

Water Right Number 3147-3

- Considered 11-17, 19 70
2. Name of Applicant ROY BUSHBY
3. Post Office Address HECLA
4. Amount of water claimed 4.00
5. Source of water supply 94' DEEP WELL
6. Water to be used for IRRIGATION
- Acres to be irrigated 280
7. Water to be diverted and used in BROWN County
about 1 N, 1 E Miles 9 of HECLA
8. Proof of Publication Received 1st 11-12-76
Not received _____
9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____
10. Remarks: STANLEY SCOTT
90'-95' DEEP WELL 48" - 34"

1200
7-300

No. 3147-3Map No. 2488.3 Water Division No. 3 JAMES RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant ROY BUSHBY
 Postoffice address HECLA, SOUTH DAKOTA, State 57446
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) CONTRACT
3. Name of diversion work BUSHBY
4. Amount of water claimed (cubic feet per second) 7.5 4.0
5. Source of water supply WELLS
6. Location of point of diversion 5 1/2 13-95 rds N + 35 rds W of Sec 13-128-61
Sub 1 - 70 rds N + 85 rds E of SW cor of Section 1-128-61
 County BROWN
7. Annual period or periods during which water is to be used APRIL / OCTOBER
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
9. For irrigation use, Total number of acres to be irrigated 525.280

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
NW 1/4 13	35		
NE 1/4 13	35		
SW 1/4 13	35		
SE 1/4 13	35		
NE 1/4 14	35		
NW 1/4 14	35		
SW 1/4 14	35		
SE 1/4 14	35		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 2 years. Additional time required to complete application of water to the proposed beneficial use 2 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication ABERDEEN AMERICAN NEWS
12. Principal Features of the Proposed Water Supply System.

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

WELL

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

PIPE

C. Works proposed to apply water to beneficial use.

CENTER P.O.Estimated Total Cost \$ 20,000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of BROWNI, ROY BUSHBY, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Subscribed and sworn to before me this 21 day of SEP, 1976

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3147-3
ROY BUSHBY HECLA
 (Applicant) (Post Office Address)

SOUTH DAKOTA 57446 With the following modifications:
 (State)

The irrigation well approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in irrigation wells having prior water rights.

Date of first receipt of application SEPTEMBER 29 19 76
 Date of return to applicant for correction, amendments or changes required _____ 19 ____
 Date of receipt of corrected application OCTOBER 18 19 76
 Approved JANUARY 27 19 77 Recorded in Book 17 Page 28
 WATER RIGHT PERMIT NO. 3147-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3147-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which an applicant may claim right is SEPTEMBER 29 19 76
2. The completion of at least one-fifth of the work above specified is to be completed on or before JANUARY 27 19 78
3. The whole of said work is to be completed on or before JANUARY 27 19 79
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 27 19 81
5. The water appropriated shall be used for the purpose of IRRIGATION

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 4.0 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before JANUARY 27 19 81; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 6TH day of APRIL 19 77

WATER RIGHTS COMMISSION

By:

John Hatch
 Chief Engineer, Executive Officer

Certificate of Construction Issued _____ 19 ____

Water License Issued _____ 19 ____

NOTICE OF WELL CONSTRUCTION

HAUT WELLS, INC.
933 So. W. 17 Street
Jamestown, No. Dakota 58401

(1) WELL CONSTRUCTION

Location of wall: CF 1/4 1/4 Section 13 Township 19.01 Range 21

Well owner Raymond R. Smith Black
(Name) (Address)

Date well drilling completed 2/21/71 Purpose of well Domestic
(domestic, irrigation, municipal, industrial, other)

WELL LOG

[illegible]

Attach sheet if more space is needed

Name of Drilling Contractor

(2) PUMP INSTALLATION

Company name and size of pump _____ HP _____

Type of pump _____ Capacity of installed pump _____ G.P.M.

Depth of pump placement _____ ft., Date of pump installation _____

(3) WATER SURFACE MEASURING TUBE

On some wells an air-tight water surface measuring tube is required: See Section 46.408 of Chapter 46.4, MINIMUM WELL CONSTRUCTION STANDARDS.

Show exact vertical length of water surface measuring tube, when installed _____ ft., tube diameter _____,
tube material _____.

Name of Pump Installation Contractor

Form 2A - Wells, Dugouts or Water Storage Dams (Supplement to form 2)

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc)
- (3) Perforated Screen
Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

- (1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

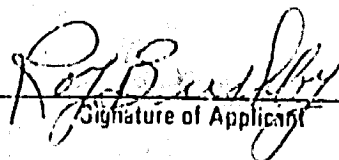
Depth to water (ground surface to water level) _____

- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds. 120

G. Water Storage Dams.

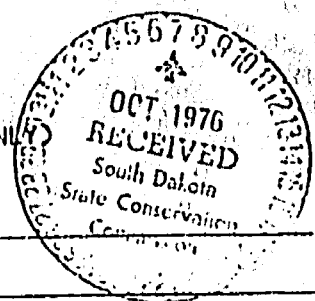
If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.


Signature of Applicant

ATION
SION
1 #1

SEE ATT CHED W1 II 1

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED GROUND WATER GATION ONLY)



NAME ROY BUSHBY
ADDRESS HECLA, SOUTH DAKOTA
COUNTY BROWN

LEGAL DESCRIPTION

1. WELL LOCATION NORTH EAST 40 ACRES OF THE SOUTH EAST ONE FOURTH SECTION 13-128-61
2. LOCATION OF AREA TO BE IRRIGATED SOUTH ONEHALF (S²) 13-128-61

TYPE OF IRRIGATION

3. GRAVITY TOWLINE CENTER PIVOT X GUN
4. CROPS TO BE IRRIGATED CORN AND SMALL GRAIN

WATER QUALITY

5. SAMPLE NUMBER NUMBER ONE (1) 76-1433
6. SALINITY (EC X 10⁶) 1.865
7. SODIUM (SAR) 4.54
8. RESIDUAL SODIUM (CARBONATE (meq/l.) 0

I do hereby certify that a chemical analysis of the ground water representative of that used to irrigate shall be acquired from South Dakota State University and: the soils information has been acquired from BROWN Conservation District, County Extension office or Soil Conservation Service.

and: that the legal description for the location of the well and land to be irrigated is true and correct.

