

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18664

WATER DIVISION 1-B

Background

1. On July 14, 2004, the Department of Natural Resources (Department) issued an Order Declaring a Formal Moratorium on the issuance of any new surface water appropriations in the Republican River Basin.
2. On October 13, 2006, Rex Amack, on behalf of Nebraska Game and Parks Commission (NGPC), filed petition VAR-1675 (V-12) for leave to consider an application for a permit to impound water within an area subject to a stay or moratorium.
3. Petitions for leave to consider an application for a permit to appropriate water in areas that are subject to stays and moratoriums are covered under Nebraska Revised Statutes, Sections 46-714(3)(n) and 61-206. Department Rule 457 N.A.C. Chapter 23 establishes guidelines under which variances may be approved.
4. A variance petition may be approved if it meets one or more of the criteria listed in Department Rule 457 N.A.C. Chapter 23. In its petition, NGPC requested leave to file an application to appropriate water based on Department Rule 23.001.04. Department Rule 23.001.04 allows for applications if the project existed prior to any informal moratorium, formal moratorium or stay. A power appropriation for the operation of a grist mill has existed since December 31, 1887. The appropriation allowed the use of natural flow. Incidental to the generation of power was the backing up of a small reservoir that allowed a head of water sufficient to generate mechanical power for the mill. The small reservoir had no storage permit and was not allowed outside of the mill operation. Subsequent to the perennial operation of the mill, the reservoir began to be maintained for aesthetic and recreational purposes. This is the primary use of the reservoir today.
5. The evaporation from the reservoir has been and continues to be reported as a consumptive use to the Republican River Compact Commission.
6. On February 26, 2007, petition VAR-1675 (V-12) was granted by the Department.
7. On May 22, 2009, NGPC filed application A-18664 in the Department of Natural Resources (Department) for a permit to impound water.
8. On September 9, 2009, Olsson Associates, on behalf of NGPC filed an application for approval of plans for dams, specifications and plan P-17483.

Order

IT IS HEREBY ORDERED:

Application A-18664, the application for approval of plans for dams, and plan P-17483 are APPROVED subject to the following limitations and conditions.

1. The source of water is the Frenchman River (Creek).
2. The priority date is May 22, 2009.
3. The amount of water that may be diverted shall not exceed 60 acre-feet per calendar year to be stored in Champion Mill Lake. Champion Mill Dam will be located in the NE¼SW¼ of Section 21, Township 6 North, Range 39 West of the 6th P.M. in Chase 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-17483, 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.
 - F. The owners or operators of Champion Mill Lake shall not have the right to impound any water in such reservoir during the time that such water is required for direct flow appropriations or for reservoirs holding senior rights.
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.

