

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19689, PLAN NUMBER 20508

AND MAP OF RESERVOIR NUMBER 20641

WATER DIVISION 1-F

BACKGROUND

1. On March 4, 2020, Scott Nelson, on behalf of the Nemaha Natural Resources District, filed in the Department of Natural Resources (Department) application A-19689 for a permit to impound water, application for approval of plans for dams, construction specifications, plan number 20508 and map of reservoir number 20641.
2. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
3. Timothy G. Hakenstaad, P.E., Natural Resources Conservation Service (NRCS), 100 Centennial Mall North, Lincoln Nebraska 68508, prepared the original drawings and construction specifications. Subsequently, Robert E. Sullivan, P.E., NRCS Dam Safety Engineer, prepared Plan Revision No. 1.
4. 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-19689, plan number 20508 and map of reservoir number 20641 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Duck Creek.
2. The priority date is March 4, 2020.
3. The amount of water that may be diverted shall not exceed 38.56 acre-feet per year to be stored in Duck Creek 14-2 Sediment Basin for the purpose of sediment control. The dam that impounds water in Duck Creek 14-2 Sediment Basin is located in the SW $\frac{1}{4}$  of Section 14, Township 06 North, Range 14 East of the 6<sup>th</sup> P.M. in Nemaha County, as shown on map of reservoir number 20641 which is made part of this Order.

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-19689 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 continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
7. 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 20508, 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, 2022 is the date by which 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, 2023.

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



March 23, 2021

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Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order, engineering review report, plan number 20508 and map of reservoir number 20641 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:

Allen Gehring, P.E.  
State Conservation Engineer  
Natural Resources Conservation Service  
345 Federal Building  
100 Centennial Mall North  
Lincoln NE 68508-3866

Copies of this Order, plan number 20508, map of reservoir number 20641 and a "Construction Certification Form for Dams" were mailed on March 23, 2021, to the following:

Scott Nelson, Assistant Manager  
Nemaha Natural Resources District  
62161 Hwy 136  
Tecumseh NE 68450