MAZIE BASHUSSE, Notary Public,
Brown County, S. Dak.
My Commission Expires November 2, 1977

SUBSCRIBED AND SWORN BEFORE ME THIS
15 DAY OF SEP 19 76.

[Signature]
(TITLE OR SEAL)

[Signature]
APPLICANT'S SIGNATURE
Approval does not imply that this project can be carried out under all circumstances. Individual management will, to a large degree, determine the relative success of this venture.
[Signature]
APPROVED/DISAPPROVED

(SOILS INFORMATION ON REVERSE SIDE)

CO

October 5, 1976

Mr. Roy Bushby
Hecla, SD 57466

Dear Mr. Bushby:

Your water sample (Lab. No. 76-1431, 1433) has been analyzed and the results are reported on the accompanying sheet, which is your copy to keep.

I am also enclosing a copy of AES pamphlet #13 for your use. The quality of your water for irrigation use is plotted approximately by means of the red cross in the chart on the outside back cover.

This water is marginal for use on the soils you intend to irrigate and should be considered for use only under the following conditions:

(1) It will be used no more than 3 times (preferably less) in any growing season.

(2) The soil will be completely filled with water so natural leaching can occur, by irrigating in the late fall just before freeze-up, at least one year out of 3.

(3) Water applications will be made each irrigation to completely re-wet the entire depleted soil within the rooting zone of the crop being grown. This may require 3-5 inches of water each irrigation with fine soils.

(4) If a salt problem or soil dispersion occurs, contact extension personnel or this office for management recommendations.

Sincerely yours,

L. O. Fine
L. O. Fine
Water Quality Lab

LOFickb

Enclosures

cc: State Conservation Commission

REPORT OF ANALYSIS
 Water Quality Laboratory
 Water Resources Research Institute
 South Dakota State University
 Brookings, South Dakota 57006

Submitted by: Roy Lushby
 Address: Hecla, SD 57446

Date Rec'd September 22, 1976
 Sample No. 76-1433
 Identification Cell
S71, Sec. 13, T 128N, R 61W

WATER ANALYSIS

Calcium (Ca)	140	ppm*	7.00	me/l**
Magnesium (Mg)	35	ppm	2.87	me/l
Sodium (Na)	232	ppm	10.09	me/l
Potassium (K)	15	ppm	0.39	me/l
Sulfate (SO ₄)	420	ppm	8.71	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	90	ppm	2.52	me/l
Bicarbonate (HCO ₃)	542	ppm	0.88	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (EDTA as CaCO ₃)		ppm		g.p.g.***
Alkalinity (Methyl Orange)	444	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	1865	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	4.54			
Sodium	49.58	% of cations		
Residual sodium carbonate	0.00	me/l		
pH	7.78			
Others:				

*ppm=parts per million
 **me/l=millequivalents per liter
 ***g.p.g.=grains per gallon

COMMENTS: Total cations 20.35 me/l
 Total anions 20.14 me/l

By: Shirley Mittan

Service Performed	Amount Due
Irrigation analysis	\$8.00 PAID

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 76-1433

Amount Enclosed \$

Signed

Form 6. - Notice of Intent to Appropriate Water

No. 3147-3

Publish first publication, on or before

November 4, 1976

NOTICE OF INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

October 29, 1976

Notice is hereby given that Roy Bushby

whose post office address is Hecla, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 4.0 cubic feet of water per

second of time from ~~xxx~~ ground water through the

Bushby # 2

, the point of diversion of which is to

be located in the NE 1/4 SE 1/4

of Section 13, Twp. 128N, Range 61W. Said water to be used for the purpose of providing irrigation on the following described land:

SW 1/4, Section 13, T128N, R61W

This application No. 3147-3 will be considered by the Water Rights Commission at the Marvin Hughitt Hotel in Huron, South Dakota upon the 17th day of November, 1976 at 10:00 A.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw
cc:

Applicant (Roy Bushby, Hecla, SD 57446)

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

No. 3147-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, Dianne Brenden hereby

certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Aberdeen American News.

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City Aberdeen of Aberdeen

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

November 3, 1976

November 10, 1976

Dianne Brenden
(Signature)

Principal Clerk
(Title)

November 10, 1976
(Date Signed)

(No. 38—Nov. 3-10-76)
NOTICE OF INTENT TO
APPROPRIATE WATER
Notice is hereby given that Roy Bush,
whose post office address is Hecla,
South Dakota, has made an application
in accordance with the provisions of the
water laws of South Dakota for a permit
to appropriate for beneficial use 4.0
cubic feet of water per second of time
from ground water through the Bushby
No. 2, the point of diversion of which is to
be located in the NE 1/4 SE 1/4 of Section
13, Twp. 128N, Range 61W. Said water to
be used for the purpose of providing
irrigation on portions of the following
described land: 51/2 Section 13, T128N,
R61W, 42/2 Section 13, T128N, R61W.
This application No. 3147-3 will be
considered by the Water Rights Com-
mission at the Marvin Hughitt Hotel in
Huron, South Dakota upon the 17th day
of November, 1976 at 10:00 A.M. All
interested persons may appear and be
heard.
WATER RIGHTS COMMISSION
By: Burton F. Jones, Water Rights
Specialist



**BEST IMAGE POSSIBLE
FROM POOR ORIGINAL**

3147-3, 3148-3, 3149-3, 3150-3

December 2, 1976

Ray Bushby
Hecia,
South Dakota 57445

Dear Mr. Bushby:

The Water Rights Commission deferred action on your Applications Nos. 3147-3, 3148-3, 3149-3 and 3150-3 at the November 17-18, 1976 meeting of the Commission pending investigation by the Commission Staff.

If you have any questions, feel free to contact this Office.

