

WATER PERMIT NO. 8944-3

Name of Applicant: **Wolf Creek Hutterian Brethren**

Address: **42906 Colony Road, Olivet SD 57052** Phone: **605-925-7253**

Amount of Water Claimed: **No Add'l** Total Acres: **70**

Source of Water Supply: **Groundwater**

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

Type of Waste Disposal System:

Location: **Approx. 9 miles northwest of Freeman**

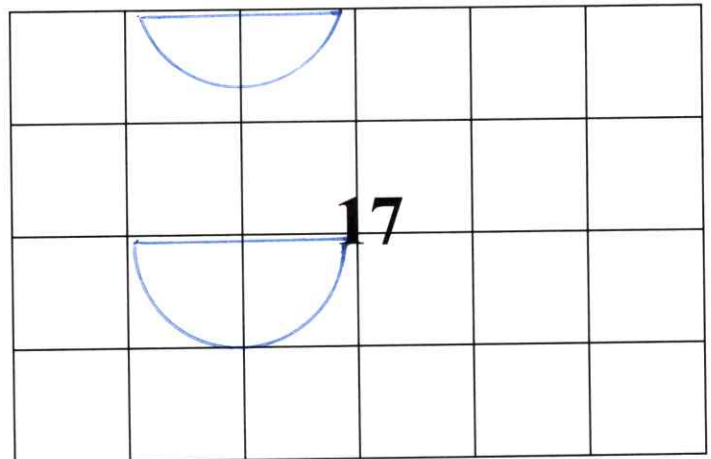
PRIORITY Date Received: **02-26-25** Application/License Fee: **\$950.00**

Corrected Application Received: **03-27-25** Period of Annual Use: **May 1 – August 1**

Remarks: **Adding 70 acres to be irrigated by WR 5919-3, with no increase to the rate of diversion.**

Diversion Point: **SW 1/4 NW 1/4 Sec 17-T99N-R57W**

Land to be Irrigated: **N 1/2 NW 1/4, N 1/2 SW 1/4 Sec 17-T99N-R57W**



Depth of Well: **230**

Well Driller: **Pullman Well Drilling**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **03-27-25**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8944-3**

Date of first receipt of application February 26, 2025.

Date of return to applicant for corrections, amendments or changes March 3, 2025.

Date of receipt of corrected application March 27, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8944-3 to Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, 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. 8944-3 authorizes irrigation of an additional 70 acres. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW 1/4 NW 1/4 Section 17 for irrigation of 100 acres located in the NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W. This permit authorizes irrigation of an additional 70 acres located in the N 1/2 NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W, using the existing well authorized by Water Right No. 5919-3, with no increase in the 1.33 cfs diversion rate. This permit, and Water Right No. 5919-3 authorize a combined total of 1.33 cfs for irrigation of 170 acres. This site is located approximately nine miles northwest of Freeman 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 – August 31.
3. The date from which applicant may claim right is February 26, 2026.
4. The date of approval of Permit No. 8944-3 is July 16, 2025.
5. One-fifth of the construction is to be completed on or before January 16, 2028.
6. All construction is to be completed on or before July 16, 2030.
7. Water is to be put to beneficial use on or before July 16, 2034.
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. 8944-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: _____

Mark Mayer
Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

7/29/25
date



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

RECEIVED

MAR 13 2025

OFFICE OF
WATER

RECEIVED

FEB 26 2025

OFFICE OF
WATER

Mail to:

SD DANR, Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

No. 8944-3 Hydrologic Unit 10160011
Basin James R
Newspaper Freeman Courier
Daily Press & Dakotan (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 Wolf Creek Hutterian Brethren

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

Mailing Address 42906 Colony Rd Olivet SD 57052
(Address) (City) (State) (Zip Code)

Phone 605 925 7253 Mobile 605 660 4098 Email timhof54@gmail.com

2. Amount of water claimed N/A *CFS or N/A **GPM N/A ***AF Total Acreage 70
(*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 well - (LJM) - auth. by WR No. 5919-3

4. Location of point of diversion SW 1/4 NE 1/4 Section 17-T99N-R57W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Hutchinson

5. County or counties where water will be used Hutchinson

6. Annual period during which water is to be used May 1 - August 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
North end of field	30	N 1/2 NW 1/4 Sec 17-T99N-R57W	
South end of field	40	N 1/2 SW 1/4 "	

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

Adding more acres to be irrigated by the well authorized under Water Right No. 5919-3, with no increase to the rate of diversion.

I, Tim Hoyer
Name of Person

Vice Pres, the applicant, certify under
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.

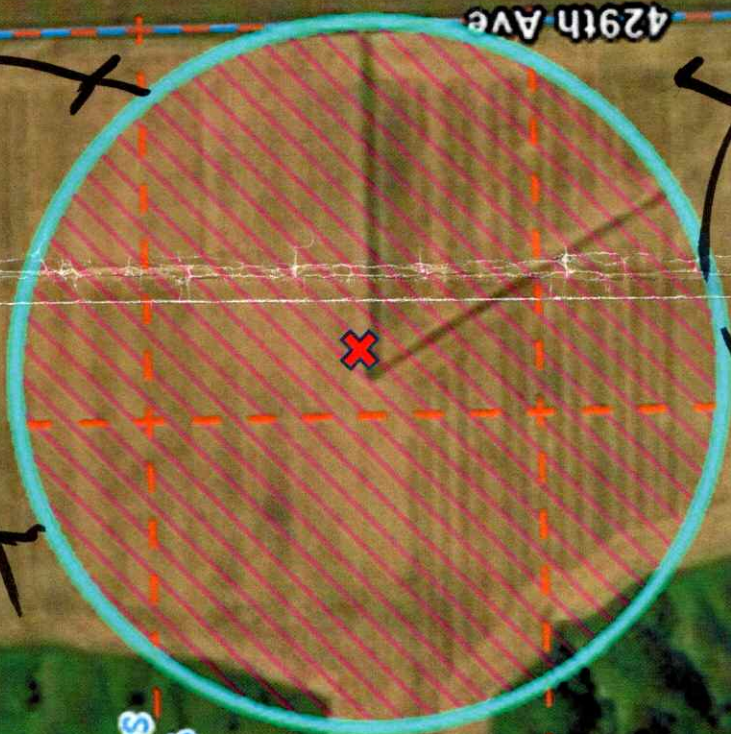
2021-08

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)

Add
30 Acres

Add
40 Acres

429th Ave



99N 57W
Section 17

276th St



RECEIVED
MAR 13 2025
OFFICE OF
WATER

430th Ave

Lindsay Manufacturing Co.



