Form 2 - Application for Permit to Appropriate Water Original (Includes Approval and Permit)

No. 1B1B-3

Map No. _____ Water Division No. 3 JAMES RIVER Di
(Blanks to be Filled by the Engineer for the W. R. C.)

RECEIVED
NOV 12 1969
STATE WATER RESOURCES COM
PIERRE SOUTH DAKOTA

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant Dept. of Game, Fish & Parks

   Postoffice 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 Highland Dam

4. Amount of water claimed (cubic feet per second) 120 acre feet

5. Source of water supply unnamed creek

6. Location of point of diversion SE¼SE¼ 27-122-65

   County Brown

7. Annual period or periods during which water is to be used continuous

8. Use to be made of water. (irrigation, industrial, municipal, commercial, recreation, etc.) public recreation

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.

    40 surface acres

    15' max. 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 is in a well or dugout, or if storage of water is proposed. Attach map. (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)
County Hughes) ss.

I, R. A. Hodgson the applicant, certify that I have read the foregoing application and have examined the attached map and that the facts therein stated are true and that I intend, and am able to complete the necessary construction

Signed _____

Subscribed and sworn to before me this 13th day of Nov 1969

Edward R. Carroll
Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1818-3

DEPT OF GAME, FISH & PARKS (Applicant) PIERRE (Post Office Address)

SOUTH DAKOTA (State) With the following modifications:

"VESTED RIGHT" CLAIMED

Date of first receipt of application NOVEMBER 12, 1969

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

Date of receipt of corrected application —, 19

Approved MARCH 29, 1971, Recorded in Book 11 Page 277

WATER RIGHT PERMIT NO. 1818-3

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1818-3 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 1935

2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~within one year~~

3. The whole of said work is ~~to be~~ completed ~~within five years~~

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 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 120 ACRE FEET ANNUALLY ~~which is not presumed~~; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial purposes~~ ~~and if for the irrigation purpose such appropriation must be limited to not more than 1 acre foot per acre per year and be limited to one thirty-eighth (1/38) of one cubic foot of water per second of time for each acre of land~~ to which water WAS actually and beneficially USED FOR PUBLIC RECREATION ~~applied for irrigation~~ on or before JUNE 30, 1955; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 29TH day of MARCH 1971

WATER RESOURCES COMMISSION

By: [signature]

Chief Engineer/Executive Officer

Certificate of Construction Issued MARCH 29, 1971

Water License Issued MARCH 29, 1971

Form 15.

Permit No. 1818-3

Water Diversion No. 3 James River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That The Department of Game, Fish & Parks

the holder of Vested Right Permit No. 1818-3, issued upon Application No. 1818-3, bearing date of priority of 1935 authorizing the diversion of 120 acre feet annually ~~cu. ft. per second~~ of the waters of an unnamed creek County of Brown, State of South Dakota at a point in the SE¼ SE¼ Section 27, Township 122N, Range 65W, for public recreation - Headgate Dam purposes, 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~~ recognized as satisfactory ~~condition~~ for diverting and conveying to the place of intended use 120 acre feet annually ~~cu. ft. per second~~ of water.

Date March 29, 1971

WATER RESOURCES COMMISSION

By:

J. W. GRIMES, Executive Officer

Form 16.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1818-3

(1) WHEREAS, On the 12th day of November A.D. 1969

The Department of Game, Fish & Parks

made Water Right Application No. 1818-3 for Vested Right permit to use 120 acre feet annually ~~cubic feet per second~~ of the waters

of an unnamed creek

County of Brown, State of South Dakota, for public recreation

purposes; and

(2) WHEREAS, On the 29th day of March A.D. 1971

Vested Right Permit No. 1818-3, with a date of priority of 1935

was issued to said applicant ____ for the diversion of said water, ~~subsequent to~~ recognizing the completion of construction of the water

supply system therein described ~~within the ____ days of ____ A.D. 19__~~ and ~~for~~ the

application to beneficial use of said water ~~within the ____ days of ____ A.D. 19__~~

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 120 acre feet annually ~~cubic feet per second~~

~~per annum~~ 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 recreation 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 & Parks of Pierre, South Dakota the holder ____ and owner ____ of ~~sub~~ Vested Right permit No 1818-3 a water right, dating from 1935 ____ to use of 120 acre feet annually ~~other to be put to use~~ of the waters of an unnamed creek in the County of Brown 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 SE¼ SE¼ section 27, Township 122N, Range 65W

and ~~conducted through~~ stored in place

for the purpose of public recreation Okaton Dam

Subject to any limitations listed in Water Right Permit No. 1818-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota this 29th day of March A. D. Nineteen Hundred and seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, J. W. GRIFFES

Form 2B - Affidavit of Water Use (Supplement to Form 2)

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 & Parks

Post Office Address 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 Data _____

14. Date of start of construction of water supply system 1935

15. Date that water was first applied to beneficial use 1889

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

17. Amount of water originally applied to beneficial use _____ c. f. s.

18. Present Use of Water

Amount of water now being used 120 acre ft c. f. s.

