

1463B-1

LAW OFFICES OF
BENNETT, MAIN & GUBBRUD
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084
EMAIL: bellelaw@bellelaw.com

MAX MAIN*
DWIGHT A. GUBBRUD*
*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RECEIVED
OCT - 1 2008
WATER RIGHTS
PROGRAM

RETIRED
DANN BENNETT

September 30, 2008

Chief Engineer
Water Rights Program, DENR
Board of Water and Natural Resources
523 E. Capitol
Pierre, SD 57501-3182

RE: Water Right No. 1463-1.

Dear Chief Engineer:

Please find enclosed for filing an original and one copy of a Notice of Transfer of Ownership regarding title to described lands covered by the above-referenced Water Right. Also enclosed is a copy of the Warranty Deed transferring the described lands to Lorraine I. Kissack.

Also enclosed is our check payable to your order for \$2.50 to cover the filing fee.

Please let me know if you have questions, and if possible, could you please return a file-stamped copy of the Notice to me in the enclosed self-addressed stamped envelope.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.

Max Main

Max Main

MM/njo
Encs.

cc: Client (w/o deed - w/ copy of Miller letter of 9/29)
Ronda Miller

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/1, 20 08

RECEIVED OF Bennett Main Gubbrud, PC 618 State St Belle Fourche SD 57717

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>1463-1</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2 50

No.

03766

By

Harold Erbe
Chief Engineer

29

OCT - 1 2008

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

Water Right/Permit No. 1463-1 ^{WATER RIGHTS}_{PROGRAM}Date: 5/15/2008

I/WE request that a portion of Water Right/Permit No. 1463-1 owned by:
DONALD KISSACK be transferred to:

New Owner Name: LORRAINE I. KISSACKAddress: 19439 CREEKSIDE LOOPCity, State, Zip SPEARFISH SD 57783 Telephone No. (605) 210-0285

Title to the following described land(s)/property has been transferred as described above:

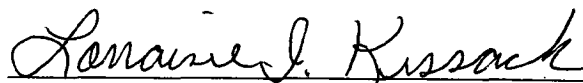
TOWNSHIP 7 NORTH, RANGE 2 EAST, B.H.M., BUTTE COUNTY, SD
Section 5: SE1/4NE1/4.

☒ I understand that the validity of Water Right/Permit No. 1463-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is included to cover the filing fee as required by SDCL 46-2-13.

I, LORRAINE I. KISSACK, the new owner, certify that the above information is true and correct.



(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

2008-743

BOOK 377 PAGE 887

Documents Prepared By:
Ronda Miller
Attorney at Law
PO Box 66
Belle Fourche, SD 57717
605-723-0678

COPY

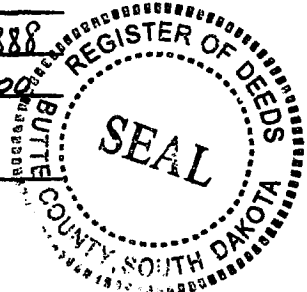
RECEIVED

OCT - 1 2008

VOTER RIGHTS
PROGRAM

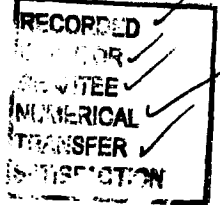
Register of Deeds

Butte County, South Dakota

Recorded April 2, 2008at 2:45 PMDoc# 2008-743Book 377 Page(s) 887,888Fee 12.00 10.00By Ronda Miller
Register of Deeds

WARRANTY DEED

DONALD J. KISSACK AND LAURA J. KISSACK, husband and wife, grantors, of 19425 Creekside Loop, Spearfish, SD 57783, for and in consideration of partition, grant, convey and warrant to LORRAINE I. KISSACK, a single person, grantee, of 19439 Creekside Loop, Spearfish, SD 57783, the following described real estate:



Township 7 North, Range 2 East, B.H.M., Butte County, South Dakota

- Section 4: That part of the SW1/4NW1/4 north of the Redwater River; and
That part of the NW1/4SW1/4 North of the Redwater River
- Section 5: S1/2 of Government Lot 1;
NE1/4 of Government Lot 1; and
SE1/4NE1/4

Township 8 North, Range 2 East, B.H.M., Butte County, South Dakota

- Section 32: S1/2SE1/4; and
East 1,062 feet of the SE1/4 of the SW1/4

Subject to all reservations, easements, and rights-of-way expressly conveyed or reserved in prior grants and/or deeds, or created by operation of Federal or State Law.

Exempt from transfer fee - SDCL 43-4-22(7).

