

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING LEAVE TO FILE AN APPLICATION FOR A SURFACE WATER

APPROPRIATION IN AN AREA SUBJECT TO A STAY

WATER DIVISION 2-B

Background

1. On April 8, 2009, the Department of Natural Resources (Department) issued an Order of Final Determination that the Lower Platte River Basin is Not Fully Appropriated. With this final determination and pursuant to Neb. Rev. Stat. Section 46-714(12)(b) as a result of L.B. 483, which was signed by the Governor and became effective April 6, 2009, the Department was required to place a new stay on the issuance of any new natural-flow, storage or storage-use appropriations in the stay area. The new stay remains in effect until:
  - a. 120 days from the date the Natural Resources Districts (Districts) received notice of the final determination, OR
  - b. A District adopts rules and regulations regarding stays on ground water wells in accordance with Neb. Rev. Stat. Section 46-714(12)(f).
2. The Department will not issue any surface water appropriation causing the Lower Platte River basin to be fully appropriated; nor grant any more appropriations for irrigation within an affected District that would result in an annual net increase of more than 834 acres of appurtenant land.
3. On April 9, 2009, Gary and Teresa Schindler, on behalf of Schindler Farms Partnership, filed petition VAR-1664 for Leave to Consider an Application for a Permit to appropriate Water within a Stay Area. The application is for a storage reservoir already in existence and subject to an enforcement action.
4. Petitions for leave to consider an application for a permit to appropriate water in areas that are subject to stays and moratoriums are covered under Neb. Rev. Stat. Sections 46-714(3)(n) and 61-206. Department Rule 457 N.A.C. 23 establishes guidelines under which variances can be approved.

