

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-18188

AND APPROVAL OF MAP NUMBER 19366

CASE NUMBER 2015-16-PD-1

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18188 is held by Gary P. Arens
2. A search of the records of the Cedar County Register of Deeds indicates the land appurtenant to appropriation A-18188 includes the name of an owner that is different than the owner listed in Department records. This individual is Joselyn K. Arens.
3. Appropriation A-18188 with a priority date of August 21, 2003, authorizes the use of water for irrigation of the 136.8 acres of land described below. The water may be diverted from Beaver Creek at a point of diversion located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, Township 32 North, Range 02 West of the 6th P.M. in Cedar County. The rate that water may be diverted shall not exceed 1.95 cubic feet per second (cfs).

<u>Township 32 North, Range 02 West of the</u> <u>6th P.M. in Cedar County</u>	<u>Acres</u>	<u>Township 32 North, Range 02 West of the</u> <u>6th P.M. in Cedar County</u>	<u>Acres</u>
Section 10: NW $\frac{1}{4}$ SW $\frac{1}{4}$	18.3	Section 15: NW $\frac{1}{4}$ NW $\frac{1}{4}$	39.5
SW $\frac{1}{4}$ SW $\frac{1}{4}$	38.8	NE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>40.2</u>
		TOTAL	136.8

4. The Department has received information concerning the use of surface water appropriation A-18188 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

5. On August 31, 2015, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-18188 had not been irrigated for at least five years:

<u>Township 32 North, Range 02 West of the</u>		
<u>6th P.M. in Cedar County</u>		<u>Acres</u>
Section 10:	NW ¹ / ₄ SW ¹ / ₄	7.1
	SW ¹ / ₄ SW ¹ / ₄	<u>18.9</u>
	TOTAL	26.0

6. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Gary P. Arens, 54918 892 Way, Crofton, Nebraska, 68730 and Joselyn K. Arens, 54918 892 Way, Crofton, Nebraska, 68730
7. No contest of the Preliminary Determination of Nonuse was received in the Department.
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

1. Part of appropriation A-18188 at the rate of 0.37 cfs for use upon the land described below is CANCELLED.

<u>Township 32 North, Range 02 West of the</u>		
<u>6th P.M. in Cedar County</u>		<u>Acres</u>
Section 10:	NW ¹ / ₄ SW ¹ / ₄	7.1
	SW ¹ / ₄ SW ¹ / ₄	<u>18.9</u>
	TOTAL	26.0

2. Appropriation A-18188 now authorizes the appropriator to divert water from Beaver Creek to irrigate the 110.8 acres of land described below and depicted on map number 19366 which is made a part of this Order. The point of diversion remains in the NW¹/₄SW¹/₄ of Section 10, Township 32 North, Range 02 West of the 6th P.M. in Cedar County. The rate that water may be diverted shall not exceed 1.58 cubic feet per second (cfs) (709 gallons per minute).

<u>Township 32 North, Range 02 West of the</u>			<u>Township 32 North, Range 02 West of the</u>		
<u>6th P.M. in Cedar County</u>		<u>Acres</u>	<u>6th P.M. in Cedar County</u>		
			<u>Acres</u>		
Section 10:	NW ¹ / ₄ SW ¹ / ₄	11.2	Section 15:	NW ¹ / ₄ NW ¹ / ₄	39.5
	SW ¹ / ₄ SW ¹ / ₄	19.9		NE ¹ / ₄ NW ¹ / ₄	<u>40.2</u>
			TOTAL		110.8

3. All terms and conditions of appropriation A-18188 remain in effect unless specifically changed by this Order.
4. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are 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

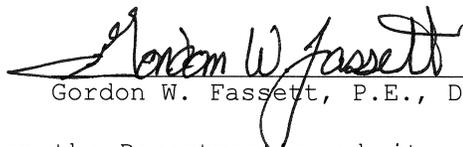
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, 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

November 17, 2015


Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 19366 were provided to the Department's docket clerk and field office in Norfolk, Nebraska. Copies of this Order and map number 19366 were mailed on November 17, 2015, to the following:

Gary P. Arens
54918 892 Way
Crofton, Nebraska 68730

Joselyn K. Arens
54918 892 Way
Crofton, Nebraska 68730