

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP OF APPROPRIATION A-17281

WATER DIVISION 2-D

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-17281 is currently held by Eva Gochnauer.
2. Appropriation A-17281 has a priority date of April 29, 1993, and authorizes the use of water for irrigation of the 16.2 acres of land described below. The water may be diverted from Big Bordeaux Creek at points of diversion located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 33 North, Range 48 West of the 6th P.M. in Dawes County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 0.23 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 33 North, Range 48 West of the 6 th P.M. in Dawes County		Acres
Section 10:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	6.2
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>10.0</u>
	TOTAL	16.2

3. Richard and Linda L. Bates filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-17281.
4. Paris W. and Lori R. Fisher filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-17281.
5. Dale and Cherri Grant filed a Notice of Change of Ownership indicating that they are the owners of a portion of the land authorized to be irrigated by appropriation A-17281.

Order

IT IS HEREBY ORDERED:

1. Appropriation A-17281 is divided into three appropriations, A-17281A, A-17281B and A-17281C.

2. Appropriation A-17281A is held by Paris W. and Lori R. Fisher.

- A. They are allowed to divert 0.14 cfs (63 gallons per minute) from Big Bordeaux Creek to irrigate the 9.7 acres of land described below and as depicted on map number 17385A which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 33 North, Range 48 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 10:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.2
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	8.5
	TOTAL	9.7

- B. All terms and conditions of appropriation A-17281 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 33 North, Range 48 West of the 6th P.M. in Dawes County. If the owners of appropriation A-17281A do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points of diversion.

3. Appropriation A-17281B is held by Richard and Linda L. Bates.

- A. They are allowed to divert 0.07 cfs (31 gallons per minute) from Big Bordeaux Creek to irrigate the 5.0 acres of land described below and as depicted on map number 17385B which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

<u>Township 33 North, Range 48 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 10:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	5.0

- B. All terms and conditions of appropriation A-17281 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 33 North, Range 48 West of the 6th P.M. in Dawes County. If the owners of appropriation A-17281B do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points of diversion.

4. Appropriation A-17281C is held by Dale and Cherri Grant.
- A. They are allowed to divert 0.02 cfs (9 gallons per minute) from Big Bordeaux Creek to irrigate the 1.5 acres of land described below and as depicted on map number 17385C which is hereby made a part of this Order. The total rate that water may be diverted shall not exceed one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 33 North, Range 48 West of the 6 th P.M. in Dawes County	Acres
Section 10: SW $\frac{1}{4}$ SE $\frac{1}{4}$	1.5

- B. All terms and conditions of appropriation A-17281 remain in effect unless specifically changed by this Order.
- C. The points of diversion remain in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 33 North, Range 48 West of the 6th P.M. in Dawes County. If the owners of appropriation A-17281C do not have access to these points of diversion, they must either obtain permission from the landowner or apply for a new point of diversion. This Order does not authorize access to the existing points 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 approval 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 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

April 23, 2009

/s/
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 Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the

Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, 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 maps number 17385A, 17385B and 17385C were provided to the Department's field office in Bridgeport, Nebraska. Copies of this Order and maps number 17385A, 17385B and 17385C were mailed on April _____, 2009, to the following:

Richard and Linda L. Bates
PO Box 1157
Chadron, NE 69337

Dale and Cherri Grant
362 Beaver Valley Road
Chadron, NE 69337

Paris W. and Lori R. Fisher
PO Box 904
Chadron, NE 69337