

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-17734

CASE NUMBER 2013-54-CC-1

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of the land located in the NE $\frac{1}{4}$  pf Section 31, Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County appurtenant to surface water appropriation A-17734 is owned by Paul M. Schudel.
2. Records on file in the Department show that a portion of the land located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  pf Section 31, Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County appurtenant to surface water appropriation A-17734 is owned by Susan L. and Charles Manchester.
3. Appropriation A-17734 with a priority date of February 11, 1999, authorizes the use of water for irrigation of the 108.0 acres of land described below. The water may be diverted from Mira Creek at points of diversion located on both banks of the stream in the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31, Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 152 acres irrigated at a maximum combined rate of 0.71 cfs from all points of diversion.

Township 18 North, Range 12 West of the  
6<sup>th</sup> P.M. in Greeley County

	Acres
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	26.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	16.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	34.0
SE $\frac{1}{4}$ NE $\frac{1}{4}$	32.0
TOTAL	108.0

4. The Department has received information concerning the use of surface water appropriation A-17734 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

5. On October 17, 2013, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-17734 had not been irrigated for at least five years:

<u>Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County</u>		<u>Acres</u>
Section 31:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	12.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	16.0
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	28.6
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>32.0</u>
	TOTAL	88.6

6. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Susan Manchester, 48691 801A Road, North Loup, Nebraska 68859 and Paul M. Schudel, 6300 Andrew Court, Lincoln, Nebraska 68512.
7. On November 15, 2013, Paul M. Schudel filed in the Department a Contest of Preliminary Determination of Nonuse of appropriation A-17734.
8. On March 10, 2015, Susan L. and Charles Manchester filed in the Department relinquishment REL-5321 relinquishing the right to divert water under a portion of appropriation A-17734 to irrigate the 6.2 acres of land described below.

<u>Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County</u>		<u>Acres</u>
Section 31:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	6.2

9. On March 13, 2015, Paul M. Schudel filed in the Department relinquishment REL-5331 relinquishing the right to divert water under a portion of appropriation A-17734 to irrigate the 81.8 acres of land described below.

<u>Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County</u>		<u>Acres</u>
Section 31:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	12.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	15.4
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	22.4
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>32.0</u>
	TOTAL	81.8

10. The Department should withdraw from case number 2013-54-CC-1 and act on relinquishments REL-5321 and REL-5331.

ORDER

1. Case number 2013-54-CC-1 is DISMISSED.
2. Part of appropriation A-17734 at the rate of 0.58 cfs for use upon the land described below is CANCELLED.

<u>Township 18 North, Range 12 West of the</u>	
<u>6<sup>th</sup> P.M. in Greeley County</u>	<u>Acres</u>
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	12.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	15.4
SW $\frac{1}{4}$ NE $\frac{1}{4}$	28.6
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>32.0</u>
TOTAL	88.0

3. Appropriation A-17734 now authorizes the appropriator to divert water from Mira Creek to irrigate the 20.0 acres of land described below and depicted on map number 18681 which is made a part of this Order. The points of diversion remain in the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 31, Township 18 North, Range 12 West of the 6<sup>th</sup> P.M. in Greeley County. The rate that water may be diverted shall not exceed one cfs for every 152 acres irrigated at a maximum combined rate of 0.13 cfs (58 gallons per minute) from all points of diversion.

<u>Township 18 North, Range 12 West of the</u>	
<u>6<sup>th</sup> P.M. in Greeley County</u>	<u>Acres</u>
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	14.0
NE $\frac{1}{4}$ NE $\frac{1}{4}$	0.6
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>5.4</u>
TOTAL	20.0

4. All terms and conditions of appropriation A-17734 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. 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

April 8, 2015

  
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James C. Schneider, Ph.D.  
Acting Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 18681 were provided to the Department's docket clerk and field office in Ord, Nebraska. Copies of this Order and map number 18681 were mailed on April 8, 2015, to the following:

Susan L. and Charles Manchester  
48691 801A Road  
North Loup, Nebraska 68859

Paul M. Schudel  
6300 Andrew Court  
Lincoln, Nebraska 68512