

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART

OF WATER APPROPRIATION A-11446

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11446 is held by Nemaha Natural Resources District (NNRD).
2. Appropriation A-11446 has a priority date of June 12, 1968, and authorizes the impoundment of 107.9 acre-feet (af) of water per year from a tributary to the North Fork of the Little Nemaha River, stored in the existing Wilson Creek 8-H Reservoir, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, Township 8 North, Range 12 East of the 6th P.M. in Otoe County.
3. On November 28, 2012, NNRD filed in the Department an application for approval of plans for dams, specifications and plan P-18370, for renovation of Wilson Creek 8-H Reservoir, a dam subject to the *Safety of Dams and Reservoirs Act*. Plan P-18370 depicts normal storage of Wilson Creek 8-H Reservoir at 85.6 af of water.
4. Rather than relinquish the difference in storage volume between the 107.9 af originally approved under A-11446, as shown on plan P-10163, and the 85.6 af shown in the new plans, the NNRD requested the Department allow them to restore the water storage capacity back to no more than 107.9 af.
5. On April 16, 2014, NNRD filed in the Department a construction certification and as-built plan P-18370. P-18370 indicates normal storage of 85.6 af, and an excavation of 5.7 af of sediment, for a total storage of 91.3 af in Wilson Creek 8-H Reservoir.
6. On April 23, 2014, NNRD filed in the Department a partial relinquishment of water appropriation A-11446, REL-5041, relinquishing the right to store 16.6 af of water under appropriation A-11446 because as-built plans filed in the Department show a lesser volume of water storage.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-11446 in the amount of 16.6 acre-feet is CANCELLED.

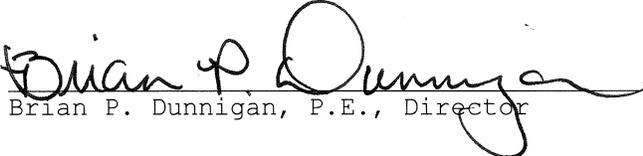
2. The amount of water that may be diverted shall not exceed 91.3 af per year to be stored in Wilson Creek 8-H Reservoir. Wilson Creek 8-H Reservoir dam is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, Township 8 North, Range 12 East of the 6th P.M. in Otoe County.
3. *Neb. Rev. Stat. § 46-241(5)* states in part, "The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass ... a portion of the measured inflows to furnish water for livestock"
4. The owner or possessor of the reservoir storing water pursuant to A-11446 shall have structural controls in place or other mechanical means to immediately reduce or stop pumping in such amounts and at such times if so ordered by the Department.
5. All terms and conditions of appropriation A-11446 remain in effect, unless specifically changed by this Order.
6. The appropriator 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, plan P-18370, or the type of appropriation.
 - C. Construct, operate and maintain the structure in accordance with § 46-241 RSS 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.
 - E. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES

June 6, 2014


 Brian P. Dunnigan, P.E., Director

A copy of this approval was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A Copy of this approval was mailed June 6, 2014, to the following:

Scott D. Nelson, Assistant Manager
Nemaha Natural Resources District
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