

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-3478 FOR WATER APPROPRIATION A-3881

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3881 is held by Beryl L. and Tracy Popp.
2. A review of the Department's records indicates scrivener's errors were made on the Order dated October 21, 1946. The Order describes the point of diversion as located on **Deer Creek** in the **SW $\frac{1}{4}$ NW $\frac{1}{4}$**  of Section 8, Township 13 North, Range 19 West of the 6<sup>th</sup> P.M. in Custer County. The correct location of diversion is on a **tributary to Deer Creek** in the **SE $\frac{1}{4}$ NW $\frac{1}{4}$**  of Section 8, Township 13 North, Range 19 West of the 6<sup>th</sup> P.M. in Custer County.
3. Appropriation A-3881 has a priority date of March 7, 1946, and authorizes the use of water for irrigation of the 110.3 acres of land described below. The water may be diverted from a tributary to Deer Creek at a point of diversion located on the east bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 8, Township 13 North, Range 19 West of the 6<sup>th</sup> P.M. in Custer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 110 acres irrigated at a maximum rate of 1.0 cfs (449 gallons per minute).

Township 13 North, Range 19 West of the  
6<sup>th</sup> P.M. in Custer County

	Acres
Section 8: NE $\frac{1}{4}$ NW $\frac{1}{4}$	17.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	18.6
NW $\frac{1}{4}$ NE $\frac{1}{4}$	32.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>2.7</u>
TOTAL	110.3

4. On January 18, 2013, Beryl L. Popp filed application EXT-3478 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-3881 and map number 18398 showing the land proposed to be irrigated under appropriation A-3881 through transfer EXT-3478.

ORDER

IT IS HEREBY ORDERED:

1. Application EXT-3478 for a permit for an expedited transfer of the location of use and map number 18398 are APPROVED.
2. Appropriation A-3881 through transfer EXT-3478 authorizes the use of water to irrigate 110.3 acres of land described below and depicted on map number 18398, which is made a part of this Order. The water may be diverted from a tributary to Deer Creek at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 8, Township 13 North, Range 19 West of the 6<sup>th</sup> P.M. in Custer County. Water diverted shall not exceed the ratio of one cfs for every 110 acres irrigated at a maximum rate of 1.0 cfs (449 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

<u>Township 13 North, Range 19 West of the</u>		
<u>6<sup>th</sup> P.M. in Custer County</u>		<u>Acres</u>
Section 8:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	10.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	23.2
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	34.9
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>1.4</u>
	TOTAL	110.3

3. All terms and conditions of appropriation A-3881 remain in effect unless specifically changed by this Order.
4. 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

April 12, 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, 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. Copies of this Order and map number 18398 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18398 were mailed on April 12, 2013, to the following:

Beryl L. and Tracy Popp  
44540 Cumro Road 1  
Broken Bow, Nebraska 68822