

FUTURE USE WATER PERMIT NO. 2840-2

Name of Applicant: Rapid Valley Sanitary District-Water Service

Address: 4611 Teak Drive, Rapid City SD Phone: 605 381-2904

Amount of Water Claimed: ~~8.35 cfs~~ 6050 ^{gpm} Total Acres: NA

Source of Water Supply: Missouri River

Water to be used for: rural water system County: Pennington

Type of Waste Disposal System:

Location:

PRIORITY Date Received: 1-18-22

Application/License Fee: \$ 895 (needs refund)

Corrected Application Received: 2-18-22

Period of Annual Use: Jan 1 – Dec 31

Remarks: Future Use Reservation

Diversion Point: between points in Sec 31-T9N-
R24E and Sec 32-T6N-R31E

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

Type of Map:

Prepared by:

Reviewed and the Number Assigned on: 2-22-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
FUTURE USE PERMIT NO. 2840-2**

Date of first receipt of application January 18, 2022.

Date of return to applicant for corrections, amendments or changes January 25, 2022.

Date of receipt of corrected application February 18, 2022.

The Water Management Board approved Water Permit No. 2840-2 on May 4, 2022 for Rapid Valley Sanitary District – Water Service, 4611 Teak Drive, Rapid City SD 57703 subject to the following limitations, conditions and qualifications:

1. Future Use Permit No. 2840-2 reserves 6,050 acre-feet of water annually from the Missouri River located between points in Section 31-T9N-R24E and Section 32-T6N-R31E.
2. The water appropriated shall be used for the purpose of future rural water system use and may not exceed the amount of water needed for beneficial use.
3. The date from which applicant may claim right is January 18, 2022.
4. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Future Use Permit No. 2840-2 reserves 6,050 acre-feet of water annually from the Missouri River.
2. That Future Use Permit No. 2840-2 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. 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.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

JUN 01 2022
date



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2840-2</u> (office use only) Hydrologic Unit <u>10130105</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Rapid City Journal</u>
	<u>Capital Journal, Pioneer Review</u>

Originally received
11/18/2022
RECEIVED
FEB 18 2022
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water Within The State Of 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 _____	

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.)

1. Name to Appear on Water Permit Rapid Valley Sanitary District-Water Service

Mailing Address 4611 Teak Drive (Address) Rapid City (City) SD (State) 57703 (Zip Code)

Phone 605.393.1050 Mobile 605.381.2904 Email RSchmidt@rvsd.com

2. Amount of water claimed 8.35 *CFS or 6,050 **GPM and 6,050 ***AF or _____ 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)

3. Source of water supply Missouri River

4. Location of point of diversion Between points in S31 T9N - R24E and S32 T6N-R31E County Stanley, Haakon
(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)

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used Entire Year

7. 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)

Rapid Valley Sanitary District is planning to utilize Missouri River water as either it's primary water source or redundant water source due to lack of redundancy currently available through Rapid Creek. The proposed project would include a raw water intake system, pump stations and pipeline of raw water to RVSD's water treatment plant.

I, Rusty Schmidt manager, 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.

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 ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ 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)

