

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Preliminary ) Case #009-09CC  
Determination of Nonuse of )  
Surface Water Appropriation ) ORDER SETTING ASIDE PROCEEDING  
A-13564. )  
Water Division 2-A. )

Background

The above captioned matter comes before the Director of the Department of Natural Resources. This is a proceeding held under the provisions of Neb. Rev. Stat. §§ 46-229 to 46-229.04.

Findings of Fact

The Director, after an examination of the record, makes the following FINDINGS OF FACT:

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13564 is held by David Zeller.
2. Appropriation A-13564 authorizes the use of 0.56 cubic foot per second of water for irrigation of the 39.0 acres of land described below. The water may be diverted from the South Loup River at a point of diversion located on the left bank of the stream in the S $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 25, Township 12 North, Range 15 West of the 6<sup>th</sup> P.M. in Buffalo County.

Township 12 North, Range 15 West of the 6 <sup>th</sup> P.M. in Buffalo County		Acres
Section 25:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	13.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	14.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>12.0</u>
	TOTAL	39.0

3. On March 20, 2009, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-13564. The Notice was mailed by certified mail on March 23, 2009, to David Zeller, 25405 Ravenna Road, Ravenna, Nebraska 68869.
4. On April 20, 2009, David Zeller filed a Contest of Preliminary Determination of Nonuse in the Department.
5. On May 13, 2009, the Department issued a Notice of Hearing, and the hearing was held on May 29, 2009. No one appeared at the hearing.

Conclusions of Law

After review by the Director, it is apparent that errors were made by the Department in this proceeding sufficient to necessitate setting aside the entire proceeding.

It is therefore ORDERED that this proceeding is set aside.

DEPARTMENT OF NATURAL RESOURCES

March 17, 2010

  
Brian P. Dunnigan, 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 Ord, Nebraska, and to the Department's Attorney, Jean Angell. A copy of this Order was mailed on March 18, 2010, to the following:

David Zeller  
25405 Ravenna Road  
Ravenna, Nebraska 68869