

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19533

BACKGROUND

1. On April 28, 2016, Reg Roth, on behalf of Eagle Heart Ranch, Inc., filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-19533, and associated specifications.
2. The plan, P-19533, is for Eagle Heart Ranch Lagoon 1 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 09 West of the 6<sup>th</sup> P.M. in Howard County.
3. Nathan A. Pesta, P.E. of DeHaan, Grabs & Associates, LLC, 1701 10<sup>th</sup> Avenue SW, Mandan, North Dakota 58554, prepared the drawings and specifications.
4. Eagle Heart Ranch, Inc., 2032 Brady Road, Wolbach, Nebraska 68882, 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.
7. The non-feedlot drainage area into the lagoon of 17.9 acres is less than the allowable 25-acre limit.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-19533 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.

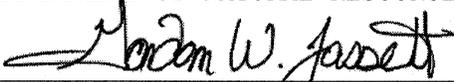
3. The dam owner must comply with all relevant statutes. This includes, but is not limited to, the following:
  - A. Notify the Department of any change in ownership or address.
  - B. Receive written approval prior to taking any action that changes the storage capacity of the reservoir, the specifications, or plan P-19533.
  - 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

June 10, 2016

  
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, 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-19533, and a "Construction Certification Form for Dams" were mailed on June 10, 2016, to Eagle Heart Ranch, Inc., c/o Reg Roth, 2032 Brady Road, Wolbach, Nebraska 68882. Copies of this approval, engineering review report, and plan P-19533 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 Nathan A. Pesta, P.E., DeHaan, Grabs & Associates, LLC, 1701 10<sup>th</sup> Avenue SW, Mandan, North Dakota 58554. Copies of this approval were mailed to the Lower Loup Natural Resources District, 2620 Airport Drive, Ord, Nebraska 68862-1002, and to Tom Trehitt, Nebraska Department of Environmental Quality, INTERAGENCY, 1200 N Street, Suite 400, P.O. Box 98922, Lincoln, Nebraska 68509.