

Considered: _____

WATER PERMIT NO. 5038-3

MAP No. Same

Name of Applicant Poinsett Lutheran Brethern Inc.

Post Office Address Box 146 Estelline

Amount of Water Claimed 2.0 cfs Total Acres 260

Source of Water Supply groundwater (one well 50ft deep)

Water to be used for IRR County _____

About _____ miles N of Estelline

PROOF OF PUBLICATION: Received 2-20-85 Not Received _____

APPLICATION: Approved 3-6-85 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 12-17-84 Fee \$300.00 Remarks _____

12-17-84

Corrected Application Received _____ Period of Annual Use June 1 to Sept. 30

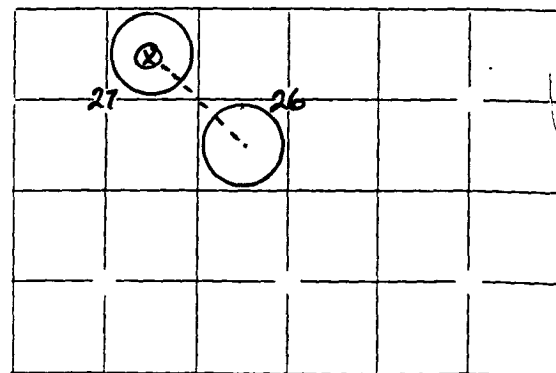
WATER QUALITY APPROVAL RECEIVED 1-14-85 APPROVED/ CONDITIONAL (Circle one)

WI-1 Description same as Application YES X NO _____ REMARKS _____

Diversion Point NE⁴ section 27 T114N-R51W

Land to be Irrigated ~~NE⁴~~ SW⁴ section 26 and

NE⁴ section 27 T114-R51



Well Log: Driller Lacey Well Drilling Licensed YES _____ NO _____

Depth of Well 50 Feet REMARKS _____

Type of Map Drawn PREPARED BY John Bischoff Reviewed and the Number _____

assigned on 1-15-85 By Kevin C. Yarron

No. 5038-3 Hydrologic Unit 10170202
Map No. same Basin Big Sioux
Newspaper Journal Box 159 Est. Telline Wed.

South Dakota *upper*
9-45 am *for*
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
DEC 1984
DIVISION OF
WATER RIGHTS
Pierre, SD *my*

New ☒ Vested Right ☐ Future Use ☐

- ☐ Application to amend Permit No. _____ with old priority date retained
☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐
☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____
☐ Application to: ☒ Use ☐ Transfer water reserved by Future Use Permit No. _____

1. Name of Applicant Poinsett Hutterian Brethren, Inc. Phone No. 873-2703

Post Office Address Box 146 Estelline State So. Dak. 57234
(Street, RR or Box) Zip Code

2. Amount of water claimed (c.f.s) 2 cfs Total acres irrigated 760 acres

3. Source of Water supply well

4. Location of point of diversion NE 1/4 Sec. 27 T114N R51W

Hamlin Co.

County Hamlin

5. Countries where water will be used Hamlin

6. Annual period during which water is to be used June - Sept

7. 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.
NE 1/4 of NE 1/4 Sec. 27 114 51	32.5
NE 1/4 of NE 1/4 Sec. 37 114 51	32.5
SE 1/4 of NE 1/4 Sec. 27 114 51	32.5
SW 1/4 of NE 1/4 Sec. 27 114 51	32.5

Land Description	No. Acres Irr.
NW ¹ / ₄ of SW ¹ / ₄ Sec. 26 114 51	32.5
NE ¹ / ₄ of SW ¹ / ₄ Sec. 26 114 51	32.5
SE ¹ / ₄ of SW ¹ / ₄ Sec. 26 114 51	32.5
SW ¹ / ₄ of SW ¹ / ₄ Sec. 26 114 51	32.5

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The well is located in the center of the NE $\frac{1}{4}$ of section 27 T14N R51W. They will pipe water to the SW $\frac{1}{4}$ of Sec. 26 T14N R51W to irrigate, with a center pivot, that quarter, in addition to a center pivot on NE $\frac{1}{4}$ of Sec. 27. They will alternate irrigations between the two quarters during the growing season.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of Hamlin) ss

I, Joshua Tolman the applicant, certify that I have read the foregoing application, 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 Joshua Wollman

This 14 day of Dec 1984

Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 5038-3
Poinsett Hutterian Brethern Inc. Box 146 Estelline
(Applicant) (Post Office Address)
South Dakota 57234 With the following qualifications.
(State) (Zip Code)

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

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Date of first receipt of application December 17, 1984.

