STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19046, PETITION FOR

A WAIVER OF OUTLET WORKS DWV-4615

AND PLAN OF RESERVOIR NUMBER 18488

WATER DIVISION 1-D

BACKGROUND

1. On March 22, 2013, Ron and Cindy Wollenburg filed in the Department of Natural Resources (Department) the following pertaining to Wollenburg Pond:

   A. Application A-19046 for a permit to impound 55.3 acre-feet of water from a tributary to Turkey Creek, across which the existing Wollenburg Pond is located.

   B. Plan of reservoir number 18488 and specifications according to *Title 457 Neb. Admin. Code* Chapter 11.

   C. Petition DWV-4615, for a waiver of requirement of outlet works.

   D. Application A-19049 for a permit to impound 221.2 acre-feet of supplemental storage water from a pump-site on the Big Blue River to be stored in Wollenburg Pond.

2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19046, plan of reservoir number 18488 and DWV-4615 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Turkey Creek.

2. The priority date is March 22, 2013.

3. The amount of water that may be diverted shall not exceed 55.3 acre-feet per year to be stored in Wollenburg Pond under appropriation A-19046. The amount of water that can be stored in Wollenburg Pond includes both appropriations A-19046 and A-19049 for a total of 276.5 acre-feet per year. This is based upon a reservoir that stores 55.3 acre-feet at normal pool, and is filled 5 times per year. Wollenburg Dam is located in the NW¼SW¼ of Section 35, Township 6 North, Range 4 East of the 6th P.M. in Saline 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-19046 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. A waiver of the requirement for outlet works, DWV-4615, 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.

8. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.

9. 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, plan of reservoir number 18488 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.

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

April 22, 2014

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. Copies of this approval and plan of reservoir number 18488 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Timothy Duever, P.E.
CES Group P.A.
1102 Broadway
Marysville, Kansas 66508

Copies of this approval and plan of reservoir number 18488 were mailed on April 22, 2014, to the following:

Ron and Cindy Wollenburg
10228 South West 128th Road
DeWitt, Nebraska 68341