

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-11477

WATER DIVISION 1-D

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11477 is currently held by Richard Kleinschmidt.
2. Appropriation A-11477 with a priority date of July 10, 1968, authorizes the use of water for irrigation of the 309.5 acres of land described below. The water may be diverted from a tributary to the South Fork of Turkey Creek at points of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and on the right bank in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ all in Section 29, Township 6 North, Range 2 West of the 6th P.M. in Fillmore County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 4.42 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 6 North, Range 2 West of the
6th P.M. in Fillmore County Acres

Section 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.6
NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.4
SW $\frac{1}{4}$ NW $\frac{1}{4}$	39.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	39.5
NW $\frac{1}{4}$ NE $\frac{1}{4}$	39.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.5
SE $\frac{1}{4}$ NE $\frac{1}{4}$	38.5
TOTAL	309.5

3. Janice L. Myers filed a Notice of Change of Ownership indicating that she is the owner of a portion of the land authorized to be irrigated by appropriation A-11477.
4. Donna M. Nedrow, on behalf of the Donna M. Nedrow Revocable Trust filed a Notice of Change of Ownership indicating that the Donna M. Nedrow Revocable Trust is the owner of a portion of the land authorized to be irrigated by appropriation A-11477.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-11477 is divided into two appropriations, A-11477A and A-11477B.
2. Appropriation A-11477A is held by Janice L. Myers.
 - A. She is allowed to divert 2.21 cfs (992 gallons per minute) from a tributary to the South Fork of Turkey Creek to irrigate the 154.5 acres of land described below and as depicted on map number 17597 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 6 North, Range 2 West of the 6th P.M. in Fillmore County</u>	<u>Acres</u>
Section 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.6
NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.4
SW $\frac{1}{4}$ NW $\frac{1}{4}$	39.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>39.5</u>
TOTAL	154.5

- B. All terms and conditions of appropriation A-11477 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of the stream in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and on the right bank in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ all in Section 29, Township 6 North, Range 2 West of the 6th P.M. in Fillmore County. If the owner of appropriation A-11477A does not have access to these points of diversion, she must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.

3. Appropriation A-11477B is held by the Donna M. Nedrow Revocable Trust.

- A. The Donna M. Nedrow Revocable Trust is allowed to divert 2.21 cfs (992 gallons per minute) from a tributary to the South Fork of Turkey Creek to irrigate the 155.0 acres of land described below and as depicted on map number 17598 which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 6 North, Range 2 West of the
6th P.M. in Fillmore County Acres

Section 29: NW ¹ / ₄ NE ¹ / ₄	39.0
NE ¹ / ₄ NE ¹ / ₄	38.0
SW ¹ / ₄ NE ¹ / ₄	39.5
SE ¹ / ₄ NE ¹ / ₄	<u>38.5</u>
 TOTAL	 155.0

- B. All terms and conditions of appropriation A-11477 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of the stream in the NW¹/₄NW¹/₄, the NE¹/₄NW¹/₄ and on the right bank in the SE¹/₄NE¹/₄ all in Section 29, Township 6 North, Range 2 West of the 6th P.M. in Fillmore County. If the owner of appropriation A-11477B does not have access to these points of diversion, the Donna M. Nedrow Revocable Trust must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.

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

January 29, 2010


Brian P. Dunnigan, 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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, 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 17597 and 17598 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 17597 and 17598 were mailed on January 29, 2010, to the following:

Janice L. Myers
1016 Road 15
Geneva, Nebraska 68361

Donna M. Nedrow Revocable Trust
c/o Bruce Nedrow
1311 Highway 41
Geneva, Nebraska 68361