

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING PERMIT TO TRANSFER GROUND WATER TO AN ADJOINING STATE AND TO
TRANSFER GROUND WATER FOR INDUSTRIAL USE

The Director of the Department of Natural Resources (Department) approves Application TA-49, submitted by LeRoy Yung (Applicant), for a permit to withdraw and transport ground water to Colorado for use in exploratory drilling for oil and natural gas and for construction of wind turbines.

The Director approves Application I-21, submitted by LeRoy Yung jointly with Application TA-49, for a permit to withdraw and transport ground water for use in exploratory drilling for oil and natural gas and construction of wind turbines in Colorado and in Kimball County, Nebraska. The considerations for approval described in Neb. Rev. Stat. §§ 46-683(1) and 46-715(3)(c) are specifically met as follows:

1. According to Department records, no surface water rights are located in the area of the Applicant's wells. The nearest ground water wells are two domestic wells, one of which is registered to the Applicant, and one livestock well, all of small capacity. These wells have all been operated for years with no apparent harm to the function of any one well, though the radius of influence from each well likely intersects those of the surrounding wells. No adverse impacts are anticipated from the proposed pumping of the wells for the industrial supply described in the applications.
2. The portion of the South Platte NRD in which the Applicant's wells are located was determined to be fully appropriated in 2004, but the District had a ground water management area in place before that determination. As a consequence of the fully appropriated determination and subsequent integrated management plan and rules implementation, the Applicant has established an industrial baseline for water use with the District. As part of this arrangement, the NRD collects meter records from each well to monitor the amount of water transferred for industrial purposes relative to the baseline. Any offset that may be required, if the baseline is exceeded, will be determined through the District's rules and regulations for industrial transfers.
3. No surface water resources with reliable supply are located in either the proposed withdrawal area or in the areas of use. Ground water is not readily available at many of the exploration and construction sites in Colorado. Drilling contractors and local users intend to partner in order to provide water for exploratory drilling in the area. Because the exploratory drilling project, in particular, extends over a number of counties in multiple states, no single water source or location will be used to supply the drilling. Obtaining water from multiple sources across the whole project area will ultimately have the advantage of spreading any impacts to local aquifers across a very wide area, rather than concentrating withdrawals in a single location.

4. The economic impact of the proposed use is anticipated to be approximately equivalent to use of the water for irrigation. Drilling and oil-exploration contractors working in the area will likely bring a certain amount of economic activity to local businesses in the areas of exploration, in the form of fuel, food, and lodging expenditures, for example. Economic benefits arising from the further development of any oil and natural gas resources in the Panhandle region, however, will depend on the scope and longevity of development, as well as market factors. At this time, the Department has no information to project such development benefits.
5. Existing uses of ground water in the area of the Applicant's wells are for domestic, livestock, and irrigation purposes. Increased demand for water for existing domestic uses is unlikely, because the rural domestic population of the state is declining both in general and in this specific area. Several factors limit increasing demand for irrigation, including NRD regulations. Although demand could increase in the future, any such increased demand would have to be balanced by the NRD so as not to result in increased impacts to water supplies, in accordance with the District's integrated management plan. Thus, any benefits accrued from existing water uses in the area should not be adversely affected by the proposed transfer.
6. No waivers of liability were received in the Department, and no objections were filed regarding the proposed transfer.
7. The Applicant's wells are located to the west of the portion of the NRD covered by the Platte River Recovery Implementation Program. Consequently, Nebraska's compliance with any interstate agreements will not be affected by the proposed transfer.

The terms and conditions of permits TA-49 and I-21 are as follows:

1. Permits TA-49 and I-21 authorize the Applicant to withdraw and transfer ground water from two existing water wells for industrial use. Withdrawal and transfer of ground water under permits TA-49 and I-21 shall not exceed 700 gallons per minute maximum.
2. The maximum daily withdrawal shall not exceed 95,000 gallons.
3. The total amount of ground water that may be transferred in a one-year period to all points of use in Nebraska and Colorado shall not exceed 33.8 acre-feet (approximately 11,013,764 gallons).
4. Ground water may be withdrawn and transferred from two existing water wells identified as G-058532, located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Township 13 North, Range 55 West of the 6th P.M.; and G-051806, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 14 North, Range 55 West of the 6th P.M., all in Kimball County, Nebraska.
5. The water shall be used for exploratory drilling for oil and natural gas in Kimball County, Nebraska, and for exploratory drilling and construction of wind turbines in Weld County and Logan County, Colorado, as described in Applications TA-49 and I-21.
6. Approval of this permit is based on the information included and representation made in Applications TA-49 and I-21 by LeRoy Yung. That

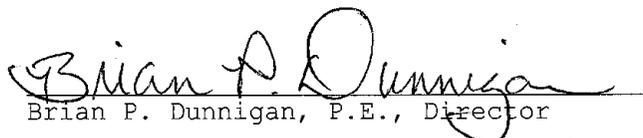
information and those representations are considered terms of this approval, to which the Applicant must adhere.

7. The Applicant shall maintain existing flow meters on each well, such that all ground water withdrawn from the well and transferred to Colorado and to in-state points of use by any means will be measured. By January 31 of each year, the Applicant shall file a completed "Industrial Ground Water Well Report" in the office of the Department, on a form provided by the Department, listing the amount of ground water transferred by month over the course of the exploration and construction project. The Applicant shall report separately the quantities of ground water transferred to Colorado and the quantities transferred for in-state industrial use, respectively.
8. LeRoy Yung must comply with all state and federal laws and the regulations of the Department and the South Platte NRD, including, but not limited to, the following:
 - A. Any replacement water well must be registered as required by Neb. Rev. Stat. § 46-602(1).
 - B. LeRoy Yung shall notify the Department of the need for any abandonment or replacement of the permitted well and any changes in the place of use or nature of use, as provided in Neb. Rev. Stat. § 46-683.01.
9. LeRoy Yung shall provide access to the property described herein at reasonable times for purposes of inspection by officials of the South Platte NRD or of the Department.
10. When deemed necessary, and in accordance with Neb. Rev. Stat. §§ 46-683(1) and 46-715(3)(c), the Department and the South Platte NRD may review these permits in conjunction with the management activities in the joint Department/NRD integrated management plan to ensure that surface water and ground water users have not been negatively impacted and to ensure compliance with the overappropriated Basin-Wide Integrated Management Plan.
11. These permits shall be valid for three years after the Order date and as long thereafter as the water for which the permits are granted is placed to beneficial use. If LeRoy Yung has not used water for beneficial purposes and in accordance with the terms of these permits for more than three years, the permits may be revoked or modified by the Director pursuant to Neb. Rev. Stat. § 46-684(1).

THIS PERMIT MAY BE REVOKED OR MODIFIED BY THE DEPARTMENT FOR FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THE PERMIT.

DEPARTMENT OF NATURAL RESOURCES

September 29, 2011


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* 454 *Neb. Admin. Code* Chapter 7. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval and be accompanied by a filing fee of \$10.

A copy of this Order granting Permits TA-49 and I-21 was mailed on September 29, 2011, to the Department's field office in Bridgeport, Nebraska, and to the following:

LeRoy Yung
3985 Road 20 S
Kimball, Nebraska 69145

Rod Horn, Manager
South Platte Natural Resources District
551 Parkland Drive
P.O. Box 294
Sidney, Nebraska 69162