STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Plan of Dam Approval

This matter comes before the Director of the Department of Natural Resources (Department) pursuant to *Neb. Rev. Stat.* § 46-1652 which generally requires anyone intending to construct a dam to file an application for approval of plans and specifications of a dam prior to beginning such construction, and pursuant to *Neb. Rev. Stat.* § 54-2430 (Reissue 2004), which generally requires non-feedlot related surface water runoff to be diverted around a proposed livestock waste control facility.

Plan P-18755 and associated specifications have been examined. The examination shows that:

1. The plan is for a livestock waste control facility, TLC - Yellow Dog, and associated dam that is subject to the *Safety of Dams and Reservoirs Act*. The proposed dam will be located in the NE1/4 of Section 25, Township 16 North, Range 22 West of the 6th P.M. in Custer County.

2. Ferdinando T. Scarpello, P.E. of WLA Consulting, Inc., 1640 L Street, Suite D, Lincoln, Nebraska 68508-2581, prepared the drawings and specifications.

3. Yellow Dog, LLC, 79580 Highway 2, Broken Bow, Nebraska 68822, is the owner of the proposed dam.

4. The drawings and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.

5. 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, based upon actions described in No. 6 below.

6. Vaden Hellerich, Professional Environmental Solutions, has indicated that whooping crane surveys will be conducted during the migration season following Nebraska Game and Parks Commission standard protocols in order to avoid impacts to whooping cranes during the construction of the facility.

7. All of the contributing drainage area into the lagoon will be from the livestock facility and incidental drainage associated with the waste control facility.

The plan is hereby APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2015.

2. The owner of the dam shall provide written notice to the Department at least ten days before construction 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 approval prior to taking any action that changes the storage capacity of this reservoir, the specifications or plan P-18755.

   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

March 11, 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* 454 *Neb. 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, plan P-18755, and a "Construction Certification Form for Dams" were mailed on March 11, 2014, to Yellow Dog, LLC, c/o Michael Christensen, 79580 Highway 2, Broken Bow, Nebraska 68822. Copies of this approval, engineering review report and plan P-18755 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 Ferdinando T. Scarpello, P.E. of WLA Consulting, Inc., 1640 L Street, Suite D, Lincoln, Nebraska 68508-2581. Copies of this Approval were mailed to the Lower Loup Natural Resources District, 2620 Airport Road, P.O. Box 210, Ord, Nebraska 68862, and to Tom Trewhitt, Nebraska Department of Environmental Quality, INTERAGENCY, 1200 N Street, Suite 400, P.O. Box 98922, Lincoln, Nebraska 68509-8922.