



**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](mailto: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.

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

MINUTES OF THE 243<sup>RD</sup> MEETING  
OF THE WATER MANAGEMENT BOARD  
REMOTE CONNECTION  
FLOYD MATTHEW TRAINING CENTER  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA

JUNE 30, 2023

CALL TO ORDER AND ROLL CALL: Chairman William Larson called the meeting to order at 11:00 a.m. Central Time. The roll was called. A quorum was present.

The meeting was streaming live on SD.net.

The following participated in the meeting:

Board Members: William Larson, Rodney Freeman, Chad Comes, Peggy Dixon, Tim Bjork, Jim Hutmacher and Leo Holzbauer.

Department of Agriculture and Natural Resources (DANR): Eric Gronlund, Chief Engineer, Ron Duvall, Water Rights Program.

Attorney General's Office: David McVey, Assistant Attorney General, board counsel; Ann Mines Bailey, Assistant Attorney General, Water Rights Program counsel.

McCook Lake Recreation Area Association: John Hines, Sioux City, IA, Attorney for McCook Lake Recreation Area Association.

Court Reporter: Elizabeth Lundquist, Sioux Falls, SD.

Others: Senator Randy Deibert, Deborah Morris, Jay Gilbertson.

ADOPT FINAL AGENDA: Motion by Freeman, seconded by Hutmacher, to amend the agenda to add a possible motion to schedule the petition for Declaratory Ruling and the hearing on Water Permit Application No. 8744-3. A roll call vote was taken, and the motion carried unanimously.

CONFLICTS DISCLOSURES AND REQUESTS FOR STATE WAIVERS: None.

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: None.

CONSIDER APPEAL OF PREHEARING CHAIR'S ORDER GRANTING THE CHIEF ENGINEER'S MOTION FOR CONTINUANCE IN THE MATTER OF MCCOOK LAKE

RECREATION AREA ASSOCIATION'S PETITION FOR DECLARATORY RULING: David McVey stated that pending before the board is a petition that was filed by the McCook Lake Recreation Area Association for a declaratory ruling regarding a proposed shoreline alteration, a petition in opposition filed regarding a water permit application filed by Dakota Bay, a motion for a continuance filed by the Water Rights Program and the scheduling of a special meeting, and resistance to that motion filed by McCook Lake Recreation Area Association.

An order was entered by the prehearing chairman on June 22, 2023, granting the continuance and placing the request for a special meeting on the July meeting agenda. In addition, the Water Rights Program filed a motion for a special meeting regarding Water Permit Application No. 8744-3, and McCook Lake Recreation Area Association filed resistance to that motion for a special meeting.

The purpose of this meeting is to consider the appeal on granting the Chief Engineer's motion for a continuance.

Appearances:

Ann Mines Bailey, Assistant Attorney General, on behalf of the Chief Engineer and the DANR Water Rights Program.

Deborah Morris and Dean Fankhauser, attorneys with Tigges Bottaro Firm, on behalf of Dakota Bay.

John Hines, attorney with Crary Huff, on behalf of McCook Lake Recreation Area Association.

Ms. Mines Bailey stated that the McCook Lake Recreation Area Association (the Association) filed a petition for declaratory ruling with the Water Rights Program on March 13, 2023. The petition specifically requests that the board issue a declaratory 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 petition describes some facts and general terms and has attached to it a letter from the Association president speaking more specifically about the project with which the Association is concerned. That project, as proposed by Mr. Chicoine, is to develop an area next to McCook Lake. Part of that plan is the construction of a canal. The specifics of the exact plan are not in the petition or in the letter.

The public notice for the petition was drafted by the Association's counsel, and it provides a few more facts, and it also provides that the requested action from the board is that the board issue a declaratory ruling 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/Dakota Bay LLC's private

Water Management Board  
June 30, 2023, Meeting Minutes

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.

Approximately two weeks later, after the filing of the petition, Dakota Bay filed an application for a water right seeking an appropriation of water from the Missouri Elk Point Aquifer. The purpose of that appropriation is to initially fill the canal, which is to be constructed off of McCook Lake, then after that initial fill the first year, a subsequent appropriation to cover evaporation, and seepage losses in order to maintain the integrity of the canal liner.

That water permit application was public noticed and the only petition received is from the lake association. The matter was originally scheduled for hearing at the July 12 board meeting. The Association exercised its statutory rights and requested an auto delay. Therefore, the board cannot hear the water right application for at least 20 days from July 12, 2023.

Ms. Mines Bailey stated that the draft public notice for the petition for declaratory ruling very much focuses on Mr. Chicoine and the Association's concerns regarding its own water rights.

Assuming that the Association proceeds on the matter as set forth in the public notice, and not the request as set forth in the petition, it is the Chief Engineer's position that it would be inefficient for the board to hear the petition for declaratory ruling and the water right application at separate times, during separate hearings.

Ms. Mines Bailey said part of the Association's claim in the request for relief set forth in the public notice is a declaration from the board that Mr. Chicoine's project will unlawfully impair the Association's water permits. Deciding on the water right application would necessarily eliminate or render moot part of the Association's request. The Association is resisting this motion, but even in their resistance to the motion, they know that if they were granted the requested relief, it would materially affect Mr. Chicoine's water permit application.

In addition to all of this, the Chief Engineer is requesting a special meeting preferably to be held at the beginning of August. The purpose of that meeting would be to hear both of these matters together, to have everybody in the same room, and allow efficiency of the board's time. Ms. Mines Bailey stated that the reason she set forth in the motion for that special meeting is due to staffing changes. She has accepted a position outside of the Attorney General's Office and her last day with the Attorney General's Office is August 23, 2023. After that, new counsel will be assigned to the Chief Engineer and Water Rights Program. It is the Chief Engineer and Water Rights Program's desire to hear this matter before Ms. Mines Bailey's departure. Because the auto delay was invoked, a hearing on the water permit application cannot be held until after August 1, 2023. Ms. Mines Bailey requested that the board hold a special meeting sometime during the first two weeks in August to hear this matter and the water permit application at the same time.



Water Management Board  
June 30, 2023, Meeting Minutes

In their response and opposition, the Association argues that they filed first and should be heard first. The board has discretion as to which matter would be heard first, even at a special meeting. The Association indicates that the requested relief would require Dakota Bay or Mr. Chicoine to apply for an entirely separate water right permit from Application No. 8744-3 and would potentially render Application No. 8744-3 moot.

Ms. Mines Bailey stated that Dakota Bay is seeking an appropriation for an initial fill and to cover evaporation and seepage thereafter. She said it seems that the two matters are related. The Association asserts that there are specific undisputed facts, and that this is just merely legal argument. Ms. Mines Bailey said a large portion of this is legal argument; however, there will need to be an establishment of facts, such as what exactly the parameters of the Association's rights are, what the parameters of Dakota Bay's proposed project are, and to determine an unlawful impairment. It seems to be necessary for the board hear the other factor; the availability of unappropriated water. It would be redundant to do that at the declaratory ruling and then to turn around and do it again at the water right hearing, because even if the board were to grant the requested relief, there would still need to be a hearing on Dakota Bay's water right. Additionally, the Association argues that the hearing on the petition must be held at the regularly scheduled July meeting because of the rule, and they essentially argue that they are entitled to a continuance of the water permit application until the next regularly scheduled meeting.

Ms. Mines Bailey stated that the rule provides specifically that the board shall schedule the petition for hearing no later than its second regularly scheduled meeting unless all parties agree to a postponement. In this instance, the board has scheduled the meeting. The published hearing date in the notice is July 12, 2023. SDCL 46-2A-5 provides an auto-delay in a contested case. The hearing date in the public notice is equivalent to scheduling because 46-2A-5 says when someone invokes the auto-delay provision, that matter shall be rescheduled for hearing. Because it has been scheduled, there is no agreement necessary by all parties. None of the parties would be prejudiced because these were both initially scheduled to be heard in July. The board has the authority to control its docket. Ms. Mines Bailey stated that for those reasons the Chief Engineer and Water Rights program believes this is an appropriate action.

Mr. Hines stated that he is the attorney for the Association. The Association is not seeking a ruling on July 12<sup>th</sup> regarding unlawful impairment of the Association's water rights. The relief requested in the petition and in the notice is for the declaration that a permit to appropriate water is required prior to starting any construction. The form of the notice was provided by the Water Rights Program and the facts and requested relief were supplied by Mr. Hines. The portion of the notice that says, the proposed construction appropriates water and would also unlawfully impair the Association's water rights, is meant to be more explanatory. He said the Association will not be seeking that determination. The Association is seeking a declaration that would allow the Association to make the argument that the project would impair the Association's rights. That will not be before the board when the parties argue the declaratory ruling petition. Mr. Hines stated that in the resistance to the motion to continue and the motion for a special meeting,

Water Management Board  
June 30, 2023, Meeting Minutes

he does not recall stating the Association believes the declaratory ruling will materially affect pending Application No. 8744-3. He believes that if Dakota Bay or Mr. Chicoine are required to obtain a different permit, it may no longer be necessary for him to pursue this permit, and that is why the existing permit application was described as potentially being moot.

Mr. Hines said the reason for the appeal is because of Board Rule 74:02:01:47 titled "Timely consideration by board," and he cannot take any issue with Ms. Mines Bailey's reading of that rule, but the interpretation that the Attorney General's office is putting forward would effectively render this rule meaningless. If the board is free to continue matters without the consent of the parties, then there would be nothing to prevent the board from continuing it indefinitely. Also, continuing the hearing without the consent of the parties raises questions whether the notice has to be republished because the Association was required to publish notices in the newspapers of the date and time of the hearing, which sets the deadlines for comments in opposition. If the board is going to continue the hearing, will the notice need to be published again? Will the state reimburse the fee for publishing since it was the state's decision to continue the hearing? Does it reopen the comments and opposition period? Mr. Hines said these are all questions that would become open if the interpretation of the rule is that the board does not have to timely consider the matter. Mr. Hines said the statutory right for the automatic postponement of the water rights application applies to the water rights permit. It doesn't apply to the declaratory ruling action; it's a different part of the rules. Mr. Hines said he knows that because the form of the notice that was provided to him by the Water Rights Program to publish on this matter doesn't include that language. The notice that was published by Dakota Bay and Mr. Chicoine on the application includes a specific line about the continuation of the matter, so he believes the rules don't apply to the petition for declaratory ruling. The portion of the published notice that was drafted by the state says that after the board has heard the declaratory ruling it can take the following actions: 1) Issue declaratory rulings on the requested actions; 2) take other action as the board deems warranted after hearing the evidence presented; 3) defer action; or 4) take no action. Mr. Hines stated that the Association believes when the board hears their evidence and arguments on the petition for declaratory ruling, the board will take action number one and issue a ruling. He said the Association understands that the board might not agree. The Water Rights Program will certainly argue that the board needs to also consider the water rights application, and the board could defer the action until hearing that matter.

Mr. Hines said it is the Association's position that hearing these matters together confuses the issues. The facts and argument that will be presented are going to have nothing to do with the water rights application. That application didn't exist when the petition for a declaratory ruling was prepared. He said the Association understands that these actions might affect one another, but they don't believe it is necessary or even advisable to consider them together.

Mr. Hines stated that regarding scheduling the special hearing, he understands the State is concerned that Ms. Mines Bailey has accepted new position, but the Association's concern is that this matter will be rushed to conclusion without everyone having an opportunity to make the best

Water Management Board  
June 30, 2023, Meeting Minutes

record possible. The Association is ready to proceed on the argument for the declaratory ruling. It is primarily going to be presentation of undisputed facts and legal argument, whereas the water rights permit application is a bit more technical. This is why the Association has appealed the prehearing officer's ruling. Mr. Hines said he believes that it is required by rule to have the board timely consider this matter at the July 12 meeting, and he opposes continuation of the petition.

Ms. Morris stated that on behalf of Dakota Bay, she believes the two matters are inextricably combined and need to be heard together.

Mr. Bjork said he was confused by what Ms. Mines Bailey said. He asked when the Department of Agriculture and Natural Resources told the Association that the expansion of a public lake by private property does not need require a water permit. He asked if the application for a water permit makes the declaratory ruling a moot point.

Ms. Mines Bailey responded that the evidence that the board will hear is that the initial project that was presented to the Chief Engineer was merely the construction of the canal and alteration of the shoreline. There was no need for water to fill the canal or to maintain a liner. Shoreline alteration permits are issued through the Department of Game, Fish and Parks, and because there was no use of water, Mr. Chicoine was told that there was no need for a continuous appropriation, but that perhaps a temporary permit for the one-time fill might be appropriate. Those were the facts that were initially provided.

The initial project was a canal that was going to be constructed off the lake. It was for modification of the shoreline, but no use of water.

Mr. Hines said he agrees with Ms. Mines Bailey's description of the initial project and what triggered this proceeding. He said he would agree that if Mr. Chicoine/Dakota Bay had submitted an application to appropriate water from McCook Lake, then that would make the declaratory ruling petition moot. Mr. Chicoine's application to appropriate water from his well doesn't speak to the Association's initial question and what the Association wants to argue to the board, which is that under the law the canal project appropriates water from McCook Lake.

Chairman Larson asked if Mr. Hines would agree that as the Water Rights Program has set forth the issues between his client's position and Dakota Bay's position are so intertwined it would make more sense in judicial economy to hear all of those issues at the same hearing.

Mr. Hines said he believes the issue is that the water rights application that was submitted deals with confined aquifers and has twenty-two pages of reports and engineering and hydrogeology and hydrology, that's all very technical and interesting, and the Association is working on getting their own expert to look at that report. However, the Association's declaratory ruling petition is primarily undisputed facts and legal argument, and he would be concerned that if the board rules

Water Management Board  
June 30, 2023, Meeting Minutes

in the Association's favor and finds that Mr. Chicoine/ Dakota Bay are required to apply for an additional permit that then we would hear the first permit at the same time as the ruling and then Mr. Chicoine would have to come back and get a second permit, that's going to have another twenty-two page report, potentially. Mr. Hines said he believes the economy can be argued both ways, and he believes it will be simpler and clearer for everyone involved to argue the petition first.

Chairman Larson asked Mr. Hines if he would be able to have his evidence ready if the order for continuance is affirmed and the hearing is set for sometime in August.

Mr. Hines answered that his concern is that the Association is a nonprofit governed by a board and the board has been working to find someone qualified and willing to assist in this matter. The Association has not yet secured that individual, so they would have concerns about that time frame and just not having adequate time to get that put together for the board's consideration.

Chairman Larson requested board action.

Motion by Hutmacher, seconded by Comes, to affirm prehearing chairman Freeman's order continuing this matter. A roll call vote was taken, and the motion carried with Comes, Dixon, Freeman, Holzbauer, Hutmacher, and Larson voting aye and Bjork voting no.

Mr. McVey stated that the next order of business was for the board to schedule the declaratory ruling matter and to consider the motion by the Water Rights Program to schedule a special meeting for Water Permit Application No. 8744-3 and the consideration of whether to schedule both matters together sometime in early August.

Mr. Hines objected to consideration of setting a special meeting to consider these two items since it was not noticed in advance. Mr. Hines said he realizes that the board has amended the agenda, but he believes this item was originally scheduled for the July 12 meeting and he would prefer to have that additional time to prepare a response.

Motion by Chairman Larson, seconded by Freeman, that at its July 12 meeting the board set the hearing date for Water Permit Application No. 8744-3. A roll call vote was taken, and the motion carried unanimously.

Chairman Larson requested a motion to set a hearing date on the petition for a declaratory judgment within the first two weeks of August.

Mr. Bjork asked why the board can continue that beyond the second meeting as required by the rules.

Water Management Board  
June 30, 2023, Meeting Minutes

Ms. Mines Bailey stated that the rule requires that the matter be scheduled. Scheduled means placed on the agenda, put in the public notice for hearing. That has been accomplished. It was scheduled for the July meeting. The concept of scheduling being accomplished by being issued in a public notice is supported by the language used in 46-2A-5, which requires a rescheduling of a hearing based on the invocation of an auto delay, and that rescheduling is 20 days later than the initial date placed in the published notice. So, the notion of scheduling being accomplished by the public notice is already in statute. The matter was set for hearing in July. The board has authority of its docket and can continue a hearing.

Motion by Chairman Larson, seconded by Freeman, to set a hearing on the petition for declaratory judgement sometime during the first two weeks in August. A roll call vote was taken, and the motion carried unanimously.

Motion by Freeman, seconded by Bjork, to schedule August 2, 2023, at 10:00 a.m. for the hearing for the petition for declaratory judgement. A roll call vote was taken, and the motion carried unanimously.

Ms. Morris stated that attorney Dean Fankhauser is in the process of obtaining pro hoc vice, and he will be proceeding on this case with her.

ADJOURN: Motion by Freeman, seconded by Hutmacher, to adjourn. Motion carried.

Chairman Larson declared the meeting adjourned.

A court reporter was present for the hearing and a transcript of the proceedings may be obtained by contacting Elizabeth Lundquist at 4821 E. 41<sup>st</sup> Street #207, Sioux Falls, SD 57110; telephone number 215-360-1008 or [lizlundquist@gmail.com](mailto:lizlundquist@gmail.com).

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 \_\_\_\_\_, 2023.

