

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN OF RESERVOIR 19403

AND MAP OF RESERVOIR 19418 FOR APPROPRIATION A-19135

WATER DIVISION 2-F

BACKGROUND

1. On August 29, 2013, William H. Birkel filed in the Department of Natural Resources (Department) application A-19135 for a permit to impound water and petition DWV-5248 for a waiver of the requirement of outlet works.
2. Construction has been completed.
3. On December 16, 2014, the Department approved application A-19135 to impound 43.5 acre-feet of water in Morrison Reservoir No. 1 located in Lot 1 of Section 21, Township 35 North, Range 11 West of the 6th P.M. in Boyd County. The approval was conditional on the appropriator filing a plan of reservoir in accordance with *Title 457 Neb. Admin. Code Chapter 11* within six months of the signing date of the application approval.
4. On June 11, 2015, William H. Birkel filed petition EOT-5473 in the Department requesting a six-month extension of time in which to file a plan of reservoir. This petition was filed in a timely manner prior to the June 16, 2015, deadline which would have been six months after the signing date of the application approval. The reasonable cause stated in the petition was that the engineer required more time to complete the work due to his busy schedule.
5. On July 28, 2015, the Department granted petition EOT-5473 extending the time to file a plan of reservoir under appropriation A-19135 to December 16, 2015.
6. On December 7, 2015, William H. Birkel filed in the Department plan of reservoir 19403 and specifications according to *Title 457 Neb. Admin. Code Chapter 11*.

ORDER

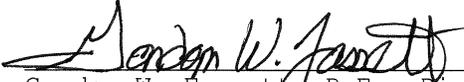
IT IS HEREBY ORDERED:

1. Plan of reservoir 19403 and map of reservoir 19418 are APPROVED.
2. The amount of water that may be diverted shall not exceed 43.5 acre-feet per year to be stored in Morrison Reservoir No. 1. Morrison Dam No. 1 is located in Lot 1 of Section 21, Township 35 North, Range 11 West of the 6th P.M. in Boyd County. This amount is based on a reservoir that stores 8.5 acre-feet and will provide five fills per year if water is available.

3. A reservoir-related measuring device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
4. All terms and conditions of appropriation A-19135 shall remain in effect unless otherwise changed by this Order.
5. 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. Receive approval prior to taking any action that changes the storage capacity of this reservoir, plan of reservoir 19403, 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.

DEPARTMENT OF NATURAL RESOURCES

January 12, 2016


Gordon W. Fassett, 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, plan of reservoir 19403, and map of reservoir 19418 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

Ronald W. Nohr, P.E.
E.D.M. Associates Inc.
101 Bon Homme Avenue
Crofton, Nebraska 68730

Copies of this approval, plan of reservoir 19403 and map of reservoir 19418 were mailed on January 12, 2016, to the following:

William H. Birkel
3761 L Road
David City, Nebraska 68632