

**WATER PERMIT NO. 7906-3**

Name of Applicant: Huron Colony

Address: 40068 Huron Colony Lane, Huron SD 57350

Phone: 605 350-6875

Amount of Water Claimed: no additional

Total Acres: 191.78

Source of Water Supply: James River

Water to be used for: irrigation

County: Beadle

Type of Waste Disposal System:

Location: 12 miles north of Huron

PRIORITY Date Received: 9-10-23

Application/License Fee: \$ 1150

Corrected Application Received: 9-23-13

Period of Annual Use: April 1 – October 31

Remarks: Utilizing diversion point authorized by Water Right No. 7395-3

Diversion Point: NE 1/4 NW 1/4 Sec 24-T113N-  
R62W

Land to be Irrigated: SE 1/4, ~~SW 1/4~~ Sec 24  
and NE 1/4 Sec 25; all in T113N-R62W

Depth of Well: NA

Well Driller:

Remarks:

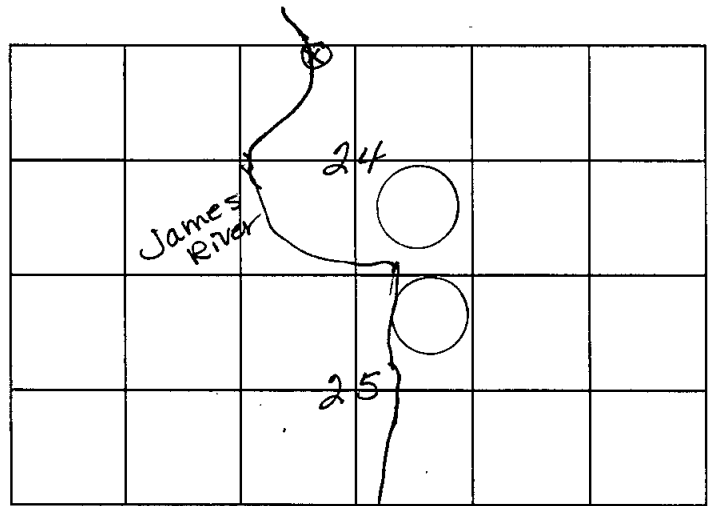
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 9-23-13

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_



Mail to:  
PMB 2020  
DENR - Water Rights  
523 E Capitol Ave  
Pierre, SD 57501-3182  
ph. (605) 773-3352

No. 7906-3 (office use only)  
Hydrologic Unit 10160006  
Basin James River  
Newspaper Plainsman, Huron

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SEP 10 2013

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 to Appear on Irrigation Permit Huron Lutheran Brethren(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 40068 Huron Colony Lane Huron S.D. 57350

(Address)

(City)

(State)

(Zip Code)

Home Phone 605-352-5647 Cell 605-350-6815 Email HuronFarms@vahoo.com2. Amount of water claimed \_\_\_\_\_ \*CFS or 800 \*\*GPM \_\_\_\_\_ \*\*\*AF Total Acreage 264

(\*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 NE 1/4 NW 24 113N 62W Same diversion

(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

Authority 67395-3)County Beadle5. County or counties where water will be used Beadle6. Annual period during which water is to be used April 1 To 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 |
|-------------------------|-------|------------------|-------|
| <u>SE 1/4 of Sec 24</u> |       |                  |       |
| <u>NE 1/4 of sec 25</u> |       |                  |       |
|                         |       |                  |       |
|                         |       |                  |       |

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

Intend To Irrigate two fields using diversion  
Authority from pump site NW Quarter 24 113N 62W

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

**REISSUED  
SOUTH DAKOTA  
WATER PERMIT NO. 7906-3 FOR IRRIGATION**

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Date of first receipt of application September 10, 2013.

The Chief Engineer, on behalf of the Water Management Board, issued Water Permit No. 7906-3 to Huron Hutterian Brethren, c/o Marvin Wollman, 40068 Huron Colony Lane, Huron SD 57350 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. 7906-3 authorizes irrigation of 191.78 new acres. Water Right No. 7395-3 appropriates 7.13 cubic feet of water per second (cfs) from the James River located in the NE 1/4 NW 1/4 Section 24-T113N-R62W to irrigate 1,034 acres. This permit authorizes irrigation of 191.78 new acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W from the existing James River diversion point. This permit does not authorize any increase in the developed diversion rate.

*The permit is being reissued based on Water Permit No. 7906A-3 which transferred 83.6 acres located in the NE 1/4 of Section 25-T113N-R62W to other land.*

Water Permit No. 7906-3 now authorizes irrigation of 108.18 acres located in the SE 1/4 Section 24-T113N-R62W from the existing James River diversion point. The diversion authority remains under Water Right No. 7395-3. This permit does not authorize any increase in the developed diversion rate.

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 10, 2013.
4. The date of approval of Permit No. 7906-3 is November 18, 2013.
5. One-fifth of the construction is to be completed on or before May 18, 2016.
6. All construction is to be completed on or before November 18, 2018.
7. Water is to be put to beneficial use on or before November 18, 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 10<sup>th</sup> 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.

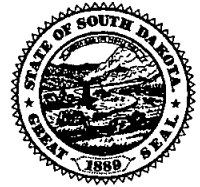
(continued)

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

**WATER MANAGEMENT BOARD**

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

AUG 11 2015  
date





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

AUG 11 2015

7906-3  
7906A-3

Huron Hutterian Brethren  
c/o Marvin Wollman  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Wollman:

Enclosed is Water Permit No. 7906A-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit. Also, enclosed is reissued Water Permit No. 7906-3. The reissuance of No. 7906-3 reflects the transfer of acreage authorized by No. 7906A-3.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system 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

**SOUTH DAKOTA**  
**WATER PERMIT NO. 7906-3**

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Date of first receipt of application September 10, 2013.

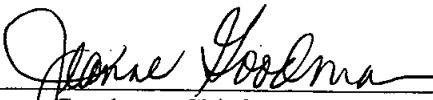
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7906-3 to Huron Hutterian Brethren, c/o Joey Waldner, 40068 Huron Colony Lane, Huron SD 57350 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7906-3 authorizes irrigation of 191.78 new acres. Water Right No. 7395-3 appropriates 7.13 cubic feet of water per second (cfs) from the James River located in the NE 1/4 NW 1/4 Section 24-T113N-R62W to irrigate 1,034 acres. This permit authorizes irrigation of 191.78 new acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W from the existing James River diversion point. This permit does not authorize any increase in the developed diversion rate.
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.
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  - a) This permit does not authorize diversion of water from the James River after August 10<sup>th</sup> 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.

