

WATER PERMIT NO. 8772-3

Name of Applicant: **Poinsett Hutterian Brethren, Inc.**

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

Amount of Water Claimed: **1.78 cfs** Total Acres: **8.5 additional**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation** County: **Hamlin**

Type of Waste Disposal System:

Location: **Approximately 6 miles north of Estelline SD**

PRIORITY Date Received: **6-16-2023** Application/License Fee: **\$700.00**

Corrected Application Received: **6/22/23** Period of Annual Use: **May 1 – October 31**
(email)

Remarks: **Water Right No. 5328-3 authorizes irrigation 127.5 acres; this application adds 8.5 acres and add'l 1.78 cfs**

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

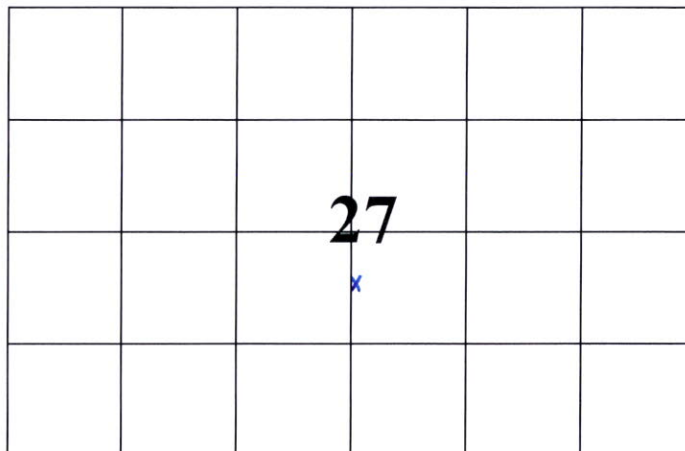
Land to be Irrigated: **SW 1/4 Section 26-T114N-**
R51W

Depth of Well: **95**

Well Driller: **Steffl Drilling & Pump, Inc.**

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **6-21-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8772-3**

Date of first receipt of application June 16, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8772-3 to Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, 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. 8772-3 appropriates 1.78 cubic feet of water per Second (cfs) from one well completed into the Big Sioux: Brookings aquifer (85 feet deep) located in the NW 1/4 SE 1/4 Section 27 to irrigate an additional 8.5 acres in the SW1/4 Section 26; all in T114N-R51W. Water Right No. 5328-3 also authorizes irrigation of same area (127.5 acres, SW1/4 Section 26) and the NE1/4 Section 27 from two existing wells located in the NE1/4 Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorizes irrigation of the NW1/4 Section 26 from one of the wells authorized by No. 5328-3. Water Permit Application No. 8772-3 will allow operation of both center pivots in the W1/2 Section 26-T114N-R51W at the same time for a total of 136 acres. This site is located approximately 6 miles north 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 – October 31.
3. The date from which applicant may claim right is June 16, 2023 for an additional 1.78 cfs and 8.5 acres.
4. The date of approval of Permit No. 8772-3 is September 5, 2023.
5. One-fifth of the construction is to be completed on or before March 5, 2026.
6. All construction is to be completed on or before September 5, 2028.
7. Water is to be put to beneficial use on or before September 5, 2032.
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. 8772-3 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 Agriculture and Natural Resources

OCT 10 2023
date



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

RECEIVED

JUN 16 2023

OFFICE OF
WATER

PAID

JUN 16 2023

Chk# 66600
Rec'd 6/16/23

Mail to:

SD DANR, Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182

ph. (605) 773-3352

No. 8772-3 Hydrologic Unit 10170202
Basin Middle Big Sioux
Newspaper Estelline Journal
Watertown Public Opinion (office use only)

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 605.873.2630 Mobile 605.690.5430 Email levi.tschetter@outlook.com

2. Amount of water claimed 1.78 *CFS or **GPM ***AF Total Acreage 8.5 add'l
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Groundwater - one existing 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 - October 31

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

Land Description	Acres	Land Description	Acres
SW1/4 section 26-T114N-R51W	136 <u>8.5</u>		

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

The SW1/4 sec. 26 is authorized for irrigation of 127.5 acres under Water Right No. 5328-3. This application adds 8.5 acres and appropriates an additional 1.78 cfs from an existing well authorized by Water Permit No. 8645-3 to allow the pivots in the W1/2 section 26 to operate at the same time. Currently, the pivots operate alternately from wells covered by Water Right No. 5328-3 and Water Right No. 5627A-3. NOTE: The well being used will no longer be used under No. 8645-3 since a second well was completed to irrigate the area covered by No. 8645-3.

I, 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)

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 1 Provide copy of log(s), if available. Drilled by Steffl Drilling & Pump Inc.

For either existing or proposed wells: SEE WELL COMPLETION REPORT

- c) Well Depth (required) 85 ft Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____
- d) Distance to nearest domestic well on applicant's property _____ 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 _____

