

WATER PERMIT NO. 8292-3

Name of Applicant: **Glendale Hutterian Brethren**

Address: **17866 Glendale Drive, Frankfort SD 57440**

Phone: **605 460-0013**

Amount of Water Claimed: **no additional**

Total Acres: **no additional**

Source of Water Supply: **James River**

Water to be used for: **irrigation**

County: **Spink**

Type of Waste Disposal System:

Location: **9 miles south of Frankfort**

PRIORITY

Date Received: **6-9-17**

Application/License Fee: **\$ 300**

Corrected Application Received:

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

Remarks: **transferring acres and diversion rate authority under No.7426-3 and transfer acres under No. 1943-3 by shifting pivot to west 1320 feet. Also transfer 18 acres under no. 7429-3**

Diversion Point:

Land to be Irrigated:

Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **6-19-17**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8292C-3

Date of first receipt of application June 9, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8292C-3 to Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 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. 8292C-3 authorizes transferring 25 acres authorized by Water Permit No. 7426-3 to the NW 1/4 SW 1/4 Section 33-T116N-R62W and utilizes the existing pump station and diversion rate authority under Water Right No. 6589A-3. The James River diversion point authorized by Water Right No. 6589A-3 is located in the NW 1/4 SW 1/4 Section 33-T116N-R62W. No increase in the diversion rate authority from the James River or the number of acres irrigated is authorized by this permit.
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: May 1 – October 15.
3. The date from which applicant may claim right is September 11, 2012 (established by Water Permit No. 7426-3).
4. The date of approval of Permit No. 8292C-3 is August 21, 2017.
5. All construction is to be completed on or before December 17, 2017.
6. Water is to be put to beneficial use on or before December 17, 2021.
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:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The September 11, 2012, priority date established by Water Permit No. 7426-3 is retained.

WATER MANAGEMENT BOARD

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

JAN 09 2018
date



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8292-3</u> (office use only)	Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Redfield Press</u>	
	<u>Plainsman</u>	

RECEIVED

JUN - 9 2017

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.)

transferring acres and diversion rate authority under Water Permit No. 7426-3 and transfer acres under No. 1943-3 by shifting pivot to the west 1,320 feet. Also transfer 18 acres under Permit No. ~~7429-3~~

1. Name to Appear on Irrigation Permit Glendale Hutterian Brethren 7479-3

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

Mailing Address 17866 Glendale Drive Frankfort SD 57440
(Address) (City) (State) (Zip Code)

Phone 605 472-1247 Mobile 460-0013 Email _____

2. Amount of water claimed no addl *CFS or no addl **GPM no addl ***AF Total Acreage no addl
(*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 see attached sheet
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used May 1 - October 15

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 1/4SE 1/4 Section 29 - T116N-R62W	27.5	NW 1/4 SW 1/4 Section 33, T116N, R62W	25
NE 1/4SE 1/4 Section 29 - T116N-R62W	27.5	NE 1/4 NW 1/4 Section 4, T115N, R62W	18
SW 1/4SE 1/4 Section 29 - T116N-R62W	27.5	SE 1/4 SW 1/4 Section 9, T115N, R62W	14
SE 1/4SE 1/4 Section 29 - T116N-R62W	27.5	SW 1/4 SE 1/4 Section 9, T115N, R62W	11

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

See Attached Sheet	NW 1/4 NE 1/4 Section 4, T115N, R62W - 25 acres
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I, John Kleinsasser John Kleinsasser, the applicant, certify under
Name of Person Title (if applicable)

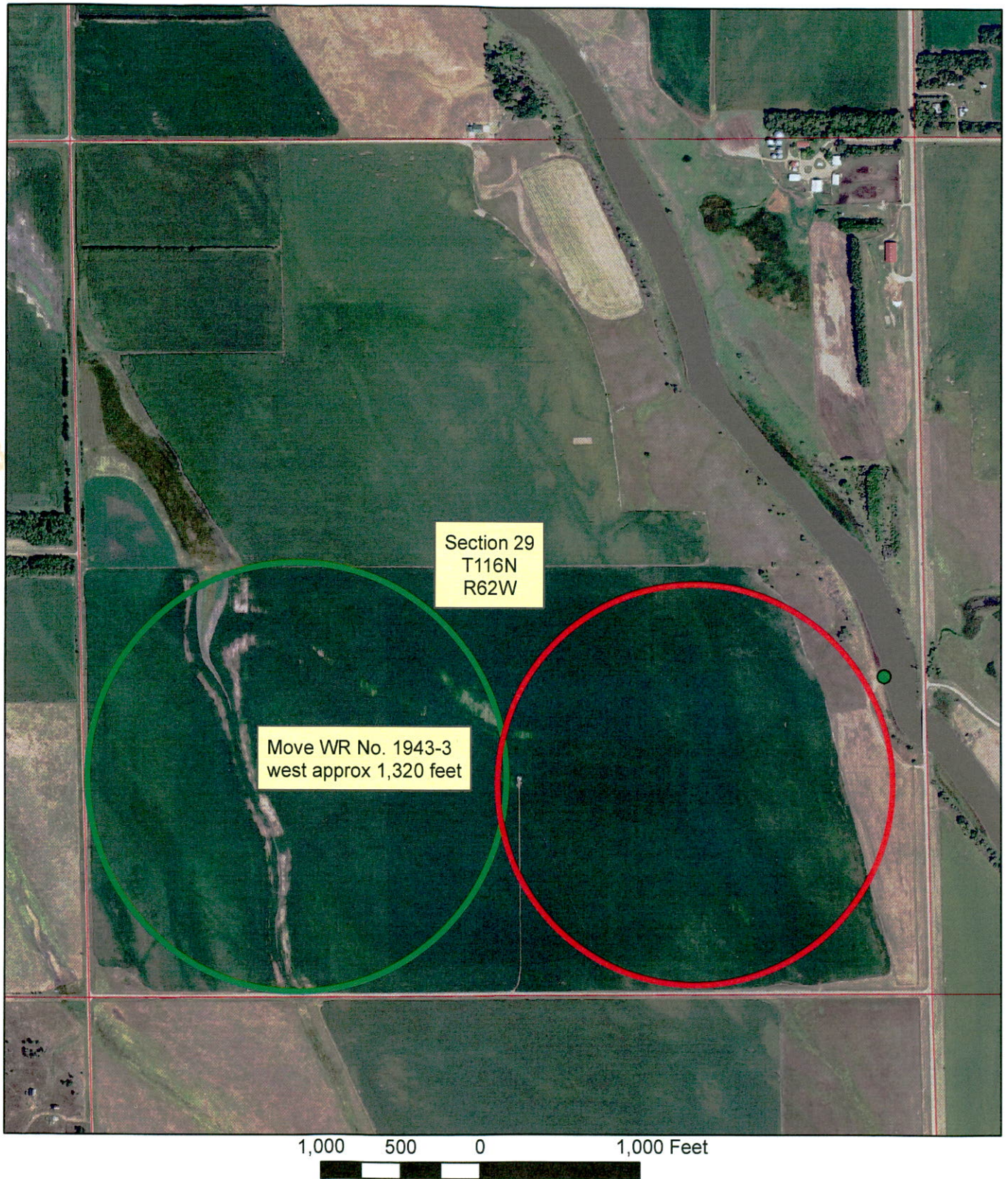
penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

