

WATER PERMIT NO. 8620-3

Name of Applicant: Shannon Hutterian Brethren Inc.

Address: 43952 235th St, Winfred SD 57076

Phone: 605 270-7421

Amount of Water Claimed: 0.111 cfs (61.6 AF)

Total Acres: NA

Source of Water Supply: 2 existing wells

Water to be used for: commercial

County: Miner

Type of Waste Disposal System:

Location: 3 miles southwest of Winfred

PRIORITY

Date Received: 3-25-22

Application/License Fee: \$ 700

Corrected Application Received:

Period of Annual Use: Jan 1 – Dec 31

Remarks:

Diversion Point: SW 1/4 NE 1/4 Sec 15-T106N-
R55W

Land to be Irrigated: NA

Depth of Well: 542 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 3-28-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

			⊗		
			15		

**SOUTH DAKOTA
WATER PERMIT NO. 8620-3**

Date of first receipt of application March 25, 2022.

The Water Management Board approved Water Permit No. 8620-3 on July 6, 2022 for Shannon Hutterian Brethren Inc., c/o Mark J Wipf, 43952 235th St, Winfred SD 57076 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. 8620-3 appropriates 61.6 acre-feet of water annually at a maximum pump rate of 0.111 cubic feet of water per second from two existing wells completed into the Codell Aquifer (542 feet deep) located in the SW 1/4 NE 1/4 Section 15 for commercial use in a dairy and swine operation located in the E 1/2 Section 15; all in T106N-R55W. This site is located approximately 3 miles southwest of Winfred SD.
2. The water appropriated shall be used for the purpose of commercial 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 from which applicant may claim right is March 25, 2022.
5. The date of approval of Permit No. 8620-3 is July 6, 2022.
6. All construction is to be completed on or before July 6, 2027.
7. Water is to be put to beneficial use on or before July 6, 2031.
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. The wells approved under Water Permit No. 8620-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8620-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8620-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Codell aquifer.
5. Water Permit No. 8620-3 authorizes a total annual diversion of 61.6 acre-feet of water from the Codell aquifer.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUL 26 2022
date



MAR 25 2022

WATER RIGHTS
PROGRAM

PAID

MAR 25 2022

Ck# 5684

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8620-3</u> (office use only) Hydrologic Unit <u>10170102</u> Basin <u>Vermillion River</u> Newspaper <u>Miner County Review</u> <u>Madison Daily Leader</u>
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Application For Permit To Appropriate Water Within The State Of South Dakota

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.)

- Name to Appear on Water Permit SHANNON HUTTERIAN BROTHERS, INC.
 Mailing Address 4395Z 235TH STREET WINFRED SD 57076
(Address) (City) (State) (Zip Code)
 Phone (605) 485-2236 Mobile (605) 270-7421 Email m1969mark@yahoo.com
- Amount of water claimed 0.111 *CFS or 61.6 **GPM and 61.6 ***AF or --- Gallons. --
Flow rate and volume are both required (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam dugout or annual use)
- Source of water supply CODELL AQUIFER
- Location of point of diversion 2 WELLS IN SW 1/4 OF NE 1/4 SECTION 15, T106N R55W County MINER
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R55W)
 If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ No
 If "Yes," where will water be used? EAST HALF OF SECTION 15, T106N R55W, MINER CO.
(example - NW 1/4 section 12-T104N-R55W)
- County or counties where water will be used MINER
- Annual period during which water is to be used JANUARY 1 - DECEMBER 31
- 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)
SEE ATTACHED

I, By: Mark L. Wipf
Shannon Hutterian Brothers Inc President, 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.

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☒ Using existing well(s)

a) If new wells, how many _____ Have test holes been drilled ☐ Yes ☐ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many 2 Provide copy of log(s), if available. Drilled by PELLEGRINO

For either Existing or Proposed Wells:

c) Well Depth (required) 542 Depth to Top of Water Bearing Material 465 Depth to Water from Surface 190

d) Distance to nearest domestic well on applicant's property 2850' Property owned by others 8000'

