

STATE OF NEBRASKA

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-12328**

WATER DIVISION 2-B

1. Department records show that Surface Water Appropriation A-12328 is held by **Chad W. and Kimberly J. Marsh.**
2. Appropriation A-12328 has a priority date of **July 22, 1971**, and authorizes use of water for irrigation on **65 acres**, described below. Water may be diverted from **the Elkhorn River** at a points of diversion located on the right bank of the stream in the **NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 25 North, Range 06 West of the 6th P.M. in Antelope County.** The maximum diversion rate shall not exceed **0.93 cubic feet** per second (cfs) from all points of diversion.

<u>Township 25 North, Range 06 West of the</u>		<u>6th P.M. in Antelope County</u>	<u>Acres</u>
Section 28:	NW $\frac{1}{4}$ SW $\frac{1}{4}$		20
	NE $\frac{1}{4}$ SW $\frac{1}{4}$		3
	SW $\frac{1}{4}$ SW $\frac{1}{4}$		17
Section 33:	NW $\frac{1}{4}$ NW $\frac{1}{4}$		13
	NE $\frac{1}{4}$ NW $\frac{1}{4}$		10
	SE $\frac{1}{4}$ NW $\frac{1}{4}$		<u>2</u>
TOTAL			65

3. Based on information received and records reviewed, the Department has determined that Appropriation A-12328 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-12328 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-12328.

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:

Chad W. and Kimberly J. Marsh
84656 524 Avenue
Neligh, Nebraska 68756

Allan C. and Nancy L. Marsh
84932 Cemetery Road
Neligh, Nebraska 68756