

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-11126

AND DISMISSAL OF CONTESTED CASE NUMBER 2023-2-CC-1

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11126 is held by Martha Bender et al.
2. Appropriation A-11126 has a priority date of May 4, 1967, and authorizes the use of water for irrigation of the 17 acres of land described below. The water may be diverted from Plum Creek at points of diversion located on both banks of the stream in the SW¹/₄SW¹/₄ of Section 34, Township 12 North, Range 03 East of the 6th P.M. in Seward 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 0.24 cfs.

<u>Township 12 North, Range 03 East of the</u> <u>6th P.M. in Seward County</u>	<u>Acres</u>
Section 34: SW ¹ / ₄ SW ¹ / ₄	17

3. The Department received information concerning the use of surface water appropriation A-11126 and determined that the appropriation had not been used for irrigation purposes for more than five consecutive years as required under Nebraska law.
4. On April 17, 2023, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-11126. The Notice was delivered by certified mail to Martha Bender et al, 1914 266th Road, Seward, Nebraska 68434.
5. On May 15, 2023, Martha Bender filed a contest of the Preliminary Determination of Nonuse.
6. On July 24, 2023, Martha Bender filed a Relinquishment of Water Appropriation, REL-10033, in the office of the Department relinquishing the right to divert water under appropriation A-11126 for use upon the land described above.
7. Nebraska Revised Statutes § 46-229 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 2023-2-CC-1 and Notice of Preliminary Determination of Nonuse, PDNU-9939 are cancelled.
2. Appropriation A-11126 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES



August 3, 2023

Thomas E. Riley, P.E., Director

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

Martha Bender et al
1914 266th Road
Seward, Nebraska 68434