

WATER PERMIT NO. 8048A-3

Name of Applicant: Rockport Hutterian Brethren

Address: 26209 Rockport Rd, Alexandria SD 57311

Phone: 770-6849

Amount of Water Claimed: 2.37 cfs

Total Acres: 208 acres

Source of Water Supply: James River

Water to be used for: irrigation

County: Hanson

Type of Waste Disposal System:

Location: approximately 7 miles southwest of Alexandria

PRIORITY Date Received: 8-28-19

Application/License Fee: \$ 300

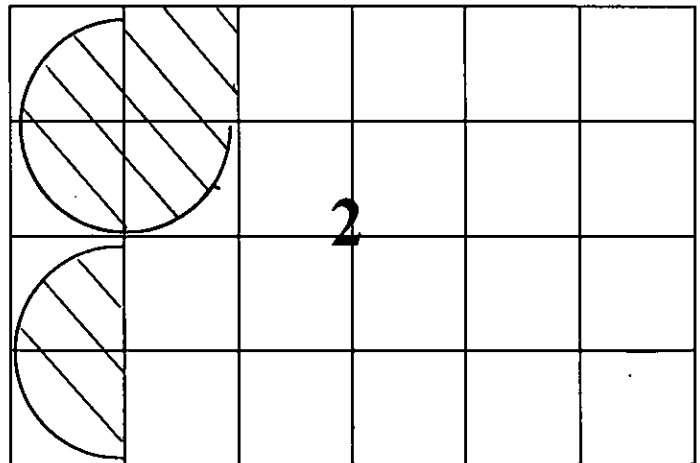
Corrected Application Received: 9-6-19

Period of Annual Use: April 1 – October 31

Remarks: Transfer lands and diversion rate authority from Permit No. 8048-3

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

Land to be Irrigated: NW 1/4, W 1/2 SW 1/4 Sec
2-T101N-R59W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 9-9-19

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**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.

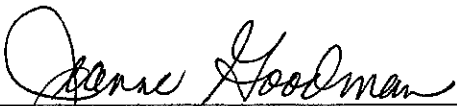
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8048A-3 to Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following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



AUG 2-8-2019

PAID

AUG 29 2019

Ck# 1961

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8048A-3</u> (office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>
	Newspaper <u>Alexandria Herald</u>
	<u>Daily Republic</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 8048-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
transfer 2.37 cfs and 208 acres portion of WP No. 8048-3 authorized for irrigation of the S 1/2 Section 35
T102N, R59W to Section 2, T101N-R59W. No increase in the acres or diversion rate authority

1. Name to Appear on Irrigation Permit Rockport Hutterian Brethren

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

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

Phone 239-4422 Mobile 770-6849 Donny Email Brian - 770-1386

2. Amount of water claimed 2.37 *CFS or 208 **GPM 208 ***AF Total Acreage 208
(*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 NW 1/4 NE 1/4 Section 6, T101N, R58W

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

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
NW 1/4 NW 1/4 Section 2 - T101N-R59W	33.75	NW 1/4 SW 1/4 Section 2 - T101N-R59W	33.75
NE 1/4 NW 1/4 Section 2 - T101N-R59W <u>40 acres</u>	33.75	SW 1/4 SW 1/4 Section 2 - T101N-R59W	33.75
SW 1/4 NW 1/4 Section 2 - T101N-R59W	33.75		
SE 1/4 NW 1/4 Section 2 - T101N-R59W	33.75		

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

Rockport Colony is currently purchases this land in Section 2 and it is more suitable for irrigation. The land in the S 1/2 of Section 35-T102N-R59W is currently owned by another colony that is agreeable to the transfer (see attached)

I, Donny Wipf, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

WATER PERMIT APPLICATION FOR ROCKPORT HUTTERIAN BRETHREN
transfer 2.37 cfs and 208 acres authorized by Water Permit No. 8048-3



