

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19730,

PLAN OF RESERVOIR 20574 AND MAP OF RESERVOIR 20595

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) plan of reservoir number 20574 according to *Title 457 Neb. Admin. Code Chapter 11*.
2. On October 19, 2020, Jake Messerly filed in the Department application A-19730 for a permit to impound water.
3. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19730, plan of reservoir 20574 and map of reservoir 20595 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Pawnee Creek.
2. The priority date is October 19, 2020.
3. The amount of water that may be diverted shall not exceed 9.1 acre-feet per year to be stored in Lake Firefly.
4. Appropriation A-19728 provides supplemental storage water to 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.
5. The dam that impounds water in Lake Firefly, as shown on map of reservoir number 20595 and made a part of this Order, and the supplemental storage point of diversion are located in the NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Section 22, Township 12 North, Range 10 East of the 6<sup>th</sup> P.M. in Cass County.

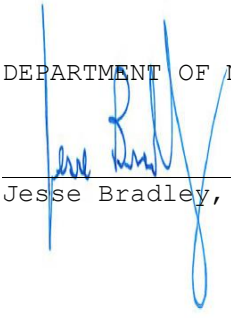
6. *Nebraska Revised Statutes* § 46-241(5) states in part, "The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required downstream in ditches for direct irrigation 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 ... ."
7. The owner or possessor of the reservoir storing water pursuant to A-19730 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.
8. A continuous recording device approved by the Department to monitor reservoir levels may be required 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 20 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.

DEPARTMENT OF NATURAL RESOURCES

October 29, 2020

  
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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 20595 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