

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18782

WATER DIVISION 1-C

BACKGROUND

1. On May 17, 2011, Wesley G. Fuller, on behalf of the Verna M. Fuller Revocable Trust, filed in the Department of Natural Resources (Department) application A-18782 for a permit to impound water, application for approval of plans for dams, specifications and plan P-17866.
2. On May 17, 2011, Wesley G. Fuller, on behalf of the Verna M. Fuller Revocable Trust, filed in the Department, DWV-2131, a petition for a waiver of drawdown requirement.
3. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18782, the Application for Approval of Plans for Dams, DWV-2131 and plan P-17866 are APPROVED subject to the following limitations and conditions:

1. The source of water is a Tributary to Spring Creek.
2. The priority date is May 17, 2011.
3. The amount of water that may be diverted shall not exceed 100 acre-feet per year to be stored in Fuller Family Reservoir. This is based upon a reservoir that stores 43.7 acre-feet and may be filled approximately 2.28 times per year from a Tributary of Spring Creek. Fuller Family Dam will be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 18, Township 1 North, Range 3 West of the 6<sup>th</sup> P.M. in Thayer County.
4. A waiver of the requirement for a drawdown, DWV-2131, has been granted. This waiver does not relieve the owner from the responsibility to pass a portion of the reservoir inflow by some method for downstream appropriators should there be a need for water administration; or if water should be required for livestock needs, unless the appropriator is a political subdivision. The Department may rescind the waiver and require installation of appropriate outlet works at a later date if it is determined that the responsibility to pass inflows is not being met or cannot be met by another method.
5. This appropriation is subject to the provisions of the Blue River compact and the appropriator could be required to pass inflow if Compact flows are not being met.

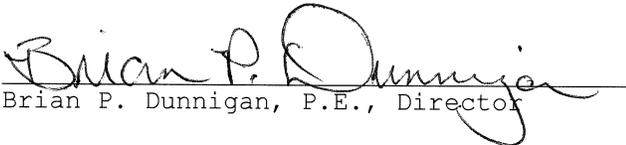
6. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- A. Notify the Department of any change in ownership or address.
  - B. Receive approval prior to taking any action that changes the storage capacity of this reservoir, the specifications, plan P-17866, 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

September 13, 2011

  
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 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, engineering review report and plan P-17866 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Larry J. Schieferecke, P.E.  
Kirkham Michael  
217 North Douglas P.O. Box 4  
Ellsworth, Kansas 67439

Copies of this approval and plan P-17866 were mailed on September 13, 2011,  
to the following:

Verna M. Fuller Revocable Trust  
c/o Wesley G. Fuller  
P.O. Box 5  
Byron, Nebraska 68325