

**WATER PERMIT NO. 8776-3**

Name of Applicant: **Bon Homme Huutterian Brethren, Inc.**

Address: **31232 Colony Road, Tabor SD 57063** Phone: **605-661-3526**

Amount of Water Claimed: **4.0 cfs** Total Acres: **280**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation** County: **Bon Homme**

Type of Waste Disposal System:

Location: **Approx. 16 miles west of Yankton SD**

**PRIORITY** Date Received: **4-19-2023**

Application/License Fee: **\$1,050.00**

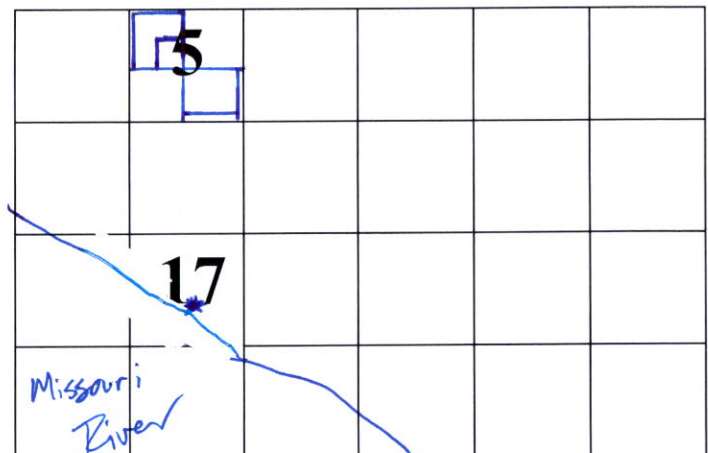
Corrected Application Received: **6-29-2023**

Period of Annual Use: **May 1 – October 31**

Remarks: **existing well**

Diversion Point: **SW 1/4 SW 1/4 Section 17-T93N-R58W**

Land to be Irrigated: **SE 1/4, W 1/2 NW 1/4, NE 1/4 NW 1/4 Section 5-T93N-58W**



Depth of Well: **N/A**

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **6-30-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA  
WATER PERMIT NO. 8776-3**

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Date of first receipt of application April 19, 2023.

Date of return to applicant for corrections, amendments or changes April 20, 2023.

Date of receipt of corrected application June 29, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8776-3 to Bon Homme Hutterian Brethren, Inc., c/o Samuel Waldner, 31232 Colony Road, Tabor SD 57063 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. 8776-3 appropriates 4.0 cubic feet of water per second from the Missouri River located in the SW 1/4 SW 1/4 Section 17 for irrigation of 280 acres located in the SE 1/4, W 1/2 NW 1/4, NE 1/4 NW 1/4 Section 5; all in T93N-R58W. This site is located approximately 5 miles southwest of Tabor 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 29, 2023.
4. The date of approval of Permit No. 8776-3 is September 18, 2023.
5. One-fifth of the construction is to be completed on or before March 18, 2026.
6. All construction is to be completed on or before September 18, 2028.
7. Water is to be put to beneficial use on or before September 18, 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. 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

APR 19 2023

OFFICE OF  
WATER

|                                                                                                               |                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mail to:<br><br>SD DANR, Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br><br>ph. (605) 773-3352 | No. <u>8776-3</u> Hydrologic Unit <u>10170101</u><br>Basin <u>Lewis &amp; Clark Lake</u><br>Newspaper <u>Tyndall Tribune &amp; Register</u><br><u>Daily Press &amp; Dakotan</u> (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 Bon Homme 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 31232 Colony Road Tabor SD 57063  
(Address) (City) (State) (Zip Code)  
Phone \_\_\_\_\_ Mobile 605 661-3526 Email secretary@bonhommehb.com

2. Amount of water claimed 4.0 \*CFS or 1800 \*\*GPM \_\_\_\_\_ \*\*\*AF Total Acreage 280  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Missouri River

4. Location of point of diversion existing diversion point located in the SW 1/4 SW 1/4 Section 17-T93N-R58W  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)  
County Bon Homme

5. County or counties where water will be used Bon Homme

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 |
|-------------------------------|-------|------------------|-------|
| SE 1/4 Sec 5-T93N-R58W        | 160   |                  |       |
| SW 1/4 NW 1/4 Sec 5-T93N-R58W | 40    |                  |       |
| NW 1/4 NW 1/4 Sec 5-T93N-R58W | 40    |                  |       |
| NE 1/4 NW 1/4 Sec 5-T93N-R58W | 40    |                  |       |

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

I, Samuel J. Waldner Secretary Treasurer 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.

