

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART AND DIVIDING APPROPRIATION A-1038

AND APPROVAL OF MAPS NUMBER 20640 AND 20643

WATER DIVISION 1-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-1038 is currently held by Gavilon Grain LLC, Scott A. and Julie M. Trampe and Jeremy and Deborah Sheldon.
2. The point of diversion for appropriation A-1038 is located on land owned by Heath Schake.
3. Appropriation A-1038 with a priority date of November 10, 1910, authorizes the use of water for irrigation of the 58.6 acres of land described below. The water may be diverted from Wood River at a point of diversion located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 10 North, Range 17 West of the 6th P.M. in Buffalo County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 200 acres irrigated at a maximum rate of 0.29 cfs.

<u>Township 10 North, Range 16 West of the 6th P.M. in Buffalo County</u>	<u>Acres</u>
Section 31: Lot 05	39.3
Lot 06	10.0
Lot 08	<u>9.3</u>
TOTAL	58.6

4. On January 15, 2021, Barry Brandstetter, on behalf of Gavilon Grain, LLC, filed relinquishment REL-9287, relinquishing the right to divert water under a portion of appropriation A-1038 to irrigate the 28.7 acres of land described below.

<u>Township 10 North, Range 16 West of the 6th P.M. in Buffalo County</u>	<u>Acres</u>
Section 31: Lot 05	15.4
Lot 06	4.0
Lot 08	<u>9.3</u>
TOTAL	28.7

5. Appropriation A-1038 was originally granted to a single landowner. The appurtenant land was later divided into distinct parcels to multiple owners. Because of the multiple owners, the Department determined that it is in the best interest of the owners and the State to divide the water appropriation among the owners so that each owner's rights are distinguishable.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-1038 at the rate of 0.14 cfs for use upon the 28.7 acres of land described above is CANCELLED.
2. Appropriation A-1038 is divided into two appropriations, A-1038A and A-1038B.
3. Appropriation A-1038A authorizes the use of water to irrigate the 25.7 acres of land described below and depicted on map number 20640, which is made a part of this Order. The portion depicted in Lot 6 is a general location. Production of this map does not relieve the appropriator(s) from producing a project map as described in paragraph 5 below. Water diverted from Wood River shall not exceed the ratio of one cfs for every 200 acres irrigated at a maximum rate of 0.13 cfs (58 gallons per minute).

<u>Township 10 North, Range 16 West of the 6th P.M. in Buffalo County</u>	<u>Acres</u>
Section 31: Lot 05	23.9
Lot 06	<u>1.8</u>
TOTAL	25.7

4. Appropriation A-1038B authorizes the use of water to irrigate the 4.2 acres of land described below and depicted on map number 20643, which is made a part of this Order. The portion depicted in Lot 6 is a general location. Production of this map does not relieve the appropriator(s) from producing a project map as described in paragraph 5 below. Water diverted from Wood River shall not exceed the ratio of one cfs for every 200 acres irrigated at a maximum rate of 0.02 cfs (9 gallons per minute).

<u>Township 10 North, Range 16 West of the 6th P.M. in Buffalo County</u>	<u>Acres</u>
Section 31: Lot 06	4.2

5. Map numbers 20640 and 20643 generally depict the location of appurtenant land in Lot 6, Section 31, Township 10 North, Range 16 West of the 6th P.M. in Buffalo County. Owners of land under A-1038 were notified by letter dated September 13, 2019 that they had three years to file a project map depicting the location of appurtenant land. Therefore, owners of Appropriations A-1038A and A-1038B have until September 13, 2022, to file maps showing the exact location of the irrigated acres within that legal subdivision.

6. All terms and conditions of the approval of appropriation A-1038 remain in effect unless specifically changed by this Order.
7. The point of diversion for A-1038A and A-1038B remain in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 10 North, Range 17 West of the 6th P.M. in Buffalo County, as depicted on maps number 20640 and 20643. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated per year.
8. If the appropriators of A-1038A and A-1038B do not have access to the point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion and have it approved by the Department prior to any diversion. This Order does not authorize access to the existing point of diversion.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Order may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES



March 23, 2021

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20640 and 20643 were provided to the Department's field office in Bridgeport and North Platte, Nebraska. Copies of this Order and maps number 20640 and 20643 were mailed on March 23, 2021, to the following:

Barry Brandstetter
Gavilon Grain, LLC
1331 Capitol Avenue
Omaha, Nebraska 68102

Jeremy E. and Deborah L. Sheldon
20040 Highway 40
Riverdale, Nebraska 68870

Scott and Julie Trampe
13300 Evergreen Road
Riverdale, Nebraska 68870

Heath Schake
3285 West 100th Street
Kearney, Nebraska 68845