



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 25, 2026

Water Management Board Members:

Enclosed is the agenda for the Water Management Board Meeting, to be held on **Wednesday, October 7, 2026**. The meeting will begin at **9:30 AM** (Central Time), in the Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501.

NOTE: Regarding participation in this meeting, there is a contested case, therefore you are urged to participate in person; however, remote participation, as always, is allowed. Be advised that Board members participating remotely and unable to view witnesses and exhibits can participate in these hearings, but voting may NOT be advisable. If you do plan to come to Pierre, please be sure to let Brenda know for the purpose of making your room reservations.

Enclosed for this Board meeting:

- Agenda
- Draft Minutes from July 8, 2026, Board meeting
- List of unopposed new water permit applications (issued or to be issued) based on the Chief Engineer's recommendation
- Future Use Permit review list, recommendations, correspondence from permit holders, and affidavits of publication
- Cancellation list, notices, and recommendations
- Consider Future Use Permit Application No. 9030-3, Mid Dakota Rural Water System
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
- Consider Water Permit Application No. 9039-3, Frank Kralicek Jr.
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
- Consider Addition of Qualification No. 4 to Water Permit No. 2907-2, Brad & Marleen Pisha
 - Notice of Hearing
- Consider Water Permit Application No. 9008-3, Brian Gilbert
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
 - Petition
 - Notice of Hearing

- Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8990-3, City of Milbank
 - Proposed FOF & COL
- Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8982-3, Century Swine
 - Proposed FOF & COL
- Annual Review of Open Meeting Laws in Accordance with SDCL 1-25-1
 - Open Meetings Laws Brochure

While in-person attendance is strongly encouraged, if necessary, you can connect remotely to the Board meeting, using either of the two options provided below.

Option 1: Audio/Visual via Microsoft Teams. To be seen and heard requires a device equipped with a camera, microphone, and internet connection. No software installation is necessary. The recommended web browsers are Google Chrome or Microsoft Edge.

To participate, start the browser and navigate to **<https://www.microsoft.com/microsoft-teams/join-a-meeting>**.

When prompted, enter the following to join the meeting:

Meeting ID: **230 243 266 221 557**

Passcode: **UP3nU6er**

(You will also be provided a link via email that you can simply click to join the meeting.)

Option 2: Connect via audio only. Call 605-679-7263 and enter 234 376 445#

It is recommended that you join the meeting a few minutes prior to the agenda's start time to ensure you can get connected. You may connect as early as 9:15AM (Central Time).

Please contact either Brenda Binegar (brenda.binegar@state.sd.us) or myself (amanda.dewell@state.sd.us) if you are unable to participate in the meeting.

Sincerely,



Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

cc: Legislative Oversight Committee Members
David McVey, AG's Office
Emily Greco, AG's Office
Brenda Binegar, DANR
Bill Orr, SDPB

enclosures



DANR
SOUTH DAKOTA

WATER MANAGEMENT BOARD
Meeting on October 7, 2026

Floyd Matthew Training Center
Joe Foss Bldg., 523 E Capitol Ave, Pierre SD

Any person(s) interested in speaking during the public comment period via remote connection can learn how at <https://boardsandcommissions.sd.gov> on the Water Management Board page.

Scheduled times are based on Central Time and are estimated start times.

Agenda items may be delayed due to prior scheduled items.

Live audio of the meeting is available at <https://www.sd.net>

October 7, 2026

9:30AM Call to Order

Roll Call

Adopt Final Agenda

Conflicts, Disclosures, and Requests for State Board Waivers

Adopt July 8, 2026, Board Minutes

Set March 3-4, 2026 Meeting Dates and Location
(December 2-3, 2026 set)

Public comment period in accordance with SDCL 1-25-1

Update on DANR Activities

Status and Review of Water Rights Litigation

Administer Oath to Department of Agriculture and Natural Resources Staff

9:45AM Seven-Year Review of Future Use Permits – Amanda Dewell

Cancellation Considerations – Amanda Dewell

10:00AM Consider Future Use Permit Application No. 9030-3, Mid-Dakota Rural Water System – Nakaila Steen

10:30AM Consider Water Permit Application No. 9039-3, Frank Kralicek Jr. – Adam Mathiowetz

11:00AM Consider Addition of Qualification No. 4 to Permit No. 2907-2, Brad & Marlene Pisha – Amanda Dewell

11:15AM Consider Water Permit Application No. 9008-3, Brian Gilbert – Kim Drennon

WATER MANAGEMENT BOARD

Meeting on October 7, 2026

11:35AM Consider Finding of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8990-3, City of Milbank

11:45AM Consider Finding of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8982-3, Century Swine

11:55AM Annual Review of Open Meeting Laws in Accordance with SDCL 1-25-13 – David McVey

LUNCH

Continue any prior agenda items not yet completed.

ADJOURN

Board members are reminded they are subject to SDCL 3–23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

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 as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

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

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 Codrington 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

WATER MANAGEMENT BOARD MEETING

October 7, 2026

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

Unopposed New Water Permit Application Issued Based on the Chief Engineer's Recommendation

No.	Applicant(s)	Address	County	Amount	Use	Source	Qualifications
FC39-3	Upper Minnesota River Watershed District	Ortonville MN	GT		Flood Control	Whetstone River Minnesota River	wi, 6 special
2050-1	Venekamps LLC	Rapid City SD	MD	58.6 AF	WDS	1 well – INKR	wi, 4 special
2879A-2	Weinreis Brothers	Edgemont SD	FR	0.50 cfs	IRR 75 ac	1 well – MDSN	wi, wcr, iq, 1 special
2906-2	Black Hills Electric Coop	Custer SD	CU	30 AF	COM	1 well – INKR	wi, 3 special
2907-2	Brad & Marlene Pisha	Tuthill SD	BT	2.0 cfs	IRR 270 ac	2 wells – OGLL	wi, wcr, iq
2909-2	Weinreis Brothers	Edgemont SD	FR	275 AF	COM	1 well – MDSN	wi, wcr, 6 special
2910-2	Ridgeview Water System	Oral SD	PE	2.3 AF	RWS WDS	1 well – INKR	wi, 4 special
4817A-3	South Lincoln RWS	Beresford SD	LN	No Add'l	RWS	1 well - DKOT	5 special
8996-3	Wayne or Scott Binger	Tulare SD	SP	2.0 cfs	IRR 140 ac	2 wells – T:WSH	wi, wcr, iq
8997-3	Wayne or Scott Binger	Tulare SD	SP	2.0 cfs	IRR 140 ac	2 wells – T:WSH	wi, wcr, iq
8998-3	Terry McClain	Hitchcock SD	SP	2.0 cfs	IRR 180 ac	1 well – T:WSH	wi, wcr, iq
9000-3	Matthew Van Buskirk	Hitchcock SD	BD	1.78 cfs	IRR 136 ac	1 well – T:WSH	wi, wcr, iq
9001-3	Matthew Van Buskirk	Hitchcock SD	SP	1.78 cfs	IRR 136 ac	1 well – T:WSH	wi, wcr, iq
9002-3	Matthew Van Buskirk	Hitchcock SD	SP	1.78 cfs	IRR 136 ac	1 well – T:WSH	wi, wcr, iq
9003-3	Matthew Van Buskirk	Hitchcock SD	SP	3.56 cfs	IRR 272 ac	2 wells – T:WSH	wi, wcr, iq
9004-3	Matthew Van Buskirk	Hitchcock SD	BD	1.78 cfs	IRR 136 ac	1 well – T:WSH	wi, wcr, iq
9005-3	Matthew Van Buskirk	Hitchcock SD	BD	1.78 cfs	IRR 136 ac	1 well – T:WSH	wi, wcr, iq

9006-3	Timothy Masat	Redfield SD	SP	1.78 cfs	IRR 204 ac	2 wells – T:WSH	wi, wcr, iq
9007-3	Jon Gilbert	Hitchcock SD	SP	3.56 cfs	IRR 280 ac	2 wells – T:WSH	wi, wcr, iq
9010-3	Lenny Peterson	Hitchcock SD	SP	1.78 cfs	IRR 280 ac	2 wells – T:WSH	wi, wcr, iq
9011-3	Lenny Peterson	Hitchcock SD	SP	1.78 cfs	IRR 160 ac	1 well – T:WSH	wi, wcr, iq
9032-3	Wilbur Ellis	Tulare SD	SP	3 AF	COM	1 well – DKOT	wi, 3 special
9033-3	Joseph Hardin	Brookings SD	BG	0.56 cfs	IRR 50 ac	1 well – BS:A	wi, wcr, iq
9034-3	Richard & Konny Lacey	Brandon SD	CA	No Add'l	IRR 135 ac	1 well – G	wi, wcr, iq
9035-3	James or Angela Czech	Watertown SD	HM	1.78 cfs	IRR 152 ac	Big Sioux River	lf, iq, 3 special
9037-3	Hoffman Farms	Bowdle SD	WL	1.78 cfs	IRR 140 ac	1 well – B:E	wi, wcr, iq, 1 special
9040-3	Freeman School Dist.	Freeman SD	HT	0.111 cfs	IRR 6 acres	1 well – NBRR	wi, wcr, iq
9043-3	Great Bend, LLC.	Pipestone SD	MN	86 AF	COM	3 wells – DKOT	wi, wcr, 5 special
9045-3	Grey Zabel	Pierre SD	WL	2.00 cfs	IRR 159 ac	1 well – S	wi, wcr, iq

WATER MANAGEMENT BOARD MEETING

OCTOBER 7, 2026

Future Use Reviews

No.	Permit Holder	Address	County	Volume Remaining in Reserve	Use	Source
512-2	City of Hot Springs	Hot Springs SD	FR	1,846 AF	MUN	ALQ
1492-2	City of Rapid City	Rapid City SD	ST	28,880 AF	MUN	Missouri River
7393-3	Lincoln Pipestone Rural Water	Lake Benton MN	MN	614 AF	Future	BS: A



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 15, 2026

City of Hot Springs
c/o Tracy Bastian
303 N River Street
Hot Springs SD 57747

Dear Mr. Bastian:

I am writing in regard to the seven-year review of Future Use Water Permit No. 512-2 from the Alluvium along the Fall River held by the City of Hot Springs. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 1,846 acre-feet remain in reserve under this future use permit that was issued in 1959 and last reviewed in 2019.

Please respond in writing by August 20, 2026, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 512-2 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 1,846 acre-feet remain in reserve, the fee will be \$215.00.

Please contact Amanda Dewell or me, if you have any questions.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352
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

August 24, 2026

City of Hot Springs
c/o Tracy Bastian
303 N River Street
Hot Springs SD 57747

Dear Mr. Bastian,

On July 15, 2026, we notified you that Future Use Water Permit No. 512-2 held by the City of Hot Springs was to be scheduled for review by the Water Management Board. To date, we have not received a response from you.

The future use permit was obtained by the city in 1959 to reserve water for future development. By state law, these permits are subject to review every seven years. Enclosed is a copy of the July letter. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

The Water Management Board will not schedule Permit No. 512-2 for review until the above information has been submitted.

Please contact Adam Dewell or me if you have any questions.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352
rachel.rodriquez@state.sd.us

enclosure

RECEIVED

AUG 24 2026

OFFICE OF
WATER

City of Hot Springs

303 North River Street

Hot Springs, South Dakota 57747

Tracy Bastian, P.E.
Public Works Engineer/ Utilities Director

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

Re: Review of Future Use Water Permit No. 512-2

Dear Ms. Rodriguez,

The City of Hot Springs has experienced a steady increase in home building over the past seven years. A new housing development is currently being built adjacent to the hospital. Previously undeveloped lots are being built on and lots that are not currently served by a water main have generated interest among potential property developers to install water main extensions. We have seen many new structures built in the rural areas on the edge of our city and expect this trend to continue. Many of these rural residents purchase water from our bulk water sales facility. Furthermore there is anticipated expansion of rural water extending southwest of Hot Springs. The City of Hot Springs would be a likely supplier to this expansion.

Given the growth dynamics that we are experiencing locally as well as the overall growth in the Black Hills region, it is prudent for the City of Hot Springs to maintain the ability through future use permits to respond to increasing demand for water. We expect to install additional pumping and storage capacity within the next five years to adequately meet this increasing demand.

The past three years show a relatively substantial increase in total pumping as compared to the sampling period for our last renewal. In the last renewal phase we had a three year pumping of approximately 748,000,000 gallons and this renewal phase indicates approximately 907,000,000 gallons. This represents an approximate increase of 21%.

Total water pumping for the past three years are as follows:

2023	271,271,000 Gallons
2024	329,191,000 Gallons
2025	306,453,000 Gallons

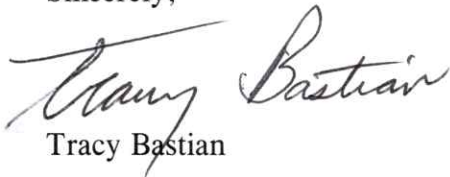
RECEIVED

AUG 24 2026

OFFICE OF
WATER

Please advise if any additional information is needed for the review.

Sincerely,


Tracy Bastian

AFFIDAVIT OF PUBLICATION

Tracy Bastian

State of New Jersey, County of Camden, ss:

I, Anjana Bhadoriya, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher 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.

Publication Dates:

- Sep 10, 2026

NOTICE ID: Lda0HDtqWEdxqig3INEa

NOTICE NAME: 512-2 City of Hot Springs

TOTAL AD COST: \$126.19

Anjana Bhadoriya

Agent

VERIFICATION

State of New Jersey
County of Camden

Signed or attested before me on this: 09/16/2026



Notary Public

Notarized remotely online using communication technology via Proof.

SHARONN E THOMAS-POPE
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires January 23, 2027

RECEIVED
SEP 22 2026
Water Rights
Program

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 512-2

Notice is given that the Water Management Board will review Future Use Permit No. 512-2 held by the City of Hot Springs, 303 North River Street, Hot Springs SD 57747 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 512-2. This permit was approved in 1959 and currently reserves 1,846 acre-feet of water from the alluvium along the Fall River located in NW 1/4 SW 1/4 SE 1/4 Section 10 and SE 1/4 NE 1/4 Section 14; all in T7S-R5E for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 512-2 REMAIN in EFFECT for 1,846 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 Chief Engineer's recommendation with qualifications is 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 conduct the hearing to review Future Use Permit No. 512-2 on October 7, 2026, at 9:45 AM (Central Time), 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 permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit 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 permit, 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 permit 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 permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by September 21, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, 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 No. 512-2 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 permit 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 permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 21, 2026.

Any interested person may file a comment on the future use permit 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 September 21, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 September 21, 2026. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engi-

neer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

(Published September 10, 2026 for a total approximate cost of \$126.19 and may be viewed for free at www.sdpublicnotices.com)
Legal No: COL-SD-5459

RECEIVED
SEP 22 2026
Water Rights
Program

Affidavit of Publication

State of South Dakota

County of Fall River

Taylor Risse, being, first duly sworn, on oath, says: That he/she is an employee of Scherer Publishing, LLC, and that the Fall River County Herald Star is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Fall River and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

September 10, 2026

That the full amount of the fee charged for the publication of the attached public notice, **\$78.75** insures to the sole benefit of the publisher or publishers; 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:

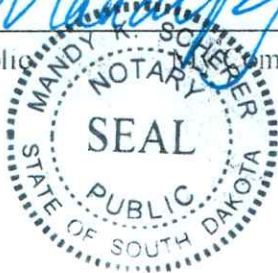
Signed: _____

Taylor Risse

Subscribed and sworn to before me this 10 day of September, 2026.

Mandy K. Scherer

Notary Public _____ Commission Expires December 9, 2027





**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
NO. 512-2, City of Hot Springs**

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 Future Use Water Permit No. 512-2, City of Hot Springs, 303 N River Street, Hot Springs SD 57747.

The Chief Engineer is recommending that Future Use Permit No. 512-2 REMAIN in EFFECT for 1,846 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 512-2, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 512-2, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 512-2 is subject to payment of the \$ 215.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
August 28, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 15, 2026

City of Rapid City
c/o Mike Theis
306 6th Street
Rapid City SD 57701

Dear Mr. Theis:

I am writing in regard to the seven-year review of Future Use Water Permit No. 1492-2 from the Missouri River held by Rapid City. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 28,880 acre-feet remain in reserve under this future use permit that was issued in 1977 and last reviewed in 2019.

Please respond in writing by August 20, 2026, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 1492-2 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 28,880 acre-feet remain in reserve, the fee will be \$2,465.00.

Please contact Amanda Dewell or me, if you have any questions.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352
rachel.rodriguez@state.sd.us

AUG 03 2026

OFFICE OF
WATER

Public Works Department

Administration

300 6th Street Rapid City, SD 57701-5035

Telephone: (605) 394-4165

www.rcgov.org

July 24, 2026

Department of Environment and Natural Resources

Water Rights Program

Attn: Rachel Rodriguez

Joe Foss Building

523 East Capitol

Pierre, SD 57501-3182

Ref: Future Use Water Permit No. 1492-2 from Missouri River held by City of Rapid City, SD

Dear Water Rights Program:

This letter is in response to your letter dated July 15, 2026 regarding Rapid City's Future Use Water Permit No. 1492-2 for Missouri River water. It is the City of Rapid City's intent to retain this water permit for future water needs.

Attached for your review is data from our master planning documents. The figures illustrate anticipated steady growth in both population and water demand. The City's population growth rate from 2023-2025 averaged 2.57%. 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. Future use permits are an important tool for our water system's long term planning, and we would appreciate the boards approval in renewing this permit for another seven (7) years.

If you have questions or need additional information concerning this request please contact me at 605-394-4165.

Sincerely,

Mike Theis
Public Works Director

Cc: Eric Boyda, Water Superintendent
Brandon Quiett, Engineer IV

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**OFFICE OF
WATER**

Attachments:

- 2024 End of Year Population Projection
- Water Utility System Master Plan Update 2024
 - Figure 2-6 Rapid City Historical and Projected Population
 - Figure 2-18 Historical and Future Average Day, Maximum Day, and Maximum Hour Demand Projection.



Department of Community Development

300 6th Street, Rapid City, SD 57701

(605) 394-4120 | www.rcgov.org | cpweb@rcgov.org

Kelly Brennan, Long Range Planner III
Department of Community Development
Long Range Planning

Phone: (605) 394-4120 ext. 2337
Email: kelly.brennan@rcgov.org

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AUG 03 2026

OFFICE OF
WATER

MEMORANDUM

TO: Legal & Finance Committee

FROM: Kelly Brennan, Long Range Planner III

DATE: March 18, 2026

RE: **26TP015 – Rapid City Year End 2025 Population Estimate**

Every year the Long Range Planning Division prepares a population estimate for Rapid City using a methodology approved by the United States Census Bureau. These estimates are based on approved building permits, housing demolitions, the 2020 Census occupancy rate and the 2020 Census persons per household rate for Rapid City and Pennington County. The 2025 year end Rapid City population estimate is 86,484. This is a 1.83% increase from 2024. In Comparison, the previous three years percent increase were:

- 2024 – 3.05%
- 2023 – 2.24%
- 2022 – 3.14%

STAFF RECOMMENDATION: Staff recommends approval of the Rapid City Year End 2025 Population Estimate.

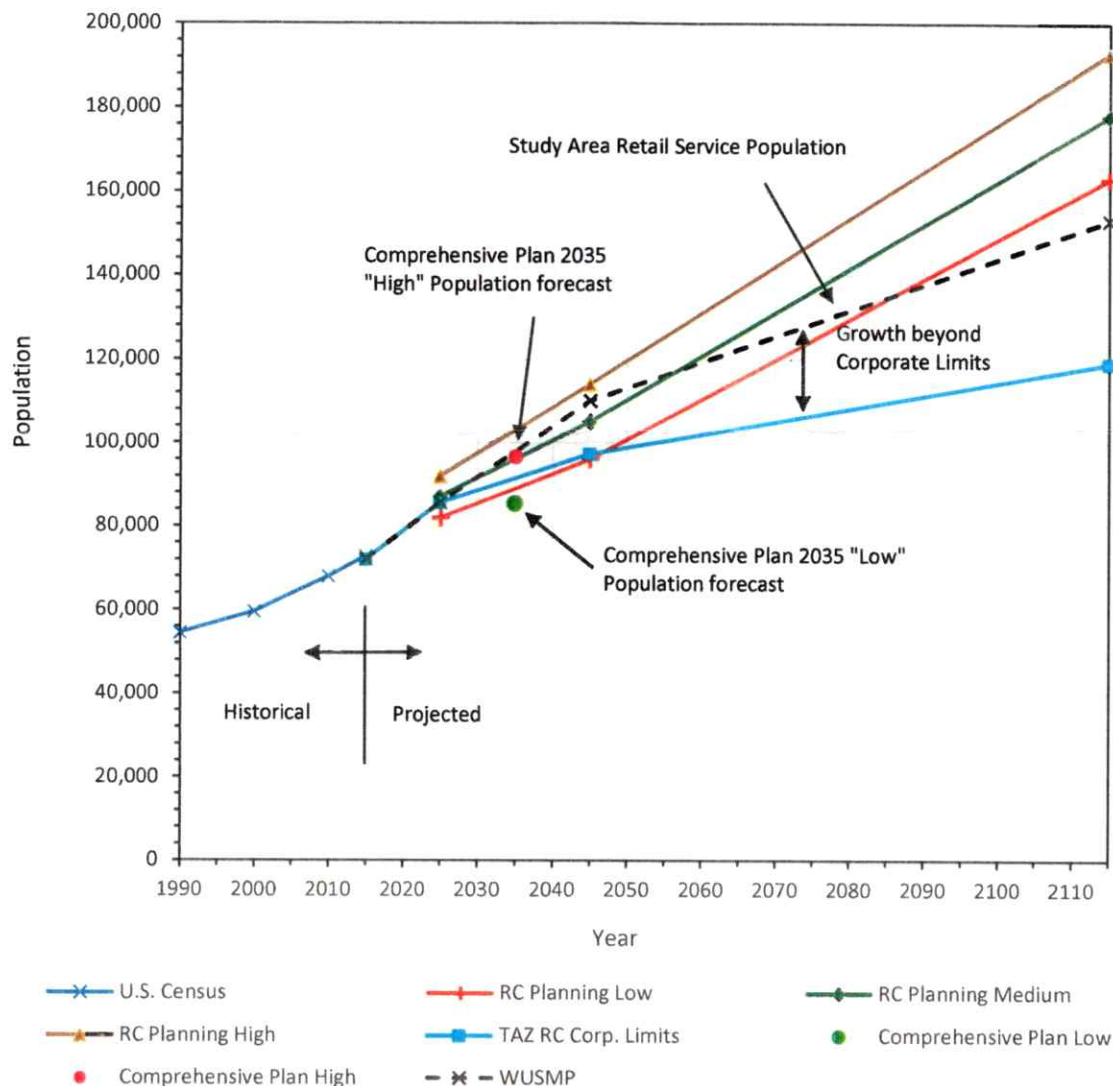


Figure 2-6 Rapid City Historical and Projected Population

A review of population information in Table 2-3 and Figure 2-6 is summarized as follows:

- Figure 2-6 illustrates that population growth will occur both inside the Rapid City 2025 Corporate Limit Expansion (cyan color line) and outside of that boundary line (black dashed line). The gap between the two lines represents the population growth that will occur outside to the Rapid City 2025 Corporate Limit Expansion and up to the USB service area boundary for 2045 and the Tier 1 service area boundary for 2115.
- The Rapid City TAZ based 2015 population is 71,988 which is close to and a good match with the 2015 U.S. Census population estimate of 72,817.

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WATER

City of Rapid City, South Dakota | Water Utility System Master Plan Update

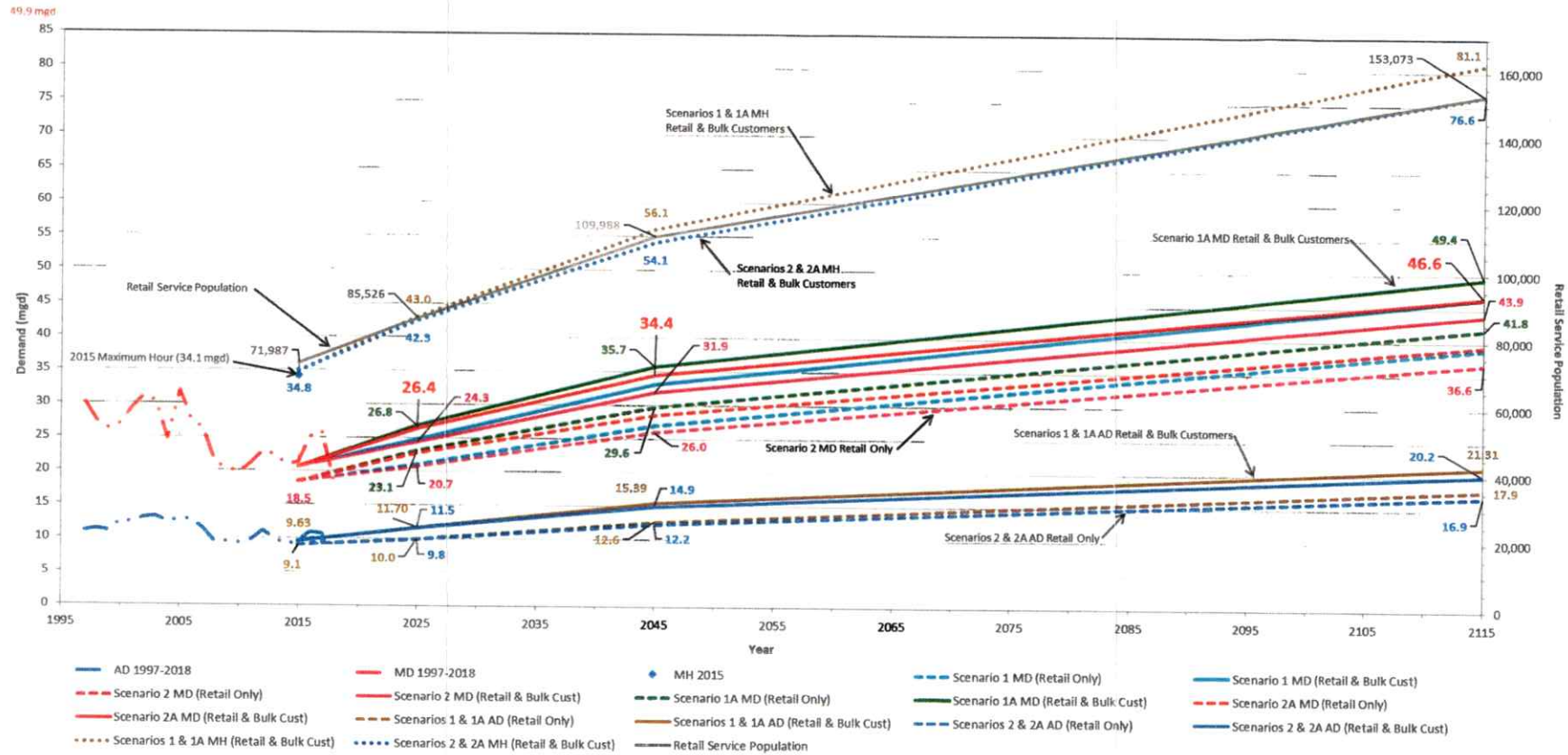


Figure 2-18 Historical and Future Average Day, Maximum Day, and Maximum Hour Demand Projections (Demand Scenarios)

AFFIDAVIT OF PUBLICATION

State of Florida, County of Broward, ss:

Anjana Bhadoriya, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Capital Journal, a newspaper printed and published in the City of Pierre, County of Hughes, State of South Dakota; that he/she has full and personal knowledge of the facts herein stated, that said newspaper is legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal display advertisement headed 1492-2 Water Rights a printed copy of which, taken from the paper in which the same was published, and which is here to attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

Aug. 20, 2026

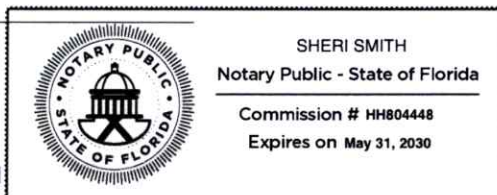
That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomever; that the fees charged for the publication thereof are: 65.73

Anjana Bhadoriya

(Signed) _____

VERIFICATION

State of Florida
County of Broward



Subscribed in my presence and sworn to before me on this: 08/21/2026

S. Smith

Notary Public

Notarized remotely online using communication technology via Proof.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1492-2

Notice is given that the Water Management Board will review Future Use Permit No. 1492-2 held by the City of Rapid City, Mike Theis, Public Works Director, 300 6 th Street, Rapid City SD 57701 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1492-2 . This permit was approved 1977 and currently reserves 28,880 acre-feet from the Missouri River between the Oahe Dam and the mouth of the Cheyenne River for municipal use by the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1492-2 REMAIN in EFFECT for 28,880 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 Chief Engineer's recommendation with qualifications is 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 conduct the hearing to review Future Use Permit No. 1492-2 on October 7, 2026, at 9:45 AM (Central Time) , 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 permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit 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 permit, 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 con-

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Water Rights
Program

cerning 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 permit 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 permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by August 31, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, 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 No. 1492-2 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 permit 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 permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by August 31, 2026.

