

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLANS P-17878 FOR APPROPRIATION A-15640

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15640 is held by Southern Cross Ranch, LLC.
2. Appropriation A-15640 has a priority date of April 9, 1980, and authorizes the impoundment of 191.87 acre-feet of water per year from a tributary to the Keya Paha River, stored in the existing Myron Nilson Reservoir located in the NW $\frac{1}{4}$ of Section 29, Township 35 North, Range 19 West of the 6th P.M. in Keya Paha County, as shown on engineering drawings P-17878. Myron Nilson Reservoir Dam is subject to the *Safety of Dams and Reservoirs Act*.
3. On June 2, 2011, Douglas Adams, Manager of Southern Cross Ranch, LLC, filed in the Department an application for approval of plans for dams and plan number P-17878 for the reconstruction of a partially breached Myron Nilson Reservoir Dam.
4. Plan number P-17878 was examined by a Registered Professional Engineer of the Department and was found consistent with the current standards. This plan shows storage capacity at normal pool, elevation 2023.55, of 191.87 acre-feet.

ORDER

IT IS HEREBY ORDERED that Plan number P-17878 is APPROVED subject to the following limitations and conditions:

1. A storage volume in the amount of 191.87 acre-feet per year shall REMAIN IN FULL FORCE AND EFFECT for A-15640. NO additional storage due to structural modification is allowed.
2. All terms and conditions of appropriation A-15640 remain in effect, unless specifically changed by this Order.
3. 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-17878, or the type of appropriation.

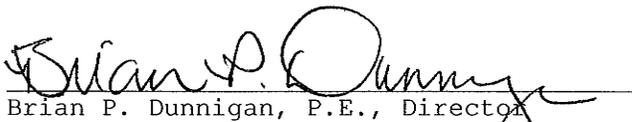
- C. Construct, operate and maintain the structure in accordance with *Neb. Rev. Stat. § 46-241* and the *Safety of Dams and Reservoirs Act, §§ 46-1601 to 46-1670*.
 - D. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - E. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
4. The appropriator must comply with the following deadlines.
- A. Construction of the structure must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
 - B. The owner of a dam shall provide written notice to the Department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer or the Construction Inspector of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile or electronic mail.
 - C. Construction of the project must be completed by two years past the signing date of this application approval.
 - D. Upon completion of the structure, the owner shall file with the Department the enclosed Construction Certification Form for Dams. Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval. No impoundment in the structure shall occur prior to issuance of the approval to operate.

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

August 8, 2011


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 454 Neb. Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (4th Floor, Nebraska State Office Building, 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, engineering review report and plan P-17878 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 the following:

Stanley V. Johnson, P.E.
Miller & Associates Consulting Engineers P.C.
1111 Central Avenue
Kearney, Nebraska 68847-6833

Copies of this approval and plan P-17878 were mailed on August 8, 2011, to the following:

Southern Cross Ranch, LLC
Doug Adams
2010 Avalon Parkway
McDonough, Georgia 30253