

WATER PERMIT NO. 7391-3

Name of Applicant: **Peterson Farms**

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

Amount of Water Claimed: **1.94 cfs** Total Acres: **136**

Source of Water Supply: **springs and water from drainage tile**

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

Type of Waste Disposal System:

Location: **5 east of Hitchcock**

PRIORITY Date Received: **8-3-12** Application/License Fee: **\$ 1,050.00**

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

Remarks:

Diversion Point: **SE ¼ SE ¼ Sec 33-T114N-R62W**

Land to be Irrigated: **S ½ NE ¼, N ½ SE ¼ Sec**
33-T114N-R62W

Depth of Well: **NA**

Well Driller:

Remarks:

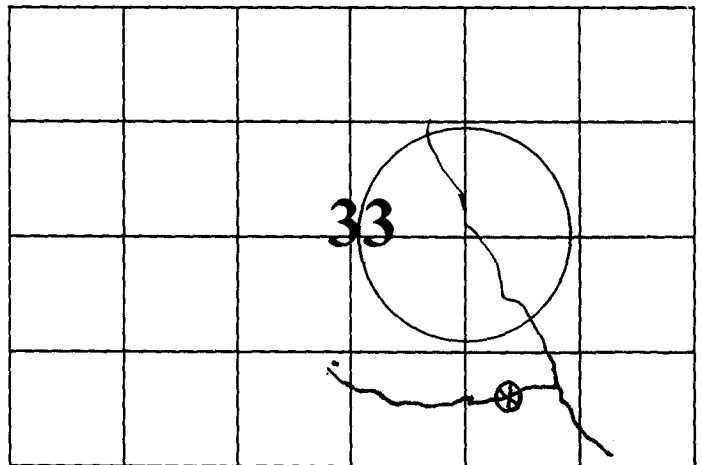
Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **8-3-12**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED

AUG 03 2012

WATER RIGHTS
PROGRAM

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7391-3</u> (office use only)	Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Redfield Press PO Box 440 57469 605-472-0822</u>	
	<u>Plainman PO Box 1278 Huron 57350 605-352-6401</u>	

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 605-266-2793
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 19111 Maple Avenue Hitchcock SD 57348
(Address) (City) (State) (Zip Code)
2. Amount of water claimed 1.94 *CFS or **GPM ***AF Total Acreage 136
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply spring flow and water from drainage tile
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Spink
SE 1/4 SE 1/4 Section 33, T114N, R62W
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
SW 1/4 NE 1/4 Section <u>33</u> T114N, R62W	33.75		
SE 1/4 NE 1/4 Section <u>33</u> T114N, R62W	33.75		
NW 1/4 SE 1/4 Section <u>33</u> T114N, R62W	33.75		
NE 1/4 SE 1/4 Section <u>33</u> T114N, R62W	33.75		

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

Currently hold Water Permit No. 6201B-3 for this acreage. Intend to use spring flow that is significantly increase by drain tiling that we have conducted on four quarter to the west. Drainage was authorized by Spink County Drainage Board.

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, Peterson Farms, 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

Subscribed and sworn to before me this 3 day of Aug 20 12

Sandra Schwellenbach
Notary Public signature

8-8-2012

**SOUTH DAKOTA
WATER PERMIT NO. 7391-3**

Date of first receipt of application August 3, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7391-3 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. 7391-3 appropriates 1.94 cubic feet of water per second (cfs) from a spring located in SE 1/4 SE 1/4 Section 33 for irrigation of 136 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 33; all in T114N-R62W. The source of the spring is the Tulare:Western Spink Aquifer. The water course is supplemented by installation of subsurface drainage tile. Water Permit No. 6201B-3 authorizes irrigation of the same acreage from the Tulare:Hitchcock Aquifer.
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 August 3, 2012.
4. The date of approval of Permit No. 7391-3 is October 9, 2012.
5. One-fifth of the construction is to be completed on or before April 9, 2015.
6. All construction is to be completed on or before October 9, 2017.
7. Water is to be put to beneficial use on or before October 9, 2021.
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. Diversion of water from the spring shall be in accordance with the following criteria:
 - a) This permit does not authorize diversion of water from the spring 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 spring when there is less than 20-cfs bypassing the James River USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Combinations of diversion authorized by Permit Nos. 6201B-3 and 7391-3 for irrigation of the S 1/2 NE 1/4 and N 1/2 SE 1/4 Section 33, T114N, R62W may not exceed 1.0 cfs per 70 acres.
4. Permit No. 7391-3 authorizes diversion of only natural spring discharge and water from drain tile systems authorized by the Spink County Drainage Board. The Permit prohibits artificial excavation in the vicinity of the spring to supply this appropriation or near the authorized diversion point. The pump site shall be constructed in a manner that it does not excavate below the natural land surface.

