

WATER PERMIT NO. 8048-3

Name of Applicant: **Rockport Httm Brethren**

Address: **26209 Rockport Rd, Alexandria SD 57311**

Phone: **605 770-6849**

Amount of Water Claimed: **5.35 cfs**

Total Acres: **~~602~~ acres**

Source of Water Supply: **James River**

469

Water to be used for: **irrigation**

County: **Hanson**

Type of Waste Disposal System:

Location: **6 miles southwest of Alexandria**

PRIORITY

Date Received: **9-4-14**

Application/License Fee: **\$ 1850**

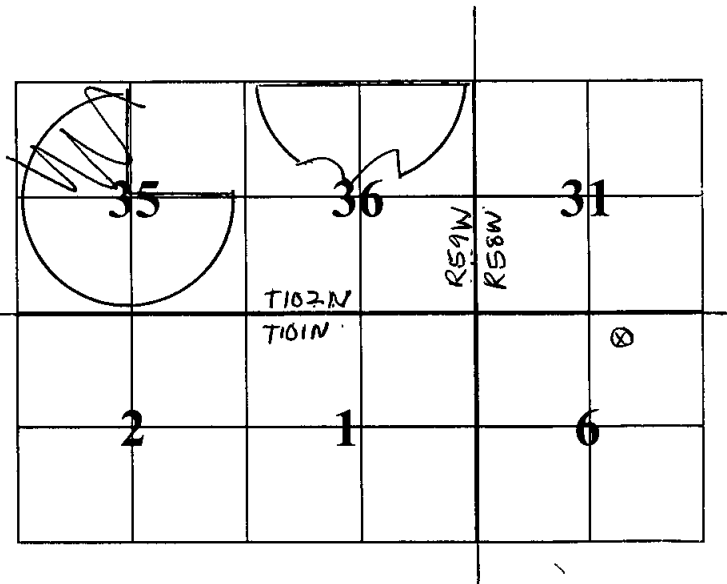
Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks:

Diversion Point: **NW 1/4 NE 1/4 Sec 6-T101N-R58W**

Land to be Irrigated: **N 1/2 Sec 36 and W 1/2, SE 1/4 Sec 35; all in T102N-R59W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **9-10-14**

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. <u>8048-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>Alexandria Herald</u>	
	<u>Daily Republic</u>	

RECEIVED
SEP 04 2014
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 Rockport Hutterian Brethren

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 26209 Rockport Road Alexandria SD 57311
(Address) (City) (State) (Zip Code)

Home Phone 239-4422 Cell 770-6849 -Donny Email Brian as Farm Manager - 770-1386

2. Amount of water claimed 5.35 *CFS or 2400 **GPM 469 ***AF Total Acreage 602
(*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 3, T102N, R58W

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

NW 1/4 NE 1/4 Sec 6 - T101N - R58W County Hanson

5. County or counties where water will be used Hanson

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
see attached sheet			

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

In N 1/2 Section 36 develop a full section center pivot that will make a windshield wipe rotation. The total acres applied for on this application accounts for the duplication of acres filed for on the application for irrigation in the S 1/2 of this section. Otherwise the pivot would cover 280 acres instead of the 211 acres being applied for. The total acres is ~~602~~ ⁴⁶⁹ acres from this diversion point.

Reduction of acres is due to Mr. Wipf removing the NW 1/4 Sec 35 from application.

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

Water Permit Application for Rockport Colony
Acreage Breakdown of Additional Acres

Section 36, T102N, R59W ACRES

NW 1/4 NW 1/4	36.5
NE 1/4 NW 1/4	40
SW 1/4 NW 1/4	14
SE 1/4 NW 1/4	14
NW 1/4 NE 1/4	40
NE 1/4 NE 1/4	36.5
SW 1/4 NE 1/4	22
SE 1/4 NE 1/4	14

Section 35, T102N, R59W

NW 1/4 SW 1/4	36.5
NE 1/4 SW 1/4	40
SW 1/4 SW 1/4	13
SE 1/4 SW 1/4	36.5
NW 1/4 SE 1/4	40
NE 1/4 SE 1/4	36.5
SW 1/4 SE 1/4	36.5
SE 1/4 SE 1/4	13

TOTAL ACRES	469
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SOUTH DAKOTA
WATER PERMIT NO. 8048-3 FOR IRRIGATION

Date of first receipt of application September 4, 2014.

Date deferred by Water Management Board March 4, 2015.

The Water Management Board approved Water Permit No. 8048-3 on July 6, 2016 for Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Road, Alexandria SD 57311 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. 8048-3 appropriates 5.35 cubic feet of water per second from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and S 1/2 Section 35; all in T102N-R59W.
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 4, 2014.
4. One-fifth of the construction is to be completed on or before January 6, 2019.
5. All construction is to be completed on or before July 6, 2021.
6. Water is to be put to beneficial use on or before July 6, 2025.
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 Scotland SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

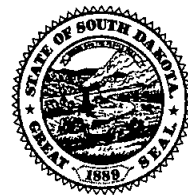
WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

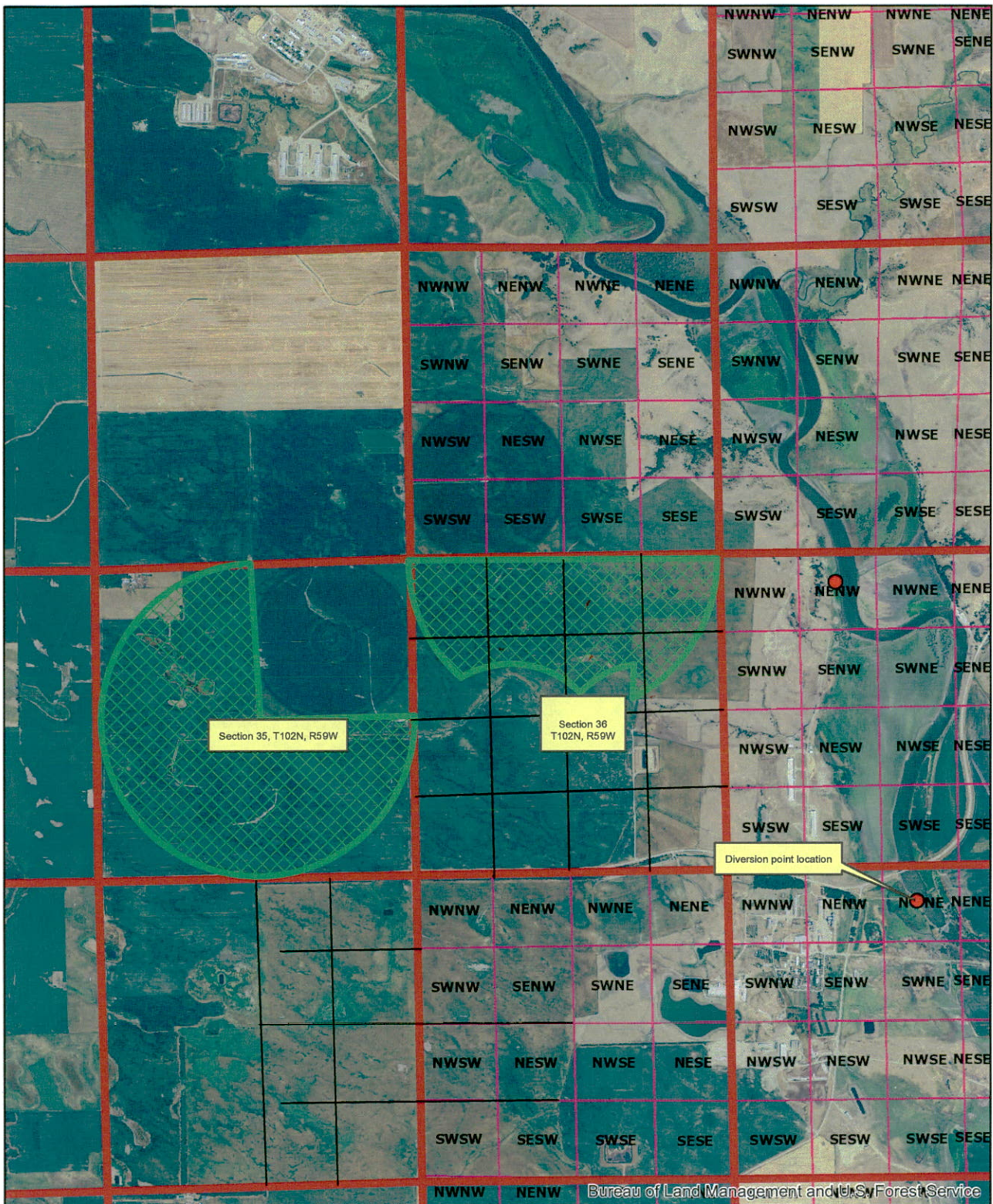
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 21 2016

date



Rockport Hutterian Brethren Water Permit Application
No. 4



0 900 1,800 3,600 5,400 7,200
Feet

The acre depicted for irrigation in Section 36, T102N, R59W account for the overlap of the center pivots due to the application designated at No. 2 (ie - the acres were not double counted)



Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
based on representation made by
Donny Wipf on September 4, 2014



Prepared By: **Heine Electric and Irrigation, Inc.**

For: **Rockport- rieessen**

Questions or concerns? Please call us at 402-640-1999!

