

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-10389

WATER DIVISION 1-D

Background

1. Records on file in the Department of Natural Resources (Department) show that a portion of surface water appropriation A-10389 located in the E $\frac{1}{2}$ of Section 5 and SW $\frac{1}{4}$ of Section 4, Township 2 North, Range 7 East of the 6th P.M. in Gage County is currently held by Larry L. Frerichs.
2. Records on file in the Department of Natural Resources show that a portion of surface water appropriation A-10389 located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 7 East of the 6th P.M. in Gage County is currently held by Darrell D. and Rogene A. Christenson.
3. Appropriation A-10389 with a priority date of July 1, 1964, authorizes the use of water for irrigation of the 162.0 acres of land described below. The water may be diverted from points of diversion located on the left bank of Big Blue River in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ and on both banks in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 7 East of the 6th P.M. in Gage 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 2.31 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 2 North, Range 7 East of the 6 th P.M. in Gage County		Acres
Section 4:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	39.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	34.0
Section 5:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	19.0
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	23.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	26.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>21.0</u>
TOTAL		162.0

4. The land entitled to water under appropriation A-10389 is held in distinct parcels by multiple owners. Therefore, it is in the best interest of the landowners and the State to divide the appropriation between the owners so that each owner's rights are distinguishable. However, all rights should remain with the same priority as to one another.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-10389 is divided into two appropriations, A-10389A and A-10389B.
2. Appropriation A-10389A is held by Larry L. Frerichs.

A. Appropriation A-10389A authorizes the diversion 2.09 cfs (938 gallons per minute) from the Big Blue River to irrigate the 146.5 acres of land described below and as depicted on map number 18449 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 2 North, Range 7 East of the</u>		
<u>6th P.M. in Gage County</u>		<u>Acres</u>
Section 4:	SW ¹ / ₄ SW ¹ / ₄	39.0
	SE ¹ / ₄ SW ¹ / ₄	34.0
Section 5:	SW ¹ / ₄ NE ¹ / ₄	19.0
	NW ¹ / ₄ SE ¹ / ₄	7.5
	NE ¹ / ₄ SE ¹ / ₄	26.0
	SE ¹ / ₄ SE ¹ / ₄	<u>21.0</u>
	TOTAL	146.5

- B. All terms and conditions of appropriation A-10389 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of Big Blue River in the in SW¹/₄NE¹/₄ and SE¹/₄SE¹/₄ and on both banks in the NW¹/₄SE¹/₄ of Section 5, Township 2 North, Range 7 East of the 6th P.M. in Gage County, as depicted on map number 18449. If the owner of appropriation A-10389A 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.
3. Appropriation A-10389B is held by Darrell D. and Rogene A. Christensen.
 - A. Appropriation A-10389B authorizes the diversion of 0.22 cfs (99 gallons per minute) from the Big Blue River to irrigate the 15.5 acres of land described below and as depicted on map number 18450 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 2 North, Range 7 East of the</u>		
<u>6th P.M. in Gage County</u>		<u>Acres</u>
Section 5:	NW ¹ / ₄ SE ¹ / ₄	15.5

- B. All terms and conditions of appropriation A-10389 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on the left bank of Big Blue River in the in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ and on both banks in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 7 East of the 6th P.M. in Gage County, as depicted on map number 18450. If the owners of appropriation A-10389B do not have access to these points 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 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

November 8, 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 Neb. 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 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 18449 and 18450 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 18449 and 18450 were mailed on November 8, 2013, to the following:

Darrell D. & Rogene A. Christensen
 5 Narrows Drive
 Holiday Island, AR 72631

Larry L. Frerichs
 9254 E Pine Road
 Wymore, NE 68466