

WATER PERMIT NO. 8645-3

Name of Applicant: Poinsett Hutterian Brethren Inc.

Address: 46527 189th St, Estelline SD 57234 Phone: 605 690-5430

Amount of Water Claimed: 1.78 cfs Total Acres: 136

Source of Water Supply: groundwater (1 well)

Water to be used for: irrigation County: Hamlin

Type of Waste Disposal System:

Location: 6 miles northwest of Estelline

PRIORITY Date Received: 7-25-22 Application/License Fee: \$1050.00

Corrected Application Received: Period of Annual Use: May 1 – Sept 30

Remarks: Water Permit No. 7433-3 was issued for irrigation of the same acreage but was never developed due to insufficient water. This application requests a well in a different location.

Diversion Point: NW 1/4 SE 1/4 Sec 27-T114N-
R51W

Land to be Irrigated: SW 1/4 Sec 22-T114N-
R51W

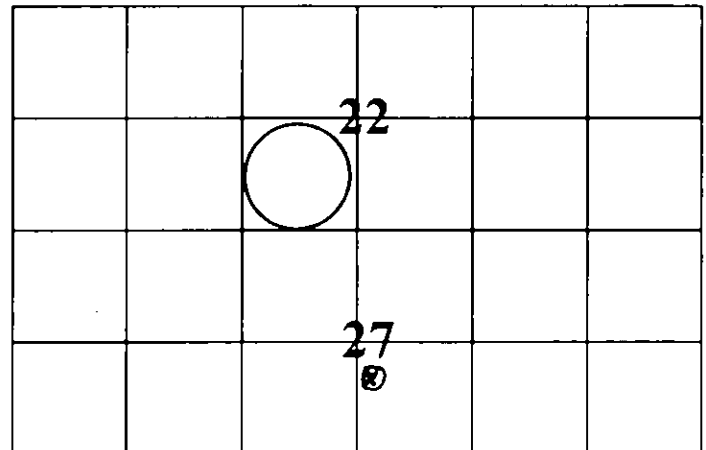
Depth of Well: 95 feet

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Ron Duvall



Reviewed and the Number Assigned on: 8-2-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8645-3**

Date of first receipt of application July 25, 2022.

Date of return to applicant for corrections, amendments or changes August 2, 2022.

Date of receipt of corrected application August 2, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8645-3 to Poinsett Hutterian Brethren Inc., 46527 189th St, Estelline SD 57234 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. 8645-3 appropriates 1.78 cubic feet of water per second from one well completed into the Big Sioux:Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22; all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is July 25, 2022.
4. The date of approval of Permit No. 8645-3 is November 7, 2022.
5. One-fifth of the construction is to be completed on or before May 7, 2025.
6. All construction is to be completed on or before November 7, 2027.
7. Water is to be put to beneficial use on or before November 7, 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 well approved under Water Permit No. 8645-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

DEC 08 2022
date



FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8645-3</u>	Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Hamlin Co. Republican</u>	
	<u>Public Opinion</u> (office use only)	

RECEIVED
JUL 25 2022
OFFICE OF
WATER

Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Poinsett Hutterian Brethren Inc.

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

Mailing Address 46527 189th Street Estelline SD 57234
(Address) (City) (State) (Zip Code)

Phone 605-873-2430 Mobile 605-690-5430 Email levi.tschetter@outlook.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 136
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ground water - one well

4. Location of point of diversion NW1/4 SE1/4 section 27-T114N-R51W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Hamlin

5. County or counties where water will be used Hamlin

6. Annual period during which water is to be used May 1 - Sep 30

7. List below each forty-acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SW1/4 section 22-T114N-R51W	136		

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

Water Permit No. 7433-3 was issued for irrigation of the SW1/4 section 22-T114N-R51W from a well in the same quarter. The irrigation project was not developed due to not finding a sufficient water. This application is to irrigate the same area but locate the well further south in section 27 at the location described above.

1. Levi Tschetter 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 in ink)

*2 Well's Information
is. Exactly the same. For Both
Well's.*

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 17.5 Depth 95'
- b) Casing Type Plastic Diameter 12 Thickness 1/2
- c) Screen Type stainless Diameter 12 Thickness _____
- d) Gravel Pack yes Length of Gravel Pack 40
- e) Depth to Top of Water Bearing Material 57
- f) Depth to Water (ground surface to water level) 24.4
- g) Distance to nearest existing domestic well:
- On applicant's property _____ On property owned by others 800'

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

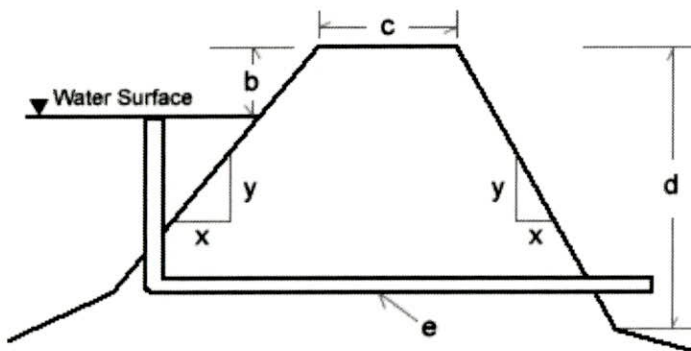
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

