

WATER PERMIT NO. 7234-3

Name of Applicant: **Peterson Farms**

Address: **19111 Maple Ave, Hitchcock SD 57348** Phone:

Amount of Water Claimed: **2.28** Total Acres: **160**

Source of Water Supply: **James River**

Water to be used for: **irrigation** County: **Spink**

Type of Waste Disposal System:

Location: **6 miles northeast of Hitchcock**

PRIORITY Date Received: **3-1-2011** Application/License Fee: **\$1,050**

Corrected Application Received: Period of Annual Use: **April 1 – October 31**

Remarks: **Utilize diversion point authorized by Water Right No. 6138-3**

Diversion Point: **SW ¼ SW ¼ Section 22-T114-**
R62W

Land to be Irrigated: **NE ¼ Section 22-T114N-**
R62W

Depth of Well: **NA**

Well Driller:

Remarks:

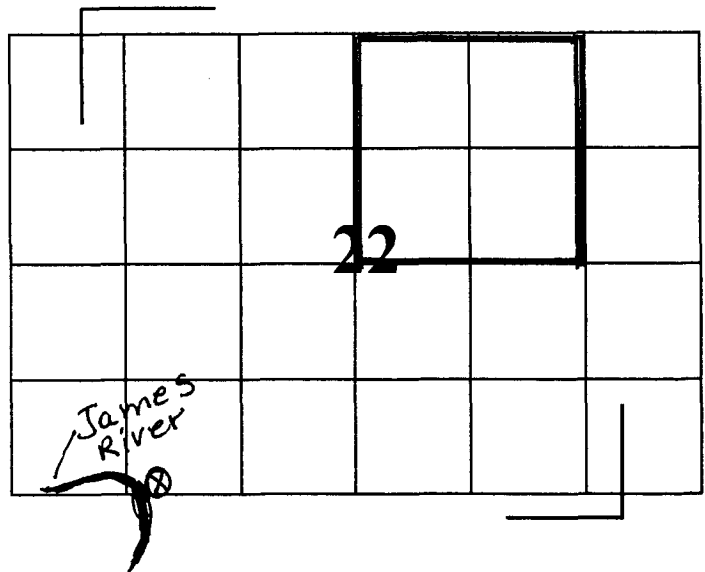
Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **3-2-2011**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7234-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>Redfield Press</u>

RECEIVED

MAR - 1 2011

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name of Applicant Peterson Farms Phone 605-266-2783
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address 19111 Maple Avenue Hitchcock SD 57348
(Address) (City) (State) (Zip Code)
2. Amount of water claimed 2.28 *CFS or **GPM ***AF Total Acreage 160
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply James River
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Spink
SW 1/4 SW 1/4 Section 22, T114N, R62W (same diversion works authorized by WR No. 6183-3 held by Oscar Inc.
5. County or counties where water will be used Spink
6. Annual period during which water is to be used April 1 - October 31
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 NE 1/4 Section 22, T114N, R62W	40		
NE 1/4 NE 1/4 Section 22, T114N, R62W	40		
SW 1/4 NE 1/4 Section 22, T114N, R62W	40		
SE 1/4 NE 1/4 Section 22, T114N, R62W	40		

8. Give a description of the project. (Attach sheet if more space is needed)

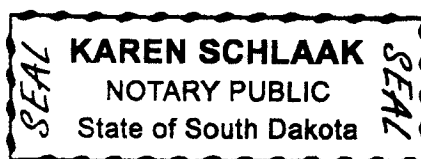
Irrigate an additional quarter section from the James River. Utilize the diversion works authorized by Water Right No. 6183-3. Plan is to add pipeline to the existing line going to the SE 1/4 Section 22 to the NE 1/4

STATE OF SOUTH DAKOTA)

County of Hughes)

SS

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

I, Lenny Peterson, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.Applicant's signature Lenny PetersonSubscribed and sworn to before me this 15th day of March 20 11

Karen Schlaak
Notary Public signature
My commission expires 4/1/2013

**SOUTH DAKOTA
WATER PERMIT NO. 7234-3**

Date of first receipt of application March 1, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7234-3 to Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7234-3 appropriates 2.28 cubic feet of water per second from the James River to irrigate 160 acres located in the NE 1/4 Section 22-T114N-R62W. The permit holder will utilize the existing James River diversion point authorized by Water Right No. 6183-3 located in the SW 1/4 SW 1/4 Section 22-T114N-R62W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is March 1, 2011.
4. The date of approval of Permit No. 7234-3 is May 9, 2011.
5. One-fifth of the construction is to be completed on or before November 9, 2013.
6. All construction is to be completed on or before May 9, 2016.
7. Water is to be put to beneficial use on or before May 9, 2020.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 7234-3 is subject to the diversion causing no adverse impact to the Topeka Shiner in the James River.
2. Diversions of water from the James River shall be in accordance with the following criteria:
 - a) This permit does not authorize diversion of water from the James River after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - b) This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

