

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19060 AND MAP NUMBER 18485

WATER DIVISION 1-C

BACKGROUND

1. On April 2, 2013, Steve Donovan of Nebraska Ducks Unlimited, Inc., on behalf of Nebraska Game and Parks Commission, filed in the Department of Natural Resources (Department) application A-19060 for a permit to impound water, map of reservoir number 18485 and specifications according to *Title 457 Neb. Admin. Code Chapter 11*.
2. On April 19, 2013, Randy Stutheit, Wetland Biologist, on behalf of Nebraska Game and Parks Commission, landowner, corrected filed in the Department application A-19060.

ORDER

IT IS HEREBY ORDERED Application A-19060, map of reservoir number 18485 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Sandy Creek.
2. The priority date is April 2, 2013.
3. The water shall be used for the purpose of wildlife habitat.
4. The amount of water that may be diverted shall not exceed 19 acre-feet per year to be stored in Father Hupp Wildlife Management Area located in the SE $\frac{1}{4}$ of Section 2, Township 4 North, Range 3 West of the 6th P.M. in Thayer County.
5. Storage appropriation A-19060 provides supplemental water to storage appropriation A-17210. Together, appropriation A-17210 and A-19060 authorize the appropriator to store a total of 84 acre-feet per year in Father Hupp Wildlife Management Area.
6. *Neb. Rev. Stat. § 46-241(5)* states in part, "The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass ... a portion of the measured inflows to furnish water for livestock"

7. The owner or possessor of the reservoir storing water pursuant to A-19060 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
8. A continuous recording device approved by the Department to monitor reservoir levels may be required if so ordered by the Department.
9. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.
10. 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, map of reservoir number 18485 or the type of appropriation.
 - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - D. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
11. The appropriator must comply with the following deadlines:
 - A. Restoration 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.
 - B. November 1, 2014 is the date construction of the structure must be completed.

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

June 20, 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 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 Title 454 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 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 and map of reservoir 18485 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Mitch Messmer, P.E.
Nebraska Ducks Unlimited
2550 North Diers Avenue, Suite L
Grand Island, Nebraska 68803

Copies of this approval and map of reservoir 18485 were mailed on June 20, 2013, to the following:

Randy Stutheit
Nebraska Game and Parks Commission
220 North 33rd Street
INTERAGENCY
Lincoln, Nebraska 68503

Steve Donovan
Nebraska Ducks Unlimited
2550 North Diers Avenue, Suite L
Grand Island, Nebraska 68803