

No. 277

Division No. 2

Keya Paha District.

PERMIT

to appropriate water from

Eagle Creek

Tripp County, South Dakota.

Name of applicant

Doris Turney

Name of diversion works

Eagle Butte Diversion Works

Date of first receipt at office of State

Engineer Nov. 22 1938

Returned to applicant for Correction

Nov. 22 1938

Corrected application received

Prior to Dec. 28, 1938

Date of water right

November 22 1938

Recorded in Book 2 Page 452-453

One-fifth of work to be completed

August 15 1938

Whole work to be completed

February 15 1940

Final proof of use of water

February 15 1944

Approved February 15 1939

State Engineer.

NO. 277

Water Division No. 2

Koyah P. Co.

District.

(Blanks to be filled by the State Engineer.)

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

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

1. Name of applicant LUELLA
Luella Tarney
 Postoffice address Glennfield, Wyo., Tripp, State South Dakota.

I. - 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, \$ 2000.00

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$ 1000.002. Name of diversion works Eagle Butte Diversion Works3. Quantity of water claimed 0.673 cubic feet per second.4. Source of water supply Eagle Creek

of secs. 21 & 28 from a point 2073 feet west of the 1/4 sec. cor. of the 6th P. M., S. 34 1/2' N., 1264.4 ft. thence S. 28° 29' E. 58.3 ft. to diversion point No. 1. From a point 1081 ft. west of said on left bank. Point No. 2, Rightbank. 174 sec. cor. S. 10° 34' E., 1136.8 ft. to (Right - left bank looking down stream.)
 5. Location of point of diversion
 6. Annual periods during which water is to be used March to November

7. To be used for: Irrigation purposes only.

I. Irrigation or domestic use:

(a) Number of acres to be irrigated 47.09 acres

(b) Legal subdivisions to be irrigated all in NW 34 sec. 28 E. T9 S. 37 N. R. 25 N. of the 6th P. M. total 47.09 Acres.
 (NOTE--A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.)

II. Mining, power, manufacturing, transportation, or other purposes:

(a) - Nature of use

(b) - Amount of power to be generated - horse power

(c) - Location of plant

(d) - Method of developing power

(e) - Point where water will be returned to stream

State Engineer.

8. Estimated cost of works:

(a) Head gates, \$.....

(b) Pumping plant, \$220.00.....

(c) Fluming, \$.....

(d) Canal-earth, \$170.00.....

Rock, \$160.00.....

(e) Other structures.....

\$50.00.....

Total, \$400.00.....

9. Description of diversion works:

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

Check dam in running stream, ditch, pumping plant, etc. Small reservoir

II. Dimensions of works:

(a) Dam: Height.....6.....feet; length at bottom.....50.....feet; length at top.....120.....feet; thickness at bottom.....25.....feet; thickness at top.....12.....feet; slope of front (water) face.....rock wall.....; slope of back face.....1.....; material used in construction earth, rock and lumber.....

(b) Reservoir: Capacity when filled.....2.....acre feet. Surface area at highwater mark.....1.....acres.

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

(c) Head gate: Width.....feet height.....feet

Material.....

(d) Canal: Total length.....4000.....feet miles

LOCATION, BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At 1st Mile	2 feet	1 1/2 feet	3 feet	5 feet
At 2nd Mile	feet	feet	feet	feet
At 3rd Mile	feet	feet	feet	feet
At 4th Mile	feet	feet	feet	feet
At 5th Mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work.....1.....years.

11. Time required for complete application of water to the proposed beneficial use.....5.....years.

12. Choice of newspaper for publication of notice of intention to appropriate.....Todd County Tribune

STATE OF SOUTH DAKOTA,

County of Todd.

ss.

I, David Turner,

being first duly sworn

on my oath depose and say: That my relation to the above described undertaking is that of.....

Owner

(Owner, manager, engineer.)

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

Signed

Dons Priney

Subscribed and sworn to before me this 19 day of NOVEMBER, 1938

Notary Public (or other qualified officer.)