2707 North 108th Street
Omaha, NE 68164
800 - 829 - 5300 office

RECEIVED

FEB 26 2025

OFFICE OF
WATER

Tim Hofer

Farm: Field1

Grower: Wolf Creek

12/19/2024

Systems:	Length	Spans	Total area including endgun
● Existing Pivot	1145.25 ft	6 spans + 44 ft o.h.	106.47 acres
● North Pivot	785.00 ft	5 spans + No overhang	23.88 acres
● South Pivot	845.00 ft	5 spans + 60.0 ft o.h.	36.10 acres



900'

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MAR 13 2025
OFFICE OF
WATER

99N 57W
Section: 07

99N 57W
Section: 08

99N 57W
Section: 09

SW 1/4

44

30 Acres

99N 57W
Section: 18

10160011 Lower James

James

99N 57W
Section: 16

99N 57W
Section: 17

40 Acres

276 ST

99N 57W
Section: 19

429 AVE

99N 57W
Section: 20

99N 57W
Section: 21

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 27th, 2025

RECEIVED OF Wolf Creek Hutterian Brethren 42906 Colony Road Olivet SD 57052

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

Fee for Application for Permit No. <u>8944-3</u> to Appropriate Water, to construct and to put water to beneficial use	<u>\$750.00</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>8944-3</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>\$950.00</u>

By Mark Mayer

Chief Engineer

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, March 25, 2025 11:24 AM
To: timhof54@gmail.com
Subject: RE: Water Permit Application for additional acres

Good morning,

I am just following up on the fees for your application. Once I receive payment, I can begin processing your application.

Thank you,

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



From: Rodriguez, Rachel
Sent: Thursday, March 13, 2025 1:43 PM
To: timhof54@gmail.com
Subject: Water Permit Application for additional acres

Good afternoon,

I received the map and completed application, thank you. The fees for 70 acres are:

Application fee \$750.00
Inspection fee \$200.00

Comes to a total of \$950.00, payable by credit card (605-773-5559) or check, mail to:

DANR-Water Rights Program
523 E Capitol Ave
Pierre SD 57501

Once I receive the fees, I can begin processing your application.

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

March 3, 2025

Wolf Creek Hutterian Brethren
c/o Tim Hofer
42906 Colony Road
Olivet SD 57052

Dear Mr. Hofer:

I received your application for irrigation. To complete the application, the following are required:

- Based on the map you submitted, the additional acres appear to be in the N 1/2 NW 1/4 Section 17. Enclosed is an aerial photo map of Section 17-T99N-R57W. On the map, please outline the additional acres.
- Page 1, see enclosed, needs the total acreage, as well as the land description completed which must match the amount on line 2.
- Page 1, should also have at least a telephone number and email address.
- The total acres will determine the fee for this application.

Please contact me at 605-773-4063 if you have questions.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
rachel.rodriquez@state.sd.us

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8944-3, Wolf Creek Hutterian Brethren**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8944-3, Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8944-3 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. 8944-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Mark Mayer, PE
Director of Office of Water
May 27, 2025

Report to the Chief Engineer

On Water Permit Application No. 8944-3

Wolf Creek Hutterian Brethren

May 23rd, 2025

Water Permit Application No. 8944-3 proposes to irrigate an additional 70 acres from an existing well authorized by Water Right No. 5919-3 completed into the Lower James Missouri aquifer. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17 for irrigation of 100 acres located in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 17; all in T99N-R57W. This application proposes to irrigate an additional 70 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 17; all in T99N-R57W, using the existing well, with no increase in the 1.33 cfs diversion rate. This application, if approved, and Water Right No. 5919-3 will authorize a total of 1.33 cfs for irrigation of a combined total of 170 acres. This site is located in Hutchinson County approximately nine miles northwest of Freeman SD.

AQUIFER: Lower James Missouri (LJM)

HYDROGEOLOGY:

The Lower James Missouri aquifer is a Quaternary aged glacial outwash that is composed of fine sand to cobble gravel, intermixed in some locations with discontinuous layers of clayey till up to 25 feet thick (Lindgren and Hansen, 1990 and 1993). The Lower James Missouri aquifer is generally underlain by till or Carlile Shale; however, northeast of the James River the aquifer overlies Sioux Quartzite, while north and northwest of the James River the aquifer lies on the Niobrara Formation (Lindgren and Hansen, 1990 and 1993). The Lower James Missouri aquifer is estimated to underlie approximately 191,700 acres and contain approximately 2,795,400 acre-feet of recoverable water in storage from Clay, Hutchinson, and Yankton counties (Table 1). The Lower James Missouri aquifer is hydrologically connected to the Missouri: Elk Point aquifer, Choteau: East aquifer, Niobrara aquifer, and Lower James Missouri: Scotland aquifer, adjacent/underlying bedrock aquifers, and surface water features such as the James River and Missouri River (Hedges et al, 1982; Bugliosi, 1986; Lindgren and Hansen, 1990 and 1993; Water Rights, 2025b).

The depth to the top of the Lower James Missouri aquifer ranges from the land surface in the James River floodplain to 245 feet below land surface (Lindgren and Hansen, 1990 and 1993). The saturated thickness of the Lower James Missouri aquifer ranges from approximately 50 to 150 ft (Bugliosi, 1986). The Lower James Missouri aquifer is predominantly under confined conditions but can be found to be under unconfined conditions particularly in the floodplain of James River (Bugliosi, 1986; Lindgren and Hansen, 1990).

