

STATE OF NEBRASKA
DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT
APPROVAL OF PLAN NUMBER P-21698

BACKGROUND

1. On November 13, 2025, Jack Russell, Manager of the Middle Republican Natural Resource District, filed in the Department of Water, Energy, and Environment (Department) an Application for Approval of Dam Removal and plan P-21698 (collectively "plans").
2. The plan, P-21698, is for the breach of Dry Creek South 2-A, which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in Red Willow County, in the Southeast 1/4 of Section 18, Township 02 North, Range 29 West of the 6th P.M.
3. The Middle Republican Natural Resources District, 208 Center Avenue, P.O. Box 81, Curtis, Nebraska 69025, owns the dam.
4. The plans were examined by a registered professional engineer of the Department and it was determined that upon completion of the project, Dry Creek South 2-A will no longer be considered a dam as defined by Neb. Rev. Stat. § 46-1611.
5. The Department consulted with the Nebraska Game and Parks Commission as required by the *Nebraska Nongame and Endangered Species Conservation Act*. As a result of this consultation, the Nebraska Game and Parks Commission determined the project will have "No Effect" on any state-listed threatened or endangered species or their critical habitat as long as the following conditions are met:
 - A. All required tree removal for the project is completed outside of the maternity roosting season (May 15 - July 31) for the endangered northern long-eared bat.
 - B. A survey for dens occupied by the endangered swift fox must be conducted according to the Nebraska Game and Parks Commission standard protocol within two weeks before commencing ground disturbing activities. If an active swift fox den is found, further consultation with the Nebraska Game and Parks Commission is required.
 - C. All project activities must not be implemented during the spring (March 6 - April 29) or fall (October 9 - November 15) whooping crane migration periods. If project activities must occur during the spring (March 6 - April 29) or fall (October 9 - November 15) whooping crane migration periods, then a whooping crane survey must be conducted according to the Nebraska Game and Parks Commission standard protocol.

ORDER

IT IS HEREBY ORDERED the plans are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2027.
2. The dam owner 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 Division. Notices may be delivered to the Department by mail, facsimile, or electronic mail.
3. The dam owner must comply with the requirements of the *Nebraska Nongame and Endangered Species Conservation Act*. Based on recommendations from the Nebraska Game and Parks Commission, the dam owner can meet the requirements of the act by completing all required tree removal for the project outside of the maternity roosting season (May 15 - July 31) for the endangered northern long-eared bat. A survey for dens occupied by the endangered swift fox must be conducted according to Nebraska Game and Parks Commission standard protocol within two weeks before commencing ground disturbing activities. If an active den is found, further consultation with the Nebraska Game and Parks Commission is required. All project activities must not be implemented during the spring (March 6 - April 29) or fall (October 9 - November 15) whooping crane migration periods. If project activities must occur during the spring (March 6 - April 29) or fall (October 9 - November 15) migration periods, then a whooping crane survey must be conducted according to the Nebraska Game and Parks Commission standard protocol.
4. 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, plan P-9336, or plan P-21698.
 - C. Assume liability for all damages due to leakage, overflow, or structural failure of the structure.
5. Upon completion of construction, the owner shall file with the Department the enclosed "Construction Certification Form for Dams".

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to any orders issued by the Chief Water Officer of the Department of Water, Energy, and Environment may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT



November 26, 2025

Matthew T. Manning, PE, JD
Chief Water Officer

A copy of this approval was posted on the Department's website. Copies of this approval, plan P-21698, and a "Construction Certification Form for Dams" were mailed on November 26, 2025, to the Middle Republican Natural Resources District, c/o Jack Russell, Manager, 208 Center Avenue, P.O. Box 81, Curtis, Nebraska 69025. Copies of this approval and plan P-21698 were also provided to the Department's field office in Cambridge, Nebraska.