

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-10237C**

WATER DIVISION 2-B

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-10237C is held by the Phyllis J. Monke Trust.
2. Appropriation A-10237C has a priority date of August 28, 1963, and authorizes the use of water for irrigation of the 129.6 acres of land described below. The water may be diverted from Bell Creek at a point of diversion located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 19 North, Range 09 East of the 6th P.M. in Washington County. The rate that water may be diverted shall not exceed 1.85 cubic feet per second (cfs).

<u>Township 19 North, Range 09 East of the 6th P.M. in Washington County</u>	<u>Acres</u>
Section 36: NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.5
SE $\frac{1}{4}$ NW $\frac{1}{4}$	39.1
NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>33.0</u>
TOTAL	129.6

3. The Department has received information concerning the use of surface water appropriation A-10237C and determined that a **portion** of the appropriation has not been used for irrigation purposes for more than five consecutive years as required under Nebraska law.
4. The Department's preliminary determination is that a **portion** of appropriation A-10237C at the rate of 1.54 cfs has not been used for more than five years to irrigate the land described below.

<u>Township 19 North, Range 09 East of the 6th P.M. in Washington County</u>	<u>Acres</u>
Section 36: NE $\frac{1}{4}$ NW $\frac{1}{4}$	38.5
SE $\frac{1}{4}$ NW $\frac{1}{4}$	17.5
NW $\frac{1}{4}$ NE $\frac{1}{4}$	19.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>33.0</u>
TOTAL	108.0

5. At this time, the Department knows of no reason that constitutes sufficient cause for nonuse of a **portion** of appropriation A-10237C under Neb. Rev. Stat. § 46-229.04.
6. In accordance with state law (*Nebraska Revised Statutes* § 46-229.02) this notice is to inform you that the **portion** of appropriation A-10237C described in item four above 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-10237C may:
 - A. Choose not to respond to this Notice. **If no timely response is received the Department will proceed to enter an order cancelling the portion of water appropriation A-10237C as described above.**
 - B. Contest the Department's Preliminary Determination by filing the enclosed contest form in the Department at its Lincoln office: 245 Fallbrook Blvd, Suite 201, Lincoln, Nebraska 68521 by the close of business on August 8, 2024. No filing fee is required.
8. Enclosed are: (1) a copy of the laws governing cancellation of appropriations, *Nebraska Revised Statutes* §§ 46-229, 46-229.02, 46-229.03, 46-229.04 and 46-229.05; (2) a blank contest form; (3) a copy of the Report of Field Investigation which is the basis for the determination; and (4) a map showing the location of the **portion** of A-10209C subject to this notice.
9. Further information concerning the laws governing cancellation of appropriations can be found at the Nebraska Legislature Website at <http://nebraskalegislatre.gov/laws>.
10. Requests for additional information regarding this proceeding may be directed to the Department of Natural Resources 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



Thomas E. Riley, P.E., Director

July 9, 2024

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 Norfolk, Nebraska. Copies of this Notice and four enclosures were mailed by certified mail to the following:

Mike Monke
Phyllis J. Monke Trust
13088 County Road 9
Arlington, Nebraska 68002

Rhonda Niehaus
RVR Bank
1005 South 23rd Street
Fremont, Nebraska 68025