

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-13773

CASE NUMBER 2013-29-CC-1

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13773 is held by Patricia C. Keim.
2. A search of the records of the Cass County Register of Deeds indicates the land appurtenant to appropriation A-13773 was divided into distinct parcels and there may be additional landowners. These individuals are Don Schlichtemeier and Bonnie Schlichtemeier. Land appurtenant to appropriation A-13773 also may be under a right-of-way for a State Highway, by the State of Nebraska, Department of Roads.
3. Appropriation A-13773 with a priority date of August 28, 1975, authorizes the use of water for irrigation of the 171 acres of land described below. The water may be diverted from Weeping Water Creek at a point of diversion located on the left bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 10 North, Range 13 East of the 6th P.M. in Cass County. The rate that water may be diverted shall not exceed 2.44 cubic feet per second (cfs).

Township 10 North, Range 13 East of the
6th P.M. in Cass County

	Acres
Section 22: SW $\frac{1}{4}$ NE $\frac{1}{4}$	30
SE $\frac{1}{4}$ NE $\frac{1}{4}$	30
NW $\frac{1}{4}$ SE $\frac{1}{4}$	25
NE $\frac{1}{4}$ SE $\frac{1}{4}$	21
SW $\frac{1}{4}$ SE $\frac{1}{4}$	30
SE $\frac{1}{4}$ SE $\frac{1}{4}$	35
TOTAL	171

4. The Department has received information concerning the use of surface water appropriation A-13773 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

5. On June 13, 2013, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-13773. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Patricia C. Keim, 516 Mill Road, Goldsboro, North Carolina 27534; Don Schlichtemeier, 3516 Hobscheidt Road, Murray, Nebraska 68409; Bonnie Schlichtemeier, 3516 Hobscheidt Road, Murray, Nebraska 68409; Robert Frickel, Right-of-Way Manager, Nebraska Department of Roads, 1500 Highway 2, P.O. Box 94759, Lincoln, Nebraska 68509; Farm Credit Services of America, 855 Fallbrook Boulevard, Lincoln, Nebraska 68524; and Rich Hickman, Farmers National Company, 1205 Joy Street, P.O. Box 460970, Papillion, Nebraska 68046.
6. No contest of the Preliminary Determination of Nonuse was received in the Department from landowners Don Schlichtemeier, 3516 Hobscheidt Road, Murray, Nebraska 68409; Bonnie Schlichtemeier, 3516 Hobscheidt Road, Murray, Nebraska 68409; or Robert Frickel, Right-of-Way Manager, Nebraska Department of Roads, 1500 Highway 2, P.O. Box 94759, Lincoln, Nebraska 68509.
7. On June 27, 2013, Patricia C. Keim filed a document in the Department contesting the Department's determination of non-use of appropriation A-13773. This document was filed in a timely manner prior to the July 15, 2013, deadline.
8. On May 14, 2014, Rich Hickman, on behalf of Patricia C. and Lawrence Keim, filed a Relinquishment of Water Appropriation, REL-5074, in the office of the Department relinquishing the right to divert water under a portion of appropriation A-13773 for use upon the 104.9 acres described below.

<u>Township 10 North, Range 13 East of the</u>	<u>Acres</u>
<u>6th P.M. in Cass County</u>	
Section 22: SW $\frac{1}{4}$ NE $\frac{1}{4}$	11.8
SE $\frac{1}{4}$ NE $\frac{1}{4}$	5.6
NW $\frac{1}{4}$ SE $\frac{1}{4}$	19.5
NE $\frac{1}{4}$ SE $\frac{1}{4}$	10.5
SW $\frac{1}{4}$ SE $\frac{1}{4}$	27.3
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>30.2</u>
TOTAL	104.9

9. *Nebraska Revised Statutes* § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.
10. The Department should withdraw from case number 2013-29-CC-1 and act on relinquishment REL-5074 cancelling a portion of appropriation A-13773.

IT IS HEREBY ORDERED:

1. Case number 2013-29-CC-1 is DISMISSED.
2. Part of appropriation A-13773 at the rate of 2.08 cfs for use upon the land described below is CANCELLED.

Township 10 North, Range 13 East of the 6 th P.M. in Cass County		Acres
Section 22:	SW ¹ / ₄ NE ¹ / ₄	30.0
	SE ¹ / ₄ NE ¹ / ₄	28.2
	NW ¹ / ₄ SE ¹ / ₄	19.5
	NE ¹ / ₄ SE ¹ / ₄	10.5
	SW ¹ / ₄ SE ¹ / ₄	27.3
	SE ¹ / ₄ SE ¹ / ₄	<u>30.2</u>
	TOTAL	145.7

3. Appropriation A-13773 now authorizes the appropriator to divert water from Weeping Water Creek to irrigate the 25.3 acres of land described below and depicted on map number 18964 which is made a part of this Order. The point of diversion remains on the left bank of the stream in the NE¹/₄SE¹/₄ of Section 22, Township 10 North, Range 13 East of the 6th P.M. in Cass County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.36 cfs (162 gallons per minute).

Township 10 North, Range 13 East of the 6 th P.M. in Cass County		Acres
Section 22:	SE ¹ / ₄ NE ¹ / ₄	1.8
	NW ¹ / ₄ SE ¹ / ₄	5.5
	NE ¹ / ₄ SE ¹ / ₄	10.5
	SW ¹ / ₄ SE ¹ / ₄	2.7
	SE ¹ / ₄ SE ¹ / ₄	<u>4.8</u>
	TOTAL	25.3

4. All terms and conditions of appropriation A-13773 remain in effect unless specifically changed by this Order.
5. 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

June 26, 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 18964 were provided to the Department's docket clerk and field office in Lincoln, Nebraska. Copies of this Order and map number 18964 were mailed on June 26, 2014, to the following:

Patricia C. Keim
516 Mill Road
Goldsboro, North Carolina 27534

Lawrence Keim
516 Mill Road
Goldsboro, North Carolina 27534

Don Schlichtemeier
3516 Hobscheidt Road
Murray, Nebraska 68409

Bonnie Schlichtemeier
3516 Hobscheidt Road
Murray, Nebraska 68409

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

Farm Credit Services of America
855 Fallbrook Boulevard
Lincoln, Nebraska 68521

Rich Hickman
Farmers National Company
1205 Joy Street
P.O. Box 460970
Papillion, Nebraska 68046