Date of return to applicant for correction, amendments or changes required , 19 .

Date of receipt of corrected application , 19 , Approved March 6, 1985.

The Water Management Board hereby approves this Water Permit No. 5038-3 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is December 17, 1984.
2. One-fifth of the work is to be completed on or before September 6, 1987.
3. The whole of said work is to be completed on or before March 6, 1990.
4. The time limit for proof of beneficial use of water is March 6, 1994.
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 2.0 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For 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 March 6, 1994; said water to be used during the following described annual period: June 1 to September 30.

WATER MANAGEMENT BOARD
 By: John Hatcher
Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
APR 23 1985, 19

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 26" Depth 49'
- b) Casing Type steel Diameter 16" Thickness _____
- c) Screen Type Stainless steel Diameter 16" Thickness _____
- d) Gravel Pack Thickness 6-8" (per gravel) Length of Gravel Pack 20'
- e) Depth to Top of Water Bearing Material 6'
- f) Depth of Water (ground surface to water level) 6'
- g) Distance to nearest existing domestic well: 1400' north
- On applicants property _____ On property owned by others X

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Outlet Dimensions:
Pipe diameter _____

Spillway width _____

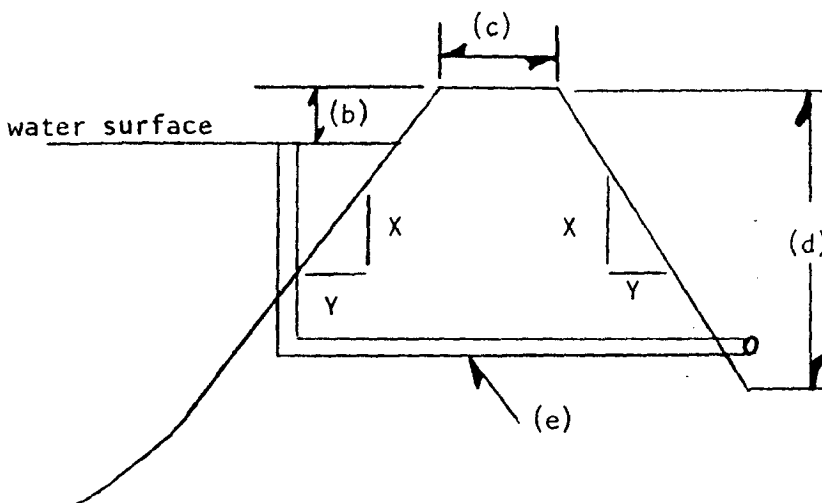
f) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



X Joshua Hollman
Signature of Applicant

REPORT ON APPLICATION NO. 5038-3

POINSETT HUTTERIAN BROTHERN, INC.

January 17, 1985

This application for the Poinsett Hutterian Brethern Inc. requests 2.0 cfs from one well 49 feet deep. The water is to be used for irrigation on two quarters, the NE $\frac{1}{4}$ Section 27 and the SW $\frac{1}{4}$ Section 26 all in T114N, R51W. The irrigation will be alternated between the two quarters. The location of the point of diversion is the center of the NE $\frac{1}{4}$ Section 27, T114N, R51W.

Aquifer - Big Sioux-Brookings

Geology and Aquifer Characteristics

The Big Sioux-Brookings Aquifer is approximately 45 feet thick in this area (USGS, 1976). The aquifer is an excellent source of good quality and quantity of water.

The well drillers information submitted with this application indicate a 26 inch drill hole to a depth of 50 feet. The well was cased with 16 inch steel casing and has 20 feet of gravel pack. The static water level is 6 feet below ground surface. Pumping data on nearby wells indicate this well should produce 60 gpm/foot of drawdown.

Two observation wells exist in this area, (HN-77E and HN-77F). These wells have been monitored since 1977. Well readings indicate a gradual drawdown from spring to fall and a gradual recharge from fall to spring. Water levels fluctuate approximately 3 feet annually. Current well readings indicate the water level is the highest observed since monitoring began in 1977.

Review of Existing Water Rights

The nearest existing irrigation well is one mile SW of this well, and the nearest domestic well is 2 miles from this irrigation well.

Conclusions

1. Water is available from the Big Sioux-Brookings Aquifer.
2. The specific capacity of the well is average for the aquifer.
3. Water level data is available from two observation wells (HN-77E and HN-77F).
4. Water levels of the Big Sioux-Brookings aquifer are the highest ever, since monitoring began in 1977.

