

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18728

WATER DIVISION 1-D

BACKGROUND

1. On December 10, 2010, Robbie Hofeling filed in the Department of Natural Resources (Department) application A-18728 for a permit to impound water, plan P-17751 and specifications according to *Title 457 Neb. Admin. Code* Chapter 11.
2. On December 10, 2010, Robbie Hofeling filed in the Department DWV-2018, a petition for a waiver of drawdown requirement.
3. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18728, DWV-2018 and plan P-17751 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Wildcat Creek.
2. The priority date is December 10, 2010.
3. The amount of water that may be diverted shall not exceed 5.07 acre-feet per year to be stored in Hofeling Pond Number 1. Hofeling Dam Number 1 is located in the SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 33, Township 3 North, Range 8 East of the 6<sup>th</sup> P.M. in Gage County.
4. A waiver of the requirement for a drawdown, DWV-2018, 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.
5. 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, plan P-17751, or the type of appropriation.

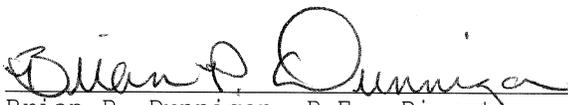
- C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
- D. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.

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

June 8, 2011

  
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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 (4<sup>th</sup> 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 and plan P-17751 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Michael Jess, P.E.  
2840 Kucera Drive  
Lincoln, Nebraska 68502

Copies of this approval and plan P-17751 were mailed on June 8, 2011, to the following:

Robbie Hofeling  
15970 East Juniper Road  
Filley, Nebraska 68357