

WATER PERMIT NO. 8392-3

Name of Applicant: Sunset Hutterian Brethren

Address: 41632 109th St, Britton SD 57430 Phone: 605 448-2168

Amount of Water Claimed: 0.22 Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: domestic County: Marshall

Type of Waste Disposal System:

Location: 5 miles west of Britton

PRIORITY Date Received: 1-29-19 Application/License Fee: \$ 700

Corrected Application Received: _____ Period of Annual Use: January 1 – December 31

Remarks: Holds Water Right No. 5220-3 for 0.22 cfs from one well. This second well is to meet peak demands.

Diversion Point: NE 1/4 SW 1/4 Sec 24-T127N-R59W

Land to be Irrigated: NA

Depth of Well: 128 feet deep

Well Driller: Lenius Well Drilling

Remarks:

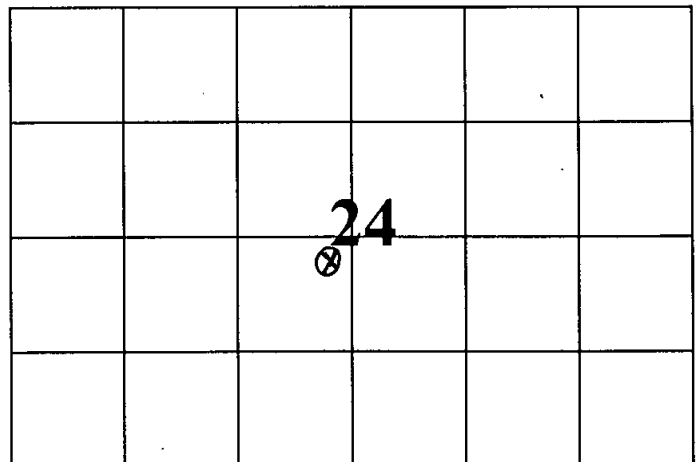
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-29-19

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 8392-3

Date of first receipt of application January 29, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8392-3 to Sunset Hutterian Brethren, 41632 109th St, Britton SD 57430 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. 8392-3 appropriates 0.22 cubic feet of water per second from one well completed into the Middle James:Columbia Aquifer (128 feet deep) located in the NE 1/4 SW1/4 Section 24-T127N-R59W. This new well and an existing well authorized by Water Right No. 5220-3 will be used to supply domestic and livestock water for use at the colony located in the SW 1/4 Section 14 and the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 23; all in T127N-R59W. The annual volume of water use from the wells authorized by Water Right No. 5220-3 and No. 8392-3 is 78 acre-feet of water. The site of the well is located 5 miles west of Britton SD.
2. The water appropriated shall be used for the purpose of domestic and livestock water use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 8392-3 is April 1, 2019 (0.22 cfs).
5. The date from which applicant may claim right is January 29, 2019.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Middle James:Columbia aquifer.
3. Water Right No. 5220-3 and Water Permit No. 8392-3, combined, authorize a total annual diversion of 78 acre foot of water.

WATER MANAGEMENT BOARD

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

APR 09 2019
date



PAID

JAN 29 2019

Ck# 17798

RECEIVED

JAN 29 2019

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8392-3</u> (office use only) Hydrologic Unit <u>10160003</u>
	Basin <u>James River</u>
	Newspaper <u>Britton Journal</u>
	<u>American News</u>

Application For Permit To Appropriate Water Within The State Of South Dakota
WATER RIGHTS PROGRAM

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application:
(check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

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

1. Name to Appear on Water Permit Sunset Hutterian BrethrenMailing Address 41632 109th Street Britton SD 57430
(Address) (City) (State) (Zip Code)Phone 605 448-2168 Mobile _____ Email _____2. Amount of water claimed 0.22 *CFS or 100 **GPM and 78 ***AF or 25,000,000 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use3. Source of water supply additional well4. Location of point of diversion NE 1/4 SW 1/4 Section 24-T127N-R59W County Marshall
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ NoIf "Yes," where will water be used? SW 1/4 Sec 14 and E 1/2 NW 1/4, W 1/2 NE 1/4 Sec 23; T127N-59W
(example - NW1/4 section 12-T104N-R53W)5. County or counties where water will be used Marshall6. Annual period during which water is to be used January 1 - December 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Sunset Colony current holds Water Right No. 5220-3 appropriating 0.22 cfs (99 gpm) from one well to supply domestic and livestock water. A second well was drilled in August 2018 to meet peak demands. Generally the wells will be used on an alternating basis but during peak periods the well may be used at the same time.