Sincerely,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bw

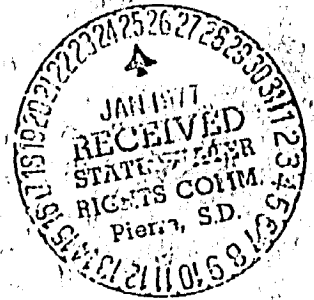
C. W. (BILL) HYDE

OFFICE OF
C. W. HYDE
ATTORNEY AT LAW
311 CITIZENS BUILDING
ABERDEEN, SOUTH DAKOTA 57401

AREA CODE 605
PHONE 225-3933

January 24, 1977

Mr. Burton F. Jones
Water Rights Specialist
Department of Natural Resource Development
Joe Frost Building
Pierre, SD 57501



Re: Roy Bushby Applications
Nos. 3147-3 and 3148-3
S. G. Treeby - Protestant

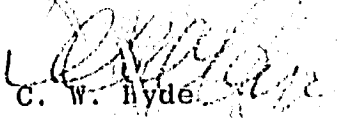
Dear Mr. Jones:

In reference to the forthcoming hearing concerning the Bushby Water Right Applications above mentioned, find enclosed the original and six copies of the Affidavit of S. G. Treeby resisting, opposing and protesting to such Applications for the reasons stated therein.

As mentioned in the Affidavit it will be impossible for Mr. Treeby to be in personal attendance at the hearing since he will be on jury duty in Brown County at that time. We assume that the presentation in filing of this Affidavit and the circulation of additional copies to the members of the Water Rights Commission will suffice under the circumstances.

If for any reason presentation of our evidence in this matter is not acceptable to the Commission, could you please inform us accordingly so that an appropriate appearance in person may be had, if necessary.

Yours truly,


C. W. Hyde

CWH:pt

Enclosures

CC: S. G. Treeby

AFFIDAVIT

STATE OF SOUTH DAKOTA)
: ss.
COUNTY OF BROWN)

S. G. Treeby, being first duly sworn upon oath deposes and says that his mailing address is Box 45, Hecla, SD 57446 and that he makes this his Affidavit in resistance and protest to the Water Right Applications nos. 3147-3 and 3148-3, which have been filed by Roy Bushby which apparently is scheduled for hearing on the 27th day of January, 1977.

Your affiant presents his testimony in the form of this Affidavit in as much as it is impossible that he be presently in attendance at the time of the hearing since your affiant is on the jury panel that will commence hearing certain matters before the Honorable Philo Hall, Circuit Judge, Fifth Judicial Circuit, County of Brown, State of South Dakota, on January 25, 1977.

Your affiant states that he received a copy of the report on January 21, 1977 of the investigation made on December 15, 1976. pertaining to the Hecla deferred permits. Your affiant was disappointed and expresses concern that he was not contacted nor interviewed when the site investigation was made since he had considerable factual data to submit.

The protest herein is in reference to the two applications mentioned above as filed by Roy Bushby since the subject land borders and is immediately adjacent to that of your affiant. See map attached which makes reference to the Bushby land as being identified with a red border and that of your affiant being located within that which is designated with a green border. It is respectfully urged that more information, knowledge, and testing is required to determine the ^{quantity} quality of water available in this immediate area.

Permit No. 2504 which concerns the S.W. 1/4 of Section 24, Township 128 North, Range 61, West of the 5th P.M., Brown County, South Dakota and which permit was omitted from and did not appear on the investigation map. It is presumed that the Commission should be informed as to the facts concerning this particular permit.

A twelve inch well equipped with a twelve foot screen is located thereon and identified on the attached map as well No. 3. This was drilled on October 28, 1976 and test pumped at 600 G.P.M. but ended up at 300 G.P.M. Fourteen test wells were drilled on this particular S.W. 1/4 of Section 24 and only two were worthy of further consideration. It may be possible sometime in the immediate future to complete these additional two wells and combine and develop all three in that particular section as an operating unit.

A 12" well equipped with a 16' screen was drilled on Section 11 and identified on the attached map as No. 1. This has not been pump tested. The No. 2 well which was 12" in diameter and equipped with a 15' screen is located on the N.E. 1/4 of Section 14 which was pumped at 900 G.P.M. for twelve hours but since engine problems developed they did not pump as long as originally planned. The draw down was forty-four feet and it effected the static water level at well No. 1 which is about 7/8ths of a mile to the northeast. The pumping also effected the geological observation well which is approximately 7/8ths of a mile to the southeast. An effect was also noted to your affiant's observation well which is located 1 3/4 mile southeast (near well No. 3) from the well being pumped.

Before drilling No. 1 and No. 2 the Trout Well Drillers of Jamestown, North Dakota put down 16 test holes, and found only two other possible prospects that had at least ten feet of gravel. They now recommend that we proceed with caution on an additional well until we have had the opportunity to pump for at least one season.

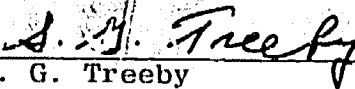
Your affiant also states that the geological survey that undertook the City of Hecla water study drilled approximately 40 holes this past summer in the Hecla area and only found two worth casing up for observation wells. Also, the geological survey that was completed several years ago northeast of Hecla found nothing that would warrant irrigation at that time.

In conclusion, your affiant readily believes that the Bushby applications should be deferred and no more permits be considered prior to 1978. Your affiant has presently on-site three irrigation systems and is prepared to cooperate with any monitoring or testing that your Commission or geological survey may desire.

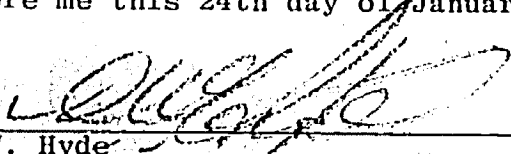
Test Well logs will also be made available to the Commission if you deem them of additional assistance.

WHEREFORE your affiant respectfully requests that the applications be denied or otherwise deferred in as much as there is insufficient data presently available that would justify their approval and approval, if given, would jeopardize the vested right of your affiant.

Dated this 24th day of January, 1977.


S. G. Treeby

Subscribed and sworn to before me this 24th day of January, 1977.


