

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME BY PETITION EOT-2375 TO BEGIN CONSTRUCTION
AND PETITION EOT-2374 TO COMPLETE CONSTRUCTION UNDER 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).
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. Appropriation A-16418 has a priority date of July 9, 1985, and authorizes the impoundment of 34.0 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, which is subject to the *Safety of Dams and Reservoirs Act*, 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. On September 21, 2010, Paul D. Zillig, Assistant General Manager, on behalf of LPSNRD, filed in the Department plan P-8520 for renovation of Upper Salt Reservoir 19-B under appropriation A-16418, application for approval of plans for dams and specifications.
5. On December 1, 2010, Paul Zillig, Assistant General Manager, on behalf of LPSNRD, filed in the Department relinquishment 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.
6. On December 15, 2010, the Department issued an order of cancellation in part and approval of plan number P-8520 for renovation of Upper Salt Reservoir 19-B. The approval was conditional upon (1) construction of the renovation project beginning by December 15, 2011, and (2) renovation construction being completed by October 1, 2012.
7. On November 29, 2011, Paul D. Zillig, Assistant General Manager, on behalf of LPSNRD, filed petition EOT-2227 in the Department requesting an extension of the date by which construction should begin for renovation of Upper Salt Creek Reservoir 19-B, under appropriation A-16418. Renovation had not begun due to pending ongoing easement negotiations. The petition requested the date of construction commencement be extended to August 1, 2012.

8. On January 13, 2012, the Department approved petition EOT-2227. The date to begin construction for renovation of Upper Salt Creek Reservoir 19-B was extended to August 1, 2012.
9. The construction completion date remained October 31, 2012.
10. On July 20, 2012, Paul D. Zillig, Assistant General Manager, on behalf of LPSNRD, filed petition EOT-2375 in the Department requesting a second extension of the date by which construction should begin for the renovation of Upper Salt Creek Reservoir 19-B under appropriation A-16418. Renovation had not begun due to compliance issues regarding the Migratory Bird Act. The petition requests the date of construction commencement be extended to December 1, 2012.
11. On July 20, 2012, Paul D. Zillig, Assistant General Manager, on behalf of LPSNRD, filed petition EOT-2374 in the Department requesting an extension of the date by which construction should be completed for the renovation of the Upper Salt Creek Reservoir 19-B under appropriation A-16418. The petition requests the date of construction completion be extended to October 1, 2013.

ORDER

It is therefore ORDERED:

1. Petitions EOT-2375 and EOT-2374 are hereby APPROVED.
2. The date by which construction shall begin for renovation of Upper Salt Creek Reservoir 19-B, under appropriation A-16418 is extended to December 31, 2012.
3. The date by which construction shall be completed for renovation of the Upper Salt Creek Reservoir 19-B, under appropriation A-16418 is extended to October 1, 2013.
4. All other conditions of appropriation A-16418 remain in effect.
5. 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

April 23, 2013


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 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 April 23, 2013, to the following:

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

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