

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF APPLICATION A-19155  
AND MAP OF RESERVOIR 18783  
WATER DIVISION 1-C

BACKGROUND

1. On October 28, 2013, Benjamin and Megan Larkins filed in the Department of Natural Resources (Department) application A-19155 for a permit to impound **supplemental storage** water from a pump-site on the Little Blue River in the existing Larkins Pond 1.
2. On October 28, 2013, Benjamin and Megan Larkins filed in the Department the following pertaining to Larkins Pond 1:
  - A. Plan of reservoir 18717, specifications according to *Title 457 Neb. Admin. Code Chapter 11*, and DWV-4850, a petition for a waiver of the requirement of outlet works for application A-19162.
  - B. Application A-19156 for a permit to appropriate water from Larkins Pond 1 (storage applications A-19155 and A-19162) for the purpose of irrigation.
3. On November 13, 2013, Benjamin and Megan Larkins also filed in the Department the following:
  - A. Application A-19162 for a permit to impound water from a tributary to the Little Blue River, across which Larkins Pond 1 is constructed.
4. On February 14, 2014, Benjamin and Megan Larkins filed in the Department map of reservoir 18783 depicting the pump site in relation to Larkins Pond 1 under application A-19155.
5. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19155 and map of reservoir 18783 are APPROVED subject to the following limitations and conditions:

1. The source of water is the Little Blue River.
2. The priority date is October 28, 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 appropriation A-19045.
4. The amount of water that may be diverted shall not exceed 22.7 acre-feet per year to be stored in Larkins Pond 1. This is based upon a reservoir that has a capacity to store 12.2 acre-feet and is filled 1.9 times per year. Water may be diverted from a pump site located on the left bank of the Little Blue River in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 36, Township 2 North, Range 2 East of the 6<sup>th</sup> P.M. in Jefferson County. The dam that impounds water in Larkins Pond 1 is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 36, Township 2 North, Range 2 East of the 6<sup>th</sup> P.M. in Jefferson County.
5. The combined permissible amount of storage in Larkins Pond 1 for appropriations A-19155 and A-19162 total 34.8 acre-feet of water per year. Appropriation A-19155 is a permit to divert water from a pump site located on the Little Blue River to be stored in Larkin Pond 1. Appropriation A-19162 is a permit to divert water from a tributary to the Little Blue River, over which Larkins Pond 1 dam is constructed.
6. *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 ... ."
7. The owner or possessor of the reservoir storing water pursuant to A-19155 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.
8. A waiver of the requirement of outlet works, by petition DWV-4850, has been granted. This waiver does not relieve the owner from the responsibility to pass a portion of the reservoir inflow by some method for downstream appropriators should there be a need for water administration; or if water should be required for livestock needs, unless the appropriator is a political subdivision. The Department may rescind the waiver and require installation of appropriate outlet works at a later date if it is determined that the responsibility to pass inflows is not being met or cannot be met by another method.
9. 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.
10. 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, plan of reservoir 18717, map of reservoir number 18783, 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

March 28, 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, 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 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 18783 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Anthony Duever, P.E.  
CES Group P.A.  
1102 Broadway  
Marysville, Kansas 66508

Copies of this approval and map of reservoir 18783 were mailed on March 28, 2014, to the following:

Benjamin and Megan Larkins  
70601 567<sup>th</sup> Avenue  
Fairbury, Nebraska 68352