Gregory S. Powell/ks

GREGORY S POWELL
Natural Resources Engineer

Bibliography

- Hedges, et al, 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for U.S.A.C.E., SDGS, DWRN, Vermillion SD.
- Kume, 1976, Major Aquifers in Deuel & Hamlin Co, SD, USGS, Huron SD.
- Water Rights Division, 1984, Permit & Observation Well Files, DWRN, Joe Foss Bldg. Pierre SD.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5038-3, Poinsett Hutterian Brethern, Inc.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application NO. 5038-3, Poinsett Hutterian Brethern, Inc., Box 146, Estelline SD.

The Chief Engineer is recommending APPROVAL of Application No. 5038-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

The irrigation well approved under this Permit will be located near domestic wells and other 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 adequate wells having prior water rights.

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.

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

JOHN HATCH, Chief Engineer
January 18, 1985

Instruction to Newspaper - Publish first publication of the following Notice on or before **January 23, 1985** with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. **5038-3** to Appropriate Water
and/or to Amend Water Permit or Water Rights No. _____

Notice is hereby given that **Poinsett Hutterian Brethern, Inc.** whose mailing address is **Box 146, Estelline**, South Dakota has made an application for a permit

to appropriate 2.0 cubic feet per second from one well 50 feet deep located in NE $\frac{1}{4}$ Section 27-T114N-R51W. The water will be used to irrigate 260 acres located in NE $\frac{1}{4}$ Section 27 and SW $\frac{1}{4}$ Section 26 both in T114N-R51W.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends **APPROVAL** of Application No. **5038-3** because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at **523 E. Capitol Joe Foss Building, Room 216, Pierre, SD, March 6 1985** at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by **February 22, 1985**. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) ~~46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.~~

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNr, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by **February 22, 1985**.

RECEIPT

Division of Water Rights

No 4 9864 -

South Dakota Department of Water and Natural Resources

Pierre, December 21, 1984

RECEIVED OF Poinsett Hutterian Brethern, Inc., Box 146, Estelline, SD 57234

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

Fee for Application for Permit No. 5038-3 to Appropriate Water, to construct works and to put water to beneficial use	300	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		
Fee for Filing Extension Request		
Fee for Certified Copy of		
Fee for Print Copy of Map		
Fee for Certifying		
Fee for (Any Other Work Provided by Law)		
Total	300	00

By

Chief Engineer

JOHN HATCH

In Water Since 1946

LACEY WELL DRILLING

Wells
Test Drilling
Irrigation Supplies

Box 796
Trent, South Dakota 57065
Telephone 428-5686 or 428-5979

Pumps
Water Specialists
Water Source Heat Pumps

11-15-84

Test hole log for 6" test hole in
center (roughly) on NE 4 SEC 27 114N
RANGE 51 W. Poinsett Colony owner

0-5 Black Gumbo SWL 5'
5-24 SAND w/CLAY LENSES (dirty)
24-50 VERY CLEAN UNIFORM GRAVEL
50' hard clay

