

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-13589**

WATER DIVISION 1-F

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13589 is held by the Donna R. Thoms Life Estate.
2. A search of the records of the Otoe County Register of Deeds indicates the land appurtenant to appropriation A-13589 includes the name of an owner that is different than the owners listed in Department records. This owner is the Gerald and Donna Thoms Life Estate.
3. Appropriation A-13589 has a priority date of May 23, 1975, and authorizes the use of water for irrigation of the 133.7 acres of land described below. The water may be diverted from the South Branch of Weeping Water Creek at points of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 01, Township 09 North, Range 12 East of the 6th P.M. in Otoe County. The rate that water may be diverted shall not exceed 1.91 cubic feet per second (cfs) from all points of diversion.

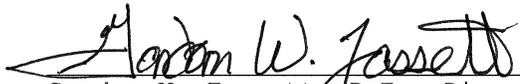
Township 09 North, Range 12 East of the 6 th P.M. in Otoe County		Acres
Section 01:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	36.5
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	36.3
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>20.9</u>
	TOTAL	133.7

4. The Department has received information concerning the use of surface water appropriation A-13589 and determined that the appropriation has not been used for its required purpose for more than five consecutive years.
5. At this time the Department knows of no reason for not using the appropriation that would be considered sufficient cause for nonuse under *Neb. Rev. Stat.* § 46-229.04.
6. In accordance with state law (*Neb. Rev. Stat.* § 46-229.02) this notice is to inform you that appropriation A-13589 will be cancelled unless the Department's determination is successfully contested.

7. The owner(s) of the land that may be irrigated under water appropriation A-13589 may:
 - A. Choose not to respond to this Notice. **If no timely response is received the Department will proceed to enter an order cancelling all of water appropriation A-13589.**
 - B. Contest the Department's Preliminary Determination by filing the enclosed contest form in the Department at its Lincoln office (Nebraska State Office Building, 301 Centennial Mall South, 4th Floor, P.O. Box 94676, Lincoln, Nebraska 68509-4676) by the close of business on July 25, 2016. No filing fee is required.
8. Enclosed are: (1) a copy of the laws governing cancellation of appropriations, Neb. Rev. Stat. §§ 46-229, 46-229.02, 46-229.03, 46-229.04 and 46-229.05; (2) a blank contest form; and (3) a copy of the report of Field Investigation which is the basis for the determination.
9. Further information concerning the laws governing cancellation of appropriations can be found at the Nebraska Legislature Website at <http://nebraskalegislature.gov>.
10. Requests for additional information regarding this proceeding may be directed to the Department of Natural Resources, P.O. Box 94676, Lincoln, Nebraska 68509-4676 or by calling the permits section at (402) 471-2363. Business hours for the Department are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

DEPARTMENT OF NATURAL RESOURCES

June 24, 2016


 Gordon W. Fassett, P.E., Director

A copy of this Notice was posted on the Department's website. A copy of this notice was provided to the Department's field office in Lincoln, Nebraska. Copies of this Notice and three enclosures were mailed by certified mail on June 24, 2016, to the following:

Donna R. Thoms Life Estate
 1250 North 15th Street
 Nebraska City, Nebraska 68410

Jeffrey Thoms
 16104 Middle Island Drive
 South Bend, Nebraska 68058

Gerald A. Thoms
 1250 North 15th Street
 Nebraska City, Nebraska 68410

American National Bank
 920 Central Avenue
 Nebraska City, Nebraska 68410