1800 GPM

Pivot center at 43.593713, -97.876776

Arc Start Bearing: 89.76

Arc Stop Bearing: 358.61

[S] Spray off at 160°, on at 200°.

- 1 180 ft. Total: 180 ft.
Acreage: 1.74. Total: 1.74 acres.
- 2 180 ft. Total: 360 ft.
Acreage: 5.22. Total: 6.96 acres.
- 3 180 ft. Total: 540 ft.
Acreage: 8.71. Total: 15.67 acres.
- 4 180 ft. Total: 720 ft.
Acreage: 12.19. Total: 27.87 acres.
- 5 180 ft. Total: 900 ft.
Acreage: 15.67. Total: 43.55 acres.
- 6 180 ft. Total: 1080 ft.
Acreage: 19.16. Total: 62.71 acres.
- 7 180 ft. Total: 1260 ft.
Acreage: 22.64. Total: 85.35 acres.
- 8 180 ft. Total: 1440 ft.
Acreage: 26.13. Total: 111.49 acres.
- 9 160 ft. Total: 1600 ft.
Acreage: 26.15. Total: 137.64 acres.
- 10 160 ft. Total: 1760 ft.
Acreage: 28.9. Total: 166.54 acres.
- 11 160 ft. Total: 1920 ft.
Acreage: 31.65. Total: 198.2 acres.
- 12 160 ft. Total: 2080 ft.
Acreage: 34.41. Total: 232.61 acres.
- 13 160 ft. Total: 2240 ft.
Acreage: 37.16. Total: 269.77 acres.
- 14 160 ft. Total: 2400 ft.
Acreage: 39.91. Total: 309.69 acres.
- 15 160 ft. Total: 2560 ft.
Acreage: 42.66. Total: 352.36 acres.
- Overhang** 36 ft. Total: 2596 ft.
Acreage: 9.98. Total: 362.34 acres.
- Spray** 120 ft. Total: 2716 ft.
Acreage: 29.14. Total: 391.49 acres.





The Leader in Precision Irrigation

Prepared By: **Heine Electric and Irrigation, Inc.**

For: **Rockprt- north clayton**

Questions or concerns? Please call us at 402-640-1999!

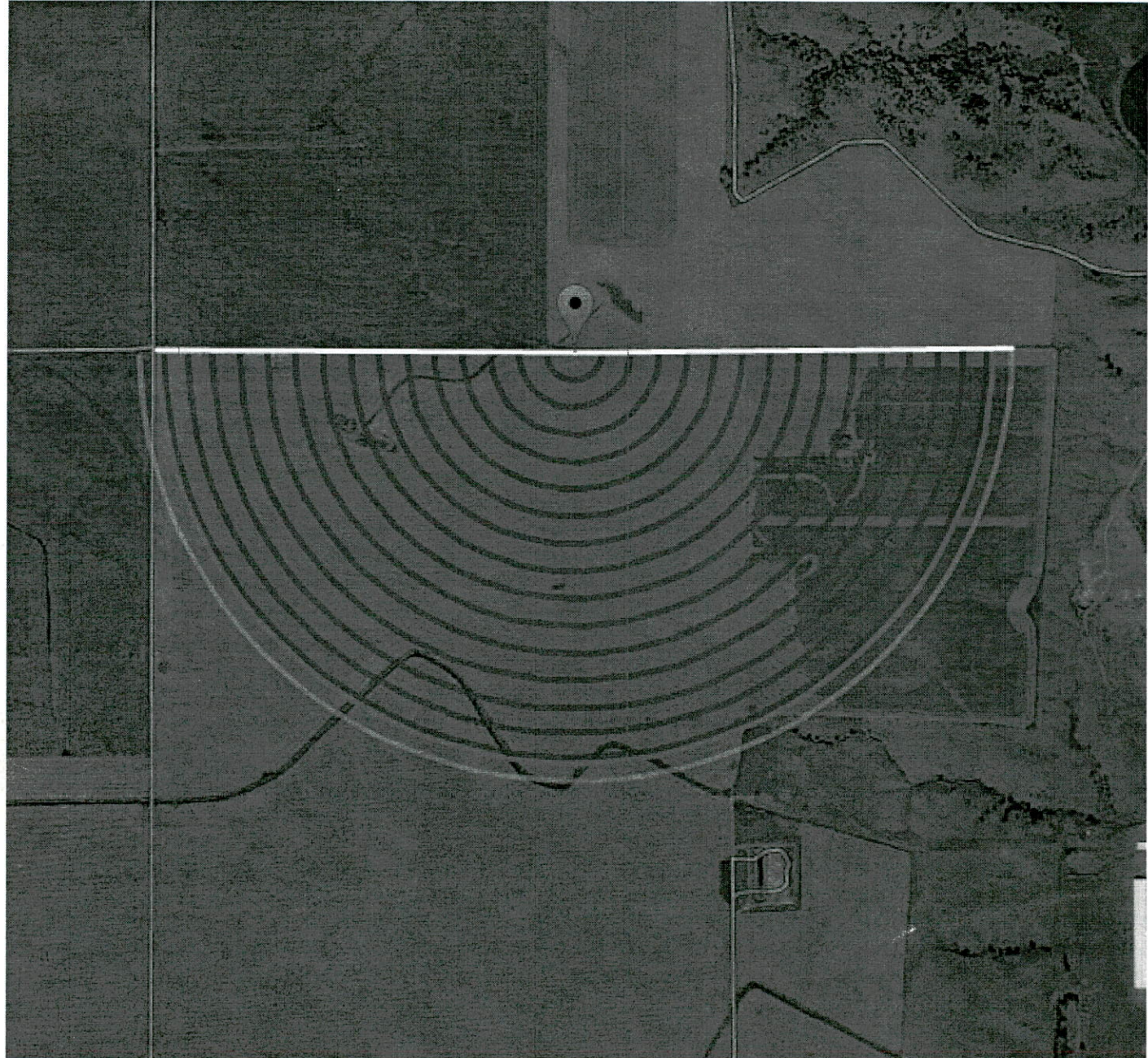
1400 gpm
North Clayton

Pivot center at **43.60109, -97.856528**

Arc Start Bearing: 89.33

Arc Stop Bearing: 270.36

- 1 180 ft. Total: 180 ft.
Acreage: 1.17. Total: 1.17 acres.
- 2 180 ft. Total: 360 ft.
Acreage: 3.51. Total: 4.68 acres.
- 3 180 ft. Total: 540 ft.
Acreage: 5.85. Total: 10.53 acres.
- 4 180 ft. Total: 720 ft.
Acreage: 8.19. Total: 18.72 acres.
- 5 180 ft. Total: 900 ft.
Acreage: 10.53. Total: 29.25 acres.
- 6 180 ft. Total: 1080 ft.
Acreage: 12.87. Total: 42.12 acres.
- 7 180 ft. Total: 1260 ft.
Acreage: 15.21. Total: 57.33 acres.
- 8 180 ft. Total: 1440 ft.
Acreage: 17.55. Total: 74.88 acres.
- 9 180 ft. Total: 1620 ft.
Acreage: 19.89. Total: 94.77 acres.
- 10 180 ft. Total: 1800 ft.
Acreage: 22.23. Total: 117 acres.
- 11 180 ft. Total: 1980 ft.
Acreage: 24.57. Total: 141.57 acres.
- 12 180 ft. Total: 2160 ft.
Acreage: 26.91. Total: 168.48 acres.
- 13 180 ft. Total: 2340 ft.
Acreage: 29.25. Total: 197.73 acres.
- 14 160 ft. Total: 2500 ft.
Acreage: 27.96. Total: 225.69 acres.
- 15 160 ft. Total: 2660 ft.
Acreage: 29.81. Total: 255.51 acres.
- Overhang** 36 ft. Total: 2696 ft.
Acreage: 6.96. Total: 262.47 acres.
- Spray** 120 ft. Total: **2816 ft.**
Acreage: 23.88. Total: **286.36 acres.**