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

94N 58W  
Section: 31

94N 58W  
Section: 32

94N 58W  
Section: 33

93N 58W  
Section: 04

93N 58W  
Section: 06

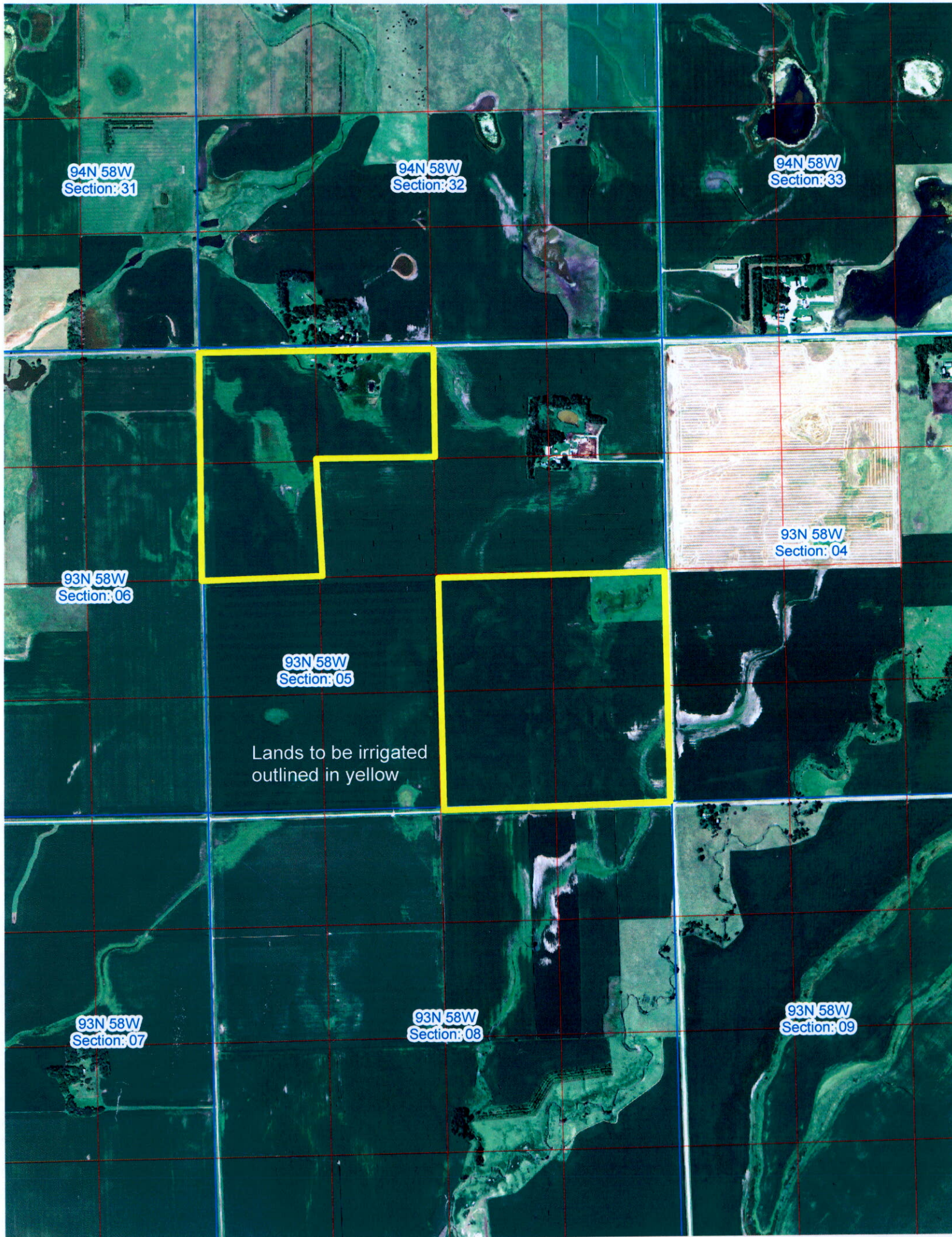
93N 58W  
Section: 05

Lands to be irrigated  
outlined in yellow

93N 58W  
Section: 07

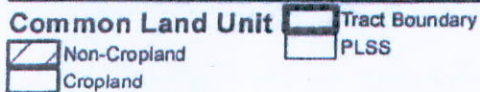
93N 58W  
Section: 08

93N 58W  
Section: 09





**Bon Homme County, South Dakota**



### Wetland Determination

-  Restricted Use
-  Limited Restrictions
-  Exempt from Conservation Compliance Provisions

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

2017 Program Year

Map Created May 23, 2017

Farm 6694

17 -93N -58W

## Diversion Point

**SOUTH DAKOTA  
WATER PERMIT NO. 8313-3**

Date of first receipt of application October 2, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8313-3 to Bon Homme Hutterian Brethren, Inc., Samuel J Waldner, 31232 Colony Road, Tabor SD 57063 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. 8313-3 appropriates 7.12 cubic feet of water per second from the Missouri River located in the SW 1/4 SW 1/4 Section 17 for irrigation of 680 acres located in the SW 1/4, NE 1/4, SE 1/4 NW 1/4 Section 5 and W 1/2 Section 4; all in T93N-R58W which is approximately 4 miles southwest of Tabor 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 October 2, 2017.
4. The date of approval of Permit No. 8313-3 is November 27, 2017.
5. One-fifth of the construction is to be completed on or before May 27, 2020.
6. All construction is to be completed on or before November 27, 2022.
7. Water is to be put to beneficial use on or before November 27, 2026.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

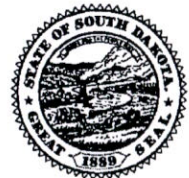
1. Water Right No. 5304-3 and Water Permit Nos. 8141-3, 8213-3 and 8313-3, combined, appropriates 18.2 cubic feet of water per second from the Missouri River for irrigation of 1,986 acres as specified on the water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

