

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-7004

CASE NUMBER 2012-35-CC-1

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-7004 is held by Rodney K. Foster.
2. Appropriation A-7004 has a priority date of January 20, 1955, and authorizes the use of water for irrigation of the 90.2 acres of land described below. The water may be diverted from Bazile Creek at points of diversion located on the right bank of the stream in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 26, Township 31 North, Range 5 West of the 6th P.M. in Knox County. The rate that water may be diverted shall not exceed 0.64 cubic foot per second (cfs) from all points of diversion.

<u>Township 31 North, Range 5 West of the 6th P.M. in Knox County</u>		<u>Acres</u>
Section 23:	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32.5
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	5.5
Section 26:	NW $\frac{1}{4}$ NW $\frac{1}{4}$	2.0
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	9.2
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	35.0
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	<u>6.0</u>
	TOTAL	90.2

3. The Department has received information concerning the use of surface water appropriation A-7004 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-7004. The notice was delivered by certified mail to Rodney K. Foster, 6503 Claret Court, Parkville, Missouri 64152-9998 and to Pender State Bank, P.O. Box 160, Pender, Nebraska 68047.
5. No contest of the Preliminary Determination of Nonuse was received in the Department.

6. The Department has determined that appropriation A-7004 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-7004 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:

Rodney K. Foster
6503 Claret Court
Parkville, Missouri 64152-9998

Pender State Bank
P.O. Box 160
Pender, Nebraska 68047