

**SOUTH DAKOTA
WATER PERMIT NO. 6163A-3**

Date of first receipt of application January 4, 2000.

On January 31, 2000, the Chief Engineer, on behalf of the Water Management Board, approved Water Permit No. 6163-3 for Robert Sargent, 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. 6163-3 appropriates 8.2 cubic feet (cfs) of water per second from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21; all in T114N-R81W. The permit authorizes irrigation of 574 acres located in the NE $\frac{1}{4}$ Section 10, N $\frac{1}{2}$, SW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15; all in T114N-R81W. Water is pumped from the two diversion points along the Missouri River and used directly for irrigation or diverted to 2 storage dams prior to the water being applied to the land.

Water Permit No. 6163-3 is being divided and reissued to reflect separate ownership as follows:

No. 6163A-3, Robert Sargent, 18559 Remington Place, Pierre, SD 57501 appropriates 4.54 cfs from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21; all in T114N-R81W. The permit authorizes irrigation of 318 acres located in the NE $\frac{1}{4}$ Section 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14; and the SW $\frac{1}{4}$ & W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, T114N, R81W. Water can be pumped from the two diversion points along the Missouri River and used directly for irrigation or diverted to one of two storage dams located in Sections 11 & 22, T114N, R81W. The storage dams are affiliated with Water Right Nos. 2997-3, Jack Alexander and 5761-3, Hartman and Pahl Farms.

No. 6163B-3, Hartman & Pahl Farms, a partnership, PO Box 837, Huron, SD 57350, appropriates 3.66 cfs from the Missouri River located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, T114N, R81W. The permit authorizes irrigation of 256 acres in the E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and the NE $\frac{1}{4}$ Section 14, T114N, R81W. Water can be pumped from the diversion point along the Missouri River and used for irrigation or diverted to a 19 acre feet storage dam located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 22, T114N, R81W. The storage dam is affiliated with Water Right No. 5761-3, Hartman & Pahl Farms.

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: May 1 – October 31.
3. The date from which applicant may claim right is January 4, 2000.
4. One-fifth of the construction is to be completed on or before July 4, 2002.
5. All construction is to be completed on or before January 4, 2005.
6. Water is to be put to beneficial use on or before January 4, 2009.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

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Water Permit No. 6163A-3

Robert Sargent

QUALIFICATIONS

1. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
2. Water Permit No. 3560-3 which has been forfeited for nonuse is cancelled.

WATER MANAGEMENT BOARD

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

MAY 17 2000

date



Alexander's dam

will be owned by
Hartman & Pahl

Hartman & Pahl
regulating dam

goes to other Hartman & Pahl pivots

BOUNDARY

RECEIPT
Water Rights Program
South Dakota Department of Environment and Natural Resources

No 416327

Pierre, _____ January 4, 2000

RECEIVED OF Olinger, Lovald, Robbennolt, McCahren & Reimers, P.C. (Robert Sargent), P.O. Box 66,
the following amount in fees for services rendered as provided for by law: Pierre, PS Dr 5250 SD 57

Fee for Application for Permit No. <u>6163-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	425	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>6163-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)		
Total	475	00

By John Hatch
Chief Engineer

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6163-3, Robert Sargent**

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. 6163-3, Robert Sargent, 18559 Remington Place, Pierre SD 57501.

The Chief Engineer is recommending APPROVAL of Application No. 6163-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
2. Water Permit No. 3560-3 which has been forfeited for nonuse is cancelled.

See report on application for additional information.

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

JOHN HATCH, Chief Engineer
January 7, 2000

REVISED REPORT ON WATER PERMIT APPLICATION NO. 6163-3

Robert Sargent
January 25, 2000

Application No. 6163-3, Robert Sargent, proposes to appropriate 8.2 cubic feet of water per second from the Missouri River. The diversion points are to be located in the SE1/4 SW1/4 of Section 4 and the SE1/4 SE1/4 of Section 21; all in T114N-R81W. The water will be used for the irrigation of 574 acres located in the NE1/4 of Section 10; N1/2, SW1/4 of Section 14; SW1/4, W1/2 SE1/4 of Section 15 all in T114N-R81W. This application proposes to replace Water Right No. 3560-3 which is subject to cancellation due to forfeiture for nonuse. Water Right 3560-3 will be cancelled with the approval of Application No. 6163-3. The proposed project is located approximately 15 miles South West of Onida in Sully County.

Background

Mr. Sargent is in the process of selling a portion of the land authorized for irrigation under Water Right No. 3560-3. The attorney for the new owner filed transfer of ownership forms. During the process of the transfer of ownership it was discovered that irrigation had not taken place on the property for a number of years and the water right may be subject to cancellation due to forfeiture for nonuse. In order to clear up this issue, Mr. Sargent applied for a new water right permit for all the lands originally authorized by Water Right No. 3560-3.

