STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18948

WATER DIVISION 1-A

BACKGROUND

1. On July 14, 2004, the Department of Natural Resources (Department) issued a formal moratorium on all new surface water appropriations in the Platte River Basin upstream of the confluence with the Loup River near Columbus, Nebraska. The moratorium included all tributary streams above the Loup River confluence including the North and South Platte Rivers and tributaries.

2. On July 24, 2012, Don Kraus P.E., General Manager of the Central Nebraska Public Power and Irrigation District, filed Petition VAR-2377 for Leave to File an Application for a Permit to Appropriate Water. The proposed application is for a temporary permit to appropriate less than 10 acre-feet of water for the purpose of public road construction from Kingsley Reservoir via the Tri-County Canal headgate located in Section 8, Township 13 North, Range 29 West of the 6th P.M. in Lincoln County.

3. *Nebraska Revised Statutes* § 46-714(3)(n) allows for new surface water appropriations if the Department grants a variance and subsequently approves a permit for such new use.

4. The proposed project addresses a public safety issue and the Petitioner has shown good cause, thereby meeting the requirements of *Department Rules for Surface Water* 457 *Neb. Admin. Code* Chapter 23.001.05.

5. On July 31, 2012, the Department granted leave to file an application for a permit to appropriate water by approving petition VAR-2377.

6. On August 2, 2012, Don Kraus P.E., General Manager of the Central Nebraska Public Power and Irrigation District, filed in the Department application A-18948 for a temporary Permit to Appropriate Water.

7. Construction of the diversion works is completed

ORDER

IT IS HEREBY ORDERED that application A-18948 is APPROVED subject to the following limitations and conditions:

1. The source of water is Kingsley Reservoir, constructed under storage appropriation A-2374, via the Tri-County Canal headgate located in Section 8, Township 13 North, Range 29 West of the 6th P.M. in Lincoln County.

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

3. The priority date is August 2, 2012.

4. This maximum amount of water that may be diverted under A-18948 is 2.5 acre-feet.

5. This appropriation EXPIRES one year from the date of this Order and appropriation A-18948 will be CANCELLED without further action by the Department as of that date.

6. A measuring device approved by the Department is required.

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.

DEPARTMENT OF NATURAL RESOURCES

August 8, 2012

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

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Bridgeport, Nebraska. A copy of this Order was mailed on August 8, 2012, to the following:

Cory Steinke, P.E.
Central Nebraska Public Power and Irrigation District
P.O. Box 740
Holdrege, NE 68949-0740

Brandt Excavating
Attn: Sean
404 Hill Street
Lincoln, NE 68502