

WATER PERMIT NO. 7906A-3

Name of Applicant: Huron Hutterian Brethren

Address: 40068 Huron Colony Lane, Huron SD 57350 Phone: 605 350-6875

Amount of Water Claimed: no add'l Total Acres: no add'l

Source of Water Supply: James River

Water to be used for: irrigation County: Beadle

Type of Waste Disposal System:

Location: 14 miles north of Huron

PRIORITY Date Received: 2-17-15 Application/License Fee: \$ 300

Corrected Application Received: Period of Annual Use: April 1 – October 31

Remarks: transfer 83.6 acres and utilize existing diversion rate authorized by No. 7395-3

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

R62W existing under No. 7395-3

Land to be Irrigated: SW 1/4 Sec 18 and NE 1/4

Sec 24, ~~all in~~ T113N-R61W

T113N-R61W

Depth of Well:

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 2-24-15

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>7906A-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>Plainsman</u> <u>PO Box 1278</u>
	<u>Huron 57350</u> <u>605-353-7461</u>

RECEIVED
FEB 17 2015
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 7906-3
(Use predates Mar 2, 1955)

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

Transfer 83.6 acres portion authorized under Water Permit No. 7906-3 from NE 1/4 Section 25, T113N, R62W to the SW 1/4 Section 18, T113N, R61W and N 1/2 Section 24, T113N, R62W

1. Name to Appear on Irrigation Permit Huron Hutterian 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 SD 57350
(Address) (City) (State) (Zip Code)

Home Phone 352-5647 Cell 350-6875 Email huronfarms@yahoo.com

2. Amount of water claimed no addl *CFS or **GPM ***AF Total Acreage 83.6 transfe
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply James River

4. Location of point of diversion NE 1/4 NW 1/4 Section 24, T113N, R62W existing under WR No. 7395-3
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Beadle

5. County or counties where water will be used Beadle

6. Annual period during which water is to be used April 1 - October 31

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

Land Description	Acres	Land Description	Acres
NW 1/4 SW 1/4 Section 18, T113N, R61W	6.5	NW1/4 NE 1/4 Section 24, T113N, R62W	11
NE 1/4 SW 1/4 Section 18, T113N, R61W	6.5	NE1/4 NE 1/4 Section 24, T113N, R62W	11
SW 1/4 SW 1/4 Section 18, T113N, R61W	6.5	SW1/4 NE 1/4 Section 24, T113N, R62W	12
SE 1/4 SW 1/4 Section 18, T113N, R61W	6.5	SE1/4 NE 1/4 Section 24, T113N, R62W	12

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

Transfer acres authorized by Water Permit No. 7906-3 to the SW 1/4 Section 18, T113N, R62W (26 acres) and N1/2 Section 24, T113N, R61W (57.6 acres) that were authorized for the NW 1/4 Section 25, T113N, R61W under Water Permit No. 7906-3. This will accommodate replacement of old irrigation systems with corning systems. Utilize existing diversion rate authority under WR No. 7395-3
NE1/4 NW 1/4 Section 24, T113N, R61W - 5.8 acres SE1/4 NW 1/4 Section 24, T113N, R61W - 5.8 acres

I, Maurice Walther, 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. 7906A-3 FOR IRRIGATION

Date of first receipt of application February 17, 2015.

The Water Management Board approved Water Permit No. 7906A-3 on May 7, 2015 for 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. 7906A-3 amends Water Permit No. 7906-3 by transferring a portion of the irrigated acreage to other land. Water Permit No. 7906-3 authorizes irrigation of 191.78 acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W using the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. 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 transfers 83.6 acres located in the NE 1/4 Section 25-T113N-R62W authorized by Water Permit No. 7906-3 to the SW 1/4 Section 18-T113N-R61W (26 acres) and N 1/2 Section 24-T113N-R62W (57.6 acres). The permit holder will replace the irrigation system, and the transfer of acres will accommodate the cornering systems. This system will utilize the existing diversion rate authority authorized under Water Right No. 7395-3.
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 (established by Permit No. 7906-3).
4. One-fifth of the construction is to be completed on or before November 7, 2017.
5. All construction is to be completed on or before May 7, 2020.
6. Water is to be put to beneficial use on or before May 7, 2024.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

