

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18915

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriations A-16168 and A-18663 are held by Papio-Missouri River Natural Resources District (PMRNRD).
2. Appropriation A-16168 has a priority date of January 25, 1983, and authorizes the appropriator to store 44.0 acre-feet of water per year in W-3 Reservoir. W-3 Dam is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 27, Township 18 North, Range 11 East of the 6<sup>th</sup> P.M. in Washington County.
3. Appropriation A-18663 has a priority date of May 18, 2009, and authorizes the appropriator to store an additional 43.0 acre-feet of water per year in W-3 Reservoir. Storage allowed under appropriations A-16168 and A-18663 totals 87.0 acre-feet per year in W-3 Reservoir.
4. On May 18, 2012, John Winkler, on behalf of PMRNRD, filed application A-18915 in the Department for a permit to impound water for a second supplemental amount of water to be stored in W-3 Reservoir based upon as-built plan P-17420, filed in the Department on May 4, 2012.
5. The dam is subject to the *Safety of Dams and Reservoirs Act*.
6. Timothy Haakenstad, State Conservation Engineer, Natural Resources Conservation Service, 345 Federal Building, 300 Centennial Mall, Lincoln, Nebraska 68508, prepared the drawings.
7. PMRNRD, 8901 South 154th Street, Omaha, Nebraska 68138, hold easements for the reservoir and dam.
8. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18915 is APPROVED subject to the following limitations and conditions:

1. The source of water is Richter Branch.
2. The priority date is May 18, 2012.
3. The water to be stored under this appropriation is for the purpose of grade stabilization.

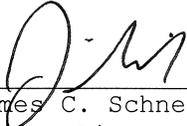
4. The amount of water that may be diverted shall not exceed 45.7 acre-feet per year to be stored in W-3 Reservoir. The dam that impounds water in W-3 Reservoir is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 27, Township 18 North, Range 11 East of the 6<sup>th</sup> P.M. in Washington County. Storage allowed under appropriations A-16168, A-18663 and A-18915 totals 132.7 acre-feet per year in W-3 Reservoir.
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 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 17420, 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.

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

  
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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, 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. A copy of this approval was provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on July 28, 2015, to the following:

Tim Haakenstad  
State Conservation Engineer  
Natural Resources Conservation Service  
345 Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508-3866

John Winkler, General Manager  
Papio-Missouri River NRD  
8901 South 154<sup>th</sup> Street  
Omaha, Nebraska 68138-3621