STATE OF NEBRASKA

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-8226

AND APPROVAL OF MAPS NUMBER 21439 AND 21440

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Water, Energy, and Environment (Department) show that surface water appropriation A-8226 is currently held by **Wayne Herley and Cayden and Jean-Pierre Theberge.**

2. Appropriation A-8226 with a priority date of **October 17, 1955,** authorizes the use of water for irrigation of the **251.0 acres** of land described below. The water may be diverted from **Beaver Creek** at points of diversion located on **the right bank of the stream in the SE¼SE¼ of Section 01, in the NE¼SW¼ and the SW¼SE¼ of Section 12, all in Township 32 North, Range 16 West of the 6th P.M. in Holt.** Water diverted shall not exceed the ratio of **one cubic foot per second (cfs)** for every **120 acres** irrigated at a maximum combined rate of **2.09 cfs** from all points of diversion.

Township 32 North, Range 16 West of the 6th P.M. in Holt County		Acres
Section 1:	SE¼SE¼	11.5
Section 12:	NW¼NE¼	11.4
	NE¼NE¼	33.1
	SW¼NE¼	30.4
	SE¼NE¼	29.4
	NW¼SE¼	40.0
	NE¼SE¼	40.0
	SW¼SE¼	15.2
	SE¼SE¼	40.0
	TOTAL	251.0

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-8226.

4. Appropriation A-8226 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-8226 is divided into two appropriations, A-8226A and A-8226B.

2. Appropriation A-8226A authorizes the use of water to irrigate the **135.2 acres** of land described below and depicted on map number 21439, which is made a part of this Order. Water diverted from **Beaver Creek** at **a point** of diversion located on the **right bank of the stream in the NE¼SW¼ and SW¼SE¼ 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 cfs** for every **120 acres** irrigated at a maximum rate of **1.13 cfs** (**507 gallons per minute**).

Township 32 North, Range 16 West of the 6th P.M. in Holt County		Acres
Section 12:	NW¼SE¼	40.0
	NE¼SE¼	40.0
	SW¼SE¼	15.2
	SE¼SE¼	40.0
	TOTAL	135.2

3. Appropriation A-8226B authorizes the use of water to irrigate the **115.8 acres** of land described below and depicted on map number 21440, which is made a part of this Order. Water diverted from **Beaver Creek** at **a point** of diversion located on the **right bank of the stream in the SE¼SE¼ of Section 01, Township 32 North Range 16 West of the 6th P.M. in Holt County**. Water diverted shall not exceed the ratio of **one cfs** for every **120 acres** irrigated at a maximum rate of **0.96 cfs** (**431 gallons per minute**).

Township 32 North, Range 16 West of the 6th P.M. in Holt County		Acres
Section 1:	SE¼SE¼	11.5
Section 12:	NW¼NE¼	11.4
	NE¼NE¼	33.1
	SW¼NE¼	30.4
	SE¼NE¼	29.4
	TOTAL	115.8

4. All terms and conditions of the approval of appropriation A-8226 remain in effect unless specifically changed by this Order.

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

November 18, 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 21439 and 21440 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 21439 and 21440 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