

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

**NOTICE OF PRELIMINARY DETERMINATION OF NONUSE
OF SURFACE WATER APPROPRIATION A-17280**

WATER DIVISION 2-C

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-17280 is held by Rodney J. and Cameron G. Palmer.
2. A search of the records of the Keya Paha County Register of Deeds indicates the land appurtenant to appropriation A-17280 was divided into distinct parcels and there are additional landowners. These individuals are Ryan C. Richey; Traci A. Booth; James Costello, Jr. and Lindsey Costello; James Dubas; Leanne S. Dubas; Suzette L. White; Diette M. Glenn and Rodney J. Palmer; Bruce M. and Donna J. Niesen; Steve and Laurie Hergott; Scott D. Nelson; James J. and Delonna J. Costello; James M. Costello; Rodney J. Palmer and Joshua J. and Courtney Peters.
3. Appropriation A-17280 has a priority date of April 29, 1993, and authorizes the use of water for irrigation of the 40.5 acres of land described below. The water may be diverted from the Niobrara River at points of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, both in Township 32 North, Range 22 West of the 6th P.M. in Keya Paha 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 0.58 cfs from all points of diversion.

<u>Township 32 North, Range 22 West of the 6th P.M. in Keya Paha County</u>		<u>Acres</u>
Section 11: NE $\frac{1}{4}$ SE $\frac{1}{4}$		3.0
Section 12: NW $\frac{1}{4}$ SW $\frac{1}{4}$		17.0
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>20.5</u>
TOTAL		40.5

4. The Department has received information concerning the use of surface water appropriation A-17280 that a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

5. The Department's preliminary determination is that a portion of appropriation A-17280 at the rate of 0.24 cfs has not been used for more than five years to irrigate the land described below.

<u>Township 32 North, Range 22 West of the 6th P.M. in Keya Paha County</u>	<u>Acres</u>
Section 11: NE $\frac{1}{4}$ SE $\frac{1}{4}$	3.0
Section 12: NW $\frac{1}{4}$ SW $\frac{1}{4}$	7.8
SW $\frac{1}{4}$ SW $\frac{1}{4}$	<u>5.7</u>
TOTAL	16.5

6. At this time the Department knows of no reason for not using the portion of appropriation A-17280 described above that would be considered sufficient cause for nonuse under *Nebraska Revised Statutes* § 46-229.04.
7. In accordance with state law (*Nebraska Revised Statutes* § 46-229.02) this notice is to inform you that the portion of appropriation A-17280 described in item five above will be cancelled unless the Department's determination is successfully contested.
8. The owner(s) of the land that may be irrigated under water appropriation A-17280 may:
- A. Choose not to respond to this Notice. **If no timely response is received the Department will proceed to enter an order cancelling the portion of water appropriation A-17280 as described above.**
 - B. Contest the Department's Preliminary Determination by filing the enclosed contest form in the Department at its Lincoln office: 245 Fallbrook Blvd, Suite 201, Lincoln, Nebraska 68521 by the close of business on August 26, 2022. No filing fee is required.
9. Enclosed are: (1) a copy of the laws governing cancellation of appropriations, *Nebraska Revised Statutes* §§ 46-229, 46-229.02, 46-229.03, 46-229.04 and 46-229.05; (2) a blank contest form; (3) a copy of the Report of Field Investigation which is the basis for the determination; and (4) a map showing the location of the portion of A-17280 subject to this notice which the Department believes is subject to cancellation for nonuse and that portion not subject to cancellation.
10. Further information concerning the laws governing cancellation of appropriations can be found at the Nebraska Legislature Website at <http://nebraskalegislature.gov/laws>.

11. Requests for additional information regarding this proceeding may be directed to the Department of Natural Resources or by calling the permits section at (402) 471-2363. Business hours for the Department are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

July 27, 2022

A copy of this Notice was posted on the Department's website. A copy of this notice was provided to the Department's field office in Ord, Nebraska. Copies of this Notice and four enclosures were mailed by certified mail to the following:

Rodney J. and Cameron G. Palmer
P.O. Box 127
Ainsworth, Nebraska 69210

Rodney J. Palmer
428 East 8th Street
Ainsworth, Nebraska 69210

Ryan C. Richey
89248 Meadville Circle
Ainsworth, Nebraska 69210

Bruce M. and Donna J. Niesen
306 North Main Street
Wilcox, Nebraska 68982

Traci A. Booth
409 East 3rd Street
Ainsworth, Nebraska 69210

Steve and Laurie Hergott
#3 Robin Lane
Columbus, Nebraska 68601

James and Lindsey Costello
217 Vermont Street
Spearfish, South Dakota 57783

Scott D. Nelson
43102 River Road
Ainsworth, Nebraska 69210

James Dubas
168 Lakeshore Drive
Columbus, Nebraska 68601

James J. and Delonna J. Costello
609 North Oneida Avenue
Pierre, South Dakota 57501

Leanne S. Dubas
710 2nd Street
Duncan, Nebraska 68634

James M. Costello
217 Vermont Street
Spearfish, South Dakota 57783

Suzette L. White
19411 Whitetail Lane
Belle Plain, Minnesota 56011

Joshua J. and Courtney Peters
813 Richmond Avenue
Hastings, Nebraska 68901

Diette M. Glenn
428 East 8th Street
Ainsworth, Nebraska 69210