

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF PLAN NUMBER P-21453
AND PETITION FOR WAIVER OF OUTLET WORKS

BACKGROUND

1. On July 2, 2024, Bryan Rentschler, President of Weller Foundation, Inc., filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-21453, associated specifications, and a Petition for Waiver of Outlet Works.
2. The plan, P-21453, is for the reconstruction of Weller Dam 2, which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the SE 1/4 of Section 21, Township 33 North, Range 15 West of the 6th P.M. in Holt County.
3. Robert L. Atkeson, P.E. of the United States Department of Agriculture, Natural Resources Conservation Service, 107-A East Highway 20, O'Neill, Nebraska 68763, prepared the plans and specifications.
4. The Weller Foundation, Inc., P.O. Box 636, Atkinson, Nebraska 68713, owns the dam.
5. The plans and specifications were examined by a registered professional engineer of the Department and were found to be consistent with current standards.
6. 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 that the project "May Affect, but is Not Likely To Adversely Affect" any state listed threatened or endangered species or their critical habitat as long as all construction activities are completed outside of the spring (March 6 - April 29) and fall (October 9 - November 15) whooping crane migration periods, or surveys for whooping crane presence are conducted according to the Game and Parks Commission's standard protocol.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-21453, associated specifications, and the Petition for Waiver of Outlet Works are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of reconstruction until November 1, 2026.

2. The owner of the dam shall provide written notice to the Department at least ten days before reconstruction 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 owner must comply with the requirements of the Nebraska Nongame and Endangered Species Conservation Act. Based on the Nebraska Game and Parks recommendation, the owner can meet the requirements of the Act by completing all construction activities outside of the spring (March 6 - April 29) and fall (October 9 - November 15) whooping crane migration periods; or if the work must occur during the spring (March 6 - April 29) or fall (October 9 - November 15) migration periods, then whooping crane surveys must be conducted according to the Nebraska Game and Parks 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, the specifications, or plan P-21453.
 - 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.
 - E. A waiver of the requirement for outlet works 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. 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. 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

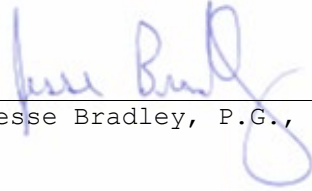
Failure to comply with all laws and regulations pertaining to any orders issued by the Director of the Department of Natural Resources may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES



September 20, 2024

Tim Gokie, P.E., Chief Engineer, Dam Safety



September 20, 2024

Jesse Bradley, P.G., Interim Director

A copy of this approval was posted on the Department's website. Copies of this approval, plan P-21453, and a "Construction Certification Form for Dams" were mailed on September 20, 2024, to Weller Foundation, Inc., c/o Bryan Rentschler, President, P.O. Box 636, Atkinson, Nebraska 68713. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Robert L. Atkeson, P.E., United States Department of Agriculture, Natural Resources Conservation Service, 107-A East Highway 20, O'Neill, Nebraska 68763. Copies of this approval, engineering review report, and plan P-21453 were provided to the Department's field office in Ord, Nebraska.