

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18794

WATER DIVISION 1-D

BACKGROUND

1. On July 11, 2011, Lake Kuenoh Property Owners Association filed in the Department of Natural Resources (Department) application A-18794 for a permit to impound water, application for approval of plans for dams, specifications, a petition for waiver of drawdown requirements, and plan P-17894.
2. Construction of Kuenoh Dam has been completed. Plan P-17894 depicts both the existing structure of the dam and the alteration to the auxiliary spillway yet to be constructed.

ORDER

IT IS HEREBY ORDERED Application A-18794, the Application for Approval of Plans for Dams, DWV-2135, and plan P-17894 are APPROVED subject to the following limitations and conditions:

1. The source of water is a Tributary to the Big Blue River.
2. The priority date is July 11, 2011.
3. The amount of water that may be diverted shall not exceed 36 acre-feet per year to be stored in existing Kuenoh Reservoir. Kuenoh Dam is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35, Township 8 North, Range 4 East of the 6<sup>th</sup> P.M. in Saline County.
4. A waiver of the requirement for a drawdown, DWV-2135, 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. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.

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-17894, 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.
  
7. The appropriator must comply with the following deadlines.
  - A. Construction altering the spillway as depicted in plan P-17894 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. Written notice shall be provided to the Department at least 10 days before the start of construction.
  - C. Construction must be completed by October 1, 2013.
  - D. Upon completion, the appropriator shall file with the Department the enclosed Construction Certification Form for Dams.

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

September 13, 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 (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, engineering review report and plan P-17894 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed to the following:

Nickel Engineering, Inc.  
7941 Portsche Lane  
Lincoln, Nebraska 68516

Copies of this approval and plan P-17894 were mailed on September 13, 2011, to the following:

Lake Kuenoh Property Owners Association  
c/o Eric Rasgorshek  
1225 Wilderness Circle  
Crete, Nebraska 68333