

WATER PERMIT NO. 8305-3

Name of Applicant: Rockport Hutterian Brethren

Address: 26209 Rockport Rd, Alexandria SD 57311 Phone: 605 770-6849

Amount of Water Claimed: 0.24 cfs Total Acres: 16.8

Source of Water Supply: James River

Water to be used for: irrigation County: Hanson

Type of Waste Disposal System:

Location: 5 miles southwest of Alexandria

PRIORITY Date Received: 8-15-17 Application/License Fee: \$ 700

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

Remarks: Transfer 77.5 ac and 1.11 cfs from No. 1902-3 to new location and appropriate 0.24 cfs and 16.8 additional acres.

Diversion Point: between pts NW 1/4 NE 1/4 Sec 6-T101N-R58W and N 1/2 SE 1/4 Sec 7-T101N-R58W

Land to be Irrigated: SW 1/4 SW 1/4 Sec 7-T101N-R58W, NW 1/4 NE 1/4 Sec 2-T101N-R59W, SE 1/4 NE 1/4 Sec 36-T102N-R59W and SW 1/4 NW 1/4 Sec 21-T102N-R58W

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 8-16-17

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8305A-3

Date of first receipt of application August 15, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8305A-3 to Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Road, Alexandria SD 57311 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8305A-3 transfers acreage and diversion rate authority authorized by Water Right No. 1902-3. Water Right No. 1902-3 appropriates 1.11 cubic feet of water per second (cfs) from the James River to irrigate 77.5 acres located in the SE 1/4 NE 1/4, SE 1/4 Section 31-T102N-R58W. This permit authorizes the transfer 30 acres and 0.43 cfs authorized by Water Permit No. 1902-3 to the SE 1/4 NE 1/4 Section 36-T102N-R59W and the SW 1/4 NW 1/4 Section 31-T102N-R58W. The pump site is the existing pump sites between points in the NW 1/4 NE 1/4 Section 6 and N 1/2 NE 1/4 Section 7; all in T101N-R58W.
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 16, 1971 (established by Water Right No. 1902-3).
4. The date of approval of Permit No. 8305A-3 is October 2, 2017.
5. 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 Scotland, SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The September 16, 1971, priority date established by Water Right No. 1902-3 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



RECEIVED

AUG 15 2017

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8305-3</u> (office use only)	Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>The Alexandria Herald</u>	
	<u>Daily Republic, Mitchell</u>	

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. 1902-3
(Use predates Mar 2, 1955)

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

Transfer 77.5 acres and 1.11 cfs from WR No. 1902-3 to new location and appropriate 0.24 cfs and 16.8 additional acres.

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 0.24 *CFS or **GPM ***AF Total Acreage 16.8 new
(*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 between points in the NW 1/4 NE 1/4 Section 6, T101N, R58W and the N 1/2
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

SE 1/4 Section 7, T101N, R58W County Hanson

5. County or counties where water will be used Hanson6. 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
SW 1/4 SW 1/4 Section 7, T101N, R58W	34.4	(0.49 cfs) <u>SW 1/4 SW 1/4 Sec 7-101-58</u>	<u>27</u>
NW 1/4 NE 1/4 Section 2, T101N, R59W	30	(0.43 cfs) <u>SE 1/4 SW 1/4 Sec 7-101-58</u>	<u>7.3</u>
SE 1/4 NE 1/4 Section 36, T102N, R59W	17	(0.43 cfs)	
SW 1/4 NW 1/4 Section 31, T102N, R58W	13		

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

Due to being bottom land subject to wet conditions, Rockport Colony intends to transfer remaining 77.5 acres and 1.11 cfs diversion authority under No. 1902-3 to a new location. Applying for an additional 16.8 acres and 0.24 cfs diversion rate authority. All total 1.35 cfs will be used to irrigate 94.3 acres. Intend to utilize and apply the 1.35 cfs diversion rate authority proportionately based on acres to the existing colony pump sites

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

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.

