

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matters of A-18319, an)
Application for a Permit to)
Impound Water and Plan Number) ORDER AMENDING ORIGINAL APPROVAL
P-16613.)
Water Division 1-A.)

This matter came on for consideration before the Director of the Department of Natural Resources (Department) pursuant to a request for hearing under the provisions of Neb. Rev. Stat. § 61-206 (Reissue 2004) and the Department's rules 454. N.A.C. 3 and 7. The Director FINDS:

1. On February 9, 2006, the Director issued an approval of application A-18319 and plan number P-16613 under the provisions of Neb. Rev. Stat. § 46-233 (Reissue 2004), Neb. Rev. Stat. § 46-241 (Supp. 2005), and Neb. Rev. Stat. § 46-1652 (Supp. 2005). The applicant was N.P. Land Development, Inc. (Applicant). The approval was a final decision made without a hearing.
2. On February 21, 2006, Applicant, through his Attorney LeRoy Sievers, filed a Petition for Hearing under the provisions of Neb. Rev. Stat. § 61-206. The petition states that the Department exceeded its authority in three separate areas by placing certain conditions upon the approval. The specific allegations are:
 - a. The Approval exceeds the authority of the Department by stating that the wells referenced in the Approval can be used only to maintain water levels in Stoneridge Dam.
 - b. The Approval exceeds the Department's authority by requiring maintenance of the lake level by use of both wells.
 - c. The approval exceeds the Department's authority by requiring flowmeters on both wells.
3. Following the filing of the Petition, Mr. Sievers requested a meeting with Department staff. Department staff met with Mr. Sievers on March 22, 2006, and discussed Mr. Sievers petition. The discussion disclosed that the major concern of the Applicant is that both wells must be used and maintained when it is possible that only one well could be maintained, one well could be decommissioned, and the one well could satisfy the needs of the project. Applicant wanted that option. At the meeting, Mr. Sievers stated he would inform his client of our discussion and would let the Department know whether his client wanted to proceed with the request for hearing.

4. On April 19, 2006, Mr. Sievers called Department staff and stated that his client would be satisfied if the Department altered its order concerning the requirement that both wells be used for purposes of maintaining the lake level and the requirement that both wells be metered. On June 9, 2006, Mr. Sievers filed a stipulation in the Department stating that he would withdraw his Petition if such alterations were made.

It is CONCLUDED that the Applicant's request for an amendment to the original order may be granted because it meets all statutory requirements and will not cause harm to any other appropriator. Therefore, the request for amendment should be granted and the request for hearing should be dismissed.

It is therefore ORDERED:

1. The February 9, 2006, Approval for water appropriation A-18319 and plan number P-16613 is altered as follows:
 - a. The second paragraph of Paragraph 2c of the ORDER section is hereby amended to read as follows:

Stoneridge Lake shall be initially filled with water from the tributary to the Wood River. The level of the lake will thereafter be maintained with water from either registered water well G-034343 or G-124097, or both water wells. If Applicant chooses to use only one water well, the other water well shall be decommissioned and abandoned, or put into inactive status. These wells (or well if one is decommissioned) may only be used to maintain water levels in Stoneridge Lake. Applicant shall complete the enclosed forms and file them with the Department prior to storing any water in Stoneridge Lake as follows:

1. If Applicant will use both water wells for purposes of maintaining the level of the lake, two Water Well Registration Modification forms shall be completed and filed indicating that the use of water from these wells is maintaining the level of a lake.
2. If one water well is to be put in inactive status, that shall be noted on one of the modification forms, and the other modification form shall indicate that the well will be used for purposes of maintaining the level of the lake. Or
3. If one water well is to be decommissioned, a Notice of Abandonment shall be completed along with a modification form showing the other well will be used for purposes of maintaining the level of the lake.

- b. Paragraph 2d of the Order section is hereby amended to read as follows:

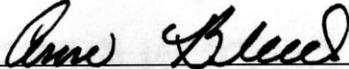
Applicant must install a measuring device or devices, approved by the Bridgeport Field Office. The devices must be of the following type and installed at the following locations:

- 1) Cipolletti weirs at the points where water flows into and out of Stoneridge Lake;
- 2) A staff gauge on the reservoir (Stoneridge Lake);
- 3) A flowmeter shall be installed on either or both of the water wells G-034343 and G-124097 at any time that they are in use for maintaining the level of the lake. The flowmeters must be able to record gallons per minute and the cumulative totals of outflow.

2. The Petition for Hearing is hereby DISMISSED.

DEPARTMENT OF NATURAL RESOURCES

June 23, 2006



Ann Bleed, Acting Director

A copy of this Order was mailed on June 23, 2006, to LeRoy W. Sievers, Knudsen, Berkheimer, Richardson and Endacott, LLP, 1248 "O" Street, Suite 1000, Lincoln, Nebraska 68508-1474; and provided to the Department's field office, Bridgeport, Nebraska