

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF APPLICATION A-18868

WATER DIVISION 2-F

BACKGROUND

1. On January 27, 2012, Richard A. Wortmann and Nancy E. Wortmann filed in the Department of Natural Resources (Department) application A-18868 for a permit to impound water.
2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18868 is APPROVED subject to the following limitations and conditions:

1. The source of water is Beaver Creek.
2. The priority date is January 27, 2012.
3. The amount of water that may be diverted shall not exceed 13 acre-feet per year to be stored in Wortmann Reservoir. Wortmann Dam will be located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 32 North, Range 2 West of the 6th P.M. in Knox 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-18868 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. A continuous recording device approved by the Department to monitor reservoir levels may be required 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 or the type of appropriation.

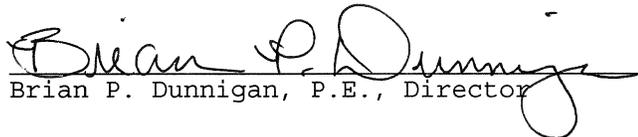
- C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - D. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
8. A map of reservoir and specifications according to *Department of Natural Resources Rules of Practice and Procedure, Title 457 Neb. Admin. Code Chapter 11* must be filed within six months of the signing date of this application approval. The map shall be prepared by a professional engineer and shall include a statement as to the hazard classification of the dam and whether it is subject to the Safety of Dams and Reservoirs Act. 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.

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

August 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, 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 and provided to the Department's field office in Norfolk, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed on August 7, 2012, to the following:

Richard A. and Nancy E. Wortmann
55026 892 Way
Crofton, Nebraska 68730