Table 1. Estimated areal extent and amount of recoverable water stored in the Lower James Missouri aquifer (Hedges et al, 1982)

Counties	Clay	Hutchinson	Yankton	Total:
Areal Extent (acres)	5,400	93,800	92,500	191,700
Recoverable Water in Storage (acre-feet)	81,000	633,150	2,081,250	2,795,400

The water well completion report for No. 5919-3 encountered the Lower James Missouri aquifer with top of aquifer material at 173 feet below the ground surface and a static water level of 120 feet at the time of well completion in May 1992 (Water Rights, 2025d). Nearby well completion reports show water levels of approximately 85 to 135 feet below ground surface (Water Rights, 2025d). The water well completion report on file for Water Right No. 5919-3 completed into the Lower James Missouri aquifer has a saturated thicknesses of approximately 57 feet (Water Rights, 2025b and 2025d). Based on the geology in the area of the existing well for this application and other well completion reports near the proposed diversion point, the Lower James Missouri aquifer is under confined conditions at the proposed diversion point (Water Rights, 2025d).

It should be noted that this application's diversion point is outside of the mapped boundary of the Lower James Missouri from the Hedges et al, 1982 report (Figure 1). However, the Hedges et al (1982) boundary is an approximation, and more recent information acquired from drilling shows that water rights/permits and this application are withdrawing water from the Lower James Missouri aquifer (Water Rights, 2025d).

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

Pursuant to SDCL 46-2A-9,

"A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11."

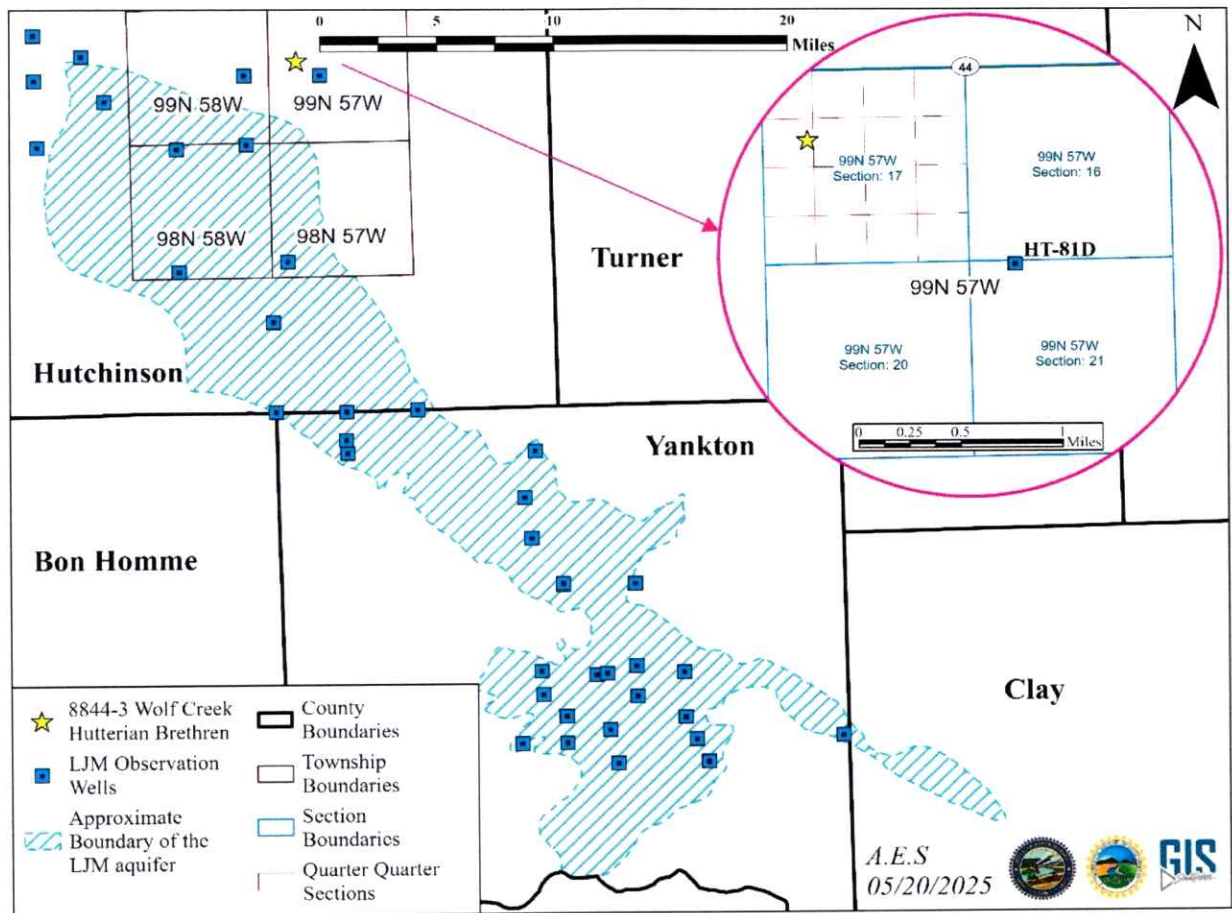


Figure 1. Map of the approximate areal extent of the Lower James Missouri aquifer (modified from Hedges et al., 1982), the observation wells, and the location of the existing/proposed diversion point for Water Permit Application No. 8944-3 (Water Rights, 2025b)

This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Lower James Missouri aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8944-3 proposes to appropriate water from the Lower James Missouri 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 Lower James Missouri aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution

system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Lower James Missouri aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Lower James Missouri aquifer is mostly by seepage from streams/surface water features, infiltration of precipitation, and inflow from hydrologically connected aquifers such as the Choteau: East, Niobrara, and Lower James Missouri: Scotland aquifers (Bugliosi, 1986). Most of the recharge occurs in the spring and early summer months in the northern area of the Lower James Missouri aquifer (Bugliosi, 1986).

