

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18904

WATER DIVISION 2-F

BACKGROUND

1. On April 5, 2012, Douglas B. Byrd filed in the Department of Natural Resources (Department) application A-18904 for a permit to impound water.
2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18904 is APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Ponca Creek.
2. The priority date is April 5, 2012.
3. The amount of water that may be diverted shall not exceed 5.6 acre-feet per year to be stored in B K's Dream Reservoir. B K's Dream Dam is located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 33 North, Range 10 West of the 6<sup>th</sup> P.M. in Boyd 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-18904 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 *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. 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

July 25, 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 Ord, Nebraska. A copy of this approval was mailed on July 25, 2012, to the following:

Douglas B. Byrd  
111 Doug Byrd Road  
Lucedale, MS 39452