Any interested person may file a comment on the future use permit 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 August 31, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 August 31, 2026. However, since this particular matter is a future use permit 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 at the total approximate cost of \$65.73 and may be viewed for free of charge at www.sdpublicnotices.com (Aug. 20, 2026)

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AFFIDAVIT OF PUBLICATION

City of Rapid City
300 6th Street
RAPID CITY South Dakota 57701

State of Florida, County of Broward, ss:

I, Anjana Bhadoriya, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher 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.

Publication Dates:

- Aug 20, 2026

NOTICE ID: MIYE1pxUSclJuM6hmrxo

NOTICE NAME: 1492-2 Water Rights

TOTAL AD COST: \$125.60

Anjana Bhadoriya

Agent

VERIFICATION

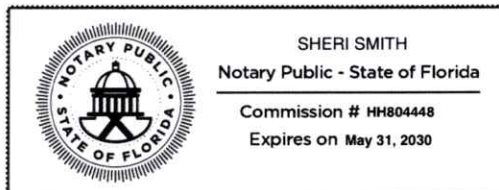
State of Florida
County of Broward

Signed or attested before me on this: 08/26/2026



Notary Public

Notarized remotely online using communication technology via Proof.



NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1492-2

Notice is given that the Water Management Board will review Future Use Permit No. 1492-2 held by the City of Rapid City, Mike Theis, Public Works Director, 300 6th Street, Rapid City SD 57701 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1492-2. This permit was approved 1977 and currently reserves 28,880 acre-feet from the Missouri River between the Oahe Dam and the mouth of the Cheyenne River for municipal use by the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1492-2 REMAIN in EFFECT for 28,880 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1492-2 on October 7, 2026, at 9:45 AM (Central Time) . 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 permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit 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 permit, 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 permit 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.

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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 permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by August 31, 2026.

must be conducted by the Board.

(Published August 20, 2026 for a total approximate cost of \$125.60 and may be viewed for free at www.sdpublicnotices.com)
Legal No: COL-SD-5352

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, 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 No. 1492-2 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 permit 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 permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by August 31, 2026.

Any interested person may file a comment on the future use permit 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 August 31, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 August 31, 2026. However, since this particular matter is a future use permit 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

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**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
NO. 1492-2, City of Rapid City SD**

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 Future Use Water Permit No. 1492-2, City of Rapid City, Mike Theis, Public Works Director, 300 6th Street, Rapid City SD 57701.

The Acting Chief Engineer is recommending that Future Use Permit No. 1492-2 REMAIN in EFFECT for 28,880 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1492-2, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1492-2, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1492-2 is subject to payment of the \$ 2,465.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
August 10, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 15, 2026

Lincoln Pipestone Rural Water
c/o Jason Overby, Manager
1893 Co Rd 124
Lake Benton MN 56149

Dear Mr. Overby:

I am writing in regard to the seven-year review of Future Use Water Permit No. 7393-3 from the Big Sioux: Aurora held by Lincoln Pipestone Rural Water. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 614 acre-feet remain in reserve under this future use permit that was issued in 2012 and last reviewed in 2019.

Please respond in writing by August 20, 2026, regarding the system's intention for the future use permit. If the system plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 7393-3 will then be public noticed at the system's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 614 acre-feet remain in reserve, the fee will be \$115.00.

Please contact Amanda Dewell or me, if you have any questions.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352
rachel.rodriguez@state.sd.us

Rodriguez, Rachel

From: Jason Overby <jasonoverby@LPRW.com>
Sent: Wednesday, August 12, 2026 8:56 AM
To: Rodriguez, Rachel
Cc: Darin Schriever (darin.schriever@dgr.com); Lance Wheeler
Subject: [EXT] Lincoln-Pipestone RWS Request for Renewal of Future Use Water Permit No 7393-3
Attachments: Request for Permit 7393-3 Renewal Letter_2026.pdf

Rachel,

Please find attached Lincoln-Pipestone Rural Water System's letter of request for renewal of SD Future Use Water Permit No. 7393-3. If you have any questions, please contact me at your earliest convenience.

Thank you,

Jason Overby

General Manager



1893 Co Rd 124

Lake Benton, MN 56149

507-368-4248

JasonOverby@lprw.com

Our Mission: *"Meeting the water needs of communities and farms in rural Minnesota with a focus on sustainability, innovation, and service excellence."*



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Program

August 12, 2026

Rachel Rodriguez
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RE: LPRW Request for Renewal of Future Use Water Permit No. 7393-3.

Dear Rachel Rodriguez,

Lincoln-Pipestone Rural Water System (LPRW) respectfully requests renewal of Future Use Water Permit No. 7393-3 for the Big Sioux–Aurora Aquifer. The permit is currently reserved for and held by LPRW.

Over the past several years, LPRW has experienced continued growth in water demand within its Verdi Service Area, which is supplied under its existing South Dakota permit. The number of accounts in this service area continues to increase, with strong interest from both rural and municipal customers. Demand from existing customers is also rising. As shown in the table below, production from LPRW's existing public water supply wells under Permit No. 7392-3 has reached, often surpassing the permit's maximum allowable limit.

Year:	Total Annual Pumping	
	Gallons	Acre-feet
2020	200,546,000	615.46
2021	200,526,000	615.39
2022	194,744,000	597.65
2023	200,036,000	613.89
2024	193,632,000	594.24
2025	221,148,000	678.63

Annual pumping remained near the allowable limit from 2020 through 2024 and increased to 221,148,000 gallons, or 678.63 acre-feet, in 2025. This production history demonstrates sustained demand and the need to preserve future supply capacity through renewal of Permit No. 7393-3.



LPRW has completed wellfield improvements and constructed a new pump station and two 500,000-gallon reservoirs, providing the production, storage, and delivery capacity needed to serve its distribution system.

The distribution area associated with this appropriation permit serves most of the central portion of LPRW's 10-county rural water system. In fall 2017, LPRW was required to discontinue use of the reverse-osmosis treatment process in its Holland Supply Area, reducing finished-water output from that source by 60% and limiting LPRW's ability to use the associated appropriations. Because the Verdi and Holland sources are adjacent and interconnected, retaining Future Use Water Permit No. 7393-3 is necessary to provide the redundancy and long-term supply reliability required by a public water system.

In light of continued customer growth and increasing demand in the Verdi Service Area, sustained production from the Verdi Wellfield, LPRW's completed and planned infrastructure improvements, and evolving source-water and operational needs, LPRW respectfully requests renewal of Future Use Water Permit No. 7393-3.

Please contact me if you have any questions or require additional information. Thank you for your consideration of this request.

Respectfully submitted,

Jason Overby

Jason Overby
General Manager
Lincoln-Pipestone Rural Water System

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CC: Darin Schriever, DGR Engineering

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SEP 23 2026

AFFIDAVIT OF PUBLICATION

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Exhibit "A"

State of South Dakota
ss
County of Brookings

Catherine Poole of said county, being duly sworn, deposes and says:
That she is the office clerk of The Brookings Register, a newspaper published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has personal knowledge of the facts herein stated; that said newspaper is a legal newspaper; that advertising for

Lincoln Pipestone Rural Water

was published in said newspaper; 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

01252392 Permit #7393-3

same was published, is hereto attached marked Exhibit "A", said newspaper for

1 time(s), to-wit

September 4, 2026

said that Exhibit "A" occupies:

24.46 column-inches of space in said publication;

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:

Seventy-three Dollars and Forty-one Cents \$73.41

Signed Catherine Poole

Subscribed and sworn to before me

this 22nd day of September, 2026

Notary Public in and for the County of Brookings, South Dakota
My Commission expires:

12/18/31



01252392 1X
9/4

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 7393-3

Notice is given that the Water Management Board will review Future Use Permit No. 7393-3 held by Lincoln Pipestone Rural Water, 1893 Co Road 124, Lake Benton, MN 56149, for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 7393-3. This permit was approved 2012 and currently reserves 614 acre-feet of water from the Big Sioux: Aurora Aquifer located in the N 1/2 Section 34-T109N-R47W for rural water system use serving users in Lincoln, Lyon, Murray and Pipestone Counties in Minnesota (Pursuant to SDCL 46-1-13). Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 7393-3 REMAIN in EFFECT for 614 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below. The Water Management Board will conduct the hearing to review Future Use Permit No. 7393-3 on October 7, 2026, at 9:45 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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The Enclosures Register makes every effort to avoid errors. Please call the publisher immediately if there is an error. We can only be held responsible for the information contained in this publication.

LEGALS

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9/4

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 7393-3

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Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 7393-3 REMAIN in EFFECT for 614 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below. The Water Management Board will conduct the hearing to review Future Use Permit No. 7393-3 on October 7, 2026, at 9:45 AM (Central Time), Floyd Matthews 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 permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit 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 permit, 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 permit 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 permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by September 14, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, 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 No. 7393-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-3-38, 1; Board Rules ARSD 74:02:01, 25.04 thru 74:02:01, 25.03; and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit 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 permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 14, 2026.

Any interested person may file a comment on the future use permit 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 September 14, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 September 14, 2026. However, since this particular matter is a future use permit 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 total approximate cost of \$73.41 and may be viewed free of charge at www.sdpublicnotices.com.

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SEP 23 2026

Water Rights
Program

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Water Rights Program
Rachel Rodriguez
Water Rights Program
523 E Capitol Ave
Pierre SD 57501

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SEP 21 2026

**OFFICE OF
WATER**

STATE OF WISCONSIN, COUNTY OF BROWN

The Argus Leader, a daily newspaper published in the city of Sioux Falls, Minnehaha County, State of South Dakota, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue:

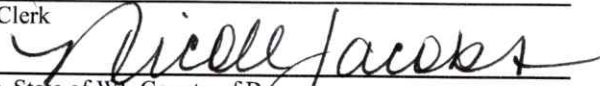
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and that the fees charged are legal.

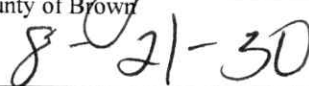
Sworn to and subscribed before on 09/04/2026



Legal Clerk



Notary, State of WI, County of Brown



My commission expires

Publication Cost: \$88.00

Tax Amount: \$0.00

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NICOLE JACOBS
Notary Public
State of Wisconsin

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO.
7393-3**

Notice is given that the Water Management Board will review Future Use Permit No. 7393-3 held by Lincoln Pipestone Rural Water, 1893 Co Road 124, Lake Benton MN 56149, for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 7393-3. This permit was approved 2012 and currently reserves 614 acre-feet of water from the Big Sioux: Aurora Aquifer located in the N 1/2 Section 34-T109N-R47W for rural water system use serving users in Lincoln, Lyon, Murray and Pipestone Counties in Minnesota (Pursuant to SDCL 46-1-13).

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 7393-3 REMAIN in EFFECT for 614 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 Chief Engineer's recommendation with qualifications is available at

<https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 7393-3 on October 7, 2026, at 9:45 AM (Central Time), 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 permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit 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 permit, 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

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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 permit 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 permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by September 14, 2026. The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, 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 No. 7393-3 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 permit 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 permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 14, 2026. Any interested person may file a comment on the future use permit 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

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**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
NO. 7393-3, Lincoln Pipestone Rural Water**

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 Future Use Water Permit No. 7393-3, Lincoln Pipestone Rural Water, 1893 Co Road 124, Lake Benton MN 56149.

The Chief Engineer is recommending that Future Use Permit No. 7393-3 REMAIN in EFFECT for 614 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 7393-3, 2) the system has demonstrated a reasonable need for the water reserved by Permit No. 7393-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 7393-3 is subject to payment of the \$ 115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the 60 after the Board hearing.

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
August 21, 2026

CANCELLATIONS – October 7, 2026

Number RT/PE	Previous Owner	Present Owner(s) & Other Persons Notified	County	Amount cfs/ac/ac-ft	Use	Reason	Source	Date Notified
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DIVISION II

RT 293-2		GCC Dacotah Inc (dba Dacotah Cement)	CU	0.61 cfs 43.1 ac	IRR	A/F	Beaver Creek	09/04/2026
RT 294-2		GCC Dacotah Inc (dba Dacotah Cement)	CU	14.8 cfs 35 ac	IRR	A/F	Beaver Creek	09/04/2026
RT 881-2		Ryan Edwards	MT	2.19 cfs 152.3 ac	IRR	A/F	White River	09/04/2026
RT 950-2		Malon Burtz	TR	2.04 cfs 143.38 ac	IRR	A/F	White River	09/04/2026
RT 2130-2		Sandee & Tom Yordy	BT	0.43 cfs 30 ac	IRR	A	Dam (48 ac-ft)	09/04/2026
RT 2370-2	Mike Sweet	KW Holdings LLC c/o Kory Weisbeck	PE	0.133 cfs	COM	A	MNLS Aq	09/04/226
PE 2800-2	Moreland Farms Inc	Janice Tetherow	TD	1.89 cfs 132 ac	IRR	NC	ARKR Aq	09/04/2026

DIVISION III

RT 2482-3		Allen Walth	WL	1.8 cfs 126 ac	IRR	A/F	Missouri River	09/04/2026
RT 5577-3		Curtis Foster	ML	1.0 cfs 70 ac	IRR	A/F	Dam (260 ac-ft)	09/04/2026
RT 5579-3		Nels J Sorenson c/o Grant Sorenson	CL	1.0 cfs 70 ac	IRR	A/F	Missouri River	09/04/2026
PE 6363-3		Hillside Colony c/o Timothy Glanzer	SP	0.44 cfs 10 ac	IRR	A/F	Foster Creek	09/04/2026
PE 6468-3		City of Alpena c/o Finance Officer	JE	0.22 cfs	MUN	A/F	DKOT Aq	09/04/2026
PE 6692-3		Hillside Colony c/o Timothy Glanzer	SP	10 ac	IRR	A/F	Foster Creek	09/04/2026
PE 6789-3		Allen & Rebecca Walth	WL	3.71 cfs 262 ac	IRR	NC	Missouri River	09/04/2026
PE 7429-3		Sorensen Family Farm LLC c/o Grant Sorensen	CL	1.78 cfs 40.66 ac	IRR	A/F	Missouri River	09/04/2026

ABBREVIATIONS

NC = NON-CONSTRUCTION

FU = FUTURE USE PERMIT

IRR = IRRIGATION

INS = INSTITUTIONAL

A/F = ABANDONMENT OR FORFEITURE

VR = VESTED WATER RIGHT

GEO = GEOTHERMAL

FWP = FISH & WILDLIFE PROPAGATION

A = ABANDONMENT

PE = WATER PERMIT

COM = COMMERCIAL

DOM = DOMESTIC

F = FORFEITURE

RT = WATER RIGHT

MUN = MUNICIPAL

IND = INDUSTRIAL

CANCELLATIONS – October 7, 2026

Number RT/PE	Previous Owner	Present Owner(s) & Other Persons Notified	County	Amount cfs/ac/ac-ft	Use	Reason	Source	Date Notified
PE 7846A-3		Marvin Czech	HM	1.33 cfs 120 ac	IRR	NC	BS:N Aq	09/04/2026
PE 8165-3	Todd Swenson	Silver Lake Colony c/o John Grosz	JE	5.33 cfs 460 ac	IRR	NC	BC Aq	09/04/2026
PE 8886-3		Pronghorn Land LLC c/o Brian Top	MP	98.7 ac-ft	REC FWP	A	Willow Creek Runoff	09/04/2026

ABBREVIATIONS				PAGE 2
NC = NON-CONSTRUCTION	A/F = ABANDONMENT OR FORFEITURE	A = ABANDONMENT	F = FORFEITURE	
FU = FUTURE USE PERMIT	VR = VESTED WATER RIGHT	PE = WATER PERMIT	RT = WATER RIGHT	
IRR = IRRIGATION	GEO = GEOTHERMAL	COM = COMMERCIAL	MUN = MUNICIPAL	
INS = INSTITUTIONAL	FWP = FISH & WILDLIFE PROPAGATION	DOM = DOMESTIC	IND = INDUSTRIAL	

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF CANCELLATION & RECOMMENDATION dated September 4, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on September 4, 2026.

WP No. 8165-3

Silver Lake Hutterian Brethren
c/o John Grosz
17354 430th Ave
Clark SD 57225

WP No. 6468-3

Town of Alpena
c/o Finance Officer
PO Box 75
Alpena SD 57312

WR Nos. 293-2 & 294-2

GCC Dacotah Inc
c/o Steve Zellmer
PO Box 360
Rapid City SD 57709

WR No. 5577-3

Curtis Foster
42430 116th St
Britton SD 57430

WR No. 881-2

Ryan Edwards
749 W 5th St
Winner SD 57580

WP No. 2800-2

Janice Tetherow
105 W 2nd St
Valentine NE 69201

WR No. 2482-3 & WP No. 6789-3

Allen & Becky Walth
13640 Walth Bay Rd
Glenham SD 57631

WP No. 7846A-3

Marvin Czech
45848 176th St
Watertown SD 57201

WR No. 950-2

Malon Burtz
30310 Pahapesto Buttes Rd
Winner SD 57580

WR No. 2370-2

KW Holding LLC
c/o Kory Weisbeck
2453 S Plaza Dr
Rapid City SD 57702

WR No. 5579-3

Nels J Sorensen
c/o Grant Sorensen
200 Mickelson Ave
Vermillion SD 57069

WP No. 7429-3

Sorensen Family Farm LLC
c/o Grant Sorensen
2903 Sorensen Ave
Vermillion SD 57069

WP Nos. 6363-3 & 6692-3

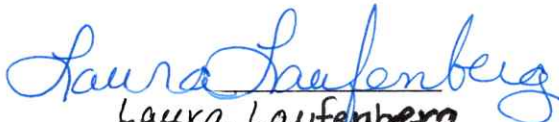
Hillside Colony
c/o Timothy Glanzer
18248 Hillside Ln
Doland SD 57436

WP No. 8886-3

Pronghorn Land LLC
c/o Brian Top
2132 32nd Ave
Brookings SD 57706

WR No. 2130-2

Sandee & Tom Yordy
21436 297th St
Martin SD 57551

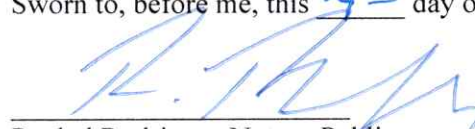

Laura Laufenberg
Senior Secretary

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 4th day of September, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 4, 2026

NOTICE OF CANCELLATION

TO: Hillside Colony, C/O Timothy Glanzer, 18248 Hillside Lane, Doland, SD 57436

FROM: Amanda Dewell, Permitting Administrator
SD DANR – Water Rights Program 

SUBJECT: Cancellation of Water Permit Nos. 6363-3 & 6692-3

Water Permit No. 6363-3, authorizes the diversion of 0.44 cubic feet of water per second from Foster Creek for irrigation of a 10-acre garden. Water Permit No. 6692-3 authorizes an additional 10 acres to what was authorized by Water Permit No. 6363-3. The gardens were to be located in portions of Sections 28 & 33; all in T115N-R60W. During a recent phone conversation with Water Rights Program staff, you confirmed that both above-mentioned permits could be cancelled since you are now irrigating from a well, with no intention of resuming use of Foster Creek for irrigation. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 6363-3 & 6692-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit Nos. 6363-3, 6692-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 6363-3, 6692-3, based upon facts presented at the public hearing. Our records show you to be the owner of the property covered by these water permits. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by **September 14, 2026**. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Permit Nos. 6363-3 & 6692-3

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by **September 14, 2026**.

Prior to **September 14, 2026**, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by **September 14, 2026**.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

RECOMMENDATION OF THE CHIEF ENGINEER

FOR WATER PERMIT NOS. 6363-3 & 6692-3, HILLSIDE COLONY

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Nos. 6363-3 & 6692-3.

Water Rights Program staff reached out and spoke with Mr. Glanzer regarding Water Permit Nos. 6363-3 and 6692-3. He stated that due to Foster Creek flooding and how dirty the water is, he is now using a well for irrigation. He agreed to the cancellation of both Permit Nos. 6363-3 & 6692-3 and has no intention of using Foster Creek for irrigation.

The Chief Engineer is recommending cancellation of the above water permits due to abandonment.

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD Department of Agriculture and Natural Resources
September 4, 2026

Note:

Cancellation of these water permits does not prohibit a new application for this project in the future.



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

September 4, 2026

NOTICE OF CANCELLATION

TO: Sorensen Family Farm LLC, C/O Grant Sorensen, 2903 Sorensen Ave, Vermillion,
SD 57069

FROM: Amanda Dewell, Permitting Administrator
SD DANR – Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7429-3

Water Permit No. 7429-3, held by Sorensen Family Farm LLC, authorizes the diversion of 1.78 cubic feet of water per second from the Missouri River for irrigation of 40.66 acres, located in portions of the W ½ Section 23-T32N-R4E, Clay County, South Dakota. A field inspection was conducted by Water Rights Program staff, in March of 2026, for the purpose of licensing a system on adjacent land (WR No. 8503-3). Based on a conversation between Water Rights staff and yourself, you stated that you do not intend to use the Missouri River as a source of irrigation and that you were agreeable to cancellation of this water permit. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7429-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Permit No. 7429-3 at **9:30 am, Wednesday, October 7th, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 7429-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation of Water Permit No. 7429-3, and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by **September 14, 2026**. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by **September 14, 2026**.

Prior to **September 14, 2026**, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by **September 14, 2026**.



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**RECOMMENDATION OF THE CHIEF ENGINEER
FOR WATER PERMIT NO. 7429-3, SORENSEN FAMILY FARM LLC**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 7429-3.

A field inspection was conducted by a Water Rights Program staff, in March of 2026, for the purpose of licensing a system that was on adjacent land (WR No. 8503-3). Staff spoke with Grant Sorensen who stated that he does not intend to use the Missouri River as a source of irrigation and was agreeable to cancellation of this water permit.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment, or forfeiture, or both.

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD Department of Agriculture and Natural Resources
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Nels J Sorenesen, C/O Grant Sorensen, 200 Mickelson Ave, Vermillion, SD 57069

FROM: Amanda Dewell, Permitting Administrator
SD DANR – Water Rights Program 

SUBJECT: Cancellation of Water Right No. 5579-3

Water Right No. 5579-3, held by Nels J Sorensen, authorizes the diversion of 1.0 cubic feet of water per second from the Missouri River for irrigation of 70 acres, located in portions of Section 1-T91N-R52W, Clay County, South Dakota. A field inspection was conducted by Water Rights Program staff, in March of 2026, for the purpose of licensing a system that is on adjacent land (WR No. 8503-3). Based on a conversation between Water Rights Program staff and yourself, you stated that you no longer intend to use the Missouri River as a source of irrigation and that you were agreeable to cancellation of this water right. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 5579-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 5579-3 at **9:30 am, Wednesday, October 7th, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 5579-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation of Water Right No. 5579-3, and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by **September 14, 2026**. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by **September 14, 2026**.

Prior to **September 14, 2026**, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by **September 14, 2026**.



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RECOMMENDATION OF CHIEF ENGINEER

FOR WATER RIGHT NO. 5579-3, NELS J SORENSON

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 5579-3.

A field inspection was conducted by Water Rights Program staff, in March of 2026, for the purpose of licensing a system on adjacent land (WR No. 8503-3). When staff spoke with Grant Sorensen, who confirmed that he does not intend to continue using the Missouri River as a source of irrigation for the property covered under Water Right No. 5579-3 and was agreeable to cancellation of the water right.

The Chief Engineer is recommending cancellation of the above water right due to abandonment, or forfeiture, or both.

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD Department of Agriculture and Natural Resources
September 4, 2026

Note:

Cancellation of the water right does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Pronghorn Land LLC, c/o Brian Top, 2132 32nd Avenue, Brookings, SD 57006

FROM: Amanda Dewell, Permitting Administrator
SD DANR – Water Rights Program

SUBJECT: Cancellation of Water Permit No. 8886-3

Water Permit No. 8886-3 authorizes impoundment of 98.7 acre-feet of water annually from runoff by constructing a dam on Willow Creek located in the NE ¼ NE ¼ Section 36-T127N-R67W, for recreation and fish and wildlife propagation purposes in McPhearson County, South Dakota. After a phone conversation with a representative of Pronghorn Land LLC (Roxanne), it was reported that there were other local, state, or federal permits that were required for the development of Permit No. 8886-3 that were not able to be obtained, therefore you are no longer pursuing development of the project and would like to cancel this permit. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 8886-3 due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 8886-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later).*

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 8886-3, based upon facts presented at the public hearing. Our records show you to be the owner of the property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by **September 14, 2026**. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Permit No. 8886-3

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by **September 14, 2026**.

Prior to **September 14, 2026**, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by **September 14, 2026**.



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**RECOMMENDATION OF THE CHIEF ENGINEER
FOR WATER PERMIT NO. 8886-3, PRONGHORN LAND LLC**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 8886-3.

Roxanne, with Pronghorn Land LLC, called and spoke with Water Rights Program staff and asked to cancel Water Permit No. 8886-3, stating that there were several additional permits needed, that could not be obtained, to allow for development of the project.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

Adam Mathiowetz, PE
Chief Engineer, Water Rights Program
SD Department of Agriculture and Natural Resources
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Ryan Edwards, 749 W 5th St, Winner, SD 57580

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 881-2

Water Right No. 881-2 authorizes the diversion of 2.19 cubic feet of water per second from the White River for irrigation of 152.3 acres located in portions of Section 3-T43N-R27W and portions of Sections 33 & 34; both in T44N-R27W, Mellette County, South Dakota. After the 2025 Irrigation Questionnaire sent out for Water Right No. 881-2 was returned, postmarked "undeliverable", Water Rights Program staff contacted you. During that conversation you reported that while you still owned the property, you had no intention of continuing irrigation practices and were agreeable to cancellation of the water right. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 881-2 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 881-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 881-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 881-2, RYAN EDWARDS**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 881-2.

