

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF APPLICATION A-18751

WATER DIVISION 2-F

BACKGROUND

On February 24, 2011, John Winkler, Manager of Papio-Missouri River Natural Resources District, filed in the Department of Natural Resources (Department) application A-18751 for a permit to impound water, application for approval of plans for dams, specifications and plan P-17800.

ORDER

IT IS HEREBY ORDERED Application A-18751, the Application for Approval of Plans for Dams and plan P-17800 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Silver Creek.
2. The priority date is February 24, 2011.
3. The amount of water that may be diverted shall not exceed 345.0 acre-feet per year to be stored in Silver Creek Site 11 Reservoir. Silver Creek Site 11 Dam will be located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21, Township 22 North, Range 10 East of the 6th P.M. in Burt 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-17800, 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.
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, 2013.
- 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, 2014.

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

May 5, 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-17800 were provided to the Department's field office in Norfolk, Nebraska. Copies of this approval and a Construction Certification Form for Dams were mailed to the following:

David Nielsen, P.E., Olsson Associates
2111 South 67th Street, Suite 200
Omaha, Nebraska 68106

Copies of this approval and plan P-17800 were mailed on May 5, 2011, to the following:

John Winkler, Manager
Papio-Missouri River Natural Resources District
8901 South 154th St
Omaha, Nebraska 68138