I, Josh Walcher Owner, 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.

New Well Location at Sunset Colony



New Well Location at Sunset Colony



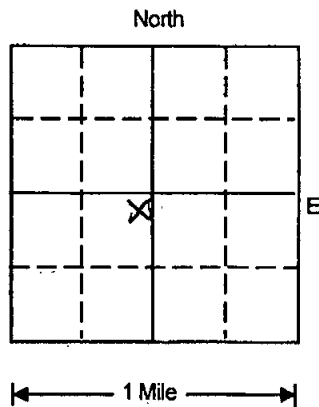
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 SW 1/4 Sec 24 Twp 127 Rg 59

County MARSHALL

Well completion Date
8-24-18



Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)
? ft. from _____ (identify source)

PROPOSED USE:

- ☒ Domestic/Stock
☐ Irrigation
☐ Municipal
☐ Industrial
☐ Business
☐ Institutional
☐ Test Holes
☐ Monitoring well

METHOD OF DRILLING:

FORWARD

CASING DATA:

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
200 LB/FT	6 IN	1 FT	108 FT	9 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type BENTONITE 50/15 No. of Sacks 20 per drill Grout Weight 90 Lb/gal FT From 90 To GROUND Ft

SCREEN:

☐ Perforated pipe
☒ Manufactured
 Diameter 6 Inches Length 20 Feet
 Material PLASTIC
 Slot Size 20 Set From 108 Feet to 128 Feet
 Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No
 If so, what material? _____
 Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? CHLORINE
☐ No, Why Not? _____
 Lab sample sent to for water quality analysis _____

Well Owner: SUNSET COLONY
 Business Name: _____
 Address: 41632 109ST
 City, State, Zip: BALTON, SD 57430

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP SOIL	0	2
YELLOW CLAY	2	19
BLUE CLAY	19	90
COURSE SAND	90	128
SHALE	128	130
TD	130	

STATIC WATER LEVEL

35 FEET
 If flowing: closed in pressure _____ PSI
 GPM flow _____ through _____ Inch pipe
 Controlled by ☐ Valve ☐ Reducers ☐ Other _____
 Reduced flow rate _____ GPM
 Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: AIR PUMPED
☐ Bailed PUMPED WITH
☐ Other SUB 2 HRS
 Pumping Level Below Land Surface
54 Ft. After 2 Hrs. pumped 35 GPM
 _____ Ft. After _____ Hrs. pumped _____ GPM
 If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 209
 And this report is true and accurate.
 Drilling firm: LENNIS WELL DRILLING
 Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: Jack Walaker
 RECEIVED
 JAN 04 2018
 WATER RIGHTS PROGRAM

Please return **WHITE COPY** to: DENR Water Rights 523 E Capitol Ave. Pierre SD 57501

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 29

, 20 19

RECEIVED OF Sunset Hutterian Brethren 41632 109th Street Britton SD 57430

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

Fee for Application for Permit No. <u>8392-3</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>8392-3</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. 08998

By

Jeanne Goodman
Chief Engineer *vm*



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 22, 2019

Jack Waldner
Sunset Hutterian Brethren
41632 109th Street
Britton SD 57430

Dear Mr. Waldner:

I am writing regarding our phone conversation about water right permitting for the well drilled at Sunset Colony last August. It is my understanding this new well and the well authorized by Water Right No. 5220-3 are used to supply domestic use for colony residents and livestock watering.

I have enclosed a partially completed water permit application form for the colony to complete and submit.

- fill out Item No. 2 regarding the amount of water claimed. Please state the diversion rate, estimated annual volume of water to be diverted and sign the application.
- mark the location of the new well on the enclosed map.
- The fee will be based on the amount of water claimed. If the pump rate from the new well is 45 gallons per minute or less the fee is \$300 made payable to the Water Rights Program. If the diversion is greater than 45 gpm, see enclosed instruction sheet for appropriate fee amount.

The well completion report submitted by the driller indicates the well is in Section 24-T128N-R59W. I believe the well is actually in Section 24-T127N-R59W. Please let me know if you disagree.

Included is a self-addressed stamped envelope to submit the completed application and fee.

Please contact me if you have questions.

Sincerely,

Eric Gronlund

Water Rights Program, DENR

605 773-3352

Eric.gronlund@state.sd.us

enclosure



**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. 8392-3, Sunset 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. 8392-3, Sunset Hutterian Brethren, c/o Jack Waldner, 41632 109th Street, Britton SD 57430.

