

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matters of A-18400, an)
 Application for a Permit to) APPROVAL
 Appropriate Water for Public-Use)
 Construction.)
 Water Division 1-A.)

This matter came on for consideration before the Director of the Department of Natural Resources pursuant to Neb. Rev. Stat. §46-242 and § 46-233(8) (Reissue 2004) which generally require any person intending to appropriate any of the public waters of the state of Nebraska for a temporary use to make an application to the Department for a permit to make such appropriation. The Director FINDS:

1. On May 16, 2006, The Central Nebraska Public Power and Irrigation District (Applicant) filed application A-18400 for a temporary permit to appropriate seven acre-feet (AF) of water currently stored in Kingsley Reservoir under permit A-2374 and convey it through the Tri-County Canal to a point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Township 8 North, Range 22 West of the 6th P.M. where it will be diverted to compact soil during the construction of sewage lagoons. The lagoons are being built to discontinue the use of septic systems near Johnson Lake. The lake is owned by the Applicant and the leaking septic systems are causing the water quality in the lake to deteriorate.

The surface water will be diverted from storage in Kingsley Reservoir which is located within the portion of the Twin Platte Natural Resources District (NRD) that was determined to be fully appropriated by the Department in an order dated September 30, 2004. In accordance with Neb. Rev. Stat. § 46-714(5) (Reissue 2004), the order continued a stay on the issuance of new surface water appropriation permits, which remains in effect.

2. In accordance with Neb. Rev. Stat. § 46-714(3)(m) (Reissue 2004) and Department rule 457 N.A.C. 23, exceptions to the stays set forth above may be granted by the Department and the NRD. By order dated May 12, 2006, the Department granted an exception (V-9) to the Applicant to allow it to file an application for a temporary permit to divert water for temporary public-use construction purposes.
3. Upon request by Department staff, the Applicant submitted a map that showed the location where water will be pumped from the canal and the location of the proposed sewage lagoons. Department staff determined that parts of surface water appropriations A-9673, A-10280 and A-17111 are currently located on the land on which the lagoons will be built. These appropriations are held by the Applicant.

4. The Nebraska Game and Parks Commission was consulted regarding the impact of approval of application A-18400 on threatened and endangered species as provided by Neb. Rev. Stat. § 37-807 (Reissue 2004). The Commission issued a nonjeopardy opinion.

It is CONCLUDED:

1. Approval of A-18400 will not adversely impact any threatened or endangered species or their habitat.
2. Neb. Rev. Stat. § 46-233(8) (Reissue 2004) allows the Department to grant temporary permits for public-use construction without first making a determination that there is unappropriated water available if the total volume of water to be used is less than ten AF. Such permits are considered to be in the public interest by operation of law. Because A-18400 proposes to use only seven AF of water for public-use construction the application meets the conditions for approval of a temporary permit to appropriate water.
3. The surface water appropriations currently located on the proposed site of the sewage lagoons (see Finding 3) must be transferred from that location within five years of the date of this order, or the Department will institute the process for terminating these rights pursuant to Neb. Rev. Stat. § 46-229 through 46-231 (Reissue 2004).

Thus, application A-18400 meets the conditions for approval.

Application A-18400 is hereby APPROVED subject to the following limitations, conditions and notice:

1. The source of water is surface water in Kingsley Reservoir stored under A-2374.
2. The water shall be used to compact soil for sewage lagoons as a part of the public-use construction shown on the map submitted by the Applicant.
3. The priority date is May 16, 2006.
4. The amount of water shall be limited to seven acre-feet released from Kingsley Reservoir and diverted at the Tri-County Canal headgate located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 13 North, Range 29 West of the 6th P.M. in Lincoln County where it will be conveyed through the canal and into the E-65 Canal. The water will then be pumped from the E-65 Canal by a pump located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Township 8 North, Range 22 West of the 6th P.M. in Gosper County.

5. This authorization EXPIRES on June 8, 2007.

DEPARTMENT OF NATURAL RESOURCES

June 8, 2006



Ann Bleed, Acting Director

A copy of application number A-18400 and a copy of this Temporary Permit were mailed on June 8, 2006, to Jeremie Kerkman, The Central Nebraska Public Power and Irrigation District, P.O. Box 740, Holdrege, Nebraska 68949. A copy of this Approval was provided to the Department's field offices, Bridgeport and North Platte, Nebraska.