8305A-3 - 30 Ac 0.43

SE¹/₄ NE¹/₄ 36-102-59 - 17 Ac

SW¹/₄ NW¹/₄ 31-102-58 - 13 Ac

8305B-3 - 30 Ac 0.43

NW¹/₄ NE¹/₄ 2-101-59 - 30 Ac

8305C-3 - 34.3 Ac 0.49

SW¹/₄ SW¹/₄ 7-101-58 - 27 Ac

SE¹/₄ SW¹/₄ 7-101-58 - 7.3 Ac

94.3 1.35

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Rockport Hutterian Brethren

ADDRESS: COUNTY: Hanson County

DATE: August 16, 2017 TELEPHONE:

RE: Application

Donny Wipf and Brian came into the office to apply to transfer the remaining acres under Water Rights No. 1902-3 (77.5 acres/ 1.11 cfs) and apply for the remaining 0.24 cfs available from the James River. This 0.24 cfs equates to 16.8 acres based on the statutory limit.

The application defines 94.3 acres of irrigation to be developed. This file documentation is intended to specify the priority dates associated with the priority dates as WR No. 1902-3 has a September 16, 1971 priority date and the 0.24 cfs/16.8 acres if approved will have a August 15, 2017 priority date.

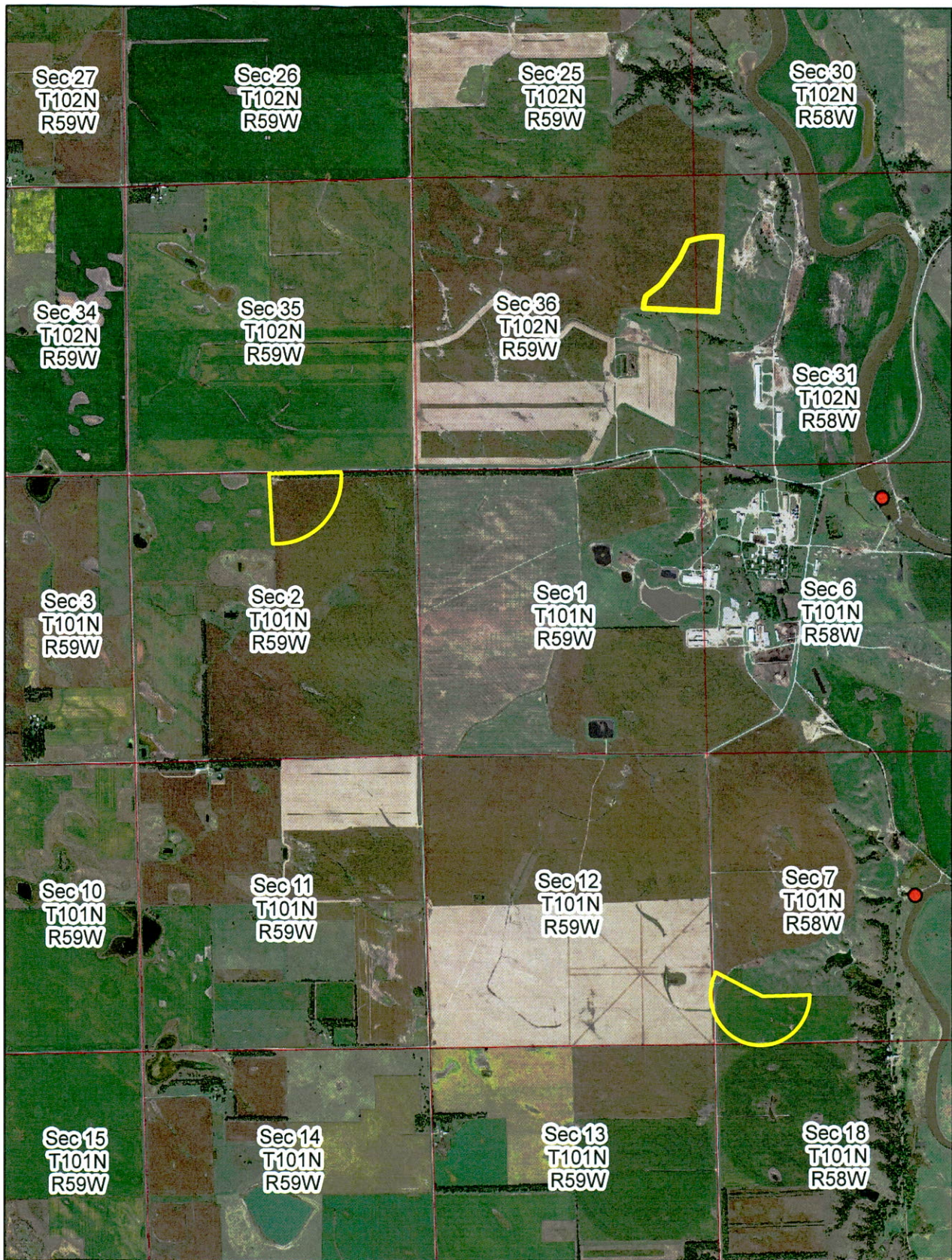
Donny Wipf prioritized the application as follows by picking the order of importance to the colony to develop irrigation.