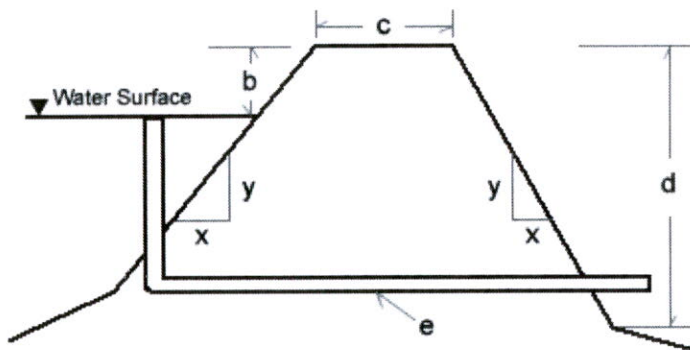
If pipe, diameter _____

- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

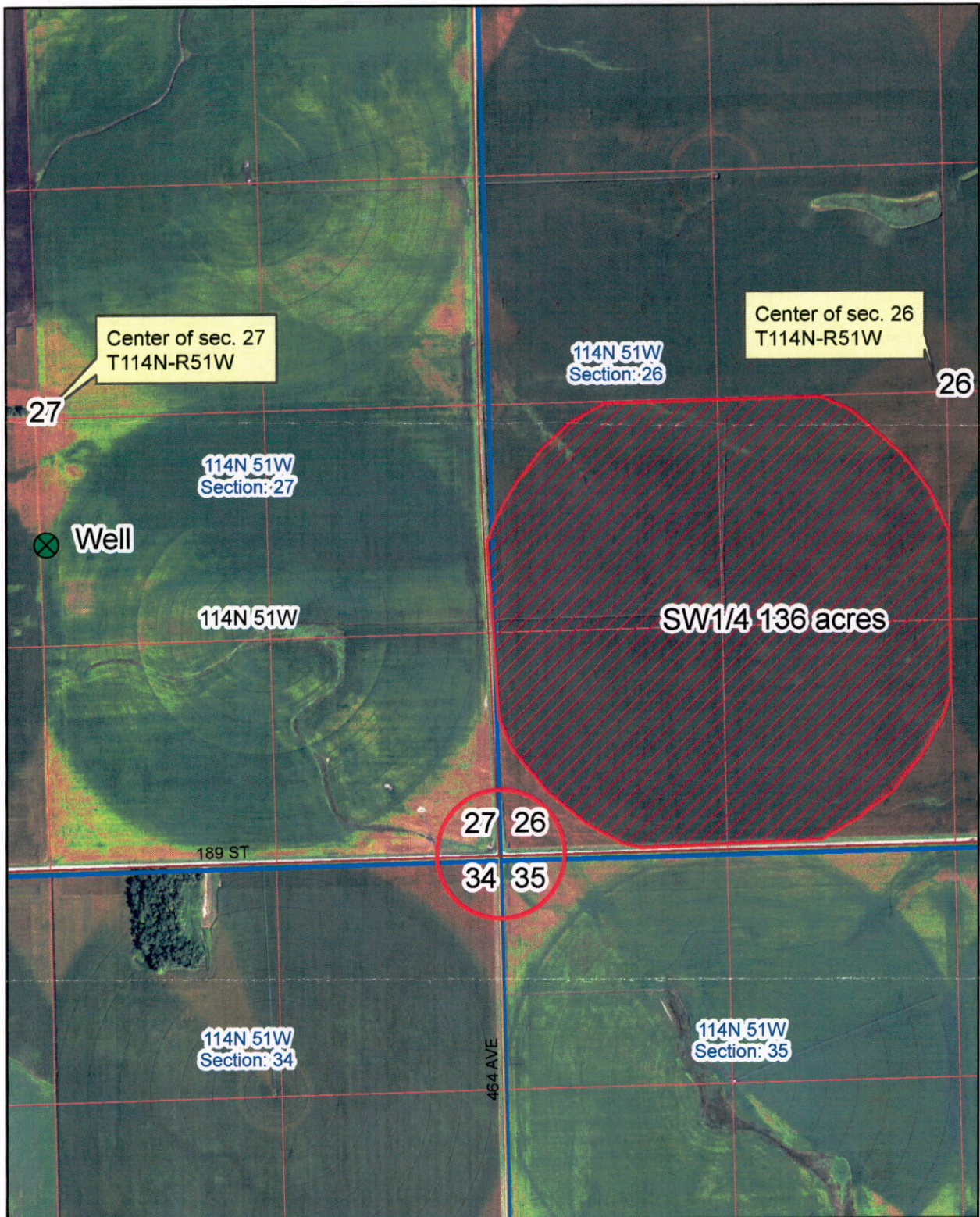
j) Drainage Area Above Dam _____ Acres



Scale: 1 inch = 870 feet

1,200

Feet



DANR
SOUTH DAKOTA

Completed by:

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

Date:

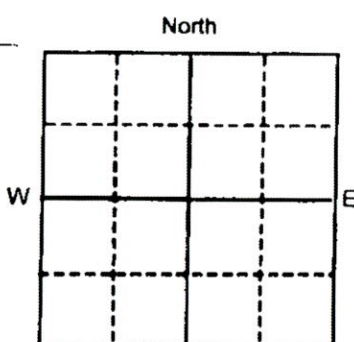
Application No.

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW ¼ SE ¼ Sec 27 Twp 114N Rg 51W

County Hamlin

Please 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

PIPEWRIGHT	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 Stainless

Slot 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 analysis

Well Owner: Poinsett Colony

Business Name: Same

Address: 46527 189th St

City, 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 FFFI

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 accurate

Drilling firm: Steffl Drilling & Pump Inc

Signature of License Representative

RECEIVED

AUG 17 2022

Signature of Well Owner or Equitable Property Holder

OFFICE OF
WATER

Lani Bohetter

Date 8-12-22

Print Form

Save As

Clear Form

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 16, 2023

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>8772-3</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>8772-3</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
vm

Rodriguez, Rachel

From: Duvall, Ron
Sent: Thursday, June 22, 2023 9:28 AM
To: Levi Tschetter
Cc: Rodriguez, Rachel
Subject: Irrigation Permit
Attachments: PoinsettHutterianBrethren_D0499LDV6-IRRIG_2.pdf; poinsetthutterian.pdf

Categories: Done

Levi,

On June 12 we visited about your well situation where the well permitted for irrigating the SW1/4 section 22 could NOT be used due to problems getting an access easement (see attached file documentation). Consequently, this well which is located in the SE1/4 section 27 was going to be used to irrigate the SW1/4 section 26. I completed an application to accomplish that and we have received the application back from you – thank you.

The other issue involved drilling of a well in the SW1/4 section 22 to irrigate that quarter since you could not use the well drilled in the SE1/4 section 27. As noted in the attachment, that change in location of diversion point (well site) can sometimes be accomplished without the need to go through the permitting process but there are certain conditions that need to be met, including that the water source remains unchanged. After staff review of the water completion reports (well logs) which are in the PDF attachment, the new well in the SW1/4 section 22 is NOT in the Big Sioux Brookings aquifer which is the water source identified on [Permit No. 8645-3](#) as an 85 feet deep well. The well drilled in the SW1/4 section 22 is 150 feet deep which puts it into an aquifer below the Big Sioux Brookings aquifer. Consequently, we cannot just change the well location administratively, it will require that a new permit application to be processed and approved. I have attached a partially-completed application for your review.

However, we have very little information available concerning this deeper aquifer. As part of processing your application, we may need you to provide us additional information so we can assess water availability from this deeper aquifer. This may involve either an aquifer performance test or determining whether the deeper aquifer is connected to the Big Sioux aquifer.

If the application and map look good, just print out the application (Form 2), sign it, and return it with the map, well log, and fee of \$1,050.00. If printing the application and attachments is an issue, please let me know and I will mail you a hard copy of the attachment. Also on the Form 2A, Supplemental information, please indicate the approximate distance to the nearest domestic well on property owned by others if you know, if you don't know, then indicate that (last blank for item No. 1 Well Information).

Please let me know if you have any questions.

Thank you,

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



DANR
SOUTH DAKOTA

Rodriguez, Rachel

From: Duvall, Ron
Sent: Tuesday, June 13, 2023 10:17 AM
To: Levi Tschetter
Cc: Rodriguez, Rachel
Subject: Application to use well covered by No. 8645-3 on SW1/4 sec 6-114N-51W
Attachments: Poinsett1.pdf

Levi,

As we discussed on the phone yesterday, I have drafted an application to allow use of the well originally covered by No. 8645-3 to irrigate the acreage in SW1/4 section 26. I also noted on the existing water right ([No. 5328-3](#)) for the SW1/4 section 26 that the number of irrigated acres was 127.5. The attached application increases that number from 127.5 to 136 acres. The plan is also to appropriate another 1.78 cfs (800 gpm) since the existing 800 gpm appropriated under No. 8645-3 will be in use on the irrigated acreage in section 22 from your new well also located in section 22. We will work on updating the file for No. 8645-3 to reflect the location of the well in section 22 rather than the location initially applied for in section 27.

If the application and map look good, just print out the application (Form 2), sign it, and return it with the map, well log, and fee of \$700.00 (up to the first 60 acres is \$500.00 plus the \$200.00 license fee for total of \$700.00). If printing the application and attachments is an issue, please let me know and I will mail you a hard copy of the attachment. Also on the Form 2A, Supplemental information, please indicate the approximate distance to the nearest domestic well on property owned by others if you know, if you don't know, then indicate that (last blank for item No. 1 Well Information).

Please let me know if you have any questions or need a hard copy mailed.

