

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PLAN P-16644 FOR APPROPRIATION A-18339

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18339 is held by Daryll B. and Tamara L. Lightner.
2. Appropriation A-18339 has a priority date of September 8, 2005, and authorizes the impoundment of 53.7 acre-feet of water per year, from Soldier Creek, stored in the existing Lightner Reservoir Number 2 located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 31 North, Range 8 West of the 6th P.M. in Knox County, as shown on engineering drawings P-16644. Lightner Reservoir Number 2 Dam is subject to the *Safety of Dams and Reservoirs Act*.
3. On August 20, 2010, Daryll B. and Tamara L. Lightner filed in the Department an application for approval of plans for dams, and Plan P-16644 (Map ID number 12749) for the reconstruction of a partially breached Lightner Reservoir Number 2 Dam.
4. Plan P-16644 (Map ID number 12749) was examined by a Registered Professional Engineer of the Department and was found consistent with the current standards. This plan shows storage capacity at normal pool, elevation 1482, of 53.7 acre-feet.

ORDER

IT IS HEREBY ORDERED that Plan P-16644 (Map ID number 12749) is APPROVED subject to the following limitations and conditions:

1. A storage volume in the amount of 53.7 acre-feet per year shall REMAIN IN FULL FORCE AND EFFECT for A-18339. NO additional storage due to structural modification is allowed.
2. All terms and conditions of appropriation A-18339 remain in effect, unless specifically changed by this Order.
3. 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. Receive approval prior to taking any action that changes the storage capacity of this reservoir, the specifications, Plan P-16644 (Map ID number 12749) or the type of appropriation.

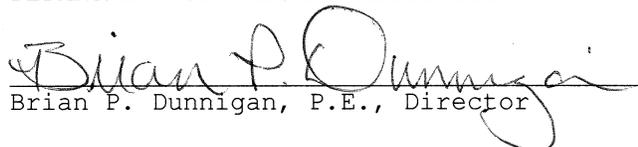
- C. Construct, operate and maintain the structure in accordance with § 46-241 RSS and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670 RSS.
 - D. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
 - E. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.
4. 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. The owner of a dam shall provide written notice to the Department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is to begin. Notices must be in writing and addressed to the Chief Engineer or the Construction Inspector of the Department's Dam Safety Section. Notices may be delivered to the Department by mail, facsimile or electronic mail.
 - C. Construction of the project must be completed by two years past the signing date of this application approval.
 - D. Upon completion of the structure, the owner shall file with the Department the enclosed Construction Certification Form for Dams.

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 24, 2011


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 this approval was posted on the Department's website. Copies of this approval, engineering review report and Plan P-16644 (Map ID number 12749) were provided to the Department's field office in Ord, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed to the following:

Steve Westerbuhr, P.E.
Settje Agri-Services & Engineering, Inc.
4700 West Rock Creek Road
Raymond, Nebraska 68428

Copies of this approval and Plan P-16644 (Map ID number 12749) were mailed on August 24, 2011, to the following:

Daryll B. and Tamara L. Lightner
5331 South 58th Street, Suite C
Lincoln, Nebraska 68516