

WATER PERMIT NO. 8385-3

Name of Applicant: **Glendale Hutterian Brethren**

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

Phone: **605 460-0013**

Amount of Water Claimed: **no add'l (1.45 CFs)**

Total Acres: **no add'l (110 acres)**

Source of Water Supply: **James River**

Water to be used for: **irrigation** County: **Spink**

Type of Waste Disposal System:

Location: **3 miles south of Frankfort**

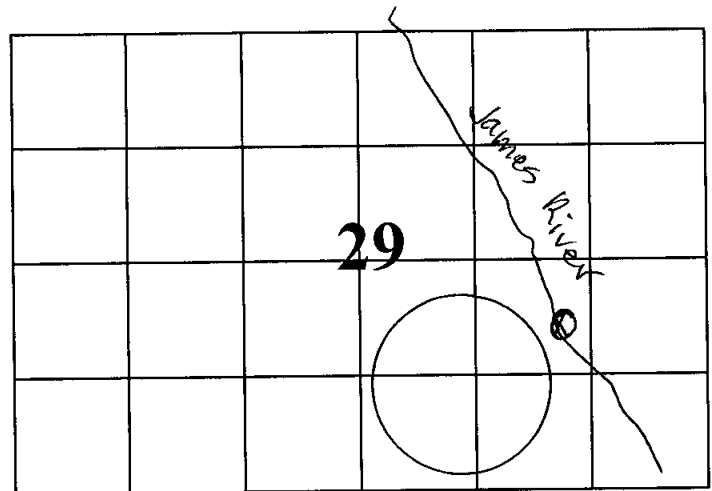
PRIORITY Date Received: **12-12-18** Application/License Fee: **\$ 100**

Corrected Application Received: Period of Annual Use: **May 1 – October 15**

Remarks: **Reinstatement of Water Permit No. 8292B-3**

Diversion Point: **NE 1/4 SE 1/4 Sec 29-T116N-
R62W**

Land to be Irrigated: **SE 1/4 Sec 29-T116N-R62W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map:

Prepared by:

Reviewed and the Number Assigned on: **12-12-18**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8385-3

Date of first receipt of application December 12, 2018.

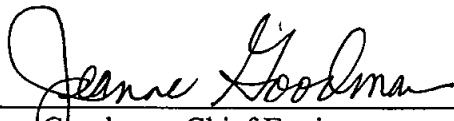
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8385-3 to Glendale Hutterian Brethren, 17866 Glendale Dr, Frankfort SD 57440 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8385-3 reinstates Permit No. 8292B-3. Permit No. 8292B-3 appropriated 1.45 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 29 to irrigate 110 acres located in the SE 1/4 Section 29; all in T116N-R62W. The permit was approved August 21, 2017, and the project was to be completed by December 17, 2017, with water being put to beneficial use by December 17, 2021. Permit No. 8385-3 reinstates cancelled Water Permit No. 8292B-3 since the project has not been completed. This project is located approximately 3 miles south of Frankfort SD.
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 December 12, 2018.
4. The date of approval of Permit No. 8385-3 is April 1, 2019.
5. One-fifth of the construction is to be completed on or before October 1, 2021.
6. All construction is to be completed on or before April 1, 2024.
7. Water is to be put to beneficial use on or before April 1, 2029.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

WATER MANAGEMENT BOARD

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

MAY 16 2019
date



RECEIVED

DEC 12 2018

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8385-3</u>	(office use only) Hydrologic Unit <u>10160006</u>	WATER RIGHTS PROGRAM
	Basin <u>James River</u>		
	Newspaper <u>Redfield Press</u>		
	<u>Plainsman</u>		

PAID
DEC 12 2018
Ck# 35447

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 8292B-3
(Use predates Mar 2, 1955)

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

Reinstatement of Permit No. 8292B-3

1. Name to Appear on Irrigation Permit Glendale 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 c/o John Kleinsasser, 17866 Glendale Dr. Frankfort SD 57440
(Address) (City) (State) (Zip Code)

