

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19107 AND MAP OF RESERVOIR 18693

WATER DIVISION 1-C

BACKGROUND

1. On July 15, 2013, Philip and Diana L. Wehrman filed in the Department of Natural Resources (Department) application A-19107 for a permit to impound supplemental water in the existing Wehrman Reservoir, permitted under storage appropriation A-12256.
2. On October 16, 2013, Philip Wehrman filed in the Department map of reservoir number 18693, showing the location of the pump-site in relation to the reservoir for application A-19107.
3. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19107 and map of reservoir 18693 are APPROVED subject to the following limitations and conditions:

1. The source of water is Elk Creek.
2. The priority date is July 15, 2013.
3. The water to be stored under this appropriation is for the purpose of providing supplemental water for an irrigation project authorized under natural-flow appropriations A-12180 and A-19105.
4. The amount of supplemental water that may be diverted shall not exceed 165 acre-feet per year to be stored in Wehrman Reservoir. The amount of water is based upon a reservoir that stores 16.5 acre-feet of water and is filled 10 times per year. The water may be diverted from a pump-site located on the left bank of Elk Creek in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Township 3 North, Range 7 West of the 6th P.M. in Nuckolls County. Wehrman Dam is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Township 3 North, Range 7 West of the 6th P.M. in Nuckolls County. Storage appropriation A-12256 allows the appropriator to store 16.5 acre-feet of water per year in Wehrman Reservoir. Appropriations A-12256 and A-19107 together allow for a total of 181.5 acre-feet of water per year to be stored in Wehrman Reservoir.

5. Neb. Rev. Stat. § 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 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-19107 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. This includes, but is not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Receive approval prior to taking any action that changes the storage capacity of this reservoir, map of reservoir number 18693 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.

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

June 12, 2014


 Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this approval may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval and be accompanied by a filing fee of \$10.

A copy of this approval was posted on the Department's website. Copies of this approval and map of reservoir 18693 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and map of reservoir 18693 were mailed on June 12, 2014, to the following:

Philip and Diana L. Wehrman
3396 PQ Road
Nelson, NE 68961