

WATER PERMIT NO. 8744-3

Name of Applicant: Dakota Bay

Address: 32926 482nd Ave, Jefferson SD 57038

Phone: 712 898-9173

Amount of Water Claimed: 1.55 cfs (~~28.6 AF~~)

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: recreational use

County: Union

Type of Waste Disposal System:

Location: south side of McCook Lake

PRIORITY Date Received: 3-29-23

Application/License Fee: \$500

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: Utilizing the well authorized by Water Permit No. 8744-3

4557-3

Diversion Point: NE 1/4 SE 1/4 Sec 16-T89N-R48W

Land to be Irrigated: NA

Depth of Well: 150 feet deep

Well Driller:

Remarks:

Type of Map: aerial

			16	⊗	

Reviewed and the Number Assigned on: 4-3-23

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8744-3**

Date of first receipt of application March 29, 2023.

Date of return to applicant for corrections, amendments or changes March 29, 2023.

Date of receipt of corrected application March 30, 2023.

The Water Management Board approved Water Permit No. 8744-3 on October 4, 2023, for Dakota Bay, c/o Mike Choicoine, 32926 482nd Avenue, Jefferson SD 57038, authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8744-3 appropriates up to 28.6 acre-feet of water the first year of use followed by up to 7.99 acre-feet annually at a maximum pump rate of 1.55 cubic feet of water per second from one existing well (150 feet deep) completed into the Missouri: Elk Point Aquifer located in the E1/2 SE1/4 (Lot 1 – original survey) Section 16-T89N-R48W for recreational purposes. The existing well is also authorized for irrigation use by Water Permit No. 6557-3. Water from the well will be used to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually thereafter to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property, as well as direct precipitation may also provide water to the canal. The canal project is located in the NW1/4 SW1/4 (Lot 3 – original survey), SW1/4 SW1/4 Section 15; E1/2 SE1/4 (Lot 1 – original survey) Section 16; all in T89N-R48W on the southeast side of McCook Lake.
2. The water appropriated shall be used for the purpose of recreational use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is March 29, 2023.
5. One-fifth of the construction is to be completed on or before April 4, 2026.
6. All construction is to be completed on or before April 4, 2028.
7. Water is to be put to beneficial use on or before April 4, 2032.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri Elk Point Aquifer.
3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri Elk Point Aquifer.

WATER MANAGEMENT BOARD

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

JUL 19 2024
date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: SD DNR, Water Rights 523 F. Capitol Ave Pierre, SD 57501-3182 ph (605) 773-3352	No. <u>8744-3</u> Hydrologic Unit <u>10170101</u> Basin <u>Missouri River</u> Newspaper <u>Leader Courier Elk Point</u> <u>Daily Press & Dakotan</u> (office use only)
--	---

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☐ Municipal
☐ Rural Water System
☐ Domestic (over 18 gpm)

☐ Water Distribution System
☐ Commercial
☐ Industrial

☒ Recreational
☐ Fish & Wildlife
☐ Other

☐ Institutional
☐ Geothermal

Type of Application:
(check one)

☐ New ☐ Vested Right (Use predates Mar 2, 1985) ☐ Future Use Reservation
Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. 0557-3

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

We are requesting to use the existing well to fill a canal
once per year and to occasionally add water if needed.

1. Name to Appear on Water Permit

Dakota Bay

Mailing Address

32926 482nd Avenue Jefferson SD 57038

Phone

Mobile

712-898-9173

Email

mjchicovine21@gmail.com

2. Amount of water claimed

1.55 *CFS or

**GPM and

28.6 ***AF or

Gallons

(Flow rate and volume are both required)

(* Cubic Feet per Second)

(** Gallons per Minute)

(*** Acre Feet - storage capacity of dam, digout or reservoir)

3. Source of water supply

ground water

4. Location of point of diversion

NE 1/4 Sec 16 Twp 89N R4W

County

Union

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?

5. County or counties where water will be used

Union

6. Annual period during which water is to be used

year round only as needed

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)

See Attached

See 5-18-2023 file documentation 7.99 AF recurring appropriation
20.61 AF one time fill

Mike Cheshire

Name of Person

owner Dakota Bay

Title (if applicable)

the applicant, certify under

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.

Attachments:

Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also attach map and any other technical information (see instructions)

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 1 Provide copy of log(s), if available. Drilled by Dakota Drilling & Backhoe, Inc.
attached

For either existing or proposed wells:

c) Well Depth (required) 150' Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property 1 unused submersible well Property owned by others over 1 mile

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) None on property

b) System Capacity (gallons) 650 GPM Year Constructed 2005

c) Connected to the City of None Not Connected Sanitary System

3. Dugout Information N/A

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams N/A

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)

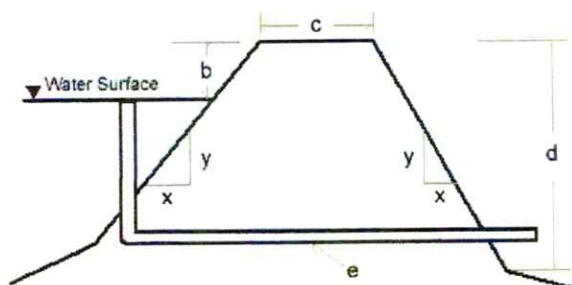
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres

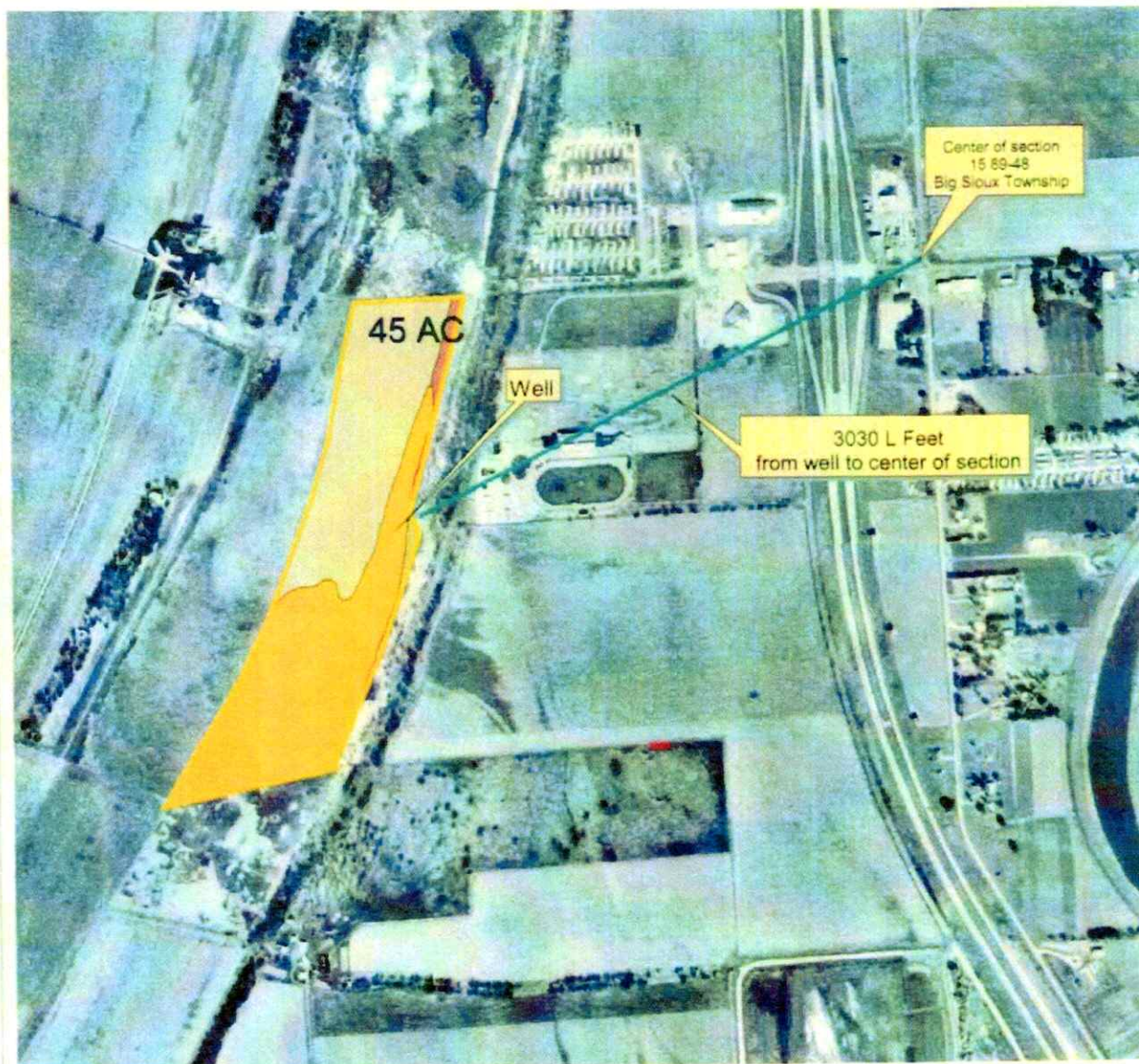


MIKE CHICOINE
UNION
Date: 12/13/2004

Cropland Soils

MA Beermann RCT

ELK POINT FIELD OFFICE
NRCS
Kevin G. Beermann



Legend

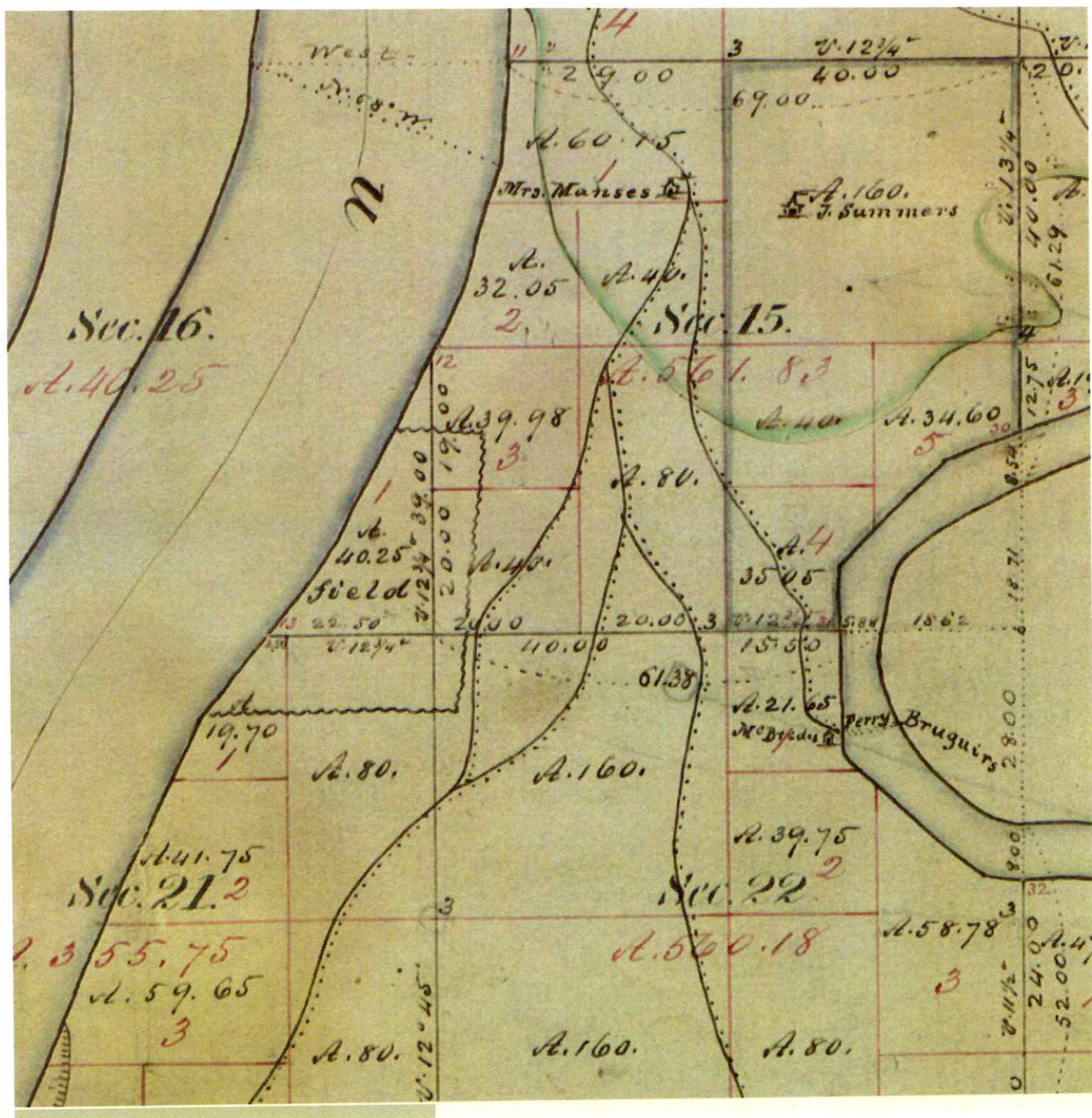
- Planned Land Units
- Soils Map
- Ad
- Pb
- Ha
- SaA
- W
- Resource inventory (lines)



500 0 500 1000 1500 2000 2500 3000 3500 4000 Feet



6557.3



**SOUTH DAKOTA
WATER PERMIT NO. 6557-3**

Date of first receipt of application December 20, 2004.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6557-3 to Mike Chicoine, 508 E Clay St, Elk Point SD 57025 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6557-3 appropriates 1.55 cubic feet of water per second from one well to be completed into the Missouri: Elk Point Aquifer (approximately 120 feet deep) located in the W ½ SW ¼ Section 15 or E ½ SE ¼ Section 16 to irrigate 60 acres located in portions of the SW ¼ Section 15; NE ¼, SE ¼ Section 16; all in T89N-R48W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is December 20, 2004.
4. The date of approval of Permit No. 6557-3 is January 31, 2005.
5. One-fifth of the construction is to be completed on or before July 31, 2007.
6. All construction is to be completed on or before January 31, 2010.
7. Water is to be put to beneficial use on or before January 31, 2014.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 6557-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints or type of soils so requires, Permit No. 6557-3 authorizes a maximum diversion rate of 1.55 cfs from the well for the irrigation of 60 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

FEB 23 2005

date

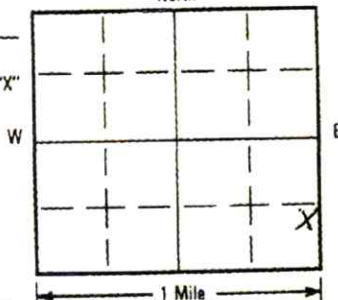


SOUTH DAKOTA WATER WELL COMPLETION REPORT

6557-3
07-92Location NE 1/4 SE 1/4 Sec 16 Twp 89N Rg 48W
County Union North

Please mark well location with an "X"

Well Completion Date

5-24-05

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 7100 ft. from Any (identify source).

PROPOSED USE:

- ☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Mud RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>200</u> LB/FT	<u>12</u> IN	<u>0</u> FT	<u>150</u> FT	<u>15</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	_____	_____ lb./gal	<u>30</u> ft	<u>10</u> ft
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure Pumped inSCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 12 IN Length 40 FEETMaterial PVCSlot Size 60 Set From 110 Feet to 150 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

YES, How: Chlorine mixedNO, Why Not? with gravel pack

Laboratory sent to for water quality analysis

NoWell Owner: Mike Chicoine

Business Name: _____

Address: 508 E. Clay
Elk Point, SD 57025

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Heavy clay</u>	<u>0</u>	<u>8</u>
<u>Sand</u>	<u>8</u>	<u>34</u>
<u>Clay</u>	<u>34</u>	<u>55</u>
<u>Gravel</u>	<u>55</u>	<u>62</u>
<u>Sand</u>	<u>62</u>	<u>72</u>
<u>Gravel</u>	<u>72</u>	<u>75</u>
<u>Sand</u>	<u>75</u>	<u>110</u>
<u>Med gravel</u>	<u>110</u>	<u>150</u>

STATIC WATER LEVEL 13 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: _____☐ Bailed _____☐ Other _____

Pumping Level Below Land Surface

49 ft. After 1 Hrs. pumped 900 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate 650 GPM

REMARKS

RECEIVED

JAN 23 2005

WATER RIGHTS
PROGRAMThis well was drilled under license # 667

And this report is true and accurate.

Drilling firm Dakota Drilling & Backhoe, Inc.

Signature of License Representative:

Veronica Chavez

Signature of Well Owner or Equitable Property Holder:

Date: _____

Schlaak, Karen

From: Fratzke, Lynda
Sent: Thursday, March 30, 2023 11:13 AM
To: brenda.gabel@gmail.com
Cc: Maberry, Vickie; Schlaak, Karen
Subject: FW: [EXT] Merchant Email Receipt

Thank you.

Lynda Fratzke
Fiscal Management
Dept. of Agriculture & Natural Resources Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501
Phone: (605)773-4216

-----Original Message-----

From: Auto-Receipt <noreply@mail.authorize.net>
Sent: Thursday, March 30, 2023 11:12 AM
To: Van Bockel, Jenny <Jenny.VanBockel@state.sd.us>; Fratzke, Lynda <Lynda.Fratzke@state.sd.us>; Keiser, Darcy <Darcy.Keiser@state.sd.us>; Weber, Amber <Amber.Weber@state.sd.us>; Briggs, Holly <Holly.Briggs@state.sd.us>
Subject: [EXT] Merchant Email Receipt

===== SECURITY STATEMENT =====

It is not recommended that you ship product(s) or otherwise grant services relying solely upon this e-mail receipt.

===== GENERAL INFORMATION =====

Merchant : DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (1869311) Date/Time : 30-Mar-2023 11:11:30 CDT

===== ORDER INFORMATION =====

Invoice :
Description : Water Permit - Mike Chicoine, Dakota Bay LLC Amount : 512.50 (USD) Payment Method: Visa xxxx0356
Transaction Type: Authorization and Capture

===== Line Items =====

===== RESULTS =====

Response : This transaction has been approved.
Auth Code : 474924
Transaction ID : 44029458994
Address Verification : Street Address: No Match -- First 5 Digits of Zip: Match

===== CUSTOMER BILLING INFORMATION =====

Customer ID :

First Name : Mike J
Last Name : Chicoine
Company :
Address :
City :
State/Province :
Zip/Postal Code : 57038
Country :
Phone :
Fax :
E-Mail : brenda.gabel@gmail.com

==== CUSTOMER SHIPPING INFORMATION ===

First Name :
Last Name :
Company :
Address :
City :
State/Province :
Zip/Postal Code :
Country :

===== ADDITIONAL INFORMATION =====

Tax :
Duty :
Freight :
Tax Exempt :
PO Number :

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 30, 2023

RECEIVED OF Mike Chicoine/Dakota Bay LLC, 32926 482nd Ave., Jefferson SD 57038

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

Fee for Application for Permit No. <u>8744-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
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>500.00</u>

By 
Chief Engineer




South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

Filing Information

Name: **Dakota Bay, LLC**

General Information

SOS Business ID **DL180380**
Filing Type: Limited Liability Company - Domestic
04/23/2020
Status: Good Standing
Duration Term: Perpetual
Managed By: Member-Managed

Registered Agent Address

MICHAEL J. CHICOINE
32926 482ND AVE
JEFFERSON, SD 57038

Principal Address

32926 482ND AVE.
JEFFERSON, SD 57038

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
07/08/2022	2022 Annual Report	B0227-1318
10/04/2021	Articles of Amendment	B0194-1173
08/10/2021	2021 Annual Report	B0190-2152
04/23/2020	Initial Filing	B0137-0640



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8744-3, Dakota Bay**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8744-3, Dakota Bay, 32926 482nd Avenue, Jefferson SD 57038.

The Chief Engineer is recommending APPROVAL of Application No. 8744-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri Elk Point aquifer.
3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri Elk Point aquifer.

See report on application for additional information.

Eric Gronlund, Chief Engineer
May 18, 2023

Report to the Chief Engineer
On Water Permit Application No. 8744-3

Dakota Bay
c/o Mike Chicoine

May 19, 2023

Water Permit Application No. 8744-3 proposes to appropriate an amount of water not to exceed 28.6 acre-feet the first year of use followed by up to 7.99 acre-feet annually at a maximum instantaneous diversion rate of 1.55 cubic feet per second (cfs) from one existing well (150 feet deep) completed into the Missouri: Elk Point aquifer located in the E $\frac{1}{2}$ SE $\frac{1}{4}$ (Lot 1 – original survey) of Section 16-T89N-R48W. The existing well is also authorized for irrigation use by Water Permit No. 6557-3 (Water Rights, 2023c). Water from the well will be used for recreational purposes to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property as well as direct precipitation may also provide water to the canal. The canal project is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3 – original survey), SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15; E $\frac{1}{2}$ SE $\frac{1}{4}$ (Lot 1 – original survey) of Section 16; all in T89N-R48W on the southeast side of McCook Lake in Union County.

AQUIFER: Missouri: Elk Point (M: EP)

HYDROGEOLOGY:

The Missouri: Elk Point aquifer is a glacial outwash deposit consisting of fine sand to very coarse gravel (Niehus, 1997). The Missouri: Elk Point aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties in South Dakota, and the aquifer contains approximately 3,287,100 acre-feet of recoverable water in storage (Hedges et al., 1982). The Missouri: Elk Point aquifer is hydrologically connected to the Big Sioux, Lower Vermillion-Missouri and Lower James-Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers (Niehus, 1994; Stephens, 1967).

In Union County, the average saturated thickness of the Missouri: Elk Point aquifer is approximately 84 feet, with a documented maximum aquifer thickness of approximately 146 feet (Niehus, 1997). The Missouri: Elk Point aquifer is generally under confined conditions in the northwestern part of the aquifer and unconfined conditions in the southern part of the aquifer, and the direction of groundwater movement in the aquifer is generally from the northwest to the southeast (Niehus, 1994 and 1997).

A well completion report is on file for the existing well (authorized by Water Permit No. 6557-3) proposed to be used by Water Permit Application No. 8744-3 (Water Rights, 2023c and 2023d). The report lists, “hard clay” from 0 to 8 feet below the ground surface, “sand” from 8 to 34 feet, “clay” from 34 to 55 feet, “gravel” from 55 to 62 feet, “sand” from 62 to 72 feet, “gravel” from 70 to 75 feet, “sand” from 75 to 110 feet, and “med gravel” from 110 to 150 feet (Water Rights,

2023c and 2023d). The well was screened in “med gravel” from 110 to 150 feet below the ground surface and had an approximate static water level of 13 feet below the ground surface at the time of well completion (May 24, 2005) (Water Rights, 2023d). Based on the well completion report on file, the Missouri: Elk Point aquifer is locally confined at the existing well site but unconfined in nearby areas (Water Rights, 2023d).

Figure 1 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the location of the existing well proposed to be used by Water Permit Application No. 8744-3 (Water Rights, 2023c and 2023d).

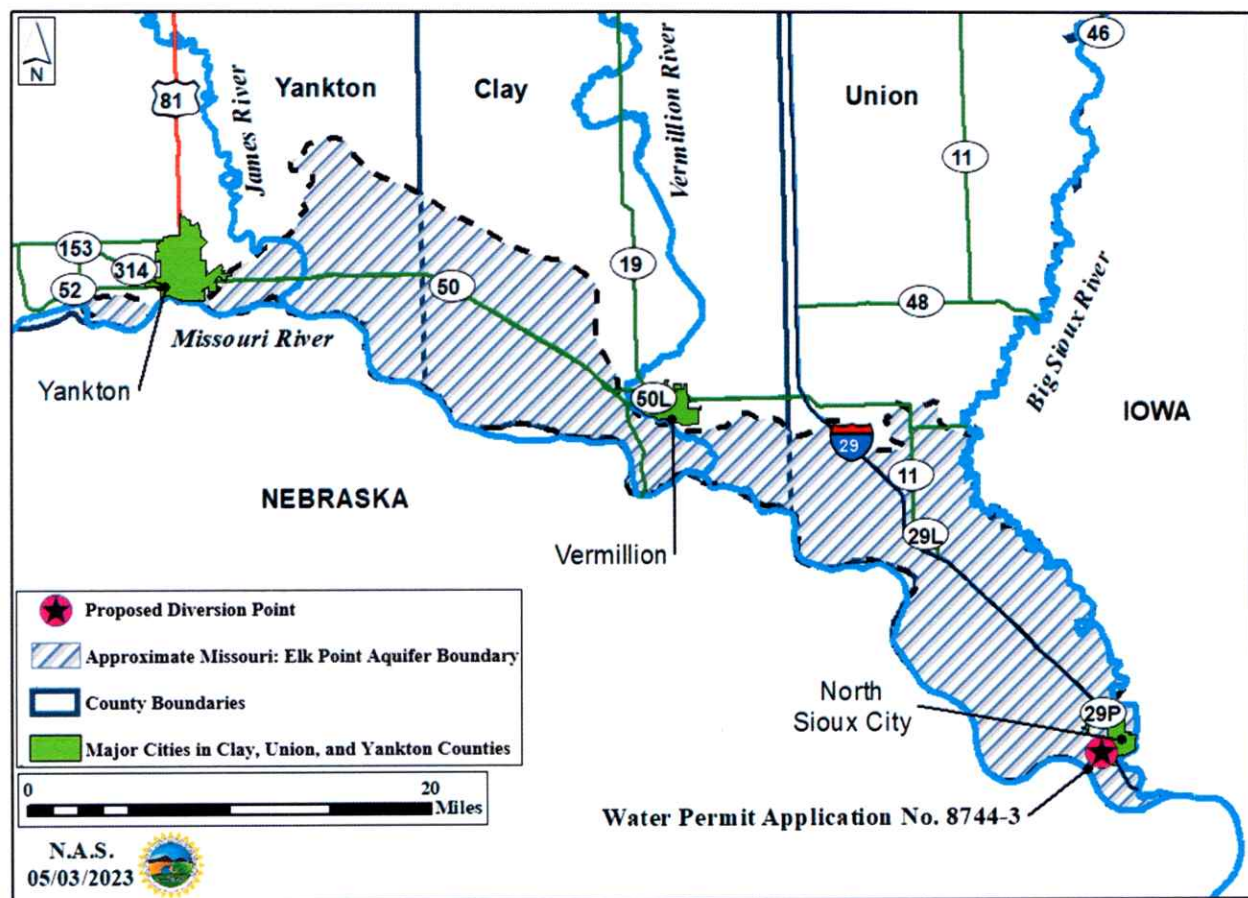


Figure 1. Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the location of the existing well proposed to be used by Water Permit Application No. 8744-3 (Water Rights, 2023c and 2023d)

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Missouri: Elk Point aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8744-3 proposes to appropriate water from the Missouri: Elk Point aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Missouri: Elk Point aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Missouri: Elk Point aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, seepage from the Big Sioux, James, Missouri, and Vermillion Rivers, inflow from the Lower Vermillion-Missouri and Lower James-Missouri aquifers at the northern boundary of the Missouri aquifer and inflow from the Big Sioux aquifer at the extreme northeastern boundary of the Missouri aquifer, and from the underlying Dakota aquifer in Union County (Condley and Lamkey, 2022; Niehus, 1994 and 1997).

Several studies have been completed to estimate average annual recharge to the Missouri: Elk Point aquifer (Condley and Lamkey, 2022; Hedges et al., 1985; Mathiowetz, 2022; Stephens, 1967; Stonesifer, 2013). A discussion of these studies is available in the hydrologic budget section within the report for Water Permit No. 8614-3 - Lewis & Clark Regional Water System completed by Mathiowetz (2022). Collectively, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 114,593.9 acre-feet per year assuming full development of the existing water rights/permits currently held by Lewis & Clark Regional Water System (Mathiowetz, 2022). If Water Permit Application No. 8754-3 (with a priority date

junior to this application), applied for by Lewis & Clark Regional Water System, requesting to appropriate up to 19,121 acre-feet per year, is approved and fully developed, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 130,770.3 acre-feet per year (Mathiowetz, 2023).

Discharge

Discharge from the Missouri: Elk Point aquifer is primarily through well withdrawals, evapotranspiration where the aquifer is at or near the ground surface, outflow to the Big Sioux and Missouri Rivers during periods of low flow and stage, and leakage to the underlying Dakota aquifer (Niehus, 1994 and 1997; Water Rights, 2023c).

Currently, there are 647 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus two pending applications (with priority dates senior to this application) – Water Permit Application No. 8727-3 proposing to irrigate 10 acres of turf at a golf course in Union County, and Water Permit Application No. 8739-3 proposing to crop irrigate 80 acres in Clay County (Water Rights, 2023c). There is one additional pending application (with a priority date junior to this application) - Water Permit Application No. 8754-3, applied for by Lewis & Clark Regional Water System, requesting to appropriate up to 19,121 acre-feet per year (Water Rights, 2023c).

Additionally, there are five future use permits (Nos. 5832-3, 6237-3, 6869-3, 6869A-3, and 7208-3) reserving 1,900 acre-feet of water annually from the Missouri: Elk Point aquifer (Water Rights, 2023c). For the purpose of estimating average annual withdrawals, the future use permits are assumed to be fully developable for a total of 1,900 acre-feet per year.

Table 1 summarizes the 43 non-irrigation water rights/permits (including two irrigation water permits, see paragraph below) authorized to appropriate water from the Missouri: Elk Point aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2023c). This method is likely an overestimation of withdrawals. Three municipal water rights were identified as being connected to a rural water system and likely maintain their wells for standby purposes (Drinking Water Program, 2023; Water Rights, 2023c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year on Table 1.

Water Permit No. 5998-3 is permitted for the irrigation of turf and Water Permit No. 5998A-3 extends the amount of time allowed for water to be put to beneficial use as authorized by Water Permit No. 5998-3 (Water Rights, 2023c). The estimated use for these two irrigation permits is included with the non-irrigation water rights/permits listed on Table 1, as the permit holder is not required to submit an annual irrigation questionnaire. However, Water Permit No. 5998-3 is authorized for use in a rural water system and the permit holder reports the annual use by Water

Permit No. 5998-3 with their other rural water system Missouri: Elk Point aquifer permits, listed on Table 2 (Water Rights, 2023c).

Water Permit No. 7059-3 is permitted for recreational use for maintaining the water level of a small lake with a surface area of 17.6 acres (Water Rights, 2023c). It is assumed that the only consumptive use of this water is due to evaporation; however, it is likely there is some seepage through the bottom of the pond (Water Rights, 2023c). Annual evaporation of water from shallow lakes is estimated to be approximately 42 inches per year at the location of the authorized diversion point for Water Permit No. 7059-3 (NOAA, 1982; Water Rights, 2023c), and average annual total precipitation at the Sioux City, Iowa airport was determined to be approximately 29.27 inches over a 30-year period of record (1991 to 2020) (Arguez et al., 2020), which results in the lake to fluctuate approximately 12.73 inches per year. To maintain the water level of the small lake, the estimated use of Water Permit No. 7059-3 is approximately 18.7 acre-feet per year.

Overall, the average annual withdrawal rate for the 43 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire) authorized to appropriate water from the Missouri: Elk Point aquifer is approximately 70,648 acre-feet per year (Table 1) (Water Rights, 2023c and 2023f).

Report on Water Permit Application No. 8744-3

Table 1. Estimated annual use for the non-irrigation water rights/permits (plus two irrigation water permits for Clay RWS) authorized to divert water from the Missouri: Elk Point aquifer (Drinking Water Program, 2023; Water Rights, 2023c and 2023f)

Permit No.	Name	Status	Priority Date	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet/year)	Total Estimated Use (acre-feet/year)
4501-3	Eddie Wohl	LC	03/27/1980	COM	0.05		21.7
5616-3	Cimpls Inc	LC	01/31/1992	COM	0.44		191.2
5827-3	Don Lantis	LC	06/08/1994	COM	0.022		9.6
5953-3	H & K Oil Co	LC	08/19/1996	COM	0.037		16.1
6151-3	Vernon & Norma Vakoc	LC	10/04/1999	COM	0.67		291
6580-3	West Shores Acres LLC	LC	01/28/2005	COM	0.10		43.5
8031-3	Dakota Protein Conversion Inc	PE	06/18/2014	COM	0.22		95.6
8147-3	Doug Lafleur	PE	04/06/2015	COM, LCO	1.0	160	162
8381-3	RP Constructors	PE	11/19/2018	COM	0.04	1	1
8403-3	Stockmen's Livestock Inc	PE	06/27/2019	COM	2.0	40	40
8415-3	3 Sons Properties	PE	11/14/2019	COM	0.10	25	25
8435-3	Sioux City Insulation	PE	07/30/2012	COM	0.33	1	1
6744-3	Judith I Grant	PE	07/24/2006	DOM, COM	0.78		339.0
7388-3	Clay RWS Inc	PE	07/30/2012	DOM, IRR	2.0		346
5998-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	2.2		
5998A-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	0.0		
5490-3	USGS CERC Field Research Station	LC	11/15/1990	FWP	0.09		39.1
5907-3	US Fish and Wildlife Service	LC	01/26/1996	FWP	3.78		1,642
6733-3	US Fish and Wildlife Service	LC	06/07/2006	FWP	1.11		482.5
7094-3	US Fish and Wildlife Service	LC	12/01/2008	FWP	2.67		1,159.8
5021-3	Vishay-Dale Electronics Inc	LC	05/04/1984	IND	0.10		43.5
5388-3	LG Everist Inc	LC	01/30/1990	IND	0.45		195.6
5453-3	AaLadin Industries Inc	LC	05/24/1990	IND	0.05		21.7
5593-3	Vishay-Dale Electronics Inc	LC	10/31/1991	IND	0.056		24.3
6170-3	Knife River	LC	01/03/2000	IND	0.222		96.5
1255-3	City of Elk Point	LC	01/01/1914	MUN	1.13		491.1
143-3	City of Vermillion	LC	01/21/1956	MUN	1.78		773.7
147-3	City of Vermillion	LC	01/01/1935	MUN	2.66		1,237
6236-3	City of Vermillion	LC	11/06/2000	MUN	2.6	1,161	
6354-3	City of Vermillion	LC	08/12/2002	MUN	0.022		10
1965-3	Town of Gayville	LC	01/01/1914	MUN	0.37		0*
4207-3	Town of Jefferson	LC	01/01/1916	MUN	0.90		391
5118-3	Town of Gayville	LC	01/28/1987	MUN	0.33		0*
5437-3	Dakota Dunes Community Improvement District	LC	04/12/1990	MUN	3.33		2,412
5782-3	City of North Sioux City	LC	08/12/1993	MUN	1.14		495.5
8212-3	City of Yankton	LC	03/25/2016	MUN	20.12	6,050	6,050
7059-3	WE Investments LLC	PE	08/28/2008	REC	3.11		18.7
6736-3	Lewis and Clark RWS	PE	07/08/1994	RWS	27.85	20,165	53,442
7207-3	Lewis and Clark RWS	PE	07/08/1994	RWS	20	12,000	
8613-3	Lewis and Clark RWS	PE	07/16/2007	WDS	29.8	13,000	
8614-3	Lewis and Clark RWS	PE	03/04/2022	RWS	77.61	8,277	
5581-3	Larson's Landing	LC	07/30/1991	SHD	0.089		38.7
5592-3	East Winds Court Inc	LC	10/09/1991	SHD	0.11		0*
						TOTAL:	70,648
*Identified as being connected to a RWS; therefore, water use from aquifer is presumed to be zero acre-feet/year							
COM: Commerical; DOM: Domestic; FWP: Fish and Wildlife Propagation; IND: Industrial; IRR: Irrigation; LCO: Livestock Confinement Operation;							
MUN: Municipal; REC: Recreation; RWS: Rural Water System; SHD: Suburban Housing Development							

Of the 43 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire), there are 16 non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer (Water Rights, 2023c and 2023f).

Four of the non-irrigation water rights/permits that are required to report (Nos. 8031-3, 8415-3, 8435-3, and 8614-3) are currently under development (or were approved in 2023) and have not reported any withdrawals from the Missouri: Elk Point aquifer to the DANR-Water Rights Program (Water Rights, 2023c). The remaining twelve non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer are shown on Table 2 (Water Rights, 2023c and 2023f). The reported usage (as shown on Table 2) for Permit Nos. 8381-3 and 8403-3 (approved in 2018 and 2019) is not necessarily reflective of the future usage of these permits based on information within their respective water permit files (Water Rights, 2023c), and only three years of reported withdrawals (Water Rights, 2023f). Therefore, the estimated use for Permit Nos. 8031-3, 8415-3, 8435-3, 8381-3, and 8403-3 will be based on the method used above: water rights/permits limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate; water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. The estimated average annual withdrawal rate for these permits is listed on Table 1.

Next, the reported use for the City of Yankton (8212-3) and Lewis and Clark Regional Water System (6736-3, 7207-3, and 8613-3) (as shown on Table 2) is steadily increasing (Water Rights, 2023f), as these water users are continually undergoing development (8614-3 was approved in 2023) (Water Rights, 2023c). It is likely these water users will use up to their entire respective annual volume limitation in the future; therefore, the average annual withdrawal rate for these water rights/permits is assumed to be their entire respective annual volume listed on Table 1 (Water Rights, 2023c).

The annual withdrawal rate for Clay Rural Water System Inc (Permit Nos. 5998-3, 5998A-3, and 7388-3) averaged over the last ten years (approximately 346 acre-feet per year) is more reflective of current usage than the entire period of record of reported withdrawals because the first few years the permit holder reported values were during a construction period (Water Rights, 2023c and 2023f). The average annual withdrawal rate based off the reported annual withdrawal rates averaged from 2012 to 2021 on Table 2 for these water permits will be used in this analysis.

Lastly, the annual withdrawal rates for Doug Lafleur (8147-3) and City of Vermillion (147-3, 6236-3) on Table 2 are relatively steady over their respective periods of record (Water Rights, 2023c and 2023f); therefore, the average annual withdrawal rate based on the reported values from each of these water users (as shown on Table 2) is reasonably reflective of the future withdrawals likely to be made by these appropriative users. The average annual withdrawal rate based off the reported annual withdrawal rates averaged over the period of record on Table 2 for these water rights/permits will be used in this analysis.

Table 2. Non-irrigation water rights/permits required to report their respective annual use from the Missouri: Elk Point aquifer (Water Rights, 2023c and 2023f)

	RP Constructors	Stockmen's Livestock Inc	Clay RWS Inc	Doug Lafleur	City of Vermillion	City of Yankton	Lewis and Clark RWS
	8381-3	8403-3	5998-3, 5998A-3, 7388-3	8147-3	147-3, 6236-3	8212-3	6736-3, 7207-3, 8613-3
2003			238		1,363		
2004			483		1,226		
2005			21		1,247		
2006			170		1,252		
2007			217		1,344		0
2008			213		1,199		0
2009			215		1,140		0
2010			183		1,071		0
2011			137		1,127		92
2012			525		1,317		3,836
2013			301		1,183		9,368
2014			307		1,121		11,532
2015			278	202	1,161		15,591
2016			231	202	1,175	66	17,091
2017			276	202	1,215	531	18,051
2018			305	98	1,168	504	18,143
2019	0.0171	1	292	135	1,440	1,370	20,397
2020	0.0224	4.2	461	121	1,373	2,923	21,039
2021	0.2332	5.5	486	170	1,378	3,065	23,537
Max	0.2	5.5	525	202	1,440	3,065	23,537
Min	0.0171	1	21	98	1,071	66	0
Avg	0.091	3.57	281	162	1,237	1,410	14,425*

RWS: Rural Water System *Excluded reported zero values

Currently, there are 606 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus two pending irrigation permit applications collectively proposing to irrigate 90 acres (Water Rights, 2023c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Missouri: Elk Point aquifer irrigation water rights/permits that have reported over the period of record is approximately 18,703 acre-feet per year (Table 3) (Water Rights, 2023a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations that have reported from 2012 to 2021 is approximately 27,247 acre-feet per year (Table 3) (Water Rights, 2023a).

The usage for two irrigation water permits (Nos. 5998-3 and 5998A-3) was accounted for on Table 1 with the non-irrigation water rights/permits, as the permit holder is not required to submit an annual irrigation questionnaire (Water Rights, 2023c), resulting in only 604 of the Missouri: Elk Point aquifer irrigation water rights/permits being currently required to submit an annual irrigation questionnaire (Water Rights, 2023c).

Additionally, Water Right No. 6110-3 is authorized to divert water from a well completed into the Dakota aquifer and pump the water into two ponds that receive incidental surface runoff and possible groundwater inflow from the Missouri: Elk Point aquifer (Water Rights, 2023c). Water Right No. 6110-3 is included in the 606 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer; however, the estimated use for this permit is assumed to be negligible to the overall hydrologic budget due to the minimal amount of water from the Missouri: Elk Point aquifer the permit holder is expected to withdraw. When omitting Water Right No. 6110-3 and Water Permit Nos. 5998-3 and 5998A-3 from this analysis of Missouri: Elk Point aquifer irrigation water rights/permits, 603 water rights/permits remain.

Table 3 lists only 572 water rights/permits as reporting in 2021 (Water Rights, 2023a and 2023c). These 572 water rights/permits listed as reporting in 2021 includes eight water rights/permits (Nos. 3722-3, 5658A-3, 6940-3, 6941-3, 7066-3, 7447-3, 7663-3, 7800-3, and 7941-3) that were incorporated into another water right or cancelled in 2022 (Water Rights, 2023c), resulting in only 563 of the water rights/permits listed as reporting in 2021 being currently active.

Forty water permits/rights did not submit an irrigation questionnaire form in 2021 that are currently active, accounting for the difference between the 563 currently active water rights/permits listed as reporting in 2021 and the 603 irrigation water rights/permits currently required to submit an annual irrigation questionnaire and annual use being estimated in this analysis (Water Rights, 2023a and 2023c). Of these 40 permits, 37 were issued in 2021, 2022, or 2023 and have not submitted an irrigation questionnaire at this time. Of the remaining three water rights (Nos. 3154-3, 4745-3, and 5935-3), Water Right No. 5935-3 is not required to submit an irrigation questionnaire and Water Right Nos. 3154-3 and 4745-3 did not submit an irrigation questionnaire in 2021 for an unknown reason. Overall, these 37 water permits/rights are authorized to irrigate approximately 3,110 acres (Water Rights, 2023c).

Table 3. Reported historic irrigation use from Missouri: Elk Point aquifer (Water Rights, 2023a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	259	10,258
1980	263	14,937
1981	297	13,931
1982	269	19,143.1
1983	273	11,081
1984	281	9,605.5
1985	282	14,020.7
1986	286	6,324.8
1987	281	13,369
1988	282	28,558.1
1989	292	25,904.3
1990	297	19,508
1991	300	18,877.7
1992	295	1,895
1993	298	1,475.2
1994	295	10,314.9
1995	292	18,761.3
1996	296	9,473.6
1997	305	17,236
1998	313	11,079.5
1999	308	14,877
2000	309	26,551
2001	313	19,115.2
2002	315	23,326.9
2003	314	27,007
2004	322	24,309
2005	335	24,206.1
2006	353	27,943.3
2007	366	30,652
2008	396	16,439
2009	410	6,346
2010	419	2,906.9
2011	431	12,330
2012	445	56,994.7
2013	543	35,090.5
2014	557	12,423.5
2015	563	17,884.1
2016	564	27,869.3
2017	567	37,209.9
2018	570	9,160.7
2019	575	8,736.3
2020	570	26,601
2021	572	40,503.4
Min	259	1,475.2
Max	575	56,994.7
Avg (1979 to 2021)	369	18,703
Avg (2012 to 2021)	553	27,247

Farmer (2018a, 2018b, and 2021) analyzed the amount of water pumped per permitted acre for the period from 1979 to 2005. This period was chosen due to the relatively stable number of permitted acres across the entire period. There was a continual annual increase in the number of permitted acres from 2006 to 2013/2014. Since 2013/2014 the total number of permitted acres has been relatively stable (Mathiowetz, 2022; Water Rights, 2023c). Farmer (2021) determined that it would be best to separate the review of pumpage per permitted acres between crops, such as corn and soybeans, and turf, such as golf courses and lawn irrigation, to describe the pumpage more accurately per permitted acres. Turf irrigation typically requires more water per acre annual than crop irrigation. Mathiowetz (2022) determined over the entire period of record (1979 through 2021), the crop application rate per permitted acre is 0.331 feet per year (3.97 inches per year), and 0.908 feet per year for turf (10.9 inches per year) (Water Rights, 2023a and 2023c).

Currently, there are approximately 83,116.1 acres authorized to be irrigated from the Missouri: Elk Point aquifer (plus two pending irrigation applications – Water Permit App No. 8727-3 proposing to irrigate 10 acres of turf and Water Permit App No. 8739-3 proposing to irrigate 80 acres of crop(s)), with 809.6 of those acres authorized for turf irrigation (Water Rights, 2023c). Table 4 contains the turf irrigation permits with their respective authorized permitted acres and an estimated average annual use based on Mathiowetz’s (2022) application rate per permitted acre (Water Rights, 2023c). By multiplying the application rate of 0.908 feet per acre per year (Mathiowetz, 2022), by the 809.6 acres being turf irrigated (plus 10 acres for pending Water Permit App No. 8727-3) (Water Rights, 2023c), the annual use for turf irrigation yields approximately 744.2 acre-feet per year (Table 4). By multiplying the application rate of 0.331 feet per acre per year (Mathiowetz, 2022), by the 82,386.5 acres (total acres minus turf irrigated acres, including pending Water Permit App No. 8727-3) acres being crop irrigated (Water Rights, 2023c), including 80 acres for pending Water Permit App No. 8739-3, the annual use for crop irrigation yields approximately 27,270 acre-feet per year. Collectively, the average annual use from the Missouri: Elk Point aquifer for both crop and turf irrigation water rights/permits utilizing Mathiowetz’s (2022) application rates is approximately 28,014.1 acre-feet per year.

Table 4. Water rights/permits authorized for irrigation of turf (Water Rights, 2023c)

Permit No.	Name	Status	County	Acres	Total Estimated Use (acre-feet/year)
1294-3	Recreation Development Assn. Inc.	LC	Union	102	92.6
2011-3	TR Golf LLC	LC	Union	95	86.3
5786-3	Dakota Dunes Golf Course	LC	Union	173	157.1
5998-3	Clay Rural Water System Inc	PE	Union	300	272.4
5998A-3	Clay Rural Water System Inc	PE	Union	0	0
5935-3	Ted Waitt	LC	Union	1	0.908
5936-3	Applied Engineering	LC	Yankton	1.8	1.6
8010-3	Ryan Rusher	LC	Yankton	2.5	2.3
8029-3	Dakota Dunes Comm Improvement District	PE	Union	17.8	16.2
8040-3	Heine Electric & Irrigation Inc	LC	Clay	1	0.908
8354-3	TR Golf LLC	PE	Union	30	27.24
8407-3	Gayville-Volin School District 63-1	LC	Yankton	4.5	4.1
8530-3	National Field Archery Association Foundation	LC	Yankton	16	14.5
8560-3	TR Golf LLC	PE	Union	65	59
TOTAL:				809.6	735.1

There are domestic wells completed into the Missouri: Elk Point aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2023d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Missouri: Elk Point aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Missouri: Elk Point aquifer.

Hydrologic Budget Summary

The average annual recharge rate to the Missouri: Elk Point aquifer is approximately 114,593.9 acre-feet per year. The average annual withdrawal rate for the water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer totals approximately 100,591 acre-feet per year (including the estimated use for Water Permit Application No. 8744-3, if approved) (listed on Table 5). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Missouri: Elk Point aquifer for the proposed appropriation.

Table 5. Estimated use from Missouri: Elk Point aquifer (Water Rights, 2023a, 2023c, and 2023f)

Type of Water Right/Permit	Estimated Use (acre-feet/year)
Future Use Reservations	1,900
Non-Irrigation	70,648
Irrigation (Mathiowetz's (2022) turf and crop application rates) including pending applications: Nos. 8727-3 and 8739-3	28,014
Application No. 8744-3 (if approved, assuming full volume - 20.61 one-time use, 7.99 annually)	28.6
TOTAL:	100,591

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023b). The five closest observation wells to the well the applicant proposes to use are UN-78C (approximately 0.6 miles southeast), UN-78D (approximately 1.6 miles northeast), UN-77U (approximately 1.8 miles northeast), UN-77V (approximately 1.8 miles northeast), and UN-77Q (approximately 3.8 miles northwest) (as shown in Figure 8) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 2 to 6 (Water Rights, 2023b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DNR Water Rights Observation Well on the hydrographs.

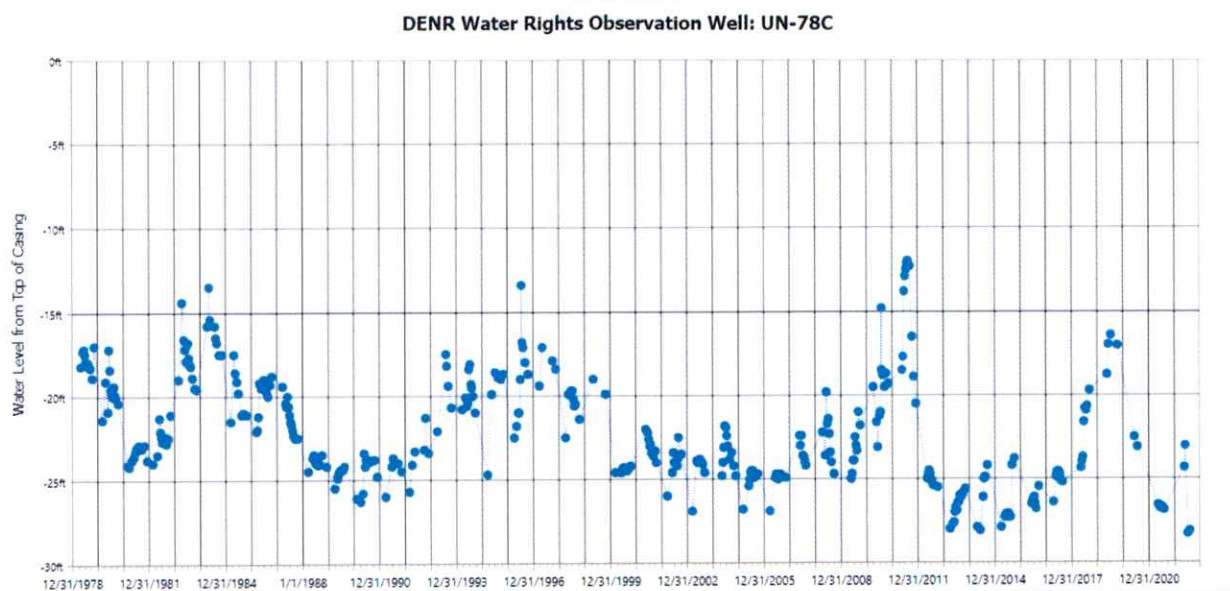


Figure 2. Hydrograph for observation well UN-78C (Water Rights, 2023b)

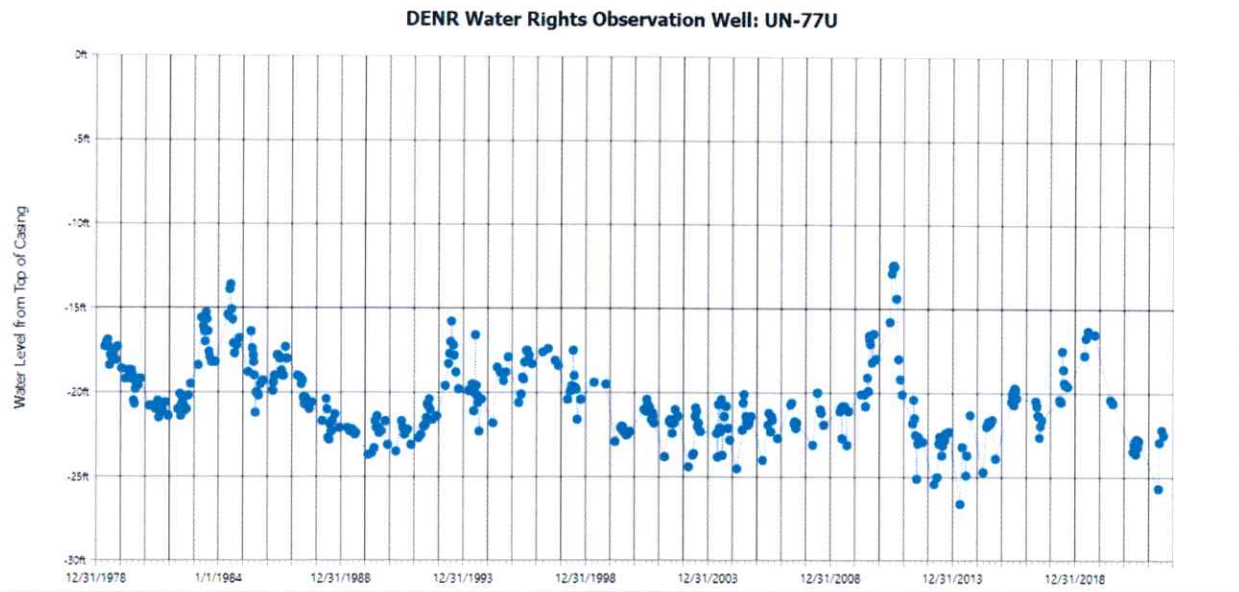


Figure 3. Hydrograph for observation well UN-77U (Water Rights, 2023b)

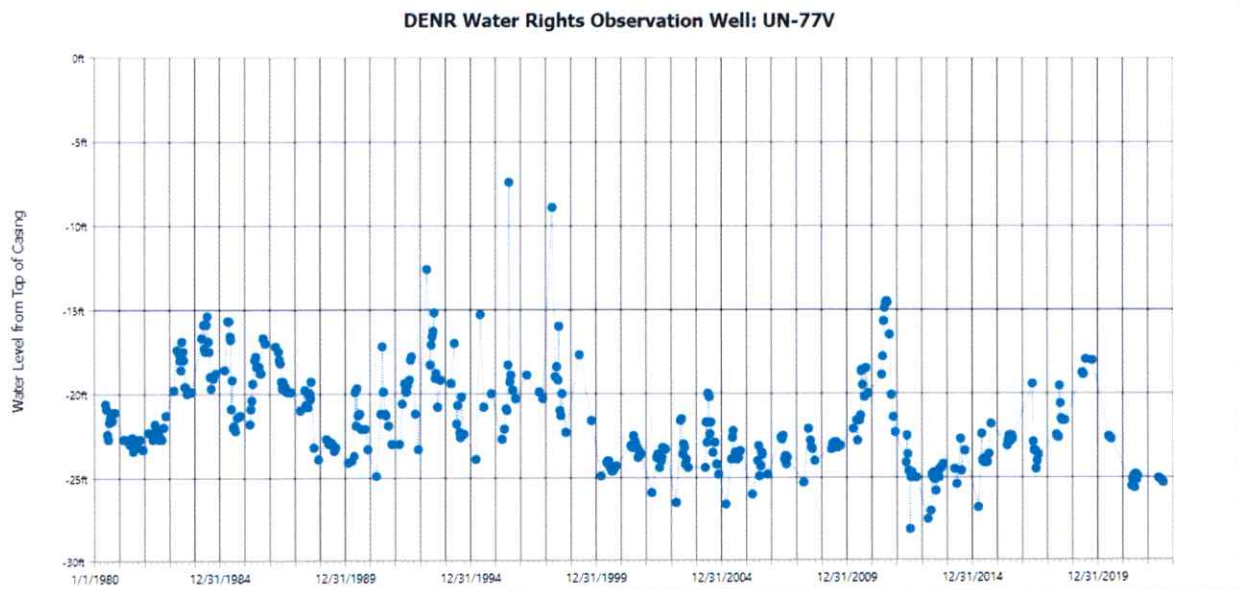


Figure 4. Hydrograph for observation well UN-77V (Water Rights, 2023b)

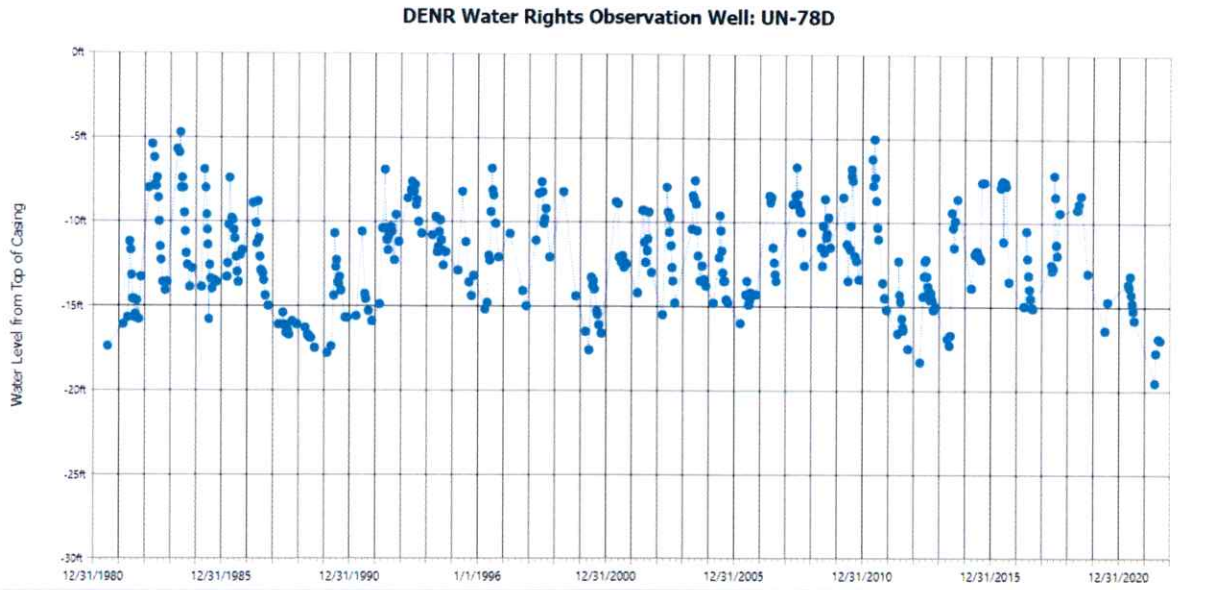


Figure 5. Hydrograph for observation well UN-78D (Water Rights, 2023b)

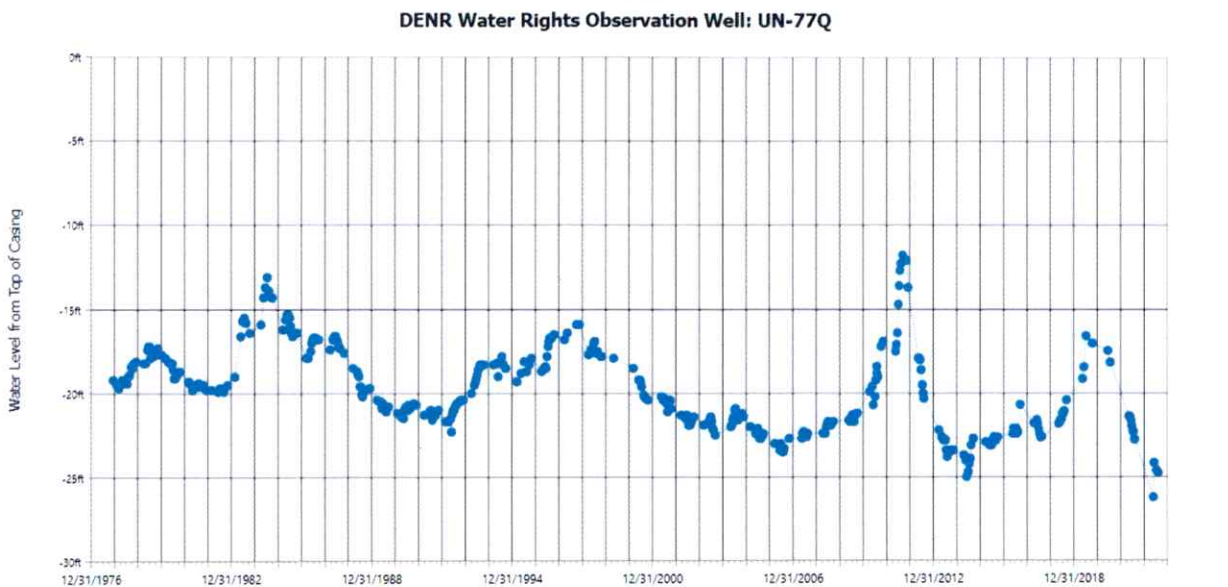


Figure 6. Hydrograph for observation well UN-77Q (Water Rights, 2023b)

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Missouri: Elk Point aquifer and each displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 to 6 (Water Rights, 2023b). Several of the Missouri: Elk Point aquifer observation well hydrographs show a gradual long-term downward trend especially those close to the Missouri River (Water Rights, 2023b). This downward trend is caused by entrenchment of the Missouri River riverbed and in some places a widening of the channel leading to lower water levels despite the river having the same rate of flow (Elliott and Jacobson, 2022). The lowering of the water level in the Missouri River downstream of the Gavin's Point Dam and the subsequent lowering of the water level of

Missouri: Elk Point aquifer observation wells in close proximity to the river show the strong hydrologic connection between the Missouri River and the Missouri: Elk Point aquifer. This is demonstrated by the very similar water levels between the aquifer and river as shown in the hydrographs in Figures 2 to 7. The lowering of the water levels in the aquifer, especially in close proximity to the Missouri River, is not a sign of over appropriation of the Missouri: Elk Point aquifer.

