STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF PARTIAL CANCELLATION

OF WATER APPROPRIATIONS D-622, D-624R, A-2145 AND A-2726

AND ASSIGNMENT OF APPROPRIATIONS D-622 AND A-2726

WATER DIVISION 1-A

Background

1. Appropriations D-622, D-624R, A-2145 and A-2726 are held by Nebraska Public Power District (NPPD) to divert water from the Platte River and Sutherland Reservoir into and through the Dawson County Canal at its headgate located in the NW¼NW¼ of Section 18, Township 10 North, Range 23 West of the 6th P.M. in Dawson County, for irrigation and incidental underground storage as summarized in the following chart:

Appropriation Number	Priority Date	Source	Appropriation to which it provides Supplemental Water	Use	Appurtenant Portion Effective Before This Order	
					Acres	Grant[1]
D-622	06/26/1894	Platte River	-	IR[2]	18,259.4	260.85
				US[3]	-	101.92
D-624R	09/15/1894	Platte River	-	IR	1,164.1[4]	16.63[5]
				US	-	7.28[5]
A-2145	06/14/1930	Platte River	-	IR	55.0	0.79
				US	-	0.31
A-2726	03/31/1937	Sutherland Reservoir	D-622	UI[6]	18,047.4	-
			D-624R	UI	551.0	-
			A-2145	UI	55.0	-
			-	OU[7]	6.0	-

[1] Grant is in cubic feet per second
[2] IR = Irrigation from naturally flowing source
[3] US = Incidental underground storage
[4] This total reflects the legal irrigated acres based upon the approval of temporary CREP transfer T-1270
[5] This total reflects the legal diversion rate based upon the approval of temporary CREP transfer T-1270
[6] UI = Supplemental (from a reservoir) irrigation, on lands also covered by a natural flow appropriation, and incidental underground storage
[7] OU = Irrigation with water stored in a reservoir on lands not covered by a natural flow appropriation, and incidental underground storage

2. On July 13, 2012, the Department of Natural Resources (Department) issued an Order of Partial Cancellation and Assignment of Water Appropriations D-622 and A-2726. On Page 5, Paragraph 4, and on Page 6 Paragraph 7, the charts contained scrivener's errors in the number of acres relinquished of A-2726 (supplemental to D-622). The total number of acres relinquished under A-2726 was 745.0. However, 742.0 of those acres should have been represented for the portion of A-2726 that is supplemental to D-622. The resulting acres available for assignment were then also incorrectly reported.

3. On March 10, 2011, NPPD and individual landowners filed in the Department Relinquishments of Surface Water Appropriations in Part REL-2058 and REL-2059 relinquishing the right to divert water for irrigation of 49.0 acres under D-622, and the right to irrigate 49.0 acres under A-2726.

4. On May 10, 2011, NPPD and individual landowners filed in the Department Relinquishments of Surface Water Appropriations in Part REL-2090, REL-2091, REL-2092, REL-2093, REL-2100, REL-2101 and REL-2102 relinquishing the right to divert water for irrigation of 78.9 acres under D-622, 97.0 acres under D-624R, 55.0 acres under A-2145 and the right to irrigate 173.9 acres under A-2726.

5. On May 10, 2011, NPPD filed in the Department Notification of Assignment of Rights, AOR-2104, to assign water appropriated under D-622 to irrigate 59.0 acres of land, and the right to irrigate 59.0 acres of land under A-2726.

6. Pursuant to *Neb. Rev. Stat.* § 46-229.04(5) NPPD may assign, within 5 years of the Order of Cancellation by the Department, the relinquished portion of an appropriation. NPPD has requested that the portions with the earliest cancellation date are the first to be assigned.