The Chief Engineer is recommending APPROVAL of Application No. 8392-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Middle James:Columbia aquifer.
3. Water Right No. 5220-3 and Water Permit No. 8392-3, combined, authorize a total annual diversion of 78 acre foot of water.

See report on application for additional information.

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is written in a cursive, flowing style.

Jeanne Goodman, Chief Engineer
March 7, 2019

**Report to the Chief Engineer
Water Permit Application No. 8392-3**

Sunset Hutterian Brethren

26 February, 2019

Water Permit Application No. 8392-3 proposes to withdraw water at a maximum instantaneous diversion rate of 0.22 cubic feet per second (cfs) from one well completed into the Middle James: Columbia aquifer (128 feet deep) located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24-T127N-R59W. This new well and an existing well authorized by Water Right No. 5220-3 will be used to supply domestic and livestock water for use at the colony located in the SW $\frac{1}{4}$ Section 14 and the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23; all in T127N-R59W. Water Right No. 5220-3 withdraws water at a maximum instantaneous diversion rate of 0.22 cubic feet per second. The annual volume of water use from the wells authorized by Water Right No. 5220-3 and Application No. 8392-3, if approved, is 78 acre-feet of water. The site of the well is located 5 miles west of Britton, SD.

Aquifer: Middle James: Columbia (MJ: C)

Aquifer characteristics

The Middle James: Columbia aquifer is composed of glacial outwash (sand and gravel) immediately above or near the surface of the bedrock that underlies 220,500 acres in Brown County, 95,400 acres in Marshall County and extends north into North Dakota (Hedges, et al., 1982). The aquifer is under primarily confined conditions (Koch, 1975). The estimated amount of recoverable water in the aquifer in South Dakota is 1,376,000 acre-feet (Hedges, et al., 1982). The groundwater flow in the aquifer is generally from west to east and slightly to the north (Hedges, et al., 1982). Koch (1975) and Hedges et al. (1982) delineated the aquifer significantly differently in Marshall County. In Koch's (1975) delineation, the James aquifer has two thin lines of material extending southeast and southwest out of Marshall County. Hedges et al. (1982) delineated the material extending southeast as part of the Altamont aquifer because it thins near where it joins the Middle James: Columbia aquifer. Hedges et al. (1982) also delineated the material extending southwest as a part of the Deep James aquifer because the aquifer is narrower in that location. Current lithologic logs that go to bedrock are up to 1.6 miles apart in the region where Hedges et al. (1982) delineated the Deep James aquifer to end and the Middle James: Columbia aquifer to begin (SDGS, 2019) so Hedges et al.'s (1982) estimate of the area of the Middle James: Columbia aquifer is likely to be larger than the actual area. However, Hedges et al.'s (1982) estimate is still the best estimate available to date.

Materials above the aquifer can range from impermeable clay to much more permeable sand (SDGS, 2019). In the area near the location for this application, sand and gravel can generally be found less than 50 feet below the surface (Jensen, 2001).

A well was completed into the aquifer for this permit on August 24, 2018 by Lenius Well Drilling. The total depth of the hole was 130 feet but the screen for this well was placed from 108 to 128 feet below the land surface, making the functional depth of the well 128 feet. The driller reported top soil from 0 to 2 feet, yellow clay from 2 to 19 feet, blue clay from 19 to 90 feet, coarse sand from 90 to 128 feet, and shale 128 to 130 feet below the land surface. The static water level was 52 feet below the land surface at the time of drilling.

Applicable South Dakota Codified Law

Pursuant to SDCL 46-2A-9, a water permit may be issued if there is reasonable probability that there is unappropriated water available, existing rights will not be unlawfully impaired, and if the proposed use is a beneficial use and in the public interest. This report examines the availability of water without unlawful impairment of existing rights only.

Pursuant to SDCL 46-6-3.1 no application to appropriate groundwater from an aquifer stratigraphically higher or newer than the Greenhorn Formation may be approved if it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge to the groundwater source. An exception exists for water distribution systems applying to withdraw from groundwater sources in formations older or stratigraphically lower than the Greenhorn Formation, but the Middle James: Columbia aquifer is stratigraphically higher and newer than the Greenhorn Formation.

Water Availability

Pursuant to Administrative Rule of South Dakota Section 74:02:05:07, the Water Management Board relies upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge to the aquifer.

