

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-1933 AND MAP TO CHANGE THE LOCATION OF
DIVERSION FOR WATER APPROPRIATION A-9053

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-9053 is held by Chris and Carla Cunningham.
2. Appropriation A-9053 has a priority date of December 22, 1956, and authorizes the use of water for irrigation of 242.8 acres of land. The water may be diverted from the Loup River at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 16 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 3.47 cfs (1557 gallons per minute).
3. On May 14, 2010, Chris and Carla Cunningham filed petition RLP-1933 in the Department for a permit to change the location of diversion for appropriation A-9053.
4. The Department's mapping staff, using current mapping technology, prepared map number 17672 which more accurately depicts the 242.8 acres of land authorized for irrigation under appropriation A-9053. The field boundaries match the current field configuration and the total number of acres depicted on map number 17672 correspond with the total acres approved by Order dated January 28, 1999; however, the numbers of acres per quarter-quarter are more precise.
5. On July 12, 2010, Chris Cunningham filed map number 17672 in the Department showing the location of the proposed pump site and the land to be irrigated under appropriation A-9053 through petition RLP-1933.

ORDER

IT IS HEREBY ORDERED:

1. Petition RLP-1933 for a permit to change the location of diversion and map number 17672 are APPROVED.
2. Appropriation A-9053 through petition RLP-1933 is now A-9053R.

3. Appropriation A-9053R authorizes the use of water to irrigate the 242.8 acres of land described below and depicted on map number 17672, which is made a part of this Order. The water may be diverted from a tributary to the Loup River at a point of diversion located on the right bank of the stream in the NW¹/₄NE¹/₄ of Section 31, Township 16 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 3.47 cfs (1557 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

Township 16 North, Range 6 West of the 6 th P.M. in Nance County		Acres
Section 29:	NW ¹ / ₄ SW ¹ / ₄	23.0
	SW ¹ / ₄ SW ¹ / ₄	20.7
Section 30:	NW ¹ / ₄ SE ¹ / ₄	15.9
	NE ¹ / ₄ SE ¹ / ₄	20.0
	SW ¹ / ₄ SE ¹ / ₄	40.0
	SE ¹ / ₄ SE ¹ / ₄	40.0
Section 31:	NW ¹ / ₄ NE ¹ / ₄	40.0
	NE ¹ / ₄ NE ¹ / ₄	28.3
	SW ¹ / ₄ NE ¹ / ₄	<u>14.9</u>
TOTAL		242.8

4. All terms and conditions of appropriation A-9053 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

September 8, 2010


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 map number 17672 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 17672 were mailed on September 8, 2010, to the following:

Chris and Carla Cunningham
22503 Valley Road
Fullerton, Nebraska 68638