

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION 18673,

PETITION FOR A WAIVER OF OUTLET WORKS DWV-1866, PLAN NUMBER 17457

AND MAP OF RESERVOIR NUMBER 21182

WATER DIVISION 2-B

BACKGROUND

1. On July 28, 2009, Gary Schindler, on behalf of Schindler Farms Partnership, filed in the Department of Natural Resources (Department) application A-18673 for a permit to impound water, application for approval of plans for dams and plan number 17457.
2. On January 22, 2010, Gary Schindler filed petition DWV-1866 for a waiver of the requirement for outlet works.
3. The plan is for an existing dam subject to the *Safety of Dams and Reservoirs Act*.
4. Matt Goeller, Settje Agri-Services & Engineering, 4700 West Rock Creek Road, Raymond, Nebraska 68428, prepared the drawings.
5. The drawings were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
6. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18673, Petition DWV-1866, plan number 17457, and map number 21182 are APPROVED subject to the following limitations and conditions:

1. The source of water is Antelope Creek.
2. The priority date is July 28, 2009.
3. The water to be stored under this appropriation is for the purpose of providing water for fish and wildlife.
4. The amount of water that may be diverted shall not exceed 30.9 acre-feet per year to be stored in Schindler Farms Partnership Reservoir. The dam that impounds water in Schindler Farms Partnership Reservoir is located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 09, Township 24 North, Range 07 West of the 6th P.M. in Antelope County.
5. *Nebraska Revised Statutes* § 46-241(5) states in part, "The owner or possessor of a reservoir or intentional underground water storage facility

does not have the right to store water in such reservoir or facility during the time that such water is required downstream in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass ... a portion of the measured inflows to furnish water for livestock"

6. The owner or possessor of the reservoir storing water pursuant to A-18673 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
7. A waiver of the requirement for outlet works, by petition DWV-1866, 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.
8. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
9. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are 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 construction specifications, plan number 17457, 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.

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



April 17, 2023

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order, engineering review report, plan number 17457 and map of reservoir 21182 were provided to the Department's field office in Norfolk, Nebraska. Copies of this Order, plan number 17457, map of reservoir 21182 were mailed to the following:

Gary and Teresa Schindler
Schindler Farms
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