Eric Gronlund
Water Rights Program, DENR
based on representation by Donny Waldner
with Rockport Hutterian
August 28, 2019

RECEIVED

SEP 06 2019

WATER RIGHTS
PROGRAM

Eric Gronlund

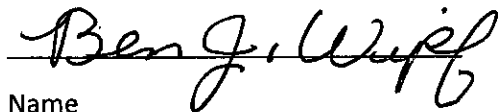
Water Rights Program

523 E Capitol Avenue

Pierre SD 57501

Dear Mr. Gronlund

As the current owner of the S1/2 Section 35-T102N-R59W we understand that Rockport Hutterian Brethren has filed an application to transfer 245 acres authorized by Water Permit No. 8048-3 associated with our land to other property. We are in agreement with Rockport being able to transfer these acres to other land.


Name

Colony Name *Shannon*

Date *9-1-19*

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 28, 20 19

RECEIVED OF Rockport Hutterian Brethren, Inc. 26209 Rockport Road 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	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>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	300 00

No. **09189**

By Jeanne Goodman
Chief Engineer
vm

RECEIVED

DEC 03 2019

WATER RIGHTS
PROGRAM

**NOTICE OF
APPLICATION NOS.
8048A-3 and 8048B-3**

Notice is given that Rockport Hutterian Brethren c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed applications to amend 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.

Application No. 8048A-3 proposes to move 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.

Application No. 8048B-3 proposes to move 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.

The water sources for both systems is the James River and no increase in the diversion rate for number of acres irrigated is authorized by these applications. The remaining 217 acres authorized by Water Permit No. 8048-3 are located in the N 1/2 Section 36-T102N-R59W and will retain the diversion rate authority of 2.48 cfs.

State Law (SDCL 46-5-34) allows an irrigation water 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 of the current land. Mr. Wipf indicates his justification for Application No. 8048A-3 is the land is more suitable for irrigation. Application No. 8048B-3 is being transferred to small parcels of land to make the best utilization of the remaining acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8048A-3 and 8048B-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 December 9, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$103.78

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 issues(s), to wit:

Wednesday, November 27, 2019

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: \$103.78

Signed: Penny Hohbach

Subscribed and sworn to before me this 27th day of November, 2019.

Deb Townsend

Notary Public
County of Davison

My Commission Expires: 10-02-2024

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

DEB TOWNSEND
Seal
Notary Public
South Dakota

Affidavit of Publication

STATE OF SOUTH DAKOTA)

COUNTY OF HANSON:)

:SS

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 Alexandria, Hanson County, South Dakota, by MATT ANDERSON, and has been such a newspaper during the times hereinafter mentioned: that it has a 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 a publication: that I, the undersigned, am either the publisher@ or an employee of the said publisher@ of said newspaper and have personal knowledge of all the facts stated in the affidavit: that the advertisement headed

NOTICE OF APPLICATION NOS. 8048A-3 and 8048B-3

Notice is given that Rockport Hutterian Brethren c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed applications to amend 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.

Application No. 8048A-3 proposes to move 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.

Application No. 8048B-3 proposes to move 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.

The water sources for both systems is the James River and no increase in the diversion rate for number of acres irrigated is authorized by these applications. The remaining 217 acres authorized by Water Permit No. 8048-3 are located in the N 1/2 Section 36-T102N-R59W and will retain the diversion rate authority of 2.48 cfs.

State Law (SDCL 46-5-34) allows an irrigation water 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 of the current land. Mr. Wipf indicates his justification for Application No. 8048A-3 is the land is more suitable for irrigation. Application No. 8048B-3 is being transferred to small parcels of land to make the best utilization of the remaining acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8048A-3 and 8048B-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and

application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$41.91

11-28-1tc

Notice of Application Nos.

