

WATER PERMIT NO. 6402-3

Name of Applicant: **Higman Sand & Gravel, Inc.**

Address: **PO Box 109, Arkon IA 51001**

Phone: **712 568-2181**

Amount of Water Claimed: **1,250 AF**

Total Acres: **NA**

Source of Water Supply: **gravel pit**

Water to be used for: **commercial**

County: **Union**

Type of Waste Disposal System:

Location: **15 miles northwest of Elk Point**

PRIORITY Date Received: **3-21-03**

Application/License Fee: **\$475**

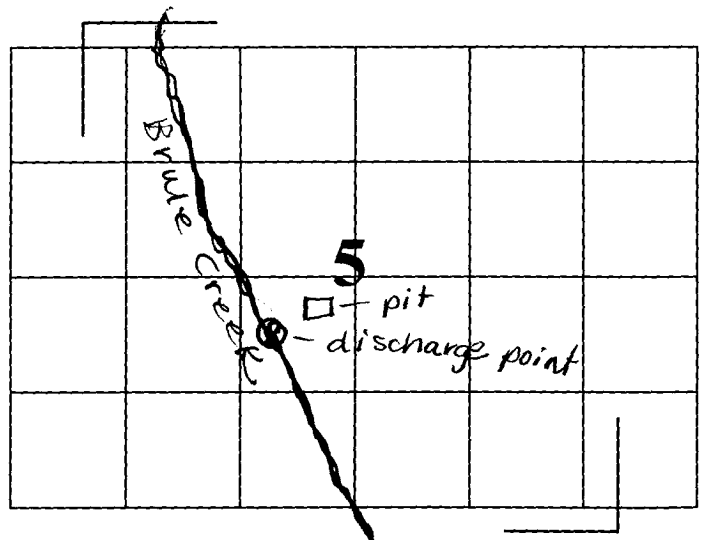
Corrected Application Received: **3-31-03**

Period of Annual Use: **March 1 – October 31**

Remarks:

Diversion Point: **NE ¼ SW ¼ Section 5-T93N-R50W**

Land to be Irrigated:



Depth of Well:

Well Driller: :

Remarks:

Type of Map: **topo**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **4-1-03**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 6402-3**

Date of first receipt of application March 21, 2003.

Date of return to applicant for corrections, amendments or changes March 25, 2003.

Date of receipt of corrected application April 1, 2003.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6402-3 to Higman Sand & Gravel, Inc., PO Box 109, Arkon IA 51001 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6402-3 appropriates 10 cubic feet of water per second (up to 1, 250 acre-feet of water annually) by dewatering a gravel pit located in the NE ¼ SW ¼ Section 5 with the water being discharged into Brule Creek also located in the NE ¼ SW ¼ Section 5; all in T93N-R50W.
2. The water appropriated shall be used for the purpose of commercial use in a sand and gravel operation and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: March 1 – October 31.
4. The date of approval of Permit No. 6402-3 is May 19, 2003.
5. The date from which applicant may claim right is March 21, 2003.
6. One-fifth of the construction is to be completed on or before November 19, 2005.
7. All construction is to be completed on or before May 19, 2008.
8. Water is to be put to beneficial use on or before May 19, 2012.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 6402-3 authorizes a total annual diversion of 1,250 acre feet of water.
2. Permit No. 6402-3 is subject to compliance with Water Management Board Rules Chapter 74:52:01 through 74:52:11, Surface Water Discharge Provisions.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 13 2003

date



FORM 2: Application for uses other than irrigation
(Type or print)

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 6402-3 Hydrologic Unit 10170203
Basin Sioux River
Newspaper Leader Courier, Elk Point

RECEIVED
MAR 21 2003
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☒ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat
☐ Domestic (over 18 gpm) ☐ Industrial ☐ Other _____

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

- Name of Applicant Higman Sand & Gravel, Inc. Phone 712-568-2181
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address PO Box 109, Akron State IA 51001
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed _____ *CFS or 4500 **GPM 1,250 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Gravel pit
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) SW1/4 less 99 acres,
less 100 acres, Sec. 5, County 62, T93, R50 (NE1/4 SW1/4)
County Union
- County or counties where water will be used Union
- Annual period during which water is to be used Intermittent March - October
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
To dewater gravel pit to extract gravel for road and construction projects

Iowa
STATE OF ~~SOUTH DAKOTA~~ SS
County of Plymouth

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Harold Higman, Jr., the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Harold Higman, Jr.