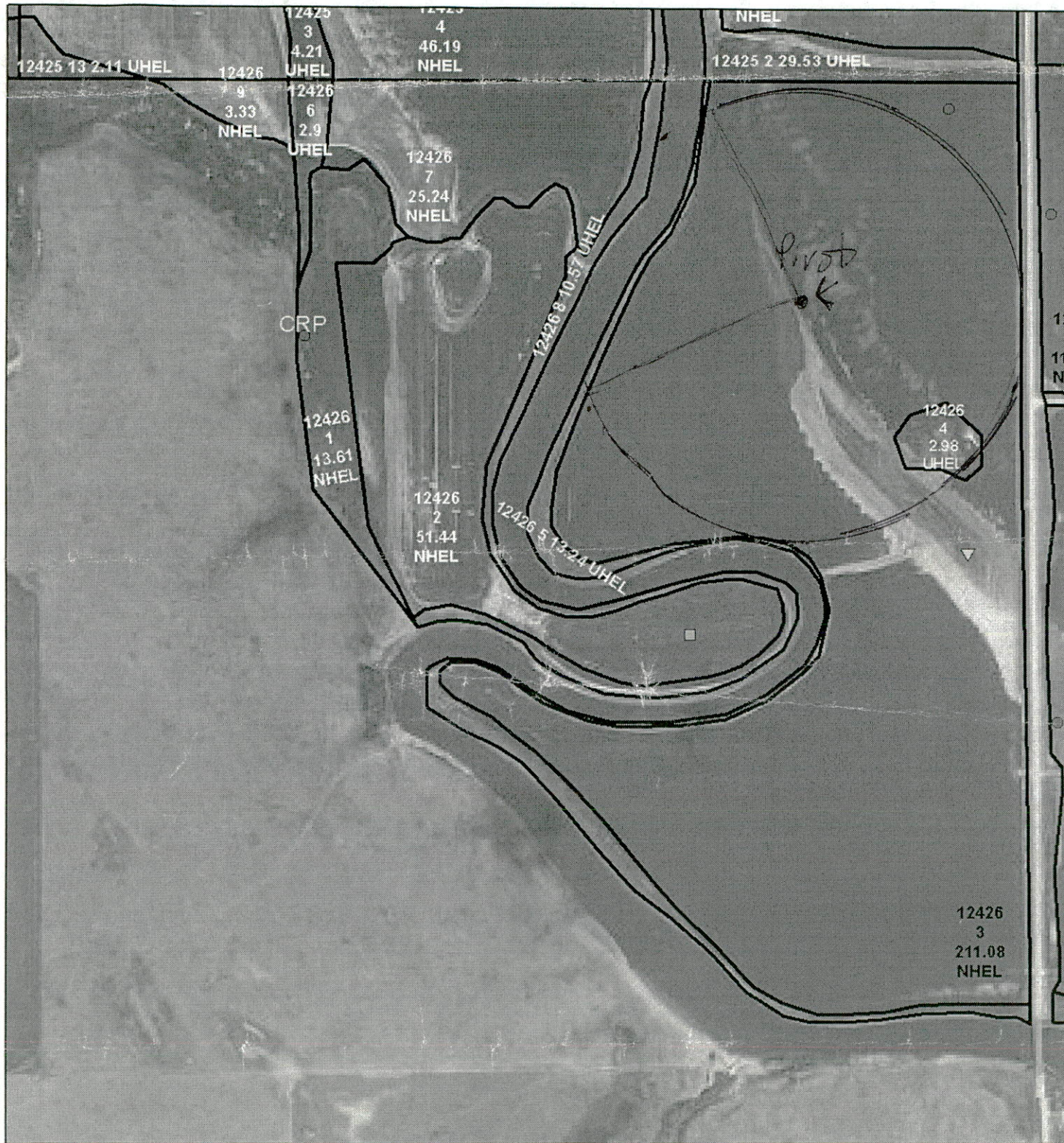
**WATER MANAGEMENT BOARD**

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

JAN 29 2014

date





United States Department of Agriculture  
Farm Service Agency

PLSS: 25\_113N\_62W  
Farm: 6768

**Beadle County, SD**  
1 inch equals 718 feet

February 20, 2013



**Wetland Determination Identifiers**

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

Non Cropland

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Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2012 Ortho-Photography - Not to Scale



United States Department of Agriculture  
Farm Service Agency

PLSS: 24\_113N\_62W  
Farm: 6768

**Beadle County, SD**  
1 inch equals 714 feet

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2012 Ortho-Photography - Not to Scale

