

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19953 AND MAP NUMBER 21317

WATER DIVISION 1-C

BACKGROUND

1. On October 2, 2023, Brian Livingston, on behalf of the Brian and Traci Livingston Trust, filed in the Department of Natural Resources (Department) application A-19953 for a Permit to Appropriate Water.
2. On October 30, 2023, Brian Livingston filed in the Department map number 21317 showing land proposed to be irrigated under application A-19953.

ORDER

IT IS HEREBY ORDERED that application A-19953 and map number 21317 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-19953 as depicted on map number 21317 which is made a part of this Order.

<u>Township 01 North, Range 01 East of the</u>	<u>Acres</u>
<u>6th P.M. in Jefferson County</u>	
Section 08: NW ¹ / ₄ NE ¹ / ₄	15.4
NE ¹ / ₄ NE ¹ / ₄	31.5
SW ¹ / ₄ NE ¹ / ₄	8.5
SE ¹ / ₄ NE ¹ / ₄	<u>9.6</u>
TOTAL	65.0

2. Appropriation A-19953 has a priority date of October 2, 2023, and authorizes the appropriator the use of 0.93 cubic foot per second (cfs) (417 gallons per minute) of water for irrigation of the 65.0 acres of land described above. The water may be diverted from Rose Creek at a point of diversion located on the left bank of the stream in the NE¹/₄NW¹/₄ of Section 17, Township 01 North, Range 01 East of the 6th P.M. in Jefferson County, as depicted on map number 21317.
3. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated not to exceed 0.93 cfs nor the least amount of water necessary for the production of crops in the exercise of good husbandry. Therefore, in any year when less than the maximum permitted acres are being irrigated, the quantity of water diverted at any time may be restricted to 1/70 cfs for each permitted acre being irrigated that year. This appropriation of water under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.

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 3 acre-feet per annum.
5. Only the land shown on map number 21317 may be irrigated under appropriation A-19953 unless a change is authorized by subsequent Order of the Department.
6. 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.
7. 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.
8. 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 irrigation 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.
9. This appropriation is subject to the provisions of the Blue River Compact and could be closed if Compact flows are not being met.
10. Appropriation A-19953 is provided supplemental water from Livingston Section 8 Pond (storage permit A-19141), storage use appropriation A-19142, and supplemental storage use appropriation A-19955, owned by Brian and Traci Livingston Trust.
11. 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).
12. 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-19953 must be beneficially used by September 1, 2026.

13. After September 1, 2026, 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-19953.
 - 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-19953.
 - 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-19953.

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



Thomas E. Riley, P.E., Director

December 18, 2023

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21317 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order, map number 21317 and Surface Water Administration brochure were mailed to the following:

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