Thank you,

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



DANR
SOUTH DAKOTA



**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. 8772-3, 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. 8772-3, Poinsett Hutterian Brethren, Inc., c/o Levi Tschetter, 46527 189th Street, Estelline SD 57234.

The Chief Engineer is recommending APPROVAL of Application No. 8772-3 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. 8772-3 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
August 15, 2023

Report to the Chief Engineer
On Water Permit Application No. 8772-3
Poinsett Hutterian Brethren Inc.

August 16th, 2023

Water Permit Application No. 8772-3 proposes to authorize 1.78 cubic feet per second (cfs) from one well completed into the Big Sioux: Brookings aquifer (85 feet deep) located in the NW ¼ SE ¼ Section 27 for irrigation of 136 acres located in the SW ¼ Section 26; all in T114N-R51W. Water Right No. 5328-3 also authorizes irrigation of the same area (127.5 acres, SW ¼ Section 26) and NE ¼ Section 27 from two existing wells completed into the Big Sioux: Brookings aquifer located in the NE ¼ Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorized irrigation of the NW ¼ Section 26 from one of the wells authorized by No. 5328-3. If approved, Water Permit Application 8772-3 will allow operation of both center pivots in the W ½ Section 26-T114N-R51W at the same time and add 8.5 acres to the total number of permitted acres. The site of interest is located in Hamlin County approximately 6 miles north of Estelline, SD.

AQUIFER: Big Sioux: Brookings (BS:B)

HYDROGEOLOGY:

The Brookings management unit of the Big Sioux aquifer is a Quaternary-aged glacial outwash that consists of medium to very coarse sand and very fine to medium gravel (Kume, 1985; Hamilton, 1989). The depth of the top of the Big Sioux: Brookings aquifer ranges from the land surface in the Big Sioux River floodplain to 212 feet below land surface (Hamilton, 1989). In Brookings, Deuel, Hamlin, Kingsbury, Moody, and Codington Counties, the Big Sioux: Brookings aquifer is estimated to underly approximately 323,000 acres and contain approximately 1,453,000 acre-feet of recoverable water in storage, as shown in Figure 1 (Hedges et al, 1982 and Stonesifer, 2013). The direction of groundwater movement in the Big Sioux: Brookings aquifer is in a southern direction and towards the Big Sioux River (Hamilton, 1989). The aquifer is unconfined near the Big Sioux River and along major tributary valleys, but elsewhere the aquifer may be confined by overlying till or clay lenses (Hamilton, 1989).

A water well completion report was not submitted with Water Permit Application No. 8772-3; so, a nearby water well completion report will be used instead (Water Rights, 2023d). The water well was completed on October 8, 2013 (Water Rights, 2023d). The water well completion report indicates the well is completed into the Big Sioux: Brookings aquifer with the top of aquifer bearing material (coarse gravel) at 33 feet below the ground surface, a static water level of 26.1 feet below the ground surface, and a total aquifer saturation of 17 feet at the time of well completion (Water Rights, 2023d). Several other nearby water well completion reports for the Big Sioux: Brookings aquifer show the aquifer to be confined near the location of the diversion point (SDGS, 2023; Water Rights, 2023b and 2023d). Considering all the nearby water well completion reports indicating confined conditions, the aquifer at the diversion point for this application is likely to be locally confined.

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 unappropriated water is available for the applicant’s proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is 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 uses and water rights within the Big Sioux: Brookings aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8772-3 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, 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 received primarily through infiltration of precipitation and seepage through till, lake deposits, and underlying aquifers (Hamilton, 1989). Using observation well analysis, Hedges et al (1985) estimated a recharge rate of 4.0 inches per year for the Big Sioux: Brookings aquifer. The Big Sioux: Brookings aquifer has an estimated areal extent of approximately 323,000 acres (Stonesifer, 2013). Therefore, the average annual recharge rate for the Big Sioux: Brookings aquifer (based on Hedges et al, 1985; Stonesifer, 2013) is approximately 107,667 acre-feet/year.

Discharge

Discharge from the Big Sioux: Brookings aquifer primarily occurs through well withdrawals, seepage to surface water features, and evapotranspiration in areas where the aquifer is at or near land surface (Hamilton, 1989). Currently, there are 262 water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2023c). There are two other pending applications (Application Nos. 8753-3 and 8758-3) for the Big Sioux: Brookings aquifer with a priority date senior to this application. There are 11 future use permits reserving

6,041 acre-feet/year of water from the Big Sioux: Brookings aquifer, shown on Table 1 (Water Rights, 2023c).

Table 1. Future Use Permit reserved water for the Big Sioux: Brookings aquifer (Water Rights, 2023c)

Future Uses Permit Holder	Permit Nos.	Amount of Reserved Water (acre-feet)
Joint Well Fields Inc.	3982-3, 3982A-3, 3982B-3, 6988-3	2,375
City of Lake Norden	4055-3, 6261-3	0
City of Castlewood	558A-3	123
City of Volga	5875-3, 6259-3	1,143
Sioux Rural Water System	5094-3, 7853-3	2,400
TOTAL:		6,041

Table 2 summarizes the 48 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 amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. The 60 percent estimation was established by Water Rights Staff to be a reasonable and safe estimate of average annual withdrawals by non-irrigation appropriations. Historically, the 60 percent estimate has been accepted by the Water Management Board. It should be noted that some of the water permits/rights listed on Table 2 are connected to rural water systems and use rural water rather than their local wells; so, they will not contribute to the annual withdrawal rate. This includes water rights for the Town of Hayti which purchases all their water from the Sioux Rural Water System and the City of Clear Lake which purchases all their water from the Brookings-Deuel Rural Water System (Drinking Water, 2023). Overall, the annual withdrawal rate for the Big Sioux: Brookings aquifer non-irrigation water rights/permits is approximately 15,247 acre-feet/year (Table 2) (Water Rights, 2023c).

Table 2. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Big Sioux: Brookings aquifer (Water Rights, 2023c)

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimate Use (acre-feet/year)
2111-3	GOPHER SIGN CO	LC	COM	0.040	N/A	17.38
5675-3	LAKE POINSETT ESTATES	LC	COM	0.090	N/A	39.10
6019-3	DAKOTA WHOLESALE BAIT INC	LC	COM, DOM	0.355	N/A	154.21
6329-3	OSWALD	LC	COM	1.280	N/A	556.03
6745-3	HANSEN	LC	COM	0.110	N/A	47.78
6785-3	DRUMGOON DAIRY LP	LC	COM, LCO	0.200	N/A	86.88
6786-3	NYSTROM	LC	COM, LCO	0.170	N/A	73.85
7277-3	OLD TREE FARMS	LC	COM, LCO	0.100	N/A	43.44

