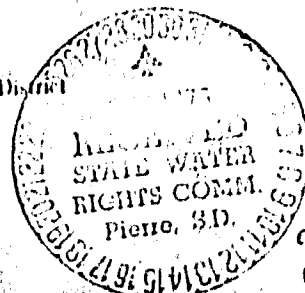


Water Right Number 3149-3

1. Considered 11-17, 1976
2. Name of Applicant ROY BUSHBY
3. Post Office Address HECLA
4. Amount of water claimed 3.85
5. Source of water supply 130' DEEP WELL
6. Water to be used for IRRIGATION
Acres to be irrigated 270
7. Water to be diverted and used in BROWN County
about 6E, 1N Miles of HECLA
8. Proof of Publication
Received 11-12-76
Not received
9. Application
Approved
Subject to
Not approved
Action deferred
10. Remarks:

Map No. 2490-3 Water Division No. 3 JAMES RIVER District 1
(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)

- Name of Applicant ROY BUSHBY
Postoffice address HECLA State SOUTH DAKOTA 57446
If a corporation show date and place of incorporation _____
- Method of accomplishing work (contract, employment of others, or by direct labor) CONTRACT
BUSHBY #1
- Name of diversion work _____
- Amount of water claimed (cubic feet per second) 7.4 3.85
- Source of water supply WELLS
- Location of point of diversion E 1/2 15 - 20 rods S. 15 rods W. of N.E. cor. of Sec 15-128-60
Sec 30 - 12 rods N. 14 rods E. of SW cor. of Sec 30-128-60 County BROWN
- Annual period or periods during which water is to be used APRIL / OCTOBER
- Use to be made of water. (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
- For irrigation use: Total number of acres to be irrigated 515 270
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 15	128-60		
NE 1/4 15	30		
SW 1/4 15	30		
SE 1/4 15	30		
NW 1/4 30	30		
NE 1/4 30	30		
SW 1/4 30	30		
SE 1/4 30	30		

Attach sheet if more space is needed

- 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.
- Choice of newspaper for Notice of Intent to Appropriate Water publication ABERDEEN AMERICAN NEWS
- 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 POND

20

Estimated Total Cost \$50 000

0.0
each

Attachments: 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 Brown

I, 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.

Signed ROY BUSHBY
day of SEP, 19 76

MARTIN BUSHBY, Notary Public
Brown County, S. Dak.
My Commission Expires September 7, 1977

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3149-3

ROY BUSHBY
(Applicant)

HL-CLIA

(Post Office Address)

SOUTH DAKOTA 57446 With the following modifications:
(State)

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 adequate domestic wells.

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 application JANUARY 27 19 77
Approved SEPTEMBER 29 19 77, Recorded in Book 17 Page 30

WATER RIGHT PERMIT NO. 3149-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3149-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is SEPTEMBER 29 19 76
2. The equivalent 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 3.85 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 THEN OCTOBER

Witness my hand this 6TH day of APRIL 19 77

WATER RIGHTS COMMISSION

By:

John H. Hahn
Chief Engineer, Executive Officer

Certificate of Construction Issued _____ 19 ____

Water License Issued _____ 19 ____

NOTICE OF WELL CONSTRUCTION

(1) WELL CONSTRUCTION

Location of well: 1/2 1/4 1/4 Section 15 Township 13 Range 6

Well owner Raymond J. [unclear] (Name) (Address)

Date well drilling completed _____ Purpose of well _____ (domestic, irrigation, municipal, industrial, other)

WELL LOG

Layers, top to top in feet	Description of layer
0-1	Topsoil
1-1	Dark silty clay
1-22	Dark silty clay
22-54	Dark clay
54-60	Dark silty clay
60-70	Dark silty clay
70-80	Dark silty clay
80-100	Dark silty clay
100-130	Dark silty clay
130-140	Dark silty clay

Attach sheet if more space is needed

Depth to top of water producing aquifer _____ ft.

Depth to static water level _____ ft.

Name of producing aquifer (if known) _____

Total depth of drill hole _____ ft.

Depth to bottom of casing _____ ft.

Casing information: In the space below show kind, size, weight, lengths per diameter, etc., for production casing and surface casing, if used.

