

STATE OF NEBRASKA
DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-10139**

WATER DIVISION 2-B

1. Department records show that Surface Water Appropriation A-10139 is held by **Terry and Cheryl Beth Frisch**.
2. Appropriation A-10139 has a priority date of January 10, 1963, and authorizes use of water for irrigation on **32.3 acres**, described below. Water may be diverted from **the Elkhorn River** at points of diversion on both banks of the stream, located in the **NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 05, Township 29 North, Range 14 West of the 6th P.M., in Holt County**. The maximum diversion rate shall not exceed **0.46 cubic feet** per second (cfs) from all points of diversion.

Township 29 North, Range 14 West of the 6 th P.M. in Holt County		Acres
Section 05:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	25.4
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>6.9</u>
TOTAL		32.3

3. Based on information received and records reviewed, the Department has determined that Appropriation A-10139 has not been used for irrigation for **more than five consecutive years**, as required by Nebraska law.
4. At this time, the Department is unaware of any sufficient cause for nonuse under **Neb. Rev. Stat. § 46-229.04**.
5. Pursuant to **Neb. Rev. Stat. § 46-229.02**, this Notice serves as preliminary notification that Appropriation A-10139 will be **cancelled** unless this determination is successfully contested.
6. Landowners with a legal interest in the land under this appropriation may:
 - A. Take no action. If no response is received by the deadline, the Department will proceed with cancellation of Appropriation A-10139.
 - B. Contest this determination by submitting the enclosed **contest form** to the Department's Lincoln office (245 Fallbrook Blvd., Suite 100, Lincoln, NE 68521) no later than **December 12, 2025**. **No filing fee is required**.

7. Enclosed with this Notice are:

- Copy of applicable statutes (Neb. Rev. Stat. §§ 46-229 to 46-229.05)
- Blank contest form
- Report of Field Investigation (basis for this determination)
- Partially completed Full Relinquishment of a Surface Water Appropriation form

8. Additional information about cancellation laws can be found at the Nebraska Legislature's website: <http://nebraskalegislature.gov/laws>

9. Questions may be directed to the Department's Permits Section at (402) 471-2186. Business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m.

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT



November 7, 2025

Matthew T. Manning, PE, JD
Chief Water Officer

A copy of this Notice was posted on the Department's website. A copy of this Notice was provided to the Department's docket clerk and field office in Norfolk, Nebraska. Copies of this Notice and enclosures were mailed by certified mail to the following:

Terry and Cheryl Beth Frisch
47591 875th Road
Atkinson, Nebraska 68713