

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19912 AND MAP NUMBER 21174

WATER DIVISION 1-F

BACKGROUND

1. On March 17, 2023, Robert Rottinghaus filed in the Department of Natural Resources (Department) application A-19912 for a Permit to Appropriate Water.
2. On March 17, 2023, Robert Rottinghaus also filed in the Department application A-19911 for a permit to impound supplemental from Johnson Creek for an amount not to exceed 114.0 acre-feet per year. Based on the 79.5 acre-feet capacity of the reservoir, the applicant requests approximately 1.4 fills per year.
3. On March 23, 2023, Robert Rottinghaus filed in the Department application A-19915 for a permit to impound water in Rottinghaus Reservoir from a tributary to Johnson Creek for an amount not to exceed 114.0 acre-feet per year. Based on the 79.5 acre-feet capacity of the reservoir, the applicant requests approximately 1.4 fills per year.
4. On June 1, 2023, Robert Rottinghaus filed in the Department map number 21174 showing land proposed to be irrigated under application A-19912.

ORDER

IT IS HEREBY ORDERED that application A-19912 and map number 21174 are APPROVED subject to the following limitations and conditions:

1. The following is a description of all the land which is authorized to be irrigated (appurtenant land) under surface water appropriation A-19912 as depicted on map number 21174.

<u>Township 01 North, Range 11 East of the</u>		
<u>6th P.M. in Pawnee County</u>		<u>Acres</u>
Section 32:	NW ¹ / ₄ NE ¹ / ₄	38.5
	NE ¹ / ₄ NE ¹ / ₄	33.3
	SW ¹ / ₄ NE ¹ / ₄	29.6
	SE ¹ / ₄ NE ¹ / ₄	1.5
	NW ¹ / ₄ SE ¹ / ₄	28.7
	NE ¹ / ₄ SE ¹ / ₄	29.7
	SW ¹ / ₄ SE ¹ / ₄	29.8
	SE ¹ / ₄ SE ¹ / ₄	<u>30.3</u>
	TOTAL	221.4

2. Appropriation A-19912 has a priority date of March 17, 2023, and authorizes the appropriator the use of 228.0 acre-feet annually from Rottinghaus Reservoir (storage appropriation A-19915 and supplemental storage appropriation A-19911) from a pump site located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 01 North, Range 11 East of the 6th P.M. in Pawnee County, as depicted on map number 21174.
3. Only the land shown on map number 21174 may be irrigated under appropriation A-19912.
4. This appropriation will be limited to the land irrigated and the amount of water beneficially used on an annual basis. Such amount shall not exceed 228 acre-feet per annum.
5. 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 map, an amended project map 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 map remains within the original project concept and does not violate any rules and/or statutes and will not harm another appropriator. The amended map 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.
6. Appropriation A-19912 provides supplemental water to irrigate land under natural flow appropriations A-19913 held by Robert Rottinghaus.
7. A measuring device approved by the Department is required. Contact the Lincoln Field Office before acquiring a measuring device to ensure the device will be acceptable.
8. 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.
9. 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).
 - 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.
10. 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 appropriation is not considered perfected until water has been beneficially applied for the purpose stated in this Order. The water appropriated under A-19912 must be beneficially used by September 1, 2026.
11. After September 1, 2026, a field investigation will be conducted to determine the lands where water has been beneficially applied.
- A. If the entire appropriation is found to have water beneficially applied, a Certificate of Perfected Appropriation will be issued by the Department for A-19912.
- B. If a portion of the appropriation is found to have had water beneficially applied within the original project concept the Department may, at its discretion, modify the project map and land listing 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-19912.
- C. If no portion of the appropriation is found to have water beneficially applied, the Department will issue an Order of Cancellation in Full for A-19912.

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.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

November 3, 2023

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21174 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 21174 were mailed to the following:

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