By: Jeanne Goodman

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

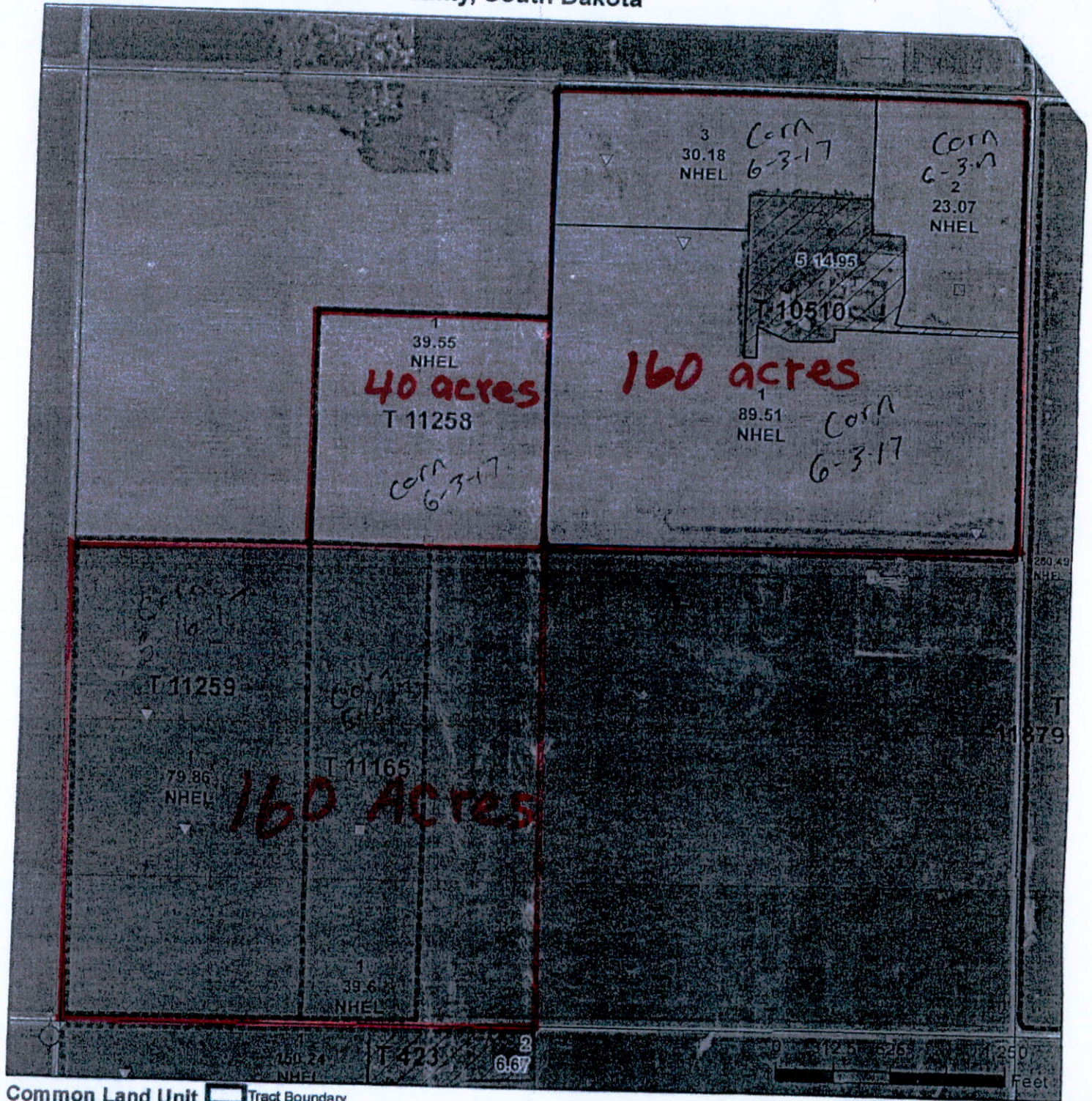
DEC 15 2017  
date





United States  
Department of  
Agriculture

# Bon Homme County, South Dakota



## Common Land Unit

- Non-Cropland
- Cropland

- Tract Boundary
- PLSS

## Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

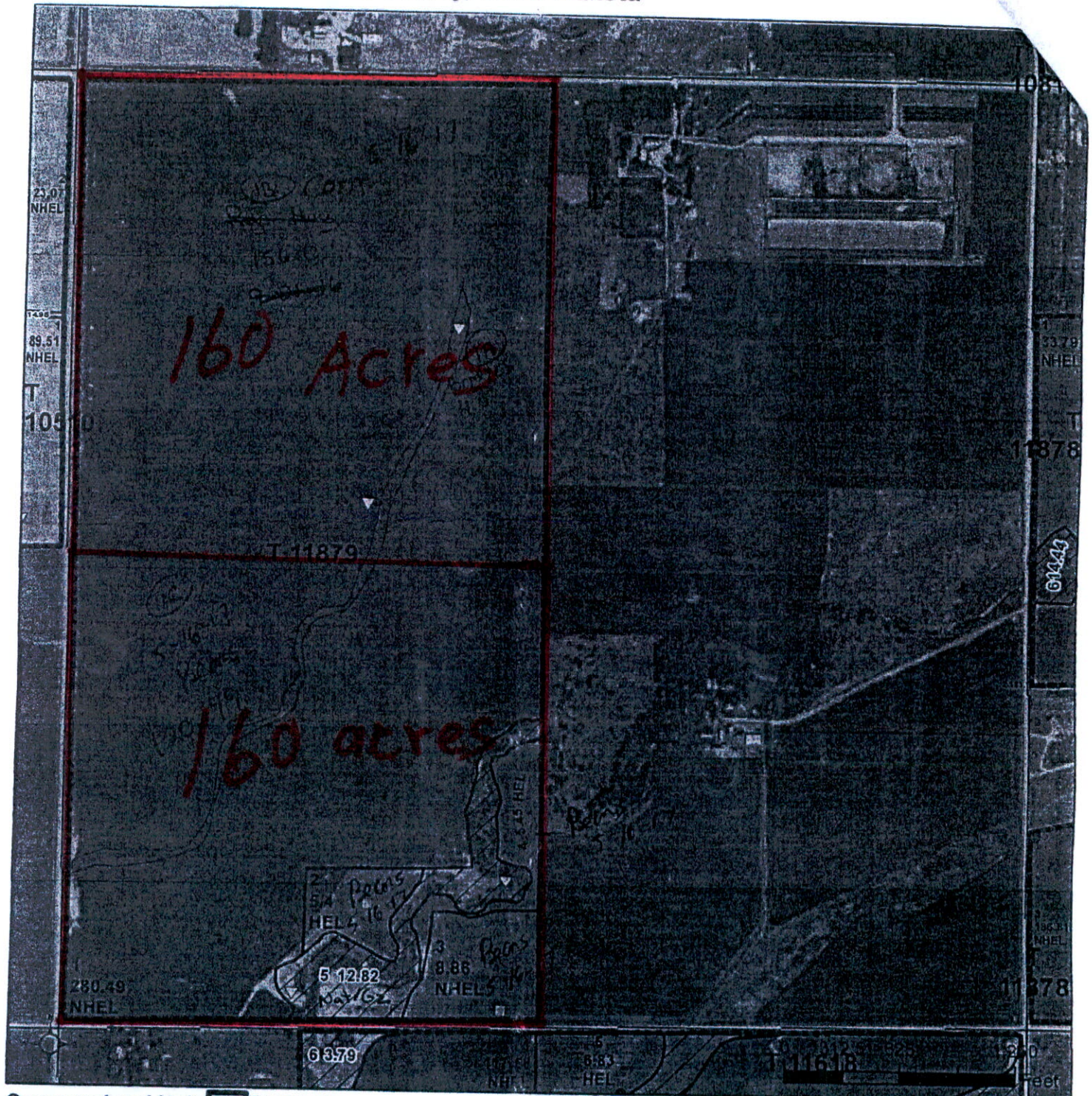
United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) Imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

2017 Program Year

Map Created December 29, 2016

Farm 6694

5 -93N -58W



