

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19853 AND MAP OF RESERVOIR NUMBER 21005

WATER DIVISION 1-D

BACKGROUND

1. On June 7, 2022, John A. and Nicole Shalla, landowners, and Scott Sobotka, on behalf of the Lower Big Blue Natural Resources District, applicant filed in the Department of Natural Resources (Department) application A-19853 and map number 21005 for a permit to divert water from Big Indian Creek to impound supplemental water in Big Indian Creek Reservoir 2-B (storage permit A-10506) in an amount not to exceed 41.7 acre-feet per year for the purpose of irrigation.
2. Application A-19853, if approved, would allow the Lower Big Blue Natural Resources District, to store a total of 145.1 acre-feet per year, based on an additional fill of 41.7 acre-feet to the normal storage capacity of 103.4 acre-feet in Big Indian Creek Reservoir 2-B.
3. The supplemental storage of 41.7 acre-feet would be used in combination with the amount of water between the normal storage capacity of 103.4 acre-feet minus that below the lowest drawdown at 21.9 acre-feet (81.5 acre-feet) to provide 123.2 acre-feet of additional irrigation water to the 123.2 acres of land that is permitted for irrigation under natural flow appropriation A-19852.

ORDER

IT IS HEREBY ORDERED Application A-19853 and map of reservoir number 21005 are APPROVED subject to the following limitations and conditions:

1. The priority date is June 7, 2022.
2. The source of water is Big Indian Creek.
3. The amount of water that may be diverted under A-19853 shall not exceed 41.7 acre-feet per year to be stored in Big Indian Creek Reservoir 2-B.
4. Water may be diverted from a pumpsite located on the right bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 03, Township 01 North, Range 06 East of the 6th P.M. in Gage County, into an underground pipeline and discharged into Big Indian Creek Reservoir 2-B in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10 of said legal description as depicted on map number 21005.
5. Appropriation A-19853 provides supplemental storage water to storage appropriation A-10506 (Plan Number 9292) from Big Indian Creek. A-10506 is an on channel diversion from a tributary to Big Indian Creek which flows into Big Indian Creek Reservoir 2-B. The total amount of water stored in Big Indian Creek Reservoir 2B under A-10506 and A-19853 shall not exceed 145.1 acre-feet per year.

6. The water diverted under this appropriation is for the purpose of storing additional water for irrigation under storage use appropriation A-19854, which provides supplemental water to land authorized for irrigation under natural flow appropriation A-19852.
7. A measuring device approved by the Department is required.
8. *Nebraska Revised Statutes* § 46-241(5) states in part, "The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required downstream in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass ... a portion of the measured inflows to furnish water for livestock ..."
9. The owner or possessor of the reservoir storing water pursuant to A-19853 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
10. Approval of A-19853 does not authorize any modification to the dam or appurtenant structures. The owner or possessor of the dam must receive written approval from the Department prior to taking any action that changes the storage capacity of the reservoir or the original approved plan (Plan Number 9292) for the dam.
11. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
12. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - C. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

August 25, 2022

A copy of this Order was posted on the Department's website. Copies of this Order and map of reservoir number 21005 were provided to the Department's field office in Lincoln, Nebraska and mailed to the following:

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

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