

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATIONS A-19453 AND A-19461
AND MAPS NUMBER 19617 AND 19622

WATER DIVISION 1-D

BACKGROUND

1. On July 18, 2016, Tyler and Michelle Stewart filed in the Department of Natural Resources (Department) application A-19453 for a Permit to Appropriate Water.
2. On August 29, 2016, Tyler and Michelle Stewart filed in the Department map number 19617 showing the land proposed to be irrigated under A-19453.
3. On August 29, 2016, Roger and Terri Stewart, on behalf of Tyler and Michelle Stewart filed in the Department application A-19461 for a Permit to Appropriate Water and map number 19622 showing land proposed to be irrigated under application A-19461.
4. On September 28, 2016, Tyler and Michelle Stewart, and Roger and Terri Stewart filed in the Department an easement allowing Roger and Terri Stewart access to Tyler Stewart Reservoir (A-19454) for the purpose of installing and operating irrigation equipment under A-19461.
5. On December 5, 2016, Tyler and Michelle Stewart, and Roger and Terri Stewart filed in the Department an irrigation agreement stating that irrigation under A-19453 and A-19461 shall be restricted to 95.3 acre-feet per annum, the amount of water legally stored in Tyler Stewart Reservoir (A-19454), through combined use of both permits

ORDER

IT IS HEREBY ORDERED that application A-19453, map number 19617, and application A-19461, map number 19622, 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-19453 as depicted on map number 19617 which is made part of this order:

<u>Township 03 North, Range 02 East of the</u>		
<u>6th P.M. in Jefferson County</u>		<u>Acres</u>
Section 14:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	39.1
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	10.3
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	28.4
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>3.4</u>
	TOTAL	81.2

2. Appropriation A-19453 has a priority date of July 18, 2016. Water may be diverted for irrigation from Tyler Stewart Reservoir (storage appropriation A-19454) from a pump site located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, Township 03 North, Range 02 East of the 6th P.M. in Jefferson County, as depicted on map number 19617.
3. The following is a description of all the land which is authorized to be irrigated (appurtenant land) under surface water appropriation A-19461 as depicted on map number 19622 which is made part of this order:

<u>Township 03 North, Range 02 East of the 6th P.M. in Jefferson County</u>	<u>Acres</u>
Section 14: NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.7
NE $\frac{1}{4}$ NW $\frac{1}{4}$	37.3
SW $\frac{1}{4}$ NW $\frac{1}{4}$	36.7
SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>40.0</u>
TOTAL	130.7

4. Appropriation A-19461 has a priority date of August 29, 2016. Water may be diverted for irrigation from Tyler Stewart Reservoir (storage appropriation A-19454) at a point of diversion located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, Township 03 North, Range 02 East of the 6th P.M. in Jefferson County, as depicted on map number 19622, with the permission from the appropriator of A-19454, Tyler and Michelle Stewart.
5. Appropriations A-19453 and A-19461 will be limited to the amount of water beneficially used on an annual basis. Water appropriated for irrigation under A-19453 and A-19461 shall be restricted to the amount legally stored in Tyler Stewart Reservoir not to exceed 95.3 acre-feet per annum through combined use of both permits.
6. The Department may at any time deny water under A-19453 and/or A-19461 should there cease to be a valid irrigation agreement on file in the Department between the appropriators of said permits.
7. A measuring device, approved by the Department, may be required if so ordered by the Department.
8. 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 any change to the irrigation agreement or reservoir access easement as agreed to by the applicants.
 - C. 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).

- D. 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.
9. 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 projects must be completed by two years past the signing date of this application approval.
 - C. The appropriations are not considered perfected until water has been beneficially applied for the purpose stated in this approval. The water appropriated under A-19453 and A-19461 must be beneficially used by September 1, 2019.
 - D. After September 1, 2019, 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 appropriations A-19453 and A-19461.

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

January 10, 2017


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 19622 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 19622 were mailed on January 10, 2017, to the following:

Roger and Terri Stewart
71675 Highway 15
Fairbury, Nebraska 68352

Tyler and Michelle Stewart
71674 Highway 15
Fairbury, Nebraska 68352