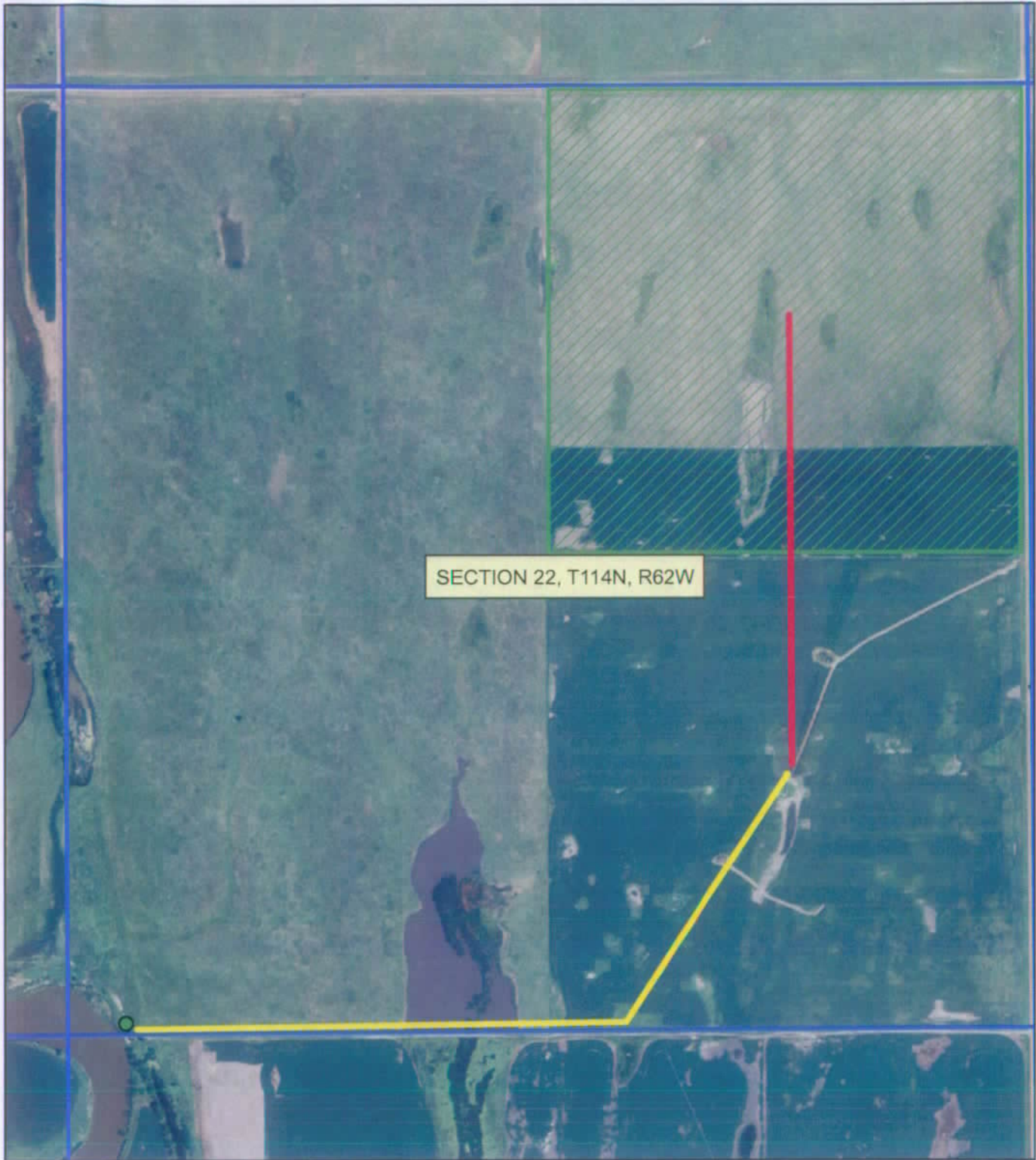
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 22 2011

date



PETERSON FARMS APPLICATION FROM JAMES RIVER



1,000 500 0 1,000 Feet

RECEIVED

MAR - 1 2011

WATER RIGHTS
PROGRAM

Eric Gronlund
Eric Gronlund
Water Rights Program, DENR



- Diversion point location
- Approximate existing pipeline to SE 1/4
- Proposed pipeline to bring water to NE 1/4

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/1, 20 11

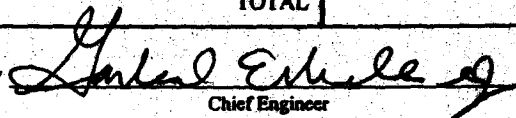
RECEIVED OF Peterson Farms 19111 Maple Ave Hitchcock SD 57428

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

Fee for Application for Permit No. <u>7234-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7234-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. **04939**

By


Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7234-3, Peterson Farms**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 7234-3, Peterson Farms, c/o Lenny Peterson, 19111 Maple Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7234-3 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 rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualifications:

