

WATER PERMIT NO. 7425-3

Name of Applicant: Spink Hutterian Brethren

Address: 18206 Spink Lane, Frankfort SD 57440

Phone: 605 472-1269

Amount of Water Claimed: 6.67 cfs

Total Acres: 408

Source of Water Supply: James River

Water to be used for: irrigation

County: Spink

Type of Waste Disposal System:

Location: 9 miles south of Frankfort

PRIORITY

Date Received: 9-11-12

Application/License Fee: \$ 1450

Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks:

Diversion Point: SW 1/4 SW 1/4 Sec 16-T115N-
R62W

Land to be Irrigated: S 1/2 Sec 17 and NE 1/4 Sec
20; all in T115N-R62W

Depth of Well: NA

Well Driller:

Remarks:

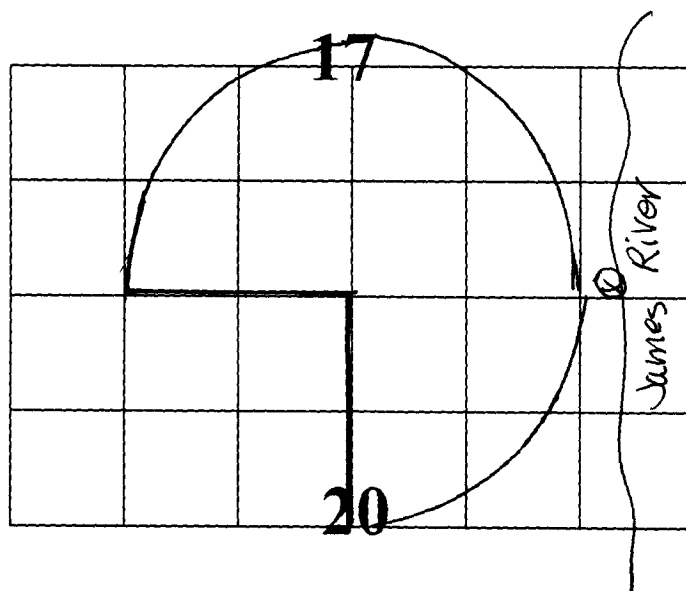
Type of Map: aerial

Prepared by: Eric Gonlund

Reviewed and the Number Assigned on: 9-13-12

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7425-3</u> (office use only)	Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Redfield Press & Plainsman</u>	

RECEIVED

SEP 11 2012

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name of Applicant Spink Hutterian Brethren Phone 605 472-1269(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address 18206 Spink Lane Frankfort SD 57440
(Address) (City) (State) (Zip Code)

2. Amount of water claimed _____ *CFS or 3000 **GPM _____ ***AF Total Acreage 408
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply James River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Spink
SW 1/4 SW 1/4 Section 16, T115N, R62W

5. County or counties where water will be used Spink6. Annual period during which water is to be used April 1 - October 31

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SW 1/4 Section 17, T115N, R62W	136		
SE 1/4 Section 17, T115N, R62W	136		
NE 1/4 Section 20, T115N, R62W	136		

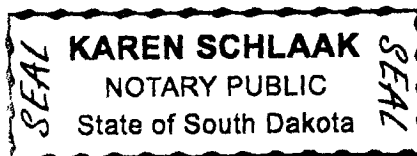
8. Give a description of the project. (Attach sheet if more space is needed)

Develop a full section pivot that will only make 3/4 rotation. The pivot operates at 3,000 gpm.