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/4, 20 14

RECEIVED OF Rockport Hutterian Brethren 26209 Rockport Rd Alexandria SD 57311

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

Fee for Application for Permit No. <u>8048-3</u> to Appropriate Water, to construct and to put water to beneficial use	1650	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>8048-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1850 00

No. **06939**

By *James Goodman*
Chief Engineer

No. 8048-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 8048-3, Rockport Hutterian Brethren

ADDRESS: COUNTY: Hanson County

DATE: September 25, 2014 TELEPHONE:

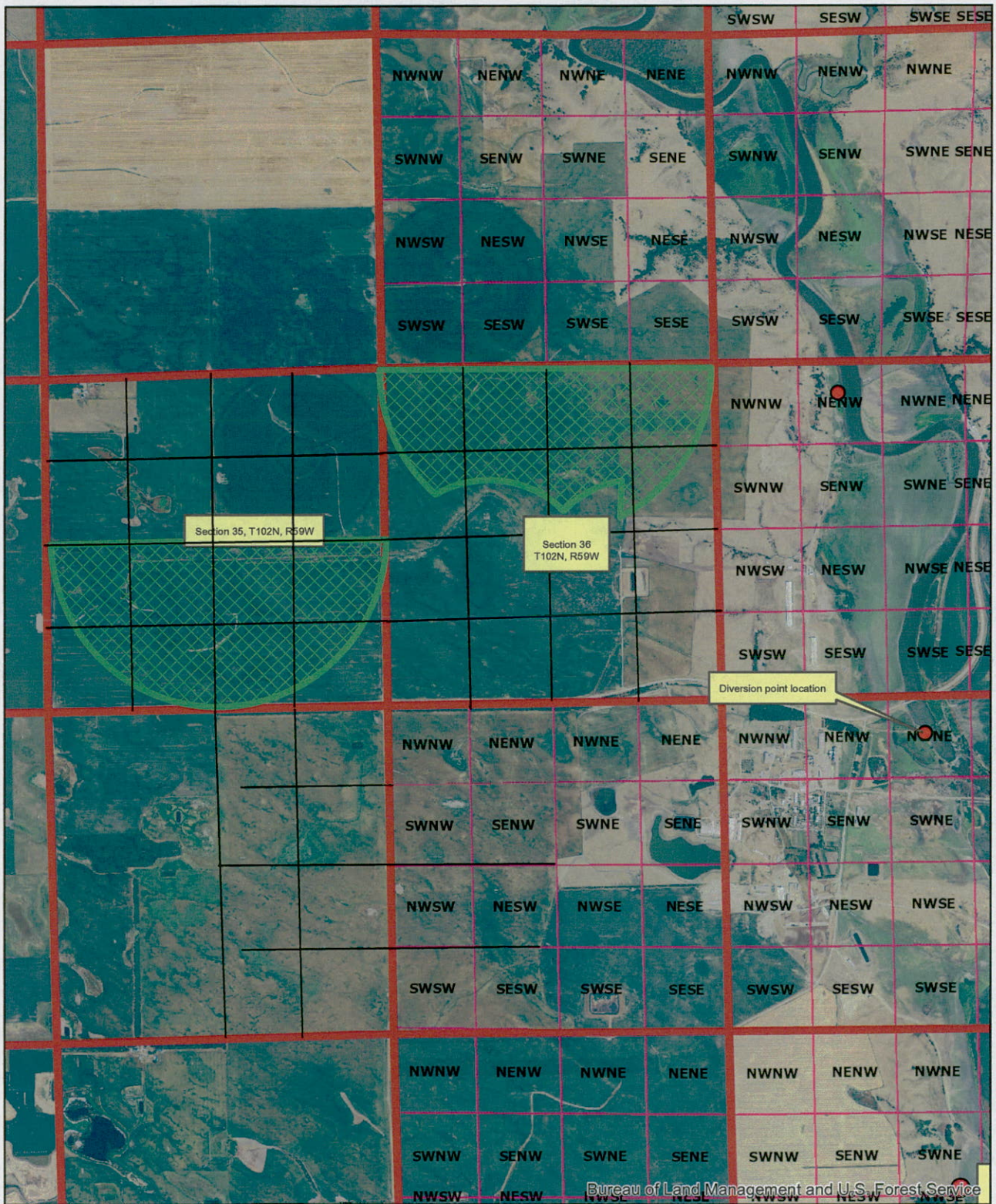
RE: Amending Application to Delete a Portion of Acres Originally Requested

Donny Wipf called requesting to amend the application by deleting the 126 acres located in the NW ¼ Section 35, T102N, R59W. He request the diversion rate requested stay the same due to the pivot in the Section 35 would only make a windshield wipe rotation.

The application was amended accordingly and the map and acreage breakdown sheet amended accordingly.

NAME: Eric Kumbert

Rockport Hutterian Brethren Water Permit Application
No. 4



0 850 1,700 3,400 5,100 6,800
Feet

The acre depicted for irrigation in Section 36, T102N, R59W account for the overlap of the center pivots due to the application designated at No. 2 (ie - the acres were not double counted)

Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
based on representation made by
Donny Wipf on September 4, 2014
amended September 25, 2014



AMENDED
Water Permit Application for Rockport Hutterian Brethren
Acreage Breakdown of Additional Acres
Application No. 4

Section 36, T102N, R59W Acres

NW ¼ NW ¼	36.5
NE ¼ NW ¼	40
SW ¼ NW1/4	14
SE ¼ NW ¼	19
NW ¼ NE ¼	40
NE ¼ NE ¼	36.5
SW ¼ NE1/4	24
SE ¼ NE ¼	14

Section 35, T102N, R59W Acres

NW ¼ SW ¼	36.5
NE ¼ SW ¼	40
SW ¼ SW1/4	13
SE ¼ SW ¼	36.5
NW ¼ SE ¼	40
NE ¼ SE ¼	36.5
SW ¼ SE1/4	36.5
SE ¼ SE ¼	13

TOTAL ACRES	476
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Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Rockport Hutterian Brethren Water Rights/Permits and Water
Permit Applications

ADDRESS: COUNTY: Hanson County

DATE: December 17, 2014 TELEPHONE:

RE:

Rockport Hutterian Brethren filed four water permit applications for irrigation from the James River. The applications were for additional acres and additional diversion rate authority for irrigation at new systems to be constructed and to accommodate reconfiguring existing systems. Lynn Beck prepared the report on each new application.

In the past, there have been breakdown of acres for the various existing rights/permits held by the colony. I conducted another breakdown and the attachment is a print-out of my findings based on the existing water rights/permits and the four new applications. Attached is a breakdown based on the recent review.

There may be a little variation in acreage by an acre or two in various quarter-quarter sections but they are minor.

When acres were transferred under No. 2411-3, the report stated the acres were transferred to systems to be completed in Section 13 and 18 of T101N, R58W. However, the public notice clearly stated the acres were to be transferred to the S ½ Section 12, T101N, R59W. Therefore, Permit No. 7973-3 which included the transfer was issued based on the public notice. On the attached matrix, 165 acres were assigned to quarter-quarter sections accordingly. I believe the reason for the acres going to the S ½ Section 12 was the Colony's desire to take advantage of the priority date established by No. 2411-3.