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

The first publication be made on 11-28-19

The second publication on _____

The third publication on _____

The fourth publication on _____

that 41.91 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 who-sever, and that said newspaper is a local newspaper under the law of the state of South Dakota

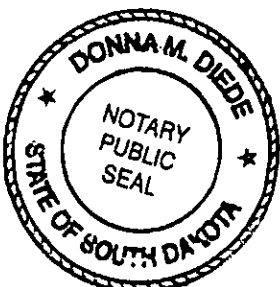
Matt Anderson

Subscribed and sworn to before me this 29

day of November 2019

Donna M. Diede

Notary Public, South Dakota



My commission expires 2/10/2

RECEIVED

DEC 05 2019

WATER RIGHTS PROGRAM

staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 December 9, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the

go to top

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, November 15, 2019 8:16 AM
To: phohbach@mitchellrepublic.com
Subject: 8048A-3 & 8048B-3, Rockport Httm Brethren
Attachments: 8048A-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on November 27, 2019.

Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 (605 770-6849) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, November 15, 2019 8:12 AM
To: 'ads@andersonpublications.com'
Subject: 8048A-3 & 8048B-3, Rockport Httm Brethren
Attachments: 8048A-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published the week of November 25, 2019 in the Alexandria Herald.

Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 (605 770-6849) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352





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 DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

November 15, 2019

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

Dear Mr. Wipf:

Water Permit Application Nos. 8048A-3 and 8048B-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 newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendationa of the Chief Engineer and report 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 the week of November 25, 2019. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 8048A-3 and 8048B-3

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Application No. 8048B-3 proposes to move 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.

The water sources for both systems is the James River and no increase in the diversion rate for number of acres irrigated is authorized by these applications. The remaining 217 acres authorized by Water Permit No. 8048-3 are located in the N 1/2 Section 36-T102N-R59W and will retain the diversion rate authority of 2.48 cfs.

State Law (SDCL 46-5-34) allows an irrigation water 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 of the current land. Mr. Wipf indicates his justification for Application No. 8048A-3 is the land is more suitable for irrigation. Application No. 8048B-3 is being transferred to small parcels of land to make the best utilization of the remaining acreage.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8048A-3 and 8048B-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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Published once at the total approximate cost of_____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

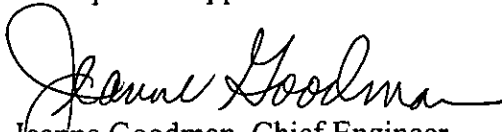
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8048A-3, Rockport Hutterian Brethren**

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

The Chief Engineer is recommending APPROVAL of Application No. 8048A-3 to transfer 208 acres and 2.37 cfs authorized by Water Permit No. 8048-3 because 1) 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. 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.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
November 15, 2019

REPORT ON WATER PERMIT APPLICATION NO. 8048A-3 & 8048B-3
Rockport Hutterian Bretheren
November 13, 2019

Application No. 8048A-3, proposes to amend 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.

Application Nos. 8048A-3 and 8048B-3 propose to move 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 2.37cfs.

Application No. 8048B-3 proposes to move 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 SW 1/4 Section 1 and the 37 acres to be located in the NE 1/4 NE 1/4 Section 1, S 1/2 NW 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.

The water sources for both systems is the James River and no increase in the diversion rate for number of acres irrigated is authorized by these applications. The remaining 217 acres authorized by Water Permit No. 8048-3 are located in the N 1/2 Section 36-T102N-R59W and will retain the diversion authority of 2.48 cfs.

State Law (SDCL 46-5-34) allows an irrigation water 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 of the current land. Mr. Wipf indicates his justification for Application No. 8048A-3 is the land is more suitable for irrigation. Application No. 8048B-3 is being transferred to small parcels of land to make the best utilization of the remaining acreage.

Review of the Proposed Project and Water Source

Applications Nos 8048A-3 an 8048B-3 propose to transfer 245 irrigated acres and diversion rate authority of 2.87 cfs from 8048-3. Figure 1 depicts the proposed irrigated acres and diversion locations.



