

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19353

BACKGROUND

1. On September 16, 2015, Michael Ingram, Franklin County Highway Superintendent, on behalf of Franklin County, filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-19353, and associated specifications.
2. The plan, P-19353, is for the reconstruction of Lemmert Dam which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the SE1/4 of Section 32, Township 03 North, Range 14 West of the 6<sup>th</sup> P.M. in Franklin County.
3. Lucas J. Dutcher P.E., of Miller & Associates Consulting Engineers, P.C., 1111 Central Avenue, Kearney, Nebraska 68847-6833, prepared the drawings and specifications.
4. Franklin County, P.O. Box 151, Franklin, Nebraska 68939 owns the 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.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-19353, and associated specifications are APPROVED subject to the following limitations and conditions:

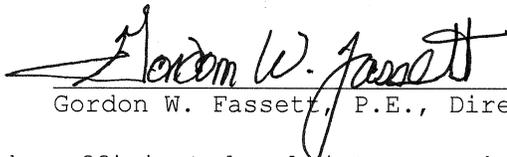
1. This approval will remain in effect for purposes of construction until November 1, 2017.
2. The owner of a dam shall provide written notice to the Department at least ten days before modification of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer of the Department's 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 written approval prior to taking any action that changes the storage capacity of the reservoir, the specifications, or plan P-19353.

- C. 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



Gordon W. Fassett, P.E., Director

January 5, 2016

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, 4<sup>th</sup> 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-19353, and a "Construction Certification Form for Dams" were mailed on January 8, 2016, to Franklin County, c/o Michael Ingram, Franklin County Highway Superintendent, P.O. Box 151, Franklin, Nebraska 68939. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Lucas J. Dutcher P.E., Miller & Associates Consulting Engineers, P.C., 1111 Central Avenue, Kearney, Nebraska 68847. Copies of this approval, engineering review report, and plan P-19353 were provided to the Department's field office in Cambridge, Nebraska.