

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING EXTENSION OF TIME BY PETITION EOT-4812 TO BEGIN CONSTRUCTION
AND PETITION EOT-4813 TO COMPLETE CONSTRUCTION UNDER APPROPRIATION A-18916

WATER DIVISION 2-A

BACKGROUND

1. On May 25, 2012, Richard Weerts II, Managing Partner of Weerts Properties, LLP, filed in the Department of Natural Resources (Department) application A-18916 for a permit to impound water, application for approval of plans for dams, specifications and plan P-18211.
2. On August 30, 2012, application A-18916 was approved by the Department. Appropriation A-18916 authorizes the impoundment of 45 acre-feet of water per year from Bone Creek to be stored in the Weerts WPA Reservoir, which is subject to the *Safety of Dams and Reservoirs Act*, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 17 North, Range 3 East of the 6th P.M. in Butler County.
3. The approval was conditional upon (1) construction of Weerts WPA Reservoir beginning within one year of the signing date of the application approval, August 30, 2013, and (2) completion of Weerts WPA Reservoir by October 1, 2014.
4. On August 27, 2013, Richard Weerts II, Managing Partner of Weerts Properties, LLP, filed petition EOT-4812 in the Department requesting an extension of the date by which construction should begin for the Weerts WPA Reservoir under appropriation A-18916 to August 30, 2014. This petition was filed in a timely manner prior to the August 30, 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 diversion works for this project was that construction was dependent on funding from the USDA Natural Resource Conservation Service. Said funding has not been secured.
5. On August 27, 2013, Richard Weerts II, Managing Partner of Weerts Properties, LLP, filed petition EOT-4813 in the Department requesting an extension of the date by which construction should be completed for Weerts WPA Reservoir under appropriation A-18916 due to the delay of the commencement of construction. Petition EOT-4813 requests the date of construction completion be extended to October 1, 2015.

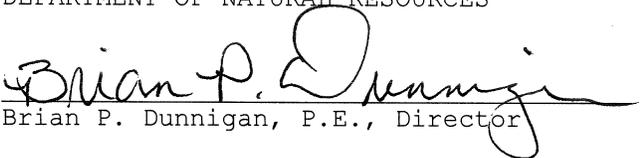
ORDER

IT IS HEREBY ORDERED:

1. Petitions EOT-4812 and EOT-4813 are APPROVED.
2. The date by which construction shall begin for construction of Weerts WPA Reservoir, under appropriation A-18916 is extended to August 30, 2014.
3. The date by which construction shall be completed for construction of Weerts WPA Reservoir, under appropriation A-18916 is extended to October 1, 2015.
4. All other conditions of appropriation A-18916 remain in effect.

DEPARTMENT OF NATURAL RESOURCES

December 9, 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, 4th 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 approval was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on December 9, 2013, to the following:

Richard Weerts, II
Weerts Properties, LLP
P.O. Box 63
Port Kent, New York 12975