February 20, 2013



**Wetland Determination Identifiers**

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

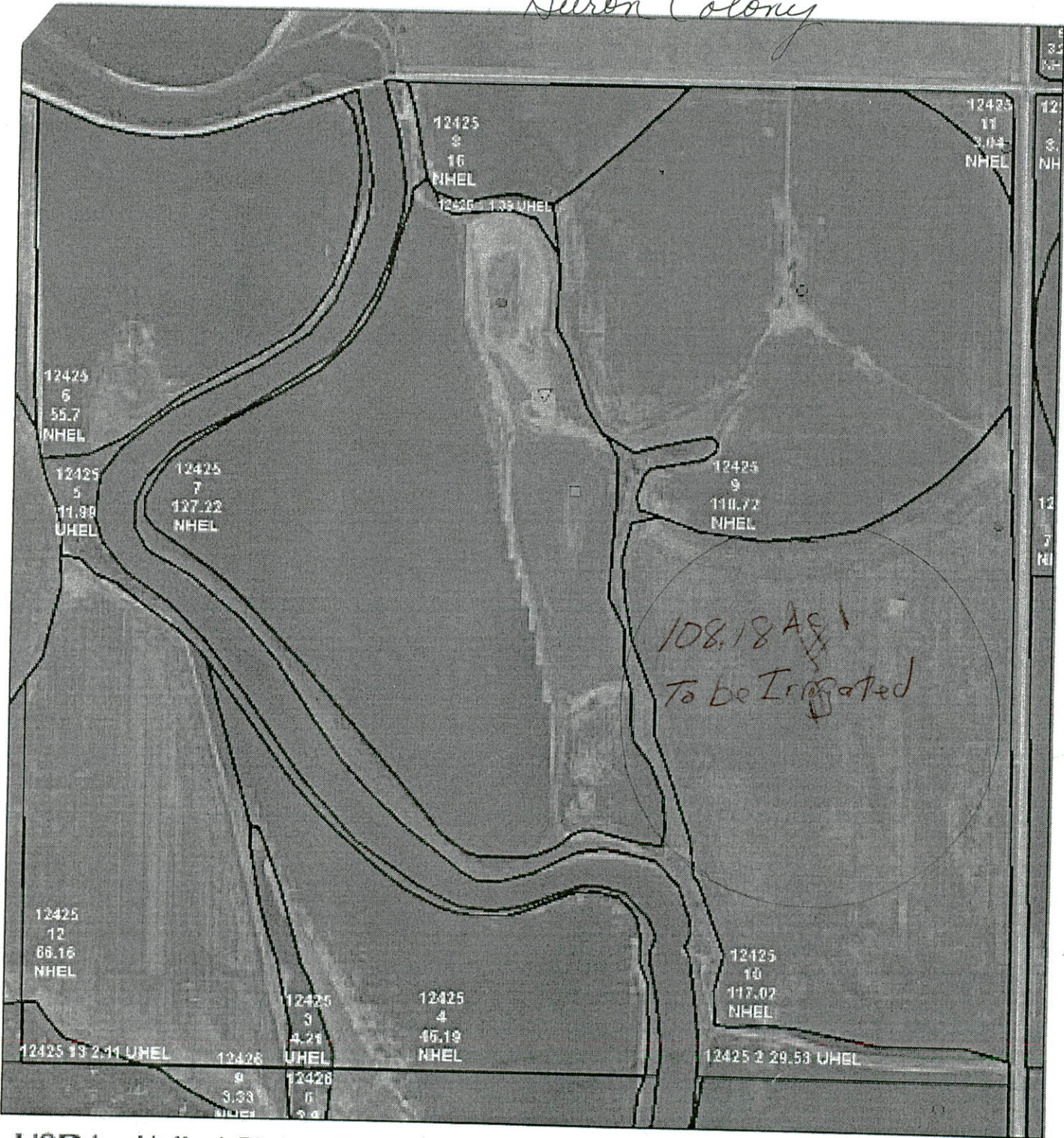
Non Cropland

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**WATER RIGHTS PROGRAM**

*Huron Colony*



United States Department of Agriculture  
Farm Service Agency

PLSS: 24\_113N\_62W  
Farm: 6768

**Beadle County, SD**  
1 inch equals 714 feet

February 20, 2013



Wetland Determination Identifiers

- Riverine Wetland
- ▽ Upland Wetland
- Exemption from Conservation Compliance Provisions

Common Land Units

Non-Cropland

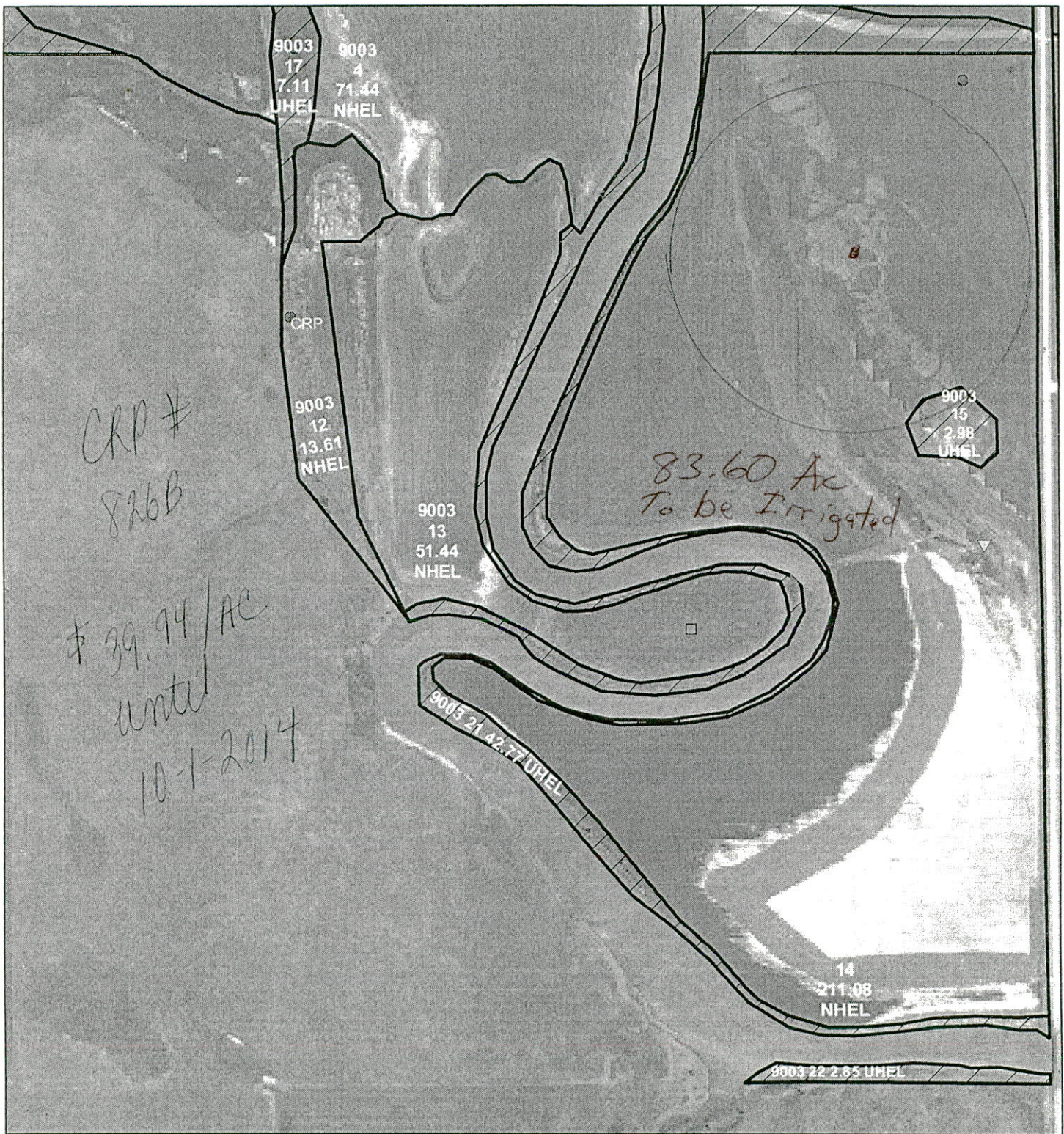
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**SEP 23 2013**

**WATER RIGHTS PROGRAM**

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CFA 026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2012 Ortho-Photography - Not to Scale



United States Department of Agriculture  
Farm Service Agency

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SEP 23 2013

January 20, 2011

PLSS: 25\_113N\_62W  
Farm: 6768

**Beadle County, SD**

1 inch equals 684 feet

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original demination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

WETLAND RIGHTS PROGRAM

- Wetland Determination Identifiers**
- Restricted Use
  - ▼ Limited Restrictions
  - Exempt from Conservation Compliance Provisions

- Common Land Units**
- Non Cropland



2010 Ortho-Photography - Not to Scale



**LINDSAY**  
CORPORATION  
Lindsay Smart Design

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9/13/2013

An aerial photograph of a large, mostly green field. A red line outlines a large, irregular polygon that covers most of the field. Inside this red boundary, there is a blue circle. The field has some lighter green patches and a small, irregularly shaped pond or clearing on the left side. The bottom left corner shows a road and some buildings. The bottom of the image has a black bar with white text, including the Bing logo and copyright information.

