

Instruction to Newspaper - Publish the following Notice on March 20, 2026. The City of Brookings is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 217-3

Notice is given that the Water Management Board will review Future Use Permit No. 217-3 held by the City of Brookings, PO Box 588, Brookings SD 57006 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. 217-3. This permit was approved in 1956 and currently reserves 1,612 acre-feet from the Big Sioux: Six Mile Creek Aquifer located in the N 1/2 Section 13-T110N-R50W 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. 217-3 REMAIN in EFFECT for 1,612 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. 217-3 on May 6, 2026, at 9:30 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 March 30, 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. 217-3 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 March 30, 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 March 30, 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 March 30, 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 approximate cost of _____.