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FEB 11 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.

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)
www.lawinsd.com

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

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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 "Reed T. Mahlke", with a long horizontal flourish extending to the right.

Reed T. Mahlke, Attorney for GRRWS

cc: Steve Pendergrass, City Administrator, City of Milbank

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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.) year round depletion of ~~aquifer~~ 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: 605-880-0299 Email: cjARTHUR30@hotmail.com

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CERTIFIED MAIL

Retail

Craig Arthur
16116 456th Ave
Watertown, SD 57201



9589 0710 5270 0012 6124 10

DAKOT.
FEB



57501

RDC 99

U.S. POSTAGE PAID
FCM LETTER
CLARK, SD 57225
FEB 09, 2026

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DAN R Joe Foss Building
ATTN: Water Rights Program
523 E Capitol Ave
Pierre, SD 57501

57501-318299