NAME: Eric Tremblay

ROCKPORT HUTTERIAN BRETHREN'S WATER RIGHTS/PERMITS AND APPLICATIONS BASED ON REVIEW CONDUCTED DECEMBER 2014

Water Right		WP 7973-3	WR 2411-3	WR 4717A-3	WP 7339-3	App 8045-3	App 8046-3	App 8047-3	App 8048-3
Diversion Rate (cfs)		1.23	2	1.67	6.68	2.45	5.17	2.96	5.35
Sec 12-T101N-R59W	NW¼ NW¼				26	14			
	NE¼ NW¼				40				
	SW¼ NW¼	7			33				
	SE¼ NW¼	7			33				
	NW¼ NE¼				40				
	NE¼ NE¼				26	14			
	SW¼ NE¼	7			33				
	SE¼ NE¼	7			33				
	NW¼ SW¼	40							
	NE¼ SW¼	40							
	SW¼ SW¼	26.5				13.5			
	SE¼ SW¼	40							
	NW¼ SE¼	40							
	NE¼ SE¼	40							
	SW¼ SE¼	40							
	SE¼ SE¼	26.5				13.5			
Sec 6-T101N-R58W	NW¼ SW¼	2							
	SW¼ SW¼	15							
Sec 1-T101N-R59W	NW¼ NW¼				24	15			
	NE¼ NW¼				32	7			
	SW¼ NW¼				38	2			
	SE¼ NW¼				40	0			
	NW¼ NE¼				26	6			
	NE¼ NE¼				14	1			
	SW¼ NE¼				8	6			
	SE¼ NE¼								
	NW¼ SW¼				10	30			
	NE¼ SW¼				14	26			
	SW¼ SW¼					35			
	SE¼ SW¼					17			

ROCKPORT HUTTERIAN BRETHREN'S WATER RIGHTS/PERMITS AND APPLICATIONS BASED ON REVIEW CONDUCTED DECEMBER 2014

	NW¼ SE¼	13							
	NE¼ SE¼	17							
	SW¼ SE¼	10							
	SE¼ SE¼	35							
Sec 2, T101N, R59W	NW 1/4 NE1/4						10		
	NE 1/4 NE 1/4						33		
	SW 1/4 NE 1/4						30		
	SE 1/4 NE 1/4						40		
	NW 1/4 SE1/4						30		
	NE 1/4 SE 1/4						40		
	SW 1/4 SE 1/4						10		
	SE 1/4 SE 1/4						33		
Sec 36, T102N, R59W	NW 1/4 NW1/4								36.5
	NE 1/4 NW 1/4								40
	SW 1/4 NW 1/4							16	14
	SE 1/4 NW 1/4							26	14
	NW 1/4 NE1/4								40
	NE 1/4 NE 1/4								36.5
	SW 1/4 NE 1/4							18	22
	SE 1/4 NE 1/4							8	14
	NW 1/4 SW1/4							39	
	NE 1/4 SW 1/4							40	
	SW 1/4 SW 1/4							23	
	SE 1/4 SW 1/4							33	
	NW 1/4 SE1/4							36	
	NE 1/4 SE 1/4							34	
	SW 1/4 SE 1/4							21	
	SE 1/4 SE 1/4						3	26	
Sec 35, T102N, R59W	NW 1/4 SW1/4								36.5
	NE 1/4 SW 1/4								40
	SW 1/4 SW 1/4								13
	SE 1/4 SW 1/4								36.5
	NW 1/4 SE1/4								40
	NE 1/4 SE 1/4								36.5

ROCKPORT HUTTERIAN BRETHREN'S WATER RIGHTS/PERMITS AND APPLICATIONS BASED ON REVIEW CONDUCTED DECEMBER 2014

	SW 1/4 SE 1/4								36.5
	SE 1/4 SE 1/4								13
Sec 31, T102N, R58W	SW1/4 NW 1/4							2	
	NW 1/4 SW 1/4							8	
	SW 1/4 SW 1/4							2	
Sec 7-T101N-R58W	NW¼ NW¼			9					
	NE¼ NW¼			9.3					
	SW¼ NW¼			37.7					
	SE¼ NW¼			38.2					
	NW¼ SW¼			18.1					
	NE¼ SW¼			19.7					
Sec 11-T101-R59W	NW¼ NE¼	33.5							
	NE¼ NE¼	33.5							
	SW¼ NE¼	33.5							
	SE¼ NE¼	33.5							
Sec 13-T101-R59W	NW¼ NE¼	2							
	NE¼ NE¼	2			30				
	SW¼ NE¼	36							
	SE¼ NE¼	36							
	NW¼ SE¼	15.6	13.4						
	NE¼ SE¼		29						
Sec 18-T101-R58W	NW¼ NW¼		15						
	NE¼ NW¼		27						
	SW¼ NW¼		30						
	SE¼ NW¼		40						
	NW¼ NE¼		2						
	SW¼ NE¼		9						
	NW¼ SW¼		5						
	NE¼ SW¼		11						
TOTALS ACRES		638.6	181.4	132	470	85	374	332	469
			TOTAL					TOTAL	
			CFS	27.51				ACRES	2682



**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. 8048-3, Rockport 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. 8048-3, Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Road, Alexandria SD 57311.

The Chief Engineer is recommending DEFERRAL of Application No. 8048-3 for further study to evaluate the diversion rate status of water rights on the James River.

The Water Management Board has placed a 300 cubic feet of water per second (cfs) diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County line. There are three prior filed applications that if approved will cause the total appropriation from the James River based on diversion rate to reach the established 300 cfs limit in the described river segment. Application No. 8047-3 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.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
January 15, 2015

REPORT ON WATER PERMIT APPLICATION NO. 8048-3
Rockport Hutterian Brethren, % Donny Wipf
November 21, 2014

Rockport Hutterian Brethren, % Donny Wipf, has filed Water Permit Application No. 8048-3 to appropriate 5.35 cubic feet of water per second (cfs) from the James River to irrigate 469 acres of land located in the N½ of Section 36 and SW¼ SE¼ Section 35; all in T102N-R59W.

This application utilizes the James River diversion point authorized by 1902-3 located in the NW¼ NE¼ Section 6-T101N-R58W. This application and Water Permit Application No. 8047-3, if approved, and Water Right No. 1902-3, will authorize a total of 13.06-cfs to irrigate a total of 1,140.5 acres of land utilizing the same diversion point.

Review of Water Source

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

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.

Review of Existing Water Rights

Presently there are 98 Water Rights with diversions from the James River totaling 289.15-cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 66 Water Rights with diversions from the James River totaling 182.81-cfs. There is one pending water permit application located upstream of Huron, SD. Water Permit Application 8044-3, submitted by Kevin Rossow, is proposing to appropriate 3.3-cfs. There are three pending water permit applications located downstream of Huron, SD, other than this one. Water Permit Application Nos., 8045-3, 8046-3, and 8047-3 were also submitted by Rockport Hutterian Brethren and combined with this application, are proposing to appropriate 15.93-cfs from the James River.

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 this past summer. As a result seven water rights were scheduled for cancellation at the October 22, 2014 Board meeting, totaling 9.56 cfs. This is already reflected in the total river diversion of 289.15-cfs from 98 water rights.

With the approval of 8044-3, 8045-3, and 8046-3, the total James River appropriation would be 300.07 cfs, and the North Dakota border to Huron SD river reach would be 186.11 cfs. There is no water available for appropriation anywhere from the North Dakota border to the Yankton-Hutchinson County Line. See Table 3.

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

	CFS
Appropriated	-289.15
Pending application 8044-3	-3.3
Pending application 8045-3	-2.45
Pending application 8046-3	-5.17
Total	-300.07
WMB Appropriation Limit	300
Available appropriation	-0.07

Conclusions

Due to the lack of water availability from the James River, it is recommended that Water Permit Application No. 8048-3 be deferred pending further study.

The Water Management Board has placed a 300 cubic feet of water per second (cfs) diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County line. There are three prior filed applications that if approved will cause the total appropriation from the James River based on diversion rate to reach the established 300 cfs limit in the described river segment. Application No. 8048-3 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.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

Affidavit of Publication

STATE OF SOUTH DAKOTA)

:SS

FEB 05 2015

COUNTY OF HANSON)

WATER RIGHTS
PROGRAM

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

Notice of Hearing Appl. 8047-3-8048-3

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

The first publication be made on 1-22-15

The second publication on _____

The third publication on _____

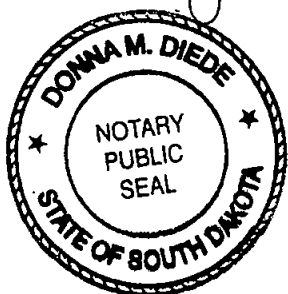
The fourth publication on _____

that \$61.69 Being the full amount of the fee for publication of the annexed notice, insured solely to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof have been made with any other person whosoever, and that said newspaper is a legal newspaper under the law of the state of South Dakota.