Report on Water Permit Application No. 8772-3

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimate Use (acre-feet/year)
7854-3	ULVESTAD	PE	COM, LCO	0.890	N/A	386.62
7259-3	OLD APOSTOLIC LUTHERAN CHURCH	LC	GEO	1.000	120.00	120.00
5129-3	TECHNICAL ORDNANCE INC	LC	IND	0.100	N/A	43.44
6146-3	SD SOYBEAN PROCESSORS	LC	IND	0.144	N/A	62.55
1317-3	ESTELLINE	LC	MUN	1.100	N/A	477.84
1759-3	VOLGA	LC	MUN	1.650	N/A	716.76
3117-3*	HAYTI	LC	MUN	0.330	N/A	0.00
4950-3	BRUCE	LC	MUN	0.270	N/A	117.29
5071-3*	CLEAR LAKE	LC	MUN	0.450	N/A	0.00
5167-3	VOLGA	LC	MUN	0.450	N/A	195.48
534A-3*	CLEAR LAKE	LC	MUN	1.100	N/A	0.00
557-3	LAKE NORDEN	LC	MUN	3.000	N/A	1303.20
558B-3	CASTLEWOOD	LC	MUN	0.560	N/A	243.26
558D-3	CASTLEWOOD	LC	MUN	0.330	N/A	143.35
5645-3	ESTELLINE	LC	MUN	0.660	N/A	286.70
617-3*	HAYTI	LC	MUN	0.660	N/A	0.00
5815-3	LAKE NORDEN	LC	MUN	0.560	139.00	139.00
5941-3	VOLGA	LC	MUN	0.890	644.00	644.00
6417-3	LAKE NORDEN	LC	MUN	1.450	630.00	630.00
6542-3	LAKE NORDEN	LC	MUN	0.600	262.00	262.00
8640-3	VOLGA	PE	MUN	1.110	645.00	645.00
2033-3	SIOUX RURAL WATER SYSTEM	LC	RWS	0.750	N/A	325.80
4830-3	BROOKINGS-DEUEL RWS	LC	RWS	2.000	N/A	868.80
5079-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	2.900	N/A	1259.76
5098-3	SIOUX RURAL WATER SYSTEM	LC	RWS	2.000	N/A	868.80
5434-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1.000	434.00	434.00
5602-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1.000	434.00	434.00
5960-3	SIOUX RURAL WATER SYSTEM	PE	RWS	1.330	600.00	600.00
6002-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1.000	362.00	362.00
2245B-3	BROOKINGS-DEUEL RWS	LC	RWS	1.930	270.00	270.00
6718-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1.000	300.00	300.00
7381-3	BROOKINGS-DEUEL RWS	PE	RWS	0.000	N/A	0.00
7852-3	SIOUX RURAL WATER SYSTEM INC	PE	RWS	1.330	600.00	600.00
8185-3	JOINT WELL FIELD INC.	PE	RWS	0.000	603.00	603.00
7852A-3	SIOUX RURAL WATER SYSTEM	PE	RWS	0.000	N/A	0.00
6988A-3	JOINT WELL FIELD INC	PE	RWS	0.000	N/A	0.00
8371-3	JOINT WELL FIELD INC	PE	RWS	0.000	434.00	434.00
8732-3	SIOUX RURAL WATER SYSTEM	PE	RWS	0.000	N/A	0.00
1956-3	MEYER	LC	SHD	1.000	N/A	434.40
1956-3A	HAMILTON	LC	SHD	0.040	N/A	17.38
LC Licensed Water Right, PE Water Permit, COM Commercial, DOM Domestic, LCO Livestock Confinement Operation, GEO Geothermal, IND Industrial, MUN Municipal, RWS Rural Water System, SHD Suburban Housing Development, *These Water Rights get their water from a separate system rather than local wells.					TOTAL:	15,247

Currently, there are 214 irrigation water rights/permits appropriating water from the Big Sioux: Brookings aquifer (Water Rights, 2023c). Irrigation water rights/permits have been typically required to report their annual usage by submitting an irrigation questionnaire since 1979. The 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 8,943 acre-feet per year (Table 3) (Water Rights, 2023a). 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 3) (Water Rights, 2023a).

There are seven irrigation water permits approved in 2022-2023, that are not accounted for in Table 3, Water Permit Nos. 8601-3, 8602-3, 8638-3, 8645-3, 8669-3, 8712-3, and 8738-3 (Water Right, 2023c). There are also three pending irrigation applications Nos. 8753-3, 8758-3, and this application (Water Right, 2023c). Water Permit Nos. 8601-3, 8602-3, 8638-3, 8645-3, 8669-3, 8712-3, and 8738-3 combined are authorized to irrigate approximately 634 acres (Water Rights, 2023c). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water rights/permits. Therefore, the estimated average annual withdrawal rate for Water Permit Nos. 8601-3, 8602-3, 8638-3, 8645-3, 8669-3, 8712-3, and 8738-3 is estimated at approximately 634 acre-feet per year. Additionally, this application and other pending applications (Nos. 8753-3 and 8758-3) propose to use approximately 276 acre-feet per year. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2012 to 2021 (10,951 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water permits approved in 2022-2023 and pending applications (910 acre-feet/year), is approximately 11,861 acre-feet per year.

Table 3. Reported historic irrigation use from the Big Sioux: Brookings aquifer (Water Rights, 2023a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	184	6,144
1980	187	9,837
1981	198	9,040
1982	155	4,558
1983	161	8,227
1984	188	8,177
1985	181	4,951
1986	179	2,855
1987	171	10,015
1988	167	18,521
1989	166	13,931
1990	175	5,863
1991	165	7,772
1992	162	2,332
1993	162	1,043
1994	160	2,855
1995	161	3,862
1996	154	7,221
1997	153	5,650
1998	157	8,110
1999	155	7,841
2000	153	8,934
2001	149	8,385
2002	149	12,411
2003	149	11,380
2004	156	11,810
2005	159	11,513
2006	161	14,325
2007	164	12,730
2008	166	12,506
2009	174	9,173
2010	172	2,713
2011	174	8,528
2012	177	19,483
2013	198	15,432
2014	212	9,948
2015	209	8,796
2016	210	10,267
2017	209	9,572
2018	211	7,953
2019	211	106
2020	209	10,001
2021	205	17,955
Max	212	19,483
Min	149	106
Avg (1982-2021)	174	8,943
Avg (2012-2021)	205	10,951

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, 2023d). 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 average annual recharge rate to the Big Sioux: Brookings aquifer is estimated to be about 107,667 acre-feet/year (Stonesifer, 2013). The average withdrawal rate from the Big Sioux: Brookings aquifer totals to approximately 33,149 acre-feet/year; (future use: 6,041 acre-feet/year; non-irrigation: 15,247 acre-feet/year; and irrigation (avg 2012 to 2021 plus the water rights/permits approved between 2021 and 2022) and pending applications: 11,861 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.

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.

The DANR-Water Rights Program monitors 77 observation wells completed into the Big Sioux: Brookings aquifer. The observation wells completed into the aquifer are shown on Figure 1 (Water Rights, 2023b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the existing diversion point are HN-77F (approximately 0.5 miles southwest), HN-83A (approximately 2.6 miles southeast), and HN-57B (approximately 3.4 miles southwest) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 2 to 4 respectively (Water Rights, 2023b). 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. The majority of observation wells in the Big Sioux: Brookings aquifer have a stable water level, with several observation wells that are under the influence of heavy pumping showing a history of slightly declining water levels that eventually stabilize. The data shown on Figures 2 to 4 share a similar trend with most of the observation wells in the Big Sioux: Brookings aquifer.