Explanation of Glendale Colony water permit application

Application intends the following:

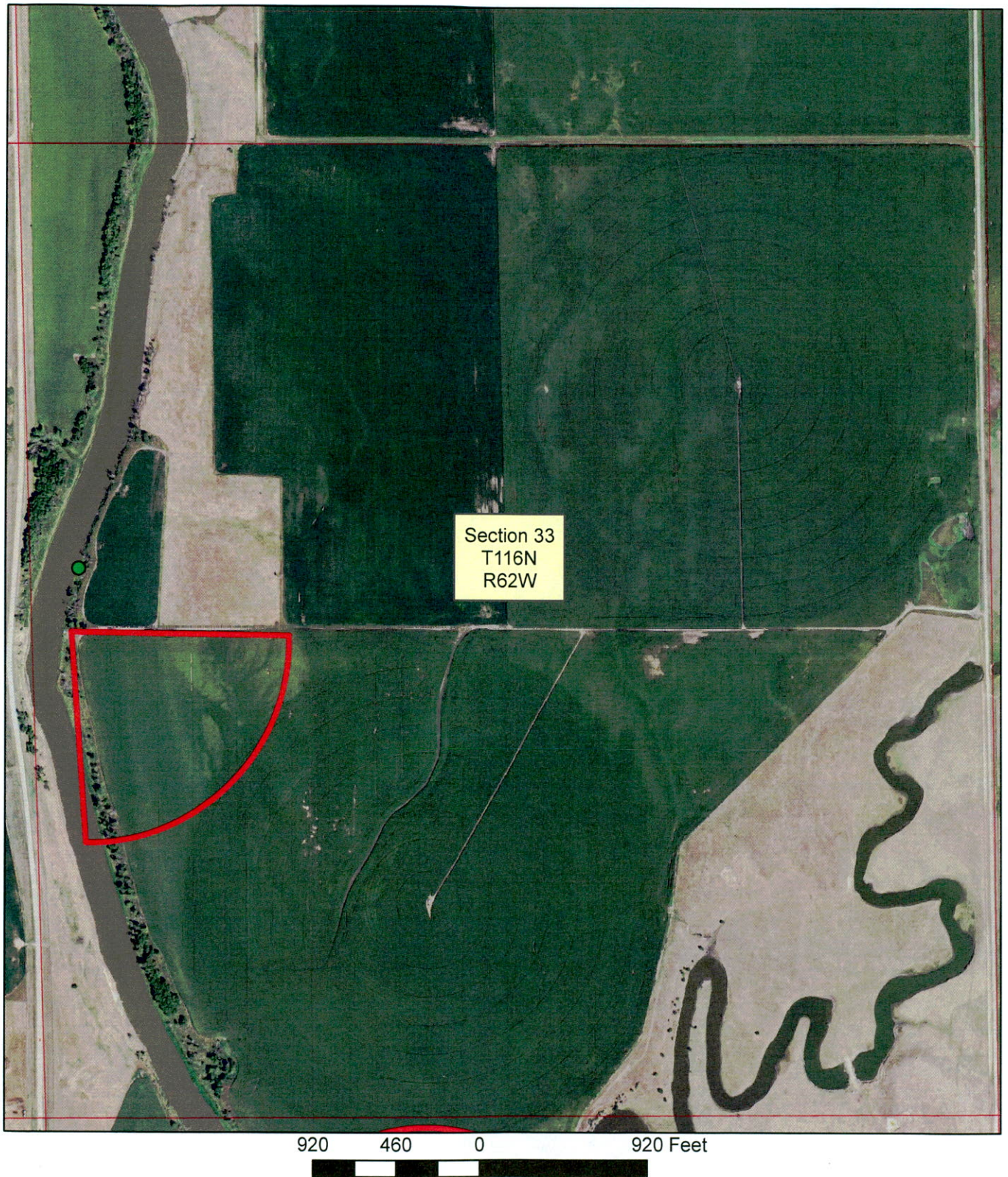
1. Shift the center pivot authorized by Water Right No. 1943-3 approximately 1,320 feet to the west in a manner that the center pivot irrigates 132 acres in the SW $\frac{1}{4}$ Section 29, T116N, R62W. Breakdown of acres is 33 acres in each quarter-quarter section.
2. Transfer 110 acres and 1.45 cfs (650 gpm) authorized by Water Permit No. 7426-3 to the SE $\frac{1}{4}$ Section 29, T116N, R62W. Breakdown of acres given on the application. The pump station will be at the same location as the pump site for Water Right No. 1943-3 (NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29, T116N, R62W).
3. Transfer 25 acres authorized by Water Permit No. 7426-3 to the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T116N, R62W. Utilize existing pump station and diversion rate authority under Water Right No. 6589A-3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T116N, R62W).
4. Transfer 25 acres to the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, T115N, R62W and 0.59 cfs (265 gpm) of diversion rate authority authorized by Water Permit No. 7426-3 to a new pump site located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 9, T115N, R62W. This is over the statutory limit of 1 cfs per 70 acres and is due to the fact a standard quarter section pivot will make a little less than a $\frac{1}{4}$ rotation. Pump will be controlled to a rate not greater than 265 gpm.
5. Transfer 25 acres to the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 4, T115N, R62W and 0.59 cfs (265 gpm) of diversion rate authority authorized by Water Permit No. 7426-3 and 18 acres to the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4-T115N-R62W and no diversion rate authority under Permit No. 7479-3 to a new pump site located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 4, T115N, R62W.



