

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE  
OF SURFACE WATER APPROPRIATION A-13237**

WATER DIVISION 2-F

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13237 is held by Potadle Farms, LLC.
2. Appropriation A-13237 has a priority date of October 16, 1974, and authorizes the use of water for irrigation of the 174.14 acres of land described below. The water may be diverted from New York Creek at points of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 31 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, both in Township 20 North, Range 11 East of the 6<sup>th</sup> P.M. in Washington County. The rate that water may be diverted shall not exceed 2.49 cubic feet per second (cfs) from all points of diversion.

<u>Township 20 North, Range 11 East of the</u>		
<u>6<sup>th</sup> P.M. in Washington County</u>		<u>Acres</u>
Section 31:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	2.30
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	29.10
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	18.50
Section 32:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	12.80
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	33.60
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	28.30
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.94
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	32.40
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>16.20</u>
	TOTAL	174.14

3. The Department has received information concerning the use of surface water appropriation A-13237 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-13237 at the rate of 1.23 cfs has not been used for more than five years to irrigate the land described below.

Township 20 North, Range 11 East of the 6 <sup>th</sup> P.M. in Washington County	Acres
Section 32: NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	10.50
NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	33.60
SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	0.84
NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	25.00
NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	<u>16.20</u>
TOTAL	86.14

5. At this time, the Department knows of no reason that constitutes sufficient cause for nonuse of a **portion** of appropriation A-13237 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-13237 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-13237 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-13237 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 June 3, 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-13237 subject to this notice.
9. Further information concerning the laws governing cancellation of appropriations can be found at the Nebraska Legislature Website at <http://nebraskalegislature.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



May 3, 2024

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

Jon Potadle  
Potadle Farms, LLC  
20668 US Highway 75  
Herman, Nebraska 68029