STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN NUMBER 19598

BACKGROUND

1. On August 2, 2016, John Temme on behalf of Temme Agri-Business, Inc,. filed in the Department of Natural Resources (Department) an Application for Approval of Plans for Dams, plan P-19598, and associated specifications.

2. The plan, P-19598, is for Temme Lagoon 2 Dam, a proposed livestock waste control dam subject to the *Safety of Dams and Reservoirs Act*. The dam will be located in the NE 1/4 of Section 35, Township 27 North, Range 03 East of the 6th P.M. in Wayne County.

3. Nathan A. Pesta, P.E., of DeHaan, Grabs, & Associates, LLC, 1701 10th Avenue SW, Mandan, North Dakota 58554, prepared the drawings and specifications.

4. Temme Agri-Business, Inc., 57468 859th Road, Wayne, Nebraska 68787, will own the waste lagoon and dam.

5. The plans and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.

6. Following consultation with the Nebraska Game and Parks Commission, the Department finds the project will have "No Effect" on any state listed threatened or endangered species or their critical habitat.

7. All of the contributing drainage area into the lagoon will be from the livestock facility and incidental drainage associated with the waste control facility.

ORDER

IT IS HEREBY ORDERED the Application for Approval of Plans for Dams, plan P-19598 and associated specifications are APPROVED subject to the following limitations and conditions:

1. This approval will remain in effect for purposes of construction until November 1, 2018.

2. The owner of a dam shall provide written notice to the Department at least ten days before construction of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile, or electronic mail.

3. The dam owner 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 written approval prior to taking any action that changes the storage capacity of the reservoir, the specifications, or plan P-19598.

   C. Construct, operate and maintain the structure in accordance with *Neb. Rev. Stat.* § 46-241 and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670.

   D. Assume liability for all damages due to leakage, overflow or structural failure of the dam.

4. Upon completion of the construction, the owner shall file with the Department the enclosed "Construction Certification Form for Dams." Following receipt of this form, an approval to operate will be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval.

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

September 23, 2016

Gordon W. Fassett, 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* 454 *Neb. 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, plan P-19599, and a "Construction Certification Form for Dams" were mailed on September 23, 2016, to Temme Agri-Business, Inc., c/o John Temme, 57468 859th Road, Wayne, Nebraska 68787. Copies of this approval and a "Construction Certification Form for Dams" were mailed to Nathan A. Pesta, P.E., DeHaan, Grabs, & Associates, LLC, 1701 10th Avenue SW, Mandan, North Dakota 58554. Copies of this approval, engineering review report, and plan P-19599 were provided to the Department's field office in Norfolk, Nebraska. A copy of this approval was mailed to the Lower Elkhorn Natural Resources District, 601 East Benjamin Avenue, Norfolk, Nebraska 68701, and River Hwang, P.E., Nebraska Department of Environmental Quality, INTERAGENCY, 1200 N Street, Suite 400, P.O. Box 98922, Lincoln, Nebraska 68509-8922.