STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-15645 AND

APPROVAL OF PETITION RLP-5694 AND MAPS NUMBER 19512 AND 19518 AND

NON-EXPEDITED TRANSFER NEX-5614 FOR WATER APPROPRIATION A-15645

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-15645 is held by Anita L. Clausen.

2. Appropriation A-15645 has a priority date of May 8, 1980, and authorizes the use of water for irrigation of the 51.0 acres of land described below. The water may be diverted from Deer Creek at points of diversion located on the right bank of the stream in the SW¼SE¼ and the SE¼SE¼ of Section 21, Township 13 North, Range 12 West of the 6th P.M. in Howard County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 0.73 cfs from all points of diversion.

Township 13 North, Range 12 West of the 6th P.M. in Howard County		Acres
Section 21:	SE¼SW¼	22.9
	SW¼SE¼	18.0
	SE¼SE¼	10.1
	TOTAL	51.0

3. On June 6, 2016, Anita L. Clausen and Clark T. Pedersen, the appropriator and landowner to whom a portion of appropriation A-15645 will be transferred, respectively, filed in the Department application NEX-5614 for a permit for a non-expedited transfer of the location of use for a portion of A-15645 and maps number 19512 and 19518 showing the points of diversion and land to be irrigated under appropriation A-15645 through transfer NEX-5614.

4. On June 13, 2016, Anita L. Clausen filed in the Department petition RLP-5694 for a permit to add a location of diversion as depicted on map number 19512.

5. The proposed new location of diversion and source (Middle Loup River) is approximately one mile upstream from the current location.

6. The Department's experience indicates that moving a water appropriation upstream of junior and senior water appropriators to a location with a different water supply creates the possibility that during times of shortage, the intervening water appropriators may be harmed.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-15645 is divided into two appropriations, A-15645A and A-15645B.

2. Appropriation A-15645A is held by Anita L. Clausen.

   A. Maps number 19512 and 19518 are APPROVED.

   B. Appropriation A-15645A authorizes the use of water to irrigate the 42.7 acres of land described below and depicted on map number 19518, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 0.61 cfs (274 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 13 North, Range 12 West of the 6th P.M. in Howard County		Acres
Section 21:	SE¼SW¼	14.6
	SW¼SE¼	18.0
	SE¼SE¼	10.1
	TOTAL	42.7

   C. The water may be diverted from Deer Creek at points of diversion located on the right bank of the stream in the SW¼SE¼ and the SE¼SE¼ of Section 21, Township 13 North, Range 12 West of the 6th P.M. in Howard County.

   D. All terms and conditions of the approval of appropriation A-15645 remain in effect unless specifically changed by this Order.

3. Appropriation A-15645B is held by Clark T. Pedersen.

   A. Application NEX-5614, petition RLP-5694 and map number 19512 are APPROVED.

   B. Appropriation A-15645B through petition RLP-5694 is now A-15645BR.

C. Appropriation A-15645BR authorizes the use of water to irrigate the 8.3 acres of land described below and depicted on map number 19512, which is made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated at a maximum rate of 0.12 cfs (54 gallons per minute). Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 13 North, Range 12 West of the 6th P.M. in Howard County		Acres
Section 28:	NW¼NW¼	0.6
	SW¼NW¼	7.4
	NW¼SW¼	0.3
	TOTAL	8.3

D. The water may be diverted from the Middle Loup River at a point of diversion located on the left bank of the stream in the NW¼SW¼ of Section 28, Township 13 North, Range 12 West of the 6th P.M. in Howard County.

E. All terms and conditions of the approval of appropriation A-15645 remain in effect unless specifically changed by this Order.

4. The Middle Loup River has no history of water administration on private permits due to a shortage of water. However, flows tend to be low during the heat of irrigation season. To mitigate any potential harm in the future or disruption of long-standing diversion practices by other users on the potentially affected river reaches, the right to divert natural flow under appropriation A-15645BR is conditioned such that no harm can come to those potentially affected appropriators. Appropriators who are downstream, senior to A-15645BR, and are short of water can place a call on the river and A-15645BR shall be closed.

5. This approval is conditioned such that the exercise of priority of use under A-15645BR shall not affect any other appropriator in a manner that would not have occurred before the approval of this relocation petition. This can be accomplished by the Department not administering a call by the appropriator holding A-15645BR.

6. The appropriators must comply with all relevant statutes. These relevant statutory requirements include, but are 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 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.

DEPARTMENT OF NATURAL RESOURCES

January 11, 2017

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, 4th 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 maps number 19512 and 19518 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 19512 and 19518 were mailed on January 11, 2017, to the following:

Anita L. Clausen
306 9th Street
Boelus, Nebraska 68820

Clark Pedersen
282 Wausa Road
Boelus, Nebraska 68820