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.

The Central Nebraska Public Power and Irrigation District
P.O. Box 740, 415 Lincoln Street
Holdrege, NE 68949-0740

E-mail address: _____ Telephone No. (308) 995-8601

Filed in the office of the Department of Natural Resources at 8:05 a.m./p.m. on August 14, 2012

Application No. A-18959

Map No. _____

Water Division 1-A

Receipt No. A-3696 Amount 10.00

Right ID 11192

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

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

3a. A permit is sought to:
☑ Use natural flow ☐ Use impounded water*

3b. A permit is sought for the purpose of:
☐ Irrigation ☐ Manufacturing ☐ Domestic
☐ Other _____
☑ Temporary** Groundwater Recharge

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

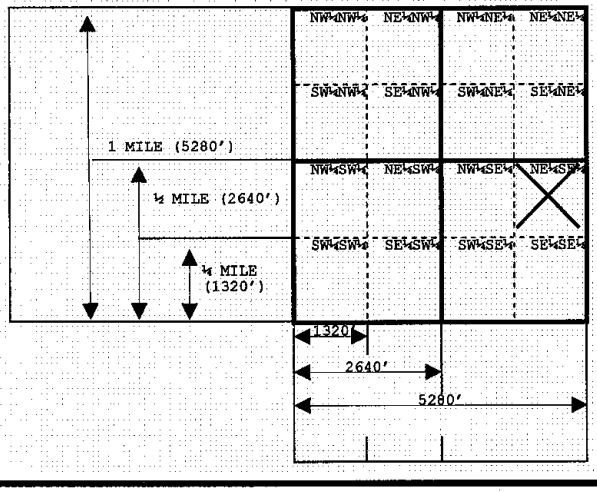
Platte River

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

Phelps Canal

5. Identify the location of the ☑ Headgate ☐ Pump

Section 3, Township 8 North, Range 21 E ☐ W ☑ County Gosper




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-08142012-11192- App (including notebook)

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. 350 cfs

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

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

12 months

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

9-1-2012

9. Will this project be constructed under a federal program, receive federal funding, or have federal planning assistance?

☐ No ☑ Yes If yes, explain: Groundwater recharge will be coordinated with the Platte River Recovery Implementation Program (PRRIP).

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.

7-11-12
Date

Don Kraus
Signature of owner or owner's authorized agent (with proper documentation)

Don Kraus, P.E., General Manager

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 |

CENTRAL

*Nebraska Public Power*
*and Irrigation District*

# APPLICATION FOR A TEMPORARY PERMIT TO APPROPRIATE WATER FOR GROUNDWATER RECHARGE ON THE PHELPS CANAL IN GOSPER AND PHELPS COUNTIES

**SUBMITTED BY**
**THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT**
**TO**
**STATE OF NEBRASKA**
**DEPARTMENT OF NATURAL RESOURCES**

**AUGUST 2012**

**IN RESPONSE TO APPROVAL OF VAR-2370**

# CNPPID's Intentions

## Temporary Permit to Appropriate Water for Groundwater Recharge on the Phelps Canal in Gosper and Phelps County

The applicant, The Central Nebraska Public Power and Irrigation District (CNPPID) intends to divert Platte River flows in excess of the U.S. Fish and Wildlife Service's Target Flows (target flows) and state protected flows (as defined in the Nebraska New Depletions Plan) for the purpose of groundwater recharge, on the Phelps Canal, for the Platte River Recovery Implementation Program (PRRIP), Nebraska Department of Natural Resources (Department), and Tri-Basin Natural Resources District (TBNRD).

Only at those times when flow in the Platte River exceeds the quantity necessary to satisfy target flows and state protected flows would diversion occur. Included with CNPPID's Petition For Leave is the Platte River Hydraulic Analysis showing that CNPPID expects unappropriated flows in the Platte River.

The hydraulic analysis and description of excess flows or unappropriated water in the Platte River is based on an assumption that, because of the Platte River Recovery Implementation Program, any new appropriations to Platte River water may be limited to only being able to divert water in excess of U.S. Fish and Wildlife Service's "Target Flows." CNPPID is unaware of any formalization of a requirement to protect Target Flows in the seeking or granting of new appropriations. Therefore, CNPPID wants to clarify that this petition requests the next available water in the Platte River based on priority and submission date and that any limitations regarding Target Flows would be those requirements that may be shared by all future appropriations, or as otherwise may be required as a matter of law.

Diversion for groundwater recharge into CNPPID's Phelps Canal would not exceed 350 cfs. The proposed area of groundwater recharge will be within the first 13.3 miles of the Phelps Canal.

REPORT

# REPORT TO ACCOMPANY

# THE

# APPLICATION FOR A TEMPORARY PERMIT TO APPROPRIATE WATER FOR GROUNDWATER RECHARGE ON THE PHELPS CANAL IN GOSPER AND PHELPS COUNTIES

## July 2012

SUBMITTED BY

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

TO

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

REPORT TO ACCOMPANY
THE
APPLICATION FOR A TEMPORARY PERMIT
TO APPROPRIATE WATER FOR GROUNDWATER RECHARGE
ON THE PHELPS CANAL
IN GOSPER AND PHELPS COUNTIES

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**EXHIBITS**


Exhibit 1 The CD contains the following documents and data:

(1) Cover Letter

(2) Petition for Leave Form

(3) Application for a Permit to Appropriate Water Form

(4) CNPPID's Intentions

(5) Report to Accompany the Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the Phelps Canal in Gosper and Phelps Counties

(6) Platte River Hydraulic Analysis Summary Document (See Exhibit 2 for the printed document.)

(7) Spreadsheet of Platte River Hydraulic Analysis of Flows in the Platte River

(8) Non-Irrigation Season Tri-County Supply Canal Diversions and J2 Return Operations

(9) The data for creating Map 1 and Map 2

Exhibit 2 A summary of the Platte River Hydraulic Analysis of Flows in the Platte River and associated spreadsheet. The data analysis is on the CD in Exhibit 1.

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| | |
|---|---|
| Exhibit 3, Part 1 | A summary of the Non-Irrigation Season Tri-County Supply Canal Diversions and J2 Return Operations. |
| Exhibit 3, Part 2 | Draft Water Service Agreement between CNPPID, Nebraska Department of Natural Resources, and Tri-Basin Natural Resources District. |
| Exhibit 3, Part 3 | Draft Water Service Agreement between CNPPID, Nebraska Community Foundation, Inc., and Platte River Recovery Implementation Program. |

**MAPS**

(Note: The data used to create the maps is on the CD in Exhibit 1.)

Map 1 CNPPID - SUPPLY CANAL AND LAKES
LINCOLN, DAWSON AND GOSPER COUNTIES
Drawing No. SC-LAKES1
Date: 11/19/98

Map 2 Phelps Canal Recharge Project Located in Gosper and Phelps County, Nebraska

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

REPORT TO ACCOMPANY
THE APPLICATION FOR A TEMPORARY PERMIT TO APPROPRIATE WATER
FOR GROUNDWATER RECHARGE ON THE PHELPS CANAL
IN GOSPER AND PHELPS COUNTIES

**Project Description**

Parties in the Platte River Basin are in need of projects that can retime excess flows in the Platte River or develop offsets for streamflow depletions. Studies have shown that recharge projects may be able to retime flows in the Platte River for beneficial uses. CNPPID has existing facilities (canals) that can accomplish these needs. However, excess river flows and canal capacities are typically only available in the non-irrigation season. This application requests a temporary water appropriation for diverting water into CNPPID's Phelps Canal in the non-irrigation season for the purpose of groundwater recharge for the Platte River Recovery Implementation Program (PRRIP), Nebraska Department of Natural Resources (Department), and Tri-Basin Natural Resources District (TBNRD)[1]. The project will use Platte River flows in excess of the U.S. Fish and Wildlife Service's Target Flows[2] and state protected flows (as defined in the Nebraska New Depletions Plan). A Platte River Hydraulic Analysis summary, which shows the availability of excess flows, and an analysis showing Supply Canal diversions are included in Exhibits 2 and 3 with the data analysis included on the CD in Exhibit 1.

CNPPID will divert surface water from the Platte River at CNPPID's Diversion Dam, near North Platte, Nebraska, through the Supply Canal into the Phelps Canal for the purpose of groundwater recharge. Because CNPPID already utilizes these same facilities for diversion under other more senior appropriations for hydropower production, no additional water would be diverted from the Platte River at the point of diversion under this appropriation. However, under this appropriation the water so diverted would then be further diverted into the Phelps Canal, rather than being returned to the Platte River at the Johnson No. 2 River Return (J2 Return) so long as excess water is available.

**Temporary Application**

CNPPID would like to take advantage of available excess flows in the Platte River and seek a temporary water right permit for the purpose of groundwater recharge for the PRRIP, Department, and TBNRD. This temporary permit request is for one year from the date that the request may be granted by the Department. The hydraulic analysis shows that the Platte River will most likely will produce flows in excess of instream flow rights and the U.S. Fish and Wildlife Service's (FWS) target flows in the non-irrigation season. This temporary right would enable CNPPID to divert those excess flows for groundwater recharge on the Phelps Canal.