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) 2 CELL TREATMENT LAGOON FOR DOMESTIC WASTEWATER

b) System Capacity (gallons) 4.31 million Year Constructed 2008

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

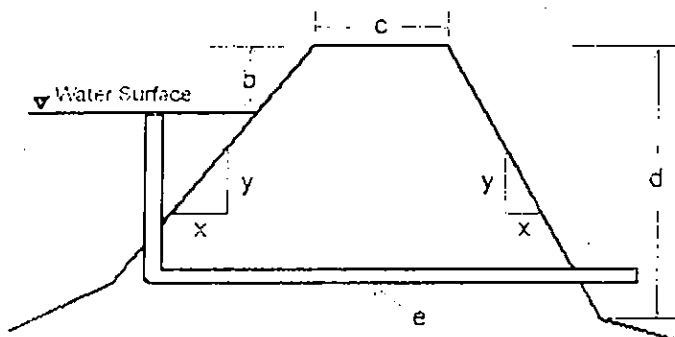
Upstream _____

Downstream _____

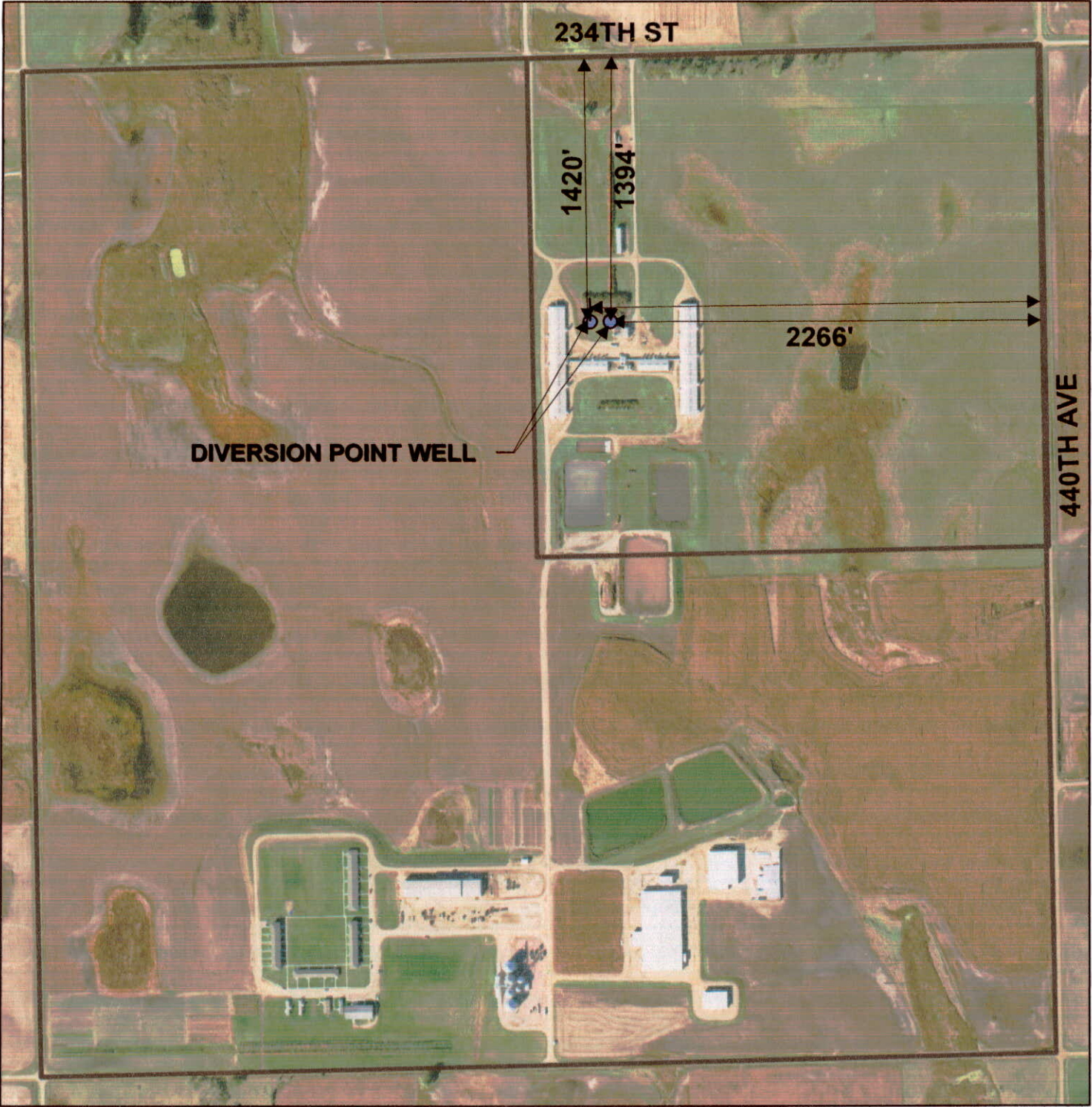
h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



SHANNON HBI
DIVERSION POINT WELLS
Section 15 T106N R55W



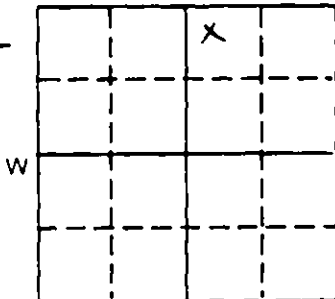
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 NE 1/4 Sec 15 Twp 106 Rg 55SW - KED 20560 on APPLICANT MAPCounty 5/16/2022 North

Miner

Please mark well location with an "X"



Well Completion Date

9/5/2006

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:

CASING DATA:

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
21.0 LB/FT	5.00 IN	0.0 FT	182.0 FT	7.88 IN
17.0 LB/FT	5.00 IN	182.0 FT	402.0 FT	7.88 IN
80.0 LB/FT	5.00 IN	402.0 FT	442.0 FT	7.88 IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Cement	4	Lb/gal	0.0 Ft	20.0 Ft
Vol Clay	25	Lb/gal	20.0 Ft	415.0 Ft

Describe grouting procedure
Line

SCREEN:

☐ Perforated pipe
 ☒ Manufactured
 Diameter 5.00 Inches Length 100.0 Feet
 Material PVC
 Slot Size .016 Set From 442.0 Feet to 542.0 Feet
 Other information

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? Gravel

Describe packer(s) and location

@442

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Granules
☐ No, Why Not?
 Lab sample sent to for water quality analysis
Well Owner: Shannon ColonyBusiness Name: Rockport ColonyAddress: 26209 Rockport RdCity, State, Zip: Alexandria SD 57311

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow clay	0	20
Blue Clay	20	112
sand	112	115
Blue Clay	115	205
yellow Clay	205	265
Chalk	265	395
Shale	395	460
Sand	460	542
Shale		

STATIC WATER LEVEL 190.0 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: w/air☐ Baled☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm: Pullman Well Drilling

Signature of License Representative

Ken Palmer

Signature of Well Owner or Equitable Property Holder:

RECEIVED

OCT 13 2006

WATER RIGHTS PROGRAM

Date: _____



DAKOTA ENVIRONMENTAL, INC.

Engineers...Hydrogeologists...Geologists...Remedial Specialists

March 21, 2022

Eric Gronlund
South Dakota DENR Water Rights
523 East Capitol
Pierre, SD 57501

Re: Shannon HBI, Miner County, SD
DEC Project No. 23035

Dear Mr. Gronlund:

The following is provided as a description of the proposed application.

Shannon HBI proposes to obtain a Water Rights Permit for two existing wells used to supply various existing uses on their property, at the locations described on the application form.

Two wells in the southwest quarter of the northeast quarter of section 15 are used to supply water to the finishing portion of an existing swine confinement, as well as washdown water for an existing dairy confinement, both located within the east half of the section. Water for other uses for the colony is supplied by a rural water system.

A log for one of the wells is included with the application. A log for the second well was not located, though it is our understanding that it is identical to the first. Only one well is used at a given time, as the second is available as a backup source and the wells are not designed to withdraw concurrently.

Application is made for a maximum available pump rate of 50 gallons per minute, and an estimated annual use of 61.6 acre-feet.

We hope you will find the enclosed information adequate for review of this application. As always, please feel free to contact us if you have any questions or require additional information.

Sincerely,

Brian Friedrichsen, PE
Senior Engineer

**Water Rights Program
File Documentation**

NAME OF PERSON OR FILE: Shannon Hutterian Brethren c/o Brian Friedrichsen of
Dakota Environmental

DATE: April 01, 2022 TELEPHONE: 605-352-5610

RE: Water Permit Application Well Depths and Locations

COMMENTS:

One well completion report for a 542 foot well completed into the Codell aquifer was filed with the application and an included letter from Brian Friedrichsen stated the applicant intended to use that well and another identically constructed well for their application. The second well does not have a well completion report. Review of well completion reports in the area found a 280 foot deep well completed into the Niobrara aquifer that is filed under the name of the applicant.

Chief Engineer Gronlund and I called Brian on April 1, 2022 to discuss the well completion report filed with Application No. 8620-3 and the other well completion report on file with the Water Rights Program for Shannon Hutterian Brethren. Brian stated there were two identical 542 foot Codell wells and that the third well on the applicant's property and not being used for the permit application was the 280 foot deep Niobrara aquifer well.



