

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN P-18370 FOR APPROPRIATION A-11446

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11446 is held by the Nemaha Natural Resources District (NNRD).
2. Appropriation A-11446 has a priority date of June 12, 1968, and authorizes the impoundment of 107.9 acre-feet (af) of water per year, from a tributary to the North Fork of the Little Nemaha River, stored in the existing Wilson Creek 8-H Reservoir. Wilson Creek 8-H Dam is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, Township 8 North, Range 12 East of the 6th P.M. in Otoe County and is subject to the *Safety of Dams and Reservoirs Act*.
3. On November 28, 2012, NNRD filed in the Department an application for approval of plans for dams, specifications and plan P-18370 for the renovation of Wilson Creek 8-H Dam.
4. Plan P-18370 was examined by a Registered Professional Engineer of the Department and was found consistent with the current standards. This plan shows storage capacity at normal pool of 85.6 af.
5. Rather than relinquish the difference in storage volume between the 107.9 af originally approved under A-11446, as shown on plan P-10163, and the 85.6 af shown in the new plans, the NNRD requested the Department allow them to restore the water storage capacity back to no more than 107.9 af. The NNRD plans to remove sediment to coincide with the renovation of the dam.
6. Nebraska law *Neb. Rev. Stat. § 46-229* states that when an owner of an appropriation ceases to use it for a beneficial use for more than five consecutive years, the right may be terminated.

ORDER

IT IS HEREBY ORDERED:

1. Plan P-18370 is APPROVED
2. The original plan number P-10163 is CANCELLED.

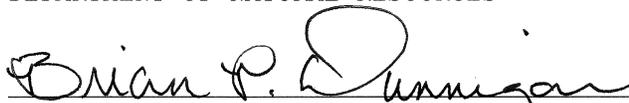
3. A storage volume in the amount of 107.9 af per year shall REMAIN IN FULL FORCE AND EFFECT for A-11446. No additional storage due to structural modification is allowed.
4. NNRD shall remove the sediment from Wilson Creek 8-H Reservoir in order to restore the original volume of 107.9 af, by five years past the signing date of this Order or the difference between the original volume and the actual volume will be cancelled.
5. All terms and conditions of appropriation A-11446 remain in effect, unless specifically changed by this Order.
6. The appropriator must comply with all relevant statutes. The statutes 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 specifications, plan P-18370, 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.
7. The appropriator must comply with the following deadlines:
 - A. Written notice shall be provided to the Department at least 10 days before the start of construction.
 - B. Renovation 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, 2014, is the date renovation of the structure must be completed.
 - D. Upon completion of the renovation, the appropriator shall file with the Department the enclosed "Construction Certification Form for Dams," and plans showing the volume of storage as a result of the sediment removal. 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.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval 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

May 8, 2013


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 *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 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-18370 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a "Construction Certification Form for Dams" were mailed on May 8, 2013, to the following:

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

Scott D. Nelson, Assistant Manager
Nemaha Natural Resources District
62161 Highway 136
Tecumseh, NE 68450