

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19728,

PLAN OF RESERVOIR 20574 AND MAP OF RESERVOIR 20579

WATER DIVISION 2-B

BACKGROUND

1. On September 8, 2020, Jake Messerly, on behalf of Firefly Retreat LLC, filed in the Department of Natural Resources (Department) application A-19728 for a permit to impound supplemental water and plan of reservoir 20574 according to *Title 457 Neb. Admin. Code Chapter 11*.
2. Application A-19728 has an off-channel point of diversion for a proposed pump site.
3. Application A-19730 was filed in the Department on October 19, 2020. Because application A-19728 provides supplemental storage water to A-19730 the applicant requested October 19, 2020, be the priority date for both applications.
4. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19728, plan of reservoir 20574 and map of reservoir 20579 are APPROVED subject to the following limitations and conditions:

1. The source of water is Pawnee Creek.
2. The priority date is October 19, 2020.
3. The dam that impounds water in Lake Firefly and the supplemental storage point of diversion, as shown on map of reservoir number 20579 and made a part of this Order, are located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, Township 12 North, Range 10 East of the 6th P.M. in Cass County.
4. The pump site for the point of diversion is off-channel and west of the dam.
5. The water to be stored under this appropriation is for the purpose of providing supplemental storage water to appropriation A-19730. Appropriation A-19730 is an on-channel diversion of a tributary to Pawnee Creek that flows westward. Supplemental storage appropriation A-19728 is an off-channel diversion from Pawnee Creek that flows northward. The total amount of storage allowed in Lake Firefly under both appropriations is 9.1 acre-feet per year.

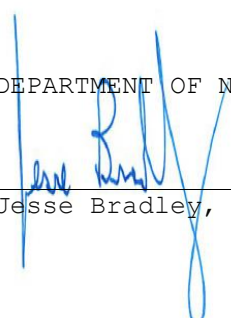
6. Plan of reservoir number 20574 approved under appropriation A-19730 depicts the dam structure and fulfills the requirements according to *Title 457 Neb. Admin. Code Chapter 11.*
7. *Nebraska Revised Statutes § 46-241(5)* states in part, "The owner or possessor of a reservoir or intentional underground 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 owner or possessor of the reservoir storing water pursuant to A-19728 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.
9. 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 20574 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.

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.

October 29 2020

DEPARTMENT OF NATURAL RESOURCES



Jesse Bradley, Interim Director

A copy of this Order was posted on the Department's website. Copies of this Order, plan of reservoir 20574 and map of reservoir 20579 were provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed to the following:

John Petersen, P.E.
JEO Consulting
11213 Davenport Street, Suite 200
Omaha, Nebraska 68154

Copies of this Order, plan of reservoir 20574 and map of reservoir 20579 were mailed on October 29, 2020, to the following:

Jake Messerly
Firefly Retreat LLC
609 Bald Eagle Boulevard
Ashland, Nebraska 68003