

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 20602

BACKGROUND

1. On November 3, 2020, Tyler Binder filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-20602, and associated specifications.
2. The plan, P-20602, is for the construction of the Binder Irrigation Diversion Dam, which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the NW $\frac{1}{4}$ of Section 14, Township 02 North, Range 11 East of the 6th P.M. in Pawnee County.
3. Records on file in the Department show that surface water appropriation A-19686 is held by Tyler and Valerie Binder, Todd and April Binder, and Lynn and Elaine Binder. Appropriation A-19686 authorizes the storage of 90.0 acre-feet of water in the NW $\frac{1}{4}$ of Section 14, township 02 North, Range 11 East of the 6th P.M. in Pawnee County.
4. Jacob C. Robison, P.E. of Twin Oaks Consulting, 62451 Highway 62, Elk Creek, Nebraska, 68348, prepared the plans and specifications.
5. Tyler Binder, 71387 624 Road, Table Rock, Nebraska, 68447, will own the dam.
6. The plans and specifications were examined by a registered professional engineer of the Department and were found to be consistent with current standards.
7. Following consultation with the Nebraska Game and Parks Commission, the Department finds the project 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.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-20602 and associated specifications are APPROVED subject to the following limitations and conditions:

1. 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.
2. This approval will remain in effect for purposes of construction until November 1, 2022.
3. 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 Section. Notices may be delivered to the Department by mail, facsimile, or electronic mail.

4. All required tree removal for the project must be completed outside of the maternity roosting period (June 1 to July 31) for the northern long-eared bat.
5. 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-20602.
 - 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.
6. All terms and conditions of appropriation A-19686 remain in effect.
7. 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



February 3, 2021

Thomas E. Riley, P.E., Director

A copy of this approval was posted on the Department's website. Copies of this approval, plan P-20602, and a "Construction Certification Form for Dams" were mailed on February 3, 2021, to Tyler Binder, 71387 624 Road, Table Rock, Nebraska, 68447. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Jacob C. Robison, P.E., Twin Oaks Consulting, 62451 Highway 62, Elk Creek, Nebraska, 68348. Copies of this approval, engineering review report, and plan P-20602 were provided to the Department's field office in Lincoln, Nebraska.