In a recent telephone conversation with Water Rights Program staff, Mr. Edwards reported that while he retained ownership of the property authorized under Water Right No. 881-2, he had no interest in continuing irrigation and was agreeable to cancellation.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 881-2 does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Janice Tetherow, 105 W 2nd, Valentine, NE 69201

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Permit No. 2800-2

Water Permit No. 2800-2, held by Mooreland Farms Inc., authorized the diversion of 1.89 cubic feet of water per second from up to two wells completed into the Arikaree Aquifer for the irrigation of 132 acres located in the NW ¼ Section 14-T35N-R30W, Todd County, with all construction to be completed by August 19, 2024. When contacted by Water Rights Program staff, following receipt of the 2025 Irrigation Questionnaire, you reported that you had taken ownership of the property and confirmed that the authorized system had never been developed. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2800-2 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 2800-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 2800-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 2800-2, MORELAND FARMS INC.**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 2800-2.

After receiving the 2025 Irrigation Questionnaire for Permit No. 2800-2, which reported "system not constructed", Program staff contacted Ms. Tetherow, who reported that she had taken ownership of the property and that no system had been developed. The deadline for construction completion under Permit No. 2800-2 was August 19, 2024.

The acting Chief Engineer is recommending cancellation of the above water permit due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: KW Holdings LLC, c/o Kory Weisbeck
2453 S Plaza Dr, Rapid City SD 57702

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 2370-2

Water Right No. 2370-2, held by Mike Sweet, authorizes the diversion of 0.133 cubic feet of water per second from one well (Minnelusa Aquifer), located in the SW ¼ NE ¼ Section 34-T2N-R7E, Pennington County, South Dakota, for commercial use. After speaking with Frank Conway, a licensed well driller, Water Rights Program staff contacted you regarding status of the well authorized by Water Right No. 2370-2. During that discussion, you confirmed that you were the new property owner, you had no interest in maintaining the well for commercial use, and that your intention was to have the well plugged. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2370-2 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 2370-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 2370-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Right No. 2370-2

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 2370-2, MIKE SWEET**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 2370-2.

In a recent conversation with Water Rights Program staff, Mr. Weisbeck (KW Holdings LLC) reported that he recently took ownership of the property where the well authorized by Water Right No. 2370-2 was located, he had no interest in continued use of water, commercial or otherwise, and was agreeable to cancellation.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 2370-2 does not prohibit a new application for this project in the future.



**DEPARTMENT of AGRICULTURE
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September 4, 2026

NOTICE OF CANCELLATION

TO: Marvin Czech, 45848 176th St, Watertown, SD 57201

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Permit No. 7846A-3

Water Permit No. 7846A-3 authorized the combined diversion of 1.33 cubic feet of water per second from up to two wells completed into the Big Sioux: North Aquifer for the irrigation of 120 acres located in the NW ¼ Section 3-T115N-R52W, Hamlin County, with all construction to be completed by August 5, 2023. After receiving the 2025 Irrigation Questionnaire, which reported "system not constructed", Program staff contacted you to discuss the system's status. During that conversation you confirmed that you were not able to develop irrigation on the property due to the absence of water. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7846A-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7846A-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate, and the actual time of hearing may be later*).

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 7846A-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 7846A-3, MARVIN CZECH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 7846A-3.

When the 2025 Irrigation Questionnaire for Permit No. 7846A-3 was submitted, noting "system not constructed", Water Rights Program staff contacted Mr. Czech. He confirmed that he was unable to locate water at that site, resulting in the system not being developed. The deadline for construction to be completed under Permit No. 7846A-3 was August 5, 2023.

The acting Chief Engineer is recommending cancellation of the above water permit due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Malon Burtz, 30310 Pahapesto Rd, Winner SD 57580

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 950-2

Water Right No. 950-2 authorizes the diversion of 2.04 cubic feet of water per second from the White River for irrigation of 143.23 acres located in portions of Section 25-T103N-R78W and portions of Sections 30 & 31; both in T103N-R77W, Tripp County, South Dakota. After the 2025 Irrigation Questionnaire was returned, reporting "use abandoned", Water Rights Program staff contacted you. During that conversation you reported that the system hadn't been used in years and you had no intention of resuming irrigation practices. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 950-2 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 950-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate, and the actual time of hearing may be later*).

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 950-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Right No. 950-2

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 950-2, MALON BURTZ**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 950-2.

After reviewing the 2025 Irrigation Questionnaire submitted for Water Right No. 950-2, which indicated "use abandoned", Program staff contacted Mr. Burtz, who reported that while he retained ownership of the property authorized under Water Right No. 950-2, the irrigation system hadn't been used in many years, and he was agreeable to cancellation.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 950-2 does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Sandee & Tom Yordy, 21436 297th St, Martin SD 57551

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 2130-2

Water Right No. 2130-2 authorizes the diversion of 0.43 cubic feet of water per second from a dam (48 ac-ft storage capacity) for irrigation of 30 acres located in the W ½ SW ¼ Section 8-T36N-R38W, Bennett County, South Dakota. After the 2025 Irrigation Questionnaire was returned, Water Rights Program staff contacted you to discuss the extended period of non-use. During that conversation you reported that the dam had washed out years ago, the irrigation system had been removed from the property, and that you were agreeable to cancellation of the water right. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2130-2 due to abandonment.

The Water Management Board will consider cancellation of Water Right No. 2130-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 2130-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Right No. 2130-2

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 2130-2, SANDEE & TOM YORDY**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 2130-2.

After reviewing the 2025 Irrigation Questionnaire submitted for Water Right No. 2130-2, Program staff contacted the permit holders, who reported that the dam had washed out, the system had been removed, and they were agreeable to cancellation of the water right.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 2130-2 does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Silver Lake Hutterian Brethren, c/o John Grosz
17354 430th Ave, Clark SD 57225

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Permit No. 8165-3

Water Permit No. 8165-3, held in the name of Todd Swenson, authorizes the combined diversion of 5.33 cubic feet of water per second from up to three wells completed into the Bad-Cheyenne Aquifer for the irrigation of 460 acres located in portions of Section 1 & 2; all in T108N-R64W, Jerauld County, with all construction to be completed and water placed to beneficial use by December 9, 2020 & December 9, 2024, respectively. When contacted by Water Rights Program staff engineer, Darrell DeBoer, the farm manager reported that the system had not been constructed and that Silver Lake Colony had recently taken ownership of the property. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 8165-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 8165-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 8165-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 8165-3, TODD SWENSON**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 8165-3.

In an attempt to conduct an inspection for the purpose of licensing the irrigation system authorized by Water Permit No. 8165-3, Program staff contacted the farm manager who reported that no wells had been completed or land developed for irrigation at the authorized location. The deadlines for construction completion and placement of water to beneficial use under Permit No. 8165-3 were December 9, 2020, and December 9, 2024, respectively. The farm manager also identified the new property owner as being Silver Lake Hutterian Brethren/Silver Lake Colony.

The acting Chief Engineer is recommending cancellation of the above water permit due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: Curtis Foster, 42430 116th St, Britton SD 57430

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 5577-3

Water Right No. 5577-3 authorizes the impoundment of runoff in a dam (260 ac-ft storage capacity) to be diverted at a rate of 1.0 cubic feet of water per second for the irrigation of 70 acres located in the W ½ SW ¼ Section 27-T126N-R57W, Marshall County, South Dakota. When contacted by Water Rights Program staff you reported that the dam has been breached for several years and rendered unusable, and that all the irrigation equipment had been removed from the property. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 5577-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 5577-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later).*

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 5577-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 5577-3, CURTIS FOSTER**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 5577-3.

When Water Rights Program staff spoke with Curtis Foster, he stated that the system had been removed from the property and that the dam had been breached for several years and rendered unusable.

The acting Chief Engineer is recommending cancellation of the above water permit due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 5577-3 does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: City of Alpena, c/o Finance Officer
PO Box 75, Alpena, SD 57312

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Permit No. 6468-3

Water Permit No. 6468-3 authorizes the diversion of water at a rate of 0.22 cubic feet of water per second from one well (Dakota Aquifer) to fill and maintain the city's wastewater lagoons, south of Alpena, Jerauld County, South Dakota. When contacted by Water Rights Program staff it was reported by Mike McCready (manager of the city lagoons), that the well, once used to fill the third lagoon, had not been used for over a decade. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 6468-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Permit No. 6468-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later).*

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 6468-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 6468-3, TOWN OF ALPENA**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 6468-3.

When Water Rights Program staff contacted Mike McCready (Town of Alpena's wastewater lagoon manager), for the purpose of inspecting and licensing Permit No. 6468-3, they were informed that the well associated with the Permit had not been used in more than a decade.

The acting Chief Engineer is recommending cancellation of the above water permit due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Permit No. 6468-3 does not prohibit a new application for this project in the future.



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September 4, 2026

NOTICE OF CANCELLATION

TO: GCC Dacotah Inc. (dba Dacotah Cement), c/o Steve Zellmer
PO Box 360, Rapid City SD 57709

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right Nos. 293-2 & 294-2

Water Right No. 293-2 authorizes the diversion of 0.61 cubic feet of water per second from Beaver Creek, for the irrigation of 43.1 acres location in portions of the SW ¼ Section 30 & NW ¼ NW ¼ Section 31; all in T6S-R1E, Custer County, South Dakota. Water Right No. 294-2 authorizes the diversion of 14.8 cubic feet of water per second from Beaver Creek, for flood irrigation of 35 acres located in the SW ¼ Section 30-T6S-R1E, Custer County, South Dakota. Water Rights Program staff had an email correspondence with Erick Hoon (Dacotah - Environmental Engineer), who stated that the irrigation systems washed away years ago, and there are no plans to rebuild at this time. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right Nos. 293-2 & 294-2 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right Nos. 293-2 & 294-2 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later).*

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right Nos. 293-2 & 294-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by these water rights. If you wish to oppose the cancellations and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Right Nos. 293-2 & 294-2

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NOS. 293-2 & 294-2, GCC DACOTAH INC.**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right Nos. 293-2 & 294-2.

When Water Rights Program staff contacted GCC Dacotah Inc. (dba Dacotah Cement) regarding the extended period of non-use under Water Right Nos. 293-2 & 294-2, it was reported that the corresponding systems had washed out many years ago. The water right holder was understanding and agreeable to the cancellation.

The acting Chief Engineer is recommending cancellation of the above water rights due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right Nos. 293-2 & 294-2 does not prohibit a new application for this project in the future.



**DEPARTMENT of AGRICULTURE
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September 4, 2026

NOTICE OF CANCELLATION

TO: Allen & Becky Walth, 13640 Walth Bay Rd, Glenham, SD 57631

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Right No. 2482-3

Water Right No. 2482-3 authorizes the diversion of 1.8 cubic feet of water per second from the Missouri River for the irrigation of 126 acres located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 3, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 10; all in T122N-R78W, Walworth County, South Dakota. After receiving a letter, dated January 8, 2026, from the Water Rights Program, you called to discuss the 2025 Irrigation Questionnaire, which reported abandonment of the system. During that conversation you confirmed that the system had broken down and no irrigation had occurred since 2000. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 2482-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 2482-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate, and the actual time of hearing may be later)*.

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Right No. 2482-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

September 4, 2026
Water Right No. 2482-3

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 2482-3, ALLEN WALTH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Right No. 2482-3.

After reviewing the 2025 Irrigation Questionnaire submitted for Water Right No. 2482-3, Water Rights Program staff made contact with Allen & Becky Walth, who confirmed that the pivot has been broken down for decades, with irrigation last occurring on the property in 2000.

The acting Chief Engineer is recommending cancellation of the above water right due abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of Water Right No. 2482-3 does not prohibit a new application for this project in the future.



**DEPARTMENT of AGRICULTURE
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September 4, 2026

NOTICE OF CANCELLATION

TO: Allen & Rebecca Walth, 13640 Walth Bay Rd, Glenham, SD 57631

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Cancellation of Water Permit No. 6789-3

Water Permit No. 8165-3 authorized diversion of 3.71 cubic feet of water per second from the Missouri River for the irrigation of 262 acres located in portions of the E ½ Section 33 & portions of the W ½ Section 34; all in T123N-R78W, Walworth County, with all construction to be completed and water placed to beneficial use by February 20, 2012 & February 20, 2016, respectively. When contacted by Water Rights Program staff regarding the 2025 Irrigation Questionnaire reporting of "system not constructed" you confirmed that due to unfortunate circumstances the project was not developed. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 6789-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 6789-3 at **9:30 am, Wednesday, October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate, and the actual time of hearing may be later*).

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 6789-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the acting Chief Engineer by September 14, 2026. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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 extended for at least twenty days upon your written request to the acting Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the acting Chief Engineer by September 14, 2026.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.



**DEPARTMENT of AGRICULTURE
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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 6789-3, ALLEN & REBECCA WALTH**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 6789-3.

On the 2025 Irrigation Questionnaire submitted for Permit No. 6789-3, the indication "system not constructed" was made. When contacted by Program staff, the permit holders confirmed that due to unfortunate circumstances they were not able to develop the system. The deadlines for construction completion and placement of water to beneficial use under Permit No. 6789-3 were February 20, 2012, and February 20, 2016, respectively.

The acting Chief Engineer is recommending cancellation of the above water permit due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
September 4, 2026

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>90.30-3</u> Hydrologic Unit <u>10130105</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Capital Journal</u>
	<u>Aberdeen American News</u> (office use only)

RECEIVED

FEB 25 2026

Water Rights
Program

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other _____	

Type of Application: (check one)

☐ New	☐ Vested Right (Use predates Mar 2, 1955)	☒ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Future Use Water Rights for Mid-Dakota Rural Water System

- Name to Appear on Water Permit Mid-Dakota Rural Water System, Inc.
Mailing Address PO Box 318 Miller SD 57362
(Address) (City) (State) (Zip Code)
Phone 800-439-3079 Mobile 605-204-0121 Email scott.gross@mdrws.com
- Amount of water claimed _____ *CFS or 6,198.6 **GPM and 9,999 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use)
- Source of water supply Missouri River
- Location of point of diversion 2nd Diversion point NE 1/4 SE 1/4 Section 26, T112N, R80W, County Hughes
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☐ No
If "Yes," where will water be used? _____
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, Sully
- Annual period during which water is to be used January 1 to December 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Mid-Dakota has completed an Engineering report for a water treatment plant expansion. The planned expansion will exceed the current water rights permit. The decision was made to procure a Future Use permit now and then when the water treatment plant is constructed and placed into service, a portion of this future use permit can be converted to beneficial use. Briefly the expansion project projects out to 2050 for potential water use. Another possibility of future water use is a connection to Dakota Mainstem as possible wheeling source. If you would like a copy of the report, let me know and I can provide. It is a 300-page report so would mail it to you.

I, Scott Gross General Manager, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**Water Rights
Program**

HUGHES COUNTY

SOUTH DAKOTA

prepared by the
SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
in cooperation with the
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

SCALE



R 79 W



**DEPARTMENT of AGRICULTURE
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**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR FUTURE USE
WATER PERMIT APPLICATION NO. 9030-3, Mid-Dakota Rural Water System**

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 Future Use Water Permit Application No. 9030-3, Mid-Dakota Rural Water System, PO Box 318, Miller SD 57362.

The Chief Engineer is recommending APPROVAL of Application No. 9030-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Future Use Permit No. 9030-3 reserves 9,999 acre-feet of water annually from the Missouri River.
2. Future Use Permit No. 9030-3 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. 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.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
July 02, 2026

Report to the Chief Engineer
On Future Use Permit Application No. 9030-3
Mid-Dakota Rural Water System

July 1, 2026

Future Use Permit Application No. 9030-3 proposes to appropriate and reserve 9,999 acre-feet of water annually from the natural flows of the Missouri River located in the NE ¼ SE ¼ of Section 26-T112N-R80W. The withdrawal site is near the existing intake authorized by Water Right No. 7245-3 located in Hughes County approximately seven miles north-northwest of Pierre, SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully Counties; all in South Dakota. This application does not authorize the construction of works or placement of water to beneficial use.

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

Pursuant to SDCL 46-2A-2, "Within sixty days of receipt of a completed application, the chief engineer shall recommend in writing approval, disapproval, or deferral until further notice and shall schedule the application for hearing by the Water Management Board. The recommendation shall include any terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity which are consistent with this chapter, necessary to protect the public interest and related to matters within the jurisdiction of the chief engineer or the board."

This report has been prepared to aid the Chief Engineer in making a recommendation and for the Water Management Board's decision-making authority on the application.

SDCL 46-2A-10

Pursuant to SDCL 46-2A-10, "A reservation for a future use may be approved only if there is a reasonable probability that unappropriated water is available for appropriation, that the quantity of water reserved will be needed by the entity and that the proposed use will be a beneficial use and in the public interest."

SDCL 46-5-38 and SDCL 46-5-38.1

Mid-Dakota Rural Water System (MDRWS) is an entity that may reserve water for future use pursuant to SDCL 46-5-38(4). An entity that may reserve water for future use must show future need for the water, and unappropriated water must be available for the proposed appropriation pursuant to SDCL 46-2A-10. An engineering report completed by Bartlett & West Inc. was submitted with the application for a preliminary design plan for a water treatment plant expansion from 13.5 million gallons per day (MGD) to a capacity of 20 MGD. The treatment plant was last updated in 2008, and the design plan analyzed future growth in central South Dakota (east of the Missouri River) through 2050. MDRWS currently only holds Water Right No. 7245-3 which authorizes a diversion rate of 24.5 cubic feet of water per second (cfs) from the Missouri River with an annual volume limit of 9,999 acre-feet. The report indicated the water

treatment plant expansion is likely to cause exceedance of the current volume of water authorized under Water Right No. 7245-3 (Bartlett & West, 2022; Water Rights, 2026).

Pursuant to SDCL 46-5-38.1, "Water Management Board approval of an application to appropriate water for future use is a reservation of a definite amount of water with a specified priority date and is not a grant of authority to construct the works or to put the water to beneficial use. Before the time that the holder of a future use permit initiates construction of the works and puts water to beneficial use, the holder shall file an application for a water permit pursuant to the procedure contained in chapter 46-2A. If the holder of the future use permit is granted a water permit to develop only a portion of the water reserved by the future use permit, the holder shall apply for and receive an additional water permit, or permits, before developing and using the remaining water reserved in the future use permit. Permits for future uses shall be reviewed by the Board every seven years and are subject to cancellation if the board determines that the permit holder cannot demonstrate a reasonable need for a future use permit."

Description of Proposed Water Source

If approved, this application proposes to appropriate and reserve 9,999 acre-feet of water per year from the natural flows of the Missouri River when fully developed near the existing intake structure operated by MDRWS authorized by Water Right No. 7245-3 located on Lake Oahe approximately two miles upstream of Oahe Dam, located southeast of Spring Creek in Hughes County, shown in Figure 1.

One cfs continuously pumping for one year equals an approximate volume of 724 acre-feet. To reach the annual volume proposed by this application, continuous pumping equates to approximately 14 cfs. Since pumping will not be on a continuous basis, the actual pump rate required to divert the proposed volume will, at times, likely exceed the approximate diversion rate of 14 cfs. However, a generalized, equivalent pump rate of 14 cfs is needed to pump 9,999 acre-feet as requested by this application; therefore, 14 cfs will be used for purpose of analyzing the hydrologic budget in this report.

Between 1933 to 1964, the U.S. Army Corps of Engineers (USACE) constructed the six dams that comprise the Missouri River Basin Mainstem System: Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point (upstream to downstream). The Missouri River is a regulated system, and flow hydrographs of the river are affected by the presence of the mainstem reservoir system. The dams are managed as a single system and operated in accordance with a master manual provided by the USACE in 2018 and an Annual Operating Plan (AOP) for 2025 through 2026 (USACE, 2018 and 2025). The eight congressionally authorized purposes of the system that are defined and regulated by the 1944 Flood Control Act are flood control, navigation, irrigation, power, water supply, water quality control, recreation, and fish and wildlife. The Master Manual is the foundational, long-term regulatory document, while the AOP is the short-term implementation plan that applies those rules to the specific hydrologic and water-supply conditions of a given year (USACE, 2025).

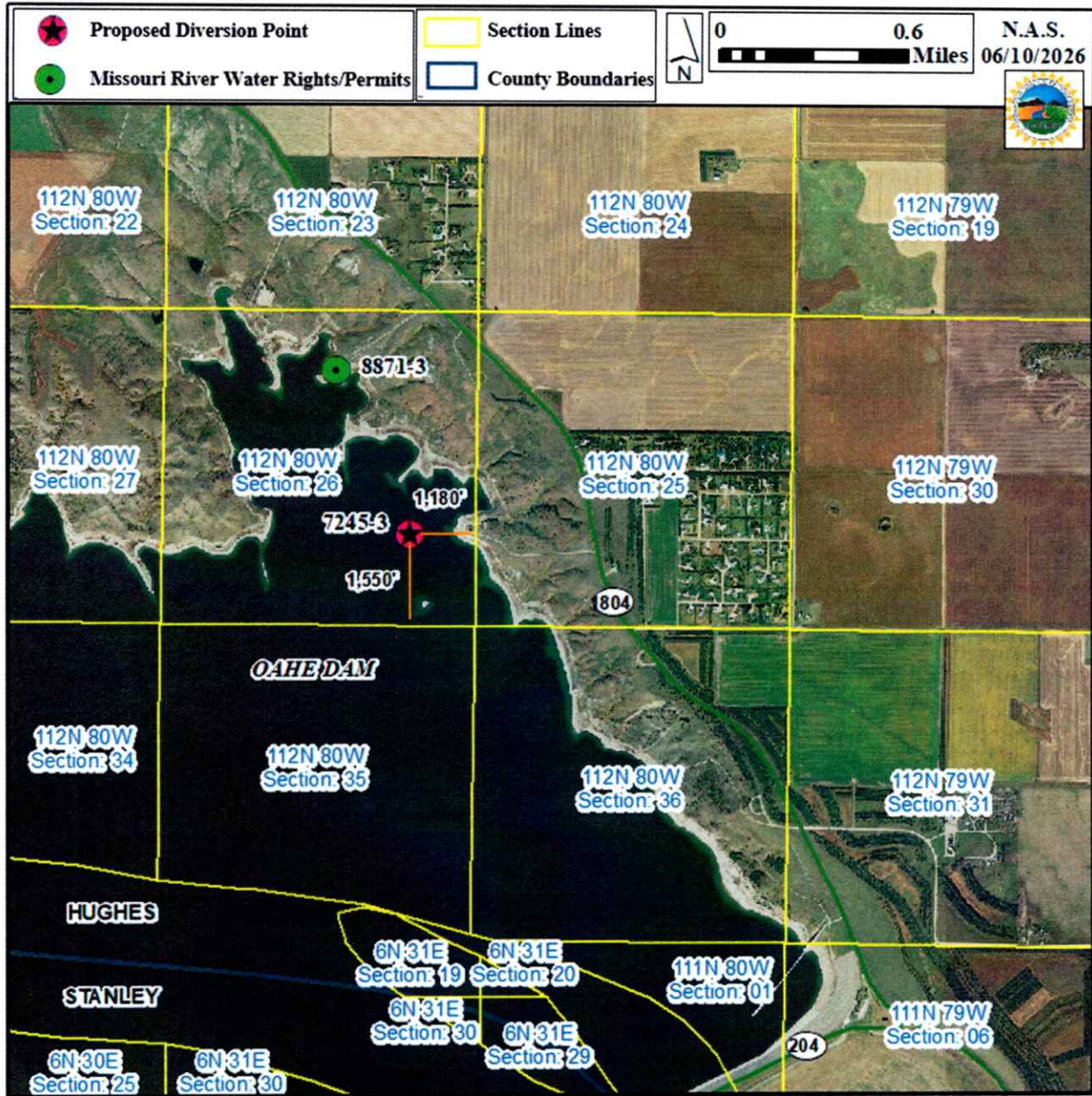


Figure 1. Location of existing Missouri River intake authorized by Water Right No. 7245-3 which will be near the proposed diversion point for Future Use Permit Application No. 9030-3 (Water Rights, 2026)

Unregulated, or "natural" flow in an instream reservoir system like the Missouri River mainstem system is the volume of water moving past a point along a river that is not augmented by artificial releases from storage. USACE defines unregulated flow as "Missouri river flows that would have resulted if the reservoirs were not in place" (USACE, 2025). This flow is available for appropriation without the need for releases to augment the flow. Although the general pattern of higher flows released during the summer compared to flows released during the winter still prevails, system regulation serves to reduce high flows in the spring and summer in most years and to release the stored water during the lower flows in the fall and winter (USACE, 2018). The

natural flow of the Missouri River is available for appropriation pursuant to South Dakota Water Law.

Figure 2 shows a hydrograph comparing the actual releases (regulated flow) and modeled, unregulated flow from Oahe Dam that was published in the 2025-2026 AOP of the Missouri Mainstem System by USACE. The graph illustrates the smoothing of flows throughout the year due to the presence of the dam. It should be noted that the unregulated hydrograph during January and February 2024 and 2025 show low flows. USACE states in the AOP that low or zero unregulated flow values could be due to ice formation, agricultural depletions, and/or upstream tributary regulation. However, during January and February of 2025, the USGS stream gage on the Yellowstone River near Sidney, MT records flow ranging from 3,000 to 8,000 cfs (with an end of February peak around 30,000 cfs), USGS stream gage on the Cheyenne River near Plainview, SD records flow ranging from 70 to 300 cfs, and the USGS stream gage on the Grand River at Little Eagle, SD records flow ranging from 10 to 500 cfs (USGS, 2025).

Since these are only three of many tributaries accounting for natural flow in the Missouri River, it is unclear how USACE determines low flows, and this suggests that the impacts of ice formation, agricultural depletions, or upstream tributary regulation may be overestimated in USACE's determination of unregulated flow. Additionally, while in an unregulated system January and February are estimated to be the months of lowest flow, most of the agricultural depletions, such as irrigation, would not be present during that timeframe. However, there may be some limited use by livestock production during that period.

