

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION 20011, PLAN NUMBER 21410

AND MAP OF RESERVOIR NUMBER 21411

WATER DIVISION 2-B

BACKGROUND

1. On April 23, 2024, Mike Sousek, General Manager, Lower Platte South Natural Resources District, filed in the Department of Natural Resources (Department) application A-20011 for a permit to impound water, application for approval of plans for dams, construction specifications and plan number 21410.
2. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
3. Matthew J. Sutton, P.E., Schemmer, 1300 West 57th Street Suite 2, Sioux Falls, South Dakota 57108, prepared the drawings and construction specifications.
4. The Lower Platte South Natural Resources District is the owner of the reservoir and dam.
5. The drawings and construction specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.

ORDER

IT IS HEREBY ORDERED Application A-20011, plan number 21410, and map of reservoir number 21411 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Middle Creek.
2. The priority date is April 23, 2024.
3. The water to be stored under this appropriation is for the purpose of providing flood and erosion control.
4. The amount of water that may be diverted shall not exceed 67.87 acre-feet per year to be stored in Piening Water Quality Basin. The dam that impounds water in Piening Water Quality Basin will be located in the SW $\frac{1}{4}$ of Section 30, Township 11 North, Range 05 East of the 6th P.M. in Lancaster 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-20011 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 21410, 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, 2026, 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

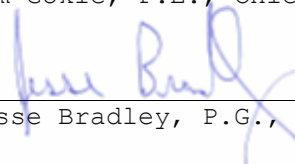
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution,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

DEPARTMENT OF NATURAL RESOURCES



October 2, 2024

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



October 2, 2024

Jesse Bradley, P.G., Interim Director

A copy of this Order was posted on the Department's website. Copies of this Order, engineering review report, plan number 21410 and map of reservoir 21411 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:

Mathew J. Sutton
Schemmer
1300 West 57th Street Suite 2
Sioux Falls, South Dakota 57108

Copies of this Order, plan number 21410, map of reservoir 21411 and a "Construction Certification Form for Dams" were mailed to the following:

Orell Piening
9550 West US Highway 34
Malcom, Nebraska 68402

Lower Platte South Natural Resources District
3125 Portia Street
Lincoln, Nebraska 68501