DNR Form APA-001
August 2008

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPLICATION FOR A PERMIT TO APPROPRIATE WATER

Complete items 1 through 10 by printing in ink or typing the appropriate information and by placing an X in the appropriate box.

For Department Use Only

1. Name and address of owner of land under proposed project. Names must be exactly as described on the deed or document transferring ownership of property. Landowner must sign the application.

BRIDGEPORT IRRIGATION DISTRICT
~~P.O. Box 1028~~ 13329 Road 74
~~Bridgeport, NE~~ 69336-1028
Broadwater NE ~~69336~~ 69125

E-mail address: _____ Telephone No. (308) 489-5658

2. Name, address, and telephone number of applicant if different than landowner.

E-mail address: _____ Telephone No. (___) _____

Filed in the office of the Department of Natural Resources at 8:04 a.m./~~p.m.~~ on January 9, 2012

Application No. A-18863

Map No. _____

Water Division 1-A

Receipt No. A-3521 Amount 10.00

Right ID 11077

3a. A permit is sought to:
- [x] Use natural flow
- [ ] Use impounded water*

3b. A permit is sought for the purpose of:
- [ ] Irrigation
- [ ] Manufacturing
- [ ] Domestic
- [ ] Other _____
- [x] Temporary** Groundwater Recharge

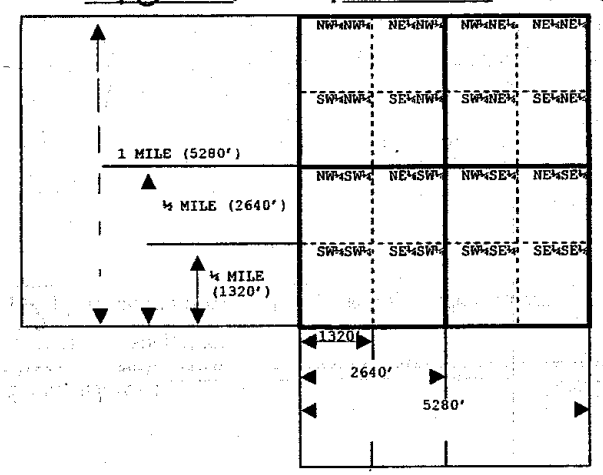
4a. Identify the source of water (name of stream or reservoir).

North Platte River

4b. If applicable, identify the facility name for transporting water from the source (portable pump, name of canal or pipeline).

5. Identify the location of the [x] Headgate [ ] Pump

Section 18, Township 20 North, Range 51 E [ ] W [x] County Morrill



The box at left represents one square mile (section). Place an X within each appropriate 40-acre tract to indicate the location(s) of each headgate or pump.

If applicable, indicate the height, in feet, of any diversion or check dams on the line below.

_____

* A separate permit to impound water must be obtained.
** A temporary permit maybe granted for a maximum of one year.

SW- 01092012- 11077- App

6. If applicable, identify the location of lands by 40-acre subdivisions that will be irrigated.

LEGAL SUBDIVISIONS	Sec.	Twp.	Rge.	No. of Acres	LEGAL SUBDIVISIONS	Sec.	Twp.	Rge.	No. of Acres
					TOTAL NUMBER OF ACRES TO BE IRRIGATED:			0.0	

☐ Enclosed is an aerial photograph that I have marked to show the approximate location of land to be irrigated as described above.

7. State the approximate quantity of water desired for appropriation. 15-30

☐ Gallons per minute
☑ Cubic feet per second
☐ Acre-feet (impounded water)

8a. State the estimated time required for completion of all water diversion facilities.
All facilities completed

8b. State the earliest date when water will have been used for beneficial purposes.
September 20, 2011

9. Will this project be constructed under a federal program, receive federal funding, or have federal planning assistance?
☑ No ☐ Yes If yes, explain: _____

10. I certify that am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete and accurate.

Jan 6 2012 — Date

Philip E. Anderson President — Signature of owner or owner's authorized agent (with proper documentation)

A final project map may accompany this application or must be filed within six months following departmental approval of this application, drawn in accordance with NAC Title 457 – Rules for Surface Water, Chapter 10, (http://dnr.ne.gov/SurfaceWater/Title_457_0608.pdf). At the request of the applicant, the Department will assist with preparation of the project map.

This form must be completed in full. An incomplete or defective application will be returned with 90 days being allowed for resubmission. Failure to resubmit a corrected application within this period shall cause dismissal of the application and consequent loss of priority and fees.

