



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 19, 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
1302 East Highway 14, Ste 1
Pierre SD 57501-8501

Helsper, McCarty & Rasmussen PC
c/o Reed Mahlke, *Attorney for Grant Roberts RWS*
1441 6th St, Suite 200
Brookings SD 57006

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

SUBJECT: Notice of Hearing on Future Use Permit Application No. 8990-3, City of Milbank

Petitions opposing Future Use Permit Application No. 8990-3 were received by the acting Chief Engineer on February 11 & 13, 2026, in response to the Notice of Application published in the Grant County Review and the Watertown Public Opinion on January 28, 2026. This notice schedules a hearing on Application No. 8990-3 before the South Dakota Water Management Board.

Future Use Permit Application No. 8990-3 requests to appropriate and reserve up to 1,120 acre-feet of water annually from the Antelope Valley Aquifer, to serve as future water supplies for municipal and water distribution system use by the City of Milbank.

Pursuant to SDCL 46-2A-2, the acting Chief Engineer recommends approval of Application No. 8990-3 with qualifications because 1) there is reasonable probability unappropriated water is available for the applicant's proposed use, 2) the City of Milbank has demonstrated a reasonable need for the water, 3) the proposed use is a beneficial use, and 4) the proposed use is in the public interest.

The Water Management Board will conduct a hearing to consider Application No. 8990-3 at **2:15 PM (Central Time), on Wednesday, May 6, 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-23, the Board has legal authority and jurisdiction to conduct this hearing.

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.

Notice of Hearing – Application No. 8990-3

The May 6, 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 opposing the application. A request for an automatic delay must be filed by **March 30, 2026**. The acting Chief Engineer's address is "DANR - Water Rights Program, Foss Building, 523 E Capitol Ave, Pierre SD 57501." If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and the petitioner regarding the time, date, and location.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and may be represented by legal counsel. An individual may represent themselves pro se, while a legal entity (Grant Roberts RWS & the City of Milbank) will be required to be represented by legal counsel in the administrative proceeding. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation, and the petitions filed in the matter of Future Use Permit Application No. 8990-3. State law directs the acting Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions or comments for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. Notices, orders, other pleadings, and comments filed in this matter are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." If you intend to participate in the hearing, you are encouraged to review these documents prior to the hearing.

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

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the acting Chief Engineer is February 2, 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, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Contact Amanda Dewell at (605) 773-3352 or by email at amanda.dewell@state.sd.us to request an additional copy of the staff report, recommendation, application, or other information, or if you have questions regarding the hearing process.