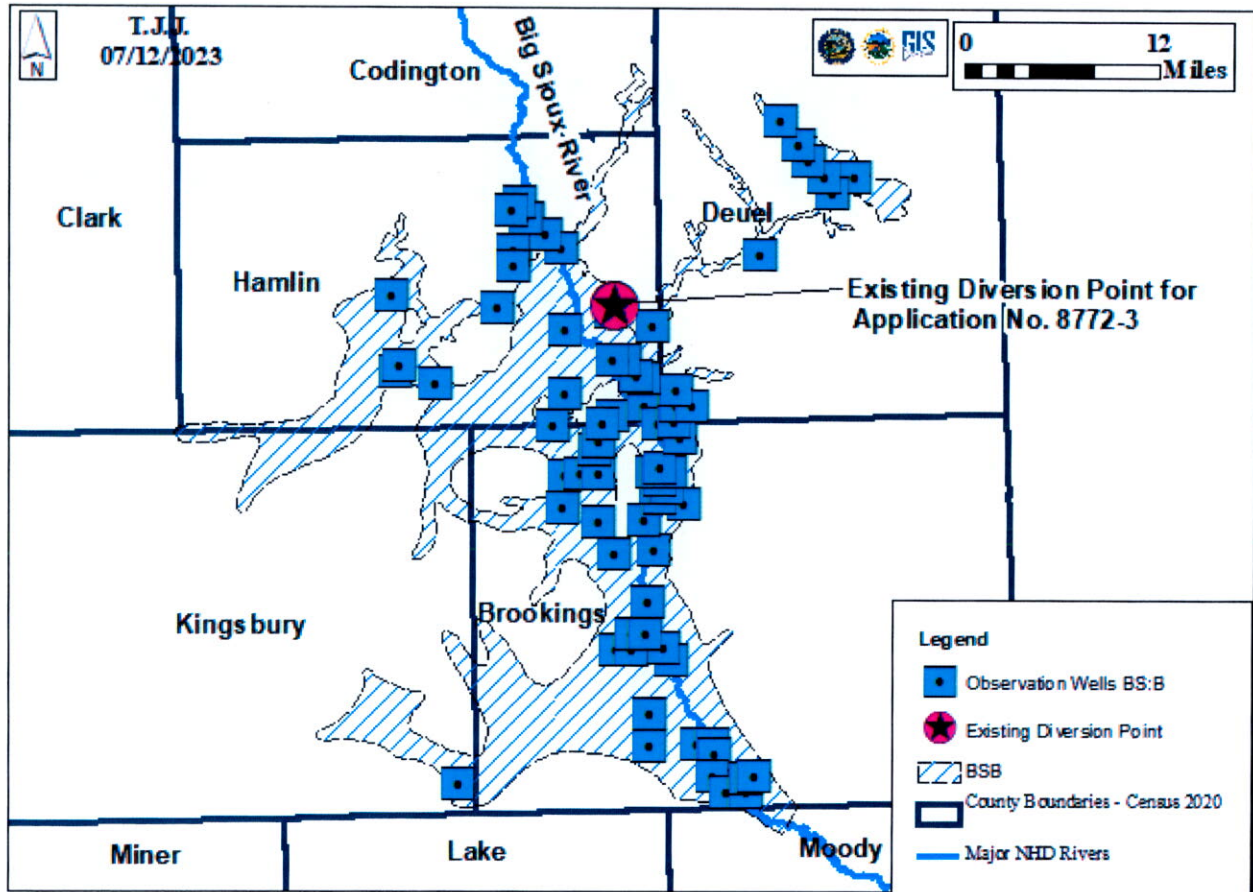


Figure 1. Map of the area Big Sioux: Brookings aquifer observation wells (Water Rights, 2023b and 2023c), and the location of diversion point for Water Permit Application No. 8772-3.

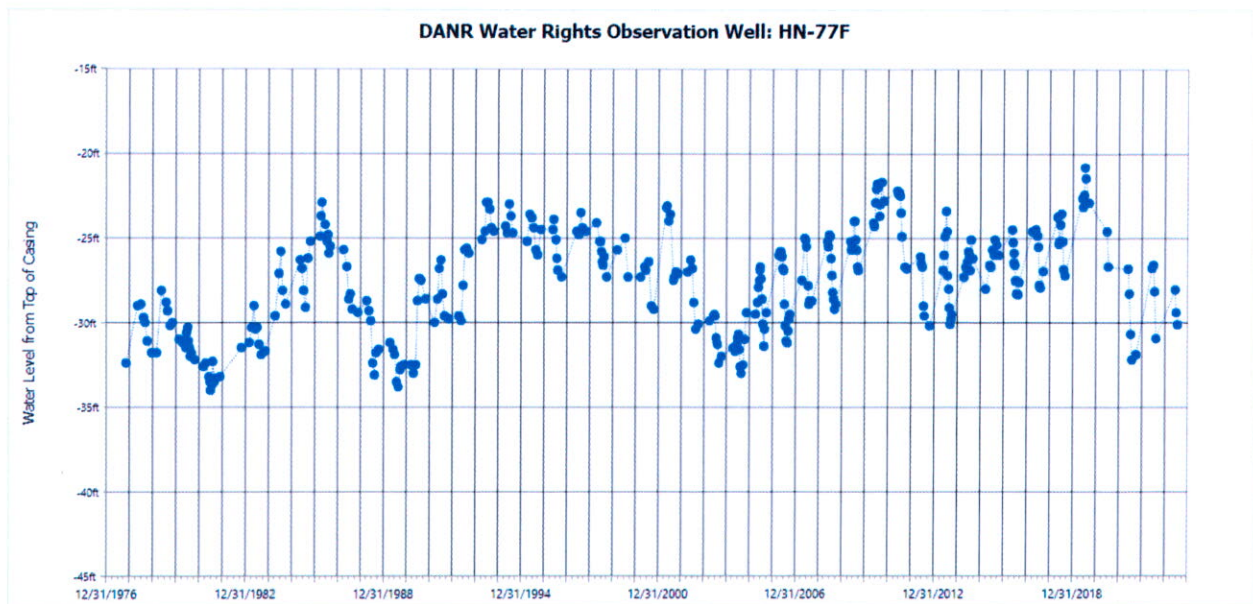


Figure 2. Hydrograph for observation well HN-77F (Water Rights, 2023b)

