

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-7969
INTO A-7969A AND A-7969B AND APPROVAL OF MAPS NUMBER 19419 AND 19425

WATER DIVISION 1-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ south of Rose Creek in Section 10 and the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 15, both in Township 01 North, Range 01 West of the 6th P.M. in Thayer County appurtenant to appropriation A-7969 is owned by Nicole Kalivoda.
2. Records on file in the Department show that land located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ north of Rose Creek in Section 10, Township 01 North, Range 01 West of the 6th P.M. in Thayer County appurtenant to appropriation A-7969 is owned by Mitchell H. Husa.
3. Appropriation A-7969 with a priority date of August 20, 1955, authorizes the use of water for irrigation of the 71 acres of land described below. The water may be diverted from Rose Creek at points of diversion located on both banks of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 01 North, Range 01 West of the 6th P.M. in Thayer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 140 acres irrigated at a maximum combined rate of 0.51 cfs from both points of diversion.

Township 01 North, Range 01 West of the 6 th P.M. in Thayer County		Acres
Section 10:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	28
Section 15:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	31
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>12</u>
	TOTAL	71

4. On December 17, 2015, Mitchell H. Husa 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-7969.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-7969 is divided into two appropriations, A-7969A and A-7969B.

2. Appropriation A-7969A is held by Nicole Kalivoda.

A. Appropriation A-7969A authorizes the use of water to irrigate the 60 acres of land described below and depicted on map number 19419, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 140 acres irrigated at a maximum rate of 0.43 cfs (193 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 01 North, Range 01 West of the</u> <u>6th P.M. in Thayer County</u>	<u>Acres</u>
Section 10: SW $\frac{1}{4}$ SE $\frac{1}{4}$	17
Section 15: NW $\frac{1}{4}$ NE $\frac{1}{4}$	31
NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>12</u>
TOTAL	60

B. All terms and conditions of appropriation A-7969 remain in effect unless specifically changed by this Order.

C. The points of diversion remain on both banks of Rose Creek in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 01 North, Range 01 West of the 6th P.M. in Thayer County, as depicted on map number 19419. If the owner of the land appurtenant to appropriation A-7969A 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-7969B is held by Mitchell H. Husa.

A. Appropriation A-7969B authorizes the use of water to irrigate the 11 acres of land described below and depicted on map number 19425, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 140 acres irrigated at a maximum rate of 0.08 cfs (36 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 01 North, Range 01 West of the</u> <u>6th P.M. in Thayer County</u>	<u>Acres</u>
Section 10: SW $\frac{1}{4}$ SE $\frac{1}{4}$	11

B. All terms and conditions of appropriation A-7969 remain in effect unless specifically changed by this Order.

- C. The points of diversion remain on both banks of Rose Creek in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 01 North, Range 01 West of the 6th P.M. in Thayer, as depicted on map number 19425. If the owner of the land appurtenant to appropriation A-7969B 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

January 25, 2016


Gordon W. Fassett, F.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 19419 and 19425 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 19419 and 19425 were mailed on January 25, 2016, to the following:

Nicole Kalivoda
P.O. Box 64
Diller, Nebraska 68342

Mitchell H. Husa
7043 Road K
Hebron, Nebraska 68370