STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19293

BACKGROUND

1. On May 26, 2015, Kent Liebhart filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-19293 and associated specifications.

2. The plan, P-19293, is for Shetland Pony Lagoon Dam, a proposed livestock waste control dam, subject to the *Safety of Dams and Reservoirs Act*. The dam will be located in the SE 1/4 of Section 27, Township 16 North, Range 21 West of the 6th P.M. in Custer County.

3. Ferdinando T. Scarpello, P.E., of WLA Consulting, Inc., 1640 L Street, Suite D, Lincoln, Nebraska 68508, prepared the drawings and specifications.

4. Kent Liebhart, 220 South N Street, Broken Bow, Nebraska 68822, will own the waste lagoon and dam.

5. The plans and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.

6. 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, based upon actions described in No. 7 below.

7. Vaden Hellerich, of Professional Environmental Solutions, has indicated that whooping crane surveys will be conducted during the migration season following Nebraska Game and Parks Commission standard protocols in order to avoid impacts to whooping cranes during the construction of the dam.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-19293 and associated specifications are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2017.

2. The owner of a dam shall provide written notice to the Department at least ten days before construction of the dam is 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 action that changes the storage capacity of the reservoir, the specifications, or plan P-19293.

   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 construction, 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

October 5, 2015

Gordon W. Fassett, 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 *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-19293, and a "Construction Certification Form for Dams" were mailed on October 5, 2015, to Kent Liebhart, 220 South N Street, Broken Bow, Nebraska 68822. Copies of this approval, engineering review report, and plan P-19293 were provided to the Department's field office in Ord, Nebraska. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Ferdinando T. Scarpello, P.E., WLA Consulting, Inc., 1640 L Street, Suite D, Lincoln, Nebraska 68508. Copies of this Approval were mailed to the Lower Loup Natural Resources District, 2620 Airport Road, Ord, Nebraska 68862, and to Tom Trewhitt, Nebraska Department of Environmental Quality, INTERAGENCY, 1200 N Street, Suite 400, P.O. Box 98922, Lincoln, Nebraska 68509-8922.