STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-13556
ORDER OF TRANSFER IN PART OF APPROPRIATION A-13556

WATER DIVISION 2-C

Because of scrivener errors, the ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-13556 and ORDER OF TRANSFER IN PART OF APPROPRIATION A-13556 dated October 16, 2008, is superseded with this order.

Background

1. Surface water appropriation A-13556 is held by Joseph Belmont.

2. Surface water appropriation A-13556 is a permit with a priority date of April 15, 1975, to divert for irrigation 3.76 cfs of water from the Niobrara River. The points of diversion are located on the right bank of the river in Lot 4 of Section 6, Township 32 North, Range 17 West of the 6th P.M., and in Lots 1 and 2 of Section 1, Township 32 North, Range 18 West of the 6th P.M. in Rock County, Nebraska. The land that may be irrigated under this appropriation is described as follows:

Township 32 North, Range 17 West of the 6th P.M. in Rock County

		Acres
Section 6:	Lot 3 (SW¼NE¼)	27.9
	SE¼NE¼	29.0
	Lot 4 (E½NW¼)	41.3
	Lot 5 (NW¼NW¼)	22.5
	Lot 6 (SW¼NW¼)	36.0
	Lot 7 (NW¼SW¼)	17.6
	Lot 8 (SW¼SW¼)	0.1
	NE¼SW¼	19.7
	SE¼SW¼	1.0
	NW¼SE¼	15.0

Township 32 North, Range 18 West of the 6th P.M. in Rock County

Section 1:	Lot 1 in the NE¼NE¼	26.1
	Lot 2 in the NW¼NE¼	14.5
	SW¼NE¼	0.1
	SE¼NE¼	8.6
	NE¼SE¼	2.5
	SE¼SE¼	1.2
	TOTAL	263.1 Acres

3. On September 2, 2008, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-13556 had not been irrigated for at least five years:

Township 32 North, Range 17 West of the 6th P.M. in Rock County

		Acres
Section 6:	SW¼NE¼ (Lot3)	11.0
	SE¼NE¼	29.0
	NE¼NW¼ (Lot 4)	2.5
	SE¼NW¼ (Lot 4)	12.7
	NW¼NW¼ (Lot 5)	10.9
	SW¼NW¼ (Lot 6)	3.2
	NW¼SW¼ (Lot 7)	6.6
	SW¼SW¼ (Lot 8)	0.1
	NE¼SW¼	12.0
	SE¼SW¼	1.0
	NW¼SE¼	3.8

Township 32 North, Range 18 West of the 6th P.M. in Rock County

Section 1:	NE¼NE¼ (Lot 1)	4.1
	NW¼NE¼ (Lot 2)	0.8
	SE¼NE¼	4.5
	NE¼SE¼	0.7
	SE¼SE¼	0.6
	TOTAL	103.5 Acres

4. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Joseph Belmont, HC 74, Box 25, Newport, NE 68714.

5. No contest of the Preliminary Determination of Nonuse was received in the Department.

6. According to the field investigation completed April 8, 2008, by Stacey R. Kolar, Natural Resources Specialist with the Department, 4.5 permitted acres of land in the SE¼NE¼ of Section 1 were not irrigated for at least five years and subject to cancellation under this order, and 11.0 non-permitted acres have been irrigated. The 11.0 acres were not originally permitted or irrigated because they were situated beneath a lake that is no longer in existence.

Order

IT IS HEREBY ORDERED:

1. The Department is transferring a total of 11 acres which would otherwise be subject to cancellation. That part of appropriation A-13556 appurtenant to the land described below, and as depicted on the

original project map number 12149, approved June 30, 1976, is transferred to the SE¼NE¼ of Section 1 located in Township 32 North, Range 18 West of the 6th P.M. in Rock County, as depicted on map number 17371, which is made a part of this Order.

Township 32 North, Range 17 West of the 6th P.M. in Rock County

		Acres
Section 6:	NW¼NW¼	0.2

Township 32 North, Range 18 West of the 6th P.M. in Rock County

Section 1:	NE¼NE¼ (Lot 1)	4.1
	NW¼NE¼ (Lot 2)	0.8
	SW¼NE¼	0.1
	SE¼NE¼	4.5
	NE¼SE¼	0.7
	SE¼SE¼	0.6
	TOTAL	11.0 Acres

2. Part of appropriation A-13556 at the rate of 1.32 cfs for use upon the land described below is CANCELLED.

Township 32 North, Range 17 West of the 6th P.M. in Rock County

		Acres
Section 6:	SW¼NE¼ (Lot 3)	11.0
	SE¼NE¼	29.0
	NE¼NW¼ (Lot 4)	2.5
	SE¼NW¼ (Lot 4)	12.7
	NW¼NW¼ (Lot 5)	10.7
	SW¼NW¼ (Lot 6)	3.2
	NW¼SW¼ (Lot 7)	6.6
	SW¼SW¼ (Lot 8)	0.1
	NE¼SW¼	12.0
	SE¼SW¼	1.0
	NW¼SE¼	3.8

Township 32 North, Range 18 West of the 6th P.M. in Rock County

Section 1:	SE¼NE¼	2.9
	NE¼SE¼	0.7
	SE¼SE¼	0.6
	TOTAL	96.8 Acres

3. Appropriation A-13556 now authorizes Joseph Belmont to divert water from the Niobrara River to irrigate the 166.3 acres of land described below and depicted on map number 17371 which is made a part of this Order. The points of diversion remain on the right bank of the river in Lot 4 of Section 6, Township 32 North, Range 17 West of the 6th P.M., and in Lots 1 and 2 of Section 1, Township 32 North, Range 18 West of the 6th P.M. in Rock County, Nebraska. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 2.38 cfs.

Township 32 North, Range 17 West of the 6th P.M. in Rock County

		Acres
Section 6:	NW¼NW¼	11.6
	E1/2NW¼ (Lot 4)	26.1
	SW¼NW¼	32.8
	SW¼NE¼	16.9
	NW¼SW¼	11.0
	NE¼SW¼	7.7
	NW¼SE¼	11.2

Township 32 North, Range 18 West of the 6th P.M. in Rock County

Section 1:	NW¼NE¼	13.7
	NE¼NE¼	22.0
	SE¼NE¼	12.2
	NE¼SE¼	1.1
	TOTAL	166.3 ACRES

4. All terms and conditions of appropriation A-13556 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 any 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 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

February 11, 2009

Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order, including map number 17371, was provided to the Department's field office in Ord, Nebraska. A copy of this Order, including map number 17371, was mailed on February 12, 2009, to the following:

Joseph Belmont.
HC 74, Box 25
Newport, NE 68714