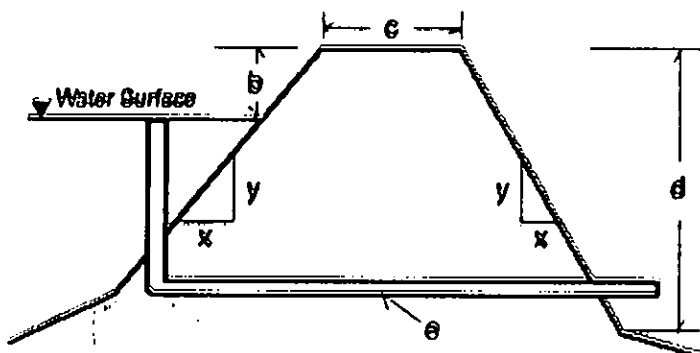
Upstream _____

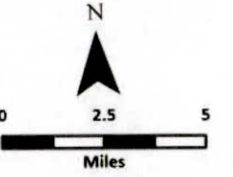
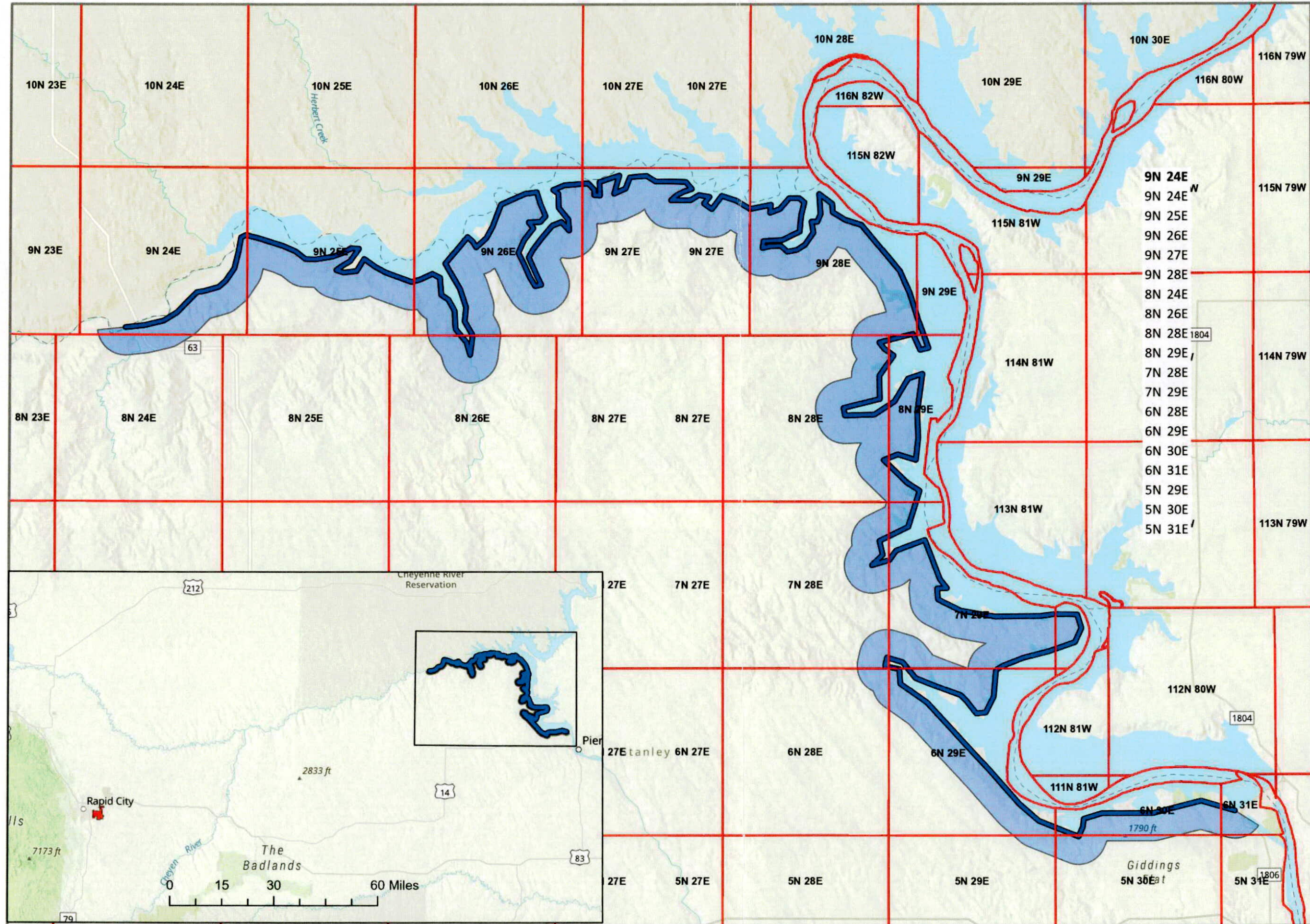
Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





1 inch equals 25,000 feet



Locator Map Not to Scale

PROPOSED CONNECTION AREA

- Possible Connection Area
- 1 Mile Buffer
- Rapid Valley Sanitary District

**RAPID VALLEY
SANITARY
DISTRICT/WATER**

Date: 2/16/2022



WELLS
FARGO

Transaction Search

RECEIVED

FEB 18 2022

WATER RIGHTS
PROGRAM

Images

Date/Time Printed: 02/16/2022, 12:41 PM PST

Check 27401 - 895.00 USD

THE FOLLOWING CHECKS MUST BE LOANED IN THE LOWER CORNER OF THIS CHECK: ONLY HAVE TEMPORARILY WHEN EXAMINED BY TOUCH OR PROXIMITY. SEE BACK FOR ADDITIONAL FEATURES.

RAPID VALLEY SANITARY DISTRICT / WATER SERVICE MS11
4311 TULSA DR
AUSTIN, TX 78703

027401

Eight Hundred Ninety Five & 00/100 Dollars

DATE 01/14/22 AMOUNT 895.00

PAY TO THE ORDER OF SD OAKR

VOID AFTER 60 DAYS

002740101 0091400046 0880000182

Eric,
This was the check
that was sent w/ the
previous application &
was cashed 1/20/22
Please let us know if
another needs sent

FOR DEPOSIT ONLY
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
FOR DEPOSIT ONLY
FOR DEPOSIT ONLY
FOR DEPOSIT ONLY

Item Details

Account Number	880000182	Item Sequence Number	008489162615
Account Name	RAPID VALLEY SANITARY DIS	Bank ID	091400046
Check	27401		
Amount	895.00 USD Debit		
BAI Code	475		
Transaction Type	CHECK PAID		
Posting Date	01/20/2022		
As of Date	01/20/2022		
Additional Item Details	CHECK		
	0000008 +000000038469090		

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 18, 2022

RECEIVED OF Rapid Valley Sanitary District/Water Services #4611 4611 Teak Drive Rapid City SD 57703

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. <u>2840-2</u> to Appropriate Water for Future use	<u>\$895.00</u>
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	<u>\$895.00</u>

By Eric Gronlund
Chief Engineer
zm



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 25, 2022

Rapid Valley Sanitary District
c/o Rusty Schmidt, Manager
4611 Teak Drive
Rapid City SD 57703

SUBJECT: Application for Future Use Reservation from Missouri River

Dear Mr. Schmidt:

Thank you for submitting the application for a future use permit to reserve water from the Missouri River for municipal use. In order to complete the application, the following is required.

The legal description of the proposed diversion point from the Missouri River needs to be identified in Item No. 4 on the enclosed application. This can be a single point or points along the river between which the pump station will be located. Also, include a map identifying the legal description(s) of the proposed pump station.