Subscribed and sworn to before me this 18th day of March 2003

LISA K. ROGGATZ
Notarial Seal - Iowa
Commission # 149633
My Commission Expires 12-8-2003

Lisa K Roggatz
Notary Public signature

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter from gravel pit Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others 1/2 mile

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) No system, discharge into Brule Creek
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System _____

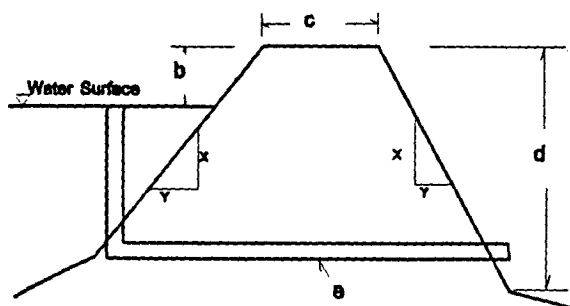
3. Dugout Information

- a) Surface Dimensions 10 acres Depth 12'
- b) Depth to water (ground surface to water level) 1'

4. Water Storage Dams NONE

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

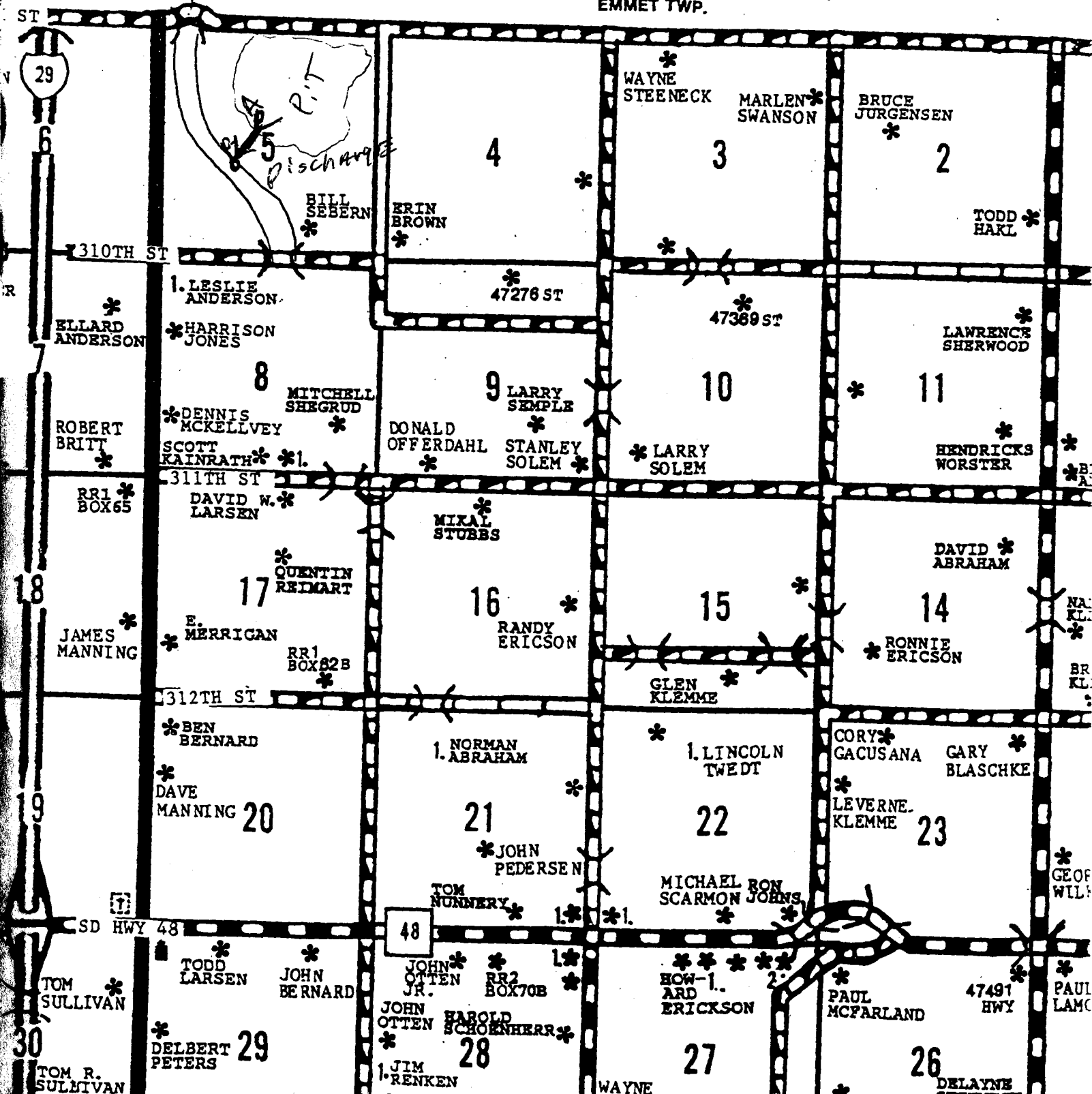


- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

Boulee Creek
A. Pump Location
B. Discharge Point

A.

EMMET TWP.



