

(10) DEFERRED

4317-3

1. Considered SEPTEMBER 13, 1978
2. Name of Applicant MUILENBURG, INC.
3. Post Office Address ALEXANDRIA, S.D
4. Amount of Water claimed 2.14
5. Source of Water supply 1-100' DEEP WELL
6. Water to be used for IRRIGATION

Acres to be irrigated 160

7. Water to be diverted and used in MINER County
about 2W CANONA miles of

8. Proof of Publication

Received

9-12-78

Not Received

Approved

BRUTTY

Subject to

DONALD ~~XXXX~~
WALLY HOFER 100'-110'

Not Approved

Action Deferred

24 $\frac{1}{4}$ MILES

10. Remarks:

MIN. 10' SAT THICKNESS

1315' ELEV. - FLOW!
1320' ELEV. - 110' FLOW!

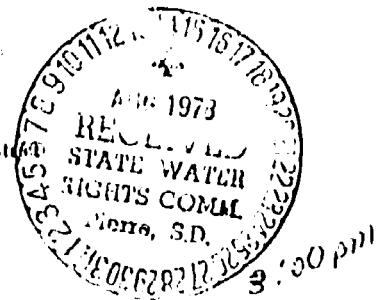
50,000 AC. FT. STORAGE

265 AC. FT. @ 1000 GPM - 60 DAYS



*Deferred
until
November 1978*

Map No. 3526-3 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 Muilenburgs Inc. AR # 1, Box 22 Phone 239-4666
 Postoffice address Alexandria, South Dakota 57311 State _____
 If a corporation show date and place of incorporation March 10, 1972 Davison
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract
 3. Name of diversion work Drilling well MUILENBURG WELL
 4. Amount of water claimed (cubic feet per second) 2.14 ft. or 960 gpm
 5. Source of water supply Underground
 6. Location of point of diversion Approximate center of S.E. 1/4 Sec. 21 T105 Rg. 57W

- County Miner
 7. Annual period or periods during which water is to be used Irrigation season
 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 160

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.
NE 1/4 SE 1/4 Sec 21 T105 Rg 57W	40		
SE 1/4 SE 1/4 Sec 21 T105 Rg 57W	40		
SW 1/4 SE 1/4 Sec 21 T105 Rg 57W	40		
NW 1/4 SE 1/4 Sec 21 T105 Rg 57W	40		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system One(1) years. Additional time required to complete application of water to the proposed beneficial use One(1) years.

11. Choice of newspaper for Notice of Intent to Appropriately Use Water publication MINER Co. PIONEER, HOWARD, S.D.

12. Principal Features of the Proposed Water Supply System.

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

Deepwell turbine pump

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

PVC pipeline

C. Works proposed to apply water to beneficial use.

Center pivotEstimated Total Cost \$ 50,000

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 Miner)

I, JOHN D. MUILENBURG, 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 John Muilenburg
 Subscribed and sworn to before me this 13th day of August 1972

M. R. CUNNINGHAM
 Notary Public
 My Commission Expires
 December 16, 1974

M. R. Cunningham
 Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 4317-3
MULLENBURGS, INC. RR #1, Box 22, ALEXANDRIA
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57311 With the following modifications:

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 that 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 AUGUST 14, 19 78
 Date of return to applicant for correction, amendments or changes required ---, 19 ---
 Date of receipt of corrected application ---, 19 ---
 Approved MAY 24, 19 79, Recorded in Book 21 Page 30

WATER RIGHT PERMIT NO. 4317-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 4317-3 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: AUGUST 14, 1978

1. The date from which applicant may claim right is ~~NOVEMBER 24, 1978~~ NOVEMBER 24, 1979
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOVEMBER 24, 1980
3. The whole of said work is to be completed on or before MAY 24, 1982
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 24, 1981
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 2.14 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 2 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 MAY 24, 1981; said water to be used during the following described annual period: IRRIGATION SEASON

Witness my hand this 3RD day of JULY, 19 79

WATER RIGHTS COMMISSION

By:

John Hated
 Chief Engineer, Executive Officer

Certificate of Construction Issued ---, 19 ---

Water License Issued ---, 19 ---

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

D. Well Information or Estimates

- (1) Drill Hole, Diameter 24", Depth 100'
- (2) Casing, Type Steel (wood, concrete, steel, etc) Diameter 16" Thickness .38"
- (3) Perforated Screen.
Type Johnson, Diameter 16", Length 100' 10'
- (4) Gravel Pack. Thickness 4", Length of gravel pack 100'

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 _____

Pea rock and larger showing very good water flow

Depth to top of water bearing material 32'

Depth to bottom of water bearing material 97'

Thickness of water bearing material 65'

Depth to water (ground surface to water level) 15'

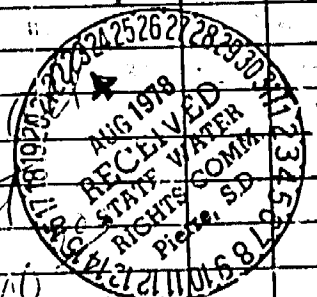
- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property 160 rds. On property owned by others 280 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.

M. Wilbur
Signature of Applicant
John D. Wilbur, Owner



HURON DRILLING INC. DRILLERS LOG

PAGE NO.

Hailenburg, Inc.

S.E. 1/4-21-105-57-Miner
LOCATION County

8/15/79

12

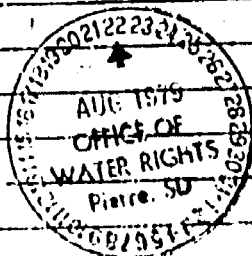
Lloyd Peterson

JOB NAME

RIG NO.

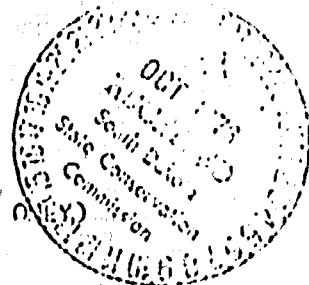
FOREMAN

Dr. No.	DEPTH	TIME	REMARKS
			Test Hole #1
			0-18 Yellow sand and gravel rocks & 1" v.
1	20		18-20 Blue clay 1-Re-Tip 6" D. . 511
2	40		20-40 Blue clay
3	60		40-60 Blue clay
4	80		60-79 Blue clay, streak & 67' on this hole
5	100		79-80 Sand and gravel good
6	105	TD	80-100 Sand and gravel, some water loss
			100-105 Sand and gravel
			105-106 Clay
			Test Hole #2
			0-3 Topsoil
1	20		3-7 Gravel, yellowish
2	40		7-15 Yellow clay
3	60		15-20 Blue clay
4	80		20-40 Blue clay, gravel stringer & 23 Ft.
5	100		40-60 Blue clay, few sand streaks
6	105	TD	60-68 Blue clay
			68-80 Sand and gravel-good-waterloss
			80-100 Sand and gravel
			100-105 Chalk



CONSERVATION
COMMISSION
FORM WI #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 IRRIGATION)



NAME JOHN D MUELENBURG

ADDRESS RR1 BOX 72 FLEXPAPER SDAL 57311

COUNTY MINER

LEGAL DESCRIPTION

1. WELL LOCATION E 1/4 of N 1/2 of SE 1/4 of 21-105-57
2. LOCATION OF AREA TO BE IRRIGATED E 1/2 of 21-105-57

TYPE OF IRRIGATION

3. GRAVITY _____ TOWLINE _____ CENTER PIVOT X GUN _____
4. CROPS TO BE IRRIGATED CORN + ALFALFA

WATER QUALITY

5. SAMPLE NUMBER 75-951
6. "SALINITY (EC X 10⁶) 1866 (high)
7. SODIUM (SAR) 4.26 (medium)
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 MINER COUNTY 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.