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[1] Draft agreements between CNPPID, TBNRD, PRRIP, and the Department are included in Exhibit 3 to this Report.

[2] Taken from the Nebraska Depletions Plan, Platte River Recovery Implementation Program, Attachment 5, Section 8, December 7, 2005, pg 4.

## Project Facilities

CNPPID's Diversion Dam is located just below the confluence of the North Platte River and the South Platte River, approximately 50 miles downstream from Kingsley Dam. The Diversion Dam near North Platte is a combination concrete ogee spillway and radial gate structure extending 874 feet across the Platte River. The Diversion Dam diverts the natural streamflow of the North Platte River and the South Platte River and storage water releases from Lake McConaughy into the headgates of CNPPID's 75.5-mile-long Supply Canal.

The Supply Canal has a capacity of 2,250 cfs and extends from the Diversion Dam to the J2 Return, located south and east of Lexington. The Supply Canal diverts water on a year-round basis and furnishes water for CNPPID's three hydroelectric generating power plants and the cooling water for Nebraska Public Power District's Canaday Steam Plant. Jeffrey Reservoir and Johnson Reservoir are located along the Supply Canal and serve as regulating reservoirs. The Diversion Dam and Supply Canal are shown on Map 1.

The Phelps Canal is CNPPID's largest irrigation canal on the Supply Canal system. It begins at the J2 Return and consists of 56.9 miles of main canal and 235.6 miles of distribution laterals and buried pipelines. It provides water to land (56,467 irrigated acres in 2012) in Gosper, Phelps, and Kearney Counties. The Phelps Canal is shown on Map 2.

## Proposed Phelps Canal Operations

CNPPID intends to divert water into the Phelps Canal during the non-irrigation season for the purpose of groundwater recharge. The canal will be filled to normal operating levels and then a lower constant flow of around 40 cfs will be run through the canal to maintain levels. No water is intended to be released from the Phelps Canal during this recharge project, but if needed water may be released back to the Platte River through an existing unnamed drain approximately 9.7 miles from the Phelps Canal head gate. The Phelps Canal capacity is 1,000 cfs, but for the purpose of groundwater recharge, diversions shall not exceed a peak flow of 350 cfs.

CNPPID diverts water through its Supply Canal during the non-irrigation season for hydropower production. Diverting surface water for groundwater recharge only slightly modifies the operations of CNPPID's system, primarily reducing the amount of water returned to the Platte River at the J2 Return.

## Quantity and Rate of Diversions

A maximum flow of 350 cfs shall be expected for the groundwater recharge involved in this temporary permit. Flows of up to 350 cfs will be diverted to fill the canal sections. Flows will then drop to around 40 cfs to pass water through the system and cover seepage losses along the canal. The recharge operations could last from September through March if no problems are encountered with canal operations or elevated groundwater levels.

EXHIBIT 1

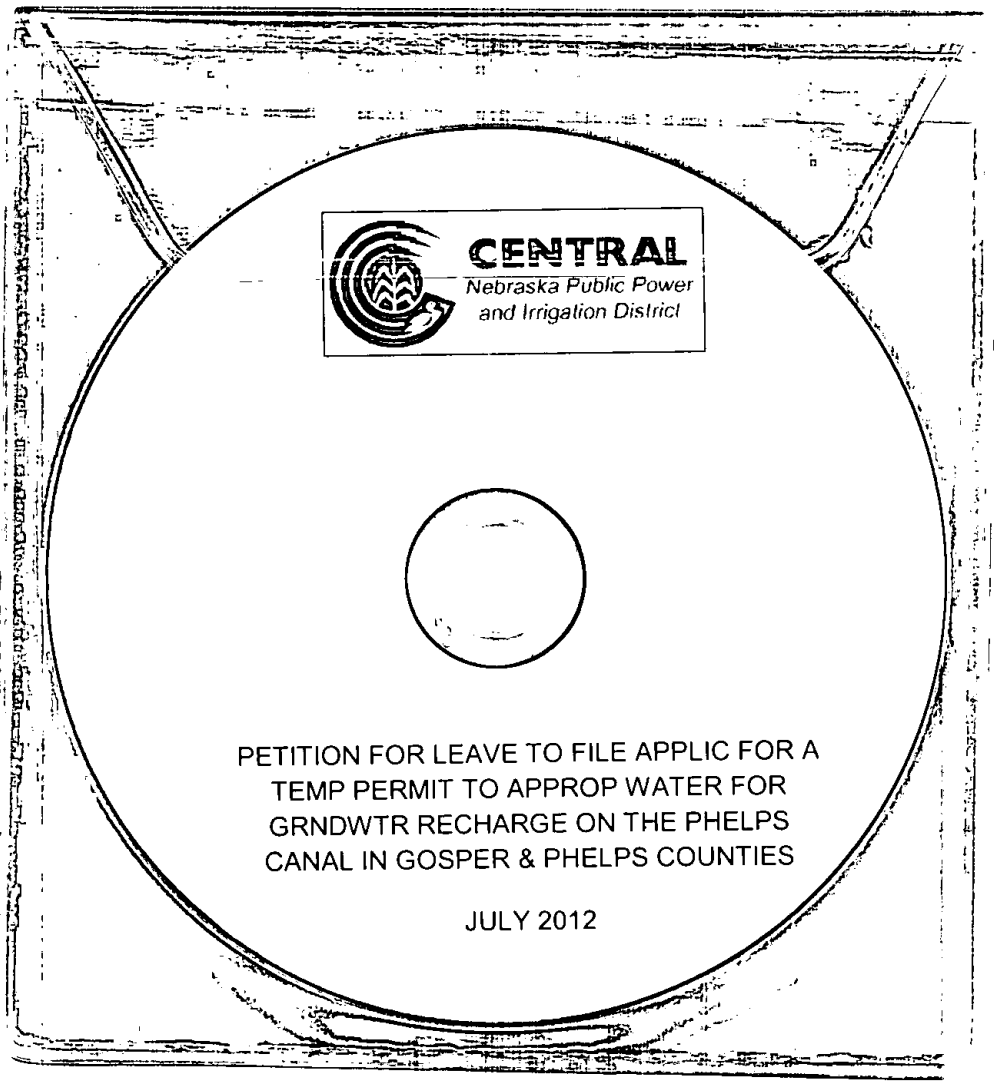

CENTRAL
Nebraska Public Power
and Irrigation District
PETITION FOR LEAVE TO FILE APPLIC FOR A
TEMP PERMIT TO APPROP WATER FOR
GRNDWTR RECHARGE ON THE PHELPS
CANAL IN GOSPER & PHELPS COUNTIES
JULY 2012

EXHIBIT 2

# Platte River Hydraulic Analysis

The Central Nebraska Public Power and Irrigation District (CNPPID) analyzed Platte River flows at Grand Island, North Bend and Louisville over the past sixteen years (1996-2011) to illustrate the availability of unappropriated water in the Platte River. CNPPID identified the U.S. Fish and Wildlife Service's Target Flows and state protected flows (as defined in the Nebraska New Depletions Plan) as flow requirements that must be exceeded prior to distinguishing unappropriated water. These flow requirements vary throughout the year with the target flows differing for type of year (wet, average, and dry) also.

For the purpose of this hydraulic analysis, CNPPID analyzed the flows in the Platte River that exceed the higher of the "wet" condition daily target flows and instreamflow appropriations (such as, Central Platte Natural Resource District's appropriations (A-17004 through A-17009), and Nebraska Game and Parks Commission's appropriations (A-17329 through A-17332)). This analysis conservatively quantifies the amount of excess water available at Grand Island because of the use of the "wet" target flow criteria. Actual conditions for most of, if not all of, the drought cycle were classified as "dry" conditions, therefore the target flows would have been lower and more unappropriated water was in the Platte River than shown in this analysis. CNPPID acknowledges that the state protected flows include Water Action Plans that may utilize some of the unappropriated water in the Platte River, but due to the uncertainty of the projects and required flows, they were not included in this analysis.

The analysis consists of sixteen years of data, 1996 to 2011, to cover a time frame that includes both wet/average years (1996 to 2001, 2009 to 2011) and dry years (2002 to 2008). The attached Platte River Hydraulic Analysis Summary shows the number of days that the Grand Island, North Bend and Louisville river flow exceeds the requirements, the annual amount of unappropriated water at each location, and the annual amount of unappropriated water available at CNPPID's J2 Return for the past sixteen-year period.

The analysis shows unappropriated water in the Platte River for all but two years at Grand Island and every year at North Bend and Louisville. It is evident that the limiting factor for available unappropriated water at the J2 Return is the flow requirements and flow conditions at Grand Island. There seems to be around one-third of the amount of unappropriated water at Grand Island as there is at North Bend and Louisville over the analyzed period.

