

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 223

Water Div. No. 2 Fall River Water Dist.

Application Received July 17, 1917

Maps Received

Acknowledgment

Notice for Pub. Mailed Aug 6

Receipt from Newspaper

Copy of Newspaper Rec'd

Notice of Correction

Proof of Pub. Rec'd

Hearing Oct. 6, 1917

Approved

Recorded and Filed

REMARKS:

Notice of Record Rec'd 10-19-17

5-15-73

Talked with surveyor William S. Brown

He has a 6" pump out
will irrigate some different
acres if the creek is in
flood stage.

1019

STATE OF SOUTH DAKOTA
COUNTY OF BROWN

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 is 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 October 1917

Homer M. Darr
State Engineer.

COPY

No. 223

Division No. 2

Battle Creek Water District.

PERMIT

to appropriate water from

Spring Creek

Custer County, South Dakota.

Name of applicant

J. Gordon Brown

Name of diversion works Gordon

Brown Irrigation Works

Date of first receipt at office of State Engineer July 17, 1917

Returned to applicant for Correction

19

Corrected application received

19

Date of water right

July 17, 1917

Recorded in Book 2 Page 318 & 319

One-fifth of work to be completed

April 6, 1919

Whole work to be completed

October 6, 1920

Final proof of use of water

October 6, 1920

Approved October 6, 1917

Homer M. Darr

State Engineer.

No. 223

Water Division No. 2

Battle Creek Water District.

(Checks 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 J. Gordon Brown,
Postoffice address Hermosa 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 Gordon Brown Irrigation Works.
3. Quantity of water claimed 4.10 cubic feet per second.
4. Source of water supply Spring Creek
5. Location of point of diversion is N49°30' E, 500 ft. to the W 1/4 Sec. Corner of Section 26, T. 1 S., R. 8 E. B.H.M. on left bank.
(Right or left bank looking down stream.)
6. Annual periods during which water is to be used during the irrigating season

7. To be used for: Irrigation

(a) Number of acres to be irrigated 284 acres.

(b) Legal subdivisions to be irrigated

NE 1/4 NW 1/4	Sec. 35	32.3	acres
SE 1/4 NW 1/4	" 35	32.2	"
NE 1/4 SW 1/4	" 35	2.6	"
NW 1/4 NE 1/4	" 35	24.9	"
NE 1/4 NE 1/4	" 35	16.2	"
SW 1/4 NE 1/4	" 35	40.0	"
SE 1/4 NE 1/4	" 35	40.0	"
NW 1/4 SE 1/4	" 35	19.6	"
NE 1/4 SE 1/4	" 35	40.0	"
SW 1/4 SE 1/4	" 35	10.3	"
SE 1/4 SE 1/4	" 35	24.9	"

Total... 284.0 acres.

(c) Point where water will be returned to stream 950 ft. north of S.E. Cor. Sec. 35, T 1 S., R 8 E. B.H.M.

State Engineer.

8. Estimated cost of works:

(a) Head gates, \$ 50.00

(b) Pumping plant, \$ none

(c) Fluming, \$ none

(d) Canal-earth, \$ 500.00

Rock, \$ none

(e) Other structures Dam \$ 500.00

Total, \$1050.00

9. Description of diversion works:

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

Diversic; dam and ditch

II. Dimensions of works:

(a) Dam: Height 6.5 feet; length bottom 77.0 feet; length at top - - - feet; thickness at bottom - - - feet; thickness at top - - - feet; slope of front (water) face 2 - - - ; slope of back face - - - ; material used in construction Pile and timber.

(b) Reservoir: Capacity when filled none acre feet. Surface area at highwater mark none acres.

DEPTH AT OUTLET—FEET	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	FEET OF CAPACITY AT EACH FEET

(c) Head gate: Width 5.0 feet; height 5.0 feet; Material Timber

(d) Canal: Total length 1.55 miles.

LOCATION BELOW HEADGATE	DEPTH 1.5	BOTTOM WIDTH 5.0	WIDTH AT WATER LINE 7.0	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 three years.

11. Time required for complete application of water to the proposed beneficial use three years.

12. Choice of newspaper for publication of notice of intention to appropriate

Hermosa Hustler

STATE OF SOUTH DAKOTA,
County of Pennington ss.

