

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Preliminary) Case #004-09CC
Determination of Nonuse of)
Surface Water Appropriation) ORDER SETTING ASIDE PROCEEDING
A-15618.)
Water Division 2-A.)

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15618 is held by Drayton, Drayton and Niederklein.
2. Appropriation A-15618 authorizes the use of water for irrigation of the 51.3 acres of land described below. The water may be diverted from the Calamus River at a point of diversion located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, Township 25 North, Range 21 West of the 6th P.M. in Brown 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 0.73 cfs.

Township 25 North, Range 21 West of the		
6 th P.M. in Brown County		Acres
Section 7:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.4
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	17.2
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	1.1
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	27.9
Section 8:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	1.4
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	3.3
TOTAL		51.3

3. The Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-15618.
4. On February 18, 2009, Dennis R. Drayton filed a Contest of Preliminary Determination of Nonuse in the Department.
5. On February 27, 2009, a Notice of Hearing was sent by certified mail to Dennis R. Drayton. The hearing was rescheduled by Reschedule Notice mailed on March 31, 2009, by first-class mail.
6. A hearing was held on April 8, 2009. Dennis Drayton appeared.

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. A copy of this Order was mailed on March 18, 2010, to the following:

Dennis R. Drayton
HC 65, Box 311
Ainsworth, NE 69210