STATE OF SOUTH DAKOTA)
County of Hughes) SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

I, Paul Wipf, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Paul P WipfSubscribed and sworn to before me this 11th day of September 20 12

Karen Schlaack
Notary Public signature

Commission Expires 4/1/2013

**SOUTH DAKOTA
WATER PERMIT NO. 7425-3**

Date of first receipt of application September 11, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7425-3 to Spink Hutterian Brethren, c/o Paul Wipf, 18206 Spink Lane, Frankfort SD 57440 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7425-3 appropriates 6.67 cubic feet of water per second (cfs) from the James River located in the SW 1/4 SW 1/4 Section 16 to irrigate 408 acres located in the S 1/2 Section 17 and NE 1/4 Section 20; all in T115N-R62W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is September 11, 2012.
4. The date of approval of Permit No. 7425-3 is November 12, 2012.
5. One-fifth of the construction is to be completed on or before May 12, 2015.
6. All construction is to be completed on or before November 12, 2017.
7. Water is to be put to beneficial use on or before November 12, 2021.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Diversion of water from the James River shall be in accordance with the following criteria:
 - a) This permit does not authorize diversion of water from the James River after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - b) This permit does not authorize diversions from James River when there is less than 20-cfs bypassing the USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 02 2013

date



Water Permit Application - Spink Hutterian Brethren



1,500 750 0 1,500 Feet

diversion point - SW 1/4 SW 1/4 Section 16, T115N, R62W

Section 17, T115N, R62W

NW 1/4 SW 1/4	18 acres
NE 1/4 SW 1/4	38 acres
SW 1/4 SW 1/4	38 acres
SE 1/4 SW 1/4	40 acres
SE 1/4 NW 1/4	3 acres

NW 1/4 SE 1/4	38 acres
NE 1/4 SE 1/4	20 acres
SW 1/4 SE 1/4	40 acres
SE 1/4 SE 1/4	38 acres
SW 1/4 NE 1/4	3 acres

Section 20, T115N, R62W

NW 1/4 NE 1/4	40 acres
NE 1/4 NE 1/4	38 acres
SW 1/4 NE 1/4	38 acres
SE 1/4 NE 1/4	16 acres



Eric Gronlund

Eric Gronlund PE
Water Rights Program, DENR
based on representation by Paul Wipf
with Spink Hutterian Brethren

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/11, 20 12

RECEIVED OF Spink Hutterian Brethren 18206 Spink Ln Frankfort SD 57440

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

Fee for Application for Permit No. <u>7425-3</u> to Appropriate Water, to construct and to put water to beneficial use	1250	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. <u>7425-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1450 00

No. **05571**

By Harold Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7425-3, Spink Hutterian Brethren**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 7425-3, Spink Hutterian Brethren, c/o Paul Wipf, 18206 Spink Lane, Frankfort SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 7425-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) as conditioned the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Diversion of water from the James River shall be in accordance with the following criteria:
 - a) This permit does not authorize diversion of water from the James River after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - b) This permit does not authorize diversions from James River when there is less than 20-cfs bypassing the USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
October 23, 2012

REPORT ON WATER PERMIT APPLICATION NO. 7425-3

Spink Hutterian Brethren

September 18, 2012

DRAFT

Spink Hutterian Brethren, c/o Paul P. Wipf, has filed Water Permit Application No. 7425-3 to appropriate 6.67 cubic feet of water per second (cfs) from the James River to irrigate 408 acres of land located in the S½ Section 17 and NE¼ Section 20; all in T115N-R62W. The diversion point is located in the SW¼ SW¼ Section 16-T115N-R62W. The annual period of use requested is from April 1 through October 31.

