

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

Order Dividing and Changing Ownership of Appropriation A-18327

Water Division 2-C

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18327 is currently held by Double Lux, LTD.
2. Appropriation A-18327 has a priority date of August 23, 2005, and authorizes the use of water for irrigation of the 286 acres of land described below. The water may be diverted from the Niobrara River at a point of diversion located on the right bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 33 North, Range 12 West of the 6th P.M. in Holt 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 4.09 cfs (1836 gallons per minute).

Township 33 North, Range 12 West of the 6 th P.M. in Holt County		Acres
Section 34:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	23.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	23.0
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>40.0</u>
	TOTAL	286.0

3. Triple B, Inc. filed a Notice of Change of Ownership indicating that it is the owner of a portion of the land authorized to be irrigated by appropriation A-18327.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-18327 is divided into two appropriations, A-18327A and A-18327B.

2. Appropriation A-18327A is held by Triple B, Inc.

A. Triple B, Inc. is allowed to divert 3.94 cfs (1768 gallons per minute) from the Niobrara River to irrigate the 275.7 acres of land described below and as depicted on map number 17370A which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated.

Township 33 North, Range 12 West of the 6 th P.M. in Holt County		Acres
Section 34:	NW ¹ / ₄ NE ¹ / ₄	23.0
	NE ¹ / ₄ NE ¹ / ₄	19.6
	SW ¹ / ₄ NE ¹ / ₄	40.0
	SE ¹ / ₄ NE ¹ / ₄	33.1
	NW ¹ / ₄ SE ¹ / ₄	40.0
	NE ¹ / ₄ SE ¹ / ₄	40.0
	SW ¹ / ₄ SE ¹ / ₄	40.0
	SE ¹ / ₄ SE ¹ / ₄	<u>40.0</u>
	TOTAL	275.7

B. All terms and conditions of appropriation A-18327 remain in effect unless specifically changed by this Order.

C. The point of diversion remains on the right bank of the stream in the SE¹/₄SE¹/₄ of Section 27, Township 33 North, Range 12 West of the 6th P.M. in Holt County. If the owner of appropriation A-18327A does not have access to this point of diversion, Triple B, Inc. must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing point of diversion.

3. Appropriation A-18327B is held by Double Lux, LTD.

A. Double Lux, LTD is allowed to divert 0.15 cfs (67 gallons per minute) from the Niobrara River to irrigate the 10.3 acres of land described below and as depicted on map number 17370B which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated.

Township 33 North, Range 12 West of the 6 th P.M. in Holt County		Acres
Section 34:	NE ¹ / ₄ NE ¹ / ₄	3.4
	SE ¹ / ₄ NE ¹ / ₄	<u>6.9</u>
	TOTAL	10.3

B. All terms and conditions of appropriation A-18327 remain in effect unless specifically changed by this Order.

- C. The point of diversion remains on the right bank of the stream in the SE¼SE¼ of Section 27, Township 33 North, Range 12 West of the 6th P.M. in Holt County. If the owner of appropriation A-18327B does not have access to this point of diversion, Double Lux, LTD must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing point of diversion.

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 five consecutive years may result in cancellation of the appropriation.

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

DEPARTMENT OF NATURAL RESOURCES

May 13, 2009

/s/
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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (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 17307A and 17370B were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 17307A and 17370B were mailed on May _____, 2009, to the following:

Triple B, Inc.
PO Box 46
David City, NE 68632

Double Lux, LTD
PO Box 46
David City, NE 68632