## Pivot 1

Pivot Area: **99.41** acres  
 Endgun Area: **8.77** acres  
 Total Area: **108.18** acres

System Length: **1303.67** ft  
 # of Spans: **7 + overhang**  
 Deg. of Sweep: **292.0°**  
 Endgun Throw: **80.0** ft

Color on map:



### Spans

| # of Spans: 7 | Span 1<br>(180.2) | Span 2<br>(359.1) | Span 3<br>(538.0) | Span 4<br>(716.9) | Span 5<br>(895.8) | Span 6<br>(1074.8) | Span 7<br>(1253.7) | Overhang<br>(1303.7) |
|---------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|----------------------|
| Length:       | 179               | 179               | 179               | 179               | 179               | 179                | 179                | 44 ft                |
| Pipe Size:    | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"           | 6 - 5/8"           | 5 - 9/16"            |

### Endgun Areas

#### Endgun 1: (Throw = 80.0 ft)

| # of Areas:<br>3 | Start / Stop Angle<br>(Deg. from North) | Start / Stop Angle<br>(Deg. from Pivot Start) | Start / Stop Location<br>( Lat/Long ) |                                 | Area<br>( acres ) |
|------------------|-----------------------------------------|-----------------------------------------------|---------------------------------------|---------------------------------|-------------------|
| Area 1           | 260.1° / 264.2°                         | 0.0° / 4.0°                                   | 44.577817172°<br>-98.230569642°       | 44.578067038°<br>-98.230617887° | 0.17              |
| Area 2           | 276.6° / 72.4°                          | 16.5° / 172.3°                                | 44.578842555°<br>-98.230610569°       | 44.579512575°<br>-98.220868518° | 6.71              |
| Area 3           | 107.4° / 151.1°                         | 207.3° / 251.0°                               | 44.577360857°<br>-98.220863301°       | 44.575297581°<br>-98.223224162° | 1.88              |

Center Point: 44.578430  
 - 98.225639

## Kevin's Pivot Service



20586 409 Ave  
Cavour, SD 57324  
605-350-3864

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WATER RIGHTS  
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### Farm: Field1

Grower:

9/13/2013

| Systems:  | Length     | Spans                | Total area including endgun |
|-----------|------------|----------------------|-----------------------------|
| ● Pivot 2 | 1015.58 ft | 6 spans + 44 ft o.h. | 83.60 acres                 |



## Pivot 2

Pivot Area: **74.39** acres  
 Endgun Area: **9.21** acres  
 Total Area: **83.60** acres

System Length: **1015.58** ft  
 # of Spans: **6 + overhang**  
 Deg. of Sweep: **360.0°**  
 Endgun Throw: **80.0** ft

Color on map:



### Spans

| # of Spans: 6 | Span 1<br>(180.2) | Span 2<br>(337.3) | Span 3<br>(494.3) | Span 4<br>(651.4) | Span 5<br>(808.5) | Span 6<br>(965.6) | Overhang<br>(1015.6) |
|---------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|----------------------|
| Length:       | 179               | 157               | 157               | 157               | 157               | 157               | 44 ft                |
| Pipe Size:    | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 6 - 5/8"          | 5 - 9/16"            |

### Endgun Areas

#### Endgun 1: (Throw = 80.0 ft)

| # of Areas:<br>3 | Start / Stop Angle<br>(Deg. from North) | Start / Stop Angle<br>(Deg. from Pivot Start) | Start / Stop Location<br>( Lat/Long ) |                                 | Area<br>( acres ) |
|------------------|-----------------------------------------|-----------------------------------------------|---------------------------------------|---------------------------------|-------------------|
| Area 1           | 110.8° / 189.4°                         | - NA - / - NA -                               | 44.569406918°<br>-98.220860630°       | 44.567649708°<br>-98.225142876° | 2.66              |
| Area 2           | 206.3° / 289.2°                         | - NA - / - NA -                               | 44.567900644°<br>-98.226231467°       | 44.571315504°<br>-98.228185011° | 2.81              |
| Area 3           | 318.5° / 69.2°                          | - NA - / - NA -                               | 44.572486837°<br>-98.227085040°       | 44.571385760°<br>-98.220858143° | 3.75              |

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/10, 20 13

RECEIVED OF Huron Hutterian Brethren 40068 Huron Colony Ln Huron SD 57350

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

|                                                                                                                |       |         |
|----------------------------------------------------------------------------------------------------------------|-------|---------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 1900  | 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. _____            | 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 | 2100 00 |

No. **06427**

By Jeanne Goodman  
Chief Engineer

## Gronlund, Eric

---

**From:** Gronlund, Eric  
**Sent:** Tuesday, September 10, 2013 2:23 PM  
**To:** huronfarms@yahoo.com  
**Cc:** Schlaak, Karen  
**Subject:** Questions about the water permit applications filed to divert from the James River

Joey / Marvin:

The Water Rights Program of DENR received the two new water permit applications to use James River water. However, we have a few questions that will need to be answered in order for us to proceed with the application.

1. Application for 120 new acres in the SW ¼ Section 29 and NW ¼ Section 32, T113N, R61W
  - a. The application states diversion rate authority of 800 gpm from the pump site authorized by Water Right No. 2390A-3. Under the description of project it says using diversion authority. WR No. 2390A-3 authorizes pumping at a rate of 850 gpm for irrigation of 132 acres. **Is the application planning to use the existing diversion rate authority under WR No. 2390A-3 or increase the diversion capability at this pump site by 800 gpm?**
  - b. Under Item No. 7 of the application, the applicant is required to provide a breakdown of acres by quarter-quarter section (40 acre parcel). **Please provide the breakdown of new acreage by the quarter-quarter section in Sections 29 and 32.** Remember it will need to total 120 acres with is the amount request in the application?
2. Application for 264 new acres in the SE ¼ Section 24 and NE ¼ Section 25.
  - a. The application states diversion rate authority of 800 gpm from the pump site authorized by Water Right No. 7395-3. Under the description of project it says using diversion authority. WR No. 7385-3 authorizes pumping at a rate of 3,200 gpm for irrigation of 1034 acres. **Is the application planning to use the existing diversion rate authority under WR No. 7385-3 or increase the diversion capability at this pump site by 800 gpm?**
  - b. Under Item No. 7 of the application, the applicant is required to provide a breakdown of acres by quarter-quarter section (40 acre parcel). **Please provide the breakdown of new acreage by the quarter-quarter section in Sections 24 and 25.** Remember it will need to total the acre amount request in the application?
  - c. The application appears to be for 132 acres in each quarter section. However, the map submitted shows that neither pivot will make full rotation. **The total amount of acres under Item No. 2 and the acreage breakdown under Item No. 7 of the application needs to reflect the acres planned to be irrigated.**
3. Finally, Huron Colony paid the application filing fee based on three applications (120 acres, 132 acres and 132 acres). However, both 132 acre pivots were included on one application. That is fine but DENR will be refunding a portion of the fee since it was filed for as one application.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

**Gronlund, Eric**

---

**From:** Gronlund, Eric  
**Sent:** Tuesday, September 10, 2013 4:24 PM  
**To:** Schlaak, Karen  
**Subject:** Huron Colony applications

Joey Waldner called:

He indicated that they are requesting 800 gpm additional diversion rate authority for the application to irrigate 120 acres.

He indicated that the application for 264 acres, they will use the existing diversion rate authority under WR No. 7395-3.

