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MINUTES OF THE 260TH MEETING
OF THE WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA
JULY 8, 2026

CALL TO ORDER AND ROLL CALL: Vice Chairman Comes called the meeting to order at 9:30 a.m. Central Time. The roll was called, and a quorum was present.

The meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

The following were present for the meeting:

Board Members: Peggy Dixon, Rodney Freeman, Kelly Hepler, and Jim Hutmacher attended in person. William Larson, Chad Comes, and Leo Holzbauer attended remotely.

Department of Agriculture and Natural Resources (DANR): Mark Mayer, Director of the Office of Water; Adam Mathiowetz, Acting Chief Engineer, Amanda Dewell, Whitney Kilts, Kim Drennon, Shannon Konst, Tyler Jensen, and Austin Settje, Water Rights Program.

Attorney General's Office: David McVey, Board counsel, and Emily Greco, Water Rights Program counsel.

Court Reporter: Carla Bachand, Capital Reporting Services.

Others: See attached attendance sheets.

ANNUAL APPOINTMENT OF OFFICERS: Motion by Freeman, seconded by Larson, to nominate Jim Hutmacher as Chair, Kelly Hepler as Vice Chair, and Peggy Dixon as Secretary.

There were no other nominations.

A roll call vote was taken, and the motion carried unanimously.

APPOINTMENT OF PREHEARING CHAIR: Motion by Hepler, seconded by Dixon, to appoint Rodney Freeman as Prehearing Chair for the year, and to appoint Bill Larson as the alternate prehearing chairman. The motion carried unanimously.

ADOPT FINAL AGENDA: Motion by Freeman, seconded by Dixon to adopt the final agenda. The motion carried unanimously.

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

APPROVE MAY 6-7, 2026, BOARD MINUTES: Motion by Hepler, seconded by Freeman, to approve the minutes from the May 6-7, 2026, Water Management Board meeting. A roll call vote was taken, and the motion carried with Comes, Dixon, Freeman, Hepler, Holzbauer, and Larson voting aye; Hutmacher abstained.

DECEMBER 2-3, 2026, MEETING DATES AND LOCATION: Motion by Freeman, seconded by Hepler, to hold the December 2-3, 2026, Water Management Board meeting at the Matthew Environmental Training Center, 523 East Capitol, Pierre, beginning at 9:30 a.m.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: None.

UPDATE ON DANR ACTIVITIES: Adam Mathiowetz, Acting Chief Engineer, reported on activities taking place within the Office of Water. First, Mr. Mathiowetz introduced the Water Rights Program's summer intern, Alyssa Adams.

Mr. Mathiowetz provided information on drought conditions in the state, shut-off orders issued by the Water Rights Program for the junior permits on the Cheyenne River and its tributaries above Angostura, Battle Creek, and junior permits on the Belle Fourche River upstream of the diversion dam into the Belle Fourche Reservoir irrigation district.

The reconstruction of Custer West Dam is progressing without major issues.

A test section of the seepage cutoff wall was installed at Richmond Dam, and the results of the test will be available soon. There was a fuel tanker fire over the Fourth of July weekend in that area. The fuel was supplying the three primary pumps that are lowering the water levels of the reservoir. The fuel tanker was adjacent to an excavation area for part of the rehabilitation. The Banner team and DANR Inspection, Compliance, Remediation, and Spills, the contractors and engineers, and the State Engineer's Office were informed.

The Water Rights Program has received two water permit applications from Encore Energy, working as Powertech USA. The Water Rights Program is also waiting for the withdrawal notice from the applicants for their 2013 applications. The delay on the withdrawal notices was because Powertech wanted to make sure the Water Rights Program had received and verified the completed applications and had set priority dates for the new applications. Mr. Mathiowetz stated that due to the very large size of the file provided to the Water Rights Program, he and Amanda Dewell are taking the time to be certain that everything is complete so the applications can be processed.

