

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19263

WATER DIVISION 1-D

BACKGROUND

1. On June 4, 2014, Alfred Daubendiek, Jr., filed in the Department of Natural Resources (Department) application A-19263 for a Permit to Appropriate Water.
2. On August 5, 2014, Alfred Daubendiek, Jr., filed map number 19013 showing the land proposed to be irrigated under A-19263.
3. Alfred Daubendiek, Jr., also filed in the Department the following applications:
  - A. A-19258 for a permit to impound water in Daubendiek Reservoir Number 3 for an amount not to exceed 16.6 acre-feet per year, DWV-5093, a petition for waiver of outlet works and Plan of Reservoir 18958.
  - B. A-19262 for a permit to impound supplemental water in Daubendiek Reservoir Number 3 from a different source than application A-19258 for an amount not to exceed 16.6 acre-feet per year.
  - C. Construction has been completed.

ORDER

IT IS HEREBY ORDERED that application A-19263 is APPROVED subject to the following limitations and conditions:

1. The source of water is Daubendiek Reservoir Number 3, constructed under storage appropriation A-19258. Appropriation A-19262 provides supplemental storage to A-19258.
2. The stored water shall be used for the purpose of irrigation.
3. The priority date is June 4, 2014.
4. Only the land shown on map number 19013 may be irrigated under appropriation A-19263.
5. 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 33.2 acre-foot acre-feet per annum.
6. This surface water appropriation shall provide supplemental water for land already included under appropriations A-16742 and A-19259 held by Alfred Daubendiek, Jr.

7. A measuring device, approved by the Department, is **required** to be installed to meter the amount of water withdrawn from Daubendiek Reservoir Number 3.
8. Additional measuring, instrumentation or reporting requirements may be required as needed for the Department to efficiently administer water use in Water Division 1-D.
9. Approval of A-19263 is based on the information included in application A-19263 and representations made on map number 19013 signed by Alfred Daubendiek Jr., on January 5, 2015. That information and those representations are considered terms of this approval, to which the permit holder must adhere.
10. 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.
11. The appropriator must comply with the following deadlines:
  - A. The appropriation is not considered perfected until water has been beneficially applied for the purpose stated in this approval. The water appropriated under A-19263 must be beneficially used by September 1, 2017.
  - B. After September 1, 2017, a field investigation will be conducted to determine the acres irrigated, after which an order of cancellation will be issued for any unused portions of appropriation A-19263.

#### 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 Approval 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

April 28, 2015

  
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James C. Schneider, Ph.D.  
Acting Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this order 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, 4<sup>th</sup> Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this approval was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on April 28, 2015, to the following:

Alfred Daubendiek, Jr.  
1805 East Linden Drive  
Beatrice NE, 68310