

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-13589

CASE NUMBER 2016-15-PD-1

WATER DIVISION 1-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13589 is held by the Donna R. Thoms Life Estate.
2. A search of the records of the Otoe County Register of Deeds indicates the land appurtenant to appropriation A-13589 includes the name of an owner that is different than the owners listed in Department records. This owner is the Gerald and Donna Thoms Life Estate.
3. Appropriation A-13589 with a priority date of May 23, 1975, authorizes the use of water for irrigation of the 133.7 acres of land described below. The water may be diverted from the South Branch of Weeping Water Creek at points of diversion located on the right bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 01, Township 09 North, Range 12 East of the 6th P.M. in Otoe 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 combined rate of 1.91 cfs from all points of diversion.

| <u>Township 09 North, Range 12 East of the</u> | | |
|--|-----------------------------------|--------------|
| <u>6th P.M. in Otoe County</u> | | <u>Acres</u> |
| Section 01: | NW $\frac{1}{4}$ SE $\frac{1}{4}$ | 40.0 |
| | NE $\frac{1}{4}$ SE $\frac{1}{4}$ | 36.5 |
| | SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 36.3 |
| | SE $\frac{1}{4}$ SE $\frac{1}{4}$ | <u>20.9</u> |
| | TOTAL | 133.7 |

4. The Department has received information concerning the use of surface water appropriation A-13589 that indicates the appropriation has not been used for its required purpose for more than five consecutive years.
5. On June 24, 2016, the Department issued a Notice of Preliminary Determination of Nonuse of appropriation A-13589. The Notice was delivered by certified mail to Donna R. Thoms Life Estate, 1250 North 15th Street, Nebraska City, Nebraska 68410; Gerald A. Thoms, 1250 North 15th Street, Nebraska City, Nebraska 68410; Jeffrey Thoms, 16104 Middle Island Drive, South Bend, Nebraska 68058; and American National Bank, 920 Central Avenue, Nebraska City, Nebraska 68410.

6. No contest of the Preliminary Determination of Nonuse was received in the Department.
7. The Department has determined that appropriation A-13589 has not been used for its required purpose for more than five consecutive years.
8. *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-13589 is CANCELLED.

DEPARTMENT OF NATURAL RESOURCES

August 8, 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 and field office in Lincoln, Nebraska. A copy of this Order was mailed on August 8, 2016, to the following:

Donna R. Thoms Life Estate
1250 North 15th Street
Nebraska City, Nebraska 68410

Jeffrey Thoms
16104 Middle Island Drive
South Bend, Nebraska 68058

Gerald A. Thoms
1250 North 15th Street
Nebraska City, Nebraska 68410

American National Bank
920 Central Avenue
Nebraska City, Nebraska 68410