Using flow-net analysis, Hedges et al (1985) estimated a recharge rate of 1.5 inches per year for the Lower James Missouri aquifer. The Lower James Missouri aquifer has an estimated areal extent of approximately 191,700 acres (Hedges et al, 1982). Therefore, the average annual recharge rate (based on Hedges et al, 1982 and 1985) is approximately 23,963 acre-feet/year.

Using observation well analysis, Hedges et al (1985) estimated a recharge rate of 3.9 inches per year for the unconfined portions of the Lower James Missouri aquifer. Stonesifer's report (2014) estimated the unconfined portion of the aquifer to be 82,200 acres. However, this areal extent includes portions of Plum Creek and Choteau: East aquifers, identified by Hedges et al (1982), for both the entire areal extent and the unconfined portions of the Lower James Missouri aquifer. The average annual recharge rate for unconfined portions of the Lower James Missouri aquifer based on Hedges et al (1985) estimated recharge rate of 3.9 inches per year and Stonesifer's (2014) unconfined portion, is estimated to be 26,715 acre-feet/year. Since the unconfined portion of the aquifer recharge rate does not necessarily account for any recharge that enters through the confined portion of the aquifer, it is possible that recharge to the aquifer exceeds 26,715 ac-ft/yr. From this data, the average annual recharge rate to the Lower James Missouri aquifer has a range between 23,963 to possibly in excess of 26,715 acre-feet/year (Hedges et al, 1982 and 1985; Stonesifer, 2014).

Discharge

Discharge from the Lower James Missouri aquifer in South Dakota primarily occurs through well withdrawals, leakage to the James River, and evapotranspiration in areas where the aquifer is at or near land surface (Bugliosi, 1986; Lindgren and Hansen, 1990).

Currently, there are 136 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer (Water Rights, 2025c). There are no future use permits reserving water from the Lower James Missouri aquifer (Water Rights, 2025c).

Table 2 summarizes the 7 non-irrigation water rights/permits authorized to appropriate water from the Lower James Missouri 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. Overall, the average annual withdrawal rate for the Lower James Missouri aquifer non-irrigation water rights/permits is approximately 1,525 acre-feet/year (Table 2) (Water Rights, 2025c).

Table 2. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Lower James Missouri aquifer (Water Rights, 2025c)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
4556-3	KNIFE RIVER	LC	COM	0.44		191.1
840-3	STUELPNAGELS INC	LC	COM	1.11		482.2
6264-3	YANKTON LAND & CATTLE CO	LC	COM, LCO	0.56		243.3
6320-3	WOLF CREEK HTRN BRTH	LC	COM, DOM	0.08		34.8
6925-3	TSCHETTER COLONY	LC	COM, LCO	0.07		30.4
7827-3	MAXWELL COLONY	PE	COM, LCO	0.33		143.4
8412-3	KNIFE RIVER	LC	IND	7.8	400	400
LC: Licensed Water Right, PE: Water Permit, COM: Commercial, DOM: Domestic, IND: Industrial, LCO: Livestock Operation					TOTAL:	1,525.10

Currently, there are 127 irrigation water rights/permits appropriating water from the Lower James Missouri aquifer (Water Rights, 2025c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The average annual withdrawal rate for the Lower James Missouri aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2023) is approximately 3,216 acre-feet per year (Table 3) (Water Rights, 2025a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2014 to 2023 is approximately 5,089 acre-feet per year (Table 3) (Water Rights, 2025a).

There are nine water permits that were approved in 2023 and 2024 that are not accounted for in Table 3: Water Permit Nos. 8740-3, 8736-3, 8762-3, 8765-3, 8780-3, 8786-3, 8796-3, 8816-3 and 8819-3 (Water Right, 2025c). Combined, these nine water permits are authorized to irrigate 1,293.98 acres (Water Rights, 2025c). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water rights/permits. Therefore, the estimated average annual withdrawal rate for the nine water permits approved in 2023 and 2024 is approximately 1,294 acre-feet per year. The estimated average annual withdrawal rate for this application (8944-3) is 70 acre-feet per year. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2014 to 2023 (5,089 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water rights/permits approved in 2023 and 2024 (1,294 acre-feet/year), this application (70 acre-feet per year), is approximately 6,453 acre-feet per year.

Table 3. Reported historic irrigation use from the Lower James Missouri aquifer (Water Rights, 2025a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	23	588
1980	23	1,299
1981	27	1,835
1982	23	1,301.05
1983	27	1,306.54
1984	28	1,360
1985	27	1,483
1986	30	989.6
1987	30	1,042
1988	31	2,744.9
1989	31	2,144.8
1990	35	2,928.1
1991	42	2,599
1992	45	1,159
1993	45	230.4
1994	45	1,918.17
1995	41	1,483.32
1996	49	2,102.99
1997	50	2,320
1998	53	2,787.03
1999	50	2,102.15
2000	51	3,751.08
2001	53	2,940.09
2002	53	4,061.52
2003	53	2,843.15
2004	47	2,886.65
2005	48	2,866.63
2006	50	3,630.92
2007	56	3,425.91
2008	79	4,494.03
2009	84	1,463.3
2010	85	665.37
2011	89	4,147.47
2012	93	13,058
2013	118	7,855.75
2014	125	3,347.27
2015	127	4,822.86
2016	126	5,747
2017	126	5,727
2018	126	1,035.9
2019	127	328.01
2020	121	3,864.53
2021	120	8,195.56
2022	122	10,131.7
2023	128	7,688.97
Max	128	13,058
Min	23	230
Avg (1979-2023)	66	3,216
Avg (2014-2023)	125	5,089

There are domestic wells completed into the Lower James Missouri aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2025d). Due to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Lower James Missouri 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 Lower James Missouri aquifer.