Date that this amount of water was first used _____

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)
) ss.
County of Hughes)

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

Signed _____

Subscribed and sworn to before me this 13th day of June 1989

Edward M. Smith
(Notary Public or other qualified Officer)

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.

_____

_____

Sheet 2

FARM NO. NAME AND ADDRESS

OPERATOR

47-007-21-105

OWNER

Tract No

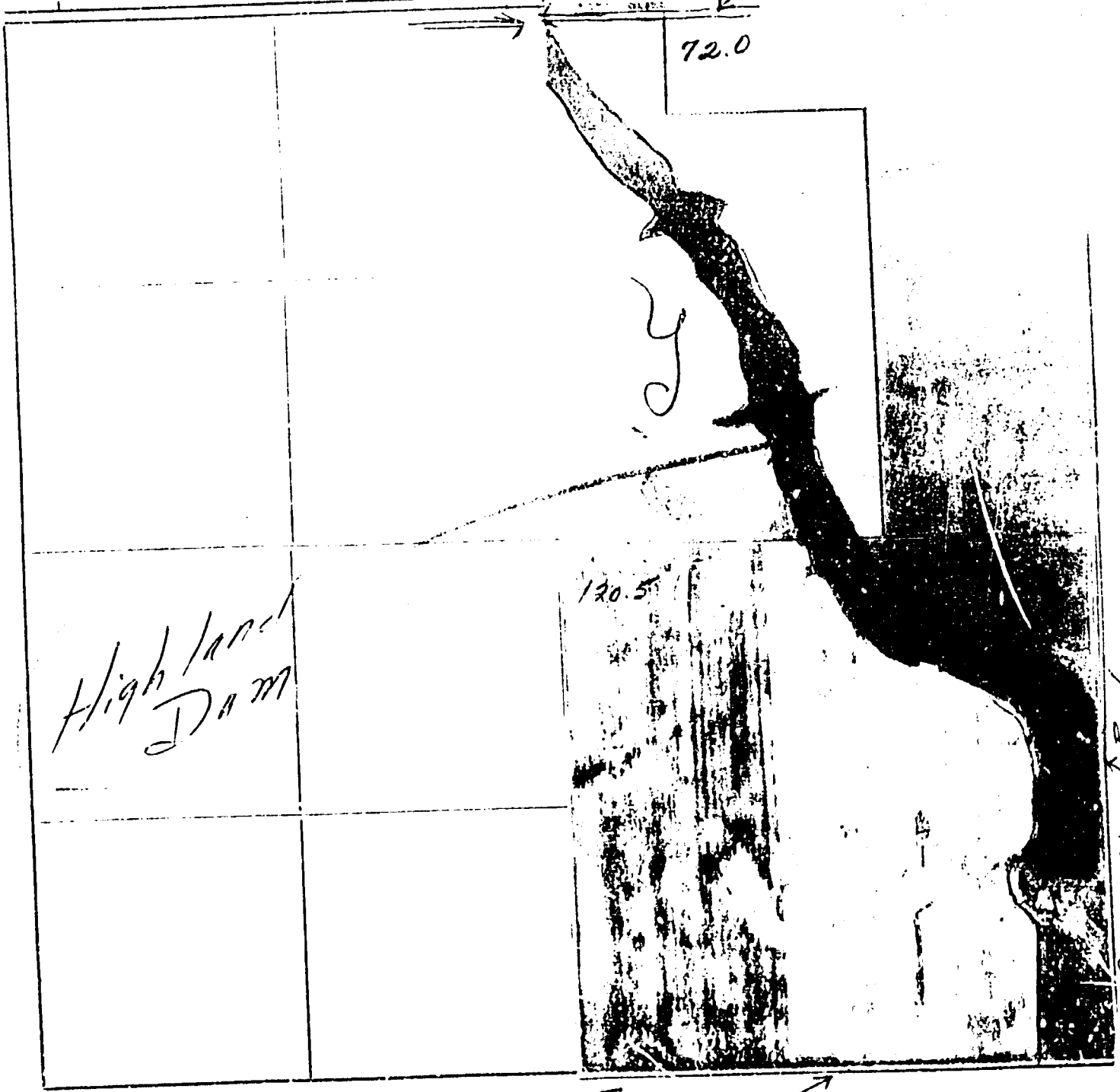
Farm No.

Operator

Owner

Township Road.

72.0



Legal Description 27-122-65 Twnship Road

South Dakota Department of
Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

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

Dear Mr. Beringson:

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

1. Until the outlet elevation for each lake is surveyed and the outlet elevation is set by the Water Management Board.

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

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

1. To include the spillway elevation;

2. To correct the amount of water claimed; and

3. To add any amendments and qualifications necessary to clarify a Vested Right Claim.

CELEBRATE CENTURY 1889-1989

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

Please advise if you have any questions.

Very truly yours,

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

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