

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

ORDER OF PARTIAL CANCELLATION AND ASSIGNMENT
OF WATER APPROPRIATIONS D-653 AND A-6476

WATER DIVISION 1-A

BACKGROUND

1. Appropriation D-653 is held by Paxton-Hershey Water Company (Company) to divert water from the North Platte River for irrigation and incidental underground storage, and appropriation A-6476 is held by the Central Nebraska Public Power and Irrigation District (CNPPID) to divert water from Kingsley Reservoir for supplemental irrigation; into and through the Paxton-Hershey Canal at its headgate located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County as summarized in the following chart:

| Appropriation Number | Priority Date | Source | Permitted | Diversion in CFS ¹ | |
|-------------------------|------------------|--------------------|-----------|-------------------------------|------------------|
| | | | Acres | Irrigation | IUS ² |
| D-653 | 02-12-1894 | North Platte River | 6,092.0 | 87.03 | 15.75 |
| A-6476 | 07-21-1954 | Kingsley Reservoir | 6,014.5 | -- | -- |

¹ Cubic feet per second

² Incidental Underground Storage

2. On October 28, 2011, Rex Boggs, President of the Paxton-Hershey Water Company and individual landowners filed in the Department of Natural Resources (Department) Relinquishments in Part of Surface Water Appropriation REL-2204, REL-2206 and REL-2208 relinquishing the right to divert a portion of the water under D-653.
3. October 28, 2011, Rex Boggs, President of the Paxton-Hershey Water Company, filed in the Department Notification of Assignment of Rights, AOR-2202, to assign water appropriated under D-653.
4. On January 18, 2012, Don Kraus, General Manager of the Central Nebraska Public Power and Irrigation District and individual landowners filed in the Department Relinquishments in Part of Surface Water Appropriation REL-2261, REL-2262 and REL-2263 relinquishing the right to divert a portion of the water under A-6476.
5. January 18, 2012, Don Kraus, General Manager of the Central Nebraska Public Power and Irrigation District, filed in the Department Notification of Assignment of Rights, AOR-2260, to assign water appropriated under A-6476.

6. The following is a summary of the abovementioned relinquishments:

| | | | |
|--|--|--|--|
| REL-2206 (D-653) | | REL-2208 (D-653) | |
| REL-2261 (A-6476) | | REL-2262 (A-6476) | |
| Township 14 North, Range 32 West of the 6 th P.M. Lincoln County | | Township 14 North, Range 32 West of the 6 th P.M. Lincoln County | |
| | Acres | | Acres |
| Section 8: | NE $\frac{1}{4}$ SW $\frac{1}{4}$ 7.0 | Section 16: | NW $\frac{1}{4}$ NE $\frac{1}{4}$ 26.7 |
| | SE $\frac{1}{4}$ SW $\frac{1}{4}$ 20.0 | | |
| | TOTAL 27.0 | TOTAL RELINQUISHED D-653 and A-6476 | 67.0 |

REL-2204 (D-653)
REL-2263 (A-6476)

| | |
|--|--|
| Township 14 North, Range 32 West of the 6 th P.M. Lincoln County | |
| | Acres |
| Section 16: | NW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.3 |

7. The following is a summary of the abovementioned Notice of Assignment of Rights:

AOR-2202 (D-653)
AOR-2260 (A-6476)

| | |
|--|--|
| Township 14 North, Range 33 West of the 6 th P.M. Lincoln County | |
| | Acres |
| Section 22: | SE $\frac{1}{4}$ NW $\frac{1}{4}$ 28.6 |
| | SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.8 |
| | NE $\frac{1}{4}$ SW $\frac{1}{4}$ 9.7 |
| | NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16.8 |
| | NE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.1 |
| | TOTAL 67.0 |

8. Pursuant to Neb. Rev. Stat. § 46-229.04(5) the appropriators may assign, within 5 years of the Order of Cancellation by the Department, the relinquished portion of an appropriation.

