

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-10237C

AND APPROVAL OF MAP NUMBER 21476

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-10237C is held by the Phyllis J. Monke Trust.
2. Appropriation A-10237C with a priority date of August 28, 1963, authorizes the use of water for irrigation of the 129.6 acres of land described below. The water may be diverted from Bell Creek at a point of diversion located in the SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Section 36, Township 19 North, Range 09 East of the 6<sup>th</sup> P.M. in Washington 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 1.85 cfs.

<u>Township 19 North, Range 09 East of the</u>		
<u>6<sup>th</sup> P.M. in Washington County</u>		<u>Acres</u>
Section 36:	NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	38.5
	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	39.1
	NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	19.0
	SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	<u>33.0</u>
	TOTAL	129.6

3. The Department has received information concerning the use of surface water appropriation A-10237C that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On July 9, 2024, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-10237C had not been irrigated for more than five years:

<u>Township 19 North, Range 09 East of the</u>		
<u>6<sup>th</sup> P.M. in Washington County</u>		<u>Acres</u>
Section 36:	NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	38.5
	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub>	17.5
	NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	19.0
	SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>	<u>33.0</u>
	TOTAL	108.0

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Mike Monke, Phyllis J. Monke Trust, 13088 County Road 9, Arlington, Nebraska 68002 and to Rhonda Niehaus, RVR Bank, 1005 South 23<sup>rd</sup> Street, Fremont, Nebraska 68025.
6. On August 16, 2024, the Department received correspondence from Mike Monke stating that he and his lawyers had reviewed the notice and have no issue with cancellation of a portion of surface water appropriation A-10237C.
7. No contest of the Preliminary Determination of Nonuse was received in the Department.
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-10237C at the rate of 1.54 cfs for use upon the 108.0 acres of land described above is CANCELLED.
2. Appropriation A-10237C now authorizes the appropriator to divert water from Bell to irrigate the 21.6 acres of land described below and depicted on map number 21476 which is made a part of this Order. The point of diversion remains in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 36, Township 19 North, Range 09 East of the 6<sup>th</sup> 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 rate of 0.31 cfs (139 gallons per minute).

Township 19 North, Range 09 East of the 6 <sup>th</sup> P.M. in Washington County	Acres
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Section 36: SE $\frac{1}{4}$ NW $\frac{1}{4}$	21.6
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3. All terms and conditions of previous orders for appropriation A-10237 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

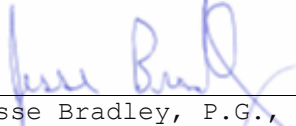
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution,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

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

August 29, 2024

  
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Jesse Bradley, P.G., Interim Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 21476 were provided to the Department's docket clerk and field office in Norfolk, Nebraska. Copies of this Order and map number 21476 were mailed to the following:

Mike Monke  
Phyllis J. Monke Trust  
13088 County Road 9  
Arlington, Nebraska 68002

Rhonda Niehaus  
RVR Bank  
1005 South 23<sup>rd</sup> Street  
Fremont, Nebraska 68025