

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-6238

WATER DIVISION 2-C

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-6238 is held by Roy E. Breuklander.
2. Appropriation A-6238 authorizes the use of water for irrigation of the 35.9 acres of land 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 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 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 100 acres irrigated at a maximum combined rate of 0.36 cfs (162 gallons per minute) from all points of diversion.

<u>Township 33 North, Range 24 West of the</u>		<u>Acres</u>
<u>6th P.M. in Keya Paha County</u>		
Section 7:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.4
Section 17:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	4.9
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.6
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	5.0
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	14.0
Section 18:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>4.0</u>
TOTAL		35.9

3. Roy E. Breuklander filed a partial relinquishment of water appropriation A-6238, REL-1835, relinquishing the right to divert water under appropriation A-6238 to irrigate the 1.2 acres of land described below.

<u>Township 33 North, Range 24 West of the</u>		<u>Acres</u>
<u>6th P.M. in Keya Paha County</u>		
Section 7:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.1
Section 17:	SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.2
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.3
Section 18:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>0.6</u>
TOTAL		1.2

Order

IT IS HEREBY ORDERED:

1. Part of appropriation A-6238 at the rate of 0.01 cfs for use upon the land described below is CANCELLED.

Township 33 North, Range 24 West of the 6 th P.M. in Keya Paha County		Acres
Section 7:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.1
Section 17:	SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.2
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.3
Section 18:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>0.6</u>
	TOTAL	1.2

2. Appropriation A-6238 now authorizes Roy E. Breuklander to divert water from the Niobrara River to irrigate the 34.7 acres of land described below and depicted on map number 17568 which is made a part of this Order. The points of diversion remain on the left bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ 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 cfs for every 100 acres irrigated at a maximum combined rate of 0.35 cfs (157 gallons per minute) from all points of diversion.

Township 33 North, Range 24 West of the 6 th P.M. in Keya Paha County		Acres
Section 7:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.3
Section 17:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	4.9
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.4
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	4.7
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	14.0
Section 18:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>3.4</u>
	TOTAL	34.7

3. All terms and conditions of appropriation A-6238 remain in effect unless specifically changed by this Order.
4. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- Notify the Department of any change in ownership or address.
 - 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

January 12 , 2010

_____/s/
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 17568 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 17568 were mailed on January _____, 2010, to the following:

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