

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

AMENDED APPROVAL OF APPLICATION A-19949, PLAN NUMBER 21305

AND MAP OF RESERVOIR NUMBER 21306

WATER DIVISION 2-B

BACKGROUND

1. On September 13, 2023, Eric Gottschalk, on behalf of the Lower Platte North Natural Resources District (District) filed in the Department of Natural Resources (Department) application A-19949 for a permit to impound water, application for approval of plans for dams, construction specifications and plan number 21305.
2. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
3. Daniel S. Lightbody, P.E., Olsson Engineering, 601 P Street, Suite 200, Lincoln, Nebraska 68508, prepared the drawings and construction specifications.
4. Lower Platte North Natural Resources District, 511 Commercial Park Road, Wahoo, Nebraska 68066 owns the dam and reservoir.
5. On January 3, 2024, application A-19949, plan number 21305 and plan of reservoir number 21306 were approved.
6. On May 17, 2024, plan 21305 was updated and resubmitted to the Department.
7. On June 7, 2024, Dam Safety completed its review of plans submitted for Wahoo Creek 26-A.
8. The drawings and construction specifications were examined by a Registered Professional Engineer of the Department were found to be consistent with current standards.
9. NRCS will consider the following conservation measures specified by the Nebraska Game and Parks Commission pursuant to the Nongame and Endangered Species Conservation Act *Neb. Rev. Stat. § 37-807*:

No tree removal between April 2nd and October 31st to avoid the swarming/staging and maternity roosting seasons of the northern long-eared bat.

ORDER

IT IS HEREBY ORDERED Application A-19949, plan number 21305 and map number 21306 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to the North Fork of Wahoo Creek.

2. The priority date is September 13, 2023.
3. The water to be stored under this appropriation is for the purpose of flood reduction and stream stabilization.
4. The amount of water that may be diverted shall not exceed 60.5 acre-feet per year to be stored in Wahoo Creek 26A. The dam that impounds water in Wahoo Creek 26A will be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 15 North, Range 05 East of the 6th P.M. in Saunders 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-19949 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 continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
8. 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 21305, 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.
9. The appropriator must comply with the following deadlines:
 - A. The owner of the dam shall provide written notice to the Department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer or the Construction Inspector of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile or electronic mail.

- B. Construction of the structure must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
- C. November 1, 2025, is the date construction of the structure must be completed.
- D. Upon completion of the structure, the appropriator shall file with the Department the enclosed "Construction Certification Form for Dams." Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this Order. No impoundment in the structure shall occur prior to issuance of the approval to operate.
- E. The applicant has a preferred right to file an application for a permit to appropriate the water stored for some useful purpose until April 1, 2026.

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



Thomas E. Riley, P.E., Director

July 1, 2024

A copy of this Order was posted on the Department's website. Copies of this Order, engineering review report, plan number 21305 and map of reservoir 21306 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and a "Construction Certification Form for Dams" were mailed to the following:

Daniel S. Lightbody, P.E.
Olsson Engineering
601 P Street, Suite 200
Lincoln, Nebraska 68508

Eric Gottschalk
Lower Platte North Natural Resources District
511 Commercial Park Road
Wahoo, Nebraska 68066
lpnnrd@lpnnrd.org

Copies of this Order, plan number 21305 and map of reservoir 21306 were mailed to the following:

John S. Kasper
2620 County Road Q
Prague, Nebraska 68050

Gregg & Eva Fujan Family Trust
1636 County Road 27
Weston, Nebraska 68070

Mark C. Kasper
2620 County Road Q
Prague, Nebraska 68050

Robert F. Kubik
2790 County Road O
Prague, Nebraska 68070