Map reflects shifted acreage under Water Right No. 1943-3 one quarter mile to the west & transfer of 110 acres and 1.45 cfs of diversion authority from Permit No. 7426-3 to the SE 1/4 Section 29, T116N, R62W

Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
prepared based on representation by
John Kleinsasser



Map reflects transfer of 25 acres from Permit No. 7426-3 to the NW 1/4 SW 1/4 Section 33, T116N, R62W. Use existing pump station and diversion rate authority under Water Right No. 6589A-3

Eric Gronlund

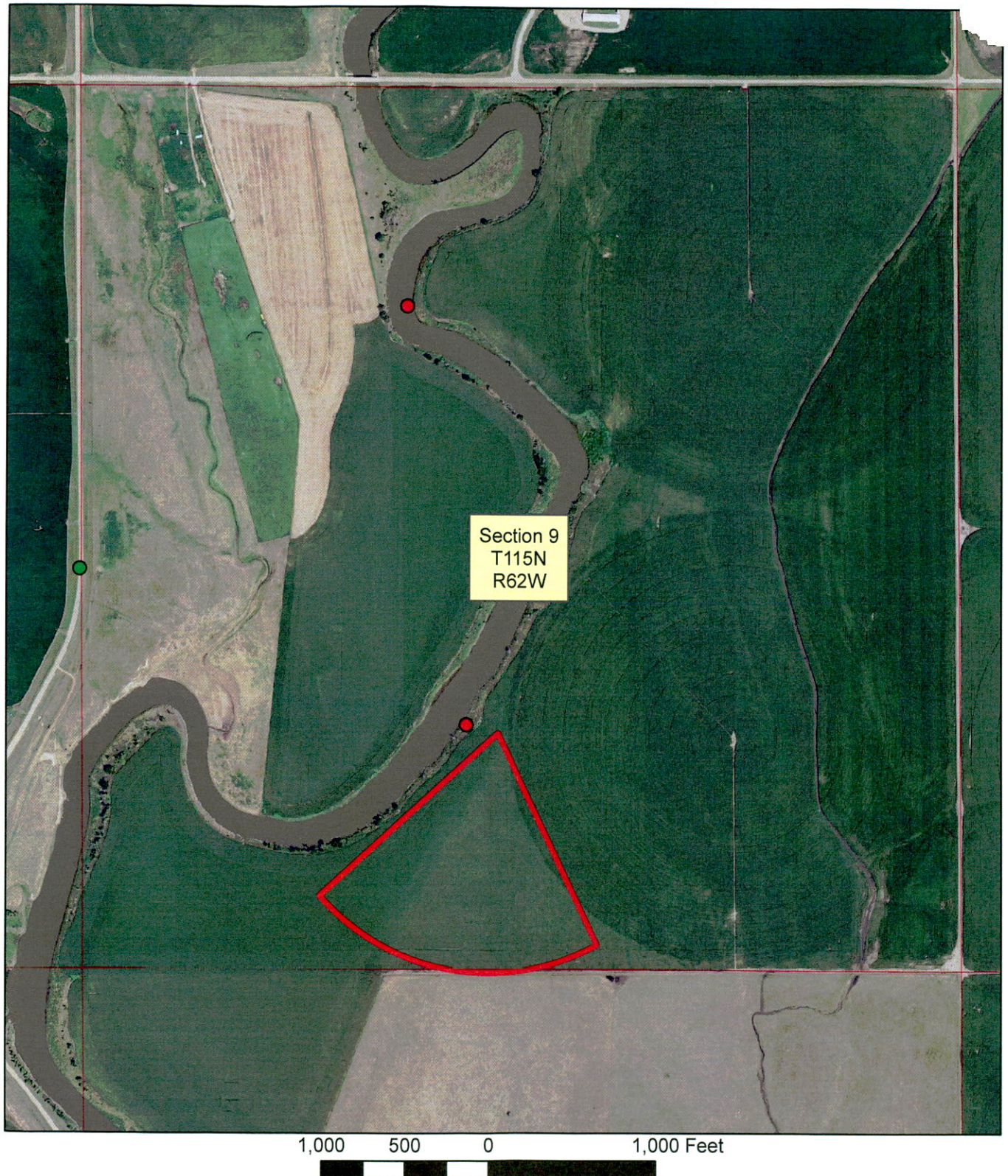
Eric Gronlund
Water Rights Program, DENR
prepared based on representation by
John Kleinsasser



Map reflects transfer of 25 acres and diversion rate authority of 0.59 cfs from Permit No. 7426-3 to the NE 1/4 NW 1/4 Section 4, T115N, R62W and transfer of 18 acres under No. 7429-3 to the NW 1/4 NE 1/4 Section 4, T115N, R62W from Permit No. 7429-3. New pump site in the NE 1/4 NW 1/4 Section 4, T115N, R62W.



check
Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
prepared based on representation by
John Kleinsasser



Map reflects transfer of 25 acres to the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9, T115N, R62W and 0.59 cfs (265 gpm) of diversion rate authority authorized by Water Permit No. 7426-3 to a new pump site located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 9, T115N, R62W. This is over the statutory limit of 1 cfs per 70 acres and is due to the fact a standard quarter section pivot will make a little less than a $\frac{1}{4}$ rotation. Pump will be controlled to a rate not greater than 265 gpm.



Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
prepared based on representation by
John Kleinsasser

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 12, 2017

RECEIVED OF Glendale Lutheran Brethren 17866 Drive Frankfor, SD 57440

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

Fee for Application for Permit No. <u>8292-3</u> to Appropriate Water, to construct and to put water to beneficial use	300	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>8292-3</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. **08268**

By

Janne Nordman *Jm*
Chief Engineer

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JUL 05 2017

WATER RIGHTS
PROGRAM

6-27-17
DATE

Jeanne Goodman, Chief Engineer
Water Rights Program, DENR
523 E Capitol Avenue
Pierre SD 57501

Dear Ms. Goodman:

The Spink Hutterian Brethren agrees to the transfer of Water Permit No. 7426-3 to Glendale Hutterian Brethren for the purpose of Glendale transferring the acres to new land.

Paul P. Wijn
Spink Hutterian Brethren



**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. 8292C-3, Glendale Hutterian Brethren**

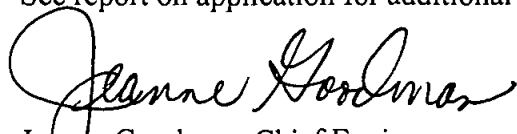
Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8292C-3, Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440.

Application No. 8292-3 proposes to make multiple changes involving existing James River water rights/permits. In making the recommendation, Application No. 8292-3 is split into Nos. 8292A-3 through 8292E-3 for the purposes of reflecting the irrigation systems that will be in place and for ease of reporting on the annual irrigation questionnaire.

The Chief Engineer is recommending APPROVAL of Application No. 8292C-3 to transfer 25 acres authorized by Water Permit No. 7426-3 to the NW1/4 SW1/4 Section 33-T116N-R62W and utilize existing pump station and diversion rate authority under Water Right No. 6589A-3 (NW1/4 SW1/4 Section 33-T116N-R62W) 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. Diversion of water from the James River shall be in accordance with the following criteria:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The September 11, 2012, priority date established by Water Permit No. 7426-3 is retained.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
July 31, 2017

REPORT ON WATER PERMIT APPLICATION NO. 8292-3

Glendale Hutterian Brethren

July 24, 2017

Application No. 8292-3, Glendale Hutterian Brethren, proposes to transfer portions of acreage and diversion rate authority authorized by Water Permit/Right Nos. 1943-3, 6589A-3, 7426-3, and 7479-3 which appropriate water from the James River for irrigation.

Water Right No. 1943-3 appropriates 1.89 cubic feet of water per second (cfs) from the James River at a point located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29 to irrigate 132 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 29 T116N-R62W. The applicant intends to shift the center pivot authorized by Water Right No. 1943-3 approximately 1,320 feet to the west in a manner that the center pivot irrigates 132 acres in the SW $\frac{1}{4}$ Section 29 T116N-R62W.

Water Permit No. 7426-3 appropriates 2.63 cfs from the James River located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, to irrigate 185 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16; all in T115N-R62W. Water Permit No. 7479-3 appropriates 3.56 cfs from the James River located at a point between the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9 for irrigation of 320 acres located in the E $\frac{1}{2}$ Section 10; all in T115N-R62W. Application No. 8292-3 includes:

- Transfer 110 acres and 1.45 cfs authorized by Water Permit No. 7426-3 to the SE $\frac{1}{4}$ Section 29-T116N-R62W. The pump station will be at the same location as the pump site for Water Right No. 1943-3.
- Transfer 25 acres authorized by Water Permit No. 7426-3 to the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33-T116N-R62W. Utilize existing pump station and diversion rate authority under Water Right No. 6589A-3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33 T116N-R62W).
- Transfer 25 acres to the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9-T115N-R62W and 0.59 cfs of diversion rate authority authorized by Water Permit No. 7426-3 to a new pump site located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 9-T115N-R62W. This is over the statutory limit of 1 cfs per 70 acres.
- Transfer 25 acres and 0.59 cfs (265 gpm) of diversion rate authority authorized by Water Permit No. 7426-3 and 18 acres and no diversion rate authority under Permit No. 7479-3 to a new pump site located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 4-T115N-R62W for irrigation of 43 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4-T115N-R62W.

No increase in diversion rate authority from the James River or the number of irrigation acres is authorized by this application. The water will be used for irrigation. The proposed project is located 9 miles south of Frankfort in Spink County.

Review of the Proposed Project

The applicant is proposing making multiple changes involving several existing James River water rights/permits including the relocation of irrigated acres, moving diversion points and reassigning diversion rate authority. The existing water rights/permits involved are Nos. 1943-3, 6589A-3, 7426-3, and 7479-3.

The first proposed changes involve Water Right No. 1943-3 and Water Permit No. 7426-3, (Figure 1).

