

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-5906

CASE NUMBER 2014-22-PD-1

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5906 is held by Judith J. Sonderup.
2. A search of the records of the Nance County Register of Deeds indicates the land appurtenant to appropriation A-5906 was divided into distinct parcels and there may be additional landowners. These individuals are the Judith J. Sonderup Revocable Trust, Daniel J. and Cassandra K. Malander, Lori L. Wagner, and the Nebraska Department of Roads.
3. Appropriation A-5906 with a priority date of January 28, 1954, authorizes the use of water for irrigation of the 386.8 acres of land described below. The water may be diverted from the Loup River at points of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3 Township 16 North, Range 5 West of the 6<sup>th</sup> P.M. in Nance County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 140 acres irrigated at a maximum combined rate of 2.76 cfs from all points of diversion.

Township 16 North, Range 5 West of the 6 <sup>th</sup> P.M. in Nance County		Acres	Township 16 North, Range 5 West of the 6 <sup>th</sup> P.M. in Nance County		Acres
Section 3:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	31.3	Section 4:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	14.4
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	35.5		SE $\frac{1}{4}$ NE $\frac{1}{4}$	15.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	25.3		NE $\frac{1}{4}$ SE $\frac{1}{4}$	19.9
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	33.7		SE $\frac{1}{4}$ SE $\frac{1}{4}$	8.3
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	31.5		TOTAL	386.8
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	30.0			
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	31.4			
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	20.8			
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	29.7			
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	32.1			
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	17.5			
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	10.4			

4. The Department has received information concerning the use of surface water appropriation A-5906 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

5. On June 6, 2014, the Department issued a Notice of Preliminary Determination of Nonuse that 22.8 acres of land authorized for irrigation under A-5906 has not been used for more than five years for the purpose of irrigation. Therefore, the 22.8 acres at the rate of 0.16 cfs are subject to cancellation.
6. Of the 386.8 acres authorized for irrigation under A-5906, 22.8 acres are subject to cancellation and 364.0 acres are active.
7. The Department's mapping staff, using current mapping technology, prepared draft map number 19016, which more accurately depicts the 364.0 acres of land currently being irrigated under appropriation A-5906 and which is made a part of this Order. The total active acres under irrigation remain unchanged; however, the number of acres as shown on the draft map and the quarter-quarter listing below are more precise.

<u>Township 16 North, Range 5 West of the</u> <u>6<sup>th</sup> P.M. in Nance County</u>	<u>Acres</u>	<u>Township 16 North, Range 5 West of the</u> <u>6<sup>th</sup> P.M. in Nance County</u>	<u>Acres</u>
Section 3: NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	27.7	Section 4: NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	16.6
NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	37.9	SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	19.6
SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	30.1		
SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	36.0	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	24.8
		SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	2.5
NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	37.0		
NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	36.1	TOTAL	364.0
SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	29.9		
SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	11.6		
NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	30.6		
NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	22.2		
SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	1.4		

8. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Judy J. Sonderup, Judy J. Sonderup Revocable Trust, 30586 State Highway 22, Genoa, Nebraska 68640; Lori L. Wagner, 31155 State Highway 22, Genoa, Nebraska 68640; Daniel J. & Cassandra K. Malander, 22275 State Highway 52, Belgrade, Nebraska 68623; and Robert Frickel, Right-of-Way Manager, Nebraska Department of Roads, 1500 Highway 2, P.O. Box 94759, Lincoln, Nebraska 68509.
9. On June 11, 2014, the mailing to Judy J. Sonderup, Judy J. Sonderup Revocable Trust, 30586 State Highway 22, Genoa, Nebraska 68640, was returned to the Department unclaimed.
10. On June 20, 2014, the Department issued a second Notice of Preliminary Determination of Nonuse of appropriation A-5906. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Judy J. Sonderup, Judy J. Sonderup Revocable Trust, 614 Malcom Street, Fullerton, Nebraska 68638.

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

ORDER

1. Part of the land authorized for irrigation under A-5906 totaling 22.8 acres at the rate of 0.16 cfs is CANCELLED.
2. The Department's mapping staff, using current mapping technology, prepared project map number 19016, which depicts the 364.0 acres of land currently being irrigated under appropriation A-5906 and which is made a part of this Order. The total active acres under irrigation remain unchanged; however, the number of acres as shown on the project map and the quarter-quarter listing below are more precise. The points of diversion remain on the left bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3 Township 16 North, Range 5 West of the 6<sup>th</sup> P.M. in Nance County. The rate that water may be diverted shall not exceed one cfs for every 140 acres irrigated at a maximum combined rate of 2.6 cfs (1,167 gallons per minute) from all points of diversion.

<u>Township 16 North, Range 5 West of the</u> <u>6<sup>th</sup> P.M. in Nance County</u>	<u>Acres</u>	<u>Township 16 North, Range 5 West of the</u> <u>6<sup>th</sup> P.M. in Nance County</u>	<u>Acres</u>
Section 3: NW $\frac{1}{4}$ NW $\frac{1}{4}$	27.7	Section 4: NE $\frac{1}{4}$ NE $\frac{1}{4}$	16.6
NE $\frac{1}{4}$ NW $\frac{1}{4}$	37.9	SE $\frac{1}{4}$ NE $\frac{1}{4}$	19.6
SW $\frac{1}{4}$ NW $\frac{1}{4}$	30.1		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	36.0	NE $\frac{1}{4}$ SE $\frac{1}{4}$	24.8
		SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.5</u>
NW $\frac{1}{4}$ NE $\frac{1}{4}$	37.0		
NE $\frac{1}{4}$ NE $\frac{1}{4}$	36.1	TOTAL	364.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	29.9		
SE $\frac{1}{4}$ NE $\frac{1}{4}$	11.6		
NW $\frac{1}{4}$ SW $\frac{1}{4}$	30.6		
NE $\frac{1}{4}$ SW $\frac{1}{4}$	22.2		
SW $\frac{1}{4}$ SW $\frac{1}{4}$	1.4		

3. All terms and conditions of appropriation A-5906 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:
  - 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 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

September 4, 2014

  
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 19016 were provided to the Department's docket clerk and field office in Ord, Nebraska. Copies of this Order and map number 19016 were mailed on September 4, 2014, to the following:

Judy J. Sonderup  
Judy J. Sonderup Revocable Trust  
614 Malcom Street  
Fullerton, Nebraska 68638

Lori L. Wagner  
31155 State Highway 22  
Genoa, Nebraska 68640

Daniel J. & Cassandra K. Malander  
22275 State Highway 52  
Belgrade, Nebraska 68623

Robert Frickel, Right-of-Way Manager  
Nebraska Department of Roads  
1500 Highway 2  
P.O. Box 94759  
Lincoln, Nebraska 68509