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Water Management Board

JUL 05 2023

OFFICE OF  
WATER

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

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IN THE MATTER OF MCCOOK LAKE	)	
RECREATION AREA ASSOCIATION'S	)	
PETITION FOR DECLARATORY	)	<b>MOTION TO DISQUALIFY WATER</b>
RULING REGARDING	)	<b>MANAGEMENT BOARD'S LEGAL</b>
APPROPRIATIVE PERMITS AND	)	<b>COUNSEL</b>
SHORELINE ALTERATION	)	
	)	

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COMES NOW Petitioner McCook Lake Recreation Area Association (the "Association") and hereby moves the Water Management Board ("Board") disqualify the Board's legal counsel from the above-captioned matter.

On or about June 21, 2023, Assistant Attorney General Ann Mines Bailey, on behalf of the Chief Engineer of the South Dakota Department of Agriculture and Natural Resources Water Rights Program ("DANR"), filed a Petition Opposing Declaratory Ruling by McCook Lake Recreation Area Association, setting forth several reasons the Chief Engineer opposes the Association's Petition. The Board is represented by Assistant Attorney General David McVey. The South Dakota Attorney General's Office, therefore, represents both DANR and the Board, who is to impartially decide a dispute involving DANR.

Under SD ST RPC APP CH 16-18 Rule 1.7, a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if . . . "(2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

Simultaneous representation of a party opponent to the action, and representation of the quasi-judicial, decision-making Board, clearly poses a significant risk of material limitation of the lawyer's responsibility. Not only that, it significantly brings into question whether the Board can fairly consider the Association's Petition. Troublingly, on or about March 22, 2023, Mr. McVey contacted the undersigned attorney via telephone to express a legal opinion that a jurisdictional issue existed with the Association's Petition related to service. Now, in the petition in opposition filed by DANR, the same theory has been put forth. Whether Mr. McVey and Ms.



Bailey discussed this theory is unknown, but this obviously creates the appearance of impropriety. In short, Mr. McVey has a conflict of interest, and should recuse himself or be disqualified.

If the Board's current counsel is deemed to have a conflict of interest, then the entire Attorney General's office is deemed to have a conflict of interest and therefore cannot represent the Board in this matter. SD ST RPC APP CH 16-18 Rule 1.10. Under SDCL 46-2-4, the Water Management Board has the authority to employ legal counsel other than the Attorney General's Office. Due to the conflict of interest posed by the Attorney General's Office advocacy against the Association, the Board should disqualify its counsel and exercise its right to retain outside counsel.

Therefore, the Association respectfully requests the Board to disqualify its current legal counsel, the Attorney General's Office, and seek outside counsel as permitted by law.

Dated this 30th day of June 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](mailto: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 *Motion to Disqualify* was served by U.S. Mail, first-class, postage prepaid, upon the following on this 30th day of June 2023.

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

Rodney Freeman, Prehearing Chairman  
Water Management Board  
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](mailto:David.McVey@state.sd.us)  
Ann F. Mines Bailey, [Ann.MinesBailey@state.sd.us](mailto:Ann.MinesBailey@state.sd.us)

  
\_\_\_\_\_  
John M. Hines



# CRARY HUFF

ATTORNEYS AT LAW

John M. Hines  
Attorney

PHONE 712.224.7550  
EMAIL [jhines@craryhuff.com](mailto:jhines@craryhuff.com)

329 Pierce Street, Suite 200  
Sioux City, IA 51101

[craryhuff.com](http://craryhuff.com)

RECEIVED

MAR 13 2023

OFFICE OF  
WATER

March 10, 2023

**Via Electronic Mail  
and U.S. Mail**

Water Management Board  
South Dakota Department of  
Agriculture and Natural Resources  
Attn: William Larson, Chairman  
523 East Capitol Ave.  
Pierre, SD 57501-3182  
[DANRmail@state.sd.us](mailto:DANRmail@state.sd.us)

Copy to:

Ann Mines Bailey  
Assistant Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501-8501  
[Ann.MinesBailey@state.sd.us](mailto:Ann.MinesBailey@state.sd.us)

Re: Declaratory Ruling - Chicoine

Dear Mr. Larson:

Please see the enclosed Petition for Declaratory Ruling on behalf of the McCook Lake Recreation Area Association. Please let us know when the matter will be set before the Board so we can move forward with publishing the required notices. Thank you.

Sincerely,



John M. Hines  
For the Firm

RECEIVED

MAR 13 2023

OFFICE OF  
WATER

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

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IN THE MATTER OF	)	
THE MCCOOK LAKE RECREATION	)	PETITION FOR
AREA ASSOCIATION'S PETITION	)	DECLARATORY RULING
FOR A DECLARATORY RULING	)	
ON SDCL CHAPTER § 46-1	)	

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The McCook Lake Recreation Area Association (the "Association") hereby petitions the South Dakota Water Management Board (the "Board") to issue a Declaratory Ruling on the applicability of SDCL Chapter 46-1 pertaining to the factual situation presented herein:

1. The authority by which the petition is presented: SDCL § 1-26-15; SDCL § 46-2-5; SDCL § 46-5-10; ARSD 74:02:01:03; and ARSD 74:02:01:46.
2. The name of the group submitting the petition: The McCook Lake Recreation Area Association, a South Dakota nonprofit corporation.
3. The requested action: For the Board to issue a Declaratory Ruling finding that the expansion of a public body of water for private use or gain (such as by altering the shoreline of a lake and connecting a "canal") requires a permit to appropriate water.
  - a. SDCL § 46-1-1 states: "It is hereby declared 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."
  - b. SDCL § 46-1-3 states: "It is hereby declared that all water within the state is the property of the people of the state, but the right to the use of water may be acquired by appropriation as provided by law."

- c. SDCL § 46-1-10 states: “Any person intending to acquire a right to beneficial use of water shall, before starting construction or placement of works for that purpose or before taking the water from any constructed works, make an application to the Water Management Board for a permit to appropriate water, in the form required by rules promulgated pursuant to chapter 1-26 by the board.”
  - d. SDCL § 46-1-15 states: “Except as otherwise provided throughout this title, no person may appropriate the waters of this state for any purpose without first obtaining a permit to do so.”
4. The reason for the requested action is described in additional detail in the letter sent from the Association to the Board dated December 5, 2022, attached hereto as Exhibit “A” and incorporated by reference herein.
- a. In short, the reason the Association seeks the Declaratory Ruling is because representatives of the South Dakota Department of Agriculture and Natural Resources (“DANR”) have told the Association that the expansion of a public lake by a private party does not require a permit to appropriate water.
  - b. After DANR’s statements to the Association that no permit to appropriate water is required to expand a public lake, DANR Chief Engineer Eric Gronlund testified in opposition to 2023 HB 1134 before the South Dakota House Agriculture and Natural Resources Committee.
  - c. 2023 HB 1134 requires the consent of a majority of lakefront property before a permit may be issued to alter the shoreline.
  - d. It was Mr. Gronlund’s testimony that HB 1134 “potentially circumvents any opportunity for a full hearing on the merits of an application” and that “a well-



established water rights procedure affording the opportunity for meaningful public participation and public hearing is potentially being upended.”

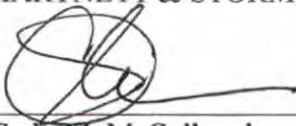
- e. Mr. Gronlund’s testimony to the Agriculture and Natural Resources Committee and DANR’s statements to the Association are inconsistent with one another.
- f. 2023 HB 1134, which was supported by the Association, was developed in response to DANR’s previous statements that no water rights permit was required for a private party to expand a public lake.
- g. The Association agrees with Mr. Gronlund’s testimony that before a private individual can permanently alter a public body of water for private gain, meaningful public participation and public hearing is required by the plain language of South Dakota law.
- h. SDCL § 46-1-3 states explicitly that “the right to the use of water may be acquired by appropriation as provided by law.” (Emphasis added).
- i. Expanding a public body of water, via canal or otherwise, uses the water of the public water body, and the right to do so may only be acquired by a permit for appropriation.
- j. The procedure for obtaining a permit to appropriate water includes the opportunity for public input.
- k. Because the people of South Dakota have a “paramount interest” in the use of all water of the state, no private party should be allowed to permanently alter a public lake for private gain without first receiving State and public approval through the appropriation permit procedures.

1. The Association respectfully asks that the Water Management Board issue a Declaratory 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.

Dated this 17th day of February, 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](mailto:cmccullough@craryhuff.com)  
[jhines@craryhuff.com](mailto:jhines@craryhuff.com)

ATTORNEYS FOR PETITIONER,  
MCCOOK LAKE RECREATION  
AREA ASSOCIATION



---

William Larson, Chairman  
Water Management Board  
South Dakota Department of  
Agriculture and Natural Resources  
523 East Capitol Ave.  
Pierre, S.D. 57501-3182  
December 5, 2022

Re: Chicoine Canal

Chairman Larson:

I am writing on behalf of the McCook Lake Recreation Association (MLA) to request a "Declaratory Ruling" requiring Mike Chicoine to obtain a water right permit for the taking of water from McCook Lake (Lake) for the purpose of developing a canal off of the Lake. Furthermore, we request the Mike Chicoine Water Right Permit be subservient to the Water Right Permits of MLA. Presently MLA has two permits for pumping water out of the Missouri River (Permits 5878-3 and 6479-3 for a combined capacity of 26.74 cfs). The proposed Chicoine Canal (Canal) will impact the MLA permits by taking water from McCook Lake.

Mike Chicoine (Chicoine) has applied for several permits to construct a canal off of the southeast end of McCook Lake with features as follows:

- Length: 2,050 l.f. (Secretary Robling assures us the length of the canal is 1,500.)
- Width: 90 ft. at a water surface elevation of 1090. (McCook Lake has not been able to reach the water surface elevation of 1090 in recent years).
- Bottom width: 42 ft.
- Bottom Elevation: 1082 ft. (Below the recent spring water level in McCook Lake prior to the start of MLA pumping.)
- Side slope: 3:1

I have attached a copy of the "Application for Shoreline Alteration of a South Dakota Public Water Body" as prepared by Chicoine for details illustrating the above information.

McCook Lake is an Ox-Bow of the Missouri River. The McCook Lake Association and the Izaak Walton League of McCook Lake have spent over \$10 million in dredging and constructing a pumping system. The McCook Lake Association spends over \$60,000 per year for pumping water from the Missouri River. As stated above, MLA has two water right permits allowing the pumping of 26.74 cfs through a MLA constructed 7000 foot, 24 inch pipeline to McCook Lake.



During the summer of 2022 the 26.74 cfs was pumped continuously without raising the water level to elevation 1088 until rainfall events assisted the pumps.

Pumping resulting in a water level in McCook Lake that is approximately 10-11 ft. above the Missouri River water surface elevation (as measured at the pumping station). Attached is a graph of the water level monitoring over the last nine years. This graph shows how MLA pumping annually raises the Lake from a recent spring Lake level that is slightly below the bottom of the Canal. If the Canal existed in 2022, water would not have entered the Canal until the MLA pumps were placed in operation. Any ground water around the Canal would be the result of MLA pumping. The seepage rate is about 2 inches per day from predominantly the southern shoreline and south end of the Lake. Previous borings by the State of South Dakota indicated the northern and eastern shoreline and bottom are clay soils with lower seepage rates. During the summer the evaporation rates are about 0.25 inches per day.

MLA functions on donations and volunteerism. The Association does not have funds for expanding the pumping or pipe capacity to accommodate the Canal.

In 1978, the State of South Dakota published a study titled: "Ground Water Study for Southern Union County" by Derric L. Isles. Attached is a "Map Showing Water Table Contours" prepared by Derric Isles (Map). Derric provided arrows indicating the direction of ground water flow as previously discussed in this letter. The southeast end of the Lake has the steepest hydraulic gradient due to the shorter distance to the Rivers. The extension of the Lake by a Canal is believed to increase the hydraulic gradient out of the southeast end of the Lake resulting in greater seepage losses from the Lake.

The Canal will increase the surface area of the Lake and result in an increase in evaporation. The water will be taken from McCook Lake.

Additionally, the Canal will bring the Lake closer to an irrigation well owned and operated by Mike Chicoine. We believe the Canal will feed the cone of depression created by the operation of the Chicoine irrigation well increasing the impact on McCook Lake.

We believe the Laws of South Dakota protect the water rights of its citizens and should be applied in this situation. SDCL 46-1-1 states: "It is hereby declared 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 Canal will result in the appropriation of water from McCook Lake to meet the evaporation and seepage losses from the Canal. The Canal should be required to comply with SDCL 46-1-1. In wet years MLA may have the ability to supply water to the Canal. In dry years, MLA cannot meet the needs of the Lake if a canal is built. The MLA records indicate that in dry years as presently being experienced, the Canal would not have water without MLA pumping. The MLA pumps are not able to provide the Canal design water at any elevation but especially a surface elevation of 1090.

Taking of the Lake water is a taking from the MLA water right which must be appropriated as required by law. SDCL 46-1-3 states: "It is hereby declared that all water within the state is the property of the people of the state, but the right to the use of the water may be acquired by appropriation as provided by law".

Especially applicable for the Canal is SDCL 46-1-15 which states "Except as otherwise provided throughout this title, no person may appropriate the waters of this state for any purpose without first obtaining a permit to do so."

We ask that Mike Chicoine be required to obtain a water rights permit and the Chicoine permit is subservient to the water rights of MLA.

Sincerely,

Dirk Lohry, President  
McCook Lake Association  
417 Lakeshore Drive  
McCook Lake, SD 57049  
712-251-6819  
[DirkLohry@aol.com](mailto:DirkLohry@aol.com)

Cc: Ron Duvall



FIRST JUDICIAL COURT

Return # 23918  
Process # C23-00147  
Docket #  
Reference #

STATE OF SOUTH DAKOTA  
COUNTY OF UNION

State Of SD Department Of Agriculture & Natural  
Resources Water Managment Board

Plaintiff,

- vs -

MICHAEL JAMES CHICOINE (Chicoine, Mike)

Defendant

SHERIFF'S RETURN OF PERSONAL SERVICE

I hereby certify that on the **21st day of February, 2023**, a **Petiton for Declaratory Ruling**, in the above entitled action, came into my hand for service. That on the **28th day of February, 2023** at **9:03 PM**, in said county, I **did serve the documents on MICHAEL JAMES CHICOINE**.

By then and there delivering to and leaving with: **CHICOINE, MICHAEL JAMES** at **32926 482nd Ave, Jefferson, SD 57038**

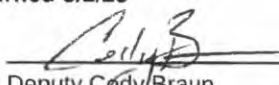
Item	Amount Owed	Amount Paid
Mileage Fee	\$20.40	\$0.00
Sheriffs Fee	\$50.00	\$0.00
	<b>Total Owed</b>	<b>\$70.40</b>
	<b>Total Paid</b>	<b>\$0.00</b>
	<b>Uncollectible</b>	<b>\$0.00</b>
	<b>Remaining</b>	<b>\$70.40</b>

Invoice # 23-00324  
Crary, Huff, Ringgenberg, Hartnett & Storm, P.C.  
P.O. Box 27, 329 Pierce St., Ste. 200, Sioux City, IA 51102

Comments

Date Returned 3/1/23

Signed

  
Deputy Cody Braun  
Union County Sheriff's Office  
209 East Main, Suite 250  
Elk Point, SD 57025  
Phone: (605) 356-2679  
Fax: (605) 356-3356

Date

3/1/2023

FIRST JUDICIAL COURT

Return # 23953  
Process # C23-00146  
Docket #  
Reference #

STATE OF SOUTH DAKOTA  
COUNTY OF UNION

State Of SD Department Of Agriculture & Natural  
Resources Water Managment Board

Plaintiff,

- vs -

Dakota Bay, LLC

Defendant

SHERIFF'S RETURN OF PERSONAL SERVICE

I hereby certify that on the **21st day of February, 2023**, a **Petiton for Declaratory Ruling**, in the above entitled action, came into my hand for service. That on the **10th day of March, 2023** at **6:51 PM**, in said county, I **did serve the documents on Dakota Bay, LLC.**

By then and there delivering to and leaving with: **CHICOINE, MICHAEL JAMES (Dakota Bay, LLC)** at **32926 482nd Avenue, Jefferson, SD 57038**

Item	Amount Owed	Amount Paid
Mileage Fee	\$22.90	\$0.00
Sheriffs Fee	\$50.00	\$0.00
	<b>Total Owed</b>	<b>\$72.90</b>
	<b>Total Paid</b>	<b>\$0.00</b>
	<b>Uncollectible</b>	<b>\$0.00</b>
	<b>Remaining</b>	<b>\$72.90</b>

Invoice # 23-00323  
Crary, Huff, Ringgenberg, Hartnett & Storm, P.C.  
P.O. Box 27, 329 Pierce St., Ste. 200, Sioux City, IA 51102

Comments

Date Returned **3/13/23**

Signed

  
Deputy Cody Braun  
Union County Sheriff's Office  
209 East Main, Suite 250  
Elk Point, SD 57025  
Phone: (605) 356-2679  
Fax: (605) 356-3356

Date

**3/14/2023**



DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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

## Petition

### Opposing Declaratory Ruling by McCook Lake Area Recreation Assn.

**Note.** According to South Dakota Codified Law section 46-2A-4(5), all the following information is required.

**Describe the unique injury approval of the proposed amendment(s) will have upon you.**

The Chief Engineer is a necessary part to the above-entitled action and while it is the Chief Engineer's position that he is inherently a party to this action, this petition is filed out of an abundance of caution.

