

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-18800R

AND APPROVAL OF MAPS NUMBER 20985 AND 21228

AND DISMISSAL OF PETITION RLP-9659 AND MAP NUMBER 21011

WATER DIVISION 2-F

FINDINGS:

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18800R is currently held by Bradley and Shannon Mahon; Jeremy Mahon; Audry Wieman; Manna Farms; Brian Assam and Alecia Heimes.
2. Appropriation A-18800R with a priority date of August 26, 2011, authorizes the use of water for irrigation of the 188.0 acres of land described below. The water may be diverted from a tributary to Ponca Creek at points of diversion located in the NW¹/₄SW¹/₄ and SW¹/₄NW¹/₄ of Section 19, Township 33 North, Range 08 West of the 6th P.M. in Knox 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 2.69 cfs from all points of diversion.

<u>Township 33 North, Range 09 West of the 6th P.M. in Boyd County</u>	<u>Acres</u>
Section 24: SW ¹ / ₄ NE ¹ / ₄	37.2
SE ¹ / ₄ NE ¹ / ₄	29.4
NW ¹ / ₄ SE ¹ / ₄	39.5
NE ¹ / ₄ SE ¹ / ₄	31.5
SW ¹ / ₄ SE ¹ / ₄	38.2
SE ¹ / ₄ SE ¹ / ₄	<u>12.2</u>
TOTAL	188.0

3. On April 18, 2022, Brian Assam and Alecia Heimes filed Petition RLP-9659 in the Department for a permit to change the location of diversion for a portion of appropriation A-18800R.
4. On May 19, 2022, Brian Assam and Alecia Heimes filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-18800R.
5. On July 14, 2022, Alecia Heimes filed map number 21011 in the Department showing the location of the proposed pump site and the land to be irrigated under appropriation A-18800R through petition RLP-9659.

6. On June 1, 2023, the Department received correspondence from Brian Assam requesting Petition RLP-9659 be dismissed.
7. Appropriation A-18800R 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 are distinguishable.

ORDER

IT IS HEREBY ORDERED:

1. Petition RLP-9659 for a permit to change the location of diversion for a portion of appropriation A-18800R and map number 21011 are DISMISSED.
2. Appropriation A-18800R is divided into two appropriations, A-18800AR and A-18800BR.
3. Appropriation A-18800AR authorizes the use of water to irrigate the 105.9 acres of land described below and depicted on map number 20985, which is made a part of this Order. Water diverted from a tributary to Ponca Creek shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum combined rate of 1.52 cfs (682 gallons per minute) from all points of diversion.

Township 33 North, Range 09 West of the 6 th P.M. in Boyd County	Acres
Section 24: SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.2
SE $\frac{1}{4}$ NE $\frac{1}{4}$	29.4
NW $\frac{1}{4}$ SE $\frac{1}{4}$	15.3
NE $\frac{1}{4}$ SE $\frac{1}{4}$	24.0
TOTAL	105.9

4. Appropriation A-18800BR authorizes the use of water to irrigate the 82.1 acres of land described below and depicted on map number 21228, which is made a part of this Order. Water diverted from a tributary to Ponca Creek shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum combined rate of 1.17 cfs (525 gallons per minute) from all points of diversion.

Township 33 North, Range 09 West of the 6 th P.M. in Boyd County	Acres
Section 24: NW $\frac{1}{4}$ SE $\frac{1}{4}$	24.2
NE $\frac{1}{4}$ SE $\frac{1}{4}$	7.5
SW $\frac{1}{4}$ SE $\frac{1}{4}$	38.2
SE $\frac{1}{4}$ SE $\frac{1}{4}$	12.2
TOTAL	82.1

5. All terms and conditions of the approval of previous orders for appropriation A-18800 remain in effect unless specifically changed by this Order.
6. The points of diversion for A-18800AR and A-18800BR remain in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 33 North, Range 08 West of the 6th P.M. in Knox County, as depicted on maps number 20985 and 21228. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated per year.
7. If the appropriators of A-18800AR and A-18800BR do not have access to the points of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion and have it approved by the Department 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 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, P.E., Director

July 17, 2023

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20985 and 21228 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 20985 and 21228 were mailed to the following:

Brian Assam and Alecia Heimes
110 West 6th Street
St. Helena, Nebraska 68774

Shannon Mahon
51415 Highway 12
Niobrara, Nebraska 68760

Bradley Shannon Mahon
51415 Highway 12
Niobrara, Nebraska 68760

Manna Farms, LLC
833 East Michigan Street Suite 1800
Milwaukee, Wisconsin 53202

Jeremy Mahon
c/o Bradley Mahon
51415 Highway 12
Niobrara, Nebraska 68760

Audry Wieman
c/o Bradley Mahon
51415 Highway 12
Niobrara, Nebraska 68760

