

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-12185

CASE NUMBER 2014-24-PD-1

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12185 is held by Ronald L. Lesiak.
2. Appropriation A-12185 with a priority date of March 12, 1971, authorizes the use of water for irrigation of the 383.014 acres of land described below. The water may be diverted from the Cedar River at points of diversion located on the right bank of the stream in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and on the left bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, Township 16 North, Range 6 West of the 6th P.M. in Nance County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 5.47 cfs from all points of diversion.

Township 16 North, Range 6 West of the
6th P.M. in Nance County

	Acres
Section 2: NW $\frac{1}{4}$ NW $\frac{1}{4}$	39.000
SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.000
Section 3: NW $\frac{1}{4}$ NE $\frac{1}{4}$	31.654
NE $\frac{1}{4}$ NE $\frac{1}{4}$	39.000
SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.727
SE $\frac{1}{4}$ NE $\frac{1}{4}$	39.824
NW $\frac{1}{4}$ SW $\frac{1}{4}$	28.697
SW $\frac{1}{4}$ SW $\frac{1}{4}$	14.129
SE $\frac{1}{4}$ SW $\frac{1}{4}$	6.200
NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.000
NE $\frac{1}{4}$ SE $\frac{1}{4}$	34.575
SW $\frac{1}{4}$ SE $\frac{1}{4}$	17.966
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>14.242</u>
TOTAL	383.014

3. The Department has received information concerning the use of surface water appropriation A-12185 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On June 12, 2014, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-12185 had not been irrigated for at least five years:

<u>Township 16 North, Range 6 West of the</u>		
<u>6th P.M. in Nance County</u>		<u>Acres</u>
Section 3:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	14.129
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	6.200
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.810
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>1.175</u>
	TOTAL	23.314

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Ronald L. Lesiak, P.O. Box 601, Fullerton, Nebraska 68638.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-12185 at the rate of 0.33 cfs for use upon the land described below is CANCELLED.

<u>Township 16 North, Range 6 West of the</u>		
<u>6th P.M. in Nance County</u>		<u>Acres</u>
Section 3:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	14.1
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	6.2
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.8
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>1.2</u>
	TOTAL	23.3

2. Appropriation A-12185 now authorizes the appropriator to divert water from the Cedar River to irrigate the 359.7 acres of land described below and depicted on map number 18741 which is made a part of this Order. The points of diversion remain in the SW¹/₄SW¹/₄ and SE¹/₄SW¹/₄ of Section 3, Township 16 North, Range 6 West of the 6th P.M. in Nance County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 5.14 cfs (2,307 gallons per minute) from all points of diversion.

<u>Township 16 North, Range 6 West of the</u>		
<u>6th P.M. in Nance County</u>		<u>Acres</u>
Section 2:	NW ¹ / ₄ NW ¹ / ₄	39.0
	SW ¹ / ₄ NW ¹ / ₄	40.0
Section 3:	NW ¹ / ₄ NE ¹ / ₄	31.7
	NE ¹ / ₄ NE ¹ / ₄	39.0
	SW ¹ / ₄ NE ¹ / ₄	37.7
	SE ¹ / ₄ NE ¹ / ₄	39.8
	NW ¹ / ₄ SW ¹ / ₄	28.7
	NW ¹ / ₄ SE ¹ / ₄	38.2
	NE ¹ / ₄ SE ¹ / ₄	33.4
	SW ¹ / ₄ SE ¹ / ₄	18.0
	SE ¹ / ₄ SE ¹ / ₄	<u>14.2</u>
	TOTAL	359.7

3. All terms and conditions of appropriation A-12185 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

August 19, 2014


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 18741 were provided to the Department's docket clerk and field office in Ord, Nebraska. Copies of this Order and map number 18741 were mailed on August 19, 2014, to the following:

Ronald L. Lesiak
P.O. Box 601
Fullerton, Nebraska 68638