STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19402,

PETITION FOR A WAIVER OF OUTLET WORKS DWV-5540,

PLAN OF RESERVOIR 19395 AND MAP OF RESERVOIR 19398

WATER DIVISION 1-D

BACKGROUND

1. On December 3, 2015, Bill White, on behalf of the Clayton Beckler Trust, filed in the Department of Natural Resources (Department) application A-19402 for a permit to impound water, petition DWV-5540 for waiver of outlet works, plan of reservoir 19395 and specifications according to *Title 457 Neb. Admin. Code* Chapter 11.

2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19402, Petition DWV-5540, plan of reservoir 19395 and map of reservoir 19398 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to the West Fork of the Big Blue River.

2. The priority date is December 3, 2015.

3. The amount of water that may be diverted shall not exceed 24.9 acre-feet per year to be stored in Beckler Large Reservoir. Beckler Large Dam is located in the SW¼NE¼ of Section 24, Township 09 North, Range 02 East of the 6th P.M. in Seward County.

4. *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 ... ."

5. The owner or possessor of the reservoir storing water pursuant to A-19402 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.

6. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.

7. A waiver of the requirement of outlet works, by petition DWV-5540, 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.

8. 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.

9. 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 19395, 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

January 29, 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 19395, and map of reservoir 19398 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Ryan A. Brandt, P.E.
Kirkham Michael
224 East 6th Street
York, Nebraska 68467

Copies of this approval, plan of reservoir 19395, and map of reservoir 19398 were mailed on January 27, 2016, to the following:

Clayton Beckler Trust
c/o Austin Company
Bill White
P.O. Box 70
Milford, Nebraska 68405