Review of Water Source

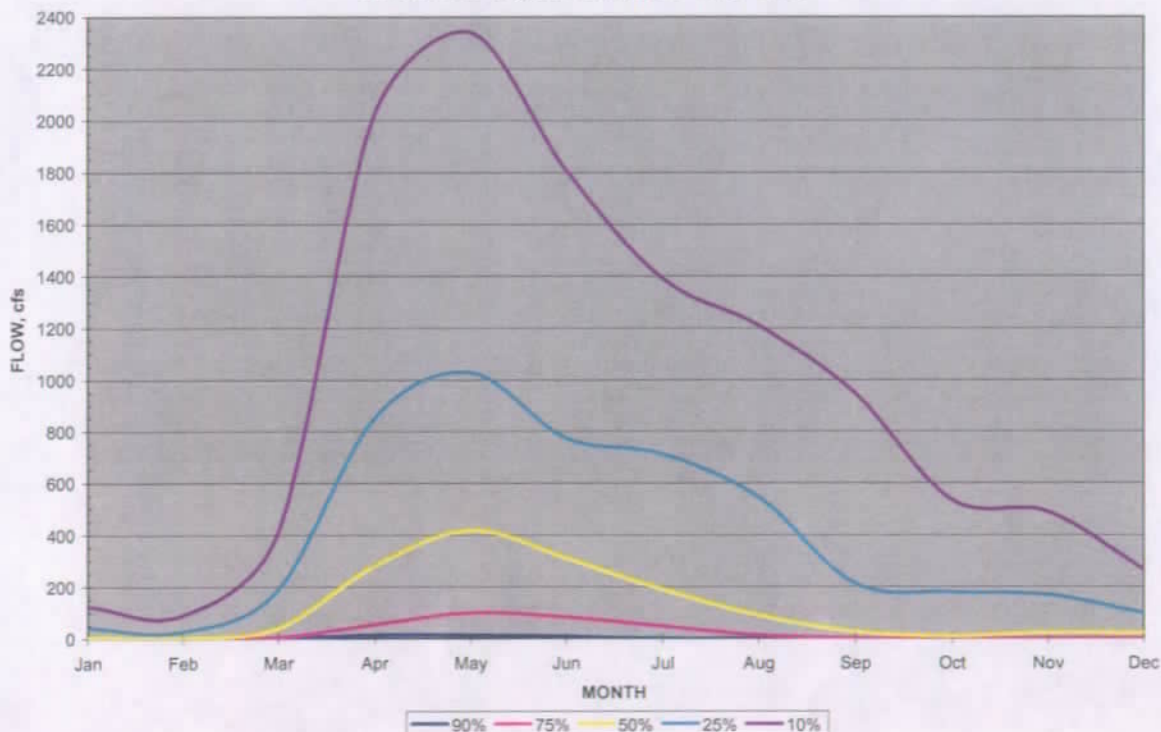
The water source for the proposed project is the James River in Spink County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation the James River experiences extremely low flows and cannot be considered a reliable source of water.

The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Ashton, SD, approximately 37 river miles upstream of the proposed project. The historical data from 1945 to 2010 for the Ashton, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 9 to 418-cfs April through October of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 0 to 98-cfs for the same time period. (Table 1 and Hydrograph 1)

Table. 1 James River Monthly Median Flow (cfs) Ashton, SD

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10% chance	122	89	407	2021	2340	1810	1391	1208	945	534	488	265
25% chance	38	25	186	848	1027	773	711	543	211	178	167	96
50% chance	6	3	40	280	418	310	190	90	26	9	22	22
75% chance	0	0	4	53	98	81	47	12	1	0	0	0
90% chance	0	0	0	13	12	7	0	0	0	0	0	0