The Chief Engineer is charged with assisting the Water Management Board with the issuance of appropriative permits and its enforcement of the laws regarding the appropriation and misuse of the waters of the state. As such, the Chief Engineer's duties are directly affected by this requested ruling.

**List the reasons for your opposition.**

The Chief Engineer's reasons for opposing the declaratory ruling include, but are not limited to, the following reasons:

The Chief Engineer is opposed to this requested ruling as set forth in the petition because the petitioner failed to properly serve affected parties pursuant to ARSD 74:02:01:48. The Chief Engineer further opposes the requested ruling as set forth in the petition because such a requirement is not appropriate under the current statutory/regulatory schemes prescribed for the appropriation of water and the alteration of shorelines.

The Chief Engineer opposes the requested ruling as set forth in the public notice as it presents an improper collateral attack on a pending water permit application.

Furthermore, the Chief Engineer opposes any contention that the mere construction of a canal constitutes an appropriation of water. Furthermore, the Chief Engineer opposes any contention by the petitioner that it has a right in the waters of McCook Lake. The petitioner holds a right to Missouri River water and not the waters of McCook Lake.

**Provide name and mailing address of the person filing this petition or the petitioner's legal counsel.**

First Name: Ann Last Name: Mines Bailey

Mailing Address: 1302 E Hwy 14, Suite 1

City: Pierre State: SD Zip: 57501

**Optional contact information.** Phone: (605)773-3215 Email: \_\_\_\_\_

**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."





**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 482<sup>nd</sup> 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](mailto: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





# 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:

McCook Lake Recreation Area Association

Application of SDCL Chapter 46-1

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 22 day of June, 2023

and that the succeeding publications were

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

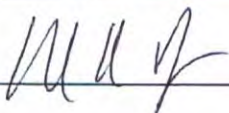
on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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

\$ 63.30, 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 22 day of June, 2023



Notary Public

### NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING REGARDING APPLICATION OF SDCL CHAPTER 46-1 TO PROPOSED SHORELINE ALTERATION OF MCCOOK LAKE, UNION COUNTY, SOUTH DAKOTA

Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to SDCL §§ 1-26-15 and 46-2-5(4) and ARSD § 74:02:01:46. The name of the entity submitting and signing the petition: McCook Lake Recreation Area Association, PO Box 1185, McCook Lake, SD 57049.

The factual situation within the Water Management Board's jurisdiction is as follows:

Michael Chicoine has submitted an "Application for Shoreline Alteration of a South Dakota Public Water Body" for property owned by Dakota Bay, LLC. As detailed in the alteration application, Chicoine intends to expand McCook Lake, an oxbow lake located in Union County, South Dakota, by constructing a "canal" on property adjacent

to the lake and connecting the canal to the lake for the private economic development of Dakota Bay, LLC's property. The South Dakota Department of Agriculture and Natural Resources has stated that Chicoine's expansion of McCook Lake does not require an application to the Water Management Board for a permit to appropriate water.

The applicable statutes and rules are: SDCL §§ 46-1-1, 46-1-3, 46-1-10, 46-1-15

Based on the petition, the requested action and reasons for the requested action are as follows:

Issue a declaratory ruling 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 petition for a declaratory ruling will be considered by the Water Management Board at





10:00 A.M. (Central Time), July 12, 2023, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. The Board may issue one of the following decisions regarding the petition for a declaratory ruling after all the evidence is taken at the hearing: 1) issue declaratory rulings on the requested actions set forth above; 2) take other action as the Board deems warranted after hearing the evidence presented; 3) defer action; or 4) take no action.

Any person who intends to participate in the hearing by opposing the petition for declaratory ruling shall allege that adoption of the petition by the Board will cause injury to the person that is unique from any injury suffered by the public in general. The injury must involve a matter either within the regulatory authority found in SDCL § 46-2A-9, 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 requirements to be a party of record in a contested case hearing

shall file a written petition to oppose the petition for declaratory ruling with BOTH the petitioner and Chief Engineer. A petition opposing the declaratory ruling 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 petitioner's mailing address is given above. A petition filed by an interested person must be filed by July 7, 2023. The person filing the petition for declaratory ruling is a party to the hearing and need not file a petition to intervene.

The petition opposing the petition for declaratory ruling shall be in writing and shall include a statement describing the unique injury upon adoption of the petition for declaratory ruling by the Board, the petitioner's reasons for opposing the declaratory ruling, 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.

Any interested person may file a comment on the petition for declaratory ruling 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 filed comment shall be provided by the Chief Engineer to the Board and become part of the public record. Any comment must be filed by July 7, 2023.

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](mailto:Brian.Walsh@state.sd.us) as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL § 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL § 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is July 7, 2023.

This petition for a declaratory ruling is made pursuant to ARSD §§ 74:02:01:46 thru 74:02:01:49. The Board's legal authority and jurisdiction is found in SDCL §§ 46-2-5, 46-2-9, and 46-2-11. Publish June 22, 2023. Published once at the total approximate cost of \$63.30 and may be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com) 25-3-218

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

CRARY HUFF ATTORNEYS AT LAW  
329 PIERCE ST SUITE 200  
SIOUX CITY IA 51101

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 PETI

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 22nd DAY OF June, 2023  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$68.16 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: 06/22/2023

FILED ON: 06/22/2023



SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF June, 2023

NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES



Ad text : NOTICE OF HEARING ON PETITION FOR A DECLARATORY RULING REGARDING APPLICATION OF SDCL CHAPTER 46-1 TO PROPOSED SHORELINE ALTERATION OF MCCOOK LAKE, UNION COUNTY, SOUTH DAKOTA

Notice is given that a petition for declaratory ruling has been filed with the Water Management Board pursuant to SDCL \*\* 1-26-15 and 46-2-5(4) and ARSD \* 74:02:01:46. The name of the entity submitting and signing the petition: McCook Lake Recreation Area Association, PO Box 1185, McCook Lake, SD 57049.

The factual situation within the Water Management Boards jurisdiction is as follows:

Michael Chicoine has submitted an Application for Shoreline Alteration of a South Dakota Public Water Body for property owned by Dakota Bay, LLC. As detailed in the alteration application, Chicoine intends to expand McCook Lake, an oxbow lake located in Union County, South Dakota, by constructing a canal on property adjacent to the lake and connecting the canal to the lake for the private economic development of Dakota Bay, LLCs property. The South Dakota Department of Agriculture and Natural Resources has stated that Chicoines expansion of McCook Lake does not require an application to the Water Management Board for a permit to appropriate water.

The applicable statutes and rules are: SDCL \*\* 46-1-1, 46-1-3, 46-1-10, 46-1-15

Based on the petition, the requested action and reasons for the requested action are as follows:

Issue a declaratory ruling 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 Chicoines/Dakota Bay, LLCs private use, because the proposed construction appropriates the water of McCook Lake and would also unlawfully impair the McCook Lake Recreation Area Associations water rights.

The petition for a declaratory ruling will be considered by the Water Management Board at 10:00 A.M. (Central Time), July 12, 2023, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. The Board may issue one of the following decisions regarding the petition for a declaratory ruling after all the evidence is taken at the hearing: 1) issue declaratory rulings on the requested actions set forth above; 2) take other action as the Board deems warranted after hearing the evidence presented; 3) defer action; or 4) take no action.

Any person who intends to participate in the hearing by opposing the petition for declaratory ruling shall allege that adoption of the petition by the Board will cause injury to the person that is unique from any injury suffered by the public in general. The injury must involve a matter either within the regulatory authority found in SDCL \* 46-2A-9, 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 requirements to be a party of record in a contested case hearing shall file a written petition to oppose the petition for declaratory ruling with BOTH the petitioner and Chief Engineer. A petition opposing the declaratory ruling 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 petitioner's mailing address is given above. A petition filed by an interested person must be filed by July 7, 2023. The person filing the petition for declaratory ruling is a party to the hearing and need not file a petition to intervene.

The petition opposing the petition for declaratory ruling shall be in writing and shall include a statement describing the unique injury upon adoption of the petition for declaratory ruling by the Board, the petitioner's reasons for opposing the declaratory ruling, 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.

Any interested person may file a comment on the petition for declaratory ruling 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 filed comment shall be provided by the Chief Engineer to the Board and become part of the public record. Any comment must be filed by July 7, 2023.

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](mailto:Brian.Walsh@state.sd.us) as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL \* 1-26-17(7) notices must state that if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL \* 1-26-17. This is a Notice of Hearing; service is being provided by publication, and the applicable date to give notice to the Chief Engineer is July 7, 2023.

This petition for a declaratory ruling is made pursuant to ARSD \*\* 74:02:01:46 thru 74:02:01:49. The Board's legal authority and jurisdiction is found in SDCL \*\* 46-2-5, 46-2-9, and 46-2-11.

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**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>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**MARK W. BARNETT**  
CHIEF DEPUTY

July 21, 2023

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

John M. Hines, Attorney  
Crary Huff Law Firm  
P.O. Box 27  
Sioux City, IA 51102  
[jhines@craryhuff.com](mailto:jhines@craryhuff.com)

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

Dakota Bay  
Michael Chicoine  
32926 482<sup>nd</sup> 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 Request for Declaratory Ruling by McCook Lake Recreation  
Area Association*

Dear Mr. Larson:

Enclosed please find a copy of the Chief Engineer's Prehearing Brief and Certificate of Service in the above-referenced file.

Sincerely,

A handwritten signature in cursive script, 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

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

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IN THE MATTER OF REQUEST FOR )	CHIEF ENGINEER'S
DECLARATORY RULING BY )	PREHEARING BRIEF
MCCOOK LAKE RECREATION AREA )	
ASSOCIATION )	

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Comes now, the Chief Engineer and presents this prehearing brief to the Water Management Board outlining the issues before the Board and the position of the Chief Engineer on each.

**BACKGROUND**

Pending before the Water Management Board is a petition for declaratory ruling from the McCook Lake Recreation Area Association (Association). The Association seeks a declaratory ruling from that Board "that the alteration of a public water body by a private party requires a permit for the appropriation of water, consistent with Mr. Gronlund's testimony to the Agriculture and Natural Resources Committee and consistent with State law." Accompanying the petition, is a sheriff's return of personal service on Michael James Chicoine.

The facts set forth in the petition provide that "representatives of the South Dakota Department of Agriculture and Natural Resources have told the Association that the expansion of a public lake by a private party does not require a permit to appropriate water." The petition further provides that Chief Engineer Eric Gronlund testified to the South Dakota House Agriculture and

Natural Resources Committee regarding the potential effects of HB 1134 as amended. HB 1134, as amended, proposed to require that an applicant for “a permit authorizing the construction of a channel, or any other shoreline modification that would artificially expand the water surface of an artificial body of water by more than four thousand square feet” would be required to submit evidence of the consent of a majority of landowners before the permit could be issued.<sup>1</sup> The petition provides that Chief Engineer Gronlund testified that HB 1134 “‘potentially circumvents any opportunity for a full hearing on the merits of an application’ and that ‘a well-established water rights procedure affording the opportunity for meaningful public participation and public hearing is potentially being upended.’” The Association contends that that these two representations are contradictory and that therefore this declaratory ruling is necessary. The petition concludes by asking that the Board “issue a Declaratory 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.”

Attached to this petition is a letter from the Association, signed by Dick Lohry, President, to William Larson, Chairman of the Water Management

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<sup>1</sup> HB 1134 as originally proposed required that before “a permit authorizing the construction of a channel, canal, ditch, outlet, or any other shoreline alteration, which the issuing entity determines is likely to raise or lower the water level of a public lake” could be issued by any state agency or political subdivision, the applicant would have to submit written evidence of consent of the majority of all property owners. It was amended at the beginning of the committee hearing to the language presented in the body of this motion.

Board. The letter is dated December 5, 2022. The letter provides that Mike Chicoine “has applied for several permits to construct a canal off the southeast end of McCook Lake”.<sup>2</sup> The Association holds two water right permits authorizing the use of water from the Missouri River which the Association pumps into McCook Lake in an effort to maintain the water elevation. The letter continues on to express concerns that construction of a canal as proposed by Mr. Chicoine will result in “the appropriation of water from McCook Lake to meet the evaporation and seepage losses from the [c]anal.” The letter further asserts that the “[t]aking of the Lake water is a taking from the [Association] water right which must be appropriated as required by law.”

The public notice, prepared by the Association, provides that the Association is seeking a ruling 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.”<sup>3</sup>

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<sup>2</sup> The letter provides that a copy of Mr. Chicoine’s application for a shoreline alteration permit is attached but it does not appear that the attachment was submitted with the petition.

<sup>3</sup> At the June 30, 2023, hearing regarding the motion to continue this matter from its originally scheduled July 12, 2023, hearing date, counsel for the Association represented that the issue as to whether Mr. Chicoine’s Dakota Bay’s project would unlawfully impair the Association’s water rights would not be before the Board in this matter.



Mr. Chicoine has submitted an application for a shoreline alteration permit to the South Dakota Department of Game, Fish and Parks (SDGFP), who is authorized to issue such permits. Mr. Chicoine's application proposes to construct a canal from McCook Lake into an area currently comprised of farmland to provide lake access to a residential development planned for that location. The canal construction will consist of an 11-feet deep, 110-feet wide canal that is approximately 1,800 feet in length. SDGFP expressed concerns about the integrity of the canal liner if the liner dried out, cracked, or floated. SDGFP informed Mr. Chicoine that his application for a shoreline alteration permit would be held in abeyance until a water right was obtained.

Consequently, to address those concerns, Mr. Chicoine applied for a water permit (Water Permit Application No. 8447-3) to use an existing irrigation well (Water Permit No. 6557-3) to provide an initial fill of the canal and to maintain the integrity of the canal liner by keeping the liner saturated during low water level periods.

### **DISCUSSION**

South Dakota's Administrative Procedures Act requires agencies to provide rules establishing the procedures for the filing and disposition of petitions for declaratory rulings. See SDCL § 1-26-15.<sup>4</sup> The Board, which qualifies as an agency pursuant to SDCL § 1-26-1(1), has been granted the authority to determine the minimum procedural requirements to proceed to a

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<sup>4</sup> "Controversies and disputed questions of fact do not preclude a case from declaratory procedures." *Romey v. Landers*, 392 N.W.2d 415, 418 (S.D. 1986) (citations omitted).

hearing regarding a petition for a declaratory ruling. See SDCL § 46-2-5(4).

Accordingly, the Board has promulgated rules pursuant to SDCL § 46-2-5 regarding the procedures for requesting a declaratory ruling from the Board.

Those rules set forth the requirements of the petition, particularly that a factual situation within the Board's jurisdiction must be submitted. See ARSD § 74:02:01:46. ARSD § 74:02:01:46 provides as follows:

**Request to board for declaratory ruling -- Petition contents.** A person may request the water management board to issue a decision on the applicability of a statutory provision, rule, or order pertaining to a submitted factual situation within the board's jurisdiction by submitting a petition containing the following information:

- (1) The authority by which the petition is presented;
- (2) The name of the person, agency, or groups submitting the petition;
- (3) The requested action and reasons for the action; and
- (4) The signature of the person or the authorization of the group or agency making the petition.

The rules also set forth who a petitioner must serve and provides as follows:

**Petitioner to notify all affected persons.** The petitioner shall serve a copy of the petition upon all known persons whose pecuniary interests would be directly and immediately affected by a declaratory ruling on the petition. Proof of such service shall be filed with the board with the petition. All such parties shall be notified by the chief engineer at least 15 days before the petition is scheduled to be heard. In addition, the petitioner shall publish a notice of hearing describing the contents of the petition pursuant to SDCL 46-2A-4(1) to 46-2A-4(10), as applicable, and SDCL 1-26-17.

ARSD § 74:02:01:48.

#### **A. Requested Relief**

Petitioner has altered the requested relief throughout the course of this matter. The rules require that the petitioner set forth the requested action and the reasons for the action. The rules then require public notice "describing the

contents of the petition.” The requested relief has been significantly altered from its initial presentation to what was set forth in the public notice and then again modified during the hearing to continue this matter. Such actions are in contravention of the rules. Petitioner should not be allowed to alter the request in this manner nor be allowed to seek any relief beyond that requested in the public notice.

