



**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 FUTURE USE WATER PERMIT  
NOS. 2086-2 and 2086A-2**

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 review of Future Use Water Permit Nos. 2086-2 and 2086A-2, City of Rapid City, 300 Sixth Street, Rapid City SD 57701.

The Chief Engineer is recommending Future Use Water Permit Nos. 2086-2 and 2086A-2 REMAIN in EFFECT for 4,075 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit Nos. 2086-2, 2 and 2086A-2) the city has demonstrated a reasonable need for the water reserved by Permit Nos. 2086-2 and 2086A-2, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit Nos. 2086-2 and 2086A-2 is subject to payment of the \$395.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Eric Gronlund, Chief Engineer  
October 29, 2024

October 16, 2024

Water Rights Program  
Attn: Rachel Rodriguez  
Department of Agriculture and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

**Ref: Future Use Water Permit No. 2086-2; City of Rapid City, SD**

Dear Ms. Rodriguez,

This letter is in response to your letter of September 23, 2024 regarding Rapid City's Future Use Water Permit No. 2086-2. It is the City of Rapid City's (City) intent to retain this water permit for future water needs of the City.

Attached for your information and use are graphs from our master planning documents indicating the City's future water demand and population projections. The graphs illustrate anticipated steady growth in both population and water demand. The City's population growth rate from 2022-2023 was 2.24%. Rapid City's population is expected to be over 100,000 by 2034. Continued growth will require Rapid City to increase water production in order to meet the future water needs of the City.

Although existing sources can supply current demands, future water sources will be needed to meet future needs. Water source planning includes utilizing the Madison aquifer, natural flow water rights, and available surface water.

If you have questions or need additional information concerning this request please contact me at

(605) 394-4165.

Sincerely,



Dale Tech, P.E./L.S.

Attachments:

Excerpts from Water Utility System Master Plan

- Figure 2-18 Historical and Future Average Day, Maximum Day, and Maximum Hour Demand Projections (Demand Scenarios).
- Figure 2-6 Rapid City Historical and Projected Population

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### 2.3.2 Future Population and Employment Projections

Rapid City Planning provided population projection data from several sources including total City population estimates for years 2025, 2045, and 2115 for low, medium, and high growth conditions; Traffic Analysis Zone (TAZ) population and employment projections for the planning period 2015 to 2115 in Pennington and Meade Counties, and population data from the currently adopted comprehensive plan. Of these data sources TAZ population and employment data was considered by the City to be the most accurate representation of current projections, and as such were used as the basis for generating population, employment, and water demand projections for the WUSMP.

The TAZ and study area boundaries were overlaid via GIS union to determine study area populations and employment for year 2015 and the three future planning years of 2025, 2045, and 2115. The GIS union process allows distribution of population across a study area boundary by proportionately splitting TAZ data when a boundary line splits a TAZ area.

