

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-9284

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of surface water appropriation A-9284 is held by KWEA, L.L.C.
2. Appropriation A-9284 with a priority date of March 4, 1957, authorizes the use of water for irrigation of the 108.0 acres of land described below. The water may be diverted from Rawhide Creek at points of diversion located on the west bank of the stream in the NW¹/₄ of Section 16 and in the NW¹/₄ of Section 21, both in Township 16 North, Range 10 East of the 6th P.M. in Douglas 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 1.54 cfs from all points of diversion.

<u>Township 16 North, Range 10 East of the 6th P.M. in Douglas County</u>	<u>Acres</u>
Section 16: S ¹ / ₂ NW ¹ / ₄ (Lot 2)	17.0
NW ¹ / ₄ SW ¹ / ₄	35.0
NE ¹ / ₄ SW ¹ / ₄	8.0
SW ¹ / ₄ SW ¹ / ₄	38.0
SE ¹ / ₄ SW ¹ / ₄	<u>10.0</u>
TOTAL	108.0

3. The Department has received information concerning the use of surface water appropriation A-9284 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On February 6, 2024, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-9284 had not been irrigated for more than five years:

<u>Township 16 North, Range 10 East of the 6th P.M. in Douglas County</u>	<u>Acres</u>
Section 16: NW ¹ / ₄ SW ¹ / ₄	28.4
NE ¹ / ₄ SW ¹ / ₄	7.7
SW ¹ / ₄ SW ¹ / ₄	38.0
SE ¹ / ₄ SW ¹ / ₄	<u>10.0</u>
TOTAL	84.1

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Kay Stoupa, KWEA, L.L.C., 11225 Davenport Street Suite 108, Omaha, Nebraska 68154.
6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. *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-9284 at the rate of 1.20 cfs for use upon the 84.1 acres of land described above is CANCELLED.
2. Appropriation A-9284 now authorizes the appropriator to divert water from Rawhide Creek to irrigate the 23.9 acres of land described below. The points of diversion remain in the NW $\frac{1}{4}$ of Section 16 and in the NW $\frac{1}{4}$ of Section 21, both in Township 16 North, Range 10 East of the 6th P.M. in Douglas Count. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 0.34 cfs (153 gallons per minute) from all points of diversion.

<u>Township 16 North, Range 10 East of the 6th P.M. in Douglas County</u>	<u>Acres</u>
Section 16: S $\frac{1}{2}$ NW $\frac{1}{4}$ (Lot 2)	17.0
NW $\frac{1}{4}$ SW $\frac{1}{4}$	6.6
NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>0.3</u>
TOTAL	23.9

3. All terms and conditions of appropriation A-9284 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



Thomas E. Riley, P.E., Director

August 1, 2024

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

Kay Stoupa
KWEA LLC
11225 Davenport Street Suite 108
Omaha, Nebraska 68154