

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.