To demonstrate the connection between the aquifer and the Missouri River, consider the United States Geological Survey (USGS) Stream Gage #06467500, located on the Missouri River at Yankton, SD, and the hydrograph for this gage is shown in Figure 7 (USGS, 2023). By comparing the hydrograph for Stream Gage #06467500 to the observation well hydrographs of the Missouri: Elk Point aquifer (Figures 2 to 6), both show the river and aquifer react to climatic conditions by rising and falling over similar trends (USGS, 2023; Water Rights, 2023b). Additionally, during flood events (such as, the years 2011 and 2019), the water level in the Missouri: Elk Point aquifer, especially where in closer proximity to the Missouri River, rises very quickly beyond what is typically seen for glacial outwash aquifers (Water Rights, 2023b). This indicates there is a hydrologic connection between the Missouri: Elk Point aquifer and the Missouri River. Therefore, when the elevation of the water in the Missouri River is higher than the elevation of water in the aquifer, the river will recharge the aquifer. In contrast, when the elevation of water is higher in the Missouri: Elk Point aquifer, the aquifer naturally discharges to the Missouri River. The observation well water levels simply show the connection between the river and the aquifer and how the aquifer reacts to climatic conditions without showing any long-term effects from pumping. Therefore, there is a reasonable probability unappropriated water is available for this proposed appropriation.

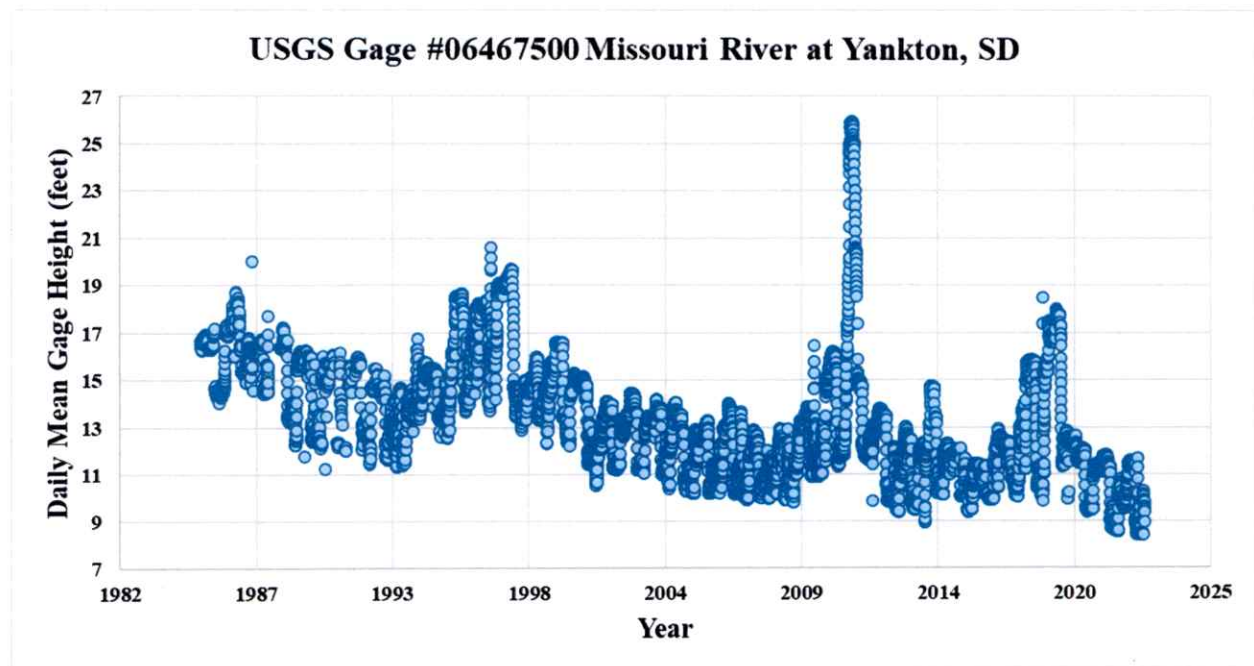
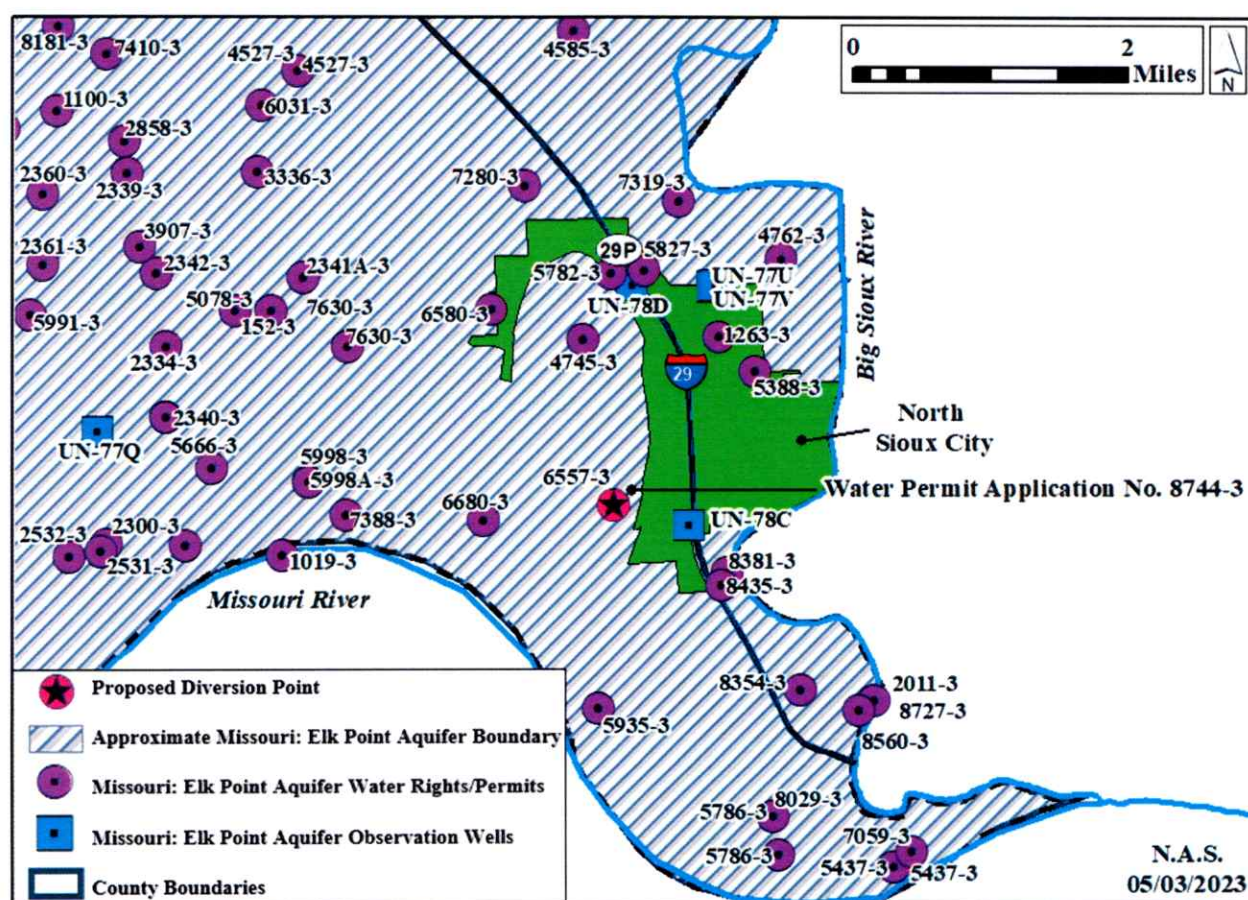


Figure 7. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2023 (USGS, 2023)

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Missouri: Elk Point aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.3 miles northwest of the existing well location (Water Rights, 2023d). There could potentially be other domestic wells completed into the Missouri: Elk Point aquifer near the existing well that are not on file with the DANR-Water Rights Program. The location of the domestic wells is based on the location provided at the time of completion by the well driller.



17

Table 6. Water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer within approximately four miles of the existing well, as shown in Figure 8 (Water Rights, 2023c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)
152-3	Stephen F Jones	LC	IRR	39	0.56	
1019-3	Leonard, James, & Richard Dailey	LC	IRR	230	3.27	
1100-3	Vincent Trudeau	LC	IRR	64.5	0.92	
1263-3	Eugene Flynn	LC	IRR	152	2.16	
2011-3	TR Golf LLC	LC	IRR	95	1.31	
2300-3	Michael A Dailey	LC	IRR	125	1.78	
2334-3	Bradley J & Constance J Beavers	LC	IRR	190	2.68	
2339-3	Derochie Farms LLC	LC	IRR	120	1.71	
2340-3	Steve Heitman	LC	IRR	216	2.7	
2341A-3	Alvin J Howe	LC	IRR	216	1.94	
2342-3	Russell LaFleur	LC	IRR	100	1.43	
2360-3	Meryln Karpen	LC	IRR	132	1.9	
2361-3	Meryln Karpen	LC	IRR	132	1.9	
2531-3	Paul E Dailey	LC	IRR	255	2.7	
2532-3	Paul E Dailey	LC	IRR	200	2.7	
2858-3	Alvin J Howe	LC	IRR	136	1.94	
3336-3	LaFleur Farms	LC	IRR	197	2.22	
3907-3	Russell LaFleur	LC	IRR	73	1.04	
4527-3	Booge Properties Limited Partnership	LC	IRR	238	3.4	
4585-3	JFR-INV-LTD, LLC	LC	IRR	167	2.38	
4745-3	McCook Lake Izaak Walton League	LC	IRR	211	3	
4762-3	Mike or Matt Schmitz	LC	IRR	136	1.89	
5078-3	Bradley & Constance Beavers	LC	IRR	40	0.57	
5388-3	L G Everist Inc	LC	IND		0.45	
5437-3	Dakota Dunes Community Improvement District	LC	MUN		3.33	
5666-3	Joe & John Trudeau	LC	IRR	203	1.56	
5782-3	City of North Sioux City	LC	MUN		1.14	
5786-3	Dakota Dunes Golf Course	LC	IRR	173	4.5	
5827-3	Don Lantis	LC	COM		0.022	
5935-3	Ted Waitt	LC	IRR	1	0.044	
5991-3	Donald G Jorgensen	LC	IRR	95	1.36	
5998-3	Clay Rural Water System Inc	PE	IRR	300	2.22	
5998A-3	Clay Rural Water System Inc	PE	IRR		0	
6031-3	LaFleur Farms	LC	IRR	95	1.77	
6557-3	Mike Chicoine	PE	IRR	60	1.55	
6580-3	West Shore Acres LLC	LC	COM		0.1	
6680-3	Parks & Wildlife Foundation	LC	IRR	310	2.44	
7059-3	WE Investments	PE	REC		3.11	
7280-3	Tami Norton-Schrempp	PE	IRR	136	1.78	
7319-3	Matt Schmitz	PE	IRR	120	1.45	
7388-3	Clay Rural Water System Inc	PE	DOM, IRR		2	
7410-3	Eugene Mollet	PE	IRR	67	1.33	
7630-3	Mark A Nylen	PE	IRR	160	3.34	
8029-3	Dakota Dunes Community Improvement District	PE	IRR	17.8	0.78	
8181-3	Marc T Bernard	PE	IRR	40	0.89	
8354-3	TR Golf LLC	PE	IRR	30	1.11	
8381-3	R P Constructors	PE	COM		0.04	1
8435-3	Sioux City Insulation	PE	COM		0.33	1
8560-3	TR Golf LLC	PE	IRR	65	0.12	
8727-3	TR Golf LLC	PE	IRR	10	0	
LC: Licensed Water Right; PE: Water Permit; COM: Commercial; DOM: Domestic; IND: Industrial; IRR: Irrigation; MUN: Municipal; REC: Recreation						

The Missouri: Elk Point aquifer ranges from confined to unconfined aquifer conditions, but is primarily under unconfined conditions (Niehus, 1994 and 1997). Based on the well completion report on file for the existing well proposed to be used, the water well completion reports on file for nearby wells completed into the aquifer, and the lithologic logs on file for nearby observation wells, the Missouri: Elk Point aquifer is locally confined at the existing well site but unconfined in nearby areas (SDGS, 2023; Water Rights, 2023b and 2023d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test. Examination of the hydrographs for observation wells completed into the Missouri: Elk Point aquifer show no signs of being significantly impacted by drawdown caused by pumping, despite usually being located within a mile of several high-yield wells (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) (Water Rights, 2023b and 2023c).

Within one mile of the existing well site, the Missouri: Elk Point aquifer has a saturated thickness of approximately 10 to 60 feet (Water Rights, 2023d). This would generally allow for enough thickness for a pump to be placed 20 feet below the top of the aquifer, which is required for the well to be considered adequate under ARSD 74:02:04:20(6). Any drawdown as a result of the proposed diversion for this application is not expected to unlawfully impair nearby adequate wells. In Clay, Union, and Yankton Counties, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023e).

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific

characteristics of the Missouri: Elk Point aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the saturated thickness of the Missouri: Elk Point aquifer near the existing well location, the generally unconfined nature of the aquifer, and the lack of well interference complaints from the Missouri: Elk Point aquifer in the area, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells. Additionally, the existing well proposed to be used has been in place and is presumed to have been in use since roughly 2005 without any reported well interference complaints on file with the DANR-Water Rights Program (Water Rights, 2023d and 2023e).

CONCLUSIONS:

1. Water Permit Application No. 8744-3 proposes to appropriate an amount of water not to exceed 28.6 acre-feet the first year of use followed by up to 7.99 acre-feet annually at a maximum instantaneous diversion rate of 1.55 cfs from one existing well (150 feet deep) completed into the Missouri: Elk Point aquifer. The existing well is also authorized for irrigation use by Water Permit No. 6557-3.
2. Water from the well will be used for recreational purposes to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property as well as direct precipitation may also provide water to the canal. The canal project is located on the southeast side of McCook Lake in Union County.
3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
4. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8744-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.



Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program
Reviewed by:



Adam Mathiowetz, PE

Natural Resources Engineer IV
SD DANR -Water Rights Program

References

- Arguez, A., I. Durre, S. Applequist, R. Vose, M. Squires, X. Yin, R. Heim, and T. Owen, 2020. NOAA's U.S. Climate Normals (1991-2020). Annual Precipitation Normals for Station USW00014943 Sioux City Airport, Iowa. NOAA National Center's for Environmental Information. Accessed August 29, 2022.
- Condley, J. and Lamkey, N. 2022. Investigation of Induced River Recharge in the Lewis and Clark Regional Water System Wellfield. Open-File Report 97-UR. SD DANR-Geological Survey. Vermillion, South Dakota.
- Drinking Water Program, 2023. Drinking Water System Information. SD DANR – Drinking Water Program Online Database. Accessed May 2, 2023.
<<http://danr.sd.gov/des/dw/sysinfomap.aspx>>
- Elliott, C.M., and Jacobson, R.B. 2022. Sixty years of channel adjustments to dams in the two segments of the Missouri National Recreational River, South Dakota and Nebraska. U.S. Geological Survey Scientific Investigations. Report 2022–5087. 75 p.
- Fahrenbach, M.D., Steece, F.V., Sawyer, J.F., McCormick, K.A., McGillivray, G.L., Schulz, L.D., and Redden, J.A. 2010. South Dakota Stratigraphic Correlation Chart. Oil and Gas Investigations 3. SD DANR-Geological Survey, Vermillion, SD.
- Farmer, J., 2018a. Report on Water Permit Application No. 8322-3: Shawn Guthmiller. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Farmer, J., 2018b. Report on Water Permit Application No. 8364-3: Daniel and Scott Hanson. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Farmer, J., 2021. Report on Water Permit Application No. 8503-3: Sorensen Family Farm, LLC. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Mathiowetz, A.W., 2022. Report on Water Permit Application No. 8614-3: Lewis & Clark Regional Water System. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Mathiowetz, A.W., 2023. Report on Water Permit Application No. 8754-3: Lewis & Clark Regional Water System. *Pending*. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

- Niehus, C.A., 1994. Water Resources of Lincoln and Union Counties, South Dakota. U.S. Geological Survey Water-Resources Investigations Report 93-4195. U.S. Geological Survey. Vermillion, SD.
- Niehus, C.A., 1997. Major Aquifers in Lincoln and Union Counties, South Dakota. U.S. Geological Survey - Information Pamphlet 49. U.S. Geological Survey. Vermillion, SD.
- NOAA, 1982. Evaporation Atlas for the Contiguous 48 United State. NOAA Technical Report NWS 33.
- SDGS, 2023. South Dakota Geological Survey Lithologic Logs Database. Accessed May 3, 2023. <http://cf.sddanr.net/lithdb/>.
- Stephens, J.C., 1967. Geology and Water Resources of Clay County, South Dakota, Part II. Water Resources. South Dakota DANR-Geological Survey Bulletin 19, Vermillion, SD.
- Stonesifer, J.R., 2013. Water Availability of the Missouri: Elk Point Aquifer. SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- USGS, 2023. USGS Surface-Water Daily Statistics for the Nation, Stream Gage #06467500, Missouri River at Yankton, SD. Accessed April 12, 2023. https://waterdata.usgs.gov/nwis/uv?site_no=06467500&legacy=1
- Water Rights, 2023a. "1979-2021 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2023b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2023c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2023d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2023e. County Files, SD DANR-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
danr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

May 22, 2023

Dakota Bay
c/o Mike Chicoine
32926 482nd Ave
Jefferson SD 57038

Dear Mr. Chicoine:

Water Permit Application No. 8744-3 for recreational use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Leader-Courier printed at Elk Point SD (Ph # 605 356-2632) and the Daily Press & Dakotan printed at Yankton SD (Ph # 605 665-7811). 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,

Rachel Rodriguez

Rachel Rodriguez
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. 8744-3 to Appropriate Water

Notice is given that Dakota Bay, c/o Mike Chicoine, 32926 482nd Ave, Jefferson SD 57038 has filed an application for a water permit to appropriate up to 28.6 acre-feet of water the first year of use followed by up to 7.99 acre-feet annually at a maximum pump rate of 1.55 cubic feet of water per second from one existing well (150 feet deep) completed into the Missouri: Elk Point Aquifer located in the E1/2 SE1/4 (Lot 1 – original survey) Section 16-T89N-R48W for recreational purposes. The existing well is also authorized for irrigation use by Water Permit No. 6557-3. Water from the well will be used to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property as well as direct precipitation may also provide water to the canal. The canal project is in the NW1/4 SW1/4 (Lot 3 – original survey), SW1/4 SW1/4 section 15; E1/2 SE1/4 (Lot 1 – original survey) section 16; all in T89N-R48W on the southeast side of McCook Lake.

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. 8744-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, 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 10:00 am (Central Time) on July 12, 2023, 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 June 12, 2023.

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 July 12, 2023 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 June 12, 2023. 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 June 12, 2023.

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 June 12, 2023. 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_____.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 22, 2023 9:48 AM
To: Kelly Kronaizl
Subject: 8744-3 Dakota Bay - Public Notice
Attachments: 8744-3 public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 1, 2023 in the Daily Press & Dakotan.

Dakota Bay, c/o Mike Chicoine, 32926 482nd Avenue, Jefferson SD 57038, (712-898-9173) 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.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 22, 2023 9:50 AM
To: timesleader1@gmail.com
Subject: FW: 8744-3 Dakota Bay - Public Notice LEAD-COURIER
Attachments: 8744-3 public.wmb_final.docx; FORM8.FRM.doc

Forgot to mention what paper, the Southern Union County Lead-Courier please.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Rodriguez, Rachel
Sent: Monday, May 22, 2023 9:44 AM
To: timesleader1@gmail.com
Subject: 8744-3 Dakota Bay - Public Notice

Attached is a notice to be published on June 1, 2023.

Dakota Bay, c/o Mike Chicoine, 32926 482nd Avenue, Jefferson SD 57038, (712-898-9173) 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.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us

AFFIDAVIT OF PUBLICATION

State of South Dakota)

:SS

County of Union)

Shannon L. Jost,

the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

NO. 8744-3

Appropriate Water - Mike Chicoine

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 1 day of June, 2023

and that the succeeding publications were

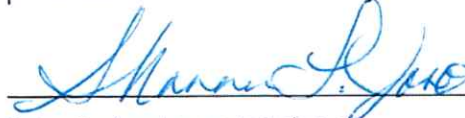
on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

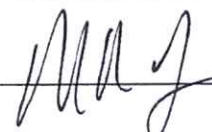
on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 96.13, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person; and that no part thereof has been agreed to be paid to any other person whomsoever.


Subscribed and sworn to before me

this 1 day of June, 2023



Notary Public

NOTICE OF HEARING ON APPLICATION NO. 8744-3 TO APPROPRIATE WATER

Notice is given that Dakota Bay, c/o Mike Chicoine, 32926 482nd Ave, Jefferson SD 57038 has filed an application for a water permit to appropriate up to 28.6 acre-feet of water the first year of use followed by up to 7.99 acre-feet annually at a maximum pump rate of 1.55 cubic feet of water per second from one existing well (150 feet deep) completed into the Missouri: Elk Point Aquifer located in the E1/2 SE1/4 (Lot 1 - original survey) Section 16-T89N-R48W for recreational purposes. The existing well is also authorized for irrigation use by Water Permit No. 6557-3. Water from the well will be used to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property as well as direct precipitation may also provide water to the canal. The canal project is in the NW1/4 SW1/4 (Lot 3 - original survey), SW1/4 SW1/4 section 15; E1/2 SE1/4 (Lot 1 - original survey) section 16; all in T89N-R48W on the southeast side of McCook Lake.

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. 8744-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, 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 10:00 am (Central Time) on July 12, 2023, 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



My Commission Expires August 08-2028

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 June 12, 2023.

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 July 12, 2023 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 June 12, 2023. 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 June 12, 2023.

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 June 12, 2023. 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.

Publish June 1, 2023

Published once at the total approximate cost of \$96.13 and may be viewed free of charge at www.sdpublicnotices.com

21-2-256

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

DAKOTA BAY, C/O MIKE CHICOINE
32926 482ND AVE
JEFFERSON SD 57038

RECEIVED

JUN 05 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

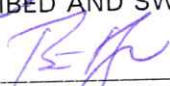
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
NOTICE OF HEARING ON APPL

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 1st DAY OF June, 2023
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$77.92 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 06/01/2023

FILED ON: 06/01/2023


SUBSCRIBED AND SWORN TO BEFORE ME THIS 1st DAY OF June, 2023


NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES ~~03/06/2029~~

By 05/25/2029



Notice is given that Dakota Bay, c/o Mike Chicoine, 32926 482nd Ave, Jefferson SD 57038 has filed an application for a water permit to appropriate up to 28.6 acre-feet of water the first year of use followed by up to 7.99 acre-feet annually at a maximum pump rate of 1.55 cubic feet of water per second from one existing well (150 feet deep) completed into the Missouri: Elk Point Aquifer located in the E1/2 SE1/4 (Lot 1 original survey) Section 16-T89N-R48W for recreational purposes. The existing well is also authorized for irrigation use by Water Permit No. 6557-3. Water from the well will be used to initially fill a proposed canal (20.61 acre-feet) which connects to McCook Lake and provide up to 7.99 acre-feet annually to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. Incidental runoff from adjoining property as well as direct precipitation may also provide water to the canal. The canal project is in the NW1/4 SW1/4 (Lot 3 original survey), SW1/4 SW1/4 section 15; E1/2 SE1/4 (Lot 1 original survey) section 16; all in T89N-R48W on the southeast side of McCook Lake.

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. 8744-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, 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 10:00 am (Central Time) on July 12, 2023, 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 June 12, 2023.

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 July 12, 2023 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 June 12, 2023. 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 June 12, 2023.

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 June 12, 2023. 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. #1:35.01.

Published once at the total approximate cost of \$77.92 and can be viewed free of charge at www.sdpublicnotices.com.

Published on June 1, 2023.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 22, 2023 10:07 AM
To: Michael James Chicoine
Subject: FW: 8744-3 Dakota Bay - Public Notice
Attachments: 8744-3.pdf; Dakota Bay.pdf; 8744-3 public.wmb_final.docx

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Rodriguez, Rachel
Sent: Monday, May 22, 2023 10:05 AM
To: mjchicoine242@gmail.com
Subject: 8744-3 Dakota Bay - Public Notice

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 paper(s) as soon as possible to authorize publication and arrange for payment.** This information is being mailed to you today.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Gronlund, Eric

From: Gronlund, Eric
Sent: Wednesday, March 29, 2023 2:55 PM
To: brenda.gabel@gmail.com; Michael James Chicoine
Cc: Duvall, Ron; Schlaak, Karen; Rodriguez, Rachel
Subject: FW: [EXT] FORM 2: Application for uses other than irrigation
Attachments: FORM 2 Application for uses other than irrigation.pdf; Pages from 6557-3.pdf

Brenda – Water Rights consider this a new use of water and not an amendment to No. 6557-3 since this is a new use. Do you concur?

The application filing fee for Water Permit No. 6557-3 is \$500 and not \$100.

Is the well location accurate as set forth on the original map submitted for application for No. 6557-3 (see map)? If not, please provide a map showing the correct location of the well.

Eric

From: Brenda Gabel <brenda.gabel@gmail.com>
Sent: Wednesday, March 29, 2023 2:26 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Michael James Chicoine <mjchicoine24@gmail.com>
Subject: [EXT] FORM 2: Application for uses other than irrigation

Eric, attached is our application. I think we have given you everything you will need but please feel free to call Mike any time with any questions you may have!

I will be calling Holly Briggs, in Finance, to pay the \$100 application fee.

Thanks so much!
Brenda
OBO Mike Chicoine
>
>

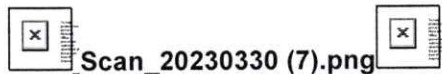
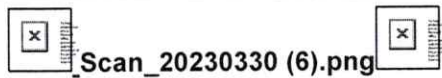
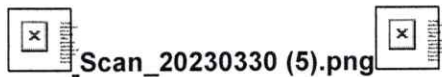
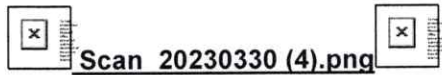
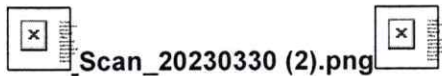
Schlaak, Karen

From: Brenda Gabel <brenda.gabel@gmail.com>
Sent: Thursday, March 30, 2023 10:59 AM
To: Gronlund, Eric
Cc: Michael James Chicoine; Duvall, Ron; Schlaak, Karen; Rodriguez, Rachel
Subject: Re: [EXT] FW: FORM 2: Application for uses other than irrigation

My apologies for the misunderstanding regarding the type of application. I have corrected the paperwork. I have attached all of the documents including the original well map so that you have everything you need all in one email. The well location, on the original well map, is correct.

I hadn't called Holly yet, to make a payment, but will call her to make the \$500 payment instead of the \$100 fee that I previously mentioned.

Thanks so much for everything.
Brenda
OBO Mike Chicoine



On Wed, Mar 29, 2023 at 2:54 PM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Brenda – Water Rights consider this a new use of water and not an amendment to No. 6557-3 since this is a new use. Do you concur?

The application filing fee for Water Permit No. 6557-3 is \$500 and not \$100.

Is the well location accurate as set forth on the original map submitted for application for No. 6557-3 (see map)? If not, please provide a map showing the correct location of the well.

Eric

From: Brenda Gabel <brenda.gabel@gmail.com>
Sent: Wednesday, March 29, 2023 2:26 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Michael James Chicoine <mjchicoine24@gmail.com>
Subject: [EXT] FORM 2: Application for uses other than irrigation

Eric, attached is our application. I think we have given you everything you will need but please feel free to call Mike any time with any questions you may have!

I will be calling Holly Briggs, in Finance, to pay the \$100 application fee.

Thanks so much!
Brenda
OBO Mike Chicoine

>

>



SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

March 24, 2023

Mike Chicoine
32926 482nd Avenue,
Jefferson, South Dakota 57038

Dear Mr. Chicoine,

South Dakota Department of Game, Fish and Parks (SDGFP) has consulted with South Dakota Department of Agriculture and Natural Resources (SDDANR) regarding your proposed use of the existing nearby well for canal water maintenance. The said well is currently permitted for irrigation use (Water Rights Permit # 6557-3). It has been determined that the initial filling of the canal for testing purposes prior to connecting to McCook Lake would qualify for a temporary permit under SDCL 46-5-40.1.

Ongoing use of the existing well to maintain water levels during periods of non-pumping would require a new water rights permit. In your response letter dated February 5, 2023, it was stated that "The canal would be periodically inspected through the off-season and water would be added to the canal from the existing well on the property." Without the ability to add water as needed to prevent the canal liner from drying out, cracking, floating, or otherwise failing, SDGFP's concerns about the integrity of the canal liner remain.

Until a proper water right has been obtained, it is the intention of SDGFP to hold the current shoreline alteration permit application in abeyance.

Sincerely,

Kevin Robling, *Secretary*
South Dakota Game, Fish & Parks

cc: Hunter Roberts, DANR Secretary
Jon Kotilnek, SDGFP Staff Attorney

Below are the engineer's calculations for the amount of water needed for the canal.

Water to fill the canal – 20.61 AF

Water for evaporation – 7.90 AF

Water for seepage – .09 AF

There will also be the rainfall that lands on the water surface along with some draining from the backyards of the existing houses to the east. The water falling on the canal alone is 30" which is slightly more than the evaporation. We have not taken these figures in to account in the above "water needed" calculations. However, this will reduce the amount of water needed based on the amount of rainfall in any given year.

The total use for the canal is 28.6 acre-feet (AF). In comparison to the agriculture use which is up to 120 acre-feet (AF).

At a rate of 1.55 cfs from the well the total water for the canal would take 9.3 days of continuous pumping. The vast majority of this pumping would be during the spring prior to the start of the of annual ag irrigation usage.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

File No. 8744-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Dakota Bay c/o Michael Chicoine
ADDRESS: 32926 482nd Ave, Jefferson SD 57038
DATE: May 18, 2023 **PHONE:** 712-898-9173
RE: Water Permit Application No. 8744-3

COMMENTS:

Eric Gronlund and myself called Michael Chicoine to clarify the annual volume of water being applied for on Water Permit Application No. 8744-3. The question was whether the application was intended to claim 28.6 acre-feet annually or whether there would be an initial fill of the canal and then ongoing use would be to cover evaporation and seepage losses totally 7.99 acre-feet. Mr. Chicoine indicated a desire to be permitted for the volume of water needed to satisfy the concerns of the SD Department of Game, Fish and Parks (GF&P).

After discussion about the concerns of GF&P being related to the liner integrity, Mr. Chicoine gave the approval to proceed with the application as a one-time fill of the canal (20.61 acre-feet) and then ongoing annual use of up to 7.99 acre-feet.

Ron Duvall, Water Rights Permitting Administrator
SD DANR, Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 20, 2023

NOTICE

TO: Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038

Ann Mines Bailey, Assistant Attorney
General
1302 East Highway 14, Suite 1 Pierre
SD 57501-8501

John M. Hines, Attorney for McCook Lake
Recreation Area Association
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

FROM: Eric Gronlund, Chief Engineer
SD DANR, Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 8744-3, Dakota Bay

A petition in opposition has been filed in the matter of Water Permit Application No. 8744-3 in response to the Notice of Application published in the Daily Press and Dakotan and the Leader-Courier on June 1, 2023. The published notice scheduled a hearing before the Water Management Board on July 12, 2023.

In response to the published notice, John M. Hines, legal counsel for the McCook Lake Recreation Area Association (MLA), filed a request for an automatic delay of the July 12, 2023 hearing date on behalf of MLA. The request for a delay was dated June 9, 2023, and received June 12, 2023, which meets the June 12, 2023 filing deadline. Pursuant to SDCL 46-2A-5 and the published notice, this constitutes written notice to the chief engineer requesting an automatic delay of the July 12, 2023 hearing date. Therefore, the hearing on Application No. 8744-3 is automatically delayed pursuant to SDCL 46-2A-5 and will NOT be held on July 12, 2023. Notice of the time and place of a rescheduled hearing on Water Permit Application No. 8744-3 will be provided later in a Notice of Hearing.

Notices, orders, and other pleadings filed in the matter of Water Permit Application No. 8744-3 are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice dated June 20, 2023, regarding an automatic delay of the hearing concerning Water Permit Application No. 8744-3 – Dakota Bay, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on June 20, 2023.

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038

Petitioner's legal counsel as follows:

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20 day of June, 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

<http://atg.sd.gov>

RECEIVED

JUN 23 2023

OFFICE OF
WATER

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY

June 21, 2023

Bill Larson, Chairman
Water Management Board
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Re: *In the Matter of Water Permit Application No. 8744-3, Dakota Bay*

Dear Mr. Larson:

Enclosed please find a copy of the Notice of Appearance, Water Rights' Motion for Special Meeting, and the Certificate of Service in the above referenced file.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann F. Mines Bailey".

Ann F. Mines Bailey
Assistant Attorney General

AFM/cmb

Enclosures

cc w/enc: Rodney Freeman, Prehearing Chairman
Michael Chicoine, Dakota Bay
John M. Hines, Attorney for McCook Lake Recreation Area
Association
David McVey

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC,

RECEIVED

JUN 23 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY,

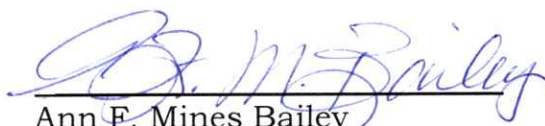
)
)
)
)
)
)

NOTICE OF APPEARANCE

The undersigned attorney, Ann F. Mines Bailey, hereby notices her appearance as counsel for the Chief Engineer and the South Dakota Department of Agriculture and Natural Resources, Water Rights Program in the above-entitled action, and requests that copies of all further pleadings, affidavits, or motions in the above-entitled matter be served upon her.

Respectfully submitted this 21st day of June 2023.

MARTY J. JACKLEY
ATTORNEY GENERAL



Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Telephone: (605) 773-3215
E-mail: Ann.MinesBailey@state.sd.us

*Counsel for Chief Engineer and
Water Rights Program*

RECEIVED

JUN 23 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

OFFICE OF
WATER

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC,

)
)
)
)
)
)
)

MOTION FOR
SPECIAL MEETING

Come now, the Chief Engineer and the Department of Agriculture and Natural Resources Water Rights Program (Water Rights) and ask the Water Management Board to schedule the above-entitled matter for a special meeting in conjunction with In the Matter of McCook Lake Recreation Area Association's Petition for Declaratory Ruling Regarding Appropriative Permits and Shoreline Alterations.

On March 29, 2023, Water Rights received an application from Dakota Bay to appropriate up to 28.6 acre-feet the first year and in following years up to 7.99 acre-feet per year at a maximum diversion rate of 1.55 cfs from the Missouri: Elk Point aquifer for recreational purposes to fill a canal connecting to McCook Lake. The water will be used to initially fill the volume associated with the proposed canal and then to cover any evaporation and seepage losses for purposes of preventing the canal liner from drying out, cracking, floating, or otherwise failing. That application, Water Right Application No. 8744-3, was public noticed and scheduled for the Board's July 12, 2023, meeting. The only petition for contested case received was from the McCook Lake Recreation Area Association. The Association has exercised its statutory right to auto-delay. Pursuant to statute, the matter must be auto-delayed for at least twenty days.

Also pending before the Board is In the Matter of McCook Lake Recreation Area Association's Petition for Declaratory Ruling Regarding

Appropriative Permits and Shoreline Alterations. The petition itself requests a ruling that “the alteration of a public water body by a private party requires a permit for appropriation of water, consistent with Mr. Gronlund’s testimony to the Agriculture and Natural Resources Committee and consistent with State law.” The public notice, drafted by the Association, provides that the Association seeks a declaration from the Board that “Michael Chicoine/Dakota Bay, LLC are required to make an application to the Water Management Board for a permit to appropriate water before starting any construction or placement of works to expand McCook Lake for Michael Chicoine’s/Dakota Bay, LLC’s private use, because the proposed construction appropriates the water of McCook Lake and would also unlawfully impair the McCook Lake Recreation Area Association’s water rights.” The hearing regarding this petition is scheduled to be heard before the Board on July 12, 2023.

Thus, as it currently stands, the declaratory ruling is scheduled to be heard by the Board at its July meeting and the water permit application will not be heard until the Board’s October meeting. The ruling on the petition will necessarily involve a hearing of all the evidence that would be presented at the hearing regarding the water permit application. It is nonsensical to hold these two hearings at separate times – months apart. It would be a waste of the Board’s time as well as the parties’ time and resources.

Accordingly, the Chief Engineer and Water Rights Program request that the Board set a special meeting so that these matters can be heard and resolved simultaneously. The regular practice would be, if a continuance were granted, to schedule these matters for the October meeting; however, there will be staffing changes occurring on August 23, 2023. It is the desire of the Chief Engineer and Water Rights to resolve these matters before that date. Because the auto-delay provisions were invoked in the water permit application contested case, the hearing in that matter cannot be heard for at least twenty days. By the undersigned counsel’s calculations that means the water permit application could be heard any time after August 1, 2023. Accordingly, it is requested that the Board schedule a special meeting to be held sometime

between August 2 and August 11 or, if necessary, before August 18 which would afford some time thereafter for the preparation and review of findings.

A separate motion with the same request for a special meeting has been filed in In the Matter of McCook Lake Recreation Area Association's Petition for Declaratory Ruling Regarding Appropriative Permits and Shoreline Alterations.

Dated this 21st day of June 2023.



Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215
E-mail: Ann.MinesBailey@state.sd.us

*Counsel for Chief Engineer and
Water Rights Program*

pld_afm (cmb)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 23, 2023

NOTICE OF ENTRY OF ORDER AND NOTICE OF HEARING

TO: John M. Hines, Attorney for McCook Lake Recreation Area Association
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1 Pierre SD 57501-8501

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Order Granting the Chief Engineer's Motion for Continuance and Placing Request for a Special Meeting on the July 12, 2023 Water Management Board Agenda

Enclosed is an Order granting the Motion to continue the matter of McCook Lake Recreation Area Association's petition for declaratory ruling and to place on the Water Management Board's July meeting agenda a request to schedule a special Board meeting.

The McCook Lake Recreation Area Association's petition for declaratory ruling had been scheduled for consideration on July 12, 2023. Due to the granting of the Order, the hearing scheduled for July 12 will NOT be held and will be rescheduled for hearing at a later date. The Board will consider the request to schedule a special Board meeting at 10:00 AM (Central Time) on July 12, 2023, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD to set the date for the special meeting to consider Water Permit Application No. 8744-3, Dakota Bay, and the Petition for Declaratory Ruling. Information to connect to the meeting remotely will be made available on the SD Boards and Commissions portal.

Pursuant to South Dakota Codified Law 46-2-24, the decision of the prehearing chairman may be appealed to the Water Management Board. Any appeal of the decision shall be filed with the prehearing chairman within ten days of the date of the prehearing chairman's ruling. To file an appeal, mail to:

Prehearing Chairman Rodney Freeman
SD DANR Water Management Board
523 E Capitol Ave
Pierre SD 57501

Notices, orders, and other pleadings filed in the matter of McCook Lake Recreation Area Association's petition for declaratory ruling are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order and Notice of Hearing dated June 23, 2023, and an Order dated June 22, 2023, continuing the matter of McCook Lake Recreation Area Association's petition for declaratory ruling and placing a request for a special Water Management Board Meeting on the Board's July 12, 2023 agenda, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on June 23, 2023.

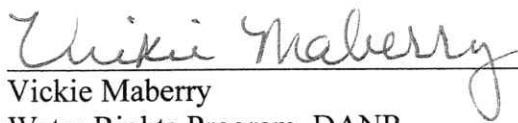
John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102
jhines@craryhuff.com

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038
mjchicoine24@gmail.com

Above sent inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
ann.minesbailey@state.sd.us

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
david.mcvey@state.sd.us



Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23 day of June, 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF MCCOOK LAKE	)	ORDER GRANTING THE CHIEF
RECREATION AREA ASSOCIATION'S	)	ENGINEER'S MOTION FOR
PETITION FOR DECLARATORY	)	CONTINUANCE AND PLACING THE
RULING REGARDING	)	REQUEST FOR A SPECIAL
APPROPRIATIVE PERMITS AND	)	MEETING ON THE JULY AGENDA
SHORELINE ALTERATIONS	)	

Pending before the Prehearing Chairman is the motion for continuance by the Chief Engineer and the Water Rights Program in the above-entitled matter. Because the petition for declaratory ruling necessarily involves a ruling on Water Permit Application No. 8744-3 and for the reasons set forth in the motion for continuance, it is hereby

ORDERED that the motion for continuance is granted.

IT IS FURTHER ORDERED that the request for a special meeting shall be placed on the Water Management Board's July meeting agenda for disposition.

Dated this 22nd day of June, 2023


Rodney Freeman, Prehearing Chairman

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT APPLICATION NO. 8744-3, DAKOTA BAY, LLC	))))))	RESISTANCE TO MOTION FOR A SPECIAL MEETING
---	----------------------------	---

COMES NOW, the McCook Lake Recreation Area Association (“Association”), and resists the Chief Engineer and the Department of Agriculture and Natural Resources Water Rights Program (collectively referred to herein as “Water Rights”) *Motion for Special Meeting*, and in support of its resistance, states as follows:

The Association submitted a timely *Petition Opposing Application for a Water Right Permit* for Application No. 8744-3. Pursuant to SDCL 46-2A-5, the Association also requested, and was granted, an automatic extension of time of the hearing. Water Rights contends that a Special Meeting should be set so that (i) Application No. 8744-3 can be considered at the same time as the Association’s Petition for Declaratory Ruling; and (ii) unspecified staffing changes occurring on August 23, 2023 justify expedient consideration of this matter.

The Association has contemporaneously filed herewith a *Resistance to Motion for Continuance and Scheduling a Special Meeting*, which explains why it is neither necessary or appropriate to consider Application No. 8744-3 at the same time as its Petition for Declaratory Ruling. Additionally, ARSD 74:02:01:47 requires the Water Management Board (the “Board”) to set the hearing on the Petition for Declaratory ruling on July 12, 2023, unless all parties agree to postponement – and the Association does not agree.

With respect to the apparent impending staffing changes, while the Association recognizes that staff turnover may create additional work for Water Rights when it comes to the Board's consideration of Application No. 8744-3, this inconvenience pales in comparison to the diligence called for by the "paramount interest in the use of all water of the state" SDCL §46-1-1. The Association became aware of Application No., 8744-3 on May 26, 2023 – a full two months after it was received by Water Rights. Presumably, Water Rights utilized the two-month timeframe to generate its twenty-two (22) page "Report to the Chief Engineer On Water Permit Application No. 8744-3" (the "Report").

After learning of Application No. 8744-3, the Association promptly reviewed the Report, filed its opposition, and requested the postponement under SDCL 46-2A-5. Although the statute requires only a minimum postponement of twenty (20) days, a longer postponement is reasonable and justified in this matter. The Association is working diligently to secure the services of a hydrologist and hydrogeologist to review the Report. Postponement to the Board's next regular meeting, in October, will allow the Association time to have its hydrologist/hydrogeologist review the Report and create the best record possible for the Board's consideration. The Association would be prejudiced if it is not able to have an expert review the Report in advance of the hearing.

Additionally, Water Rights will have the intervening month of September to prepare any of its new staff assigned to this matter. Furthermore, in the event the Board grants the relief sought by the Association in its Petition for Declaratory Ruling, it is likely an additional water rights permit application will be received by Water Rights, and the parties would then undoubtedly seek to continue Application No. 8744-3 until such time both applications could be heard together.

The Association respectfully requests the Board not set this matter for a special meeting, because (i) the outcome of the Petition for Declaratory Ruling may significantly alter the

proceedings to follow, and (ii) the additional time will allow all parties to develop the record and to adequately prepare their respective staff and witnesses for the hearing.

Dated this 22nd Day of June 2023.

CRARY, HUFF, RINGGENBERG,
HARTNETT & STORM, P.C.

BY



Cody M. McCullough

John M. Hines

329 Pierce Street, Suite 200

PO Box 27

Sioux City, Iowa 51102

Telephone: (712) 224-7559

Fax: (712) 277-4605

Email: cmccullough@craryhuff.com

jhines@craryhuff.com

ATTORNEYS FOR MCCOOK
LAKE RECREATION AREA
ASSOCIATION

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 8744-3, DAKOTA	)	CERTIFICATE OF SERVICE
BAY, LLC	)	
	)	

The undersigned hereby certifies that true and correct copies of the *Resistance to Motion for a Special Meeting* in the above matter, were served by U.S. Mail, first-class, postage prepaid, upon the following on this 22nd day of June 2023.

Dakota Bay, LLC
c/o Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

Rodney Freeman, Prehearing Chairman
DANR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

David M. McVey
Assistant Attorney General
Counsel for Water Management Board
1302 East Highway 14, Suite 1
Pierre, SD 57501

Ann F. Mines Bailey
Assistant Attorney General
Counsel for Water Rights Program, DANR
1302 East Highway 14, Suite 1
Pierre, SD 57501

Bill Larson, Chairman
Water Management Board
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

And on the same date, copies were emailed to:

David M. McVey, David.McVey@state.sd.us
Ann F. Mines Bailey, Ann.MinesBailey@state.sd.us

CRARY, HUFF, RINGGENBERG,
HARTNETT & STORM, P.C.

BY


Cody M. McCullough
John M. Hines
329 Pierce Street, Suite 200
PO Box 27
Sioux City, Iowa 51102
Telephone: (712) 224-7559

Fax: (712) 277-4605

Email: cmccullough@craryhuff.com
jhines@craryhuff.com

ATTORNEYS FOR MCCOOK
LAKE RECREATION AREA
ASSOCIATION

RECEIVED

JUL 05 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 8744-3, DAKOTA)
BAY, LLC)

SUBPOENA DUCES TECUM

THE STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES WATER MANAGEMENT BOARD TO: Kevin Robling, Secretary, SD Department of Game, Fish and Parks

Pursuant to SDCL §1-26-18, 1-26-19.1 and 15-6-45(a), you are hereby commanded to appear at the law office of John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, South Dakota 57049 on **July 14, 2023 commencing at 3:00 p.m.** and produce and permit inspection and copying of the following documents:

Any and all documents, records, notes, reports, or recordings that relate to or concern: (i) Michael Chicoine's proposed canal and application to alter lakeshore or bottom lands relating to McCook Lake; (ii) Michael Chicoine's and Dakota Bay, LLC's Water Rights permits and applications in Union County, South Dakota; (iii) the McCook Lake Recreation Area Association's Petition for Declaratory Ruling; and (iv) House Bill 1134 (2023).

"Documents" means the original and any copy of any written, typed, printed, electronically stored, recorded or graphic matter of any kind, however produced, including without limitation letters or other correspondence, memoranda, e-mails, reports, notes, summaries, tabulations, photographs, maps, charts, graphs, work papers including computer data, and the memory units containing data.

"You" means: SD Department of Game, Fish and Parks; its employees, officers, agents, subsidiaries, affiliates, predecessors, successors, and assigns, and all persons acting or authorized to act on its behalf and/or at its direction.

In lieu of appearing at such date and time indicated above, you may simply provide copies of all documents identified above to the undersigned counsel, John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, SD 57049 prior to that date and time. Emailed copies are preferred.

This Subpoena is issued and attested to by the undersigned attorney, John M. Hines, duly admitted and qualified to practice law in the State of South Dakota, attorney for the McCook Lake Recreation Area Association. Issued in the name of the William Larson, Chairman for the State of South Dakota Department of Agriculture and Natural Resources, Water Management Board.

Dated this 30th day of June 2023.

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)–(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

BY:



John M. Hines
711 Sioux Point Road, Suite 200
Dakota Dunes, SD 57049
Phone: (712) 224-7550
Fax: (605) 232-8931
jhines@craryhuff.com

Certificate of Service

The undersigned hereby certifies that on this 30th day of June, 2023 a true and correct copy of the foregoing *Subpoena Duces Tecum* was provided to the Hughes County, South Dakota Sheriff's Office for personal service, and a copy was provided via regular mail and email to the filing officer of the Water Management Board.



John M. Hines

RECEIVED

JUL 05 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC

SUBPOENA DUCES TECUM

THE STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES WATER MANAGEMENT BOARD TO: Ann Mines Bailey, Assistant Attorney General, Attorney for SD Department of Agriculture and Natural Resources.

Pursuant to SDCL §1-26-18, 1-26-19.1 and 15-6-45(a), you are hereby commanded to appear at the law office of John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, South Dakota 57049 on **July 14, 2023 commencing at 3:00 p.m.** and produce and permit inspection and copying of the following documents:

Any and all documents, records, notes, reports, or recordings that relate to or concern: (i) Michael Chicoine's proposed canal and application to alter lakeshore or bottom lands relating to McCook Lake; (ii) Michael Chicoine's and Dakota Bay, LLC's Water Rights permits and applications in Union County, South Dakota; (iii) the McCook Lake Recreation Area Association's Petition for Declaratory Ruling; and (iv) House Bill 1134 (2023).

"Documents" means the original and any copy of any written, typed, printed, electronically stored, recorded or graphic matter of any kind, however produced, including without limitation letters or other correspondence, memoranda, e-mails, reports, notes, summaries, tabulations, photographs, maps, charts, graphs, work papers including computer data, and the memory units containing data.

"You" means: SD Department of Agriculture and Natural Resources; its employees, officers, agents, subsidiaries, affiliates, predecessors, successors, and assigns, and all persons acting or authorized to act on its behalf and/or at its direction.

In lieu of appearing at such date and time indicated above, you may simply provide copies of all documents identified above to the undersigned counsel, John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, SD 57049 prior to that date and time. Emailed copies are preferred.

This Subpoena is issued and attested to by the undersigned attorney, John M. Hines, duly admitted and qualified to practice law in the State of South Dakota, attorney for the McCook Lake Recreation Area Association. Issued in the name of the William Larson, Chairman for the State of South Dakota Department of Agriculture and Natural Resources, Water Management Board.

Dated this 30th day of June 2023.

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)-(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

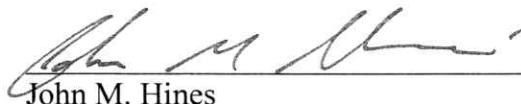
BY:



John M. Hines
711 Sioux Point Road, Suite 200
Dakota Dunes, SD 57049
Phone: (712) 224-7550
Fax: (605) 232-8931
jhines@craryhuff.com

Certificate of Service

The undersigned hereby certifies that on this 30th day of June, 2023 a true and correct copy of the foregoing *Subpoena Duces Tecum* was provided to the Hughes County, South Dakota Sheriff's Office for personal service, and a copy was provided via regular mail and email to the filing officer of the Water Management Board.



John M. Hines



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 6, 2023

NOTICE OF AFFIRMATION OF ORDER AND NOTICE OF HEARINGS

TO: John M. Hines, Attorney for McCook Lake Recreation Area Association
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1 Pierre
SD 57501-8501

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Water Management Board Affirmation of Prehearing Chair's Order Continuing of Hearing on McCook Lake Recreation Area Association's Petition for Declaratory Ruling (Petition); Rescheduling Hearing to Consider the Petition; Consider scheduling Water Permit Application No. 8744-3, Dakota Bay, for hearing; and Scheduling Hearing to Consider Motion to Disqualify Board Legal Counsel and Seek Other Legal Counsel



On June 22, 2023, Rodney Freeman, Prehearing Officer, issued an Order Granting the Chief Engineer's Motion for Continuance and Placing Request for a Special Meeting on the July 12, 2023 Water Management Board Agenda. In response to issuance of the Order, John M. Hines, attorney for McCook Lake Recreation Area Association, filed an appeal on June 26, 2023. The appeal of the Order was considered by the Water Management Board during a hearing held on June 30, 2023, via remote conference.

At the June 30, 2023 Board meeting, the Board took the following actions concerning the Petition for Declaratory Ruling:

- The Board affirmed the Prehearing Chair's Order Continuing the July 12, 2023 scheduled hearing on the Petition. The hearing scheduled for July 12, 2023 has been postponed.
- The Board rescheduled the hearing on the McCook Lake Recreation Area Association's Petition for **10:00 AM (Central Time) on August 2, 2023, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD.**

NOTICE OF AFFIRMATION OF ORDER AND NOTICE OF HEARINGS (continued)

July 6, 2023

To accommodate any Board member who may be unable to attend the August 2, 2023 meeting in person but, who can attend via remote conference, any exhibits to be offered into evidence concerning the Petition shall be provided to all parties and Ron Duvall at SD DANR, 523 E. Capitol, Pierre SD 57501 **no later than Friday, July 21, 2023**. Any person offering exhibits shall also have sufficient copies available at the hearing to provide to board members who are present at the hearing, legal counsels, and any other parties to the proceeding.

Pursuant to South Dakota Codified Law 46-2-5 and Administrative Rules of South Dakota 74:02:01:46 through 74:02:01:49, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notice published in the Yankton Daily Press and Dakotan and the Leader-Courier on June 22, 2023, still apply.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us. Enclosed is a document entitled "Procedure for Hearings before the Water Management Board" to acquaint parties with the hearing process.

At the June 30, 2023 Board meeting, the Board also directed an agenda item be added to the July 12, 2023, Board meeting agenda to schedule a special meeting for the Board to consider Water Permit Application No. 8744-3, Dakota Bay. This agenda item is scheduled for 10:00 AM (Central Time) on July 12, 2023. The July 12, 2023 meeting will be conducted via remote conference. Connection information is as follows and will also be available on the SD Boards and Commissions portal:

Option 1. Audio/visual via Microsoft Teams. To be seen and heard requires a device equipped with a camera and microphone and an internet connection. No software install is necessary, the recommended web browser is Google Chrome or Microsoft Edge. To participate, start the browser and navigate to <https://www.microsoft.com/microsoft-teams/join-a-meeting>.

When prompted, enter the following to join the meeting:

Meeting ID: 211 214 491 594

Passcode: rnB6qn (note, the first two letters are "r" and "n" it could be mistaken as an "m")

Option 2. Connect via audio only. Call 605-679-7263 and enter 612 620 179#

On July 5, 2023, a Motion was received from John M. Hines to the Water Management Board asking the Board to disqualify the Board's legal counsel and to seek outside legal counsel as permitted by law. This Motion to the Board will be considered by the Board **at 10:00 AM (Central Time) on August 2, 2023, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD.**

Notices, orders, and other pleadings filed in the matter of McCook Lake Recreation Area Association's petition for declaratory ruling are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Affirmation of Prehearing Chair's Order Continuing of Hearing on McCook Lake Recreation Area Association's Petition for Declaratory Ruling (Petition); Notice of Rescheduled Hearing for Petition; Consideration of scheduling Water Permit Application No. 8744-3, Dakota Bay, for hearing; and Notice of Hearing to consider Motion to Disqualify Board Legal Counsel and Seek Other Legal Counsel dated July 6, 2023, and a document entitled "Procedure for Hearings before the Water Management Board" was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on July 6, 2023.

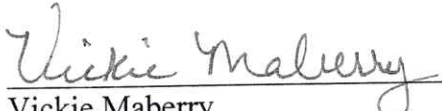
John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102
jhines@craryhuff.com

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038
mjchicoine24@gmail.com

Above sent inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
ann.minesbailey@state.sd.us

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
david.mcvey@state.sd.us


Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10 day of July, 2023.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



Gronlund, Eric

To: Gronlund, Eric
Subject: FW: Subpoena - Dakota Bay, LLC Water Permit Application

-----Original Message-----

From: Kelly, Traci (DANR) <Traci.Kelly@state.sd.us>
Sent: Tuesday, July 11, 2023 2:30 PM
To: Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>; Roberts, Hunter <Hunter.Roberts@state.sd.us>; Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: RE: Subpoena - Dakota Bay, LLC Water Permit Application

It was served by a highway patrolman he did not need a signature he just took my name, title and time it was served. He just needed who he left it with.

-----Original Message-----

From: Kelly, Traci (DANR) <Traci.Kelly@state.sd.us>
Sent: Tuesday, July 11, 2023 2:22 PM
To: Roberts, Hunter <Hunter.Roberts@state.sd.us>; Gronlund, Eric <Eric.Gronlund@state.sd.us>; Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>; McVey, David <David.McVey@state.sd.us>
Subject: Subpoena - Dakota Bay, LLC Water Permit Application

Please see the attached.

-----Original Message-----

From: nrpr1p08@state.sd.us <nrpr1p08@state.sd.us>
Sent: Tuesday, July 11, 2023 2:19 PM
To: Kelly, Traci (DANR) <Traci.Kelly@state.sd.us>
Subject: Scan From Copier

See Attached File.

TASKalfa 3553ci
[00:17:c8:8b:3d:b3]

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 8744-3, DAKOTA)
BAY, LLC)

SUBPOENA DUCES TECUM

THE STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES WATER MANAGEMENT BOARD TO: Ann Mines Bailey, Assistant Attorney General, Attorney for SD Department of Agriculture and Natural Resources.

Pursuant to SDCL §1-26-18, 1-26-19.1 and 15-6-45(a), you are hereby commanded to appear at the law office of John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, South Dakota 57049 on **July 14, 2023 commencing at 3:00 p.m.** and produce and permit inspection and copying of the following documents:

Any and all documents, records, notes, reports, or recordings that relate to or concern: (i) Michael Chicoine's proposed canal and application to alter lakeshore or bottom lands relating to McCook Lake; (ii) Michael Chicoine's and Dakota Bay, LLC's Water Rights permits and applications in Union County, South Dakota; (iii) the McCook Lake Recreation Area Association's Petition for Declaratory Ruling; and (iv) House Bill 1134 (2023).

"Documents" means the original and any copy of any written, typed, printed, electronically stored, recorded or graphic matter of any kind, however produced, including without limitation letters or other correspondence, memoranda, e-mails, reports, notes, summaries, tabulations, photographs, maps, charts, graphs, work papers including computer data, and the memory units containing data.

"You" means: SD Department of Agriculture and Natural Resources; its employees, officers, agents, subsidiaries, affiliates, predecessors, successors, and assigns, and all persons acting or authorized to act on its behalf and/or at its direction.

In lieu of appearing at such date and time indicated above, you may simply provide copies of all documents identified above to the undersigned counsel, John M. Hines, 711 Sioux Point Road, Suite 200, Dakota Dunes, SD 57049 prior to that date and time. Emailed copies are preferred.

This Subpoena is issued and attested to by the undersigned attorney, John M. Hines, duly admitted and qualified to practice law in the State of South Dakota, attorney for the McCook Lake Recreation Area Association. Issued in the name of the William Larson, Chairman for the State of South Dakota Department of Agriculture and Natural Resources, Water Management Board.

Dated this 30th day of June 2023.

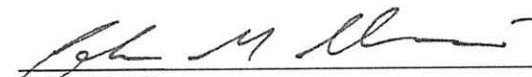
YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)-(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

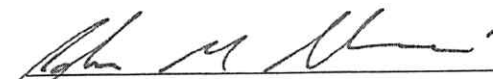
CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

BY:


John M. Hines
711 Sioux Point Road, Suite 200
Dakota Dunes, SD 57049
Phone: (712) 224-7550
Fax: (605) 232-8931
jhines@craryhuff.com

Certificate of Service

The undersigned hereby certifies that on this 30th day of June, 2023 a true and correct copy of the foregoing *Subpoena Duces Tecum* was provided to the Hughes County, South Dakota Sheriff's Office for personal service, and a copy was provided via regular mail and email to the filing officer of the Water Management Board.


John M. Hines



DANR

SOUTH DAKOTA

WATER MANAGEMENT BOARD Meeting on July 12, 2023 Remote Conference Meeting

Any person(s) interested in speaking during the public comment period via remote connection can learn how at <https://boardsandcommissions.sd.gov> on the Water Management Board page.

Scheduled times are based on Central Time and are estimated start times.

Agenda items may be delayed due to prior scheduled items.

