

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-10233

CASE NUMBER 2016-18-PD-1

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-10233 is held by Horky Farms, Ltd.
2. A search of the records of the Custer County Register of Deeds includes names of owners that are different than the owner listed in Department records. These individuals are Larry and Connie Bottorf.
3. Appropriation A-10233 with a priority date of August 12, 1963, authorizes the use of water for irrigation of the 31 acres of land described below. The water may be diverted from Sand Creek 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 04, Township 19 North, Range 18 West of the 6th P.M. in Custer 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 rate of 0.44 cfs.

<u>Township 19 North, Range 18 West of the</u> <u>6th P.M. in Custer County</u>	<u>Acres</u>
---	--------------

Section 04: SW $\frac{1}{4}$ SE $\frac{1}{4}$	31
---	----

4. The Department has received information concerning the use of surface water appropriation A-10233 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
5. On September 28, 2016, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-10233. The Notice was delivered by certified mail to Horky Farms, Ltd., Joseph Horky, Sr., 1501 West Main Street, Sargent, Nebraska 68874; and to Larry and Connie Bottorf, 45275 West Sargent Main Street, Sargent, Nebraska 68874.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. The Department has determined that appropriation A-10233 has not been used for its required purpose for more than five consecutive years.
8. *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.

ORDER

IT IS HEREBY ORDERED appropriation A-10233 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

November 18, 2016


Gordon W. Fassetz, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's docket clerk and field office in Ord, Nebraska. A copy of this Order was mailed on November 18, 2016, to the following:

Horky Farms, Ltd.
Joseph Horky, Sr.
1501 West Main Street
Sargent, Nebraska 68874

Larry and Connie Bottorf
45275 West Sargent Main Street
Sargent, Nebraska 68874