

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF APPLICATION 19911,  
AND MAP OF RESERVOIR NUMBRER 21178  
WATER DIVISION 1-F

BACKGROUND

1. On March 17, 2023, Robert Rottinghaus filed in the Department of Natural Resources (Department) application A-19911 for a permit to impound supplemental water from Johnson Creek for an amount not to exceed 114.0 acre-feet per year. This is based on a reservoir that would store 79.5 acre-feet and may be filled 1.4 times per year.
2. Application A-19911 has an off-channel point of diversion and will require water to be diverted and pumped via pipeline to the proposed reservoir.
3. On March 17, 2023, Robert Rottinghaus also filed in the Department an application for approval of plans for dams, construction specifications and plan number 21173.
4. On March 23, 2023, Robert Rottinghaus filed in the Department application A-19915 for a permit to impound water from a tributary to Johnson Creek for an amount not to exceed 114.0 acre-feet per year.
5. Applications A-19911 and A-19915, if approved, would allow the appropriator to store a total of 228.0 acre-feet per year, based on multiple fills of Rottinhaus Reservoir located on the tributary to Johnson Creek.

ORDER

IT IS HEREBY ORDERED Application A-19911 and map number 21178 are APPROVED subject to the following limitations and conditions:

1. The source of water is Johnson Creek.
2. The priority date is March 17, 2023.
3. The water may be diverted from a pumpsite located on the right bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 29, Township 01 North, Range 11 East of the 6<sup>th</sup> P.M. in Pawnee County, into an underground pipeline and discharged into Rottinghause Reservoir in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 32 of said legal description as depicted on map number 21178.
4. Appropriation A-19911 is an off-channel diversion from Johnson Creek that provides supplemental storage water to storage appropriation A-19915 (Plan Number 21173) that is on-channel on a tributary to Johnson Creek. The amount of water that may be diverted shall not exceed 114.0 acre-feet per year to be stored in Rottinghaus Reservoir. The total amount of water stored in Rottinghaus Reservoir under A-19911 and A-19915 shall not exceed 228.0 acre-feet per year.

5. The water to be stored under this appropriation is for the purpose of providing supplemental water to storage-use appropriation A-19912 for an irrigation project also authorized under natural-flow appropriation A-19913.
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-19911 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. A measuring device approved by the Department is required at the diversion point from Johnson Creek. Contact the Lincoln Field Office before acquiring a measuring device to ensure the device will be acceptable.
10. Within two weeks after the first diversion of water under this application the appropriator must file written notice with the Lincoln Field Office informing the Department that the first irrigation diversions have occurred. The written communication must be signed by the appropriator and may be delivered by U.S. Postal Mail, hand delivered or sent via e-mail attachment to the Lincoln Field Office Supervisor.
11. 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. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
  - C. 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



November 3, 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 map of reservoir 21178 were provided to the Department's field office in Lincoln, Nebraska and mailed to the following:.

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