STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN FULL OF WATER APPROPRIATION A-15809

WATER DIVISION 1-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15809 is held by Minnie Peterson.

2. A search of the records of the Garden County Register of Deeds indicates the land appurtenant to appropriation A-15809 is held by the Peterson Trust, F. W. Peterson and Minnie E. Peterson, Trustees.

3. The Department has received information that F. W. Peterson and Minnie Peterson are deceased.

4. Appropriation A-15809, with a priority date of March 26, 1981, authorizes the use of water for 49.2 cubic feet per second (cfs) of water for the purpose of power generation. The water may be diverted from Blue Creek at a point of diversion NE¼NW¼ of Section 04, Township 18 North, Range 43 West of the 6th P.M. in Garden County.

5. The lease agreement between the appropriator and the Department requires payment for generation of 33.5 horsepower of $5.03 on or before the first day of January of each year said permit is in force. Failure to do so will cause forfeiture of said appropriation.

6. On January 19, 2016, Myron Peterson filed in the Department relinquishment REL-5552 relinquishing the right to use an amount of water not to exceed 49.2 cubic feet per second to develop 33.5 horsepower located in the NE¼NW¼ of Section 04, Township 18 North, Range 43 West of the 6th P.M. in Garden County.

7. The Department lacks documentation showing Myron Peterson as Successor Trustee to the Peterson Trust. Therefore, relinquishment REL-5552 may not be acted upon and should be dismissed.

8. Pursuant to *Neb. Rev Stat.* § 46-236 a letter was delivered by certified mail to Myron Peterson, 18570 Road 82, Oshkosh, Nebraska 69154, on February 11, 2016, advising him that the power lease fee had not been satisfied and allowed fifteen calendar days to remit the outstanding balance.

9. Because the power lease fee was not satisfied within fifteen calendar days, the applicant was out of compliance and by Order dated March 17, 2016, was denied the right to divert or otherwise use water authorized under appropriation A-15809 for the production of power.

10. Pursuant to *Neb. Rev Stat.* § 46-236, the lease and water appropriation shall be cancelled if, after forty-five days from the date of issuance of the Order Denying the Right to Divert or Otherwise Use Appropriation A-15809 for Power Production, the lessee is not in compliance with all provisions of the lease or required fees.

11. The power lease fee was not satisfied within the allotted time and the applicant remains out of compliance. Therefore, appropriation A-15809 should be cancelled.

ORDER

IT IS HEREBY ORDERED:

1. Relinquishment REL-5552 is DISMISSED.

2. Appropriation A-15809 is 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. A copy of this Order was provided to the Department's field office in Bridgeport, Nebraska. A copy of this Order was mailed on June 10, 2016, to the following:

Peterson Trust
18570 Road 82
Oshkosh, Nebraska 69154

Myron Peterson
18570 Road 82
Oshkosh, Nebraska 69154