



DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

June 25, 2026

Water Management Board Members:

Enclosed is the agenda for the Water Management Board Meeting, to be held on **Wednesday, July 8, 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. By way of reminder, the July meeting is when the election of officers (chair, vice chair, and secretary) occurs and appointment of a prehearing officer.

NOTE: Regarding participation in this meeting, there are contested cases, 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 May 6-7, 2026, Board meeting
- Future Use Permit review list, recommendations, correspondence from permit holders, and affidavits of publication
- List of unopposed new water permit applications (issued or to be issued) based on the acting Chief Engineer's recommendation
- Cancellation list, notices, and recommendations
- Consider Future Use Permit Application No. 8990-3, City of Milbank
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
 - Petitions & Comments
 - Notice of Hearing
- Re Consider Deferred Water Permit Application No. 9019-3, Jim & Dan Thyen
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
 - Notice of Hearing

- Consider Water Permit Application No. 9022-3, Leonard Sigdestad
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
- Consider Addition of Mandatory Water Use Reporting Qualifications to Water Right Nos. 4053A-3 & 5520-3, Town of South Shore
 - Chief Engineer's Recommendations
 - Notices of Hearing
- Re Consider Deferred Water Permit Application No. 8982-3, Century Swine
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
 - Petitions & Comments
 - Notice of Hearing
- Consider Water Permit Application No. 8986-3, John Hall Jr
 - Water Permit Application
 - Staff Report & Chief Engineer's Recommendation
 - Affidavits of Publication
- Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8991-3, Century Swine
 - Petitioner's Proposed FOF & COL
 - Chief Engineer's Response
 - Applicant's Objections
- Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8987-3, Vic Utech
 - Petitioner's Proposed FOF & COL
 - Applicant's Objections
- Overview of SDCL 49-50-4 & 49-50-5 (SB135) Data Center Water Supply
 - Draft Form

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: **280 767 104 368 052**

Passcode: **89dx2FD7**

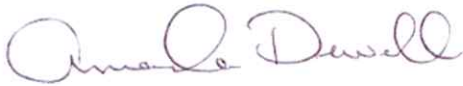
(You will also be provided a link via email that you can simply click to join the meeting.)

Option 2: Connect via audio only. Call 605-679-7263 and enter 512 060 960#

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,

A handwritten signature in purple ink that reads "Amanda Dewell". The signature is fluid and cursive, with the first name "Amanda" and last name "Dewell" clearly distinguishable.

Amanda Dewell, Permitting Administrator
SD DANR - Water Rights Program

enclosures

Cc: Legislative Oversight Committee
David McVey, AG's Office
Emily Greco, AG's Office
Brenda Binegar, DANR
Kent Osborne, SDPB



DANR
SOUTH DAKOTA

**WATER MANAGEMENT BOARD
Meeting on July 8-9, 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>

July 8, 2026

9:30AM Call to Order

Roll Call

Annual Appointment of Officers

Appointment of Pre-Hearing Chairman

Adopt Final Agenda

Conflicts, Disclosures, and Requests for State Board Waivers

Adopt May 6-7, 2026, Board Minutes

Set December 2-3, 2026, Meeting Dates and Location

(October meeting is scheduled for October 7-8, 2026, in Pierre)

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

9:35AM Seven Year Review of Future Use Permits – Amanda Dewell

Cancellation Considerations – Amanda Dewell

9:45AM Consider Future Use Permit Application No. 8990-3, City of Milbank – Kim Drennon

Re Consider Deferred Water Permit Application No. 9019-3, Jim & Dan Thyen – Tyler Jensen

Consider Water Permit Application No. 9022-3, Leonard Sigdestad – Tyler Jensen

Consider Addition of Mandatory Water Use Reporting Qualification on Water Right Nos. 4053A-3 & 5520-3, Town of South Shore – Amanda Dewell

WATER MANAGEMENT BOARD

Meeting on July 8-9, 2026

- 10:15AM Re Consider Deferred Water Permit Application No. 8982-3, Century Swine – Austin Settje
- 10:45AM Consider Water Permit Application No. 8986-3, John Hall Jr. – Whitney Kilts
- 10:55AM Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8991-3, Century Swine
- 11:05AM Consider Findings of Fact, Conclusions of Law, and Final Decisions in the matter of Water Permit Application No. 8987-3, Vic Utech
- 11:15AM Overview of SDCL 49-50-4 & 49-50-5 (SB135) Data Center Water Supply Plan – Adam Mathiowetz

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.

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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 259TH MEETING
OF THE WATER MANAGEMENT BOARD
FLOYD MATTHEW TRAINING CENTER
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA
MAY 6-7, 2026

CALL TO ORDER AND ROLL CALL: Chairman Larson 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: William Larson, Chad Comes, Peggy Dixon, Rodney Freeman, and Kelly Hepler. Leo Holzbauer participated via telephone. Jim Hutmacher was absent.

Department of Agriculture and Natural Resources (DANR): Mark Mayer, Director of the Office of Water; Adam Mathiowetz, Acting Chief Engineer, Ron Duvall, Amanda Dewell, Whitney Kilts, Shannon Konst, Austin Settje, Rachel Rodriguez, and Kim Drennon, Water Rights Program; and Aaron Ward, Kathleen Grigg, Nick Kelly, and Kyle Doerr, Water Quality Program.

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

Court Reporter: Carla Bachand, Capital Reporting Services.

Others: See attached attendance sheets.

ADOPT FINAL AGENDA: Motion by Freeman, seconded by Hepler to amend the agenda by adding a discussion of the Tulare: Western Spink Hitchcock appropriations to the 1:30 p.m. agenda item, Consider Held Tulare: Western Spink Hitchcock Applications, and to adopt the agenda as amended. A roll call vote was taken, and the motion carried unanimously.

CONFLICT DISCLOSURES AND REQUESTS FOR STATE BOARD WAIVERS: None.

APPROVE MARCH 4, 2026, BOARD MINUTES: Motion by Freeman, seconded by Comes, to approve the minutes from the March 4, 2026, Water Management Board meeting. The motion carried unanimously.

OCTOBER 7-8, 2026, MEETING DATES AND LOCATION: The October 7 and 8, 2026, Water Management Board meeting will be at the Matthew Environmental Training Center, 523

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East Capitol, Pierre, beginning at 9:30 a.m. on October 7.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: Paul Muth commented on the City of Mitchell wanting to drain water into the James River.

UPDATE ON DANR ACTIVITIES: Adam Mathiowetz, Acting Chief Engineer, reported on activities taking place within the Office of Water. He discussed drought conditions in the state, the State Drought Task Force, low flow warning letters that were recently issued on several creeks and shutoff orders that were issued on the Little Missouri River, and discussions with the Bureau of Reclamation regarding Black Hills reservoir levels.

The Water Rights Program has State Water Resources Management System funding which will be used to install new observation wells in the bedrock aquifers of the Black Hills as well as the Sioux Quartzite in the Sioux Falls area. The Water Rights Program has been in communication with the U.S. Geological Survey on sites as well as the potential use of some existing wells. The Water Rights Program is also considering purchasing new data loggers.

Mr. Mathiowetz noted that the Richmond Dam rehabilitation project was expected to begin the week of May 4, 2026.

Mr. Mathiowetz announced that Ron Duvall is retiring on May 8, 2026.

STATUS AND REVIEW OF WATER RIGHTS LITIGATION: David McVey reported that the Surface Water Quality Program received two Surface Water Quality Discharge Permit applications from the city of Custer. The contested case procedure requires the appointment of a prehearing chair and that a prehearing conference take place within 20 days of receipt of a petition. He noted that Rodney Freeman is the Board's appointed prehearing chair, and a prehearing conference is scheduled for May 12, 2026.

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 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 six 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 to remain in effect for an additional seven years, to be reviewed in 2033, as listed below.

No.	Name	Amount Remaining in Reserve	Source (Aquifer)
135-3	City of Pierre	3,374 AF	Pierre
217-3	City of Brookings	1,612 AF	Big Sioux: Aurora
549-3	City of Milbank	808 AF	Veblen
1780-2	City of New Underwood	142 AF	Fall River
4927-3	Clark Rural Water System	221 AF	Vermillion East Fork & Antelope
5003-3	City of Pierre	3,374 AF	Pierre

Motion by Holzbauer, seconded by Hepler, to accept the Acting Chief Engineer's recommendation that the six 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.

CONSIDER PETITION FOR VARIANCE FROM MINIMUM SPILLWAY DESIGN REQUIREMENTS, LAKE MITCHELL DAM: Assistant Attorney General Emily Greco represented the Water Rights Program. The petition was uncontested

Ms. Greco called Whitney Kilts, staff engineer, who testified that Lake Mitchell Dam is an existing intermediate sized, Category 1 (high hazard) dam, which is a dam whose failure may cause loss of life. The dam is located in the City of Mitchell in Davison County. The dam is on Firesteel Creek on the city's north side.

An updated inflow design flow study by Houston Engineering submitted with this variance request. The updated study indicates the dam can only accommodate a 23 percent Probable Maximum Flood (PMF) event. Water Rights staff reviewed the study by Houston Engineering and found it consistent with the current best practices for this type of study.

Pursuant to ARSD 74:02:08:07, the minimum design flood that an intermediate sized, high hazard Category 1 dam needs to accommodate without failure of the dam is the 50 percent PMF event unless a dam is granted a variance pursuant to SDCL 46-7-5.3. Therefore, the City has requested a variance.

Ms. Kilts stated that, for clarification, the 23 percent PMF event is the current capacity of what is in place at the dam.

SDCL 46-7-5.3 states that upon petition to the Board by the owner of a dam, the Chief Engineer may investigate and conduct the necessary analysis to determine the potential damage to

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downstream residents or property if a dam were to fail due to inadequate spillway capacity. After the investigation and analysis, the Chief Engineer may recommend that a variance to Board rules relating to minimum spillway design requirements for dams be granted or denied. The recommendation, notice, and hearing before the Board shall be conducted pursuant to the procedure contained in chapter 46-2A. Following the hearing, the Board may grant a variance upon a finding that failure of the dam due to inadequate spillway capacity will not increase the potential for damage from flooding to downstream residents or property.

Ms. Kilts stated that Figure 2 on page 7 of the staff report shows the depth-velocity-flood danger relationship for houses built on foundations. Figure 2 is color coded to show low risk up to high risk for occupants of houses in relation to increasing the depth and velocity of a flood event.

Table 4 on page 10 of the staff report compares the risk to downstream structures at with the dam failing at 23 percent PMF event (current capacity) and the risk to downstream structures with no dam failure if the dam was modified to be able to pass the 50 percent PMF event. This information indicates that at the current level of downstream development, there is a case for a variance to allow the current spillway capacity to be maintained since requiring the spillway to be upgraded to meet the rule would cause increased risk of damage to downstream residences. The location of the structures listed on Table 4 is shown on the first set of maps in Appendix A of the Houston report.

Acting Chief Engineer Mathiowetz recommended the Board grant the variance with the following qualifications:

1. Construction or removal of a dam as defined by Administrative Rules of South Dakota (ARSD) 74:02:08:01(7) will need to comply with ARSD Chapter 74:02:08, Safety of Dams Rules, including approval of plans and specifications by the Chief Engineer prior to any reconstruction, alteration, repair, or breaching of the dam.
2. The Emergency Preparedness Plan (EPP) shall be updated and reviewed annually. The EPP is required to include details on how and when to warn the residences and business that are most at risk for loss of life from a dam failure.
3. The dam owner is responsible for ensuring an EPP tabletop exercise be held at least every six years.
4. The variance is subject to periodic review. Upon review, if it is determined that the risk associated with the variance has increased the potential for damage from flooding to downstream residents of property compared with the risk associated with compliance with the Safety of Dams Rules, the Chief Engineer may recommend revocation of the variance to the Board. Any such recommendation is subject to the procedure contained in SDCL Chapter 46-2A.

Ms. Kilts answered questions from the Board regarding a periodic review of the variance.

Motion by Comes, seconded by Freeman, to grant the variance from spillway requirements for

Lake Mitchell Dam. The motion carried unanimously.

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 by-passed.

CONSIDER WATER PERMIT APPLICATION NO. 8987-3, VIC UTECH: A court reporter was present, and a transcript of this hearing was prepared. 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 Larson opened the hearing at 10:00 a.m.

Stacy Hegge and Marcus Hluchy, Gunderson, Palmer, Nelson & Ashmore, appeared on behalf of the applicant, Vic Utech.

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

James Moore, Woods Fuller Law Firm, appeared on behalf of the intervenor, Spring Creek/Cow Creek Sanitary District.

The purpose of the hearing was to consider Water Permit Application No. 8987-2, submitted by Vic Utech, to appropriate up to 2.45 acre-feet of water annually at a maximum pump rate of 0.22 cubic feet of water per second (cfs) from one existing well completed into the Grey Goose aquifer (90 feet deep). The well will supply water for commercial use at an RV Park located in Sully County, approximately 12 miles northwest of Pierre, SD.

This application uses the same well that is currently authorized under Water Right No. 8008-3 authorizing irrigation of 131 acres. The proposed appropriation of up to 2.45 acre-feet of water annually at a maximum pump rate of 0.22 cfs would be in addition to the 2.22 cfs, authorized by No. 8008-3. Combined, Water Right No. 8008-3 and Water Permit Application No. 8987-3 will appropriate groundwater at a maximum combined diversion rate of 2.44 cfs from one existing well completed into the Grey Goose aquifer.

Ms. Hegge moved to dismiss the Spring Creek/Cow Creek Sanitary District and its opposition to the water permit application because the sanitary district has no standing to proceed.

Mr. Moore stated that the standing argument is a way to avoid deciding the merits of the arguments that the sanitary district has raised. He requested that the motion to dismiss based on standing be denied.

Ms. Greco stated that the Board does not have the regulatory authority to decide matters of the district's ordinances.

Chairman Larson made a motion to enter into executive session for the purpose of consulting with legal counsel regarding proposed or pending litigation pursuant to SDCL 1-25-2(3). Freeman seconded the motion, and the motion carried unanimously.

The Board went into executive session at 10:14 a.m. and came out of executive session at 11:00 a.m.

Chairman Larson moved to deny the motion to dismiss the intervening petition. Freeman seconded the motion. A roll call vote was taken, and the motion carried with Comes, Dixon, Freeman, Hepler, Holzbauer, and Larson voting aye.

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 by the Water Rights Program and admitted into the record:

Exhibit 1 – Administrative file, Water Permit Application No. 8987-3, Vic Utech

Exhibit 2 – Austin Settje curriculum vitae

Exhibit 3 – Adam Mathiowetz curriculum vitae

Witness administered the oath and testifying on behalf of the applicant:

Victor Utech

Exhibits offered by Ms. Hegge on behalf of Victor Utech and admitted into the record:

Exhibit 103 – Map of the area where the well is located

Exhibit 104 – Map showing state parks – Cow Creek Recreation Area, Spring Creek Recreation Area, and Okobojo Point Recreation Area

Ms. Hegge renewed her motion to dismiss. Chairman Larson denied the motion to dismiss.

Witness administered the oath and testifying on behalf of the Spring Creek/Cow Creek Sanitary District:

Todd Schneider

Exhibits offered by Mr. Moore on behalf of Spring Creek/Cow Creek Sanitary District and admitted into the record:

Exhibit 201 – Resolution 2024-5 requiring all premises to have water and sewer service available to the premises through the Spring Creek/Cow Creek Sanitary District

Exhibit 203 – Resolution 2024-1 giving approval to certain drinking water facilities improvements; giving approval to the issuance and sale of a project revenue bond to finance, directly or indirectly, the improvements to the facilities, approving the form of the loan agreement and the project revenue bond and pledging project revenues and collateral to secure the payment of the bond, and creating special funds and accounts for the administration of funds for operation of the system and retirement of the bond and providing for a segregated special charge or surcharge for the payment of the bonds.

Exhibit 204 – Resolution 2022-2 giving approval to certain clean water facilities improvements, giving approval to the issuance and sale of a revenue bond to finance, directly or indirectly, the improvements to the facilities, approving the form of the loan agreement and the revenue bond and pledging revenues and collateral to secure the payment of the revenue bond, and creating special funds and accounts for the administration of funds for operation of the system and retirement of the revenue bond and providing for a segregated special charge or surcharge for the payment of the bonds.

Exhibit 205 – Resolution 2022-3 giving approval to certain drinking water facilities improvements, giving approval to the issuance and sale of a revenue bond to finance, directly or indirectly, the improvements to the facilities, approving the form of the loan agreement and the revenue bond and pledging revenues and collateral to secure the payment of the revenue bond, and creating special funds and accounts for the administration of funds for operation of the system and retirement of the revenue bond.

Exhibit 206 – Ordinance No. 7, Regulation of Water Use

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Exhibit 209 – Minutes of the May 10, 2023, Spring Creek/Cow Creek Sanitary District meeting
Exhibit 210 – Petition for a resolution of exclusion of real property from the Spring Creek/Cow Creek Sanitary District
Exhibit 211 – Sixth Judicial Circuit Notice of Appeal
Exhibit 212 – Sixth Judicial Circuit Notice of Intent to Dismiss Action
Exhibit 213 – Map of Codger’s Castaway Subdivision
Exhibit 214 – December 22, 2021, facility plan, amended in June 2023, prepared by Bartlett & West, Lagoon Improvements, Spring Creek/Cow Creek Sanitary District
Exhibit 218 – November 20, 2024, minutes of Spring Creek/Cow Creek Sanitary District meeting
Exhibit 219 – Order for organization and incorporation of Spring Creek/Cow Creek Sanitary District of Hughes County and Sully County, SD
Exhibit 222 – August 13, 2025, letter from Todd Schneider, Spring Creek/Cow Creek Sanitary District to Vic Utech regarding plans for a proposed RV park

Following direct examination, cross-examination, redirect, and questions from the Board members Chairman Larson declared the testimony and evidence closed in this matter.

Chairman Larson made a motion to go into executive session for the purpose of consulting with legal regarding this matter pursuant to SDCL 1-25-2(3).

The Board went into executive session at 1:55 p.m. and came out of executive session at 2:21 p.m.

Chairman Larson requested a motion from the Board to either approve or deny the application.

Chairman Larson made a motion to deny Water Permit Application No. 8987-3, Vic Utech, because it is not in the public interest due to it being in conflict with an ordinance that was issued by another public subdivision and the body politic of the State of South Dakota. Hepler seconded the motion. A roll call vote was taken, and the motion carried with Comes, Dixon, Freeman, Hepler, Holzbauer, and Larson voting aye.

Mr. Moore will prepare proposed Findings of Fact and Conclusions of Law by May 29, 2026. Objections and counter proposals are due by June 10, 2026.

CONSIDER WATER PERMIT APPLICATION NO. 8991-3, CENTURY SWINE RE, LLC:
Chairman Larson opened the hearing at 2:30 p.m.

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.

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Ms. Greco asked if any of the other petitioners were present. No other petitioners were present in person or remotely.

Ms. Greco offered Exhibit 1, the administrative record. The exhibit was admitted into the record.

Ms. Greco called Austin Settje, who had previously been administered the oath.

Ms. Greco offered Exhibit 2, Austin Settje curriculum vitae.

Mr. Settje stated that he prepared the curriculum vitae, and it is up to date. He stated that under Work Experience in the first two lines, the words “water” and “Natural” were spelled incorrectly.

The exhibit was admitted into the record.

Mr. Settje, a staff engineer in the Water Rights Program, testified regarding his job duties, the water permit application submitted by Century Swine, and his report on the application.

Mr. Settje provided the following testimony in response to questions from Ms. Greco.

Water Permit Application No. 8991-3 proposes to appropriate up to 154 acre-feet of water annually at a maximum combined pump rate of 0.50 cubic feet of water per second (cfs) from one existing well and up to two additional wells to be completed into the Dakota aquifer for commercial use in a swine facility located in Edmunds County approximately ten miles southwest of Roscoe, SD.

The scope of the technical review was to determine the availability of water and the potential for unlawful impairment.

The Dakota Formation underlies most of eastern South Dakota. The well completion report for this location indicates a saturated aquifer thickness of 185 feet and that the aquifer is confined in this area. The artesian head pressure at this location is 1,175 feet above the top of the aquifer materials at this location. There are uncontrolled flowing wells in this area.

The Dakota Aquifer is older than or stratigraphically lower than the Greenhorn Formation. The Greenhorn Formation is a marker bed for drillers. The exception in SDCL 46-6-3.1 does not apply because the applicant’s proposed use is not a water distribution system. In this case, Mr. Settje did assess whether withdrawals exceed recharge even though it is older or stratigraphically lower than the Greenhorn Formation.

When examining recharge versus withdrawal Mr. Settje used an average annual review. Using an average provides a little more detail and understanding of predictions.

Recharge to the Dakota aquifer in South Dakota occurs through upward leakage from underlying aquifers, the Madison and Inyan Kara, with a higher potentiometric surface than the Dakota aquifer, downward seepage through overlying confining layers, and through the infiltration of

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precipitation on the Newcastle Formation that outcrops in the Black Hills. Based on the available information, the estimated recharge to the Dakota Aquifer is approximately 79.4 cfs, which is 57,500 acre-feet per year. Mr. Settje relied on the Bredehoeft and others 1983 report in approximating the recharge number. While outdated, the Bredehoeft and others' estimate is the best information available to give a sense of the scale of the recharge to the Dakota Aquifer in South Dakota. For example, the recharge estimates used for the Madison and Inyan Kara Aquifers in the Bredehoeft and other analysis are much lower than estimates calculated by the more recent research of Carter and others (2002) and Medler and others (2025). The Madison is one of the aquifers that recharges the Dakota Aquifer.

At the time of Mr. Settje's report there were 260 water rights/permits and seven future use permits reserving 4,287 acre-feet of water from the Dakota Aquifer. Of the 260 active water rights/permits, 97 are primarily for water distribution systems, 21 are for irrigation, 114 are for commercial use, seven are for industrial use, ten are for domestic use, four are for fish and wildlife propagation, two are for geothermal use, two are for institutional use, and three are for recreation. Based on his review, Mr. Settje determined the estimated average annual withdrawal rate from the Dakota aquifer is approximately 29,728 acre-feet per year. This was calculated using a combination of future use, non-irrigation use, irrigation use, and this application, if approved, assuming full volume.

Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Dakota Aquifer for the proposed appropriation.

The Water Rights Program monitors 46 observation wells completed into the Dakota Aquifer. Mr. Settje reviewed all of the observation wells, but more closely reviewed the three wells closest to the location of the application; ED-85A, which is approximately 34 miles east, HD-87A, which is approximately 76 miles southeast, and AU-89A, which is approximately 126 miles southwest. Figure 1 on page 7 of Mr. Settje's report is a graph showing the elevation of water levels for these observation wells. Since discharge from uncontrolled flowing wells is likely to continue until water levels in the aquifer decline to being at or below the ground surface, continuing to allow beneficial pumping to occur reduces the amount of water being discharged to waste.

There is a reasonable probability that unappropriated water is available from the Dakota Aquifer for the proposed appropriation.

The closest Dakota Aquifer water right/permit, not held by the applicant, to the proposed diversion points is Water Permit No. 8666-3, which is held by SFP LLC. The diversion point for Water Permit No. 8666-3 is located 8.8 miles east of the diversion points for this application.

There are domestic wells on file with the Water Rights Program that are completed into the Dakota aquifer, with the closest domestic wells on file, not held by the applicant, located approximately 3.8 miles to the southeast and 5.7 miles to the northeast of the proposed diversion points. There may be other domestic wells completed into the Dakotas Aquifer that are not on file with the Water Rights Program because they predate reporting requirements.

The requirement for a well to receive protection from unlawful impairment is that it has to be an adequate well. An adequate well is defined 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. Given the saturated thickness of the Dakota Aquifer in Edmunds County and the lack of substantiated well interference complaints for adequate wells completed into the Dakota Aquifer in Edmunds County or the surrounding counties, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells.

Petitions opposing the application for a water right permit were filed by Larry, Cindy and Garret Heinz, Justin Baer, Lynette Kraft, John Schneider, Delores Prisbie, Neil Haar, Steve Hellwig, Colleen Haar, Duane Haar, Rich Rohrbach, Bryce Rohrbach, Jaydon Allen, and Amanda Abarca.

Mr. Settje stated that after reviewing the petitions it did not change his opinion on the availability of water and the potential for unlawful impairment.

In response to cross-examination by Mr. Tschetter, Mr. Settje testified that his estimates regarding withdrawals are on the higher side. The general approach to calculations regarding recharge was done on the conservative to lower side.

Mr. Tschetter asked if the Water Rights Program has received complaints for non-adequate wells in Edmunds County. Mr. Settje said he would not be able to recall all of the complaints for the Dakota Aquifer in this region. He was just looking for complaints for adequate wells that were investigated at the time, and he did not see any that would appear to be an adequate complaint.

Mr. Tschetter asked if it is correct that there may be people who have experienced a challenge with water access from their domestic well, but whether or not that complaint is related to an adequate well would be analyzed by the Water Rights Program. Mr. Settje answered that is correct. The Water Rights Program looks at all complaints. Mr. Settje's report concluded that there are no complaints on file with the Water Rights Program regarding well interference or adequate wells completed into the Dakota Aquifer.

Mr. Tschetter said regarding the review process, Mr. Settje clearly has the appropriate education, but he is curious if Mr. Settje has the benefit of others in the Water Rights Program with more experience reviewing his work. Mr. Settje stated several of the other engineers in the program who have experience in writing the technical reports specific to the Dakota Aquifer review his report.

In response to questions from Mr. Tschetter regarding the hydrologic budget, Mr. Settje stated that specifically he looked at discharge which takes into account everyone who is actively taking water out of the aquifer and then the recharge based off of the best available studies provides the most accurate recharge amount. Based off of the recharge coming into the aquifer and the totality of all withdrawals being taken from the aquifer are balanced and from that we are able to determine if the aquifer has available water in storage.

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On cross-examination by Mr. Shaull, Mr. Settje testified that between the time he graduated from the School of Mines and Technology in 2022 and 2024 when he was hired by the Water Rights Program he had an opportunity to be a sound engineer so he did some traveling around the country and helped manage a tour for a band. He noted that a sound engineer doesn't have any real engineering background compared to his degree. Mr. Settje said he does not currently hold a professional engineer's license or professional geologist license. His course work in college did not contain any course work groundwater hydrogeology analysis.

Mr. Settje said he is the author of the report for Water Permit Application No. 8991-2. The recharge analysis in the report primarily relies on the Bredehoeft and others 1983 report, which is listed as outdated in the report. Mr. Settje said he did not ever commission or perform an updated recharge study for this report.

Mr. Shaull asked what it would look like if there were new documents and new research that went into the report. Mr. Settje answered that the Water Rights Program would take the most up-to-date information available and then have to re-adjust what the recharge value would be then compare that to the withdrawals. So, if the newer studies were to say there was more water available then that number would be higher.

Mr. Shaull asked who would be performing the new studies. Mr. Settje answered that there are studies performed by South Dakota Geological Survey and U.S. Geological Survey, which are probably the most common.

Mr. Shaull said on page 3 of Mr. Settje's report he wrote that it is unknown whether the true recharge rate of the Dakota Aquifer is higher or lower than Bredehoeft and others (1983) estimates. Mr. Settje said he used the best available information at the time.

Mr. Shaull said at the time the Bredehoeft report was outdated, but that is what Mr. Settje used. He asked if Mr. Settje looked for other studies that may have been done on the Dakota Aquifer to give us a more present-day recharge rate. Mr. Settje said he looked at all available information that was published at the time.

Mr. Shaull asked what it would look like if Mr. Settje were to conduct what Bredehoeft did in 1983 today. Mr. Settje answered that what Bredehoeft did and what he does are separate things. Bredehoeft would have a much stronger foundation in hydrology to be able to determine exactly how water is able to move through these formations and determine things such as recharge rate through certain aquifers and how those materials affect the transmissivity of that material. Mr. Settje said he looks at what is available then he writes the study on a comparing basis between that recharge and withdrawal. In the report it says the recharge rate could be higher or it could be lower. Mr. Settje said he believes more recent studies show that more recharge could be available.

Mr. Shaull said page 6 of the report Mr. Settje wrote that it is currently unknown how much water is being discharged from the Dakota aquifer through uncontrolled flowing wells. He asked what Mr. Settje meant when he wrote that. Mr. Settje stated that there is not currently a way to

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measure how much water is being lost to uncontrolled flowing wells in the Dakota Aquifer. Mr. Settje said he would not say an uncontrolled flowing well is necessarily withdrawing from the aquifer. An uncontrolled well is a natural process that is happening within the aquifer as it is trying to reach equilibrium. The pressure of the Dakota Aquifer is what is causing the water to be pushed up through the ground and expelled on the surface.

Mr. Shaull asked if that affects withdrawal at all. Mr. Settje said it affects the way the Water Rights Program looks at the observation wells, which is something that staff definitely considers in the report. Some show a slight decline while the one closes to this application is stable. It could just show that the uncontrolled flowing wells in those areas are associated with the slight decline. Mr. Shaull asked if it is correct to say those wells included domestic wells that predate a certain time period. Mr. Settje said this is correct. Mr. Shaull asked if there could be wells closer to the applicant's proposed well in Application No. 8991-3 that weren't in consideration in this report. Mr. Settje said that is possible.

Mr. Shaull asked, on page 6, when Mr. Settje wrote that the Bredehoeft and others (1983) recharge estimate relies on outdated assumptions, what did he mean by outdated assumptions? Did that have to do more with methodology or was it just that the analysis was solid but it's 43 years ago so the time of history is not updated on a contemporary sense. Mr. Settje answered that it would be outdated so newer information that may be coming could change the amount. Mr. Shaull asked if that includes the methodologies that Bredehoeft used in 1983. Mr. Settje said he is not extremely knowledgeable on every method that Bredehoeft used to come up with the estimate, but he does know that this is the most accurate information we had at the time to use in this report.

Mr. Shaull asked if Mr. Settje's recharge estimate has a margin of error? Mr. Settje said it is labeled as approximately, and he is not able to say what the margin of error is, but it is as accurate as possible based off the information he had to work with.

Mr. Shaull asked Mr. Settje if, when he writes a report, he includes irrigation, livestock, municipal, and water usage in the cumulative analysis. Mr. Settje answered that the estimate includes future use, non-irrigation, irrigation, and this application.

Mr. Shaull said there are several conditions in the recommendation of the Acting Chief Engineer for Water Permit Application No. 8991-3. He asked Mr. Settje what role he plays in the qualifications that are listed in the engineer's ultimate report and recommendation. Mr. Settje stated that the technical report is for the chief engineer to be able to make recommendations and issue the qualifications. Mr. Shaull asked Mr. Settje if he had seen the seven qualifications prior to now. Mr. Settje answered that he did not.

Mr. Shaull asked Mr. Settje how an application is processed by the Water Rights Program and who determines whether it is reviewed by an engineer 1 versus an engineer 4. He asked if it depends on depth or the amount of water that is being proposed in the application. Mr. Settje answered that would be a question for the chief engineer.

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On re-direct by Ms. Greco, Mr. Settje stated that he has authored approximately 40 reports to date. Besides the report for Application No. 8991-3, he has prepared four or five other reports regarding the Dakota Aquifer. Those water rights were ultimately granted.

In response to questions from Ms. Greco, Mr. Settje stated that neither he nor other engineers in the Water Rights Program conduct recharge studies. The Dakota Aquifer receives recharge through infiltration from other aquifers, including the Madison and Inyan Kara Aquifers. On page 3 of his report Mr. Settje noted that there are updated studies for the Madison and Inyan Kara

Aquifers that suggested higher recharge to those aquifers, so the aquifers that are recharging the Dakota Aquifer have a substantial amount of recharge. Because the Bredehoeft study is outdated, he can't accurately say whether the recharge today is higher or lower. Based on Mr. Settje's experience he believes the number could be higher.

Mr. Tschetter asked if it is correct that Mr. Settje was asked to analyze whether there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, and he concluded that there is at least 27,000 acre-feet per year available. Mr. Settje answered that is correct.

Mr. Tschetter asked if it is correct that Mr. Settje was asked to analyze whether or not the proposed diversion can be developed without unlawful impairment of existing domestic wells and water rights and Mr. Settje concluded that it can be. Mr. Settje answered that is correct.

Mr. Shaull asked if it is correct that Mr. Settje testified that he has authored approximately 40 reports since his tenure at the Water Rights Program. Mr. Settje answered that is correct. Mr. Shaull asked Mr. Settje if he recalls any petitions, comments, or contested case hearings in which he was the author or a report where someone challenged the recharge rate, like the petitioners are challenging in this case. Mr. Settje said he does not recall.

Mr. Shaull asked if Mr. Settje used the same studies he used to calculate the recharge rate for this report in the reports he authored for the previous four or five Dakota Aquifer applications, and did he use the same outdated adjectives to describe the Bredehoeft study in those reports. Mr. Settje answered that he does not recall if the same language was used throughout all of the reports.

Chairman Larson asked if Mr. Settje used a study from 1909 for the recharge data. Mr. Settje answered that he used the Bredehoeft and others study from 1983. Bredehoeft and others attempted to match Darton's 1909 study. Darton had done the original study in the Dakota Aquifer, and Bredehoeft wanted to replicate some of those parts and be able to build off of Darton's work. Mr. Larson stated that Mr. Settje says in his report that it is not known what the recharge rate is. Mr. Settje stated that he does not know the exact recharge amount; he tried to use the most accurate information available at the time, which is Bredehoeft's study.

Ms. Greco called Adam Mathiowetz, Acting Chief Engineer, who was previously sworn.

Ms. Greco offered Exhibit 3, Adam Mathiowetz curriculum vitae.

Mr. Mathiowetz stated that he prepared his curriculum vitae and it is accurate and up to date.

The exhibit was admitted into the record.

In response to questions from Ms. Greco, Mr. Mathiowetz testified regarding his educational background, his current position, and work experience.

Mr. Mathiowetz stated that he has authored more than 200 reports and he has reviewed approximately the same number of reports for other staff engineers. When a water permit application is submitted and deemed complete, Mr. Mathiowetz assigns it to an engineer for a technical review. The engineer does a review regarding the availability of unappropriated water and potential for unlawful impairment. The report is then given to all other technical engineers for a peer review to look for both the technical issues or grammar and spelling issues and to make sure everything that should be considered was. After those corrections are made, the report is provided to the administrative staff within the program. Another review is conducted to check for technical information, grammar, and legal issues. Upon completion of that review and finalization of the report the Chief Engineer makes a recommendation. The recommendation is then public noticed in newspapers and on the public notice webpage. The public notice is placed in the newspaper of record for the county where permit application is and water use is to be. If that is not a daily newspaper, it is also published in the nearest daily newspaper. There is a deadline for submitting comments, petitions in opposition by members of the public, or if the applicant disagrees with the recommendation. If the recommendation was for approval of the application and no petitions in opposition were submitted, the Chief Engineer of the Water Rights Program can administratively approve the application on behalf of the Water Management Board. In most other instances if, for example, there is opposition from the public or applicant, or if there is a deferral recommendation, the application is brought before the Water Management Board for hearing.

In response to questions from Ms. Greco, Mr. Mathiowetz testified that he reviewed the application then assigned it to Austin Settje to write the technical report. During Mr. Settje's writing of the technical report Mr. Mathiowetz assisted him as needed in understanding or processing information. Mr. Mathiowetz then peer-reviewed the report as one of the technical engineering staff. When it was sent for administrative review, Mr. Mathiowetz again reviewed the report to make sure any language that was changed for grammar or legal purposes doesn't affect any of the technical meanings.

The recommendation for this application was written by Mark Mayer who was the previous Acting Chief Engineer. Mr. Mathiowetz testified that he agrees with Mr. Mayer's recommendation, which is for approval of Application No. 8991-3 with the following qualifications:

1. The wells approved under Water Permit No. 8991-3 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. The proposed wells authorized by Permit No. 8991-3 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. The proposed new wells and any future replacement wells must meet the adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20. The new wells and any replacement wells may not be constructed using the alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.
4. Water Permit No. 8991-3 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.
5. Water Permit No. 8991-3 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
6. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Dakota Aquifer.
7. Water Permit No. 8991-3 authorizes a total annual diversion of up to 154 acre-feet of water annually from the Dakota Aquifer.

Ms. Greco asked Mr. Mathiowetz to tell the Board how this application is for beneficial use and in the public interest.

Mr. Mathiowetz stated that the water is for a beneficial use in a commercial animal feeding operation. South Dakota is an agricultural state, and as statutorily required, the Water Management Board is to place the water resources of the state to the maximum beneficial use. Mr. Mathiowetz stated that putting water to beneficial use to feed livestock creates economic value and provides a livestock opportunity, so it would be in the public interest.

In response to a question from Ms. Greco regarding uncontrolled flowing wells, Mr. Mathiowetz stated that the water that is flowing from the uncontrolled wells is flowing to waste, and some of the water may be used, but not all of it. The Water Rights Program's position regarding uncontrolled flowing wells is based off of previous Water Management Board that uncontrolled

flowing wells are flowing to waste, and that water can be appropriated because it does not constitute an appropriative withdrawal. It would be better to appropriate this water for a beneficial use before it is able to flow out of an uncontrolled well.

Ms. Greco asked how the appropriation would prevent the uncontrolled flowing well. Mr. Mathiowetz stated that an uncontrolled flowing well is reliant on having head pressure above land surface, which means that when you drill a well into the aquifer the water level rises above the top of the aquifer. If you are placing water to use, there is always going to be some drawdown. That is the physics of how wells work. If the water is placed to use, it is reducing water that could be flowing to waste.

In response to questions from Ms. Greco regarding recharge studies, Mr. Mathiowetz said he is familiar with recharge studies, but he has not conducted recharge studies himself. The Water Rights Program has not conducted any recharge studies; however, he believes the South Dakota Geological Survey, which is part of the Department of Agriculture and Natural Resources, has done some recharge studies.

Ms. Greco asked what is required for a recharge study. Mr. Mathiowetz stated that some of that depends on the specific aquifer. In general, you would look at the geology, which includes drilling holes and reviewing what holes have already been drilled. You would look at the hydrology, so you're going to consider water levels whether that is in existing wells or in observation wells that are new. You are also going to look at recharge sources and how that recharge mechanism occurs, which will involve precipitation, infiltration rates if it's a shallower aquifer that does rely on direct infiltration from precipitation on the land surface versus on a recharge zone, as well as evaporation and other types of methodology that prevents some of that precipitation from entering the aquifer. It depends on the scale of the study, but a relatively small aquifer, 20 to 30 square miles, could take a few years. For an aquifer, such as the Dakota Aquifer, which covers the entire state, a less detailed study may take five to 10 years, and a highly detailed study could take 20 years. The Water Rights Program is left with reviewing the available studies that have been completed or waiting for a study to be completed.

Ms. Greco asked for Mr. Mathiowetz's opinion regarding the status of the Bredehoeft study. Mr. Mathiowetz stated that believes some of the discussion was not necessarily as clear as it could be as written in Mr. Settje's report. With Bredehoeft, there are certain data points used in the estimation that we know are outdated. In particular, the incoming recharge from the Madison and Inyan Kara Aquifers. There was a 2025 study that was completed by the USGS that indicated more recharge goes into those aquifers. Therefore, there would be greater potential for that recharge to get into the Dakota Aquifer. In its general status, the methodologies and other numbers are relatively good, and this is the best reasonably available information, which is what the Water Rights Program is charged to use.

Ms. Greco asked Mr. Mathiowetz if he would be able to approximate what the range would look like if there was a range above or below that 27,000 acre-feet. Mr. Mathiowetz said he would expect the range at this time to lean slightly higher. He would not expect a plus or minus more than 5,000 acre-feet, based on his experience looking at other studies conducted for multiple aquifers because usually you're looking at a percentage variance that is related to the quality of

the methodology and numbers used to calculate the equations. In the past, we used pencil, paper, and maybe a calculator. Today, we have high-powered computers that can handle more complicated equations and larger data sets. So, the methodology is the same, but the ability to process extra data has increased. Another variable is changing precipitation patterns and also the availability of that precipitation data. From 1983 we now have 42 more years of precipitation data, so that would also inherently affect that calculation.

Mr. Mathiowetz stated that he reviewed the petitions in this case. One of the main concerns in the petitions was the sufficiency of the data. He stated that for the withdrawals portion of the report, the Water Rights Program uses the data that is available, which is the amounts of withdrawals reported by the appropriate permit holders. The estimation method the Water Rights Program uses is for those that do neither, the 60 percent methodology has shown that when compared to many other types of use, that is reasonable and that number has been accepted multiple times throughout the history of the Water Management Board. When it comes to recharge, the Water Rights Program is charged to use best reasonably available information, which is Bredehoeft, but even when taking in the fact that there is new data for some portions of their methodology, that new data indicates that the recharge number is probably on the low side.

Another concern regarded the entire impact of Century Swine's operation. Mr. Mathiowetz stated that there are two applications submitted by Century Swine to be considered by the Board today. They are for two separate aquifers, and they are very hydrologically distinct with several hundred feet between them, most of which is confining layers hydrologically separating them.

Another concern was that Century Swine was asking for more water than they might actually use. Mr. Mathiowetz stated that the Water Rights Program does not set the amount of water requested by the applicant. Staff does offer advice if the applicant has questions, and staff generally suggests that if the applicant is uncertain, to apply for a bit more water than they think they will need because when the licensing inspection is conducted, it will be licensed down to what is built. If they over build, then they have to apply for a new permit. When they ultimately get the license, they're licensed for the amount of water that they actually use.

Mr. Tschetter asked if a magnitude of 27,000 acre-feet annually is the delta between the recharge and the withdrawals. Mr. Mathiowetz said he believes that is approximately correct. He stated that the volume of water being requested with this application is 154 acre-feet per year.

Mr. Tschetter asked what the Water Management Board has found in the past for other hog facilities with respect to public benefit and public interest. Mr. Mathiowetz stated that in general, the Water Rights Program and Water Management Board has found that placing water to use to provide water to hogs in a commercial operation is a beneficial use of the water and is in the public interest.

In response to questions from Mr. Shaull, Mr. Mathiowetz stated that he assisted Mr. Settje, as needed, in preparing the technical report for this application; he also reviewed the completed report. The report states that the recharge rate could be higher or lower than estimated, and the report does not include a margin of error for the plus or minus 5,000 acre-feet he testified about.

Mr. Shaull asked if the report discusses the public interest or benefit that Mr. Mathiowetz talked about. Mr. Mathiowetz answered that public interest is outside the scope of the report.

Mr. Shaull stated that under SDCL 46-2A-9, there are four prongs that are required for a permit to be issued, and one of those prongs is public interest. He asked if the permit is granted in violation of an existing Edmunds County ordinance, would that be a problem for the public interest prong. Mr. Mathiowetz answered that it depends on the nature of the ordinance.

Mr. Shaull asked if the ordinance were to require the water supply to the CAFO to be viewed as one, and DANR viewed that as two, would that be a problem to the public interest. Mr. Mathiowetz answered no, because the water supplies are distinct from each other and, therefore, would have to be considered independently.

Mr. Shaull asked if the cumulative impact has to be considered. Mr. Mathiowetz stated that each application is for an independent water source. The Water Rights Program has to manage the water sources independently of each other. Staff reviews a hydrologic budget and observation wells. An observation well cannot measure two aquifers. Therefore, the technical review, which is the report, needs to only be able to consider that one aquifer. That is why, when there are multiple applications for one facility, but with different water sources there are two applications, two reports, and two recommendations. The recommendation is based off of the application.

Mr. Shaull asked if the public interest or the beneficial use are one in the same regardless of the water source, doesn't that have to be looked at cumulatively. Mr. Mathiowetz said not necessarily because if there is a well in one aquifer and not the other, there would not necessarily be an interest in the second aquifer by some people.

Mr. Shaull said Mr. Mathiowetz if beneficial use would be the same for two wells that are supplying water to a commercial operation, and what is the distinction between the beneficial use analysis that was done. Mr. Mathiowetz answered that the beneficial use is the type of use, how the water is being placed to use, and the user is the same, but it is a separate application for a separate water source, so they are considered separately. While the consideration for all practical purposes on the beneficial use is the same, they are still separate.

Mr. Shaull asked if the report addresses the beneficial use or the matters of public interest. Mr. Mathiowetz answered that the technical reports address specifically the availability of unappropriated water and the potential for unlawful impairment.

Mr. Shaull asked if Mr. Mathiowetz is aware of any authority that would require him to conduct a recharge study. Mr. Mathiowetz answered no.

Mr. Shaull handed Mr. Mathiowetz Petitioners Exhibit 201, which is a letter written by Circuit Court Judge Sean M. O'Brien, dated April 11, 2012. He stated that, excluding the footnote, four lines up from the bottom of the last paragraph it states, "It seems contradictory to assert that it is not probably that water drawdown annually will exceed the average annual recharge without ever calculating the annual recharge or the average annual recharge." He asked Mr. Mathiowetz if he agrees with that sentence. Mr. Mathiowetz said he agrees with that statement.

Mr. Shaull asked if Mr. Mathiowetz agrees that a recharge study could theoretically be done on the Dakota Aquifer today? Mr. Mathiowetz answered yes.

Mr. Shaull offered exhibit 201. The exhibit was admitted into the record.

Mr. Shaull offered Petitioners Exhibit 202, which is an Order of Reversal and Remand for Rehearing back to the Water Management Board, for the same case as in Exhibit 201, signed by Circuit Court Judge Sean M. O'Brien on May 9, 2012. The exhibit was admitted into the record.

Mr. Shaull asked if Mr. Mathiowetz knows what a cone of depression is? Mr. Mathiowetz answered that he does. Mr. Shaull asked Mr. Mathiowetz to explain what it is.

Mr. Mathiowetz stated that a cone of depression is the drawdown immediately around a pumping well. Mr. Shaull asked if any cone of depression studies were done for the report on Application No. 8991-2. Mr. Mathiowetz answered that he does not believe so. He stated that it is typically not the standard practice of the Water Rights Program when it does not have extensive, high-quality local data on transmissivity available.

Mr. Shaull asked Mr. Mathiowetz to explain what the static water level is. Mr. Mathiowetz said static water level is the water level of an aquifer under static conditions, which is its standard non-pumped condition.

Mr. Shaull asked what the static water level is in this area. Mr. Mathiowetz answered that the report states the well drilled on November 10, 2025, had a static water level of approximately 180 feet below the ground surface. Mr. Shaull asked if that level seems low. Mr. Mathiowetz answered that it does not.

Mr. Shaull asked if the Water Rights Program conducted any study that reflects an average of the static water level in this area. Mr. Mathiowetz answered that part of the review of potential for unlawful impairment as well as one of the tables of Mr. Settje's report referencing historic water levels does include review of that.

Mr. Shaull asked why the static water level for this permit would be substantially lower than the average in the area. Mr. Mathiowetz said some of that depends on what time of year the well was drilled, or if the driller waited long enough for full recovery in the well, and measuring it after the air developed because some wells in their immediate area recover much faster than others. Primary recharge in South Dakota is in the spring and late winter through early summer. A later in the year reading and measurement is typically going to be lower than a spring reading in the same year. There will be some inversions of that, especially with such as a very shallow aquifer when it is a high precipitation year. Later in the year might be higher than the spring, but in general later year readings before the recharge season are lower than readings earlier in the year.

In response to questions from Mr. Shaull, Mr. Mathiowetz stated that when the report was written on January 27, 2026, the conditions were drier, and drier conditions tend to lower water

levels. Another factor is topography, so in terms of elevation, the 80-foot water level and the 180-foot of water level could be the same once elevation is taken into consideration. The well was drilled in 2025.

Mr. Shaull asked how the Water Rights Program analyzes the domestic wells that aren't on record. Mr. Mathiowetz answered that if the Water Rights Program does not have any information to analyze, it can't analyze it. Mr. Shaull asked how the Water Rights Program would obtain that information for wells that predate the recording requirements. Mr. Mathiowetz stated that someone would have to ask the owner of the well to provide enough information to substantiate what aquifer the well is in.

Mr. Shaull showed Mr. Mathiowetz Exhibit 204 and asked if this is the type of information he was discussing previously about owners of domestic wells not on record, as this is the type of information the Water Rights Program would take into consideration. Mr. Mathiowetz answered that information regarding well construction and well depth would be considered. The personal history, which appears to be most of the exhibit, would not necessarily be relevant to determining the well's water source or adequacy in terms of the adequate well rule.

Mr. Shaull asked if the owner of a domestic that doesn't show up in DANR records could submit this information to the Water Rights Program to show potential harm. Mr. Mathiowetz answered that as part of a petition this would be a reasonable form. He noted that this well is not completed into the Dakota Aquifer as listed in Exhibit 204, based on depth alone. The Water Rights Program has a form available for registering a domestic well, so it is included in the database.

Mr. Shaull asked if the Water Rights Program would take into consideration the potential harm as part of the public interest prong for this well. Mr. Mathiowetz answered yes, for the aquifer this well is completed into, which is not the Dakota Aquifer, which this particular application is discussing. He knows this particular well is not in the Dakota Aquifer because item 6 specifies that the well was drilled to a depth of 420 feet. The Dakota Aquifer in this area, as testified to by Mr. Settje, is over 1,000 feet deep.

Mr. Shaull asked if it's that simple that there's just a depth that you hit a certain aquifer, and if you keep going lower, you hit a different one. Mr. Mathiowetz answered that at this location it is. Obviously, there is some variation with topography. This is not like the Black Hills where there are hundreds of feet of topography over a quarter mile, and yes, it is this much difference in depth. It is relatively that simple.

Mr. Shaull asked what is above the Dakota Aquifer, based on the 420 feet. Mr. Mathiowetz stated that there are multiple formations above the Dakota Aquifer, and he would need State geologic and stratigraphic map to give the exact detail, but based on the depth of the well, he believes the well is into the Pierre Shale or potentially the Niobrara Formation. Having the well completion report with detailed geology would give him that answer. The location of the well is described in this document, so that would also aid in determining the aquifer.

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Mr. Shaull asked if someone owns a well and they are worried that a potential new well will impact it, how does he tell the Water Rights Program about this existing well. Mr. Mathiowetz stated that there are several avenues. The well owner can contact the Water Rights Program, who would work through the process to register, or at the very least, discuss with the well owner what aquifer they well may be completed into. If there is a contested case, that would be part of the petition process.

Mr. Shaull asked if Mr. Settje's report includes all impacted wells, not just those that petitioned or submitted comments or contacted the Water Rights Program. Mr. Mathiowetz stated that Mr. Settje reviewed the wells that he has information available on.

Mr. Shaull asked when he authors reports does Mr. Mathiowetz consider all wells that could be affected by the applicant's proposed well, regardless if the owners of wells have contacted the Water Rights Program. Mr. Mathiowetz said if the Water Rights Program has information on a well and it's determined to be within the same aquifer, they are considered.

Mr. Shaull did not offer Exhibit 204.

In response to questions from Ms. Greco on redirect, Mr. Mathiowetz stated that it is typical for applicants and authorized users to be using water under multiple rights as well as from multiple sources depending on their needs, the quality, location, and availability, and sometimes just the cost to drill a deeper well may cause them to change the water source to something that is less costly. It is not unusual that there are two applications to different sources in this case. It is also not unusual for an applicant to have multiple rights for different sources as well as hook up to a local distribution system, particularly with livestock operations, which like to have backup sources. Based on his knowledge and experience Mr. Mathiowetz can be confident that recharge will still be greater because of the scale of difference between the estimated average annual withdrawals and the estimated recharge. Also, there are uncontrolled flowing wells, and there is some history that there have been estimates by previous Water Rights Program staff and others that there may be thousands of uncontrolled flowing wells, which would then mean based on previous discussion of water that is available for appropriation further add to, not recharge, but water available.

Ms. Greco asked if Mr. Mathiowetz is still confident that there is a reasonable probability that there is available water. Mr. Mathiowetz answered that he is.

Mr. Mathiowetz stated that in preparing for the hearing today, he reviewed the Hanson County Dairy application case file, which includes Exhibits 201 and 202.

Ms. Greco asked if Mr. Mathiowetz is familiar with what a remand from Circuit Court is. Mr. Mathiowetz answered that, to his understanding, it has to be reviewed again in light of input from the Circuit Court. The remand order was not a decision by the Circuit Court to deny the permit.

Ms. Greco asked if the Water Management Board issued a final decision on the Hanson County Dairy application. At Ms. Greco's request, Mr. Mathiowetz read a letter from Lynn Jackson

Schultz and LaBraun addressed to Eric Gronlund in the matter of Water Permit Application No. 7239-3, Hanson County Dairy, advising him that Hanson County Dairy had decided to withdraw its water permit application. The second page is a notice from the Department of Agriculture and Natural Resources to Mr. Kerkvliet, Mr. Schumacher, attorney, and Mr. Hofer who appears to be pro se, Mr. Tornow of Tornow Law Office, and Brad Schnabel who appears to be pro se from former Chief Engineer Garland Erbele dated September 10, 2012 cancelling the September 18-19, 2012 hearing of Water Permit Application No. 7239-3, Hanson County Dairy due to withdrawal of the application. Mr. Mathiowetz stated that ultimately, Hanson County Dairy never pursued this permit application, so there was never a decision by the Water Management Board regarding whether the application could be granted or not based on recharge numbers in the report for the Hanson County Dairy application.

In response to questions from Ms. Greco, Mr. Mathiowetz stated that the initial parts of the rule requiring wells to be reported came in the late 1970s and were generally effective in the mid-1980s. For wells that are not on file, staff can still look at data and draw a conclusion about whether water is available or whether there is unlawful impairment. For availability of water the Water Rights staff would consider the available recharge estimates, the observation well data, and the appropriative withdrawal data that is available, and the staff's knowledge of the aquifer in general. For unlawful impairment staff considers the wells on record as well as if there are notes within the file, and Form 2A of the application which notes the nearest wells, and there are historical maps that may have wells marked on them, however, those don't generally include any kind of depth, so determining the aquifer is challenging at the very best. Observation wells show the water level of the aquifer. There are differences between areas, and further apart observation wells are more in tune with their specific area. The Dakota Aquifer is a large and expansive bedrock. One of the natures of a bedrock aquifer is that it does tend to be broadly more similar and less reactive to annual precipitation changes, so observation wells a little further away from where the analysis is being done are able to be used. Even if every single domestic well that is drilled into the aquifer can't be looked at, the observation well data can still be used to understand whether the aquifer is stable. There are several observation wells in the Dakota Aquifer that show declining water, however, that's been a historic issue that can be traced back to 1909 and is reflected by the knowledge of uncontrolled flowing wells. Mr. Mathiowetz said he was asked earlier in the hearing about the drawdown cone that applies to flowing wells. There is some depression of water level nearer to more uncontrolled flowing wells, therefore the observation wells that are closer to more uncontrolled flowing wells tend to have more reflection of that decline.

Mr. Tschetter asked what would constitute unlawful impairment in the context of the use proposed and the concerns of the petitioners. Mr. Mathiowetz answered that unlawful impairment, as reviewed in the technical reports, primarily considers potential effects of drawdown in consideration of the wells in proximity and also in consideration of their construction and whether they meet the adequate well standard. Based on the best information available, there is a reasonable probability that unlawful impairment is not expected. However, as part of the standard process, the Chief Engineer's recommendation includes the well interference qualification to protect those wells that we maybe don't know about or if there

would be an unexpected aquifer condition that would be on a very small scale that we would not be aware of. The reporting of the actual amount of water withdrawn is primarily to be used for the availability of water use calculation, however, that could provide context if there were to be a question on drawdown issues because, for example, if one year someone withdrew one acre-foot of water, he would not anticipate drawdown 10 miles away versus if there were 1,000 acre-feet of withdrawal 10 miles away, which could be reasonable but it has to be taken into context of the hydrogeology of the aquifer as well as the well construction and many other factors.

Mr. Shaull asked if Hanson County Dairy initially received a permit from the Board. Mr. Mathiowetz said the Board initially approved the recommendation of the Chief Engineer and then it was challenged in Circuit Court, so to his understanding the Hanson County Dairy had an application but never actually had a permit.

Mr. Shaull said the Circuit Court is the one that said because there was no recharge done that statutorily the Board should not have granted that application. He asked Mr. Mathiowetz if that is correct. Mr. Tschetter objected to the extent that it inaccurately relays the contents of the exhibit.

Mr. Larson sustained the objection.

Mr. Shaull asked if the Circuit Court in the Hanson County case remanded the application. Mr. Mathiowetz answered that is correct. Mr. Shaull stated on page 12, the court highlights the contradiction in the Board's assertion that it is not probable that the water withdrawn annually will exceed the average annual recharge without ever calculating the annual recharge or the average annual recharge. Mr. Tschetter objected to the extent that it inaccurately communicates the court's decision with respect to what the contradiction that's being discussed is.

Mr. Larson sustained the objection.

Mr. Shaull said on page 12 of Exhibit 201 the previous sentence seems contradictory in that the court finds these two conclusions to be inconsistent with one another. He asked Mr. Mathiowetz if he understands that these two conclusions clearly refer to the findings of fact that is referenced in this paragraph.

Mr. Tschetter restated his objection. Chairman Larson overruled the objection.

Mr. Mathiowetz said he does believe it is referencing the findings of fact. That sentence does not explicitly state that, but he does believe that is the intent based on the rest of the document.

Mr. Shaull asked who makes those findings of fact in this paragraph. Mr. Mathiowetz answered that he does not know who wrote the findings of fact, but to his understanding findings of fact are prepared and each party has the opportunity to contribute to the findings of fact.

Mr. Shaull said the first sentence of the paragraph may help clarify this ambiguity. First the court finds a contradiction in the Water Management Board's findings of fact and conclusions of

law relating to this issue. Then later on the court talks about how it's contradictory to assert that it is not probably...he asked Mr. Mathiowetz if he sees that in the exhibit.

Mr. Tschetter restated his objection because he believes the contradiction is the language used in that particular finding of fact and that particular conclusion of law. Chairman Larson overruled the objection because the paragraph speaks for itself.

Mr. Shaull asked if Mr. Mathiowetz's understanding is that he is required to do a recharge analysis in order to effectively analyze the four prongs under the statute. Mr. Mathiowetz answered that his understanding is that the analysis of recharge should occur as long as there is reasonably available information. The reasonably available information which is statutorily required is what sets that exact detail of whether it absolutely must be done under every possible circumstance versus whether it needs to be done essentially as much as possible while still being reasonable with the information available.

Mr. Shaull said certainly doing a recharge study would satisfy that requirement. Mr. Mathiowetz said it depends on the quality of the study.

Mr. Shaull had no other questions of Mr. Mathiowetz.

Mr. Comes asked if Mr. Mathiowetz said that water flowing from an aquifer to waste indicates the aquifer is seeking equilibrium. Mr. Mathiowetz answered typically yes.

Mr. Comes said he recalls the Hanson Dairy reference in past reports. He asked why that reference or commentary wasn't included in the report for this application. Mr. Mathiowetz answered that the decision came a month after he started working for the department. Some of that was because the decision immediately occurred, staff had advice from legal counsel to include it is a report verbatim even though staff was practicing the requirement already. Over time it was determined that, because it is a separate court decision, the citations needed to be referenced specifically but not included in the body of the text.

Mr. Hepler said from an engineer's perspective he believes water flowing freely is not exactly a waste during drought years. From a biological perspective, a lot of fish and wildlife benefit from it, so waste is not the word he would use to describe it. Mr. Mathiowetz responded that he was specifically citing uncontrolled flowing wells. There are a number of permits for fish and wildlife propagation. There are domestic uses that their extra water that is not used for cattle also biologically does that. Mr. Mathiowetz said he is referencing past decisions from the Board when he cites waste, specifically, as well as discussions staff has had with legal counsel in the past.

Mr. Hepler commented that maybe current legal counsel won't call it waste while he's sitting on the Board.

Ms. Dixon asked if the observation wells can tell us something about recharge. Mr. Mathiowetz answered yes, they can. Ms. Dixon asked if, in addition to the levels in the aquifer, is this an overall snapshot of the health of the aquifer. Mr. Mathiowetz answered that is also what it does,

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but it has to be taken into context of all of the other conditions. With the Dakota Aquifer being so extensive and it also somewhat based those observation wells being so far apart some details are more localized, so they're only reflected in the well that's very close. When taken in the context of all of them, because the Dakota Aquifer underlies most of South Dakota, it is a broader look at the health of the aquifer as well if there are varying conditions. Ms. Dixon asked if we have a very wet season, would the observation wells indicate higher level. Mr. Mathiowetz answered yes.

Mr. Tschetter called Nick Fitzgerald who was administered the oath by the court reporter.

In response to questions from Mr. Tschetter, Mr. Fitzgerald provided the following testimony. He provided information regarding his employment at Pipestone Veterinary Clinic as the director of business development. Century Swine RE LLC is a 12,800 breed to wean sow farm.

Exhibit 101 is Century Swine's application for a Conditional Use Permit filed with Edmunds County. Page CS 9 of Exhibit 101 is a letter from the Edmunds County zoning officer, Britteny Duvall saying Conditional Use Permit Number 25-02 was approved. Page CS 3 is the unsigned version of the document.

Exhibit 102, page CS 102 is the same document but contains Mr. Fitzgerald's signature. Exhibit 102 is an exact copy of the Conditional Use Permit application. Exhibit 101 does not have Mr. Fitzgerald's signature and the exhibit contains the same information. The primary reason behind the duplication was that initially when requested, Mr. Fitzgerald was out of the office, so he followed up at a later date with the copy of the application. Exhibit 101 includes the letter from the county informing Century Swine that the conditional use permit was granted on page CS 9. Page CS 10 of Exhibit 101 is a letter to Mr. Fitzgerald from Edmunds County communicating that the building permit was also approved. Page CS 11 of Exhibit 101 is the building permit to construct two buildings on the farm to house sows, gilts, and boars. The project is currently under construction and is about 70 percent complete. The total project cost for construction as reflected on page CS 11 of Exhibit 101 is approximately \$52,000,000 for the structures.

Mr. Tschetter offered Exhibit 101 and Exhibit 102. The exhibits were admitted into the record.

This proposed farm will offer 33 full-time career opportunities for families with an average annual payroll of approximately \$2,260,000 and employer-sponsored health care. The farm will also spend approximately \$4,500,000 per year on feed. The farm will be an end user of grain, increasing local grain demand of approximately 360,000 bushels of corn and 70,000 bushels of soybeans in the form of soybean meal. The farm will also use utilities; gas, electricity, sanitation services, snow removal, lawn care, etc. Century Swin projects the cost of those utilities to be a value of \$587,000 per year in addition to the property taxes, sales, and excise taxes that would ultimately come back to Edmunds County through the RPP Program.

