

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-20077

WATER DIVISION 1-A

BACKGROUND

1. On February 10, 2025, Jeff Shafer, on behalf of Nebraska Public Power District (Applicant) filed in the Department petition VAR-10993 for Leave to File or Consider an Application for a Permit to Appropriate Water within a Moratorium Area or Stay Area in accordance with the Joint Integrated Management Plan of Overappropriated portions of the Platte River Basin (see Integrated Management Addendum). The draft application attached to the petition was for a temporary permit to appropriate water from the South Platte River for the purpose of groundwater recharge (recharge) via the South Platte River Supply Canal.
2. On February 12, 2025, the Department granted leave to file an application for a permit to appropriate water by approving petition VAR-10993.
3. On February 14, 2025, Jeff Shafer filed in the Department application A-20077 for a temporary permit to appropriate water for the purpose of recharge through the South Platte River Supply Canal. The application proposes to divert water from the South Platte River at the headgate of South Platte River Supply Canal located in Section 08, Township 13 North, Range 36 West of the 6th P.M. in Keith County.
4. Temporary permits may not be granted for a term of more than one year.

CONCLUSIONS

1. The Applicant has demonstrated there may be periods when unappropriated water in the South Platte River is available. It is anticipated there may be water available for diversion for some periods under this application in the future.
2. Approval of this application is based on information included and representations made in application A-20077 by the Applicant. That information and those representations are considered terms of this approval, to which the Applicant must adhere.

ORDER

IT IS HEREBY ORDERED that application A-20077 is APPROVED subject to the following conditions:

1. The source of water is the South Platte River.
2. The priority date is February 14, 2025.
3. Water shall not be diverted under this appropriation before March 1, 2025.

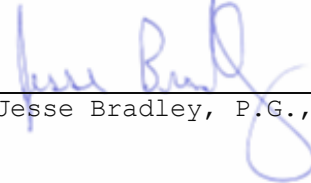
4. For the purpose of this Order the following locations will be considered the Project Facility(s): the South Platte River Supply Canal, including its laterals, Sutherland Reservoir and Maloney Reservoir.
5. The water diverted under this temporary permit shall only be used for groundwater aquifer recharge (recharge) in support of the Basinwide Plans, Integrated Management Plans and Platte River Recovery and Implementation Plans (PRRIP) at the existing Project Facility(s).
6. When the specified **limitations, conditions and administration** as shown in **Attachment A**, which is made a part of this Order, are met, water may be diverted at a maximum rate of 1200 cubic feet per second, at the headgate of the South Platte River Supply Canal located in Section 08, Township 13 North, Range 36 West of the 6th P.M. in Keith County, and the same water, less transit losses, allowed to flow into the Project Facility(s).
7. The water diverted under this appropriation **may not be used for direct irrigation**. The water diverted under this temporary permit may flow only through the Project Facility(s) as shown above. Any water diverted for the purpose authorized under this permit that does not seep into the groundwater aquifer under the specified limitations and conditions shall be returned to the South Platte River system at established spills and drains.
8. The Appropriator must comply with all relevant statutes.
9. If a relinquishment is not submitted first, this appropriation will EXPIRE on February 28, 2026, and it will be CANCELLED without further action by the Department as of that date.
10. By September 1, 2026, the Appropriator shall submit a report, either via the Department's web-based Decision Support System (DSS) in excel and/or shapefile formats or hardcopy form containing the following elements: 1) Table of water deliveries to the Project Facility. 2) An evaluation of the evaporative loss. 3) A copy of any other data or reports provided to the PRRIP Executive Director's Office, or pursuant to any contractual arrangements between Nebraska Public Power District and the Department. 4) Maps or plans which include a detailed depiction of the areas used to recharge the groundwater aquifer and the infrastructure used to deliver the water. 5) Data gathered if groundwater level measurements were taken during and after water has been recharged under this appropriation that demonstrates an increase in the elevation of the local water table has occurred around the Project Facility(s).

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.

DEPARTMENT OF NATURAL RESOURCES

February 21, 2025



Jesse Bradley, P.G., Interim Director

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 to the following:

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ATTACHMENT A

LIMITATIONS, CONDITIONS AND ADMINISTRATION

1. The rate of recharge must match the rate of delivery into each recharge area with only modest increases in head to provide for effective recharge of water into the groundwater aquifer. The Department may reduce the diversion rate if it determines water is being spilled out of a Project Facility.
2. The term "Desired Minimum Discharge" (DMD) is quantitatively defined in Table A attached to and hereby incorporated into the conditions of this Order. Only those flows in excess of the DMD, as defined in Table A, shall be considered to be available to be diverted. This appropriation will utilize only periodically available unappropriated water.
3. The Department may reduce or deny diversion under this appropriation if there is not enough available unappropriated water to satisfy all appropriations and the Department determines that there are more beneficial uses for the limited water supply under other appropriations, and that doing so is in the public interest. An adaptive management approach to determine which potentially complimentary or competing temporary excess water recharge projects receive a portion of a limited water supply will be applied consistently to best serve the stated goals while continuing to meet the public interest. This same determination will be made for each Project Facility that is a component of this appropriation in order to best meet the public interest as determined by the Department.
4. When the Appropriator is permitted by the Department to divert under this appropriation they are doing so in lieu of diverting under the Appropriator's senior appropriations.
5. In order to ensure the public interest is best served relative to the purpose for which this appropriation is being granted, the Department further imposes the following hydrologic and administrative conditions, to determine whether and in what quantity water may be available for diversion:
 - A. The Appropriator shall have measuring devices installed and operational at the point of diversion and for the Project Facility(s) designated in this Order prior to commencing diversions under this appropriation. Accurate measurement of diversions and deliveries will be documented by the Appropriator and submitted either via the Department's web-based Decision Support System (DSS) in excel and/or shapefile formats or hardcopy form.
 - B. The Appropriator must request diversion in writing and must include the specific information described within this Order when making such request. The Appropriator must receive written approval from the Department to divert under this appropriation prior to diversion. This communication must occur during regular business hours to confirm that conditions are met for diversion. This condition may be met by an acknowledged email exchange. This permission and approval to divert from the Department will specify the rate of diversion allowed and may restrict or limit the use of some Project Facilities as further described in this Order.

- C. When the Appropriator requests diversion under this appropriation they must specify the quantity that would be diverted for the Project Facility in units of cubic feet per second. Furthermore, the Appropriator must specify any agreement with public or private entities which would be sponsoring the proposed diversions for the Project Facility.
 - D. The Appropriator must report when water is first diverted into their canal system for irrigation (including canal seasoning/priming), whether irrigation deliveries to fields are occurring, and when the final delivery of irrigation water to appurtenant land has been made for the year. The Department will make the final determination regarding when irrigation activities begin and end and reserves the right to change that determination upon receipt of additional pertinent facts. The Appropriator shall notify the Department within twenty-four hours of the first diversion for canal seasoning/priming for irrigation and the final irrigation season deliveries along the Appropriator's canal system. If this falls on a holiday or weekend, then the notification must be received by the next business day.
 - E. The Department may approve or deny the request to divert and will respond to the request with a written response. When permission to divert under this appropriation is granted, the Department will authorize diversion for the Project Facility(s) with a written response which will specify the total diversion that will be allowed.
 - F. 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.
 - G. The current hydrologic condition of wet, normal or dry, as designated by PRRIP, shall determine the appropriate DMD value from Table A.
 - H. Once diversion under this appropriation has begun, the Appropriator shall notify the Department prior to cessation or modification of the rate of diversion under this appropriation. If this falls on a holiday or weekend, then the notification must be received by the next business day. Once diversion has ceased for a period of twenty-four hours or more, permission must be obtained from the Department as described within this Order before resuming diversion under this appropriation.
 - I. The Department may modify the amount authorized to be diverted after diversion has commenced under this appropriation. The Department will issue a regulating or closing notice to the Appropriator if such modifications are required to best serve the public interest or to protect other appropriators.
6. The Department reserves the right to make adjustments to the amounts and measurement location(s) listed in Table A.

**Table A - Desired Minimum Discharge of the Platte River in cfs
Measured at the Grand Island Stream Gage Relevant to this Appropriation**

Period	PRRIP Target Flows Grand Island		
	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:<https://platteriverprogram.org/hydrologic-conditions>

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

February 29 of a leap year has the same flow constraints as February 28.

INTEGRATED MANAGEMENT ADDENDUM

- On July 14, 2004, the Department of Natural Resources (Department) issued a formal moratorium on all new surface water appropriations in the Platte River Basin upstream of the confluence with the Loup River near Columbus, Nebraska. The moratorium included all tributary streams above the Loup River confluence, encompassing the North and South Platte Rivers and tributaries.
- On January 1, 2007, work officially commenced on the Platte River Recovery and Implementation Program (PRRIP or Program). PRRIP's goals include reducing shortages to U.S. Fish and Wildlife Service target flows and providing additional land habitat for endangered species in the Lexington to Chapman reach of the Platte River. Each signatory to PRRIP has adopted depletion plans to address the adverse impacts of water-related activities on streamflow in the Platte River, utilizing the integrated management process to achieve the Program's goals.
- On August 9, 2019, The Second Increment Basin-Wide Plan (BWP) for Joint Integrated Management of Overappropriated Portions of the Platte River Basin and five separate Second Increment Integrated Management Plans and Associated Surface Water Controls (IMP), each jointly developed with one of the five Upper Platte River Basin NRDs, (the North Platte NRD, the South Platte NRD, the Twin Platte NRD, the Central Platte NRD, and the Tri-Basin NRD) , were adopted by Order of the Department. The individual integrated management plans must conform to the goals and objectives of the BWP.
- As part of the surface water controls adopted by the Department pursuant to Neb. Rev. Stat. § 46-716(1)(b), the moratorium on issuing new surface water appropriations was continued in each individual IMP.
- The Department's July 14, 2004, Order and the provisions of the IMP's allow for new surface water appropriations if the Department grants a variance and subsequently approves a permit for such new use consistent with Title 457 Neb. Administrative Code, Chapter 23.