**Common Land Unit**

|                                                                                    |              |                                                                                    |                |
|------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------|----------------|
|  | Non-Cropland |  | Tract Boundary |
|  | Cropland     |  | PLSS           |

### Wetland Determination Identifiers

-  Restricted Use
-  Limited Restrictions
-  Exempt from Conservation Compliance Provisions

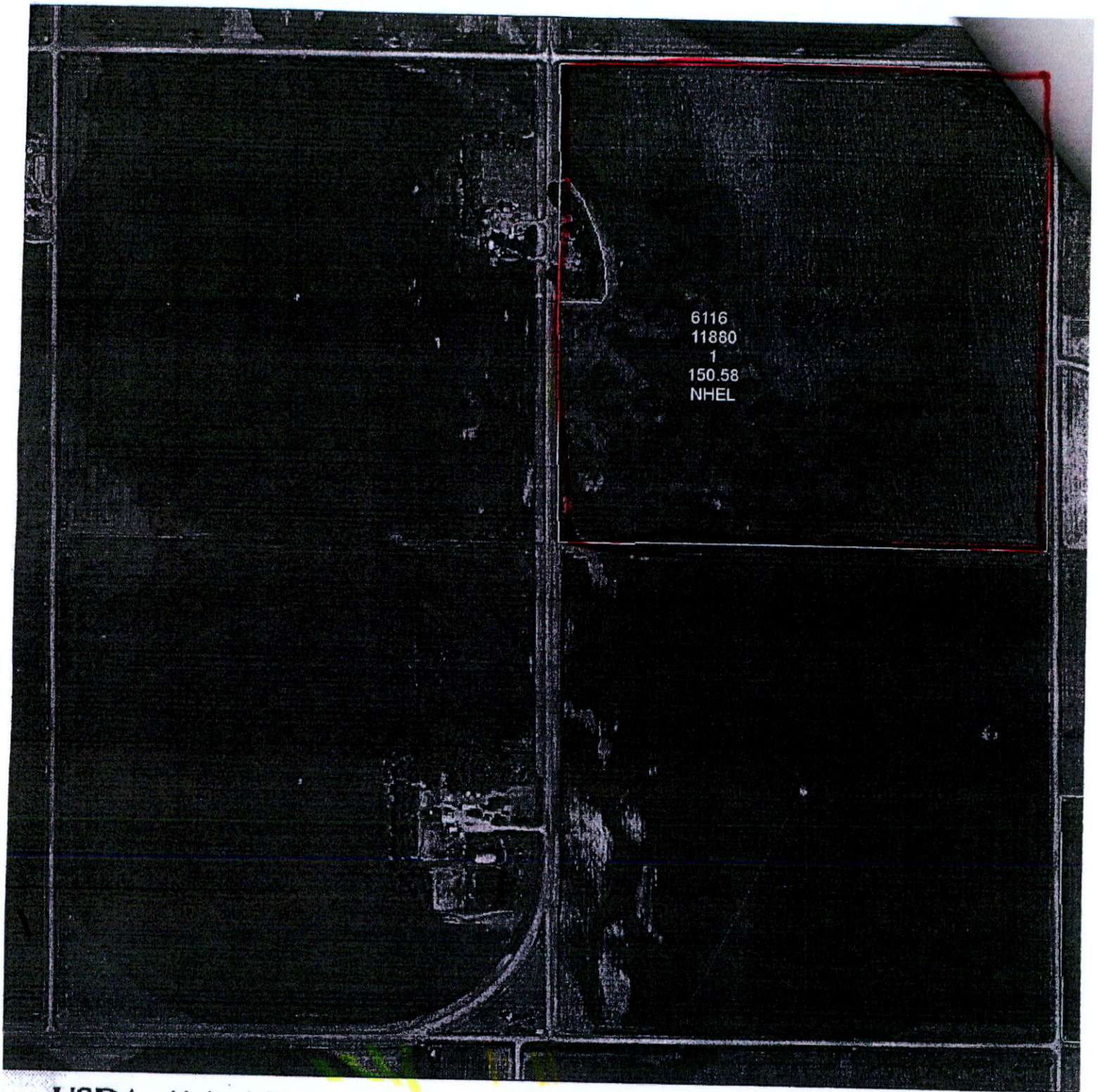
United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