I told him that the two pivots under the 264 acre application do not appear to make full rotation. He agreed. He was going to get us the actual acres and also a breakdown of acres by quarter-quarter section for all three pivot covered by the two applications.

## Gronlund, Eric

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**From:** Joey Waldner <huronfarms@yahoo.com>  
**Sent:** Saturday, October 05, 2013 11:29 AM  
**To:** Gronlund, Eric  
**Subject:** Re: water permit applications from the James River

Yes it's ok go ahead. Thanks

Sent from my iPhone

On Oct 5, 2013, at 11:05 AM, "Gronlund, Eric" <[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us)> wrote:

Joey – the applications you filed were in the name of Huron Colony. To be consistent with the colony's other water rights, I changes the name to Huron Hutterian Brethren. Please let me know if this okay.

Thanks

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352



**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. 7906-3, Huron 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. 7906-3, Huron Hutterian Brethren, c/o Joey Waldner, 40068 Huron Colony Lane, Huron SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 7906-3 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 10<sup>th</sup> 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.

Jeanne Goodman, Chief Engineer  
October 25, 2013

**REPORT ON WATER PERMIT APPLICATION NO. 7906-3**  
**Huron Hutterian Brethren, % Joey Waldner**  
**October 1, 2013**

Huron Hutterian Brethren, % Joey Waldner, has filed Water Permit Application No. 7906-3, for additional acres to Water Right 7395-3. Water Right 7395-3 authorizes 7.13 cubic feet of water per second (cfs) from the James River to irrigate 1,034 acres of land located in the SW¼ Section 18, Section 19, W½ Section 20; all in T113N-R61W, and the NE¼ Section 24-T113N-R62W. The diversion point is located in the NE¼ NW¼ Section 24-T113N-R61W. This application proposes to irrigate an additional 191.78 acres located in SE¼ Section 24 and NE¼ Section 25; all in T113N-R61W. This application, if approved, does not increase the developed diversion rate.

**Review of Water Source**

The water source for the proposed project is the James River in Beadle 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.

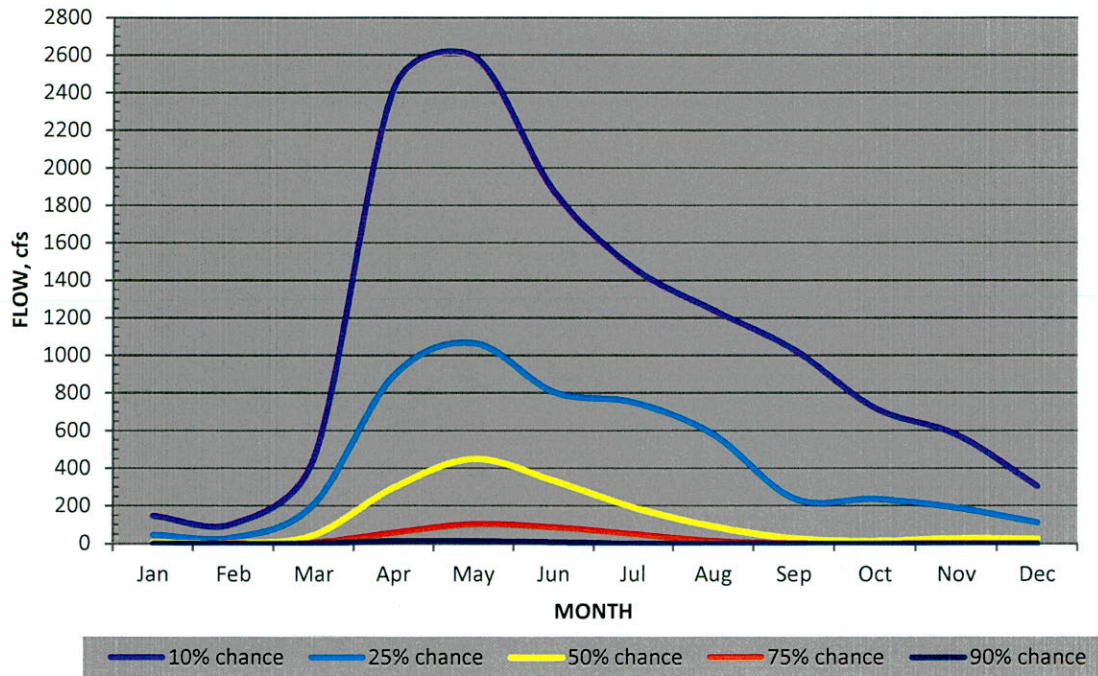
The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Ashton, SD, approximately 46 river miles upstream of the proposed project. The historical data from 1945 to 2012 for the Ashton SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 13 to 449-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 102-cfs for the same time period. (Table 1 and Hydrograph 1)

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

| Plot Data  | Jan | Feb | Mar | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct | Nov | Dec |
|------------|-----|-----|-----|------|------|------|------|------|------|-----|-----|-----|
| 10% chance | 146 | 106 | 451 | 2422 | 2587 | 1870 | 1465 | 1239 | 1029 | 719 | 578 | 304 |
| 25% chance | 47  | 33  | 211 | 893  | 1065 | 805  | 750  | 579  | 240  | 237 | 191 | 112 |
| 50% chance | 7   | 4   | 44  | 297  | 449  | 333  | 191  | 90   | 27   | 13  | 27  | 24  |
| 75% chance | 0.0 | 0.0 | 4.2 | 57   | 102  | 86   | 50   | 13.3 | 0.6  | 0.0 | 0.0 | 0.0 |
| 90% chance | 0.0 | 0.0 | 0.1 | 13.6 | 13.3 | 7.6  | 0.3  | 0.0  | 0.0  | 0.0 | 0.0 | 0.0 |

