

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-9595

CASE NUMBER 2012-36-CC-1

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-9595 is held by Gordon W. and Donna K. Fulton.
2. Appropriation A-9595 with a priority date of February 19, 1958, authorizes the use of water for irrigation of the 74.34 acres of land described below. The water may be diverted from Bazile Creek at a point of diversion located on the left bank of the stream in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 28 North, Range 5 West of the 6th P.M. in Antelope County. The rate that water may be diverted shall not exceed 1.05 cubic feet per second (cfs).

<u>Township 28 North, Range 5 West of the</u>		
<u>6th P.M. in Antelope County</u>		<u>Acres</u>
Section 4:	SW $\frac{1}{4}$ SE $\frac{1}{4}$	38.04
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>36.30</u>
	TOTAL	74.34

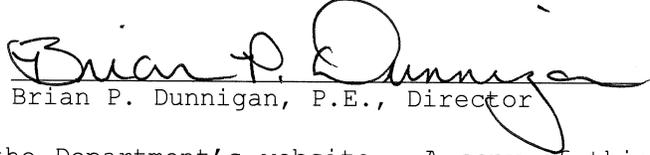
3. The Department has received information concerning the use of surface water appropriation A-9595 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
4. On September 5, 2012, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-9595. The notice was delivered by certified mail to Gordon W. and Donna K. Fulton, 53079 869 Road, Creighton, Nebraska 68729-2881.
5. No contest of the Preliminary Determination of Nonuse was received in the Department.
6. The Department has determined that appropriation A-9595 has not been used for its required purpose for more than five consecutive years.
7. *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-9595 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

October 23, 2012


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 to the Department's field office in Norfolk, Nebraska. A copy of this Order was mailed on October 23, 2012, to the following:

Gordon W. and Donna K. Fulton
53079 869 Road
Creighton, Nebraska 68729-2881