

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19119 AND PLAN NUMBER 18619

WATER DIVISION 1-B

BACKGROUND

1. On July 14, 2004, the Department of Natural Resources (Department) issued an Order declaring a formal moratorium in the Republican River Basin on the issuance of all new surface water appropriations.
2. On February 1, 2013, LaRaye Schurr, on behalf of Schurr Family Partnership, LTD., filed petition VAR-3501 in the Department for Leave to File or Consider an Application for a New Surface Water Appropriation within a Moratorium Area. The draft application and documentation attached to the petition is for a permit to impound approximately 85 acre-feet of water from a tributary to the West Branch of Muddy Creek in the existing Stubble Field Reservoir located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, Township 7 North, Range 25 West of the 6th P.M. in Frontier County for the purpose of water for erosion control.
3. On July 16, 2013, the Department granted petition VAR-3501 for leave to file an application for a permit to appropriate water.
4. On July 29, 2013, LaRaye Schurr, on behalf of Schurr Family Partnership, LTD., filed in the Department of Natural Resources (Department) application A-19119 for a permit to impound water, application for approval of plans for dams and specifications according to *Title 457 Neb. Admin. Code Chapter 11* and plan P-18619.
5. The plan is for an existing dam subject to the *Safety of Dams and Reservoirs Act*.
6. The drawings and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
7. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19119, the Application for Approval of Plans for Dams and plan P-18619 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to the West Branch of Muddy Creek.
2. The priority date is July 29, 2013.

3. The amount of water that may be diverted shall not exceed 21.1 acre-feet per year to be stored in Stubble Field Reservoir. Stubble Field Dam is located in the NE¹/₄NE¹/₄ of Section 27, Township 7 North, Range 25 West of the 6th P.M. in Frontier County.
4. The water stored under this appropriation is for the purpose of providing erosion control.
5. 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"
6. The owner or possessor of the reservoir storing water pursuant to A-19119 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. 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-18619, 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.

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

November 7, 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 and plan P-18619 were provided to the Department's field office in Cambridge, Nebraska. Copies of this approval and plan P-18619 were mailed on November 7, 2013, to the following:

LaRaye Schurr
Schurr Family Partnership, LTD.
405 North Westview Drive
Eustis, Nebraska 69028