STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18812

AND PLAN NUMBER 17952

WATER DIVISION 2-F

BACKGROUND

1. On September 22, 2011, John Winkler, General Manager, Papio-Missouri River Natural Resources District filed in the Department of Natural Resources (Department) application A-18812 for a permit to impound water, application for approval of plans for dams, specifications and plan P-17952.

2. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.

3. John Engle, P.E., HDR, 8404 Indian Hills Drive, Omaha, Nebraska 68114-4049, prepared the drawings and specifications.

4. Papio-Missouri River Natural Resources District, 8901 South 154th Street, Omaha, Nebraska 68138, holds easements for the reservoir and dam.

5. The drawings and 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-18812, the Application for Approval of Plans for Dams and plan P-17952 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to South Papillion Creek.

2. The priority date is September 22, 2011.

3. The amount of water that may be diverted shall not exceed 70 acre-feet per year to be stored in WP-5 North Water Quality Basin. WP-5 North Water Quality Dam will be located in the NE¼SE¼ of Section 24, Township 14 North, Range 11 East of the 6th P.M. in Sarpy County.

4. *Neb. Rev. Stat.* § 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 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-18812 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. 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-17952, 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. 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. This approval is conditioned on the applicant's agreement to enter into an easement with all necessary property owners allowing the Papio-Missouri River Natural Resources District and the Department of Natural Resources access to all parts of the property necessary for construction and maintenance of all parts of the proposed structure and reservoir area prior to and during construction, and for subsequent inspections and maintenance. Failure to provide the Department with a copy of an adequate recorded easement within one year of the signing date of this application approval may result in the cancellation of the appropriation.

   C. 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.

   D. October 1, 2014 is the date construction of the structure must be completed.

E. 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.

F. 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, 2015.

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

October 5, 2012

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-17952 were provided to the Department's field office in Norfolk, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed to the following:

John Engle, P.E.
HDR
8404 Indian Hills Drive
Omaha, Nebraska 68114-4049

Copies of this approval and plan P-17952 were mailed on October 5, 2012, to the following:

John Winkler, General Manager
Papio-Missouri River Natural Resources District
8901 South 15th Street
Omaha, Nebraska 68138