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

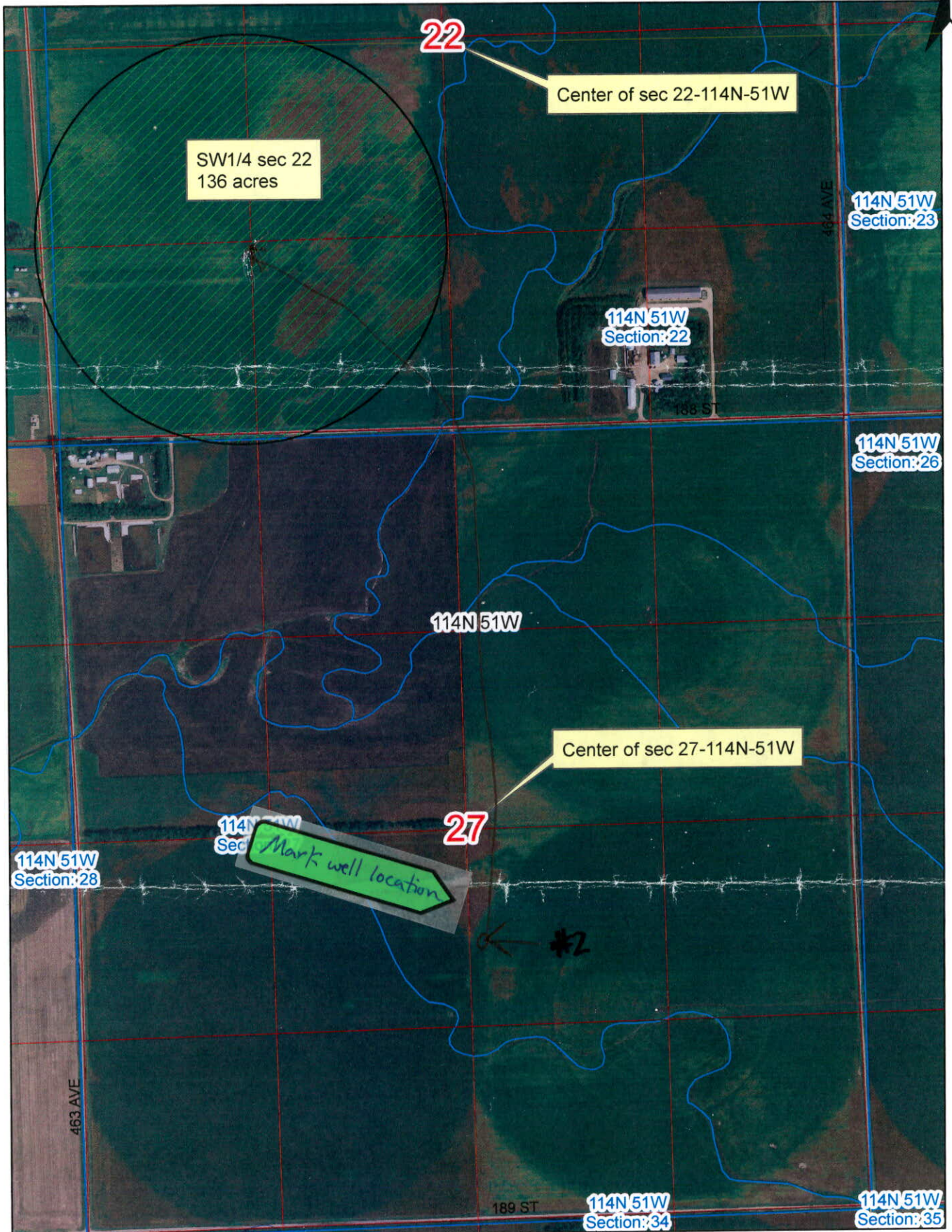


Scale: 1 inch = 897 feet

1,250

Feet

N



Completed by:

Ron Duvall
Ron Duvall, W.R. Permitting Administrator
SD DANR, Water Rights Program

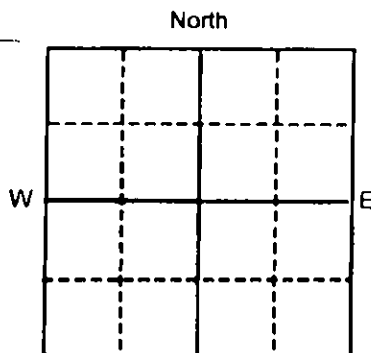
Date:

8/2/22

Proposed well location marked by applicant.

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW ¼ SE ¼ Sec 27 Twp 114N Rg 51WCounty HamlinPlease mark well
location with an "X"

Well Completion Date

February 9th 2022

1 Mile

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

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other
 If other describe _____

PIPEWIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	12 IN	0 FT	65 FT	17.5 IN
LB/FT	IN	85 FT	95 FT	17.5 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Quick Grout	20	Lb/gal	0.0 Ft	60 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 12 Inches Length 20 Feet
Material StainlessSlot Size 100 Set From 65 Feet to 85 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 to which water
quality sample sent for analysisWell Owner: Poinsett ColonyBusiness Name: SameAddress: 46527 189th StCity, State, Zip: Estelline SD 57234

WELL LOG:

			DEPTH	
FORMATION			FROM	TO
Top Soil	Black	M	0	2
Clay	Tan	M	2	8
Gravel	Tan	Med / Hard	8	14
Clay	Gray		14	28
Gravel	Tan		28	44
Clay	Gray		44	57
Sand	Blue		57	85
Clay	Blue		85	95

STATIC WATER LEVEL 21.237 Below FFEI

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:☐ Bailed☐ Other

Pumping Level Below Land Surface

36.73 Ft After 24 Hrs. pumped 789 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

IRRIGATION WELL (TH#5)

GPS:

44 39 05.30N, 96 56 9.20W

This well was drilled under license # 463 and this
report is true and accurateDrilling firm: Steffl Drilling & Pump Inc

Signature of License Representative

RECEIVED

AUG 17 2022

Signature of Well Owner or Equitable Property Holder

OFFICE OF
WATERDate: 8-12-22

Print Form

Save As

Clear Form

Duvall, Ron

From: Duvall, Ron
Sent: Tuesday, July 12, 2022 8:15 AM
To: 'levi.tschetter@outlook.com'
Cc: Schlaak, Karen
Subject: Revised Water Permit Application
Attachments: PHBInc.pdf; 7434-3_DivPtChange_PoinsettColony.pdf

Levi,

Attached is a revised application (PHBInc.pdf) for a water permit to irrigate the SW1/4 section 22 and I am placing a hard copy of this application in today's mail with a return envelope. For your information, here is a link to the existing permit to irrigate the SW1/4 section 22 that was not completed within the five-year construction period - [7433-3.pdf \(sd.gov\)](#). Since Permit No. 7433-3 was not constructed within the five year construction period, it is subject to cancellation. The attached application will be used to replace No. 7433-3.

The application form is complete except for your name on the bottom of the application (a notary is not needed) and the second page which is asking information about the well. If the well is constructed, then you can send a copy of the well completion report and complete the pertinent parts of item 1 "Well Information" and in particular item 1d. A map is also included outlining the area to be irrigated – on this map I would like you to place an "X" at the location of the well to be used to supply the SW1/4 section 22. Based on your hand drawn map, I am guessing you will be marking the well location somewhere in the NW1/4 SE1/4 section 27. When you return the completed application and map, please send the application/license fee of \$1,050.00 as well. After we have all that information, we can begin processing the application by completing a report, recommendation and public notice to be published.

The other attachment (also being sent to you in today's mail) is a map identifying the location of an existing well used to supply the pivots in the W1/2 section 35. As discussed on the phone, you indicated this well is not producing adequately and you are seeking to change the well location. Please mark an "X" on the map in the location you would like to drill a replacement well. If the replacement well has already been drilled, please return a copy of the well completion report. Also as we discussed, a replacement well may be approved without the need to process an application provided the replacement is in the same aquifer, no additional water is needed beyond the amount already permitted and the irrigated acreage remains unchanged. This change would be similar to what was already done once before in the existing Permit No. 7434-3 (see page 31 in this link - [7434-3.pdf \(sd.gov\)](#)). Please confirm the water source will remain unchanged as well as the amount of water permitted and the irrigated acres. Note - there are a couple of other wells also shown on the map used to irrigate the E1/2 section 35 and the other the SE1/4 section 26 and my understanding is no change is planned for these wells.

Thank you,

Ron Duvall
Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program
605.773.3352
danr.sd.gov



DANR
SOUTH DAKOTA

Dear Sirs.

Well #2 is to Irrigate S.W. $\frac{1}{4}$ In Sec. 22-114-51

Well #1 is to Irrigate West $\frac{1}{2}$ of Sec. 35-114-51

Levi Tschetter.

