

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19887,

AND PLAN OF RESERVOIR 21126 AND MAP OF RESERVOIR 21147

WATER DIVISION 1-D

BACKGROUND

On December 27, 2022, Jake Miriovsky, on behalf of Emily Haxby, filed in the Department of Natural Resources (Department) application A-19887 for a permit to impound water and plan of reservoir 21126 according to *Title 457 Neb. Admin. Code Chapter 11*.

ORDER

IT IS HEREBY ORDERED Application A-19887, plan of reservoir 21126 and map of reservoir 21147 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Soap Creek.
2. The priority date is December 27, 2022.
3. The water to be stored under this appropriation is for the purpose of erosion control and water for livestock.
4. The amount of water that may be diverted shall not exceed 16.3 acre-feet per year to be stored in Haxby Pond. Haxby Dam will be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 03, Township 05 North, Range 05 East of the 6<sup>th</sup> P.M. in Gage County.
5. *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 ..."
6. The owner or possessor of the reservoir storing water pursuant to A-19887 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.
7. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.

8. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.
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 21126 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.
10. The appropriator must comply with the following deadlines:
  - A. Construction of the structure 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. November 1, 2024, is the date construction of the structure must be completed.

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



February 16, 2023

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Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and plan of reservoir 21126, and map of reservoir 21147 were provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed to the following:

Jacob Miriovsky  
JEO Consulting Group  
11717 Burt Street, Suite 210  
Omaha, Nebraska 68154

Copies of this Order and plan of reservoir 21126 and map of reservoir 21147 were mailed to the following:

Emily Haxby  
8867 Southwest 86<sup>th</sup> Road  
Clatonia, Nebraska 68328  
[j.e.haxby@outlook.com](mailto:j.e.haxby@outlook.com)