

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19457 AND PLAN OF RESERVOIR 19605

WATER DIVISION 1-F

BACKGROUND

On August 8, 2016, Michael Hayes, Managing Member of Burr Oak Lodge, LLC, filed in the Department of Natural Resources (Department) application A-19457 for a permit to impound water, plan of reservoir 19605 and specifications according to *Title 457 Neb. Admin. Code Chapter 11*.

ORDER

IT IS HEREBY ORDERED Application A-19457 and plan of reservoir 19605 are APPROVED subject to the following limitations and conditions:

1. The source of water is Hooper Creek.
2. The priority date is August 8, 2016.
3. Appropriation A-19457 authorizes the appropriator to divert water from a point of diversion on Hooper Creek located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 08, Township 09 North, Range 09 East of the 6th P.M. in Otoe County.
4. The amount of water that may be diverted shall not exceed 18 acre-feet per year to be stored in Burr Oak Pond be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 08, Township 09 North, Range 09 East of the 6th P.M. in Otoe County.
5. *Nebraska Revised Statutes* § 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 downstream 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-19457 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. 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 19605, 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.

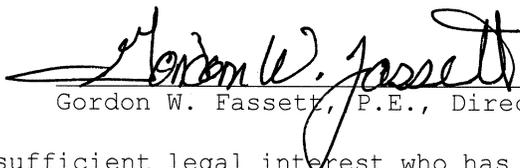
8. The appropriator must comply with the following deadlines:
 - A. Construction of the structure must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
 - B. November 1, 2018 is the date construction of the structure must be completed.

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

October 7, 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 and plan of reservoir 19605 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Dan Lightbody
Olsson Associates
601 P Street Suite 200
Lincoln, Nebraska 68508

Copies of this approval and plan of reservoir 19605 were mailed on October 7, 2016, to the following:

Michael Hayes, Managing Member
Burr Oak Lodge, LLC
255 C Road
Eagle, Nebraska 68347