Observation well data

The Water Rights Program maintains 25 observation wells completed into the Middle James: Columbia aquifer. The nearest observation well is ML-70O, located about 0.8 miles southeast of the well for this application (Figure 1). The hydrograph for Observation Well ML-70O follows a similar pattern to the hydrograph for Observation Well ML-70N, which is 4 miles due north. Other wells in the aquifer that are down-gradient to ML-70O and ML-70N show seasonal pumping during the summer but return to normal levels each year. That trend makes sense because there are significantly more water right/permit holders down-gradient to Observation Well ML-70O and the location for this application. All observation well water level trends follow local historical climate data, indicating the aquifer is not being depleted under its current use (NOAA, 2019). The hydrograph of Observation Well ML-70O is representative of the hydrographs for other observation wells and the aquifer.

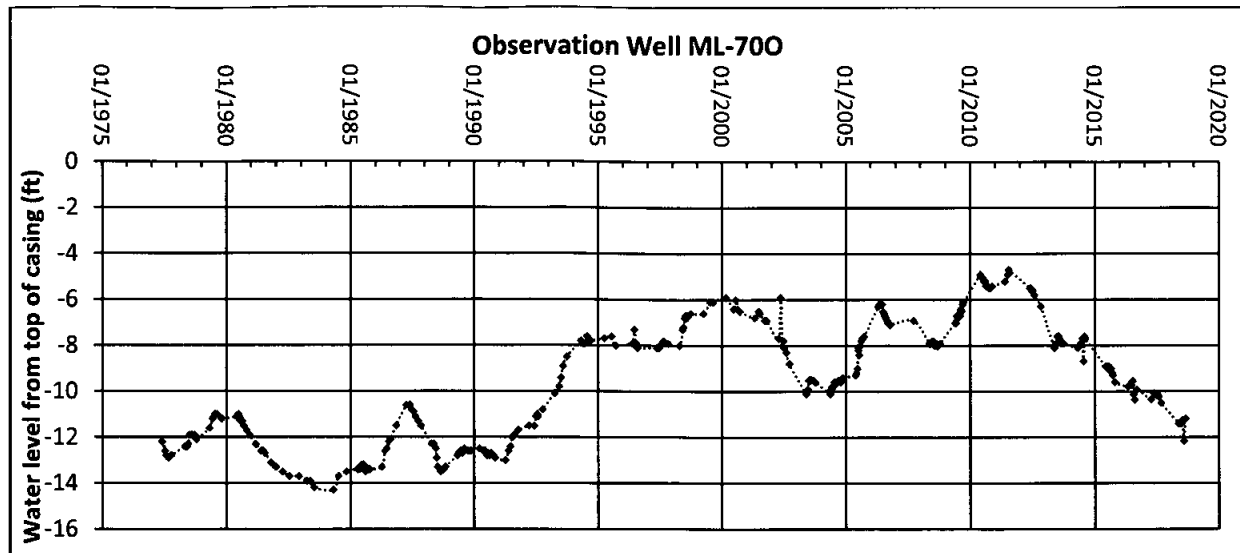


Figure 1: Hydrograph of Observation Well ML-700. The approximate elevation at the top of the casing is 1,296 ft. above sea level (SD Water Rights, 2019a)

Hydrologic budget

Recharge

Natural recharge to the aquifer is by inflow from adjacent glacial aquifers and by infiltration of precipitation (Koch, 1975). For management purposes, Hedges et al. (1985) recommended a recharge rate for confined aquifers between 0.15 and 0.60 inches per year. Over the 315,900 acres of aquifer delineated by Hedges et al. (1982), the estimated average annual recharge is somewhere between 3,900 and 16,000 ac-ft/yr in the South Dakota portion of the Middle James: Columbia aquifer.

Withdrawals

Natural discharge from the aquifer is by groundwater flow down-gradient into North Dakota (Koch, 1975). Human-made withdrawals from the aquifer are from domestic wells, 13 irrigation water rights, and 11 non-irrigation rights or permits in South Dakota. There are also two Future Use Permits in the Middle James: Columbia aquifer (5940-3 and 5940A-3, owned by Brown Day Marshall RWS), but they reserve no water currently, as the water they appropriated was placed to beneficial use by Water Permit 6371-3. Pursuant to Administrative Rule of South Dakota (ARSD) 74:02:01:26.01, upon licensing of Water Permit No. 6371-3, any undeveloped amount of water will be reinstated to the future use permit. There are 5 active water permits known to be in the Middle James aquifer in North Dakota (ND State Water Commission, 2019). Since the area of the Middle James aquifer in North Dakota is not included in the hydrologic budget, the permits in North Dakota should not impact the hydrologic budget.