Adam Mathiowetz
Natural Resources Engineer
DANR-Water Rights Program

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

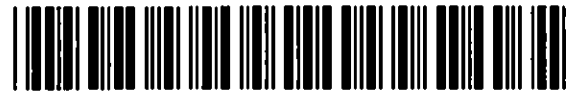
Date March 25, 2022

RECEIVED OF Shannon Hutterian Brethern Inc. 43952 235th Street Winfred SD 57076

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

Fee for Application for Permit No. <u>8620-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</u>
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>8620-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>700.00</u>

By Eric Gronlund
Chief Engineer
me



531246806

ANNUAL REPORT

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

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

2021
FILING YEAR

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:

NS012564
BUSINESS ID

SHANNON 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

43952 235TH ST
WINFRED, SD 57076

Mailing Address

43952 235TH ST
WINFRED, SD 57076

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
President	MARK J WIPF	43952 235TH STREET, WINFRED, SD, 57076
Vice President	BEN WIPF	43952 235TH STREET, WINFRED, SD, 57076
Secretary	BEN WIPF	43952 235TH STREET, WINFRED, SD, 57076
Treasurer	BEN WIPF	43952 235TH STREET, WINFRED, SD, 57076

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

Name	Address
JOHN WIPF	43952 235TH STREET, WINFRED, SD, 57076
LEVI WIPF	43952 235TH STREET, WINFRED, SD, 57076
NATHANIEL GROSS, JR.	43952 235TH STREET, WINFRED, SD, 57076
MARK J WIPF	43952 235TH STREET, WINFRED, SD, 57076
BEN WIPF	43952 235TH STREET, WINFRED, SD, 57076



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).

06/04/2021

Dated

Email (Optional)

BEN WIPF

Signature of an Authorized Person

BEN WIPF

Printed Name

B0183-5915 06/04/2021 2:57PM Rec'd by SD SOS



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8620-3, Shannon Hutterian Brethren Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8620-3, Shannon Hutterian Brethren Inc., 43952 235th Street, Winfred SD 57076.

The Chief Engineer is recommending APPROVAL of Application No. 8620-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under Water Permit No. 8620-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8620-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8620-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)

4. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Codell aquifer.
5. Water Permit No. 8620-3 authorizes a total annual diversion of 61.6 acre-feet of water from the Codell aquifer.

See report on application for additional information.

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund, Chief Engineer
May 23, 2022

**Report to the Chief Engineer on
Water Permit Application No. 8620-3**

Shannon Hutterian Brethren, Inc.
16 May 2022

Water Permit Application No. 8620-3 seeks to appropriate 61.6 acre-feet of water annually (ac-ft/yr) at a maximum diversion rate of 0.111 cubic feet of water per second (cfs) from two existing wells completed into the Codell aquifer located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 for commercial use in a dairy and swine facility located in the E $\frac{1}{2}$ Section 15, all in T106N-R55W, 5th Principal Meridian. This site is located approximately 3 miles southwest of Winfred, South Dakota.

Aquifer: Codell (CDLL)

Hydrogeologic Characteristics

The Codell aquifer consists of the permeable and saturated portions of the Codell Sandstone, which is a member of the Cretaceous-aged Carlile Shale. The Codell aquifer underlies approximately 4,960,000 acres and stores approximately 9,895,700 acre-feet of water in South Dakota east of the Missouri River [1]. In eastern South Dakota, the Codell aquifer directly underlies the Niobrara aquifer in some locations [1]. It also lies adjacent to glacial outwash aquifers when they lie in a bedrock valley that intersects the Codell aquifer [2] [3].

The applicant submitted one well completion report for a well completed on September 5, 2006 in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 T106N-R55W. Based on the measurements indicated in the map provided by the applicant and file documentation from Water Rights Program Staff Engineer Adam Mathiowetz dated April 1, 2022, that well is actually located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 T106N-R55W. That same file documentation indicates that the second well the applicant proposes to use is already completed and is identical to the first well. The driller indicated the formations encountered as Yellow clay from ground level to 20 feet below grade, Blue clay from 20 to 112 feet, sand from 112 to 115 feet, blue clay from 115 to 205 feet, yellow clay from 205 to 265 feet, chalk from 265 to 395, shale from 395 to 460, and sand from 460 to 542 feet below grade. The driller also indicated that shale was below the lowest layer of sand but did not indicate a thickness. The driller screened the well from 442 to 542 feet below grade with 5-inch casing. The static water level at the time the well was completed was 190 feet below grade. Static water level is an indication of hydraulic head in the aquifer. Based on the depth of the screen and the materials encountered, the wells for this application are completed into the Codell aquifer.

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will only assess the availability of water and possibility of developing this application without unlawful impairment of existing domestic water uses and water rights.

Pursuant to SDCL 46-6-3.1, no application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. The applicant is not a water distribution system as defined in SDCL 46-1-6(17) and the Codell aquifer is younger and stratigraphically higher than the Greenhorn Formation. Therefore, it is necessary to find that recharge exceeds withdrawals to approve this application.

Availability of Water

Hydrologic Budget

Recharge

Recharge to the Codell aquifer is likely by groundwater inflow from hydrologically connected aquifers and glacial till when the hydraulic head of those bodies is higher than the hydraulic head of the Codell aquifer, including from the alluvium below Lake Francis Case [4]. There is no estimate of recharge available for the Codell aquifer.

Discharge

Natural discharge from the Codell aquifer likely occurs by groundwater outflow to hydrologically connected aquifers when the hydraulic head of those bodies is lower than the hydraulic head of the Codell aquifer. Discharge also occurs by domestic and appropriative withdrawals. Due to the low withdrawal rate of domestic wells and presence of stratigraphically higher aquifers over much of the Codell aquifer's areal extent and water distribution systems serving domestic water use needs, domestic well withdrawals are estimated to be negligible for the hydrologic budget. There are 48 water rights/permits authorized to appropriate from the Codell aquifer [5]. Of those 48, six are for irrigation [5]. Figure 1 shows the irrigation reported over the period of record (1979 – 2020) [6]. The average irrigation reported over the period of record from 1979 through 2020 is approximately 41 ac-ft/yr [6]. However, the number of irrigation permits in the Codell aquifer increased from 1 permit to 4 from 2012 to 2013 [6], so the average irrigation reported over the period of record is not likely to be representative of typical irrigation in the aquifer. Average irrigation reported from 2013 through 2020 is 108 ac-ft/yr [6]. Two irrigation permits, Water Permit Nos. 8553-3 and 8592-3, were approved since 2020, so they are not represented in the irrigation questionnaire summaries [5]. Since Water Permit Nos. 8553-3 and 8592-3 are for irrigation of turf, a combined estimated withdrawal 2 ac-ft per irrigated acre, or 84.2 ac-ft/yr is assumed.