Phone 605 472-1247 Mobile 460-0013 Email _____

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

3. Source of water supply James River

4. Location of point of diversion NE 1/4 SE 1/4 Section 29-T116N-R62W (authorized by No. 1943-3)
(example - 3 wells in SW 1/4 NE 1/4 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 1/4 SE 1/4 Sec 29-T116N-R62W	27.5		
NE 1/4 SE 1/4	27.5		
SW 1/4 SE 1/4	27.5		
SE 1/4 SE 1/4	27.5		

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

Reinstatement of Water Permit No. 8292B-3 authorizing 1.45 cfs to irrigate 110 acres.

X I, 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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date **December 12** 20**18**

RECEIVED OF Glendale Hutterian Brethren 17866 Glendale Dr. Frankfort SD 57440

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

Fee for Application for Permit No. <u>8395-3</u> (<u>8292R-3</u>) to Appropriate Water, to construct and to put water to beneficial use	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
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	100 00

No. **08830**

By Jeane Goodman
Chief Engineer
7/2/11



530462356

B0048-2932 12/15/2017 4:27PM Rec'd by SD SOS

South Dakota State Capitol
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

2018
FILING YEAR

ANNUAL REPORT

Domestic Nonprofit Corporation
SDCL 47-24-6, 59-11-24

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$10

Total Fee: \$10

1. Business ID and Name:

NS007080
BUSINESS ID

GLENDAL HUTTERIAN BRETHREN, INC.
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

3. The address of the principal executive office (business address):

Actual Street Address

**17866 GLENDALE DRIVE
FRANKFORT, SD 57440-9650**

Mailing Address

**17866 GLENDALE DRIVE
FRANKFORT, SD 57440-9650**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(a) The South Dakota Noncommercial Registered Agent's name

Name **JEFFREY T. SVEEN**

Actual Street Address in this State

**415 S MAIN ST 400 CAPITOL BLDG
ABERDEEN, SD 57401-4364**

Mailing Address in this State

**PO BOX 490
ABERDEEN, SD 57402-0490**

5. The names and addresses of its principal officers.

Title	Name	Address
Vice President	CLARENCE WALDNER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650
President	JOHN KLEINSASSER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650
Secretary	ZACKY WALDNER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650
Treasurer	ZACKY WALDNER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650

6. The names and addresses of its directors (governors).

Name	Address
JOHN KLEINSASSER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650
ZACKY WALDNER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650
CLARENCE WALDNER	17866 GLENDALE DRIVE, FRANKFORT, SD, 57440-9650

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.



No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

12/15/2017

Dated

Email (Optional)

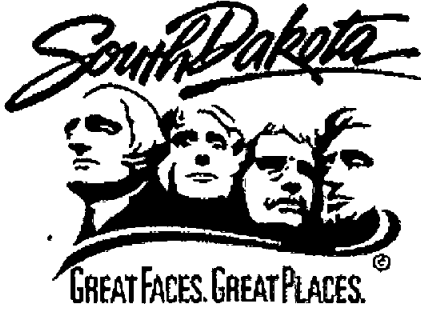
ZACKY WALDNER

Signature of an Authorized Person

ZACKY WALDNER

Printed Name

B0048-2933 12/15/2017 4:27PM Rec'd by SD SOS



**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. 8385-3, 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. 8385-3, Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Drive, Frankfort SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 8385-3 to reinstate cancelled Permit No. 8292B-3 because there is reasonable probability that there is unappropriated water available for the applicant's proposed use with the following qualifications:

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

See report on application for additional information.