John D. Muelenburg
APPLICANT'S SIGNATURE

SUBSCRIBED AND SWORN BEFORE ME THIS
12 DAY OF October 19 76

Harold H. Havel
(TITLE OR SEAL)

Approval does not imply that this project can be carried
out successfully in all circumstances. Individual man-
agement is required to determine the relative
success.

John A. D. D. D.
APPROVED/1 FC 743760

(SOILS INFORMATION ON REVERSE SIDE)

JOHN D. MULLENBURG

RR#1, Box 22

ALEXANDRIA, SD

OCT 27, '76 - date recvd in office / IT WAS APPROVED



WELL - E $\frac{1}{4}$ of N $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec 21, T105-R57

LAND - E $\frac{1}{2}$ of Sec 21, T105-R67

H₂O Sample - 75-951

EC - 1866

SPR - 4.26

Adj - 10.6 (.7) = 7.4

Sodium = 46%

Verified by Meyer

October 21, 1976



Mr. John D. Mullenburg
R.R. #1, Box 22
Alexandria, SD 57311

Dear Mr. Mullenburg:

Under separate cover I am returning to you the forms which are called form 2 and must be completed by an engineer, and sent directly to the Water Resources Commission in Pierre.

Herewith I am transmitting a copy of this letter and of your water analysis of 1975 on sample #951 to the State Conservation Commission for their action.

I recommend that you be very cautious in developing this proposal. The main reason is that the poorly drained soils and soils with high water table in the NW quarter of the north half of this tract are unsuited for irrigation and 3 small tracts along the east side of the half section are very questionable to unsuitable. Therefore, with the high salt load of this water (about 1.7 tons per acre foot) you must be absolutely certain to avoid irrigating these areas as well as any other areas which are not shown on the map but which have high water table or salty conditions near the surface, or both.

If you will observe the following management recommendations, you should be quite satisfied with the performance of the major soil area within the half section that I have indicated as irrigable for approximately 12-15 years: (1) Irrigate as infrequently as possible, no more than 3 or 4 times in the hot part of the growing season. Use mostly late fall or very early spring irrigation. (2) Irrigate in substantial amounts so as to completely rewet the dried out portion of the root zone of the crops you are growing. This may mean 3 to 4 inches of water in one application. Absolutely avoid small applications made frequently, such as an inch or an inch and a quarter every week or two. (3) Occasionally you will have to consciously leach by applying large amounts of water late in the fall, just before freeze-up. This will allow maximum opportunity for natural precipitation to cause downward movement of salt out of the root zone of the crop that you normally grow.

As indicated above, these materials are being forwarded to the Conservation Commission for their action.

Sincerely yours,

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

LOF:ckb

cc: State Conservation Comm.

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

Submitted by: Hellenburgs, Inc.
 Address: Lawrence, SD 57311

Date Rec'd: Oct 13, 1975
 Sample No.: 75-351
 Identification: 3

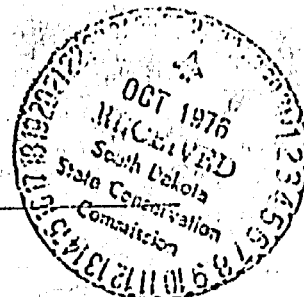
WATER ANALYSIS

Calcium (Ca)	160	ppm*	3.60	me/l**
Magnesium (Mg)	45	ppm	3.69	me/l
Sodium (Na)	237	ppm	10.31	me/l
Potassium (K)	24	ppm	0.62	me/l
Sulfate (SO ₄)	650	ppm	13.52	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	24	ppm	0.66	me/l
Bicarbonate (HCO ₃)	317	ppm	5.20	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)	260	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	1866	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	4.26			
Sodium	45.57	% of cations		
Residual sodium carbonate	0.00	me/l		
pH	7.19			
Others:				

*ppm=parts per million
 **me/l=milliequivalents per liter

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

COMMENTS: Total cations 22.62 me/l
 Total anions 19.33 me/l



By: Shirley Witten

Service Performed	Amount Due
Irrigation analysis	66.00
Make checks payable to: Water Quality Laboratory	
Cut along dotted line and return the lower portion with payment	

Sample No. 75-351

Amount Enclosed 5

Signed _____

Form 6 - Notice of Intent to Appropriate Water
GROUND WATER

No. 4317-3

Publish first publication, on or before August 31, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

August 25, 1978

Notice is hereby given that Hullenburgs, Inc. whose post office address is Alexandria, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 2.14 cubic feet of water per second of time from groundwater (one well) through the Hullenburg well, the point of diversion of which is to be located in the approximate center of SE 1/4

of Section 21, Twp. 105N Range 57W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

SE 1/4, Section 21-105N-R57W

This Application No. 4317-3 will be considered by the Water Rights Commission at the 4-11 Fairground Meeting Hall, west of Mitchell SD on May 16 upon the 13th day of September, 1978 at 10 A. M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

NOTE: The final proof of publication must be received before the hearing date for the Commission to take action.