1. 30 acres / 0.43 cfs for the pivot doing a quarter rotation in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T102N, R59W and SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, T102N, R58W. This will receive the 1971 date.
2. 30 acres / 0.43 cfs for the pivot doing a quarter rotation in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2, T101N, R59W. This will receive the 1971 date.
3. 34.3 acres / 0.49 cfs for the pivot doing just over a half rotation in the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 7, T101N, R58W. This will receive a 1971 priority for 17.5 acres / 0.25 cfs and a August 15, 2017 date for 16.8 acres / 0.24 cfs.

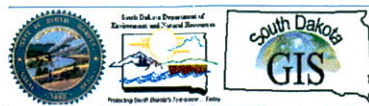
This is also to reflect that the acres in Section 7, T101N, R58W on the application should be 34.3 acres which is located in Section 7 are in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ (27 acres) and SE $\frac{1}{4}$ SW $\frac{1}{4}$ (7.3 acres).

NAME: Eric Stumler

ROCKPORT HUTTERIAN BRETHREN'S APPLICATION TO AMEND ACRES
UNDER WATER RIGHT NO. 1902-3 AND NEW ACRES



5,200 2,600 0 5,200 Feet



Eric Gronlund

Eric Gronlund
August 15, 2017

based on representation by Donny Wipf

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 16, 2017

RECEIVED OF ~~Rockport Hutterian Brethren, Inc. 26209 Rockport Rd. Alexandria 57311~~

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

Fee for Application for Permit No. <u>8305-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>8305-3</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	700 00

No. **08323**

By

Janne Goodman
Chief Engineer

74m



**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. 8305A-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. 8350A-3, Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Road, Alexandria SD 57311.

Application No. 8305-3 proposes to make three transfers involving an existing James River water permit and a new appropriation. In making the recommendation, Application No. 8305-3 is split into Nos. 8305A-3, 8305B-3 and 8305C-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. 8305A-3 to transfer 30 acres and 0.43 cfs authorized by Water Permit No. 1902-3 to the SE ¼ NE ¼ Section 36-T102N-R59W and the SW ¼ NW ¼ Section 31-T102N-R58W 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 Scotland, SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The September 16, 1971, priority date established by Water Right No. 1902-3 is retained.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
September 11, 2017