WATER MANAGEMENT BOARD

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

OCT 29 2012
date



Water Permit Application for Peterson Farms



Eric Gronlund
Eric Gronlund
Water Rights Program, DENR
based on representation of
Lenny Peterson of Peterson Farms

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

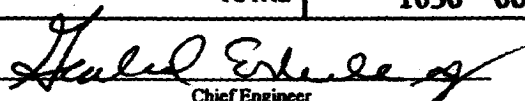
Date 8/6, 20 12

RECEIVED OF Peterson Farms 19111 Maple Ave Hitchcock SD 57348

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

Fee for Application for Permit No. <u>7391-3</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>7391-3</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. **05513**

By 
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7391-3, 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. 7391-3, Peterson Farms, c/o Lenny Peterson, 19111 Maple Avenue, Hitchcock SD 57348.

The Chief Engineer is recommending APPROVAL of Application No. 7391-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) as conditioned 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. Diversion 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 spring 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 spring when there is less than 20-cfs bypassing the James River USGS gaging station at Huron SD after pumping.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Combinations of diversion authorized by Permit Nos. 6201B-3 and 7391-3, if approved, for irrigation of the S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 33, T114N, R62W may not exceed 1.0 cfs per 70 acres.
4. Permit No. 7391-3 authorizes diversion of only natural spring discharge and water from drain tile systems authorized by the Spink County Drainage Board. The Permit prohibits artificial excavation in the vicinity of the spring to supply this appropriation or near the authorized diversion point. The pump site shall be constructed in a manner that it does not excavate below the natural land surface.

See report on application for additional information.

Garland Erbele, Chief Engineer
September 18, 2012

NOTE: The spring may not be a reliable source of water capable of sustaining the requested irrigation during dry conditions. The past years of precipitation have been above

normal. Return to normal or below normal precipitation may impact spring flow. Small fluctuations in the aquifer's water table may cause large changes in the spring discharge.

The installation of sub-surface drainage tile will need to comply with any Spink County drainage regulations. The application states that drainage is authorized by Spink County Drainage Board.

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7391-3
PETERSON FARMS c/o LENNY PETERSON
SEPTEMBER 8, 2012

Water Permit Application No. 7391-3 proposes to appropriate 272 acre-feet of water at a maximum diversion rate of 1.94 cubic feet of water per second (cfs) from a spring located in the SE¼ SE¼ Section 33, T114N-R62W. The water will be used to irrigate 136 acres located in the S½ NE¼ and the N½ SE¼ of Section 33, T114N-R62W. The natural spring water source is supplemented with flows from subsurface drainage tile installed in a nearby field. The acreage that this application proposes to irrigate is currently authorized for irrigation through Water Permit No. 6201B-3, a permit authorizing diversions from the Tulare: Western Spink/Hitchcock aquifer. Combinations of the diversions authorized by Water Permit No. 6201B-3 and this application, if approved, may not exceed a rate of 1.0 cfs per 70 acres irrigated.

AQUIFER: TULARE: WESTERN SPINK/HITCHCOCK AQUIFER

AQUIFER CHARACTERISTICS:

The Tulare aquifer is a glacial outwash deposit that underlies parts of Hand, Spink and Beadle Counties. The top of the outwash is generally within 50 feet of the ground surface (Schultz, 2001). The thickness of the outwash deposit is highly variable ranging from less than 10 feet to over 100 feet (Kuiper, 1984). The average thickness of the outwash was estimated to be 37 feet (Hamilton and Howells, 1996).

In December 2002, the Water Management Board determined that the Western Spink and the Hitchcock management units of the Tulare aquifer would be considered collectively for water permit/water right management purposes (Goodman, 2002). For the purpose of this report the aquifer will be considered the Tulare: Western Spink/Hitchcock aquifer. Based on the best information currently available, the areal extent of the Tulare: Western Spink/Hitchcock aquifer is considered to be 263,016 acres (Buhler, 2012).

