

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-3303

CASE NUMBER 2016-1-PD-1

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3303 is held by Garet J. Peters.
2. A search of the records of the York County Register of Deeds includes names of owners that are different than the owner listed in Department records. These individuals are Derek D. and Christine E. Fenster.
3. Appropriation A-3303 with a priority date of October 21, 1940, authorizes the use of water for irrigation of the 38.7 acres of land described below. The water may be diverted from Lincoln Creek at a point of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 14, Township 11 North, Range 03 West of the 6<sup>th</sup> P.M. in York County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 140 acres irrigated at a maximum rate of 0.28 cfs.

Township 11 North, Range 03 West of the 6 <sup>th</sup> P.M. in York County		Acres
Section 14:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1.2
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	23.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>13.8</u>
	TOTAL	38.7

4. The Department has received information concerning the use of surface water appropriation A-3303 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
5. On March 17, 2016, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-3303. The Notice was delivered by certified mail to Garet J. Peters, 1513 North Michigan Avenue, York, Nebraska 68467, and to Derek D. and Christine E. Fenster, 1612 Road L, York, Nebraska 68467.

6. On April 11, 2016, the mailing to Gareth J. Peters, 1513 North Michigan Avenue, York, Nebraska 68467, was returned unclaimed.
7. On April 15, 2016, the Department issued a second Notice of Preliminary Determination of Nonuse of appropriation A-3303. The Notice was displayed on the Department's website for over 30 days and delivered by certified mail to York County Sheriff Dale E. Radcliff, 510 Lincoln Avenue, York, Nebraska 68467.
8. On April 19, 2016, Deputy Sheriff Alex Hildebrand personally delivered to Gareth J. Peters the Notice of Preliminary Determination of Nonuse of appropriation A-3303.
9. No contest of the Preliminary Determination of Nonuse was received in the Department.
10. The Department has determined that appropriation A-3303 has not been used for its required purpose for more than five consecutive years.
11. *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-3303 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

May 27, 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 May 27, 2016, to the following:

Garet J. Peters  
1513 North Michigan Avenue  
York, Nebraska 68467

Derek D. and Christine E. Fenster  
1612 Road L  
York, Nebraska 68467