Poinsette HB Inc.
46527 189th St
Estelline, SD 57234

Schlaak, Karen

From: Duvall, Ron
Sent: Tuesday, August 2, 2022 1:52 PM
To: levi.tschetter@outlook.com
Cc: Schlaak, Karen
Subject: Water Permit Application

Levi,

I received back your water permit application to irrigate the SW1/4 section 22 from a well in the NW1/4 SE1/4 section 27 and a replacement well located in the SE1/4 SE1/4 section 27 to irrigate the land in the W1/2 section 35. On the forms you returned you had a note saying the completion reports for the two wells were sent to us a few weeks ago. We have searched and cannot find a copies of the well completion reports. Please send copies via mail or email them to me. The well completion reports will help document whether you are in the same aquifer plus a copy is required to be filed with the Water Rights Program. Based on the application form you sent in for the replacement well serving the W1/2 section 35, it appears neither the number of acres or licensed pump rate are being increased. Please confirm that is the case when you return the completion reports.

Thank you,

Ron Duvall
Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program
605.773.3352
danr.sd.gov



DANR
SOUTH DAKOTA

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 25, 2022

RECEIVED OF Poinsett Hutterian Brethren Inc. 46527 189th St., Estelline SD 57234

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

Fee for Application for Permit No. <u>8645-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</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>8645-3</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>1050.00</u>

By *Eric Gronlund*
Chief Engineer

me



531386839

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

2022
FILING YEAR

ANNUAL REPORT

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

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

Filing Fee: \$10

Total Fee: \$10

1. Business ID and Name:

NS007074
BUSINESS ID

POINSETT HUTTERIAN BRETHERN, 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

**46527 189TH STREET
ESTELLINE, SD 57234**

Mailing Address

**46527 189TH STREET
ESTELLINE, SD 57234**

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

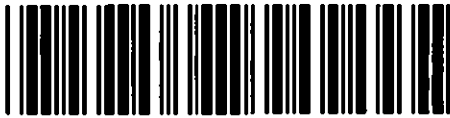
**PO BOX 490
ABERDEEN, SD 57402-0490**

5. The names and addresses of its principal officers.

Title	Name	Address
President	LEVI TSCHETTER	46527 189TH STREET, ESTELLINE, SD, 57234
Treasurer	CARL TSCHETTER	46527 189TH STREET, ESTELLINE, SD, 57234
Vice President	CARL TSCHETTER	46527 189TH STREET, ESTELLINE, SD, 57234
Secretary	CARL TSCHETTER	46527 189TH STREET, ESTELLINE, SD, 57234

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

Name	Address
LEVI TSCHETTER	46527 189TH STREET, ESTELLINE, SD 57234
CARL TSCHETTER	46527 189TH STREET, ESTELLINE, SD 57234
DANNY WOLLMAN	46527 189TH STREET, ESTELLINE, SD, 57234
DARIUS TSCHETTER	46527 189TH STREET, ESTELLINE, SD, 57234



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).

01/14/2022

Dated

Email (Optional)

LEVI TSCHETTER

Signature of an Authorized Person

LEVI TSCHETTER

Printed Name

B0205-3749 01/14/2022 10:08AM 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. 8645-3, Poinsett 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. 8645-3, Poinsett Hutterian Brethren, Inc., c/o Levi Tschetter, 46527 189th Street, Estelline SD 57234.

The Chief Engineer is recommending APPROVAL of Application No. 8645-3 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 well approved under Water Permit No. 8645-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
September 6, 2022

NOTE: Water Permit No. 7433-3 appropriates water from the Big Sioux:Brookings aquifer for irrigation of the same acres in the SW 1/4 Section 22-T114N-R51W as this application. Water Permit No. 7433-3 will be scheduled for cancellation due to construction of works not being completed by December 3, 2017, as set forth in the permit.

Report to the Chief Engineer
On Water Permit Application No. 8645-3

Poinsett Hutterian Brethren Inc.

c/o Levi Tschetter

September 2, 2022

Water Permit Application No. 8645-3 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cubic feet per second (cfs) from one well completed into the Big Sioux: Brookings aquifer (85 feet deep) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27 for the irrigation of 136 acres located in the SW $\frac{1}{4}$ of Section 22; all in T114N-R51W. The site of interest is located in Hamlin County approximately six miles northwest of Estelline, SD.

The applicant holds Water Permit No. 7433-3 which authorizes a maximum instantaneous diversion rate of 1.78 cfs from one well completed into the Big Sioux: Brookings aquifer (approximately 90 feet deep) to be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22 for the irrigation of 130 acres located in the SW $\frac{1}{4}$ of Section 22; all in T114N-R51W. Water Permit No. 7433-3 was not developed and is subject to cancellation due to the construction period expiring (Water Rights, 2022c).

AQUIFER: Big Sioux: Brookings (BS: B)

HYDROGEOLOGY:

The Big Sioux aquifer is primarily composed of meltwater stream and glacial outwash deposits that range from medium to coarse sand and very fine to medium gravel and occurs mostly in the floodplains of the Big Sioux River and its major tributaries (Hamilton, 1989; Koch, 1985; Kume, 1976). The Big Sioux aquifer is divided into twelve management units that have been historically recognized by the DNR-Water Rights Program and SD Water Management Board (Water Rights, 2022c). The existing well proposed to be used by this application is completed into the Brookings management unit of the Big Sioux aquifer.

In Brookings, Deuel, Hamlin, and Moody Counties, the Big Sioux: Brookings aquifer is estimated to underly approximately 191,000 acres and contain an estimated 642,230 acre-feet of recoverable water in storage (Hedges et al., 1982). Hedges and others (1982) did not include an estimation for the areal extent of the Big Sioux: Brookings aquifer or volume of recoverable water in storage in Kingsbury County. To estimate the areal extent of the Brookings management unit, Stonesifer (2013) utilized the first occurrence of aquifer materials maps for Brookings, Deuel, Hamlin, Kingsbury, and Moody Counties, and the previously determined boundary locations of the Big Sioux aquifer delineated by Hedges and others (1982). In total, the Brookings management unit of the Big Sioux aquifer is estimated to underly approximately 323,000 acres (Stonesifer, 2013).

In Hamlin and Deuel Counties, the Big Sioux: Brookings aquifer has an average saturated aquifer thickness of approximately 30 feet, and a documented maximum thickness of approximately 123 feet (Koch, 1985). The aquifer is generally unconfined near the Big Sioux River and along major tributary valleys, but is elsewhere confined beneath till (Hamilton, 1989). Groundwater movement in the Big Sioux aquifer is generally to the south (Niehus, 1997).

A water well completion report was submitted with Water Permit Application No. 8645-3. A reiteration of the well completion report is displayed on Table 1. Based on the submitted water well completion report for the existing well proposed to be used, water well completion reports on file, and lithologic logs on file for nearby observation wells, the Big Sioux: Brookings aquifer appears to be locally confined at the existing well site (SDGS, 2022; Water Rights, 2022b and 2022d).