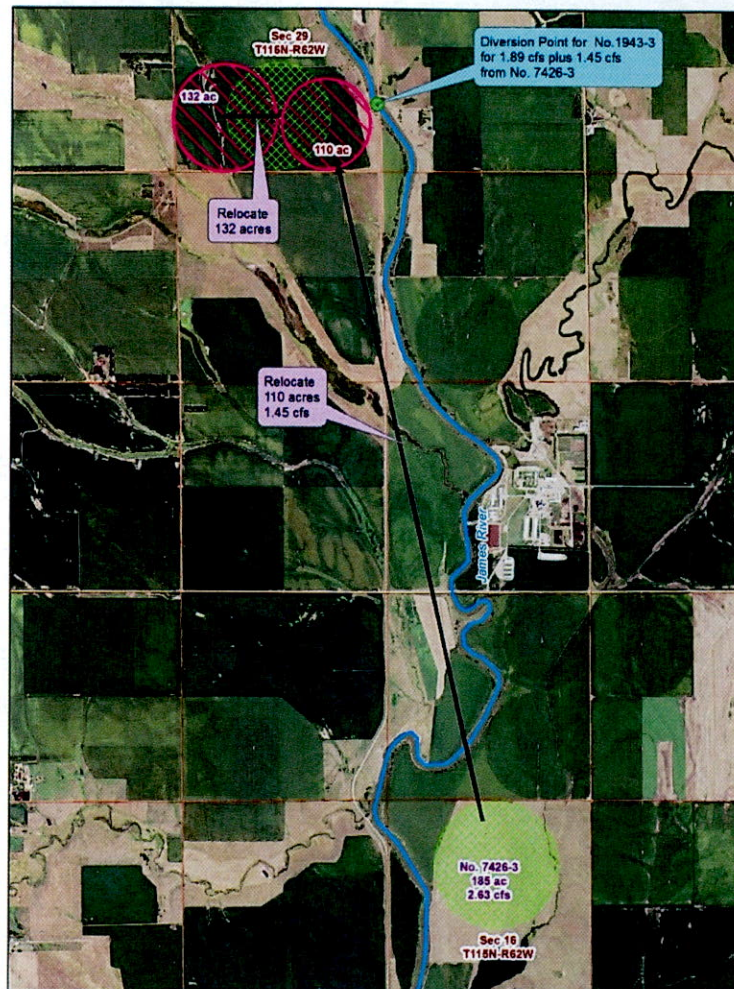


Figure 1. Map for irrigation proposed for Section 29 T116N-R62W for Application No. 8292-3, Glendale Hutterian Brethren.

The applicant proposes to relocate a center pivot used to irrigate 132 acres in the W $\frac{1}{2}$ SE $\frac{1}{4}$ & E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29 authorized by No. 1943-3 and moving it west 1320 feet so that center pivot irrigates 132 acres located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ & E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29; all in T 116N-R62W. The diversion point will remain in the same location as authorized by No. 1943-3. The

applicant also proposes to relocate 110 acres from Section 16 T115N-R52W and diversion authority for 1.45 cfs, authorized by No. 7426-3. These acres will be relocated approximately 3.5 miles north to the SE $\frac{1}{4}$ of Section 29. The 1.45 cfs of diversion authority will be relocated to the existing diversion point for No. 1943-3 located in the SE $\frac{1}{4}$ of Section 29 T116N-R62W.

The second proposed changes involve Water Permit No. 7426-3 and Water Right No. 6589A-3, (Figure 2). The applicant also proposes to relocate 25 acres from Section 16 T115N-R52W authorized by No. 7426-3 north approximately 2.5 miles to the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33-T116N-R62W. The applicant also proposes to share the diversion authority and utilize the same diversion point authorized by No. 6589A-3 located in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33- T116N- R62W.

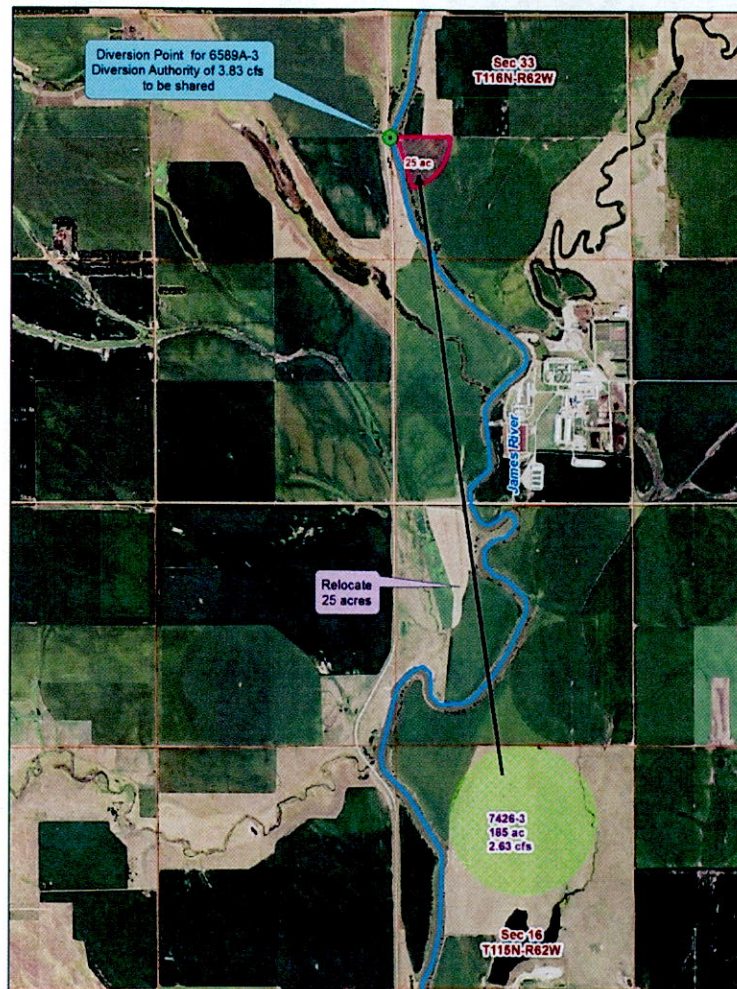


Figure 2. Map for irrigation proposed for Section 33 T116N-R62W for Application No. 8292-3, Glendale Hutterian Brethren.

The third proposed change involves Water Permit No. 7426-3, (Figure 3). The applicant proposes to relocate 25 acres from Section 16 T115N-R52W authorized by No. 7426-3 north approximately 0.5 miles north to the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9-T115N- R62W. The

applicant also proposes to move the diversion authority for 0.59 cfs authorized by No. 7426-3 to a new diversion point located in W ½ Section 33- T116N- R62W. The proposed change includes a requested diversion rate for these acres over the statutory limit of 1 cfs per 70 acres.

