

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DISMISSING PETITION VAR-3493 FOR LEAVE TO FILE OR CONSIDER

AN APPLICATION FOR A NEW SURFACE WATER APPROPRIATION WITHIN

A MORATORIUM OR STAY AREA

WATER DIVISION 1-B

BACKGROUND

1. On July 14, 2004, the Department of Natural Resources (Department) issued an Order declaring a formal moratorium in the Republican River Basin on the issuance of all new surface water appropriations.
2. On January 30, 2013, Jon Eberspacher (Petitioner) filed petition VAR-3493 in the Department for Leave to File or Consider an Application for a New Surface Water Appropriation within a Moratorium Area (Petition). The draft application and documentation attached to the petition is for a permit to impound, in total, approximately 47 acre-feet of water from a tributary to the Republican River in the existing Korell Reservoir located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 23, Township 3 North, Range 31 West of the 6<sup>th</sup> P.M. in Hitchcock County.
3. A review of Department records indicates that Korell Dam was approved in 1976 with a normal storage capacity of 15 acre-feet.
4. On August 29, 2013, using data from 2011 LiDAR the Department determined the reservoir is now capable of storing approximately 13.9 acre-feet of water.
5. Pursuant to *Nebraska Revised Statutes* § 46-241(2) a reservoir with a water storage impounding capacity of less than fifteen acre-feet measured below the crest of the lowest open outlet is not required to be permitted as long as there is no diversion of water from the reservoir for any purpose other than for watering livestock.
6. On July 8, 2014, Jon Eberspacher filed correspondence in the Department requesting dismissal of petition VAR-3493.

ORDER

IT IS HEREBY ORDERED petition VAR-3493 is DISMISSED.

DEPARTMENT OF NATURAL RESOURCES

September 4, 2014

  
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Cambridge, Nebraska. A copy of this Order was mailed on September 4, 2014, to the following:

Jon Eberspacher  
740 364<sup>th</sup>  
Beaver Crossing, Nebraska 68313