I James Hartgering

being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of

Engineer

(Owner, manager, engineer.)

that I have read the above and

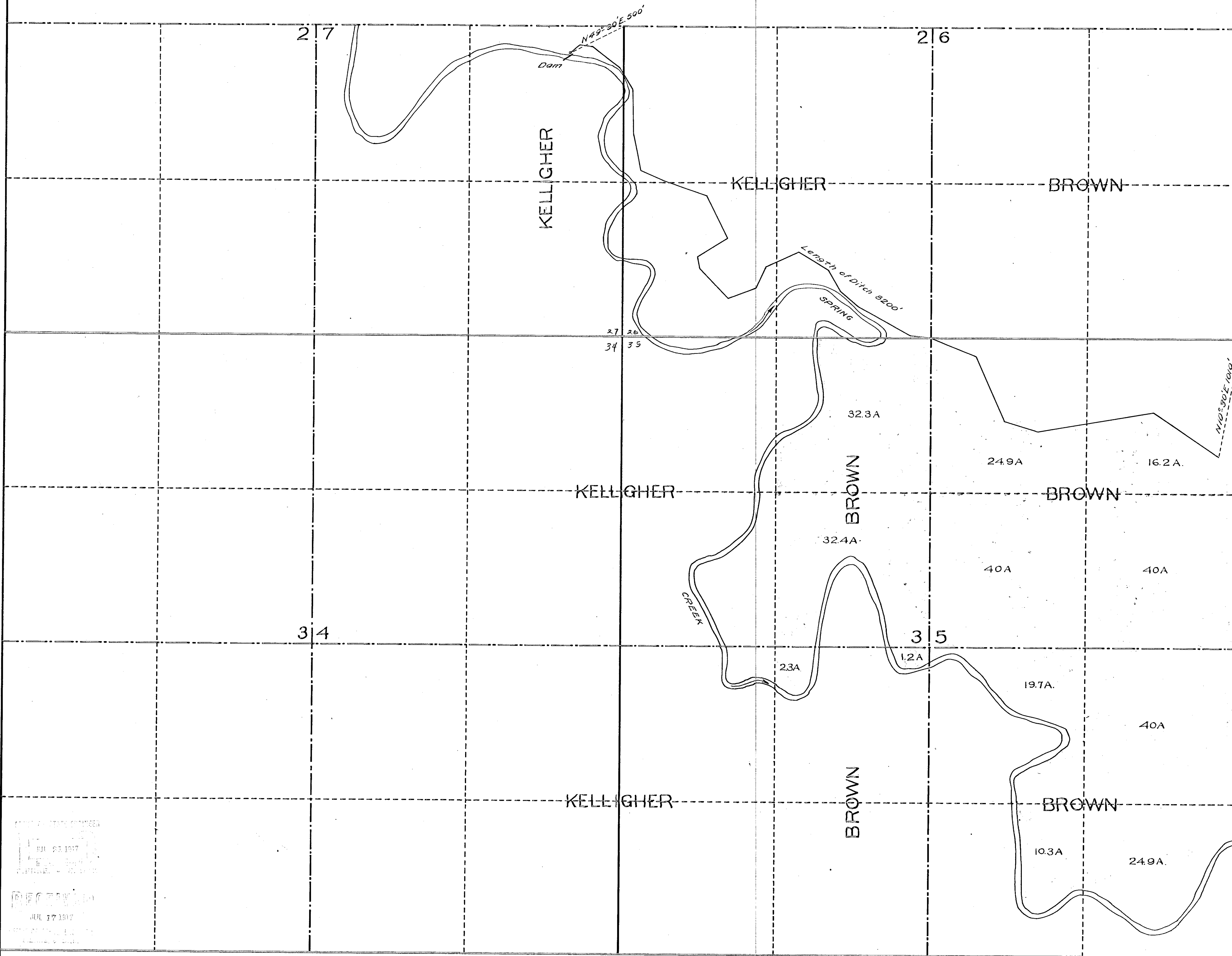
foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed James Hartgering.

Subscribed and sworn to before me this 16th day of July 1917.

(S E A L)

Chas. A. Nyström
Notary Public (or other qualified officer.)



MAP OF THE
J. GORDON BROWN WATER RIGHT.
 Scale 1"=400' T.I.R. & E. B.M.
 State of South Dakota } ss
 County of Pennington }
 I, James Hartgering,
 being duly sworn, say that I am the
 engineer of the J. Gordon Brown Water Right;
 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.
 James Hartgering Engineer.
 Subscribed and sworn before me this
 16th day of July 1917.
 Notary Public.

