

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-16755

WATER DIVISION 1-C

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-16755 is currently held by Mahlon Kennel and Sons.
2. Appropriation A-16755 with a priority date of March 16, 1989, authorizes the use of water for irrigation of the 59 acres of land described below. The water may be diverted from a tributary to Dry Sandy Creek at a point of diversion located on right bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 3 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 rate of 0.84 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 5 North, Range 3 West of the	
<u>6th P.M. in Fillmore County</u>	
	Acres
Section 5: SE $\frac{1}{4}$ SW $\frac{1}{4}$	20
Section 8: NE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>39</u>
TOTAL	59

3. Conley K. and Shelly L. Kennel 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-16755.
4. Donald D. Saltzman filed a Notice of Change of Ownership indicating that he is the owner of a portion of the land authorized to be irrigated by appropriation A-16755.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-16755 is divided into two appropriations, A-16755A and A-16755B.

2. Appropriation A-16755A is held by Donald D. Saltzman.

- A. He is allowed to divert 0.29 cfs (130 gallons per minute) from a tributary to Dry Sandy Creek to irrigate the 20 acres of land described below and as depicted on map number 17548 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 5 North, Range 3 West of the
6th P.M. in Fillmore County Acres

Section 5: SE $\frac{1}{4}$ SW $\frac{1}{4}$ 20

- B. All terms and conditions of appropriation A-16755 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the right bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 3 West of the 6th P.M. in Fillmore County. If the owner of appropriation A-16755A does not have access to this point of diversion, he 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.

3. Appropriation A-16755B is held by Conley K. and Shelly L. Kennel.

- A. They are allowed to divert 0.56 cfs (251 gallons per minute) from a tributary to Dry Sandy Creek to irrigate the 39 acres of land described below and as depicted on map number 17549 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 5 North, Range 3 West of the
6th P.M. in Fillmore County Acres

Section 8: NE $\frac{1}{4}$ NW $\frac{1}{4}$ 39

- B. All terms and conditions of appropriation A-16755 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the right bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 3 West of the 6th P.M. in Fillmore County. If the owners of appropriation A-16755B 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.

Additional Information

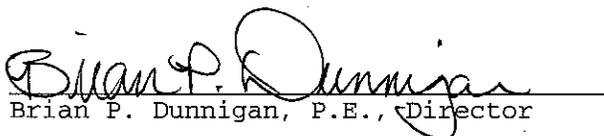
Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, 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

March 30, 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 17548 and 17549 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 17548 and 17549 were mailed on March 30, 2010, to the following:

Conley K. and Shelly L. Kennel
307 North Pear Street
Shickley, Nebraska 68436

Donald D. Saltzman
305 East Kline Street
PO Box 122
Shickley, Nebraska 68436