

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF APPLICATION A-19117
AND PLAN NUMBER 19271
WATER DIVISION 1-D

BACKGROUND

1. On July 26, 2013, Jamie P. and Tammi L. Carstens filed in the Department of Natural Resources (Department) application A-19117 for a permit to impound water
2. On April 29, 2015, Jamie P. and Tammi L. Carstens filed application for approval of plans for dams, specifications and plan number 19271.
3. The plan is for an existing dam subject to the *Safety of Dams and Reservoirs Act*.
4. Norm Koester, P.E., 8891 Verdon Circle, Beaver Lake, Nebraska 68048, prepared the drawings and specifications.
5. Jamie P. and Tammi L. Carstens, 1100 West Sargent Road, Beatrice, Nebraska 68310 own and operate this reservoir and dam.
6. The drawings and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
7. The reservoir and dam are existing, however the plans depict the future rehabilitation of the structure.

ORDER

IT IS HEREBY ORDERED Application A-19117 and plan number 19271 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Bear Creek.
2. The priority date is July 26, 2013.
3. The water to be stored under this appropriation is for the purpose of irrigation.
4. The amount of water that may be diverted shall not exceed 30.3 acre-feet per year to be stored in Carstens Pond. The dam that impounds water in Carstens Pond is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, Township 5 North, Range 7 East of the 6th P.M. in Gage 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-19117 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. 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.
8. 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, the specifications, plan number 19271, or the type of appropriation.
 - C. Construct, operate and maintain the structure in accordance with *Neb. Rev. Stat.* § 46-241 and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670.
 - D. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - E. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
9. The appropriator must comply with the following deadlines:
 - A. Construction of the structure rehabilitation must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the rehabilitation construction unless interrupted by some unavoidable and natural cause.
 - B. November 1, 2016, is the date construction of the rehabilitation of the structure must be completed.
 - C. Upon completion of the rehabilitation of the structure, the appropriator shall file with the Department the enclosed "Construction Certification Form for Dams." Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval. No impoundment

in the structure shall occur prior to issuance of the approval to operate.

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

July 28, 2015


James C. Schneider, Ph.D.
Acting 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, engineering review report and plan number 19271 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a "Construction Certification Form for Dams" were mailed to the following:

Norm Koester, P.E.
8891 Verdon Circle
Beaver Lake, Nebraska 68048

Copies of this approval, plan number 19271 and a "Construction Certification Form for Dams" were mailed on July 28, 2015 to the following:

Jamie P. and Tammi L. Carstens
1100 West Sargent Road
Beatrice, Nebraska 68310