STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18803

WATER DIVISION 2-D

BACKGROUND

1. On November 3, 2004, the Department of Natural Resources (Department) issued a formal moratorium on all new surface water appropriations in portions of the Upper Niobrara White Natural Resources District (UNWNRD). The moratorium included the White River Basin.

2. The Department's November 3, 2004, Order and the provisions of *Neb. Rev. Stat.* § 46-714(3)(n) allow for new surface water appropriations and increases in irrigated acres if the Department grants a variance and subsequently approves a permit for such new use.

3. On August 8, 2011, an integrated management plan (IMP) was adopted by Order of the Department, pursuant to *Neb. Rev. Stat.* § 46-718(2) for the UNWNRD.

4. On August 8, 2011, Larry Hankin, on behalf of the Dawes County Roads Department, filed in the Department petition VAR-2148 for leave to file an application for a permit to appropriate water. The petition requested leave to file an application for a temporary permit to appropriate less than 10 acre-feet of water for the purpose of road construction.

5. On August 18, 2011, the Department granted petition VAR-2148 for leave to file an application for a permit to appropriate.

6. On August 29, 2011, Larry Hankin, on behalf of the Dawes County Roads Department, filed in the Department application A-18803 for a temporary permit to appropriate water.

7. Temporary permits may not be granted for a term of more than one year.

ORDER

IT IS HEREBY ORDERED that application A-18803 is APPROVED subject to the following limitations and conditions:

1. The source of water is Dead Horse Creek.

2. The water shall be used for the purpose of road construction.

3. The priority date is August 29, 2011.

4. The point of diversion is located in the NE¼NE¼ of Section 5, Township 31 North, Range 49 West of the 6th P.M. in Dawes County.

5. The rate that water may be diverted under appropriation A-18803 shall not exceed 0.78 cubic foot per second (350 gallons per minute). The total amount of water diverted shall not exceed 3 acre-feet.

6. This appropriation EXPIRES one year from the date of this Order and appropriation A-18803 will by CANCELLED without further action by the Department as of that date.

7. The appropriator must comply with all relevant statutes. The statutes include, but are not limited to, the following:

   A. Notify the Department of any change in ownership or address.

   B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).

   C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

September 14, 2011

Brian P. Dunnigan

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 (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 order and be accompanied by a filing fee of $10.

A copy of this approval was posted on the Department's website and provided to the Department's field office in Bridgeport, Nebraska. A copy of this approval was mailed on September 14, 2011, to the following:

Dawes County Road Department
Larry Hankin
250 Main Street, Suite #7
Chadron, Nebraska 69337