Live audio of the meeting is available at <https://www.sd.net>

July 12, 2023

- 9:30 AM Call to Order
 Roll Call
 Annual Election of Officers
 Adopt Final Agenda
 Conflicts Disclosures and Requests for State Board Waivers
 Adopt May 3, 2023 Board Minutes
 Set October 4 - 5, 2023 Meeting Dates and Location
 Public comment period in accordance with SDCL 1-25-1
 Update on DANR Activities
 Status and Review of Water Rights Litigation

 Administer Oath to Department of Agriculture and Natural Resources Staff
 Cancellation Considerations – Ron Duvall
 Future Use Reviews – Ron Duvall

 Unopposed Water Permits Issued based on Chief Engineer's Recommendation
- Comment received concerning Water Permit Application No. 8745-3, University of South Dakota
- Consider Validation of Recognized Vested Water Right Claim No. 815-3, SD Game, Fish & Parks for Mina Lake – Eric Gronlund

 Consider Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 2850-2, Elk Mountain Water Users Association Inc.
- 9:45 AM Consider Future Use Water Permit Application No. 8754-3, Lewis and Clark Regional Water System – Adam Mathiowetz
- 10:00 AM Schedule a Special Meeting of the Water Management Board to consider Water Permit Application No. 8744-3, Dakota Bay

WATER MANAGEMENT BOARD Meeting on July 12, 2023

Note – The McCook Lake Recreation Area Association’s Petition for Declaratory Ruling scheduled for a 10:00 AM, July 12 hearing based on public notice published in the Yankton Daily Press and Dakotan and the Leader-Courier has been rescheduled for hearing on August 2, 2023.

ADJOURN

Board members are reminded they are subject to SDCL 3–23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

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.

WATER RIGHTS PROGRAM LEGAL COUNSEL'S ORAL MOTION TO QUASH A SUBPOENA ISSUED BY ATTORNEY JOHN HINES: Ann Mines Bailey stated that on the afternoon of July 11, 2023, at approximately 2:22 p.m. she was informed that the Department of Agriculture and Natural Resources received a subpoena duces tecum in the matter of Water Permit Application No. 8744-3, Dakota Bay, LLC. The subpoena is addressed to Ann Mines Bailey, Assistant Attorney General, attorney for the South Dakota Department of Agriculture and Natural Resources. Within an hour of receiving the subpoena, Ms. Mines Bailey spoke with Mr. Hines. Ms. Mines Bailey said she wanted to make it clear that she does not believe Mr. Hines' intent was for her to be served so close to the time required for compliance. The subpoena requests certain documents or Ms. Mines Bailey's presence at Mr. Hines' office on July 14, 2023, at 3:00 p.m. Ms. Mines Bailey said when they spoke, Mr. Hines agreed to increasing the amount of time to respond to the subpoena; however, Ms. Mines Bailey does not believe increasing the amount of time to respond to the subpoena is sufficient. Ms. Mines Bailey does not believe she has any choice under the law but to ask the board to quash the subpoena. The subpoena is issued in the name of Bill Larson, chair of the board.

SDCL 15-6-45(a) is part of the chapter known as the rules of procedure in circuit court. Those rules are applicable only in circuit court. That limitation is found in SDCL 15-6-1.

SDCL 1-26-18 and 1-26-19.1 are part of what is known as the administrative procedures act. Those two statutes provide, in general terms, the authority to conduct discovery in administrative hearings that are proceeding under SDCL 1-26. SDCL 1-26-19.1 provides the authority to administer oaths and issue subpoenas to the agency and officers thereof. SDCL 1-26-1(1) defines agency for the purposes of the board, so reading SDCL 1-16-19.1 with the understanding of agency, as the board and the board's officers that have the authority to issue a subpoena.

Ms. Mines Bailey stated that this subpoena was not issued under the board's authority or with the board's permission; discovery is not automatic in administrative cases. Even though SDCL 1-26-19.2 is titled "Depositions of witnesses" the South Dakota Supreme Court has held that those titles don't control. The statute says the board shall have power to cause the deposition or other discovery procedure to be conducted upon notice of the interested person, if any. So, the board does have discretion to determine whether or not discovery should occur. Ms. Mines Bailey stated that administrative hearings function on a truncated period of time, and they deal with very narrow issues. In this case, the board has not authorized discovery, there is no procedural order, there has been no motion to the board for discovery measures; therefore, the subpoena should be quashed because it does not properly exercise the authority of the board.

Ms. Mines Bailey said if the board finds that the rules of procedure in circuit courts apply she would ask the board to quash the subpoena even under those rules. This subpoena is directed to Ms. Mines Bailey as counsel for the Chief Engineer. Ms. Mines Bailey is counsel for the Chief Engineer and the Water Rights Program, not the entire Department of Agriculture and Natural Resources. The subpoena states that she is the attorney for the South Dakota Department of Agriculture and Natural Resources. Ms. Mines Bailey stated that she does not have access to everything held by the department in this matter, and even if she did, it would be protected under attorney/client privileges or a work product privilege. The documents Ms. Mines Bailey has that

would not be protected by privilege are documents that were given to her by Mr. Hines or that she accesses from the internet in general; and those documents are equally accessible to Mr. Hines. Ms. Mines Bailey stated that the subpoena was received by the Department of Agriculture and Natural Resources; it was not received by her. It was not served upon Ms. Mines Bailey though it was directed to her. It was not served upon the Office of the Attorney General, of whom Ms. Mines Bailey is an employee. Ms. Mines Bailey stated that service is improper, it doesn't properly denote her position, and it asks for documents that are privileged. Under the rules of procedure in Circuit Court, discovery is only allowed for relevant material. Here the subpoena seeks any and all documents, records, notes, reports, or recordings that relate to or concern Michael Chicoine's proposed canal and application to alter lake shore or bottom lands relating to McCook Lake, Michael Chicoine's and Dakota Bay LLC's water right permits and application in Union County, South Dakota, the McCook Lake Recreation Area Association's petition for declaratory ruling, and House Bill 1134A from the 2023 session.

Ms. Mines Bailey stated that alteration of shoreline permitting is handled by the Department of Game, Fish and Parks, not the Department of Agriculture and Natural Resources. She said she does not understand how House Bill 1134A is relevant to a water permit application. This matter is only pertaining to the water permit application, and what is at issue is Mr. Chicoine's desire to have an appropriation from the Missouri: Elk Point aquifer for the purposes of a one-time fill of a canal, which will be constructed off of McCook Lake, and additional water to maintain the level of the canal to counteract seepage or evaporation.

Ms. Mines Bailey said she does not believe McCook Lake Recreation Area Association's petition for declaratory ruling and House Bill 1134A are relevant to the four factors upon which the Water Management Board must decide whether or not to issue that permit.

Ms. Mines Bailey asked the Water Management Board to quash the subpoena.

Jon Kotilnek, staff attorney for Game, Fish and Parks, requested that the Water Management Board quash the subpoena Game, Fish and Parks received. This subpoena does not have the authority necessary to request the documents because it is not coming from the board. Even if the board were to find that this subpoena was valid, the Department of Game, Fish and Parks objects to the scope of it. The subpoena is overly broad, and it is requesting any and all documentation. Game, Fish and Parks is unsure of the specific documentation Mr. Hines is requesting in the subpoena.

Mr. Kotilnek noted that Game, Fish and Parks has received open records requests from Mr. Hines, which the department has complied with. The records Mr. Hines requested were the application and supplemental documents that Mr. Chicoine submitted to the department. The department has not made a decision on the application, so it is still a pending application. Mr. Kotilnek stated Game, Fish and Parks could not comply with that Items 2, 3, and 4 of the request in the subpoena because it is material that the department does not have, namely, the water rights permits and applications in Union County, the McCook Lake Recreation Area Association's petition for declaratory ruling, and House Bill 1134A, which is public knowledge and is easily accessible by Mr. Hines.

Water Management Board
July 12, 2023, Meeting Minutes

Mr. Kotilnek joined in Ms. Mines Bailey's motion to quash the subpoena submitted to Game, Fish and Parks by Mr. Hines.

John Hines, attorney for McCook Lake Recreation Area Association, which is a party in opposition of record to the Water Permit Application No. 8744-3.

Mr. Hines said if there were any modifications or corrections to the subpoena that would satisfy Game, Fish and Parks and Ms. Mines Bailey on behalf of the Chief Engineer, he would be happy to make those revisions and, if necessary, have a new subpoena issued today. The McCook Lake Recreation Area Association is willing to allow for additional time for the subpoenas, keeping in mind that the deadline for submitting exhibits on the petition for declaratory ruling is July 21, 2023, and if the board sets the water permit application hearing for the same August 2, 2023, date, the evidence deadline for that would also be July 21, 2023. If the board was willing to extend that, there would be additional time for the production of the documents.

Mr. Hines stated that regarding the statutory authority for the subpoena, SDCL 1-26-19.1 clearly gives the board the authority to have subpoenas issued. In SDCL 1-26-18 it is also clear that in contested cases the parties have the right to present evidence on issues of fact and may have subpoenas issued to compel attendance of witnesses and production of evidence. Mr. Hines said he does not see any administrative rules in the board's procedures that explains a process for having a subpoena issued, but SDCL 15-6-45(a) specifically refers back to SDCL 1-26-19.1 and goes on to say that any attorney of record in any action of proceeding or collateral hearing, civil or criminal, may issue subpoenas. It also says that the subpoena has to be transmitted to the clerk of court, secretary, or other filing officer of the board or tribunal. Mr. Hines said if this is not the proper procedure for having a subpoena issued, much of that language would be meaningless. The courts don't have boards or tribunals. This rule clearly states that the attorney of record may issue a subpoena in the name of the board, which was done. Mr. Hines said that subpoena has been issued and transmitted to the board under that rule. It was emailed to Mr. McVey, and it was mailed to the board. Mr. Hines stated that he could submit an affidavit of mailing to the board if the board desires.

Mr. Hines stated that, with regard to the content of the scope of subpoena, thirteen days ago, Ms. Mines Bailey argued to the Water Management Board that the declaratory ruling petition and the water rights issue were so intertwined that they must be heard together. He said he does not understand how now the position could be that these documents, which might be relevant to one couldn't be relevant to another. They are absolutely relevant. Mr. Hines said he assumes this board will set the hearing on the water permit application for August 2, 2023; the same day as the petition for the declaratory ruling. He does not believe it is appropriate for the Attorney General's Office to decide what may or may not be relevant. Mr. Hines said this is a request for documents so he and his clients can decide what would be relevant to submit to the board as evidence for these proceedings.

Mr. Hines stated to the extent that the attorneys general have indicated these subpoenas seek protected, privileged records that they don't have, the association is not expecting any governmental agency to turn over privileged records or to produce records they do not have.

Water Management Board
July 12, 2023, Meeting Minutes

Mr. Bjork commented that the attorneys seem to be interpreting the statutes differently. He said the board needs to decide on the matter based on conflicting information from the two attorneys on the same statutes.

Chairman Larson stated that he did not receive a copy of the subpoena. He asked Mr. Hines if he served the subpoena on Prehearing Chairman Rodney Freeman.

Mr. Hines stated that the rule requires that the subpoena be transmitted to the board. He is not sure if the filing officer of the board is Chairman Larson or Prehearing Chairman Freeman. Mr. Hines said the subpoena was directed to Chairman Larson, but he does not know if that was received in the office. He noted that since the board does not list any email addresses or other ways to communicate with the board, it was mailed to the office.

Chairman Larson stated that if SDCL 15-6-45(a) applies, the attorney issuing the subpoena must transmit a copy to the secretary or other filing officer of the board. Chairman Larson stated that as it stands now, he does not have the subpoena.

Mr. Hines stated that the subpoena has been transmitted, and as is the case under South Dakota law, that transmission occurs when it is mailed. It was mailed on June 30, 2023, the same time the issues were sent for service. He said it was not his intent to create this log jam of time. He said he is operating with an externally shortened timeframe due to Ms. Mines Bailey's impending departure from the Attorney General's Office. Mr. Hines said he is willing to provide all the time necessary, but the subpoenas were transmitted and served on the agencies. He does not yet have returns of service, since they were only served yesterday. If any additional documents require service, he will ensure that they will be served today.

Chairman Larson stated that as of today it is not a valid subpoena because it doesn't matter whether it was sent to the agency; he is supposed to have a copy.

Mr. Hines said he would draft new subpoenas and have them served today.

Chairman Larson questioned the relevance of communications with Ms. Mines Bailey and her client.

Mr. Hines said the subpoena was not intended to obtain communications that are attorney/client privileged; it was intended to obtain communications regarding the shoreline alteration, the water rights permit application, the declaratory ruling and House Bill 1134A.

Chairman Larson asked if it states in the subpoena that Mr. Hines is not asking for attorney/client communications.

Mr. Hines said the subpoena does not specifically say that.

Mr. McVey stated that it would be appropriate for the board go into executive session to consult with legal counsel in accordance with 1-26 and 1-25-2(3).

Water Management Board
July 12, 2023, Meeting Minutes

Motion by Bjork, seconded by Comes, to go into executive session to consult with legal counsel regarding pending legal matters. A roll call vote was taken, and the motion carried unanimously.

The board came out of executive session.

Motion by Bjork, seconded by Dixon to quash the subpoenas issued by John Hines and received by the Department of Agriculture and Natural Resources and the Department of Game, Fish and Parks based upon arguments of counsel and after considering SDCL 1-26-18, 1-26-19, 1-26-19.1 and 15-6-45. A roll call vote was taken, and the motion carried unanimously.

SCHEDULE A SPECIAL MEETING OF THE WATER MANAGEMENT BOARD TO CONSIDER WATER PERMIT APPLICATION NO. 8744-3, DAKOTA BAY: Motion by Dixon, seconded by Bjork, to schedule a hearing in Pierre on August 2, 2023, to consider Water Permit Application No. 8744-3, Dakota Bay. A roll call vote was taken, and the motion carried unanimously.

ADJOURN: Motion by Bjork, seconded by Dixon, to adjourn. The motion carried unanimously.

A court reporter was present, and a transcript of the proceedings may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235.

An audio recording of the meeting is available on the South Dakota Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved October 4, 2023.


Bill Larson (Oct 12, 2023 16:44 CDT)
Water Management Board



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 12, 2023

NOTICE OF HEARING

TO: Stacy R. Hegge, Attorney for Dakota Bay Dakota Bay c/o Michael Chicoine
Gunderson, Palmer, Nelson & Ashmore 32926 482nd Avenue
111 W. Capitol Ave., Suite #230 Jefferson SD 57038
Pierre SD 57501

Ann Mines Bailey, Assistant Attorney John M. Hines, Attorney for McCook Lake
General Recreation Area Association
1302 East Highway 14, Suite 1 Pierre Crary Huff Law Firm
SD 57501-8501 PO Box 27
Sioux City IA 51102

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 8744-3, Dakota Bay

Water Permit Application No. 8744-3, Dakota Bay was scheduled for hearing pursuant to the Notice of Application published in the Daily Press and Dakotan and the Leader-Courier on June 1, 2023. In response to the public notice, a petition in opposition was filed and a request for an automatic delay of the hearing. On June 20, 2023, Notice was given that the hearing was delayed pursuant to SDCL 46-2A-5 and that the Application would be rescheduled for hearing at a future date.

At the July 12, 2023 Water Management Board meeting, the Board directed that Application No. 8744-3 be rescheduled for hearing at 10:00 AM **(Central Time)** on August 2, 2023, at the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave, Pierre SD. The time is an estimate, and the hearing may be delayed due to prior items on the agenda.

To accommodate any Board member who may be unable to attend the August 2, 2023 meeting in person, but who can attend via remote conference, any exhibits to be offered into evidence concerning the Application shall be provided to all parties and Ron Duvall at SD DANR, 523 E. Capitol, Pierre SD 57501 **no later than Friday, July 21, 2023**. Any person offering exhibits shall also have sufficient copies available at the hearing to provide to board members who are present at the hearing, legal counsels, and any other parties to the proceeding.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-4, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notice published in the Daily Press and Dakotan and the Leader-Courier on June 1, 2023, still apply.

Notices, orders, and other pleadings filed in the matter of Water Permit Application No. 8744-3 are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated July 12, 2023, regarding scheduling of a hearing on Water Permit Application No. 8744-3, Dakota Bay, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on July 12, 2023.

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre SD 57501
shegge@gpna.com

Dakota Bay c/o Michael Chicoine
32926 482nd Avenue
Jefferson SD 57038
mjchicoine24@gmail.com

Petitioner's legal counsel as follows:

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102
jhines@craryhuff.com

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
ann.minesbailey@state.sd.us



Ron Duvall
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12 day of July 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 13, 2023

John M. Hines
Crary Huff Law Firm
711 Sioux Point Road, Suite 200
Dakota Dunes, SD 57049

Dear Mr. Hines

Enclosed please find a copy of the administrative file for Water Permit Application No. 8744-3, Dakota Bay (Bates stamped 1 through 426). It is current as of 8:00 AM, July 13, 2023.

Additionally, I would direct you to the following link to see the administrative files for existing water rights in the State:

<https://danr.sd.gov/OfficeOfWater/WaterRights/Databases/WaterRights.aspx#textsearch>.

Sincerely,

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

Duvall, Ron

From: Duvall, Ron
Sent: Thursday, July 13, 2023 3:43 PM
To: John Hines; Kadi Baldridge; Mines Bailey, Ann; Dean Fankhauser; shegge@gpna.com
Subject: RE: [EXT] Exhibit Numbering for McCook Lake Association Petition and Dakota Bay Water Rights Application

Everyone,

In addition to the lake association being provided a numbering scheme, I am providing everyone a numbering scheme to help keep the record straight for each case.

For the McCook Lake Petition for Declaratory Ruling, please use the following:

- Petitioner (McCook Lake) use numbers 1 to 100.
- DANR use 200 to 300
- Dakota Bay use 400 to 500

For Water Permit Application No. 8744-3, Dakota Bay:

- Applicant (Dakota Bay) use letters A, B, C, etc., If you get beyond Z, continue with AA and so on.
- DANR use 600 to 700
- Petitioner (McCook Lake) use 800 to 900

If you have one exhibit that involves both cases, then please have two copies of that exhibit available with each numbered as described above. Also, please remember the deadline for submission of exhibits is July 21.

Thank you,

Ron

From: John Hines <jhines@craryhuff.com>
Sent: Thursday, July 13, 2023 2:02 PM
To: Duvall, Ron <Ron.Duvall@state.sd.us>
Cc: Kadi Baldridge <kbaldridge@craryhuff.com>; Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>; Dean Fankhauser <dfankhauser@siouxcitylawyers.com>; shegge@gpna.com
Subject: [EXT] Exhibit Numbering for McCook Lake Association Petition and Dakota Bay Water Rights Application

Ron,

Since both the Declaratory Ruling and Water Rights Application will be heard on the same day, and some of the exhibits may overlap between the two, I thought it would be good to have everyone on the same page with respect to how the exhibits should be numbered/lettered. Can you let us know how the Association's Exhibits should be numbered in both actions? (i.e. letters in one, numbers in the other; numbers in both; or letters in both?)

John M. Hines
Attorney

PHONE: 712.224.7550
EMAIL: jhines@craryhuff.com

RECEIVED

JUL 14 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
PERMIT APPLICATION
NO. 8744-3

**NOTICE OF
APPEARANCE**

PLEASE TAKE NOTICE AND BE ADVISED that Stacy R. Hegge of Gunderson, Palmer, Nelson & Ashmore, LLP, hereby notes her appearance on behalf of Dakota Bay, LLC, in the above entitled action.

Dated: July 12, 2023.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: Stacy R. Hegge
Stacy R. Hegge
111 West Capitol Ave., Suite #230
Pierre, South Dakota 57501
Telephone: (605) 494-0105
Email: shegge@gpna.com
Attorneys for Dakota Bay, LLC

CERTIFICATE OF SERVICE

I hereby certify on July 12, 2023, a true and correct copy of the foregoing **NOTICE OF APPEARANCE** was filed via U.S. Mail and email with the following individual:

Ron Duvall, SD DANR Water Rights Program
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501
Ron.Duvall@state.sd.us

and served upon the following individuals via U.S. Mail:

John M. Hines
Crary Huff Law Firm
PO Box 27
Sioux City, IA 51102
Attorneys for McCook Lake Recreation Area Association

Bill Larson, Chairman
Water Management Board
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

Rodney Freeman, Prehearing Chairman
Water Management Board
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

with a courtesy copy emailed to:

David M. McVey, Assistant Attorney General
Counsel for Water Management Board
David.McVey@state.sd.us

By: 
Stacy R. Hegge

RECEIVED

JUL 17 2023

OFFICE OF
WATER

AFFIDAVIT

STATE OF IOWA)
) ss.
COUNTY OF WOODBURY)

I, Dirk Lohry, being first duly sworn on oath, depose and state as follows:

1. I am the President of the McCook Lake Recreation Area Association.
2. The McCook Lake Recreation Area Association ("Association") is a South Dakota nonprofit corporation with an initial filing date of December 21, 1964.
3. The Association previously filed restated formation documents on July 15, 1976, and December 30, 2009.
4. At times throughout the Association's history, it has also been referred to as "McCook Lake Recreation Association", "McCook Lake Association", and "McCook Lake Recreation Association, Inc.", including, but not limited to, on Water Permit Nos. 5781-3, 5878-3, 5878A-3, and 6479-3; and U.S. Army Corps of Engineers License Nos. DACW45-3-16-6032 and DACW45-3-22-6001.
5. There is only one McCook Lake Recreation Area Association, and references to "McCook Lake Recreation Association", "McCook Lake Association", "McCook Lake Recreation Association, Inc." and "McCook Lake Recreation Area Association" are references to one and the same nonprofit corporation, namely the McCook Lake Recreation Area Association.

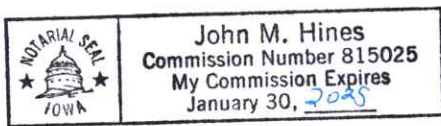
Further affiant sayeth not.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO AFFIDAVIT
REGARDING MCCOOK LAKE RECREATION
AREA ASSOCIATION CORPORATE NAME
SOUTH DAKOTA WATER PERMITS

Dirk Lohry 7-14-23
Dirk Lohry, President

Subscribed and sworn to before me by the said Dirk Lohry on this 14th day of July, 2023.



[Signature]
Notary Public – State of Iowa

JUL 19 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF MCCOOK LAKE
RECREATION AREA ASSOCIATION'S
PETITION FOR DECLARATORY
RULING REGARDING
APPROPRIATIVE PERMITS AND
SHORELINE ALTERATION

and

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC

MOTION FOR SUBPOENAS

COMES NOW Petitioner McCook Lake Recreation Area Association (the "Association") and hereby moves the Water Management Board ("Board") to issue subpoenas to require **Kevin Robling**, Secretary of South Dakota Game, Fish & Parks ("GFP"), or a designee who is competent to testify as to the matters contained herein, to appear and testify on August 2, 2023, at 10:00 a.m. in the above-captioned matters. Mr. Robling's testimony is required for the following reasons:

1. In the Petition for Declaratory Ruling, Ann Mines Bailey, attorney for the Chief Engineer and Water Rights Program, has indicated she intends to offer as evidence the GFP 2023 Fishing Handbook discussing shoreline alterations. A GFP employee should be available to answer questions regarding this document.

2. The administrative file for Application No. 8744-3 includes a letter from Secretary Robling directed to Michael Chicoine/Dakota Bay, LLC regarding the shoreline alteration and its relationship to the water rights application. Secretary Robling should be made available to the parties for questions regarding GFP's concerns about the canal.

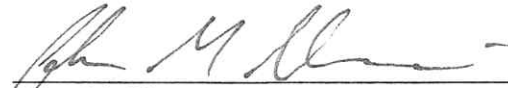
The undersigned has contacted Jon Kotilnek, attorney for GFP, and on July 17, 2023 Mr. Kotilnek informed the undersigned that no staff member from GFP presently plans to attend the August 2 hearings, and department policy prevents employees from testifying for private parties without a subpoena. The Association has the right under SDCL § 1-26-18 to examine witnesses

and to have subpoenas issued to compel attendance of witnesses. Because Secretary Robling, nor any employee of GFP, will agree to appear voluntarily, issuance of the subpoena is necessary and appropriate.

Dated this 17th day of July 2023.

CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

BY:



John M. Hines

711 Sioux Point Road, Suite 200

Dakota Dunes, SD 57049

Phone: (712) 224-7550

Fax: (605) 232-8931

jhines@craryhuff.com



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 24, 2023

NOTICE OF ENTRY OF ORDER

TO: John M. Hines, Attorney for McCook Lake Recreation Area Association
PO Box 27
Sioux City IA 51102

Dean A. Fankhauser, Attorney for Dakota Bay
PO Box 1557
Sioux City IA 51102

Stacy R. Hegge, Attorney for Dakota Bay
111 W. Capitol Ave., Suite #230
Pierre SD 57501

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Notice of Entry of Order Granting in Part McCook Lake Recreation Area Association's Motion for Subpoenas in the matters of McCook Lake Recreation Area Association's Petition for Declaratory Ruling and Water Permit Application No. 8744-3, Dakota Bay

On July 24, 2023, a signed Order and two subpoenas were received from Rodney Freeman, Prehearing Officer, granting, in part, McCook Lake Recreation Area Association's motion for subpoenas in the matters of McCook Lake Recreation Area Association's Petition for Declaratory Ruling and Water Permit Application No. 8744-3, Dakota Bay. Enclosed is the Order and two subpoenas. According to the Order, service of the subpoenas is the responsibility of the Petitioner Association.

Notices, orders, and other pleadings filed in the matter of McCook Lake Recreation Area Association's petition for declaratory ruling and Water Permit Application No. 8744-3, Dakota Bay are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>.

c: Ann Mines Bailey, Assistant Attorney General
David McVey, Assistant Attorney General

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated July 24, 2023, granting in part McCook Lake Recreation Area Association's Motion for Subpoenas in the matters of McCook Lake Recreation Area Association's Petition for Declaratory Ruling and Water Permit Application No. 8744-3, Dakota Bay, the Order signed July 20, 2023, and two Subpoenas also signed July 20, 2023, were served by U. S mail, first class postage prepaid and affixed thereto, upon the following on July 24, 2023.

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102
jhines@craryhuff.com

Dean A. Fankhauser, Attorney
Vriezelaar, Tigges, Edgington,
Bottaro, Boden, & Lessmann, LLP
PO Box 1557
Sioux City IA 51102
dfankhauser@siouxcitylawyers.com

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre SD 57501
shegge@gpna.com

Above sent inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
ann.minesbailey@state.sd.us

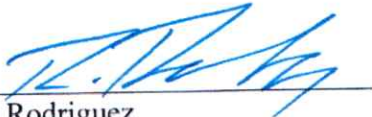
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501
david.mcvey@state.sd.us



Ron Duvall
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of July, 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



RECEIVED

JUL 24 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF MCCOOK LAKE	)	ORDER GRANTING IN PART
RECREATION AREA ASSOCIATION'S	)	MCCOOK LAKE RECREATION
PETITION FOR DECLARATORY	)	AREA ASSOCIATION'S MOTION
RULING REGARDING	)	FOR SUBPOENAS
APPROPRIATIVE PERMITS AND	)	
SHORELINE ALTERATIONS	)	
	)	
And	)	
	)	
IN THE MATTER OF WATER PERMIT	)	
APPLICATION NO. 8744-3, DAKOTA	)	
BAY, LLC	)	
	)	

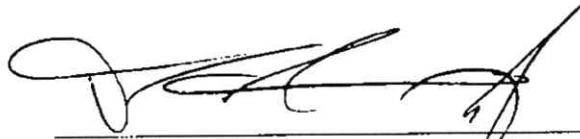
Pending before the Prehearing Chairman is the July 17, 2023 motion by Petitioner McCook Lake Recreation Area Association (the "Association") requesting Water Management Board ("Board") to issue subpoenas to require Kevin Robling, Secretary of South Dakota Game, Fish & Parks ("GFP"), or a designee who is competent to testify as to the matters contained herein, to appear and testify on August 2, 2023, at 10:00 a.m. in the above-captioned matters. Water Rights provided their response to the Motion on July 20, 2023. The Association provided proposed subpoenas for the pre-hearing Chairman to consider. Upon review of the proposed subpoenas, the demand did not allow for the Secretary to name a designee with the knowledge of the matters herein, but rather would have commanded the Secretary himself to appear.

ORDERED: The Motion for subpoenas is granted with the demand revised in relevant part to read as follows:

Pursuant to SDCL §1-26-18, 1-26-19.1, and 15-6-45(a) you, or your designee possessed with knowledge relevant to the matters herein, are hereby commanded to appear to testify in the above-captioned matter at the Matthew Training Center, Joe Foss building, 523 E. Capitol Ave., Pierre, South Dakota on August 2, 2023 at 10:00 a.m.

ORDERED: That the attached signed subpoenas be served by the Petitioner Association in the manner set forth in the South Dakota Codified Law.

Dated this 20th day of July, 2023

A handwritten signature in black ink, appearing to read 'Rodney Freeman', written over a horizontal line.

Rodney Freeman, Prehearing Chairman

RECEIVED

JUL 24 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

OFFICE OF
WATER

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 8744-3, DAKOTA)
BAY, LLC)

SUBPOENA TO TESTIFY

THE STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES WATER MANAGEMENT BOARD TO: Kevin Robling, Secretary, South Dakota Department of Game, Fish and Parks

Pursuant to SDCL §1-26-18, 1-26-19.1, and 15-6-45(a) you, or your designee possessed with knowledge relevant to the matters herein, are hereby commanded to appear to testify in the above-captioned matter at the Matthew Training Center, Joe Foss building, 523 E. Capitol Ave., Pierre, South Dakota on **August 2, 2023 at 10:00 a.m.** The witness's testimony is required for the McCook Lake Recreation Area Association, a party in the above-captioned matter.

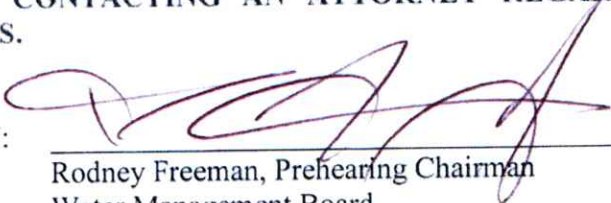
Dated this 20th day of July, 2023.

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)-(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

BY:


Rodney Freeman, Prehearing Chairman
Water Management Board

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

RECEIVED

JUL 24 2023

OFFICE OF
WATER

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY

July 20, 2023

Stacy R. Hegge
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol, Ave., Suite #230
Pierre, SD 57501
shegge@gpna.com

John M. Hines, Attorney
Crary Huff Law Firm
P.O. Box 27
Sioux City, IA 51102
jhines@craryhuff.com

Rodney Freeman, Prehearing Chairman
DANR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Dakota Bay
Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

Dean Fankhouser
Attorney for Dakota Bay
Tigges, Bottaro & Lessman, LLP
613 Pierce Street
Sioux City, IA 51101

David M. McVey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Re: *In the Matter of Water Permit Application No. 8744-3, Dakota Bay, LLC.*

Dear Mr. Freeman:

Enclosed please find a copy of the Chief Engineer's Response to Motion for Subpoenas and Certificate of Service in the above-referenced file.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann F. Mines Bailey".

Ann F. Mines Bailey
Assistant Attorney General

AFM/cmb
Enclosures
cc w/encs: Ron Duvall, DANR Water Rights Program

RECEIVED

JUL 24 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
OFFICE OF
WATER
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC,

)
)
)
)
)

CHIEF ENGINEER'S
RESPONSE TO MOTION
FOR SUBPOENAS

In a Motion for Subpoenas dated July 17, 2023, Mr. Hines seeks to compel the attendance of the South Dakota Department of Game, Fish and Parks Secretary, Kevin Robling. As part of the justification for this subpoena, Mr. Hines offers that the undersigned counsel intends to offer the GFP 2023 Fishing Handbook which discusses shoreline alteration permits and that I will require attendance of an employee from the Department of Game, Fish and Parks to answer questions. For the record, I am not requesting and do not require Secretary Robling's attendance, nor that of any employee of the Department of Game, Fish and Parks at this time.

Dated this 20th day of July 2023.



Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

*Counsel for Chief Engineer and Water Rights
Program, DANR*

RECEIVED

JUL 24 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

OFFICE OF
WATER

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC,

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the Chief Engineer's Response to Motion for Subpoenas, in the above matter, were served by U.S. mail, first-class, postage prepaid, upon the following on this 20th day of July 2023:

Dakota Bay
c/o Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

John M. Hines, Attorney for McCook
Lake Recreation Area Association
Crary Huff Law Firm
P.O. Box 27
Sioux City, IA 51102

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson, Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre, SD 57501

David M. McVey
Assistant Attorney General
Counsel for Water Management Board
1302 East Highway 14, Suite 1
Pierre, SD 57501
(Hand-delivered)

Rodney Freeman, Prehearing Chairman
DANR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

Dean Fankhouser
Attorney for Dakota Bay
Tigges, Bottaro & Lessman LLP
613 Pierce Street
Sioux City, IA 51101

Original Filed with:
Ron Duvall
DANR Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501

MARTY J. JACKLEY
ATTORNEY GENERAL



Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Telephone: (605) 773-3215
Email: Ann.MinesBailey@state.sd.us

Counsel for Water Rights Program, DANR

RECEIVED

JUL 24 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF THE WATER
PERMIT APPLICATION NO. 8744-3

and

MCCOOK LAKE RECREATION AREA
ASSOCIATION'S PETITION FOR
DECLARATORY RULING

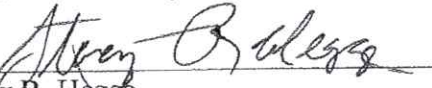
NOTICES OF APPEARANCE

COMES NOW, Dean A. Fankhauser of the law firm Tigges, Bottaro & Lessmann, LLP, and Stacy R. Hegge of the law firm Gunderson Palmer, Nelson & Ashmore, LLP and hereby gives notice of and enters their appearances for Dakota Bay, LLC and Michael Chicoine in the above-captioned matters.

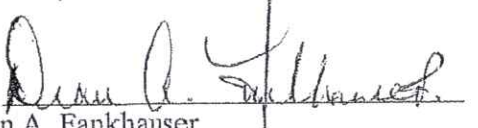
Dated: July 21, 2023.

Respectfully submitted,

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: 
Stacy R. Hegge
111 West Capitol Avenue, Suite 230
Pierre, South Dakota 57501
Telephone: (605) 494-0105
Email: shegge@gpna.com

TIGGES, BOTTARO & LESSMANN, LLP

By: 
Dean A. Fankhauser
613 Pierce Street; PO Box 1557
Sioux City, Iowa 51102
Telephone: (712) 252-3226
Email: dfankhauser@siouxcitylawyers.com

ADMITTED PRO HAC VICE

ATTORNEYS FOR DAKOTA BAY, LLC AND MICHAEL CHICOINE

RECEIVED

JUL 24 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF

WATER PERMIT APPLICATION NO.
8744-3

CERTIFICATE OF SERVICE

The Undersigned, hereby certifies that a true and correct copy of the items listed below in the above-captioned matter were served by US Mail, First-Class, Postage prepaid upon the following on this 21st day of July 2023:

Documents Served:

- Notices of Appearance by Stacy R. Hegge and Dean A. Fankhauser on behalf of Dakota Bay, LLC and Michael Chicoine
- Exhibit 800

Parties Served:

Stacy R. Hegge
Gunderson, Palmer, Nelson & Ashmore, LLP
111 W. Capitol Ave., Suite 230
Pierre, SD 57501
shegge@gpna.com

Dakota Bay, LLC
Michael Chicoine
32926 482nd Ave
Jefferson, SD 57038

John M. Hines
Crary Huff Law Firm
PO Box 27
Sioux City, IA 51102
jhines@craryhuff.com

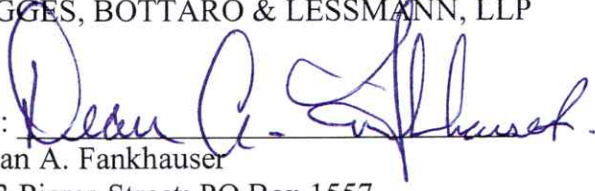
Ann F. Mines Bailey
Assistant Attorney General
Office of Attorney General
1302 E Highway 14, Suite 1
Pierre, SD 57501-8501
ann.minesbailey@state.sd.us

William Larson, Chairman
Water Management Board
Joe Foss Building
523 East Capitol Ave
Pierre, SD 57501

David M. McVey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501

Respectfully submitted,

TIGGES, BOTTARO & LESSMANN, LLP

By: 

Dean A. Fankhauser

613 Pierce Street; PO Box 1557

Sioux City, Iowa 51102

Telephone: (712) 252-3226

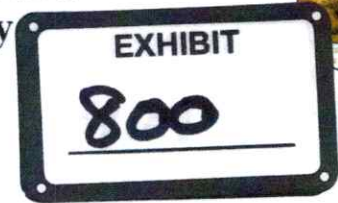
Email: dfankhauser@siouxcitylawyers.com

ADMITTED PRO HAC VICE

ATTORNEYS FOR DAKOTA BAY, LLC AND MICHAEL CHICOINE

ApplicationID:
8864

**Application for Shoreline Alteration of a
South Dakota Public Water Body**



Applicant Name: Mike Chicoine

Business Name: N/A

Mailing Address: 32926 482nd Avenue Jefferson, SD
57038

Project Address: SE1/4 of 16-89-48 Union County, SD
North Sioux City, SD, SD 57049

Phone Number: (712) 898-9173

Email: mjchicoine24@gmail.com or brenda.gabel@gmail.com

Proposed Date Range: 03/01/2022 - 09/01/2022

Water Body:

Name/Description: The canal will run from where we have the marker placed, north, to the Southeast corner of McCook Lake.

Location of water body: **County:** Union | **Latitude:** 42.52103 **Longitude:** -96.50865 | **TRS:** 089N048W16



Purpose of Project:

To construct a waterway southerly from McCook Lake in order to provide lake access to existing residential lots, future lots to be developed and the potential relocation of the McCook Lake Boat Ramp for the city of North Sioux City, SD.

Description of Project:

To excavate a waterway (canal) having a 90-foot wide water surface to allow for 2-way no-wake boat travel to and from residential lots and the proposed relocated boat ramp. Proposed water depth of 8.0 feet with a flat bottom and 2:1 side slopes. Possible private boat docks on both sides leaving a boat travel width of about 46 feet. No wetland areas are to be affected. The area is currently mainly farmland with bordering grass areas. The excavated area will consist of an 11-foot deep, 110-foot wide canal that is approximately 1,800 feet in length.

Has a portion of the project already been completed? No

Description of Portion

Footprint of Project Area (sq. ft.): 522720

Linear Feet of Shoreline: 1800

Type and estimated amount of materials to be excavated: Sand 56000CY

Type and estimated amount of materials to be placed: N/A

Adjacent Landowners:

None. Both sides of the canal are owned by Mike Chicoine.

Comments:

No additional comments at this time

Signature of Applicant: Mike Chicoine

Date: 12/31/2021

RECEIVED

JUL 24 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

OFFICE OF
WATER

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 8744-3, DAKOTA)
BAY, LLC)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE AND BE ADVISED that John M. Hines of Crary, Huff, Ringgenberg, Hartnett & Storm, P.C. hereby notes his appearance on behalf of McCook Lake Recreation Area Association in the above-titled action.

CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

BY:



John M. Hines

711 Sioux Point Road, Suite 200

Dakota Dunes, SD 57049

Phone: (712) 224-7550

Fax: (605) 232-8931

jhines@craryhuff.com

Certificate of Service

The undersigned hereby certifies that on this 20th day of July, 2023 a true and correct copy of the foregoing *Notice of Appearance* was served via U.S. Mail and email to:

Dean Fankhauser
Vriezelaar, Tigges, Edgington,
Bottaro, Boden & Lessman, LLP
613 Pierce Street
PO Box 1557
Sioux City, IA 51102
dfankhauser@siouxcitylawyers.com
Attorneys for Dakota Bay, LLC

Stacy Hegge
111 West Capitol Ave, Suite 230
Pierre, SD 57501
shegge@gpna.com
Attorneys for Dakota Bay, LLC

Water Rights Program
Attn: Ron Duvall
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501
Ron.Duvall @state.sd.us

and via U.S. Mail to:

Water Management Board
Attn: Rodney Freeman, Prehearing Chairman
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501

with a courtesy copy emailed to:

David McVey, Assistant Attorney General
Counsel for Water Management Board
David.McVey@state.sd.us



John M. Hines

RECEIVED

JUL 24 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

OFFICE OF
WATER

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC

SUBPOENA TO TESTIFY

THE STATE OF SOUTH DAKOTA DEPARTMENT OF AGRICULTURE AND
NATURAL RESOURCES WATER MANAGEMENT BOARD TO: Kevin Robling,
Secretary, South Dakota Department of Game, Fish and Parks

Pursuant to SDCL §1-26-18, 1-26-19.1, and 15-6-45(a) you, or your designee possessed with
knowledge relevant to the matters herein, are hereby commanded to appear to testify in the
above-captioned matter at the Matthew Training Center, Joe Foss building, 523 E. Capitol Ave.,
Pierre, South Dakota on **August 2, 2023 at 10:00 a.m.** The witness's testimony is required for
the McCook Lake Recreation Area Association, a party in the above-captioned matter.

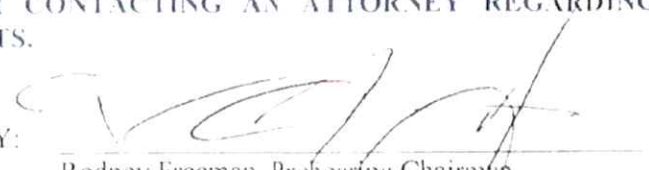
Dated this 20th day of July, 2023.

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT
ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS
DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN
CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS
DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)-(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING
YOUR OBLIGATIONS AND RIGHTS.

BY:


Rodney Freeman, Prehearing Chairman
Water Management Board

RECEIVED

JUL 28 2023

OFFICE OF
WATER

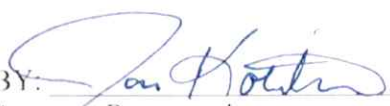
STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC

)
)
) **ADMISSION OF SERVICE**
)
)
)

I, Jon Kotilnek, Attorney representing the South Dakota Department of Game, Fish and Parks, on behalf of Kip Rounds, the authorized designee of Kevin Robling, admit service of a copy of the Subpoena in the above-captioned matter at Pierre, South Dakota, on this 26th day of July, 2023.

**KIP ROUNDS,
DESIGNEE OF KEVIN ROBLING**

BY: 
Attorney Representing
South Dakota Department of Game, Fish and Parks

Dean Fankhauser

From: Dean Fankhauser
Sent: Monday, July 24, 2023 8:50 AM
To: Duvall, Ron; Mines Bailey, Ann; John Hines; Stacy Hegge
Subject: RE: Exhibit for 8744-3: Dakota Bay
Attachments: CCF_000166.pdf

RECEIVED
JUL 27 2023
OFFICE OF
WATER

Good morning everyone:

When I submitted my exhibits on Friday (7/21), I made a mistake on the numbering of the Exhibits for the water Rights Permit. The attached Exhibit A should replace what was previously marked by me as Exhibit 800. This is the same exhibit, except with the correct marking. This will be going out in the mail via priority mail today.

Sincerely,

Dean A. Fankhauser

From: Duvall, Ron <Ron.Duvall@state.sd.us>
Sent: Saturday, July 22, 2023 5:38 PM
To: Dean Fankhauser <dfankhauser@siouxcitylawyers.com>; Mines Bailey, Ann <ann.minesbailey@state.sd.us>; John Hines <jhines@craryhuff.com>; Stacy Hegge <shegge@gpna.com>
Subject: RE: Exhibit for 8744-3: Dakota Bay

Inbound Shield™ has detected this email came from an external source. You are advised to be cautious when clicking on links or opening attachments.

Dean,

Just an FYI – the numbering used on the attached exhibit is duplicating the numbering used by John Hines. The applicant, Dakota Bay, should be using letters (see attached email). Your other email had the exhibits numbered in the correct range for the declaratory ruling matter.

Thank you,

Ron

From: Dean Fankhauser <dfankhauser@siouxcitylawyers.com>
Sent: Friday, July 21, 2023 6:09 PM
To: Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>; John Hines <jhines@craryhuff.com>; Duvall, Ron <Ron.Duvall@state.sd.us>; Stacy Hegge <shegge@gpna.com>
Cc: Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: [EXT] Exhibit for 8744-3: Dakota Bay

Good afternoon:

Please see the attached Exhibit for use by Dakota Bay, LLC and Michael Chicoine related to Water Permit Application No. 8744-3.

ApplicationID:
8864

**Application for Shoreline Alteration of a
South Dakota Public Water Body**



Applicant Name: Mike Chicoine

Business Name: N/A

Mailing Address: 32926 482nd Avenue Jefferson, SD 57038

Project Address: SE1/4 of 16-89-48 Union County, SD North Sioux City, SD, SD 57049

Phone Number: (712) 898-9173

Email: mjchicoine24@gmail.com or brenda.gabel@gmail.com

Proposed Date Range: 03/01/2022 - 09/01/2022

Water Body:

Name/Description: The canal will run from where we have the marker placed, north, to the Southeast corner of McCook Lake.

Location of water body: **County:** Union | **Latitude:** 42.52103 **Longitude:** -96.50865 | **TRS:** 089N048W16



Purpose of Project:

To construct a waterway southerly from McCook Lake in order to provide lake access to existing residential lots, future lots to be developed and the potential relocation of the McCook Lake Boat Ramp for the city of North Sioux City, SD.

Description of Project:

To excavate a waterway (canal) having a 90-foot wide water surface to allow for 2-way no-wake boat travel to and from residential lots and the proposed relocated boat ramp. Proposed water depth of 8.0 feet with a flat bottom and 2:1 side slopes. Possible private boat docks on both sides leaving a boat travel width of about 46 feet. No wetland areas are to be affected. The area is currently mainly farmland with bordering grass areas. The excavated area will consist of an 11-foot deep, 110-foot wide canal that is approximately 1,800 feet in length.

Has a portion of the project already been completed? No

Description of Portion

Footprint of Project Area (sq. ft.): 522720

Linear Feet of Shoreline: 1800

Type and estimated amount of materials to be excavated: Sand 56000CY

Type and estimated amount of materials to be placed: N/A

Adjacent Landowners:

None. Both sides of the canal are owned by Mike Chicoine.

Comments:

No additional comments at this time

Signature of Applicant: Mike Chicoine

Date: 12/31/2021



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 3, 2023

NOTICE

TO: Stacy R. Hegge, Attorney for Dakota Bay Dean A. Fankhauser, Attorney for Dakota Bay
111 W. Capitol Ave., Suite #230 PO Box 1557
Pierre SD 57501 Sioux City IA 51102

Ann Mines Bailey, Assistant Attorney John M. Hines, Attorney for McCook Lake
General Recreation Area Association
1302 East Highway 14, Suite 1 PO Box 27
Pierre SD 57501-8501 Sioux City IA 51102

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Permit Application No. 8744-3, Dakota Bay

The Water Management Board directed counsel for the Water Rights Program to prepare proposed Findings of Fact, Conclusions of Law, and a Final Decision in the matter of the Board's approval of Water Permit Application No. 8744-3, Dakota Bay.

The Board requested the proposed Findings of Fact, Conclusions of Law and Final Decision be mailed to Board Counsel David McVey and all other parties by August 23, 2023. Written objections or comments in support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law, and Final Decision are to be mailed to Board and Water Rights Program counsel and other parties by September 11, 2023. Board counsel requests that the draft findings or alternative findings be provided in both a PDF format and a WORD format file via email to David.McVey@state.sd.us.

The Board will consider adoption of the Findings of Fact, Conclusions of Law, and Final Decision at 9:30 AM (Central Time), on Wednesday, October 4, 2023, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior issues on the agenda. Notice will be provided if there is a change in the hearing time.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision may be made at the October 4, 2023 meeting. The evidentiary hearing was completed August 2, 2023. No additional testimony will be received at the meeting on October 4, 2023.

If you have questions about the findings process, please contact Ann Mines-Bailey at (605) 773-3215.

c: David McVey, Assistant Attorney General

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice dated August 3, 2023, regarding preparation of proposed findings of fact, conclusions of law and a final decision in the matter of Water Permit Application No. 8744-3, Dakota Bay, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on August 3, 2023.

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre SD 57501

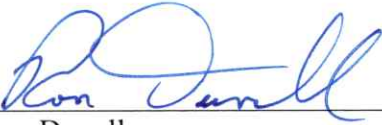
Dean A. Fankhauser, Attorney
Tigges, Bottaro & Lessmann, LLP
PO Box 1557
Sioux City IA 51102

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



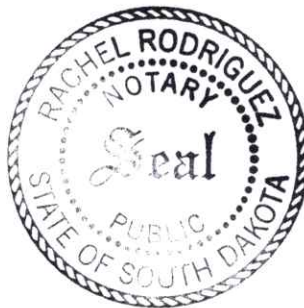
Ron Duvall
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3 day of August 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

RECEIVED

AUG 21 2023

**OFFICE OF
WATER**

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY

August 18, 2023

Stacy R. Hegge
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol, Ave., Suite #230
Pierre, SD 57501
shegge@gpna.com

John M. Hines, Attorney
Crary Huff Law Firm
P.O. Box 27
Sioux City, IA 51102
jhines@craryhuff.com

Dakota Bay
Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

Dean Fankhouser
Tigges, Bottaro & Lessman, LLP
613 Pierce Street
Sioux City, IA 51101

David M. McVey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Re: *In the Matter of Water Permit Application No. 8744-3, Dakota Bay, LLC.*

To whom it may concern:

Enclosed please find a copy of the proposed Findings of Fact, Conclusions of Law and Final Decision and Certificate of Service in the above-referenced file.

Sincerely,

A handwritten signature in blue ink, reading "Ann F. Mines Bailey".

Ann F. Mines Bailey
Assistant Attorney General

AFM/mb
Enclosures
cc w/encs: Ron Duvall, DANR Water Rights Program

RECEIVED

AUG 21 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	FINDINGS OF FACT,
APPLICATION NO. 8744-3, DAKOTA	)	CONCLUSIONS OF LAW
BAY, LLC,	)	AND FINAL DECISION

This matter came before the South Dakota Water Management Board for hearing on August 2, 2023. Board members Peggy Dixon, Rodney Freeman, Tim Bjork, Leo Holzbauer, and Bill Larson attended the hearing and heard the evidence presented. Applicant, Dakota Bay was represented by Dean A. Fankhauser and Stacy R. Hegge. Petitioner, McCook Lake Recreation Area Association (Association), was represented by John M. Hines. Ann F. Mines Bailey represented the Department of Agriculture and Natural Resources, Water Rights Program (Program) and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On March 29, 2023, the Program received Water Permit Application No. 8744-3 from Michael Chicoine on behalf of Dakota Bay seeking an appropriation of 28.6 acre-feet of water for the first year and 7.99 acre-feet of water per year thereafter at a maximum diversion rate of 1.55 cubic feet of water per second (cfs) from one existing well completed into the

Missouri: Elk Point aquifer for recreational use for an initial fill of a canal to be constructed along southeast shore of McCook Lake and thereafter to cover losses due to evaporation and seepage. The well is located in the E½SE¼ Sec. 16 T89N-R48W and is permitted for irrigation use under Water Permit No. 6557-3.

2. The Chief Engineer, Eric Gronlund, recommended approval of the application subject to qualifications.

3. Notice of Water Permit Application No. 8744-3 was timely advertised on June 1, 2023, in The Leader-Courier (Union County) and the Yankton Daily Press and Dakotan (Yankton County) and posted on the DANR website.

4. Water Rights received a timely petition in opposition to Water Permit Application No. 8744-3 from the Association on June 12, 2023.

5. The matter was scheduled to be heard by the Water Management Board during its July 12, 2023 meeting. A request for an automatic delay was made and the July 12 hearing was delayed.

6. The Chief Engineer moved for a special meeting so that this matter could be heard in conjunction with the Association's petition for declaratory ruling which requested in part that the Board rule that Dakota Bay's project required a permit appropriating the waters of McCook Lake.

7. Water Permit Application No. 8744-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 whether there is a reasonable probability that unappropriated water is

available for the proposed use, whether the proposed use would impair existing domestic water uses and water rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest pertaining to matters of public interest within the regulatory authority of the Water Management Board.

8. The Association holds a permit/right for the appropriation of water from the Missouri River to be pumped into McCook Lake for the purpose of recreation to stabilize lake levels.

9. Nakaila Steen, a natural resources engineer with Water Rights, performed a technical review of the application and prepared a report. Ms. Steen provided expert testimony regarding the technical review of the application to the Board.

10. The Missouri: Elk Point aquifer is composed of glacial outwash consisting of fine sand to very coarse gravel. Within the State of South Dakota, the aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties. At the time of completion, aquifer material at the proposed point of diversion was approximately 95 feet thick. The aquifer varies from unconfined to confined conditions but generally behaves as an unconfined aquifer. At the point of diversion, the aquifer is under confined conditions with the existing well completion report demonstrating an artesian head pressure of approximately 40 feet at the time the well was constructed.

11. The Missouri: Elk Point aquifer receives recharge through infiltration of precipitation and from seepage from the Big Sioux, James,

Missouri, and Vermillion rivers and inflow from the Lower Vermillion-Missouri, Lower James-Missouri, Big Sioux, and Dakota aquifers. The best information available regarding recharge to the Missouri: Elk Point aquifer includes two studies – one based upon the observation well data and the other involving induced recharge to the aquifer due to pumping by the Lewis and Clark Regional Water System. The combined total of the estimated average annual recharge equals approximately 114,593.9 acre-feet of water per year.

12. Ms. Steen calculated withdrawals from the Missouri: Elk Point aquifer in South Dakota to be approximately 100,591 acre-feet per year, including water reserved by future use permits and requested by this application.

13. Ms. Steen further testified that there are 36 observation wells completed into the Missouri: Elk Point aquifer. A review of the data from those observation wells indicates that the aquifer is responding to climatic conditions and that natural discharge is available for capture. Several of the observation wells located near the Missouri River indicate a gradual downward trend. Ms. Steen testified that the downward trend is a result of the lowering of the water table due to the entrenchment (deepening of the channel and/or widening of the bed) of the Missouri River and not evidence of over-appropriation of the aquifer.

14. Ms. Steen testified it is her conclusion that, based upon her review of the best information available regarding recharge to the aquifer,

existing water rights, and the observation well data, there is sufficient unappropriated water available to satisfy this application.

15. There were 647 existing water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer in South Dakota at the time this application was submitted.

16. Ms. Steen testified that the nearest existing domestic well on record is located approximately 0.25 miles south of the proposed point of diversion and owned by Mr. Chicoine. The next nearest domestic well not owned by the applicant is located approximately 0.3 miles northwest of the proposed point of diversion.

17. The nearest existing water rights are three separate water rights/permits each located approximately one mile from the proposed point of diversion – one to the west and two to the southeast.

18. The nearest observation well is located approximately 0.6 miles from the proposed point of diversion.

19. Ms. Steen testified that the Missouri: Elk Point aquifer is a tremendous resource and given the saturated thickness of the aquifer in the area of the proposed point of diversion and relatively small volume requested by this application, there is a reasonable probability that the application could be developed without unlawful impairment to existing domestic uses and water rights. Bolstering her conclusion is that this point of diversion has been operating with the same rate of diversion under the irrigation permit since 2005 and there is no history of complaints.

20. Ms. Steen further testified that in her expert opinion an unlawful impairment will first occur in the source from which the appropriation is made.

21. The Board finds Ms. Steen to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Steen's testimony and the reports and exhibits which she prepared and/or upon which she relied.

22. The Board received testimony from Michael Chicoine who sought the application on behalf of Dakota Bay. Mr. Chicoine testified that he has applied for a shoreline alteration permit from the South Dakota Department of Game, Fish and Parks. He plans to construct a canal stemming off of McCook Lake to provide lake access for current residents, potential future residents, and the public. Mr. Chicoine provided testimony regarding the construction of the canal which includes an 18-inch fat, clay liner.

23. Kip Rounds, regional supervisor with the South Dakota Department of Game, Fish and Parks, also provided testimony to the Board. Mr. Rounds testified that he is familiar with Mr. Chicoine's shoreline alteration application and the proposed canal project. Mr. Rounds testified that the Department of Game, Fish and Parks has concerns that if the canal liner were to dry out, the integrity of the liner and ability to reduce seepage would be compromised.

24. The Board also received testimony from Dirk Lohry. Mr. Lohry testified that the Association will bear the burden of filling the canal should

Mr. Chicoine's well fail or water is not pumped under this proposed appropriation.

25. Petitioner did not submit sufficient evidence through expert opinions, testimony, or other evidence that would support a determination that there is a not reasonable probability that there is unappropriated water available, that there would be an unlawful impairment should the application be granted, that this appropriation is not a beneficial use of water, or that it is not in the public interest.

26. The Board finds that, based upon the best information reasonably available, the factors of SDCL § 46-2A-9 are satisfied.

27. The evidence establishes that there is unappropriated water available in the Missouri: Elk Point aquifer to satisfy this application.

28. The evidence establishes the proposed diversion would not unlawfully impair existing domestic water uses or water rights.

29. The Board further finds that the proposed use of the water for recreation, to fill the proposed canal and replace losses of water due to evaporation or seepage, constitutes a beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made, and the Notices of Hearing were properly issued pursuant to SDCL § 46-2A-4.

3. The Chief Engineer recommended granting the application. The recommendation, however, is not binding on the Board. SDCL § 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.

5. The Board concludes that the applicant has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that a permit to appropriate water may be issued “only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic uses and water rights and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by §§ 46-2-9 and 46-2-11.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

8. South Dakota Codified Law, section 46-6-3.1 provides an exception to the recharge/withdrawal limitation. It states in pertinent part, “[a]n application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the estimated average annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older and stratigraphically lower than the Greenhorn Formation. Additionally, the permit is not for use in a water distribution system. Thus, the appropriation may not be granted if the withdrawal would exceed the estimated annual recharge.

9. The Board concludes it is not probable withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if the application is granted.

10. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

11. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing domestic uses and water rights. The proposed diversion can be developed without unlawful impairment of existing water rights or domestic water uses.

12. The third element set forth in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use for recreation is a beneficial use.

13. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL § 6-1-6(3). The Board concludes that this appropriation of water for recreation is in the public interest.

14. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8744-3 is granted with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed

water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri Elk Point aquifer.

3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri: Elk Point aquifer.

Dated this ____ day of October, 2023.

BY THE BOARD:

South Dakota Water Management Board

RECEIVED

AUG 21 2023

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

OFFICE OF
WATER

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT
APPLICATION NO. 8744-3, DAKOTA
BAY, LLC,

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copy of the proposed Findings of Fact, Conclusions of Law and Final Decision, in the above matter, was served by U.S. mail, first-class, postage prepaid, upon the following on this 18th day of August 2023:

Dakota Bay
c/o Michael Chicoine
32926 482nd Avenue
Jefferson, SD 57038

John M. Hines, Attorney for McCook
Lake Recreation Area Association
Crary Huff Law Firm
P.O. Box 27
Sioux City, IA 51102

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson, Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre, SD 57501

David M. McVey
Assistant Attorney General
Counsel for Water Management Board
1302 East Highway 14, Suite 1
Pierre, SD 57501
(Hand-delivered and emailed)

Original Filed with:
Ron Duvall
DANR Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Dean Fankhouser
Attorney for Dakota Bay
Tigges, Bottaro & Lessman LLP
613 Pierce Street
Sioux City, IA 51101

MARTY J. JACKLEY
ATTORNEY GENERAL


Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Ste. 1
Pierre, SD 57501
Telephone: (605) 773-3215
Email: Ann.MinesBailey@state.sd.us

Counsel for Water Rights Program, DANR

SEP 11 2023

OFFICE OF
WATER
SOURCES

OBJECTIONS AND ALTERNATIVE FINDINGS OF FACT AND CONCLUSIONS OF LAW

4. The Association objects to Paragraph 25 of the proposed Findings of Fact. The Association is not the petitioner in this action. Dakota Bay, LLC/Michael Chicoine has the burden to prove under SDCL § 46-2A-9 that there is unappropriated water available for the

proposed use, that the use would not impair existing water uses and water rights, whether the use would be beneficial, and whether the proposed use is in the public interest. Dakota Bay, LLC/Michael Chicoine failed to carry that burden.

5. The Association objects to Paragraph 26 of the proposed Findings of Fact. Dakota Bay, LLC/Michael Chicoine provided no evidence that the Association's water rights would not be unlawfully impaired. Mr. Chicoine's failure to provide engineering or technical specifications for his "canal" provides no basis for the Board to conclude the proposed water use will be beneficial. Mr. Chicoine's unsupported testimony regarding his intent to create public access is legally insufficient for the Board to conclude that the use is in the public interest.

6. The Association objects to Paragraph 28 of the proposed Findings of Fact for the reasons stated above.

7. The Association objects to Paragraph 29 of the proposed Findings of Fact for the reasons stated above.

8. The Association objects to Paragraph 30 of the proposed Findings of Fact for the reasons stated above.

9. The Association objects to Paragraph 3 of the proposed Conclusions of Law. The applicant provided insufficient evidence of the factors set forth in SDCL § 46-2A-9.

10. The Association objects to Paragraph 11 of the proposed Conclusions of Law. The purpose of the proposed water use is to fill a yet-to-be constructed "canal", which will unlawfully impair the Association's existing water rights.

11. The Association objects to Paragraph 12 of the proposed Conclusions of Law. No evidence was presented regarding the design or specifications of the "canal"; thus, the Board has no basis to conclude that the proposed use is reasonable, beneficial, or in the public interest.