The Tulare: Western Spink/Hitchcock aquifer is generally under confined conditions with lesser areas where it is under unconfined conditions. During dryer periods the percent of the aquifer that is unconfined increases. Groundwater movement in the aquifer is mainly from the southwest to the northeast.

The DENR-Water Rights Program monitors 50 observation wells completed into the Tulare: Western Spink/Hitchcock aquifer and observation well SP-79N is located approximately 0.7 miles west-southwest of the spring that is proposed as a water source by this application. A hydrograph for the observation well (Figure 1) shows that the water table of the aquifer has fluctuated between 14-29.6 feet below the top of well casing which is equivalent to 1269.26 – 1284.86 feet mean sea level elevation (msl).

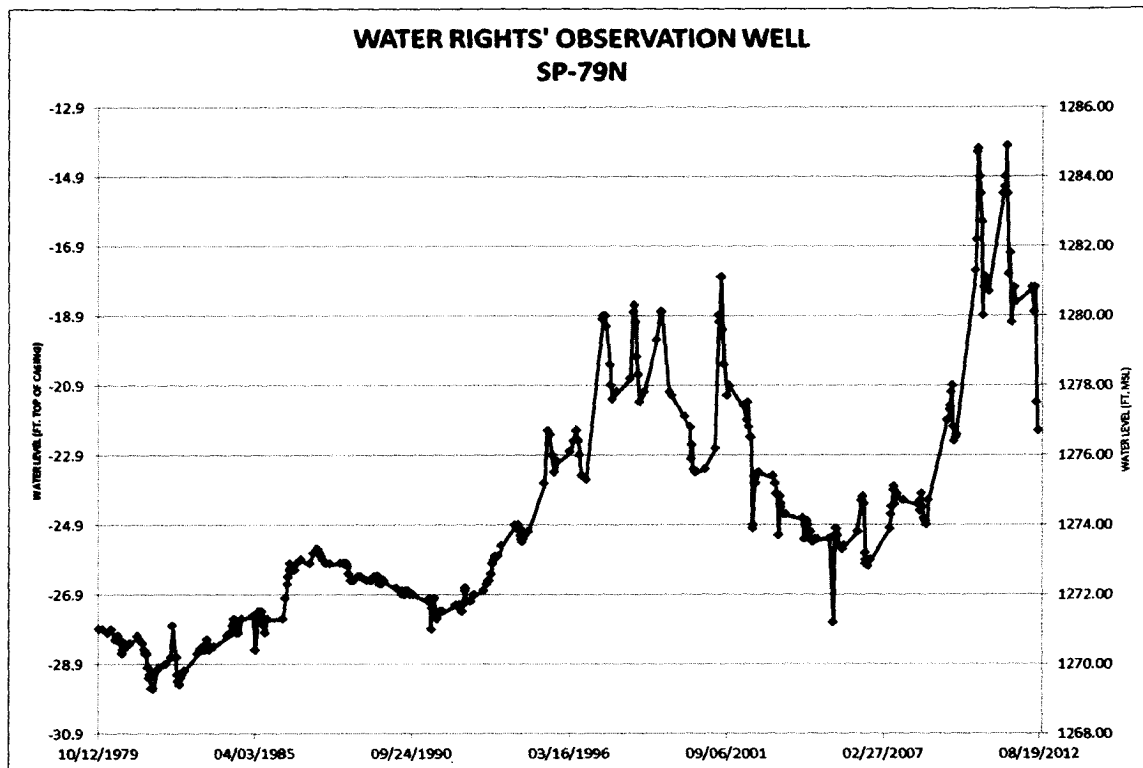


Figure 1. Hydrograph of DENR-Water Rights' Observation Well SP-79N which is completed into the Tulare: Western Spink/Hitchcock aquifer and located approximately 0.7 west-southwest of the spring that is to be used to supply this appropriation.

The spring this application proposes to use as a water source appears to originate simply because a ravine has cut down locally to the Tulare: Western Spink/Hitchcock aquifer water table. This is illustrated in Figure 2, using the 1275 feet msl contour as a point of reference. Small fluctuations in the water table are likely to cause large changes in the spring discharge.



Figure 2. Vicinity map showing observation well SP-79N, the diversion point proposed by Application No. 7391-3 and the approximate location of the spring that is proposed as a source for this appropriation.

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will primarily address the availability of unappropriated water and existing rights from the Tulare: Western Spink/Hitchcock aquifer.

