

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-10237
AND APPROVAL OF MAPS NUMBER 19525, 19526 AND 19527

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-10237 is currently appurtenant to land owned by multiple parties including: (1) Dennis J. Zolck Sr., and Nancy J. Zolck, (2) Barbara J. Brazelton and Philip E. Brazelton Sr., and (3) Phyllis J. and Robert L. Monke, Co-Trustees of the Phyllis J. Monke Trust. In order to distinguish each owner's individual portion of appropriation A-10237, the appropriation shall be divided based upon landownership.
2. Appropriation A-10237 with a priority date of August 28, 1963, authorizes the use of water for irrigation of the 172.0 acres of land described below. The water may be diverted from Bell Creek at a point of diversion located on the east bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 19 North, Range 09 East of the 6th P.M. in Washington 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 2.46 cfs.

<u>Township 19 North, Range 09 East of the</u>	
<u>6th P.M. in Washington County</u>	
	<u>Acres</u>
Section 36:	
NW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>33.0</u>
TOTAL	172.0

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-10237 is divided into three appropriations: A-10237A, A-10237B and A-10237C, the priority date remains August 28, 1963.

2. Appropriation A-10237A, held by Dennis J. Zolck Sr., and Nancy J. Zolck, authorizes the use of water from Bell Creek to irrigate the 40.8 acres of land described below and depicted on map number 19525. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 0.58 cfs (260 gallons per minute).

Township 19 North, Range 09 East of the
6th P.M. in Washington County Acres

Section 36:	NW ¹ / ₄ NW ¹ / ₄	38.4
	NE ¹ / ₄ NW ¹ / ₄	1.5
	SE ¹ / ₄ NW ¹ / ₄	<u>0.9</u>
	TOTAL	40.8

3. Appropriation A-10237B, held by Barbara J. Brazelton and Philip E. Brazelton Sr., authorizes the use of water from Bell Creek to irrigate the 1.6 acres of land described below and depicted on map number 19526. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 0.03 cfs (13 gallons per minute).

Township 19 North, Range 09 East of the
6th P.M. in Washington County Acres

Section 36:	NW ¹ / ₄ NW ¹ / ₄	1.6
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4. Appropriation A-10237C, held by Phyllis J. and Robert L. Monke, Co-Trustees of the Phyllis J. Monke Trust, authorizes the use of water from Bell Creek to irrigate the 129.6 acres of land described below and depicted on map number 19527. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 1.85 cfs (830 gallons per minute).

Township 19 North, Range 09 East of the
6th P.M. in Washington County Acres

Section 36:	NE ¹ / ₄ NW ¹ / ₄	38.5
	SE ¹ / ₄ NW ¹ / ₄	39.1
	NW ¹ / ₄ NE ¹ / ₄	19.0
	SW ¹ / ₄ NE ¹ / ₄	<u>33.0</u>
	TOTAL	129.6

5. The point of diversion for A-10237A, A-10237B and A-10237C remains on the east bank of Bell Creek in the SE¹/₄NW¹/₄ of Section 36, Township 19 North, Range 09 East of the 6th P.M. in Washington County, as depicted on map numbers 19525, 19526 and 19527 which are made a part of this order. Total annual volume of water diverted may not exceed three acre-feet per acre irrigated.

6. If the appropriators of A-10237A, A-10237B, or A-10237C do not have access to the point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion and have it approved by the Department prior to any diversion. This Order does not authorize access to the existing point of diversion.
7. All terms and conditions of the approval of appropriation A-10237 remain in effect unless specifically changed by this Order.

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

May 20, 2016



 Gordon W. Fassett, 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 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 19525, 19526 and 19527 were provided to the Department's field office in Norfolk, Nebraska, and were mailed on May 20, 2016, to the following:

Dennis J. and Nancy J. Zolck 13990 County Road 9 Arlington, Nebraska 68002	Phyllis J. Monke Trust Phyllis J. and Robert Monke Co-Trustees c/o Tom Monke 10989 8 th Street Nickerson, Nebraska 68044
Barbara J. and Philip E. Sr., Brazelton 13782 County Road 9 Arlington, Nebraska 68002	