IT IS HEREBY ORDERED:

- Part of appropriation D-653 for use upon the land described below for irrigation and incidental underground storage under U-14; and part of storage-use appropriation A-6476 for use upon the land described below for supplemental irrigation, shown on aerial photographs filed with REL-2204, REL-2206, REL-2208, REL-2261, REL-2262 and REL-2263 are CANCELLED.

| | |
|--|--|
| REL-2206 (D-653) REL-2261 (A-6476) | REL-2208 (D-653) REL-2262 (A-6476) |
| Township 14 North, Range 32 West of the <u>6th P.M. Lincoln County</u> Acres | Township 14 North, Range 32 West of the <u>6th P.M. Lincoln County</u> Acres |
| Section 8: NE $\frac{1}{4}$ SW $\frac{1}{4}$ 7.0 SE $\frac{1}{4}$ SW $\frac{1}{4}$ <u>20.0</u> | Section 16: NW $\frac{1}{4}$ NE $\frac{1}{4}$ 26.7 |
| TOTAL 27.0 | TOTAL RELINQUISHED D-653 and A-6476 67.0 |
| REL-2204 (D-653) REL-2263 (A-6476) | |

| |
|--|
| Township 14 North, Range 32 West of the <u>6th P.M. Lincoln County</u> Acres |
| Section 16: NW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.3 |

- The Department acknowledges the Notifications of Assignment of Rights, AOR-2202 and AOR-2260 filed on October 28, 2011, and on January 18, 2012, to assign a portion of the appropriations D-653 and A-6476 previously relinquished to the land described below. The location of the land is shown on the aerial photographs submitted with AOR-2202 and AOR-2260.

| |
|--|
| AOR-2202 (D-653) AOR-2260 (A-6476) |
| Township 14 North, Range 33 West of the <u>6th P.M. Lincoln County</u> Acres |
| Section 22: SE $\frac{1}{4}$ NW $\frac{1}{4}$ 28.6 |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.8 |
| NE $\frac{1}{4}$ SW $\frac{1}{4}$ 9.7 |
| NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16.8 |
| NE $\frac{1}{4}$ SE $\frac{1}{4}$ <u>0.1</u> |
| TOTAL 67.0 |
| TOTAL ASSIGNED D-653 and A-6476 67.0 |

3. Appropriation D-653 held by the Company to divert water from the North Platte River for irrigation and incidental underground storage, and appropriation A-6476 held by CNPPID to divert water from Kingsley Reservoir for supplemental irrigation; into and through the Paxton-Hershey Canal at its headgate located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County remain as summarized in the following chart:

| <u>Appropriation Number</u> | <u>Priority Date</u> | <u>Source</u> | <u>Permitted Acres</u> | <u>Diversion in CFS¹ Irrigation</u> | <u>IUS²</u> |
|---------------------------------|--------------------------|--------------------|----------------------------|--|------------------------|
| D-653 | 02-12-1894 | North Platte River | 6,092.0 | 87.03 | 15.75 |
| A-6476 | 07-21-1954 | Kingsley Reservoir | 6,014.5 | -- | -- |

¹ Cubic feet per second

² Incidental Underground Storage

4. All terms and conditions of appropriations D-653 and A-6476 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. Receiving approval prior to taking any action that changes the location of the point of diversion, a transfer of the location of the place of use, a relinquishment of a portion of the appropriation, the type of use, or the type of appropriation.
 - B. Notify the Department of Natural Resources of any reassignment of relinquished portions of an appropriation.
 - C. Comply with all relevant notices and orders of the Department.

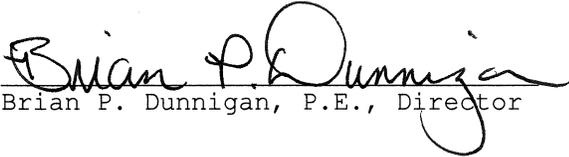
ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department 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.

DEPARTMENT OF NATURAL RESOURCES

March 11, 2014


 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 Title 454 Neb. Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval 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 offices in Bridgeport, and North Platte Nebraska. A copy of this Order was mailed on March 11, 2014, to the following:

Rex Boggs, President
Paxton Hershey Water Company
27256 West Platte Valley Road
Hershey, Nebraska 69143

Donald Kraus, General Manager
The Central Nebraska Public Power and
Irrigation District
P.O. Box 740
Holdrege, Nebraska 68949-0740