

NOTICE OF APPLICATION NO. 2881-2 to Reserve Water for Future Use

Notice is given that Western Dakota Regional Water System, PO Box 484, Rapid City SD 57709, has filed Application No. 2881-2 for a future use water permit. Application No. 2881-2 proposes to appropriate and reserve for future use 20,765 acre-feet of water annually from the Missouri River. The area reserved for future diversions from the Missouri River may be anywhere in Stanley County or Hughes County between Section 16-T6N-R29E and Section 5-T4N-R32E (Stanley County) or between Section 6-T111N-R79W and Section 11-T110N-R79W (Hughes County). The general location along the Missouri River begins near Chantier Creek and ends between La Framboise Island and Farm Island. The water is to be reserved as a future water supply for serving municipal and rural water system uses in Stanley, Lyman, Jones, Tripp, Haakon, Jackson, Butte, Meade, Pennington, Custer, Fall River, Oglala Lakota, Mellette, Lawrence, Perkins, Harding, Gregory, Todd, and Bennett counties. If approved, this application does not authorize construction of works or application of water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2881-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) Western Dakota Regional Water System has demonstrated a reasonable need to reserve water in the amount of 20,765 acre feet of water annually, 3) the proposed use is a beneficial use and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board is scheduled to take action at 9:45 AM (Central Time) on December 4, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD to present Application No. 2881-2 to the Legislature for consideration during the 2025 Legislative Session. The Chief Engineer's recommendation is not final or binding upon the Board or Legislature. Pursuant to SDCL 46-5-20.1, the Board shall present the application to the Legislature for approval prior to the Board acting upon the application. Disapproval of the application by the Legislature constitutes disapproval by the Board and no further action need be taken by the Board. PLEASE NOTE, the scheduled December 4, 2024, agenda item is for the Board to present the application to the Legislature, NOT to conduct an evidentiary hearing. If approved by the Legislature, the Board will then schedule a time and place to conduct the evidentiary hearing for final consideration of the application. 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 evidentiary hearing. No evidence or testimony will be accepted on December 4, 2024.

Any person who intends to participate in the evidentiary hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by November 5, 2024.

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. If the Legislature approves the application, an evidentiary hearing will be scheduled for the Board to consider the application.

Notice of this hearing will be provided to the applicant and any person filing a petition opposing the application. This hearing will be 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. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Upon scheduling the Board's evidentiary hearing, the applicant or any person who has filed a petition to oppose the application may request an automatic delay of the hearing within ten days of the date of the notice scheduling the hearing. Upon receipt of a timely request for an automatic delay, the evidentiary hearing date will be delayed at least 20 days. If delayed, the evidentiary hearing will be rescheduled with personal notice provided to the applicant and all petitioners regarding the new time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by November 5, 2024.

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

As applicable, the following provides the legal authority and jurisdiction under which any future 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.