

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN OF RESERVOIR 19228 FOR APPROPRIATION A-19029

WATER DIVISION 2-C

BACKGROUND

1. On February 25, 2013, Cody W. Christensen, on behalf of Drillem, LLC, filed in the Department of Natural Resources (Department) application A-19029 for a permit to impound water.
2. On April 4, 2013, Cody W. Christensen, on behalf of Drillem, LLC, filed in the Department DWV-4622, a petition for a waiver of the requirement of outlet works for application A-19029.
3. On December 12, 2014, the Department approved application A-19029 and DWV-4622. Application A-19029 requested a permit to impound 14.0 acre-feet of water from a tributary to the Niobrara River stored in Sandbox Pond which is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 31 North, Range 7 West of the 6th P.M. in Knox County, for the purpose of providing water for irrigation and recreation. The approval was conditional upon the applicant filing a plan of reservoir and specifications according to *Department of Natural Resources Rules of Practice and Procedure, Title 457 Neb. Admin. Code Chapter 11* within six months.
4. On March 30, 2015, John Petersen, P.E., on behalf of Drillem, LLC, timely filed in the Department plan of reservoir number 19228 and Specifications according to *Title 457 Neb. Admin. Code Chapter 11*.
5. Construction has been completed.

ORDER

IT IS HEREBY ORDERED plan of reservoir 19228 is APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to the Niobrara River.
2. The priority date is February 25, 2013.
3. The water to be stored under this appropriation is for the purpose of providing water for irrigation and recreation.
4. The amount of water that may be diverted shall not exceed 14.0 acre-feet per year stored in Sandbox Pond. This is based upon a reservoir that stores 3.40 acre-feet at normal pool, and is filled 4.1 times per year. The Dam that impounds water in Sandbox Pond is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 31 North, Range 7 West of the 6th P.M. in Knox 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-19029 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-4622, 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 of reservoir 19228, 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

July 22, 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 and plan of reservoir 19228 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

John Petersen, P.E.
JEO Consulting Group, Inc.
11717 Burt Street
Omaha, Nebraska 68154

Copies of this approval and plan of reservoir 19228 were mailed on July 22, 2015, to the following:

Drillem, LLC
88005 Highway 57
Hartington, Nebraska 68739

Cody W. Christensen
104 North Greenlee Drive
Hartington, Nebraska 68739