STAFF REPORT
October 6, 2026

GENERAL INFORMATION:

PETITIONER	Sunset Hutterian Colony
REQUEST	**Application for Conditional Use for a wastewater lagoon**
LEGAL DESCRIPTION	NW1/4 of Section 14, T127N, R59W.
CURRENT ZONING (SURROUNDING)	Agricultural (AG)
REPORTED BY	Erin Collins-Miles

COMMENTS/HISTORY:

Gerry Waldner, on behalf of Sunset Hutterian Colony, has requested a Conditional Use from the Marshall County Zoning Ordinance for a wastewater lagoon to be constructed on the property described as the NW1/4 of Section 14, T127N, R59W.

Per the Marshall County Zoning Ordinance, a wastewater lagoon is permitted under number twelve of the Conditional Use Section located in TITLE 8, Section 8.3; noting that these sites are governed by the South Dakota Department of Environment and Natural Resources and federal guidelines. Granting this conditional use would bring the lagoon into compliance with the rules and regulations set forth by Marshall County.

REVIEW:

Per the documentation received by DENR, the project consists of a municipal lagoon waste system which will replace the existing system. The total area of land which will be used to complete this project is 7.4 acres. The pond itself will be built up so that any extra drainage from the site will be drained away from the site location. Also note that the proposed project location is adjacent to an existing wetland. According to supporting documents, the description of the nature of activity includes the trenching of pipe, the excavation of a waste storage pond, and the pouring of concrete. Construction is proposed to be finished by the end of winter of 2026. A haul road agreement will also be set in place and issued by the Marshall County highway department. No objections were received prior to the writing of this staff report.

STAFF RECOMMENDATION/REVIEW:

Granting of this conditional use would bring the proposed wastewater lagoon into compliance with the rules and regulations set forth by Marshall County, making note that the proposed project has already met requirements set by the State of South Dakota and has been approved at that level. Staff recommendation would be to grant the conditional use application as it has been requested and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.

NOTICE OF HEARING - APPLICATION FOR CONDIITIONAL USE FOR A WASTEWATER LAGOON

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on October 6, 2026, at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for a Conditional Use from the Marshall County Zoning Ordinance.

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Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: September 16, 2026

1T (Sept 16)
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Erin Collins-Miles
Planning & Zoning Administrator
Published at an approximate cost of $6.90 and can be viewed free of charge at www.sdpublicnotices.com.

MARSHALL COUNTY APPLICATION FOR CONDITIONAL USE

DATE: 9-3-26

To: Marshall County Planning and Zoning Commission
PO Box 9
Britton, SD 57430

The undersigned do hereby request a conditional use from the Marshall County Zoning Ordinance as provided by Article 8 Section 8.3 for the purpose of _____

Legal Description: NW 1/4 Section 14-127N-59W Stena

Reason: Wastewater Lagoon

Applicant's Name: Gerry Waldner Phone: _____

Address: 41632 109th St. Britton, SD 57430

Applicant's Signature: Gerry Waldner

Owner's Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 9-3-26 Fees (non-refundable): $150.00 Paid: YES NO

Inspection Report: See Staff report

Date of Hearing by Planning and Zoning Commission: October 6, 2026

Action taken by Planning and Zoning Commission: _____

MARSHALL COUNTY PLANNING & ZONING COMMISSION
911 VANDER HORCK
BRITTON, SD 57430
605.448.7540

September 14, 2026

Dear property owner,

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As an adjacent landowner, you are being notified of the hearing. If you have any questions, please contact my office. Any comments or concerns should be stated in writing and forwarded to my office or expressed at the scheduled hearing.

Sincerely,

Erin Collins-Miles
Planning & Zoning Director

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Sincerely,

Erin Collins-Miles
Planning & Zoning Director

Sent to the following adjacent landowners on 9/14/26:

1. James Bush – 41785 109th St. Britton, SD 57430
2. Craig & Angela Grupe – 42352 112th St. Britton, SD 57430
3. Alan Grupe – 1208 Main St. Britton, SD 57430
4. Downstate Inc. c/o Robert Farrar PO Box 1029 Britton, SD 57430
5. Todd Stieha – 41553 108th St. Britton, SD 57430
6. David & Diane Mitchell – 40154 111th St. Houghton, SD 57449

AGREEMENT
FOR USE AND RESTORATION OF HAUL ROAD

Agreement No. _____ File No. _____

WHEREAS, _____, CONTRACTOR in order to complete _____ project(s) it may become necessary for the Contractor to utilize a portion of the **MARSHALL COUNTY** Highway System of **BOARD OF COUNTY COMMISSIONERS** (Gov. Agency) represented by the MARSHALL COUNTY HIGHWAY DEPARTMENT, for the conveyance of construction equipment and materials to the project site and
WHEREAS, _____ or its assignee will restore that portion of said MARSHALL COUNTY highway system roads as shown as listed below, after it has been used to convey construction equipment and materials, to the condition which existed immediately prior to its use, and
WHEREAS, an inspection of the proposed route to be so utilized will be made, preferably not to exceed thirty days prior to expected initiation of its stated use, at which time the inspection team will determine and record the existing condition of the haul road, including the type, thickness and width of surface material in place,

MARSHALL COUNTY HIGHWAY SYSTEM ROADS USED (see attached map):

_____

_____,and

WHEREAS, after making said inspection and recording the existing condition of the haul road, shall all sign the inspection report, agreeing to the conditions stated therein.
NOW THEREFORE, in consideration of the premises, the mutual and independent covenants and any and all other requirements, agreements and covenants, all as hereinafter more fully set forth, the parties hereto agree as follows:
That, the above entitled roads of the **MARSHALL COUNTY** Highway System (of Board of County Commissioners) maintained by the MARSHALL COUNTY HWY DEPT, and is that portion which is proposed for use as haul road, and that, after use of said highway as a haul road for the purposes herein set forth, _____ hereby agrees to restore said highway roadbed and highway appurtenances to the condition, as reported, in accordance with measurements and observations of the inspection party at time of inspection and to the satisfaction of the County Representative and/or Engineer.
MATERIAL TO BE RESTORED: _____

_____

IN WITNESS WHEREOF, the said parties hereto have caused this agreement to be signed by their respective and duly authorized officers on the _____ day of _____, _____.

CONTRACTOR:

_____
(NAME)

_____
SIGNATURE of Representative

_____
TITLE

COUNTY OF MARSHALL
by: County Highway Department

_____
SIGNATURE of Representative

_____
TITLE

COPY