

STATE OF NEBRASKA

DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE  
OF SURFACE WATER APPROPRIATION A-16404**

WATER DIVISION 2-B

1. Records on file in the Department of Water, Energy, and Environment (Department) show that surface water appropriation A-16404 is held by **Eagle Creek Acres, LLC**.
2. Appropriation A-16404 has a priority date of **June 24, 1985**, and authorizes use of water for irrigation on **59 acres**, described below. Water may be diverted from **the Elkhorn River** at a point of diversion located on the north bank of the stream in the **SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>** of **Section 27, Township 29 North, Range 12 West of the 6<sup>th</sup> P.M. in Holt County**. The maximum diversion rate shall not exceed **0.85 cubic feet per second (cfs)**.

Township 29 North, Range 12 West of the 6 <sup>th</sup> P.M. in Holt County	Acres
Section 27: NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	10
SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	10
SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	<u>39</u>
TOTAL	59

3. Based on information received and records reviewed, the Department has determined that Appropriation A-16404 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-16404 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-16404.
  - B. Contest this determination by submitting the enclosed **contest form** to the Department's Lincoln office (245 Fallbrook Blvd., Suite 100, Lincoln, NE 68521) **by 5:00 P.M. on April 20, 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



March 19, 2026

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Jeremy F. Gehle  
Surface Water Division Administrator

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:

Helen C. Schmaderer  
Eagle Creek Acres, LLC  
210 South 7<sup>th</sup> Street  
O'Neill, Nebraska 68763