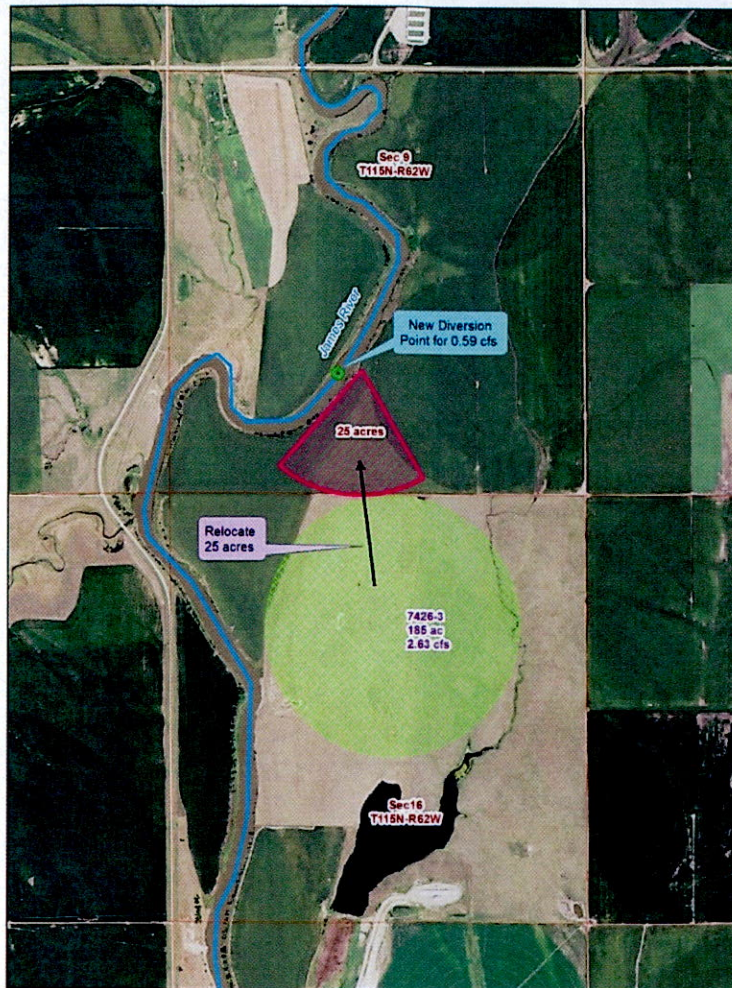


Figure 3. Map for irrigation proposed for Section 9 T115N-R62W for Application No. 8292-3, Glendale Hutterian Brethren.

The fourth proposed changes involve Water Permit No. 7426-3 and 7479-3, (Figure 4). The applicant also proposes to relocate 25 acres from Section 16 T115N-R62W authorized by No. 7426-3 north approximately 2.0 miles and 18 acres authorized by No. 7479-3 northwest approximately 1.3 miles to the NE ¼ SW ¼ Section 9-T115N- R62W. The applicant also proposes to move the diversion authority for 0.59 cfs to a new diversion point in the E ½ NW ¼ of Section 4-T115N-R62W.

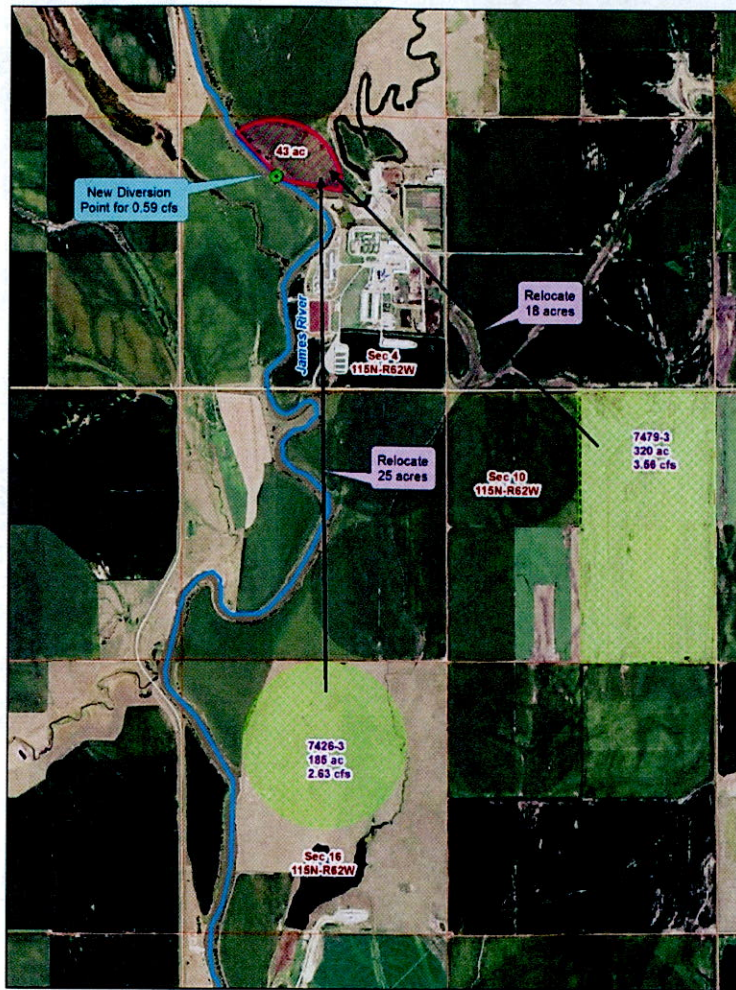


Figure 4. Map for irrigation proposed for Section 4 T115N-R62W for Application No. 8292-3, Glendale Hutterian Brethren.

Review of Water Source

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.

The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Ashton, SD, approximately 38 river miles upstream of the proposed project, (USGS. 2017). The historical data from 1945 to 2016 for the Ashton SD stream flow gage indicates at the 50-percentile the monthly mean flow could range from 19 to 489 cfs April through October of any given year, (Table 1).

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	0.0	0.0	0.1	14.6	15.0	8.9	1.1	0.0	0.0	0.0	0.0	0.0
25%	0.0	0.1	4.6	64.0	116.4	91.4	56.9	15.6	0.8	0.0	0.1	0.1
50%	9.7	4.7	48.7	298.7	470.4	345.8	207.4	104.9	33.8	20.6	36.9	28.3
75%	50.5	33.6	209.5	804.2	1047.7	871.8	813.6	637.1	337.4	250.0	198.0	115.0
90%	140.8	101.4	432.8	2207.3	2426.1	1825.0	1427.7	1223.5	988.4	688.5	558.1	284.0

Table 1. James River Percentile of Monthly Mean Flow (cfs) Ashton SD, (USGS. 2017).

