

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-11500

CASE NUMBER 2012-37-CC-1

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-11500 is held by Gordon W. Fulton, Jr. and Duane L. Fulton.
2. Appropriation A-11500 with a priority date of July 19, 1968, authorizes the use of water for irrigation of the 102.5 acres of land described below. The water may be diverted from the West Branch of Bazile Creek at points of diversion located on both banks of the stream in the S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 9, and in the W $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 10, all in Township 28 North, Range 5 West of the 6<sup>th</sup> P.M. in Antelope County. The rate that water may be diverted shall not exceed 1.47 cubic feet per second (cfs) from all points of diversion.

<u>Township 28 North, Range 5 West of the</u>		
<u>6<sup>th</sup> P.M. in Antelope County</u>		<u>Acres</u>
Section 9:	SW $\frac{1}{4}$ NE $\frac{1}{4}$	13.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	21.0
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	4.5
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	37.0
Section 10:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	<u>27.0</u>
	TOTAL	102.5

3. The Department has received information concerning the use of surface water appropriation A-11500 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
4. On September 5, 2012, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-11500. The notice was delivered by certified mail to Gordon W. Fulton, Jr., 53079 869 Road, Creighton, Nebraska 68729; and to Duane Fulton, 86866 530 Avenue, Creighton, Nebraska 68729.
5. No contest of the Preliminary Determination of Nonuse was received in the Department.

6. The Department has determined that appropriation A-11500 has not been used for its required purpose for more than five consecutive years.
7. *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 appropriation A-11500 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

October 23, 2012

  
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 Docket Clerk and to the Department's field office in Norfolk, Nebraska. A copy of this Order was mailed on October 23, 2012, to the following:

Gordon W. Fulton, Jr.  
53079 869 Road  
Creighton, Nebraska 68729

Duane Fulton  
86866 530 Avenue  
Creighton, Nebraska 68729