

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-11743 AND
APPROVAL OF NON-EXPEDITED TRANSFER NEX-9349
AND MAPS NUMBER 20723 AND 20724

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11743 is currently held by Steven M. and Sandra K. Crouse and Justin M. and Becky M. Crouse.
2. Appropriation A-11743 with a priority date of July 1, 1969, authorizes the use of water for irrigation of the 142.3 acres of land described below. The water may be diverted from Timber Creek a point of diversion located in the NW¹/₄SW¹/₄ of Section 30, Township 17 North, Range 06 West of the 6th P.M. in Nance 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 2.03 cfs.

<u>Township 17 North, Range 06 West of the 6th P.M. in Nance County</u>	<u>Acres</u>
Section 30: NW ¹ / ₄ SW ¹ / ₄	12.4
NE ¹ / ₄ SW ¹ / ₄	17.0
SW ¹ / ₄ SW ¹ / ₄	9.7
SE ¹ / ₄ SW ¹ / ₄	27.7
<u>Township 17 North, Range 07 West of the 6th P.M. in Nance County</u>	<u>Acres</u>
Section 25: NW ¹ / ₄ SE ¹ / ₄	31.5
NE ¹ / ₄ SE ¹ / ₄	29.5
SE ¹ / ₄ SE ¹ / ₄	<u>14.5</u>
TOTAL	142.3

3. On March 30, 2021, Steven M. Crouse filed application NEX-9349 for a change of appropriation (non-expedited transfer) for land authorized to be irrigated by appropriation A-11743.
4. Steven M. Crouse, through application NEX-9349, requests 21.3 acres of A-11743 be transferred to cover a proposed 111.3 acre wiper pivot owned by his son, Justin M. Crouse, with the Cedar River as the source. The remaining 121.0 acres will still be operated and irrigated by Steve Crouse.

5. On May 17, 2021, Steven M. Crouse and Justin M. Crouse filed map number 20723 showing the land proposed to be irrigated from the Cedar River under appropriation A-11743 through transfer NEX-9349.
6. On June 17, 2012, Steven M. Crouse corrected filed map number 20724 showing the land proposed to be irrigated from Timber Creek under appropriation A-11743 through transfer NEX-9349.
7. Because land appurtenant to the appropriation would be under two separate owners, and water for the transferred acres will be diverted from the Cedar River and water for the remaining acres will be diverted from Timber Creek, the Department determined that it is necessary to divide appropriation A-11743 into two distinct appropriations.
8. This transfer application and associated maps have been submitted, along with transfers from four other water appropriations held by Steve and Justin Crouse, to provide enough acres to cover a new irrigation project to be operated by Justin Crouse. There will not be an increase in irrigated acres within the basin as the result of these transfers. Portions or all of the following appropriations have pending transfers before the Department to irrigate through a proposed 111.3 acre wiper pivot: A-8681R, A-11743, A-4208, A-17328A, A-17328B
9. In addition, the Crouse's have requested to spread the transferred portion of water rights A-8681R and A-11743 and all of A-4208, A-17328A and A-17328B to the new project on all the acres that will be irrigated by a center pivot irrigation system. They will be geometrically coincident with each other, or in a "stacked" configuration, for convenience of operation during times of shortage with distinct priority dates and instantaneous diversion rates.

CONCLUSION:

During times of shortage proper distribution of water supplies can best be made with the aid of a suitable measuring device. Multiple appropriations with varying priority dates serving the same land would render a visual inspection of the irrigation project inconclusive for determining compliance with a closing notice of a junior appropriation. Therefore, a measuring device should be required if any of the aforementioned stacked appropriations are subject to a closing or regulating notice.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-11743 is divided into two appropriations, A-11743A with 21.3 acres and 0.30 cfs and A-11743B with 121.0 acres and 1.73 cfs.
2. Application NEX-9349 for a permit for a change of appropriation (non-expedited transfer) and map number 20723 and 20724 are APPROVED.
3. Appropriation A-11743A, as modified through NEX-9349, shall now be identified in Department records as A-11743AR.
4. Appropriation A-11743AR through transfer NEX-9349 authorizes the use of water to irrigate the 111.3 acres of land described below and depicted on map number 20723, which is made a part of this Order. The water may be diverted from the Cedar River at a point of diversion located in the SW¹/₄SW¹/₄ of Section 19, Township 17 North, Range 06 West of the 6th P.M. in Nance County. Water diverted from Cedar River shall not exceed the ratio of one cfs for every 371 acres irrigated at a maximum rate of 0.30 cfs (135 gallons per minute).

<u>Township 17 North, Range 06 West of the</u>	
<u>6th P.M. in Nance County</u>	
	<u>Acres</u>
Section 19: SW ¹ / ₄ SW ¹ / ₄	5.3
Section 30: NW ¹ / ₄ NW ¹ / ₄	36.4
NE ¹ / ₄ NW ¹ / ₄	11.6
SW ¹ / ₄ NW ¹ / ₄	36.6
SE ¹ / ₄ NW ¹ / ₄	10.9
NW ¹ / ₄ SW ¹ / ₄	<u>10.5</u>
TOTAL	111.3

5. The total amount of water diverted for the 111.3 acres under appropriations A-4208, A-8681AR, A-11743AR, A-17328A and A-17328B may not exceed three acre-feet annually nor exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.
6. A measuring device, approved by the Department, is required to be installed and functional if any of these appropriations serving the same land are subject to a regulating or closing notice: A-4802, A-8681AR, A-11743AR, A-17328A and A-17328B. If one of the listed appropriations is regulated or closed, this appropriation will be denied water by the Department if not equipped with a satisfactory measuring device. The appropriator may contact the Department's Field Office to request an alternate diversion schedule if the permitted diversion rate is not sufficient to sustain their diversion works. Alternate schedules will be processed according to the provisions of *Neb. Rev. Stat.* 46-231 or may be denied if determined to be infeasible by the Department.

7. To avoid harm to any other appropriator, water administration for A-11743AR will be from Timber Creek at the point of diversion located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 17 North, Range 06 West of the 6th P.M. in Nance County.
8. Appropriation A-11743B through transfer NEX-9349 authorizes the use of water to irrigate the 121.0 acres of land described below and depicted on map number 20724, which is made a part of this Order. The water may be diverted from Timber Creek at a point of diversion located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, Township 17 North, Range 06 West of the 6th P.M. in Nance County. Water diverted from Timber Creek shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.73 cfs (776 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year nor to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

<u>Township 17 North, Range 06 West of the 6th P.M. in Nance County</u>	<u>Acres</u>
Section 30: NW $\frac{1}{4}$ SW $\frac{1}{4}$	6.2
NE $\frac{1}{4}$ SW $\frac{1}{4}$	8.2
SW $\frac{1}{4}$ SW $\frac{1}{4}$	7.4
SE $\frac{1}{4}$ SW $\frac{1}{4}$	15.7

<u>Township 17 North, Range 07 West of the 6th P.M. in Nance County</u>	<u>Acres</u>
Section 25: NW $\frac{1}{4}$ SE $\frac{1}{4}$	30.0
NE $\frac{1}{4}$ SE $\frac{1}{4}$	36.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	1.1
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>16.4</u>
TOTAL	121.0

9. All terms and conditions of the approval of A-11743 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 Order 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

Thomas E. Riley

Thomas E. Riley, P.E., Director

June 18, 2024

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20723 and 20724 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 20723 and 20724 were mailed to the following:

Justin M. and Becky M. Crouse
5100 North Emerald Road
Belgrade, Nebraska 68623

Steve and Sandy Crouse
P.O. Box 886
Fullerton, Nebraska 68638