

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19891,

PLAN OF RESERVOIR 21149 AND MAP OF RESERVOIR 21165

WATER DIVISION 1-F

BACKGROUND

1. On January 27, 2023, Janet E. Harms filed in the Department of Natural Resources (Department) application A-19891 for a permit to impound water.
2. On February 7, 2023, Travis R. Hazard, P.E., filed in the Department plan of reservoir 21149 according to Title 457 Neb. Admin. Code Chapter 11.
3. On March 7, 2023, map of reservoir 21165 was filed depicting the location of Harms Irrigation Reservoir, the location of diversion and the pipeline to deliver water from the stream to the reservoir.

ORDER

IT IS HEREBY ORDERED Application A-19891, plan of reservoir 21149 and map of reservoir 21165 are APPROVED subject to the following limitations and conditions:

1. The source of water is Brownell Creek.
2. The priority date is January 27, 2023.
3. The water to be stored under this appropriation is for the purpose of providing supplemental water for an irrigation project previously authorized under natural-flow appropriation A-19867.
4. The amount of water that may be diverted from a pump site located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 08 North, Range 11 East of the 6th P.M. in Otoe County shall not exceed 17.99 acre-feet per year to be stored in Harms Irrigation Reservoir, an off-channel storage facility. The berm that impounds water in Harms Irrigation Reservoir will be located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35 of said legal description.
5. A measuring device approved by the Department is required. Contact the Lincoln Field Office before acquiring a measuring device to ensure the device will be acceptable.

6. Within two weeks after the first diversion of water under this application the appropriator must file written notice with the Lincoln Field Office informing the Department that the first diversions have occurred. The written communication must be signed by the appropriator and may be delivered by U.S. Postal Mail, hand delivered or sent via e-mail attachment to the Lincoln Field Office Supervisor.
7. *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"
8. 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. Receive written approval prior to taking any action that changes the storage capacity of this reservoir, plan of reservoir 21149 or the type of appropriation.
 - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - D. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
9. The appropriator must comply with the following deadlines:
 - A. Construction of the structure 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. November 1, 2024, is the date construction of the structure must be completed.
 - C. The applicant has a preferred right to file an application for a permit to appropriate the water stored for some useful purpose until May 1, 2025.

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



March 30, 2023

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and plan of reservoir 21149, and map of reservoir 21165 were provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed to the following:

Travis Hazard, P.E.
Hazard Engineering, LLC
6250 W. Little Salt Rd
Valparaiso, Nebraska 68065

Copies of this Order and plan of reservoir 21149 and map of reservoir 21165 were mailed to the following:

Janet E. & Donald L. Harms
3558 N Rd
Syracuse, Nebraska

Derek Harms
1663 P Rd
Burr, Nebraska 68324