C. W. Hyde
Notary Public, State of South Dakota
My Commission expires 2/16/77.

(SEAL)



MAP OF HECLA



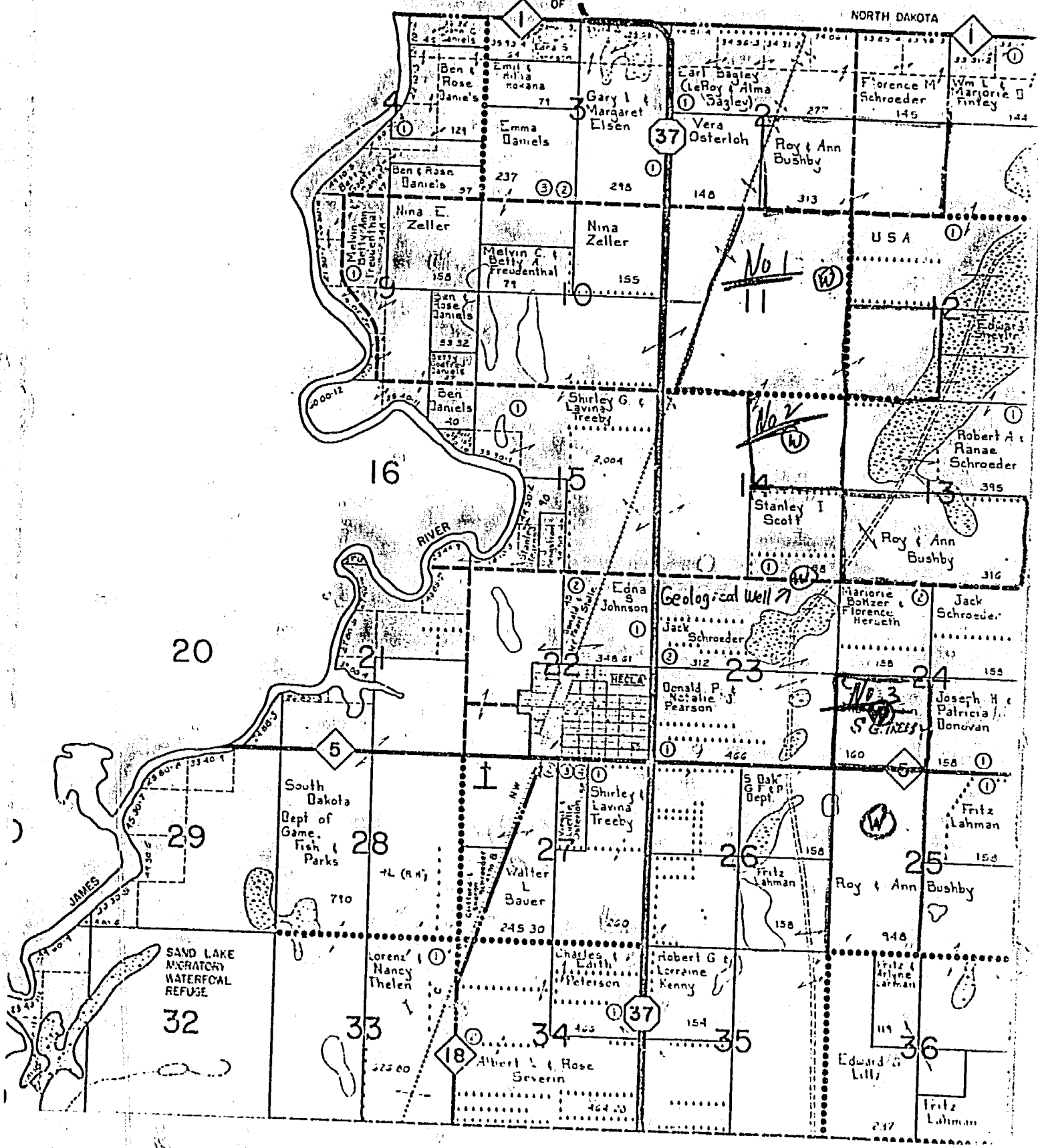
TOWNSHIP 128 N.

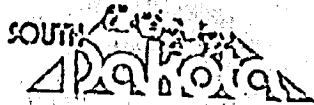
RANGE 61 W.

STATE

CODE HC OF

NORTH DAKOTA





Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

January 20, 1977

Phone 605/224-3151

Roy Bushby
Hecla, S.D. 57446

Harold Gerdes
Hecla, S.D. 57446

Re: 3147-3
3148-3
3149-3
3150-3
3151-3

Gentlemen:

Deferred Water Right Applications Nos. 3147-3, 3148-3, 3149-3, 3150-3 and 3151-4 will be reconsidered by the Water Rights Commission during their January 25-27, 1977 meeting, at 9:00 A.M., January 27. A copy of the "Report on Water Right Applications Nos. 3147-3, 3148-3, 3149-3, 3150-3 and 3151-3" is enclosed for your information. Any comments concerning these applications can be presented at this hearing.

The Commission will be meeting in the South Dakota Education Association Auditorium, 411 East Capitol, Pierre, S.D.

Please advise if you have any questions concerning the hearing.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bw

cc: Stanley Scott, Hecla
S.J. Treeby, Box 45, Hecla
Harold Treeby, Hecla
City of Hecla, Hecla

REPORT ON
WATER RIGHT APPLICATIONS
NO. 3147-3, No. 3148-3, No. 3149-3, No. 3150-3 & No. 3151-3

January 17, 1977

The Water Rights Commission deferred action at the November 16-18, 1976 meeting on the Roy Bushby Applications No. 3147-3, No. 3148-3, No. 3149-3 and No. 3150-3 and the Harold Gerdes Application No. 3151-3 pending an investigation by the Commission Staff. An investigation was conducted in the Brown County area December 15, 1976.

APPLICATIONS AND PERMITS

The following table lists the area Water Right Applications and Permits with wells into the Middle James Aquifer. The project locations are shown on the attachment.