2017 Program Year

Map Created December 29, 2016

Farm 6694

**4 -93N -58W**



6116  
11860  
1  
150.58  
NHEL



United States Department of Agriculture  
Farm Service Agency

PLSS: 12\_93N\_59W  
Farm: 6116

**Bon Homme County**

1 inch equals 670 feet

RECEIVED

MAR 21 2016

WATER RIGHTS  
PROGRAM

December 05, 2013

**Wetland Determination Identifiers**

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions
- Common Land Units
- CRP
- Non Cropland

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area.  
Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2012 Ortho-Photography - Not to Scale



# RECEIPT

## WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 20, 2023

RECEIVED OF Bon Homme Hutterian Brethren Inc. 31232 Colony Road Tabor SD 57063

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

|                                                                                                                        |                   |
|------------------------------------------------------------------------------------------------------------------------|-------------------|
| Fee for Application for Permit No. <u>8776-3</u> to Appropriate Water, to construct and to put water to beneficial use | \$ <u>1050.00</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. _____                    | \$ _____          |
| 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

## Rodriguez, Rachel

---

**From:** Samuel Waldner <secretary@bonhommehb.com>  
**Sent:** Friday, June 23, 2023 11:04 AM  
**To:** Rodriguez, Rachel  
**Subject:** RE: [EXT] Pending Application

WE ARE STILL WORKING ON A AGEERMENT

**From:** Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>  
**Sent:** Friday, June 23, 2023 8:56 AM  
**To:** secretary@bonhommehb.com  
**Subject:** Pending Application

Good morning,

I am writing to follow up on your water application. The last communication was via a phone conversation with Genny McMath on May 2, 2023. You indicated that you may not be able to obtain the required written agreement to use part of the land for irrigation. Please let us know if you are still working on the agreement or if you would like to withdraw your application.

Thank you,

Rachel Rodriguez  
DANR | Program Assistant  
[Rachel.Rodriguez@state.sd.us](mailto:Rachel.Rodriguez@state.sd.us)



Genny talked  
w/ Daniel 5/2/23.  
They may not be able  
to rent some of this  
land. May be  
withdrawing application

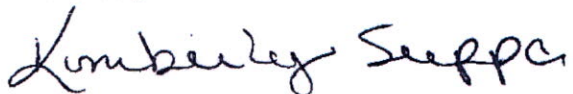
**June 29, 2023**

**Bon Homme Colony  
31232 Colony Road  
Tabor, SD 57063**

**To Whom It May Concern,**

**Mark Dvoracek and I give permission to the Bon Homme Colony to put irrigation on the land we own on the south side of Highway 52. The pivot will not be on our property, but the irrigation will come on our property.**

**Thanks,**

  
**Kimberly Suppa**

## Rodriguez, Rachel

---

**From:** Rodriguez, Rachel  
**Sent:** Friday, June 23, 2023 8:56 AM  
**To:** secretary@bonhommehb.com  
**Subject:** Pending Application

Good morning,

I am writing to follow up on your water application. The last communication was via a phone conversation with Genny McMath on May 2, 2023. You indicated that you may not be able to obtain the required written agreement to use part of the land for irrigation. Please let us know if you are still working on the agreement or if you would like to withdraw your application.

Thank you,

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



## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Thursday, April 20, 2023 1:17 PM  
**To:** Samuel Waldner  
**Subject:** FW: Water Permit Application

We received your check today. Once we receive the agreement signed by the landowner, we will proceed with processing the application.  
Karen

---

**From:** Schlaak, Karen  
**Sent:** Tuesday, April 18, 2023 4:29 PM  
**To:** Samuel Waldner <secretary@bonhommehb.com>  
**Subject:** Water Permit Application

Samuel,

Please review the application form and map to be sure it describes what your proposed request. If not, please make necessary changes.

- Regarding the amount of water claimed, you indicated you would need additional water. The 4.0 cubic feet of water per second (cfs) [1,800 gallons per minute] is based on the statutory limit of 1 cfs per 70 acres. If this amount should differ, please make that change.
- The application needs your signature at the bottom. You indicated you did not own all the property included on the application. Please submit something in writing signed by the landowner stating he agrees with you applying to irrigate on his land.
- The application fee to irrigate 280 acres will be \$1,050.00. You will be responsible for payment of the public notice.

Let me know if you have questions.

