

STATE OF NEBRASKA

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE  
OF SURFACE WATER APPROPRIATION A-13397**

WATER DIVISION 2-B

1. Department records show that Surface Water Appropriation A-13397 is held by **Labrador Bay Barn LLC; Chad Wegener; and Beau Baltzell.**
2. Appropriation A-13397 has a priority date of **February 11, 1975**, and authorizes use of water for irrigation on **40.6 acres**, described below. Water may be diverted from **the Elkhorn River** at points of diversion located on **the left bank of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 16, Township 14 North, Range 10 East of the 6<sup>th</sup> P.M. in Sarpy County.** The maximum diversion rate shall not exceed **0.58 cubic feet** per second (cfs) from all points of diversion.

| Township 14 North, Range 10 East of the<br>6 <sup>th</sup> P.M. in Sarpy County |                                   | Acres       |
|---|-----------------------------------|-------------|
| Section 16:   | NW $\frac{1}{4}$ NE $\frac{1}{4}$ | 13.0        |
|   | SE $\frac{1}{4}$ NE $\frac{1}{4}$ | 13.1        |
|   | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 1.7         |
|   | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | <u>12.8</u> |
|   | TOTAL                             | 40.6        |

3. Based on information received and records reviewed, the Department has determined that Appropriation A-13397 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-13397 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-13397.
  - 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 **January 19, 2026. 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



December 18, 2025

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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:

Todd Lavigne  
Labrador Bay Barn LLC  
12330 Cary Circle  
Lavista, Nebraska 68128

Beau Baltzell  
24305 Leavenworth Circle  
Waterloo, Nebraska 68069

Chad Wegener  
6902 240<sup>th</sup> street  
Gretna, Nebraska 68028