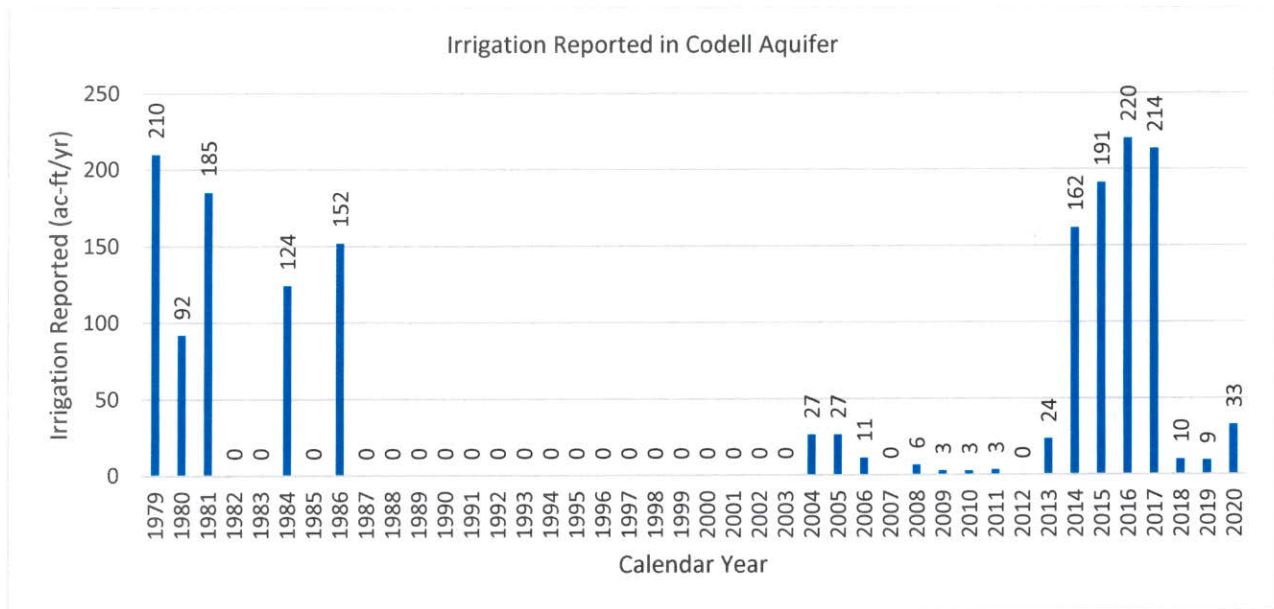


Figure 1: Irrigation reported from the Codell aquifer [6]

Of the non-irrigation water rights/permits, 12 purchase their water from another system [7] [5]. They maintain their water rights on standby for emergency purposes and are assumed to withdraw a negligible amount of water. Eight non-irrigation water rights/permits are required to report their withdrawals. All of those permits are new enough that they still may be developing their permits, so they are assumed to withdraw the full volume appropriated on their permit, for an estimated withdrawal of 365 ac-ft/yr [5]. One water right/permit is not required to report its withdrawals, but is limited on its permit to an annual volume on its permit of 10 ac-ft/yr [5]. The remaining 21 water rights/permits authorized to withdraw from the Codell aquifer are assumed to withdraw at their authorized rate 60% of the time, for an estimated withdrawal of 1,427 ac-ft/yr. There is also one water right, No. 6891-3 which was originally public noticed as withdrawing from the Niobrara aquifer. Upon later review, Water Rights Staff have determined that it withdraws from the Codell aquifer [8]. Assuming they pump at their maximum withdrawal rate 60% of the time, their estimated withdrawal is 145 ac-ft/yr.

Summary of Hydrologic Budget

There is no estimate of recharge available for the Codell aquifer. Table 1 summarizes withdrawals estimated for the Codell aquifer. The total estimated withdrawal for the aquifer is 1,994 ac-ft/yr. Divided across the 4,960,000 acres of the Codell aquifer, recharge to the aquifer would have to be at least 0.005 inches per acre per year to support current appropriations. The hydraulic conductivity of sandstone ranges from 0.37 inches per year to 7,500 inches per year [9] and there are known locations that the Codell aquifer is hydrologically connected to other aquifers [4] [3]. This application seeks to appropriate up to 61.6 ac-ft/yr. Therefore, based on the hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Table 1: Summary of withdrawals in the Codell aquifer, rounded to the nearest 1 acre-foot

Method	Number	Est. Use (ac-ft/yr)
Irrigation, Reporting	4	108
Irrigation, Too New to Report	2	84
Standby	12	0
Non-Irr, Report Required	8	365
Non-Irr, Volume Limit	1	10
60% Estimate*	22	1,572
Total	49	2,139
*Including Water Right No. 6891-3		

Observation Wells

Administrative Rule of South Dakota (ARSD) 72:04:05:07 requires that the Water Management Board rely upon the record of observation wells in addition to other information in order to determine that recharge to the aquifer exceeds withdrawals. The Water Rights Program maintains 22 observation wells completed into the Codell aquifer [10]. The nearest observation well to this application is Observation Well MR-86A [10], located approximately 6 miles west of the wells for this application. Observation Well MR-86A is representative of the general behavior of the aquifer. Water levels from Observation Well MR-86A are shown in Figure 2 [10]. In general, water levels rise during periods of higher-than-average precipitation and decline during periods of lower-than-average precipitation [11]. The decline in water levels in Observation Well MR-86A in 2014 is likely due to a brief period when the well did not function properly, which was resolved by additional development of the well [10]. There are also seasonal declines due to higher pumping during the summer, although the water levels in the aquifer tend to recover after the spring recharge period. The fluctuation of water levels aligning with fluctuations in annual precipitation indicate water is naturally discharging from the aquifer and recharge to the aquifer exceeds withdrawals. The Water Management Board considers natural discharge to be available for capture. Therefore, based on observation well analysis, there is reasonable probability unappropriated water is available for this application.

