

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-19470

AND APPROVAL OF MAP NUMBER 20619

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-19470 is held by the J. Kendall Binder Living Trust and the Joyce M. Binder Living Trust.
2. Appropriation A-19470, with a priority date of October 7, 2016, authorizes the use of water for irrigation of 247.4 acres of land. The water may be diverted from Turkey Creek from points of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 02 North, Range 11 East of the 6th P.M. in Pawnee County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 3.53 cfs from all points of diversion.
3. The approval of appropriation A-19470 was conditional upon the irrigation of the above land by September 1, 2019.
4. Department personnel performed a field investigation and determined a portion of the land approved for irrigation under appropriation A-19470 had not been irrigated by September 1, 2019.
5. *Nebraska Revised Statutes* § 46-229.02(7) provides for the cancellation of unused portions of surface water appropriations.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-19470 at the rate of 0.61 cfs for use upon 42.8 acres of land is CANCELLED.

2. Appropriation A-19470 now permits the appropriator to divert water from Turkey Creek to irrigate the 204.6 acres of land described below and depicted on map number 20619 which is made a part of this Order.

<u>Township 02 North, Range 11 East of the</u>		
<u>6th P.M. in Pawnee County</u>		<u>Acres</u>
Section 34:	SW ¹ / ₄ NE ¹ / ₄	40.0
	SE ¹ / ₄ NE ¹ / ₄	30.3
	NW ¹ / ₄ SE ¹ / ₄	30.3
	NE ¹ / ₄ SE ¹ / ₄	30.1
Section 35:	SW ¹ / ₄ NW ¹ / ₄	28.5
	SE ¹ / ₄ NW ¹ / ₄	1.1
	NW ¹ / ₄ SW ¹ / ₄	32.9
	NE ¹ / ₄ SW ¹ / ₄	<u>11.4</u>
	TOTAL	204.6

3. The water may be diverted from Turkey Creek at points of diversion located on the right bank of the stream in the SW¹/₄NW¹/₄, SE¹/₄NW¹/₄, and NE¹/₄SW¹/₄ of Section 35, Township 02 North, Range 11 East of the 6th P.M. in Pawnee County, as depicted on map number 20619. Water diverted shall not exceed a maximum rate of 2.92 cfs (1,310 gallons per minute).
4. All terms and conditions of the approval of appropriation A-19470 remains in effect unless specifically changed by this Order.
5. 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. 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.

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.

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 you are not able to divert sufficient amounts of water, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES



February 17, 2021

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 20619 were provided to the Department's field office in Lincoln, Nebraska. Copies of the field investigation, this Order and map number 20619 were mailed on February 17, 2021, to the following:

J. Kendall Binder, Trustee
J. Kendall Binder Living Trust
P.O. Box 213
Pawnee City, Nebraska 68420

Craig and Crystal Binder
62420 714 Road
Table Rock, Nebraska 68447

Joyce M. Binder, Trustee
Joyce M. Binder Living Trust
P.O. Box 213
Pawnee City, Nebraska 68420