Subscribed and sworn to before me this 28

day of January 2015

Donna M. Diede
Notary Public, South Dakota



My commission expires 2-2-2016

NOTICE OF HEARING on Application Nos. 8047-3 and 8048-3 to Appropriate Water

NOTICE OF HEARING on Application Nos. 8047-3 and 8048-3 to Appropriate Water

Notice is given that Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed the following applications for a water permit.

Application No. 8047-3 proposes to appropriate 2.96 cubic feet of water per second (cfs) from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 332 acres located in the S 1/2 NW 1/4, S 1/2 NE 1/4, S 1/2 Section 36-T102N-R59W and the SW 1/4 NW 1/4, W 1/2 SW 1/4 Section 31-T102N-R58W.

Application No. 8048-3 proposes to appropriate 5.35 cfs from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the SW 1/4, SE 1/4 Section 35; all in T102N-R59W.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose these applications is 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 application, 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.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8047-3 and 8048-3 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. There are three prior filed applications that if approved will cause the total appropriation from the James River based on diversion rate to reach the established 300 cfs limit in the described river segment. Application Nos. 8047-3 and 8048-3 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 these appropriations. The Water Management Board will consider

these applications at 11:00 a.m. on March 4, 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 this application 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 recommendation. 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 February 23, 2015. The petition may be in-

formal, 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 March 4, 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 February 23, 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 February 23, 2015 at the above Chief Engineer's address to request copies of the staff report, recommendation, application 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 February 2, 2015. However, since this particular matter is a water permit application 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.

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

Published once at an approximate cost of \$61.69.

01-22-15 1tc

RECEIVED

JAN 29 2015

WATER RIGHTS
PROGRAM

**NOTICE OF HEARING
on Application Nos.
8047-3 and 8048-3 to
Appropriate Water**

Notice is given that Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed the following applications for a water permit.

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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 these appropriations. The Water Management Board will consider these applications at 11:00 a.m. on March 4, 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 this application 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 recommendation. 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 February 23, 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 March 4, 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 February 23, 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

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Penny Hohbach of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 issue(s), to wit:

Thursday, January 22, 2015

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$95.87

Signed: Penny Hohbach

Subscribed and sworn to before me this 26th day of January, 2015.

Deb Townsend

Notary Public
County of Davison

My Commission Expires: 09-21-18

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

DEB TOWNSEND
Notary Public
SEAL
South Dakota

LEGALS

available at <http://denr.sd.gov/public>. Contact Eric Gronlund by February 23, 2015 at the above Chief Engineer's address to request copies of the staff report, recommendation, application 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.

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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 application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-18; 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. Pirmer, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$164.13



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 15, 2015

Alexandria Herald
PO Box 456
Alexandria SD 57311

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 8047-3 and 8048-3 to Appropriate Water. Please publish the notice once on January 22, 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 Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 (Ph # 605-239-4422).

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

January 15, 2015

Daily Republic
PO Box 1288
Mitchell SD 57301

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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.

January 15, 2015

Rockport Hutterian Brethren
Donny Wipf
26209 Rockport Rd
Alexandria SD 57311

Dear Mr. Wipf:

Water Permit Application Nos. 8047-3 and 8048-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Alexandria Herald printed at Alexandria SD (Ph # 605-239-4521) and the Daily Republic printed at Mitchell SD (Ph # 605-996-5514). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper – Publish the Notice on January 22, 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 Application Nos. 8047-3 and 8048-3 to Appropriate Water

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Application No. 8048-3 proposes to appropriate 5.35 cfs from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the SW 1/4, SE 1/4 Section 35; all in T102N-R59W.

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The March 4, 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.

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Information concerning these applications is available at <http://denr.sd.gov/public>. Contact Eric Gronlund by February 23, 2015 at the above Chief Engineer's address to request copies of the staff report, recommendation, application 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.

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

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application Nos. 8047-3 and 8048-3, Rockport Hutterian Brethren

ADDRESS: COUNTY: Hanson County

DATE: March 3, 2015 TELEPHONE: Donni – 770-6849

RE: telephone conference call

I contacted Donni regarding the Board meeting being held by telephone conference call. He indicated they are fine with the deferral recommendation and do not plan to participate.

NAME: Eric Kunkle



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

March 11, 2015

NOTICE

TO: Donny Wipf
Rockport Hutterian Brethren
26209 Rockport Road
Alexandria SD 57311

FROM: *for* Jeanne Goodman, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Deferral of Water Permit Application Nos. 8047-3 and 8048-3, Rockport Hutterian Brethren

On March 4, 2015, the Water Management Board deferred consideration of Water Permit Application Nos. 8047-3 and 8048-3 from the James River.

Application No. 8047-3 proposes to appropriate 2.96 cubic feet of water per second (cfs) from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 332 acres located in the S 1/2 NW 1/4, S 1/2 NE 1/4, S 1/2 Section 36-T102N-R59W and the SW 1/4 NW 1/4, W 1/2 SW 1/4 Section 31-T102N-R58W.

Application No. 8048-3 proposes to appropriate 5.35 cfs from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the SW 1/4, SE 1/4 Section 35; all in T102N-R59W.

Application Nos. 8047-3 and 8048-3 were 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 these appropriations.

Future notice will be provided when the applications are scheduled to come back before the Board in March of 2016.

Please contact Eric Gronlund at (605) 773-3352 if you have questions about the deferral of these applications.

c: Ann Mines-Bailey, Assistant Attorney General

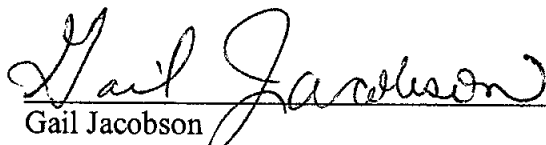
CERTIFICATION

I hereby certify that on March 11, 2015, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 11, 2015, regarding deferral of Water Permit Application Nos. 8047-3 and 8048-3, Rockport Hutterian Brethren, as set forth below:

Donny Wipf
Rockport Hutterian Brethren
26209 Rockport Road
Alexandria SD 57311

Sent Notice Inter-Office mail to:

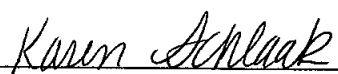
Ann Mines-Bailey, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



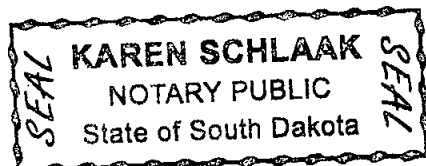
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of March, 2015



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Application Nos. 8047-3 & 8048-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application Nos. 8047-3 & 8048-3, Rockport Hutterian Brethren

ADDRESS: COUNTY: Hanson County

DATE: January 22, 2016 TELEPHONE: 605 770-1386 (Brian – Farm Manager)

RE: scheduling of hearing on deferred applications

I spoke with Brian who is Rockport's farm manager. I explained when two of their water permit applications were deferred last March it was intended for them to come back before the Board in March 2016. I asked if Rockport was okay if we held off scheduling these deferred applications until the May meeting. I said DENR is still studying the appropriative status of the James River. I also mentioned that it is likely the March meeting would be held by telephone conference call. Brian stated that Rockport is in agreement to wait until the May meeting for consideration of the two deferred applications. He said Rockport currently has its hands full developing the systems that were approved.

NAME: Eric Hinkle

Application Nos. 8047-3 & 8048-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application Nos. 8047-3 & 8048-3, Rockport Hutterian Brethren

ADDRESS: COUNTY: Hanson County

DATE: April 11, 2016 TELEPHONE: 605 770-1386 (Brian – Farm Manager)

RE: scheduling of hearing on deferred applications

I contacted Brian regarding Rockport's two deferred applications from the James River. I stated that there are a couple of existing water rights from the James River that DENR intends to schedule for cancellation. This may have the effect of freeing up diversion rate authority on the James River. However, those water rights subject to cancellation will not be brought before the Water Management Board until the July meeting. DENR's position is that their deferred applications can not be heard until those water rights are cancelled. Brian said it was fine to hold off on their applications until the July meeting.

I told him Rockport would get notice scheduling the applications and the recommendation in June.

NAME: Eric Hamlund



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

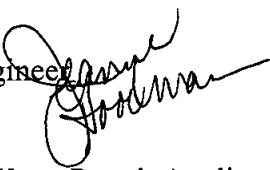
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

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June 2, 2016

NOTICE OF HEARING

TO: Donny Wipf
Rockport Hutterian Brethren
26209 Rockport Road
Alexandria SD 57311

FROM: Jeanne Goodman, Chief Engineer 
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application Nos. 8047-3 and 8048-3,
Rockport Hutterian Brethren

On March 4, 2015, the Water Management Board deferred consideration of Water Permit Application Nos. 8047-3 and 8048-3 from the James River to allow for further study. This notice schedules a hearing before the Board to reconsider the application.