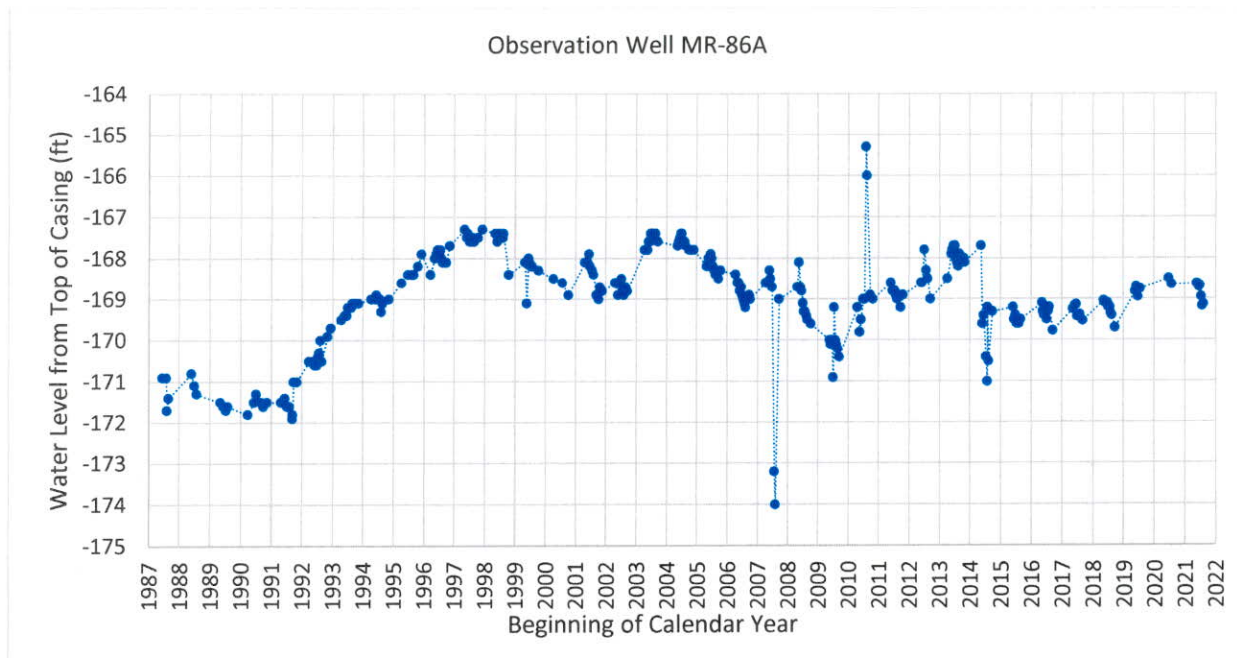


Figure 2: Observation Well MR-86A [10]

Possibility of Unlawful Impairment of Existing Water Rights

The nearest domestic well on file with the Water Rights Program that is likely to be completed in to the Codell aquifer is the one located 1.5 miles southwest of this application [12]. The nearest water rights/permit appropriating from the Codell aquifer is located approximately 23 miles northeast of the wells for this application [5]. The Water Rights Program has historically interpreted an unlawful impairment of existing water rights to occur if a junior water right/permit causes a nearby adequate well with a senior water right/permit to become unable to withdraw at the rate it is entitled to or, if a domestic well is impacted, a water right/permit causes an adequate domestic well to be unable to withdraw at the rate needed to supply reasonable domestic use of water. Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) defines an adequate well as:

...a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet

There is no record of interference of an adequate well in Miner County on file with the Water Rights Program [13]. Some drawdown is likely to occur due to use of this well. However, in order to place the waters of the state to maximum beneficial use, the Water Management Board has ruled that hydraulic head is not protected as a means of water delivery [14], and nearby well owners may be required to lower their pumps. Based on well completion report discussed in the Hydrogeologic Characteristics section, the hydraulic head in the aquifer is likely to rise 270 feet above the top of the aquifer [12]. Due to the availability of hydraulic head in the aquifer, the lack of complaints of well interference in the county, and relatively low diversion rate requested by this application, there is reasonable probability this application can be developed without unlawful impairment of existing water right/permits or adequate domestic wells.

Conclusions

1. Water Permit Application No. 8620-3 seeks to appropriate 61.6 ac-ft/yr at a maximum diversion rate of 0.111 cfs from two existing wells completed into the Codell aquifer located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 for commercial use in a dairy and swine facility located in the E $\frac{1}{2}$ Section 15, all in T106N-R55W.
2. Based on the hydrologic budget and observation well analysis, there is reasonable probability unappropriated water is available for this application.
3. There is reasonable probability this application can be developed without unlawful impairment of existing water rights/permits or adequate domestic wells.



Kimberly C. Drennon, E.I.

Natural Resources Engineer II – DANR Water Rights Program

References

- [1] L. S. Hedges, S. L. Burch, D. L. Iles, R. A. Barari and R. A. Schoon, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River, South Dakota and Iowa, Tasks 1-4," U.S. Army Corps of Engineers, Omaha, Nebraska, 1982.
- [2] L. S. Hedges, "Geology and Water Resources of Charles Mix and Douglas Counties, South Dakota - Part I: Geology," SD DANR Geological Survey Program, Vermillion, South Dakota, 1975.
- [3] C. M. Christensen, "Geology and water resources of Bon Homme County, South Dakota; Part I: Geology," SD DANR Geological Survey Program, Vermillion, South Dakota, 1974. Bulletin 21.
- [4] J. Kume, "Geology and Water Resources of Charles Mix and Douglas Counties, South Dakota - Part II: Water Resources," SD DANR Geological Survey Program, Vermillion, South Dakota, 1977. Bulletin 22.
- [5] SD DANR Water Rights Program, "Water right permit file database," SD DANR Water Rights Program, Pierre, South Dakota, 2022.
- [6] SD DANR Water Rights Program, "Irrigation questionnaire summaries," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2021.
- [7] SD DANR Drinking Water Program, "Your Water System Information," SD DANR Drinking Water Program, 9 February 2021. [Online]. Available: <https://denr.sd.gov/des/dw/sysinfo.aspx>. [Accessed 9 February 2021].
- [8] W. Kilts, Interviewee, *Natural Resources Engineer III - Water Rights Program*. [Interview]. 3 May 2022.

- [9] G. M. Duffield, "Representative Values of Hydraulic Properties," 23 November 2019. [Online]. Available: http://www.aqtesolv.com/aquifer-tests/aquifer_properties.htm. [Accessed 31 March 2022].
- [10] SD DANR Water Rights Program, "Observation wells," Pierre, South Dakota, 2022.
- [11] NOAA, "Climate at a Glance - Divisional Time Series for South Dakota Region 7," NOAA, 1 May 2022. [Online]. Available: <https://www.ncdc.noaa.gov/cag/divisional/time-series>. [Accessed 16 May 2022].
- [12] SD DANR Water Rights Program, "Well completion reports," Pierre, South Dakota, 2022.
- [13] SD DANR Water Rights Program, "County files," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 2022.
- [14] South Dakota Water Management Board. *On the Matter of Water Permit Application No. 2313-2 for Coca Cola Bottling Company*, 1995.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 25, 2022 2:49 PM
To: m1969mark@yahoo.com
Cc: Brian Friedrichsen (brian@dakotaenv.com)
Subject: Water Permit Application No. 8620-3
Attachments: 3498.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application.

With the Memorial Day Holiday on Monday, it is very important to contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



RECEIVED

JUN 23 2022

OFFICE OF
WATER
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Miner: ss.

Carla Poulson of said County and State, being duly sworn, on her oath says:
That the Miner County Pioneer is a legal newspaper of general circulation,
printed and published in Howard, said County and State, by Carla Poulson, and
has been such newspaper during the time hereinafter mentioned; and that I,
Carla Poulson the undersigned, am publisher of said newspaper, in charge of
the advertising department thereof, and have personal knowledge of all the
facts stated in this affidavit, and that the advertisement or notice headed

Notice of Application

A printed copy of which is herewith attached, was printed and published in the
regular and entire issue of said newspaper and not in a supplement, once each
week for 2 successive weeks, the first publication being made on the
2 day of June 22

And the last publication on the 20 day of June 2022

The first publication being made on the 20 day of June 2022

The second publication being made on the 20 day of June 2022

The third publication being made on the 20 day of June 2022

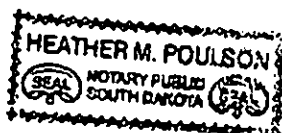
The fourth publication being made on the 20 day of June 2022

The fifth publication being made on the 20 day of June 2022

That said newspaper is a legal newspaper, and has a bona fide circulation of
more than two hundred copies weekly, and has been published within the
County of Miner, for more than fifty-two successive weeks next prior to the
first publication of said notice, and is printed in an office maintained in
Howard, South Dakota, the place of publication of said newspaper. That the
full amount of fees for publication of the annexed notice is \$ 37.38 and
inures solely to the benefit of said publisher; that no agreement or understand-
ing for a division thereof has been made with any person and that no part there-
of has been agreed to be paid to any person whatsoever.