A non-refundable filing fee, payable to the Department of Natural Resources, computed from the table below must accompany this application. Forward this application and applicable fees to:

State of Nebraska
Department of Natural Resources
301 Centennial Mall South / P.O. Box 94676
Lincoln, Nebraska 68509-4676
(402) 471-2363

Nature of Use	Cost
Domestic	$10
Agricultural	
Irrigation from Stream	
0-1,000 acres	$200
Each additional 1,000 acre unit or portion thereof in excess of the first 1,000 acre unit	$100
Irrigation from Storage Reservoir	
0-1,000 acres or portion thereof in excess of the first 1,000 acre unit	$50
Each additional 1,000 acre unit or portion thereof in excess of the first 1,000 acre unit	$25

Nature of Use	Cost
Manufacturing	
General	$10
Power Generation for each theoretical 50 horsepower	$5
Other	$10

Supplemental Information for Variance Application

It is the applicant's desire to acquire a temporary appropriation to divert natural flow. It is the applicant's understanding that *Neb. Rev. Stat.* 46-233(8) indicates that the same standards for granting a permanent appropriation shall apply for granting a temporary permit with limited exception. The location of the desired diversion is within a basin currently subject to a moratorium. Title 457, Chapter 23 of the Nebraska Administrative Code outlines the rules for applying for a variance to appropriate water within a moratorium or stay area. The rule specifies that the petition shall include sufficient information to indicate:

- The proposed project is for a non-consumptive use; or
- The applicant has a credible proposal for replacing any consumptive use that will occur in a manner such that the project will not harm other users; or
- The applicant has credible information that indicates there may be unappropriated water available at the proposed location at the time the depletion is likely to occur; or
- The project existed prior to any informal moratorium, formal moratorium or stay.
- There is a public safety issue that must be addressed and the proposed project addresses such issue.
- The proposed use is a temporary use for public construction and the total volume requested is less than ten (10) acre-feet.

Additionally, the applicant must provide sufficient information to the Department for review to indicate good cause for allowing further consideration of the application.

This analysis is provided to the Department to identify the specific exemptions that apply to the temporary permitting request outlined in the variance application, as well as outlining for the Department's review why there is good cause to approve this application.

Applicant's Information to Address Requirements of Title 457, Chapter 23.001 of the Nebraska Administrative Code

This variance request is to utilize flows for recharging aquifers adjacent to the Platte River upstream of Chapman, Nebraska. A large portion of the flows that would be utilized if such appropriation is granted would be for non-consumptive use to replace groundwater depletions incurred due to uses permitted subsequent to July 1, 1997, as required by the Platte River Recovery Implementation Program (PRRIP). There is also credible information that indicates unappropriated water is likely to be available at the proposed location and at the time that any depletion would occur (see attachment 1).

Applicant's Information to Address Requirements of Title 457, Chapter 23.002 of the Nebraska Administrative Code

The five integrated management plans (IMPs) and the Basin-Wide Plan in the Platte River Basin, upstream of Columbus discuss the goal of offsetting the impacts of new or expanded uses subsequent to July 1, 1997, as agreed to in the Platte River Recovery Implementation Program and according to the Groundwater Management and Protection Act. This project will contribute toward reaching that goal as well as achieving and sustaining a fully appropriated condition. The project will also contribute toward the goal of working cooperatively to implement management solutions to disputes between water users. Additionally, groundwater recharge from existing canals and conjunctive management of canals are project types discussed in the currently adopted Platte Basin IMPs and in the reconnaissance-level water action plan project study of the Platte River Recovery Implementation Program.

This project is a collaboration involving the DNR, the local natural resources district, and the subject irrigation district. Additionally, CNPPID and NPPD staff have been contacted and they have expressed support for this project (see attachment 2 – email from Steinke). Recharged groundwater will be for the benefit of all parties involved because it will temporarily store excess streamflows in the ground and allow them to replace pumped groundwater and/or return to the stream at a later date and time.

At this point in time, the project is a demonstration project that will be part of ongoing studies by the DNR and the local natural resources districts to better manage the water in the basin and optimize the use of the water. This project will assist in providing invaluable data for cooperative conjunctive management studies that are ongoing within the basin. These studies are currently seeking to identify potential sites for acquiring permanent applications and this demonstration project would assist in quantifying the high quality locations for further study. The IMPs each contain a monitoring section that describes how all activities in the basin, including these projects, will be monitored for the purpose of measuring whether or not the IMPs, as implemented, are reaching the IMP goals. Tools that will be utilized to study these projects will include groundwater and surface water models, like those being developed by CoHyst and the Western Water Use modeling groups.

