

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-16298

AND CANCELLATION OF APPROVAL OF PLAN P-14226

CASE NUMBER 2016-4-PD-1

WATER DIVISION 1-C

BACKGROUND

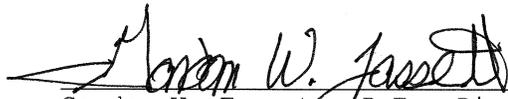
1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-16298 is held by Brinegar & Son, Inc.
2. Appropriation A-16298 with a priority date of May 8, 1984, authorizes the appropriator to store 19.6 acre-feet of water from a tributary to Big Sandy Creek in Brinegar Reservoir located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 04 North, Range 03 West of the 6th P.M. in Thayer County as shown on plan number 14226.
3. The Department has received information concerning the use of surface water appropriation A-16298 and determined that the dam was removed approximately 12 years ago. A well was completed in 2007, and the land has since been converted to irrigated agriculture.
4. Since the dam was removed, and the owner has no intention of rebuilding, the Department knows of no reason that would be considered sufficient cause for nonuse under *Neb. Rev. Stat. § 46-229.04*.
5. On March 17, 2016, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-16298. The Notice was delivered by certified mail to Brinegar & Son, Inc., 2209 Road 5600, Carleton, Nebraska 68326, and Bruning State Bank, 104 Main Street, P.O. Box 100, Bruning, Nebraska 68322.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. The Department has determined that appropriation A-16298 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-16298 and Approval of Plan 14226 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

April 28, 2016


Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's docket clerk and field office in Lincoln, Nebraska. A copy of this Order was mailed on April 28, 2016, to the following:

Brinegar & Son, Inc.
2209 Road 5600
Carleton, Nebraska 68326

Bruning State Bank
104 Main Street
P.O. Box 100
Bruning, Nebraska 68322