

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-7759

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that land located in the E $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 6, Township 31 North, Range 12 West of the 6<sup>th</sup> P.M. in Holt County appurtenant to surface water appropriation A-7759 is owned by John D. Skrdla.
2. Records on file in the Department show that land located in the NE $\frac{1}{4}$  of Section 6, Township 31 North, and a portion of the land located in the S $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 31, both in Range 12 West of the 6<sup>th</sup> P.M. in Holt County appurtenant to surface water appropriation A-7759 is owned by John E. Schultz.
3. Records on file in the Department show that a portion of the land located in the E $\frac{1}{2}$ SE $\frac{1}{4}$  and S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31 and SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, both in Township 31 North, Range 12 West of the 6<sup>th</sup> P.M. in Holt County appurtenant to surface water appropriation A-7759 is owned by Charles P. and Mary L. Breiner.
4. Appropriation A-7759 with a priority date of July 12, 1955, authorizes the use of water for irrigation of the 118.2 acres of land described below. The water may be diverted from the East Branch of Eagle Creek at points of diversion located on both banks of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 31 North, and the E $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 6, Township 30 North, all in Range 12 West of the 6<sup>th</sup> P.M. in Holt County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 130 acres irrigated at a maximum combined rate of 0.91 cfs from all points of diversion.

Township 31 North, Range 12 West of the 6 <sup>th</sup> P.M. in Holt County			Township 30 North, Range 12 West of the 6 <sup>th</sup> P.M. in Holt County		
		Acres			Acres
Section 31:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	6.8	Section 6:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.5
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	6.4		NE $\frac{1}{4}$ NE $\frac{1}{4}$	18.7
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	0.2		SE $\frac{1}{4}$ NE $\frac{1}{4}$	20.4
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	12.4		NE $\frac{1}{4}$ SE $\frac{1}{4}$	6.4
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.4		SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>25.7</u>
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	19.4		TOTAL	118.2
Section 32	SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.9			

5. The land entitled to water under appropriation A-7759 is held in distinct parcels by multiple owners. Therefore, it is in the best interest of the owners and the State to divide the appropriation among the owners so that each owner's rights are distinguishable. However, all rights should remain with the same priority date as to one another.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-7759 is divided into three appropriations, A-7759A, A-7759B and A-7759C.
2. Appropriation A-7759A is held by John D. Skrdla.
  - A. He is allowed to divert 0.25 cfs (112 gallons per minute) from the East Branch of Eagle Creek to irrigate the 32.1 acres of land described below and as depicted on map number 18822 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 130 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 30 North, Range 12 West of the</u>		
<u>6<sup>th</sup> P.M. in Holt County</u>		<u>Acres</u>
Section 6:	NE $\frac{1}{4}$ SE $\frac{1}{4}$	6.4
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>25.7</u>
	TOTAL	32.1

- B. All terms and conditions of appropriation A-7759 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on both banks of the East Branch of Eagle Creek in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 31 North, and the E $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 6, Township 30 North, all in Range 12 West of the 6<sup>th</sup> P.M. in Holt County. If the owner of appropriation A-7759A 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-7759B is held by John E. Schultz.

A. He is allowed to divert 0.42 cfs (188 gallons per minute) from the East Branch of Eagle Creek to irrigate the 55.0 acres of land described below and as depicted on map number 18823 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 130 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 31 North, Range 12 West of the</u> <u>6<sup>th</sup> P.M. in Holt County</u>		<u>Acres</u>	<u>Township 30 North, Range 12 West of the</u> <u>6<sup>th</sup> P.M. in Holt County</u>		<u>Acres</u>
Section 31:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	0.2	Section 6:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.5
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.4		NE $\frac{1}{4}$ NE $\frac{1}{4}$	18.7
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	14.8		SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>20.4</u>
				TOTAL	55.0

B. All terms and conditions of appropriation A-7759 remain in effect unless specifically changed by this Order.

C. The points of diversion remain on both banks of the East Branch of Eagle Creek in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 31 North, and the E $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 6, Township 30 North, Range 12 West of the 6<sup>th</sup> P.M. in Holt County. If the owner of appropriation A-7759B 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.

4. Appropriation A-7759C is held by Charles P. and Mary L. Breiner.

A. They are allowed to divert 0.24 cfs (108 gallons per minute) from the East Branch of Eagle Creek to irrigate the 31.1 acres of land described below and as depicted on map number 18824 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 130 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 31 North, Range 12 West of the</u> <u>6<sup>th</sup> P.M. in Holt County</u>		<u>Acres</u>	<u>Township 32 North, Range 12 West of the</u> <u>6<sup>th</sup> P.M. in Holt County</u>		<u>Acres</u>
Section 31:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	6.8	Section 12:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>0.9</u>
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	6.4		TOTAL	31.1
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	12.4			
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	4.6			

- B. All terms and conditions of appropriation A-7759 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain on both banks of the East Branch of Eagle Creek in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31, Township 31 North, and the E $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 6, Township 30 North, all in Range 12 West of the 6<sup>th</sup> P.M. in Holt County. If the owners of appropriation A-7759C 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

March 28, 2014

  
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 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> 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 18822, 18823 and 18824 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 18822, 18823 and 18824 were mailed on March 28, 2014, to the following:

John D. Skrdla  
87457 468<sup>th</sup> Avenue  
Stuart, Nebraska 68780

John E. Schultz  
88305 486<sup>th</sup> Avenue  
O'Neill, Nebraska 68763

Charles P. and Mary L. Breiner  
P.O. Box 172  
O'Neill, Nebraska 68763