

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

CORRECTED ORDER OF PARTIAL CANCELLATION

OF WATER APPROPRIATIONS D-626 AND A-2726

WATER DIVISION 1-A

BACKGROUND

1. On February 16, 2010, an Order of Partial Cancellation of Water Appropriations D-626 and A-2726 was approved. Appropriation A-17271 was incorrectly listed on the Order and on Attachment A as land entitled to receive irrigation from the Platte River and the Sutherland Reservoir via the Cozad canal. Appropriation A-17271 was cancelled in full on March 28, 2001.
2. Appropriation D-626 is held by the Cozad Ditch Company, Inc., and A-2726 is held by Nebraska Public Power District (NPPD) to divert water from the Platte River and Sutherland Reservoir into and through the Cozad Canal at its headgate located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 11 North, Range 25 West of the 6th P.M. in Dawson County for incidental underground storage and irrigation:

Appropriation Number	Priority Date	Source	Permitted Acres	Maximum	
				Diversion in Irrigation	CFS ¹ IUS ²
D-626	12-28-1894	Platte River	16,150.4	230.73	3.51
A-2726	03-31-1937	Sutherland Reservoir	16,187.7 ³	--	--

¹ Cubic feet per second

² Incidental Underground Storage

³ Includes 40 acres for store-only, remaining acres are supplemental to D-626

3. On March 25, 2009, the Cozad Ditch Company Inc., NPPD and individual landowners filed in the Department of Natural Resources (Department) Relinquishments of Surface Water Appropriations in Part, REL-1654 and REL-1655, relinquishing the right to divert a portion of the water under D-626 and A-2726 for the land described below:

REL-1654 (A-2726)

REL-1655 (D-626)

Township 11 North, Range 23 West of the
6th P.M. Dawson County

	Acres
Section 21: NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.9
NE $\frac{1}{4}$ NE $\frac{1}{4}$	33.4
SW $\frac{1}{4}$ NE $\frac{1}{4}$	2.6
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>20.1</u>
TOTAL	76.0

4. The land described in relinquishments REL-1654 and REL-1655 lies within Cozad Ditch Company's and NPPD's U-7 (incidental underground storage) boundary for the Cozad Canal. The U-7 permit was conditioned such that "when the amount of water dedicated to direct service is reduced because of the number of acres served, . . . the amount of water dedicated for incidental underground storage shall be reduced proportionately." Because 76.0 acres under D-626 and A-2726 served by the Cozad Canal have been relinquished, a percentage of water under U-7 will be proportionately reduced. Based on the conditions of the U-7 permit under D-626, the (3.51) cfs currently granted under U-7 should be reduced by an amount proportionate to the (76.0) acres relinquished above that have not been reassigned. The proportional reduction is 0.02 cfs.
5. The Department has not received a Notification of Assignment of Rights for the appropriations D-626 and A-2726 via the Cozad Canal.

IT IS HEREBY ORDERED:

1. Part of appropriation D-626 in the amount of 1.09 cfs for irrigation for use upon the land described below and 0.02 cfs for incidental underground storage under U-7; and storage-use appropriation A-2726 for use upon the land described below and shown on aerial photographs filed with REL-1654 and REL-1655 are CANCELLED.

REL-1654 (A-2726)
REL-1655 (D-626)

<u>Township 11 North, Range 23 West of the</u> <u>6th P.M. Dawson County</u>	<u>Acres</u>
Section 21: NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.9
NE $\frac{1}{4}$ NE $\frac{1}{4}$	33.4
SW $\frac{1}{4}$ NE $\frac{1}{4}$	2.6
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>20.1</u>
TOTAL	76.0

2. Appropriation D-626 shall be shown in Department records as a permit to divert 3.49 cfs of water for incidental underground storage (U-7) and 229.64 cfs for irrigation of 16,074.4 acres from the Platte River through the Cozad Canal at its headgate.
3. Appropriation A-2726 shall be shown in Department records as a permit to provide for water from the Sutherland Reservoir via the Cozad Canal for irrigation, with incidental underground storage, for 16,111.7 acres. A portion (16,071.7 acres) of the appropriation A-2726 via the Cozad Canal provides for supplemental irrigation to D-626 (with incidental underground storage), and the remaining acres under A-2726 (40 acres), via the Cozad Canal, provide for store-only (with incidental underground storage). The grant for incidental underground storage for A-2726 is included in the grant for the appropriation, therefore is not calculated separately.

4. Lands entitled to irrigation from the Platte River and the Sutherland Reservoir via the Cozad Canal listed below are described on Attachment A, which is made a part of this Order.

Appropriation Number	Priority Date	Source	Permitted Acres	Maximum Diversion	
				Irrigation	IUS ²
D-626	12-28-1894	Platte River	16,074.4	229.64 cfs ¹	3.49 cfs
A-2726	03-31-1937	Sutherland Reservoir	16,111.7 ³	48,335.10 af ⁵	--
A-17002R	07-23-1990	Platte River	35.0	0.50 cfs	
A-17003R	07-23-1990	Sutherland Reservoir	35.0	-- ⁴	

¹ Cubic feet per second

² Incidental Underground Storage

³ Includes 40 acres for store-only, remaining acres are supplemental to D-626

⁴ Limited to the amount of water decreed by Nebraska statutes and least amount of water required by good husbandry

⁵ Acre-feet

5. All terms and conditions of appropriations D-626 and A-2726 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. 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.

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 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 five consecutive years may result in cancellation of the appropriation.

DEPARTMENT OF NATURAL RESOURCES

May 24, 2011


 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 *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (4th Floor Nebraska State Office Building, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval 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 Attachment A were provided to the Department's field offices in Bridgeport, and North Platte Nebraska. Copies of this Order and Attachment A were mailed on May 24, 2011, to the following:

Brian Barels
Nebraska Public Power District
P.O. Box 499
Columbus, Nebraska 68602-0499

Nebraska Public Power District
3400 Newell
Cozad, Nebraska 69130

Jeff Shafer
Nebraska Public Power District
P.O. Box 608
York, Nebraska 68467-0608

Cozad Ditch Company, Inc.
P.O. Box 286
Cozad, Nebraska 69130-0286