

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-12961

AND APPROVAL OF MAPS NUMBER 19714 AND 19715

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of surface water appropriation A-12961 located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 03, Township 10 North, Range 03 East of the 6th P.M. in Seward County is currently held by Hackbart Cattle, LLC.
2. Records on file in the Department show that a portion of surface water appropriation A-12961 located in the SW $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 03, Township 10 North, Range 03 East of the 6th P.M. in Seward County is currently held by Virginia Peterson.
3. Pursuant to the Order dated September 4, 1981, water diversion facilities for irrigation of land under A-12961 shall be equipped with a measuring device. During times of shortage, water shall be denied by the Department if not equipped with said measuring device.
4. Appropriation A-12961 with a priority date of November 20, 1973, authorizes the use of water for irrigation of the 69 acres of land described below. The water may be diverted from the Big Blue River at points of diversion located on both banks of the stream in the NE $\frac{1}{4}$ of Section 03, Township 10 North, Range 03 East of the 6th P.M. in Seward County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 0.99 cfs.

| Township 10 North, Range 03 East of the 6 th P.M. in Seward County | | Acres |
|--|-----------------------------------|-------|
| Section 03: SW $\frac{1}{2}$ NE $\frac{1}{4}$ | | 32 |
| | SE $\frac{1}{2}$ NE $\frac{1}{4}$ | 37 |
| | TOTAL | 69 |

5. Appropriation A-12961 was originally granted to a single landowner. The appurtenant land was later divided into distinct parcels to multiple owners. Because of the multiple owners, the Department determined that it was in the best interest of the owners and the State to divide the water appropriation among the owners so that each owner's rights were distinguishable.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-12961 is divided into TWO appropriations, A-12961A and A-12961B.
2. Appropriation A-12961A authorizes the appropriator to divert water from the Big Blue River to irrigate the 39 acres of land described below and depicted on map number 19714 which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.56 cfs (251 gallons per minute).

| Township 10 North, Range 03 East of the 6 th P.M. in Seward County | | Acres |
|--|-----------------------------------|-----------|
| Section 03: | SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 4 |
| | SE $\frac{1}{4}$ NE $\frac{1}{4}$ | <u>35</u> |
| | TOTAL | 39 |

3. A **measuring device** approved by the Department **is required**. During times of shortage, water shall be denied by the Department if not equipped with said measuring device.
4. Appropriation A-12961B authorizes the appropriator to divert water from the Big Blue River to irrigate the 30 acres of land described below and depicted on map number 19715 which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.43 cfs (193 gallons per minute).

| Township 10 North, Range 03 East of the 6 th P.M. in Seward County | | Acres |
|--|-----------------------------------|----------|
| Section 03: | SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 28 |
| | SE $\frac{1}{4}$ NE $\frac{1}{4}$ | <u>2</u> |
| | TOTAL | 30 |

5. A **measuring device** approved by the Department **is required**. During times of shortage, water shall be denied by the Department if not equipped with said measuring device.
6. The points of diversion for A-12961A and A-12961B remain on both banks of the stream in the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 03, Township 10 North, Range 03 East of the 6th P.M. in Seward County, as depicted on maps number 19714 and 19715, which are made a part of this Order. Total annual volume of water diverted may not exceed three acre-feet per acre irrigated.
7. If the appropriators of A-12961A and A-12961B do not have access to the point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion and have it approved by the Department prior to any diversion. The Order does not authorize access to the existing point of diversion.

8. All terms and conditions of appropriation A-12961 remain in effect unless specifically changed by this Order.
9. The appropriator must comply with all relevant statutes. These relevant statutory requirements 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 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.

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.

DEPARTMENT OF NATURAL RESOURCES

October 7, 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 maps number 19714 and 19715 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 19714 and 19715 were mailed on October 7, 2016, to the following:

Terry Hackbart
 Hackbart Cattle, LLC
 1027 265th Road
 Milford, Nebraska 68405

Virginia Peterson
 c/o Don Peterson
 2583 Fletcher Road
 Seward, Nebraska 68434