Higman Sand & Gravel Water Right Permit Application



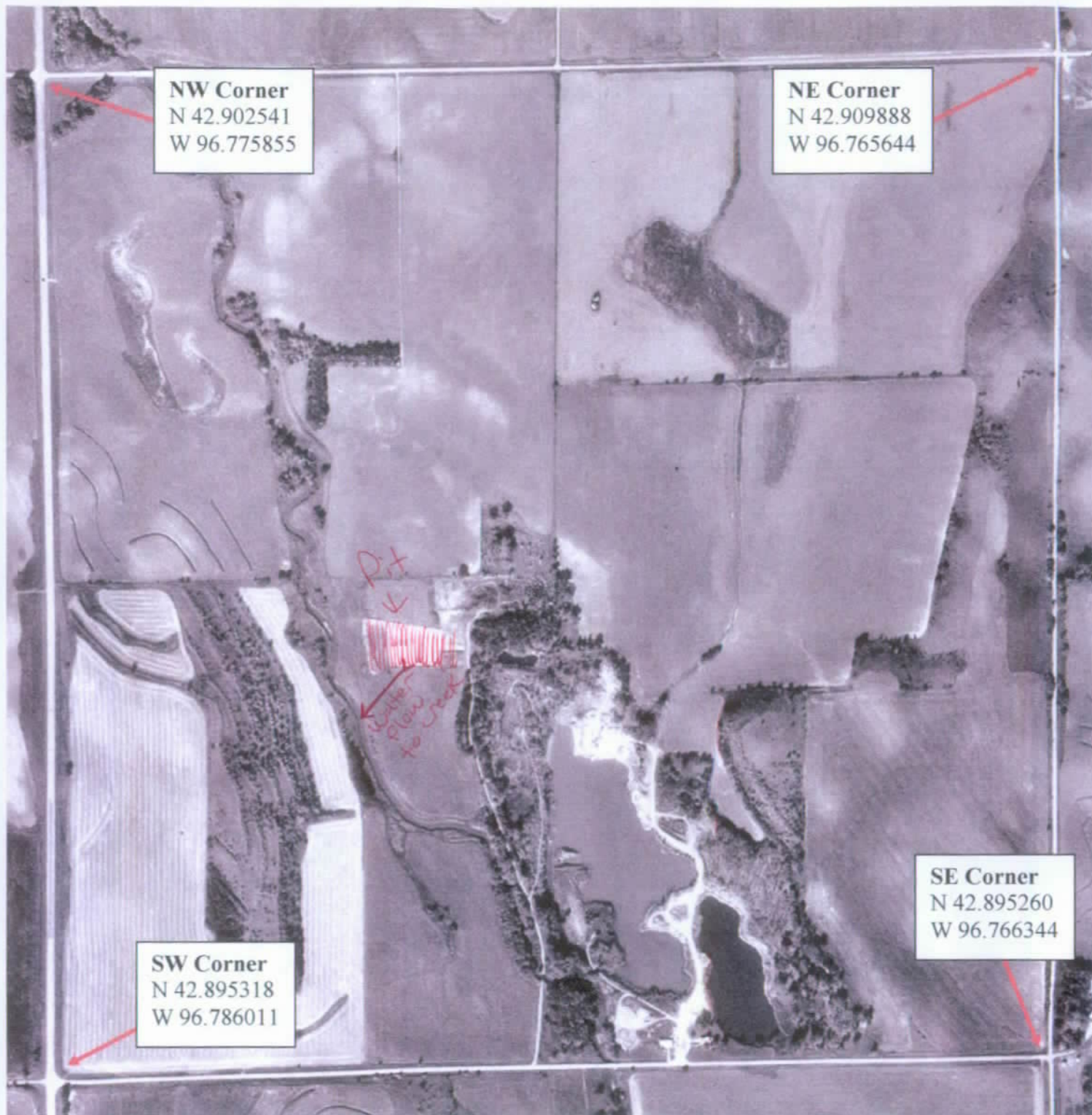
0.3 0 0.3 0.6 Miles



The gravel pit and discharge point are located in
the NE 1/4 SW 1/4 of Section 5, T93N, R62W
50 222

Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
March 31, 2003

6402-3



This picture was downloaded from USA Photomaps. Although it is believed to be an accurate satellite picture of the terrain of Union County (#62) SD, Township #93, Section #5, it is several years old and is not certified by a government agency. If a certified document is necessary, it may be necessary to refer to a topographical map.

Mark Bothwell

Mark Bothwell
Engineering Manager
Masaba Mining Equipment

Date: 3/25/03

6402-3

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date APRIL 1, 20 03

RECEIVED OF Highman Sand & Gravel Inc., Akron IA 51001

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

Fee for Application for Permit No. <u>6402-3</u> to Appropriate Water, to construct and to put water to beneficial use	450	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6402-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	500.00

No.

000704

By

Darlene Erbele

Chief Engineer

gm

Form
2D
NPDES



New Sources and New Dischargers Application for Permit to Discharge Process Wastewater

Outfall Number (list)	Latitude			Longitude			Receiving Water (name)
	Deg	Min	Sec	Deg	Min	Sec	

1

Brule Creek

April 1, 2003

A. For each outfall, provide a description of (1) All operations contributing wastewater to the effluent, including process wastewater, sanitary wastewater, cooling water, and stormwater runoff; (2) The average flow contributed by each operation; and (3) The treatment received by the wastewater. Continue on additional sheets if necessary.