REPORT ON WATER PERMIT APPLICATION NO. 8305-3

Rockport Hutterian Brethren

September 5, 2017

Application No. 8305-3, Rockport Hutterian Brethren, proposes to transfer acreage and diversion rate authority authorized by Water Right No. 1902-3, appropriate an additional 0.24 cubic feet of water per second (cfs), and irrigate an additional 16.8 acres. Water Right No. 1902-3 authorizes 1.11 cfs from the James River to irrigate 77.5 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ Section 31-T102N-R58W. The applicant is proposing to transfer the 77.5 acres and 1.11 cfs diversion authority to a new location. The location of the transferred 77.5 acres and additional 16.8 acres will be in the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 7-T101N-R58W, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2-T101N-R59W, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36-T102N-R59W and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31-T102N-R58W. The transferred diversion rate authority of 1.11 cfs and the additional 0.24 cfs diverted from the James River will be located between points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 6 and the N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 7; all in T101N-R58W. This application, if approved will authorize a total of 1.35 cfs to irrigate 94.3 acres. The proposed project is located approximately 5 miles southwest of the Town of Alexandria in Hanson County.

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 Forestburg, SD, approximately 38 river miles upstream of the proposed project, (USGS, 2017). The historical data from 1950 to 2017 for the Forestburg SD stream flow gage indicates at the 50 percentile the monthly mean flow could range from approximately 43 to 617 cfs April through October of any given year, (Table 1).

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	1.8	2.8	11.0	43.0	40.6	29.3	8.4	1.8	0.4	1.5	3.3	3.0
25%	6.5	8.3	45.5	124.6	176.5	138.9	66.4	24.5	7.6	8.3	9.4	8.1
50%	32.9	32.4	194.1	557.2	617.8	518.0	276.3	179.9	76.2	43.6	54.1	54.7
75%	106.9	106.6	756.4	1734.7	1501.6	1308.0	1303.9	855.1	462.3	370.5	277.2	188.5
90%	228.3	263.3	2089.2	5934.3	5495.5	3125.3	1966.5	1547.1	1237.7	971.0	742.9	397.1

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

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 2017 for the Huron, SD stream flow gage indicates there is at the 50 percentile that monthly mean flow could range from 54 to 693 cfs April through October of any given year, (Table 2).

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	5.6	11.3	31.6	53.4	54.6	31.8	16.5	6.4	6.1	3.8	5.8	7.0
25%	15.7	23.0	89.4	157.2	176.5	129.9	59.7	26.2	16.0	15.7	22.4	21.2
50%	40.6	57.9	361.7	693.1	693.5	566.3	296.8	142.3	72.9	54.5	62.9	53.0
75%	105.6	168.3	1138.1	2172.0	1563.5	1536.3	1007.9	658.7	297.3	217.8	202.3	155.0
90%	225.9	332.4	2309.3	5243.0	4716.5	3744.3	2495.5	1440.0	1042.4	818.1	691.3	440.4

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

USGS historical data for the Forestburg 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 may be 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. 2017). The Water Management Board has adopted these James River diversion limits. Based upon the current level of appropriation 299.76 cfs for river water from the North Dakota border to the Yankton-Hutchinson County Line, appropriations are within 0.24 cfs of the Water Management Board set limits.

Presently there are 103 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).

If this permit application is approved for the additional 0.24 cfs, the authorized diversion from the James River will be at the maximum 300 cfs diversion limit set by the Water Management Board.

Discussion and Review of Qualifications

The applicant proposes to make changes to an existing James River water right including the relocation of irrigated acres, adding acres, moving of diversion points and increasing diversion rate authority (Figure 1).