In response to questions from the Board, Ms. Dewell stated that Powertech has been granted the necessary federal permits

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: None.

ADMINISTER OATH TO DANR STAFF: The court reporter administered the oath to DANR staff who were present and intended to testify during the meeting.

SEVEN-YEAR REVIEW OF FUTURE USE PERMITS: A table listing the future use permits for a seven-year review was included in the packet the Board members received prior to the meeting.

Amanda Dewell stated that certain entities such as water distribution systems, municipalities, sanitary districts, and rural water systems, etc. can reserve water for future needs.

State law requires that future use permits be reviewed by the Water Management Board every seven years, and it requires the permit holder to demonstrate a reasonable need to retain the future use permit.

Ms. Dewell reported that there were eight future use permits for review. The Water Rights Program contacted each of the permit holders inquiring whether they wanted to retain the future use permits for an additional seven years. The letters received from the entities requesting to retain their future use permits, the Acting Chief Engineer's recommendations, and the Affidavits of Publication showing that the hearing was public noticed were included in the Board packet.

No Petitions in opposition or comments were received in response to the public notices.

The Acting Chief Engineer recommended that the Board allow the following future use permits, as listed below, to remain in effect for an additional seven years, to be reviewed again in 2033.

No.	Name	Amount Remaining in Reserve	Source (Aquifer)
524-3	City of De Smet	625 AF	Vermillion East Fork
558A-3	City of Castlewood	123 AF	Big Sioux: Brookings
1407-2	City of Custer	434 AF	Crystalline Rock
5358-3	TM Rural Water District	530 AF	Upper Vermillion Missouri
6988-3, 6988A-3, 6899B-3	Joint Well Field	875 AF	Big Sioux: Brookings
8400-3	City of Harrisburg	550 AF	Dakota

Motion by Holzbauer, seconded by Comes, to accept the Acting Chief Engineer's recommendation that the eight future use permits remain in effect for another seven years for the amounts shown in the table. A roll call vote was taken, and the motion carried unanimously.

CANCELLATION CONSIDERATIONS: A table listing the proposed cancellations, the notices of cancellation, and the Acting Chief Engineer's recommendations were included in the packet the Board members received prior to the meeting.

Ms. Dewell stated that the 11 water rights/water permits listed in the table were scheduled for cancellation. The owners were notified of the hearing and the reasons for cancellation. The department received no comments or letters in response to the notices of cancellation.

The Acting Chief Engineer recommended cancellation of the following water rights and water permits for the reasons listed:

Number	Previous Owner	Present Owner(s) and Other Persons Notified	Reason
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DIVISION 1

RT 1077-1		Lonnie Arneson	Abandonment/Forfeiture
PE 1998-1	Dakota Cable Solutions Inc c/o Chad Gollnick	SD DOT c/o John Keyes	Non-Construction

DIVISION 2

PE 2772-2		Milligan Boise Flannery LLC c/o Tom Milligan	Non-Construction
PE 2773-2		Arrowhead Country Club c/o Tom Bloemendaal	Non-Construction

DIVISION 3

RT 279-3		Glenn Hodson c/o Glenda Jager, Mgr	Abandonment/Forfeiture
RT 3976-3	A.N Sanderson	Deanna Sanderson	Abandonment/Forfeiture
PE 7315A-3		VanBuskirk Fanns LLC c/o Matt VanBuskirk	Non-Construction
PE 8091-3		Roy Grismer	Non-Construction
PE 8092-3		Roy Grismer	Non-Construction
PE 8168-3	Nonnan Lee	Sylvia Lee	Non-Construction
PE 8326-3		Nelsen Brothers c/o Scott Nelsen	Non-Construction

Motion by Hepler, seconded by Comes, to accept the Acting Chief Engineer's recommendations for cancellation of the 11 water rights/water permits for the reasons listed in the table. A roll call vote was taken, and the motion carried unanimously.

