

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPROVAL OF APPLICATION A-18823

WATER DIVISION 2-F

BACKGROUND

1. On October 17, 2011, Bradley J. Mahon and Jeremy B. Mahon filed in the Department of Natural Resources (Department) application A-18823 for a permit to impound water and petition DWV-2190 for a waiver of drawdown requirement.
2. Construction has been completed.

ORDER

IT IS HEREBY ORDERED Application A-18823 and DWV-2190 are APPROVED subject to the following limitations and conditions:

1. The source of water is a tributary to Ponca Creek.
2. The priority date is October 17, 2011.
3. The amount of water that may be diverted shall not exceed 15 acre-feet per year to be stored in Mahon Reservoir No. 1. Mahon Dam No. 1 is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, Township 33 North, Range 8 West of the 6th P.M. in Knox County.
4. Pursuant to *Neb. Rev. Stat. § 46-241(5)*, the owner or possessor of a reservoir does not have the right to store water in such reservoir during the time that such water is required in ditches for direct irrigation or for any reservoir or facility holding a senior right.
5. A waiver of the requirement for a drawdown, DWV-2190, 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.
6. 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 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.
6. The appropriator is required to file a map in accordance with *Title 457 Neb. Admin. Code Chapter 11* within six months of the signing date of this application approval. The project map must be prepared and signed by a professional engineer.

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

December 7, 2011



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 and provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed on December 7, 2011, to the following:

Bradley J. Mahon
51415 Highway 12
Niobrara, Nebraska 68760

Jeremy B. Mahon
51147 Highway 12
Niobrara, Nebraska 68760