

WATER PERMIT NO. 7696-3

Name of Applicant: Rosedale Hutterian Brethren, Inc.

Address: c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301

Phone: 605 239-4526

Amount of Water Claimed: 4.40 cfs

Total Acres: 308 acres

Source of Water Supply: James River

Water to be used for: irrigation

County: Hanson

Type of Waste Disposal System:

Location: 5 miles southwest of Alexandria

PRIORITY

Date Received: 2-8-13

Application/License Fee: \$ 1350

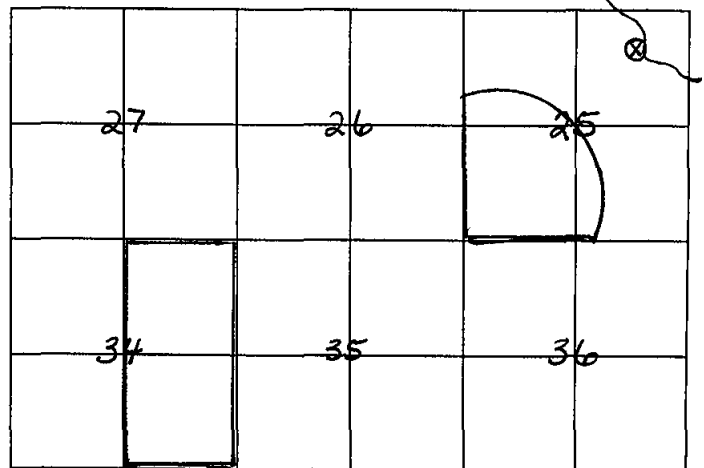
Corrected Application Received:

Period of Annual Use: April 1 – Oct 31

Remarks: SE 1/4 Sec 26 (No. 4656-3) is being relocated to SE 1/4 Sec 34-T102N-R59W. SW 1/4 Sec 25 (No. 4656-3) is being added to by 124 acres for total of 260 ac in Sec 25

Diversion Point: NE 1/4 Sec 25-T102N-R59W

Land to be Irrigated: E 1/2 Sec 34 and S 1/2 NW 1/4, SW 1/4, W 1/2 SE 1/4 Sec 25; all in T102N-R59W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 2-21-13

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>7696-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	<u>605-239-4521</u>
	Newspaper <u>Alexander Herald Box 456 57311</u>	
	<u>Daily Republic Box 1288 Mitchell 57301</u>	<u>605-996-5514</u>

RECEIVED

FEB - 8 2013

WATER RIGHTS
PROGRAM
10:30 am

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 to Appear on Irrigation Permit Rosedale Hutterian Brethern, Inc.(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 25986 Rosedale Rd Mitchell SD 57301
(Address) (City) (State) (Zip Code)

Home Phone 605-239-4526 Cell _____ Email rd.rosedale@sdcolony.com

2. Amount of water claimed 4.40 *CFS or _____ **GPM _____ ***AF Total Acreage 308
(*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 River4. Location of point of diversion NE1/4 sec 25-T102N-R59W

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Hanson5. County or counties where water will be used Hanson6. Annual period during which water is to be used Apr 1 - Oct 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
E1/2 sec 34-T102N-R59W	184		
S1/2 NW1/4, SW1/4, W1/2 SE1/4 sec 25 102N-59	124		

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

SE1/4 sec 26 (No. 4656-3) is to be relocated to SE1/4 sec 34-T102N-R59W plus 24 additional to cover the corners. The SW1/4 section 25 (No. 4656-3) is being added to by 124 acres for a total of 260 in sec 25.