WATER MANAGEMENT BOARD

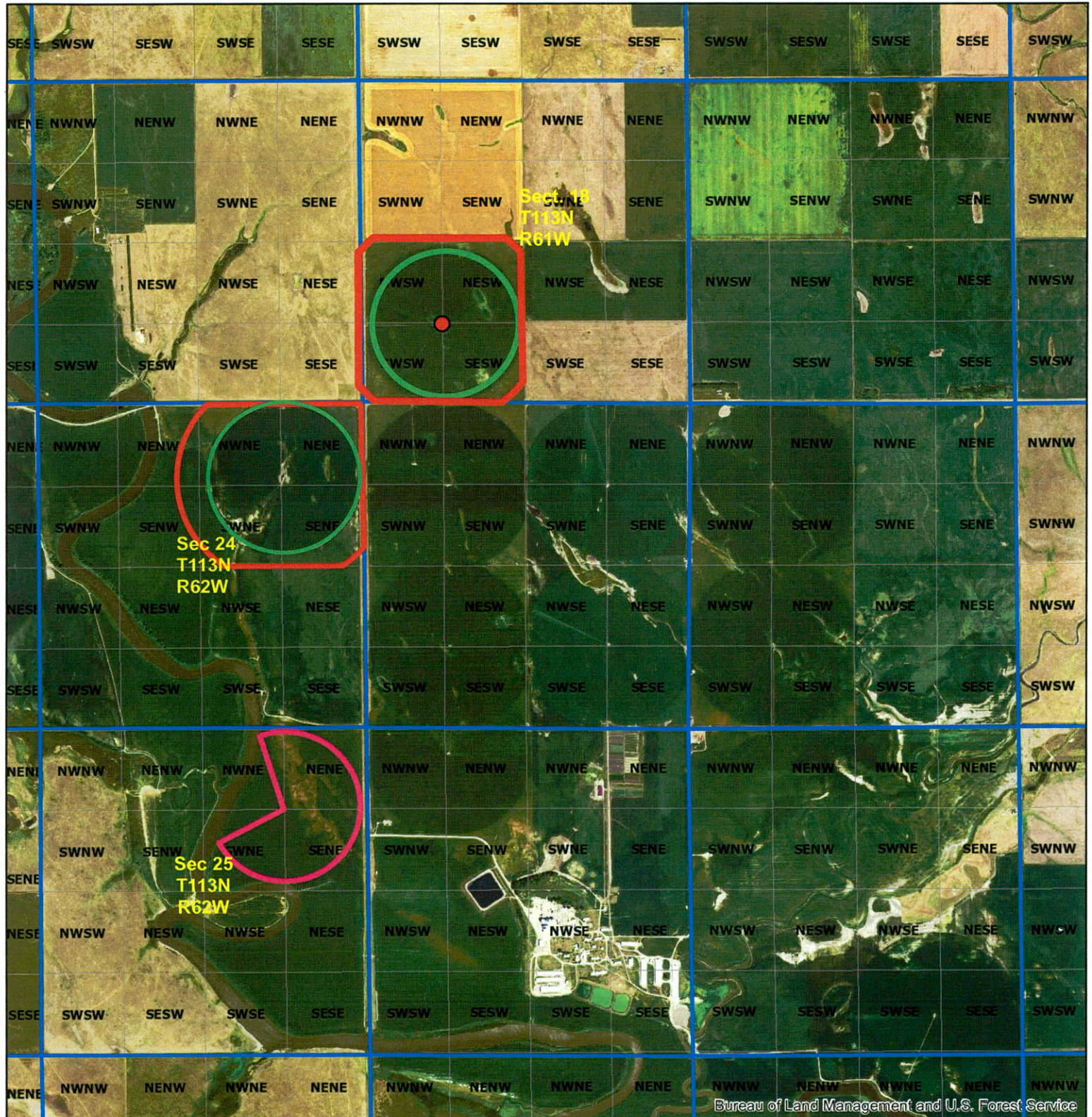
By: *Jeanne Goodman*
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 11 2015

date



Water Permit Application from Huron Hutterian Brethren



Acres authorized by No. 7906-3 to be transferred



Existing irrigation authorized by Water Right No. 7395-3



Proposed acreage if transfer is approved.



