

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19282

BACKGROUND

1. On May 15, 2015, Mary Lou Chapek, on behalf of TCP, LLC; and Frederick Ware, on behalf of Charlotte Ware and himself, filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-19282, and associated specifications.
2. The plan, P-19282, is for modifications to the Turkey Creek Reservoir Dam which is subject to the *Safety of Dams and Reservoirs Act*. The dam is located in the NW1/4 of Section 24, Township 17 North, Range 12 East of the 6<sup>th</sup> P.M. in Washington County.
3. Patrick J. Diederich, P.E., of HydroLogic Consulting, Inc., 8413 Auburn Court, Plattsmouth, Nebraska 68048, prepared the plans and specifications.
4. TCP, LLC, 5706 County Road 38, Fort Calhoun, Nebraska 68023, and Frederick and Charlotte Ware, 6040 Mary Nelson Lane, Fort Calhoun, Nebraska 68023, share ownership of the dam.
5. The plans and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.
6. Following consultation with the Nebraska Game and Parks Commission, the Department finds the project will have "No Effect" on any state listed threatened or endangered species or their critical habitat.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-19282 and associated specifications are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2016.
2. The dam owner 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 the reservoir, the specifications, or plan P-19282.
  - C. 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 dam.
3. Upon completion of the construction, the owner shall file with the Department the enclosed "Construction Certification Form for Dams". Following receipt of this form, an approval to operate will 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 any orders issued by the Director of the Department of Natural Resources may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES

July 24, 2015

  
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James C. Schneider Ph.D.  
Acting 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* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> 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, plan P-19282, and a "Construction Certification Form for Dams" were mailed on July 24, 2015, to TCP, LLC, c/o Mary Lou Chapek, 5706 County Road 38, Fort Calhoun, Nebraska 68023, and Frederick and Charlotte Ware, 6040 Mary Nelson Lane, Fort Calhoun, Nebraska 68023. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Patrick J. Diederich, P.E., HydroLogic Consulting, Inc., 8413 Auburn Court, Plattsmouth, Nebraska 68048. Copies of this approval, engineering review report, and plan P-19282 were provided to the Department's field office in Norfolk, Nebraska.