

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19756 AND MAPS NUMBER 20678 AND 20679

WATER DIVISION 1-D

BACKGROUND

On March 15, 2021, Kenneth and Michelle R. Jurgens filed in the Department of Natural Resources (Department) application A-19756 for a Permit to Appropriate Water and maps number 20678 and 20679 showing land proposed to be irrigated under this application.

ORDER

IT IS HEREBY ORDERED that application A-19756 and maps number 20678 and 20679 are APPROVED subject to the following limitations and conditions:

1. A portion of appropriation A-19756 provides additional water to land already approved for irrigation under natural flow appropriation A-6556. The remaining portion of appropriation A-19756 is located on land not covered by a surface water appropriation.
2. For the purpose of water administration, appropriation A-19756 should be shown in Department records as two appropriations: A-19756A and A-19756B
3. The following land is authorized to be irrigated (appurtenant land) under surface water appropriation A-19756A as depicted on map number 20678 which is made a part of this Order.

<u>Township 04 North, Range 06 East of the 6<sup>th</sup> P.M. in Gage County</u>	<u>Acres</u>
Section 32: NE $\frac{1}{4}$ NE $\frac{1}{4}$	0.4
Section 33: NW $\frac{1}{4}$ NW $\frac{1}{4}$	35.4
NE $\frac{1}{4}$ NW $\frac{1}{4}$	30.9
SW $\frac{1}{4}$ NW $\frac{1}{4}$	13.3
SE $\frac{1}{4}$ NW $\frac{1}{4}$	28.6
NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.9
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>9.7</u>
TOTAL	119.2

4. Appropriation A-19756A authorizes the appropriator the use of 1.70 cubic feet per second (cfs) (763 gallons per minute) of water for irrigation of the 119.2 acres of land described above.

5. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated not to exceed 1.70 cubic feet per second 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.
6. The following land is authorized to be irrigated (appurtenant land) under surface water appropriation A-19739B as depicted on map number 20679 and is not covered by an existing appropriation.

Township 04 North, Range 06 East of the 6 <sup>th</sup> P.M. in Gage County	Acres
Section 33: SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	4.3
SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	11.7
SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	1.8
NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	19.5
NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	<u>2.7</u>
TOTAL	40.0

7. Appropriation A-19756B authorizes the appropriator the use of 0.28 cubic feet per second (cfs) (126 gallons per minute) of water for irrigation of the 40.0 acres of land described above.
8. The rate that water may be diverted shall not exceed one cfs for every 140 acres irrigated not to exceed 0.28 cubic feet per second 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 1/140 cfs for each permitted acre being irrigated that year.
9. Appropriation A-19756B provides supplemental water to land approved for irrigation under natural flow appropriation A-6556.
10. The total combined volume of appropriations A-6556 and A-19756B may not exceed three acre-feet per irrigated acre per year nor to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.
11. Appropriations A-19756A and A-19756B have a priority date of March 15, 2021. The water may be diverted from the Big Blue River at a point of diversion located on the left bank of the stream in the SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Section 33, Township 04 North, Range 06 East of the 6<sup>th</sup> P.M. in Gage County, as depicted on maps number 20678 and 20679.
12. These appropriations will be limited to the land irrigated and the amount of water beneficially used on an annual basis.

13. Only the land shown on maps number 20678 and 20679 may be irrigated under appropriation A-19756A and A-19756B unless a change is authorized by subsequent Order of the Department.
14. 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 maps, amended project maps 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 maps remain within the original project concept and does not violate any rules and/or statutes and will not harm another appropriator. The amended maps 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.
15. A measuring device, approved by the Department, may be required if so ordered by the Department.
16. Appropriations A-19756A and A-19756B are subject to the provisions of the Blue River Compact and could be closed if Compact flows are not being met.
17. 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).
18. 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 appropriations are not considered perfected until water has been beneficially applied for the purpose stated in this Order. The water appropriated under A-19756A and A-19756B must be beneficially used by September 1, 2023.
9. After September 1, 2023, a field investigation will be conducted to determine the lands where water has been beneficially applied.
  - A. If the entire appropriations are found to have water beneficially applied, Certificates of Perfected Appropriation will be issued by the Department for A-19756A and A-19756B.

- B. If a portion of the appropriations is found to have had water beneficially applied within the original project concept the Department may, at its discretion, modify the project maps and land listings 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-A-19756A and A-19756B.
- C. If no portion of the appropriations is found to have water beneficially applied, the Department will issue an Order of Cancellation in Full for A-19756A and A-19756B.

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

May 5, 2021

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20678 and 20679 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order, maps number 20678 and 20679 and Surface Water Administration brochure were mailed on May 5, 2021, to the following:

Kenneth and Michelle R. Jurgens  
4869 East Chestnut Road  
Pickrell, Nebraska 68422