

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-9538

AND APPROVAL OF MAPS NUMBER 20298, 20299 AND 20300

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that land located in the NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 01 North, Range 17 East of the 6th P.M. lying west of Noharts Creek and W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 36 of said legal description is owned by Sac & Fox Nation of Missouri.
2. Records on file in the Department show that land located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 36, Township 01 North, Range 17 East of the 6th P.M. lying east of Noharts Creek is owned by Stargazer Land & Cattle Company.
3. Records on file in the Department show that land located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30, Township 01 North, Range 18 East of the 6th P.M. is owned by Robert D. & Joyce K. Bachman.
4. Appropriation A-9538 with a priority date of July 25, 1957, authorizes the use of water for irrigation of the 259 acres of land described below. The water may be diverted from the Big Nemaha River at points of diversion located on the south bank of the stream in the N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 36, Township 01 North, Range 17 East and on the north bank of the stream in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 01 North, Range 18 East of the 6th P.M. in Richardson 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 3.70 cfs from all points of diversion.

<u>Township 01 North, Range 17 East of the 6th P.M. in Cass County</u>	<u>Acres</u>	<u>Township 01 North, Range 18 East of the 6th P.M. in Richardson County</u>	<u>Acres</u>
Section 36: NE $\frac{1}{4}$ NW $\frac{1}{4}$	23	Section 30: NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>35</u>
SE $\frac{1}{4}$ NW $\frac{1}{4}$	38		
		TOTAL	259
NW $\frac{1}{4}$ NE $\frac{1}{4}$	15		
NE $\frac{1}{4}$ NE $\frac{1}{4}$	12		
SE $\frac{1}{4}$ NE $\frac{1}{4}$	6		
NW $\frac{1}{4}$ SW $\frac{1}{4}$	40		
SW $\frac{1}{4}$ SW $\frac{1}{4}$	10		

5. Appropriation A-9538 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 is in the best interest of the owners and the State to divide the water appropriation among the owners so that each owner's rights were distinguishable.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-9538 is divided into three appropriations, A-9538A, A-9538B and A-9538C.
2. Appropriation A-9538A authorizes the use of water to irrigate the 166 acres of land described below and depicted on map number 20298, which is made a part of this Order. Water may be diverted from the Big Nemaha River at points of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 01 North, Range 17 East of the 6th P.M. in Richardson County and shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 2.37 cfs (1,064 gallons per minute) from all points of diversion.

Township 01 North, Range 17 East of the 6 th P.M. in Richardson County	Acres
Section 36: NE $\frac{1}{4}$ NW $\frac{1}{4}$	23
SW $\frac{1}{4}$ NW $\frac{1}{4}$	40
SE $\frac{1}{4}$ NW $\frac{1}{4}$	38
NW $\frac{1}{4}$ NE $\frac{1}{4}$	15
NW $\frac{1}{4}$ SW $\frac{1}{4}$	40
SW $\frac{1}{4}$ SW $\frac{1}{4}$	10
TOTAL	166

3. Appropriation A-9538B authorizes the use of water to irrigate the 18 acres of land described below and depicted on map number 20299, which is made a part of this Order. Water may be diverted from the Big Nemaha River at a point of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 01 North, Range 17 East of the 6th P.M. in Richardson County and shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.26 cfs (117 gallons per minute).

Township 01 North, Range 17 East of the 6 th P.M. in Richardson County	Acres
Section 36: NE $\frac{1}{4}$ NE $\frac{1}{4}$	12
SE $\frac{1}{4}$ NE $\frac{1}{4}$	6
TOTAL	18

4. Appropriation A-9538C authorizes the use of water to irrigate the 75 acres of land described below and depicted on map number 20300, which is made a part of this Order. Water may be diverted from the Big Nemaha River at a point of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 01 North, Range 18 East of the 6th P.M. in Richardson County and shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.07 cfs (480 gallons per minute).

<u>Township 01 North, Range 18 East of the</u>	
<u>6th P.M. in Richardson County</u>	
	<u>Acres</u>
Section 30: NW $\frac{1}{4}$ SE $\frac{1}{4}$	40
SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>35</u>
TOTAL	75

5. All terms and conditions of the approval of appropriation A-9538 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

November 8, 2018



 Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20298, 20299, and 20300 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and maps number 20298, 20299, and 20300 were mailed on November 8, 2018, to the following:

Sac & Fox Nation of Missouri
 305 North Main
 Reserve, Kansas 66434

Robert D. & Joyce K. Bachman
 66064 703 Trail
 Rulo, Nebraska 68431

Michael J. Smothers
 Stargazer Land & Cattle Company
 7545 Ashworth Road Suite 150
 West Des Moines, Iowa 50266