Drilled 11-12-84

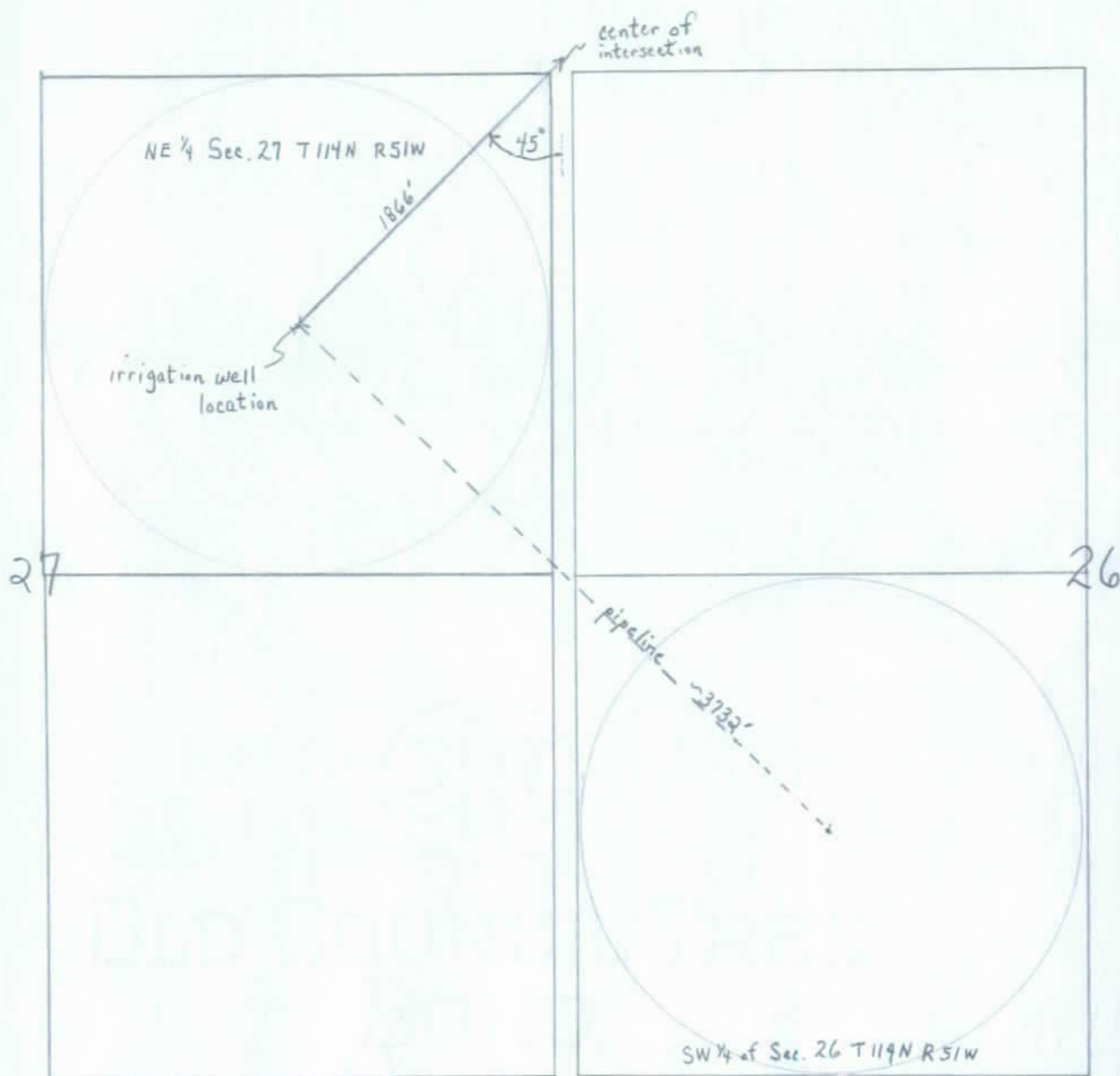
by

James Lacey

Poinsett Hutterian Brethern, Inc.

Estelline, So. Dak.

November 25, 1984



Appl. # 5038-3

by: John H. Bischoff
Water Resources Inst., SDSU

WATER RIGHTS DIVISION
(605) 773-3352

December 17, 1984

Poinsett Hutterian Brethern, Inc.
Box 146
Estelline, South Dakota 57234

ATTENTION: Joshua Wollman

Dear Mr. Wollman:

This will acknowledge receipt of your Water Right Application and fee in the amount of \$325.00.

We are returning your check as the fee required is \$300.00. Please submit this amount and further processing of your application will proceed.

Thank you,

Kevin C. Larson
Natural Resources Engineer

KCL:ms
Enc.

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM

Division of Conservation

Office Use Only

4128

WR#

OWNERS NAME: Poinsett Hutterian Brethren, Inc. OWNERS ADDRESS: Estelline, S.D.

COUNTY LAND LOCATED IN: Hamlin PHONE: 605-873-2703

TENANT'S NAME AND ADDRESS: same as above



LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. WELL LOCATION Center of NE 1/4 of Sec. 27 T114N R51W
Depth 49'

2. SURFACE WATER SOURCE AND DIVERSION LOCATION: _____
Diversion Location _____

Legal Description	Acres	Legal Description	Acres
<u>NE 1/4 Sec. 27 T114N R51W</u>	<u>160</u>		
<u>SW 1/4 Sec. 26 T114N R51W</u>	<u>160</u>		

3. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED 1976

LEGAL DESCRIPTION: Sec. 19 T114N R51W

IN WHAT NAME: same as above

4. LOCATION OF AREA TO BE IRRIGATED NOTE: **SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See instruction sheet)**

5. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: X GUN: _____ OTHER: _____ (Specify)

6. CROPS TO BE IRRIGATED: Corn, soybeans, barley, alfalfa

WATER QUALITY: (TO BE COMPLETED BY SDSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER: 84-0625 10. ADJUSTED (SAR): 0.73
8. SALINITY (EC X 10⁶): 560 11. PERCENT SODIUM 5.57%
9. SODIUM (SAR): 110.79

I hereby certify that I personally obtained or that I personally observed that taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see instruction sheet) were followed, and that the sample was taken at 3:00 a.m./p.m. on 13th, 19 84, at the following location: NE 1/4 Sec. 27 T114N R51W
by (individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

X Joshua Hollman
Signature, of Water Sampler.

