

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18927 AND MAP OF RESERVOIR NUMBER 18998

WATER DIVISION 2-C

BACKGROUND

1. On June 7, 2012, Lance and Lorie Knigge filed in the Department of Natural Resources (Department) application A-18927 for a permit to impound supplemental water in Knigge Reservoir West for an amount not to exceed 8.4 acre-feet per year. This is based on a reservoir that would store 2.1 acre-feet and may be filled four additional times per year with water from a nearby stream. Appropriations A-18925 and A-18927, if approved, would allow the appropriator to store a total of 16.8 acre-feet per year based on eight fills of 2.1 acre-feet. Application A-18927 has an off-channel point of diversion for a proposed pump site.
2. On June 7, 2012, Lance and Lorie Knigge also filed in the Department the following applications:
 - A. A-18925 for a permit to impound water from a tributary to Pischel Creek, plan of reservoir number 18220 and specifications according to *Title 457 Neb. Admin. Code Chapter 11*, and petition DWV-2349 for a waiver of the requirement of outlet works.
 - B. A-18926 for a permit to appropriate water from Knigge Reservoir West (storage applications A-18925 and A-18927) for the purpose of irrigation.
 - C. A-18928 for a permit to impound water in Knigge Reservoir East for an amount not to exceed 50.0 acre-feet per year. This amount is based on a reservoir that stores 12.5 acre-feet and may be filled four times per year.
 - D. A-18929 for a permit to appropriate water from Knigge Reservoir East (storage applications A-18928 and A-18930) for the purpose of irrigation.
 - E. A-18930 for a permit to impound supplemental water in Knigge Reservoir East from a different source than application A-18928 for an amount not to exceed 50.0 acre-feet per year. Based on the 12.5 acre-feet capacity of the reservoir, the applicants request four fills per year.
3. On August 11, 2014, Lance and Lorie Knigge filed in the Department map of reservoir number 18998 depicting the location of Knigge Reservoir West.
4. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18927 and map of reservoir number 18998 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Pischel Creek.
2. The priority date is June 7, 2012.
3. The purpose is to provide additional stored water for subsequent appropriation for irrigation from Knigge Reservoir West.
4. Knigge Dam West and the point of diversion are located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 2, Township 31 North, Range 8 West of the 6th P.M. in Knox County. The pump site for the point of diversion is off-channel and north of the dam. It is located on a tributary to Pischel Creek that flows northeastward. The amount of supplemental water that may be diverted and stored under appropriation A-18927 shall not exceed 8.4 acre-feet per year to be stored in Knigge Reservoir West. This amount is based on a reservoir that stores 2.1 acre-feet per year and this appropriation will provide four additional fills if water is available.
5. Appropriation A-18927 provides supplemental storage water to appropriation A-18925. Appropriation A-18925 is an on-channel diversion of a tributary to Pischel Creek which flows northward into Knigge Reservoir West. Supplemental storage appropriation A-18927 is an off-channel diversion from a different tributary to Pischel Creek that flows northeastward. The total amount of storage allowed in Knigge Reservoir West under both appropriations is 16.8 acre-feet per year.
6. Plan of reservoir number 18220 approved under appropriation A-18925 depicts the dam structure and fulfills the requirements according to *Title 457 Neb. Admin. Code Chapter 11.*
7. *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"
8. The owner or possessor of the reservoir storing water pursuant to A-18927 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
9. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.

10. A waiver of the requirement of outlet works, by petition DWV-2349, 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.
11. 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, map of reservoir number 18998 or the type of appropriation.
 - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - D. 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

December 5, 2014


Brian P. Dunnigan, 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 Title 454 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 and map of reservoir 18998 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

Steve K. Westerbuhr
Settje Agri Services & Engineering
4700 West Rock Creek Road
Raymond, Nebraska 68428

Copies of this approval and map of reservoir 18998 were mailed on December 5, 2014, to the following:

Lance and Lorie Knigge
51436 888 Road
Verdigre, Nebraska 68783