WATER RIGHTS COMMISSION

Betty Westlund
Water Rights Specialist

cc: Hullenburg, Inc.
RR1, Box 22
Alexandria SD 57311

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

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
Miner) ss.
County _____)

I, Paul C. Munger hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Miner County Pioneer

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

County Pioneer of _____

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

Aug. 31. & Sept. 7th

Paul C. Munger
(Signature)

Editor

(Title)

Sept. 7th, 1978

(Date Signed)



NOTICE OF HEARING ON
APPLICATION TO
APPROPRIATE WATER

Pierre, S.D. 57501

August 28, 1978

Notice is hereby given that
Mullenburg, Inc., whose post
office address is Alexandria,
South Dakota, has made an
application in accordance with
the provisions of SDCL 46-1-1
thru 46-1-8; 46-2-9 thru 46-2-11;
46-2-13; 46-5-1 thru 46-5-8; 46-5-
11 thru 46-5-22; 46-5-41; 46-6-2;
46-6-5; 46-6-6; 46-6-10; 46-6-14;
and Commission Rules ARSD
62:01:01:01 thru 62:01:01:13, for
a permit to appropriate for
beneficial use 2.14 cubic feet of
water per second of time from
groundwater (one well) through
the Mullenburg well, the point
of diversion of which is to be
located in the approximate cen-
ter of SE 1/4 of Section 21, Twp.
105N, Range 67W. Said water to
be used for the purpose of
providing irrigation on portions

of the following described land:
SE 1/4 Section 21, 105N-67W-6E

This Application No. 4317-3
will be considered by the Water
Rights Commission at the 4-H
Fairground Meeting Hall, west
of Mitchell, S.D., on Hwy 216
upon the 13th day of September,

1978 at 10 A.M. The Commis-
sion is authorized to make a
determination on this application
at the hearing. All interested
persons may appear and be
heard. Any person who may be
affected by a Commission deci-
sion who desires to present
evidence for cross-examine wit-
nesses according to SDCL 1-2c
may notify the Commission in
writing prior to the hearing or
orally at the hearing.

WATER RIGHTS COMMISSION

By Betty Westlund
Water Rights Specialist
(Aug. 31 & Sept. 7)

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 6512

PIERRE, August 23, 1978

RECEIVED OF Muilenburg Farms, Inc., Alexandria SD 57311

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

FUND 280

Fee for Application for Permit to Appropriate Water No. 4317-3 (examination, processing, recording and filing)	250	00
Fee for inspecting Construction, and issuing Cert. of Construction No.		
Fee for inspecting Beneficial Use, and issuing Water License No.		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	250	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer

JOHN HATCH



Commercial Bank

BOX 907 MITCHELL, SOUTH DAKOTA 57301

TRUST DEPARTMENT

September 18, 1978

RECEIVED

SEP 20 1978

**DEPT. OF NATURAL
RESOURCE DEVELOPMENT**

Mr. Vern Butler
Water Resources Commission
Joe Foss Building, 2nd Floor
Pierre, S. D. 57501

Dear Sir:

This is in regard to a hearing recently held in Mitchell, South Dakota, concerning a proposed irrigation well to be drilled by Muilenburgs, Inc., on the SE Quarter of Section 21, 105 North, Range 57 West, Miner County, S. D. I attended this hearing and heard the motion tabled and the application denied on two different attempts; however, I understand this will come up again at future hearings.

This bank is trustee for the Rozum Trusts that have about 25 quarters in Miner County. We supervise the operation of these farms and are responsible for the upkeep and maintenance. We enclose a map for your perusal which shows that we have nine quarters in the township affected by the proposed well. Two of our quarters are adjacent to the quarter on which the well will be located. We have some eleven water wells all drilled within the 110 to 130-foot level as proposed by the Muilenburg well.

It is our contention that the drawing of a thousand gallons per minute from this water table, as proposed, would drastically affect other wells in the immediate area, eleven of which we are concerned about. This would appear to be an unjust depletion of the water table for the benefit of one person.

Your consideration against this proposal would be greatly appreciated.

Sincerely yours,

James W. Stewart
Executive Vice President

JWSmw

TELEPHONE (605) 936-7755

T-108-N
KINGSBURY CO. REDSTONE KINGSBURY CO.
R-58-W

6 Floyd Lund, Car. 1	5 Melvin Bender, Car. 1	4	3	2 Leonard Pe, Car. 1	1
7 Frank Zillke, Car. 1	8	9	10	11	12
13 Joe Snideker, Car. 1	14 Max Stroud, Car. 1				
15 Robert Shoemaker, Car. 1	16				
17 Joe Starzl, Car. 1	18 Herman Kindvall, Car. 1				
19	20 Dan Kindvall, Car. 1				
21	22 William Ochoa, Car. 1				
23	24				
25	26				

NOTICE OF HEARING ON APPLICATION TO APPROPRIATE WATER

Pierre, S. D. 57501
August 25, 1978

Notice is hereby given that Mullenburgs, Inc., whose post office address is Alexandria, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 2.14 cubic feet of water per second of time from groundwater (one well) through the Mullenburg well, the point of diversion of which is to be located in the approximate center of SE 1/4 of Section 21, Twp. 105N, Range 57W. Said water to be used for the purpose of providing irrigation on portions

of the following described land: SE 1/4, Section 21-105N-R57W.

This Application No. 4317-3 will be considered by the Water Rights Commission at the 4-H Fairground Meeting Hall, west of Mitchell, S.D., on Hwy. 16 upon the 13th day of September, 1978 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

WATER RIGHTS COMMISSION
 Betty Westlund
 Water Rights Specialist
 (Aug. 31 & Sept. 7)

35
36

AINER COUNTY, SOUTH DAKOTA 1976

ABC Company

Complete Tractor
& Loader Salvage

Ph. 112-3652 - Howard, S. D.

Ph. 248-2270 - Letcher, S. D.