The application requests a reservation of 10,000 acre feet of water annually from the Missouri River to supply water to the Rapid Valley Sanitary District as its primary water source or as a redundant water source to the District's current Rapid Creek source. Statutory authority exists for entities such as Rapid Valley Sanitary District to reserve water for contemplated future needs and an administrative rule sets forth that the Water Management Board may, at its discretion, limit the reservation of water for future use to two times the annual amount actually being put to beneficial use by the entity seeking to reserve the water. Rapid Valley Sanitary District reports annual water use to the Water Rights Program. The District's highest reported water use was 804 acre feet of water in 2021. Therefore, under the administrative rule, the District may qualify for a future use reservation of 1,608 acre feet of water annually. To seek a favorable recommendation for a reservation greater than 1,608 acre feet of water annually, please provide a study of projected water needs for the District to justify a greater amount.

After receiving the pump station legal location(s), map and confirming the requested amount of water to be reserved, the Water Rights Program can begin processing your application.

If you have any questions, please contact me.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program, DANR
605 773-3352
eric.gronlund@state.sd.us

enclosure



February 16, 2022

SD DANR Water Rights Program
Eric Gronlund
Chief Engineer
523 East Capital Avenue
Pierre, South Dakota 57501-3182

Re: Application for Future use Reservation from Missouri River

Dear Mr. Gronlund:

As you know, Rapid Valley Sanitary District (RVSD) is interested in acquiring water rights from the Missouri River to serve as either the primary source or a redundancy to serve as the RVSD water supply. Rapid Creek is currently fully appropriated, making obtaining additional water rights difficult. RVSD is looking to obtain future water use of 6,050 AF from the Missouri River based on the information below.

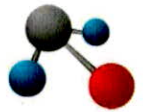
Population trends within the RVSD service area were analyzed in 2021 to accompany the facility plan for the Rapid Valley Water Resource Recovery Facility (WRRF). The WRRF Facility Plan utilized the following elements as the basis of the 20-year population estimate.

- 2020 Existing population of 9,114
- Conservative growth factor of 1.5 percent per year
- Existing 1,600 acres of service area
- Ultimate planned service area of an additional 9,300 acres
- An estimated population density of 3.3 people per acre was determined based on the population density of Rapid City of 2.54 people per acre.

The projection used to estimate the ultimate planning window 36,000 people, based on the ultimate buildout service population.

Table 1: *Ultimate Planning Period Estimates*

Method of Determination	Growth Rate
2021 Population	9,114
Percent Growth Per Year	1.5
2041 Population Estimate	12,275



RVSD Gross Area in acres	10900
Population per Gross Acre	3.3
Ultimate Population Estimate	36,000

RVSD has used 150 gallons per capita per day (gpcd) for water use projections. The demand then equates to:

Table 2: *Ultimate Water Demand*

Method of Determination	Growth Rate
Ultimate Population Estimate	36,000
Gallons Per Capita Demand	150
Average Daily Use Demand (million gallons per day)	5.4
Average Demand per Year (acre-foot)	6,050

Dustin Dale, PE CFM
Operations Manager



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
APPLICATION NO. 2840-2, Rapid Valley Sanitary District – Water Service**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit Application No. 2840-2, Rapid Valley Sanitary District – Water Service, c/o Rusty Schmidt, 4611 Teak Drive, Rapid City SD 57703.

The Chief Engineer is recommending APPROVAL of Application No. 2840-2 for reservation of 1,608 acre feet of water annually because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) Rapid Valley Sanitary District has demonstrated a reasonable need to reserve water in the amount of 1,608 acre feet of water annually, 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. 2840-2 reserves 1,608 acre-feet of water annually from the Missouri River.
2. That Future Use Permit No. 2840-2 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. 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.

Eric Gronlund

Eric Gronlund, Chief Engineer
March 21, 2022

Continued

NOTE: Based on the Water Management Board's Administrative Rule 74:02:01:24.01, the recommendation is to limit this future use reservation to the two times the annual amount actually put to beneficial use by the District. The District reported use of 803.7 acre feet of water in 2021. Therefore, the recommendation is for a reservation of 1,608 acre feet of water per year.

Under South Dakota Codified Laws 46-2A-10 and 46-5-38, a qualifying entity may reserve water for contemplated future needs upon a showing of availability of unappropriated water and future need. Based on the technical report prepared, unappropriated water is available. Based on the Board rule, the recommendation is for two times the amount the District puts to beneficial use. At the time of the Board hearing on the application, the District has the opportunity to demonstrate its contemplated future need for a greater amount.

REPORT ON FUTURE USE PERMIT APPLICATION NO. 2840-2
Rapid Valley Sanitary District-Water Service
March 10, 2022

Future Use Permit Application No. 2840-2 proposes to reserve for a future use water permit to appropriate 6,050 acre-feet of water (ac-ft) annually from the Missouri River located between points in Section 31-T9N-R24E and Section 32-T6N-R31E. The water is to be reserved for the purpose of providing future water supplies to the rural water system. This application does not authorize construction of works or application of water to beneficial use. The Missouri River diversion would be located on the Oahe reservoir reach between the Cheyenne River confluence and Oahe dam in Haakon and Stanley counties respectively.