Review of the Proposed Project and Existing Water Rights

The applicant proposes to appropriate Missouri River Water from two diversion points directly onto the irrigated acres or in to two storage dams. This application proposes to allow any of the land to be irrigated from either of the diversion points. Both of the diversion points and storage dams are affiliated with other water rights held by neighboring irrigators.

The diversion point located in Section 4 T114N-R81W is associated with Water Right No. 2997-3, held by Jack Alexander. This water right appropriates 2.22 cfs to irrigate 213 acres. Water can either be directly delivered to the land or diverted into a storage dam having a total storage capacity of 890 acre feet and is located in Section 11 T114N-R81W. The applicant originally used this diversion to directly irrigate land in the NE1/4 of Section 10 and diverted from the dam to irrigate land located in N1/2, SW1/4 of Section 14, T114N-R81W.

The diversion point located in Section 21 T114N-R81W is held by Hartman and Pahl Farms. This water right appropriates 28.89 cfs to irrigate 1,997 acres. Water can be delivered into a regulating dam with a total capacity of 19 acre feet of storage located in the S1/2 NE1/4 Section 21 T114N-R81W. The applicant originally diverted from the regulating pond to irrigate land located in SE1/4, E1/2 SE1/4 of Section 15, T114N-R81W.

The Missouri River is a reliable source of water. Adverse impacts to existing water rights would not be expected.

Conclusions

1. This application proposes to appropriate 8.2 cubic feet of water per second (cfs) from the Missouri River to irrigate 574 acres.
2. This application proposes to replace Water Right No. 3560-3 which is subject to cancellation due to forfeiture for nonuse. Water Right 3560-3 will be cancelled with the approval of Application No. 6163-3.
3. The Missouri River is a reliable source of water. Adverse impacts to existing water rights would not be expected.

A handwritten signature in black ink, appearing to read 'Mark D. Rath', with a horizontal line extending from the end of the signature.

Mark D. Rath
Natural Resources Engineer III

REPORT ON WATER PERMIT APPLICATION NO. 6163-3

Robert Sargent

January 6, 2000

Application No. 6163-3, Robert Sargent, proposes to appropriate 8.2 cubic feet of water per second from the Missouri River. The diversion points are to be located in the SE1/4 SW1/4 of Section 4 and the SE1/4 SE1/4 of Section 21; all in T114N-R81W. The water will be used for the irrigation of 574 acres located in the NE1/4 of Section 10; N1/2, SW1/4 of Section 14; SW1/4, W1/2 SE1/4 of Section 15 all in T114N-R81W. This application proposes to replace Water Right No. 3560-3 which is subject to cancellation due to forfeiture for nonuse. Water Right 3560-3 will be cancelled with the approval of Application No. 6163-3. The proposed project is located approximately 15 miles South West of Onida in Sully County.

Review of the Proposed Project and Existing Water Rights

The applicant proposes to appropriate Missouri River Water from two diversion points directly onto the irrigated acres or in to two storage dams. Both of the diversion points and storage dams are affiliated with other water rights held by neighboring irrigators.

The diversion point located in Section 4 T114N-R81W is associated with Water Right No. 2097-3, held by Jack Alexander. This water right appropriates 2.22 cfs to irrigate 213 acres. Water can either be directly delivered to the land or diverted into a storage dam having a total storage capacity of 890 acre feet and is located in Section 11 T114N-R81W. The applicant proposes to use this diversion to directly irrigate land in the NE1/4 of Section 10 and will divert from the dam to irrigate land located in N1/2, SW1/4 of Section 14, T114N-R81W.

The diversion point located in Section 21 T114N-R81W is held by Hartman and Pahl Farms. This water right appropriates 28.89 cfs to irrigate 1,997 acres. Water can be delivered into a regulating dam with a total capacity of 19 acre feet of storage located in the S1/2 NE1/4 Section 21 T114N-R81W. The applicant will divert from the regulating pond to irrigate land located in SE1/4, E1/2 SE1/4 of Section 15, T114N-R81W.

The Missouri River is a reliable source of water. Adverse impacts to existing water rights would not be expected.

Conclusions

1. This application proposes to appropriate 8.2 cubic feet of water per second (cfs) from the Missouri River to irrigate 574 acres.
2. This application proposes to replace Water Right No. 3560-3 which is subject to cancellation due to forfeiture for nonuse. Water Right 3560-3 will be cancelled with the approval of Application No. 6163-3.
3. The Missouri River is a reliable source of water. Adverse impacts to existing water rights would not be expected.



