

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-18439

WATER DIVISION 2-F

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18439 is held by Fanta Brothers Partnership.
2. Appropriation A-18439 authorizes the use of water for irrigation of the 90.3 acres of land described below. The water may be diverted from West Bazile Creek at points of diversion located on both banks of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 28 North, Range 5 West of the 6th P.M. in Antelope County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 1.29 cfs from all points of diversion.

Township 28 North, Range 5 West of the 6 th P.M. in Antelope County		Acres
Section 5:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	45.5
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>44.8</u>
	TOTAL	90.3

3. The approval of appropriation A-18439 was conditioned upon the irrigation of the above lands by September 1, 2009.
4. Department personnel performed a field investigation and determined a portion of the land approved for irrigation under appropriation A-18439 had not been irrigated by September 1, 2009.
5. Nebraska Revised Statutes Section 46-229.02(7) provides for the cancellation of unused portions of surface water appropriations.

Order

IT IS HEREBY ORDERED:

1. Part of appropriation A-18439 at the rate of 0.23 cfs for use upon the land described below is CANCELLED.

Township 28 North, Range 5 West of the 6 th P.M. in Antelope County		Acres
Section 5:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	8.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>8.3</u>
	TOTAL	16.3

2. Appropriation A-18439 now permits Fanta Brothers Partnership to divert water from West Bazile Creek to irrigate the 74.0 acres of land described below and depicted on map number 17625 which is made a part of this Order. The points of diversion remain in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8, Township 28 North, Range 5 West of the 6th P.M. in Antelope County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 1.06 cfs (476 gallons per minute) from all points of diversion.

<u>Township 28 North, Range 5 West of the</u>		
<u>6th P.M. in Antelope County</u>		<u>Acres</u>
Section 5:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	37.5
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>36.5</u>
	TOTAL	74.0

3. All terms and conditions of appropriation A-18439 remain in effect unless specifically changed by this Order.
4. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- Notify the Department of any change in ownership or address.
 - 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).
 - 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

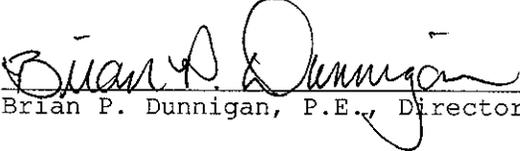
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, 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. If you are not able to divert sufficient amounts of water, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

April 19, 2010



Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 17625 were provided to the Department's field office in Norfolk, Nebraska. Copies of the field investigation, this Order and map number 17625 were mailed on April 20, 2010, to the following:

Fanta Brothers Limited Partnership
c/o Duane Fanta
52942 869 Road
Creighton, Nebraska 68729