Regardless of the uncertainty as to which question is being presented (the petition, the letter, or the public notice), the Chief Engineer asserts that the Association has not complied with the rule requiring service upon all parties “whose pecuniary interests would be directly and immediately affected” by the requested ruling. If the hearing is proceeding as to the requested relief sought in the petition, then the Chief Engineer believes that, at the very least, all landowners surrounding McCook Lake would have to be served.<sup>5</sup>

The requested relief in the petition seeks a ruling that any shoreline alteration by a private individual would require a water appropriation permit. Shoreline alteration permits are administered by SDGFP. Its official position regarding alterations is set forth in the 2023 Fishing Handbook which is issued by the State. It provides, in pertinent part,

Activities for which a permit may be required include: construction of ditches or channels[;] dredging or excavating to remove sediment, or

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<sup>5</sup> It is the position of the Chief Engineer that this conclusion is correct only because the petition refers to an attached letter setting forth the facts upon which the petition is based. That letter specifically discusses McCook Lake and thus narrows “public water body” to McCook Lake. Otherwise, the ruling could be applicable to all public waters in the state as the South Dakota Supreme Court has held that all water is public. *Duerre v. Hepler*, 2017 S.D. 8, ¶38, 892 N.W.2d 209, 222.

rock[;] seawall installation or repairs[;] retaining wall or breakwater construction[;] rip-rap installation or repairs[;] filling or creating artificial beach[;] stockpiling brush, trees, vegetation, construction materials or debris in the lake or on the shore[;] removal or clearing of aquatic vegetation[;] any other activity that may have an impact on the lake, lakebed, or lakeshore[.]

South Dakota Game, Fish and Park, *2023 Fishing Handbook*, 65 (2023), available at <https://www.flipsnack.com/sdgamefishparks/2023-south-dakota-fishing-handbook.html>.

Given the nature of the request within the petition, the landowners with property touching McCook Lake would need to be served.<sup>6</sup> Presumably many landowners whose property abuts McCook Lake will engage in some sort of activity which may constitute a shoreline alteration. Requiring a water appropriation permit for any alteration on a “public water body” (interpreted as McCook Lake) would necessarily have a pecuniary impact on every landowner who possesses land abutting a “public water body” (interpreted as McCook Lake) especially when an “alteration” includes such actions as the building of a dock or deck that may extend over the shoreline, installation of rip rap along a shoreline, construction of retaining walls and breakwaters, and removal or clearing of aquatic vegetation among other things.<sup>7</sup> Moreover, these

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<sup>6</sup> It is the undersigned counsel’s understanding, based on sworn statements made on behalf of the Association during legislative committee hearings and the petition in this matter, that membership in the Association is voluntary and that not all the property owners surrounding McCook Lake are members of the Association. This understanding is further buttressed by the statement in the Association’s letter indicating that it “functions on donations and volunteerism.”

<sup>7</sup> This may seem an absurd result, but the requested ruling in the petition is quite broad.

landowners are “known” as one need only look at the pertinent county property records. There may also be other individuals who should also be required to be served. Determination of those individuals would undoubtedly be more difficult but not impossible. Additionally, the Chief Engineer asserts that SDGFP, which has responsibility for the issuance of permits to alter a shoreline, would arguably have a pecuniary interest in a proceeding such as this.<sup>8</sup>

Further, as previously discussed, the petitioner is required by ARSD § 74:02:01:48 to “publish a notice of hearing describing the contents of the petition pursuant to SDCL 46-2A-4(1) to 46-2A-4(10), as applicable, and SDCL 1-26-17.” Here, the public notice fails to indicate the relief requested in the petition. Rather, the public notice sets forth that the relief requested is

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[]

as opposed to the petition which seeks

a Declaratory 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.

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<sup>8</sup> The Chief Engineer is not asserting any obligation for GF&P to participate in the hearing only that GF&P should be given notice and an opportunity to participate.



What was set forth in the public notice cannot be fairly said to place the public, or those landowners whose pecuniary interests in their land would be affected, on notice of the broad scope of the requested relief. Thus, the Association should be limited to the relief requested in the public notice and as further limited by counsel during the June 30, 2023 hearing before the Board.

### **A. Appropriation**

The petitioner asserts that the construction of the canal would constitute an appropriation. A basic understanding of South Dakota water law is helpful when interpreting the statutes. At the time of statehood, South Dakota utilized a riparian system of water rights. Under a riparian system, the right to use water results from possessing land which borders, or through which runs, a watercourse. Water rights, therefore, were necessarily appurtenant to the land.

In 1905, the South Dakota Legislature, however, adopted the doctrine of prior appropriation. *Parks v. Cooper*, 2004 S.D. 27, ¶ 29, 676 N.W.2d 823, 833. Prior appropriation provides framework for determining who gets to use water during times of scarcity. Water rights are granted and protected based upon when the claim is made. During times of scarcity of water, those rights which were granted first have priority and will receive water before those rights which were granted later. It is often shortened to “first in time, first in right.” See SDCL § 46-5-7.

While South Dakota utilizes a prior appropriation system now, it recognizes those riparian rights which existed prior to the adoption of prior appropriation framework. With regard to either a riparian or a prior

appropriation water right, the right is merely usufructuary. See SDCL §§ 46-1-3 and 46-5-30.2. The user of the appropriated water may only use the appropriation for the purpose set forth in the permit and once used or released the right to use is extinguished. Unlike rights under the riparian system, water rights under the prior appropriation system can be forfeited or abandoned if not used.

Under South Dakota law, “[e]xcept as otherwise provided throughout this title, no person may appropriate the waters of this state for any purpose without first obtaining a permit to do so.” SDCL § 46-1-15. Thus, central to understanding this water permitting scheme is understanding what constitutes an appropriation.

“Appropriation” is not defined in statute. The plain meaning of “appropriation” is “the exercise of control over property....” *Black’s Law Dictionary* (11th ed. 2019). Likewise, Merriam Webster defines “appropriate” as “to take exclusive possession of ...; to set apart for or assign to a particular purpose or use” and further provides that synonyms for “appropriation” include “allocation”, “allotment”, and “entitlement”. See *Appropriate Definition*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/appropriate#h2> (last visited 7/17/23); and *Appropriation Definition*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/appropriation> (last visited 7/17/23). With these definitions in mind, the statute can then be understood to require a permit

before control or possession of water may be had or before water can be set aside for a particular purpose.

Additionally, it is generally understood in western water law that an appropriation requires the beneficial use of the water. That concept is a constant throughout South Dakota's statutory scheme and is most evident in the fact that an appropriation may be canceled for failure to place water to beneficial use. *See* SDCL §§ 46-5-25, 46-5-31.1, 46-5-36, 46-5-37, 46-5-37.1 (all providing for the cancellation of a water right for failure to place the water to beneficial use).

Under South Dakota law, an appropriation permit can be issued in several variations: a "traditional" permit, a future use permit, a temporary use permit, or a temporary permit for use of public waters for construction, testing, or drilling. *See* SDCL §§ 46-2A-9, 46-5-38, 46-5-39, and 46-5-40.1. Each permit has a slight variation in the requirements and conditions for issuance.

Here, it is the position of the Chief Engineer that the proposed canal, as originally presented, does not constitute a continuing appropriation of water from McCook Lake and does not require a "traditional" water permit.<sup>9</sup> The Chief Engineer asserts that this initial fill could be made through use of a temporary permit for use of public water for construction, testing, or drilling

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<sup>9</sup> Mr. Chicoine filed Water Permit Application No. 8744-3 to satisfy a condition for approval of the SD GF&P Shoreline Alteration Permit. As a result, he has applied for a new permit to allow use of his irrigation well for a one-time fill of the canal and thereafter to keep the canal liner wet as a condition for issuance of the Shoreline Alteration Permit.

purposes.<sup>10</sup> Once that initial fill is made, the water in the canal becomes inseparable from the waters of McCook Lake. It is not set apart. Mr. Chicoine would not be able to exercise possession or control over the water.

To the extent that the Association asserts that the law requires a permit in place to cover evaporation or seepage, such an assertion is not an accurate reading of the law. The occurrence of evaporation or seepage are a natural part of the hydrologic cycle. Water permits are not required for evaporation or seepage. Such occurrences are not beneficial uses. They are byproducts of nature. To adopt petitioner's logic would, for example, also require an individual who has received a water right to impound water in a dry draw dam to also obtain a water right for evaporation and seepage. Stated another way, applying the Association's logic specifically to McCook Lake, any property owner on McCook Lake who is not a member of the Association's efforts to offset seepage and evaporation losses through the Association's Missouri River

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<sup>10</sup> Such a temporary permit is authorized by SDCL § 46-5-40.1 which provides:

The Water Management Board may promulgate rules to authorize the chief engineer to issue temporary permits for the use of public water for construction, testing, or drilling purposes. No temporary permit is valid after December thirty-one of the year in which the permit is issued. No temporary permit may be issued if the permit interferes with or adversely affects prior appropriations or vested rights. A temporary permit shall contain qualifications and limitations necessary to protect the public interest. The issuance of a temporary permit is permission to use public water on a temporary basis and does not grant any water rights.

The rules promulgated by the Board regarding temporary permits for use of public waters for construction can be found at ARSD §§ 74:02:01:32 through 74:02:01:34.02.

water rights/permits would either be required to support the Association or obtain their own water right to offset water evaporation and seepage *and* be compelled to utilize that right.

### **B. Unlawful Impairment**

The Association's requested relief, as set forth in the public notice, requests the Board to rule that Mr. Chicoine's proposed canal would result in an unlawful impairment of their existing water rights. The term "unlawful impairment" is not precisely defined by statute. However, in western water law, unlawful impairment is understood as the inability to obtain the water to which one is lawfully entitled to use because of someone else's use. Unlawful impairment then occurs when a junior water right in the same water source prevents a senior water right from obtaining its lawful allocation.

The Board having received the mandate to place water to maximum beneficial use and the corresponding obligation to prevent the unlawful impairment of existing rights, promulgated rules setting forth requirements necessary to receive protection under the law. In the case of ground water, to receive protection, the Board has determined that a well must meet the definition of "adequate well". See ARSD §§ 74:02:04:20(6) and 74:02:04:23.01. This definition requires that the potentially impaired well be constructed in a manner that allows the pump to be placed at least 20 feet below the top of the aquifer or as near to the bottom of the aquifer as possible if the aquifer is less than 20 feet. Likewise, an unlawful impairment of a domestic well has also



been defined as an adequate well that “will no longer deliver sufficient water for the well owner’s needs”. See ARSD § 74:02:04:20(7).

The Association holds two water permits/rights, Water Right No. 5878A-3 and Water Permit No. 6479-3. These water permits/rights authorize a withdrawal of surface water from the Missouri River to maintain/stabilize the lake levels in McCook Lake. Nothing about the proposed canal will impede the Association’s ability to withdraw water from the Missouri River. There simply is no unlawful impairment.

The Association additionally asserts in the letter attached to the petition “Taking of the Lake water is a taking from the [Association’s] water right which must be appropriated as required by law.” First, the Association has no right to the water in McCook Lake. The Association’s rights are to divert water from the Missouri River to McCook Lake. There is no possessory right to the water at any time – only a right to use. Moreover, the Association is divested of the right to use the Missouri River diversions once deposited in McCook Lake. The Association cannot remove the water or place the water to a different beneficial use other than to stabilize the lake level. Moreover, to adopt the Association’s reasoning would be to grant them a *de facto* right to the entirety of the volume of water in McCook Lake merely because they have the right to pump when the lake elevation drops to 1090.3 feet msl.<sup>11</sup>

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<sup>11</sup> The Board has set the ordinary high water mark for McCook Lake at 1090.7 feet msl.

For the reasons set forth above, the Chief Engineer requests that Board deny the requested ruling and instead rule that the mere construction of a canal, or alteration of a shoreline, without more information, does not necessarily require obtaining a "traditional" permit for an appropriation of water. The Chief Engineer further requests that the Board deny any requested ruling that Mr. Chicoine's proposed project unlawfully impairs the Association's water rights to divert water from the Missouri River.

Dated this 21st 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*

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

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IN THE MATTER OF REQUEST FOR  
DECLARATORY RULING BY MCCOK  
LAKE RECREATION AREA  
ASSOCIATION

)  
)  
)  
)  
CERTIFICATE OF SERVICE

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The undersigned hereby certifies that true and correct copies of the Chief Engineers Prehearing Brief, in the above matter, were served by U.S. mail, first-class, postage prepaid, upon the following on this 21st 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

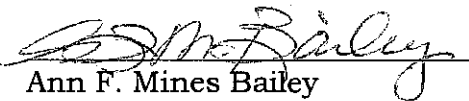
David M. McVey  
Assistant Attorney General  
Counsel for Water Management Board  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
(Hand-delivered)

William Larson, Chairman  
Water Management Board  
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](mailto:Ann.MinesBailey@state.sd.us)

*Counsel for Water Rights Program, DANR*



**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:**

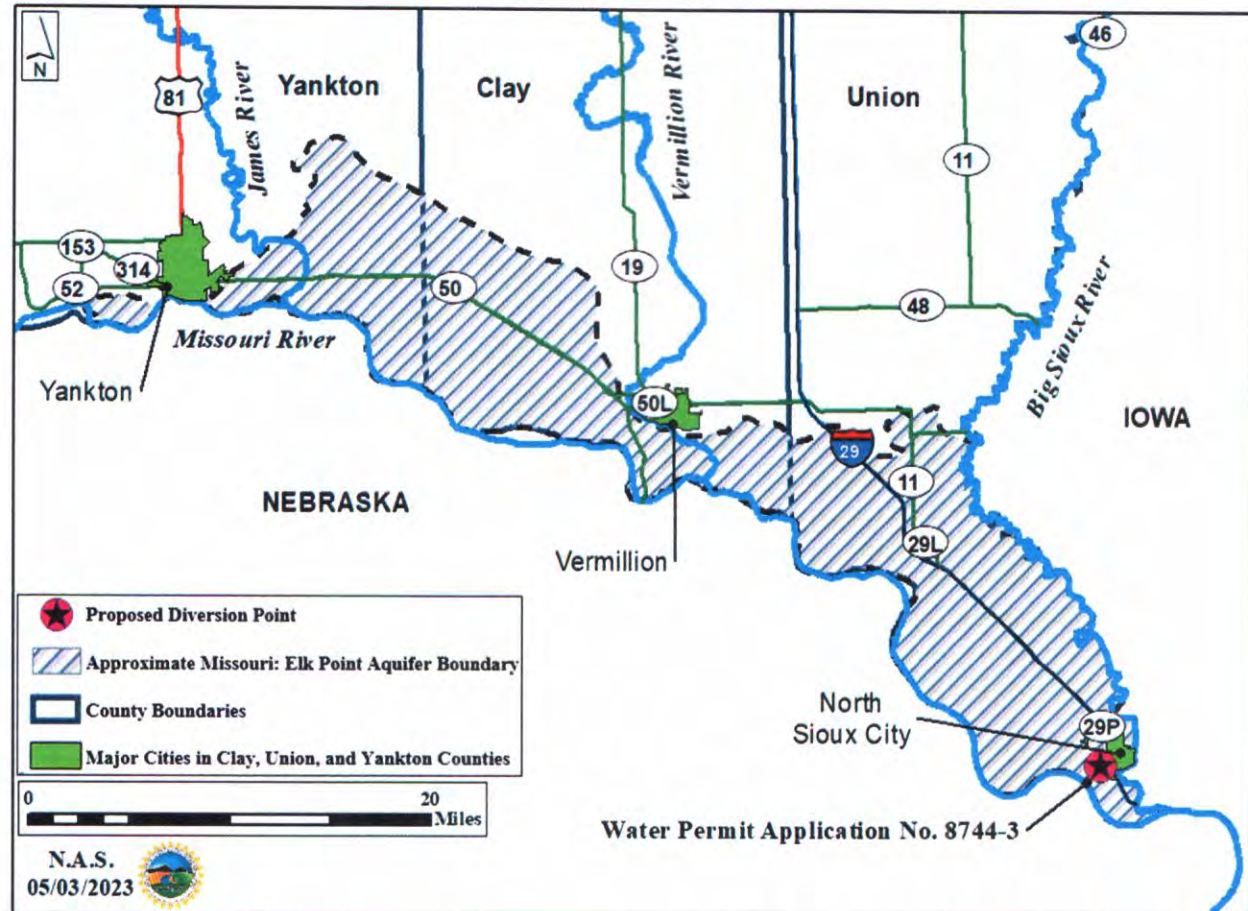
The Missouri: Elk Point aquifer is a glacial outwash deposit consisting of fine sand to very coarse gravel (Niehus, 1997). The Missouri: Elk Point aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties in South Dakota, and the aquifer contains approximately 3,287,100 acre-feet 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 DNR-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*
						<b>TOTAL:</b>	<b>70,648</b>
*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)

	<b>RP Constructors</b>	<b>Stockmen's Livestock Inc</b>	<b>Clay RWS Inc</b>	<b>Doug Lafleur</b>	<b>City of Vermillion</b>	<b>City of Yankton</b>	<b>Lewis and Clark RWS</b>
	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
<b>Max</b>	0.2	5.5	525	202	1,440	3,065	23,537
<b>Min</b>	0.0171	1	21	98	1,071	66	0
<b>Avg</b>	<b>0.091</b>	<b>3.57</b>	<b>281</b>	<b>162</b>	<b>1,237</b>	<b>1,410</b>	<b>14,425*</b>

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)

<b>Year</b>	<b>No. of Permits Reporting</b>	<b>Reported Pumpage (acre-feet)</b>
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
<b>Min</b>	<b>259</b>	<b>1,475.2</b>
<b>Max</b>	<b>575</b>	<b>56,994.7</b>
<b>Avg (1979 to 2021)</b>	<b>369</b>	<b>18,703</b>
<b>Avg (2012 to 2021)</b>	<b>553</b>	<b>27,247</b>



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
			<b>TOTAL:</b>	<b>809.6</b>	<b>735.1</b>

