

WATER PERMIT NO. 8661-3

Name of Applicant: Nachtigal Farms

Address: 22144 Nachigal Rd, Harrold SD 57536

Phone: 605 680-2447

Amount of Water Claimed: no add'l

Total Acres: 202 acres

Source of Water Supply: Missouri River

Water to be used for: irrigation

County: Hughes

Type of Waste Disposal System:

Location: 22 miles southeast of Pierre

PRIORITY

Date Received: 8-26-22

Application/License Fee: \$1150

Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks: Utilizing diversion points and diversion rate authority authorized by Water Right No. 5537-3

Diversion Point: SW 1/4 SE 1/4 Sec 1 and SE 1/4 SE 1/4 Sec 12; all in T108N-R76W

Land to be Irrigated: SW 1/4 Sec 5 and W 1/2 NE 1/4 Sec 8; all in T108N-R76W

Depth of Well: NA

Well Driller:

Remarks:

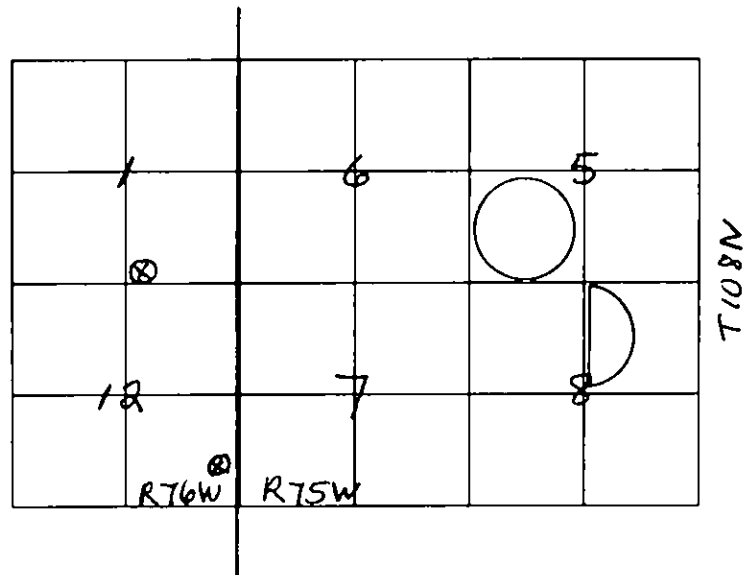
Type of Map:

Prepared by:

Reviewed and the Number Assigned on: 8-26-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8661-3**

Date of first receipt of application August 26, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8661-3 to Nachtigal Farms, c/o Colin Nachtigal, 22144 Nachtigal Rd, Harrold SD 57536 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. 8661-3 authorizes irrigation of an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. Water Right No. 5537-3 authorizes 32.44 cubic feet of water per second (cfs) from the Missouri River located in the SW 1/4 SE 1/4 Section 1 and SE 1/4 SE 1/4 Section 12; all in T108N-R76W to irrigate 1,848 acres. The existing irrigated acres are located in portions of the E 1/2 Section 1, E 1/2 Section 12; T108N-R76W, Sections 6, 7, W 1/2 Section 8, NE 1/4 Section 18, SW 1/4 Section 17; T108N-R75W. This permit authorizes irrigation of an additional 202 acres located in the SW 1/4 Section 5 and W 1/2 NE 1/4 Section 8; all in T108N-R75W. This permit and Water Right No. 5537-3 will authorize a combined, total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres. This site is located approximately 24 miles southeast of Pierre SD.
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 26, 2022 (202 acres).
4. The date of approval of Permit No. 8661-3 is October 17, 2022.
5. One-fifth of the construction is to be completed on or before April 17, 2025.
6. All construction is to be completed on or before October 17, 2027.
7. Water is to be put to beneficial use on or before October 17, 2031.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

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

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 08 2022
date



PAID

AUG 29 2022

RECEIVED

AUG 26 2022

OFFICE OF
WATER

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8661-3</u>	(office use only) Hydrologic Unit	Ck# <u>21590</u>
	Basin <u>Missouri R.</u>	<u>10140101</u>	Rec't# <u> </u>
	Newspaper <u>Capital Journal</u>		
	<u>Plainsman</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.)

