

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-12132

AND APPROVAL OF MAPS NUMBER 19442 AND 19443

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that Gary J. and Dzintra Nelson, Trustees of the Gary J. and Dzintra Nelson Trust, own a tract of land located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, Township 19 North, Range 13 West of the 6th P.M. in Valley County appurtenant to surface water appropriation A-12132.
2. Records on file in the Department show that the Justine L. Shoemaker owns a tract of land located in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 26 and the NE $\frac{1}{4}$ of Section 35, both in Township 19 North, Range 13 West of the 6th P.M. in Valley County appurtenant to surface water appropriation A-12132.
3. Appropriation A-12132 with a priority date of December 24, 1970, authorizes the use of water for irrigation of the 79.4 acres of land described below. The water may be diverted from Messenger Creek at a point of diversion located on the left bank of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 19 North, Range 13 West of the 6th P.M. in Valley 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 1.13 cfs.

Township 19 North, Range 13 West of the 6 th P.M. in Valley County		Acres
Section 26:	NE $\frac{1}{4}$ SE $\frac{1}{4}$	20.1
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	20.0
Section 35:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	16.2
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	17.1
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>6.0</u>
	TOTAL	79.4

4. Appropriation A-12132 was originally granted to a single landowner. The appurtenant land was later divided into distinct parcels to multiple owners. Because of the multiple owners, the Department determined that it was in the best interest of the owners and the State to divide the water appropriation between the owners so that each owner's rights were distinguishable.

- B. All terms and conditions of appropriation A-12132 remain in effect unless specifically changed by this Order.
- C. The point of diversion remains on the left bank of Messenger Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 19 North, Range 13 West of the 6th P.M. in Valley County, as depicted on map number 19443. If the owner of the land appurtenant to appropriation A-12132B does not have access to this point 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 point 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

February 22, 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 19442 and 19443 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 19442 and 19443 were mailed on February 22, 2016, to the following:

Gary J. and Dzintra Nelson, Trustees
Gary J. and Dzintra Nelson Trust
#6 Bussell Park Road
Ord, Nebraska 68862

Justine L. Shoemaker
48371 Springdale Road
Ord, Nebraska 68862