

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19955 AND MAP NUMBER 21321

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-19955 for a Permit to Appropriate Water.
2. On October 30, 2023, Brian Livingston filed in the Department map number 21321 showing land proposed to be irrigated under application A-19955.
3. Application A-19955 will utilize water under supplemental storage appropriation A-19954 to supplement irrigation of 65.0 acres of land under storage use appropriation A-19142 and natural flow appropriation A-19953.

ORDER

IT IS HEREBY ORDERED that application A-19955 and map number 21321 are APPROVED subject to the following limitations and conditions:

1. The following is a description of all the land which is authorized to be irrigated (appurtenant land) under surface water appropriation A-19955 as depicted on map number 21321:

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

2. Appropriation A-19955 has a priority date of October 2, 2023, and authorizes the appropriator the use of 34.1 acre-feet annually from Livingston Section 8 Pond (supplemental storage appropriation A-19954) from a pump site located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 08, Township 01 North, Range 01 East of the 6th P.M. in Jefferson County, as depicted on map number 21321, to divert water for irrigation from this reservoir.
3. Only the land shown on map number 21321 may be irrigated under appropriation A-19955.
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 34.1 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. Appropriation A-19955 provides supplemental water to irrigate land under storage use appropriation A-19142 and natural flow appropriation A-19953 held by the Brian and Traci Livingston Trust.
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. 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.
10. 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.
11. 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-19955.

- B. After September 1, 2026, 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-19955.

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



December 18, 2023

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 21321 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 21321 were mailed to the following:

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