South Dakota Codified Law (SDCL) 46-2A-10 and 46-5-38.1 sets out the criteria and conditions under which a future use permit may be approved and Administrative Rule 74:02:01:24.01 defines the limits the Water Management Board may place on a future use permit. SDCL 46-2A-10 allows a future use permit to be approved only if 1) there is reasonable probability unappropriated water is available for appropriation; 2) the quantity of water reserved will be needed by the entity; 3) the proposed use will be a beneficial use; and 4) the proposed use is in the public interest. This report will address the first two criteria.

Review of the Proposed Water Source

The water source for this future use reservation is from the natural flow of the Missouri River flowing through Lake Oahe in the reach impounded behind Oahe Dam. The US Army Corps of Engineers constructed Oahe Dam impounding Lake Oahe in the 1950s and 1960's as a part of a six reservoir Pick-Sloan project for the Missouri River. The six project dams, Ft. Peck, Garrison, Oahe, Big Bend, Ft. Randall, and Gavins Point, are operated as a system providing storage and water releases for congressionally-authorized purposes. Specifically, Oahe Reservoir can impound up to 23.4 million acre-feet of water (MAF) when full. Natural flow in an instream reservoir system like the Missouri River mainstem system is the volume of water moving past a point along a river that is not augmented by artificial releases from the storage. When there is an excess of natural flow, the excess can be used to fill empty storage space in the instream reservoir and typically occurs during spring run-off. The natural flow of the Missouri River is available for appropriation without the need for releases from storage in the reservoirs to augment the natural flow.

The flow hydrograph of the Missouri River in South Dakota has been altered in the past 60 to 80 years due to the presence of the Missouri River mainstem reservoir system, with excess natural flow going into storage and stored water released to supplement flows. The USGS, in a 2001 research study, made an estimation of the Missouri River natural flows at locations on the river

at Oahe Dam and at Gavins Point Dam (Jacobson, 2001). A percentile hydrograph displaying the daily 50, 25 and 10 percentile flows corresponding to drier climatic conditions, can be derived from this study for the Missouri River at Oahe Dam (Figure 1). A percentile is a measure used in statistics to indicate the value below which a given percentage of observations in a group of observations fall, in this case daily flow. The Missouri River natural flow percentile hydrograph shows a double peak for the three percentile levels shown. The first March-April peak corresponds to the snowpack and spring rains runoff from plains of Montana, Wyoming, North Dakota, and South Dakota. The second June peak corresponds to snowmelt runoff from the mountains in Wyoming and Montana and from upstream summer thunderstorms. Considering the 10th percentile hydrograph, corresponding to the daily flow values at or below this level on average one out of ten years, there is ample natural flow available (Jacobson, 2001).

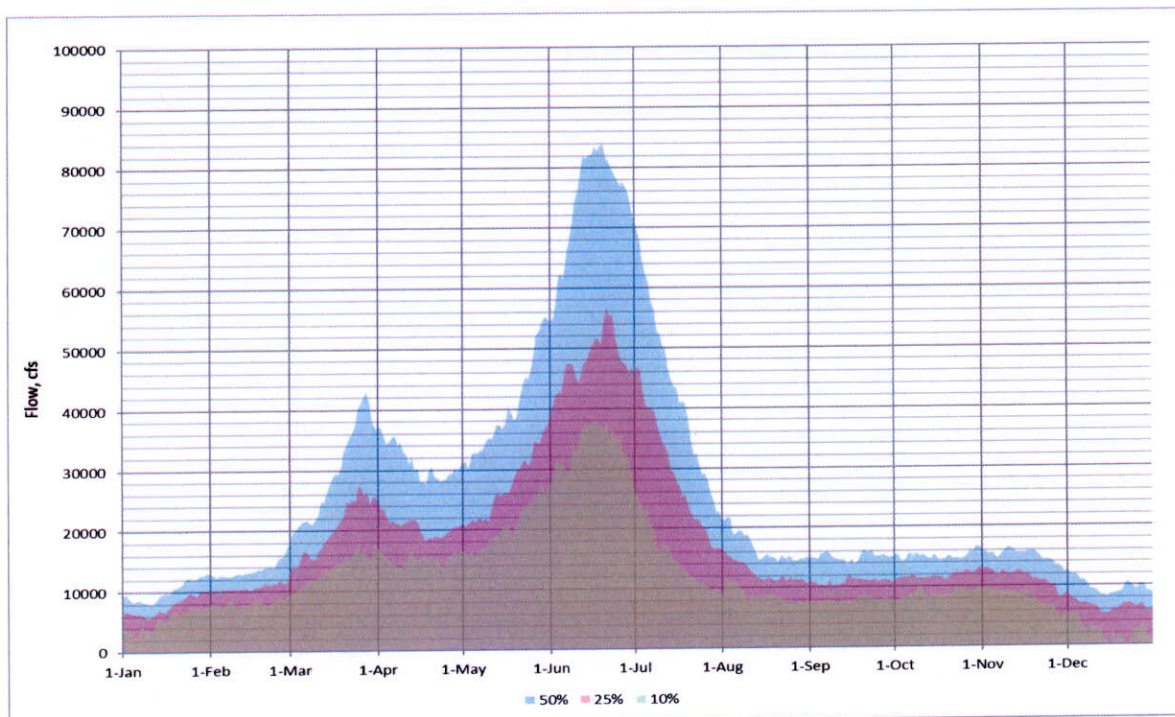


Figure 1. Natural Flow Hydrograph for the Missouri River at Oahe Dam (Jacobson, 2001).