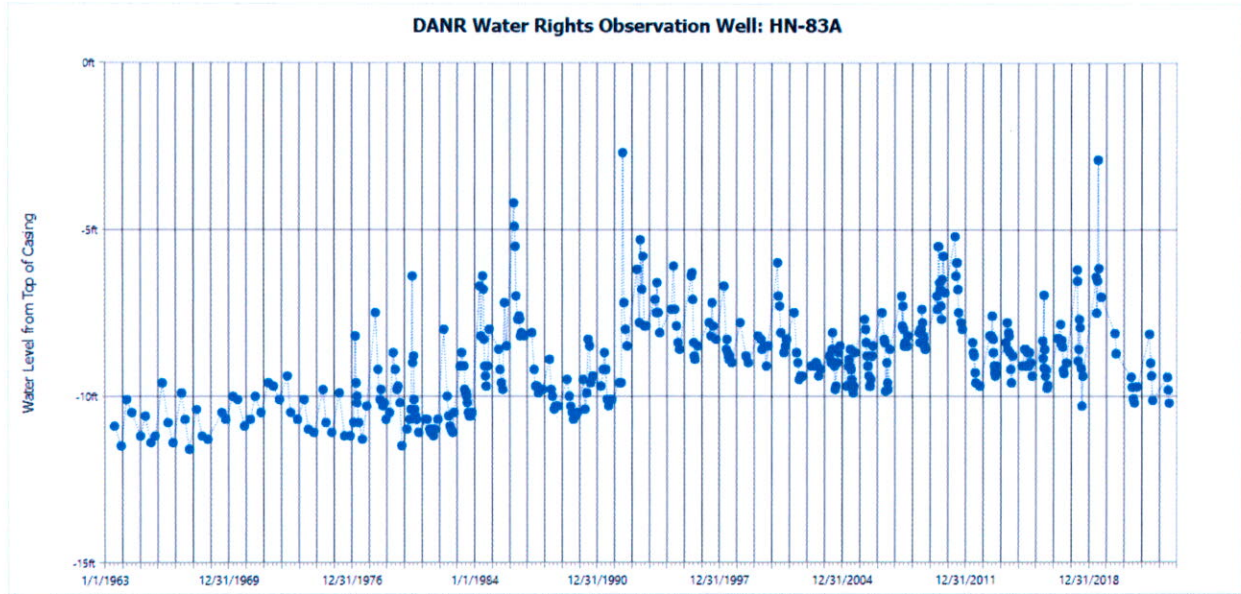


Figure 3. Hydrograph for observation well HN-83A (Water Rights, 2023b)

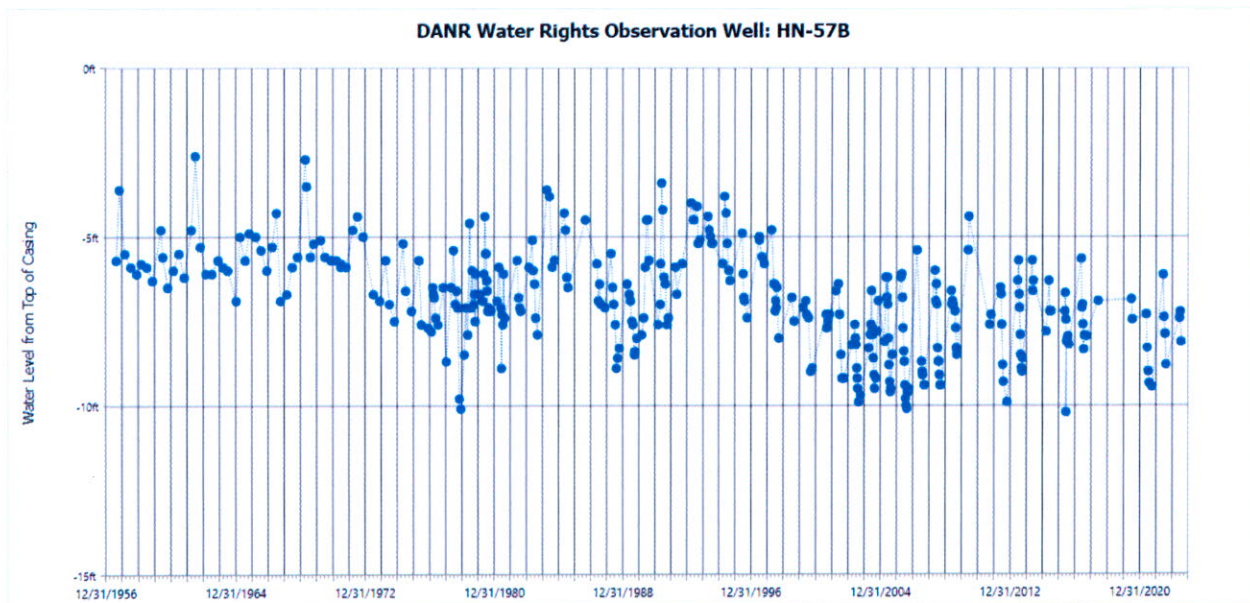


Figure 4. Hydrograph for observation well HN-57B (Water Rights, 2023b)

The hydrographs, Figures 2 and 3, for the observation wells display generally stable water levels which is representative of a majority of other observation wells in the Big Sioux: Brookings aquifer. However, observation well HN-57B seems to have some issues with its construction causing possibly affecting water level measurements (Drennon, 2023). The hydrograph for HN-57B, Figure 4, shouldn't be considered directly representative of the Big Sioux: Brookings aquifer. 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 (early spring snowmelt and precipitation) 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 waters 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.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Water rights/permits in the general vicinity of the existing well site for this application are shown in Figure 5 and summarized in Table 4 (Water Rights, 2023c). The closest water right/permit (not held by the applicant) to the diversion point 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 diversion point for this application (Water Rights, 2023c). It should be noted that Water Permit No. 8645-3 is held by Poinsett Hutterian Brethren Inc., same applicant as this application, and is located in the same location as the diversion point for this application (Water Rights, 2023c). 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 0.2 miles west of the diversion point based on the well completion report submitted by the driller (Water Rights, 2023d). The location of the domestic wells is based on the information provided by the well driller on the submitted well completion report. There could potentially be other domestic wells completed into the Big Sioux: Brookings aquifer near the diversion point that are not on file with the DANR-Water Rights Program.

Table 4. List of water rights/permits within 1 mile of the diversion point shown in Figure 5.

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
2841-3	Wayne Janssen	06/29/1976	License	Irrigation	1.78	124
3563-3	Donald Linneman	01/13/1977	License	Irrigation	2.0	238
4130-3	Laverne Mennega	06/27/1977	License	Irrigation	1.88	132
4994-3	Douglas Linneman	01/16/1984	License	Irrigation	1.66	132
5328-3	Poinsett Hutterian Brethren	04/10/1989	License	Irrigation	2.22	257.5
5402-3	Poinsett Hutterian Brethren	01/22/1990	License	Irrigation	1.77	132
5627A-3	Poinsett Hutterian Brethren	06/17/1997	License	Irrigation	1.78	136
6421-3	Keith Ebberts	05/29/2003	License	Irrigation	1.11	125
6797-3	Poinsett Hutterian Brethren	01/31/2007	License	Irrigation	1.67	136
7434-3	Poinsett Hutterian Brethren	09/14/2012	License	Irrigation	3.34	520
7896-3	Fugere Farm	09/09/2013	License	Irrigation	1.78	136
8225-3	Ralland Jassen	05/12/2016	License	Irrigation	0.11	127
8645-3	Poinsett Hutterian Brethren	07/25/2022	Permit	Irrigation	1.78	136