Water, air, and feed are the three most critically important nutrients to be able to operate a livestock farm, so as Mr. Fitzgerald looks at locating facilities, those three boxes must be met in order to advance.

Mr. Tschetter stated that one of the issues raised by the petitioners in this matter are statements that were perceived to be inconsistent in terms of how much water is going to be used. Mr. Fitzgerald participated in the conditional use permitting process in Edmunds County by attending public meetings and providing testimony for that permit. Mr. Tschetter said some of the petitioners may feel like Mr. Fitzgerald provided inconsistent information in terms of anticipated water usage.

Mr. Shaull objected on foundation and hearsay grounds. Chairman Larson overruled the objection.

Mr. Fitzgerald stated that he is not entirely sure what the inconsistencies are, however, during the testimony he gave in the county commission meeting about water and water usage, he had said that the farm will utilize four to five gallons per sow per day on average. Century Swine needs to build the system for peak water usage, not just the average water usage over the course of a 12-month period of time. The average water usage would be approximately four to five gallons per animal per day, and the peak water usage during the warm months would be closer to 9.5 gallons per animal per day. The application for a water permit is for peak water needs. Century Swine applied for 154 acre-feet, or 50,000,000 gallons annually.

Mr. Tschetter asked Mr. Fitzgerald to explain why Century Swine submitted two water permit applications. Mr. Fitzgerald stated that the well driller, Stretch's Well Service, believed there to be a shallower aquifer. Century Swine initially opted to pursue the shallower aquifer, so the first well was drilled into that aquifer. A water suitability test was then performed that the veterinarians on staff at Pipestone were able to review, and they determined that the water quality in the shallower aquifer was not as suitable for livestock as they would like, so a deeper well was drilled in the Dakota Aquifer. There is one existing well on the site today, and testing on that well was more suitable for the livestock. This is the reason there are two applications.

In response to questions from Mr. Shaull, Mr. Fitzgerald testified that he is Director of Business Management at PBC Management 2 LLC, doing business as Pipestone. He is a business development executive. He does not have a professional engineer license or a professional geologist license. Mr. Fitzgerald did not personally perform any of the engineering or hydrogeology analysis underlying any of the application. Pipestone and Century Swine RE LLC have a contractual relationship, and within the contractual relationship Pipestone's expertise is in design, management, animal health, and staffing of the facilities. Pipestone is the manager of the swine operation. The letter on page CS 9 of Exhibit 101 is addressed to SFP LLC. One of the ownership entities of Century Swine RE LLC is SFP LLC – Century Swine. Mr. Shaull asked if those two entities are related but distinct.

Mr. Tschetter objected to the extent that the question calls for a legal conclusion. Chairman Larson overruled the objection.

Mr. Fitzgerald stated that SFP LLC is an owner in Century Swine.

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Mr. Shaull asked why Ms. Duvall mailed the letter regarding approval of the conditional use permit to SPF LLC. Mr. Fitzgerald answered that is because SFP LLC is one of the owners of Century Swine RE LLC.

Mr. Fitzgerald stated that the conditional use permit packet authorizes a total head count of 16,494 animals. Mr. Fitzgerald continued to say that Century Swine applied for more water than the average anticipated usage, they had not commissioned their own recharge or drawdown studies of the Dakota Aquifer or the nearby wells, and is not offering a numeric drawdown model at any well. He concluded that Century Swine has not retained an independent hydrogeologic expert and solely relying on the Water Rights Program's analysis.

A requirement of the conditional use permit was that Century Swine was to notify rural water, Hillside Township, and the count highway superintendent.

Mr. Shaull asked if Pipestone has offered a monitoring plan or a mitigation plan for any of the petitioners or commenters' wells that are affected in this case. Mr. Fitzgerald answered that they have not.

Mr. Shaull said if, hypothetically, Century Swine's companion application, No. 9882-3 which refers to the Pierre Shale Aquifer, is denied, the operation will rely entirely on this application. Mr. Fitzgerald stated that is correct. Mr. Shaull asked if the operation has a contingency supply if either or both applications are denied or curtailed by the Board. Mr. Fitzgerald answered that there is an agreement with WEB Water to supply water to the farm, but the intent is to utilize the well water first and have rural water as a backup. If the applications are not approved WEB Water will be used. Pipestone has not requested any type of conditions that would limit use during a regional shortage.

Chairman Larson asked if Century Swine RE LLC a South Dakota entity. Mr. Fitzgerald answered that it is.

Mr. Shaull called Garrett Heinz who was administered the oath by the court reporter.

In response to questions from Mr. Shaull Mr. Heinz testified he currently lives in Ipswich, but he grew up on the family farm approximately 16 miles south of Roscoe, which is four miles southeast of the proposed Century Swine well. The farmland is used for a cow/calf operation.

Mr. Heinz said Exhibit 203 is a map from the county GIS site showing the aquifer with a graph at the bottom showing elevation. Point A on the map is where the well application is located, but he isn't sure if it's for this application or the second application. The black and white dotted line on the exhibit that goes from left to right, and there is a B in green. That parcel of land is where he grew up and where his parents currently live. It is a registered Century Farm. Point B has a lower elevation than Point A. The Dakota Aquifer is shown, in addition to sand and gravel 100 plus continuous aquifer and a sand and gravel 100 plus discontinuous. Mr. Heinz said sand and gravel is porous so water flows through and water flows downhill. Within Parcel B there is water his family uses. There is approximately 100 plus acres of water. It is a very large basin style slough, and there is a wetland in the quarter section to the west that is used exclusively for

watering cattle in the fall. Combined, the two sloughs hold approximately 140 acres of water for cattle. Mr. Heinz said one of the intervenors in this case comes from Lake City, which is an hour and a half away, to collect minnows from the slough because of its unique characteristics and the amount of minnows he can get from the slough. Mr. Heinz said he receives a cash payment for this. Mr. Heinz stated that his family has lived on this farm since 1914.

Mr. Shaull asked Mr. Heinz to explain the observations that he is aware of from a factual standpoint regarding the effects of similar wells in this area that have been carried out for similar livestock operations.

Mr. Heinz said the wells that were mentioned in earlier testimony as examples of Dakota Aquifer wells are approximately 81 feet deep. On Exhibit 203 to the northeast is Loyaltown and further to the east is currently a farm. Four miles south and east of that farm is a slough, and that slough is very obviously receding, and sloughs in other areas are not. Mr. Heinz said he understands that is not evidence of impairment, but it certainly demonstrates risk. This slough is almost the exact distance from that farm as the Heinz slough is from this permit application.

Mr. Tschetter asked Mr. Heinz if he retained any engineers in helping him analyze the matters at issue in this application. Mr. Heinz said he did not retain any engineers.

Mr. Tschetter asked if Mr. Heinz consulted with any engineers who offered opinions. Mr. Heinz answered he has consulted with engineers, but their opinions were not contained in his petition.

Mr. Tschetter asked if Mr. Heinz had the opportunity to hire an engineer to assist in analyzing the data that was presented as part of the Water Rights Program's staff analysis. Mr. Heinz said he could have spent a significant amount of money but did not hire an engineer.

Mr. Tschetter asked if Mr. Heinz participated in the county's local zoning. Mr. Heinz said he did.

Mr. Tschetter asked if Mr. Heinz has been aware of this project since last year. Mr. Heinz answered he has been aware of the project since April 22, 2025, and he submitted the petitions in this matter several months ago.

Mr. Tschetter asked if Mr. Heinz has any reasons to refute the data and conclusions that the Water Management Board staff have reached. Mr. Heinz said he has yet to see the recharge data.

Mr. Tschetter asked if Mr. Heinz has any reason to believe the conclusions that have been reached are inaccurate. Mr. Heinz questioned the Water Rights Program's findings, stating 34 miles away is the nearest monitoring well, the program is going off data from 1983, which is 43 year-old data, and no recharge data.

Mr. Tschetter asked if Mr. Heinz has any of his own data to refute the engineer's conclusions. Mr. Heinz answered said there is evidence that there is no recharge data.

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Mr. Tschetter asked if Mr. Heinz understands that the engineers from the Water Rights Program are speaking from a probability standpoint. Mr. Heinz said he does.

Mr. Tschetter asked if Mr. Heinz has anything, other than what he provided for the record today, showing evidence of unlawful impairment other than what he alleges in his petition. Mr. Heinz said he can't prove impairment because there's no withdrawal yet.

Mr. Tschetter asked if Mr. Heinz agrees with the conclusion that the proposed use is a beneficial use. Mr. Heinz said if the proposed use was as stated, possibly.

Mr. Tschetter asked if Mr. Heinz agrees that the proposed use is in the public interest. Mr. Heinz asked Mr. Tschetter to explain the exact use. He asked if it was for 12,000 sows or 16,000 sows, and he's still waiting to find out what the exact use is.

Mr. Tschetter said as the project has been proposed, and there has been testimony at Edmunds County and here today. He asked if Mr. Heinz agrees that the proposed use is in the public interest. Mr. Heinz said if it was in alignment with what was presented at the county hearing, yes. However, the statement of 60,000 gallons a day does not reflect the allocation being requested here today, which is why he did seek an appeal within the 30 days because the way it was presented at the county hearing is not in alignment with what was being said at this hearing.

Mr. Tschetter asked if Mr. Heinz has any reason to disagree with Mr. Fitzgerald's testimony about peak use of water and average use of water. Mr. Heinz said Mr. Fitzgerald was referring to 12,000 sows so the number that is given in the manure management application from DANR, which is the 16,000, and take that times the nine gallons, that is 150,000, but at the county hearing Mr. Heinz asked Mr. Fitzgerald where he was getting the water and how much and Mr. Fitzgerald said it would be 60,000 gallons a day from a deep well. There was no mention of WEB, multiple wells, and multiple applications.

Mr. Tschetter asked Mr. Heinz if he has any reason to disagree with the testimony Mr. Fitzgerald provided today. Mr. Heinz answered that he does not know.

Mr. Shaull asked Mr. Heinz if he is familiar with any law that would require the petitioner to provide the recharge data in a case like this. Mr. Heinz answered absolutely not.

Motion by Larson, seconded by Freeman, to go into executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel. The motion carried unanimously.

Motion by Freeman, seconded by Dixon, to approve Water Permit Application No. 8991-3, 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 Mr. Tschetter prepare and submit Findings of Fact and Conclusions of law by May 29, 2026. Objections are due June 6, 2026.

Chairman declared a recess until the following day.

May 7, 2026, 8:30 a.m.

Chairman Larson called the meeting back to order. A quorum was present.

CONSIDER WATER PERMIT APPLICATION NO. 8982-3, CENTURY SWINE RE, LLC:
Mr. Tschetter, counsel for Century Swine RE LLC and Mr. Shaull, counsel for the petitioners, both stated that they agreed that the Board take no action today on Water Permit Application No. 8982-3.

Motion by Hepler, seconded by Freeman, to defer Water Application No. 8982-3 until the July 8-9, 2026, Water Management Board meeting. A roll call vote was taken, and the motion carried unanimously.

CONSIDER ADDITION OF MANDATORY WATER USE REPORTING QUALIFICATIONS TO WATER PERMIT NO. 6662-3, VANNORSDEL'S INC., WATER RIGHT NO. 2041-3, CITY OF VIBORG, AND WATER RIGHT NO. 4053A-3 & 5520-3, TOWN OF SOUTH SHORE: Amanda Dewell reported that Water Permit No. 6662-3, Vannorsdel's Inc. and Water Right No. 2041-3, City of Viborg, authorize appropriations from the Upper Vermillion Missouri: West Aquifer.

There are currently three applications requesting appropriation from this aquifer that are in deferred status based on concerns regarding water availability which will be considered by the Board later in the day's meeting.

Ms. Dewell stated that the Water Rights Program is seeing potential issues with the hydrologic budget in that aquifer. There has been concern as to the observation well status, so the Water Rights Program requested that the Board add the following qualification to Water Permit No. 6662-3, Vannorsdel's Inc. and Water Right No. 2041-3, City of Viborg:

The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Upper Vermillion Missouri: West Aquifer.

Ms. Dewell stated that these are currently the only two non-irrigation permits out of that aquifer that aren't reporting to the Water Rights Program.

Motion by Comes, seconded by Freeman, to add the mandatory reporting qualification to Water Permit No. 6662-3, Vannorsdel's Inc. and Water Right No. 2041-3, City of Viborg. The motion carried unanimously.

Ms. Dewell requested that the Board take no action on Water Right Nos. 4053A-3 and 5520-3 for the Town of South Shore today due to an error in the public notice.

No Board action was taken.

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RECONSIDER DEFERRED WATER PERMIT APPLICATION NO. 8763-3, B & K DAIRY FARMS LLC, WATER PERMIT APPLICATION NO. 8797-3, DONALD BENSON, AND WATER PERMIT APPLICATION NO. 8817-3, MERLIN VANNORSDEL: Adam Mathiowetz, Acting Chief Engineer, reported that these three applications were originally deferred for up to two years at the March and May 2024 Water Management Board meetings. All three applications are for water from the Upper Vermillion Missouri: West Aquifer.

In response to questions from Ms. Greco, Mr. Mathiowetz testified that when these applications were received in 2023 and 2024, he wrote the reports on the technical aspects of the availability of unappropriated water and the potential for unlawful impairment. When he started the report for these three applications in April 2026, he had not yet been appointed as Acting Chief Engineer. He finished the report and the recommendation during his time as Acting Chief Engineer. Other Water Rights Program staff reviewed the report and recommendation from both a technical and administrative aspect.

Mr. Mathiowetz's recommendation for all three applications was for deferral for up to five years to allow for additional monitoring of water levels in observation wells completed into the Upper Vermillion Missouri: West Aquifer. He noted that Application No. 8817-3, Merlin Vannorsdel, was contested, and was also contested when the application was originally deferred.

Ms. Greco asked what the priority dates are for these applications. Mr. Mathiowetz answered that he did not have the priority dates available at this time, but the priority order is No. 8763-3 being the most senior, then No. 8797-3, and No. 8817-3 is the newest priority.

Ms. Greco asked why these applications were recommended for deferral in 2024. Mr. Mathiowetz answered that when looking at the observation data available there was a steep decline in the two observation wells completed into the aquifer at that time. There was no apparent stabilization of those water levels. There were also several other applications that had yet to be developed at all, whether putting systems in place of putting water to beneficial use with in-place systems.

Mr. Mathiowetz stated that in 2026, besides further reviewing the hydrogeology because there is an ongoing South Dakota Geological Survey study to further refine the information regarding this management unit that was not as detailed in the earlier aquifer study, he reviewed the additional withdrawals that occurred since that initial deferral, observation well data, and also did a review of the potential for unlawful impairment. There was, on average, a slight decrease in withdrawals using 10-year averages, which is something the Water Rights Program regularly does to better account for changes in irrigation systems, but also in terms of making sure account for changes in how many permits there are within an aquifer. The average over that time period was a 15- or 20-acre-feet decrease in irrigation, however, that is only over those two years. There was one drier year and one slightly wetter year.

Ms. Greco asked if all the permits authorized to withdraw from this aquifer been developed. Mr. Mathiowetz answered no. There is one that was a transfer of acres and diversion rate that was approved earlier this year. They had not developed at their previous site, so they haven't had the

opportunity to irrigate this year. There is another one that had reported no irrigation, however the system is in place.

Ms. Greco asked what the estimated average annual recharge is. Mr. Mathiowetz stated that from the mathematics of using an updated area, along with an in-progress area from the South Dakota Geological Survey, the estimated average annual recharge when using the range from Hedges and others for buried confined aquifers is approximately 172 to 344 acre-feet per year.

Ms. Greco asked if Mr. Mathiowetz calculated an approximate aquifer outflow. Mr. Mathiowetz said the withdrawal numbers have historically been above 344 acre-feet without decline in the observation wells, which indicates that the average in that broad range is low. In 2012 and 2014 his predecessor did an outflow calculation. Mr. Mathiowetz has since updated that using better and more data, and the well casing tops have been surveyed for as much accuracy as possible. He also refined the methodology, improving upon the formatting his predecessor used for their calculations.

The estimated outflow from the aquifer, using the updated survey, ranges from 1,216 acre-feet per year to 1,984 acre-feet per year, depending on which observation well data is used, and the entire period of record, or if only the last 10 years of available data is being considered.

Mr. Mathiowetz stated that, in general, the observation well data showed that there has been some stabilization of the water levels since 2023, which was the end of the sharp decline. There is one new observation well that was brought online in 2025, and it does mirror the other two, in broad terms. The aquifer is starting to see some stabilization, however, with only three years of data and considering the relatively small size of the aquifer, with the total withdrawals on average being in the 1,650 acre-feet per year range, means that the aquifer could be more reactive to any increase in pumping. Therefore, that shorter period of stabilization is not necessarily fully indicative of whether the aquifer is over-appropriated or not.

Mr. Mathiowetz concluded that at this time, with the information available, he could not say that there is a reasonable probability there is unappropriated water available, therefore, he recommended continued deferral of these three applications for five years. The five-year deferral for these applications was recommended to align with the five-year deferral period for the fully-appropriated Tulare aquifers, and also to give the new observation well time to go through a wet and dry cycle. That is especially valuable because pressure transducers and data loggers have been installed in all three of the observation wells that staff are absolutely certain have been completed into that aquifer.

Regarding the potential for unlawful impairment, Mr. Mathiowetz stated that he looked at the distance between the proposed well locations and the nearby appropriative wells within the aquifer as well as domestic wells on file. The nearest to either an appropriative well or a domestic well is Application No. 8817-3; the nearest appropriative well is Vannorsdel Inc. and it is one-half mile away. The nearest domestic well on file is approximately .03 miles away. For both of the other applications the appropriative and domestic wells are further away from the proposed well locations. When considering the confined condition of the Upper Vermillion

Missouri: West Aquifer, even with those relatively close distances, the aquifer is highly transmissive. There are other areas where there was even more concentration of appropriative wells that are not necessarily causing well interference. The Water Rights Program received one complaint in the past, however, in dealing with that potential complaint it was determined that the pump setting in the affected well was at 60 feet, but based on the Water Rights Program's nearby observation well, they would expect the top of the aquifer to be quite a bit deeper. That also includes the nearby lithologic logs. The well that had issues was near the edge of the aquifer so when there is drawdown near the edge of an aquifer there is reflected drawdown. Essentially, that boundary condition increases the drawdown in your own well, so it ended up being a pump placement issue. There was the notable decline in those two observation wells with an overall lowering of the water level in the aquifer, particularly if it gets to dewatering and desaturating the saturated portions, which at this time it isn't, but that could be considered an unlawful impairment.

Mr. Mathiowetz concluded that there would be no unlawful impairment from the pumping of any one individual permit on another permit or another adequate domestic well, however, the concern about the overall lowering of the aquifer, as seen in both observation wells that are far enough apart that they would be representative of most of the aquifer, did lead to concern. He couldn't conclude that there would not be potential for unlawful impairment.

The South Dakota Geological Survey is in the process of wrapping up their study.

The final recommendation is to defer the three permits for five years to continue monitoring the water levels in the three observation wells and to allow the one permit that has not been developed and the one well that had not pumped water time to potentially place water to use.

Mr. Mathiowetz stated that Scott Vannorsdel submitted comments that he is using a 360 Rain system, which is an autonomous irrigation system that is more efficient than a standard center pivot based on their documentation. When he reviewed Mr. Vannorsdel's data he looked at the total, and his per acre inches was less than his neighbors. Because the system essentially applies the water at the land surface through drag tubes there is less loss to evaporation. Even if there are drop tubes on the center pivot sometimes the drop tubes and nozzles or sprinklers are still several feet off the ground.

Mr. Mathiowetz said his analysis is based on the total aquifer and total water use, and primarily, because there are no future use permits in this aquifer, the Water Rights Program observation wells are a direct reflection of the water being used in the aquifer.

Scott Vannorsdel, the petitioner, stated that he is being told to use more water on less acres. All he is asking for is to use the water as it is supposed to be on more acres. He has a significant investment. Another permit that was just issued to Vannorsdel changed acreage size and location, and they are using less acres. He said he is asking to use less water but being told to use more water on less acres. He said deferral of five years is too long. Mr. Vannorsdel said he talked to his district representative, Mr. Richard Vasgaard, asking for help with the situation, but Mr. Vasgaard passed away last fall. Mr. Vannorsdel said he spoke to the gentleman that took

Mr. Vasgaard's position, and he fully understands what Mr. Vannorsdel is trying to do and is willing to work with Mr. Vannorsdel.

Mr. Comes asked Mr. Vannorsdel if he had access to Mr. Mathiowetz's report, and if he heard Mr. Mathiowetz's testimony. Mr. Vannorsdel answered that he did.

Mr. Comes said the Board is tasked with looking at the aquifer as a whole, as has been presented by Mr. Mathiowetz.

Mr. Mathiowetz stated that one of the things Mr. Vannorsdel said is that he wants to put on less water than he is being asked to use. Mr. Mathiowetz said a more accurate way of saying that is more water than his current permit allows. Permits are based on diversion rate, which is the maximum pump rate, and the number of acres. For irrigation, unless noted in some of the older permits, a permit holder is allowed to pump up to 2 acre-feet of water per acre, per year. It is known that most irrigators do not apply that much water, with the exception of golf courses and some other turf operations. However, when the Water Rights Program looks at the hydrologic budget, the average of what the permit holders actually pump is considered.

Mr. Vannorsdel said he will never use the amount of water that is allowed in the permit; he will use one-third of what is allowed, even on the total 91 acres if he would be granted that. He said he doesn't know how to get the permit re-worded or amended, if that is even possible. He said a five-year deferral is absurd. Two years of deferral is long enough. He asked if there is any way for his permit to be amended for a less usage rate, but he wasn't sure he even wants to give that up if the water is so tight.

Chairman Larson said Mr. Vannorsdel could file a new application. Mr. Vannorsdel said that is what he has been trying to do the last two times he has met with the Board.

Chairman Larson said the Acting Chief Engineer has testified that there is not sufficient water to grant Mr. Vannorsdel's request.

Mr. Vannorsdel said he is not asking to pump more water; he is asking to pump less water on more acres.

Mr. Hepler stated that Mr. Vannorsdel is asking a viable question. He asked if the Water Rights Program has worked with Mr. Vannorsdel to try to resolve what he is working toward.

Ms. Greco said SDCL 46-1-14 states, "The Water Management Board may issue any permit or license subject to terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity consistent with this chapter which it considers necessary to protect the public interest and which are related to matters within the jurisdiction of the board. Water rights issued pursuant to this section may be amended by the board and priority is retained upon amendment. Upon amendment the board may alter terms, conditions, restrictions, qualifications, or quantifications consistent with this chapter."

Ms. Greco stated that, under that authority, she believes the Board may be able to issue a permit that is less than what the applicant is requesting.

Mr. Mathiowetz stated that while under the current permit Mr. Vannorsdel's Rain 360 system will use less water on the same acreage, however, if he adds two acres, he is potentially using more water than he is using today. Mr. Mathiowetz said when he looks at the observation wells, which are reflective of the actual pumpage, he is uncertain of available water.

Regarding changing the deferral period from two years to five years, Mr. Mathiowetz said when he wrote the reports and did the analysis for these applications in 2024 and again in 2026, it was determined that this aquifer is either very quickly approaching or at full appropriation, and therefore, with the fully appropriated Tulare aquifers, the standard is a five-year review in statute. That is how staff came to a five-year deferral period for these applications. This will also provide five years of additional data.

Chairman Larson said if the applications were deferred for two years, there would be four years of additional data.

Motion by Helper, seconded by Comes, to defer Water Permit Application No. 8763-3, B & K Dairy Farms LLC, Water Permit Application No. 8797-3, Donald Benson, and Water Permit Application No. 8817-3, Merlin Vannorsdel, for two more years. A roll call vote was taken, and the motion carried unanimously.

CONSIDER HELD TULARE: WESTERN SPINK HITCHCOCK APPLICATIONS: Kim Drennon was administered the oath by the court reporter.

Ms. Greco offered Exhibit 1, a table created by Ms. Drennon summarizing the 27 Tulare: Western Spink-Hitchcock Aquifer water permit applications that have been on hold since 2015.

Ms. Drennon testified that in December 2025 the Water Management Board determined that there was unappropriated water available in the Tulare: Western Spink-Hitchcock Aquifer. Since then, Ms. Drennon has followed the applicable statutes and laws in processing the 27 water permit applications. The final technical aspect of review would be the possibility of unlawful impairment on existing water rights. The Tulare: Western Spink-Hitchcock Aquifer is a glacial aquifer in Spink, Beadle, and potentially Hand County between Huron and Redfield.

The average annual estimated recharge, based on a study in 1984, is 18,000 acre-feet per year. The average annual withdrawal, based on Ms. Drennon's analysis in 2025, is approximately 12,000 acre-feet per year. Assuming the 27 applications that are being considered before the Water Management Board now irrigate similar to other water permits in the aquifer, they would withdraw approximately 2,300 acre-feet per year. Looking at each application, it appears that there is a likelihood that they all develop without unlawful impairment of existing water rights. There are numerous wells completed into the aquifer in a very short distance, but there are no complaints on file in Spink and Beadle County regarding unlawful impairment.

Motion by Hepler, seconded by Comes, to approve the following water permit applications subject to the qualifications set forth by the Acting Chief Engineer:

8084-3 Riverside Hutterian Brethren
8085-3, Riverside Hutterian Brethren
8099-3, Bixler Farms
8100-3, Bixler Farms
8101-3, Bixler Farms
8102-3, Bixler Land
8103-3, Bixler Land
8104-3, Bixler Farms
8105-3, Bixler Land
8106-3, Bixler Land
8107-3, Bixler Farms
8108-3, Van Buskirk Farms, LLP
8109-3, Van Buskirk Farms, LLP
8110-3, Van Buskirk Farms, LLP
8111-3, Van Buskirk Farms, LLP
8120-3, Martin Anderson
8121-3, Allen and Jeffrey Gatzke
8122-3, Allen and Jeffrey Gatzke
8128-3, Riverside Hutterian Brethren
8129-3, Jeff Hamilton
8130-3, Jeff Hamilton
8131-3, Scott Hamilton/Hamilton Family LLC
8132-3, Scott Hamilton/Hamilton Family LLC
8133-3, Scott Hamilton/Hamilton Family LLC
8135-3, Loren or Cynthia Marzahn
8137-3, Ken and Jodi Hofer
8138-3, Ken and Jodi Hofer

The motion carried unanimously.

DISCUSSION REGARDING THE APPROPRIATIVE STATUS OF THE TULARE:
WESTERN SPINK HITCHCOCK AQUIFER: Acting Chief Engineer Mathiowetz stated that 25 new water permit applications have been received by the Water Rights Program since the December 2025 meeting when the Board determined that water is available for appropriation from the aquifer.

Mr. Mathiowetz said there was discussion at the December meeting, by the Board, regarding a level of apprehension in approving permits that would use up the entire 6,000 acre-feet of recharge that was in excess of withdrawals at that time. The 27 applications that were just approved, plus the 25 new applications brings the amount to approximately 4,000 acre-feet, which is approximately two-thirds of the 6,000 acre-feet, as discussed by the Board in December.

Assuming the technical reports, which Ms. Drennon is writing, find no unlawful impairment issues that would suggest that an application should be denied or deferred, Mr. Mathiowetz said he would intend to recommend approval of those 25 new applications and suggest deferral of other applications for the Board's consideration since that two-thirds number was discussed; however he would prefer direction from the Board on how the Water Rights staff should proceed with the 25 pending new applications and any other applications for the aquifer going forward.

Chairman Larson said previously this aquifer was deemed fully appropriated. He asked where the water to fulfil the appropriations requested by these applications would come from. Mr. Mathiowetz stated that Ms. Drennon did an analysis on average using a much more labor-intensive methodology, and the observation well data still showed stable water levels since the last five-year review. Some of the water levels were rising in the uncontained portion of the aquifer, which means that the original estimates were essentially incorrect.

Chairman Larson asked if staff was requesting the Board to grant the 25 new applications today. Mr. Mathiowetz answered that he is not asking the Board to grant the 25 new permit applications. He has not made a recommendation on the applications because he would like direction from the board regarding the two-thirds number the Board discussed at its December meeting.

Mr. Freeman stated that the Board is charged with utilizing the waters of the state. If water is available, the Board is supposed to put it to beneficial use.

Mr. Larson asked if staff intended to do further evaluation to ensure that there is sufficient water for these 25 additional applications. Mr. Mathiowetz said that was part of Ms. Drennon's analysis. She put in a great deal of effort, which was peer reviewed by multiple staff. Staff concurs with her methodology that there is an average of 6,000 acre-feet of recharge in excess of withdrawals.

Mr. Mathiowetz noted that if the Board approves these 25 application in the future, there would still be approximately 2,000 acre-feet. If the Board does not give him direction, his intent would be that when application number 26 is received, it would be long form noticed for approval by the Board, assuming there is no unlawful impairment issue.

Mr. Comes said he agrees with the Board following the statute and putting all the water to beneficial use; but he would not say the water allocations need to be limited to two-thirds.

Chairman Larson asked if the Water Rights Program has received any objections or opposition to any of these 25 applications.

Mr. Mathiowetz answered that there was no opposition to any of the held applications. Some of the new applications have been public noticed, and no objections have been submitted. With the Tulare: Western Spink-Hitchcock Aquifer, the objections in the past have been regarding the Chief Engineer's recommendation, which was for denial until the statute developing the held list came in place.

DRAFT

Board discussion took place.

Motion by Freeman, seconded by Comes, to follow the normal procedure for granting or denying the 25 new permits for the Tulare: Western Spink-Hitchcock Aquifer up to 4,000 acre-feet or two-thirds of the available water. Additional permit applications for the remaining 2,000 acre-feet will be handled through staff recommendations to the Board for final determination. A roll call vote was taken, and the motion carried unanimously.

CONSIDER PETITION SUBMITTED BY SIX MILE CREEK GOLF COURSE, WATER RIGHT NOS. 6073-3 & 6441-3: Ms. Dewell reported that in March 2026 staff reviewed the 2025 irrigation questionnaires that were not returned. Staff made every effort to get the questionnaires to the permit holders, including Certified Mail with signatures required.

The previous superintendent for Six Mile Creek Golf Course is no longer the superintendent, and the mail was subsequently not being given to the current staff. When the golf course staff learned of the suspension of Water Right Nos. 6073-3 and 6441-3, a Six Mile Creek Golf Course Board member contacted Ms. Dewell. The irrigation questionnaire information and the contact information for their new staff was submitted the same day. Six Mile Creek Golf Course then submitted this petition requesting that the suspension of their water rights be reconsidered.

Motion by Freeman, seconded by Hepler, to lift suspension of Water Night Nos. 6073-3 and 6441-3. The motion carried unanimously.

CONSIDER WITHDRAWAL OF HELD APPLICATION NOS. 8088-3 & 8089-3, COLLINS HUTTERIAN BRETHREN: Ms. Dewell stated that before staff brought the Board the results of the five-year review of water availability in the Tulare: Western Spink Hitchcock Aquifer and the Tulare: East James Aquifer, statute required that all of the applicants be contacted to confirm that they did want their applications to be considered. The Water Rights Program received confirmation in the affirmative from all of the applicants.

After those reviews were complete and the Board determined that there was not available water for appropriation in the East James Management Unit all of the applicants were contacted letting them know of the Board's decision and that per statute 46-2A-7.5, ten percent of the original application fee needed to be submitted to retain their eligibility for the next five-year review.

Out of all the Tulare: East James applicants, Collins Colony was only one that did not remit their fees. Notice was sent to the colony letting them know that those fees were due and failure to submit those constitutes withdrawal of their held application, per statute. The Water Rights Program provided the colony with notice of the hearing, informing them that the Board would have option to withdraw their application, defer action, or take action.

Ms. Dewell noted that she also called and spoke with Mr. Wipf informing him of today's hearing and she provided the information for joining the Board meeting. She also advised him that the colony would likely need to submit the payment at the time of the hearing.

DRAFT

Motion by Freeman, seconded by Dixon, to withdraw held Application Nos. 8088-3 and 8089-3, Collins Hutterian Brethren. Motion carried unanimously.

CONSIDER APPLICATION NO. 9019-3, JIM OR DAN THYEN: Mr. Mathiowetz reported that this is an irrigation application to appropriate water from the Antelope Valley Aquifer. This application and one that has been recommended for deferral in part because there is a future use application that has been contested and will be heard by the Water Management Board in July with senior priority to this application. The outcome of that hearing would affect Mr. Mathiowetz's recommendation on this application. Furthermore, there is another subsequent application in a different name but by the same operation, Mr. Jim Thyen, that was also deferred for the Antelope Valley Aquifer because of that future use application that is to be heard by the Board.

Mr. Mathiowetz said he spoke with Mr. Thyen and informed him what possible recommendations could come out, depending on the hearing. He discussed both potentials with Mr. Thyen, who seemed very reasonable. Mr. Mathiowetz explained the other application as well that is scheduled for the July meeting. The preceding future use application was auto delayed from the May meeting to the July meeting.

Mr. Mathiowetz recommended that this application be deferred to the July meeting.

Motion by Freeman, seconded by Hepler, to defer Water Permit Application No. 9019-3, Jim or Dan Thyen, until July. Motion carried unanimously.

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

Mr. Hepler thanked DANR staff for all the work they do.

A court reporter was present, 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 July 8, 2026.

Water Management Board

WATER MANAGEMENT BOARD MEETING

May 6, 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
2900-2	Rapid Valley Sanitary Dist.	Rapid City	PE	932 AF	Future Use	Madison	3 special
2901-2	SD Dept. of the Military	Rapid City	PE	0.223 cfs	IRR(106 acres)	1 well – Minnelusa	wi, iq, 1 special
2903-2	SnowBird HideAway	Hill City	PE	12.9 AF	WDS	4 wells – Crystalline Rock	wi, 2 special
2904-2	H & H Land Co. #2 LLC	Rapid City	PE	46 AF	WDS	1 well – Inyan Kara	wi, 2 special
9009-3	Craig Arthur	Watertown	CD	1.89 cfs	IRR(255 acres)	1 well – Prairie Coteau	wi, wcr, iq
9012-3	Roger Sieck	Spearfish	TU	1.78 cfs	IRR(160 acres)	1 well – Upper Vermillion Missouri: North	wi, wcr, iq

Future Use Reviews

No.	Name	Address	County	Amount Remaining in Reserve	Use	Source	Qualifications
135-3	City of Pierre	Pierre	HU	3,374 AF	MUN	Pierre	1 special
217-3	City of Brookings	Brookings	BG	1,612 AF	MUN	Big Sioux: Aurora	1 special
549-3	City of Milbank	Milbank	GT	808 AF	MUN	Veblen	1 special
1780-2	City of New Underwood	New Underwood	PE	142 AF	MUN	Fall River	2 special
4927-3	Clark Rural Water System	Clark	CK	221 AF	RWS	Vermillion East Fork & Antelope	3 special
5003-3	City of Pierre	Pierre	HU	3,374 AF	MUN	Pierre	3 special

WATER MANAGEMENT BOARD MEETING

JULY 8, 2026

Future Use Reviews

No.	Permit Holder	Address	County	Volume Remaining in Reserve	Use	Source
524-3	City of DeSmet	De Smet SD	KG	625 ac-ft	MUN	VEF Aq
558A-3	City of Castlewood	Castlewood SD	HM	123 ac-ft	MUN	BS:B Aq
1407-2	City of Custer	Custer SD	CU	434 ac-ft	MUN	CRSL Aq
5358-3	TM Rural Water Dist.	Parker SD	TU	530 ac-ft	RWS	UVM Aq
6988-3 6988A-3 6988B-3	Joint Well Field	Toronto SD	BG	875 ac-ft	RWS	BS:B Aq
8400-3	City of Harrisburg	Harrisburg SD	LN	550 ac-ft	MUN	DKOT Aq



**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. 524-3, City of De Smet**

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. 524-3, City of De Smet, 106 Calumet Avenue SE, De Smet SD 57231.

The Acting Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 625 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$ 115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2026

City of De Smet
c/o Tracey Larson
106 Calumet Avenue SE
De Smet SD 57231

Dear Mr. Larson,

I am writing in regard to the seven-year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) held by the City of De Smet. 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 625 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 2019.

Please respond in writing by April 10, 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. 524-3 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 625 acre-feet remains 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

City of De Smet

106 Calumet Ave. – PO Drawer 70
De Smet, South Dakota 57231
(605) 854-3731



April 9, 2026

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

RECEIVED

APR 13 2026

OFFICE OF
WATER

Dear Ms. Rodriguez:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council is requesting renewal of this permit at the current levels. The Council's decision to retain the current reserve of 625 acre-feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past seven years and show great potential for the future. During the past seven years, the city has issued building permits for fourteen (14) new homes, one (1) multi-family dwelling apartment complex with eight (8) apartment units, three (3) family dwelling duplexes, five (5) commercial buildings, construction of a new elementary school, and a new meat locker that will be opening in 2026.

Fourteen new homes have been constructed in various areas within the De Smet city limits. A new 9,500 sq. ft. health and dental clinic was constructed in 2012 and provides the region with high quality medical and dental health care. A hospital renovation project was completed in 2016. The hospital provides emergency care, recently added wound care, physical therapy, and general hospital admissions. We have seen steady growth in our retail market. In 2016, a 10,000 sq. ft. spec building was completed and is leased by a company that manufactures specialized parts. The construction of the De Smet Event & Wellness Center with theater, baseball complex, and the De Smet School District football/track complex has been a focal point to younger families interested in moving to De Smet. Also constructed was a 10,400 sq. ft. two story private fitness center that encompasses an indoor lap pool. With the addition of the indoor lap pool and irrigation of the outdoor sport complexes, we are anticipating the water consumption to remain consistent with current usage. Both residential and commercial growth within the City of Smet continues to increase over the current year and following. We have a new residential housing addition that is in the beginning stages of design to be annexed to the city limits and includes plans for townhomes, and new residential homes. This new housing development would involve additional water and wastewater mains to be installed on the existing water and wastewater systems.

Each year the city budgets not less than \$50,000 for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring.

In 2006 the city installed sanitary sewer service and water system upgrades in an area that had been annexed to the city limits three years earlier. In 2008 the city installed over 2,100 feet of water main and 2,000 feet of sanitary sewer up to the newly annexed housing development and commercial property. And in 2010 a major project that rehabilitated seven blocks of city streets, also included the replacement of

seven blocks of cast iron water main that was installed in 1922. That project also included improvements to the water main connection at the water tower, and addressed water quality issues (rusty water) in that area of town. These improvements have helped cut back on the amount of water that is needed to flush the system and the frequency of the flushing. In 2017, the standpipe of the water tower was replaced due to a leak that formed and caused saturation of the standpipe insulation. During that standpipe replacement the baverick valve was also replaced. In 2021, the City completed a water project to install over 2,200 feet of water main that will connect two existing water mains and close a loop in the industrial park area. This water project eliminated four water main dead ends and will enable us to continue supplying water to the east side of town when working on water mains in other areas of town. We will also have better circulation of fresh water for our residents and industrial park. This project would also be the first stage of a future housing development. In 2024 and 2025, the City of De Smet underwent a large water main replacement, water tower renovation, wastewater main replacement and relining, and Main Street project. During this project, 26 blocks of water main were replaced, the water tower was sandblasted on both the inside and outside and repainted. Other minor repairs to the water tower were completed at this time. In this large project, ten (10) blocks of wastewater main and sixteen (16) manholes were replaced. In the spring of 2026, ten (10) blocks of wastewater main will be relined to prolong the usage of the existing infrastructure. Relining the wastewater mains will protect against ground and storm water infiltration into the wastewater system that would fill the system lagoons unnecessarily. The City of De Smet has found it useful and necessary to work with an engineering firm to compile a water study. The goal of this water study is to provide better quality water and services to our growing community and plan for future infrastructure improvements.

Pumping records for the past three years show the following usage:

2023	52,395,600 gallons
2024	54,951,900 gallons
2025	48,759,400 gallons

The city continues to focus on better control of water usage and to identify locations where system leaks exist. Our water management efforts include metering city-owned buildings and facilities and continued water main upgrades. A program to install radio read meters along with the reading and billing software was started in the spring of 2011 and has continued to this date. The new metering system will provide more accurate readings and more timely monitoring of systems where leaks occur. To date about 99% of the water customers have radio read meters. We have also amended our billing procedures from bi-monthly billing to monthly billing with the goal of identifying water leaks quicker and to have more consistent revenue.

Weather is another factor that has impacted our water usage. The dryer conditions in the years 2023 and 2024 have increased the volume of water used for lawn irrigation systems, gardens, shrubs, and flowers. In 2024, there was a state highway project north of De Smet that purchased a large amount of bulk water for the project. We saw a decrease in water pumped in 2025 during the water tower renovations. A portable pressure tank was utilized for this portion of the project and water conservation was encouraged to the consumers. Stored water availability was reduced from approximately 100,000 gallons down to approximately 5,000 gallons during this stage of the project.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 625 acre-feet.

Sincerely,


Gary Wolkow
Mayor

RECEIVED

APR 13 2026

OFFICE OF
WATER

RECEIVED

JUN 08 2026

OFFICE OF
WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Kingsbury.

SS.

Billi Nugenbaugh 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

City of DeSmet - Notice of Hearing to Review Future use Water Permit #524-3

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:

May 27 2026 _____ 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

\$ 78.04

Billi Nugenbaugh

Subscribed and sworn to before me this 3rd

day of June A.D. 2026

Corey Walter

Notary Public

Kingsbury County, South Dakota

My commission expires July 8, 2031

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, 106 Calumet Avenue SE, De Smet SD 57231 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. 524-3. This permit was approved in 1958 and currently reserves 625 acre-feet from the Vermillion East Fork Aquifer located in the SE 1/4 NE 1/4 Section 28-T11N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 625 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 Acting 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. 524-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting 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 Acting Chief Engineer. A petition opposing the renewal 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", 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 Acting 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 June 8, 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. 524-3 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 Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 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 Acting Chief Engineer is June 8, 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 Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at an approximate cost of \$78.04 and can be viewed free of charge at www.sdpublicnotices.com

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

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

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WATER

STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

05/27/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/27/2026

A handwritten signature in cursive script, appearing to read "Linda Furtt".

Legal Clerk

A handwritten signature in cursive script, appearing to read "Kongmeng Yang".
Notary, State of WI, County of Brown

A handwritten signature in cursive script, appearing to read "Kongmeng Yang".

My commission expires

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Tax Amount:	\$0.00	
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Please do not use this form for payment remittance.

KONGMENG YANG
Notary Public
State of Wisconsin

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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 June 8, 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 Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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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. 558A-3, City of Castlewood**

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. 558A-3, City of Castlewood, PO Box 17, Castlewood SD 57223

The Acting Chief Engineer is recommending that Future Use Permit No. 558A-3 REMAIN in EFFECT for 123 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 558A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 558A-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. 558A-3 is subject to payment of the \$ 75.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 6, 2026

City of Castlewood
c/o Brian Ries
PO Box 17
Castlewood SD 57223

Dear Mr. Ries,

I am writing in regard to the seven-year review of Future Use Water Permit No. 558A-3 from the Big Sioux Aquifer – Brookings Management Unit held by the City of Castlewood. 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 123 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 March 27, 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. 558A-3 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 123 acre-feet remains in reserve, the fee will be \$75.00.

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



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MAR 23 2026

Water Rights
Program

Telephone 605-793-2220 Fax 605-793-1307
P.O. Box 17, Castlewood, SD 57223
Email, castcity@itctel.com

March 23, 2026

Ms. Rachel Rodriguez
South Dakota Department of Agriculture and Natural Resources
Water Rights Program
523 East Capitol Avenue
Pierre, SD 57501

**RE: Seven Year Review of Future Use Water Permit No. 558A-3
Big Sioux Aquifer – Brookings Management Unit
City of Castlewood**

Dear Ms. Rodriguez,

The City of Castlewood would like to continue to formally reserve its rights for potential future use of water under Future Use Water Permit No. 558A-3, which currently has 123 acre-feet remaining in reserve. This request is intended to retain the City's interest in securing future water rights through the applicable review, permitting, and priority processes as needed.

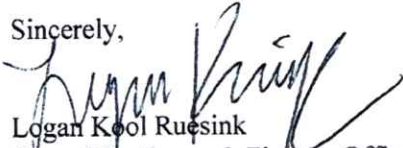
As of October 25, 2025, the City's water system serves approximately 698 customers and provides an average of 52,350 gallons of water per day. The City currently purchases water from Sioux Rural Water to meet its municipal needs; however, this supply is provided under a year-to-year contract. Over the past seven years, Castlewood has experienced residential growth, and the City anticipates continued expansion in the years ahead. Since the last seven-year review, the water usage for the City of Castlewood is shown in the table below.

YEAR	USAGE (Total Gallons)
2019	18,465,600
2020	21,223,110
2021	20,799,022
2022	20,241,919
2023	17,230,470
2024	18,682,041
2025	23,226,667

The City of Castlewood is an equal opportunity provider and employer.

Maintaining the reservation under Permit No. 558A-3 will support Castlewood in planning for long-term water supply reliability and the ability to respond to anticipated future demand. If you have any questions, please contact me.

Sincerely,


Logan Kool Ruesink
City of Castlewood, Finance Officer
605.793.2220

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Program

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PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Rachel Rodriguez
Water Rights Program
204 E Main ST
Castlewood SD 57223-7715

STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

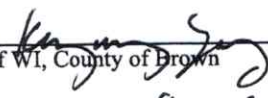
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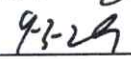
and that the fees charged are legal.
Sworn to and subscribed before on 05/27/2026



Legal Clerk



Notary, State of WI, County of Brown



My commission expires

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**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT
NO. 558A-3**

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Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 558A-3 REMAIN in EFFECT for 123 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 Acting 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.

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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. 558A-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 Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal 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-

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5-27-26
(Date Signed)

May 27, 2026 / 17

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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. 1407-2, City of Custer**

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. 1407-2, City of Custer, 622 Crook Street, Custer SD 57730.

The Acting Chief Engineer is recommending that Future Use Permit No. 1407-2 REMAIN in EFFECT for 434 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1407-2, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 1407-2, 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. 1407-2 is subject to payment of the \$ 95.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2026

City of Custer
c/o Laurie Woodward
622 Crook Street
Custer SD 57730

Dear Ms. Woodward,

I am writing in regard to the seven-year review of Future Use Water Permit No. 1407-2 from the PreCambrian Rock Aquifer held by the City of Custer. 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 434 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 April 10, 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. 1407-2 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 434 acre-feet remains in reserve, the fee will be \$95.00.

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



RECEIVED

APR 07 2026

OFFICE OF
WATER

622 Crook Street
Custer, SD 57730

Office of Mayor
Robert Brown

Phone: (605) 673-4824
mayor@cityofcuster.com

March 31, 2026

SD Department of Agriculture & Natural Resources
Rachel Rodriguez, Water Rights Program
Joe Foss Building
523 E Capitol Ave
Pierre, SD 57501-3182

Re: Custer City Future Use Water Permit No. 1407-2

Dear Rachel Rodriguez,

The City of Custer is writing in response to the seven-year review of Future Use Water Permit No. 1407-2 from the PreCambrian Rock Aquifer, dated March 5, 2026.

The City requests that this future use permit be retained. The reserved water under this permit remains an important component of the City's long-term water supply planning. To continue producing and delivering high-quality drinking water to our citizens and support future community growth, it is important that the City maintain this reserved water supply.

In recent years, the region has experienced drought, which demonstrates the importance of protecting available water resources. Maintaining the reserved water under this permit will help ensure the City has the capacity needed to respond to ongoing drought conditions, meet current system demands, and plan for future development within the community. Based on a recent water study, it is estimated that by 2050, our peak average daily demand will increase by roughly 95 percent.

While 434 acre-feet remain in reserve under this permit, the City believes this reserved amount remains reasonable and necessary to support both current and anticipated future water needs.

Sincerely,

Robert Brown
Mayor

AFFIDAVIT OF PUBLICATION

City of Custer Custer

State of Florida, County of Orange, ss:

I, Edmar Corachia, 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:

- May 28, 2026

NOTICE ID: mbDrKLM1UV2qcR32EM4T

NOTICE NAME: 1407-2 City of Custer - Public Notice

TOTAL AD COST: \$121.93

Edmar Corachia

Agent

VERIFICATION

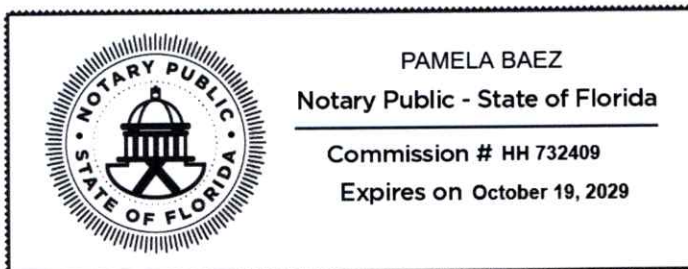
State of Florida
County of Orange

Signed or attested before me on this: 06/03/2026



Notary Public

Notarized remotely online using communication technology via Proof.



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JUN 02 2026

Water Rights
Program

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1407-2

Notice is given that the Water Management Board will review Future Use Permit No. 1407-2 held by the City of Custer, 622 Crook Street, Custer SD 57730 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. 1407-2. This permit was approved in 1977 and currently reserves 434 acre-feet from the Precambrian Rock Aquifer located in Section 28 and S 1/2 Section 27; all in T3S-R4E for municipal use. The permit was last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 1407-2 REMAIN in EFFECT for 434 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 Acting 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. 1407-2 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthews Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting 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 Acting Chief Engineer. A petition opposing the renewal 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", 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 Acting 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 June 8, 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. 1407-2 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 Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 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, Non-discrimination 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 June 8, 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 Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

(Published May 28, 2026 for a total approximate cost of \$121.93 and may be viewed for free at www.sd-publicnotices.com)
Legal No: COL-SD-4899

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Water Rights
Program

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JUN 01 2026

OFFICE OF
WATER

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

Jerry Lee Lenander of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer 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

City of Custer City
Notice of Hearing to
Review Future Use Water Permit No. 1407-2

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 each week for one successive week(s), on which said newspaper was regularly published, to wit:

May 27, 2026; _____; _____;
_____; _____; _____;
_____; _____; _____;
_____; _____; _____;

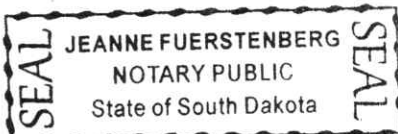
the full amount of the fees for the publication of the annexed notice is \$ 666.52.

Subscribed and sworn to me before this 27th

of May, 2026;

Jeanne Fuerstenberg
NOTARY PUBLIC

MY COMMISSION EXPIRES: **NOV 30 2027**



NOTICE OF HEARING

TO REVIEW FUTURE USE WATER PERMIT NO. 1407-2

Notice is given that the Water Management Board will review Future Use Permit No. 1407-2 held by the City of Custer, 622 Crook Street, Custer SD 57730 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. 1407-2. This permit was approved in 1977 and currently reserves 434 acre-feet from the Precambrian Rock Aquifer located in Section 28 and S 1/2 Section 27; all in T3S-R4E for municipal use. The permit was last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 1407-2 REMAIN in EFFECT for 434 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 Acting 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. 1407-2 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting 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 Acting Chief Engineer. A petition opposing the renewal 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", 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 Acting 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 June 8, 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. 1407-2 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 Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

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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 June 8, 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 Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at an approximate cost of \$66.52 and may be viewed free of charge at www.sdpublicnotices.com.



**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. 5358-3, TM Rural Water District**

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. 5358-3, TM Rural Water District, PO Box 445, Parker SD 57053.

The Acting Chief Engineer is recommending that Future Use Permit No. 5358-3 REMAIN in EFFECT for 530 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5358-3, 2) the district has demonstrated a reasonable need for the water reserved by Permit No. 5358-3, 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. 5358-3 is subject to payment of the \$ 105.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the district after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2026

TM Rural Water District
c/o Jay Jorgensen
PO Box 445
Parker SD 57053

Dear Mr. Jorgensen,

I am writing in regard to the seven-year review of Future Use Water Permit No. 5358-3 from the Upper Vermillion Missouri Aquifer held by district. 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 district. Currently, our records show that 530 acre-feet remain in reserve under this future use permit that was issued in 1990 and last reviewed in 2019.

Please respond in writing by April 10, 2026, regarding the district's intention for the future use permit. If the district 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. 5358-3 will then be public noticed at the district'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 530 acre-feet remains in reserve, the fee will be \$105.00.

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

TM Rural Water District

Box 445, Parker, South Dakota 57053 • Phone (605) 297-3334 • Fax (605) 297-3332

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MAR 13 2026
Water Rights
Program

March 15, 2026

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

Rachel,

Please accept this letter as TM Rural Water District's official reply regarding future use permit 5358-3 for groundwater reserved in the Upper Vermillion Missouri Aquifer. TM Rural Water District wishes to retain this permit and included with this cover letter is our reasonable need and estimate of future needs.

If you have any questions, please contact the TM office at 297-3334.

Sincerely,



Jay Jorgensen
Manager, TM Rural Water District
TM Rural Water District

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MAR 13 2026

Water Rights
ProgramSummary Of Existing & Future Demands

The pumping records and the water billing records provided by the District were used as a basis for the water demand projections for the TM Rural Water District System. The water pumping records used represent data for 2006 thru 2025. According to this data, the average daily flow in 2017 was 2.089 MGD and a single day peak of 3.500 MGD in 2017 & 2021.

Summary of Pumping Records

Year	Annual Average Water Demand (MGD)	Maximum Monthly Water Demand (MGD)	Maximum Daily Water Demand (MGD)
2006	0.825	1.140	1.396
2007	0.710	1.030	1.360
2008	1.620	2.218	2.373
2009	1.394	2.190	2.462
2010	1.740	2.072	2.880
2011	1.658	2.039	2.890
2012	1.931	2.585	3.200
2013	1.831	2.265	3.040
2014	1.826	2.092	3.030
2015	1.847	2.227	3.060
2016	1.973	2.378	3.280
2017	2.089	2.605	3.500
2018	1.912	2.353	3.330
2019	1.506	1.813	2.620
2020	1.708	2.258	2.810
2021	2.004	2.869	3.500
2022	1.906	2.329	3.150
2023	1.806	2.485	3.150
2024	1.706	2.106	2.970
2025	1.745	2.143	3.000

The District's water loss hovers between 5 and 8% and we work diligently to reduce this percentage.

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MAR 13 2026

Water Rights
Program

Projections of Future Water Demands

Since 2019 the District has added 155 rural users making a grand total of 1750 metered connections. Although new users have been added to the system at an average of 25 new connections per year, much of the increase in water consumption has been and continues to be attributed to both the NuGen Ethanol Plant and the agricultural sector for use in spraying crops during the growing season and livestock production.

TM predicts that the existing agricultural sector will continue to grow with regards to water usage.

TM continues to see requests coming in for large CAFOs wanting to set up inside the District's boundaries which include dairies, cattle feed lots, egg laying facilities and swine facilities and we are hesitant to forfeit any Future Use Permits that we currently hold. Just one of these large CAFO facilities would require TM to utilize existing Future Use Permits.

Projected future demands based on the increases that we have seen over the last 10 years would look as follows.

Projected Future Demands			
2030	2.35	2.992	3.910
2040	2.570	3.379	4.270
2050	2.800	3.766	4.640

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JUN 08 2026

Form 8

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of McCook) SS

I, Troy Schwans
certify that the attached printed Notice was taken
from the _____

The Special
printed and published in Salem
County of McCook and
state of South Dakota. The notice was published
in the newspaper on the following date:

May 28, 2026
Cost of Printing \$ 73.30

Troy Schwans
(Signature)

Editor
(Title)

May 28, 2026
(Date Signed)

PUBLIC NOTICE NOTICE OF HEARING TO REVIEW FUTURE USE

WATER PERMIT NO. 5358-3

Notice is given that the Water Management Board will review Future Use Permit No. 5358-3 held by the TM Rural Water District, PO Box 445, Parker SD 57053 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. 5358-3. This permit was approved in 1990 and currently reserves 530 acre-feet of water from the Upper Vermillion Missouri Aquifer located in Sections 7, 18, 19, 30, 31-T100N-R54W; Section 6-T99N-R54W; Sections 1 thru 6-T99N-R55W; Sections 7 thru 36-T100N-R55W; Sections 9 thru 16, 21 thru 28, 33 thru 36-T100N-R56W; Sections 1 thru 4-T99N-R56W; Sections 7 thru 11, 14 thru 23, 26 thru 35-T101N-R54W; Sections 7 thru 36-T101N-R55W for rural water system use. The permit was last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 5358-3 REMAIN in EFFECT for 530 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 Acting 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. 5358-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting 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

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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 June 8, 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 Acting 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 \$73.30 and may be viewed free of charge at www.sdpublicnotices.com.

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JUN 8 8 50 AM

OFFICE OF
THE CHIEF ENGINEER

AFFIDAVIT OF PUBLICATION

County of Hutchinson)

) ss.

State of South Dakota)

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

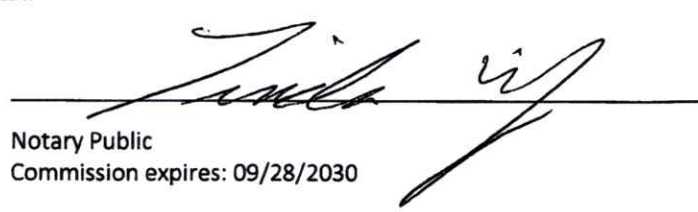
a printed copy of which is hereto attached, was printed and published in the said newspaper for one successive issues to-wit:

The first publication on:
May 27, 2026

the second publication on:
and the third publication on:

That the full amount of the fees charged for publishing the same to-wit: The sum of \$127.75 insures solely to the benefit of the publisher of The Courier, that no agreement or understanding for any division thereof has been made with any other person whomsoever, and the amount of \$127.75 is the rate for publishing legal notices.


Subscribed and sworn to before me this 28th day of May 2026.


Notary Public
Commission expires: 09/28/2030

Publication fee:	\$127.75
Notary fee:	
Total:	\$127.75

TM RURAL WATER DISTRICT

Hearing to review future water use permit No. 5358-3

Notice is given that the Water Management Board will review Future Use Permit No. 5358-3 held by the TM Rural Water District, PO Box 445, Parker SD 57053 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. 5358-3. This permit was approved in 1990 and currently reserves 530 acre-feet of water from the Upper Vermillion Missouri Aquifer located in Sections 7, 18, 19, 30, 31-T100N-R54W; Section 6-T99N-R54W; Sections 1 thru 6-T99N-R55W; Sections 7 thru 36-T100N-R55W; Sections 9 thru 16, 21 thru 28, 33 thru 36-T100N-R56W; Sections 1 thru 4-T99N-R56W; Sections 7 thru 11, 14 thru 23, 26 thru 35-T101N-R54W; Sections 7 thru 36-T101N-R55W for rural water system use. The permit was last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 5358-3 REMAIN in EFFECT for 530 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 Acting 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. 5358-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting 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 Acting Chief Engineer. A petition opposing the renewal 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", 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 Acting 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 June 8, 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. 5358-3 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 Acting Chief Engineer by June 8, 2026.

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Published twice at the approximate cost of \$127.75 and may be viewed for free at sdpublicnotices.com

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

TM RURAL WATER
Tm Rural Water
Po Box 445
Parker SD 57053-0445

STATE OF WISCONSIN, COUNTY OF BROWN

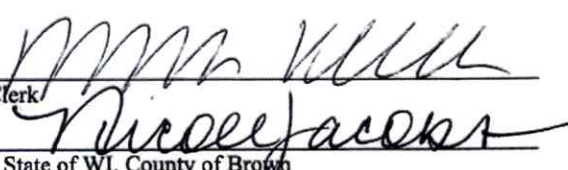
The Argus Leader, a daily newspaper published in the city of Sioux Falls, Minnehaha County, State of South Dakota, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue:

05/28/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/28/2026

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JUN 03 2026
Water Rights
Program

Legal Clerk


Notary, State of WI, County of Brown

8-21-26

My commission expires

Publication Cost:	\$93.40	
Tax Amount:	\$0.00	
Payment Cost:	\$93.40	
Order No:	12346078	# of Copies:
Customer No:	1248655	1
PO #:		

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NICOLE JACOBS
Notary Public
State of Wisconsin

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO.
5358-3**

Notice is given that the Water Management Board will review Future Use Permit No. 5358-3 held by the TM Rural Water District, PO Box 445, Parker SD 57053 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. 5358-3. This permit was approved in 1990 and currently reserves 530 acre-feet of water from the Upper Vermillion Missouri Aquifer located in Sections 7, 18, 19, 30, 31-T100N-R54W; Section 6-T99N-R54W; Sections 1 thru 6-T99N-R55W; Sections 7 thru 36-T100N-R55W; Sections 9 thru 16, 21 thru 28, 33 thru 36-T100N-R56W; Sections 1 thru 4-T99N-R56W; Sections 7 thru 11, 14 thru 23, 26 thru 35-T101N-R54W; Sections 7 thru 36-T101N-R55W for rural water system use. The permit was last reviewed in 2019.

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Published once at the total approximate cost of \$93.40 and may be viewed free of charge at

www.sdpublicnotices.com

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JUN 03 2026

Water Rights
Program

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF TURNER

I, Amber Miller of New Century Press, publisher of The New Era, which is a weekly newspaper of general circulation, Printed and published in the City of Parker, in said County of Turner., and has been such legal newspaper during the times here in after mentioned; that the said newspaper has been in existence as such legal newspaper for more than one year prior to the publication of the notice here unto attached, and has during all of said publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Office Assistant of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

N0528-4 Notice of Hearing

Once printed copy of hereto attached, is printed and published in the said newspaper for one week, to wit:

On Thursday, the 28th day of May, 2026

That \$67.10 being the full amount of the fees for publication of the attached notices insure solely for the benefits of the publishers of the said newspaper, that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid To any other person whomsoever.

Amber D Miller

Subscribed and sworn to before me this 29th day of May, 2026

Renae Hansen

Notary Public, State of South Dakota
My Commission Expires June 6, 2031

RECEIVED
JUN 02 2026
Water Rights
Program



Publication Fee...\$67.10
Notary Fee...\$
Total \$67.10

**NOTICE OF HEARING TO REVIEW
FUTURE USE WATER PERMIT NO.
5358-3**

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**Public notices
on Page 14 ►**

PUBLIC NOTICE

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

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OFFICE OF
WATER

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Miner: ss.