12. The Association objects to Paragraph 13 of the proposed Conclusions of Law. No evidence was presented regarding the design or specifications of the “canal”; thus, the Board has no basis to conclude that the proposed use is reasonable, beneficial, or in the public interest.

13. Lastly, the Association objects to the proposed Findings of Fact, Conclusions of Law and Final Decision because the Board voted at its hearing that approval of Water Permit No. 8744-3 would be conditioned on requirements set by the Chief Engineer pertaining to the water use. The proposed decision contains no such requirements, and thus the proposed decision fails to comply with the Board’s ruling. The Chief Engineer should make a record of what requirements or conditions are to be placed on Water Permit No. 8744-3, and those requirements and conditions should be made part of the Final Decision.

Dated this 8th day of September, 2023.

CRARY, HUFF, RINGGENBERG, HARTNETT &
STORM, P.C.

BY:



John M. Hines
Crary Huff Law Firm
PO Box 27
Sioux City, IA 51102
Phone: (712) 224-7550
Fax: (605) 232-8931
jhines@craryhuff.com

Certificate of Service

The undersigned hereby certifies that on this 8th day of September, 2023 a true and correct copy of the foregoing *Objections and Alternative Findings of Fact and Conclusions of Law* was served by U.S. Mail, first-class, postage prepaid, upon the following:

Dakota Bay, LLC
c/o Dean Fankhauser
613 Pierce Street
Sioux City, IA 51101

Dakota Bay, LLC
c/o Stacy Hegge
111 West Capitol Ave, Suite 230
Pierre, SD 57501

David M. McVey
Assistant Attorney General
Counsel for Water Management Board
1302 East Highway 14, Suite
Pierre, SD 57501

South Dakota Attorney General's Office
Attn: Counsel for Chief Engineer/
Water Rights Program
1302 East Highway 14, Suite 1
Pierre, SD 57501

Cc Ron Duvall, DANR Water Rights Program



John M. Hines



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 22, 2023

Water Management Board:

Enclosed is the agenda for the Water Management Board meeting to be held Wednesday, October 4, 2023. The meeting will begin at 9:30 AM (**Central Time**) on October 4, in the Matthew Training Center in the Joe Foss Building, 523 E Capitol Avenue, Pierre SD and is scheduled for one day.

NOTE: Regarding participation in this meeting, there are no contested cases and the agenda is short so this meeting will be conducted via remote conference. Connection information is provided below.

Enclosed for this Board meeting is:

- Agenda
- Draft minutes of the July 12, 2023, and August 2, 2023 Board meetings
- Cancellation list, notices, and recommendations
- Future Use Permit review list, recommendations, correspondence from permit holder and affidavits of publication
- List of unopposed new water permit applications either issued or to be issued based on Chief Engineer's recommendation
- Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 8744-3, Dakota Bay
 - o Findings of Fact, Conclusions of Law, and Final Decision prepared by David McVey
 - o Objections and Alternatives to Proposed Findings of Fact, Conclusions of Law and Final Decision prepared by John Hines
- Findings of Fact, Conclusions of Law, and Final Decision in the matter of McCook Lake Recreation Area Association's Petition for Declaratory Ruling
 - o Findings of Fact, Conclusions of Law, and Final Decision prepared by David McVey
 - o Objections and Alternatives to Proposed Findings of Fact, Conclusions of Law and Final Decision prepared by John Hines
- Water Permit Application Nos. 8221B-3 and 8278A-3, Sonstegard Food Company
 - o Correspondence from applicant
 - o Application recommendations and reports
 - o Affidavits of publication (**includes Notice of Hearing**)
- Future Use Water Permit Application No. 8778-3, WEB Water Development Association, Inc.
 - o Correspondence from applicant
 - o Application recommendations and reports
 - o Affidavits of publication (**includes Notice of Hearing**)

To connect remotely to the board meeting, you have one of the two following options. **Please note, if you intend to speak, the court reporter prefers that you participate using Option 1 so she can see you as you speak. This helps with the court reporter's ability to record the conversation. However, it is not required to have video, using the call-in number is fine.**

Option 1. Audio/visual via Microsoft Teams. To be seen and heard requires a device equipped with a camera and microphone and an internet connection. No software install is necessary, the recommended web browser is Google Chrome or Microsoft Edge.

To participate, start the browser and navigate to **<https://www.microsoft.com/microsoft-teams/join-a-meeting>**. (you will also be provided via email a link that you can click to join the meeting)

When prompted, enter the following to join the meeting:

Meeting ID: 293 041 399 502

Passcode: o5x4pF

Option 2. Connect via audio only. Call 605-679-7263 and enter 191 842 605#

I recommend joining the meeting a few minutes before the agenda start time to ensure you can get connected. You can connect as early as 9:15 AM meeting starts at 9:30 AM **(Central Time)**.

Please contact us if you are unable to participate in the meeting. Ron Duvall can be reached at (605) 773-3352 or by email at ron.duvall@state.sd.us.

Sincerely,



Eric Gronlund, Chief Engineer
Water Rights Program, DANR

enclosures

c: Legislative Oversight Committee
David McVey
Charles McGuigan
Brenda Binegar



DANR

SOUTH DAKOTA

WATER MANAGEMENT BOARD Meeting on October 4, 2023

Floyd Matthew Training Center
Joe Foss Bldg., 523 E Capitol Ave, Pierre SD

Any person(s) interested in speaking during the public comment period via remote connection can learn how at <https://boardsandcommissions.sd.gov> on the Water Management Board page.

Scheduled times are based on Central Time and are estimated start times.

Agenda items may be delayed due to prior scheduled items.

Live audio of the meeting is available at <https://www.sd.net>

October 4, 2023

- 9:30 AM Call to Order
 Roll Call
 Adopt Final Agenda
 Conflicts Disclosures and Requests for State Board Waivers
 Adopt July 12, 2023, and August 2, 2023 Board Minutes
 Set December 6 - 7, 2023 Meeting Dates and Location
 Public comment period in accordance with SDCL 1-25-1
 Update on DANR Activities
 Status and Review of Water Rights Litigation

 Administer Oath to Department of Agriculture and Natural Resources Staff
 Cancellation Considerations – Ron Duvall
 Future Use Reviews – Ron Duvall

 Consider Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 8744-3, Dakota Bay

 Consider Findings of Fact, Conclusions of Law, and Final Decision in the matter of McCook Lake Recreation Area Association's Petition for Declaratory Ruling
- 9:45 AM Consider Water Permit Application Nos. 8221B-3 and 8278A-3, Sonstegard Food Company – Eric Gronlund

 Consider Future Use Water Permit Application No. 8778-3, WEB Water Development Association, Inc. – Mark Rath

LUNCH

Continue any prior agenda items not yet completed.

ADJOURN

WATER MANAGEMENT BOARD

Meeting on October 4, 2023

Board members are reminded they are subject to SDCL 3-23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

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.

RECEIVED

SEP 20 2023

OFFICE OF
WATER

STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 8744-3, DAKOTA)	CONCLUSIONS OF LAW
BAY, LLC,)	AND DECISION

This matter came before the South Dakota Water Management Board for hearing on August 2, 2023. Board members Peggy Dixon, Rodney Freeman, Tim Bjork, Leo Holzbauer, and Bill Larson attended the hearing and heard the evidence presented. Applicant, Dakota Bay was represented by Dean A. Fankhauser and Stacy R. Hegge. Petitioner, McCook Lake Recreation Area Association (Association), was represented by John M. Hines. Ann F. Mines Bailey represented the Department of Agriculture and Natural Resources, Water Rights Program (Program) and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

A. FINDINGS OF FACT

1. On March 29, 2023, the Program received Water Permit Application No. 8744-3 from Michael Chicoine on behalf of Dakota Bay seeking an appropriation of 28.6 acre-feet of water for the first year and 7.99 acre-feet of water per year thereafter at a maximum diversion rate of 1.55 cubic feet of water per second (cfs) from one existing well completed into the

Missouri: Elk Point aquifer for recreational use for an initial fill of a canal to be constructed along southeast shore of McCook Lake and thereafter to cover losses due to evaporation and seepage. The well is located in the E½SE¼ Sec. 16 T89N-R48W and is permitted for irrigation use under Water Permit No. 6557-3.

2. The Chief Engineer, Eric Gronlund, recommended approval of the application subject to qualifications.

3. Notice of Water Permit Application No. 8744-3 was timely advertised on June 1, 2023, in The Leader-Courier (Union County) and the Yankton Daily Press and Dakotan (Yankton County) and posted on the DANR website.

4. Water Rights received a timely petition in opposition to Water Permit Application No. 8744-3 from the Association on June 12, 2023.

5. The matter was scheduled to be heard by the Water Management Board during its July 12, 2023 meeting. A request for an automatic delay was made and the July 12 hearing was delayed.

6. The Chief Engineer moved for a special meeting so that this matter could be heard in conjunction with the Association's petition for declaratory ruling which requested in part that the Board rule that Dakota Bay's project required a permit appropriating the waters of McCook Lake.

7. Water Permit Application No. 8744-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 whether there is a reasonable probability that unappropriated water is

available for the proposed use, whether the proposed use would impair existing domestic water uses and water rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest pertaining to matters of public interest within the regulatory authority of the Water Management Board.

8. The Association holds a permit/right for the appropriation of water from the Missouri River to be pumped into McCook Lake for the purpose of recreation to stabilize lake levels.

9. Nakaila Steen, a natural resources engineer with Water Rights, performed a technical review of the application, and prepared a report. Ms. Steen provided expert testimony regarding the technical review of the application to the Board.

10. The Missouri: Elk Point aquifer is composed of glacial outwash consisting of fine sand to very coarse gravel. Within the State of South Dakota, the aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties. At the time of completion, aquifer material at the proposed point of diversion was approximately 95 feet thick. The aquifer varies from unconfined to confined conditions but generally behaves as an unconfined aquifer. At the point of diversion, the aquifer is under confined conditions with the existing well completion report demonstrating an artesian head pressure of approximately 40 feet at the time the well was constructed.

11. The Missouri: Elk Point aquifer receives recharge through infiltration of precipitation and from seepage from the Big Sioux, James,

Missouri, and Vermillion rivers and inflow from the Lower Vermillion-Missouri, Lower James-Missouri, Big Sioux, and Dakota aquifers. The best information available regarding recharge to the Missouri: Elk Point aquifer includes two studies: One based upon the observation well data and the other involving induced recharge to the aquifer due to pumping by the Lewis and Clark Regional Water System. The combined total of the estimated average annual recharge equals approximately 114,593.9 acre-feet of water per year.

12. Ms. Steen calculated withdrawals from the Missouri: Elk Point aquifer in South Dakota to be approximately 100,591 acre-feet per year, including water reserved by future use permits and requested by this application.

13. Ms. Steen further testified that there are 36 observation wells completed into the Missouri: Elk Point aquifer. A review of the data from those observation wells indicates that the aquifer is responding to climatic conditions and that natural discharge is available for capture. Several of the observation wells located near the Missouri River indicate a gradual downward trend. Ms. Steen testified that the downward trend is a result of the lowering of the water table due to the entrenchment (deepening of the channel and/or widening of the bed) of the Missouri River and not evidence of over-appropriation of the aquifer.

14. Ms. Steen testified it is her conclusion that, based upon her review of the best information available regarding recharge to the aquifer,

existing water rights, and the observation well data, there is sufficient unappropriated water available to satisfy this application.

15. There were 647 existing water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer in South Dakota at the time this application was submitted.

16. Ms. Steen testified that the nearest existing domestic well on record is located approximately 0.25 miles south of the proposed point of diversion and owned by Mr. Chicoine. The next nearest domestic well not owned by the applicant is located approximately 0.3 miles northwest of the proposed point of diversion.

17. The nearest existing water rights are three separate water rights/permits each located approximately one mile from the proposed point of diversion: One to the west and two to the southeast.

18. The nearest observation well is located approximately 0.6 miles from the proposed point of diversion.

19. Ms. Steen testified that the Missouri: Elk Point aquifer is a tremendous resource and given the saturated thickness of the aquifer in the area of the proposed point of diversion and relatively small volume requested by this application, there is a reasonable probability that the application could be developed without unlawful impairment to existing domestic uses and water rights. Bolstering her conclusion is that this point of diversion has been operating with the same rate of diversion under the irrigation permit since 2005 and there is no history of complaints.

20. Ms. Steen further testified that in her expert opinion an unlawful impairment will first occur in the source from which the appropriation is made.

21. The Board finds Ms. Steen to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Steen's testimony and the reports and exhibits which she prepared and/or upon which she relied.

22. The Board received testimony from Michael Chicoine who sought the application on behalf of Dakota Bay. Mr. Chicoine testified that he has applied for a shoreline alteration permit from the South Dakota Department of Game, Fish and Parks. He plans to construct a canal stemming off McCook Lake to provide lake access for current residents, potential future residents, and the public. Mr. Chicoine provided testimony regarding the construction of the canal which includes an 18-inch fat, clay liner.

23. Kip Rounds, regional supervisor with the South Dakota Department of Game, Fish and Parks, also provided testimony to the Board. Mr. Rounds testified that he is familiar with Mr. Chicoine's shoreline alteration application and the proposed canal project. Mr. Rounds testified that the Department of Game, Fish and Parks has concerns that if the canal liner were to dry out, the integrity of the liner and ability to reduce seepage would be compromised.

24. The Board also received testimony from Dirk Lohry. Mr. Lohry testified that the Association will bear the burden of filling the canal should

Mr. Chicoine's well fail, or water is not pumped under this proposed appropriation.

25. Petitioner did not submit sufficient evidence through expert opinions, testimony, or other evidence that would support a determination that there is a not reasonable probability that there is unappropriated water available, that there would be an unlawful impairment should the application be granted, that this appropriation is not a beneficial use of water, or that it is not in the public interest.

26. The Board finds that, based upon the best information reasonably available, the factors of SDCL § 46-2A-9 are satisfied.

27. The evidence establishes that there is unappropriated water available in the Missouri: Elk Point aquifer to satisfy this application.

28. The evidence establishes the proposed diversion would not unlawfully impair existing domestic water uses or water rights.

29. The Board further finds that the proposed use of the water for recreation, to fill the proposed canal and replace losses of water due to evaporation or seepage, constitutes a beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

B. OBJECTIONS TO FINDINGS OF FACT

Water Rights filed Proposed Findings of Fact and the Petitioner filed objections and proposed alternate findings. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Findings of Fact are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 20 of the Proposed Findings asserting that "SDCL § 46-2A-9 does not limit analysis of unlawful impairment to the same water source." There is ample evidence set forth in the record generally and especially by the expert testimony of Nakaila Steen and Exhibits 600 and 605 to support the Board's conclusion that the proposed diversion would not unlawfully impair existing domestic water uses or water rights. No alternative Finding is proposed. Petitioner's objection is noted.
2. The Association objects to Paragraph 25 of the proposed Findings and asserts that the applicant, Dakota Bay, LLC/Michael Chicoine, failed to carry their burden to prove that the requirements set forth in SDCL §46-2A-9 have been met. There is ample evidence set forth in the record generally and especially in Exhibits 600, 603, 604, and 605, along with the expert testimony of NaNakila Steen and the testimony of Applicant Michael Chicoine to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
3. The Association objects to Paragraphs 26, 28, and 30 of the proposed Findings and asserts as support:

Dakota Bay, LLC/Michael Chicoine provided no evidence that the Association's water rights would not be unlawfully impaired. Mr. Chicoine's failure to provide engineering or technical specifications for his "canal" provides no basis for the Board to conclude the proposed water use will be beneficial. Mr. Chicoine's unsupported testimony regarding his intent to create public access is legally insufficient for the Board to conclude that the use is in the public interest.

Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.

C. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. The Board has jurisdiction over this matter. The application falls within the Board's responsibility over water appropriation and regulation in Title 46.
2. Publication was properly made, and the Notices of Hearing were properly issued pursuant to SDCL § 46-2A-4.
3. The Chief Engineer recommended granting the application. The recommendation, however, is not binding on the Board. SDCL § 46-2A-4(8).
4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.
5. The Board concludes that the applicant has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that a permit to appropriate water may be issued “only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic uses and water rights and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by §§ 46-2-9 and 46-2-11.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

8. South Dakota Codified Law, section 46-6-3.1 provides an exception to the recharge/withdrawal limitation. It states in pertinent part, “[a]n application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the estimated average annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older

and stratigraphically lower than the Greenhorn Formation. Additionally, the permit is not for use in a water distribution system. Thus, the appropriation may not be granted if the withdrawal would exceed the estimated annual recharge.

9. The Board concludes it is not probable withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if the application is granted.

10. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

11. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing domestic uses and water rights. The proposed diversion can be developed without unlawful impairment of existing water rights or domestic water uses.

12. The third element set forth in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use for recreation is a beneficial use.

13. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL

§ 6-1-6(3). The Board concludes that this appropriation of water for recreation is in the public interest.

14. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

D. OBJECTIONS TO CONCLUSIONS OF LAW

Water Rights filed Proposed Conclusions of Law and Petitioner filed objections to the proposed conclusions of law. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Conclusions of Law are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 3 of the proposed Conclusions of Law and asserts that the "applicant provided insufficient evidence of the factors set forth in SDCL § 46-2A-9." Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
2. The Association objects to Paragraph 11 of the proposed Conclusions of Law and asserts that the purpose of the proposed water use... will unlawfully impair the Association's existing water rights." This assertion is inconsistent with the evidence in the record specifically, Exhibits 600, 604, 604, and 605 and the expert testimony of NaNakila Steen.
3. The Association objects to Paragraphs 12 and 13 of the proposed Conclusions of Law and asserts no "evidence was presented regarding the design or specifications of the "canal"; thus, the Board has no basis to

conclude that the proposed use is reasonable, beneficial, or in the public interest.” Beneficial use is defined in SDCL §46-1-6(3) as:

“any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.”

SDCL §46-1-1 further states that the:

“people of the state have a paramount interest in the use of all the water of the state and that the state shall determine what water of the state, surface and underground, can be converted to public use or controlled for public protection.

The record in its entirety including the exhibits and testimony of the witnesses is sufficient to support the Board’s conclusion that the proposed (recreational) use as set forth in the application is reasonable, in the public interest and is beneficial to the appropriator.

4. The Association objected to the proposed Findings of Fact, Conclusions of Law, and Final Decision in that the decision and states that:

“because the Board voted at its hearing that approval of Water Permit No. 8744-3 would be conditioned on requirements set by the Chief Engineer pertaining to the water use. The proposed decision contains no such requirements, and thus the proposed decision fails to comply with the Board’s ruling.”

Contrary to this assertion, the minutes show that there was a “Motion by Bjork, seconded by Freeman, to approve Water Permit Application No. 8744-3, Dakota Bay, subject to the qualifications set forth by the Chief Engineer.” The qualifications are set out in full in the “Report of Chief

Engineer for Water Permit Application 8744-3, Dakota Bay” which was admitted into evidence as part of Exhibit 600.

D. FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8744-3 is granted with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri: Elk Point aquifer.
3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri: Elk Point aquifer.

Dated this ____ day of October, 2023.

BY THE BOARD:

South Dakota Water Management Board

Water Management Board
October 4, 2023, Meeting Minutes

State law requires future use permits to be reviewed by the Water Management Board every seven years, and it requires the permit holder to demonstrate a reasonable need for the future use permit.

Mr. Duvall stated that the Water Rights Program contacted each of the entities inquiring whether the entity wanted to retain the future use permit. The letters from the entities requesting that they be allowed to retain their future use permits, the Chief Engineer's recommendations, and the Affidavits of Publication showing that the hearing was public noticed were included in the board packet. No letters in opposition were received in response to the public notices.

The chief engineer recommended that the board allow the following Future Use Permits to remain in effect for an additional seven years, as listed below.

No.	Name	Amount Remaining in Reserve	Source
4673-3	City of Elk Point	378 AF	Missouri River
5875-3	City of Volga	572 AF	Big Sioux Brookings aquifer
2560-2, 2560A-2, 2560B-2	Fall River Water Users District	358 AF	Madison aquifer

Motion by Holzbauer, seconded by Bjork, that the future use permits shown in the table remain in effect for the amounts listed. A roll call vote was taken, and the motion carried unanimously.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 8744-2, DAKOTA BAY: David McVey reported that the Water Rights Program filed proposed Findings of Fact and Conclusions of Law.

On September 11, 2023, John Hines, counsel for the McCook Lake Recreation Area Association, filed objections and alternative Findings of Fact and Conclusions of Law.

Mr. McVey stated that, in compliance with SDCL 1-26-25, the final Findings of Fact, Conclusions of Law and Final Decision, which were prepared by Mr. McVey, address the objections with specificity.

The final Findings of Fact, Conclusions of Law, and Final Decision reject the assertions made by McCook Lake Recreation Area Association and approve Water Permit Application No. 8744-2 with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells

- or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri: Elk Point aquifer.
 3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri: Elk Point aquifer.

Motion by Bjork, seconded by Freeman, to adopt the final Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 8744-2, Dakota Bay. A roll call vote was taken, and the motion carried with Bjork, Freeman Holzbauer, and Hutmacher voting aye. Comes abstained.

CONSIDER FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF MCCOOK LAKE RECREATION AREA ASSOCIATION'S PETITION FOR DECLARATORY RULING: David McVey reported that the Water Rights Program filed proposed Findings of Fact and Conclusions of Law.

On September 11, 2023, John Hines, counsel for the McCook Lake Recreation Area Association, filed objections to the Findings of Fact and Conclusions of Law.

In compliance with SDCL 1-26-25, the final Findings of Fact, Conclusions of Law, and Final Decision, which were prepared by Mr. McVey, address the objections with specificity.

The final Findings of Fact, Conclusions of Law, and Final Decision rejects the assertions made by McCook Lake Recreation Area Association regarding Findings of Fact paragraph 1, notes but not adopts the assertions regarding paragraphs 19 and 25; notes but not adopts the assertions regarding Conclusions of Law paragraphs 2 and 3; and the final Findings of Fact, Conclusions of Law, and Final Decision denies the requested relief and declares that Mr. Chicoine's/Dakota Bay's canal is not an appropriation of McCook Lake water and does not require a standard or traditional permit from the board.

Motion by Freeman, seconded by Holzbauer, to adopt the final Findings of Fact, Conclusions of Law, and Final Decision in the matter of McCook Lake Recreation Area Association's petition for declaratory ruling regarding appropriative permits and shoreline alterations. A roll call vote was taken, and the motion carried with Bjork, Freeman, Holzbauer, and Hutmacher voting aye. Comes abstained.

NEW WATER PERMIT APPLICATIONS: The pertinent qualifications attached to approved water permit applications throughout the hearings are listed below:

Well Interference Qualification

The well(s) approved under this permit will be located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Water Management Board
October 4, 2023, Meeting Minutes

An audio recording of the meeting is available on the South Dakota Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved December 6, 2023.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Water Management Board



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 13, 2023

NOTICE OF ENTRY OF ORDER

TO: Stacy R. Hegge, Attorney for Dakota Bay Dean A. Fankhauser, Attorney for Dakota Bay
111 W. Capitol Ave., Suite #230 PO Box 1557
Pierre SD 57501 Sioux City IA 51102

Charles McGuigan, Deputy Attorney John M. Hines, Attorney for McCook Lake
General Recreation Area Association
1302 East Highway 14, Suite 1 PO Box 27
Pierre SD 57501-8501 Sioux City IA 51102

FROM: Ron Duvall, Engineer III 
SD DANR, Water Rights Program

SUBJECT: Notice of Entry of Order concerning Adoption Findings of Fact, Conclusions of Law and Final
Decision in the matter of Water Permit Application No. 8744-3, Dakota Bay

Notice is hereby given that on the 4th day of October 2023, the South Dakota Water Management Board entered its Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter. Enclosed is the signed Findings of Fact, Conclusions of Law and Final Decision adopted by the Board.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: David McVey, Water Management Board Counsel

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated October 13, 2023, and a signed copy of the findings of fact, conclusions of law and a final decision in the matter of Water Permit Application No. 8744-3, Dakota Bay, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on October 13, 2023.

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre SD 57501

Dean A. Fankhauser, Attorney
Tigges, Bottaro & Lessmann, LLP
PO Box 1557
Sioux City IA 51102

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Above also Sent Inter-office to:

Charles McGuigan, Deputy Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

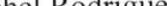
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry

Vickie Maberry
Water Rights Program, DANR

[illegible]

Sworn to, before me, this 13 day of October 2023.


Rachel Rodriguez

Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	FINDINGS OF FACT,
APPLICATION NO. 8744-3, DAKOTA	)	CONCLUSIONS OF LAW
BAY, LLC,	)	AND DECISION

This matter came before the South Dakota Water Management Board for hearing on August 2, 2023. Board members Peggy Dixon, Rodney Freeman, Tim Bjork, Leo Holzbauer, and Bill Larson attended the hearing and heard the evidence presented. Applicant, Dakota Bay was represented by Dean A. Fankhauser and Stacy R. Hegge. Petitioner, McCook Lake Recreation Area Association (Association), was represented by John M. Hines. Ann F. Mines Bailey represented the Department of Agriculture and Natural Resources, Water Rights Program (Program) and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

A. FINDINGS OF FACT

1. On March 29, 2023, the Program received Water Permit Application No. 8744-3 from Michael Chicoine on behalf of Dakota Bay seeking an appropriation of 28.6 acre-feet of water for the first year and 7.99 acre-feet of water per year thereafter at a maximum diversion rate of 1.55 cubic feet of water per second (cfs) from one existing well completed into the

Missouri: Elk Point aquifer for recreational use for an initial fill of a canal to be constructed along southeast shore of McCook Lake and thereafter to cover losses due to evaporation and seepage. The well is located in the E½SE¼ Sec. 16 T89N-R48W and is permitted for irrigation use under Water Permit No. 6557-3.

2. The Chief Engineer, Eric Gronlund, recommended approval of the application subject to qualifications.

3. Notice of Water Permit Application No. 8744-3 was timely advertised on June 1, 2023, in The Leader-Courier (Union County) and the Yankton Daily Press and Dakotan (Yankton County) and posted on the DANR website.

4. Water Rights received a timely petition in opposition to Water Permit Application No. 8744-3 from the Association on June 12, 2023.

5. The matter was scheduled to be heard by the Water Management Board during its July 12, 2023 meeting. A request for an automatic delay was made and the July 12 hearing was delayed.

6. The Chief Engineer moved for a special meeting so that this matter could be heard in conjunction with the Association's petition for declaratory ruling which requested in part that the Board rule that Dakota Bay's project required a permit appropriating the waters of McCook Lake.

7. Water Permit Application No. 8744-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 whether there is a reasonable probability that unappropriated water is

available for the proposed use, whether the proposed use would impair existing domestic water uses and water rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest pertaining to matters of public interest within the regulatory authority of the Water Management Board.

8. The Association holds a permit/right for the appropriation of water from the Missouri River to be pumped into McCook Lake for the purpose of recreation to stabilize lake levels.

9. Nakaila Steen, a natural resources engineer with Water Rights, performed a technical review of the application, and prepared a report. Ms. Steen provided expert testimony regarding the technical review of the application to the Board.

10. The Missouri: Elk Point aquifer is composed of glacial outwash consisting of fine sand to very coarse gravel. Within the State of South Dakota, the aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties. At the time of completion, aquifer material at the proposed point of diversion was approximately 95 feet thick. The aquifer varies from unconfined to confined conditions but generally behaves as an unconfined aquifer. At the point of diversion, the aquifer is under confined conditions with the existing well completion report demonstrating an artesian head pressure of approximately 40 feet at the time the well was constructed.

11. The Missouri: Elk Point aquifer receives recharge through infiltration of precipitation and from seepage from the Big Sioux, James,

Missouri, and Vermillion rivers and inflow from the Lower Vermillion-Missouri, Lower James-Missouri, Big Sioux, and Dakota aquifers. The best information available regarding recharge to the Missouri: Elk Point aquifer includes two studies: One based upon the observation well data and the other involving induced recharge to the aquifer due to pumping by the Lewis and Clark Regional Water System. The combined total of the estimated average annual recharge equals approximately 114,593.9 acre-feet of water per year.

12. Ms. Steen calculated withdrawals from the Missouri: Elk Point aquifer in South Dakota to be approximately 100,591 acre-feet per year, including water reserved by future use permits and requested by this application.

13. Ms. Steen further testified that there are 36 observation wells completed into the Missouri: Elk Point aquifer. A review of the data from those observation wells indicates that the aquifer is responding to climatic conditions and that natural discharge is available for capture. Several of the observation wells located near the Missouri River indicate a gradual downward trend. Ms. Steen testified that the downward trend is a result of the lowering of the water table due to the entrenchment (deepening of the channel and/or widening of the bed) of the Missouri River and not evidence of over-appropriation of the aquifer.

14. Ms. Steen testified it is her conclusion that, based upon her review of the best information available regarding recharge to the aquifer,

existing water rights, and the observation well data, there is sufficient unappropriated water available to satisfy this application.

15. There were 647 existing water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer in South Dakota at the time this application was submitted.

16. Ms. Steen testified that the nearest existing domestic well on record is located approximately 0.25 miles south of the proposed point of diversion and owned by Mr. Chicoine. The next nearest domestic well not owned by the applicant is located approximately 0.3 miles northwest of the proposed point of diversion.

17. The nearest existing water rights are three separate water rights/permits each located approximately one mile from the proposed point of diversion: One to the west and two to the southeast.

18. The nearest observation well is located approximately 0.6 miles from the proposed point of diversion.

19. Ms. Steen testified that the Missouri: Elk Point aquifer is a tremendous resource and given the saturated thickness of the aquifer in the area of the proposed point of diversion and relatively small volume requested by this application, there is a reasonable probability that the application could be developed without unlawful impairment to existing domestic uses and water rights. Bolstering her conclusion is that this point of diversion has been operating with the same rate of diversion under the irrigation permit since 2005 and there is no history of complaints.

20. Ms. Steen further testified that in her expert opinion an unlawful impairment will first occur in the source from which the appropriation is made.

21. The Board finds Ms. Steen to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Steen's testimony and the reports and exhibits which she prepared and/or upon which she relied.

22. The Board received testimony from Michael Chicoine who sought the application on behalf of Dakota Bay. Mr. Chicoine testified that he has applied for a shoreline alteration permit from the South Dakota Department of Game, Fish and Parks. He plans to construct a canal stemming off McCook Lake to provide lake access for current residents, potential future residents, and the public. Mr. Chicoine provided testimony regarding the construction of the canal which includes an 18-inch fat, clay liner.

23. Kip Rounds, regional supervisor with the South Dakota Department of Game, Fish and Parks, also provided testimony to the Board. Mr. Rounds testified that he is familiar with Mr. Chicoine's shoreline alteration application and the proposed canal project. Mr. Rounds testified that the Department of Game, Fish and Parks has concerns that if the canal liner were to dry out, the integrity of the liner and ability to reduce seepage would be compromised.

24. The Board also received testimony from Dirk Lohry. Mr. Lohry testified that the Association will bear the burden of filling the canal should

Mr. Chicoine's well fail, or water is not pumped under this proposed appropriation.

25. Petitioner did not submit sufficient evidence through expert opinions, testimony, or other evidence that would support a determination that there is a not reasonable probability that there is unappropriated water available, that there would be an unlawful impairment should the application be granted, that this appropriation is not a beneficial use of water, or that it is not in the public interest.

26. The Board finds that, based upon the best information reasonably available, the factors of SDCL § 46-2A-9 are satisfied.

27. The evidence establishes that there is unappropriated water available in the Missouri: Elk Point aquifer to satisfy this application.

28. The evidence establishes the proposed diversion would not unlawfully impair existing domestic water uses or water rights.

29. The Board further finds that the proposed use of the water for recreation, to fill the proposed canal and replace losses of water due to evaporation or seepage, constitutes a beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

B. OBJECTIONS TO FINDINGS OF FACT

Water Rights filed Proposed Findings of Fact and the Petitioner filed objections and proposed alternate findings. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Findings of Fact are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 20 of the Proposed Findings asserting that "SDCL § 46-2A-9 does not limit analysis of unlawful impairment to the same water source." There is ample evidence set forth in the record generally and especially by the expert testimony of Nakaila Steen and Exhibits 600 and 605 to support the Board's conclusion that the proposed diversion would not unlawfully impair existing domestic water uses or water rights. No alternative Finding is proposed. Petitioner's objection is noted.
2. The Association objects to Paragraph 25 of the proposed Findings and asserts that the applicant, Dakota Bay, LLC/Michael Chicoine, failed to carry their burden to prove that the requirements set forth in SDCL §46-2A-9 have been met. There is ample evidence set forth in the record generally and especially in Exhibits 600, 603, 604, and 605, along with the expert testimony of NaNakila Steen and the testimony of Applicant Michael Chicoine to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
3. The Association objects to Paragraphs 26, 28, and 30 of the proposed Findings and asserts as support:

Dakota Bay, LLC/Michael Chicoine provided no evidence that the Association's water rights would not be unlawfully impaired. Mr. Chicoine's failure to provide engineering or technical specifications for his "canal" provides no basis for the Board to conclude the proposed water use will be beneficial. Mr. Chicoine's unsupported testimony regarding his intent to create public access is legally insufficient for the Board to conclude that the use is in the public interest.

Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.

C. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. The Board has jurisdiction over this matter. The application falls within the Board's responsibility over water appropriation and regulation in Title 46.
2. Publication was properly made, and the Notices of Hearing were properly issued pursuant to SDCL § 46-2A-4.
3. The Chief Engineer recommended granting the application. The recommendation, however, is not binding on the Board. SDCL § 46-2A-4(8).
4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.
5. The Board concludes that the applicant has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that a permit to appropriate water may be issued “only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic uses and water rights and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by §§ 46-2-9 and 46-2-11.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

8. South Dakota Codified Law, section 46-6-3.1 provides an exception to the recharge/withdrawal limitation. It states in pertinent part, “[a]n application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the estimated average annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older

and stratigraphically lower than the Greenhorn Formation. Additionally, the permit is not for use in a water distribution system. Thus, the appropriation may not be granted if the withdrawal would exceed the estimated annual recharge.

9. The Board concludes it is not probable withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if the application is granted.

10. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

11. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing domestic uses and water rights. The proposed diversion can be developed without unlawful impairment of existing water rights or domestic water uses.

12. The third element set forth in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use for recreation is a beneficial use.

13. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL

§ 6-1-6(3). The Board concludes that this appropriation of water for recreation is in the public interest.

14. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

D. OBJECTIONS TO CONCLUSIONS OF LAW

Water Rights filed Proposed Conclusions of Law and Petitioner filed objections to the proposed conclusions of law. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Conclusions of Law are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 3 of the proposed Conclusions of Law and asserts that the "applicant provided insufficient evidence of the factors set forth in SDCL § 46-2A-9." Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
2. The Association objects to Paragraph 11 of the proposed Conclusions of Law and asserts that the purpose of the proposed water use... will unlawfully impair the Association's existing water rights." This assertion is inconsistent with the evidence in the record specifically, Exhibits 600, 604, 604, and 605 and the expert testimony of NaNakila Steen.
3. The Association objects to Paragraphs 12 and 13 of the proposed Conclusions of Law and asserts no "evidence was presented regarding the design or specifications of the "canal"; thus, the Board has no basis to

conclude that the proposed use is reasonable, beneficial, or in the public interest.” Beneficial use is defined in SDCL §46-1-6(3) as:

“any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.”

SDCL §46-1-1 further states that the:

“people of the state have a paramount interest in the use of all the water of the state and that the state shall determine what water of the state, surface and underground, can be converted to public use or controlled for public protection.

The record in its entirety including the exhibits and testimony of the witnesses is sufficient to support the Board’s conclusion that the proposed (recreational) use as set forth in the application is reasonable, in the public interest and is beneficial to the appropriator.

4. The Association objected to the proposed Findings of Fact, Conclusions of Law, and Final Decision in that the decision and states that:

“because the Board voted at its hearing that approval of Water Permit No. 8744-3 would be conditioned on requirements set by the Chief Engineer pertaining to the water use. The proposed decision contains no such requirements, and thus the proposed decision fails to comply with the Board's ruling.”

Contrary to this assertion, the minutes show that there was a “Motion by Bjork, seconded by Freeman, to approve Water Permit Application No. 8744-3, Dakota Bay, subject to the qualifications set forth by the Chief Engineer.” The qualifications are set out in full in the “Report of Chief

Engineer for Water Permit Application 8744-3, Dakota Bay” which was admitted into evidence as part of Exhibit 600.

D. FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8744-3 is granted with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri: Elk Point aquifer.
3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri: Elk Point aquifer.

Dated this 12 day of October, 2023.

BY THE BOARD:

Bill Larson

Bill Larson (Oct 12, 2023 16:40 CDT)

William Larson, Chairman
South Dakota Water Management Board



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 1, 2023

NOTICE OF ENTRY OF ORDER

TO: Stacy R. Hegge, Attorney for Dakota Bay Dean A. Fankhauser, Attorney for Dakota Bay
111 W. Capitol Ave., Suite #230 PO Box 1557
Pierre SD 57501 Sioux City IA 51102

Charles McGuigan, Deputy Attorney John M. Hines, Attorney for McCook Lake
General Recreation Area Association
1302 East Highway 14, Suite 1 PO Box 27
Pierre SD 57501-8501 Sioux City IA 51102

FROM: Ron Duvall, Engineer III
SD DANR, Water Rights Program

SUBJECT: Notice of Entry of Order concerning Adoption Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Permit Application No. 8744-3, Dakota Bay

Notice is hereby given that on the 4th day of October 2023, the South Dakota Water Management Board entered its Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter. Enclosed is the signed Findings of Fact, Conclusions of Law and Final Decision adopted by the Board. Due to placement of an errant zip code on the mailing to John M. Hines resulting in his October 13, 2023 mailing being returned to the Water Rights Program, the Order is being mailed again.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: David McVey, Water Management Board Counsel

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated November 1, 2023, and a signed copy of the findings of fact, conclusions of law and a final decision in the matter of Water Permit Application No. 8744-3, Dakota Bay, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on November 1, 2023.

Stacy R. Hegge, Attorney
Gunderson, Palmer, Nelson & Ashmore LLP
111 W. Capitol Ave., Suite #230
Pierre SD 57501

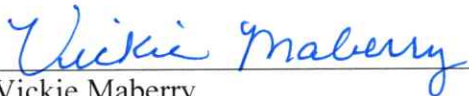
Dean A. Fankhauser, Attorney
Tigges, Bottaro & Lessmann, LLP
PO Box 1557
Sioux City IA 51102

John M. Hines, Attorney
Crary Huff Law Firm
PO Box 27
Sioux City IA 51102

Above also Sent Inter-office to:

Charles McGuigan, Deputy Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

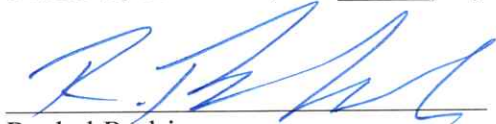
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 1st day of November 2023.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



STATE OF SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT APPLICATION NO. 8744-3, DAKOTA BAY, LLC,	))))	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
--	------------------	---

This matter came before the South Dakota Water Management Board for hearing on August 2, 2023. Board members Peggy Dixon, Rodney Freeman, Tim Bjork, Leo Holzbauer, and Bill Larson attended the hearing and heard the evidence presented. Applicant, Dakota Bay was represented by Dean A. Fankhauser and Stacy R. Hegge. Petitioner, McCook Lake Recreation Area Association (Association), was represented by John M. Hines. Ann F. Mines Bailey represented the Department of Agriculture and Natural Resources, Water Rights Program (Program) and the Chief Engineer.

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

A. FINDINGS OF FACT

1. On March 29, 2023, the Program received Water Permit Application No. 8744-3 from Michael Chicoine on behalf of Dakota Bay seeking an appropriation of 28.6 acre-feet of water for the first year and 7.99 acre-feet of water per year thereafter at a maximum diversion rate of 1.55 cubic feet of water per second (cfs) from one existing well completed into the

Missouri: Elk Point aquifer for recreational use for an initial fill of a canal to be constructed along southeast shore of McCook Lake and thereafter to cover losses due to evaporation and seepage. The well is located in the E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 16 T89N-R48W and is permitted for irrigation use under Water Permit No. 6557-3.

2. The Chief Engineer, Eric Gronlund, recommended approval of the application subject to qualifications.

3. Notice of Water Permit Application No. 8744-3 was timely advertised on June 1, 2023, in The Leader-Courier (Union County) and the Yankton Daily Press and Dakotan (Yankton County) and posted on the DANR website.

4. Water Rights received a timely petition in opposition to Water Permit Application No. 8744-3 from the Association on June 12, 2023.

5. The matter was scheduled to be heard by the Water Management Board during its July 12, 2023 meeting. A request for an automatic delay was made and the July 12 hearing was delayed.

6. The Chief Engineer moved for a special meeting so that this matter could be heard in conjunction with the Association's petition for declaratory ruling which requested in part that the Board rule that Dakota Bay's project required a permit appropriating the waters of McCook Lake.

7. Water Permit Application No. 8744-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 whether there is a reasonable probability that unappropriated water is

available for the proposed use, whether the proposed use would impair existing domestic water uses and water rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest pertaining to matters of public interest within the regulatory authority of the Water Management Board.

8. The Association holds a permit/right for the appropriation of water from the Missouri River to be pumped into McCook Lake for the purpose of recreation to stabilize lake levels.

9. Nakaila Steen, a natural resources engineer with Water Rights, performed a technical review of the application, and prepared a report. Ms. Steen provided expert testimony regarding the technical review of the application to the Board.

10. The Missouri: Elk Point aquifer is composed of glacial outwash consisting of fine sand to very coarse gravel. Within the State of South Dakota, the aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties. At the time of completion, aquifer material at the proposed point of diversion was approximately 95 feet thick. The aquifer varies from unconfined to confined conditions but generally behaves as an unconfined aquifer. At the point of diversion, the aquifer is under confined conditions with the existing well completion report demonstrating an artesian head pressure of approximately 40 feet at the time the well was constructed.

11. The Missouri: Elk Point aquifer receives recharge through infiltration of precipitation and from seepage from the Big Sioux, James,

Missouri, and Vermillion rivers and inflow from the Lower Vermillion-Missouri, Lower James-Missouri, Big Sioux, and Dakota aquifers. The best information available regarding recharge to the Missouri: Elk Point aquifer includes two studies: One based upon the observation well data and the other involving induced recharge to the aquifer due to pumping by the Lewis and Clark Regional Water System. The combined total of the estimated average annual recharge equals approximately 114,593.9 acre-feet of water per year.

12. Ms. Steen calculated withdrawals from the Missouri: Elk Point aquifer in South Dakota to be approximately 100,591 acre-feet per year, including water reserved by future use permits and requested by this application.

13. Ms. Steen further testified that there are 36 observation wells completed into the Missouri: Elk Point aquifer. A review of the data from those observation wells indicates that the aquifer is responding to climatic conditions and that natural discharge is available for capture. Several of the observation wells located near the Missouri River indicate a gradual downward trend. Ms. Steen testified that the downward trend is a result of the lowering of the water table due to the entrenchment (deepening of the channel and/or widening of the bed) of the Missouri River and not evidence of over-appropriation of the aquifer.

14. Ms. Steen testified it is her conclusion that, based upon her review of the best information available regarding recharge to the aquifer,

existing water rights, and the observation well data, there is sufficient unappropriated water available to satisfy this application.

15. There were 647 existing water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer in South Dakota at the time this application was submitted.

16. Ms. Steen testified that the nearest existing domestic well on record is located approximately 0.25 miles south of the proposed point of diversion and owned by Mr. Chicoine. The next nearest domestic well not owned by the applicant is located approximately 0.3 miles northwest of the proposed point of diversion.

17. The nearest existing water rights are three separate water rights/permits each located approximately one mile from the proposed point of diversion: One to the west and two to the southeast.

18. The nearest observation well is located approximately 0.6 miles from the proposed point of diversion.

19. Ms. Steen testified that the Missouri: Elk Point aquifer is a tremendous resource and given the saturated thickness of the aquifer in the area of the proposed point of diversion and relatively small volume requested by this application, there is a reasonable probability that the application could be developed without unlawful impairment to existing domestic uses and water rights. Bolstering her conclusion is that this point of diversion has been operating with the same rate of diversion under the irrigation permit since 2005 and there is no history of complaints.

20. Ms. Steen further testified that in her expert opinion an unlawful impairment will first occur in the source from which the appropriation is made.

21. The Board finds Ms. Steen to be a credible expert witness and that these Findings of Fact are supported by the evidence presented including Ms. Steen's testimony and the reports and exhibits which she prepared and/or upon which she relied.

22. The Board received testimony from Michael Chicoine who sought the application on behalf of Dakota Bay. Mr. Chicoine testified that he has applied for a shoreline alteration permit from the South Dakota Department of Game, Fish and Parks. He plans to construct a canal stemming off McCook Lake to provide lake access for current residents, potential future residents, and the public. Mr. Chicoine provided testimony regarding the construction of the canal which includes an 18-inch fat, clay liner.

23. Kip Rounds, regional supervisor with the South Dakota Department of Game, Fish and Parks, also provided testimony to the Board. Mr. Rounds testified that he is familiar with Mr. Chicoine's shoreline alteration application and the proposed canal project. Mr. Rounds testified that the Department of Game, Fish and Parks has concerns that if the canal liner were to dry out, the integrity of the liner and ability to reduce seepage would be compromised.

24. The Board also received testimony from Dirk Lohry. Mr. Lohry testified that the Association will bear the burden of filling the canal should

Mr. Chicoine's well fail, or water is not pumped under this proposed appropriation.

25. Petitioner did not submit sufficient evidence through expert opinions, testimony, or other evidence that would support a determination that there is a not reasonable probability that there is unappropriated water available, that there would be an unlawful impairment should the application be granted, that this appropriation is not a beneficial use of water, or that it is not in the public interest.

26. The Board finds that, based upon the best information reasonably available, the factors of SDCL § 46-2A-9 are satisfied.

27. The evidence establishes that there is unappropriated water available in the Missouri: Elk Point aquifer to satisfy this application.

28. The evidence establishes the proposed diversion would not unlawfully impair existing domestic water uses or water rights.

29. The Board further finds that the proposed use of the water for recreation, to fill the proposed canal and replace losses of water due to evaporation or seepage, constitutes a beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

B. OBJECTIONS TO FINDINGS OF FACT

Water Rights filed Proposed Findings of Fact and the Petitioner filed objections and proposed alternate findings. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Findings of Fact are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 20 of the Proposed Findings asserting that "SDCL § 46-2A-9 does not limit analysis of unlawful impairment to the same water source." There is ample evidence set forth in the record generally and especially by the expert testimony of Nakaila Steen and Exhibits 600 and 605 to support the Board's conclusion that the proposed diversion would not unlawfully impair existing domestic water uses or water rights. No alternative Finding is proposed. Petitioner's objection is noted.
2. The Association objects to Paragraph 25 of the proposed Findings and asserts that the applicant, Dakota Bay, LLC/Michael Chicoine, failed to carry their burden to prove that the requirements set forth in SDCL §46-2A-9 have been met. There is ample evidence set forth in the record generally and especially in Exhibits 600, 603, 604, and 605, along with the expert testimony of NaNakila Steen and the testimony of Applicant Michael Chicoine to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
3. The Association objects to Paragraphs 26, 28, and 30 of the proposed Findings and asserts as support:

Dakota Bay, LLC/Michael Chicoine provided no evidence that the Association's water rights would not be unlawfully impaired. Mr. Chicoine's failure to provide engineering or technical specifications for his "canal" provides no basis for the Board to conclude the proposed water use will be beneficial. Mr. Chicoine's unsupported testimony regarding his intent to create public access is legally insufficient for the Board to conclude that the use is in the public interest.

Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.

C. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. The Board has jurisdiction over this matter. The application falls within the Board's responsibility over water appropriation and regulation in Title 46.
2. Publication was properly made, and the Notices of Hearing were properly issued pursuant to SDCL § 46-2A-4.
3. The Chief Engineer recommended granting the application. The recommendation, however, is not binding on the Board. SDCL § 46-2A-4(8).
4. The applicant is required to satisfy each of the factors set forth in SDCL § 46-2A-9.
5. The Board concludes that the applicant has satisfied each of the factors set forth in SDCL § 46-2A-9.

6. South Dakota Codified Law, section 46-2A-9 provides that a permit to appropriate water may be issued “only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic uses and water rights and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by §§ 46-2-9 and 46-2-11.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL § 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL § 46-6-3.1 pertaining to recharge/withdrawal: whether “according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

8. South Dakota Codified Law, section 46-6-3.1 provides an exception to the recharge/withdrawal limitation. It states in pertinent part, “[a]n application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the estimated average annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older

and stratigraphically lower than the Greenhorn Formation. Additionally, the permit is not for use in a water distribution system. Thus, the appropriation may not be granted if the withdrawal would exceed the estimated annual recharge.

9. The Board concludes it is not probable withdrawals from the aquifer would exceed recharge to the aquifer in violation of SDCL § 46-6-3.1 if the application is granted.

10. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

11. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing domestic uses and water rights. The proposed diversion can be developed without unlawful impairment of existing water rights or domestic water uses.

12. The third element set forth in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use for recreation is a beneficial use.

13. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL

§ 6-1-6(3). The Board concludes that this appropriation of water for recreation is in the public interest.

14. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

D. OBJECTIONS TO CONCLUSIONS OF LAW

Water Rights filed Proposed Conclusions of Law and Petitioner filed objections to the proposed conclusions of law. In compliance with SDCL § 1-26-25, Petitioner's Objections to the Proposed Conclusions of Law are accepted, modified, or rejected as follows:

1. The Association objects to Paragraph 3 of the proposed Conclusions of Law and asserts that the "applicant provided insufficient evidence of the factors set forth in SDCL § 46-2A-9." Contrary to this assertion, the record in its entirety including the exhibits, expert testimony, and testimony of the witnesses is sufficient to support the Board's conclusion that the statutory requirements set forth in SDCL §46-2A-9 have been satisfied.
2. The Association objects to Paragraph 11 of the proposed Conclusions of Law and asserts that the purpose of the proposed water use... will unlawfully impair the Association's existing water rights." This assertion is inconsistent with the evidence in the record specifically, Exhibits 600, 604, 604, and 605 and the expert testimony of NaNakila Steen.
3. The Association objects to Paragraphs 12 and 13 of the proposed Conclusions of Law and asserts no "evidence was presented regarding the design or specifications of the "canal"; thus, the Board has no basis to

conclude that the proposed use is reasonable, beneficial, or in the public interest.” Beneficial use is defined in SDCL §46-1-6(3) as:

“any use of water within or outside the state, that is reasonable and useful and beneficial to the appropriator, and at the same time is consistent with the interests of the public of this state in the best utilization of water supplies.”

SDCL §46-1-1 further states that the:

“people of the state have a paramount interest in the use of all the water of the state and that the state shall determine what water of the state, surface and underground, can be converted to public use or controlled for public protection.

The record in its entirety including the exhibits and testimony of the witnesses is sufficient to support the Board’s conclusion that the proposed (recreational) use as set forth in the application is reasonable, in the public interest and is beneficial to the appropriator.

4. The Association objected to the proposed Findings of Fact, Conclusions of Law, and Final Decision in that the decision and states that:

“because the Board voted at its hearing that approval of Water Permit No. 8744-3 would be conditioned on requirements set by the Chief Engineer pertaining to the water use. The proposed decision contains no such requirements, and thus the proposed decision fails to comply with the Board's ruling.”

Contrary to this assertion, the minutes show that there was a “Motion by Bjork, seconded by Freeman, to approve Water Permit Application No. 8744-3, Dakota Bay, subject to the qualifications set forth by the Chief Engineer.” The qualifications are set out in full in the “Report of Chief

IN CIRCUIT COURT
FIRST JUDICIAL DISTRICT

Case No. 63CIV23-171
Case No. 63CIV23-172

FINAL DECISION AND ORDER

Filed on:07/17/2024 Union County, South Dakota 63CIV23-000171

IN CIRCUIT COURT
FIRST JUDICIAL DISTRICT

Case No. 63CIV23-171
Case No. 63CIV23-172

FINAL DECISION AND ORDER

Engineer for Water Permit Application 8744-3, Dakota Bay” which was admitted into evidence as part of Exhibit 600.

D. FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8744-3 is granted with the following qualifications:

1. The well approved under Water Permit No. 8744-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Missouri: Elk Point aquifer.
3. Water Permit No. 8744-3 authorizes a total diversion of up to 28.6 acre-feet of water the first year when use begins and then up to 7.99 acre-feet annually from the Missouri: Elk Point aquifer.

Dated this 12 day of October, 2023.

BY THE BOARD:

Bill Larson

Bill Larson (Oct 12, 2023 16:40 CDT)

William Larson, Chairman
South Dakota Water Management Board



RECEIVED

JUN 12 2023

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. 8744-3 Name of Applicant Dakota Bay, LLC c/o Michael Chicoine

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.

Dakota Bay's "canal" project, and associated pumping described in the application will have a detrimental effect on the Petitioner, McCook Lake Recreation Area Association ("MLA"), in one or more of the following ways

- 1) The proposed diversion will unlawfully impair the MLA's existing water rights, permit 6479-3;
- 2) The proposed diversion will undermine the MLA's efforts in sustaining the water levels of McCook Lake, at MLA's considerable expense; and
- 3) The MLA has filed a Petition for Declaratory Ruling pertaining to other matters associated with the Dakota Bay project, and a ruling on that petition must first be reached before this application can be considered.

List the reasons for your opposition to this application.

The McCook Lake Recreation Area Association ("MLA") is a South Dakota non-profit corporation funded primarily by voluntary donations. The MLA and its volunteers maintain and preserve McCook Lake, which is a public body of water belonging to the people of the State of South Dakota. In connection with the MLA's efforts, the MLA holds a water rights permit number 6479-3 (and prior permits) to pump water from the Missouri River into McCook Lake. Due to channelization, McCook Lake sits above the Missouri River in elevation. The MLA maintains a 7,550 foot long pipe, connected to pumps, which fills the lake to a target level of 1088 to 1089 feet elevation. Pumping costs vary by month and weather conditions, but has previously cost approximately \$5,000.00 per month during dry conditions.

The Report to the Chief Engineer on Water Permit Application No. 8744-3 (the "Report") and the accompanying Recommendation of Chief Engineer for Water Permit Application No. 8744-3, ("Recommendation") fail to mention, let alone consider, the MLA's permit and whether the diversion described would impair the MLA's existing water rights. The Report and Recommendation also fail to consider whether the diversion described would negatively affect the water levels in McCook Lake, which are already sustained by the extraordinary efforts of the MLA, tens of thousands of dollars in annual expense, volunteers, and the system of pumping. MLA's existing water right would be adversely affected, because (i) the canal may cause the lake to drain, rendering it useless to the public; or (ii) MLA would need to provide additional water to support the canal, and it may be impossible to do so.

Provide name and mailing address of the person filing this petition or the petitioner's legal counsel.

First Name: John Last Name: Hines (Crary Huff Law Firm, Attorney for MLA)

Mailing Address: 329 Pierce Street, PO Box 27, Suite 200

City: Sioux City State: Iowa Zip: 51102

Optional contact information. Phone: (712) 224-7550 Email: jhines@craryhuff.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.

Application No. 8744-3

Petitioner's Name McCook Lake Recreation Area Association

Any additional description of the unique injury or reasons for opposing this application:

While the Application refers to "engineer's calculations" of the amount of water needed for the canal, no such "calculations" are shown-Only conclusory numbers are shown. None of the Application, Report, or Recommendation describe the canal, its dimensions, or proposed elevation. It is unclear how, without detailed plans of the canal, the SD DANR can meaningfully determine whether water rights will be impaired by "filling" the canal from the aquifer and whether water is available for appropriation. The MLA also disputes the evaporation, seepage, and runoff figures relied on in the Report overestimate the availability of water for appropriation. Further, MLA has not been provided any soil report for the canal area, and does not know how and whether any such report was considered by the Report and Recommendation. The "Well Completion Report" for Chicoine's existing well is 18 years old.

Additionally, the Report and Recommendation are inconsistent with the Application submitted - Application 8744-3 requests to "fill a canal once per year", whereas the Report and Recommendation only address a "one time" appropriation not to exceed 28.6 acre-feet for the first year. The SD DANR - Water Rights Program engineers should be required to re-evaluate the Application and issue a report on the Application as it was submitted.

The MLA, a non-profit corporation which lacks taxing authority, should not be responsible to sustain Dakota Bay's private development for its sole pecuniary gain. The diversion described in the Application will not be sufficient to maintain water levels in the canal, which will lead to deterioration of the lining, the shoreline, and the canal itself, unless the MLA provides sufficient water from the Missouri River. Furthermore, historical elevation levels of McCook Lake show that water levels in the Lake fall to 1082 feet during winter, which based on canal plans submitted by Chicoine to the South Dakota Department of Game, Fish, and Parks, will expose the proposed canal to winter frost, drying out, and cracking. By year 2, Dakota Bay will be pumping water into a sieve.

Application No. 8744-3 should be denied unless and until Dakota Bay can demonstrate its proposed project (i) will not unlawfully inhibit the MLA's water rights; and (ii) will not result in the draining of McCook Lake - which would have catastrophic ecological and economical consequences for both the MLA and the people of South Dakota.

The MLA is submitting contemporaneously herewith a request for automatic extension pursuant to SDCL 46-2A-5.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 21, 2023

Water Management Board:

Enclosed is the agenda for the Water Management Board meeting to be held Wednesday, August 2, 2023. The meeting will begin at 10:00 AM (**Central Time**) on August 2, in the Matthew Training Center in the Joe Foss Building, 523 E Capitol Avenue, Pierre SD and is scheduled for one day. I expect it to be a long day.

NOTE: The agenda items are contested cases in which exhibits will likely be offered into evidence. A digital version of those will be provided to board members participating remotely. **If you do plan to participate remotely, please let us know so we can plan accordingly and cancel room reservations as needed.**

Enclosed for this Board meeting is:

- Agenda
- Draft minutes of the special June 30, 2023 Board meeting conducted via remote conference
- Motion to Disqualify Water Management Board's Legal Counsel and Seek Outside Counsel
- McCook Lake Recreation Area Association's Petition for Declaratory Ruling
 - o Petition for Declaratory Ruling filed by John M. Hines, Legal Counsel for McCook Lake Recreation Area Association
 - o Petition in Opposition to Petition for Declaratory Ruling filed by Ann Mines Bailey, Legal Counsel for the Chief Engineer
 - o Notice of Hearing
 - o Affidavits of Publication
 - o Prehearing Brief filed by Ann Mines Bailey, Legal Counsel for the Chief Engineer
- Water Application No. 8744-3, Dakota Bay
 - o Application recommendation and report
 - o Petition in opposition
 - o Notice of Hearing
 - o Affidavits of publication
 - o Comments in opposition and support

There are two options to participate:

Option 1. Attend the meeting in person at the Matthew Training Center in Pierre. Please note you will need to enter the Joe Foss Building from Capitol Avenue main entrance and check in at the lobby desk to get access to the Matthew Training Center meeting room.

Option 2. Audio/visual via Microsoft Teams. To be seen and heard requires a device equipped with a camera and microphone and an internet connection. No software install is necessary, the recommended web browser is Google Chrome or Microsoft Edge. To participate, start the browser and navigate to <https://www.microsoft.com/microsoft-teams/join-a-meeting>.

When prompted, enter the following to join the meeting:

Meeting ID: 243 358 319 045

Passcode: hEStoi

It is also possible to connect with voice only, but everything on the agenda is contested so it is not advisable to do voice only as you will be unable to see whoever is speaking at the hearing.

Connect via audio only. Call 605-679-7263 and enter 984 580 051#

If participating remotely, I recommend joining the meeting a few minutes before the agenda start time to ensure you can get connected. You can connect as early as 9:45 AM **Central Time**.

Room reservations for Board members have been made for August 1st and 2nd at the AmericInn (605 223-2358). Bill, please advise if you would like a room reservation made for you. **If you plan to attend the meeting remotely or drive in the morning of August 2, please advise and we will cancel reservations as needed.** The room charge will be direct billed to DANR. Also, be sure to have your state ID card to ensure there is no misunderstanding that you qualify for state rates.

Please contact us if you are unable to participate in the meeting, plan to participate remotely, or need room reservations cancelled or modified. Brenda Binegar or Ron Duvall can be reached at (605) 773-3352 or by email at brenda.binegar@state.sd.us or ron.duvall@state.sd.us.

Sincerely,



Eric Gronlund, Chief Engineer
Water Rights Program, DANR

enclosures

c: Legislative Oversight Committee
David McVey
Ann Mines Bailey
Brenda Binegar



DANR
SOUTH DAKOTA

**WATER MANAGEMENT BOARD
Special Meeting on August 2, 2023**

Floyd Matthew Training Center
Joe Foss Bldg., 523 E Capitol Ave, Pierre SD

Any person(s) interested in speaking during the public comment period via remote connection can learn how at <https://boardsandcommissions.sd.gov> on the Water Management Board page.