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)

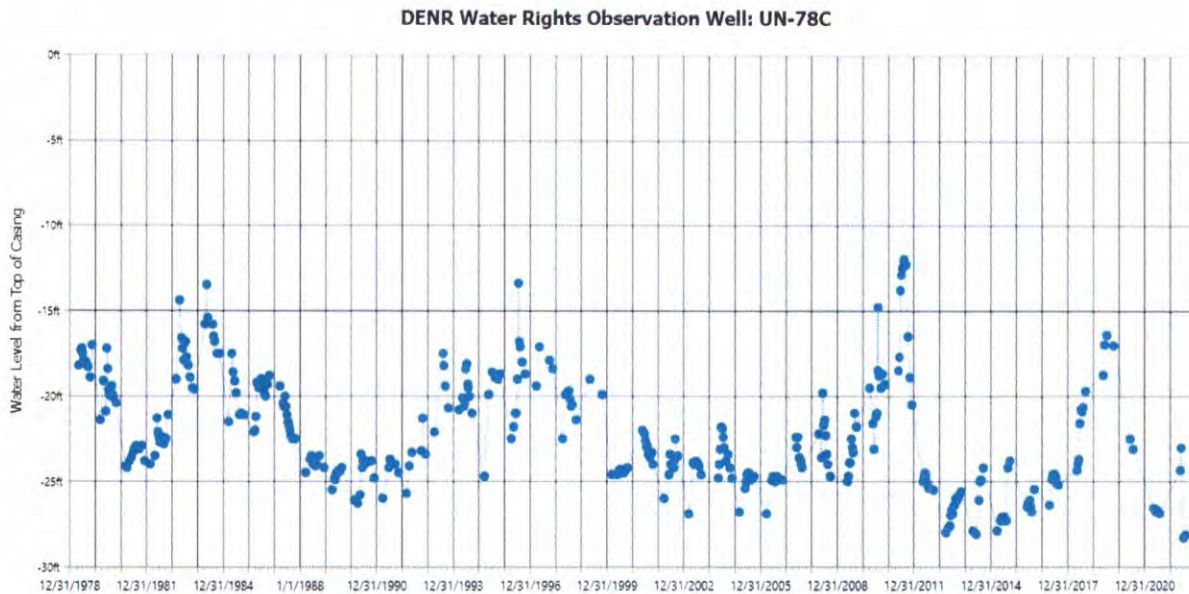
Type of Water Right/Permit	Estimated Use (acre-feet/year)
Future Use Reservations	1,900
Non-Irrigation	70,648
Irrigation (Mathiowetz's (2022) turf and crop application rates) including pending applications: Nos. 8727-3 and 8739-3	28,014
Application No. 8744-3 (if approved, assuming full volume - 20.61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



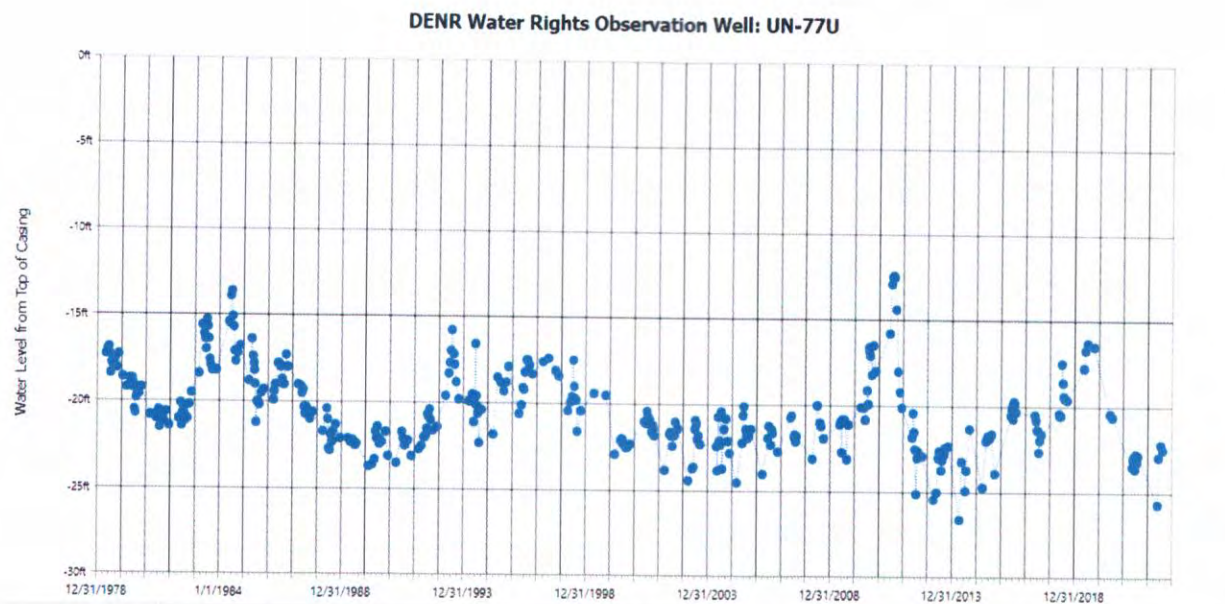
## OBSERVATION WELL DATA:

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.

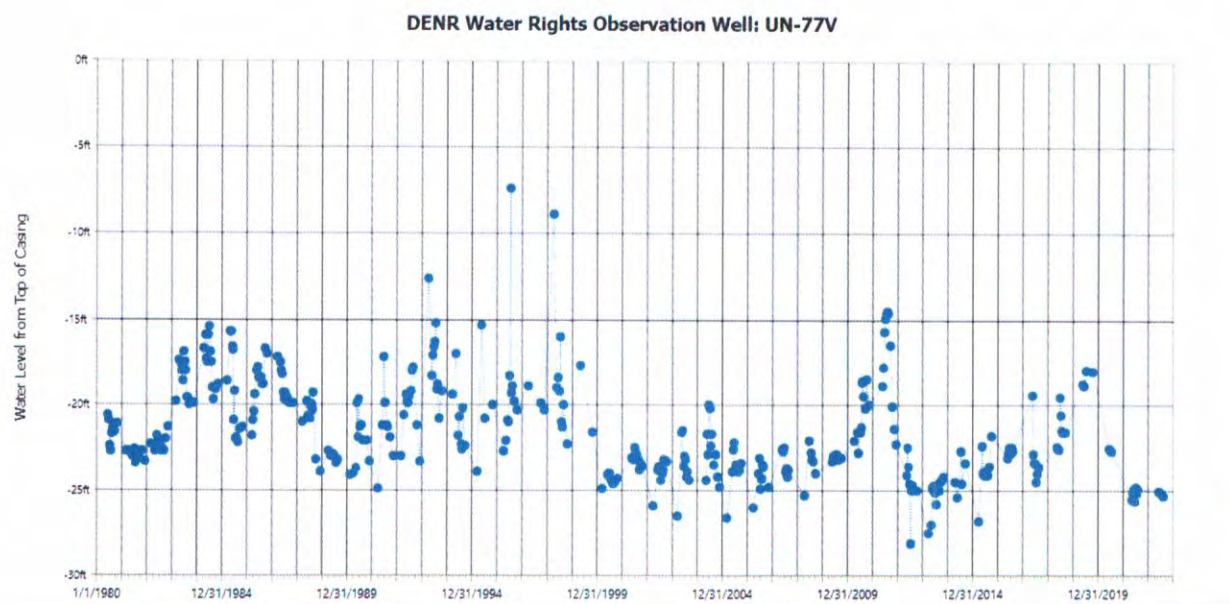
Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023b). The five closest observation wells to the well the applicant proposes 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)

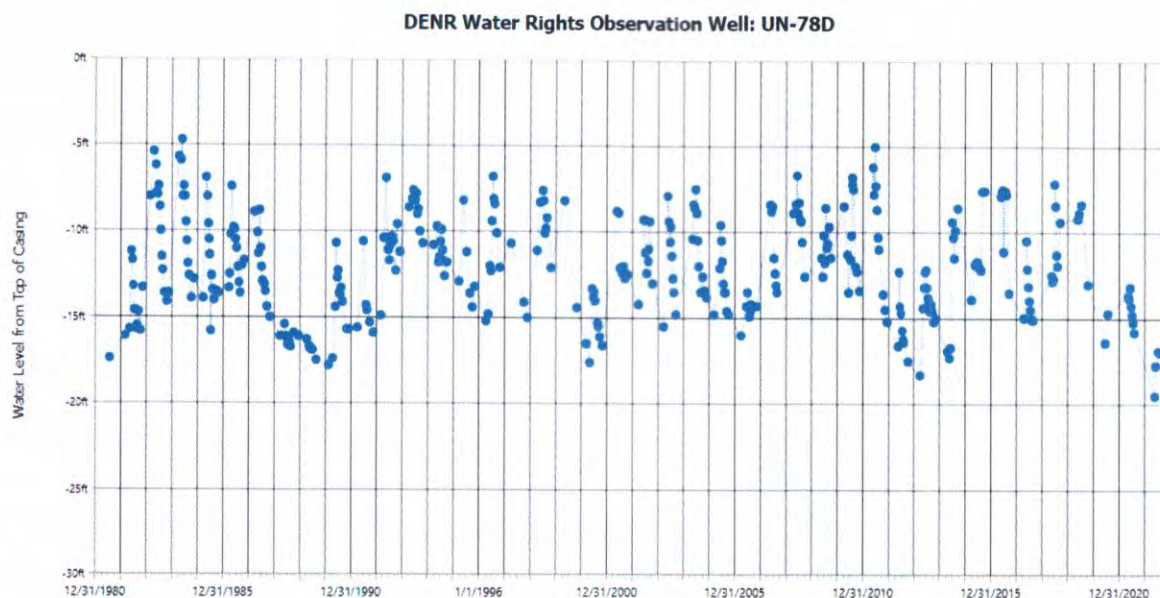


**Figure 3.** Hydrograph for observation well UN-77U (Water Rights, 2023b)

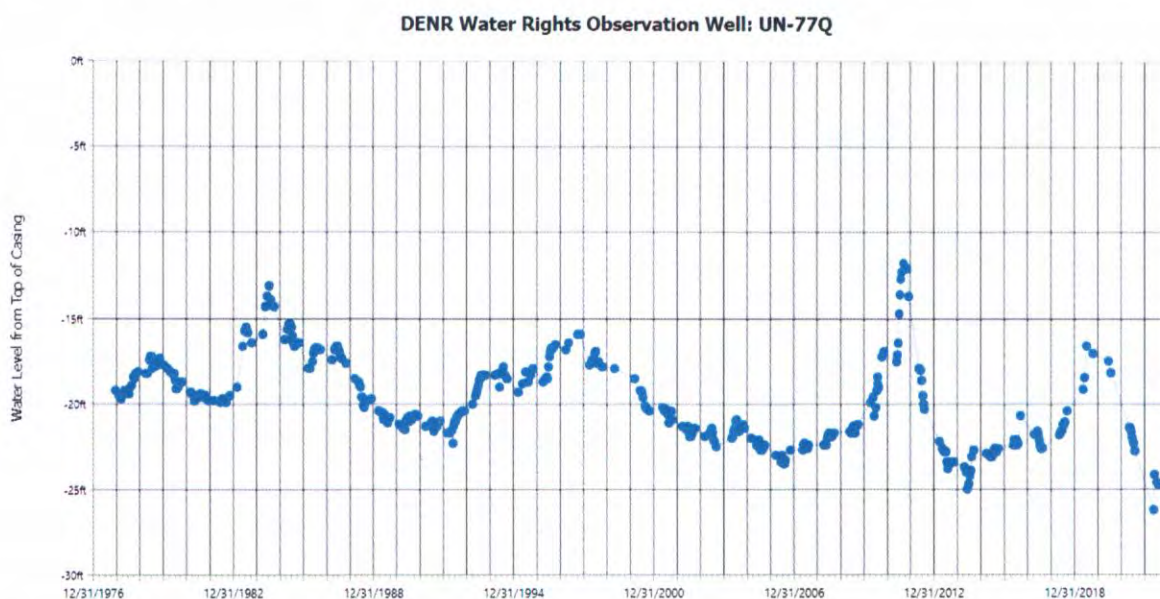


**Figure 4.** Hydrograph for observation well UN-77V (Water Rights, 2023b)





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



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

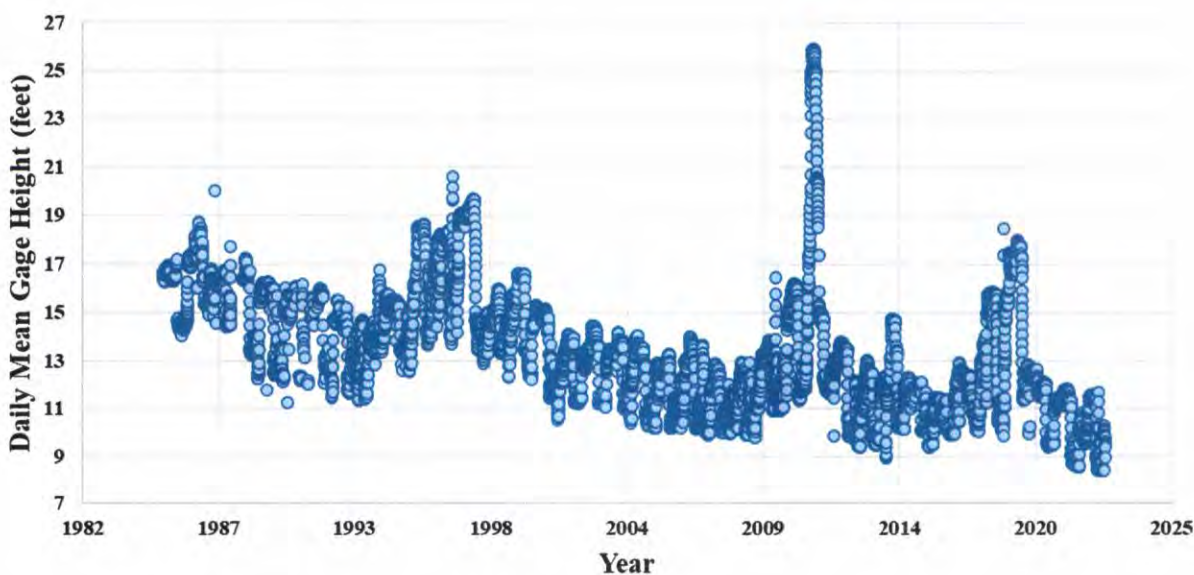
The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Missouri: Elk Point aquifer and each displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 to 6 (Water Rights, 2023b). Several of the Missouri: Elk 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.

**USGS Gage #06467500 Missouri River at Yankton, SD**



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



## POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 647 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus three pending permit applications (two senior, one junior in priority) (Water Rights, 2023c). The nearest diversion points are authorized by Water Right No. 6680-3 and Water Permit Nos. 8381-3 and 8435-3 and are located approximately one mile southeast and west of the existing well location for this application (Table 6) (Figure 8) (Water Rights, 2023c). These water rights/permits are held by Parks & Wildlife Foundation, RP Constructors, and Sioux City Insulation (Water Rights, 2023c).

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.