Jeanne Goodman, Chief Engineer
March 7, 2019

Report to the Chief Engineer
Water Permit Application No. 8385-3
Glendale Hutterian Brethren

March 7, 2019

Application No. 8385-3 proposes to reinstate Canceled Water Permit No. 8292B-3, which appropriated 1.45 cubic feet of water per second (cfs) from the James River located in the NE ¼ SE ¼ Section 29 to irrigate 110 acres in the SE ¼ of Section 29; all in T116N-R62W. The permit was approved August 21, 2017, and the project was required to be completed by December 17, 2017, with water being put to beneficial use by December 17, 2021. Canceled Water Permit No. 8292B-3 was canceled by the Water Management Board on March 6, 2019 but was active at the time Water Permit Application No. 8385-3 was submitted. If approved, Water Permit Application No. 8395-3 will receive a new priority date. This site is located approximately 3 miles south of Frankfort, SD.

Water Source: James River

The water source for the proposed project is the James River in Spink County. Originating in North Dakota, the James River flows south to the Missouri River, encountering backwater of the Missouri River near the Yankton-Hutchinson county line (SD Water Resources Commission, 1965). 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.

Applicable South Dakota Codified Law

Pursuant to SDCL 46-2A-8.1 the Water Rights Program may reinstate any water permit with a priority date after March 31, 1977, if unappropriated water is available and construction necessary to put water to beneficial use is not completed pursuant to SDCL 46-2A-8 and 46-5-26. Any application pursuant to SDCL 46-2A-8.1 must be made within three years of the expiration of the original construction period pursuant to SDCL 46-2A. The priority date for the application to reinstate a permit shall be the date the application to reinstate is filed. In this case the canceled permit was required to be completed by December 17, 2017. This application was filed within three years of the expiration of the original construction period. The criterion for reinstatement is whether unappropriated water is available.

Water Management on the James River

Diversion limit established

In 1965 the South Dakota Water Resources Commission, a predecessor to the South Dakota Water Management Board, placed a 300 cfs diversion limit on the James River in South Dakota

from the North Dakota border to the Yankton-Hutchinson County Line with a maximum combined diversion limit of 200 cfs from the North Dakota border to Huron, SD (SD Water Resources Commission, 1965).

Low-flow bypass qualifications

In 2007 Water Rights staff reviewed all the existing James River water rights and available stream flow gaging station information from the multiple gages the U.S. Geological Survey (USGS) operates on the James River in South Dakota. The Water Management Board approved the Chief Engineer's recommendation to amend all of the James River water rights/permits diverting water in the river reach from the North Dakota border to the Yankton-Hutchinson County Line (SD Water Management Board, 2007).

Following the hearing, all of the James River water rights/permits contained the following qualification:

- 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.

In order to protect domestic users downstream, the following qualifications were adopted for the following water rights/permits:

The water rights diverting in the reach of river upstream from USGS gaging station near Ashton SD contain the following qualification:

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

The water rights diverting in the reach of river between USGS gaging station near Ashton SD to the USGS gaging station at Huron, SD contain this qualification:

- 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.

The water rights diverting in the reach of river between USGS gaging station at Huron, SD to USGS gaging station near Scotland SD contain this qualification:

- 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.

In accordance with a report presented to the Water Management Board in 2016, the Board concluded that maintaining the diversion limits and qualifications as established in 2007 is appropriate (SD Water Management Board, 2016).

The 300 cfs diversion limit from the North Dakota border to the Yankton-Hutchinson County Line, the 200 cfs diversion limit from the North Dakota border to Huron, SD along with the flow

bypass limit and August 10th shutoff date qualifications address water availability to supply a limited amount of water from the river for domestic users. These diversion limits and qualifications do not guarantee water will be available for appropriative users during extremely dry climatic conditions (SD Water Management Board, 2016).

Current Appropriations and Water Availability

When this application was submitted there were 109 water rights with diversions from the James River totaling to 299.99 cfs from the North Dakota border to the Yankton-Hutchinson county line. From the North Dakota Border to the 3rd Street Dam in Huron, SD, there were 70 Water Rights with diversions from the James River totaling 173.26 cfs. Based upon the James River appropriation limits of 300 cfs there was 0.01 cfs available for appropriation for the river reach from the North Dakota Border to the Yankton-Hutchinson County Line (SD Water Rights, 2019).

