

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* 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, and *Neb. Rev. Stat. § 54-2430(3)* (Reissue 2004), pursuant to which the Department may permit an increase in the non-divertible runoff acreage area of a livestock waste control facility.

Plan P-18174 and associated specifications have been examined. The examination shows that:

1. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the NW1/4 of Section 5, Township 7 North, Range 14 West of the 6th P.M. in Kearney County.
2. Steve K. Westerbuhr P.E., of Settje Agri-Services and Engineering, Inc., 4700 W. Rock Creek Road, Raymond, Nebraska 68428, prepared the drawings and specifications.
3. Fort Kearney Consolidated, 1818 32nd Road, Minden, Nebraska 68959, 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 or their critical habitat.
6. The non-feedlot drainage area of 0.0 acres is less than the allowable twenty-five acre limit.

The plan is hereby APPROVED subject to the following limitations, conditions and notice.

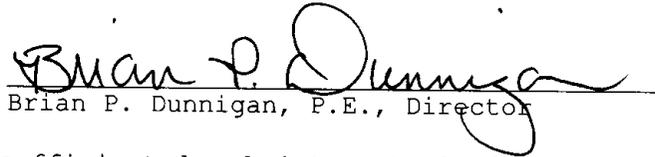
1. This approval will remain in effect for purposes of construction until November 1, 2014.
2. The dam owner must comply with all relevant statutes. This includes, but is not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Receive approval prior to taking any action that changes the storage capacity of this reservoir, the specifications or plan P-18174.

- C. Construct, operate and maintain the structure in accordance with § 46-241 RRS and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670 RSS.
- D. Assume liability for all damages due to leakage, overflow or structural failure of the structure.

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


Brian P. Dunnigan, P.E., Director

May 15, 2012

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* 454 *Neb. 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 P-18174, were mailed on May 15, 2012, to Fort Kearney Consolidated, 1818 32nd Road, Minden, Nebraska 68959. A copy of this Approval was mailed to Steve K. Westerbuhr P.E., Settje Agri-Services and Engineering, Inc., 4700 W. Rock Creek Road, Raymond, Nebraska 68428. Copies of this Approval, plan P-18174 and Engineering Review Report for Dams were provided to the Department's field office, Bridgeport, Nebraska. A copy of this Approval was mailed to the Tri-Basin Natural Resources District, 1723 North Burlington, Holdrege, Nebraska 68949, and to Tom Trewhitt, Nebraska Department of Environmental Quality, INTERAGENCY, 1200 N Street, Suite 400, P.O. Box 98922, Lincoln, Nebraska 68509-8922.