Attachment 1

The Department of Natural Resources published "Evaluation of Historic Platte River Streamflow in Excess of State Protected Flows and Target Flows" (December 2010) (http://dnr.ne.gov/IWM/Reports/PlatteRiverStreamflow_1210.pdf) which served to identify times and locations when historical streamflows were in excess of target flow requirements established by the Fish and Wildlife Service (FWS) for the Platte River Recovery Implementation Program (PRRIP) and also in excess of that which could be beneficially used by existing surface water appropriations. This report identified that such occurrences have happened within the area upstream of the Loup River and Platte River confluence (near Columbus, Nebraska) through the South Platte River to the stateline and North Platte River to Lake McConaughy.

While this analysis did not specifically identify such flows upstream of Lake McConaughy such conditions may be presumed to exist during non-irrigation periods when Lake McConaughy is at functional capacity and spilling water at its maximum controlled rate. This presumption is asserted by the applicant due to two facts: 1) no additional storage appropriations exist on the North Platte River upstream of Lake McConaughy within Nebraska and 2) there are no other significant natural flow diversions during periods outside of the irrigation season.

Given that such periods were identified to exist within the historical analysis published by the Department this hydrologic analysis will outline the current state of hydrology with the Platte River Basin based on information contained in the Bureau of Reclamation North Platte River Operating Plan and current information on storage and inflow projections for Lake McConaughy to assert that such conditions may exist for the period of this temporary permit.

The current state of the upper North Platte River in Wyoming is such that releases are currently being made to provide adequate storage space in reservoirs due to projected reasonable inflows and a current lack of storage space for such inflows. Additionally, the current reservoir storage in Lake McConaughy (approximately 1,551,200 acre-feet and 3259.5 elevation) is at its functional capacity for the October 1 through December 31 time period and will need to maintain high releases of water to maintain this level based upon the projected inflows. Additionally, NPPD's storage contract with CNPPID is satisfied first via inflows and therefore, should not be impacted by this project. Thus with releases occurring from the upstream reservoirs in Wyoming, 356,500 acre-feet in September, and the fact that no functional storage space remains in Lake McConaughy it is the applicant's assertion that water may be unappropriated throughout the Platte River Basin upstream of the Loup River and Platte River confluence (near Columbus, Nebraska) to the stateline on both the South Platte River and North Platte River.

The applicant does not intend to utilize this permit at any time normal irrigation operations are occurring and understands that some irrigation diversions and instream flow requirements may exist through the period of this temporary permit and that appropriate administrative actions may be necessary. Additionally, it is understood by the applicant that compliance with PRRIP requires that no depletions to the target flows (Nebraska's New Depletion Plan, 2005) should occur throughout the temporary permit period.

This demonstration project will serve to deliver invaluable data and provide an assessment of potential permanent sites as future circumstances would allow. The long-term suitability of such sites will be evaluated using models and tools currently being developed by the Department, natural resources districts, and other cooperating agencies. The installation of such permanent sites would serve to assist the state of Nebraska in meeting its interstate obligations.

Pathfinder storage conditions:
http://www.usbr.gov/gp/lakes_reservoirs/wareprts/store/pathf.pdf

Seminoe storage conditions:
http://www.usbr.gov/gp/lakes_reservoirs/wareprts/store/seminoe.pdf

Lake McConaughy storage conditions: http://www.cnppid.com/Elevation_Flows2.htm

North Platte 2011 annual operating plan: http://www.usbr.gov/gp/aop/np/10_11np.pdf

Updated North Platte operating plan:
http://www.usbr.gov/gp/lakes_reservoirs/wareprts/expectednpr.pdf

MEMORANDUM OF AGREEMENT

THIS AGREEMENT entered into on this 21 day of Sept, 2011, by the **STATE OF NEBRASKA, DEPARTMENT OF NATURAL RESOURCES** hereinafter referred to as the **"State," NORTH PLATTE NATURAL RESOURCES DISTRICT** hereinafter referred to as the **"NRD,"** and **BRIDGEPORT IRRIGATION DISTRICT** hereinafter referred to as the **"Irrigator."**

WITNESSETH:

WHEREAS, the Irrigator has surface water appropriation(s) for natural flow from the North Platte River and the necessary conveyance structure(s) to transmit such natural flow; and

WHEREAS, the State and the NRD have jointly developed and agreed to implement an Integrated Management Plan which describes investigating projects to enhance and improve water supply, including the development of new infrastructure and other groundwater projects for the purpose of providing net accretions to the river; and

