

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19433 AND MAP NUMBER 19553

WATER DIVISION 1-F

BACKGROUND

1. On April 14, 2016, Timothy A. and Carol A. Schardt, and Wesley A. and Jessica A. Schardt, filed in the Department of Natural Resources (Department) application A-19433 for a permit to appropriate water.
2. On May 19, 2016, Wesley Schardt filed map number 19553. Subsequently, on July 6, 2016, Wesley Schardt filed a corrected map number 19553, showing the land proposed to be irrigated under A-19433.

ORDER

IT IS HEREBY ORDERED that application A-19433 and map number 19553 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-19433 as depicted on map number 19553:

| <u>Township 04 North, Range 11 East of the</u> | <u>Acres</u> |
|--|--------------|
| <u>6<sup>th</sup> P.M. in Johnson County</u>   |              |
| Section 01: NW $\frac{1}{4}$ SE $\frac{1}{4}$  | 34           |
| NE $\frac{1}{4}$ SE $\frac{1}{4}$              | 40           |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$              | 40           |
| SE $\frac{1}{4}$ SE $\frac{1}{4}$              | <u>40</u>    |
| TOTAL  | 154          |

2. Appropriation A-19433 has a priority date of April 14, 2016, and authorizes the appropriator the use of 40.0 acre-feet annually from Schardt Irrigation Reservoir (A-19432) from a pump site located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 01, Township 04 North, Range 11 East of the 6<sup>th</sup> P.M. in Johnson County, as depicted on map number 19553.
3. Only the land shown on map number 19553 may be irrigated under appropriation A-19433.
4. Should irrigation under A-19433 lower the elevation of water in Schardt Irrigation Reservoir (A-19432) below the level of the lowest outlet works, the appropriator may be required to pass measured reservoir inflows downstream. Failure to pass inflows, when requested by the Department, shall result in the immediate closing of irrigation under A-19433 until such time as structural or mechanical controls are put in place to pass water as requested.

5. A measuring device, approved by the Department, may be required if so ordered by the Department.
6. 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.
7. 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-19433 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-19433.

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

July 29, 2016

  
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 19553 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 19553 were mailed on July 29, 2016, to the following:

Timothy A. and Carol A. Schardt  
61877 716 Trail  
Steinauer, Nebraska 68441

Wesley A. and Jessica A. Schardt  
5950 Bridle Lane  
Lincoln, Nebraska 68516