

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF APPLICATION A-18953

WATER DIVISION 1-C

BACKGROUND

1. On August 10, 2012, Daniel L. and Jeanette A. Shaw filed in the Department of Natural Resources (Department) application A-18953 for a permit to appropriate 68 acre-feet of water from Dan Shaw Pond (off-channel storage appropriation A-18951).
2. On August 10, 2012, Daniel L. and Jeanette A. Shaw also filed in the Department application A-18951 requesting supplemental storage to appropriation A-17752 in Dan Shaw Pond of 68 acre-feet of water from a Tributary to Elk Creek. The pump site for the point of diversion under A-18951 is off-channel and south of the dam. Based on the 34 acre-foot capacity of the reservoir, the applicant requests two additional fills per year. Together, appropriations A-17752 and A-18951 authorize the appropriator to store a total of 102 acre-feet per year based on three fills of 34 acre-feet.
3. Previously, on August 6, 2012, Daniel L. and Jeanette A. Shaw filed in the Department application A-18952 for a permit to appropriate 34 acre-feet of on-channel water stored under appropriation A-17752 for the purpose of irrigation. Water diverted under A-18953 would serve the same land as authorized under application A-18952.
4. On September 4, 2012, Daniel L. Shaw filed in the Department map number 18306 showing land proposed to be irrigated under application A-18953.
5. Construction has been completed.

ORDER

IT IS HEREBY ORDERED that application A-18953 is APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Elk Creek, stored in Dan Shaw Pond (storage appropriation A-18951). The appropriator may divert an amount of water not to exceed 68 acre-feet per year stored behind an on-channel dam on a Tributary to Elk Creek which flows southward into Dan Shaw Pond.
2. The water shall be used for the purpose of irrigation.

3. The priority date is August 10, 2012.
4. Only the land shown on map number 18306 may be irrigated under appropriation A-18953.
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 68 acre-feet per year, if available under storage permit A-18951.
6. A measuring device approved by the Department is required. All diversions of water under appropriations A-18952 and A-18953 must be recorded by this device. By December 31<sup>st</sup> of each calendar year the appropriator shall file a report of the total amount of water diverted under appropriations A-18952 and A-18953 in the Lincoln Field Office, Department of Natural Resources, P.O. Box 94676, Lincoln, Nebraska 68509-4676.
7. This surface water appropriation shall provide supplemental irrigation water for land already included under storage-use appropriation A-18952 held by Daniel L. and Jeanette A. Shaw.
8. 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.
9. 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-18953 must be beneficially used by September 1, 2015.
  - B. After September 1, 2015, 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-18953.

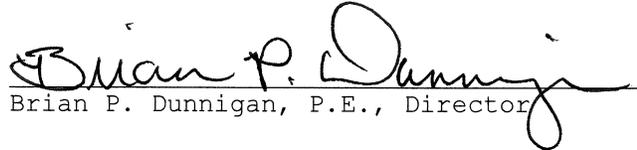
#### ADDITIONAL INFORMATION

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

March 15, 2013

  
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 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 March 15, 2013, to the following:

Daniel L. and Jeanette A. Shaw  
30460 Road Q  
Edgar, Nebraska 68935