

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-20016,

AND PLAN OF RESERVOIR 21421 AND MAP OF RESERVOIR 21443

WATER DIVISION 1-D

BACKGROUND

1. On May 14, 2024, Dean Otto, on behalf of Otto Acres, LLC, filed in the Department of Natural Resources (Department) application A-20016 for a permit to impound water, plan of reservoir 21421 according to *Title 457 Neb. Admin. Code Chapter 11*.
2. Construction has been completed.
3. The applicants agreed to 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, as described in NGPC Project No. DNR24003 concurrence letter dated May 20, 2024, as shown in Attachment A.

ORDER

IT IS HEREBY ORDERED Application A-20016, plan of reservoir 21421 and map of reservoir 21443 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Wolf Creek.
2. The priority date is May 14, 2024.
3. The water to be stored under this appropriation is for the purpose of providing supplemental water for an irrigation project authorized under natural-flow appropriation A-20015.
4. The amount of water that may be diverted shall not exceed 3.9 acre-feet per year to be stored in Otto Reservoir. Otto Dam is be located in the SW¹/₄NW¹/₄ of Section 25, Township 02 North, Range 08 East of the 6th P.M. in Gage 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-20016 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. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.
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 written approval prior to taking any action that changes the storage capacity of this reservoir, plan of reservoir or the type of appropriation.
 - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - D. 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



Thomas E. Riley, P.E., Director

July 9, 2024

A copy of this Order was posted on the Department's website. Copies of this Order and plan of reservoir 21421, and map of reservoir 21443 were provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed to the following:

Andrew Q. Rieschick, P.E.
Rieschick Engineering & Consulting, LLC
70656 649th Avenue
Falls, City, Nebraska 68355

Copies of this Order and plan of reservoir 21421 and map of reservoir 21443 were mailed to the following:

Dean Otto
Otto Acres, LLC
633 State Hwy 43
Adams, Nebraska 68301