The U.S. Geological Survey (USGS) also operates a stream flow gaging station on the James River at Huron SD, approximately 39 river miles downstream of the proposed project. The historical data from 1943 to 2010 for the Huron, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 33 to 573 cfs May through October of any given year, (Table 2).

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	0.0	0.0	6.4	30	24	17	1.7	0.0	0.0	0.0	0.0	0.0
25%	0.7	3.2	31	108	162	113	66	22	0.8	0.0	0.0	0.5
50%	28	27	124	527	573	440	229	131	53	33	38	39
75%	81	78	599	1379	1208	1103	914	738	350	265	219	147
90%	198	213	1885	4715	4364	2710	1732	1429	1159	867	650	327

Table 2. James River Percentile of Monthly Mean Flow (cfs) Huron SD, (USGS. 2017).

USGS historical data for the Ashton SD and Huron 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 may be subject to shut-off orders.

Review of Existing Water Rights and Current Appropriation

Presently there are 102 Water Rights with diversions from the James River totaling 299.76-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 179.27-cfs. This leaves 0.24-cfs to be appropriated anywhere from the North Dakota border to the Yankton-Hutchinson County Line, (SD Water Rights. 2017).

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. 2017). Based upon the current level of appropriation 299.76 cfs for river from the North Dakota border to the

Yankton-Hutchinson County Line, appropriations are within 0.24 cfs of the Water Management Board set limits.

Discussion and Review of Qualifications

The applicant proposes to make multiple changes involving several existing James River water rights/permits including the relocation of irrigated acres, moving of diversion points and reassigning diversion authority. There will be no net increase in the number of acres irrigated, authorized diversion rate, or volume of water that can be diverted.

One of the requested changes involves moving diversion points, diversion rate authority and relocating acres such that the requested diversion rate for those acres would be over the statutory limit of 1 cfs per 70 acres. South Dakota Codified Law, SDCL 46-5-6 states the Water Management Board may allow a greater diversion rate of water equivalent of 1 cfs per 70 acres if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. The applicant will be applying irrigation by means of sprinkler irrigation systems.

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. 8292-3 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 Huron, SD after pumping.

Conclusions

1. This application proposes to make multiple changes involving several existing water James River rights/permits including the relocation of irrigated acres, moving of

diversion points and reassigning diversion authority. The existing water rights/permits involved are Nos. 1943-3, 6589A-3, 7426-3, and 7479-3.

2. The water source for the proposed project is the James River in Spink 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 299.76 cfs for river from the North Dakota border to the Yankton-Hutchinson County Line, appropriations are within 0.24 cfs of the Water Management Board set limits.
3. 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. 8292-3 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 Huron, SD after pumping.
4. SDCL 46-5-6 states the Water Management Board may allow a greater diversion rate of water equivalent of 1 cfs per 70 acres if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. The applicant will be applying irrigation by means of sprinkler irrigation systems.



Mark D. Rath
Natural Resources Engineer III

References

1. Water Rights. 2017. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

2. USGS. 2017. United States Geological Survey National Water Information System: USGS Water Data for South Dakota. <https://waterdata.usgs.gov/sd/nwis/nwis>

PRINTER'S AFFIDAVIT

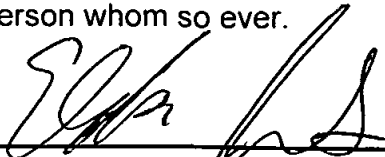
STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

I, ELDON JACOBS, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

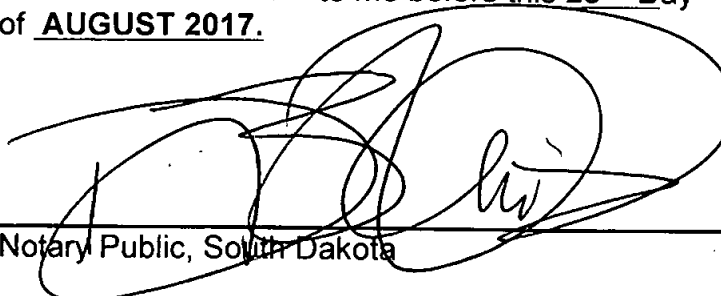
JERRY KLEINSSASER- #3177 WATER RIGHTS

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 9TH Day AUGUST 2017.

That the full amount of the fee charged for publishing SIXTY-ONE & 12/100 dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.



Subscribed and sworn to me before this 28TH Day of AUGUST 2017.



Notary Public, South Dakota

My term expires 03/11/2022
Legal #3177

RECEIVED

AUG 29 2017

WATER RIGHTS
PROGRAM

FP 08-09-17

NOTICE OF APPLICATION NO. 8292-3 to Amend Nos. 1943-3, 7426-3 and 7479-3

Notice is given that Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440 has filed an application for a water permit to transfer portions of acreage and diversion rate authority authorized by Water Permit/Right Nos. 1943-3, 7426-3 and 7479-3 which appropriate water from the James River for irrigation.

Water Right No. 1943-3 appropriates 1.89 cubic feet of water per second (cfs) from the James River at a point located in the NE1/4 SE1/4 Section 29 to irrigate 132 acres in the E 1/2 SW 1/4, W1/2 SE1/4 Section 29- T116N-R62W. The applicant intends to shift the center pivot authorized by Water Right No. 1943-3 approximately 1,320 feet to the west in a manner that the center pivot irrigates 132 acres in the SW1/4 Section 29-T116N-R62W.

Water Permit No. 7426-3 appropriates 2.63 cfs from the James River located in the SW1/4 NW1/4 Section 16, to irrigate 185 acres located in the E1/2 NW1/4, NE1/4, NE1/4 SW1/4, NW1/4 SE1/4 Section 16; all in T115N-R62W. Water Permit No. 7479-3 appropriates 3.56 cfs from the James River located at a point between the NE1/4 SW1/4 Section 4 and NW1/4 SE1/4 Section 9 for irrigation of 320 acres located in the E1/2 Section 10; all in T115N-R62W. Application No. 8292-3 includes:

Transfer 110 acres and 1.45 cfs authorized by Water Permit No. 7426-3 to the SE1/4 Section 29-T116N-R62W. The pump station will be at the same location as the pump station for Water Right No. 1943-3.

