

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

DENIAL OF PETITION RLP-2011 TO ADD A LOCATION OF
DIVERSION FOR WATER APPROPRIATION A-15659A

WATER DIVISION 1-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15659A is held by Anne Stuart Kinnison.
2. Appropriation A-15659A has a priority date of June 19, 1980, and authorizes the use of water for irrigation of 87.0 acres of land. The water may be diverted from Strever (Spring) Creek at points of diversion located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 4, Township 9 North, Range 21 West of the 6th P.M. in Dawson County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 1.24 cfs (556 gallons per minute) from all points of diversion.
3. On June 25, 2004, Anne Stuart Kinnison filed petition RLP-2011 in the Department for a permit to add another location of diversion for appropriation A-15659A. The petitioner proposes to add a point of diversion on Strever Creek (Spring Creek) the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, Township 9 North, Range 21 West of the 6th P.M. in Dawson County, by utilizing Beatty Canal for delivery of water.
4. Beatty Canal is owned and operated by Nebraska Public Power District (NPPD). The appropriator has not provided an agreement with NPPD for use of Beatty Canal for appropriation A-15659A.
5. *Nebraska Revised Statutes* § 46-250 allows the owner of any ditch, storage reservoir, storage capacity, or other device for appropriating water, to petition the Department to change the point at which the water under any appropriation of record is diverted from a natural stream or reservoir.
6. *Nebraska Revised Statutes* § 46-234 allows for refusal if existing facilities other than those owned or operated by the applicant are to be utilized and the applicant fails to show, by documentary evidence, agreements with the owner and operator of the facilities to allow the applicant to use such facilities[.]
7. The Department has determined that petition RLP-2011 does not meet the conditions of *Nebraska Revised Statutes* § 46-234, and should be denied.

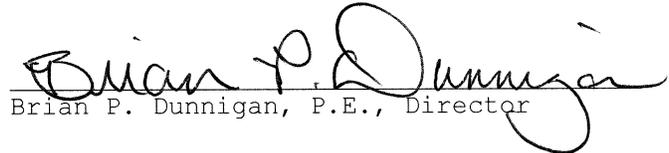
ORDER

IT IS HEREBY ORDERED:

Petition RLP-2011 for a permit to add an additional location of diversion for appropriation A-15659A is DENIED.

DEPARTMENT OF NATURAL RESOURCES

June 16, 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 order 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 office in Bridgeport, Nebraska. A copy of this Order was mailed on June 16, 2011, to the following:

Bruce E. Stuart
43540 Road 756
Lexington, Nebraska 68850

Anne Stuart Kinnison
3254 50th Avenue
Columbus, Nebraska 68601