WATER AVAILABILITY:

On July 11, 2012, the Water Management Board approved five water permit applications appropriating water from the Tulare: Western Spink/Hitchcock aquifer. As a result of the Board's action, based on the best information available at the time (Buhler, 2012), the total appropriations from the aquifer will likely result in the average annual use from the aquifer equaling the average annual recharge to the aquifer and the Tulare: Western Spink/Hitchcock aquifer should be considered fully appropriated. There is no new data to support additional appropriations from the aquifer at this time.

Pursuant to SDCL 46-1-6(18) a well is an artificial excavation made for the purpose of obtaining groundwater. An excavation in the vicinity of this spring or the diversion point proposed by this application would be considered a well and would allow withdrawals from the aquifer to exceed natural spring discharge.

Water is not available from the Tulare: Western Spink/Hitchcock aquifer to allow for any appropriation beyond the natural spring discharge. Provided no artificial excavations are made to enhance the discharge of this spring, this proposed appropriation will not lead to additional withdrawals from the aquifer. Therefore, the availability of unappropriated water from the Tulare: Western Spink/ Hitchcock aquifer is not an issue.

EXISTING WATER RIGHTS:

As stated earlier, provided no artificial excavations are made to enhance the discharge of this spring, this proposed appropriation will not lead to additional withdrawals from the aquifer. Therefore, neither existing water rights/permits nor domestic wells will be affected by this proposed appropriation.

The springflow that this application proposes to appropriate discharges to an unnamed tributary of the James River approximately 4,000 feet upstream of its confluence with the river. There are no existing water rights/permits appropriating water from this unnamed tributary. However, there are a number of water rights/permits appropriating water from the James River downstream of this tributary's confluence with the river.

The James River is "not dependable as a continuous source of water" (Rath, 2003). "During low precipitation years the James River experiences extremely low flow and cannot be considered a reliable source of water" (Stroup, 2000). Several policies and water permit qualifications have been adopted over the years by the Water Management Board and its predecessors, the SD Water Rights Commission and the Water Resources Commission concerning the management of James River water rights. The Commission set a 300 cfs diversion limit for the entire river from North

Dakota to the Hutchinson-Yankton County line, and a 200 cfs diversion limit from North Dakota to Huron. In 2007, SD DENR-Water Rights staff reviewed all of the existing James River water rights/permits and a set of standardized qualifications were adopted by the Water Management Board for appropriations from the river.

When considering a similar water permit application (No. 6231-3, Oscar Incorporated), the Water Management Board found that "The watercourse in question is a tributary to the James River and is properly treated as an integral part of the James River system" *Water Permit Application No. 6231-3*, South Dakota Water Management Board (Findings of Fact, Conclusions of Law and Final Decision issued July 19, 2001) at page 2. As a consequence, the Board found that when James River permits are shut off, all new in-flows will have to be bypassed, *Water Permit Application No. 6231-3*. Findings at page 2.

Standard James River qualifications would include:

- This permit does not authorize diversion of water after August 10th of each calendar year, or at any time James River 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 when there is less than 20-cfs by-passing the James River gage at Huron, SD after pumping.

If Water Permit Application 7391-3 is approved, diversions from both the total river and the North Dakota boarder to Huron, SD river reach would still be below the established limits.

CONCLUSIONS:

1. Water Permit Application No. 7391-3 proposes to appropriate 272 acre-feet of water annually at a maximum diversion rate of 1.94 cubic feet of water per second from a spring that discharges from the Tulare: Western Spink/Hitchcock aquifer to an unnamed tributary to the James River.
2. This permit, if approved will appropriate only natural spring discharge.
3. Unappropriated water is not available for withdrawals from this area that would exceed natural spring discharge.
4. Any artificial excavation in the vicinity of the spring that is to supply this appropriation or near the diversion point proposed by this application could result in withdrawals in excess of natural discharge.
5. If approved with qualifications, there is a reasonable probability that this permit will not adversely impair existing water rights.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Buhler, K.A., 2012, Report To The Chief Engineer on Water Permit Application No. 7289-3, Bixler Farms; Nos. 7290-3 and 7291-3, Lee Gatzke; No. 7293-3, Jeffrey Gatzke; and No. 7292-3, Allen Gatzke, April 25, 2012: SD DENR-Water Rights Program
- Goodman, J.A., 2002, Report on Water Permit Nos 6330-3, 6331-3, 6332-3, 6336-3, 6337-3, 6338-3, 6339-3, 6340-3, 6343-3, 6344-3, 6345-3, 6346-3, 6348-3, 6353-3 for Water From the Tulare Hitchcock Aquifer and Water Permit Nos. 6333-3, 6334-3, 6347-3, 6351-3, 6352-3 for Water From the Tulare Western Spink Aquifer, September 10, 2002: SD DENR-Water Rights Program
- Hamilton, L.J., and Howells, L.W., 1996, Water Resources of Spink County, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 96-4056, 68 p.
- Kuiper, L.K. 1984, Appraisal of the Water Resources of The Eastern Part of the Tulare Aquifer, Beadle, hand, and Spink Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 84-4078, 52 p.
- Rath, M.D., 2003, Report on Water Permit Application No. 6375-3, Bixler Farms, January 22, 2003, in Water Permit No. 6375-3, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Schulz, L.D., 2001, First Occurrence of aquifer materials in Spink County, South Dakota, South Dakota Geological Survey Aquifer Materials Map 5, Scale 1:100,000
- Stroop, D.E., 2000, Report on Water Permit Application No. 6182-3 & 6183-3, Oscar Incorporated, March 29, 2000, in Water Permit No. 6183-3, SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Water Rights, 2012a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2012c, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