Even at the 10th percentile flow level, this hydrograph demonstrates there is ample natural flow available, if this future use reservation is approved, throughout the year including the irrigation season of April through November. Water availability is not a concern when using the natural flows of the Missouri River as a source.

As noted earlier, the flow hydrograph of the Missouri River in South Dakota has been altered in the past 60 to 80 years due to the presence of the Missouri River mainstem reservoir system, with

excess natural flow going into storage and stored water released to supplement flows. The USGS, in a 2001 research study, made an estimation of the Missouri River natural flows at locations on the river at Oahe Dam and at Gavins Point Dam (Jacobson et. al. 2001). A percentile hydrograph displaying the daily 50, 25, and 10 percentile flows corresponding to drier climatic conditions, can also be derived from this study for the Missouri River at a point near Gavins Point Dam (Figure 2). This natural flow percentile hydrograph shows a similar double peak for the three percentile levels shown. The first April peak corresponds to the snowpack and spring rains runoff from the plains of Montana, Wyoming, North Dakota and South Dakota. The second June peak corresponds to snowmelt runoff from the mountains in Wyoming and Montana and from upstream summer thunderstorms. Considering the 10th percentile hydrograph corresponding to the daily flow values at or below this level on average one out of ten years, there is ample natural flow available, if this project is approved. As Figure 2 demonstrates, there is sufficient water at this time for this future use reservation. Water availability is not a concern if diversion is developed under this reservation of water when using the natural flows of the Missouri River as a source (Jacobson, 2001).

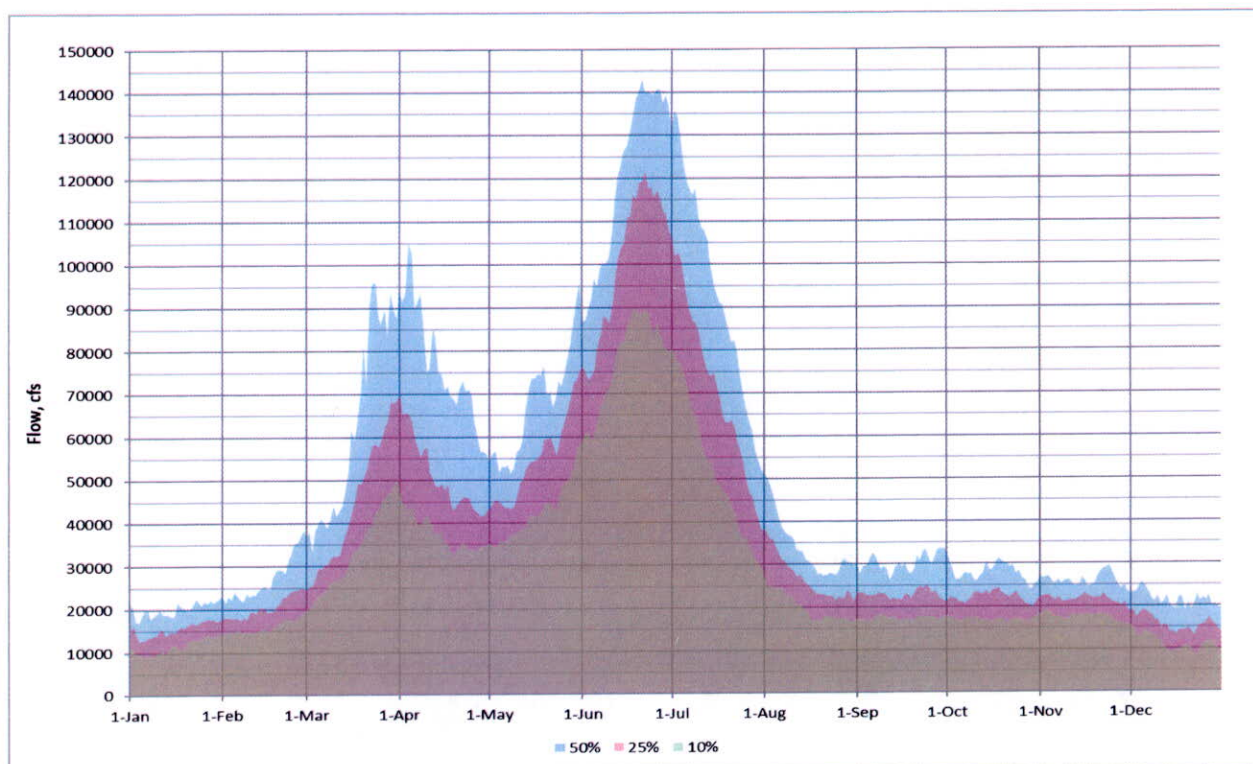


Figure 2 - Natural Flow Hydrograph for the Missouri River at Gavins Point Dam. (Jacobson, 2001)

Review of the Existing Water Rights

There are 256 existing water rights/permits appropriating water from the natural flows of the Missouri River in South Dakota with a total authorized appropriation of 1270.36 cubic feet of

water (cfs). Currently there are 16 future use permits reserving 1,392,111 acre-feet annually from the Missouri River (Water Rights. 2022). This volume of water equates to a continuous pump rate of 1,923 cfs. Water availability from the Missouri River would not be an issue, approval of this permit would not be expected to adversely affect these existing water rights if future development of water reserved under this future permit occurred.

