

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-15539

AND CANCELLATION OF APPROVAL OF PLAN NUMBER 13465

CASE NUMBER 2016-9-PD-1

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15539 is held by Kirk D. Thornburg and Denise L. Thornburg.
2. Appropriation A-15539 has a priority date of August 3, 1979, and authorizes the appropriator to store 41.2 acre-feet of water per annum from a tributary to Bear Creek in Thornburg Reservoir Number 1 located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 25, Township 04 North, Range 06 East of the 6<sup>th</sup> P.M. in Gage County as show on plan number 13465.
3. On November 15, 1979, the Department of Water Resources approved plan number 13465 and application A-15539 with the condition that construction of Thornburg Dam No. 1 be completed by October 1, 1981.
4. Subsequently, on October 29, 2015, Department staff conducted a field investigation concerning the use of surface water appropriation A-15539 and determined that the dam was never built.
5. Since the dam was not completed, and the owner has no intention of constructing it, the Department knows of no reason that would be considered sufficient cause for nonuse under Neb. Rev. Stat. § 46-229.02.
6. On April 19, 2016, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-15539. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Kirk D. Thornburg, 2060 East Hoyt Road, Beatrice, Nebraska 68310; Denise L. Thornburg, 2060 East Hoyt Road, Beatrice, Nebraska 68310; and Security First Bank, P.O. Box 338, Beatrice, Nebraska 68310.
7. No contest of the Preliminary Determination of Nonuse was received in the Department.
8. The Department has determined that appropriation A-15539 has not been used for its required purpose for more than five consecutive years.

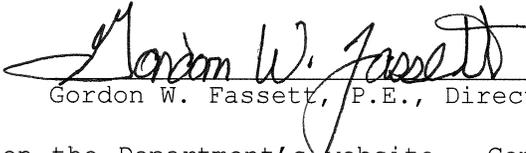
9. *Nebraska Revised Statutes* § 46-229.02 provides that an appropriation not used for a beneficial purpose for more than five consecutive years may be cancelled.

ORDER

IT IS HEREBY ORDERED appropriation A-15539 and approval of plan number 13465 are CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

June 10, 2016

  
Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's docket clerk, Chief of Dam Safety and field office in Lincoln, Nebraska. A copy of this Order was mailed on June 10, 2016, to the following:

Kirk D. Thornburg  
2060 East Hoyt Road  
Beatrice, Nebraska 68310

Security First Bank  
P.O. Box 338  
Beatrice, Nebraska 68310

Denise L. Thornburg  
2060 East Hoyt Road  
Beatrice, Nebraska 68310