

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER P-21462

BACKGROUND

1. On July 25, 2024, Scott Whitefoot, on behalf of WBH Cattle Feeding LLC, filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-21462, and associated specifications.
2. The plan, P-21462, is for WBH Holding Lagoon 6 Dam, a proposed livestock waste control dam subject to the *Safety of Dams and Reservoirs Act*. The dam will be located in the Southeast 1/4 of Section 30, Township 3 North, Range 19 West of the 6th P.M. in Harlan County.
3. Jacob John Mayer, P.E. of Settje Agri-Services and Engineering, Inc., 15460 Northwest 48th Street, Raymond, Nebraska 68428, prepared the plans and specifications.
4. WBH Cattle Feeding LLC, 71560 F Road, Orleans, Nebraska 68966, will own 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 required tree removal for the project is completed outside of the maternity roosting period (June 1 to July 31) for the threatened northern long-eared bat and all construction activities will be 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.
7. All of the contributing drainage area into the lagoon is from the livestock facility and incidental drainage associated with the waste control facility.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-21462, and associated specifications are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2026.
2. The owner of a dam 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 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 required tree removal for the project outside of the maternity roosting period (June 1 to July 31) for the northern long-eared bat and 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-21462.
 - 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.
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

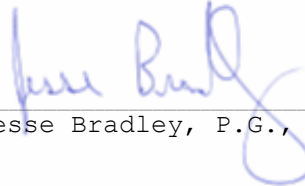
Failure to comply with all laws and regulations pertaining to any orders issued by the Director of the Department of Natural Resources may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES



December 20, 2024

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



December 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-21462, and a "Construction Certification Form for Dams" were mailed on December 20, 2024, to WBH Cattle Feeding LLC, c/o Scott Whitefoot, 71560 F Road, Orleans, Nebraska 68966. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Jacob John Mayer, P.E., Settje Agri-Services and Engineering, Inc., 15460 Northwest 48th Street, Raymond, Nebraska 68428. Copies of this approval, engineering review report, and plan P-21462 were provided to the Department's field office in Cambridge, Nebraska. Copies of this approval were mailed to the Lower Republican Natural Resources District, 30 North John Street, P.O. Box 618, Alma, Nebraska 68920; and to Patrick Ducey, Nebraska Department of Environment and Energy, INTERAGENCY, 245 Fallbrook Boulevard, Suite 100, Lincoln, Nebraska 68521.