

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-2496

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-2496 located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 33, Township 12 North, Range 2 East of the 6<sup>th</sup> P.M. in Seward County, is currently held by Louise Tonniges.
2. Records on file in the Department show that a portion of surface water appropriation A-2496 located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 4, Township 11 North, Range 2 East of the 6<sup>th</sup> P.M. in Seward County, is currently held by Milton and Elaine Bek.
3. Appropriation A-2496 has a priority date of November 22, 1934, and authorizes the use of water for irrigation of the 47 acres of land described below. The water may be diverted from Lincoln Creek at points of diversion located on the east bank of the stream in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 33, Township 12 North, and the south and west banks of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 4, Township 11 North, both in Range 2 East of the 6<sup>th</sup> P.M. in Seward 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 0.67 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 12 North, Range 2 East of the  
6<sup>th</sup> P.M. in Seward County Acres

Section 33: NE $\frac{1}{4}$ SW $\frac{1}{4}$  25

Township 11 North, Range 2 East of the  
6<sup>th</sup> P.M. in Seward County Acres

Section 4: NE $\frac{1}{4}$ NE $\frac{1}{4}$  22

TOTAL 47

4. Clelland and Jean Tonniges filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-2496. The land is located in Section 33, Township 12 North, Range 2 East of the 6<sup>th</sup> P.M. in Seward County.

5. Edward J. and Marilyn G. Hladky filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-2496. The land is located in Section 4, Township 11 North, Range 2 East of the 6<sup>th</sup> P.M. in Seward County.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-2496 is divided into two appropriations, A-2496A and A-2496B.
2. Appropriation A-2496A is held by Clelland and Jean Tonniges.
- A. They are allowed to divert 0.36 cfs (162 gallons per minute) from Lincoln Creek to irrigate the 25 acres of land described below and as depicted on map number 17496 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 12 North, Range 2 East of the  
6<sup>th</sup> P.M. in Seward County Acres

Section 33: NE $\frac{1}{4}$ SW $\frac{1}{4}$  25

- B. All terms and conditions of appropriation A-2496 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of the stream in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 33, Township 12 North, and the right bank of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 4, Township 11 North, both in Range 2 East of the 6<sup>th</sup> P.M. in Seward County. If the owners of appropriation A-2496A do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points of diversion.
3. Appropriation A-2496B is held by Edward J. and Marilyn G. Hladky.
- A. They are allowed to divert 0.31 cfs (139 gallons per minute) from Lincoln Creek to irrigate the 22 acres of land described below and as depicted on map number 17497 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 11 North, Range 2 East of the  
6<sup>th</sup> P.M. in Seward County Acres

Section 4: NE $\frac{1}{4}$ NE $\frac{1}{4}$  22

- B. All terms and conditions of appropriation A-2496 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of the stream in the NE¼SW¼ of Section 33, Township 12 North, and the right bank of the stream in the NE¼NE¼ of Section 4, Township 11 North, both in Range 2 East of the 6<sup>th</sup> P.M. in Seward County. If the owners of appropriation A-2496B do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of 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

November 30 , 2009

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/s/  
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, 4<sup>th</sup> 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 17496 and 17497 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 17496 and 17497 were mailed on November \_\_\_\_\_, 2009, to the following:

Clelland and Jean Tonniges 3408 Branched Oak Road Staplehurst, Nebraska 68439	Edward J. and Marilyn G. Hladky 2176 294 <sup>th</sup> Road Seward, Nebraska 68434
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