

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART AND APPROVAL OF PLAN NUMBER P-8520

FOR WATER APPROPRIATION A-16418

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-16418 is held by Lower Platte South Natural Resources District (LPSNRD). 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.
2. Appropriation A-16418 has a priority date of July 9, 1985, and authorizes the impoundment of 41.60 acre-feet of water per year from a tributary to the East Branch of Salt Creek to be stored in the Upper Salt Reservoir 19-B, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 9 North, Range 7 East of the 6th P.M. in Lancaster County.
3. On September 21, 2010, Paul Zillig, Assistant General Manager, on behalf of LPSNRD filed in the Department plan P-8520 for reconstruction of the of the dam subject to the *Safety of Dams and Reservoirs Act*, application for approval of plans for dams and specifications.
4. On December 1, 2010, Paul Zillig, Assistant General Manager, on behalf of LPSNRD filed in the Department a partial relinquishment of water appropriation, REL-2009, relinquishing the right to store 7.6 acre-feet of water under appropriation A-16418 because the plans filed for renovation of the dam show a lesser volume of water storage.
5. Timothy G. Hakenstad, P.E., of the USDA NRCS, 100 Centennial Mall North, Lincoln, Nebraska 68508, prepared the drawings and specifications.
6. 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:

1. Part of appropriation A-16418 in the amount of 7.6 acre-feet is CANCELLED.
2. The Application for Approval of Plans for Dams and plan P-8520 are APPROVED.
3. The amount of water that may be diverted shall not exceed 34.0 acre-feet per year to be stored in the Upper Salt Reservoir 19-B. Upper Salt Dam 19-B is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 9 North, Range 7 East of the 6th P.M. in Lancaster County.
4. 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, the specifications, plan P-8520, or the type of appropriation.
 - C. Construct, operate and maintain the structure in accordance with § 46-241 RSS and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670 RSS.
 - 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.
5. The appropriator must comply with the following deadlines:
 - A. The appropriator 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. Construction of the structure must be completed by October 1, 2012.

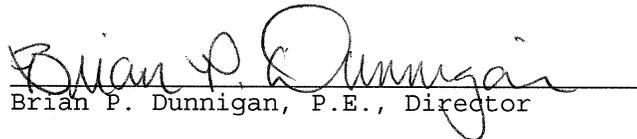
- D. Upon completion of the structure, the appropriator shall file with the Department the enclosed Construction Certification Form for Dams. Following receipt of this form, an approval to operate shall be issued by the Department if it determines that the dam is safe to impound within the limitations outlined in this approval. No impoundment 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

December 15, 2010


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* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (P.O. Box 94676, 301 Centennial Mall South, 4th Floor State Office Building, 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 and plan P-8520 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:

Tim Haakenstad
State Conservation Engineer
Natural Resources Conservation Service
345 Federal Building
100 Centennial Mall North
Lincoln Nebraska 68508-3866:

Copies of this approval and plan P-8520 were mailed on December 15, 2010, to the following:

Paul Zillig, Assistant General Manager
Lower Platte South Natural Resources District
P.O. Box 83581
Lincoln, Nebraska 68501