

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING PETITION MIP-2201 FOR RELOCATION AND WATER EXCHANGE
SURFACE WATER PERMITS A-653 AND A-6476 AND MAPS NUMBER 19472 AND 19477

WATER DIVISION 1-A

BACKGROUND

1. Appropriation D-653 is held by Paxton Hershey Water Company to divert water from the North Platte River for irrigation and incidental underground storage, and appropriation A-6476 is held by the Central Nebraska Public Power and Irrigation District (CNPPID) to divert water from Kingsley Reservoir for supplemental irrigation; into and through the Paxton-Hershey Canal at its headgate located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County.
2. On October 28, 2011, Rex Boggs, President of Paxton Hershey Water Company (Petitioner), filed petition MIP-2201 in the Department of Natural Resources (Department) for authorization to exchange water between the Paxton Hershey Canal and the North Platte Canal for irrigation of land located in Section 22, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County.
3. Petitioner proposes to change the location of diversion for part of the water granted under A-653 and A-6476 from the Paxton-Hershey Canal at its headgate located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County to the headgate of the North Platte Canal located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, Township 14 North, Range 34 West of the 6th P.M. in Lincoln County.
4. Rex Boggs, President of Paxton Hershey Water Company and Jeff Orr, President of Platte Valley Irrigation District filed a Cooperative Agreement with petition MIP-2201 stating that water is now going to be diverted from the North Platte Canal and will be replaced into the North Platte Canal by water from the Paxton Hershey Canal approximately two miles downstream.
5. On March 11, 2014, the Department acknowledged Notifications of Assignment of Rights AOR-2202 and AOR-2260 for irrigation of the following land:

Township 14 North, Range 32 West of the 6 th P.M. in Lincoln County	Acres	Township 14 North, Range 32 West of the 6 th P.M. in Lincoln County	Acres
Section 18: SE $\frac{1}{4}$ NW $\frac{1}{4}$	28.6	Section 18: NW $\frac{1}{4}$ SE $\frac{1}{4}$	16.8
		NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>0.1</u>
SW $\frac{1}{4}$ NE $\frac{1}{4}$	11.8	TOTAL	67.0
NE $\frac{1}{4}$ SW $\frac{1}{4}$	9.7		

6. On March 7, 2016, Dale Fischer, Secretary-Treasurer of Paxton-Hershey Water Company, filed in the Department map number 19477 showing the land described above, the withdrawal point from the North Platte Canal and the location point for replacement of water from Paxton Hershey Canal into the North Platte Canal under petition MIP-2201.
7. On March 14, 2016, Don Kraus, Manager of Central Nebraska Public Power and Irrigation District, filed in the Department map number 19472 showing the land described above, the withdrawal point from the North Platte Canal and the location point for replacement of water from Paxton Hershey Canal into the North Platte Canal under petition MIP-2201.
8. Construction has been completed.

ORDER

IT IS HEREBY ORDERED that petition MIP-2201 and maps number 19472 and 19477 are APPROVED subject to the following limitations and conditions:

1. A plan for installing instantaneous and totalizing meters (measuring devices) must be filed within six months of the signing date of this application approval for petition MIP-2201 allowing the exchange of water between the Paxton Hershey Canal and the North Platte Canal or authorization to exchange water under MIP-2201 will be REVOKED.
2. Diversion water in the amount of 0.96 cubic foot per second (cfs) (431 gallons per minute) may be delivered from the North Platte Canal at a withdrawal point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, Township 14 North, Range 33 West of the 6th P.M. in Lincoln County as shown on maps number 19472 and 19477, which are made a part of this Order.
3. Water taken out of the North Platte Canal as described above will be replaced into the North Platte Canal at a rate not to exceed 0.96 cubic foot per second (cfs) (431 gallons per minute) by withdrawing water from the Paxton Hershey Canal in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 14 North, Range 32 West of the 6th P.M. in Lincoln County.
4. At all times at least as much water will simultaneously be entering the North Platte Canal from the Paxton Hershey Canal as that being withdrawn from the North Platte Canal.
5. The Bridgeport Field Office will monitor the act of exchanging water under MIP-2201. Therefore, the holder of MIP-2201 will notify the Bridgeport Field Office each season prior to commencing water exchange under MIP-2201.
6. A measuring device, approved by the Department, is **required** to be installed to meter the amount of water diverted from the North Platte Canal for the purpose of irrigation under MIP-2201.
7. A measuring device, approved by the Department, is **required** to be installed to meter the amount of water entering the North Platte Canal from the Paxton Hershey Canal for the purpose of replacing irrigation water diverted under MIP-2201.

8. All required meters must always be in good working condition while water is being exchanged under MIP-2201.
9. The Bridgeport Field Office may require annual reporting of water exchanged under MIP-2201.
10. The exchange of water under MIP-2201 **may occur only** when Paxton Hershey Canal and North Platte Canal are **actively delivering water**.
11. Additional measuring, instrumentation or reporting requirements may be required as needed for the Department to efficiently administer water use in Water Division 1-A.
12. The holder of MIP-2201 is liable for any damages resulting from the activity authorized under MIP-2201.
13. Authorization to exchange water between the Paxton Hershey Canal and the North Platte Canal is a privilege; it is not an appropriation. Therefore, water may not be diverted out of North Platte Canal unless water is available from Paxton Hershey Canal.
14. Authorization may be REVOKED if the holder of MIP-2201 fails to exchange water for more than five consecutive years.
15. Authorization may be REVOKED if the holder of MIP-2201 fails to comply with any conditions contained in this Order.
16. Pursuant to *Neb. Rev. Stat. § 46-252*, the holder of MIP-2201 shall not be exempt from obtaining any other permits required by law.

DEPARTMENT OF NATURAL RESOURCES

April 18, 2016



 Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 19472 and 19477 were provided to the Department's field office in Bridgeport, Nebraska. Copies of this Order and maps number 19472 and 19477 were mailed on April 18, 2016, to the following:

Rex Boggs, President
 Paxton Hershey Water Company
 22431 West Platte Valley Road
 Hershey, Nebraska 69143-5333

Martin Fischer, Manager
 Platte Valley Irrigation District
 P.O. Box 772
 Sutherland, Nebraska 69165-0772

Dale Fischer, Secretary-Treasurer
 Paxton Hershey Water Company
 25276 West Platte Valley Road
 Hershey, Nebraska 69143-5333

Don Kraus, Manager
 Central Nebraska Public Power and
 Irrigation District
 P.O. Box 740
 Holdrege, Nebraska 68949-0740