

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-5148

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-5148 is held by Haisel and Jay Harnagel.
2. Appropriation A-5148 with a priority date of February 6, 1953, authorizes the use of water for irrigation of the 240.5 acres of land described below. The water may be diverted from the South Loup River at points of diversion located on each bank of the stream in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 12 North, Range 18 West of the 6th P.M. in Buffalo County. The rate that water may be diverted shall not exceed 2.09 cubic feet per second (cfs) from all points of diversion.

<u>Township 12 North, Range 18 West of the</u>		<u>6th P.M. in Buffalo County</u>	<u>Acres</u>
Section 3:	NE $\frac{1}{4}$ SW $\frac{1}{4}$		15.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$		38.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$		29.5
Section 10:	NW $\frac{1}{4}$ NW $\frac{1}{4}$		29.5
	NE $\frac{1}{4}$ NW $\frac{1}{4}$		25.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$		34.5
	SE $\frac{1}{4}$ NW $\frac{1}{4}$		35.5
	NW $\frac{1}{4}$ NE $\frac{1}{4}$		<u>33.5</u>
	TOTAL		240.5

3. The Department has received information concerning the use of surface water appropriation A-5148 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

4. On February 27, 2012, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-5148 had not been irrigated for at least five years:

Township 12 North, Range 18 West of the 6 th P.M. in Buffalo County		Acres
Section 3:	NE $\frac{1}{4}$ SW $\frac{1}{4}$	2.2
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	21.2
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	11.7
Section 10:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	29.5
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	21.7
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	34.5
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	35.5
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>11.3</u>
TOTAL		167.6

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Jay Harnagel, 6060 362nd Street, Miller, Nebraska 68858; Wayne D. Nichols Trust, c/o Wayne D. Nichols, Trustee, 33975 Bison Road, Miller, Nebraska 68858; and Emma L. Nichols Trust, c/o Emma L. Nichols, Trustee, 33975 Bison Road, Miller, Nebraska 8858.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-5148 at the rate of 1.46 cfs for use upon the land described below is CANCELLED.

Township 12 North, Range 18 West of the 6 th P.M. in Buffalo County		Acres
Section 3:	NE $\frac{1}{4}$ SW $\frac{1}{4}$	2.2
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	21.2
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	11.7
Section 10:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	29.5
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	21.7
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	34.5
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	35.5
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>11.3</u>
TOTAL		167.6

2. Appropriation A-5148 now authorizes the appropriator to divert water from the South Loup River to irrigate the 72.9 acres of land described below and depicted on map number 18089 which is made a part of this Order. The points of diversion remain in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 12 North, Range 18 West of the 6th P.M. in Buffalo County. The rate that water may be diverted shall not exceed one cfs for every 115 acres irrigated at a maximum combined rate of 0.63 cfs (283 gallons per minute) from all points of diversion.

Township 12 North, Range 18 West of the 6 th P.M. in Buffalo County		Acres
Section 3:	NE $\frac{1}{4}$ SW $\frac{1}{4}$	12.8
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	16.8
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	17.8
Section 10:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	3.3
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>22.2</u>
TOTAL		72.9

3. All terms and conditions of appropriation A-5148 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

April 17, 2012


Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 18089 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18089 were mailed on April 17, 2012, to the following:

Jay Harnagel
6060 362nd Street
Miller, Nebraska 68858

Emma L. Nichols Trust
c/o Emma L. Nichols, Trustee
33975 Bison Road
Miller, Nebraska 68858

Wayne D. Nichols Trust
c/o Wayne D. Nichols, Trustee
33975 Bison Road
Miller, Nebraska 68858