

Considered:

4-25-84

WATER PERMIT NO. 5008-3

MAP No. 5008-3

Name of Applicant NACHTIGAL FARMS INC

Post Office Address RR 1, Box 61, Academy, S.D. 57310

Amount of Water Claimed 23.10 Total Acres 1,620.00

Source of Water Supply Missouri River

Water to be used for IRR County Hughes

About 23 E 10 miles south of Pierre

PROOF OF PUBLICATION: Received 4-2-84 Not Received

APPLICATION: Approved 4-25-84 Subject to

F.F. & C.L. Adopted Not Approved Deferred

PRIORITY Date Received 2/2/84 Fee 850.00 Remarks

2/2/84

Corrected Application Received Period of Annual Use 4/1 to 10/31

WATER QUALITY APPROVAL RECEIVED APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES NO REMARKS

Diversion Point between points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 1 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12-both in T108N

R76W

Land to be Irrigated E $\frac{1}{2}$, Section 1-108-76; and

Section 6-~~108-75~~, E $\frac{1}{2}$ Sec. 7; W $\frac{1}{2}$ Section 8;

N $\frac{1}{2}$ Section 9 all in T108N-R75W

Well Log: Driller Licensed YES NO

Depth of Well REMARKS

Type of Map drawn PREPARED BY Jim Oelherling PE Reviewed and the Number

assigned on By Betty Westhues

Hansen & Nelson

No. 5008-3 Hydrologic Unit 10140101
 Map No. 5008-3 Basin MI
 Newspaper DAILY CAPITOL JOURNAL, P08 878, PIERRE 57501

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following:

New ☒ Vested Right ☐ Future Use ☐

☐ Application to amend Permit No. _____ with old priority date retained

☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐

☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)

☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____

☐ Application to: ☒ Use ☐ Transfer water reserved by Future Use Permit No. _____

1. Name of Applicant Nachtigal Farms, Inc. Phone No. 726-3135

Post Office Address R.R. 1, Box 61 Academy, SD State 57310
(Street, RR or Box) Zip Code

2. Amount of water claimed (c.f.s) 23.1 Total acres irrigated 1620

3. Source of Water supply Missouri River

4. Location of point of diversion South of the intersection of the north edge of
Section 1, T108N, R76W and the Missouri River and north of the intersection
of the south edge of Section 12 T108N, R75W, & the Missouri River County Hughes

5. Counties where water will be used Hughes R76W

6. Annual period during which water is to be used Irrigation Season

7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
E $\frac{1}{2}$, Sec.1 T108N-R76W	270
Sec.6, T108N, R75W	550
E $\frac{1}{2}$, Sec.7 T108N-R75W	320
W $\frac{1}{2}$, Sec.8 T108N-R75W	320

Land Description	No. Acres Irr.
N $\frac{1}{2}$, Sec.9, T108N, R75W	160
TOTAL	1620

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The project consists of an electric power permanent intake facility on the bank of the Missouri River connected to 11 electric drive center pivots by a network of buried plastic pipelines. Electric powered booster pumps are to be located along the pipeline routes to add the necessary pressures for proper operation of the pivots.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

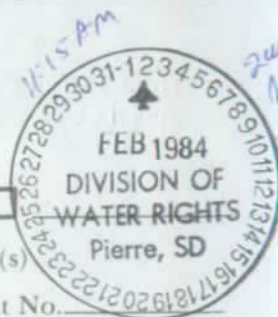
STATE OF SOUTH DAKOTA)
 County of Bruce ss

I, Larry Nachtigal the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Larry Nachtigal V Pres

Subscribed and sworn to before me this 30th day of Jan. 1984

Notary Public (or other qualified officer)



Phone
CALL
2/29/84
SW

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 5008-3
Nachtigal Farms Inc. RT. 1 Box 61 Academy
(Applicant) (Post Office Address)
South Dakota 57310 With the following qualifications.
(State) (Zip Code)

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

Date of first receipt of application February 2, 1984.
Date of return to applicant for correction, amendments or changes required , 19 .
Date of receipt of corrected application , 19 . Approved April 25, 1984.