Days of Excess at Grand Island (Using FWS "Wet" Target Flows, NGPC and CPNRD rights)

| Sum of Days of | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 24 | 7 | 8 | 2 | 14 | 17 | 27 | 30 | 29 | 20 | 18 | 31 | 227 |
| 1997 | 31 | 10 | 7 | 16 | 10 | 17 | 10 | 22 | 29 | 28 | 30 | 31 | 241 |
| 1998 | 31 | 18 | 12 | 30 | 20 | 15 | 11 | 18 | 30 | 0 | 30 | 31 | 246 |
| 1999 | 31 | 14 | 5 | 13 | 21 | 30 | 15 | 27 | 30 | 31 | 30 | 31 | 278 |
| 2000 | 31 | 15 | 15 | 17 | 9 | 7 | 8 | 1 | 0 | 0 | 12 | 10 | 125 |
| 2001 | 28 | 4 | 7 | 3 | 13 | 0 | 4 | 6 | 13 | 0 | 4 | 29 | 111 |
| 2002 | 26 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 30 |
| 2003 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| 2004 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 6 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 11 |
| 2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 3 |
| 2007 | 2 | 0 | 0 | 5 | 1 | 5 | 10 | 13 | 0 | 0 | 0 | 4 | 40 |
| 2008 | 4 | 0 | 0 | 0 | 14 | 14 | 8 | 0 | 0 | 4 | 13 | 1 | 58 |
| 2009 | 9 | 0 | 0 | 4 | 0 | 10 | 8 | 0 | 1 | 3 | 21 | 18 | 74 |
| 2010 | 30 | 4 | 14 | 0 | 12 | 18 | 31 | 27 | 24 | 0 | 15 | 31 | 206 |
| 2011 | 28 | 8 | 22 | 30 | 29 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 331 |
| Grand Total | 276 | 80 | 94 | 120 | 149 | 168 | 163 | 175 | 186 | 117 | 203 | 252 | 1983 |

Days of Excess at North Bend (Using NGPC instream flow rights)

| Sum of Days of | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 26 | 29 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 24 | 354 |
| 1997 | 31 | 28 | 31 | 30 | 31 | 30 | 20 | 22 | 30 | 31 | 30 | 31 | 345 |
| 1998 | 24 | 28 | 30 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 357 |
| 1999 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 30 | 30 | 31 | 30 | 31 | 364 |
| 2000 | 31 | 29 | 31 | 30 | 31 | 30 | 28 | 16 | 25 | 31 | 30 | 25 | 337 |
| 2001 | 31 | 28 | 31 | 30 | 31 | 28 | 20 | 18 | 29 | 31 | 30 | 26 | 333 |
| 2002 | 30 | 21 | 25 | 30 | 31 | 24 | 0 | 3 | 11 | 30 | 29 | 28 | 262 |
| 2003 | 14 | 25 | 31 | 30 | 31 | 30 | 7 | 0 | 11 | 26 | 30 | 16 | 251 |
| 2004 | 0 | 13 | 31 | 30 | 26 | 30 | 22 | 5 | 13 | 30 | 30 | 26 | 256 |
| 2005 | 15 | 28 | 31 | 30 | 31 | 30 | 10 | 12 | 13 | 28 | 27 | 24 | 279 |
| 2006 | 31 | 24 | 31 | 30 | 12 | 6 | 0 | 8 | 25 | 31 | 29 | 25 | 252 |
| 2007 | 20 | 28 | 31 | 30 | 31 | 30 | 27 | 31 | 30 | 31 | 30 | 31 | 350 |
| 2008 | 31 | 29 | 31 | 30 | 31 | 30 | 31 | 17 | 17 | 29 | 30 | 22 | 328 |
| 2009 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 7 | 341 |
| 2010 | 29 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 363 |
| 2011 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 365 |
| Grand Total | 406 | 422 | 489 | 480 | 472 | 448 | 351 | 317 | 384 | 484 | 475 | 409 | 5137 |

Days of Excess at Louisville (Using NGPC instream flow rights)

| Sum of Days o | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 22 | 26 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 25 | 348 |
| 1997 | 31 | 28 | 31 | 30 | 31 | 30 | 23 | 20 | 30 | 31 | 30 | 31 | 346 |
| 1998 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 30 | 364 |
| 1999 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 365 |
| 2000 | 31 | 29 | 31 | 30 | 31 | 30 | 30 | 5 | 1 | 17 | 30 | 28 | 293 |
| 2001 | 31 | 28 | 31 | 30 | 31 | 29 | 24 | 10 | 24 | 31 | 30 | 24 | 323 |
| 2002 | 31 | 19 | 25 | 30 | 31 | 13 | 0 | 5 | 2 | 12 | 25 | 18 | 211 |
| 2003 | 13 | 15 | 29 | 30 | 31 | 30 | 11 | 0 | 5 | 0 | 4 | 11 | 179 |
| 2004 | 3 | 14 | 31 | 28 | 17 | 30 | 22 | 0 | 9 | 4 | 30 | 18 | 206 |
| 2005 | 18 | 28 | 31 | 30 | 31 | 30 | 10 | 2 | 0 | 0 | 11 | 23 | 214 |
| 2006 | 31 | 22 | 31 | 30 | 13 | 3 | 0 | 3 | 21 | 19 | 19 | 20 | 212 |
| 2007 | 22 | 28 | 31 | 30 | 31 | 30 | 20 | 31 | 30 | 31 | 30 | 31 | 345 |
| 2008 | 31 | 29 | 31 | 30 | 31 | 30 | 31 | 28 | 28 | 31 | 30 | 25 | 355 |
| 2009 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 7 | 341 |
| 2010 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 365 |
| 2011 | 31 | 28 | 31 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 365 |
| Grand Total | 419 | 406 | 488 | 478 | 464 | 435 | 357 | 290 | 330 | 362 | 419 | 384 | 4832 |

Amount of Excess at Grand Island, af

| Sum of Excesses a | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 20033 | 6942 | 5891 | 60 | 28582 | 41296 | 27511 | 61211 | 115281 | 36873 | 51075 | 51730 | 446486 |
| 1997 | 47068 | 4364 | 7359 | 5236 | 8093 | 166138 | 44054 | 75552 | 68431 | 52226 | 101972 | 139619 | 720110 |
| 1998 | 162131 | 62044 | 41634 | 124147 | 50599 | 18784 | 14975 | 41158 | 25131 | 0 | 62282 | 64008 | 666892 |
| 1999 | 93026 | 18090 | 1924 | 6665 | 150726 | 193570 | 93661 | 135830 | 122164 | 49111 | 73647 | 115717 | 1054131 |
| 2000 | 125992 | 35425 | 22671 | 4126 | 11286 | 8727 | 9759 | 40 | 0 | 0 | 4146 | 6784 | 228955 |
| 2001 | 31438 | 1507 | 4146 | 1944 | 15769 | 0 | 2321 | 3372 | 14202 | 0 | 1408 | 17792 | 93899 |
| 2002 | 21640 | 0 | 793 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 22433 |
| 2003 | 198 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 99 | 298 |
| 2004 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 24453 | 4046 | 0 | 0 | 0 | 0 | 0 | 0 | 28499 |
| 2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1575 | 1575 |
| 2007 | 791 | 0 | 0 | 16665 | 573 | 4544 | 5038 | 9858 | 0 | 0 | 0 | 2894 | 40364 |
| 2008 | 545 | 0 | 0 | 0 | 63567 | 47550 | 14341 | 0 | 0 | 7976 | 11750 | 206 | 145936 |
| 2009 | 2182 | 0 | 0 | 5199 | 0 | 25415 | 5536 | 0 | 127 | 1035 | 26680 | 12942 | 79116 |
| 2010 | 43240 | 2817 | 24357 | 0 | 26896 | 178297 | 92887 | 30189 | 34077 | 0 | 43240 | 81324 | 557324 |
| 2011 | 65297 | 4304 | 63333 | 118455 | 136286 | 309386 | 314742 | 192300 | 203467 | 99869 | 82474 | 128237 | 1718151 |
| Grand Total | 613584 | 135493 | 172108 | 282496 | 516831 | 997754 | 624824 | 549509 | 582879 | 247091 | 458674 | 622926 | 5804169 |

