

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19646, PLAN OF RESERVOIR 20406

AND MAP OF RESERVOIR 20428

WATER DIVISION 2-A

BACKGROUND

On May 17, 2019, Ross Cone, on behalf of Shack Ranch, LLC, filed in the Department of Natural Resources (Department) application A-19646 for a permit to impound water and plan of reservoir 20406 according to *Title 457 Neb. Admin. Code Chapter 11*.

ORDER

IT IS HEREBY ORDERED Application A-19646, plan of reservoir 20406 and map of reservoir 20428 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Elm Creek.
2. The priority date is May 17, 2019.
3. The water to be stored under this appropriation is for the purpose of providing water for irrigation under storage use appropriation A-19645.
4. The amount of water that may be diverted shall not exceed 9.5 acre-feet per year to be stored in Embankment 1 Reservoir. Embankment 1 Dam will be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 18, Township 20 North, Range 13 West of the 6<sup>th</sup> P.M. in Valley 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-19646 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 written approval prior to taking any action that changes the storage capacity of this reservoir, plan of reservoir 20406 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.
9. The appropriator must comply with the following deadlines:
  - A. 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.
  - B. November 1, 2021 is the date construction of the structure must be completed.

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

August 27, 2019

  
Gordon W. Fassett, P.E., Director

A copy of this approval was posted on the Department's website. Copies of this approval and plan of reservoir 20406, and map of reservoir 20428 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

Kendall Bonenberger  
Environmental Sciences, Inc.  
PO Box 220  
Wisner, Nebraska 68791  
kbonen@esiagconsulting.com

Copies of this approval, plan of reservoir 20406, and map of reservoir 20428 were mailed on August 27, 2019, to the following:

Ross Cone  
Shack Ranch, LLC  
1512 Warbler Circle  
Grand Island, Nebraska 68803