

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19432 AND PLAN NUMBER 19520

WATER DIVISION 1-F

BACKGROUND

1. On April 14, 2016, Timothy A. and Carol A. Schardt, and Wesley A. and Jessica A. Schardt, filed in the Department of Natural Resources (Department) application A-19432 for a permit to impound water, application for approval of plans for dams, specifications and plan number 19520.
2. The plan is for a proposed dam subject to the *Safety of Dams and Reservoirs Act*.
3. Norm Koester, P.E., Norm Koester Engineering, 8891 Verdon Circle, Beaver Lake, Nebraska 68048, prepared the drawings and specifications.
4. Timothy A. and Carol A. Schardt, and Wesley A. and Jessica A. Schardt own the land where the reservoir and dam are to be located.
5. The drawings and specifications were examined by a Registered Professional Engineer of the Department and were found to be consistent with current standards.

ORDER

IT IS HEREBY ORDERED Application A-19432, and plan number 19520 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to the North Fork of the Big Nemaha River.
2. The priority date is April 14, 2016.
3. The water to be stored under this appropriation is for the purpose of providing water for an irrigation project authorized under appropriation A-19433.
4. The amount of water that may be diverted shall not exceed 45.8 acre-feet per year to be stored in Schardt Irrigation Reservoir. The dam that impounds water in Schardt Reservoir will be located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 01, Township 04 North, Range 11 East of the 6th P.M. in Johnson County.

5. *Nebraska Revised Statutes* § 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 downstream 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"
6. The owner or possessor of the reservoir storing water pursuant to A-19432 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.
7. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
8. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are 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, the specifications, plan number 19520, or the type of appropriation.
 - 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 structure.
 - E. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
9. The appropriator must comply with the following deadlines:
 - A. The owner of the dam shall provide written notice to the Department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer or the Construction Inspector of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile or electronic mail.
 - B. Construction of the structure must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.

- C. November 1, 2017 is the date construction of the structure must be completed.
- D. Upon completion of the structure, the appropriator shall file with the Department the enclosed "Construction Certification Form for Dams." Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval. Noimpoundment in the structure shall occur prior to issuance of the approval to operate.

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 29, 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 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, engineering review report, plan number 19520 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a "Construction Certification Form for Dams" were mailed to the following:

Norm Koester, P.E.
Norm Koester Engineering
8891 Verdon Circle
Beaver Lake, Nebraska 68048

Copies of this approval, plan number 19520, and a "Construction Certification Form for Dams" were mailed on July 29, 2016, to the following:

Timothy A. and Carol A. Schardt 61877 716 Trail Steinauer, Nebraska 68441	Wesley A. and Jessica A. Schardt 5950 Bridle Lane Lincoln, Nebraska 68516
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