WHEREAS, the State and the NRD participate in the Platte Basin Habitat Enhancement Project (PBHEP), and have received a grant from the Nebraska Environmental Trust (NET) to assist in funding projects which enhance the streamflow of the Platte River; and

WHEREAS, the State may request the Irrigator to divert natural flow into the Irrigator's delivery system during periods of high flow in 2011, without subsequent consumptive use for irrigation in order to assist the State and NRD in its efforts to achieve flood prevention and study groundwater recharge and/or groundwater discharge to streamflow; and

WHEREAS, the Irrigator is willing to assist the State and NRD in exchange for compensation for a portion of its operation and maintenance costs and payment for water recharged for the benefit of downstream uses; and

WHEREAS, the State and NRD are willing to participate in flood prevention and/or study groundwater recharge potential and share in providing compensation to the Irrigator;

NOW THEREFORE, in consideration of the mutual covenants made, the compensation agreed to, and other good and valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

I. DURATION OF AGREEMENT

This Agreement is effective on the date signed by the last party and remains effective until the last payment agreed upon herein is paid in full. There will be no extension or renewal of this Agreement unless further agreed to in writing by the parties.

II. THE IRRIGATOR AGREES TO PERFORM AS FOLLOWS:

A. The Irrigator agrees to divert, only upon the request provided by the State, at least 15 cfs, but not more than 30 cfs of natural flow surface water and convey such water through its delivery system beginning on the 27th day of Sept, 2011. This period shall be for no less than 30 cumulative days (Target Days). To receive any compensation under this Memorandum of Agreement, the Irrigator must divert for a minimum of 14 days (Minimum). In the event that the Irrigator diverts for at least the Minimum, but less than the Target Days, the Irrigator shall be compensated on a pro-rata basis, which shall be computed as a percentage of the total cumulative days diverted under this Memorandum of Agreement divided by the Target Days, but no more than the total of Paragraphs III.A. and IV.A. herein.

B. The Irrigator further agrees not to apply to consumptive use for irrigation any of the water diverted subject to this Agreement.

C. The Irrigator represents and affirms that, in accordance with all relevant regulations, statutes, and/or procedures, the Irrigator has complied or will comply with all requirements necessary to allow it to enter into this Agreement and perform all actions herein required.

D. The Irrigator retains the right to suspend or terminate its performance under this Agreement in the event of threatened damage to any of its facilities which in its sole judgment, the continued performance of which would jeopardize the integrity of its irrigation system or adversely affect its ability to provide irrigation service during its irrigation season. In the event that the Irrigator must suspend or terminate its performance pursuant to this paragraph, then it shall notify the State and the NRD in writing.

III. THE STATE AGREES TO PERFORM AS FOLLOWS:

A. The State will pay $2,400 (40% of total) as payment in full for the use of the Irrigator's diversion and distribution system.

B. The State will notify the Irrigator at least weekly to request the amount of streamflow to be diverted over a specified period of time, not to exceed the rate specified in Paragraph II.A.

C. Payment will be made by 1st day of February 2012.

D. The State will work with all potentially affected NRDs and surface water appropriators to provide information obtained from the project regarding any impact upon downstream flows and any estimated recharge amounts.

E. By execution of this Agreement, the State represents and affirms that it has requested and will make every effort to secure the funds for this project.

F. If the NET does not reimburse the NRD for 20% of the project costs, the State will reimburse the NRD for up to 10% of the total project costs, such that the project costs paid by the State and the NRD will be 50/50.

IV. THE NRD AGREES TO PERFORM AS FOLLOWS:

A. The NRD will pay $3,600 (60% of total) as payment in full for the use of the Irrigator's diversion and distribution system.

B. Payment will be made by the 1st day of February 2012.

C. The NRD, through PBHEP, will submit for reimbursement to NET, for up to 20% of the total project costs. If NET does not reimburse the NRD for its costs, the NRD will submit a request to the State for reimbursement of the costs it paid so that the total project costs are split 50/50 between the NRD and the State.

V. THE PARTIES MUTUALLY AGREE AS FOLLOWS:

A. The parties agree that that Irrigator has retained and reserved the rights to any additional water that it would be entitled to receive under agreements and contracts between the Bureau of Reclamation or any other entity and the Irrigator that are outside of the provisions of this Agreement.

B. In executing this Agreement the parties shall be in compliance with all other applicable state and federal laws, including but not limited to, the National Environmental Policy Act and the Endangered Species Act, and must not impair the Secretary of Interior's trust obligation to Native Americans.