Scheduled times are based on Central Time and are estimated start times.

Agenda items may be delayed due to prior scheduled items.

Live audio of the meeting is available at <https://www.sd.net>

Wednesday, August 2, 2023

10:00 AM Call to Order

Roll Call

Adopt Final Agenda

Conflicts Disclosures and Requests for State Board Waivers

Public comment period in accordance with SDCL 1-25-1

Consider Motion to Disqualify Water Management Board's Legal Counsel and Seek Outside Counsel – Filed by John M. Hines, Legal Counsel for McCook Lake Recreation Area Association

Consider McCook Lake Recreation Area Association's Petition for Declaratory Ruling – Filed by John M. Hines, Legal Counsel for McCook Lake Recreation Area Association

Consider Water Permit Application No. 8744-3, Dakota Bay – Nakaila Steen

LUNCH

Continue any prior agenda items not yet completed.

ADJOURN

Board members are reminded they are subject to SDCL 3–23-1 to 3-23-5 (Disclosure Laws) which address the disclosure of any conflicts of interest a member may have regarding contracts with the State of South Dakota. Board members should report any potential conflicts to the board and seek a waiver where appropriate.

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.

Water Management Board
August 2, 2023, Meeting Minutes

Mr. Hines said earlier Mr. Gronlund testified that McCook Lake faces certain challenges for maintaining water and a seepage situation that is not getting better. He asked if those concerns are present for every lake in the state of South Dakota or just some lakes in the state. Mr. Gronlund answered that, to some extent, seepage probably occurs in any water body in the state, but certainly not to the severity that McCook Lake faces.

In response to questions from Mr. Fankhauser, Mr. Gronlund stated that, based on reports he has read, the losses in the bottom of McCook Lake are significant. The Missouri River is probably the only viable option. Another option would be to seal the bottom of the entire lake, so it didn't have that seepage loss. Mr. Gronlund stated that there are different types of sealants, but it would be a major undertaking, for a lake of this size, to be able to seal the bottom of the lake. If the board were to grant the petition for declaratory ruling, Mr. Gronlund foresees that impacting other lakes where the public is engaging in activities within the ordinary high water mark.

Ms. Mines Bailey had no further witnesses.

Mr. Fankhauser had no further witnesses.

Mr. Hines, Ms. Mines Bailey, and Mr. Fankhauser provided closing arguments.

Motion by Larson, seconded by Freeman, that pursuant to SDCL 1-25-2(3) the board enter into executive session for the purpose of consulting with legal counsel regarding pending litigation. A roll call vote was taken, and the motion carried unanimously.

The board exited executive session at 3:35 p.m.

Motion by Freeman, seconded by Bjork to deny the requested relief requested and declare that Mr. Chicoine's/Dakota Bay's canal is not an appropriation of McCook Lake water and does not require a standard or traditional permit from the Water Management Board. A roll call vote was taken, and the motion carried unanimously.

Ms. Mines Bailey will prepare proposed Findings of Fact, Conclusions of Law and the Final Decision, which are due by August 23, 2023. Objections and alternative Findings of Fact, Conclusions of Law and Final Decision are due by September 11, 2023.

CONSIDER WATER PERMIT APPLICATION NO. 8744-3, DAKOTA BAY: Chairman Larson opened the hearing at 3:45 p.m.

Ms. Mines Bailey appeared on behalf of the Chief Engineer and the Water Rights Program.

John Hines appeared on behalf of McCook Lake Recreation Area Association.

Dean Fankhauser and Stacy Hegge appeared on behalf of Michael Chicoine and Dakota Bay.

John Kotilnek, staff attorney for the Department of Game, Fish and Parks, requested to appear on behalf of Kip Rounds to assert any privileged communications or objections, but not participate

in direct or cross-examination.

The parties waived opening statements.

Ms. Mines Bailey offered Exhibit 600, the administrative file which contains the application, the report and recommendations, the notices of public hearing, the petition, and other documents that were received regarding this matter.

There were no objections, and Chairman Larson admitted the exhibit into the record.

Ms. Mines Bailey called Nakaila Steen who was administered the oath by the court reporter.

Ms. Steen testified that she is employed with the Department of Agriculture and Natural Resources.

Exhibit 601 is Ms. Steen's resume. Ms. Mines Bailey offered Exhibit 601.

There were no objections, and Chairman Larson admitted the exhibit into the record.

In response to questions from Ms. Mines Bailey, Ms. Steen stated that she is an engineer with the Water Rights Program. She has been employed with the Water Rights Program for approximately three years. Ms. Steen testified regarding her educational background. Ms. Steen reviews water permit applications, does field work measuring lake levels and observation wells, and she trains the Black Hills seasonal observation well readers for the Water Rights Program. Ms. Steen is also the department's representative on the Western States Water Council.

Ms. Steen wrote the report analyzing water availability and the potential for unlawful impairment to existing water right and permit holders and domestic users within the water source and based on the volume requested by Water Permit Application No. 8744-3, Dakota Bay.

Water Permit Application No. 8744-3 was filed under the name Dakota Bay by Mike Chicoine for recreational purposes to fill and maintain the water level in a proposed canal and to maintain the integrity of that canal line. The applicant would like to use an existing irrigation well completed into the Missouri:Elk Point Aquifer as the water source. The existing well is authorized by Water Permit No. 6557-3, which authorizes a diversion rate of 1.55 cfs for irrigation. The volume requested by this application is 28.6 acre-feet the first year followed thereafter by 7.99 acre-feet annually. This new application is to use additional water for a different use than what Water Permit No. 6557-3 is currently authorized for. Ms. Steen did not have any part in calculating the amount of water the applicant's project would require and it was not part of her review.

Ms. Steen testified that the scope of her review was to analyze water availability in the Missouri:Elk Point Aquifer and the potential for unlawful impairment to existing users; water right and permit holders and domestic users with adequate wells within the aquifer.

Ms. Steen pointed out the following corrections in her report. In the last sentence on page 3, on

page 4, the second paragraph under the Discharge section, and on page 21, the last paragraph on the page, Water Permit Application No. 8754-3 should be Future Use Permit Application No. 8754-3. In the second paragraph on page 9 eight water rights should be nine water rights. In the first sentence of the second paragraph on page 19. The saturated thickness of approximately 10 to 60 feet should be saturated thickness of approximately 30 to 95 feet. On page 22 the following addition should be made to the report: Water Rights, 2023f. It is noted in several places throughout the report, and it accounts for the non-irrigation reports that are submitted to the Water Rights Program each year.

Ms. Steen stated that there is nothing about any of these corrections that alters her analysis or conclusion.

Ms. Steen stated that Mr. Chicoine is seeking an appropriation from the Missouri:Elk Point Aquifer, which is a glacial outwash deposit consisting of fine sand to very coarse gravel. It is hydrologically connected to the Big Sioux, Lower Vermillion-Missouri and Lower James-Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers. The Missouri:Elk Point Aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties in South Dakota.

At the existing well site, at the time of well completion, the well was completed into approximately 95 feet of saturated aquifer thickness, and within a mile of the proposed diversion point the saturated aquifer thickness ranges from 30 to 95 feet thick. The aquifer varies between confined and unconfined conditions depending on location, but primarily behaves in an unconfined manner. At the existing well site, based on the well completion report on file, the aquifer is expected to be confined. At the time of well completion, there was approximately 40 feet of artesian head pressure in the well.

To determine the availability of unappropriated water, Ms. Steen compiled a hydrologic budget, comparing average annual recharge and withdrawals to and from the aquifer and she looked at observation well data to see how the aquifer reacts to climatic conditions and local pumping.

Recharge is water entering the aquifer through any means and withdrawal is the intentional removal of water from an aquifer. The Missouri:Elk Point Aquifer receives recharge primarily through the infiltration of precipitation when the aquifer is at or near the ground surface. There is some seepage from the hydrologically connected rivers and inflow from the hydrologically connected aquifers, and there may be some underlying upward leakage occurring from the Dakota Aquifer.

Several studies have been completed to estimate the average annual recharge to the Missouri:Elk Point Aquifer. The best information Ms. Steen has regarding recharge is a Hedges study completed in 1982 and a more recent study completed by the South Dakota Geological Survey in 2022. Using observation well analysis, Hedges and others estimated a recharge rate of 3.8 inches per year to the aquifer. That, taken over the entire aerial extent yields a recharge rate of approximately 69,000 acre-feet per year to the aquifer. The South Dakota Geological Survey completed a study quantifying the amount of induced recharge that is happening to the aquifer resulting from the pumping occurring at Lewis and Clark Regional Water System's wellfield. It

was determined that 84.6 percent of the water pumped at the wellfield is Missouri River water during their model run. At the time of this application Lewis and Clark Regional Water System was permitted to pump approximately 53,000 acre-feet and multiplying that by the 84.6 percent yields a recharge rate of approximately 45,212 acre-feet per year. When the two recharge estimates are combined, collectively, the estimated average annual recharge rate is approximately 114,593 acre-feet per year. If approval and development of any additional Lewis and Clark permits withdrawing from the Missouri:Elk Point Aquifer were to be approved, more induced recharge to the aquifer is expected to occur.

The Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point Aquifer at this time. For her review, Ms. Steen analyzed approximately 20 of the observation wells, and hydrographs for the nearest five observation wells are included in her report. The nearest observation well is approximately one-half mile away from the application, but all five observation wells are located within four miles of the application.

Exhibit 603 are the hydrographs for the five nearest observation wells, which are included in Ms. Steen's report. These hydrographs contain updated water level measurements taken by the Water Rights Program seasonal employees in the summer of 2023.

Ms. Mines Bailey offered Exhibit 603. There were no objections, and Chairman Larson admitted the exhibit into the record.

Ms. Steen stated that the hydrographs show that the aquifer responds well to climatic conditions rising during wet periods and declining to more stable water level during dry periods. However, there are observations wells completed into the Missouri: Elk Point Aquifer near the Missouri River that are showing a long-term gradual downward trend. Ms. Steen believes the entrenchment occurring in the river channel downstream of Gavin's Point Dam on the Missouri River is causing the downward trend.

Exhibit 604 is a hydrograph constructed from the mean gage height measured on the stream gage on the Missouri River located at Yankton, South Dakota. Ms. Steen created this exhibit using information from the USGS site.

Ms. Mines Bailey offered Exhibit 604. There were no objections, and Chairman Larson admitted the exhibit into the record.

Exhibit 604 shows the same trend seen on the hydrographs for the observation wells completed into the aquifer near the river. This indicates that there is likely a connection. The lowering in the observation wells or in the Missouri River gage is not an indication that there is less water. It has been shown that roughly the same volume of water is flowing through the river; it is just flowing at a lower surface elevation.

Ms. Steen stated that at the time of this application there were 647 water rights/permits authorized to withdraw water from the Missouri:Elk Point Aquifer, plus two pending applications. Additionally, there were five future use permits authorized to reserve water from the Missouri:Elk Point Aquifer. Including the estimated use for this application, if it were

approved, the average annual withdrawal rate from the aquifer is approximately 100,591 acre-feet per year. Ms. Steen determined this estimate by using methods to estimate average annual use from an aquifer that have been accepted by the board and the Water Rights Program in the past. Future use permit holders are assumed to use their full authorized volume. For irrigation appropriations, a crop and turf application rate was calculated for each, then applied over the authorized acres to be irrigated. For the non-irrigators, those that are required to report, generally, the average of their reported value was used in Ms. Steen's estimate; however, exceptions to this may be if a permit is still in a construction phase or is continually undergoing development. For the non-irrigation water rights that are not required to report, those that are only limited by diversion rate are assumed to pump 60 percent of the time, and those limited by a volume are assumed to use their full volume. Sixty percent of the time is a general Water Rights Program method, but this is proven to be a slight over-estimation based off the reported values that are submitted by users. The volume of this application is 28.6 acre-feet the first year and then up to 7.99 acre-feet every year thereafter. Based on the review of the hydrologic budget and the observation well data, Ms. Steen concluded that there is a reasonable probability that unappropriated water is available for the proposed appropriation.

Ms. Steen also performed a review of the potential for unlawful impairment of existing water rights. An unlawful impairment is the inability to obtain the water to which someone has a right. To receive protection from unlawful impairment, an existing right or domestic use must be using an adequate well. An adequate well is a well that is capable of allowing the inlet of a pump to be placed 20 feet into the saturated aquifer material and, if there is not 20 feet present, as near to the bottom as possible.

Exhibit 605 is a map of the existing well site with the nearby water rights and permits authorized from the Missouri:Elk Point Aquifer and the nearby Missouri:Elk Point observation wells. The map was created by Ms. Steen using ArcMap, information from the water rights database, and the aquifer boundary comes from Hedges 1982.

Ms. Mines Bailey offered Exhibit 605. There were no objections, and Chairman Larson admitted the exhibit into the record.

The proposed point of diversion is marked on Exhibit 605 with a black star encompassed in a pink circle. The green area represents the city limit boundaries for North Sioux City. The blue cross hatch represents the aquifer boundary in this view. The purple circles are Missouri:Elk Point Aquifer water rights/permits. The blue squares represent the Missouri:Elk Point Aquifer observation wells. The small blue circles represent domestic wells completed into the Missouri:Elk Point Aquifer. The yellow circle is also a domestic well completed into the aquifer, but it's the nearest one not held by the applicant.

Ms. Steen determined the existence of domestic wells by using the Water Rights Program well completion report database. The location of domestic wells is generally based off of the location provided by the driller on the report submitted at the time of well completion. Not all domestic wells are on file. Some pre-date the turn-in requirements for the well completion reports. The domestic wells shown on Exhibit 605 are only in the Missouri:Elk Point Aquifer. Based on the records Ms. Steen was able to search, the closest domestic well to the proposed point of

diversion is held by the applicant, and it is located 0.25 miles south of the existing well site. The nearest well not held by the applicant is located 0.3 miles northwest of the existing well site. There are three permits approximately one mile away from the proposed point of diversion, and those permits are Water Right No. 6680-3 and Water Permit Nos. 8381-3 and 8435-3. The nearest observation well to the existing well site is UN-78C, which is located about one-half mile away. The other observation wells shown in Exhibit 605 are all within four miles of the existing well site.

Ms. Steen's opinion is that there is a reasonable probability that any interference from the proposed appropriation will not cause an unlawful impairment on existing water right and permit holders and domestic uses with adequate wells. This opinion is based on the tremendous resource that the Missouri:Elk Point Aquifer is, the saturated aquifer thickness at the existing well site, the volume requested by this application is small, and this well has been diverting at this rate since 2005 without any well interference complaints or any substantiated complaints within the entire aquifer.

Observation Well UN-78D has a water right nearby that is held by a municipality, and it authorizes a diversion rate comparable to the one authorized by this existing well. The hydrographs for Observation Well UN-78D are not showing any signs of impacts from the pumping occurring under this permit. If there are effects from pumping, it appears that the aquifer is returning to pre-pumping conditions following each irrigation season. Ms. Steen said this tells her that even with heavy pumping, drawdown is not showing up in observation wells.

Ms. Steen said she reviewed the petition in opposition to this application, and her understanding of the association's concern is that approval of this permit would unlawfully impair the association's water right and permit, and that approval of this permit will undermine their efforts in sustaining the water levels in McCook Lake.

Ms. Steen stated that when she conducted her review of unlawful impairment she did not include the association's water right because they are authorized for a diversion from the Missouri River. When she conducts an unlawful impairment review Ms. Steen generally only looks at water rights completed into the same water source. If an unlawful impairment is not being seen within that water source, she would not expect to see an unlawful impairment from permit users in outside water sources.

Ms. Steen stated that, while not in the scope of her review, she would not anticipate a Missouri:Elk Point Aquifer water right or water permit to unlawfully impair a Missouri River water right, given what she knows about water availability of water in the river and how the observation wells react in the aquifer. Ms. Steen stated that in her opinion, approval of this permit would not have a measurable effect on the waters of McCook Lake, despite the hydraulic connection.

Ms. Mines Bailey had no further questions of Ms. Steen.

Mr. Fankhauser had no questions of Ms. Steen.

Water Management Board
August 2, 2023, Meeting Minutes

Mr. Hines asked Ms. Steen to direct him to which South Dakota Codified Law or Administrative Rule limits her review of unlawful impairment to the same water source.

Mr. Fankhauser objected as to the question calling for a legal conclusion, and Ms. Steen is not an attorney.

Mr. Hines said he is asking Ms. Steen if she is aware of whether there is any law or rule governing her review that limits that review to only water rights in the same water source.

Chairman Larson overruled the objection.

Ms. Steen answered that she is not sure if it is defined in law, but if there is no unlawful impairment within the proposed water source, she would not expect to see an unlawful impairment from permit users in outside water sources.

Mr. Hines asked Ms. Steen if she is aware of whether unlawful impairment is defined by statute. Ms. Steen answered that she does not believe it is defined in statute.

Mr. Hines asked if it is possible that a water right from one source could impair a water right in another source. Ms. Steen stated that it is possible.

Mr. Hines asked if someone were to construct a dam in an area and a property owner had a well in that area that would then be filled with water, the well right would be impaired by the existence of now having, in the case of Lake Oahe for example, 200 feet of water on top.

Ms. Mines Bailey objected as to the question calling for speculation. Chairman sustained the objection.

Mr. Hines asked Ms. Steen to direct him to the part of her report that discusses the specifications of the proposed canal. Ms. Steen stated that her report does not contain any of the design elements for the proposed canal. She said review of the plans was not in the scope of her review. She analyzed the water permit application based on the volume of water requested and the proposed water source. Ms. Steen said she would have to re-review the application to know if it included specifications for the canal.

Mr. Hines asked if there is any part of Ms. Steen's report that discusses the integrity of the canal liner. Ms. Steen stated that the introduction addresses why the water would be needed to maintain the integrity of the liner to prevent any evaporation and seepage for the purpose of preventing the canal liner from drying out, cracking, floating or otherwise failing. Ms. Steen stated that she did not calculate the amount of water needed for those purposes.

Ms. Hines asked if there is any part of Ms. Steen's report that discusses the soil composition in the area where the canal would be constructed. Ms. Steen answered that she does not believe so.

Mr. Hines asked if there is any part of Ms. Steen's report that discusses the McCook Lake Association's water right. Ms. Steen answered that the report does not discuss that water right

because it is authorized for diversion from the Missouri River.

Mr. Hines asked if there is any part of Ms. Steen's report that concludes that 1.55 cfs will be sufficient to prevent the liner of the canal from drying out, cracking, floating, or otherwise failing. Ms. Steen answered that she does not believe that was in the scope of her review.

In response to a question from Chairman Larson, Ms. Steen stated that the information in Conclusion number 2 on page 20 was included in the application. She said she does not believe she has enough information at this time to perform any calculations to determine what the evaporation and seepage losses might be per year from the canal. Chairman Larson asked if it is possible to determine the annual evaporation and seepage for this canal. Ms. Steen answered that it could probably be done.

There were no further questions of Ms. Steen. Ms. Mines Bailey had no other witnesses.

Mr. Fankhauser called Michael Chicoine who had previously been administered the oath.

In response to questions from Ms. Fankhauser, Mr. Chicoine stated that he worked with Scott Gernhart, an engineer, in preparing the water right permit application. Mr. Chicoine worked with Game, Fish and Parks and other agencies when preparing the application for Shoreline Alteration of a South Dakota Water Body.

Exhibit A is the Application for Shoreline Alteration of a South Dakota Public Water Body.

Mr. Fankhauser asked if while preparing the Shoreline Alteration application Mr. Chicoine discussed with his engineer the material for the liner for the canal.

Mr. Hines objected as to hearsay. Chairman Larson sustained the objection.

Mr. Fankhauser asked if Exhibit A talks about the material used to construct the canal. Mr. Chicoine answered that the application describes the size, depth and length of the canal.

In response to questions from Mr. Fankhauser, Mr. Chicoine stated that originally the canal idea came about when Eric Christenson from North Sioux City called and asked if Mr. Chicoine would be willing to construct a canal.

Mr. Hines objected as to hearsay. Chairman Larson sustained the objection.

In response to questions from Mr. Fankhauser, Mr. Chicoine stated that he lives in Jefferson, South Dakota and Dakota Bay owns property adjacent to McCook Lake. If the canal were to be built, Mr. Chicoine would have better access to his property. The canal would also give the 15 homeowners on the east side of the lake access to McCook Lake. At this time, access to McCook Lake is very steep and the parking is poor. There is only room for four or five trucks and boats, so a lot of people park on the street. The cost to put a boat on or off McCook Lake at its current boat ramp is \$5.00 on and \$5.00 off and it's \$30.00 for all year use. Mr. Chicoine said his intention is to install a public boat ramp on the canal. A permit has already been approved

for a boat ramp.

Mr. Hines objected to Mr. Chicoine's last statement under the best evidence rule. No such permit has been provided into evidence. Chairman Larson sustained the objection.

Mr. Fankhauser asked if it is Mr. Chicoine's intention to build a public boat ramp on the canal. Mr. Chicoine answered that is his intention.

Mr. Fankhauser asked Mr. Chicoine why the water right is necessary for the protection of the liner. Mr. Chicoine answered that if the lake would ever happen to be down or precipitation was down, he would be able to maintain the water liners so it would be moist at all times. The barrier that is intended to be installed on the end of the canal would also help hold the water in the canal.

In response to questions from Mr. Fankhauser, Mr. Chicoine stated that he has used McCook Lake for recreational activities since 2002. Mr. Chicoine has no intention of jeopardizing or harming the integrity of McCook Lake or its water levels. The canal will allow people on the lake to have more area to boat, jet ski, or fish. Mr. Chicoine opted to request a water right for filling the canal from his irrigation well versus filling it from McCook Lake because he did not want to take any water from McCook Lake. Mr. Chicoine already has his water source and a submersible well for backup in case there are ever any issues with his well. There have not been any issues with the well in 18 years. Mr. Chicoine has not ever had any issues with the water levels in either well when he is pumping both wells at the same time. Mr. Chicoine said the Game, Fish and Parks would like to have the canal and public boat ramp because there would be no fees.

Mr. Fankhauser asked why McCook Lake does not have a fee free boat ramp for public access.

Mr. Hines objected to the question as to foundation. Chairman Larson sustained the objection.

Mr. Fankhauser asked if Mr. Chicoine is aware of why McCook Lake doesn't have a free boat ramp. Mr. Chicoine said McCook Lake Association thinks the lake is a private lake, and they would like to keep people off the lake.

Mr. Hines objected stating that does not answer the question. Chairman Larson asked Mr. Fankhauser to move on.

In response to questions from Mr. Fankhauser, Mr. Chicoine said he has 15 lots that border McCook Lake, and he has 15 lots that would border the proposed canal. Mr. Chicoine said he owns 72 acres around McCook Lake. The use of the water in the canal would allow all of those lots access to McCook Lake and it would also allow the public access to McCook Lake through Dakota Bay's intended public boat ramp.

Mr. Fankhauser asked Mr. Chicoine if, based on his intended use of the canal, he believes that the public will benefit from additional recreational use. Mr. Chicoine answered he does.

Mr. Fankhauser asked if Mr. Chicoine believes the public will benefit from any other use. Mr.

Water Management Board
August 2, 2023, Meeting Minutes

Chicoine stated that it will be good for the habitat. Besides boating, jet skiing, etc., there will be more area for fish. Mr. Fankhauser asked if Mr. Chicoine believes he will gain beneficial use of McCook Lake or, that the water will provide him beneficial use and access to McCook Lake, if the water right is granted. Mr. Chicoine answered that he does. If the water right is granted it will allow Mr. Chicoine to protect the integrity of the canal without any appropriation of water from McCook Lake.

Mr. Fankhauser asked Mr. Chicoine if his intentions and expectations for the purpose of this project are fairly laid out in Exhibit A. Mr. Chicoine answered in the affirmative.

Mr. Fankhauser said he and Mr. Chicoine have talked about the public responses to this permit application. He asked Mr. Chicoine why he has chosen not to respond publicly or to do any news conferences related to this canal project. Mr. Chicoine said his neighbors are misinformed. There has been a propaganda campaign for over a year on television and in the newspaper.

Mr. Hines objected. He said Mr. Chicoine is slandering the association and he is speculating. Chairman Larson overruled the objection.

Mr. Fankhauser asked what the benefit is to Mr. Chicoine as the applicant, if the permit application is granted and the proposed canal is built. Mr. Chicoine answered that those 15 people would be able to have access to McCook Lake and there would be public access with a boat ramp. Mr. Chicoine said this is a reasonable and useful use of the water. Mr. Chicoine does not believe that there will be a unique injury to anyone else's water right if his permit is granted.

Mr. Fankhauser offered Exhibit A. There were no objections, and Chairman Larson admitted the exhibit into the record.

Mr. Hines asked Mr. Chicoine if he has ever built a canal before. Mr. Chicoine stated that he has not.

Mr. Hines asked Mr. Chicoine if it is true that he has not dedicated any of his 72 acres for a public purpose that would allow for a public access dock. Mr. Chicoine answered that he plans on it with the installation of this boat ramp.

Mr. Hines asked if Mr. Chicoine has provided the Water Management Board with any of the plans or specifications for the proposed public boat ramp. Mr. Chicoine answered that he is not sure.

Mr. Hines ask Mr. Chicoine how many feet of shoreline there are on the 72 acres he owns in proximity to McCook Lake. Mr. Chicoine answered there is approximately 900 to 1,000 feet of shoreline. After construction of the canal there would be 800 or 900 feet of shoreline.

Mr. Hines asked if it is Mr. Chicoine's intention to sell the lots that would be developed along the canal. Mr. Chicoine said the 15 lots on the east side, next to Sodrac Park have shown interest in it, but he has never met with them or signed any documents.

Water Management Board
August 2, 2023, Meeting Minutes

Mr. Hines asked Mr. Chicoine if he obtains the water right that he has requested, does anything in the requested water permit require him to pump water annually. Mr. Chicoine said he hasn't gotten the permit from Game, Fish and Parks so he does not know.

Mr. Hines asked if Mr. Chicoine has asked Game, Fish and Parks for permission to pump water every year. Mr. Chicoine said he has discussed it with Game, Fish and Parks but he does not have the permit at this time.

Mr. Hines asked if one of the terms of the permit is that Mr. Chicoine would be required to pump the water every year. Mr. Chicoine said he is sure it is.

Mr. Hines asked if it would require any of Mr. Chicoine's successors to pump water every year. Mr. Chicoine said he is not sure.

Mr. Hines asked if it would require pumping water for the life of the canal.

Mr. Fankhauser objected as to speculation. The shoreline permit has not been granted yet. It is contingent on it obtaining, according to Game, Fish and Parks, a water right. Any conversations about what is required under that shoreline alteration permit being granted is pure speculation because Mr. Chicoine does not yet have an answer back from Game, Fish and Parks.

Mr. Hines said his question is not about the shoreline alteration.

Chairman Larson said Mr. Chicoine is requesting a water permit and Game, Fish and Parks has nothing to do with it; the Water Management Board does.

Mr. Hines said he is asking if the water right Mr. Chicoine has applied for would require him to pump water every year.

Chairman Larson overruled the objection.

Mr. Chicoine answered that he is not sure.

Mr. Hines asked who will be responsible for the annual maintenance of the canal. Mr. Chicoine answered that he will.

Mr. Hines asked who will be responsible for the annual maintenance of the canal after Mr. Chicoine sells the lots, after he passes away, or after the LLC dissolves. Mr. Chicoine answered that he is not sure.

Mr. Hines asked that if for some reason Mr. Chicoine can't or is unable to pump water into the canal, isn't it true that water the McCook Lake Association's pumps into the lake will fill the canal? Mr. Chicoine said he does not foresee having any problems with it.

Mr. Fankhauser objected as to speculation. Mr. Hines said he will save the question for direct.

Water Management Board
August 2, 2023, Meeting Minutes

Chairman Larson asked Mr. Hines to re-phrase the question.

Mr. Hines asked Mr. Chicoine if he constructs the canal and pumps no water, will there be water in the canal? Mr. Chicoine answered that there are test wells there. The water table is very close, but Dakota Bay would not construct the canal unless it was going to pump water.

Mr. Hines asked if it is Mr. Chicoine's intention to line the canal with a fat clay layer. Mr. Chicoine answered that existing topsoil is what used to be the bottom of the lake. His property used to be part of McCook Lake.

Mr. Hines asked if Mr. Chicoine was going to line the sides and the bottom of the canal. Mr. Chicoine said it will be lined with 18 inches of fat clay.

Mr. Hines asked if installing docks for access will damage the canal liner. Mr. Chicoine answered that Dakota Bay plans on putting in...

Mr. Fankhauser objected as to speculation. Chairman Larson sustained the objection.

Mr. Hines asked if it is a beneficial use to pump water into the canal if the canal liner is damaged or fails.

Mr. Fankhauser objected as to speculation. Chairman Larson overruled the objection.

Mr. Chicoine said he does not foresee damage to the canal.

Mr. Hines said he is not asking if Mr. Chicoine foresees it. He asked if there would still be a beneficial use to pumping water into the canal if the canal was damaged by a boating accident. Mr. Chicoine said he is sure it could be fixed.

Mr. Hines asked if it is correct that until the canal was fixed there would be no reason to pump water into it. Mr. Chicoine said the water would need to be pumped to maintain the bottom of the liner.

This concluded questioning by Mr. Hines.

Ms. Mines Bailey had no questions of Mr. Chicoine.

In response to questions from Mr. Fankhauser, Mr. Chicoine stated that his intention is to build a canal and to fill the canal with water to provide several properties with access to McCook Lake. In order to protect the canal and to protect the integrity of the liner, Dakota Bay wishes to pump water into the canal without appropriating water from McCook Lake. Mr. Chicoine said Dakota Bay's use of the water pumped into the canal is for recreational purposes for himself, the people that own property around, and to the general public. Obtaining a water permit is one of the steps for obtaining a permit from Game, Fish and Parks for shoreline alteration. The water being pumped out of Mr. Chicoine's irrigation well provides a backup plan that the canal's integrity will be maintained. If Dakota Bay is unable to ensure the integrity of the canal, the canal will

Water Management Board
August 2, 2023, Meeting Minutes

not be built. Mr. Chicoine said he has no intentions of harming McCook Lake.

In response to questions from Chairman Larson, Mr. Chicoine stated that the water permit application requests 7.99 acre-feet annually after the canal is filled. His engineer, Scott Gernhart, did the calculations for that. A hydrology study was done, and it was determined that with 18 inches of the clay liner material, which is existing on his property, it would have leakage of only an inch or less per year.

Mr. Hines objected as to hearsay. He said Mr. Chicoine is now testifying about what his engineer said and the engineer is not available to testify.

Chairman Larson asked Mr. Chicoine if his engineer evaluated and determined the annual evaporation and seepage losses from this proposed canal. Mr. Chicoine answered in the affirmative. Mr. Chicoine said he plans on pumping water into the canal every year. He does not want to affect McCook Lake in any way. The pump is currently used for irrigation. It pumps 700 gallons per minute. Mr. Chicoine said he only has to fill the canal once, then all he has to do is maintain evaporation or seepage in the canal.

Chairman Larson asked Mr. Chicoine how he plans to monitor the evaporation and seepage losses in the canal. Mr. Chicoine said he has farmed there for 21 years, and he is on the property every three or four days.

Chairman Larson asked if Mr. Chicoine has a third party, an engineer or a professional that is going to monitor the evaporation and seepage losses. Mr. Chicoine answered that he is not sure what the Game, Fish and Parks will require because he hasn't obtained the permit yet.

Chairman Larson said Game, Fish and Parks does not issue the water permit; the Water Management Board does, and the board wants to know what the plan is to monitor the evaporation and seepage losses on the canal going forward. Mr. Chicoine said he can establish a plan or whatever the board wishes to see how it fluctuates.

Chairman Larson said it is his understanding, based on the DANR engineer's testimony, that there is a method for calculating what that loss would be. He asked if Mr. Chicoine would comply if the board requires monitoring of the evaporation and seepage and that a certain amount of water is pumped back into the canal every year. Mr. Chicoine said he would comply with those requirements.

Chairman Larson asked if the liner is just clay. Mr. Chicoine said the liner is a type of clay. When it gets wet it seals quite well. It will be 18 inches thick with leakage limited to one inch per year. Mr. Chicoine said it is the same material that was present under McCook Lake before the lake was dredged.

In response to questions from Chairman Larson, Mr. Chicoine stated that concrete does not need to be poured in the bottom of the canal; it will be constructed with a clay liner. There are 15 privately-owned lots on the east side of the canal. The canal will be 30 to 40 feet away from those existing property lines, and Mr. Chicoine would potentially be able to sell 15 of his lots.

Water Management Board
August 2, 2023, Meeting Minutes

On May 5, 2022, Mr. Chicoine explained Dakota Bay's plans regarding the canal to Mr. Lohry, but he has not had discussions with the McCook Lake Association about working together to contribute or pump additional water as it becomes necessary. Mr. Chicoine's engineer, Scott Gernhart, assisted him with preparing the U.S. Army Corps of Engineers permit preconstruction application. Mr. Chicoine has not contributed funds to the McCook Lake Association in the past. If the board granted a water permit that required Mr. Chicoine to contribute water every year, he would comply.

Mr. Fankhauser had no further witnesses.

Mr. Hines made a motion for judgement as a matter of law. It is the association's position that Dakota Bay has not carried its burden to prove that its proposed water right application has a beneficial use, is in the public interest, and does not unlawfully impair the association's water right. Dakota Bay did not provide any documents related to the design or proposal for its canal. Dakota Bay did not bring its engineer to testify about the methods used to calculate the amount of water required, so there has been no opportunity for the Water Management Board or the association to evaluate those numbers, which the state's engineer stated she had nothing to do with calculating. Mr. Hines said for those reasons the association believes Dakota Bay has not carried its burden for approval of the water right.

Chairman Larson reserved ruling on the motion until all of the evidence is heard.

Mr. Hines called Kip Rounds who had previously been administered the oath.

Mr. Hines stated he had discussed with Mr. Fankhauser the fact that several of the exhibits that were included in the exhibit binders given to the board members are duplicates of the exhibits that were offered during the Declaratory Ruling hearing, but they were renumbered for this hearing. Mr. Hines said Dakota Bay agreed that Exhibits 802, 803, 805, 806, 807, 809, and 810 can be admitted without laying foundation but Mr. Fankhauser has the right to cross-examine or object on the record if he wishes to.

Ms. Mines Bailey objected as to relevance on the admission of Exhibits 802, 805, and 810. Chairman Larson stated that he would reserve ruling on those objections until he hears the testimony.

Mr. Rounds testified regarding this employment background and experience.

In response to questions from Mr. Hines, Mr. Rounds stated that he is familiar with Mr. Chicoine's application for a shoreline alteration, and he is familiar with Dakota Bay's proposed canal.

Mr. Hines asked Mr. Rounds to discuss Game, Fish and Parks' concerns regarding the canal liner. Mr. Rounds stated that Game, Fish and Parks' engineers have concerns about what would happen if the canal liner were to dry out, the integrity of that liner and its ability to reduce seepage. Game, Fish and Parks has shared those concerns with Mr. Chicoine.

Water Management Board
August 2, 2023, Meeting Minutes

Mr. Hines asked what it means for a canal liner to float. Mr. Rounds said that would be a question for an engineer.

Mr. Hines asked if the water level in the canal falls, is there a possibility that the canal liner would dry out, crack, or otherwise fail.

Mr. Fankhauser objected. The question is asking for an improper lay opinion. Chairman Larson overruled the objection.

Mr. Rounds said the possibility that the canal liner drying out, cracking, or otherwise failing was a concern of Game, Fish and Parks' engineers.

In response to questions from Mr. Hines, Mr. Rounds said if the canal is constructed, and a water permit is granted to Dakota Bay, Game, Fish and Parks will not monitor the canal every year to check for canal liner failures. Mr. Rounds does not know who would be responsible for monitoring the canal or who would be responsible in the event of the canal liner failing.

In response to questions from Mr. Fankhauser regarding the shoreline alteration permit application, Mr. Rounds stated that if the Department of Game, Fish and Parks has concerns about a proposed project, the department shares those concerns with the applicant. Game, Fish and Parks has communicated its concerns regarding this project with Mr. Chicoine. Mr. Chicoine has been active in addressing those concerns.

Mr. Rounds stated that Game, Fish and Parks did not request that Mr. Chicoine obtain a water permit. Game, Fish and Parks requested that Mr. Chicoine provide means to prevent the canal liner from drying out. Mr. Rounds said it is his understanding that the beneficial purpose of a water permit like this one would be to help ensure that the canal's liner would not dry out. It will benefit everybody if the canal liner does not dry out. Mr. Rounds stated that, outside of Mr. Chicoine's proposal to monitor the canal and add water as needed, there has been no additional conversation. Mr. Rounds said he understands Mr. Chicoine is currently working with an engineer.

Mr. Fankhauser asked Mr. Rounds if the properties adjacent to the proposed canal could be subject to an agreement to protect the canal liner or to ensure that water is maintained in the canal.

Mr. Hines objected as to foundation. Chairman Larson sustained the objection.

There were no further questions for Mr. Rounds.

Mr. Hines called Nakaila Steen who had previously been administered the oath.

Mr. Hines asked Ms. Steen what it means for a canal liner to float. Ms. Steen answered that even though she is an engineer, she does not know if she has the proper engineering language for a definition like that, but in her opinion, it means that the liner is floating on top of the water surface. A potential cause of the liner floating would be water getting under the liner.

Mr. Hines asked what water would be likely to get underneath the liner. Mr. Steen said it could be the water coming from Mr. Chicoine's well or if McCook Lake water were to overtop the berm and under the liner.

Mr. Hines asked if pumping water into the canal from a well mitigates the risk of float.

Mr. Fankhauser objected to this line of questioning. Ms. Steen did say that while she is an engineer, she doesn't have the background to testify about this line of questioning. Chairman Larson sustained the objection.

Mr. Hines asked Ms. Steen if it is within her education and experience to tell him if the water levels in the lake and the canal will correspond to each other, regardless of whether pumping is occurring from the well. Ms. Steen stated that the water levels will not necessarily correspond if the berm at the end of the canal is going to be constructed as she was informed today. It is possible that if a berm was constructed, the water levels would may not correspond, but if no berm were constructed, they may correspond.

Mr. Fankhauser asked if Ms. Steen's report was based on the current application for a water allocation permit. Ms. Steen answered in the affirmative.

Mr. Fankhauser asked Ms. Steen if the figures and numbers used in the application for the permit were used for her calculations and based on her engineering training.

Mr. Hines objected as to the questions being beyond the scope of direct. Chairman Larson overruled the objection.

In response to questions from Mr. Fankhauser, Ms. Steen stated that based on the volume requested by the application she determined there was a reasonable probability that unappropriated water was available from the aquifer for the proposed appropriation and any interference from the proposed appropriation is not likely to cause unlawful impairment to existing users within the aquifers; users being licensed and permitted water permits and domestic users with adequate wells.

Ms. Fankhauser asked if Game, Fish and Parks regulates the construction of shoreline alteration permits. Ms. Steen answered that she is unaware of what Game, Fish and Parks regulates.

There were no further questions of Ms. Steen.

Mr. Hines called Dirk Lohry who had previously been administered the oath.

Mr. Hines asked Mr. Lohry to testify regarding his education and employment background. Mr. Lohry stated that he has been instrumental in writing laws for secondary containment of fertilizer tanks. He has also designed and built several secondary containment systems for fertilizer tanks. Mr. Lohry said the problem with a clay liner in a secondary containment for a fertilizer tank is that the clay tends to fail over a period of time due to vegetation growth, which ends up

penetrating the clay layer and also because of drying and cracking. For that reason, the vast majority of containment ponds for fertilizer tanks are plastic lined primarily with a 30 mil polyethylene coating and in many cases a cement liner.

Mr. Fankhauser objected. He moved that his objection precede the answer and that the answer be stricken based on relevance. The testimony was about fertilizer containment facilities, and McCook Lake and the canal are neither.

Mr. Hines offered to ask the question again and ask Mr. Lohry to answer just the question that he asks.

Chairman Larson sustained the objection and sustained the motion to strike.

Ms. Hines asked Mr. Lohry if he has experience with clay liners for containment. Mr. Lohry answered in the affirmative. Mr. Hines asked if Mr. Lohry has concerns about the long-term durability of those types of containments.

Ms. Mines Bailey objected as to relevance. This is a water appropriation permit, and the four factors are: availability of unappropriated water, potential for unlawful impairment, beneficial use, and public interest. Chairman Larson sustained the objection.

Mr. Hines stated that Mr. Chicoine is asking for a water permit for the purpose of filling a canal and ensuring the canal liner will not fail. This is why he believes the question is relevant.

Chairman Larson said he sustained the objection because the question before the board is not whether or not the liner will fail or is of a certain quality. The purpose of the hearing is for the board to decide whether the four factors for approval of a water permit are met.

Mr. Hines asked if the pump fails for Mr. Chicoine's well or if he or Dakota Bay doesn't pump water, who will ultimately bear the burden of making sure that the canal has water in it. Mr. Lohry said it will be the McCook Lake Association.

Mr. Fankhauser object as to speculation. Chairman Larson overruled the objection.

Mr. Hines asked if it would cost more money for the association to pump water into the additional square footage of the canal.

Mr. Fankhauser objected as to speculation. Chairman Larson sustained the objection.

Mr. Hines asked Mr. Lohry what the cost of pumping water by the McCook Lake Association is based on.

Ms. Mines Bailey objected as to relevance. Chairman Larson sustained the objection.

There were no further questions for Mr. Lohry.

Water Management Board
August 2, 2023, Meeting Minutes

Mr. Hines had no further witnesses.

Chairman Larson denied Mr. Hine's motion for judgement as a matter of law.

The parties presented closing arguments.

Motion by Larson, seconded by Freeman, that pursuant to SDCL 1-25-2(3) the board enter into executive session for the purpose of consulting with legal counsel regarding pending litigation. A roll call vote was taken, and the motion carried unanimously.

The board exited executive session at 6:10 p.m.

Motion by Bjork, seconded by Freeman, to approve Water Permit Application No. 8744-3, Dakota Bay, subject to the qualifications set forth by the Chief Engineer. A roll call vote was taken, and the motion carried with Bjork, Dixon, Freeman, and Holzbauer voting aye. Chairman Larson abstained.

Ms. Mines Bailey will prepare proposed Findings of Fact, Conclusions of Law and the Final Decision, which are due by August 23, 2023. Objections and alternative Findings of Fact, Conclusions of Law and Final Decision are due by September 11, 2023.

ADJOURN: Motion by Bjork, seconded by Freeman, to adjourn. The motion carried unanimously.

A court reporter was present, and a transcript of the proceedings may be obtained by contacting Carla Bachand, Capital Reporting Services, PO Box 903, Pierre SD 57501, telephone number (605) 222-4235, or email pcbachand@pie.midco.net.

An audio recording of the meeting is available on the South Dakota Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=106>.

Approved October 4, 2023.

Bill Larson

Bill Larson (Oct 12, 2023 16:43 CDT)

Water Management Board

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

Education

B.S. Geological Engineering, South Dakota School of Mines and Technology (May 2018)

Registration

SD Engineer in Training (EIT) License

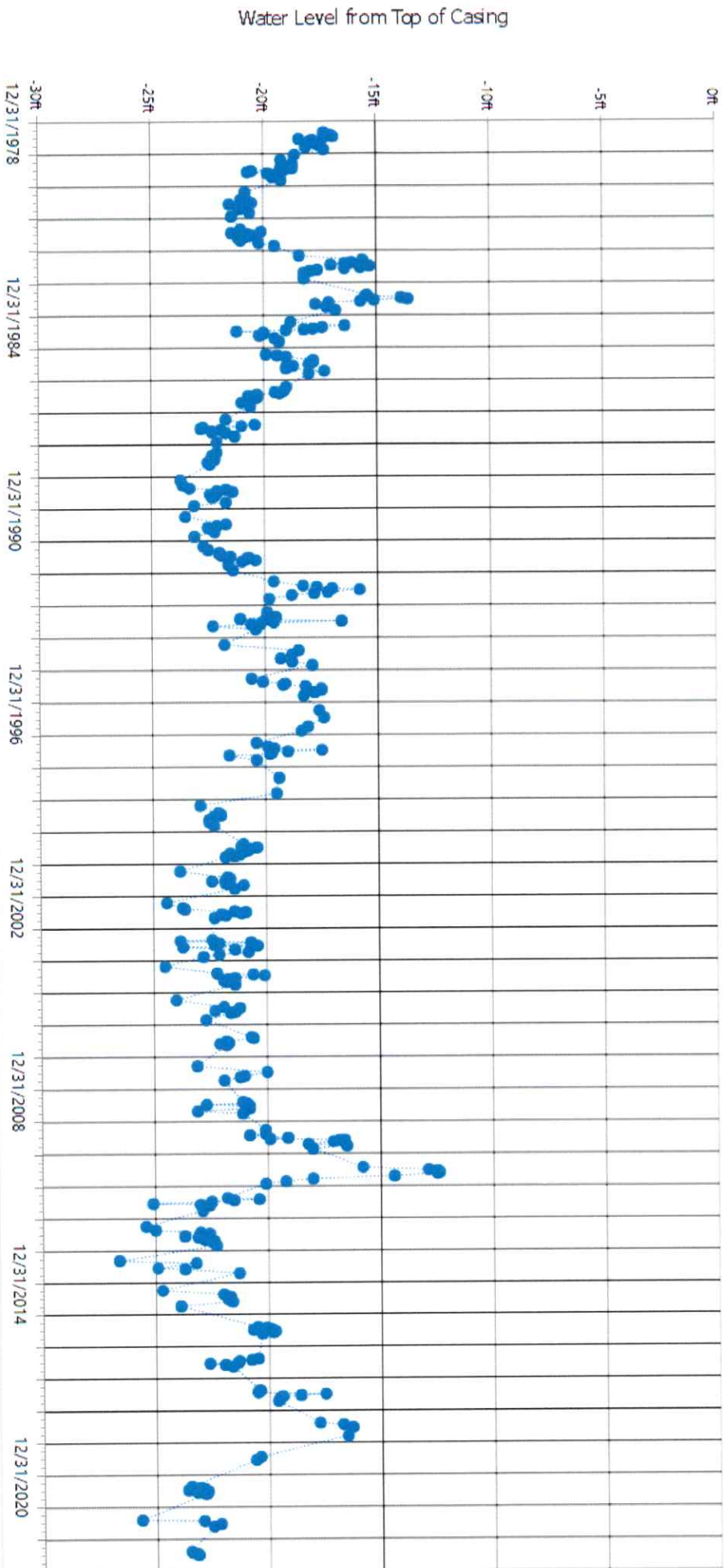
Career Experience

SD Department of Agriculture and Natural Resources – Water Rights Program
Natural Resources Engineer I, January 2020 – March 2022. *Engineer II*, March 2022- Present

- Perform technical reviews of ground and surface water permit applications
- Inspect state-owned dams for Safety of Dams Program
- Measure lake and observation well water levels
- Review and respond to constituent complaints regarding water rights/permits and wells
- Training seasonal and full-time employees
- Department representative on Western States Water Council



DANR Water Rights Observation Well: UN-77U

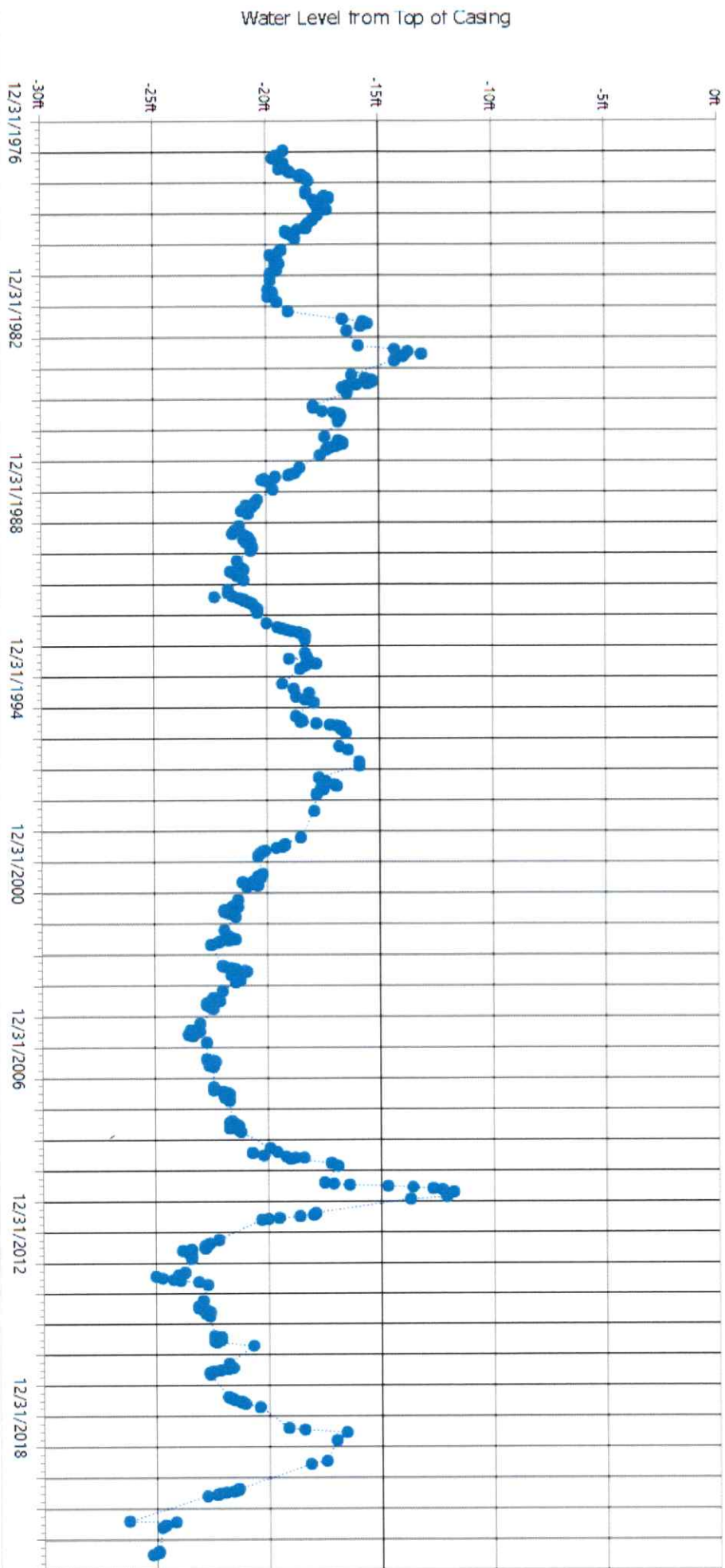


EXHIBIT

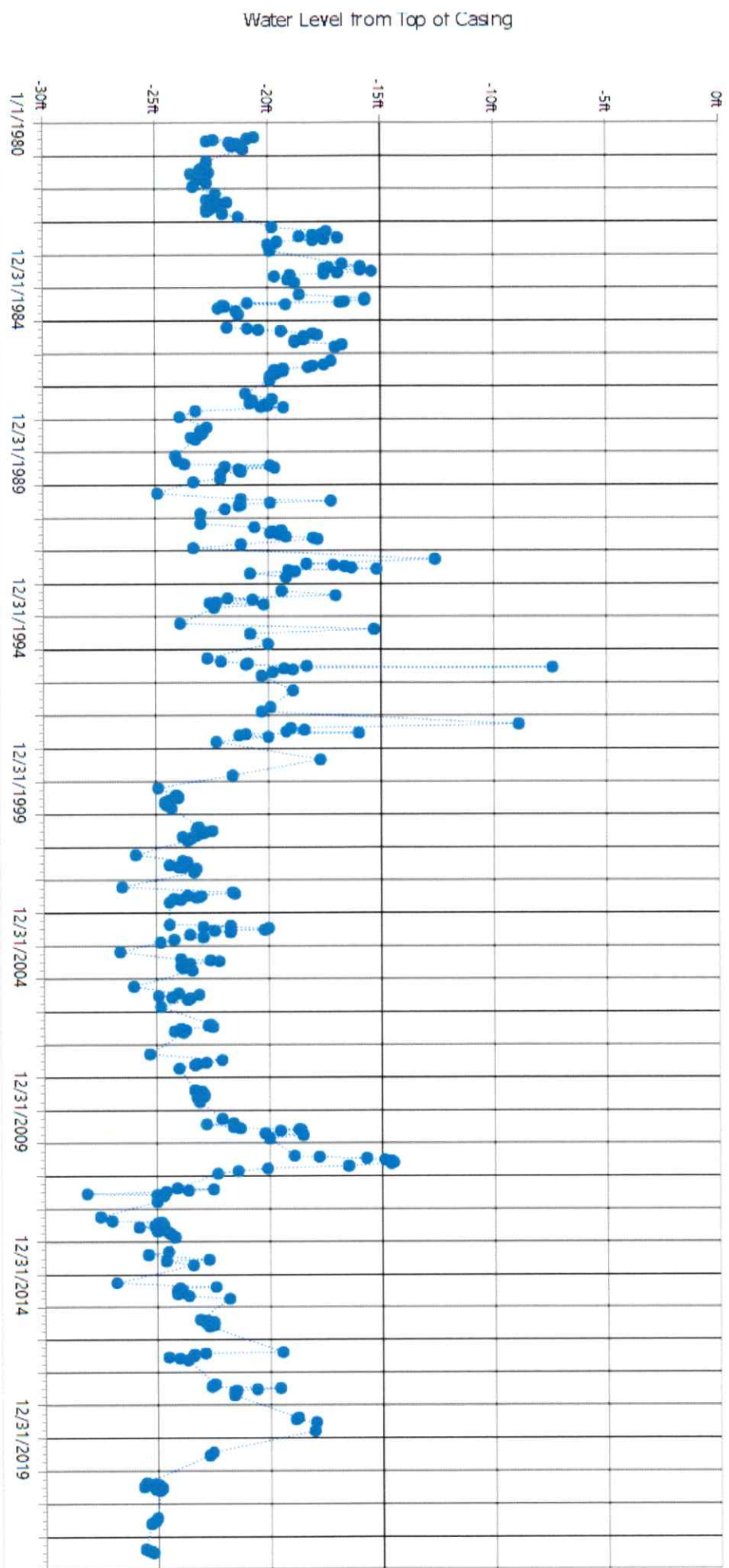
tabbles

CE/WR-8744-3

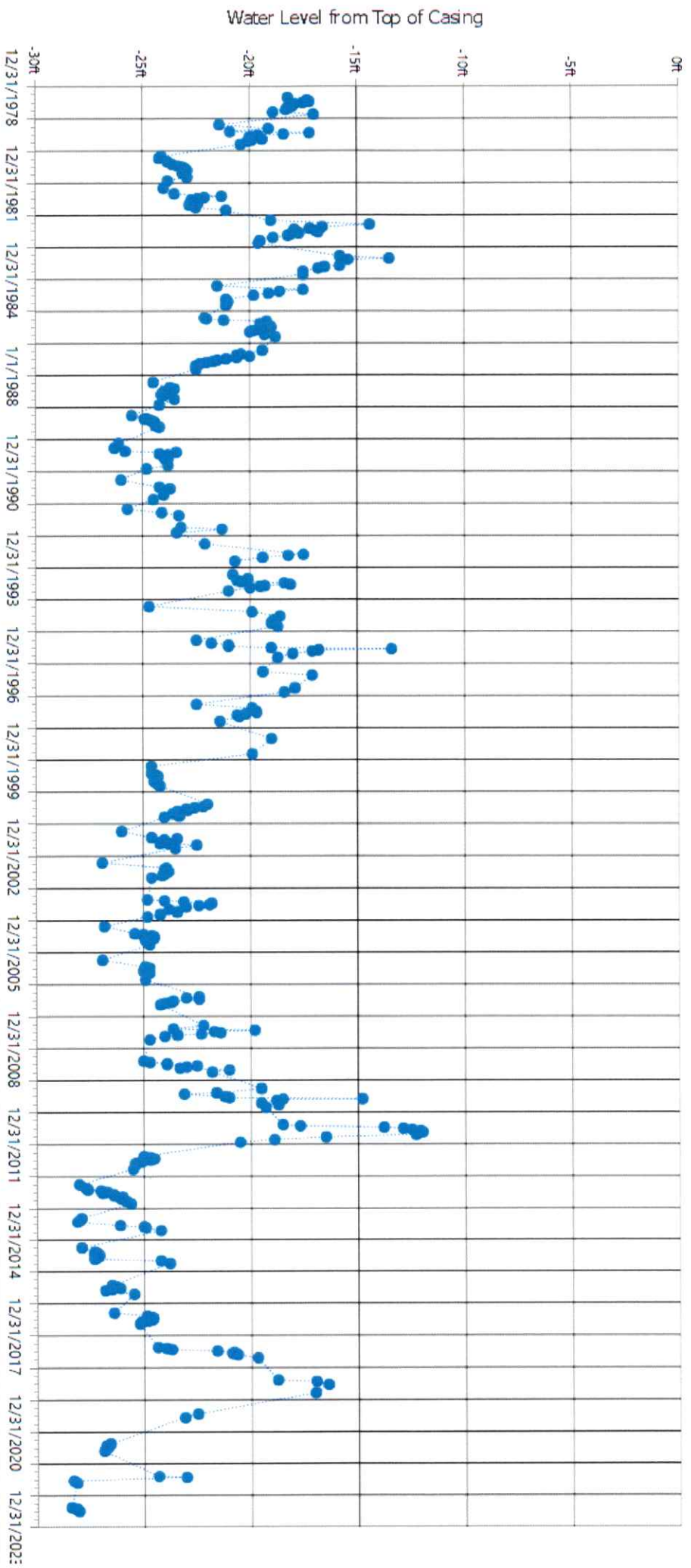
DANR Water Rights Observation Well: UN-77Q



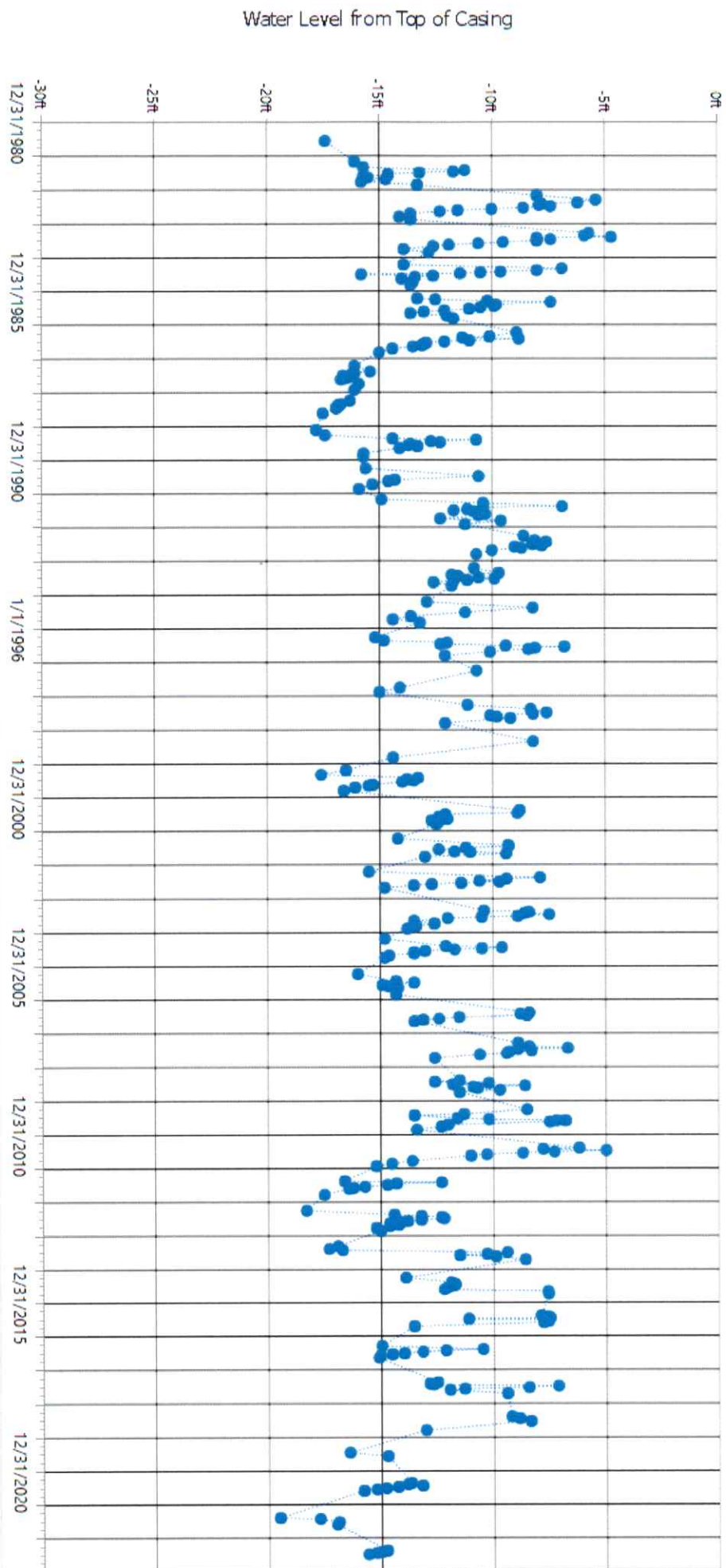
DANR Water Rights Observation Well: UN-77V



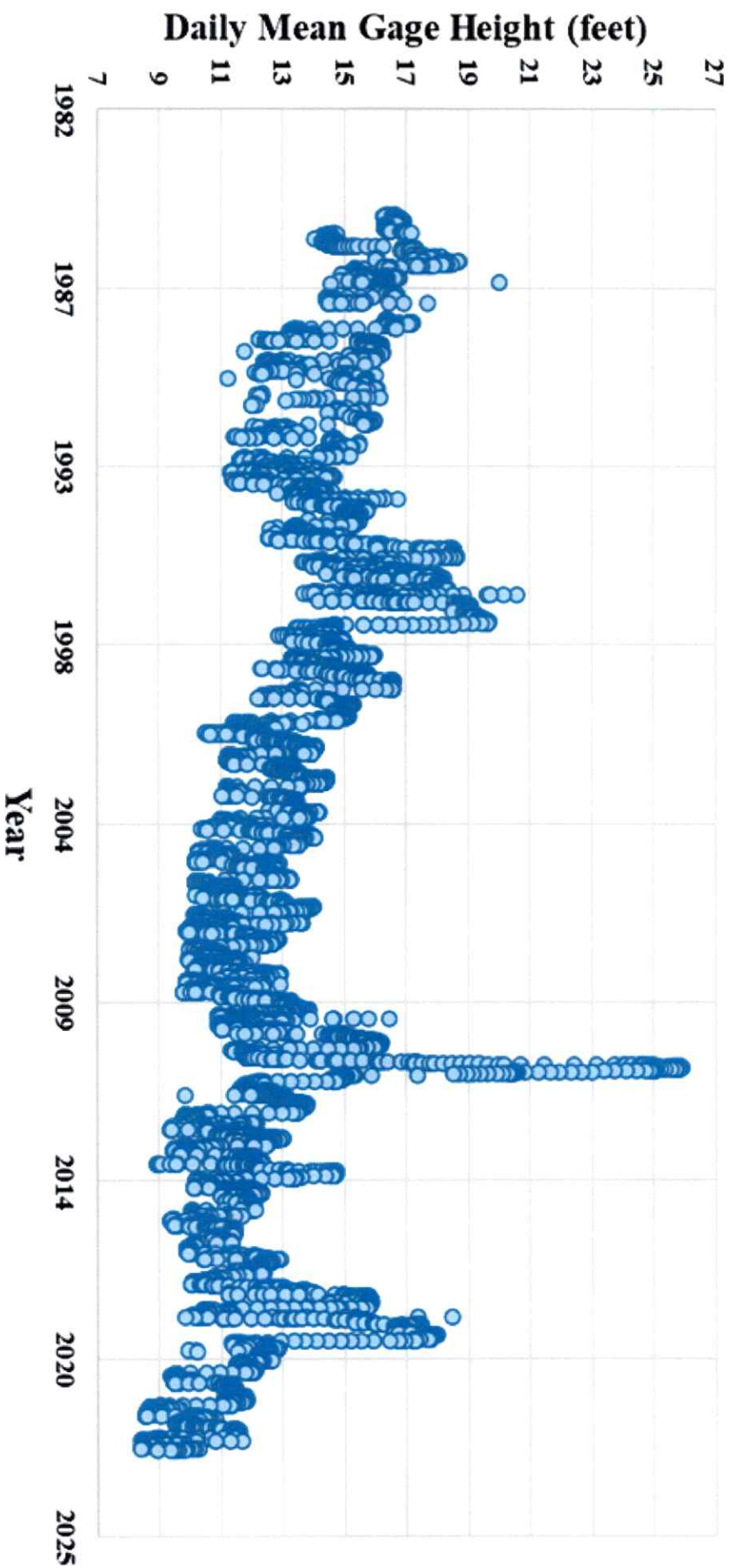
DANR Water Rights Observation Well: UN-78C



DANR Water Rights Observation Well: UN-78D



USGS Gage #06467500 Missouri River at Yankton, SD



EXHIBIT

tabbles

604
CE/WR 8744-3

ApplicationID:
8864

**Application for Shoreline Alteration of a
South Dakota Public Water Body**



Applicant Name: Mike Chicoine

Business Name: N/A

Mailing Address: 32926 482nd Avenue Jefferson, SD 57038

Project Address: SE1/4 of 16-89-48 Union County, SD North Sioux City, SD, SD 57049

Phone Number: (712) 898-9173

Email: mjchicoine24@gmail.com or brenda.gabel@gmail.com

Proposed Date Range: 03/01/2022 - 09/01/2022

Water Body:

Name/Description: The canal will run from where we have the marker placed, north, to the Southeast corner of McCook Lake.

