

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATIONS A-4420CR AND A-4420DR

AND APPROVAL OF MAPS NUMBER 21225 AND 21226

WATER DIVISION 2-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriations A-4420CR and A-4420DR are held by Levi Gordon Glines.
2. Appropriations A-4420CR and A-4420DR have a priority date of January 11, 1949.
3. Appropriation A-4420CR authorizes the use of water for irrigation of the 56.8 acres of land described below. The water may be diverted from the White River at a point of diversion located on the west bank of the stream in the SE¹/₄SW¹/₄ of Section 26, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 0.81 cfs.

<u>Township 34 North, Range 49 West of the</u>		<u>Acres</u>
<u>6th P.M. in Dawes County</u>		
Section 26:	NW ¹ / ₄ SW ¹ / ₄	18.0
	SW ¹ / ₄ SW ¹ / ₄	<u>38.8</u>
	TOTAL	56.8

4. Appropriation A-4420DR authorizes the use of water for irrigation of the 50.9 acres of land described below. The water may be diverted from the White River at a point of diversion located on the west bank of the stream in the NW¹/₄SW¹/₄ of Section 26, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.73 cfs.

<u>Township 34 North, Range 49 West of the</u>		<u>Acres</u>
<u>6th P.M. in Dawes County</u>		
Section 26:	SW ¹ / ₄ NW ¹ / ₄	34.1
	NW ¹ / ₄ SW ¹ / ₄	<u>16.8</u>
	TOTAL	50.9

5. The Department has received information concerning the use of surface water appropriations A-4420CR and A-4420DR that indicates a portion of the appropriations have not been used for their required purpose for more than five consecutive years.
6. On May 4, 2023, the Department issued a Notice of Preliminary Determination of Nonuse that portions of land authorized for irrigation under appropriations A-4420CR and A-4420DR had not been irrigated for more than five years.
7. The following portion of land authorized for irrigation under appropriation A-4420CR had not been irrigated for more than five years:

<u>Township 34 North, Range 49 West of the 6th P.M. in Dawes County</u>	<u>Acres</u>
Section 26: NW ¹ / ₄ SW ¹ / ₄	6.4

8. The following portion of land authorized for irrigation under appropriation A-4420DR had not been irrigated for more than five years:

<u>Township 34 North, Range 49 West of the 6th P.M. in Dawes County</u>	<u>Acres</u>
Section 26: SW ¹ / ₄ NW ¹ / ₄	6.4
NW ¹ / ₄ SW ¹ / ₄	<u>4.6</u>
TOTAL	11.0

9. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Levi Gordon Glines, P.O. Box 66, Smithwick, South Dakota 57782.
10. No contest of the Preliminary Determination of Nonuse was received in the Department.
11. *Nebraska Revised Statutes* § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.

ORDER

1. Part of appropriation A-4420CR at the rate of 0.09 cfs for use upon the 6.4 acres of land described in Item 7 above is CANCELLED.

2. Appropriation A-4420CR now authorizes the appropriator to divert water from the White River to irrigate the 50.4 acres of land described below and depicted on map number 21225 which is made a part of this Order. The water may be diverted from the stream at a point of diversion located on west bank of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.72 cfs (323 gallons per minute).

<u>Township 34 North, Range 49 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 26:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	11.6
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>38.8</u>
	TOTAL	50.4

3. Part of appropriation A-4420DR at the rate of 0.16 cfs for use upon the 11.0 acres of land described in Item 8 above is CANCELLED.

4. Appropriation A-4420DR now authorizes the appropriator to divert water from the White River to irrigate the 39.9 acres of land described below and depicted on map number 21226 which is made a part of this Order. The water may be diverted from the stream at a point of diversion located on the west bank of the stream in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.57 cfs (256 gallons per minute).

<u>Township 34 North, Range 49 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 26:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	27.7
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>12.2</u>
	TOTAL	39.9

5. All terms and conditions of previous orders for appropriations A-4420CR and A-4420DR remain in effect unless specifically changed by this Order.

6. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are not limited to, the following:

- A. Notify the Department of any change in ownership or address.
- B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
- C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If you are not able to divert sufficient amounts of water, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

July 17, 2023

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 21225 and 21226 were provided to the Department's docket clerk and field office in Bridgeport, Nebraska. Copies of this Order and maps number 21225 and 21226 were mailed to the following:

Levi Gordon Glines
P.O. Box 66
Smithwick, South Dakota 57782