1. Permit No. 7234-3 is subject to the diversion causing no adverse impact to the Topeka Shiner in the James River.
2. Diversions of water from the James River shall be in accordance with the following criteria:
 - a. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - b. This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
April 8, 2011

REPORT ON WATER PERMIT APPLICATION NO. 7234-3

Peterson Farms

March 7, 2011

Peterson Farms, c/o Lenny Peterson, has filed Water Permit Application No. 7234-3 to appropriate 2.28 cubic feet of water per second (cfs) from the James River to irrigate 160 acres of land located in the NE¼ Section 22-T114N-R62W. The diversion point is an existing site authorized by Water Right No. 6183-3 located in the SW¼ SW¼ Section 22-T114N-R62W. The annual period of use requested is from April 1 through October 31.

Water Right No. 6183-3 is owned by Oscar Inc., use of the diversion point authorized by WR 6183-3 shall be by agreement between the applicant and Oscar, Inc.

Review of Water Source

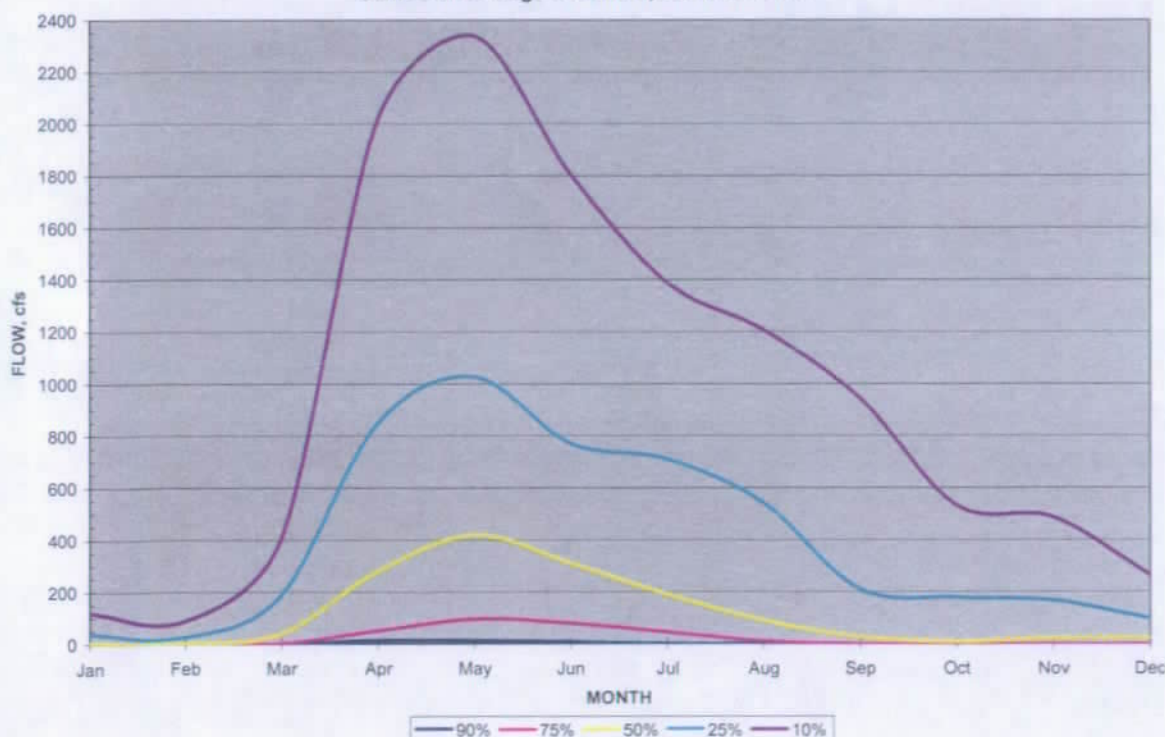
The water source for the proposed project is the James River in Spink County. Originating in North Dakota, the James River flows southward to the Missouri River near Yankton, SD. Approximately 475 miles of the James River are in South Dakota. During extended periods of low precipitation the James River experiences extremely low flows and cannot be considered a reliable source of water.

The U.S. Geological Survey (USGS) operates a stream flow gaging station on the James River near Ashton, SD, approximately 45 river miles upstream of the proposed project. The historical data from 1945 to 2010 for the Ashton, SD stream flow gage indicates there is a 50-percent probability that monthly mean flow could range from 9 to 418-cfs April through October of any given year. There is a 75-percent probability monthly mean flows at this same location could range from 0 to 98-cfs for the same time period. (Table 1 and Hydrograph 1)

Table. 2 James River Monthly Median Flow (cfs) Ashton, SD

Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	0	0	0	13	12	7	0	0	0	0	0	0
75%	0	0	4	53	98	81	47	12	1	0	0	0
50%	6	3	40	280	418	310	190	90	26	9	22	22
25%	38	25	186	848	1027	773	711	543	211	178	167	96
10%	122	89	407	2021	2340	1810	1391	1208	945	534	488	265

James River Gage at Ashton, SD 1945 - 2010



Presently there are 95 Water Rights with diversions totaling 230.34-cfs from the North Dakota border to the Yankton-Hutchinson, SD County Line. From the North Dakota border to Huron, SD there are 62 Water Rights with diversions totaling 148.09-cfs. If Water Permit Application 6738-3 is approved, diversions from both the total river and the North Dakota border to Huron, SD river reach would still be below the established limits.

