

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF PLAN NUMBER 19086

BACKGROUND

1. On October 1, 2014, Donito Johnson and Denise Bettinger filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams and plan P-19086.
2. The plan, P-19086, is for the modification of Donald Stelling Dam, an existing dam subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the SW1/4 of Section 11, Township 2 North, Range 4 West of the 6th P.M. in Thayer County.
3. The plan, P-14384, for the original construction of Donald Stelling Dam was approved by the Department on August 29, 1986.
4. Patrick J. Diederich, P.E., 8413 Auburn Court, Plattsmouth, Nebraska 68048 prepared the plan, P-19086.
5. Donito Johnson, 3004 Arden Forest Lane, Bowie, Maryland 20716, and Denise Bettinger, 1423 Norcross Lane, Severn, Maryland 21144, own the reservoir and dam.
6. The plans and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
7. The Department finds the project will have "No Effect" on any state listed threatened or endangered species or their critical habitat.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams and plan P-19086 are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of constructing the modifications until November 1, 2016.
2. The owner of a dam shall provide written notice to the Department at least ten days before construction of the modifications are to begin. Notices must be in writing and addressed to the Chief Engineer of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile, or electronic mail.
3. 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 future action that changes the storage capacity of the reservoir, plan P-14384, or P-19086.

- C. Construct, operate and maintain the structure in accordance with *Neb. Rev. Stat. § 46-241* and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670.
 - D. Assume liability for all damages due to leakage, overflow or structural failure of the dam.
4. Upon completion of the modifications, the owner shall file with the Department the enclosed "Construction Certification Form for Dams". Following receipt of this form, an approval to operate will be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval.

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

December 12, 2014


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* 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, plan P-19086, and a "Construction Certification Form for Dams" were mailed on December 12, 2014, to Donito Johnson, 3004 Arden Forest Lane, Bowie, Maryland 20716, and Denise Bettinger, 1423 Norcross Lane, Severn, Maryland 21144. Copies of this approval, engineering review report, and plan P-19086 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Patrick J. Diederich, P.E., 8413 Auburn Court, Plattsmouth, Nebraska 68048.