Add acres to Water Right No 5537-31. Name to Appear on Irrigation Permit Nachtigal Farms

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

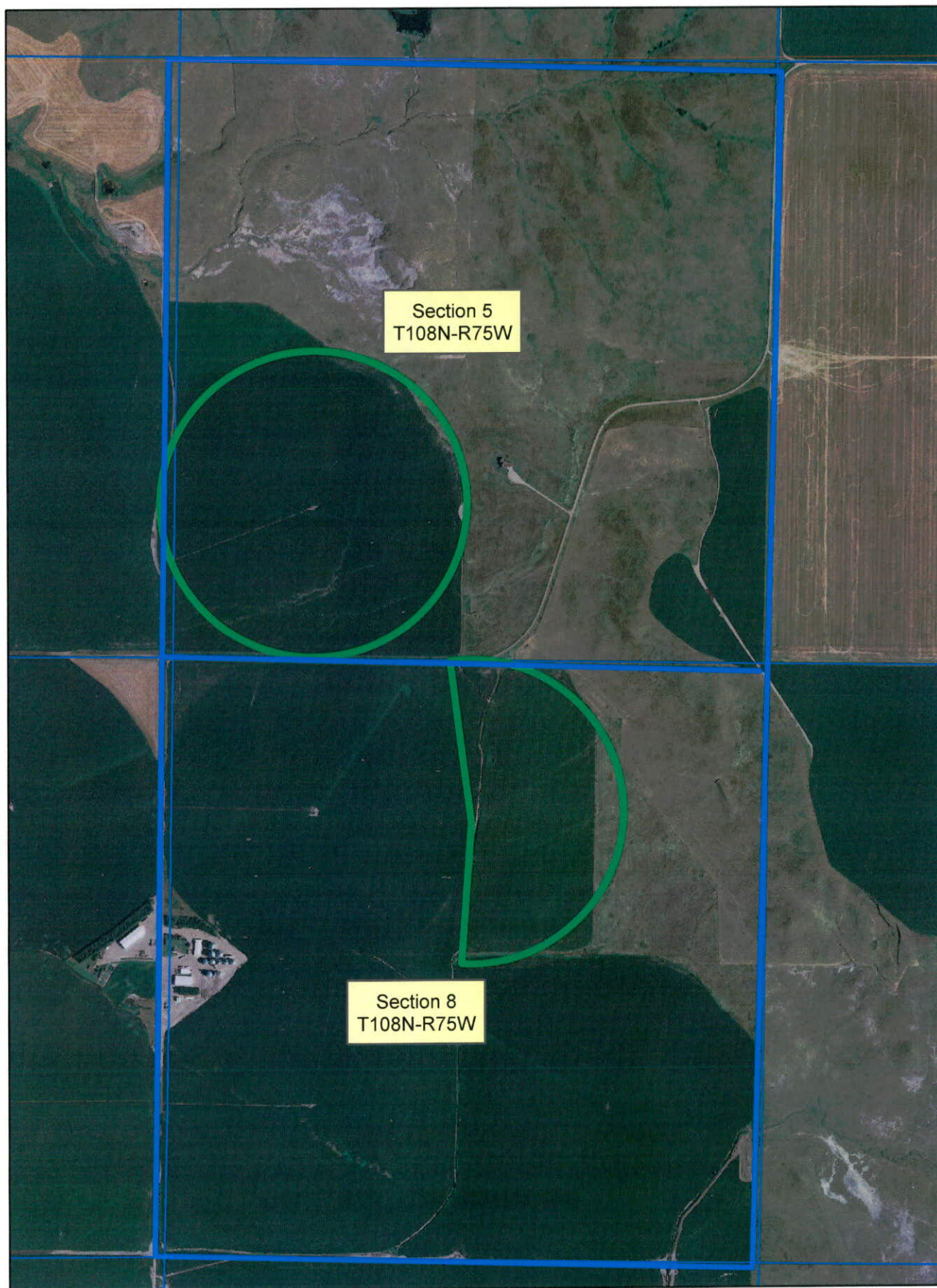
Mailing Address 22144 Nachtigal Rd Herrnold SD 57536
(Address) (City) (State) (Zip Code)Phone Mobile 680-2447 Email Nachtigal06@hotmail.com2. Amount of water claimed no addl *CFS or **GPM ***AF Total Acreage 202
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply Missouri River4. Location of point of diversion SW 1/4 SE 1/4 Sect 1 and SE 1/4 SE 1/4 Sect 12; all in T108N-R76W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)County Hughes5. County or counties where water will be used Hughes6. Annual period during which water is to be used April 1 - October 317. 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
<u>SW 1/4 Sect 5 - T108N R75W</u>	<u>136</u>		
<u>W 1/2 NE 1/4 Sect 8 - T108N R75W</u>	<u>66</u>		

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

Add additional acres to WR No 5537-3. No increase in diversion rate.I, Glen Nachtigal, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.