WR # 277-2



I, L. D. Lyman, Registered Land Surveyor in and for the State of South Dakota, as Surveyor for the Eagle Butte Diversion Works, do hereby certify that this plat is a true and correct representation thereof, and that the facts set forth in the accompanying application are true.

L. D. Lyman.
Registered Land Surveyor, No. 84, S.D.

State of South Dakota } s.s.
County of Jones }

Be it known, that on this 30 day of September, A.D. 1938, personally appeared before me, L. D. Lyman, the Surveyor above named, and certified to the correct execution of this plat.

Notary Public.

AREAS AND DESCRIPTIONS OF LANDS TO BE IRRIGATED.

NE 1/4 NW 1/4	Section 28	10.36	Acres.
NW 1/4 NW 1/4	"	27.88	"
SW 1/4 NW 1/4	"	7.79	"
SE 1/4 NW 1/4	"	1.06	"
Total		47.09	"

The Entire Tract is Irrigable Land.

MAP OF EAGLE BUTTE DIVERSION WORKS IN NE 1/4 OF SECTION 28, T37N., R25W., 6th P.M. TODD COUNTY S.D.

Scale 1 in. = 100 ft. Variation 13° 00' E., Jul. 10, 1938.
Doris Turney, Owner.
L. D. Lyman, Cadastral Engineer.
Registered Land Surveyor No. 84.

(WR # 277-2)

318-2

(WR-277-2)

318-2

Remarks by State Engineer:

The right to use 0.67 cu. ft. per sec. of water for irrigation from Eagle Creek is approved subject to the exception that the works shall be so constructed that an amount of not less than six gallons per minute shall be by-passed around the point of diversion continuously when an amount of nine gallons or more is flowing in the stream above the point of diversion. When the flow above the point of diversion is less than nine gallons per minute, not less than two-thirds of the amount so flowing shall be by-passed continuously. The water so by-passed shall be for use of riparian land owners below the point of diversion for domestic and stockwater purposes.

STATE OF SOUTH DAKOTA,

County of Hughes ss.

Pierre, South Dakota, February 15, 1939

This is to certify that the foregoing application was received at this office at 2:30 o'clock P. m. upon the 22nd day of November 1938 and that after examination it was returned for correction and later published and taken up for consideration on February 15, 1939. Written protest was received from Fred Menke, a riparian owner below the point of diversion and the water right was approved subject to the above exception.

Samuel Loucks
State Engineer.

Number of permit 277-2

Date of first receipt of application 2:30 P.M. November 22 1938

Date of return to applicant for correction November 22 1938

Date of receipt of corrected application Prior to December 28 1938

Date at which applicant may claim right 2:30 P.M. November 22 1938

Approved Feb. 15 1939. Recorded in Book 452-455

It 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 August 15 1939

2nd. The whole of said work is to be completed on or before February 15 1940

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is February 15 1944

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 0.67 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 February 15 1944; said water to be used during the following described annual periods:

March to November

Witness my hand this 23rd day of February 1939

Samuel Loucks
State Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE No. 277-2

WHEREAS, On the 22nd day of November A. D. 1938

Mr. Dixie Turney

of Clearfield County of Tripp and State of South Dakota duly made application (No. 277-2) to us for a permit to use .67 cubic feet per second of the waters of Eagle Creek County of Tripp, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 23rd day of February A. D. 1939 Permit No. 277-2 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 15th day of February A. D. 1940 and for the application to beneficial use of said water on or before the 15th day of February A. D. 1944 and,

WHEREAS, On the 17th day of August A. D. 1967 the holder of said permit duly made proof of the completion of adequate works for the diversion of .50 cubic feet per second of said waters, as evidenced by our Certificate No. 277-2 dated August 28, 1967 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use .50 cubic feet per second of water, with date of priority of November 22, 1938 and,

WHEREAS, On the 17th day of August A. D. 1967 proof was duly made of the application to beneficial use of .28 cubic feet per second of said water; for irrigation of 20 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T37N, R25W

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,

Mr. Doris Turney

We hereby grant and confirm to

Clearfield

277-2

of the holder and owner of said permit No.

