STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME BY PETITION EOT-5377

TO COMPLETE CONSTRUCTION UNDER APPROPRIATION A-18587

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18587 is held by the Lower Platte South Natural Resources District (LPSNRD).

2. The LPSNRD at P.O. Box 83581, Lincoln, Nebraska, 68501, is responsible for operation of the structure and holds easements with landowners of the property on which the dam and flood pool are located.

3. On January 3, 2012, application A-18587 was approved by the Department. Appropriation A-18587 has a priority date of April 9, 2008, and authorizes the impoundment of 67.87 acre-feet of water per year from a tributary to the North Branch of Middle Creek to be stored in Piening Reservoir, which is subject to the *Safety of Dams and Reservoirs Act*, and is to be located in the SW¼ of Section 30, Township 11 North, Range 5 East of the 6th P.M. in Lancaster County.

4. The approval was conditional upon (1) construction of the project beginning within one year of the signing date of the application approval, January 3, 2013, and (2) completion of the construction by October 1, 2013.

5. On November 13, 2012, Ed Ubben, Projects Coordinator, on behalf of LPSNRD, filed in the Department petitions EOT-2444 and EOT-2445 requesting an extension of the date by which construction should begin for Piening Reservoir to July 1, 2014, and the date which construction should be complete to April 1, 2015.

6. On October 22, 2013, the Department granted petition EOT-2444 and EOT-2445 extending the date for commencement of the construction to July 1, 2014, and the construction completion date to April 1, 2015.

7. On September 14, 2014, Ed Ubben, Projects Coordinator, on behalf of LPSNRD, filed petition EOT-5152 in the Department requesting a second extension of the date by which construction should be completed for Piening Reservoir, under appropriation A-18587. The petition requests the date of construction completion be extended to April 1, 2016, due to the fact that a US Army Corps of Engineers permit application for an Individual Section 404 permit has stopped construction activities within the flood pool area.

8. On November 21, 2014, the Department granted petition EOT-5152 extending the date for the construction completion date to April 1, 2016.

9. On April 9, 2015, Ed Ubben, Projects Coordinator, on behalf of LPSNRD, filed petition EOT-5377 in the Department requesting a third extension of the date by which construction should be completed for Piening Reservoir, under appropriation A-18587. The petition requests the date of construction completion be extended to April 1, 2017, due to the fact that a U.S. Army Corps of Engineers permit application for an Individual Section 404 permit has stopped construction activities within the flood pool area.

ORDER

It is therefore ORDERED:

1. Petition EOT-5377 is hereby APPROVED.

2. The date by which construction shall be completed for Piening Reservoir, under appropriation A-18587 is extended to April 1, 2017.

3. All other conditions of appropriation A-18587 remain in effect.

4. 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. No impoundment in the structure shall occur prior to issuance of the approval to operate.

DEPARTMENT OF NATURAL RESOURCES

June 25, 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 order 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 (4th Floor, Nebraska State Office Building, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of $10.

A copy of the Order was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and a "Construction Certification Form for Dams" were mailed on June 25, 2015, to the following:

Mathew J. Sutton, P.E.
The Schemmer Associates
1044 North 115th Street, Suite 300
Omaha, Nebraska 68154-4436

Ed Ubben, Projects Coordinator
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