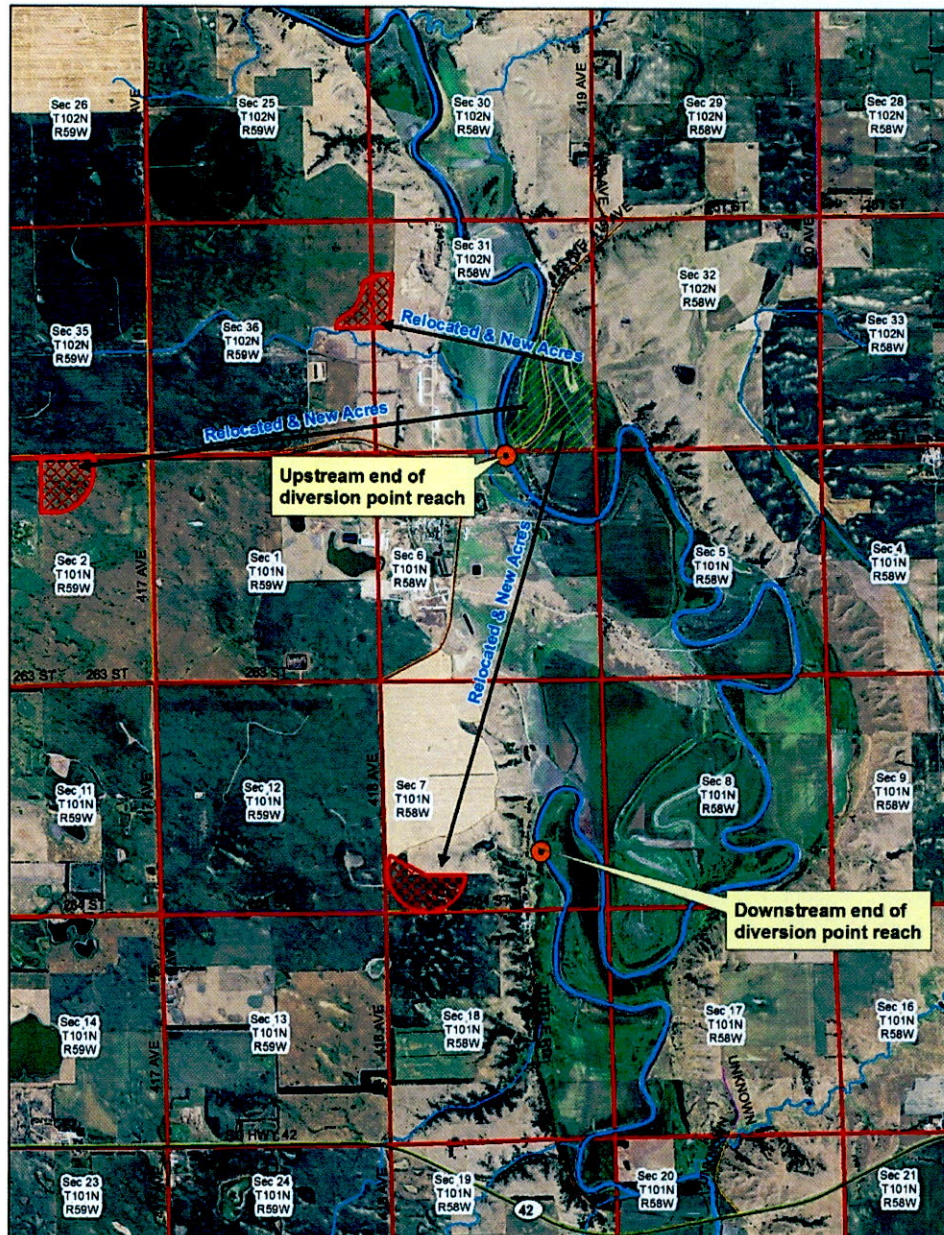


Figure 1. Map for irrigation proposed by Application No. 8305-3, Rockport Hutterian Brethren.

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 the current location of Water Right No. 1902-3 is James River bottom land subject to wet conditions.

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. 8305-3 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. 1902-3 including the relocation of 77.5 irrigated acres, adding 16.8 acres, moving of diversion points and increasing James River diversion authority from 1.11 cfs by 0.24 cfs for a total of 1.35 cfs.
2. 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 299.76 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. If this permit application is approved for the additional 0.24 cfs, the authorized diversion from the James River will be at the maximum 300 cfs diversion limit set by the Water Management Board.