Section 5
T108N-R75W

Section 8
T108N-R75W



1,400 700 0 1,400 Feet

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date August 29, 2022

RECEIVED OF Nachtigal Farms 26941 356th Ave., Platte SD 57369

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

Fee for Application for Permit No. <u>8661-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>950.00</u>
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>8661-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>1150.00</u>

By Eric Gronlund
Chief Engineer
EM



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8661-3, Nachtigal Farms**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8661-3, Nachtigal Farms, 22144 Nachtigal Road, Harrold SD 57536.

The Chief Engineer is recommending APPROVAL of Application No. 8661-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

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

See report on application for additional information.

Eric Gronlund, Chief Engineer
September 26, 2022

REPORT ON WATER PERMIT APPLICATION NO. 8661-3
NACHTIGAL FARMS
SEPTEMBER 28th, 2022

Application No. 8661-3 seeks to irrigate an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. Water Right No. 5537-3 appropriates 32.44 cubic feet of water per second (cfs) from the Missouri River located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1 and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12; all in T108N-R76W to irrigate 1,848 acres. The existing irrigated acres are located in portions of the E $\frac{1}{2}$ Section 1, E $\frac{1}{2}$ Section 12; T108N-R76W, Sections 6, 7, W $\frac{1}{2}$ Section 8, NE $\frac{1}{4}$ Section 18, SW $\frac{1}{4}$ Section 17; T108N-R75W. This application proposes to irrigate an additional 202 acres located in the SW $\frac{1}{4}$ Section 5 and W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8; all in T108N-R75W. This application, if approved, and Water Right No. 5537-3 will authorize a combined total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres. This site is located approximately 24 miles southeast of Pierre SD.

Review of the Proposed Project and Water Source

Application No. 8661-3 proposes to appropriate water from the natural flow of the Missouri River flowing through Lake Sharpe in the reach impounded behind the Big Bend Dam. The US Army Corps of Engineers constructed Big Bend Dam, impounding Lake Francis Case, in the 1950's and 1960's as a part of the Pick-Sloan project for the Missouri River. The six dams constructed under this project - Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point - are operated as a system providing storage and water releases for congressionally authorized purposes, including irrigation. Specifically, the Lake Sharpe reservoir can impound 1.9 million acre-feet (MAF) of water when full. Natural flow in the in-stream Missouri River reservoir system is considered the volume of water moving past a point along the river that is not augmented by artificial releases from reservoir storage. When there is an excess of natural flow, the excess can be used to fill empty storage space in a reservoir and typically occurs during spring run-off. The natural flow of the Missouri River is available for appropriation without the need for releases from storage in the reservoirs to augment natural flow.

The flow hydrograph of the Missouri River, in South Dakota, has been altered in the past 60 to 70 years due to emplacement of the mainstem reservoir system, with excess natural flow going into storage and stored water released to supplement flows to support the federally-authorized purposes of the Missouri River Mainstem System. The US Geological Survey (USGS) has made an estimation of natural flows on the Missouri River at Oahe Dam, located upstream of the proposed project and Gavins Point Dam located downstream from the proposed project. (Jacobsen, 2001). Figure 1 is a hydrograph, developed from this study at Oahe Dam, displaying the daily 50th, 25th, and 10th percentile flows corresponding to drier climactic conditions. A percentile is a measure used in statistics to indicate the value at which a given percentage of entries in a dataset will be below that value. The Missouri River natural flow hydrograph shows two peaks for the three percentile levels. The first peak occurs in March-April and corresponds to melting snowpack and spring rains from the plains of Montana, Wyoming, North Dakota, and South Dakota. The second peak, in June, represents upstream summer thunderstorms and snowmelt run off from the mountains in Wyoming and Montana.