Amount of Excess at North Bend, af

| Sum of Excesses a | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Row Labels | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 57918 | 173358 | 196862 | 184009 | 289492 | 384125 | 101456 | 273267 | 286814 | 250397 | 224671 | 219296 | 2641665 |
| 1997 | 147176 | 400469 | 286933 | 292348 | 203210 | 330292 | 106633 | 135136 | 167983 | 262001 | 316368 | 282946 | 2931494 |
| 1998 | 254880 | 334240 | 304705 | 520074 | 234152 | 412965 | 132200 | 145589 | 113298 | 205828 | 302603 | 194879 | 3155411 |
| 1999 | 206681 | 262794 | 276004 | 394955 | 503551 | 834399 | 316289 | 222787 | 204102 | 231950 | 253293 | 222231 | 3929036 |
| 2000 | 230205 | 200294 | 247481 | 207891 | 150548 | 99651 | 77773 | 15709 | 18506 | 95069 | 146362 | 58136 | 1547626 |
| 2001 | 91836 | 90249 | 290702 | 370756 | 312163 | 76722 | 20847 | 23782 | 74262 | 110778 | 88028 | 98263 | 1648388 |
| 2002 | 42447 | 54546 | 133946 | 124941 | 72299 | 42368 | 0 | 4066 | 6922 | 46057 | 64523 | 62123 | 654238 |
| 2003 | 19141 | 54050 | 128570 | 116788 | 206224 | 66943 | 7160 | 0 | 13944 | 20807 | 67518 | 26143 | 727290 |
| 2004 | 0 | 102468 | 165146 | 51869 | 79459 | 89555 | 83148 | 754 | 32886 | 34632 | 81363 | 54824 | 776104 |
| 2005 | 18209 | 137992 | 115777 | 138746 | 180875 | 256308 | 9600 | 11603 | 6109 | 21819 | 30744 | 149020 | 1076802 |
| 2006 | 96834 | 63492 | 108914 | 115995 | 14400 | 3134 | 0 | 9957 | 67856 | 49409 | 38658 | 56153 | 624803 |
| 2007 | 38182 | 266900 | 213206 | 279297 | 307145 | 301333 | 41336 | 176928 | 68609 | 176730 | 84914 | 112881 | 2067462 |
| 2008 | 109271 | 197775 | 187520 | 169926 | 422327 | 601972 | 130772 | 24417 | 16562 | 202496 | 134005 | 70831 | 2267874 |
| 2009 | 150369 | 199064 | 141047 | 159216 | 102130 | 219117 | 76365 | 95109 | 80649 | 163559 | 219673 | 41237 | 1647535 |
| 2010 | 69700 | 146442 | 407867 | 175203 | 182422 | 1187779 | 421097 | 140789 | 145847 | 161576 | 148961 | 137655 | 3325338 |
| 2011 | 195573 | 242384 | 338464 | 357466 | 460787 | 628789 | 462354 | 295859 | 222965 | 336283 | 240777 | 233557 | 4015259 |
| Grand Total | 1728422 | 2926515 | 3543146 | 3659478 | 3721185 | 5535453 | 1987031 | 1575752 | 1527315 | 2369390 | 2442462 | 2020175 | 33036323 |

Amount of Excess at Louisville, af

| Sum of Excesses a | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Row Labels | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 143348 | 379999 | 305221 | 276381 | 711600 | 887676 | 170859 | 638389 | 325572 | 305201 | 271581 | 209517 | 4625343 |
| 1997 | 215011 | 567876 | 463841 | 417685 | 342729 | 482229 | 202456 | 120954 | 243217 | 329479 | 342709 | 342074 | 4070261 |
| 1998 | 473918 | 424866 | 543122 | 924509 | 485144 | 930480 | 373592 | 296950 | 75135 | 221517 | 404356 | 192042 | 5345632 |
| 1999 | 205689 | 367721 | 371867 | 785605 | 967750 | 1188117 | 533462 | 343007 | 223322 | 212195 | 227031 | 254880 | 5680645 |
| 2000 | 284950 | 310398 | 282411 | 210767 | 152908 | 183295 | 158541 | 7934 | 397 | 34691 | 132081 | 55320 | 1813693 |
| 2001 | 169193 | 119407 | 591718 | 580570 | 641920 | 202218 | 52880 | 12774 | 84636 | 57978 | 64642 | 97271 | 2675206 |
| 2002 | 91439 | 50976 | 236056 | 154455 | 145867 | 76087 | 0 | 26797 | 1408 | 15689 | 20252 | 31657 | 850683 |
| 2003 | 15471 | 28166 | 136465 | 134323 | 381249 | 141503 | 22513 | 0 | 18823 | 0 | 4027 | 5415 | 887953 |
| 2004 | 2579 | 229094 | 282609 | 50222 | 211322 | 155665 | 125496 | 0 | 18863 | 1051 | 54844 | 29336 | 1161081 |
| 2005 | 32073 | 166931 | 108676 | 251349 | 309228 | 430558 | 21680 | 555 | 0 | 0 | 3888 | 124822 | 1449760 |
| 2006 | 117602 | 50778 | 110620 | 249663 | 29316 | 3213 | 0 | 4760 | 118712 | 15273 | 16205 | 61786 | 777929 |
| 2007 | 116729 | 563929 | 453726 | 498394 | 620419 | 550620 | 26242 | 378392 | 148743 | 485105 | 243812 | 194641 | 4280750 |
| 2008 | 214714 | 338564 | 434347 | 382240 | 804032 | 1478303 | 358994 | 48239 | 67518 | 423299 | 383054 | 192459 | 5125761 |
| 2009 | 422763 | 519538 | 329975 | 311727 | 183573 | 497224 | 175540 | 164690 | 179646 | 266206 | 356455 | 62460 | 3469796 |
| 2010 | 95010 | 163956 | 1013211 | 297942 | 320474 | 2821489 | 749485 | 308553 | 261941 | 223124 | 259481 | 229511 | 6744178 |
| 2011 | 319879 | 452655 | 494070 | 597232 | 755495 | 1009602 | 775350 | 371291 | 261961 | 324302 | 298834 | 293637 | 5954308 |
| Grand Total | 2920367 | 4734853 | 6157934 | 6123065 | 7063025 | 11038277 | 3747089 | 2723286 | 2029894 | 2915110 | 3083252 | 2376828 | 54912979 |

Excesses available at J2 on days of Excess at Grand Island, af

| Sum of Available E | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 20033 | 6942 | 5891 | 60 | 24734 | 31115 | 26515 | 53257 | 74857 | 35961 | 46037 | 51730 | 377133 |
| 1997 | 43530 | 4364 | 7359 | 5236 | 8093 | 23584 | 922 | 39868 | 62189 | 51087 | 83966 | 111506 | 441704 |
| 1998 | 92356 | 54407 | 33700 | 88702 | 41747 | 16019 | 13083 | 34008 | 25069 | 0 | 62282 | 64008 | 525380 |
| 1999 | 76771 | 18090 | 1924 | 6665 | 44981 | 79260 | 20583 | 63049 | 80158 | 47452 | 71503 | 108385 | 618819 |
| 2000 | 113182 | 33366 | 21303 | 4126 | 9750 | 7815 | 9193 | 40 | 0 | 0 | 3466 | 5990 | 208231 |
| 2001 | 31438 | 1507 | 4146 | 1944 | 15327 | 0 | 2321 | 3372 | 14202 | 0 | 1210 | 17792 | 93259 |
| 2002 | 21640 | 0 | 793 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 22433 |
| 2003 | 198 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 198 |
| 2004 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 2633 | 4046 | 0 | 0 | 0 | 0 | 0 | 0 | 6680 |
| 2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2007 | 0 | 0 | 0 | 7008 | 573 | 3661 | 5027 | 6784 | 0 | 0 | 0 | 1117 | 24169 |
| 2008 | 347 | 0 | 0 | 0 | 6033 | 3537 | 6015 | 0 | 0 | 381 | 8856 | 0 | 25169 |
| 2009 | 1587 | 0 | 0 | 2677 | 0 | 20056 | 5275 | 0 | 127 | 133 | 26352 | 12942 | 69148 |
| 2010 | 41181 | 2817 | 17015 | 0 | 20876 | 48286 | 61817 | 30025 | 34077 | 0 | 43240 | 79167 | 378501 |
| 2011 | 58465 | 4304 | 50598 | 93417 | 65896 | 79904 | 55627 | 59383 | 97319 | 85194 | 76679 | 98188 | 824975 |
| Grand Total | 500728 | 125798 | 142730 | 209833 | 240643 | 317283 | 206378 | 289786 | 387998 | 220207 | 423591 | 550825 | 3615800 |