PRINTER'S AFFIDAVIT

RECEIVED

OCT - 3 2012

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.

WATER RIGHTS
PROGRAM

I, TRISHA NELSON, being duly sworn on oath, say that THE PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

SD ENVIRONMENTAL & NATURAL – WATER APPLICATION - PETERSON

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 26TH day SEPT 2012 That the full THIRTY-NINE & 00/000 dollars insures to the benefit of the publisher of 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 person whomsoever.

Trisha Nelson

Subscribed and sworn to before me this 30TH day of SEPT. 2012.

Abigail T. North
Notary Public, South Dakota

My term expires 10/25/17

Legal # 398

F.P. 09-26-12

NOTICE OF APPLICATION

NO. 7391-3 to

Appropriate Water

Notice is given that Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 1.94 cubic feet of water per second (cfs) from a spring located in SE 1/4 SE 1/4 Section 33 for irrigation of 136 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 33; all in T114N-R62W. The source of the spring is the Tulare Western Spink Aquifer. The water course is supplemented by installation of subsurface drainage tile. Water Permit No. 6201B-3 authorizes irrigation of the same acreage from the Tulare Hitchcock Aquifer. Combinations of diversions authorized by No. 6201B-3 and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7391-3 with conditions because 1) unappropriated water is available from the natural spring discharge arising on the land and a constituting flow to a natural stream, 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 this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition

opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. 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 October 9, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, 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 this application.

Steven M. Pimer,
Secretary,
Department of
Environment and
Natural Resources.
No. 398 (adv.)

Published once at the total approximate cost of \$37.77.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

SEP 27 2012

WATER RIGHTS
PROGRAM

I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined 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:

#590 Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on September 26th, that Twenty-six and .95/100 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 26th day of September, 2012.



Notary Public, South Dakota

My commission expires 04/06/2016.

Notice

#590

NOTICE OF APPLICATION NO. 7391-3 TO APPROPRIATE WATER

Notice is given that Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 1.94 cubic feet of water per second (cfs) from a spring located in SE 1/4 SE 1/4 Section 33 for irrigation of 136 acres located in the S 1/2 NE 1/4, N 1/2 SE 1/4 Section 33; all in T114N-R62W. The source of the spring is the Tulare:Western Spink Aquifer. The water course is supplemented by installation of subsurface drainage tile. Water Permit No. 6201B-3 authorizes irrigation of the same acreage from the Tulare:Hitchcock Aquifer. Combinations of diversions authorized by No. 6201B-3 and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7391-3 with conditions because 1) unappropriated water is available from the natural spring discharge arising on the land and constituting flow to a natural stream, 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 this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

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recommendation. 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 October 9, 2012.

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Steven M. Pirner, Secretary
Department of Environment
and Natural Resources
Published at an approximate cost of \$26.95. (Sept 26)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

September 19, 2012

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7391-3 to Appropriate Water. Please publish the notice once on September 26, 2012. 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 and arrange for payment. **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 an affidavit or the enclosed Proof of Publication form immediately.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

September 19, 2012

Plainsman
PO Box 1278
Huron SD 57350

sent via e-mail

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7391-3 to Appropriate Water. Please publish the notice once on September 26, 2012. 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 and arrange for payment. **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).

