

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF NON-EXPEDITED TRANSFER NEX-4877,  
PETITION RLP-4880 TO CHANGE THE LOCATION OF DIVERSION FOR A PORTION OF  
DIVERSION FOR WATER APPROPRIATIONS A-9931A AND A-9931B  
AND MAPS NUMBER 18825 AND 18826

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-9931 is held by Brent and Christine Bauer.
2. Appropriation A-4877 has a priority date of April 28, 1961, and authorizes the use of water for irrigation of the 69.7 acres of land described below. The water may be diverted from Mud (Beaver) Creek at points of diversion located on both banks of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34, Township 13 North, Range 15 West of the 6<sup>th</sup> P.M. in Sherman County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 1.0 cfs from all points of diversion.

<u>Township 13 North, Range 15 West of the 6<sup>th</sup> P.M. in Sherman County</u>	<u>Acres</u>
Section 34: SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.9
SW $\frac{1}{4}$ SE $\frac{1}{4}$	30.6
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>21.2</u>
TOTAL	69.7

3. On December 4, 2013, Brent and Christine Bauer filed application NEX-4877 in the Department for a permit for a non-expedited transfer of the location of use for 39.3 acres of the 69.7 acres of land authorized to be irrigated by appropriation A-9931.
4. On December 4, 2013, Brent and Christine Bauer filed petition RLP-4880 in the Department for a permit to change the location of diversion for a portion of appropriation A-9931.

5. On March 5, 2014, Brent Bauer filed maps number 18825 and 18826 in the Department showing the location of the proposed pump site and the land to be irrigated under appropriation A-9931 through non-expedited transfer NEX-4877 and petition RLP-4880.
6. The land located in Section 12, Township 12 North, Range 15 West under appropriation A-9931 through NEX-4877 will have a unique location of diversion from the land in Section 34, Township 13 North, Range 15 West of the 6<sup>th</sup> P.M. described above. Therefore, it is in the State's best interest to divide the appropriation into A-9931A and A-9931B. However, both appropriations should remain with the same priority as to one another.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-9931 is divided into two appropriations, A-9931A and A-9931B.
2. Map number 18825 depicting the land authorized for irrigation under appropriation A-9931A is APPROVED.
3. Appropriation A-9931A through transfer NEX-4887 authorizes the use of water to irrigate 30.4 acres of land described below and depicted on map number 18825, which is made a part of this Order. The water may be diverted from Mud Creek at points of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34, Township 13 North, Range 15 West of the 6<sup>th</sup> P.M. in Buffalo County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.43 cfs (193 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

Township 13 North, Range 15 West of the 6 <sup>th</sup> P.M. in Sherman County	Acres
Section 34: SE $\frac{1}{4}$ SW $\frac{1}{4}$	0.02
SW $\frac{1}{4}$ SE $\frac{1}{4}$	11.2
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>19.0</u>
TOTAL	30.4

4. Application NEX-4877 for a permit for a non-expedited transfer of the location of use for appropriation A-9931B is APPROVED.
5. Petition RLP-4880 for a permit to change the location of diversion for appropriation A-9931B and map number 18826 are APPROVED.

6. Appropriation A-9931B through petition RLP-4880 shall now be identified in Department records as A-9931BR.
7. Appropriation A-9931BR through transfer NEX-4887 and RLP-4880 authorizes the use of water to irrigate 39.3 acres of land described below and depicted on map number 18826, which is made a part of this Order. The water may be diverted from Mud Creek at a point of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 12, Township 12 North, Range 15 West of the 6<sup>th</sup> P.M. in Buffalo County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.56 cfs (251 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

<u>Township 12 North, Range 15 West of the 6<sup>th</sup> P.M. in Buffalo County</u>	<u>Acres</u>
Section 12: NW $\frac{1}{4}$ SW $\frac{1}{4}$	18.9
NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>20.4</u>
TOTAL	39.3

8. All terms and conditions of appropriation A-9931 remain in effect unless specifically changed by this Order.
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. 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

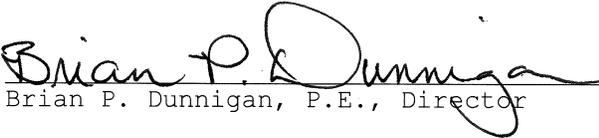
Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation,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

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

April 29, 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 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, 4<sup>th</sup> 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 maps number 18825 and 18826 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 18825 and 18826 were mailed on April 29, 2014, to the following:

Brent and Christine Bauer  
35800 Jasper Road  
Ravenna, Nebraska 68869