BRIDGEPORT IRRIGATION DISTRICT (Irrigator)

Philip S. Anderson President — Sept 21 /11

Name and Title — Date

NORTH PLATTE NATURAL RESOURCES DISTRICT (NRD)

Ronald D Cacek — Oct 5, 2011

Ronald D. Cacek, General Manager — Date

NEBRASKA DEPARTMENT OF NATURAL RESOURCES (State)

Brian P. Dunnigan, P.E., Director — Date

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WHEREAS, the Irrigator is willing to assist the State and NRD in exchange for compensation for a portion of its operation and maintenance costs and payment for water recharged for the benefit of downstream uses; and

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B. The Irrigator further agrees not to apply to consumptive use for irrigation any of the water diverted subject to this Agreement.

C. The Irrigator represents and affirms that, in accordance with all relevant regulations, statutes, and/or procedures, the Irrigator has complied or will comply with all requirements necessary to allow it to enter into this Agreement and perform all actions herein required.

D. The Irrigator retains the right to suspend or terminate its performance under this Agreement in the event of threatened damage to any of its facilities which in its sole judgment, the continued performance of which would jeopardize the integrity of its irrigation system or adversely affect its ability to provide irrigation service during its irrigation season. In the event that the Irrigator must suspend or terminate its performance pursuant to this paragraph, then it shall notify the State and the NRD in writing.

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B. The State will notify the Irrigator at least weekly to request the amount of streamflow to be diverted over a specified period of time, not to exceed the rate specified in Paragraph II.A.

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D. The State will work with all potentially affected NRDs and surface water appropriators to provide information obtained from the project regarding any impact upon downstream flows and any estimated recharge amounts.

E. By execution of this Agreement, the State represents and affirms that it has requested and will make every effort to secure the funds for this project.

F. If the NET does not reimburse the NRD for 20% of the project costs, the State will reimburse the NRD for up to 10% of the total project costs, such that the project costs paid by the State and the NRD will be 50/50.

IV. THE NRD AGREES TO PERFORM AS FOLLOWS:

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C. The NRD, through PBHEP, will submit for reimbursement to NET, for up to 20% of the total project costs. If NET does not reimburse the NRD for its costs, the NRD will submit a request to the State for reimbursement of the costs it paid so that the total project costs are split 50/50 between the NRD and the State.

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Philip S. Anderson President — Sept 21st 2011

Name and Title — Date

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Ronald D. Cacek, General Manager — Date

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F. If the NET does not reimburse the NRD for 20% of the project costs, the State will reimburse the NRD for up to 10% of the total project costs, such that the project costs paid by the State and the NRD will be 50/50.

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BRIDGEPORT IRRIGATION DISTRICT (Irrigator)

Philip S. Anderson President — Sept 21 2011

Name and Title — Date

NORTH PLATTE NATURAL RESOURCES DISTRICT (NRD)

Ronald D. Cacek — Oct 5, 2011

Ronald D. Cacek, General Manager — Date

NEBRASKA DEPARTMENT OF NATURAL RESOURCES (State)

Brian P. Dunnigan, P.E., Director — Date

Eckles, Beth

From: Powell, Teyona
Sent: Thursday, October 20, 2011 1:12 PM
To: Eckles, Beth
Subject: FW: Waiving of CNPPID Storage adn Power Call on the North Platte River

-----Original Message-----
From: Hayden, Tom
Sent: Friday, October 14, 2011 6:02 PM
To: Thompson, Mike; Powell, Teyona
Subject: FW: Waiving of CNPPID Storage adn Power Call on the North Platte River

Mike\Teyona

E-Mail from Cory CNPPID

Thanks

Tom

-----Original Message-----
From: Cory Steinke [mailto:csteinke@cnppid.com]
Sent: Thursday, September 08, 2011 3:41 PM
To: Hayden, Tom; Schellpeper, Jennifer; Dunnigan, Brian; 'Don Kraus'; 'Mike Drain'; Schneider, Jim
Subject: Waiving of CNPPID Storage adn Power Call on the North Platte River

Tom,

This email is in response to conversations with the Department about the process of Central waiving our standing call on the North Platte River for storage and power production. Central is willing to waive its standing call on the river for diversion into the canals upstream of Lake McConaughy this fall. Please confirm that Central's call on the North Platte River is being waived until Central decides to enforce its standing call on the river or January 1, 2012, whichever comes first. Central may consider further extensions of the waiver beyond January 1 at a later date if conditions so merit.

Thanks,

Cory

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