There are three water rights within one mile downstream of this project, Water Right 616-3 and 6183-3 and Water Permit No. 7183-3, all owned by Oscar, Inc. Combined, these three water rights appropriate 9.72 cfs. The next water right is located 6.5 miles downstream of this application. Water Rights No. 1027-3 is owned by the Bureau of Reclamation and authorizes 4,875 acre-feet of storage for the James Diversion Dam.

If approved, with qualifications, the applicant's diversion of water would not be expected to adversely impact existing Water Rights or domestic use on the James River.

Review of Qualifications

In 2007, Water Rights staff reviewed all of the shut-off and by-pass qualifications on the existing James River water rights/permits. Based on this review, the Chief Engineer recommended amending the existing qualifications in order to standardize them. The Water Management Board adopted the standardized qualifications and amended the existing water rights/permits. In addition, it was the intent that future appropriations of water from the James River be administered with the same amended qualifications.

Therefore, if approved, Application No. 7234-3 should contain the following qualifications.

- This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
- This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

Conclusions

1. Water Permit Application No. 7234-3, Peterson Farms, c/o Lenny Peterson, proposes to appropriate 2.28 cubic feet of water per second (cfs) from the James River to irrigate 160 acres of land located in the NE $\frac{1}{4}$ Section 22-T114N-R62W. The diversion point is an existing site authorized by Water Right No. 6183-3 located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22-T114N-R62W.
2. USGS historical data for the Ashton and Huron, SD stream flow gages indicate non-appropriated water is available in the James River during normal and wetter climatic conditions for the April through October annual period.
3. If Application No 7234-3 is approved, the following qualifications should be included:
 - This permit does not authorize diversion of water from the James River after August 10th of each calendar year, or at any time the river's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the Chief Engineer.
 - This permit does not authorize diversions from the James River when there is less than 20-cfs by-passing the gage at Huron, SD after pumping.

4. If Application No 7234-3 is approved, the total James River diversion of 232.62-cfs is below the 300-cfs limit. The total diversion from the North Dakota state line to Huron, SD, will be 149.72-cfs, well within the 200-cfs limit set by the Water Rights Commission.
5. Approval of Application No. 7234-3 does not guarantee access to the diversion point authorized by WR 6183-3 which is owned by Oscar Inc.

A handwritten signature in black ink, reading "Lynn Beck". The signature is written in a cursive, flowing style with a large initial "L" and "B".

Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

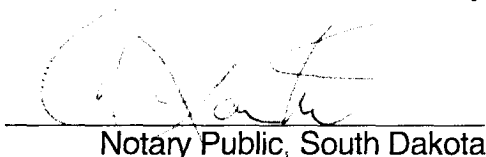
I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a local weekly newspaper published in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

#289 Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 2 successive issues, to wit: The first publication being made on April 20th and the last publication being made on April 27th, that Fifty-nine and .85/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, 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 person whomsoever.



Subscribed and sworn to before me this 27th day of April, 2011.


Notary Public, South Dakota

My commission expires 04/06/2016

Notice

#289

NOTICE OF APPLICATION NOS. 7234-3 AND 7235-3 TO APPROPRIATE WATER

Notice is given that Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed the following water permit applications.

Application No. 7234-3 proposes to appropriate 2.28 cubic feet of water per second (cfs) from the James River to irrigate 160 acres located in the NE 1/4 Section 22-T114N-R62W. The applicant will utilize the existing James River diversion point authorized by Water Right No. 6183-3 located in the SW 1/4 SW 1/4 Section 22-T114N-R62W.

Application No. 7235-3 proposes to appropriate 1.94 cfs from one well to be completed into the Tulare:East James Aquifer (approximately 75 feet deep) located in center of the NE 1/4 Section 22 for irrigation of 136 acres located in the NE 1/4 Section 22; all in T114N-R62W. This application is to supplement irrigation of the acreage located in the NE 1/4 Section 22-T114N-R62W from a groundwater source. Combinations of diversions authorized by No. 7234-3 and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Peterson Farms intends to relinquish Water Permit No. 6713-3 which authorizes 1.94 cfs from the Tulare:East James Aquifer located in the center of the NW 1/4 Section 24 to irrigate 136 acres located in the NW 1/4 Section 24; all in T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7234-3 & 7235-3 because 1) unappropriated water is available (for No. 7235-3 water becomes available with the unused water of Water Permit No. 6713-3 reverting to the public and becoming unappropriated water), 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 9, 2011.

