

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART AND

APPROVAL OF EXPEDITED TRANSFER EXT-4752 FOR WATER APPROPRIATION A-5036

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5036 is held by Beran & Sons, LLC.
2. Appropriation A-5036 has a priority date of September 26, 1952, and authorizes the use of water for irrigation of the 205.0 acres of land described below. The water may be diverted from the Middle Loup River at points of diversion located on the south bank of the stream in Lot 8 (E $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 8, Lot 6 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and Lot 8 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 9, all in Township 19 North, Range 18 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 115 acres irrigated at a maximum combined rate of 1.78 cfs from all points of diversion.

<u>Township 19 North, Range 18 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 8:	Lot 8 (E $\frac{1}{2}$ SE $\frac{1}{4}$)	30.0
Section 9:	Lot 5 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	20.0
	Lot 6 (NE $\frac{1}{4}$ SW $\frac{1}{4}$)	25.0
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
	Lot 7 (W $\frac{1}{2}$ SE $\frac{1}{4}$)	40.0
	Lot 8 (SE $\frac{1}{4}$ SE $\frac{1}{4}$)	30.0
Section 10:	Lot 5 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	<u>20.0</u>
	TOTAL	205.0

3. On July 1, 2013, James F. Beran filed in the Department application EXT-4752 for a permit for an expedited transfer of the location of use for 111.2 of the 205.0 acres under surface water appropriation A-5036 and map number 18545 showing the land proposed to be irrigated under appropriation A-5036 through transfer EXT-4752.

4. On July 1, 2013, James F. Beran, on behalf of Beran & Sons, LLC, filed in the Department REL-4745 relinquishing a portion of the water under appropriation A-5036, for use on the land described below.

Township 19 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 8:	Lot 8 (E $\frac{1}{2}$ SE $\frac{1}{4}$)	30.0
Section 9:	Lot 5 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	18.9
	Lot 6 (NE $\frac{1}{4}$ SW $\frac{1}{4}$)	7.0
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	7.5
	Lot 7 (W $\frac{1}{2}$ SE $\frac{1}{4}$)	7.4
Section 10:	Lot 5 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	<u>3.0</u>
	TOTAL	93.8

ORDER

IT IS HEREBY ORDERED:

1. Part of surface water appropriation A-5036 at the rate of 0.81 cfs is CANCELLED for use on the land described below.

Township 19 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 8:	Lot 8 (E $\frac{1}{2}$ SE $\frac{1}{4}$)	30.0
Section 9:	Lot 5 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	18.9
	Lot 6 (NE $\frac{1}{4}$ SW $\frac{1}{4}$)	7.0
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	7.5
	Lot 7 (W $\frac{1}{2}$ SE $\frac{1}{4}$)	7.4
Section 10:	Lot 5 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	<u>3.0</u>
	TOTAL	93.8

2. Application EXT-4752 for a permit for an expedited transfer of the location of use and map number 18545 are APPROVED.

3. Appropriation A-5036 through transfer EXT-4752 authorizes the use of water to irrigate 111.2 acres of land described below and depicted on map number 18545, which is made a part of this Order. The water may be diverted from the Middle Loup River at points of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, all in Township 19 North, Range 18 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cfs for every 115 acres irrigated at a maximum combined rate of 0.97 cfs from all points of diversion (435 gallons per minute). The total combined volume of all appropriations may not exceed 3 acre-feet per irrigated acre per year.

Township 19 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 9:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	18.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	12.5
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	6.9
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	24.9
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	29.8
Section 10:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>16.1</u>
	TOTAL	111.2

4. All terms and conditions of appropriation A-5036 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

October 18, 2013

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 18545 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18545 mailed on October 18, 2013, to the following:

James F. Beran
Beran & Sons, LLC
81369 Round Valley Road
Sargent, Nebraska 68874