

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART AND APPROVAL OF APPLICATION EXT-1889,
 PETITION RLP-1890, AND MAP NUMBER 17616 FOR WATER APPROPRIATION A-17087

WATER DIVISION 2-F

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-17087 is held by Foley Family Limited Partnership.
2. Appropriation A-17087 authorizes the use of water for irrigation of 187.5 acres of land. The water may be diverted from the Missouri River at a point of diversion located on the north bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 33 North, Range 1 East of the 6th P.M. in Cedar County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 119 acres irrigated at a maximum rate of 1.57 cfs.
3. A review of the Department's records indicates that a scrivener's error was made on the legal description of the appurtenant land authorized for irrigation under appropriation A-17087 in that Section 1 and Section 4 are in Township 33 North, Range 1 West of the 6th P.M. in Cedar County rather than in Township 33 North, Range 1 East of the 6th P.M. in Cedar County as described in the Order approving map number 15152, dated May 31, 1995.
4. The correct legal listing of land appurtenant to appropriation A-17087 is described below.

<u>Township 33 North, Range 1 West of the 6th P.M., Cedar County</u>	<u>Acres</u>	<u>Township 33 North, Range 1 East of the 6th P.M., Cedar County</u>	<u>Acres</u>
Section 1: SW $\frac{1}{4}$ NE $\frac{1}{4}$	0.4	Section 5: NW $\frac{1}{4}$ SW $\frac{1}{4}$	10.8
SE $\frac{1}{4}$ NE $\frac{1}{4}$	5.0	SW $\frac{1}{4}$ SW $\frac{1}{4}$	2.8
NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.2	SE $\frac{1}{4}$ SW $\frac{1}{4}$	19.0
Section 4: SW $\frac{1}{4}$ NW $\frac{1}{4}$	9.2	NW $\frac{1}{4}$ SE $\frac{1}{4}$	24.8
SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.8	NE $\frac{1}{4}$ SE $\frac{1}{4}$	17.8
NW $\frac{1}{4}$ SW $\frac{1}{4}$	13.7	SW $\frac{1}{4}$ SE $\frac{1}{4}$	24.7
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	8.2
<u>Township 33 North, Range 1 East of the 6th P.M., Cedar County</u>	<u>Acres</u>	Section 6: SW $\frac{1}{4}$ NW $\frac{1}{4}$	9.4
Section 5: SW $\frac{1}{4}$ NE $\frac{1}{4}$	10.1	SE $\frac{1}{4}$ NW $\frac{1}{4}$	4.8
SE $\frac{1}{4}$ NE $\frac{1}{4}$	7.6		
		NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.1
		NE $\frac{1}{4}$ NE $\frac{1}{4}$	5.6
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>3.5</u>
		TOTAL	187.5

5. On March 3, 2010, Robert Foley or Don Foley, on behalf of Foley Family Limited Partnership, filed in the Department the following:

a. REL-1888 for a partial relinquishment of water under appropriation A-17087, relinquishing the right to divert a portion of the water under A-17087, for use on the land described below.

<u>Township 33 North, Range 1 East of the</u>		<u>6th P.M. in Cedar County</u>	<u>Acres</u>
Section 5:	SE $\frac{1}{4}$ SW $\frac{1}{4}$		3.6
	SW $\frac{1}{4}$ SE $\frac{1}{4}$		8.2
	SE $\frac{1}{4}$ SE $\frac{1}{4}$		<u>7.4</u>
	TOTAL		19.2

b. Application EXT-1889 for a permit for an expedited transfer of the location of use for 168.3 acres of the 187.5 acres under surface water appropriation A-17087

c. An addendum to application EXT-1889 requesting the 168.3 acres of land subject to transfer be "folded" to irrigate 99.0 acres and the rate that water may be diverted after the transfer shall not exceed one cfs for every 70 acres irrigated.

d. Petition RLP-1890 for a permit to change the location of diversion for appropriation A-17087.

e. Map number 17616 showing the location of diversion and the land proposed to be irrigated under appropriation A-17087 through EXT-1889.

Order

IT IS HEREBY ORDERED:

1. Part of surface water appropriation A-17087 at the rate of 0.16 cfs is CANCELLED for use on the land described below.

<u>Township 33 North, Range 1 East of the</u>		<u>6th P.M. in Cedar County</u>	<u>Acres</u>
Section 5:	SE $\frac{1}{4}$ SW $\frac{1}{4}$		3.6
	SW $\frac{1}{4}$ SE $\frac{1}{4}$		8.2
	SE $\frac{1}{4}$ SE $\frac{1}{4}$		<u>7.4</u>
	TOTAL		19.2

2. Application EXT-1889 for a permit for an expedited transfer of the location of use and petition RLP-1890 for a permit to change the location of diversion are APPROVED.

3. Appropriation A-17087 through petition RLP-1890 is now A-17087R.

4. Appropriation A-17087R, through EXT-1889, now permits Foley Family Limited Partnership to divert water from the Missouri River to irrigate the 99.0 acres of land described below and depicted on map number 17616 which is made a part of this Order. The points of diversion are located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, Township 33 North, Range 1 West of the 6th P.M. and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 33 North, Range 1 East of the 6th P.M., all in Cedar County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 1.41 cfs (633 gallons per minute) from all points of diversion.

Township 33 North, Range 1 West of the
6th P.M. in Cedar County Acres

Section 1:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	6.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	13.4
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	4.4
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	14.7

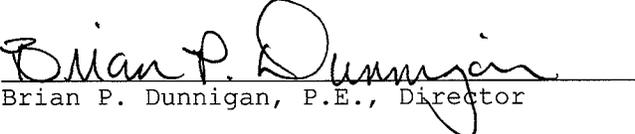
Township 33 North, Range 1 East of the
6th P.M. in Cedar County Acres

Section 1:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	0.4
Section 5:	SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.8
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	6.6
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	8.7
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	32.5
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>11.5</u>
	TOTAL	99.0

5. All terms and conditions of appropriation A-17087 remain in effect unless specifically changed by this Order.

DEPARTMENT OF NATURAL RESOURCES

April 27, 2010


Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 17616 were provided to the Department's field office in Norfolk, Nebraska. Copies of this Order and map number 17616 were mailed on April 27, 2010, to the following:

Don Foley
Foley Family Limited Partnership
PO Box 7
Tyndall, South Dakota 57066