

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-9962 TO ADD A POINT OF DIVERSION

FOR APPROPRIATION A-3869CR

WATER DIVISION 1-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-3869CR is held by the Frenchman Cambridge Irrigation District (District).
2. Appropriation A-3869CR with a priority date of April 3, 1946, authorizes the appropriator to divert water from the Red Willow Creek into and through the Red Willow Canal headgate located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, Township 04 North, Range 29 West of the 6th P.M. in Red Willow County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 160 acres irrigated at a maximum rate of 29.97 cfs.
3. On April 11, 2023, Brad Edgerton, General Manager, on behalf of the District, filed petition RLP-9962 in the Department for a permit to add a location of diversion for a portion of the water diverted under appropriation A-3869CR.
4. The petition requests to add a location of diversion for appropriation A 3869CR at a point of diversion located on the north bank of the Republican River in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 07, Township 03 North, Range 26 West of the 6th P.M. in Red Willow 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-9962 for an additional point of diversion that are downstream of the Red Willow 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-9962 for a permit to add a location of diversion for a portion of appropriation A-3869CR is APPROVED subject to the following limitations and conditions:

1. Appropriation A-3869CR authorizes the District the use of water from Red Willow Creek for irrigation of 4,797.3 acres of land. The water shall be measured at the Red Willow Canal headgate located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, Township 04 North, Range 29 West of the 6th P.M. in Red Willow County. The rate that water may be diverted shall not exceed 29.97 cfs (13,451 gallons per minute).
2. Appropriation A-3869CR through petition RLP-9962 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 a pump site located on the left bank of the Republican River in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 07, Township 03 North, Range 26 West of the 6th P.M. in Red Willow County. The rate that water may be diverted shall not exceed 1.0 cfs (449 gallons per minute).
3. The appropriator shall have measuring devices installed and operational at both the Red Willow Canal headgate and the additional point of diversion prior to commencing diversions under this appropriation.
4. The combined instantaneous diversion rate through both the Red Willow Canal headgate and the additional point of diversion may not exceed 29.97 cfs of natural flow for A-3869CR.
5. If the combined instantaneous diversion rate through both the Red Willow Canal headgate and the additional point of diversion 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-3869CR under the original approval conditions.
7. The Department reserves the right to limit or prevent diversion at the Red Willow Canal headgate under A-3869CR 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 additional point of diversion for appropriation A-3869CR through petition RLP-9962.

9. The District must timely furnish to the Department any requested diversion data or other operational information relative to the use of water under A-3869CR.
10. Should the Department determine that pumping at the new location results in reductions in flows to other appropriators, the District shall curtail pumping at the new pump site location.

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



Thomas E. Riley, P.E., Director

May 21, 2024

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:

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