Reported and Projected Water Use by Rapid Valley Sanitary District-Water Service

Administrative Rule South Dakota (ARSD) 74:02:01:24.01 limits future use future use permits to the amount of water needed to cover the uses specified in the future use application or future use permit. The Water Management Board may, at its discretion, limit future use applications and future use permits for entities with permits to use water to two times the annual amount actually put to beneficial use.

The Rapid Valley Sanitary District-Water Service submitted information with their current water use and future projected needs to justify this future use request. Water use information has been submitted annually to the Water Rights Program by the district, Table 1 shows the information submitted for the past six years.

Year	Reported Annual Use, ac-ft
2016	727
2017	780
2018	599
2019	586
2020	686
2021	804

Table 1 – Rapid Valley Sanitary District – Water Service reported annual use (Water Rights. 2022).

Supplemental information provided with the application compiled by the district's engineering consultant indicates the district served 9,114 individuals in 2020 with projections of serving 12,275 individuals in 2041. Ultimate future growth estimates project the district will be serving 36,000 individuals. This projection did not set forth when that may occur. Based on the ultimate population estimate at a gallons per capita per day demand of 150 gallons, the District requests a future use reservation of 6,050 ac-ft annually.

Conclusions

1. The Rapid Valley Sanitary District-Water Service proposes to reserve for future use of 6,050 acre-feet of water from the Missouri River.

2. The water source for the proposed future use reservation is natural flows of the Missouri River for the purpose of providing future water supplies to the rural water system.
3. The proposed Missouri River diversion would be located on the Oahe reservoir reach between the Cheyenne River confluence and Oahe dam in Stanley County.
4. Based upon an evaluation of a USGS report analyzing the natural flow of the Missouri River, the review indicates a reasonable probability unappropriated water is available for reservation of water.
5. ARSD 74:02:01:24.01 limits future use permits to the amount of water needed to cover the uses specified in the future use application or future use permit. The Water Management Board may, at its discretion, limit future use permits to two times the annual amount actually put to beneficial use by the entity.
6. The applicant provided information projecting future Rapid Valley Sanitary District-Water Service water needs of 6,050 ac-ft annually.



Mark D. Rath
Natural Resources Engineer III

References

1. Jacobson. 2001. Visualization of Flow Alternatives, Lower Missouri River U.S. Geological Survey Open-file Report OF02-122. Robert B. Jacobson and Jeanne Heuser, U.S. Geological Survey, Columbia, MO.
2. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
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**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

March 23, 2022

Rapid Valley Sanitary District
Rusty Schmidt, Manager
4611 Teak Drive
Rapid City SD 57703

Dear Mr. Schmidt:

Water Permit Application No. 2840-2 for rural water system use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the following papers:

Rapid City Journal	605 394-8336
Capital Journal, Pierre	605 224-7301
Pioneer Review, Philip	605 859-2516

You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF HEARING on Application No. 2840-2 to Reserve Water for Future Use

Notice is given that Rapid Valley Sanitary District - Water Service, c/o Rusty Schmidt, Manager, 4611 Teak Drive, Rapid City SD 57703 has filed an application for a future use permit to appropriate 6,050 acre-feet of water annually from the Missouri River located between points in Section 31-T9N-R24E and Section 32-T6N-R31E. The water is to be reserved for the purpose of providing future water supplies to the rural water system. This application does not authorize construction of works or application of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the 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 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 Chief Engineer recommends APPROVAL of Application No. 2840-2 for reservation of 1,608 acre-feet of water annually because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) Rapid Valley Sanitary District has demonstrated a reasonable need to reserve water in the amount of 1,608 acre feet of water annually, 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 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 will consider this application at 10:30 am (Central Time) on May 4, 2022 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The 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 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 April 11, 2022.

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 May 4, 2022, hearing date will be automatically delayed for at least 20 days upon written request to the 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 11, 2022. 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 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 April 11, 2022.

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 Chief Engineer is April 11, 2022. 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 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 once at an approximate cost of_____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, March 22, 2022 2:47 PM
To: newsdesk@pioneer-review.com
Subject: 2840-2, Rapid Valley Sanitary District
Attachments: 2840-2public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on March 31, 2022.

Rapid Valley Sanitary District, c/o Rusty Schmidt, Manager, 4611 Teak Drive, Rapid City SD 57703 (605 381-2904) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, March 22, 2022 2:45 PM
To: Pierre Capital Journal (legals@capjournal.com)
Subject: 2840-2, Rapid Valley Sanitary District
Attachments: 2840-2public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on March 31, 2022.

Rapid Valley Sanitary District, c/o Rusty Schmidt, Manager, 4611 Teak Drive, Rapid City SD 57703 (605 381-2904) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, March 22, 2022 2:44 PM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2840-2, Rapid Valley Sanitary District
Attachments: 2840-2public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on March 31, 2022.

Rapid Valley Sanitary District, c/o Rusty Schmidt, Manager, 4611 Teak Drive, Rapid City SD 57703 (605 381-2904) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



ON APPLICATION NO. 2840-2 TO
RESERVE WATER FOR FUTURE USE

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the 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 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 Chief Engineer recommends APPROVAL of Application No. 2840-2 for reservation of 1,608 acre-feet of water annually because 1) there is reasonable probability that there is unappropriated water avail-

able for the applicant's proposed use, 2) Rapid Valley Sanitary District has demonstrated a reasonable need to reserve water in the amount of 1,608 acre feet of water annually, 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 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 will consider this application at 10:30 am (Central Time) on May 4, 2022 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The 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.