I, Joshua Waldner, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

**SOUTH DAKOTA
WATER PERMIT NO. 7696-3**

Date of first receipt of application February 8, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7696-3 to Rosedale Hutterian Brethren, c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301 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. 7696-3 appropriates 4.40 cubic feet of water per second (cfs) from the James River located in the NE 1/4 Section 25 for irrigation of 308 acres located in the E 1/2 Section 34 and S 1/2 NW 1/4, SW 1/4, W 1/2 SE 1/4 Section 25; all in T102N-R59W. This permit also transfers the irrigation of 136 acres located in the SE 1/4 Section 26 authorized by Water Right No. 4656-3 to the SE 1/4 Section 34; all in T102N-R59W. The total authorized by Water Permit No. 7696-3 with the transferred acreage and diversion authority is 444 acres and 6.34 cfs.
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 February 8, 2013 for 4.40 cfs and 308 acres and September 16, 1971 for 1.94 cfs and 136 acres (established by Water Right 4656-3).
4. The date of approval of Permit No. 7696-3 is April 8, 2013.
5. One-fifth of the construction is to be completed on or before October 8, 2015.
6. All construction is to be completed on or before April 8, 2018.
7. Water is to be put to beneficial use on or before April 8, 2022.
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 Scotland SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

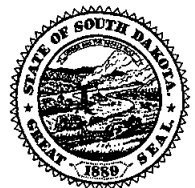
WATER MANAGEMENT BOARD

By: 

Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 17 2013

date



Scale: 1 inch = 2,083 feet

3,000

Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Completed by:

Ron Duvall
Ron Duvall, Natural Resources Engineer
Water Rights Program

Date: Feb 8, 2013

Appl No.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/8, 2013

RECEIVED OF Rosedale Hutterian Brethern Inc 25986 Rosedale Rd Mitchell SD 57301

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

Fee for Application for Permit No. <u>7696-3</u> to Appropriate Water, to construct and to put water to beneficial use	1150	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>7696-3</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	1350 00

No. 06109

By

Leona 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. 7696-3, Rosedale Hutterian Brethren, Inc.**

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. 7696-3, Rosedale Hutterian Brethren, Inc., c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301.

The Chief Engineer is recommending APPROVAL of Application No. 7696-3 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 Scotland 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
March 14, 2013

REPORT ON WATER PERMIT APPLICATION NO. 7696-3
Rosedale Hutterian Brethren, % Joshua Waldner
February 28, 2013

Rosedale Hutterian Brethren, c/o Joshua Waldner, has filed Water Permit Application No. 7696-3 to appropriate 4.40 cubic feet of water per second (cfs) from the James River to irrigate 308 acres of land located in the E $\frac{1}{2}$ Section 34 and S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25; all in T102N-R59W. The diversion point is located in the NE $\frac{1}{4}$ Section 25, T102N-R59W. This application also proposes to transfer the irrigation of 136 acres located in the SE $\frac{1}{4}$ Section 26 authorized by Water Right No. 4656-3 to the SE $\frac{1}{4}$ Section 34; all in T102N-R59W.

Review of Project

The project will add 24 acres in Section 25 to the 136 acres already covered by Water Right No. 4656-3. In Section 34 the project will transfer 136 acres from Water Right No. 4656-3 and add 184 acres. While irrigation of the original acreage under 4656-3 maintains a priority date of September 16, 1971, the priority date for irrigation of the additional 308 acres is February 8, 2013. The annual period of use is April 1 through October 31.