- USED -

Combines - Tractors - Machinery

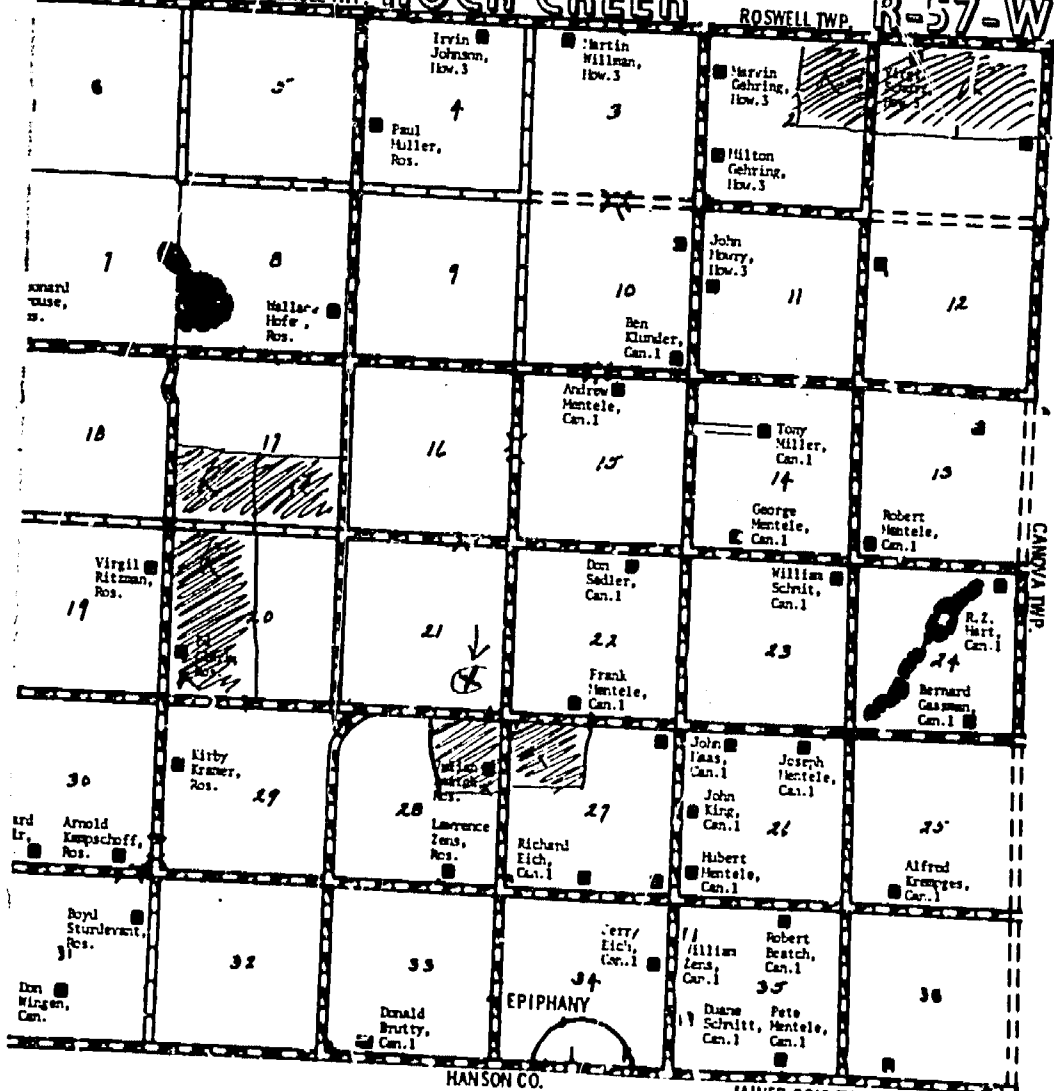
1-105-N

ROSWELL TWP.

ROCK CREEK

ROSWELL TWP.

R-57-W



MINER COUNTY, SOUTH DAKOTA 1976

4317-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

October 13, 1978

James W. Stewart
Executive Vice President
Commercial Bank
Box 907
Mitchell, SD 57301

Dear Mr. Stewart:

This will acknowledge your letter concerning Muilenburgs, Inc. Water Right Application No. 4317-3 in Miner County. We are presently doing further investigation which includes determination of the number of domestic wells which could be affected by the proposed well.

A key factor with any domestic well which flows or when artesian head pressure exists, is that State Statutes do not require that the head pressure (water level) be protected. The domestic right does not include head pressure as a means of delivery of water to the pump or to cause a well to flow. The domestic right and domestic preference applies to the water in the water bearing sands and gravels (aquifer) and not to the head pressure as a means of delivery of the water to a pump or to the surface if a well flows. We recognize that this can present problems where domestic well owners are relying upon the head pressure to deliver water to the pump or to cause the well to flow.

In a large capacity well as proposed by Muilenburgs, Inc., the cone of influence from pumping can extend over a several square mile area as the head pressure at the well is reduced. Nearby domestic wells relying upon the head pressure may stop flowing or if pumps are used, it is possible that the head pressure could be lowered below the location of the pump. If the pump can not be lowered, or a pump can not be placed in a flowing well, then the domestic wells will not produce water until the high capacity well is shut off and the head pressure returns.

Any new wells constructed must be adequate wells, that is, the well is constructed to allow a pump or pump intake to be placed in the well casing at least twenty feet down into the aquifer, aquifer thickness permitting. In a thinner aquifer, the well must be constructed so that the pump can be placed in the bottom one-third of the aquifer.

Mr. James W. Stewart
October 13, 1978
Page Two

We are attempting at this time to determine the number of domestic wells that could be affected, if the application were approved. The Commission in the past has delayed approving water rights for high capacity wells where several domestic wells may be interfered with to allow domestic well owners time to have pumps installed or lowered or to even drill adequate wells.

This application is scheduled to be reconsidered at the Water Rights Commission meeting here in Pierre, November 15 and 16, 1978 and we will provide official notification prior to that time. What action will be taken, we do not know at this time.

Enclosed for further information is a copy of a paper entitled "Discussion of Domestic Well Problems in South Dakota Prepared for the Water Rights Commission".

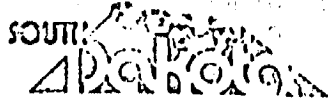
Please advise if you have additional comments.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:plh

Enclosure



4317-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

November 1, 1978

TO: Persons concerned with Muilenburg's Inc. Application No. 4317-3
FROM: John Hatch, Chief Engineer, Water Rights Commission
SUBJECT: Reconsideration of Application No. 4317-3

The Water Rights Commission will reconsider Water Right Application No. 4317-3 at 3:00 p.m., November 15, 1978, at the SDEA Auditorium, 411 East Capitol, Pierre, South Dakota.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-6-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

The hearing on Application No. 4317-3 was rescheduled until the November 15, 1978 meeting by the Water Rights Commission, pending staff investigation.

After reconsideration of Application No. 4317-3 the Commission can approve, conditionally approve, defer, or deny all or part of the Application.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

I hereby certify that the above notice for reconsideration of Application No. 4317-3 was mailed to the persons listed on the attached list on November 1, 1978.

Karen Wernsmarin

Karen Wernsmarin
Staff Assistant IV

STATE OF SOUTH DAKOTA) SS
COUNTY OF HUGHES)

Swore to, before me, this 1st day of Nov., 1978.

Justin Zickrick
Justin Zickrick, Notary Public
My Commission expires 3/27/83

James Mullenburg
Alexandria SD 57311

Canova SD 57321

Roswell SD 57372

John D. Mullenburg
Alexandria SD 57311

Edmund Sassman
Canova SD 57321

John R. Mowry
Howard SD 57349

Julian Beatch
Canova SD 57321

George Eich
Canova SD 57321

Ed Clark
Roswell SD 57372

Bob Threadgold
Fedora SD 57337

Alfred Krempges
Canova SD 57321

Marvin Gehring
Howard SD 57349

Donald Brulky
Canova SD 57321

Paul Muller
Roswell SD 57372

Joe A. Mentele
Canova SD 57321

Charles Zahndt
Spencer SD 57374

Mrs. Don Sadler
Canova SD 57321

Frank Mentele
Canova SD 57321

Leo Miller
Canova SD 57321

Richard Eich
Canova SD 57321

Boyd Sturdevant
Canova SD 57321

James W. Stewart
Commercial Bank
Mitchell SD 57301

Tony Miller
Canova SD 57321

Lawrence Zens
Canova SD 57321

Glenn Eich
Canova SD 57321

Mr. & Mrs. John Haas
Canova SD 57321

Virgil J. Schurz
Howard SD 57349

Paul Zahndt
Spencer SD 57374



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-4212

November 17, 1978

Mullenburg, Inc.
RR1, Box 22
Alexandria SD 57311

Dear Sir:

The Water Rights Commission deferred action on your Application No. 4317-3
at the November 15, 1978 Commission meeting, pending investigation by
the Commission Staff.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

Received November 15, 1978
at WRC meeting - had

TO THE SOUTH DAKOTA WATER RIGHTS COMMISSION:

The South Dakota Water Rights Commission having on the 13th day of September, 1978, considered application #4317-3, being the application of Mailenburgs, Inc. to irrigate the Southeast Quarter (SE $\frac{1}{4}$) of Section 21, Township 105, Range 57, West 5th P.M., Miner County, South Dakota, at which time said commission deferred the granting of such application for irrigation purposes and that the hearing was delayed until November, 1978.

