

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-3186B

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3186B is held by the Eichelberger Revocable Trust.
2. Appropriation A-3186B with a priority date of June 21, 1940, authorizes the use of water for irrigation of the 1.15 acres of land described below. The water may be diverted from the South Loup River at a point of diversion located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 10, Township 14 North, Range 21 West of the 6<sup>th</sup> P.M. in Custer County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 100 acres irrigated at a maximum rate of 0.01 cfs.

Township 14 North, Range 21 West of the  
6<sup>th</sup> P.M. in Custer County                      Acres

Section 10: NE $\frac{1}{4}$ NW $\frac{1}{4}$                                       1.15

3. The Department has received information concerning the use of surface water appropriation A-3186B that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
4. On July 28, 2010, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-3186B. The notice was delivered by certified mail to Eichelberger Revocable Trust, c/o Wayne A. Eichelberger, 1538 South G Street, Broken Bow, Nebraska 68822, John Eichelberger, 738 South 8<sup>th</sup> Avenue, Broken Bow, Nebraska 68822; and to Jim D. Myers, 43525 Riverbend Road, Oconto, Nebraska 68860.
5. No contest of the Preliminary Determination of Nonuse was received in the Department.
6. The Department has determined that appropriation A-3186B has not been used for its required purpose for more than five consecutive years.

7. *Nebraska Revised Statute* § 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-3186B is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

September 13, 2010

  
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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 September 13, 2010, to the following:

Eichelberger Revocable Trust  
c/o Wayne A. Eichelberger  
1538 South G Street  
Broken Bow, Nebraska 68822

Jim D. Myers  
43525 Riverbend Road  
Oconto, Nebraska 68860

John Eichelberger  
738 South 8<sup>th</sup> Avenue  
Broken Bow, Nebraska 68822