Hydrologic Budget Summary

The average annual recharge rate to the Lower James Missouri aquifer has a range between 23,963 to possibly in excess of 26,715 acre-feet/year (Hedges et al, 1982 and 1985; Stonesifer, 2014). The estimated average annual withdrawal rate from the Lower James Missouri aquifer is approximately 8,048 acre-feet per year (non-irrigation: 1,525 acre-feet/year; irrigation: 6,453 acre-feet/year (including Water Permit Application No. 8944-3). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Lower James Missouri 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.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 33 observation wells completed into the Lower James Missouri aquifer (Water Rights, 2025b). The four closest observation wells to the existing diversion point are HT-81D (approximately 1.2 miles southeast), HT-82C (approximately 2.3 miles southwest), HT-82B (approximately 4.3 miles southwest), and HT-83C (approximately 6.5 miles southwest) (Water Rights, 2025b). 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 which were then converted to elevation in feet from the NGVD29 datum. It should be noted that data collection for observation well HT-82C has been suspended due to the presence of iron bacteria in the well. But will be included in Figure 2 to show levels leading up to 2025.

DANR-Water Rights Observation Wells: HT-81D, HT-82B, HT-82C & HT-83C

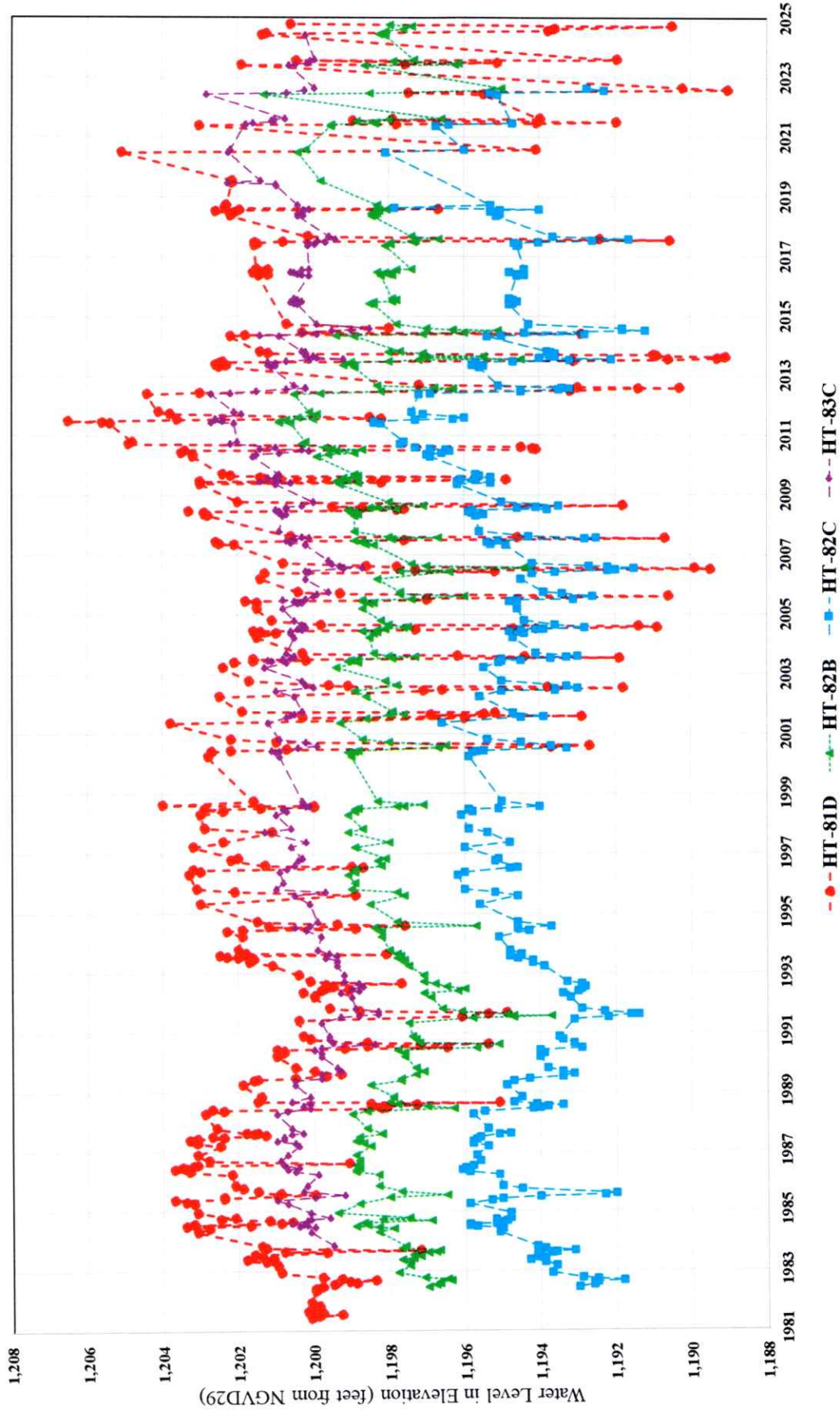


Figure 2. A graph showing the elevation of water levels for observation wells: HT-81D, HT-82B, HT-82C & HT-83C (Water Rights, 2025b)

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Lower James Missouri aquifer and all displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 (Water Rights, 2025b). The hydrographs for the observation wells display stable water levels over their respective periods of record. The hydrographs for the Lower James Missouri aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the Lower James Missouri 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:

Currently, there are 136 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer (Water Rights, 2025c). The closest water right/permit to the proposed diversion point not belonging to the applicant is Water Right No. 6249-3, which is held by Lynell Hofer. The diversion point for Water Right No. 6249-3 is located approximately 1.2 miles southeast of the proposed diversion point for this application (Table 4) (Figure 3) (Water Rights, 2025c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Lower James Missouri aquifer, with the closest domestic wells on file (not held by the applicant) located approximately one mile northeast and southeast of the proposed diversion point (Water Rights, 2025d). There could potentially be other domestic wells completed into the Lower James Missouri aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