Table 1. Water well completion report submitted with Water Permit Application No. 8645-3

Formation Log	From	To
Top Soil (Black) (M)	0	2
Clay (Tan) (M)	2	8
Gravel (Tan) (Med-Hard)	8	14
Clay (Gray)	14	28
Gravel (Tan)	28	44
Clay (Gray)	44	57
Sand (Blue)	57	85
Clay (Blue)	85	95
Date of Well Completion	February 9th, 2022	
Est. Static Water Level (at well completion)	21.2 feet	
Screen Interval	65 to 85 feet	

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, "A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, that the diversion point 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 as defined by SDCL 46-2-9 and 46-2-11." This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Big Sioux: Brookings aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8645-3 proposes to appropriate water from the Big Sioux: Brookings aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "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 water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems." The Big Sioux: Brookings aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant's proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Big Sioux: Brookings aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Big Sioux: Brookings aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, leakage from adjacent till, and seepage from the Big Sioux River and its tributaries (Hamilton, 1989; Nichus, 1997).

Utilizing observation well analysis, Hedges and others (1985) estimated a recharge rate of four inches per year to the Big Sioux: Brookings aquifer. The Big Sioux: Brookings aquifer has an estimated areal extent of approximately 323,000 acres (Stonesifer, 2013); therefore, the estimated average annual recharge rate is approximately 107,700 acre-feet per year.

Discharge

Discharge from the Big Sioux: Brookings aquifer is primarily through well withdrawals (Water Rights, 2022d), evapotranspiration where the aquifer is at or near the ground surface, and seepage to the Big Sioux River and adjacent lakes (Hamilton, 1989).

Currently, there are 259 water rights/permits authorized to appropriate water from Big Sioux: Brookings aquifer (Water Rights, 2022c). Additionally, there are eleven future use permits reserving 6,686 acre-feet of water annually from the Big Sioux: Brookings aquifer (Water Rights, 2022c). For the purpose of estimating average annual withdrawals, the seven future use permits are assumed to be fully developable for a total of 6,686 acre-feet per year (Table 2).

Table 2. Future use permits reserving water from the Big Sioux: Brookings aquifer (Water Rights, 2022c)

Future Use Permit Holder	Amount of Reserved Water (acre-feet)
City of Castlewood (558A-3)	123
Joint Well Field Inc. (3982-3, 3982A-3, 3982B-3, 6988-3)	2,375
City of Lake Norden (4055-3, 6261-3)	0
Sioux Rural Water System (5094-3, 7853-3)	2,400
City of Volga (5875-3, 6259-3)	1,788
TOTAL:	6,686

Table 3 summarizes the 46 non-irrigation water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. The use type determined for each water right/permit was based on the primary use categorized for each water right/permit as some permits have additional uses (Water Rights, 2022c). Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DNR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2022c). Five municipal water rights (Nos. 534A-3, 617-3, 3117-3, 4950-3, and 5071-3) were identified as being connected to a rural water system and likely maintain their wells for standby purposes (Drinking Water Program, 2022; Water Rights, 2022c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year on Table 3. Overall, the estimated average annual withdrawal rate from the Big Sioux: Brookings aquifer by the non-irrigation water rights/permits is approximately 13,151 acre-feet per year (Table 3) (Water Rights, 2022c).

Table 3. Summary of the non-irrigation water rights/permits authorized to appropriate from the Big Sioux: Brookings aquifer with estimated annual use determined by their respective authorized diversion rate or annual volume (Drinking Water Program, 2022; Water Rights, 2022c)

Use Type	No. of Water Rights/Permits	Appropriation for Water Rights/Permits limited by Annual Volume (acre-feet/year)	Appropriation for Water Rights/Permits limited by Diversion Rate (acre-feet/year)	Total Estimated Use (acre-feet/year)
COM	9	N/A	3.24	1,405
GEO	1	120	0	120
IND	2	N/A	0.24	106
MUN	16	1,914	5.19	4,169
RWS	16	4,037	7.56	7,321
SHD	2	N/A	0.07	30.4
TOTAL:	46	6,071	16.3	13,151

Currently, there are 213 irrigation water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2022c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Big Sioux: Brookings aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2021) is approximately 8,900 acre-feet per year (Table 4) (Water Rights, 2022a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2012 to 2021 is approximately 10,951 acre-feet per year (Table 4) (Water Rights, 2022a).

Table 4 lists only 205 water rights/permits as reporting in 2021 (Water Rights, 2022a). The 205 water rights/permits includes two water rights/permits (Nos. 5303-3 and 7889-3) that were either incorporated into another water right/permit or cancelled in 2021/2022; resulting in only 203 of the permits listed as reporting in 2021 being currently active (Water Rights, 2022a and 2022c). Water Right No. 3374A-3 is currently enrolled in the Conservation Reserve Program and is not currently irrigating- therefore, was not included as listed as reporting in 2021 (Water Rights, 2022a and 2022c). Lastly, there are nine water rights/permits (Nos. 113-3A, 3240-3, 4467-3, 5439-3, 8531-3, 8537-3, 8556-3, 8601-3, and 8602-3) that did not submit an irrigation questionnaire form in 2021 for an unknown reason or were approved in 2021/2022 and have not submitted an irrigation questionnaire form at this point (Water Rights, 2022c). These water rights/permits are authorized to irrigate 1,152 acres (Water Rights, 2022c). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, to account for the fluctuation in wet and dry cycles from year to year, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water permits. Therefore, the estimated average annual withdrawal rate for these nine water rights/permits is approximately 1,152 acre-feet per year.

The estimated average annual withdrawal rate for the Big Sioux: Brookings aquifer irrigation water rights/permits that have reported from 2012 to 2021 calculated on Table 4 (10,951 acre-feet/year), plus the estimated use for the nine water permits that did not submit an irrigation questionnaire form in 2021 for an unknown reason or were approved in 2021/2022 and have not submitted an irrigation questionnaire form at this point (1,152 acre-feet/year), is approximately 12,103 acre-feet per year (Water Rights, 2022a).

There are domestic wells completed into the Big Sioux: Brookings aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2022d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Big Sioux: Brookings aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Big Sioux: Brookings aquifer.

Hydrologic Budget Summary

The estimated average annual recharge rate to the Big Sioux: Brookings aquifer is approximately 107,700 acre-feet per year. The estimated average annual withdrawal rate from the Big Sioux: Brookings aquifer is approximately 25,390 acre-feet per year (non-irrigation: 13,151 acre-feet/year; irrigation (avg from 2012 to 2021 plus nine water rights/permits not included with 2021 irrigation summary): 12,103 acre-feet/year; Water Permit Application No. 8645-3 (if approved, assuming one foot per authorized acre): 136 acre-feet/year). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Big Sioux: Brookings aquifer for the proposed appropriation.