Number	Name	Priority Date	C.F.S.	Acres	Well Depth	Status
1168-3	Edward Mitchell	2/19/65	6.54	458	1 well 185'	Approved 5/12/65
1658-3	Eugene Mitchell	2/6/69	2.78	629	1 well 140'	Approved 3/26/69
1659-3	Lorenz Thelen, Jr.	2/12/69	2.78	243	1 well 140'	approved 3/26/69
1903-3	City of Hecla	1931 & 1954 Vested	0.30		3 wells	Approved 11/10/71
2173-3	Roy Bushby	2/24/75	4.50	316	2 wells 78' & 77'	Approved 3/19/75
2504-3	Shirley Treeby	12/24/75	2.00	140	1 well 80'	Approved 1/23/76
2928-3	Floyd Mertz	8/19/76	2.00	133	1 well 105'	Approved 9/30/76
2984-3	Roy Bushby	8/16/76	4.20	300	1 well 120'	Approved 9/30/76
2990-3	Shirley Treeby	9/1/76	4.00	280	2 wells 98'	Approved 9/29/76
3006-3	Shirley Treeby	9/3/76	4.00	280	2 wells 120'	Approved 9/29/76
3043-3	Shirley Treeby	9/8/76	2.00	160	1 well 120'	Approved 10/21/76
3121-3	Shirley Treeby	10/13/76	3.50 (not new water)	250	Use wells in 2990-3 & 3006-3	Approved 11/17/76
3147-3	Roy Bushby	9/29/76	4.00	280	1 well 94'	Deferred 11/17/76
3148-3	Roy Bushby	9/29/76	3.50	245	1 well 101'	Deferred 11/17/76
3149-3	Roy Bushby	9/29/76	3.85	270	1 well 130'	Deferred 11/17/76
3150-3	Roy Bushby	9/29/76	3.50	245	1 well 106'	Deferred 11/17/76
3151-3	Harold Gerdes	10/15/76	3.50	240	2 wells 125' & 135'	Deferred 11/17/76
3408-3	Harold Treeby	12/2/76	4.50	320	1 well 135'	Not Advertised

GEOLOGY OF THE AREA

Bulletin 25, "Geology and Water Resources of Brown County, South Dakota, Part II, Water Resources", dated 1976 describes three major aquifers in Brown County - the Elm, the Middle James and Deep James Aquifers.

The Middle James Aquifer underlies about 530 square miles in Brown County, is under artesian head conditions and contains about 1,400,000 acre feet of water.

PERSONS CONTACTED

Harold Gerdes, Roy Bushby and Stanley Scott were contacted the day of the investigation.

DISCUSSION

Unappropriated water is available, the primary questions relate to inadequate artesian domestic wells which are affected by irrigation pumping and spacing between irrigation wells. The only complaint received from an inadequate domestic well owner has been from Stanley Scott. His domestic well is affected by existing pumping. The deferred Bushby Application No. 3147-3 should not result in additional interference to the Scott well since a geologic barrier apparently exists (based upon test drilling by Bushby) between the Scott domestic well and the proposed Bushby irrigation well. Any interference would be from existing irrigation.

The Scott well (constructed 1950) is 95 feet deep (90' below basement floor) and the artesian water level in the two inch casing the day of the investigation was about 8 feet (3.5 feet below pump) below ground level. He relies upon a suction pump for pressure. The Staff does not believe the Commission should attempt to protect Mr. Scott's well based upon the 1972 legislation which does not require the artesian head to be protected and Commission action at the July and November 1976 meetings not to protect inadequate wells beyond July 1, 1977.

The City of Hecla has expressed concern with nearby irrigation; however, the City has a Vested Water Right and would be protected if interference from irrigation pumping was experienced. The City should make application for future rights to provide for future water supply expansion.

The Staff believes the Gerdes Application No. 3151-3 can be approved if the well location is moved to the east of the proposed location to the east side of the NW $\frac{1}{4}$ of Section 14 to minimize interference with the proposed Bushby well (No. 3149-3) in the NE corner of Section 15. Mr. Bushby cannot obtain a satisfactory well

at another location in the E $\frac{1}{2}$ of Section 15. The Harold Treeby Application No. 3408-3 in Section 11 was not advertised for the January meeting. The Staff does not believe this application should be approved before 1978 to allow time to determine the affects of any pumping from Bushby and Gerdes wells.

The Staff believes that additional permits can be issued in this area with proper spacing. If any existing permit holders drill more wells than originally authorized additional applications will be necessary for the unauthorized wells. If the additional wells were authorized, a later priority date would be established. If well interference problems do occur, then the junior priority wells would be the first to be reduced or shutoff.

An adequate well into the Middle James Aquifer is a well in which the pump intake can be placed at least 20 feet into the aquifer, providing the aquifer is thick enough.

RECOMMENDATIONS

Based upon the Brown County ground water study and the investigation, there is unappropriated water available and the Commission Staff recommends that the five applications be approved as follows:

- No. 3147-3 with Well Interference Qualification.
- No. 3148-3 with Well Interference Qualification.
- No. 3149-3 with Domestic Well Interference Qualification.
- No. 3150-3 with Well Interference Qualification.
- No. 3151-3 with the well location in NW $\frac{1}{4}$, Section 14 moved at least to east side of NW $\frac{1}{4}$, Section 14 and the second well moved further east to the east side of NE $\frac{1}{4}$ to provide spacings of one-half mile and the Well Interference Qualification.