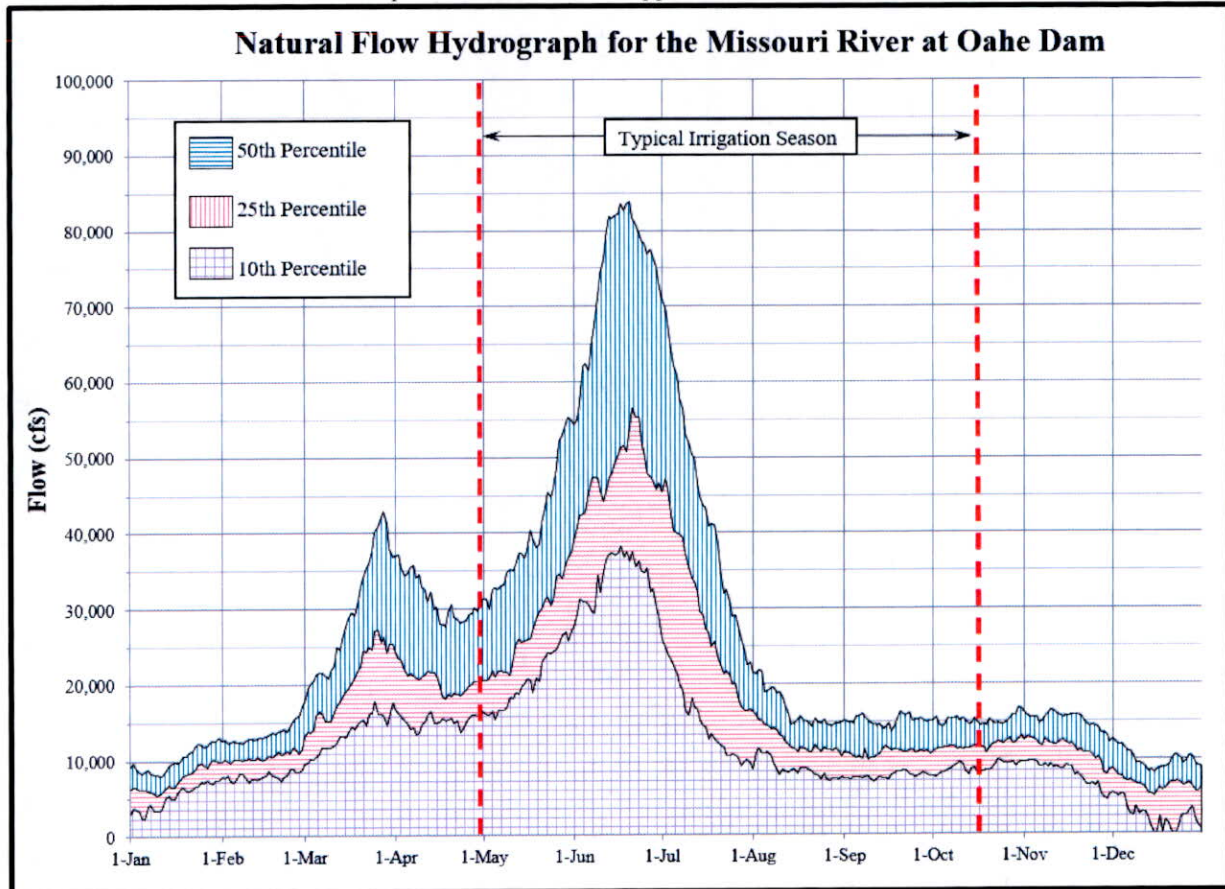


Figure 1. Natural Flow Hydrograph for the Missouri River at Oahe Dam (Jacobson, 2001).

Figure 2 is a hydrograph, developed for the Missouri River at Gavins Point Dam, displaying the daily 50th, 25th, and 10th percentile flows also corresponding to drier climactic conditions. The Missouri River natural flow hydrograph shows two peaks for the three percentile levels. The first peak occurs in March-April and corresponds to melting snowpack and springs rains from the plains of Montana, Wyoming, North Dakota, and South Dakota. The second peak, in June, represents upstream summer thunderstorms and snowmelt run off from the mountains in Wyoming and Montana.