Table 4. Reported historic irrigation use from the Big Sioux: Brookings aquifer

Year	No. of Water Rights/Permits Reporting	Reported Pumpage (acre-feet)
1979	184	6,144
1980	187	9,837
1981	197	9,040
1982	155	4,551.9
1983	161	8,227.5
1984	188	8,177.6
1985	181	4,951.4
1986	179	2,854.7
1987	171	10,015
1988	167	18,521.4
1989	166	13,930.7
1990	175	5,862.9
1991	165	7,771.7
1992	162	2,331.6
1993	162	1,042.9
1994	160	2,854.6
1995	161	3,862.3
1996	154	7,221
1997	153	5,650
1998	157	8,109.7
1999	155	7,841
2000	153	8,933.7
2001	149	8,384.8
2002	149	12,410.9
2003	149	11,380.5
2004	156	11,809.9
2005	159	11,513.5
2006	161	14,325
2007	164	12,730.1
2008	166	12,505.9
2009	174	9,172.9
2010	172	2,713.4
2011	174	8,527.6
2012	177	19,482.5
2013	198	15,432.3
2014	212	9,947.6
2015	209	8,796
2016	210	10,267.4
2017	209	9,572
2018	211	7,952.8
2019	211	106.29
2020	209	10,000.8
2021	205	17,955
Min	149	106.3
Max	212	19,482.5
Avg (1979 to 2021)	175	8,900
Avg (2012 to 2021)	205	10,951

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely 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 average annual recharge of the aquifer.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 77 observation wells completed into the Big Sioux: Brookings aquifer (Water Rights, 2022b). The five closest observation wells to the well the applicant proposes to use are HN-77F (approximately 0.5 miles southwest), HN-83A (approximately 2.5 miles southeast), HN-75A (approximately 3.3 miles south), HN-77J (approximately 3.4 miles south), and HN-57B (approximately 3.5 miles southwest) (Water Rights, 2022b). The hydrographs for these observation wells are displayed in Figures 1 to 5 (Water Rights, 2022b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DANR Water Rights Observation Well on the hydrographs.

The hydrographs for the observation wells display generally stable water levels over their respective periods of record. The hydrographs for the Big Sioux: Brookings aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of water levels in the aquifer rather than the impacts of pumping from the Big Sioux: Brookings aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

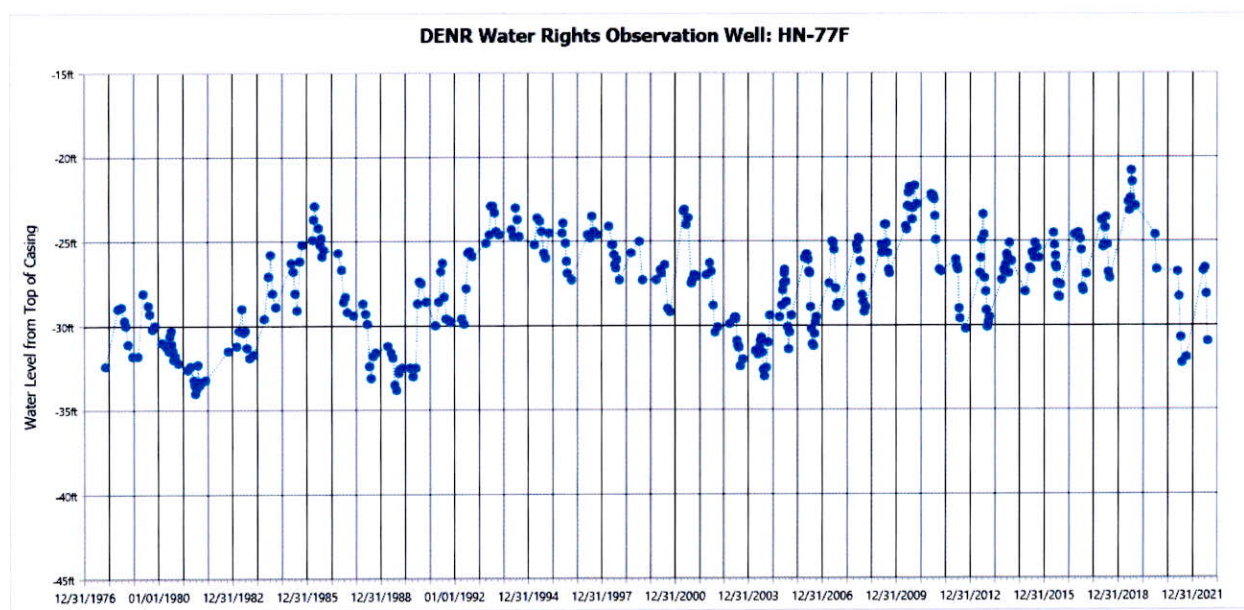


Figure 1. Hydrograph for observation well HN-77F (Water Rights, 2022b)

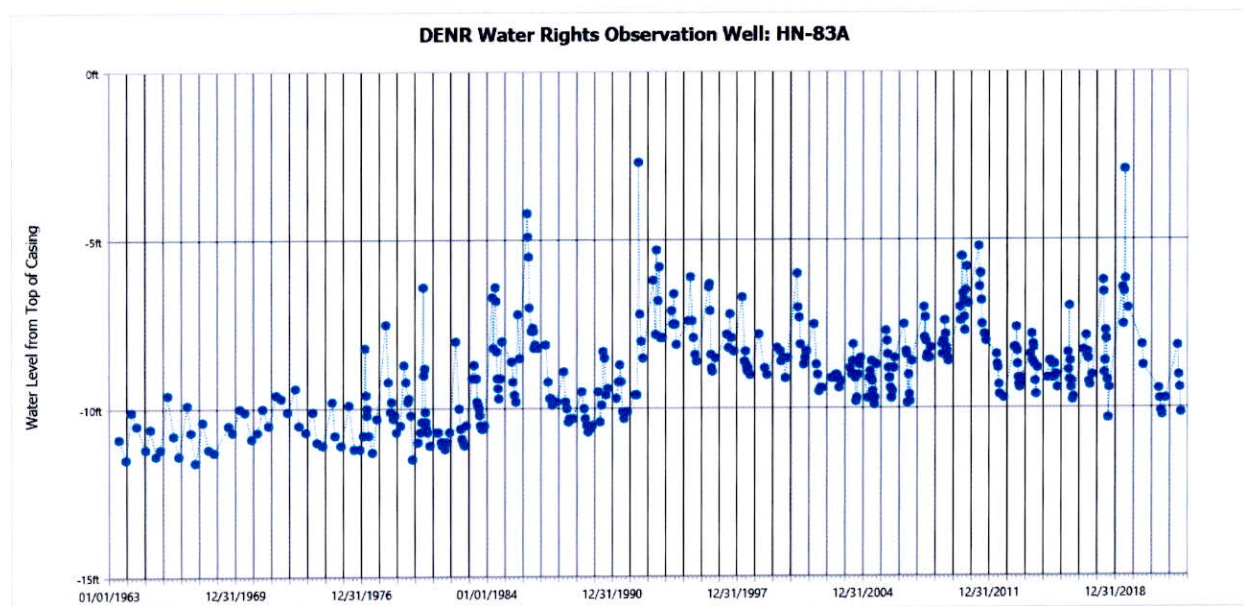


Figure 2. Hydrograph for observation well HN-83A (Water Rights, 2022b)