James River Gage at Ashton, SD 1945 - 2010

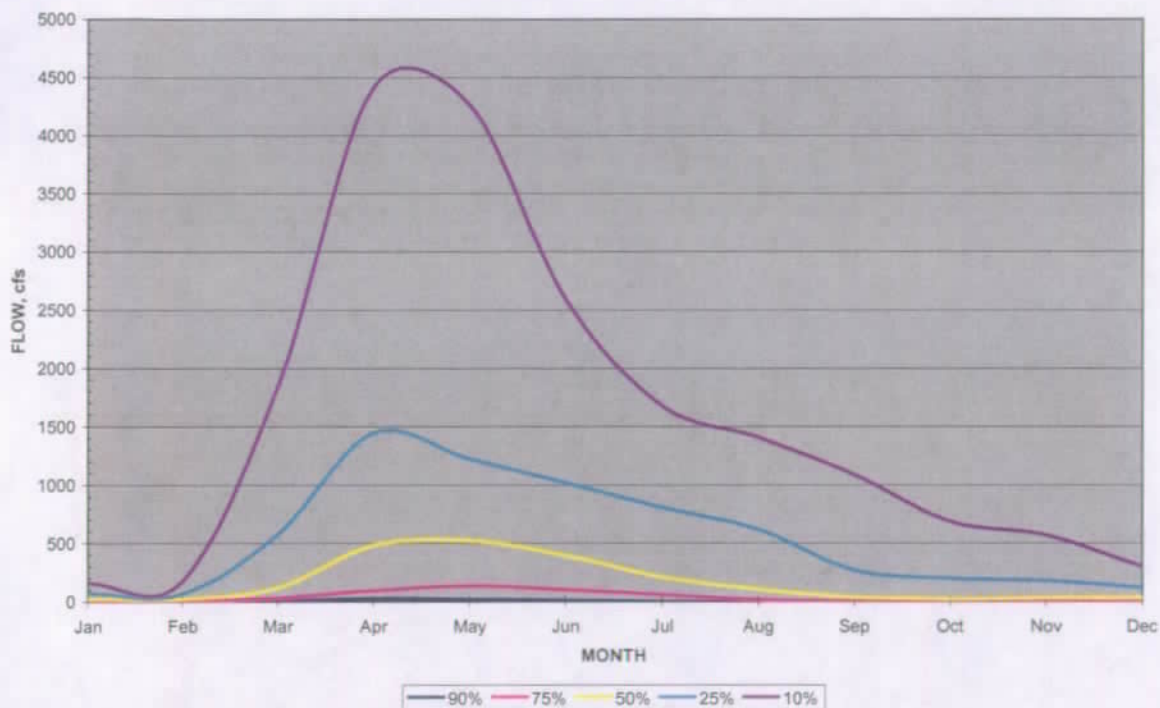


The U.S. Geological Survey (USGS) also operates a stream flow gaging station on the James River at Huron, SD, approximately 40 river miles downstream of the proposed project. The historical data from 1943 to 2010 for the Huron, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 24 to 525-cfs April through October of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 0 to 131-cfs for the same time period. (Table 2 and Hydrograph 2)

Table. 2 James River Monthly Median Flow (cfs) Huron, SD

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10% chance	155	172	1831	4404	4262	2597	1677	1407	1088	687	570	299
25% chance	68	64	574	1442	1224	1021	808	620	271	200	179	121
50% chance	24	23	120	482	525	397	212	107	40	24	30	33
75% chance	0	2	29	91	131	99	56	15	0	0	0	0
90% chance	0	0	5	27	19	12	0	0	0	0	0	0

James River Gage at Huron, SD 1943 - 2010



As noted at the July 1980 Water Rights Commission Meeting, Findings of Fact, Conclusion of Law, and Final Decision, the presumption can be made that the stream flow rates recorded at the gaging stations cited above are post withdrawal of no more than 50-percent of those water right allocations authorized upstream of the gage’s location during the normal irrigation season. As an example, during normal climatic conditions, a July median flow at the Huron gage of 212 cfs represents water bypassing the gage after 50% of the upstream appropriated irrigation withdrawals have taken place.

USGS historical data for the Ashton and Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal to wetter climatic conditions for the April through October annual period. During late summer and early fall months, the James River cannot be considered a reliable source of water.

Review of Existing Water Rights

In 1965 the SD Water Rights Commission, a predecessor to the SD Water Management Board, placed a 300-cfs diversion limit on the James River in South Dakota with a maximum combined diversion limit of 200-cfs from North Dakota border to Huron, SD. Due to the Missouri River backwater into the James River, the 300-cfs restriction has been applied from the North Dakota border to the Yankton-Hutchinson County Line.

Presently there are 101 Water Rights with diversions totaling 252.74-cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North Dakota border to Huron, SD there are 67 Water Rights with diversions totaling 165.34-cfs. Spink Hutterian Brethren has also filed Water Permit Application Nos. 7424-3, 7426-3, and 7427-3 to appropriate a combined 14.65 cubic feet of water per second (cfs) from the James River. If Water Permit Applications 7424-3, 7425-3, 7426-3, and 7427-3 are approved, diversions from both the total river and the North Dakota border to Huron, SD river reach would still be below the established limits.