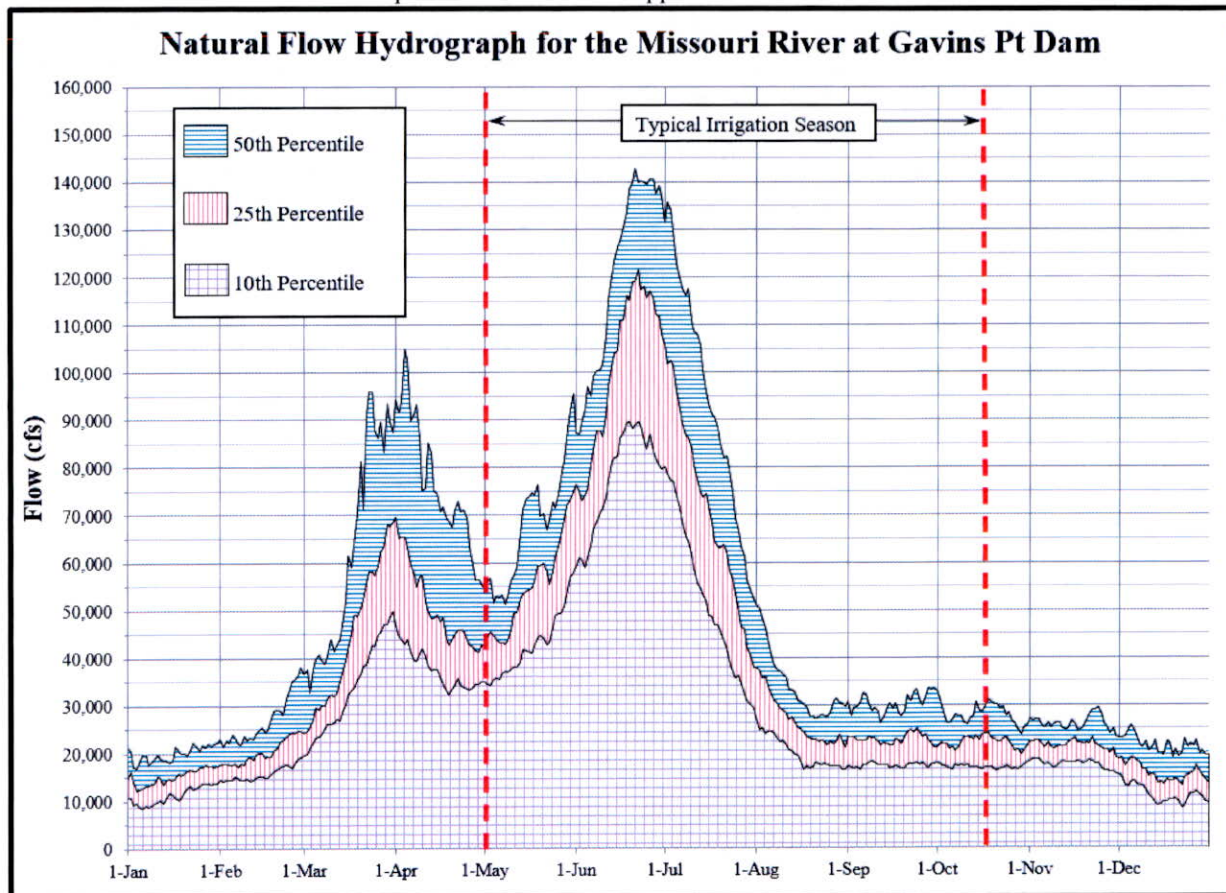


Figure 2. Natural Flow Hydrograph for the Missouri River at Gavins Point Dam (Jacobson, 2001).

The daily flow values of the 10th percentile hydrograph, during the irrigation season of April through November, indicate that over 10,000 cfs of water is available on average nine out of ten years. This indicates that there is natural flow available for this application, if approved, and the existing water appropriations. Water availability is not a concern when using the natural flows of the Missouri River as a source. Accessing water due to declining water levels during drier climatic conditions (reduced upstream basin runoff) can become an issue for this reach of the Missouri River.

Review of Existing Water Rights and Current Appropriations

There are 254 existing water rights/permits appropriating approximately 1,264.79 cfs of water from the natural flows of the Missouri River in South Dakota (Water Rights, 2022). Since the hydrographs at Oahe Dam upstream and Gavins Point Dam downstream of the proposed project indicate natural flow in excess of 10,000 cfs is available on average nine out of ten years during the irrigation season, approval of this permit will not unlawfully impair existing water rights.