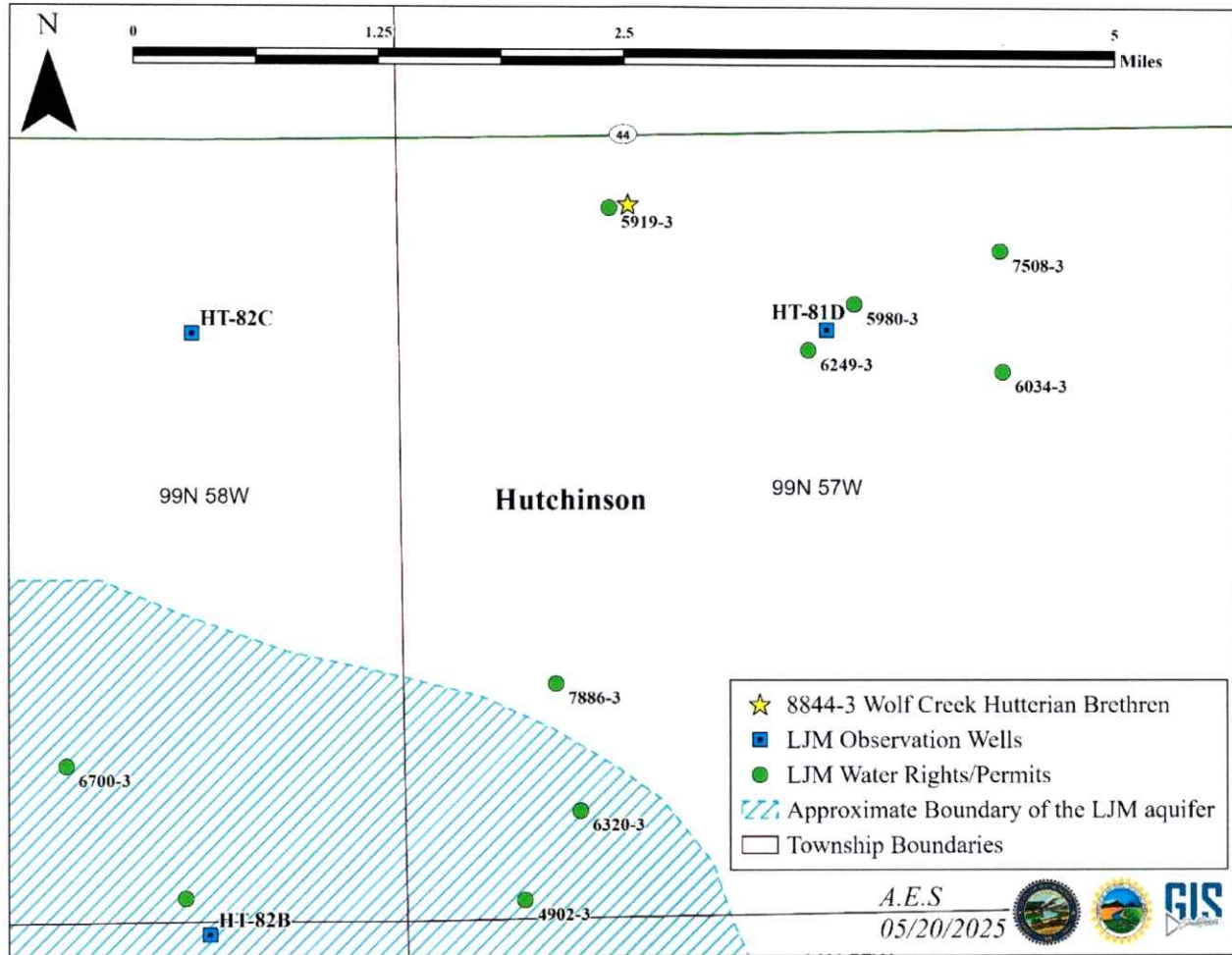


Figure 3. An approximate areal extent of the Lower James Missouri aquifer (modified from Hedges et al, 1982), the location of the existing well for Water Permit Application No. 8944-3, and the nearby Lower James Missouri aquifer water rights/permits and observation wells (Water Rights, 2025b and 2025c)

Table 4. Water rights/permits authorized to withdraw or reserve water from the Lower James Missouri aquifer as shown in Figure 3 (Water Rights, 2025c)

Permit No.	Name	Status	Use Type	Authorized Diversion Rate (cfs)	Authorized Acres
4902-3	DON HERMAN JR	LC	IRR	1.55	147
4996-3	VERLYN F. HAUCK	LC	IRR	1.78	130
5919-3	WOLF CREEK HTRN BRTH	LC	IRR	1.33	100
5980-3	LYNELL HOFER	LC	IRR	2	170
6034-3	LYNELL HOFER	LC	IRR	1.78	246
6249-3	LYNELL HOFER	LC	IRR	1.78	187
6320-3	WOLF CREEK HTRN BRTH	LC	DOM, COM	0.08	N/A
6700-3	TSCHETTER COLONY	LC	IRR	1.78	222
7508-3	LYNELL HOFER	PE	IRR	2.22	18
7886-3	WOLF CREEK HTRN BRTH	PE	IRR	0.22	30

The Lower James Missouri aquifer varies between confined and unconfined conditions (Bugliosi, 1986; Lindgren and Hansen, 1993). Based on the water well completion report for Water Right No. 5919-3 and other water well completion reports near the well authorized by Water Right No. 5919-3, the proposed diversion point is expected to be under confined conditions. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. The exact drawdown behavior of a well cannot be known without an aquifer performance test. 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.”

Any drawdown as a result of the proposed diversion for this application is not expected to unlawfully impair nearby adequate wells especially since this is an existing diversion with a history of use and no reported well interference. In Hutchinson County, there are no complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Lower James Missouri aquifer (Water Rights, 2025e)

The water well completion report on file for Water Right No. 5919-3 completed into the Lower James Missouri aquifer has a saturated thicknesses of approximately 57 feet (Water Rights, 2025b and 2025d). Any drawdown as a result of the proposed diversion is not expected to unlawfully impair nearby adequate wells. An adequate well is defined by ARSD 74:02:04:20(6) as

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

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).