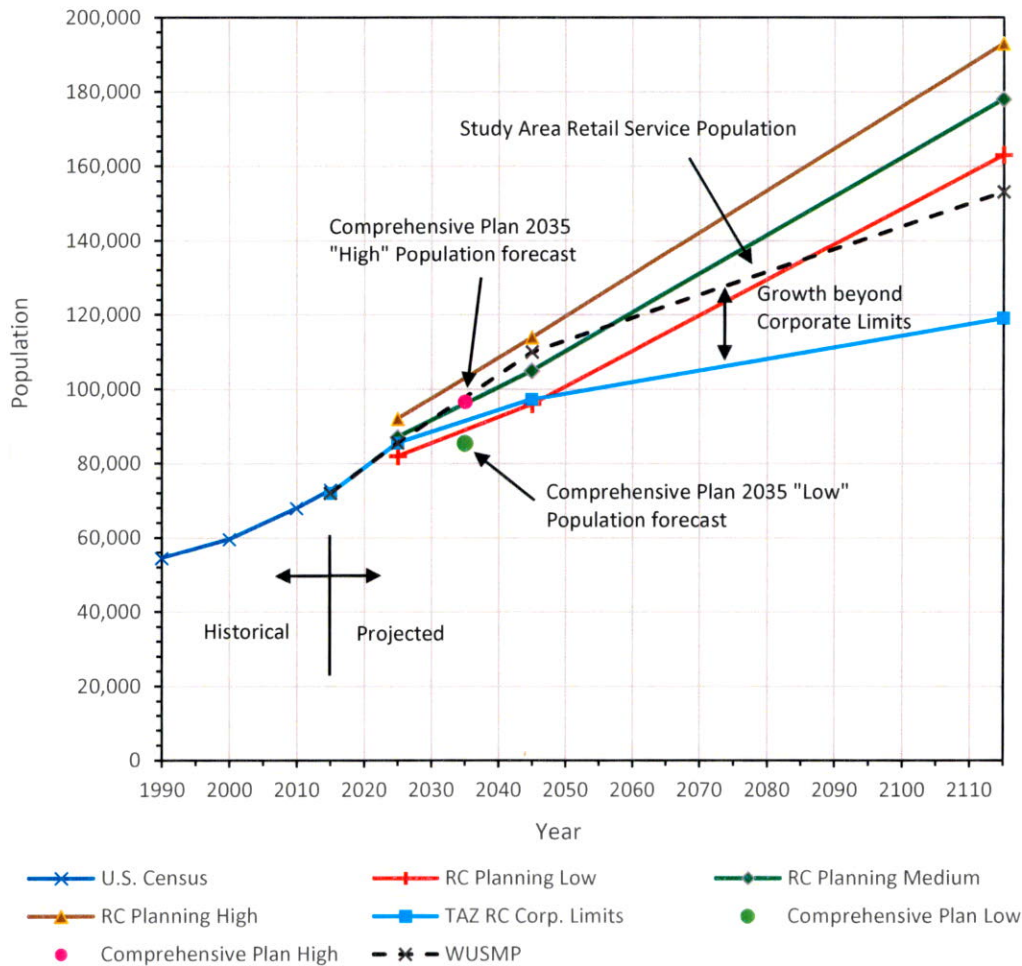
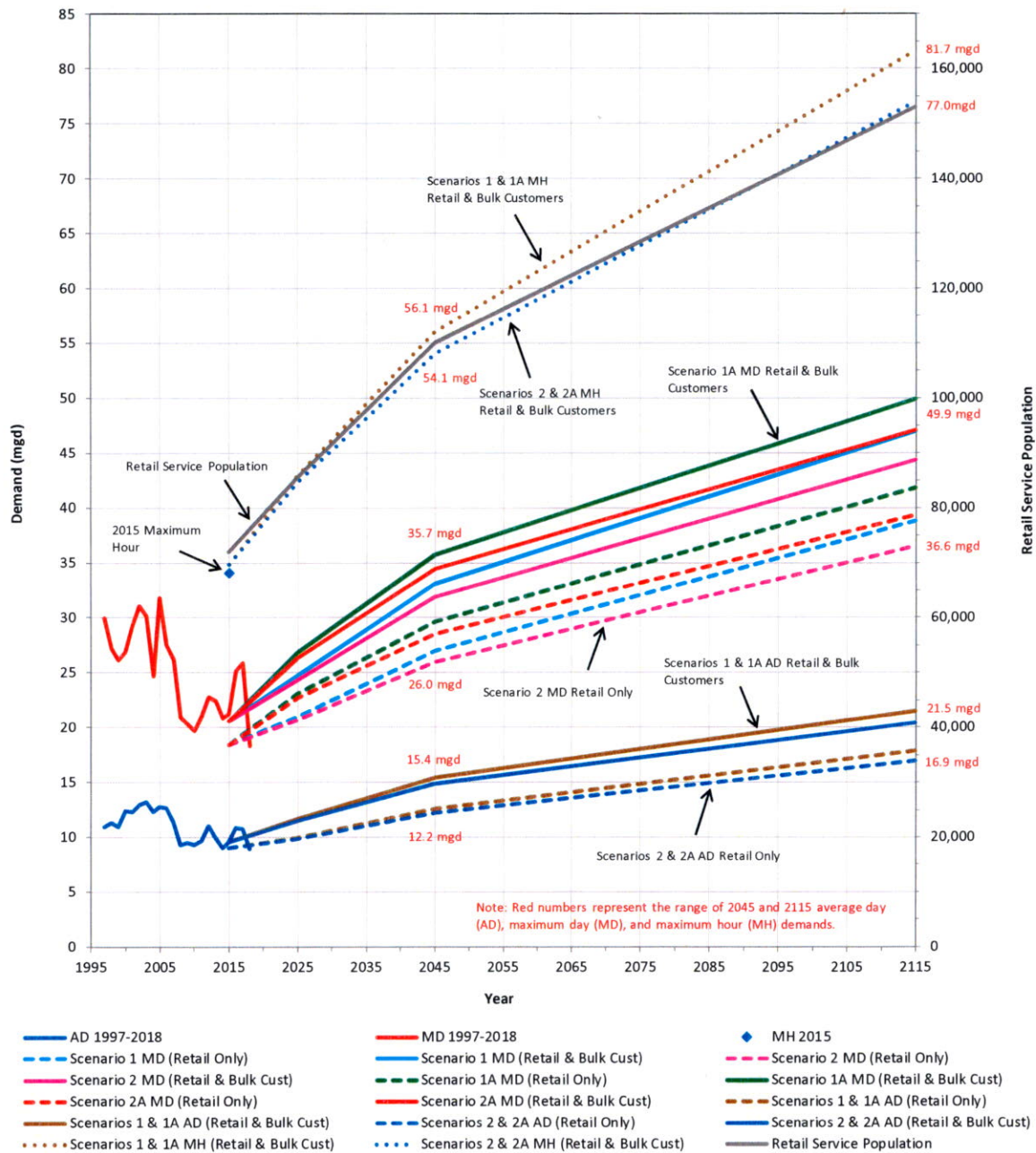


