

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-5729 AND MAP 19579 TO CHANGE THE LOCATION OF
DIVERSION FOR WATER APPROPRIATION A-18461

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18461 is held by Thomas G. Higgins and Shaunessey L. Higgins.
2. Appropriation A-18461 has a priority date of February 22, 2007, and authorizes the use of water for irrigation of 120.0 acres of land. The water may be diverted from Oak Creek at a point of diversion located on the right bank of the stream in the NW¹/₄NW¹/₄ of Section 26, Township 34 North, Range 17 West of the 6th P.M. in Keya Paha 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 1.71 cfs.
3. On July 8, 2016, Thomas G. Higgins filed petition RLP-5729 in the Department for a permit to change the location of diversion for appropriation A-18461.
4. On July 18, 2016, Thomas G. Higgins filed map number 19579 in the Department showing the location of the proposed pump site and the land to be irrigated under appropriation A-18461 through petition RLP-5729.

ORDER

IT IS HEREBY ORDERED

1. Petition RLP-5729 for a permit to change the location of diversion for appropriation A-18461 and map number 19579 are APPROVED.
2. Appropriation A-18461 through petition RLP-5729 is now A-18461R.

3. Appropriation A-18461R shall be shown in the Department's records authorizing the use of water to irrigate 120.0 acres of land described below and depicted on map number 19579, which is made a part of this Order. The water may be diverted from Oak Creek at a point of diversion located in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27, Township 34 North, Range 17 West of the 6th P.M. in Keya Paha County, as depicted on map number 19579. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.71 cfs (767 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year.

<u>Township 34 North, Range 17 West of the</u>	<u>Acres</u>
<u>6th P.M. in Keya Paha County</u>	
Section 26: NW $\frac{1}{4}$ SW $\frac{1}{4}$	30.0
NE $\frac{1}{4}$ SW $\frac{1}{4}$	29.9
SW $\frac{1}{4}$ SW $\frac{1}{4}$	30.0
SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>30.1</u>
TOTAL	120.0

4. All terms and conditions of appropriation A-18461 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

August 12, 2016


Gordon W. Fassett, 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, 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 19579 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 19579 were mailed on August 12, 2016, to the following:

Thomas G. Higgins
90679 467th Avenue
Naper, Nebraska 68755

Shaunessey L. Higgins
90679 467th Avenue
Naper, Nebraska 68755