Location of water body: **County:** Union | **Latitude:** 42.52103 | **Longitude:** -96.50865 | **TRS:** 089N048W16



Purpose of Project:

To construct a waterway southerly from McCook Lake in order to provide lake access to existing residential lots, future lots to be developed and the potential relocation of the McCook Lake Boat Ramp for the city of North Sioux City, SD.

Description of Project:

To excavate a waterway (canal) having a 90-foot wide water surface to allow for 2-way no-wake boat travel to and from residential lots and the proposed relocated boat ramp. Proposed water depth of 8.0 feet with a flat bottom and 2:1 side slopes. Possible private boat docks on both sides leaving a boat travel width of about 46 feet. No wetland areas are to be affected. The area is currently mainly farmland with bordering grass areas. The excavated area will consist of an 11-foot deep, 110-foot wide canal that is approximately 1,800 feet in length.

Has a portion of the project already been completed? No

Description of Portion

Footprint of Project Area (sq. ft.): 522720

Linear Feet of Shoreline: 1800

Type and estimated amount of materials to be excavated: Sand 56000CY

Type and estimated amount of materials to be placed: N/A

Adjacent Landowners:

None. Both sides of the canal are owned by Mike Chicoine.

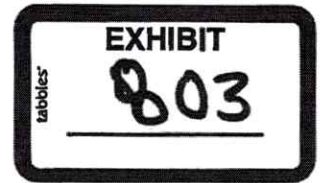
Comments:

No additional comments at this time

Signature of Applicant: Mike Chicoine

Date: 12/31/2021

WATER PERMIT NO. 6479-3



Name of Applicant: McCook Lake Recreation Association

Address: 315 Lakeshore Dr, McLake SD 57049

Phone: 605 242-4434

Amount of Water Claimed: 13.81 cfs (7,519 acre-feet)

Total Acres: NA

Source of Water Supply: Missouri River

Water to be used for: fish & wildlife propagation and recreation

County: Union

Type of Waste Disposal System:

Location: south end of McCook Lake

PRIORITY Date Received: 9-27-2002

Application/License Fee: \$1200.00

Corrected Application Received: 3-11-2004

Period of Annual Use: March 1 – December 1

Remarks: increase the diversion rate authorized by Water Right No. 5878A-3

Diversion Point: SW ¼ SW ¼ Sec 17-T89N-R48W

Land to be Irrigated: NA

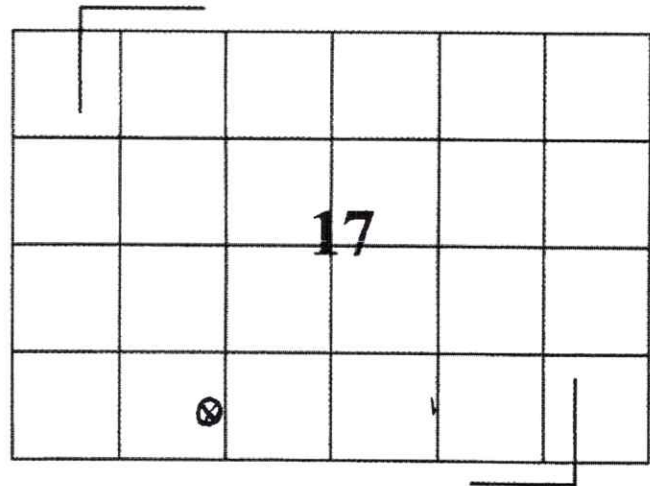
Depth of Well: NA

Well Driller: : NA

Remarks:

Type of Map: aerial

Prepared by: Ron Duvall



Reviewed and the Number Assigned on: 3-11-04

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6479-3</u> (office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>Leader-Courier, Elk Point</u>

RECEIVED
SEP 27 2002
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☒ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☒ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application: ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. 5878A-3

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) upgrading pump, and adding G.P.M.

1. Name of Applicant McCook LK. Recreation Association Phone 605-242-4434
(check one) ☐ Owner ☐ Tenant/lessee

Mailing Address 315 Lakeshore Dr. McCook LK. State SD 57049
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 13.85 *CFS or 12,000 **GPM 7,519 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable

3. Source of water supply Missouri River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
SW 1/4 section 17 Big Sioux Township.
SW1/4 SW1/4 Sec 17 - T89N-R48W County Union.

5. County or counties where water will be used Union

6. Annual period during which water is to be used March 1st thru Dec. 1st

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)

We are not changing anything from previous permit other than increasing our G.P.M.

IOWA
STATE OF ~~SOUTH DAKOTA~~
County of WOODBURY SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Todd Cook, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Todd Cook

Subscribed and sworn to before me this 24 day of Sept. 20 02

Rb Scott

Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 6479-3**

Date of first receipt of application September 27, 2002.

Date of return to applicant for corrections, amendments or changes October 1, 2002.

Date of receipt of corrected application March 11, 2004.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6479-3 to McCook Lake Recreation Association, 315 Lakeshore Dr., McCook Lake SD 57049 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 6479-3 appropriates 13.85 cubic feet of water per second (cfs) (7,519 acre feet annually) by increasing the diversion rate authorized by Water Right No. 5878A-3. Water Right No. 5878A-3 appropriates 12.89 cfs from the Missouri River located in the SW ¼ SW ¼ Section 17-T89N-R48W to maintain the water level of McCook Lake. This permit increases the water appropriation from 12.89 cfs to 26.7 cfs.
2. The water appropriated shall be used for the purpose of recreational use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: March 1 – December 1.
4. The date of approval of Permit No. 6479-3 is April 19, 2004.
5. The date from which applicant may claim right is March 11, 2004.
6. One-fifth of the construction is to be completed on or before October 19, 2006.
7. All construction is to be completed on or before April 19, 2009.
8. Water is to be put to beneficial use on or before April 19, 2013.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Water Right No. 5878A-3 and Water Permit No. 6479-3 authorize diversion of Missouri River water only when the McCook Lake water elevation is below 1090.3 fmsl.

WATER MANAGEMENT BOARD

By: _____

Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 10 2004

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 11, 2004

RECEIVED OF McCook Lake Recreation Assn., PO Box 1185, North Sioux City SD 57049

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

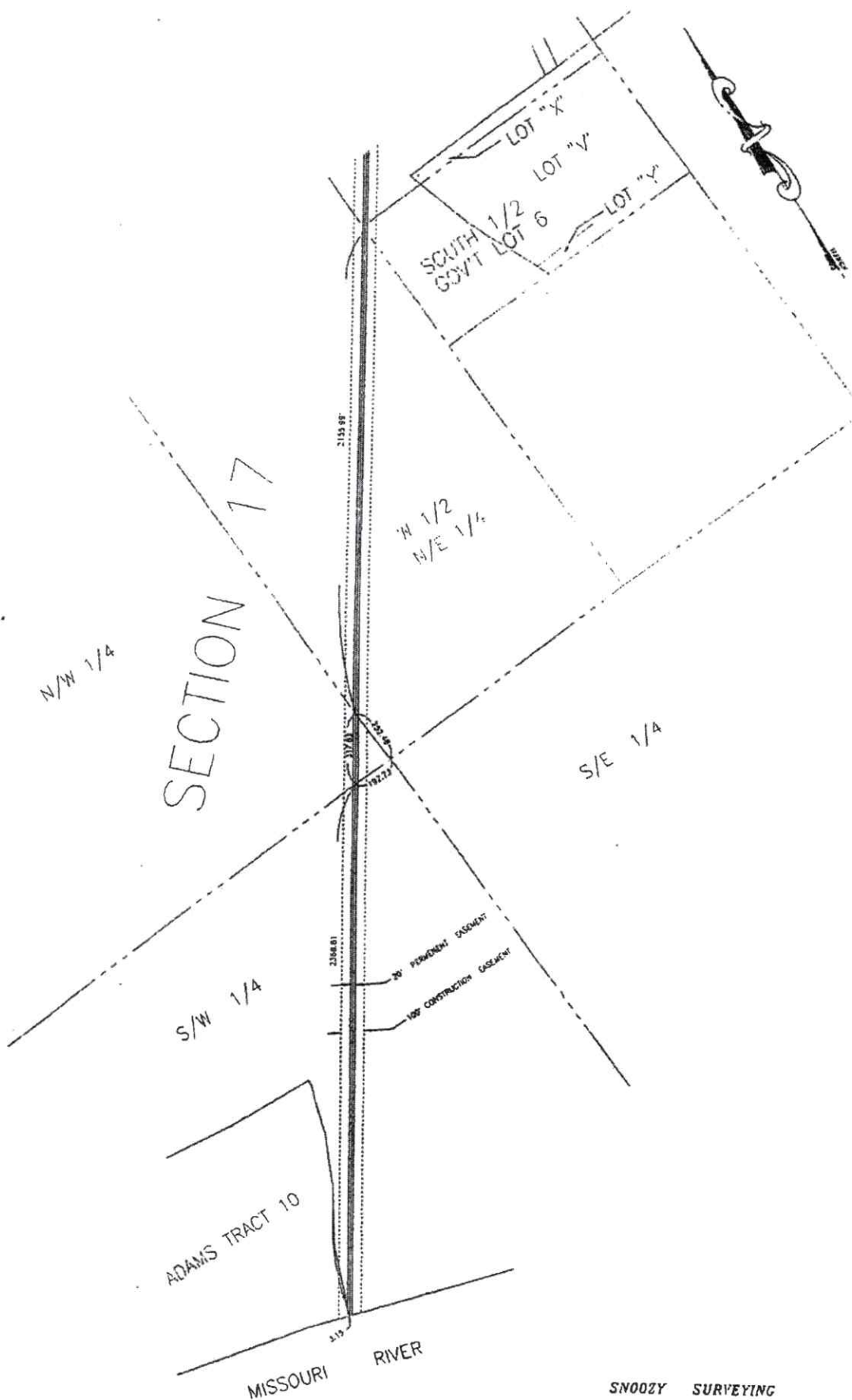
Fee for Application for Permit No. <u>6479-3</u> to Appropriate Water, to construct and to put water to beneficial use	1750	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6479-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1800.00

No.

001231

By

Darland Ebele
Chief Engineer
gm



SNOOZY SURVEYING
19 ALCDMA DRIVE
NORTH SIOUX CITY, SD 57049
605-232-3032



October 1, 2002

McCook Lake Recreation Association
c/o Todd Cook
315 Lakeshore Dr.
McCook Lake SD 57049

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

Dear Mr. Cook:

Thank you for submitting the *Application for a Permit to Appropriate Water* to increase the diversion rate authorized by Water Right No. 5878A-3. In order to complete the application, the following needs to be clarified.

The application states the amount of water claimed as 12,000 gallons per minute (gpm). The Association currently holds a water right from the Missouri River for 5,800 gpm. Is the 12,000 gpm listed on application in addition to the 5,800 gpm currently authorized or is it the cumulative total diversion rate from the river after upgrading the pump? If the latter were true, the actual new appropriation would be an additional 6,200 gpm.

I want to make you aware that the application filing fee will be considerable and is dependent on the amount of water claimed. For instance:

The fee for 12,000 gpm of additional pumping authority is \$4,225.00.

The fee if the additional pumping authority is 6,200 gpm is \$2,300.00.

The application filing fee can also be calculated based on the total volume (acre-feet of water) diverted annually. This method of calculating may provide for a reduced fee but only if the pumps are not run continuously 24 hours a day and 365 days a year. For your information, one acre-foot of water is equal to 325,900 gallons and 450 gpm run continuously for one year equates to 724 acre feet.

A request for the 12,000 gpm being continuously diverted for one year is equal to 19,358 acre feet of water annually. But as an example, if the pump is only run 50% of the time, the annual volume would be 9,680 acre feet. The fee could then be based on the acre foot amount which would cause the filing fee to be almost cut in half. If you want to quantify the amount of water claimed on an acre foot basis, please contact Eric Gronlund at (605) 773-3352 and he will help you calculate the correct fee.

I realize this may be somewhat complicated so do not hesitate to contact Eric or myself if you have any questions.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

Gronlund, Eric

From: Gronlund, Eric
Sent: Monday, March 24, 2003 8:47 AM
To: 'Mike Zediker'; 'pse225@aol.com'
Cc: Schlaak, Karen
Subject: RE: McCook Lake Rec Assn. pumping permit

Mike & Todd

The application was filed last September. As a result of our discussions you put the application on hold until you obtained Corps approval. If you want to proceed with the application, the application filing fee will need to be submitted. Please see below the e-mail from last October. As I recall our discussion the application is for additional diversion authority of 6,215 gpm with an annual volume of 7,519 acre feet of water. Based on this, the application filing fee will be \$ 1,800

The other issue that hanging out there is the use of the well which is pumped over the dike to preserve a wetland area. This was some requirement with the Corps. This well is not permitted.

Eric Gronlund
Water Rights Program, DENR
605 773-3352

-----Original Message-----

From: Mike Zediker [mailto:forgunz@yahoo.com]
Sent: Sunday, March 23, 2003 7:47 PM
To: Eric.Gronlund@state.sd.us
Subject: McCook Lake Rec Assn. pumping permit

Dear Eric; If you haven't heard, the Corps of Engineers has granted us the permit we need to increase our pumping to 12,000 gpm. I e-mailed you last October about increasing our permit up to 7,519 acre feet annually. Could you please send us the necessary paperwork to get this done. You can reach me at 47527 Burbank Rd, Elk Point, SD. 57025, 605-356-0277, or forgunz@yahoo.com. You can also get ahold of Todd Cook, 225 Westshore Drive, McCook Lake, SD 57049, 605-232-6213 or pse225@aol.com. Thanks for your help on this venture, talk to you later, Mike Zediker.

***** past e-mail *****

-----Original Message-----

From: Mike Zediker [mailto:forgunz@yahoo.com]
Sent: Monday, October 14, 2002 7:42 PM
To: Eric.Gronlund@state.sd.us
Subject: Re: McCook Lake Recreation Association

Dear Eric; Todd was wondering if we could wait on this permit until we get the Corps of Engineers permission to put the new pump in. We need thier permission since it is going to hang out in the navigible channel. Please let us know about this. Thank you, Mike Z.

3/24/2003

Eric.Gronlund@state.sd.us wrote:

Mike Zediker

I am writing to follow-up on your conversation with Karen Schlaak of the Water Rights Program regarding McCook Lake Recreation Association's water right permit application to increase the Missouri River pump rate. The Association currently holds permits appropriating a total of 5,785 gallons per minute (gpm) to maintain McCook Lake during the period March 1 - December 31. Water is to be diverted only when the lake water elevation is below 1090.3 feet mean sea level.

It is our understanding the application filed in September seeks to increase the diversion so that the Association total diversion authority is 12,000 gpm. This would mean the pending application proposes an additional diversion authority of 6,215 gpm ($5,785 \text{ gpm} + 6,215 \text{ gpm} = 12,000 \text{ gpm}$).

The filing fee calculated based on the increased diversion rate of 6,215 gpm is \$2,300.

There is an alternate method to calculate the filing fee that can result in a reduced fee. This method bases the fee on the volume (acre-feet of water) diverted in a year. For your information, one acre-foot of water is equal to approximately 325,900 gallons of water. This method only provides a fee savings if water is not pumped continuously throughout the months authorized for diversion.

In this particular situation, I assume the Association pumps continuously during the months authorized (March 1 - December 1) whenever the lake elevation is below 1090.3 fmsl. At a diversion rate of 6,215 gpm (the additional requested rate) being pumped for nine months equates to 7,519 acre feet of water annually. The fee for this quantity is \$1,800.00.

An application filing fee of \$1,800.00 will need to be submitted in order for the Water Rights Program to process the application.

Please do not hesitate to contact me if you have any questions.

Eric Gronlund
Water Rights Program, DENR
523 E. Capitol Ave.
Pierre SD 57501
605 773-3352

WATER PERMIT APPLICATION No. 6479-3
McCook Lake Recreation Association
c/o Todd Cook
315 Lakeshore Drive
McCook Lake, SD 57049
(605)242-4434

Water Permit Application No. 6479-3, McCook Lake Recreation Association, proposes increasing the appropriation of Missouri River water by an additional 13.85 cubic feet per second (cfs) over the 12.89-cfs authorized by Water Right No. 5878A-3. The combined total appropriation of 26.70-cfs (11984 gallons per minute) for Water Right No. 5878A-3 and this application is to be used to maintain the water level in the lake at 1090.3-feet mean sea level (msl) for fish and wildlife propagation, and recreation use. The requested annual period of use is from March 1 through December 1.

Review of Proposed Project

The applicant previously held Water Permit Nos. 4330-3, 5781-3, and 5878-3 for the diversion of Missouri River water into McCook Lake near North Sioux City, SD. Permit No. 4330-3 authorized the diversion of 1.27-cfs of water. This was increased to 6.22-cfs by Permit No. 5781-3 and further increased to 12.89-cfs by 5878-3. Water Right No. 5878A-3 changed the annual period of use to March 1 through December 1 and the diversion point of these permits from the NW¼ SW¼ Section 21 to the SW¼ SW¼ Section 17, all T89N R48W. The water is transported from the Missouri River through an 8000-foot pipeline to augment the water stored in McCook Lake. (Attachment 1) The priority dates and status of these diversions are:

- Permit No. 4330-3, August 17, 1979 for 1.27-cfs, incorporated into Permit No. 5781-3
- Permit No. 5781-3, August 12, 1993 for 4.95-cfs, incorporated into Permit No. 5878A-3
- Right No. 5878A-3, August 18, 1995 for 6.67-cfs, incorporated Permit No. 5781-3, and amended Permit No. 5878-3

The Water Management Board previously established the maximum surface water elevation that McCook Lake can be maintained at by the diversion of Missouri River water at 1090.3-feet msl.

Water Source and Existing Water Rights

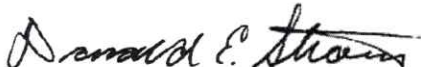
The water source for this proposed project is the Missouri River downstream of the Gavins Point Dam. The only prior right in the vicinity of this proposed project is held by the SD Department of Game, Fish, and Parks (GF&P) to stabilize the surface water level in Mud Lake. This prior right uses the same pipeline as this proposed project with a branch line to Mud Lake to transport Missouri River water. Sufficient Missouri River water should be available and this proposed project should not interfere with any prior rights.

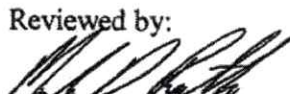
Conclusions

1. Water Permit Application No. 6479-3, McCook Lake Recreation Association, proposes increasing the total appropriation of Missouri River water to 26.70-cfs (11984 gpm), an

additional 13.85 cubic feet per second (cfs) over the 12.89-cfs authorized by Water Right No. 5878A-3, to augment the water stored in McCook Lake.

2. Sufficient Missouri River water should be available and this proposed project should not interfere with any prior rights. There have been no complaints or opposition to previous appropriations of Missouri River water to augment McCook Lake.
3. This application should contain the preceding Water Management Board qualification that the maximum surface water elevation that McCook Lake can be maintained at by the diversion of Missouri River water be set at 1090.3-feet msl.
4. Priority dates of August 17, 1979 for 1.27-cfs, August 12, 1993 for 4.95-cfs, and August 18, 1995 for 6.67-cfs should be retained.


Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

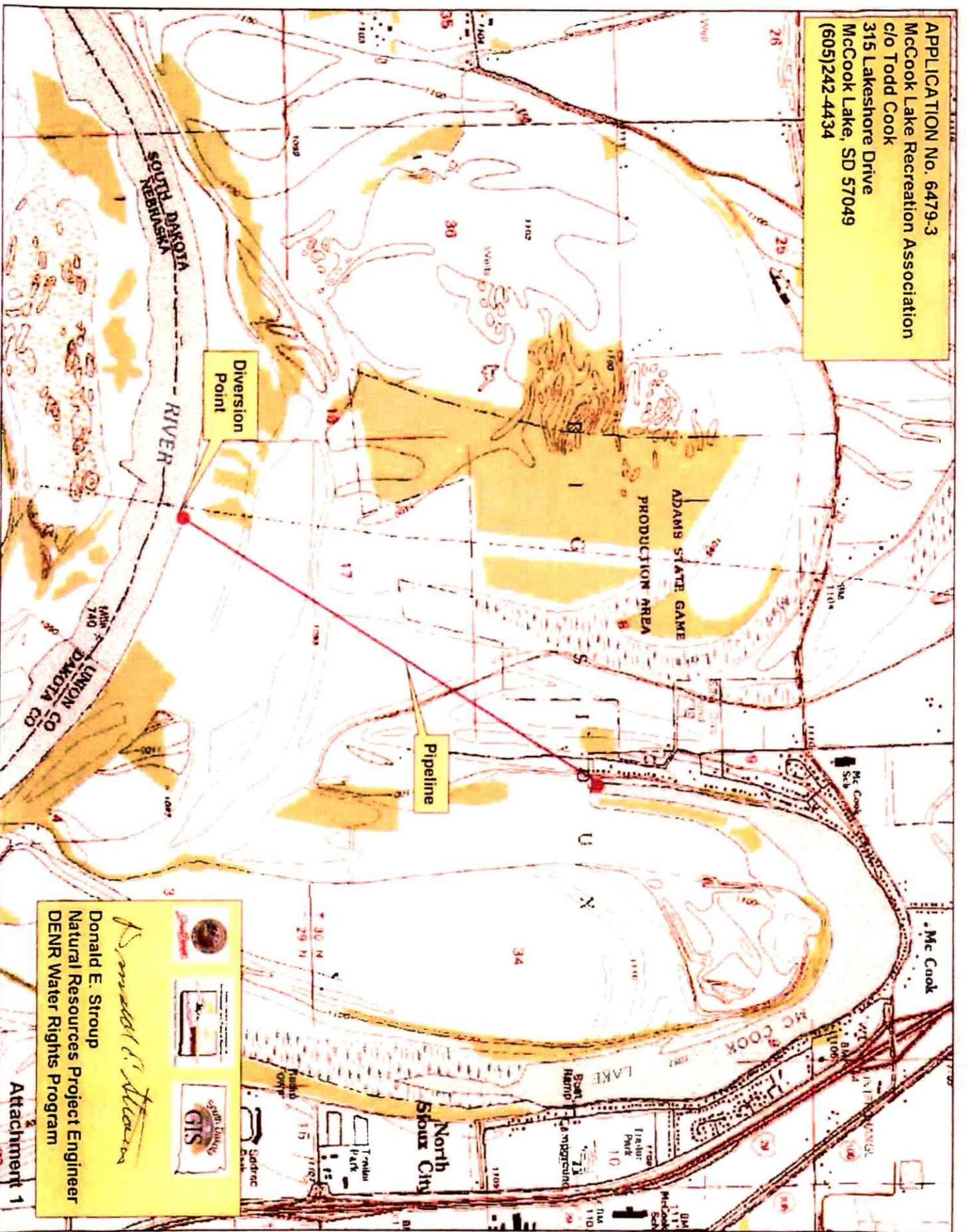
Reviewed by:

Mark D. Rath
Natural Resources Engineering Specialist
DENR Water Rights Program

References

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

USGS National NWISWeb Water Information System, Historical Stream Flow for South Dakota

APPLICATION No. 6479-3
McCook Lake Recreation Association
c/o Todd Cook
315 Lakeshore Drive
McCook Lake, SD 57049
(605)242-4434



Donald E. Stroup
Natural Resources Project Engineer
DNR Water Rights Program

Donald E. Stroup





Application ID:
8864

**Application for Shoreline Alteration of a
South Dakota Public Water Body**

Applicant Name: Mike Chicoine

Business Name: N/A

Mailing Address: 32926 482nd Avenue Jefferson, SD
57038

Project Address: SE 1/4 of 16-89-48 Union County, SD
North Sioux City, SD, SD 57049

Phone Number: [REDACTED]

Email: [REDACTED]

Proposed Date Range: 03/01/2022 - 09/01/2022

Water Body:

Name/Description: The canal will run from where we have the marker placed, north, to the Southeast corner of McCook Lake.

Location of water body: **County:** Union | **Latitude:** 42.52103 | **Longitude:** -96.50865 | **TRS:** 089N048W16



Purpose of Project:

To construct a waterway southerly from McCook Lake in order to provide lake access to existing residential lots, future lots to be developed and the potential relocation of the McCook Lake Boat Ramp for the city of North Sioux City, SD.

Description of Project:

To excavate a waterway (canal) having a 90-foot wide water surface to allow for 2-way no-wake boat travel to and from residential lots and the proposed relocated boat ramp. Proposed water depth of 8.0 feet with a flat bottom and 2:1 side slopes. Possible private boat docks on both sides leaving a boat travel width of about 46 feet. No wetland areas are to be affected. The area is currently mainly farmland with bordering grass areas. The excavated area will consist of an 11-foot deep, 110-foot wide canal that is approximately 1,800 feet in length.

Has a portion of the project already been completed? No

Description of Portion

Footprint of Project Area (sq. ft.): 522720

Linear Feet of Shoreline: 1800

Type and estimated amount of materials to be excavated: Sand 56000CY

Type and estimated amount of materials to be placed: N/A

Adjacent Landowners:

None. Both sides of the canal are owned by Mike Chicoine.

Comments:

No additional comments at this time

Signature of Applicant: Mike Chicoine

Date: 12/31/2021



SOUTH DAKOTA DEPARTMENT OF
GAME, FISH AND PARKS

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

March 24, 2023

Mike Chicoine
32926 482nd Avenue,
Jefferson, South Dakota 57038

Dear Mr. Chicoine,

South Dakota Department of Game, Fish and Parks (SDGFP) has consulted with South Dakota Department of Agriculture and Natural Resources (SDDANR) regarding your proposed use of the existing nearby well for canal water maintenance. The said well is currently permitted for irrigation use (Water Rights Permit # 6557-3). It has been determined that the initial filling of the canal for testing purposes prior to connecting to McCook Lake would qualify for a temporary permit under SDCL 46-5-40.1.

Ongoing use of the existing well to maintain water levels during periods of non-pumping would require a new water rights permit. In your response letter dated February 5, 2023, it was stated that "The canal would be periodically inspected through the off-season and water would be added to the canal from the existing well on the property." Without the ability to add water as needed to prevent the canal liner from drying out, cracking, floating, or otherwise failing, SDGFP's concerns about the integrity of the canal liner remain.

Until a proper water right has been obtained, it is the intention of SDGFP to hold the current shoreline alteration permit application in abeyance.

Sincerely,

Kevin Robling, *Secretary*
South Dakota Game, Fish & Parks

cc: Hunter Roberts, DANR Secretary
Jon Kotilnek, SDGFP Staff Attorney

FILE COPY



MAR 29 2023

OFFICE OF
WATER

FORM 2: Application for uses other than irrigation

Map No. 8744-3 Hydrographic No. 10170101
State Missouri River
Non-point Leader-Courier, Elk Point (K.S.)
Press's Dakota, Yankton 665-7811

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

- ☐ Municipal ☐ Water Distribution System ☒ Recreational ☐ Irrigation
☐ Rural Water System ☐ Commercial ☐ Fish & Wildlife ☐ Industrial
☐ Domestic Water Supply ☐ Industrial ☐ Other ☐ Other

Type of Application:
(check one)

☒ New ☐ Vested Right ☐ Future Use Reservation
Place to Beneficial Use Water Reserved by Future Use Permit No. _____

☒ Amendment/Correction to Permit No. 6557-3

Description of amendment/correction: _____

We are requesting to use the existing well to fill a gravel
pit on the property and to construct a well under it nearby.

1. Name to Appear on Water Permit

Mapping Address 32426 152nd Avenue Jefferson SD 57135

Phone _____ Mobile 712 898-9173 I mail my check to Jefferson SD

2. Amount of water claimed 1.55 AFS or 28.6 GPM and 7.99 AFS or 20.61 GPM

3. Source of water supply ground water

4. Location of point of diversion N 1/4 SE 1/4 Sec 16 Twp 39N 48W County Healy

5. Does a public water supply (e.g. municipal) will water be used outside of the area described above? ☒ Yes ☐ No

6. Yes, where will water be used? _____

7. Acreage of cropland where water is to be used None

8. Annual period during which water is to be used year round only as needed

9. 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)

See Attached

See 5/18/2023 file documentation

7.99 cc-ft recurring appropriation
20.61 cc-ft one time fill

Mike Cheshire

owner Dakota Bay

10. I hereby certify that the information furnished on this application is true and correct to the best of my knowledge and belief, and that I am not aware of any false or misleading information being furnished by me.

11. I understand that anyone who furnishes false or misleading information on this application or who omits material or information requested on the application may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As the property owner, I do not want to "damage" the lake in any way. I own a lot of property on the lake. I would like to enhance it by adding more recreation for the public and more area for fish and wildlife.

This project will not hinder the public lake in any way.

Therefore, there is no reason to deny my application for a water permit!

Commenter's name and address:

First Name: Mike **Last Name:** Chicoine

Address: 32926 482nd Avenue

City: Jefferson **State:** SD **Zip:** 57038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Mike Chicoine

Any additional comments:

No additional comments.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

There are always two sides to every story.

Why would a property owner want to "damage" a lake when he owns 10-15 lots on that lake.

Adding more water surface area will increase recreation for the public. The project will also provide a more secluded area for fish and wildlife!

This project will not hinder the public lake in any way.

Therefore, there is no reason to deny his application for a water permit!

Commenter's name and address:

First Name: Brenda Last Name: Gabel

Address: 17 John Street

City: Homer State: NE Zip: 68030

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Brenda Gabel

Any additional comments:

None



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We have concerns regarding the McCook Lake Canal plans. In the summer we spend time on McCook Lake every day. We rent a boat slip at the Issac Walton and we use our boat throughout the summer. We are concerned that the canal expansion will cause a shortage of water on McCook Lake where we boat, tube, ski, swim, and board. It is a beautiful lake that is close to our home and easily accessible. Please reconsider.

Commenter's name and address:

First Name: Angie Last Name: Reinhardt

Address: 405 Sagebrush Pass

City: Dakota Dunes State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Angie reinhardt

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 87443 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a frequent summer boater at McCook Lake, i am concerned the building of the canal will cause too low of water levels for us to enjoy. Many days we have spent enjoying the water with friends and family. It will be a huge loss for the community if the lake would no longer be able to be used due to low water levels. The water levels are struggling already, so I can't imagine the catastrophic effect the canal will cause.

Commenter's name and address:

First Name: Alyssa Last Name: Roepke

Address: 317 Lincoln St

City: Merrill State: Ia Zip: 51038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 87443

Commenter's Name Alyssa Roepke

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

What studies have been completed to confirm the current pump will fill and maintain our current water level with the additional water way requested ? How do we know it will ?

What responsibility does Mike C. take if the current water level cannot be maintained due to this addition, or the canal is improperly constructed and causes the lake level to be lower than current?

What guarantees do lake residents have that this will work as planned, and the lake level will not be lowered due to seepage as feared?

Commenter's name and address:

First Name: Clint **Last Name:** McKewon

Address: 535 Lakeshore Drive

City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Clint McKewon

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay LLC

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

My name is Jeff Steinkamp, living on McCook Lake and very concerned with the plans to dig this canal from a few angles.

1. The McCook Lake Association currently pumps water from the Missouri River in order to keep this a viable lake. The pump and pipeline currently used is at 100% capacity. We struggle to maintain this lake due to leaching back to the river, evaporation, and during dry seasons like the past couple and our current season lack of rainfall. Our current equipment given these factors is NOT able to provide more capacity. Using clay as a sealant will not work long-term and has been proven in the very recent past near here.

2. If Dakota Bay is able to dig canals will they (Dakota Bay) or the state be held to account for the ecological destruction, property value destruction, or recreational destruction if it is a failure or they walk away?

3. Has anyone on your panel polled people living on Canterbury Road that own the property adjoining this area to be dug upon? I have...knowing one of the individuals multiple decades thinks it is a bad deal, poor plan, and nothing more than a money grab.

I invite you to contact me with any question. Should you be in the area please set up a time we can take a tour of the currently beautiful area.

Commenter's name and address:

First Name: Jeff **Last Name:** Steinkamp

Address: 607 Lakeshore Drive

City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Jeff Steinkamp

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicione

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I vote no

Commenter's name and address:

First Name: Tyrel Last Name: Roepke

Address: 317 Lincoln St

City: Merrill State: Ia Zip: 51038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

I vote no



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am a current homeowner on McCook Lake for the last 4 years and been blessed with the opportunity to grow up on the lake for the previous 22 years! During the last couple of summers, we have had an issue with leeching of water out of the lake and keeping the lake at a safe boating level. Creating a puncture in the dike at the south end of the lake will increase the amount of leeching and not be able to keep up with our pumps that myself and other volunteers contribute time in servicing. I feel that our association and Mike Chicoine can come to terms that will benefit both sides. Mike will be able to come out monetarily ahead and lake residents will not loose value on the their homes due to loss of water. Thank You, Brady Dam

Commenter's name and address:

First Name: Brady **Last Name:** Dam
Address: 59 Northshore Dr
City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Brady Dam

Any additional comments:

If anyone has questions feel free to give me a call 712-202-4358.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We have been taking our boat to McCook Lake for years. Recently we were able to become members of Izaak Walton. We appreciate the ability to be able to go to the lake, where it is safe. Without the lake, we would have to go to the river and we don't feel that is very safe. Everyone that goes to the lake is extremely friendly. We also enjoy the family environment. And our grand puppies love running through the sand and fetching in the lake. They wouldn't be able to do those things on the river.

The option McCook Lake gives us is the ability to keep our time and money in town. Another option would be to go to Okoboji. That takes our money out of our community.

We hope this project does not go through because there just wouldn't be enough water to keep the levels where they need to be. We would lose our lake.

Thank you for listening.

Commenter's name and address:

First Name: Angela **Last Name:** Rojas-Lindsey
Address: 1403 S St Aubin St
City: Sioux City **State:** IA **Zip:** 51106

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Angela Rojas-Lindsey

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 87443 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Take into consideration what the result of this application will mean to MCCook Lake.

Commenter's name and address:

First Name: Jean Last Name: Cole

Address: 5Union Ct

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 87443

Commenter's Name Jean Cole

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

DAKOTA BAY: WE STRONGLY URGE S.D. DANR/GFP TO NOT GRANT PERMIT 8744-3 TO MIKE CHICOINE FOR DAKOTA BAY, LLC

The short-term and long-term viability and integrity of McCook Lake, a State of South Dakota natural resource, an essential source of food and water for massive numbers of migrating water fowl in spring and fall, hundreds of homeowners on McCook Lake and thousands in our Tri-State region who enjoy McCook Lake for recreation year-round, will be tragically overlooked if Permit 8744-3 should be granted.

Permit 8744-3 for the right to pump water does not require the replacement of water in McCook Lake, which will be lost by the canal. Permit 8744-3 does not require Chicoine to pump water into McCook Lake.

The estimates for the water loss from the canal, resulting from the proposed project linked to Permit 8744-3 are too low. The canal will be lined with 18" of fat clay on a 3:1 slope. Every year the canal will be dry, the clay will crack, and the water will leak into the gravel layer. Clay liners do not hold up over time to cycles of wet and dry especially at this steep slope. The clay will erode and move down. Ground water will push the clay liner out just as it did in Spanish Bay.

As residents of the State of South Dakota, our expectations are that the State Department of Agriculture and Natural Resources possesses a strong environmental motivation on behalf of fish and wildlife for which McCook Lake provides a rich habitat and an economic motivation on behalf of the hundreds of residents of McCook Lake and North Sioux City, S.D., whose greatest financial assets are in their year-round lake properties.

We are asking the S.D. DANR to apply urgent foresight and defend our natural resources and stand up for the residents of McCook Lake, S.D. by maintaining the short-term and long-term viability and integrity of McCook Lake by not granting the application for Permit 8744-3 to land and water grabber requesting it.

WE STRONGLY URGE S.D. DANR/GFP TO NOT GRANT PERMIT 8744-3 TO MIKE CHICOINE FOR THE AFOREMENTIONED DAKOTA BAY, LLC.

Commenter's name and address:

First Name: Paula **Last Name:** Damon

Address: 617 Lakeshore Drive

City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name BRIAN DAMON

Any additional comments:

DAKOTA BAY: WE STRONGLY URGE S.D. DANR/GFP TO NOT GRANT PERMIT 8744-3 TO MIKE CHICOINE FOR DAKOTA BAY, LLC

The short-term and long-term viability and integrity of McCook Lake, a State of South Dakota natural resource, an essential source

of food and water for massive numbers of migrating water fowl in spring and fall, hundreds of homeowners on McCook Lake and thousands in our Tri-State region who enjoy McCook Lake for recreation year-round, will be tragically overlooked if Permit 8744-3 should be granted.

Permit 8744-3 for the right to pump water does not require the replacement of water in McCook Lake, which will be lost by the canal. Permit 8744-3 does not require Chicoine to pump water into McCook Lake.

The estimates for the water loss from the canal, resulting from the proposed project linked to Permit 8744-3 are too low. The canal will be lined with 18" of fat clay on a 3:1 slope. Every year the canal will be dry, the clay will crack, and the water will leak into the gravel layer. Clay liners do not hold up over time to cycles of wet and dry especially at this steep slope. The clay will erode and move down. Ground water will push the clay liner out just as it did in Spanish Bay.

As residents of the State of South Dakota, our expectations are that the State Department of Agriculture and Natural Resources possesses a strong environmental motivation on behalf of fish and wildlife for which McCook Lake provides a rich habitat and an economic motivation on behalf of the hundreds of residents of McCook Lake and North Sioux City, S.D., whose greatest financial assets are in their year-round lake properties.

We are asking the S.D. DANR to apply urgent foresight and defend our natural resources and stand up for the residents of McCook Lake, S.D. by maintaining the short-term and long-term viability and integrity of McCook Lake by not granting the application for Permit 8744-3 to land and water grabber requesting it.

WE STRONGLY URGE S.D. DANR/GFP TO NOT GRANT PERMIT 8744-3 TO MIKE CHICOINE FOR THE AFOREMENTIONED DAKOTA BAY, LLC.



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay LLC, c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am against the ability to build a canal on the southside of McCook Lake. This risks far outweigh the reward. The risks are many to habitat, recreational, community, and home values. One doesn't have to look far to the south in Council Bluffs (Lake Manawa) to see what something like this can do. My concern is when the canal creates a problem, then who is going to fix it. Who is responsible to fix it? It is clear there are many potential risks with the gravel layer and the need for proper care to maintain. There is greater than \$100,000,000 in home values that would be severely impacted. It is a big responsibility to care for the lake. Anything planned to adjust the lake needs to be planned with those having the best interest of the lake. The easy compromise is to sell lots that do not affect the existing shoreline of the lake. The applicant can make their money and more there. There is way too much risk and no clear path of ownership to correct. There will be hundreds lined up to sue if this goes wrong. I urge you to think twice and consider a community united against the risk.

Commenter's name and address:

First Name: Charles Last Name: Cox
Address: 511 Lakeshore Drive
City: North Sioux City State: South Dakota Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Charles Cox

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a 34 year resident of McCook Lake, I am strongly opposed to the proposed expansion of McCook lake. This is a for profit venture and Mr. Chicoine has no interest in stewardship of the lake and surrounding land. Lake levels have been hard enough to manage.

Commenter's name and address:

First Name: Jason Last Name: Henjes

Address: 3 Leisure Lane

City: McCook lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant Dakota Bay LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am a McCook Lake resident and I feel strongly that the construct of this canal will causes water losses thru seepage and reducing lake levels to damaging levels. I have seen many small bodies of water that people try to make into lakes and the liners fail and seepage totally ruins the lake. As an example look at West Side Pond in Yankton by Avera Hospital. They have been trying to get that pond to hold water but fail.

Mike Chicoine is only looking to profit himself and doesn't care what negative effects he has on the lake. If he did care about the lake he would have approached this entire project differently working with McCook Lake Lake Association instead he chose to go about getting his permits in a sneaky manner and has been caught in numerous lies. He has given no plan as to how he will maintain the canal and gives no plan as to how he will fill the canal.

McCook Lake Association current pumps are running at full capacity and do not have the ability to provide additional water the this proposed canal.

We enjoy evening pontoons boat rides around the lake and lake depth levels are only around 7 - 10 feet through the entire lake. If he builds this canal and expects it to be filled by existing lake water and pumps it will cause irreversible damage to wild life and fish not to mention the numerous recreation boaters who use and enjoy the lake.

My husband and I ask your engineer to consider all the negative damage this canal will do to our beautiful lake and ask you to not approve this project.

Commenter's name and address:

First Name: Christy

Last Name: gOEDEN

Address: 349C Lakeshore Dr

City: McCook LKe

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

--



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We have been a resident of McCook Lake for 45 years our concern with allowing this to happen we will not be able to keep the water level up. Who is liable if we can't maintain the level and destroy the value of our homes? This is why the lake cannot be any closer to the river due to loss of ground water leaking back. There is no reason to allow this to happen and chance the loss of the lake.

Commenter's name and address:

First Name: Raig Last Name: Dam
Address: 25 Northshore Dr
City: McCook Lake State: Sd Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Craig Dam

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine dba Dakota Bay, LLC.

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a property owner directly adjacent to McCook Lake I am very concerned about Mr. Chicoine's proposal to breach the existing structure and dig a canal to enhance the value of the property he is attempting to develop south of the existing containment.

I, and many lake users, feel that the Chicoine canal and water appropriation will damage our existing water rights by taking water pumped by McCook Lake Association and their partners to maintain a canal constructed by Mr. Chicoine purely for personal profit is inherently unfair to current lake users. The association struggles every day to raise private funds and maintain the pumps that are key to keeping the lake at a level that makes it a joy for the public to enjoy.

Until GF&P and the Stater Water Rights Department can prove conclusively that McCook Lake enthusiasts will positively not be adversely affected by Dakota Bay's proposed development this issue must be studied further.

With respect ;

Commenter's name and address:

First Name: Warren **Last Name:** Hoelsing
Address: 377 Lakeshore Drive
City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Glenda Hoelsing

Any additional comments:

I agree that the proposed canal project potentially could have a negative result to the wellbeing of the delicate eco system that is McCook Lake.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Adding the canal to the lake will result in multiple issues.

The lake is already very low until mid to late summer. Adding the canal will result in lower lake levels making the lake unusable for many of the current lake users for longer into the summer.

In addition, the lake can already be overcrowded- if we add a canal with an additional 50-80 houses with lake access, the lake will be too busy.

Commenter's name and address:

First Name: Rogelio & Jessie Last Name: Sanchez

Address: 381 Lakeshore

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Rogelio Sanchez

Any additional comments:

Please do not allow this to happen.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8754-3 **Name of Applicant** Dakota Bay LLC, Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the application 8744-3 for the McCook Lake water appropriation.
I own property on Suncoast and certain that if this application is approved and the canal is built, the water in McCook will quickly be depleted. Our current pumping system is at max capacity, running on by donation and volunteers.
Please consider meeting with all of the McCook Lake associations board members for complete information regarding this water situation prior to decision. Please!

Commenter's name and address:

First Name: Brenna **Last Name:** Rosenquist
Address: 271 Suncoast
City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8754-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay LLC

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I'm opposed to application number 8744-3 for additional water appropriation. While this is great for the developer it will put a lot of stress on current McCook Lake Association pumping system, and create a lot of unknown risks for current and future generations to continue to enjoy McCook Lake.

Commenter's name and address:

First Name: Seth **Last Name:** Foster

Address: 717 Prairie Blvd

City: Dakota Dunes **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Seth Foster

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay LLC

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the application 8744-3, for additional water appropriation.

Commenter's name and address:

First Name: Dana **Last Name:** Chesterman
Address: 531 Sandstone Circle
City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Dana Chester May

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a life long resident of McCook Lake, I am asking you to deny this application. The water level is already low and this canal would cause further pressure on our small lake. I fear this will impact future generations ability to enjoy the lake that we have worked so hard to maintain. I ask for preservation of our small body of water. I

Commenter's name and address:

First Name: Amanda **Last Name:** Delaney

Address: 349 lakeshore drive unit d

City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Amanda Delaney

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota bay LLC, Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

The project will increase the need of water to a level more than the lake association can pump. It will increase the surface area of the lake increasing the amount of area available for the lake to evaporate. It is not guaranteed that the increase of people living on the lake will pay dues offsetting the additional costs. I know the lake gets very low at times and it was dredged several years ago. The digging of the canal will stir more sediment causing the other areas of the lake to fill in more than they already have. I also don't understand how it is allowed to have someone buy swamp property a long distance from a lake, but then dig out state property to increase their property value. I own property a block away can I dig a boat access to my house?

Commenter's name and address:

First Name: Tyler **Last Name:** Jelken
Address: 209 Bruneau Drive
City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Tyler D Jelken

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Helping save our lake

Commenter's name and address:

First Name: Paula Last Name: Mae

Address: 220 South Derby lane.

City: North Sioux City State: Sd Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 87443 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please do not allow 1 man to persuade you to take water from McCook Lake to enhance an area he would like to prosper from. McCook Lake already has issues many years keeping and maintaining water levels. To allow the proposed development at the cost of ruining our established public lake could destroy our lake and diminish our property values. The lake is already maxed on boats and jet skis most summer weekends and it would further crowd and increase boating accidents. Please do not allow one man's profit to destroy our established community.

Commenter's name and address:

First Name: Kimberly Last Name: Wink

Address: 347B Lakeshore Drive

City: McCook Lake State: Sd Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 87443

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This expansion is going to drop the already low water levels. This is not good for the health of the lake. I oppose the expansion.

Commenter's name and address:

First Name: Riggins **Last Name:** Hopper

Address: rigdigger32@gmail.com

City: Sioux City **State:** IA **Zip:** 51106

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a longtime resident of Sioux, City, Iowa and Dakota, Dunes South Dakota , I have had the opportunity to enjoy McCook lake as a young person through my older years.. McCook lake has had difficulty maintaining its water levels throughout the years.. Fortunately McCook lake residents have worked hard to ensure that this area has stayed pristine and at water levels that makes it enjoyable for everyone .. They have improved the public boat dock, picnic areas, etc. If the pumps are running 24/7 at this time, why would running the water through the land that Mike owns and is suggesting work??? I say No to said water right proposal ..

Commenter's name and address:

First Name: Denise Last Name: Brink

Address: 157 Brookline Trail

City: Dakota Dunes State: Sc Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Denise Brink

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the application No. 8744-3 for additional water appropriations. The app & engineer report does not look at the impact of additional well pumping on McCook Lake. By increasing the water value from the existing irrigation well will increase the volume of water removed from the lake.

The McCook Lake Recreation Association pushes the water to McCook Lake at the maximum available levels.

Commenter's name and address:

First Name: Neal **Last Name:** Stokes
Address: 1304 South Helen
City: Sioux City **State:** IA **Zip:** 51106

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Neal

Any additional comments:

I feel that it will effect the lake life and the wild life in the area of McCook Lake as well.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay LLC, c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

1. The permit is for the right to pump water into McCook Lake from an irrigation well. The permit gives the right to pump but does not require to pump which makes the permit meaningless. The purpose was to replace water lost by the canal. Chicoine has no intention, nor is he required to, pump water into McCook Lake.
2. The estimates for the water loss from the canal are too low. The canal will be lined with 18" of fat clay on a 3:1 slope. Every year the canal will be dry, the clay will crack, and the water will leak into the gravel layer. Clay liners do not hold up over time to cycles of wet and dry especially at this steep slope. The clay will erode and move down. Ground water will push the clay liner out just as it did in Spanish Bay.
3. There is a strong economic motivation to build this canal. Chicoine plans to sell 14 lots at \$150,000 each for a total of \$2.1 million and dig his canal for about \$1/2 million for neat profit of about \$1.6 million. He then pockets the money and walks away with no future obligations.
4. The proposed well system is not even close enough to being robust enough for this requirement. This well was constructed 18 years ago and designed for field irrigation, which turns on for a couple hours a day at most. There is no way this well is capable of continuous pumping without plugging/failing the well. There are no safeguards in place to protect the lake, such as, redundant well systems in case of failure or being able to switch on to an additional well during times of maintenance.
5. Please leave the beauty & recreation that McCook Lake provides to its residents and visitors alone. Adding this canal will put McCook Lake's structural integrity at risk. This is a risk that should not be taken!

Commenter's name and address:

First Name: Matt Last Name: Bird

Address: 301 Lakeshore Drive

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This will decrease the water level of McCook Lake, which is something that has been challenging already. We oppose this plan for the best of McCook Lake.

Commenter's name and address:

First Name: Katie Last Name: Swick

Address: 201 NE Glendale Lane

City: Ankeny State: IA Zip: 50023

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

My sister and brother in law live in McCook Lake. We visit many times a year, making McCook lake a 2nd home of ours.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This will decrease the water level of lake, which is some thing that has already been challenging. We oppose the plan for the best of Mccook Lake.

Commenter's name and address:

First Name: Collin Last Name: Swick

Address: 201 NE Glendale Ln

City: Ankeny State: IA Zip: 50021

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

My wife's family lives on Mccook Lake. We visit Mccook lake many times a year, making it an important place to us.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay, c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I feel the proposed Chicoine canal and water appropriation will damage existing water rights by taking water pumped by MLA to maintain a canal constructed by Chicoine. The damage will impair MLA's ability to maintain the permitted water level in McCook Lake. MLA constructed and maintains water transportation facilities are pumping at full capacity without the ability to provide additional water to the Chicoine canal.

Commenter's name and address:

First Name: Melinda **Last Name:** DeMarest

Address: 268 Westshore Drive

City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Melinda DeMarest

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay, c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I feel the proposed Chicoine canal and water appropriation will damage their existing water rights by taking water pumped by MLA to maintain a canal constructed by Chicoine. The damage will impair MLA's ability to maintain the permitted water level in McCook Lake. MLA constructed and maintains water transportation facilities are pumping at full capacity without the ability to provide additional water to the Chicoine canal.

Commenter's name and address:

First Name: Dan **Last Name:** DeMarest

Address: 268 Westshore Drive

City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Dan DeMarest

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please stop Mike Chicoine from draining the lake and causing problems to the ecosystem at McCook Lake.

Commenter's name and address:

First Name: Alex Last Name: Bernard

Address: 576 Prairie Blvd.

City: Dakota Dunes State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Do not expand

Commenter's name and address:

First Name: Aidan **Last Name:** Moran
Address: 9 Antelope Pl
City: Dakota Dunes **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Aidan Moran

Any additional comments:

No expansion



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We should not allow canals to take water from McCook Lake. As it is, we have to pump water from the Missouri. As further drought sets in, and as the glaciers upstream recede, water will become even more scarce. We need to try to preserve the integrity of the lake.

Commenter's name and address:

First Name: Jeanne **Last Name:** Emmons
Address: 343 Lakeshore Dr.
City: McCook Lake **State:** SF **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Jeanne Emmons

Any additional comments:

Please preserve our lake and deny the application.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please reconsider allowing the proposed development and addition/enlarging of the south end of McCook Lake. The current pump is barely able to keep the lake filled and to a level that allows boats to utilize the boat ramps by the start of the season.

Commenter's name and address:

First Name: Chad **Last Name:** Van Scoyk

Address: 838 Brookside Drive

City: Jefferson **State:** SD **Zip:** 57038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Chad Van Scoyk

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. Chicoine **Name of Applicant** Mike Chicoine DBA Dakota Bay LLC

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a resident of McCook Lake, I am very concerned about the proposed Canal addition to the south end of McCook lake. I believe that the water levels in the lake will not be sustainable to enjoy the full benefits of the lake. I make this statement based on the history of building of the berm and personal communication with at least one member of the board when the berm was built. As I understand, the berm was built, after dredging the lake, approximately 20 to 25 years ago. Prior to that, studies were done on the soil that makes up the land south of the lake. It's basically sand and rock which cannot hold water. It's a natural sieve. If the canal proposal is allowed to take place, there will not be enough water to enjoy activities on this lake. Property values will plummet as the lake becomes a mud flat and ruins both recreational activities and habitat for birds, fish, and waterfowl. I believe there will be lawsuits. I don't believe Mr. Chicoine has any idea what he's about to do to the community or cares. There will be consequences. I am hopeful that the Water Rights Program has fully vetted this proposal and what it means to North Sioux City's future if the canal is built and our lake is ruined. Respectfully submitted,

Thomas Kenny
703 Lakeshore Drive
McCook Lake

Commenter's name and address:

First Name: Thomas **Last Name:** Kenny
Address: 703 Lakeshore Drive
City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. Chicoine

Commenter's Name Thomas Kenny

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

The proposed of of McCook Lake by this applicant should be denied. As a regular user of the lake for boating and fishing I am concerned about the impact the extra users would have on lake quality. Also, the additional water that would be required for this users commercial venture would be underwritten by the many people who pay to have water pumped into the lake to make it the recreation area that it currently is. Please vote on the side of conservation and not on the applicant's commercial interests.

Thank you.

Commenter's name and address:

First Name: Greg **Last Name:** Finzen

Address: 589 Fox Circle

City: Dakota Dunes **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine Dakota Bay LLC

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Removing water from an already low lake will be detrimental to the wildlife, recreation, and land surrounding McCook Lake

Removing water from McCook Lake is STEALING. The water is pumped into McCook Lake using MONEY from McCook Lake Association members.

The pump is already at FULL capacity and the lake is still well below a normal level. Unless Mr Chicoine will be INSTALLING AND PAYING FOR an ADDITIONAL pump AND OPERATION COSTS to get water for his canal area, then he is stealing resources that are not his.

In addition, if the water is any lower, ALL recreators - local or not- will NOT be able to put boats on the water as the ramps will be on dry land. The current depth barely supports boating as it is.

Commenter's name and address:

First Name: Kathryn **Last Name:** Brown

Address: 165 Suncoast Dr

City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Kathryn Brown

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

My family and I love to use the lake and all its resources. I'm a 3 yr member of the izaack Walton league and it has opened my eyes to helping with the natural resources , not only at mc cook lake but all public parks and waterways. I would be devastated if the lake ceased to exist. Please help save our lake!

Commenter's name and address:

First Name: Sombat **Last Name:** Lee
Address: 812.5 17 st.
City: Sioux city **State:** la **Zip:** 51105

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mile Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I'm against the canal if the canal could result in lowering the water level of McCook Lake, hurting the wildlife of the area, decreasing home value and impacting enjoyment of the lake by the public that uses it. From my knowledge Mike Chicoine does not help to fund or increase the water levels by adding an additional pump.

Commenter's name and address:

First Name: Emilee Last Name: Schroeder

Address: 201 Lakeview Ct

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Emilee Schroeder

Any additional comments:

I believe the existing lake, wildlife, and public need to be considered before allowing the canal to be built by Mike Chicoine that could have detrimental consequences.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Changing the shoreline of McCook Lake will cause irreparable damage to a delicate ecosystem. Besides damage to the wildlife and nature area, the water levels will decrease, causing property values of existing lake front properties to decline and reduce the recreational value of the lake.

Commenter's name and address:

First Name: Julie Last Name: Ohl
Address: 208 Levee Trail
City: Dakota Dunes State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please do not allow this project to proceed, the water level on the lake is low and this new project could cause reversible effects to the area. Please let us continue to build up our lake and improve the quality of the area we have and not expand the lake front properties so a single individual can become even richer at the cost of everyone who uses the lake. I am completely opposed to the request to dig the channel.

The water level is already low, adding more lake isn't a solution, the long term effect of this project could ruin our lake.

Commenter's name and address:

First Name: brad **Last Name:** gorter

Address: 610 lakeshore

City: north sioux city **State:** sd **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-4 **Name of Applicant** Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Spending time at the lake is my favorite pass time

Commenter's name and address:

First Name: Natalie **Last Name:** Hudspeth
Address: 1403 s st Aubin st
City: Sioux City **State:** IA **Zip:** 60411

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-4

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Mike Chicone

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Will make the McCook water level low and destroy homes for wild life and enjoyment for the current residents that like to boat. Also cause extreme financial burden to keep the water levels up, which most of the money comes in from private donations. Mr Chicone is going to capitalize on his investment from others private donations. Wrong so Wrong to be that selfish.

