

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19379 AND MAP NUMBER 19354

WATER DIVISION 1-F

BACKGROUND

1. On July 13, 2015, the Nemaha Natural Resources District (NNRD), on behalf of Chad M. and Carol L. Herr, filed in the Department of Natural Resources (Department) application A-19379 for a Permit to Appropriate Water.
2. The Herr family also filed in the Department three other applications that pertain to this irrigation project as follows:
  - A. A-19389 for a permit to appropriate water from Long Branch at a rate of 1.04 cubic feet per second (cfs) (467 gallons per minute) for irrigation of 72.6 acres of land. A-19379 will provide supplemental irrigation to 45.0 of the acres under natural flow application A-19389.
  - B. CWG-5505 for a permit to conduct 250 gallons per minute of water from groundwater well G-152495 into Long Branch and remove a portion of the same water for the purpose of irrigation of land under applications A-19379 and A-19389.
  - C. CWG-5509 for a permit to conduct 60 gallons per minute of water from groundwater well G-152496 into Long Branch and remove a portion of the same water for the purpose of irrigation of land under applications A-19379 and A-19389.
3. On October 6, 2015, Cade L. Herr, Chad M. and Carol L. Herr filed map number 19354 showing the land proposed to be irrigated under A-19379.

ORDER

IT IS HEREBY ORDERED that application A-19379 and map number 19354 are APPROVED subject to the following limitations and conditions:

1. The following is a description of all the land which is authorized to be irrigated (appurtenant land) under surface water appropriation A-19379 as depicted on map number 19354:

Township 03 North, Range 13 East of the		
6 <sup>th</sup> P.M. in Richardson County		Acres
Section 17:	NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	23.1
	NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	1.9
	SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	12.0
	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	8.0
	TOTAL	45.0

2. Appropriation A-19379 has a priority date of July 13, 2015, and authorizes the appropriator the use of 49.1 acre-feet annually from Long Branch Reservoir 73 (storage appropriation A-15706). The water may be diverted through the drawdown release valve located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 08, Township 03 North, Range 13 East of the 6<sup>th</sup> P.M. in Richardson County, as depicted on map number 19354, with the permission from the Nemaha Natural Resources District, the owner of A-15706, to divert water for irrigation from this reservoir.
3. This appropriation will be limited to the land irrigated and the amount of water beneficially used on an annual basis. Such amount shall not exceed 49.1 acre-feet per annum.
4. Only the land shown on map number 19354 may be irrigated under appropriation A-19379.
5. Appropriation A-19379 provides supplemental water to irrigate land under natural flow appropriation A-19389 held by Chad M. and Carol L. Herr.
6. A measuring device approved by the Department may be required.
7. The appropriator must comply with all relevant statutes. The statutes include, but are not limited to, the following:
  - A. Notify the Department of any change in ownership or address.
  - B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
  - C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.
8. The appropriator must comply with the following deadlines:
  - A. Construction of the diversion works must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
  - B. Construction of the project must be completed by two years past the signing date of this application approval.
  - C. The appropriation is not considered perfected until water has been beneficially applied for the purpose stated in this approval. The water appropriated under A-19379 must be beneficially used by September 1, 2018.
  - D. After September 1, 2018, a field investigation will be conducted to determine the acres irrigated, after which an order of cancellation will be issued for any unused portions of appropriation A-19379.

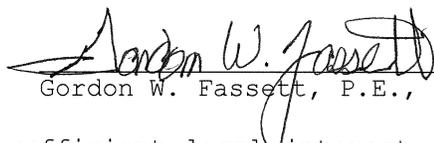
ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

DEPARTMENT OF NATURAL RESOURCES

December 21, 2015

  
Gordon W. Fassett, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this order may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and map number 19354 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 19354 were mailed on December 21, 2015, to the following:

Bob Hilske  
Nemaha Natural Resources District  
62161 US Highway 136  
Tecumseh, Nebraska 68450

Chad M. and Carol L. Herr  
63151 718 Road  
Humboldt, Nebraska 68376

Cade L. Herr  
63176 717 Road  
Humboldt, Nebraska 68376

Caleb M. Herr  
71694 629 Avenue  
Table Rock, Nebraska 67447