Irrigation use data were collected for the period of record from 1979 through 2017 (Figure 2). The average amount of water pumped for irrigation over the period of record is 799 ac-ft/yr with

a sample standard deviation of 785 ac-ft/yr (SD Water Rights, 2018). The large variance in use from year to year is due to changes in weather, crop prices, and other factors.

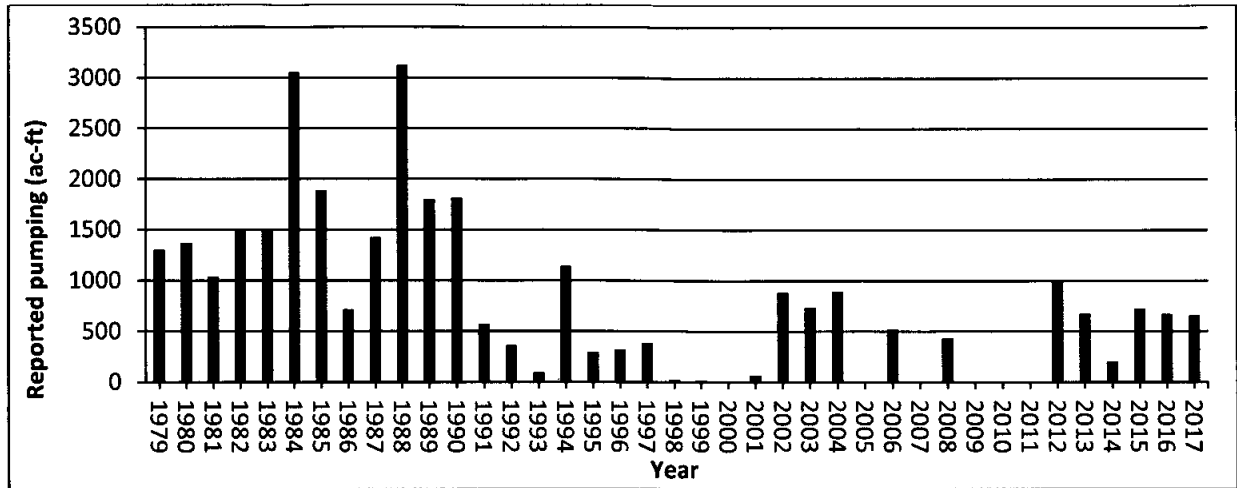


Figure 2: Irrigation use reported in the Middle James: Columbia aquifer (SD Water Rights, 2018)

No non-irrigation rights or permits are required to report their usage in the aquifer. A conservative estimate for withdrawals by non-reporting users is calculated by assuming they pump at their maximum instantaneous pump rate 60% of the time year-round (Table 1).

Table 1: Non-irrigation permit/right use estimates (SD Water Rights, 2019b)

Permit/Right No.	Holder	Use Type	Pump Rate (cfs)	Est. Use (ac-ft/yr)
1903-3	City of Hecla	MUN	0.30	130
3915-3	City of Britton	MUN	1.12	487
4908-3	Brown Day Marshall RWS	MUN, RWS	1.00	434
5047-3	City of Hecla	MUN	0.03	13
5220-3*	Sunset Colony	DOM	0.22	96
5740-3	White Township	COM	0.03	13
5881-3	ABE South Dakota, LLC	IND	1.00	434
6371-3	Brown Day Marshall RWS	RWS	2.89	1255
6528-3	Larson Livestock, Inc.	COM	0.333	145
6657-3	Westwood Hutterian	DOM	0.67	291
7130-3	SD Wheat Growers	COM	0.022	10
Total estimated use:				3308

MUN - Municipal, RWS - Rural Water System, DOM - Domestic, COM - Commercial, IND - Industrial

*Mentioned in the application for this permit

The total estimated average annual withdrawal in the Middle James: Columbia aquifer is currently 4,107 ac-ft/yr. Using the above estimation method, Water Permit No. 5220-3 is estimated to withdraw 96 ac-ft/yr, but if this permit is approved, the combined withdrawals of Water Permit No. 5220-3 and this application will be limited to 78 ac-ft/yr, reducing the average annual withdrawal estimate to 4,089 ac-ft/yr. In order for the estimated average annual recharge to exceed the estimated average annual withdrawals, the recharge rate would have to be at least

0.155 in/yr. Because there are areas in the aquifer overlain by some amount of permeable materials, it is likely that the actual recharge rate to the aquifer is higher than the minimum probable rate suggested by Hedges et al. (1985). Since the estimates of water use are calculated conservatively, it is likely that the actual water use is lower than estimated above. Therefore, the hydrologic budget indicates there is reasonable probability water is available for this permit.

