STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING PERMIT TO TRANSFER GROUND WATER FOR MUNICIPAL USE

The Director of the Department of Natural Resources (Department) approves Application MT-34, submitted by the City of Gering, Nebraska, for a permit to withdraw and transport ground water for municipal use.

The terms and conditions of permit MT-34 are as follows:

1. Permit MT-34 authorizes the City of Gering to withdraw and transfer ground water from four existing public water supply wells. Withdrawal and transfer of ground water under permit MT-34 shall not exceed 6,000 gallons per minute maximum, nor shall the maximum rate of withdrawal exceed 8,600,000 gallons per day (gpd).

2. The average daily withdrawal and transfer of ground water shall not exceed 4,000,000 gpd.

3. The total amount of ground water that may be transferred in a one-year period shall not exceed 1,460,000,000 gallons.

4. The priority date shall be December 1, 2008, as required by *Neb. Rev. Stat.* § 46-642(1).

5. Ground water may be withdrawn and transferred from the existing public water supply wells identified as follows: G-150205, located in the NW¼NE¼ of Section 17; G-150778 and G-150779, located in the NE¼NE¼ of Section 17; and G-150780, located in the SW¼NE¼ of Section 17, all in Township 22 North, Range 55 West of the 6th P.M. in Scotts Bluff County, Nebraska.

6. The water shall be used for domestic, fire suppression, and all other beneficial municipal purposes for the service area of the City of Gering, shown on maps filed in support of Application MT-34.

7. Approval of this permit is based on the information included and representations made in Application MT-34 by the City of Gering. That information and those representations are considered terms of this approval, to which the City of Gering must adhere.

8. The City of Gering must develop and implement best management practices to ensure that the City maintains its customers' per-capita water use at rates less than or equal to the rates stated in the application.

9. Upon completion of construction activities and the commencement of public water supply operation of the new wells and transmission lines, the City of Gering shall submit water well registration modification information to the Department, on forms provided by the Department, for the changes in use proposed in the application documents for water wells G-057673 and G-057675, respectively. In addition, the City of Gering shall decommission existing public water supply wells G-056972

and G-057674 and provide notice of decommissioning to the Department, on forms provided by the Department.

10. The City of Gering shall install a flow meter on each well, and, by January 31 of each year, the City of Gering shall file a completed "Public Water Supplier Ground Water Well Report" in the office of the Department, on a form provided by the Department.

11. The City of Gering must comply with all state and federal laws and the regulations of the Department and the North Platte Natural Resources District (NPNRD), including, but not limited to, the following:

    A. Any new or replacement water wells must be registered as required by *Neb. Rev. Stat.* § 46-602(1).

    B. The withdrawal and transfer must be in accordance with the provisions of the integrated management plan (IMP) developed by the NPNRD.

12. In order to ensure compliance with both the overappropriated Basin-Wide IMP and the joint NPNRD/Department IMP, as they exist as of the date of this Order, the Department imposes the following additional conditions:

    A. In the case of direct shortfall to the ability of Winters Creek Canal Company and/or Central Irrigation District to divert natural flow and storage water from the North Platte River according to their respective surface-water appropriations, which shortfall results from depletions to streamflow caused by the operation of the City of Gering's wellfield, the City of Gering shall mitigate directly the amount of streamflow which the aforementioned surface water appropriators cannot divert as a result of depletion by the City of Gering's wellfield.

    B. In the case of depletions to streamflow that occur in the reach of the North Platte River beginning at the location of the wellfield subject to MT-34 and the ending at the location of the City of Gering's older public water supply wells, which depletions occur as a result of the City of Gering's new location of ground water withdrawal and that are 1) in excess of historical overall depletions in the reach and 2) not otherwise addressed by mitigation activities undertaken by the Department and/or the NPNRD pursuant to integrated management plan implementation, the City of Gering shall mitigate directly the amount of streamflow depletions in excess of historical depletions in this reach that is caused by the City of Gering's new ground water withdrawal location.

    C. If the circumstances described in either case 12.A. or 12.B. above occur, then the City of Gering shall mitigate in amount, timing, and location, the amount of shortfall or additional depletion that is determined by the Department to be the result of the City of Gering's wellfield operation.

        (i) The Department and the NPNRD may work together, in conjunction with the City of Gering, to determine, using the best available tools, the amount of streamflow depletion directly attributable to Gering's wellfield

operations that is required to be mitigated under condition 12.A. or 12.B.

(ii) The Department, the NPNRD, and the City of Gering shall agree on the appropriate method of mitigation for the streamflow depletions attributable to the City of Gering's wellfield, as well as a schedule for implementing the proposed mitigation.

(iii) The City of Gering shall report to the NPNRD and the Department on the specific implementation of the mitigation method selected, along with documentation to show that the mitigation measure implemented satisfies the conditions of amount, timing, and location.

13. Any future changes to the City of Gering's municipal water system that would result in a change in the scope of ground water transfer and use under MT-34 as described in the application documents, including, but not limited to, the sharing of infrastructure or water sources with the City of Scottsbluff, shall be reported to the Department.

    A. Such report shall include the nature of the proposed changes to the system, a timeline of the proposed changes, and the anticipated differences between the system as described in the Application MT-34 filings and the system with the proposed changes enacted.

    B. At such time, the Department shall review permit MT-34, and, if the reported changes to the City's public water supply system so necessitate, the Department may modify or cancel the permit.

14. This permit shall be valid for five years after the Order date and as long thereafter as the water for which the permit is granted is placed to beneficial use. If the City of Gering has not used water for beneficial purposes and in accordance with the terms of this permit for more than five years, the permit may be revoked or modified by the Director pursuant to *Neb. Rev. Stat.* § 46-644. The procedure for such revocation or modification is provided for in *Neb. Rev. Stat.* §§ 46-229.02 to 46-229.05.

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

July 3, 2014

Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing, in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 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 Permit MT-34 was mailed on July 3, 2014, to the Department's field office in Bridgeport, Nebraska, and to the following:

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