

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19348, MAP OF RESERVOIR NUMBER 19334

AND PETITION FOR A WAIVER OF OUTLET WORKS DWV-5379

WATER DIVISION 2-B

BACKGROUND

1. On April 17, 1964, the Department of Water Resources, now the Department of Natural Resources (Department), approved plan number EX-3-64 and specifications for Roberts Dam to be constructed across a tributary to Cottonwood Creek and located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 15 North, Range 7 East of the 6th P.M. in Saunders County, for erosion control. An application for a permit to impound water was not filed at that time.
2. On April 10, 2015, Jamie Schnakenberg, on behalf of K Four J Farms, LLC, filed in the Department application A-19348 for a permit to impound water and petition DWV-5379, for a waiver of the requirement of outlet works.
3. The Department's mapping staff, using current mapping technology, prepared map of reservoir number 19334 depicting the location of Roberts Dam and reservoir.
4. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19348, map of reservoir number 19334 and Petition DWV-5379 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Cottonwood Creek.
2. The priority date is April 10, 2015.
3. The water to be stored under this appropriation is for the purpose of irrigation and erosion control.
4. The amount of water that may be diverted shall not exceed 15.9 acre-feet per year to be stored in Roberts Reservoir 254. Roberts Dam 254 is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 15 North, Range 7 East of the 6th P.M. in Saunders 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-19348 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. A waiver of the requirement of outlet works, by petition DWV-5379, 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. 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 EX-3-64, map of reservoir number 19334 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

August 21, 2015


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 EX-3-64 and map number 19334 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on August 21, 2015, to the following:

Jamie Schnakenberg
K Four J Farms, LLC
1708 Sutton Drive
Wahoo, Nebraska 68066