Existing users

The nearest water right or permit to the well for this application is Water Right No. 5220-3, also owned by the Sunset Colony (SD Water Rights, 2019b). The next nearest water right or permit in the aquifer is Water Right 2460-3, which is 7.5 miles northeast of the well for this application. Figure 3 shows a map of the area.

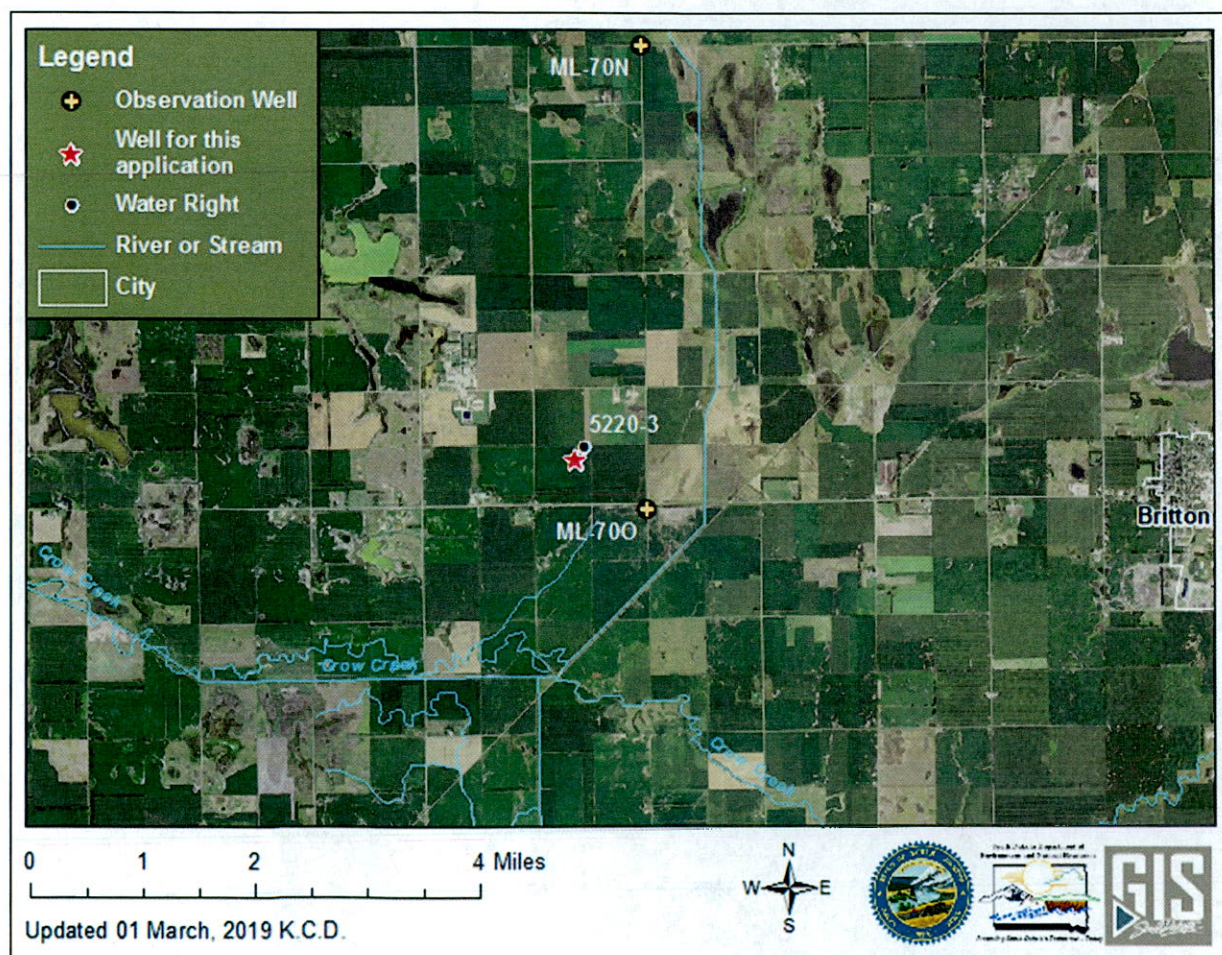


Figure 3: Water rights or permits, wells on file, and observation wells near this application (SD Water Rights, 2019a, 2019b, 2019c)

The nearest non-appropriative well on file with the DENR Water Rights Program in the Middle James: Columbia aquifer is a domestic well about 2.7 miles east of the well for this application (SD Water Rights, 2019c). Therefore, it is likely that this application not will impact nearby users other than the applicant's own well, drilled for Water Right No. 5220-3.