*Karen Schlaak*

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



## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Tuesday, April 18, 2023 4:29 PM  
**To:** Samuel Waldner  
**Subject:** Water Permit Application  
**Attachments:** 0341.pdf

Samuel,

Please review the application form and map to be sure it describes what your proposed request. If not, please make necessary changes.

- Regarding the amount of water claimed, you indicated you would need additional water. The 4.0 cubic feet of water per second (cfs) [1,800 gallons per minute] is based on the statutory limit of 1 cfs per 70 acres. If this amount should different, please make that change.
- The application needs your signature at the bottom. You indicated you did not own all the property included on the application. Please submit something in writing signed by the landowner stating he agrees with you applying to irrigate on his land.
- The application fee to irrigate 280 acres will be \$1,050.00. You will be responsible for payment of the public notice.

Let me know if you have questions.

*Karen Schlaak*

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



## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Monday, April 17, 2023 2:43 PM  
**To:** Samuel Waldner  
**Subject:** RE: [EXT] IRRIGATION PERMITS  
**Attachments:** 0336.pdf

Samuel,

Attached is copy of all the existing water right/permits for Bon Homme HB. On a couple of the maps, the area to be irrigated is outlined in red but doesn't show up the best.

Water Right No. 5304-3 authorizes 776 acres  
Water Right No. 5305-3 authorizes 70 acres  
Water Permit No. 8141-3 authorizes 160 acres  
Water Permit No. 8213-3 authorizes 370 acres  
Water Permit No. 8313-3 authorizes 680 acres

Genny McMath with our program handles the yearly irrigation questionnaires (yellow forms). Genny indicated to me that she will be calling you with a couple of questions regarding the forms you submitted for last summers irrigation.

Let me know if you have any questions.  
Karen

---

**From:** Samuel Waldner <secretary@bonhommehb.com>  
**Sent:** Monday, April 17, 2023 11:53 AM  
**To:** Schlaak, Karen <Karen.Schlaak@state.sd.us>  
**Subject:** [EXT] IRRIGATION PERMITS

KAREN COULD YOU SEND ME ALL FIELDS WE HAVE PERMITTED.



**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. 8776-3, Bon Homme 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. 8776-3, Bon Homme Hutterian Brethren Inc., 31232 Colony Road, Tabor SD 57063.

The Chief Engineer is recommending APPROVAL of Application No. 8776-3 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 qualification:

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 24, 2023

## **REPORT ON WATER PERMIT APPLICATION NO. 8776-3**

**Bon Homme Hutterian Brethren Inc**

**c/o Samuel J. Waldner**

**August 21, 2023**

Application No. 8776-3, proposes to appropriate 4.0 cubic feet of water per second from the Missouri River located in the SW 1/4 SW 1/4 Section 17 for irrigation of 280 acres located in the SE 1/4, W 1/2 NW 1/4, NE 1/4 NW 1/4 Section 5; all in T93N-R58W. This site is located approximately 5 miles southwest of Tabor SD in Bon Homme County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

### Review of the Proposed Project

The applicant proposes to irrigate 280 acres at a diversion rate of 4.0 cfs. A portion of the land proposed to be irrigated by the applicant is owned by separate landowners. The applicant provided a written agreement from these landowners allowing the applicant to obtain a water permit to irrigate this property. The applicant also intends to use an existing diversion authorized by Water Permit No. 8313-3.

### Review of the Water Source

The water source for this project is from the natural flow of the Missouri River upstream of Gavins Point Dam in the Lewis and Clark reservoir reach. The US Army Corps of Engineers constructed Gavins Point Dam impounding Lewis and Clark Lake in the 1950s as a part of a six reservoir Pick-Sloan project for the Missouri River. The six project dams, Ft. Peck, Garrison, Oahe, Big Bend, Ft. Randall, and Gavins Point, are operated as a system providing storage and water releases for congressionally authorized purposes (USACE. 2023).

The flow hydrograph of the Missouri River in South Dakota has been altered in the past 60 to 80 years due to the presence of the Missouri River mainstem reservoir system, with excess natural

flow going into storage and stored water released to supplement flows. The USGS, in a 2001 research study, made an estimation of the Missouri River natural flows at locations on the river at Oahe Dam and at Gavins Point Dam (Jacobson et. al. 2001). A percentile hydrograph displaying the daily 50, 25, and 10 percentile flows corresponding to drier climatic conditions, can also be derived from this study for the Missouri River at a point near Gavins Point Dam (Figure 1). This natural flow percentile hydrograph shows a similar double peak for the three percentile levels shown. The first April peak corresponds to the snowpack and spring rains runoff from the plains of Montana, Wyoming, North Dakota and South Dakota. The second June peak corresponds to snow melt run off from the mountains in Wyoming and Montana and from upstream summer thunderstorms. Considering the 10<sup>th</sup> percentile hydrograph corresponding to the daily flow values at or below this level on average one out of ten years, there is ample natural flow available, if this project is approved.

