

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP,

APPROVAL OF EXPEDITED TRANSFER EXT-1813 AND

MAPS NUMBER 17507, 17489 AND 17490 FOR WATER APPROPRIATION D-748

WATER DIVISION 1-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of land located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County appurtenant surface water appropriation D-748 is owned by Harold E. and Frances L. McConnell.
2. Records on file in the Department show that a portion of land located in the SE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County appurtenant surface water appropriation D-748 is owned by Andrew R. and Peggy S. Weaver.
3. Records on file in the Department of Natural Resources (Department) show that a portion of land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County appurtenant surface water appropriation D-748 is owned by Central Nebraska Public Power and Irrigation District.
4. The land entitled to water under appropriation D-748 is held in distinct parcels by multiple owners. Therefore, it is in the best interest of the owners and the State to divide the appropriation among the owners so that each owner's rights are distinguishable. However, all rights should remain with the same priority date as to one another.
5. Appropriation D-748 has a priority date of July 1, 1888, and authorizes the use of water for irrigation of a total of 200.0 acres of land. The water may be diverted from Clear Creek at a point of diversion located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith 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 2.86 cfs.

6. On October 22, 2009, Harold E. McConnell filed application EXT-1813 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation D-748 and map number 17507 showing the land proposed to be irrigated under appropriation D-748 through transfer EXT-1813.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation D-748 is divided into three appropriations, D-748A, D-748B and D-748C.
2. Application EXT-1813 for a permit for an expedited transfer of the location of use and map number 17507 for appropriation D-748A are APPROVED.
3. Appropriation D-748A is held by Harold E. and Frances L. McConnell.
 - A. Appropriation D-748A through transfer EXT-1813 authorizes the use of water to irrigate 50.1 acres of land described below and depicted on map number 17507, 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 0.72 cfs (323 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

| <u>Township 16 North, Range 41 West of the</u> | <u>Acres</u> |
|--|--------------|
| <u>6th P.M. in Keith County</u> | |
| Section 32: NW $\frac{1}{4}$ NE $\frac{1}{4}$ | 4.4 |
| NE $\frac{1}{4}$ NE $\frac{1}{4}$ | 2.8 |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ | 24.1 |
| SE $\frac{1}{4}$ NE $\frac{1}{4}$ | <u>18.8</u> |
| TOTAL | 50.1 |

- B. All terms and conditions of appropriation D-748 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the right bank of Clear Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County, as depicted on map number 17507. If the owners of the land appurtenant to appropriation D-748B do not have access to this point of diversion, they 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 point of diversion.

4. Appropriation D-748B is held by Andrew R. and Peggy S. Weaver.

A. Appropriation D-748B authorizes the use of water to irrigate the 140.3 acres of land described below and depicted on map number 17489, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 2.00 cfs (898 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| Township 16 North, Range 41 West of the 6 th P.M. in Keith County | | Acres |
|---|-----------------------------------|-------------|
| Section 32: | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 40.1 |
| | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 33.2 |
| | SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 30.2 |
| | SE $\frac{1}{4}$ SE $\frac{1}{4}$ | <u>36.8</u> |
| | TOTAL | 140.3 |

B. All terms and conditions of appropriation D-748 remain in effect unless specifically changed by this Order.

C. The point of diversion remains on the right bank of Clear Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County, as depicted on map number 17489. If the owners of land appurtenant to appropriation D-748B do not have access to this point of diversion, they 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 point of diversion.

5. Appropriation D-748C is held by Central Nebraska Public Power and Irrigation District.

A. Appropriation D-748C authorizes the use of water to irrigate the 9.6 acres of land described below and depicted on map number 17490, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 0.14 cfs (63 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| Township 16 North, Range 41 West of the 6 th P.M. in Keith County | | Acres |
|---|-----------------------------------|-------|
| Section 32: | SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 9.6 |

B. All terms and conditions of appropriation D-748 remain in effect unless specifically changed by this Order.

- C. The point of diversion remains on the right bank of Clear Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 16 North, Range 41 West of the 6th P.M. in Keith County, as depicted on map number 17490. If the owners of the land appurtenant to appropriation D-748C do not have access to this point of diversion, they 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 point of diversion.
6. The appropriators 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 14, 2015


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 17507, 17489 and 17490 were provided to the Department's field offices in Bridgeport and North Platte, Nebraska. Copies of this Order and maps number 17507, 17489 and 17490 were mailed on August 14, 2015, to the following:

Harold E. and Frances L. McConnell
2254 Road West P North
Lewellen, Nebraska 69147

Andrew R. and Peggy S. Weaver
34467 County Road HH ½
Wray, Colorado 80758

Central Nebraska Public Power and Irrigation District
P.O. Box 740
Holdrege, Nebraska 68949-0740