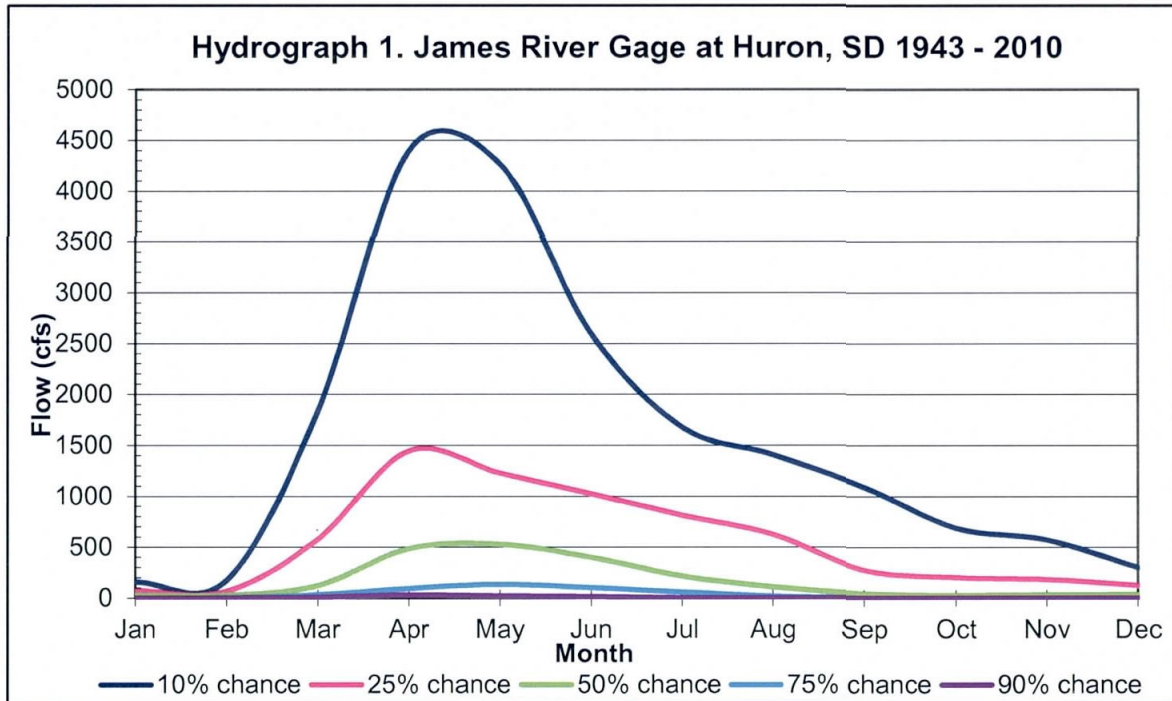
Review of Water Source

The water source for the proposed project is the James River in Hanson 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 Huron, SD, approximately 67 river miles upstream of the proposed project. The historical data from 1944 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 482-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 1 and Hydrograph 1)

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

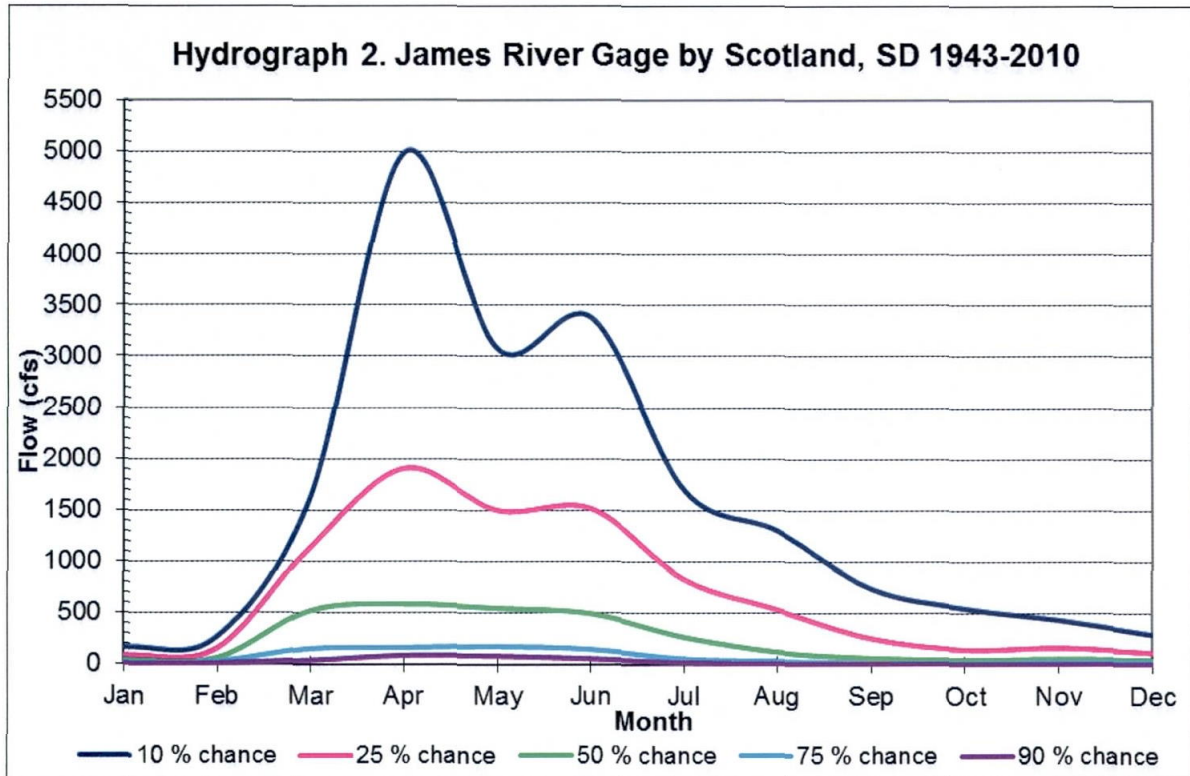
Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10% chance	155	172	1831	4404	4262	2597	1677	1407	1088	687	570	299
25% chance	68	64	574	1442	1224	1021	808	620	271	200	179	121
50% chance	24	23	120	482	525	397	212	107	40	24	30	33
75% chance	0	2	29	91	131	99	56	15	0	0	0	0
90% chance	0	0	5	27	19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



