

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

Plan of Dam Approval

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to Neb. Rev. Stat. § 46-1652 (Supp. 2005) which generally requires anyone intending to construct a dam to file an application for approval of plans and specifications of a dam prior to beginning such construction.

Plan number P-17424 and associated specifications have been examined. The examination shows that:

1. The plan is for the construction of a dam subject to the Safety of Dams and Reservoirs Act. The dam is located in the NE1/4 of Section 21, Township 8 North, Range 22 West of the 6th P.M. in Gosper County.
2. Nathan A. Garrett, P.E., of the United States Department of Agriculture, Natural Resource Conservation Service, 2550 North Diers, Suite L, Grand Island, NE 68803-1214, prepared the drawings and specifications.
3. Knoerzer Farms, Inc., 74596 Highway 283, Elwood, NE 68937-5615, owns the dam.
4. The drawings and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
5. Following consultation with the Nebraska Game and Parks Commission, the Department finds the project will have "No Effect" on any state listed threatened or endangered species.

The plan is hereby APPROVED subject to the following limitations, conditions and notices:

1. This approval will remain in effect for purposes of construction until November 1, 2011.
2. The owner of a dam shall provide written notice to the Department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer or the Construction Inspector of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile or electronic mail.
4. The dam owner 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 or plan P-17424.
 - C. Construct, operate and maintain the structure in accordance with Section 46-241 RSS and the Safety of Dams and Reservoirs Act, Sections 46-1601 to 46-1670 RSS.
 - D. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
5. Upon Completion of the structure, the appropriator shall file with the Department the enclosed Construction Certification Form for Dams. Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval. No impoundment in the structure shall occur prior to issuance of the approval to operate.

Additional Information

Failure to comply with all laws and regulations pertaining to any orders issued by the Director of the Department of Natural Resources may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES

July 28, 2009


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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 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 and plan number 17424, were mailed on July 28, 2009, to Knoerzer Farms, Inc., 74596 Highway 283, Elwood, NE 68937-5615. A copy of this Approval and a Construction Certification Form for Dams were mailed to Nathan A. Garrett, P.E., of the United States Department of Agriculture, Natural Resource Conservation Service, 2550 North Diers, Suite L, Grand Island, NE 68803-1214. A copy of this Approval was posted on the Department's website. A copy of this Approval, a copy of plan number 17424 and a copy of the Engineering Review Report for Dams were mailed to the Department's field office, Bridgeport, NE. A copy of this Approval was mailed to the Tri-Basin Natural Resources District.