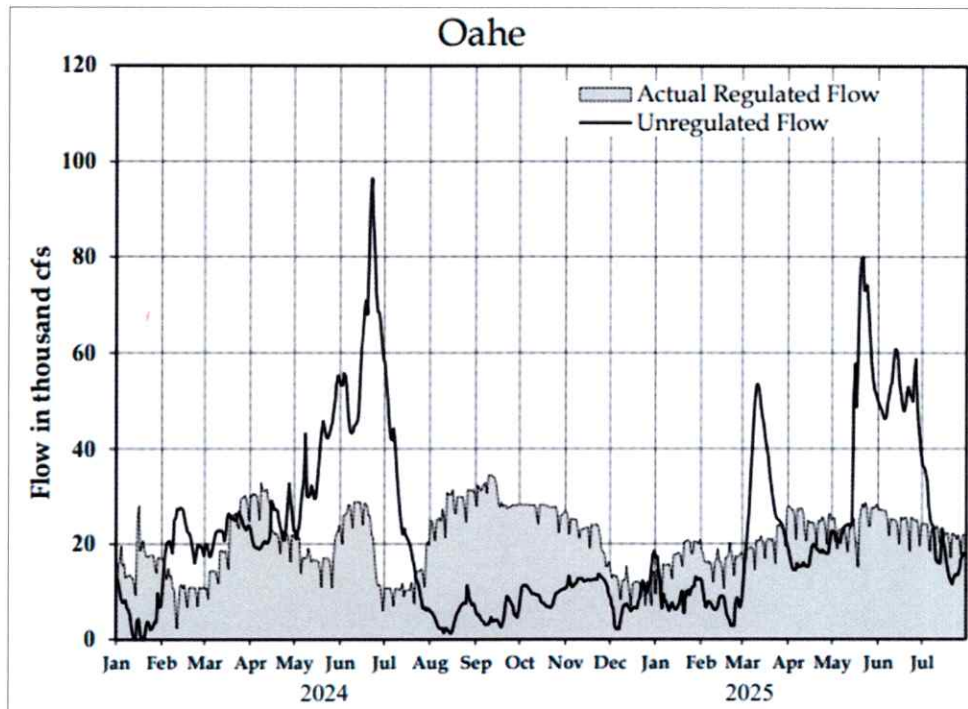


Figure 2. Graph shown on Plate 12 of 2025-2026 Annual Operating Plan: Reservoir Release and Unregulated Flow (USACE, 2025)

Water Availability

Statistical analysis of a hydrograph requires a discharge record of sufficient length to estimate water availability. On the Missouri River, daily discharge records did not start until the 1920s, and all six mainstem dams were completed by 1964, leaving minimal records of the unregulated river.

In 2001, the United States Geological Survey (USGS) conducted a study modeling outflow alternatives using 100 years of historical inflow data for the years 1898 to 1998 at Oahe and Gavins Point Dams (Jacobson and Heuser, 2001). One of the outflow alternatives is called Run of River, where streamflow is modeled for the condition of constantly full reservoirs and provides a realistic description of flows in the absence of flow regulation by the reservoirs. For each day of the year, outflow exceedance probabilities (10th, 50th, and 90th percentiles) were calculated. For example, the 90th percentile line shows the flow that equaled or exceeded 90% of the time on that day for each year. Figures 3 and 4 show the flow exceedance curves made for the modeled unregulated outflow at Oahe and Gavins Point Dams, respectively.

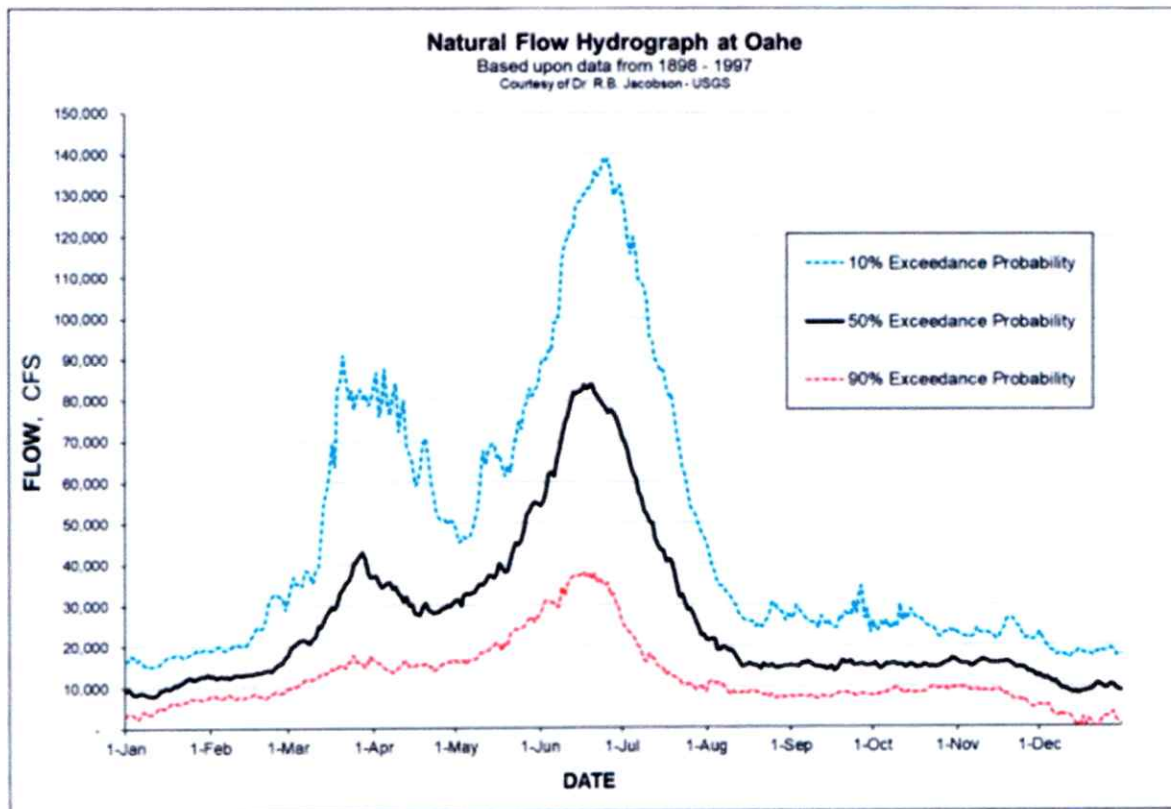


Figure 3. Flow exceedance probabilities for the Missouri River modeled outflow at Oahe Dam, depicting flows in the absence of regulation (Jacobson and Heuser, 2001)

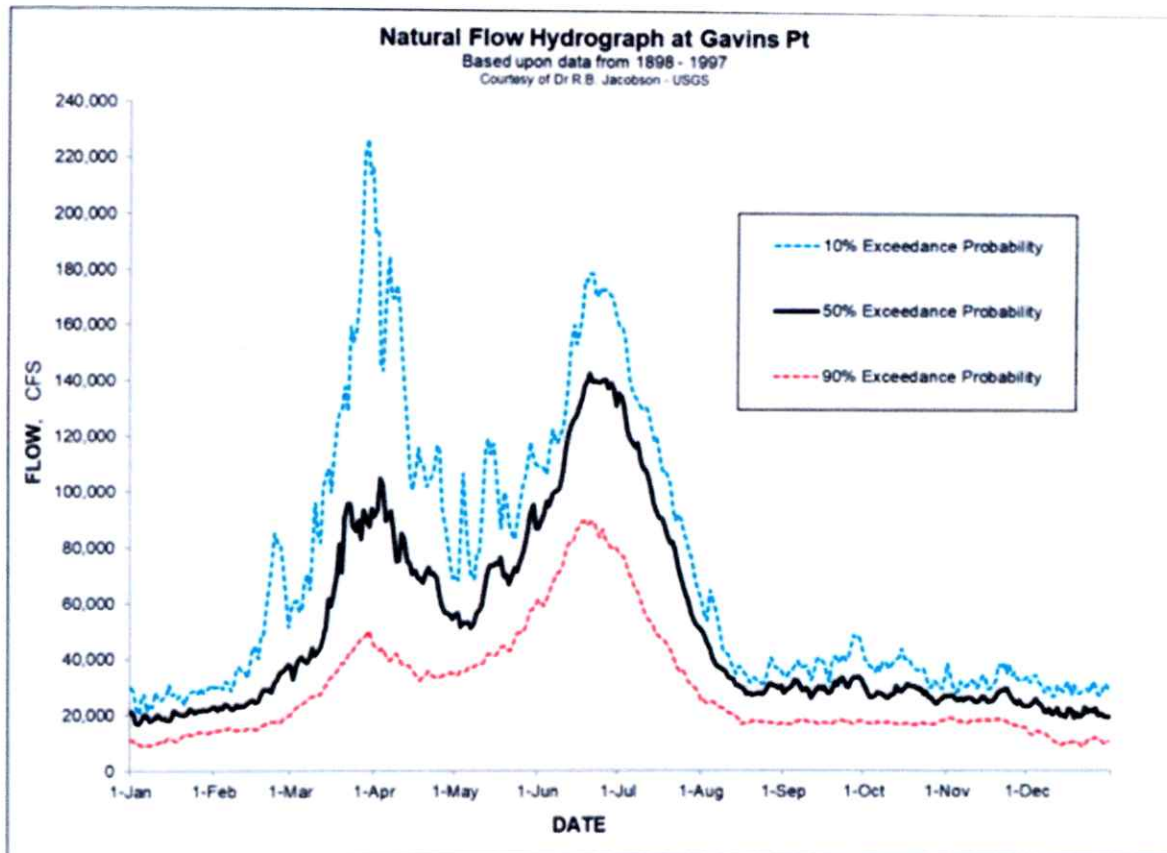


Figure 4. Flow exceedance probabilities for the Missouri River modeled outflow at Gavins Point Dam, depicting flows in the absence of regulation (Jacobson and Heuser, 2001)

The annual variability of historical natural flows for the Missouri River at Oahe Dam is reflected in the variability of output discharge shown in Figures 3 and 4. Vertical variation in the graph shows the annual variation of flows based on the flow exceedance probabilities, and horizontal variation shows seasonal variation throughout the year (Jacobson and Heuser, 2001). There are two large peaks throughout the year. The first peak occurs from the Great Plains snowmelt in the early spring. The second, and largest peak (except for the Gavins Point 10% exceedance probability which indicates flooding conditions), occurs in late spring to early summer resulting from rainfall over large areas of the Missouri Basin, including local thunderstorms, combined with the rapid melting of mountain snowpack. Late summer and fall show diminishing rainfall, and low runoff and light precipitation in the winter (USACE, 2018).

The modeled flows used in Figures 2 to 4 were generated by the Daily Routing Model (DRM) used by USACE (Jacobson and Heuser, 2001; USACE, 2025). Even considering a few likely overestimated modeled low flow days shown in Figure 2 and Figure 3, there is ample water available in the Missouri River's natural flows, even at the 90% exceedance probability at the proposed withdrawal site and downstream of the site, if this project is approved. Water availability is not a concern when using the natural flows of the Missouri River as an appropriate water source in South Dakota at this time.

Existing Users

There are currently 250 existing water rights/permits appropriating 1,222 cfs from the natural flows of the Missouri River in South Dakota. Of those 250 existing water rights/permits, 213 are for irrigation use, and during the irrigation season (generally April 1 through October 31 in South Dakota) are authorized to pump approximately 1,035 cfs at any given time, which means that approximately 187 cfs of flow is appropriated to 37 non-irrigation water rights/permits (Water Rights, 2026). It is a conservative measure to assume that all water right/permit holders would be pumping at any given time.

Currently, there are 20 future use permits collectively reserving 395,466 acre-feet of water per year listed in Table 1. Future Use Permit No. US594-3 reserves approximately 1.1 million acre-feet of water from the Missouri and James Rivers for the suspended Oahe Irrigation Project, and Deferred Water Permit Application No. 4831-3 requests 1.5 million acre-feet of water for the CENDAK irrigation project during the time of application. The irrigation projects for which the water was reserved or applied for have not been constructed and are currently defunded. Even though the projects have been defunded, Future Use Permit No. US594-3 remains in place and Deferred Water Permit Application No. 4831-3 remains in a deferred status. The reserved volume by Future Use Permit No. US594-3 is not included in the remaining reserved 385,966 acre-feet of water per year (Water Rights, 2026).

Table 1. Future Use Permits reserving water from Missouri River (Water Rights, 2026)

Future Use Permit Holder	Permit No.	Remaining Reserved Water (acre-feet)
Lake Andes-Wagner Irrigation District	1688A-3	96,000
East Dakota Water Development District	3574-3	91,500
Lewis and Clark Regional Water System	3574B-3	52,500
City of Rapid City	1492-2	28,880
City of Sioux Falls	2042-3	28,236
WEB Water Development Association, Inc.	2671-3	0
	3429-3	15,000
	8852-3	10,000
	8778-3	10,000
West Dakota Water Development District	1443-2	10,000
Rapid Valley Sanitary District	2840-2	6,050
City of Mitchell	3142-3	5,765
West River Water Development District	1442-2	5,515
City of Box Elder	2844-2	2,100
City of Mobridge	4290-3	1,656
Clay Rural Water System, Inc.	3574A-3	1,000
Aurora-Brule Rural Water System, Inc.	4456-3	621
	4456A-3	0
City of Elk Point	4673-3	378
U.S. Bureau of Reclamation	US594-3	1.1 million
Western Dakota Regional Water System	2881-2	20,765
City of Aberdeen	8959-3	9,500
TOTAL:	22	395,466*
*Total remaining reserved water does not include the appropriation held by Permit No. US594-3 for the undeveloped Oahe Irrigation Project		

When a future use permit requests to put their reserved water to beneficial use, a new water permit application is required, which includes a pump rate and the annual volume for that water permit, and the respective amount is subtracted from the volume of water reserved by the original future use reservation. Any active pumping of water reserved by future use permits is included in the 1,222 cfs previously mentioned. Assuming full development of the remaining reserved water by the 20 Missouri River future use permits, and assuming that they will pump continuously throughout the year, the 395,466 acre-feet of water per year equates to approximately 546 cfs of water being pumped on a continuous basis. If this application is approved, at full development and placing all reserved water to beneficial use (9,999 acre-feet per year), would be the equivalent to 14 cfs of continuous pumping. However, it is possible the peak pumping rate could be higher since continuous pumping is uncommon. Table 2 lists the estimated flow required for surface water rights on the Missouri River during April 1 to October 31 (irrigation season) and the estimated required flow during November 1 to March 31 (non-

irrigation season), including an equivalent pump rate of 14 cfs at full development from MDRWS, if this future use application is approved.

Future Use Permit No. US594-3 held by the U.S. Bureau of Reclamation reserves approximately 1.1 million acre-feet of water from the Missouri and James Rivers for the suspended Oahe Irrigation Project. The federal irrigation project for which the water was reserved has not been constructed and is currently defunded. Even though the project has not been deauthorized, the future use permit remains in place (Water Rights, 2026).

Table 2. Estimated required natural flows on the Missouri River to satisfy existing water rights/permits, assuming full development of the remaining volumes reserved by future use permits, and including the proposed pump rate for this application, if approved, during the irrigation and non-irrigation seasons.

Use Type	Estimated Pumping (at any given time) during from April 1 to October 31 - Irrigation Season (cfs)	Estimated Pumping (at any given time) during from November 1 to March 31 - Non-Irrigation Season (cfs)
Irrigation Use	1,035	0
Non-Irrigation Use	187	187.4
Remaining Future Use Development	546	546
Future Use Application No. 9030-3, if approved	14	14
TOTAL:	1,782	747.4

The 90th percentile for Figures 2 and 3 show that modeled outflows between November 1 and March 31 vary approximately between 1,500 cfs and 18,000 cfs at Oahe Dam (except for a few low-flow days), and 8,000 cfs and 47,000 cfs at Gavins Point Dam. Modeled flows at the 90th percentile between April 1 and October 31 vary approximately between 7,000 cfs and 38,000 cfs at Oahe Dam, and 16,000 cfs and 80,000 cfs at Gavins Point Dam (Jacobson and Heuser, 2001). Comparing those values to the estimated required flow (Table 2) for different times of the year, including an equivalent pump rate of 14 cfs for this application, water availability in the Missouri River is currently not an issue, even considering that the pumping for existing future use permits and this application are likely to be at a higher rate than at the assumed year-round continuous rate. Even by using the 90th percentile, modeled outflows to determine water availability in this report, there is a reasonable probability that ample flow is available year-round to support this application with the following assumptions:

- All 213 irrigation water rights/permits, accounting for approximately 85% of both the water permits/rights and diversion rate authorized to be diverted from the Missouri River in South Dakota, are pumping continuously during the irrigation season which is mostly during high-flow months;
- All 37 non-irrigation water rights/permits are pumping continuously year-round;
- All existing future use permits become fully developed and would pump continuously year-round;
- This future use application can be fully developed and would pump continuously year-round.

CONCLUSIONS:

1. Future Use Permit Application No. 9030-3 proposes to appropriate and reserve 9,999 acre-feet of water annually from the natural flows of the Missouri River located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26-T112N-R80W. The withdrawal site is near the existing intake authorized by Water Right No. 7245-3 located in Hughes County approximately seven miles north-northwest of Pierre, SD. This application does not authorize the construction of works or placement of water to beneficial use.
2. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully Counties; all in South Dakota. MDRWS hired Bartlett & West to design the water treatment plant expansion. The plan indicated a likely exceedance of the current volume of water authorized under Water Right No. 7245-3, the only water right held by MDRWS currently.
3. The determination that there is unappropriated water available is based strictly on flows naturally occurring in the Missouri River and is not based in any way upon anticipated flows into the Missouri River by Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, or Gavins Point Dams, though the reservoirs may supplement the rivers during low-flow periods.
4. Based on an evaluation of a USGS report and the USACE Daily Routing Model which models the natural flows of the Missouri River, the review indicates there is a reasonable probability that unappropriated water is available for this reservation of water.
5. MDRWS has demonstrated that in order to meet projected future water needs, 9,999 acre-feet of water annually is needed from the Missouri River in addition to existing water supplies.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer III
SD DANR - Water Rights Program

References

- Bartlett & West, Inc., 2022. "Mid Dakota Water Treatment Plant & Distribution System Expansion Preliminary Engineering Report," January 2022.
- Jacobson, R.B. and Heuser, J. 2001. Visualization of Flow Alternatives, Lower Missouri River. U.S. Geological Survey. Open-File Report OF02-122.
- USACE. 2025. Missouri River Mainstem System 2025-2026 Annual Operating Plan. U.S. Army Corps of Engineers, Northwestern Division. Omaha, Nebraska.
- USACE. 2018. Missouri River Mainstem Reservoir System Master Water Control Manual. U.S. Army Corps of Engineers, Northwestern Division. Omaha, Nebraska.
- Water Rights, 2026. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Affidavit of Publication

STATE OF SOUTH DAKOTA SS
}
COUNTY OF BEADLE }

Shaun Sarvis, being duly sworn, says:

That he is Representative of the Huron Daily Plainsman, a weekly newspaper of general circulation, printed and published in Huron, Beadle County, South Dakota; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

July 22, 2026

That said newspaper was regularly issued and circulated on those dates.

SIGNED:

Representative

Subscribed to and sworn to me this 22nd day of July 2026.

Shaun Sarvis, Publisher, Beadle County, South Dakota

My commission expires: April 26, 2028

22058303 01247287

521-Mid-Dakota Rural Water System, Inc.
608 W 14th St
Miller, SD 57362



NOTICE OF HEARING on
Application No. 9030-3 to
Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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 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 August 4, 2026.

The petition shall be in writing and 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. The hearing is an adversary

Public Notices

No. 152, July 22, 2026

NOTICE OF HEARING on Application No. 9030-3 to Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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

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 August 4, 2026.

The petition shall be in writing and 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. 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 October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting 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 August 4, 2026. 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 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 August 4, 2026.

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 as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

RECEIVED

AUG 10 2026

OFFICE OF
WATER

Affidavit of Publication

State of South Dakota

§

County of Faulk

Jennifer Miller of said county, being first duly sworn, on oath says that she is the publisher of the **Faulk County Record LLC**, a weekly newspaper printed and published in Faulkton in said County of Faulk and has a full and personal knowledge of all the facts therein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Notice of Hearing on Application No. 9030-3 to Appropriate Water

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

week(s), on the day of each week on which said

One (1)

newspaper was regularly published, to-wit:

July 22, 2026

that the full amount of the fees for the publication of the annexed notice is

\$80.16

Subscribed and sworn to before me this

Jennifer Miller

July 31, 2026

Kristen M Bent



My Commission Expires
September 8, 2027

report are available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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.

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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 Acting Chief Engineer is August 4, 2026. 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 Acting 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 one time at the total approximate cost of \$80.16.

OFFICE OF
WATER

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-

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

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Published July 25, 2026, at a total approximate cost of \$83.20 and may be viewed free of charge at www.sdpublicnotices.com.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Kingsbury.

SS.

Billi Aughenbaugh of said county being first duly sworn on oath, says that he is the publisher of the KINGSBURY JOURNAL, a weekly newspaper printed and published in De Smet in said County of Kingsbury and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Notice of Hearing on Application No 90303 to Appropriate Water, a printed copy of which,

taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in

each week for one successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

July 22 2029; _____ 20____
____ 20____; _____ 20____
____ 20____; _____ 20____
____ 20____; _____ 20____

that the full amount of the fee charged for the publication of said notice accrues to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person; and that no part thereof has been agreed to be paid to any person whomsoever, and that the fees charged for the publication thereof are

\$ 93.74

Billi Aughenbaugh

Subscribed and sworn to before me this 3rd

day of August A.D. 2026

June Walter

Notary Public

Kingsbury County, South Dakota

My commission expires July 8, 2031

NOTICE OF HEARING ON APPLICATION NO. 9030-3 TO APPROPRIATE WATER

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

RECEIVED

AUG 10 2026

OFFICE OF
WATER

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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 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 August 4, 2026.

The petition shall be in writing and 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. 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 October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting 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 August 4, 2026. 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.

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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 August 4, 2026.

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 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 Acting Chief Engineer is August 4, 2026. 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 Acting 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 once at an approximate cost of \$93.74 and can be viewed free of charge at www.sdpublicnotices.com

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Cindy Crook, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Cindy Crook, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#8343 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication be made on July 22nd. That Eighty-Three and 70/100 dollars insures to the benefit of the publisher of THE REDFIELD PRESS, 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.

Cindy Crook

Subscribed and sworn to before me this 22nd day of July, 2026

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2030



NOTICE OF HEARING

#8343

NOTICE OF HEARING on Application No. 9030-3 to Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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

Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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.

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Published one time at the total approximate cost of \$83.70 and may be viewed free of charge at www.sdpublishnotices.com (July 22)

Notice of Water Hearing

NOTICE OF HEARING on Application No. 9030-3 to Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

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Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell 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 \$82.72 and can be viewed free of charge at www.sdpublicnotices.com

Potter County News

Affidavit of Publication

STATE OF SOUTH DAKOTA,
COUNTY OF POTTER, ss.

James Brown, being first duly sworn, on oath says, that he is the bookkeeper of the POTTER COUNTY NEWS, a weekly newspaper published in Gettysburg, County of Potter, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly, and has been published within said county for fifty-two successive weeks next prior to the publication of the notice herein mentioned; that the

Notice of Water Hearing

Mid-Dakota Rural Water

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive weeks, on the day of each week on which said newspaper was regularly published to-wit:

1- Potter County News: 7/30/2026

That the full amount of the fees for the publication of the annexed notice is \$82.72

James Brown

Subscribed and sworn to before me on 7/30/2026

Lori Cox

Lori Cox, Notary Public

State of South Dakota

My commission expires January 2, 2031



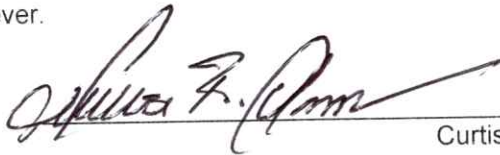
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
COUNTY OF SULLY)

Curtis R. Olson of said County and State, being first duly sworn on his oath, says that the **ONIDA WATCHMAN** is a weekly newspaper of general circulation, published in the English language in the City of Onida, in said County and State, by said Curtis R. Olson, and has been admitted to the United States mail under the second class mailing privilege at all times hereinafter mentioned, and that all of said times has had more than 200 bona fide paid subscribers; that I, the undersigned, am the publisher of said newspaper, in charge of the legal/display advertising department thereof, and have personal knowledge of all the facts stated in the affidavit; and that the advertisement headed:

NOTICE OF HEARING ON APPLICATION NO. 9030-3 TO APPROPRIATE WATER

A printed copy of which is hereto attached, was printed and published in said newspaper for **ONE** successive issues, the first publication made **2026** the **23rd** day of **JULY**, and the last publication on **2026** the -- day of --, and that **\$82.77** being the full amount of the fee for publication of the annexed notice insured solely to the benefit of the publisher of said newspaper; that no arrangements or understanding for a revision thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whatsoever.



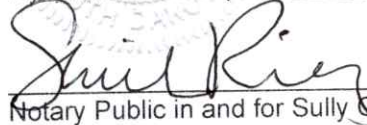
Curtis R. Olson

Subscribed and Sworn to me this

5th Day of August, 2026

(SEAL)

My commission expires February 26, 2032



Notary Public in and for Sully County, South Dakota

RECEIVED

AUG 07 2026

**OFFICE OF
WATER**

**NOTICE OF
HEARING ON
APPLICATION
NO. 9030-3 TO
APPROPRIATE
WATER**

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Published July 23, 2026 at the total approximate cost of \$82.77 or may be viewed free of charge at www.sdpublicnotices.com. (267)-30

RECEIVED

AUG 07 2026

OFFICE OF
WATER**Affidavit of Publication**

STATE OF SOUTH DAKOTA)

)ss.

COUNTY OF HYDE)

MARY ANN MORFORD

of said county and state, being duly sworn, on her oath says: THE HIGHMORE HERALD is a weekly newspaper of general circulation, printed and published in HIGHMORE in said county and state by Mary Ann Morford and has been such a newspaper during the times hereinafter mentioned; that the said HIGHMORE HERALD is a legal newspaper and has been in existence for more than one year immediately preceding the first publication herein mentioned, and has more than two hundred bona fide subscribers; that I 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 entitled

*Notice of Hearing on
Application*

a printed copy of which is hereto attached, was printed and published in said newspaper for one (1) issue, the publication being made on July 23, 2026; and that \$ 87.36 being the full amount of the fee for publication of the annexed notice, insures solely to the benefit of the publisher of said newspaper; that no arrangement or understanding for a division thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whomsoever.

Mary Ann Morford
Mary Ann Morford, Publisher

Subscribed and sworn to before me this 4thday of August 2026May E Hamlin
Notary Public, Hyde County, South DakotaMy Commission Expires July 8, 2028**NOTICE OF HEARING ON
APPLICATION NO. 9030-3
TO APPROPRIATE WATER**

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller, South Dakota 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre, South Dakota. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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

The Acting 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 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 August 4, 2026.

The petition shall be in writing and 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. 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.

Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota.

The October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting 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 August 4, 2026. 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 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 August 4, 2026.

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 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 Acting Chief Engineer is August 4, 2026. 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 Acting 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.

FPNO 51

LPNO 51

Published once at the total approximate cost of \$84.00 and can be viewed free of charge at www.sdpublicnotices.com.

AFFIDAVIT OF PUBLICATION

State of New Jersey, County of Camden, ss:

Edmar Corachia, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Capital Journal, a newspaper printed and published in the City of Pierre, County of Hughes, State of South Dakota; that he/she has full and personal knowledge of the facts herein stated, that said newspaper is legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal display advertisement headed 9030-3 Mid-Dakota RWS - Public Notice a printed copy of which, taken from the paper in which the same was published, and which is here to attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

Jul. 23, 2026

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of publisher or publishers; 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 whomever; that the fees charged for the publication thereof are: 78.75

Edmar Corachia

(Signed) _____

VERIFICATION

State of New Jersey
County of Camden

Subscribed in my presence and sworn to before me on this: 07/23/2026

Sharon E. Thomas-Pope

Notary Public

Notarized remotely online using communication technology via Proof.