CONSIDER FUTURE USE PERMIT APPLICATION NO. 8990-3, CITY OF MILBANK: A court reporter was present and a transcript was prepared for this hearing. A copy of the transcript may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235.

The audio recording of the hearing is available on the Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>

Please refer to the transcript or the audio recording for the full proceeding.

Chairman Hutmacher opened the hearing.

Emily Greco, Assistant Attorney General, appeared on behalf of the Chief Engineer and the Water Rights Program.

Paul Tschetter, Boyce Law Firm, appeared on behalf of the applicant, the City of Milbank.

Reed Mahlke, Helsper, McCarty & Rasmussen, appeared on behalf of the intervenor, Grant Roberts Rural Water System.

Craig Arthur, Watertown, pro se intervenor.

The purpose of the hearing was to consider Water Permit Application No. 8990-3, submitted by the city of Milbank, to reserve for future use 1,120 acre-feet of water annually (ac-ft/yr) from the Antelope Valley aquifer. The water is to be reserved as a future water supply for municipal and water distribution system use by the City of Milbank in Grant County. Approval of this application would not authorize construction of works or application of water to beneficial use. This proposed future use area is located approximately 15 miles southwest of Milbank, South Dakota, surrounding Myers Lake.

Witnesses administered the oath and testifying on behalf of the DANR Water Rights Program:

Kim Drennon, Staff Engineer
Adam Mathiowetz, Acting Chief Engineer

Exhibits offered by the Water Rights Program and admitted into the record:

Exhibit 1 – Administrative record, Future Use Permit Application No. 8990-3, City of Milbank
Exhibit 2 – Kim Drennon curriculum vitae
Exhibit 3 – Adam Mathiowetz curriculum vitae

Witnesses administered the oath and testifying on behalf of the applicant, City of Milbank:

Steve Pendergrass, Milbank City Administrator
Sara Pankonin, Project Engineer, Banner Associates

Exhibits offered by the applicant and admitted into the record:

Exhibit 103 – Banner Associates team qualifications
Exhibit 104 – Slide presentation by Banner Associates

Witnesses administered the oath and testifying on behalf of the intervenor, Grant-Roberts Rural Water System:

Brent Hoffmann, General Manager, Grant-Roberts Rural Water System

Matthew Odekoven, DGR Engineering

Exhibits offered by the intervenor and admitted into the record:

Exhibit 202 – Map showing Antelope Valley Aquifer location
Exhibit 203 – Map with red arrows showing Water Rights Observation Wells
Exhibit 204 – Matthew Odekoven curriculum vitae

Following direct examination, cross-examination, redirect, questions from the Board members, and closing arguments, Chairman Hutmacher requested Board action.

Motion by Freeman, seconded by Comes, to approve Future Use Permit Application No. 8990-3, City of Milbank subject to the following qualifications set forth by the Chief Engineer:

1. Future Use Permit No. 8990-3 reserves 1,120 acre-feet of water annually from the Antelope Valley Aquifer.
2. Future Use Permit No. 8990-3 is approved with the stipulation that this Permit is subject to review by the Water Management Board as to accomplishment in developing reserved water upon expiration of seven (7) years. This Permit shall be subject to cancellation if the Water Management Board determines during the review that the holder cannot demonstrate a reasonable need for the Permit.
3. The future use area approved under this Permit encompasses other wells which obtain water from the same aquifer. Any future water withdrawals from this reservation shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate existing wells for other water rights in place at the time an application to construct and place reserved water is filed.
4. At such time as definite plans are made to construct works and put the water reserved by this Permit to beneficial use, specific application for all or any part of the reserved water must be submitted prior to construction of facilities pursuant to SDCL 46-5-38.1.

A roll call vote was taken, and the motion carried unanimously.

Mr. Tschetter will prepare the Findings of Fact and Conclusions of Law by August 14, 2026. Objections and alternative proposals are due by August 28, 2026.

Due to a prior commitment, Board member Larson left the meeting at 12:45 p.m.

