

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-5442 FOR WATER APPROPRIATION A-2646

WATER DIVISION 1-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-2646 is held by John Faessler, Jr. Farms, Inc.
2. The Department's mapping staff, using current mapping technology, has determined that the locations of diversion can be more precisely described. The physical location of diversions has not changed, but the legal description of two of three diversion locations need to be updated. The locations of diversion are in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 28 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33, all in Township 18 North, Range 51 West of the 6<sup>th</sup> P.M. in Morrill County rather than the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 28 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 33 of said legal description as indicated by Order dated June 22, 2004.
3. Appropriation A-2646 has a priority date of October 19, 1936, and authorizes the use of water for irrigation of the 108.5 acres of land described below. The water may be diverted from Middle Creek at points of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 28 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33, all in Township 18 North, Range 51 West of the 6<sup>th</sup> P.M. in Morrill County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 77 acres irrigated at a maximum combined rate of 1.41 cfs from all points of diversion.

Township 18 North, Range 51 West of the 6 <sup>th</sup> P.M. in Morrill County		Acres
Section 28:	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18.9
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1.4
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	1.5
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	9.2
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	33.9
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	0.9
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.0
	TOTAL	108.5

4. On May 15, 2015, Bruce Faessler, on behalf of John Faessler, Jr. Farms, Inc., filed application EXT-5442 for a permit for an expedited transfer of the location of use for land authorized to be irrigated by appropriation A-2646.
5. On August 31, 2015, Kurt Faessler filed map number 19285 showing the land proposed to be irrigated under appropriation A-2646 through transfer EXT-5442.

ORDER

IT IS HEREBY ORDERED:

1. Application EXT-5442 for a permit for an expedited transfer of the location of use and map number 19285 are APPROVED.
2. Appropriation A-2646 through transfer EXT-5442 authorizes the use of water to irrigate 108.5 acres of land described below and depicted on map number 19285, which is made a part of this Order. The water may be diverted from Middle Creek at points of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 28 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 33, all in Township 18 North, Range 51 West of the 6<sup>th</sup> P.M. in Morrill County, as depicted on map number 19285. Water diverted shall not exceed the ratio of one cfs for every 77 acres irrigated at a maximum combined rate of 1.41 cfs from all points of diversion (633 gallons per minute). The total combined volume of all appropriations may not exceed 2.74 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

Township 18 North, Range 51 West of the  
6<sup>th</sup> P.M. in Morrill County      Acres

Section 28:	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.2
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	8.6
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	28.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	3.6
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	34.8
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.9
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	0.8
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	27.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	3.6
	TOTAL	108.5

3. All terms and conditions of appropriation A-2646 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, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an 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.

DEPARTMENT OF NATURAL RESOURCES

September 22, 2015

  
Gordon W. Fassett, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and map number 19285 were provided to the Department's field office in Bridgeport, Nebraska. Copies of this Order and map number 19285 were mailed on September 22, 2015, to the following:

Bruce Faessler  
John Faessler, Jr. Farms, Inc.  
10172 Road 82  
Bridgeport, Nebraska 69336