Mark D. Rath

Natural Resources Engineer III

**PROOF OF PUBLICATION**

STATE OF SOUTH DAKOTA)

County of Sully) SSI, Alice Olson

certify that the attached printed Notice was taken

from the Onida Watchmanprinted and published in OnidaCounty of Sully and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

Thursday, Jan. 13, 2000
Thursday, Jan. 20, 2000Cost of Printing \$53.66Alice Olson
(Signature)Publisher
(Title)1-21-00
(Date Signed)**NOTICE OF APPLICATION****NO. 6163-3****to Appropriate Water**

Notice is given that Robert Sargent, 18559 Remington Place, Pierre, SD 57501 has filed an application for a water permit to appropriate and use Missouri River water for irrigation of 574 acres located in the NE $\frac{1}{4}$ Section 10, N $\frac{1}{2}$, SW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15; all in T114N-R81W. This application is identical to and proposes to replace Water Right No. 3560-3 which is subject to cancellation due to forfeiture for nonuse. Water Right No. 3560-3 will be cancelled with the approval of Application No. 6163-3.

This application proposes to appropriate and use water at a rate up to 8.2 cubic feet of water per second (cfs) for irrigation of the land described above. Water is pumped from two diversion points along the Missouri River (Lake Oahe) and used directly for irrigation or diverted to 2 storage dams prior to the water being applied to the land. Both diversion point locations and storage dams are affiliated with other water rights held by neighboring irrigators as explained below.

Water Right No. 2997-3, held by Jack Alexander, appropriates 2.22 cfs from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4, T114N, R81W to irrigate 213 acres. Water is either applied directly to irrigated acres or diverted to a dam (890 acre feet storage capacity) located in Section 11, T114N, R81W prior to use for irrigation. Mr. Sargent will use this diversion to irrigate portions of the NE $\frac{1}{4}$ Section 10 and diverts from this dam to irrigate portions of the N $\frac{1}{2}$, SW $\frac{1}{4}$ Section 14, T114N, R81W.

Water Right No. 5761-3, held by Hartman & Pahl Farms, appropriates 28.89 cfs from the Missouri River located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, T114N, R81W to irrigate 1,997 acres. Water is either applied directly to irrigated acres or diverted to a regulating dam (19 acre feet storage capacity) located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 21, T114N, R81W. Mr. Sargent will divert from this regulating dam to irrigate portions of the SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, T114N, R81W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6163-3 because 1) unappropriated water is available, 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 the application, as recommended, unless a petition 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 the 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 the 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 January 31, 2000.

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.

Nettie H. Myers, Secretary
Department of Environment and
Natural Resources
2-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 6163-3, Robert Sargent

ADDRESS: COUNTY: Sully County

DATE: January 24, 2000 TELEPHONE:

RE: Discussion of what lands were sold and how the transfer of ownership will take place after Water Permit Application No. 6163-3 is approved

COMMENTS:

Mr. Jack Alexander came into the office on January 19th to discuss Mr. Sargent's application. Mr. Alexander explained that in the past Mr. Sargent and he had an agreement (part of the old West Sully Irrigation District) where Mr. Sargent could use Alexander's dam if the water was replaced with diversions from the Missouri River (SE ¼ SW ¼ Section 4, T114N, R81W). Now that Mr. Sargent has sold some of this land to Hartman & Pahl, Mr. Alexander did not want his dam used for irrigation of their acreage. I believe part of his reason was he didn't want to draw the dam down as his did not intend to use the Missouri River diversion works to supplement/maintain the dam.

Mr. Robert Sargent stopped in the office on Monday, January 24th to further discuss his application. He clarified which lands are being sold to Hartman & Pahl. I discovered the land being sold was different than what I had previously believed. The following is a breakdown of the future land ownership filed for under this water right permit application.

Robert Sargent	Number of Acres		Hartman & Pahl	Number of Acres
NE ¼ Section 10 *	59		E½ NW¼ Section 14 **	64
W½ NW¼ Section 14 *	64		E½ SW¼ Section 14 **	64
W½ SW¼ Section 14 *	64		NE¼ Section 14 **	128
SW¼ Section 15 **	98			
W½ SE¼ Section 15 **	33			
TOTAL	318			256

* irrigated from diversion point authorized by Water Right No. 2997-3, Alexander

** to be irrigated from diversion points authorized by Water Right No. 5761-3, Hartman & Pahl

Mr. Sargent indicated that all the lands owned by Hartman & Pahl will be irrigated from Hartman & Pahl's Missouri River diversion point located in the SE ¼ SE ¼ Section 21, T114N, R81W (authorized under Water Right No. 5761-3). He was unsure whether the regulating dam located in the S ½ NE ¼ Section 21, T114N, R81W would be used or if irrigation of the Hartman & Pahl

acreage would be directly from the Missouri River. He indicated they would have to run pipeline up to these areas. Mr. Sargent said that Hartman & Pahl were fully aware that they could not and would not have access to water from the dam on Alexander's land. Mr. Sargent did indicate that in the future he may want to divert from the Alexander dam for irrigation of his land located of the W ½ NW ¼ & W ½ SW ¼ of Section 14 under the terms of previous agreements signed as part of the defunct West Sully Irrigation District.

