

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19389 AND MAP NUMBER 19357

WATER DIVISION 1-F

BACKGROUND

1. On August 28, 2015, Cade L. Herr and Caleb M. Herr, on behalf of Chad M. and Carol L. Herr, filed in the Department of Natural Resources (Department) application A-19389 for a Permit to Appropriate Water.
2. The Herr family also filed in the Department three applications as follows:
 - A. A-19379 for a permit to appropriate 49.1 acre-feet annually from Long Branch Reservoir 73 (storage appropriation A-15706) for irrigation of 45.0 acres of land. A-19379 provides 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, and Chad M. and Carol L. Herr filed map number 19357 showing the land proposed to be irrigated under A-19389.

ORDER

IT IS HEREBY ORDERED that application A-19389 and map number 19357 are APPROVED subject to the following limitations and conditions:

1. The following land is authorized to be irrigated (appurtenant land) under surface water appropriation A-19389 as depicted on map number 19357 which is made a part of this Order.

Township 03 North, Range 13 East of the
6th P.M. in Richardson County Acres

Section 17:	NW ¹ / ₄ NW ¹ / ₄	25.1
	NE ¹ / ₄ NW ¹ / ₄	1.9
	SW ¹ / ₄ NW ¹ / ₄	37.6
	SE ¹ / ₄ NW ¹ / ₄	<u>8.0</u>
	TOTAL	72.6

2. Appropriation A-19389 has a priority date of August 28, 2015, and authorizes the appropriator the use of 1.04 cubic feet per second (cfs) (467 gallons per minute) of water for irrigation of the 72.6 acres of land described above. The water may be diverted from Long Branch at a point of diversion located on the right bank of the stream in the NE¹/₄NW¹/₄ of Section 17, Township 03 North, Range 13 East of the 6th P.M. in Richardson County, as depicted on map number 19357.
3. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated nor the least amount of water necessary for the production of crops in the exercise of good husbandry. Therefore, in any year when less than the maximum permitted acres are being irrigated, the quantity of water diverted at any time may be restricted to 1/70 cfs for each permitted acre being irrigated that year. This appropriation of water under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.
4. 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 3 acre-feet per annum.
5. Only the land shown on map number 19357 may be irrigated under appropriation A-19389.
6. Appropriation A-19389 is provided supplemental water from Long Branch Reservoir 73, storage use appropriation A-19379, owned by the Nemaha Natural Resources District.
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-19389 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-19389.

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.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If in the future you are not able to divert sufficient amounts of water, and if there are junior appropriations upstream, you may call for water by contacting your local field office.

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, 4th 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 19357 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order, map number 19357 and Surface Water Administration brochure 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