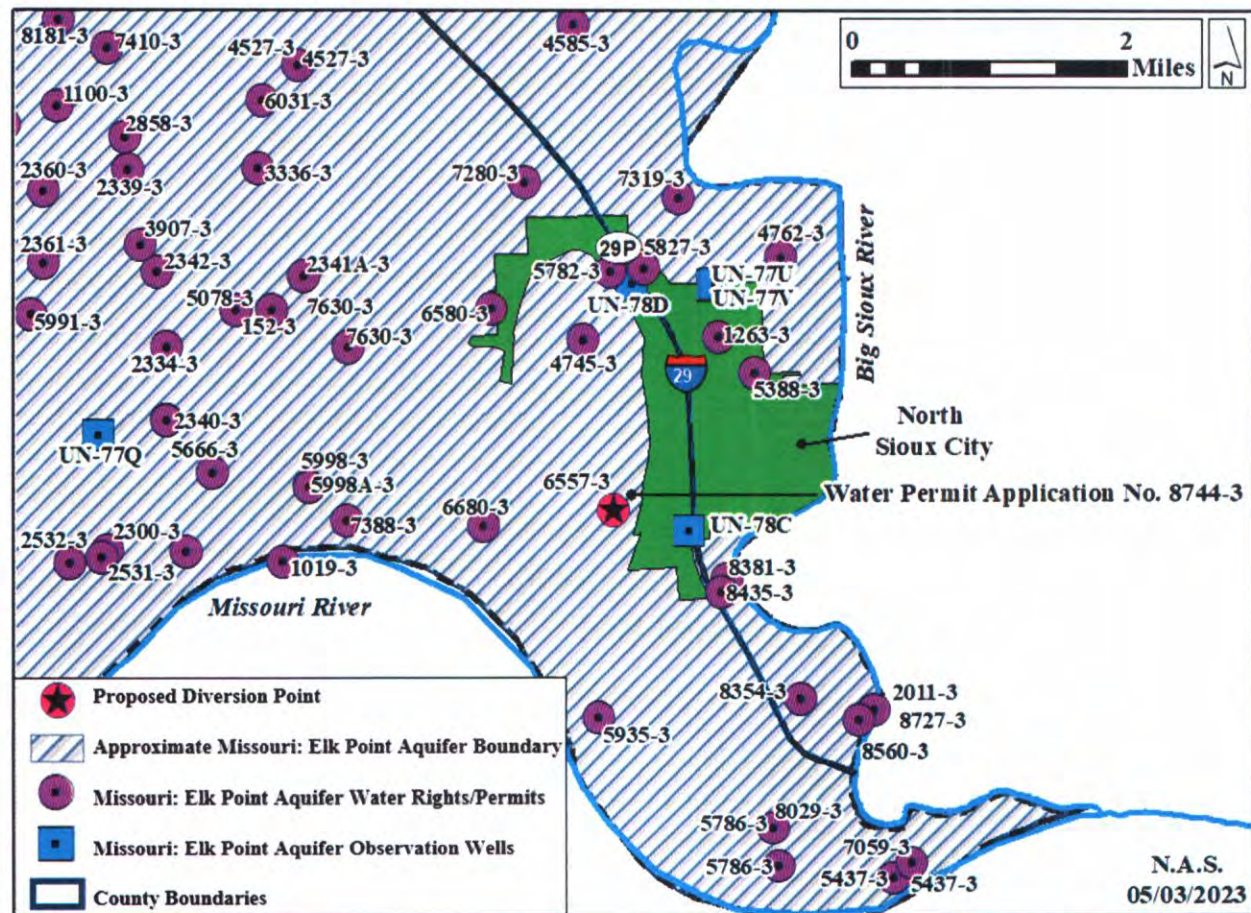


Figure 8. Location of the existing well completed into the Missouri: Elk Point aquifer proposed to be used by Water Permit Application No. 8744-3, with the Missouri: Elk Point aquifer water rights/permits and observation wells within approximately four miles (Water Rights, 2023b and 2023c)



**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*

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

*Adam Mathiowetz*

Adam Mathiowetz, PE



Natural Resources Engineer IV  
SD DANR -Water Rights Program

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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 12, 2023

**NOTICE OF HEARING**

TO: Stacy R. Hegge, Attorney for Dakota Bay      Dakota Bay c/o Michael Chicoine  
Gunderson, Palmer, Nelson & Ashmore      32926 482<sup>nd</sup> 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](mailto: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





# 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

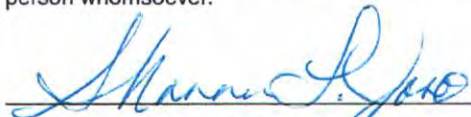
on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

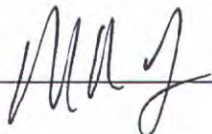
that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 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

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21-2-256

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

JUN 05 2023

OFFICE OF  
WATER

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

STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

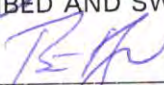
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND 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~~  
05/23/2029



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.

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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.

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Published once at the total approximate cost of \$77.92 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).

Published on June 1, 2023.



**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](mailto:DANRmail@state.sd.us).

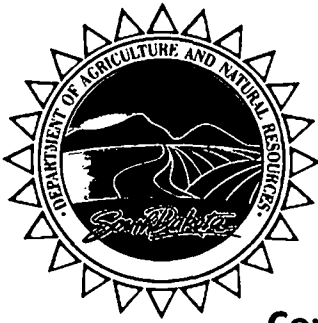
Application No. 8744-3

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](mailto: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](mailto: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: la 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](mailto: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

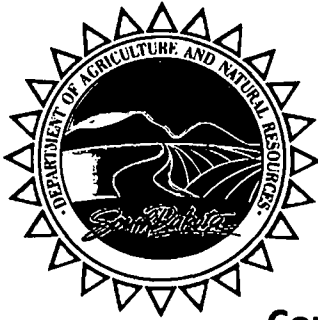
**City:** North Sioux City      **State:** SD      **Zip:** 57049

**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](mailto: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

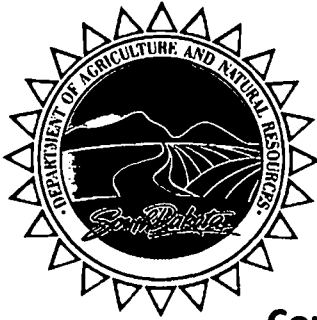
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).



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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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.

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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](mailto: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](mailto: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](mailto: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 concert 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](mailto: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](mailto: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](mailto: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](mailto:DANRmail@state.sd.us).

Application No. 8754-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**

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**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](mailto: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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Dana Chestermay

**Any additional comments:**



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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](mailto:DANRmail@state.sd.us).



Application No. 8744-3

Commenter's Name Amanda Delaney

**Any additional comments:**



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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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Tyler D Jelken

**Any additional comments:**



**DEPARTMENT of AGRICULTURE  
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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](mailto:DANRmail@state.sd.us).



Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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](mailto:DANRmail@state.sd.us).

Application No. 87443

Commenter's Name \_\_\_\_\_

**Any additional comments:**

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JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
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## 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](mailto:DANRmail@state.sd.us).



Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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

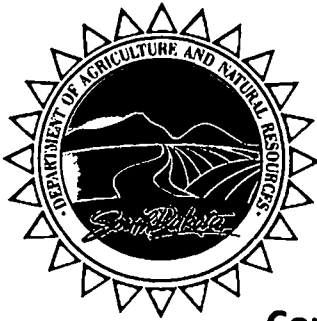
City: Dakota Dunes State: Sc Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Denise Brink

**Any additional comments:**



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## 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](mailto:DANRmail@state.sd.us).



Application No. 8744-3

Commenter's Name Neal

**Any additional comments:**

I feel that is will effect the lake life and the wild life in the area of McCook Lake as well.



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



**DEPARTMENT of AGRICULTURE  
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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](mailto: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**

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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](mailto: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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Melinda DeMarest

**Any additional comments:**



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523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
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## 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](mailto:DANRmail@state.sd.us).



Application No. 8744-3

Commenter's Name Dan DeMarest

**Any additional comments:**



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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

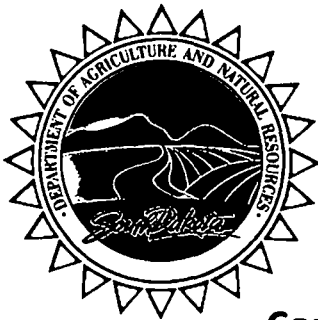
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**

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## 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Aidan Moran

**Any additional comments:**

No expansion





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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](mailto: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**

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523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
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## 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](mailto: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](mailto: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

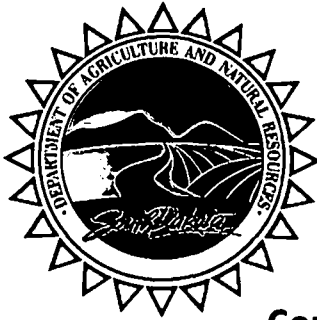
City: Dakota Dunes State: SD Zip: 57049

**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](mailto: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](mailto: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

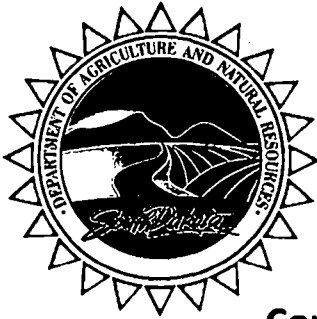
Zip: 51105

**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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**

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**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: Rena Last Name: Hansen

Address: 216 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**

## Duvall, Ron

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**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.**

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**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**

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**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.**

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**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

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**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

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**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 Power 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

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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 Chicoine 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**

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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**

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**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  
  
**Categories:** Blue Category

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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 but have not been able to accomplish this target the past 3 season's. If this canal project is approved 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

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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.

## Duvall, Ron

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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

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**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**

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**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

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**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

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**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

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**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

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**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**

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**Subject:** FW: [EXT] Mccook Lake Canal

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**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:**



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:

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 Cotts 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](mailto: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](mailto:DANRmail@state.sd.us).

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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](mailto:DANRmail@state.sd.us).

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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

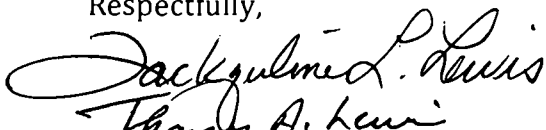
The water is pumped from the Missouri River into the lake. We are now pumping at full capacity. This is laborious and expensive to keep the pumps running. Mr Chicoine undoubtedly will not be around to maintain his gas engine operated irrigation pump for the years to come.

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

Date: 6/11/2023

To: Dept. of Agriculture and Natural Resources  
Joe Foss Building  
523 E. Capitol Ave.  
Pierre, SD 57501-3182

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**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.

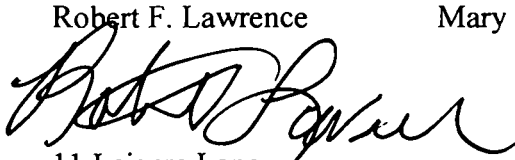
However, there's the constant syphoning of the lake water into the nearby Missouri River due to the lake being more than ten feet above it. Thus, the lake level drops dramatically during the winter months. That coupled with several years of drought has required pumping at maximum capacity beginning in 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.

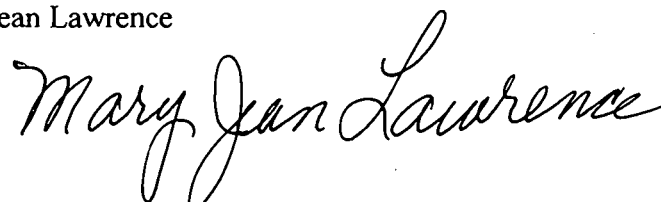
Mr. Chicoine's proposed canal with the amount of water required to make it navigable and connect to the lake would have disastrous consequences. As MLA states, the proposed canal will consume lake water, reducing its ability to maintain lake levels. Thus, we believe the State Water Rights Department 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







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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](mailto:DANRmail@state.sd.us).



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and NATURAL RESOURCESJOE FOSS BUILDING  
523 E. CAPITOL  
PIERRE SD 57501-2  
danr.sd

## Comment

## Concerning Application for a Water Right Permit

Application No.

8744.3

Name of Applicant

Nakota Bay LLC c/o Mr. &amp; Mrs. Chiconne

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

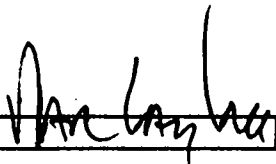
State:

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](mailto:DANRmail@state.sd.us).





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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:

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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 CHIDWELL

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: Amey 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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 DANR-344 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 taxes 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name

Ronnie Lohrey

Any additional comments:

1. Water "pumped from well" on Chaucoine 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 rupture the integrity of the canal.





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PIERRE SD 57501-3182  
danr.sd.gov

## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant DAKOTA BEY, 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](mailto:DANRmail@state.sd.us).

Application-No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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:

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 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

[Empty box for additional comments]



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**Comment**

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and NATURAL RESOURCES  
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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 object to this project as my property borders Mr Chicoine  
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:

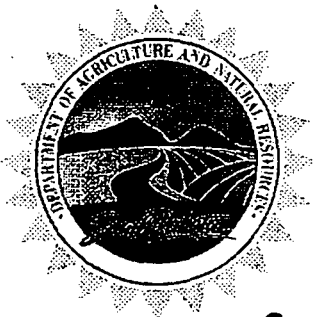
First Name: Kevin Last Name: Hoffman  
Address: 961 Hoffman Rd  
City: NSL State: SD Zip: 57099

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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:

We WANT Mike Chicone TO STOP  
Trying TO Access WATER FROM McCook LAKE  
AFTER THE MILLIONS OF DOLLARS AND COUNTLESS  
HOURS OF VOLUNTEERS WORK TO MAINTAIN THE  
LAKE'S WATER LEVEL.  
  
THANK YOU

Commenter's name and address:

First Name: Left Last Name: Meyer  
Address: 77 North Shore Drive  
City: McCook Lake State: SD Zip: 57049

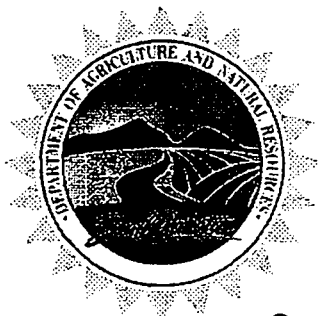
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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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:

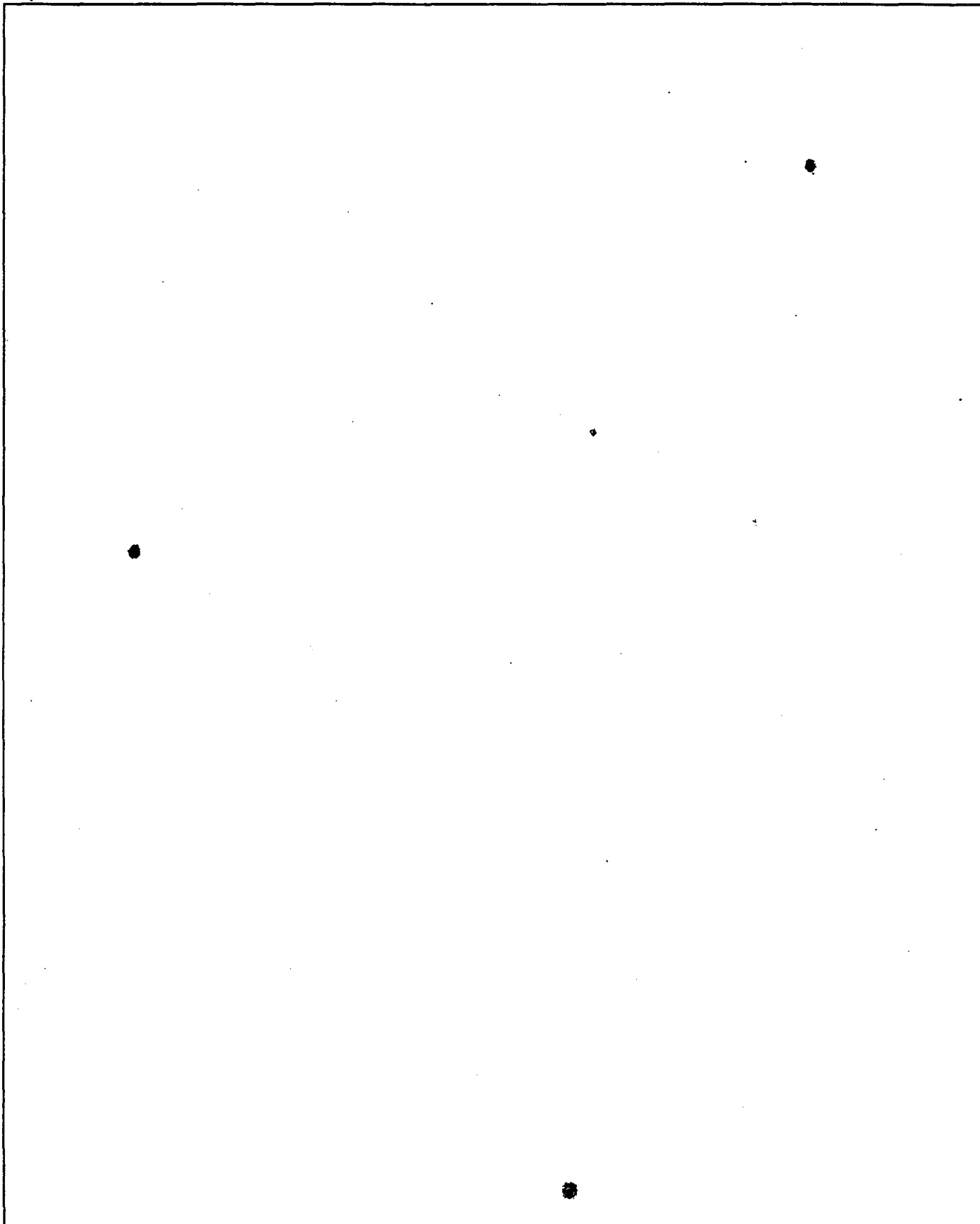
*57049*

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

A large, empty rectangular box with a black border, intended for additional comments. It occupies the majority of the lower half of the page.



RECEIVED

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WATER

DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
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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 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 Chicoine 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 Chicoine'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: Oothoudt  
Address: ~~21 McCook~~ 21 Northshore Drive  
City: McCook Lake State: SD Zip: 57049

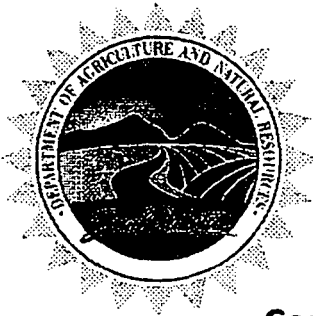
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name

Oothoudt

Any additional comments:



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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 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 MCCOOLARE ASSOC.  
THE CHICOINE APPLICATION SHOULD NOT BE ISSUED

#### Commenter's name and address:

First Name: LEROY Last Name: SKOGLUND

Address: 167 SONCOAST DR

City: MCCOOL 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](mailto:DANRmail@state.sd.us).

