

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-9825A

CASE NUMBER 2014-9-PD-1

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of the land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, Township 15 North, Range 18 West of the 6th P.M. in Custer County appurtenant to appropriation A-9825A is owned by Amsberry Farms, Inc.
2. Records on file in the Department show that a portion of the land located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, Township 15 North, Range 18 West of the 6th P.M. in Custer County appurtenant to appropriation A-9825A is owned by Keith W. and Marilyn Hogg.
3. Records on file in the Department show that a portion of the land located in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 15, Township 15 North, Range 18 West of the 6th P.M. in Custer County appurtenant to appropriation A-9825A is owned by and Lyle O. and Janice Lovitt.
4. Appropriation A-9825A with a priority date of May 23, 1960, authorizes the use of water for irrigation of the 33.4 acres of land described below. The water may be diverted from Mud (Beaver) Creek at a point of diversion located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, Township 15 North, Range 18 West of the 6th P.M. in Custer 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 0.48 cfs.

Township 15 North, Range 18 West of the 6 th P.M. in Custer County		Acres
Section 15:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	8.4
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>25.0</u>
	TOTAL	33.4

5. The Department has received information concerning the use of surface water appropriation A-9825A that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.

6. On February 21, 2014, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-9825A had not been irrigated for at least five years:

<u>Township 15 North, Range 18 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 15:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	2.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>15.9</u>
TOTAL		18.7

7. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Rollie Amsberry, Amsberry Farms, P.O. Box 402, Ansley, Nebraska 68814; Keith W. and Marilyn Hogg, 79015 Drive 453, Ansley, Nebraska 68814; and Lyle O. and Janice L. Lovitt, 78961 Drive 453, Ansley, Nebraska 68814.
8. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-9825A at the rate of 0.27 cfs for use upon the land described below is CANCELLED.

<u>Township 15 North, Range 18 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 15:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	2.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>15.9</u>
TOTAL		18.7

2. Appropriation A-9825A now authorizes the appropriator to divert water from Mud (Beaver) Creek to irrigate the 14.7 acres of land described below and depicted on map number 18893 which is made a part of this Order. The point of diversion remains in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, Township 15 North, Range 18 West of the 6th P.M. in Custer County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum rate of 0.21 cfs (94 gallons per minute) from all points of diversion.

<u>Township 15 North, Range 18 West of the</u>		
<u>6th P.M. in Custer County</u>		<u>Acres</u>
Section 15:	SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.6
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>9.1</u>
TOTAL		14.7

3. All terms and conditions of appropriation A-9825A 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:
 - A. Notify the Department of any change in ownership or address.
 - B. 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).
 - C. 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

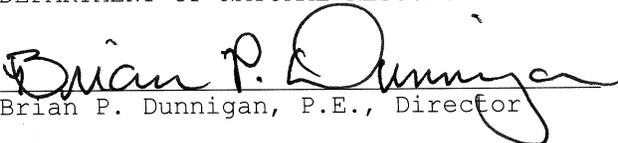
Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, 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, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

May 29, 2014


 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 18893 were provided to the Department's docket clerk and field office in Ord, Nebraska. Copies of this Order and map number 18893 were mailed on May 29, 2014, to the following:

Rollie Amsberry
 Amsberry Farms
 P.O. Box 402
 Ansley, Nebraska 68814

Lyle O. and Janice L. Lovitt
 78961 Drive 453
 Ansley, Nebraska 68814

Keith W. and Marilyn Hogg
 79015 Drive 453
 Ansley, Nebraska 68814