Canceled Water Permit No. 8292B-3, held by this applicant, failed to meet the requirement that construction be completed by December 17, 2017 and was canceled by the Water Management Board on March 6, 2019 (SD Water Management Board, 2019). After that, total diversions from the river between the North Dakota-South Dakota border and the Yankton-Hutchinson county line decreased to 298.54 cfs and total diversions from the 3rd Street Dam in Huron to the North Dakota border decreased to 171.81 cfs so water is available for the 1.45 cfs of diversion requested by Application No. 8385-3. If this application is approved, 0.01 cfs of water will be available from the North Dakota border to the Yankton-Hutchinson County Line.

Canceled Water Permit No. 8292B-3 contained 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.

If Application No. 8385-3 is approved, it should contain the same qualifications.

Conclusions

1. Canceled Water Permit No. 8292B-3 appropriated 1.45 cubic feet of water per second (cfs) from the James River for irrigation of 110 acres. Construction of Canceled Water Permit No. 8292B-3 was not completed by the December 17, 2017 completion date pursuant to SDCL 46-2A so it was canceled by the Water Management Board.
2. Water Permit Application No 8385-3 proposes to reinstate a diversion rate of 1.45 cfs authorized by Canceled Water Permit No. 8292B-3

Report on Water Permit Application No. 8385-3

3. If approved, Water Permit Application 8385-3 will receive a new priority date.
4. Water is available for the requested diversion rate.
5. If No 8385-3 is approved, it 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.



Kimberly C. Drennon
Natural Resources Engineer I

Reviewed by:



Mark D. Rath
Natural Resources Engineer III

References

SD Water Management Board, 2007. *Minutes of the 149th Meeting*. Joe Foss Bldg., Pierre, SD, SD DENR - Water Rights Program.

SD Water Management Board, 2016. *Minutes of the 199th Meeting*. Joe Foss Bldg., Pierre, SD, SD DENR - Water Rights Program.

SD Water Management Board, 2019. *Minutes of the 214th Meeting*. Joe Foss Bldg., Pierre, SD, SD DENR - Water Rights Program.

SD Water Resources Commission, 1965. *Minutes of the Sixtieth Meeting*. Joe Foss Bldg., Pierre, South Dakota, SD DENR - Water Rights Program.

SD Water Rights, 2019. *Water Right/Permit File Database*, Joe Foss Bldg., Pierre, South Dakota: SD DENR - Water Rights Program.

RECEIVED

APR 05 2019

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS

County of SPINK

I, Kayla Understock,

certify that the attached printed Notice was taken

from the Redfield Press

printed and published in Redfield

County of Spink and

state of South Dakota. The notice was published

in the newspaper on the following date:

March 20th

Cost of Printing \$29.28

Kayla Understock
(Signature)

Business Manager
(Title)

April 2nd, 2019
(Date Signed)

Water Permit

#3222

NOTICE OF APPLICATION NO. 8385-3
to Reinstate Water Permit No. 8292B-3

Notice is given that Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 has filed an application for a water permit to reinstate Permit No. 8292B-3. Permit No. 8292B-3 appropriates 1.45 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 29 to irrigate 110 acres located in the SE 1/4 Section 29; all in T116N-R62W. The permit was approved August 21, 2017, and the project was to be completed by December 17, 2017, with water being put to beneficial use by December 17, 2021. Application No. 8385-3 proposes to reinstate cancelled Water Permit No. 8292B-3 since the project has not been completed. This project is located approximately 3 miles south of Frankfort SD.

Application No. 8385-3 to reinstate cancelled Permit No. 8292B-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within the five years of approval of the permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8353-3 with qualifications because 1) unappropriated water is available, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 1, 2019.