[illegible]

B. Attach a line drawing showing the water flow through the facility. Indicate sources of intake water, operations contributing wastewater to the effluent, and treatment units labeled to correspond to the more detailed descriptions in Item III-A. Construct a water balance on the line drawing by showing average flows between intakes, operations, treatment units, and outfalls. If a water balance cannot be determined (e.g., for certain mining activities), provide a pictorial description of the nature and amount of any sources of water and any collection or treatment measures.

C. Except for storm runoff, leaks, or spills, will any of the discharges described in item III-A be intermittent or seasonal?



Yes (complete the following table)



No (go to item IV)

Outfall Number	1. Frequency		2. Flow		c. Duration (in days)
	a. Days Per Week (specify average)	b. Months Per Year (specify average)	a. Maximum Daily Flow Rate (in mgd)	b. Maximum Total Volume (specify with units)	
1	7	6	7200 MGD	452000MGY	Intermittent 6 mo. period

IV. Production

If there is an applicable production-based effluent guideline or NSPS, for each outfall list the estimated level of production (projection of actual production level, not design), expressed in the terms and units used in the applicable effluent guideline or NSPS, for each of the first 3 years of operation. If production is likely to vary, you may also submit alternative estimates (attach a separate sheet).

Year	a. Quantity Per Day	b. Units of Measure	c. Operation, Product, Material, etc (specify)
2003	7200	MGD	Clear water discharge
2004	7200	MGD	Clear water discharge
2005	7200	MGD	Clear water discharge

A, and B: These items require you to report estimated amounts (*both concentration and mass*) of the pollutants to be discharged from each of your outfalls. Each part of this item addresses a different set of pollutants and should be completed in accordance with the specific instructions for that part. Data for each outfall should be on a separate page. Attach additional sheets of paper if necessary.

Each part of this item requests you to provide an estimated daily maximum and average for certain pollutants and the source of information. Data for all pollutants in Group A, for all outfalls, must be submitted unless waived by the permitting authority. For all outfalls, data for pollutants in Group B should be reported only for pollutants which you believe will be present or are limited directly by an effluent limitations guideline or NSPS or indirectly through limitations on an indicator pollutant.

CONTINUE ON REVERSE

C. Use the space below to list any of the pollutants listed in Table 2D-3 of the instructions which you know or have reason to believe will be discharged from any outfall. For every pollutant you list, briefly describe the reasons you believe it will be present.

1. Pollutant

2. Reason for Discharge

None -- NA

VI. Engineering Report on Wastewater Treatment

A. If there is any technical evaluation concerning your wastewater treatment, including engineering reports or pilot plant studies, check the appropriate box below.

☐ Report Available☒ No Report

B. Provide the name and location of any existing plant(s) which, to the best of your knowledge, resembles this production facility with respect to production processes, wastewater constituents, or wastewater treatments.

Name

L.G. Everist

Location

Dell Rapids, South Dakota

VII. Other Information (Optional)

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations for the proposed facility. Attach additional sheets if necessary.

None -- NA

VIII. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

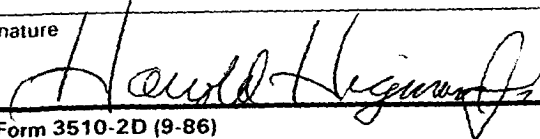
A. Name and Official Title (type or print)

Harold Higman, Vice President of Operations

B. Phone No.

712-568-2181

C. Signature



D. Date Signed



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

South Dakota Surface Water Discharge Program
Application for Permit to Discharge Wastewater

GENERAL INFORMATION

This form is provided by the Secretary of the South Dakota Department of Environment and Natural Resources in accordance with §74:03:18:09 of the Administrative Rules of South Dakota. No South Dakota Surface Water Discharge Permit will be issued except under completion, and submittal of this form to:

South Dakota Department of Environment and Natural Resources
Point Source Control Program
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501-3181

Check the appropriate response:

☐ Permit Renewal

☒ New Application

Indicate type of facility (check most appropriate response):

☐ POTW

☐ Industry

☐ Water Treatment Plant

☐ Federal

☒ Other (please specify)

Construction

PLEASE PRINT OR TYPE

1. Name of Facility:

Higman Sand & Gravel Spink Pit

2. Mailing Address of Owner:

Name Harold Higman, Higman Sand & Gravel
Street PO Box 109
City Akron
State IA County Plymouth Zip Code 51001

3. Mailing address of facility (if different from owner):

Name No mailing address to site only to owner
Street _____
City _____
State _____ County _____ Zip Code _____

Include other local contacts:

Name Harold Higman Title Pres. Phone 712-568-2181
Name David Higman Title Vice Pres. Phone 712-568-2181

4. Telephone Number:

Owner: (712) 568-2181 Facility: () None

FOR SDDENR USE ONLY

Application Number:	_____	Permit Number:	_____
Date Received:	_____	Date Permitted:	_____
New Facility:	_____	Existing Facility:	_____
Receiving Stream:	_____	PCS:	_____

5. Is this facility located on Indian Lands?

☐ Yes

☒ No

6. Please include a brief description of the nature of the business conducted at this facility. Include from one to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility.

Production of sand and gravel for road building and construction purposes.
~~under Mine license #83-213~~

SIC Code

Please list all the activities which require the applicant to obtain a discharge permit.

