

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-12145

AND APPROVAL OF MAP NUMBER 21586

WATER DIVISION 2-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-12145 is held by Randy Tonkinson and the Village of Malcolm.
2. Appropriation A-12145 with a priority date of January 20, 1971, authorizes the use of water for irrigation of the 14.0 acres of land described below. The water may be diverted from Elk Creek at a point of diversion located on the left bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 11 North, Range 05 East of the 6th P.M. in Lancaster 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 0.20 cfs.

<u>Township 11 North, Range 05 East of the 6th P.M. in Lancaster County</u>	<u>Acres</u>
Section 21: SW $\frac{1}{4}$ SE $\frac{1}{4}$	12.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.0</u>
TOTAL	14.0

3. The Department has received information concerning the use of surface water appropriation A-12145 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On January 31, 2025, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-12145 had not been irrigated for more than five years:

<u>Township 11 North, Range 05 East of the 6th P.M. in Lancaster County</u>	<u>Acres</u>
Section 21: SW $\frac{1}{4}$ SE $\frac{1}{4}$	3.6

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Tonkinson Farms, LLC, Randy Tonkinson, 11101 NW 126th Street, Malcolm, Nebraska 68402 and Village of Malcolm, 137 East 2nd Street, Malcolm, Nebraska 68402.

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-12145 at the rate of 0.05 cfs for use upon the 3.6 acres of land described above is CANCELLED.
2. Appropriation A-12145 now authorizes the appropriator to divert water from Elk Creek to irrigate the 10.4 acres of land described below and depicted on map number 21586 which is made a part of this Order. The point of diversion remains on the left bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 11 North, Range 05 East of the 6th P.M. in Lancaster County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.15 cfs (67 gallons per minute).

<u>Township 11 North, Range 05 East of the 6th P.M. in Lancaster County</u>	<u>Acres</u>
Section 21: SW $\frac{1}{4}$ SE $\frac{1}{4}$	8.4
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>2.0</u>
TOTAL	10.4

3. All terms and conditions of appropriation A-12145 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

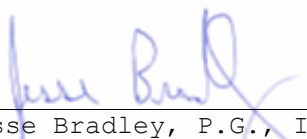
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution,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

March 31, 2025



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 21586 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 21586 were mailed to the following:

Tonkinson Farms, LLC
Randy Tonkinson
11101 NW 126th Street
Malcolm, Nebraska 68402

Village of Malcolm
137 East 2nd Street
Malcolm, Nebraska 68402