

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER CORRECTING LOCATION OF LAND APPROVED FOR IRRIGATION BY

ORDER DATED JUNE 28, 1974, AND

APPROVAL OF MAP NUMBER 17546 FOR WATER APPROPRIATION A-12992

WATER DIVISION 2-C

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12992 is currently held by Roy E. Breuklander.
2. Appropriation A-12992 has a priority date of June 28, 1974, and authorizes the use of water for irrigation of the 240.0 acres of land as depicted on map number 11506 and described below. The water may be diverted from the Niobrara River at points of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, both in Township 33 North, Range 24 West of the 6th P.M. in Keya Paha 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 3.43 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 33 North, Range 24 West of the
6th P.M. in Keya Paha County Acres

Section 7:	NE $\frac{1}{4}$ SW $\frac{1}{4}$	11.6
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	3.2
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	7.2
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	28.8
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	16.8
Section 8:	SE $\frac{1}{4}$ SW $\frac{1}{4}$	4.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	19.2
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	10.4
Section 17:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	16.4
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.8
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	33.2
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	19.6
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	8.8
Section 18:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	8.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>16.0</u>
	TOTAL	240.0

3. A review of the Department's records, using current mapping technology, indicates that map number 11506 plotted the river road and the Niobrara River, on average, 300 feet north of the actual location. Section 7, Section 17, and Section 18, all in Township 33 North, Range 24 West of the 6th P.M. in Keya Paha County are incorrectly plotted; therefore, the land authorized for irrigation described above and depicted on map number 11506 is north of the actual fields intended for irrigation under appropriation A-12992.
4. On December 28, 2009, Roy E. Breuklander filed map number 17546 showing the correct location of land to be irrigated under application A-12992.

Order

IT IS HEREBY ORDERED:

1. The Order dated June 28, 1974, and map number 11506 are set aside.
2. Map number 17546 is APPROVED.
3. The following land is authorized to be irrigated (appurtenant land) under surface water appropriation A-12992 as depicted on map number 17546 which is made a part of this Order.

<u>Township 33 North, Range 24 West of the</u>		
<u>6th P.M. in Keya Paha County</u>		
	<u>Acres</u>	
Section 7:	NE ¹ / ₄ SW ¹ / ₄	11.9
	SE ¹ / ₄ SW ¹ / ₄	8.5
	NW ¹ / ₄ SE ¹ / ₄	2.5
	SW ¹ / ₄ SE ¹ / ₄	31.9
	SE ¹ / ₄ SE ¹ / ₄	4.1
Section 8:	SE ¹ / ₄ SW ¹ / ₄	0.1
	SW ¹ / ₄ SE ¹ / ₄	5.6
	SE ¹ / ₄ SE ¹ / ₄	1.5
Section 17:	NW ¹ / ₄ NW ¹ / ₄	14.2
	NE ¹ / ₄ NW ¹ / ₄	19.8
	NW ¹ / ₄ NE ¹ / ₄	33.8
	NE ¹ / ₄ NE ¹ / ₄	37.1
	SW ¹ / ₄ NE ¹ / ₄	1.4
	SE ¹ / ₄ NE ¹ / ₄	22.1
	NE ¹ / ₄ SE ¹ / ₄	15.8
Section 18:	NW ¹ / ₄ NE ¹ / ₄	10.3
	NE ¹ / ₄ NE ¹ / ₄	<u>19.4</u>
	TOTAL	240.0

4. Appropriation A-12992 is held by Roy E. Breuklander and authorizes the use of water for irrigation of the 240.0 acres of land described above.

The water may be diverted from the Niobrara River at points of diversion in the NW¼NW¼, the SW¼NE¼ and the SE¼SE¼ of Section 17, and the NW¼NE¼ of Section 18, both in Township 33 North, Range 24 West of the 6th P.M. in Keya Paha County, at a maximum combined rate of 3.43 cubic foot per second (cfs) (1540 gallons per minute) from all points of diversion. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated and an annual volume not to exceed 3 acre-feet per acre irrigated.

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, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

January 11 , 2010

_____/s/
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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the

Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 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. Copies of this Order and map number 17546 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 17546 were mailed on January _____, 2010, to the following:

Roy E. Breuklander
404 West 3rd Street
Sparks, Nebraska 69220