That there has been no geological survey in the area to determine whether or not there is adequate water for an irrigation well to pump 2.14 cubic feet per second and still have enough water to supply the surrounding area residents and the town of Ehipany which is located a short distance from the proposed irrigation site.

We, the undersigned petitioners, being residents of the surrounding area, hereby petition the commission to delay action on the above application # 4317-3 until there have been further pumping tests made to determine if there is adequate water available for the above irrigation well and the area residents including the town of Ehipany.

	<u>Name</u>	<u>Address</u>	<u>Legal Descr.</u>	<u>Date</u>
1.	Bernard Gorman Gorman	SE 1/4 24-105-57	10-22-78	
2.	William Gorman Gorman	SE 1/4 25-105-57	10-22-78	
3.	William Gorman Gorman	SE 1/4 24-105-57	10-22-78	
4.	William Gorman Gorman	SE 1/4 24-105-57	10-22-78	
5.	Edward (Black) Gorman	S.W. 22-105-57	10-22-78	
6.	Joe Gorman	S.W. 22-105-57	10-22-78	
7.	Donny Miller	SE 1/4 24-105-57	10-22-78	
8.	John R. Henry	NE 1/4 11-105-57	Oct 27-1978	
9.	John R. Henry	NE 1/4 11-105-57	Oct 27-1978	
10.	Paul Miller	SE 1/4 24-105-57	10-22-78	
11.	Paul Miller	SE 1/4 24-105-57	Oct 27-1978	

Received Nov 15, 1978
at WRC meeting

TO THE SOUTH DAKOTA WATER RIGHTS COMMISSION:

The South Dakota Water Rights Commission having on the 13th day of September, 1978, considered application #4317-3, being the application of Muilenburgs, Inc. to irrigate the Southeast Quarter (SE $\frac{1}{4}$) of Section 21, Township 105, Range 57, West 5th P.M., Miner County, South Dakota, at which time said commission deferred the granting of such application for irrigation purposes and that the hearing was delayed until November, 1978.

That there has been no geological survey in the area to determine whether or not there is adequate water for an irrigation well to pump 2.14 cubic feet per second and still have enough water to supply the surrounding area residents and the town of Ehipany which is located a short distance from the proposed irrigation site.

We, the undersigned petitioners, being residents of the surrounding area, hereby petition the commission to delay action on the above application # 4317-3 until there have been further pumping tests made to determine if there is adequate water available for the above irrigation well and the area residents including the town of Ehipany.

	Name	Address	Legal Descr.	Date
1.	Donald B. Bratty	Canon S.D.	S-15-105-57	11-1-78
2.	Mary A. Bratty	Canon S.D.	S-1-105-57	11-1-78
3.	John Miller	Canon S.D.	SE $\frac{1}{4}$ & NE $\frac{1}{4}$ 105-57	11-1-78
4.	Joe Miller	Canon S.D.	SE $\frac{1}{4}$ - 104-57	11-1-78
5.	John Miller	Canon S.D.	SE $\frac{1}{4}$ & NE $\frac{1}{4}$ 105-57	11-1-78
6.	John Miller	Canon S.D.	SE $\frac{1}{4}$ - 104-57	11-1-78
7.	W. F. Eick	Canon S.D.	Sec 1 & 2 - NE $\frac{1}{4}$	11-1-78
8.	Edmund Eick	Canon S.D.	Sec 2 - NE $\frac{1}{4}$	11-1-78
9.	Henry Eick	Canon S.D.	Sec 9 & 10 - 34	11-1-78
10.	Margaret Eick	Canon S.D.	Sec 9 of Sec. 34	11-1-78
11.	Long Eick	Canon S.D.	NE $\frac{1}{4}$ Sec 2 - 105-57	11-1-78
12.	Donald Eick	Canon S.D.	NE $\frac{1}{4}$ Sec 2 - 105-57	11-1-78
13.	George Eick	Canon S.D.	NE $\frac{1}{4}$ Sec 3 - 105-57	11-1-78

	Name	Address	Legal Descr.	Date
14.	Lucas H. Schmidt	Canova S.D.	SW 1/4 of 35-105-57	
15.	Charles D. Schmitt	Canova S.D.	SW 1/4 of 35-105-57	
16.	Donald Wingen	Canova S.D.	SW 1/4 of 35-105-57	
17.	Clay Wingen	Canova S.D.	SW 1/4 of 35-105-57	
18.	Romane H. Eich	Canova S.D.	SE 1/4 of 57-105-57	
19.	Geordie Eich	Canova S.D.	SW 1/4 of 57-105-57	
20.	Miller Zim	Pock Creek S.D.	1035-105-57	
21.	Zola Zim	Canova S.D.	NE 1/4 35-105-57	
22.	Paul R. Martell	Canova S.D.	Lot 7 SW 1/4 of SW 34-105-57	11/1/78
23.	Holey Martell	11/3/78	Lot 7 SE 1/4 of SW 34-105-57	
24.	Antonia Zim	Canova S.D.	Sec. 3 Twp 24 Range 57	
25.	Catherine Zim	Canova S.D.	Sec. 3 Twp 24 Range 57	
26.	Merry Eich	Canova S.D.	Sec. 4 - SE 1/4 of SW 34-105-57	
27.	August F. Doll & Catherine Doll	Canova S.D.	Springdale Twp. Sec. 10-11-12-13	
28.				
29.				
30.				
31.				
32.				
33.				
34.				
35.				
36.				

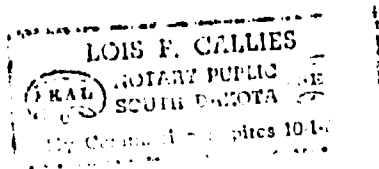
STATE OF SOUTH DAKOTA)
COUNTY OF MINER) SS.

I, Donald Brutty, being first duly sworn, on oath depose and say that I personally circulated this petition, and that each signature appearing thereon was made in my presence by the signer, who personally added to his signature, his address, legal description and the date of signing, and that to the best of my information and belief each of said signers is a resident as stated in said petition; and I hereby attest the legality of the signatures.