There are three water rights diverting water from the James River within the 3 mile stretch encompassing this project and the three other applications, Water Permit No. 1538-3, 2396-3, 5737-3, all held by Spink Hutterian Brethren. Combined, these three water rights appropriate 7.76 cfs. Spink Hutterien Brethren also holds Water Right 1979-3 located 3.9 miles downstream of this application. See the table below for water rights held by others in the downstream vicinity of this application.

Downstream James River Water Rights:

WR No.	Appx. Distance Downstream From Application (miles)	Diversion (cfs)	Priority Date	Use	WR Holder
2396-3	0.75	1.88	10/10/1975	IRR	Spink Hutterian Brethren
5737-3	1.75	1.88	12/17/1992	IRR	Spink Hutterian Brethren
1538-3	2.5	4.0	03/19/1968	IRR	Spink Hutterian Brethren
6375-3	2.75	5.35	01/02/2003	IRR	Bixler Farms
6738-3	3.0	2.89	07/05/2006	IRR	Ruden Enander
2386-3	3.75	1.28	09/24/1975	IRR	Harvey Wollman
6398-3	3.8	0.61	02/24/2003	IRR	Harvey Wollman
1979-3	3.9	3.76	03/27/1973	IRR	Spink Hutterian Brethren
6182-3	5.5	7.03	02/22/2000	IRR	Oscar Inc.
6183-3	8.0	7.83	02/22/2000	IRR	Oscar Inc.

If approved, with qualifications, the applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

Review of Qualifications

In 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based on this review, the Chief Engineer recommended amending the existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and amended the existing water rights/permits. In addition, it was the intent that future appropriations of water from the James River be administered with the same amended qualifications.

Therefore, if approved, Application No. 7425-3 should contain the following qualifications.

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.

- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Conclusions

1. Water Permit Application No. 7425-3, Spink Hutterian Brethren, c/o Paul P Wipf, proposes to appropriate 6.67 cubic feet of water per second (cfs) from the James River to irrigate 408 acres of land located in the S½ Section 17 and NE¼ Section 20; all in T115N-R62W. The diversion point is located in the SW¼ SW¼ Section 16-T115N-R62W.
2. USGS historical data for the Ashton and Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the April through October annual period.
3. If Application No 7425-3 is approved, the following qualifications should be included:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.
4. If Application No 7425-3 is approved, the total James River diversion of 259.41-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, will be 172.01-cfs, well within the 200-cfs limit set by the Water Rights Commission.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

Affidavit of Publication

612

STATE OF SOUTH DAKOTA NOV - 1 2012
County of Spink: ss.

WATER RIGHTS PROGRAM

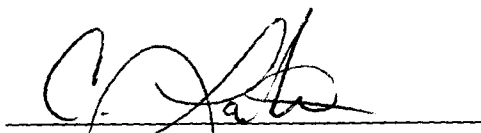
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#662 Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on October 31st, that Twenty-nine and .75/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.



Subscribed and sworn to before me this 31st day of October, 2012.


Notary Public, South Dakota

My commission expires 04/06/2016.

Notice

#662

NOTICE OF APPLICATION NOS. 7424-3, 7425-3, 7426-3 & 7427-3 TO APPROPRIATE WATER

Notice is given that Spink Hutterian Brethren, c/o Paul P Wipf, 18206 Spink Lane, Frankfort SD 57440 has filed the following applications for a water permit.

Application No. 7424-3 proposes to appropriate 3.84 cubic feet of water per second (cfs) from the James River located in SW 1/4 SE 1/4 Section 28 for irrigation of 270 acres located in the W 1/2 Section 33; all in T115N-R62W.

Application No. 7425-3 proposes to appropriate 6.67 cfs from the James River located in the SW 1/4 SW 1/4 Section 16 to irrigate 408 acres located in the S 1/2 Section 17 and NE 1/4 Section 20; all in T115N-R62W.

Application No. 7426-3 proposes to appropriate 2.63 cfs from the James River located in the SW 1/4 NW 1/4 Section 16 to irrigate 185 acres located in the E 1/2 NW 1/4, NE 1/4, NE 1/4 SW 1/4, SW 1/4 NW 1/4 Section 16; all in T115N-R62W.

