

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19847 AND MAP NUMBER 20964

WATER DIVISION 1-D

BACKGROUND

On May 2, 2022, the Lower Big Blue Natural Resources District, on behalf of the David D. and Heather L. Malchow Family Trust, filed in the Department of Natural Resources (Department) application A-19847 for a Permit to Appropriate Water and map number 20964 showing land proposed to be irrigated under this application.

ORDER

IT IS HEREBY ORDERED that application A-19847 and map number 20964 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-19847 as depicted on map number 20964 which is made a part of this Order.

<u>Township 02 North, Range 04 East of the</u>	<u>Acres</u>
<u>6th P.M. in Jefferson County</u>	
Section 13: NW ¹ / ₄ SW ¹ / ₄	30.1
NE ¹ / ₄ SW ¹ / ₄	23.3
SW ¹ / ₄ SW ¹ / ₄	16.6
SE ¹ / ₄ SW ¹ / ₄	<u>20.0</u>
TOTAL	90.0

- 2. Appropriation A-19847 has a priority date of May 2, 2022, and authorizes the appropriator the use of 90 acre-feet annually from Big Indian Creek Reservoir 17-A (storage appropriation A-10815) from a pump site located in the SE¹/₄SW¹/₄ of Section 13, Township 02 North, Range 04 East of the 6th P.M. in Jefferson County, as depicted on map number 20964, with the permission from the appropriator of A-10815, the Lower Big Blue Natural Resources District.
- 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 90 acre-feet per annum.
- 4. Only the land shown on map number 20964 may be irrigated under appropriation A-19847 unless a change is authorized by subsequent Order of the Department.

5. If during the course of construction of the irrigation project it is determined that there is a difference in the number and/or location of acres from the approved map, an amended project map may be filed for an equal or lesser number of acres prior to the beneficial use investigation deadline. The Department, at its sole discretion, must determine that the change from the original map remains within the original project concept and does not violate any rules and/or statutes and will not harm another appropriator. The amended map may then be approved by Order of the Department for an equal or lesser number of acres of land or amount of water than originally granted.
6. A measuring device approved by the Department is 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).
8. The appropriator must comply with the following deadlines:
 - A. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
 - B. The appropriation is not considered perfected until water has been beneficially applied for the purpose stated in this Order. The water appropriated under A-19847 must be beneficially used by September 1, 2025.
9. After September 1, 2025, a field investigation will be conducted to determine the lands where water has been beneficially applied.
 - A. If the entire appropriation is found to have water beneficially applied, a Certificate of Perfected Appropriation will be issued by the Department for A-19847.
 - B. If a portion of the appropriation is found to have had water beneficially applied within the original project concept the Department may, at its discretion, modify the project map and land listing to represent the conditions found during the field investigation. The number of acres and diversion rate determined by the Department will not exceed what is granted by this Order. A Certificate of Perfected Appropriation specifying the final number of acres, location of acres and diversion rate will be issued by the Department for A-19847.
 - C. If no portion of the appropriation is found to have water beneficially applied, the Department will issue an Order of Cancellation in Full for A-19847.

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 Order 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



July 1, 2022

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 20964 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order, map number 20964 and Surface Water Administration brochure were mailed to the following:

Lower Big Blue Natural Resources District
805 Dorsey Street
Beatrice, Nebraska 68310

David D. and Heather L. Malchow
Malchow Family Trust
12332 East Hickory Road
Filley, Nebraska 68357