Dewater of gravel pit in order to extract gravel from reserve.

7. Operational History:

Date Constructed: 6-15-1985

Operational Start-up: 9-15-2025

NOTE: Provide a narrative description of each change or improvement made to this facility, either currently underway or anticipated over the next five years, which will affect the quality of the discharge or generated sludge. For each change or improvement, provide projected dates, as accurately as possible, for completion of each step listed below:

A. Begin Construction 6-15-1985

B. End Construction 9-15-2025

C. Begin Discharge April 1, 2003

D. Operational Level Attained Level usual to production period of April 1 - Oct. 1
as needed. No sludge generated - discharge water is clear.

8. Type of treatment (check all appropriate boxes):

☒ A. No treatment

Stabilization pond:

- ☐ A. Effluent discharge to "Waters of the State"
☐ B. Effluent used for irrigation
☐ C. Total retention - No Discharge
☐ D. Stabilization pond/artificial wetland system
☐ E. Infiltration/percolation basins
☐ F. Aerated Lagoon
☐ G. Other, please explain: _____

Mechanical Treatment Facilities:

- ☐ A. Conventional Secondary Treatment
☐ B. Advanced Treatment - Tertiary
☐ C. Other, please explain: _____

NOTE: Please attach a description of the treatment units employed by the facility, including a line drawing of the current wastewater treatment facility. Waters of the State can not be used for treatment

9. Number of separate discharge points which have an existing or potential release of treated or untreated wastewater (outfalls): 1

Describe the discharge and the type of wastewater from each outfall. Include all overflows, bypasses, or seasonal discharges from lift stations, lagoons, holding ponds, etc.:

Outfall 001 Clear water discharge from gravel pit.

Outfall 002 _____

Outfall 003 _____

Attach additional sheets if necessary.

NOTE: Please place points of discharge on a topographic map, or other map if a topographic map is unavailable. This map should extend to one (1) square mile beyond the property boundaries of the facility and each of its intake and discharge facilities; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, drinking water wells, and surface water intake structures listed in public records, or otherwise known to the applicant in the map area.

10. Are you able to bypass your treatment facility?

- ☐ Yes If yes, which outfall(s) listed above correspond to this bypass discharge? _____
☐ No No treatment facility

11. Is discharge (check one):

- ☐ A. Continuous
☐ B. Intermittent
☒ C. Seasonal
☐ D. No Discharge

If other than continuous, please explain: Discharge as needed to extract gravel from
reserve.

12. Name of Receiving Waters: Brule Creek

If wastewater is discharged to places other than surface water, please explain: _____

13. Type of Sludge disposal (check all appropriate boxes):

- ☐ A. Land Application (please explain): _____
- ☐ B. Surface Disposal
- ☐ C. Landfill
- ☐ D. Other (please explain): _____
- ☒ F. Sludge is not generated or disposed of at this facility

14. If A, B, C, or D was marked in Question 13, provide a narrative on the following sludge production information:

- A. Tons of dry sludge produced each year _____
- B. Average percent solids sludge produced _____
- C. Tons of dry sludge disposed of each year _____
- D. Average percent solids sludge sent for use and/or disposal _____
- E. Attach any sludge monitoring data obtained over the last year (including groundwater monitoring data, results of hazardous waste tests, and results of actions taken to determine whether sludge is hazardous). Include a description of the methods used and sampling locations and dates.

15. List other information which you feel should be brought to the attention of the SDDENR in regard to the issuance of a discharge permit for the facility.

Clear water discharged from gravel pit to Brule Creek on owners
property.

Attach additional sheets if necessary.

16. Type of Discharge (check all that apply):

- ☐ Publicly Owned Treatment Works (Complete Appendix A)
- ☐ Existing Industrial process wastewater (Complete Appendix B)
- ☐ New Industrial process wastewater (Complete Appendix C)
- ☐ Non-contact cooling water, or other non-process wastewater (Complete Appendix D)
- ☐ Storm water associated with industrial activity (Complete Appendix E)
- ☐ Large or medium municipal separate storm sewer system
- ☐ Discharge to sanitary sewer and/or Publicly Owned Treatment Works (Complete Appendix C)
- ☐ Backwash from water treatment plants (Complete Appendix C)
- ☐ Concentrated animal feeding operation (Complete Appendix C)
- ☐ Concentrated aquatic animal production facility (Complete Appendix C)
- ☐ Privately owned treatment works (Complete Appendix C)
- ☐ Federal facility (except those located on Indian reservations) (Complete Appendix C)
- ☐ Silvicultural point source (Complete Appendix C)
- ☒ Other (please specify) Discharge of construction water from gravel pit.

17. Does this application substantially duplicate an application by the same applicant which was denied by the SDDENR or the USEPA within the past five years and which has not been reversed by a court of competent jurisdiction?