Carla Poulson of said County and State, being duly sworn, on her oath says: That the Miner County Pioneer is a legal newspaper of general circulation, printed and published in Howard, said County and State, by Carla Poulson, and has been such newspaper during the time hereinafter mentioned: and that I, Carla Poulson 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 or notice headed

Notice of Hearing

water Permit 5358-3

A printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in a supplement, once each week for1..... successive weeks, the first publication being made on the

....28.... day of May 2026

And the last publication on the day of 20.....

The first publication being made on the day of 20.....

The second publication being made on the day of 20.....

The third publication being made on the day of 20.....

The fourth publication being made on the day of 20.....

The fifth publication being made on the day of 20.....

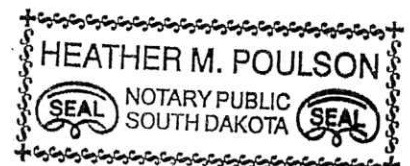
That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Miner, for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in an office maintained in Howard, South Dakota, the place of publication of said newspaper. That the full amount of fees for publication of the annexed notice is \$ 167.20 and insures solely to the benefit of said publisher; that no agreement 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 person whomever.

Subscribed and sworn to me this 29... day of May 2026

C.R.

My commission expires the 10... day of Oct 2031

[Signature]



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REVIEW FUTURE USE
WATER PERMIT NO. 5358-3**

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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 June 8, 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 Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published one time at the approximate total cost of \$67.20 and can be viewed free of charge at www.sdpublicnotices.com.

(May 28, 2026)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NOS. 6988-3, 6988A-3, 6988B-3, Joint Well Field Inc.**

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 Nos. 6988-3, 6988A-3, and 6988B-3, Joint Well Field Inc., PO Box 340, Toronto SD 57268.

The Acting Chief Engineer is recommending that Future Use Permit Nos. 6988-3, 6988A-3, and 6988B-3 REMAIN in EFFECT for 875 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit Nos. 6988-3, 6988A-3 and 6988B-3, 2) the company has demonstrated a reasonable need for the water reserved by Permit Nos. 6988-3, 6988A-3, and 6988B-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 Nos. 6988-3, 6988A-3, and 6988B-3 is subject to payment of the \$ 135.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the company after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2026

Joint Well Field Inc.
c/o Reed Andries
PO Box 340
Toronto SD 57268

Dear Mr. Andries,

I am writing in regard to the seven-year review of Future Use Water Permit Nos. 6988-3, 6988A-3 and 6988B-3 from the Big Sioux: Brookings Aquifer held by the Joint Well Field. 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 permits reserve water for future water supply needs for the company. Currently, our records show that 875 acre-feet remain in reserve under these future use permits last reviewed in 2019.

Please respond in writing by April 10, 2026, regarding the company's intention for the future use permits. If the company plans to retain the permits, then the response should outline a reasonable need for retaining the future use permits, including an estimate of future needs.

Permit Nos. 6988-3, 6988A-3 and 6988B-3 will then be public noticed at the company'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 permits. A fee will be charged if the Board allows the permits 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 875 acre-feet remains in reserve, the fee will be \$135.00.

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

RECEIVED

MAR 23 2026

Water Rights
Program



March 23, 2026

Rachel Rodriguez
SD DANR, Water Rights Program
Joe Foss Bldg.
523 E. Capitol Ave.
Pierre, SD 57501-3182

**RE: Joint Well Field, Inc.
Future Use Permit #6988**

Dear Ms. Rodriguez:

On behalf of Joint Well Field Inc. (JWF) we are responding to your letter dated March 5, 2026, regarding Future Use Permit Nos. 6988-3, 6988A-3, and 6988B-3 (permits). Our records agree with yours and show that 875 acre-feet remain in reserve under the permits. We understand that the permits are due for the standard seven-year review required by the Water Management Board, and that you need to know JWF's intention for the future use permits.

JWF intends to retain the 875 acre-feet of water reserved in the future use permits. As seen in Table #1 (attached), water use has grown from about 1,650 acre-feet in 2016 to nearly 2,300 acre-feet in 2023. In four of the past six years the annual water usage has exceeded 2,200 acre-feet. Table #1 also contains projected water use estimates, which exceed 4,000 acre-feet by year 2050. JWF has demonstrated growing water demand over the past 10 years, and the growing water demands are expected to continue into the future.

We trust that this information documents a reasonable need for the reserved water and a reasonable need for retaining the future use permits. Please let us know if further information is needed.

Sincerely,
DGR Engineering

A handwritten signature in blue ink, appearing to read 'Darin Schriever'.

Darin Schriever, P.E.
Project Manager

Enclosed:

cc: Reed Andries, Manager, JWF

RECEIVED

MAR 23 2026

Water Rights
Program

Table #1 – JWF, Annual Water Pumped to Distribution

		KB	BD	Total	
	Year	MGY	MGY	MGY	AF/yr
Actual	2016	229	312	541	1,659
	2017	225	342	567	1,741
	2018	237	363	600	1,841
	2019	252	362	614	1,884
	2020	329	401	730	2,241
	2021	357	375	732	2,247
	2022	363	375	738	2,264
	2023	349	394	743	2,279
	2024	329	365	694	2,131
	2025	345	351	696	2,136
Projected	2026	359	356	715	2,196
	2030	616	378	994	3,051
	2035	629	407	1,036	3,181
	2040	711	439	1,150	3,529
	2045	724	473	1,197	3,673
	2050	807	509	1,316	4,040
	2055	819	549	1,368	4,198
	2060	902	591	1,493	4,583
	2065	915	637	1,552	4,763
	2070	997	686	1,683	5,166

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF MOODY) SS

MARY LYNN HEADRICK, of said county, being first duly sworn on oath says that she is the bookkeeper of the Moody County Enterprise, a weekly newspaper printed and published in said county of Moody and State of South Dakota, 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 200 copies weekly, and has been published within said county for 52 consecutive 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 advertisement headed:

Notice of Hearing to
Review Future Use Water
Permit Nos. 6988-3
and 6988B-3

a printed copy of which, taken from the newspaper 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 1 successful weeks, on the day of each week on which said newspaper was regularly published, to wit:

5-27-26

that the full amount of the fee charged for the publication of said Notice insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any 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

\$ 70⁰⁰

MJ Headrick bookkeeper
Subscribed and sworn to before me this day

6-11, 2026

Kayla Charles
Notary Public, Moody County, South Dakota



My commission expires 3-30-2029

RECEIVED

JUN 15 2026

OFFICE OF
WATER

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3, 6988A-3 AND 6988B-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting Chief Engineer is not final or binding upon the Board and

Acting 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 June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permits renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

County of _____

AFFIDAVIT OF PUBLICATION

Filed in the office of _____

on the _____ day of _____, 20____

Attorney for _____

the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the

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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 June 8, 2026. However, since this particular matter is future use permit renewals 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.

(May 27, 2026)

Published once at a cost of \$70.09 and may be viewed free of charge at www.sdpublicnotices.com.

RECEIVED

JUN 22 2026

Affidavit of Publication

OFFICE OF
WATERSTATE OF SOUTH DAKOTA, } SS.
County of Kingsbury.

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 to Review Future
use Water Permit Nos. 6988-3, 6988A-3
and 6988B-3

, 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:

May 27 2024; _____ 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

\$ 81.53

Billi Aughenbaugh

Subscribed and sworn to before me this 3rd

day of June A.D. 2026

Come Walter

Notary Public

Kingsbury County, South Dakota

My commission expires July 8, 2026

**NOTICE OF HEARING TO REVIEW
FUTURE USE WATER PERMIT NOS.
6988-3, 6988A-3 AND 6988B-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

The recommendation of the Acting

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party

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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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Water Rights Program
Joint Well Field Inc
Po Box 340
Toronto SD 57268-0340

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:

05/28/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/28/2026

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$94.60

Tax Amount: \$0.00

Payment Cost: \$94.60

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JUN 11 2026
Water Rights
Program

NICOLE JACOBS
Notary Public
State of Wisconsin

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NOS.
6988-3, 6988A-3 and
6988B-3**

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Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval,

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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 Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting 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 June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

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Published once at the total approximate cost of \$94.60 and may be viewed free of charge at www.sdpublicnotices.com.

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Water Rights
Program

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 Madison Daily Leader, a newspaper printed and published in the City of Madison, County of Lake, State of South Dakota, and that this affidavit is Page 1 of 2 with the full text of the sworn-to notice set forth on the pages that follow, and the hereto attached.

The advertisement headed

6988-3 Joint Well Field - Public Notice
printed copy of which hereunto attached, was printed and published in the said newspaper for 1 successive week(s), once each week and on the same day of the week, on the following dates, to-wit:

PUBLICATION DATES: May 28, 2026

NOTICE ID: iB7x6hiAjSZOu1T4rng8

PUBLISHER ID: MDL001441

NOTICE NAME: 6988-3 Joint Well Field - Public Notice

That \$59.58 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publication of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Edmar Corachia

(Signed) _____

VERIFICATION

State of New Jersey
County of Camden

Subscribed in my presence and sworn to before me on this: 05/28/2026

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 TO
REVIEW FUTURE USE
WATER PERMIT NOS. 6988-3,
6988A-3 and 6988B-3**

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Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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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 Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 " or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting 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 June 8, 2026. The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026. Any interested person may file a comment on the future use

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Water Rights
Program

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JUN 08 2026

OFFICE OF
WATER

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of McCook) SS

I, Troy Schwans
certify that the attached printed Notice was taken
from the _____

The Special
printed and published in Salem

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

May 28, 2026

Cost of Printing _____
\$ 74.92

Troy Schwans
(Signature)

Editor
(Title)

May 28, 2026
(Date Signed)

PUBLIC NOTICE NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3, 6988A-3 and 6988B-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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.

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Published once at the total approximate cost of \$74.92 and may be viewed free of charge at www.sdpublicnotices.com.

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JUN 8 2026
OFFICE OF
WATER

Printer's Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA
COUNTY OF GRANT

} ss.

JUN 03 2026

OFFICE OF
WATER

Holli Seehafer

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, _____ Owner _____ of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed notice of Hearing to Review Future use water Permit Nos. 6988-3, 6988A-3, and 6988B-3 Joint well Field 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 each week for one successive week(s), on the day of each week on which the said newspaper was regularly published, to-wit:

<u>may 27</u>	20 <u>26</u>	20
	20	20
	20	20

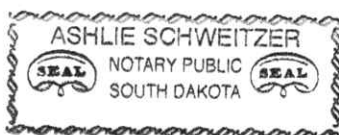
That \$ 70.68, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Holli Seehafer

Subscribed and sworn to before me this 27th day of may 20 26

Ashlie Schweitzer
Notary Public, Grant County, South Dakota

My Commission Expires:
September 21, 2027



Publication Fee \$ 70.68
Notarial Fee \$ _____
Total \$ 70.68

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**Printer's Affidavit of Publication
and Attorney's Affidavit Ex-Rel. Fees**

pate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre, SD 57501 or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting 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 June 8, 2026.

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Published once at an approximate cost of \$70.68 and can be viewed free of charge at www.sdpublicnotices.com.

Affidavit of Publication

State of South Dakota

§

County of Clark

NOTICE OF HEARING TO REVIEW FUTURE USE V

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., P.O. Box 340, Toronto, S.D. 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre, S.D.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E. Capitol Ave, Pierre, S.D. 57501 or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the per-

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:

May 27, 2026

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

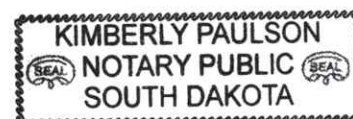
\$75.64

Karli Paulson

Subscribed and sworn to before me this

28th day of May, 2026

Kimberly Paulson



Notary Public

Clark County, South Dakota

My Commission expires: 04/27/2029

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JUN 01 2026

OFFICE OF
WATER

WATER PERMIT NOS. 6988-3, 6988A-3 AND 6988B-3

mit owner must be filed by June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

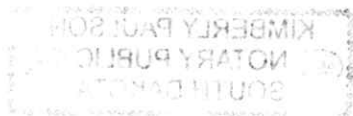
Any interested person may file a comment on the future use permits renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer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

ing that may be held. Any comment must be filed by June 8, 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 June 8, 2026. However, since this particular matter is future use permit renewals 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.

Published once at the approximate cost of \$75.64 and can be viewed free of charge at www.sdpublicnotices.com
5-27-26



RECEIVED

JUN 01 2026

OFFICE OF
WATER

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, County of Miner: ss.

Carla Poulson of said County and State, being duly sworn, on her oath says: That the Miner County Pioneer is a legal newspaper of general circulation, printed and published in Howard, said County and State, by Carla Poulson, and has been such newspaper during the time hereinafter mentioned: and that I, Carla Poulson 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 or notice headed

Notice of HearingWater Permit

A printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in a supplement, once each week for1..... successive weeks, the first publication being made on the28... day of ...May...2029

And the last publication on the day of 20.....

The first publication being made on the day of 20.....

The second publication being made on the day of 20.....

The third publication being made on the day of 20.....

The fourth publication being made on the day of 20.....

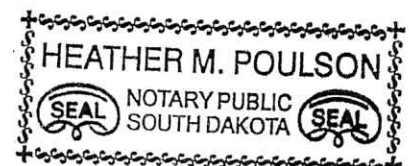
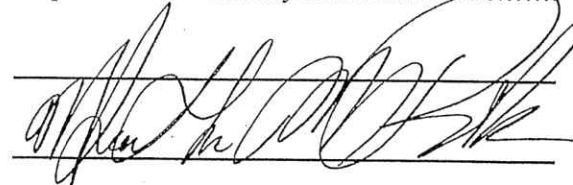
The fifth publication being made on the day of 20.....

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Miner, for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in an office maintained in Howard, South Dakota, the place of publication of said newspaper. That the full amount of fees for publication of the annexed notice is \$ 69.49 and insures solely to the benefit of said publisher; that no agreement 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 person whomever.

Subscribed and sworn to me this ...29... day of ...May...2026

C.R.

My commission expires the ...10... day of ...Oct...2031



**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NOS. 6988-3,
6988A-3 and 6988B-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre, SD.

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 June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permits renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal 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", Joe Foss Building, 523 E Capitol Ave, Pierre, SD 57501, or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting

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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 June 8, 2026. However, since this particular matter is future use permit renewals 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.

Published one time at the approximate total cost of \$68.48 and can be viewed free of charge at www.sdpublicnotices.com.
(May 28, 2026)

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice

Notice Of Hearing Permit Nos 6988-3,6988a-3 and 6988b-3

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 one successive week(s) to wit:

May 27,2026

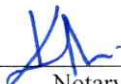
That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are \$74.80



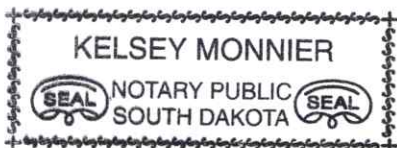
Ken Reiste

Subscribed and sworn to before me

this 27th day of May, 2026



Notary Public, South Dakota
My commission expires: 09/27/2027



Public notice

Notice of Hearing
To Review Future Use Water
Permit Nos. 6988-3, 6988a-3
and 6988b-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting 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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

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OFFICE OF
WATER

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.

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Published one time at the approximate cost of \$74.80. (16/182). This notice may be viewed free of charge at sdpublic-notices.com maintained pursuant to § 17-2-1.

Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting 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 June 8, 2026.

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Form 8

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MAY 29 2026

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Hamlin) SS

I, LeeAnne Dufek

certify that the attached printed Notice was taken

from the Estelline Journal

printed and published in Estelline

County of Hamlin and

state of South Dakota. The notice was published

in the newspaper on the following date:

May 27, 2026

Cost of Printing \$70.03

LeeAnne Dufek
(Signature)

Owner
(Title)

5-27-2026
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 6988-3, 6988A-3 and 6988B-3

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a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

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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 June 8, 2026. However, since this particular matter is future use permit renewals 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.

Published May 27, 2026, at total cost of \$70.03 and may be viewed online at www.sdpublicnotices.com

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MAY 29 2026

OFFICE OF
WATER

AFFIDAVIT OF PUBLICATION

State of South Dakota
ss
County of Brookings

Exhibit "A"

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

Joint Well Field Inc

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

01239568 Future Use Water

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

1 time, to-wit

May 26, 2026

said that Exhibit "A" occupies:

27.60 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:

Eighty-Three Dollars and Seventy-nine Cents \$83.79

Signed

Catherine Poole

Subscribed and sworn to before me

this

26th

day of

May

20

26

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

8-6-2027

01239568 1X
5/26

**NOTICE OF HEARING
TO REVIEW FUTURE USE
WATER PERMIT NOS.**

6988-3, 6988A-3 and 6988B-3
Notice is given that the Water Management Board will review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-3 held by Joint Well Field Inc., PO Box 340, Toronto SD 57268 for progress made in the development of the water reserved by these Permits and future plans for development of the water reserved by Permit Nos. 6988-3, 6988A-3 and 6988B-3. These permits combined currently reserve 875 acre-feet from the Big Sioux: Brookings Aquifer located in N 1/2 NE 1/4, SE 1/4 Section 24, N 1/2 NE 1/4 Section 25; all in T112N-R51W, SW 1/4 Section 19-T112N-R50W, Section 18, N 1/2, SE 1/4 Section 19, W 1/2, NE 1/4 Section 30; all in T112N-R50W, and E 1/2 Section 13, S 1/2 NE 1/4 Section 24, S 1/2 NE 1/4, SE 1/4 Section 25; all in T112N-R51W for rural water system use. Future Use Permits Nos. 6988-3 and 6988A-3 were last reviewed in 2019. Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit Nos. 6988-3, 6988A-3 and 6988B-3 REMAIN in EFFECT for 875 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 Acting Chief Engineer's



Angie Maher

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 Nos. 6988-3, 6988A-3 and 6988B-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permits, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal

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", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permits holder's mailing address is given above. If contesting the Acting 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 June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permits on the petitioner, the reasons for petitioner's opposition to renewal of the future use permits, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit Nos. 6988-3, 6988A-3 and 6988B-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 Permits. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permits renewal 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

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Published 1X at the total approximate cost of \$83.79 and may be viewed free of charge at www.sdpublicnotices.com.



**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. 8400-3, City of Harrisburg**

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. 8400-3, City of Harrisburg, 301 E Willow Street, Harrisburg SD 57032.

The Acting Chief Engineer is recommending that Future Use Permit No. 8400-3 REMAIN in EFFECT for 550 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 8400-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 8400-3, 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. 8400-3 is subject to payment of the \$ 105.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 4, 2026

City of Harrisburg
c/o Nolan Meyer
301 E Willow Street
Harrisburg SD 57032

Dear Mr. Meyer,

I am writing in regard to the seven-year review of Future Use Water Permit No. 8400-3 from groundwater (Dakota Aquifer) held by 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 550 acre-feet remain in reserve under this future use permit that was issued in 2019.

Please respond in writing by March 27, 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. 8400-3 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 550 acre-feet remains in reserve, the fee will be \$105.00.

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



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MAR 30 2026

OFFICE OF
WATER

301 E WILLOW STREET • PO BOX 26 • HARRISBURG SD • 57032
PHONE: 605-743-5872

March 27, 2026

Rachel Rodriguez
Department of Agriculture and Natural Resources - Water Rights Program
Joe Foss Building
523 E. Capitol Ave
Pierre, SD 57501

Dear Rachel Rodriguez

Regarding your letter dated March 4 of 2026, it is the City of Harrisburg's intent to retain Future Water Use Permit No. 8400-3 with 550 acre-feet from the Dakota Aquifer:

The population and commercial needs of Harrisburg continue to grow, along with the demand for potable water. In 2016 the city used 133 million gallons, in 2025 that number increased to 212 million. That is an increase of 88% in ten years and shows just how fast the city is developing.

The current growth projections indicate an annual water use of 300,000,000 gallons by 2035 and 430,000,000 gallons by 2045. The city currently meets its water demands by purchasing water from Lewis and Clark Regional Water System and other Lewis and Clark members. As of 2026 we have 690,000 gpd reserved through LCRWS, and that number will grow to 1,125,250 gpd by 2031.

Even with this added allotment, the city will need to expand its water supply to meet the projected water use. Permit No. 8400-3 with 550-acre feet is essential for Harrisburg to retain while it reviews options to meet the growing demand.

If you have any questions or concerns, please contact me.

Sincerely,

Heath VonEye
Deputy City Administrator | City Engineer
301 E Willow St
Harrisburg, SD 57032
(605) 743-5872 ext 103

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF LINCOLN

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JUN 01 2026

OFFICE OF
WATER

TERESA ZOMER

being first duly sworn on her oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that she is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

City of Harrisburg Notice of Hearing

a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

May 28, 2026

that the full amount of the fees charged for publishing the same to-wit: the sum of \$71.50 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.



Ascribed and sworn to before me this 28th day of
May, 2026.



Notary Public, South Dakota

My Commission Expires
January 12, 2030

Notice of Hearing

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 8400-3

Notice is given that the Water Management Board will review Future Use Permit No. 8400-3 held by the City of Harrisburg, 301 E Willow Street, Harrisburg SD 57032 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. 8400-3. This permit was approved in 2019 and currently reserves 550 acre-feet of water from the Dakota Aquifer located in Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, 36; in T99N-R50W and Sections 6 and 7; in T99N-R49W for municipal use.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 8400-3 REMAIN in EFFECT for 550 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 Acting 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. 8400-3 on July 8, 2026, at 9:35 AM (Central

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

The recommendation of the Acting 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 Acting Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Acting Chief Engineer. The petition

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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
SD Pierre 57501

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JUN 12 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:

05/28/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/28/2026

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$89.80

Tax Amount: \$0.00

Payment Cost: \$89.80

Order No: 12345965

of Copies:

Customer No: 1248842

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

NICOLE JACOBS
Notary Public
State of Wisconsin

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO.
8400-3**

Notice is given that the Water Management Board will review Future Use Permit No. 8400-3 held by the City of Harrisburg, 301 E Willow Street, Harrisburg SD 57032 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. 8400-3. This permit was approved in 2019 and currently reserves 550 acre-feet of water from the Dakota Aquifer located in Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, 36; in T99N-R50W and Sections 6 and 7; in T99N-R49W for municipal use.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 8400-3 REMAIN in EFFECT for 550 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 Acting 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.

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WATER

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JUN 12 2026

OFFICE OF
WATER

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 Application Issued Based on the Chief Engineer's Recommendation

No.	Applicant(s)	Address	County	Amount	Use	Source	Qualifications
2050-1	Venekamps LLC	Rapid City SD	MD	58.6 ac-ft	WDS	1 well INKR Aq	Wi, 4 special
2905-3	Troy M Best	Winner SD	TR	1.78 cfs	IRR 400 ac	Dam Runoff	Lf, iq, 5 special
8993-3	Bixler Farms	Hitchcock SD	SP	0.45 cfs	IRR 128 ac	2 wells T:WSH Aq	Wi, wcr, iq
8994-3	Bixler Farms	Hitchcock SD	SP	1.78 cfs	IRR 160 ac	1 well T:WSH Aq	Wi, wcr, iq
8995-3	Bixler Farms	Hitchcock SD	SP	1.78 cfs	IRR 279 ac	2 wells T:WSH Aq	Wi, wcr, iq
9020-3	Hord Family Farms of SD	Bucyrus OH	MR	86 ac-ft	COM	3 well DKOT Aq	Wi, 3 special
9021-3	Craig Arthus	Watertown SD	GT	No addt'l	IRR 80 ac	1 well WIL Aq	Wi, wcr, iq
9023-3	Chris Howard Ranch LLC	Miller SD	HD	0.026 cfs	IRR 25 ac	1 well DKOT Aq	Wi, lf, 8 special
9024-3	Gerad or Roger Puterbaugh	Cavour SD	BD	5.0 cfs	IRR 320 ac	2 wells F:EJ Aq	Wi, wcr, iq, 1 special
9025-3	City of Lake Norden	Lake Norden SD	HM	310 ac-ft	MUN	3 wells PCO Aq	Wi, wcr, 2 special
9026-3	Boadwine Farms Inc.	Sioux Falls SD	MA	146.6 ac-ft	COM	1 well BS:MSC Aq	Wi, wcr, 3 special
9027-3	Fermentation Experts	Sioux Falls SD	MA	46 ac-ft	IND	1 well BS:MSC Aq	Wi, 2 special
9028-3	Dakota Deere Farms LLC	Beresford SD	UN	1.78 cfs	IRR 187 ac	1 well BRC Aq	Wi, wcr, iq
9029-3	Craig Vanderlei	Springfield SD	BH	1.45 cfs	IRR 120ac	1 well NBRR Aq	Wi, wcr, iw

CANCELLATIONS – July 8, 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 I

RT 1077-1		Lonnie Arneson	MD	1.44 cfs 131 ac	IRR	A/F	Belle Fourche River	06/05/2026
PE 1998-1	Dakota Cable Solutions Inc c/o Chad Gollnick	SD DOT c/o John Keyes	MD	40.2 ac-ft	COM WDS DOM	NC	1 well (MDSN)	06/05/2026

DIVISION II

PE 2772-2		Milligan Boise Flannery LLC c/o Tom Milligan	TD	0.62 cfs	IRR	NC	1 well (ARKR)	06/05/2026
PE 2773-2		Arrowhead Country Club c/o Tom Bloemendaal	PE	1.11 cfs 100 ac	IRR	NC	1 well (MDSN or MNLS)	06/05/2026

DIVISION III

RT 279-3		Glenn Hodson c/o Glenda Jager, Mgr	UN	1.5 cfs 106.8 ac	IRR	A/F	Big Sioux River	06/05/2026
RT 3976-3	A.N. Sanderson	Deanna Sanderson	BN	0.62 cfs 43.1 ac	IRR	A/F	1 well (E:SB)	06/05/2026
PE 7315A-3		VanBuskirk Farms LLC c/o Matt VanBuskirk	SP	8.36 cfs 586 ac	IRR	NC	Slough	06/05/2026
PE 8091-3		Roy Grismer	MP	2.67 cfs 240 ac	IRR	NC	1 well (G)	06/05/2026
PE 8092-3		Roy Grismer	MP	2.67 cfs 240 ac	IRR	NC	1 well (G)	06/05/2026
PE 8168-3	Norman Lee	Sylvia Lee	KG	2.49 cfs 195.6 ac	IRR	NC	1 well (VEF)	06/05/2026
PE 8326-3		Nelsen Brothers c/o Scott Nelsen	TU	2.0 cfs 120 ac	IRR	NC	1 well (NBRR)	06/05/2026

ABBREVIATIONS			PAGE 1
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
WDS = WATER DIST. SYSTEM	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 June 5, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following Water Permit and Right holders on June 5, 2026.

Water Permit No. 2772-2

Milligan Mace Boise Flannery LLC
c/o Tom Milligan
PO Box 32
Hooper NE 68031

Water Right No. 279-3

Glenn Hodson
c/o Glenda Jager, Prop Mgr
48455 299th St
Hawarden IA 51023

Water Permit No. 8326-3

Nelsen Brothers
c/o Scott Nelsen
29083 452nd Ave
Viborg SD 57070

Water Permit Nos. 8091-3 & 8092-3

Roy Grismer
12525 328th Ave
Bowdle SD, 57428

Water Permit No. 8168-3

Sylvia Lee
24853 Hapeka Trl
Custer SD 57730

Water Permit No. 7315A-3

VanBurkirk Farms LLC
c/o Matt VanBuskirk
18892 390th Ave
Hitchcock SD 57348

Water Right No. 1077-1

Lonnie Arneson
20886 River Rd
Elm Springs SD 57736

Water Permit No. 2773-2

Arrowhead County Club
3675 Sheridan Lake Rd
Rapid City SD 57702

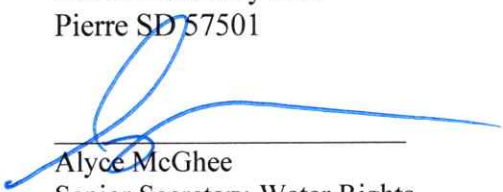
Water Right No. 3976-3

Deanna Sanderson
104 S Main St, Unit 4S
Aberdeen SD 57401

Also Sent Inter-Office to:

Water Permit No. 1998-1

SD DOT
c/o John Keyes
700 E Broadway Ave
Pierre SD 57501


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of June, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
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PIERRE SD 57501-3182
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June 5, 2026

NOTICE OF CANCELLATION

TO: Lonnie Arneson, 20886 River Rd, Elm Springs SD 57736

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

SUBJECT: Cancellation of Water Right No. 1077-1

Water Right No. 1077-1 authorized for the diversion of 1.44 cubic feet of water per second from the Belle Fourche River, be used for irrigation of 131 acres located in portions of Sections 22 & 27; all in T5N-R13E, Meade County, South Dakota. After submitting the 2025 Irrigation Questionnaire for Water Right No. 1077-1, you spoke with Program staff, discussing the absence of irrigation on the property. You informed staff that the irrigation system had been badly damaged by a flood event in 2009, that the decision was made not to replace the system, and you agreed to cancellation of the water right. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 1077-1 for abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 1077-1 at **9:30 am, Wednesday, July 8, 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. 1077-1 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 1077-1, LONNIE ARNERSON**

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. 1077-1.

The holder of Water Right No. 1077-1 spoke with Water Rights Program staff regarding the 2025 Irrigation Questionnaire submission, which indicated the authorized system had been washed out in a flood event, many years prior. During the discussion, Program staff were informed that the decision had been made not to replace the system and that the water right holder was agreeable to cancellation.

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

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: SD DOT, c/o John Keyes, 700 E Broadway Ave, Pierre SD 57501

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

SUBJECT: Cancellation of Water Permit No. 1998-1

Water Permit No. 1998-1, held by Dakota Cable Solutions Inc., authorized the annual appropriation of up to 40.2 acre-feet of water from one well (Madison Aquifer) for commercial, domestic, and water distribution system use, within portions of the S ½ Section 24-T3N-R6E, Meade County, South Dakota. You recently had conversations with Water Rights Program staff regarding South Dakota's Department of Transportation taking ownership of the above-described property. During that conversation you confirmed that while Permit No. 1998-1 was issued with a construction completion deadline of August 24, 2025, the project had not been developed, and SD DOT was agreeable to the cancellation. The Acting Chief Engineer of the Water Rights Program recommends cancellation of Water Permit No. 1998-1 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 1998-1 at **9:30 am, Wednesday, July 8, 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 Permit No. 1998-1 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 June 15, 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.

June 5, 2026
Water Permit No. 1998-1

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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 1998-1, DAKOTA CABLE SOLUTIONS 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. 1998-1.

Ownership of the property authorized for development under Permit No. 1998-1 had recently been acquired by South Dakota's Department of Transportation. When Water Rights Program staff enquired as to the system's use, it was discovered that while the permit was issued with a construction completion deadline of August 24, 2025, the system had not been developed. Additionally, SD DOT department staff confirmed there was no interest in maintaining the permit.

The Acting Chief Engineer is recommending cancellation of Water Permit No. 1998-1 due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: Milligan Mace Boise Flannery LLC, c/o Tom Milligan, PO Box 32, Hooper NE 68031

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

SUBJECT: Cancellation of Water Permit No. 2772-2

Water Permit No. 2772-2, held by Milligan Mace Boise Flannery LLC, authorizes the diversion of 0.62 cubic feet of water per second from one well completed into the Arikaree Aquifer for irrigation of 89 acres authorized under Water Right Nos. 1258-2 & 1915-2, located in portions of Sections 29 & 30; all in T38N-R28W, Todd County. All construction under Permit No. 2772-2 was to be completed on or before December 7, 2022. After receiving the 2025 Irrigation Questionnaire, which reported the system had not been developed, Water Rights Program staff reached out and spoke to you, at which time you confirmed that the permitted works had never been constructed, and that you were agreeable to cancellation. The acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2772-2 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 2772-2 at **9:30 am, Wednesday, July 8, 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. 2772-2 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 of Water Permit No. 2772-2, 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 2772-2, MILLIGAN MACE BOISE FLANNERY LLC**

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. 2772-2.

After receiving the 2025 Irrigation Questionnaire, which reported that the authorized system had not been developed, Water Rights Program Staff spoke with Tom Milligan, who confirmed that the system for Water Permit No. 2772-2 had never been developed and agreed to cancellation of the permit.

The Acting Chief Engineer is recommending cancellation of the above Water Permit due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

Note: Cancellation of Water Permit No. 2772-2 has no bearing on the property authorized for irrigation under Water Right Nos. 1258-2 & 1915-2.



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June 5, 2026

NOTICE OF CANCELLATION

TO: Arrowhead County Club, 3675 Sheridan Lake Rd, Rapid City SD 57702

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

SUBJECT: Cancellation of Water Permit No. 2773-2

Water Permit No. 2773-2 authorized the diversion of 1.11 cubic feet of water per second from one well (Minnelusa or Madison Aquifer) for the irrigation of 100 acres located in the SW ¼ Section 10 & NW ¼ Section 15; all in T1N-R7E, Pennington County, South Dakota. After receiving the 2025 Irrigation Questionnaire, Water Rights Program staff reached out to club staff (Chris B) to discuss the report that use of the irrigation system had been abandoned. It was reported that the system was never constructed and that the county club was agreeable to cancellation of the permit. Permit No. 2773-2 was issued with a construction completion deadline of November 6, 2022. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 2773-2 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 2773-2 at **9:30 am, Wednesday, July 8, 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. 2773-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 June 15, 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.

June 5, 2026
Water Permit No. 2773-2

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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 2773-2, ARROWHEAD COUNTRY CLUB**

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. 2773-2.

After receiving the 2025 Irrigation Questionnaire, which reported that use of the water system had been abandoned, Water Rights Program staff contacted country club staff (Chris B) to discuss the absence of water use. He confirmed that the authorized irrigation system had not been developed. Permit No. 2773-2 was issued with a construction completion deadline of November 6, 2022.

The Acting Chief Engineer is recommending cancellation of Water Permit No. 2773-2 due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: Glenn Hodgson, C/O Glenda Jager, Prop. Mgr. 48455 299th St, Hawarden IA, 51023

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

SUBJECT: Cancellation of Water Right No. 279-3

Water Right No. 279-3, authorized the diversion of 1.5 cubic feet of water per second from the Big Sioux River for the irrigation of 106.8 acres located in portions of Section 16-T95N-R48W, Union County, South Dakota. After receiving the 2025 Irrigation Questionnaire, Water Rights Program staff reached out to you to discuss your report the irrigation system was not currently constructed. You reported that the system has been in disrepair and has gone unused for several years with no plan to resume irrigation practices. The Acting Chief Engineer of the Water Rights Program recommends cancellation of Water Right No. 279-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 279-3 at **9:30 am, Wednesday, July 8, 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. 279-3 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 279-3, GLANN HODGSON**

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. 279-3.

After Reviewing the 2025 Irrigation Questionnaire submitted for the Water Right No. 279-3, Water Rights Program staff reached out to the property owner, who reported that the irrigation system broke down years ago and they do not have plans to resume its use.

The Acting Chief Engineer is recommending cancellation of Water Right No. 279-3 due to abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: Deanna Sanderson, 104 S Main St, Unit 4S, Aberdeen SD 57401

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

SUBJECT: Cancellation of Water Right No. 3976-3

Water Right No. 3976-3, held by A. N. Sanderson, authorized the diversion of 0.62 cubic feet of water per second from one well (Elm: Southern Brown Aquifer) for the irrigation of 43.1 acres located in the W ½ SE ¼ Section 34-T123N-R64W, Brown County, South Dakota. After receiving the 2025 Irrigation Questionnaire, Water Rights Program staff reached out to you to discuss the report that use of the irrigation system had been abandoned. You stated that the property was being leased and neither you nor the lessor had future intentions of irrigating, the system has been removed, and you were agreeable to the cancellation of this water right since the well is only used for watering pastured livestock. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Right No. 3976-3 due to abandonment, or forfeiture, or both.

The Water Management Board will consider cancellation of Water Right No. 3976-3 at **9:30 am, Wednesday, July 8, 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. 3976-3 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 June 15, 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.

June 5, 2026
Water Right No. 3976-3

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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



**DEPARTMENT of AGRICULTURE
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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER RIGHT NO. 3976-3, A.N. SANDERSON**

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. 3976-3.

After receiving the 2025 Irrigation Questionnaire, which reported that use of the water system had been abandoned, Water Rights Program staff contacted Ms. Sanderson to discuss the absence of water use. She confirmed that the irrigation system had been removed, the property leased, and that the well is being used to water pastured livestock.

The Acting Chief Engineer is recommending cancellation of Water Right No. 3976-3 due to abandonment, or forfeiture, or both.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: VanBuskirk Farms LLC, c/o Matt VanBuskirk, 18892 390th Ave, Hitchcock SD 57348

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

SUBJECT: Cancellation of Water Permit No. 7315A-3

Water Permit No. 7315A-3, which reinstated Permit No. 7315-3, authorized the diversion of 8.36 cubic feet of water per second from a slough for irrigation of 586 acres, located in portions of Section 36-T114N-R64W and Section 31-T114N-R63W, Spink County, South Dakota. Permit No. 7315A-3 was issued with a construction completion deadline of June 5, 2022. A recent on-site inspection was conducted by a Water Rights Program staff engineer for the purpose of licensing the system, which found no evidence of any development. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 7315A-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 7315A-3 at **9:30 am, Wednesday, July 8, 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. 7315A-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 7315A-3, VANBUSKIRK FARMS LLC**

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. 7315A-3.

A recent inspection, conducted by a staff engineer with the Water Rights Program, for the purpose of licensing the system authorized under Permit No. 7315A-3, found that while Permit No. 7315A-3 was issued with a construction completion deadline of June 5, 2022, the system had not been developed.

The Acting Chief Engineer is recommending cancellation of Water Permit No. 7315A-3 due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: Roy Grismer, 12525 328th Ave, Bowdle SD, 57428

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

SUBJECT: Cancellation of Water Permit Nos. 8091-3 & 8092-3

Water Permit No. 8091-3 authorized the diversion of 2.67 cubic feet of water per second from one well to be completed into the Grand Aquifer for irrigation of 240 acres located in portions of the E ½ Section 8-T125N-R72W, McPherson County. Water Permit No. 8092-3 authorized the diversion of 2.67 cubic feet of water per second from one well completed into the Grand Aquifer for irrigation of 240 acres located in portions of Section 13- T125N-R73W. Water Permit Nos. 8091-3 & 8092-3 both carried a construction completed deadline of October 14, 2020, with water to be placed to beneficial use by October 14, 2024. When Water Rights Program staff reached out and spoke with you regarding the unreturned 2025 Irrigation Questionnaires, you reported that neither system had been constructed and asked that the permits be cancelled. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 8091-3 & 8092-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit Nos. 8091-3 & 8092-3 at **9:30 am, Wednesday, July 8, 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 Nos. 8091-3 & 8092-3 based upon facts presented at the public hearing. Our records show you to be the owner of properties covered by these water permits. If you wish to oppose the cancellation of Water Permit Nos. 8091-3 & 8092-3, 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 Acting Chief Engineer by June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NOS. 8091-3 & 8092-3, ROY GRISMER**

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 Nos. 8091-3 & 8092-3.

When Water Rights Program staff reached out to Mr. Grismer, regarding his missing 2025 Irrigation Questionnaires, he reported that neither system had been constructed and asked that both permits be cancelled. Both permits required that construction of the water use systems be completed by October 14, 2020, and that water be placed to beneficial use by October 14, 2024.

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

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

Note: Cancellation of these water permits does not prohibit new applications for these projects in the future.



**DEPARTMENT of AGRICULTURE
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June 5, 2026

NOTICE OF CANCELLATION

TO: Sylvia Lee, 24853 Hapeka Trl, Custer SD 57730

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

SUBJECT: Cancellation of Water Permit No. 8168-3

Water Permit No. 8168-3 authorized for the diversion of 2.49 cubic feet of water per second from one well completed into the Vermillion East Fork Aquifer, be used for irrigation of 195.6 acres located in portions of the S ½ Section 18-T111N-R56E, Kingsbury County, South Dakota. After receiving the Notice, dated January 20, 2026, regarding failure to submit the 2025 Irrigation Questionnaire, you contacted program staff and reported that the system had not been developed. Permit No. 8168-3 was issued with a construction completion deadline of August 13, 2020, with water to be placed to beneficial use by August 31, 2024. The Acting Chief Engineer of the Water Rights Program is recommending cancellation of Permit No. 8168-3 for non-construction.

The Water Management Board will consider cancellation of Water Permit No. 8168-3 at **9:30 am, Wednesday, July 8, 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 Permit No. 8168-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 8168-3, NORMAL LEE**

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. 8168-3.

Ms. Lee and her son, owners of the property authorized for irrigation by Water Permit No. 8168-3, spoke with Water Rights Program staff regarding the absence of irrigation on the property and confirmed the authorized system had never been developed.

The Acting Chief Engineer is recommending cancellation of Permit No. 8168-3 due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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



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June 5, 2026

NOTICE OF CANCELLATION

TO: Nelsen Brothers, c/o Scott Nelsen, 29083 452nd Ave, Viborg SD 57070

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

SUBJECT: Cancellation of Water Permit No. 8326-3

Water Permit No. 8326-3 authorized the diversion of 2.0 cubic feet of water per second from one well (Niobrara Aquifer) for the irrigation of 120 acres located in portions of the W ½ Section 34-T97N-R53W, Turner County, South Dakota. You recently spoke with Water Rights Program staff, regarding missing water use reporting for the 2025 Irrigation Questionnaire. During that conversation you reported that while the permit was issued with a construction completion deadline of April 2, 2023, the system had not been developed. The Acting Chief Engineer of the Water Rights Program recommends cancellation of Water Permit No. 8326-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit No. 8326-3 at **9:30 am, Wednesday, July 8, 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 Permit No. 8326-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this 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 June 15, 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 June 15, 2026.

Prior to June 15, 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 June 15, 2026.



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**RECOMMENDATION OF ACTING CHIEF ENGINEER
FOR WATER PERMIT NO. 8326-3, NELSEN BROTHERS**

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. 8326-3.

When the 2025 Irrigation Questionnaire was not submitted for Water Permit No. 8326-3, Water Rights Program staff reached out to the property owner, who reported that the irrigation system had not been developed. Permit No. 8326-3 was issued with a construction completion deadline of April 2, 2023.

The Acting Chief Engineer is recommending cancellation of Water Permit No. 8326-3 due to non-construction.

Adam Mathiowetz, PE, Acting Chief Engineer
SD DANR – Water Rights Program
June 5, 2026

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

FILE COPY

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8990-3</u> Hydrologic Unit <u>07020001</u>
	Basin <u>Minnesota</u>
	Newspaper <u>Milbank/Grant County Review</u>
	<u>Watertown</u> (office use only) <u>Public Opinion</u>

RECEIVED

SEP 18 2025

Water Rights
Program

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☒
☐
☐

Municipal
Rural Water System
Domestic (over 18 gpm)

☒
☐
☐

Water Distribution System
Commercial
Industrial

☐
☐
☐

Recreational
Fish & Wildlife
Other

☐
☐

Institutional
Geothermal

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.)

Request a future use permit to address the anticipated growth in the City of Milbank

- Name to Appear on Water Permit City of Milbank
Mailing Address 1001 E 4th Avenue, Suite 301 Milbank SD 57252-2657
(Address) (City) (State) (Zip Code)
Phone (605) 432-9575 Mobile 605-949-2748 Email cityadministrator@milbanksd.com
- Amount of water claimed 1.55 *CFS or 1,120 annually **GPM and 1 MGD 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 Groundwater - Antelope Valley aquifer
- Location of point of diversion Sections 21 and 22, Township 120 North, Range 51 West County Grant
(example - 3 wells in SW1/4 NE1/4 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 - NW1/4 section 12-T104N-R53W)
- County or counties where water will be used Grant County
- Annual period during which water is to be used January 1 - 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)

City of Milbank is seeking an additional water source to blend with their existing source, which has high total dissolved solids.

I, Steve Pendergrass

City Administrator

, 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.

2021-08

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)

45-18875/-96-95151

Supplemental Information

(type or print)

RECEIVED

SEP 18 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 Unk. 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) 20-60' 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

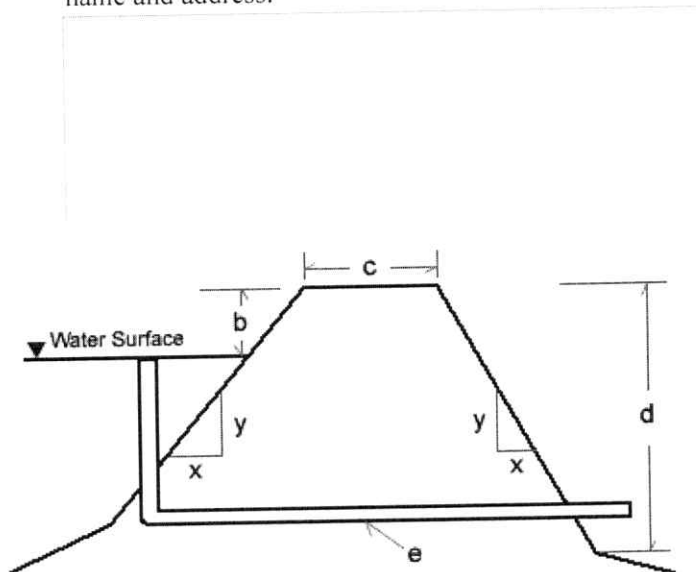
3. Dugout Information

- 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**

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**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR FUTURE USE
WATER PERMIT APPLICATION NO. 8990-3, City of Milbank**

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. 8990-3, City of Milbank, 1001 East 4th Avenue, Suite 301, Milbank SD 57252-2657.

The Chief Engineer is recommending APPROVAL of Application No. 8990-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the City of Milbank has demonstrated a reasonable need for the water reserved, 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. 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.

See report on application for additional information.

Mark Mayer, PE
Director of Office of Water
January 20, 2026

NOTE: Approval of Future Use Permit No. 8990-3 does not preclude approval of subsequent appropriations by other persons within the future use area identified on No. 8990-3. Approval of any such appropriations will have a priority date junior to No. 8990-3. However, future siting of wells by the City of Milbank to place water to beneficial use within the future use area will be subject to review during the application process regarding the likelihood of well interference between proposed city wells and existing wells of other users within the future use area.

**Report to the Chief Engineer on
Water Permit Application No. 8990-3**
City of Milbank
7 January, 2026

Water Permit Application No. 8990-3 proposes to reserve for future use 1,120 acre-feet of water annually (ac-ft/yr) from the Antelope Valley aquifer. The area of the future use reservation is Sections 21 and 22 in T120N-R51W. 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 site is located approximately 15 miles southwest of Milbank, South Dakota, surrounding Myers Lake.

Aquifer: Antelope Valley (AV)

Hydrogeologic Characteristics

The Antelope Valley aquifer is a shallow, Quaternary-aged sand and gravel outwash aquifer underlying portions of Grant, Deuel, and Codington Counties. It underlies the divide between the Big Sioux River watershed to the west and the Minnesota River watershed to the east. Hedges, et al. [1] delineated an area of 28,700 acres and estimated the amount of recoverable water stored in the aquifer was approximately 64,580 acre-feet. Using aquifer materials maps [2] [3] [4], county studies released after the Hedges, et al [1] study [5] [6], sand and gravel resource studies [7] [8], lithologic logs [9], observation wells [10], and well completion report data [11], Water Rights Staff delineated a new area for the Antelope Valley aquifer (shown in Figure 1 on page 2), with an area of approximately 35,000 acres. The Antelope Valley aquifer is generally under unconfined conditions, meaning water levels in the aquifer do not rise above the top of the formation. There are also areas where sand and gravel outwash is encountered below the elevation of the surficial outwash [9] [11], which could be described as an intermediate layer. Some water right permits [12] and observation wells [10] are completed into that layer of sand and gravel and are on file as completed into the Antelope Valley aquifer, although the extent of the intermediate layer and area of aquifer under confined conditions are unknown.

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-10 a reservation of water for future use may be approved only if there is a reasonable probability that unappropriated water is available for this application, that the quantity of water will be needed by the entity, and that the proposed use will be a beneficial use and in the public interest. The applicant has submitted documents that supply reasoning for the quantity of water requested. This report will address the availability of unappropriated water only.

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 a water

distribution system as defined in SDCL 46-1-6(17), but the Antelope Valley aquifer is younger and stratigraphically higher than the Greenhorn Formation. Therefore, the Water Management Board must find that recharge to the aquifer exceeds withdrawals to approve this application.

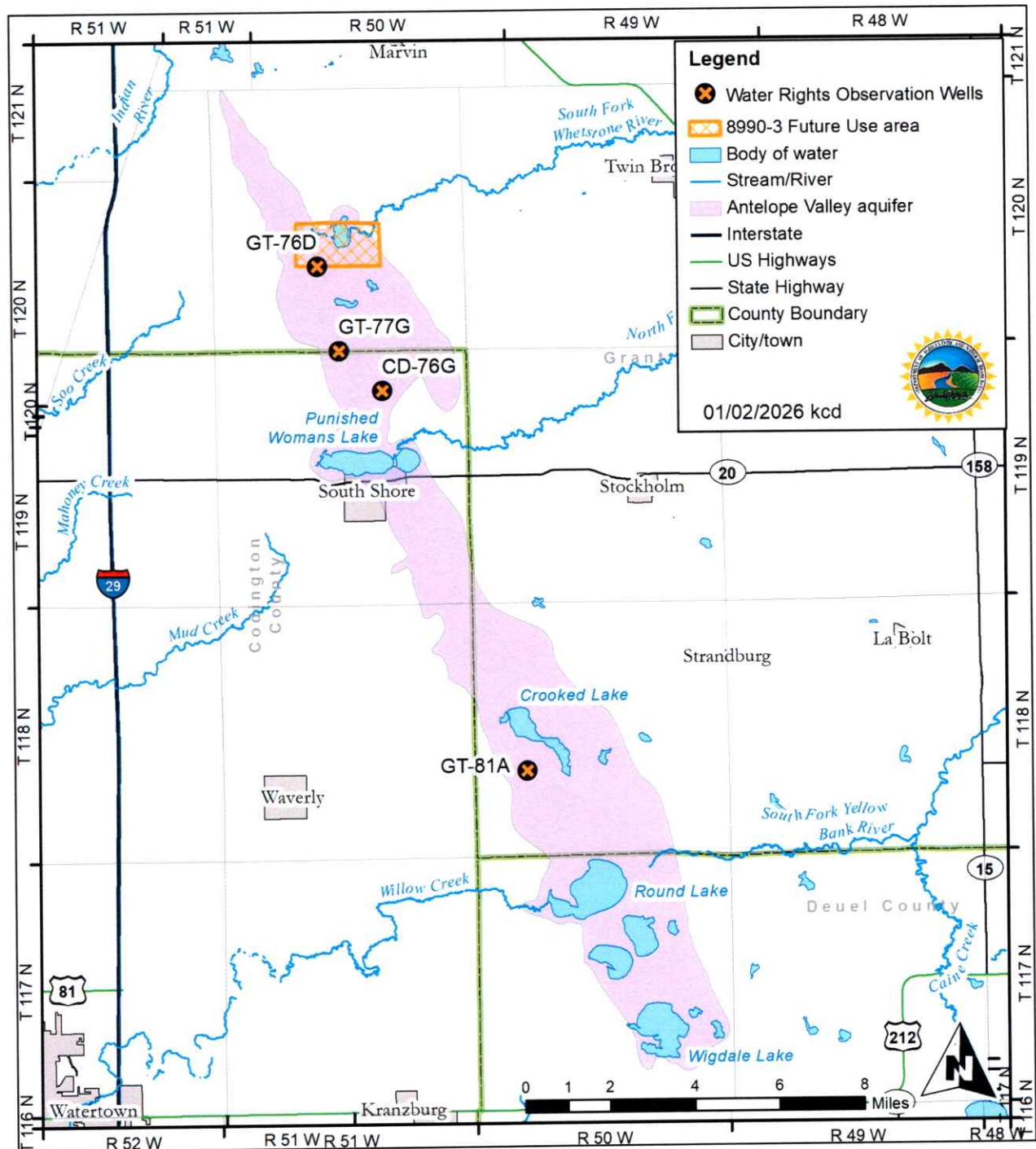


Figure 1: Antelope Valley aquifer, Observation Well locations, and proposed Future Use area [2-11]

Availability of Water

Hydrologic Budget

Recharge

Recharge to 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 [6]. Hedges, Allen, and Holly [13] used observation well analysis to estimate recharge to the Antelope Valley aquifer was approximately 2.3 inches per year. Applied over the approximately 35,000 acres of aquifer, the estimated average annual recharge to the aquifer is 6,700 ac-ft/yr.

Discharge

Natural discharge from the Antelope Valley aquifer is by 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 [6]. Artificial discharge from the aquifer is by appropriative withdrawals [12] and domestic self-supply. Given the prevalence of rural water systems and other water distribution systems, domestic self-supply is likely to be a negligible portion of the hydrologic budget. There are 16 water right permits on file as currently authorized to withdraw water from the Antelope Valley aquifer [12]. Of those, 13 are for irrigation, 2 for municipal use for the Town of South Shore, and one for Grant-Roberts Rural Water System. Figure 2 shows the irrigation reported from the Antelope Valley aquifer from the period of record of 1979 through 2024 [14]. The average irrigation reported over the entire period of record was 1,118 ac-ft/yr. The average reported over the last ten years of record (2015 through 2024) was 1,348 ac-ft/yr. There is one irrigation permit withdrawing from the Antelope Valley aquifer which is too new to have reported any withdrawals. That permit is for irrigation of 160 acres. Assuming they apply 10 inches of water per acre, their estimated average annual use is 133 ac-ft/yr. This estimate is likely to be higher than the actual average annual use, based on Water Rights Staff experience for irrigation permits east of the Missouri River. Figure 3 shows non-irrigation withdrawals from the Antelope Valley aquifer reported to the Water Rights Program [15]. The average withdrawal reported by Grant-Roberts Rural Water System over the period of record of 2003 through 2024 was 948 ac-ft/yr. Their average reported withdrawal over the last 10 years of record was 1,069 ac-ft/yr. The Town of South Shore is not required to report its withdrawals to the Water Rights Program, but their semi-annual Drinking Water System report indicates they withdraw on average 13,500 gallons per day [16], or approximately 15 acre-feet per year. For both the irrigation water rights and Grant-Roberts Rural Water System, the average from the last 10 years of record will be considered the best available estimate of average annual withdrawals. There are also three Future Use permits reserving a combined total of 959 ac-ft/yr from the Antelope Valley aquifer [12].

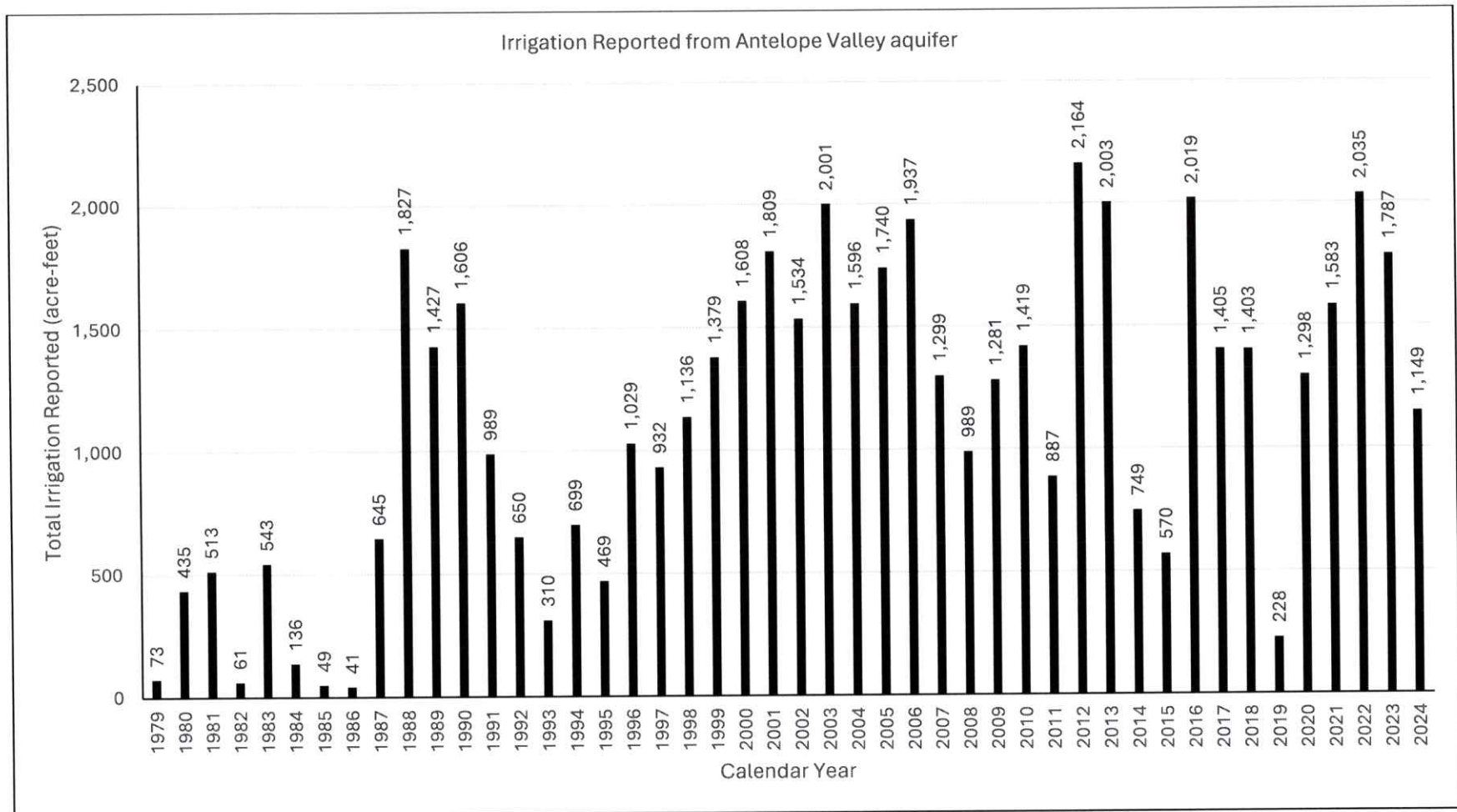


Figure 2: Irrigation reported from the Antelope Valley aquifer [14]

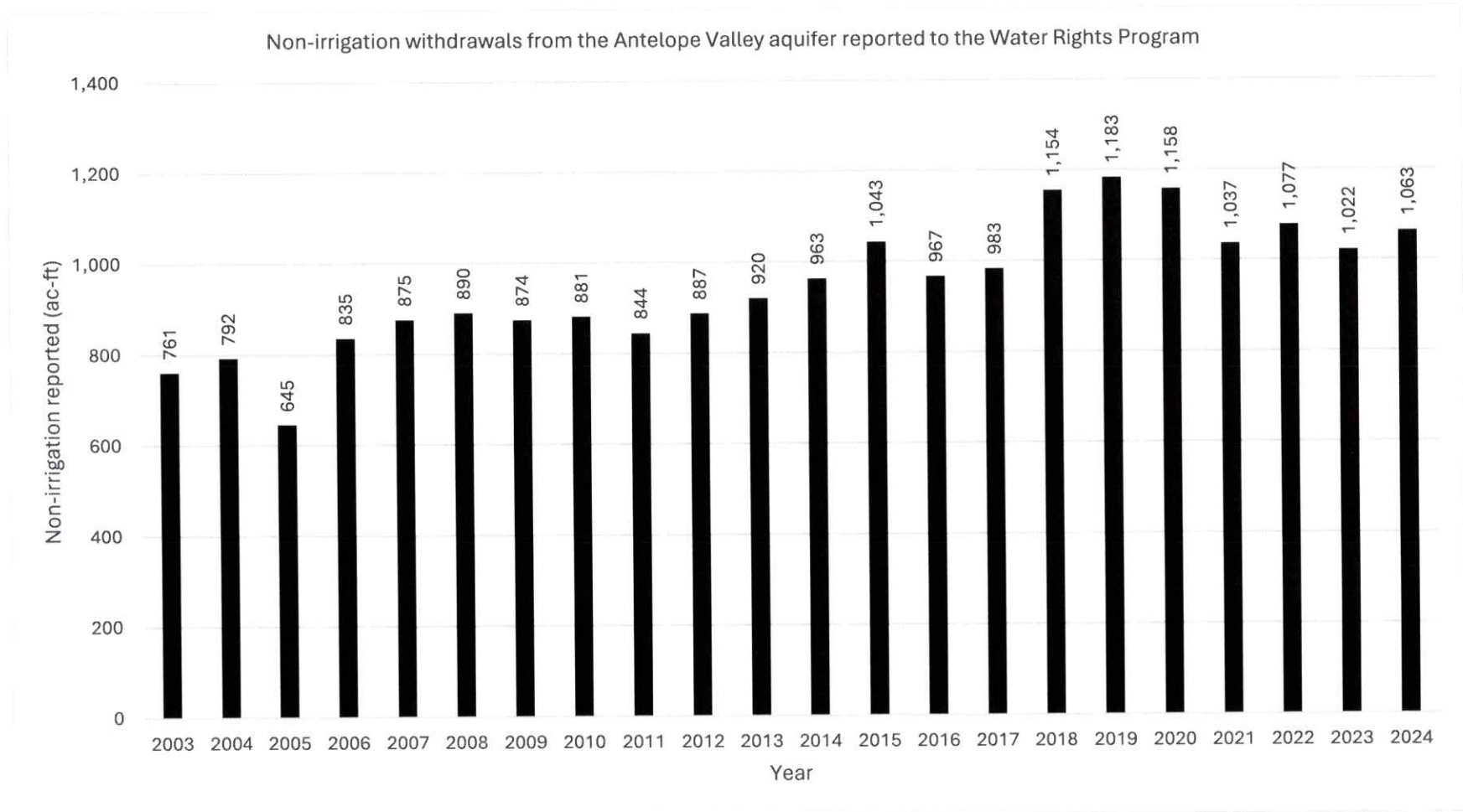


Figure 3: Non-irrigation withdrawals from the Antelope Valley aquifer reported to the Water Rights Program [15]

Summary of Hydrologic Budget

The estimated average annual recharge to the Antelope Valley aquifer is approximately 6,700 ac-ft/yr. The estimated withdrawals from the aquifer are shown in Table 1 below. The estimated average annual withdrawal of water right permits authorized to withdraw is 2,565 ac-ft/yr. Including the existing reservations for future use, the total estimated appropriation from the aquifer is 3,524 ac-ft/yr. This application proposes to appropriate 1,120 ac-ft/yr. Therefore, based on the hydrologic budget, unappropriated water is available for this application.

