

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-11484

CASE NUMBER 2013-11-PD-1

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11484 is held by L & K Ag, LLC.
2. A search of the records of the Cass County Register of Deeds indicates the land appurtenant to appropriation A-11484 includes land included in the right-of-way for State Highway 36, by the State of Nebraska, Department of Roads.
3. Appropriation A-11484 has a priority date of July 12, 1968, and authorizes the use of water for irrigation of the 77.5 acres of land described below. The water may be diverted from the South Branch of Weeping Water Creek at a point of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ 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 1.10 cubic feet per second (cfs).

<u>Township 10 North, Range 13 East of the 6th P.M. in Cass County</u>	<u>Acres</u>
Section 22: SW $\frac{1}{4}$ SW $\frac{1}{4}$	39.5
SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>38.0</u>
TOTAL	77.5

4. The Department has received information concerning the use of surface water appropriation A-11484 and determined that the appropriation has not been used for its required purpose for more than five consecutive years.
5. On May 9, 2013, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-11484. The notice was delivered by certified mail to: L & K Ag, LLC, c/o Lynn Noerrlinger, 1518 O Street, Union, Nebraska 68455; and to Robert Frickel, Right-of-Way Manager, Nebraska Department of Roads, 1500 Highway 2, P.O. Box 94759, Lincoln, Nebraska 68509.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.

7. The Department has determined that appropriation A-11484 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-11484 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

July 16, 2013


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 docket clerk and field office in Lincoln, Nebraska. A copy of this Order was mailed on July 16, 2013, to the following:

L&K Ag LLC
c/o Lynn Noerrlinger
1518 O Street
Union, Nebraska 68455

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