Prepared by:

Eric Gronlund based on
representation by Joey
Waldner

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

RECEIVED OF Huron Httm Brethren, 40065 Huron Colony Land, Huron SD 57350 Date 2-23 20 15

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

Fee for Application for Permit No. <u>7906A-3</u> to Appropriate Water, to construct and to put water to beneficial use	100	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>7906A-3</u>	300	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	500	00

No. **07291**

By Jeanne Goodman
Chief Engineer

(RS)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7906A-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. 7906A-3, Huron Hutterian Brethren, c/o Marvin Wollman, 40068 Huron Colony Lane, Huron SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 7906A-3 because 1) as conditioned the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

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

See report on application for additional information.

Jeanne Goodman, Chief Engineer
April 8, 2015

REPORT ON WATER PERMIT APPLICATION NO. 7906A-3
Huron Hutterian Brethren
March 9, 2015

The Huron Hutterian Brethren, % Marvin Waldner, has filed Water Right Application No. 7906A-3 to amend Water Permit No. 7906-3 by transferring a portion of the irrigated acreage to other land. Water Permit No. 7906-3 authorizes irrigation of 191.78 acres utilizing the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. This application, if approved, does not increase the developed diversion rate.

Review Proposed Project

Water Permit Application No. 7906A-3 is located 15 miles north of Huron in Beadle County, SD.

Water Right No. 7906-3 authorizes irrigation of 191.78 acres located in the SE $\frac{1}{4}$ Section 24 and NE $\frac{1}{4}$ Section 25; all in T113N-R62W using the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. Water Right No. 7395-3 appropriates 7.13 cubic feet of water per second (cfs) from the James River located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24-T113N-R62W to irrigate 1,034 acres.

This application proposes to transfer 83.6 acres located in the NE $\frac{1}{4}$ Section 25-T113N-R62W authorized by Water Permit No 7906-3 to the SW $\frac{1}{4}$ Section 18-T113N-R61W (26 acres) and the N $\frac{1}{2}$ Section 24-T113N-R62W (57.6 acres). This leaves 106.1 acres in the SE $\frac{1}{4}$ Section 24-T113N-R62W under Water Permit No. 7906-3. The annual period of use is from April 1 to October 1.

State Law (SDCL 46-5-34) allows an irrigation right to be severed from one parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. The justification for transferring the land is to accommodate replacement of old irrigation systems with cornering systems.

Review of Water Source

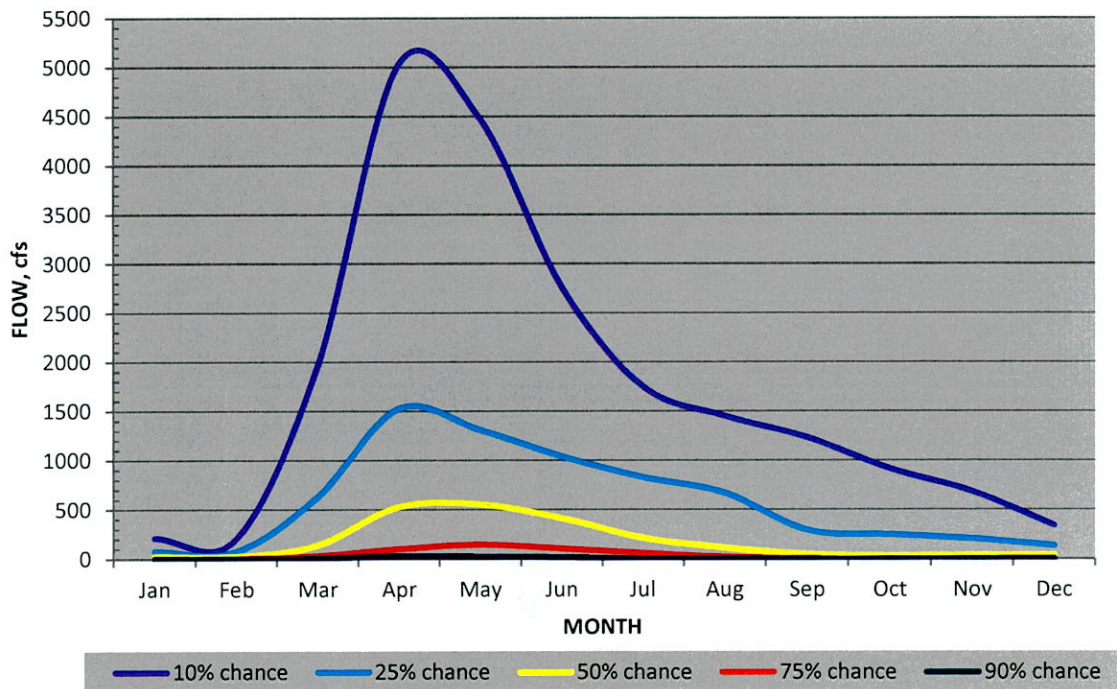
The water source for the proposed project is the James River in Beadle County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation the James River 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 Huron, SD, 20 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 29 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 1 and Hydrograph 1)