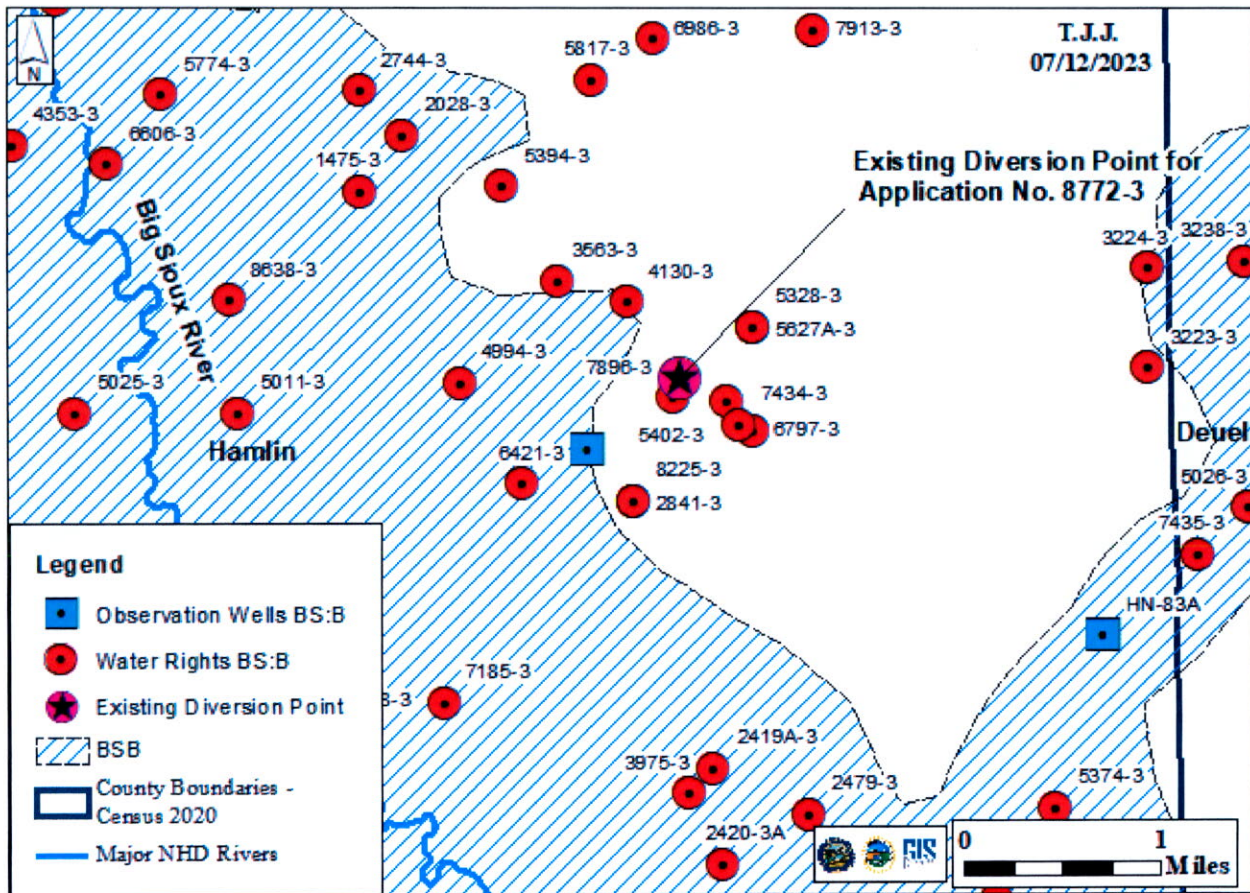


Figure 5. Map of the Big Sioux: Brookings aquifer water rights/permits within 4 miles of the existing diversion point (Water Rights, 2023b and 2023c), and the location of diversion point for Water Permit Application No. 8772-3.

The Big Sioux: Brookings aquifer is primarily under unconfined conditions. However, the aquifer is locally under confined conditions by a clay layer. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. 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. In Hamlin and Deuel Counties, the Big Sioux aquifer has an average saturated aquifer thickness of approximately 30 feet (Kume, 1985). Drawdown is likely to occur in the Big Sioux: Brookings aquifer. However, precise drawdown in the aquifer cannot be known without an aquifer performance test. While the best information available indicates that there is a reasonable probability average annual recharge exceeds average annual withdrawals in the aquifer, conditions can occur where withdrawals in the aquifer exceed recharge for a period of time. Situations may occur where pumping from a thicker part of an unconfined aquifer could cause drawdown impacting adequate wells in a thinner part of the aquifer. Under such conditions an unlawful impairment of senior water rights/permits or adequate domestic wells may occur. Therefore, the applicant should control their withdrawals so that nearby adequate domestic wells and senior water rights/permits are able to access needed water. 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 diversion point, the lack of well interference complaints for adequate wells completed into the Big Sioux: Brookings aquifer in Hamlin County (Water Rights, 2023e), any drawdown created from the 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. 8772-3 proposes to authorize 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 $\frac{1}{4}$ Section 27 for irrigation of 136 acres located in the SW $\frac{1}{4}$ Section 26; all in T114N-R51W. The site of interest is located in Hamlin County approximately 6 miles north of Estelline, SD.
2. Water Right No. 5328-3 also authorizes irrigation of 127.5 acres, located in SW $\frac{1}{4}$ Section 26 and NE $\frac{1}{4}$ section 27 from two existing wells located in the NE $\frac{1}{4}$ Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorized irrigation of the NW $\frac{1}{4}$ Section 26 from one of the wells authorized by No. 5328-3. If approved, Water Permit Application 8772-3 will allow operation of both center pivots in the W $\frac{1}{2}$ Section 26-T114N-R51W at the same time and add 8.5 acres to the number of permitted acres.
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 diversion by Water Permit Application No. 8772-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



Tyler Jensen
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:



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

References

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- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bed rock Topography and Distribution, Task 2: Extent of Aquifers, Task 3 Ground-Water Storage, Task 4: Computerized Data Base. United States Army Corps of Engineers Contract DACW 45-80-C-0185.
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- Stonesifer, J.R., 2013. Report to the Chief Engineer, Water Permit Application No. 7854-3, David Ulverstad, August 23, 2013. SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.

Water Rights, 2023a. "1979-2022 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2023b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2023c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2023d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2023e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**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 NEWSPAPER RIGHT AWAY.**

August 18, 2023

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

Dear Mr. Tschetter:

Water Permit Application No. 8772-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Estelline Journal printed in Estelline SD (Ph # 605 873-2475) and the Public Opinion in Watertown SD (see contact information). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
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. 8772-3 to Appropriate Water

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per Second (cfs) from one well completed into the Big Sioux Brookings aquifer (85 feet deep) located in the NW1/4 SE1/4 Section 27 to irrigate 136 acres in the SW1/4 Section 26; all in T114N-R51W. Water Right No. 5328-3 also authorizes irrigation of same area (127.5 acres, SW1/4 Section 26) and the NE1/4 Section 27 from two existing wells located in the NE1/4 Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorizes irrigation of the NW1/4 Section 26 from one of the wells authorized by No. 5328-3. If approved, Water Permit Application No. 8772-3 will allow operation of both center pivots in the W1/2 Section 26-T114N-R51W at the same time and add 8.5 acres to number of permitted acres. This site is located approximately 6 miles north of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8772-3 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 5, 2023.

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 5, 2023.

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_

From: Rodriguez, Rachel
Sent: Friday, August 18, 2023 9:18 AM
To: LeeAnne Dufek
Subject: 8772-3 Poinsett Hutterian Brethren Inc - Public Notice
Attachments: 8772-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 23, 2023.

Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, 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 Ave, Pierre SD 57501.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, August 18, 2023 9:19 AM
To: legals@thepublicopinion.com
Subject: 8772-3 Poinsett Hutterian Brethren Inc - Public Notice
Attachments: 8772-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 23, 2023.

Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, 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 Ave, Pierre SD 57501.

