

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-9974 TO ADD A POINT OF DIVERSION

FOR APPROPRIATION A-2691CR

WATER DIVISION 1-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-2691CR is held by the Bostwick Irrigation District (District).
2. Appropriation A-2691CR with a priority date of April 3, 1946, authorizes the appropriator to divert water from the Republican River into and through the Superior Canal at its headgate located on the left bank of the stream in the SW¹/₄NE¹/₄ of Section 07, Township 01 North, Range 09 West of the 6th P.M. in Webster County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 154 acres irrigated at a maximum rate of 39.29 cfs.
3. On August 7, 2023, Sage Sanger, General Manager, on behalf of the District, filed petition RLP-9974 in the Department for a permit to add a location of diversion for a portion of the water diverted under appropriation A-2691CR.
4. The petition requests to add a location of diversion for appropriation A-2691CR from the Republican River at the District's proposed Superior East Pump located in the SE¹/₄NW¹/₄ of Section 31, Township 01 North, Range 06 West of the 6th P.M. in Nuckolls County.

Findings

1. *Nebraska Revised Statutes* § 46-250 allows the owner of any ditch, storage reservoir, storage capacity, or other device for appropriating water to petition the Department for a change of the point at which the water under any water appropriation of record is diverted from a natural stream or reservoir.
2. *Nebraska Administrative Code Title 457, Chapter 6, § 002*, requires that the requested change shall not adversely affect any other water appropriator.
3. Petitioner intends to maintain the current diversion works and is requesting to add a new diversion pump facility to divert some of the water that otherwise would have been diverted at the current diversion location.
4. A review of the Department's records indicate there are currently appropriators upstream of the site of petition RLP-9974 for an additional point of diversion that are downstream of the Superior Canal headgate. These appropriators should not have their water supply diminished through the addition of the new point of diversion.

CONCLUSIONS

1. Unconditionally granting this petition could have adverse effects on other appropriators.
2. Conditionally approving this petition with constraints that would preclude harm to other water appropriators would enable the District to more effectively deliver water to its patrons and not hamper Nebraska's ability to comply with the Republican River Compact.

ORDER

IT IS HEREBY ORDERED that petition RLP-9974 for a permit to add a location of diversion for a portion of appropriation A-2691CR is APPROVED subject to the following limitations and conditions:

1. Appropriation A-2691CR authorizes the Bostwick Irrigation District the use of water from the Republican River for irrigation of 6,056.3 acres of land. The water shall be measured at the Superior Canal Headgate located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 07, Township 01 North, Range 09 West of the 6th P.M. in Webster County. The rate that water may be diverted shall not exceed 39.29 cfs (17,633 gallons per minute).
2. Appropriation A-2691CR through petition RLP-9974 authorizes the District to use an additional point of diversion to irrigate a portion of land appurtenant to this appropriation. The water shall be measured at the Superior East Pump located on the left bank of the Republican River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, Township 01 North, Range 06 West of the 6th P.M. in Nuckolls County. The rate that water may be diverted shall not exceed 35.0 cfs (15,708 gallons per minute).
3. The appropriator shall have instantaneous measuring devices installed and operational at both the Superior Canal Headgate and the Superior East Pump prior to commencing diversions under this appropriation.
4. The combined instantaneous diversion rate through both the Superior Canal Headgate and the Superior East Pump may not exceed 39.29 cfs of natural flow for A-2691CR.
5. If the combined instantaneous diversion rate through both the Superior Canal Headgate and the Superior East Pump is greater than available natural flow, diversion of previously released storage water from an upstream U.S. Bureau of Reclamation reservoir must be documented.
6. The Department will administer calls for water for the benefit of A-2691CR under the original approval conditions of the appropriation at the Superior Canal headgate near Guide Rock, Nebraska.
7. The Department reserves the right to limit or prevent diversion at the Superior East Pump under A-2691CR to prevent harm to Nebraska appropriators or for Republican River Compact compliance.
8. Each irrigation season the District must notify the Department's Cambridge Field Office prior to utilizing the diversion at the Superior East Pump for appropriation A-2691CR through petition RLP-9974.

9. The District must timely furnish to the Department any requested diversion data or other operational information relative to the Superior East Pump.

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 Order may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

DEPARTMENT OF NATURAL RESOURCES



February 5, 2024

Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department's website, provided to the Department's field office in Cambridge, Nebraska and mailed to the following:

Sage Sanger, General Manager
Bostwick Irrigation District
1147 Highway 136
Red Cloud, Nebraska 68970