

Transfer Application SW-100 Instruction Sheet for Private Appropriations

Application for a Temporary Change of Location of Use and to Change the Purpose of Appropriation to Augment the Flow in a Specific Stream Reach for a Privately Held Water Appropriation

- This application form is for appropriations that are held privately by the landowner, and NOT under a public water carrier such as an Irrigation District.
- This form has been created for a specific type of temporary transfer that involves changing the use of an appropriation from an out-of-stream use (such as irrigation) to an in-stream use to augment stream flow in a specific stream reach.
- It is recommended that all applicants call and set up a pre-application meeting with staff in the surface water section of the Department of Water, Energy, and Environment (Department). You will be instructed on the information to bring to this meeting. Examples are: any information about the history of water use for the last 10 years. Including source(s), dates used, pumping rates, or any other water use measurements; type of crops grown; information from the deed to the land, or a copy of the deed; an aerial map of the parcel(s); name and address of any lien or mortgage holder of the property.

Form Item Number:

1. Name and Address of Appropriator of Record

- List the owner(s) of ALL the approved irrigable land under the appropriation. Names must be exactly as described on the deed or other document transferring ownership of the property.
- If the Department's records do not reflect the current owner(s) of the land, a Notice of Change of Ownership must be filed along with the Transfer Application.
- If the appurtenant land authorized for irrigation by an appropriation has been divided into distinct parcels with multiple owners, consult with Department staff for the best way to proceed.

2. Name(s) and address(es) of each mortgage holder or deed of trust holder for land now under permit

- The Department is required to notify the parties listed on item 2 that a transfer application has been filed, pursuant Nebraska Revised Statutes Section 46-291(2).

3. List the water appropriation number that this application is proposed to modify.

- List one appropriation per Transfer Application.

4. List the current use.

- List the approved use for the water appropriated under your permit before the transfer, for example: irrigation.

5. Entire surface water appropriation will be transferred, YES or NO.

- If the entire area approved for irrigation under the appropriation is exactly the same number of acres AND exactly the location of land on which the historical use has occurred, answer YES.
- If only part of the area approved for irrigation under the appropriation is land on which the historical use has occurred, then answer NO.
- If No, then circle A, B or C to indicate your intention for the remaining acres not subject to the transfer.

6. This application is for a change in the location and use. The legal description of the beginning stream reach and ending of the stream reach to which the appropriation is proposed to be transferred for the purpose of augmenting streamflow. This is to define the specific reach of the river where the water, which is being transferred to augment streamflow, is to be protected. (Nebraska Revised Statutes Section 46-290(5)).

- Stream: List the source of water for the appropriation, AND the stream name of the end of the reach if different than source of appropriation. Example: Tributary to the Platte River and Platte River.
- Beginning: List the current location of the point of diversion for the beginning.
- Ending: List the most downstream location of the targeted stream reach for the ending point. For example, the Chapman Bridge on the Platte River located in the NE¼NW¼ of Section 29, Township 12 North, Range 7 West of the 6th P.M., in Merrick County.

7. List Date Temporary Change to Begin and End and attach Lease.

- The dates most likely will correspond with the Lease Contract periods. The “transfer begin” and “transfer end” dates can correspond to “water year(s)” which begin April 1, and end October 1 of each year, or to calendar years.
- Pursuant to Nebraska Revised Statutes Section 46-290(2) a copy of the proposed lease is required to be filed with the transfer application.

8. Historic Consumptive Use Calculations.

- Only the amount of water determined to be the Historic Consumptive Use (HCU) is eligible for transfer by this application. The applicant must provide information regarding crops, water use history, etc., for the Department to calculate the HCU accurately. The Department has adopted a standard method to calculate the HCU for a tract of land under irrigation. The Department will work with applicants to determine the transferrable amount in the pre-application meeting.
- The applicant may provide credible consumptive use calculations using any scientific method they deem credible, but the Department reserves the right to adjust the transferrable amount.
- The requested transfer of the HCU should be entered in item 8 after the consumptive use calculations have been approved. The Department reserves the right to adjust the transferrable amount.

9. The land area subject to this transfer application has been irrigated using: surface water, groundwater, or other source of water.

- Indicate if the land has been irrigated using groundwater, surface water, or other source such as a lagoon.

10. List the legal description of the land to which the appropriation is now appurtenant.

- For an appropriation that is to be transferred in its entirety, list all of the land approved for irrigation under that appropriation.
- For an appropriation that is to be transferred in part, list only the portion subject to this transfer.
- Attach an aerial photograph clearly marked to show the above-listed land that is subject to the transfer.

11. List the history of water use for the last ten years for the tracts listed above.

- This history is important for calculating the historic consumptive use. Appropriations may be subject to cancellation after five years of nonuse pursuant to Neb. Rev. Stat § 46-229.
- “Acres irrigated” means ONLY the acres under the land subject to this transfer irrigated by surface water. The land listed in item 10 and the marked aerial photograph must correspond.
- List on each line an estimate (in percent) of each crop type for that year. For example: 2007, diverted water for 60 days, 100 acres irrigated, 20% Alfalfa, 40% Corn, 40% Beans, maximum pump 800 gpm, 212 acre-feet/yr.

- If groundwater was used for irrigation on any portion of the land listed in this transfer application, please refer to the “Consumptive Use Calculation Worksheet” for information regarding your ground water use.
- If there are two (or more) appropriations involved in the transfer on a particular tract (for example “stacked” appropriations), please estimate the proportion pumped under each one. Other information such as closing or regulating notices you have received may be useful in calculating the proportions of each used.

12. If no surface water use has occurred in the last five years, please provide an attachment with information about the last time the land was irrigated using surface water, along with any excusable reasons for non-use listed in Nebraska Revised Statutes Section 46-229.04.

13. Check list to provide all information necessary for processing your application. Select all that apply.

- Check all required attachments included with the application form.
- Check all optional attachments that are included with the application form.

14. Sign and date the form.

- If the person signing as appropriator of record is (one of) the landowner(s), that name shall be on the deed to the property, and the Department will consider the person signing the application form to be the primary contact, unless otherwise instructed.
- If a landowner is a trust, then a copy of the trust agreement, the name of the trust and the names and addresses of all trustees are required.
- If a landowner is a corporation, indicate the capacity of the person signing the form; for example, president. Additional contact information may be required.
- Persons signing as attorney-in-fact (power of attorney) shall submit a copy of the document granting power of attorney, OR:
- Persons signing as the personal representative shall submit a copy of the document granting the authority to act as the owner’s agent.