Figure 1. Area map depicting the proposed irrigation and diversion locations for Application Nos. 8048A-3 and 8048B-3, Rockport Hutterian Brethren.

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

Mean, often referred to as average, and median, otherwise referred to as 50 percentile, are statistical terms having a similar role in understanding the central tendency of a set of statistical results. Mean is often used to describe a middle value of a set of data values and is calculated by

determining the sum of the data values and by dividing the sum by the number of data values. Median can be described as the value separating the higher half of a set of data values from the lower half and may be thought of as the central value of a data set. The disadvantage of using mean to describe flow is the mean value can be significantly affected by any single value in the data set being very high or very low compared to the rest of the data values. In the analysis of long-term flow data, large flood event data values skew the calculated mean value giving an unreasonable expectation of a higher flow value for a period of time. An example of this is shown in Figure 2, which is a comparison of the daily mean flow value versus the daily median flow value for the USGS James River gaging station, James River near Mitchell, SD USGS No. 06478000, (USGS. 2019). This illustrates an improbable expectation of more river flow during the months of irrigation.

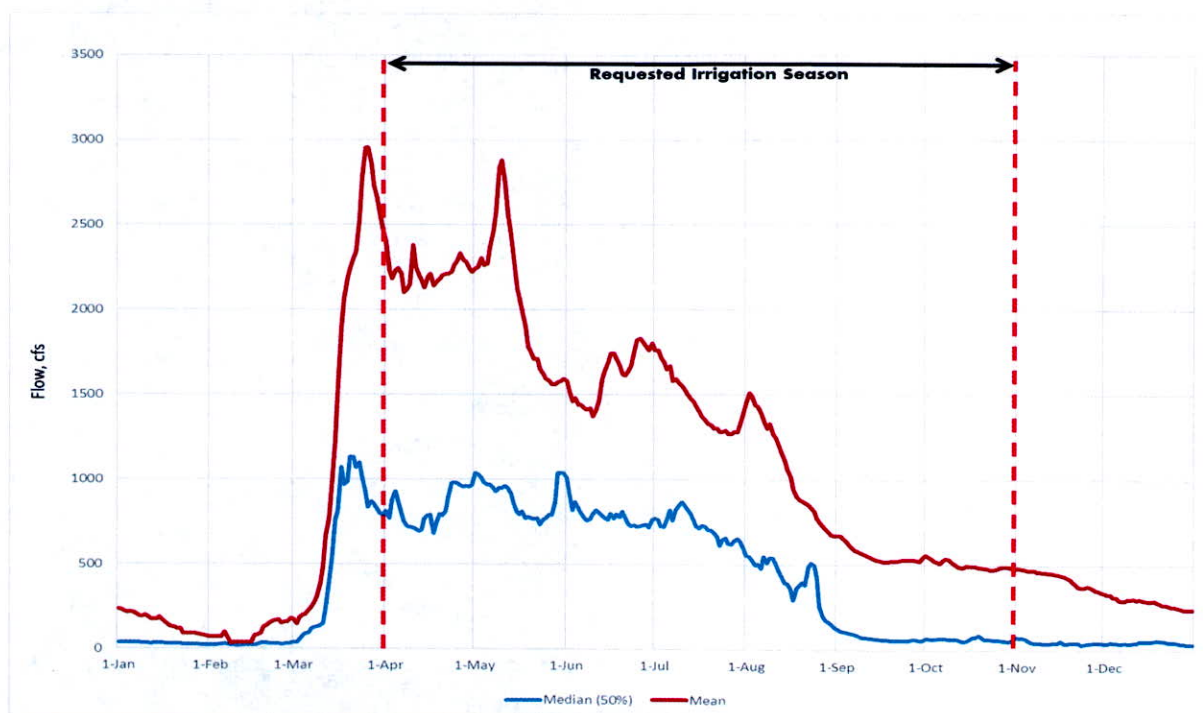


Figure 2. USGS No. 06478000 James River near Mitchell, Median versus Mean of daily flow values 1952-2019. Contributing drainage area of 17,037 mi² (USGS, 2019).