Subscribed and sworn to me this 23 day of June 2022

My commission expires the 10 day of Oct 2023



NOTICE OF APPLICATION NO.
6620-3 to Appropriate Water

Notice is given that Mazonia
Hutterian-Broschus, Inc. c/o Mark
J. Wipac, 43952 235th St, Winfred
SD 57076 has filed an application
for a water permit to appropriate
61.6 acre-feet of water annually
at a maximum pump rate of 0.111
cubic feet of water per second from
two existing wells completed into
the Codell Aquifer (542 feet deep)
located in the SW 1/4 NE 1/4 Section
15 for commercial use in a dairy and
winter operation located in the E 1/2
Section 15; all in T106N-R35W. This
site is located approximately 3 miles
southwest of Winfred SD.

Pursuant to SDCI 46-2A-2,
the Chief Engineer recommends
APPROVAL of Application No.
6620-3, with qualifications because
1) inappropriate water is available,
2) existing domestic water uses and
water rights will not be unlawfully
impaired, 3) it is a beneficial use
of water, and 4) it is in the public
interest as it pertains to matters
within the regulatory authority of
the Water Management Board. The
Chief Engineer's recommendation
with qualifications, the application,
and staff report are available at
<http://water.sd.gov/public> or contact
Ron Duval for this information or
other information at the Water
Rights Program address provided
below.

Any person interested in
opposing this application or
recommendation shall, despite that
the application upon approval will
cause injury to the person that is
unique from any injury suffered by
the public in general. The injury
must concern a matter either within
the regulatory authority found in
SDCI 46-2A-9 for approval or
denial of the application or other
matter concerning the application
within the regulatory authority of
the board to act upon as defined by
SDCI 46-2-9 and 46-2-11, or both.
Any person contesting the petitioner's
requirements and wishing to be a
party of record in a contested
case bearing shall file a written
petition to oppose the application
with BOTH the applicant and Chief
Engineer. A petition opposing the
application shall be filed on a form
provided by the Chief Engineer.
The petition form is available online
at <http://water.sd.gov/public> or by
contacting the Chief Engineer. The
Chief Engineer's address is Water
Rights Program, Forsyth Building,
523 E. Capitol Pierre SD 57501 or
call (605) 773-3352. The applicant's
mailing address is given above. If
contesting the Chief Engineer's
recommendation, the applicant shall
also file a petition. A petition filed
by either an interested person or the
applicant must be filed by June 13,
2022.

The petition shall include a
statement describing the unique
injury upon approval of the
application on the petitioner, the
petitioner's reasons for opposing
the application, and the name and
mailing address of the petitioner or
the petitioner's legal counsel, if legal
counsel is obtained.

Any interested person may file
a comment on the application with
the Chief Engineer. The comment
shall be filed on a form provided by
the Chief Engineer and is available
online at <http://water.sd.gov/public> or
by calling (605) 773-3352 or writing
the Chief Engineer at the address
provided above. Filing a comment
does not make the commenter a
party of record or a participant in
any hearing that may be held. Any
comments must be filed by June 13,
2022.

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, a hearing will be scheduled
and the Water Management Board
will consider this application. Notice
of the hearing will be given to the
applicant and any person filing a
petition.

Published: once each week (total
approximate cost of \$37.38)
(June 2, 2022)

JUN 06 2022

AFFIDAVIT OF PUBLICATION

OFFICE OF
WATER

Thursday, June 2

STATE OF SOUTH DAKOTA)
) ss.
County of Lake)

Michelle Albers, of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Wick Communications, Michelle Albers, Business Manager, and has been such legal newspaper during the times hereinafter mentioned; That the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and how has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Business Manager of the said newspaper, a member of the Daily Leader staff thereof, and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

NTC TO APPROP WATER -WIPF
SD DANR-WATER RIGHTS

printed copy of which hereunto attached, was printed and published in the said newspaper for 1 successive week(s), once each week and on the same day of the week, on the following dates, to-wit:

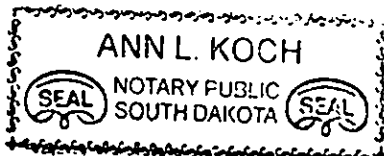
06/02/2022

That \$ 44.38 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publication of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Michelle Albers

Subscribed and sworn before me this 2nd day of

June, 2022



Ann L. Koch
Notary Public, Lake County, South Dakota
Exp. 11-19-25

NOTICE OF APPLICATION
NO. 8620-3 to Appropriate
Water

Notice is given that Shannon Hutterian Brethren Inc., c/o Mark J Wipf, 43952 235th St, Winfred SD 57076 has filed an application for a water permit to appropriate 61.6 acre-feet of water annually at a maximum pump rate of 0.111 cubic feet of water per second from two existing wells completed into the Codell Aquifer (542 feet deep) located in the SW 1/4 NE 1/4 Section 15 for commercial use in a dairy and swine operation located in the E 1/2 Section 15; all in T106N-R55W. This site is located approximately 3 miles southwest of Winfred SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8620-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights, will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water

Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

- Pul
- No
- Re
- Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the

applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 13, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 13, 2022.

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

Published once at the total approximate cost of \$44.38

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 25, 2022 2:40 PM
To: Ann Koch (ann@madisondailyleader.com)
Subject: 8620-3, Shannon Hutterian Brethren Inc.
Attachments: 8620-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 2, 2022.

Shannon Hutterian Brethren Inc., c/o Mark J Wipf, 43952 235th St, Winifred SD 57076 (605 270-7421) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 25, 2022 2:39 PM
To: 'minercountypioneer@alliancecom.net'
Subject: 8620-3, Shannon Hutterian Brethren Inc.
Attachments: 8620-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 2, 2022.

