

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-18405

WATER DIVISION 2-B

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18405 is held by Daniel E. and Connie J. Geary.
2. Appropriation A-18405 authorizes the use of water for irrigation of the 56.0 acres of land described below. The water may be diverted from the Elkhorn River at a point of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 1, Township 23 North, Range 1 West of the 6<sup>th</sup> P.M. in Madison County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 0.80 cfs.

<u>Township 23 North, Range 1 West of the 6<sup>th</sup> P.M. in Madison County</u>		<u>Acres</u>
Section 1:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	28.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>28.0</u>
	TOTAL	56.0

3. The approval of appropriation A-18405 was conditional upon the irrigation of the above lands by September 1, 2009.
4. Department personnel performed a field investigation and determined a portion of the land approved for irrigation under appropriation A-18405 had not been irrigated by September 1, 2009.
5. Nebraska Revised Statutes Section 46-229.02(7) provides for the cancellation of unused portions of surface water appropriations.

Order

IT IS HEREBY ORDERED:

1. Part of appropriation A-18405 at the rate of 0.20 cfs for use upon the land described below is CANCELLED.

<u>Township 23 North, Range 1 West of the 6<sup>th</sup> P.M. in Madison County</u>		<u>Acres</u>
Section 1:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	11.3
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>2.7</u>
	TOTAL	14.0

2. Appropriation A-18405 now permits Daniel E. and Connie J. Geary to divert water from the Elkhorn River to irrigate the 42.0 acres of land described below and depicted on map number 17623 which is made a part of this Order. The point of diversion remains in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 1, Township 23 North, Range 1 West of the 6<sup>th</sup> P.M. in Madison County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.60 cfs (269 gallons per minute).

<u>Township 23 North, Range 1 West of the</u>		<u>Acres</u>
<u>6<sup>th</sup> P.M. in Madison County</u>		
Section 1:	NW $\frac{1}{4}$ SW $\frac{1}{4}$	16.7
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>25.3</u>
	TOTAL	42.0

3. All terms and conditions of appropriation A-18405 remain in effect unless specifically changed by this Order.
4. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- Notify the Department of any change in ownership or address.
  - 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).
  - 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, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

March 26, 2010

  
Brian P. Dunnigan, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and map number 17623 were provided to the Department's field office in Norfolk, Nebraska. Copies of the field investigation, this Order and map number 17623 were mailed on March 26, 2010, to the following:

Daniel E. and Connie J. Geary  
1707 North 13th  
Norfolk, Nebraska 68701