STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18690

WATER DIVISION 1-D

Background

On March 2, 2010, Randall K. Miller, on behalf of Randall Kent Miller Revocable Living Trust, filed in the Department of Natural Resources (Department) application A-18690 for a permit to impound water, application for approval of plans for dams, specifications and plan P-17627.

Order

IT IS HEREBY ORDERED Application A-18690, the application for approval of plans for dams and plan P-17627 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Laflins Branch.

2. The priority date is March 2, 2010.

3. The amount of water that may be diverted shall not exceed 51.99 acre-feet per year to be stored in the Randy Miller Reservoir. Randy Miller Dam will be located in the NE¼SE¼ of Section 35, Township 5 North, Range 8 East of the 6th P.M. in Gage 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-17627, or the type of appropriation.

   C. Construct, operate and maintain the structure in accordance with Section 46-241 RSS and the Safety of Dams and Reservoirs Act, Sections 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. 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.

B. Written notice shall be provided to the Department at least 10 days before the start of construction.

C. Construction of the structure must be completed by October 1, 2011.

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.

E. The applicant has a preferred right to file an application for a permit to appropriate the water stored for some useful purpose until April 1, 2012.

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

April 29, 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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the

Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 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-17627 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was 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 a Construction Certification Form for Dams were mailed to the following:

Robert E. Sullivan
Natural Resources Conservation Service
448 North 12th
Tecumseh, Nebraska 68450

Copies of this approval and plan P-17627 were mailed on April 29, 2010, to the following:

Randall Kent Miller Revocable Trust
c/o Randall K. Miller
15431 Firth Road
Adams, Nebraska 68301