Conclusions

1. Application No. 8661-3 proposes to irrigate an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. This application, if approved, and Water Right No. 5537-3 will authorize a combined total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres.
2. The proposed acres to be irrigated are located in the SW $\frac{1}{4}$ Section 5 and W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 8; all in T108N-R75W.
3. The water source for the proposed project is from the natural flow of the Missouri River.
4. Unappropriated water is available.
5. Existing water rights will not be unlawfully impaired.



Tyler J. Jensen
Natural Resources Engineer I



Mark D. Rath
Natural Resources Engineer III

References

1. Jacobson. 2001. *Visualization of Flow Alternatives, Lower Missouri River*. US Geological Survey Open-file Report OF02-122. Robert B. Jacobson and Jeanne Heuser, US Geological Survey, Columbia, MO.
2. Water Rights. 2022. *Water Right/Permit Files*. SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 29, 2022 10:41 AM
To: nachti_06@hotmail.com
Subject: Water Permit Application No. 8661-3
Attachments: 4128.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



RECEIVED

OCT 17 2022

OFFICE OF
WATER

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SSI, Margylin Bakercertify that the attached printed Notice was
takenfrom the Capital Journalprinted and published in PierreCounty of Hughes andstate of South Dakota. The notice was
published

in the newspaper on the following date:

10-6-22Cost of Printing \$ 62.80Margylin Baker
(Signature)Business Manager
(Title)10-13-22

(Date Signed)

Legal Notices

address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by October 17, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by October 21, 2022.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received,

the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Published October 6, 2022, at the total approximate cost of \$62.80 and may be viewed free of charge at www.sdpublicnotices.com.

NOTICE OF
APPLICATION NO. 8661-3
to Appropriate Water

Notice is given that Nachtigal Farms, c/o Colin Nachtigal, 22144 Nachtigal Rd, Harold SD 57536 has filed an application for a water permit to irrigate an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. Water Right No. 5537-3 authorizes 32.44 cubic feet of water per second (cfs) from the Missouri River located in the SW 1/4 SE 1/4 Section 1 and SE 1/4 SE 1/4 Section 12, all in T108N-R75W, to irrigate 1,848 acres. The existing irrigated acres are located in portions of the E 1/2 Section 1, E 1/2 Section 12, T108N-R75W, Sections 6, 7, W 1/2 Section 8, NE 1/4 Section 18, SW 1/4 Section 17, T108N-R75W. This application proposes to irrigate an additional 202 acres located in the SW 1/4 Section 5 and W 1/2 NE 1/4 Section 8; all in T108N-R75W. This application, if approved, and Water Right No. 5537-3 will authorize a combined, total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres. This site is located approximately 24 miles southeast of Pierre SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8661-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program

RECEIVED

Proof Of Publication

OCT 07 2022

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

OFFICE OF
WATER

Legal Notice Number: 1629

I, Cadee Schelske, 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 a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: Nichtigal Farms – Water Rights No. 8661-3 was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 10/05/2022. That the full amount of the fee charged for the publishing \$ 49.94 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 whom so ever.

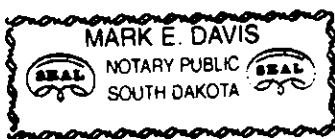
Cadee Schelske

Subscribed and sworn to me before this date 10/5/22.

[Signature]

Notary Public, South Dakota

My Term Expires 12/27/2024



**NOTICE OF
APPLICATION
NO. 8661-3 to**

Appropriate Water

Notice is given that Nachtigal Farms, c/o Colin Nachtigal, 22144 Nachtigal Rd, Harrold SD 57536 has filed an application for a water permit to irrigate an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. Water Right No. 5537-3 authorizes 32.44 cubic feet of water per second (cfs) from the Missouri River located in the SW 1/4 SE 1/4 Section 1 and SE 1/4 SE 1/4 Section 12; all in T108N-R76W to irrigate 1,848 acres. The existing irrigated acres are located in portions of the E 1/2 Section 1, E 1/2 Section 12; T108N-R76W, Sections 6, 7, W 1/2 Section 8, NE 1/4 Section 18, SW 1/4 Section 17; T108N-R75W. This application proposes to irrigate an additional 202 acres located in the SW 1/4 Section 5 and W 1/2 NE 1/4 Section 8; all in T108N-R75W. This application, if approved, and Water Right No. 5537-3 will authorize a combined total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres. This site is located approximately 24 miles southeast of Pierre SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer - recommends APPROVAL of Application No. 8661-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/> public or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-

9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/> public or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by October 17, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/> public or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by October 21, 2022.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

No. 1629 (adv.)