I have reviewed the file in this matter and the publication notice of Application No. 6163-3 does represent the acreage as originally authorized under Water Right No. 3560-3 and further specifies which land will be irrigated from the two Missouri River diversion points. After the land sale takes place, Hartman & Pahl will file a transfer of ownership to reflect that any acreage owned by them will be irrigated from the Missouri River diversion point located in the SE ¼ SE ¼ Section 21, T114N, R81W. This should be able to be allowed because SDCL 46-5-13.1 does allow for a change of diversion point and since this is a Missouri River (Lake Oahe) diversion point there should not be any adverse impairment by allowing this change. Additionally, Mr. Sargent will remain the holder of a water right to irrigate 318 acres that will include both diversion points. Obviously, there need to be the proper easement/agreements in place to allow for diversions from the Missouri River or dam diversion points.

I believe the public notice was written with this type of flexibility since it states and appropriation of 8.2 cfs without specifying the diversion rate from any of the diversion points. If this application is approved based on the current public notice and is not contested, the water right permit will be issued on February 19, 2000. It is then anticipated that Hartman & Pahl will file a transfer of ownership for the portion of the water right they own. This transfer should include only their diversion point located in the SE ¼ SE ¼ Section 21, T114N, R81W. The remaining amount that will remain with Sargent's water right include the W½ W½ Section 14 and the SW ¼, W½ SE¼ Section 15 from either of the two diversion points.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Sargent



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

May 17, 2000

6163A-3

Robert Sargent
18559 Remington Place
Pierre, SD 57501

Dear Mr. Sargent:

Enclosed is your Water Permit No. 6163A-3. To reflect separate ownership, Water Permit No. 6163-3 has been divided and reissued as No 6163A-3, Robert Sargent and No. 6163B-3, Hartman & Pahl Farms.

Water Permit No. 6163A-3 authorizes diversion of 4.54 cfs from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21; all in T114N-R81W to irrigate 318 acres located in the NE $\frac{1}{4}$ Section 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14; and the SW $\frac{1}{4}$ & W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, T114N, R81W. Water can be pumped from the two diversion points along the Missouri River and used directly for irrigation or diverted to one of two storage dams located in Sections 11 & 22, T114N, R81W.

If you have any questions concerning your Water Permit No. 6163A-3, please contact Eric Gronlund or Genny McMath, with our program at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

DIVISION OF WATER PERMIT NO. 6163A-3
INTO NOS. 6163C-3 AND 6163D-3

Water Permit No. 6163A-3 is being divided and reissued to reflect separate ownership as follows:

No. 6163C-3, Hartman & Pahl Farms, 18755 280th Ave, Pierre SD 57501 appropriates 3.7 cfs from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21; all in T114N-R81W. The permit authorizes irrigation of 259 acres located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14; and the SW $\frac{1}{4}$ & W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15-T114N-R81W. Water can be pumped from the two diversion points along the Missouri River and used directly for irrigation or diverted to one of two storage dams located in Sections 11 & 22, T114N-R81W. The storage dams are affiliated with Water Right Nos. 2997-3, Jack Alexander and 5761-3, Hartman & Pahl Farms.

No. 6163D-3, Robert Sargent, 18559 Remington Place, Pierre SD 57501 appropriates 0.84 cfs from the Missouri River located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21; all in T114N-R81W. The permit authorizes irrigation of 59 acres located in the NE $\frac{1}{4}$ Section 10-T114N-R81W. Issuance of No. 6163D-3 is being withheld until a determination is made by the Water Management Board on whether or not the water right has been abandoned and/or forfeited and subject to cancellation.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

OCT 24 2016

Marshall Kniffen, Mgr
Hartman & Pahl Farms
18755 280th Ave
Pierre SD 57501

RE: Permit/Right Nos. 5761-3, 6163B-3, 6163C-3, 6326A-3 & 6914-3

Dear Mr. Kniffen:

Enclosed is Water License No. 6914-3 for Hartman & Pahl Farms. This is the final water right document completing the process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

Upon licensing, the applicable portions of Water Right No. 5761-3 and Water Permit Nos. 6163B-3, 6163C-3 and 6326A-3 were incorporated into Water License No. 6914-3.

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