The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Mitchell, SD USGS No. 06478000, located approximately 12 river miles upstream of the proposed project, (USGS, 2019). The historical data from 1952 to 2019 for the Mitchell SD stream flow gage indicates at the 50-percentile level the mean daily flow indicates a base flow of less than 50 cfs from January through February before sharply increasing to above 600 cfs and holding that level of flow through July. From the first part of August through mid-September, flows steadily decrease to around 60 cfs until mid-November before dropping off to the winter month level of around 50 cfs. At the 10-percentile level, winter flows of 10 cfs or less are seen until early March before increasing to around 100 cfs during the month of April. At the beginning of May flows

begin to drop to around 60 cfs and holding that level until mid-July then drops to 20 cfs until mid-August. From mid-August until the end of December flows remain below 20 cfs (Figure 3).

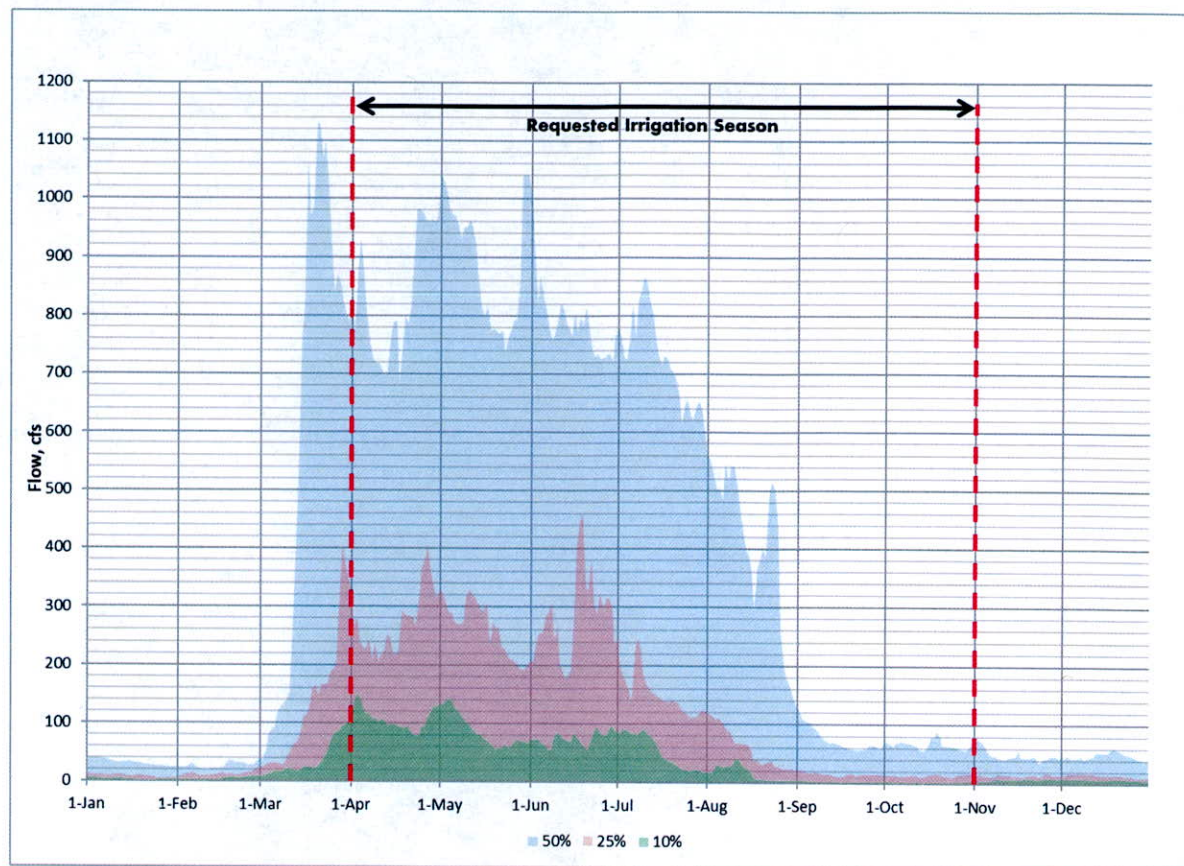


Figure 3. Daily percentile flow hydrograph for the USGS Stream Gage No. 06478000 James River near Mitchell, contributing drainage area 17,037 mi² SD, 1952-2019 (USGS, 2019)

The USGS also operates a stream flow gaging station on the James River near Scotland SD, approximately 39 river miles downstream of the proposed project. The historical data from 1928 to 2019 for the Scotland, SD stream flow gage indicates at the 50-percentile level the mean daily flow consists of a base flow of less than 60 cfs January to mid-February before sharply increasing to above 650 cfs and holding that level of flow through early July. From early July through September, flows steadily decrease to around 60 cfs until mid-November before dropping off to the winter month level of around 50 cfs. At the 10-percentile level, winter flows of 20 cfs or less are seen until early March before increasing to around 60 cfs in April through the first part of June. In early June flows begin to drop to around 20 cfs until mid-July then dropping to less than 20 cfs until the end of December (Figure 4).

