

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-11811

CASE NUMBER 2018-22-CC-1

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11811 is held by the Marjorie M. Timmermans Revocable Trust.
2. Appropriation A-11811 with a priority date of October 1, 1969, authorizes the use of water for irrigation of the 40 acres of land described below. The water may be diverted from Timmermans Reservoir (storage appropriation A-11810) 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 35, Township 32 North, Range 15 West of the 6<sup>th</sup> P.M. in Holt County. The rate that water may be diverted shall not exceed 11.69 acre-feet per year.

Township 32 North, Range 15 West of the  
6<sup>th</sup> P.M. in Holt County Acres

Section 35: SW $\frac{1}{4}$ SW $\frac{1}{4}$  40

3. The Department has received information concerning the use of surface water appropriation A-11811 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
4. On September 14, 2018, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-11811. The Notice was delivered by certified mail to Lois Thom, Trustee, Marjorie M. Timmermans Revocable Trust, 1279 C Road, Minden, Nebraska 68959; Glenrose Weymouth, Trustee, Marjorie M. Timmermans Revocable Trust, 6940 Gander Way, Fort Collins, Colorado 80524; and Daryl & Makala Butterfield, Operators, 47147 877<sup>th</sup> Road, Stuart, Nebraska 68780.
5. The U.S. Postal Service attempted to deliver certified mail to Daryl & Makala Butterfield, Operators, but was returned to the Department 'unclaimed'.
6. On September 25, 2018, Glenrose Weymouth and Lois Thom, Co-Trustees of the Marjorie M. Timmermans Revocable Trust, filed a contest of the Preliminary Determination of Nonuse in the Department.

7. On November 13, 2018, Glenrose Weymouth and Lois Thom, Co-Trustees of the Marjorie M. Timmermans Revocable Trust, filed in the Department a dismissal of their Contest of Preliminary Determination of Nonuse and relinquishment REL-7184 relinquishing the right to divert water under appropriation A-11811 for the purpose of irrigation.
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

IT IS HEREBY ORDERED:

1. Case number 2018-22-CC-1 is DISMISSED.
2. Appropriation A-11811 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

November 29, 2018

  
Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's docket clerk and field office in Ord, Nebraska. A copy of this Order was mailed on November 29, 2018, to the following:

Lois Thom, Trustee  
Marjorie M. Timmermans Revocable Trust  
1279 C Road  
Minden, Nebraska 68959

Glenrose Weymouth, Trustee  
Marjorie M. Timmermans Revocable Trust  
6940 Gander Way  
Fort Collins, Colorado 80524

Daryl & Makala Butterfield, Operators  
47147 877<sup>th</sup> Road  
Stuart, Nebraska 68780