The U.S. Geological Survey (USGS) also operates a stream flow gaging station on the James River at Scotland, SD, approximately 45 river miles downstream of the proposed project. The historical data from 1943 to 2010 for the Scotland, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 42 to 581-cfs April through October of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 16 to 158-cfs for the same time period. (Table 2 and Hydrograph 2)

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

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10 % chance	162	266	1648	4996	3074	3378	1695	1302	738	546	435	292
25 % chance	84	155	1150	1907	1500	1516	827	534	255	146	166	117
50 % chance	37	56	518	581	543	490	262	119	60	42	54	43
75 % chance	16	26	148	158	170	143	52	29	16	16	22	20
90 % chance	6	13	38	84	80	54	21	10	8	4	6	7



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 Stratford gage of 262 cfs represents water bypassing the gage after 50% of the upstream appropriated irrigation withdrawals have taken place.

USGS historical data for the Huron, SD and Scotland, SD stream flow gages indicate that water is available in the James River during normal to wetter climatic conditions for the April through October annual period. During normal to dryer climatic conditions for the April through October annual period the James River cannot be considered a reliable source of water. To address low flow conditions the James River may be subject to shut-off orders.

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 106 Water Rights with diversions from the James River totaling 270.93-cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North Dakota border to Huron, SD there are 72 Water Rights with diversions from the James River totaling 183.53-cfs. If Water Permit Application 7696-3 is approved, diversions from the total river would increase to 275.33-cfs and the North Dakota border to Huron, SD river reach would remain at 183.53-cfs. If this application is approved the total diversion would be below the established limits.

There is one water right diverting water from the James River from approximately the same location as this project, Water Right No. 4656-3, owned by the applicant, authorizes 5.82-cfs. The next water right is located 4.8 miles downstream of this application, Water Right No. 608-3, owned by Loren Roth, authorizes 0.38-cfs.

Downstream James River Water Rights

WR No.	Appx. Distance Downstream From Application (miles)	Diversion (cfs)	WR Holder
4656-3	appx. same location	5.82	Rosedale Hutterian Brethren
608-3	4.8	0.38	Loren Roth

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. 7696-3 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 Scotland, SD after pumping.

Conclusions

1. Water Permit Application No. 7696-3, Rosedale Hutterian Brethren, c/o Joshua Waldner, proposes to irrigate 308 acres of land located in the E½ Section 34 and S½ NW¼, SW¼, and W½ SE¼ Section 25; all in T102N-R59W. The diversion point is located in the NE¼ Section 25, T102N-R59W.
2. USGS historical data for the Huron and Scotland, SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the March through November annual period.
3. If Application No 7696-3 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 Scotland, SD after pumping.
4. If Application No 7696-3 is approved, the total James River diversion of 275.33-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, would remain at 183.53-cfs, within the 200-cfs limit set by the Water Rights Commission.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