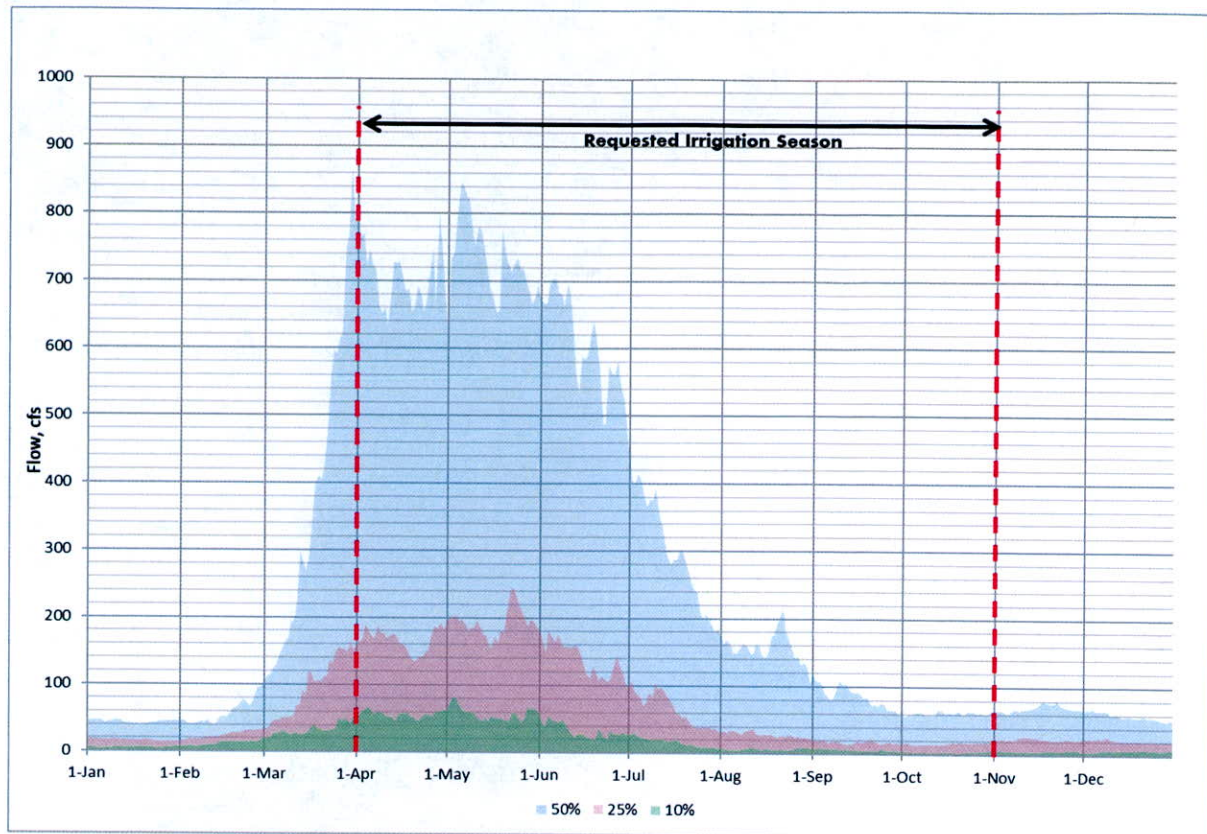


Figure 4. Daily percentile flow hydrograph for the USGS Stream Gage No. 06478500 James River near Scotland, contributing drainage area 18,616 mi² SD, 1928-2019 (USGS, 2019).

USGS historical data for the Mitchell SD and Scotland SD stream flow gages show similar results and indicate water is available in the James River during normal to wetter climatic conditions for the April through October annual period. During late summer and early fall months, the James River cannot be considered a reliable source of water. To address low flow conditions, the James River is subject to shut-off orders.

Review of Existing Water Rights and Current Appropriation

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 the 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 (SD Water Rights, 2019). The Water Management Board has adopted these James River diversion limits. Based upon the current level of appropriation 299.99 cfs for river water from the North Dakota border to the Yankton-Hutchinson County Line, appropriations are within 0.01 cfs of the Water Management Board set limits.

Presently there are 109 Water Rights with diversions from the James River totaling 299.99-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 174.30-cfs. This leaves 0.01-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line, (SD Water Rights. 2019).

If these permit applications are approved, the authorized diversion from the James River will remain at the 299.99 cfs of maximum 300 cfs diversion limit set by the Water Management Board.

Discussion and Review of Qualifications

State Law (SDCL 46-5-34) allows an irrigation water 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. Rockport Hutterian Brethren indicate they would like to relocate current location of some of the irrigation authorized by Water Right No. 8048-3 to a more suitable location.

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 (SD Water Rights. 2017).

Therefore, if approved, Application No. 8048A-3 and 8048B-3 should contain the following qualifications:

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when there is less than 20 cfs by-passing the gage near Scotland, SD after pumping.