Let me know if you have questions. [Please acknowledge receipt of this email.](#)

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Water Rights Program
Poinsett Colony
46527 189TH STREET
ESTELLINE SD 57234

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:

08/23/2023

and that the fees charged are legal.
Sworn to and subscribed before on 08/23/2023

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$54.84

Order No: 9187277

of Copies:

Customer No: 550846

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

RYAN SPELLER
Notary Public
State of Wisconsin

NOTICE OF
APPLICATION NO.
8772-3 to

Appropriate Water

Notice is given that Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per Second (cfs) from one well completed into the Big Sioux Brookings aquifer (85 feet deep) located in the NW1/4 SE1/4 Section 27 to irrigate 136 acres in the SW1/4 Section 26; all in T114N-R51W. Water Right No. 5328-3 also authorizes irrigation of same area (127.5 acres, SW1/4 Section 26) and the NE1/4 Section 27 from two existing wells located in the NE1/4 Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorizes irrigation of the NW1/4 Section 26 from one of the wells authorized by No. 5328-3. If approved, Water Permit Application No. 8772-3 will allow operation of both center pivots in the W1/2 Section 26-T114N-R51W at the same time and add 8.5 acres to number of permitted acres. This site is located approximately 6 miles north of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8772-3 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 5, 2023. 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 5, 2023. 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 Aug. 23, 2023, at the total approximate cost of \$54.84 and may be viewed free of charge at www.sdpublicnotices.com 9187277

RECEIVED

AUG 28 2023

OFFICE OF
WATER

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hamlin) SSI, LeeAnne Dufek

certify that the attached printed Notice was taken

from the Estelline Journalprinted and published in EstellineCounty of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

Aug 23, 2023Cost of Printing \$44.60LeeAnne Dufek
(Signature)Owner
(Title)8-24-2023
(Date Signed)**NOTICE OF APPLICATION NO.
8772-3 TO APPROPRIATE WATER**

Notice is given that Poinsett Lutheran Brethren Inc., c/o Levi Tschetter, 46527 189th Street, Estelline SD 57234 has filed an application for a water permit to appropriate 1.78 cubic feet of water per Second (cfs) from one well completed into the Big Sioux Brookings aquifer (85 feet deep) located in the NW1/4 SE1/4 Section 27 to irrigate 136 acres in the SW1/4 Section 26; all in T114N-R51W. Water Right No. 5328-3 also authorizes irrigation of same area (127.5 acres, SW1/4 Section 26) and the NE1/4 Section 27 from two existing wells located in the NE1/4 Section 27; all in T114N-R51W. Water Right No. 5627A-3 authorizes irrigation of the NW1/4 Section 26 from one of the wells authorized by No. 5328-3. If approved, Water Permit Application No. 8772-3 will allow operation of both center pivots in the W1/2 Section 26-T114N-R51W at the same time and add 8.5 acres to number of permitted acres. This site is located approximately 6 miles north of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8772-3 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.

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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 5, 2023.

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 Aug. 23, 2023, at total cost of \$44.60 and may be viewed at www.sdpublicnotices.com

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Friday, August 18, 2023 9:32 AM
To: Rodriguez, Rachel
Subject: RE: [EXT] 9187277 8772-3 Poinsett Hutterian Brethren Inc - Public Notice
Attachments: 9187277.pdf

Hello Customer,

Please find attached your order confirmation and proof of the ad.

Your ad is set to run in: Public Opinion on 8/23/23 with a cost of \$54.84

The total cost includes an affidavit, which will be mailed to you after the ad publishes. **Please reply by 4 pm today, Aug. 18, 2023 with changes** for the ad. **Your notice is scheduled to run per your request and will publish unless you advise otherwise.** You will be able to receive an affidavit 7-10 business days after the last day of printing. **You will receive an invoice in the mail.**

In the future, if you would like to utilize our online self-serve ad portal to place your legal notices, please visit your local publication's online classifieds legal section. There, you can conveniently submit and immediately preview your notices anytime, 24/7.

Thanks,

Diana Tope
Public Notice Representative



Office: 844-254-5287

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Friday, August 18, 2023 10:19 AM
To: SD-Watertown Legals <legals@thepublicopinion.com>
Subject: 9187277 8772-3 Poinsett Hutterian Brethren Inc - Public Notice

Attached is a notice to be published on August 23, 2023.

Poinsett Hutterian Brethren Inc., c/o Levi Tschetter, 46527 189th Street, 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 Ave, Pierre SD 57501.

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

Thank you,

Rachel Rodriguez

Order Confirmation

Not an Invoice

Account Number:	550846
Customer Name:	Poinsett Colony
Customer Address:	Poinsett Colony 46527 189TH STREET ESTELLINE SD 57234
Contact Name:	Levi Tschetter
Contact Phone:	
Contact Email:	levitschetter@icloud.com
PO Number:	

Date:	08/18/2023
Order Number:	9187277
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	178.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
WAT The Public Opinion	1	08/23/2023 - 08/23/2023	Public Notices
WAT thepublicopinion.com	1	08/23/2023 - 08/23/2023	Public Notices

Order Confirmation Amount

\$54.84

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, August 18, 2023 9:46 AM
To: Levi Tschetter
Subject: 8772-3 Poinsett Hutterian Brethren Inc - Public Notice
Attachments: 8772-3_rec.pdf; 8772-3_ltr.pdf; 8772-3_PubNotice.pdf

Attached is a copy of the report, chief engineer's 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 also being mailed to you today.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

OCT 10 2023

Poinsett Hutterian Brethren, Inc.
c/o Levi Tschetter
46527 189th Street
Estelline SD 57234

Dear Mr. Tschetter:

Enclosed is Water Permit No. 8772-3 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
Posting on DANR Website**

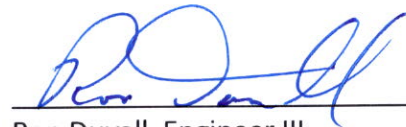
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8772-3

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

Date of Posting: 8/21/2023

Date of Removal: 10/10/2023

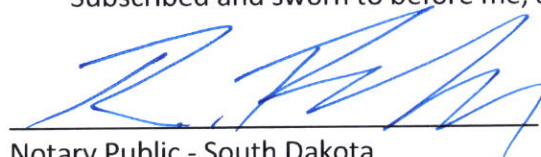


Ron Duvall, Engineer III

10/10/2023

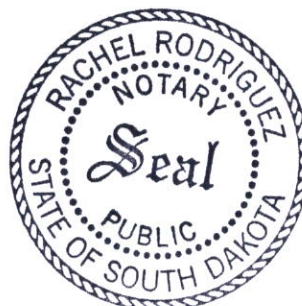
Date

Subscribed and sworn to before me, a notary public, this 10 day of October, 2023.



Notary Public - South Dakota
My commission expires: Rachel Rodriguez
My Commission Expires
May 16, 2029

(SEAL)





DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: POINSETT HTTRN BRTH, LEVI TSCHETTER, 46527 189TH ST, ESTELLINE SD 57234

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8772-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8772-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

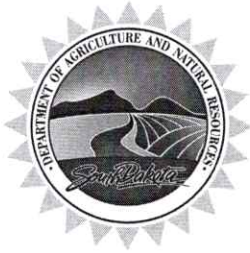
The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8772-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: VVVZZL**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 28, 2025

8772-3

Poinsett Colony
c/o Levi Tschetter
46527 189th St
Estelline SD 57234

Dear Mr. Tschetter:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 8772-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us