

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART AND

APPROVAL OF PETITION RLP-1815 TO CHANGE THE LOCATION OF DIVERSION

AND MAP NUMBER 17517 FOR WATER APPROPRIATION A-3186D

WATER DIVISION 2-A

Background

1. Appropriation A-3186 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 of Natural Resources (Department) determined that it was in the best interest of the owners and the State to divide the water appropriation among the owners so that each owner's rights were distinguishable.
2. On November 9, 2009, Terry and Arleva Eichelberger filed in the Department petition RLP-1815 for a permit to change the location of diversion and a partial relinquishment of appropriation A-3186, REL-1816, relinquishing the right to divert water under a portion of appropriation A-3186 to irrigate the 5.9 acres of land described below.

Township 14 North, Range 21 West of the 6 th P.M. in Custer County	Acres
Section 10: SE $\frac{1}{4}$ NW $\frac{1}{4}$	5.9
3. On January, 27, 2010, the Department issued an Order Dividing and Changing Ownership of appropriation A-3186. Appropriation A-3186 was divided into five appropriations: A-3186A, A-3186B, A-3186C, A-3186D and A-3186E.
4. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3186D is held by Terry and Arvela Eichelberger.

5. Appropriation A-3186D authorizes the use of water for irrigation of the 17.5 acres of land described below. The water may be diverted from the South Loup River at a point of diversion located on the left bank of the stream in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 14 North, Range 21 West of the 6th P.M. in Custer County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 100 acres irrigated at a maximum rate of 0.18 cfs (81 gallons per minute).

Township 14 North, Range 21 West of the
6th P.M. in Custer County Acres

Section 10: SE $\frac{1}{4}$ NW $\frac{1}{4}$ 17.5

Order

IT IS HEREBY ORDERED:

1. Part of appropriation A-3186D at the rate of 0.06 cfs for use upon the land described below is CANCELLED.

Township 14 North, Range 21 West of the
6th P.M. in Custer County Acres

Section 10: SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.9

2. Petition RLP-1815 for a permit to change the location of diversion and map number 17517 is APPROVED.
3. Appropriation A-3186D through petition RLP-1815 is now A-3186DR.
4. Appropriation A-3186DR authorizes the use of water to irrigate 11.6 acres of land described below and depicted on map number 17517, which is made a part of this Order. The water may be diverted from the South Loup River at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 14 North, Range 21 West of the 6th P.M. in Custer County. The rate that water may be diverted shall not exceed one cfs for every 100 acres irrigated at a maximum rate of 0.12 cfs (54 gpm). The total annual volume may not exceed 3 acre-feet per irrigated acre.

Township 14 North, Range 21 West of the
6th P.M. in Custer County Acres

Section 10: SE $\frac{1}{4}$ NW $\frac{1}{4}$ 11.6

5. All terms and conditions of appropriation A-3186D remain in effect unless specifically changed by this Order.
6. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
 - a. Notify the Department of any change in ownership or address.

- b. 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).
- c. 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

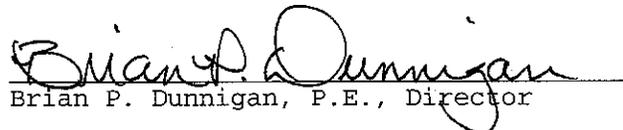
Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, 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.

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.

DEPARTMENT OF NATURAL RESOURCES

February 3, 2010


Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and map number 17517 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 17517 were mailed on February 3, 2010, to the following:

Terry and Arleva Eichelberger
43535 River Bend Road
Oconto, Nebraska 68860