

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER *NUNC PRO TUNC* IN THE MATTER OF THE JULY 27, 2012,

ORDER OF APPROVAL OF APPLICATION A-18944

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18944 is held by Martin Marietta Materials, Inc.
2. On July 27, 2012, the Department issued an Order approving application A-18944. The Order incorrectly stated that the maximum volume of water to be diverted under temporary appropriation A-18944 was 34.8 acre-feet. The correct volume of water is 348 acre-feet.

IT IS HEREBY ORDERED:

1. The Order dated July 27, 2012, for appropriation A-18944 is hereby CORRECTED *NUNC PRO TUNC*.
2. The source of water is the Missouri River.
3. The water shall be used for the purpose of aggregate washing.
4. The priority date is July 23, 2012.
5. The point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 1, Township 17 North, Range 12 East of the 6<sup>th</sup> P.M. in Washington County.
6. The rate that water may be diverted under appropriation A-18944 shall not exceed 2.33 cubic feet per second (approximately 1,050 gallons per minute). Total annual volume of water diverted may not exceed **348 acre-feet**.
7. Water under this appropriation may NOT be diverted during the period of March 1, 2013 through June 30, 2013.
8. This appropriation EXPIRES one year from the Order dated July 27, 2012, and appropriation A-18944 will be CANCELLED without further action by the Department as of that date.

9. The appropriator must comply with all relevant statutes. The statutes include, but are 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.

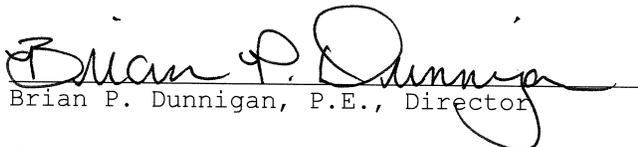
ADDITIONAL INFORMATION

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 result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

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

August 7, 2012

  
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, 4<sup>th</sup> 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 and provided to the Department's field office in Norfolk, Nebraska. A copy of this Order was mailed on August 7, 2012, to the following:

Martin Marietta Materials, Inc.  
11252 Aurora Avenue  
Des Moines, IA 50322