

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 369-1

Notice is given that the Water Management Board will review Future Use Permit No. 369-1 held by the City of Belle Fourche, 511 6th Ave, Belle Fourche SD 57717 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. 369-1. This permit was approved in 1959 and currently reserves a total of 2,478 acre-feet [AF] of water annually (1,238 AF from the Spearfish Creek alluvium, 620 AF from the Minnelusa Formation and 620 AF from the Madison Formation). The future use area is located in the SW 1/4 NE 1/4, N 1/2 SE 1/4 and SE 1/4 SE 1/4 Section 28-T7N-R2E. The water is reserved for municipal use purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 369-1 REMAIN in EFFECT for a total of 2,478 acre-feet [AF] annually (1,238 AF from the Spearfish Creek alluvium, 620 AF from the Minnelusa Formation and 620 AF from the Madison Formation) 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 Water Management Board will conduct the hearing to review Future Use Permit No. 369-1 at 10:00 am, October 3, 2013 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol Ave, Pierre SD.

The recommendation of the 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 interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by September 23, 2013. The Chief Engineer's address is: Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 369-1 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by September 23, 2013. 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 or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 23, 2013. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.