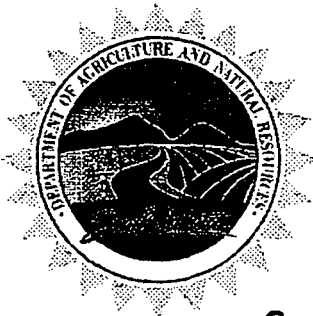
Application No. 8744-3

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Commenter's Name \_\_\_\_\_

Any additional comments:

NOT  
FOR  
TAX



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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 E Terri Avery*

#### Commenter's name and address:

First Name: Mark E 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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## 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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**Comment**

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and NATURAL RESOURCES

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danr.sd.gov

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant DAKOTA BAY, LLC c/o MIKE CHIDWIE

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 ST

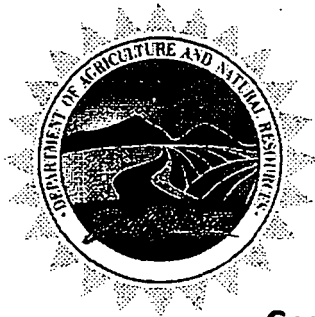
City: NORTH SIOUX CITY State: SD Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant Dakota Bay, LLC c/o Mike Chaloud

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:

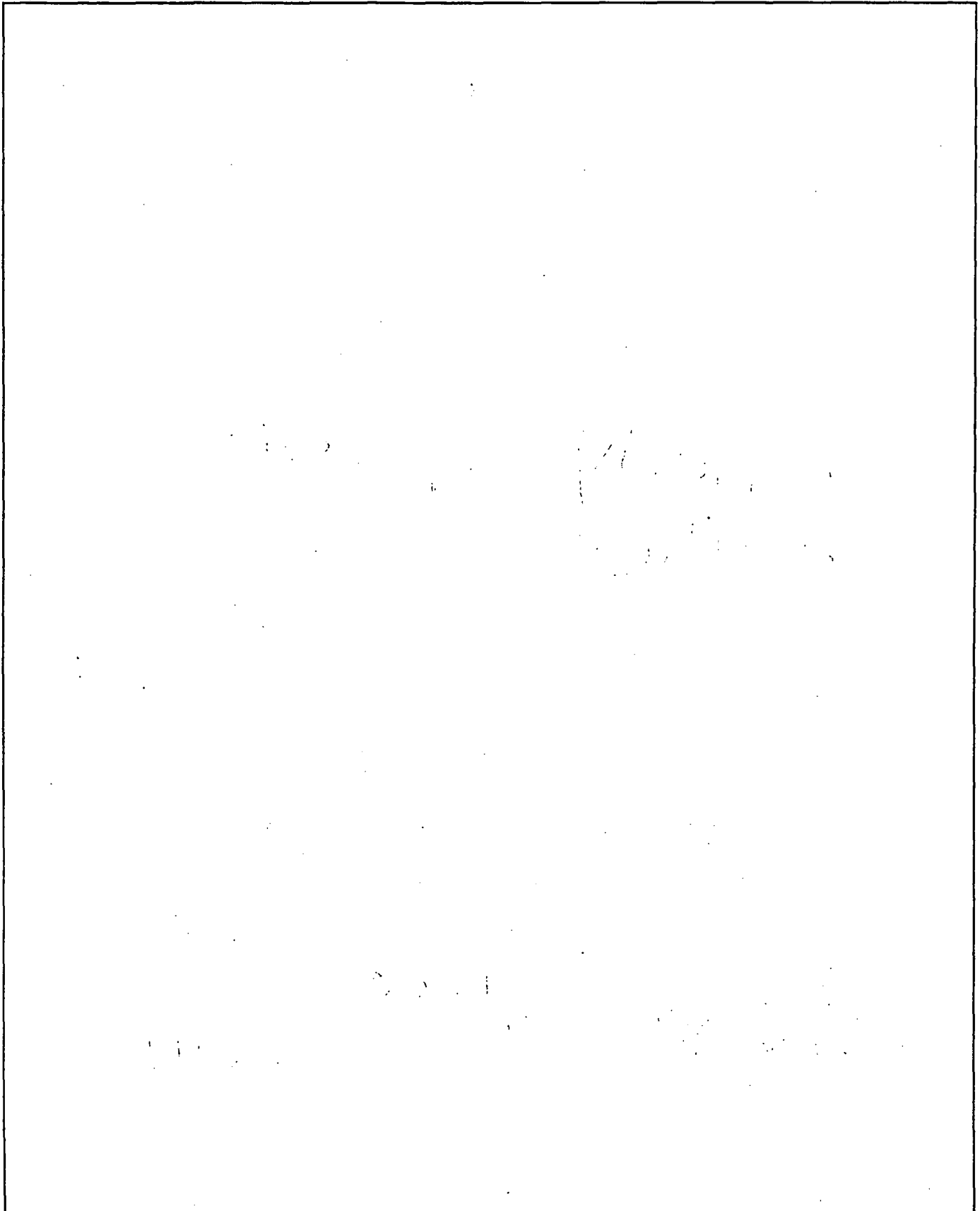
First Name: Kim Last Name: Moats  
Address: 192 Suncoast Dr.  
City: McCook State: SD Zip: 57049

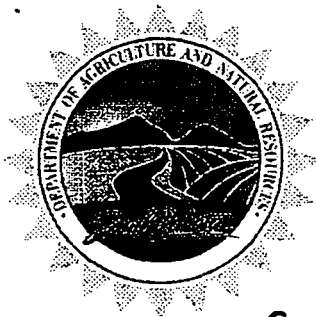
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

A large rectangular box with a black border, intended for additional comments. It contains very faint, illegible handwritten text, possibly including the words "I am" and "the" in the upper right quadrant, and some other indistinct markings throughout the lower half.



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danr.sd.gov

## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant

DeKrom 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: Schvonic

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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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:

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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## 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:**

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:**

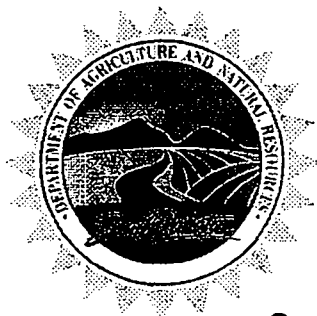
First Name: Velma Lou Last Name: Cook  
Address: 147 Suncoast Drive  
City: Ma Cook IA State: S.D. Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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## 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: Hindstedt

Address: 69 Cotts Drive

City: McCook Lake

State: S.D.

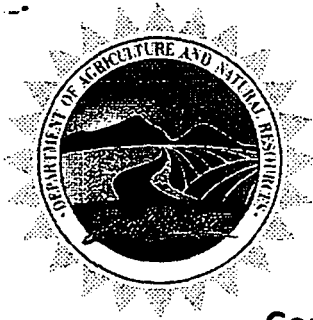
Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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and NATURAL RESOURCES

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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 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:

*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](mailto:DANRmail@state.sd.us).

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 12<sup>th</sup>. 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





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523 E. CAPITOL AVE  
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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! 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: 225 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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danr.sd.gov

## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY LLC c/o MIKE CHICOTTE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

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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:

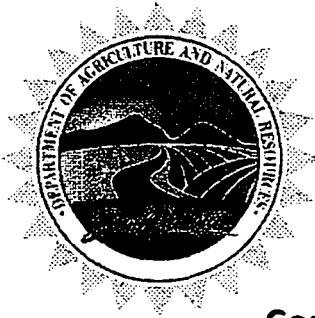
First Name: Danet Last Name: Thayer  
Address: 1249 Westshore Dr  
City: McCook State: SD Zip: 57029

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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**Comment**

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**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>.

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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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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Comment

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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:

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

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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## Comment

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### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOLE

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**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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: Sherry

Last Name: Caba

Address: 208 Suncoast

City: M'Cook 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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

## Comment

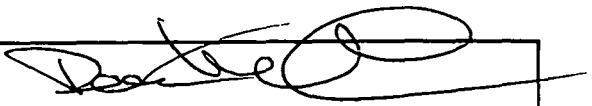
### Concerning Application for a Water Right Permit

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 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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## 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 Chalovich

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: Schrank

Address: 175 Sunset 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

277



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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:

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: Schroenk  
Address: 125 Soncast 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

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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!

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](mailto:DANRmail@state.sd.us).

8744-3

Application No. 8744-3

8744-3

Commenter's Name \_\_\_\_\_

0.0000  
1.0000

Any additional comments:



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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 CHICOUPE

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 Seacoast Dr  
City: North Sioux City State: SD Zip: 57049

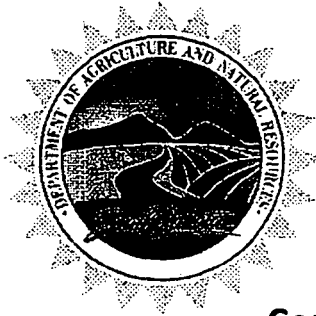
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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and NATURAL RESOURCES

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
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## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DARTON 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*

*Lisa Diksch*

Commenter's name and address:

First Name: Lisa Last Name: DIKSCH  
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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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## 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: Rachael 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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 CHICOLINI

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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:

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 Chicoine if the lake drains - does he have any liability.

#### Commenter's name and address:

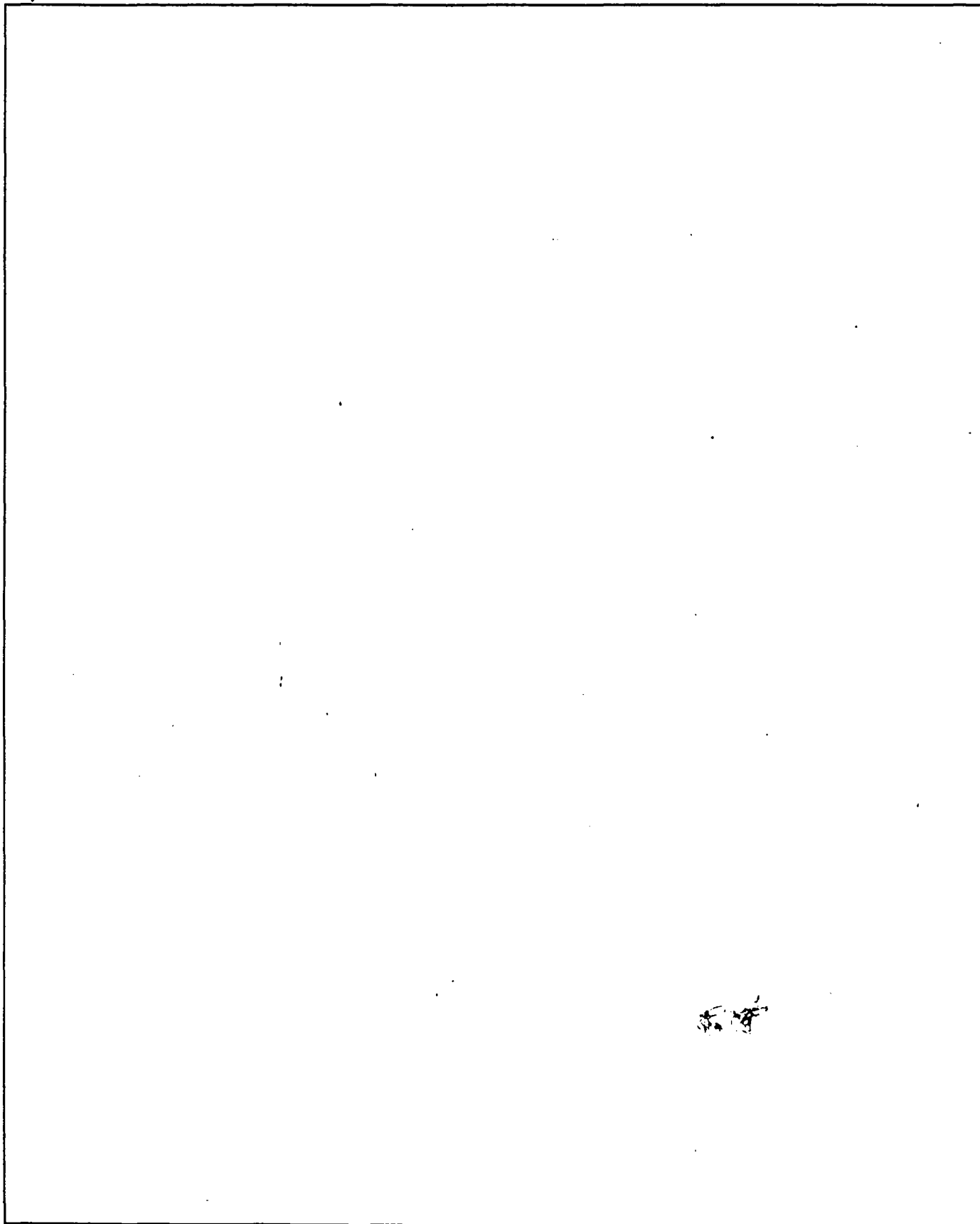
First Name: Darcie Last Name: Kistner  
Address: ~~8808 187th~~ 187 Suncoast Drive  
City: North Sioux City State: SD Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

A large, empty rectangular box with a black border, intended for additional comments. It occupies the majority of the page below the header information.





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## 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:

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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 BEACH 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

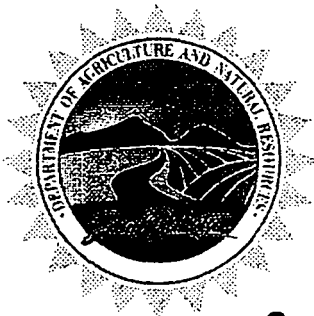
Commenter's Name

Jacy 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.



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## 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 CHICOLE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

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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: Bailey 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name

Gary Lewis

Any additional comments:

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OFFICE OF  
WATER

June 10, 2023

John and Lois Gerber  
103 Northshore Dr  
McCook Lake SD 57049  
[Jlgerber2@gmail.com](mailto: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.

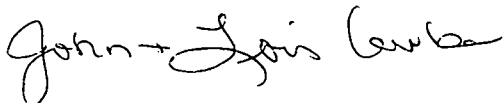
- McCook Lake is the home to many animals (fish, deer, opossums, turtles, snakes, beaver, muskrats, and others wildlife) in addition to the many homes around the lake. The lake is also used for recreation purposes all year. Boating, fishing, swimming, ice fishing, skating, snowmobiles, kayaking, stand-up 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.

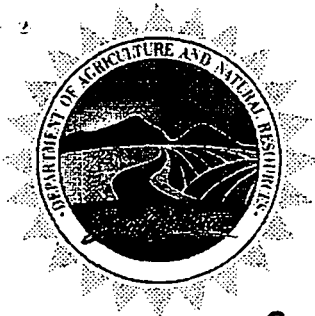
Sincerely



John and Lois Gerber

South Dakota Taxpayer and Homeowner McCook Lake SD





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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 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 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 Chicone 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.

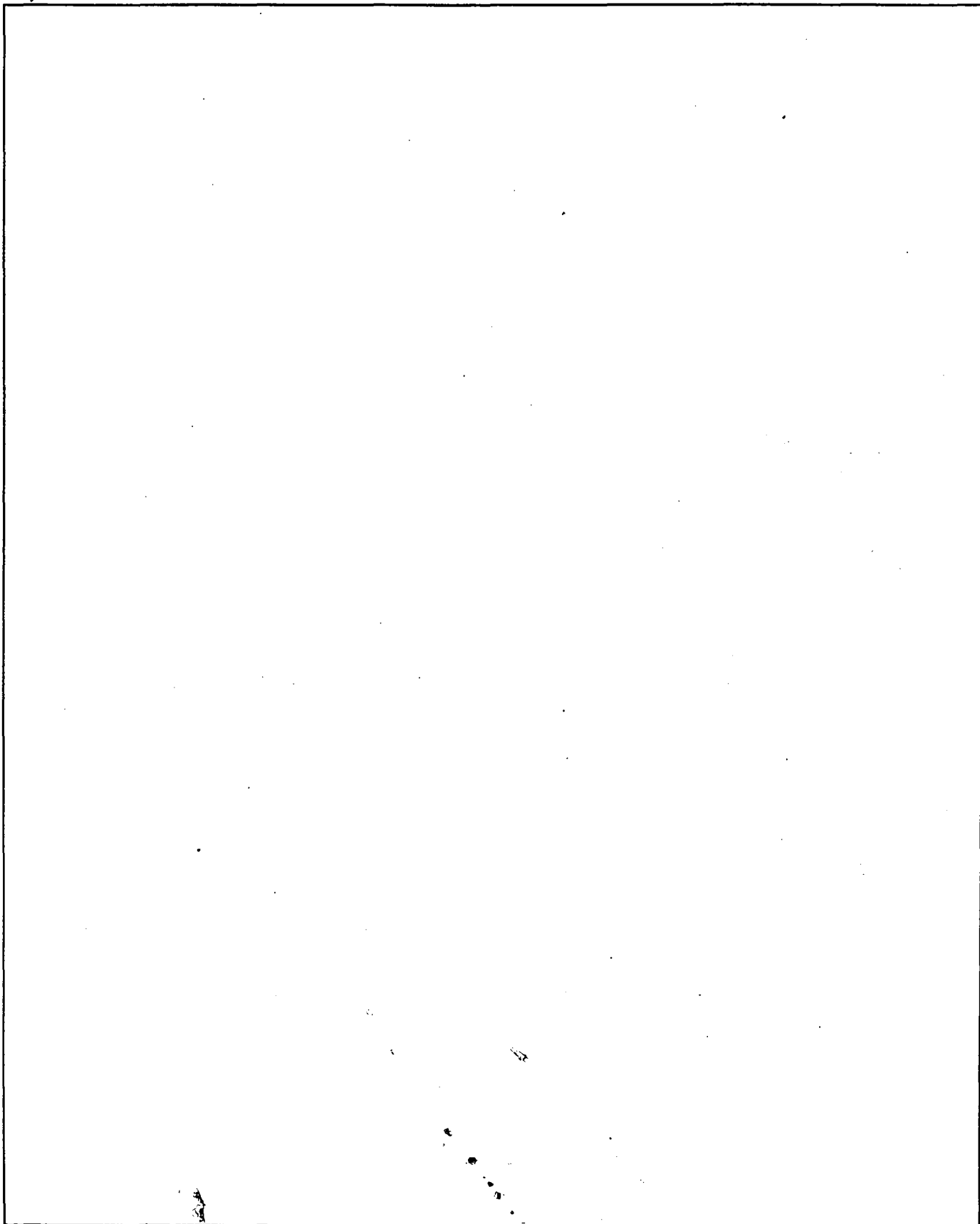
City: North Sioux City State: S.D. Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

A large, empty rectangular box with a black border, intended for the user to provide any additional comments. The box is currently blank, with only some minor scanning artifacts visible at the bottom.