Table 1. 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 1. James River gage at Huron, SD 1943 - 2012



As noted in 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 percent of the upstream appropriated irrigation withdrawals have taken place.

USGS historical data for the Huron, SD stream flow gage indicates 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 101 Water Rights with diversions from the James River totaling 300.07 cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 67 Water Rights with diversions from the James River totaling 186.11 cfs. There is no water available for appropriation anywhere from the North Dakota boarder to the Yankton-Hutchinson County line.

This application proposes to utilize the diversion point and diversion rate authority under Water Right No. 7395-3. Water Right 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 other Water Permit Application, submitted by this applicant, that proposes to utilize the diversion point and authority under Water Right No. 7395-3. For details see Table 4.

Table 4. James River Water Rights

WR No.	Appx. Distance From Application (miles)	Diversion (cfs)	WR Holder
1027-3	1.1 upstream	0.0	US Bureau of Reclamation
7395-3	Same location	7.13	Huron Hutterian Brethren
7906-3	Same location	0.0	Huron Hutterian Brethren
Application 8123-3	Same location	0.0	Huron Hutterian Brethren
2390A-3	1.25 downstream	1.89	Huron Hutterian Brethren
7905-3	1.25 downstream	1.78	Huron Hutterian Brethren
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 or number of acres being irrigated. 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. 7906A-3 should contain the following qualifications.

1. 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.
2. 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

Water Permit Application No. 7906A-3, Huron Hutterian Brethren, proposes transferring 83.6 irrigated acres located in the NE¼ Section 25-T113N-R62W authorized by Water Permit No 7906-3 to the SW¼ Section 18-T113N-R61W (26 acres) and the N½ Section 24-T113N-R62W (57.6 acres) and to utilize the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. No additional water is requested.

If Application No 7906A-3 is approved, the following qualifications should be included:

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

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

If Application No 7906A-3 is approved, the total James River diversion will remain at the 300-cfs limit with no additional acres irrigated. The total diversion from the North Dakota state line to Huron, SD, is 186.11 cfs, within the 200-cfs limit set by the Water Rights Commission. This leaves no water available 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

PRINTER'S AFFIDAVIT

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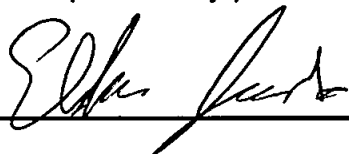
APR 29 2015

STATE OF SOUTH DAKOTA, WATER RIGHTS
COUNTY OF BEADLE: ss PROGRAM

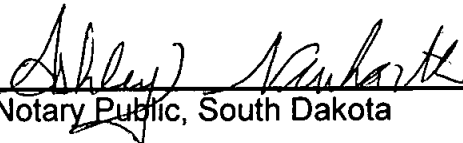
I, ELDON JACOBS, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks 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:

**HURON COLONY – WATER RIGHTS
PERMIT 7906-3**

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 16TH day APR 2015. That the full amount of the fee charged for publishing is: **ONE HUNDRED TWELVE & 11/100** 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 whom so ever.



Subscribed and sworn to me before this 30TH Day of APR 2015.