November 22, 1938

.28

a water right, dating from to the use of

cubic feet per second of the waters of **Eagle Creek**

In the County of **Tripp** and State of South Dakota, or so much thereof as may be

necessray for the purposes hereinbelow mentioned, to be diverted at **a point in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T37N, R25W**

and conducted to and upon **20 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T37N, R25W**

for the purpose of **irrigation, subject to any limitations listed in the**

Permit to Appropriate Water, and

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 seal of our office at Pierre, South Dakota,
this **28th** day of **August** A. D. Nineteen
Hundred and **Sixty-seven**

State Water Resources Commission

By:

J.W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 277-2

KEYAPAH RIVER
 Water Division No. 2 Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Mr. Doris Turney

of Clearfield, County of Tripp, and State of
South Dakota, the holder of Permit No. 277-2 issued upon Application
 No. 277-2, bearing date of priority of November 22, 1936, authorizing the diversion of
.67 cu. ft. per second of the waters of Eagle Creek
 County of Tripp, State of South Dakota, at point in the NW 1/4 NW 1/4
Section 28, T37N, R25W

for irrigation
 purposes, has fully 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 .50 cu. ft.
 per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,
 to-wit: 20 acres in the NW 1/4 NW 1/4, Section 28, T37N, R25W

Witness my hand this 28th day of August A. D. 1967

State Water Resources Commission

By:

J.W. GRIMES
 Chief Engineer, Executive Officer

100

July 19, 1974

all they had to release.

After turning down the
call, a call was made
from the state
Attorney at Winner - a
gross state stated that
Mr. Harold Salt immediately
down the line. The Davis
family had been not receiving
enough water for livestock
watering purposes.

The day was on Monday
by a Mrs. Davis, Torrey, and
operated by a Richard
Batchelor.

I called Batchelor. Richard
was not home. I talked to
Mrs. Batchelor. She said
they were releasing 6 p.m.
and she understood that is all.

I told her under their
garage No. 277-2, they
were not authorized to have
a storage tank on Eagle
Creek.

I also said to the other
water was available, that
amount needed for domestic
livestock watering must be
released.

Mrs. Batchelor said she would
contact her husband at once
and they would be in their water.

I said he didn't do this, I
should be notified at once.

100

July 19, 1954

Devorck(?) - Eastern Todd Co. —

Creek (Eagle) being dammed off
and irrigation taking just about
all flow. On Mrs Turney land
N¹/₂ Sec 28 - T37-R25 — Deeded land
Stream flows year around — Not
enough water being bypassed for
livestock

Indicated would call back,

605/557-3317 - Williams

Joe Devorck 557-3310 No Answer

Luella Turney 557-3592 No Answer

Will call

Jerome

605-422-3860
→ 557-3317

Richard Batchlor -
Batchlor

60 375-

RECEIVED

No. 227-2

3-1939

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.
PROOF OF PUBLICATION

No. 277-2

(First Publication Jan. 5, 1939)
APPROPRIATION OF WATEROffice of the State Engineer
Pierre, S. D., December 28, 1938

Notice is hereby given that Dor's Turner whose postoffice address is Clearfield, Tripp 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 0.67 cubic feet of water per second of time from March to November through Eagle Creek, the point of diversion of which is to be located upon the Left bank of said stream in the NW 1/4 of Section 28, Township 37 N, Range 25 W. 6th P. M., said water to be used for the purpose of irrigation only upon the NW 1/4 Sec. 28, T. 37 N., Range 25 W., 6th P. M.

(This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 15th day of February, 1939, 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 relation.

RECEIVED
FEB 3 1939
OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

STATE OF SOUTH DAKOTA }
County of Todd } ss.
Leona P. Figert

being duly
sworn, deposes and says the annexed printed copy of Notice
of Intention to Appropriate Water was taken from the
Todd County Tribune
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 Mission
County of
Todd
and State of South Dakota;
that the said notice was published in said newspaper on the
following dates:

Thursday, January 5, 1939

Thursday, January 12, 1939

Thursday, January 19, 1939

Thursday, January 26, 1939

in each and every issue of the full number thereof, the first
publication being made on the 5th day of January
1939 and the last publication on the 26th
January 1939, 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.

