STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-4834 TO CHANGE THE LOCATION OF USE AND PETITION RLP-4843 TO CHANGE THE LOCATION OF DIVERSION AND MAP 18686 FOR WATER APPROPRIATION A-9879

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-9879 is held by Simmons Irrigation, Inc.

2. Appropriation A-9879 has a priority date of January 9, 1961, and authorizes the use of water for irrigation of the 6.0 acres of land described below. The water may be diverted from the Niobrara River at a point of diversion in the NW¼SE¼ of Section 11, Township 33 North, Range 36 West of the 6th P.M. in Cherry 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 0.09 cfs.

Township 33 North, Range 36 West of the 6th P.M. in Cherry County	Acres
Section 11: SW¼NE¼	6.0

3. On October 2, 2013, Robert A. Simmons, on behalf of Simmons Irrigation, Inc., filed in the Department application EXT-4834 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-9879 and map number 18686 showing the land proposed to be irrigated under appropriation A-9879 through transfer EXT-4834 and the location of the proposed pump site.

4. On October 17, 2013, Robert A. Simmons, on behalf of Simmons Irrigation, Inc., filed in the Department petition RLP-4843 for a permit to change the location of diversion for appropriation A-9879.

ORDER

IT IS HEREBY ORDERED:

1. Application EXT-4834 for a permit for an expedited transfer of the location of use, petition RLP-4843 and map number 18686 are APPROVED.

2. Appropriation A-9879 through petition RLP-4843 is now A-9879R.

3. Appropriation A-9879R through transfer EXT-4834 authorizes the use of water to irrigate 6.0 acres of land described below and depicted on map number 18686, which is made a part of this Order. The water may be diverted from the Niobrara River at a point of diversion located on the right bank of the stream in the SW¼NW¼ of Section 11, Township 33 North, Range 36 West of the 6th P.M. in Cherry County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.09 cfs (40 gallons per minute). The total volume may not exceed three acre-feet per irrigated acre per year.

Township 33 North, Range 36 West of the 6th P.M. in Cherry County		Acres
Section 11:	NW¼SW¼	4.2
	NE¼SW¼	1.8
	TOTAL	6.0

4. All terms and conditions of appropriation A-9879 remain in effect unless specifically changed by this Order.

5. 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

December 23, 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 18686 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18686 were mailed on December 23, 2013, to the following:

Robert A. Simmons
Simmons Irrigation, Inc.
89842 South Eli Road
Cody, Nebraska 69211