Conclusions

1. The applicant proposes to make changes to an existing James River Water Right No. 8048-3 by changing the location of some of the irrigated acres and adding a diversion point.

2. Application No. 8048A-3 proposes to move the location of 208 acres but retain the same diversion point for with a diversion rate of 2.37 cfs.
3. Application No. 8048B-3 proposes to move the location of 37 acres and the associated diversion rate authority of 0.50 cfs. There will also be an additional diversion location.
4. The water source for the proposed project is the James River in Hanson County. 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 the North Dakota border to Huron, SD. Based upon the current level of appropriation 299.99 cfs for river from the North Dakota border to the Yankton-Hutchinson County Line, appropriations are within 0.01 cfs of the Water Management Board set limits.
5. In 2007 the Water Management Board adopted standardized qualifications and amended the existing water rights/permits for current and future James River water rights and permits. If approved, Application No. 8048A-3 and 8048B-3 should contain the following qualifications:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20 cfs by-passing the gage at Scotland, SD after pumping.



Mark D. Rath

Natural Resources Engineer III

References

1. USGS. 2018. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2018. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

FEB 06 2020

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

Dear Mr. Wipf:

Enclosed are Water Permit Nos. 8048A-3 and 8048B-3 authorizing construction of the 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 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



**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**

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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
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PIERRE SD 57501-3182
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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
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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