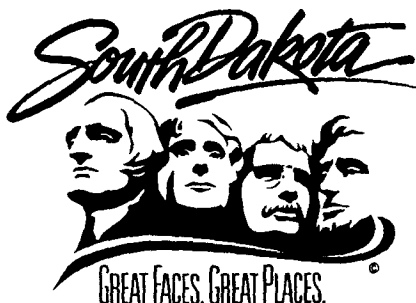
The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

Steven M. Pirner, Secretary
Department of Environment and
Natural Resources
Published twice at an approximate
cost of \$59.85. (Apr 20, 27)

RECEIVED

APR 28 2011

WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 8, 2011

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7234-3 & 7235-3 to Appropriate Water to be published twice. Please publish the first notice on April 20, 2011 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave., Hitchcock SD 57348 (Ph # 605-266-2793).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

Nos. 7234-3 & 7235-3

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of April 8, 2011 enclosing Notice to Appropriate Water by Application Nos. 7234-2 & 7235-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

April 8, 2011

Peterson Farms
Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application Nos. 7234-3 & 7235-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Redfield Press printed at Redfield SD (Ph # 605-472-0822). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the applications.

Instruction to Newspaper - Publish first Notice on April 20, 2011 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NOS. 7234-3 and 7235-3 to Appropriate Water

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Application No. 7235-3 proposes to appropriate 1.94 cfs from one well to be completed into the Tulare:East James Aquifer (approximately 75 feet deep) located in center of the NE $\frac{1}{4}$ Section 22 for irrigation of 136 acres located in the NE $\frac{1}{4}$ Section 22; all in T114N-R62W. This application is to supplement irrigation of the acreage located in the NE $\frac{1}{4}$ Section 22-T114N-R62W from a groundwater source. Combinations of diversions authorized by No. 7234-3 and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Peterson Farms intends to relinquish Water Permit No. 6713-3 which authorizes 1.94 cfs from the Tulare:East James Aquifer located in the center of the NW $\frac{1}{4}$ Section 24 to irrigate 136 acres located in the NW $\frac{1}{4}$ Section 24; all in T115N-R62W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7234-3 & 7235-3 because 1) unappropriated water is available (for No. 7235-3 water becomes available with the unused water of Water Permit No. 6713-3 reverting to the public and becoming unappropriated water), 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 9, 2011.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published twice at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 22 2011

Peterson Farms
Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. ^{Lenny}Peterson:

Enclosed are Water Permit Nos. 7234-3 and 7235-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses may be issued, thus completing the acquisition of a water right.

An informational sheet ? *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

7234-3

RECEIVED

NOV 30 2011

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date

9-1-11

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Lenny Peterson

(name)

19111 Maple Ave

(address)

Hitchcock SD 57348

(city, state, zip)

(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 7234-3 states that the water use system is to be constructed by

5-9-16

(date)

, and water is to be put to beneficial use by

5-9-2020

(date)

The water use system was completed on 4-15-2011

(date)

Applying the water to beneficial use was completed on

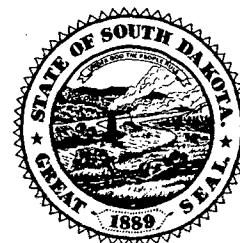
9-1-11

(date)

You may schedule an investigation so that the water license may be issued.

Lenny Peterson

(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

November 30, 2011

7234-3

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system as authorized under Water Permit No. 7234-3.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. 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



7234-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 6, 2012

**JAMES RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s). 7234-3**

To: PETERSON FARMS
19111 MAPLE AVE
HITCHCOCK SD 57348

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

Subject: James River Qualification Reminder for Permit No(s). 7234-3

Qualifications on your water right indicate that you are not authorized to divert James River water after August 10th. Please, consider this a reminder and cease diversion if you have not already done so. No diversion can take place after August 10th unless under written orders by the Chief Engineer. You may resume diversion on the date stated in the qualifications on your water right.



**DEPARTMENT of ENVIRONMENT
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denr.sd.gov

August 9, 2012

Peterson Farms
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

In response to your telephone call on August 9, 2012 requesting an extension to pump from the James River beyond the August 10th cutoff, you are authorized to pump under Water Right No. 7234-3, subject to the following:

- No irrigation from the James River beyond August 24, 2012 for the 2012 irrigation season
- Flows remain available for downstream domestic users and prior water rights
- Flows past the Huron gaging station remain above 20 cubic feet per second after pumping

We will continue to monitor the James River and if conditions warrant, you may be shutoff prior to August 24, 2012, with no prior notice given. If you have any questions, please contact Lynn Beck or Mark Rath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 24, 2012

Peterson Farms
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

In response to your telephone call on August 24, 2012 requesting an extension to pump from the James River beyond the August 10th cutoff, you are authorized to pump under Water Right No. 7234-3, subject to the following:

- No irrigation from the James River beyond September 7, 2012 for the 2012 irrigation season
- Flows remain available for downstream domestic users and prior water rights
- Flows past the Huron gaging station remain above 20 cubic feet per second after pumping

We will continue to monitor the James River and if conditions warrant, you may be shutoff prior to September 7, 2012, with no prior notice given. If you have any questions, please contact Lynn Beck or Mark Rath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

Permit No. 7234-3
James River - Water District

Contact Person & Address: **Floyd Peterson, 18892 390th Ave, Hitchcock SD 57348**

Report Of Examination Of Works

On, **August 27 2013**, I made a thorough examination of the water use system constructed by **Peterson Farms** holder of Permit No. **7234-3**, bearing the priority of **March 1, 2011** authorizing the diversion of **2.28** cu. ft. per second of the waters of **the James River** for **irrigation** purposes, in **Spink** County.

The system is in the following condition **good**. The point of diversion is located **from the SW corner of Sec 22 T114N-R62W, 300 ft E** with latitude of **44.661614** and a longitude of **-98.280193** as determined using **GPS**. The works are capable of diverting and conveying to the place of use **1.78** cu. ft. per second of water which is to be used for **irrigation**. Water has been put to beneficial use to the maximum extent as follows:

All land is located in **Sec 22-T114N-R62W**

NW ¼ NE ¼ - 33 ac NE ¼ NE ¼ - 33 ac SE ¼ NE ¼ - 33 ac SW ¼ NE ¼ - 33 ac

comprising a total of **132** acres of land and the license should be issued for **1.78** cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by **yes**
- 2) All structures, wells and lands on map **yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **yes**.
- 4) Exceptions to compliance are: **none**

Report On the Specifics of the System

Diversion Point Information:

Pump:

- 1) Make Cornell 2) Model 6RB-F18 3) Size 6 4) Capacity 2400 GPM

Motor:

- 1) Make John Deere 2) Model No. 6066HF285 3) Horsepower rating 200 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type PVC 2) Size 10 inches 3) Length 5000 feet

SYSTEM TYPE:

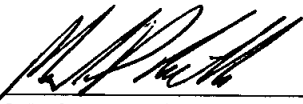
Center pivot:

- 1) Make T-L 2) Overall length 1280 feet
3) Number of towers 2 4) End gun yes
5) High or low pressure lo 6) Capacity 800 GPM

CHEMIGATION EQUIPMENT:

- 1) Does chemigate yes 2) Main line check valve yes
3) Inspection port/air relief yes 4) Low pressure drain yes
5) Discharge is 20' from source yes 6) Interlock type electric
7) Injection pump type positive 8) Injection check valve yes
9) Injection line check valve or positive displacement pump yes
10) All chemigation equipment appears to be installed in the proper position and complies with chemigation laws and rules yes

