

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-5338

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5338 is held by Thomas Livestock Company, Inc.
2. Appropriation A-5338 has a priority date of June 1, 1953, and authorizes the use of water for irrigation of the 196.5 acres of land described below. The water may be diverted from the South Loup River at a point of diversion located on the west bank of the stream in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 14 North, Range 20 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 110 acres irrigated at a maximum rate of 1.79 cfs.

<u>Township 14 North, Range 20 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 27:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	6.5
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	36.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	20.0
Section 34:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	26.0
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>26.0</u>
	TOTAL	196.5

3. On February 27, 2012, R. J. Thomas, on behalf of Thomas Livestock Company, Inc., filed a partial relinquishment of water appropriation A-5338, REL-2281, relinquishing the right to divert water under appropriation A-5338 to irrigate the 36.4 acres of land described below.

<u>Township 14 North, Range 20 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 27:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.6
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	6.4
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	4.7
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	18.1
Section 34:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>3.6</u>
	TOTAL	36.4

4. The Department's mapping staff, using current mapping technology, prepared map number 18085 which more accurately depicts the 160.1 acres of land authorized for irrigation under appropriation A-5338. The total acres under irrigation remain unchanged; however, the numbers of acres per quarter-quarter are more precise.
5. On February 27, 2012, R. J. Thomas, on behalf of Thomas Livestock Company, Inc., filed map number 18085 in the Department showing the land to be irrigated under appropriation A-5338.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-5338 at the rate of 0.33 cfs for use upon the land described below is CANCELLED.

<u>Township 14 North, Range 20 West of the</u>	<u>6th P.M. in Custer County</u>	<u>Acres</u>
Section 27:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.6
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	6.4
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	4.7
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	18.1
Section 34:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>3.6</u>
	TOTAL	36.4

2. Appropriation A-5338 now authorizes the appropriator to divert water from the South Loup River to irrigate the 160.1 acres of land described below and depicted on map number 18085 which is made a part of this Order. The point of diversion remains in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 14 North, Range 20 West of the 6th P.M. in Custer County. Water diverted shall not exceed the ratio of one cfs for every 110 acres irrigated at a maximum rate of 1.46 cfs (550 gallons per minute).

<u>Township 14 North, Range 20 West of the</u>	<u>6th P.M. in Custer County</u>	<u>Acres</u>
Section 27:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	16.4
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	0.1
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	24.8
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	1.9
Section 34:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	33.4
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	25.9
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	27.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>29.8</u>
	TOTAL	160.1

3. All terms and conditions of appropriation A-5338 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:
 - 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

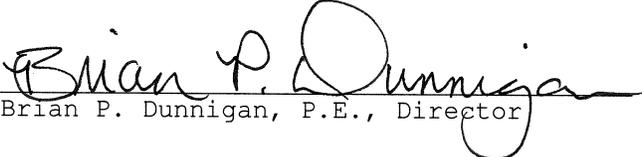
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, 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, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

March 21, 2012


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 18085 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18085 were mailed on March 21, 2012, to the following:

Thomas Livestock Company, Inc.
c/o R. J. Thomas
79696 Highway 21
Broken Bow, Nebraska 68822