Application No. 8047-3 proposes to appropriate 2.96 cubic feet of water per second (cfs) from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 332 acres located in the S 1/2 NW 1/4, S 1/2 NE 1/4, S 1/2 Section 36-T102N-R59W and the SW 1/4 NW 1/4, W 1/2 SW 1/4 Section 31-T102N-R58W.

Application No. 8048-3 proposes to appropriate 5.35 cfs from an existing James River diversion point located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the SW 1/4, SE 1/4 Section 35; all in T102N-R59W.

DENR has concluded a study on water availability. Attached is the "Report on Water Availability on the James River at Current Appropriation". Based on this report, the recommendations for Application No. 8047-3 and 8048-3 has been revised to be approval contingent on the Water Management Board first taking action to cancel two existing James River water rights. The revised recommendations are attached.

The Water Management Board will now conduct a hearing to consider Application Nos. 8047-3 and 8048-3 at 2:00 PM (Central Daylight Time) on Wednesday, July 6, 2016, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

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

enclosures

c: Ann Mines-Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on June 2, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 2, 2016, regarding scheduling hearing on Water Permit Application Nos. 8047-3 and 8048-3, Rockport Hutterian Brethren, as set forth below:

Donny Wipf
Rockport Hutterian Brethren
26209 Rockport Road
Alexandria SD 57311

Sent Notice Inter-Office mail to:

Ann Mines-Bailey, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



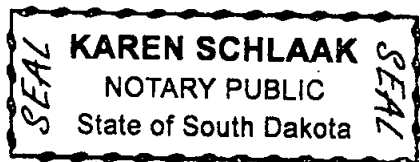
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of June, 2016



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



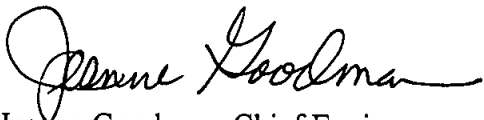
**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8048-3, Rockport Hutterian Brethren**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8048-3, Rockport Hutterian Brethren, 26209 Rockport Road, Alexandria SD 57311.

The Chief Engineer is recommending APPROVAL of Application No. 8048-3 contingent on the Water Management Board first taking action to cancel two James River water rights because 1) there will be a reasonable probability that there is unappropriated water available for the applicant's proposed use upon the formal cancellation of the two existing James River water rights, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

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

See report on application for additional information.



Jeanne Goodman, Chief Engineer
June 2, 2016

NOTE: Prior to consideration of this deferred application, the Water Management Board is scheduled to conduct a hearing to determine whether to cancel two water rights held by the city of Huron. The cancellation of these water rights provides the diversion rate authority necessary to recommend approval of this application by remaining within the Board's established diversion rate limit of 300 cubic feet of water per second from the ND/SD border to the Hutchinson/Yankton County line. If the two existing water rights are not first cancelled at the July 6th meeting, the recommendation will be revised at the time of hearing that Application No. 8048-3 remain deferred.

**REPORT ON WATER AVAILABILITY ON THE JAMES RIVER AT CURRENT
APPROPRIATION
May 24, 2016**

Purpose of this Study

It is the purpose of this study to analyze the appropriation limits for the James River as adopted by the Water Resources Commission (predecessor to the Water Management Board) and the Water Management Board at the April 1980, May 1987, and May 2007 Board Meetings. In addition, the study shows if future appropriations of water from the James River should also be administered as stated in the Board's decisions or if changes are warranted.

Historical Summary of James River Water Permits/Rights

During the 1960's the Water Resources Commission (predecessor to the Water Management Board) set a river diversion limit of 300 cubic feet per second (cfs) and an August 10th cutoff date for appropriations from the James River. It was also determined that 20 cfs of water should by-pass Huron, SD to provide for downstream domestic use. The diversion limit was further defined as a combined 200 cfs of water above Huron and in addition permits having a combined 300 cfs of water could be approved above the SD Hutchinson-Yankton county line.

The Commission set 300 cfs limit was reached in 1968, and applications were deferred until 1975 when cancellations and underdeveloped appropriations allowed for deferred applications to be approved until the 300 cfs limit was reached. Applications were once again deferred until 1979 when a similar situation allowed James River diversions to be approved. In 1980 appropriations on the James River were once again opened and based on studies of actual irrigation development and use, it was projected that a maximum of 50-percent of permitted acres were irrigated at any one time. In 1987 a recommendation was made to the Water Management Board to change the qualifications on those active water permits upstream of Huron, SD requiring alignment with the August 10th cut-off date and the 20-cfs by-pass at the Third Street Dam, and for those water permits downstream of Huron, SD to the August 10th cut-off date.

In 2003, Water Rights Program Staff completed on-site surveys of James River water rights that had reported non-use for periods greater than three (3) years. These surveys resulted in forfeiture for non-use of twenty-four (24) James River water rights. To date the Water Rights Program periodically reviews James River water rights for non-use status and possible cancellation. As of the date of this report, the James River is within 1.71 cfs of being fully appropriated.

Previous to 2007, the James River historical appropriations contained a variety of shut-off and by-pass qualifications adopted at different times. In 2007, the Water Management Board adopted a set of qualifications for James River diversions in order to bring the shut-off and by-pass qualifications of active permits in line with the intentions of the Board as adopted at the April 1980 and May 1987 Board meetings. Future appropriations of water from the James River are also administered according to the qualifications adopted in 2007. The 20-cfs by-pass limit is applied at one of three U.S Geological Survey (USGS) gaging stations depending on the location of the diversion from the James River: gage at Ashton, SD, gage at Huron, SD, and gage near Scotland, SD. See qualifications example below:

- 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 Ashton, SD after pumping.

Review of James River Water Permits/Rights

Past inspections of James River water permits/rights have resulted in updates to the number of permits and amounts of water appropriated from the river.

Presently there are ninety-nine (99) water rights on the James River reach from the North Dakota (ND) border to the SD Hutchinson/Yankton (HT/YA) county line with 298.29 cfs total diversions. These water rights are for direct diversion of water from the James River for irrigation and other uses during the normal irrigation season. The James River reach from Huron, SD to the ND border presently has sixty-seven (67) water rights with 186.11-cfs total diversions. This leaves thirty-two (32) water rights with 112.18 cfs direct diversion from the James River on the stretch below Huron to the HT/YA County line. Currently 1.71 cfs is available for appropriation on the James River from the ND border to the HT/YA County line, and for appropriation above the USGS gage at Huron due to the 200-cfs limit.

See table below for current appropriations.

RIVER REACH	IRR - cfs	OTH - cfs	TOTALS - cfs
ND border to Ashton	20.58	6.5	27.08
Ashton to Huron	133.16	25.87	159.03
TOTAL	153.74	32.37	186.11
Huron to HT/YA Co. ln.	79.40	32.78	112.18
TOTAL	79.40	32.78	112.18
TOTAL RIVER			298.29

Currently there are three Board deferred water permit applications, two for diversion of water from the James River and one for irrigation of additional acres with no additional diversion rate authority from the James River:

- Water Permit Application 8047-3 requesting the diversion of 2.96 cfs from the James River to irrigate 332 acres of land.
- Water Permit Application 8048-3 requesting the diversion of 5.35 cfs from the James River to irrigate 469 acres of land.
- Water Permit Application 8123-3 requesting to irrigate and additional 50 acres of land with no additional diversion from the James River.

In addition, there are two water rights authorizing diversion from the James River scheduled for cancellation.

- Water Right 9-3A authorizes the diversion of 5.0 cfs from the James River for municipal use.
- Water Right 37A-3 authorizes the diversion of 1.84 cfs from the James River for municipal use.

If the Board approves the cancellation of water rights 9-3A and 37A-3 an additional 6.84 cfs of diversion from the James River would be made available anywhere from the ND boarder to the HT/YA county line. With the 1.71 cfs currently available, the total diversion available for appropriation from the James River anywhere from the ND boarder to the HT/YA county line would be 8.55 cfs.

Actual Use at Current Appropriation

Currently 298.29 cfs is appropriated on the James River from the ND border to the HT/YA County line, of which, **186.11 cfs** is appropriated above the USGS gage at Huron and **112.18 cfs** is appropriated below Huron to the HT/YA County line.