Table 1: Summary of estimated withdrawals and appropriations from the Antelope Valley aquifer

Estimation Method	Number	Est. Avg. Withdrawal (ac-ft/yr)
Irrigation	12	1,348
Irrigation, too new to report	1	133
Report to Chief Engineer	1	1,069
Report to Drinking Water Program	2	15
<i>Subtotal, authorized to withdraw</i>	<i>16</i>	<i>2,565</i>
Future Use	3	959
Grand Total	19	3,524

Observation Wells

Administrative Rule of South Dakota 74:02:05:07 requires that the Water Management Board rely upon the record of observation wells, in addition to other information, to determine that recharge exceeds withdrawals. The Water Rights Program maintains four observation wells completed into the Antelope Valley aquifer [10]. Figure 4 shows the water level elevations in the four observation wells. Three of the observation wells, GT-81A, GT-76D, and GT-77G, are under unconfined conditions. The other observation well, CD-76G, is under confined conditions. In general, water levels in all four wells rise during periods of higher-than-average precipitation and decline during periods of lower-than-average precipitation [17]. Observation Well CD-76G also shows seasonal declines during the summer when irrigation is most intense, but water levels recover each spring. 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. Declines in water levels in confined wells indicate decreases in average pressure in the aquifer, and not significant decreases in storage. Increases in water levels in unconfined wells indicate increases in storage in the aquifer. Additionally, the fluctuation of observation well water levels reflective of the climactic fluctuations indicates water is naturally discharging from the aquifer. The Water Management Board considers natural discharge available for capture. Therefore, there is reasonable probability unappropriated water is available for this application.

Report on Water Permit App. No. 8990-3

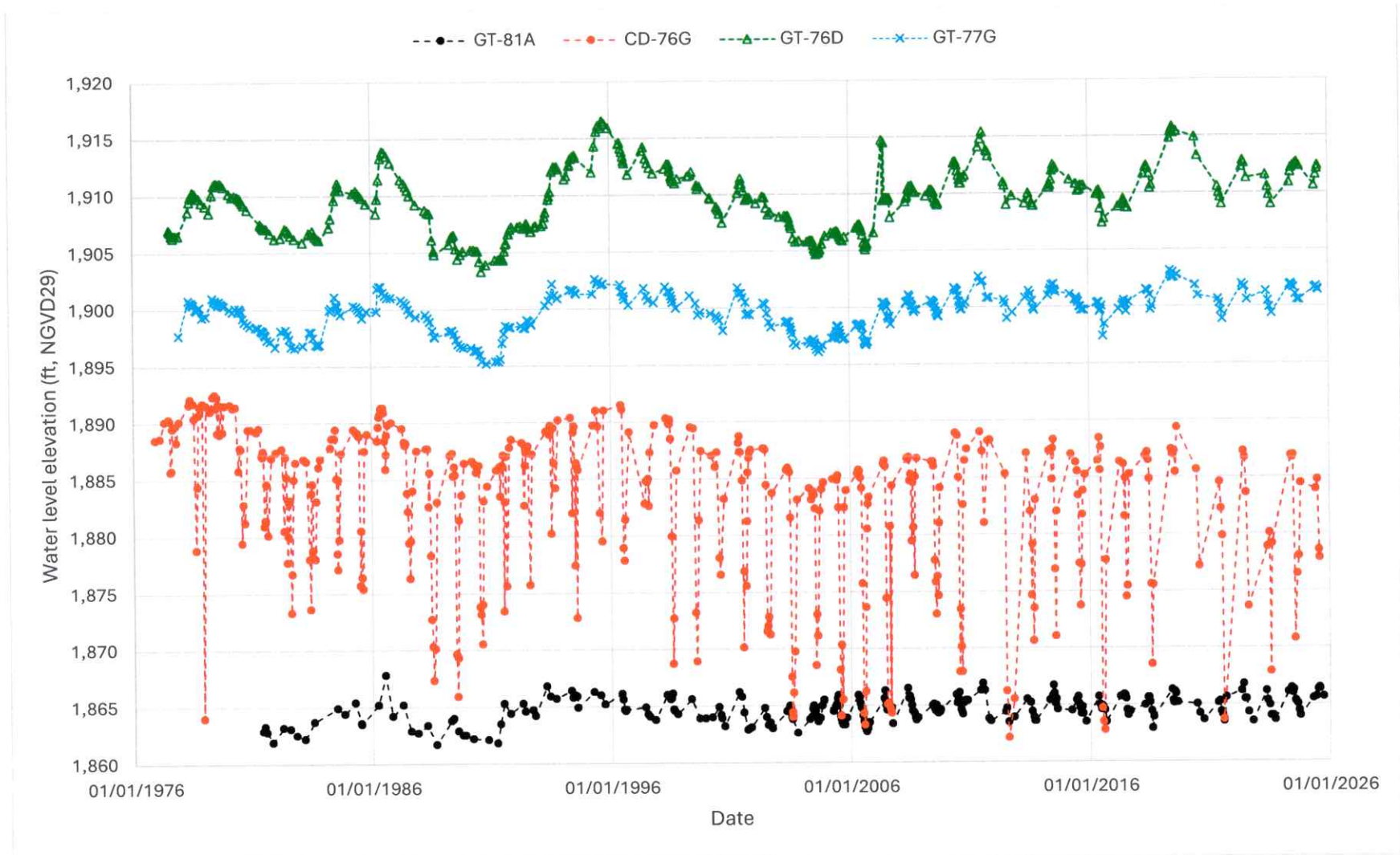


Figure 4: Water levels in Antelope Valley aquifer observation wells [10]

Nearby Water Right Permits

The proposed future use area overlies Water Right No. 5173A-3 and is within a mile of several other water rights in the Antelope Valley aquifer. Figure 5 shows water rights within and near the area for this application, as well as DANR Observation Well GT-76D in relation to the area. Table 2 lists the water rights shown in Figure 5. If this application is approved, a more specific review of the possibility of unlawful impairment of existing water rights based on the proposed well location(s) must be performed when the applicant requests to place the reserved water to beneficial use.

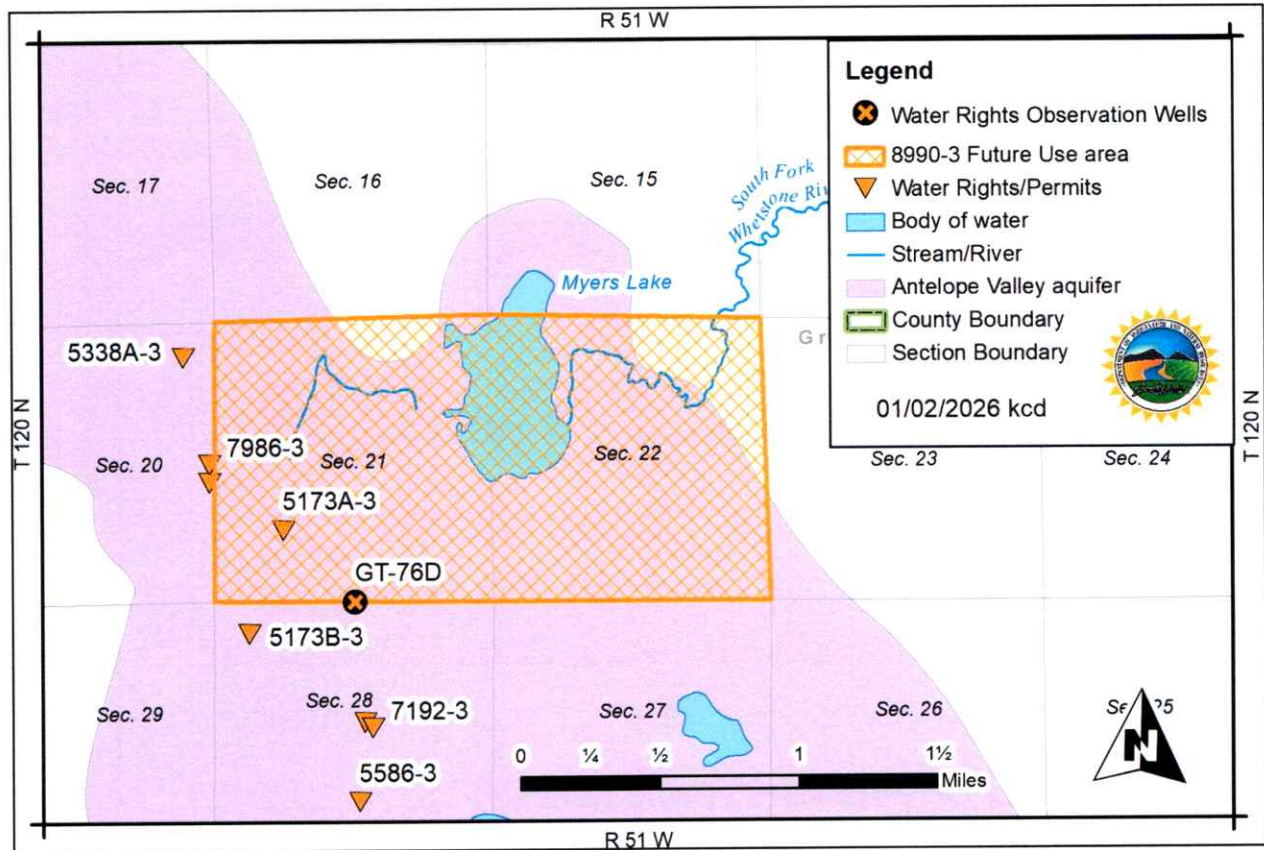


Figure 5: Water right permits near the proposed future use area [12] [10]

Table 2: Water right permits shown in figure above [12]

Permit No.	Name/Business	Priority	Status	Use Type	Licensed CFS	Licensed Acres
5173A-3	Willow Run Farms FLP	03/03/1987	License	Irrigation	2.44	166
5173B-3	Willow Run Farms FLP	03/03/1987	License	Irrigation	1.78	136
5338A-3	Willow Run Farms FLP	07/03/1989	License	Irrigation	1.78	130
5586-3	Willow Run Farms FLP	02/18/1975	License	Irrigation	6.00	420
7192-3	Willow Run Farms FLP	04/05/2010	License	Irrigation	1.00	49
7986-3	Paul Fehr	03/27/2014	Permit*	Irrigation	1.93	135
Total	--	--	--	--	14.93	1,036

* As of 1/16/2026, this is in the database as License, but licensing documentation is not in the file

Conclusions

1. Water Permit Application No. 8990-3 proposes to reserve 1,120 ac-ft/yr from the Antelope Valley aquifer. The area of the future use reservation is Sections 21 and 22 T120N-R51W. 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.
2. Based on the hydrologic budget and observation well analysis, there is reasonable probability unappropriated water is available for this application.
3. This application does not authorize construction of works or application of water to beneficial use.



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

References

- [1] 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.
- [2] A. R. Jensen, "First Occurrence of Aquifer Materials in Deuel County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 2001.
- [3] A. R. Jensen, "First Occurrence of Aquifer Materials in Codington County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 2003.
- [4] A. R. Jensen, "First Occurrence of Aquifer Materials in Grant County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 2004.
- [5] D. R. Biessel and J. P. Gilbertson, "Geology and Water resources of Deuel and Hamlin Counties, South Dakota Part 1: Geology," SD DANR Geological Survey Program, 1987, 1987.
- [6] D. S. Hansen, "Water resources of Codington and Grant Counties, South Dakota," United States Geological Survey, Huron, South Dakota, 1990.
- [7] L. D. Schulz, "Sand and Gravel Resources in Codington County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 1991.
- [8] M. J. Jarrett, "Sand and gravel resources in Grant County, South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 1986.

- [9] SD DANR Geological Survey Program, "Lithologic Logs," Vermillion, South Dakota, 2025.
- [10] SD DANR Water Rights Program, "Observation Wells," SD DANR Water Rights Program, Pierre, South Dakota, 2025.
- [11] Water Rights Program, "Well Completion Reports," S.D. Dept. of Ag. and Nat. Resources, Pierre, South Dakota, 2025.
- [12] Water Rights Program, "Water Right Permit Files," S.D. Dept. of Ag. and Nat. Resources, Pierre, South Dakota, 2025.
- [13] L. S. Hedges, J. Allen and D. E. Holly, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River South Dakota and Iowa," U.S. Army Corps of Engineers, Omaha, Nebraska, 1985.
- [14] Water Rights Program, "Irrigation Questionnaire Summaries," S.D. Dept. of Ag. and Nat. Resources, Joe Foss Bldg, Pierre, South Dakota, 2025.
- [15] Water Rights Program, "Non-Irrigation Yearly Questionnaires," S.D. Dept. of Ag. and Nat. Resources, Joe Foss Bldg., Pierre, South Dakota, 2025.
- [16] Drinking Water Program, "Drinking Water Reports," SD DANR, Joe Foss Bldg. Pierre, South Dakota, 2024.
- [17] NOAA, "Climate at a Glance: Divisional Time Series," NOAA National Centers for Environmental Information, 1 December 2025. [Online]. [Accessed 30 December 2025].

Printer's Affidavit of Publication

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STATE OF SOUTH DAKOTA
COUNTY OF GRANT

} ss.

FEB 12 2026

Hoili Seehafer

OFFICE OF
WATER

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, _____ Owner _____ of said newspaper, in

charge of the accounts receivable department thereof, have personal knowledge of all the

facts stated in this affidavit; that the advertisement headed Notice of Application No. 8990-3 to Reserve water for future use, City of milbank

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

<u>January 28</u>	<u>20 26</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>

That \$ 44.84 being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Hoili Seehafer

Subscribed and sworn to before me this 28th day of Jan 20 26

Asulie Schweitzer

Notary Public, Grant County, South Dakota

My Commission Expires:
September 21, 2027

Publication Fee \$ 44.84
Notarial Fee \$ _____
Total \$ 44.84

NOTICE OF APPLICATION NO. 8990-3 TO RESERVE WATER FOR FUTURE USE

Notice is given that City of Milbank, 1001 E 4th Avenue, Suite 301, Milbank, SD 57252-2657, has filed an application for a future use water permit. Application No. 8990-3 proposes to appropriate and reserve for future use 1,120 acre-feet of water annually from the Antelope Valley Aquifer. The area to be reserved for future use is Section 21 and 22; all in T120N-R51W. 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 site is located approximately fifteen miles southwest of Milbank SD, near Myers Lake.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8990-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the City of Milbank has demonstrated a reasonable need for the water reserved, 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 Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a con-

Printer's Affidavit of Publication

and Attorney's Affidavit Ex-Rel. Fees

In _____ Court

STATE OF SOUTH DAKOTA
COUNTY OF GRANT

} ss.

Filed in the office of _____

_____ on the

_____ day of _____, 20____

Attorney for _____

tested 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 February 9, 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 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 February 9, 2026.

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

Published once at an approximate cost of \$44.84 and can be viewed free of charge at www.sdpublicnotices.com.

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PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Steve Pendergrass
City Of Milbank

1001 E 4Th AVE # 301
Milbank SD 57252-2657

STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

01/28/2026

and that the fees charged are legal.
Sworn to and subscribed before on 01/28/2026

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**NOTICE OF APPLICATION
NO. 8990-3 to Reserve
Water for Future Use**

Notice is given that City of Milbank, 1001 E 4th Avenue, Suite 301, Milbank SD 57252-2657, has filed an application for a future use water permit. Application No. 8990-3 proposes to appropriate and reserve for future use 1,120 acre-feet of water annually from the Antelope Valley Aquifer. The area to be reserved for future use is Section 21 and 22; all in T120N-R51W. 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 site is located approximately fifteen miles southwest of Milbank SD, near Myers Lake.

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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 February 9, 2026.

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

Published on January 28, 2026 at the total approximate cost of \$58.10 and may be viewed free of charge at www.sdpublicnotices.com

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WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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PIERRE SD 57501-3182
danr.sd.gov



Petition

Opposing Application for a Water Right Permit

Application No. 8990-3 Name of Applicant City of Milbank

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.

See attached letter.

List the reasons for your opposition to this application.

See attached letter.

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

First Name: Reed Last Name: Mahlke

Mailing Address: 1441 6th Street, Suite 200

City: Brookings State: SD Zip: 57006

Optional contact information. Phone: 605-692-7775 Email: reedmahlke@lawinsd.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.

RICHARD J. HELSPER
DONALD M. MCCARTY
ERIC N. RASMUSSEN
GREGG A. GASS
REED T. MAHLKE
JENNIFER GOLDAMMER
TEREE A. NESVOLD
STACIA JACKSON



HELSPER, MCCARTY
& RASMUSSEN, P.C.
LAW FIRM

George S. Mickelson
1941 - 1993

W.R. McCann
1909 - 2000

M.E. McCann
(Retired)

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February 9, 2026

Adam Mathiowetz, Acting Chief Engineer
Water Rights Program
Foss Building
523 E Capitol
Pierre, SD 57501

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**OFFICE OF
WATER**

Re: Petition in Opposition to Application #899-3

Dear Mr. Mathiowetz,

I represent Grant Roberts Rural Water System I am submitting a Petition of Opposition to Application #8990-3 from the City of Milbank. This application requests to appropriate and reserve a future use of 1,120 acre-ft of water annually from the Antelope Valley Aquifer. Grant Roberts Rural Water System (GRRWS) believes that the withdrawal of an additional 1,120 acre-ft of water from the area described in their application, will have a unique and detrimental effect on GRRWS's existing permitted wells and the recharge of the Antelope Valley Aquifer. Consequently, any injury sustained by GRRWS will also hurt those who rely on GRRWS for water, which is currently 5,000 people in five counties and by 2028, 11 different communities in our service area.

GRRWS currently operates six wells utilizing permitted water from the Antelope Valley Aquifer. The wells are located approximately 4 miles "downstream" from the proposed location.

GRRWS joins the Comments submitted by East Dakota Water Development District on February 9, 2026. Specifically, GRRWS shares significant concerns that there is "reasonable probability that there is unappropriated water available for the applicant's proposed use." The assumptions used in the Report of the Chief Engineer are flawed and additional investigation is needed before planning begins or action is taken by the applicant based on a future use permit.

Under South Dakota law, any application for a permit must meet the following conditions: (1) reasonable probability that unappropriated water is available for the requested use; (2) no impairment of existing water rights; (3) service of a beneficial use; and (4) furtherance of the public interest. At this time, GRRWS believes the Application does not

HOME OFFICE:
1441 SIXTH STREET, SUITE #200
BROOKINGS, SD 57006

BOTH LOCATIONS:
TEL: (605) 692-7775
FAX: (605) 692-4611

WATERTOWN OFFICE:
17 1ST AVE SE
WATERTOWN, SD 57201

contain sufficient information to establish several of the required criteria. GRRWS believes that action on Application #8990-3 should be deferred until more information on the source and recharge of Antelope Valley Aquifer water can be determined.

Respectfully submitted,

HELSPER, McCARTY & RASMUSSEN, P.C.

A handwritten signature in blue ink, appearing to read 'R. Mahlke', with a long horizontal flourish extending to the right.

Reed T. Mahlke, Attorney for GRRWS

cc: Steve Pendergrass, City Administrator, City of Milbank

RECEIVED

FEB 13 2026

OFFICE OF
WATER

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. 8990-3 Name of Applicant City of Milbank

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.

I believe this amount of constant water consumption to the North of my irrigation wells would negatively affect the production of the wells and infrastructure currently in place.

List the reasons for your opposition to this application.

- 1.) your round depletion of ~~water~~ aquifer.
- 2.) Filing for future use permit with no ownership or lease agreement stated of land in permit.

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

First Name: Craig Arthur or Joe Last Name: Arthur
Mailing Address: 16116 456th Ave
City: Watertown State: SD Zip: 57201

Optional contact information. Phone: 605-880-0289 Email: cj.arthur.30@hotmail.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.

Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, February 9, 2026 1:45 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8990-3, City of Milbank, Steve Pendergrass

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Comment On:

No. 8990-3, City of Milbank, Steve Pendergrass

Comment Deadline Date:

02/09/2026

Date Comment Filed:

02/09/2026 13:45:01

Commenter Info:

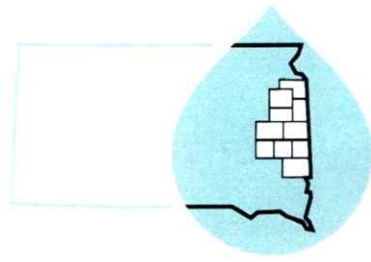
Jay Gilbertson
132B Airport Avenue
Brookings SD, 57006

Comment:

See attached letter.

Attachment:

/Comment Attachments/2026 Milbank Future Use.pdf



**EAST DAKOTA
WATER
DEVELOPMENT
DISTRICT**

February 9, 2026

Mark Mayer, Acting Chief Engineer
SD DANR Water Rights Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3182

Dear Mr. Mayer:

On behalf of the East Dakota Water Development District, I wish to offer comments on Future Use Water Permit Application No. 8990-3. I have reservations about the information presented in the Report to the Chief Engineer on this matter, which is presented as the foundation for the formal Recommendation you have issued. Specifically, I question the assertion that there is a "reasonable probability that there is unappropriated water available for the applicants's proposed use.."

1. On page 3 of 10 of the report, under the heading *Hydrologic Budget - Recharge*, average annual recharge to the entire Antelope Valley aquifer is calculated by uniformly applying a recharge rate of 2.3 inches per year over the identified areal extent of the aquifer, approximately 35,000 acres. This simple model results in an estimated annual recharge rate to the entire aquifer of 6,700 acre-feet per year (ac-ft/yr) from water that falls directly onto the aquifer surface.

However, what about the impact of other precipitation that falls within the 'watershed' of the valley in which the aquifer is found? The aquifer consists of sands and gravels that were deposited in the low areas (the valley) between two roughly parallel glacial ridges. These ridges consist of largely impermeable glacial till, and as such, precipitation falling onto these areas would be expected to flow overland (runoff) to the valley bottom. As such, this runoff will also contribute to the annual recharge of the aquifer. This overland flow is not accounted for in the recharge calculations included in the report.

2. On page 3 of 10 of the report, under the heading *Hydrologic Budget - Discharge*, Reference is made to natural discharge from the Antelope Valley aquifer. Evapotranspiration and outflow from surface water bodies connected to the aquifer are given as examples. However, no accounting for this form of discharge is mentioned in the summary of the hydrologic budget presented at the top of page 6 of 10.

As shown on Figure 1 of the staff report, Round Lake in northeastern Deuel County functions as the headwaters for Willow Creek which flows SW toward the Big Sioux River. Just east of the same lake, the headwaters of the South Fork of the Yellow Bank

River are shown originating within the extent of the aquifer. The North Fork of the Yellow Bank River originates in Round Lake (this one is NE of South Shore on the figure). And finally, the figure shows that the South Fork of the Whetstone River originates in Myers Lake on the north side of the proposed future use area. In each case, water within the aquifer is presumed to be flowing out of the area via these streams, yet none of this outflow is mentioned or accounted for in the section discussing discharge.

3. Figure 4 of the staff report (page 7 of 10) shows the water table elevations of the four observation wells maintained by the Water Rights Program in the Antelope Valley aquifer. While it appears that the figure and accompanying discussion are included to satisfy the requirements of the Administrative Rules of South Dakota 74:02:05:07, I would note that the information presented clearly indicates that there is a pronounced northwest to southeast slope to the water table of the aquifer, with the average elevation dropping progressively from well GT-76D to GT-77G to CD-76G to GT-81A. This trend has persisted from the time the wells were installed until today.

Although additional observation well data would be needed to create a detailed map, the limited data presented on Figure 4 strongly suggests that groundwater flow in the Antelope Valley aquifer is from the northwest to the southeast. As such, it is highly unlikely that “recharge” to the aquifer in the southern part of the aquifer (Figure 1) would actually be available for withdrawal in the northern end of the aquifer, although this is the clear implication of the simple recharge calculation presented in the text. For that to happen, this groundwater would have to flow uphill, against the water table gradient, in order to ‘replace’ water extracted. In that the majority of current permits appear to have been issued (to date) for the northern third of the aquifer, this could be a problem for yet another well in this region.

On a similar vein, the water elevation in the lakes located within the aquifer area, as shown on Figure 1, would be presumed to represent the water table elevation of the aquifer to which they are connected. If this is the case, then there are even bigger problems with the simplified model presented. Based on the latest information available on the DANR Measured Lakes database, both Punished Woman Lake and Round Lake (Codington County) near South Shore have water surface elevations below 1,850 feet msl. This is well below the water table elevations measured in Water Rights wells CD-76G to the north and GT-81A to the south. This suggests that the two lakes represent a practical barrier to any ground water flow from south of State Highway 20. Under these circumstances, little if anything that transpires within the Antelope Valley aquifer south of South Shore would have any practical impact to the north, greatly reducing potential aquifer recharge.

Given the aforementioned items, it is unclear as to how it can be determined that there is a “reasonable probability that there is unappropriated water available for the applicants’ proposed use..” Overall aquifer recharge appears to have been under-estimated by failing to account for runoff from land surrounding the deposit. Discharge is under-estimated by failing to acknowledge the natural discharge. Finally, the water table information, either from established

observation wells, or using lakes levels as proxies, indicates that rather than function as a simple bowl, the aquifer likely should be divided into two (or more) management units to best account for existing conditions. In any case, water level data strongly argue against any meaningful contribution of "recharge" from the south to the proposed area of interest identified in the report.

I would encourage you and the Water Management Board to defer action on this request until such time as a more thorough investigation of the hydrogeologic conditions can be conducted. I would note that a similar approach was recently undertaken following a request from Plainview Dairy LLC (Permit 8768-3) to utilize water from the Toronto aquifer. At the time of Plainview's initial request, there was insufficient data available to make an informed decision. The Geological Survey Program was tasked with studying the situation, which included the drilling of test holes and installing observation wells to better define the local conditions. I believe a similar approach would be in order.

Lastly, I want to note that the comments contained herein do not in anyway reflect opposition to the City of Milbank seeking to secure additional water resources. The District has long encouraged public water supplies to consider not just their current and near term water needs, but to consider securing reserves through future use permits to address the entities long-term needs.

If you have any questions, or require clarification of anything I have presented, please do not hesitate to contact me. Thank you for your consideration of my comments.

Sincerely,

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Jay P. Gilbertson
Manager/Treasurer

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, February 9, 2026 1:45 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8990-3, City of Milbank, Steve Pendergrass

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Comment On:

No. 8990-3, City of Milbank, Steve Pendergrass

Comment Deadline Date:

02/09/2026

Date Comment Filed:

02/09/2026 13:45:01

Commenter Info:

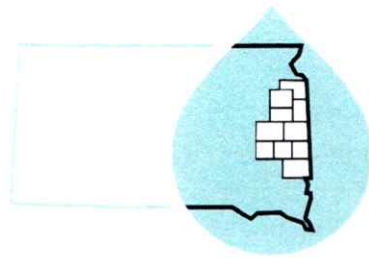
Jay Gilbertson
132B Airport Avenue
Brookings SD, 57006

Comment:

See attached letter.

Attachment:

/Comment Attachments/2026 Milbank Future Use.pdf



EAST DAKOTA WATER DEVELOPMENT DISTRICT

February 9, 2026

Mark Mayer, Acting Chief Engineer
SD DANR Water Rights Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3182

Dear Mr. Mayer:

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However, what about the impact of other precipitation that falls within the ‘watershed’ of the valley in which the aquifer is found? The aquifer consists of sands and gravels that were deposited in the low areas (the valley) between two roughly parallel glacial ridges. These ridges consist of largely impermeable glacial till, and as such, precipitation falling onto these areas would be expected to flow overland (runoff) to the valley bottom. As such, this runoff will also contribute to the annual recharge of the aquifer. This overland flow is not accounted for in the recharge calculations included in the report.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Jay P. Gilbertson", with a long horizontal flourish extending to the right.

Jay P. Gilbertson
Manager/Treasurer

Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, February 8, 2026 11:25 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8990-3, City of Milbank, Steve Pendergrass

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Comment On:
No. 8990-3, City of Milbank, Steve Pendergrass

Comment Deadline Date:
02/09/2026

Date Comment Filed:
02/08/2026 23:24:34

Commenter Info:
Brent Hoffmann
1205 S Dakota St
Milbank SD, 57252

Comment:
It is with great concern that I write to ask that the State Water Management Board vote NOT to approve the Future Use Water Permit 8990-3. There are so many holes in the science that was used to come to the approval conclusion, it would be unfair to both the applicant and current water rights holders within the Antelope Valley Aquifer. To start, as recently as 2025 and permit application number 8915-3 the average recharge rate to the aquifer was 5,500 ac-ft/yr. With 30+ water rights permits in the northern 1/3 of the aquifer and an aquifer that is flowing from NW to SE generally, it would seem problematic to have another permit for 1 MGD approved in the northern 1/3 of this aquifer. When looking at the observation wells data, one can easily conclude that there has already been a drop of almost 10 feet in the average depth to the top of the aquifer in CD-76G. A cursory look on Google Earth will show you that in 1991 there was 14 pivots in the aquifer watering roughly 1800 acres of ground. In 2025 that number is now 18 pivots and approximately 2350 acres of irrigated ground. It also would tell you that from Observation well CD-76G, there is an almost 40 foot drop in the elevation of the aquifer in the 2 miles that it would be to Punished Woman Lake (PWL) which is considered the top of the aquifer at that point. This precipitous drop in the aquifer may need more investigation, as to how large of an area is actually drained by PWL. PWL is at an elevation of 1846 feet and little Round Lake across the road is at an elevation of 1839. There is a spillway that generally does not flow water over it during the summer months between these two lakes. One can then see that GT-81A has an elevation to the top of the aquifer of about 1865 feet. This would indicate that at some point the water in the Antelope Valley aquifer flows 2 different directions, as

some of the areas around and south of South Shore no doubt flow north back into PWL and little Round Lake. Stating as the report does, that there is 35,000 acres of ground that supply water to recharge the aquifer, the annual recharge is estimated at 6,700 ac-ft/yr or 5.22 acres per acre foot of water in the aquifer. In 2025 there were 28,700 acres of land covering the aquifer and 5,500 ac-ft available or approximately 5.22 acres per ac-ft of water again. With that knowledge it is our opinion that only the areal extent of the aquifer in Grant County from the applicants stated position and north or northwest should be considered when looking at the application and not the entirety of the aquifer. To think that this aquifer acts like a swimming pool and flows to where the water is needed north of Punished Woman's Lake, and that it might come from as far south as Wigdale Lake or even further south is madness. We have 6 wells currently in our system, and there is anywhere from 60 to 90 feet of water in the aquifer depending on where the well was drilled. Location being everything, it is concerning that when irrigation pivots are running in the summer, it appears as if almost half of the available water in the aquifer is being drawn out. At what point is there too much and is another million gallons a day every day of the year going to be the tipping point for too much withdrawal? Our wells currently have anywhere from 60-90 feet of water bearing material in our well field, and seasonally, parts of the well field have much less than that. We have wells within a mile of CD-76G and see the same precipitous drop in the amount of water in the aquifer when the pivots are in use. We have been lucky that the last decade or so has been fairly wet, or at least a dry summer has been followed by a wet fall or winter, but it may only take one bad year to see a significant and long term drop in the aquifer volume. Having another million gallons a day taken out before it ever reaches our well field could be catastrophic. GRRWS provides water to over 5,000 people in five counties and by 2028 will be delivering water to 11 different communities in our local area. The only community we won't be delivering water to is the one that is refusing to engage in meaningful talks about any interconnect, and now wants to secure future water rights in the aquifer 4 miles upstream from our wells and some 15 miles from their city. It is equally interesting that the water right they are requesting is in the Antelope Valley Aquifer when the Revillo Aquifer, which they are currently tapped into has an estimated 1 million ac-ft of water in storage right underneath them. There are so many large holes in the data and issues with the science that you could drive a proverbial truck through them. For this reason alone, the Water Board should delay if not outright deny the approval of this future use permit. Knowing that water flows with gravity, and seeing that drop in elevation through the aquifer from GT-76D to GT-77G and the CD-76G and our wells in our aquifer and then on down to Punished Woman Lake, we feel that the areal extent of the aquifer that should be used for determining water rights for this application should only be the few thousand (~3400) acres from their request to the northwest and the "top" of the aquifer. Once the water has moved past them downhill so to speak, there isn't a high likelihood that it will be flowing back north uphill to their proposed well sites. Not to mention that the sites are more than likely mainly clay materials in that area and not aquifer-bearing material in our opinion. The aquifer runs parallel and along the west side of the pothole-filled region at the "top" of the Coteau from the south end of Twin Lakes down to near US Hwy 212, with such a strong correlation to that physical structure on the surface, adding a lobe into the pothole region just so that permit 8990-3 has enough Areal acres to be approved really doesn't pass even the most cursory of initial looks. If using the state of SD well logs as the source, I would suggest someone at the State do a deep dive as I can see several issues with the logs and their locations. Some are off by 6 miles or more. Others that might be used for this report and as a reference for first report of materials from 1988 for a Joe Arthur are off by more than a mile. His farm is located in the NW 1/4 NW 1/4 not the NE 1/4 NE 1/4 as the well log states and the position of the well log dot on your web site shows. The same goes for the Jeff Booze wells south of Joe Arthur's; they have the correct Township and Section, but incorrect Range. These are absolutely wrong as Mr. Arthur is a neighbor and former customer of ours and Mr. Booze is currently a customer and has lived West of our plant 5 miles the entire time he has been a customer of ours which he moved into

his house in 2003. All this points to some seriously flawed data that is being used to approve this application and why we feel it should be denied pending further investigation.

Attachment:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 12, 2026

NOTICE OF HEARING

TO: City of Milbank
c/o Steve Pendergrass
1001 E 4th Ave, Suite 301
Milbank SD 57252

Craig or Joe Arthur
16116 456th Ave
Watertown SD 57201

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

Helsper, McCarty & Rasmussen PC
c/o Reed Mahlke, *Counsel for Grant Roberts RWS*
1441 6th St, Suite 200
Brookings SD 57006

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

SUBJECT: Scheduling of Hearing on Future Use Permit Application No. 8990-3, City of Milbank

The Water Management Board will conduct a hearing to consider Future Use Permit Application No. 8990-3, at **9:45 AM (Central Time), on Wednesday July 8, 2026**, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501. The time is an estimate and may be delayed due to prior items on the agenda.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The applicable provisions of the public notice published in the Grant County Review and the Watertown Public Opinion on January 28, 2026, and the Notice of Hearing dated March 19, 2026, still apply.

Notices, orders, and other pleadings filed in the matter of Future Use Permit Application No. 8990-3 are posted to SD DANR's contested case page, at <https://danr.sd.gov/public/ContestedCase.aspx>.

Questions regarding the hearing process should be directed to Amanda Dewell, Permitting Administrator, Water Rights Program, or (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 May 12, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following on May 12, 2026.

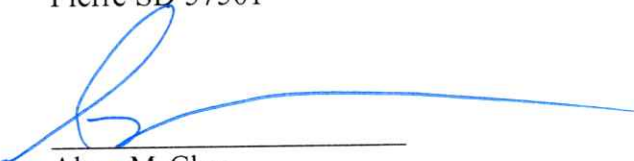
City of Milbank
c/o Steve Pendergrass
1001 E 4th Ave, Suite 301
Milbank SD 57252

Craig or Joe Arthur
16116 456th Ave
Watertown SD 57201

Helsper, McCarty & Rasmussen PC
c/o Reed Mahlke
1441 6th St, Suite 200
Brookings SD 57006

Also sent inter-office to:

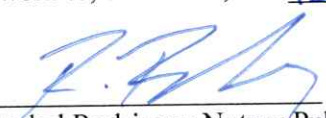
Emily Greco
1302 East Highway 14, Suite 1
Pierre SD 57501



Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of May, 20 26.



Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



8990-3

RECEIVED

JAN 02 2026

OFFICE OF
WATERFORM 2: Application for irrigation in South Dakota
(type or print)

FILE COPY

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>9019-3</u> Hydrologic Unit <u>07020001</u> Basin <u>Upper Minnesota</u> Newspaper <u>Watertown Public Opinion</u> <u>Watertown Current</u> (office use only)
---	--

PAID

DEC 31 2025

Clerk 4731

Rec'd

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 Jim or Dan Thye
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
Mailing Address 46220 165 ST Watertown SD 57201
(Address) (City) (State) (Zip Code)
Phone 605 520 8159 Mobile 605 520 8159 Email JThye@ITCtel.com
2. Amount of water claimed 0 *CFS or 0 **GPM 750 ***AF Total Acreage 22.5 25
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply 2 wells - Antelope Valley Aq
4. Location of point of diversion both - SW 1/4 NW 14 Sec 3, T119N, R51W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
County Codington
5. County or counties where water will be used Codington
6. Annual period during which water is to be used May 1 - Sept 30
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
<u>03 - T119N R51W - NE 1/4 - SW 1/4</u>	<u>10</u>		
<u>03 T119N R51W NE 1/4 NW 1/4</u>	<u>8</u>		
<u>03 T119N R51W NW 1/4 NW 1/4</u>	<u>4.5</u>		

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

adding a cornering system to irrigation already authorized under WR No. 7975-3

add a small Pivot to 10 acres SE corner and
Volume can for other corners for extreme dry periods
using Sand trap on pivot PTR at a booster pump

I, Jim Thye, 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.

2021-08

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)

45.145461 - 96.94126

16 N NE Watertown

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OFFICE OF
WATER

Form 2A

(Complete applicable portions only)

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☒ Using existing well(s)a) If new wells, how many _____ Have test holes been drilled? ☐ Yes ☐ No Drilled by _____b) If existing wells, how many 2 Provide copy of log(s), if available. Drilled by Thein Well Drilling
(if yes, please provide copies of logs)
(see 7975-3)**For either existing or proposed wells:**c) Well Depth (required) 55' 52-54 Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____d) Distance to nearest domestic well on applicant's property 7 Property owned by others 1970**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

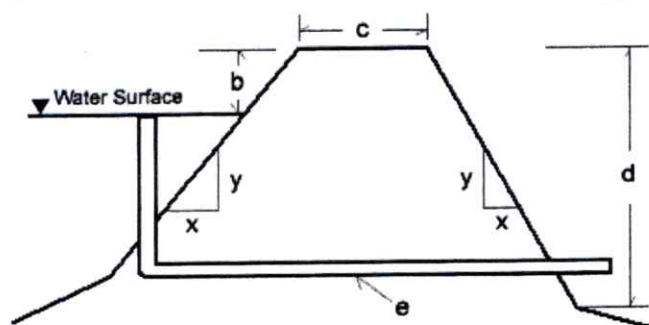
a) Surface Dimensions _____ Depth _____

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. 9019-3, Jim or Dan Thyen**

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. 9019-3, Jim or Dan Thyen, 46220 165th Street, Watertown SD 57201.

The Acting Chief Engineer is recommending DEFERRAL of Application No. 9019-3 pending Water Management Board action on a previously filed application by the City of Milbank (Application No. 8990-3) to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. Consequently, Application No. 9019-3 should be deferred until the status of water availability from the Antelope Valley Aquifer is known based on the Board's decision. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or DENIAL depending on the Board's decision on previously filed Application No. 8990-3.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
March 24, 2026

Report to the Chief Engineer
On Water Permit Application No. 9019-3

Jim or Dan Thyen

March 20th, 2026

Water Permit Application No. 9019-3 proposes to irrigate an additional 25 acres from two existing wells authorized by Water Right No. 7975-3. Water Right No. 7975-3 authorizes 1.67 cubic feet of water per second (cfs) from two wells completed into the Antelope Valley aquifer (52 and 54 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3 for the irrigation of 117 acres located in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3; all in T119N-R51W. This application proposes to irrigate an additional 25 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3-T119N-R51W, with no increase to the 1.67 cfs diversion rate. This application, if approved, and Water Right No. 7975-3 will authorize a combined total of 1.67 cfs for irrigation of 142 acres. The site of interest is located approximately two and one-half miles north of South Shore, SD in Codington County.

AQUIFER: Antelope Valley (AV)

HYDROGEOLOGY:

The Antelope Valley aquifer is a glacial outwash aquifer that is composed of very coarse sand to coarse gravel (Hansen, 1990 and 1994). Hedges and others (1982) estimated the areal extent of 28,700 acres and amount of recoverable water stored of 64,580 acre-feet in the Antelope Valley aquifer. Using aquifer materials maps (Jensen 2001, 2003, & 2004), county studies released after the Hedges and others (1982) study (Biessel & Gilbertson, 1987; Hansen, 1990), sand and gravel resource studies (Schulz, 1991; Jarrett, 1986), lithologic logs (Water Rights, 2026f), observation wells (Water Rights, 2026b), and well completion report data (Water Rights, 2026d), Water Rights Staff delineated a updated area for the Antelope Valley aquifer (Figure 1; Drennon, 2026), of approximately 35,000 acres. The Antelope Valley aquifer is located in the axis of the drainage divide between the Big Sioux and Minnesota Rivers and is hydrologically connected to numerous small lakes and sloughs that overlie or are directly adjacent to the aquifer (Hansen, 1990). The aquifer is generally under unconfined conditions; however, there are locations where the aquifer is buried under up to 50 feet of till where it is generally under confined conditions (Hansen, 1990). In Grant and Codington Counties, the depth to the top of aquifer materials ranges from land surface to 57 feet below grade (Hansen, 1990). The average thickness of Antelope Valley aquifer materials is 34 feet with a documented maximum thickness of 52 feet (Hansen, 1990).

Water Right No. 7975-3 has water well completion reports on file for the existing diversion points this application intends to use. The wells were completed into the Antelope Valley aquifer on April 14th, 2015, and May 20th, 2015 (Water Rights, 2026b). The reported depth to the top of aquifer material is approximately 2 feet below the ground surface, static water level is approximately 10 feet below the ground surface, and a saturated aquifer thickness of approximately 44 to 45 feet (SDGS, 2026; Water Rights, 2026b). Based on this and other nearby

water well completion reports, the Antelope Valley aquifer is unconfined at the diversion points (SDGS, 2026; Water Rights, 2026b and 2026d).

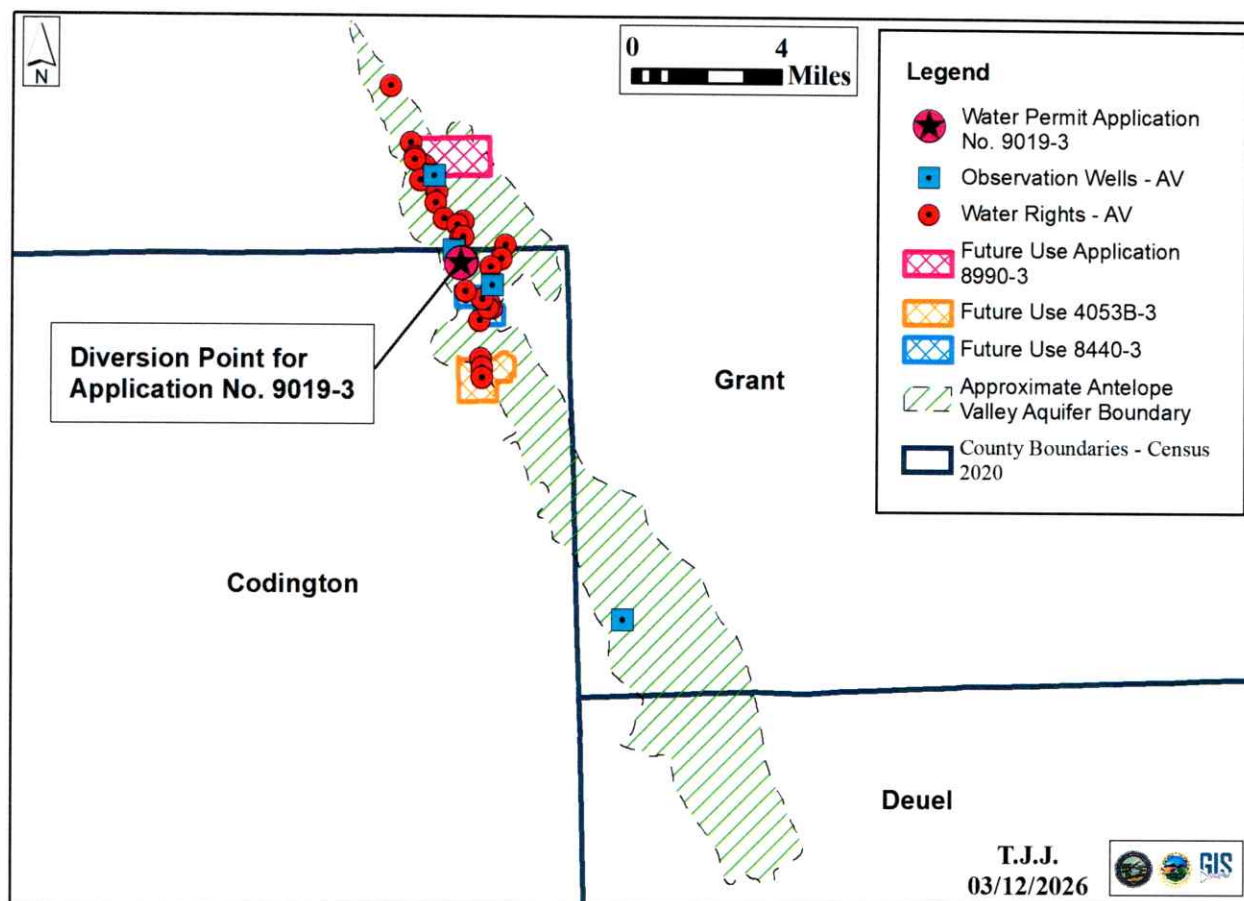


Figure 1. Map of the approximate Antelope Valley aquifer boundary (Drennon, 2026), the location of existing diversion points for Water Permit Application No. 9019-3, Antelope Valley aquifer observation wells, and Antelope Valley aquifer water rights (Water Rights, 2026b and 2026c).

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 Antelope Valley aquifer.

WATER AVAILABILITY:

Water Permit Application No. 9019-3 proposes to appropriate water from the Antelope Valley 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 Antelope Valley aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Antelope Valley aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Antelope Valley aquifer is primarily through direct infiltration and subsequent percolation of rainfall and snowmelt where the aquifer is near or at land surface (Hansen, 1990). Additional recharge to the aquifer can occur in hydraulically connected lakes and sloughs, including Punished Woman, Round and Crooked Lakes (Hansen, 1990; Water Rights, 2026d). Using observation well analysis, Hedges and others (1985) estimated a recharge rate of 2.3 inches per year to the Antelope Valley aquifer. The Antelope Valley aquifer has an estimated areal extent of approximately 35,000 acres (Drennon, 2026); therefore, the estimated average annual recharge rate (based on Hedges and others, 1985; Drennon, 2026) is approximately 6,700 acre-feet per year.

The observation well analysis method used by Hedges and others (1985) assumed a rise in water level in the aquifer as the only product of recharge to the aquifer. A rise in water level in the aquifer is the result of recharge to the aquifer exceeding discharge from the aquifer, indicating the observation well analysis method may be conservative when estimating a recharge rate because it does not necessarily account for recharge that occurs when discharge from the aquifer exceeds recharge.

Discharge

Discharge from the Antelope Valley aquifer is through well withdrawals and evapotranspiration where the aquifer is near or at land surface. Additional discharge from the aquifer is through outflow to hydraulically connected lakes and sloughs, including Punished Woman, Round and Crooked Lakes (Hansen, 1990; Water Rights, 2026d).

Currently, there are 16 water rights/permits authorized to appropriate water from Antelope Valley aquifer (Water Rights, 2026c). Additionally, there are three future use permits (Nos. 4053-3 and 4053B-3 for the Town of South Shore, and 8440-3 for Grant-Robert RWS) reserving a combined 959 acre-feet of water annually from the Antelope Valley aquifer (Water Rights, 2026c). Additionally, there are two other applications, Application Nos. 8990-3 & 9022-3. Water

Permit Application No. 8990-3 proposes to reserve 1,120 acre-feet per year for future use by the City of Milbank. It should be noted that Application No. 8990-3 is currently contested and a hearing before the Water Management Board will be needed to determine approval or denial of that future use application. The outcome of that hearing may affect the determination of availability of unappropriated water.

Table 1 summarizes the three non-irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer with the estimated annual use for each water right/permit as determined by their permitted maximum diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer and is likely an overestimation of average annual withdrawals (Water Rights, 2026c). Overall, the estimated average annual withdrawal rate for the Antelope Valley aquifer non-irrigation water rights/permits is approximately 1,351 acre-feet per year (Table 1) (Water Rights, 2026c).

Table 1. Estimated average annual use for non-irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer (Water Rights, 2026c).

Permit No.	Name	Uses	Status	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
4053A-3	Town of South Shore	MUN	License	0.58	N/A	252
5520-3	Town of South Shore	MUN	License	0.09	N/A	39
8439-3	Grant-Roberts Rural Water System	RWS	License	5.14	1,995	1,060*
					Total:	1,351
MUN Municipal, RWS Rural Water System *Reports annual non-irrigation use to the chief engineer.						

Grant-Roberts Rural Water System currently holds Water Right No. 8439-3, which Water Permit No. 6654-3 and Water Permit No. 8321-3 were incorporated into, and is required to annually report the volume of water pumped from the Antelope Valley aquifer (Water Rights, 2026c). The reported historic annual use from the Grant-Roberts Rural Water System over the period of record (2003 to 2024) on file with the DANR - Water Rights Program is listed in Table 2 (Water Rights, 2026c). The Grant-Roberts Rural Water System, on average, uses less than their permitted volume each year; therefore, the assumed maximum permitted use shown in Table 1 is a higher annual withdrawal rate estimate than what is actually being withdrawn each year from the Antelope Valley aquifer from the non-irrigation water rights/permits. However, this conservative method of estimating average annual withdrawals is used because Grant-Roberts Rural Water System has shown some increase in annual pumpage over the period of record as shown in Table 2 and currently holds a future use permit for potential future growth.

Table 2. Reported historic use from the Grant-Roberts Rural Water System water rights/permits (Water Rights, 2026c).

Year (Right/Permit Nos.)	Permitted (acre-feet/year)	Reported (acre-feet/year)	Year	Permitted (acre-feet/year)	Reported (acre- feet/year)
2003 (5576-3, 5576A-3)	1,074	761	2015 (5576-3, 5576A-3, 6654-3)	1,074	1,043
2004 (5576-3, 5576A-3, 6654-3)	1,074	792	2016 (5576-3, 5576A-3, 6654-3)	1,074	967
2005 (5576-3, 5576A-3, 6654-3)	1,074	645	2017 (5576-3, 5576A-3, 6654-3)	1,074	983
2006 (5576-3, 5576A-3, 6654-3)	1,074	835	2018 (6654-3, 8321-3)	1,381	1,154
2007 (5576-3, 5576A-3, 6654-3)	1,074	875	2019 (6654-3, 8321-3)	1,381	1,183
2008 (5576-3, 5576A-3, 6654-3)	1,074	890	2020 (6654-3, 8321-3)	1,381	1,158
2009 (5576-3, 5576A-3, 6654-3)	1,074	874	2021 (6654-3, 8321-3)	1,381	1,037
2010 (5576-3, 5576A-3, 6654-3)	1,074	881	2022 (6654-3, 8321-3)	1,381	1,077
2011 (5576-3, 5576A-3, 6654-3)	1,074	844	2023 (6654-3, 8321-3)	1,381	1,022
2012 (5576-3, 5576A-3, 6654-3)	1,074	887	2024 (6654-3, 8321-3)	1,381	1,063
2013 (5576-3, 5576A-3, 6654-3)	1,074	920	Reported Average (2003-2024)		948
2014 (5576-3, 5576A-3, 6654-3)	1,074	963	Reported Average (2015-2024)		1,060

Currently, there are 12 irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer (Water Rights, 2026c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Antelope Valley aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2024) is approximately 1,118 acre-feet per year (Table 3) (Water Rights, 2026a). To reflect the current level of development for irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2015 to 2024 is approximately 1,348 acre-feet per year and will be used as the estimated average annual irrigation withdrawals for review of water availability (Table 3) (Water Rights, 2026a).

There is one recently approved irrigation water permit that has not yet reported in the 2024 irrigation questionnaire (IQ) and needs to be accounted for. Water Permit No. 8915-3 is authorized to irrigate 160 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 60-miles southwest of the Antelope Valley 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 of the following

irrigation water permit and applications. Assuming 0.83 feet of water per acre per year, the withdrawal rate for Water Permit No. 8915-3 is approximately 133 acre-feet per year. This pending application proposes to irrigate approximately 25 acres. Water Permit Application No. 9022-3 proposes to irrigate an additional 40 acres to an existing water permit. Assuming 0.83 feet of water per acre per year, the withdrawal rate for these applications, if approved, is approximately 54 acre-feet per year.

There are domestic wells completed into the Antelope Valley 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 Antelope Valley 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 Antelope Valley aquifer.

Table 3. Reported irrigation use from the Antelope Valley aquifer from 1979 to 2024 (Water Rights, 2026a)

Year	Number of Permit/License	Annual Pumpage (ac-ft/yr)	Year	Number of Permit/License	Annual Pumpage (ac-ft/yr)
1979	7	73	2002	9	1,534
1980	9	435	2003	9	2,001
1981	7	513	2004	9	1,596
1982	5	61	2005	9	1,740
1983	6	543	2006	9	1,937
1984	6	136	2007	9	1,299
1985	6	49	2008	9	989
1986	6	41	2009	9	1,281
1987	6	645	2010	10	1,419
1988	7	1,827	2011	10	887
1989	7	1,427	2012	10	2,164
1990	10	1,606	2013	12	2,003
1991	12	989	2014	14	749
1992	11	650	2015	14	570
1993	11	310	2016	14	2,019
1994	10	699	2017	14	1,405
1995	10	469	2018	14	1,403
1996	8	1,029	2019	14	228
1997	8	932	2020	14	1,298
1998	9	1,136	2021	14	1,583
1999	9	1,379	2022	14	2,035
2000	9	1,608	2023	12	1,787
2001	9	1,809	2024	12	1,149
			Average (1979-2024)	10	1,118
			Average (2015-2024)	14	1,348

Hydrologic Budget Summary

The estimated average annual recharge rate to the Antelope Valley aquifer is approximately 6,700 acre-feet per year. The estimated average annual withdrawal rate from the Antelope Valley aquifer is approximately 4,965 acre-feet per year (non-irrigation: 1,351 acre-feet/year; irrigation: 1,348 acre-feet/year (2014 to 2023); Future Use Reservations: 959 acre-feet/year; Future Use Application No. 8990-3 (if approved): 1,120 acre-feet/year; Water Permit Application Nos. 9019-3 & 9022-3 (if approved, assuming application rate of 0.83 feet of water per authorized acre): 54 acre-feet/year). 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 Antelope Valley aquifer for the proposed appropriation. As previously stated, Future Use Application No. 8990-3 is currently contested and scheduled for a hearing in front of the Water Management Board. The outcome of that hearing may affect the determination of availability of unappropriated water.

Table 4. List of water rights/permits withdrawals, estimated use of recently approved permits, the pending applications and this application (if approved), and unconfined/confined recharge to the Antelope Valley aquifer (Water Rights, 2026a)

	Hydrologic Budget for the Antelope Valley Aquifer (ac-ft/yr)
Future Use	959
Non-Irrigation Appropriation	1,351
Irrigation Appropriation (2015-2024)	1,348
Recently Approved Permits (2023-2025)	133
Current Withdrawal	3,791
Pending Future Use Application (8990-3)	1,120
Pending Application (9019-3 & 9022-3)	54
Total Withdrawal	4,965
Total Recharge	6,700

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 four observation wells completed into the Antelope Valley aquifer with observation wells in the area of this application shown on Figure 3 (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 diversion points are GT-77G (approximately 0.4 miles northwest), CD-76G (approximately 1.0 mile southeast), and GT-76D (approximately 2.4 miles northwest) (Water Rights, 2026b). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2026b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing converted to feet from the NGVD29 datum.

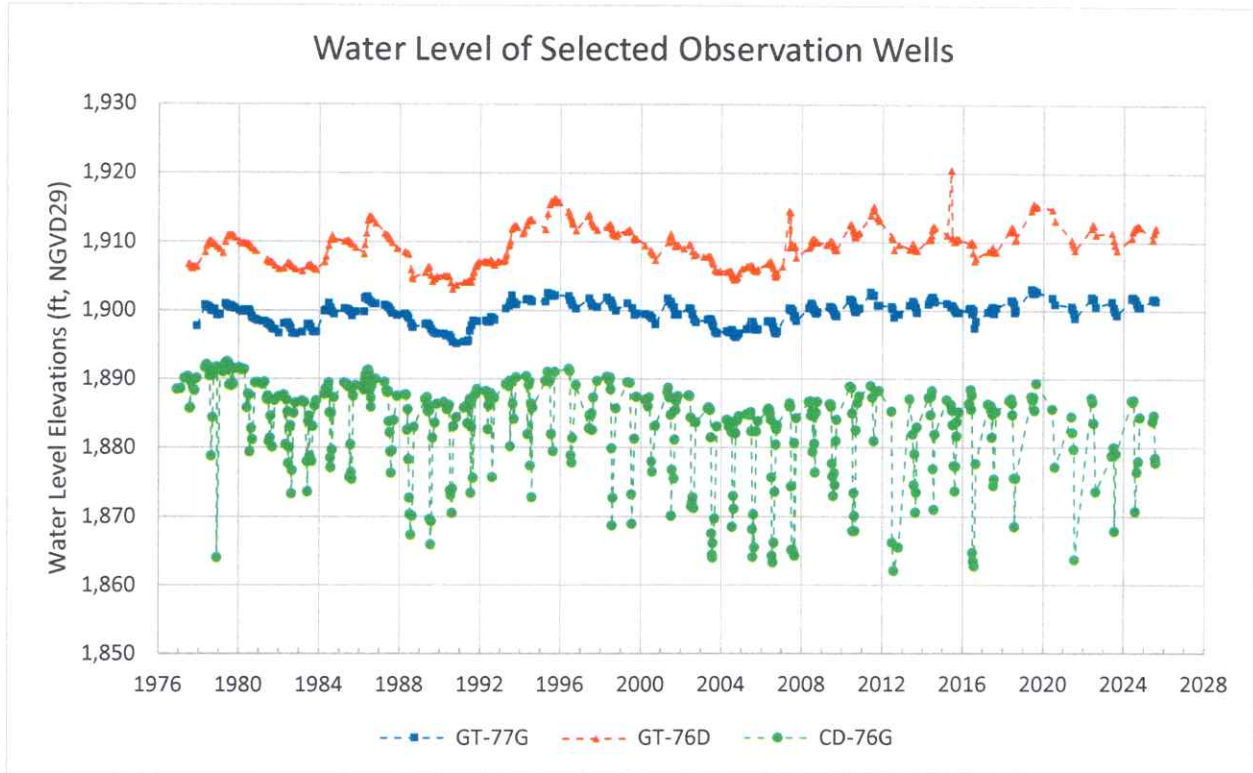


Figure 2. A hydrograph showing the elevation of water levels of observation wells GT-77G, GT-76D, and CD-76G (Water Rights, 2026b)

A majority of the observation wells in the Antelope Valley aquifer have a relatively stable trend in the water level, as seen in Figure 2. The hydrograph for CD-76G shows sudden seasonal drawdown caused by numerous nearby appropriative wells indicating this well is under confined conditions while the other observation wells are not under confined conditions. The hydrographs for the Antelope Valley 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. 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 Antelope Valley 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.

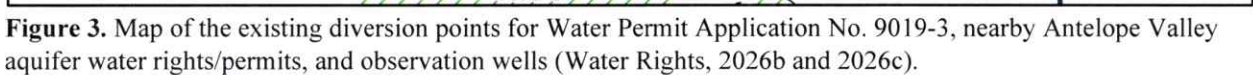


Table 5. List of water rights/permits shown in Figure 3 (Water Rights, 2026c).

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
2478-3	Joe/John Arthur	12/15/1975	License	Irrigation	1.07	75
3672-3*	Coast Properties Investors LLC	02/23/1977	License	Irrigation	1.78	132
3781-3	Joe/John Arthur	02/27/1975	License	Irrigation	3.75	264
4053B-3	Town of South Shore	10/20/1976	Future Use	Municipal	N/A	192 (acre-feet)
5173B-3	Willow Run Farms FLP	03/03/1987	License	Irrigation	1.78	136
5586-3	Willow Run Farms FLP	02/18/1975	License	Irrigation	6.00	420
7192-3	Willow Run Farms FLP	04/05/2010	License	Irrigation	1.00	49
7534-3	Joe/John Arthur	11/27/2012	License	Irrigation	7.02	555
7975-3*	Jim & Dan Thyen	02/12/2014	License	Irrigation	1.67	117
8439-3	Grant-Roberts RWS	08/24/2020	License	RWS	5.14	0
8440-3	Grant-Roberts RWS	09/15/2008	Future Use	RWS	N/A	767 (acre-feet)
8915-3	Craig Arthur	12/20/2024	Permit	Irrigation	1.67	160
*These Water Rights are intended to be incorporated into new applications (9019-3 & 9022-3); RWS: Rural Water System						

The Antelope Valley aquifer is under confined conditions at the existing well site (Water Rights, 2026d). In a confined aquifer, drawdown from a pumping well can extend some distance from the well. 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). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Antelope Valley aquifer at their location. The South Dakota Department of Agriculture & Natural Resources complaints database has no complaints about the Antelope Valley aquifer in Codington and Grant Counties (Water Rights, 2026e). The existing wells for this application have been in use since 2014 with no history of interference. When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), history of high

capacity well development in the area without any complaints of well interference (Water Rights, 2026e), no increase in the authorized diversion rate, 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. 9019-3 proposes to irrigate an additional 25 acres, from two existing wells authorized by Water Right No. 7975-3. Water Right No. 7975-3 authorizes 1.67 cfs from two wells completed into the Antelope Valley aquifer (52-54 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3 for the irrigation of 117 acres located in the NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3; all in T119N-R51W. This application proposes to irrigate an additional 25 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3-T119N-R51W, with no increase to the 1.67 cfs diversion rate. This application, if approved, and Water Right No. 7975-3 will authorize a combined total of 1.67 cfs for irrigation of 142 acres. The site of interest is located approximately two and one-half miles north of South Shore, SD in Codington County.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Antelope Valley aquifer to supply the proposed appropriation.
3. The pending Water Management Board hearing regarding Future Use Application No. 8990-3, may affect the determination of water availability for this application. Thus, it is recommended to defer this application until the hearing for Application No. 8990-3 has concluded.
4. There is a reasonable probability that the proposed diversion by Water Permit Application No. 9019-3 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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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 CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

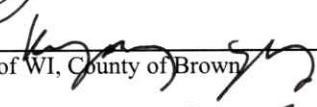
04/02/2026

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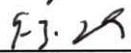
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**NOTICE OF HEARING on
Application No. 9019-3 to
Appropriate Water**

Notice is given that Jim or Dan Thyen, 46220 165th Street, Watertown SD 57201, have filed an application for a water permit to irrigate an additional 25 acres, from two existing wells authorized by Water Right No. 7975-3. Water Right No. 7975-3 authorizes 1.67 cubic feet of water per second (cfs) from two wells completed into the Antelope Valley Aquifer (52 - 54 feet deep) located in the SW 1/4 NW 1/4 Section 3 for irrigation of 117 acres located in the NW 1/4, NE 1/4 SW 1/4 Section 3; all in T119N-R51W. The application proposes to irrigate an additional 25 acres located in the N 1/2 NW 1/4, NE 1/4 SW 1/4 Section 3-T119N-R51W, with no increase to the 1.67 cfs diversion rate. This application, if approved, and Water Right No. 7975-3 will authorize a combined total of 1.67 cfs for the irrigation of 142 acres. This site is located approximately two and one-half miles north of South Shore SD.