☐ Yes

☒ No

18. Existing Environmental Permits

Please check all other Environmental Permits which are held by the facility. Include permit numbers in the space provided:

☐ A. NPDES or SWD (Discharges to Surface Water) _____

☐ B. UIC (Underground Injection of Fluids) _____

☐ C. RCRA (Hazardous Wastes) _____

☐ D. PSD (Air Emissions from Proposed Sources) _____

☒ E. Other (please specify) Mining license #83-213

☐ F. Other (please specify) _____

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I also certify that I will provide for the operation of this facility in accordance with the Rules and Regulations Governing Operation of Water Pollution Control Facilities and will provide certified operators as required by SDCL 34A-3, Water Supply and Treatment System Operators. I am aware that there are significant penalties for submitting false information, including revocation of the permit and the possibility of fine and imprisonment for knowing violations.

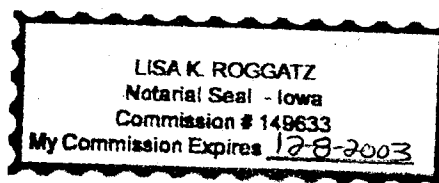
NOTE: Application must be signed by the authorized chief elective or executive officer of the applicant, or by the applicant, if an individual.

Name (print) Harold Higman
Title V.P. of Operations
Date March 12, 2003
Signature *Harold Higman*

Subscribed and sworn to before me this 12th day of March, 2003

Lisa K Roggatz
Notary Public

My commission expires 12-8-2003



Department of Environment and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181
Telephone: (605) 773-3351

STATE OF SOUTH DAKOTA
BEFORE THE SECRETARY OF
THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE	)	CERTIFICATION OF
APPLICATION OF <u>Higman Sand & Gravel</u>	)	
<u>Spink Pit</u>	)	APPLICANT
(FACILITY NAME)	)	
STATE OF <u>South Dakota</u>	)	
COUNTY OF <u>Union</u>	) SS	

I, Harold C. Higman, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

South Dakota Codified Laws Section 1-40-27 provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner or resident general manager of the facility for which application has been made:

- (a) Has intentionally misrepresented a material fact in applying for a permit;*
- (b) Has been convicted of a felony or other crime involving moral turpitude;*
- (c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
- (d) Has had any permit revoked under the environmental laws of any state or the United States; or*
- (e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or*

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

Dated this 12th day of March, ~~19~~ 2003

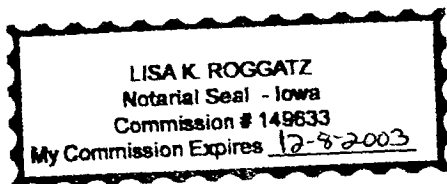
Harold Higney
Applicant

Subscribed and sworn before me this 12th day of March, ~~19~~ 2003

Lisa K Roggatz
Notary Public

My commission expires: 12-8-2003

(SEAL)



PLEASE ATTACH SHEET DISCLOSING ALL FACTS PERTAINING TO
SDCL 1-40-27 (1) (a) THROUGH (e).
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION.

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application -- Higman Sand and Gravel, Inc.

ADDRESS: Box 109, Akron IA 51001 COUNTY: Union Cty

DATE: March 24, 2003 TELEPHONE: 712 568-2181

RE:

COMMENTS:

Mr. Higman returned my phone call. I stated that we received his application in Union County but that there was some clarification that I needed to make.

First, I explained that the map he submitted has to be signed by one of the three entities cited in our instruction sheet. I said the local NRCS would have maps and may be able to help him meet this requirement.

I then discussed the fee of \$1,605 that he submitted. I said that based on the 4500 gpm diversion rate the fee (including the licensing fee) would actually be \$1,725. However, I said that calculating the fee on an acre foot of water basis may result in not as large of an application filing fee. I asked him the frequency they would pump to keep the gravel pit drawn down. Mr. Higman stated they would pump a maximum of only 8 months a year (does not operate during the winter months). In the spring it requires 3 days to pump the gravel pit down and after that they will have to pump a day and a half a week to maintain the desired level.

Based on this information we calculated the water that would be diverted annually at 1,250 acre feet of water. This was based on 1 ½ days for 39 weeks each year and included the 3 day initial pump down. The pump rate is 4,500 gpm. Mr. Higman agreed to the annual volume of 1,250 acre feet of water.

The application filing fee for 1,250 acre feet of water is \$450 plus the \$50 licensing fee for a total of \$500. Mr. Higman stated that would send us a check for that amount.

I told him that we would send him a letter requesting the signed map, returning his application fee and requesting the appropriate fee of \$500.

NAME: *Eric Henderson*



March 25, 2003

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

Harold Higman, Jr.
Higman Sand & Gravel, Inc.
PO Box 109
Akron IA 51001

Dear Mr. Higman:

Thank you for submitting the *Application for a Permit to Appropriate Water* for commercial use in your gravel operation. As stated in your conversation with Eric Gronlund, in order to complete the application the following is required.

- A map showing the location of the diversion point in relation to a government section corner or quarter corner by direction and distance is required. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local NRCS office).
- Enclosed is the check submitted with the application. You indicated to Eric that we should amend the application to an annual volume of 1,250 acre feet of water. The application/license filing fee will be \$500 based on the 1,250 acre feet amount.