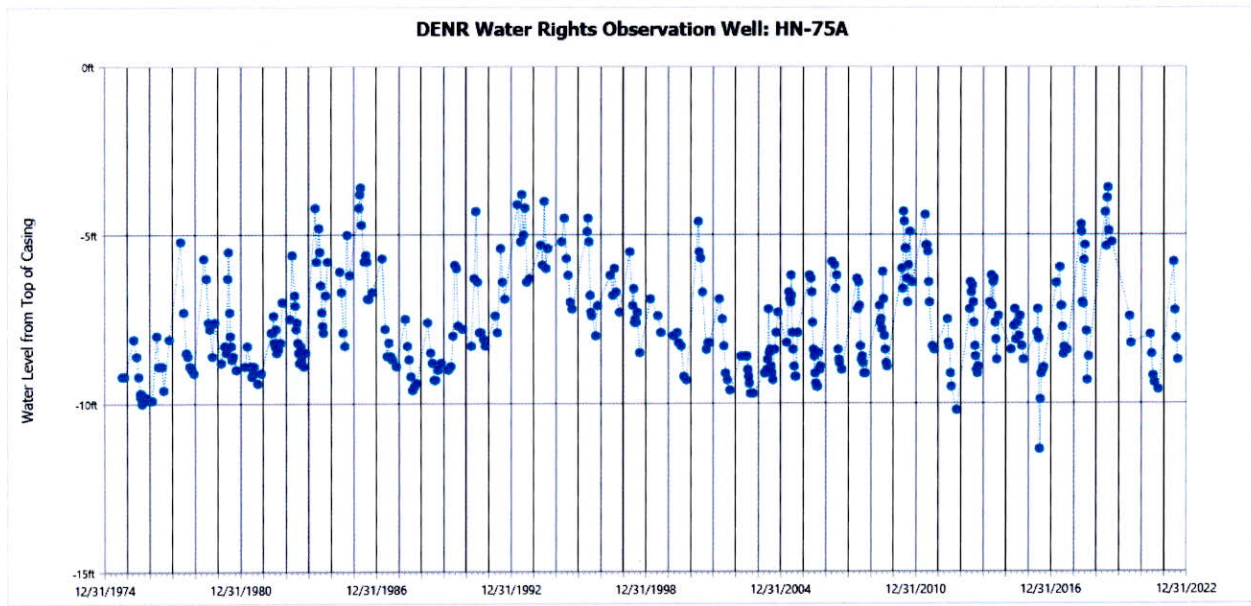


Figure 3. Hydrograph for observation well HN-75A (Water Rights, 2022b)

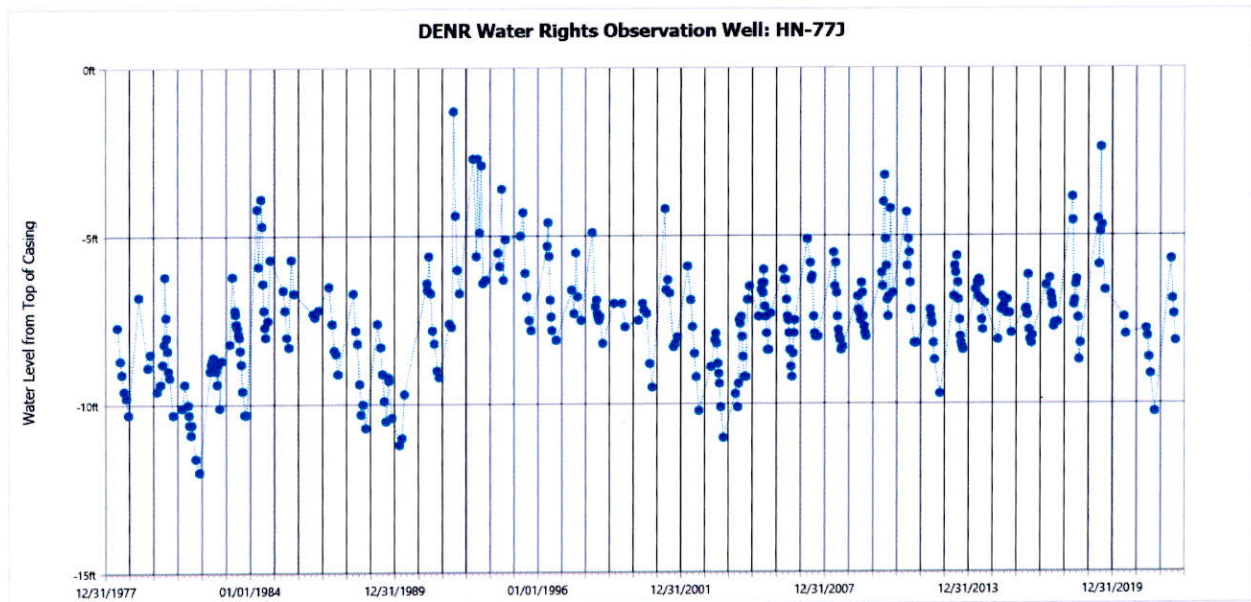


Figure 4. Hydrograph for observation well HN-77J (Water Rights, 2022b)

