

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-5278

AND PETITION RLP-5246 AND MAP NUMBER 19155 TO CHANGE THE LOCATION OF
DIVERSION FOR WATER APPROPRIATION A-15869A

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15869A is held by Con E. and Lorena A. Bernbeck.
2. Appropriation A-15869A has a priority date of May 12, 1981, and authorizes the use of water for irrigation of the 116.0 acres of land described below. The water may be diverted from the Elkhorn 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 30, Township 23 North, Range 2 East of the 6th P.M. in Stanton County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 1.66 cfs.

Township 23 North, Range 2 East of the
6th P.M. in Stanton County Acres

Section 30: NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>36.0</u>
TOTAL	116.0

3. On December 2, 2014, Con E. and Lorena A. Bernbeck filed in the Department application NEX-5247 for a change of appropriation (non-expedited transfer) and RLP-5246 for a permit to change the location of diversion, both for appropriation A-15869A.
4. On January 6, 2015, Con E. and Lorena A. Bernbeck filed in the Department application EXT-5278 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-15869A.
5. On January 30, 2015, Con E. Bernbeck filed in the Department filed map number 19155 showing the land proposed to be irrigated under appropriation A-15869A through petition RLP-5246 and transfer EXT-5247.
6. Pursuant to Neb. Rev. Stat. § 46-291 (1) the applicant may apply for a permit for an expedited transfer. Therefore, application NEX-5247 should be dismissed.

ORDER

IT IS HEREBY ORDERED:

1. Application NEX-5247 for a permit for a change of appropriation (non-expedited transfer) for appropriation A-15869A is DISMISSED.
2. Petition RLP-5246 for a permit to change the location of diversion for appropriation A-15869A IS APPROVED.
3. Appropriation A-15869A through petition RLP-5246 is now A-15869AR
4. Application EXT-5278 for a permit for an expedited transfer of the location of use and map number 19155 are APPROVED.
5. Appropriation A-15869AR through transfer EXT-5278 authorizes the use of water to irrigate 116.0 acres of land described below and depicted on map number 19155, which is made a part of this Order. The water may be diverted from the Elkhorn River at a point of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 23 North, Range 2 East of the 6th P.M. in Stanton County, as depicted on map number 19155. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.66 cfs (745 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

<u>Township 23 North, Range 2 East of the</u> <u>6th P.M. in Stanton County</u>	<u>Acres</u>
Section 30: NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	36.0
SE $\frac{1}{4}$ NE $\frac{1}{4}$	39.2
NW $\frac{1}{4}$ SE $\frac{1}{4}$	7.0
NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>29.8</u>
TOTAL	116.0

6. All terms and conditions of appropriation A-15869 and A-15869A remain in effect unless specifically changed by this Order.
7. 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 8, 2015



James C. Schneider, Ph.D.
Acting 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, 4th 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 19155 were provided to the Department's field office in Norfolk, Nebraska. Copies of this Order and map number 19155 were mailed on April 8, 2015, to the following:

Con E. and Lorena A. Bernbeck
56285 Highway 24
Stanton, Nebraska 68779

Anthony E. Bernbeck
83498 569th Avenue
Stanton, Nebraska 68779