

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-4754, PETITION RLP-4755

AND MAP 18546 FOR WATER APPROPRIATION A-5007

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5007 is held by the Margaret A. Brass Living Revocable Trust.
2. Appropriation A-5007 has a priority date of August 7, 1952, and authorizes the use of water for irrigation of the 290.0 acres of land described below. The water may be diverted from the Middle Loup River at points of diversion located on the south bank of the stream in the $W\frac{1}{2}NE\frac{1}{4}$ of Section 7 and in the $SE\frac{1}{4}NW\frac{1}{4}$ of Section 8, both in Township 19 North, Range 18 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 115 acres irrigated at a maximum combined rate of 2.52 cfs from all points of diversion.

Township 19 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 7:	Lot 3 ($W\frac{1}{2}NE\frac{1}{4}$)	50.0
	Lot 2 ($E\frac{1}{2}NE\frac{1}{4}$)	45.0
	$NW\frac{1}{4}SE\frac{1}{4}$	30.0
	$NE\frac{1}{4}SE\frac{1}{4}$	25.0
Section 8:	Lot 5 ($NW\frac{1}{4}$)	20.0
	$NW\frac{1}{4}SW\frac{1}{4}$	35.0
	Lot 6 ($NE\frac{1}{4}SW\frac{1}{4}$)	30.0
	$SE\frac{1}{4}SW\frac{1}{4}$	5.0
	Lot 7 ($W\frac{1}{2}SE\frac{1}{4}$)	<u>50.0</u>
	TOTAL	290.0

3. On July 5, 2013, Robert G. Brass, on behalf of the Margaret A. Brass Living Revocable Trust filed in the Department application EXT-4754 for a permit for an expedited transfer of the location of use for 70.3 acres of the 290.0 acres under surface water appropriation A-5007.

4. On July 5, 2013, Robert G. Brass, on behalf of the Margaret A. Brass Living Revocable Trust, (Petitioner) filed in the Department petition RLP-4755 and map number 18546 showing the proposed pump site and the land to be irrigated under appropriation A-5007 through petition RLP-4755 and transfer EXT-4754. The Petitioner indicated that the points of diversion formerly located in the $W\frac{1}{2}NE\frac{1}{4}$ of Section 7, Township 19 North, Range 18 West of the 6th P.M. in Custer County have not been active for several years and, therefore, are not addressed in item 5 on petition RLP-4755.
5. On July 5, 2013, Robert G. Brass, on behalf of the Margaret A. Brass Living Revocable Trust filed in the Department relinquishment REL-4756, relinquishing a portion of the water under appropriation A-5007, for use on the land described below

<u>Township 19 North, Range 18 West of the</u>		<u>Acres</u>
<u>6th P.M. in Custer County</u>		
Section 7:	Lot 3 ($W\frac{1}{2}NE\frac{1}{4}$)	50.0
	Lot 2 ($E\frac{1}{2}NE\frac{1}{4}$)	45.0
	$NW\frac{1}{4}SE\frac{1}{4}$	30.0
	$NE\frac{1}{4}SE\frac{1}{4}$	25.0
Section 8:	$NW\frac{1}{4}SW\frac{1}{4}$	10.5
	Lot 6 ($NE\frac{1}{4}SW\frac{1}{4}$)	4.2
	$SE\frac{1}{4}SW\frac{1}{4}$	5.0
	Lot 7 ($W\frac{1}{2}SE\frac{1}{4}$)	<u>50.0</u>
	TOTAL	219.7

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-5007 at the rate of 1.91 cfs for use upon the land described below is CANCELLED.

<u>Township 19 North, Range 18 West of the</u>		<u>Acres</u>
<u>6th P.M. in Custer County</u>		
Section 7:	Lot 3 ($W\frac{1}{2}NE\frac{1}{4}$)	50.0
	Lot 2 ($E\frac{1}{2}NE\frac{1}{4}$)	45.0
	$NW\frac{1}{4}SE\frac{1}{4}$	30.0
	$NE\frac{1}{4}SE\frac{1}{4}$	25.0
Section 8:	$NW\frac{1}{4}SW\frac{1}{4}$	10.5
	Lot 6 ($NE\frac{1}{4}SW\frac{1}{4}$)	4.2
	$SE\frac{1}{4}SW\frac{1}{4}$	5.0
	Lot 7 ($W\frac{1}{2}SE\frac{1}{4}$)	<u>50.0</u>
	TOTAL	219.7

2. Application EXT-4754 for a permit for an expedited transfer of the location of use, petition RLP-4755 for a permit to change the location of diversion, and map number 18546 are APPROVED.
3. Appropriation A-5007 through petition RLP-4755 is now A-5007R.
4. Appropriation A-5007R through transfer EXT-4754 authorizes the use of water to irrigate 70.3 acres of land described below and depicted on map number 18546, which is made a part of this Order. The water may be diverted from the Middle Loup River at a point of diversion located on the right bank of the stream in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 19 North, Range 18 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cfs for every 115 acres irrigated at a maximum rate of 0.61 cfs (274 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

Township 19 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 7:	SE $\frac{1}{4}$ NE $\frac{1}{4}$	6.6
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	0.6
Section 8:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	22.1
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	10.9
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	18.5
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>11.6</u>
	TOTAL	70.3

5. All terms and conditions of appropriation A-5007 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

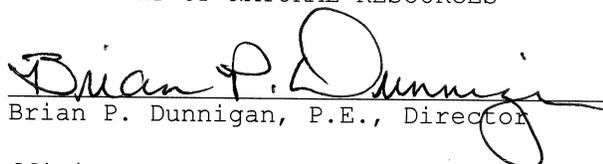
Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation,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

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

November 8, 2013


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 18546 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18546 were mailed on November 8, 2013, to the following:

Robert G. Brass
Margaret A. Brass Living Revocable Trust
43573 Road 750
Lexington, Nebraska 68850