

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-9973

WATER DIVISION 1-D

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-9973 is held by Max L. and Patricia Waldo.
2. Appropriation A-9973 with a priority date of August 29, 1961, authorizes the use of water for irrigation of the 77.0 acres of land described below. The water may be diverted from Turkey Creek at a point of diversion located on the left bank of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 9, Township 5 North, Range 4 East of the 6<sup>th</sup> P.M. in Saline County. The rate that water may be diverted shall not exceed 1.10 cubic feet per second (cfs).

<u>Township 5 North, Range 4 East of the 6<sup>th</sup> P.M. in Saline County</u>		<u>Acres</u>
Section 9:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>37.0</u>
	TOTAL	77.0

3. The Department has received information concerning the use of surface water appropriation A-9973 that indicates a portion of the appropriation has not been used for its required purpose for more than five consecutive years.
4. On March 20, 2012, the Department issued a Notice of Preliminary Determination of Nonuse that the following portion of land authorized for irrigation under appropriation A-9973 had not been irrigated for at least five years:

<u>Township 5 North, Range 4 East of the 6<sup>th</sup> P.M. in Saline County</u>		<u>Acres</u>
Section 9:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	6.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>4.0</u>
	TOTAL	10.7

5. The Notice was displayed on the Department's website for over 30 days and was delivered by certified mail to Max L. and Patricia Waldo, 14144 West Dogwood Road, DeWitt, NE 68341

6. No contest of the Preliminary Determination of Nonuse was received in the Department.

ORDER

1. Part of appropriation A-9973 at the rate of 0.15 cfs for use upon the land described below is CANCELLED.

<u>Township 5 North, Range 4 East of the</u>		
<u>6<sup>th</sup> P.M. in Saline County</u>		<u>Acres</u>
Section 9:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	6.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>4.0</u>
	TOTAL	10.7

2. Appropriation A-9973 now authorizes the appropriator to divert water from Turkey Creek to irrigate the 66.3 acres of land described below and depicted on map number 18135 which is made a part of this Order. The point of diversion remains in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4, Township 5 North, Range 4 East of the 6<sup>th</sup> P.M. in Saline County. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated at a maximum combined rate of 0.95 cfs (426 gallons per minute).

<u>Township 5 North, Range 4 East of the</u>		
<u>6<sup>th</sup> P.M. in Saline County</u>		<u>Acres</u>
Section 9:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	33.3
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>33.0</u>
	TOTAL	66.3

3. All terms and conditions of appropriation A-9973 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 3, 2012

  
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 18135 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order and map number 18135 were mailed on May 3, 2012, to the following:

Max L. and Patricia Waldo  
14144 West Dogwood Road  
DeWitt, NE 68341