

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18893 AND MAP NUMBER 20649

WATER DIVISION 2-C

BACKGROUND

1. On March 19, 2012, Tim Reiser filed in the Department of Natural Resources (Department) application A-18893 for a Permit to Appropriate Water.
2. On March 19, 2012, Tim Reiser filed in the Department map number 18128 showing land proposed to be irrigated under application A-18893.
3. On April 12, 2012, Tim Reiser corrected filed map number 18128 showing the land proposed for irrigation under A-18893.
4. On November 8, 2013, a temporary stay was placed on the issuance of new surface water natural flow appropriations within the Lower Niobrara Natural Resources District (District).
5. On March 14, 2014, the Department and the District adopted an integrated management plan and associated surface water controls. The controls adopted stated that if the District issues a moratorium on any increase in groundwater irrigated acres, the Department will issue a similar moratorium on surface water irrigated acres. If the District issues a restriction on the number of additional acres irrigated from groundwater, the Department will issue a similar restriction on the development of additional acres for surface water irrigation per year to 1/3 the amount allowed by the LNNRD. The Department will use the 1/3 ratio to the District's number of additional groundwater acres as of January 1 of each year to determine the allotment of approvable new acres for that year.
6. No new groundwater irrigated acres were available between 2015 and 2019. Since 2019, the LNNRD has been allowing new groundwater irrigated acres each year. This enabled the Department to begin processing pending surface water irrigation project applications as acres became available for approval.
7. The flood on the Niobrara River in March of 2019 caused damage to Tim Reiser's land. He lost some of the south portion to the river and requested that he be allowed to amend his application and map.
8. On March 5, 2021, Tim Reiser corrected filed application A-18893 and filed map number 20649 showing land proposed to be irrigated under this application.
9. Construction has been completed.

ORDER

IT IS HEREBY ORDERED that application A-18893 and map number 20649 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-18893 as depicted on map number 20649 which is made a part of this Order:

<u>Township 34 North, Range 13 West of the</u>	
<u>6th P.M. in Boyd County</u>	<u>Acres</u>
Section 32: NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.2
NE $\frac{1}{4}$ SE $\frac{1}{4}$	9.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	7.5
SE $\frac{1}{4}$ SE $\frac{1}{4}$	30.2
<u>Township 33 North, Range 13 West of the</u>	
<u>6th P.M. in Boyd County</u>	<u>Acres</u>
Section 05: SE $\frac{1}{4}$ NE $\frac{1}{4}$	25.1
NE $\frac{1}{4}$ SE $\frac{1}{4}$	20.4
Section 04: NW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>32.3</u>
TOTAL	125.7

2. Appropriation A-18893 has a priority date of March 19, 2012, and authorizes the appropriator the use of 150 acre-feet annually from Reiser Reservoir (storage appropriation A-18483) from a pump site located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 08, Township 33 North, Range 13 West of the 6th P.M. in Boyd County, as depicted on map number 20649.
3. Only the land shown on map number 20649 may be irrigated under appropriation A-18893.
4. 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 150 acre-feet per annum.
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, may be required if so ordered by the Department.

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).
 - 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.
8. 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.
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-18893.
 - B. After September 1, 2025, 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.
 - 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-18893.

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.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

October 13, 2022

A copy of this Order was posted on the Department's website. Copies of this Order and map number 20649 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 20649 were mailed to the following:

Tim Reiser
90001 State Highway 11
Butte, Nebraska 68722