I understand that the Division of Conservation or agents thereof may obtain water samples from wells and surface bodies to be used for irrigation purposes to validate water samples taken at the time of application. The Department of Agriculture may also gather technical information necessary to protect the land. (46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

14th DAY OF November, 19 84.

Anna B. Steiner
(NOTARY PUBLIC)

X Joshua Hollman
APPLICANT'S SIGNATURE

Jack H. Lefield
Director, Division of Conservation

Date

APPROVED

DISAPPROVED

X CONDITIONALLY APPROVED

IMPORTANT
Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER RIGHT must be obtained from the Board of Water Management, Foss Building, Pierre.

Conditional soil/water permits will be recorded by the Department of Agriculture, with the County Regis-

4128

Conditional Approval

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATIONNAME OF APPLICANT: Poinsett Brethren Inc.LEGAL DESCRIPTION: NW $\frac{1}{4}$ 27; SW $\frac{1}{4}$ 25-114-51 = 320 acresSOIL RESTRICTIONS:THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:THE SOILS(S) LISTED BELOW CAN BE IRRIGATED
WITH THE FOLLOWING RESTRICTIONS:

The drainageway in the NW $\frac{1}{4}$ 27 and SW $\frac{1}{4}$ 25-114-51 shall remain in grass to address the potential erosion and wetness problems.

RECOMMENDED MANAGEMENT:

We recommend the use of a form of conservation tillage to reduce erosion and conserve moisture.

We also recommend that where possible that contour farming be used to reduce runoff.

PLEASE NOTE: The soil adjacent to the streams may remain wet longer than those on the surrounding landscape and may cause some trafficability problems.

SIGNATURE

DATE

WATER RIGHTS DIVISION

(605) 773-3352

January 24, 1985

Joshua Wollman
Poinsett Hutterian Brethern, Inc.
RR#1, Box 146
Estelline, South Dakota 57234

Dear Mr. Wollman:

We are returning your check #2140 in the amount of \$300.00 as this fee has already been paid as shown on Receipt No. 4 9864 dated December 21, 1984.

This receipt copy is often confusing as it is thought to be a billing when included with the Legal publication letter. Thank you for your concern.

Sincerely,

Maxine Stirling
Staff Assistant

Enc.

NOTICE

No. 5038-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Hamlin) ss.

I, M.R. Hausman hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the ESTELLINE JOURNAL

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 Estelline

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

Jan. 24, 1985

Jan 31, 1985

M.R. Hausman
(Signature)

Public
(Title)

1/31/85
(Date Signed)

Cost of Printing: 39.84

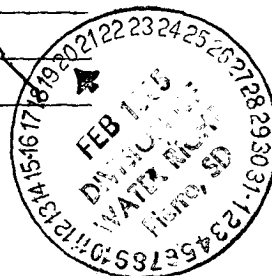
NOTICE OF HEARING
on Application No. 5038-3 to
Appropriate Water

Notice is hereby given that
Poinsett Hutterian Brethern, Inc.
whose mailing address is Box
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second from one well 50 feet deep
located in NE $\frac{1}{4}$ Section
27-T114N-R51W. The water will
be used to irrigate 260 acres
located in NE $\frac{1}{4}$ Section 27 and
SW $\frac{1}{4}$ Section 26 both in
T114N-R51W.

Pursuant to SDCL 46-2A-2 the
Chief Engineer of the Water
Rights Division recommends Ap-
proval of Application No. 5038-3
because 1(unappropriated water
is available, 2(will be no unlawful
impairment of existing rights, 3)
is beneficial use of water and 4) is
in the public interest.

This application will be con-
sidered by the Water Manage-
ment Board at 523 E. Capitol Joe
Foss Building, Room 216, Pierre,
SD, March 6 1985 at 10:00 a.m.

