

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18920

WATER DIVISION 1-D

BACKGROUND

On June 4, 2012, Roc Beekman filed in the Department of Natural Resources (Department) application A-18920 for a permit to impound water, map of reservoir number 18218 and specifications according to *Title 457 Neb. Admin. Code Chapter 11*.

ORDER

IT IS HEREBY ORDERED Application A-18920 and map of reservoir number 18218 are APPROVED subject to the following limitations and conditions:

1. The source of water is the Big Blue River.
2. The priority date is June 4, 2012.
3. The amount of water that may be diverted shall not exceed 3.69 acre-feet per year to be stored in Mallard Magic Reservoir. Mallard Magic Dam will be located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 11, Township 4 North, Range 5 East of the 6<sup>th</sup> P.M. in Gage County. Water will be diverted from the Big Blue River at a pump site located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 11, Township 4 North, Range 5 East of the 6<sup>th</sup> P.M. in Gage County to fill the off-channel reservoir. Water will be returned to the Big Blue River via pump on or before April 1<sup>st</sup> of each year.
4. *Neb. Rev. Stat. § 46-241(5)* states in part, "The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass ... a portion of the measured inflows to furnish water for livestock ... ."
5. The owner or possessor of the reservoir storing water pursuant to A-18920 shall have structural controls in place or other mechanical means to immediately release a portion of the measured inflows in such amounts and at such times if so ordered by the Department.
6. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to cease pumping water to fill Mallard Magic Reservoir if Compact flows are not being met.

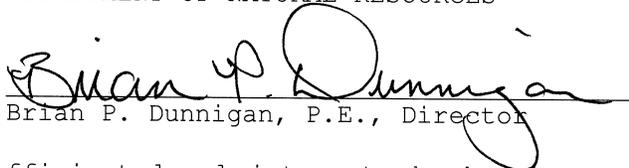
7. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- A. Notify the Department of any change in ownership or address.
  - B. Receive approval prior to taking any action that changes the storage capacity of this reservoir, map of reservoir number 18218, or the type of appropriation.
  - C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.
  - D. Curtail or reduce pumping into the reservoir for livestock where required, unless appropriator is a political subdivision.
8. 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. October 1, 2014 is the date construction of the structure must be completed.
  - C. 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, 2015.

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 7, 2012

  
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 Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 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 map of reservoir number 18218 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Michael Jess, P.E.  
2840 Kucera Drive  
Lincoln, Nebraska 68502

Copies of this approval and map of reservoir number 18218 were mailed on September 7, 2012, to the following:

Roc Beekman  
5926 Chatsworth Lane  
Lincoln, Nebraska 68516