In 2007, a study was conducted by Water Rights Staff in order to bring James River water permits/rights in line with a common August 10th shut-off date and 20 cfs by-pass requirement. The study determined the probability that additional water would be available during the irrigation season until August 10 of each year. The James River was divided into three river reaches between USGS gaging stations, ND border to the USGS gage at Ashton, SD; USGS gage at Ashton, SD to the USGS gage at Huron, SD; and USGS gage at Huron, SD to USGS gage near Scotland, SD. The water appropriated for irrigation and other uses for each of the three river reaches was calculated. Once these values were obtained, a formula for actual water use at current appropriation was developed.

Stated under **Historical Summary of James River Water Permits/Rights** in this report, the actual irrigation development and use on the James River in 1980 was found to be a maximum of 50-percent of permitted acres irrigated at any one time. This conclusion was reached after Water Rights Staff conducted detailed hydrographic surveys of the availability of water in the river and studies of the anticipated effects of approving water permits based on projected development and use by appropriators. A similar study was conducted in 2007 by reviewing irrigation questionnaires from 1996 – 2006. The 2007 study indicated that the 50-percent value was still appropriate. Since reporting for other uses is limited, 100-percent pumping for non-irrigation uses is assumed. In addition 20-cfs for domestic use was added. The resulting formula for maximum use is as follows:

$$0.5(\text{IRR cfs}) + 1.0(\text{OTH cfs}) + 20 \text{ cfs} \quad \text{IRR} - \text{irrigation use} \quad \text{OTH} - \text{other}$$

Similarly for this study, pumping from 1996 through 2014 was examined to determine if the 50% value for irrigation development and use is still applicable today. The James River was looked at as a whole from the ND border to the HT/YA County line. As expected the heaviest pumping months were found to be July and August. The table below depicts the percent of the

appropriated diversion for irrigation from the James River actually pumped by month and year. Months experiencing 40% or greater pumping are depicted in red.

Table % of the total appropriated diversion for irrigation from the James River actually pumped by month and year.

	APR	MAY	JUN	JUL	AUG
1996	0	2	6	37	42
1997	0	0	3	16	20
1998	0	1	3	35	34
1999	0	0	2	25	27
2000	0	0	7	30	26
2001	0	0	8	26	25
2002	0	2	36	44	31
2003	0	0	12	28	33
2004	1	5	19	45	38
2005	0	2	16	44	46
2006*	0	4	21	50	30
2007	0	2	5	48	26
2008	0	0	3	26	16
2009	0	3	3	6	23
2010	0	0	0	1	8
2011	0	0	6	12	17
2012	0	3	37	57	55
2013	0	0	6	28	44
2014	0	2	12	51	53

*Note: Shutoff orders were issued in 2006 on August 1 through the rest of the irrigation season.

The higher percent of irrigation appropriation pumped ranges from 44% to 57% in eight out of 19 years. Therefore, it is assumed that the 50-percent value is still applicable today.

Since reporting for other uses is limited, 100-percent pumping is assumed. In addition 20-cfs for domestic use was added. The resulting formula for maximum use is as follows:

$$0.5(\text{IRR cfs}) + 1.0(\text{OTH cfs}) + 20 \text{ cfs} \quad \text{IRR} - \text{irrigation use} \quad \text{OTH} - \text{other uses}$$

RIVER REACH	IRR	50%IRR	OTH	DOM	ACTUAL USE
ND border to Ashton	20.58	10.42	6.5	20	36.92
Ashton to Huron	133.16	66.58	25.87	20	112.45
Huron to HT/YA Co. ln.	79.4	39.7	32.78	20	92.48

The chance that water will still be available April 1 through August 10 was calculated using James River flows based on 50 or more years of USGS stream flow data for each of the three river reaches. The values in the table below reflect flow after pumping and subtracting the 20-cfs by-pass qualification. The %tile for the period of record represents the maximum flow that can be expected that percent of the time minus the 20-cfs by-pass.

%tile flow for period of record – 20 cfs by-pass flow = flow value

RIVER REACH	%TILE	APR	MAY	JUN	JUL	AUG 10
ND border to Ashton	10	-6	-6	-12	-20	-20
	20	21	43	26	8	-6
	25	41	89	69	33	6
	50	290	469	326	181	112
Ashton to Huron	10	9	3	-5	-19	-20
	20	45	68	55	21	-6
	25	85	135	88	41	11
	50	542	555	416	201	142
Huron to HT/YA Co. ln.	10	33	35	12	-3	-14
	20	107	105	75	17	-1
	25	137	159	110	40	9
	50	673	673	546	277	136

By August 10th there is a 25% chance that 6 cfs or less is available in the reach from the ND border to the Ashton gage; 11 cfs or less is available in the reach from Ashton gage to the gage at Huron; 9 cfs or less is available in the reach from the Huron gage to the Scotland gage. Conversely, there is a 75% chance that the above flows or greater are available.

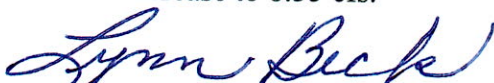
Water Rights files show that there have been at least 12 shutoff orders issued on the James River since 1965. This represents 25.5% of the years from 1965 to present. Total appropriation of water from the James River during years that shutoff orders have been issued has ranged from 255 cfs to 300 cfs, full appropriation.

Conclusion

At current appropriation limits there is a 75% chance that water will be available through August 10. It is appropriate when protecting existing water rights to take into account the percent chance of water availability. Maintaining a 75% chance of having available water is appropriate.

To facilitate the judicious administration of the use of James River water, the protection of the in-stream beneficial uses of the river for recreational use and as a fishery, to maintain good quality water as well as sufficient quantity and velocity of water, continuation of the appropriation limits set by the Water Resources Commission (predecessor to the Water Management Board) and the Water Management Board in the 1960's, 1987, and 2007, is recommended.

Currently 1.71 cfs of diversion from the James River is available from the ND boarder to the HT/YA county line. Should the Board approve cancellation of water rights 9-3A and 37A-3 the amount of diversion available from the James River from the ND boarder to the HT/YA county line would increase to 8.55 cfs.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

Resources

Report On Amendment Of James River Water Permits/Rights, April 24, 2007, Lynn Beck.

South Dakota Department of Environment and Natural Resources, Water Rights Program records.

Stream flow records, United States Geologic Survey Water Resources Web Site,
<http://waterdata.usgs.gov/sd/nwis/current/?type=flow>



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
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PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8047-3, Rockport 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. 8047-3, Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Road, Alexandria SD 57311.

The Chief Engineer is recommending DEFERRAL of Application No. 8047-3 for further study to evaluate the diversion rate status of water rights on the James River.

The Water Management Board has placed a 300 cubic feet of water per second (cfs) diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County line. There are three prior filed applications that if approved will cause the total appropriation from the James River based on diversion rate to reach the established 300 cfs limit in the described river segment. Application No. 8047-3 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.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
January 15, 2015

REPORT ON WATER PERMIT APPLICATION NO. 8047-3

Rockport Hutterian Brethren, % Donny Wipf

November 20, 2014

Rockport Hutterian Brethren, % Donny Wipf, has filed Water Permit Application No. 8047-3 to appropriate 2.96 cubic feet of water per second (cfs) from the James River to irrigate 332 acres of land located in the S½ NW¼, S½ NE¼, S½ Section 36-T102N-R59W, and SW¼ NW¼, W½ SW¼ Section 31- T102N-R58W.

This application utilizes the James River diversion point authorized by 1902-3 located in the NW¼ NE¼ Section 6-T101N-R58W. This application, if approved, and Water Right No. 1902-3, will authorize a total of 7.71 cfs to irrigate a total of 664.5 acres of land utilizing the same diversion point.

Review of Water Source

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

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.

Review of Existing Water Rights

Presently there are 98 Water Rights with diversions from the James River totaling 289.15-cfs from the North Dakota border to the Yankton-Hutchinson County Line. From the North Dakota border to Huron, SD, there are 66 Water Rights with diversions from the James River totaling 182.81-cfs. There is one pending water permit application located upstream of Huron, SD. Water Permit Application 8044-3, submitted by Kevin Rossow, is proposing to appropriate 3.3-cfs. There are three pending water permit applications located downstream of Huron, SD, other than this one. Water Permit Application Nos., 8045-3, 8046-3, and 8048-3 were also submitted by Rockport Hutterian Brethren and combined with this application, are proposing to appropriate 15.93-cfs from the James River.