The Water Management Board hereby approves this Water Permit No. 5008-3 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

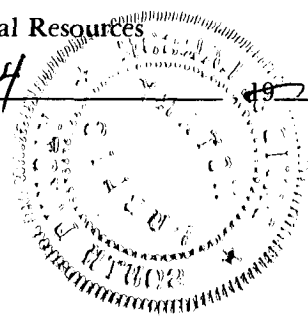
1. The date from which applicant may claim right is February 2, 1984.
2. One-fifth of the work is to be completed on or before September 25, 1986.
3. The whole of said work is to be completed on or before April 25, 1989.
4. The time limit for proof of beneficial use of water is April 25, 1993.
5. The water appropriated shall be used for the purpose of Irrigation.
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 23.10 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before April 25, 1993; said water to be used during the following described annual period: April 1st to October 31.

WATER MANAGEMENT BOARD

By: John Hatch
Chief Engineer

Division of Water Rights
Dept. of Water and Natural Resources

May 3, 1984



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5



RECEIPT

Division of Water Rights

No 4 9531

South Dakota Department of Water and Natural Resources

Pierre, February 2, 1984

RECEIVED OF Nachtigal Farms, Inc., RR#1, Box 61, Academy, SD 57310

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

Fee for Application for Permit No. <u>5008-3</u> to Appropriate Water, to construct works 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. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	850 00

By John Hatch
Chief Engineer JOHN HATCH/ms

Conversation or File Documentation

NAME OF PERSON OR FILE: Nachtigal Farms - Jim Oehlerking-Morris Irr.ADDRESS: St Pierre COUNTY HughesDATE: Feb. 29, 1984 TELEPHONE 223-2585RE: Nachtigal Farms.

COMMENTS:

Called regarding description of diversion had wrong
range. Mr. Oehlerking-Morris Irrigation, St Pierre
is handling the W/P application. He said to go ahead
and make the change is in R 76W - NOT 75W.

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: Betty Waselund

Conversation or File Documentation

NAME OF PERSON OR FILE: Jim Oshlerking
ADDRESS: Travis Dr. Handling Nachgal Farms COUNTY Hughes
DATE: 3/2/84 TELEPHONE 223-2585
RE: Lands that have been developed

COMMENTS:

Lands on the map as P10 - 95 acres; P9 - 85 acres
and P11 - 130 acres have NOT been developed
all the other lands listed have been.

1620.0

310.0

1310.0 have been developed.

Construction was started in 1976 put on line 1977.

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: _____



Department of Agriculture

DIVISION OF CONSERVATION

Anderson Building, Room 322

Pierre, South Dakota 57501

Phone 605/773-3258

March 2, 1984

Nachtigal Farms
RR 1, Box 61
Academy, SD 57310



Dear Mr. Nachtigal:

In reviewing your soil and water compatibility application for the E¹/₂ 1-108-76, Sec 6; E¹/₂ 7; W¹/₂ 8; N¹/₂ 9-108-75, the irrigation staff is recommending a Conditional Approval of your application to the State Conservation Commission at their March 8, 1984 meeting. The Conditional recommendation is based on the clay content of the soil and areas containing steep slopes or soil not suitable for irrigation. The Restrictions and Management Recommendations are as follows:

RESTRICTIONS:

Section 6-108-75

The areas mapped as Schamber-Orten (Sf) complex Swanboy-Slickspots (Sx) and Sully silty loam (SuD) are not suitable for irrigation due to steep slopes or salt contents of the soil. These areas are restricted from irrigation to be maintained in grass.

The utilization of an automatic shut off on the end gun to avoid irrigation of these areas is also advised in managing these areas.

Sections 7 & 8-108-75

The areas mapped as Sully silt loam 9-15% slope is a ridge between benches which is subject to a severe erosion hazard. This areas is restricted to grass, alfalfa or both.

You may wish to address these areas in your management plan by utilizing the S¹/₂ NE¹/₄ of 7 and 60-70 acres of the SW¹/₄ 8 for alfalfa production.

Section 9-108-75

The areas mapped as Gettys Clay loam 15-40% slope is restricted from irrigation because of excessively steep slopes. Through the use of an automatic shut off on the end gun in these areas will eliminate these hazards.

The driainageway which flows southeast shall be maintained in grass to control erosion.

Page 2

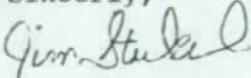
March 2, 1984

MANAGEMENT RECOMMENDATIONS:

We recommend the use of conservation tillage to control erosion and conserve moisture. We also feel we should advise you, the areas mapped as Onita silt loam (OnA) and Dorna (Do and Dr) may present some problems with water management. Dorna may develop a water table due to the abrupt change in texture and Onita may be subject to additional moisture from adjacent soils. Should these areas present a problem please contact this office.