Donald Brutty

Subscribed and sworn to before me this 13 day of November 1978.

Lois F. Callies
Notary Public, South Dakota



011 665-53-265

November 14, 1978

Re: Meilenburgs Inc, Application No. 4317-5

Water Rights Commission:

I am located 1 mile east of where this so-called irrigation well is supposed to be located. I have a flowing well 110 ft deep that used to flow a 2 inch pipe nearly full. This well produces sufficient water equal to our needs. According to Webster's dictionary the definition for adequate is equal to a need, sufficient or suitable. How then can a So. Dak. law call this well not adequate? Our existing well supplies adequate water for ourselves and our stock when no one else is trying to drain our underground water supply dry. By this I am referring to the irrigation wells at Fedora, 14 miles from my location, when first used would slow my well down to less than $\frac{1}{4}$ of a 2 inch pipe. When these wells were not used for long periods of time my well would gradually increase to nearly a 2 inch pipe flow again. Then the State comes along and drills a well at the Erwin Johnson farm located 1 mile west and 3 miles north of me which permanently damaged my well. The flow of my well was slowed down to a pencil stream which was not adequate water for my needs, so I had to dig my tank down 6 inches in the ground to regain a $\frac{1}{4}$ of a 2 inch pipe flow. When the State stopped using their well my well came back to almost a half of a 2 inch pipe flow which is quite a bit short of a nearly full 2 inch pipe.

I would also like to mention that we have tried to use the water from our well to water our gardens. We no longer do this for the

simple reason the water makes the ground so hard it is very difficult to work with a hoe or spade.

If this application would somehow receive approval and neighboring wells are affected or stopped which I feel certain will happen, Mr. Muilenburg should personally sign an agreement stating he at his own expense will replace or repair any well stopped or affected by his irrigation system with a well of at least equal ^{capacity} to the original. He should also agree to haul in at his expense sufficient water untill the affected wells are again furnishing an adequate supply of water.

Don J. Sadtler
Canova So. Dak.

Tele. 772-4017

NE 1/4-34-106-57

Nov 14, 1978

Water Rights Comm.
South Dakota

Dear Sir:

We are very concerned about our water supply.

Recently a fairly large well was dug on the NE 1/4-4-105-57 to supply water for the construction of Highway 25.

Since this time my flowing well has stopped supplying water and we have dug a new well.

Construction of an irrigation well in this area would surely put more jeopardy on our water supply.

Sincerely,

August J. Dold Jr.

4317-3



Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

March 3, 1979

Mullenburg, Inc.
RR #1, Box 22
Alexandria SD 57311

Dear Sir:

Although a motion has been passed by the Water Rights Commission to approve your application for a permit, this approval is not effective until such time as the Findings of Fact and Conclusions of Law are considered by the Water Rights Commission. The Commission will consider the Findings of Fact and Conclusions of Law at the May 24, 1979 Water Rights Commission Meeting to be held in Rapid City.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

4317-3



Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

March 14, 1979

TO: Holders of Deferred Applications in Miner and Sanborn Counties
FROM: John Hatch, Chief Engineer, Water Rights Commission
SUBJECT: Reconsideration of Deferred Applications

The Water Rights Commission will reconsider deferred water right applications in Sanborn and Miner Counties at 9:00 a.m., March 29, 1979 at the Community Room of the City Hall, 222 East Dakota Ave, Pierre, South Dakota.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-5.1; 46-6-10; 46-6-3.1; 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

These applications were previously deferred by the Water Rights Commission, pending staff investigation.

After reconsideration of the deferred applications the Commission can approve, conditionally approve, defer, or deny all or part of the Application.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,

A handwritten signature in cursive script that reads "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

Thomas Muilenburg
Alexandria SD 57311

Norbert Eich
Canova SD 57321

Wally Hofer
Roswell SD 57372

John D. Muilenburg
Alexandria SD 57311

Edmund Sassman
Canova SD 57321

John R. Mowry
Howard SD 57349

Julian Beatch
Canova SD 57321

George Eich
Canova SD 57321

Ed Clark
Roswell SD 57372

Bob Threadgold
Fedora SD 57337

Alfred Krempges
Canova SD 57321

Marvin Gehring
Howard SD 57349

Donald Brulty
Canova SD 57321

Paul Muller
Roswell SD 57372

Joe A. Mentele
Canova SD 57321

Charles Zahrndt
Spencer SD 57374

Mr. & Mrs. Don Sadler
Canova SD 57321

Frank Mentele
Canova SD 57321

Leo Miller
Canova SD 57321

Richard Eich
Canova SD 57321

Bernard Gassman
Canova SD 57321

Boyd Sturdevant
Canova SD 57321

James W. Stewart
Commercial Bank
Mitchell SD 57301

Edmund Gassman
Canova SD 57321

Tony Miller
Canova SD 57321

Lawrence Zens
Canova SD 57321

Wallace H. Kittelson
Canova SD 57321

Glenn Eich
Canova SD 57321

Mr. & Mrs. John Haas
Canova SD 57321

Paul Muller Jr.
Roswell SD 57372

Virgil J. Schurz
Howard SD 57349

Paul Zahrndt
Spencer SD 57374

Andrew Mentele
Canova SD 57321

William Blain
Canova SD 57321

Ambrose Zens
Canova SD 57321

Mr. & Mrs. Marvin Gehring
Howard SD 57349

August & Catherine Dold
Canova SD 57321

Virgil J. Schurz
Howard SD 57349

C. N. Rezum
Lk Mitchell
Mitchell SD 57301

Tony Zens
Canova SD 57321

George S. Eich
Canova SD 57321

Duane & Cheryle Schmitt
Canova SD 57321

Donald & Ardys Wingen
Canova SD 57321

Romane & Ruth Eich
Canova SD 57321

William Zens
Canova SD 57321

Gerald F. Mentele
Canova SD 57321

STATE OF SOUTH DAKOTA
WATER RIGHTS COMMISSION

APPLICATION OF MULLENBURG, INCORPORATED FOR PERMIT NUMBER 4317-3	)))	FINDINGS OF FACT AND CONCLUSIONS OF LAW
--	-------------	---

Having heard and considered all of the evidence presented before the Commission in the above-entitled matter on March 29, 1979, in the meeting at the City Hall, Pierre, South Dakota, the Commission hereby makes the following:

FINDINGS OF FACT

1. Mullenburg, Incorporated of Alexandria, South Dakota, has regularly applied for a permit for 2.14 cfs of water from one 100 foot deep well to irrigate 160 acres.
2. The affidavit of publication has been received.
3. The approval of the application and the subsequent irrigation may diminish or eliminate artesian head pressure in other wells in the area.
4. The project is feasible.
5. The project is in the public interest.
6. There is unappropriated water available for the project.