4. 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. 8305-3 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. 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>

Affidavit of Publication

STATE OF SOUTH DAKOTA)

:SS

COUNTY OF HANSON:)

The undersigned, being first duly sworn, on his oath say 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 to Approp. Wa

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 9-21-17

The second publication on _____

The third publication on _____

The fourth publication on _____

that 40.22 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 22

day of September 2017

Donna M. Diede

Notary Public, South Dakota



My commission expires 2/10/2022

Notice of Application to Appropriate Water

NOTICE OF APPLICATION NO. 8305-3 to Appropriate Water

Notice is given that Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed an application for a water permit to transfer acreage and diversion rate authority authorized by Water Right No. 1902-3, appropriate an additional 0.24 cubic feet of water per second (cfs), and irrigate an additional 16.8 acres. Water Right No. 1902-3 authorizes 1.11 cfs from the James River to irrigate 77.5 acres located in the SE 1/4 NE 1/4, SE 1/4 Section 31-T102N-R58W. The applicant is proposing to transfer the 77.5 acres and 1.11 cfs diversion authority to a new location. The location of the transferred 77.5 acres and additional 16.8 acres will be in the S 1/2 SW 1/4 Section 7-T101N-R58W, NW 1/4 NE 1/4 Section 2-T101N-R59W, SE 1/4 NE 1/4 Section 36-T102N-R59W and the SW 1/4 NW 1/4 Section 31-T102N-R58W which is approximately 6 miles southwest of Alexandria. The transferred diversion rate authority of 1.11 cfs and the additional 0.24 cfs diverted from the James River will be located between points in the NW 1/4 NE 1/4 Section 6 and the N 1/2 SE 1/4 Section 7; all in T101N-R58W. This application, if approved will authorize a total of 1.35 cfs to irrigate 94.3 acres.

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 the current location of Water Right No. 1902-3 is James River bottom land subject to wet conditions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8305-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. If approved, at the time of

issuance, Permit No. 8305-3 will be split into Nos. 8305A-3 through 8305C-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 October 2, 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.

Published once at the total approximate cost of \$40.22.

09-21-17 1tc

RECEIVED

OCT 05 2017

WATER RIGHTS PROGRAM

RECEIVED

SEP 27 2017

WATER RIGHTS
PROGRAM

**NOTICE OF
APPLICATION
NO. 8305-3 to
Appropriate Water**

Notice is given that Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed an application for a water permit to transfer acreage and diversion rate authority authorized by Water Right No. 1902-3, appropriate an additional 0.24 cubic feet of water per second (cfs), and irrigate an additional 16.8 acres. Water Right No. 1902-3 authorizes 1.11 cfs from the James River to irrigate 77.5 acres located in the SE 1/4 NE 1/4, SE 1/4 Section 31-T102N-R58W. The applicant is proposing to transfer the 77.5 acres and 1.11 cfs diversion authority to a new location. The location of the transferred 77.5 acres and additional 16.8 acres will be in the S 1/2 SW 1/4 Section 7-T101N-R58W, NW 1/4 NE 1/4 Section 2-T101N-R59W, SE 1/4 NE 1/4 Section 36-T102N-R59W and the SW 1/4 NW 1/4 Section 31-T102N-R58W which is approximately 6 miles southwest of Alexandria. The transferred diversion rate authority of 1.11 cfs and the additional 0.24 cfs diverted from the James River will be located between points in the NW 1/4 NE 1/4 Section 6 and the N 1/2 SE 1/4 Section 7; all in T101N-R58W. This application, if approved will authorize a total of 1.35 cfs to irrigate 94.3 acres.

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 the current location of Water Right No. 1902-3 is James River bottom land subject to wet conditions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8305-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. If approved, at the time of issuance, Permit No. 8305-3 will be split into Nos. 8305A-3 through 8305C-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 October 2, 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.
Published once at the total approximate cost of \$99.33

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:

Thursday, September 21, 2017

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: \$99.33

Signed: Penny Hohbach

Subscribed and sworn to before me this 21st day of September, 2017.

Deb Townsend

Notary Public
County of Davison

My Commission Expires: 09-21-18

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, September 11, 2017 4:25 PM
To: 'phohbach@mitchellrepublic.com'
Subject: 8305-3, Rockport Httrn Brethren
Attachments: 8305-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on September 21, 2017.

