

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18846

WATER DIVISION 2-F

BACKGROUND

On December 14, 2011, Stan and Cheryl Sudbeck filed in the Department of Natural Resources (Department) application A-18846 for a permit to impound water.

ORDER

IT IS HEREBY ORDERED Application A-18846 is APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to East Bow Creek.
2. The priority date is December 14, 2011.
3. The amount of water that may be diverted shall not exceed 20 acre-feet per year to be stored in Alex Taylor Reservoir. Alex Taylor Dam will be located in the NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Section 7, Township 30 North, Range 3 East of the 6<sup>th</sup> P.M. in Cedar 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-18846 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, or the type of appropriation.
  - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.

- D. 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. A map of reservoir and specifications according to *Title 457 Neb. Admin. Code Chapter 11* must be filed within six months of the signing date of this application approval. No rights shall be deemed to have been acquired until the provisions of this paragraph have been complied with, and a failure to do so shall cause a forfeiture of the appropriation and all rights thereof.
- B. 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.
- C. Construction of the structure must be completed by October 1, 2014.

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

May 7, 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, 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. A copy of this approval was provided to the Department's field office in Norfolk, Nebraska. A copy of this approval was mailed on May 7, 2012, to the following:

Stan and Cheryl Sudbeck  
56997 881 Road  
Hartington, Nebraska 68739