The recommendation of the
Chief Engineer is not final or
binding upon the Board and the
Board is authorized to make a
determination on this application
after it reaches a conclusion
based upon facts presented at the
public hearing. Any interested
person who may be affected by a
Board decision and who intends
to participate in the hearing
before the Board and present
evidence or cross-examine wit-
nesses according to SDCL 1-26,
must file a written petition with
BOTH the Applicant and the Chief
Engineer by February 22, 1985.
The petition may be informal, but
it must include a statement
describing the petitioners interest
in the application, the reason for
the petitioner's opposition to or
support of the application, and
the signature and mailing address
of the petitioner or his legal
counsel if legal counsel is ob-
tained. The applicant need not
file a petition.



This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:01:01:15;

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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 or the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, SWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 22, 1985.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

APR 23 1985

Poinsett Hutterian Brethern, Inc.
% Joshua Wollman
Box 146
Estelline SD 57234

Dear Mr. Wollman:

Enclosed herewith is your Water Permit No. 5038-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 5038-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83



Department of Water & Natural Resources

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

January 29, 1988

POINSETT HUTTERIAN BRETHREN -Joshua Wollman
RR #1 BOX 146
ESTELLINE, SD 57234

NOTICE

Re: Violation of Water Permit No(s). 4353-3, 3223-3, 2413-3, 2175-3, 5026-3, 5038-3, 2174-3

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 4353-3, 3223-3, 2413-3, 2175-3, 5026-3, 5038-3, 2174-3. 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 permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 4353-3, 3223-3, 2413-3, 2175-3, 5026-3, 5038-3, 2174-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

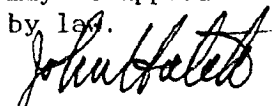
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) 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. Suspend Permit No(s). 4353-3, 3223-3, 2413-3, 2175-3, 5026-3, 5038-3, 2174-3 until either the 1987 Questionnaire is submitted or for a period of up to one 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, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



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

March 14, 1988

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: POINSETT HUTTERIAN BRETHREN - Joshua Wollman
RR #1 BOX 146
ESTELLINE, SD 57234

FROM: John Hatch, Chief Engineer
Water Rights Division
605-773-3352

SUBJECT: One Year Suspension Of Water Permit No(s). 4353-3,
3223-3, 2174-3, 5026-3, 5038-3, 2175-3, 2413-3

Pursuant to the provisions of the notice dated January 29, 1988, and following the hearing of March 2, 1988, the Water Management Board has ordered:

That Water Permit No(s). 4353-3, 3223-3, 2174-3, 5026-3, 5038-3, 2175-3, 2413-3 be **SUSPENDED** until December 31, 1988.

Suspension of a permit means water may not be pumped during the 1988 irrigation season. Decisions of the Board may be appealed to the Circuit Court and the Supreme Court as provided by law.



Dear Sir

Regarding my telephone
conversation as of the other Day.
Regarding a One yr suspension of
water permit. This is a major
Penalty that either you or we
can afford in the business and line
of farming, the forms we talked about
the other Day, were received by us
and passed on to our New Irrigator
Irv Tschetter to have them fill them
out and to see to it that they are to
be mailed back, so in the mean
time, He had to leave on a Business
trip into Canada for three - four weeks
As he got home they were mislaid
and stated they were not to be found
as things are when you get back
from vacation, over

Not realizing how important those things are, as being new in the Business, he did not mention to me or Jonathan that they got lost and haven't been mailed, owing you our apology to this matter.

We are truly sorry about all this, and need to know what we can do in order to correct this, so we can Irigate this season, Hope you realize this is a Big investment that costs us a fortune, and would appreciate not to have a set-Back this coming Season, when it comes time to Irigate, I Trust you may be of help to us, We truly Hope we can appeal to this matter and Trust that in the future you will find us more cooperative. over

So if its not too late. Would
you please mail necessary
forms, We trust your cooperation
in this matter. We are

Sincerely yours
Joshua Hollman
Sec Treas.



Department of Water & Natural Resources

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

April 14, 1988

NOTICE

TO: Joshua Wollman, Poinsett Hutterian Brethren, RR #1
Box 146, Estelline, SD 57234

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

SUBJECT: Notice of Hearing to Consider Request for
Reconsideration of Suspended Water Permit Nos. 2174-3,
2175-3, 2413-3, 3223-3, 5026-3, 5038-3 and Water Right
No. 4353-3

The hearing on your March 21, 1988 request to the Water Management Board to reconsider suspension of Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3, 5026-3, 5038-3 and Water Right No. 4353-3 has been scheduled for 9:15 am, May 11, 1988, in Room 216, Joe Foss Building, 523 E Capitol, Pierre, SD.