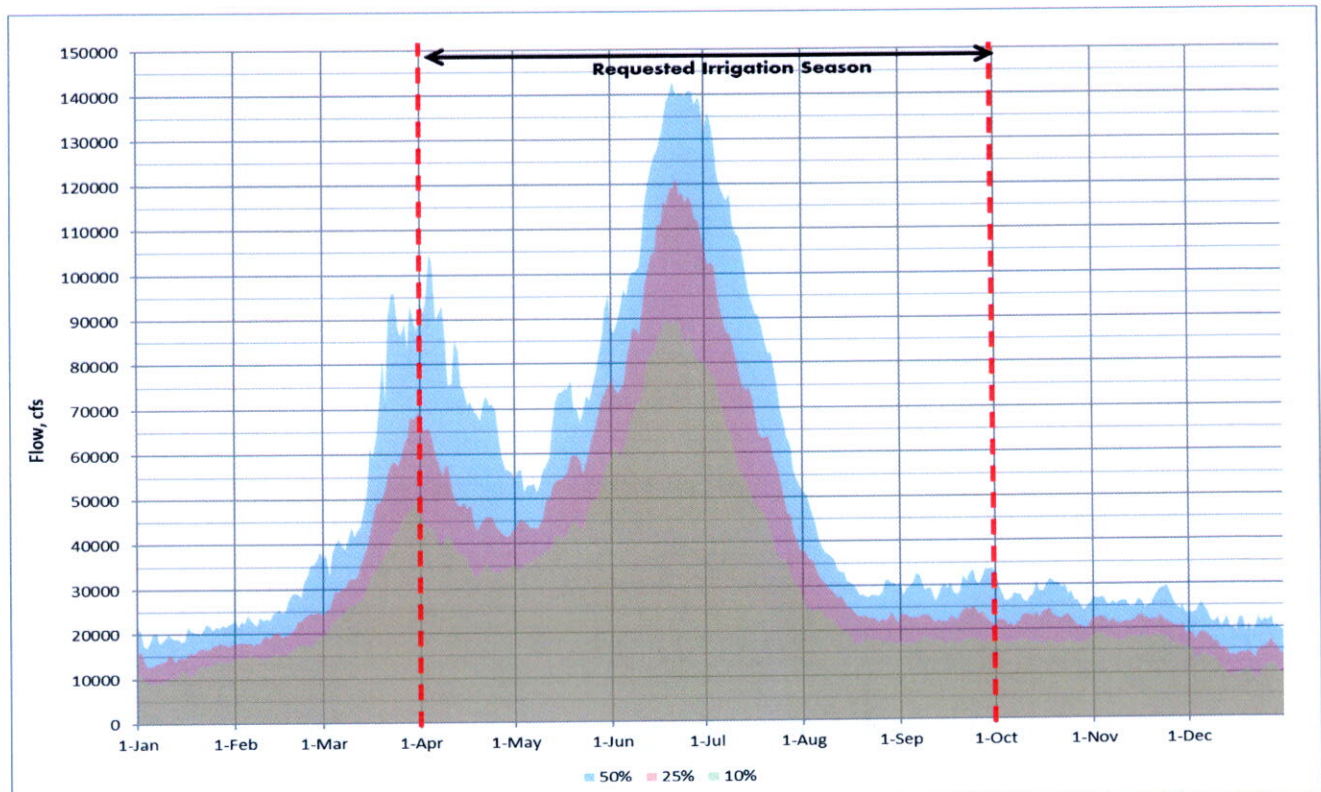


Figure 1 - Natural Flow Hydrograph for the Missouri River at Gavins Point Dam. (Jacobson, 2001)

### Review of the Proposed Project and Existing Water Rights

There are 251 existing water rights/permits appropriating water from the natural flows of the Missouri River in South Dakota with a total authorized appropriation of 1,254.18 cfs. Currently, there are 19 future use permits reserving 355,201 acre-feet annually and one pending application

for a future use permit for an additional 10,000 acre-feet for contemplated future development from the Missouri River. There is one future use permit for approximately 1.1 million acre-feet held by the US Bureau of Reclamation for the suspended Oahe Irrigation Project (Water Rights. 2023). As Figure 1 demonstrates, existing water rights will not be adversely impacted by this project. Water availability is not a concern when using the natural flows of the Missouri River as a source.

### Conclusions

1. This application proposes to appropriate an additional 4.0 cfs to irrigate 280 acres.
2. A portion of the land proposed to be irrigated is owned by separate landowners, there is a written agreement from these landowners allowing the applicant to obtain a water permit to irrigate this property.
3. The applicant also intends to use an existing diversion authorized by Water Permit No. 8313-3.
4. The water source for this project is from the natural flow of the Missouri River upstream of Gavins Point Dam in the Lewis and Clark Reservoir reach.
5. Water availability is not a concern when using the natural flows of the Missouri River as a source.
6. Since water availability is not an issue, approval of this permit will not adversely affect these existing rights.



Mark D. Rath  
Natural Resources Engineer III

### References

1. USACE. 2022. Missouri River Mainstem System 2022-2023 Annual Operation Plan, December 2022. US Army Corps of Engineers – Northwest Division Missouri Basin Water Management Division.
2. Water Rights. 2023. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
3. Jacobson. 2001. Visualization of Flow Alternatives, Lower Missouri River U.S. Geological Survey Open-file Report OF02-122. Robert B. Jacobson and Jeanne Heuser, U.S. Geological Survey, Columbia, MO.



