

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19676,

PETITION FOR A WAIVER OF OUTLET WORKS DWV-7620 AND PLAN NUMBER 20464

WATER DIVISION 2-F

BACKGROUND

1. On October 1, 2019, Jim Gabel filed in the Department of Natural Resources (Department) application A-19676 for a permit to impound water, application for approval of plans for dams, construction specifications and plan number 20464 for the purpose of grade stabilization and erosion control.
2. On October 2, 2019, Jim Gabel filed DWV-7620, a petition for a waiver of the requirement for outlet works.
3. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
4. Travis Hazard, Settje Agri-Services & Engineering, Inc., 15460 NW 48<sup>th</sup> St, Raymond, Nebraska 68428, prepared the drawings and construction specifications.
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.
6. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19676, Petition DWV-7620 and plan number 20464 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Omaha Creek.
2. The priority date is October 1, 2019.
3. The amount of water that may be diverted shall not exceed 157 acre-feet per year to be stored in Gabel Reservoir. The dam that impounds water in this reservoir will be located in the NW $\frac{1}{4}$  of Section 30, Township 27 North, Range 09 East of the 6<sup>th</sup> P.M. in Dakota County.
4. *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 ... ."

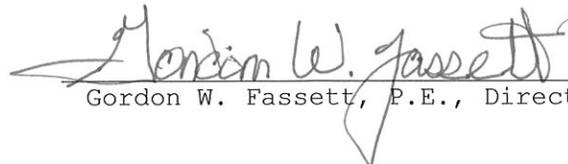
5. The owner or possessor of the reservoir storing water pursuant to A-19676 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
6. A waiver of the requirement for outlet works, by petition DWV-7620, has been granted. This waiver does not relieve the owner from the responsibility to pass a portion of the reservoir inflow by some method for downstream appropriators should there be a need for water administration; or if water should be required for livestock needs, unless the appropriator is a political subdivision. The Department may rescind the waiver and require installation of appropriate outlet works at a later date if it is determined that the responsibility to pass inflows is not being met or cannot be met by another method.
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 20464, 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.

#### 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

January 29, 2020

  
Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order, engineering review report, plan number 20464 were provided to the Department's field office in Norfolk, Nebraska. A copy of this Order was mailed to the following:

Travis Hazardad, P.E.  
Settje Agri-Services & Engineering, Inc.  
15460 NW 48<sup>th</sup> Street  
Raymond, Nebraska 68428

Copies of this Order, plan number 20464 were mailed on January 29, 2020, to the following:

Jim Gabel  
305 Southfork Place  
South Sioux City, Nebraska 68776