

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-8630

CASE NUMBER 2013-23-PD-1

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-8630 is held by William D. and Barbara E. Vanbrocklin.
2. A search of the records of the Antelope County Register of Deeds indicates Demerath Farms, Inc., owns the land appurtenant to appropriation A-8630.
3. Appropriation A-8630 with a priority date of June 19, 1956, authorizes the use of water for irrigation of the 32.8 acres of land described below. The water may be diverted from West Branch of Bazile Creek at a point of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 29, Township 28 North, Range 5 West of the 6<sup>th</sup> P.M. in Antelope County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 140 acres irrigated at a maximum rate of 0.24 cfs.

Township 28 North, Range 5 West of the 6 <sup>th</sup> P.M. in Antelope County	Acres
Section 29: SE $\frac{1}{4}$ NW $\frac{1}{4}$	3.6
SW $\frac{1}{4}$ NE $\frac{1}{4}$	15.9
NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>13.3</u>
TOTAL	32.8

4. The Department has received information concerning the use of surface water appropriation A-8630 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
5. On May 28, 2013, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-8630. The notice was delivered by certified mail to William D. & Barbara E. Vanbrocklin, 86570 529<sup>th</sup> Avenue, Creighton, Nebraska 68729; and James E. Demerath, Demerath Farms, Inc., 86312 530<sup>th</sup> Avenue, Plainview, Nebraska 68769.

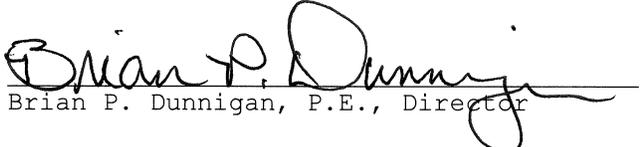
6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. The Department has determined that appropriation A-8630 has not been used for its required purpose for more than five consecutive years.
8. *Nebraska Revised Statutes* § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.

ORDER

IT IS HEREBY ORDERED appropriation A-8630 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

August 7, 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 Norfolk, Nebraska. A copy of this Order was mailed on August 7, 2013, to the following:

William D. & Barbara E. Vanbrocklin  
86570 529<sup>th</sup> Avenue  
Creighton, Nebraska 68729

James E. Demerath  
Demerath Farms, Inc.  
86312 530<sup>th</sup> Avenue  
Plainview, Nebraska 68769