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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 BOY, 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 ecosystem, 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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Comment

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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 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 <sup>up</sup> 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](mailto:DANRmail@state.sd.us).

712-898-2787

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

8744-3



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## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY, LLC c/o MIKE CHICOUPE

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: FEESE  
Address: 135 NORTHSHORE 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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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 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](mailto:DANRmail@state.sd.us).

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Application No. 8744-3

1988

Commenter's Name \_\_\_\_\_

WATER  
RESOURCES  
DIVISION

Any additional comments:



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and NATURAL RESOURCES

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danr.sd.gov

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:

Please stop this - we need  
our water. STOP HIRN

Commenter's name and address:

First Name Shanna Last Name JACOBS

Address: 85 Northshore

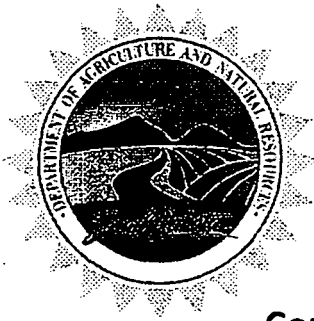
City: McCook State: SD Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## Comment

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and NATURAL RESOURCES

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### 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.

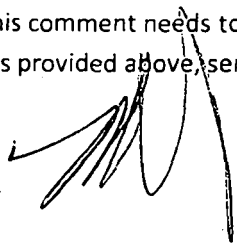
Comments concerning this application:

Let's preserve the lake and our  
environment.

Commenter's name and address:

First Name: Mike Last Name: Curry  
Address: 83 North Grand Ave  
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](mailto:DANRmail@state.sd.us).

 Karen L. Curry

Application No. 8744-3

Committer's Name \_\_\_\_\_

Any additional comments:

--

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# 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 500K a year to R&B 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 Gun Creek PR  
City: McCook lake State: SD Zip: 57049

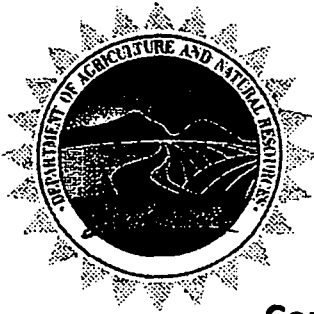
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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## Comment

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### 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:

See attached letter  
- 6

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](mailto:DANRmail@state.sd.us).

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*



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## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant DAKOTA BEY 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 removing the dike at South end of McCook Lake as I lived at the lake prior to the dike being installed and ~~at~~ 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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## Comment

### DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

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### 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:

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: SD

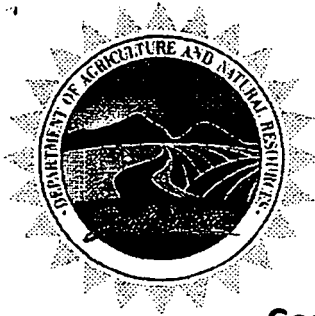
Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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**Comment**

**Concerning Application for a Water Right Permit**

Application No. 8744-3 Name of Applicant DAKOTA BEAVER, 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 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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## Comment

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### 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 FOR 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

[Empty box for additional comments]



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## Comment

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### 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:

McCool Lake should be preserved for  
the enjoyment of all in the Sioux  
City Area!

Commenter's name and address:

First Name: Angela Stuck Last Name: Stuck

Address: 3002 Playa Blvd

City: Sioux City

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY LLC c/o MIKE CHICOLNE

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 MIALED 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: 5776

**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](mailto:DANRmail@state.sd.us).

Application No. \_\_\_\_\_

Commenter's Name \_\_\_\_\_

**Any additional comments:**



JUN 14 2023

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PIERRE SD 57501-3182  
danr.sd.gov

## Comment

## Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant J. HOWARD - 112 Teton Pines CourtThe 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 WATER REMOVAL ON MCCOOK L.A.B. THE ADDITIONAL WATER REMOVAL FROM MCCOOK L.A.B. IS LIMITED FROM THE MCCOOK LAKE WATER SUPPLIED TO THE GROUND WATER. INCREASING THE WATER VOLUME REMOVED FROM THE EXISTING CHICOLE IRRIGATION WELL WILL INCREASE THE VOLUME OF WATER REMOVED FROM MCCOOK LAKE.

THE MCCOOK LAKE RECREATION ASSOCIATION (MLA) FUNDS WATER TO MCCOOK LAKE AT THE MAXIMUM AVAILABLE

Commenter's name and address:

First Name: TaniceLast Name: HowardAddress: 112 Teton Pines CourtCity: Dakota DunesState: SDZip: 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3  
Commenter's Name Janice Howard

Any additional comments:

PUMP 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 CHICAGO REGIONAL WELL SHOULD NOT BE PUMPED WHEN MLN IS NOT ABLE TO MAINTAIN THE PERMITTED WATER LEVEL.

I ASK THAT YOU DENY THE APPLICATION NO. 8744-3.





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## Comment

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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. ALOT 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 LAKESHORE 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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 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

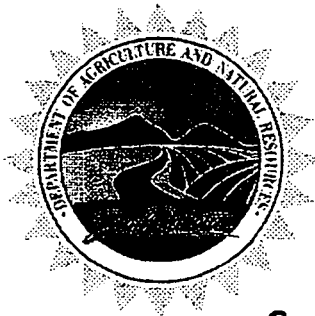
City: North Sioux City State: SD Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name Brenda Wynn

Any additional comments:



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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 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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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: U. 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](mailto:DANRmail@state.sd.us).

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Application No. 8744-3

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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.





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## 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 oppose the Chicoine's application for water rights #8744-3.

I believe pumping of water from the existing Chicoine 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

VA-34

Commenter's Name \_\_\_\_\_

Any additional comments:



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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 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

JOE FOSS BUILDING  
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PIERRE SD 57501-3182  
danr.sd.gov

## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant DROWN 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

JOE FOSS BUILDING  
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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:

As a resident of over 28 years we have  
had many years of water level being either  
low or high. Most are very low. A family  
wants to ensure that the lake is maintained  
and not threatened by Mike Chicone plan to  
pump water from McCool Lake & 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: McCool Lake State: SD Zip: 57045

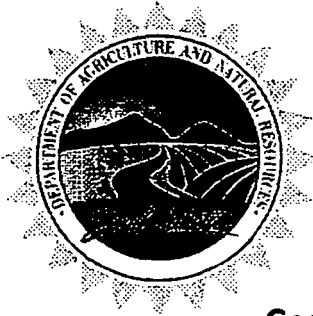
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**





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

JUN 14 2023  
OFFICE OF  
WATER  
**Comment**

**Concerning Application for a Water Right Permit**

Application No. 8744-3 Name of Applicant DPR of SD 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~~ <sup>you</sup> grant his request 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## 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 am ~~app~~ 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

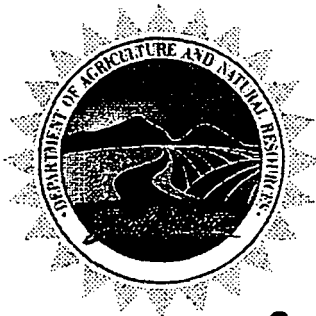
City: H. City State: SD Zip: 57049

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## 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 ~~national~~ <sup>state</sup> treasure and should be preserved. Keeping the lake and recreations involved with the lake is important to me.

Commenter's name and address:

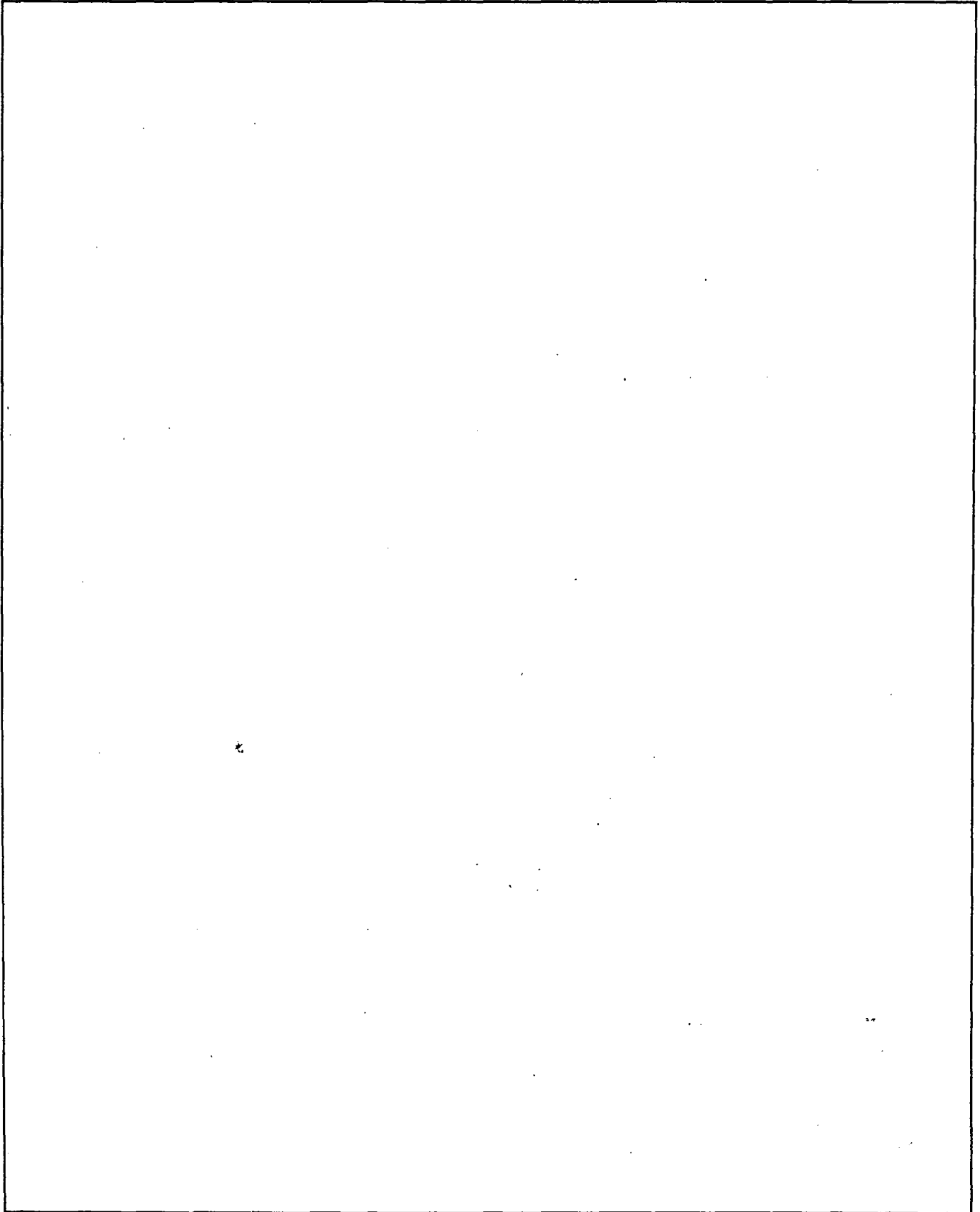
First Name: Megan Last Name: Click  
Address: 2112 Jackson St  
City: Sioux City State: IA Zip: 51104

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**

A large, empty rectangular box with a black border, intended for the user to provide any additional comments. The box occupies the majority of the lower half of the page.



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'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 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 support the action by M&A to stop the Chicoine  
water appropriation.  
This will be a loss to all the residents who  
live at McCook 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

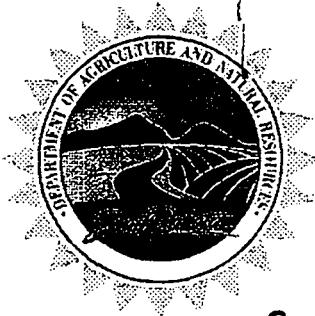
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Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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## 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:

- 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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and NATURAL RESOURCES

JOE FOSS BUILDING  
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danr.sd.gov

## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant Dakota Bay, LLC c/o Mike Chaloupe

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: Bruney

Address: 2816 Hamilton

City: Sidex City

State: TX

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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES

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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 THE PAST PRESIDENT OF THE ISHAK 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 CHICONE 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 CHICONE APPLICATION WILL BE A PUBLIC DISASTER. I DOUBT THAT PUBLIC WILL EVER 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

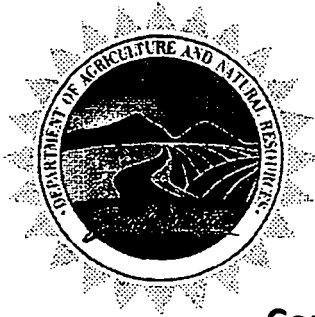
**Note.** This comment needs to be submitted no later than the deadline date provided in the public notice. The mailing address is provided above, send to "Attention - Water Rights Program" or send via email to [DANRmail@state.sd.us](mailto:DANRmail@state.sd.us).

PAST PRESIDENT

Application No. 8744-3

Commenter's Name \_\_\_\_\_

**Any additional comments:**



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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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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**Comment**

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PIERRE SD 57501-3182  
danr.sd.gov

### Concerning Application for a Water Right Permit

Application No. 8744-3

Name of Applicant DAKOTA BOY, 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 TOTALLY disagree with the idea of the Dakota Boy, 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 into 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: Wickey  
Address: 1 Isaac Wolten 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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JUN 14 2023

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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

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#### 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 bankrupt LLC!!!

#### Commenter's name and address:

First Name: Vernon Last Name: Miller

Address: 48388 W. Authier Rd

City: Jennerson State: SD Zip: 57038

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Commenter's Name \_\_\_\_\_

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## 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>.

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#### 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## 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 CHICOTTE

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

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#### 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

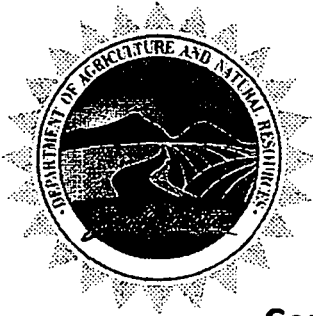
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Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:





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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>.

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#### Comments concerning this application:

Not beneficial for MLA.

#### Commenter's name and address:

First Name: tim Last Name: Images  
Address: x 311 brule st  
City: westfield IA 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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:



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## Comment

### Concerning Application for a Water Right Permit

Application No. 8744-3 Name of Applicant DAKOTA BAY LLC c/o MIKE CHICOINE

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#### 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: 51602

**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](mailto:DANRmail@state.sd.us).

Application No. 8744-3

Commenter's Name \_\_\_\_\_

Any additional comments:

Late-Filed Comments on Following Pages.

Comment Deadline - June 12, 2023

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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

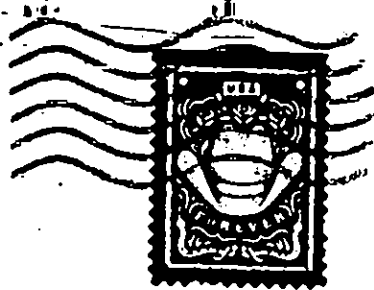
207 Suncoast Dr

North Sioux City, SD 57049

Mark Dirksen  
207 Suncoast Dr  
N. Sioux City, SD 57049

SIoux FALLS SD 570

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OFFICE OF  
WATER

Chief Engineer Water rights program  
Foss Building  
523 Capitol  
Pierre, SD 57501

57501-318299



**Duvall, Ron**

---

**Subject:** FW: [EXT] Chicoine Canal on McCook Lake.

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**From:** Victor Hoffman <[hoffmanv823@gmail.com](mailto:hoffmanv823@gmail.com)>

**Sent:** Friday, June 16, 2023 1:18 PM

**To:** DANR Mail <[DANRMail@state.sd.us](mailto: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.