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Ruby Crandall <rnewman.plainsman@midconetwork.com>
Sent: Thursday, September 20, 2012 8:53 AM
To: Schlaak, Karen
Subject: Re: No. 7391-3 and 7126A-3

I have received your email.
Thank you.

Ruby Crandall
Creative Services Supervisor

Plainsman/Payday/Print Shop
49 3rd Street SE
Huron, SD 57350

605-353-7412

1-800-859-3045, ext. 412

fax: 605-353-7422

rnewman.plainsman@midconetwork.com

On Sep 20, 2012, at 7:46 AM, <Karen.Schlaak@state.sd.us> <Karen.Schlaak@state.sd.us> wrote:

Here are two more notices to be published on September 26, 2012.

Notice of Application No. 7391-3, Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 605 266-2793

Notice of Application No. 7126A-3, Marshall Bros, C/o Gary Marshall, 19032 388th Ave, Hitchcock SD 57348 605 266-2720

Please bill the applicant for the publication and sent us the affidavit ASAP.

Thanks,

Karen Schlaak

Water Rights Program

Phone: 605 773-3352

Fax: 605 773-4068

<7391-3public.short.docx><7126A-3public.short.docx>



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

September 19, 2012

Peterson Farms
Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit Application No. 7391-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plainsman printed at Huron SD (Ph # 605-352-6401) and the Redfield Press printed at Redfield SD (Ph # 605-472-0822). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. 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

enclosures

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

Instruction to Newspaper - Publish the Notice on September 26, 2012. 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 NO. 7391-3 to Appropriate Water

Notice is given that Peterson Farms, c/o Lenny Peterson, 19111 Maple Ave, Hitchcock SD 57348 has filed an application for a water permit to appropriate 1.94 cubic feet of water per second (cfs) from a spring located in SE ¼ SE ¼ Section 33 for irrigation of 136 acres located in the S ½ NE ¼, N ½ SE ¼ Section 33; all in T114N-R62W. The source of the spring is the Tulare:Western Spink Aquifer. The water course is supplemented by installation of subsurface drainage tile. Water Permit No. 6201B-3 authorizes irrigation of the same acreage from the Tulare:Hitchcock Aquifer. Combinations of diversions authorized by No. 6201B-3 and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7391-3 with conditions because 1) unappropriated water is available from the natural spring discharge arising on the land and constituting flow to a natural stream, 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 this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. 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 October 9, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, 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 this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published once 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
denr.sd.gov

OCT 29 2012

Peterson Farms
c/o Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

Dear Mr. Peterson:

Enclosed is Water Permit No. 7391-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

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

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JUN 22 2016

WATER RIGHTS
PROGRAM

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

No. 7391-3

Date: 6/22/16

I/We request that Water Right/Permit No. 7391-3

formerly owned by: Peterson Farms

be transferred to: (name & address) Lenny Peterson, 19111 Maple Avenue, Hitchcock SD 57348

Telephone No. 605 354-4062

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

S ½ NE ¼ and N ½ SE ¼ Section 33, T114N, R62W (water source is spring and drainage tile)

I/We understand that the validity of Water Right/Permit No. 7391-3 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 _____, 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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/22, 20 16

RECEIVED OF Lenny Peterson 19111 Maple 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>7391.3</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. **07865**

By Jeanne Goebman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

June 24, 2016

Lenny Peterson
19111 Maple Ave
Hitchcock SD 57348

RE: Water Right/Permit Nos. 6201B-3, 6333B-3, 6334B-3, 6656-3, 6712A-3 and 7391-3

Lenny:

Thank you for stopping by the office to take care of the ownership changes involving water permits and water rights held by Peterson Farms. The ownership changes have been completed for Water Right/Permit Nos. 6201B-3, 6333B-3, 6334B-3, 6656-3, 6712A-3 and 7391-3. They are now listed in your name.

In regard to the ownership change filed for Water Right No. 6343-3, this one will be completed and confirmation sent to you at a later date. The water right covers land in the SW ¼ Section 2 and NW ¼ Section 11, T113N, R63W. I am waiting on the paperwork from Brad for the SW ¼ Section 2. Once he submits the transfer form and fee, the water right will be divided and reissued to reflect separate ownership.

Enclosed are your receipts for the fees paid for filing the ownership changes. 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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 8, 2019

6201B-3
7391-3

Mitch Peterson
39686 Hwy 28
Hitchcock SD 57348

Dear Mr. Peterson:

I am writing in follow-up to our phone conversation concerning land described in Water Permit Nos. 6201B-3 and 7391-3. During our discussion you indicated you had purchased the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 33, T114N, R62W which may require dividing the permits up to reflect separate ownership.