APR - 5 2013

COUNTY OF HANSON) :SS

WATER RIGHTS
PROGRAM

The undersigned, being first duly sworn, on his oath says: THE ALEXANDRIA HERALD is a weekly newspaper of general circulation, printed and published in the City of Emery, Hanson County, South Dakota, by MATTHEW ANDERSON, and has been such newspaper during the times hereinafter mentioned: that it has bona fide circulation of more than 200 copies weekly; that it has been published within said County of Hanson in the English language and admitted to the United States mail under the second class mailing privilege for more than one year next prior to the publication of the notice hereinafter mentioned, and has been printed during such period and at the present time in part in an office maintained at the said place of an publication: that I, the undersigned, am either the publisher or an employee of the said publisher of said newspaper and have personal knowledge of all the facts stated in the affidavit: that the advertisement headed

*Notice of Application Nos.
7696-3 & 7697-3 to appropriate
Water*

a printed copy of which is hereto attached, was printed and published in the said newspaper for one (1) successive weeks; that said notice was published in the issues of said paper on the dates as follows, to wit:

The first publication be made on 3-28-13

The second publication on _____

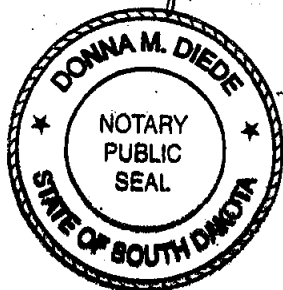
The third publication on _____

The fourth publication on _____

that \$29.79 Being the full amount of the fee for publication of the annexed notice, insured solely to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof have been made with any other person whosoever, and that said newspaper is a legal newspaper under the law of the state of South Dakota.

Subscribed and sworn to before me this 2

day of April 2013



Donna M. Diede
Notary Public, South Dakota

My commission expires 2-2-2016

NOTICE OF APPLICATION NOS. 7696-3 and 7697-3 to Appropriate Water

Notice is given that Rosedale Hutterian Brethren, Inc., c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301 has filed the following applications for a water permit.

Application No. 7696-3 proposes to appropriate 4.40 cubic feet of water per second (cfs) from the James River located in the NE 1/4 Section 25 for irrigation of 308 acres located in the E 1/2 Section 34 and S 1/2 NW 1/4 SW 1/4, W 1/2 SE 1/4 Section 25; all in T102N-R59W. This application also proposes to transfer the irrigation of 136 acres located in the SE 1/4 Section 26 authorized by Water Right No. 4656-3 to the SE 1/4 Section 34; all in T102N-R59W.

Application No. 7697-3 proposes to appropriate 19.57 cfs from the James River located in the SW 1/4 SW 1/4 Section 14 to irrigate 1,370 acres located in Section 26, E 1/2 Section 27; S 1/2, NW 1/4 Section 23 and SW 1/4 Section 22; all in T102N-R59W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7696-3 and 7697-3 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 April 8, 2013.

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 \$29.79.

3-28 1to

RECEIVED

APR 12 2013

WATER RIGHTS
PROGRAM

**NOTICE OF
APPLICATION NOS.
7696-3 and 7697-3
to Appropriate Water**

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Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$71.17

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Annette Kroger of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 2 issues(s), to wit:

Thursday March 28, 2013

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; 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, that the fees charged for the publication thereof are: \$ 71.17

Signed:

Annette Kroger

Subscribed and sworn to before me this 28 day of March

Kathy Hoggman

Notary Public

County of Hanson

My Commission Expires: 10.8.2015

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

March 20, 2013

Alexandria Herald
PO Box 456
Alexandria SD 57311

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7696-3 and 7697-3 to Appropriate Water. Please publish the notice once on March 28, 2013. 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 Rosedale Hutterian Brethren Inc, c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301 (Ph # 605-239-4526).

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 20, 2013

Daily Republic
PO Box 1288
Mitchell SD 57301

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7696-3 and 7697-3 to Appropriate Water. Please publish the notice once on March 28, 2013. 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 Rosedale Hutterian Brethren Inc, c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301 (Ph # 605-239-4526).