SHARONN E THOMAS-POPE
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires January 23, 2027

**NOTICE OF HEARING on
Application No. 9030-3 to
Appropriate Water**

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board

RECEIVED

AUG 07 2026

**OFFICE OF
WATER**

RECEIVED

AUG 07 2026

OFFICE OF
WATER

COLUMN SOFTWARE PBC
9450 SW GEMINI DR PMB 79042
BEAVERTON OR 97008-7105

009922 1 34 69 *****AUTO**MIXED WKG
WATER RIGHTS PROGRAM
523 E CAPITOL AVE ATTN RACHEL RODRIGUEZ
PIERRE SD 57501-3182



009922



will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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 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 August 4, 2026.

The petition shall be in writing and 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. 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 October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting Chief Engineer from the ap-

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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 at the total approximate cost of \$78.75 and may be viewed for free of charge at www.sdpublicnotices.com (Jul. 23, 2026)

RECEIVED

AUG 07 2026

OFFICE OF
WATER



NOTICE OF HEARING on Application

Notice is given that Mid-Dakota Rural Water System, Inc., P.O. Box 318, Miller, S.D. 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre, S.D. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

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Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 a.m. (Central Time) on October 7, 2026 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre, S.D. The Acting 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.

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Affidavit of Publication

State of South Dakota

§

County of Clark

Karli J. Paulson of said county, being first duly sworn, on oath says that she is the publisher of the **Clark County Courier**, a weekly newspaper printed and published in Clark in said County of Clark and has a full and personal knowledge of all the facts therein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Water Rights Program

a printed copy of which taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

One

successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

July 22, 2026

that the full amount of the fees for the publication of the annexed notice is

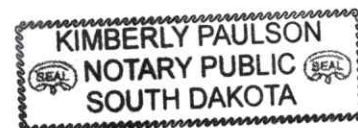
\$91.60

Karli Paulson

Subscribed and sworn to before me this

31st day of July, 2026

Kimberly Paulson



Notary Public
Clark County, South Dakota

My Commission expires: 04/27/2029

RECEIVED

AUG 03 2026

OFFICE OF
WATER

on No. 9030-3 to Appropriate Water

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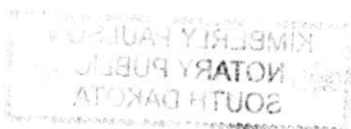
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Published once at the approximate cost of \$91.60 and can be viewed free of charge at www.sdpublicnotices.com

7-22-26



Affidavit of Publication

STATE OF SOUTH DAKOTA, COUNTY OF JERAULD, SS.

I, first duly sworn, deposes and says: that he/she is a
dent of the County of Jerauld and State of South Dakota;
the True Dakotan is a weekly newspaper of general
lation, published in Wessington Springs, in said county by
i Hine; and is now and has been such newspaper
inuously, during all the times hereafter mentioned; that
affiant is, and was during all the times hereafter mentioned,
business manager of said newspaper, in charge of the
vertising department thereof; and has personal knowledge
of facts stated in this affidavit:

that the notice and advertisement headed

Notice of Hearing on Application #9030-3

anted copy of which is hereunto attached and made a part
of, was printed and published in said newspaper
successive issues. That the first publication of said
e in said newspaper aforesaid was
nesday, the 22 day of July, 2026;
hat the succeeding publications were:
nesday, the _____ day of _____, 20____
nesday, the _____ day of _____, 20____
nesday, the _____ day of _____, 20____

he fee charged for the printing and publishing of said
and advertisement in said newspaper aforesaid,
20 dollars and 82 cents, and for this affidavit; and
aid fee for printing and publishing said notice and
isement in said newspaper has been full paid; that the full
t of fees charged for the publishing of the said attached
nixed notice and advertisement inures to the benefit of
lisher of the said True Dakotan; and no agreement or
standing for the division thereof has been made with any
whomsoever; that the said newspaper is a legal newspaper
vided by law.

K. Hine

bed and sworn to before me, this 23 day of July, 2026

Debra Atkinson
Notary Public in and for
Jerauld County, South Dakota
My Commission Expires 8/10/2026



RECEIVED

JUL 27 2026

OFFICE OF
WATER

6 WEDNESDAY, JULY 22, 2026

PUBLIC NOTICES

NOTICE OF HEARING ON APPLICATION NO. 9030-3 TO APPROPRIATE WATER

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JUL 27 2026

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WATER

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Published once at an approximate cost of \$90.82 and may be viewed free of charge at www.sdpublicnotices.com.

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JUL 27 2026

Form 8

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

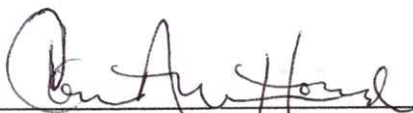
County of Sanborn) SSI, Carrie Ann Howard

certify that the attached printed Notice was taken

from the Sanborn Weekly
Journalprinted and published in WoonsocketCounty of Sanborn and

state of South Dakota. The notice was published

in the newspaper on the following date:

July 23, 2026Cost of Printing \$83.17
(Signature)Editor

(Title)

July 23, 2026
(Date Signed)NOTICE OF
HEARINGon Application No. 9030-3 to
Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller, SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre, S.D. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

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Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Aman-

rnal

Page 5

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at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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Published once on July 23, 2026, at the total approximate cost of \$83.25 and may be viewed free of charge at www.sdpublishing.com.

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Aurora) SS

I, J.P. Studeny, Jr.

certify that the attached printed Notice was taken
from the South Dakota Mail
printed and published in

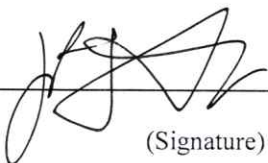
Plankinton

County of Aurora and
state of South Dakota. The notice was published
in the newspaper on the following date:

July 23, 2026

Cost of Printing

\$108.54


(Signature)

Publisher
(Title)

July 23, 2026
(Date Signed)

NOTICE OF HEARING on Application No. 9030-3 to Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R30W. The withdrawal site is located in Hughes County, approximately seven miles north-northwest of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

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Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD.

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JUL 27 2026

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WATER

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(Published July 23, 2026, at the total approximate cost of \$108.54 and may be viewed free of charge at www.sdpublicnotices.com.)

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JUL 27 2026

OFFICE OF
WATER

STATE OF SOUTH DAKOTA

CORPORATE ACKNOWLEDGEMENT

County of Aurora

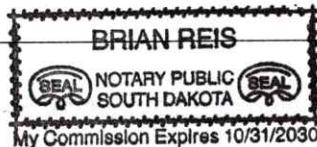
On this the 23rd day of July, 2026, before me, Brian Reis,
the undersigned officer, personally appeared J.P. Studeny Jr., who acknowledged herself
to be the Publisher of SD Mail, a corporation, and that (s)he, as
Publisher, being authorized so to do, executed the forgoing instrument for the
purposes therein contained, by signing the name of the corporation by themselves as
Publisher.

In witness whereof I hereunto set my hand and official seal.



Notary Public, State of South Dakota

My Commission Expires: _____



Form 8

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JUL 27 2026

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Bruce) SS

I, Debi Kourt

certify that the attached printed Notice was taken
from the Central Dakota Times

printed and published in City of Chamberlain,

County of Bruce and

state of South Dakota. The notice was published

in the newspaper on the following date:

July 22, 2026.

Cost of Printing

\$74.61

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Pursuant to SDCL 46-2A-2, the Acting Chief

Janet L. Petrak
(Signature)

Bookkeeper
(Title)

July 23, 2026
(Date Signed)

JANET L. PETRAK
Notary Public
SEAL
South Dakota

Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information or other information, at the Water Rights Program address provided below.

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(Published one week, July 22, 2026, at a total approximate cost of \$74.61 and may be viewed free of charge at www.sdpublicnotices.com.)

(July 22)

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Water Rights Program
Rachel Rodriguez
Water Rights Program
523 E Capitol Ave
Pierre SD 57501

RECEIVED

JUL 27 2026

**OFFICE OF
WATER**

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

07/22/2026

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper. Sworn to and subscribed before on 07/22/2026

A handwritten signature in black ink, appearing to be "Kongmeng Yang", written over a horizontal line.

Legal Clerk

A handwritten signature in black ink, appearing to be "Kongmeng Yang", written over a horizontal line.

Notary, State of WI, County of Brown

A handwritten signature in black ink, appearing to be "Kongmeng Yang", written over a horizontal line.

My commission expires

Publication Cost: \$95.70

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KONGMENG YANG
Notary Public
State of Wisconsin

NOTICE OF HEARING on
Application No. 9030-3 to
Appropriate Water

Notice is given that Mid-Dakota Rural Water System, Inc., PO Box 318, Miller SD 57362, has filed an application for a future use water permit to appropriate and reserve 9,999 acre-feet of water annually from the Missouri River located in the NE 1/4 SE 1/4 Section 26-T112N-R80W. The withdrawal site is located in Hughes County, approximately seven miles north-north-west of Pierre SD. The water is to be reserved as a future water supply serving rural water system connections in Aurora, Beadle, Buffalo, Clark, Faulk, Hand, Hughes, Hyde, Jerauld, Kingsbury, Potter, Sanborn, Spink, and Sully counties. If approved, this application does not authorize construction of works or placement of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Acting Chief Engineer's recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends APPROVAL of Application No. 9030-3 with qualifications because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the Mid-Dakota Rural Water System has demonstrated a reasonable need to reserve water in the amount of 9,999 acre-feet annually, 3) the proposed use is a beneficial use 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:00 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss

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Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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 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 August 4, 2026.

The petition shall be in writing and 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. 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 October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an auto-

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matic delay must be filed by August 4, 2026. 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 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 August 4, 2026.

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 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 Acting Chief Engineer is August 4, 2026. 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 Acting 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,

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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 on July 22, 2026 at the total approximate cost of \$95.70 and may be viewed free of charge at www.sdpublishnotices.com

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FORM 2: Application for Irrigation in South Dakota
(type or print)OFFICE OF
WATER

PAID

APR 17 2026

Ck# 9255

Rec't#

Mail to: SD DNR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3132 ph. (605) 773-3352	No. <u>9039-3</u> Hydrologic Unit <u>10160011</u> Basin <u>James R</u> Newspaper <u>Daily Press & Dakotan</u> (office use only)
--	--

Application for Permit to Appropriate Water for Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit Frank Kralicek Jr

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

Mailing Address 43792 306th St Yankton SD 57078
(Address) (City) (State) (Zip Code)Phone _____ Mobile _____ Email FrankKralicekJr@gmail.com2. Amount of water claimed 2.22 *CFS or _____ **GPM _____ ***AF Total Acreage 400.00
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply up to two wells (LJM)4. Location of point of diversion N 1/2 Sec 16-T94N-R56W

(example - 3 wells in SW 1/4 NE 1/4 section 13-T104N-R33W)

County Yankton5. County or counties where water will be used Yankton6. Annual period during which water is to be used April 1 - Sept 307. 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
N 1/2 & W 1/2 SE 1/4	400		
all in S16-T94N-R56W			

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

The applicant is requesting reinstatement of WP No. 8483-3 since wells and water supply system were not constructed by the original construction completion deadline of April 5, 2026. No increase to the originally approved diversion rate or number of acres is being requested.

I, [Signature], the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

2021-03

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)

NOTE to WR staff: WP No. 8483-3 can be canceled for non-construction pending approval of this application

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Form 2A
(Complete applicable portions only)

Supplemental Information

(type or print)

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** SEE 8483-3

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many 2 Have test holes been drilled? ☐ Yes ☐ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells:

c) Well Depth (required) ~200' Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

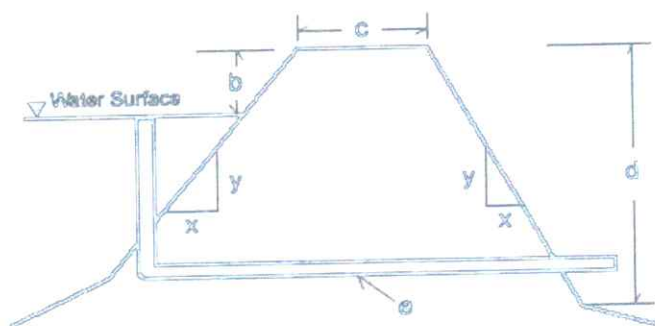
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





**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. 9039-3, Frank Kralicek Jr. TO REINSTATE WATER PERMIT NO.
8483-3**

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. 9039-3, Frank Kralicek Jr., 43792 306th Street, Yankton SD 57078.

The Acting Chief Engineer is recommending REINSTATEMENT of Permit No. 8483-3 through the APPROVAL of Application No. 9039-3 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 wells approved under Water Permit No. 9039-3 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. The proposed wells authorized by Permit No. 9039-3 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.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
June 17, 2026

Report to the Chief Engineer
On Water Permit Application No. 9039-3

Frank Kralicek Jr.

June 17, 2026

Water Permit Application No. 9039-3 proposes to appropriate 2.22 cubic feet of water per second (cfs) from two wells to be completed into the Lower James Missouri aquifer (approximately 200 feet deep) located in the N ½ Section 16 for the irrigation of 400 acres located in the N ½, W ½ SE ¼ Section 16; all in T94N-R56W, reinstating Water Permit No. 8483-3. Water Permit No. 8483-3 was approved April 5, 2021, with all construction to be completed April 5, 2026. Application No. 9039-3 proposes to reinstate Permit No. 8483-3 since the project has not been completed within the authorized five-year period. The site of interest is located approximately 9 miles east of Vermillion, SD in Yankton County.

AQUIFER: Lower James Missouri (LJM)

HYDROGEOLOGY:

The Lower James Missouri aquifer is a Quaternary aged glacial outwash that consists of fine sand to cobble gravel that is intermixed in some expanses 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 Carlisle 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 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). In Clay, Hutchinson, and Yankton Counties, the Lower James Missouri aquifer is estimated to underly approximately 191,700 acres and contain approximately 2,795,400 acre-feet of recoverable water in storage (Hedges et al, 1982) (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, 2026b). The saturated thickness of the Lower James Missouri aquifer ranges from approximately 50 to 150 ft (Bugliosi, 1986). The proposed diversion point for this application is approximately 200 feet deep and would complete into the lower James Missouri aquifer (Water Rights, 2026d). The Lower James Missouri aquifer is predominantly under confined conditions but can be found to be under unconfined conditions (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

A well completion report was not submitted with this application. However, a well completion report is on file for one of the wells authorized by Water Permit No. 8483-3 which this application seeks to reinstate. The well completion report is for a well located 1.2 miles northeast of this application, that was completed on October 10th, 2012. The proposed diversion points for this application are located one half mile southwest outside of the approximated boundary of the Lower James Missouri aquifer. However, based on this and other nearby well completion reports which encounter Lower James Missouri aquifer materials, the proposed diversion points are likely to be completed into the Lower James Missouri aquifer (Water Rights, 2026d). The well completion report encountered the top of the Lower James Missouri aquifer material at 155 feet below the ground surface (Water Rights, 2026d) with a static water level of 144 feet below ground surface at the time of completion (Water Rights, 2026d). Based on this and other nearby well completion reports, the Lower James Missouri aquifer is expected to be under confined conditions at the proposed diversion points (Water Rights, 2026d).

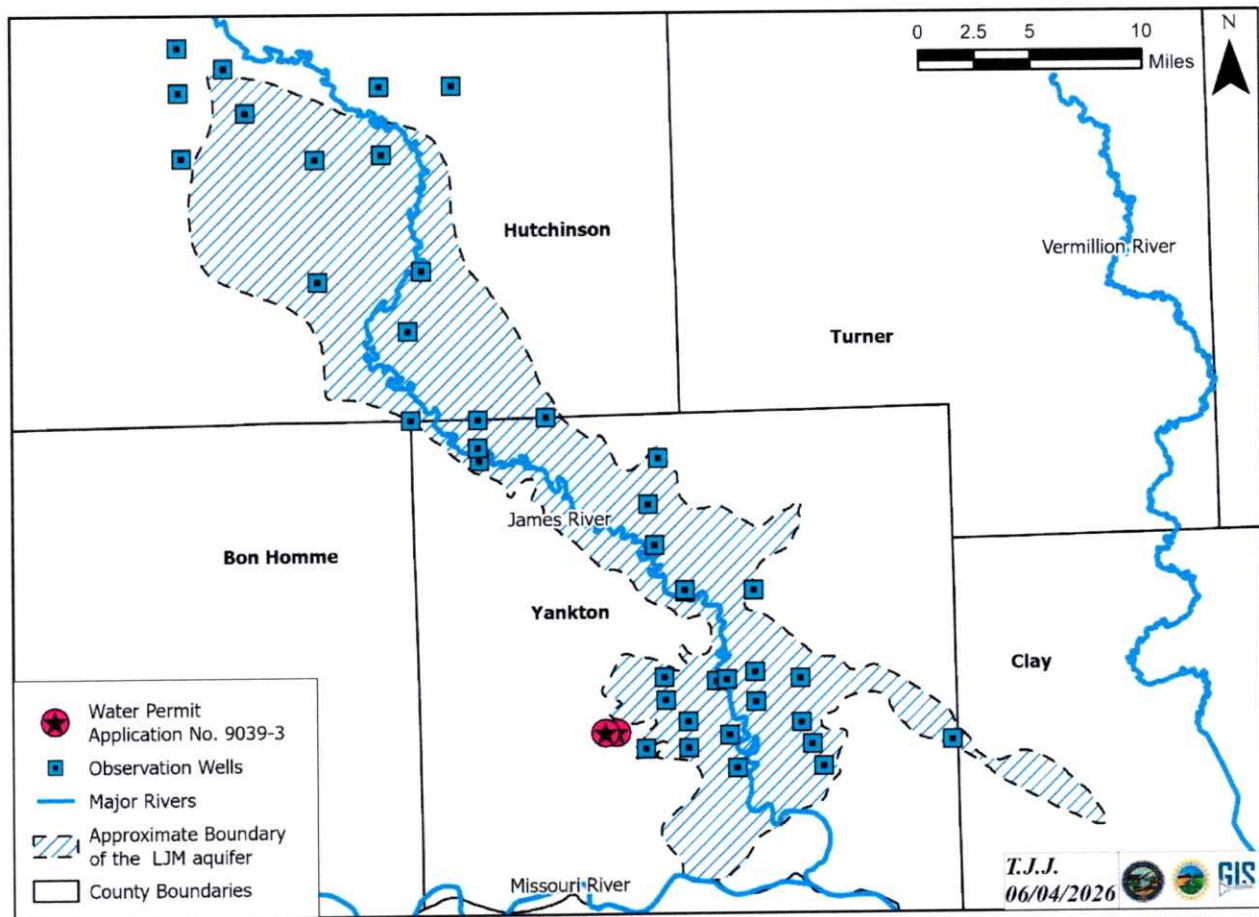


Figure 1. Map of the approximate Lower James Missouri aquifer boundary (modified from Hedges et al, 1982), and the location of observation wells (Water Rights, 2026b) and proposed diversion points for Water Permit Application No. 9039-3 (Water Rights, 2026d)

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 unappropriated water is available for the applicant’s proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is 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.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic uses and water rights within the Lower James Missouri aquifer.

WATER AVAILABILITY:

Water Permit Application No. 9039-3 proposes to appropriate water from the Lower James Missouri aquifer for irrigation use. 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, 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; Water Rights, 2026d).

Currently, there are 134 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer, and this pending application (Water Rights, 2026c). There are no future use permits reserving water from the Lower James Missouri aquifer (Water Rights, 2026c).

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, 2026c).

Table 2. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Lower James Missouri aquifer (Water Rights, 2026c)

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
4556-3	KNIFE RIVER	LC	COM	0.440	N/A	191
840-3	STUELPNAGELS INC	LC	COM	1.110	N/A	482
6264-3	YANKTON LAND & CATTLE CO	LC	COM, LCO	0.560	N/A	243
6320-3	WOLF CREEK HTRN BRTH	LC	COM, DOM	0.080	N/A	35
6925-3	TSCHETTER COLONY	LC	COM, LCO	0.070	N/A	30
7827-3	MAXWELL COLONY	PE	COM, LCO	0.330	N/A	143
8412-3	KNIFE RIVER	LC	IND	7.800	400	400
COM Commercial, IND Industrial, LC Licensed Water Right, PE Water Permit, LCO Livestock Confinement Operation, DOM Domestic					TOTAL:	1,525

Currently, there are 127 irrigation water rights/permits appropriating water from the Lower James Missouri aquifer (Water Rights, 2026c). 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 2025) is approximately 3,226 acre-feet per year (Table 3) (Water Rights, 2026a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2016 to 2025 is approximately 4,962 acre-feet per year (Table 3) (Water Rights, 2026a).

Water Permit No. 8944-3 was approved in 2025 and not accounted for in Table 3 (Water Right, 2026c). Water Permit No. 8944-3 is authorized to irrigate 70 acres (Water Rights, 2026c). This application is requesting to irrigate 400 acres. Over the entire period of record, crop irrigators in the Tulare: East James aquifer of South Dakota applied, on average, 7.58 inches of water per acre per year (Drennon, 2025). However, the Tulare: East James aquifer is more than 100 miles north of the Lower James Missouri aquifer. To account for the fluctuation in wet and dry cycles from year to year and differences in percolation of local soils, an estimate of 10 inches (0.83 feet) of water per acre per year will be used to somewhat overestimate the annual withdrawal rate for Water Permit No. 8944-3 and this application. Assuming 0.83 feet of water applied per acre per year, the withdrawal rate for Water Permit No. 8944-3 is approximately 58 acre-feet per year. Likewise, the estimated average annual withdrawal rate for this application is approximately 332 acre-feet per year. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2016 to 2025 (4,962 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water rights/permits approved in 2025 (58 acre-feet/year), and this application (332 acre-feet per year), is approximately 5,352 acre-feet per year.

Table 3. Reported historic irrigation use from the Lower James Missouri aquifer (Water Rights, 2026a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)	Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	22	588	2005	48	2,867
1980	23	1,299	2006	50	3,631
1981	27	1,835	2007	56	3,426
1982	23	1,301	2008	79	4,494
1983	27	1,307	2009	84	1,463
1984	28	1,360	2010	85	665
1985	27	1,483	2011	89	4,147
1986	30	990	2012	93	13,058
1987	30	1,042	2013	118	7,856
1988	31	2,745	2014	125	3,347
1989	31	2,145	2015	127	4,823
1990	35	2,928	2016	126	5,747
1991	42	2,599	2017	126	5,727
1992	45	1,159	2018	126	1,036
1993	45	230	2019	127	328
1994	45	1,918	2020	121	3,865
1995	41	1,483	2021	120	8,196
1996	49	2,103	2022	122	10,132
1997	50	2,320	2023	128	7,689
1998	53	2,787	2024	127	5,377
1999	50	2,102	2025	127	1,589
2000	51	3,751			
2001	53	2,940	Max	127	13,059
2002	53	4,062	Min	22	230
2003	53	2,843	Avg (1979-2025)	68	3,226
2004	47	2,887	Avg (2016-2025)	125	4,962

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, 2026d). Due to their relatively low diversion rates, withdrawals from domestic wells are 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 6,877 acre-feet per year (non-irrigation: 1,525 acre-feet/year; irrigation (avg 2016 to 2025 plus estimated use for Water Permit No. 8944-3 and this application, if approved): 5,352 acre-feet/year). Based on the hydrologic budget, there is a reasonable probability unappropriated

water is available from the Lower James Missouri aquifer for the proposed appropriation. Table 4 shows average annual recharge to the aquifer exceeds the average annual withdrawals. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Lower James Missouri aquifer for the proposed appropriation.

Table 4. List of water rights/permits withdrawals, estimated use of recently approved permits, this applications (if approved), and unconfined/confined recharge of the Lower James Missouri aquifer (Water Rights, 2026a)

	Pumpage for the Lower James Missouri Aquifer (ac-ft/yr)
Non-Irrigation Appropriation	1,525
Irrigation Appropriation (2016-2025)	4,962
Recently Approved Permit (8944-3)	58
This Application	332
Total Withdrawal	6,877
Total Recharge Range	23,963 – 26,715

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.

The DANR-Water Rights Program monitors 33 observation wells completed into the Lower James Missouri aquifer (Water Rights, 2026b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the proposed diversion points are YA-78G (approximately 1.5 miles southeast), YA-80K (approximately 2.6 miles northeast), and YA-80W (approximately 3.3 miles northeast) (Water Rights, 2026b). The hydrographs for these observation wells are displayed in Figure 2 (Water Rights, 2026b). The data points utilized to construct the hydrographs are a measurement of the static water level in the observation wells from the top of the well casing. The data shown on Figure 2 shares a similar trend to most of the other observation wells in the Lower James Missouri aquifer. Observation well YA-80W was destroyed in 2023 but will be included in Figure 2 since it has a significant history of water levels of the Lower James Missouri aquifer near the proposed diversion points.

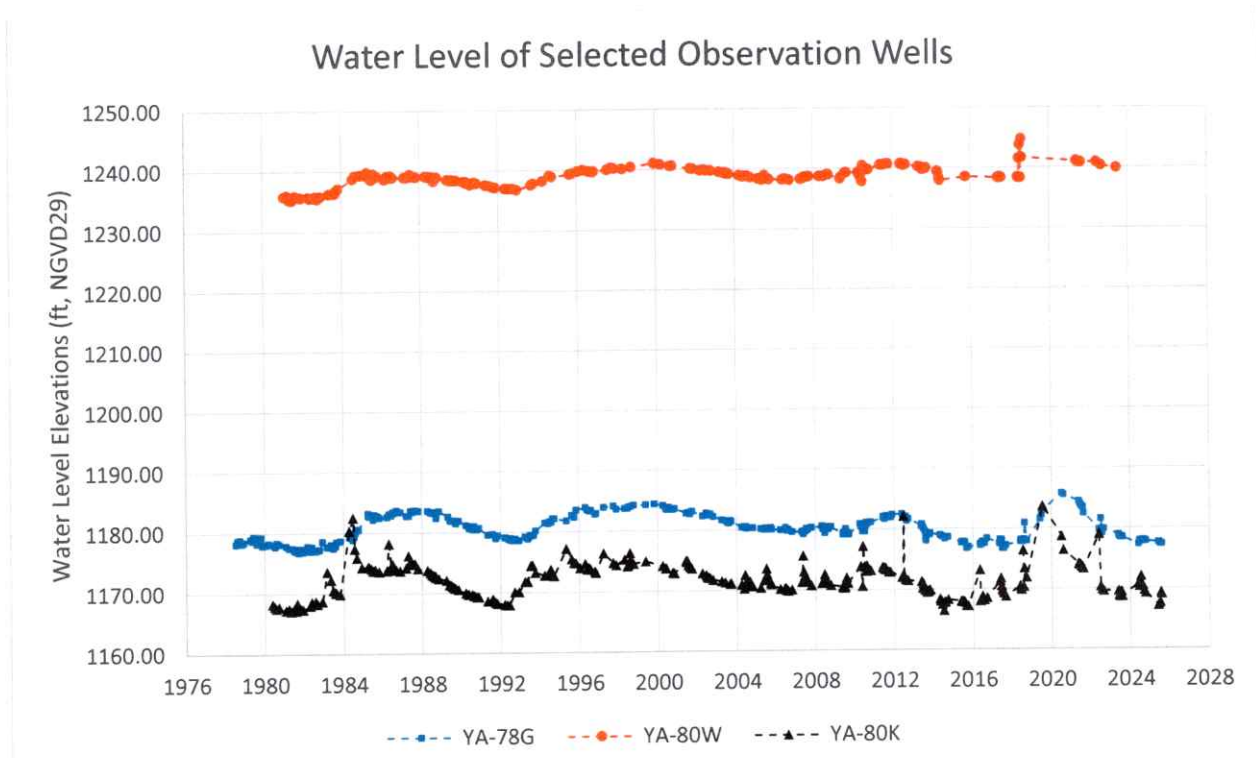


Figure 2. A hydrograph showing the elevation of water levels of observation wells YA-78G, YA-80K, and YA-80W (Water Rights, 2026b)

A majority of the observation wells in the Lower James Missouri aquifer have a relatively stable trend in the water level, as seen in Figure 2. The hydrographs for the Lower James Missouri aquifer observation wells indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods (early spring snowmelt and precipitation) and declining to a stable water level during drier periods (NOAA, 2026). 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 with water levels 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:

Water rights/permits in the general vicinity of the proposed well site for this application are shown in Figure 3 and summarized in Table 5. The closest water right/permit to the proposed diversion points for this application, not held by the applicant, is Water Right No. 8081-3 which is held by David G. Sternhagen. The diversion point for Water Right No. 8081-3 is located approximately 1.1 miles northeast of the proposed diversion points for this application (Water

Rights, 2026c). 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 well on file (not held by the applicant) approximately 1.3 miles east of the diversion points based on the legal description provided by the well driller on the well completion report (Water Rights, 2026d). There could potentially be other domestic wells completed into the Lower James Missouri aquifer near the diversion points that are not on file with the DANR-Water Rights Program.

