

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18779

AND PLAN P-17859 FOR APPROPRIATIONS A-18341 AND A-18779

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18341 is held by Daryll B. and Tamara L. Lightner.
2. Appropriation A-18341 has a priority date of September 8, 2005, and authorizes the impoundment of 14.4 acre-feet of water per year, from Soldier Creek, stored in the existing Lightner Reservoir Number 3 located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 31 North, Range 8 West of the 6th P.M. in Knox County, as shown on plan P-16646. Lightner Reservoir Number 3 is subject to the *Safety of Dams and Reservoirs Act*. Plan number P-16646 indicates storage at the principal spillway (normal pool) for the existing reservoir, elevation 1488.4, of 14.4 acre-feet.
3. On August 20, 2010, Daryll B. and Tamara L. Lightner filed application for approval of plans for dams, specifications and plan P-17859 for rehabilitation of a partially breached Lightner Reservoir Number 3. The application for approval of plans for dams form indicated that construction work would be completed in December of 2010. Plan P-17859 indicates storage at normal pool, elevation 1491.0, of 24.6 acre-feet.
4. On May 3, 2011, Daryll B. and Tamara L. Lightner filed in the Department application A-18779 for a permit to impound an additional 10.2 acre-feet of water in Lighter Reservoir Number 3.

ORDER

IT IS HEREBY ORDERED Application A-18779, the Application for Approval of Plans for Dams and plan P-17859 are APPROVED subject to the following limitations and conditions:

1. The source of water is Soldier Creek.
2. The priority date is May 3, 2011.
3. Plan P-17859 is approved for and depicts Lightner Reservoir Number 3, permitted under appropriations A-18341 and A-18779.
4. The amount of water that may be diverted under appropriation A-18779 shall not exceed 10.2 acre-feet per year to be stored in Lightener Reservoir Number 3. Lightner Dam Number 3 is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 31 North, Range 8 West of the 6th P.M. in Knox County.

5. Appropriation A-18779 provides supplemental storage water to appropriation A-18341. The amount of storage allowed in Lightner Reservoir Number 3 includes both appropriations for a total of 24.6 acre-feet per year.

6. 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-17859, or the type of appropriation.
 - C. Construct, operate and maintain the structure in accordance with *Neb. Rev. Stat. § 46-241* and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670.
 - 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.

7. 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. October 1, 2013 is the date by which the construction must be completed.
 - 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.

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

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 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 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 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-17859 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, NE 68428

Copies of this approval and plan P-17859 were mailed on August 24, 2011, to the following:

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