UNOPPOSED NEW WATER PERMITS ISSUED BY THE CHIEF ENGINEER WITHOUT A HEARING BEFORE THE BOARD: Prior to the meeting, the Board received a copy of the table listing the unopposed new water permits issued by the Chief Engineer. (See attachment)

NEW WATER PERMIT APPLICATIONS: The pertinent qualifications attached to approved

water permit applications throughout the hearings are listed below:

Well Interference Qualification

The well(s) approved under this permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Well Construction Rule Qualification

The wells authorized by Permit No. ____ shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

Irrigation Water Use Questionnaire Qualification

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Low Flow Qualification

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.

RECONSIDER APPLICATION NO. 9019-3, JIM OR DAN THYEN: Mr. Mathiowetz reported that this application was originally deferred because it also requests to withdraw water from the Antelope Valley Aquifer. The application was submitted after the Milbank Future Use Permit Application was contested. The outcome of the Milbank application and what the Board decided would have affected Mr. Mathiowetz's recommendation as well as how the permitting for this application would have occurred.

Application No. 9019-3 proposes to irrigate an additional 25 acres from two existing wells authorized by Water Right No. 7975-3 with no increase to the diversion rate. Water Right No. 7975-3 authorizes the irrigation of 117 acres at a maximum diversion rate of 1.67 cubic feet of water per second (cfs) from two wells completed into the Antelope Valley Aquifer. If approved, Application No. 9019-3 and existing Water Right No. 7975-3, combined, would authorize the irrigation of 142 acres at 1.67 cfs. This site is located approximately two and one half miles south of South Shore in Codington County.

Mr. Mathiowetz explained that the recharge total for the aquifer is 6,700 acre-feet per year. Current withdrawals and future use permits, including the approved Milbank future use permit, the estimated use by this application and the estimated use by the next application on the agenda (No. 9022-3) would total approximately 5,900 acre-feet of withdrawals per year, leaving a difference of approximately 800 acre-feet per year of recharge in excess of withdrawals. Application No. 9019-3, based on the 25 acres, would be estimated to withdraw 20.8 acre-feet per year.

Mr. Mathiowetz recommended approval of Application No. 9019-3 with the following qualifications:

1. The wells approved under this Permit and Water Right No. 7975-3 are 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. Any future additional or replacement wells must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Motion by Hepler, seconded by Comes, to approve Water Permit Application No. 9019-3, Jim or Dan Thyen, subject to the qualifications set forth by the Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

CONSIDER WATER PERMIT APPLICATION NO. 9022-3, LEONARD SIGDESTAD: Mr. Mathiowetz stated that this is the second application that came in after the Milbank Future Use Permit Application was contested.

This system is operated by Mr. Thyen.

Water Permit Application No. 9022-3 proposes to irrigate an additional 40 acres from an existing well authorized by Water Right No. 3672-3. Water Right No. 3672-3 authorizes 1.78 cubic feet of water per second (cfs) from one well, 133 feet deep, completed into the Antelope Valley aquifer for the irrigation of 132 acres. The application, if approved, and Water Right No. 3672-3 will authorize the irrigation of a combined total of 172 acres with no increase to the 1.78 cfs diversion rate. The site of interest is located approximately one mile north of South Shore in Codington County.

Mr. Mathiowetz recommended approval of Water Permit Application No. 9022-3 with the following qualifications:

1. The well approved under this Permit and Water Right No. 3672-3 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. Any future additional or replacement wells must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Motion by Freeman, seconded by Dixon, to approve Water Permit No. 9022-3, Leonard Sigdestad, subject to the qualifications set forth by the Acting Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

CONSIDER ADDITION OF MANDATORY WATER USE REPORTING QUALIFICATION ON WATER RIGHT NOS. 4053A-3 AND 5520-3, TOWN OF SOUTH SHORE: Ms. Dewell reported that the Town of South Shore holds these two water rights and is the only non-irrigation user that isn't currently required to report their water use.

The Water Rights Program recommended that the Board add the following mandatory reporting qualification to Water Right Nos. 4053A-3 and 5520-3:

Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Antelope Valley Aquifer.

Ms. Dewell noted that the Water Rights Program provided notice to the Town of South Shore that the Board would consider adding this qualification to the two water rights; and the Water Rights Program received no response from the Town of South Shore.

Motion by Freeman, seconded by Hepler, to add the mandatory reporting qualification to Water Right Nos. 4053A-3 and 5520-3, Town of South Shore. A roll call vote was taken, and the motion carried unanimously.

Due to prior commitments, Board member Comes left the meeting at 3:00 p.m.

CONSIDER WATER PERMIT APPLICATION NO. 8982-3, CENTURY SWINE RE, LLC: A court reporter was present, and a transcript was prepared for this hearing. A copy of the transcript may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235.

The audio recording of the hearing is available on the Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>

Please refer to the transcript or the audio recording for the full proceeding.

Chairman Hutmacher opened the hearing.

Emily Greco, Assistant Attorney General, appeared on behalf of the Chief Engineer and the Water Rights Program.

Paul Tschetter, Boyce Law Firm, appeared on behalf of the applicant, Century Swine RE, LLC.

Connor Shaull, Attorney, appeared on behalf of petitioners, Cindy, Larry, and Garrett Heinz and petitioner Amanda Arbaca.

Justin Baer, pro se intervenor.

Water Permit Application No. 8982-3 proposes to appropriate up to 30.68 acre-feet of water annually at a maximum pump rate of 0.11 cubic feet of water per second (cfs) from one well, approximately 420 feet deep, completed into the Pierre Shale aquifer for commercial use in a swine facility located in Edmunds County approximately ten miles southwest of Roscoe, SD.

Witnesses administered the oath and testifying on behalf of the DANR Water Rights Program:

Austin Settje, staff engineer
Adam Mathiowetz, Acting Chief Engineer

Exhibits offered and admitted into the record for the DANR Water Rights Program:

Exhibit 1 – Administrative record, Water Permit Application No. 8982-3, Century Swine
Exhibit 3 – Adam Mathiowetz curriculum vitae

Witnesses administered the oath and testifying on behalf of Water Permit Application No. 8982-3, Century Swine:

Justin Roelofs, Vice President of Relationship Management for Pipestone Management

Witnesses administered the oath and testifying on behalf of the intervenors:

Garrett Heinz, Edmunds County resident

Exhibits offered and admitted into the record by Mr. Shaull on behalf of the intervenors:

Exhibit 201 – Letter written by Circuit Court Judge Sean M. O’Brien, dated April 11, 2012, regarding the appeal of the Hanson County Dairy Water Permit application.
Exhibit 202 – Order of Reversal and Remand for Rehearing back to the Water Management Board, for the Hanson County Dairy Water Permit application, signed by Circuit Court Judge Sean M. O’Brien on May 9, 2012.
Exhibit 203 – Map of Edmunds County showing the aquifers in the area with the proposed facility marked “A” and the home place and the slough
Exhibit 205 – Edmunds County Ordinance #2022-7-1 amending Ordinance #98-10-1

Mr. Mathiowetz recommended approval of Water Permit Application No. 8982-3 with the following qualifications:

1. The well approved under Water Permit No. 8982-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner 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. Water Permit No. 8982-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8982-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
4. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Pierre Shale Aquifer.
5. Water Permit No. 8982-3 authorizes a total annual diversion of up to 30.68 acre-feet of water annually from the Pierre Shale Aquifer.

Motion by Freeman, seconded by Hepler, to approve Water Permit Application No. 8982-3, Century Swine RE LLC subject to the qualifications set forth by the Acting Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

Mr. McVey requested that Ms. Greco prepare and submit Findings of Fact and Conclusions of Law by August 14, 2026. Objections and alternative proposals are due by August 28, 2026.

CONSIDER WATER PERMIT APPLICATION NO. 8986-3, JOHN HALL JR: Whitney Kilts reported that Water Permit Application No. 8986-3 proposes to appropriate 0.69 cubic feet of water per second (cfs) from Lake Sutton for irrigation of 60 acres in Deuel County, approximately two miles north of Clear Lake.

The surface area of Lake Sutton is approximately 88 acres with an average depth ranging from five feet to less. Volume estimates for the lake range from 179 to 450 acre feet. Estimated average annual evaporation losses from the lake minus average annual precipitation is estimated to range from 78 to 91 acre feet per year. Historical imagery suggests that on average, the lake is getting enough runoff to maintain surface area and balance out that loss to evaporation.

Estimated average annual use for this application, if approved, is less than 50 acre feet per year. To look at annual surface runoff into Lake Sutton, Ms. Kilts used the NRCS annual surface yield methodology for South Dakota. That methodology estimates the volume of runoff, which can be expected to be exceeded during a 12-month period at certain annual probabilities. For example, the 80 percent exceedance estimate has an 80 percent chance of being met or exceeded in any

given year. The results from the NRCS method are shown in Table 2 on page 7 of Ms. Kilts' report. Those results indicate that on an average annual basis, there is likely sufficient runoff from the drainage area into Lake Sutton to supply this application.

There are currently no active water rights or permits appropriating water from Lake Sutton. The Chief Engineer's recommendation includes qualifications which would allow for development of this application while offering protections, if needed, to any domestic users on the lake. That would result in a reasonable probability that this application can be developed without unlawful impairment of existing users.

Ms. Kilts noted that there is also a section in the report titled Additional Considerations discussing easements and some of the history that has come up involving these small lakes and easements. The western side of this lake, outside of the area for this application, does have an emergency watershed program floodplain easement through NRCS. The application includes correspondence indicating that the limits on this easement likely only apply to the owner of the easement lands and not other owners around the lake of non-easement lands. The easement area is not the same as the area the applicant is seeking to irrigate or divert water from; they are separate areas of the lake.

The Chief Engineer recommended approval of this application with the following qualifications:

1. The irrigation intake in Lake Sutton must be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second in open water or 0.25 feet per second in an embayment and the intake screen is 1/4-inch diameter or 3/16-inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
2. Diversions under this water are subject to senior water rights and domestic use and shall be in accordance with any written orders issued by the Chief Engineer.
3. The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments are needed to the qualifications.
4. The applicant shall control withdrawal during times of low water levels in Lake Sutton so there is not a reduction of needed water supplies to domestic users, including livestock watering.
5. Pursuant to SDCL 46-2-19, the Chief Engineer, or designated representative, may enter upon the lands authorized by this water permit for the purpose of inspecting works and determining if the irrigation system is operating.
6. This Permit is approved subject to the irrigation water use questionnaire being submitted each year reporting the amount of water used for irrigation.

Motion by Freeman, seconded by Holzbauer, to approve Water Permit Application No. 8986-3, John Hall, Jr. subject to the qualifications set forth by the Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF APPLICATION NO. 8991-3, CENTURY SWINE: Mr. McVey stated that the application submitted proposed Findings of Fact and Conclusions of Law. The petitioners submitted objections to the proposed Findings of Fact and Conclusions of Law. Each of the objections made to the Findings of Fact were individually addressed as required by SDCL 1-26-25. The final Order of the Board is to grant Water Permit No. 8991-2, Century Swing with seven qualifications set forth by the Chief Engineer.