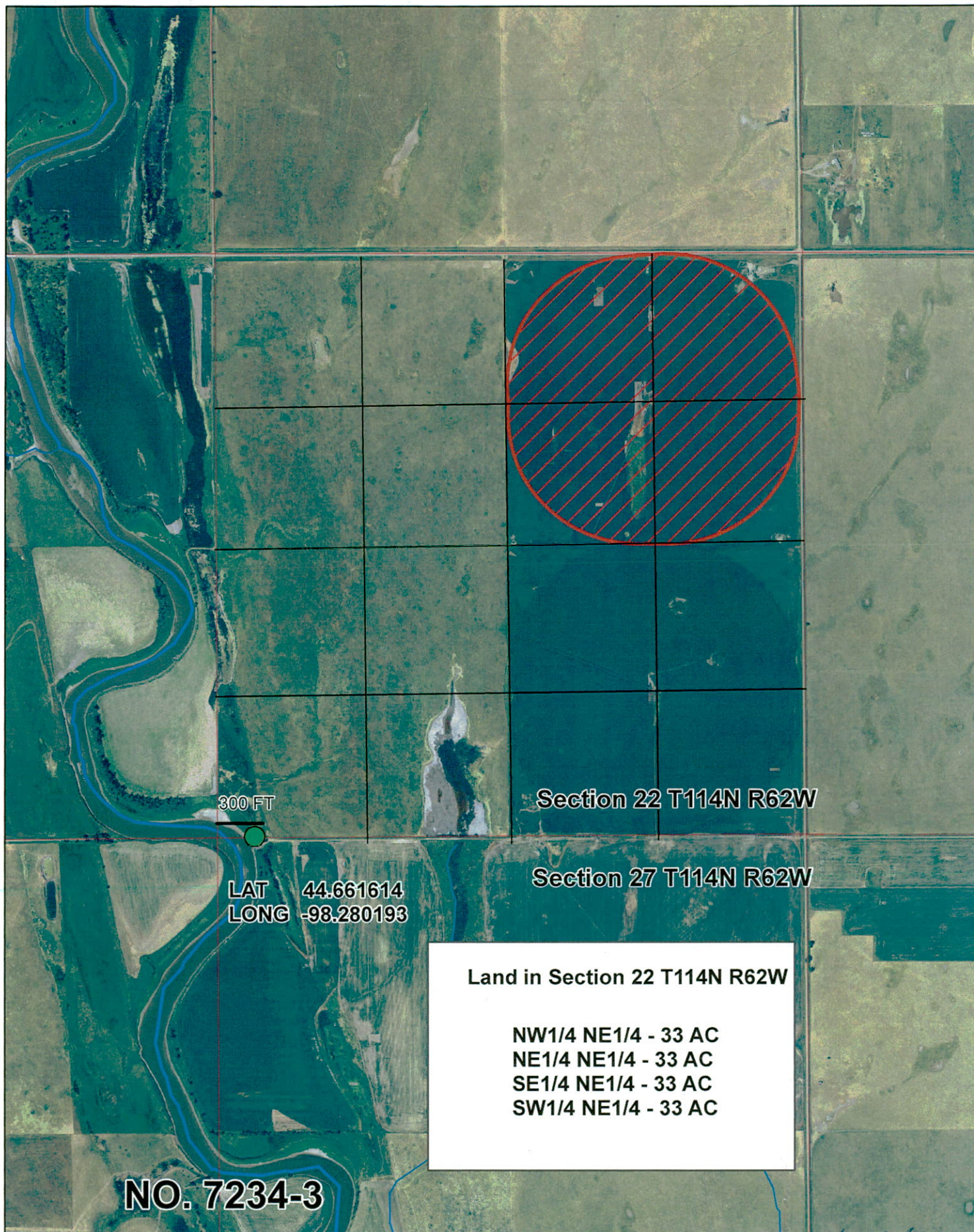
Comments : River pump is utilized by multiple irrigation systems covered under other permits including Water Right No. 6183-3 and Permit No. 7183-3 held by Oscar, Inc and so has a greater total capacity than is authorized by this permit. The system capacity is limited by the center pivot capacity.



Mark D. Rath
Natural Resources Engineer III
DENR, Water Rights Program

9-5-15

Date



NO. 7234-3

Section 22 T114N R62W

Section 27 T114N R62W

300 FT

LAT 44.661614
LONG -98.280193

Land in Section 22 T114N R62W

NW1/4 NE1/4 - 33 AC
NE1/4 NE1/4 - 33 AC
SE1/4 NE1/4 - 33 AC
SW1/4 NE1/4 - 33 AC



2,100

1,050

0

2,100 Feet

Mark D Rath
Mark D Rath
Natural Resources Engineer
08-28-2013



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

SEP 27 2013

7234-3

Lenny Peterson
Peterson Farms
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water License No. 7234-3. 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.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7234-3**

(1) Peterson Farms, % Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 made Application No. 7234-3, March 1, 2011 for a water permit to divert 2.28 cubic feet of water per second from the James River, Spink County, South Dakota for irrigation purposes. Permit No. 7234-3, with a priority date of March 1, 2011 was approved May 9, 2011 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 9, 2016 and for the application to beneficial use of water on or before May 9, 2020.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on November 30, 2011. The "*Notice*" stated the water use system was completed on April 15, 2011 and the water placed to beneficial use on September 1, 2011.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.78 cubic feet of water per second for beneficial use. The location of the diversion point is 300 feet east of the SW corner of Section 22, T114N, R62W (SW ¼ SW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 22, T114N, R62W	NW ¼ NE ¼	33 acres
	NE ¼ NE ¼	33 acres
	SE ¼ NE ¼	33 acres
	SW ¼ NE ¼	33 acres
Total		132 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Peterson Farms, % Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 the holder and/or owner of Water Right No. 7234-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from the James River with a priority date of March 1, 2011 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7234-3 and subject to the following qualifications:

- Permit No. 7234-3 is subject to the diversion causing no adverse impact to the Topeka shiner in the James River.
- Diversions of water from the James River shall be in accordance with the following criteria:
 - a. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to senior water rights and any written orders issued by the chief engineer.
 - b. This permit does not authorize diversions from the James River when there is less than 20 cfs by-passing the gage at Huron SD after pumping.

continued

Page 2

Water License No. 7234-3

- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 27 2013

date



RECEIVED
SEP - 7 2016
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 7234-3

Date: Sept 6-2016

I/We request that Water Right/Permit No. 7234-3

formerly owned by: Peterson Farms

be transferred to: (name & address) Brad Peterson, 19026 391st Avenue, Hitchcock SD 57348

twisted Land and cattle

Telephone No. 605 266-2817

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

NE ¼ Section 22, T114N, R62W

I/We understand that the validity of Water Right/Permit No. 7234-3 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 Fifty Dollars (\$50.00) 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 Brad Peterson, the new owner, certify that the above information is true and correct.