Notary Public, South Dakota

My term expires _____
Legal #1786 10/25/2017

F.P. 04-16-15
**NOTICE OF HEARING
on Applications Nos.
7906A-3 and 8123-3 to
Appropriate Water**

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

Application No. 7906A-3 proposes to amend Water Permit No. 7906-3

by transferring a portion of the irrigated acreage to other land. Water Permit No. 7906-3 authorizes irrigation of 191.78 acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W using the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. 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 application proposes to transfer 83.6 acres located in the NE 1/4 Section 25-T113N-R62W authorized by Water Permit No. 7906-3 to the SW 1/4 Section 18-T113N-R61W (26 acres) and N 1/2 Section 24-T113N-R62W (57.6 acres). The applicant proposes to replace the irrigation system, and the transfer of acres will accommodate the cornering systems. This system will utilize the existing diversion rate authority authorized under Water Right No. 7395-3.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7906A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Application No. 8123-3 proposes to irrigate 50 new acres from the James River diversion point authorized by Water Right 7395-3 (described above). Twenty six of the new acres will be located in the NW 1/4 Section 19 and 24 new acres will be located in the E 1/2 NE 1/4 Section 30; all in T113N-R61W. The applicant proposes replacement of the irrigation system to accommodate a cornering system and will increase irrigation of a garden area. These systems will utilize the existing diversion rate authority authorized under Water Right No. 7395-3. Irrigation of this land is also authorized by Water Permit Nos. 7368-3 and 6431A-3 from the Tulare:East James Aquifer and pending applications to transfer acres to accommodate the cornering systems and increase the garden area irrigation from the groundwater source.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 8123-3 because the Water Management Board has placed a 300 cfs diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County Line. The James River diversion rate has reached the established 300 cfs limit in the described river segment and there are currently two prior filed applications that are deferred. Application No. 8123-3 is deferred for up to one year for DENR to study: 1) whether any existing water rights/permits are subject to cancellation due to abandonment/forfeiture; 2) the level of development of existing water permits ready for licensing; or 3) other review that may result in water becoming available for this appropriation.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the applications are received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations and no hearing may be held before the board, unless the Chief Engineer makes a finding that an applications, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 10:00 a.m. on May 6, 2015 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's

recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 27, 2015. The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 6, 2015 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the applications. The request for an automatic delay must be filed by April 27, 2015. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Information concerning these applications is available at <http://denr.sd.gov/public>. Contact Eric Gronlund by April 27, 2015 at the above Chief Engineer's address to request copies of the staff report, recommendation, applications or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 27, 2015. However, since this particular matter is a water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this applications: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2

thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

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

No. 1786 (adv.)

Published once at an
approximate cost of
\$112.11.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

April 9, 2015

Plainsman
PO Box 1278
Huron SD 57350

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7906A-3 & 8123-3 to Appropriate Water. Please publish the notice once on April 16, 2015. 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 Marvin 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

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.

April 9, 2015

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

Dear Mr. Waldner:

Water Permit Application Nos. 7906A-3 & 8123-3 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 # 605-353-7401). 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 April 16, 2015. 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 HEARING on Applications Nos. 7906A-3 and 8123-3 to Appropriate Water

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

Application No. 7906A-3 proposes to amend Water Permit No. 7906-3 by transferring a portion of the irrigated acreage to other land. Water Permit No. 7906-3 authorizes irrigation of 191.78 acres located in the SE 1/4 Section 24 and NE 1/4 Section 25; all in T113N-R62W using the diversion rate authority and James River diversion point authorized by Water Right No. 7395-3. 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 application proposes to transfer 83.6 acres located in the NE 1/4 Section 25-T113N-R62W authorized by Water Permit No. 7906-3 to the SW 1/4 Section 18-T113N-R61W (26 acres) and N 1/2 Section 24-T113N-R62W (57.6 acres). The applicant proposes to replace the irrigation system, and the transfer of acres will accommodate the cornering systems. This system will utilize the existing diversion rate authority authorized under Water Right No. 7395-3.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7906A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Application No. 8123-3 proposes to irrigate 50 new acres from the James River diversion point authorized by Water Right 7395-3 (described above). Twenty six of the new acres will be located in the NW 1/4 Section 19 and 24 new acres will be located in the E 1/2 NE 1/4 Section 30; all in T113N-R61W. The applicant proposes replacement of the irrigation system to accommodate a cornering system and will increase irrigation of a garden area. These systems will utilize the existing diversion rate authority authorized under Water Right No. 7395-3. Irrigation of this land is also authorized by Water Permit Nos. 7368-3 and 6431A-3 from the Tulare:East James Aquifer and pending applications to transfer acres to accommodate the cornering systems and increase the garden area irrigation from the groundwater source.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 8123-3 because the Water Management Board has placed a 300 cfs diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County Line. The James River diversion rate has reached the established 300 cfs limit in the described river segment and there are currently two prior filed applications that are deferred. Application No. 8123-3 is deferred for up to one year for DENR to study: 1) whether any existing water rights/permits are subject to cancellation due to abandonment/forfeiture; 2) the level of development of existing water permits ready for licensing; or 3) other review that may result in water becoming available for this appropriation.

