

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME, BY PETITION EOT-1678,

TO COMPLETE CONSTRUCTION OF WATER APPLICATION A-18593

WATER DIVISION 2-B

Background

1. On June 9, 2008, the Department of Natural Resources (Department) approved Lower Elkhorn Natural Resources District's (LENRD) Application to Impound A-18593. The principal spillway of the dam will be located in the NW¼SW¼ of Section 18, Township 20 North, Range 2 East of the 6<sup>th</sup> P.M. in Colfax County.
2. The approval was conditioned upon construction under A-18593 being completed by June 9, 2009.
3. On June 1, 2009, Ken Berney, on behalf of LENRD, filed in the Department petition EOT-1678 for an extension of time requesting the completion date be extended until June 30, 2010, because the U.S. Army Corps of Engineers did not grant the Section 404 Permit until November 13, 2008. While construction was begun in December, full-scale construction had to wait until spring.
4. As provided by Nebraska revised statutes section 46-238(2), the Department may extend, for reasonable lengths of time, the time for completion of works for an appropriation for good cause shown. Petition EOT-1678 meets this requirement.

Order

IT IS HEREBY ORDERED:

1. Petition EOT-1678 for an extension of time is APPROVED.
2. Construction of the project under application A-18593 must be completed by June 30, 2010.
3. All terms and conditions of application A-18593 remain in effect unless specifically changed by this Order.

DEPARTMENT OF NATURAL RESOURCES

January 27, 2010

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/s/  
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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4<sup>th</sup> Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this approval was posted on the Department's website and provided to the Department's field office in Norfolk, Nebraska. A copy of this approval was mailed on January \_\_\_\_\_, 2010, to the following:

Lower Elkhorn Natural Resources District  
Ken Berney  
601 East Benjamin Avenue  
PO Box 1204  
Norfolk, Nebraska 68702-1204