Brad Peterson

(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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/7, 20 16

RECEIVED OF Twisted Land & Cattle 19026 391st Ave Hitchcock SD 57348

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	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>7234-3</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	50 00

No. **07913**

By Jeanne Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

September 9, 2016

Brad Peterson
Twisted Land and Cattle
19026 391st Ave
Hitchcock SD 57348

RE: Water Permit/Right Nos. 2367-3, 5671-3, 6334A-3, 7234-3, 7235A-3 and 7444-3

Dear Mr. Peterson:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on the above listed water permits and water rights. The ownership changes have been completed as follows:

- **Water Right No. 2367-3**, formerly held by Peterson Farms is now listed in the name of Twisted Land and Cattle;
- **Water Right No. 5671-3**, formerly held by Peterson Farms is now listed in the name of Twisted Land and Cattle;
- **Water Right No. 6334A-3**, formerly held by Peterson Farms is now listed in the name of Twisted Land and Cattle;
- **Water Right No. 7234-3**, formerly held by Peterson Farms is now listed in the name of Twisted Land and Cattle;
- **Water Permit No. 7235A-3**, formerly held by Mitch, Jeb & Shane Peterson is now listed in the names of Trent, Jeb and Shane Peterson (in-care-of your address);
- **Water Permit No. 7444-3**, formerly held by Mitch, Jeb & Shane Peterson is now listed in the names of Trent, Jeb and Shane Peterson (in-care-of your address);

Enclosed for your records are the receipts in the amount of \$50 each which you paid for filing the ownership changes. The two water rights that need to be divided and reissued to reflect separate ownership are being processed separately. If I can answer any questions for you, please let me know.

Sincerely,

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

enclosures

7234-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 25, 2017

Brad Peterson
Twisted Land & Cattle
19030 391st Ave
Hitchcock SD 57348-6808

RE: Irrigation Questionnaires for Nos. 1722A-3, 2367-3, 5671-3, 6334A-3, 6343B-3, 7234-3

Dear Mr. Peterson:

Enclosed is a "Notice" dated October 20, 2017 concerning the 2017 irrigation questionnaires.

The notice was originally mailed to 19026 391st Ave, Hitchcock SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

AUG 14 2020

Ck# 504

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

RECEIVED

AUG 14 2020

Water Right/Permit No. 7234-3Date: August 14, 2020WATER RIGHTS
PROGRAMI/We request that Water Right/Permit No. 7234-3 formerly owned by:Twisted Land & Cattle be transferred to:New Owner Name: Oscar IncAddress: 209 27th NWCity, State, Zip Huron ☒ SD ☒ 57350 Telephone No. _____

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

NE 1/4 Section 22-T114N-R62W

☒ I understand that the validity of Water Right/Permit No. 7234-3 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 Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Oscar Inc, the new owner, certify that the above information is true and correct.

Oscar Inc. by Lloyd H. Peterson Pres.
(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.

7234-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 17, 2020

Floyd Peterson
Oscar Inc
209 27th St NW
Huron SD 57350

RE: Water Right/Permit Nos. 7234-3, 7235A-3, 7347-3, 7348-3, 7348A-3, 7349-3 & 7444-3

Dear Mr. Peterson:

I am writing in reference to the transfer forms and filing fees you completed while in the office last Friday.

The ownership changes have been completed. The above listed water rights and water permits, formerly held by Michael Sentell, Twisted Land & Cattle or Jeb, Shane & Brad Peterson are now listed in your name.

Enclosed for your records are receipts for the filing fees you paid. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Genny McMath', written in dark ink.

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 27, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who use water from the James River that river flow is much lower this year and to let them know that shutoff orders are possible this summer.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses will begin to interfere with domestic use. If river levels become critically low, the department may be forced to issue shutoff orders to protect domestic use, including livestock watering and those water rights that are most senior.

We are only cautioning that shutoff orders may become necessary. **This not a shutoff order.** This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shutoff orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and avoid wasting water.

If you are interested, the US Geological Survey has an Internet site showing river flows at 164 stream gauging stations across the state. To view the latest realtime stream flow, go to:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2021

Dear James River Water Right Holder:

I am writing to water right holders and operators who either use water from the James River or tributaries under permits with the August 10 shutoff date qualification.

Water rights containing this qualification requires a mandatory compliance and pumping under your permit must cease after August 10th unless you contact the Water Rights Program and receive permission to continue to divert water.

Water Rights staff drove along the James River last week after the August 10 shutoff date to spot-check whether water right holders were complying with this qualification. This spot-check found multiple water right holders diverting water in violation of this qualification.

Again, I remind you, compliance with this shutoff qualification is required unless you request and receive permission from the Water Rights Program to continue pumping. Permission may be granted based upon water availability.

Thank you for your cooperation. If you have any questions, please contact Mark Rath, Blaise Hansen, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program