RECEIVED

APR 11 2022

**WATER RIGHTS
PROGRAM**

I, Selma Thorson of said County and State, being duly sworn on oath says: PIONEER REVIEW is a weekly newspaper of general circulation, published in PHILIP, in said County and State and has been such newspaper during the times thereafter mentioned; that the said PIONEER REVIEW is a legal newspaper and has been in existence for more than one year immediately preceding the first publication herein mentioned; and has more than 200 bona fide subscribers; that I, the undersigned, am Billing Manager of said newspaper, and have personal knowledge of all facts stated in this affidavit; and that the advertisement headed:

Notice of Hearing

A printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive issues the first publication being on the 31st day of March, 2022, and the last publication on the 31st day of March, 2022, that \$79.72 of the fee for publication of the annexed notice insures solely to the benefit of the publishers of the said newspaper; that no arrangement 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 other person whomsoever.

x Selma Thurn

Subscribed and sworn to me before this 31st day of March 2022.

Tamar Cavellot

Notary Public, State of South Dakota

My Commission Expires

January 24, 2026



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 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 April 11, 2022.

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 May 4, 2022, hearing date will be automatically delayed for at least 20 days upon written request to the 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 11, 2022. 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 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 April 11, 2022.

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 Chief Engineer is April 11, 2022. 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 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 46-5-28, 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 March 31, 2022, at the total approximate cost of \$79.72]

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

) SS

County of Hughes)

I, Maylinn Baker

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

3-31-22

Cost of Printing \$102.05

Maylinn Baker
(Signature)

Business Manager
(Title)

4-5-21

(Date Signed)

NOTICE OF HEARING on Application No. 2840-2 to Reserve Water for Future Use

Notice is given that Rapid Valley Sanitary District Water Service, c/o Rusty Schmidt, Manager, 4611 Teak Drive, Rapid City SD 57703 has filed an application for a future use permit to appropriate 6,050 acre-feet of water annually from the Missouri River located between points in Section 31-T9N-R24E and Section 32-T9N-R31E. The water is to be reserved for the purpose of providing future water supplies to the rural water system. This application does not authorize construction of works or application of water to beneficial use.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the 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 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 Chief Engineer recommends APPROVAL of Application No. 2840-2 for reservation of 1,638 acre-feet of water annually because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) Rapid Valley Sanitary District has demonstrated a reasonable need to reserve water in the amount of 1,638 acre-feet of water annually, 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 Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://dandr.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 consider this application at 10:30 am (Central Time) on May 4, 2022 in the Matthew Training Center, Joe Foss Bldg. 523 E. Capitol Ave., Pierre SD. The 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 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://dandr.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 April 11, 2022.

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

Legal Notices
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 May 4, 2022, hearing date will be automatically delayed for at least 20 days upon written request to the 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 11, 2022. 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 Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://dandr.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 April 11, 2022.

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 1-26-17.7. This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 11, 2022. 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 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, 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 46-6-3.1, 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.

RECEIVED

APR 07 2022

WATER RIGHTS
PROGRAM

*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

RAPID VALLEY SANITARY DISTRICT

4611 TEAK DR.

RAPID CITY, SD 57703

ORDER NUMBER 44304

RECEIVED

APR 06 2022

WATER RIGHTS
PROGRAM

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk 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 once each week for one

successive week, the first publication there of being on the

31 day of March, 20 22.

Karisa Carver

Section: Legal

Category: 0058 Hearings

PUBLISHED ON: 03/31/2022

TOTAL AD COST: 127.38

FILED ON: 4/1/2022

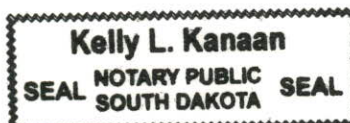
Subscribed and sworn to before me this

4th day of April, 20 22.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 20 25



Mar. 31 L44304

**NOTICE OF HEARING ON
Application No. 2840-2 to
Reserve Water for Future Use**
Notice is given that Rapid Valley
Sanitary District - Water Service, c/o
Rusty Schmidt, Manager, 4611
Teak Drive, Rapid City SD 57703
has filed an application for a future
use permit to appropriate 6,050
acre-feet of water annually from the
Missouri River located between
points in Section 31-T9N-R24E and
Section 32-T6N-R31E. The water is
to be reserved for the purpose of
providing future water supplies to
the rural water system. This
application does not authorize
construction of works or application
of water to beneficial use.

South Dakota Codified Law (SDCL)
46-2A-4(10) provides that "if the
applicant does not contest the
recommendation of the Chief Engi-
neer and no petition to oppose the
application is received, the Chief
Engineer shall act on the applica-
tion pursuant to the Chief Engi-
neer's recommendation and no
hearing may be held before the
board, unless the Chief Engineer
makes a finding that an application,
even if uncontested, presents im-
portant issues of public policy or
public interest that should be heard
by the board." In this case, the
Chief Engineer finds that this
application presents important is-
sues of public interest that should
be heard by the Water Manage-
ment Board.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends AP-
PROVAL of Application No. 2840-2
for reservation of 1,608 acre-feet of
water annually because 1) there is
reasonable probability that there is
unappropriated water available for
the applicant's proposed use, 2)
Rapid Valley Sanitary District has
demonstrated a reasonable need to
reserve water in the amount of
1,608 acre feet of water annually,
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 Chief
Engineer's recommendation with
qualifications, the application, and
staff report are available at [https://
danr.sd.gov/public](https://danr.sd.gov/public) or contact Ron
Ouvall for this information, or other
information, at the Water Rights
Program address provided below.