Screen information: In the space below show length of screen below bottom of casing, diameter and kind of screen or casing perforations.

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

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

12 Principal Features of the 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 (around surface or water level) _____

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

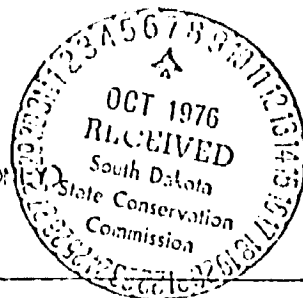
On same owner's property 120 rds. On property owned by others 190 rds.

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.

R. R. ...
Signature of Applicant

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 IRRIGATION ONLY)



NAME ROY BUSHBY

ADDRESS HECLA, SOUTH DAKOTA

COUNTY BROWN

LEGAL DESCRIPTION

1. WELL LOCATION North East 40 acres of North East one fourth section 15-128-60

2. LOCATION OF AREA TO BE IRRIGATED East one half section 15-128-60

TYPE OF IRRIGATION

3. GRAVITY _____ TOWLINE _____ CENTER PIVOT X GUN _____

4. CROPS TO BE IRRIGATED Corn

WATER QUALITY

5. SAMPLE NUMBER Number three (3) 76-1434

6. SALINITY (EC X 10⁶) 850 (mod - high)

7. SODIUM (SAR) 3.98 (low)

8. RESIDUAL SODIUM (CARBOATE (meq/l.) 3.83 DANGER

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.

ROY BUSHBY, Hecla, S.D.
Brown County, S. Dak.
My Commission Expires 12/31/77

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

McRae
(TITLE OR SEAL)

R. B. Bushby
APPLICANT'S SIGNATURE

R. B. Bushby
APPROVED/DISAPPROVED

(SOILS INFORMATION ON REVERSE SIDE)

3149

REPORT OF ANALY
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. 76-1434
Identification: Well -
Sec. 15, T 128N, R 60W

WATER ANALYSIS

Calcium (Ca)	59	ppm*	2.95	me/l**
Magnesium (Mg)	8	ppm	0.66	me/l
Sodium (Na)	123	ppm	5.35	me/l
Potassium (K)	12	ppm	0.31	me/l
Sulfate (SO ₄)	39	ppm	0.81	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	45	ppm	1.26	me/l
Bicarbonate (HCO ₃)	454	ppm	7.44	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)	372	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	850	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	3.98			
Sodium	57.71	% of cations		
Residual sodium carbonate	3.83	me/l		
pH	8.05			

Others:

*ppm=parts per million

**me/l=millequivalents per liter

***g.p.g.=grains per gallon

COMMENTS: Total cations 9.27 me/l
Total anions 9.51 me/l

By: Shirley Litten

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. 76-1434

Amount Enclosed \$

Signed



October 5, 1976

Mr. Roy Bushby
Hecla, SD 57446

Dear Mr. Bushby:

Your water sample (Lab. No. 76-1434) 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

LOF:ckb
Inclosures
cc: State Conservation Commission

Form 6. - Notice of Intent to Appropriate Water

No. 3149-3

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 2.05 cubic feet of water per second of time from the ground water through the Bushby # 4, the point of diversion of which is to be located in the NE1/4 NE1/4

of Section 15, Twp. 12BN Range 60W. Said water to be used for the purpose of providing irrigation on the following described land:

NE1/4, Section 15, T12BN, R60W

This application No. 3149-3 will be considered by the Water Rights Commission at the Marvin Huggitt 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: Roy Bushby, Hecla, SD 57446

No. 3149-3

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 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. 859—Nov. 3-10-27) 12
NOTICE OF INTENT TO
APPROPRIATE WATER
Notice is hereby given that Roy Bush-
by 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 3.85
cubic feet of water per second of time
from ground water through the Bushby
No. 4, the point of diversion of which is to
be located in the NE 1/4 NE 1/4 of Section
15, Twp. 128N, Range 60W. Said water to
be used for the purpose of providing
irrigation on the following described
land: E 1/2, Section 15, T128N, R60W.
This application No. 3149-3 will be
considered by the Water Rights Com-
mission at the Marvin Hughtiff 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



October 29, 1976

Roy Bushby
Hacila, SD 57446

Dear Mr. Bushby:

As we discussed by phone the two applications you submitted should be split. Please sign the enclosed Form 2's where indicated before a notary public and return to this office. We will also require \$16.00 in additional fees.

We are sending out the advertising notices on all four applications so they can be considered on the November 17 Commission meeting.

Should you have questions, feel free to contact us.

Sincerely,

Barton F. Jones
Water Rights Specialist

BFJ/nf

Enclosures: Form 2 (4)

3147-3, 3148-3, 3149-3, 3150-3
3/4/3

December 2, 1976

Roy Bushby
Hecla,
South Dakota 57446

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

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.	Acrea	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 $\frac{1}{4}$ of Section 15. The Harold Treeby Application No. 3108-3 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

46	47	48	49	50	51	52	53	54	55	56	57
R62	R61				R61	R60				R60	R59
1	6	5	4	3	2	1	6	5	4	3	2
12	7	8	9	10	11	12	7	8	9	10	11
19	18	17	16	15	14	13	12	11	10	9	8
24	19	20	21	22	23	24	19	20	21	22	23
26	29	28	27	26	25	24	23	22	21	20	19
36	31	32	33	34	35	36	31	32	33	34	35
1	6	5	4	3	2	1	6	5	4	3	2
12	7	8	9	10	11	12	7	8	9	10	11
19	18	17	16	15	14	13	12	11	10	9	8
26	29	28	27	26	25	24	23	22	21	20	19
36	31	32	33	34	35	36	31	32	33	34	35
1	6	5	4	3	2	1	6	5	4	3	2
12	7	8	9	10	11	12	7	8	9	10	11
19	18	17	16	15	14	13	12	11	10	9	8
26	29	28	27	26	25	24	23	22	21	20	19
36	31	32	33	34	35	36	31	32	33	34	35
1	6	5	4	3	2	1	6	5	4	3	2

3149-3

State law requires that this report be filed with the State Board of Water Well Contractors within 30 days after completion or abandonment of the well.

1. WELL OWNER Name: <u>Roy Bushby</u> Address: _____	7. WATER LEVEL Static water level: <u>3</u> feet below land surface If flowing closed-in pressure: _____ psi GPM flow: _____ through _____ inch pipe Controlled by: Valve Reducers Other If other, specify: _____																										
2. WELL LOCATION Sketch map location must agree with written location NORTH 1 Mile County: <u>SW 1/4 SE 1/4</u> Sec. <u>15</u> Twp. <u>128N.</u> Rg. <u>60W</u>	8. WELL TEST DATA ☒ Pump ☐ Bailer ☐ Other Pumping level below land surface: <u>55</u> ft after <u>10</u> hrs. pumping _____ gpm _____ ft. after _____ hrs. pumping _____ gpm _____ ft. after _____ hrs. pumpin _____ gpm																										
3. PROPOSED USE ☐ Domestic ☒ Irrigation ☐ Industrial ☐ Stock ☐ Municipal ☐ Test Hole	9. WELL LOG <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Formation</th> <th colspan="2">Depth (ft.)</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td>Top soil</td> <td>0</td> <td>1</td> </tr> <tr> <td>Sand</td> <td>1</td> <td>3</td> </tr> <tr> <td>Fine sand</td> <td>3</td> <td>60</td> </tr> <tr> <td>Clay Sand</td> <td>60</td> <td>100</td> </tr> <tr> <td>Sand & Gravel</td> <td>100</td> <td>125</td> </tr> <tr> <td>Clay</td> <td>125</td> <td></td> </tr> <tr> <td></td> <td>125</td> <td></td> </tr> </tbody> </table> (Use separate sheet if necessary.)	Formation	Depth (ft.)		From	To	Top soil	0	1	Sand	1	3	Fine sand	3	60	Clay Sand	60	100	Sand & Gravel	100	125	Clay	125			125	
Formation	Depth (ft.)																										
	From	To																									
Top soil	0	1																									
Sand	1	3																									
Fine sand	3	60																									
Clay Sand	60	100																									
Sand & Gravel	100	125																									
Clay	125																										
	125																										
4. METHOD DRILLED ☐ Cable ☐ Reverse Rotary ☐ Bored ☒ Forward Rotary ☐ Jetted ☐ Other If other, specify: _____	10. DATE COMPLETED <u>APR 11 6, 1957</u>																										
5. WATER QUALITY Was a water sample collected for chemical analysis? ☐ Yes ☐ No If so, to what laboratory was it sent? _____	11. WAS WELL PLUGGED OR ABANDONED? Yes ☐ No ☒ If so, how: _____																										
6. WELL CONSTRUCTION Diameter of hole: <u>24</u> inches. Depth: <u>125</u> feet. Casing: ☐ Steel ☒ Plastic ☐ Concrete ☐ Threaded ☐ Welded ☐ Other If other, specify: _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Pipe Weight</th> <th>Diameter</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td>____ lb./ft. <u>200</u> inches</td> <td>____ inches</td> <td><u>6</u> feet</td> <td><u>125</u> feet</td> </tr> <tr> <td>____ lb./ft. _____ inches</td> <td>____ inches</td> <td>____ feet</td> <td>____ feet</td> </tr> <tr> <td>____ lb./ft. _____ inches</td> <td>____ inches</td> <td>____ feet</td> <td>____ feet</td> </tr> <tr> <td>____ lb./ft. _____ inches</td> <td>____ inches</td> <td>____ feet</td> <td>____ feet</td> </tr> </tbody> </table> Was perforated pipe used? Yes ☐ No ☒ Length of pipe perforated: _____ feet Was casing left open end? Yes ☒ No ☐ Was a well screened installed? Yes ☒ No ☐ Material: _____ Diameter: <u>10</u> inches (stainless steel, bronze, etc.) ? ? Slot size: <u>100</u> set from _____ feet to _____ feet Slot size: _____ set from _____ feet to _____ feet Slot size: _____ set from _____ feet to _____ feet Slot size: _____ set from _____ feet to _____ feet Was a packer or seal used? Yes ☐ No ☒ If so, what material: _____ Type of well: Straight screen ☒ Gravel packed ☐ Was the well grouted? Yes ☐ No ☒ To what depth? _____ feet	Pipe Weight	Diameter	From	To	____ lb./ft. <u>200</u> inches	____ inches	<u>6</u> feet	<u>125</u> feet	____ lb./ft. _____ inches	____ inches	____ feet	____ feet	____ lb./ft. _____ inches	____ inches	____ feet	____ feet	____ lb./ft. _____ inches	____ inches	____ feet	____ feet	12. REMARKS: _____						
Pipe Weight	Diameter	From	To																								
____ lb./ft. <u>200</u> inches	____ inches	<u>6</u> feet	<u>125</u> feet																								
____ lb./ft. _____ inches	____ inches	____ feet	____ feet																								
____ lb./ft. _____ inches	____ inches	____ feet	____ feet																								
____ lb./ft. _____ inches	____ inches	____ feet	____ feet																								
13. DRILLER'S CERTIFICATION This well was drilled under my jurisdiction and this report is true to the best of my knowledge	13. DRILLER'S CERTIFICATION This well was drilled under my jurisdiction and this report is true to the best of my knowledge																										

477

NOTICE OF WELL CONSTRUCTION

(1) WELL CONSTRUCTION

Location of well: SE 1/4 NE 1/4 NE Section 15 Township 12E Range 6C

Well owner Rob Bushby (here) McLa S.D. Township 2 Range 1

Date well drilling completed Aug 31, 1976 Purpose of well Test Hols.
(Agriculture, domestic, industrial, other)

WELL LOG

Layers, top to top in feet	Description of layer	Depth to top of water producing aquifer	ft
0-1	top Soil	Depth to static water level	ft
1-8	oxidized fine Sand	Name of producing aquifer (if known)	ft
8-20	fine gray Sand	Total depth of drill hole	ft
20-30	fine gray Sand	Depth to bottom of casing	ft
30-40	light Silty Clay	Change information in the space below show kind, size, weight, lengths per diameter, etc. for production casing and surface casing, if used	
40-60	Sandy gray Clay		
60-75	Clay Sand (Soft)	Screen information in the space below show length of screen below bottom of casing, diameter and kind of screen or casing perforations	
75-95	Fine gray Sand		
95-100	Sand gray Clay		
100-115	Fine Sand		
115-129	gray Clay		
129-139	Sandy Clay		
139-152	Clay till		
152-155	Shale	Following well flow of completion well	0 PM

Attach sheet if more space is needed

(2) PUMP INSTALLATION

Company name and size of pump _____ HP _____

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

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 New Insulation Contractor

Permit No. 3149-3

_____ Water District

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

TO: Chief Engineer, Division of Water Rights, DWR, 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. 3149-3, bearing the priority of September 29 1976 authorizing
 the diversion of 3.8⁵ 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:

Aurora Rotational 5 stage turbine pump - Model 377-71873 ;
Perkins 6cyl. 85Hp Diesel - Model 354

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

1660 ft. - 10" ; 2640 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 165 ft. South ; 70 ft. West of the NE corner
Sec. 15 - T128N - R 60W (NE 1/4 NE 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. 15 - T128N - 60W

<u>NW 1/4 NE 1/4 - 32.5 Ac.</u>	<u>NW 1/4 SE 1/4 - 32.5</u>
<u>NE 1/4 NE 1/4 - 32.5 Ac.</u>	<u>NE 1/4 SE 1/4 - 32.5</u>
<u>SW 1/4 NE 1/4 - 32.5 Ac.</u>	<u>SW 1/4 SE 1/4 - 32.5</u>
<u>SE 1/4 NE 1/4 - 32.5 Ac.</u>	<u>SE 1/4 SE 1/4 - 32.5</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 A. Schaal
 (signature)

3149-3

LICENSE FOR PERMIT NUMBER 3149-3

1. Legal location of wells: 165 ft. South & 70 ft. West of the
NE corner of Sec. 15, T128N-R60W (NE1/4 NE1/4)
 dams & structures: _____

2. Well Information: Well Drilling Firm Adair Drilling Co. (currently not
in business - No well log available)

Completion Report Yes ___ No ___ No. of Wells 1 Depth 120 ft.

Casing a) diameter 16 inch Screen a) type slotted

b) length 100 ft. b) length 20 ft.

c) type PVC Static Water Level _____

Pump a) make Aurora Rotational Motor a) make Parkins 6 cyl Diesel

b) model 377-71873 b) model No. 354

c) size 12 RM c) horsepower rating 85 Hp

d) capacity 850 gpm

e) turbine pump - no. of stages 5

f) operating PSI 80 psi

3. Distribution lines or canals

a) size 10 inch & 8 inch

b) type Buried PVC

c) length 1660'-10" & 2640'-8"

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) sideroll:

- 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
- 6) high or low pressure High
- 7) make & size of nozzles _____

- 8) capacity (GPM) 850 gpm

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:



3149-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

3149-3
413742

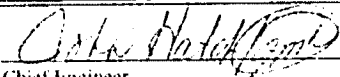
Pierre, _____ April 27 _____, 19 93

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. <u>3149-5</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By 
Chief Engineer

3149-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 3149-3

(1) Roy Bushby, of PO Box 68, Hecla, SD 57446-0068 made Application No. 3149-3, September 29, 1976 for a water permit to appropriate 3.85 cubic feet of water per second from groundwater, Brown County, South Dakota for irrigation purposes. Permit No. 3149-3, 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 165 feet S and 70 feet W of the NE corner of Section 15 T128N R60W (NE1/4 NE1/4).

(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-R60W</u>	<u>Section 15</u>	<u>NW1/4 NE1/4</u>	<u>32.5 acres</u>
		<u>NE1/4 NE1/4</u>	<u>32.5 acres</u>
		<u>SW1/4 NE1/4</u>	<u>32.5 acres</u>
		<u>SE1/4 NE1/4</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. 3149-3 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. 3149-3 and subject to South Dakota State Law.



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

SEP 17 1993



3149-3

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.

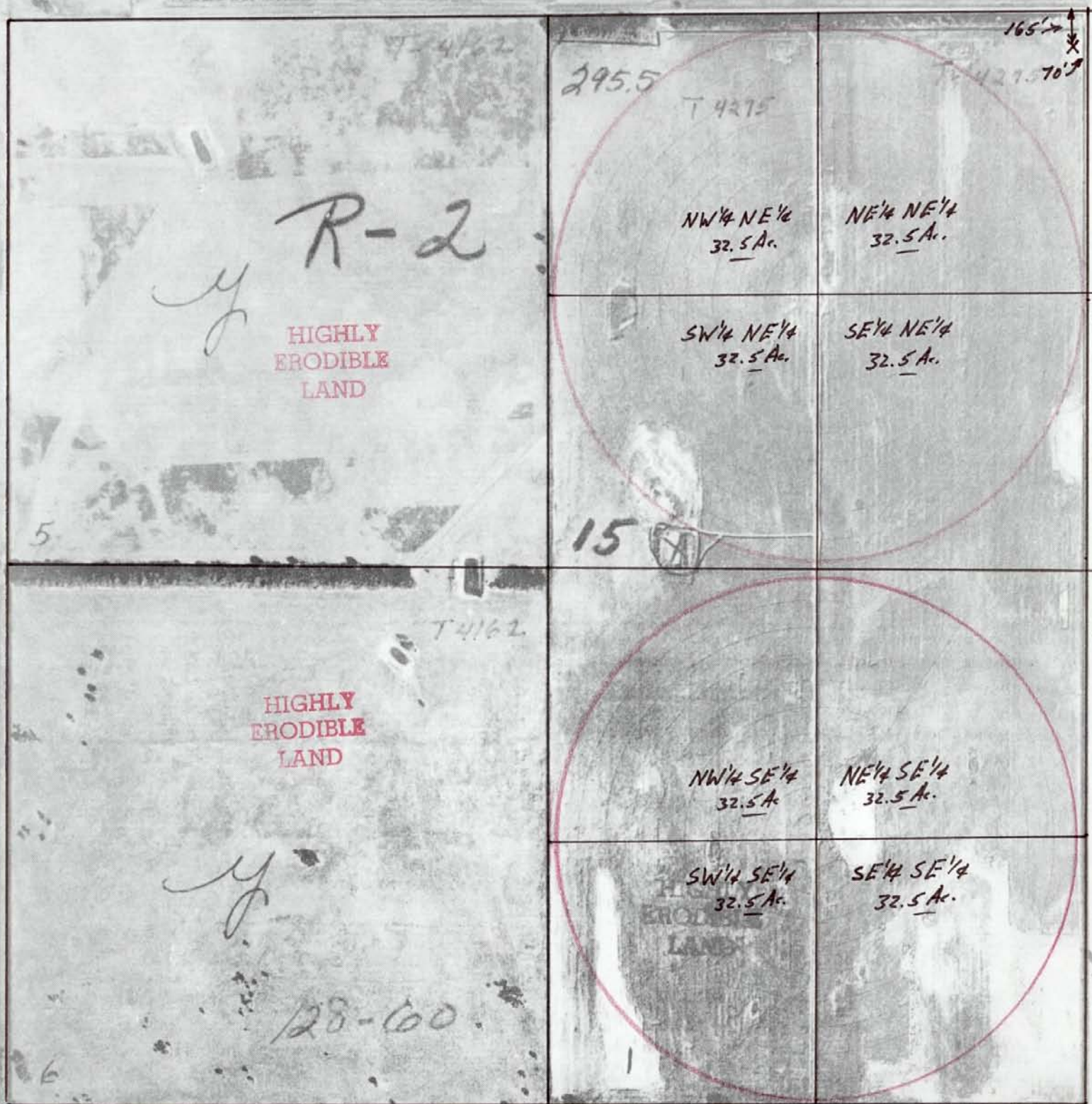
As long as you use the water beneficially, as stated in the Water Licenses, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Very truly yours,

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

rd
enclosures

NOT TO SCALE



3149-3

Timothy H. Schaal
November 8, 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,

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

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED
JAN - 7 2011
WATER RIGHTS
PROGRAM

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

No. 3149-3

Date: _____

I/We request that Water Right No. 3149-3

formerly owned by: Roy Bushby Irrevocable Real Estate Trust

be transferred to: (name & address) Bushby Brothers Irrevocable Farm Trust
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 - E 1/2 Section 15, T128N, R60W

I/We understand that the validity of Water Right No. 3149-3 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 Bushby Brothers Trust, the new owner, certify that the above information is true and correct.

Dennis Schumacher (trustee)
(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, 2011

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>3149-3</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. _____	50 00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

04809

By

Harold Erlund
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

3149-3



**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

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.