Subscribed and sworn to before me this 27 day of January A. D. 1939

Notary Public Todd County, S. D.

Form 9-Notice of Intention to appropriate Water

No. 277-2

(First Publication 191)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., December 28 1917 38

Notice is hereby given that Doris Turvey
whose postoffice address is Clearfield, Tripp
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 0.67 cubic feet of water per second of time from
March to November through the
 , the point of diversion of which is to be lo-
cated upon the Left bank of said stream in the
of the of section 28 township 37N range 25W. 6th P. M.
said water to be used for the purpose of Irrigation only
 upon the Sec. 28, T. 37N., R.
25W., 6th P. M.

This application will be taken up by the state engineer at his office
at Pierre for consideration and appropriate action upon the 15th
day of February 1917 39 at 9 a. m., at which time all per-
sons 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.

RECORDED
MAY 28 1940

Permit No. 277

Water Division No. 2

Koya Taha

Water District

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Certificate of Application of Water to Beneficial Use.

Deposition of Holder

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

Ans. Doris Turney - Clearfield - Owner

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. 277-2 Priority date - Nov. 22, 1938.

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

Ans. Eagle Creek - Same as on permit.

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 works by which water is conducted to such place of use.

Ans. Pumping Station No. 1 - Pump Capacity

300 g.p.m.

" " No. 2 "

300 g.p.m.

Min. ditch Capacity - Size 3' 14" Fall, 600' in. Depth 14' in.

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. Irrigation

18

acres irrigated in NW 1/4 Sec. 28, T.37N., R.25W.

acres irrigated in SW 1/4 Sec. 28, T.37N., R.25W.

acres irrigated in SE 1/4 Sec. 28, T.37N., R.25W.

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. 67 cu.ft. per sec.

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.

6 gal. per min. or more has been by-passed around the points of diversion by means of a " pipe as required by the permit.

3/4" opening in lowest board in gate in dam - with a head of 2.5 ft.

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

Ans. Water used during Months of July Aug, 1939
" " " " " " 1940
40 cu.ft. per sec. was average use during irrigation season 1939 & 1940

(Sign.) Doris Turney

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 Winnipeg County of Trinity

State of South Dakota, on this 27 day of May A. D., 1940
Geo M. Bailey
Notary Public

Permit No.

Proof of Application of Water to
Beneficial Use.

DEPOSITION OF HOLDER.

Amount of water..... second feet

Source.....

County.....

Purpose.....

Place of Use.....

Date of priority.....

Received and filed.....

Permit No. 277

RECEIVED

MAY 28 1940

Water Division No. 2

Keya Paha

Water District

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Notice of Completion of Works

(This blank must be filled out by the holder of permit and forwarded to the State Engineer at least 60 days before the time set for completion of works.)

(P. O.) Clearfield, So. Dak.

(Date) May 11, 1940

TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of 0.67

second feet of the waters of the state from Eagle Creek

through the Eagle Butte Diversion Works

for Irrigation

purposes

in accordance with the terms and conditions of a certain permit heretofore issued by the State Engineer of the State of South Dakota.

1. The name of the person or corporation holding said permit is

Doris Turney

2. The postoffice address of such person or the place of business of such corporation is Clearfield,

County of Tripp

State of South Dakota

3. The number of such permit is 277-2 and the date set for the completion of such work is

February 15, 1940

4. Said water to be used for Irrigation purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 0.67 cubic feet per second.

6. The amount of land for which said water is available is

47.09

acres.

particularly described as follows: N.W. 27.38 acres N.E. N.W. 10.36 acres
 S.E. N.W. 1.06 acres, 2 N.W. 2.79 acres all in N.W.
 Sec. 23, T. 27.N., R 25.W., of the E.T. P. 77. Total 47.09

(In case of all canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well known and competent engineer.)

I hereby certify that the facts set forth in the above notice are true.

(Signature.)

Doris Turney

Location No. 277-2Water Division No. 2 Water District**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

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

Ans. Doris Turney, Clearfield, S. Dak.

