STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Application Approval

Water Division 1-A

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-233 (Reissue 2004) which requires any person intending to appropriate any of the public waters of the State of Nebraska to make an application to the Department for a permit to make such appropriation; Neb. Rev. Stat. § 46-241 (Cum. Supp. 2006) which generally requires every person intending to construct and operate a storage reservoir to make an application to the Department; and Neb. Rev. Stat. § 46-1652 (Supp. 2005) which generally requires any owner intending to construct or enlarge a dam to apply for and obtain written application approval of plans and specifications of a dam.

This is to certify that application A-18438 for a permit to impound water in Silver Creek detention cells SCLL3, SCLL4, SCLL5 and SCLL7 has been examined, as well as applications for approval of plan numbers P-16854 for SCLL7 and P-16885 for SCLL5. The Department consulted with the Game and Parks Commission as required by Neb. Rev. Stat. § 37-807 (Reissue 2004), and it is determined that this project will not harm threatened and endangered species or their habitat.

The application, plan numbers P-16854 and P-16885 and specifications are hereby APPROVED subject to the following limitations, conditions and notice:

1. The source of water is flood water from Silver Creek.

2. The priority date is December 27, 2006.

3. The amount of the appropriation shall not exceed 3,650 acre-feet per annum to be stored in Silver Creek detention cells SCLL3, SCLL4, SCLL5 and SCLL7. Silver Creek detention cells will all be located in Township 11 North, Range 11 West of the 6th P.M. in Hall County within the following sections:

   SCLL3 Section 11
   SCLL4 Section 2
   SCLL5 Section 2
   SCLL7 Section 1

4. Forms entitled "Applications for Approval of Plans for Dams" along with filing fees, plans and specifications for Silver Creek detention cells SCLL3 and SCLL4, prepared according to Department rule 457 N.A.C. 12, must be filed in the Department by November 8, 2007.

5. Construction must begin by November 8, 2007, and must continue vigorously, diligently and uninterruptedly to completion unless temporarily interrupted by some unavoidable and natural cause.

6. Construction of the project must be completed by October 1, 2008.

7. A measuring device, approved by the Bridgeport Field Office, must be installed upon completion.

8. Water should not be detained longer than necessary to meet the intended purpose of flood flow attenuation.

9. Written notice shall be provided to the Department at least ten days before start of construction.

10. Upon completion of a new or reconstructed dam and reservoir, as defined in Neb. Rev. Stat. § 46-1611, or of the enlargement of a dam and reservoir, the owner shall file with the Department the enclosed Construction Certification Form for Dams as required by Neb. Rev. Stat. § 46-1657. Following receipt of such Construction Certification Form for Dams, the Department shall issue an approval to operate upon a finding that the structures are safe to impound within the limitations prescribed in this approval. No impoundment by the structures shall occur prior to issuance of the approval to operate as required by § 46-1657.

11. Owners of reservoirs and dams are liable for all damages arising from leakage, overflow, or structural failure.

12. Failure to comply with the provisions of this Approval may cause cancellation of this Approval. If unable to meet the conditions of approval, a petition for an extension of time may be filed with the Department. An extension may be granted upon a showing of reasonable cause. Petitions must be filed prior to the expiration dates stated in the Approval and accompanied by the appropriation filing fee.

DEPARTMENT OF NATURAL RESOURCES

May 8, 2007

Ann Bleed

Ann Bleed, Director

A copy of this Application Approval, a copy of application number A-18438, and a copy of approved plan numbers P-16854 and P-16885 were mailed on May 8, 2007, to Milt Moravek, Projects Director, Central Platte Natural Resources District, 215 North Kaufman Avenue, Grand Island, Nebraska 68803. A copy of this Application Approval and Construction Certification Form for Dams were mailed to Mike Placke, Project Engineer, JEO Consulting Group, Inc., 650 J Street, Suite 215, Lincoln, Nebraska 68508. Copies of this Application Approval, Engineering Review Report for plan numbers P-16854 and P-16885 and approved drawings and plan numbers P-16854 and P-16885 were provided to the Department's field offices, Bridgeport, North Platte and Ord, Nebraska.