

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATIONS A-18974A and A-18974B

WATER DIVISION 1-D

BACKGROUND

1. On October 17, 2012, Kenneth L. Maca, on behalf of Carol Maca, Carol Niemann, and himself, owners of a portion of the NE $\frac{1}{4}$ of Section 22, Township 12 North, Range 2 East of the 6th P.M. in Seward County, filed in the Department of Natural Resources (Department) application A-18974 for a Permit to Appropriate Water.
2. On October 30, 2012, the Department received information that Brian K. and Tanya M. Woolsey own a portion of the land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, Township 12 North, Range 2 East of the 6th P.M. in Seward County.
3. On December 5, 2012, Brian K. and Tanya M. Woolsey, co-applicants, corrected filed in the Department application A-18974.
4. On December 12, 2012, Kenneth L. Maca, on behalf of Carol Maca, Carol Niemann, Brian K. and Tanya M. Woolsey and himself, filed in the Department map number 18340 showing land proposed to be irrigated under application A-18974.

ORDER

IT IS HEREBY ORDERED that application A-18974 is APPROVED subject to the following limitations and conditions:

1. Appropriation A-18974 is divided into two appropriations, A-18974A and A-18974B.
2. The source of water for appropriations A-18974A and A-18974B is the Big Blue River.
3. The water shall be used for the purpose of irrigation.
4. The priority date is October 17, 2012.
5. Only the land shown on map number 18340 may be irrigated under appropriations A-18974A and A-18974B.
6. Water diverted under appropriations A-18974A and A-18974B shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated and the least amount that can be beneficially used.

7. Appropriations A-18974A and A-18974B are subject to the provisions of the Blue River Compact and could be closed if Compact flows are not being met.
8. The appropriators 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 appropriations (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.
9. The appropriators must comply with the following deadlines:
 - A. A copy of the easement between Kenneth and Carol Maca and Carol Niemann, and Brian K. Woolsey and Tanya M. Woolsey, filed with the Seward County Register of Deeds, must be provided within forty-five days past the signing date of this application approval. No rights shall be deemed to have been acquired until the provisions of this paragraph have been complied with, and a failure to do so shall cause a forfeiture of the appropriations and all rights thereof.
 - B. Construction of the diversion works must begin within twelve months of the signing date of this application approval. The appropriators must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.
 - C. Construction of the project must be completed by two years past the signing date of this application approval.
 - D. The appropriations are not considered perfected until water has been beneficially applied for the purpose stated in this approval. The water appropriated under A-18974 must be beneficially used by September 1, 2015.
 - E. After September 1, 2015, a field investigation will be conducted to determine the acres irrigated, after which an order of cancellation will be issued for any unused portions of appropriations A-18974A and A-18974B.

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 appropriations, temporary closing of the appropriations, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations. If in the future you are not able to divert sufficient amounts of water, and if there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

February 25, 2013


Brian P. Dunnigan, P.E., Director

The applicants 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 approval was posted on the Department's website and provided to the Department's field office in Lincoln, Nebraska. A copy of this approval was mailed on February 25, 2013, to the following:

Kenneth and Carol Maca
3418 Davey Road
Staplehurst, Nebraska 68439

Brian K. and Tanya M. Woolsey
2153 336th Road
Staplehurst, Nebraska 68439

Carol Niemann
c/o Kenneth Maca
3418 Davey Road
Staplehurst, Nebraska 68439

Greg Damman
BLEVENS & DAMMAN
129 North 5th Street
Seward, Nebraska 68434