Both water permits cover the same land. The difference between the two would be the diversion points.

- Permit No. 6201B-3 is for a well located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T114N, R62W.
- Permit No. 7391-3 is for use of spring flow with a diversion point located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T114N, R62W.

In reviewing the permits, only the diversion point location for No. 7391-3 is on land you own. The acreage is located in the N $\frac{1}{2}$ SE $\frac{1}{4}$ and the S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 33. Do you irrigate land in the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 33?

I have enclosed copies of both permits for your review. When you have a chance to look over the permits, we will need to talk about what needs to be done as far as ownership. You can call either myself or Eric Gronlund (605 773-3352) with our program for assistance.

Sincerely,

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

enclosures

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7391-3

I have this day, June 26, 2024, made a thorough examination of the water use system constructed by Lenny Peterson of 19111 Maple Ave, Hitchcock SD 57348 holder of Permit No. 7391-3, bearing priority of August 3, 2012 authorizing the diversion of 1.94 cu. ft. per second of the waters of springs for irrigation purposes, in Spink County.

Inspection contact & relationship Lennie Peterson, owner

A. Works used to divert the water:

Pump:

- 1) Make Amarillo Performance Pro
- 2) Model AP-2.7-HF-DAF
- 3) Size 4 in
- 4) Capacity 200 GPM

Motor:

- 1) Make Amarillo
- 2) Model No. Artesian Pro
- 3) Horsepower rating 2.7 hp

B. Works used to transport water to place of use:

- 1) Type Rubber
 - 2) Size 2 inches
 - 3) Length 900 feet
- Comments: none

C. Works used to apply water to beneficial use:

Irridrain Tile:

- 1) Area 26.5 acres
- 2) Tile Diameter 4 inches
- 3) Tile Spacing 20 feet

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by N
If no, describe: Qualification No. 3, no longer irrigates the same acres as authorized by No. 6201B-3.
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

List any extended period of nonuse: none

3) Exceptions to compliance are: Change of acres and type of irrigation from center pivot to N ½ SE 1/4 S ½ NE ¼ to an Irri-drain tile irrigation system with acres located in S ½ SE ¼ and SE ¼ SW ¼ all in Sec 33 T114N-R62 W.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: from the SE corner of Sec 33 T114N-R62W 860 ft W and 880 ft N, latitude of 44.63508 and longitude of -98.28467, SE ¼ SE ¼.
2. The works are capable of diverting and conveying to the place of use 0.45 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 33 T114N-R62W SE ¼ SE ¼ - 0.5 ac SW ¼ SE ¼ - 19.5 ac SE ¼ SW ¼ - 6.5 ac comprising a total of 26.5 acres of land and the license should be issued for 0.38 cfs.
3. All structures, wells and lands on map Y
If no, describe: none

