

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION OF WATER APPROPRIATION A-2393

CASE NUMBER 2021-1-CC-1

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-2393 is held by John H. Prouty.
2. A search of the records of the Holt County Register of Deeds indicates the land appurtenant to appropriation A-2393 includes names of owners that are different than the owner listed in Department records. These individuals are Joseph D. and Kelsey K. Schochenmaier and Jack H. and Janice Welch.
3. Appropriation A-2393 has a priority date of June 1, 1934, and authorizes the use of water for irrigation of the 101 acres of land described below. The water may be diverted from Prouty Springs at a point of diversion located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 05, Township 32 North, Range 11 West of the 6<sup>th</sup> P.M. in Holt County. The rate that water may be diverted shall not exceed 1.44 cubic feet per second (cfs).

<u>Township 32 North, Range 11 West of the 6<sup>th</sup> P.M. in Holt County</u>	<u>Acres</u>
Section 04: W $\frac{1}{2}$ NW $\frac{1}{4}$	55
Section 05: E $\frac{1}{2}$ NE $\frac{1}{4}$	<u>46</u>
TOTAL	101

3. The Department has received information concerning the use of surface water appropriation A-2393 that indicates the appropriation has not been used for its required purpose for more than five consecutive years as required under Nebraska law.
4. On September 8, 2021, the Department issued a Notice of Preliminary Determination of Nonuse (PDNU) of appropriation A-2393. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Joseph D. and Kelsey K. Schochenmaier, 89344 494<sup>th</sup> Avenue, Spencer, Nebraska 68777; and Jack H. and Janice Welch, 1002 North Lawndale Avenue, O'Neill, Nebraska 68763.
5. On September 27, 2021, Joseph D. and Kelsey K. Schochenmaier timely filed a contest to the PDNU for a portion of the land authorized for irrigation under appropriation A-2393.

6. No contest of the PDNU by Jack H. and Janice Welch for the 46 acres of land located in the E $\frac{1}{2}$ NE $\frac{1}{4}$  was received in the Department.
7. Neb. Rev. Stat. § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.
8. On February 25, 2022, Joseph D. and Kelsey K. Schochenmaier filed relinquishment REL-9452 relinquishing the right to divert water under a portion of appropriation A-2393 to irrigate the 55 acres of land described below.

Township 32 North, Range 11 West of the  
6<sup>th</sup> P.M. in Holt County Acres

Section 04: W $\frac{1}{2}$ NW $\frac{1}{4}$  55

ORDER

IT IS HEREBY ORDERED:

1. Case number 2021-1-CC-1 is DISMISSED.
2. Appropriation A-2393 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES



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Thomas E. Riley, P.E., Director

March 2, 2022

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's docket clerk and field office in Ord, Nebraska. A copy of this Order was mailed on March 2, 2022, to the following:

Joseph D. and Kelsey K. Schochenmaier  
89344 494<sup>th</sup> Avenue  
Spencer, Nebraska 68777

Jack H. and Janice Welch  
1002 North Lawndale Avenue  
O'Neill, Nebraska 68763