Excesses available at J2 on days of Excess at North Bend, af

| Sum of Available E | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 44732 | 76127 | 79437 | 84184 | 55373 | 71646 | 42308 | 63224 | 95724 | 90160 | 102269 | 69260 | 874444 |
| 1997 | 74558 | 92147 | 102503 | 93403 | 78394 | 58779 | 1041 | 39831 | 89474 | 101121 | 107510 | 111506 | 950267 |
| 1998 | 78626 | 104193 | 94046 | 93998 | 81575 | 64168 | 29508 | 48027 | 89699 | 108060 | 112421 | 86196 | 990518 |
| 1999 | 90798 | 101874 | 93099 | 83750 | 86946 | 80930 | 27866 | 68547 | 89221 | 108349 | 110035 | 112468 | 1053884 |
| 2000 | 115012 | 103160 | 97088 | 86623 | 62658 | 43631 | 23586 | 6668 | 15619 | 41691 | 46755 | 37349 | 679840 |
| 2001 | 59954 | 61863 | 52466 | 55099 | 34920 | 18145 | 10614 | 16862 | 47800 | 39689 | 17320 | 41128 | 455859 |
| 2002 | 37548 | 28166 | 31841 | 22325 | 9549 | 7851 | 0 | 533 | 4760 | 10093 | 12618 | 21175 | 186459 |
| 2003 | 10528 | 18532 | 19515 | 16271 | 8326 | 2510 | 0 | 0 | 199 | 0 | 13796 | 7461 | 97138 |
| 2004 | 0 | 12186 | 14659 | 0 | 0 | 0 | 0 | 0 | 0 | 4211 | 14935 | 12945 | 58936 |
| 2005 | 10005 | 20265 | 16892 | 16299 | 5712 | 34889 | 0 | 0 | 2360 | 10522 | 12614 | 15262 | 144821 |
| 2006 | 19977 | 9119 | 28993 | 8662 | 5 | 1 | 0 | 0 | 1968 | 14622 | 11963 | 14447 | 109756 |
| 2007 | 8002 | 26711 | 37022 | 36009 | 23085 | 31173 | 21433 | 16875 | 1454 | 18010 | 16104 | 21934 | 257811 |
| 2008 | 23090 | 25031 | 22733 | 22096 | 25055 | 3872 | 20631 | 8358 | 1 | 32675 | 34201 | 4431 | 222175 |
| 2009 | 24596 | 24999 | 15028 | 51463 | 15108 | 40635 | 12407 | 0 | 24507 | 45573 | 67526 | 10824 | 332667 |
| 2010 | 50336 | 42818 | 55220 | 35362 | 74409 | 81999 | 64956 | 63583 | 100965 | 102897 | 107465 | 85681 | 865691 |
| 2011 | 76546 | 77200 | 92363 | 93417 | 86196 | 79904 | 55627 | 59383 | 97319 | 109966 | 101368 | 98188 | 1027478 |
| Grand Total | 724308 | 824391 | 852906 | 798959 | 647310 | 620131 | 309979 | 391891 | 661071 | 837641 | 888900 | 750256 | 8307743 |

Excesses available at J2 on days of Excess at Louisville, af

| Sum of Available E | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Grand Total |
| 1996 | 51067 | 74330 | 84753 | 84184 | 55373 | 71646 | 42473 | 63224 | 95724 | 90160 | 104887 | 72295 | 890115 |
| 1997 | 74669 | 92147 | 102503 | 93403 | 78394 | 58779 | 2596 | 37443 | 90025 | 101121 | 107510 | 111506 | 950097 |
| 1998 | 97810 | 104193 | 100889 | 93998 | 81575 | 64168 | 29604 | 51068 | 64361 | 107787 | 112421 | 88757 | 996632 |
| 1999 | 90798 | 101874 | 93099 | 83750 | 86946 | 80930 | 27876 | 70197 | 89221 | 108349 | 110035 | 109705 | 1052780 |
| 2000 | 114962 | 103160 | 97088 | 86623 | 62658 | 43402 | 26824 | 3564 | 397 | 18075 | 45539 | 41193 | 643484 |
| 2001 | 61527 | 61863 | 52639 | 55099 | 34920 | 18420 | 13655 | 9991 | 43416 | 30732 | 15862 | 44992 | 443115 |
| 2002 | 46731 | 26777 | 31444 | 22325 | 9549 | 3351 | 0 | 315 | 299 | 2112 | 7810 | 15861 | 166575 |
| 2003 | 9428 | 8839 | 17689 | 16798 | 8326 | 2510 | 0 | 0 | 0 | 0 | 0 | 3227 | 66817 |
| 2004 | 912 | 12384 | 14659 | 0 | 0 | 0 | 0 | 0 | 0 | 337 | 13764 | 10517 | 52574 |
| 2005 | 10912 | 20265 | 16892 | 16299 | 5712 | 34889 | 0 | 0 | 0 | 0 | 2214 | 15262 | 122445 |
| 2006 | 19977 | 8168 | 28993 | 8662 | 5 | 1 | 0 | 0 | 1810 | 4582 | 5312 | 10679 | 88188 |
| 2007 | 9983 | 26711 | 37022 | 36009 | 23085 | 31173 | 12175 | 15214 | 1454 | 18010 | 17361 | 21934 | 250131 |
| 2008 | 25372 | 25031 | 23046 | 22096 | 25055 | 3872 | 21384 | 10692 | 2399 | 34350 | 34201 | 5542 | 233040 |
| 2009 | 24596 | 24999 | 17353 | 52942 | 15108 | 40635 | 13138 | 0 | 24507 | 45573 | 67526 | 10824 | 337202 |
| 2010 | 57740 | 42818 | 55220 | 36274 | 74409 | 81999 | 64956 | 63583 | 102483 | 103401 | 107465 | 96019 | 886367 |
| 2011 | 77296 | 82136 | 92363 | 93417 | 86196 | 79904 | 55627 | 59383 | 97319 | 109966 | 101368 | 98188 | 1033164 |
| Grand Total | 773781 | 815696 | 865653 | 801878 | 647310 | 615678 | 310309 | 384674 | 613415 | 774556 | 853276 | 756502 | 8212727 |

Available Excesses at J2 for Each Location

| | Location | | |
|---|---|---|---|
| Year | Grand Island | North Bend | Louisville |
| 1996 | 377133 | 874444 | 890115 |
| 1997 | 441704 | 950267 | 950097 |
| 1998 | 525380 | 990518 | 996632 |
| 1999 | 618819 | 1053884 | 1052780 |
| 2000 | 208231 | 679840 | 643484 |
| 2001 | 93259 | 455859 | 443115 |
| 2002 | 22433 | 186459 | 166575 |
| 2003 | 198 | 97138 | 66817 |
| 2004 | 0 | 58936 | 52574 |
| 2005 | 6680 | 144821 | 122445 |
| 2006 | 0 | 109756 | 88188 |
| 2007 | 24169 | 257811 | 250131 |
| 2008 | 25169 | 222175 | 233040 |
| 2009 | 69148 | 332667 | 337202 |
| 2010 | 378501 | 865691 | 886367 |
| 2011 | 824975 | 1027478 | 1033164 |
| Grand Total | 3615800 | 8307743 | 8212727 |

# EXHIBIT 3

**Non-Irrigation Season**
**Tri-County Supply Canal Diversions and J2 Return Operations**

*Platte River Diversion Operations and Data*

The Central Nebraska Public Power and Irrigation District (CNPPID) diverts water from the Platte River east of the city of North Platte, Nebraska. CNPPID holds permits to divert natural flow and storage water from the Platte River into the Supply Canal for the purposes of irrigation, power production and instream flows for fish and wildlife. CNPPID normally diverts all water that is available at the Diversion Dam into the Supply Canal up to a 2,250 cfs capacity and all remaining water is passed downstream of the Diversion Dam into the Platte River. Tables 1 and 2 show historic non-irrigation season (September through March) diversions into the Supply Canal and flows passing the Diversion Dam.

Table 1 Non-Irrigation Season Supply Canal Diversions

| Supply Canal Diversion, af | | | | | | | |
|---|---|---|---|---|---|---|---|
| Water Year | October | November | December | January | February | March | September |
| 1991 | 42163 | 39757 | 41190 | 53640 | 72320 | 63478 | 65362 |
| 1992 | 52345 | 55492 | 58890 | 67370 | 85830 | 125167 | 74407 |
| 1993 | 54445 | 54967 | 69510 | 79380 | 81760 | 129999 | 77575 |
| 1994 | 104828 | 88982 | 102450 | 96970 | 91010 | 90741 | 53499 |
| 1995 | 61861 | 52103 | 60980 | 63060 | 56970 | 61772 | 129503 |
| 1996 | 131308 | 120617 | 92480 | 91140 | 99300 | 117356 | 130078 |
| 1997 | 116471 | 123731 | 100620 | 94460 | 109520 | 133351 | 131328 |
| 1998 | 135057 | 126349 | 131060 | 122370 | 122260 | 132180 | 129999 |
| 1999 | 134541 | 126944 | 108240 | 107130 | 115580 | 126646 | 131109 |
| 2000 | 134957 | 129899 | 131260 | 133811 | 125845 | 130832 | 70135 |
| 2001 | 61479 | 63325 | 56212 | 75908 | 76594 | 72552 | 71356 |
| 2002 | 42768 | 45160 | 64780 | 61810 | 53970 | 61389 | 42318 |
| 2003 | 40926 | 39267 | 38330 | 39320 | 35550 | 40473 | 31968 |
| 2004 | 19895 | 19418 | 21166 | 24234 | 28398 | 30984 | 31930 |
| 2005 | 21033 | 25268 | 27648 | 29094 | 26175 | 29725 | 25446 |
| 2006 | 27590 | 25052 | 30626 | 32806 | 27000 | 36790 | 23836 |
| 2007 | 28503 | 26807 | 28934 | 28779 | 35585 | 42923 | 24413 |
| 2008 | 27882 | 26317 | 28853 | 34557 | 33283 | 32367 | 29570 |
| 2009 | 42471 | 32034 | 27532 | 36086 | 32490 | 32158 | 48867 |
| 2010 | 69282 | 79872 | 57991 | 79266 | 55678 | 91164 | 130820 |
| 2011 | 134805 | 128795 | 118111 | 91826 | 93161 | 132970 | 131367 |