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



**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.**

March 20, 2013

Rosedale Hutterian Brethren Inc
Joshua Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr. Waldner:

Water Permit Application Nos. 7696-3 and 7697-3 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 Alexandria Herald printed at Alexandria SD (Ph # 605-239-4521) and the Daily Republic printed at Mitchell SD (Ph # 605-996-5514). 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 March 28, 2013. 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. 7696-3 and 7697-3 to Appropriate Water

Notice is given that Rosedale Hutterian Brethren, Inc., c/o Joshua Waldner, 25986 Rosedale Rd, Mitchell SD 57301 has filed the following applications for a water permit.

Application No. 7696-3 proposes to appropriate 4.40 cubic feet of water per second (cfs) from the James River located in the NE 1/4 Section 25 for irrigation of 308 acres located in the E 1/2 Section 34 and S 1/2 NW 1/4, SW 1/4, W 1/2 SE 1/4 Section 25; all in T102N-R59W. This application also proposes to transfer the irrigation of 136 acres located in the SE 1/4 Section 26 authorized by Water Right No. 4656-3 to the SE 1/4 Section 34; all in T102N-R59W.

Application No. 7697-3 proposes to appropriate 19.57 cfs from the James River located in the SW 1/4 SW 1/4 Section 14 to irrigate 1,370 acres located in Section 26, E 1/2 Section 27, S 1/2, NW 1/4 Section 23 and SW 1/4 Section 22; all in T102N-R59W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7696-3 and 7697-3 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 April 8, 2013.

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
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MAY 17 2013

Rosedale Hutterian Brethren
c/o Joshua Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr. Waldner:

Enclosed are Water Permit Nos. 7696-3, 7697-3 and Reissued Water License 4656-3. The Water Permits authorize construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Two 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 license 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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



7696-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 10, 2015

Water Permit Nos. 436-3, 4656-3,
7696-3 and 7697-3

Rosedale Hutterian Brethren, Inc.
% Moses Waldner
25986 Rosedale Road
Mitchell, SD 57301

Dear Mr. Waldner:

This letter is in reference to your August 7, 2015, telephone call regarding water availability and requesting permission to continue irrigation for Water Permit Nos. 436-3, 4656-3, 7696-3, and 7697-3 from the James River after the August 10 shutoff date. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River to the end of the 2015 irrigation season.

If you have any questions, please contact Mark Rath or Lynn Beck of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



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August 09, 2016

4656-3, 7696-3 and 7697-3.

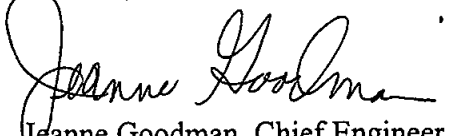
Rosedale Hutterian Brethren Inc.
25986 Rosedale Road
Mitchell SD 57301

Dear Mr. Waldner:

This letter is in reference to your August 8, 2016 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River through September 1, 2016.

If you have any questions, please contact Mark Rath or Lynn Beck of the Water Rights Program at phone (605) 773-3352.

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182

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August 29, 2016

4656-3, 7696-3 and 7697-3

Rosedale Hutterian Brethren Inc.
25986 Rosedale Road
Mitchell SD 57301

Dear Mr. Waldner:

This letter is in reference to your August 29, 2016 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permits out of the James River through September 15, 2016.

If you have any questions, please contact Mark Rath or Lynn Beck of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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August 8, 2017

436-3, 4656-3, 7656-3, 7696-3, 7697A-3

Rosedale Hutterian Brethern Inc
c/o Joshua Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr Waldner:

This letter is in reference to your August 8, 2017 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River through September 10, 2017.

If you have any questions, please contact Mark Rath or Aaron Tieman of the Water Rights Program at phone (605) 773-3352.

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182

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September 11, 2017

436-3, 4656-3, 7656-3, 7696-3, 7697A-3

Rosedale Hutterian Brethern Inc
c/o Joshua Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr Waldner:

This letter is in reference to your September 11, 2017 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River through September 21, 2017.

