

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES  
APPROVAL OF PLAN NUMBER 19144

BACKGROUND

1. On December 29, 2014, John Thomas, on behalf of the Nebraska Department of Roads, filed in the Department of Natural Resources an Application for Approval of Plans for Dams and plan P-19144.
2. The plan, P-19144, is for modifications to the Highway 4 roadway embankment in the SW1/4 of Section 17, Township 4 North, Range 19 West of the 6<sup>th</sup> P.M. in Harlan County. At this location, the highway embankment also serves as a dam across Foster Creek. The dam, known as Ivey Dam, is subject to the *Safety of Dams and Reservoirs Act*.
3. James J. Knott, P.E., Michael H. Stoltenberg, P.E., and Brendon J. Schmidt, P.E. of the Nebraska Department of Roads prepared the plan.
4. The Nebraska Department of Roads owns the dam.
5. The plan was examined by a Registered Professional Engineer of the Department of Natural Resources and was found to be consistent with current standards.
6. The modifications to the dam shown in the plan will result in the permanent draining of the reservoir. After the modifications are complete, the highway embankment will no longer serve additional purposes commonly associated with dams, and as such, the highway embankment will no longer be considered a dam as defined by Neb. Rev. Stat. § 46-1611.
7. Following consultation with the Nebraska Game and Parks Commission, the Department of Natural Resources finds the project will have "No Effect" on any state listed threatened or endangered species or their critical habitat.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams and plan P-19144 are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of constructing the modifications until November 1, 2016.
2. The owner of a dam shall provide written notice to the Department of Natural Resources at least ten days before construction of the modifications are to begin. Notices must be in writing and addressed to the Chief Engineer of the Department of Natural Resources' Dam Safety Section. Notices may be delivered by mail, facsimile, or electronic mail.

3. Upon completion of the modifications, the owner shall file with the Department of Natural Resources the enclosed "Construction Certification Form for Dams".

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to any orders issued by the Director of the Department of Natural Resources may result in administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES

January 14, 2015

  
James C. Schneider Ph.D., Acting 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 of Natural Resources' *Rules of Practice and Procedure* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department of Natural Resources 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 of Natural Resources' website. Copies of this approval, plan P-19144, and a "Construction Certification Form for Dams" were mailed on January 14, 2015, to John Thomas, Nebraska Department of Roads, INTERAGENCY, P.O. Box 94759, 1500 Highway 2, Lincoln, Nebraska 68509-4759. Copies of this approval, engineering review report, and plan P-19144 were provided to the Department of Natural Resources' field office in Cambridge, Nebraska.