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: Monday, September 11, 2017 4:25 PM
To: ementerprise@triotel.net
Subject: 8305-3, Rockport Httrn Brethren
Attachments: 8305-3public.short.docx; FORM8.FRM.doc

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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 NEWSPAPER(S) RIGHT AWAY.**

September 12, 2017

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

Dear Mr. Wipf:

Water Permit Application No. 8305-3 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 Alexandria Herald printed at Alexandria SD (Ph # 605-239-4521) and the Daily Republic printed at Mitchell SD (Ph # 605-996-5514). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the 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.

Instruction to Newspaper - Publish the Notice on September 21, 2017. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8305-3 to Appropriate Water

Notice is given that Rockport Hutterian Brethren, c/o Donny Wipf, 26209 Rockport Rd, Alexandria SD 57311 has filed an application for a water permit to transfer acreage and diversion rate authority authorized by Water Right No. 1902-3, appropriate an additional 0.24 cubic feet of water per second (cfs), and irrigate an additional 16.8 acres. Water Right No. 1902-3 authorizes 1.11 cfs from the James River to irrigate 77.5 acres located in the SE 1/4 NE 1/4, SE 1/4 Section 31-T102N-R58W. The applicant is proposing to transfer the 77.5 acres and 1.11 cfs diversion authority to a new location. The location of the transferred 77.5 acres and additional 16.8 acres will be in the S 1/2 SW 1/4 Section 7-T101N-R58W, NW 1/4 NE 1/4 Section 2-T101N-R59W, SE 1/4 NE 1/4 Section 36-T102N-R59W and the SW 1/4 NW 1/4 Section 31-T102N-R58W which is approximately 6 miles southwest of Alexandria. The transferred diversion rate authority of 1.11 cfs and the additional 0.24 cfs diverted from the James River will be located between points in the NW 1/4 NE 1/4 Section 6 and the N 1/2 SE 1/4 Section 7; all in T101N-R58W. This application, if approved will authorize a total of 1.35 cfs to irrigate 94.3 acres.

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 the current location of Water Right No. 1902-3 is James River bottom land subject to wet conditions.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8305-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. If approved, at the time of issuance, Permit No. 8305-3 will be split into Nos. 8305A-3 through 8305C-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 October 2, 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. 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

JAN 09 2018

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

Dear Mr. Wipf:

Enclosed are Water Permit Nos. 8305A-3, 8305B-3 and 8305C-3 authorizing the transfer of acreage and diversion rate authority appropriated by Water Right No. 1902-3.

A Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed for Water Permit No. 8305C-3. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water 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

August 16, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who either use water from the James River or tributaries under permits with the August 10 shutoff date qualification.

Water rights containing this qualification requires a mandatory compliance and pumping under your permit must cease after August 10th unless you contact the Water Rights Program and receive permission to continue to divert water.

Water Rights staff drove along the James River last week after the August 10 shutoff date to spot-check whether water right holders were complying with this qualification. This spot-check found multiple water right holders diverting water in violation of this qualification.

Again, I remind you, compliance with this shutoff qualification is required unless you request and receive permission from the Water Rights Program to continue pumping. Permission may be granted based upon water availability.

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 15, 2022

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

Rockport Hutterian Brethren Inc.
26209 Rockport Road
Alexandria SD 57311

Dear Mr. Wipf:

This letter is in reference to your August 13, 2022, request for an extension to pump water from the James River beyond the August 10 shutoff date. Flows in the James River in the reach between the confluence with the North Dakota Border and the Huron are sufficient at this time to allow an extension. Because there is sufficient flow in the James River, I am granting your request to extend the shutoff date for your water permits out of the James River and allow you to divert through the end of the 2022 irrigation season.

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

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

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

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 17, 2026

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

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

Dear Mr. Wipf,

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

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

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

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

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

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

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 27, 2026

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

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

Dear Mr. Wipf,

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

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

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

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

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

Sincerely,

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