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 this past summer. As a result seven water rights were scheduled for cancellation at the October 22, 2014 Board meeting, totaling 9.56 cfs. This is already reflected in the total river diversion of 289.15-cfs from 98 water rights.

With the approval of 8044-3, 8045-3, and 8046-3, the total James River appropriation would be 300.07 cfs, and the North Dakota border to Huron SD river reach would be 186.11 cfs. There is no water available for appropriation anywhere from the North Dakota border to the Yankton-Hutchinson County Line. See Table 3.

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

	CFS
Appropriated	-289.15
Pending application 8044-3	-3.3
Pending application 8045-3	-2.45
Pending application 8046-3	-5.17
Total	-300.07
WMB Appropriation Limit	300
Available appropriation	-0.07

Conclusions

Due to the lack of water availability from the James River, it is recommended that Water Permit Application No. 8047-3 be deferred pending further study.

The Water Management Board has placed a 300 cubic feet of water per second (cfs) diversion limit on the James River in South Dakota from the North Dakota border to the Yankton-Hutchinson County line. There are three prior filed applications that if approved will cause the total appropriation from the James River based on diversion rate to reach the established 300 cfs limit in the described river segment. Application No. 8047-3 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.



Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUL 21 2016

Rockport Hutterian Brethren
Donny Wipf
26209 Rockport Rd
Alexandria SD 57311

Dear Mr. Wipf:

Enclosed are Water Permit Nos. 8047-3 and 8048-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

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

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

Sincerely,

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

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August 08, 2016

2411-3, 4717A-3, 7339-3, 7973-3
8045-3, 8046-3, 8047-3, 8048-3

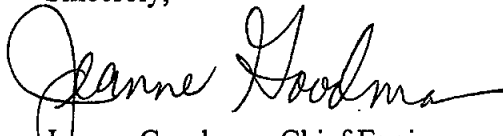
Rockport Hutterian Brethren
26209 Rockport Road
Alexandria, SD 57311

Dear Mr Wipf:

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

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

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
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August 08, 2017

1902-3, 1902A-3, 2411-3, 4717A-3, 7339-3
7973-3, 8045-3, 8046-3, 8047-3, 8048-3

Rockport Hutterian Brethren
26209 Rockport Road
Alexandria, SD 57311

Dear Mr Wipf:

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

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

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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denr.sd.gov

September 12, 2017

1902-3, 1902A-3, 2411-3, 4717A-3, 7339-3
7973-3, 8045-3, 8046-3, 8047-3, 8048-3

Rockport Hutterian Brethren
26209 Rockport Road
Alexandria, SD 57311

Dear Mr Wipf:

This letter is in reference to your September 12, 2017 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River through September 30, 2017.

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

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

August 28, 2018

1902A-3, 2411-3, 4717A-3, 7339-3, 7973-3, 8045-3
8046-3, 8047-3, (8048-3), 8350A-3, 8350B-3, 8350C-3

Rockport Hutterian Brethren
26209 Rockport Road
Alexandria, SD 57311

Dear Mr Wipf:

This letter is in reference to your August 27, 2018 telephone call regarding water availability for irrigation from the James River for this summer. Flows in the James River continue to be strong. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permit out of the James River through September 15, 2018.

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

SOUTH DAKOTA
WATER PERMIT NO. 8048A-3

Date of first receipt of application August 29, 2019.

Date of receipt of corrected application September 6, 2019.

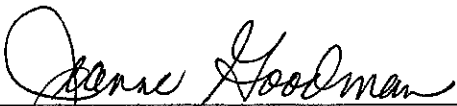
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8048A-3 to Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8048A-3 amends Water Permit No. 8048-3 by transferring irrigated acreage and diversion rate authority. Water Permit No. 8048-3 authorizes 5.35 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the S 1/2 Section 35; all in T102N-R59W. Permit No. 8048A-3 authorizes moving the location of 208 of the 469 acres approximately 1/2 mile south with the James River diversion point remaining the same and the 208 acres to be located in the NW 1/4, W 1/2 SW 1/4 Section 2-T101N-R59W. The diversion rate authority to be transferred will be 2.37 cfs.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is September 4, 2014 (authorized by No. 8048-3).
4. The date of approval of Permit No. 8048A-3 is December 9, 2019.
5. One-fifth of the construction was to be completed on or before January 6, 2019.
6. All construction is to be completed on or before July 6, 2021.
7. Water is to be put to beneficial use on or before July 6, 2025.
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. Diversions 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 by the Chief Engineer.
 - b) This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Scotland SD after pumping.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 

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

FEB 06 2020
date



SOUTH DAKOTA
WATER PERMIT NO. 8048B-3

Date of first receipt of application August 29, 2019.

Date of receipt of corrected application September 6, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8048B-3 to Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 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. 8048B-3 amends Water Permit No. 8048-3 by transferring irrigated acreage and diversion rate authority. Water Permit No. 8048-3 authorizes 5.35 cubic feet of water per second (cfs) from the James River located in the NW 1/4 NE 1/4 Section 6-T101N-R58W to irrigate 469 acres located in the N 1/2 Section 36 and the S 1/2 Section 35; all in T102N-R59W. Permit No. 8048B-3 authorizes moving the location of 37 of the 469 acres approximately 1 1/2 miles southeast with the James River diversion points located between the NW 1/4 NE 1/4 Section 6 and SE 1/4 Section 7-T101N-R58W and the 37 acres to be located in the NE 1/4 NE 1/4 Section 1-T101N-R59W, S 1/2 NW 1/4, NE 1/4 SW 1/4 Section 6; W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 7; all in T101N-R58W. The diversion rate authority to be transferred will be 0.50 cfs.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is September 4, 2014 (authorized by No. 8048-3).
4. The date of approval of Permit No. 8048B-3 is December 9, 2019.
5. One-fifth of the construction was to be completed on or before January 6, 2019.
6. All construction is to be completed on or before July 6, 2021.
7. Water is to be put to beneficial use on or before July 6, 2025.
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. Diversions of water from the James River shall be in accordance with the following criteria:
 - c) 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 by the Chief Engineer.
 - d) This permit does not authorize diversions from the James River when there is less than 20 cfs bypassing the USGS gaging station at Scotland SD after pumping.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

FEB 06 2020

date





**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

August 15, 2022

1902A-3, 2411-3, 4717A-3, 7339-3, 7973-3, 8045-3
8046-3, 8047-3, 8048-3, 8048A-3, 8048B-3
8305A-3, 8035B-3, 8305C-3, 8448-3, 8449-3

Rockport Hutterian Brethren Inc.
26209 Rockport Road
Alexandria SD 57311

Dear Mr. Wipf:

This letter is in reference to your August 13, 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 permits out of the James River and allow you to divert through the end of the 2022 irrigation season.

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 17, 2026

1902A-3, 2411-3, 4717A-3, 7339-3
7973-3, 8045-3, 8046-3, 8047-3, 8048-3
8048A-3, 8048B-3, 8305A-3, 8305B-3
8305C-3, 8448-3, 8449-3

Rockport Hutterian Brethren
c/o Donny Wipf
26209 Rockport Rd
Alexandria SD 57311

Dear Mr. Wipf,

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

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

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

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

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

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

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 27, 2026

1902A-3, 2411-3, 4717A-3, 7339-3
7973-3, 8045-3, 8046-3, 8047-3, 8048-3
8048A-3, 8048B-3, 8305A-3, 8305B-3
8305C-3, 8448-3, 8449-3

Rockport Hutterian Brethren
c/o Donny Wipf
26209 Rockport Rd
Alexandria SD 57311

Dear Mr. Wipf,

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

Flows in the James River, in the reach between North Dakota and the USGS stream gaging stations along the James River are sufficient, at this time, to allow an extension. Since there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your Water Permits and Rights appropriating water from the James River, allowing diversions through September 9th, 2026.

If continued use is needed beyond September 9th, 2026, please contact the Water Rights Program for an additional extension. At this time, we are only granting extensions for the James River in two-week increments, since the forecast is for continued hot and dry conditions throughout August.

In the event that dry climactic conditions in the river basin cause river flows to significantly decrease, and flow measured at the USGS stream gaging station near Scotland drops below 20 cfs, you will be contacted and provided orders to cease pumping. Realtime flows in and James River can be monitored by going to the following website:
<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

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

Sincerely,

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