

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Preliminary ) Case #010-09CC  
Determination of Nonuse of )  
Surface Water Appropriation ) ORDER SETTING ASIDE PROCEEDING  
A-15680. )  
Water Division 2-A. )

Background

The above captioned matter comes before the Director of the Department of Natural Resources. This is a proceeding held under the provisions of Neb. Rev. Stat. §§ 46-229 to 46-229.04.

Findings of Fact

The Director, after an examination of the record, makes the following FINDINGS OF FACT:

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15680 is held by Charlotte Rasmussen.
2. Appropriation A-15680 authorizes the use of 0.91 cubic foot per second of water for irrigation of the 64.2 acres of land described below. The water may be diverted from a tributary to the North Loup River at a point of diversion located on the left bank of the stream in the NW¼SE¼ of Section 23, Township 15 North, Range 11 West of the 6<sup>th</sup> P.M. in Howard County.

Township 15 North, Range 11 West of the 6 <sup>th</sup> P.M. in Howard County		Acres
Section 23:	NW¼SE¼	27.7
	NE¼SE¼	11.9
	SW¼SE¼	24.6
	TOTAL	64.2

3. On March 20, 2009, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-15680. The notice was mailed on March 23, 2009, by certified mail to Charlotte Rasmussen, PO Box 6, Elba, Nebraska 68835.
4. On April 22, 2009, Charlotte Rasmussen filed a request for hearing in the Department. The contest claimed that irrigation was not required in the last two years due to good husbandry because there had been ample rainfall.

5. On May 29, 2009, the hearing was held. No one appeared representing the landowner(s).
6. On October 5, 2009, an Order was issued by this Director opening up the hearing record for 30 days, and allowing the Department to enter a new Field Investigation Report showing that during 2009 ten acres were irrigated.

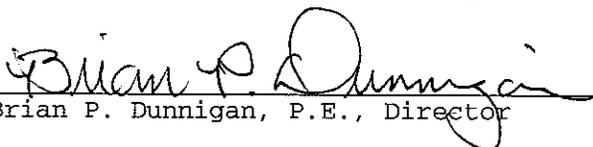
Conclusions of Law

After review by the Director, it is apparent that errors were made by the Department in this proceeding sufficient to necessitate setting aside the entire proceeding.

It is therefore ORDERED that this proceeding is set aside.

DEPARTMENT OF NATURAL RESOURCES

March 17, 2010

  
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Ord, Nebraska, and to the Department's Attorney, Jean Angell. A copy of this Order was mailed on March 18, 2010, to the following:

Charlotte Rasmussen, Owner  
PO Box 6  
Elba, Nebraska 68835

Ryan Rasmussen, Operator  
2038 Rose Road  
Elba, Nebraska 68835