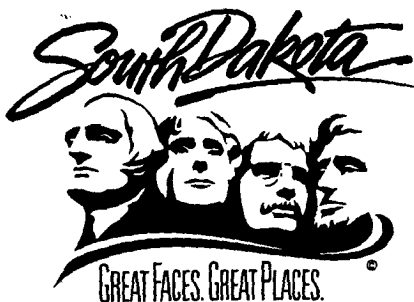
Upon receipt of the above, further processing of your application will continue. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**AMENDED
TEMPORARY PERMIT TO USE PUBLIC WATERS
FOR CONSTRUCTION PURPOSES**

This amended temporary permit to use public waters for construction purposes is issued to Higman Sand and Gravel, of PO Box 109, Akron, IA 51001 authorizing withdrawal of 1,250 acre feet of water at a maximum rate of 6,480,000 gallons per day (4500 gpm) from a gravel pit located in the NE ¼ SW ¼ Section 5, T93N, R50W, Union County. The project involves a sand and gravel washing operation with materials to be used for construction projects.

Water withdrawn from the gravel pit will be discharged to Brule Creek. Any discharge of water to Brule Creek must comply with the "*General Permit for Temporary Dewatering*" issued by this Department.

This amended temporary permit becomes effective April 16, 2003 and expires on October 10, 2003. The original temporary water permit issued on April 9th contained an error in the legal description of the gravel pit. The permit has been amended to correct the error. Approval of this amended temporary permit replaces the original temporary permit.

A regular water permit has been submitted for this project. This temporary water permit will either expire upon approval of the regular water permit or on October 10th, whichever occurs first.

This permit does not provide necessary right-of-way. Such arrangements should be made with the proper land owner.

Garland Erbele

Issued: April 16, 2003

Garland Erbele, Chief Engineer
Water Rights Program
605 773-3352



c: Mike Erickson, Minerals & Mining Program (via email)
Leslie Petersen, Dept. of Game, Fish and Parks
Alice Whitebird, SD DOT Environmental Office

McMath, Genny

From: www2@state.sd.us
Sent: Tuesday, April 08, 2003 4:29 PM
To: genny.mcmath@state.sd.us
Subject: Temporary Permit Request

Name: Higman Sand & Gravel
Address: Box 109
City_State_Zip: Akron, IA 51001
Phone: 712-568-2181
Project_description: Union County Road 1C - Brower Contracting
Water_Source: gravel pit
Location_legal_description: SW 1/4 LESS 99 A, LESS WEST 100 A, SEC. 5, CTY62 T93, R50
Access_area: NA
GFP_yes:
GFP_no: X
Max_water_use: 452000 MGY INTERMITTANT
Max_daily: 7200 MGD
Pump_rate: 4500 GPM
Starting_date: 04/10/03
Ending_date: 10/10/03
US_mail:
E_mail:
Fax: X
e_mail_address: justin@higmansandandgravel.com
Fax_number: 712-568-2658
Submit: Submit

NE 1/4 SW 1/4, T93N, R62W
Sec 5

6480,000
5000

Comments:

Application on file - permanent permit

OK
MDR - 4-9-03

Discharge to Brule Creek



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6402-3, Higman Sand and Gravel, Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6402-3, Higman Sand and Gravel, Inc., c/o Harold Higman, Jr., PO Box 109, Akron IA 51001.

The Chief Engineer is recommending APPROVAL of Application No. 6402-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 6402-3 authorizes a total annual diversion of 1,250 acre feet of water.
2. Permit No. 6402-3 is subject to compliance with Water Management Board Rules Chapter 74:52:01 through 74:52:11, Surface Water Discharge Provisions.

See report on application for additional information.

Garland Erbele, Chief Engineer
April 21, 2003

WATER PERMIT APPLICATION No. 6402-3
Higman Sand and Gravel, Inc.
PO Box 109
Akron, IA 51001
(712)568-2181

Water Permit Application No. 6402-3, Higman Sand and Gravel, Inc., proposes to appropriate up to 1250 acre-feet of water annually for commercial use by dewatering a gravel pit at the rate of 10 cubic feet per second (cfs). Water would be withdrawn from the gravel pit and discharged into Brule Creek, all in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5 T93N R50W. (Attachment 1) Water would be pumped from the gravel pit to allow the extraction of material during the normal production period of March 1 through October 31.

Water Source and Existing Water Rights

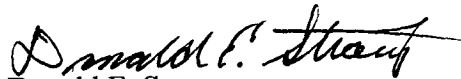
The water source for the proposed project is a gravel pit approximately 1.5-miles south of Union County State Park, SD. The applicant proposes to dewater a gravel pit each spring to enable the extraction of material. Initial dewatering each year would require about three (3) days of pumping. The gravel pit would have to be pumped about a day and a half each week thereafter to maintain the desired water level. The water would be pumped directly into Brule Creek with none being used in the gravel operation.

The applicant has applied for a *Surface Water Discharge Permit* from the SD Department of Environment and Natural Resources Point Source Control Program.

The discharge of water into Brule Creek will not infringe on any prior water rights.

