STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18928,

PETITION FOR A WAIVER OF DRAWDOWN DWV-2351

AND PLAN OF RESERVOIR NUMBER 18221

WATER DIVISION 2-C

BACKGROUND

1. On June 7, 2012, Lance and Lorie Knigge filed in the Department of Natural Resources (Department) application A-18928 for a permit to impound water in Knigge Reservoir East, plan of reservoir number 18221 and specifications according to *Title 457 Neb. Admin. Code* Chapter 11, and petition DWV-2351 for a waiver of the requirement of outlet works for application A-18928.

2. On June 7, 2012, Lance and Lorie Knigge also filed in the Department the following applications:

   A. A-18925 for a permit to impound water in Knigge Reservoir West from a tributary to Pischel Creek for an amount not to exceed 8.4 acre-feet per year for the purpose of irrigation. This amount is based on a reservoir that stores 2.1 acre-feet and may be filled four times per year.

   B. A-18926 for a permit to appropriate water from Knigge Reservoir West (storage applications A-18925 and A-18927) for the purpose of irrigation.

   C. A-18927 for a permit to impound supplemental water in Knigge Reservoir West from a different source than application A-18925 for an amount not to exceed 2.1 acre-feet per year. Based on the 8.4 acre-feet capacity of the reservoir, the applicants request four fills per year.

   D. A-18929 for a permit to appropriate water from Knigge Reservoir East (storage applications A-18928 and A-18930) for the purpose of irrigation.

   E. A-18930 for a permit to impound supplemental water in Knigge Reservoir East (from a different source than application A-18928) for an amount not to exceed 50.0 acre-feet per year. Based on the 12.5 acre-feet capacity of the reservoir, the applicants request four fills per year.

3. Construction of Knigge Reservoir East has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18928, plan of reservoir number 18221, and DWV-2351 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Pishel Creek.

2. The priority date is June 7, 2012.

3. The amount of water that may be diverted shall not exceed 50.0 acre-feet per year to be stored in Knigge Reservoir East. This amount is based on a reservoir that stores 12.5 acre-feet and may be filled four times per year. Knigge Dam East is located in the SW¼NE¼ of Section 2, Township 31 North, Range 8 West of the 6th P.M. in Knox County.

4. *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 ... ."

5. The owner or possessor of the reservoir storing water pursuant to A-18928 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 for a drawdown, DWV-2351, 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 18221, 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

December 5, 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, 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 18221 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

Steve K. Westerbuhr
Settje Agri Services & Engineering
4700 West Rock Creek Road
Raymond, Nebraska 68428

Copies of this approval and plan of reservoir 18221 were mailed on December 5, 2014, to the following:

Lance and Lorie Knigge
51436 888 Road
Verdigre, Nebraska 68783