7. The portions of appropriations D-622, D-624R, A-2145 and A-2726 served by the Dawson County Canal that are available for assignment *prior to* this Order are described below:

Appropriation Number	**Appropriation to which it provides Supplemental Water**	**Use**	**Available for Assignment Before this Order**		**Date of Cancellation**
			Acres	**Grant**	
D-622	-	IR	577.6	8.25	7/13/2012
		US	-	3.19	7/13/2012
D-624R	-	IR	0.0	0.0	-
		US	-	0.0	-
A-2145	-	IR	0.0	0.0	-
		US	-	0.0	-
A-2726	D-622	UI	577.6	-	7/13/2012
	D-624R	UI	0.0	-	7/13/2012
	A-2145	UI	0.0	-	-
	-	OU	3.0	-	7/13/2012

IT IS HEREBY ORDERED:

1. The following are (corrected in bold) charts summarizing the appropriations' acres and grants as a result of NPPD's filings in the Department before and after the July 13, 2012, Order, and are hereby corrected *Nunc Pro Tunc*:

Chart from Page 5, Paragraph 4

Appropriation Number	Use	Appurtenant Portion Prior to Order dated July 13, 2012		Available for Assignment Prior to Order dated July 13, 2012		Amount Relinquished in Order dated July 13, 2012		Amount Assigned in Order dated July 13, 2012		Available for Assignment after Order dated July 13, 2012	
		Acres	Grant	Acres	Grant	Acres	Grant	Acres	Grant	Acres	Grant
D-622	IR	18,681.3	266.88	155.7	2.22	742.0	10.60	320.1	4.57	577.6	8.25
	US	-	104.28	-	0.83	-	4.14	-	1.78	-	3.19
A-2726	UI	18,469.3	-	155.7	-	**742.0**	-	320.1	-	**577.6**	-
	SO	9.0	-	0	-	3.0	-	0	-	3.0	-

Chart from Page 6, Paragraph 7

Appropriation Number	Use	Available for Assignment After Order dated July 13, 2012		Date of Cancellation
		Acres	Grant	
D-622	IR	577.6	8.25	July 13, 2012
	US	-	3.19	July 13, 2012
A-2726	UI	**577.6**	-	July 13, 2012
	SO	3.0	-	July 13, 2012

2. Part of appropriations D-622 in the amount of 1.83 cfs for irrigation and 0.71 cfs for incidental underground storage under U-5; part of D-624R in the amount of 1.39 cfs for irrigation and 0.61 cfs for incidental underground storage; part of A-2145 in the amount of 0.79 cfs for irrigation and 0.31 cfs for incidental underground storage; and portions of A-2726, that provide supplemental water to land under D-622, D-624R and A-2145 for use upon the land described below and shown on aerial photographs filed with REL-2058, REL-2059, REL-2090, REL-2091, REL-2092, REL-2093, REL-2100, REL-2101 and REL-2102 are CANCELLED.

REL-2059 (D-622)
REL-2058 (A-2726)

Township 10 North, Range 22 West of the 6th P.M. in Dawson County		Acres
Section 26:	NW¼SE¼	16.0
	NE¼SE¼	15.0
	SW¼SE¼	8.0
	SE¼SE¼	10.0
	SUB TOTAL	49.0

REL-2091 (D-622)
REL-2090 (A-2726)

Township 10 North, Range 21 West of the 6th P.M. in Dawson County		Acres
Section 12:	NE¼SW¼	35.0
	SE¼SW¼	22.0
	SUB TOTAL	57.0

REL-2092 (D-622)
REL-2093 (A-2726)

Township 10 North, Range 22 West of the 6th P.M. in Dawson County		Acres
Section 31:	SW¼NE¼	5.0
	SE¼NE¼	15.0
	NW¼SE¼	0.7
	NE¼SE¼	1.2
	SUB TOTAL	21.9

REL-2100 (D-624R)

Township 9 North, Range 20 West of the 6th P.M. in Dawson County		Acres
Section 20:	NE¼NW¼	37.0
	SE¼NW¼	39.0
	NW¼NE¼	21.0
	SUB TOTAL	97.0