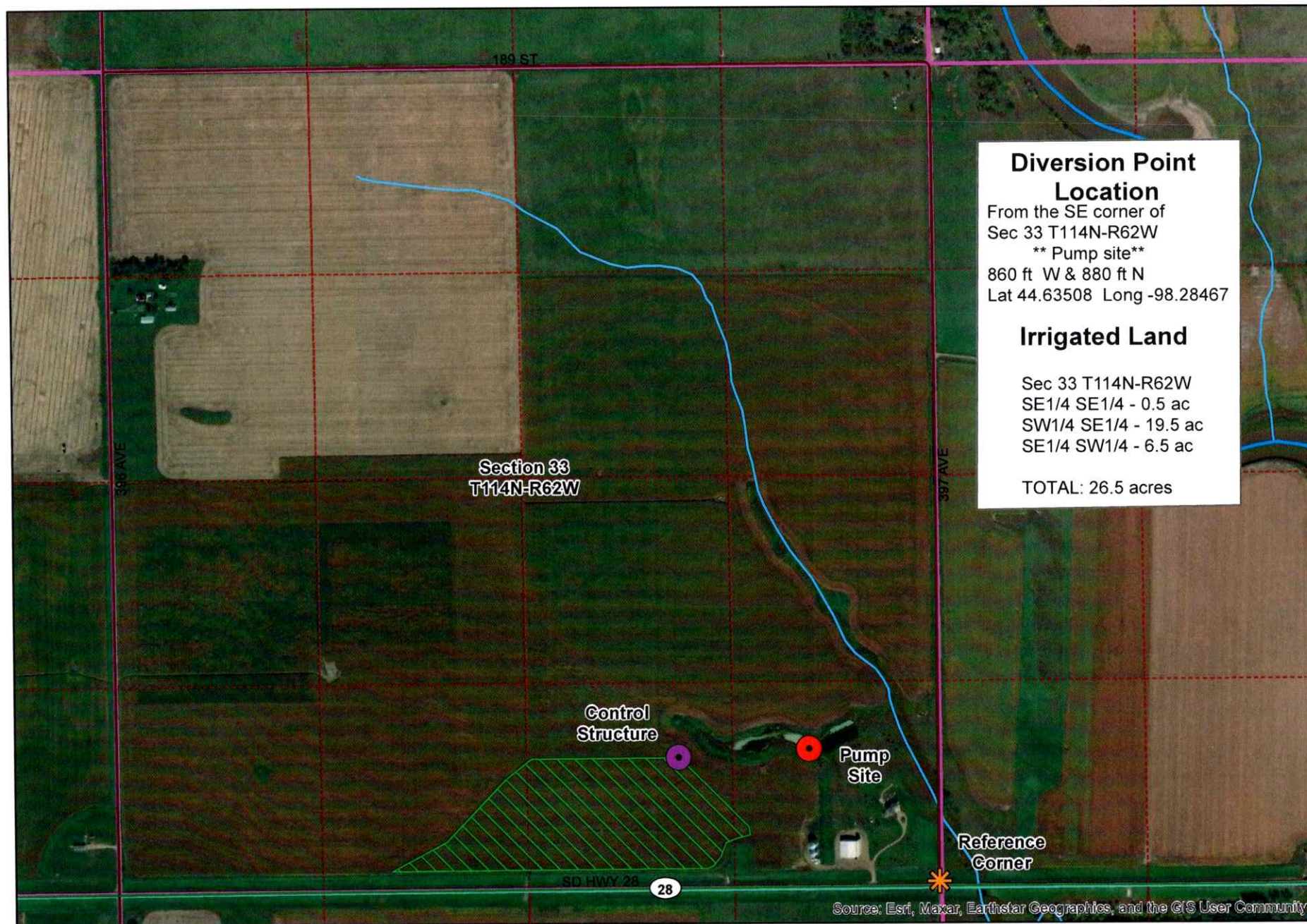
F. Comments or other permit(s) associated with the project:

Permit originally supplied supplemental water to the center pivot authorized by No. 6201B-3. The permit holder changed the location of acres and method of applying water.



Mark D Rath
Water Right Inspector
DANR, Water Rights Program

Date report completed: 07/18/2024



0.5 0.25 0 0.5 Miles



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

7391-3

August 23, 2024
Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Dear Mr. Peterson:

Water Permit No. 7391-3 (copy enclosed) authorizes the diversion of up to 1.94 cubic feet of water per second (cfs) from a spring located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 for irrigation of 136 acres located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 33; all in T114N, R62W. The water course is supplemented by installation of drainage tile. Water Permit No. 6201B-3 authorizes irrigation of the same acreage from the Tulare: Western Spink Hitchcock Aquifer.

An inspection conducted June 26, 2024, for the purpose of licensing the system, found a diversion capability of 0.45 cfs (200 gpm) being used to irrigate 26.5 acres in the S $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of this same section. In reviewing ownership of the developed property, we have found that it is held by Mitch Peterson (maps enclosed).

A new water permit will need to be obtained for the irrigation system as developed for the following reasons:

- Qualification No. 3 on Permit No. 7391-3 is specific to the development of acres also authorized for irrigation under Permit No. 6201B-3.
- While there is a statute that allows for licensing of acreage developed for irrigation outside of the acreage described on the permit under certain circumstances, that can only occur if the acres are owned by the same property owner. My understanding is Mitch is your son but is still considered a separate property owner under SDCL 46-5-30.1.

Enclosed is a partially completed application for you to review, sign and submit along with the appropriate filing fee of \$500.00. The licensing and inspection fee will be waived as it was already paid under Permit No. 7391-3. The application will either need to be issued to the current property owner (Mitch Peterson) or be accompanied by a signed statement from him allowing you to practice irrigation on his property. Please contact me at (605) 773-3352 if you have questions.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program, DANR

enclosures