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. N/A.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. Nov. 22, 1928

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

Ans. Eagle Creek, diversion in NW⁴ NW⁴, Section 28, T37N, R25W

Ques. 5. Describe your works of diversion giving length and height of each dam 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 works by which water is conducted to such place of use, and date of completion of same.

Ans. Palmer waterlifter pump, pipe and spreader ditch. Pump powered by belt from tractor.

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. Irrigation on 20 acres in NW⁴ NW⁴, Section 28, T37N, R25W.

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

Ans. N/A

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

Ans. 0.28

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. N/A

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

Ans. System was completed about 1940 and water has been put to use since then. There has not been more than two years when water was not used.

(Sign) Doris Purney

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 _____, County of _____

State of South Dakota, on this 6th day of September A. D. 1962

Witnesses.

Richard Schuyler
Water Right Specialist

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. _____

**PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE**

PETITION OF HOLDER

Amount of Water _____ c. f. s.

Source _____

County _____

Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

Permit No. 277-2Water Division No. 2Keweenaw River

Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____

I have this day made a thorough examination of the diversion works constructed by _____

Doris Turney

of

Clearfield, ToddCounty, South Dakota, holder of Permit No. 277-2

Issued

upon Application No. 277-2, bearing date of priority of Nov 22, 1938, authorizing thediversion of 0.62 cu. ft. per second of the waters of Eagle Creek for irrigation

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

The diversion works comprise: A Palmer water lift pump permanently mounted with 4" output. Pump is mounted in sump and total lift is 14'. No other information is available. Pump powered by belt drive from tractor. System includes 400' 7" mainline pipe and approx. 1/4 mile of spreader ditch. Land irrigated has been leveled.

and the system is in the following condition: Poor

The point of diversion is located As shown on Map in NW 4 NW 4Section 28, T 32 N, R 25 W.The works are capable of diverting and conveying to the place of use 50 cu. ft. per second of water, which is to be used for irrigationThe legal sub-divisions to be irrigated are: A portion of NW 4 NW 4
Section 28, T 32 N, R 25 W.comprising a total of 20 acres of land.The domestic use intended comprises NoneThe utilization for power, mining, or other beneficial uses comprises: NoneWitness my hand, this 17th day ofAugustA. D. 1962

—SEAL—

Richard D. Schreyer

Examining Engineer.

Water Right Specialist

Permit No. 277

Water Division No. 2 Kona Palm Water District

Certificate of Application of Water to Beneficial Use.

Deposition of Holder

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

Ans. Doris Turney - Clearfield - Owner

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. 277-2 Priority date - Nov. 22, 1938.

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

Ans. Eagle Creek - Same as on permit.

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 works by which water is conducted to such place of use.

Ans. Pumping Station No. 1 - Pump Capacity

" " No. 2 " "

Min. ditch Capacity	Size	Fall	Min. Depth

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. Irrigation

acres irrigated in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, T.37N., R.25W.

acres irrigated in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, T.37N., R.25W.

acres irrigated in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, T.37N., R.25W.

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. cu.ft. per sec.

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.

6 gal. per min. or more has been by-passed around the points of diversion by means of a " pipe as required by the permit.

Form 8 - Acknowledgment of Receipt of Application

No. 277-2

STATE OF SOUTH DAKOTA
office of
State Engineer
Pierre

Nov. 22 19 38

~~Boris Turney~~
Clearfield
South Dakota

Dear Sir:

Your application dated Nov. 19 19 38 for a permit to appropriate water from Eagle Creek through the NW 1/4 Sec. 28, T. 37N., R. 25W. together with a fee of \$5.00 for the examination of same, the receipt of which is hereby acknowledged, was received this day and has been duly filed under the temporary number 277-2. The application will be examined in regular order as soon as possible, after which you will be notified as to further action on your part.

Very respectfully,

State Engineer

By: _____
Deputy:

Application was received 2:30 P.M. Nov. 22, 1938.

E.C.F.