Commenter's name and address:

First Name: Monica **Last Name:** Johnson

Address: 36 Edgewater Lane

City: North Sioux City **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Monica Johnson

Any additional comments:

See above comments



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 **Name of Applicant** Dakota Bay LLC C/O Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We have lived on McCook Lake for 5 years and have seen the lake change each season, however keeping the water level up has been a challenge in the last couple of years. When pumping water from the Missouri River is not possible because of low water levels is concerning for us and if the canal is built, we would require more water than can keep up. There are many of us who enjoy the activities on the lake and it would be a huge mistake to allow this beautiful lake to be ruined. Without the lake, our property values would plummet. We are urging you to please consider not allowing this permit to be granted. Thank you.

Commenter's name and address:

First Name: Dorothy **Last Name:** Voortman
Address: 361 Lakeshore Drive
City: McCook Lake **State:** SD **Zip:** 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chocoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I oppose the lake expansion.

Commenter's name and address:

First Name: Amy Last Name: Daniels
Address: 908 Wynstone Dr
City: Jefferson State: SD Zip: 57038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the Application Number 8744-3.

McCook Lake is low enough already with the drought that's been going on and even with OUR pump running, it's hard to keep it full.

I STRONGLY REQUEST that you do not allow Application Number 8744-3 to be passed or allowed!!!

Our family has been a member of McCook Lake/ Izaak Walton for several years now. It's a lovely place to bring the family and spend the weekend together and enjoy all the water has to offer. We have a larger boat and would not be able to use it if the lake gets any lower.

Commenter's name and address:

First Name: Tina Last Name: Perrin

Address: 118 Carter Rd

City: Sgt Bluff State: IA Zip: 51054

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Tina Perrin

Any additional comments:

Please please do not let this application pass!!!

Izaak Walton/McCook Lake needs to remain as it is.

All of us members love the lake as it is. Everyone knows the drought that the Midwest has been in, the pump can only keep up and keep the lake supplied for so long. Heat and natural evaporation takes its toll on the lake without the help of anybody else pumping water OUT.

This is a place my family and I spend quite a bit of time at. We do not want to see anything harm the lake levels.

Thank you,
Tina Perrin



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

The canal expansion will dry up our lake.

Commenter's name and address:

First Name: Mike Last Name: Hansen

Address: 216 Suncoast

City: Mccook Lake State: Sd Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I live on the lake and I see the money and work Lake Association puts into filling the lake annually. McCook Lake Izaak Walton put that berm there 40+ years ago as the section of the lake leached so much water it was killing the lake. This lake expansion will KILL OUR LAKE. PLEASE DO NOT LET IT PASS

Commenter's name and address:

First Name: Renae Last Name: Hansen

Address: 216 Suncoaset Dr

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Dear Sir,
Please "DO NOT" build a
canal on the South End of
McCook Lake, So. DAKOTA.
Our lake is overcrowded
the way it is right now.

Sincerely,
Larry Severeide

Commenter's name and address:

First Name: LARRY

Last Name: SEVEREIDE

Address: 409 LAKESHORE DR.

City: N. SIOUX CITY

State: S.D.

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Faint, illegible handwritten text visible through the paper, likely from the reverse side.]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We oppose the construction of the canal at the south end of the lake. The MLA works hard (by volunteers and donations) to maintain the lake and lake levels. The canal is going to drain/use water from the lake - therefore affecting water levels. This is not good for lake residents who want to enjoy the lake, and the lake shouldn't be taken so he can make profit - while hurting lake habitat and property values.

Commenter's name and address:

First Name: Amy Last Name: Cole
Address: 337 Lakeshore Dr.
City: McCook Lake, State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

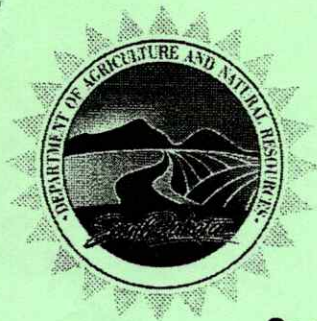
RECEIVED

JUN 14 2008

OFFICE OF
WATER

Any additional comments:

[Large empty rectangular box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Home owners who reside on McCook Lake have put many years of time and money into the upkeep of our lake. The water level of the lake is brought up to and maintained at a level that allows many people to use and enjoy the lake. There is no contractual agreement among us homeowners that requires a financial contribution towards the lake's maintenance. New residents with access via a canal would not be required to help maintain the lake. Costs for pumping and maintenance of equipment is already very high. Why should we be burdened with more users and no new contributors?

Commenter's name and address:

First Name: Bonnie

Last Name: Lohrey

Address: 417 Lakeshore Dr.

City: N. Sioux City

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Bonnie Lohrey

Any additional comments:

1. Water "pumped from well" on Chacone property will not compensate for the volume needed.
2. The canal, no matter how it is completed, will be leaky. This will only compound the issues McCook Lake faces with regard to water loss.
3. Any docks or moorings placed in the canal immediately reapture the integrity of the canal.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTABAY, LLC c/o MIKE CHOCINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We do not agree with
this proposal, because of
low water levels for
our pontoon

Commenter's name and address:

First Name: Richard Last Name: MOUNT

Address: 62 Gotts Drive

City: No Sioux City State: S. D Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of
AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Concerning Application for a Water Right Permit

Application No. **8744-3** _____ Name of Applicant **Dakota Bay LLC, c/o Mike Chicoine** _____

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

1. The permit is for the right to pump water into McCook Lake from an irrigation well. The permit gives the right to pump but does not require to pump which makes the permit meaningless. The purpose was to replace water lost by the canal. The applicant has no intention, nor is he required to pump water into McCook Lake or maintain the liner.
2. Water to the Canal comes from the Lake most of the time, therefore the permit should reflect this fact.
3. The estimates for the future water loss from the canal are too low. The canal will be lined with 18" of fat clay on a 3:1 slope. Every year the canal will be dry, the clay will crack, and the water will leak into the gravel layer. Clay liners do not hold up over time to cycles of wet and dry. The clay will migrate down especially at this steep slope. Ground water will push the clay liner out just as it did in Spanish Bay, a manmade lake just south of McCook Lake.
4. There is a strong economic motivation to build this canal. The applicant plans to sell 14 lots at \$150,000 each for a total of \$2.1 million and dig his canal for about \$1/2 million for neat profit of about \$1.6 million. He then pockets the money and walks away with no future obligations. The Lake residents are then stuck with the maintenance costs.
5. There is a strong economic motivation to extend and expand this canal for the same reasons above.
6. Maintenance requirements for containment in South Dakota state that the liner must be properly maintained including but not limited to removal of all vegetation and the repair of all cracks.

Commenter's name and address:

First Name: Dirk

Last Name: Lohry

Address: 417 Lakeshore Drive

City: North Sioux City

State: Zip: SD 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This application should not be granted.
This would drain McCook Lake. Our
residents would have their property values
drastically decline. A large tax base for
the county and state lost. While
Mr. Chicoine collects millions. Then he
walks away.

So sad for Union County To lose a
beautiful asset to The state, county and
North Sioux City.

Bonnie L Moran

Commenter's name and address:

First Name: Bonnie Last Name: Moran
Address: 407 Lakeshore Dr.
City: No. Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CRICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

To whom it may concern,

TO WHOM IT MAY CONCERN

It is my understanding Dakota Bay, LLC has proposed to construct a canal at the South end of McCook Lake in order to sell more lake front property. Although I appreciate their ingenuity and entrepreneurial spirit, I believe that this will decrease the water level on the lake and therefore have a detrimental effect on the beauty of the lake, and negatively impact the property value of the lakeside houses, and all of the property in the area.

Currently, the water level of the lake cannot be maintained without the trouble and expense of pumping water about 1.5 miles from the Missouri River to McCook Lake. The depth of the lake this past weekend was in the 8' to 10' range in the middle of the channel. If the canal is built at the South end of the lake, it could lower the level of the Lake to where many of the docks are not usable.

I urge you to reject the proposal of Dakota Bay, or at least postpone your decision on the addition of the South Canal until a complete study can be done by the Corps of Engineers, and, if this canal is added, that Dakota Bay, LLC be required to help offset the additional costs of maintaining the beauty and function of the lake.

P.S. UNTIL recently, the owner and resident was Judy Wis Kus. Judy has recently Passed and she has Left the house to her children. My wife Deborah Hickman is Judy's daughter.

Commenter's name and address:

First Name: Joe Last Name: Hickman 605-310-3882
Address: 153 SUNCAST Drive
City: NORTH Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

— 417 —

RECEIVED

JUN 14 2023

OFFICE OF
WATER

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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



Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am a McCook Lake resident and I feel strongly that the construct of this canal will causes water losses thru seepage and reducing lake levels to damaging levels. I have seen many small bodies of water that people try to make into lakes and the liners fail and seepage totally ruins the lake. As an example look at West Side Pond in Yankton by Avera Hospital. They have been trying to get that pond to hold water but fail.

Mike Chicoine is only looking to profit himself and doesn't care what negative effects he has on the lake. If he did care about the lake he would have approached this entire project differently working with McCook Lake Lake Association instead he chose to go about getting his permits in a sneaky manner and has been caught in numerous lies. He has given no plan as to how he will maintain the canal and gives no plan as to how he will fill the canal.

McCook Lake Association current pumps are running at full capacity and do not have the ability to provide additional water the this proposed canal.

We enjoy evening pontoons boat rides around the lake and lake depth levels are only around 7 - 10 feet through the entire lake. If he builds this canal and expects it to be filled by existing lake water and pumps it will cause irreversible damage to wild life and fish not to mention the numerous recreation boaters who use and enjoy the lake.

My husband and I ask your engineer to consider all the negative damage this canal will do to our beautiful lake and ask you to not approve this project.

Commenter's name and address:

First Name: Christy Last Name: gOEDEN

Address: 349C Lakeshore Dr

City: McCook LKe State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I object to this project as my property borders Mr Chicone
land.
There is no need in taking the chance of damaging what lake
we have.
The people of McCook Lake have put a ton of time and
effort to have the lake they have.

Commenter's name and address:

First Name: Kevin Last Name: Hoffman
Address: 961 Hoffman Rd
City: NSL State: SD Zip: 57099

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Large empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We WANT Mike Chicoine TO STOP
Trying TO Access WATER FROM McCOOK LAKE
AFTER THE MILLIONS OF DOLLARS AND COUNTLESS
HOURS OF VOLUNTEER'S WORK TO MAINTAIN THE
LAKES WATER LEVEL.

Thank you

Commenter's name and address:

First Name: Jeff Last Name: Meyer

Address: 77 North Shore Drive

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

RECEIVED

JUN 14 2003

OFFICE OF
WATER



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

at this time I'm against it

Joyce Foster

Commenter's name and address:

First Name: Joyce

Last Name: Foster

Address:

City: 333 McCook Lake State: S. Dak. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I say no, shouldn't be allowed
McCook lake would disappear along
with the fishing & recreation.

Why should the Lake supply water for a
business that may destroy it, just so
Mike Chicone can make a profit.

I know over 100 people have let the city
council aware they do not want this. The kindness
of all of it seems to be in Mike Chicone's favor.
Not enough time to stop it? Not fair to all of
the people. City council needs to listen to the people.

Commenter's name and address:

First Name: Patrick Last Name: Cothoudt
Address: ~~21 McCook~~ 21 Northshore Drive
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

RECEIVED

JUN 17 1981

OFFICE OF
WATER

Application No. 8744-3

Commenter's Name Oothoudt

Any additional comments:

[Faint, illegible handwritten text visible through the paper, likely from the reverse side.]

Date: 6/11/2023

To: Dept. of Agriculture and Natural Resources
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

RECEIVED

JUN 14 2023

**OFFICE OF
WATER**

Re: Application No. 8744-3
Applicant Dakota Bay c/o Mike Chicoine

We the undersigned write herein of our support for The McCook Lake Association's (MLA) opposition to Mike Chicoine's request No. 8744-3 for additional water right appropriation for the water consumption caused by his proposed canal at the south end of McCook Lake. We do because it's our position as well.

As lakefront owner here for 50 years we've lived through the ups and downs of the lake's water level beginning with its low point in the 1970s and early '80s when you could walk waist high across it. Thanks to MLA's subsequent construction of a pipeline and pumping station and it's maintenance program it has revived and sustained lake levels during the recreational season.

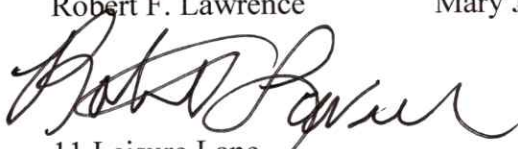
However, there's the constant syphoning of the lake water into the nearby Missouri River due to the lake being more than ten feet above it. Thus, the lake level drops dramatically during the winter months. That coupled with several years of drought has required pumping at maximum capacity beginning in the spring and throughout the summer. Thus, MLA dues and donation aren't enough to cover the increased cost of electricity, maintenance, etc., resulting in residents being asked to contribute to the cause.

Mr. Chicoine's proposed canal with the amount of water required to make it navigable and connect to the lake would have disastrous consequences. As MLA states, the proposed canal will consume lake water, reducing its ability to maintain lake levels. Thus, we believe the State Water Rights Department should have required Mr. Chicoine to obtain a Water Rights appropriation for water required to annually fill and maintain it.

We therefore support MLA's complaint to the SD Water Rights Board requesting a Declaratory Ruling requiring Mr. Chicoine to obtain a water right appropriation for the water consumption caused by the proposed canal. Further, Mr. Chicoine's March 29, 2023, request filed with the state for water appropriation to be pumped from existing gas engine operated irrigation well should be denied.

Robert F. Lawrence

Mary Jean Lawrence

 
11 Leisure Lane
McCook Lake, SD 57049
605-232-4569



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEPO-34, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I OPPOSE the application No. 8744-3 FOR
ADDITIONAL WATER APPROPRIATION. THE APPLICATION DOES NOT
TAKE INTO CONSIDERATION THE BURDEN THIS WOULD PUT ON
THE PRESENTLY MAX'D OUT SYSTEM MANAGED BY MCCOOK LANE ASSOC.
THE CHICOINE APPLICATION SHOULD NOT BE ISSUED

Commenter's name and address:

First Name: LEROY

Last Name: SKOGLUND

Address: 167 SOUTHWEST DR

City: MCCOOK LANE

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

RECEIVED

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As lifelong McCook Lake residents, we respectfully oppose and are deeply concerned about the proposed "canal project" at the south end of McCook Lake.

The proposed project's environmental impact has been minimized including: bio-diversity degradation, detrimental consequences on water quality, short & long term effects on water resources, devastating effects of canal liner instability, the negative economic impact on current McCook Lake residents regarding maintenance of current water levels & water quality.

Prior to issuance of any permit, we believe it is a priority to implement the findings of a comprehensive environmental impact study of the proposed canal & surrounding areas.

Mark & Terri Avery

Commenter's name and address:

First Name: Mark & Terri Last Name: Avery

Address: 105 Northshore Drive

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

- LAKE WATER IS NOT FREE AND IT IS NOT FOR SALE.
- THE LAKE WATER HAS GREAT VALUE TO OUR PROPERTY AND TO THE TAXES WE PAY.
- THE CANAL IS A PRIVATE VENTURE AND SHOULD NOT BE SUPPORTED BY THE RESIDENTS.
- THE LAKE ASSOCIATION ALONG WITH LAKE RESIDENTS PAY FOR THE PUMPING OF WATER TO KEEP THE QUADRA LAKE AT A USABLE LEVEL.
- NO PRIVATE ACCESS WHICH CUTS INTO THE EDGE OR SHORE SHOULD BE PERMITTED.
- LAKE RESIDENTS ARE NOT PERMITTED TO USE THEIR PROPERTY FOR PUBLIC ACCESS.
- THE LAKE HAS A PUBLIC ACCESS RAMP AND IRE'S CLUB HAS MEMBERSHIP ACCESS TO LAUNCH A BOAT. NEITHER OF THESE ACCESS POINTS HAVE CUT INTO THE SHORE PROFILE.
- THE LAKE WAS DREDGED AND ENLARGED TO CREATE BETTER VOLUME AND WATER QUALITY - FUNDED BY THE IRE'S CLUB AND STATE FUNDS - NOT FOR PRIVATE DEVELOPMENT.
- THE ONLY THING THAT SHOULD BE PERMITTED FOR A DEVELOPER WOULD BE A PRIVATE DOCK AND ACCESS FOR ITS RESIDENTS.

Commenter's name and address:

First Name: William Last Name: WELU

Address: 31 NORTHSORE DRIVE

City: MC COOK LAKE State: SOUTH DAKOTA Zip: 57049

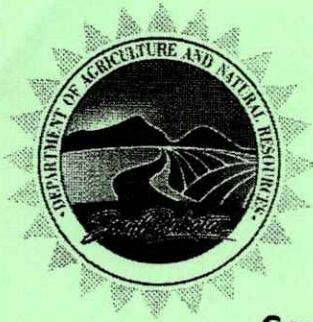
Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BEV, LLC c/o MIKE CHICONE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed !!

M. J. Fisher

Commenter's name and address:

First Name: Frederick Last Name: Fisher
Address: 173 SUNCOMB T
City: NORTH SIOUX CITY State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEKOR BAY, LLC c/o MIKE CHICOINE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

completely opposed
to this.

Commenter's name and address:

First Name: Kim Last Name: Moats
Address: 192 Suncoast Dr.
City: McCook, NE State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

h330990 p/otolqno
Cintt St

etron
phora
toxicology
all data



RECEIVED
JUN 14 2023
OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicone

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed to 8744-3
a gas pump is not sufficient
chicone will be polling water from
Lake aquifer causing additional
strain on Lake Association pumps
which are paid for and maintained
by volunteers. How is he contributing?
This is all for his financial gain.
What are his responsibility when
Lake levels cannot be sustained?

Commenter's name and address:

First Name: Tyler Last Name: Schronic
Address: 1480 S Derby Lane
City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicone

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

opposed - K

Commenter's name and address:

First Name: Kim Delaney Last Name: Delaney
Address: 177 Suncoast Dr
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DPRM-BAY, LLC c/o Mike Chicoine
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

After all of these years of trying to maintain
a decent lake level and all of the
money and time spent - now some one
wants to take out a dike to drain it.
I'm definitely opposed.

Commenter's name and address:

First Name: Velma Lou Last Name: Cook

Address: 147 Suncoast Drive

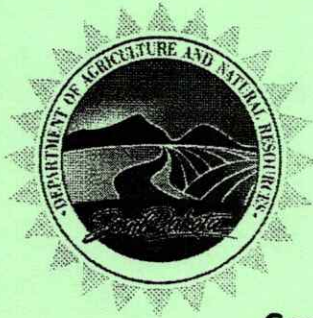
City: Ma Cook US State: S.D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTABAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

What gives him the right to steal our water. The Lake Association struggles now to keep our lake filled. This is so wrong, that I cannot believe this is happening.

Commenter's name and address:

First Name: Dennis Last Name: Lindstedt
Address: 69 Cotts Drive
City: McCook Lake State: S.D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Faint, illegible handwritten text visible through the paper, likely from the reverse side.]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

See Attached

Commenter's name and address:

First Name: MARY Last Name: Winebrunn
Address: 345 Lakeshore Dr.
City: N. Sioux City State: SD Zip: 57045

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

To the South Dakota Department of Game, Fish and Parks

In Reference to Mc Cook Lake in southeast South Dakota and Mike Chicoine DBA Dakota Bay LLC. Canal permit.

As I stated publicly at a North Sioux City council meeting, I was not adamantly against this project, with that being stated things have changed, this look like this is trying to be slid through behind closed doors, Mr. Chicoine never came to the council meeting, never supplied the information he was asked for.

Now the Mc Cook Lake Association has to make a reply by June 12th. I have some serious concern about the probable destruction of a public lake for the financial gain of a private company.

The reason the dike is located where it is, is because when the lake was being dredged years ago, the lake did extend into the area the proposed canal is to be located, the dredging was stopped, and the dike install because the lake was draining faster than it could be pumped in.

I believe for this to be approved there needs to be some markers that must be met by Dakota Bay LLC. To provide financial guarantees and long-term commitment, this canal will not affect the property values of the residents on and or near the lake.

I also believe Dakota Bay LLC. Needs to prove their pumping system will maintain the leaching from the canal prior to severing the dike. In good faith Dakota Bay LLC should be required to dig the canal, seal the bottom, fill the canal to the lake elevation and maintain the level for one year. After that has been completed Dakota Bay LLC. Should have to install anticipated dock posts, boat hoists muskrat holes, and any other object that may be placed on the bottom of the lake that will challenge the integrity of the sealed bottom. Providing the pumping system will maintain the water level for another summer and the guarantees are unbreakable, then the dike can be severed.

I also believe the South Dakota Department of Game, Fish and Parks needs to be committed to do whatever it would take to make emergency repairs to the lake to preserve what we have today.

If this was proposed on private property to make a private lake by a private company, I would not have any issues, if it were to fail the only one hurt would be the private investors, that is NOT the case here it affects the city, county, and state.

I understand these seams extreme, that is the point, the local city, county, and state tax base is at risk here, if the lake becomes a dried-up mosquito haven the property values will plummet and so will the tax base.

This is the Mission and Vision from your web site.

Mission

We serve and connect people and families to the outdoors through effective management of our state's parks, fisheries and wildlife resources.

Vision

Our vision is to conserve our state's outdoor heritage to enhance the quality of life for current and future generations.

I hope it is also important to protect and preserve our natural resources too.

Thank You for your time

Marty Winebrinner

345 Lakeshore Drive

North Sioux City Sd 57409

712-389-0444



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEKOR 34, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

opposed! Afraid we will lose all
the water in the lake that we have
work for years to maintain

Commenter's name and address:

First Name: Linda Last Name: Cook
Address: 335 Westshore Dr
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DPRM-BPM LLC c/o MIKE SCHOLZE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I'm opposed b/c we believe
it's hard enough to keep the
lake workable & filled.
I prefer to have the lake
as it is and feel it
is an imposition to
current residents. This
project is all about
greed & personal gain

Commenter's name and address:

First Name: Danet Last Name: Thayer
Address: 249 Westshore Dr
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I do not want it!

Lori L. Smith

Commenter's name and address:

First Name: Lori Last Name: Smith

Address: 249 westshore Dr

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

The proposed project no. 8744.3 is dangerous for the health and cultural + psychological welfare of our community. We all enjoy the nature, the look of the lake + the animals need the lake, as well for their welfare. This project benefits the pocketbook of few and hurts the value + beauty + enjoyment of the property of many! Please be respectful to our community! Please!

Commenter's name and address:

First Name: Kristine Last Name: Danne
Address: 265 Westshore Drive
City: Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEKOR BAY, LLC c/o MIKE CHOCOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

WE ARE OPPOSED TO THE CANAL
BECAUSE IT WILL AFFECT THE
WATER LEVELS ON MCCOOK LAKE.
I THINK HE SHOULD HAVE TO
PUT IN HIS OWN PUMPING EQUIPMENT
TO PUMP HIS OWN WATER FROM THE
MISSOURI RIVER.

Commenter's name and address:

First Name: GREG Last Name: THOUSAND
Address: 261 WESTSHORE DR
City: MCCOOK LAKE State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEKOR 3RD, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

opposed

Commenter's name and address:

First Name: Sherry Last Name: Caba
Address: 208 Suncoast
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

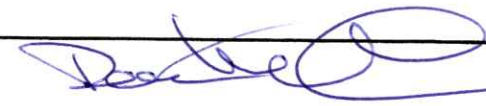
Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEKOR BAY, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

OPPOSED DAVE MITCHELL 

Commenter's name and address:

First Name: DAVE Last Name: MITCHELL
Address: 189 SAWCOAST DR
City: NORTH SIOUX CITY State: IOWA Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

opposed

Commenter's name and address:

First Name: Kary & Brian Last Name: Collette
Address: 179 Suncoast Dr.
City: McCool Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Schunk

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a 20 year Resident and Volunteer that runs the pump to fill the lake, I oppose the expansion as we are at full capacity or pumping now. I have talk to City Eng. that has done test drilling and defend that we will not keep water in the lake if we let the expansion happen.

Commenter's name and address:

First Name: Ron

Last Name: Schunk

Address: 175 Sancrest Dr

City: McCook Lake

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Application #8744-3 should be denied.
I am in opposition due to fact the chief engineer report does not take into consideration the additional pumping this would require. The current pumps are at max capacity and unable to reach desired level.

Commenter's name and address:

First Name: Tanner Last Name: Schrock

Address: 175 Suncoast Dr

City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

Large empty rectangular box for additional comments.

RECEIVED
JUN 14 2023
OFFICE OF
WATER



RECEIVED

JUN 14 2023

OFFICE OF
WATER

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Comment

Concerning Application for a Water Right Permit

Application No. 2744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed!

Commenter's name and address:

First Name: Lisa Last Name: Mickey
Address: 227 Westshore
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DPK 103 LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed!
Mark Dirksen

Commenter's name and address:

First Name: MARK Last Name: DIRKSEN
Address: 207 Suncoast Dr
City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed

Lisa Dinksen

Commenter's name and address:

First Name: Lisa

Last Name: Dinksen

Address: 207 Suncoast Dr

City: North Sioux City State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 2744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Opposed

Commenter's name and address:

First Name: Michael Last Name: Thompson

Address: 209 Suncoast Drive

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

** Opposed*

Commenter's name and address:

First Name: Jan Last Name: Thompson
Address: 209 Suncoast
City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DARCI KISTNER, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

My biggest concern with this proposed canal is that we won't have a lake at all anymore. We already have to pump water from the river every year & hope it works every year. To add another appendage to the lake could jeopardize all of the homes & families' lifestyles on the lake currently. What are the consequences ~~of~~ to Mike Chicone if the lake drains - does he have any liability.

Commenter's name and address:

First Name: Darcie Last Name: Kistner
Address: ~~8878 DREW~~ 187 SUNCOAST Drive
City: NORTH SIOUX City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 2744-3 Name of Applicant DPRM-BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This plan fails to have a maintenance responsibility for a dike or dam.
Who is going to be responsible for a dam or dike after he develops the property?
As a landowner on the lake, this will damage the lake, wildlife, property value and value to the community.
Review the facts of the historical drainage issues of why the dike was built.
IF Mr Chicone is so confident in his plan, Build a canal, fill it with his own water, and review this permit in 3 years to attach to lake if successful.

Commenter's name and address:

First Name: STEVE

Last Name: KISTNER

Address: 187 SUNCOAST DR

City: McCook Lake

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Danr's Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I ask that you Deny the application No. 8744.3. The McCook Lake Assoc. is currently pumping at maximum Capacity and still unable to meet an adequate level during dry summer months. The cost of maintaining pumps and electricity is privately funded and will increase while Chicoine will profit without contribution or recourse if lake level drops as projected due to seepage and evaporation.

Commenter's name and address:

First Name: Stacy Last Name: Schroink
Address: 175 Suncoast Dr
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Stacy SchronlC

Any additional comments:

Over 300 Houses will be impacted by this decision along with the future of a State Lake. ALONG with the guests on our Lake from NE, IA, + SD who come to enjoy recreation.

If he is confident in his plan then have him build his pond, fill with his pump and re-exam the permit after multiple years of maintaining water level.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I vote no to any procedure
that would ~~see~~ sacrifice the
integrity of McCook Lake water levels
or any other ~~see~~ encroachment against
the bio-environment of McCook
Lake

Commenter's name and address:

First Name: Gary Last Name: Lewis
Address: 93 N. Shore drive
City: N. Sioux City, SD State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Gary Lewis

Any additional comments:

RECEIVED

JUN 14 2023

OFFICE OF
WATER

June 10, 2023

John and Lois Gerber
103 Northshore Dr
McCook Lake SD 57049
jlgerber2@gmail.com
712-253-9403

Chief Engineer, Water Rights Program
Foss Building
523 East Capitol Ave
Pierre SD 57501

RE: Objection to Application 8744-3 for Water Right Permit of McCook Lake by Mike Chicoine Dakota Bay LLC.

Dear Chief Engineer

I am not an expert on this subject, but I am a concern citizen, living on the lake, with a personal and financial interest in preservation of McCook Lake. Most likely, you have more information on Mike Chicoine's plans for a man-made canal and more knowledge of what it would take to successfully complete a project such as this and the potential issues/concerns. Here are a few items that I have heard or researched. Please research the application thoroughly and deny the Mike Chicoine application as the modification of the lake could have negative impact to the sustainability of the resource and the quality of life for current and future generations. I believe the McCook Lake community is against the canal. I encourage you to meet with the community and get their feedback. Many in the community have lived here many years and can provide insight to the lake's past.

- McCook Lake is the home to many animals (fish, deer, opossums, turtles, snakes, beaver, muskrats, and others wildlife) in addition to the many homes around the lake. The lake is also used for recreation purposes all year. Boating, fishing, swimming, ice fishing, skating, snowmobiles, kayaking, stand-up paddle boarding, to name a few.
- McCook Lake is an Oxbow Lake, as I'm sure you already know, oxbows are Stillwater lakes that water does not flow into or out of them. There is no stream or spring feeding the lake, and it doesn't have a natural outlet. Oxbows often become swamps or bogs, and they often dry up as their water evaporates.
- McCook Lake is an oxbow that DOES have water due to many volunteer man hours and dollars (most raised by donations) to build, maintain, and run pumps that pump water into the lake from the Missouri River.
- It is my understanding, that water could NOT be maintained when pumping began. It wasn't until later, when the dike was created on the southeast end when waters levels were maintained. It is the southeast end where Chicoine plans to breach.
- It is my understanding, sealing a lake is not always successful. Spanish Bay in Dakota Dunes took multiple tries and millions of dollars to be successful. I also understand sealed lakes can be breached by man (digging holes for docks etc.) or by nature, (beaver/muskrat dens, wind, and erosion, etc.) therefore maintenance would be required to maintain the lake. Who is fiscally and

financially responsible for continued repairs? Again, please keep in mind this is an oxbow and does NOT have water flowing into it from a stream or spring.

- Riprap, as I understand has been approved by the Army Corp of Engineers, is only for small portion of the canal.
- More water would need to be pumped into to the lake to maintain water levels if there are more acres created that would need water. Current pipes carrying water from the river is at max capacity. Pumps are at max capacity and currently fighting to maintain target water level during these drought years. Who is financially responsible to expanding and maintaining pipe and pumping capacity?
- If the plan were to be successful, what will the water quality be like? The lake already has an overabundance of motorboats in the summer. Will there be even more motorboats and risk of fuel and litter in the lake? What will be the impact to wildlife?
- What about the financial impact to current homeowners on the lake should this plan fail, and water levels can no longer be maintained? Will Chicoine, or any other person that decides to add a canal, have any financial responsibility to offset the lost home values?
- What will prevent more and/or larger canals to be man-made on the lake should this pass. What will happen to the lake, animals, home, and homeowners?
- I understand it's business for Chicoine and he is set up to make a nice profit. Will he, or any other person that decides to add a canal onto the lake, have any financial responsibility for ongoing lake maintenance and pumping capacity now and/or after the sale the lots surrounding the canal? Will the City have any financial responsibility for ongoing lake maintenance and pumping capacity? Where will the money come from to maintain the lake and the lakes water level?
- Is there a plan for sewer capabilities? Will there be septic systems? Will this impact the quality of water?

Again, in-order to preserve and sustain McCook Lake and the quality of life for current and future generations, I ask that you please research the application thoroughly and deny Mike Chicoine or any other application for a canal, that could destroy the lake, negatively impacting the public that use the lake and the people and wild life that live on the lake. Thank you.

Sincerely



John and Lois Gerber
South Dakota Taxpayer and Homeowner McCook Lake SD



RECEIVED

JUN 14 2023

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

OFFICE OF
WATER

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I write in support of the McCook Lake Association's (MLA) position regarding application #8744-3. AS the MLA constructed and maintained piping and pumps are running at full capacity, the equipment does not have the ability to maintain the permitted water level in McCook Lake and provide additional water to the proposed Chicago Canal. IF application #8744-3 is allowed MLA believes their existing water rights will be damaged and impair the ability to maintain the permitted water level in McCook Lake.
- Again, I support this position.
- THANK you for your time.

Commenter's name and address:

First Name: Don Last Name: Fuxa
Address: 101 North Shore Dr.
City: North Sioux City State: S.D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

RECEIVED
JUN 14 2023
OFFICE OF
WATER

8744-3

I am in receipt of the letter dated 6/1/23 regarding the proposed water right application #8744-3. The letter states that the applicant is requesting a water right for the purpose of irrigating 100 acres of land in the North Platte River area. The letter also states that the applicant is requesting a water right for the purpose of irrigating 100 acres of land in the North Platte River area. The letter also states that the applicant is requesting a water right for the purpose of irrigating 100 acres of land in the North Platte River area.

Don
101 North Platte Dr
North Platte, ND



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the water rights application # 8744-3 from Mike Chicoine. McLook Lake has a dramatic decrease in water level every winter when pumping is shut off, and can Not maintain an additional draw on the water level that this canal would cause. A lower water level would almost certainly result in winter fish kill in the spring, which would be detrimental to the lake and eco-system, Not to mention the smell, and cost of clean up. Our lakes association already struggles with the cost of just maintaining our water level as the lake is now. A canal would further stretch this already fragile budget. I feel this application needs to be denied to save the integrity of this natural resource and prevent any further damage to the lake.

Commenter's name and address:

First Name: Bev Last Name: Smith
Address: 13 Leisure Lane
City: McLook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

RECEIVED
JUN 14 2023

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTABAY, LLC c/o MIKE CHICONE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We are requesting the study done on Brown's Lake be considered, MidAmerican Energy Power Company has been pumping into Brown's Lake, Salix, Iowa for many years, it was being pumped into the sandy side and last year they diverted it to the deeper side of the lake to help bring water level ^{up} several ~~feet~~ inches. If we expose this lake (McCook Lake) we will be dealing with the same issues and losing water thru the new exposed sand.

Thank you!

Commenter's name and address:

First Name: Hansen Last Name: Julie
Address: 142 Westwood Lane
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

712-898-2787

Application No. 8744-3

Commenter's Name _____

Any additional comments:

OFFICE OF
WATER

RECEIVED
JUL 14 2003



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I APPOSE THIS!

Commenter's name and address:

First Name: WESLEY Last Name: FEERE
Address: 135 NORTHSIDE DR
City: MESOOK LAKE State: S. D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DEPT. OF AGR. & NAT. RES. c/o MRS. CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am a McCook Lake resident and have been for the last 38 years. Before that, I was raised at the lake.

I have seen the lake in various states throughout the years. Without some sort of dredging or pumping of an outside water source, the lake would surely cease to exist for recreation. In fact, it would most likely end up more of a pond or much like Mud Lake to the west of McCook Lake. The water level runs dangerously low every spring when the pump is unable to run over the winter. The residents at the lake and certainly around the lake itself have invested in these properties due to their proximity to the lake and the livelihood that the lake provides. The Chicoine Canal would not benefit the lake, in fact the only benefactor is the author of the proposed canal. The current stress of the water level at the lake already is near capacity. The pump costs and funds to run it are in a constant state of jeopardy. The impact of the canal will affect the water level indubitably. For instance, this year the docking of boats in the lake was delayed due to the low water levels. Many times, the boats' motors will hit mud in areas where this should not be the case. The lake is nowhere near its glory days and is at capacity for the already vested residents.

I implore you to consider the current residents and the state of the lake before voting on the Chicoine Canal. What reassurance would us residents have that the owner of the land of the purposed canal would have to "help" pump water? Is the well that he plans to pump from guaranteed to have infinite sources of water? What if his gas-powered pump breaks down? There are many points to consider when faced with the addition of a canal that will stress the already fragile nature of McCook Lake. Please feel free to reach out to me for further comment.

Commenter's name and address:

First Name: MARY Last Name: KLEBER
Address: 138 WESTWOOD LANE
City: McCook Lake State: S.D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please stop this - we need
our water. STOP HIRN

Commenter's name and address:

First Name: Barbara Jacobs Last Name: JACOBS

Address: 85 Northshore

City: McCook State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Let's preserve the lake and our
environment.

Commenter's name and address:

First Name: M. Ke Last Name: Curry
Address: 83 North Street Dr
City: N. Sioux City State: SD Zip: 57409

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

 Karen L Curry

Application No. 8744-3

Commenter's Name _____

Any additional comments:

RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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



Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BEV, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I oppose the Conel For the Following Reasons

- ① NO guarantee it won't leak
- ② Current Pumping Infrastructure is at Max Capacity
- ③ No Value to McCook lake only the Dakota Mike Chicone
- ④ NO Effort to work with the MLA that pay \$50K a year to pay to keep water in McCook lake
- ⑤ IF this goes thru its only the beginning it will get extended to Riverland Estates & destroy McCook lake
- ⑥ Chicone Has No water source to fill Conel the water table is filled by the MLA & its members

Jody Retch

Commenter's name and address:

First Name: Jody C Last Name: Retch

Address: 191 Suncoast DR

City: McCook lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Spicove

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

See attached letter

Commenter's name and address:

First Name: Marty Last Name: Reich
Address: 191 Suncoast Drive
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

I strongly oppose allowing Mike Chicoine to be permitted to build the canals to McCook Lake. As it stands, the MLA has to work very hard to keep the lake level up during the season. We have invested a lot of time, effort, and expense into the current water delivery system without any investment of any kind, be it labor, equipment, or money, by Mr. Chicone. Having no skin in the game, he now wants to profit off the the work of the MLA.

The idea that he will fill his canals with water pumped from an irrigation well as a way to get around this fact is to assume that the members of the MLA are ignorant to the fact that the irrigation well also benefits from the water pumped into the lake by the fact that the water seeps into the ground and feeds the water table. He will simply be using the water pumped and paid for by the MLA by resourcing it through his well.

Frankly, if Mr. Chicone wants his customers to have a lake to boat on, then he should have to construct his own lake on his property and provide water for it by way of pumping it from the river as does the MLA. To simply allow him access to the lake water could result in the destruction of both the lake itself and the property values of every single tax-paying lakefront resident.

Sincerely,

Marty Reich

6-10-23

Marty Reich



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to removing the dike at South end of McCook Lake as I lived at the lake prior to the dike being installed and ~~it~~ it was impossible to maintain the water level. Thanks Todd Cook.

Commenter's name and address:

First Name: Todd Cook Last Name: Cook

Address: 225 Westshore Dr.

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am against the canal project.

Commenter's name and address:

First Name: Shane Beavers Last Name: Beavers
Address: 123 Melrose Ave
City: North Sioux State: S.D Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DPK 34, LLC c/o Mike Chico

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to the water project to
build another canal.

Commenter's name and address:

First Name: Charlene Last Name: Beavers

Address: 109 Louis Ave.

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I regularly canoe on the lake and maintaining
the lake level and quality of the water is very important
to me.

Commenter's name and address:

First Name: Michael

Last Name: Danner

Address: 4324 POLK ST.

City: Sioux City, IA

State: IA

Zip: 51108

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 2744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

McCook Lake should be preserved for
the enjoyment of all in the Sioux
City Area!

Commenter's name and address:

First Name: Alex & Angela Stuck Last Name: Stuck

Address: 3602 Placed Blvd

City: Sioux City

State: IA

Zip: 5108

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY LLC c/o MIKE CHILCONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I ASK THAT YOU DENY THIS APPLICATION.

THE MCCOOK LAKE RECREATIONAL ASSOC (MLA) ALREADY IS PUMPING AT MAXIMUM LEVELS AND IS NOT ABLE TO MAINTAIN PERMITTED LEVELS. BOAT HOISTS HAVE BEEN FURTHER INTO THE LAKE IN SOME CASES. CLEARLY, MC COOK LAKE DOES NOT HAVE ENOUGH WATER TO OFFSET EVAPORATION AND SEEPAGE AS IT IS. RIGHT NOW

IT'S CRAZY TO THINK AN ADDED BURDEN TO THE WATER SYSTEM WILL WORK. PARTICULARLY ONE AS SUBSTANTIAL AS THE PROPOSED CANAL.

THOUSANDS OF PEOPLE ENJOY MCCOOK LAKE RECREATION. PLEASE DO NOT DESTROY THIS BEAUTIFUL RECREATIONAL ASSET BY OVERWHELMING WHAT IS ALREADY A MAXED OUT PUMPING SYSTEM. PLEASE DO NOT ALLOW DAKOTA BAY LLC DEVELOPMENT TO BUILD THE PROPOSED CANAL. AGAIN, I ASK THAT YOU DENY THIS APPLICATION

Commenter's name and address:

First Name: DAN Last Name: PELANT

Address: 67 NORTH SHORE DR

City: MC COOK LAKE State: SD Zip: 68776

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Commenter's Name _____



JUN 14 2023

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCESOFFICE OF
WATERJOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Iron Mountain Capital LLCThe Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note: Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I AM OPPOSED TO THE APPLICATION 108744-3 FOR
ADDITIONAL WATER APPROPRIATION. THE APPLICATION
AND OTHER ENGINEER'S REPORT DO NOT EVALUATE THE
IMPACT OF ALL OTHER WELLS EXISTING IN McCook LAKE.
THE ADDITIONAL WATER WITHDRAWN WILL BE
SUPPLIED FROM THE McCOOK LAKE WATER SUPPLIED TO
THE GROUND WATER. INCREASING THE WATER TOLERANCE
PULLED FROM THE EXISTING GROUNDWATER RESERVOIR WILL
WILL INCREASE THE VOLUME OF WATER REMOVED FROM
McCook LAKE.

THE McCOOK LAKE RECREATION ASSOCIATION (MRA) OPPOSES
WATER TO McCOOK LAKE AT THE MAXIMUM ALLOWABLE

Commenter's name and address:

First Name Janice Last Name Howard
Address 112 Teton Pines Court
City Indota Dunes State SD Zip 57049

Note: This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Janice Howard

Any additional comments:

RAVE WHICH IS NOT ABLE TO MAINTAIN THE PERMITTED ELEVATION DURING THE PRESENT DROUGHT CYCLE. ADDITIONAL WATER LOSS FROM McCOOK LAKE CAUSED BY THE APPLICATION NO 8744-3 WILL LOWER THE LEVEL OF McCOOK LAKE CAUSING DAMAGE TO THE MAIN LICES OF McCOOK LAKE.

THE EXISTING CHICAGO PERMITTING WELL SHALL NOT BE HINDERED UNDER MLD WHICH IS NOT ABLE TO MAINTAIN THE PERMITTED ELEVATION.

PLEASE NOTE YOU SENT THE APPLICATION NO. 8744-3.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of
AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Concerning Application for a Water Right Permit

Application No. **8744-3** _____ Name of Applicant **Dakota Bay LLC, c/o Mike Chicoine** _____

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

1. The permit is for the right to pump water into McCook Lake from an irrigation well. The permit gives the right to pump but does not require to pump which makes the permit meaningless. The purpose was to replace water lost by the canal. Chicoine has no intention, nor is he required to, pump water into McCook Lake.
2. The estimates for the water loss from the canal are too low. The canal will be lined with 18" of fat clay on a 3:1 slope. Every year the canal will be dry, the clay will crack, and the water will leak into the gravel layer. Clay liners do not hold up over time to cycles of wet and dry especially at this steep slope. The clay will erode and move down. Ground water will push the clay liner out just as it did in Spanish Bay.
3. There is a strong economic motivation to build this canal. Chicoine plans to sell 14 lots at \$150,000 each for a total of \$2.1 million and dig his canal for about \$1/2 million for neat profit of about \$1.6 million. He then pockets the money and walks away with no future obligations.
4. The proposed well system is not even close enough to being robust enough for this requirement. This well was constructed 18 years ago and designed for field irrigation, which turns on for a couple hours a day at most. There is no way this well is capable of continuous pumping without plugging/failing the well. There are no safeguards in place to protect the lake, such as, redundant well systems in case of failure or being able to switch on to an additional well during times of maintenance.
5. Please leave the beauty & recreation that McCook Lake provides to its residents and visitors alone. Adding this canal will put McCook Lake's structural integrity at risk. This is a risk that should not be taken!

Commenter's name and address:

First Name: Matt

Last Name: Bird

Address: 301 Lakeshore Drive

City: McCook Lake

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

WE ARE AGAINST ANY damage to the water level to the LAKE.
THEY CANNOT GUARANTEE IT WILL NOT AFFECT THE WATER.
IF THE LAKE WATER LEVEL WERE TO SUFFER IT WOULD LEAD
TO PROPERTY VALUES DECREASING. A LOT OF HOMEOWNERS
MADE THEIR HOMES HERE AND SHOULD THE CANAL BE GRANTED
WOULD SELL OUT.

Commenter's name and address:

First Name: ERNEST Last Name: OLSON

Address: 318 LAKE SHORE DR.

City: MCCOOK LAKE

State: S.D.

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant D. PROFFER LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I support the action by MLA to stop
Chicone water application for the reasons
noted in this document.

6-11-23

Commenter's name and address:

First Name: Brandon Last Name: Wynn

Address: 139 Westwood Lane

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name Brendan Wynne

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DANR-34, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am very much opposed to the water rights application #8744-3, from Mike Chicoine. McCook Lake Assoc., struggles now, to get donations and volunteers, to maintain the water level. Why! Should Mike Chicoine or anyone? be able to drain water from McCook Lake? It just doesn't make sense! Why? Should McCook residents, pay to pump water into McCook Lake, and Mike Chicoine, pumps it out the other end of the lake? If this Permit is granted, it will drain, so much water, from McCook Lake, it will turn into a mud puddle. Mike Chicoine, can get water from the Missouri River, without destroying McCook Lake!

Commenter's name and address:

First Name: HeLen "ELAINE" Last Name: Meyer

Address: 17 LEISURE Lane

City: McCook LAKE

State: S.D.

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I AM OPPOSED TO THE APPLICATION No. 8744-3 FOR ADDITIONAL WATER APPROPRIATION. THE APPLICATION AND CHIEF ENGINEER'S REPORT DO NOT EVALUATE THE IMPACT OF ADDITIONAL WELL PUMPING ON MCCOOK LAKE. THE ADDITIONAL WATER APPROPRIATION WILL BE PUMPED FROM THE MCCOOK LAKE WATER SUPPLIED TO THE GROUND WATER. INCREASING THE WATER VOLUME PUMPED FROM THE EXISTING CHICONE IRRIGATION WELL WILL INCREASE THE VOLUME OF WATER REMOVED FROM MCCOOK LAKE.

THE MCCOOK LAKE RECREATION ASSOCIATION (MLA) PUMPS WATER TO MCCOOK LAKE AT THE MAXIMUM AVAILABLE

Commenter's name and address:

First Name: GREGORY Last Name: MEYER

Address: 143 SUNCOAST DR.

City: LSIOUX CITY State: S.D. Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

RECEIVED

Application No. 8744-3

JUN 14 2023

Commenter's Name _____

OFFICE OF
WATER

Any additional comments:

RATE WHICH IS NOT ABLE TO MAINTAIN THE PERMITTED ELEVATION DURING THE PRESENT DROUGHT CYCLE. ADDITIONAL WATER LOSS FROM MCCOOK LAKE CAUSED BY THE APPLICATION NO. 8744-3 WILL LOWER THE LEVEL OF MCCOOK LAKE CAUSING DAMAGE TO THE MANY USES OF MCCOOK LAKE.

THE EXISTING CHICOME IRRIGATION WELL SHOULD NOT BE PUMPED WHEN MLA IS NOT ABLE TO MAINTAIN THE PERMITTED WATER LEVEL.

THE PROPOSED CANAL IS ESTIMATED TO BE WITHIN 100 FT OF THE CHICOME WELL, SHORT-CIRCUITING.

PLEASE DENY APPLICATION 8744-3 AS IT WILL IMPAIR THE MLA WATER RIGHTS.



RECEIVED

JUN 14 2023

OFFICE OF
WATERDEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL
PIERRE SD 57501-3
danr.sd

Comment

Concerning Application for a Water Right Permit

Application No.

8744.3

Name of Applicant

Natalia Izag LLC c/o Mulu

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am opposed to this application
8744-?

Commenter's name and address:

First Name:

Dave

Last Name:

Layhee

Address:

603 Lakeshore Dr.

City:

N. Sioux City

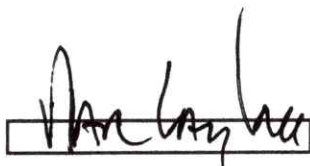
State:

SD

Zip:

57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.





RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I oppose the Chicone's application for water rights #8744-3.

I believe pumping of water from the existing Chicone irrigation well will remove water from McCook Lake resulting in damage to the McCook Lake Recreation Association water rights.

Commenter's name and address:

First Name: Rebecca Last Name: West
Address: 148 Suncoast Drive
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Its detrimental to the health + wealth of the
lake.

Commenter's name and address:

First Name: Amber Last Name: Sharma
Address: 4916 E. Deerfield Circle
City: Dakota Dunes State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Faint, illegible handwritten text visible through the paper, likely from the reverse side.]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

We've been AGAINST this project from the start. This is 100% about the Almighty Dollar for Mr. Chicoine as well as the City of North Sioux City. No one gives a damn about the environmental impact, or about not draining the lake. Mr. Chicoine has no plan to seal the lake bottom or for ongoing pumping and the maintenance of that pump! We've replaced ours 2-3 times already. ~~For~~ Additionally this is a tiny lake. What happens when you add 50-75 more boats that bring in invasive plants + Zebra mussels? And leak gas into the water. Mr. Chicoine will be a millionaire + long gone. And the city says they don't have say over lake! but they will sure line their pockets!

Commenter's name and address:

First Name: Rebecca + James Last Name: Struthers

Address: 239 Westshore Dr.

City: McCook Lake

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

As a resident of over 28 years we have
had many years of water level being either
low or high. Most are very low. Our family
wants to ensure that the lake is maintained
and not threatened by Mike Chicoine plan to
pump water from McCook Lake to not add
to guarantee seepage or control at any point.
We oppose this.

Commenter's name and address:

First Name: Jamie Wankum Last Name: Wankum

Address: 621 Lakeshore Dr

City: McCook Lake State: SD

Zip: 57045

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

JUN 14 2023

OFFICE OF
WATER

Comment

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DANIEL BAY, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Since this situation with Mike Chicoine exists nowhere else in the state, I would expect you to research in depth the effects of this "canal" project. If ~~you~~ ^{you} do when you do - you could not possibly, in good conscience, grant his request. I have lived at the Lake since 1973, and I know I have been a part of, all the volunteer work & the millions of dollars that has gone into keeping McCook Lake a healthy lake. After the dredging, testing was done that showed the end of the lake from the dike to the river, drained water back to the river, so building the dike was a very good solution. All the years have proven this to be true. Letting Mike Chicoine dig through the dike & dig his canal will be the end of the Lake as it is now.

There are 200+ homes on the Lake. The canal would be a major slap in the face for us. The only effect on Chicoine will be that he will make a ton of money.

You are public servants. So serve the public & not Chicoine, who stands alone. Some people think you stand with him. I hope that is not true.

Commenter's name and address:

First Name: JOAN

Last Name: CHRISTIANSEN

Address: 183 SUNCOAST DRIVE

City: NO SIOUX CITY

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTABAY, LLC c/o MIKE CHICONE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I am ~~am~~ opposed to the Lake Front
Houses to have access -

Barb Bailey

Commenter's name and address:

First Name: Barbara Last Name: Bailey
Address: 400 Lakeshore Dr
City: HCity State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

McCook Lake is a ~~natural~~ ^{state} treasure and should be preserved. Keeping the lake and recreations involved with the lake is important to me.

Commenter's name and address:

First Name: Megan Last Name: Click
Address: 2112 Jackson St
City: Sioux City State: IA Zip: 51104

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED DEPARTMENT of AGRICULTURE
'JUN 14 2023 and NATURAL RESOURCES
OFFICE OF
WATER
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I support the action by M2A to stop the Chicoine
water appropriation.
This will be a loss to all the residents who
live at Mc Cook Lake with exception to Mr.
Mike Chicoine.

Commenter's name and address:

First Name: Leesa Last Name: Wynn

Address: ~~0000~~ 113 Westwood Ln

City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DANIEL BEAVERS, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

- opposed to the
canal project

Commenter's name and address:

First Name: Harold Last Name: Beavers
Address: 109 Louis Ave
City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DPR-201, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Raining water quality for profit
is bad.

Commenter's name and address:

First Name: Dallas Last Name: Brunpan
Address: 3816 Hamilton
City: Sidney City State: IA Zip: 51104

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Faint, illegible handwritten text visible through the paper, likely from the reverse side.]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chichoine
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I AM THE PAST PRESIDENT OF THE ISAAC WALTON LEAGUE OF MCCOOK LAKE and the MCCOOK LAKE ASSOCIATION. FOR 20+ YEARS WE HAVE DEALT WITH WATER ISSUES AND KEEPING MCCOOK LAKE at A SAFE USABLE LEVEL. WE DO NOT HAVE ANY MORE PUMPING CAPACITY UNDER OUR PERMIT WITH THE STATE. IF CHICHOINE IS GRANTED HIS PERMIT THE LAKE WILL DROP SUBSTANTIALLY AND NO LONGER BE SAFE FOR PUBLIC USE. PUBLIC SAFETY HAS ALWAYS BEEN OUR STATE'S DUTY. THE CHICHOINE APPLICATION WILL BE A PUBLIC DISASTER. I DOUBT THAT PUBLIC WILL EVEN BE ABLE TO ACCESS THE LAKE FROM RAMPS MUCH LIKE HAPPENED ON THE MISSOURI RIVER. ADDITIONALLY, the ECOLOGICAL IMPACT WILL BE DEVASTATING GIVEN THE LOWER WATER, EROSION OF SHORELINE, FISHING AND WEED GROWTH. THIS PERMIT APPLICATION WILL DESTROY A LAKE THAT WE HAVE WORKED DECADES ON TO CLEAN AND GET IT TO THE CONDITION IT IS. THERE WILL BE SERIOUS CONSEQUENCES NOT EVEN FORESEEABLE. YOU MUST

Commenter's name and address:

REFUSE TO APPROVE THE PERMIT

First Name: Jeffrey

Last Name: MYERS

Address: 335 LAKESHORE DR

City: MCCOOK LAKE

State: SD

Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

PAST PRESIDENT

Application No. 8744-3

Commenter's Name _____

RECEIVED

JUN 14 2008

OFFICE OF
WATER

Any additional comments:

[Large empty box for additional comments]

RECEIVED

Department of Agriculture
and Natural Resources
Joe Foss Building
523 E. Capitol Ave.
Pierre SD 57501-3182
dnr.sd.gov

JUN 14 2023

June 11, 2023

OFFICE OF
WATER

Re: Application No. 8744-3 Name of Applicant: Dakota Bay c/o Mike Chicoine

This application is very concerning as we have been residents of McCook Lake for over 50 years. As you may or may not know the residents;

1. Pay for the pumps to run every year
2. Moved pipes for the dredging project
3. Spring clean up disposing of old tires, hunks of wood and garbage
4. Maintain the public landing
5. Support a Police presence regarding loud music and speeding
6. Manage water purity
7. Repair and do maintenance of all pumps
8. Fundraise judiciously
9. This is all volunteer

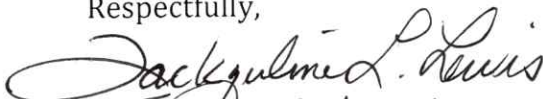
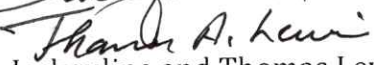
The water is pumped from the Missouri River into the lake. We are now pumping at full capacity. This is laborious and expensive to keep the pumps running. Mr Chicoine undoubtedly will not be around to maintain his gas engine operated irrigation pump for the years to come.

The proposed Chicoine canals, if passed would affect the water table and add unwanted duties for the Lake Association when Chicoine has made his millions and moved on.

The integrity of the lake holding it's level after being drilled through at the dike, which holds the water in the now lake, is unconscionable and poor stewardship of our water way jeopardizing the value of over 220 resident's homes.

We would appreciate more testing to insure this is not a possibility before this has a chance to become a disastrous travesty from which we will not be able to recover. This proposal is not in the best interest for McCook Lake SD.

Respectfully,

Jackqueline and Thomas Lewis
613 Lakeshore Drive
McCook Lake SD 57048-4008



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Expanding McCook Lake in this way would be detrimental to our little lake. Maintaining the water level in recent years has already been a struggle but then to add to the size and supposedly add water by a method that hasn't been proven effective could make the lake completely unusable for anyone. It very much sounds like someone to make a lot of money at the expense of many other people and in the process permanently damage or ruin our existing beautiful lake. Please do NOT agree to this!

Commenter's name and address:

First Name: Corinda Last Name: Wickey
Address: 1 Isaac Walton Dr
City: McCook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I TOTALLY disagree with the idea of the Dakota Bay, LLC constructing a canal at the south end of the lake. I don't believe they really care about Mccook Lake, all they are concerned about is making money by selling lots & building houses. I believe by allowing them to do this project, would be disastrous to the lake. It is currently hard enough to maintain the level of the lake as it is now. The pumps are at max. capacity allowed to pump in to the lake. I believe by allowing this, it would drop the lake level to a point, where it couldn't be used to its full capacity.

Commenter's name and address:

First Name: Craig Last Name: Wickcy
Address: 1 Isaac Walton Dr
City: Mccook Lake State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 2744-3 Name of Applicant Dan Rust LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

This is an absolutely Terrible idea for the life of McCook Lake, whoever is contemplating approving Chicoine's project had best be looking, requiring the appropriate percolation tests and water supply issues. This entails. Will The Army Corp willing to appropriate the necessary water to maintain this without affecting existing lake levels? Anyone that thinks using irrigation wells to support his project had best look very closely at water table levels and financial implications of dropping the water table. I just can't see the feasibility of this project long term. What happens when Chicoine gets his money and legally maneuvers out of financial responsibility for the damages that could occur. Let's try to sue a Dan Rust LLC!!!

Commenter's name and address:

First Name: Vernon Last Name: Miller
Address: 48388 W. Authier Rd
City: Jederson State: SD Zip: 57038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DANIEL BAY, LLC c/o MIKE CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

I believe expanding McCook Lake would be a massive mistake. The lake levels are already difficult to maintain since they have to pump in from the river. It would be different if it was naturally able to maintain the level on its own. Plus our little lake can't handle more boat activity - it would create havoc with more boaters.

Commenter's name and address:

First Name: Janet Last Name: Miller
Address: 48388 W. Antuier Rd.
City: Jefferson State: SD Zip: 57038

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Danr. Bd. LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

My advice to whoever makes the ~~final~~ final decision on this project, is to think about the long term implications and the actual feasibility of this project. Yes this project may sound cool and make this man some money. However, is this project really the best thing for this lake and the communities that enjoy it. Just be careful not to ruin a good thing.

Commenter's name and address:

First Name: Brian Last Name: Wickey
Address: 1 Isaac Walton Drive
City: North Sioux City State: SD Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

[Large empty box for additional comments]



RECEIVED

JUN 14 2023

OFFICE OF
WATER

Comment

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant Dakota Bay, LLC c/o Mike Chicoine

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Not beneficial for MLA.

Commenter's name and address:

First Name: Jim Last Name: Images
Address: + 311 brute st
City: westfield IA State: IA Zip: 51002

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:



RECEIVED

JUN 14 2023

OFFICE OF
WATER

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

Comment

Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOINE
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

not beneficial for MLA

Commenter's name and address:

First Name: Kristen Last Name: Howell
Address: 311 Bruce St
City: Westfield State: IA Zip: 51062

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3

Commenter's Name _____

Any additional comments:

RECEIVED

JUN 15 2023

OFFICE OF
WATER

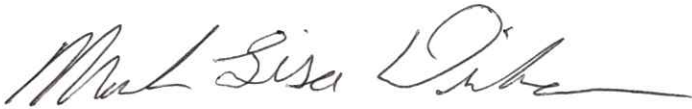
6/10/23

Attn Water Management Board,

Concerning application for a water right permit app # 8744-3, applicant Dakota Bay LLC c/o Mike Chicoine.

We are **opposed** to the application No 8744-3 for additional water appropriation. Our family just moved to Mccook lake this past year and are surprised how low the current water level is after maximum pumping from the Missouri river. Since there are virtually no natural sources of water, almost all the water needs to be pumped to keep the small lake viable. We are questioning our decision to move from Iowa to South Dakota after now learning that Dakota Bay LLC almost has the ability to pull the drain plug from the lake with no proven or possible way to replenish the necessary water.

Mike Chicoine will capitalize and my family and a hundred others will have to explain to the media and our children why all the dead fish are washing up on our shores. I believe we are all hoping that logic and reason will prevail to stop this future catastrophe.



Mark and Lisa Dirksen

207 Suncoast Dr

North Sioux City, SD 57049



Duvall, Ron

Subject:

FW: [EXT] Chicoine Canal on McCook Lake.

From: Victor Hoffman <hoffmanv823@gmail.com>

Sent: Friday, June 16, 2023 1:18 PM

To: DANR Mail <DANRMail@state.sd.us>

Subject: [EXT] Chicoine Canal on McCook Lake.