Figure 2-6 Rapid City Historical and Projected Population

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**Figure 2-18 Historical and Future Average Day, Maximum Day, and Maximum Hour Demand Projections (Demand Scenarios)**

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\*\*\* Proof of Publication \*\*\*

STATE OF INDIANA)

County of Lake)

SS:

S.D. DANR - GROUND WATER

523 E CAPITOL AVE  
PIERRE SD 57501

ORDER NUMBER 68277

I, Nicole Muscari, being  
duly sworn, upon his/her oath says: That he/she is now and was at all  
time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a  
corporation of Rapid City, South Dakota, a legal and daily newspaper  
printed and published in Rapid City, in said County of Pennington, and  
has full and personal knowledge of all the facts herein stated as  
follows: that said newspaper is and at all of the times herein  
mentioned has been a legal and daily newspaper with a bonafide paid  
circulation of at least Two Hundred copies daily, and has been printed  
and published for at least one year prior to the first date of the  
published notice.

This affidavit is a true and corrected copy of notice which appeared in  
said newspaper on the following dates:

November 2, 2024

Nicole Muscari

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 11/02/2024

TOTAL AD COST: 164.97

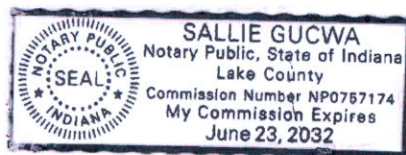
FILED ON: 11/4/2024

Subscribed and sworn to before me this 4th day of  
November, 2024.

Sallie Gucwa Notary Public

My commission expires

\_\_\_\_\_ 20 \_\_\_\_\_





Instruction to Newspaper - Publish the following Notice on November 2, 2024. The SD DANR, Water Rights Program is responsible for payment.

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## NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 2086-2, 2086A-2

Notice is given that the Water Management Board will review Future Use Permit Nos. 2086-2 and 2086A-2 held by the City of Rapid City, c/o Dale Tech, Public Works Director, 300 Sixth Street, Rapid City SD 57701 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by the Permits.

Permit No. 2086-2 was approved in 1989 and currently reserves 4,075 acre-feet from the Madison Aquifer located in the city limits of Rapid City; Sections 13, 24 thru 29, 32 thru 36; all in T2N-R7E; Sections 1 thru 5, 8 thru 17, 21 thru 23; all in T1N-R7E; Sections 28 thru 33; all in T2N-R8E; and Sections 4 thru 9, 17, 18; all in T1N-R8E. The water is reserved for municipal use. The Permit was last reviewed in 2017.

Permit No. 2086A-2 was approved in 2024 to increase the area reserved for future use to include Sections 14 through 17, and 20 through 23; all in T2N-R7E, and Sections 20, 27 through 29, 33, and 34; all in T1N-R7E with no increase in the amount of water reserved by Permit No. 2086-2. The water is to provide for future municipal needs for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 2086-2, and 2086A-2 REMAIN in EFFECT for 4,075 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 2086-2, and 2086A-2 on December 4, 2024, at 9:30 AM (Central Time), in the Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, 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 renewal, or other matter concerning the renewal 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 with BOTH the permits owner and the Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permits owner shall also file a petition. A petition filed by either an interested person or the permits owner must be filed by November 13, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 2086-2, and 2086A-2 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03; and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permits owner or any

person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically delayed for at least 20 days upon written request of the permits owner or any person who has filed a petition to oppose renewal of the Future Use Permits. The request for a delay must be filed with the Chief Engineer by November 13, 2024.

Any interested person may file a comment on the future use permits renewal with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by November 13, 2024.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at [Brian.Walsh@state.sd.us](mailto:Brian.Walsh@state.sd.us) as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that “if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17.” This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 13, 2024. However, since this matter are future use permits renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at the approximate cost of \_\_\_\_\_.





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DEPARTMENT of AGRICULTURE  
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JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
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## Comment

### Concerning Application for a Water Right Permit

Application No. 8768-3 Name of Applicant Plainview Dairy LLC.

