

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-16223

AND APPROVAL OF MAP NUMBER 21388

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-16223 is held by Palmer Johnson Farms, Inc.
2. A search of the records of the Butler County Register of Deeds indicates a portion of the land appurtenant to appropriation A-16223 is owned by Clayton and Makanna Schmitt.
3. Appropriation A-16223 has a priority date of August 4, 1983, and authorizes the use of water for irrigation of the 170 acres of land described below. The water may be diverted from the Big Blue River at points of diversion located on the east bank of the stream in the NW¹/₄NW¹/₄ and SE¹/₄NW¹/₄ of Section 34, Township 13 North, Range 02 East of the 6th P.M. in Butler County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 2.43 cfs from all points of diversion. The total annual volume may not exceed three acre-feet per acre of land on which water is actually and beneficially applied.

<u>Township 13 North, Range 02 East of the</u>		
<u>6th P.M. in Butler County</u>		<u>Acres</u>
Section 34:	NW ¹ / ₄ NW ¹ / ₄	40
	NE ¹ / ₄ NW ¹ / ₄	40
	SE ¹ / ₄ NW ¹ / ₄	40
	NW ¹ / ₄ NE ¹ / ₄	25
	SW ¹ / ₄ NE ¹ / ₄	<u>25</u>
	TOTAL	170

4. The Department has received information concerning the use of surface water appropriation A-16223 and determined that the appropriation has not been used for irrigation purposes for more than five consecutive years as required under Nebraska law. At this time, the Department knows of no reason that constitutes sufficient cause for nonuse under Neb. Rev. Stat. § 46-229.04

5. On February 15, 2024, Barbara Rasmussen and David D. Rasmussen filed relinquishment REL-10159, relinquishing the right to divert water under a portion of appropriation A-16223 to irrigate the 162 acres of land described below.

Township 13 North, Range 02 East of the		
<u>6th P.M. in Butler County</u>		<u>Acres</u>
Section 34:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	40
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	40
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	17
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	<u>25</u>
	TOTAL	162

6. Upon completion of this Order of Cancellation for the preceding portion of land authorized for irrigation under A-16223, the Department will issue a Notice of Preliminary Determination of Nonuse (PDNU) for the remaining appurtenant land owned by Clayton and Makanna Schmitt in accordance with Neb. Rev. Stat. § 46-229.02

ORDER

IT IS HEREBY ORDERED:

- Part of appropriation A-16223 at the rate of 2.31 cfs for use upon the 162 acres of land described above is CANCELLED.
- The Department will initiate formal cancellation proceedings by issuing a PDNU on the remaining acres appurtenant to appropriation A-16223 owned by Clayton and Makanna Schmitt, which are depicted on map number 21388 and made a part of this Order of Cancellation. The associated points of diversion are in the NW $\frac{1}{4}$ of Section 34, Township 13 North, Rang 02 East of the 6th P.M. in Butler County, as depicted on map number 21388. The original application was approved at a ratio of one cfs for every 70 acres irrigated. The rate associated with the acres listed below is 0.12 cfs, which is the amount subject to cancellation for nonuse.

Township 13 North, Range 02 East of the		
<u>6th P.M. in Butler County</u>		<u>Acres</u>
Section 34:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	8

DEPARTMENT OF NATURAL RESOURCES

Thomas E. Riley

Thomas E. Riley, P.E., Director

March 21, 2024

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21388 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 21388 were mailed to the following:

Palmer Johnson Farms, Inc.
P.O. Box 81667
Lincoln, Nebraska 68501

Clayton and Makanna Schmitt
1501 22nd Road
Ulysses, Nebraska 68669