

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATIONS A-4420AR AND A-4420BR

AND APPROVAL OF MAPS NUMBER 21223 AND 21224

WATER DIVISION 2-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriations A-4420AR and A-4420BR are held by Scott and Raberta Starr.
2. Appropriations A-4420AR and A-4420BR have a priority date of January 11, 1949.
3. Appropriation A-4420AR authorizes the use of water for irrigation of the 37.4 acres of land described below. The water may be diverted from the White River at a point of diversion located on the north bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 34 North, Range 49 West of the 6th P.M. in Dawes 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 0.54 cfs.

<u>Township 34 North, Range 49 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 27:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	8.8
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>28.6</u>
	TOTAL	37.4

4. Appropriation A-4420BR authorizes the use of water for irrigation of the 91.5 acres of land described below. The water may be diverted from the White River at a point of diversion located on the north bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.31 cfs.

<u>Township 34 North, Range 49 West of the</u>		
<u>6th P.M. in Dawes County</u>		<u>Acres</u>
Section 27:	SE $\frac{1}{4}$ NE $\frac{1}{4}$	14.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	38.7
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>38.8</u>
	TOTAL	91.5

5. The Department has received information concerning the use of surface water appropriations A-4420AR and A-4420BR that indicates a portion of the appropriations have not been used for their required purpose for more than five consecutive years.
6. On May 4, 2023, the Department issued a Notice of Preliminary Determination of Nonuse that portions of land authorized for irrigation under appropriations A-4420AR and A-4420BR had not been irrigated for more than five years.
7. The following portion of land authorized for irrigation under appropriation A-4420AR had not been irrigated for more than five years:

<u>Township 34 North, Range 49 West of the 6th P.M. in Dawes County</u>	<u>Acres</u>
Section 27: NW $\frac{1}{4}$ SE $\frac{1}{4}$	8.8
SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>9.9</u>
TOTAL	18.7

8. The following portion of land authorized for irrigation under appropriation A-4420BR had not been irrigated for more than five years:

<u>Township 34 North, Range 49 West of the 6th P.M. in Dawes County</u>	<u>Acres</u>
Section 27: SE $\frac{1}{4}$ NE $\frac{1}{4}$	14.0
NE $\frac{1}{4}$ SE $\frac{1}{4}$	37.0
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>5.3</u>
TOTAL	56.3

9. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Scott and Raberta Starr, 212 Starr Drive, Stapleton, Nebraska 69163.
10. No contest of the Preliminary Determination of Nonuse was received in the Department.
11. *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-4420AR at the rate of 0.27 cfs for use upon the 18.7 acres of land described in Item 7 above is CANCELLED.

2. Appropriation A-4420AR now authorizes the appropriator to divert water from the White River to irrigate the 18.7 acres of land described below and depicted on map number 21223 which is made a part of this Order. The water may be diverted from the stream at a point of diversion located on the north bank of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.27 cfs (121 gallons per minute).

Township 34 North, Range 49 West of the 6 th P.M. in Dawes County	Acres
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Section 27: SW $\frac{1}{4}$ SE $\frac{1}{4}$	18.7
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3. Part of appropriation A-4420BR at the rate of 0.80 cfs for use upon the 56.3 acres of land described in Item 8 above is CANCELLED.

4. Appropriation A-4420BR now authorizes the appropriator to divert water from the White River to irrigate the 35.2 acres of land described below and depicted on map number 21224 which is made a part of this Order. The water may be diverted from the stream at a point of diversion located on the north bank of the stream in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 34 North, Range 49 West of the 6th P.M. in Dawes County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.51 cfs (229 gallons per minute).

Township 34 North, Range 49 West of the 6 th P.M. in Dawes County	Acres
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Section 27: NE $\frac{1}{4}$ SE $\frac{1}{4}$	1.7
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>33.5</u>

TOTAL	35.2
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5. All terms and conditions of previous orders for appropriations A-4420AR and A-4420BR remain in effect unless specifically changed by this Order.
6. 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

July 17, 2023

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 21223 and 21224 were provided to the Department's docket clerk and field office in Bridgeport, Nebraska. Copies of this Order and maps number 21223 and 21224 were mailed to the following:

Scott and Raberta Starr
212 Starr Drive
Stapleton, Nebraska 69163