REL-2102 (A-2726[1])

Township 9 North, Range 20 West of the 6th P.M. in Dawson County		Acres
Section 20:	NE¼NW¼	19.0
	NW¼NE¼	21.0
	SUB TOTAL	40.0

REL-2101 (A-2145)
REL-2102 (A-2726)

Township 9 North, Range 20 West of the 6th P.M. in Dawson County		Acres
Section 20:	NW¼NE¼	16.0
	SW¼NE¼	39.0
	SUB TOTAL	55.0
TOTAL RELINQUISHED D-622		**127.9**
TOTAL RELINQUISHED D-624R		**97.0**
TOTAL RELINQUISHED A-2145		**55.0**
TOTAL RELINQUISHED A-2726		**222.9**

[1]Portion of A-2726 providing supplemental water under D-624R

3. The Department acknowledges the Notification of Assignment of Rights, AOR-2104 filed by NPPD on May 10, 2011, to assign a portion of the appropriations D-622 and A-2726 previously relinquished to the land described below. The location of these lands is shown on the aerial photographs submitted with AOR-2104.

AOR-2104 (D-622 and A-2726)

Township 10 North, Range 21 West of the 6th P.M. in Dawson County		Acres
Section 12:	NW¼SE¼	9.0
	NE¼SE¼	17.0
	SW¼SE¼	13.0
	SE¼SE¼	16.0
Section 13:	SW¼SE¼	2.0

AOR-2104 (D-622 and A-2726)

Township 10 North, Range 20 West of the 6th P.M. in Dawson County		Acres
Section 7:	NW¼SW¼	1.0
	SW¼SW¼	1.0
	TOTAL	59.0
TOTAL ASSIGNED D-622		**59.0**
TOTAL ASSIGNED A-2726		**59.0**

4. The land that has the water appropriations relinquished under REL-2058, REL-2059 REL-2090, REL-2091, REL-2092, REL-2093, REL-2100, REL-2101 and REL-2102 also lie within NPPD's U-5 (incidental underground storage) boundary for the Dawson County Canal. The U-5 permit was conditional 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."

   Based on the conditions of the U-5 permit for D-622, the current grant under U-5 should be reduced by an amount proportionate to the acres relinquished above that have not been assigned.

   When and if all or part of the acres are assigned to lands served by the Dawson County Canal, a percentage of water under U-5 will be proportionately restored.

5. The following is a summary of the appropriations' acres and grants as a result of NPPD's filings in the Department before and after this Order:

Appropriation Number	Use	Appurtenant Portion Prior to this Order		Available for Assignment Prior to this Order		Amount Relinquished in this Order		Amount Assigned in this Order		Available for Assignment After this Order	
		Acres	Grant	Acres	Grant	Acres	Grant	Acres	Grant	Acres	Grant
D-622	IR	18,259.4	260.85	577.6	8.25	127.9	1.83	59.0	0.84	646.5	9.24
	US	-	101.92	_	3.19	-	0.71	_	0.33	_	3.57
D-624R	IR	1,164.1	16.63	0.0	0.0	97.0	1.39	0.0	0.0	97.0	1.39
	US	-	7.28	_	0.0	-	0.61	_	0.0	_	0.61
A-2145	IR	55.0	0.79	0.0	0.0	55.0	0.79	0.0	0.0	55.0	0.79
	US	-	0.31	_	0.0	-	0.31	_	0.0	_	0.31
A-2726	UI[1]	18,047.4	_	577.6	_	127.9	_	59.0	_	646.5	_
	UI[2]	551.0	_	0.0	_	40.0	_	0.0	_	40.0	_
	UI[3]	55.0	_	0.0	_	55.0	_	0.0	_	55.0	_
	OU	6.0	_	3.0	_	0.0	_	0.0	_	3.0	_

[1] Portion of A-2726 that provides supplemental water to D-622
[2] Portion of A-2726 that provides supplemental water to D-624R
[3] Portion of A-2726 that provides supplemental water to A-2145

6. Water appropriation D-622 shall now be shown in Department records as a permit to divert 259.86 cfs of water for irrigation of 18,190.5 acres and 101.54 cfs for incidental underground storage (U-5) from the Platte River through the Dawson County Canal at its headgate. All other rights remain the same.

