

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19844,
PETITION FOR A WAIVER OF OUTLET WORKS DWV-9665, PLAN NUMBER 20991 AND
MAP OF RESERVOIR NUMBER 20992

WATER DIVISION 1-D

BACKGROUND

1. On April 27, 2022, Scott and Brenda Wiens and Shawn and Jill Wiens filed in the Department of Natural Resources (Department) application A-19844 for a permit to impound water, application for approval of plans for dams, construction specifications and plan number 20991.
2. On June 16, 2022, Scott Wiens and Shawn Wiens filed petition DWV-9665 for a waiver of the requirement for outlet works and corrected filed application for approval of plans for dams.
3. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
4. Anthony D. Duever, CES Group P.A., 1102 Broadway, Marysville, Kansas 66508, 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.

ORDER

IT IS HEREBY ORDERED Application A-19844, Petition DWV-9665, plan number 20991 and map of reservoir number 20992 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Sicily Creek.
2. The priority date is April 27, 2022.
3. The water to be stored under this appropriation is for the purpose of providing water for an irrigation project.
4. The amount of water that may be diverted shall not exceed 65.5 acre-feet per year to be stored in Wiens Sec. 22 Reservoir. The dam that impounds water in Wiens Sec. 22 Reservoir will be located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, Township 03 North, Range 05 East of the 6th P.M. in Gage 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-19844 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 waiver of the requirement for outlet works, by petition DWV-9655, 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.
8. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
9. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.
10. 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 20991, 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.

12. 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, 2024, 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.

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



July 21, 2022

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 20991 and map of reservoir 20992 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:

Anthony Duever, P.E.
CES Group P.A.
1102 Broadway
Marysville, Kansas 66508

Copies of this Order, plan number 20991, map of reservoir 20992 and a "Construction Certification Form for Dams" were mailed to the following:

Scott and Brenda Wiens
10658 West Hwy 136
Beatrice, Nebraska 68310

Shawn and Jill Wiens
31082 SW 103 Road
Beatrice, Nebraska 68310