If you have any questions concerning your application please feel free to contact this office.

Sincerely,



Jim Stukel

Irrigation Program Administrator

cf

cc: Division of Water Rights

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM

Division of Conservation

Office Use Only

WR#

OWNERS NAME: Nachfigal Farms, Inc. OWNERS ADDRESS: R.R. 1, Box 61
Academy, SD 57310

COUNTY LAND LOCATED IN: Hughes PHONE: 726-3135

TENANT'S NAME AND ADDRESS:

LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. WELL LOCATION

Depth

2. SURFACE WATER SOURCE AND DIVERSION LOCATION: Missouri River

Diversion Location Near the intersection of the south edge of Sec. 1, T108N, R76W
and the Missouri River bank.

Legal Description	Acres	Legal Description	Acres
<u>E½, Sec. 1, T108N, R76W</u>	<u>270</u>	<u>N½, Sec. 9, T108N, R75W</u>	<u>160</u>
<u>Sec. 6, T108N, R75W</u>	<u>550</u>		
<u>E½, Sec. 7, T108N, R75W</u>	<u>320</u>		
<u>W½, Sec. 8 T108N, R75W</u>	<u>320</u>		

3. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED

LEGAL DESCRIPTION:

IN WHAT NAME:

4. LOCATION OF AREA TO BE IRRIGATED NOTE: **SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See instruction sheet)**

5. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: ☒ GUN: _____ OTHER: _____ (Specify)

6. CROPS TO BE IRRIGATED: corn, soybeans, alfalfa

WATER QUALITY: (TO BE COMPLETED BY SDSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER: _____ 10. ADJUSTED (SAR): _____

8. SALINITY (EC X 10⁶): _____ 11. PERCENT SODIUM _____

9. SODIUM (SAR): _____

I hereby certify that I personally obtained or that I personally observed that taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see instruction sheet) were followed, and that the sample was taken at _____ a.m./p.m., on _____, 19____, at the following location: _____ by (individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

Signature, of Water Sampler.

I understand that the Division of Conservation or agents thereof may obtain water samples from wells and surface bodies to be used for irrigation purposes to validate water samples taken at the time of application. The Department of Agriculture may also gather technical information necessary to protect the land. (46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

DAY OF Jan, 1984

(NOTARY PUBLIC)

APPLICANT'S SIGNATURE

Director, Division of Conservation

Date

APPROVED

DISAPPROVED

☒ CONDITIONALLY APPROVED

IMPORTANT
Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER RIGHT must be obtained from the Board of Water Management, Foss Building, Pierre.

Conditional soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

Conditional Approval

#4101

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATIONNAME OF APPLICANT: Nachtigal FarmsLEGAL DESCRIPTION: S_{1/2} 1-108-75; Sec 6; S_{1/2} 7; W_{1/2} 8; N_{1/2} 9-108-75SOIL RESTRICTIONS:THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:

Sec 6-108-75 = The areas mapped as Schamber-Orten (Sf) complex Swanboy-Slickspots (Sx) and Sully silty loam (SuD) are not suitable for irrigation due to steep slopes or salt contents of the soil. These areas are restricted from irrigation to be maintained in grass. The utilization of an automatic shut off on the end gun to avoid irrigation of these areas is also advised in management these areas.

Sec 7 & 8-108-75 = The areas mapped as Sully silt loam 9-15% slope is a ridge between benches which is subject to a severe erosion hazard. This area is restricted to grass, alfalfa, or both. You may wish to address these areas in your management plan by utilizing the S_{1/2} NE_{1/4} 7:

THE SOILS(S) LISTED BELOW CAN BE IRRIGATED
WITH THE FOLLOWING RESTRICTIONS:

and 60-70 acres in the S_{1/2} 8 for alfalfa production.

Sec 9-108-75 = The areas mapped as Gettys Clay loam 15-40% slope is restricted from irrigation because of excessively steep slopes. Through the use of an automatic shut off on the end gun to eliminate these hazards. The drainageway which flows southeast shall be maintained in grass to control erosion.

