

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING APPROPRIATION A-2263R

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that Larry B. and Patricia Ann Peters, Trustees of the L & P Peters Family Trust, own land located in the NE $\frac{1}{4}$  of Section 14, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County appurtenant to surface water appropriation A-2263R.
2. Records on file in the Department show that Marilyn Jean Harden owns land located in the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 13, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County appurtenant to surface water appropriation A-2263R.
3. Records on file in the Department show that Douglas G. and Kathy M. Pollard own land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$  and W $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 24, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County appurtenant to surface water appropriation A-2263R.
4. Records on file in the Department show that Norman N. and Georgene C. McCarthy and Maynard L. and Brenda J. McCarthy own land located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 24, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County appurtenant to surface water appropriation A-2263R.
5. Appropriation A-2263R with a priority date of March 18, 1932, authorizes the use of water for irrigation of the 167.8 acres of land described below. The water may be diverted from the North Loup River at points of diversion located on the left bank of the stream in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 14 and in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 24, both in Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup 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 2.4 cfs from all points of diversion.

| Township 22 North, Range 20 West of the<br>6 <sup>th</sup> P.M. in Loup County | Acres | Township 22 North, Range 20 West of the<br>6 <sup>th</sup> P.M. in Loup County | Acres       |
|--|-------|--|-------------|
| Section 13: SW $\frac{1}{4}$ SW $\frac{1}{4}$                                  | 20.0  | Section 24: NE $\frac{1}{4}$ NW $\frac{1}{4}$                                  | 20.0        |
| SE $\frac{1}{4}$ SW $\frac{1}{4}$  | 20.0  | SE $\frac{1}{4}$ NW $\frac{1}{4}$  | 9.2         |
| Section 14: SW $\frac{1}{4}$ NE $\frac{1}{4}$                                  | 20.0  | NW $\frac{1}{4}$ NE $\frac{1}{4}$  | 14.0        |
| SE $\frac{1}{4}$ NE $\frac{1}{4}$  | 20.0  | SW $\frac{1}{4}$ NE $\frac{1}{4}$  | <u>18.0</u> |
| NE $\frac{1}{4}$ SE $\frac{1}{4}$  | 26.6  | TOTAL  | 167.8       |

6. The land entitled to water under appropriation A-2263R is held in distinct parcels by multiple owners. Therefore, it is in the best interest of the owners and the State to divide the appropriation among the owners so that each owner's rights are distinguishable. However, all rights should remain with the same priority date as to one another.

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-2263R is divided into four appropriations, A-2263CR, A-2263DR, A-2263ER and A-2263FR.
2. Appropriation A-2263CR is held by L & P Peters Family Trust.
  - A. They are allowed to divert 0.95 cfs (426 gallons per minute) from the North Loup River to irrigate the 66.6 acres of land described below and as depicted on map number 18852 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| <u>Township 22 North, Range 20 West of the<br/>6<sup>th</sup> P.M. in Loup County</u> | <u>Acres</u> |
|---|--------------|
| Section 14: SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>             | 20.0         |
| SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>                         | 20.0         |
| NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>                         | <u>26.6</u>  |
| TOTAL   | 66.6         |

- B. All terms and conditions of appropriation A-2263 and A-2263R remain in effect unless specifically changed by this Order.
- C. The water may be diverted from the North Loup River in the NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section 14, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County. If the owners of appropriation A-2263CR do not have access to this point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.

3. Appropriation A-2263DR is held by Marilyn Jean Harden.

A. She is allowed to divert 0.57 cfs (256 gallons per minute) from the North Loup River to irrigate the 40.0 acres of land described below and as depicted on map number 18853 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| Township 22 North, Range 20 West of the                                   |              |
|---|--------------|
| <u>6<sup>th</sup> P.M. in Loup County</u>                                 | <u>Acres</u> |
| Section 13: SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> | 20.0         |
| SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>             | <u>20.0</u>  |
| TOTAL   | 40.0         |

B. All terms and conditions of appropriation A-2263 and A-2263R remain in effect unless specifically changed by this Order.

C. The points of diversion remain in the NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub> of Section 14 and in the SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of Section 24, both in Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County. If the owner of appropriation A-2263DR does not have access to these points of diversion, she must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.

4. Appropriation A-2263ER is held by Douglas G. and Kathy M. Pollard.

A. They are allowed to divert 0.69 cfs (310 gallons per minute) from the North Loup River to irrigate the 48.1 acres of land described below and as depicted on map number 18854 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| Township 22 North, Range 20 West of the                                   |              |
|---|--------------|
| <u>6<sup>th</sup> P.M. in Loup County</u>                                 | <u>Acres</u> |
| Section 24: NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> | 20.0         |
| NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>             | 14.0         |
| SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub>             | <u>14.1</u>  |
| TOTAL   | 48.1         |

B. All terms and conditions of appropriation A-2263 and A-2263R remain in effect unless specifically changed by this Order.

- C. The water may be diverted from the North Loup River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 24, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County. If the owners of appropriation A-2263ER do not have access to this point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.
5. Appropriation A-2263FR is held by Norman N. and Georgene C. McCarthy and Maynard L. and Brenda J. McCarthy.
- A. They are allowed to divert 0.19 cfs (85 gallons per minute) from the North Loup River to irrigate the 13.1 acres of land described below and as depicted on map number 18855 which is hereby made a part of this Order. Water diverted shall not exceed the ratio of one cfs per 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

| <u>Township 22 North, Range 20 West of the<br/>6<sup>th</sup> P.M. in Loup County</u> | <u>Acres</u> |
|---|--------------|
| Section 24: SE $\frac{1}{4}$ NW $\frac{1}{4}$   | 9.2          |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$   | <u>3.9</u>   |
| TOTAL   | 13.1         |

- B. All terms and conditions of appropriation A-2263 and 2263R remain in effect unless specifically changed by this Order.
- C. The water may be diverted from the North Loup River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 24, Township 22 North, Range 20 West of the 6<sup>th</sup> P.M. in Loup County. If the owners of appropriation A-2263FR do not have access to this point of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion with the Department, and have it approved prior to any diversion. This Order does not authorize access to the existing points of diversion.

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.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

April 28, 2014

  
Brian P. Dunnigan, 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 maps number 18852, 18853, 18854 and 18855 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 18852, 18853, 18854 and 18855 were mailed on April 28, 2014, to the following:

Larry B. and Patricia Ann Peters  
Trustees of the L & P Peters Family Trust  
44372 West End Loop  
Taylor, Nebraska 68879

Marilyn Jean Harden  
83409 Lonesome Pine Avenue  
Taylor, Nebraska 68879

Douglas G. and Kathy M. Pollard  
44323 Liberty Road  
Taylor, Nebraska 68879

Norman N. and Georgene C. McCarthy  
3862 Reuting Road  
Grand Island, Nebraska 68803

Maynard L. and Brenda J. McCarthy  
1105 Main Street  
Oshkosh, Nebraska 69154