

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF APPLICATION A-18607

WATER DIVISION 2-A

Background

On August 6, 2008, Carol Lewis, trustee, on behalf of the Jon L. Neiman Trust, filed application A-18607 in the Department of Natural Resources (Department) for a permit to impound water, application for approval of plans for dams, specifications and plan P-17272.

Order

IT IS HEREBY ORDERED application A-18607, the application for approval of plans for dams and plan P-17272 are APPROVED subject to the following limitations and conditions:

1. The source of water is Calf Creek.
2. The priority date is August 6, 2008.
3. The amount of water that may be diverted shall not exceed 85.4 acre-feet per year to be stored in Neiman WRP Reservoir. Neiman WRP Dam will be located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 6, Township 25 North, Range 26 West of the 6<sup>th</sup> P.M. in Cherry County.
4. The appropriator 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 approval prior to taking any action that changes the storage capacity of this reservoir, the specifications, plan P-17272, or the type of appropriation.
  - C. Construct, operate and maintain the structure in accordance with Section 46-241 RSS and the Safety of Dams and Reservoirs Act, Sections 46-1601 to 46-1670 RSS.
  - 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.

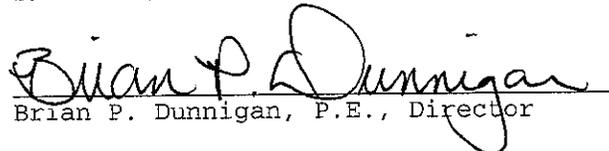
5. The appropriator must comply with the following deadlines.
- A. Construction of the structure must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
  - B. Written notice shall be provided to the Department at least 10 days before the start of construction.
  - C. Construction of the structure must be completed by October 1, 2011.
  - 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 approval. 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, 2012.

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

February 19, 2010

  
Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this approval may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the

Department at its Lincoln office (301 Centennial Mall South, 4<sup>th</sup> Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of the Approval and be accompanied by a filing fee of \$10.

A copy of this approval was posted on the Department's website. Copies of this approval, engineering review report and plan P-17272 were provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed to the following:

Tim Haakenstad  
State Conservation Engineer  
Natural Resources Conservation Service  
345 Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508-3866

Copies of this approval and plan P-17272 were mailed on February 19, 2010, to the following:

Jon L. Neiman Trust  
c/o Carol Lewis, Trustee  
2021 Edgewood Avenue  
Las Vegas, Nevada 89102

Copies of this approval and a Construction Certification Form for Dams were mailed on February 19, 2010, to the following:

Gary Reiser, Ranch Manager  
HC 58 Box 23  
Thedford, Nebraska 69166

Robert Atkeson, P.E.  
Field Engineer  
NRCS O'Neill Field Office  
107-A East Highway 20  
O'Neill, Nebraska 68763-2111