

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME BY PETITION EOT-2002

TO APPLY WATER TO BENEFICIAL USE FOR SURFACE WATER APPROPRIATION A-17790

WATER DIVISION 2-B

BACKGROUND

1. On April 24, 2000, the Department of Natural Resources (Department) approved the City of Lincoln's (City) application A-17790, authorizing the diversion of 123 acre-feet of water per year from Antelope Creek Reservoir (storage appropriation A-9972) at points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 9 North, Range 7 East of the 6th P.M. in Lancaster County to irrigate 80 acres of a city-owned golf course. Department records show that water appropriation A-17790 is held by City of Lincoln, the only appropriation authorized to divert water stored in this reservoir. The storage appropriation A-9972 is held by the Department of the Army, Corps of Engineers, Omaha District (Corps). The approval of application A-17790 was conditioned upon (1) construction of the project must begin by October 24, 2000, (2) construction of the project must be completed by April 24, 2001, and (3) beneficial use of the water granted under this permit must occur by September 1, 2002.
2. On October 23, 2000, the City filed a petition requesting an extension of time in which to begin construction and to complete construction. According to the petition, funding for this project was unavailable until the start of fiscal year 2001-2002, which began September 1, 2001. Due to this and the engineering work required, the City maintained that construction could not even begin before July 2002, and the earliest construction could be completed was December 2003.
3. The Department granted an extension of time to begin construction by July 31, 2002; to complete construction by December 31, 2003; and to beneficially use water appropriated under A-17790 by December 31, 2003.
4. A second petition was filed on November 20, 2003, by the City requesting an extension of time in which to: complete construction; and to beneficially use water appropriated under A-17790. According to the petition, revenue shortfalls within the City's golf program did not provide sufficient funding for this project to accumulate the necessary funds to install a pump station and to make connections to their existing irrigation system. Due to this, the City requested an extension of the construction completion date to December 31, 2006; and to beneficially use water appropriated under A-17790 by December 31, 2007.

5. The Department granted an extension of time to complete construction by December 31, 2006; and to beneficially use water appropriated under A-17790 by December 31, 2007.
6. A third petition filed on August 29, 2007, by the City requested an extension of time in which to beneficially use water appropriated under A-17790. According to the petition, due to negotiations with the Corps and the need to do an environmental assessment associated with this water use, the City requested an extension of the date to which the water appropriated under A-17790 is put to beneficial use to December 31, 2010.
7. The Department granted an extension of time to beneficially use water appropriated under A-17790 to December 31, 2010.
8. A fourth petition filed on November 3, 2010, by the City requests an extension of time in which to beneficially use water appropriated under A-17790. According to the petition, negotiations with the Corps, the need to do an environmental assessment associated with this water use, and to make the most appropriate decisions for their future water needs, the City requested an extension of the date to which the water appropriated under A-17790 will be put to beneficial use to December 31, 2015.
9. A review of Department documents shows that the City has not filed detailed plans of the diversion, pumping nor transmission infrastructure.

ORDER

IT IS HEREBY ORDERED:

1. Petition EOT-2002 is hereby GRANTED with the following conditions:
 - A. The time in which to beneficially use water appropriated under application A-17790 is extended for eighteen months, to July 31, 2012.
 - B. Within 6 months from the date this Order is signed the City must file in the Department:
 - (1) Plans or drawings of the diversion structure as constructed, and any existing pumping and transmission infrastructure related to this surface water project.
 - (2) The completed engineering study and plans showing the connection to the existing irrigation system.
 - (3) Documentary evidence that the Environmental Assessment is progressing.
 - C. Within 14 months from the date this Order is signed the City must file in the Department:
 - (1) The completed Environmental Assessment.

- (2) Documentary evidence that the Corps has given final approval of this project.
2. All terms and conditions of appropriation A-17790 remain in effect unless specifically changed by this Order.
3. 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. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include managers, employees, or contractors 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 Order may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

DEPARTMENT OF NATURAL RESOURCES

February 25, 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 Order was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed on February 25, 2011, to the following:

Steve Hiller
City of Lincoln Parks and Recreation
2740 A Street
Lincoln, Nebraska 68502