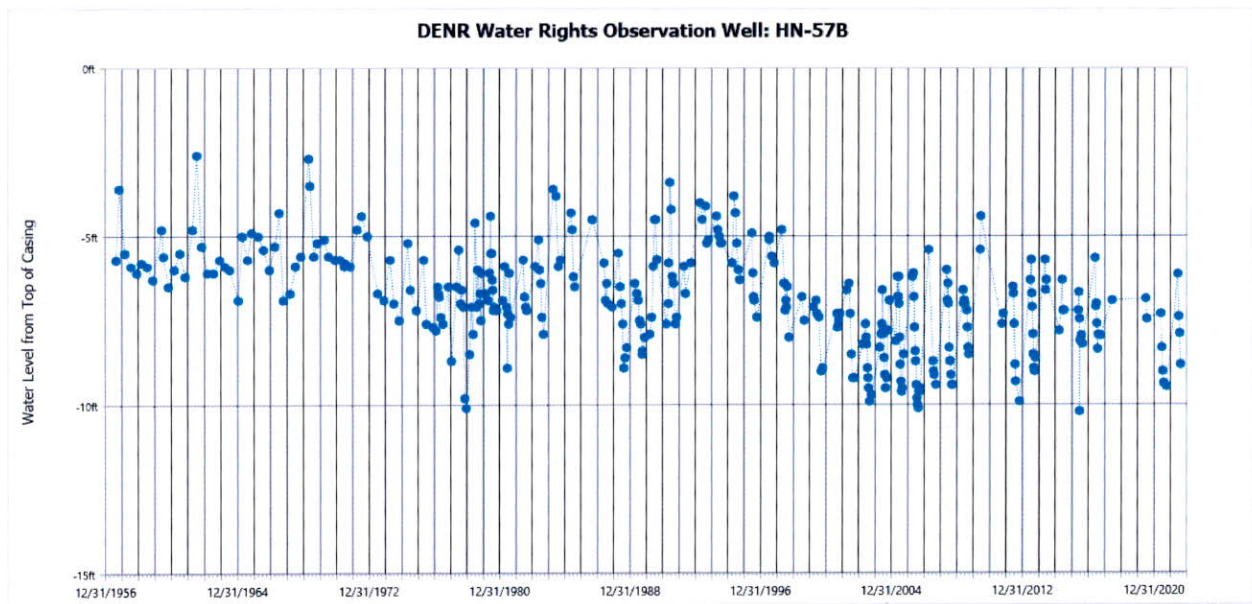


Figure 5. Hydrograph for observation well HN-57B (Water Rights, 2022b)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 259 water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2022c). The closest water right/permit to the existing well proposed to be used is Water Right No. 7896-3, which is held by Fugere Farm. The diversion point for Water Right No. 7896-3 is located approximately 0.1 miles southwest of the existing well proposed to be used for this application (Water Rights, 2022c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Big Sioux: Brookings aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.3 miles northwest of the existing well proposed to be used (Water Rights, 2022d). There could potentially be other domestic wells completed into the Big Sioux: Brookings aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program.

The Big Sioux: Brookings aquifer is generally unconfined near the Big Sioux River and along major tributary valleys, but is elsewhere confined beneath till (Hamilton, 1989). Based on the submitted water well completion report for the existing well proposed to be used, water well completion reports on file, and lithologic logs on file for nearby observation wells, the Big Sioux: Brookings aquifer appears to be locally confined at the existing well site (SDGS, 2022; Water Rights, 2022b and 2022d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test. However, observation wells completed into the Big Sioux: Brookings aquifer near permitted/licensed diversion points can provide some insight on how the aquifer responds to pumping.

Observation well HN-77F (approximately 0.5 miles southwest of the existing well site) has three high-yield (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) irrigation wells within approximately one mile of it (Water Rights, 2022b and 2022c). The lithologic log on file for HN-77F noted the well was drilled 65 feet below the ground surface, with a casing stick up height of one foot, and the top of aquifer located approximately 46 feet below the ground surface (SDGS, 2022). The lowest recorded static water level on the hydrograph (shown in Figure 1) is approximately 34 feet from the top of the well casing, which indicates there was still approximately twelve to thirteen feet of artesian head pressure in HN-77F even during drier periods when high-yield irrigation wells are expected to be pumping more water (Water Rights, 2022b).

In Hamlin and Deuel Counties, the Big Sioux aquifer has an average saturated aquifer thickness of approximately 30 feet (Koch, 1985). Within approximately one-half mile of the existing well proposed to be used, water well and test hole completion reports on file for wells completed into the Big Sioux: Brookings aquifer have saturated aquifer thicknesses ranging from approximately 20 to 60 feet (SDGS, 2022; Water Rights, 2022b and 2022d). This would generally allow for enough thickness for a pump to be placed 20 feet below the top of the aquifer, which is required for the well to be considered adequate under ARSD 74:02:04:20(6). Any drawdown as a result of the proposed diversion is not expected to unlawfully impair nearby adequate wells. In Deuel and Hamlin Counties, there are no complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Big Sioux: Brookings aquifer (Water Rights, 2022e).

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic 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.”

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific

characteristics of the Big Sioux: Brookings aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the saturated aquifer thickness near the existing well site, the artesian head pressure in observation wells completed into the aquifer near the existing well site, where the aquifer is unconfined drawdown from pumping is limited due to the unconfined nature of the aquifer, and the lack of well interference complaints for adequate wells completed into the Big Sioux: Brookings aquifer in the area, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8645-3 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cfs from one well completed into the Big Sioux: Brookings aquifer (85 feet deep) for the irrigation of 136 acres. The site of interest is located in Hamlin County approximately six miles northwest of Estelline, SD.
2. The applicant holds Water Permit No. 7433-3 which authorizes a maximum instantaneous diversion rate of 1.78 cfs from one well completed into the Big Sioux: Brookings aquifer (approximately 90 feet deep) for the irrigation of 130 acres. Water Permit No. 7433-3 was not developed and is subject to cancellation due to the construction period expiring (Water Rights, 2022c).
3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Big Sioux: Brookings aquifer to supply the proposed appropriation.
4. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8645-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

Reviewed by:

Adam Mathiowetz

Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

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- Water Rights, 2022d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 6, 2022 1:01 PM
To: levi.tschetter@outlook.com
Subject: Water Permit Application No. 8645-3
Attachments: 3944.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please 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>



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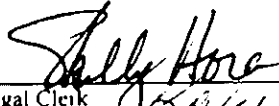
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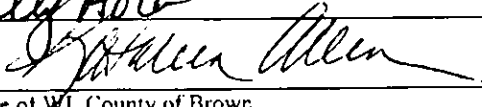
STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated.

10/28/2022

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State of Wisconsin

NOTICE OF
APPLICATION NO. 8645-3
to Appropriate Water
Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well completed into the Big Sioux Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22, all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8645-3 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 November 7, 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 November 7, 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 Oct. 28, 2022, at the total approximate cost of \$48.12 and may be viewed free of charge at www.sdpublicnotices.com

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Form 8

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STATE OF SOUTH DAKOTA)
County of Hamlin) SSI, Lee Anne Dufek

certify that the attached printed Notice was taken

from the Hamlin Co.Herald Enterpriseprinted and published in HamlinCounty of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Sept. 14Cost of Printing \$ 40.00Lee Anne Dufek
(Signature)Owner
(Title)9-15-2022
(Date Signed)

14 / Sept. 14, 2022

NOTICE OF APPLICATION NO.
8645-3 TO APPROPRIATE WATER

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well completed into the Big Sioux-Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22; all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8645-3 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 September 26, 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 September 26, 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 Sept. 14, 2022, at total cost of \$40.00 and may be viewed free of charge at www.sdpublicnotices.com

**of AGRICULTURE
and NATURAL RESOURCES**

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



October 21, 2022

Poinsett Hutterian Brethren Inc
c/o Levi Tschetter
46527 189th St
Estelline SD 57234

Dear Mr. Tschetter:

As stated in our phone conversation this morning, attached is the material regarding the public notice for your Water Permit Application No. 8645-3. The notice has again been sent to the Watertown Public Opinion and is scheduled to be printed on Friday, October 28, 2022.

The attached information highlighted in yellow is the contact information you will need when calling the Watertown Public Opinion to authorize publication and make payment.

Please be aware the paper WILL NOT publish the notice if payment is not received prior to October 25, 2022.

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, October 20, 2022 3:39 PM
To: Watertown Public Opinon (legals@thepublicopinion.com)
Subject: 8645-3, Poinsett Hutterian Brethren Inc.
Attachments: 8645-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 28, 2022.