Report on Water Permit Application No. 8392-3

Unreported domestic wells could be present in the area. To protect domestic well users, the Water Management Board defined an “adversely impacted adequate well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs.”

Considering there are no complaints on record regarding groundwater interference in Marshall County, there is reasonable probability that development of this application will not unlawfully impact existing domestic and appropriative users with prior water rights (SD Water Rights, 2019d).

Conclusions

1. Water Permit Application No. 8392-3 proposes to appropriate water at a maximum instantaneous diversion rate of 0.22 cubic feet per second from one well.
2. The combined withdrawal between the well for this permit and the well for 5220-3 will be limited to 78 ac-ft/yr.
3. Based on observation well data and a hydrologic budget, there is reasonable probability water is available for this application.
4. There is reasonable probability the proposed diversion can be made without unlawfully impairing existing appropriative users with prior water rights and domestic users with adequate wells.



Kimberly C. Drennon
Natural Resources Engineer I.

References

- Hedges, L. S., Allen, J. & Holly, D. E., 1985. *Evaluation of ground-water resources Eastern South Dakota and Upper Big Sioux River - South Dakota and Iowa, Task 7*, Omaha, Nebraska: U.S. Army Corps of Engineers.
- Hedges, L. S. et al., 1982. *Evaluation of ground-water resources: eastern South Dakota and upper Big Sioux River - South Dakota and Iowa Tasks 1-4*, Omaha, Nebraska: U.S. Army Corps of Engineers.
- Jensen, A. R., 2001. *First Occurrence of Aquifer Materials in Marshall County, South Dakota*, Vermillion, South Dakota: SD Geological Survey.
- Koch, N. C., 1975. *Geology and Water Resources of Marshall, County, South Dakota*, Vermillion, South Dakota: South Dakota Geological Survey.
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[Accessed 26 February 2019].
- SD Water Rights, 2018. *Irrigation Questionnaire Summaries*, Joe Foss Bldg., Pierre, South Dakota: SD DENR Water Rights Program.
- SD Water Rights, 2019a. *Observation well data*, Joe Foss Bldg., Pierre, South Dakota: SD DENR Water Rights Program.
- SD Water Rights, 2019b. *Water Right/Permit File Database*, Joe Foss Bldg., Pierre, South Dakota: SD DENR Water Rights Program.
- SD Water Rights, 2019c. *Well Completion Reports Database*, Joe Foss Bldg., Pierre, South Dakota: SD DENR Water Rights Program.
- SD Water Rights, 2019d. *County Files*, Joe Foss Bldg. Pierre, South Dakota: SD DENR Water Rights Program.
- SDGS, 2019. *Lithologic Log Database*, Vermillion, South Dakota: South Dakota Geological Survey.

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APR 8 1 2019

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Marshall.

WATER RIGHTS
PROGRAM

Douglas M. Card of said county, being first duly sworn on oath says that he is publisher of the BRITTON JOURNAL, a weekly newspaper printed and published in the City of Britton, in the County of Marshall, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly and has been published within said County for fifty-two successive weeks, next prior to the publication of the notice herein mentioned and is printed wholly or in part in an office at said place of publication;

1T(March 20)
**NOTICE OF APPLICATION
NO.8392-3 to Appropriate
Water**

Notice is given that Sunset Hutterian Brethren, c/o Jack Waldner, 41632 109th St, Britton SD 57430 has filed an application for a water permit to appropriate 0.22 cubic feet of water per second from one well completed into the Middle James Columbia Aquifer (128 feet deep) located in the NE 1/4 SW1/4 Section 24-T127N-R59W. This new well and an existing well authorized by Water Right No. 5220-3 will be used to supply domestic and livestock water for use at the colony located in the SW 1/4 Section 14 and the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 23; all in T127N-R59W. The annual volume of water use from the wells authorized by Water Right No. 5220-3 and Application No. 8392-3 is 78 acre-feet of water. The site of the well is located 5 miles west of Britton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8392-3 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. 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.

that the Notice of application to appropriate water

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this affidavit, was published in said newspaper at least once each week for one successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