As stated in the notice to you dated January 29, 1988, 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.

After all evidence is taken at the hearing, the Board may issue a decision to rescind the suspension of your permits, defer action or taken no action. The hearing is an adversary proceeding and any party 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. Any decision rendered by the Board may be appealed to the Circuit Court or to the State Supreme Court as provided by law.

cc: Harold Deering, Assistant Attorney General



5038-3

Department of Water & Natural Resources

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

May 13, 1988

NOTICE

TO: Joshua Wollman
Poinsett Hutterian
RR 1, Box 146
Estelline SD 57234

FROM: John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Reinstatement of Suspended Water Permits and Notice of
One Year Suspension Without Reinstatement for Future
Irrigation Questionnaire Violations

The Water Management Board, following the May 11, 1988, hearing
passed the following motion:

"That the owners of Water Permits No. 1372-2 (Earl Sonnenschein & Sons); 1731-2 (Buckles Ranch); 235-3 (Russell Doolittle); 2171-3, 2497-3, 3229-3 (Harlan Stadheim); 2174-3, 2175-3, 2413-3, 3223-3, 4353-3, 5026-3, 5038-3 (Poinsett Hutterian Brethern); 3264-3 (John Heber); 3479-3, 4237-3 (Bob Kohnen) 3825-3 (Rod Page, operator); 4017-3 (Martin Ronning); 4257-3 (Patricia Ronning & Jeanette Hurrell); 4521-3 (Tom/William Maher & Harvey Buhl); 4564-3, 4611-3 (Wendell Bishop); 4660-3 (Dihl Grohs); 4732-3 (Gerald Benjamin); 4741-3 (Lois J Elsing); 4827-3 (Gary Smith); 4844-3 (Gerald Goetsch); 4966-3 (Delano Hofer); 4985-3, 4992-3, 5043-3, 5044-3 (Ray & David Hanson); 4754-3 (Richard Beare); and 375-2 (Rhea Brill), have now submitted the 1987 irrigation questionnaires for these permits, that a 60 day suspension period has been completed and that these permits are reinstated effective immediately. The owners of the permits are also **NOTIFIED** that failure to submit future required irrigation questionnaires will result in a one year suspension without reinstatement."

If you have any questions, please contact us.

cc: Water Management Board



Joshua Wollman-Poinsett Hutterian Brethren

Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3, 5026-3, 5038-3
and Water Right No. 4353-3

GENERAL

Application Nos. 2174-3, 2175-3, 2413-3, 3223-3, and 4353-3
were submitted by: Poinsett Hutterian Brethren, Assoc.
Joshua Wollman, Mgr.
Estelline, SD 57234

Application No. 5026-3 was submitted by:
Poinsett Hutterian, Inc.
Joshua Wollman, Mgr.
RR #1 Box 146
Estelline, SD 57234

Application No. 5038-3 was submitted by:
Poinsett Hutterian Brethren, Inc.
Joshua Wollman, Mgr.
Box 146
Estelline, SD 57234

Permits Approved:	No. 2174-3	March 20, 1975
	No. 2175-3	March 20, 1975
	No. 2413-3	November 13, 1975
	No. 3223-3	February 23, 1977
	No. 4353-3	March 28, 1979
	No. 5026-3	September 26, 1984
	No. 5038-3	March 6, 1985

Permit Licensed:	No. 4353-3	October 25, 1983
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Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3 and Water
Right No. 4353-3 were Amended in 1985 to include the
Irrigation Questionnaire Qualification for violation of the
requirement to submit the 1984 irrigation questionnaire.

Water Permit Nos. 5026-3 and 5038-3 were approved with the
irrigation questionnaire qualification.

FIVE YEAR HISTORY OF IRRIGATION QUESTIONNAIRE RETURNS

<u>Year</u>	<u>Date Request Mailed</u>	<u>Date Irrigation Questionnaire Returned</u>	<u>Date of Any Board Action</u>
1983	November, 1983	no report filed	none
1984	October, 1984	June 14, 1985	May 15, 1985
*1985	November, 1985	no incoming date recorded	none
1986	November, 1986	December 9, 1986	none
1987	October, 1987	April 6, 1988	March 2, 1988

* No date of return was stamped on the 1985 irrigation
questionnaires. We assume the questionnaires were submitted
within the required time limit since the files do not contain
notices of violation for non-return of the questionnaires.