OFFICE OF THE STATE ENGINEER
 JUL 23 1917
 RECEIVED
 JUL 17 1917

Approved Oct. 6, 1917.
 Homer M. Derr
 State Engineer.

Remarks by State Engineer:

This application is for the right to appropriate for irrigation purposes 4.10 second feet of the waters of Spring creek at the point herein designated in Custer County, diversion to be by means of a dam and ditch.

STATE OF SOUTH DAKOTA
County of Hughes

Pierre, South Dakota, October 6, 1917.

This is to certify that the foregoing application was received at this office at nine o'clock a. m. upon the 17th day of July 1917 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, October 6, 1917.

Homers M. Derr

State Engineer.

Number of permit 223-2

Date of first receipt of application July 17, 1917

Date of return to applicant for correction - - - - - 1917

Date of receipt of corrected application - - - - - 1917

Date from which applicant may claim right July 17, 1917

Approved October 6, 1917 Recorded in Book 2 Page 8 318 & 319.

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 April 6, 1919.

2nd. The whole of said work is to be completed on or before October 6, 1920.

3rd. The amount of time for proof of beneficial use of water appropriated in accordance herewith is October 6, 1920.

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 4.10 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 October 6, 1920; said water to be used during the following described annual periods.

During the irrigating season.

Witness my hand this 6th day of October 1917.

Homers M. Derr

State Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 223-2

WHEREAS, On the 16th day of July A. D. 1917

J. Gordon Brown

of Herreman County of Custer and State of

South Dakota duly made application (No. 223-2) to me for a permit to use -4.10-

cubic feet per second of the waters of Spring Creek

County of Custer State of South Dakota, for irrigation

purposes; and

WHEREAS, On the 6th day of October A. D. 1917

Permit No. 223-2 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 6th day of

October A. D. 1920 and for the application to beneficial use of said

water on or before the 6th day of October A. D. 1920

and,

WHEREAS, On the 22nd day of November A. D. 1919

the holder of said permit duly made proof of the completion of adequate works for the diversion of

-4.10- cubic feet per second of said water, as evidenced by my Certificate No. 223-2

dated October 17th, 1919, confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use -4.10- cubic feet per second of water

with date of priority of July 16, 1917, and,

WHEREAS, On the 22nd day of November A. D. 1919

proof was duly made of the application to beneficial use of -4.10- cubic feet per second of

said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of South Dakota, I hereby grant and confirm to J. Gordon Brown,
of Hermosa, South Dakota the holder and owner of said permit No. 223-2
a water right, dating from July 16th, 1917 to the use of -4.10-
cubic feet per second of the waters of Spring 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 a point on the left bank
of Spring Creek, S. 49 - 30 N. from the West 1/4 Sec. Cor. of Sec. 26,
T. 1. S., R. 8 E. B.H.M.
and conducted to and upon 284.2 acres situated in NE1/4, E1/4, NE1/4, and
SE1/4 of Section 35, Township 1 South, Range 8 E. B.H.M.

for the purpose of irrigation.

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Pierre, South Dakota,
this 1st day of December A. D. Nineteen
Hundred and Nineteen.

SEAL)

(Signed) Homer M. Derr.

State Engineer.

STATE OF SOUTH DAKOTA

Water License No. 223-2

To J. Gordon Brown

Hermosa, S. D.

Source of Supply Spring Creek

County Custer

Am't -4.10- Sec. Feet

Point of Diversion S. 49 - 30 N.
from the W. 1/4 Cor. Sec. 26.

Place of Use NE1/4, E1/4, NE1/4,
and SE1/4 of Sec. 35, T. 1 S.,
R. 8 E. B.H.M.

Purpose irrigation

Date of Priority July 16, 1917.

Recorded Dec. 1, 1919.

in Book 2 of Rec. Page 312.

(First Publication _____ 191____)

APPROPRIATION OF WATER.

Office of the State Engineer,

Pierre, S. D., August 7, 1917.

Notice is hereby given that J. Gordon Brown,
whose postoffice address is Hermosa, 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 -4.10- cubic feet of water per second of time from Spring Creek
through the Gordon Brown Irrigation Works,
the point of diversion of which is to be located upon the left
bank of said stream in the NE 1/4 of the SE 1/4 of section
27 township 1 S. range 8 E., 5. N., said water
to be used for the purpose of irrigation
upon the NE 1/4, NE 1/4 SW 1/4, NW 1/4 SW 1/4 of Section 35, 1 S., R. 8 E., N. 5 N.

