

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
ORDER OF DENIAL OF APPLICATION A-19374
FOR A PERMIT TO APPROPRIATE WATER
WATER DIVISION 1-D

BACKGROUND

1. On June 3, 2015, Rex T. Johnson, landowner, filed in the Department of Natural Resources (Department) application A-19374 for a permit to appropriate water from Turkey Creek Reservoir 15 (storage appropriation A-18717) for the purpose of irrigation of 160 acres of land located in the SW $\frac{1}{4}$ of Section 25, Township 07 North, Range 02 East of the 6th P.M. in Saline County.
2. Appropriation A-18717 with a priority date of August 20, 2010, is held by the Lower Big Blue Natural Resources District (LBBNRD).
3. On June 9, 2015, the Department forwarded application A-19374 to David S. Clabaugh, Manager of the LBBNRD, and requested he complete Item 2 as the applicant and sign said application.
4. On July 6, 2015, application A-19374 was returned to the Department from the LBBNRD unchanged.
5. On July 13, 2016, the Department sent correspondence to David S. Clabaugh and requested a definitive response regarding whether the LBBNRD will enter into a water use agreement with Rex T. Johnson.
6. On August 22, 2016, the Department received correspondence from David S. Clabaugh stating that the LBBNRD Board of Directors (Board) at its July 30, 2015, meeting tabled the request for a *Permit for Beneficial Use of Stored Water*. To date, the Board has approved no storage use appropriations from the Lower Turkey Creek Flood Control Structures.
7. Pursuant to *Neb. Rev. Stat. § 46-234*, an application may be refused if existing facilities other than those owned or operated by the applicant are to be utilized and the applicant fails to show, by documentary evidence, agreements with the owner and operator of the facilities to allow the applicant to use such facilities.
8. Because there appears to be no apparent path to secure an agreement between Rex T. Johnson and the LBBNRD, application A-19374 should be denied.

ORDER

IT IS HEREBY ORDERED application A-19374 is DENIED.

DEPARTMENT OF NATURAL RESOURCES

September 16, 2016


Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed on September 16, 2016, to the following:

Rex T. Johnson
1009 Jupiter Drive
Colorado Springs, Colorado 80905

David S. Clabaugh, Manager
Lower Big Blue Natural Resources District
P.O. Box 826
Beatrice, Nebraska 68310