

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-3599 AND

PETITION RLP-3600 FOR WATER

APPROPRIATION A-18039R

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18039R is held by Lynn F. Binder, Todd Binder and Tyler Binder.
2. Appropriation A-18039R has a priority date of February 8, 2002, and authorizes the use of water for irrigation of the 392.8 acres of land described below. The water may be diverted from the South Fork of the Big Nemaha River at a point of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 1 North, Range 14 East of the 6th P.M. in Richardson County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 5.61 cfs (2,518 gallons per minute).

<u>Township 2 North, Range 14 East of the 6th P.M. Richardson County</u>	<u>Acres</u>	<u>Township 1 North, Range 14 East of the 6th P.M. Richardson County</u>	<u>Acres</u>
Section 32:		Section 5:	
NE $\frac{1}{4}$ SW $\frac{1}{4}$	0.5	NW $\frac{1}{4}$ NW $\frac{1}{4}$	2.7
SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.1	NE $\frac{1}{4}$ NW $\frac{1}{4}$	32.5
SE $\frac{1}{4}$ SW $\frac{1}{4}$	35.5		
		NW $\frac{1}{4}$ NE $\frac{1}{4}$	38.5
SW $\frac{1}{4}$ SE $\frac{1}{4}$	36.1	NE $\frac{1}{4}$ NE $\frac{1}{4}$	39.7
SE $\frac{1}{4}$ SE $\frac{1}{4}$	24.0	SW $\frac{1}{4}$ NE $\frac{1}{4}$	13.5
		SE $\frac{1}{4}$ NE $\frac{1}{4}$	37.0
Section 33:			
SW $\frac{1}{4}$ SW $\frac{1}{4}$	2.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.8</u>
		TOTAL	392.8
<u>Township 1 North, Range 14 East of the 6th P.M. Richardson County</u>	<u>Acres</u>		
Section 4:			
NW $\frac{1}{4}$ NW $\frac{1}{4}$	20.7		
NE $\frac{1}{4}$ NW $\frac{1}{4}$	18.3		
SW $\frac{1}{4}$ NW $\frac{1}{4}$	38.2		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	37.0		
NW $\frac{1}{4}$ SW $\frac{1}{4}$	13.7		

3. On March 7, 2013, Tyler Binder, on behalf of Lynn F. Binder, Todd Binder and himself, filed application EXT-3599 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-18039R.
4. On March 7, 2013, Tyler Binder, on behalf of Lynn F. Binder, Todd Binder and himself, filed petition RLP-3600 in the Department for a permit to change the location of diversion for a portion of appropriation A-18039R.
5. On April 10, 2013, Tyler Binder, on behalf of Lynn F. Binder, Todd Binder and himself, filed map number 18464 in the Department showing the location of the proposed additional pump site and the land to be irrigated under appropriation A-18039R through petition RLP-3600 and through transfer EXT-3599.

ORDER

IT IS HEREBY ORDERED:

1. Application EXT-3599 for a permit for an expedited transfer of the location of use, Petition RLP-3600 for a permit to change the location of diversion for a portion of appropriation A-18039R and map number 18464 are APPROVED.
2. Appropriation A-18039R through transfer EXT-3599 and petition RLP-3600 authorizes the use of water to irrigation 392.8 acres of land described below and depicted on map number 18464, which is made a part of this Order. The water may be diverted from the South Fork of the Nemaha River at points of diversion located on the right bank of the stream in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 2 North, and on the left bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 1 North, both in Range 14 East of the 6th P.M. in Richardson County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 5.61 cfs (2,518 gallons per minute) from all points of diversion.

<u>Township 2 North, Range 14 East of the</u>		<u>Township 1 North, Range 14 East of the</u>	
<u>6th P.M. in Richardson County</u>		<u>6th P.M. in Richardson County</u>	
	Acres		Acres
Section 32:		Section 5:	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	21.5	NW $\frac{1}{4}$ NW $\frac{1}{4}$	2.5
SE $\frac{1}{4}$ SW $\frac{1}{4}$	20.0	NE $\frac{1}{4}$ NW $\frac{1}{4}$	32.5
		NW $\frac{1}{4}$ NE $\frac{1}{4}$	38.5
SW $\frac{1}{4}$ SE $\frac{1}{4}$	32.9	NE $\frac{1}{4}$ NE $\frac{1}{4}$	39.7
SE $\frac{1}{4}$ SE $\frac{1}{4}$	22.0	SW $\frac{1}{4}$ NE $\frac{1}{4}$	13.5
Section 33:		SE $\frac{1}{4}$ NE $\frac{1}{4}$	37.0
SW $\frac{1}{4}$ SW $\frac{1}{4}$	2.0		
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.8</u>
<u>Township 1 North, Range 14 East of the</u>			
<u>6th P.M. in Richardson County</u>	<u>Acres</u>	TOTAL	<u>392.8</u>
Section 4:			
NW $\frac{1}{4}$ NW $\frac{1}{4}$	20.7		
NE $\frac{1}{4}$ NW $\frac{1}{4}$	18.3		
SW $\frac{1}{4}$ NW $\frac{1}{4}$	38.2		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	37.0		
NW $\frac{1}{4}$ SW $\frac{1}{4}$	13.7		

3. All terms and conditions of appropriations A-18039 and A-18039R remain in effect unless specifically changed by this Order.
4. 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

March 11, 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, 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 18464 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 18464 were mailed on March 11, 2014, to the following:

Tyler, Todd and Lynn Binder
c/o Tyler Binder
71387 624 Boulevard
Table Rock, Nebraska 68447