

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF PARTIAL CANCELLATION AND REASSIGNMENT

OF WATER APPROPRIATION A-365R (P-270)

WATER DIVISION 1-A

Background

1. Water appropriation A-365R (P-270) is a permit held by Gering Irrigation District (District) with a priority date of March 15, 1897, and is a permit to divert 192.58 cubic feet per second (cfs) of water from the North Platte River through the Mitchell-Gering Canal at a headgate located in Section 10, Township 23 North, Range 60 West of the 6<sup>th</sup> P.M. in Wyoming for irrigation of 13,470.25 acres.

The District also receives supplemental water under a Warren Act Contract held by the U.S. Bureau of Reclamation (Reclamation), based on a contract between the two entities. The contract allows use of water only for those lands irrigated within the District.

2. On June 4, 2009, Relinquishments of Water Appropriation In Part REL-1683 through REL-1687, and REL-1708 were filed in the office of the Department by the District and individual landowners. All relinquish the right to divert a portion of the water under A-365R (P-270) from the North Platte River through the Mitchell-Gering Canal for use upon the lands described below:

Relinquishment Number	Subsection	Section	Township	Range	Legal Description Listed on Relinquishment	Acres
REL-1683	NE $\frac{1}{4}$ SE $\frac{1}{4}$	2	21	55W	Lot 1A, Subd Tr. 6, Replat of Hofmanns Acre Tract	3.00
REL-1684	NE $\frac{1}{4}$ SE $\frac{1}{4}$	2	21	55W	Lot A, Hofmanns Acre Tracts, Replat of Tr 3 & 8	7.50
REL-1685	NE $\frac{1}{4}$ SE $\frac{1}{4}$	3	21	55W	Blocks 1 & 2, Central Church of Christ Addn.	5.60
REL-1686	NE $\frac{1}{4}$ SE $\frac{1}{4}$	35	22	55W	Lot 3 & 4, Union Improvement Sites	1.93
REL-1686	NE $\frac{1}{4}$ SE $\frac{1}{4}$	35	22	55W	Tax Lots 13 & 14, Unplatted Lands	7.21
REL-1687	NE $\frac{1}{4}$ NW $\frac{1}{4}$	11	21	55W	Pt. NE $\frac{1}{4}$ NW $\frac{1}{4}$	0.70
REL-1687	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2	21	55W	Blk 1, Oregon Trail Park	32.50
REL-1687	NE $\frac{1}{4}$ NE $\frac{1}{4}$	2	21	55W	Tax Lot 1, NE $\frac{1}{4}$ (Roundhouse)	1.20
REL-1708	NW $\frac{1}{4}$ SE $\frac{1}{4}$	13	21	55W	Tract in the NW $\frac{1}{4}$ SE $\frac{1}{4}$	21.56
TOTAL						81.20

3. Based on the relinquishments listed above, part of water appropriation A-365R (P-270) in the amount of 1.16 cfs is being abandoned and should be cancelled as provided by Neb. Rev. Stat. § 46-229.04(5) (Cum. Supp. 2006) and Department rule 457 N.A.C. 3.
4. The Department acknowledges the Notification of Assignment of Rights, AOR-1682 filed by the District on June 4, 2009, to reassign a portion of appropriation A-365R (P-270) previously relinquished to the land described below. The 80.10 acres reassigned under AOR-1682 have a diversion rate of 1.14 cfs. The location of these lands is shown on the aerial photographs submitted with AOR-1682.

<u>Township 20 North, Range 54 West of the</u>		
<u>6<sup>th</sup> P.M. Scotts Bluff County</u>		<u>Acres</u>
Section 3:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	33.70
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	20.20
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	16.80
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>9.40</u>
	TOTAL	80.10

Order

It is therefore ORDERED that:

1. Based on the Relinquishments of Water Appropriation In Part, REL-1683 through REL-1687, and REL-1708, part of appropriation A-365R (P-270) in the amount of 1.16 cfs for the right to irrigate the 81.2 acres of land described in paragraph 2 above is CANCELLED. The location of these lands is shown on the aerial photographs submitted with REL-1683 through REL-1687, and REL-1708.
2. With AOR-1682 the District reassigned 80.1 acres under appropriation A-365R (P-270) to the land listed in paragraph 4 above. This leaves an unassigned balance of 1.1 acres (with a corresponding diversion rate of 0.02 cfs) that will not be served under the appropriation. The District may reassign the relinquished portion of an appropriation within 5 years of the Order of Cancellation by the Department.
3. The right to divert 192.56 cfs from the North Platte River under A-365R (P-270) via the Mitchell-Gering Canal for use upon 13,469.15 acres shall remain IN FULL FORCE AND EFFECT.
4. All terms and conditions of appropriation A-365R (P-270) remain in effect unless specifically changed by this Order.
5. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
  - a. Receiving approval prior to taking any action that changes the location of the point of diversion, a transfer of the location of the place of use, a relinquishment of a portion of the appropriation, the type of use, or the type of appropriation.
  - b. Notify the Department of Natural Resources of any reassignment of relinquished portions of an appropriation.
  - c. Comply with all relevant notices and orders of the Department.