### Hydrograph 1

#### James River gage at Ashton, SD 1945 - 2012

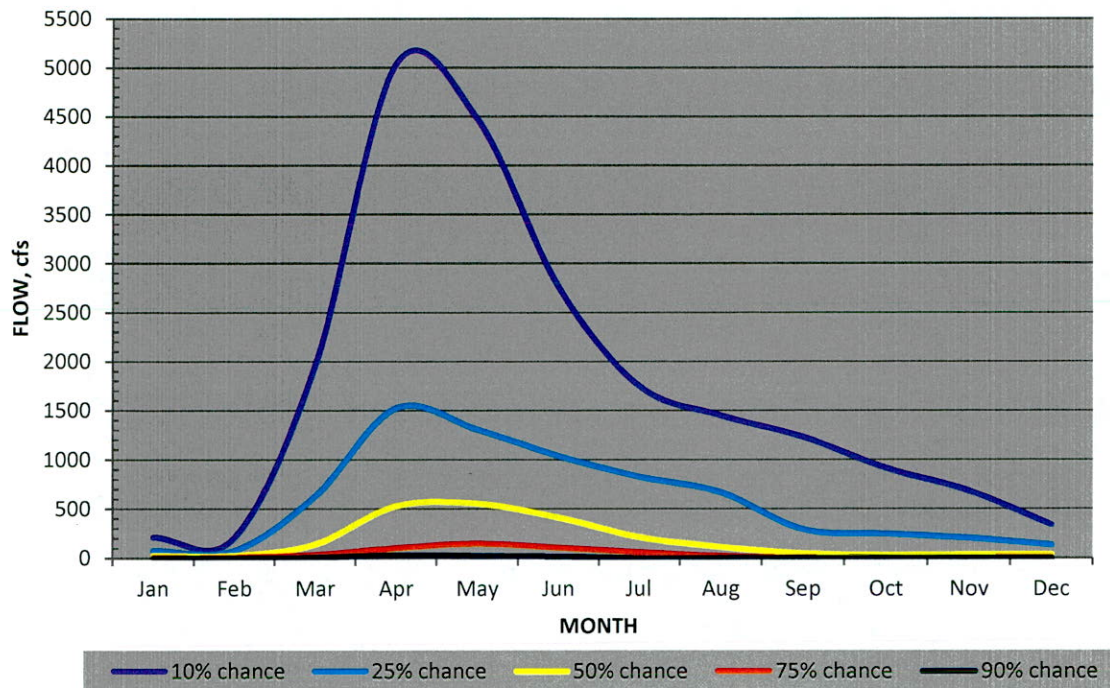


The USGS operates a stream flow gaging station on the James River located closer to the proposed project. The gage is at Huron, SD, approximately 31 river miles downstream of the proposed project. The historical data from 1943 to 2012 for the Huron SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 25 to 551-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 143-cfs for the same time period. (Table 2 and Hydrograph 2)

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

| Plot Data  | Jan | Feb | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct | Nov | Dec |
|------------|-----|-----|------|------|------|------|------|------|------|-----|-----|-----|
| 10% chance | 210 | 203 | 1951 | 5025 | 4466 | 2762 | 1752 | 1449 | 1231 | 913 | 681 | 336 |
| 25% chance | 74  | 72  | 627  | 1524 | 1307 | 1039 | 827  | 667  | 291  | 244 | 201 | 131 |
| 50% chance | 25  | 25  | 138  | 527  | 551  | 411  | 212  | 110  | 44   | 29  | 33  | 35  |
| 75% chance | 0   | 3   | 31   | 98   | 143  | 104  | 58   | 17   | 0    | 0   | 0   | 0   |
| 90% chance | 0   | 0   | 6    | 28   | 21   | 13   | 0    | 0    | 0    | 0   | 0   | 0   |

**Hydrograph 2**  
**James River gage at Huron, SD 1943 - 2012**



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 SD and Huron SD stream flow gages show similar results and 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. 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 98 Water Rights with diversions from the James River totaling 288.42-cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 62 Water Rights with diversions from the James River totaling 176.60-cfs. There are five pending water permit applications located upstream of Huron, SD, and one located downstream. Water Permit Application Nos. 7888-3, 7890-3, 7891-3, 7892-3, and 7905-3 combined are proposing to appropriate 9.4-cfs from the James River. Water Permit Application No. 6806A-3 is proposing to appropriate 1.44-cfs from the James River. If the pending applications are approved diversions from the total river would increase to 299.26-cfs, and the North Dakota border to Huron, SD river reach would increase to 184.22-cfs.

Due to the fact that appropriations from the James River are approaching the 300-cfs limit, Water Rights staff conducted an examination of current appropriations from the river. As a result some permits were reduced to the actual amount of water being used by the appropriator. This is already reflected in the total river diversion of 288.42-cfs from 98 water rights. In addition, there are two water rights pending cancellation due to non-construction. Based on the cancellation of Water Permit No. 6806-3 and 4066A-3, another 3.56-cfs is available for appropriation.

Assuming the above, and approval of 7906-3, the total James River appropriation would remain 295.7-cfs, and the North Dakota border to Huron SD river reach would remain 185.32-cfs. This leaves 4.3-cfs available for appropriation anywhere from the North Dakota boarder to the Yankton-Hutchinson County Line. See Table 3.

**Table 3. Appropriation and Available Water for Appropriation from the James River**

|                                | <b>CFS</b> |
|--------------------------------|------------|
| <b>Appropriated</b>            | -288.42    |
| <b>Pending approval</b>        | -10.84     |
| <b>This application</b>        | 0.0        |
| <b>Pending cancellation</b>    | 3.56       |
| <b>Total</b>                   | -295.70    |
| <b>WMB Appropriation Limit</b> | 300        |
| <b>Available appropriation</b> | 4.30       |

This application will utilize the diversion point and authority under Water Permit No. 7395-3. Water Permit No. 7395-3 authorizes the diversion of 7.13-cfs from the James River and is held by this applicant. The next closest water right diverting water from the James River is 1.1 river miles upstream of this application, and the closest downstream water right is 1.25 river miles. There is one Water Permit Application for 1.78-cfs from the James River, also submitted by this applicant, located 1.25 river miles downstream of this application. For details see Table 4.

**Table 4. James River Water Rights**

| <b>WR No.</b> | <b>Appx. Distance From Application (miles)</b> | <b>Diversion (cfs)</b> | <b>WR Holder</b>         |
|---------------|------------------------------------------------|------------------------|--------------------------|
| 1027-3        | 1.1 upstream                                   | 0.0                    | US Bureau of Reclamation |
| 7395-3        | Same location                                  | 7.13                   | Huron Colony             |
| 2390A-3       | 1.25 downstream                                | 1.89                   | Huron Colony             |
| Appl. 7905-3  | 1.25 downstream                                | 1.78                   | Huron Colony             |

|        |                 |      |                               |
|--------|-----------------|------|-------------------------------|
| 5027-3 | 2.45 downstream | 12.0 | Lake Byron Watershed District |
| 7186-3 | 7.05 downstream | 6.62 | Riverside Hutterian Brethern  |

This application does not increase the developed diversion rate. 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. 7906-3 should contain the following qualifications.

- This permit does not authorize diversion of water from the James River after August 10<sup>th</sup> 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. 7906-3, Huron Colony, % Joey Waldner, proposes to irrigate an additional 191.78 acres located in S½ NE¼ and SE¼ Section 24 and NE¼ Section 25; all in T113N-R61W. The diversion point is authorized by Water Right No. 7395-3 and is located in the NE¼ NW¼ Section 24-T113N-R61W. This application, if approved, does not increase the diversion rate authorized by Water Right No. 7395-3.
2. USGS historical data for the Ashton SD 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 7906-3 is approved, the following qualifications should be included:
  - This permit does not authorize diversion of water from the James River after August 10<sup>th</sup> 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 7906-3 is approved, the total James River diversion of 295.7-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, is 185.32-cfs, within the 200-cfs limit set by the Water Rights Commission. This leaves 4.3-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line.