Transfer 25 acres authorized by Water Permit No. 7426-3 to the NW1/4 SW1/4 Section 33-T116N-R62W. Utilize existing pump station and diversion rate authority under Water Right No. 6589A-3 (NW1/4 SW1/4 Section 33-T116N-R62W).

Transfer 25 acres to the SE1/4 SW1/4 and SW1/4 SE1/4 Section 9-T115N-R62W and 0.59 cfs of diversion rate authority authorized by Water Permit No. 7426-3 to a new pump site located in the E1/2 SW1/4 Section 9-T115N-R62W. This is over the statutory limit of 1 cfs per 70 acres.

Transfer 25 acres and 0.59 cfs (265 gpm) of diversion rate authority authorized by Water Permit No. 7426-3 and 18 acres and no diversion rate authority under Permit No. 7479-3 to a new pump site located in the NE1/4 NW1/4 Section 4-T115N-R62W for irrigation of 43 acres in the NE1/4 NW1/4 and NW1/4 NE1/4 Section 4-T115N-R62W.

No increase in diversion rate authority from the James River or the number of irrigation acres is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8292-3 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. If approved, at the time of issuance, Permit No. 8292-3 will be split into Nos. 8292A-3 through 8292E-3 for the purpose of reflecting the individual systems that will be in place as described above. 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 August 21, 2017.

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.

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

No. 3177 (adv.)

Published once at the total approximate cost of \$61.12.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

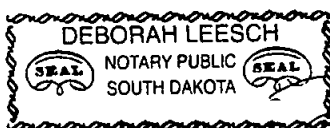
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#2506 NOTICE OF APPLICATION

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on August 9th, 2017, that Forty-seven and 49/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.



Subscribed and sworn to before me this 9th day of August, 2017.




Notary Public, South Dakota

My commission expires 10/09/2019

RECEIVED

AUG 14 2017

WATER RIGHTS
PROGRAM

Notice of Application

#2506

NOTICE OF APPLICATION NO. 8292-3 to Amend Nos. 1943-3, 7426-3 and 7479-3

Notice is given that Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440 has filed an application for a water permit to transfer portions of acreage and diversion rate authority authorized by Water Permit/Right Nos. 1943-3, 7426-3 and 7479-3 which appropriate water from the James River for irrigation.

Water Right No. 1943-3 appropriates 1.89 cubic feet of water per second (cfs) from the James River at a point located in the NE1/4 SE1/4 Section 29 to irrigate 132 acres in the E 1/2 SW 1/4, W1/2 SE1/4 Section 29- T116N- R62W. The applicant intends to shift the center pivot authorized by Water Right No. 1943-3 approximately 1,320 feet to the west in a manner that the center pivot irrigates 132 acres in the SW1/4 Section 29- T116N-R62W.

Water Permit No. 7426-3 appropriates 2.63 cfs from the James River located in the SW1/4 NW1/4 Section 16, to irrigate 185 acres located in the E1/2 NW1/4, NE1/4, NE1/4 SW1/4, NW1/4 SE1/4 Section 16; all in T115N-R62W. Water Permit No. 7479-3 appropriates 3.56 cfs from the James River located at a point between the NE1/4 SW1/4 Section 4 and NW1/4 SE1/4 Section 9 for irrigation of 320 acres located in the E1/2 Section 10; all in T115N-R62W. Application No. 8292-3 includes:

- Transfer 110 acres and 1.45 cfs authorized by Water Permit No. 7426-3 to the SE1/4 Section 29-T116N-R62W. The pump station will be at the same location as the pump site for Water Right No. 1943-3.
- Transfer 25 acres authorized by Water Permit No. 7426-3 to the NW1/4 SW1/4 Section 33-T116N-R62W. Utilize existing pump station and diversion rate authority under Water Right No. 6589A-3 (NW1/4 SW1/4 Section 33-T116N- R62W).
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No increase in diversion rate authority from the James River or the number of irrigation acres is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8292-3 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. If approved, at the time of issuance, Permit No. 8292-3 will be split into Nos. 8292A-3 through 8292E-3 for the purpose of reflecting the individual systems that will be in place as described above. 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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Steven M. Pirner, Secretary
Department of Environment
and Natural Resources

Published one time at the total
approximate cost of \$47.49. (Aug. 9)

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, August 01, 2017 8:15 AM
To: 'office.redpress@midconetwork.com' (office.redpress@midconetwork.com)
Subject: 8292-3, Glendale Hutterian Brethren
Attachments: 8292-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 9, 2017.

Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 (605 472-1247 or cell 605 460-0013) 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: Tuesday, August 01, 2017 8:16 AM
To: Ruby Crandall (rnewman.plainsman@midconetwork.com)
Subject: 8292-3, Glendale Hutterian Brethren
Attachments: 8292-3public.short.docx; FORM8.FRM.doc

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



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

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.**

August 1, 2017

Glendale Hutterian Brethren
c/o John Kleinsasser
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

Water Permit Application No. 8292-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed at Redfield SD (Ph # 605- 472-0822) and the Plainsman printed at Huron SD (Ph # 605- 353-7414). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application 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 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 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 application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JAN 09 2018

Glendale Hutterian Brethren
c/o John Kleinsasser
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

Enclosed are Water Permit Nos. 8292A-3 through 8292E-3 authorizing the transfer of acreages and changes in the James River diversion point locations. Also enclosed is reissued Water Permit No. 7479-3 as it relates to Permit No. 8292E-3.

Several 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 each system 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 information 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

May 27, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who use water from the James River that river flow is much lower this year and to let them know that shutoff orders are possible this summer.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses will begin to interfere with domestic use. If river levels become critically low, the department may be forced to issue shutoff orders to protect domestic use, including livestock watering and those water rights that are most senior.

We are only cautioning that shutoff orders may become necessary. **This not a shutoff order.** This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shutoff orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and avoid wasting water.

If you are interested, the US Geological Survey has an Internet site showing river flows at 164 stream gauging stations across the state. To view the latest realtime stream flow, go to:

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

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

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