The Water Management Board will
consider this application at 10:30
am (Central Time) on May 4, 2022
in the Matthew Training Center, Joe
Foss Bldg, 523 E. Capitol Ave.,
Pierre SD. The Chief Engineer's
recommendation is not final or
binding upon the Board. The Board
is authorized to 1) approve, 2)
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Any person meeting the petitioner
requirements and wishing to be a
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hearing shall file a written petition
to oppose the application with
BOTH the applicant and Chief
Engineer. A petition opposing the
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The petition form is available online
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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
April 11, 2022.

The petition shall be in writing and
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the application on the petitioner, the
petitioner's reasons for opposing
the application, and the name and
mailing address of the petitioner or
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and other due process rights will be
forfeited if they are not exercised at
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Board may be appealed to the
Circuit Court and State Supreme
Court as provided by law.

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commenter a party of record or a
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be held. Any comment must be
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telephone number for making ar-
rangements 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 Chief Engineer is April
11, 2022. 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 Chief Engineer disputes the
applicability of this provision and
maintains that the hearing must be
conducted by the Board.

As applicable, the following pro-
vides 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 once at an approximate
cost of \$127.38.)

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, March 22, 2022 2:50 PM
To: rschmidt@rvsd.com
Subject: Water Permit Application No. 2840-2
Attachments: 3106.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the 3 papers as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





RECEIVED

APR 04 2022

WATER RIGHTS
PROGRAM

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Applicant's Petition

Opposing Chief Engineer's Recommendation on Water Permit Application

According to South Dakota Codified Law sections 46-2A-3, 46-2A-4(6) and 46-2A-23, the applicant needs to file a petition if opposing the Chief Engineer's recommended action on the applicant's water permit application.

Application No. 2840-2 Name of Applicant Rapid Valley Sanitary District

The Application No. can be found in the public notice mailed to you or at <https://danr.sd.gov/public>.

Filing Deadlines. If you are opposing a recommendation by the Chief Engineer to DENY your application, you need to submit this completed petition opposing the recommendation within twenty days of the date the recommendation was mailed to you. If you are opposing any other recommendation, this petition needs to be submitted 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" or personally served upon Water Rights.

List the reasons for opposing the Chief Engineer's recommendation on this application:

The Rapid Valley Sanitary District appreciates the Chief Engineers recommendation of 1608 acre feet for a future use permit, but below are the reasons for opposing the recommendation to reduce the requested amount from 6050 acre feet to 1608 acre feet.

1. ASRD 74:02:01:24.01 suggests limiting the future use to two times the annual amount but does not bar allowing more. Given this rule does not take in account increased growth factor, gross area in acres to be served (10,900), and the addition of 900+ acres the District recently annexed totaling 11,800 acres. Based just on the current undeveloped property in the District there is projected over the 36,000 more population when built out.
2. In its facilities plan, the District only used a very conservative 1.5% growth factor in estimating the 2041 population of 12,275. However, from 2020 to 2021, the District experienced a growth of 5% with increased growth predicted in 2022. If this past year's growth percent is sustained, RVSD population served in 20 years could be closer to 30,000.
3. The 3.3 population per gross acre is an conservative figure as well, as within the District 6 apartment projects are currently being constructed totaling at full build out over 1,000 units within 40 acres. This equates to 66 people per gross acre. One planned subdivision has a full build out of over 400 single family homes/average lot size is 0.13 acres. This planned density equates to 20 people per gross acre using 2.65 per household.
4. RVSD recognizes ASRD 74:02:01:24.01 grants the Board the discretion to limit to no greater than double the current use. However the time it will take to plan, design, and construct the conveyance of the Missouri River has a long time horizon. Therefore, the allocation should be based on growth trends and population to be served, the amount requested.

Application No. _____

Applicant's Name _____

Any additional reasons for opposing the Chief Engineer's recommendation on this application:

June 1, 2022

PAYMENT REQUEST FORM

PAYEE: Rapid Valley Sanitary District-Water Services
c/o Rusty Schmidt, Manager
4611 Teak Dr
Rapid City SD 57703

FROM: DANR Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund-Over Payment of Application/License Fee

AMOUNT: \$330.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: *Eve H. Hensley 6/1/2022*

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 01 2022

Rapid Valley Sanitary District – Water Service
Rusty Schmidt, Manager
4611 Teak Drive
Rapid City SD 57703

Dear Mr. Schmidt:

Enclosed is Future Use Permit No. 2840-2 as approved by the Water Management Board.

An application filing fee of \$895.00 was submitted with the application. The correct fee for this permit is \$565.00. \$330.00 will be refunded to you. The refund check should be received within the next couple of weeks.

When plans for facilities are prepared to put any portion of the water granted in the future use permit to beneficial use, an application covering such facilities and water use should be submitted to this office before construction is initiated.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures