STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18923

WATER DIVISION 1-A

BACKGROUND

1. On August 8, 2011, Central Platte Natural Resources District (CPNRD) filed petition VAR-2145 for Leave to File or Consider an Application for a Permit to Appropriate Water within a Moratorium Area in the Department of Natural Resources (Department). The draft application attached to the petition is for a permit to appropriate water from the Platte River for the purpose of groundwater recharge via the Orchard-Alfalfa Canal System.

2. On June 4, 2012, the Department granted leave to file an application for a permit to appropriate water by approving petition VAR-2145.

3. On June 5, 2012, Central Platte Natural Resources District filed in the Department application A-18923 for a permit to appropriate water for the purpose of groundwater recharge through the Orchard-Alfalfa Canal System. The application proposes to divert water from the Platte River at the headgate of the Orchard-Alfalfa Canal located in Section 9, Township 10 North, Range 24 West of the 6th P.M. in Dawson County.

CONCLUSIONS

1. Construction of the Orchard-Alfalfa Canal System has been completed.

2. Applicant has demonstrated there may be unappropriated water in the Platte River. It is anticipated there may be water available for diversion for some periods under this application in the future.

3. The purpose of this application is to recharge the groundwater aquifer in order to mitigate stream depletions from groundwater pumping and increase baseflow into local streams, which are goals of the Basin-Wide Plan (BWP) and Integrated Management Plans (IMPs). Accretions to streamflow that may occur as a result of recharge under this appropriation will be considered as beneficial if they are achieving the goals of the BWP and IMPs. Secondarily, the BWP and IMPs provide support for Nebraska's participation in the Platte River Recovery and Implementation Program (PRRIP). Nebraska is a party to the PRRIP and in part, Nebraska will achieve its commitments under the PRRIP through implementation of Water Action Plan projects. Diversions under A-18923 may be used for PRRIP purposes, if available water is not needed for other BWP and IMP purposes. Any diversions under this application must not be to the detriment of achieving the goals of the BWP and IMPs in the most effective manner as determined by the Department.

4. Diversions would occur under the proposed project during the non-irrigation season or under conditions such that no adverse impacts to existing water users are expected.

5. This diversion project is expected to be operated in accordance with the goals and objectives of the BWP and IMPs. As stated above, Nebraska has committed to achieve its obligations to the PRRIP. Therefore, under Nebraska's current commitment to the PRRIP the project shall only divert water when U.S. Fish and Wildlife Service target flows are exceeded or such requirement is waived by the Department. As such, this project will not require an offset for the purpose of ensuring that these target flows are met.

6. The diversion of water for aquifer recharge is beneficial, there may be unappropriated water available, and the application is in the public interest. Therefore it should be approved.

ORDER

IT IS HEREBY ORDERED that application A-18923 is APPROVED subject to the following conditions:

1. The source of water is the Platte River.

2. The water diverted under this permit shall be used for the purpose of groundwater recharge in support of the BWP and IMPs via the existing Orchard-Alfalfa Canal System.

3. If water is available according to the conditions of this Order and not required for use in achieving the goals of the BWP or IMPs, then the Department may allow diversion for groundwater recharge for PRRIP purposes.

4. The priority date is June 5, 2012.

5. When the specified conditions of this appropriation are met, water may be diverted, at a maximum rate of 75 cubic feet per second, into the headgate of the Orchard-Alfalfa Canal located in the NE¼SW¼ of Section 9, Township 10 North, Range 24 West of the 6th P.M. in Dawson County.

6. The term "Desired Minimum Discharge" (DMD) is quantitatively defined in Table A, which is attached to and hereby incorporated into the conditions of this Order. Only those flows in excess of the Desired Minimum Discharge shall be considered to be available to be diverted. These target flows are specified in **Table A** on page 5. The project will utilize only previously unappropriated available water.

7. In order to ensure compliance with the BWP and IMPs, the Department imposes the following hydrologic and administrative conditions, to determine whether, and in what quantity, water may be available for diversion:

   A. No diversion under this appropriation may occur unless the previous day's twenty-four-hour average flow of the Platte River, as measured at the Grand Island stream gage or other Department-

specified gage, is in excess of the DMD. This requirement may be waived if written permission is granted by the Department.

B. The current hydrologic condition of wet, normal or dry, as designated by PRRIP, shall determine the appropriate DMD value from Table A.

C. If the amount of streamflow in excess of the designated DMD is less than the maximum diversion permitted under this appropriation, as described in condition 5 above, then only that amount of streamflow in excess of the DMD may be diverted unless waived by written permission of the Department.

D. Prior to diversion under appropriation A-18923, the Appropriator must receive written permission through communication with the Department's Bridgeport field office during regular business hours.

8. The Appropriator shall be responsible for communicating with the Bridgeport field office regarding water diversion activity under appropriation A-18923. The Appropriator will be responsible for the following requirements:

A. Contact the Bridgeport field office two weeks prior to the anticipated spring canal operation and commencement of diversion.

B. Contact the Bridgeport field office two days prior to the anticipated change in purpose of diversions from irrigation under other appropriations to groundwater recharge under this appropriation, or from groundwater recharge under A-18923 to irrigation.

C. Contact the Bridgeport field office two weeks prior to the anticipated fall canal shutdown.

9. The Department reserves the right to make adjustments to the amounts and measurement location(s) listed in Table A.

10. The water diverted under A-18923 through the Orchard-Alfalfa Canal may not be used for direct irrigation by The South Side Irrigation Company's customers.

11. The Appropriator must comply with the following deadlines:

A. The appropriation is not considered perfected until water has been beneficially used for the purpose stated in this approval. The water appropriated under A-18923 must be beneficially used by September 1, 2019.

B. After September 1, 2019, an investigation will be conducted to determine if the beneficial use has occurred and to what extent diversions under this appropriation have occurred, after which an order of partial or total cancellation will be issued if beneficial use has not fully occurred under appropriation A-18923.

12. If modifications are made to the BWP the utilization of this appropriation will be required to conform to such modifications as necessary to continue to meet the goals and objectives of the BWP.

13. Use of water under A-18923 may be denied or further conditioned in the future to implement the controls contained within an IMP within the basin. Such conditions may include the controls outlined in *Neb. Rev. Stat.* § 46-716 and may include, but not be limited to, restricting the amount of water that may be diverted by the Appropriator or limiting the administration that may otherwise be imposed by the Appropriator on other appropriations junior to the September 15, 2004, designation of the basin as overappropriated.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

March 19, 2015

James C. Schneider, Ph.D.
Acting 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 order and be accompanied by a filing fee of $10.

A copy of this approval was posted on the Department's website and provided to the Department's field offices in Bridgeport and North Platte, Nebraska. A copy of this approval was mailed on March 19, 2015, to the following:

Lyndon Vogt, Manager
Central Platte Natural Resources District
215 North Kaufman Avenue
Grand Island, Nebraska 68803

Ann Smith, President
The South Side Irrigation Company
108 East 8th Street
PO Box 174
Cozad, Nebraska 69130

Table A - Desired Minimum Discharge of the Platte River

Measured at the Grand Island Stream Gage Relevant to Appropriation A-18923

Period	Minimum Stream Flows Measured at Grand Island (cfs)		
	Wet*	**Normal***	**Dry***
January 1 - January 31	1,000	1,000	600
February 1 - February 14	1,800	1,800	1,200
February 15 - February 28	3,350	3,350	2,250
March 1 - March 15	3,350	3,350	2,250
March 16 - March 22	1,800	1,800	1,200
March 23 - March 31	2,400	2,400	1,700
April 1 - April 14	2,400	2,400	1,700
April 15 - May 3	2,400	2,400	1,700
May 4 - May 10	2,400	2,400	1,700
May 11- May 19	1,200	1,200	800
May 20 - May 31	3,700	3,400	800
June 1 - June 20	3,700	3,400	**1,000****
June 21 - June 23	1,200	1,200	**1,000****
June 24 - July 31	1,200	1,200	**1,000****
August 1 - August 22	1,200	1,200	800
August 23 - August 31	1,200	1,200	800
September 1 - September 15	1,200	1,200	800
September 16 - September 30	1,000	1,000	600
October 1 - October 11	2,400	1,800	**1,350****
October 12 - November 10	2,400	1,800	**1,500****
November 11 - November 15	2,400	1,800	1,300
November 16 - December 31	1,000	1,000	600

* The current Hydrologic Condition, (wet, normal or dry) determined by PRRIP can be found at:

http://platteriverprogram.org/PubsAndData/Pages/CurrentHydrologicCondition.aspx

**Represents the minimum discharge required by instream flow appropriation, which is greater than PRRIP Target Flows, and senior to A-18923