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 DEFERRAL of Application No. 9019-3 pending Water Management Board action on a previously filed application, Application No. 8990-3 to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or DENIAL depending on the Board's decision on previously filed Application No. 8990-3. The Acting Chief Engineer's recommendation, 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 2:30 PM (Central Time) on May 6, 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 April 13, 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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The May 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 April 13, 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 April 13, 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 April 13, 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-

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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.

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Water Rights
Program

Jim or Dan Thyen
46220 165th Street
Watertown, SD 57201
605.520.8159

The **Watertown Current** is a weekly newspaper of general circulation, posted online, printed, and published in Watertown, Codington County, South Dakota since October 11, 2024. This is an acknowledgement that the attached/included public notice was included in the printed edition(s) of the **Watertown Current**:

April 2, 2026 – NOTICE OF HEARING on Application No. 9019-3 to
Appropriate Water (290 lines @ \$.26 each)

I, Troy McQuillen (Owner and Publisher), under oath, do swear, that I am the publisher of the **Watertown Current**, and that the **Watertown Current** is a local newspaper as described in South Dakota codified laws and maintains a paid print circulation of over 2,000 weekly.

Total Cost: \$75.40

Publisher: Troy McQuillen

Notary

Sworn to and subscribed before me on **April 2, 2026**

Barbara Andersh



Notary, State of South Dakota, County of Codington

My Commission Expires: November 14, 2031

LEGALS

Continued from Page 5C

portion of the meeting; none were offered. There were no conflict-of-interest items to note. AGENDA APPROVED Motion by Gabel, second by McElhany, to approve the agenda for March 17, 2026, as posted; all voted aye; motion carried. MINUTES APPROVED Motion by Johnson, second by Schweer, to approve the minutes of March 10, 2026; all voted aye; motion carried. MONTHLY REPORTS Highway Superintendent, Randy Falvey, updated the Board. Granggaard Construction Inc. is continuing ahead of schedule on the 14th Ave. bridge project, a good portion of the framing is in place to pour the deck, any thawing or ice movement has not been an issue so far, once again we were fortunate with the snowfall, other than our big event this past weekend we've only had to send the trucks out twice and motor graders once; we continue to crack seal as weather has permitted, in between fog, mist and flurries, we received Lynn's new pickup and have it outfitted with radios, lights and a toolbox. Steve's World is getting the plow and mount ready; talked with Rob Beynon and Aaron Wicks from the City Street Department about potentially looking at and jointly purchasing a newer screening plant to screen the reclaimed material from road projects, we have looked at different options for size and price point, we discussed a need to have a MOU in place if we do go this route, we received our new trailer for the skid steer and have prepped it for this summer; we have converted one of our older trailers into a sign trailer to more effectively haul our barricades and sand bags for road closures and such, we will continue to use our old sign trailer when we have multiple events; be advised that we will be closing down 17th Street just west of CR 9-4 on 458th Ave. which is the City landfill haul road, tomorrow March 18th, 2026, to repair the east wing wall. Hollaway Construction out of Mitchell will be doing the work, it is scheduled to be completed by Monday, March 23rd, 2026, weather permitting; will be attending the SD Association of County Highway Superintendents Short Course Conference. Facility Manager, Steve Molengraaf, AG Building - staff have been setting up and cleaning for many functions throughout the Extension Center for the past and remainder of March. Court House Detention Center - staff have been doing daily routine maintenance; Park - 285 reservations, with a revenue of \$43,819.50 as of 3-15-2026, the board will be open on April 1st, 2026, for anyone that wants to call or stop by to make any reservations either for camping and especially buildings or shelters; Weed - Annual Weed board meeting and soup supper with the Townships was held on March 11th, 2026, at 6:00 p.m. in the kitchen of the Extension Complex. 36 individuals representing the county and townships were present; Randy Schweer and I attended the State Weed Conference in February in Deadwood, the sessions were very good and educational. WNV - WEED BOARD APPOINTMENT Motion by McElhany, second by Schweer, to approve the following Weed Board appointment: Adam Hartley, Steve Molengraaf, Facility Manager, informed the Board that he replaces Mike Paulsen, and he will be representing the southwest portion of Codington County; all voted aye; motion carried. PLAT CABINET IN REGISTER OF DEEDS OFFICE Motion by Gabel, second by McElhany, to accept the quote to purchase 2 Easi File Plat cabinets and 2 carts along with a Easi File hanger and hanger applicator, from Easi File, in the amount of \$6,728.22, as recommended

by Register of Deeds, Ann Rasmussen, the previous plat cabinet was purchased in 2003, M&P funds will be used for this purchase; all voted aye; motion carried. SURPLUS OFFICE EQUIPMENT IN SHERIFF'S OFFICE Motion by McElhany, second by Schweer, to declare the following office equipment, in the Sheriff's Office, surplus to be destroyed: 1- 578 HP Elite Book, SN 5C01295344, 1- 574 Desktop Computer, Prodesk, SN MXL1024N6P, 2 - 119 HP ProBook, SN 5CD110QD1X, and 1- 591 GTAC, SN RN503S1540; all voted aye; motion carried. HMEP GRANT FUNDS Motion by Johnson, second by McElhany, to approve the application of HMEP (Hazardous Materials Emergency Preparedness) Grant funds; Andrew Delgado, Emergency Manager, informed the Board that this is an annual grant application, all present voted aye; motion carried. NOTE NO BOARD MEETING Due to previously adopted policy the Board will not meet Tuesday, March 31st, 2026. CLAIMS Motion by McElhany, second by Gabel, to approve for payment the following claims: South Dakota Public Assurance Alliance \$131,905.90, Auditor, Brenda Hanten, informed the Board that this is the annual renewal for general liability, auto liability and damage, and law enforcement coverage; all voted aye; motion carried. TRAVEL REQUEST Motion by Johnson, second by McElhany, to approve the following travel request: Director of Equalization staff to attend conference; all voted aye; motion carried. OLD BUSINESS Commissioner Gabel provided a construction update on the new jail. The steel columns and beams erection is progressing well, with another planned visit to inspect precast panels for Area C, which houses the Sheriff's Office. OPEN Commission Comments - Commissioner Johnson mentioned he will be attending the SD Retirement meeting. EXECUTIVE SESSION Motion by Johnson, second by McElhany, to enter executive session, per SDCL 1-25-2(1) Disposition of personnel issues. The Board returned to regular session at 9:28 a.m., and no action was taken. Human Resource Representative, Natalie Remund, and State's Attorney, Alison Bakken, were present for executive session. ADJOURNMENT Upon conclusion of all business to come before the Board, a motion was made by Gabel, second by Schweer to adjourn at 9:29 a.m., all voted aye; motion carried. ATTEST: Brenda Hanten Codington County Auditor Codington County does not discriminate on the basis of color, national origin, sex, religion, age, or disability in employment or the provision of service. Published once on April 2, 2026, at the total approximate cost of \$88.90 and can be viewed free of charge at www.sdpublishonics.com and www.watertowncurrent.com

NOTICE OF HEARING ON Application No. 9019-3 to Appropriate Water

Notice is given that Jim or Dan Thyen, 46220 165th Street, Watertown SD 57201, have filed an application for a water permit to irrigate an additional 25 acres, from two existing wells authorized by Water Right No. 7975-3. Water Right No. 7975-3 authorizes 1.67 cubic feet of water per second (cfs) from two wells completed into the Antelope Valley Aquifer (52 - 34 feet deep) located in the SW 1/4 NW 1/4 Section 3 for irrigation

of 117 acres located in the NW 1/4, NE 1/4 SW 1/4 Section 3; all in T119N-R51W. The application proposes to irrigate an additional 25 acres located in the N 1/2 NW 1/4, NE 1/4 SW 1/4 Section 3-T119N-R51W, with no increase to the 1.67 cfs diversion rate. This application, if approved, and Water Right No. 7975-3 will authorize a combined total of 1.67 cfs for the irrigation of 142 acres. This site is located approximately two and one-half miles north of South Shore SD 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 applicant, 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 the 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 DEFERRAL of Application No. 9019-3 pending Water Management Board action on a previously filed application, Application No. 8990-3 to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or DENIAL depending on the Board's decision on previously filed Application No. 8990-3. The Acting Chief Engineer's recommendation, the application, and staff report are available at <https://dandr.sd.gov/public> or contact Amanda Dewell for this information, or other information, at the Water Management Board, 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 46-2A-4 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://dandr.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 will be given above. If a contested case hearing is held, the applicant shall also file

a petition. A petition filed by either an interested person or the applicant must be filed by April 13, 2026. The petition shall be in writing and shall include a statement describing the hearing and the request 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 the request of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The May 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 April 13, 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://dandr.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 April 13, 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, Non-discrimination Officer, 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 1-25-2(7), notices must state that "if the amount in controversy exceeds \$250.00 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 filing notice of the request of 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 April 13, 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 under 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, 46-2-9, 46-2-11, 46-2-17, 46-2A-4, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23, 46-5-1, 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, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49, 46-6-1 thru 46-6-3, 46-6-6, 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 on April 2, 2026, at the total approximate cost of \$75.40 and can be viewed free of charge at www.sdpublishonics.com and www.watertowncurrent.com

LAKE KAMPESKA WATER PROJECT DISTRICT NOTICE OF ANNUAL MEETING

Notice is hereby given that the annual election and meeting of the Lake Kampeska Water Project District will be held on Thursday, April 23, 2026, at 7:00 p.m., at The Prop. 726 South Lake Drive, Watertown, South Dakota. The purpose of the meeting is to elect directors at large to fill the expiring terms of Bradley D. Johnson and Jeff Ranum. No qualified nominating petitions were filed. The vacancies created by the expiring term of Johnson and Ranum will be filled by appointment by the directors instead of elections by the members. A short program will be held during the meeting. Katie M. DeBoer Secretary-Treasurer Lake Kampeska Water Project District Published three times on April 2, 2026, April 9, 2026, and April 16, 2026, at the total approximate cost of \$31.54 and can be viewed free of charge at www.sdpublishonics.com and www.watertowncurrent.com

MINUTES OF HENRY SCHOOL DISTRICT 14-2

The Henry School District's Board of Education met in regular session on March 9th, 2026, at 6:30 p.m. at the High School building with the following members present: PRESENT: Audrey Rider, Janna Owen, Austin Page, Dan Hoffman ABSENT: Paul Johnson, Officers and Other Persons Present: Todd Obele, Superintendent, Nicky Watson, Business Manager, Landon Hammer, Principal, LouAnn Jensen, Laryn Warkentien Action #91-26 No public input. Action #92-26 Motion by Owen, seconded by Page, to adopt the agenda as presented and add Assistant Softball Coach, Four (4) Yes Votes. Rider, Owen, Page and Hoffman. Motion carried. Action #93-26 No disclosures of this meeting. Action #94-26 6.1 Motion by Hoffman, seconded by Owen to approve the Consent Agenda. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 6.2: Dispense with the reading of the minutes of the regular meeting held on February 10th, 2026, and approve as published. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 6.3: Financial Reports GENERAL FUND: Cash Balance 2-1-26 \$431,554.08; Revenue: Local - \$23,470.49; State - \$114,479.04; Federal - \$22,141.17; Intermediate - \$1,194.59; Other - \$0; Expenditures: \$211,522.91; Cash Balance 2-28-26 \$381,326.46; CAPITAL OUTLAY: Cash Balance 2-01-26 \$6,126.77; Revenues: \$13,162.90; Expenditures: \$4,434.00; Cash Balance 2-28-26 \$624,757.67 SPECIAL ED: Cash Balance 2-01-26 \$13,352.92; Revenue - \$17,307.13; Expenditures: \$31,773.04; Cash Balance 2-01-26 \$12,999.00 TRUST & AGENCY FUND: Cash Balance 2-01-26 \$53,108.48; Revenue \$7,058.88; Expenditures \$8,269.10; Balance 2-28-26 \$51,898.26 PROPRIETARY FUND: Cash Balance 2-01-26 \$49,766.28; Revenue - \$8,623.58; Expenditures - \$10,053.55; Balance 2-28-26 \$48,336.31 Action #95-26 7.1 Motion by Hoffman, seconded by Owen, to approve the Claims Against the District. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 7.1: Claims Against the District GENERAL FUND BRIAN'S

GLASS & DOOR KEYS 48.00 CENTURY BUSINESS PRODUCTS COPIER READINGS 667.48 CLARK COMMUNITY OIL PROPANE 2,391.35 CLARK COUNTY COURIER OFFICIAL PROCEEDINGS AUG 27, 2024 DACOTAH BANK VISA CARD BOOKS, EARBUDS, SUPPLIES 238.93 DOUG'S AUTO REPAIR #27 MINI BUS OIL CHANGE 79.63 DYKSTRA, LOGAN REIMB FOR FUEL 50.32 IMPREST ACCOUNT SUB MULT DRIVER, GBS OFFICIALS 57.92 ITC TELEPHONE 157.19 KPHR POWER 106.3 ADVERTISING 150.00 MENARDS JANITOR SUPPLIES 146.32 NORTHWESTERN ENERGY ELECTRICITY 3,755.09 OFFICE PEEPS BINDER CLIPS 15.40 PT APPLIANCE REPAIR FIX DRYER 186.95 RAASCH, STEPHANIE REIMB FOR DEICER 7.42 RIEFFENBERGER, CARLIE REIMB FOR ICE CREAM SUPPLIES 2,805.95 SAVVAS LEARNING COMPANY ADOTI ILLT SUBSCRIPTIONS 1,795.50 SHEYENNE TRANSPORT LLC BUS TRANSPORTATION 20,602.76 TOWN OF HENRY WATER/SEWER 294.69 WATERTOWN CURRENT OFFICIAL PROCEEDINGS 73.84 MARCH PAYROLL FUND 53,904.36 WITHHOLDINGS FUND 53,248.47 72 NPPI INS/STANDARD 19,298.75 SD RETIREMENT SYSTEM FUND 53,13,640.60 SUPP RETIREMENT 2,480.87 VFL 283,280.00 615.70 AFLAC 527.52 TOTAL GENERAL FUND DISBURSEMENTS: 183,140.05 CAPITAL OUTLAY ACTIVE HEATING HOT WATER HEATER REPAIR 1,427.50 TOTAL CAPITAL OUTLAY DISBURSEMENTS: 1,427.50 SPECIAL EDUCATION DACOTAH BANK VISA CARD EXPEDIA-SPED CONFERENCE 178.37 NORTHEASTERN SERV CO OF MARCH ASSESSMENT 8,996.54 MARCH PAYROLL 22,017.84 TOTAL SPECIAL EDUCATION DISBURSEMENTS: 31,192.75 SCHOOL FOOD SERVICE MARCH PAYROLL 6,506.26 CASH-WA DISTRIBUTING 548.33 CLARK COUNTY COURIER 17.00 EAST SIDE DAIRY 885.94 PERFORMANCE FOOD SERVICE 2,318.02 DISBURSEMENTS: 6,141.02 NUTRITION 196.72 TOTAL SCHOOL FOOD SERVICE DISBURSEMENTS: 10,272.27 7.2: Motion by Page, seconded by Hoffman, to approve the updated Wellness Policy. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.3: Motion by Hoffman, seconded by Hoffman, to approve the Drivers Ed Contract with Craig Case & Nathan Bloom at \$250 per student. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.4: Motion by Hoffman, seconded by Hoffman, to approve the resignation of Matthew Lepke. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.5: Motion by Hoffman, seconded by Owen to approve one open enrollment application and deny one open enrollment application. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.6: Motion by Owen, seconded by Page to approve the 2nd reading of the online Policy 6.12-26-27. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.7: Motion by Page, seconded by Hoffman to approve the Assistant Softball Coaching Contract. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.8: Motion by Hoffman, seconded by Owen, to approve the contract for Todd Obele. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. Action #96-26 - 8.0 Communication Reports: 8.1: Bus report was reviewed by the Business Manager with no action necessary. 8.2: Business Manager discussed school board petition information. 8.3: Business Manager discussed Family Fun Day for the Acting Henry School District. The meeting was adjourned at 7:11 p.m. on March 9th, 2026. June 27th, 2026. More

See LEGALS on Page 7C



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 12, 2026

NOTICE

TO: Jim or Dan Thyen
46220 165th St
Watertown SD 57201

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

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

SUBJECT: Board Action & Scheduling of Hearing on Water Permit Application No. 9019-3,
Jim or Dan Thyen

At the Water Management Board meeting held May 6th and 7th, 2026, the Board deferred Water Permit Application No. 9019-3. The deferral action was taken based on the Acting Chief Engineer's recommendation and public notice published in the Watertown Public Opinion and the Watertown Current on April 2, 2026, pending Board action on a previously filed application submitted by the City of Milbank (Application No. 8990-3), to reserve water from the Antelope Valley Aquifer for future use, since the Board's decision on Application No. 8990-3 will impact the amount of water available from the aquifer.

The Water Management Board will conduct a hearing to re-consider Application No. 9019-3 at **9:45 AM (Central Time), on Wednesday, July 8, 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.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-4, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notices references above, still apply. 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 the application after it reaches a conclusion based on the facts presented at the public hearing.

Contact Amanda Dewell at the above address to request a 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, service is being provided by direct mail to you, and the applicable date to give notice to the acting Chief Engineer is May 25, 2026. The acting 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; 46-5-1.1, 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.

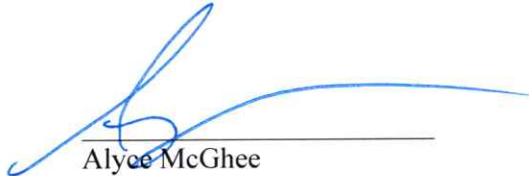
CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE dated May 12, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following on May 12, 2026.

Jim or Dan Thyen
46220 165th St
Watertown SD 57201

Also sent inter-office to:

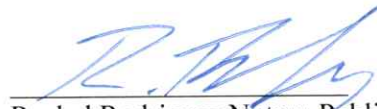
Emily Greco, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501



Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of May, 2026.



Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



9019-3

FILE COPY

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

RECEIVED

JAN 02 2026

OFFICE OF
WATER

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>9022-3</u> Hydrologic Unit <u>07020001</u> Basin <u>Upper Minnesota</u> Newspaper <u>Watertown Public Opinion</u> <u>Watertown Current</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.)

- Name to Appear on Irrigation Permit Leonard Sigdestad
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
Mailing Address 22365 Barton Rd Box 350 Grand Terrace CA 92313
(Address) (City) (State) (Zip Code)
Phone 909 709 6200 Mobile _____ Email: drs1g@sbglobal.net
- Amount of water claimed 0 *CFS or 0 **GPM ***AF Total Acreage 37.540
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply 1 Well Antelope Valley Ag
- Location of point of diversion 10-T119N-R51W SE 1/4 SE 1/4
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
County Codington
- County or counties where water will be used Codington
- Annual period during which water is to be used May 1 - Sept. 30
- 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
10 T119N R 51W SE 1/4 SE 1/4	23	SW 1/4 + SW 1/4 SE 1/4	40
10 T119N R 51W NE 1/4 SE 1/4	4.52		
10 T119N R 51W SW 1/4 SW 1/4	2.53		
10 T119N R 51W NW 1/4 SW 1/4	10.15		

- Give a description of the project. (Attach sheet if more space is needed)
For questions Call Jim Thyen (605) 520-8154
or Email JPTHYEN@ITCtel.com, 1 small Pivot 23 acres
and Gun irrigation

1. Jim Thyen Name of Person Tenant + agent? Title (if applicable) the applicant, certify under

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)

45.12170/-96.93163

RECEIVED

JAN 02 2026

OFFICE OF
WATER

Form 2A
(Complete applicable portions only)

Supplemental Information

(type or print)

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

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

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

b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells:

c) Well Depth (required) 85 Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property ~~2030~~ Property owned by others 2030

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)

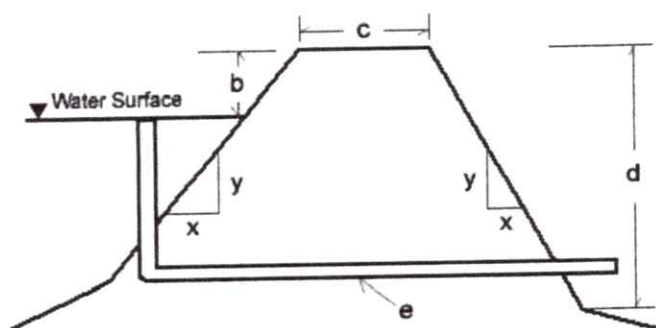
Upstream _____

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. 9022-3, Leonard Sigdestad**

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. 9022-3, Leonard Sigdestad, 46220 165th Street, Waterdown SD 57201.

The Acting Chief Engineer is recommending DEFERRAL of Application No. 9022-3 pending Water Management Board action on a previously filed application by the City of Milbank (Application No. 8990-3) to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. Consequently, Application No. 9022-3 should be deferred until the status of water availability from the Antelope Valley Aquifer is known based on the Board's decision. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or DENIAL depending on the Board's decision on previously filed Application No. 8990-3.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
April 07, 2026

Report to the Chief Engineer
On Water Permit Application No. 9022-3

Leonard Sigdestad

April 2nd, 2026

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 completed into the Antelope Valley aquifer (133 feet deep) located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10 for the irrigation of 132 acres located in the SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10; all in T119N-R51W. This application proposes to irrigate an additional 40 acres located in the SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10-T119N-R51W, with no increase to the 1.78 cfs diversion rate. This application, if approved, and Water Right No. 3672-3 will authorize 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, SD in Codington County.

AQUIFER: Antelope Valley (AV)

HYDROGEOLOGY:

The Antelope Valley aquifer is a glacial outwash aquifer that is composed of very coarse sand to coarse gravel (Hansen, 1990 and 1994). Hedges and others (1982) estimated the areal extent of 28,700 acres and amount of recoverable water stored of 64,580 acre-feet in the Antelope Valley aquifer. Using aquifer materials maps (Jensen 2001, 2003, & 2004), county studies released after the Hedges and others (1982) study (Biessel & Gilbertson, 1987; Hansen, 1990), sand and gravel resource studies (Schulz, 1991; Jarrett, 1986), lithologic logs (Water Rights, 2026f), observation wells (Water Rights, 2026b), and well completion report data (Water Rights, 2026d), Water Rights Staff delineated an updated area for the Antelope Valley aquifer (Figure 1; Drennon, 2026), of approximately 35,000 acres. The Antelope Valley aquifer is located in the axis of the drainage divide between the Big Sioux and Minnesota Rivers and is hydrologically connected to numerous small lakes and sloughs that overlie or are directly adjacent to the aquifer (Hansen, 1990). The aquifer is generally under unconfined conditions; however, there are locations where the aquifer is buried under up to 50 feet of till where it is generally under confined conditions (Hansen, 1990). In Grant and Codington Counties, the depth to the top of aquifer materials ranges from land surface to 57 feet below grade (Hansen, 1990). The average thickness of Antelope Valley aquifer materials is 34 feet with a documented maximum thickness of 52 feet (Hansen, 1990).

Water Right No. 3672-3 has a water well completion report on file for the existing diversion point this application intends to use. The well was completed into the Antelope Valley aquifer on June 19th, 1979 (Water Rights, 2026b). The reported depth to the top of aquifer material is approximately 81 feet below the ground surface, static water level was at ground surface, and a saturated aquifer thickness of approximately 52 feet (SDGS, 2026; Water Rights, 2026b). Based on this, other nearby water well completion reports, and the hydrograph of nearby observation

well CD-76G, the Antelope Valley aquifer is locally confined by a clay lens at the diversion point (SDGS, 2026; Water Rights, 2026b and 2026d).

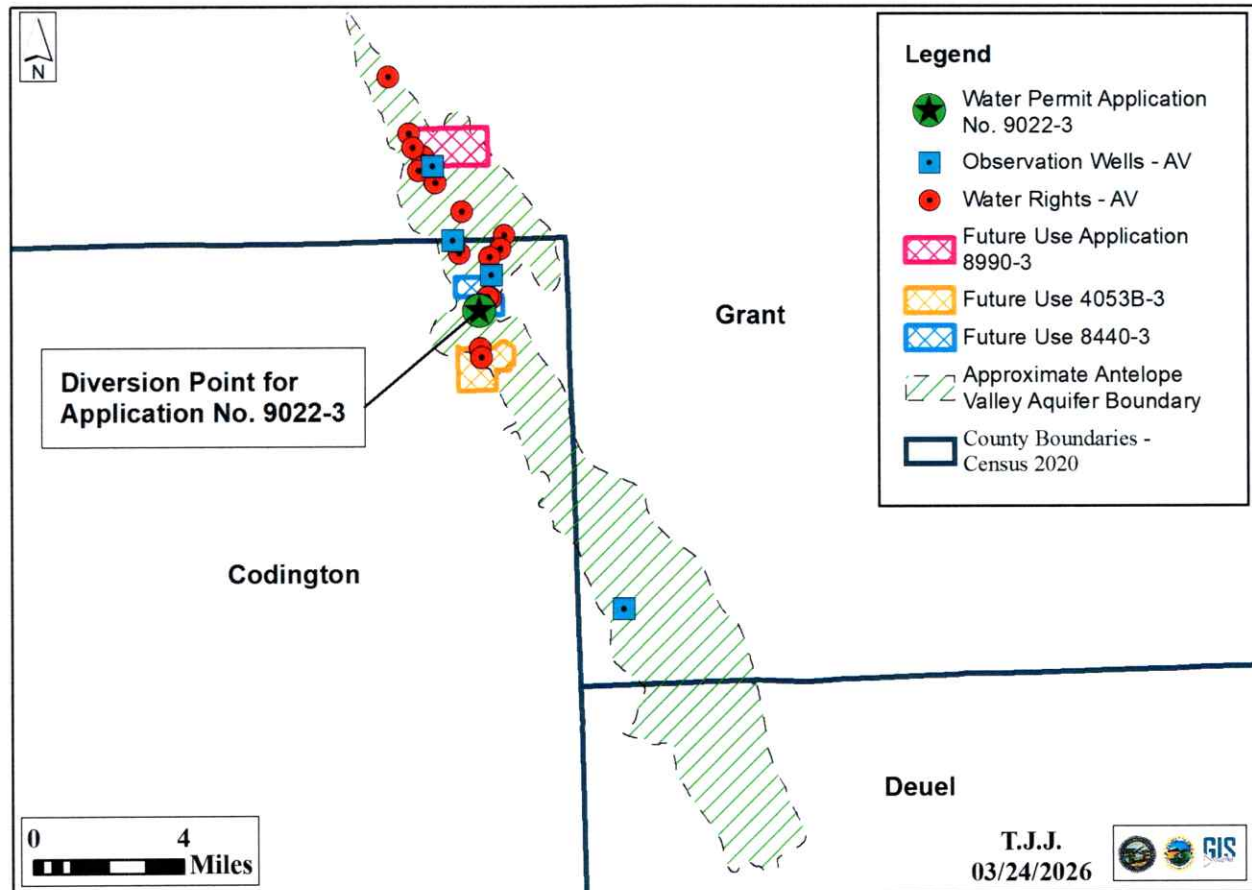


Figure 1. Map of the approximate Antelope Valley aquifer boundary (Drennon, 2026), the location of the existing diversion point for Water Permit Application No. 9022-3, Antelope Valley aquifer observation wells, and Antelope Valley aquifer water rights (Water Rights, 2026b and 2026c).

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 Antelope Valley aquifer.

WATER AVAILABILITY:

Water Permit Application No. 9022-3 proposes to appropriate water from the Antelope Valley 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 Antelope Valley aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Antelope Valley aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Antelope Valley aquifer is primarily through direct infiltration and subsequent percolation of rainfall and snowmelt where the aquifer is near or at land surface (Hansen, 1990). Additional recharge to the aquifer can occur in hydraulically connected lakes and sloughs, including Punished Woman, Round, and Crooked Lakes (Hansen, 1990; Water Rights, 2026d). Using observation well analysis, Hedges and others (1985) estimated a recharge rate of 2.3 inches per year to the Antelope Valley aquifer. The Antelope Valley aquifer has an estimated areal extent of approximately 35,000 acres (Drennon, 2026); therefore, the estimated average annual recharge rate (based on Hedges and others, 1985; Drennon, 2026) is approximately 6,700 acre-feet per year.

The observation well analysis method used by Hedges and others (1985) assumed a rise in water level in the aquifer as the only product of recharge to the aquifer. A rise in water level in the aquifer is the result of recharge to the aquifer exceeding discharge from the aquifer, indicating the observation well analysis method may be conservative when estimating a recharge rate because it does not necessarily account for recharge that occurs when discharge from the aquifer exceeds recharge.

Discharge

Discharge from the Antelope Valley aquifer is through well withdrawals and evapotranspiration where the aquifer is near or at land surface. Additional discharge from the aquifer is through outflow to hydraulically connected lakes and sloughs, including Punished Woman, Round and Crooked Lakes (Hansen, 1990; Water Rights, 2026d).

Currently, there are 16 water rights/permits authorized to appropriate water from Antelope Valley aquifer (Water Rights, 2026c). Additionally, there are three future use permits (Nos. 4053-3 and 4053B-3 for the Town of South Shore, and 8440-3 for Grant-Robert RWS) reserving a combined 959 acre-feet of water annually from the Antelope Valley aquifer (Water Rights, 2026c). Additionally, there are two other applications, Application Nos. 8990-3 & 9019-3. Water

Permit Application No. 8990-3 proposes to reserve 1,120 acre-feet per year for future use by the City of Milbank. It should be noted that Application No. 8990-3 is currently contested and a hearing before the Water Management Board will be needed to determine approval or denial of that future use application. The outcome of that hearing may affect the determination of availability of unappropriated water.

Table 1 summarizes the three non-irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer with the estimated annual use for each water right/permit as determined by their permitted maximum diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer and is likely an overestimation of average annual withdrawals (Water Rights, 2026c). Overall, the estimated average annual withdrawal rate for the Antelope Valley aquifer non-irrigation water rights/permits is approximately 2,286 acre-feet per year (Table 1) (Water Rights, 2026c).

Table 1. Estimated average annual use for non-irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer (Water Rights, 2026c).

Permit No.	Name	Uses	Status	Authorized Diversion Rate (cfs)	Permitted Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
4053A-3	Town of South Shore	MUN	License	0.58	N/A	252
5520-3	Town of South Shore	MUN	License	0.09	N/A	39
8439-3	Grant-Roberts Rural Water System	RWS	License	5.14	1,995	1,995
					Total:	2,286
MUN Municipal, RWS Rural Water System *Reports annual non-irrigation use to the chief engineer.						

Grant-Roberts Rural Water System currently holds Water Right No. 8439-3, which Water Permit No. 6654-3 and Water Permit No. 8321-3 were incorporated into, and is required to annually report the volume of water pumped from the Antelope Valley aquifer (Water Rights, 2026c). The reported historic annual use from the Grant-Roberts Rural Water System over the period of record (2003 to 2024) on file with the DANR - Water Rights Program is listed in Table 2 (Water Rights, 2026c). The Grant-Roberts Rural Water System, on average, uses less than their permitted volume each year; therefore, the assumed maximum permitted use shown in Table 1 is a higher annual withdrawal rate estimate than what is actually being withdrawn each year from the Antelope Valley aquifer from the non-irrigation water rights/permits. However, this conservative method of estimating average annual withdrawals is used because Grant-Roberts Rural Water System has shown some increase in annual pumpage over the period of record as shown in Table 2 and currently holds a future use permit for potential future growth.

Table 2. Reported historic use from the Grant-Roberts Rural Water System water rights/permits (Water Rights, 2026c).

Year (Right/Permit Nos.)	Permitted (acre-feet/year)	Reported (acre-feet/year)	Year	Permitted (acre-feet/year)	Reported (acre- feet/year)
2003 (5576-3, 5576A-3)	1,074	761	2015 (5576-3, 5576A-3, 6654-3)	1,074	1,043
2004 (5576-3, 5576A-3, 6654-3)	1,074	792	2016 (5576-3, 5576A-3, 6654-3)	1,074	967
2005 (5576-3, 5576A-3, 6654-3)	1,074	645	2017 (5576-3, 5576A-3, 6654-3)	1,074	983
2006 (5576-3, 5576A-3, 6654-3)	1,074	835	2018 (6654-3, 8321-3)	1,381	1,154
2007 (5576-3, 5576A-3, 6654-3)	1,074	875	2019 (6654-3, 8321-3)	1,381	1,183
2008 (5576-3, 5576A-3, 6654-3)	1,074	890	2020 (6654-3, 8321-3)	1,381	1,158
2009 (5576-3, 5576A-3, 6654-3)	1,074	874	2021 (6654-3, 8321-3)	1,381	1,037
2010 (5576-3, 5576A-3, 6654-3)	1,074	881	2022 (6654-3, 8321-3)	1,381	1,077
2011 (5576-3, 5576A-3, 6654-3)	1,074	844	2023 (6654-3, 8321-3)	1,381	1,022
2012 (5576-3, 5576A-3, 6654-3)	1,074	887	2024 (6654-3, 8321-3)	1,381	1,063
2013 (5576-3, 5576A-3, 6654-3)	1,074	920	Reported Average (2003-2024)		948
2014 (5576-3, 5576A-3, 6654-3)	1,074	963	Reported Average (2015-2024)		1,060

Currently, there are 12 irrigation water rights/permits authorized to appropriate water from the Antelope Valley aquifer (Water Rights, 2026c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Antelope Valley aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2024) is approximately 1,118 acre-feet per year (Table 3) (Water Rights, 2026a). To reflect the current level of development for irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2015 to 2024 is approximately 1,348 acre-feet per year and will be used as the estimated average annual irrigation withdrawals for review of water availability (Table 3) (Water Rights, 2026a).

There is one recently approved irrigation water permit that has not yet reported in the 2024 irrigation questionnaire (IQ) and needs to be accounted for. Water Permit No. 8915-3 is authorized to irrigate 160 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 60-miles southwest of the Antelope Valley 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 of the following

irrigation water permits and applications. Assuming 0.83 feet of water per acre per year, the withdrawal rate for Water Permit No. 8915-3 is approximately 133 acre-feet per year. This pending application proposes to irrigate approximately 40 acres. Water Permit Application No. 9019-3 proposes to irrigate an additional 25 acres to an existing water permit. Assuming 0.83 feet of water per acre per year, the withdrawal rate for these applications, if approved, is approximately 54 acre-feet per year.

There are domestic wells completed into the Antelope Valley 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 Antelope Valley 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 Antelope Valley aquifer.

Table 3. Reported irrigation use from the Antelope Valley aquifer from 1979 to 2024 (Water Rights, 2026a)

Year	Number of Permit/License	Annual Pumpage (ac-ft/yr)	Year	Number of Permit/License	Annual Pumpage (ac-ft/yr)
1979	7	73	2002	9	1,534
1980	9	435	2003	9	2,001
1981	7	513	2004	9	1,596
1982	5	61	2005	9	1,740
1983	6	543	2006	9	1,937
1984	6	136	2007	9	1,299
1985	6	49	2008	9	989
1986	6	41	2009	9	1,281
1987	6	645	2010	10	1,419
1988	7	1,827	2011	10	887
1989	7	1,427	2012	10	2,164
1990	10	1,606	2013	12	2,003
1991	12	989	2014	14	749
1992	11	650	2015	14	570
1993	11	310	2016	14	2,019
1994	10	699	2017	14	1,405
1995	10	469	2018	14	1,403
1996	8	1,029	2019	14	228
1997	8	932	2020	14	1,298
1998	9	1,136	2021	14	1,583
1999	9	1,379	2022	14	2,035
2000	9	1,608	2023	12	1,787
2001	9	1,809	2024	12	1,149
			Average (1979-2024)	10	1,118
			Average (2015-2024)	14	1,348

Hydrologic Budget Summary

The estimated average annual recharge rate to the Antelope Valley aquifer is approximately 6,700 acre-feet per year. The estimated average annual withdrawal rate from the Antelope Valley aquifer is approximately 5,900 acre-feet per year (non-irrigation: 2,286 acre-feet/year; irrigation: 1,348 acre-feet/year (2015 to 2024); Future Use Reservations: 959 acre-feet/year; Future Use Application No. 8990-3 (if approved): 1,120 acre-feet/year; Recently Approved Permit (2024): 133 acre-feet/year; Water Permit Application Nos. 9019-3 & 9022-3 (if approved, assuming application rate of 0.83 feet of water per authorized acre): 54 acre-feet/year). 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 Antelope Valley aquifer for the proposed appropriation. As previously stated, Future Use Application No. 8990-3 is currently contested and scheduled for a hearing in front of the Water Management Board. The outcome of that hearing may affect the determination of availability of unappropriated water.

Table 4. List of water rights/permits withdrawals, estimated use of recently approved permits, the pending applications and this application (if approved), and unconfined/confined recharge to the Antelope Valley aquifer (Water Rights, 2026a)

	Pumpage for the Antelope Valley Aquifer (ac-ft/yr)
Future Use	959
Non-Irrigation Appropriation	2,286
Irrigation Appropriation (2015-2024)	1,348
Recently Approved Permits (2024)	133
Current Withdrawal	4,726
Pending Future Use Application (8990-3)	1,120
Pending Applications (9019-3 & 9022-3)	54
Total Withdrawal	5,900
Total Recharge	6,700

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 four observation wells completed into the Antelope Valley aquifer with observation wells in the area of this application shown on Figure 3 (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 diversion point are GT-77G (approximately 2 miles northwest), CD-76G (approximately 1 mile north), and GT-76D (approximately 4 miles northwest) (Water Rights, 2026b). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2026b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing converted to feet from the NGVD29 datum.

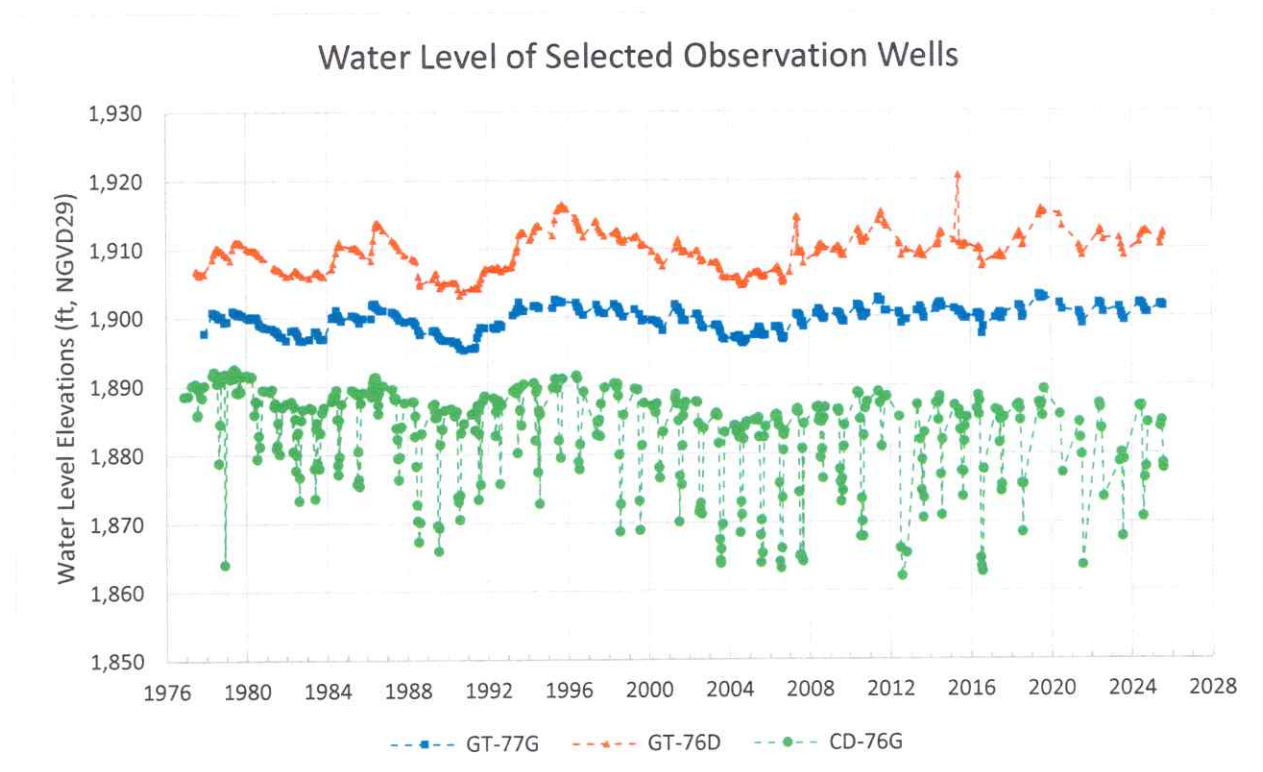


Figure 2. A hydrograph showing the elevation of water levels of observation wells GT-77G, GT-76D, and CD-76G (Water Rights, 2026b)

A majority of the observation wells in the Antelope Valley aquifer have a relatively stable trend in the water level, as seen in Figure 2. Observation well CD-76G is under confined conditions. Wells under confined conditions are expected to show a greater fluctuation in response to nearby pumping when compared to unconfined wells, as shown in the hydrograph for CD-76G which responds to numerous nearby appropriative wells compared to the other wells. The other observation wells are unconfined and show much less response to localized pumping. The

hydrographs for the Antelope Valley 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. 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 Antelope Valley 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 existing well site for this application are shown in Figure 3 and summarized in Table 5. The closest water right/permit to the existing diversion point for this application, not held by the applicant, is Water Right No. 7534-3 which is held by Joe/John Arthur. The diversion point for Water Right No. 7534-3 is located approximately 0.7 miles north of the existing diversion point for this application (Water Rights, 2026c).

Additionally, the well site for this application is located within the future use area for Future Use Permit No. 8440-3 for Grant-Roberts RWS. There are domestic wells on file with the DANR-Water Rights Program that are completed into the Antelope Valley aquifer, with the closest domestic well on file (not held by the applicant) approximately 1 mile north of the diversion point 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 Antelope Valley aquifer near the diversion point that are not on file with the DANR-Water Rights Program.

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

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
2478-3	Joe/John Arthur	12/15/1975	License	Irrigation	1.07	75
3672-3*	Coast Properties Investors LLC	02/23/1977	License	Irrigation	1.78	132
3781-3	Joe/John Arthur	02/27/1975	License	Irrigation	3.75	264
4053A-3	Town of South Shore	10/20/1976	License	Municipal	0.58	0
4053B-3	Town of South Shore	10/20/1976	Future Use	Municipal	N/A	192 (acre-feet)
5520-3	Town of South Shore	10/20/1976	License	Municipal	0.09	0
7975-3*	Jim & Dan Thyen	02/12/2014	License	Irrigation	1.67	117
8439-3	Grant-Roberts RWS	08/24/2020	License	RWS	5.14	0
8440-3	Grant-Roberts RWS	09/15/2008	Future Use	RWS	N/A	767 (acre-feet)
8915-3	Craig Arthur	12/20/2024	Permit	Irrigation	1.67	160
*These Water Rights are intended to be incorporated into new applications (9019-3 & 9022-3); RWS: Rural Water System						

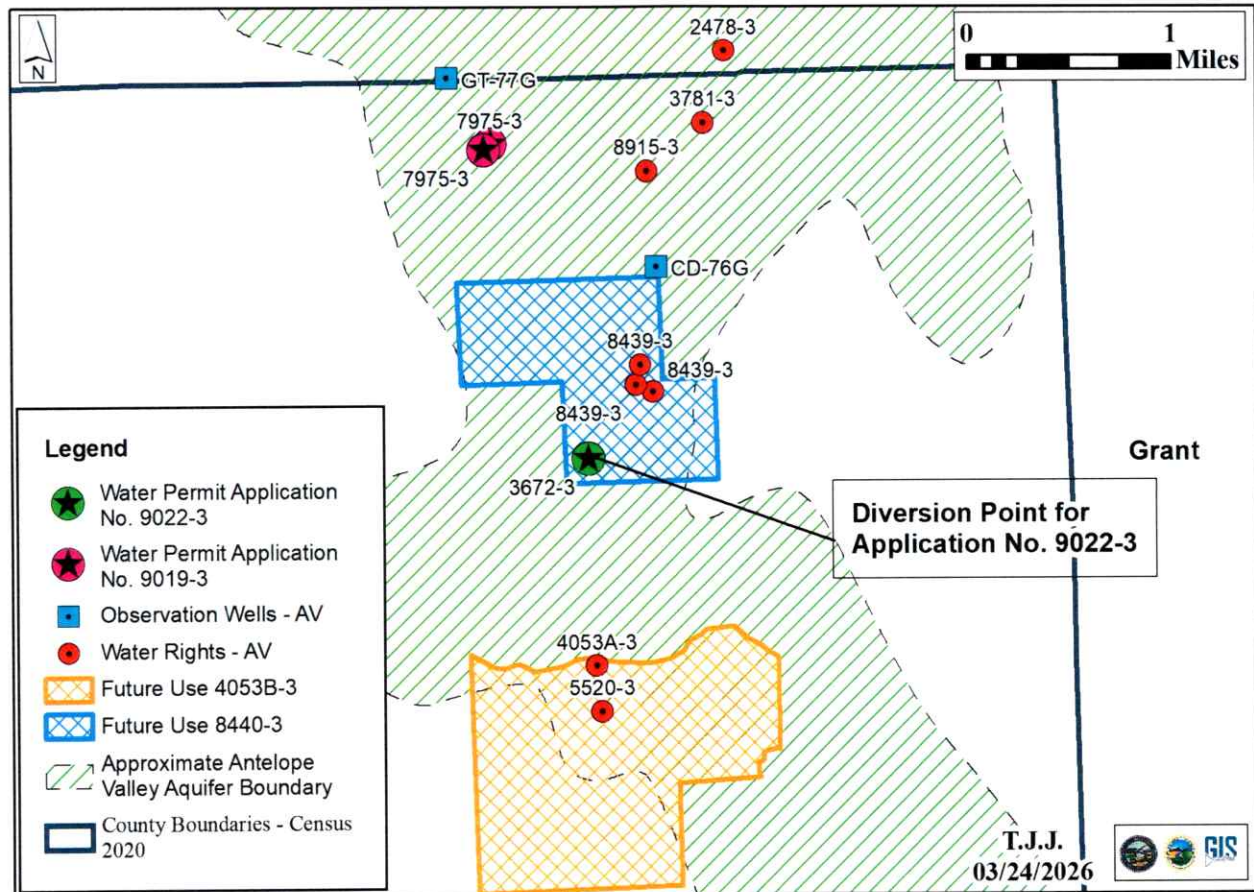


Figure 3. Map of the existing diversion point for Water Permit Application No. 9022-3, nearby Antelope Valley aquifer water rights/permits, and observation wells (Water Rights, 2026b and 2026c).

The Antelope Valley aquifer is under confined conditions at the existing well site (Water Rights, 2026d). In a confined aquifer, drawdown from a pumping well can extend some distance from the well. 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). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Antelope Valley aquifer at their location. The South Dakota Department of Agriculture & Natural Resources complaints database has no complaints about the Antelope Valley aquifer in Codington and Grant Counties (Water Rights, 2026e). The existing well for this application has been in use since 2014 with no history of interference. When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), history of high capacity well development in the area without any complaints of well interference (Water Rights, 2026e), no increase in the authorized diversion rate, and the saturated aquifer thickness near the diversion point, 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. 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 cfs from one well completed into the Antelope Valley aquifer (133 feet deep) located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10 for the irrigation of 132 acres located in the SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10; all in T119N-R51W. This application proposes to irrigate an additional 40 acres located in the SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10-T119N-R51W, with no increase to the 1.78 cfs diversion rate. This application, if approved, and Water Right No. 3672-3 will authorize 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, SD in Codington County.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Antelope Valley aquifer to supply the proposed appropriation.
3. The pending Water Management Board hearing regarding Future Use Application No. 8990-3, may affect the determination of water availability for this application. Thus, it is recommended to defer this application until the hearing for Application No. 8990-3 has concluded.
4. There is a reasonable probability that the proposed diversion by Water Permit Application No. 9022-3 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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AFFIDAVIT OF PUBLICATION

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

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STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

05/28/2026

and that the fees charged are legal.

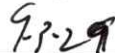
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Legal Clerk



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PO #: Application #9022-3

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KONGMENG YANG
Notary Public
State of Wisconsin

**NOTICE OF HEARING on
Application No. 9022-3 to
Appropriate Water**

Notice is given that **Leonard Sigdestad**, 22365 Barton Road, Box 350, Grand Terrace CA 92313, has filed an application for a water permit to irrigate an additional 40 acres, from the existing well authorized by **Water Right No. 3672-3**. Water Right No. 3672-3 authorizes diversion of 1.78 cubic feet of water per second (cfs) from one well completed into the Antelope Valley Aquifer (133 feet deep) located in the SW 1/4 SE 1/4 Section 10 for irrigation of 132 acres located in the SW 1/4, W 1/2 SE 1/4 Section 10; all in T119N-R51W. This application proposes to irrigate an additional 40 acres located in the SW 1/4, SW 1/4 SE 1/4 Section 10-T119N-R51W. This application, if approved, and Water Right No. 3672-3 will authorize irrigation of a combined total of 172 acres, with no increase to the 1.78 cfs diversion rate. This site is located in **Codington County**, approximately one mile north of South Shore SD.

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 DEFERRAL of Application No. 9022-3 pending Water Management Board action on a previously filed application by the City of Milbank (Application No. 8990-3) to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. Consequently, Application No. 9022-3 should be deferred until the status of water availability from the Antelope Valley Aquifer is known based on the Board's decision. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or

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DENIAL depending on the Board's decision on previously filed Application No. 8990-3. The Acting Chief Engineer's recommendation, 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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The Water Management Board will consider this application at **9:45 AM (Central Time) on July 8, 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 June 8, 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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The July 8, 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 June 8, 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 June 8, 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 June 8, 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 5/28/26 at total cost of \$109.40 and may be viewed free of charge at www.sdpublicnotices.com.
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Water Rights
Program

The **Watertown Current** is a weekly newspaper of general circulation, posted online, printed, and published in Watertown, Codington County, South Dakota since October 11, 2024. This is an acknowledgement that the attached/included public notice was included in the printed edition of the **Watertown Current**:

May 28, 2026 – NOTICE OF HEARING on Application No. 9022-3 to
Appropriate Water (294 lines @ \$.26 each)

I, Troy McQuillen (Owner and Publisher), under oath, do swear, that I am the publisher of the **Watertown Current**, and that the **Watertown Current** is a local newspaper as described in South Dakota codified laws and maintains a paid print circulation of over 2,000 weekly.

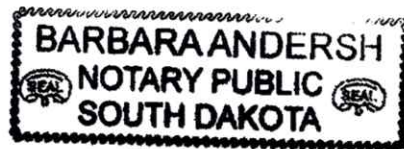
Total Cost: \$76.44

Publisher: Troy McQuillen

Notary

Sworn to and subscribed before me on **May 28, 2026**

Barbara Andersh



Notary, State of South Dakota, County of Codington

My Commission Expires: November 14, 2031

LEGALS

Continued from Page 5C

Action #115-26 Motion by Owen, seconded by Page, to adopt the agenda as presented and add Estimate for Construction, Teacher Resignation and Approve SD Special Education Comprehensive Plan. Four (4) Yes Votes. Rider, Owen, Page and Hoffman. Motion carried. Action #116-26 No disclosures this month. Action #117-26 Henry Summer Program gave a report on items they would like to do to improve the facilities. They had a quote for Agri lime for the ball field and updating the concrete bleachers. They also spoke on updating the tennis courts to pickleball courts. Action #118-26 6.1 Motion by Hoffman, seconded by Owen to approve the Consent Agenda. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 6.2: Dispense with the reading of the minutes of the special meeting held on April 7th, 2026, and the regular meeting held on April 13th, 2026. The Business Manager informed the board that on the special meeting minutes it wasn't noted that Paul Johnson was absent. The Business Manager also informed the board that the 22 regular board meeting minutes it should have been Ada Rider listed as a guest instead of Audrey Rider and the total for General Fund Disbursements should be \$199,502.85 instead of \$198,978.38. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 6.3: Financial Reports GENERAL FUND: Cash Balance 4-1-26 \$316,442.13; Revenue: Local - \$42,973.20; State - \$85,430.00; Federal - \$3,369.00; Intermediate - \$1,362.55; Other - \$0; Expenditures: \$197,910.55; Cash Balance 4-30-26 \$251,668.33. CAPITAL OUTLAY: Cash Balance 4-1-26 \$640,087.48; Revenue - \$32,784.99; Expenditures: \$2,041.18; Cash Balance 4-30-26 \$670,831.29. SPECIAL ED: Cash Balance 4-1-26 (\$12,915.28); Revenue - \$28,560.84; Expenditures: \$31,117.62; Cash Balance 4-30-26 (\$15,472.06). TRUST & AGENCY FUND: Cash Balance 4-1-26 \$54,402.65; Revenue \$3,777.65; Expenditures \$4,360.62; Cash Balance 4-30-26 \$53,819.68. PROPRIETARY FUND: Cash Balance 4-1-26 \$49,681.14; Revenue - \$8,451.52; Expenditures - \$12,022.21; Cash Balance 4-30-26 \$46,110.45. Action #119-26 7.1 Motion by Hoffman, to approve the Claims Against the District. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. 7.1: Claims Against the District GENERAL FUND 95 PERCENT GROUP LLC 3-5 CURRICULUM 1,253.70 ACT FINANCE MAY 13th, 323.38; BLOOM, ABI BOOK FOR GBB 45.00; CENTURY BUSINESS PRODUCTS, INC COPIER READINGS 536.75 CLARK COMMUNITY OIL FUEL 2,590.46; CREATIVE REWARDS & SPECIALTIES GOLF MEDALS 84.00; DAKOTA BANK VISA CARD GAS FOR CAR, BUS MGR CONF. 771.51; 2ND GR FIELD TRIP LIB SUBSCRIPT DOUG'S AUTO REPAIR CAR OIL CHANGE 48.32; HAMMER, LONDON SHOT CLOTH FOR GBB/BBB 120.00; HOFFMAN, DAN OFFICIAL FOR JHB 140.00; IMPREST ACCOUNT GOLF, 4TH GR FIELD TRIP, 967.00; JH OI, SUPT CONFERENCE ITC TELEPHONE 154.91; KELLER, SHERIDAN BOOK FOR BBB 15.00; KELLY, KAYLIN OFFICIAL, JHB 40.00; KELLY, CHASE OFFICIAL, JHB 40.00; MENARDS GARAGE DOOR OPENER 34.98; NORTHWESTERN ENERGY ELECTRICITY 3,269.76; OBELE, TODD SCOREBOARD FOR JHB 60.00; OFFICE PEERS, OSI CARDSTOCK RUBBERBANDS 29.00; SHEVENEY TRANSPORT LCB BUS TRANSPORTATION 22,044.56; TOWN OF HENRY WATER/SEWER 329.93 WATERTOWN CURRENT MINUTES 87.10; WATSON,

NICKY SCOREBOARD BOYS/ GIRLS BB 180.00; WATSON, TROY SNOW REMOVAL/ BB OFFICIAL 2,540.00; MAY PAYROLL/FUND 53 95,461.46; WITH/HOLDINGS/ FUND 53 26,700.74; NPRI INS/STANDARD 19,298.75 SD RETIREMENT/FUND 53 14,435.34; SUPPL RETIREMENT 2,516.16 VSP 283.28; DENTAL 615.70 AFLAC 527.52; TOTAL GENERAL FUND DISBURSEMENTS: 195,541.31 CAPITAL OUTLAY CENTURY BUSINESS PRODUCTS, INC COPIER LEASE 222.88 SOFTWARE UNLIMITED INC SOFTWARE RENEWAL 6,200.00; TONY'S ELECTRIC ELECTRIC WORK 993.12 TOTAL CAPITAL OUTLAY DISBURSEMENTS: 7,416.00 SPECIAL EDUCATION NORTHEAST ED. SERV. CO-OP MAY ASSESSMENT/COPI INTERVENTION 10,340.48 MAY PAYROLL 21,896.86 TOTAL SPECIAL EDUCATION DISBURSEMENTS: 32,237.34 SCHOOL FOOD SERVICE MAY PAYROLL 6,971.50 EAST SIDE DAIRY 788.77 PERFORMANCE FOOD SERVICE 3,708.93 SD DEPT OF CHILD NUTRITION 686.02 TOTAL SCHOOL FOOD SERVICE DISBURSEMENTS: 12,155.22 7.2: Motion by Page, seconded by Owen to approve the following South Dakota High School Activities Association ballots: District IV Representative Jeff Koster; Amendment No. 1: Yes; Amendment No. 2: Yes; Amendment No. 3: Yes. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.3: Motion by Owen, seconded by Hoffman, to approve the Certified/Hourly Contracts for the 2026-2027 school year. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. 7.5: Motion by Page, seconded by Owen to approve the SD Special Education Comprehensive Plan. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. Action #120-26 - 8.0 Communication Reports: 8.1: Bus report was reviewed by the Business Manager with no action necessary. Letter received from the Watertown School District about student pickup & drop off sites was also discussed. A follow-up letter will be sent to the Watertown School District. 8.2: Principal's Report Items Discussed: a. Received \$1,000 Watertown Community Grant b. Elementary Swimming on May 19th, 2026. 1. Twins game on May 20th, 2026. 2. Family Engagement Night was well attended. 3. Awards Ceremony will be May 13th, 2026 at 9:00 am. 4. Graduation is May 16th, 2026 at 2:00 pm. 8.3: Superintendent's Report Items Discussed: 1. Gym Floor Resurface June 10th. 2. End of Year Reports 8.4: Board member Hoffman discussed the April Northeast Technical HS meeting. 8.5: Board member Rider discussed the April Northeast Technical HS meeting. 8.6: Budget Information was reviewed by the Bus. Mgr. 8.7: Board members discussed they were still actively seeking another board member. Action #121-26 9.0: Motion by Hoffman, seconded by Owen at 7:40 p.m. to go into executive session for Personnel SDCL 1-25-21(1). Four (4) Yes votes. Rider, Owen, Page, and Hoffman. Motion carried. 9.1: Board President Rider declared the executive session had ended at 8:28 p.m. 9.2: Motion by Owen, seconded by Page at 8:29 p.m. to go into executive session for Legal Matter SDCL 1-25-2(3). Four (4) Yes votes. Rider, Owen, Page, and Hoffman. Motion carried. 9.3: Board President Rider declared the executive session had ended at 8:49 p.m. 9.4: Motion by Hoffman, seconded by Owen to approve the contract with Bright Path Educational Consulting LLC

for the 2026-2027 school year. Four (4) Yes votes. Rider, Owen, Page, Hoffman. Motion carried. Action #122-26 10.0: The next regularly scheduled school board meeting will be held on June 10th, 2026, at 7:00 a.m. Action #123-26 11.0: There being no further business to come before the board, motion by Owen, seconded by Hoffman, at 8:53 p.m. to adjourn. Four (4) Yes votes. Rider, Owen, Page and Hoffman. Motion carried. Audrey Rider, Chairman, Nicky Watson, Business Manager. Published once on May 28, 2026, at the total approximate cost of \$78.52 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

STATE OF SOUTH DAKOTA
COUNTY OF BEND
IN CIRCUIT COURT
THIRD JUDICIAL
CIRCUIT
14PRO26-28
In the Matter of the
Estate of
Trudy Paulson,
Deceased
NOTICE TO CREDITORS

Notice is given that on May 15, 2026, Marie Bangasser, whose address is 23175 Baseline Blvd, Jordan, MN 55352, was appointed as personal representative of the estate of Trudy Paulson. Creditors of decedent must file their claims within four months after the date of the first publication of this notice or their claims may be barred. Claims may be filed with the personal representative or may be filed with the clerk, and a copy of the claim mailed to the personal representative. Dated May 20, 2026. /s/ Marie Bangasser Marie Bangasser 23175 Baseline Blvd Jordan, MN 55352. Lisa Felch, Coddington County Clerk of Courts, 14 1st Ave SE Watertown, SD 57201. Thomas J. Linngren Green Oviatt Law Firm LLP PO Box 1600, Watertown, SD 57201-6600, 605-886-5812. Published three times on May 28, 2026, June 4, 2026, and June 11, 2026, at the total approximate cost of \$38.30 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

Northeast Educational
Services Cooperative
Board of Directors
Meeting
Monday, May 18, 2026

The Board of Directors for the Northeast Educational Services Cooperative (NESC) met in regular session on Monday, May 18, 2026, via Zoom and at Lake Area Technical College in Watertown, SD. The meeting was called to order by President Schuurman at 7:06 P.M. and adjourned at 8:03 P.M. Members Present In-Person: Alisha Nielsen, Castledwood; Shane Roth, De Smet; Arend Schuurman, Elkton; Audrey Rider, Henry; Lisa Andahl, Summit; Penny Thyen, Waverly/South Shore; Megan Murphy, Arlington; Lacey Orberg, Clark; Tara Abraham, Hamlin; Carrie Schierbeck, ORR; Diana LeClair, Rosholt; Jayme Trygstad, Sioux Valley; Cory Zibel, Waubay; Tia Felberg, Waverly, Lake Preston; Heather Landreth, Britton/Heda; Amy Otten, Deubrook; Wade Gubrud, Skyman; Reddway, Enemy Swim Day School; Trish Schwartz, Estelline; Jon Kahnke, Florence; Greg Bich, Ironvix; Sterling Eschenbaum, Lake Preston; Nick Fosheim, Webster; Jacque Cameron, Wilmet NESC Staff Representatives: Stephanie Hayunga (Z) (arrived at 7:16), Brenda Boyd (Z), Teresa Landmark (Z), Shelly Skogstad (Z), Member District Superintendents:

Brian Sampson, Arlington (Z); Travis Ahrens, Clark; Todd Obele, Henry/NESC Administration: Anne Nelson, Director; Tiffany Stormo, Business Manager; Hunter Lee, Business Manager; Tim Frazee, Assistant Director. Other: Bre Schwandt (Z) (Left at 7:47). Call to Order President Schuurman called the meeting to order at 7:06 P.M. Introduction of Guests Brian Sampson, Travis Ahrens, Bre Schwandt, Stephanie Hultings, Brenda Boyd, Teresa Landmark, and Shelly Skogstad were introduced as guests. Agenda Review, Changes, and Approval Action #26-70 Motion by A. Nielsen, seconded by J. Trygstad, to add agenda item 11 Approve Amy Welsh contract Paraprofessional Webster \$21/hr. 7J (Approve Big Stone Therapy contract for OTA coverage), 8I (Update bank signature cards), and 10A (Approve authorized signature cards). All present voted, motion carried unanimously. Public Comment No public comments were made. Conflict of Interest No conflicts of interest were presented. Financial Report Action #26-71 Motion by S. Roth, seconded by A. Rider, to approve the financial report for the period ending April 30, 2026. All present voted, motion carried unanimously. General Fund Special Education Fund Agency Fund April 1, 2026 \$250,081.58 \$961,776.84 \$15,739.48 Receipts: State Sources \$136,174.12 \$356,562.04 \$2,307.47 State Sources \$99,684.57 Federal Sources \$173,691.00 Other Total Monthly Receipts \$136,174.12 \$629,927.61 \$2,307.47 Balance Forward \$386,255.70 \$1,591,704.45 \$18,046.95 Manual Journal Entries, Less Salaries \$4,404.69 \$451,717.88 Less Disbursements \$13,381.91 \$174,681.58 \$1,739.97 Total Salaries & Disbursements \$17,786.60 \$626,399.46 \$1,739.97 Ending Cash Balance April 30, 2026 \$368,469.10 \$965,304.99 \$16,306.98 Consent Agenda Action #26-72 Motion by L. Andahl, seconded by C. Zibel to approve Consent Agenda items: 7a) April 20, 2026 Meeting Minutes; 7b) May 2026 Budget Claims; 7c) Update by Optinetic Testing (\$9,045.00); 7d) Morgan Odegaard Resignation; 7e) Mychelle Donelan ESY Contract (\$21.50/hr); 7f) Tami Steffensen ESY Contract (\$18.00/hr); 7g) Shari Peckenpaugh ESY Contract (\$23.00/hr); 7h) Update the board on staffing and additional training for new and current staff. Director's Report Director Nelson gave an update on the new technology improvements for FY 27. Board of Advisors Report A. Rider, Nelson reviewed the BOA meeting minutes from the May 6, 2026, meeting. Article III. (Leave policy, Other Classified Staff) - First Reading Assistant Director Frewing updated the board on the proposed changes in policy language. Article VI (Drug and Alcohol Policy) - First Reading Assistant Director Frewing updated the board on the proposed changes in policy language. Article XVI (Non-Fixed Asset Inventory) - First Reading Assistant Director Frewing updated the board on the proposed changes in policy language. Update Signature Cards Chairperson Schuurman discussed removing Hunter Lee to signature cards. Executive Session Action #26-74 Pursuant to Negotiations - SDCL 1-25-2(4) Preparing for contract negotiations or negotiating with employees or employee representatives. Motion by S. Roth, seconded by A. Rider, to enter executive session at 7:47 P.M. All present voting in favor, motion carried unanimously. President Schuurman declared the board out of executive session at

8:01 P.M. Action Items Approval to update signature cards Action #26-75 Motion by L. Andahl, seconded by S. Roth, to remove Tiffany Stormo and add Hunter Lee to bank signature cards. All present voted, motion carried unanimously. Adjournment Action #26-76 With there being no further business, motion by A. Nielsen, seconded by J. Trygstad, to adjourn. All present voted, motion carried unanimously. The NESC Building Committee will meet prior to the June Board Meeting at 6pm at LATC or via the virtual link. The next meeting will be held on June 15th, 2026, at 7:00 p.m. at LATC. /s/ Arend Schuurman, President /s/ Hunter Lee, Business Manager. Published once on May 28, 2026, at the total approximate cost of \$88.14 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

NOTICE OF HEARING on
Application No. 9022-3
to Approbate Water

Notice is given that Leonard Sogstad, 22365 Barto Road, Box 350, Grand Terrace CA 92313, has filed an application for a water permit to irrigate an additional 40 acres, from the existing well authorized by Water Right No. 3672-3. Water Right No. 3672-3 authorizes diversion of 1.78 cubic feet of water per second (cfs) from one well completed into the Antelope Valley Aquifer (133 feet deep) located in the SW 1/4 SE 1/4 Section 10 for irrigation of 132 acres located in the SW 1/4, W 1/2 SE 1/4 Section 10; all in T119N-R51W. This application proposes to irrigate an additional 40 acres located in the SW 1/4, SW 1/4 SE 1/4 Section 10-T119N-R51W. This application, if approved, and Water Right No. 3672-3 will authorize irrigation of a combined total of 172 acres, with no increase to the 1.78 cfs diversion rate. This site is located in Coddington County, approximately one mile north of South Shore SD. South Dakota Codified Law (SDCL) 46-2A-4(1) provides for "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 DEFERRAL of Application No. 9022-3 pending Water Management Board action on a previously filed application by the City of Milbank (Application No. 8990-3) to reserve water from the Antelope Valley Aquifer. The Board's decision on Application No. 8990-3 will impact the amount of water available for appropriation from the aquifer. Consequently, Application No. 9022-3 should be deferred until the status of water availability from the Antelope Valley Aquifer is known based on the Board's decision. At the time of hearing of this application by the Board, the Acting Chief Engineer's deferral recommendation may be revised to either APPROVAL or DENIAL, depending on the Board's decision on previously filed Application No. 8990-3. The Acting Chief Engineer's recommendation, the application, and staff report are available at <https://dnr.sd.gov/public> or contact Amanda Dewell

See LEGALS on Page 7C

RECEIVED
MAY 28 2026
Water Rights
Program

LEGALS

Continued from Page 6C

For this information, or other information, at the Water Rights Program address provided below. The Water Management Board will consider this application at 9:45 AM (Central Time) on July 8, 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 46-2-9 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 in the 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://darr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Bldg, 523 E. Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 8, 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 July 8, 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 June 8, 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://darr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 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 June 8, 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 46-1-3; 46-1-13 thru 46-1-18; 46-2-3, 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, 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, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49, 46-6-1 thru 46-6-3, 46-6-6, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02.01; Board Rules 74:02.01.25.02; 74:02.01.35.01. Published once on May 28, 2026, at the total approximate cost of \$76.44 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

May 20, 2026

**PROCEEDINGS-
NORTHEAST
TECHNICAL HIGH
SCHOOL (Pending
Board Approval)**

The Northeast Technical High School Board held its regular meeting on Wednesday, May 20, 2026. Members in attendance: Costner Ching for Jason Julius-Castledown, Caitlin Bach-Florence, Ben Dunsmoor-GPL, Dan Hoffman for Austin Pace-Henry, Tamilo Bronson-Summit, Jean Moulton-Watertown, Karl Lohr-Watertown, Jon Iverson-Watertown, Penny Thien for Amy Thompson-WavvSS. Executives present: Bert Falak (Director), Jeff Danielson (Watertown Supt), and Todd Obele (Henry Supt). Absent: None. Jon Iverson (Chairperson) called the meeting to order and led the Pledge of Allegiance at 5:45 p.m. Motion by Bronson, second by Bach, to amend the agenda to include Action Item 7.5 Contract Terms and to approve the agenda as amended. Motion carried unanimously. Standing Item 5.1 Chairperson Iverson asked if any School Board member or administrator needed to disclose a conflict of interest. None disclosed. Standing Item 5.2 Chairperson Iverson asked for any public comments regarding any agenda or non-agenda items. None given. Item 6 Consent Agenda. Motion by Lohr, second by Hoffman, to approve the consent agenda, the minutes from the previous Board meeting, financial reports including monthly financial statement, activity fund balances, revenue summary

report, expenditure report, bank statement review (Amy Thompson), and new vendor report. Motion carried unanimously. General Fund/Capital Outlay balance as of 4/01/26: \$1,687,289.88. Revenues: Interest: \$348.92. Other: \$0. Tuition: \$36,599.25. Misc: \$3,685.00. Federal & State: \$16,580.00. Claims: (\$14,830.76). Payroll: (\$101,406.60). Bank Fee (\$15.00). Journal Entries (\$0). Petty Cash: \$100.00. NTHS Imprest: \$20,000.00. Balance as of 4/30/26: \$1,650,350.69. Custodial balance as of 4/01/26: \$64,218.51. Revenues: \$1,586.68. Expenditures & Disbursements: (\$21,043.94). Balance as of 4/30/26: \$64,761.25. Action Item 7.1 Motion by Hoffman, second by Dunsmoor to approve the Monthly Claims. Motion carried unanimously. May Claims: General Fund: A-Ox Welding, supp \$735.80, Auto Value, supp \$567.42, Cashway Lumber, supp \$779.80, CAN Surety, bond \$175.00, Dependable Sanitation, garbage \$172.00, Flower Station, supp \$216.80, Macksteel, supp \$3,768.13. Mastercard, suppl/open house \$7,504.11, Matheson, supp \$144.41, Menards, supp \$401.82, Midwest Hardware, supp \$1,431.64, Mudhol, supp \$1,349.55, NTHS Imprest, utilities/legal/publication, garbage/recycling \$442.83, Planbook, subscription \$252.00, ProChem, supp \$4,952.38, Runnings, supp \$118.85, Sherwin Williams, supp \$136.02, Sioux Valley CoOp, supp \$124.46, SU, annual fee \$6,700.00, Star Laundry, supp \$25.62. Total: \$29,998.74. Capital Outlay: A&B Business Equip, copier lease \$124.40, Mastercard, equip \$2,767.00, NTHS Imprest, utilities \$1,362.49. Total: \$4,253.89. Action Item 7.2 Motion by Thien, second by Dunsmoor, to approve the 2026-27 Budget Hearing for June 24, 2026 @ 5:30p.m. Motion carried unanimously. First reading of the 2026-27 Budget/Meanings of Finance. Action Item 7.3 Motion by Bronson, second by Lohr, to approve 2026-27 budget, work agreements & other contracts. Motion carried unanimously. Action Item 7.4 2026-27 ASB Property & Liability Renewal. No action taken. Item 8 Communications Director's Report Executive Committee Report District Reports Motion by Hoffman, second by Lohr to adjourn the meeting at 6:27 p.m. Motion carried unanimously. The next NTHS regular board meeting is scheduled for Wednesday, June 24, 2026, at 5:45 p.m. at Northeast Technical High School in Watertown. /s/ Bert Falak /s/ Jon Iverson. 2026-27 NTHS Contracts, Work Agreements, Stipends Summer Instruction: Boerger \$1,020. Work Agreements: Maintenance/Janitorial person \$22.32 per hour. Office Manager-Beynon \$47,466. Stipends: FFA Advisor-Rogness \$3,512. Skills USA Advisor-McCann \$1,980. Culinary Advisor-McCann \$1,827. HOSA Advisor-Boes \$2,204. HOSA Asst. Advisor \$1,856. Student Teaching-Rogness \$400. Published once on May 28, 2026, at the total approximate cost of \$41.86 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

**OFFICIAL
PROCEEDINGS - BOARD
OF EDUCATION
FLORENCE SCHOOL
DISTRICT #14-1
515 Main Ave.
Florence, SD 57235**

Chair Rislov called the May 11, 2026, meeting of the Florence School District #14-1 board of education to order at 7:34 p.m. Other board members in attendance were Bach, Kahne, and Maag. Others present were Brandon Heims of The Watertown Current, Travis Schmidt (MS/HS Princ & AD), and M. Reed (Supt & Elem Princ). S. Sumner (Business Manager). The

Pledge of Allegiance was recited. A quorum was in attendance. Motion by Maag, second by Bach to approve the agenda. Motion carried. No conflicts of interest were announced. Motion by Kahne, second by Hiavacek to approve the April meeting minutes. Motion carried. Motion by Hiavacek, second by Maag to approve the following unaudited financial reports. Motion carried. REVENUE RECEIVED DURING APRIL 2026: Local Sources - General 17,824.61; Capital Outlay 25,248.18; Sped 13,482.42; Bond Redemption 10,112.30; Food Serv 10,860.15; DRED 2,650.00. County Sources - General 1,401.78. State Sources - General 222,596.00; Sped 20,531.00. Federal Sources - Food Serv 9,732.04. CMOH BALANCES APRIL 2026: General 600,412.89; Cap Out 275,864.14; Sped 2,256.01; Bond Redemption 54,787.64; Cap Projects 1,354,345.00; Food Serv 27,355.42; Dr. Ed. 15,361.15. No Student Council report this month. No questions on the School Board Forum this month. Mr. Reed, Supt/Elem principal, reported on end-of-year elem student council activities, MAPS & Smarter Balance tests, summer Falcon's Night Out, National BLA coming up, 4/2, Bryan Rock - SB field agrilife, Washington DCNYC summer of 2027, summer school, staff check-out, and summer plans. Mr. Schmidt, MS/HS principal & AD, reported on MAPS & Smarter Balance tests, upcoming awards night, baccalaureate & graduation, spring activities including National Land & Range Judging in Oklahoma, golf, track & softball. Florence has 35+ students registered for NTHS this coming fall, which is a record number. NESC agenda was reviewed. Contractor will break ground on Monday, May 18th for the 2-classroom addition. Both sections of Kindergarten will be in the new addition. Supt. Reed reported that he plans to pursue a grant to replace the new Country School Museum repairs. He also stated that the security cameras will be upgraded, HVAC work, Audio Enhancement expansion, concrete work on the north side of the elementary, the purchase of additional activity panels and the development of a new Open Gym policy will be addressed early summer. Other than the 2012 bus giving us trouble again, there is nothing new to add to the transportation report. Florence School, along with a couple other area schools received word from the Watertown District that we will no longer be able to drop students off at the Boys & Girls on the after school route. Florence will still be allowed the Armory drop-off & pick-up. A Smarter Balance & Pre-ACT test score packet was distributed and reviewed. Smarter Balance scores are low and MAPS scores were outstanding. Discussion on the possibility of adding wrestling to our line-up of sports. It has already been decided that Competitive Cheer will be added this fall. After much discussion, it was decided that we will not have the facilities to add wrestling. This summer the cell phone policy, missing homework procedures, and communication with parents procedures will be reviewed and re-evaluated. Discussion followed. Staffing aside with room assignments was reviewed. Motion by Maag, second by Kahne to approve payment of the bills presented. Motion carried. ACT - pre-ACT scoring 80.00; Advantage RVs & Graphics - gas pump savings \$85.00; B. B. - supp 155.52; Black Hills Special Services Coop - tuition 1,755.00; M. Black - OJ judge 65.00; Newton Campbell - OJ judge 65.00; Carolina Biological Supp - supp 55.60; CBP - CPC & copier lease pmts 1,839.64; Cote Papers - supp 322.56;

Co-op Architecture - serv 2,522.86; Culler's Securities - serv 20,000.00; CWD - FS groceries 5,872.53; Doug's Auto - suburban serv 74.00; ECC - add'l assessment 300.00; Dash Ebsen - OJ judge 65.00; Lillian Fieck - OJ judge 65.00; Florence School Trust & Agency - January & February reimbursements including refs, registrations & supp 9,843.79; Florence Water & Sewer - 497.57; George's Sanitation - March & April 510.00; Hauf Mid-America - supp 325.00; Hillyards - supp 2,089.84; P. Hiavacek - potted flowers 242.97; parent - milg 112.00; ITC - 159.88; M. Kohlenberg - OJ judge (4) 260.00; A. Koll - reimb 61.29; L. Maag - supp 17.26; K. Mastel - OJ judge 65.00; Meiehenry Sargent - serv CMOH Menards - supp 9.95; NESC - assessment 10,910.51; Centerbase tuition 3,563.77 & D&A testing pool fees 803.27; Northwestern Energy - 6,482.54; Olsson's Pest Technicians - serv 125.00; QuickCare - DOT physics (2) 170.00; Serv Sport Shop - supp 839.94; Safe-n-Secure - serv 1,039.33; SD Dept of Health - serv 1,182.50; Sheyenne Transport - bus serv 2,304.91; Sioux Valley Co-op - diesel, LP & gas 11,157.57; Watertown Current - publications 95.42; Bryan Rock - SB field agrilife 2,046.85; Capital One Public Funding - 2022 CO Cert int pmt 22,781.77; K. Boyum - activity bus trips 86.50; S. Busskohl - 1st 1/2 head track coach stipend 1,442.00; D. Harmel - sub teach 116.40; J. Hintz - activity bus trip 43.25; M. Hintz - activity bus trip 43.25; L. Jacobson - custodial 255.00; D. Keller - sub teach 171.11; H. Kerkviet - sub teach 186.24; N. Klitzke - bus sub 20.00; D. Lund - sub bus 97.35; E. Mack - sub bus 32.40; Nelsen - sub teach 936.58; T. Paulson - sub bus 129.80; A. Raeder - sub teach 368.99; J. Raymer - kitchen asst. 645.00 & sub teach 325.53; S. Rislov - sub teach 108.15; N. Russell - sub bus 97.35; T. Schaefer - Goens - sub teach 1189.66; T. Schmidt - activity bus trips 259.50; C. Schwinger - sub teach 2287.08; T. Fuller - bus route & bus activity trips 2263.38; A. Koll - sub bus & bus activity trips 324.40; P. Paulson - sub bus & bus activity trips 1751.48; J. Shaffner - school nurse 4650.00; Markie Kohlenberg - apprenticeship program 302.25; Emery Schamber - apprenticeship program 354.25; J. Carveau - custodial 2,799.88; S. Kitto - custodial 2,618.75; Kitto - 3,580.88; Instructional Salaries 136,934.75; Supportive Salaries 47,827.04; Food Serv Salaries 4,169.64; AFLAC - insurance withholdings 2,331.17; Avanti Federal Credit card - withholding 350.00; AXA Equitable annuities 40.00; Delta Dental - group dental insurance 3,294.18; IRS - FIT & FICA withholding 43,410.53; NPIP - group medical, vision and HSA accts & fees 38,611.28; SDRS contributions 23,007.46; SD Supplemental Retirement - contributions 3,700.00; Standard - life ins. 171.73. Motion by Hiavacek, second by Bach to issue diplomas to graduating seniors. Motion carried. Motion by Bach, second by Hiavacek, to accept the presented 2026-27 preliminary budget. Motion carried. Motion by Kahne, second by Maag to cast SDHSAA ballots for Jeff Koters, Fredrick Area School District for Division IV Superintendent Representative, to vote "yes" to amend Chapter I, Part IV, Section 1, Subsection D of the SDHSAA By-laws; to vote "yes" to amend Chapter II, Part I, Section 1, Subsection J of the SDHSAA By-laws; and lastly to vote "yes" to amend Chapter I, Part III, Section IV of the SDHSAA By-laws. Motion carried. Motion by Maag, second by Hiavacek to approve the presented open enrollment applications. Motion carried. Motion by Kahne, second

by Hiavacek to accept the returned signed certified staff contracts of Tara Aleson, Becky Bied, Katrina Boyatt, Stacey Busskohl, Kami Dilworth, Joel Eisenbaum, Paula Florey, Tyler Grassel, Rachael Jaeger, Mayce Kahne, Kory Klitzke, Adam Koll, Hannah Kranz, Jordan Lanke, Hilarie Lenox, Dan Lund, Jenny Lund, Shari Reed, Brittany Russell, Nathan Russell, Brooklyn Schulte, Misty Snoddy, and Sarah Spiering. New contracts issued, signed, and approved include Tammy Hendrickson, Tamara Keaz, Morgan Schroeder, Tammy Taacker, and Samanta Toering. Motion carried. Motion by Hiavacek, second by Maag to issue employment agreements to classified staff and to issue contracts to administration which includes Mitchell Reed, Superintendent/Elem Principal, Travis Schmidt, MS/HS Principal and Sherri Sumner, Business Manager. Motion carried. Motion by Kahne, second by Bach to enter into executive session at 9:55 pm for SDCL 1-26-2.4 (negotiations). Motion carried. Chair Rislov declared the board out of executive session at 11:09 pm. Motion by Kahne, second by Maag to adjourn at 11:09 pm. Motion carried. Sherri Sumner, Business Manager, Cory Rislov, Chair. Published once on May 28, 2026, at the total approximate cost of \$85.02 and can be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

RECEIVED
MAY 28 2026
Water Rights Program**STATE OF SOUTH
DAKOTA
COUNTY OF
CODINGTON
IN CIRCUIT COURT
THIRD JUDICIAL
CIRCUIT
14CIV25-000573
BRANDON DECKER,
Plaintiff
vs.
DANIELLE VIG,
Defendant
NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that a Motion for Temporary Custody Order, Order for Minor Name Change, Order Amending Birth Certificate has been filed by Brian Zielsnik of Ribstein and Hogan Law Firm, attorney for Plaintiff, BRANDON DECKER, to change minor child's name from DALLAS GRAY VIG to DALLAS GRAY DECKER. The Motion will be heard by the Honorable Dawn Elshere, Circuit Court Judge for the Third Judicial Circuit, at the Codington County Courthouse, Watertown, South Dakota, on the 7th day of July, 2026, at the hour of 10:00 a.m., or as soon thereafter as counsel can be heard. Anyone who appears at that time and place and show reasons, if any, why name should not be changed. Dated this 20th day of May, 2026. ATTEST: Tammy Hein, Clerk/Deputy. BY THE COURT: /s/ Dawn Elshere, Honorable Dawn Elshere, Circuit Court Judge. Published four times on May 28, 2026; June 4, 2026; June 11, 2026; and June 18, 2026, at the total approximate cost of \$53.02 and may be viewed free of charge at www.sdpublishnotices.com and www.watertowncurrent.com

**legal
notices****CONTACT BARB**For more information,
605-657-1797
legals@watertowncurrent.com**SUBMISSION DEADLINE**
Noon on Friday to appear in
the following week's edition.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR
WATER RIGHT NOS. 4053A-3 & 5520-3, TOWN OF SOUTH SHORE**

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 Right Nos. 4053A-3 & 5520-3.

Water Right Nos. 4053A-3 & 5520-3, held by the Town of South Shore, authorize the appropriation of 0.58 cfs (approx. 260 gpm) and 0.09 cfs (approx. 40 gpm), respectively, from the Antelope Valley Aquifer for municipal purposes.

Having an accurate reporting of water withdrawals is critical to the accuracy of estimates made regarding the hydrologic budget; therefore, it is the recommendation of the acting Chief Engineer that a qualification mandating annual water use reporting be added to Water Right Nos. 4053A-3 & 5520-3.

Adam Mathiowetz, PE
Acting Chief Engineer
March 13, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
danr.sd.gov

May 13, 2026

NOTICE OF HEARING

TO: Town of South Shore
c/o Finance Officer
PO Box 57
South Shore SD 57263

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

SUBJECT: Re-Scheduling Hearing Regarding Addition of a Qualification Requiring Annual
Water Use Reporting for Water Right Nos. 4053A-3 & 5520-3, Town of South
Shore

Due to an error in the Notice of Hearing, dated March 17, 2026, consideration of addition of a qualification, mandating annual water use reporting under Water Right Nos. 4053A-3 & 5520-3, was not heard at the May 6-7, 2026, Water Management Board meeting. The applicable portions of the previous Notice of Hearing, and Recommendation of the Action Chief Engineer still apply.

The Water Management Board will conduct a hearing to consider addition of the mandatory reporting qualification to Water Right Nos. 4053A-3 & 5520-3 at **9:45 AM, on Wednesday, July 8, 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*).

Based on the acting Chief Engineer's recommendation to add a qualification that would require annual water use reporting for Water Right Nos. 4053A-3 & 5520-3; the qualification would read as follows:

"The permit holder shall report to the Chief Engineer annually, the amount of water withdrawn from the Antelope Valley Aquifer."

The recommendation of the acting 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 Right Nos. 4053A-3 & 5520-3 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.

Please contact Amanda Dewell, Water Rights Permitting Administrator, with any questions at (605)773-3352 or Amanda.Dewell@state.sd.us.

CERTIFICATION

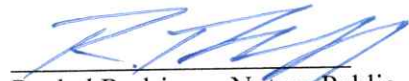
The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF HEARING dated May 13, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following on May 13, 2026.

Town of South Shore
c/o Finance Officer
PO Box 57
South Shore SD 57263


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of May, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



FILE COPY

FORM 2: Application for uses other than irrigation
(type or print)

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8982-3</u> Hydrologic Unit <u>10160007</u>
	Basin <u>James</u>
	Newspaper <u>Bowdite Pride</u> <u>Edmunds</u> <u>American News</u> <u>C. Tribune</u> (office use only)

RECEIVED

SEP 11 2025

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 <u>Livestock Buildings</u>	

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.)

- Name to Appear on Water Permit Century Swine RE, LLC
Mailing Address 304 South Splitrock Blvd, Suite 205 Brandon SD 57005
(Address) (City) (State) (Zip Code)
Phone 507-825-4211 Mobile _____ Email jake.tiede@pipestone.com
- Amount of water claimed 0.11 *CFS or 25-50 **GPM and 30.68 ***AF or 10 million 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 Ground water (NW 1/4 NW 1/4)
- Location of point of diversion NE 1/4, NW 1/4 Section 9, T121N, R71W County Edmunds
(example - 3 wells in SW1/4 NE1/4 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? NW 1/4 Section 9, T121, R71W
(example - NW1/4 section 12-T104N-R53W)
- County or counties where water will be used Edmunds
- Annual period during which water is to be used January 1st through December 31st
- 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)
Proposed Swine production facility

I, [Signature] Attorney, 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.

2021-08

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)

45.31748 / -99.41666

Supplemental Information

(type or print)

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

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

- a) If new wells, how many 1 Have test holes been drilled? ☒ Yes ☐ No Drilled by Stretch's Well Service
(if yes, please provide copies of logs)
- b) If existing wells, how many 0 Provide copy of log(s), if available. Drilled by Stretch's Well Service

For either existing or proposed wells:

- c) Well Depth (required) 420' Depth to Top of Water Bearing Material 200' Depth to Water from Surface 180'
- d) Distance to nearest domestic well on applicant's property None 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

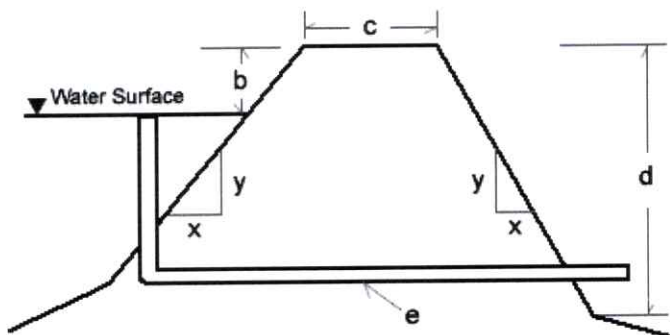
If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- 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**

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**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8982-3, Century Swine RE, LLC.**

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. 8982-3, Century Swine RE, LLC., 304 South Splitrock Blvd., Suite 205, Brandon SD 57005.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8982-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 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.

RECOMMENDATION FOR WATER PERMIT APPLICATION NO. 8982-3, Century Swine RE, LLC.

See report on application for additional information.



Mark Mayer, PE
Director of Office of Water
November 18, 2025

NOTE: 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. For specific information regarding the details concerning completion of an observation well, please contact Adam Mathiowetz at (605) 773-3352.

Report to the Chief Engineer
On Water Permit Application No. 8982-3
Century Swine RE, LLC
November 18, 2025

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 completed into the Pierre Shale aquifer (approximately 420 feet deep) located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9 for commercial use in a swine facility located in the NW $\frac{1}{4}$ Section 9; all in T121N-R71W. The site is located in Edmunds County, approximately ten miles southwest of Roscoe, SD.

AQUIFER: Pierre Shale (PIRR)

HISTORY AND HYDROGEOLOGY:

The Pierre Formation was first described by Hall and Meek in 1855 from exposures along the Missouri River valley in South Dakota (Gries, 1942). The formation was originally named the Fort Pierre Group by Meek and Hayden in 1861 and shortened to Pierre as early as 1896 (Gries, 1942; Searight, 1952). Searight (1952) explained the Pierre shale as 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. Near Pierre, South Dakota, on the east side of the Missouri River, Crandell (1958) reported up to 220 feet of glacial drift over the Pierre Shale. 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 (Searight, 1952).

In the early 1900's, a U.S. geological survey was conducted by Darton (1909) to help better describe the Pierre Shale across South Dakota. In Edmunds County, a mantle of glacial drift overlies a thick mass of Pierre Shale and the underlying formations (Figure 1) (Darton, 1909). 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 near Lake Parmley next to the Town of Mina (Christensen, 1975). Throughout the entire eastern one-third of McPherson, Edmunds, and Faulk counties, the Pierre Shale is very close to the land surface, ranging in depth from a few feet to about 60 feet (Christensen, 1975). The Pierre Shale can be broken up into individual members to better define the specific shales characteristics in different areas. In the Chamberlain area of southcentral South Dakota, the Sharon Springs, Gregory, Crow Creek, DeGrey, Verendrye, Virgin Creek, and Mobridge members are present in ascending order (Figure 2) (Gill and Cobban, 1965). It is likely the same members of the Pierre Shale found near Chamberlain are present at the site of this application. In South Dakota, the Pierre Shale is geologically described as "blue-gray to dark-gray, fissile to blocky shale with persistent beds of bentonite, black organic shale, and light-brown chalky shale" (Martin et al., 2004).

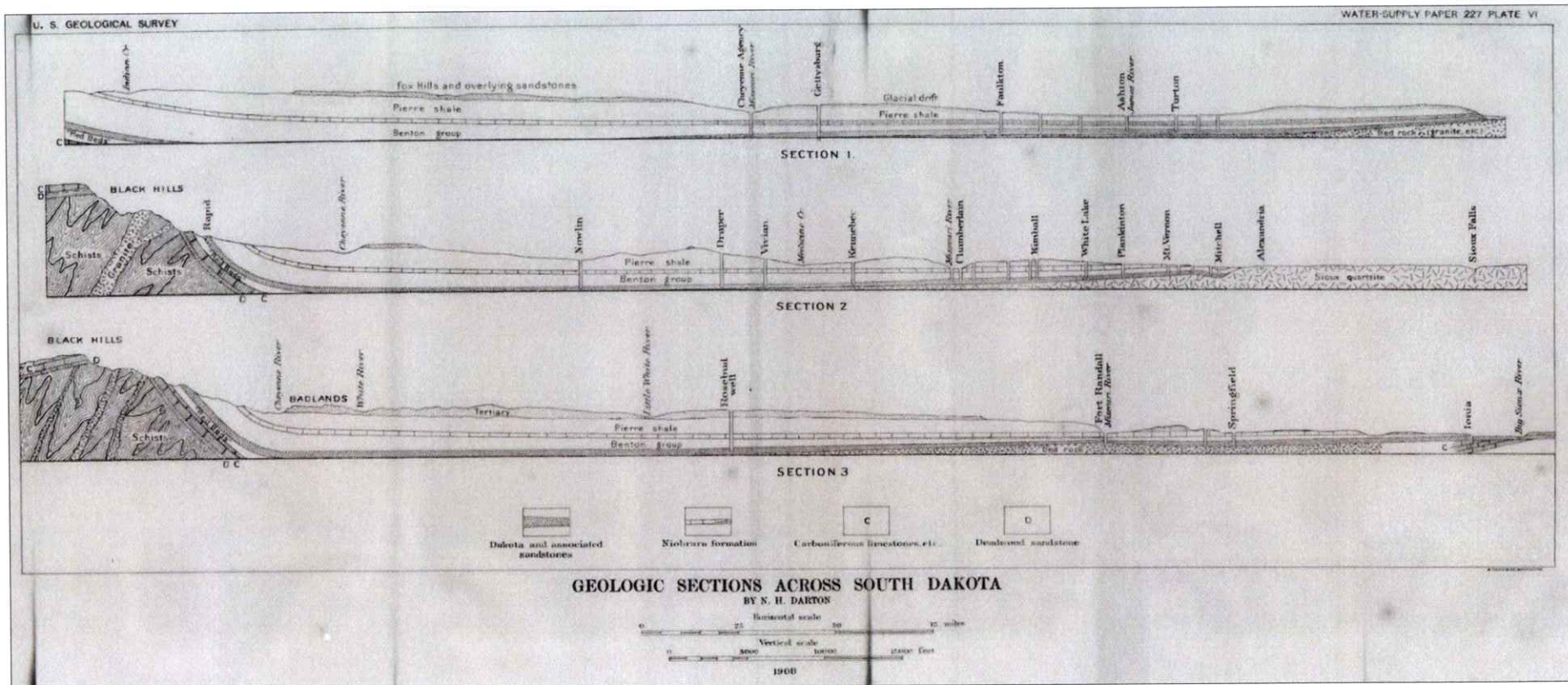


Figure 1. The Pierre Shale across South Dakota, as originally described by Darton in 1908 (Darton, 1909)

Stage	Western Interior Ammonite Zones	Central Montana	South Dakota		Eastern North Dakota	Southern Manitoba
			Southern Black Hills	Chamberlain area		
Maestrichtian	Lower	<i>Baculites clinolobatus</i>	Hell Creek Formation (part)	Mobridge Member		
		<i>Baculites grandis</i>	Fox Hills Sandstone	?	Shale	Shale
		<i>Baculites baculus</i>		Virgin Creek Member		
Campanian	Upper	<i>Baculites eliasi</i>			?	?
		<i>Baculites jenseni</i>	Kara Bentonitic Member			
		<i>Baculites reesidei</i>				
		<i>Baculites cuneatus</i>	Bearpaw Shale	Verendrye Member	Odanah Member	Odanah Beds
		<i>Baculites compressus</i>				
		<i>Didymoceras cheyennense</i>				
		<i>Exiteloceras jenneyi</i>				
		<i>Didymoceras stevensoni</i>				
		<i>Didymoceras nebrascense</i>				
		<i>Baculites scotti</i>				
		<i>Baculites gregoryensis</i>				
		<i>Baculites perplexus</i>				
	Lower	<i>Baculites sp. (smooth)</i>				
		<i>Baculites asperiformis</i>				
		<i>Baculites mclearni</i>				
		<i>Baculites obtusus</i>				
		<i>Baculites sp. (weakly ribbed)</i>				
		<i>Baculites sp. (smooth)</i>				
		<i>Scaphites hippocrepis</i>				

Figure 2. Stratigraphic nomenclature chart of the Pierre Shale in the northern Great Plains (Gill and Cobban, 1965)

A well completion report was submitted with this application. The well was completed on June 9, 2025, with an approximate static water level 180 feet below the ground surface (Water Rights, 2025d). The water well completion report shows the top of the shale is 260 feet below the ground surface. The well was screened from 340 feet to 420 feet below ground surface. Because of the limited details regarding the lithology encountered while drilling, it is unclear where the saturated and permeable portion of the formation is located. Therefore, the “top of aquifer materials” should be considered to be at the top of the shale at 260 feet even though the practical aquifer is likely contained near the bottom of the well where the screen is located. Based on the top of aquifer material, the static water level, and total well depth (420 ft), the aquifer is confined with a saturated aquifer thickness of at least 160 feet (Water Rights, 2025b). The upper portion of the shale is likely to be the confining layer since the entirety of the formation was not screened. Although lithologic details in the well completion report are limited, the aquifer appears to be confined by shale, with the upper portion of the formation likely serving as the confining layer since the well was screened at 340 feet and the top of aquifer materials lie at 260 feet. This is similar to the nearest well completion report showing screening past the top of aquifer material (Water Rights, 2025d)

South Dakota Codified Law (SDCL)

Water Permit Application No. 8982-3 proposes to appropriate water from the Pierre Shale aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1 and SDCL 46-2A-9.

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 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 Pierre Shale 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 Pierre Shale aquifer must be considered.

Pursuant to SDCL 46-2A-9,

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

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

Recharge

The Pierre Shale 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. The Pierre Shale underlies the Fox Hills Sandstone and separates it from deeper aquifers (Whitehead, 1996). 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 (Whitehead, 1996). The Pierre Shale, while predominantly a confining unit, exhibits variability in its hydraulic properties across different regions. In a recent study conducted by the USGS in cooperation with the U.S. Air Force Civil Engineer Center, slug-tests derived hydraulic conductivity estimates for wells completed entirely or partially in the Pierre Shale near Elsworth Airforce Base ranged from 0.04 to 0.09 ft per day (Medler et al., 2023). While some information is known about the Pierre Shale in the western part of South Dakota, little is known about the hydraulic conductivity of the Pierre Shale aquifer on the eastern side of the Missouri River. Based off the study by Medler et al. (2023), it is

assumed that the transmissivity of water is low throughout the Pierre Shale aquifer near the land surface (Medler, 2022; Medler et al., 2023). In general, the Pierre Shale transmits water very slowly due to its role as a confining layer, and in areas east of the Missouri River the shale's permeability can vary due to factors such as fracturing, weathering, and the presence of interbedded sandstones. Given the lack of information on recharge for deeper and more eastern parts of the Pierre Shale aquifer in South Dakota, and the lack of well monitoring data in Edmunds County completed into the Pierre Shale, determining the recharge estimate is difficult without extensive further study. For this application, the well is assumed to behave confined, is likely drilled into a fracture(s) or interbedded sandstone layers within the Pierre Shale and may have a limited supply of water with low transmissivity. The Pierre Shale is very expansive and therefore would receive a large amount of recharge. However, due to the low transmissivity, all of the recharge is not available everywhere.

Discharge

Currently, there are four water rights/permits authorized to appropriate water from the Pierre Shale aquifer. The four water rights/permits are all for non-irrigation purposes. Table 1 summarizes the four non-irrigation water rights/permits with the estimated annual use for each water right/permit as determined by their permitted maximum diversion rate because none have a permitted volume limit. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer when the permits are limited only by permitted diversion rate and do not report annual pumping (Water Rights, 2025c). This method is likely an overestimation of average annual withdrawals. Overall, the estimated average annual withdrawal rate from the Pierre Shale aquifer by the non-irrigation water rights/permits is approximately 241 acre-feet per year (Table 1) (Water Rights, 2025c).

Table 1. Summary of the non-irrigation water permits/rights for the Pierre Shale aquifer.

Permit No.	Name	Status	Use Type	Authorized Diversion Rate (cfs)	Estimated Diversion Rate Total (ac-ft/yr)
1775-1	Alben Inc	LC	COM	0.011	4.8
2352-2	USAF Ellsworth Afb	PE	GWR	0.22	95.6
5572-3*	Elm Lake Resort	LC	COM	0.044	0
6342-3	Sjovall	LC	COM	0.324	140.7
LC: License; PE: Permit; COM: Commerical; GWR: Groundwater Remediation; * Identified as being connected to rural water and currently maintains well for standby use				TOTAL:	241.1

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

development of rural water systems in areas where the Pierre Shale aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. This is further supported by the fact that water in the Pierre Shale is generally of poor quality. Also, since the Pierre Shale does not typically act as an aquifer, its use is not widespread. Poor porosity in the Pierre Shale limits transmission of water to a relatively localized area in the aquifer. The closest domestic well on file with the Water Rights Program drilled into the Pierre Shale is approximately 2.2 miles west of the diversion point for this application. The next two closest are approximately 5.3 miles to the southeast and approximately 6.3 miles to the northeast of the proposed diversion point. At those distances, it is likely that sufficient water is available locally to supply this application and the existing domestic wells. However, if there is an issue, this application, if approved, may need to limit withdrawals. Because these domestic wells have operated for many years without reported issues and given the relatively limited volume requested by this application, localized pumping from the Pierre Shale is not expected to substantially affect aquifer conditions or water availability.

Hydrologic Budget Summary

The estimated average annual withdrawal rate from the Pierre Shale aquifer is approximately 272 acre-feet per year (non-irrigation: 241.1 acre-feet/year; Water Permit Application No. 8982-3 (if approved, assuming full volume): 30.68 acre-feet/year). Based on the small amount of water appropriated out of the Pierre Shale aquifer, the low annual volume requested by this application, and the very expansive areal extent of the Pierre Shale, there is a reasonable probability unappropriated water is available from the Pierre Shale aquifer.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program does not have any observation wells completed into the Pierre Shale aquifer. Observation wells provide data showing recharge to and natural discharge from an aquifer, historical long-term pumping effects, and regional climatic conditions. Given the low transmissivity of the Pierre Shale aquifer, any observation well would need to be located near the project site for long-term monitoring of the aquifer and to assess any effects to any other nearby wells.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Given the vast distance the Pierre Shale covers across South Dakota, most of the water rights/permits are spread far apart from one another across both the east and west portions of the state. The closest water right/permit to the proposed diversion point is Water Right No. 5572-3, which is held by Elm Lake Resort and is not currently in use. The diversion point for Water Right No. 5572-3 is located approximately 54 miles northeast of the proposed diversion point for

this application (Figure 3) (Water Rights, 2025c). The diversion points for the other water rights/permits appropriating from the Pierre Shale are Water Right No. 6342-3 (Ivan Sjovall), located approximately 86 miles northeast of the proposed diversion point; Water Right No. 1775-1 (Alben Inc.), located approximately 198 miles southwest of the proposed diversion point; and Water Permit No. 2352-2 (Ellsworth Air Force Base), located approximately 198 miles southwest of the proposed diversion point.

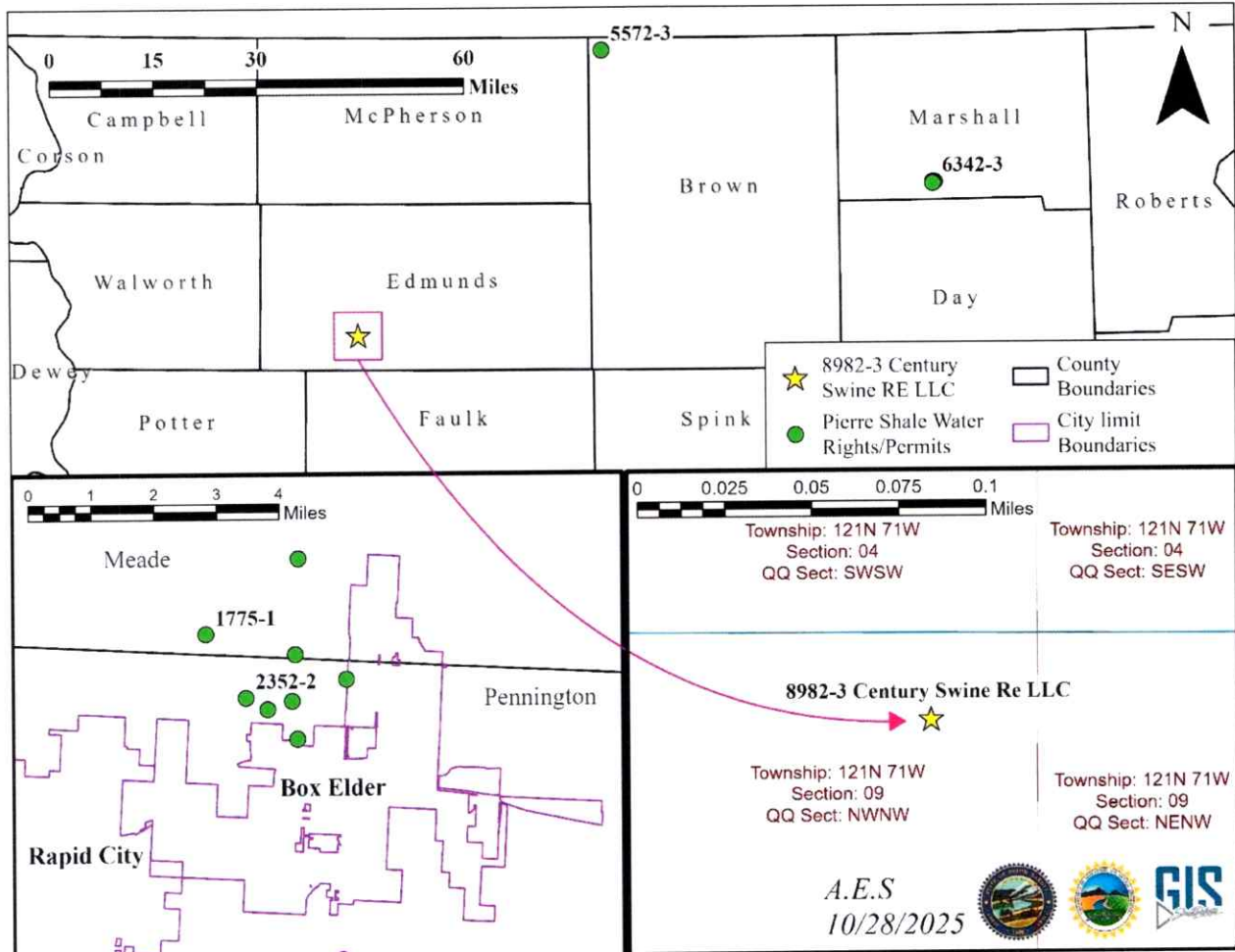


Figure 3. A map showing the four water rights/permits permitted to appropriate from the Pierre Shale aquifer and the location of Water Permit Application No. 8982-3 (Water Rights, 2025c)

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Pierre Shale aquifer, with the closest domestic well on file (not held by the applicant) located approximately 2.2 miles west of the proposed diversion point (Water Rights, 2025d). There could potentially be other domestic wells completed into the Pierre Shale aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

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). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Pierre Shale aquifer at their location. However, the generally limited transmissivity of the Pierre Shale and the distance to the nearest known Pierre Shale wells means this application has a reasonable chance to pump its own well dry before causing well interference in other Pierre Shale wells. However out of an abundance of caution, it is recommended that an observation well be installed to monitor drawdown for potential unlawful impairment.

Therefore, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the small amount of water currently appropriated out of the Pierre Shale aquifer over a very large area, the low diversion requested in this application, and the lack of complaints of well interference in the Pierre Shale aquifer in Edmunds County, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells. Thus, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments to existing users with adequate wells.

CONCLUSIONS:

1. 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 cfs from one well completed into the Pierre Shale aquifer (approximately 420 feet deep) located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9 for commercial use in a swine facility located in the NW $\frac{1}{4}$ Section 9; all in T121N-R71W. The site is located in Edmunds County, approximately ten miles southwest of Roscoe, SD.
2. Based on the small amount of water appropriated out of the Pierre Shale aquifer and the low diversion requested in this application, there is a reasonable probability unappropriated water is available from the Pierre Shale aquifer.
3. Given the low transmissivity of water within the Pierre Shale aquifer, there is reasonable probability that the proposed diversion by Water Permit Application No. 8982-3 will not unlawfully impair adequate wells for existing water rights/permit holders and domestic users.
4. It is recommended that an observation well be installed for long-term monitoring of Pierre Shale aquifer water levels near the site and for any effects on other nearby wells.



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

Reviewed by:



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

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LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Barry Kerkaert
Barry Kerkaert
Century Swine RE, LLC
304 S Splitrock BLVD
Suite 205
Brandon SD 57005-1652

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:

12/03/2025

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 12/03/2025

Legal Clerk

Notary, State of W., County of Brown

My commission expires

Publication Cost:	\$56.90	
Tax Amount:	\$0.00	
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Order No:	11868964	# of Copies:
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AMY KOKOTT
Notary Public
State of Wisconsin

NOTICE OF APPLICATION
NO. 8982-3 to Appropriate
Water

Notice is given that Century Swine RE, LLC., 304 South Splitrock Blvd., Suite 205, Brandon SD 57005, has filed an application for a water permit 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 located in the NW 1/4 Section 9; all in T121N-R71W. This site is located approximately ten miles southwest of Roscoe SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8982-3 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 Acting Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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

57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by December 15, 2025.

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

Any interested person may file a comment on the application with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by December 15, 2025.

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

Published on December 3, 2025 at the total approximate cost of \$56.90 and may be viewed free of charge at www.sdpublicnotices.com

AFFIDAVIT OF PUBLICATION

State of South Dakota)
) SS
County of Edmunds)

D.E. Gibson of said county, being, first duly sworn on oath says: That he is the publisher or an employee of the publisher of the **Edmunds Co. Tribune**, a weekly newspaper, published in the City of Ipswich, in said County of Edmunds, and State of South Dakota; that he has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Edmunds and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the advertisement headed

NOTICE OF APPLICATION TO APPROPRIATE WATER

a 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 forone..... successive issues.

The First publication being made on the31..... day of Dec., 20.....²⁵

The Second publication being made on the day of, 20.....

The Third publication being made on the day of, 20.....

The Fourth publication being made on the day of, 20.....

The Fifth publication being made on the day of, 20.....

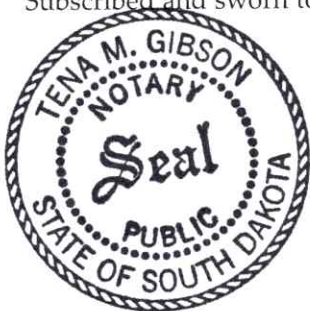
That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever;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

Forty-four.....Dollars and

thirty-three.....cents (\$44.33)

Signed: 

Subscribed and sworn to before me this2..... day of Jan., 20.....²⁵



Notary Public - Edmunds County, South Dakota

My commission expires May 31, 2031

JAN 12 2026

OFFICE OF
WATER

other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by January 12, 2026.

The petition shall include a statement describing the unique in-

PUBLIC NOTICE

NOTICE OF APPLICATION NO. 8982-3 to Appropriate Water

Notice is given that Century Swine RE, LLC., 304 South Splitrock Blvd., Suite 205, Brandon SD 57005, has filed an application for a water permit 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 located in the NW 1/4 Section 9; all in T121N-R71W. This site is located approximately ten miles southwest of Roscoe SD.

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jury 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.

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Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, December 15, 2025 11:50 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
12/15/2025

Date Comment Filed:
12/15/2025 23:50:18

Commenter Info:
Thiele Dunaway
7254 Cutting Blvd
El Cerrito CA, 94530

Comment:
My family has owned property in Edmunds County since the early 1900's. I am very concerned about this water appropriation application and its impact. This comment discusses my family's property interest and concerns. Please review and consider the detailed attached comment.

Attachment:
/Comment Attachments/Attach to Comment on DANR Swine Farm H2O Permit App pdf.pdf

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DEC 15 2025
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Program

Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, December 15, 2025 3:09 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
12/15/2025

Date Comment Filed:
12/15/2025 15:08:58

Commenter Info:
Garett Heinz
27 2nd Ave
Ipswich SD, 57451

Comment:
I submit the following comments regarding the application to drill and operate high-capacity water wells to supply a proposed Century Swine concentrated animal feeding operation (CAFO). We have concerns about the ground water being used up over time. This group was dishonest at the public hearing about the road agreement as well as the scope of the project. They said they will use 60,000 gallons a day but what holds them to that? We have wells on our farm less than four miles away. How do we know how this will affect them long term with a project this size? Other concerns 1. Groundwater Quantity and Aquifer Sustainability A facility of this scale will require substantial daily and annual water withdrawals. Under SDCL 46-6-3 and SDCL 46-6-5, the state has a duty to conserve groundwater resources and prevent unreasonable impairment. The application should clearly demonstrate that projected pumping will not cause long-term aquifer depletion, interfere with existing domestic or livestock wells, or exceed local recharge rates, including cumulative impacts from other permitted wells in the area. 2. Well Interference and Neighboring Landowners Pursuant to SDCL 46-6-6.1, permits should consider potential well interference. Many rural residents rely exclusively on private wells. DANR should require baseline water-level data, modeling of drawdown, and enforceable mitigation measures if neighboring wells experience reduced yield or failure. 3. Groundwater Quality Protection The risk of nitrate, pathogen, and contaminant migration associated with large-scale manure handling raises concerns under SDCL 34A-2-1 and ARSD 74:02:07, which protect groundwater quality for present and future beneficial uses. The proximity of production wells to manure pits, land application areas, mortality disposal sites, and

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Water Rights
Program

chemical storage must comply with separation and construction standards in ARSD 74:02:04 to prevent vertical or horizontal contamination. 4. Baseline Testing and Ongoing Monitoring Prior to well approval, DANR should require independent baseline testing of nearby private wells for nitrates, bacteria, and total dissolved solids, with results made publicly available. Ongoing monitoring and reporting should be required as a permit condition, consistent with SDCL 46-6-10.1, to ensure early detection of contamination or declining water levels. 5. Manure, Pharmaceuticals, and Indirect Impacts The scale of a 16,000-sow operation increases the likelihood of groundwater exposure to nutrients, antibiotics, and other veterinary compounds. The application should demonstrate how these risks will be prevented and monitored, consistent with the state's duty to prevent pollution of waters of the state under SDCL 34A-2-32. 6. Cumulative and Segmented Review Water well permits should not be evaluated in isolation. DANR should consider the cumulative impacts of water withdrawals, manure management, and land application associated with the full CAFO operation to ensure compliance with state water protection statutes and the intent of South Dakota's groundwater conservation framework. Request Given the scale of this proposal, I respectfully request that DANR either delay or deny approval until sufficient data demonstrates that groundwater quantity and quality will be fully protected. i have reviewed the application and I so not see any information regarding groundwater recharge rates. The way I understand it, under state law they have to be able to prove the water recharges at the rate they extract it. Thank you for considering these comments and for your responsibility to protect South Dakota's groundwater resources for current and future users. Respectfully submitted, Garrett Heinz

Attachment:

Attachment to Comment on DANR Water Permit Application No. 8982-3

I own property and have a domestic well at a depth of 420 feet located in Section 24, Township 122 North, Range 72 West, in Edmunds County (my family has been farming this land since the early 1900's). I am very concerned that if Water Permit Application No. 8982-3 is approved, the applicant's new well and proposed drawdown will have a significant, harmful impact on my well and my land, and may even result in depriving my property of all water.

I only very recently learned of this application by Century Swine RE, LLC, and I have not had time to consult with a hydrologist or other expert, but, in the absence of expert input at this point, here are my initial (but not exclusive) concerns about Century Swine RE, LLC's water permit application No. 8982-3 and the Report to the Chief Engineer On Water Permit Application No. 8982-3 (the "Report").

While the Report stated conclusions favorable to the applicant, Century Swine RE, LLC ("Applicant"), on the four elements required for approval by South Dakota Codified Laws 46-2A-9 (§46-2A-9), those appear to be wholly conclusory and lacking in factual and evidentiary support. Rather, the Report appears to rely purely on assumptions and speculation. For example, the Report concludes that "[b]ased on the small amount of water appropriated out of the Pierre Shale aquifer and the low diversion requested in the application, there is a reasonable probability unappropriated water is available from the Pierre Shale aquifer." (Report, p. 9.) However, the Report *admits* that "[t]here are domestic wells completed into the Pierre Shale aquifer that do not require a water permit/right, so the "withdrawal amount from those wells is **unknown**." (Report, p. 5, emphasis added). How can the Report conclude that "there is a reasonable probability is available" when the withdrawal from the Pierre Shale aquifer is "unknown?" The Report tries to ignore this lack of evidence by speculating that "[d]ue to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget." (Report, p. 5.) However, the Report is relying on "generalities" or speculation as to what may/may not be happening in water drawdowns in this area. The Report goes on to speculate that "[a]t those distances, it is **likely** that sufficient water is available locally to supply this application and the existing domestic wells." (Report, p. 6.) Again, this is nothing more than speculation. The Report goes on to state that "[b]ecause these domestic wells have operated for many years without reported issues and given the relatively limited volume requested by this application, localized pumping from the Pierre Shale is not expected to substantially affect aquifer conditions or water availability." (Report, p. 6.) However, this is nothing more than speculation. There is no evidence supporting this conclusion. The Applicant wants to pump 10 million gallons. How does this not significantly and detrimentally affect availability of water to those near the Applicant's well? Without baseline information, how can the DANR reach this conclusion?

The Report further admits that there is **no** observation well in the Pierre Share aquifer. (Report, p. 6.) In other words, the DANR has **no actual idea of the water demands of domestic wells in**

the vicinity of the Applicant's well. Rather than deal with this issue as it may impact domestic wells in the vicinity of the Applicant's well, the Report instead discusses the four permitted wells that are 54 miles, 86 miles, and 198 miles from Applicant's well. (Report, pp. 6-7.) However, given the "low transmissivity" of the Pierre Shale aquifer, a conclusion that there is no impact should not come as a surprise, since the Report should certainly address the impacts of the Applicant's well on local domestic wells, but it does not.

Again, the Report relies on "low transmissivity" to show no purported impact on the permitted wells. However, the Report essentially disregards the impact on domestic wells within 10, 14, and 20, etc. miles of Applicant's well. With "low transmissivity, there may be no impact on wells a hundred miles away, but what of those in the vicinity.?"

Furthermore, the Report *admits* that "some existing well owners may need to install or lower pumps depending upon the specific characteristics of the Pierre Shale aquifer at their location." (Report, p. 8). If so, who should bear those costs? Why should I, someone with priority rights to water from the Pierre Shale, have to pay money to ensure I have the right to access the water I have had for years for my property? Having to install lower pumps does not come without cost. Distilling the issue down--why should long-standing, existing domestic water users (for over 100 years) have to incur the costs of deeper wells in order to preserve their rights to underground water, when their rights are prior to the Applicant's application to divert aquifer water?

Should the decades-long farmers, who are the very foundation of South Dakota's agricultural economy, have to pay for the cost, or should the out-of-state corporation seeking the permit have to bear that cost? The Report does not deny this adverse impact; instead, it goes on to "recommend[] that an observation well be installed to monitor drawdown for potential unlawful impairment." (Report, p. 8.)

In sum, I ask the Committee to protect the water rights of those small farmers who have been the bedrock foundation of South Dakota's agricultural economy for over 100 years, and ask the Committee to deny this permit Application, absent sufficient protections, including, but not limited to,

(1) deny this Application, unless the Applicant can assure, via admissible evidence, there will be no impact on landowners' rights to water from the Pierre Aquifer;

(2) if the Committee is inclined to approve the Swine Farm Application, that the Committee order that an Observation Well be drilled in the vicinity of Applicant's well, and that the Observation Well be operational for not less than 6 months before the Applicant may begin using its well in accordance with any limitations imposed by the DANR.

Thank you for considering the concerns of a long-standing South Dakota farmer family.

Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, December 15, 2025 10:39 AM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
12/15/2025

Date Comment Filed:
12/15/2025 10:38:34

Commenter Info:
Johnny Cantwell
PO Box 112
Ipswich SD, 57451

RECEIVED
DEC 15 2025
Water Rights
Program

Comment:
To Whom It May Concern, I submit the following comments regarding the application to drill and operate high-capacity water wells to supply a proposed 16,000 pig concentrated animal feeding operation (CAFO). 1. Groundwater Quantity and Aquifer Sustainability A facility of this scale will require substantial daily and annual water withdrawals. Under SDCL 46-6-3 and SDCL 46-6-5, the state has a duty to conserve groundwater resources and prevent unreasonable impairment. The application should clearly demonstrate that projected pumping will not cause long-term aquifer depletion, interfere with existing domestic or livestock wells, or exceed local recharge rates, including cumulative impacts from other permitted wells in the area. 2. Well Interference and Neighboring Landowners Pursuant to SDCL 46-6-6.1, permits should consider potential well interference. Many rural residents rely exclusively on private wells. DANR should require baseline water-level data, modeling of drawdown, and enforceable mitigation measures if neighboring wells experience reduced yield or failure. 3. Groundwater Quality Protection The risk of nitrate, pathogen, and contaminant migration associated with large-scale manure handling raises concerns under SDCL 34A-2-1 and ARSD 74:02:07, which protect groundwater quality for present and future beneficial uses. The proximity of production wells to manure pits, land application areas, mortality disposal sites, and chemical storage must comply with separation and construction standards in ARSD 74:02:04 to prevent vertical or horizontal contamination. 4. Baseline Testing and Ongoing Monitoring Prior to well approval, DANR should require independent baseline testing of nearby private wells for nitrates, bacteria, and total dissolved solids, with results made publicly available.

Ongoing monitoring and reporting should be required as a permit condition, consistent with SDCL 46-6-10.1, to ensure early detection of contamination or declining water levels. 5. Manure, Pharmaceuticals, and Indirect Impacts The scale of a 16,000-sow operation increases the likelihood of groundwater exposure to nutrients, antibiotics, and other veterinary compounds. The application should demonstrate how these risks will be prevented and monitored, consistent with the state's duty to prevent pollution of waters of the state under SDCL 34A-2-32. 6. Cumulative and Segmented Review Water well permits should not be evaluated in isolation. DANR should consider the cumulative impacts of water withdrawals, manure management, and land application associated with the full CAFO operation to ensure compliance with state water protection statutes and the intent of South Dakota's groundwater conservation framework. Request Given the scale of this proposal, I respectfully request that DANR either (1) impose strict permit conditions including pumping limits, baseline and ongoing monitoring, and enforceable mitigation requirements, or (2) delay or deny approval until sufficient data demonstrates that groundwater quantity and quality will be fully protected. Thank you for considering these comments and for your responsibility to protect South Dakota's groundwater resources for current and future users. Respectfully submitted,

Attachment:

346-1000
1000-1000
1000-1000
1000-1000



RECEIVED

DEC 15 2025

Water Rights
Program

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8982-3

Name of Applicant Century Swine RE, LLC., Jacob Tiede

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

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

Comments concerning this application:

To Whom It May Concern,

I submit the following comments regarding the application to drill and operate high-capacity water wells to supply a proposed 16,000 pig concentrated animal feeding operation (CAFO).

1. Groundwater Quantity and Aquifer Sustainability

A facility of this scale will require substantial daily and annual water withdrawals. Under SDCL 46-6-3 and SDCL 46-6-5, the state has a duty to conserve groundwater resources and prevent unreasonable impairment. The application should clearly demonstrate that projected pumping will not cause long-term aquifer depletion, interfere with existing domestic or livestock wells, or exceed local recharge rates, including cumulative impacts from other permitted wells in the area.

