

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-13297**

WATER DIVISION 2-B

- Records on file in the Department of Natural Resources (Department) show that portions of surface water appropriation A-13297 are held by the Irvin D. Lierman Life Estate and the Karen K. Miserez Life Estate.
- Appropriation A-13297 has a priority date of December 3, 1974, and authorizes the use of water for irrigation of the 173.4 acres of land described below. The water may be diverted from the Elkhorn River at points of diversion located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 01, Township 22 North, Range 05 East of the 6th P.M., in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 07, in Township 22 North, Range 06 East of the 6th P.M. and in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 17, in Township 22 North, Range 06 East of the 6th P.M., all in Cuming County. The rate that water may be diverted shall not exceed 2.48 cubic feet per second (cfs) from all points of diversion.

Township 22 North, Range 05 East of the 6 th P.M. in Cuming County	Acres
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Section 01:	SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	27.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	25.0

Township 22 North, Range 06 East of the 6 th P.M. in Cuming County	Acres
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Section 07:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.4
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	15.0
Section 17:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	31.0
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	34.0
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	8.0
	TOTAL	173.4

- The Department has received information concerning the use of surface water appropriation A-13297 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-13297 at the rate of 1.44 cfs has not been used for more than five years to irrigate the land described below.

Township 22 North, Range 05 East of the
6th P.M. in Cuming County Acres

Section 01: SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.0
SW $\frac{1}{4}$ SE $\frac{1}{4}$	27.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	25.0

Township 22 North, Range 06 East of the
6th P.M. in Cuming County Acres

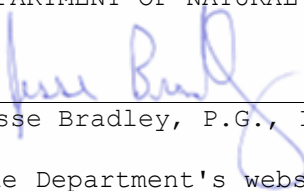
Section 07: NW $\frac{1}{4}$ NW $\frac{1}{4}$	16.4
SE $\frac{1}{4}$ NW $\frac{1}{4}$	15.0
TOTAL	100.4

5. At this time, the Department knows of no reason that constitutes sufficient cause for nonuse of a **portion** of appropriation A-13297 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-13297 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-13297 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-13297 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 October 28, 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-13297 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

September 27, 2024



Jesse Bradley, P.G., Interim 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:

Irvin D. Lierman
Irvin D. Lierman Revocable Trust
835 3rd Street
Beemer, Nebraska 68716

Wade Miserez
Karen K. Miserez Life Estate
1375 L Road
West Point, Nebraska 68788