Table 2 Non-Irrigation Season Flow Passing Tri-County Diversion

| Flows Passing the Tri-County Diversion Dam, af | | | | | | | |
|---|---|---|---|---|---|---|---|
| Water Year | October | November | December | January | February | March | September |
| 1991 | 0 | 0 | 7570 | 3460 | 3830 | 0 | 0 |
| 1992 | 0 | 0 | 3490 | 3250 | 3690 | 0 | 0 |
| 1993 | 0 | 0 | 3380 | 14160 | 6890 | 0 | 0 |
| 1994 | 0 | 0 | 3050 | 9230 | 6430 | 0 | 0 |
| 1995 | 0 | 0 | 2960 | 3760 | 3100 | 3490 | 39770 |
| 1996 | 19900 | 6170 | 4530 | 9440 | 16560 | 13654 | 94210 |
| 1997 | 35910 | 6090 | 13290 | 13490 | 5070 | 21040 | 57370 |
| 1998 | 70260 | 76150 | 63080 | 70930 | 48770 | 77170 | 75313 |
| 1999 | 4245 | 5312 | 16410 | 45220 | 0 | 0 | 145061 |
| 2000 | 83134 | 39599 | 42050 | 51972 | 43603 | 25813 | 0 |
| 2001 | 10 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2002 | 0 | 0 | 0 | 244 | 0 | 0 | 103 |
| 2003 | 0 | 0 | 6 | 0 | 0 | 6 | 0 |
| 2004 | 0 | 516 | 0 | 0 | 0 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2006 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2007 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2008 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2009 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2010 | 0 | 0 | 1259 | 2153 | 1002 | 175 | 26843 |
| 2011 | 13248 | 6817 | 9303 | 10336 | 14870 | 92034 | 167891 |

Winter diversions into the Supply Canal are typically for power production uses. If the Environmental Account Manager wishes to release Environmental Account water in the non-irrigation season, CNPPID would also divert that water if possible into the Supply Canal. Water only passes the Tri-County Diversion Dam if the Supply Canal is diverting at capacity, icing or maintenance issues exists along the Supply Canal, or if CNPPID is in an agreement with another agency to intentionally bypass water past the Supply Canal. The temporary permit request will not change any of CNPPID's historic or future diversion operations. CNPPID will continue to divert all flows possible and pass any remaining flows down the Platte River. This temporary permit only affects the amount of water that will be returned to the Platte River at the J2 Return.

*Reduction of J2 Return Flows*

CNPPID is requesting to divert excess flows into the Phelps Canal in this temporary permit request. Excess flows are flows in the Platte River that are in excess of target flow requirements

established by the U.S. Fish and Wildlife Service (FWS) for the Platte River Recovery and Implementation Program (PRRIP) and in excess of that needed by existing surface water appropriations. A hydraulic analysis is included in this packet that illustrates that excess flows at the J2 Return are present. The Department also has published a report, "Evaluation of Historic Platte River Streamflow in Excess of State Protected Flows and Target Flows", which also shows the presence of excess flows at the J2 return. Since the permit accompanying this temporary request is only requesting to divert into the Phelps Canal at times when excess flows are present and diversions are not to exceed the amount of excess flows present at any given time, any depletion to J2 Return during times of diversion under this temporary permit would not cause harm to any existing surface water appropriations or target flows.

*Expected Benefits*

The permit associated with this temporary request is for the diversion of natural flow into the Phelps Canal for the purpose of groundwater recharge for the PRRIP, Department, and TBNRD. Expected benefits of these diversions are to help reduce the shortages to FWS target flows and assist local Natural Resources Districts and the State of Nebraska in offsetting the impacts of some of the uses which have occurred subsequent to 1997, as required by the PRRIP and LB962.

The PRRIP was developed on January 1, 2007, by the governors of Nebraska, Colorado and Wyoming and the U.S. Secretary of the Interior to provide defined benefits for four threatened or endangered species using the Platte River Basin. LB962 was adopted by the Nebraska Legislature in 2004 calling for the management, conservation, and beneficial use of hydrologically connected groundwater and surface water. LB962 requires the development of integrated management plans and offsets for streamflow depletions caused by post July 1, 1997, uses with additional offsets that may be needed to return overappropriated basins to fully appropriated conditions.

**DRAFT**

**WATER SERVICE AGREEMENT – INTENTIONAL GROUNDWATER RECHARGE FROM EXCESS FLOWS**

**BETWEEN**

**THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT,**
**NEBRASKA DEPARTMENT OF NATURAL RESOURCES**
**AND**
**TRI-BASIN NATURAL RESOURCES DISTRICT**

THIS AGREEMENT made and entered into this _____ day of _____, 2012, by and between The Central Nebraska Public Power and Irrigation District, a public corporation and political subdivision of the State of Nebraska, with its principal office located at 415 Lincoln Street, P.O. Box 740, Holdrege, NE 68949-0740, hereinafter referred to as "Central" and Tri-Basin Natural Resources District, a political subdivision of the State of Nebraska, with its principal office located at 1723 North Burlington Street, Holdrege, NE 68949, hereinafter referred to as "Tri-Basin", and the State of Nebraska, acting by and through the Nebraska Department of Natural Resources, with its principal office located at 301 Centennial Mall South, Lincoln, NE 68509-4676, hereinafter referred to as "State ". Sometimes hereinafter Central, State and Tri-Basin shall be collectively referred to as "Parties" or individually as "Party".

WITNESSETH:

WHEREAS, Central is the owner of the Phelps Canal as shown on Exhibit A; and

WHEREAS, Central filed in July of 2012 with the Nebraska Department of Natural Resources (hereinafter "DNR") a "Petition for Leave to File an Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the Phelps Canal in Gosper and Phelps Counties" (hereinafter "Appropriation"); and

WHEREAS, the State and Tri-Basin have jointly developed and agreed to implement an Integrated Management Plan, which plan includes investigating projects to enhance and improve water supply, including intentional groundwater recharge projects; and

WHEREAS, the State and Tri-Basin participate in the Platte Basin Water Project Coalition Interlocal Cooperation Agreement, hereinafter referred to as the "Coalition" and through the Coalition are willing to provide compensation for intentional groundwater recharge projects; and

WHEREAS, the State and Tri-Basin desire Central to provide intentional groundwater recharge for purposes of studying groundwater recharge, sustaining groundwater supplies for the benefit of Tri-Basin's constituents, and implementing the State/Tri-Basin joint Integrated Management Plan (IMP); and

WHEREAS, Central desires to provide such recharge services;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and agreements herein contained and the terms and conditions hereinafter set forth, it is hereby covenanted and agreed:

1. WATER SERVICE.

a. During the term of this Agreement, Central will provide the State and Tri-Basin with groundwater recharge via seepage through the Phelps Canal for the purposes described above equal to fifty percent (50%) of

the Total Amount Diverted, as hereinafter defined, up to a maximum total of 7,500 acre feet of water in the non-irrigation season. The Total Amount Diverted shall be measured by Central using the Phelps Canal measuring flume located at milepost 1.6 on the Phelps Canal (including water diverted and not available for recharge because of evaporation). The Total Amount Diverted will be adjusted by subtracting any deliveries or releases made by Central from the Phelps Canal and for the difference in storage in the canal at the end of the irrigation season (likely early September, 2012), at the end of each subsequent quarter or billing period, and at the beginning of the next irrigation season (likely mid-April 2013). The non-irrigation season will begin when Central stops releasing water into sections of the Phelps Canal for irrigation and end when Central begins releasing water into sections of the Phelps Canal for irrigation, as determined by Central.

b. Central may make reasonable adjustments in the Total Amount Diverted as necessary to account for similar operations from other water sources, or for other reasons as may be appropriate. Central shall consult with the State and Tri-Basin in making such adjustments. All data used by Central regarding the Total Amount Diverted calculations shall be shared with the State and Tri-Basin.

2. WATER SERVICE CHARGES. The State and Tri-Basin shall together pay Central for the water service described above as follows:

a. A Water Service Charge of twenty five dollars ($25.00) per acre-foot for the State and Tri-Basin's 50% share of the Total Amount Diverted, adjusted according to provisions in paragraph 1 above. All measurements made through Central's measuring device and so recorded by Central operating personnel shall be considered final. Central shall separately invoice the State and Tri-Basin for the water service charges quarterly beginning October 1, 2012. Payment shall be due within 60 days of invoice.

b. The State and Tri-Basin will divide the total costs according to the provisions of the Coalition interlocal cooperative agreement.

3. TERM. The term of this Agreement shall commence when this Agreement is signed by the Parties (the "Commencement Date"), and shall expire on August 15, 2013.

4. DATA SHARING. The Parties agree to share all hydraulic and hydrologic data collected in association with this Agreement.

5. WATER APPROPRIATIONS. The source of supply shall be water which is available pursuant to the Appropriation. Tri-Basin shall cooperate, as reasonably necessary, to help Central to obtain the DNR's approval of the Appropriation. The water service described herein shall be subject to the DNR approving such Appropriation. The water delivered pursuant to this Agreement shall be consistent with and limited to the terms and provisions of the Appropriation.