November 25, 1938

Mr. Fred Menke
Clearfield, South Dakota

Dear Mr. Menke:

Since writing you on November 21, 1938 we have received an application from Mr. Doris Turney for a water right to appropriate a small amount of water for irrigation. Before granting this application you will be given an opportunity to discuss the matter with this office.

Very truly yours,

DEAN W. LOUCKS,
State Engineer.

DWL:dh

Clearfield S.Dak.

Nov. 2. 1938

Secretary of Agriculture

Pierre S.Dak.

Gordon Stout.

Dear Sir:

RECEIVED

NOV 17 1938

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

As I live on Eagle Creek, located in Section 22-23-28, Township 37, Range 25 in Todd County, I would like to know if you give water rights?

I understand that Mr. Doris ^{L. 139611 of 11} Turney has applied for a water right, and if this is so can he irrigate and take all the water out of the creek?

In the spring there is plenty of water but in July and Aug. the creek is very low. In 1934 this creek was intirely dry and in this case if Mr. Turney has a water right, I would not have no water for my Cattle and hogs.

As this is a natural stream of water and I depend on it for my stock, I would like to have you inform me as to how I could keep enough water for my stock, which would be impossible if Mr. Turney has a water right.

Would you kindly give this letter your prompt attention, and if this

(over)

should not be the proper
department for this letter
please forward it to the
right place.

Respectfully,
Fred Menke.
Clearfield, S. Dak.

November 21, 1938

Fred Menko
Clearfield, South Dakota

Dear Sir:

Your letter of November 2nd addressed to the Secretary of Agriculture, Pierre, South Dakota, has been referred to this office for attention.

You give your location as being on Eagle Creek in Sec. 22, 23 and 28, T. 37 N., R. 25 W. in Todd County. You are concerned about the water supply for your livestock during July and August and whether or not Mr. Turner, who also lives on Eagle Creek, has applied for a water right.

We have no such application from Mr. Turney and in fact do not find any water right under that name. It might be possible that such a water right could exist if it was recorded in the county prior to 1907. In such event it might be possible to find the record in the County Recorders Office, in this case in Todd County since rights were not required to be filed in the State Engineer's Office until 1907.

It is also possible that such a water right might have been taken out under the name of a former owner and the land later transferred to Mr. Turney. However, we find no record of such a water right in this office.

Very truly yours,

DEAN W. LOUGES,
State Engineer.

DWL:dm

February 16, 1939

Mr. Fred Monke,
Clearfield, South Dakota

Dear Sir:

I have your letter of February 8th in regard to the Turney Water Right. No further protests were received on February 15th and it is necessary that the Water Right be approved. However, this has been done with the provision that requires the works to be so constructed that an amount of not less than six gallons per minute shall be by-passed around the point of diversion continuously when an amount of nine gallons is flowing in the stream above the point of diversion. When the flow above the point of diversion is less than nine gallons per minute, not less than two-thirds of the amount flowing shall be by-passed continuously. The water so by-passed is for use of riparian land owners below the point of diversion for domestic and stock-water purposes.

Relative to additional dams below the Turney site, we do not find a record showing that such dams have acquired any right by appropriation.

We hope that you will find this solution satisfactory and will attempt to make a visit to that section during the summer period of low flow.

Very truly yours,

WM. F. LOUCKS,
State Engineer.

WM:dn

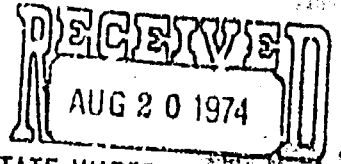
JOHN J. SIMPSON

ATTORNEY-AT-LAW

P. O. Box 167

WINNER, SOUTH DAKOTA 57800

277-2



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

August 19, 1974

Mick Grossenburg
States Attorney
Winner, South Dakota 5758.

Dear Mr. Grossenburg,

Mrs. Turney has given me your letter of July 24, 1974, wherein it has been alleged that Mrs. Turney might possibly be in violation of SDCL 46-5-1.

From the accompanying copies of appropriation rights of Mrs. Turney you will see that they do have a vested right in appropriating water from Eagle Creek which right was granted in February of 1939.

