

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19397, AND

PETITION FOR A WAIVER OF OUTLET WORKS DWV-5542

BACKGROUND

1. On December 3, 2015, Jennifer Thompson, on behalf of the Nebraska Game and Parks Commission, filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, petition DWV-5542 for a waiver of the requirement of outlet works for application A-18699, plan P-19397, and associated specifications.
2. The plan, P-19397, is for the reconstruction of Jenny Newman Dam which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the SE1/4 of Section 19, Township 12 North, Range 11 East of the 6<sup>th</sup> P.M. in Cass County.
3. The original plan, P-17648, for the dam was approved on June 29, 2010.
4. Appropriation A-18699, which was granted on June 29, 2010, authorizes the storage of 33.8 acre-feet per year in the reservoir.
5. John G. Petersen, P.E., of JEO Consulting Group Inc., 11717 Burt Street, Suite 210, Omaha, Nebraska 68154-1510, prepared the plans and specifications.
6. The Nebraska Game and Parks Commission, 2200 North 33rd Street, Lincoln, Nebraska 68503, owns the dam.
7. The plans and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
8. 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, petition DWV-5542, plan P-19397 and associated specifications are APPROVED subject to the following limitations and conditions:

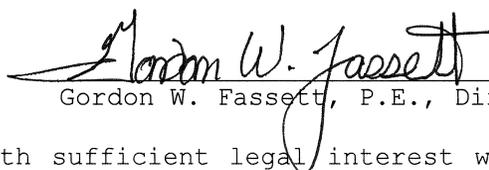
1. This approval will remain in effect for purposes of construction until November 1, 2017.

2. A waiver of the requirement of outlet works, by petition DWV-5542, has been granted. This waiver does not relieve the owner from the responsibility to pass a portion of the reservoir inflow by some method for downstream appropriators should there be a need for water administration; or if water should be required for livestock needs, unless the appropriator is a political subdivision. The Department may rescind the waiver and require installation of appropriate outlet works at a later date if it is determined that the responsibility to pass inflows is not being met or cannot be met by another method.
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, plan P-17648, or plan P-19397.
  - 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

February 12, 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-19397, and a "Construction Certification Form for Dams" were mailed on February 12, 2016, to the Nebraska Game and Parks Commission, c/o Jennifer Thompson, 2200 North 33rd Street, Lincoln, Nebraska 68503. Copies of this approval and a "Construction Certification Form for Dams" were mailed to John G. Petersen, P.E., JEO Consulting Group Inc., 11717 Burt Street, Suite 210, Omaha, Nebraska 68154-1510. Copies of this approval, engineering review report, and plan P-19397 were provided to the Department's field office in Lincoln, Nebraska.