Ive lived next to Mccook Lake adjacent from the Chicoine project. I have seen the efforts the lake association has made to maintain McCook lake. They have pumped water sense i was a young boy, They dredged the lake a couple of times, they built a dike to maintain a water level so the pumped water wasnt just feeding muck and cattails. I dont see it proper to allow an outsider to come in and change the structure of the lake for his profits. The lake people are my friends and i know they have all put in alot of sweat and money to maintain the lake. If ever the lake was breached it would wipe out Riverland Estates and my brothers house. I am against it. If the corp of engineers had better control of the Missouri River all of these small lakes wouldnt have the problems they have. They shouldnt let all the fresh water flow to the ocean.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 4:15 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:

06/12/2023

Date Comment Filed:

06/12/2023 16:14:31

Commenter Info:

Julie Burhoop
333 Lakeshore Dr.
McCook Lake SD, 57049

Comment:

I am against this permit for recreational uses for Dakota Bay's canal project. This permit would grant Dakota Bay the right to pump aquifer water to fill their proposed canal, and totally disregards its impact on the permit that the McCook Lake Association holds to pump water from the Missouri River into the lake. I believe the amount of water required for this project is underestimated, and that due to its proximity to the lake, the irrigation pump could inadvertently draw lake water out of the lake, not just aquifer water. This permit is allowed for year-round pumping, whereas the MLA permit doesn't allow pumping during the winter months, nor can they when the river is below a certain level. The MLA cannot keep the lake level filled high enough over the winters to prevent damage to the clay liner. I have lived on the lake for 19 years, and the lake levels drop every winter unless the local water tables are extremely high. Because the proposed clay liner will likely dry out most winters, it will create great amounts of leakage act as a drain to the lake. In 1987, the dam on this property was constructed because the soils south of the dam had too much seepage. Extending the lake via the dredging process into that area was not feasible for long term viability. No study has been conducted on how the water from this pumping permit interacts with the MLA water pumping permit. Furthermore, the MLA is a non-profit organization who spend countless hours and fund raise constantly to maintain McCook Lake even without the canal. Why is a non-profit entity expected to bear the financial burden of providing infrastructure to a private for-profit corporation? There is no contractual obligation for Dakota Bay to pump water, even if they have the right to.

Unintended Consequences: On a personal note, the issuing of this permit endangers McCook Lake and its recreational uses. If we cannot maintain lake levels close to 1088 or above, I can no longer take my kids wakeboarding and tubing with their friends because the lake isn't deep enough. (For background, the MLA used to pump water to 1090, even though they are allowed to pump to a level of 1091. After the Ike's Bingo Hall shut down and funding changed to

fundraising and a small stipend from the city, they lowered the pumping goal elevation to 1088 for fiscal responsibility. Despite pumping at full capacity in 2022, that target elevation was not even reached until August due to the drought, shortening the usable boating season on the lake.) If the MLA ceases pumping water into the lake due to lack of funds, I have a mud hole in my back yard instead of a usable lake, and my property value goes down. While Dakota Bay's project currently is shown to give roughly 12-14 more property owners lake access, that is a miniscule amount compared to the 4000+ gate uses that the public ramp saw last year, the hundreds of users at the Ike's Club boat ramp, and the 214 existing properties that have lake access. If development of more canals is suggested beyond the current proposal, this permit sets a dangerous precedent that we cannot sustain, even with from the MLA pumps and the irrigation pump combined. Possible Solutions: -Do not allow a canal connecting into McCook Lake. Allow Dakota Bay to build their own self-contained pond that is more easily maintained by a private entity, and doesn't affect the general public if it fails. - Publicly fund the pumping of water into McCook Lake in its entirety. Annual expenses were over \$150,000 in 2022, not including the many volunteer hours that go into maintaining the system. Those expenses vary significantly with weather conditions, river levels, and pump repair. The pipeline from the river to the lake will need to be replaced at some point which is currently estimated over \$1,000,000. The MLA cannot afford expansion of the lake for private development. There is no guarantee that Dakota Bay or anyone they sell lots to will ever contribute to the McCook Lake Association. The MLA cannot pump more water without a larger pipeline, larger pump, and more water rights than what the MLA currently has. The additional infrastructure cost should not be the responsibility of a non-profit volunteer organization. Thank you for your consideration.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 9:51 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 09:51:20

Commenter Info:
Michael Albrecht
221 Westshore Drive
McCook Lake SD, 57049

Comment:
I oppose this proposed action. As a resident of McCook Lake this action is likely to impede my ability to fully enjoy the property that I have heavily invested in. This proposed canal is very likely to drastically reduce the water level of the lake to the point that my property will no longer have access to a lake with a sufficient water level. This permit simply grants the right to pump water into the lake. It does not REQUIRE water to be pumped into the lake. The current pump that is operated by the McCook Lake Association is operating at full capacity and barely keeping the lake at a decent level to provide recreational use. The additional seepage in the canal and increased evaporation rate of the expanded surface area cannot be made up by a small irrigation pump that the developer is not even REQUIRED to operate. We are not aware of any study that has been done to confirm that the area of the proposed canal is made up of a soil type that will not drastically increase the rate of seepage. How can this project be allowed to proceed without a third party study to confirm that this project will not drastically damage the current lake. A similar project at Carter Lake, Iowa caused serious damage to that lake and its property owners. This application process has been worked behind closed doors with very little public notice or input. Public notices were not placed in the local newspaper but in newspapers of adjacent areas. None were published in the North Sioux City/Dakota Dunes Times. This is evident by reading the application itself. It is quite apparent that the developer attempted to conceal his project from those it is most likely to affect. It appears that the state officials are working in the best interest of the developer, a single person, rather than the greater number of residents and visitors to McCook Lake. It is very disappointing to see this taking place in South Dakota. I thought that I lived in a state where the "little guy" still had a fighting chance at equality and justice. The process of this application has led me to believe otherwise. It is very disturbing.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 10:54 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 22:53:33

Commenter Info:
Lindsey Huber
619 Lakeshore dr
Mccook Lake SD, 57049

Comment:
This permit should be denied, because it will permanently harm McCook Lake. Adding a canal will hinder the Lake Association's ability to maintain a reasonable water level, which is vital for homeowners who live on the lake, those who enjoy the lake for recreational purposes and the entire ecosystem within the lake itself. The McCook Lake Association, which is funded through donations, is already pumping water into the lake continuously all season long and their pumps are at full capacity. Therefore, they do not have the extra capacity or additional funds to pump water for this canal, which is being developed solely for personal monetary gain by Chicoine. The canal's steep clay liner is another reason this permit should be denied. Every winter, the lake level decreases to a point where the clay would be exposed, dry out and disintegrate. This would drastically increase the seepage rate once the lake fills back up each summer and require even more pumping by the McCook Lake Association. Similar cracking and seepage problems have already been proven in other areas along the Missouri River. In the case that Chicoine uses a small irrigation well to pump water into the lake, he should be required to pump continuously, just like the Lake Association does. However, even in this scenario, there is no way to determine if his pump is replacing the water lost by the canal or if the Lake Association will end up pumping a much higher than normal amount of water into the lake each year to compensate for his project. As a lifelong resident of the area and now a proud homeowner on the lake, I am incredibly grateful for everyone who donates to the McCook Lake Association to maintain the appropriate water levels. It is not cheap and it is all run by volunteers who care deeply about lake preservation as do I. Approving this canal project in any way would be detrimental to the integrity of the lake and because the Lake Association is already at maximum pumping capacity, I am requesting this permit be denied.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 7:41 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 19:41:17

Commenter Info:
Terry & Amy Murrell
243 Westshore Drive
North Sioux City SD, 57049

Comment:
To Whom It May Concern, We are writing to express our concern for the proposed Chicoine canal to be placed at the south end of McCook Lake. This canal will actually act as a "drain" on the lake and Mr. Chicoine has not provided a viable solution to keeping the canal from leaking. Nor has he provided a new funding source for pumping more water into the lake to keep it at permitted levels. His water rights are secondary to The McCook Lake Association's water rights and cannot impair the MLA's water rights. MLA's constructed and maintained water transportation facilities are pumping at full capacity right now and cannot provide additional water to the Chicoine canal. MLA believes the proposed Chicoine canal and water appropriation will damage their existing water rights by taking water pumped by MLA to maintain a canal constructed by Chicoine for profit. We ask that you deny the proposed canal and water appropriation and help us maintain the integrity of McCook Lake. Thank you

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 5:05 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 17:04:56

Commenter Info:
Mike Priest
70 Cotts Drive
North Sioux City SD, 57049

Comment:
I oppose the Chicoine permit application. The MLA has struggled keeping McCook Lake each year at a level for boating and recreation. Financial obligations and repairs are very costly and have been going on for years.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 4:43 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 16:43:04

Commenter Info:
Pam Lawson
397 Lakeshore Dr.
McCook Lake SD, 57049

Comment:
McCook Lake has been a special part of my life since 1965. My husband's parents lived there and we spent many happy hours there. Our children learned to drive a boat, water ski, and skate there, my son lives there now and his children have many hours of lake time. I am in the process of moving back to live there-after having a 10 day hospitalization with covid. The lake is so special-the level of water is monitored and maintained, the west side of the lake is not built on so it provides welcome sunsets and a peaceful beach, and the families on the lake cherish their property. To have someone who has never lived here and does not understand the significance of this lake to the homeowners propose a development which will significantly impact all residents of the lake and open the use of the lake to nonowners is a slap in the face-breaks all of our hearts. Please do not allow this to happen> Thank you.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 4:18 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 16:18:19

Commenter Info:
Nick Roth
904 Lakeshore Circle
North Sioux City SD, 57049

Comment:
Opening McCook Lake to this canal will cause an unsustainable loss of water from McCook Lake adversely effecting the lake for recreational use and wildlife. The canal is insufficiently designed for long term use and will dry out annually and erode causing leakage. The result will be that the canal will drain more water from McCook Lake, reducing the ability of the McCook Lake Recreational Association to maintain the level of the lake. This is unfair appropriation effecting hundreds of residents and recreational users.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 2:48 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 14:47:58

Commenter Info:
Keith Linden
145 Suncoast Drive
MCCOOK LAKE SD, 57049

Comment:
I strongly oppose application No. 8744-3 for additional water appropriation by Dakota Bay LLC. As a long-time resident of McCook Lake, I have witnessed firsthand the detrimental effects of low water levels on our community's ability to enjoy and utilize the lake. The efforts made by the Lake Association to maintain a stable lake level over the past several years have been commendable, but granting this water lease could jeopardize all the progress they have made. The proposed water appropriation by Dakota Bay LLC represents a significant change that has the potential to disrupt the delicate balance of the lake's ecosystem. We cannot afford to ignore the potential consequences of such a decision. It is our responsibility to protect and preserve our natural resources for the benefit of all residents, present and future. Moreover, it deeply concerns me that this application appears to prioritize the interests of one individual, Mick Chicoine, over the concerns and opposition of hundreds of residents. Our community's voice should not be disregarded or overridden by the influence of a single entity. This disregard for public sentiment sets a dangerous precedent and undermines the principles of fairness and democratic decision-making. Granting this water lease not only poses a threat to our environment but also opens the door to potential legal challenges that could burden taxpayers with costly litigation. The potential legal ramifications should not be taken lightly, as they have the potential to drain resources that could be better used to benefit our community in other ways. I urge the responsible authorities to carefully consider the long-term implications of this water lease application and to prioritize the interests and well-being of the community over the desires of a few individuals. I ask that you deny application No. 8744-3. Sincerely, Keith Linden

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 2:48 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 14:47:47

Commenter Info:
Jessica Koedam
87 Northshore Dr.
North Sioux City SDAK, 57049

Comment:
I oppose the permit request for the construction of a canal at the south end of McCook Lake due to unintended effects for McCook Lake. The proposed canal will damage the existing water rights granted to McCook Lake and the McCook Lake Association by allowing Mr. Chicoine to essentially break open the dam holding water at the south end of the lake in order to fill the proposed canal. Currently, the McCook Lake Association pumps run at 100% capacity (12,000 gallons per minute) in order to maintain the permitted levels. Without the pumps running, the lake would drop 2 inches per day. Mr. Chicoine's plan will break the seal of McCook Lake and allow water to leach out at a rate not able to be maintained by the MLA's pumps. The Chicoine plan includes selling lots for profit, but does not include a pump or other viable plan to replace the water that will be lost from McCook Lake when the seal is broken. Access to requested wells will not replace the water taken from the McCook Lake. Without a plan to pump and replace the water taken from McCook Lake, this permit is essentially allowing water to be stolen from McCook Lake in order to provide financial benefit to Mr. Chicoine.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 1:19 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 13:19:28

Commenter Info:
Mike Huber
347 Lakeshore Drive Unit A
McCook Lake SD, 57049

Comment:

This application for permit to appropriate water should be denied as it is not a solution to the controversial "new canal project" at the SE end of McCook Lake. The proposed short burst of pumping water into that proposed newly dug canal "once per year (in early spring) and to occasionally add water if needed" will not prevent the overriding problem of new drainage seepage that will be caused by the digging of that canal and resulting negative effects (both in lower water level and in higher water pumping costs by the McCook Lake Association). The clay liner proposed for the bottom of the canal will not work to "prevent seepage" given that it will dry out and disintegrate every late fall and winter as the level of the lake drops dramatically and the liner dries up and cracks. This disintegration problem has been proven in several locations along the Missouri River between Yankton and Omaha in recent years. Narrow/steep sloped canal "clay liners" do NOT work. If permit is approved, then at a minimum, Applicant should be required to having their irrigation pump running at full capacity 24 hours a day at same time the McCook Lake Association pump from the Missouri River is running to equitably share the burden (and receive the benefit of) a desirable McCook Lake water level. There should be appropriate "consequences" (fines) to the applicant for not following this proposed 24-hour pumping requirement including the closing off of the canal to the existing McCook Lake. Thank you for your consideration.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 12:56 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 12:56:11

Commenter Info:
lorall karpuk
27 NORTSHORE DR
NORTH SIOUX CITY SDAK, 57049

Comment:
I am opposed to the application NO.8744-3 for additional water appropriation. The application and chief engineer's report do not evaluate the impact of additional well pumping on McCook Lake. The additional water appropriation will be pumped from the McCook Lake water supplied to the ground water. Increasing the water volume pumped from the existing Chicoine irrigation well will increase the volume of water removed from McCook Lake. The McCook Lake Recreation Association (MLA) pumps water to McCook Lake at the maximum available rate which is not able to maintain the permitted elevation during present drought cycle. Additional water loss from McCook Lake caused by the application No.8744-3 will lower the level of McCook Lake causing damage to the many uses of McCook Lake. The existing Chicoine irrigation well should not be pumped when MLA is not able to maintain the permitted water level. I ask that you deny application No. 8744-3.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 12:19 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 12:18:56

Commenter Info:
Dick & Jake Semple
329 Lakeshore Dr.
North Sioux City SD, 57049

Comment:
We are against the request filed for water rights to use a existing irrigation well to fill the canal that is planned to be built. This will deplete water from the aquifer that the whole community uses as drinking water and other uses. Also we are against the canal being built as a whole as this will cause water levels to drop in the lake. MLA has stated with the current pump in place couldn't keep enough water in the lake with the additional canal being proposed. If this was to happen and the lake water does go down not only will this hurt the ability to use the lake but this could also affect the value of the homes in this area. As we stated above we are strongly against this request.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 12:09 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 12:09:24

Commenter Info:
Timothy Lanphier
413 Lakeshore Drive
North Sioux City SD, 57049

Comment:
Hello - I am writing to request that the board deny water permit 8744-3. McCook Lake is currently pumped and paid for by monetary donations and volunteer time by members of the McCook Lake Association. Adding more water requirements for one individual to profit from others donations is not sustainable. Currently the water level is not keeping up and more strain could cause serious harm to the lake. I fear that this could drain the lake and cause harm to real estate values, recreational use of the lake, and most importantly negatively impact wildlife from the nature preserve. Please deny water permit 8744-3

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 11:58 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 23:58:02

Commenter Info:
Zach Thompson
435 Bluestem Trail
Dakota Dunes SD, 57049

Comment:
I oppose this application.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Monday, June 12, 2023 11:57 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/12/2023 23:56:41

Commenter Info:
Lindsey Barreras
435 Bluestem Trail
Dakota Dunes SD, 57049

Comment:
Granting this application for a Water Right Permit to Dakota Bay, LLC would be have serious detrimental consequences for McCook Lake and all of the recreational activities the lake provides to the community as a whole. The pump would not be able to keep up, resulting in too-low lake levels. The lake has already been slow to reach targeted levels over the past few years, often times not reaching these targeted levels until August, when summertime activities are wrapping up. Granting this permit would ensure the lake never reaches target levels, rendering the lake too low for majority of the recreational activities currently enjoyed. In addition, there's an increased risk for algae blooms when water leaves are low due to light penetration. Increased droughts, which this region is all too familiar with, also increases the risk for harmful algae blooms. Trying to balance this combination is already complicated enough. Allowing the expansion of the lake would further complicate these matters, and the consequences would be far more dire. Overlooking this would be a grave mistake.

Duvall, Ron

Subject: FW: [EXT] Mccook Lake Canal

From: Josh Rupp <jjrupp06@gmail.com>
Sent: Monday, June 12, 2023 6:51 PM
To: DANR Mail <DANRMail@state.sd.us>
Subject: [EXT] Mccook Lake Canal

Good evening,

I am here to voice my support for the proposed canal on McCook Lake SD.

For the past few years the McCook Lake Association as well as the Izaak Walton League have been trying their best to push non members away from using the lake. On countless occasions I have been harassed by the IWL caretaker for using the back canal for fishing as well as a handful of residents on the lake harassing me because i am not a member of the IWL. This canal will give more people access to the lake from the privacy of their own back yards.

This canal is not in the slightest the biggest problem for McCook Lake as the ability to maintain a good level of water falls on the fact there is a huge natural seepage problem. That should be the main priority over this canal along with dredging the lake as it had filled in tremendously over that past 10 years.

As a public lake the MLA pushed and succeeded in getting a paid ramp for the public access. I pay every year through my licenses to have that lake stocked and now if I want to use a resource I already pay to stock I now have to pay to even use it.

It may be here say, but I have also been told by multiple people that live on the lake as well as others that the dike that is in place on the southeast end which is the end that will be removed for the canal, was put in with out proper permits and that the MLA failed to maintain the wetland that was once part of the original lake.

I may be the only person who will email in support of this dike but if the MLA and the IWL continue to get their way this lake will become a private lake and the people who are not members will lose the only lake we have in this southeast corner of the state.

I appreciate any time that you take to read this email, and I hope the right decisions are made to allow this canal go through.

Sincerely,
Josh Rupp



DEPARTMENT of
AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Comment

Concerning Application for a Water Right Permit

Application No. **8744-3** _____ Name of Applicant **Dakota Bay LLC, c/o Mike Chicoine** _____

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

Please stop this project immediately !!

Commenter's name and address:

First Name: Bart Last Name: Connelly

Address: 641 Lakeshore Drive

City: N. Sioux City SD. State: Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3_____

Commenter's Name Bart J. Connelly_____

Any additional comments:

Issuance of this permit would be the first step of a very bad chain of events!!

It's my understanding that it is Mr. Chicoine's intention to connect his proposed canal to the South end of the existing McCook Lake bed. Given the existing struggles to achieve and maintain historic water levels in McCook Lake, adding any acreage whatsoever will render this effort ineffective and unachievable. The creation of additional acreage will lower water levels and make in the lake less usable and have an adverse effect on existing natural habitat.

There has recently been tremendous financial investment in residential properties on the existing McCook lakefront properties. The potential diminishing of the values of these properties will almost certainly spur lawsuits to be filed against all parties involved.

I strongly urge you to investigate all of the ramifications of allowing this project to move forward.

Respectfully submitted,

Bart J. Connelly



DEPARTMENT of
AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Comment

Concerning Application for a Water Right Permit

Application No. **8744-3** _____ Name of Applicant **Dakota Bay LLC, c/o Mike Chicoine** _____
The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. Filing a comment does NOT make the commenter a party of record to, or a participant in, any hearing that may be held concerning this application. Your comment will be provided to the Water Management Board and become part of the public record.

Comments concerning this application:

we do not agree with what this is saying at all and we oppose this permit. The last several year we have had to wait until June to get our boats in. we purchased LAKE lots and are already having trouble with water levels. This report gives me absolutely NO comfort that this won't further diminish the water here at MCCOOK lake. This land owner will make a lot of money with basically no investment in our area and absolutely no recourse for us if what he is proposing doesn't work. In fact what he is proposing will take more water out of our lake and we have to pay to keep the levels up where they are. There has also been considerable investment on MCCOOK lake the past several years and this would be devastating to property values and the owners if we do not have water sufficient to maintain our boats and activities out here. Please DO NOT let this permit be granted.

Please stop this project immediately !!

Commenter's name and address:

First Name: pam Last Name: Connelly

Address: 641 Lakeshore Drive

City: N. Sioux City SD. State: Zip: 57049

Note. This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to DANRmail@state.sd.us.

Application No. 8744-3_____

Commenter's Name pamela b Connelly _____

Any additional comments:

CRARY HUFF

ATTORNEYS AT LAW

RECEIVED

John M. Hines
Attorney

JUN 12 2023

PHONE: 712.224.7550
EMAIL: jhines@craryhuff.com

OFFICE OF
WATER

329 Pierce Street, Suite 200
Sioux City, IA 51101

craryhuff.com

June 9, 2023

VIA U.S. REGULAR AND CERTIFIED MAIL

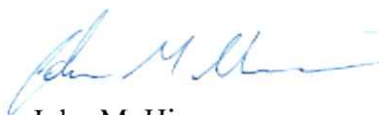
Water Rights Program
Attn: Chief Engineer
Foss Building
523 E Capitol
Pierre, SD 57501

Re: McCook Lake Recreation Area Association Request for Automatic Delay of Hearing on
Application No. 8744-3 to Appropriate Water.

To the Chief Engineer:

This Firm Represents the McCook Lake Recreation Area Association ("MLA"). The MLA has filed an Opposition to Application No. 8744-3, and pursuant to South Dakota Codified Laws section 46-2A-5, the MLA requests an automatic postponement of the date set for hearing on the Application.

Sincerely,



John M. Hines
For the Firm

Gronlund, Eric

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 1:13 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:

06/12/2023

Date Comment Filed:

06/11/2023 13:12:57

Commenter Info:

Patrice Kistner
603 Lakeshore Dr
N Sioux City sd, 57049

Comment:

I am opposed to this permit (8744-3). The impact this project will have on McCook Lake will be substantial & will affect 200+ other property owners.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:46 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 09:46:07

Commenter Info:
Larry Beeson
387 LAKESHORE DR
North Sioux City SD, 57049

Comment:
I agree with the McCook Lake Association that the proposed Chicoine canal and water appropriation will damage their existing water rights by taking water pumped by the MLA to maintain a canal constructed by Chicoine for profit. The damage will impair MLA's ability to maintain the permitted water level in McCook Lake. MLA constructed and maintained water transportation facilities are pumping at full capacity without the ability to provide additional water to the Chicoine canal.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:00 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 2869-2, Stanley County School District 57-1, Derek Meyers
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 2869-2, Stanley County School District 57-1, Derek Meyers

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 08:59:53

Commenter Info:
Kathleen (Streeter) Adams
39 Northshore Drive
McCook Lake SD, 57049

Comment:
I have lived at the lake most of my life and have seen our lake go thru many trials. All of these trials were taken care of by the people that live at the lake thru the McCook Lake Association. I have personally donated money above MLA dues to keep our lake levels up. So many volunteers donate their time to keep the pump going along with many more tasks. Mike Chicoine is a farmer with no ties to McCook Lake. He should NOT be able to dig a canal at the south end of our lake. MLA and lake residents would be responsible to fill and maintain water levels in that canal! I personally do not know how we could maintain lake levels so we can continue to boat on our lake. Another thing affected would be our property values. Please consider the actual tax paying residents of McCook Lake area that will be affected if you allow this permit. Thank you for your time Kathleen(Streeter) Adams

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:53 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 08:53:26

Commenter Info:
Sherry Carreau
801 Lakeshore Drive
North Sioux City SD, 57049

Comment:
PLEASE PLEASE block the canal project from happening on McCook Lake! It is imperative that this is turned down and does not continue. McCook is enjoyed by so many families living there and many others who drive to the lake to enjoy it, also endless wildlife resides there. This canal would ruin the beautiful lake and turn it into a swamp and for the sole purpose of profit for one individual. Mike Chicoine does not even reside on the lake, he has absolutely nothing to lose if his canal - which he stands to profit immensely from - ends up ruining the lake, he still would walk away with millions in profit and lose nothing. It has been shown and proven that McCook lake is a very fragile and delicate ecosystem. We already must pump in water every year to fill it. Any leak would be devastating - and it is proven that clay liners do leak. We saw this with Spanish Bay pond and ponds in Wynstone. PLEASE PLEASE do NOT allow this project to happen. We are begging you to stop it before our lake is ruined simply for one man's profit and greed. Thank you for your consideration and time. Sherry Carreau 801 Lakeshore Drive

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:08 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 08:07:58

Commenter Info:
Leslie Dake
387 Lakeshore Dr
North Sioux City SDAK, 57049

Comment:
The water level on McCook Lake is maintained by the McCook Lake Association (MLA) pumping water from the Missouri River into the lake. The proposed Chicoine canal will diminish the water available for the current residents on the Lake. Pumps run at full capacity to provide a level in the Lake this year far below normal. A canal would 'steal' water from the Lake- for profit- without ever having contributed towards the construction of the MLA water transportation facilities, the maintenance and repairs or electric bills for said system. The proposed canal would add congestion to a small lake already plagued with shore erosion, disrupt the wildlife-including but not limited to, various fish, geese, pelicans, blue egrets, turtles, and this year a pair of eagles. This housing development would take away already diminishing green space areas of North Sioux City/McCook Lake. Is dredging a lake under more restrictions similar to mining? Unwanted and harmful chemicals could be added to the Lake with this dredging along with destroying fish spawning areas and making our banks unstable. More silt in the water would diminish the oxygen level in the Lake. With flooding of the Missouri in recent years, this dredging and canal could intensify the flooding. I respectfully ask that this permit NOT be approved.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 3:59 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 15:58:45

Commenter Info:
Mike Bocian
390 Lakeshore Dr
North Sioux City SD, 57049

Comment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 4:10 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 16:10:18

Commenter Info:
Jessica Strain
1 Alcoma Dr
NORTH SIOUX CITY SD, 57049

Comment:
The implementation of the canal will kill our lake by way of underestimated water loss. We pay annual fees to support an association who maintains the beach, dock, boat ramps, and most importantly, the pump to fill our lake after winter evaporation and seepage. The pump can barely keep up as it is. The canal will make it impossible for the pump to keep pace, making the lake useless for everyone who lives on or uses the lake.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 4:14 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 16:14:26

Commenter Info:
Darren Strain
1 Alcoma Dr
NORTH SIOUX CITY SD, 57049

Comment:
Chicoine Canal will put McCook Lake at dangerously low levels and make it useless to those who use the lake or live on it. If the canal is approved, Chicoine needs to find a way to supply water for the lake. The current pump will not keep up.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 4:31 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 16:31:08

Commenter Info:
Kelly Kistner
603 Lakeshore Drive
North Sioux City SD, 57049

Comment:
I am opposed to this project in its entirety. There will be an effect on the environmental impact of adding a channel to the lake along with aquatic habitat issues. The 200+ residents whom already live on the lake will experience lower lake levels due to the currently pumps running at max capacity to keep the lake at a recreational level. Once we cannot maintain that level all lake side owners will have to spend additional money to extend their docks and move lifts to enjoy a decreased level in the lake. We have enough boat traffic on the lake without creating more channels with more houses and watercraft to utilize this resource.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 5:14 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 17:13:56

Commenter Info:
Tanika Hoffman
332 Wycoff Dr
McCook Lake SD, 57049

Comment:
STOP THE CHICOINE WATER APPROPRIATION

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:11 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:11:11

Commenter Info:
Ethan Thaut
327 Lakeshore
McCook Lake SD, 57049

Comment:
I strongly oppose Mr. Chicoine's water appropriation request. The McCook Lake pump infrastructure is already operating at maximum capacity and is hardly able to keep the lake at normal operating level. We simply cannot afford to give up water for the proposed canal addition. The area has been in significant drought. Not as much water is coming into the Missouri River system or the ground water system that also feeds the lake. There are MILLIONS of dollars in property value at stake on McCook Lake. All of which will be gone if the lake becomes unusable from low water level. There are people that have called McCook Lake home for decades. That could all be ruined by one man's greed (Mr. Chicoine). Much of the decision making regarding this canal project has taken place behind closed doors with little to no chance for input from the folks that actually live on and use the lake! This is not how a decision should be made that could drastically effect our quality of life as residents of McCook Lake. I have no objection with someone building a canal so that more people can enjoy McCook Lake, but Mr. Chicoine is not going about it the right way. He should be required to supply his own pump to bring in sufficient water for HIS project, not just be allowed to leach off the LIMITED water supply currently available. Get your own water, Mr. Chicoine. McCook Lake and the Missouri River don't have enough for you right now! Don't let one man's greed destroy McCook Lake and the millions of dollars of property built around it! If a retired civil engineer with over 40 years of professional engineering experience STRONGLY opposes the proposed canal project, it probably needs to be looked at a little closer and not just blindly approved!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:14 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:14:11

Commenter Info:
Lynnette Hoffman
325 Lakeshore Dr
McCook Lake SD, 57049

Comment:
When we moved to McCook Lake 35 years ago, we had to wait until July to bring the boat to our dock from the public access. In 1991, there was state and federal funding to dredge the lake in order to take out sediment and create an additional depth from an average of 4 foot to 8.5 feet for wildlife, fish, and recreation. After 1995 the McCook Lake Izaak Walton League had continued to pay for the dredging and maintenance of the lake. Millions of dollars have been spent by the McCook Lake Izaak Walton League, McCook Lake Association, and the residents living around the lake to maintain the current shoreline. The "dike road" at the southern end of McCook Lake was installed because the lake could not maintain the water in the lake further past the dike. If this permit is approved for the canal there will be devastating loss of water in the lake, a big reduction in the value of the properties around the lake, and the end of fishing and wildlife as we know it today. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:16 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:15:56

Commenter Info:
Charles Hoffman
325 Lakeshore Dr
McCook Lake SD, 57049

Comment:
When we moved to McCook Lake 35 years ago, we had to wait until July to bring the boat to our dock from the public access. In 1991, there was state and federal funding to dredge the lake in order to take out sediment and create an additional depth from an average of 4 foot to 8.5 feet for wildlife, fish, and recreation. After 1995 the McCook Lake Izaak Walton League had continued to pay for the dredging and maintenance of the lake. Millions of dollars have been spent by the McCook Lake Izaak Walton League, McCook Lake Association, and the residents living around the lake to maintain the current shoreline. The "dike road" at the southern end of McCook Lake was installed because the lake could not maintain the water in the lake further past the dike. If this permit is approved for the canal there will be devastating loss of water in the lake, a big reduction in the value of the properties around the lake, and the end of fishing and wildlife as we know it today. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:19 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:18:33

Commenter Info:
Michael Hoffman
12 Bancroft Court
McCook Lake SD, 57049

Comment:
I have lived here my entire life and used this lake for fishing and recreation. I have helped the Izaak Walton League through donating my time as a youth for the betterment of this lake. I am NOT in favor of this canal being built!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:20 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:19:48

Commenter Info:
Shawn Hoffman
370 Lakeshore Dr
McCook Lake SD, 57049

Comment:
I have lived here my entire life and used this lake for fishing and recreation. I have helped the Izaak Walton League through donating my time as a youth for the betterment of this lake. My property value would be greatly affected if this project were to be approved. I am NOT in favor of this canal being built!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:25 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:24:42

Commenter Info:
Megan Palacios
4 Union Court
McCook Lake SD, 57049

Comment:
I was involved in the youth organization of the Izaak Walton League when I was growing up living on this lake. The preservation and maintenance of the lake how it is for wildlife, fishing, and recreation as it is now has taken my entire life to become what it is today. I am a homeowner in this community and my property value would fall if the lake were to be affected by the permitting of allowing a canal to be built. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:26 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:26:03

Commenter Info:
Antonio Palacios
4 Union Court
McCook Lake SD, 57049

Comment:
The preservation and maintenance of the lake how it is for wildlife, fishing, and recreation as it is now is most important, especially for my children that have been born into this community and have lived here since birth. I am a homeowner in this community and my property value would fall if the lake were to be affected by the permitting of allowing a canal to be built. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:27 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:26:57

Commenter Info:
Tyger Hoffman
325 Lakeshore Dr
McCook Lake SD, 57049

Comment:
I was involved in the youth organization of the Izaak Walton League when I was growing up living on this lake. The preservation and maintenance of the lake how it is for wildlife, fishing, and recreation as it is now has taken more than my entire life to become what it is today. I am a homeowner in this community and my property value would fall if the lake were to be affected by the permitting of allowing a canal to be built. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:29 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:28:44

Commenter Info:
Joshua Hoffman
12 Bancroft Court
McCook Lake SD, 57049

Comment:
I was involved in the youth organization of the Izaak Walton League when I was growing up living on this lake. The preservation and maintenance of the lake how it is for wildlife, fishing, and recreation as it is now has taken more than my entire life to become what it is today. I am a resident in this community, property value and even city income from sales tax of gasoline, food, casino, purchases at the local dollar general would fall if the lake were to be affected by the permitting of allowing a canal to be built. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:32 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:32:07

Commenter Info:
Colleen Fredericksen
115 Lloyd Ave
North Sioux City SD, 57049

Comment:
I have lived on the lake, across from the lake, and in town here in North Sioux City. How would the water be sustained in the lake if a canal is built for profit? When my children were born the lake was being dredged and is now maintained at current level with wildlife and fishing available. What would happen to city sales from taxes if the recreation is not able to happen? I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:36 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:35:36

Commenter Info:
Missy Merchant
320 Lakeshore Dr
McCook Lake SD, 57049

Comment:
My children had been involved with the youth organization of the Izaak Walton League of America, where they learned about nature preservation. McCook Lake has an abundance of wildlife that needs to be preserved. Along with fish to learn about sustainable fishing for my children to enjoy. If this canal is approved to be built it would be detrimental to this lake. I am NOT in favor of the permitting for this canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 8:38 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 20:37:43

Commenter Info:
Kathy Merchant
320 Lakeshore Dr
McCook Lake SD, 57049

Comment:
In 1991, there was state and federal funding to dredge the lake in order to take out sediment and create an additional depth from an average of 4 foot to 8.5 feet for wildlife, fish, and recreation. After 1995 the McCook Lake Izaak Walton League, of which I was a member, had continued to pay for the dredging and maintenance of the lake. Millions of dollars have been spent by the McCook Lake Izaak Walton League, McCook Lake Association, and the residents living around the lake to maintain the current shoreline. If this permit is approved for the canal there will be devastating loss of water in the lake, a big reduction in the value of my property across the lake, and the end of fishing where my husband spends many days. I am NOT in favor of the canal!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:03 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 21:02:50

Commenter Info:
Rodd Slater
151 Sun Coast
North Sioux City SD, 57049

Comment:
The McCook Lake Assoc believes the proposed canal and water appropriation will damage their existing water rights and recreational use of the lake. The canal is without doubt a risk to the Lake.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:10 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 21:10:09

Commenter Info:
Dennis Haag
166 Suncoast Drive
North Sioux City SDAK, 57049

Comment:
I believe the State of South Dakota should do it's due diligence in this matter. I think that granting a permit to Mr. Mike Chicione to construct a canal would not be in the best interest of the people that live in and around the area for a couple of reasons. One, for anyone that has enjoyed time on McCook Lake lately, the boat traffic is getting increasingly more dense. The lake is narrow and if one single boat operator does not follow the rules of counterclockwise traffic, boat traffic becomes dangerous at best. Increasing the additional watercraft that would utilize the proposed canal would only increase the already dangerous boat traffic. My wife and I have lived across from the lake for 31 years now and I will not utilize the lake on busy weekends/holidays since my daughter almost got ran over by another boat while being a tube behind our boat. It is just too dangerous out there. And two, I am an Civil engineer. This just does not make sense to me! The lake is hydraulically connected to the Big Sioux River and the McCook Lake Association pumps water from the Missouri River into the Lake and is permitted for this. Anyone with any engineering sense would say that this canal is not a good idea. The pumps and transmission lines are currently maxed out and this canal would only add additional water requirements. If you are going to grant Mr. Chicoine water rights to pump into the lake, the cone of depression that the well that Mr. Chicoine proposes to use would pump water out of the lake and back into the lake for minimal gain. It just does not make any engineering sense to me if this project was evaluated based off of merit versus what appears to be political. I am pleading with the State to, again, do it's due diligence. Do the right thing and deny the construction of this canal! Respectfully, Denny Haag

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:23 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 21:22:35

Commenter Info:
Justin Hoelsing
415 Lakeshore Dr.
North Sioux City SD, 57049

Comment:
Hello, I would like to take this opportunity to voice my concerns with water rights permit application 8744-3. I have reviewed the documentation provided by the McCook Lake Association and believe they have been diligent in producing the requisite information the State would need to at a minimum consider further review/study/design verification/etc. to ensure the proposed water appropriation does not infringe upon the MLA's existing water rights. It is critical that one individual not be able to jeopardize the lake that is used by the entire community. Please take the correct action to ensure that does not happen. Sincerely, Justin Hoelsing

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:48 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 21:48:11

Commenter Info:
Deb Furlich
927 Wildflower Bend
North Sioux City SD, 57049

Comment:
The levy that Mr Chicoine wants to tear down was put there to protect the lake from drainage. south of the dike is like a sieve and will not hold water. any water flowing into the area from the lake should the levy be eliminated will drain the lake. All residents on the lake will suffer due to this prosperous idea to remove the levy that protects the lake. Everything Mr Chicoine has done to obtain permits has been shady, including putting a notice in the paper, which he put in the Elk Point paper so no McCook or North Sioux residents would see the notice. The current pumps which pump river water into the lake to maintain and adequate usage is paid for by the Lake Association and individual donations. The electricity alone per month is astronomical and unsustainable should they have to pump even more water into the lake and the leaking canal. Everything Mr Chicoine has done to get his project accepted by governing bodies has been deceptive. His greed will ruin the lake for everyone.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:50 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/11/2023 21:50:17

Commenter Info:
Brent Koch
601 Lakeshore Drive
North Sioux City SD, 57049

Comment:
I oppose application no. 8744-3 for additional water appropriation. The additional water appropriation will damage the existing water rights at McCook Lake by taking water pumped by the McCook Lake Association to maintain the additional volume required by the proposed canal. The damage will impair McCook Lake Association's ability to maintain the water level in McCook Lake. MLA constructed and maintained water transportation facilities are pumping at full capacity without the ability to provide additional water to the proposed canal.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 9:54 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:

06/12/2023

Date Comment Filed:

06/11/2023 21:53:43

Commenter Info:

Brian & Lisa Berkenpas
357 Lakeshore Drive,
North Sioux City SD, 57049

Comment:

Based on the proposed application by Mike Chicoine and Dakota Bay, we are very concerned about the water levels in McCook Lake. We participate in funding the pump through the McCook Association and at the present time, the water level is barely maintained with our pumps operating at full capacity. This new proposed canal expansion will jeopardize the water levels in the lake, due to water leakage (because that area is all sand) and increased surface area and evaporation. Our boats will be dry docked. While the proposal is to use a gas-powered irrigation well to supplement the water, it will by no means will provide enough water to keep the expanded canals or the lake full. We pump over a million gallons a day, to just barely maintain the level to an acceptable level today. Opening up the canal will cause a significant lowering of the level of the lake. We as, most everyone of the lake, are extremely opposed to the approval of the water permit. On top of that a for profit organization will benefit with zero costs associated with the wear and tear of the current pumps provided by the association. Please do not approve this application for water rights permit #8744-3. Should this be approved, and it affects the lake level of McCook Lake, which is maintained by a not-for-profit organization, to the benefit of a for profit organization, there will be countless lawsuits to follow. Thank you for considering our views and we hope that the correct decision of not granting this permit will prevail. - Brian & Lisa Berkenpas 357 Lakeshore Drive

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 2:48 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:

06/12/2023

Date Comment Filed:

06/11/2023 14:48:16

Commenter Info:

Gary Bogenrief
629 Lakeshore Drive
North Sioux City SDAK, 57049

Comment:

I would request that the Water Rights Board would reject Permit 8744-3 by Dakota Bay, Mike Chicoine. The permit is for the right to pump water into McCook Lake from an IRRIGATION well. I beleive that permits are given for certain purposes. He has a water rights permit for irrigation of farm ground. The McCook Lake Association has a permit for recreational use (to fill the lake). He wants to pump water into the lake for recreational purposes. He maintains in his applications to DANR and the Corp of Engineers that he will pump water into the lake to supplement the loss of water his canal will cause. The bad thing about this is there is no requirement to actually pump water into the canal or lake. The citizens of North Sioux City are fearful that by attaining this permit he will be able to build his canal and that will harm the ability of the McCook Lake Association to pump enough additional water to keep the lake at normal levels to sustain boating and fishing. This year without a canal to maintain the normal lake level has not been reached because of the drought and low ground water levels. I serve on the city council and we have had several council meetings when the council chambers were full of concerned citizens who use the lake fearful that a canal would ruin the lake. This permit requies a public announcement of the intentions of the permit seeker with ability of the public to comment. Mr. Chicoine had the notice published in the Elk Point newspaper, where most of the citizens who would like comment never see. It should have been published in the North Sioux City/ Dakota Dunes newspaper where concerned people would see it. By the time people in North Sioux City heard about the permit, there was hardly any time for people to comment. It seems that officials in the State of South Dakota do not want to address and help the people concerned about the health of McCook Lake. Dirk Lohry (President of the McCook Lake Association) and I testified before the House of Representatives Ag Committie in favor of House Bill 1134 (An Act to require property owner consent before construction resulting in lake water level alteration. The Ag committe rejected the bill and it never made it to the floor.

Doing our research to testify we ascertained McCook Lake is the only lake in the State that requires constant pumping to sustain it's level. Neither the State or the County monetarily support the efforts to sustain the lake. The Ag Committe told us they felt this was a local problem and we should handle it locally. How do we handle it locally when all the permits needed to build the canal come from the Corp of Engineers, South Dakota DANR and the Water Rights Board. The State of Iowa has 2 oxbow bend lakes that require pumping to be sustainable. The State of Iowa granted the Carter Lake Association, (Carter Lake borders Iowa and Nebraska) \$1,000,000 and the State of Nebraska chipped in \$500,000 to dig a well near the Missouri River and pipe water to Carter Lake. Browns Lake near Sloan, IA lays near the Mid America Powrer Plant and just recently Mid America extended the pipe to discharge water used to cool the plant into Brown's Lake to help sustain boating and fishing in that oxbow lake. We would really like some assistance from the State of South Dakota to sustain McCook Lake. It is a very valuable asset to the 250 plus homes on the lake and the numerous users of the lake. Please help us!

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Sunday, June 11, 2023 5:09 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:

No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:

06/12/2023

Date Comment Filed:

06/11/2023 17:08:41

Commenter Info:

Rob Jensen
179 North Canterbury Circle
North Sioux City SD, 57049

Comment:

This application does not effectively consider several critical areas that could have short and/or long term negative effects. First, despite active management by the current McCook Lake Association (MLA) the lake has already struggled to maintain its levels. Additional water for the canal, without additional infrastructure provided for by the applicant, will impair the ability of MLA to maintain the permitted water levels. The long term effects range from damaging the lake's current use to property values on the lake dropping and tax revenues for the State and Union County following suit. In a worse case scenario the lake could become unusable altogether with the potential to trigger law suits against the state. As a bottoms line, there simply is not the water transportation capacity with the existing infrastructure to execute this application. Second, somehow as part of the Game, Fish & Parks (GF&P) permitting process, the applicant was not required by the State Water Rights Department to obtain a Water Rights appropriation for the water used by the canal on an annual basis - filling and for losses due to evaporation and seepage. This is an unfortunate precedent to set. With the risks associated with the application this decision should be reversed and the full permitting process executed or the Water Rights Board should issue a declaratory ruling compelling the applicant to obtain a water right appropriation for the water consumption by the proposed canal. Third, this application is a hallmark example of exceptionally poor local coordination placing state agencies squarely between the applicant and other parties (primarily MLA). The applicant has a profit motive with no apparent interest in coordinating with the existing water rights holder (MLA) or working with MLA and relevant agencies to determine the infrastructure improvements and associated costs that might make the canal feasible. For this reason and those mentioned previously I recommend the application be rejected or suspended by the Water Management Board. It is further recommended this application not be further processed until such time as

the applicant and other interested parties coordinate and produce actionable, fact-based, balanced plans for the Water Management Board's consideration. Respectfully submitted, RD Jensen

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 5:03 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 17:02:58

Commenter Info:
Lawrence Bauer
37 Northshore Dr
,

Comment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 2:56 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 14:56:09

Commenter Info:
Sean and Kathryn Chartier
7 Leisure Lane
Mc Cook Lake Sout,

Comment:

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 11:24 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 11:24:23

Commenter Info:
Michele Lewon
33 Northshore Dr.
North Sioux City SD, 57049

Comment:
As a 13 year resident of McCook Lake and a voluntary contributor to the McCook Lake Recreation Association (MLA), I am opposed to this application (8744-3) for additional water appropriation. The application and chief engineer's report do not evaluate the impact of additional well pumping on McCook Lake. The additional water appropriation will be pumped from the McCook Lake water supplied to the ground water. Increasing the water volume pumped from the existing Chicoine irrigation well will increase the volume of water removed from McCook Lake. The MLA pumps water to McCook Lake at the maximum available rate which is not able to maintain the permitted elevation during the "present drought" cycle. Additional water loss from McCook Lake caused by the application 8744-3 will lower the level of McCook Lake causing damage to the many uses of McCook Lake. The existing Chicoine irrigation well should not be pumped when MLA is not able to maintain the permitted water level. I ask that you DENY the application No. 8744-3.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 11:48 AM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 11:47:51

Commenter Info:
David johnson
321 Lakeshore dr
Mccook,lake SD, 57049

Comment:
I oppose the construction of the canal by Mike Chicoine

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 12:07 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 12:06:55

Commenter Info:
Stacy Heath
263 Westshore drive
North Sioux City SD, 57049

Comment:
I am writing in opposition of the proposed construction of a water canal by Dakota Bay, LLC c/o Mike Chicoine at the south end of McCook Lake and a request for water appropriation. I believe that both will consume water from McCook Lake making it impossible to maintain the permitted lake level as pumping is at full capacity. Dakota Bay, LLC should be held responsible for pumping it's own water for the canal and should not be able to profit from someone else's rights. Chicoine will also profit from selling water front property with lake access that will not be lake access because of the inability to maintain water levels. They will then be left with over priced land as he walks away with his hefty profits. This will also reduce the value of existing lake front homes thus reducing property tax values for the county. Stacy Heath

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 12:04 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 12:04:15

Commenter Info:
Brent Heath
263 Westshore drive
North Sioux City SD, 57049

Comment:
I am writing in opposition of the proposed construction of a water canal by Dakota Bay, LLC c/o Mike Chicoine at the south end of McCook Lake and a request for water appropriation. I believe that both will consume water from McCook Lake making it impossible to maintain the permitted lake level as pumping is at full capacity. Dakota Bay, LLC should be held responsible for pumping it's own water for the canal and should not be able to profit from someone else's rights. Chicoine will also profit from selling water front property with lake access that will not be lake access because of the inability to maintain water levels. They will then be left with over priced land as he walks away with his hefty profits. This will also reduce the value of existing lake front homes thus reducing property tax values for the county. Brent Heath

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 12:10 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 12:10:10

Commenter Info:
Mary Kohn
369 Lakeshore
N Sioux City SD, 57049

Comment:
I believe this application/proposal should be denied. The proposed canal will cause excessive drainage of Mc Cook Lake and is unlawful according to state law/regulation. MLA pumps water into the lake to maintain it's current level and it is illogical to believe that Mr. Chicoine's canal will not be draining water brought in by the Association in violation of the MLA water rights. It is being done for Mr. Chicoine's profit without consideration to damage it will cause to the Mc Cook Lake Community. Mr. Chicoine is aware of this and does not seem to care about the community.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 1:29 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 13:28:49

Commenter Info:
Jeff McInerney
359 Lakeshore Dr.
McCook Lake SD, 57049

Comment:
I am opposed to the McCook Lake canal project proposed by Dakota Bay, Mike Chicoine, because the current pumping capabilities are maxed out now to keep the lake at it's current level and could result in the inability to even access the lake with a boat. Property values would decrease and would have a negative affect on the environment. Thank you for your consideration in this matter.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 12:28 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 12:28:26

Commenter Info:
Michael Voortman
361 lakeshore dr.
North Sioux city SD, 57049

Comment:
I have a house on McCook lake and I am concerned about the idea of putting a canal on the end of our lake. We already have a hard time keeping water in our lake with the pumps we have and I fear we will not be able to keep our lake usable if we extend the seepage into the ground at the end of the lake. The lake association and Izaak Walton have spent a lot to make the lake usable for our residents. Years back the end of the lake was impossible to keep full until a dike was construction at the end where this new canal is planed. This construction can not improve the lake but could destroy it. We have a lot of people that depend on the lake for our property value and losing the lake as we have it would devastating to many of us. I also feel a lot of money was spent to dredge the lake years back and although we have a public ramp this could make our little lake much busier with boat traffic and fear the additional traffic will make the lake unsafe for our children and grandchildren and also expedite the silting in of our lake. Please do not let this canal happen just so someone can profit from the lake.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 1:53 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 13:52:30

Commenter Info:
Paula McInerney
359 Lakeshore Dr
McCook Lake SD, 57049

Comment:
I oppose the McCook Lake canal project proposed by Dakota Bay, LLC, Mike Chicoine, because I believe the current pumping capabilities will not keep up with the expansion of the lake, resulting in low water levels and the inability to use the lake for recreational purposes. The low levels could also harm the environment and decrease the values of the existing homes. Thank you for your consideration in this matter.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 2:12 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8736-3, David Sternhagen

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8736-3, David Sternhagen

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 14:11:39

Commenter Info:
Richard Peterson
305 Lakeshore Drive
McCook Lake SD, 57049

Comment:
I am to the application 8744-3 for additional water appropriations. The application and chief engineers report does not evaluate the impact of additional well pumping on McCook Lake. The additional water appropriation will be pumped from the McCook Lake Water supply to the ground water. Increased water volume pumped from the existing Chicoine Irrigation well will increase the volume of water removed from McCook Lake.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 2:29 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 14:29:22

Commenter Info:
Paige Sumner
16851 Ava Drive
Harris MO, 64645

Comment:
I ask that you deny this permit application due to the negative impact it will have on the water levels of the McCook Lake.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 3:19 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 15:19:27

Commenter Info:
Sean and Kathryn Chartier
7 Leisure Lane
McCook Lake SD, 57049

Comment:
To the State of South Dakota, Kathryn and I are residents at 7 Leisure Lane on Mc Cook Lake,SD and would like to express that we do not support application 8744-3 due to the irreversible damage it would cause the natural resources of Mc Cook Lake and the Isaac Walton nature preserve that the lake supports directly adjacent on the west shoreline. By allowing the application it would increase water shedding and cause water levels to decrease that would cause damage to animal habitats and public recreational dollars the State receives from the lake. Water levels will not support recreational boat traffic if this development is allowed. The water levels are supported currently by pumps that are at maximum capacity and can't support further development without Mr. Chicoine supporting increased pump infrastructure financially himself apart of his development endeavor! Currently water pumps are supported financially by community donations to the Mc Cook Lake Association. This association is ran by lake volunteers who already are maxed out by time and funds to keep Mc Cook Lake thriving! Thank You for your consideration, Sean and Kathryn Chartier

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 3:04 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 2868-2, Davin Hubbs

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 2868-2, Davin Hubbs

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 15:04:14

Commenter Info:
David Hilbrands
267 Westshore Drive
McCook Lake SD, 57949

Comment:
As a homeowner on McCook lake, I very concerned regarding the impact of maintaining water levels for the entire lake. If a gravel layer is hit while digging the canals and appropriate liners are not used it could substantially lower lake water levels and impact hundreds of homeowners negatively. I don't see how an irrigation well and pump would be able to compensate for the increased seepage losses.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 4:12 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 16:11:44

Commenter Info:
Judy Thousand
261 Westshore Dr
McCook Lake SD, 57049

Comment:
I am opposed to granting the petition as by allowing this, all scientific evidence proves that this will drain the water at McCook Lake and thus reducing property values around the lake substantially. If the petitioner wants water, he should be required to provide his own pipe and pump to draw water onto his property. He is trying to get the McCook Lake association and the homeowners of McCook Lake to provide the water to him free of charge since they are the ones that pay to have the water pumped into the lake from the Missouri River.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 5:07 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 17:06:55

Commenter Info:
Kevin Hurley
397 Lakeshore Drive
McCook Lake SD, 57049

Comment:
I am 54 years old. My grandparents lived on this lake until they moved due to their age. So nearly my entire life I have been on this lake making the absolute best of memories. The absolute best quality family time. My Grandparents worked for decades raising money for the lake, doing firework stands, bingo, and fundraisers. Last year after a very bad divorce, I found a house on the lake, not far from where my grandparents lived, to buy on contract. It is way out of my price range, but nothing could stop me from getting on the lake. It has saved me from a ton of anxiety and depression. The person is only doing it for the money. Because no one who loves this lake like the residents that live here do, would ever risk damaging or destroying the lake. Save one of the few places that still exists that brings families together in the best possible way. If this goes through and the lake is destroyed because of greed, my house, which is all I have, will be worthless to me and destroy everything. This was done behind the scenes with no communication with anyone.. Why? Because he knows it is unethical. What if it goes through, the lake drains, and then he can't collect his millions. He doesn't care what that will do to us. Stand up and do the right thing. We live in a time of greed, and no thoughts of others. Stop this, please. Do the right thing. We aren't talking about a guy that is broke... God bless our lake. I am literally crying typing this. Please do the right thing. STOP THIS.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 5:12 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 17:12:22

Commenter Info:
Lawrence Bauer
37 North Shore Dr
North Sioux City SD, 57049

Comment:
I object to the State granting Mike Chicoine dba Dakota Bay,LLC. The McCook Lake Assoc has put time and money into keep water in McCook Lake and I believe that granting him the right to put irrigation water into the Lake will be a disservice especially in times of drought (such as we are currently experiencing. Please vote no on granting him the canal and water appropriation. Thank you Lawrence B Bauer

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 5:15 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 17:14:49

Commenter Info:
Denise Hauser
235 Westshore Dr.
North Sioux City S.D., 57049

Comment:
My husband and I have lived at Mcook Lake for over 40 years. We believe the proposed Chicoine canal will consume water from McCook Lake reducing the ability to maintain the lake level. The pumps on the lake are running at full capacity 24 hrs. and are still struggling to maintain the lake level. We do not want this

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 5:58 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 17:58:28

Commenter Info:
Deanna Bauer
37 Northshore Drive
McCook Lake SD, 57049

Comment:
McCook Lake is a public access lake and this canal would only benefit a select few. The canal would use water from McCook Lake and reduce lake levels that were meant to be enjoyed by all users. The canal would be lined with a clay liner at 3:1 slope and will not hold up over time with cycles of wet and dry . The clay will erode,leaking water into gravel layer. In Spanish Bay development at Dakota Dunes, the clay liner was pushed out by groundwater . Estimates of water loss from the canal is low. Apparently Mr. Chicoine has no intention of pumping water into McCook Lake to replenish the Lake. I support the action by MLA to stop the Chicoine water appropriation.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 7:03 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 19:02:38

Commenter Info:
Doug Towns
1 Martha St
McCook Lake SD, 57049

Comment:
I oppose this application for the main fact that we are just now hearing about this and there has been no meeting so the people who will be affected can weigh the pros and cons. It seems this was quietly being done for the sole purpose of of someone's own personal benefits.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 8:31 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 20:31:09

Commenter Info:
Curt Mastbergen
525 Lakeshore Drive
North Sioux City SD, 57049

Comment:
Mike Chicoine - Dakota Bay, LLC has filed this request to be appropriated water from a gas engine operated irrigation well which is already pumping at full capacity to honor the existing water right appropriation for McCook Lake Association pumping into McCook lake. Mr. Chicoine's request to pump would result in less water being pumped into McCook Lake, the same lake he intends to connect this bay to. His bay and pumping will result in drawing down the water level in McCook Lake. This will cause harm to wildlife and lake related recreation as well as reducing the values of the properties around McCook lake (which will reduce tax revenues). I respectfully ask you to deny this request to avoid these damages and to avoid creating a untenable situation simply for Mr. Chicone's financial benefit. Thank you, Curt Mastbergen

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 10:21 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 22:21:04

Commenter Info:
Bradford Howard
311 Lakeshore Dr
North Sioux City SD, 57049

Comment:
After living on McCook Lake for 12 years, I am aware of the fluctuation in the depth of the lake every year when the pumps from the Missouri river are shut off for the winter. The pumps are started, in the spring, to bring the water level to the usable depth, and then maintain that level throughout the spring, summer and fall months. If the pumps at the Missouri need repair, the lake level drops until the repairs are made, Mr. Chicoine now wants to construct a canal on the south end of the lake to serve residential lots, he is developing, to sell, at a huge profit for himself, and a huge risk for all of us who are currently property owners on the existing lake. Since Mr. Chicoine's project will be for his profit, his proposal should be made on its own merits, not at the risk of existing McCook Lake property owners. If water is needed to maintain levels in his proposed addition, he should be the one to add the means for the water supply.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 10:39 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine

Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 22:38:57

Commenter Info:
Jon Sandage
73 Northshore Dr
McCook Lake SD, 57049

Comment:

Hello, My name is Jon Sandage, I'm a member of the MLA, one of my main responsibilities with the Association is Operating and Maintaining the MLA 3 pumps, we have 3 pumps, 1 large pump and 2 smaller pumps, when these pumps are running at 100% were capable of pumping about 12000 GPM, with the drought conditions we've experience and the US Army Corps of Engineers releasing minimal from Gavins Point Dam the pumps have been running at 100% each of the last 2 seasons and this one will be no different. We target an elevation of 1088 for the lake level by mid-June buy have not been able to accomplish this target the past 3 season's. If this canal project is approved the and built as designed it WILL LEAK, a few years down the road when the LLC is long gone this LEAK will be dumped on onto an already maxed out pumping system the MLA manages. The pumping system has NO capacity for anymore water usage. This is a burden that the MLA should not have to take on, the MLA has had a water rights permit since 2004, can pay up to \$50,000 a year for the electricity to run the pumps, and have spent \$30,000 pump maintenance in the past year. Please take into consideration the consequence this canal WILL have on Lake management, there is nothing positive this canal offers to the Lake. This Permit 8744-3 application needs to be DENIED because of the negative impact to existing Lake water management. Thank You for your time. Jon Sandage

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Saturday, June 10, 2023 11:15 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/10/2023 23:14:49

Commenter Info:
Adam Frisch
343 Lakeshore Drive
McCook Lake SD, 57049

Comment:
I oppose application 8744-3 because it clearly threatens over time to reduce rather than maintain water levels of McCook Lake necessary to support public use, recreation, and ecological preservation, a maintenance now supported mainly by voluntary funding and work by concerned individuals and ecological associations.

Duvall, Ron

From: DANRnoreply <DANRnoreply@state.sd.us>
Sent: Friday, June 9, 2023 2:54 PM
To: Duvall, Ron; Gronlund, Eric
Subject: [EXT] Comment on 8744-3, Dakota Bay, Mike Chicoine
Categories: Blue Category

Please use caution in opening any attachments or clicking on any links.

This message was received from an external mail system, but has been made to appear as though originating from an internal State email address. If you are not expecting this message or are concerned about its content, please forward it to the reportspam@state.sd.us mailbox.

Comment On:
No. 8744-3, Dakota Bay, Mike Chicoine

Comment Deadline Date:
06/12/2023

Date Comment Filed:
06/09/2023 14:53:55

Commenter Info:
Nate Blaeser
159 Suncoast Drive
North Sioux City SD, 57049

Comment:

I am opposed to the application No. 8744-3 for additional water appropriation. The application and chief engineer's report do not evaluate the impact of additional well pumping on McCook Lake. The additional water appropriation will be pumped from the McCook Lake water supplied to ground water. Increasing the water volume pumped from the existing Chicoine irrigation well will increase the volume of water removed from McCook Lake which will lower the level of the lake and cause damage to the many current uses. The McCook Lake Association (MLA) pumps water to the lake at the max available rate, with added pumping the lake level will not be able to be maintained. I ask that you deny the application.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 19 2024

Dakota Bay
c/o Mike Choicoine
32926 482nd Avenue
Jefferson SD 57038

Dear Mr. Choicoine:

Enclosed is Water Permit No. 8744-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

cc: Kevin Robling



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8744-3

Name of Applicant: Dakota Bay, Mike Chicoine

Date of Posting: 5/26/2023

Date of Removal: 7/19/2024



Ron Duvall, Engineer III

7/22/2024

Date

Subscribed and sworn to before me, a notary public, this 22nd day of July, 2024.



Notary Public - South Dakota
My commission expires:
Rachel Rodriguez
My Commission Expires
May 16, 2029

(SEAL)