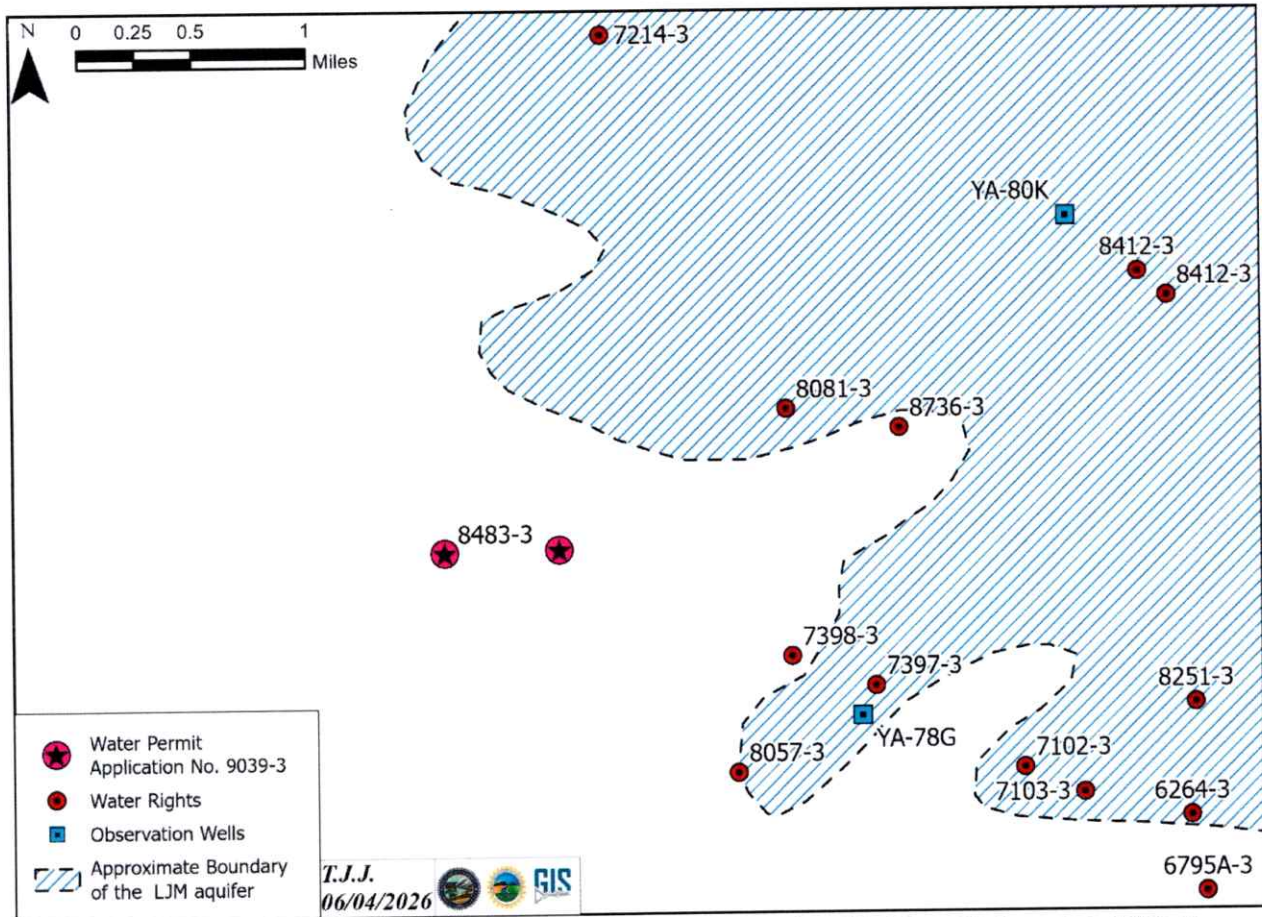


Figure 3. Map of approximate Lower James Missouri aquifer boundary (modified from Hedges et al, 1982), the proposed diversion points for Water Permit Application No. 9039-3, nearby Lower James Missouri aquifer water rights/permits, and observation wells (Water Rights, 2026b and 2026c).

Table 5. List of water rights/permits shown in Figure 3 (Water Rights, 2026c).

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
6264-3	Yankton Land & Cattle Co.	05/25/2001	License	Commercial	0.56	N/A
6795A-3	Yankton Land & Cattle Co.	07/10/2012	License	Irrigation, Commercial	1.56	90
7102-3	Mary & Dan Cwach	03/09/2009	License	Irrigation	1.78	202
7103-3	Mary & Dan Cwach	03/09/2009	License	Irrigation	1.78	62
7214-3	Marquardt Farms	09/30/2010	License	Irrigation	2.00	293
7397-3	Frank Kralicek	07/30/2012	Permit	Irrigation	1.56	249
7398-3	Frank Kralicek	07/30/2012	License	Irrigation	1.39	103
8057-3	Schoenfelder Family Trust	10/06/2014	Permit	Irrigation	2.67	360
8081-3	David G. Sternhagen	10/12/2012	License	Irrigation	1.56	164
8251-3	Willard Schmidt	03/08/2004	License	Irrigation	1.56	236
8412-3	Knife River	10/21/2019	License	Industrial	7.8	N/A
8483-3	Frank Kralicek	01/29/2021	Permit	Irrigation	2.22	400
8736-3	David G. Sternhagen	03/22/2023	Permit	Irrigation	1.78	135

The Lower James Missouri aquifer varies between confined and unconfined conditions (Bugliosi, 1986; Lindgren and Hansen, 1993). Based on nearby well completion reports, the Lower James Missouri aquifer is expected to be under confined conditions at the proposed diversion points (Water Rights, 2026d). 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 (Water Rights, 1995). 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.”

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). In Yankton 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, 2026e). Any drawdown as a result of the proposed diversion for this application is not expected

to unlawfully impair nearby adequate wells. When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), history of irrigation in the area without any complaints of well interference (Water Rights, 2026e), the previous Water Permit No. 8483-3 was approved by the board (Water Rights, 2026c), and the saturated aquifer thickness near the diversion points, 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. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 9039-3 proposes to appropriate 2.22 cfs from two wells to be completed into the Lower James Missouri aquifer (approximately 200 feet deep) located in the N $\frac{1}{2}$ Section 16 for the irrigation of 400 acres located in the N $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 16; all in T94N-R56W, reinstating Permit No. 8483-3. Permit No. 8483-3 was approved April 5, 2021, with all construction to be completed April 5, 2026. Application No. 9039-3 proposes to reinstate Permit No. 8483-3 since the project has not been completed within the authorized five-year period. The site of interest is located approximately 9 miles east of Vermillion, SD in Yankton County.
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 the diversion by Water Permit Application No. 9039-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



Tyler Jensen
Natural Resources Engineer II
SD DANR - Water Rights Program

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Water Rights, 2026d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

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AFFIDAVIT OF PUBLICATION

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JUL 27 2026

OFFICE OF
WATER

YANKTON DAILY PRESS AND DAKOTAN

DANR
523 E CAPITOL AVE
PIERRE SD 57501-3182

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.

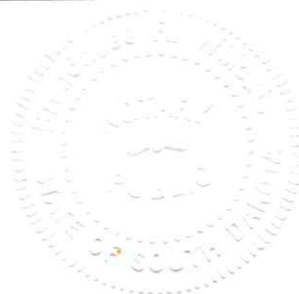
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 22nd DAY OF July, 2026
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$91.92 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION 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: 07/22/2026

FILED ON: 07/22/26


SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF July, 2026


NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 12/15/2029



NOTICE OF APPLICATION NO. 9039-3 to Reinstate Water Permit No. 8483-3

RECEIVED

JUL 27 2026

OFFICE OF
WATER

Notice is given that Frank Kralicek Jr., 43792 306th Street, Yankton SD 57078, has filed an application to reinstate Water Permit No. 8483-3, pursuant to SDCL 46-2A-8.1. Water Permit No. 8483-3 authorized the diversion of 2.22 cubic feet of water per second from two wells to be completed into the Lower James Missouri Aquifer (approximately 200 feet deep) located in the N 1/2 Section 16 for irrigation of 400 acres located in the N 1/2, W 1/2 SE 1/4 Section 16; all in T94N-R56W. Permit No. 8483-3 was approved April 5, 2021, with all construction to be completed April 5, 2026. Application No. 9039-3 proposes to reinstate Permit No. 8483-3 since the project has not been completed. This site is located in Yankton County, approximately five miles northwest of Yankton SD.

Application No. 9039-3 to reinstate Permit No. 8483-3 is made, pursuant to SDCL 46-2A-8.1, which allows reinstatement of a permit with a new priority date, provided that unappropriated water is available and the construction necessary to put water to beneficial use was not completed within five-years of approval of the original permit.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that 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 Acting Chief Engineers recommendation and no hearing may be held before the board, unless the Acting 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 Acting 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 Acting Chief Engineer recommends REINSTATEMENT of Application No. 8483-3 through the APPROVAL of Application No. 9039-3 because 1) there is reasonable probability that there is unappropriated water available for the applicants 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 Acting Chief Engineers recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 10:30 AM (Central Time) on October 7, 2026, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Acting 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 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 August 3, 2026.

The petition shall be in writing and 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. 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.

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JUL 27 2026

OFFICE OF
WATER

The October 7, 2026, hearing date will be automatically delayed for at least 20 days upon written request to the Acting 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 August 3, 2026. 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 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 August 3, 2026.

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 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 Acting Chief Engineer is August 3, 2026. 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 Acting 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 once at an approximate cost of \$91.92 and can be viewed free of charge at www.sdpublicnotices.com

Published July 22, 2026.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 25, 2026

NOTICE OF HEARING

TO: Brad & Marlene Pisha
29209 242nd Ave
Tuthill SD 57574

FROM: Adam Mathiowetz, PE, Chief Engineer
SD DANR – Water Rights Program

SUBJECT: Notice Scheduling Hearing Regarding Addition of Qualification No. 4 to Water
Permit No. 2907-2, Brad & Marlene Pisha

Water Permit No. 2907-2 was approved July 27, 2026, for the appropriation of an additional 2.0 cubic feet of water per second (cfs) from a new well (Ogallala Aquifer) to what was already authorized by Water Right No. 2509-2. Water Permit No. 2907-2 and Water Right No. 2509-2 combined, authorize the diversion of a total of 4.0 cfs from two wells (Ogallala Aquifer) for the irrigation of 270 acres.

Pursuant to SDCL 46-5-6, in the issuance of permits to appropriate water for irrigation the amount allowed may not be in excess of the rate of one cubic foot of water per second for each seventy acres, or the equivalent thereof, and the volume of water diverted for use may not exceed two acre-feet per acre, delivered on the land for a specified time each year. The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. However, no annual volume may be greater than three acre-feet per acre delivered to the land.

As Chief Engineer, I am recommending the addition of a qualification that would allow for the exceedance of the statutory limit of 1cfs per 70 acres referenced in SDCL 46-5-6, since the increase to the diversion rate authorized by Permit No. 2907-2 is intended to allow for more efficient operation of the authorized irrigation system. The qualification would read as follows:

Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, this Permit and Water Right No. 2509-2 authorize a combined, maximum diversion rate of 4.0 cfs for the irrigation of a total of 270, acres with an annual volume not to exceed 2-acre feet of water per acre per year.

The Water Management Board will conduct a hearing to consider addition of the qualification to Water Permit No. 2907-2 at **11:00 AM, on October 7, 2026 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (*the agenda time is an estimate, and actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) add the qualification as recommended, 2) delay action, or 3) take no action on Water Permit No. 2907-2, based upon facts presented at the public hearing.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-14; 46-2-5, 46-2-9, 46-2-11; and Board Rules ARSD 74:02:01:14. This is a contested case pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party 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.

Prior to September 14, 2026, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed qualification addition; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by September 14, 2026.

Questions regarding the hearing process may be directed to Amanda Dewell, Permitting Administrator of the Water Rights Program, at (605) 773-3352 or amanda.dewell@state.sd.us

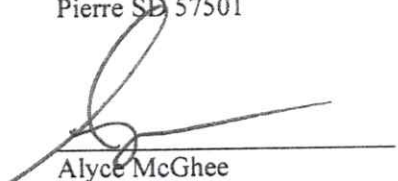
CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF HEARING dated August 25, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit holders on August 25, 2026.

Brad & Marlene Pisha
29209 242nd Ave
Tuthill SD 57574

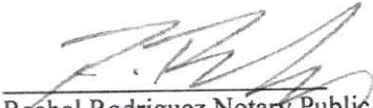
Also sent inter-office to:

Emily Greco, Assistant Attorney General
1302 E Highway 14, Suite 1
Pierre SD 57501


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of August, 20 26.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



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DEC 09 2025

Water Rights Program 4:32 PM

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DEC 08 2025

Water Rights Program

7:55 AM

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>9008-3</u> Hydrologic Unit <u>10160009</u>
	Basin <u>James</u>
	Newspaper <u>Redfield Press</u>
	<u>Aberdeen American News</u> (office use only)

Application for Permit to Appropriate Water for Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit Brian Gilbert

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

Mailing Address 6505 S Avalon Ave. 1808 East Edgemont Rd Sioux Falls SD 57108 57103
(Address) (City) (State) (Zip Code)

Phone 605-214-0546 Mobile 605-214-0546 Email bdgilbert@fnbsf.com

2. Amount of water claimed 3.57 *CFS or 800 each **GPM --- ***AF Total Acreage 300
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well approx centers of NE 1/4 & SE 1/4

4. Location of point of diversion 2 wells E 1/2 28-115N-65W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used Spring/Summer/Early Fall April 1 - Oct 31st

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
E 1/2 of 28-115-65 Lake twp, Spink Cour	280 <u>300</u>		

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

Put up two pivots on a 1/2 section

I, B. J.
Name of Person

Owner, 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)

44.74250/-98.65108

approx 4 mi W Tolson

Supplemental Information

(type or print)

RECEIVED

DEC 08 2025

Water Rights
Program

1. Well Information (check one or both as applicable)

☒ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many 2 Have test holes been drilled? ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells:

c) Well Depth (required) 100 ft Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property 1/2 mile Property owned by others _____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

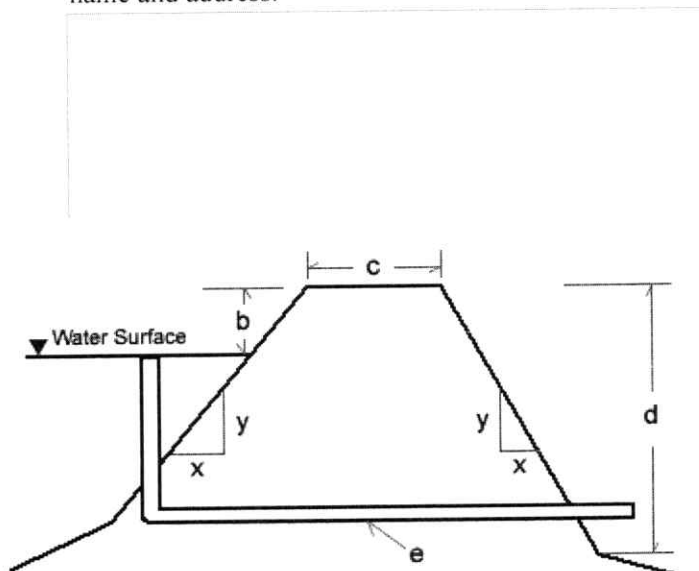
a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF THE CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 9008-3, Brian Gilbert**

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. 9008-3, Brian Gilbert, 1808 East Edgewood Rd, Sioux Falls SD 57103.

The Acting Chief Engineer is recommending APPROVAL of Application No. 9008-3 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 wells approved under Water Permit No. 9008-3 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. The proposed wells authorized by Permit No. 9008-3 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.

See report on application for additional information.

Adam Mathiowetz, PE
Chief Engineer

Department of Agriculture and Natural Resources-Water Rights Program
August 6, 2026

**Report to the Chief Engineer on
Water Permit App. No. 9008-3**

Brian Gilbert
August 06, 2026

In October of 2013, the South Dakota Water Management Board declared the Tulare: Western Spink-Hitchcock aquifer was fully appropriated. The 27 applications that were placed on hold following legislation to establish a waitlist for fully appropriated aquifers were approved by the Water Management Board in the May 2026 meeting. There are also 26 new applications for appropriations from the aquifer in review pursuant to State rule and State law for new water permit applications. Figure 1 below is a map of the area of interest for Water Permit Application No. 9008-3 and the nearby water rights [1] and observation wells completed into the same aquifer [2]. Table 1 displays information about existing water rights in Figure 1.

Water Permit Application No. 9008-3 proposes to appropriate a combined total of up to 3.57 cubic feet of water per second (cfs) from two wells to be completed into the Tulare: Western Spink-Hitchcock aquifer (both approximately 100 feet deep) located in the approximate centers of the NE ¼ and SE ¼ of Section 28 for irrigation of 300 acres located in the E ½ of Section 28; all in T115N-R65W. The priority date of this application is December 8, 2025, and it was the first of two applications received that day. This site is located in Spink County approximately seven miles west of Tulare, South Dakota.

Table 1: Water rights shown in Figure 1 [1]

File No.	Name/Business	Status	Use Type	Max. CFS	Irr. Acres	Priority
839-3	Joann St Clair	LC	IRR	2.28	160	10/04/1961
971-3	Joann St Clair	LC	IRR	2.22	156	03/07/1962
1725-3	Joann St Clair	LC	IRR	2.10	149	02/02/1970
5301-3	Tyson Nuhsbaumer	LC	IRR	1.70	132	02/28/1989
5568-3	Richard Jessen	LC	IRR	1.72	122	12/12/1953
6142-3	Darin Binger	LC	IRR	2.22	240	05/10/1982

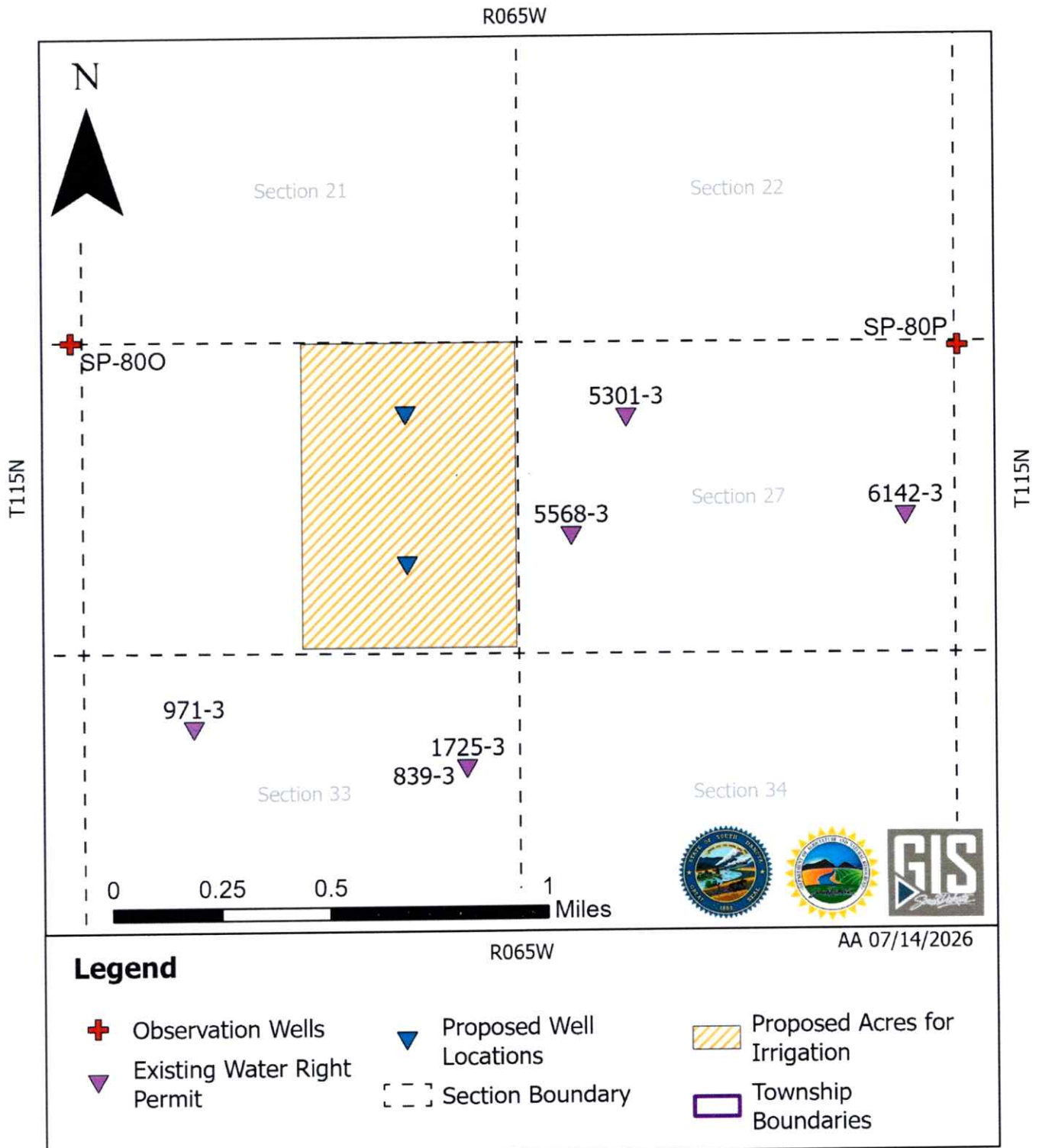


Figure 1: Observation wells and existing water rights near the well sites for this application. [1]
[2]

Aquifer: Tulare: Western Spink-Hitchcock

Hydrogeologic Characteristics

The Tulare aquifer is a Quaternary-aged system of sand and gravel layers that were deposited as outwash by meltwater from receding glaciers. The Western Spink-Hitchcock management unit of the Tulare aquifer is a buried aquifer generally lying immediately above the bedrock (a.k.a. basal) [3] [4]. The bedrock is composed of an erosional surface of exposed Cretaceous-aged Pierre Shale and the Niobrara Formation, with the lowest erosional surface possibly incising into the Carlile Shale, which contains the Codell Sandstone member [5]. The Niobrara Formation and Codell Sandstone can also be aquifers in portions of South Dakota [2] [1]. The Tulare: Western Spink-Hitchcock aquifer underlies approximately 260,000 acres of Hand, Spink, and Beadle Counties [6] [7]. The Tulare aquifer has an average saturated thickness of approximately 37 feet [8]. Assuming a porosity of 0.15 [9], the estimated recoverable water in storage in the Tulare: Western Spink-Hitchcock aquifer is approximately 1.4 million acre-feet. The Tulare: Western Spink-Hitchcock aquifer is hydrologically connected to several Quaternary and Cretaceous aged aquifers in physical contact with it. Buhler [10] estimated that approximately 77,000 acres of the Tulare: Western Spink-Hitchcock aquifer were under unconfined conditions in October 2012, and showed that at the time, a majority of the aquifer was under confined conditions. The area of the aquifer under confined conditions fluctuates with the amount of water stored in the aquifer. Since water is essentially incompressible, when the aquifer has more water in storage, more area becomes confined and vice-versa for when there is less water in the aquifer.

The applicant did not submit any well completion reports with this application, but sufficient information is available to complete the technical analysis for this report. A well completion report in the SE ¼ of Section 28-T115N-R65W, completed in 2012, indicates the driller encountered sand and gravel from land surface to approximately 8 feet below the surface, fine sand and coal from 8 feet to 33 feet, and coarse rock from 33 to 70 feet. The driller also indicated a static water level of 15 feet below the land surface [4]. A lithologic log in the NE ¼ NE ¼ of Section 28-T115N-R65W, completed in 1951, indicates the geologist encountered silty sand from approximately land surface to 20 feet, sandy silt with clay from 20 to 30 feet, fine sand from 30 to 35 feet, clay and sandy silt from 35 to 55 feet, medium to coarse sand with clay from 55 to 65 feet, and fine to medium sand from 65 to 95 feet [3] [4]. Another lithologic log from the NW ¼ NE ¼ of Section 28-T115N-R65W, completed in 1951, also showed very similar findings [4]. A well completion report for an irrigation well authorized by Water Right Nos. 839-3, 971-3, and 1725-3 (which all utilize the same well) indicates the driller encountered blue clay from 22 to 35 feet, at approximately 62 to 63 feet, and 93 feet below grade with fine sand or gravel between clay layers [4]. Based on these well completion reports and observation well data nearby, it is likely the aquifer will be under confined conditions at the locations of the proposed wells for this application [4] [2], but may fluctuate between confined and unconfined depending on the pressure in the aquifer. The depths of the aquifer material encountered are typical for the Tulare: Western Spink-Hitchcock aquifer in this area [11].

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the

proposed diversion 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. This report will only assess the availability of water and possibility of developing this application without unlawful impairment of existing domestic water uses and water rights.

Pursuant to SDCL 46-6-3.1, 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 the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. The applicant is not a water distribution system as defined in SDCL 46-1-6(17) and the Tulare: Western Spink-Hitchcock aquifer is younger and stratigraphically higher than the Greenhorn Formation [11]. Therefore, the Water Management Board must find that recharge to the aquifer exceeds withdrawals to approve this application.

Availability of Water

Hydrologic Budget

The hydrologic budget of the Tulare: Western Spink-Hitchcock aquifer as of 2025 was presented before the Water Management Board in December of 2025 [12] and is summarized below. The estimated average annual recharge to the aquifer is approximately 0.83 inches per acre [13], which equates to 18,000 ac-ft/yr over the currently estimated extent of the aquifer. Withdrawals from the aquifer are mainly for irrigation use by appropriative users. By taking the sum of the average irrigation reported for each permit, Drennon [12] estimated the average annual withdrawal from the aquifer was between 12,000 and 13,000 ac-ft/yr depending on the range of data used. Irrigators have been applying fewer inches per acre as time goes on but irrigating a higher proportion of their permitted acreage in any given year. The estimated average annual withdrawal from irrigation was approximately 12,000 ac-ft/yr for the period of 2015 through 2024, which is the last ten years of reports when Drennon [12] authored her report. Based on this hydrologic budget, there is approximately 6,000 ac-ft/yr of unappropriated water available.

