

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-18367

WATER DIVISION 1-D

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-18367 is held by Albert L. and Patty A. Simacek, Trustees.
2. Appropriation A-18367 has a priority date of December 29, 2005, and authorizes the use of water for irrigation of the 101.4 acres of land described below. The water may be diverted from Turkey Creek at points of diversion located on both banks of the stream in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Township 7 North, Range 2 West of the 6th P.M. in Fillmore County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 140 acres irrigated at a maximum combined rate of 0.73 cfs from all points of diversion.

Township 7 North, Range 2 West of the 6 th P.M. in Fillmore County		Acres
Section 20:	NE $\frac{1}{4}$ NE $\frac{1}{4}$	6.0
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	5.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	32.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	21.8
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>36.6</u>
	TOTAL	101.4

3. This appropriation provides additional water for land already included under appropriation A-8427 held by Albert L. and Patty A. Simacek, Trustees.
4. The approval of appropriation A-18367 was conditioned upon the irrigation of the above lands by September 1, 2009.
5. Department personnel performed a field investigation and determined a portion of the land approved for irrigation under appropriation A-18367 had not been irrigated by September 1, 2009.
6. Nebraska Revised Statutes Section 46-229.02(7) provides for the cancellation of unused portions of surface water appropriations.

Order

IT IS HEREBY ORDERED:

1. Part of appropriation A-18367 at the rate of 0.03 cfs for use upon the land described below is CANCELLED.

Township 7 North, Range 2 West of the
6th P.M. in Fillmore County Acres

Section 20: SW $\frac{1}{4}$ NE $\frac{1}{4}$ 4.1

2. Appropriation A-18367 now permits Albert L. and Patty A. Simacek, Trustees, to divert water from Turkey Creek to irrigate the 97.3 acres of land described below and depicted on map number 17668 which is made a part of this Order. The points of diversion remain in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Township 7 North, Range 2 West of the 6th P.M. in Fillmore County. The rate that water may be diverted shall not exceed one cfs for every 140 acres irrigated at a maximum combined rate of 0.70 cfs (314 gallons per minute) from all points of diversion.

Township 7 North, Range 2 West of the
6th P.M. in Fillmore County Acres

Section 20: NE $\frac{1}{4}$ NE $\frac{1}{4}$	6.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	0.9
SE $\frac{1}{4}$ NE $\frac{1}{4}$	32.0
NE $\frac{1}{4}$ SE $\frac{1}{4}$	21.8
SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>36.6</u>
TOTAL	97.3

3. All terms and conditions of appropriation A-18367 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, and there are junior appropriations upstream, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES

September 1, 2010


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 17668 were provided to the Department's field office in Lincoln, Nebraska. Copies of the field investigation, this Order and map number 17668 were mailed on September 1, 2010, to the following:

Albert L. and Patty A. Simacek, Trustees
1608 Road H
Fairmont, NE 68354