2. Well Interference and Neighboring Landowners

Pursuant to SDCL 46-6-6.1, permits should consider potential well interference. Many rural residents rely exclusively on private wells. DANR should require baseline water-level data, modeling of drawdown, and enforceable mitigation measures if neighboring wells experience reduced yield or failure.

3. Groundwater Quality Protection

The risk of nitrate, pathogen, and contaminant migration associated with large-scale manure handling raises concerns under SDCL 34A-2-1 and ARSD 74:02:07, which protect groundwater quality for present and future beneficial uses. The proximity of production wells to manure pits, land application areas, mortality disposal sites, and chemical storage must comply with separation and construction standards in ARSD 74:02:04 to prevent vertical or horizontal contamination.

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5. Manure, Pharmaceuticals, and Indirect Impacts

The scale of a 16,000-sow operation increases the likelihood of groundwater exposure to nutrients, antibiotics, and other veterinary compounds. The application should demonstrate how these risks will be prevented and monitored, consistent with the state's duty to prevent pollution of waters of the state under SDCL 34A-2-32.

6. Cumulative and Segmented Review

Water well permits should not be evaluated in isolation. DANR should consider the cumulative impacts of water withdrawals, manure management, and land application associated with the full CAFO operation to ensure compliance with state water protection statutes and the intent of South Dakota's groundwater conservation framework.

Request

Given the scale of this proposal, I respectfully request that DANR either (1) impose strict permit conditions including pumping limits, baseline and ongoing monitoring, and enforceable mitigation requirements, or (2) delay or deny approval until sufficient data demonstrates that groundwater quantity and quality will be fully protected.

Thank you for considering these comments and for your responsibility to protect South Dakota's groundwater resources for current and future users.

Respectfully submitted,

Commenter's name and address:

First Name: Amanda

Last Name: Abarca

Address: 13107 Wild Turkey Lane

City: Hot Springs

State: SD

Zip: 57747

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

Application No. 8982-3

Commenter's Name Amanda Abarca

Any additional comments:



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DEC 15 2025

Water Rights
Program

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8982-3 Name of Applicant Century Swine RE LLC

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

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

Comments concerning this application:

To Whom It May Concern,

I submit the following comments regarding the application to drill and operate high-capacity water wells to supply a proposed 16,000-sow concentrated animal feeding operation (CAFO).

1. Groundwater Quantity and Aquifer Sustainability

A facility of this scale will require substantial daily and annual water withdrawals. Under SDCL 46-6-3 and SDCL 46-6-5, the state has a duty to conserve groundwater resources and prevent unreasonable impairment. The application should clearly demonstrate that projected pumping will not cause long-term aquifer depletion, interfere with existing domestic or livestock wells, or exceed local recharge rates, including cumulative impacts from other permitted wells in the area.

2. Well Interference and Neighboring Landowners

Pursuant to SDCL 46-6-6.1, permits should consider potential well interference. Many rural residents rely exclusively on private wells. DANR should require baseline water-level data, modeling of drawdown, and enforceable mitigation measures if neighboring wells experience reduced yield or failure.

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4. Baseline Testing and Ongoing Monitoring

Prior to well approval, DANR should require independent baseline testing of nearby private wells for nitrates, bacteria, and total dissolved solids, with results made publicly available. Ongoing monitoring and reporting should be required as a permit condition, consistent with SDCL 46-6-10.1, to ensure early detection of contamination or declining water levels.

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The scale of a 16,000-sow operation increases the likelihood of groundwater exposure to nutrients, antibiotics, and other veterinary compounds. The application should demonstrate how these risks will be prevented and monitored, consistent with the state's duty to prevent pollution of waters of the state under SDCL 34A-2-32.

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Water well permits should not be evaluated in isolation. DANR should consider the cumulative impacts of water withdrawals, manure management, and land application associated with the full CAFO operation to ensure compliance with state water protection statutes and the intent of South Dakota's groundwater conservation framework.

Request

Given the scale of this proposal, I respectfully request that DANR either (1) impose strict permit conditions including pumping limits, baseline and ongoing monitoring, and enforceable mitigation requirements, or (2) delay or deny approval until sufficient data demonstrates that groundwater quantity and quality will be fully protected.

Thank you for considering these comments and for your responsibility to protect South Dakota's groundwater resources for current and future users.

Respectfully submitted,

Commenter's name and address:

First Name: Cynthia Last Name: Heinz

Address: 34077 147th st

City: Onaka State: SD Zip: 57466

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

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Thursday, January 1, 2026 10:55 AM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
01/12/2026

Date Comment Filed:
01/01/2026 10:55:22

Commenter Info:
Matthew DeMent
1015 Pearl Ave
Leola SD, 57456

Comment:
By giving these CAFOs water permits, you are allowing them to be built in this state. I am a farmer and rancher. I water my cattle with well water. I am roughly 40 to 50 miles northeast of this farm. How will this second, deeper well affect my water and the water of the ranchers in this area? Water is not usually a plentiful thing in this area. These farms coming in and drilling wells to use astronomical amounts of water has to stop!! I strongly recommend you oppose this application for more water Thank you

Attachment:

Dewell, Amanda

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Thursday, January 1, 2026 10:55 AM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
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1015 Pearl Ave
Leola SD, 57456

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Attachment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, January 11, 2026 12:37 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
01/12/2026

Date Comment Filed:
01/11/2026 12:36:44

Commenter Info:
Justin Baer
34180 147th ST
Onaka SD, 57466

Comment:

The current application for the well is not currently on the docket. I would like the correct info and permit application, as we as a farming operation hold several wells within a five mile radius of this site. Why has there been constant changes to the water usage of this site, as the public was only aware of a 60,000 gal/day water usage? This has now been nearly tripled! There has been mounting mistakes and changes made to this site including: permitted manure application acres being doubled up, massive changes in the water usage, to a rough handful of ownership changes or transfers of the site and the building. For the public to be misinformed on the amount of water being used by a facility of this size shouldn't be taken lightly by the department that is supposed to protect those resources. How does a project of this scale have the ability to nearly triple its water usage before it's even completed? What gives them the right to lie to surrounding landowners and people who currently use the groundwater? What gives them the right to stongarm current groundwater users by drilling deeper, applying for more gallons? What happens if local wells run dry? What happens if the local surface watershed is contaminated? What if current wells have to be drilled deeper, requiring permits. Can Century Swine petition against an individual for needing more water? Will this lead to farms being pushed out of wells simply because DANR looked the other way on a matter they are supposed to protect? Moving forward there needs to be oversight on this matter

as projects of this size are planned well in advance, and knowledge of the needs of these projects should be and is supposed to be public knowledge. I would like a correct application for second well. How is the public supposed to comment on an incorrect application? How do these types of matters keep reoccurring in this department? Thank you, Justin Baer

Attachment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, January 12, 2026 8:06 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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Comment On:

No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:

01/12/2026

Date Comment Filed:

01/12/2026 20:05:58

Commenter Info:

Sandra R Jungwirth
16221 375th ave
Athol SD, 57424

Comment:

The information that I reviewed on this docket indicates that the counties affected by this aquifer are McPherson, Faulk, and Edmunds counties. Until now, I was unaware of the counties affected by this project. We have pasture and farm ground in Faulk County, with three wells on our properties that could be affected by this project. Perhaps I should be completing a petition instead of just commenting. Which brings me to the thought, was public notice made to those who live in Faulk County in the Faulk County paper and if so, what date was the notice run in the Faulk County paper? The amount of water that this project is requesting is enormous and could very much affect our three wells, however this project has the potential to affect many more farms and ranches in Faulk County. It is of the utmost concern that all of us are good stewards of our natural resources. Therefore, I am asking that you deny the request for the water for this project. Also, the Public Notice of this project does not match the application.

Attachment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, January 12, 2026 7:00 PM
To: Duvall, Ron; Dewell, Amanda
Subject: [EXT] Comment on No. 8982-3, Century Swine RE, LLC., Jacob Tiede

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Comment On:
No. 8982-3, Century Swine RE, LLC., Jacob Tiede

Comment Deadline Date:
01/12/2026

Date Comment Filed:
01/12/2026 18:59:48

Commenter Info:
Thiele R Dunaway
7254 Cutting Blvd
El Cerrito CA, 94530

Comment:
Please see my comments on Water Permit Application No. 8982-3 contained in the attachment hereto.
Thank you.

Attachment:
/Comment Attachments/Attach to Comment on DANR H2O Permit App 8982-3 Jan 12 2026.pdf

Attachment to Thiele R. Dunaway's Comment on DANR Water Permit Application No. 8982-3 (Jan. 12, 2026)

Substantial Risk of Unlawful Impairment of My Existing Domestic Water Rights

I own property and have a domestic well at a depth of 420 feet located in Section 24, Township 122 North, Range 72 West, in Edmunds County (my family has been farming this land since the early 1900's). Given the lack of data in both the water permit application and the Report to the Chief Engineer On Water Permit Application No. 8982-3, I am very concerned that if Water Permit Application No. 8982-3 ("Application") is approved, the applicant's new well and proposed drawdown will unlawfully impair my water rights (which have priority), and will have a significant, harmful impact on my well and my land, and may even result in depriving my property of all water from my domestic well.

Since learning of this Application by Century Swine RE, LLC, I have not had time to consult with a hydrologist or other expert, but, in the absence of expert input at this point, here are my initial (but not exclusive) concerns about Century Swine RE, LLC's water permit Application No. 8982-3 and the Report to the Chief Engineer On Water Permit Application No. 8982-3 (the "Report").

While the Report stated conclusions favorable to the applicant, Century Swine RE, LLC ("Applicant"), on the issue of recharge (South Dakota Codified Laws 46-6-3.1) and on the four elements required for approval by South Dakota Codified Laws 46-2A-9 (§46-2A-9), those conclusions appear to be wholly conclusory and lacking in factual and evidentiary support. Rather, the Report and recommendation appear to rely largely on assumptions and speculation.

Recharge

SDCL 46-6-3.1 provides that "No application to appropriate groundwater may be approved if . . . 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." Neither the Application nor the Report provide any evidence to support a conclusion that the Applicant's proposed well will not exceed the estimated annual recharge of water. The Report states that "little is known about the hydraulic conductivity of the Pierre Shale aquifer on the eastern side of the Missouri River." (Report, p. 4.) It goes on to state that "it is *assumed* that the transmissivity of water is low throughout the Pierre Shale aquifer near the land surface." (Report, pp. 4-5 [emphasis added].) The Report then admits:

Given the **lack of information on recharge** for deeper and more eastern parts of the Pierre Shale aquifer in South Dakota, and the **lack of well monitoring data in Edmunds County** completed

into the Pierre Shale, **determining the recharge estimate is difficult without extensive further study.**

(Report, p. 5 [emphasis added].)

A U.S. Geological Survey report on the Water Resources of Mellette and Todd Counties, South Dakota (1998) [Water Resources Investigations Report 98-4146] (“USGS Report”) states that the Pierre Shale aquifer is a bedrock aquifer, and that yields from it are from 1 to 8 gallons per minute. (USGS Report, p. 38.) “Recharge to the Pierre Shale aquifer primarily is by infiltration of precipitation on the outcrops of the Pierre Shale. . . . The greatest recharge to the aquifer occurs during the spring after snowmelt and during storms events. Infiltration rates generally are less than the lowest rate (0.06 inches/hour) measured by the U.S. Soil Conservation Services (1974, 1975).” (USGS Report, p. 42.) Given the limited recharge rate of the Pierre Shale aquifer, it is all the more important that adequate data on recharge be reviewed and considered in connection with this water permit Application, and certainly before any permit is approved.

However, despite the admission that critical data with respect to recharge is not available, so that a determination may be made that the quantity of water to be withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer, the Report recommends approval of the Application, contrary to SDCL 46-6-3.1.

Availability of Unappropriated Water

SDCL 46-2A-9 provides that “[a] permit to appropriate water may only be issued if there is a reasonable probability that unappropriated water is available for the applicant’s proposed use” However, the Report *admits* that “[t]here are domestic wells completed into the Pierre Shale aquifer that do not require a water permit/right, so the “withdrawal amount from those wells **is unknown.**” (Report, p. 5 [emphasis added].) How can the Report conclude that “there is a reasonable probability unappropriated water is available” when the withdrawal from the Pierre Shale aquifer is “unknown?” The Report tries to ignore this lack of evidence by speculating that “[d]ue to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget.” (Report, p. 5.) However, the Report is relying on “generalities” or speculation as to what may/may not be happening in water drawdowns in this area. The Report goes on to speculate that “[a]t those distances, it is **likely** that sufficient water is available locally to supply this application and the existing domestic wells.” (Report, p. 6.) The Report then states that “[b]ecause these domestic wells have operated for many years without reported issues and given the relatively limited volume requested by this application, localized pumping from the Pierre Shale is not expected to substantially affect aquifer conditions or water availability.” (Report, p. 6.) However, this is purely speculative. There is no evidence supporting this conclusion. The Applicant wants to pump 10 million gallons at a rate of 25 gallons per minute. How does this not significantly and

detrimentally affect availability of water to those near the Applicant's well? Without baseline data and information, how can the DANR reach this conclusion?

The Report admits that there is no observation well in the Pierre Share aquifer. (Report, p. 6.) In other words, the DANR has **no actual idea of the water demands of domestic wells in the vicinity of the Applicant's well**. Rather than deal with this issue as it may impact domestic wells closest to the Applicant's well, the Report instead discusses the four permitted wells that are 54 miles, 86 miles, and 198 miles from Applicant's well. (Report, pp. 6-7.) However, the Report relies on the "low transmissivity" of the Pierre Shale aquifer to show no purported impact on the four permitted wells. However, the Report essentially disregards the impact on domestic wells within 5, 10, and 20, etc. miles of Applicant's well. With "low transmissivity," there may be no impact on wells a hundred miles away, but what of those in close proximity? The Report should certainly address the impacts of the Applicant's well on nearby local domestic wells, but it does not. It mentions the closest domestic wells *on file* (2.2 miles, 5.3 miles, 6.3 miles), and states, without support, that "it is likely that sufficient water is available locally." (Report, p. 6.) Despite admitting that it does not know how many domestic wells may be operating near the Applicant's site and drawing water from the Pierre Shale aquifer (*i.e.*, existing wells that may not be "on file"), the Report "concludes" that the "estimated average annual withdrawal rate from the Pierre Shale aquifer is approximately 272 acre-feet per year" and that "there is a reasonable probability unappropriated water is available from the Pierre Shale aquifer." (Report, p. 6.)

Despite the lack of evidence to support it, the Report concludes that "[b]ased on the small amount of water appropriated out of the Pierre Shale aquifer and the low diversion requested in the application, there is a reasonable probability unappropriated water is available from the Pierre Shale aquifer." (Report, p. 9.)

Unlawful Impairment of Existing Domestic Water Uses and Water Rights

SDCL 46-2A-9 also provides that "[a] permit to appropriate water may only be issued if . . . the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights" However, as noted above, the Report admits that there is **no** observation well in the Pierre Share aquifer. (Report, p. 6.) Without having baseline data, the DANR has no actual idea of the water demands of domestic wells in the vicinity of the Applicant's well, or how the Applicant's requested drawdown will affect those domestic users.

Furthermore, the Report states that "some existing well owners may need to install or lower pumps depending upon the specific characteristics of the Pierre Shale aquifer at their location." (Report, p. 8). That is certainly an unlawful impairment of the existing well owners' water rights. I depend on my well water for my domestic needs and uses. Why should I, someone with priority rights to water from the Pierre Shale aquifer, have to pay money to ensure I have the

continued right to access the water I have had for years for my property? Having to install lower pumps does not come without cost. Why should long-standing, existing domestic water users (for over 100 years) have to incur the costs of drilling deeper wells in order to preserve their rights to underground water, when their rights are prior to the Applicant's application to divert aquifer water? The answer is clear in SDCL 46-2A-9: the existing domestic water users' rights are protected, and any Applicant whose new well would impair those rights should be denied a permit to appropriate water.

Should the decades-long farmers, who are the very foundation of South Dakota's agricultural economy, have to pay for the cost, or should the out-of-state corporation seeking the permit have to bear that cost? The Report does not deny this adverse impact; instead, it goes on to "recommend[] that an observation well be installed to monitor drawdown for potential unlawful impairment." (Report, p. 8.) But even that is only a recommendation, and not a condition or requirement of approving the permit Application. Absent making a monitoring well a condition of approval, there is absolutely no protection afforded to existing domestic well users.

Conclusion

The Applicant has not met its burden of showing that its proposed water permit application would not exceed the annual recharge rate of the Pierre Shale aquifer. Nor has the Applicant met its burden of establishing that there is a reasonable probability that unappropriated water is available for Applicant's use and that the proposed diversion can be made without unlawful impairment of existing domestic water uses and water rights.

I ask the Committee to protect the water rights of those small farmers who have been the bedrock foundation of South Dakota's agricultural economy for over 100 years, and ask the Committee to deny this permit Application, absent sufficient protections, including, but not limited to:

(1) deny this Application, unless the Applicant can demonstrate, by admissible evidence, that there will be no impairment of or adverse impact on existing landowners' rights to water for domestic uses from the Pierre Shale aquifer; or

(2) if the Committee is inclined to approve the Application, that the Committee order that an Observation Well be drilled in the vicinity of Applicant's well, and that the Observation Well be operational for not less than 6 months before the Applicant may begin using its well in accordance with any limitations imposed by the DANR.

Thank you for considering and addressing the concerns of a long-standing South Dakota farmer family.

Thiele R. Dunaway



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JAN 12 2026

OFFICE OF
WATER

Petition

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

Opposing Application for a Water Right Permit

Application No. 8982-3 Name of Applicant Century Swine RE, LLC

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.

Unique Injury to Petitioner – Hydrological Impacts

Approval of Water Rights Application No. 8982-3 will cause direct and particularized harm to Petitioner by altering the hydrology of surface water resources upon which Petitioner relies. Petitioner depends on streams, ponds, wetlands, and connected surface water systems for domestic, agricultural, or livestock purposes, as well as for ecological or property-related uses. Groundwater withdrawals from the proposed well are reasonably likely to reduce base flows, lower water levels, and degrade the availability and reliability of these surface water sources. Even small or gradual reductions can impair water access, disrupt natural recharge cycles, and reduce the sustainability of wetlands and surface water-dependent systems. When considered together with foreseeable future withdrawals, the proposed appropriation poses a cumulative threat to the quantity and timing of hydrologically connected surface water, creating a concrete and ongoing risk of injury to Petitioner that cannot be remedied after the fact.

List the reasons for your opposition to this application.

I. Petitioner(s) respectfully petition to intervene in the above-referenced proceeding pursuant to SDCL 46-2-3.2 and ARSD 74:02:01:08.

I. INTEREST OF PETITIONER

Petitioner(s) are residents, landowners, and/or lawful water users who rely upon surface water and/or groundwater resources that are hydrologically connected to the source affected by this application. Petitioner(s) have a direct, substantial, and legally protectable interest in preventing unlawful impairment of existing water rights, protecting public trust resources, and ensuring lawful administration of South Dakota water law.

II. GROUNDS FOR INTERVENTION

Petitioner(s) oppose approval of Water Rights Application No. 8982-3 on the following grounds:

A. Unlawful Impairment of Existing Water Rights (Threshold Legal Defect)

Approval of this application would result in the unlawful impairment of existing vested water rights, in violation of SDCL 46-2-12, which prohibits DANR from granting a water right that would impair senior rights.

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

First Name: Cindy, Larry, & Garrett Last Name: Heinz

Mailing Address: 34077 147th Street

City: Onaka State: SD Zip: 57466

Optional contact information. Phone: _____ Email: hillside@venturecomm.net

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. 8982-3

Petitioner's Name Cindy Heinz, Larry Heinz, Garrett Heinz, and Justin Baer

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

The burden rests entirely on the applicant to affirmatively demonstrate that the proposed appropriation will not diminish the quantity, timing, or reliability of water available to existing users. The current record lacks substantial evidence sufficient to support a finding of non-impairment, particularly given the consumptive nature and duration of the proposed use.

Where hydraulic connection is reasonably likely, DANR may not lawfully approve an application based on assumptions, generalized data, or incomplete analysis. Any unresolved uncertainty regarding impairment must be resolved against approval, not against existing water users.

A(1). Unlawful Segmentation and Failure to Consider Foreseeable Cumulative Impacts

The proposed well cannot lawfully be evaluated in isolation. Petitioner(s) are aware of additional groundwater appropriation(s) by the same applicant or as part of the same or related project that are reasonably foreseeable and expected to be submitted in the near future, including a substantially larger-capacity well drawing from the same aquifer or a hydrologically connected source.

South Dakota water law does not permit approval of an application through artificial segmentation that obscures cumulative impairment. Where additional withdrawals are reasonably foreseeable, DANR must consider the combined and cumulative impacts on existing water rights, surface waters, and public resources when determining whether an application may be lawfully approved under SDCL 46-2-12.

Approval of the present application without evaluating foreseeable cumulative withdrawals would unlawfully prejudice senior water rights, create improper reliance interests, and undermine the statutory prohibition against impairment. At minimum, the existence of foreseeable additional withdrawals heightens the applicant's burden to demonstrate non-impairment and independently warrants denial of the application or referral to contested case proceedings.

B. Adverse Impacts to Surface Waters and Hydrologically Connected Resources

The proposed groundwater appropriation is reasonably likely to reduce flows to hydrologically connected surface waters, wetlands, and shallow aquifers relied upon by existing users. Incremental, delayed, or cumulative reductions constitute impairment under South Dakota law and have not been adequately evaluated in the application materials.

C. Inadequate Hydrologic Analysis and Lack of Record Support

The application record lacks sufficient site-specific hydrogeologic analysis, defensible modeling, and long-term monitoring data necessary to evaluate impairment. Without such evidence, DANR cannot lawfully make the findings required for approval, and the absence of this information independently supports denial or contested case proceedings.

D. Defective and Inaccurate Docket Record Resulting in Delay and Opaqueness

The official DANR docket did not contain the correct or complete application materials for a period of time. This defect caused delay, confusion, and a lack of transparency for affected water users, commenters, and potential petitioners.

As a result, interested persons were impeded in their ability to meaningfully review the proposal, assess impairment risks, and timely exercise statutory rights. This opaqueness undermines the purpose of public notice requirements under SDCL 46-2-3 and violates principles of procedural due process.

E. Defective or Insufficient Public Notice

Because the docket lacked the correct application materials, public notice was ineffective and misleading. Notice without meaningful access to the actual proposal does not satisfy statutory or constitutional requirements and deprived the public of a fair opportunity to participate.

F. Inconsistency with the Public Interest

Approval of an application that risks unlawful impairment, ignores foreseeable cumulative impacts, lacks adequate technical support, and was processed through a defective notice and docketing process is inconsistent with the public interest and contrary to the purposes of South Dakota water law.

III REQUESTED RELIEF

Petitioner(s) respectfully request that DANR:

1. Grant this Petition to Intervene
2. Find that the application fails to demonstrate non-impairment as required by SDCL 46-2-12
3. Find that foreseeable cumulative impacts must be considered and that segmentation is unlawful
4. Find that docket and notice defects require procedural relief
5. Reopen or extend the public comment and intervention period
6. Require full disclosure of hydrologic analyses and modeling
7. Schedule a contested case hearing
8. Deny the application or, in the alternative, impose strict and enforceable conditions sufficient to prevent impairment and protect existing rights

IV. CONCLUSION

Because the application cannot lawfully be approved without risking impairment of existing water rights, and because procedural defects deprived the public of meaningful participation, Petitioner(s) are entitled to intervene and be heard in this matter.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 12, 2026

NOTICE

TO: Jacob W Tiede
Counsel for Century Swine RE, LLC
304 S Splitrock Blvd, Suite 205
Brandon SD 57005

Justin Baer
14725 342nd Ave
Onaka SD 57466

Paul Tschetter & Joseph Mylla
Counsel for PVC Management, LLC
(d/b/a Pipestone)
300 S Main Ave / PO Box 5015
Sioux Falls SD 57104

Larry, Cindy, and Garrett Heinz
34077 147th St
Onaka SD 57644

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

Conner Shaul
Counsel for Heinz
206 W 14th St / PO Box 1030
Sioux Falls SD 57101

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

SUBJECT: Board Action & Scheduling of Hearing on Water Permit Application No. 8982-3,
Century Swine RE, LLC

At the Water Management Board meeting held May 6th and 7th, 2026, the Board deferred Water Permit Application No. 8982-3. The deferral action was taken based on an agreement between the applicant and petitioners, to defer the application until the July 8-9, 2026, Board meeting, with hopes that all parties could reach an agreement.

The Water Management Board will conduct a hearing to consider Application No. 8982-3 at **10:15 AM (Central Time), on Wednesday, July 8, 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.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The applicable provisions of the public notice published in the American News on December 3, 2025, the Edmunds Co. Tribune on December 31, 2025, and the Notice of Hearings dated January 20, 2026, and March 19, 2026, still apply.

Notices, orders, and other pleadings filed in the matter of Application No. 8982-3 are posted to SD DANR's contested case page, at <https://danr.sd.gov/public/ContestedCase.aspx>.

Questions regarding the hearing process should be directed to Amanda Dewell, Permitting Administrator, Water Rights Program, or (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 dated May 12, 2026, into the United States Mail in Pierre, South Dakota, first class postage prepaid to the following on May 12, 2026.

Jacob W Tiede
304 S Splitrock Blvd, Suite 205
Brandon SD 57005

Justin Baer
14725 342nd Ave
Onaka SD 57466

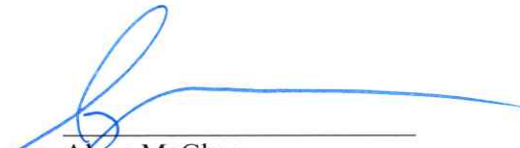
Paul Tschetter & Joseph Mylla
300 S Main Ave / PO Box 5015
Sioux Falls SD 57104

Larry, Cindy, and Garrett Heinz
34077 147th St
Onaka SD 57644

Conner Shaul
206 W 14th St / PO Box 1030
Sioux Falls SD 57101

Also sent inter-office to:

Emily Greco, Assistant Attorney General
1302 East 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 12th day of May, 2026.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



8982-3

FILE COPY

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8986-3</u> Hydrologic Unit <u>10170202</u> Basin <u>Big Sioux</u> Newspaper <u>Clear Lake Courier</u> <u>Watertown</u> (office use only) <u>Public Opinion</u>
---	--

RECEIVED

SEP 10 2025

Water Rights
Program

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 John Hall 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 PO Box 394 Clear Lake SD 57226
(Address) (City) (State) (Zip Code)

Phone N/A Mobile 605-520-0214 Email jjjjhall@itctel.com

2. Amount of water claimed 0.69 *CFS or 310 **GPM ***AF Total Acreage 64.60
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Lake Sutton

4. Location of point of diversion 1 intake - SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 03 Township 115 North, R 49 West
(example - 3 wells in SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 12-T104N-R53W)

1 intake - NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10 Township 115 North, R 49 West County Deuel

5. County or counties where water will be used Deuel

6. Annual period during which water is to be used April - September ^{3rd}

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
SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 03 Twp 115 N,	10	SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 10 Twp 115 N, F	15
NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 10 Twp 115 N, I	12		
NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 10 Twp 115 N, I	20		
SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 10 Twp 115 N, I	3		

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

The project is to utilize a single traveling gun rated up to 308 gpm to irrigate up to 3 irregularly shaped fields of varying sizes. The water will be drawn from Lake Sutton which is located approximately 2 miles north of Clear Lake, SD on the west side of SD Hwy 15. The water will be pumped via a mobile pump and will be drawn from 2 locations marked yellow x's on map (1 at a time) on the south/ southwest shoreline of the lake and transferred via pipe and pump to the nearest field to be irrigated.

I, John Hall Jr., 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.

2021-08

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)

.5 m no clear lake

44.79042/-96.68814



**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. 8986-3, John Hall Jr.**

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. 8986-3, John Hall Jr., PO Box 394, Clear Lake SD 57226.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8986-3 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 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.

See report on application for additional information.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Adam Mathiowetz, PE
Acting Chief Engineer
June 4, 2026

****Note:** There are Natural Resources Conservation Services Emergency Watershed Protection Program-Floodplain Easement Program easements on Lake Sutton. At the time of issuance of this recommendation, development of this permit should not negatively affect farm program eligibility of the holders of these easements. However, consideration of future federal law and rule changes may be necessary. The permit holder should be aware this may be an issue in the future between the permit and easement holders.**

Report to the Chief Engineer
Water Permit Application No. 8986-3
John Hall Jr.
June 3, 2026

Water Permit Application No. 8986-3 proposes to appropriate 0.69 cubic feet of water per second (cfs) from Lake Sutton at diversion points located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10 for irrigation of 60 acres located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, the SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10; all in T115N-R49W. This site is located in Deuel County, approximately two miles north of Clear Lake, South Dakota.

This application was initially received on September 10, 2025, and review started by a former Water Rights staff engineer. The engineer had an initial draft of the report completed before determining the application was incomplete since the application did not include the map required by Administrative Rule of South Dakota (ARSD) 74:02:01:07 (4). The applicant was then informed that this application would be put on hold until the required map was submitted. The map was submitted on March 8, 2026. The application was assigned to a different engineer at that time.

Water Source: Lake Sutton

South Dakota Codified Law (SDCL) 46-1-3

“It is hereby declared that all water within the state is the property of the people of the state, but the right to the use of water may be acquired by appropriation as provided by law.”

SDCL 46-2A-9

“A permit to appropriate water may only be issued 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 analyze the available information on the first two criteria for the Chief Engineer’s utilization in making a recommendation on this application to the Water Management Board.

Description of Proposed Water Source

Lake Sutton is a non-meandered lake located in Deuel County within the Middle Big Sioux watershed (HUC 10170202) in the Missouri River basin. Since the lake is located on the Prairie Coteau and is near the edge of the Missouri River basin, the drainage area is fairly flat, and water drains into Lake Sutton from multiple directions. There appear to be several dry draws that drain into the lake; along with outflows from Ketchem Lake (Water Rights, 1996) and South Coteau Lake (Water Rights, 2001). Outflow from Lake Sutton then drains to an unnamed tributary of Clear Lake. Wittmuss and McIntire (1999) estimated the size of the Lake Sutton watershed to be 9,000 acres (14 square miles). Utilizing the USGS StreamStats Application and the detailed 12-digit hydrologic unit subbasins, the drainage area above the Lake Sutton outlet is estimated at 27,264 acres (42.6 square miles) (USGS, 2026 & USGS, 2026). This

area consists of HUC 101702020401 South Coteau Lake and the northern portion of HUC 101702020402 Clear Lake.

The original survey for T115N-R49W was done in 1872 and is available from the U.S. Bureau of Land Management (BLM, 2025). The plat shows a small body of water in the same general area as Lake Sutton. The area of this body of water on the plat is approximately 33 acres, shown in Figure 1. According to instructions given to surveyors in 1868, meander lines were not to be surveyed if a body of water was 1) 40 acres or less in size; or 2) shallow or likely in time to dry up or be greatly reduced by evaporation, drainage, or other causes. The fluctuation in lake size since 1872 does not affect the meandered or non-meandered status of the lake, which was determined at the time of the original survey and is not subject to change.

Upon South Dakota Statehood in 1889, the title to the beds of all meandered lakes were vested with the State. Lake Sutton is not a meandered lake, and therefore the State does not hold the title to the bed of the lake, and therefore public access to the water is limited. SDCL 41-23-7 declares certain non-meandered lakes open for recreational use if the lake is listed in SDCL 41-23-8. Lake Sutton is not included in that list and therefore the State may not facilitate access to non-meandered water over a landowner's private property. From the 2023 Deuel County Plat book, South Dakota Game, Fish & Parks owns two small tracts that are adjacent to Lake Sutton, and so there is public shooting access and likely fishing access from Highway 15. There is no known controlled outlet structure on this lake.

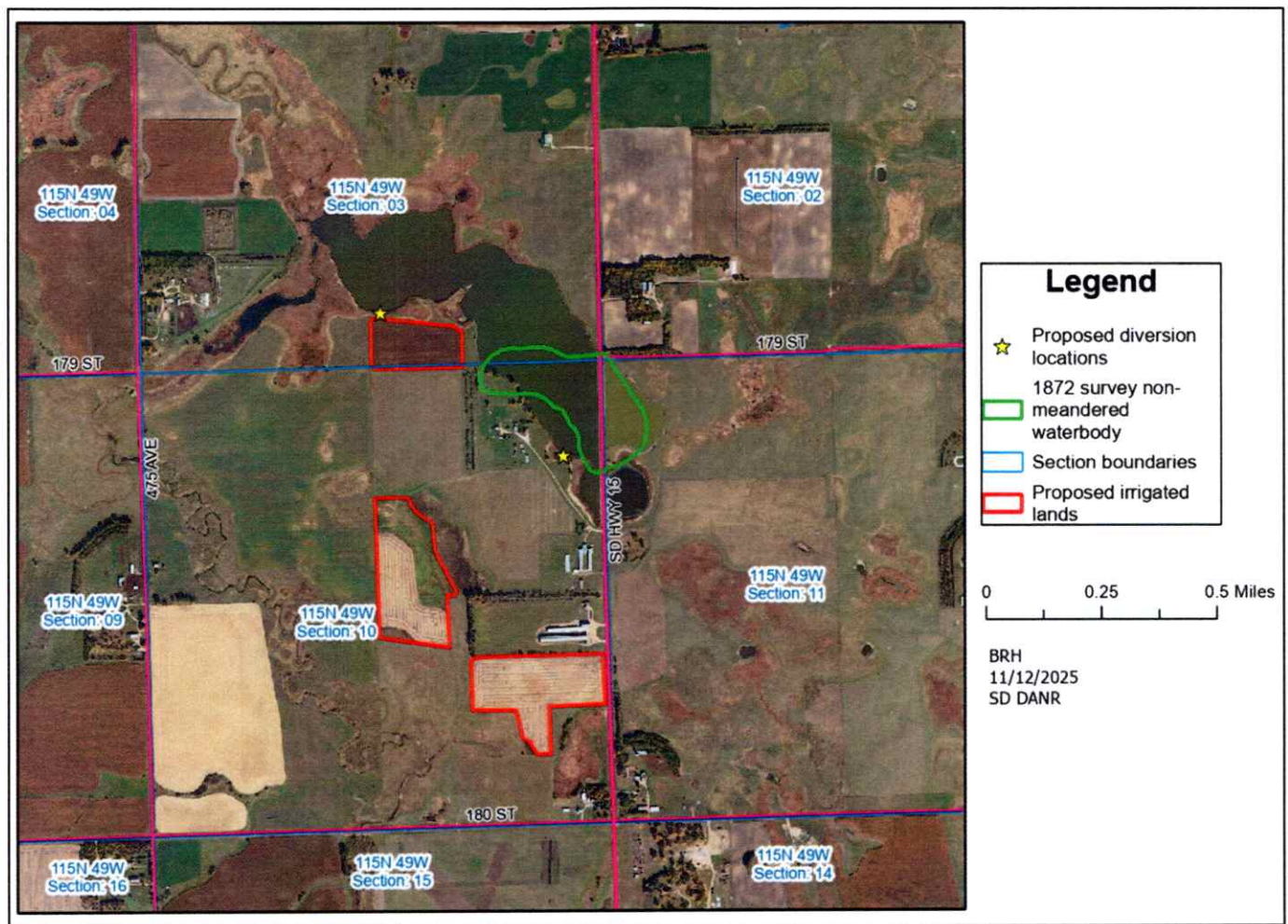


Figure 1. FSA imagery dated May 2023 showing the current extent of the lake, as well as the proposed diversion locations and land to be irrigated, and the approximate outline of the non-meandered waterbody from the 1872 original survey (BLM, 2025).

Water Availability

There is not enough information available in this area to determine exactly when the body of water first rose beyond the original survey boundaries. However, historical topography maps from as early as 1953 show the lake extent to be similar to its extent in recent years (TopoView, 2025), and available aerial imagery shows that the extent has not changed much since that time. Figure 1 shows a current outline of the lake from imagery collected in May 2024, the land proposed to be irrigated, and the approximate extent of the non-meandered body of water in this area based on the 1872 original survey plat map (BLM, 2025). Available topographic maps from the years 1953, 1958, 1973, 1985, 2012, 2015, 2017, and 2021 show a similarly sized, larger body of water in this area compared to the body of water drawn in the original survey plat (TopoView, 2025).

Google Earth historical imagery for Lake Sutton and aerial photography by the Farm Service Agency (FSA) shows that since 2002, the footprint of the lake has not fluctuated a great amount. Imagery from the year 1985 shows a slightly smaller footprint, with more water in 1996. The mid- 1990s were a wet time in

South Dakota and during this time many non-meandered lake levels in northeast South Dakota rose beyond their originally surveyed extent. The years 2004 through 2006 were drought years and available imagery showed the lower water levels when compared with other available imagery. Low water levels are most noticeable in the northwest, near the marshland area. Based on available imagery for Lake Sutton, the surface area of the lake has ranged between approximately 90 acres in 2018 and 77 acres in 2006. Kume (1985) compiled data from 1977 for certain lakes in Deuel County. Lake Sutton was listed to have a surface area of 88 acres, an average depth of 2 feet, and a stored volume of 176 acre-feet.

A 1-meter LiDAR (light detection and ranging) bare earth digital elevation model (DEM) data for the area around Lake Sutton is available from the South Dakota Geological Survey (SDGS) (SDGS, 2010 & 2012). The DEMs used in this analysis were projected into horizontal coordinate system NAD 1983 UTM Zone 14N, and the vertical coordinate system used for all three DEMs was NAVD 1988. Contour maps were created using available LiDAR which show a well-defined bank surrounding the lake. This defined bank may explain why water levels in Lake Sutton haven't dramatically fluctuated in available historical imagery and topographic maps. Additionally, the existence of a culvert under the road at SD Highway 15 may help maintain water levels or at least slow down water level fluctuations from year to year (Morton, 2025). By overlaying the LiDAR DEMs over aerial imagery of the lake footprint, water levels in Lake Sutton are generally ranging between the elevations of 1,802 feet and 1,803 feet (NAVD88). Calculating the storage capacity (volume) of a basin, pond or reservoir at different water surface elevations using DEMs or contours is a common practice, often using methods such as the average end area method or with stage storage analysis tools using computer applications. However, determining the storage of the lake without known depths or cross-sectional area information can be more uncertain. Since LiDAR data does not capture bathymetric (underwater) data the available elevation data does not define the lakebed elevation, therefore these methods cannot be used to estimate lake volume.

Natural inflows and outflows to the lake are governed by several factors. Inflows are due to direct precipitation, runoff into the lake, and inflow from upstream lakes, which is influenced by precipitation, land use, soil type and moisture. Outflows are through evaporation and discharge downstream. Additionally, Lake Sutton overlies the outwash of the Big Sioux: Brookings aquifer which is near ground surface in this area (Jensen, 2001; Water Rights, 2026b). This indicates potential for seepage between the aquifer and the lakes with the direction being from higher hydraulic head to lower hydraulic head. Information is not available to estimate losses from or gains to lake storage from the aquifer.

Using data from 1956 to 1970, NOAA (1982) compiled annual free water surface evaporation data for the contiguous United States. Utilizing NOAA (1982), the estimated annual free water surface evaporation for the Lake Sutton area is approximately 40 inches per year (3.3 ft per year). Average annual precipitation from 1991 to 2020 (latest 30-year period for climate normal) at the Clear Lake, SD station (approximately 2.3 miles to the south of the lake) is 27.48 inches per year (2.29 feet per year) (US Climate Data, 2026). So net loss between direct precipitation and evaporation is 1.01 feet. Based on the surface area of the lake, estimated net loss between evaporation and direct precipitation at normal pool is approximately 77.8 to 91 acre-feet per year.

Considering the nature of glacial lakes and the general flatness of the wetland area surrounding the lake, comparing known depths from nearby lakes, and from conversations with SD Game, Fish & Parks staff, Lake Sutton likely averages a depth of five feet or less (Hullinger, 2026). A general rule of thumb for estimating calculating storage capacity of a lake is the product of surface area and depth. Using a surface area range of 77 acres and 90 acres, this would give a storage range of 385 to 450 acre-feet. Using the average depth of 2 feet from Kume (1985) and inputting into the storage capacity equation, the storage ranges from 154 to 180 acre-feet. The estimated volume from Kume (1985) is 176 acre-feet. If approved, this permit would authorize the use of two acre-feet per irrigated acre, or a maximum of 120 acre-feet annually. However, actual use will likely be much less. Generally, crop irrigators in eastern South Dakota apply less than ten inches of water per acre per year, which would result in an annual withdrawal for this application of less than 50 acre-feet. Across 77 acres this corresponds to an approximately 0.65 ft drop in lake level and across 90 acres an approximately 0.56 ft drop in lake level.

The lake is located on a flat, marshy area and is very shallow. It is possible that extensive pumping could cause the lake's surface area to shrink, which may impede access for other property owners or interfere with other uses of the water. An attempt will be made to estimate annual surface yield of runoff into the lake and compare that to net annual evaporation losses and the estimate annual usage of the appropriation proposed by this application (net loss evaporation: 77.8 to 91 acre-feet per year and less than 50 acre-feet for a total of 127.8 to 141 acre-feet).

This was done utilizing the NRCS annual surface yield method for South Dakota (USDA-NRCS, 1984). This NRCS method estimates the volume of runoff which is expected to be exceeded for a twelve-month period at certain annual probabilities using contributing drainage area, soil cover complex number, and watershed location (USDA-NRCS, 1984). For example, the 80 percent exceedance estimate has an 80 percent chance of being exceeded each year. This method does not account for losses in transmission, withdrawals, evaporation from storage, or seepage from groundwater into the creek. Therefore, the drainage area used for this method will exclude the drainage areas of the two lakes upstream of Lake Sutton. These drainage areas are summarized in Table 1 with select areas shown in Figure 2. This is consistent with method documentation indicating if there are shallow potholes in the contributing drainage area they should be considered empty and therefore non-contributing of runoff for dependable yield forecasts (USDA-NRCS, 1984).

Table 1: Upstream Drainage Areas to Lake Sutton (USGS, 2025)

Description of drainage area	Area (square miles)	Area (acres)
Lake Sutton above outlet area	42.60	27,264
Coteau Lakes above outlet area (outlet of the Coteau Lakes)	22.90	14,656
Ketchum Lake above outlet area (outlet of Ketchum)	1.33	851
Above Sutton east inlet (including Ketchum)	3.06	1,958
Between Ketchum outlet and east Sutton inlet from Ketchum	1.73	1,107
Lake Sutton above northwest inlet	38.10	24,384
Lake Sutton above northwest inlet minus Coteau Lakes drainage	15.20	9,728
Lake Sutton above north inlet	0.94	602
Drainage area used for annual yield estimate	16.14	10,330
Clear Lake drainage area above outlet	65.50	41,920
Clear Lake drainage area minus Lake Sutton drainage area	22.90	14,656

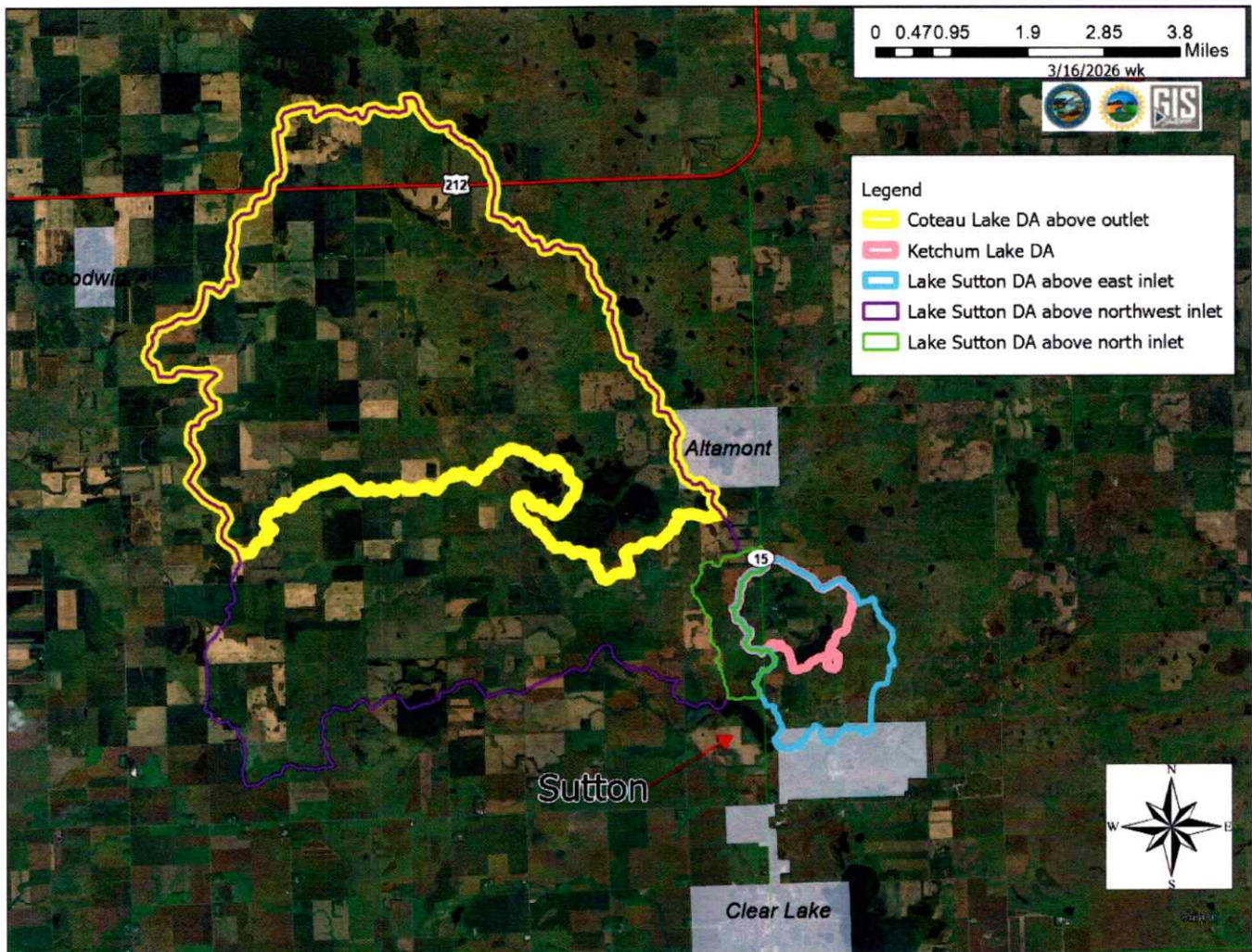


Figure 2: Select Drainage areas (DA) from Table 2 (USGS, 2025) indicated with grey highlight in Table 2.

The soils in the lake's watershed are primarily in hydrologic soil group C (USDA-NRCS, 2022). The 2024 land cover data for the drainage area indicated land cover is primarily straight row crops with some minor pasture/hay use (MRLC, 2024). The curve number (or soil cover complex number) for straight row crops in good hydrologic condition the curve number is 85 for soils in hydrologic soil group C and for poor condition is it 88 (USDA-NRCS, 1986). A higher curve number means greater runoff occurs when estimating annual yield, and so a curve number of 85 will be used to yield a more conservative estimate of water availability. Isogram 2 ½ from the NRCS annual yield method was used; however, the drainage area is near the eastern edge of the area of the state that corresponds to this isogram, where the method transitions to a different isogram representing wetter conditions. This means the annual yield estimates from this method could be slightly on the lower side.

Table 2: Estimated Total Annual Yield of Surface Runoff for Drainage Area (USDA-NRCS, 1984)		
Percent Chance of Exceedance	Total Runoff (acre inches per acre)	Total Runoff (acre-feet/year)
80	0.70	603
50	1.60	1,377
20	3.10	2,668
10	4.40	3,788

As a quick check of the values in Table 2, Gerbert et al. (1989) mapped average annual runoff for the United States at a scale of 1:7,500,000 shows an average annual runoff of 1.5 inches in the area of this application. Applying this over a drainage area of 10,330 acres results in an estimated average annual runoff of 1,290 acre-feet, which is a good match to the annual yield volume at the 50 % chance exceedance.

Based on the annual surface runoff yield estimates, on an average annual basis there is likely sufficient runoff from the drainage area into Lake Sutton to supply this application. However, since runoff and irrigation pumping is seasonal and Lake Sutton is shallow with limited storage during extended periods of low runoff and high pumping lake level by could impacted to the point of affecting domestic use. Therefore, a qualification to this permit, if approved, to protect domestic users of the lake is recommended.

Existing Users

There are no active water rights/permits appropriating water from Lake Sutton, and there are no records of water rights/permits with a different status from Lake Sutton, or other applications to appropriate water from Lake Sutton. There are no records of water rights from any source, active or with a different status, on any property adjacent to the lake's edge (Water Rights, 2026a). There are likely domestic uses, including livestock watering, and in place uses of the lake being made that do not require a water right.

The next water right downstream of the outlet area for Lake Sutton is Vested Water Right No. 1473-3 held by South Dakota Department of Game, Fish, and Parks for recreational use. The drainage area above the

Clear Lake outlet minus the Lake Sutton drainage is estimated at 14,656 acres so there is a significant drainage area supplying Clear Lake with runoff beyond the Lake Sutton drainage area.

To allow for development of this application while providing sufficient protection for domestic users. The following qualifications are suggested to the Chief Engineer for consideration:

- 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.
- The Water Management Board retains jurisdiction of this water right in the event additional information shows that adjustments are needed to the qualifications.
- 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, of the lake.

Based on best available information, inclusion of these qualifications gives a reasonable probability that this application can be developed without unlawful impairment of existing users.

Additional Considerations

A review of the 2023 Deuel County plat book along with online parcel information shows that the two proposed pumping locations are on property belonging to the applicant. However, low water levels in the lake could require the northern pump site to be moved north, which could infringe on SD Game, Fish & Parks property. However, even during the drought in the early to mid- 2000s the proposed northern pump site was still within the applicant's property. Approval of a water permit does not grant the permit holder the right to pump water from other properties, nor access easements along and across state, county, or township rights-of-way.

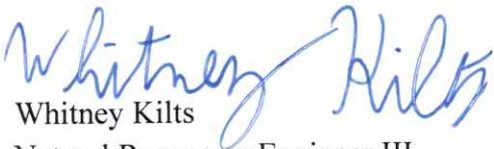
For a non-meandered lake such as Lake Sutton, it is not uncommon for the U.S. Fish and Wildlife Service to have a wetland easement on the inundated land. There have been circumstances where pumping from a lake could be in violation of conditions of the wetland easement and could jeopardize landowners' ability to receive USDA Farm Program benefits. Historically, the Water Rights Program has denied water permit applications if restrictions by the USDA-NRCS would impact the ability to pump the proposed amount of water, and the source is thus not considered a reliable source of water.

In an attempt to address this, the online database for easements for the various NRCS program with easements was reviewed for the area around Lake Sutton and the South Dakota NRCS offices contacted. The online database (NRCS, 2025) indicates the western side of the lake has an easement associated with the Emergency Watershed Program - Floodplain Easements. This was the only easement for the lake listed on the NRCS easement database (NRCS, 2025). First District (2026) indicates that the area at the western end of the lake is not owned by the applicant, so a copy of the easement is not readily available. Flanery (2026) did provide example standard template language for this type of easement. Based on the template language the landowner on the easement area for this type of easement is typically prohibited from, "diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means." Further discussion with NRCS indicated the limits on this easement likely

only applied to the owner of the easement lands and not other owners around the lake of non-easement lands.

Conclusions

1. This application proposes to appropriate 0.69 cfs from Lake Sutton at two diversion locations in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10 to irrigate 60 acres located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, the SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10; all in T115N-R49W, during April 1 to September 30 of the year.
2. Lake Sutton is a non-meandered lake and water levels have risen since the original survey done in 1872. Available historic aerial imagery and early topographic maps suggest that the lake does not greatly fluctuate during normal years, however during exceptionally dry or wet years there are noticeable water level changes. Access to the proposed diversion locations is not secured or guaranteed by this water permit, if approved.
3. Based on the annual surface runoff yield estimates, on an average annual basis there is likely sufficient runoff from the drainage area into Lake Sutton to supply this application.
4. There are no existing water rights/permits appropriating water from Lake Sutton.
5. The following are also recommended for the Chief Engineer's consideration:
 - a. This permit, if approved, is subject to reporting the amount of water used in the annual irrigation questionnaire.
 - b. A qualification or qualifications to protect domestic users of Lake Sutton.


Whitney Kilts
Natural Resources Engineer III
SD DANR Water Rights Program

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AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice

Notice of Hearing Application No.8986-3/John Hall Appropriate Water

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 **one successive week(s)** to wit:

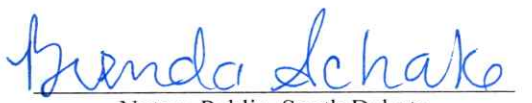
June 10,2026

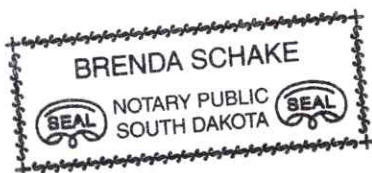
That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are **\$83.43**


Ken Reiste

Subscribed and sworn to before me

this th 10 day of June 2026


Notary Public, South Dakota
My commission expires: 9.21.27



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Notice of Hearing on Application No. 8986-3 to Appropriate Water

Notice is given that John Hall Jr., PO Box 394, Clear Lake SD 57226, has filed an application for a water permit to appropriate 0.69 cubic feet of water per second from Lake Sutton located in the SW 1/4 SE 1/4 Section 3, and NE 1/4 NE 1/4 Section 10 for irrigation of 60 acres located in the SW 1/4 SE 1/4 Section 3, SW 1/4 NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 10; all in T115N-R49W. This site is located approximately two miles north of Clear Lake SD.

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. 8986-3 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 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 10:45 AM (Central Time) on July 8, 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 au-

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 June 22, 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 approximate cost of \$83.43. (18/203). This notice may be viewed free of charge at sdpublicnotices.com maintained pursuant to § 17-2-1.

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thority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 22, 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 July 8, 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 June 22, 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 June 22, 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

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May 29, 2026

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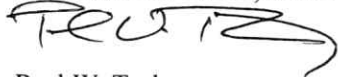
Re: In Matter of Water Permit Application No. 8991-3, Century Swine RE, LLC
Our File No.: 16669.002

To Whom It May Concern:

Enclosed and intended as service upon you is 1) Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision and 2) Certificate of Service in the above-referenced matter.

Sincerely,

BOYCE LAW FIRM, L.L.P.



Paul W. Tschetter

PWT/akm

Enclosures

cc: Ron Duvall, DANR Water Rights Program (via email only)

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STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8991-3,
CENTURY SWINE RE, LLC

APPLICANT'S PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION

This matter came before the South Dakota Water Management Board for hearing on May 6, 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 Century Swine, 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, Garrett Heinz, and Amanda Abarca (collectively "Petitioners") were represented by Connor R. Shaull. Department of Agriculture and Natural Resources, Water Management Board ("Board") was represented by Emily M. 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:

FINDINGS OF FACT

1. On November 10, 2025, the Department of Agriculture and Natural Resources received Water Rights Permit Application No. 8991-3 on behalf of Century Swine seeking a permit to appropriate water for commercial purposes in Edmunds County (the "Application"). The Application sought 154 acre feet or 50 million gallons per year of groundwater from the Dakota Aquifer. Century Swine and Pipestone intend to use the water appropriated to support a

commercial swine facility in Edmunds County, South Dakota located in the Northwest Quarter of Section 9, Township 121 North, Range 71 West.

2. In support of the Application, Century Swine submitted supplemental information with information related to wells drilled by Stretch's Well Service. These three new wells were drilled to a depth of 1,540 feet with water accessed 180 feet from the surface.

3. On January 27, 2026, Mark Mayer as 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. Withdraws must be controlled to not reduce supply for existing domestic wells or prior water rights;
- b. The wells must be constructed by a licensed well driller and be compliant with Administrative Rules of South Dakota;
- c. Century Swine must comply with Pollution Control Permit for concentrated animal feeding operations issued pursuant to South Dakota law;
- d. Century Swine must comply with all existing and applicable Board rules within the Administrative Rules of South Dakota; and
- e. Century Swine must report the amount of water withdrawn to the Chief Engineer each year.

4. Notice of the Application was timely advertised in the Edmunds County Tribune and Aberdeen American News as required by law.

5. The matter was initially scheduled to be heard by the Board during its March 4, 2026, meeting; however, an automatic delay was requested and the hearing was rescheduled for the next regular Board meeting held in May.

JUN 03 2026

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6. Water Permit Application No. 8991-3 is a new water permit application which requires a determination pursuant to SDCL § 43-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

7. On February 17, 2026, the Board received filings from the Petitioners opposing the Application. The petitions generally objected based upon uncertainty of recharge of ground water and concerns about long-term sustainability of the proposed use by Century Swine.

8. Other individuals also filed petitions opposing the Application in compliance with the notice of hearing; however, those individuals did not appear before the Board at the May 6, 2026 hearing on the Application.

9. On March 30, 2026, Pipestone provided the Board and other interested parties with a request to intervene in the contested case related to this Application based upon its status as manager of the swine facility owned by Century Swine where appropriated water pursuant to the Application will be put to use. Pipestone's intervention was granted by the Board on April 15, 2026.

10. Interested parties were permitted to submit information concerning expert witnesses, fact witnesses, and exhibits in advance of the Board hearing.

11. In considering water availability this Board must examine whether the 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.

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12. DENR witness, Austin Settje, a natural resources engineer, reviewed the permit application, which included a well completion report, analyzed the hydrology of the Dakota aquifer, and reviewed the information obtained from test hole reports and the well completion report, as well as current water right/permit files and well completion reports for the aquifer.

13. The Dakota aquifer is comprised of the saturated and permeable portions of the Dakota Formation and is primarily a confined bedrock aquifer throughout most of South Dakota. The Dakota aquifer is estimated to have approximately 960 million acre-feet of water stored in South Dakota.

14. Mr. Settje testified recharge of the Dakota aquifer in South Dakota occurs through upward leakage from underlying aquifers with a higher potentiometric surface than the Dakota aquifer, downward seepage through overlying confining layers, and through the infiltration of precipitation on the Newcastle Formation that outcrops in the Black Hills.

15. Mr. Settje testified that the best information available is that the average annual recharge rate of the Dakota aquifer is 57,700 acre-feet per year. Further, the most recent research, as relayed by Mr. Settje, is that the average annual recharge rate of the Dakota aquifer is likely greater than 57,700 acre-feet per year.

16. Mr. Settje testified that discharge from the Dakota aquifer in South Dakota occurs through well withdrawals, uncontrolled flowing wells, outflow through corroded well casings, and outflow to overlying or adjacent aquifers due to a higher potentiometric surface in the Dakota aquifer.

17. Currently, there are seven future use permits reserving 4,287 acre-feet/year of water from the Dakota aquifer. Further, there are 260 active water rights/permits authorized to divert water from the Dakota aquifer. Of these 260 active water rights/permits,

JUN 03 2026

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- a. 239 active water rights/permits are for non-irrigation purposes and the estimated average annual withdrawal rate from the Dakota aquifer is approximately 24,930 acre-feet per year; and
- b. 21 authorized water rights/permits are for irrigation purposes and the discharge of these rights/permits have an estimated average annual withdrawal rate from the Dakota aquifer of approximately 357 acre-feet per year.

18. There are domestic wells completed into the Dakota aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown. Due to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Dakota 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 hydro logic budget for the Dakota aquifer. Further, with respect to uncontrolled flowing wells, though it is not known how much water is being discharged from the Dakota aquifer, the Board has previously determined water being discharged through uncontrolled flowing wells is not a beneficial use and does not constitute appropriation pursuant to SDCL 46-6-3.1.

19. Mr. Settje testified there are 46 observation wells completed into the Dakota aquifer. The three closest observation wells to the well the Applicant provided a well completion report for, are ED-85A (approximately 34 miles east), HD-87 A (approximately 76 miles southeast), and AU-89A (approximately 126 miles southwest).

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20. Throughout South Dakota, most of the hydrographs for observation wells completed into the Dakota aquifer, and the potentiometric surface measurements of the Dakota aquifer show a decreasing trend in hydraulic head. A decline in water levels in a confined aquifer does not necessarily indicate a significant decrease in water stored in the aquifer, as water levels above the top of the aquifer materials are representative of the hydraulic head (water pressure) inside the aquifer. Additionally, there are uncontrolled, flowing wells discharging water from the Dakota aquifer at ground surface, and it is expected water from the aquifer is also being discharged to other aquifers if wells completed into the Dakota aquifer have experienced casing failure.

21. Mr. Settje noted that hydrograph data display both declining and stable water levels in the Dakota aquifer in central and north-central South Dakota. Several other observation wells in the southeast and south-central South Dakota were shown to have water levels that stabilize over time or have recently began stabilizing. The observation wells under the influence of heavy and continuous pumping quickly stabilized after the pumping starts. There has been a long history, back to the late 1800's, of well development into the Dakota aquifer. Concerns have developed over time about the decline in artesian head pressure of the Dakota aquifer. The Board has concluded and reaffirmed that withdrawals exceeding the average annual recharge cannot be determined solely upon a decline in head pressure, and in theory the Dakota aquifer head is stabilizing relative to withdrawals and discharges. Since discharge from uncontrolled flowing wells is likely to continue until water levels in the aquifer decline to being at or below the ground surface, continuing to allow beneficial pumping to occur reduces the amount of water being discharged to waste. The Board's decision to optimize development of the Dakota aquifer is favorable to issuance of permits.

JUN 03 2026

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22. Mr. Settje also testified that the closest Dakota aquifer water right/permit (not held by the Applicant) to the proposed diversion point(s) is Water Permit No. 8666-3, which is held by SFP LLC. The diversion point for Water Permit No. 8666-3 is located approximately 8.8 miles east of the diversion point(s) for this Application.

23. There are domestic wells on file with the DANR-Water Rights Program that are completed into the Dakota aquifer, with the closest domestic wells on file (not held by the Applicant) located approximately 3.8 miles to the southeast and 5.7 miles to the northeast of the proposed diversion point(s). These wells were completed in 1906; however, a somewhat more recent domestic well, completed in 1983, is located approximately 6.6 miles northeast of the diversion point(s). There could potentially be other domestic wells completed into the Dakota aquifer near the well the Applicant proposes to use that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

24. Mr. Settje testified that based upon the observation well data that demonstrates the aquifer receives recharge, the hydraulic head inside the aquifer, and the amount of water that is discharged to waste from uncontrolled, flowing wells, there is a reasonable probability that unappropriated water is available.