When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), and the lack of well interference complaints for adequate wells completed into the Lower James Missouri aquifer in Hutchinson County (Water Rights, 2025e), 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.

CONCLUSIONS:

1. Water Permit Application No. 8944-3 proposes to irrigate an additional 70 acres from an existing well authorized by Water Right No. 5919-3 completed into the Lower James Missouri aquifer. Water Right No. 5919-3 authorized 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17 for irrigation of 100 acres located in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 17; all in T99N-R57W. This application proposes to irrigate an additional 70 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 17; all in T99N-R57W, using the existing well, with no increase in the 1.33 cfs diversion rate. This application, if approved, and Water Right No. 5919-3 will authorize a total of 1.33 cfs for irrigation of a combined total of 170 acres. This site is located in Hutchinson County approximately nine miles northwest of Freeman SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Lower James Missouri aquifer to supply the proposed appropriation.
3. There is a reasonable probability that irrigating 70 additional acres, with no increase in the 1.33 cfs diversion rate authorized by No. 5919-3, will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



Austin Settje
Natural Resources Engineer I
SD DANR - Water Rights Program



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

References

- Bugliosi., E.F., 1986. Water Resources of Yankton County, South Dakota. USGS Water-Resources Investigations Report 84-4241. USGS. Huron, SD.
- Elliott, C.M., and Jacobson, R.B. 2022. Sixty years of channel adjustments to dams in the two segments of the Missouri National Recreational River, South Dakota and Nebraska. U.S. Geological Survey Scientific Investigations. Report 2022-5087. 75 p.
- Fahrenbach, M.D., Steece, F.V., Sawyer, J.F., McCormick, K.A., McGillivray, G.L., Schulz, L.D., and Redden, J.A. 2010. South Dakota Stratigraphic Correlation Chart. Oil and Gas Investigations 3. SD DANR-Geological Survey, Vermillion, SD.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- 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: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Lindgren, R.J., and Hansen, D.S., 1990. Water Resources of Hutchinson and Turner Counties, South Dakota. Water-Resources Investigations Report 90-4093. U.S. Geological Survey, Huron, South Dakota.
- Lindgren, R.J., and Hansen, D.S., 1993. Major Aquifers in Hutchinson Turner Counties, South Dakota. Vermillion, South Dakota: SD DENR Geological Survey Program, 1993. Information Pamphlet 45
- SDGS, 2025. South Dakota Geological Survey Lithologic Logs Database. Accessed May 19th, 2025. <http://cf.sddanr.net/lithdb/>.
- Stonesifer, J.R., 2014. Report to the Chief Engineer, Water Permit Application No. 7977-3, Dahlerup Family Trust, April 25, 2014. 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, 2025a. "1979-2023 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2025b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025e. 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 NEWSPAPERS RIGHT AWAY.**

May 28, 2025

Wolf Creek Hutterian Brethren
c/o Tim Hofer
42906 Colony Road
Olivet SD 57052

Dear Mr. Hofer:

Water Permit Application No. 8944-3 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 Freeman Courier printed at Freeman SD (Ph # 605 925-7033) and the Daily Press & Dakotan printed at 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 Acting 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 Acting 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. 8944-3 to Appropriate Water

Notice is given that Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, has filed an application for a water permit to irrigate an additional 70 acres from an existing well authorized by Water Right No. 5919-3. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW 1/4 NW 1/4 Section 17 for irrigation of 100 acres located in the NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W. This application proposes to irrigate an additional 70 acres located in the N 1/2 NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W, using the existing well, with no increase in the 1.33 cfs diversion rate. This application, if approved, and Water Right No. 5919-3 will authorize a total of 1.33 cfs for irrigation of a combined total of 170 acres. This site is located approximately nine miles northwest of Freeman SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8944-3 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 Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 16, 2025.

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 Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 16, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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

From: Rodriguez, Rachel
Sent: Wednesday, May 28, 2025 10:58 AM
To: Kelly Kronsizl
Subject: 8944-3 Wolf Creek Hutterian Brethren - Public Notice
Attachments: 8944-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 6, 2025.

Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, 605-925-7253, 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: Wednesday, May 28, 2025 10:57 AM
To: courier@gwtc.net
Subject: 8944-3 Wolf Creek Hutterian Brethren - Public Notice
Attachments: 8944-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 5, 2025.

Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, 605-925-7253, 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



AFFIDAVIT OF PUBLICATION

RECEIVED

JUN 09 2025

YANKTON DAILY PRESS AND DAKOTAN

OFFICE OF
WATER

WOLF CREEK HUTTERIAN BRETHREN
42906 COLONY ROAD
OLIVET SD 57052

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

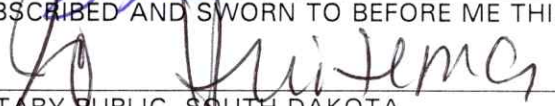
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND 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 5th DAY OF June, 2025
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$44.80 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: 06/05/2025

FILED ON: 06/05/25


SUBSCRIBED AND SWORN TO BEFORE ME THIS 5th DAY OF June, 2025


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



NOTICE OF APPLICATION NO. 8944-3 to Appropriate Water

RECEIVED

JUN 09 2025

OFFICE OF
WATER

Notice is given that Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, has filed an application for a water permit to irrigate an additional 70 acres from an existing well authorized by Water Right No. 5919-3. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW 1/4 NW 1/4 Section 17 for irrigation of 100 acres located in the NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W. This application proposes to irrigate an additional 70 acres located in the N 1/2 NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W, using the existing well, with no increase in the 1.33 cfs diversion rate. This application, if approved, and Water Right No. 5919-3 will authorize a total of 1.33 cfs for irrigation of a combined total of 170 acres. This site is located approximately nine miles northwest of Freeman SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8944-3 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 Acting 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.