6. FORCE MAJEURE. Central shall not be liable for any delay or failure to perform its obligations under this Agreement caused by an event or condition beyond the reasonable control of, and without the fault or negligence of Central, including, without limitation, failure of facilities, flood, earthquake, storm, lightning, fire, severe cold or other weather event, epidemic, contamination, war, terrorist act, riot, civil disturbance, labor disturbance, accidents, sabotage, or restraint by court or restrictions by other public authority which delays or prevents performance (including but not limited to the adoption or change in any rule, policy, or regulation or environmental constraints imposed by federal, state or local governments), which Central could not reasonably have avoided by exercise of due diligence and foresight. Upon the occurrence of such an event or condition, the obligations of Central under this Agreement shall be excused and suspended without penalty or damages, provided that Central shall give the State and Tri-Basin prompt written notice describing the particulars of the occurrence or condition, the suspension of performance is of no greater scope and of no longer duration than is

required by the event or condition, and Central proceeds with reasonable diligence to remedy its inability to perform and provides progress reports to the State and Tri-Basin describing the actions taken to remedy the consequences of the event or condition.

7. DEFAULT. If any Party to this Agreement fails to perform or otherwise breaches any of the terms of this Agreement, then such failure shall constitute a default. In the event of default by any Party, the non-defaulting Party/s shall give written notice of the default to the defaulting Party. Following such written notice, the defaulting Party may cure the default within thirty (30) days. Upon cure, this Agreement shall remain in full force and effect. If the defaulting Party fails to cure, the non-defaulting Party/s shall be entitled to any and all legal and equitable remedies except Central's total liability to the State and Tri-Basin for any loss or damage, including but not limited to special and consequential damages, arising out of or in connection with the performance of this Agreement shall not exceed either the amount of Water Service Charges paid by the State and Tri-Basin to Central pursuant to this Agreement or $50,000, whichever is less. The State and Tri-Basin hereby release and hold harmless Central from any liability above such amount. Central hereby releases and holds harmless State and Tri-Basin from any liability above such amount except that such release by Central shall not apply to Water Service Charges due Central by the State or Tri-Basin under this Agreement.

8. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties hereto with respect to the water service contemplated hereby and supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

9. AMENDMENT. No amendment to this Agreement shall be valid unless it is in writing and signed by the Parties hereto.

10. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding on the Parties, their successors and assigns. This Agreement may not be assigned by State orTri-Basin without the written consent of Central.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of Nebraska.

12. FUNDING. By execution of this Agreement, the State represents and affirms that it has requested and will make every effort to secure funds for this project. Should the anticipated source of funding no longer be available, the State will use its best efforts to secure alternative sources of funding.

13. LAWS. In executing this Agreement, each Party shall be responsible for its compliance with all applicable state and federal laws.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the date first stated above.

TRI-BASIN NATURAL RESOURCES DISTRICT,

By _____
General Manager

THE STATE OF NEBRASKA,
ACTING BY AND THROUGH HE NEBRASKA
DEPARTMENT OF NATURAL RESOURCES,

By _____
Director

THE CENTRAL NEBRASKA PUBLIC POWER AND
IRRIGATION DISTRICT,

By _____
General Manager

# DRAFT

## WATER SERVICE AGREEMENT – RECHARGE FROM EXCESS FLOWS BETWEEN THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT, NEBRASKA COMMUNITY FOUNDATION, INC. and PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

THIS AGREEMENT made and entered into this _____ day of _____, 2012, by and between **The Central Nebraska Public Power and Irrigation District**, a public corporation and political subdivision of the State of Nebraska, with its principal office located at 415 Lincoln Street, P.O. Box 740, Holdrege, NE 68949-0740, hereinafter referred to as "Central" and the **Nebraska Community Foundation, Inc. (representing all signatories to the Platte River Recovery Implementation Program)**, a Nebraska non-profit corporation, with its principal office located at 3833 South 14th Street, Lincoln, Nebraska 68501-3107, hereinafter referred to as "Foundation," and the **Platte River Recovery Implementation Program**, with its principal office located at 4111 4th Avenue, Suite 6, Kearney, Nebraska 68845, hereinafter referred to as "Platte Program," (jointly referred to as "Parties" and individually as "Party."

WITNESSETH:

WHEREAS, Central is the owner of the Phelps Canal as shown on Exhibit A; and

WHEREAS, Central filed in July of 2012 with the Nebraska Department of Natural Resources (hereinafter "DNR") a "Petition for Leave to File an Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the Phelps Canal in Gosper and Phelps Counties" (hereinafter "Appropriation"); and

WHEREAS, the Platte Program desires Central to augment Platte River stream flows via groundwater recharge; and

WHEREAS, Central desires to provide such recharge services.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and agreements herein contained and the terms and conditions hereinafter set forth, it is hereby covenanted and agreed:

1. WATER SERVICE.

a. During the term of this Agreement, Central will provide the Platte Program with groundwater recharge via seepage through the Phelps Canal for the purposes described above equal to fifty percent (50%) of the Total Amount Diverted, as hereinafter defined, up to a maximum total of 7,500 acre-feet of water in the non-irrigation season. The Total Amount Diverted shall be measured by Central using the Phelps Canal measuring flume located at milepost 1.6 on the Phelps Canal (including water diverted and not available for recharge because of evaporation). The Total Amount Diverted will be adjusted by subtracting any deliveries or releases made by Central from the Phelps Canal and for the difference in storage in the canal at the end of the irrigation season (likely early September, 2012), at the end of each subsequent quarter or billing period, and at the beginning of the next irrigation season (likely mid-April, 2013). The non-irrigation season will begin when Central stops releasing water into sections of the Phelps Canal for irrigation and end when Central begins releasing water into sections of the Phelps Canal for irrigation, as determined by Central.

b. Central may make reasonable adjustments in the Total Amount Diverted as necessary to account for similar operations from other water sources, or for other reasons as may be appropriate. Central shall consult with

the Platte Program in making such adjustments. All data used by Central regarding the Total Amount Diverted calculations shall be shared with the Platte Program.

2. WATER SERVICE CHARGES. Foundation shall pay Central for the water service described above as follows:

a. A Water Service Charge of twenty five dollars ($25.00) per acre-foot for the Platte Program's 50% share of the Total Amount Diverted, adjusted according to provisions in paragraph 1 above. All measurements made through Central's measuring device and so recorded by Central operating personnel shall be considered final. Central shall invoice the Foundation for the water service charges quarterly beginning October 1, 2012. Payment shall be due within 60 days of invoice.

3. TERM. The term of this Agreement shall commence when this Agreement is signed by the Foundation, the Platte Program, and Central (the "Commencement Date"), and shall expire on August 15, 2013.

4. DATA SHARING. Central and the Platte Program agree to share all hydraulic and hydrologic data collected in association with this Agreement.

5. WATER APPROPRIATIONS. The source of supply shall be water which is available pursuant to the Appropriation. The water service described herein shall be subject to the DNR approving such Appropriation. The water delivered pursuant to this Agreement shall be consistent with and limited to the terms and provisions of the Appropriation.

6. FORCE MAJEURE. Central shall not be liable for any delay or failure to perform its obligations under this Agreement caused by an event or condition beyond the reasonable control of, and without the fault or negligence of Central, including, without limitation, failure of facilities, flood, earthquake, storm, lightning, fire, severe cold or other weather event, epidemic, contamination, war, terrorist act, riot, civil disturbance, labor disturbance, accidents, sabotage, or restraint by court or restrictions by other public authority which delays or prevents performance (including but not limited to the adoption or change in any rule, policy, or regulation or environmental constraints imposed by federal, state or local governments), which Central could not reasonably have avoided by exercise of due diligence and foresight. Upon the occurrence of such an event or condition, the obligations of Central under this Agreement shall be excused and suspended without penalty or damages, provided that Central shall give the Platte Program prompt written notice describing the particulars of theoccurrence or condition, the suspension of performance is of no greater scope and of no longer duration than is required by the event or condition, and Central proceeds with reasonable diligence to remedy its inability to perform and provides progress reports to the Platte Program describing the actions taken to remedy the consequences of the event or condition.

7. DEFAULT. If any Party to this Agreement fails to perform or otherwise breaches any of the terms of this Agreement, then such failure shall constitute a default. In the event of default by any Party, the non-defaulting Party/s shall give written notice of the default to the defaulting Party. Following such written notice, the defaulting Party may cure the default within thirty (30) days. Upon cure, this Agreement shall remain in full force and effect. If the defaulting Party fails to cure, the non-defaulting Party/s shall be entitled to any and all legal and equitable remedies except Central's total liability to the Platte Program and Foundation for any loss or damage, including but not limited to special and consequential damages, arising out of or in connection with the performance of this Agreement shall not exceed either the amount of Water Service Charges paid by the Foundation to Central pursuant to this Agreement or $50,000, whichever is less. The Platte Program and Foundation hereby release and hold harmless Central from any liability above such amount. Central hereby releases and holds harmless the Platte Program and Foundation from any liability above such amount except that such release by Central shall not apply to Water Service Charges due Central by the Platte Program and

Foundation under this Agreement.

8. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties hereto with respect to the water service contemplated hereby and supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

9. AMENDMENT. No amendment to this Agreement shall be valid unless it is in writing and signed by the Parties hereto.

10. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding on the Parties, their successors and assigns. This Agreement may not be assigned by the Platte Program or the Foundation without the written consent of Central.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the date first stated above.

NEBRASKA COMMUNITY FOUNDATION, INC.

Date _____ By _____
Diane M. Wilson
Chief Financial and Administrative Officer

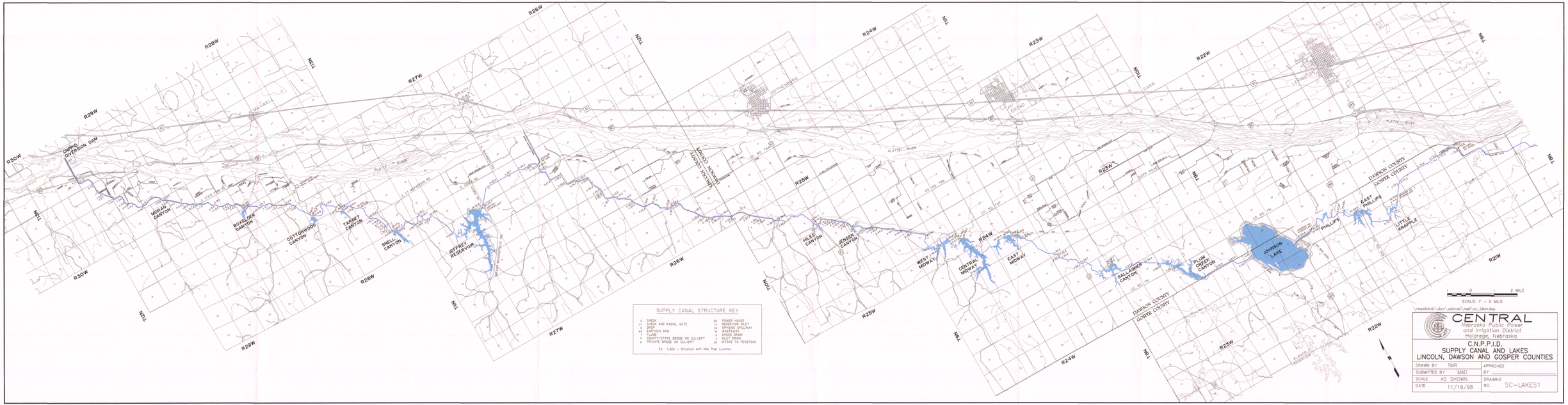
PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM – Office of the Executive Director

Date _____ By _____
Jerry F. Kenny, Ph.D.
Executive Director

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT,

Date _____ By _____
Don D. Kraus
General Manager

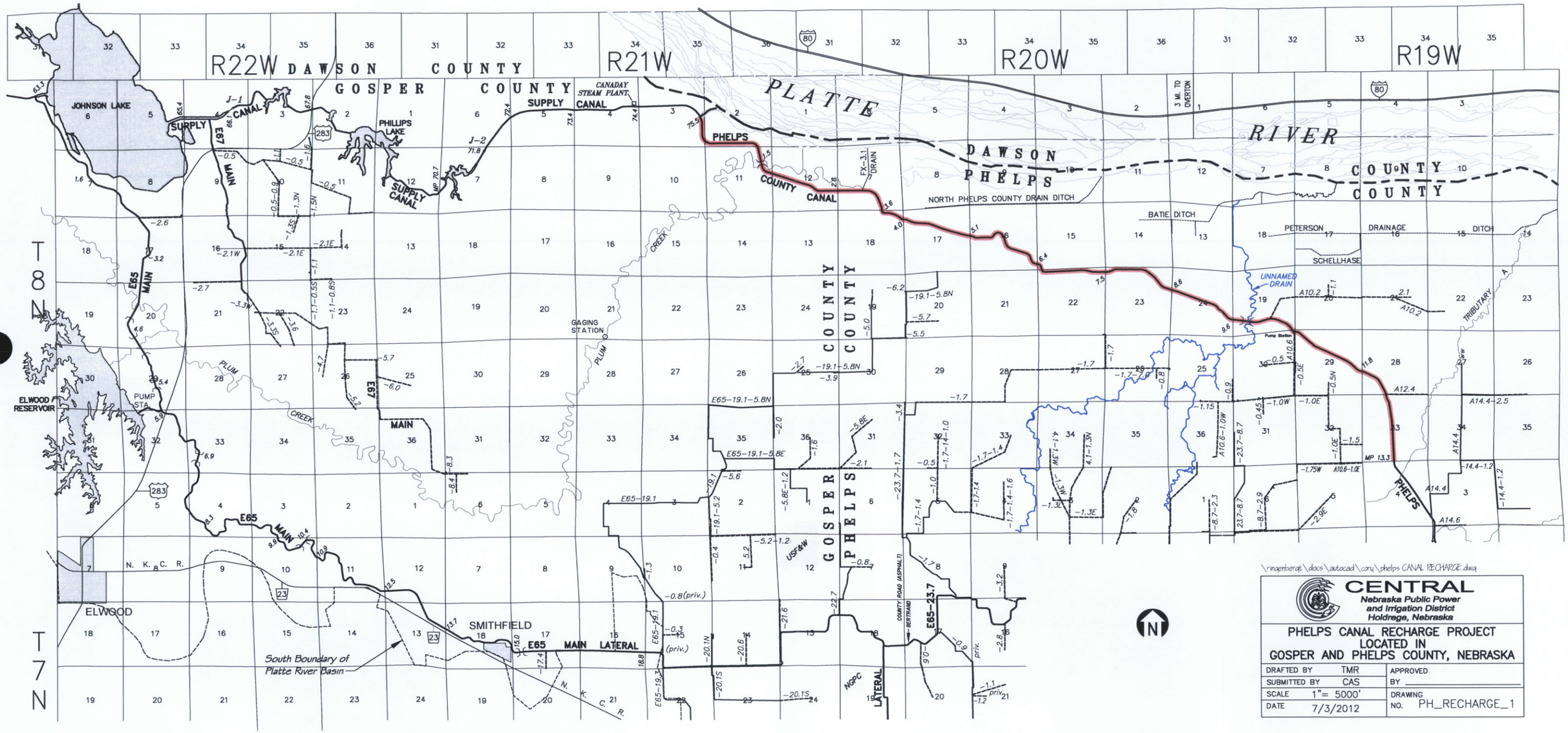
MAP 1



CNPPID DIVERSION DAM
MORAN CANYON
BOXELDER CANYON
COTTONWOOD CANYON
TARBET CANYON
SNELL CANYON
JEFFREY RESERVOIR
HILES CANYON
JENSEN CANYON
WEST MIDWAY
CENTRAL MIDWAY
EAST MIDWAY
GALLAGHER CANYON
PLUM CREEK CANYON
JOHNSON LAKE
PHILLIPS
EAST PHILLIPS
LITTLE KNAPPLE
DAWSON COUNTY
GOSPER COUNTY
LINCOLN COUNTY
PLATTE RIVER
MAXWELL
BRADY
GOTHENBURG
COZAD
DARR
LEXINGTON
R30W
R29W
R28W
R27W
R26W
R25W
R24W
R23W
R22W
R21W
T12N
T13N
T11N
T10N
T9N
T8N
SUPPLY CANAL STRUCTURE KEY
c CHECK
cr CHECK AND RADIAL GATE
d DROP
ed EARTHEN DAM
f FLUME
h COUNTY/STATE BRIDGE OR CULVERT
p PRIVATE BRIDGE OR CULVERT
ph POWER HOUSE
rp RESERVOIR INLET
ss SPHONIC SPILLWAY
w WASTEWAY
y CROSS DRAIN
y INLET DRAIN
pp INTAKE TO PENSTOCK
Ex: h-63.1 = Structure with Mile Post Location
0 1 2 MILE
SCALE: 1" = 2 MILE
\rmaenbernt\docs\autocad\mail\sc_lakes.dwg
CENTRAL
Nebraska Public Power and Irrigation District
Holdrege, Nebraska
C.N.P.P.I.D.
SUPPLY CANAL AND LAKES
LINCOLN, DAWSON AND GOSPER COUNTIES
DRAWN BY TMR
SUBMITTED BY MAD
SCALE AS SHOWN
DATE 11/19/98
APPROVED BY
DRAWING NO. SC-LAKES1

MAP 2

# MAP 2

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**CENTRAL**
Nebraska Public Power and Irrigation District
Holdrege, Nebraska

**PHELPS CANAL RECHARGE PROJECT**
**LOCATED IN**
**GOSPER AND PHELPS COUNTY, NEBRASKA**

| | | | |
|---|---|---|---|
| DRAFTED BY | TMR | APPROVED | |
| SUBMITTED BY | CAS | BY | |
| SCALE | 1"= 5000' | DRAWING NO. | PH_RECHARGE_1 |
| DATE | 7/3/2012 | | |