

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP AND

APPROVAL OF APPLICATION NEX-9684

FOR WATER APPROPRIATION A-13602 AND MAPS NUMBER 21063 AND 21064

WATER DIVISION 2-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13602 is held by A. Quinn and Wacey C. Johnson, Robert and Rhonda Grantham, and Marjorie A. Rotherham, Et al.
2. Appropriation A-13602 has a priority date of May 28, 1975, and authorizes the use of water for irrigation of the 176.7 acres of land described below. The water may be diverted from the White River via the Harris-Cooper Canal at a point of diversion located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, Township 32 North, Range 52 West of the 6th P.M. in Dawes 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 2.52 cfs.

<u>Township 32 North, Range 52 West of the</u>	<u>Acres</u>
<u>6th P.M. in Dawes County</u>	
Section 24: NW $\frac{1}{4}$ NW $\frac{1}{4}$	39.0
NE $\frac{1}{4}$ NW $\frac{1}{4}$	39.0
SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	19.7
NW $\frac{1}{4}$ NE $\frac{1}{4}$	31.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>8.0</u>
TOTAL	176.7

3. On June 2, 2022, A. Quinn and Wacey C. Johnson filed in the Department application NEX-9684 for a non-expedited transfer of the location of use for land authorized to be irrigated by appropriation A-13602.
4. On August 15, 2022, A. Quinn Johnson, corrected filed application NEX-9684, filing Form 962-6, addendum to the application with additional landowner's signatures.
5. On August 25, 2022, A. Quinn Johnson filed map number 21064 showing the land proposed to be irrigated under appropriation A-13602 through transfer NEX-9684.

FINDINGS

1. The proposed new location of diversion for a portion of A-13602 is approximately 11 river miles downstream of the current location. There are over 24 appropriations between the current and the proposed diversion point on the White River.
2. The Department's experience indicates that moving a water appropriation downstream of junior and senior water appropriations creates the possibility that during times of shortage, the intervening water appropriators may be harmed.
3. Because land appurtenant to the appropriation is under different landowners it is in the best interest of the owners and the State to divide appropriation A 13602 into two distinct appropriations, A-13602A and A-13602BR.
4. Public notice was made for three consecutive weeks three consecutive Thursdays, June 22, June 9, and July 6, in the Chadron Record and thirty days on the Department's website. No Objections were received.

CONCLUSIONS

1. The White River has a history of water administration. Therefore, to mitigate any potential harm in the future or disruption of long-standing diversion practices by other users on the potentially affected river reach, the right to divert natural flow under appropriation A-13602BR should be conditioned such that no harm can come to these potentially affected appropriators.
2. To prevent harm within the river reach between the headgate of the Harris-Cooper Canal and the new diversion in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 09, Township 32 North, Range 51 West, intervening junior appropriators should not be administrated for the appropriator of A-13602BR. Moreover, no administration should occur that would not have been required before the relocation of diversion for a portion of this appropriation.
3. The amount that may be transferred to a new location of use that also requires relocating the diversion must be limited to the historical consumptive use of the appropriation. No estimate of the historical consumptive use was provided by the applicant. The Department has determined a reasonable estimate of historical consumptive use is 13.9 inches per acre irrigated for a total annual consumptive use estimate of 154.1 acre-feet for the portion being transferred to a new diversion point. Therefore, the annual consumptive use should be limited to this amount.

ORDER

IT IS HEREBY ORDERED:

1. Application NEX-9684 for a permit for a non expedited transfer of the location of use and maps number 21063 and 21064 are APPROVED.
2. Appropriation A-13602 is divided into two appropriations, A-13602A and A-13602BR.

3. Appropriation A-13602A authorizes the use of water to irrigate 43.7 acres of land described below and depicted on map number 21063, which is made a part of this Order. The water may be diverted from the White River via the Harris-Cooper Canal located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26 and withdrawn from the canal at a point of diversion in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 24, both in Township 32 North, Range 52 West of the 6th P.M. in Dawes County, as depicted on map number 21063. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.62 cfs (278 gallons per minute).

Township 32 North, Range 52 West of the 6 th P.M. in Dawes County	Acres
Section 24: SW $\frac{1}{4}$ NW $\frac{1}{4}$	32.0
SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>11.7</u>
TOTAL	43.7

4. Appropriation A-13602BR authorizes the use of water to irrigate 133.0 acres of land described below and depicted on map number 21064, which is made a part of this Order. The water may be diverted from the White River at a point of diversion located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 09, Township 32 North, Range 51 West of the 6th P.M. in Dawes County, as depicted on map number 21064. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.9 cfs (853 gallons per minute).

Township 32 North, Range 51 West of the 6 th P.M. in Dawes County	Acres
Section 09: NW $\frac{1}{4}$ SW $\frac{1}{4}$	33.2
NE $\frac{1}{4}$ SW $\frac{1}{4}$	23.6
SW $\frac{1}{4}$ SW $\frac{1}{4}$	19.8
SE $\frac{1}{4}$ SW $\frac{1}{4}$	14.3
NW $\frac{1}{4}$ SE $\frac{1}{4}$	27.1
SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>15.0</u>
TOTAL	133.0

5. The total amount of water diverted for the 133.0 acres under appropriation A-13602BR through NEX-9684 may not exceed 154.1 acre-feet annually, 1.16 acre-feet per acre, nor exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.
6. The Department shall not administer for a call on behalf of appropriation A-13602BR within the river reach between the headgate of the Harris-Cooper Canal and the new diversion in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 09, Township 32 North, Range 51 West, to prevent harm to junior appropriators. To protect junior appropriators upstream of the Harris-Cooper Canal headgate, the Department may further restrict administrative action during shortages to take no action that would not have been required before the relocation of the diversion point.
7. A measuring device, approved by the Department, may be required for both A-13602A and A-13602BR.

8. 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, 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 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.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

November 9, 2022

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21063 and 21064 were provided to the Department's field office in Bridgeport, Nebraska. Copies of this Order and map number 21063 and 21064 were mailed to the following:

A. Quinn and Wacey C. Johnson
240 Whitney Lake Road
Whitney, Nebraska 67367

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