

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME BY PETITION EOT-3494 TO BEGIN CONSTRUCTION

AND PETITION EOT-3495 TO COMPLETE CONSTRUCTION

FOR WATER APPROPRIATION A-18720

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18720 is held by Marvin Mueller.
2. A review of the Department's records indicates a scrivener's error was made on the Order of approval of application A-18720. The signing date was incorrectly entered as February 23, **2010**; the correct signing date is February 23, **2012**.
3. Appropriation A-18720 has a priority date of September 20, 2010, and authorizes the appropriator to store 26 acre-feet of water in the Marvin Mueller Reservoir. The Marvin Mueller Dam will be located in the NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section 27, Township 10 North, Range 8 East of the 6<sup>th</sup> P.M. in Lancaster County.
4. On February 23, 2012, appropriation A-18720 was approved. The approval of application A-18721 was conditional upon (1) construction of the project beginning within one year of the signing date of the application approval and (2) completion of the project being completed by October 1, 2013.
5. On January 30, 2013, Marvin Mueller filed petition EOT-3494 in the Department requesting to extend the date to June 1, 2013, in which to begin construction of the Marvin Mueller Reservoir. This petition was filed in a timely manner prior to the February 23, 2013, deadline which would have been twelve months after the signing date of the application approval. The reasonable cause stated in the petition requesting an extension of time for the beginning of construction of works for this project was that the applicant consulted with the Lancaster County Natural Resources Conservation Service and Lower Platte South Natural Resources District and it was determined that conditions were not adequate to begin construction in 2012.

6. On January 30, 2013, Marvin Mueller filed petition EOT-3495 in the Department requesting to extend the date to November 30, 2013, in which to complete construction of works related to appropriation A-18720. The reasonable cause stated in the petition requesting an extension of time for the completion of construction of works for this project was that the applicant consulted with the Natural Resources Conservation Service and Lower Platte South Natural Resources District and it was determined that conditions were not adequate to begin construction in 2012, which would delay the completion of construction.
7. *Nebraska Revised Statute* § 46-238(2) provides that the Department may extend, for reasonable lengths of time, the time for commencing excavation or construction and completion of works as fixed in the approval of an application for the appropriation of water. Such extension may be granted upon a petition to the Department and the showing of reasonable cause. Petitions EOT-2409 and EOT-2410 meet this requirement.

ORDER

IT IS HEREBY ORDERED:

1. Petition EOT-3494, requesting an extension of time in which to begin construction of works appurtenant to appropriation A-18720 is hereby APPROVED.
2. The date by which construction of works shall begin for application A-18720 is extended to June 1, 2013.
3. Petition EOT-3495, requesting an extension of time in which to complete construction of works appurtenant to appropriation A-18720 is hereby APPROVED.
4. The date by which construction of works shall be completed for application A-18721 is extended to November 30, 2013.
5. All other conditions of the approval of application A-18720 remain in effect.

DEPARTMENT OF NATURAL RESOURCES

April 12, 2013

  
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 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 order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed on April 12, 2013, to the following:

Marvin Mueller  
1077 North 162<sup>nd</sup> Street  
Lincoln, Nebraska 68527

Paul Zillig  
Lower Platte South Natural Resources District  
P.O. Box 83581  
Lincoln, Nebraska 68501-3581

Lancaster County Natural Resources Conservation Service  
Room 152, Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508-3866