

STATE OF NEBRASKA

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-13935

AND APPROVAL OF MAPS NUMBER 21441 AND 21442

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Water, Energy, and Environment (Department) show that surface water appropriation A-13935 is held by **Wayne Herley**.
2. Appropriation A-13935 with a priority date of **January 13, 1976**, authorizes the use of water for irrigation of the **212.4 acres** of land described below. The water may be diverted from **Beaver Creek** at a point of diversion located on the **left bank of the stream in the NE¹/₄SW¹/₄ of Section 12, Township 32 North, Range 16 West of the 6th P.M. in Holt 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 **3.03 cfs**.

Township 32 North, Range 16 West of the 6 th P.M. in Holt County		Acres
Section 01:	SW ¹ / ₄ SW ¹ / ₄	4.0
	SE ¹ / ₄ SW ¹ / ₄	2.4
Section 12:	NW ¹ / ₄ NW ¹ / ₄	34.7
	NE ¹ / ₄ NW ¹ / ₄	12.6
	SW ¹ / ₄ NW ¹ / ₄	33.6
	SE ¹ / ₄ NW ¹ / ₄	16.3
	NW ¹ / ₄ NE ¹ / ₄	2.0
	SW ¹ / ₄ NE ¹ / ₄	5.0
	NW ¹ / ₄ SW ¹ / ₄	18.7
	NE ¹ / ₄ SW ¹ / ₄	12.6
	SW ¹ / ₄ SW ¹ / ₄	32.4
	SE ¹ / ₄ SW ¹ / ₄	18.1
	NW ¹ / ₄ SE ¹ / ₄	1.3
	SW ¹ / ₄ SE ¹ / ₄	18.7
	TOTAL	212.4

3. On May 21, 2026, Cayden and Jean-Pierre Theberge 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-13935.

4. Appropriation A-13935 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. Appropriation A-13935 is divided into two appropriations, A-13935A and A-13935B.
2. Appropriation A-13935A authorizes the use of water to irrigate the **205.4 acres** of land described below and depicted on map number 21441, which is made a part of this Order. Water diverted from **Beaver Creek** shall not exceed the ratio of **one cfs** for every **70 acres** irrigated at a maximum rate of **2.93 cfs (1315 gallons per minute)**.

<u>Township 32 North, Range 16 West of the</u>		
<u>6th P.M. in Holt County</u>		<u>Acres</u>
Section 01:	SW ¹ / ₄ SW ¹ / ₄	4.0
	SE ¹ / ₄ SW ¹ / ₄	2.4
Section 12:	NW ¹ / ₄ NW ¹ / ₄	34.7
	NE ¹ / ₄ NW ¹ / ₄	12.6
	SW ¹ / ₄ NW ¹ / ₄	33.6
	SE ¹ / ₄ NW ¹ / ₄	16.3
	NW ¹ / ₄ SW ¹ / ₄	18.7
	NE ¹ / ₄ SW ¹ / ₄	12.6
	SW ¹ / ₄ SW ¹ / ₄	32.4
	SE ¹ / ₄ SW ¹ / ₄	18.1
	NW ¹ / ₄ SE ¹ / ₄	1.3
	SW ¹ / ₄ SE ¹ / ₄	<u>18.7</u>
	TOTAL	205.4

3. Appropriation A-13935B authorizes the use of water to irrigate the 7.0 acres of land described below and depicted on map number 21442, which is made a part of this Order. Water diverted from **Beaver Creek** shall not exceed the ratio of **one cfs** for every **70 acres** irrigated at a maximum rate of 0.10 cfs (45 gallons per minute).

<u>Township 32 North, Range 16 West of the</u>		
<u>6th P.M. in Holt County</u>		<u>Acres</u>
Section 12:	NW ¹ / ₄ NE ¹ / ₄	2.0
	SW ¹ / ₄ NE ¹ / ₄	<u>5.0</u>
	TOTAL	7.0

4. All terms and conditions of the approval of appropriation A-13935 remain in effect unless specifically changed by this Order.
5. The points of diversion for A-13935A and A-13935B remain on the **left bank of the stream in the NE¹/₄SW¹/₄ of Section 12, Township 32 North, Range 16 West of the 6th P.M. in Holt County**, as depicted on maps number 21441 and 21442. Total annual volume of water diverted may not exceed **three acre-feet per acre irrigated per year**.
6. If the appropriators of A-13935A and A-13935B do not have access to the point 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 applicable laws, Department Orders, or the terms of this Order may result in cancellation, suspension, administrative penalties, and/or criminal prosecution.

Under Nebraska law, **nonuse** of a perfected appropriation for **more than five consecutive years** may result in its cancellation.

This appropriation **does not guarantee** water availability. Senior appropriations have legal priority. If insufficient water is available, junior appropriators may be closed. Appropriators may request enforcement action by contacting the local field office.

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT



June 30, 2026

Matthew T. Manning, PE, JD
Chief Water Officer

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 21441 and 21442 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 21441 and 21442 were mailed to the following:

Wayne Herley
P.O. Box 6
O'Neill, Nebraska 68763

Cayden and Jean-Pierre Theberge
392 Cook Road
Saint Albans, Vermont 05478