CONCLUSIONS OF LAW

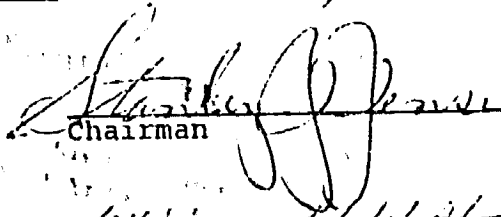
1. SDCL 46-1-4 requires the Commission to maximize the beneficial use of the State's water, and where there is a reasonable probability based upon the evidence to believe that unappropriated water is available, the Commission should issue a permit.
2. There is unappropriated water available for diversion in the quantity and at the rate applied for.
3. Artesian head pressure is not required to be protected by law.
4. The quality of the soil to be irrigated pursuant to the permit can be protected by proper management.

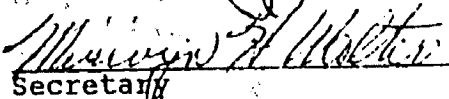
5. The issuance of the permit is in the public interest.

6. The project is feasible.

7. The following is a reasonable condition to be attached to the permit under the facts as found by the Commission: 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.

Dated this 24th day of May, 1979.


Chairman


Secretary

STATE OF SOUTH DAKOTA
WATER RIGHTS COMMISSION

APPLICATION OF MUILENBURG,
INCORPORATED FOR PERMIT
NUMBER 4317-3

)
)
)

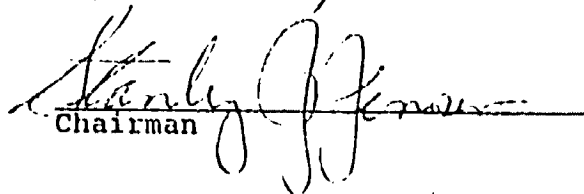
FINAL DECISION

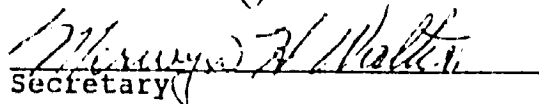
The hearing on the above application having been held on March 29, 1979, at the City Hall, Pierre, South Dakota, and the Commission having considered the evidence presented, and the Commission having adopted the staff's proposed Findings of Fact and Conclusions of Law, and having not received any other proposed Findings of Fact or Conclusions of Law from any other party, it is the final decision of the Commission that:

1. The application of Muilenburg, Incorporated for permit number 4317-3 for 2.14 cfs of water from one 100 foot deep well to irrigate 160 acres is approved.

2. That the permit is subject to the following condition: 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.

Dated this 24th day of May, 1979.


Chairman


Secretary



4317-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

June 22, 1979

TO: Persons interested in the Miner and Sanborn County Water Rights

This is to notify you that final Decisions Including Findings of Fact and Conclusions of Law were adopted by the Water Rights Commission, May 24, 1979 for the Miner and Sanborn County applications which were considered at the March 28, 1979 meeting.

The Final Decisions, Findings and Conclusions are on file in this office and copies will be furnished upon request. South Dakota Statutes provide that decisions by the Commission may be appealed to the courts.

Very truly yours,

A handwritten signature in cursive script, reading "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kw

law that could allow this to happen.
Would appreciate hearing your views
on this matter.

Sincerely,

Don S. Sadtler
R.R. 1 Box 174
Canova, S. D.

January 8, 1960

Don L. Sadler
Rural Route 1
Box 174
Canova, South Dakota 57321

Dear Mr. Sadler:

This will acknowledge your letter concerning the constitutionality of the laws governing adequate and inadequate wells. The constitutionality of the South Dakota water laws has been tested in court in a lawsuit brought by Judge Knight against the Water Resources Commission several years ago to test the constitutionality of the State's water laws. The court held that the law was constitutional and the decision was upheld by the South Dakota Supreme Court.

The constitutionality of adequate versus inadequate wells has never actually been decided in South Dakota. In other states with water laws similar to South Dakota, the courts have held that the artesian head pressure is not considered a part of a domestic water right. Therefore, although it is convenient to use artesian head pressure as a means of delivery of water to the surface or to raise the water up to a pump, the actual domestic water right is to the water as it exists in the formation. This means that when a well flows or if a well is drilled and the water rises in the drill hole above the aquifer containing the ground water, the person may get by without using a pump in the case of a flowing well or being able to use a pump that does not have to be lowered down into the formation. At such time as someone else such as Huilenburg's obtains a water permit and use enough water to cause the head pressure to fluctuate, then other persons using the water must provide a pump or other mechanical means to exercise their right to divert water from the underground formation. Persons with adequate wells which allow the pump mechanism to be set down into the water bearing formation, if necessary, should experience no problem obtaining water even though the head pressure may fluctuate. If adequate wells do fluctuate and result in the domestic user not having water even with the pump set down in the formation, then the high capacity user, such as an irrigator, must reduce or stop pumping.

Don L. Sadler
Page 2
January 8, 1980

The Water Management Board is charged with two basic responsibilities. One is to develop the water supplies of the State to a maximum and the second is to protect the State's water supplies, but without reliance upon head pressure. The existing laws and rules carry out these functions. South Dakota also has a law which requires much more than other states in that the South Dakota laws have what is known as a nondepletion clause or no mining clause in the Statutes. Under South Dakota laws, withdrawals from a underground aquifer cannot exceed the average annual recharge. The average annual recharge is determined by a review of observation well records to determine if on a long term basis, the water level is declining at a continuous rate or not. If it was determined that the water levels were declining in a given area, then irrigation pumping for example, or other high capacity pumping could be reduced or stopped depending upon the situation.

We recognize that this is a difficult concept to understand and accept in that one irrigator or several irrigators can come into an area and change the methods by which domestic users have been obtaining water. This concept has been upheld by the courts in that domestic use has to be reasonable and cannot be unreasonable to the point that other users are deprived of their right to use the water.

Very truly yours,

John Hatch
Chief Engineer
Water Rights, WMD

A105H

RECEIPT

put in Mulkenburg's permit

WATER RIGHTS COMMISSION

No 4 7612

State of South Dakota

July 24, 1980

PIERRE, _____, 1980

RECEIVED OF Marwyn Walter, Howard, SD

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

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____		
Fee for Inspecting Construction, and Issuing Cert. of Construction No. _____		
Fee for Inspecting Beneficial Use, and Issuing Water License No. _____		
Fee for Issuing Location Certificate-Dry Draw, No. _____		
Fee for filing _____		
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for <u>copying document \$2.50 (initial) + .03¢ x 7 (# of pages)</u>		3/1
(any other work as provided by law)		
TOTAL		3/1

WATER RIGHTS COMMISSION

By *(Signature)*
Chief Engineer, Executive Officer
JOHN HATCH *(Signature)*

**SOUTH DAKOTA Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

January 29, 1988

MUILENBURG INC-John D Maillenbourg
RR #1 BOX 22
ALEXANDRIA, SD 57311

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

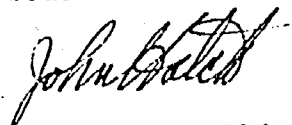
Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 4317-3. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

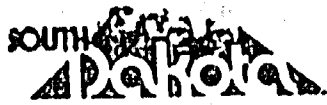
1. Amend Permit No(s). 4317-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.