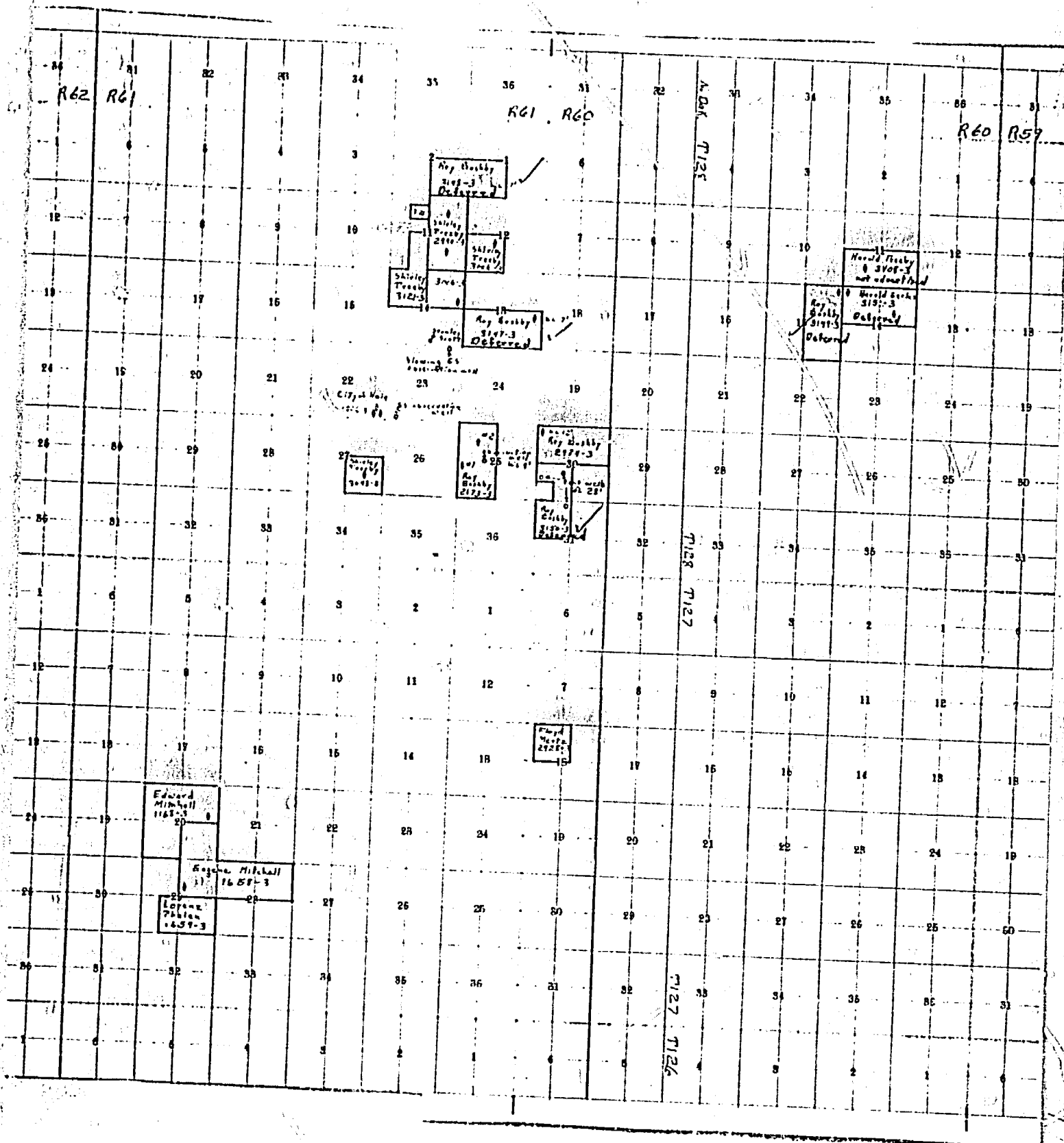
The Well Interference Qualification is as follows:

"The irrigation well approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells or in irrigation wells having prior water rights."

The Domestic Well Interference Qualification is as follows:

"The irrigation well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells."

JOHN HATCH, Chief Engineer
WATER RIGHTS COMMISSION



3147-3

August 4, 1980

Call from Ross Treeby (994-2308) of Hecla. Said his well on Permit 2504-3 was losing pressure and thought he was being interfered with by Roy Bushby's well on Permit 2984-3. Treeby thought his well was 100 feet deep with the pump set at the top of a 12 foot screen.

August 5, 1980

Called Treeby and informed him that there was no way of telling who was interfering with whom without running a controlled pump test. It was suggested to him to work out an agreement with Bushby. Treeby asked the writer to talk to Bushby about such an agreement.

Called Roy Bushby (994-2144). He said that he has had his systems turned off periodically (2984-3, 2173-3, and 3147-3). The system for 2173-3 had been down for repairs from July 31 - August 4. He said that he would be willing to work things out with Treeby for the remainder of the irrigation season (both anticipated about 2 more weeks of pumping).

Treeby called to see what the situation was and informed this office that he would contact Bushby to arrange some kind of pumping schedule.

Jeanne Goodman
Water Resources Engineer

Brown

(1) WELL CONSTRUCTION

WELL LOG

Attach sheet if more space is needed

19. Steel Winding 1875' at 1174 ft. bearing
50 N. 100. W.

100	200	300	400	500	600	700	800	900	1000	1100	1200	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	2400	2500	2600	2700	2800	2900	3000	3100	3200	3300	3400	3500	3600	3700	3800	3900	4000	4100	4200	4300	4400	4500	4600	4700	4800	4900	5000	5100	5200	5300	5400	5500	5600	5700	5800	5900	6000	6100	6200	6300	6400	6500	6600	6700	6800	6900	7000	7100	7200	7300	7400	7500	7600	7700	7800	7900	8000	8100	8200	8300	8400	8500	8600	8700	8800	8900	9000	9100	9200	9300	9400	9500	9600	9700	9800	9900	10000
100	200	300	400	500	600	700	800	900	1000	1100	1200	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200	2300	2400	2500	2600	2700	2800	2900	3000	3100	3200	3300	3400	3500	3600	3700	3800	3900	4000	4100	4200	4300	4400	4500	4600	4700	4800	4900	5000	5100	5200	5300	5400	5500	5600	5700	5800	5900	6000	6100	6200	6300	6400	6500	6600	6700	6800	6900	7000	7100	7200	7300	7400	7500	7600	7700	7800	7900	8000	8100	8200	8300	8400	8500	8600	8700	8800	8900	9000	9100	9200	9300	9400	9500	9600	9700	9800	9900	10000

if a flowing well, flow of completed well _____ G.P.M.

Trust Wells Inc
Name of Drilling Contractor
Jonestown, N.C.

(2) PUMP INSTALLATION

PUMP INSTALLATION _____ HP _____

Company name and size of pump _____

Type of pump _____ Capacity of installed pump _____ G.P.M.

Depth of pump placement _____ ft., Date of pump installation _____

(3) WATER SURFACE MEASURING TUBE

WATER SURFACE MEASURING TUBE
On some wells an air-tight water surface measuring tube is required. See Section 46.408 of Chapter 46.4, MINIMUM WELL CONSTRUCTION STANDARDS.

WELL CONSTRUCTION STANDARDS.

Show exact vertical length of water surface measuring tube, when installed _____ ft., tube diameter _____,
tube material _____.

