

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Preliminary) Case #011-09CC
Determination of Nonuse of)
Surface Water Appropriation) ORDER SETTING ASIDE PROCEEDING
A-15190.)
Water Division 2-A.)

Background

The above captioned matter comes before the Director of the Department of Natural Resources. This is a proceeding held under the provisions of Neb. Rev. Stat. §§ 46-229 to 46-229.04.

Findings of Fact

The Director, after an examination of the record, makes the following FINDINGS OF FACT:

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15190 is held by Rosalee Suntych.
2. Appropriation A-15190 authorizes the use of 0.29 cubic foot per second of water for irrigation of the 20.6 acres of land described below. The water may be diverted from the South Loup River at a point of diversion located on the left bank of the stream in the NE¹/₄NE¹/₄ of Section 6, Township 12 North, Range 12 West of the 6th P.M. in Hall County.

Township 12 North, Range 12 West of the 6 th P.M. in Hall County		Acres
Section 6:	NW ¹ / ₄ NE ¹ / ₄	8.7
	NE ¹ / ₄ NE ¹ / ₄	11.9
	TOTAL	20.6

3. On March 20, 2009, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-15190. The notice was mailed on March 23, 2009, by certified mail to Rosalee Suntych, 19499 Loup River Road, Boleus, Nebraska 68820.
4. On April 23, 2009, Rosalee Suntych filed a Contest of Preliminary Determination of Nonuse in the Department. The Contest was filed through attorney Cathleen Allen. The Contest states that use of the water was unnecessary because of climatic conditions and circumstances were such that a prudent person, following the principles of good husbandry, would not have been expected to use the water.

5. On May 13, 2009, the Department issued a notice of hearing. The hearing was held on May 28, 2009.

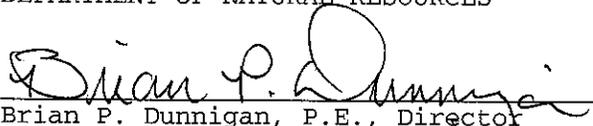
Conclusions of Law

After review by the Director, it is apparent that errors were made by the Department in this proceeding sufficient to necessitate setting aside the entire proceeding.

It is therefore ORDERED that this proceeding is set aside.

DEPARTMENT OF NATURAL RESOURCES

March 17, 2010


Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Ord, Nebraska, and to the Department's Attorney, Jean Angell. A copy of this Order was mailed on March 18, 2010, to the following:

Rosalee Suntych
19499 Loup River Road
Boelus, Nebraska 68820

Randy Suntych
19937 West Loup River Road
Boelus, Nebraska 68820