Application No. 7427-3 proposes to appropriate 8.18 cfs from the James River located in the SE 1/4 SW 1/4 Section 21 to irrigate 575 acres located

in Section 22; all in T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7424-3, 7425-3, 7426-3 and 7427-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given

above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

Steven M. Pirner, Secretary
Department of Environment
and Natural Resources
Published at an approximate cost of
\$29.75. (Oct 31)

RECEIVED

NOV 26 2012

PRINTER'S AFFIDAVIT WATER RIGHTS PROGRAM

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.

I, TRISHA NELSON, being duly sworn on oath, say that THE PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

SPINK HUTTERIAN BRETHREN - WATER APPLICATION PERMITS

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 31ST day OCT 2012 That the full **FOURTY-ONE & 43/000** dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part there of has been agreed to be paid to any person whom so ever.

Trisha Nelson

Subscribed and sworn to before me this 20TH day of NOV. 2012.

Shirley K. Kuehnt
Notary Public, South Dakota

My term expires 10/25/17

Legal # 457

F.P. 10-31-12

**NOTICE OF APPLICATION
NOS. 7424-3, 7425-3,
7426-3 & 7427-3 to
Appropriate Water**

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Application No. 7426-3 proposes to appropriate 2.63 cfs from the James River located in the SW 1/4 NW 1/4 Section 16 to irrigate 185 acres located in the E 1/2 NW 1/4, NE 1/4, NE 1/4 SW 1/4, SW 1/4 NW 1/4 Section 16; all in T115N-R62W.

Application No. 7427-3 proposes to appropriate 8.18 cfs from the James River located in the SE 1/4 SW 1/4 Section 21 to irrigate 575 acres located in Section 22; all in T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7424-3, 7425-3, 7426-3 and 7427-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended,

unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Rights Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

Steven M. Pirner,
Secretary, Department
of Environment and
Natural Resources.

No 457 (adv.)
Published once at the
total approximate cost of
\$41.43.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 23, 2012

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7424-3, 7425-3, 7426-3 and 7427-3 to Appropriate Water. Please publish the notice once on October 31, 2012. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Spink Hutterian Brethren, c/o Paul Wipf, 18206 Spink Lane, Frankfort SD 57440 (Ph # 605-472-1269).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 23, 2012 9:32 AM
To: Ruby Crandall (rnewman.plainsman@midconetwork.com)
Subject: Spink Hutterian Brethren notice
Attachments: 7424-27-3pluralpublic-short.docx

Ruby,

Attached is Notice of Application Nos. 7424-3, 7425-3, 7426-3 & 7427-3 to Appropriate Water for Spink Hutterian Brethren, c/o Paul Wipf, 18206 Spink Lane, Frankfort SD 57440 (ph 605 472-1269).

Please publish the notice on October 31, 2012. The information regarding the notice is being sent in the mail today. Please send us the affidavit ASAP after publication.

Thanks,

Karen Schlaak

Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

October 23, 2012

Spink Hutterian Brethren
Paul Wipf
18206 Spink Lane
Frankfort SD 57440

Dear Mr. Wipf:

Water Permit Application Nos. 7424-3, 7425-3, 7426-3 and 7427-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed at Redfield SD (Ph # 605-472-0822) and the Plainsman printed at Huron SD (Ph # 605-352-6401). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper(s) has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the applications.

Instruction to Newspaper - Publish the Notice on October 31, 2012. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NOS. 7424-3, 7425-3, 7426-3 & 7427-3 to Appropriate Water

Notice is given that Spink Hutterian Brethren, c/o Paul P Wipf, 18206 Spink Lane, Frankfort SD 57440 has filed the following applications for a water permit.

Application No. 7424-3 proposes to appropriate 3.84 cubic feet of water per second (cfs) from the James River located in SW 1/4 SE 1/4 Section 28 for irrigation of 270 acres located in the W 1/2 Section 33; all in T115N-R62W.