RECOMMENDED MANAGEMENT:

We recommend the use of conservation tillage to control erosion and conserve moisture. We also feel we should advise you, the areas mapped as Onita silty loam (OnA) and Dorna (Do & Dr) may present some problems with water management. Dorna may develop a water table due to the abrupt change in texture and Onita may be subject to additional moisture from adjacent soils. Should these areas present a problem please contact this office.

SIGNATURE

DATE

REPORT ON PERMIT APPLICATION NO. 5008-3
NACHTIGAL FARMS, INC.
March 7, 1984

Permit Application No. 5008-3 is for 23.1 cubic feet per second from the Missouri River to irrigate 1620 acres in Hughes County. This land was previously Indian land and is within the exterior boundaries of the Crow Creek Indian Reservation. Of the 1620 acres, 1310 acres have been developed while under Indian ownership.

Conclusions

1. Water is available for this application.
2. Soil/water compatibility has been approved.
3. Existing rights will not be adversely affected.

A handwritten signature in black ink, reading "Kevin C. Larson". The signature is written in a cursive, flowing style.

KEVIN C LARSON
Water Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER

PERMIT APPLICATION No. 5008-3, Nachtigal Farms, Inc.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 5008-3, Nachtigal Farms, Inc., RR 1, Box 61, Academy SD.

The Chief Engineer is recommending APPROVAL of Application No. 5008-3 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) in the public interest with the following qualifications:

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

See the attached report for additional information.



JOHN HATCH, Chief Engineer
March 7, 1984

Instruction to Newspaper - Publish first publication of the following Notice on or before March 15, 1984 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5008-3 to Appropriate Water
and/or to Amend Water Permit or Water Rights No. _____

Notice is hereby given that Nachtigal Farms Incorporated whose mailing address is RR#1, Box 61, Academy, South Dakota has made an application for a permit

to appropriate 23.10 cubic feet per second of water from the Missouri River. The point of diversion is located between points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 1 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, both in T108N-R76W. The water is to be used to irrigate 1,620 acres of land located in E $\frac{1}{2}$, Section 1-T108N-R76W; Section 6: E $\frac{1}{2}$, Section 7; W $\frac{1}{2}$, Section 8 and N $\frac{1}{2}$, Section 9 all in T108N-R75W.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5008-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Foss Building, 523 E. Capitol, Pierre, South Dakota, April 25 1984 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by April 13, 1984. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AEA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AEA) 74:02:01:15.02 thru 74:02:01:15.05.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by April 13, 1984.

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Hughes) ss.

I, Peggy Serimous hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Daily Capital Journal

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Pierre

County of Hughes and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

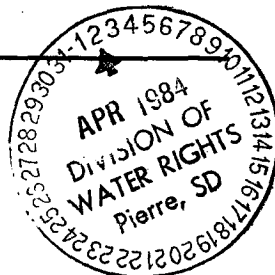
March 15, 1984

March 22, 1984

Peggy Serimous
(Signature)

Bsp
(Title)

3-30-84
(Date Signed)



Cost of Printing: 42.23

paid by Nachtigal Farms

No. 7233 2tdly 3/15, 3/22

NOTICE OF HEARING
on Application No. 5008-3
to Appropriate Water

Notice is hereby given that
Nachtigal Farms Incorporated
whose mailing address is RR#1,
Box 61, Academy, South Dakota
has made an application for a
permit to appropriate 23.10
cubic feet per second of water
from the Missouri River. The
point of diversion is located be-
tween points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$,
Section 1 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section
12, both in T108N-R76W. The
water is to be used to irrigate
1,620 acres of land located in
E $\frac{1}{2}$, Section 1-T108N-R76W;
Section 6: E $\frac{1}{2}$, Section 7; W $\frac{1}{2}$,
Section 8 and N $\frac{1}{2}$, Section 9 all
in T108N-R75W.

Pursuant to SDCL 46-2A-2 the
Chief Engineer of the Water
Rights Division recommends
approval of Application No.
5008-3 because 1) unappropriat-
ed water is available, 2) will be
no unlawful impairment of ex-
isting rights, 3) is beneficial use
of water and 4) is in the public
interest.

This application will be con-
sidered by the Water
Management Board at Foss
Building, 523 E. Capitol, Pierre,
South Dakota, April 25, 1984 at
10:00 a.m.

