

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 4363A-3
DIVISION OF NO. 4363-3 INTO 4363A-3 AND 4363B-3

(1) John Hovey, Bruce SD was issued Water License No. 4363-3, October 22, 1980 for a water right to divert 1.33 cubic feet of water per second (cfs) from groundwater (one well), Brookings County, South Dakota for irrigation purposes. Water Right No. 4363-3, with a priority date of December 15, 1978 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Due to ownership changes, the water right is being divided and reissued to reflect separate ownership.

- No. 4363A-3 – Jay A. Peterson, 7233 Babiloia St, LaCosta CA 92009: authorizing diversion of 0.78 cfs (approximately 350 gpm) from a well in the SW ¼ Section 5 to irrigate 135 acres in the SW ¼ Section 5-T112N-R50W.
- No. 4363B-3 – G & H Farms LLC, c/o Tim Gutormson, 236 32nd Ave, Brookings SD 57006: authorizing diversion of 0.55 cfs (approximately 250 gpm) from a well in the SW ¼ Section 5 to irrigate 95 acres in the SE ¼ Section 5-T112N-R50W.

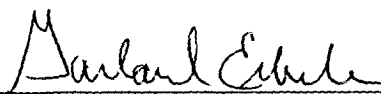
(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 4363A-3 is issued a license, bearing a priority date of December 15, 1978 to appropriate 0.78 cubic feet of water per second from groundwater (one well) to irrigate 135 acres.

The diversion point is located: approximate center of the SW ¼ Section 5-T112N-R50W. The acres authorized for irrigation are as follows:

Section 5-T112N-R50W	NW ¼ SW ¼	38 acres	SW ¼ SW ¼	36 acres
	NE ¼ SW ¼	40 acres	SE ¼ SW ¼	21 acres
Total 135 acres				

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 4363-3 including the following now applicable qualifications:

- The irrigation well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The irrigation well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.



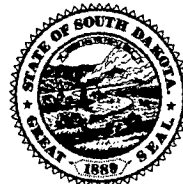
Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

JAN 02 2009

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 9, 2008

4363-3

Jerald Peterson
46727 197th St
Bruce SD 57220

Dear Mr. Peterson:

I am writing in regard to Water Right No. 4363-3, currently listed in the name of John Hovey. The water right authorizes diversion of 1.33 cubic feet of water per second (600 gpm) from a well in the center of the SW $\frac{1}{4}$ Section 5 to irrigate 230 acres in the S $\frac{1}{2}$ of Section 5, T112N, R50W.

During our phone conversation of May 7th, you indicated that Jay Peterson had purchased the SW $\frac{1}{4}$ of the section and Tim Gutormson of Brookings purchased the SE $\frac{1}{4}$ of the section. In order to reflect correct ownership, the water right will need to be divided and reissued into two separate water rights. The division will tentatively be as follows:

- **No. 4363A-3: Jay Peterson**, authorizing diversion of 0.78 cubic feet of water per second (approximately 350 gpm) from a well in the SW $\frac{1}{4}$ Section 5 to irrigate 135 acres in the SW $\frac{1}{4}$ Section 5, T112N, R50W;
- **No. 4363B-3: Tim Gutormson**, authorizing diversion of 0.55 cubic feet of water per second (approximately 250 gpm) from a well in the SW $\frac{1}{4}$ Section 5 to irrigate 95 acres in the SE $\frac{1}{4}$ Section 5, T112N, R50W.

One issue that we have to get worked out is the location of the well. The original license was issued for a well in the approximate center of the SW $\frac{1}{4}$. You indicated during our phone conversation that you would need to put in another well because the current well was on the adjacent property owned by Mr. Gutormson. Either I misunderstood you when we were discussing the water right or our records are in error. I am enclosing a copy of the water right and the map we have on file for your review.

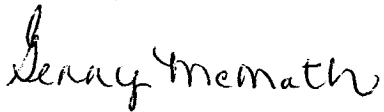
I am also enclosing a "Notice of Transfer of Ownership" form for filing the ownership change for the portion your son owns. If the form looks correct, please forward it on to Jay or get in touch with me and I will print off another copy to send to him. The form will need to be signed and returned to us with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Page 2
May 9, 2008
Jerald Peterson

As you requested, I have included blank water permit application forms for an additional permit. You may need to make the application for either an additional well, diversion rate or both.

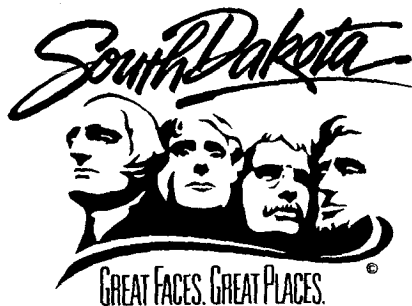
When you have had a chance to review the enclosed materials, if you have any questions please contact either me or Eric Gronlund with our program.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

November 7, 2008

Jerald Peterson
46717 197th St
Bruce SD 57220

Dear Mr. Peterson:

We have received a well completion report from Kaiser Well Drilling for an irrigation well they completed for Jay A Peterson on October 8, 2008. I have reviewed information in our files regarding this well and Water Right No. 4363-3. This water right appropriates 1.33 cubic feet of water per second (cfs) (600 gpm) from one well to irrigate the S ½ Section 5-T112N-R50W. The well supplies the quarter sections on an alternating basis. The land has been in CRP since 1977.