Application No. 7425-3 proposes to appropriate 6.67 cfs from the James River located in the SW 1/4 SW 1/4 Section 16 to irrigate 408 acres located in the S 1/2 Section 17 and NE 1/4 Section 20; all in T115N-R62W.

Application No. 7426-3 proposes to appropriate 2.63 cfs from the James River located in the SW 1/4 NW 1/4 Section 16 to irrigate 185 acres located in the E 1/2 NW 1/4, NE 1/4, NE 1/4 SW 1/4, SW 1/4 NW 1/4 Section 16; all in T115N-R62W.

Application No. 7427-3 proposes to appropriate 8.18 cfs from the James River located in the SE 1/4 SW 1/4 Section 21 to irrigate 575 acres located in Section 22; all in T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7424-3, 7425-3, 7426-3 and 7427-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

JAN 02 2013

Spink Hutterian Brethren
Paul Wipf
18206 Spink Lane
Frankfort SD 57440

Dear Wipf:

Enclosed are Water Permit Nos. 7424-3, 7425-3 and 7427-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses may be issued, thus completing the acquisition of a water right.

An informational sheet ? *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

7425-3
RECEIVED

DEC - 2 2013

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 11-30-13TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Spink Hutterian Brethren
(name)18206 Spink Lane
(address)Frankfort SD 57440
(city, state, zip)605-472-1269
(phone)

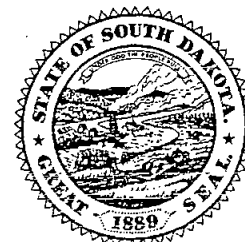
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 7425-3 states that the water use system is to be constructed by 7-4-13, and water is to be put to beneficial use by 8-1-13.
(date) (date)

The water use system was completed on 7-4-13.
(date)

Applying the water to beneficial use was completed on 9-1-13.
(date)

You may schedule an investigation so that the water license may be issued.

Paul P. Witzel
(signature)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 27, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who use water from the James River that river flow is much lower this year and to let them know that shutoff orders are possible this summer.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses will begin to interfere with domestic use. If river levels become critically low, the department may be forced to issue shutoff orders to protect domestic use, including livestock watering and those water rights that are most senior.

We are only cautioning that shutoff orders may become necessary. **This not a shutoff order.** This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shutoff orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and avoid wasting water.

If you are interested, the US Geological Survey has an Internet site showing river flows at 164 stream gauging stations across the state. To view the latest realtime stream flow, go to:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who either use water from the James River or tributaries under permits with the August 10 shutoff date qualification.

Water rights containing this qualification requires a mandatory compliance and pumping under your permit must cease after August 10th unless you contact the Water Rights Program and receive permission to continue to divert water.

Water Rights staff drove along the James River last week after the August 10 shutoff date to spot-check whether water right holders were complying with this qualification. This spot-check found multiple water right holders diverting water in violation of this qualification.

Again, I remind you, compliance with this shutoff qualification is required unless you request and receive permission from the Water Rights Program to continue pumping. Permission may be granted based upon water availability.

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

7425-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2022

NOTICE

TO: SPINK COLONY, JOHN J WIPF, 18206 SPINK LN, FRANKFORT, SD 57440 7207

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1538-3, 2396-3 & 3468-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2276-3A, 4195A-3, 5737-3, 7424-3, 7425-3 & 7427-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2276-3A, 4195A-3, 5737-3, 7424-3, 7425-3 & 7427-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1538-3, 2396-3 & 3468-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing 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.

If the questionnaires are received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: KTKGUJ**

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



7425-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 26, 2022

John J Wipf
Spink Colony
18206 Spink Ln
Frankfort SD 57440

RE: Water Right or Permit Nos. 1538-3, 2276-3A, 2396-3, 3468-3, 4195A-3, 5737-3, 7424-3,
7425-3 & 7427-3

Dear Mr. Wipf:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right/Permit Nos. 1538-3, 2276-3A, 2396-3, 3468-3, 4195A-3, 5737-3, 7424-3, 7425-3 & 7427-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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