Motion by Freeman, seconded by Hepler, to adopt the Findings of Fact, Conclusions of Law, and Final Decision granting Water Permit Application No. 8991-3, Century Swine subject to qualifications set forth by the Chief Engineer. A roll call vote was taken, and the motion carried unanimously.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 8987-3, VIC UTECH: Mr. McVey stated that on May 28, 2026, the petitioner in this matter filed proposed Findings of Fact and Conclusions of Law. On June 10, 2026, Ms. Hegge, on behalf of the applicant, filed objections to petitioner's proposed Findings of Fact and Conclusions of Law. Each of the objections made to the Findings of Fact were individually addressed as required by SDCL 1-26-25.

Ms. Hegge's objections also included a motion for reconsideration of the denial of Utech's water permit application, specifically based on the evidence and testimony as well as the authority and argument set forth in her objections.

Motion by Freeman, seconded by Dixon, to deny reconsideration of Water Permit Application No. 8987-3, Vic Utech. A roll call vote was taken, and the motion carried unanimously.

The final Order of the Board is to deny Water Permit Application No. 8987-3, Vic Utech for the reasons stated within the Findings of Fact and Conclusions of Law.

Motion by Freeman, seconded by Hepler, to adopt the Findings of Fact, Conclusions of Law, and Final Decision denying Water Permit Application No. 8987-3, Vic Utech. A roll call vote was taken, and the motion carried with Dixon, Freeman, Hepler, and Holzbauer voting aye. Hutmacher abstained.

OVERVIEW OF SDCL 49-50-4 AND 49-50-5 (SB 135) DATA CENTER WATER SUPPLY PLAN: Adam Mathiowetz provided the Board with a copy of SDCL 49-50 and a draft of the "Data Center Water Supply Plan to Water Management Board" document. The draft form was reviewed by Water Rights Program staff, the Water Rights Program attorney, and department and division administration.

The 2026 State Legislature adopted SB 145, an Act to protect residents from increased utility costs and utility shortages caused by data centers and clarify authority to regulate data centers. The parts relevant to the Water Management Board, as adopted in law are SDCL 49-50-4 and 49-50-5.

These data center water plans are specific to data centers that have a peak demand of 10 megawatts or greater.

SDCL 49-50-4 states, “Prior to commencing operation in this state, the operator of a data center shall provide notice of projected water consumption to each local water provider in the area in which the data center is proposed to be located. Each water provider receiving notice pursuant to this section shall determine whether the data center's projected water consumption is compatible with the local water supply and issue that determination in writing to the operator. The operator shall present a copy of each notice and determination to the Board of Water Management.

If the Board receives a determination from each applicable water provider that the data center's projected water consumption is compatible with the local water supply, the Board must issue, to the operator and the general public, a written statement that the operator has satisfied the requirements of this section.

Notwithstanding the Board's issuance of a written statement pursuant to this section, the data center may not consume an amount of the local water supply exceeding limits established by order of the Board, after allocation to residential and essential public services. In establishing allocation limits under this section, the Board shall seek to ensure water availability and prevent disproportionate use of water by data centers.”

SDCL 49-50-5 states, “The operator of a data center that is authorized to operate in this state pursuant to this chapter, shall, at the time and in the manner prescribed by the Board of Water Management, submit to the board a semi-annual report regarding the data center's water use. The report must contain average usage data and certify compliance with this section. The board shall make the usage data contained in the report available to the public.”

The “Data Center Water Supply Plan to Water Management Board” form Mr. Mathiowetz handed out is in reference to SDCL 49-50-4. The form has the facility name, address, contact information, and whether they intend to be self-supplied, such as having their own well, or if they’re going to be connected to a public water system such as a municipality or rural water system.

There is a checkbox reminding the facility that if it is self-supplied they will need a water right because the facility does not qualify as a reasonable domestic use.

Part 1 of the form asks for legal description of water diversion and the annual consumptive use of water in acre-feet.

Part 2 a. requests the facility to include the Notice of Projected Water Consumption be provided to each local water supplier in the area that can feasibly supply the facility, 2 b. requests a written response from each local water supplier regarding the Notice of Projected Water Consumption, and 2 c. states that if supplied by a public water system, the Water Management Board will issue an order establishing limits on water consumption as determined by the Board.

