

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-13237

AND APPROVAL OF MAP NUMBER 21383

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13237 is held by Potadle Farms, LLC.
2. Appropriation A-13237 with a priority date of October 16, 1974, authorizes the use of water for irrigation of the 174.14 acres of land described below. The water may be diverted from New York Creek at points of diversion located on the left bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, both in Township 20 North, Range 11 East of the 6th P.M. in Washington County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 2.49 cfs from all points of diversion.

| <u>Township 20 North, Range 11 East of the</u> | | |
|---|-----------------------------------|--------------|
| <u>6th P.M. in Washington County</u> | | <u>Acres</u> |
| Section 31: | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 2.30 |
| | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 29.10 |
| | SE $\frac{1}{4}$ SE $\frac{1}{4}$ | 18.50 |
| Section 32: | NW $\frac{1}{4}$ NW $\frac{1}{4}$ | 12.80 |
| | NE $\frac{1}{4}$ NW $\frac{1}{4}$ | 33.60 |
| | SW $\frac{1}{4}$ NW $\frac{1}{4}$ | 28.30 |
| | SE $\frac{1}{4}$ NW $\frac{1}{4}$ | 0.94 |
| | NW $\frac{1}{4}$ SW $\frac{1}{4}$ | 32.40 |
| | NE $\frac{1}{4}$ SW $\frac{1}{4}$ | <u>16.20</u> |
| | TOTAL | 174.14 |

3. The Department has received information concerning the use of surface water appropriation A-13237 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

4. On May 3, 2024, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-13237 had not been irrigated for more than five years:

| <u>Township 20 North, Range 11 East of the</u> | <u>Acres</u> |
|---|--------------|
| <u>6th P.M. in Washington County</u> | |
| Section 32: NW ¹ / ₄ NW ¹ / ₄ | 10.50 |
| NE ¹ / ₄ NW ¹ / ₄ | 33.60 |
| SE ¹ / ₄ NW ¹ / ₄ | 0.84 |
| NW ¹ / ₄ SW ¹ / ₄ | 25.00 |
| NE ¹ / ₄ SW ¹ / ₄ | <u>16.20</u> |
| TOTAL | 86.14 |

5. The Notice was displayed on the Department's website for over 30 days and delivered by certified mail to Jon Potadle, Potadle Farms, LLC, 20668 US Highway 75, Herman, Nebraska 68029.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. The Department has determined that appropriation A-13237 has not been used for its required purpose for more than five consecutive years.
8. *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-13237 at the rate of 1.23 cfs for use upon the land described above is CANCELLED.

2. Appropriation A-13237 now authorizes the appropriator to divert water from New York Creek to irrigate the 88.00 acres of land described below and depicted on map number 21383 which is made a part of this Order. The points of diversion remain in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, both in Township 20 North, Range 11 East of the 6th P.M. in Washington County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 1.26 cfs (565 gallons per minute) from all points of diversion

| <u>Township 20 North, Range 11 East of the</u> | | |
|---|-----------------------------------|--------------|
| <u>6th P.M. in Washington County</u> | | <u>Acres</u> |
| Section 31: | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 2.30 |
| | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 29.10 |
| | SE $\frac{1}{4}$ SE $\frac{1}{4}$ | 18.50 |
| Section 32: | NW $\frac{1}{4}$ NW $\frac{1}{4}$ | 2.30 |
| | SW $\frac{1}{4}$ NW $\frac{1}{4}$ | 28.30 |
| | SE $\frac{1}{4}$ NW $\frac{1}{4}$ | 0.10 |
| | NW $\frac{1}{4}$ SW $\frac{1}{4}$ | <u>7.40</u> |
| | TOTAL | 88.00 |

3. All terms and conditions of appropriation A-13237 remain in effect unless specifically changed by this Order.
4. 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.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

June 18, 2024

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

Jon Potadle
Potadle Farms, LLC
20668 US Highway 75
Herman, Nebraska 68029