There were 27 water permits placed on hold in 2015 following procedure for fully appropriated aquifers established by the Legislature in 2014, which were all approved at the May 2026 Board Meeting. Those 27 permits have senior priority to this application. For the period of 2015 through 2024, the average irrigation per reported acre was 6.63 inches per year and permit holders irrigated 79% of their permitted acres [12]. For the period of record of 1979 through 2024, the average irrigation per reported acre was 8.89 inches per year and permit holders irrigated on average 65% of their permitted acres [12]. The total estimated withdrawal of the 27 permits approved in May 2026 is likely to range between approximately 2,300 and 2,500 ac-ft/yr. Table 2 summarizes the held applications and estimated withdrawal based on past irrigation reports. The Water Permit for Martin Anderson (File. No. 8120-3) may not be developed because the applicant indicated an intent to irrigate from the same aquifer at a different location [14]. This action would not change the hydrologic budget but would make Mr. Anderson's new application

(9036-3) junior to the application discussed in this report. At the time of writing, there are 26 new applications requesting water from the Tulare: Western Spink-Hitchcock aquifer, including Application No. 9036-3. Table 3 summarizes the new permit applications since the December board meeting by applicant, and Appendix Table 4 (Page 11) lists the new permit applications in order of priority date and other details pertaining to those applications. Table 3 summarizes the estimated withdrawals for the new applications, except Application No. 9036-3 (excluded so as not to double count on the hydrologic budget), which are also all for irrigation.

This application is estimated to withdraw between 131 and 144 ac-ft/yr on average, although the lower value is more likely as it is based on only the last 10 years of irrigation withdrawals rather than the entire period of record when irrigation practices and precipitation conditions were different. Therefore, based on the hydrologic budget, there is reasonable probability there is unappropriated water available for this application.

Table 2: Estimated withdrawals for the 27 applications approved in May 2026. Several entities have multiple permits [12].

Applicant with Held Permit(s)	Total Requested CFS	Total Requested Acres	Est. Withdrawal (ac-ft/yr)	
			6.63 in/yr @ 79% acreage utilization	8.89 in/yr @ 65% acreage utilization
Allen and Jeffrey Gatzke	2.67	110	48	53
Bixler Farms or Bixler Land	16.02	1,450	633	698
Hamilton Family LLC	2.00	145	63	70
Jeff Hamilton	4.00	290	127	140
Ken and Jodi Hofer	4.33	310	135	149
Loren or Cynthia Marzahn	2.22	160	70	77
Martin Anderson*	1.86	132	58	64
Riverside Hutterian Brethren	7.70	384	168	185
Scott Hamilton	4.00	435	190	209
Van Buskirk Farms, LLP	25.65	1,798	785	866
Total	70.45	5,214	2,276	2,511
* This application will be canceled if App. No. 9036-3 is approved.				

Table 3: Estimated withdrawals for new applications since the December 2025 Water Management Board meeting [12]

Applicant for New Permit(s)	Total Requested CFS	Total Requested Acres	Est. Withdrawal (ac-ft/yr)	
			6.63 in/yr @ 79% acreage utilization	8.89 in/yr @ 65% acreage utilization
Bixler Farms	4.01	172	75	83
Matthew Van Buskirk	12.46	952	416	458
Wayne or Scott Binger	4.00	280	122	135
Terry McClain	2.00	180	79	87
Timoty Masat	1.78	204	89	98
Craig Brock	1.78	155	68	75
Lenny D Peterson	3.56	440	192	212
Brian Gilbert	3.57	300	131	144
Jon Gilbert	3.56	280	122	135
Danny Peterson	0.00	209	91	101
Terry Weiting	1.78	140	61	67
Total	38.50	3,312	1,445	1,594

Observation Wells

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely upon the record of observation well analysis in addition to other information to ensure that recharge to the aquifer exceeds withdrawals. The Water Rights Program maintains 55 observation wells completed into the Tulare: Western Spink-Hitchcock aquifer [2].

The nearest observation wells to this application are SP-80O and SP-80P. SP-80O is approximately 0.8 miles northwest from the northern proposed well. SP-80P is approximately 1.3 miles northeast from the northern proposed well. The locations of these observation wells are mapped in Figure 1 above. Figure 2 shows the water level elevations for those observation wells [2]. The water-level fluctuations in those wells are representative of the general behavior of the aquifer. In general, water levels rise during periods of higher-than-average precipitation and decline during periods of lower-than-average precipitation [15]. There is a slight trend of springtime water levels increasing with time, which is consistent with the increased precipitation over time in the area [2] [15]. There are also seasonal declines during the irrigation season. The tendency of the water levels in the aquifer to be primarily influenced by climate and precipitation rather than well withdrawals indicates that both recharge and natural discharge are occurring, which the Water Management Board considers available for capture. Furthermore, the scale of recharge and natural discharge is greater than withdrawals. Therefore, based on the record of observation wells, there is reasonable probability that unappropriated water is available for this application.

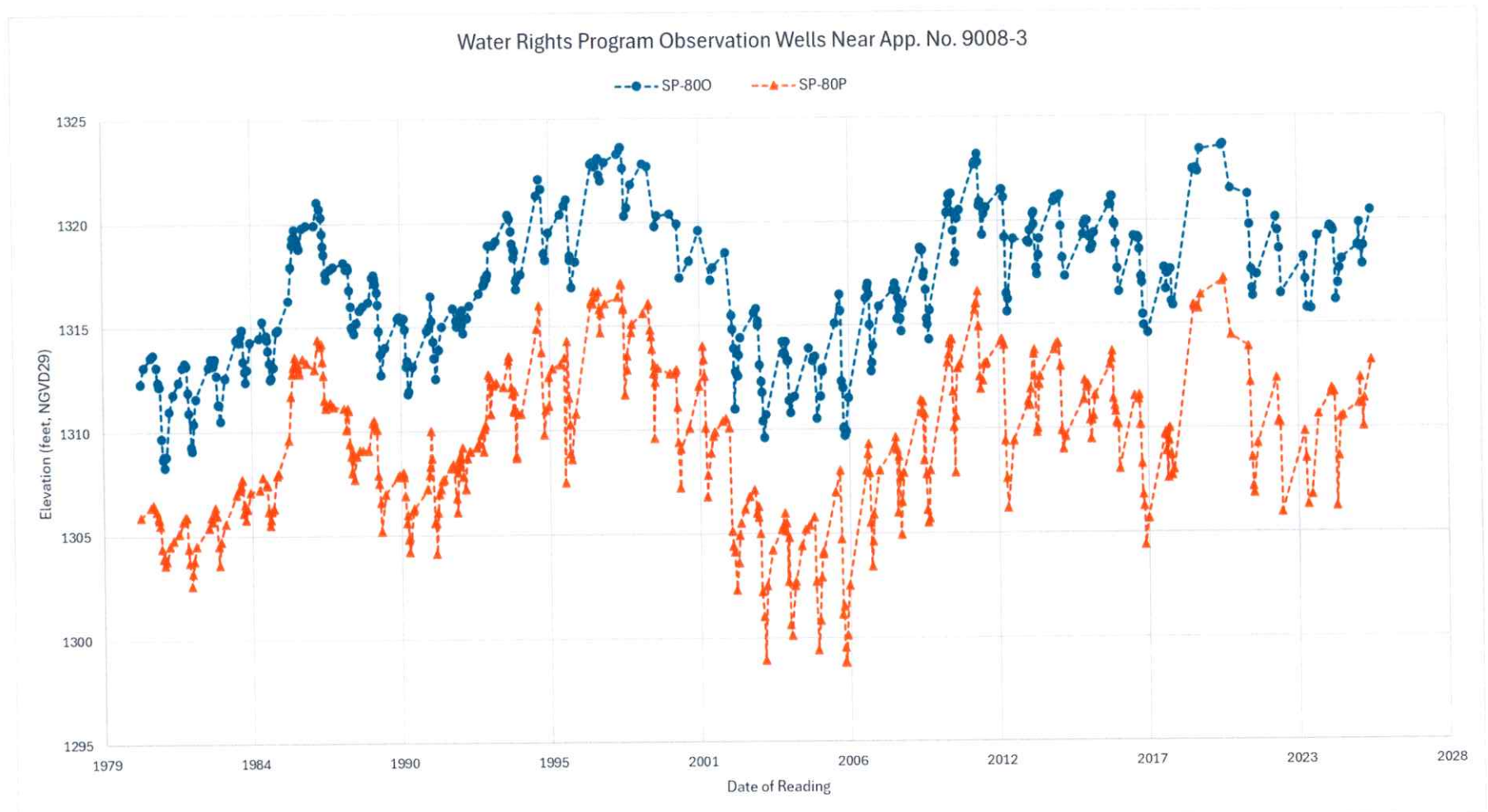


Figure 2: Observation well water elevations for SP-800 and SP-80P [2].

Potential for Unlawful Impairment of Existing Water Rights

The nearest water right permits or applications senior to this application are Water Right No. 5568-3 located approximately a half mile east of the southern proposed well, Water Right No. 5301-3 located approximately a half mile east of the northern proposed well, and Water Right No. 6142-3 located approximately 1.2 miles east of the southern proposed well for this application [1]. Located approximately 0.7 miles to the south of the southern proposed well for this application is the well for Water Rights No. 839-3, 971-3, and 1725-3 [1]. The nearest domestic well on file with the Water Rights program that is likely to be completed into the same aquifer is located within the same quarter section as the southern proposed well, based on the location provided by the driller [4]. There may be more wells in the area that are not on file because they predate the South Dakota Well Construction Standards requiring drillers to file a report for each well and test hole drilled.

The Water Rights Program has historically interpreted an unlawful impairment of existing water rights to occur if a junior water right/permit causes a nearby adequate well with a senior water right/permit to become unable to withdraw at the rate it is entitled to or, if a domestic well is impacted, a water right/permit causes an adequate domestic well to be unable to withdraw at the rate needed to supply reasonable domestic use of water. ARSD 74:02:04:20(6) defines an adequate well 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

There are no complaints on file with the Water Rights Program involving possible well interference in the Tulare: Western Spink-Hitchcock aquifer in Spink County despite the large number of appropriative wells in relatively close proximity throughout the Tulare: Western Spink-Hitchcock aquifer [16]. Therefore, based on the lack of complaints and the saturated aquifer thickness, there is reasonable probability this application can be developed without unlawful impairment of existing domestic wells or senior water rights.

Conclusions

1. Water Permit Application No. 9008-3 proposes to appropriate a combined total of up to 3.57 cfs from two wells to be completed into the Tulare: Western Spink-Hitchcock aquifer (both approximately 100 feet deep) located in the approximate centers of the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ Section 28 for irrigation of 300 acres located in the E $\frac{1}{2}$ Section 28; all in T115N-R65W.
2. Based on the hydrologic budget and observation well analysis, there is reasonable probability unappropriated water is available for this application.
3. There is reasonable probability this application can be developed without unlawful impairment of senior water rights or domestic use.



Alyssa Adams
Water Rights Intern
DANR – Water Rights Program

Reviewed by:



Kimberly C. Drennon, E.I.
Engineer III – DANR Water Rights Program

References

- [1] Water Rights Program, "Water Right Permit Files," S.D. Dept. of Ag. and Nat. Resources, Pierre, South Dakota, 2026.
- [2] Water Rights Program, "Observation Wells," S.D. Dept. of Ag. and Nat. Resources, Pierre, South Dakota, 2026.
- [3] SD DANR Geological Survey Program, "Lithologic Logs," Vermillion, South Dakota, 2025.
- [4] Water Rights Program, "Well Completion Reports," S.D. Dept. of Ag. and Nat. Resources, Pierre, South Dakota, 2026.
- [5] D. W. Tomhave and L. D. Schulz, "Bedrock geologic map showing configuration of the bedrock surface in South Dakota east of the Missouri River," DANR Geological Survey Program, Vermillion, SD, 2004.
- [6] J. Farmer, "First Report on the Five Year Review of Water Availability Western Spink Hitchcock Management Unit of the Tulare Aquifer," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 2020.
- [7] T. Jensen and A. Mathiowetz, "Report to the Chief Engineer on Water Permit Application Nos. 8949-3 & 8950-3 Tom Tuhsbaumer & 8951-3 Tyson Nuhsbaumer," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, SD., 2025.

- [8] R. D. Benson, "Major aquifers in Spink County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 1997.
- [9] L. S. Hedges, S. L. Burch, D. L. Iles, R. A. Barari and R. A. Schoon, "Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa Tasks 1-4," US Army Corps of Engineers, Omaha, Nebraska, 1982.
- [10] K. Buhler, "Report to the Chief Engineer on Water Permit Application Nos. 7858-3, 7859-3, 7860-3, 7861-3, 7863-3 through 7872-3, 7885-3, 7894-3," SD DANR Water Rights Program, Joe Foss Bldg. Pierre, South Dakota, 2013.
- [11] M. D. Fahrenbach, F. V. Steece, J. F. Sawyer, K. A. McCormick, G. L. McGillivray, L. D. Schulz and J. A. Redden, "South Dakota Stratigraphic Correlation Chart," SD Dept. of Ag. and Nat. Res. Geologic Survey Program, Vermillion, SD, 2010.
- [12] K. C. Drennon, "Second Report on the Five-Year Review of Water Availability in the Western Spink-Hitchcock Management Unit of the Tulare Aquifer," SD DANR Water Rights Program, 3 December 2025. [Online]. Available: https://danr.sd.gov/wrimage/pub/2025_TWSH_5YR.pdf. [Accessed 19 February 2026].
- [13] L. K. Kuiper, "Appraisal of the Water Resources of the Eastern Part of the Tulare Aquifer, Beadle, Hand, and Spink Counties, South Dakota," US Geological Survey, Huron, South Dakota, 1984.
- [14] A. Mathiowetz, Interviewee, *Acting Chief Engineer - Water Rights Program*. [Interview]. 27 March 2026.
- [15] NOAA National Centers for Environmental Information, "Climate at a Glance: Divisional Time Series," U. S. National Oceanic and Atmospheric Administration, 1 March 2026. [Online]. Available: <https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/divisional/time-series>. [Accessed 19 March 2026].
- [16] Water Rights Program, "Complaints Database," S.D. Dept. of Ag. and Nat. Resources, Joe Foss Building, Pierre, SD, 2025.
- [17] L. D. Schulz, "First Occurrence of Aquifer Materials in Beadle County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 2003.

Report on Water Permit App. No. 9008-3

Appendix: Supplemental Tables

Table 4: All Tulare: Western Spink-Hitchcock water permit applications in process at time of report authorship.

File No.	Name	Priority	T N	R W	New Development Proposed					Other Water Right in Application						Total CFS	Total Acres
					CFS	Acres	No. Wells	Location of Wells	Location of Acres	File No.	No. Wells	CFS	Acres	Location of Wells	Location of Acres		
8993-3	Bixler Farms	12/04/2025 # 1 of 6	115	63	0.45	12	0	N/A	SE ¼ & E ½ SW ¼ Sec 25	4134A-3	2	1.33	128	Sec. 25	SW ¼ SE ¼, NW ¼ SE ¼ Sec 25	1.78	140
8994-3		12/04/2025 # 2 of 6	114	62	1.78	160	1	Ctr. of SE ¼ Sec. 18	SE ¼ Sec 18	N/A	N/A	N/A	N/A	N/A	N/A	1.78	160
8995-3		12/04/2025 # 3 of 6	114	62	1.78	0	1	Ctr. of SW ¼ Sec 31	N/A	5182-3	1	1.88	279	Ctr. of NW ¼ Sec 31	NW ¼, W ½ NE ¼, SW ¼ Sec 31	3.66	279
9000-3	Matthew Van Buskirk	12/04/2025 # 4 of 6	113	63	1.78	136	1	Ctr. of NE ¼ Sec 36	NE ¼ Sec 36	N/A	N/A	N/A	N/A	N/A	N/A	1.78	136
8996-3	Wayne or Scott Binger	12/04/2025 # 5 of 6	114	65	2.00	140	up to 2	NW ¼ Sec 1	NW ¼ Sec 1	N/A	N/A	N/A	N/A	N/A	N/A	2.00	140
8997-3		12/04/2025 # 6 of 6	115	65	2.00	140	up to 2	NE ¼ Sec 25	NE ¼ Sec 25	N/A	N/A	N/A	N/A	N/A	N/A	2.00	140
9005-3	Matthew Van Buskirk	12/05/2025 # 1 of 8	113	63	1.78	136	1	Ctr. SE ¼ Sec 30	SE ¼ Sec 30	N/A	N/A	N/A	N/A	N/A	N/A	1.78	136
9004-3		12/05/2025 # 2 of 8	113	63	1.78	136	1	Ctr. NE ¼ Sec 7	NE ¼ Sec 7	N/A	N/A	N/A	N/A	N/A	N/A	1.78	136
9003-3		12/05/2025 # 3 of 8	114	63	3.56	272	2	Ctrs. of SE ¼ & NE ¼ Sec 21	E ½ Sec 21	N/A	N/A	N/A	N/A	N/A	N/A	3.56	272
9002-3		12/05/2025 # 4 of 8	114	63	1.78	136	1	Ctr. of NW ¼ Sec 21	NW ¼ Sec 21	N/A	N/A	N/A	N/A	N/A	N/A	1.78	136
9001-3		12/05/2025 # 5 of 8	114	63	1.78	136	1	Ctr. SE ¼ Sec 32	SE ¼ Sec 32	N/A	N/A	N/A	N/A	N/A	N/A	1.78	136
8998-3	Terry McClain	12/05/2025 # 6 of 8	114	62	2.00	180	1	Ctr. SW ¼ Sec 8	S ½ Sec 8	N/A	N/A	N/A	N/A	N/A	N/A	2.00	180
9006-3	Timoty Masat	12/05/2025 # 7 of 8	115	63	1.78	204	2	Ctrs. of NW ¼, SE ¼ Sec 21	N ½ Sec 21	N/A	N/A	N/A	N/A	N/A	N/A	1.78	204
8999-3	Craig Brock	12/05/2025 # 8 of 8	113	63	1.78	155	1	Ctr. NE ¼ Sec 2	NE ¼ Sec 2	N/A	N/A	N/A	N/A	N/A	N/A	1.78	155
9010-3	Lenny D Peterson	12/06/2025 # 1 of 1	115	65	1.78	280	2	W ½ SE ¼ Sec 12	S ½ Sec 12	N/A	N/A	N/A	N/A	N/A	N/A	1.78	280
9011-3		12/07/2025 # 1 of 1	115	65	1.78	160	1	Ctr. of SE ¼ Sec 11	SE ¼ Sec 11	N/A	N/A	N/A	N/A	N/A	N/A	1.78	160
9008-3	Brian Gilbert	12/08/2025 # 1 of 2	115	65	3.57	300	2	Ctrs. NE ¼ & SE ¼ Sec 28	E ½ Sec 28	N/A	N/A	N/A	N/A	N/A	N/A	3.57	300

Report on Water Permit App. No. 9008-3

File No.	Name	Priority	T N	R W	New Development Proposed					Other Water Right in Application						Total CFS	Total Acres
					CFS	Acres	No. Wells	Location of Wells	Location of Acres	File No.	No. Wells	CFS	Acres	Location of Wells	Location of Acres		
9007-3	Jon Gilbert	12/08/2025 # 2 of 2	115	63	3.56	280	2	Ctrs. of NW ¼ & NE ¼ Sec 33	N ½ Sec 33	N/A	N/A	N/A	N/A	N/A	N/A	3.56	280
9013-3	Danny Peterson	12/23/2025 # 1 of 6	114	63	0.00	25	0	N/A	SW ¼ Sec 22	7725C-3	1	1.78	135	NE ¼ SW ¼ Sec 22	SW ¼ Sec 22	1.78	160
9014-3		12/23/2025 # 2 of 6	114	63	0.00	45	0	N/A	E ½ Sec 2	6333A-3	1	1.78	215	NE ¼ SW ¼ Sec 2	E ½ Sec 2	1.78	260
9016-3		12/23/2025 # 3 of 6	114	63	0.00	30	0	N/A	SW ¼ Sec 2	3065B-3	1	1.66	130	Ctr. of SW ¼ Sec 2	SW ¼ Sec 2	1.66	160
9015-3		12/23/2025 # 4 of 6	114	63	0.00	28	0	N/A	NE ¼ Sec 22	6312-3	1	1.78	132	Ctr. NE ¼ Sec 22	NE ¼ Sec 22	1.78	160
9017-3		12/23/2025 # 5 of 6	113	62	0.00	25	0	N/A	NW ¼ Sec 6	1512-3	1	1.90	135	Ctr. of NW ¼ Sec 6	NW ¼ Sec 6	1.90	160
9018-3		12/23/2025 # 6 of 6	114	63	0.00	56	0	N/A	E ½ Sec 34	6201C-3	2	3.56	264	SE ¼ NE ¼ & Ctr. of SE ¼ Sec 34	E ½ Sec 34	3.56	320
9036-3*	Martin Anderson	03/29/2026	113	63	1.86	136	1	Ctr. NE ¼ Sec 1	NE ¼ Sec. 1	N/A	N/A	N/A	N/A	N/A	N/A	1.86	136
9042-3	Terry Weiting	04/06/2026	112	61	1.78	140	1	Ctr. SW ¼ Sec 32	SW ¼ Sec. 32	N/A	N/A	N/A	N/A	N/A	N/A	1.78	140
* Approval of this application would cancel Water Permit No. 8120-3																	

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Cindy Crook, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Cindy Crook, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#8381 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication be made on August 19th. That Forty-Four and 46/100 dollars insures to the benefit of the publisher of THE REDFIELD PRESS, 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.

Cindy Crook

Subscribed and sworn to before me this 19th day of August, 2026

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2030



NOTICE OF HEARING

#8381

NOTICE OF APPLICATION NO. 9008-3 to Appropriate Water

Notice is given that Brian Gilbert, 1808 East Edgewood Rd, Sioux Falls SD 57103, has filed an application for a water permit to appropriate a combined total of 3.56 cubic feet of water per second from two wells to be completed into the Tulare: Western Spink Hitchcock Aquifer (approximately 100 feet deep) located in the approximate centers of the NE 1/4 and SE 1/4 Section 28 for irrigation of 300 acres located in the E 1/2 Section 28; all in T115N-R65W. This site is located approximately seven miles west of Tulare SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 9008-3 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 Wa-

ter Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by August 31, 2026.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by August 31, 2026.

If the applicant does not con-

test the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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AFFIDAVIT OF PUBLICATION

Water Rights Program
Rachel Rodriguez
Water Rights Program
523 E Capitol Ave
Pierre SD 57501

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STATE OF SOUTH DAKOTA, COUNTY OF BROWN

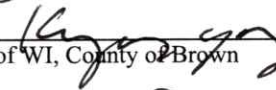
The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

08/19/2026

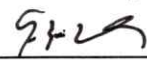
That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 08/19/2026



Legal Clerk



Notary, State of WI, County of Brown



My commission expires

Publication Cost: \$56.00

Tax Amount: \$0.00

Payment Cost: \$56.00

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THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KONGMENG YANG
Notary Public
State of Wisconsin

**NOTICE OF APPLICATION
NO. 9008-3 to
Appropriate Water**

Notice is given that Brian Gilbert, 1808 East Edgewood Rd, Sioux Falls SD 57103, has filed an application for a water permit to appropriate a combined total of 3.56 cubic feet of water per second from two wells to be completed into the Tulare: Western Spink Hitckcock Aquifer (approximately 100 feet deep) located in the approximate centers of the NE 1/4 and SE 1/4 Section 28 for irrigation of 300 acres located in the E 1/2 Section 28; all in T115N-R65W. This site is located approximately seven miles west of Tulare SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 9008-3 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

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

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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 August 31, 2026.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by August 31, 2026.

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

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Water Rights
Program

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Petition

Opposing Application for a Water Right Permit

Application No. 9008-3 Name of Applicant Brian Gilbert

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

Note. According to South Dakota Codified Law section 46-2A-4(5), all the following information is required.

Describe the unique injury approval of this application will have upon you.

This will directly impact on my existing domestic well to my house and also the agricultural operation of my land.

List the reasons for your opposition to this application.

The project will cause substantial harm to existing local water users.

Provide name and mailing address of the person filing this petition or the petitioner's legal counsel.

First Name: Cathy Last Name: Jessen

Mailing Address: 18250 377 Ave.

City: Tulare State: SD Zip: 57476

Optional contact information. Phone: 605-460-4208 Email: lynail.larson4@icloud.com

Note. This petition needs to be submitted via mail or personally served upon Water Rights no later than the deadline date provided in the public notice. The mailing address is provided above and should be sent to "Attention - Water Rights Program." A copy of this petition also needs to be mailed to, or personally served upon, the applicant whose mailing address is provided in the public notice.

Application No. 9008-3

Petitioner's Name Cathy Jessen, Lynail Larson, Daren Binger

Any additional description of the unique injury or reasons for opposing this application:

Based on the above reason, we respectfully request that the board deny the application.

Thank you.

Cathy Jessen



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 4, 2026

NOTICE OF HEARING

TO: Brian Gilbert Cathy Jessen, Lynail Larson, and Daren Binger
1808 E Edgewood Rd 18250 377th Ave
Sioux Falls SD 57108 Tulare SD 57476

Emily Greco, Assistant Attorney General
Counsel for Chief Engineer
1302 East Highway 14, Suite 1
Pierre SD 57501

FROM: Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 9008-3, Brian Gilbert

A petition opposing Water Permit Application No. 9008-3 was received by the Chief Engineer on August 25, 2026, in response to the Notice of Application published in the Redfield Press & the American News on August 19, 2026. This notice schedules a hearing on Application No. 9008-3 before the South Dakota Water Management Board.

Water Permit Application No. 9008-3 requests a total diversion of 3.56 cubic feet of water per second from two wells located in the approximate centers for the NE ¼ & SE ¼ Section 28, to be completed into the Tulare: Western Spink Hitchcock Aquifer, for the irrigation of 300 acres located in the E ½ Section 28; all in T115N-R65W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 9008-3 with qualifications 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.

The Water Management Board will conduct a hearing to consider Application No. 9008-3 at **11:15 AM (Central Time), on Wednesday, October 7, 2026**, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. Notice will be provided if there is a change in the time or date of the hearing.

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 the application after it reaches a conclusion based on the facts presented at the public hearing.

Notice of Hearing – Application No. 8982-3

The October 7, 2026, 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 opposing the application. A request for an automatic delay must be filed by **September 14, 2026**. The Chief Engineer's address is "DANR - Water Rights Program, Foss Building, 523 E Capitol Ave, Pierre SD 57501." 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 the petitioner(s) regarding the time, date, and location.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and may be represented by legal counsel. An individual may represent themselves pro se. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation, and the petition filed in the matter of Water Permit Application No. 9008-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions or comments for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. Notices, orders, other pleadings, and comments filed in this matter will be posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." If you intend to participate in the hearing, you are encouraged to review these documents prior to the hearing.

Contact Amanda Dewell at the above address to request an additional copy of the staff report, recommendation, application, or other information related to the application. 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 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 direct mail to you, and the applicable date to give notice to the Chief Engineer is September 14, 2026. The Chief Engineer asserts this hearing pertains to a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right.