Poinsett Hutterian Brethren Inc, c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 (605 690-5430) 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>



NOTICE OF APPLICATION NO. 8645-3 to Appropriate Water

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well completed into the Big Sioux:Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22; all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8645-3 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 November 7, 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 November 7, 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_

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, October 21, 2022 9:09 AM
To: levi.tschetter@outlook.com
Subject: Information for calling Watertown Public Opinion
Attachments: 4240.pdf

Levi,
Here is the information we talked about this morning.

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



Schlaak, Karen

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Wednesday, October 19, 2022 1:56 PM
To: Schlaak, Karen
Subject: RE: [EXT] 7844261 8645-3, Poinsett Hutterian Brethren

Importance: High

We don't show payment was made as advised on any ad for this matter yet, so nothing has ran

Thank you,

*Called Xavi
10/21/22*

Public Notices Team

 
844-254-5287

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Wednesday, October 19, 2022 12:40 PM
To: Gannett Legals Public Notices <GanLegPubNotices@gannett.com>
Subject: RE: 7844261 8645-3, Poinsett Hutterian Brethren

That is the new ad number. The old one that didn't run on September 14, 2022 was 7748311

From: Gannett Legals Public Notices <GanLegPubNotices@gannett.com>
Sent: Wednesday, October 19, 2022 11:54 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] 7844261 8645-3, Poinsett Hutterian Brethren

Do you happen to have another ad number for this affidavit? This ad number was cancelled and then re ran so a new ad number should have been given.

Ryan Speller
Public Notice Representative – Affidavits Team
rspeller@localiq.com

 **LOCALIQ**

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Wednesday, October 19, 2022 8:00 AM
To: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Subject: RE: 7844261 8645-3, Poinsett Hutterian Brethren

Please send me the affidavit for this publication.

Thank you,

Karen

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>

Sent: Tuesday, September 27, 2022 8:54 AM

To: Schlaak, Karen <Karen.Schlaak@state.sd.us>

Subject: RE: [EXT] 7844261 8645-3, Poinsett Hutterian Brethren

Karen,

Attached is the proof for your legal notice scheduled to publish October 5, 2022 at a cost of \$45.88.

Please look over the proof and let us know of any changes **before 10am October 3**.

This legal notice requires Prepayment. Please forward this email to Levi Tschetter or let him know to contact our office with payment information.

For reference, your order number is 7844261.

Thank You,

Melody Bishop

Public Notice Representative

GANNETT



**USA TODAY
NETWORK**

405-919-0453 or 405-475-3107

Office: 844-254-5287

ganlegpubnotices4@gannett.com

mbishop@localiq.com

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>

Sent: Tuesday, September 27, 2022 8:33 AM

To: SD-Watertown Legals <legals@thepublicopinion.com>

Subject: 7844261 8645-3, Poinsett Hutterian Brethren

Attached is a notice to be published on October 5, 2022.

Levi Tschetter, Poinsett Hutterian Brethren, 46527 189th St, Estelline SD 57234 (605 690-5430) 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, October 19, 2022 8:00 AM
To: Gannett Legals Public Notices 4
Subject: RE: [EXT] 7844261 8645-3, Poinsett Hutterian Brethren

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Thank you,
Karen

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For reference, your order number is 7844261.
Thank You,

Melody Bishop
Public Notice Representative

GANNETT  **USA TODAY
NETWORK**

405-919-0453 or 405-475-3107
Office: 844-254-5287
ganlegpubnotices4@gannett.com
mbishop@localiq.com

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Tuesday, September 27, 2022 8:33 AM
To: SD-Watertown Legals <legals@thepublicopinion.com>
Subject: 7844261 8645-3, Poinsett Hutterian Brethren

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Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaar

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



NOTICE OF APPLICATION NO. 8645-3 to Appropriate Water

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well completed into the Big Sioux:Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22; all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD.

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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 October 17, 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 October 17, 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_

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 27, 2022 8:33 AM
To: 'legals@thepublicopinion.com'
Subject: 8645-3, Poinsett Hutterian Brethren
Attachments: 8645-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 5, 2022.

Levi Tschetter, Poinsett Hutterian Brethren, 46527 189th St, Estelline SD 57234 (605 690-5430) 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: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Monday, September 26, 2022 11:03 AM
To: Schlaak, Karen
Subject: RE: [EXT] 7748311 8645-3, Poinsett Hutterian Brethren Inc.

Importance: High

We don't show payment was made as advised so this hasn't run yet

Thank you,

*Call Levi 9/27/22
told him notice needed
to be published in WPO.*

Public Notices Team



LOCALiQ

844-254-5287

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, September 26, 2022 9:33 AM
To: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Subject: RE: 7748311 8645-3, Poinsett Hutterian Brethren Inc.

Please send me the affidavit for this publication.
Thanks.
Karen

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Tuesday, September 6, 2022 11:13 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] 7748311 8645-3, Poinsett Hutterian Brethren Inc.

Hello,

Your notice is scheduled to publish Sep 14 in the Public Opinion. The total cost of your notice is \$48.12, which includes a publisher affidavit that will be mailed to you after the last date of publication. This ad requires prepayment by Sep 12 by 9am in order to run. To pay, please call 844-254-5287.

Thank you,

Madison Weber
Public Notice Representative



LOCALiQ

Office: 844-254-5287

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 6, 2022 10:25 AM
To: Hamlin County Publishing (hcp@itctel.com)
Subject: 8645-3, Poinsett Hutterian Brethren Inc.
Attachments: 8645-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 14, 2022.

Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 (605 690-5430) 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: Tuesday, September 6, 2022 10:27 AM
To: 'legals@thepublicopinion.com'
Subject: 8645-3, Poinsett Hutterian Brethren Inc.
Attachments: 8645-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 14, 2022.

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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.**

September 6, 2022

Poinsett Hutterian Brethren Inc
c/o Levi Tschetter
46527 189th St
Estelline SD 57234

Dear Mr. Tschetter:

Water Permit Application No. 8645-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Hamlin County Republican printed at Castlewood (Ph # 605 793-2293) and the Public Opinion printed at Watertown (Ph # 605 886-6901). 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

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.

Instruction to Newspaper - Publish the Notice on September 14, 2022. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8645-3 to Appropriate Water

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th St, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well completed into the Big Sioux-Brookings Aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 for irrigation of 136 acres located in the SW 1/4 Section 22; all in T114N-R51W. This site is located approximately 6 miles northwest of Estelline SD.

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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 September 26, 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_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

DEC 08 2022

Poinsett Hutterian Brethren Inc
c/o Levi Tschetter
46527 189th St
Estelline SD 57234

Dear Mr. Tschetter:

Enclosed is Water Permit No. 8645-3 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8645-3

Name of Applicant: Poinsett Hutterian Brethren Inc., c/o Levi Tschetter

Date of Posting: 9/12/2022

Date of Removal: 12/8/2022



Ron Duvall, Water Rights Permitting Administrator



Date

Subscribed and sworn to before me, a notary public, this 8th day of dec, 20 22.



Notary Public - South Dakota
My commission expires: 4/1/2025

