STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18694

WATER DIVISION 2-B

BACKGROUND

On March 19, 2010, John Miyoshi, Manager, Lower Platte North Natural Resources District (LPNNRD), filed in the Department of Natural Resources (Department) application A-18694 for a permit to impound water, application for approval of plans for dams, specifications and plan P-17638.

ORDER

IT IS HEREBY ORDERED Application A-18694, Application for Approval of Plans for Dams and plan P-17638 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Duck Creek.

2. The priority date is March 19, 2010.

3. The amount of water that may be diverted shall not exceed 79.1 acre-feet per year to be stored in Duck Creek Reservoir Number 3. Duck Creek Dam Number 3 will be located in the S½NE¼ of Section 29, Township 16 North, Range 6 East of the 6th P.M. in Saunders 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-17638, or the type of appropriation.

   C. Construct, operate and maintain the structure in accordance with § 46-241 RRS and the *Safety of Dams and Reservoirs Act*, §§ 46-1601 to 46-1670 RRS.

   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, 2012.

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, 2013

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

September 10, 2010

Brian P. Dunnigan

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 (P.O. Box 94676, 301 Centennial Mall South, 4th Floor State Office Building, 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-17638 were provided to the Department's field office in Lincoln, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed to the following:

USACE, Civil Works Project Management Branch
Louis E. Uptmor, P.E.
1616 Capitol Avenue
Omaha, Nebraska 68102-4901

Copies of this approval and plan P-17638 were mailed on September 10, 2010, to the following:

John Miyoshi, Manager
Lower Platte North Natural Resources District
P.O. Box 126
Wahoo, Nebraska 68066