STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19228,

PETITION FOR A WAIVER OF OUTLET WORKS DWV-5024

AND PLAN OF RESERVOIR 18901

WATER DIVISION 1-D

BACKGROUND

1. On April 8, 2014, Lawrence S. Ourecky, on behalf of the Lawrence S. Ourecky Revocable Living Trust, and Lisa Emeigh, on behalf of the Ruth L. Ourecky Revocable Living Trust, filed in the Department of Natural Resources (Department) application A-19228 for a permit to impound water, plan of reservoir 18901, specifications according to *Title 457 Neb. Admin. Code* Chapter 11, and DWV-5024 a petition for a waiver of the requirement of outlet works for application A-19228.

2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-19228, Petition DWV-5024 and plan of reservoir 18901 are APPROVED subject to the following limitations and conditions:

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

2. The priority date is April 8, 2014.

3. The water stored under this appropriation is for the purpose of providing water for irrigation.

4. The amount of water that may be stored in Ourecky Reservoir shall not exceed 90.3 acre-feet per year, which is based upon a reservoir that stores 30.1 acre-feet and is filled 3 times per year. Ourecky Dam is located in the NE¼SW¼ of Section 20, Township 7 North, Range 3 East of the 6th P.M. in Saline County.

5. *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 ... ."

6. The owner or possessor of the reservoir storing water pursuant to A-19228 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.

7. A waiver of the requirement of outlet works, by petition DWV-5024, has been granted. This waiver does not relieve the owner from the responsibility to pass a portion of the reservoir inflow by some method for downstream appropriators should there be a need for water administration; or if water should be required for livestock needs, unless the appropriator is a political subdivision. The Department may rescind the waiver and require installation of appropriate outlet works at a later date if it is determined that the responsibility to pass inflows is not being met or cannot be met by another method.

8. This appropriation is subject to the provisions of the Blue River Compact and the appropriator could be required to pass inflows if Compact flows are not being met.

9. 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, plan of reservoir 18901, or the type of appropriation.

   C. Assume liability for all damages due to leakage, overflow or structural failure of the structure.

   D. Release a portion of the reservoir inflows for livestock where required, unless appropriator is a political subdivision.

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 5, 2014

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, 4th 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 and plan of reservoir 18901 were provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed to the following:

Tony Duever, P.E.
CES Group P.A.
1102 Broadway
Marysville, Kansas 66508

Copies of this approval and plan of reservoir 18901 were mailed on September 5, 2014, to the following:

Lawrence S. Ourecky Revocable Living Trust
c/o Lawrence S. Ourecky, Trustee
1825 County Road 1900
Wilber Nebraska 68465

Ruth L. Ourecky Revocable Living Trust
c/o Lisa Emeigh, Trustee
P.O. Box 664
Wilber, Nebraska 68465

Matthew Hanson, Attorney
1331 Main
Crete, Nebraska 68333