The recommendation of the
Chief Engineer is not final or
binding upon the Board and the
Board is authorized to make
a determination on this ap-
plication after it reaches a
conclusion based upon facts
presented at the public hearing.
Any interested persons who may
be affected by a Board decision
and who intends to participate
in the hearing before the Board
and present evidence or cross-
examine witnesses according to
SDCL 1-26, must file a written
petition with BOTH the Appli-
cant and the Chief Engineer by
April 13, 1984. The petition may
be informal, but it must include
a statement describing the peti-
tioners interest in the applica-
tion, the reason for the peti-
tioner's opposition to or support
of the application, and the
signature and mailing address
of the petitioner or his legal
counsel if legal counsel is ob-
tained. The applicant need not
file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 through 46-1-9, 46-1-12 through 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 through 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 through 46-2A-10, 46-2A-12; and Board Rules ARSD 74:02:01:01 through 74:02:01:15.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN, Joe Foss Bldg., Pierre, S.D. (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by April 13, 1984.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

May 7, 1984

Nachtigal Farms, Inc.
Route #1, Box 61
Academy, South Dakota 57310

Dear Sir:

Enclosed herewith is your Water Permit No. 5008-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 5008-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

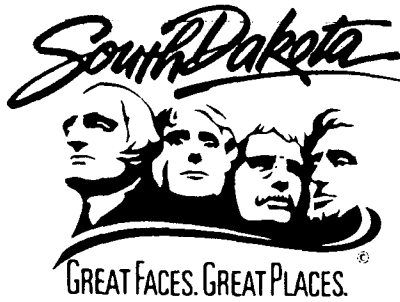
PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

This land was previously Indian Land and is within the exterior boundaries of the Crow Creek Indian Reservation. Of the 1620 acres, 1310 acres have been developed while under Indian ownership.

WNR-809-5/83

5008-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

January 9, 1998

NOTICE

TO: NACHTIGAL FARMS, RR 3 BOX 61, PLATTE SD 57369

**FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program**

RE: Requirement to Report 1997 Chemical Use

The first notice to file chemigation report(s) for Permit No(s) **5008-3** was dated October 17, 1997. Our records indicate that we have not received your 1997 chemigation report(s). The Water Management Board has directed that owners of water permits who have not submitted the 1997 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application

The hearing will be held at 9:45 am, February 25, 1998, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation or up to three years for the second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s). **5008-3** in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Prior to February 20, 1998, contact the Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to February 20, 1998 you will no longer be in violation and your name will be deleted from the Board agenda.



January 9, 1998

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

NOTICE

TO: NACHTIGAL FARMS, INC, GARY NACHTIGAL, RR 3 BOX 61, PLATTE, SD 57369

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaires

Our records indicate that the 1997 Irrigation Questionnaires have not been submitted for Permit Nos. 1089-3, 1089A-3, 5537-3 & 5008-3, 2713-3. The request for the Questionnaires was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 2713-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1089-3, 1089A-3, 5537-3 & 5008-3 qualification:

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

The hearing will be held at 9:45 am, February 25, 1998 in Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1089-3, 1089A-3, 5537-3 & 5008-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 2713-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office on/or before February 20, 1998, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

January 23, 1998

Gary Nachtigal
Nachtigal Farms
RR 3 Box 61
Platte, SD 57369

RE: Water Right/Permit Nos. 1089-3, 1089A-3, 2713-3, 5008-3 & 5537-3

Dear Mr. Nachtigal:

I am writing to acknowledge receipt of your 1997 irrigation questionnaires and chemical reporting information. You may disregard the January 9, 1998, "Notice" concerning reporting requirements for Water Right/Permit Nos. 1089-3, 1089A-3, 2713-3, 5008-3 & 5537-3.

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

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

File No. 1089-3
1089A-3
1515-3
5008-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

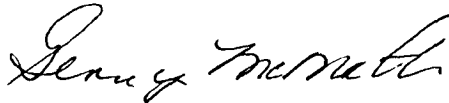
NAME & ADDRESS: Nachtigal Farms

DATE: September 17, 2002

RE: Licensing and incorporation of water permits

COMMENTS:

On September 17, 2002, Water License No. 5537-3 was issued to Nachtigal Farms. The license was based on an investigation done on June 18, 2002 by Lynn Beck. When the license was issued, the applicable portions of Water Permit Nos. 1089-3, 1089A-3, 1515-3 and 5008-3 were incorporated into the license.



Genny McMath
Environmental Scientist