Published once at the total approximate cost of \$49.94 and may be viewed free of charge at www.sdpublicnotices.com.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 29, 2022 10:06 AM
To: Pierre Capital Journal (legals@capjournal.com)
Subject: 8661-3, Nachtigal Farms
Attachments: 8661-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 6, 2022.

Nachtigal Farms, c/o Colin Nachtigal, 2144 Nichtigal Rd, Harrold SD 57536, (605 680-2447) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 29, 2022 10:04 AM
To: 'rcrandall@plainsman.com'
Subject: 8661-3, Nachtigal Farms
Attachments: 8661-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 5, 2022.

Nachtigal Farms, c/o Colin Nachtigal, 2144 Nichtigal Rd, Harrold SD 57536, (605 680-2447) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

September 29, 2022

Nachtigal Farms
c/o Colin Nachtigal
22144 Nachtigal Rd
Harrold SD 57536

Dear Mr. Nachtigal:

Water Permit Application No. 8661-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Capitol Journal printed at Pierre (Ph # 605 224-7311) and the Plainsman printed at Huron (Ph # 605 353-7414). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

NOTICE OF APPLICATION NO. 8661-3 to Appropriate Water

Notice is given that Nachtigal Farms, c/o Colin Nachtigal, 22144 Nachtigal Rd, Harrold SD 57536 has filed an application for a water permit to irrigate an additional 202 acres with no increase in the pump rate authorized by Water Right No. 5537-3. Water Right No. 5537-3 authorizes 32.44 cubic feet of water per second (cfs) from the Missouri River located in the SW 1/4 SE 1/4 Section 1 and SE 1/4 SE 1/4 Section 12; all in T108N-R76W to irrigate 1,848 acres. The existing irrigated acres are located in portions of the E 1/2 Section 1, E 1/2 Section 12; T108N-R76W, Sections 6, 7, W 1/2 Section 8, NE 1/4 Section 18, SW 1/4 Section 17; T108N-R75W. This application proposes to irrigate an additional 202 acres located in the SW 1/4 Section 5 and W 1/2 NE 1/4 Section 8; all in T108N-R75W. This application, if approved, and Water Right No. 5537-3 will authorize a combined, total of 32.44 cfs from the Missouri River with an application rate of 29.33 cfs to irrigate 2,050 acres. This site is located approximately 24 miles southeast of Pierre SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8661-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by October 17, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by October 21, 2022.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

NOV 08 2022

Nachtigal Farms
c/o Colin Nachtigal
22144 Nachtigal Rd
Harrold SD 57536

Dear Mr. Nachtigal:

Enclosed is Water Permit No. 8661-3 authorizing construction of the 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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8661-3

Name of Applicant: Nachtigal Farms, Colin Nachtigal

Date of Posting: 10/3/2022

Date of Removal: 11/8/2022



Ron Duvall, Water Rights Permitting Administrator

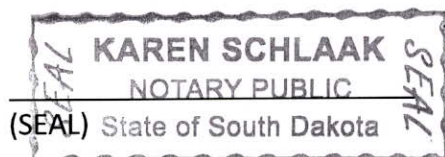
11/8/22

Date

Subscribed and sworn to before me, a notary public, this 8th day of November, 2022.



Notary Public - South Dakota
My commission expires: 4/1/2025





8661-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 12, 2023

Nachtigal Farms
c/o Colin Nachtigal
22144 Nachtigal Rd
Harrold SD 57536

8661-3

Dear Mr. Nachtigal:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your water use system.

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

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
(605) 773-3352
email: Amanda.Dewell@state.sd.us

* emailed to Colin Nachtigal
nachti_06@hotmail.com

8661-3

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date 7-11-2023

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

FROM: Nachtigal Farms, C/O Colin Nachtigal
(name)
22144 Nachtigal Rd.
(address)
Harrold, SD 57536
(city, state, zip) 605 680-2447
(phone)

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

Water Permit No. 8661-3 states that the water use system is to be constructed by
~~10-17-2027~~ 10-17-2027, and water is to be put to beneficial use by 10-17-2031
(date) (date)

The water use system was completed on 6-1-2023
(date)

Applying the water to beneficial use was completed on 6-10-2023
(date)

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

Colin Nachtigal
(signature)

