

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-11669

WATER DIVISION 2-C

Background

1. Records on file in the Department of Natural Resources (Department) show that C. Todd Cook owns a portion of the land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  and Lot 10 of Section 2; the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and Lot 10 of Section 4, both in Township 34 North, Range 18 West of the 6<sup>th</sup> P.M. in Keya Paha County and appurtenant to surface water appropriation A-11669.
2. Records on file in the Department show that Marcia Cook owns a portion of the land located in the E $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 3; the SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; and N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 4, all in Township 34 North, Range 18 West of the 6<sup>th</sup> P.M. in Keya Paha County and appurtenant to surface water appropriation A-11669.
3. Appropriation A-11669 with a priority date of March 14, 1969, authorizes the use of water for irrigation of the 105.8 acres of land described below. The water may be diverted from Keya Paha River at points of diversion located on both banks of the stream in Lot 7 of Section 3; Lot 1 and Lot 10 of Section 4, all in Township 34 North, Range 18 West of the 6<sup>th</sup> P.M. in Keya Paha 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 1.51 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 34 North, Range 18 West of the  
6<sup>th</sup> P.M. in Keya Paha County                      Acres

Section 2:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.0
	Lot 10	10.0
Section 3:	SE $\frac{1}{4}$ NE $\frac{1}{4}$	31.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	3.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	6.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	28.0
Section 4:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1.6
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	7.2
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	4.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>5.0</u>
	TOTAL	105.8

4. The land entitled to water under appropriation A-11669 is held in distinct parcels by multiple owners. Therefore the Department will divide the appropriation between current landowners so that each owner's rights are distinguishable.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-11669 is divided into two appropriations, A-11669A and A-11669B.
2. Appropriation A-11669A is held by Marcia Cook.
  - A. The appropriator is allowed to divert 0.26 cfs (117 gallons per minute) from Keya Paha River to irrigate the 18.0 acres of land described below and as depicted on map number 17907 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 34 North, Range 18 West of the</u>		
<u>6<sup>th</sup> P.M. in Keya Paha County</u>		<u>Acres</u>
Section 3:	NE $\frac{1}{4}$ SW $\frac{1}{4}$	3.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	6.0
Section 4:	NE $\frac{1}{4}$ SE $\frac{1}{4}$	4.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>5.0</u>
	TOTAL	18.0

- B. All terms and conditions of appropriation A-11669 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on both banks of Keya Paha River in Lot 7 of Section 3; Lot 1 and Lot 10 of Section 4, all in Township 34 North, Range 18 West of the 6<sup>th</sup> P.M. in Keya Paha County as depicted on map number 17907. If the owner of A-11669A 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-11669B is held by C. Todd Cook.

A. The appropriator is allowed to divert 1.25 cfs (561 gallons per minute) from Keya Paha River to irrigate the 87.8 acres of land described below and as depicted on map number 17908 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 34 North, Range 18 West of the</u>		
<u>6<sup>th</sup> P.M. in Keya Paha County</u>		<u>Acres</u>
Section 2:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.0
	Lot 10	10.0
Section 3:	SE $\frac{1}{4}$ NE $\frac{1}{4}$	31.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	28.0
Section 4:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1.6
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>7.2</u>
	TOTAL	87.8

B. All terms and conditions of appropriation A-11669 remain in effect unless specifically changed by this Order.

C. The points of diversion remain on both banks of Keya Paha River in Lot 7 of Section 3; Lot 1 and Lot 10 of Section 4, all in Township 34 North, Range 18 West of the 6<sup>th</sup> P.M. in Keya Paha County as depicted on map number 17908. If the owner of A-11669B does not have access to these points 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 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

September 5, 2012

  
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 Neb. Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval 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 17907 and 17908 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 17907 and 17908 were mailed on September 5, 2012, to the following:

Marcia Cook  
90314 454<sup>th</sup> Avenue  
Mills, Nebraska 68753

C. Todd Cook  
90534 T & R Drive  
Mills, Nebraska 68753

Doug Sheppard  
45649 State Highway 12  
Mills, Nebraska 68753