If I understand the situation correctly, Water Right No. 4363-3 needs to be divided and reissued to reflect separate ownership. In a phone conversation between Eric Gronlund with our office and Dave Gullickson, Farmers Implement, Mr. Gullickson indicated you and Tim Gutormson are in agreement that the existing well on Mr. Gutormson's property will maintain the entire diversion rate authority of 1.33 cfs.

If this is correct, we will need a statement in writing relinquishing the diversion authority authorized by Water Right No. 4363-3. Please understand that the Gutormson water right will have priority over the permit you will need to obtain for the new well and associated diversion rate authority.

Enclosed is an *Application for a Permit to Appropriate Water for Irrigation* form. An application is required for the diversion rate authority from the new well to irrigate the SW ¼ Section 5. The application form needs to be completed, signed & notarized and returned with the required filing fee and map as indicated on the instruction sheet.

Also, enclosed is a "*Notice of Transfer of Ownership*" form for filing the ownership change on the land you own on Water Right No. 4363-3. This form needs to be signed by the current owner and returned to this office with a \$2.50 filing fee.

If you have any questions, please contact Eric Gronlund or me at 605 773-3352.

Sincerely,

Karen Schlaak
Water Rights Program
karen.schlaak@state.sd.us

enclosures

Water Rights Program - File Documentation

NAME: Jerald Peterson

ADDRESS: Bruce SD

DATE: 11-10-08 **COUNTY:** BG **TELEPHONE:** 873-2636

RE: Dividing and reissuing Water Right No. 4363-3

COMMENTS:

Jerald Peterson, Jay Peterson's father, called regarding our letter to him dated November 7, 2008. Mr. Peterson indicated he did not wish to relinquish his portion of the diversion authority authorized by Water Right No. 4363-3.

Mr. Peterson further indicated he would be submitting an application for additional diversion authority to irrigate the SW ¼ Section 5-T112N-R50W.

A handwritten signature in black ink, appearing to read "Ron Duvall", with a stylized, cursive script.

Ron Duvall
Water Rights Program

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/29, 20 08

RECEIVED OF Jay Peterson 7233 Babilonia St La Costa CA 92009

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>4363A-3</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. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2 50

No.

03874

By

Richard Erbe
Chief Engineer

RECEIVED

DEC 22 2008

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 4363A-3

Date: 12-17-08

I/We request that Water Right/Permit No. 4363A-3

formerly owned by: John Hovey

be transferred to: (name & address) X Jay A. Paterson
7233 BABILONIA ST
LA COSTA, CA. 92009 Telephone No. 760 804 0714

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

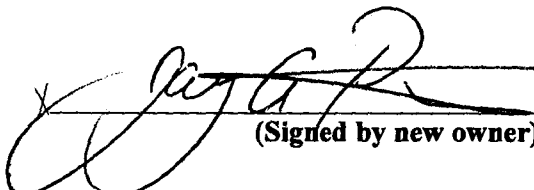
135 acres located in the SW 1/4 Section 5-T112N-R50W

I/We understand that the validity of Water Right/Permit No. 4363A-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Jay A. Paterson, 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.



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www.state.sd.us/denr

JAN 02 2009

Jay A Peterson
7233 Babiloia St
LaCosta CA 92009

Dear Mr. Peterson:

Enclosed is Reissued Water License No. 4363A-3. The original license authorized irrigation of 230 acres located in the S $\frac{1}{2}$ Section 5-T112N-R50W. The water right is being divided and reissued to reflect separate ownership.

- No. 4363A-3 – Jay A Peterson: authorizing diversion of 0.78 cfs (approximately 350 gpm) from a well in the SW $\frac{1}{4}$ Section 5 to irrigate 135 acres in the SW $\frac{1}{4}$ Section 5-T112N-R50W.
- No. 4363B-3 – Tim Gutormson: authorizing diversion of 0.55 cfs (approximately 250 gpm) from a well in the SW $\frac{1}{4}$ Section 5 to irrigate 95 acres in the SE $\frac{1}{4}$ Section 5-T112N-R50W.

Enclosed is your receipt for payment of the transfer of ownership fee.

We have received your application for the new well and the additional diversion rate to irrigate the SW $\frac{1}{4}$ Section 5. When the report and recommendation are complete, you will be notified regarding the public notice requirements.

If you have any questions, please contact this office.

Sincerely,

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

c: Jerald Peterson

enclosures



4363A-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
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www.state.sd.us/denr

January 24, 2012

NOTICE

TO: JAY A PETERSON, 7233 BABILONIA ST, LA COSTA, CA 92009
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program
SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaires

Our records indicate that the 2011 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3222-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 4363A-3, 6722-3 7087-3 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 7, 2012** 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) 4363A-3, 6722-3 7087-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3222-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 2, 2012**, you will no longer be in violation of your permit and your name will be removed 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:
<http://denr.sd.gov/iq.aspx>

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.



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www.denr.sd.gov

February 24, 2012

Jay A Peterson
7233 Babilonia St
La Costa CA 92009

RE: Water Right or Permit Nos. 3222-3, 4363A-3, 6722-3 and 7087-3

Dear Mr. Peterson:

I am writing to acknowledge receipt of your 2011 irrigation questionnaires.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right or Permit Nos. 3222-3, 4363A-3, 6722-3 and 7087-3. 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,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

4363A-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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<http://denr.sd.gov>

MAR 19 2015

4363A-3
7087-3

Jay A Peterson
7233 Babilonia St
LaCosta CA 92009

Dear Mr. Peterson:

Enclosed is Water License No. 7087-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 7087-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

Upon licensing, the applicable portions of Water Right No. 4363A-3 were incorporated into No. 7087-3. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is written in a cursive, flowing style.

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

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