7. Water appropriation D-624R shall now be shown in Department records as a permit to divert 15.24 cfs of water for irrigation of 1,067.1 acres and 6.67 cfs for incidental underground storage (U-5) from the Platte River through the Dawson County Canal at its headgate. All other rights remain the same.

8. No water shall be diverted under appropriation A-2145. All other rights remain the same.

9. Water appropriation A-2726 shall now be shown in Department records as a permit to supply water for incidental underground storage (U-5) and supplemental irrigation of 18,495.5 acres from the Sutherland Reservoir through the Dawson County Canal. Of these acres, 17,978.5 receive water supplementing D-622, and 511.0 acres receive water supplementing D-624R, and 6.0 acres receive storage water only, as shown on the following chart. All other rights remain the same.

Appropriation Number	Priority Date	Source	Appropriation to which it provides Supplemental Water	Use	Appurtenant Portion Effective as of this Order	
					Acres	Grant[1]
D-622	06/26/1894	Platte River	-	IR[2]	18,190.5	259.86
				US[3]	-	98.35
D-624R	09/15/1894	Platte River	-	IR	1,067.1[4]	15.24[5]
				US	-	6.67[5]
A-2145	06/14/1930	Platte River	-	IR	0.0	0.0
				US	-	0.0
A-2726	03/31/1937	Sutherland Reservoir	D-622	UI[6]	17,978.5	-
			D-624R	UI	511.0	-
			A-2145	UI	0.0	-
			-	OU[7]	6.0	-

[1] Grant is in cubic feet per second
[2] IR = Irrigation from naturally flowing source
[3] US = Incidental underground storage
[4] This total reflects the legal irrigated acres based upon the approval of temporary CREP transfer T-1270
[5] This total reflects the legal diversion rate based upon the approval of temporary CREP transfer T-1270
[6] UI = Supplemental (from a reservoir) irrigation, on lands also covered by a natural flow appropriation, and incidental underground storage
[7] OU = Irrigation with water stored in a reservoir on lands not covered by a natural flow appropriation, and incidental underground storage

10. Pursuant to *Neb. Rev. Stat.* § 46-229.04(5) NPPD may assign, within 5 years of the Order of Cancellation by the Department, the relinquished portion of an appropriation. The portions of appropriations D-622, D-624R, A-2145 and A-2726 that are available for future assignment or transfer are described below:

Appropriation Number	Use	Available for Assignment After this Order		Date of Cancellation
		Acres	Grant	
D-622	IR	518.6	7.41	7/13/2012
		-	2.86	7/13/2012
	US	127.9	1.83	This order's date
		-	0.71	This order's date
D-624R	IR	97.0	1.39	This order's date
	US	-	0.61	This order's date
A-2145	IR	55.0	0.79	This order's date
	US	-	0.31	This order's date
A-2726	UI[1]	518.6	-	7/13/2012
		127.9	-	This order's date
	UI[2]	40.0	-	This order's date
	UI[3]	55.0	-	This order's date
	OU	3.0	-	7/13/2012

11. All terms and conditions of appropriations D-622, D-624R, A-2145 and A-2726 remain in effect unless specifically changed by this Order.

12. 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 assignment 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 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 five consecutive years may result in cancellation of the appropriation.

DEPARTMENT OF NATURAL RESOURCES

June 19, 2013

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 Title 454 Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 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. A copy of this Order was provided to the Department's field offices in Bridgeport, and North Platte Nebraska. A copy of this Order was mailed on June 19, 2013, to the following:

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