Shannon Hutterian Brethren Inc., c/o Mark J Wipf, 43952 235th St, Winifred SD 57076 (605 270-7421) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

May 26, 2022

Shannon Hutterian Brethren Inc.
c/o Mark J Wipf
43952 235th St
Winfred SD 57076

Dear Mr. Wipf:

Water Permit Application No. 8620-3 for commercial use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Miner County Pioneer printed at Howard (Ph # 605 772-5644) and the Daily Leader printed at Madison (Ph # 605 256-4555). 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 publishers have 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,

Karen Schlaak
Water Rights Program
(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. 8620-3 to Appropriate Water

Notice is given that Shannon Hutterian Brethren Inc., c/o Mark J Wipf, 43952 235th St, Winfred SD 57076 has filed an application for a water permit to appropriate 61.6 acre-feet of water annually at a maximum pump rate of 0.111 cubic feet of water per second from two existing wells completed into the Codell Aquifer (542 feet deep) located in the SW 1/4 NE 1/4 Section 15 for commercial use in a dairy and swine operation located in the E 1/2 Section 15; all in T106N-R55W. This site is located approximately 3 miles southwest of Winfred SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8620-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 13, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 13, 2022.

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

Published once at the total approximate cost of _



RECEIVED

JUN 08 2022

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Applicant's Petition

Opposing Chief Engineer's Recommendation on Water Permit Application

According to South Dakota Codified Law sections 46-2A-3, 46-2A-4(6) and 46-2A-23, the applicant needs to file a petition if opposing the Chief Engineer's recommended action on the applicant's water permit application.

Application No. 8620-3 Name of Applicant Shannon Hutterian Brethren

The Application No. can be found in the public notice mailed to you or at <https://danr.sd.gov/public>.

Filing Deadlines. If you are opposing a recommendation by the Chief Engineer to DENY your application, you need to submit this completed petition opposing the recommendation within twenty days of the date the recommendation was mailed to you. If you are opposing any other recommendation, this petition needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above and should be sent to "Attention - Water Rights Program" or personally served upon Water Rights.

List the reasons for opposing the Chief Engineer's recommendation on this application:

We would like the Chief Engineer to take another look at this permit application as the water usage under this permit does have an effect on neighboring wells. We have a CAFO located approximately 1 1/2 miles North of permitted well. During peak usage months (Summer), we have to supplement with Rural water already - and we believe with added water usage by Shannon Colony - that our well may fail entirely as it is not as deep in the aquifer. Our well was in existence many years before theirs was dug as well. They should have to use rural water to supplement their needs if they cannot pump enough out of their well. Also - throughout the years, they have tiled all farm land in the area getting rid of surface water. Doesn't surface water replenish the aquifer? If they run our well dry - what do we do for water? Shouldn't they have to dig a new well for us? I would NOT Approve this application without some stipulations

Larry & Janet Hoak Howard, SD



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 10, 2022

NOTICE OF HEARING

TO: Mark J. Wipf, President
Shannon Hutterian Brethren Inc.
43952 235th Street
Winfred SD 57076

Larry and Janet Haak
43872 SD Highway 34
Howard SD 57349

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DANR, Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8620-3, Shannon Hutterian Brethren Inc.

A petition has been filed in the matter of Water Permit Application No. 8620-3 in response to the Notice of Application published in the Madison Daily Leader on June 2, 2022. This notice schedules a hearing on Application No. 8620-3 before the South Dakota Water Management Board.

Water Permit Application No. 8620-3 proposes to appropriate 61.6 acre-feet of water annually at a maximum pump rate of 0.111 cubic feet of water per second from two existing wells completed into the Codell Aquifer (542 feet deep) located in the SW 1/4 NE 1/4 Section 15 for commercial use in a dairy and swine operation located in the E 1/2 Section 15; all in T106N-R55W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 8620-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board.

The Water Management Board will conduct a hearing to consider Application No. 8620-3 at 11:00 AM (Central Time), on Wednesday, July 6, 2022, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. Notice will be provided if there is a change in the time or date of the hearing.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The July 6, 2022 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition opposing the application. A request for an automatic delay must be filed by **June 20, 2022**. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol Ave, Pierre SD 57501." If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided regarding the time, date, and location.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and may be represented by legal counsel. As a legal entity (Shannon Hutterian Brethren Inc.), the applicant, is required to be represented by legal counsel in this administrative proceeding. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation, affidavit of publication, and the petition filed in the matter of Water Permit Application No. 8620-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. Notices, orders, other pleadings, and comments filed in this matter are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." If you intend to participate in the hearing, you are encouraged to review these documents prior to the hearing.

Contact Ron Duvall at the above Chief Engineer's address to request a copy of the staff report, recommendation, application, or other information related to the application. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is June 20, 2022. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

CERTIFICATION

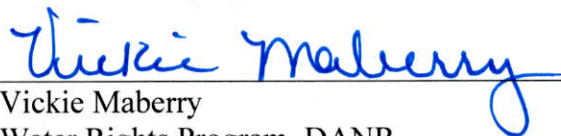
The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated June 10, 2022, with attachments regarding Water Permit Application No. 8620-3 – Shannon Hutterian Brethren Inc., was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on June 10, 2022.

Mark J. Wipf, President
Shannon Hutterian Brethren Inc.
43952 235th Street
Winfred SD 57076

Larry and Janet Haak
43872 SD Highway 34
Howard SD 57349

Above also Sent Inter-office to:

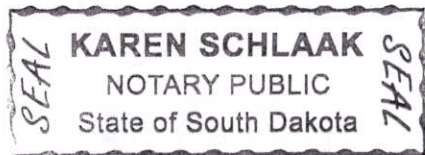
Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of June, 2022.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 26 2022

Shannon Hutterian Brethren Inc
c/o Mark J Wipf
43952 235th St
Winfred SD 57076

Dear Mr. Wipf:

Enclosed is Water Permit No. 8620-3 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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8620-3

I have this day, July 15, 2024, made a thorough examination of the water use system constructed by Shannon Hutterian Brethren, Inc, 43952 235th St, Winfred, SD 57076 of Permit No. 8620-3, bearing the priority of March 25, 2022 authorizing the diversion of 0.11 cu. ft. per second of the waters of the Codell Aquifer for commercial use in dairy & swine purposes, in Miner County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 2 identical
- 3) Depth(s) 542 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 5 inches
- 2) Length 442 feet
- 3) Type Plastic

Screen:

- 1) Type PVC
- 2) Length 100 feet
- 3) Static water level 190 feet

Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 50 each GPM

Motor:

- 1) Make Unknown
- 2) Model No. Unknown
- 3) Horsepower rating Unknown hp

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by N

If no, describe: Authorization is for 50 gpm but two (2) wells discharge 100 gpm

- 2) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: WELL LOCATIONS
From the NE corner Sec 15 T106N R55W WEST WELL: 1370 ft S & 2395 ft W, Lat 43.98965 Long -
97.41897 (SW ¼ NE ¼) EAST WELL: 1370 ft S & 2310 ft W, Lat 43.98964 Long -97.41857 (SW ¼
NE ¼).
2. The works are capable of diverting and conveying to the place of use 0.22 cu. ft. per second of water which is to be used for commercial dairy & swine use.

The license should be issued for 0.111 cfs.

3. All structures, wells and lands on map Y

F. Comments or other permit(s) associated with the project:

FSA maps and the ArcGIS program were used to construct the attached well location map.

I visited with Mr. Mark Wipf, President, (605/270-7421) on the phone during the field visit.

