

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-7285

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-7285 is held by Gilbert C. and Audrey M. Horn Revocable Trusts and M. Dean and Milrae Horn.
2. Appropriation A-7285 with a priority date of March 28, 1955, authorizes the use of water for irrigation of the 54.0 acres of land described below. The water may be diverted from the South Loup River at points of diversion located on the right bank of the stream in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, both in Township 14 North, Range 20 West of the 6th P.M. in Custer County. The rate that water may be diverted shall not exceed 0.49 cubic foot per second (cfs) from all points of diversion.

<u>Township 14 North, Range 20 West of the 6th P.M. in Custer County</u>	<u>Acres</u>
Section 34: NW $\frac{1}{4}$ SE $\frac{1}{4}$	5.0
Section 35: SW $\frac{1}{4}$ SW $\frac{1}{4}$	19.0
SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>30.0</u>
TOTAL	54.0

3. The Department has received information concerning the use of surface water appropriation A-7285 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On February 28, 2012, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-7285 had not been irrigated for at least five years:

<u>Township 14 North, Range 20 West of the 6th P.M. in Custer County</u>	<u>Acres</u>
Section 34: NW $\frac{1}{4}$ SE $\frac{1}{4}$	5.0
Section 35: SW $\frac{1}{4}$ SW $\frac{1}{4}$	13.9
SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>5.2</u>
TOTAL	24.1

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Gilbert C. Horn Revocable Trust, 18 Crappie Corner Drive 5, Johnson Lake, Nebraska 68937-2239; Audrey Horn Family Trust, c/o Timothy Horn., Box 665, Hemmingford, Nebraska 69348; Audrey Horn Family Trust, c/o M. Duane Freeze, 3805 West Cedar Hills Drive, Kearney, Nebraska 68845; and Dean and Milrae Horn, 44441 Cumro Road, Broken Bow, Nebraska 68822.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-7285 at the rate of 0.22 cfs for use upon the land described below is CANCELLED.

<u>Township 14 North, Range 20 West of the</u>	<u>6th P.M. in Custer County</u>	<u>Acres</u>
Section 34: NW ¹ / ₄ SE ¹ / ₄		5.0
Section 35: SW ¹ / ₄ SW ¹ / ₄		13.9
SE ¹ / ₄ SW ¹ / ₄		<u>5.2</u>
TOTAL		24.1

2. Appropriation A-7285 now authorizes the appropriator to divert water from the South Loup River to irrigate the 29.9 acres of land described below and depicted on map number 18083 which is made a part of this Order. Water may be diverted at a point of diversion located in the SW¹/₄SW¹/₄ of Section 35, Township 14 North, Range 20 West of the 6th P.M. in Custer County. The rate that water may be diverted shall not exceed one cfs for every 110 acres irrigated at a maximum rate of 0.27 cfs (121 gallons per minute).

<u>Township 14 North, Range 20 West of the</u>	<u>6th P.M. in Custer County</u>	<u>Acres</u>
Section 35: SW ¹ / ₄ SW ¹ / ₄		5.1
SE ¹ / ₄ SW ¹ / ₄		<u>24.8</u>
TOTAL		29.9

3. Only the land shown on map number 18083 may be irrigated under appropriation A-7285. Surface water shall not be diverted to land that is not covered by a valid surface water appropriation.
4. All terms and conditions of appropriation A-7285 remain in effect unless specifically changed by this Order.
5. 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 18083 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 18083 were mailed on April 17, 2012, to the following:

Gilbert C. Horn Revocable Trust
 18 Crappie Corner Drive 5
 Johnson Lake, Nebraska 68937-2239

Audrey Horn Family Trust
 c/o M. Duane Freeze
 3805 West Cedar Hills Drive
 Kearney, Nebraska 68845

Audrey Horn Family Trust
 c/o Timothy Horn
 Box 665
 Hemmingford, Nebraska 69348

Dean and Milrae Horn
 44441 Cumro Road
 Broken Bow, Nebraska 68822