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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, your name will be deleted from the agenda for the hearing.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 12, 1988

4317-3

Huilenburg, Inc.
RR 1, Box 22
Alexandria SD 57311

Dear Sir:

I am writing to acknowledge receipt of your 1987 Irrigation questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 4317-3 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,

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

#4317-3

 **Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 17, 1989

Muilenburg Inc.
RR 1, Box 22
Alexandria, SD 57311

Dear Sir:

On October 6, 1988, the Water Management Board adopted rules to implement a 1988 law for application of chemicals through irrigation systems. The rules establish equipment standards, performance standards and installation requirements for irrigation systems that apply chemicals (fertilizers, insecticides, or herbicides) with irrigation water.

You have indicated on your 1988 Water Management Board Irrigation Questionnaire that you do apply chemicals with irrigation water. A copy of the new rules for chemigation are enclosed for your information.

The new standards include:

- * a check valve between the irrigation pump and the point of chemical injection;
- * a vacuum relief valve on top of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a low-pressure drain on the bottom of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a chemical injection line check valve between the chemical injection pump and the point at which the chemical is injected into the irrigation line; a second check valve is required if the chemical injection pump is not a positive displacement pump;
- * an interlock system which ensures that the chemical injection pump will stop whenever the irrigation pump stops;
- * an inspection port between the irrigation pump and the check valve on the irrigation line;

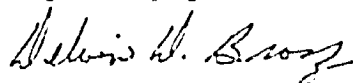


Each of these equipment requirements are discussed more thoroughly in Sections 74:02:09:05 through 74:02:09:10 of the enclosed rules. Appendix A contains diagrams of the arrangements of these anti-pollution devices.

The equipment must be installed according to the manufacturer's specifications, calibrated, and maintained in good working condition. All chemical product labels must be followed and warning signs must be posted. These rules also require reporting of all spills, accidents, and system malfunctions. A 24-hour telephone number is provided.

The chemigation rules contain notification and record keeping requirements. Prior to using chemigation, notification must be given to the Chief Engineer on the enclosed Form 1C. Information that must be provided in this notification includes the water permit or right number, the name, address, and telephone number of the water permit or right holder and of the system operator, and the legal description of the lands on which the system is located. A record of the name, quantity, dates and hours of each chemical applied must be provided to the Chief Engineer on Form 2C. A copy of this form is also enclosed for your information. It will be mailed with the annual irrigation questionnaire and must be returned with the questionnaire by the date specified. If you have any questions regarding these rules or need additional copies of the forms, please contact Susan Bowar, Water Rights Engineer (605-773-3352).

Very truly yours,



for JOHN HATCH, Chief Engineer
Water Rights Division

4317-3

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 11-27-89TO: Water Rights Division, DWNR
Joe Foss Building
Pierre SD 57501-3181FROM: Maitlenburg's Inc Box 48 RR1 Alexandria
name address city

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 4317-3.

Water Permit No. 4317-3 states that the diversion system is to be constructed by Huron Drilling, and that the water it put to beneficial use by irrigation.

The diversion system was completed on May 1979.
Applying the water to beneficial use was completed on June 1979.

You may schedule an inspection so that the Water License may be issued.

Thomas Maitlenburg
signature

*Included on
Chemigation
Inc. No. 1133800
Form*

Muilenburg Farms, Inc.

R.R. 1 P.O. Box 22
Alexandria, South Dakota 57311

Dear Sirs.



I now have a "Water Permit", and would like the papers for a "Water Right".

Thank You.
 Much Love.
 Thomas Moulton

John C. Muilenburg
603-239-1605

John D. Muilenburg
605-239-1666

Tom R. Mulenburg
605.239.1131



Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
March 7, 1989

4317-3

Thomas Muilenburg
Muilenburg Farms, Inc.
RR 1, Box 22
Alexandria, SD 57311

Dear Mr. Muilenburg:

This letter is in response to the request you attached to the chemigation notification that we received from you on March 2, 1989.

You informed us that you have received your Water Permit, but that you would like to receive the paperwork for a Water Right.

When you received the paperwork for your water permit, it should have been accompanied by a form 10 entitled 'NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE', a copy of which is enclosed. When this form is completed and returned to the Water Rights Division, an inspection of the permit is scheduled. Following this inspection, the Water License is issued. This is the final step in receiving your Water Right.

According to our files, your application (No. 4317-3) for a water permit was received on August 14, 1978 and was approved on May 24, 1979 for the appropriation of 2.14 cubic feet of water per second from one well, located approximately in the center of the SE 1/4 Section 21 to irrigate 160 acres also in the SE 1/4 Section 21; all in T105N, R57W. Construction of the works was to be completed on or before May 24, 1980 and the water was to be put to beneficial use on or before May 24, 1981.

We do not have a completed Form 10 on file for you. Please complete and return the enclosed form so an inspection of your Water Permit can be scheduled.

Feel free to contact us if you have any questions.

Sincerely,

Susan A. Bower
Natural Resources Engineer
Water Rights Division
(605) 773-3352

enclosure



4317-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

SEP 20 1993

4317A-3

John D. Muilenburg
Muilenburg, Inc.
RR 1, Box 50
Alexandria, SD 57311

Dear Mr. Muilenburg:

Enclosed is Water License No. 4317A-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 413871 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 4317A-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 License, 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

gin
enclosures

NOTE: The applicable portions of Water Permit No. 4317-3 have been incorporated into this Water License No. 4317A-3.

76.8
yf

1972 - 7 Millerburg Inc.

3M-144-11²21 + S⁸4-21-105-57

105-57

57.3

85.3

68.0
yf

4.2

70.5

VQ-TLL-70

Dras

Pine

21

110.2

93.0
yf

14.8

Gas

grass

139.2
70
20

Open
Cons. Tank

32.2

1/4 to be drilled

+ Approximate
location of
Test hole

105-57

6.1
yf

APPL 4317-3

APPL 4317-3

NAME AND ADDRESS FARMLAND CROPLAND

CLEMENT MOUNTAIN ~~81~~ ~~160~~ ~~139~~

CANOVA S DAK ~~3R-207~~ 722 479

~~042 1160~~

~~SALE~~

TRACT NO. 14-110

FARM NO. 3-M-105

OPERATOR John C. Muilenburg

OWNER Same

John C. Muilenburg