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

**Note.** Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

#### Comments concerning this application:

I have some concerns about the granting of application 8768-3.

This water is being allocated from the Toronto aquifer which was just identified in the summer of 2024. This seems to me that an allocation of 436 ac-ft is a very large quantity to be allocated from an aquifer with very little history to be analyzed.

I live in the Southwest 1/4 of Section 18 just West/Southwest of the two proposed wells in Section 18 and am concerned about whether my well will be affected by this large drawdown.

I also have a well just South of the dairy site in the Southwest 1/4 of Section 17 and am also concerned about this well. This well is quite a bit shallower than the planned Plainview wells, so is this dairy being built over a shallow aquifer and will my well be affected?

I would also make note in the Recommendation of the Chief Engineer Report prepared by Ms. Kimberly Drennon, she denotes that 52 domiciles are located over the Toronto aquifer. I did not see any reference to the number of livestock which are being watered out of the Toronto aquifer or the numerous other irrigators which are drawing out of this aquifer.

In the Recommendation of the Chief Engineer Report prepared by Ms. Kimberly Drennon states in the Availability of Water section, subset Recharge, that recharge availability is computed using all 19,500 acres in the Toronto aquifer. It would seem to me that all of the discharge should be used in the calculation also. All of the irrigation in the 19,500 acres should be included, which is not. All livestock should be used, and there is no mention of other livestock consumption.

Ms Drennon also uses an average irrigation withdrawal of 163.7 ac-ft/yr. She states one irrigation well has only been in production for two years. The average of these numbers is a very skewed number by using an average.

I also have a concern about the SDGS procedures and outside influence of the Toronto aquifer delineation. SDGS was out and marked some drilling sites prior to the onset of drilling. When they did begin drilling some of the original sites were abandoned. I had a conversation with one of the employees of SDGS about the abandoned sites when they did start drilling, and inquired as to why these sites were abandoned. The response I received was troubling to me. Their boss had told them not to drill there. I pushed the issue a little harder and was told that Plainview dairy did not want SDGS to drill near property who were known to oppose the dairy. It would seem unethical for an outside company to have this kind of influence over a science based governmental agency. I would also question if any other influence was used by the dairy and the validity of the results of the SDGS delineation of the Toronto aquifer.

#### Commenter's name and address:

First Name: Troy Last Name: Lenning

Address: 47236 193rd St

City: Toronto State: SD Zip: 57268

**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8768-3

Committer's Name \_\_\_\_\_

**Any additional comments:**

Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

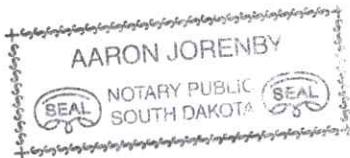
Leg# 40624 Notice of Application

same was published, is hereto attached marked Exhibit "A" said newspaper for \_\_\_\_\_ 1 times, to-wit:

November 13, 2024 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or 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; that the fees charged for the publication thereof are:

Eighty-Three Dollars and Twelve Cents \$83.12



*[Handwritten Signature]*

25 day of

November \_\_\_\_\_

2024

Notary Public in and for the County of Brookings, South Dakota, My Commission expires February 22, 2026

*[Handwritten Signature]*

Legal 40624 1X  
11/13  
**NOTICE OF HEARING ON APPLICATION NO. 8768-3 TO APPROPRIATE WATER**  
Notice is given that Plainview Dairy, LLC., 19218 473rd Avenue, Toronto SD 57268 has filed an application for a water permit to appropriate up to 460 acre-feet of water annually at a maximum pump rate of 0.84 cubic feet of water per second from up to five wells consisting of either existing wells or new wells, or both, completed into the Toronto Aquifer located in the NW 1/4, SW 1/4 NE 1/4 Section 17 and SW 1/4 NE 1/4, S 1/2 SE 1/4 Section 18; all in T113N-R49W. Water is to be used for commercial purposes in a dairy operation to be located in Section 17-T113N-R49W. This site is located approximately 20 miles north of Brookings SD. South Dakota Codified Law (SDCL) 46-2A-4(10) provides that if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the appli-

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cation is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8768-3 for up to 436 acre feet annually from the Toronto Aquifer of the 460 acre feet applied for because 1) there is reasonable probability that there is unappropriated water available annually in an amount up to 436 acre feet 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. 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.

The Water Management Board will consider this application at 11:00 AM (Central Time) on De-

ember 4, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested

person or the applicant must be filed by November 25, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petition, 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by November 25, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location. Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by November 25, 2024.

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Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is November 25, 2024. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published November 13, 2024 at the total approximate cost of \$83.12 and may be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).