If you have any questions, please contact Mark Rath or Aaron Tieman of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
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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



**DEPARTMENT of AGRICULTURE
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August 23, 2022

436-3, 4656-3, 7696-3, 7697-3, 7697A-3

Rosedale Hutterian Brethren Inc.
25986 Rosedale Rd,
Mitchell SD 57301

Dear Mr. Waldner:

This letter is in reference to your August 22, 2022, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the Yankton are sufficient at this time to allow an extension. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River and allow you to divert through the end of the 2022 irrigation season.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station James River near Scotland drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

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

If you have any questions, please contact Mark Rath of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
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January 20, 2023

NOTICE

TO: ROSEDALE HUTTERIAN BRETHERN, MARK WALDNER, 25986 ROSEDALE RD,
MITCHELL, SD 57301 7515

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaires

Our records indicate your 2022 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 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) 436-3 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) 4656-3, 7696-3, 7697-3 & 7697A-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 8, 2023 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) 4656-3, 7696-3, 7697-3 & 7697A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 436-3 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 8, 2023** 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: ERULHN**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 25, 2023

Mark Waldner
Rosedale Hutterian Brethren
25986 Rosedale Rd
Mitchell SD 57301-7515

RE: Water Permit/Right Nos. 436-3, 4656-3, 7696-3, 7697-3 & 7697A-3

Dear Mr. Waldner:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit/Right Nos. 436-3, 4656-3, 7696-3, 7697-3 & 7697A-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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
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August 21, 2023

436-3, 4656-3, 7696-3, 7697-3, 7697A-3

Rosedale Hutterian Brethren Inc.
25986 Rosedale Rd,
Mitchell SD 57301

Dear Mr. Waldner:

This letter is in reference to your August 21, 2023, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the Yankton are sufficient at this time to allow an extension. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River and allow you to divert through the end of the 2023 irrigation season.

In the event dry climatic conditions in the river basin causes river flow to significantly decrease and flow measured at the USGS stream gaging station James River near Scotland drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

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

If you have any questions, please contact Mark Rath or Brittan Hullinger of the Water Rights Program at phone (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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August 17, 2026

436-3, 4656-3, 7696-3
7697-3, 7697A-3

Rosedale Hutterian Brethren
c/o Mark Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr. Waldner,

This letter is in reference to your request for an extension to pump water from the James River, beyond the annual August 10th shutoff date.

Flows in the James River, in the reach between North Dakota and the USGS stream gaging stations along the James River are sufficient, at this time, to allow an extension. Since there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your Water Permits and Rights appropriating water from the James River, allowing diversions through August 24, 2026.

If continued use is needed beyond August 24, 2026, please contact the Water Rights Program for an additional extension. At this time, we are only granting extensions for the James River in two-week increments, since the forecast is for continued hot and dry conditions throughout August.

In the event that dry climactic conditions in the river basin cause river flows to significantly decrease, and flow measured at the USGS stream gaging station near Scotland drops below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in and James River can be monitored by going to the following website:

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

If you have any questions, please contact Whitney Kilts with the Water Rights Program at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD - DANR



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 26, 2026

436-3, 4656-3, 7696-3, 7697-3, 7697A-3

Rosedale Hutterian Brethren
c/o Mark Waldner
25986 Rosedale Rd
Mitchell SD 57301

Dear Mr. Waldner,

This letter is in reference to your August 26, 2026, request for an extension to pump water from the James River beyond the August 10 shutoff date.

Flows in the James River in the reach between the North Dakota Border and the USGS stream gaging station James River at near Scotland are sufficient at this time to allow an additional extension. Since there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permits out of the James River, allowing diversions through September 9, 2026.

If continued use is needed beyond September 9, 2026, please contact the Water Rights Program for further extension of time. We are only giving extensions for the James River in two week increments at this time, since the forecast is for continued hot and dry conditions throughout August and September.

In the event that dry climatic conditions in the river basin cause river flow to significantly decrease, and flow measured at the USGS stream gaging station near Scotland drops to below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in the James River can be monitored by going to the following website:

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

If you have any questions, please contact Whitney Kilts or myself at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources