

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE  
OF SURFACE WATER APPROPRIATION A-12145**

WATER DIVISION 2-B

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12145 is held by Randy Tonkinson and the Village of Malcolm.
2. Appropriation A-12145 has a priority date of January 20, 1971, and authorizes the use of water for irrigation of the 14.0 acres of land described below. The water may be diverted from Elk Creek at a point of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 21, Township 11 North, Range 05 East of the 6<sup>th</sup> P.M. in Lancaster County. The rate that water may be diverted shall not exceed 0.20 cubic feet per second (cfs).

<u>Township 11 North, Range 05 East of the 6<sup>th</sup> P.M. in Lancaster County</u>	<u>Acres</u>
Section 21: SW $\frac{1}{4}$ SE $\frac{1}{4}$	12.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.0</u>
TOTAL	14.0

3. The Department has received information concerning the use of surface water appropriation A-12145 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-12145 at the rate of 0.05 cfs has not been used for more than five years to irrigate the land described below.

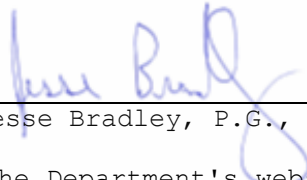
<u>Township 11 North, Range 05 East of the 6<sup>th</sup> P.M. in Lancaster County</u>	<u>Acres</u>
Section 21: SW $\frac{1}{4}$ SE $\frac{1}{4}$	3.6

5. At this time, the Department knows of no reason that constitutes sufficient cause for nonuse of a **portion** of appropriation A-12145 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-12145 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-12145 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-12145 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 March 3, 2025. 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-12145 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

January 31, 2025

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

Tonkinson Farms, LLC  
Randy Tonkinson  
11101 NW 126<sup>th</sup> Street  
Malcolm, Nebraska 68402

Village of Malcolm  
137 East 2<sup>nd</sup> Street  
Malcolm, Nebraska 68402