From what Mrs. Turney advises me she has not willfully wasted the water and has not used the same for any unauthorized purpose.

As you know this summer has been extremely dry and the creek has run at a diminished rate accordingly but not by reason of any waste or unauthorized use by Mrs. Turney.

She advises me that she had notified Mr. Sell that he was free to open up the beaver dams so that the water could run for his cattle as she does not want to deprive him of livestock water.

She has now on her own opened such beaver dams and hopes that in the future Mr. Sell and Mr. Dvorak will visit with her about the beaver dams as Mr. McGernick had done in the past so that everyone can receive the benefit of the natural flow of the water with a minimum of difficulty.

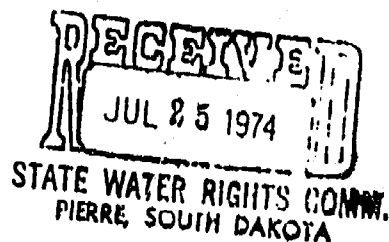
Enclosed are two copies of permit, 1938, water license of 1938 and water license of 1937 with letter of transmittal of February 1939.

Very truly yours,

John J. Simpson

cc: Jerome Dvorak
Harold Sell
Don Driscoll

July 24, 1974



Mrs. Luella Turney
Clearfield, South Dakota

Dear Mrs. Turney:

Please be advised that Mr. Jerome Dvorak and Mr. Harold Sell of your area have filed a complaint with this Office that you have been preventing the natural flow of Eagle Creek to the extent that the complainants have not received sufficient water for their livestock. It is understood that you have an Irrigation Permit, however, such a Permit does not allow one to take water when it would interfere with the vested rights of those downstream.

The complainants mentioned above have asked this Office to write you so that you will not use any more water than you are allowed under the Permit in the future, and that if that amount allowed would interfere with their rights and the natural flow of the stream you will cease irrigating.

A violation of SDCL 46-5-1 which places restrictions on the use of water from a natural stream constitutes a misdemeanor under SDCL 46-5-46.

Sincerely,

Mick Grossenburg
State's Attorney

MG:DO

cc: Mr. Jerome Dvorak, Valentine, Nebraska
Mr. Harold Sell, Clearfield, South Dakota
Mr. Don Drisco, Water Resources Commission, State Capitol
Pierre, South Dakota

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE

Water Rights Division
605 773-3352

October 18, 1982

277-2

Luella E Turney
Hidden Timber RR
Valentine NE 69201

Dear Mrs. Turney:

This letter is in regard to your letter dated October 10, 1982 in which you inquired as to the status of your Water Right No. 277-2.

As long as you continue to irrigate, and do so at least once every three years, your water right remains valid.

You also inquired in your letter as to why you had not received an "estimate of your irrigation" since 1980. I assume you are referring to our yearly irrigation questionnaire. The records in our office show a Clearfield, SD address. Since the questionnaires were not returned by the Post Office, the assumption was made that you were receiving them. Evidently this was not the case. Enclosed please find our 1982 Questionnaire. Please complete the data sheet for our records. If you have not kept accurate records, estimations will be satisfactory.

If you have any questions, please contact this office.

Sincerely,

GENNY YOUNG
Water Rights Specialist

GY:ks

enclosure

10-8-82
Mr John Hatch;

Dear Sir

I have not received a
estimate on my irrigation
since 1980 why?

We have irrigated in the
years of 81-82 this no

277-2 on Eagle Creek

would like to know if
my Water Rights are
still operative able?

Thank you

Luelle & Turney
Hidalgo Timber R.R.
Valentine Neb.



69201
I still live in South Dakota
just my address is changed

RD-KE (S)

Dear Mr. Hatch

It wasn't necessary to irrigate this season on account of all the rain. So we didn't have to use any extra water.

Sincerely In a new center. I was wondering how many acres does it show on your records that Dale Jensen has irrigated in past years?

It would be helpful for me to know. Thank-you

Sincerely,
Richard Rausch

ADDRESS

RICHARD BAUSCH - RENTER

RR2 Box 38

HERMOSA S.DAIR 57744

