

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-9438B

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-4633B is held by James H. and Laurie C. Smidt.
2. Appropriation A-9438B has a priority date of April 9, 1957, and authorizes the use of water for irrigation of the 45.5 acres of land described below. The water may be diverted from the West Fork of the Big Blue River at points of diversion located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 18, and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 19, both in Township 8 North, Range 8 West of the 6<sup>th</sup> P.M. in Clay County. The rate that water may be diverted shall not exceed 0.33 cubic foot per second (cfs) from all points of diversion.

Township 8 North, Range 8 West of the 6 <sup>th</sup> P.M. in Clay County	Acres
Section 19: NE $\frac{1}{4}$ NW $\frac{1}{4}$	22.5
SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>23.0</u>
TOTAL	45.5

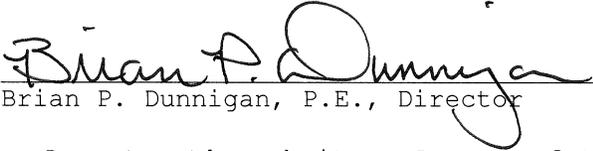
3. The Department has received information concerning the use of surface water appropriation A-9438 B and determined that the appropriation has not been used for its required purpose for more than five consecutive years.
4. On January 20, 2012, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-9438B. The notice was delivered by certified mail to James H. and Laurie C. Smidt, 32142 Road A, Trumbull, NE 68980.
5. No contest of the Preliminary Determination of Nonuse was received in the Department.
6. The Department has determined that appropriation A-9438B has not been used for its required purpose for more than five consecutive years.
7. *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-9438B is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

March 21, 2012

  
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order was provided to the Department's field office in Lincoln, Nebraska. A copy of this Order was mailed on March 21, 2012, to the following:

James H. and Laurie C. Smidt  
32142 Road A  
Trumbull, NE 68980