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Published once at the total approximate cost of \$44.80 and can be viewed free of charge at www.sdpublicnotices.com

Published June 5, 2025.

RECEIVED

JUL 28 2025

OFFICE OF
WATER

AFFIDAVIT OF PUBLICATION

County of Hutchinson)

) ss.

State of South Dakota)

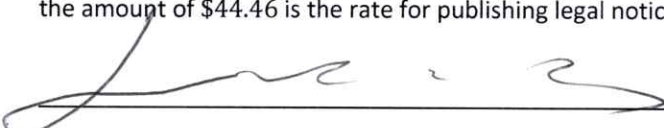
Jeremy Waltner, of said county and state, being duly sworn, on his oath, deposes and says: That The Courier is a weekly newspaper of general circulation and a legal newspaper as required by law, printed and published in the town of Freeman in said county and state by Jeremy Waltner, and has been such newspaper during the time hereinafter mentioned: That I, Jeremy Waltner, the undersigned, am publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the advertisement headed Appropriate Water

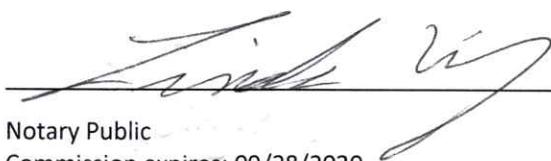
a printed copy of which is hereto attached, was printed and published in the said newspaper for one successive issues to-wit:

The first publication on:
June 5, 2025

the second publication on:
and the third publication on:

That the full amount of the fees charged for publishing the same to-wit: The sum of \$44.46 insures solely to the benefit of the publisher of The Courier, that no agreement or understanding for any division thereof has been made with any other person whomsoever, and the amount of \$44.46 is the rate for publishing legal notices.


Subscribed and sworn to before me this 30th day of June 2025.


Notary Public
Commission expires: 09/28/2030

Publication fee: \$44.46
Notary fee:
Total: \$44.46

RECEIVED

JUL 28 2025

OFFICE OF
WATER

PUBLIC NOTICES

BECAUSE IT'S YOUR RIGHT TO KNOW

NOTICE OF APPLICATION TO APPROPRIATE WATER

Application No. 8944-3: Wolf Creek Hutterian Brethren

Notice is given that Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, has filed an application for a water permit to irrigate an additional 70 acres from an existing well authorized by Water Right No. 5919-3. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW 1/4 NW 1/4 Section 17 for irrigation of 100 acres located in the NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W. This application proposes to irrigate an additional 70 acres located in the N 1/2 NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W, using the existing well, with no increase in the 1.33 cfs diversion rate. This application, if approved, and Water Right No. 5919-3 will authorize a total of 1.33 cfs for irrigation of a combined total of 170 acres. This site is located approximately nine miles northwest of Freeman SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8944-3 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 Acting 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.

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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 Acting

Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 16, 2025.

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

Published once at the total approximate cost of \$44.46

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, May 28, 2025 11:08 AM
To: Tim Hofer
Subject: 8944-3 Wolf Creek Hutterian Brethren - Public Notice
Attachments: 8944-3 Rec.pdf; 9844-3 Ltr.pdf; 8944-3 PubNotice.pdf

Good morning,

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.

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 29 2025

Wolf Creek Hutterian Brethren
c/o Tim Hofer
42906 Colony Road
Olivet SD 57052

Dear Mr. Hofer:

Enclosed is Water Permit No. 8944-3 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,

Mark Mayer, PE
Director of Office of Water

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.: 8944-3

Name of Applicant: Wolf Creek Hutterian Brethren, c/o Tim Hofer

Date of Posting: 6/2/2025

Date of Removal: 7/29/2025

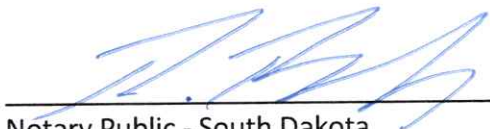


Ron Duvall, Engineer III

7/30/2025

Date

Subscribed and sworn to before me, a notary public, this 29th day of July, 2025.



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

(SEAL)



SOUTH DAKOTA
REISSUED WATER PERMIT NO. 8944-3

Date of first receipt of application February 26, 2025.

Date of return to applicant for corrections, amendments or changes March 3, 2025.

Date of receipt of corrected application March 27, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8944-3 to Wolf Creek Hutterian Brethren, 42906 Colony Road, Olivet SD 57052, 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. 8944-3 authorizes irrigation of an additional 70 acres. Water Right No. 5919-3 authorizes 1.33 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (230 feet deep) located in the SW 1/4 NW 1/4 Section 17 for irrigation of 100 acres located in the NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W. This permit authorizes irrigation of an additional 70 acres located in the N 1/2 NW 1/4, N 1/2 SW 1/4 Section 17; all in T99N-R57W, using the existing well authorized by Water Right No. 5919-3, with no increase in the 1.33 cfs diversion rate. This permit, and Water Right No. 5919-3 authorize a combined total of 1.33 cfs for irrigation of 170 acres. This site is located approximately nine miles northwest of Freeman 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 – August 31.
3. The date from which applicant may claim right is February 26, 2025 (date correction).
4. The date of approval of Permit No. 8944-3 is July 16, 2025.
5. One-fifth of the construction is to be completed on or before January 16, 2028.
6. All construction is to be completed on or before July 16, 2030.
7. Water is to be put to beneficial use on or before July 16, 2034.
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. 8944-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Adam Mathiowetz
Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

MAY 13 2026

date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 13, 2026

Wolf Creek Hutterian Brethren
c/o Tim Hofer
42906 Colony Road
Olivet SD 57052

Dear Mr. Hofer:

The enclosed Water Permit No. 8944-3 has been reissued to reflect the date correction error. Please replace this reissued permit with the one that you currently have. In addition, please remember that this permit is subject to the annual irrigation questionnaire.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program

enclosure