Dated this 2nd day of April, 2008

Donald J. Kissack
Donald J. Kissack

Laura J. Kissack
Laura J. Kissack

State of South Dakota)

County of Butte)

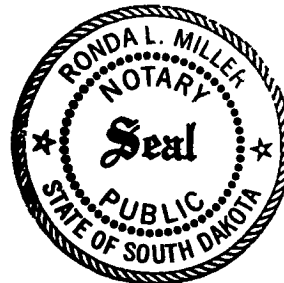
) ss.

On this the 2nd day of April, 2008, before me, the undersigned officer, personally appeared Donald J. Kissack and Laura J. Kissack, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.


NOTARY PUBLIC

My Commission Expires: 11-7-2010
(SEAL)





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

OCT 30 2008

1463B-1

Lorraine Kissack
19439 Creekside Loop
Spearfish SD 57783

Dear Ms. Kissack:

Enclosed is your Vested Water Right No. 1463B-1.

Based on the October 1, 2008, ownership change filed on your behalf for a portion of the land described in Vested Water Right No. 1463-1. The vested water right has been divided and reissued to reflect separate ownership as follows:

No. 1463A-1 Donald Kissack: appropriates 0.563 cfs from Redwater River located in the NE ¼ SE ¼ Section 5 to irrigate 19.6 acres in the NE ¼ SE ¼ Section 5, all in T7N, R2E.

No. 1463B-1 Lorraine I Kissack: appropriates 0.057 cfs from Redwater River located in the NE ¼ SE ¼ Section 5 to irrigate 2.00 acres in the SE ¼ NE ¼ Section 5, all in T7N, R2E.

As long as you use the water beneficially as stated in the vested right, State Water Laws provide that you have a continuing right to use the water.

The receipt for the filing fee paid for the ownership change will be send to Max Main along with a copy of this letter and a copy of the water license.

Sincerely,

A handwritten signature in black ink, appearing to read "Garland Erbele".

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

c: Max Main, Bennett, Main & Gubbrud

SOUTH DAKOTA
VESTED WATER RIGHT NO. 1463B-1 FOR IRRIGATION
DIVISION OF 1463-1 INTO 1463A-1 AND 1463B-1

Date of Receipt of Claim: May 3, 1989.

The Water Management Board validated Vested Water Right Claim No. 1463-1 on July 10, 2003 for Donald Kissack with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1463-1 appropriates 0.62 cubic feet of water per second (cfs) from the Redwater River to irrigate 21.6 acres. The diversion point is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5 with the irrigated acreage located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, all in T7N, R2E.

On October 1, 2008, an ownership change was filed for a portion of the land described in the vested water right. The vested water right is being divided and reissued to reflect separate ownership as follows:

No. 1463A-1 Donald Kissack, 19425 Creekside Loop, Spearfish SD 57783: appropriates 0.563 cfs from Redwater River located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5 to irrigate 19.6 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5, all in T7N, R2E.

No. 1463B-1 Lorraine I Kissack, 19439 Creekside Loop, Spearfish SD 57783: appropriates 0.057 cfs from Redwater River located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5 to irrigate 2.00 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, all in T7N, R2E.

2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: May 1 – October 31.
3. The priority date of the Vested Water Right is January 1, 1949.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

QUALIFICATIONS

- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

OCT 30 2008

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 22, 2010

NOTICE

TO: LORRAINE I KISSACK, 19439 CREEKSIDE LOOP, SPEARFISH, SD 57783

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1463B-1. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1463B-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 10, 2010** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1463B-1 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq/asp>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

1463B-1

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Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0802 9136

Service(s): Signature Confirmation™

Status: Delivered

Your item was delivered at 10:12 AM on January 23, 2010 in SPEARFISH, SD 57783. The item was signed for by L KISSACK.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Detailed Results:

- Delivered, January 23, 2010, 10:12 am, SPEARFISH, SD 57783
- Out for Delivery or Available at PO Box, January 23, 2010, 8:29 am, SPEARFISH, SD 57783
- Sorting Complete, January 23, 2010, 7:59 am, SPEARFISH, SD 57783
- Arrival at Post Office, January 23, 2010, 5:43 am, SPEARFISH, SD 57783

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)

Proof of Delivery

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No FEAR Act EEO Data

FOIA

SIGNATURE CONFIRMATION NUMBER:
2303 2160 0000 0802 9136

LORRAINE I KISSACK
19439 CREEKSIDE LOOP
SPEARFISH SD 57783

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:
Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com®
or call 1-800-222-1811

☐ Priority Mail™ Service
☐ First-Class Mail® parcel
☐ Package Services parcel

mailing.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 26, 2010

1463B-1

Lorraine I Kissack
19439 Creekside Loop
Spearfish SD 57783

Dear Ms. Kissack:

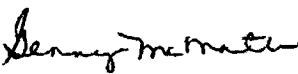
I am writing to acknowledge receipt of your 2009 irrigation questionnaire.

You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Permit No. 1463B-1.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us