PAST VIOLATIONS

1. Violation of Requirement to Submit 1984 Irrigation Questionnaires:

April 15, 1985, notice was sent to Poinsett Hutterian Brethren, %Joshua Wollman for violation of the requirement to submit the 1984 irrigation questionnaires for Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3 and Water Right No. 4353-3 and of the hearings scheduled before the Water Management Board to be held May 15, 1985.

May 15, 1985, The Water Management Board amended Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3 and Water Right No. 4353-3 to add the Irrigation Questionnaire Qualification.

June 12, 1985, notice was sent to Poinsett Hutterian Brethren informing them of the Board action amending their water permits and water right.

June 14, 1985, The 1984 irrigation questionnaires were received.

2. 1987 Irrigation Questionnaire Violation

January 29, 1988, Poinsett Hutterian Brethren, Joshua Wollman Mgr., was given notice of permit violation for non-return of their 1987 irrigation questionnaire and of the hearing scheduled before the Water Management Board to be held March 2, 1988.

March 2, 1988, The Water Management Board suspended Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3, 5026-3, 5038-3, and Water Right No. 4353-3 until December 31, 1988.

March 14, 1988, Poinsett Hutterian Brethren was notified of the Board action suspending the permits and water right. The notice was sent Certified Mail, Return-receipt requested. Joshua Wollman signed the Return-receipt card.

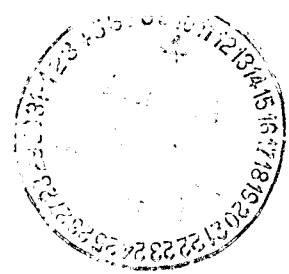
March 21, 1988, a letter was received from Joshua Wollman, stating the reasons the irrigation questionnaires were not returned. He also requested additional questionnaire forms to complete.

March 30, 1988, additional 1987 irrigation questionnaires were sent to Joshua Wollman, Poinsett Hutterian Brethren.

April 6, 1988, the 1987 irrigation questionnaires were received.

April 14, 1988, Mr. Wollman, Poinsett Hutterian Brethren was sent a Notice of Hearing to Consider Request for Reconsideration of Suspended Water Permit Nos. 2174-3, 2175-3, 2413-3, 3223-3, 5026-3, 5038-3 and Water Right No. 4353-3.

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE



Post Office Estelline S. Dapp

Date 7-10-89

TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No. 5138-3.

Water Right Permit No. 5038-3 states that the diversion system is to be constructed by 4-20-89, and that the water is put to beneficial use by MAY 1989.

The diversion system was completed on April. Applying the water to beneficial use was completed on April 1989.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

Joshua Wollman
(Signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 29, 1992

Permit No. 3223-3
5328-3

Poinsett Hutterian Brethern
%Joshua Wollman
RR 1, Box 146
Estelline, SD 57234

Dear Mr. Wollman:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit Nos. 2413-3, 3223-3, 5038-3 and 5328-3 has been completed. Your final water right document, the Water Licenses, can now be issued. Upon licensing, the applicable portions of Water Permit No. 2413-3 will be incorporated into 3223-3, and the applicable portions of Water Permit No. 5038-3 will be incorporated into 5328-3.

Statutes require that we charge a \$50.00 fee per license for the inspection and issuance of the Water License. Upon receipt of the \$100.00 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 fees have 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 18, 1992

SECOND NOTICE

**PERMIT NO: 3223-3
5328-3**

NOTICE OF WATER LICENSE INSPECTION FEE REQUIREMENT

Poinsett Hutterian Brethern
%Joshua Wollman
RR 1, Box 146
Estelline, SD 57234

Dear Mr. Wollman:

On September 29, 1992, you were notified the final inspection fee of \$100.00 is due before Water License Nos. 3223-3 and 5328-3 can be issued. As of this date, the fee has not been received.

The fee is a final step in the legal process of obtaining and perfecting a water right and is required by SDCL 46-2-13(3). Upon receipt of the \$100.00 fee, your Water Licenses will be sent to you. This is the final document for the perfection of your Water Rights. A perfected water right is similar to a property right and once a water right is perfected, it cannot be lost as long as the water is used.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Please submit the required fee immediately to avoid jeopardizing your water permit.

Very truly yours,

for John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352



5038-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 11 1993

5328-3

Joshua Wollman
Poinsett Hutterian Brethren, Inc.
RR 1, Box 146
Estelline, SD 57234

Dear Mr. Wollman:

Enclosed is Water License No. 5328-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 413568 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. 5328-3, 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

gm
enclosures

NOTE: The applicable portions of Water Permit No. 5038-3 have been incorporated into Water License No. 5328-3.