**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.**

August 29, 2023

Bon Homme Hutterian Brethren Inc.  
c/o Samuel J. Waldner  
31232 Colony Road  
Tabor SD 57063

Dear Mr. Waldner:

Water Permit Application No. 8776-3 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 Tyndall Tribune & Register printed in Tyndall SD (Ph # 605 589-3242) and the Daily Press & Dakotan printed in Yankton SD (Ph # 605 665-7811). 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,

*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. 8776-3 to Appropriate Water

Notice is given that Bon Homme Hutterian Brethren Inc., c/o Samuel J. Waldner, 31232 Colony Road, Tabor SD 57063 has filed an application for a water permit to appropriate 4.0 cubic feet of water per second from the Missouri River located in the SW 1/4 SW 1/4 Section 17 for irrigation of 280 acres located in the SE 1/4, W 1/2 NW 1/4, NE 1/4 NW 1/4 Section 5; all in T93N-R58W. This site is located approximately 5 miles southwest of Tabor SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8776-3 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 18, 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 18, 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\_

## Rodriguez, Rachel

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**From:** Rodriguez, Rachel  
**Sent:** Tuesday, August 29, 2023 8:46 AM  
**To:** tyndalltribune@gmail.com  
**Subject:** 8776-3 Bon Homme Hutterian Brethren - Public Notice  
**Attachments:** 8776-3 public.short\_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 6, 2023, in the Tyndall Tribune & Register.

Bon Homme Hutterian Brethren Inc., c/o Samuel J. Waldner, 31232 Colony Road, Tabor SD 57063 (605 661-3526) 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

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**From:** Rodriguez, Rachel  
**Sent:** Tuesday, August 29, 2023 8:48 AM  
**To:** Michael Pietz  
**Subject:** 8776-3 Bon Homme Hutterian Brethren - Public Notice  
**Attachments:** 8776-3 public.short\_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 6, 2023.

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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](mailto:Rachel.Rodriguez@state.sd.us)



# Affidavit of Publication

RECEIVED

SEP 11 2023

OFFICE OF  
WATER

State of South Dakota }  
County of Bon Homme } SS

*Rebecca Tyndall* Being first duly sworn says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota, and that deponent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

*Notice of Application*

*No. 8776-3 Approp. Water*  
*107 @ 399*

a printed copy of which is hereto attached, was printed and published in said newspaper for *the* successive weeks, upon the following dates:

*Sept 6* 20*23* .....20.....  
.....20..... .....20.....  
.....20..... .....20.....  
.....20..... .....20.....

That the full amount of the fee charged for the publication of said notice, *\$ 42.00*, inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

*Rebecca Tyndall* Publisher  
Subscribed and sworn to before me this

*6* day *Sept 23* 20*23*

*Peggy Schelske*  
Notary Public, South Dakota

*My Commission expires 10-24-2027*

## NOTICE OF APPLICATION

NO. 8776-3 to Appropriate Water

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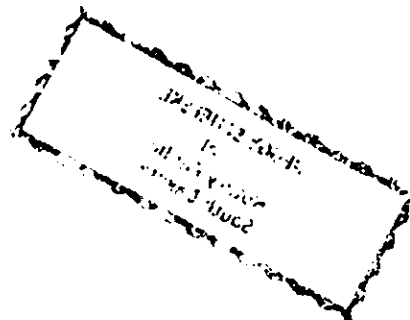
Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://>

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 18, 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 recom-  
mendation with no hearing held before  
the Water Management Board. If a peti-  
tion opposing the application or contest-  
ing the recommendation is filed, then a  
hearing will be scheduled, and the Water  
Management Board will consider this ap-  
plication. Notice of the hearing will be  
given to the applicant and any person fil-  
ing a petition.

Published once at an approximate cost  
of \$42.69 and can be viewed free of charge  
at [www.sdpublicnotices.com](http://www.sdpublicnotices.com)

(Sept. 6)



# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

SEP 08 2023

OFFICE OF  
WATER

BON HOMME HUTTERIAN BRETHREN INC  
31232 COLONY RD  
TABOR SD 57063

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
NOTICE OF APPLICATION NO.

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 6th DAY OF September, 2023  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$39.68 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS  
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF  
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 09/06/2023

FILED ON: 09/06/2023

  
\_\_\_\_\_  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 6th DAY OF September, 2023

\_\_\_\_\_  
NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 07/15/2028

Notice is given that Bon Homme Hutterian Brethren Inc., c/o Samuel J. Waldner, 31232 Colony Road, Tabor SD 57063 has filed an application for a water permit to appropriate 4.0 cubic feet of water per second from the Missouri River located in the SW 1/4 SW 1/4 Section 17 for irrigation of 280 acres located in the SE 1/4, W 1/2 NW 1/4, NE 1/4 NW 1/4 Section 5; all in T93N-R58W. This site is located approximately 5 miles southwest of Tabor SD.

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Published once at the total approximate cost of \$39.68 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com)

Published September 6, 2023.

## Rodriguez, Rachel

---

**From:** Rodriguez, Rachel  
**Sent:** Tuesday, August 29, 2023 9:01 AM  
**To:** Samuel Waldner  
**Subject:** 8776-3 Bon Homme Hutterian Brethren - Public Notice  
**Attachments:** 8776-3\_rec.pdf; 8776-3\_Ltr.pdf; 8776-3\_PublicNotice.pdf

Good morning Samuel,

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 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

Bon Homme Hutterian Brethren, Inc.  
c/o Samuel Waldner  
31232 Colony Road  
Tabor SD 57063

Dear Mr. Waldner:

Enclosed is Water Permit No. 8776-3 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**

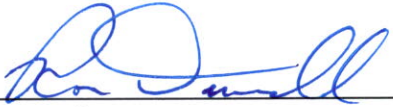
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.:** 8776-3

**Name of Applicant:** Bon Homme Hutterian Brethren Inc., Samuel J Waldner

**Date of Posting:** 9/5/2023

**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)