Lynn Beck  
Natural Resources Engineer III  
DENR, Water Rights Program

RECEIVED

NOV 18 2013

PRINTER'S AFFIDAVIT

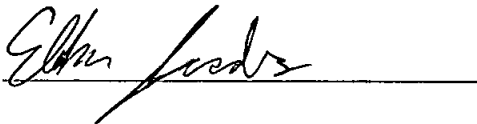
WATER RIGHTS  
PROGRAM

STATE OF SOUTH DAKOTA,  
COUNTY OF BEADLE: ss.

I, ELDON JACOBS, 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:

**SD DEPT OF ENVIROMENTAL – WATER  
RIGHTS**

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 6TH day NOV 2013 That the full FORTY-ONE & 43/1000 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 thereof has been agreed to be paid to any person whomsoever.



Subscribed and sworn to before me this 6TH  
day of NOV 2013.

  
Notary Public, South Dakota

My term expires 10/25/2017

Legal # 1019

F.P. 11-06-13

**NOTICE OF  
APPLICATION NOS.  
7905-3 and 7906-3  
to Appropriate Water**

Notice is given that Huron Hutterian Brethren, c/o Joey Waldner, 40068 Huron Colony Lane, Huron SD 57350 has filed the following applications for a water permit.

Application No. 7905-3 proposes to appropriate 1.78 cubic feet of water per second (cfs) from James River utilizing the diversion point authorized by Water Right No. 2390A-3 located in the NW 1/4 NE 1/4 Section 32 for irrigation of 55.36 acres located in the SW 1/4 Section 29 and N 1/2 NW 1/4 Section 32; all in T113N-R61W. The applicant is requesting a diversion rate greater than the statutory limit.

Application No. 7906-3 proposes to irrigate 191.78 new acres. Water Right No. 7395-3 appropriates 7.13 cfs from the James River located in the NE 1/4 NW 1/4 Section 24, T113N-R62W to irrigate 1,034 acres. This application proposes to irrigate 191.78 new acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W from the existing James River diversion point. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7905-3 and 7906-3 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 18, 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.

No. 1019 (adv.)  
Published once at the  
total approximate cost of  
\$41.43.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

[denr.sd.gov](http://denr.sd.gov)

October 28, 2013

Plainsman  
PO Box 1278  
Huron SD 57350

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7905-3 and 7906-3 to Appropriate Water. Please publish the notice once on November 6, 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 Huron Hutterian Brethren, c/o Joey Waldner, 40068 Huron Colony Lane, Huron SD 57350 (Ph # 605-352-5647).

**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.

October 28, 2013

Huron Hutterian Brethren  
Joey Waldner  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Waldner:

Water Permit Application Nos. 7905-3 and 7906-3 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 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 November 6, 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. 7905-3 and 7906-3 to Appropriate Water

Notice is given that Huron Hutterian Brethren, c/o Joey Waldner, 40068 Huron Colony Lane, Huron SD 57350 has filed the following applications for a water permit.

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Application No. 7906-3 proposes to irrigate 191.78 new acres. Water Right No. 7395-3 appropriates 7.13 cfs from the James River located in the NE 1/4 NW 1/4 Section 24-T113N-R62W to irrigate 1,034 acres. This application proposes to irrigate 191.78 new acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W from the existing James River diversion point. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7905-3 and 7906-3 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 18, 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\_\_\_\_\_.

January 28, 2014

PAYMENT REQUEST FORM

PAYEE: Huron Hutterian Brethren  
40068 Huron Colony Lane  
Huron SD 57350

FROM: DENR Water Rights Program  
523 E. Capitol Ave  
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

refund on 7905-3 & 7906-3 (overpayment)

AMOUNT: \$1,200.00

FUNDING SOURCE:

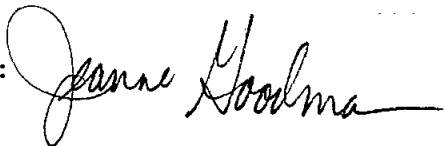
GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

 1-28-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov



January 29, 2014

Huron Hutterian Brethren  
c/o Joey Waldner  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Waldner:

Enclosed are Water Permit Nos. 7905-3 and 7906-3 authorizing construction of the water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

The applications were submitted with a check for \$3,050.00. The application /license fee for Permit No. 7905-3 is \$700.00 and Permit No. 7906-3 is \$1,150.00. Therefore, \$1,200.00 will be refunded to you. The refund check should be received within the next couple of weeks.

Form 10s, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed form after you have finished the system 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,

A handwritten signature in cursive script that reads "Jeanne Goodman".

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

enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

August 15, 2017

2390A-3, 5651-3, 7395-3  
7905-3, 7906-3, 8123-3

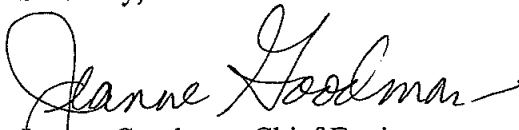
Huron Hutterian Bretheren  
Attn: Joey Waldner  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Waldner:

This letter is in reference to your August 15, 2017 telephone call regarding water availability to continue 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

7906-3



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

January 22, 2021

**NOTICE**

TO: HURON COLONY, JOEY WALDNER, 40068 HURON COLONY LANE, HURON, SD 57350 8001

FROM: Ron Duvall, Natural Resources Engineer  
for Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-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 3, 2021 at 10:00 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) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. 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 questionnaire(s) is (are) received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) 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](mailto:genny.mcmath@state.sd.us). **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: LHSJWM**

**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.



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 4, 2021

Joey Waldner  
Huron Colony  
40068 Huron Colony Lane  
Huron SD 57350 8001

RE: Water Permit or Right Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3

Dear Mr. Waldner:

I am writing to acknowledge receipt of your 2020 irrigation questionnaires.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for the above listed water rights or water permits. 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  
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

Permit Nos. 7395-3, 7906-3, 7906A-3 & 8385-3

Huron Httrn Brth  
Marvin Wollman  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Wollman:

I am writing to inform you 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 the August 10 shutoff date qualification. This spot-check found you were diverting James River water in violation of this qualification.

Water rights containing this qualification require mandatory compliance and pumping under your permit must cease unless you contact the Water Rights Program and receive permission to continue to divert water. Permission may be granted based upon water availability.

