

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-2003 TO CHANGE THE LOCATION OF DIVERSION
FOR A PORTION OF WATER APPROPRIATION A-12208 AND MAPS 17730 AND 17731

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12208 is held by Ruth Zywiec.
2. Appropriation A-12208 has a priority date of April 7, 1971, and authorizes the use of water for irrigation of the 97.6 acres of land described below. The water may be diverted from the Cedar River at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 17 North, Range 6 West of the 6th P.M. in Nance County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 1.39 cfs (624 gallons per minute).

Township 17 North, Range 6 West of the 6 th P.M. in Nance County		Acres
Section 33:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	30.2
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26.4
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	7.3
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>33.7</u>
	TOTAL	97.6

3. The Department received information from Galen E. Frenzen, Operator of the land authorized for irrigation under appropriation A-12208, that a common location of diversion will be used to serve appropriations A-3071, A-16752 and a portion of the land irrigated under appropriation A-12208.
4. On November 8, 2010, Ruth Zywiec filed petition RLP-2003 in the Department for a permit to change the location of diversion for a portion of appropriation A-12208 and map number 17730 showing the location of the proposed pump site and the land to be irrigated under appropriation A-12208 through petition RLP-2003.
5. On November 8, 2010, Ruth Zywiec filed map number 17731 showing the land to be irrigated under appropriation A-12208 from the existing pump site.
6. Construction has been completed.

ORDER

IT IS HEREBY ORDERED:

1. Petition RLP-2003 for a permit to change the location of diversion for appropriation A-12208 and map number 17730 are APPROVED.
2. The portion of appropriation A-12208, modified by RLP-2003, shall now be identified in the Department records as A-12208R.
3. Appropriation A-12208R shall be shown in the Department's records authorizing the use of water to irrigate 23.1 acres of land described below and depicted on map number 17730, which is made a part of this Order. The water may be diverted from the Cedar River at a point of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 17 North, Range 6 West of the 6th P.M. in Nance County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.33 cfs (148 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

Township 17 North, Range 6 West of the 6 th P.M. in Nance County		Acres
Section 33:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	18.3
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>4.8</u>
	TOTAL	23.1

4. All terms and conditions of appropriation A-12208 remain in effect unless specifically changed by this Order.
5. Map number 17731 showing the land to be irrigated under appropriation A-12208 from the existing pump site is APPROVED.
6. Appropriation A-12208 shall be shown in the Department's records authorizing the use of water to irrigate 74.5 acres of land described below and depicted on map number 17731, which is made a part of this Order. The water may be diverted from the Cedar River at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 17 North, Range 6 West of the 6th P.M. in Nance County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 1.06 cfs (476 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

Township 17 North, Range 6 West of the 6 th P.M. in Nance County		Acres
Section 33:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	11.9
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	26.4
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	2.5
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>33.7</u>
	TOTAL	74.5

7. 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

February 4, 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* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (P.O. Box 94676, 301 Centennial Mall South, 4th Floor State Office Building, 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 17730 and 17731 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 17730 and 17731 were mailed on February 4, 2011, to the following:

Ruth Zywiec
50363 North Edgewood Road
Fullerton, Nebraska 68638

Galen E. Frenzen
50802 North Edgewood Road
Fullerton, Nebraska 68638