SDCL 46-2A-4(10) provides that “if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the applications are received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer’s recommendations and no hearing may be held before the board, unless the Chief Engineer makes a finding that an applications, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 10:00 a.m. on May 6, 2015 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 27, 2015. The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 6, 2015 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the applications. The request for an automatic delay must be filed by April 27, 2015. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Information concerning these applications is available at <http://denr.sd.gov/public>. Contact Eric Gronlund by April 27, 2015 at the above Chief Engineer's address to request copies of the staff report, recommendation, applications or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 27, 2015. However, since this particular matter is a water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this applications: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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April 24, 2015

NOTICE

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

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Change of Hearing Date for Water Permit Applications filed by Huron Hutterian Brethren

Huron Hutterian filed Water Permit Application Nos. 7369A-3, 7369B-3, 7369C-3, 7906A-3 and 8123-3 which were public noticed in the Plainsman for a May 6th hearing before the Water Management Board. Due to an unforeseen circumstance the hearing date has been changed to Thursday, May 7, 2015.

The Water Management Board will now conduct the hearing on Nos. 7369A-3, 7369B-3, 7369C-3, 7906A-3 and 8123-3 at 10:00 AM (Central Time) on Thursday, May 7, 2015, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate. If a petition is received in response to the public notice, the petitioner will be notified of the change.

Applicable provision of the notice of application published April 16, 2015, in the Plainsman will still apply.

Please contact Eric Gronlund at (605) 773-3352 if you have questions regarding the hearing.

c: Ann Mines-Bailey, Assistant Attorney General

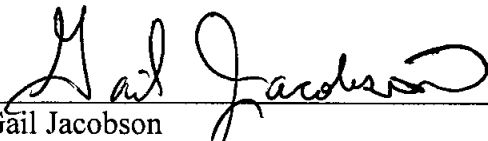
CERTIFICATION

I hereby certify that on April 24, 2015, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated April 24, 2015, regarding change of hearing date for Water Permit Application Nos. 7369A-3, 7369B-3, 7369C-3, 7906A-3 and 8123-3, as addressed below:

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

Sent Inter-office to:

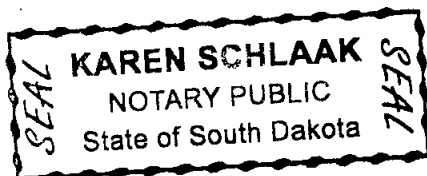
Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of April, 2015


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





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

7906A-3



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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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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. **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.

7906A-3



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,

A handwritten signature in cursive script, appearing to read "Genny McMath".

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 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
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. **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

Data from usps.com

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 JOEY WALDNER
 40068 HURON COLONY LANE
 HURON SD 57350 8001

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PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

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 Still Waiting? Here Are
 Two Ways to Track Your
 Tax Refund

 Instead of just blindly
 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 4th, 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 455th Ave., Meckling SD 57069
No. 2460-3: Ryan Patterson, 10946 425th 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 201st St., Bruce SD 57220
- Darwin Ulvestad, 46679 201st 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 478th Ave., Dell Rapids SD 57022

One year suspensions:

No. 6947-3: Joe Adler, 48353 149th St, Milbank SD 57252
Nos. 6263-3 & 8041-3: George G Hofer, Cedar Grove Colony, 36926 266th 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 413th 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 417th Ave., Tyndall SD 57066
No. 5665-3: Pat Mentele, PO Box 41, Woonsocket SD 57385-0041
No. 8326-3: Jerry D Nelsen, 45125 291st St., Viborg SD 57070
No. 7005-3: Troy Randall, Randall Enterprise LLC, 24250 479th Ave., Dell Rapids SD 57022 6139
No. 2497-2: Marty Vanderploeg, 22958 293rd 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)

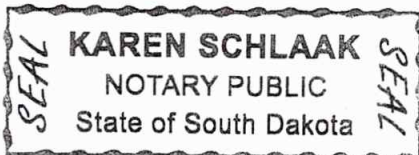
) SS

COUNTY OF HUGHES)

Sworn to, before me, this 3rd 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. **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