March 20, 2019

that the full amount of the fee charged for the publication of said notice inures to the benefit of publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whomsoever, and that the fee for the publication thereof

Thirty-one and 53/100

DOLLARS

Subscribed and sworn to before me this

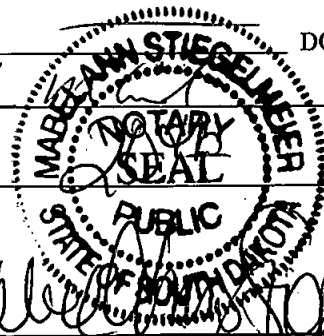
March A.D. 2019

day of

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 \$31.53



My Commission Expires November 21, 2020

RECEIVED

MAR 25 2019

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION
No. 8392-3 to Appropriate Water

Notice is given that Sunset Lutheran Brothers, c/o Jack Waldner, 41832 109th St, Britton SD 57430 has filed an application for a water permit to appropriate 0.22 cubic feet of water per second from one well completed into the Middle James-Columbia Aquifer (128 feet deep) located in the NE 1/4 SW1/4 Section 24-T127N-R59W. This new well and an existing well authorized by Water Right No. 5220-3 will be used to supply domestic and livestock water for use at the colony located in the SW 1/4 Section 14 and the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 23; all in T127N-R59W. The annual volume of water use from the wells authorized by Water Right No. 5220-3 and Application No. 8392-3 is 78 acre-feet of water. The site of the well is located 5 miles west of Britton SD.

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources
Published once at the total approximate cost of \$54.10.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Carla Penning being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal # 638363
Notice of Application to Appropriate Water

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

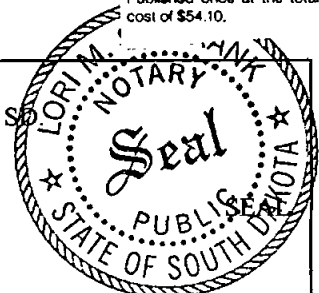
day for 1 successive day.
The first publication being made on the 20th day of March, 2019.
The second publication being made on the day of , 2019.
The third publication being made on the day of , 2019.
The fourth publication being made on the day of , 2019.
The fifth publication being made on the day of , 2019.
The sixth publication being made on the day of , 2019;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 54.10, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

Carla Penning
Subscribed and sworn to before me this 20th day of March, 2019.

Daily Circulation 10,000

Michael
Notary Public, Brown County, SD
My commission expires March 20, 2025



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, March 07, 2019 1:19 PM
To: journal@brittonsd.com
Subject: 8392-3, Sunset Hutterian Brethren
Attachments: 8392-3public.short.docx; FORM8.FRM.doc

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

Sunset Hutterian Brethren, c/o Jack Waldner, 41632 109th St, Britton SD 57430 (605 448-2168) 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: Thursday, March 07, 2019 1:19 PM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 8392-3, Sunset Hutterian Brethren
Attachments: 8392-3public.short.docx; FORM8.FRM.doc

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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 7, 2019

Sunset Hutterian Brethren
c/o Jack Waldner
41632 109th St
Britton SD 57430

Dear Mr. Waldner:

Water Permit Application No. 8392-3 for domestic and livestock watering use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Britton Journal printed at Britton SD (Ph # 605 448-2281) and the American News printed at Aberdeen SD (Ph # 605 225-4100). 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
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. 8392-3 to Appropriate Water

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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
<http://denr.sd.gov>

APR 09 2019

Sunset Hutterian Brethren
c/o Jack Waldner
41632-109th St
Britton SD 57430

Dear Mr. Waldner:

Enclosed is Water Permit No. 8392-3 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Sincerely,

A handwritten signature in black ink that reads 'Jeanne Goodman'.

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

enclosure



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 4, 2021

Sunset Hutterian Brethren
c/o Jack Waldner
41632 109th St
Britton SD 57430

Dear Mr. Waldner:

The Water Rights Program has learned through the Surface Water Quality Program of the Department of Agriculture and Natural Resources that the colony is using a wetland to irrigate a garden area. This water use will require a water permit.

Enclosed is an application form and instruction sheet.

A review of our records indicates Sunset Hutterian Brethren has Water Permit/Right Nos. 5220-3 and 8392-3 for two wells used to supply domestic use and livestock water.

For more information regarding the permitting process, please go to our web site at <http://denr.sd.gov/des/wr/wr.aspx>

If you have any questions, please contact Ron Duvall or me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

11/24/21
Jack called
in dry years they water
a garden area (less than 1 acre)
mostly potatoes.