

STATE OF NEBRASKA
 DEPARTMENT OF NATURAL RESOURCES
 ORDER DIVIDING, CANCELING IN PART
 AND APPROVAL OF EXPEDITED TRANSFER EXT-2432 FOR
 APPROPRIATION A-13006

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that the land appurtenant to surface water appropriation A-13006 is held in two distinct parcels by (1) Arlen L. Lierman, and (2) Kevin A. and Claudia S. Lierman.
2. Appropriation A-13006 with a priority date of March 27, 1974, authorizes the use of water for irrigation of the 155.0 acres of land described below. The water may be diverted from the Elkhorn River at points of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 22 North, Range 5 East, and on both banks in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 23 North, Range 5 East of the 6th P.M. in Cuming 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 2.21 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 22 North, Range 5 East of the</u>		<u>Acres</u>
6 th P.M. in Cuming County		
Section 2:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	30.0
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	24.0
<u>Township 23 North, Range 5 East of the</u>		<u>Acres</u>
6 th P.M. in Cuming County		
Section 35:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	35.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>27.0</u>
	TOTAL	155.0

3. The portion under A-13006 currently held by Arlen L. Lierman is located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 22 North, Range 5 East of the 6th P.M. in Cuming County.
4. The portion under A-13006 currently held by Kevin A. and Claudia S. Lierman is located in the SW $\frac{1}{4}$ of Section 35, Township 23 North, Range 5 East of the 6th P.M. in Cuming County.
5. On October 16, 2012, Arlen L. Lierman filed application EXT-2432 in the Department for a permit for an expedited transfer of the location of use for 45.3 of the 54.0 acres under surface water appropriation A-13006 appurtenant to his property.
6. On October 16, 2012, Arlen L. Lierman filed REL-2431 in the Department to relinquish a portion of water under appropriation A-13006, for use on the land described below.

<u>Township 22 North, Range 5 East of the 6th P.M. in Cuming County</u>		<u>Acres</u>
Section 2:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	6.1
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>2.6</u>
	TOTAL	8.7

7. On November 2, 2012, Arlen L. Lierman filed map number 18338 depicting the land proposed to be irrigated under appropriation A-13006 through transfer EXT-2432.
8. The water right attaches to the land and the diversion rate is limited by the amount of acres irrigated. Therefore, it is in the best interest of the owners and the State to divide the water appropriation between separate parcel owners so that each owner's rights are distinguishable. However, all rights should retain the same priority as to one another.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-13006 is divided into two appropriations, A-13006A and A-13006B.
 - A. Appropriation A-13006A is currently held by Arlen L. Lierman.
 - B. Part of surface water appropriation A-13006A at the rate of 0.12 cfs is CANCELLED for use on the land described below.

<u>Township 22 North, Range 5 East of the 6th P.M. in Cuming County</u>		<u>Acres</u>
Section 2:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	6.1
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>2.6</u>
	TOTAL	8.7

- C. Application EXT-2432 for a permit for an expedited transfer of the location of use and map number 18338 are APPROVED.
- D. Appropriation A-13006A through transfer EXT-2432 authorizes the use of water to irrigate 45.3 acres of land described below and depicted on map number 18338, which is made a part of this Order. The water may be diverted from the Elkhorn River at a point of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 22 North, Range 5 East of the 6th P.M. in Cuming County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.65 cfs (292 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year, nor exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

Township 22 North, Range 5 East of the		
<u>6th P.M. in Cuming County</u>		<u>Acres</u>
Section 2:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	2.6
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.8
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	0.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	12.4
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	21.4
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>2.3</u>
	TOTAL	45.3

- E. All terms and conditions of appropriation A-13006 remain in effect unless specifically changed by this Order.
2. Appropriation A-13006B is currently held by Kevin A. and Claudia S. Lierman.
- A. Appropriation A-13006B allows the appropriator to divert 1.44 cfs (646 gallons per minute) from the Elkhorn River to irrigate the 101.0 acres of land described below and as described on map number 18347 which is hereby made a part of this Order. The points of diversion are located on both banks in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 23 North, Range 5 East of the 6th P.M. in Cuming County. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated. Total volume of water diverted may not exceed 3 acre-feet per acres irrigated, nor exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

Township 23 North, Range 5 East of the		
<u>6th P.M. in Cuming County</u>		<u>Acres</u>
Section 35:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	35.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>27.0</u>
	TOTAL	101.0

- B. All terms and conditions of appropriation A-13006 remain in effect unless specifically changed by this Order.
3. 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

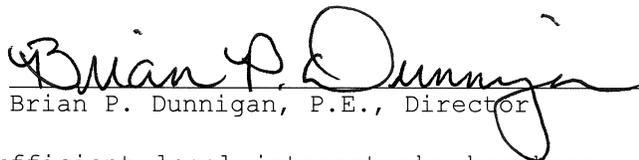
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, 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. This appropriation 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

June 28, 2013


 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 *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 18338 and 18347 were provided to the Department's field office in Norfolk, Nebraska. Copies of this Order and maps number 18338 and 18347 were mailed on June 28, 2013, to the following:

Arlen L. Lierman
P.O. Box 242
Beemer NE 68716

Kevin A. and Claudia S. Lierman
P.O. Box 144
Beemer NE 68716