Name of Pump Installation Contractor

REDUCTION RATIO

ROLL NUMBER

DATE MICROFILMED

CAMERA OPERA I DUE SIGILLI

Permit No. 3147-3

3147-3

Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWRN, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Roy Bushby
 of Box 68 Hecla SD 57446 holder of
 Permit No. 3147-3, bearing the priority of September 29 1976 authorizing
 the diversion of 4.0 cu. ft. per second of the waters of Groundwater
 for Irrigation purposes, in Brown County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Johnson 5 stage turbine pump &
GM 4 cyl. - 100 Hp Diesel - Model 402

B. Works used to transport water to place of use:

2900 ft. - 8" PVC pipe

C. Works used to apply water to beneficial use:

T & L 10 tower Center Pivot

The system is in the following condition Good

The point of diversion is located 1400 ft. North & 1050 ft. West of the
SE corner of Sec. 13-T128N-R61W (NE 1/4 SE 1/4)

The works are capable of diverting and conveying to the place of use 1.88
 cu. ft. per second of water which is to be used for Irrigation

Water has been put to beneficial use to the maximum extent as follows: Sec. 13-T128N-R61W

<u>NW 1/4 SW 1/4 - 32.5 Ac.</u>	<u>NW 1/4 SE 1/4 - 32.5 Ac.</u>
<u>NE 1/4 SW 1/4 - 32.5 Ac.</u>	<u>NE 1/4 SE 1/4 - 32.5 Ac.</u>
<u>SW 1/4 SW 1/4 - 32.5 Ac.</u>	<u>SW 1/4 SE 1/4 - 32.5 Ac.</u>
<u>SE 1/4 SW 1/4 - 32.5 Ac.</u>	<u>SE 1/4 SE 1/4 - 32.5 Ac.</u>

comprising a total of 260 acres of land and the license should be issued for 1.88 cfs

Applicable permit qualifications have been complied with X Yes No

Exceptions to compliance are: Date October 2, 1990

Timothy H. Schaal
 (signature)

LICENSE FOR PERMIT NUMBER 3147.3

1. Legal location of wells: 1400 ft. North & 1050 ft. West of the
SE corner Sec. 13-T128N-R61W (NE 1/4 SE 1/4)
dams & structures: _____

2. Well Information: Well Drilling Firm Traut Wells, Inc.

Completion Report Yes ☒ No _____ No. of Wells 1 Depth 101
Casing a) diameter 12 inch Screen a) type Stainless Steel
b) length 81 ft. b) length 20 ft.
c) type Steel Static Water Level _____
Pump a) make Johnson Motor a) make GM 4 cyl. Diesel
b) model ? b) model No. 402
c) size 10" c) horsepower rating 100 Hp
d) capacity 850 gpm
e) turbine pump - no. of stages 5
f) operating PSI 60 psi.

3. Distribution lines or canals

a) size 8"
b) type Buried PVC
c) length 2900'

4. Dam Information:

a) height to crest _____ m) Outlet tubes:
b) height to primary spillway _____ 1) diameter _____
c) height to secondary spillway _____ 2) type _____
d) crest width _____ 3) valved (Y/N) _____
e) crest length _____ 4) valve type _____
f) spillway length _____ 5) location on structure _____
g) spillway width _____
h) approx. storage _____ n) Category of Dam _____
i) approx. storage to crest _____
j) date constructed _____
k) inspection sheet completed (Y/N) _____
l) Name of Contractor _____

5. System Type a) side-roll:

- 1) length _____ feet
- 2) diameter of pipe _____
- 3) make, model & number of
sprinklers _____
- 4) spacing of sprinklers _____
- 5) nozzle size _____

c) gun

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____
- 4) hose size _____
- 5) hose length _____

e) gated pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

f) portable boom

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____

b) towline:

- 1) length _____ feet
- 2) make, model & number of
sprinklers _____
- 3) spacing of sprinklers _____
- 4) nozzle size _____

d) center pivot

- 1) make TIL
- 2) number of towers 10
- 3) distance between towers _____
- 4) overall length 1300
- 5) end gun (Y/N) Yes - Nelson
- 6) high or low pressure High
- 7) make & size of nozzles _____
- 8) capacity (GPM) 850

g) siphons

- 1) size _____
- 2) number _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

Indicate any other permit(s) which are associated with project _____

Yes	No	Check Items
☒	☐	1. Soil and water permit lands agree with lands being irrigated and lands listed on permit?
☒	☐	2. Special qualifications to permit being abided by?
☒	☐	3. All structures, wells and lands on map?
☒	☐	4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period?
☐	☒	5. Is chemigation used?
☐	☒	6. If yes, does equipment comply with chemigation rules?

REMARKS:



3147-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57507-3181

April 19, 1993

2984-3

3147-3

3149-3

Roy Bushby
Box 68
Hecla, SD 57446

Dear Mr. Bushby:

The inspection of your water use systems and the inspection of the extent of application of water to beneficial use, as developed under Water Permit Nos. 2984-3, 3147-3 and 3149-3, has been completed. Your final water right document, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee per license for the inspection and issuance of the Water Licenses. Upon receipt of the \$150.00 fee from you, we will begin processing your Water Licenses.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

NOTE: On check or money order, please specify your permit number.
This will insure proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

3147-3
413744

Pierre, April 27, 19 93

RECEIVED OF Ann Bushby, PO Box 68, Hecla, SD 57446

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 _____		
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. 3147-3	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

John Hatch
Chief Engineer

3147-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 3147-3

(1) Roy Bushby, of PO Box 68, Hecla, SD 57446-0068 made Application No. 3147-3, September 29, 1976 for a water permit to appropriate 4.0 cubic feet of water per second from groundwater (one well), Brown County, South Dakota for irrigation purposes. Permit No. 3147-3, with a priority date of September 29, 1976 was approved January 27, 1977 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before January 27, 1979 and for the application to beneficial use of said water on or before January 27, 1981.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.88 cubic feet of water per second for beneficial use. The location of the diversion point is 1400 feet N and 1050 feet W of the SE corner of Section 13 T128N-R61W (NE1/4 SE1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

<u>T128N-R61W</u>	<u>Section 13</u>	<u>NW1/4 SW1/4</u>	<u>32.5 acres</u>
		<u>NE1/4 SW1/4</u>	<u>32.5 acres</u>
		<u>SW1/4 SW1/4</u>	<u>32.5 acres</u>
		<u>SE1/4 SW1/4</u>	<u>32.5 acres</u>
		<u>NW1/4 SE1/4</u>	<u>32.5 acres</u>
		<u>NE1/4 SE1/4</u>	<u>32.5 acres</u>
		<u>SW1/4 SE1/4</u>	<u>32.5 acres</u>
		<u>SE1/4 SE1/4</u>	<u>32.5 acres</u>
		<u>Total</u>	<u>260 acres</u>

(4) Pursuant to South Dakota Water Law 46-5-30.1 Roy Bushby of PO Box 68, Hecla, SD 57446-0068 the holder and/or owner of Water Permit No. 3147-3 is issued a license to appropriate water, the right to use 1.88 cubic feet of water per second from groundwater (one well), with a priority date of September 29, 1976 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 3147-3 and subject to South Dakota State Law.



