

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-18636

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18636 is held by Midwest Tree Moving.
2. Appropriation A-18636, with a priority date of January 16, 2009, authorizes the use of water for irrigation of the 21.7 acres of land described below. The water may be diverted from the Missouri River at a point of diversion located on the right bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 9, Township 33 North, Range 1 West of the 6<sup>th</sup> P.M. in Cedar County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 0.31 cfs.

<u>Township 33 North, Range 1 West of the</u>		
<u>6<sup>th</sup> P.M. in Cedar County</u>		<u>Acres</u>
Section 9:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>20.7</u>
	TOTAL	21.7

3. The approval of appropriation A-18636 was conditional upon the irrigation of the above lands by September 1, 2011.
4. Department personnel performed a field investigation and determined a portion of the land approved for irrigation under appropriation A-18636 had not been irrigated by September 1, 2011.
5. *Nebraska Revised Statutes* § 46-229.02(7) provides for the cancellation of unused portions of surface water appropriations.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-18636 at the rate of 0.09 cfs for use upon the land described below is CANCELLED.

<u>Township 33 North, Range 1 West of the</u>		
<u>6<sup>th</sup> P.M. in Cedar County</u>		<u>Acres</u>
Section 9:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	6.5

2. Appropriation A-18636 now permits the appropriators to divert water from the Missouri River to irrigate the 15.2 acres of land described below and depicted on map number 18082 which is made a part of this Order. The point of diversion remains in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 9, Township 33 North, Range 1 West of the 6<sup>th</sup> P.M. in Cedar County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.22 cfs (99 gallons per minute).

Township 33 North, Range 1 West of the 6 <sup>th</sup> P.M. in Cedar County		Acres
Section 9:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>14.2</u>
	TOTAL	15.2

3. All terms and conditions of appropriation A-18636 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, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

April 25, 2012

  
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 18082 were provided to the Department's field office in Norfolk, Nebraska. Copies of the field investigation, this Order and map number 18082 were mailed on April 25, 2012, to the following:

Midwest Tree Moving  
c/o Gerald and Jerry Fischer  
503 North Robinson  
Hartington, Nebraska 68739