

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER CORRECTING ORDER OF CANCELLATION IN PART

DATED JULY 11, 2003, AND

APPROVAL OF MAP 5498A FOR WATER APPROPRIATION A-3629

WATER DIVISION 1-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3629 is held by Trent D. and Karen K. Shaver.
2. A review of the Department's records indicates numerous errors were made on the Order of Cancellation in Part dated July 11, 2003. Neither the land listing by quarter-quarter nor the total acres under irrigation as set forth in the Order dated July 11, 2003, correspond with that depicted on the map. The Department has reviewed map number 5498A and determined that it is a reasonable representation of the land to be irrigated under appropriation A-3629. The Order lists the total number of acre as **89.4** whereas the map indicates that **89.5** acres should have been left in full force and effect. Therefore, a total of **20.5** acres rather than **20.6** acres of land should have been cancelled.
3. Based on the above, the Order of Cancellation in Part dated July 11, 2003, should be set aside.

ORDER

IT IS HEREBY ORDERED:

1. Order of Cancellation in Part dated July 11, 2003, is SET ASIDE.
2. Part of appropriation A-3629 at the rate of 0.19 cubic foot per second (cfs) for use upon the land described below is CANCELLED.

Township 3 North, Range 20 West of the
6th P.M. in Harlan County Acres

Section 36:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	8.2
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	2.1
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	7.6
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.6</u>
	TOTAL	20.5

3. Map number 5498A is APPROVED.
4. Appropriation A-3629 with a priority date of August 5, 1943, authorizes the use of water to irrigate the 89.5 acres of land described below and depicted on map number 5498A, which is made a part of this Order. The water may be diverted from the Republican River at points of diversion located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, Township 3 North, Range 20 West of the 6th P.M. in Harlan County. Water diverted shall not exceed the ratio of one cfs for every 110 acres irrigated at a maximum combined rate of 0.81 cfs (364 gallons per minute) from all points of diversion.

Township 3 North, Range 20 West of the 6 th P.M. in Harlan County	Acres
Section 36: NW $\frac{1}{4}$ SE $\frac{1}{4}$	26.4
NE $\frac{1}{4}$ SE $\frac{1}{4}$	31.5
SW $\frac{1}{4}$ SE $\frac{1}{4}$	16.7
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>14.9</u>
TOTAL	89.5

5. Water diverted shall not exceed the ratio of one cfs for every 110 acres irrigated nor the least amount of water necessary for the production of crops in the exercise of good husbandry. Therefore, in any year when less than the maximum permitted acres are being irrigated, the quantity of water diverted at any time may be restricted to 1/110 cfs for each permitted acre being irrigated that year. This appropriation of water under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.
6. All terms and conditions of appropriation A-3629 remain in effect unless specifically changed by this Order.
7. 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 in the future you are not able to divert sufficient amounts of water, and if there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

June 15, 2012


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 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 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 5498A were provided to the Department's field office in Cambridge, Nebraska. Copies of this Order and map number 5498A were mailed on June 15, 2012, to the following:

Trent D. and Karen K. Shaver
1226 West Avenue
Atlanta, Nebraska 68923