25. The Dakota aquifer is under confined conditions. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. Based on the well completion report submitted with Water Permit Application No. 8991-3, there is expected to be at least 185 feet of saturated aquifer thickness at the time of drilling and the artesian head pressure of 1,175 feet above the top of the aquifer materials at the time of drilling. Any drawdown as a result of the diversion

for this application is not expected to unlawfully impair nearby adequate wells. In the counties of Edmunds, Faulk, Potter, and Walworth; there are no complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Dakota aquifer.

26. The Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. Some existing well owners may need to install or lower pumps depending on the specific characteristics of the Dakota aquifer at their location. However, when considering the applicable statutes, rules, the saturated thickness of the Dakota aquifer in Edmunds County, and the lack of substantiated well interference complaints for adequate wells completed into the Dakota aquifer in Edmunds County or the surrounding counties, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells.

27. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments to existing users with adequate wells.

28. 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.

29. The Board also received the testimony of 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.

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30. The Board finds Chief Engineer Gronlund to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Chief Engineer Mathiowetz's testimony.

31. Nick Fitzgerald testified before the Board as a representative of Century Swine and in support of Applicant's application. Fitzgerald, the Director of Business Development for PVC Management II, LLC dba Pipestone, testified as to the relationship between Pipestone and Century Swine and discussed the planned use of the proposed diverted water. Mr. Fitzgerald discussed the approximately 15,050 head commercial swine facility under construction that would be the user of the proposed diverted water. Fitzgerald discussed the Edmonds County Conditional Use Permit that has been approved for the commercial swine facility, the status of ongoing construction, and the planned use of the proposed diverted water. Fitzgerald also discussed the impact the commercial swine facility would have on the local economy by creating jobs and the broader hog industry by generating demand for feed and other inputs. Fitzgerald explained that Applicant must anticipate the greatest possible use of water in order to ensure adequate available water for the commercial swine facility. As a result, Applicant is seeking approval of an amount of water that is greater than it communicated during the Edmonds County permitting process.

32. The Board finds Nick Fitzgerald to be a credible witness and that these Findings of Fact are supported by the evidence presented including Nick Fitzgerald's testimony.

33. Petitioner Garrett Heinz testified before the Board. Mr. Heinz discussed the history of his family's farm and the location of his cow-calf operation relative to the proposed diversion point(s). Mr. Heinz discussed the relative elevation of his farming operation in relation to the proposed diversion point(s). Mr. Heinz expressed concerns that the approval of the Application would be a detriment to domestic wells.

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34. None of the Petitioners provided expert testimony to rebut, oppose, or undermine the opinions expressed by Mr. Settje or Mr. Mathiowetz.

35. The Board finds that there is unappropriated water available to satisfy this application.

36. The Board finds that granting this application would not unlawfully impair existing water rights.

37. The Board further finds that the proposed use of the water for commercial use for a commercial swine facility constitutes a beneficial use.

38. The Board further finds that placing the water to this beneficial use is in the public interest.

39. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based upon the forgoing Findings of Fact, the Board makes the following Conclusions of Law:

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. 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 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.” 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.

7. The first factor for consideration under SDCL § 46-2A-9 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.”

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 this 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.

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11. The third element 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 (commercial) is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 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 § 6-1-6(3). The Board concludes that appropriating water for this commercial use 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 Application No. 8991-3 is granted with those qualifications contained in the Recommendation of Acting Chief Engineer dated January 27, 2026.

Dated this ____ day of _____ 2026.

BY THE BOARD:

William Larson, Chairman
South Dakota Water Management Board

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STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8991-3,
CENTURY SWINE RE, LLC

CERTIFICATE OF SERVICE

I, Paul W. Tschetter hereby certify that the Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision and this Certificate of Service were served on May 29, 2026, by First-Class Mail upon:

Emily M. Greco
David M. McVey
Assistant Attorney General
1302 East SD Highway 1889, Ste. 1
Pierre, SD 57501-8501

Adam Mathiowetz, Chief Engineer
DANR – Water Management Board
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Jaydon Allen
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And were served on May 29, 2026, by email upon the following:

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Ron.Duvall@state.sd.us

Dated this 29th day of May 2026.

/s/ Paul W. Tschetter

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June 5, 2026

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 Pierre, SD 57501-8501
Counsel for Water Management Board

Re: *In the Matter of Water Permit Application No. 8991-3, Century Swine RE, LLC*

To Whom it May Concern:

Enclosed please find a copy of the Chief Engineer's Response to Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision in the above-entitled matter.

Respectfully,

/s/ *Emily M. Greco*

Emily M. Greco
 Assistant Attorney General

EMG/mn
 Enclosures
 cc w/encs:

✓ Adam Mathiowetz, Chief Engineer, DANR Water Rights Program (originals by inter-office mail)
 Amanda Dewell, DANR Water Rights Program (Amanda.Dewell@state.sd.us)

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STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

OFFICE OF
WATER

IN THE MATTER OF WATER PERMIT	)	CHIEF ENGINEER'S RESPONSE TO
APPLICATION NO. 8991-3,	)	APPLICANT'S PROPOSED FINDINGS OF
CENTURY SWINE RE, LLC	)	FACT, CONCLUSIONS OF LAW, AND
		DECISION

Comes now the Chief Engineer and the South Dakota Department of Agriculture and Natural Resources Water Rights Program (the Program), by and through the undersigned counsel, and submits this response to the Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision.

The Program does not object but wishes to clarify in the introduction of Applicant's proposed document that the Water Management Board was represented by David M. McVey.

Dated this 5th day of June 2026.

/s/ Emily M. Greco
Emily M. Greco
Assistant Attorney General
1302 East SD Highway 1889, Suite 1
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Counsel for Water Rights Program, DANR

JUN 09 2026

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CERTIFICATE OF SERVICE

I certify that on June , 2026, I filed the foregoing CHIEF ENGINEER'S
RESPONSE TO APPLICANT'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION, by interoffice mail, with the following:

Adam Mathiowetz, Chief Engineer
DANR – Water Management Board
Joe Foss Building
523 East Capitol Avenue
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And served upon the following via U.S. Mail, postage prepaid:

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Connor R. Shaull
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And on the same date a copy was hand-delivered to David M. McVey, Assistant
Attorney General, Counsel for the Water Management Board, Office of the Attorney
General, 1302 East Highway 1889, Suite 1, Pierre, SD 57501

/s/ Emily M. Greco
Emily M. Greco
Assistant Attorney General

DAVENPORT EVANS

LAWYERS

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June 5, 2026

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Re: In the Matter of Water Permit Application No. 8991-3, Century Swine RE, LLC

To Whom It May Concern:

Enclosed and intended as service upon you are the Objections to Applicant's Proposed Findings of Fact and Conclusions of Law, and Petitioners' Proposed Alternative Findings and Conclusions, submitted by Petitioners Larry Heinz, Cindy Heinz, Garrett Heinz, and Amanda Abarca in the above-referenced matter.

Sincerely,

/s/ Connor R. Shaull

CONNOR R. SHAULL
For the Firm

Enclosures

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8991-3,
CENTURY SWINE RE, LLC

**PETITIONERS' (HEINZS AND ABARCA)
OBJECTIONS TO APPLICANT'S
PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW, AND
PETITIONERS' PROPOSED
ALTERNATIVE FINDINGS AND
CONCLUSIONS**

Petitioners Larry Heinz, Cindy Heinz, Garrett Heinz, and Amanda Abarca (collectively, "Petitioners"), by and through their counsel of record, submit the following objections to the Proposed Findings of Fact, Conclusions of Law, and Decision served by Century Swine RE, LLC (the "Applicant"), and Petitioners' proposed alternative findings and conclusions.

INTRODUCTION

The Department of Agriculture and Natural Resources, Water Management Board (the "Board"), having announced its decision to uphold the recommendation of approval of Water Permit Application No. 8991-3, directed the prevailing party, the Applicant, to prepare proposed findings of fact and conclusions of law. In response, Petitioners submit these objections and proposed alternatives.

In submitting these objections, Petitioners do not concede that the Applicant satisfied its burden of proof on any factor under SDCL § 46-2A-9. As the Applicant's own proposed Conclusion of Law No. 6 states, the permit "must be denied if the Applicant does not meet its

burden of proof on any one of” the statutory factors. The Applicant failed to carry that burden on each statutory factor, and Petitioners preserve each such objection below.

This submission states Petitioners’ position paragraph-by-paragraph as to each of the Applicant’s thirty-nine (39) proposed Findings of Fact and thirteen (13) proposed Conclusions of Law, along with Petitioners’ proposed alternatives.

RESPONSE TO APPLICANT’S PROPOSED FINDINGS OF FACT

1. No objection.
2. No objection, but Petitioners propose the following addition:

“These three new wells, and the well completion report submitted with the Application, are the only site-specific subsurface data in the record for the proposed diversion point.”
3. No objection.
4. No objection.
5. No objection.
6. Objection to potential statutory citation error. This finding cites “SDCL § 43-2A-9.” No such statute governs this determination; the governing statute is SDCL § 46-2A-9.
7. No objection, but Petitioners propose the following addition:

“The Petitioners objected on grounds including uncertainty regarding recharge of the groundwater source, concerns about the long-term sustainability of the proposed use, the risk of impairment to existing domestic wells, and the amount of water requested.”
8. No objection.
9. No objection.
10. No objection.
11. No objection.

JUN 11 2026

OFFICE OF
WATER

12. No objection. By not objecting to the fact of witness Austin Settje's review of the identified materials, Petitioners do not admit the sufficiency of the underlying data.

13. No objection, but the estimated figure within this fact is a statewide storage estimate; it is not a measure of the water available, or the recharge occurring, at or near the proposed diversion point in Edmunds County, and therefore is not probative of site-specific availability.

14. No objection as to the substance of Mr. Settje's testimony. By not objecting to this fact, Petitioners do not admit that those mechanisms supply adequate recharge at the proposed diversion point.

15. No objection as to the substance of Mr. Settje's testimony. By not objecting to this fact, Petitioners do not admit the accuracy or sufficiency of Mr. Settje's testimony.

Petitioners propose the following addition:

"Mr. Settje's recharge figure is a statewide aggregate estimate, not a site-specific measurement, and the Report to the Chief Engineer on which Mr. Settje relied expressly qualifies it. The Report attributes the estimate to a 1983 study, states that the estimate "relies on outdated assumptions," and concludes that "the actual recharge rate of the Dakota aquifer could be higher or lower than previously estimated." (Report to the Chief Engineer on Water Permit Application No. 8991-3 (Jan. 27, 2026), at 6). The Report likewise states, in its Recharge discussion, that "it is unknown whether the true recharge rate of the Dakota aquifer is higher or lower than Bredehoeft and others' (1983) estimates," and describes the estimate as merely "the best information available to give a sense of scale." (*Id.* at 3). Because the sole recharge figure in the record is, by the admission of the agency's own report, uncertain in both directions and built upon outdated assumptions, it does not establish a dependable floor against which the requested appropriation can be measured; and the Applicant offered no estimate of the average estimated annual recharge to the groundwater source in the area of the proposed diversion."

16. No objection.

17. No objection, but Petitioners propose the following addition:

JUN 11 2026

OFFICE OF
WATER

“These existing and reserved demands, together with the requested appropriation, must be measured against the recharge available in the area of the proposed diversion, not against statewide recharge, and the record contains no such site-specific comparison.”

18. No objection, but Petitioners propose the following addition:

“The admitted uncertainty regarding unpermitted domestic withdrawals and discharge from uncontrolled flowing wells weighs against, rather than supports, a finding that unappropriated water is available with reasonable probability.”

19. No objection, but Petitioners propose the following addition:

“Because the nearest observation well is approximately 34 miles from the proposed diversion point, the record contains no site-specific water-level or hydrograph data adequately near the diversion.”

20. No objection.

21. Objection. Petitioners object to this paragraph to the extent it states the Board’s policy preferences as findings of fact and/or implies that the Board’s policy preferences relieve the Applicant of the statutory requirements.

22. No objection.

23. No objection.

24. No objection as to the substance of Mr. Settje’s testimony. By not objecting to this fact, Petitioners do not admit the accuracy or sufficiency of Mr. Settje’s testimony.

25. No objection, but Petitioners propose the following addition:

“The absence of complaints on file is not affirmative evidence that the proposed diversion—which is not yet operating—will not unlawfully impair nearby adequate or domestic wells, particularly given that drawdown can extend some distance in a confined aquifer.”

26. Objection. Petitioners propose the following alternative:

“If the Application is granted, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Dakota aquifer at their location. Requiring existing well owners to install or lower pumps in order to maintain their existing supply is an impact upon existing water rights and

JUN 11 2026

OFFICE OF
WATER

domestic uses, and the Applicant has not established that imposing such impacts is consistent with the prohibition on unlawful impairment under SDCL § 46-2A-9.”

27. Objection. Petitioners deny this finding as conclusory and propose the following alternative:

“The Applicant did not establish, by site-specific evidence, a reasonable probability that interference from the proposed appropriation will not impose unlawful impairment upon existing users with adequate wells, particularly in light of the concession in Finding 26 that existing well owners may need to install or lower pumps.”

28. Petitioners object to this finding to the extent it represents that the proposed Findings of Fact are supported by the evidence. Petitioners reserve and incorporate their specific objections set forth herein.

29. Petitioners admit the Board received the testimony of Chief Engineer Adam Mathiowetz and that he recommended approval. Petitioners object to the extent the finding adopts his opinion that the proposed use is a beneficial use and in the public interest “consistent with the Board’s previous decisions,” and contend that such an opinion is conclusory and does not reflect a case-specific analysis of this Application.

30. Objection as to internal inconsistency. This finding states that the Board finds “Chief Engineer Gronlund” to be a credible expert witness, while referring in the same sentence to “Chief Engineer Mathiowetz’s testimony.” No witness named “Gronlund” appears elsewhere in the Applicant’s proposed findings. Petitioners otherwise reserve their objection as to the weight of that testimony.

31. No objection as to the substance of Mr. Nick Fitzgerald’s testimony. By not objecting to this fact, Petitioners do not admit the accuracy or sufficiency of Mr. Fitzgerald’s testimony. Petitioners propose the following addition:

“A request premised on the “greatest possible use,” rather than on the amount of water reasonably required for the facility, and admittedly greater than what was communicated during the Edmunds County permitting process, seeks an appropriation in excess of demonstrated need.”

32. Petitioners object to the weight to be given to Mr. Fitzgerald’s testimony and reserve the objection. The admission that the Applicant seeks more water than it communicated to Edmunds County (Finding 31) bears on whether the requested amount is reasonably required and in the public interest.

33. Petitioners admit that Petitioner Garrett Heinz testified regarding his family’s farm history, the location and elevation of his cow-calf operation relative to the proposed diversion point, and his concern that approval of the Application would be a detriment to domestic wells. Petitioners propose the following addition:

“Mr. Heinz’s testimony presented a site-specific, location- and elevation-based concern regarding impairment of domestic wells, which the Applicant did not rebut with site-specific recharge, drawdown, or monitoring data for the area of the proposed diversion.”

34. Petitioners admit that they did not present expert testimony to rebut the opinions of Mr. Settje or Mr. Mathiowetz, but propose the following addition:

“The Applicant bears the burden of proof on each factor under SDCL § 46-2A-9, and the absence of expert testimony from Petitioners does not establish that the Applicant carried its burden.”

35. Objection. Petitioners deny this finding and propose the following alternative:

“The Applicant failed to establish a reasonable probability that unappropriated water is available to satisfy this Application at the proposed diversion point.”

36. Objection. Petitioners deny this finding and propose the following alternative:

“The Applicant failed to establish that the proposed diversion can be developed without unlawful impairment of existing water rights and domestic uses, particularly in light of the concession that existing well owners may need to

JUN 11 2026

OFFICE OF
WATER

install or lower pumps (Finding 26) and the absence of any nearby observation well.”

37. Petitioners object to the extent this finding approves an amount of water exceeding the amount reasonably required for the corresponding facility. Petitioners propose the following alternative:

“Beneficial use extends only to the quantity reasonably necessary for the proposed purpose, and the record reflects a request for the “greatest possible use” exceeding what was represented during the Edmunds County permitting process (Finding 31).”

38. Petitioners deny this finding as conclusory and propose the following alternative:

“The record contains no case-specific analysis demonstrating that placing this water to the proposed use is in the public interest, and an appropriation in excess of demonstrated need (Finding 31), together with the risk of impairment to existing domestic users (Finding 26), weighs against a public-interest finding.”

39. Petitioners incorporate their specific objections set forth herein.

RESPONSE TO APPLICANT’S PROPOSED CONCLUSIONS OF LAW

1. No objection.
2. No objection.
3. No objection.
4. No objection.
5. Objection. Petitioners deny this conclusion and propose the following alternative:

“The Applicant has not satisfied each of the factors set forth in SDCL § 46-2A-9, having failed to establish 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.”

6. Objection only to the differences between the quoted language in this conclusion and the statutory text of SDCL § 46-2A-9.
7. No objection.
8. Objection. Petitioners deny this conclusion and propose the following alternative:
“The Board cannot conclude there is a reasonable probability that unappropriated water is available to fulfill the amount requested by the Application.”
9. Objection. Petitioners deny this conclusion and propose the following alternative:
“The Board cannot conclude that it is improbable that the quantity of water withdrawn annually will exceed the quantity of the average estimated annual recharge of water to the aquifer if the Application is granted. The record contains no estimate of the average estimated annual recharge to the groundwater source in the area of the proposed diversion against which the requested annual withdrawal can be measured. The only recharge figure in the record is, by the agency’s own admission, an estimate that “could be higher or lower than previously estimated.” (Report to the Chief Engineer on Water Permit Application No. 8991-3 (Jan. 27, 2026), at 6). An estimate that the agency’s own report concedes is uncertain in both directions, and that “relies on outdated assumptions,” cannot support a finding that it is improbable withdrawals will exceed recharge.”
10. Objection. Petitioners deny this conclusion and propose the following alternative:
“The Applicant did not establish that the proposed diversion can be developed without unlawful impairment of existing water rights and domestic uses.”
11. Petitioners object to the extent this conclusion approves an amount exceeding the quantity reasonably required for the proposed use (*see* responses and objections to the Applicant’s Findings of Fact Nos. 31 and 37, which are incorporated herein).
12. Objection. This conclusion incorrectly cites “SDCL § 6-1-6(3).” Petitioners further object that this conclusion is conclusory and propose the following alternative:
“The fourth requirement of SDCL § 46-2A-9 is that “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.” The Applicant did not establish that appropriating water for this commercial use,

JUN 11 2026

OFFICE OF
WATER

in an amount admittedly greater than what was communicated during the Edmunds County permitting process and premised on the “greatest possible use,” is in the public interest.”

13. Petitioners incorporate their specific objections set forth herein.

RESERVATION

Petitioners submit these objections and proposed alternative findings and conclusions to preserve each contested issue for the record and for appeal. Nothing herein waives, and Petitioners expressly reserve, all objections to the Board’s decision and to the sufficiency of the evidence.

Dated at Sioux Falls, South Dakota, this 5th day of June, 2026.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.

/s/ Connor R. Shaul

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*Attorneys for Petitioners Larry Heinz, Cindy
Heinz, Garrett Heinz, and Amanda Abarca*

JUN 11 2026

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The undersigned hereby certifies that on the 5th day of June, 2026, a true and correct copy of the foregoing document was served via First Class Mail upon the following:

Adam Mathiowetz, Chief Engineer
DANR - Water Management Board
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/s/ Connor R. Shaul

Connor R. Shaul



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May 28, 2026

James E. Moore
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VIA EMAIL & U.S. MAIL

Adam Mathiowetz, Chief Engineer
DANR - Water Management Board
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501

adam.mathiowetz@state.sd.us

Re: In the Matter of Water Permit Application No. 8987-3, Vic Utech

Dear Chief Engineer Mathiowetz:

Enclosed please find Petitioner Spring Creek Cow Creek Sanitary District's proposed Findings of Fact and Conclusions of Law and Certificate of Service in regard to the above-referenced matter.

Thank you.

Yours very truly,

WOODS, FULLER, SHULTZ & SMITH P.C.

James E. Moore

Enclosure

cc: Emily Greco
Stacy Hegge
Marcus Hluchy
David McVey

JUN 03 2026

**STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD**

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8987-3, VIC UTECH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant Vic Utech seeks a permit that would allow him to use an irrigation well to supply water to a 213-site RV park and to appropriate additional water from the well to supply the park. Utech submitted his application for the permit on September 19, 2025. The Spring Creek Cow Creek Sanitary District (the “*District*”) objected to the proposed permit. The matter came before the South Dakota Water Management Board (the “*Board*”) for a contested-case hearing on May 6, 2026. At the close of the hearing, the Board voted to deny the permit application. The Board then directed that findings of fact and conclusions of law be submitted no later than May 29, 2026. Having considered the evidence presented at the hearing and the written and oral arguments of Utech, the District, and the Water Rights Program of the Department of Agriculture and Natural Resources (“*Water Rights*”), the Board adopts the following findings of fact and conclusions of law:

1. On September 19, 2025, Vic Utech applied to the Board for a permit that would allow him to appropriate an additional 2.45 acre-feet of water from an existing irrigation well for a commercial use. The existing well and the proposed site to be served by the well are both located in the southeast quarter of Section 34, Township 113 North, Range 80 West of the Fifth Principal Meridian in Sully County, approximately 12 miles northwest of Pierre. (Exhibit 1.)

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2. Upon review, Water Rights concluded that Utech's application was complete, and it assigned Utech's application number 8987-3.

3. Utech is a Pierre-based developer and is in the process of building out an expansive residential and recreational development near the county line for Hughes and Sully Counties. The 217-acre development—called "Codger's Castaway"—is situated just off a peninsula on Lake Oahe, near the unincorporated community of Cow Creek. The plans for the Codger's Castaway project contemplate a mix of residential and recreational uses.

4. Utech intends to use the water sourced from this well to supply a 213-site RV and camper park that is being constructed as part of the broader Codger's Castaway development.

5. Austin Settje, a natural-resources engineer employed by Water Rights, (Exhibit 2), reviewed the application, which is part of the administrative record admitted in evidence as Exhibit 1. Settje prepared a hydrologic budget for the Grey Goose aquifer, which supplies the well. To do so, he analyzed the annual recharge rate for the aquifer and compared that figure to the reported annual water usage by existing rightsholders who draw water from the aquifer. Settje also reviewed hydrographs prepared for the observation wells used to monitor the water levels for the Grey Goose aquifer and observed that those hydrographs showed generally stable water levels over the reporting period. Finally, Settje prepared a map of the rightsholders authorized to draw water from the aquifer within roughly two miles of the well. On this basis, Settje determined that there was a reasonable probability that unappropriated water was available for Utech's proposed use and that any additional drawdown was not likely to unlawfully impair existing water rights. Settje's conclusions are set forth in a December 19, 2025, report submitted to the chief engineer, which was introduced in evidence as Exhibit 102.

JUN 03 2026

OFFICE OF
WATER

6. In his report, Settje did not purport to analyze whether the proposed water use was in the public interest or whether it constituted a beneficial use. Rather, as Settje later testified at the hearing, his review was limited to the “technical aspects” of the proposed water use.

7. Pursuant to SDCL § 46-2A-2, Mark Mayer, the then-acting chief engineer for Water Rights, reviewed Settje’s report. He concluded (i) that there was a reasonable probability that unappropriated water was available for Utech’s proposed use, (ii) that the proposed use could be developed without unlawfully impairing existing water uses or rights, (iii) that the proposed use was a beneficial use, and (iv) that the proposed use was in the public interest. Mayer’s recommendation is part of Exhibit 102. To justify these conclusions, Mayer referred to Settje’s report, without independent analysis.

8. On the basis of his review, Mayer recommended that Utech’s application be approved, subject to two conditions: (i) that Utech “control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights” and (ii) that Utech report annually the amount of water withdrawn.

9. In accordance with SDCL § 46-2A-4, Water Rights published notice of the application and the chief engineer’s recommendation concerning the application. The notice invited interested parties to file petitions opposing the application or recommendation of the chief engineer on or before January 26, 2026, at which point a hearing would be scheduled and the Board would consider the application.

10. On January 23, 2026, the District submitted a petition opposing Utech’s application and the chief engineer’s recommendation and requested a contested-case hearing on the application.

JUN 03 2026

OFFICE OF
WATER

11. The District is a political subdivision of the State of South Dakota and is governed by a board of trustees. The District was legally constituted in its present form on July 6, 2020, by order of Hughes County and Sully County. (Exhibit 219.) The District's territorial limits include Utech's Codger's Castaway development, including the proposed RV park.

12. The Board set a hearing on the petition for May 6 and 7, 2026. On April 21, the Board entered a scheduling order in the contested case, which provided that each party would submit witness lists, copies of the exhibits, and prehearing briefs by April 29.

13. Utech and the District timely submitted prehearing briefs in support of their respective positions. In his prehearing brief, Utech asserted that the District lacked standing to submit a petition, as (i) the District had not alleged an injury "that is unique from any injury suffered by the public in general" and (ii) the injury that was alleged did not relate to a matter that is within the regulatory authority of the Board. SDCL § 46-2A-4(4)(a), (b). The District then submitted a response to Utech's prehearing brief, which challenged his standing analysis.

14. The Board held a contested-case hearing on May 6. Board chairman William Larson presided at the hearing. He was joined by Board members Leo Holzbauer, Peggy Dixon, Rodney Freeman, Kelly Hepler, and Chad Comes. David McVey, assistant attorney general, attended as counsel for the Board and advised the chairman on legal or evidentiary issues that arose during the hearing. The District was represented by James Moore. Utech was represented by Stacy Hegge and Marcus Hluchy. Water Rights was represented by Emily Greco, assistant attorney general. A transcript of the hearing was prepared by court reporter Carla Bachand.

15. At the outset of the hearing, the Board heard argument concerning the District's standing to file a petition and participate in the hearing. The Board treated Utech's arguments

concerning lack of standing as a motion to dismiss the District's petition. After hearing arguments from both sides and from Water Rights, the Board denied the motion.

16. The Board then proceeded to hear evidence concerning the merits of the application. During the hearing, the Board heard testimony from four witnesses: (i) Austin Settje, the engineer who reviewed Utech's application and prepared a report recommending that it be approved; (ii) Adam Mathiowetz, the newly appointed acting chief engineer for Water Rights; (iii) Utech; and (iv) Todd Schneider, a member of the District's board of trustees. The Board did not limit the time for direct or cross-examination of any of the witnesses.

17. SDCL § 46-2A-9 sets out four elements that must be satisfied before a permit may be issued. As to the first element, which is whether there is a reasonable probability that there is unappropriated water available for Utech's proposed use, Water Rights presented expert testimony from Austin Settje, who testified that the Grey Goose aquifer recharges at a rate of 1,670 to 8,907 acre feet per year; that the amount of recharge exceeds pumping from existing rightsholders; and that the aquifer experienced stable to rising water levels over the reporting period. He concluded that there was a reasonable probability that unappropriated water was available to support the proposed use contemplated by Utech's permit application. The Board finds that Settje's testimony on these points was credible and supported by the evidence.

18. The District did not present contrary expert or lay-witness testimony on the subject of water availability. Based on Settje's undisputed testimony, the Board therefore finds that there is a reasonable probability that unappropriated water is available from the Grey Goose aquifer to support the proposed use that is contemplated by Utech's permit application.

19. On the second factor in § 46-2A-9—whether the proposed use can be developed without unlawful impairment of existing water rights—Water Rights again presented expert

testimony from Austin Settje. Settje testified that any drawdown caused by Utech's proposed use was not expected to unlawfully impair nearby adequate wells. The Board finds that Settje's testimony on these points was credible and supported by the evidence.

20. The District did not present contrary expert or lay-witness testimony on the subject of existing water rights. Based on Settje's undisputed testimony, the Board finds that the proposed use likely can be developed without unlawfully impairing existing rights.

21. With respect to the third and fourth elements of SDCL § 46-2A-9—whether the proposed use is a beneficial use and in the public interest—the District relied on the testimony of Todd Schneider. Schneider, a member of the District's board of trustees, testified that, in December 2022, the District enacted Ordinance 7, which was admitted in evidence as Exhibit 206. This ordinance requires "[e]very owner" of a "building or other structure[]" used for human occupancy, employment, recreation, or for other purposes," to connect "directly" to the District main line. Schneider further testified that, in November 2024, the District adopted Resolution 2024-5, which was admitted in evidence as Exhibit 201. This resolution requires all premises where water or sanitary-sewer service are "intended to be installed" within the District to "be directly connected to the public water and wastewater collection and treatment system of the District." The point of adopting this resolution was to ensure that there was clarity among the District's residents that they must connect their water and sewer systems to the District.

22. Schneider also testified that the development of Codger's Castaway, including the planned RV park, would effectively double the population served by the District. In response, the District—in reliance on local regulations that gave it the exclusive right to service Codger's Castaway—invested in substantial improvements to its water system, as documented in Exhibit 214. The District invested more than \$7 million in infrastructure improvements, much of which

JUN 03 2026

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WATER

was funded using loans from the state, as documented in Exhibits 202 through 205, which were admitted in evidence. Each resolution approving the loan agreements with the State required that the District “not establish, authorize or grant a franchise for the operation off any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the Sanitary District.” (*See, e.g.*, Exhibit 202 ¶ 10.3.) The District planned to use tiered surcharges charged to its users to repay the loans. The Board finds that Schneider’s testimony was credible and supported by the evidence.

23. Water Rights offered no evidence to refute Schneider’s testimony. Settje testified that his analysis revolved around the “technical aspects” of the proposed use and did not address beneficial-use status or the public interest. Adam Mathiowetz, its acting chief engineer, (*see* Exhibit 3), testified to his understanding of the scope of review the Board has used when determining whether the use of water is in the public interest. But he explained that he did not consider local rules and regulations when forming his opinion about whether the proposed use was in the public interest or qualified as a beneficial use. He also acknowledged that he could not say whether local rules and regulations should be considered, as that was outside his purview.

24. Utech testified, in general, to the benefits of his planned RV park. He explained that the RV park and the broader Codger’s Castaway project would likely draw additional visitors to the area, which would increase spending at other area businesses, bring visitors to nearby state parks, and provide seasonal employment opportunities. However, his testimony did not address the impact of the District’s resolutions and ordinances on his water sourcing.

25. Utech filed a petition with the District in early 2023 asking that the proposed RV park be excluded from the District. (Exhibit 210.) The District considered and denied the

JUN 03 2026

OFFICE OF
WATER

petition. (Exhibit 209.) Utech filed a notice of appeal to circuit court from the District's denial. (Exhibit 211.) The appeal was later dismissed for failure to prosecute. (Exhibit 212.)

26. Because the testimony establishes that Utech's proposed development is within the District's territory and must be connected to the District for water and sewer, Utech's permit application, if granted, would conflict with and allow Utech to circumvent the District's ordinances and resolutions. The Board therefore finds that the proposed use is not in the public interest. And because the beneficial-use standard incorporates the public interest, the Board also finds that the proposed use does not qualify as a beneficial use.

27. Any of the preceding findings of fact that should have been stated as conclusions of law should be recharacterized as necessary.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter and the parties to this proceeding, pursuant to SDCL Chapter 46-2A. Subject to the findings made on the four elements set forth in SDCL § 46-2A-9, the Board has the authority to grant Utech's application, to deny the application, or to grant the application upon reasonable qualifications.

2. Utech's application was complete and in compliance with ARSD 74:02:01:06.

3. Notice of the application and of the acting chief engineer's recommendation was timely and properly made under SDCL §§ 46-2A-2 and 46-2A-4.

4. The District filed a timely petition to oppose Utech's application and participate in these proceedings. The deadline to do so was published as required by SDCL § 46-2A-4.

5. For a third-party petitioner, like the District, to participate in these proceedings, three criteria must be satisfied: (i) the petitioner must assert an injury "that is unique from any injury suffered by the public in general," (ii) that injury must concern a matter that is within the

JUN 03 2026

OFFICE OF
WATER

regulatory authority of the Board, and (iii) the petitioner must have filed its petition within 10 days of the published notice. SDCL § 46-2A-4(4). Utech does not dispute that the District has satisfied the third element, but he maintains that the District fails to satisfy the latter two. The Board disagrees with Utech, and concludes that the District has satisfied all three criteria.

6. The District has identified two injuries that are unique from any injury suffered by the public in general, either of which would suffice to support standing.

7. First, the District claims that Utech's permit, if granted, would circumvent its published resolutions and ordinances, which would otherwise require Utech to connect to the District's existing water system. The District "is a governmental subdivision of this state and a public body," SDCL § 34A-5-14, and it is empowered by statute to "pass and implement all necessary ordinances, resolutions, orders, and regulations for the proper management and conduct of [its] business." *Id.* § 34A-5-29; *see id.* § 34A-5-35; ARSD 74:53:01:07. Like other lawmaking bodies, the District thus has a cognizable interest in creating and enforcing its own legal code, and it is injured to the extent that a permitting scheme allows individual applicants to circumvent that code. *See Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 601 (1982). That injury, suffered in its capacity as lawmaker, is unique to the District.

8. Second, the District alleges that it stands to suffer a pocketbook injury if the permit is granted. The District has invested in improvements to its water and sewer systems to support future increased demand from Codger's Castaway. The District has relied, in part, on loans from the state, which it intends to repay using user surcharges. If Utech receives its water service elsewhere, the District both will be burdened with the excess capacity in which it invested and will be deprived of those surcharges necessary to cover that investment. That

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financial injury is unique to the District and is distinct from any injury suffered by the public in general.

9. In addition, the injuries asserted by the District concern a matter that is within the regulatory authority of the Board. SDCL §§ 46-2-9 and 46-2-11 entrust the Board with “general supervision of the waters of the state,” and give the Board the authority to allocate, develop, and distribute water rights according to “the principles of beneficial use.” The injuries that the District stands to suffer concern the manner in which water is distributed according to the public interest and the principles of beneficial use. This is not a case in which the ordinances and resolutions that the applicant seeks to circumvent have only a tangential impact on water rights and are primarily addressed to some other subject matter. What the District’s ordinances and resolutions regulate is the manner in which water is distributed within the bounds of the District.

10. Because all three requirements set forth in SDCL § 46-2A-4(4) are satisfied, the District has standing to file a petition and to participate in these proceedings.

11. The one-day hearing held on May 6, 2026, qualified as a contested-case hearing under South Dakota law and was conducted according to the procedures in SDCL Chapter 1-26. The rules of evidence were followed during the hearing, as provided in SDCL § 1-26-19(1). All parties to this proceeding were afforded a full and fair opportunity to be heard.

12. At the hearing, Utech had the burden of proving (i) that there was a “reasonable probability” that unappropriated water was available to serve his proposed use, (ii) that the proposed use could be served “without unlawful impairment of existing domestic water uses and water rights,” (iii) that the proposed use was a “beneficial use,” and (iv) that issuance of the permit “is in the public interest as it pertains to matters of public interest within the regulatory authority of the [Board] as defined by [SDCL] §§ 46-2-9 and 46-2-11.” SDCL § 46-2A-9.

13. The acting chief engineer recommended that the Board approve the permit application. However, the judgment of the chief engineer is not binding on the Board. Instead, the Board is entitled to exercise its independent judgment in reaching a decision.

14. The Board concludes that there is a reasonable probability that there is unappropriated water available for Utech's proposed use and that proposed use would not impair existing domestic uses and water rights. The District has not argued otherwise.

15. The Board also concludes, however, that Utech's proposed use is not in the public interest. The South Dakota Supreme Court has explained that the third and fourth elements set forth in § 46-2A-9 "are intertwined." *Matter of McCook Lake Recreation Area*, 26 N.W.3d 711, 728 (S.D. 2025). The third element is whether the proposed use is a beneficial use, and the fourth element is whether the proposed use is in the public interest. "Beneficial use" is broadly defined by statute as "any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The latter half of this statutory definition "requires that the use must be in the public interest to be deemed a 'beneficial use.'" *In re Water Right Claim No. 1927-2*, 524 N.W.2d 855, 859 (S.D. 1994).

16. The term "public interest" is not defined by statute, except to clarify that the public interest in question must pertain to matters "within the regulatory authority of the [Board] as defined by §§ 46-2-9 and 46-2-11." But the clearest expressions of the public interest are sources of published law, like the constitution, statutes, and judicial decisions. *See, e.g., Two Eagle v. Avel Ecare, LLC*, 17 N.W.3d 242, 249 (S.D. 2025); *Sturzenbecher v. Sioux County Ranch, LLC*, 20 N.W.3d 419, 428 (S.D. 2025); *Dahl v. Combined Ins. Co.*, 621 N.W.2d 163, 166 (S.D. 2001). Local ordinances and resolutions are also sources of public policy, albeit on a

JUN 03 2026

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smaller scale. *See, e.g., ESI/Emp. Sols., LP v. City of Dallas*, No. 19-00570, 2019 WL 5684668, at *5 (E.D. Tex. Oct. 31, 2019) (recognizing that a local ordinance, as “a product of deliberation and vote by elected officials at public meetings,” can fairly be said to reflect the “public will”).

17. Where a lawmaking body of competent jurisdiction has promulgated water laws that establish the relevant public policy, the Board’s task is to determine, based on the facts at hand, whether granting the permit would accord with the public interest, as declared in those enactments. *See Parks v. Cooper*, 676 N.W.2d 823, 841 (S.D. 2004) (“[I]t is ultimately up to the Legislature to decide how these waters are to be beneficially used in the public interest.”); *Clark v. Briscoe Irrigation Co.*, 200 S.W.2d 674, 684 (Tex. Ct. Civ. App. 1947) (“[P]ublic policy is expressed in the related constitutional and statutory enactments. What is delegated to the Board is to determine from the factual situation presented in each particular case, whether granting the permit would be ‘detrimental to the public welfare,’ as declared in those enactments.”). The Board need not look beyond those enactments to decide what qualifies as the public interest.

18. The Board’s consideration of the public interest under SDCL § 46-2-9 is not limited to whether the proposed use is a valid commercial use. While a valid commercial use may be a beneficial use and in the public interest in some circumstances, the public-interest standard allows the Board to consider more than that—like the District’s interest in enforcing its own ordinances and the State’s interest in prohibiting the District from allowing private competition for water and sewer within the District’s territory.

19. The District’s Ordinance 7 requires “[e]very owner” of a “building or other structure[] used for human occupancy, employment, recreation, or for other purposes,” to connect “directly” to the District main line. (Exhibit 206.) Resolution 2024-5 requires all premises where water or sanitary-sewer service are “intended to be installed” within the District

JUN 03 2026

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to “be directly connected to the public water and wastewater collection and treatment system of the District.” (Exhibit 201.)

20. Utech’s proposed use would permit him to draw water from a private well, rather than from the District’s water system. This proposed use conflicts with Ordinance 7 and Resolution 2024-5, which were promulgated by the District, a governmental subdivision with the power to pass and implement local laws. *See* SDCL § 34A-5-14; *id.* § 34A-5-29; *id.* § 34A-5-35.

21. Utech’s proposed use conflicts with the public interest because it would allow him to circumvent the District’s ordinances and resolutions requiring that he obtain water from the District.

22. Utech’s proposed use also would not qualify as a “beneficial use.” A “beneficial use” is statutorily defined as a proposed use “that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL § 46-1-6(3).

23. As reflected in that definition, the public-interest and beneficial-use elements are “intertwined.” *McCook Lake*, 26 N.W.3d at 728. By requiring that the proposed use be “consistent with the interests of the public of this state in the best utilization of water supplies,” the beneficial-use standard incorporates the public interest. If a proposed use is inconsistent with the public interest, it is not a beneficial use. *See Claim No. 1927-2*, 524 N.W.2d at 858-59.

24. Based on the entire record in this matter, granting Water Permit Application No. 8987-3 would be inconsistent with the public interest and the beneficial-use standard.

25. Any of the preceding conclusions of law that should have been stated as findings of fact should be recharacterized as necessary.

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DISPOSITION

For the reasons stated above, Application No. 8987-3 is **DENIED**.

Dated this _____ day of _____, 2026.

By the Board.

William Larson, Chairman

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Dated this 28th day of May, 2026.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

James E. Moore

Drew A. Driesen

P.O. Box 5027

300 South Phillips Avenue, Suite 300

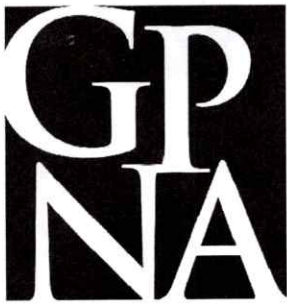
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*Attorney for Spring Creek Cow Creek
Sanitary District*



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June 10, 2026

Stacy R. Hegge
Email: shegge@gpna.com
Direct Dial: (605) 494-0105

SD DANR – Water Rights Program
Attn: Adam Mathoiowetz, Chief Engineer
Joe Foss Building
523 E Capitol Avenue
Pierre SD 57501
Via email and US Mail

Re: In the Matter of Water Permit Application No. 8987-3
GPNA File No. 15455.0013

Dear Chief Engineer Mathiowetz:

Please find enclosed Applicant Vic Utech's Objections to Proposed Findings of Fact and Conclusions of Law and Motion for Reconsideration of Application along with a Certificate of Service to be filed in *In the Matter of Water Permit Application No. 8987-3, Vic Utech*.

Sincerely,

A handwritten signature in blue ink that reads "Stacy R. Hegge".

Stacy R. Hegge

SRH:cm

Enclosures

Cc w/encls.: Emily Greco
James Moore
David McVey

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, and Wyoming

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STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

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IN THE MATTER OF WATER
PERMIT APPLICATION
NO. 8987-3, VIC UTECH

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**APPLICANT'S OBJECTIONS TO
PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW AND
MOTION FOR RECONSIDERATION
OF APPLICATION**

Applicant Victor Utech ("Utech"), through counsel Stacy R. Hegge of Gunderson, Palmer, Nelson, and Ashmore, LLP, submits the following Objections to the Spring Creek Cow Creek Sanitary District's ("District's") Proposed Findings of Fact and Conclusions of Law filed on May 29, 2026 ("Proposed FOFCOL"). Utech generally objects to the Proposed FOFCOL to the extent they rely upon or reference any testimony or evidence objected to by Utech during the course of the May 6, 2026 hearing. In addition to the foregoing general objection, Utech specifically objects to the District's Proposed FOFCOL as follows:

1. Utech objects to Proposed Finding Paragraph 7 to the extent that it states or implies that then-acting Chief Engineer Mark Mayer solely referenced Engineer Austin Settje's report to justify Mr. Mayer's conclusions and did not perform any independent analysis of his own. This proposed finding conflicts with current Chief Engineer Adam Mathiowetz's testimony that the Water Rights Program must make "a determination on all four factors in relation to this water appropriation permit" and that when analyzing the factor relating to the public interest under the Board's authority, the Water Rights Program considers "past practice of both the [Board] and the Water Rights Program, as well as statutes and rules that are within the purview of the program and the [Board]". Transcript of May 6, 2026 Water Management Board Hearing for In the Matter of Water Permit Application No. 8987-3, Vic Utech (hereafter "Hearing Transcript") (35:14-19).

Chief Engineer Mathiowetz testified that “[a] commercial use for an RV park has been historically considered by both the [Board] and the Water Rights Program as a beneficial use and in the public interest to place that water to use.” Hearing Transcript (33:6-19).

2. Utech objects to Proposed Finding Paragraph 11 to the extent that that the referenced date of “July 6, 2020” is not consistent with the dates set forth in Exhibit 219.

3. Utech objects to Proposed Finding Paragraph 13 to the extent it references the District’s response to the prehearing brief. The District’s response to the prehearing brief was not an authorized pleading nor contemplated by the Scheduling Order, and accordingly, it should be stricken from the record and should not be considered.

4. Utech objects to Proposed Finding Paragraphs 21 and 26 and Proposed Conclusion Paragraphs 7, 9, 15, 18-22, and 24, and to the proposed Findings and Conclusions generally to the extent they are inconsistent with the following authority and argument. The District’s challenge to Utech’s permit application is based entirely on its claim that issuing a permit to Utech would conflict with the District’s Ordinance and Resolutions. Yet, the District failed to show that a conflict actually existed.

First and foremost, the District misrepresents the District’s Ordinance 7. Proposed Finding Paragraph 21 and Proposed Conclusion Paragraph 19 indicate that Ordinance 7 “requires ‘every owner’ of a ‘building or other structure used for human occupancy, employment, recreation, or for other purposes,’ to connect ‘directly’ to the District main line.” See Proposed Finding ¶ 21.

However, the *entirety* of the quoted section provides as follows:

Every Owner of houses, buildings or other structures used for human occupancy, employment, recreation, or for other purposes, situated within the [Spring Creek Cow Creek Sanitary District] and abutting a street, alley or right-of-way shall connect the same directly with the proper water main in accordance with the provisions of this ordinance, within 30 days after the

date of official notice to do so, **provided that said water main is within 400 feet of the property line.**

See Art. IV, Section 1 of Ordinance 7 (Exhibit 206) (emphasis added).¹

The bolded, underlined language in Article IV, Section 1 of Ordinance 7 - not acknowledged by the District and otherwise left out of the District's proposed findings and conclusions - is crucial. Mr. Todd Schneider, the District's representative, testified that he is unaware of whether a proper water main closest to Mr. Utech's property is within 400 feet. *See* Hearing Transcript (96:4-98:3). Accordingly, the District failed to show that granting the water permit to Mr. Utech would, in fact, conflict with Ordinance 7.

While disregarding the entirety of the language in Section 1 of Ordinance 7, the District focuses on Resolution 2024-5, which the District contends was adopted "to clarify" that everyone within the District boundaries was required to connect to the District's water and sewer systems. *See* Hearing Transcript (71:2-8; 96:10-97:2). Its position, however, conflicts with the general purpose and function of ordinances and resolutions. In the context of municipalities,²

¹ In comparison, and as to second class and third class municipalities, SDCL 9-47-28 provides a "200 foot rule" for requiring hookups to the public water system:

9-47-28. Connection of plumbing fixtures to public water supply system--Purchase or lease of preexisting private wells by municipalities--Exemption of first class municipalities.

Each building in which plumbing fixtures are installed shall connect to a public water supply system if available. A public water system is available to a premise used for human occupancy if the property line of the premise is within two hundred feet of the system. A municipality may purchase, lease with purchase option, lease, or otherwise acquire from the owners, any preexisting private wells located within the municipality. The provisions of this section do not apply to municipalities of the first class. Nothing in this section requires any municipality to provide any municipal service outside of its municipal boundaries.

² A 1972 South Dakota Attorney General Opinion advised that because the enabling statutes for sanitary districts are silent on how to enact ordinances, Chapter 9-19 ("Ordinances and

South Dakota Codified Law 9-19-1 defines an “ordinance” as “a permanent legislative act of the governing body of a municipality within the limits of its powers”. (Emphasis added). A “resolution” is different from an ordinance in that it is “any determination, decision, or direction of the governing body of a municipality or a special or temporary character for the purpose of initiating, effecting, or carrying out its administrative duties and functions under the laws and ordinances governing the municipality.” See SDCL 9-19-1; *cf.* SDCL 7-18A-1 (defining “ordinance” and “resolution” in a similar fashion for county governments). It is axiomatic that an “ordinance can be amended or repealed only by an ordinance enacted by the body that originally passed the ordinance. It cannot be repealed or modified by a resolution, contract, order, motion, or by a void ordinance.” 56 Am. Jur. 2d *Municipal Corporations, Etc.* § 357 (emphasis added); see also 6 McQuillin, *Municipal Corporations* § 21:13 (3d ed.) (“A municipal corporation can repeal an ordinance only by an act of equal dignity, that is, by an ordinance, and not by methods not passed and published with the same formality as is required of an ordinance.”). South Dakota has followed this rule, labeled the “equal dignity” rule, for over a century: “repeal may not be effected by mere resolution...but must be enacted in the manner required for passing a valid ordinance....The act which repeals a law must be of equal dignity with the act which establishes it; hence an ordinance can be repealed only by another ordinance, and not by a resolution or motion.” *City of Mitchell v. Dakota Cent. Tel. Co.*, 127 N.W. 582, 586 (S.D. 1910) (citations omitted).

Resolutions”) “should be followed as much as possible as the source of law to which the district may look to determine the proper way to enact an ordinance. This statute is the general ordinance statute under the municipal government chapter, and since the statute” granting the district is silent on this subject, it is my opinion that the Legislature intended that the district look to the municipalities to determine the proper manner to pass ordinances.” See OFFICIAL OPINION NO. 72-16, Ordinance powers of Sanitary Districts.

JUN 15 202

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Considering the foregoing authority, Resolution 2024-5 simply cannot require Mr. Utech to connect to the District's water system when its own Ordinance would conflict with that requirement. Ordinance 7 require property owners to hook up to the District's water system *only if* there is a proper water main within 400 feet. Resolution 2024-5 purports to supersede Ordinance 7 by eliminating that 400 foot rule. Yet by the very definition of a "resolution", Resolution 2024-5 cannot trump its own ordinance that it must carry out. The District was unable to effectuate a repeal of Ordinance 7's 400 foot rule via Resolution 2024-5.

In addition to the above, the District's position as to its Ordinance 7 and Resolution 2024-5 gives rise to constitutional and *ultra vires* issues. The District is "precluded from engaging in *ultra vires* acts for which there is no antecedent legislative authority." *See, Ericksen v. City of Sioux Falls*, 14 N.W.2d 89, 95 (S.D. 1944). Yet, Resolution is rife with *ultra vires* acts, including the inclusion of criminal penalties, the mandate for private citizens to prepare engineering plans for "extending" the District's mainlines, and its mandate for private landowners to pay for the extension of the District's mains and to connect to the same. *Cf.* SDCL ch. 34A-5 generally; 34A-5-26(1); 34A-5-27; 34A-5-35 (express authority to require connection to the District's *sewers*, but no parallel requirement to connect to the District's water system)

The District's flawed position as to its own ordinances and resolution highlights the importance of this Board to refrain from analyzing and interpreting Mr. Utech's obligations to the District under the District's ordinances. The scope of the District's ordinances and resolutions are being litigated in federal court, where a federal court judge will ultimately issue a ruling on their validity and application. *See* Hearing Transcript (100:13-101:5). As discussed in Mr. Utech's prehearing brief, this Board should not accept the District's invitation to issue judicial opinions regarding a water permit applicant's obligations under another entity's rules

and regulations. *Cf.* Hearing Transcript (33:22-34:3) (Chief Engineer Mathiowetz testifying that “the district ordinance does not affect the [Water Rights Program’s] recommendation because just having the water right does not guarantee you access to the well. You may need to, and therefore, other applicable laws may require you to do other things beyond just obtaining the water right.”).

Further, allowing a sanitary district to dictate, through the passage of its own ordinances and resolutions, the Board’s grant or denial of a water appropriation permit conflicts with the Legislature’s delegation of authority to this Board. The South Dakota Legislature has directed that the Water Management Board, and at times, the Chief Engineer of the Water Rights Program of the South Dakota Department of Agriculture and Natural Resources, is responsible for the issuance of water rights permits under SDCL chapter 46-1 et. seq. *See, e.g.*, SDCL 46-1-14 through 46-1-16; 46-2-11. Through SDCL 46-2A-9, the Legislature clearly delineated the exclusive factors for the Water Management Board’s consideration in a water permit application, limiting the “public interest” factor to those within the regulatory authority of the Board.

The District contends that the Board must recognize the District Ordinances because the Board’s regulatory authority encompasses water, which is what the District Ordinance addresses. To be clear, the District’s argument is not that granting a permit to Utech will have any effect on the District’s *water* or *water right*, but simply that the District’s revenues may be affected. Further, the District’s position, if accepted by the Board, would effectively authorize the District “to prohibit what state law permits” – the Board’s issuance of water appropriation permits. *See Preserve French Creek Inc. v. County of Custer*, 2024 S.D. 45, ¶ 14. The District’s position would effectively prohibit the Water Management Board from granting *any* water permit application for water use within the District’s boundaries. Under preemption principles, the State water

JUN 15 2026

OFFICE OF
WATER

appropriation permitting laws enacted by the Legislature, and the corresponding authority delegated to the Board and Water Rights Program, withstands any District attempt to override those permitting laws. *See id.* ¶¶ 10-14. *Cf. Volunteers of America Care Facilities v. Village of Brown Deer*, 97 Wis.2d 619 (Ct. App. Wis. 1980) (“A municipality’s ordinances may not infringe on the spirit of a state law or general policy of the state.”).

Ultimately, the District’s sole argument was that the granting of the permit would conflict with the public interest and beneficial use factors because it would conflict with the District’s ordinances and resolutions. Because the District did not provide evidence that the grant of Utech’s permit application would conflict with the District’s ordinances, there is no premise articulated by the District to determine that the proposed use is not in the public interest within the regulatory authority or the Board and that it is not a beneficial use.

5. Utech objects to Proposed Finding Paragraph 22. The District indicated that it “invested in substantial improvements to its water system, as documented in Exhibit 214.” However, Exhibit 214 is a “Lagoon Improvements” sewer facility plan, not a water facility plan. Although the Proposed Finding Paragraph 22 referenced “improvements to its water system,” the District did not present credible evidence at the hearing regarding any “Drinking Water” facility plan. In addition, to the extent Mr. Schneider testified that the facility improvements were pursued because of the proposed Codger’s Castaway development, his testimony is inconsistent with the District’s Exhibit 214, which provides:

Project Purpose and Need

The general purpose of the recommended WWTF improvements is to bring the system back into compliance with the existing permit as a non-discharge system. More specifically, addressing concerns with the lagoon liner and dissipation of effluent that is noted to be more than anticipated by evaporation. The focus of this study are improvements to the lagoon system needed to meet DANR requirements. The sanitary District should also

JUN 15 2026

OFFICE OF
WATER

continue to maintain the collection system, improve metering at the lift station, and investigate possible inflow and infiltration (I&I) issues.

See Exhibit 214, page 4; *cf.* Hearing Transcript (91:23-92:19). Mr. Schneider also acknowledged in his testimony that he was not involved in the decisions relating to water improvements and that the board members at the time of those decisions would have a better understanding of the reasoning behind the improvements. *See* Hearing Transcript (95:9-96:3); *compare* Exhibit 214 (Lagoon Improvement Facility Plan dated December 22, 2021) *with* Hearing Transcript (62:18-20) (Mr. Schneider noting that he was first elected to the District Board two years ago). Mr. Schneider's admitted lack of knowledge on the issue and its inconsistencies with Exhibit 214 call his credibility as a witness into question.

In Proposed Finding Paragraph 22, the District also contends that its Resolutions approving its loan agreements with the State require "the District [to] 'not establish, authorize or grant a franchise for the operation off (sic) any other utility supplying like products or services in competition therewith, or permit any person, firm or corporation to compete with it in the distribution of water for municipal, industrial, and domestic purposes within the Sanitary District.'" *See* Proposed Finding Paragraph 22. *See, e.g.,* Exhibit 203, Section 10.3. However, the District's claim - that its agreements with the State and corresponding Resolutions prevent the District from allowing anyone to obtain water from other sources – does not pass muster. This is especially true when the District would not violate that provision if the Board were to issue a permit—the District itself would not be establishing, authorizing, or granting anything, the Board would.

First, as to the loan agreements, Mr. Utech's application is directed to the Water Rights Program and this Board, in line with the State's regulatory permitting process. *See* SDCL chapter 46-2A. The State, through the Department of Agriculture and Natural Resources, has not joined the District's position that the grant of a permit would be inconsistent with any loan agreements

that it has with the District. Instead, and tellingly, the Department of Agriculture and Natural Resources has actually *recommended approval* of Mr. Utech's application.

Next, the Resolutions regarding the loan agreements do not reference the distribution of water for "commercial use." Instead, the provision of the Resolutions relied upon by the District, Section 10.3, only reference the "distribution of water for municipal, industrial, and domestic purposes within the Sanitary District." *See, e.g.*, Section 10.3 of Exhibit 203. Regardless, to the extent that the Resolutions approving the loan agreements purportedly require everyone to obtain water from the District including for commercial use, those Resolutions conflict with Section 1 of the controlling Ordinance 7. Yet, as discussed above, the Resolutions cannot repeal the Ordinance.

Finally, the District's argument that the Resolutions and loan agreements require *everyone* to obtain water from the District is undercut by the other water rights permits that exist within the District's territorial boundaries. *See* Ex. 219 (describing the District's territorial boundaries). Engineer Settje's report identifies other permits that fall within the territorial boundaries of the District. Page 11 of the Engineer Settje's Report on Water Permit Application No. 8987-3 identifies ten water rights permits that exist within two miles of Mr. Utech's well, and some of the permits are within the District's territorial boundaries and indicate uses of "IRR", "COM", "FWP" and "REC". *See* Page 11 of Report on Water Permit Application No. 8987-3, and *compare with* Ex. 219 (District boundaries). The existence of these permits supports that loan agreements with the State and corresponding Resolutions do not prohibit the issuance of water appropriation permits by this Board. Utech finally objects to the District's reference to Exhibit 202 as that exhibit was not admitted into evidence at the hearing.

6. As to Proposed Conclusion of Law Paragraphs 1 and 5-10, Utech restates its objection that the District had no standing to participate in the contested case. *See* Applicant's Prehearing Brief incorporated herein by reference.

7. As to Proposed Conclusion Paragraph 8, Utech objects that the District will suffer a "pocketbook injury" if the permit is granted. If the permit is granted, the District will not be "deprived of [the user] surcharges necessary to cover" its investment in improvements. The surcharges currently implemented cover the cost of improvements. Indeed, the District cannot force Utech to pursue an RV park, and any assertion that the District cannot cover the cost of improvements without Utech's development of an RV park is contrary to the evidence presented. Further, there was no credible evidence presented that recent improvements to the District's water system would support future increased demand from the RV park. Further, as set forth above, Section 10.3 of the Resolutions regarding the loan agreements does not contemplate revenues from the distribution of water for commercial use.

8. As to Proposed Conclusion Paragraphs 9, 16, and 17, and in addition to the grounds set forth in Paragraph 4 above, Utech objects on the following additional grounds. While the District cites to various South Dakota cases in support of its assertion that "the clearest expressions of the public interest are sources of published law, like the constitution, statutes, and judicial decisions," the cited cases are not relevant to the "public interest" element of SDCL 46-2A-9. Specifically, the District cites to *Two Eagle v. Avel*, *Sturzenbecher*, and *Dahl* in its proposed Conclusions, but those cases only generally discuss public policy, not public interest.

Regardless, in its attempt to stretch the concept of public interest to the District's enactments, the District only cites to one lower court decision in Texas. But a review of that case reveals that it is also not supportive of the District's position here. In *ESI/Emp. Sols. LP v. City of*

JUN 15 2026

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Dallas, No. 19-00570, the State of Texas and others filed suit against the City of Dallas, challenging the enforceability of a municipal ordinance passed by the City. The City requested to transfer the case to a different venue, and in its consideration of the request, the Texas district court necessarily analyzed the “local interest in having the localized interests decided at home.” The single sentence that the District here attempts to latch onto is the court’s statement that the challenged ordinance “reflects the ‘public will’ of Dallas residents.” That statement, however, was simply the court’s analysis of whether a venue as a “stronger local interest in the enforceability of the [o]rdinance.” *See id at* *5. It does not hold or support a conclusion that an ordinance is a definitive statement of a public interest.

9. As to Proposed Conclusion Paragraph 23, Utech objects to the extent that it does not include the entire definition of “beneficial use” under SDCL 46-1-6(3). The District is inappropriately collapsing the third and fourth factors of SDCL 46-2A-9, rather than treating them as intertwined, yet distinct, factors.

MOTION FOR RECONSIDERATION

Based on the evidence and testimony, as well as the authority and argument set forth above, Utech respectfully requests the Water Management Board to reconsider the denial of Utech’s water permit application.

Dated: June 10, 2026.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: /s/ Stacy R. Hegge

Stacy R. Hegge
Marcus L. Hluchy
Attorneys for Applicant Victor Utech
306 E. Capitol Ave., Ste 300
Pierre, SD 57501

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Telephone: (605) 494-0105
E-mail: shegge@gpna.com

By:

SD DANR, Water Rights Program For Water Management Board 523 E. Capitol Ave Pierre SD 57501 Phone: 605.773.3352 Email: DANRmail@state.sd.us	Plan No. _____ No. _____ (water permit appl. no., if applicable) (office use only)
--	---

Data Center Water Supply Plan to Water Management Board

Facility Name: _____

Address: _____ (City) (State) (Zip)

Contact Person(s): _____

Email: _____ Phone: _____

Data Center Water Supply (check all that apply): ☐ Self-Supplied ☐ Public Water System

☐ I understand, if "Self-Supplied," a water right permit will be needed from the Water Management Board pursuant to SDCL 46-2-9 and 46-2-11 and this Water Supply Plan will be an addendum to the water permit application. Action by the Water Management Board on a water permit application constitutes issuance of an order pursuant to SDCL 49-50-4.

1. Identify the proposed water source. If ground water, include either the name of the aquifer or an approximate well depth, or both, at the proposed site:

Water Source: _____ If ground water, approximate well depth (feet): _____

Legal description of water diversion (quarter, section, township, range or latitude/longitude): _____

County: _____

Annual consumptive use of water: _____ acre-feet (1.0 acre-feet equals 325,851 gallons)

2. Based on the proposed water source, attach/include the following:
 - a. "Notice of Projected Water Consumption" provided to each local water supplier in the area that can feasibly supply the facility (required regardless of whether the facility will be supplied by the local water supplier).
 - b. Written response from each local water supplier regarding the "Notice of Projected Water Consumption."
 - c. 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. Complete Item No. 3 on next page.

I, _____, the applicant, certify under
Authorized Person (print) Title (if applicable)

penalty of perjury that I have read this water supply plan, 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 plan and peak demand is 10 megawatts or greater.

Plan No. _____

No. _____
(water permit appl. no., if applicable)
(office use only)

Data Center Water Supply Plan to Water Management Board

(continued from page 1)

Facility Name: _____

3. To comply with SDCL 49-50-4, an order will be issued by the Water Management Board establishing a limit on water use. Please describe the amount of water to be consumed, and current industry best management practices to be implemented to limit water use through efficiencies, such as reuse via closed-loop cooling systems, etc. The description provided, responses from local providers, and any other information available to the Water Management Board, will form the basis of the Board's order, including other statutory authority preventing the waste or unreasonable method of use of water – see SDCL 46-1-4.

Water Supply Plan Description:

DRAFT