Conclusions

1. Water Permit Application No. 6402-3 proposes to appropriate up to 1250 acre-feet of water annually for commercial use by dewatering a gravel pit at the rate of 10 cubic feet per second (cfs).
2. Discharges of water into Brule Creek should be in accordance with a SD *Surface Water Discharge Permit*.



Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

Reviewed by:



Mark D. Rath
Natural Resources Engineering Specialist
DENR Water Rights Program

References

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

Higman Sand & Gravel, Inc.
c/o Harold Higman, Jr.
PO Box 109
Akron, IA 51001

T93N R50W



Brule Creek

5

Discharge
Point

Gravel
Pit

0.5

1 Miles



Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SSCounty of Union)I, Susan Odsoncertify that the attached printed Notice was
takenfrom the Leader-Courierprinted and published in Elk PointCounty of Union and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

May 1, 2003May 8, 2003Cost of Printing \$ 38.50Susan Odson
(Signature)Affidavits Coordinator
(Title)May 8, 2003
(Date Signed)NOTICE OF APPLICATION
NO. 6402-3 TO
APPROPRIATE WATER

Notice is given that Higman Sand & Gravel, Inc. c/o Harold Higman, Jr., PO Box 109, Akron IA 51001 has filed an application for a water permit to appropriate 10 cubic feet of water per second (up to 1,250 acre-feet of water annually) by dewatering a gravel pit located in the NE 1/4 SW 1/4 Section 5 with the water being discharged into Brule Creek also located in the NE 1/4 SW 1/4 Section 5; all in T93N-R50W. This is for commercial use in a sand and gravel operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6402-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and

any person filing a petition. Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 19, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Publish May 1 and 8, 2003
18-10

RECEIVED
MAY 12 2003
WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

April 22, 2003

Higman Sand & Gravel Inc.
% Harold Higman Jr
PO Box 109
Akron IA 51001

Dear Mr. Higman Jr.:

Water Permit Application No. 6402-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Leader Courier printed at Elk Point, SD (Ph # 605-356-2632). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Instruction to Newspaper - Publish first Notice on May 1, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6402-3 to Appropriate Water

Notice is given that Higman Sand & Gravel, Inc. c/o Harold Higman, Jr., PO Box 109, Akron IA 51001 has filed an application for a water permit to appropriate 10 cubic feet of water per second (up to 1, 250 acre-feet of water annually) by dewatering a gravel pit located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5 with the water being discharged into Brule Creek also located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5; all in T93N-R50W. This is for commercial use in a sand and gravel operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6402-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 19, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

April 22, 2003

Leader Courier
PO Box 310
Elk Point SD 57025-0310

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6402-3 to Appropriate Water to be published twice. Please publish the first notice on May 1, 2003 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Higman Sand & Gravel, Inc., %Harold Higman Jr., PO Box 109, Akron IA 51001 (Ph # 712-568-2181).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 6402-3

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of May 1, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6402-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



JUN 13 2003

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

Higman Sand & Gravel Inc
% Harold Higman Jr
PO Box 109
Akron IA 51001

Dear Mr. Higman Jr.:

Enclosed is Water Permit No. 6402-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

RECEIVED

MAR 21 2016

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 6402-3

Date: 03/15/2016

I/We request that Water Permit No. 6402-3

formerly owned by: Higman Sand & Gravel, Akron IA

be transferred to: (name & address) L.G. Everist, Inc.

PO Box 5829, 300 S Phillips Ave, Suite 200

Sioux Falls, SD 57117

Telephone No. 605-334-5000

Title to the following described land(s)/property has been transferred as described above:

Gravel pit located in the NE ¼ SW ¼ Section 5, T93N, R50W

I/We understand that the validity of Water Permit No. 6402-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We L.G. Everist, Inc., the new owner, certify that the above information is true and correct.



(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/21, 20 16

RECEIVED OF L.G. EVERIST INC PO Box 5829 Sioux Falls SD 57117

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____ 6402-3		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	
	50	00

No. **07794**

By J. Paulman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 29, 2016

6402-3

L G Everist Inc
PO Box 5829
Sioux Falls SD 57117

Dear Sir:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for changing ownership on Water Permit No. 6402-3.

The ownership change has been completed. Water Permit No. 6402-3 formerly held by Higman Sand & Gravel is now listed under "L G Everist Inc."

Enclosed for your records is Receipt No. 07794 in the amount of \$50 which you paid for filing the ownership change. If you have any questions, please contact me.

Sincerely,

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

enclosure

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Chris Klein, QC & Regulatory Manager for L G Everist Inc

DATE: January 4, 2018

TELEPHONE: 605 929-4017

RE: address change for Permit/Right Nos. 5083-3, 5388-3, 5400-3, 5741-3, 5784-3 & 6402-3

COMMENTS:

Chris Klein w/L G Everist Inc sent an email to the Department indicating the corporate mailing address has changed.

See below:



CHRIS KLEIN, L.G. Everist, Inc. – QC & Regulatory Manager

350 S Main Ave, Suite 400, Sioux Falls, SD 57104

605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com

SAFE...RELIABLE...PRODUCTIVE