This is only a warning, but I expect your cooperation in following any requirements that have been placed on your water rights. 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

cc: Joey Waldner



**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 10<sup>th</sup> 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  
and NATURAL RESOURCES  
JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

January 20, 2022

### NOTICE

TO: HURON COLONY, JOEY WALDNER, 40068 HURON COLONY LANE, HURON, SD 57350

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-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) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. 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 questionnaire(s) is (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 questionnaire(s) 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](mailto: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: RDXOUP**

**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.

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| Processed | In transit | Delivered                         |
|-----------|------------|-----------------------------------|
| DATE      | TIME       | LOCATION                          |
| Jan 21    | 11:07 AM   | Huron, SD, United States          |
| Jan 20    | 9:24 PM    | Huron Sd Distribution Center      |
|           |            | Arrived at USPS regional facility |

| DATE   | TIME     | LOCATION                     | STATUS                            |
|--------|----------|------------------------------|-----------------------------------|
| Jan 21 | 11:07 AM | Huron, SD, United States     | Delivered, left with individual   |
| Jan 20 | 9:24 PM  | Huron Sd Distribution Center | Arrived at USPS regional facility |

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HURON COLONY  
JOEY WALDNER  
40068 HURON COLONY LANE  
HURON SD 57350 8001

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waiting for this year's tax  
refund to come through,  
know that there are a  
couple of handy ways to



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

March 3, 2022

**NOTICE OF ENTRY OF ORDER FOR ONE YEAR SUSPENSION  
OF WATER RIGHTS AND WATER PERMITS**

TO: Joey Waldner, Huron Colony, 40068 Huron Colony Ln, Huron SD 57350-8001

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*  
Water Rights Program

SUBJECT: One Year Suspension of Water Permit/Right Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3

On March 2, 2022, the Water Management Board ordered:

**Effective April 4, 2022, Water Permit/Right Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 be suspended for the 2022 irrigation season for failure to submit the 2021 irrigation questionnaires.**

**If the 2021 irrigation questionnaires are received prior to April 4, 2022, the suspensions will not take effect.**

Suspension of a water permit or right means water may not be pumped during the 2022 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2022 unless the 2021 irrigation questionnaires are submitted by April 4, 2022.

After April 4<sup>th</sup>, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2021 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 4-5, 2022, in Pierre, SD. The letter should include your reasons for not completing the 2021 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.

## CERTIFICATION

I hereby certify that on March 3, 2022, I have personally deposited with the United States mail at Pierre, South Dakota, a first class postage prepaid envelopes containing a "Notice" dated March 3, 2022, concerning Board action to amend and/or suspend water rights to the following:

### Amendments:

No. 3487-3: Dave Hanson, 31489 455<sup>th</sup> Ave., Meckling SD 57069  
No. 2460-3: Ryan Patterson, 10946 425<sup>th</sup> Ave., Britton SD 57430  
Patterson Farm Inc, 42474 SD Hwy 10, Britton SD 57430

### Amend & Suspend:

Nos. 1397-2, 2647-2 & 2701-2: Cody Burull, 25299 Deer Valley Rd, Reliance SD 57569

Nos. 2072-3, 2126-3, 3204-3, 7236-3 & 7237-3:

- David Ulvestad, 46720 201<sup>st</sup> St., Bruce SD 57220
- Darwin Ulvestad, 46679 201<sup>st</sup> St, Bruce SD 57220

### Three year suspensions:

No. 410B-2: Kathi Koester, PO Box 206, Custer SD 57730-0206  
Nos. 1350-3 & 6042-3: Scott Jensen, 24348 478<sup>th</sup> Ave., Dell Rapids SD 57022

### One year suspensions:

No. 6947-3: Joe Adler, 48353 149<sup>th</sup> St, Milbank SD 57252  
Nos. 6263-3 & 8041-3: George G Hofer, Cedar Grove Colony, 36926 266<sup>th</sup> St, Platte SD 57369  
No. 881-2: Ryan Edwards, 25331 Yellow Eagle Rd, White River SD 57579  
No. 6316-3: Howard Athletic Club Inc., 508 E Farmer Ave., Howard SD 57349-9017  
Nos. 2851-3 & 4955-3: David Huber, 16010 413<sup>th</sup> Ave., Conde SD 57434

Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3: Joey Waldner Colony, 40068 Huron Colony Lane, Huron SD 57350-8001

Nos. 7286-3 & 7543-3: Brian Kozak, 30620 417<sup>th</sup> Ave., Tyndall SD 57066  
No. 5665-3: Pat Mentele, PO Box 41, Woonsocket SD 57385-0041  
No. 8326-3: Jerry D Nelsen, 45125 291<sup>st</sup> St., Viborg SD 57070  
No. 7005-3: Troy Randall, Randall Enterprise LLC, 24250 479<sup>th</sup> Ave., Dell Rapids SD 57022 6139  
No. 2497-2: Marty Vanderploeg, 22958 293<sup>rd</sup> St, Martin SD 57551-5930  
No. 8265-3: Carl Pulvermacher, Wiskota Farm, 14050 SD Hwy 25, Webster SD 57274  
Nos. 516-1 & 715-1: Lawrence Woodward, PO Box 220, Dupree SD 57623-0220



Genny McMath  
Program Assistant-Water Rights

STATE OF SOUTH DAKOTA )

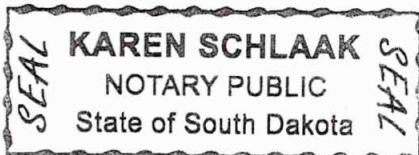
) SS

COUNTY OF HUGHES )

Sworn to, before me, this 3<sup>rd</sup> day of March, 2022.



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

March 16, 2022

Joey Waldner  
Huron Colony  
44068 Huron Colony Ln  
Huron SD 57350 8001

RE: Water Permit/Right Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3

Dear Mr. Waldner:

On March 2, 2022, the Water Management Board ordered Water Permit/Right Nos. 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 be suspended if the 2021 irrigation questionnaires were not received prior to April 4, 2022. The questionnaire information has been received.

Since the irrigation questionnaires are on file, no violations have occurred, and no suspensions will take place. You may irrigate during the 2022 irrigation season.

If you have any questions, please contact us.

Sincerely,

Ron Duvall  
Water Rights Permitting Administrator  
Water Rights Program  
(605) 773-3352



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

August 29, 2022

5651-3, 2390A-3, 7395-3,  
7905-3, 7906-3, 7906A-3,  
8123-3

Huron Hutterian Brethren  
40068 Huron Colony Lane  
Huron SD 57350

Dear Mr. Waldner:

This letter is in reference to your August 29, 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 Huron 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 at Huron 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  
JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

January 19, 2024

### NOTICE

TO: HURON COLONY, JOEY WALDNER, 40068 HURON COLONY LN, HURON, SD 57350  
8001

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-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 6, 2024 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) 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. 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 questionnaire(s) is (are) received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at [amanda.dewell@state.sd.us](mailto:amanda.dewell@state.sd.us). **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: FTBPLU**



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 31, 2024

2390A-3, 3268A-3, 4400A-3,  
5651-3, 6431-3, 7365-3, 7366-3,  
7367-3, 7370-3, 7395-3, 7905-3,  
7906-3, 7369A-3, 7369B-3,  
7369C-3, 7906A-3 & 8678-3

Huron Httm Brth  
c/o Joey Waldner  
40068 Huron Colony Ln  
Huron SD 57350

Dear Mr. Waldner:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 2390A-3, 3268A-3, 4400A-3, 5651-3, 6431-3, 7365-3, 7366-3, 7367-3, 7370-3, 7395-3, 7905-3, 7906-3, 7369A-3, 7369B-3, 7369C-3, 7906A-3 & 8678-3.

The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell  
Water Rights Program  
605 773-3352  
Amanda.Dewell@state.sd.us