

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-12815

AND APPROVAL OF MAP 19154

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12815 is held by Ermin C. Benes.
2. The Department has received information that Dolores M. Benes is the wife of Ermin C. Benes and holds a spousal interest in appropriation A-12815.
3. A search of the records of the Saunders County Register of Deeds indicates the land appurtenant to appropriation A-12815 was divided into distinct parcels and there may be additional landowners. These individuals are Mitchel J. Benes and Andrea K. Benes.
4. Appropriation A-12815 has a priority date of February 23, 1973, and authorizes the use of water for irrigation of the 188.0 acres of land described below. The water may be diverted from North Oak Creek at a point of diversion located on the left bank of the stream in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 15, Township 13 North, Range 05 East of the 6th P.M. in Saunders 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 2.69 cfs.

Township 13 North, Range 05 East of the
6th P.M. in Saunders County

	Acres
Section 15: NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
SW $\frac{1}{4}$ NW $\frac{1}{4}$	28.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>40.0</u>
TOTAL	188.0

5. On January 2, 2015 Ermin C. and Dolores M. Benes filed relinquishment REL-5276, relinquishing the right to divert water under a portion of appropriation A-12815 to irrigate the 118.0 acres of land described below.

<u>Township 13 North, Range 05 East of the</u>		
<u>6th P.M. in Saunders County</u>		<u>Acres</u>
Section 15:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	20.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	28.0
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>30.0</u>
	TOTAL	118.0

6. Upon further investigation records show that 114.5 acres of the original 188.0 acre appropriation are owned by Ermin & Dolores Benes at this time.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-12815 at the rate of 1.64 cfs for use upon the land described below is CANCELLED.

<u>Township 13 North, Range 05 East of the</u>		
<u>6th P.M. in Saunders County</u>		<u>Acres</u>
Section 15:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	17.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	28.0
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>29.5</u>
	TOTAL	114.5

2. Appropriation A-12815 now authorizes the appropriator to divert water from North Oak Creek to irrigate the 73.5 acres of land described below and depicted on map number 19154 which is made a part of this Order. The points of diversion remain in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 15, Township 13 North, Range 05 East of the 6th P.M. in Saunders County, as depicted on map number 19154. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.05 cfs (471 gallons per minute).

<u>Township 13 North, Range 5 East of the</u>		
<u>6th P.M. in Saunders County</u>		<u>Acres</u>
Section 15:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	23.0
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	10.5
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>40.0</u>
	TOTAL	73.5

3. All terms and conditions of appropriation A-12815 remain in effect unless specifically changed by this Order.
4. The appropriator 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.

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. If you are not able to divert sufficient amounts of water, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

December 21, 2015



 Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 19154 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 19154 were mailed on December 21, 2015, to the following:

Ermin C. Benes
 419 County Road 31
 Valparaiso, Nebraska 68065

Dolores M. Benes
 419 County Road 31
 Valparaiso, Nebraska 68065

Mitchel J. Benes
 699 Oak Road
 Valparaiso, Nebraska 68065

Andrea K. Benes
 600 Oak Road
 Valparaiso, Nebraska 68065