SEP 17 1993

JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources



3147-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

SEP 17 1993

2984-3
3147-3
3149-3

Roy Bushby
P.O. Box 68
Hecla, SD 57446-0068

Dear Mr. Bushby:

Enclosed are Water License Nos. 2984-3, 3147-3 and 3149-3. These are the final water right documents completing your process of obtaining Water Rights. Enclosed are Receipt Nos. 413742, 413743 and 413744 in the amount of \$50.00 each which you paid for the inspection and issuance of the Water Licenses.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right Nos. 2984-3, 3147-3 and 3149-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

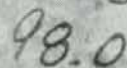
As long as you use the water beneficially, as stated in the Water Licenses, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Very truly yours,

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

rd
enclosures

NOT TO SCALE



Timothy L. Shovel
November 9, 1990



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 17, 2009

Dennis Schimke
7507 79th St SE
Kulm ND 58456

RE: Water Right Nos. 2173A-3, 2984-3, 3147-3 and 3149-3 (Roy Bushby)

Dear Mr. Schimke:

Thank you for visiting with me about the ownership changes needed for Water Right Nos. 2173A-3, 2984-3, 3147-3 and 3149-3. I have included copies of the water rights for your records.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Please review them and make any necessary corrections. Upon completion, please sign the forms and return them to our office with a required filing fee of \$50.00 each (total of \$200). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 30, 2010

Dennis Schimke
7507 79th St SE
Kulm ND 58456

RE: Water Right Nos. 2173A-3, 2984-3, 3147-3 and 3149-3 (Roy Bushby)

Dear Mr. Schimke:

I am writing in regard to the above listed water rights which are currently held by Roy Bushby. In December, 2009, you contacted our office and indicated the water rights would need to be transferred. "Notice of Transfer of Ownership" forms were sent to you and to date, I have not received anything back.

In the event you no longer have them, I am sending another partially completed set of forms. Please review and make any necessary corrections. Upon completion, please return them to our office with a required filing fee of \$50.00 each (total of \$200). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures

RECEIVED
JAN - 7 2011
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 3147-3

Date: 1-5-2011

I/We request that Water Right No. 3147-3

formerly owned by: Roy Bushby

be transferred to: (name & address) Roy Bushby Irrevocable Real Estate Trust
7507 79th St SE, Kulm, ND 58456

Telephone No. 701 298-3625

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

260 acres - S 1/2 Section 13, T128N, R61W (entire (316 acres) has been transferred)

I/We understand that the validity of Water Right No. 3147-3 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 Roy Bushby Trust, the new owner, certify that the above information is true and correct.

Dennis Schimke (trust)
(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.

This will be in CRP until 2020

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/7, 20 11

RECEIVED OF Roy Bushby Irrevocable Real Estate Trust 7507 79th St SE Kulm ND 58546

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 <u>3147-3</u>		
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	50 00

No.

04808

By

Donald Erickson
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 10, 2011

Dennis Schimke
7507 79th St SE
Kulm ND 58456

RE: Water Right Nos. 2173A-3, 2984-3, 3147-3 and 3149-3

Dear Mr. Schimke:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" forms and filing fees you submitted for the above listed water rights. The ownership changes have been completed. The water rights formerly listed in the name of Roy Bushby are now listed as follows:

- Water Right No. 2173-3: Ann Bushby Irrevocable Land Trust
- Water Right No. 2984-3: Roy Bushby Irrevocable Real Estate Trust
- Water Right No. 3147-3: Roy Bushby Irrevocable Real Estate Trust
- Water Right No. 3149-3: Bushby Brothers Irrevocable Farm Trust

I have made a notation in the files that Water Right Nos. 2173A-3, 3147-3 and 3149-3 have been re-enrolled in CRP through 2019 and 2020. Irrigation questionnaires for those water rights will not be mailed to you until the land is again eligible for irrigation. Annual irrigation questionnaires will still be mailed to you for Water Right No. 2984-3. The questionnaires are mailed out to irrigators in October of each year and are due by the first week in December.

Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three year period may be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

Enclosed for your records are Receipt Nos. 04806, 04807, 04808 and 04809 in the amounts of \$50.00 each. If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

June 30, 2021

3147-3
3149-3

Dennis Schimke
7507 79th St SE
Kulm ND 58456

RE: Bushby Brothers Irrevocable Real Estate Trust (No. 3147-3)
Bushby Brothers Irrevocable Farm Trust (No. 3149-3)

Dear Mr. Schimke:

I am contacting you regarding Water Right Nos. 3147-3 and 3149-3 (copies enclosed). We have you listed as trustee for these water rights.

Irrigators in South Dakota are required to submit an annual irrigation questionnaire reporting how much water was pumped during the irrigation season. Our records show the land authorized for irrigation under the above listed water rights has been in the Conservation Reserve Program through 2020.

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

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

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures

3147-3

RECEIVED

JUL 09 2021

WATER RIGHTS
PROGRAM

Water Right Nos. 3147-3 and 3149-3

Water Right No. 3147-3, held by Bushby Brothers Irrevocable Real Estate Trust, authorizes diversion of ground water to irrigate 260 acres in the S ½ Section 13, T128N, R61W.

Water Right No. 3149-3, held by Bushby Brothers Irrevocable Farm Trust, authorizes diversion of ground water to irrigate the E ½ Section 15, T128N, R60W.

Are you still the trustee and has ownership stayed the same for the land described above?

Yes ☒

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

Has the land been re-enrolled in CRP:

3147-3: Yes ☒ through calendar year _____
No ☐

3149-3: Yes ☒ through calendar year 2030
No ☐

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

For informational purposes:

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

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