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

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

~~Water Rights Program, Secretary, Department of Environment and Natural Resources.~~
Published one time at the total approximate cost of \$29.28. (Mar. 20)

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

RECEIVED

MAY 13 2019

WATER RIGHTS
PROGRAM

I, MCKENDZIE CASTILLO, 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:

GLENDALÉ COLONY- #4139 WATER RIGHTS

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 20TH Day MARCH 2019.

That the full amount of the fee charged for publishing FORTY-FOUR & 74/100 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.

Mckenzie Castillo

Subscribed and sworn to me before this 13TH Day
of MAY 2019.

[Signature]
Notary Public, South Dakota

My term expires 03/11/2022
Legal #4139

F.P. 03-20-19
NOTICE OF
APPLICATION
NO. 8385-3 to
Reinstate Water Permit
No. 8292B-3

Notice is given that Glendale Hutterian Brothers, c/o John Kloinsassor, 17866 Glendale Dr., Frankfort SD 57440 has filed an application for a water permit to reinstate Permit No. 8292B-3. Permit No. 8292B-3 appropriates 1.45 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 28 to irrigate 110 acres located in the SE 1/4 Section 29; all in T16N-R62W. The permit was approved August 21, 2017, and the project was to be completed by December 17, 2017, with water being put to beneficial use by December 17, 2021. Application No. 8385-3 proposes to reinstate cancelled Water Permit No. 8292B-3 since the project has not been completed. This project is located approximately 3 miles south of Frankfort SD.

Application No. 8385-3 is to reinstate cancelled Permit No. 8292B-3 is made pursuant to SDCL 48-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within the five years of approval of the permit.

Pursuant to SDCL 48-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8385-3 with qualifications because 1) unappropriated water is available, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3332)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 1, 2019.

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

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

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

No. 4139 (adv.)
Published once at the
total approximate cost of
\$44.74.

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, March 08, 2019 8:21 AM
To: rcrandall@plainsman.com
Subject: 8353-3, Glendale Hutterian Brethren
Attachments: 8385-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on March 20, 2019.

Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 (605 472-1247 or 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: Friday, March 08, 2019 8:20 AM
To: kunderstock@redfieldpress.com
Subject: 8353-3, Glendale Hutterian Brethren
Attachments: 8385-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on March 20, 2019.

Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 (605 472-1247 or 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





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

March 8, 2019

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

Dear Mr. Kleinsasser:

Water Permit Application No. 8385-3 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 newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspapers have 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.

NOTICE OF APPLICATION NO. 8385-3 to Reinstate Water Permit No. 8292B-3

Notice is given that Glendale Hutterian Brethren, c/o John Kleinsasser, 17866 Glendale Dr, Frankfort SD 57440 has filed an application for a water permit to reinstate Permit No. 8292B-3. Permit No. 8292B-3 appropriates 1.45 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 29 to irrigate 110 acres located in the SE 1/4 Section 29; all in T116N-R62W. The permit was approved August 21, 2017, and the project was to be completed by December 17, 2017, with water being put to beneficial use by December 17, 2021. Application No. 8385-3 proposes to reinstate cancelled Water Permit No. 8292B-3 since the project has not been completed. This project is located approximately 3 miles south of Frankfort SD.

Application No. 8385-3 to reinstate cancelled Permit No. 8292B-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within the five years of approval of the permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8353-3 with qualifications because 1) unappropriated water is available, 2) it is a beneficial use of water, and 3) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 1, 2019.

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

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 16 2019

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

Dear Mr. Kleinsasser:

Enclosed is Water Permit No. 8385-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**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
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August 16, 2021

Permit Nos. 8292A-3 & 8385-3

Glendale Httrn Brth
John Kleinsasser
17866 Glendale Dr
Frankfort SD 57440

Dear Mr. Kleinsasser:

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

Water rights containing this qualification require mandatory compliance and pumping under your permit must cease unless you contact the Water Rights Program and receive permission to continue to divert water. Permission may be granted based upon water availability.

This is only a warning, but I expect your cooperation in following any requirements that have been placed on your water rights. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**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