This application will be taken up by the State engineer at his office at Pierre for consideration and appropriate action upon the 6th day of October 1917, 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.

State Engineer.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of CusterCh. P. Reinisch

being duly

sworn, deposes and says the annexed printed copy of Notice

Intention to appropriate Water was taken from the

Hermosa 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 Hermosa

County of

Custer

and State of South Dakota,

That the said notice was published in said newspaper on the following dates:

Aug. 30, Sept. 6, 13, and 20th,
1917.in each and every issue of the full number thereof, the first publication being made on the 30th day of Aug.1917 and the last publication on the 20th day ofSeptember 1917, 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 _____ the printer and publisher of

the said newspaper.

Ch. P. ReinischSubscribed and sworn to before me this 29th day of October A. D. 1917.Notary Public Custer County, S. D.

(No. 223-2)

APPROPRIATION OF WATER.

B. D. August 7, 1917.

Notice is hereby given that J. Gordon Brown, whose postoffice address is Hermosa, 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 4.10 cubic feet of water per second of time from Spring Creek thru the Gordon Brown Irrigation Works, the point of diversion of which is to be located upon the left bank of said stream in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 27, township 18, range 8E, B. H. M., said water to be used for the purpose of irrigation upon the SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 35, T. 18, R. 8E, BHM.

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 6th day of October, 1917, at 9 a. m., at which time all persons who believe that the project rights would be seriously 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. Dorr,
State Engineer.

Permit No. 223-2Water Division No. 2 Battle Creek Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated Sept. 17
1919, I have this day made a thorough examination of the diversion works constructed by
J. Gordon Brown of Hermosa, S.D.
Custer County, South Dakota, holder of permit No. _____, issued
upon application No. _____, bearing date of priority of _____, authorizing the
diversion of _____ second feet of the waters of _____ for
purposes. I have to report on the condition of the same as follows:

The diversion works comprise: A timber crib rock filled dam and timber
headgate.

and the system is in the following condition: It is in good condition and was operating
very successfully.

The point of diversion is located on the left bank of French Creek, S 49-30W
from the West 1/4 Sec/ Cor. of sec 26.

The works are capable of diverting and conveying to the place of use -4.10- second-feet of water,
which is to be used for irrigating purposes only.

The legal sub-divisions to be irrigated are: N E 1/4; E 1/2 of the NW 1/4; the NE 1/4
of the SE 1/4 and the SE 1/4 all of Sec. 35.

_____ comprising a total of 264.2 acres of land.
The domestic use intended comprises irrigation only.

The utilization for power, mining, or other beneficial uses comprises: _____

Witness my hand, this 17th day of October A. D. 1919.

[Signature]
Examining Engineer.

Permit No. 223-2

Water Division No. 2 *Beale Creek* Water District

Certificate of Application of Water to Beneficial Use.

Deposition of Holder

Ques. 1. State your name, residence, occupation, and postoffice address.

Ans. J. Gordon Brown, Harrosa, S.D. Rancher.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. Permit No. 223-2. Date of Priority July 17, 1917.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. *Spring* French Creek, S. 49-30 N. from the west 1/4 section of Sec. 26.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other work by which water is conducted to such place of use.

Ans. The diversion works consist of a timber crib, rock-filled dam, timber headgate and ditch capable of conveying 4,000 cu. ft. per Sec. The name of the canal is the Gordon Brown Ditch.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. The water is to be used for irrigation. the following sub-divisions are irrigated, NE 1/4-121.1 A.; E 1/2 of NW 1/4-64.7 A.; NE 1/4 of SE 1/4-3.5 A.; SE 1/4-94.9 A.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans.

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. -4.10 second feet.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. _____

(Sign.)

James Gordon Brown

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Rapid City County of Pennington

State of South Dakota, on this 2-2nd

day of November

A. D., 1917

Albert H. Brown
Notary Public

Permit No. 223-2

**Proof of Application of Water to
Beneficial Use.**

DEPOSITION OF HOLDER.

Amount of water 4.10 second feet

Source Spring Creek

County Custer

Purpose Irrigation

Place of Use N. 4. E. 3. NW. 1/4 Sec. 36

SE. Sec. 35. T. 1. S. R. 4 E.

Date of priority July 26, 1917

Received and filed Nov. 15, 1919