The second page asks the facility to provide their water supply plan description.

Board discussion took place with Mr. Mathiowetz, Assistant Attorney General Emily Greco, and Mark Mayer, Office of Water Division Director, answering questions.

ADJOURN: Motion by Freeman, seconded by Hepler, to adjourn. Motion carried unanimously.

A court reporter was present for the meeting, and a transcript of the proceedings may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235; pcbachand@pie.midco.net.

An audio recording of the meeting is available on the South Dakota Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved October 7, 2026.

Water Management Board

WATER MANAGEMENT BOARD MEETING

July 8, 2026

Qualifications:
wi - well interference
wcr - well construction rules
iq - irrigation questionnaire
lf - low flow

Unopposed New Water Permit Applications Issued Based on the Chief Engineer Recommendations

No.	Name	Address	County	Amount	Use	Source	Qualifications
2050-1	Venekamps LLC	Rapid City	MD	58.6 AF	WDS	1 well – Inyan Kara	wi, 4 special
2905-2	Troy M Best	Winner	TR	1.78 cfs	IRR(400 acres)	1 dam – surface runoff	lf, iq, 5 special
8993-3	Bixler Farms	Hitchcock	SP	0.45 cfs	IRR(128 acres)	2 wells – Tulare: Western Spink Hitchcock	wi, wcr, iq
8994-3	Bixler Farms	Hitchcock	SP	1.78 cfs	IRR(160 acres)	1 well – Tulare: Western Spink Hitchcock	wi, wcr, iq
8995-3	Bixler Farms	Hitchcock	SP	1.78 cfs	IRR(279 acres)	2 wells – Tulare: Western Spink Hitchcock	wi, wcr, iq
9020-3	Hord Family Farms of SD	Bucyrus OH	MR	86 AF	COM	3 wells – Dakota	wi, 3 special
9021-3	Craig Arthur	Watertown	GT	No Add'l	IRR(80 acres)	1 well – Wilmot	wi, wcr, iq
9023-3	Chris Howard Ranch LLC	Miller	HD	0.026 cfs	IRR(25 acres)	1 well – Dakota	wi, lf, 8 special
9024-3	Gerad or Roger Puterbaugh	Cavour	BD	5.0 cfs	IRR(320 acres)	2 wells – Floyd: East James	wi, wcr, iq, 1 special
9025-3	City of Lake Norden	Lake Norden	HM	310 AF	MUN	3 wells – Prairie Coteau	wi, wcr, 2 special
9026-3	Boadwine Farms, Inc.	Sioux Falls	MA	146.6 AF	COM	1 well – Big Sioux: Middle Skunk Creek	wi, wcr, 3 special
9027-3	FermentationExperts	Sioux Falls	MA	46 AF	IND	1 well – Big Sioux: Southern Skunk Creek	wi, 2 special
9028-3	Dakota Deere Farms LLC	Beresford	UN	1.78 cfs	IRR(187 acres)	1 well – Brule Creek	wi, wcr, iq
9029-3	Craig Vanderlei	Springfield	BH	1.45 cfs	IRR(120 acres)	1 well – Niobrara	wi, wcr, iq

(continued)

Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
524-3	City of De Smet	De Smet	KG	625 AF	MUN	Vermillion East Fork	1 special
558A-3	City of Castlewood	Castlewood	HM	123 AF	MUN	Big Sioux: Brookings	2 special
1407-2	City of Custer	Custer	CU	434 AF	MUN	Precambrian Rock	1 special
5358-3	TM Rural Water District	Parker	TU	530 AF	RWS	Upper Vermillion Missouri	2 special
6988-3	Joint Well Field	Toronto	BG	875 AF	RWS	Big Sioux: Brookings	4 special
6988A-3							
6899B-3							
8400-3	City of Harrisburg	Harrisburg	LN	550 AF	MUN	Dakota	3 special