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; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Amanda Dewell, Water Rights Permitting Administrator, at (605) 773-3352 or by email at amanda.dewell@state.sd.us.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated September 4, 2026, with attachments regarding Water Permit Application No. 9008-3 – Brian Gilbert, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on September 4, 2026.

Brian Gilbert
1808 E Edgewood Rd
Sioux Falls SD 57108

Cathy Jessen, Lynail Larson, and Daren Binger
18250 377th Ave
Tulare SD 57476

Above also Sent Inter-office to:

Emily Greco, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Laura Laufenberg
LAURA LAUFENBERG
SENIOR SECRETARY

[illegible]

Sworn to, before me, this 4th day of Sept., 2026.

Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF FUTURE USE
WATER PERMIT APPLICATION NO.
8990-3, CITY OF MILBANK

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION

This matter came before the South Dakota Water Management Board for hearing on July 8, 2026. Board members William Larson, Chad Comes, Peggy Dixon, Rodney Freeman, Kelly Hepler, Leo Holzbauer, and James Hutmacher attended the hearing and heard the evidence presented. Applicant City of Milbank (“City” or “Applicant”) was represented by Paul W. Tschetter. Petitioner Grant Roberts Rural Water System (“GRRWS”) was represented by Reed T. Mahlke. Petitioner Craig “Joe” Arthur (“Arthur”) appeared pro se. The Water Management Board (“Board”) was represented by David M. McVey. The Department of Agriculture and Natural Resources was represented by Emily Greco.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties’ submissions, now enters the following:

A. FINDINGS OF FACT

1. On September 18, 2025, the Department of Agriculture and Natural Resources received Water Rights Permit Application No. 8990-3 on behalf of the City seeking a permit for the future right to appropriate water for municipal

purposes in Grant County (the “Application”). The Application sought 1,120 acre feet per year of groundwater from the Antelope Valley aquifer. City intends to use the water to be appropriated to support anticipated growth of the municipality. The area of the future use reservation is Sections 21 and 22 T120N-R51W in Grant County.

In support of the Application, City submitted supplemental information with information related to the City’s current drinking water quality, water treatment options, and alternative sources of water needed to support continued growth within the municipality.

2. On January 20, 2026, Mark Mayer as then Acting Chief Engineer of the Water Rights Program within the Department of Agriculture and Natural Resources, recommended approval of the Application subject to qualifications, including the following:

- a. The Permit is subject to review by the Water Management Board to accomplishment in developing reserved water upon expiration of seven (7) years.
- b. The Permit is subject to cancellation if the Water Management Board determines during the review that the City cannot demonstrate a reasonable need for the Permit.
- c. 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 the application to construct and place

reserved water is filed.

- d. At such time as definite plans are made to construct works and put the water reserved by the 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.

3. Notice of the Application was timely advertised in the *Grant County Review* and *Watertown Public Opinion* as required by law.

4. The matter was initially scheduled to be heard by the Board during its May 6, 2026, meeting; however, an automatic delay was requested, and the hearing was rescheduled for the next regular Board meeting held in July.

5. Water Permit Application No. 8990-3 is a new future use water permit application which requires a determination pursuant to SDCL § 46-2A-10 that there is a reasonable probability unappropriated water is available for the proposed use, the quantity of water will be needed by the City, and the proposed use would be a beneficial use, and would be in the public interest.

6. On February 11, 2026, the Board received filings from GRRWS opposing the Application. GRRWS generally objected based upon the amount of water sought for future use and concerns about recharge of the Antelope Valley aquifer.

7. On February 13, 2026, the Board received filings from Arthur opposing the Application. Arthur generally objected based upon amount of water

sought for future use and potential impact on his existing wells.

8. Interested parties were permitted to submit information concerning expert witnesses, fact witnesses, and exhibits in advance of the Board hearing.

9. In considering water availability this Board must examine whether the estimated average quantity of the water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

10. DANR witness, Kim Drennon, an engineer for DANR, reviewed the permit application, analyzed the hydrology of the Antelope Valley aquifer, and reviewed discharge information from current water right/permit files and observation wells.

The Antelope Valley aquifer is a shallow, Quaternary-aged sand and gravel outwash aquifer underlying portions of Grant, Deuel, and Codington Counties. It contains an estimated amount of 64,580 acre-feet of recoverable water stored in South Dakota.

11. Ms. Drennon testified that recharge of the Antelope Valley aquifer is mainly by infiltration of precipitation and groundwater inflow from surface water features where the surface water features contact the aquifer.

12. Ms. Drennon testified that the best information available is that the average annual recharge rate of the Antelope Valley aquifer is 6,700 acre-feet per year. Further, the most recent observation well analysis, as relayed by Ms. Drennon, is that the estimated average annual recharge rate of the Antelope Valley aquifer is approximately 2.3 inches per year.

13. Ms. Drennon testified that discharge from the Antelope Valley aquifer in South Dakota occurs through evapotranspiration where the aquifer is near land surface and may be by outflow to surface water features when the stage of the surface water is below the water table of the aquifer. In addition, discharge occurs by permitted withdrawals for irrigation, municipal use, and domestic use.

14. Currently, there are three future use permits reserving 959 acre-feet/year of water from the Antelope Valley aquifer. Further, there are 16 active water rights/permits authorized to divert water from the Antelope Valley aquifer. Of these 16 active water rights/permits,

- a. 3 active water rights/permits are for non-irrigation purposes and the estimated average annual withdrawal rate from the Antelope Valley aquifer is approximately 1,084 acre-feet per year; and
- b. 13 authorized water rights/permits are for irrigation purposes, and the discharge of these rights/permits have an estimated average annual withdrawal rate from the Antelope Valley aquifer of approximately 1,481 acre-feet per year.

15. Ms. Drennon testified there are four observation wells completed into the Antelope Valley aquifer. Three of the observation wells, GT-81A, GT-76D, and GT-77D, are under unconfined conditions. One observation well, CD-76G, is under confined conditions. The three unconfined observation wells show a slight

increasing trend over the period of record, while the one confined well shows a slight decreasing trend over the period of record. Fluctuation of the observation well water levels reflect the climatic fluctuations and indicates water is naturally discharging from the aquifer. Based on the evidence and expert testimony there is reasonable probability of unappropriated water available for this Application.

16. Some existing well owners may need to install or lower pumps depending on the specific characteristics of the Antelope Valley aquifer at their location. However, when considering the applicable statutes, rules, and the lack of substantiated well interference complaints for adequate wells completed into the Antelope Valley aquifer in Grant County or the surrounding counties, any drawdown created from the proposed future use is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells.

17. The Board finds Ms. Drennon to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Drennon's testimony and the reports and exhibits upon which she prepared and/or relied.

18. The Board also received the testimony of Acting Chief Engineer Adam Mathiowetz. Mr. Mathiowetz testified that based upon his review of the report and the best information available, he recommended approval of the application. He further testified that he believed the proposed diversion to be a beneficial use and in the public interest consistent with the Board's previous

decisions. Mr. Mathiowetz also testified that the Department had received no complaints as to water availability from users of water from the Antelope Valley aquifer and that, based upon the best data available, he had no concerns about the availability of water and that there is unappropriated water available for this Application. Further, Mr. Mathiowetz testified that any suggestion the Antelope Valley should be divided into two management areas would need further analysis and that the Application did not warrant delay for such analysis.

19. The Board finds Acting Chief Engineer Mathiowetz to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Acting Chief Engineer Mathiowetz's testimony.

20. Steve Pendergrass, City Administrator for the City of Milbank, testified as to the anticipated growth of the City of Milbank, the reason for the application, the need for additional water and the challenges Milbank has faced with water quality.

21. The Board finds Mr. Pendergrass to be a credible witness and that these Findings of Fact are supported by the evidence presented including Mr. Pendergrass's testimony and the reports and exhibits upon which he prepared and/or relied. Mr. Pendergrass testified as to the benefits of redundancy of water supply for the City.

22. Sara Pankonin, PE testified before the Board as a representative of the City and in support of Applicant's application. Ms. Pankonin is a Project Engineer for Banner Associates. Banner Associates has been retained by the City for purposes of its future municipal water needs. Ms. Pankonin testified as to the

current and future municipal water needs of the City and the planned use of the proposed water. Ms. Pankonin discussed the current total dissolved solids, cations and anions, iron, manganese, and ammonia within the City's existing municipal water. The sodium, sulfate, iron, and manganese levels are above the United States Environmental Protection Agency's national secondary standards for drinking water. Ms. Pankonin noted the City has received complaints about the iron and manganese levels and discussed the plans to improve water quality by the City. Ms. Pankonin explained that the preferred treatment alternatives would generate a wastewater reject stream of wastewater that would be difficult to dispose of. Ms. Pankonin also discussed water sources other than the Antelope Valley aquifer that were considered by the City but ultimately determined to be less desirable because those sources also included elevated levels of sulfate and total dissolved solids similar to the City's current water source. Ms. Pankonin testified as to the benefits of redundancy of water supply for the City.

23. The Board finds Ms. Pankonin to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Pankonin's testimony and the reports and exhibits upon which she prepared and/or relied.

24. Mr. Brent Hoffmann testified before the Board as a representative for GRRWS. Mr. Hoffmann testified about the service area of GRRWS. He testified that having redundant sources of water is important for a water distribution system such as GRRWS and the City of Milbank. Hoffmann further testified that

water quality is an important factor for water distribution systems to consider.

25. The Board finds Mr. Hoffmann to be a credible witness.

26. Mr. Matthew Oedekoven, PE, was called as a designated expert by GRRWS and testified before the Board. Mr. Oedekoven testified that he believed more study is needed of the Antelope Valley aquifer and that he did not believe the hydrology budget presented by Ms. Drennon to accurately reflect the recharge rate of the aquifer. Mr. Oedekoven further testified that Punished Woman Lake creates a boundary condition that prevents water from flowing from the north end of Antelope Valley aquifer to the south end of Antelope Valley aquifer.

27. The Board finds Mr. Oedekoven to be a credible expert witness.

28. Petitioner Craig Arthur testified before the Board. Arthur testified as to his water usage. He testified that water is likely available for the Application.

29. The Board finds Mr. Aurther to be a credible witness.

30. The Board finds that the City of Milbank has a water distribution system.

31. The Board finds that there is unappropriated water available to satisfy this future use application.

32. The Board further finds that granting this application would not unlawfully impair existing water rights.

33. The Board further finds that the proposed use of the water for municipal use constitutes a beneficial use.

34. The Board finds that placing the water to this beneficial use is in the public interest.

35. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

B. OBJECTIONS TO FINDINGS OF FACT

Petitioner filed Proposed Findings of Fact, and the Petitioner filed certain objections. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Findings of Fact are accepted, modified, or rejected as follows:

Objection 1. Regarding Findings 16 and 18, GRRWS notes an inadvertent reference to the "Dakota" aquifer rather than the Antelope Valley aquifer. References to the Dakota aquifer have been changed to the Antelope Valley aquifer throughout.

Objection 2. Relates to the spelling of Mr. Brent Hoffmann's name; the spelling of Mr. Hoffmann's name has been corrected throughout.

Objection 3. GRRWS objects to the substance of Mr. Matthew Oedekoven's expert testimony in what is now Paragraph 25. The Board has notes the objection for the record and asserts that the distinctions in that the substance of Mr. Oedekoven's expert testimony are of no moment for purposes of the decision stated herein.

Based upon the forgoing Findings of Fact, the Board makes the following Conclusions of Law:

C. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application

falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notice of Hearing was properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL § 46-2A-4(8).

4. As a municipality, the Applicant has a water distribution system as defined in SDCL § 46-1-6(17).

5. The Applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-10.

6. The Board concludes that the Applicant has satisfied each of the factors set forth in SDCL § 46-2A-10.

7. South Dakota Codified Law § 46-2A-10 provides that a permit to appropriate water may be issued "only if there is a reasonable probability that unappropriated water is available for appropriation, that the quantity of water reserved will be needed by the entity and that the proposed use will be a beneficial use and in the public interest." Each of these factors must be met and the permit must be denied if the Applicant does not meet its burden of proof on any one of them.

8. The first factor for consideration under SDCL § 46-2A-10 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: Whether "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.”

9. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

10. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if this application is granted.

11. The second requirement of SDCL § 46-2A-10 is that the quantity of water reserved will be needed by the City.

12. The Board further concludes that the increased water usage by the City and the anticipated continued growth of the City make the quantity of the water reserved necessary for the City’s future needs.

13. The third element in SDCL § 46-2A-10 is whether the use of water would be a beneficial use: One that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (municipal) is a beneficial use.

14. The fourth requirement of SDCL § 46-2A-10 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL § 46-1-6(3). The Board concludes that appropriating water for this municipal use is in the

public interest.

15. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

D. FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination as follows:

1. Future Use Permit No. 8990-3 is **approved** and reserves 1,120 acre-feet of water annually from the Antelope Valley Aquifer, subject to the following conditions:

- a. The Permit is subject to review by the Water Management Board to accomplishment in developing reserved water upon expiration of seven (7) years.
- b. The Permit is subject to cancellation if the Water Management Board determines during the review that the City cannot demonstrate a reasonable need for the Permit.
- c. 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 the application to construct and place reserved water is filed.
- d. At such time as definite plans are made to construct works and put

the water reserved by the 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.

Dated this 7th day of October 2026.

BY THE BOARD:

Jim Hutmacher, Chairman
South Dakota Water Management
Board

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	FINDINGS OF FACT, CONCLUSIONS OF
APPLICATION NO. 8982-3,	)	LAW, AND FINAL DECISION
CENTURY SWINE RE, LLC	)	

This matter came before the South Dakota Water Management Board for hearing on July 8, 2026. Board members William Larson (via Zoom), Chad Comes, Peggy Dixon, Rodney Freeman, Kelly Hepler, Leo Holzbauer, and James Hutmacher attended the hearing and heard the evidence presented. Applicant Century Swine RE, LLC (“Century Swine” or “Applicant”) and Intervenor PVC Management II, LLC d/b/a Pipestone (“Pipestone”) were represented by Paul W. Tschetter. Petitioners Larry Heinz, Cindy Heinz, and Garrett Heinz (“Heinzs”) were represented by Connor R. Shaull. Petitioner Justin Baer appeared pro se. The Department of Agriculture and Natural Resources Chief Engineer and Water Rights Program (“the Program”) was represented by Emily M. Greco. The Water Management Board (“Board”) was represented by David M. McVey.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties’ submissions, now enters the following:

FINDINGS OF FACT

1. On September 11, 2025, the Program received Water Permit Application Number 8982-3 (the “Application”) by Century Swine seeking 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 from one well completed into the Pierre Shale aquifer (approximately 420 feet deep) located in the NW 1/4 NW 1/4 Section 9 for commercial use in a swine facility.

2. Acting Chief Engineer Mark Mayer recommended approval of the application subject to the following standard qualifications:

- a. 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;
 - b. 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;
 - c. Water Permit No. 8982-3 is subject to compliance with all existing and applicable Water Management Board Rules;
 - d. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Pierre Shale aquifer; and
 - e. 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.
3. The recommendation also included a note which stated, "If the applicant drills an observation well to monitor the effects of pumping and to have the well become part of the state's observation well network, DANR is willing to discuss suitable locations for such an observation well."
4. Notice of the Application was timely advertised in the Aberdeen American News on December 3, 2025, and the Edmunds County Tribune on December 31, 2025, as required by law. The Application was also noticed on the Department of Agriculture and Natural Resources website.
5. Water Rights timely received petitions in opposition to the Application from the Heinzs and Justin Baer on January 12, 2026.
6. The matter was initially scheduled to be heard by the Board during its March 4, 2026, meeting but it was delayed in response to a request for postponement pursuant to SDCL 46-2A-5. The matter was then rescheduled for the next regularly scheduled Board meeting held on May 6, 2026. At the May 6, 2026 meeting, upon request from the Heinzs and with no objection by the Applicant or the Program this matter was deferred to the July 8, 2026, Board meeting.

7. Water Permit Application No. 8982-3 is a new water permit application which requires a determination pursuant to SDCL 46-2A-9 whether there is a reasonable probability that unappropriated water is available for the proposed use, whether the proposed use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest within the regulatory authority of the Board.

8. Austin Settje, an engineer with the Program, reviewed the Application and performed a technical review of both the initial Application and the amended Application. Mr. Settje provided expert testimony regarding the technical review of the Application to the Board.

9. The Pierre Shale Formation is a thick shale formation of Upper Cretaceous age which occurs widespread at and below the surface in South Dakota. Exclusive of glacial deposits, which conceal it east of the Missouri River over wide areas, it is the surface formation over a greater area in South Dakota than any other single formation. In many places in the state the formation is very thick, forming a blanket of shale over many square miles and can reach a maximum thickness of nearly 2,000 feet. In Edmunds County, a mantle of glacial drift overlies a thick mass of Pierre Shale and the underlying formations. Much of the area is covered with glacial till, with the Pierre Shale lying below layers of topsoil and clay, with parts of the Pierre Shale being exposed on the east side of Edmunds County.

10. The Pierre Shale Formation is a major confining unit in eastern Montana and in most of North Dakota and South Dakota and is not generally described as an aquifer. Locally, the Pierre Shale can yield small volumes of water from thin sandstone beds or from highly weathered or fractured zones in the uppermost shale beds. The Pierre Shale, while predominantly a confining unit, exhibits variability in its hydraulic properties across different regions. Mr. Settje testified that the Pierre Shale aquifer exhibits low transmissivity.

11. The Pierre Shale aquifer is not older or stratigraphically lower than the Greenhorn Formation. In the area of the proposed point of diversion the aquifer is confined with a saturated aquifer thickness of at least 160 feet.

12. Mr. Settje calculated withdrawals from the Pierre Shale aquifer in South Dakota to be approximately 241 acre-feet per year. Including this application the approximate average annual withdrawal would be 272 acre-feet per year (non-irrigation: 241.1; Water Permit Application No. 8982-3: 30.68).

13. There is limited data regarding recharge for deeper and more eastern parts of the Pierre Shale aquifer. Mr. Settje testified that there has not been a report conducted on the Pierre Shale aquifer for approximately twenty-four years. However, Mr. Settje testified that given the size of the aquifer and expected precipitation which would infiltrate the aquifer, he concluded there would be recharge.

14. Mr. Settje further testified that there is presently no observation wells completed into the Pierre Shale aquifer. Mr. Settje also explained that given the physical characteristics of the Pierre Shale aquifer, observation well data would be more useful if the well were located in the immediate area of the proposed diversion.

15. Mr. Settje concluded that, based upon his review of the best information available regarding recharge to the aquifer and existing water rights, there is sufficient unappropriated water available to satisfy the application.

16. There are four existing water rights currently authorized to withdraw water from the Pierre Shale aquifer in South Dakota. Mr. Settje testified that the nearest existing water right is located approximately 54 miles northeast of the proposed diversion point; however, this right is not currently in use. The next closest existing water right is located approximately 86 miles northeast of the proposed diversion point. Mr. Settje further testified that the nearest domestic well on file is approximately 2.2 miles west of the proposed diversion point.

17. Mr. Settje testified that due to the low transmissivity of the Pierre Shale aquifer, the Applicant would likely pump their own well dry before any nearby users are negatively impacted.

18. Mr. Settje concluded that there was a reasonable probability that the Application could be developed without unlawful impairment to existing rights.

19. The Board finds Mr. Settje to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Mr. Settje's testimony and the reports and exhibits upon which he prepared and/or relied.

20. The Board also received testimony from Chief Engineer Adam Mathiowetz. Mr. Mathiowetz testified that based upon his review of the report and the best information available, he shared the recommendation of then acting Chief Engineer Mark Mayer, which was to approve the Application.

21. The Board finds Mr. Mathiowetz to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Chief Engineer Mathiowetz's testimony.

22. The Board also received the testimony Justin Roelofs, Vice President of Relationship Management for Pipestone. Pipestone provides managerial functions to Century Swine. Mr. Roelofs testified on behalf of the Applicant that the proposed use would be for animal use only and will serve as a redundant source to be used if issues arise with the Applicant's primary water source from the Dakota Aquifer. He also testified about local employment opportunities and business with local farmers generated by Century Swine.

23. Petitioner Garrett Heinz testified before the Board. Mr. Heinz testified about his family's century farm and local concerns from him, his family, and his neighbors regarding the proposed diversion. Mr. Heinz expressed concern that the approval of the Application would be a detriment to a slough on his family's land.

24. None of the Petitioners provided expert testimony to rebut, oppose, or undermine the opinions expressed by Mr. Settje or Mr. Mathiowetz.

25. The Board finds that there is a reasonable probability that unappropriated water is available for the Applicant's proposed use.

26. The Board further finds that granting this Application would not unlawfully impair existing water rights.

27. The Board further finds that the proposed use for a commercial swine facility constitutes a beneficial use.

28. The Board further finds that placing the water to this beneficial use is in the public interest.

29. Any findings of fact more properly designated as a conclusion of law shall be treated as much.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The Application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notices of Hearing were properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting the Application. The recommendations are not, however, binding on the Board. SDCL § 46-2A-4(8).

4. The Applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.

5. The Board concludes that the Applicant has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law section 46-2A-9 provides that 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 proposed diversion can be developed without unlawful impairment of existing 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 §§ 46-2-9 and 46-2-11." Each of these elements must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for appropriation. Determination of water availability

includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: “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.”

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the Application.

9. The Board further concludes that it is not probable that withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if the Application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing water rights or domestic uses.

11. The third element set forth in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator, and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (a commercial swine facility) is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. “Public interest” under SDCL § 46-2A-9 is not defined by statute. In this case the Board considered how the proposed use of a commercial swine facility would stimulate the local economy by creating jobs and benefit the broader hog industry by generating demand for feed and other inputs. The Board concludes that appropriating water for use in a commercial swine facility is in the public interest.

13. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

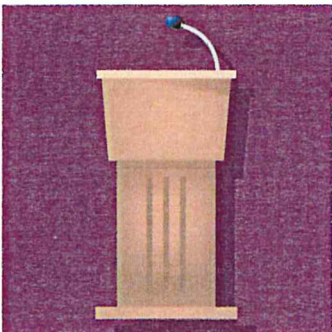
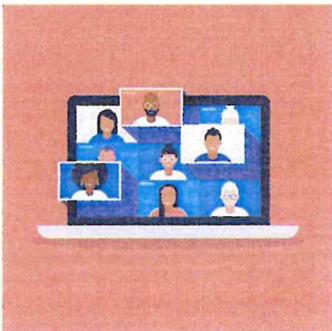
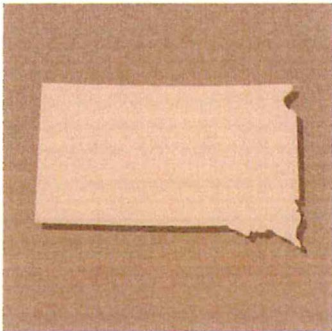
Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit No. 8982-3 is **granted** subject to the following conditions:

- a. 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;
- b. 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;
- c. Water Permit No. 8982-3 is subject to compliance with all existing and applicable Water Management Board Rules;
- d. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Pierre Shale aquifer; and
- e. 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.

Dated this ____ day of _____ 2026.

BY THE BOARD:

Jim Hutmacher, Chairman,
South Dakota Water Management Board



Conducting the Public's Business in Public

An explanation of
South Dakota's
Open Meetings Laws
(Effective July 1, 2026)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. **Openness in government is encouraged.**

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: WHAT MUST BE INCLUDED ON THE PROPOSED AGENDA?

A: A proposed agenda, as required by § 1-25-1.1 or 1-25-1.3, must list all items to be considered by a public body during any official meeting. The proposed agenda items must be described in sufficient detail to reasonably inform the public of any official business or public policy intended to be considered at the meeting.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to post a proposed agenda both on <http://boardsandcommissions>.

sd.gov and at their principal place of business at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday).

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of "local news media" in SDCL ch. 1-25. "News media" is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that "local news media" is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3)

consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: A motion to enter executive session must be made and seconded, followed by a vote. If the motion does not receive a majority vote, a roll call vote is required. Both the motion and the resulting vote must be recorded in the minutes of the proceedings.

Q: WHAT MUST BE STATED IN A MOTION FOR EXECUTIVE SESSION?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. "pursuant to SDCL 1-25-2(3)." Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state "motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter," or "motion to go into executive session pursuant to SDCL 1-25-2(3) for

the purposes of consulting with legal counsel."

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's

Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General.
<http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See In re Yankton County Commission, Open Meetings Commission Decision # 20-03, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or any audio and visual recording must be made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A: Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES
(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS.

An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any

special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting, at least seventy-two hours before the meeting is scheduled to start, not including Saturday, Sunday, or any legal holiday, by posting a copy of the proposed agenda:

(1) At the principal office of the board, commission, or department holding the meeting;

(2) That includes the date, time, and location of the meeting;

(3) That is visible, readable, and accessible to the public; and

(4) On a state website, designated by the commissioner of the Bureau of Finance and Management.

For any special or rescheduled meeting, the information in the notice must be delivered in person, or by mail, email, or telephone, to members of the local news media who have requested notice. The state shall also comply with all other requirements of this section, for a special or rescheduled meeting, as circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING.

Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-1.7. AGENDA DETAILS ARE REQUIRED. A proposed agenda, as required by § 1-25-1.1 or 1-25-1.3, must list all items to be considered by a public body during any official meeting. The proposed agenda items must be described in sufficient detail to reasonably inform the public of any official

business or public policy intended to be considered at the meeting. A violation of this section is a Class 2 misdemeanor.

1-25-2. EXECUTIVE SESSION. An executive session or closed meetings may be held only for the purposes of:

(1) Discussing the character, competence, fitness, performance, or qualifications of any current or prospective public officer or employee, not including an independent contractor;

(2) Discussing a student's:

(a) Discipline, expulsion, or suspension;

(b) Assignment or educational program; or

(c) Eligibility to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel, or reviewing communications from legal counsel, about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business that is owned by the state or any of its political subdivisions, if public discussion may be harmful to the competitive position of the business; or

(6) Discussing the following information pertaining to the protection of public or private property and any person on or within the property:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Communications network schema, computer systems, cyber security plans, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations; and

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility, which would expose or create vulnerability through disclosure of the configuration, location, or security of critical systems of the building or facility;

(7) Discussing any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; and

(8) Discussing the location of or listing any:

(a) Ammunition or weapons;

(b) Biological, chemical, or nuclear agents; or

(c) Other military or law enforcement equipment or personnel.

An executive session or closed meeting may be held only upon a majority vote of the members of the public body present and voting at an otherwise open official meeting.

In the absence of a unanimous vote, any vote to

enter executive session must be taken by roll call. A motion to enter executive session must state the applicable subdivision in this section, or any other applicable law, pursuant to which the executive session is to be held. The motion and vote to enter executive session must be reported in the minutes of the proceedings. Discussion during executive session is restricted to the purpose specified in the motion to enter executive session.

Any official action concerning the matters considered pursuant to this section must be taken at an open official meeting.

Nothing in § 1-25-1 or this section prevents an executive session or closed meeting if the federal or state Constitution or any federal or state statute permits or requires the session or meeting. A violation of this section is a Class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement

of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney, and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC MEMBERS. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-11 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-116. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-117. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-118. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.