

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-12319

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12319 is held by Don E. and Mary Ann Lewandowski.
2. Appropriation A-12319 with a priority date of July 14, 1971 authorizes the use of water for irrigation of the 42.0 acres of land described below. The water may be diverted from Oak Creek at points of diversion located on both banks of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 15 North, Range 13 West of the 6th P.M. in Sherman 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 combined rate of 0.60 cfs from all points of diversion.

<u>Township 15 North, Range 13 West of the 6th P.M. in Sherman County</u>	<u>Acres</u>
Section 22: SE $\frac{1}{4}$ SW $\frac{1}{4}$	5.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	28.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>9.0</u>
TOTAL	42.0

3. The Department has received information concerning the use of surface water appropriation A-12319 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On August 17, 2011, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-12319 had not been irrigated for at least five years:

<u>Township 15 North, Range 13 West of the 6th P.M. in Sherman County</u>	<u>Acres</u>
Section 22: SE $\frac{1}{4}$ SW $\frac{1}{4}$	4.3
SW $\frac{1}{4}$ SE $\frac{1}{4}$	19.9
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>9.0</u>
TOTAL	33.2

5. The Department has received information that one of the three approved locations of diversion is currently used to irrigate the remaining 8.8 acres of land authorized for irrigation under appropriation A-12319 and held by Don E. and Mary Ann Lewandowski.
6. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Don E. and Mary Ann Lewandowski, 48242 791st Road, Ashton, Nebraska 68817 and to Joseph and Janet Moraczewski, 73 Harry Street, Ashton, Nebraska 68817.
7. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-12319 at the rate of 0.47 cfs for use upon the land described below is CANCELLED.

<u>Township 15 North, Range 13 West of the 6th P.M. in Sherman County</u>	<u>Acres</u>
Section 22: SE $\frac{1}{4}$ SW $\frac{1}{4}$	4.3
SW $\frac{1}{4}$ SE $\frac{1}{4}$	19.9
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>9.0</u>
TOTAL	33.2

2. Appropriation A-12319 now authorizes the appropriator to divert water from Oak Creek to irrigate the 8.8 acres of land described below and depicted on map number 17932 which is made a part of this Order. The point of diversion is located on the right bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 15 North, Range 13 West of the 6th P.M. in Sherman County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.13 cfs (58 gallons per minute).

<u>Township 15 North, Range 13 West of the 6th P.M. in Sherman County</u>	<u>Acres</u>
Section 22: SE $\frac{1}{4}$ SW $\frac{1}{4}$	0.7
SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>8.1</u>
TOTAL	8.8

3. All terms and conditions of appropriation A-12319 remain in effect unless specifically changed by this Order.

4. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
 - C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If you are not able to divert sufficient amounts of water, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

September 22, 2011



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 22, 2011, to the following:

Don E. and Mary Ann Lewandowski
48242 791st Road
Ashton, Nebraska 68817

Joseph and Janet Moraczewski
73 Harry Street
Ashton, Nebraska 68817