

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-2192 FOR WATER APPROPRIATION A-17127

WATER DIVISION 1-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-17127 is held by Brian E. and Tracy K. Livingston.
2. Appropriation A-17127 has a priority date of November 18, 1991, and authorizes the use of water for irrigation of the 37.0 acres of land described below. The water may be diverted from Rose Creek at a point of diversion located on the left bank of the stream in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, Township 1 North, Range 1 East of the 6th P.M. in Jefferson County, at a maximum rate of 0.53 cubic foot per second (cfs) (238 gallons per minute).

<u>Township 1 North, Range 1 East of the</u>		
<u>6th P.M. in Jefferson County</u>		<u>Acres</u>
Section 17:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	1.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	11.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	15.0
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	8.0
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1.5
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>0.5</u>
	TOTAL	37.0

3. Appropriation A-17011 provides supplemental water to irrigate 25.0 acres under surface water appropriation A-17127.
4. On October 17, 2011, Brian E. Livingston filed application EXT-2192 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-17127, and map number 17957 showing the land proposed to be irrigated under appropriation A-17127 through transfer EXT-2192.

ORDER

IT IS HEREBY ORDERED:

1. Application EXT-2192 for a permit for an expedited transfer of the location of use and map number 17957 are APPROVED.
2. Appropriation A-17127 through transfer EXT-2192 authorizes the use of water to irrigate 37.0 acres of land described below and depicted on map number 17957, which is made a part of this Order. The water may be

diverted from Rose Creek at a point of diversion located on the left bank of the stream in SW¹/₄NW¹/₄ of Section 17, Township 1 North, Range 1 East of the 6th P.M. in Jefferson County, at a maximum rate of 0.53 cubic foot per second (cfs) (238 gallons per minute).

Land entitled to direct flow under A-17011 and supplemental water impounded in Jelsma Reservoir granted under storage appropriation A-17010.

Township 1 North, Range 1 East of the 6th P.M. in Jefferson County Acres

Section 17: NW ¹ / ₄ NW ¹ / ₄	22.1
NE ¹ / ₄ NW ¹ / ₄	1.9
SW ¹ / ₄ NW ¹ / ₄	<u>1.0</u>
TOTAL	25.0

Land entitled to direct flow only under A-17127.

Township 1 North, Range 1 East of the 6th P.M. in Jefferson County Acres

Section 17: NW ¹ / ₄ NW ¹ / ₄	2.3
NE ¹ / ₄ NW ¹ / ₄	3.8
SW ¹ / ₄ NW ¹ / ₄	3.0
SE ¹ / ₄ NW ¹ / ₄	<u>2.9</u>
TOTAL	12.0

3. Appropriation A-17011 through transfer EXT-2191 provides supplemental irrigation to a portion of the land approved for irrigation under natural flow appropriation A-17127 through transfer EXT-2192.
4. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated nor the least amount of water necessary for the production of crops in the exercise of good husbandry. Therefore, in any year when less than the maximum permitted acres are being irrigated, the quantity of water diverted at any time may be restricted to 1/70 cfs for each permitted acre being irrigated that year. This appropriation of water under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.
5. All terms and conditions of appropriation A-17127 remain in effect unless specifically changed by this Order.
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. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
- C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

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 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 Order was posted on the Department's website. Copies of this Order and map number 17957 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 17957 were mailed on December 7, 2011, to the following:

Brian E. and Tracy K. Livingston
PO Box 136
Reynolds, Nebraska 68429