

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-13297

AND APPROVAL OF NON-EXPEDITED TRANSFER NEX-10585 AND MAP NUMBER 21493

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that portions of surface water appropriation A-13297 are held by MZ Land, LLC; the Irvin D. Lierman Life Estate; and the Karen K. Miserez Life Estate.
2. Appropriation A-13297 with a priority date of December 3, 1974, authorizes the use of water for irrigation of the 173.4 acres of land described below. The water may be diverted from the Elkhorn River at points of diversion located in the SE¹/₄SW¹/₄ and the SE¹/₄SE¹/₄ of Section 01, Township 22 North, Range 05 East of the 6th P.M., in the NW¹/₄NW¹/₄, SE¹/₄NW¹/₄ and the NW¹/₄SE¹/₄ of Section 07, Township 22 North, Range 06 East of the 6th P.M. and in the SW¹/₄NW¹/₄ of Section 17, Township 22 North, Range 06 East of the 6th P.M., all in Cuming County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 2.48 cfs from all points of diversion.

<u>Township 22 North, Range 05 East of the 6th P.M. in Cuming County</u>	<u>Acres</u>
Section 01: SE ¹ / ₄ SW ¹ / ₄	17.0
SW ¹ / ₄ SE ¹ / ₄	27.0
SE ¹ / ₄ SE ¹ / ₄	25.0
<u>Township 22 North, Range 06 East of the 6th P.M. in Cuming County</u>	<u>Acres</u>
Section 07: NW ¹ / ₄ NW ¹ / ₄	16.4
SE ¹ / ₄ NW ¹ / ₄	15.0
Section 17: SW ¹ / ₄ NW ¹ / ₄	31.0
NW ¹ / ₄ SW ¹ / ₄	34.0
SW ¹ / ₄ SW ¹ / ₄	<u>8.0</u>
TOTAL	173.4

3. The Department has received information concerning the use of surface water appropriation A-13297 that indicates a portion of the appropriation held by the Irvin D. Lierman Life Estate; and the Karen K. Miserez Life Estate has not been used for its required purpose for more than five consecutive years.

5. On August 29, 2024, Matt Ridder, on behalf of MZ Land, LLC, filed application NEX-10585 in the Department for a permit for a non-expedited transfer of the location of use for 73.0 of the 173.4 acres under surface water appropriation A-13297.
6. On September 27, 2024, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-13297 had not been irrigated for more than five years:

<u>Township 22 North, Range 05 East of the 6th P.M. in Cuming County</u>	<u>Acres</u>
Section 01: SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	27.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	25.0
<u>Township 22 North, Range 06 East of the 6th P.M. in Cuming County</u>	<u>Acres</u>
Section 07: NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.4
SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>15.0</u>
TOTAL	100.4

7. The Notice was displayed on the Department's website for over 30 days and was sent by certified mail to Irvin D. Lierman, Irvin D. Lierman Revocable Trust, 835 3rd Street, Beemer, Nebraska 68716; and to Wade Miserez, Karen K. Miserez Life Estate, 1375 L Road, West Point, Nebraska 68788.
8. The Department received confirmation of delivery to the Karen K. Miserez Life Estate.
9. Delivery to Irvin D. Lierman, Irvin D. Lierman Revocable Trust, 835 3rd Street, Beemer, Nebraska 68716, was attempted on September 30, October 5 and October 15, 2024 but was returned to the Department "Unclaimed Unable to Forward."
10. No contest of the Preliminary Determination of Nonuse was received in the Department.
11. *Nebraska Revised Statutes* § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.
12. On October 31, 2024, Matt Ridder filed map number 21493 showing the land proposed to be irrigated under A-13297 through NEX-10585.
13. MZ Land, LLC, through NEX-10585 request the 73.0 acres of A-13297 listed above be transferred to cover 106.9 acres.
14. Appropriation A-13297 through NEX-10585 would be provided additional water by Application A-20036.

ORDER

1. Part of surface water appropriation A-13297 at the rate of 1.43 cfs for use upon the 100.4 acres of land described in Item 6 above is CANCELLED.
2. Application NEX-10585 for a permit for a non-expedited transfer of the location of use under A-13297 and map number 21493 are APPROVED.
3. Appropriation A-13297 through transfer NEX-10585 authorizes the use of water to irrigate from the Elkhorn River to irrigate the 106.9 acres of land described below and depicted on map number 21493 which is made a part of this Order. The water may be diverted from the Elkhorn River at a point of diversion located in the SW¹/₄NW¹/₄ of Section 17, Township 22 North, Range 06 East of the 6th P.M. in Cuming County. The rate that water may be diverted shall not exceed one cfs for every 103 acres irrigated at a maximum rate of 1.04 cfs (467 gallons per minute). The total amount of water used by A-13297 and A-20036 under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.

Township 22 North, Range 06 East of the 6 th P.M. in Cuming County		Acres
Section 17:	SW ¹ / ₄ NW ¹ / ₄	23.0
	NW ¹ / ₄ SW ¹ / ₄	40.5
	SW ¹ / ₄ SW ¹ / ₄	39.9
Section 20:	NW ¹ / ₄ NW ¹ / ₄	<u>3.5</u>
	TOTAL	106.9

4. All terms and conditions of appropriation A-13297 remain in effect unless specifically changed by this Order.
5. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
 - C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

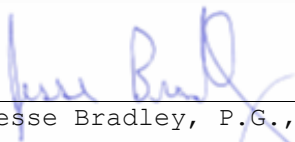
ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If you are not able to divert sufficient amounts of water, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES



Jesse Bradley, P.G., Interim Director

December 2, 2024

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21493 were provided to the Department's docket clerk and field office in Norfolk, Nebraska. Copies of this Order and map number 21493 were mailed to the following:

Matt Ridder
MZ Land, LLC
1353 F Road
West Point, Nebraska 68788
mattridder@hotmail.com

Wade Miserez
Karen K. Miserez Life Estate
1375 L Road
West Point, Nebraska 68788

Irvin D. Lierman
Irvin D. Lierman Revocable Trust
835 3rd Street
Beemer, Nebraska 68716