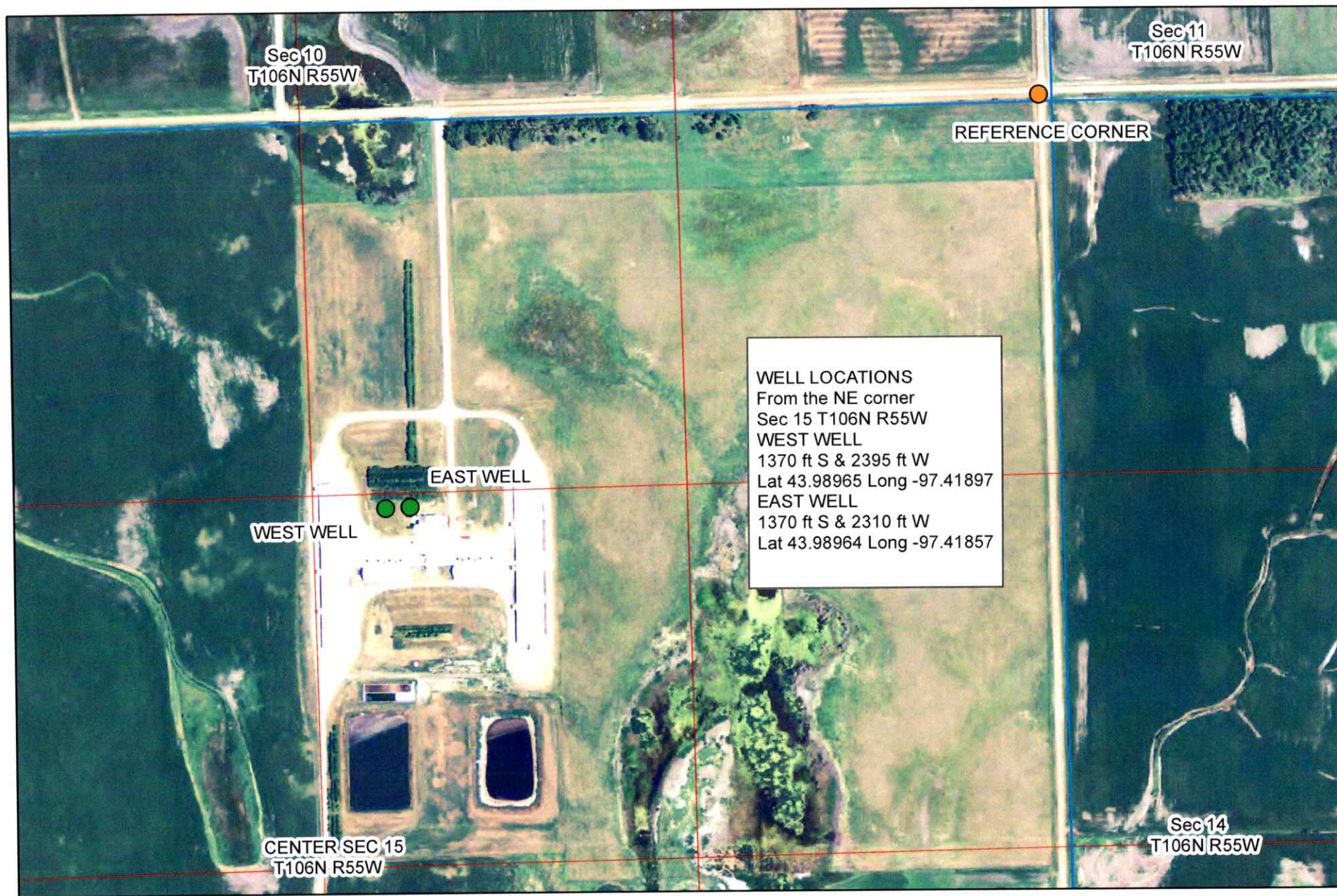
The address and phone number in the permit application materials are current.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: July 17, 2024

- See page #8 in permit file. "only one well is used at a given time, as the second is available as a backup source and the wells are not designed to withdraw concurrently" AMD



0 385 770 1,540 2,310 3,080 Feet

Darrell DeBoer
 Water Right Inspector
 DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 3 0 2024

8620-3

Shannon Hutterian Brethren Inc
c/o Mark J Wipf
43952 235th St
Winfred SD 57076

Dear Mr. Wipf:

Enclosed is Water License No. 8620-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8620-3**

(1) Shannon Hutterian Brethren Inc., 43952 235th St, Winfred SD 57076, made Application No. 8620-3, March 25, 2022, for a water permit to appropriate 61.6 acre-feet of water annually at a maximum rate of 0.111 cubic feet of water per second from groundwater, two wells (Codell Aquifer), Miner County, South Dakota for commercial use in a dairy and swine operation. Permit No. 8620-3, with a priority date of March 25, 2022, was approved by the Water Management Board July 6, 2022, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 6, 2027, and for the application to beneficial use of water on or before July 6, 2031.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to appropriate 61.6 acre-feet of water annually at a maximum rate of 0.111 cubic feet of water per second for beneficial use. The locations of the diversion points are:

- West Well: 1,370 ft S & 2,395 ft W of the NE corner Section 15, T106N, R55W (SW $\frac{1}{4}$ NE $\frac{1}{4}$) (Latitude 43.98965 & Longitude -97.41897)
- East Well: 1,370 ft S & 2,310 ft W of the NE corner Section 15, T106N, R55W (SW $\frac{1}{4}$ NE $\frac{1}{4}$) (Latitude 43.98964 & Longitude -97.41857)

(3) The water appropriated may not exceed the amount of water needed for beneficial use. The water is to be used during the following described annual period: January 1 – December 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(5) Pursuant to South Dakota Water Law 46-5-30.1 Shannon Hutterian Brethren Inc., the holder and/or owner of Water Right No. 8620-3 is issued a license to appropriate water, the right to appropriate 61.6 acre-feet of water annually at a maximum rate of 0.111 cubic feet of water per second from groundwater, two wells (Codell Aquifer), with a priority date of March 25, 2022, from the location specified in (2) of this license for commercial purposes in a dairy and swine operation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8620-3 and subject to the following qualifications:

1. The wells approved under Water Permit No. 8620-3 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 withdrawals so there is not a reduction of needed water supplies is adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8620-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8620-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:

continued

- a) Chapter 74:54:01 Ground Water Quality Standards
 - b) Chapter 74:54:02 Ground Water Discharge Permit
 - c) Chapter 74:51:01 Surface Water Quality Standards
 - d) Chapter 74:51:02 Uses Assigned to Lakes
 - e) Chapter 74:51:03 Uses Assigned to Streams
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
4. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Codell Aquifer.
5. Water Permit No. 8620-3 authorizes a total annual diversion of 61.6 acre-feet of water from the Codell Aquifer.

Eric Gronlund

Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUL 30 2024

date

