

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

NeDNR SW-001
March 2018

**PETITION REQUESTING LEAVE TO FILE OR CONSIDER AN APPLICATION FOR
A NEW SURFACE WATER APPROPRIATION WITHIN A MORATORIUM OR STAY AREA
UNDER TITLE 457 N.A.C. CHAPTER 23**

Instructions:

1. Complete items 1 through 5 by printing in ink or typing the appropriate information and by placing an X in the appropriate box.
2. Attach a copy of the completed proposed application for a new surface water appropriation.
3. Attach any supporting documentation.
4. Include a \$10 non-refundable filing fee.

FOR DEPARTMENT USE ONLY

Filed in the office of the Department of Natural Resources
at 14:20 on March 22, 2024
Modification VAR- 10196
SW Application: _____ RightID: 14564
Water Division: 1-A
Receipt Number: 1329 Amount: \$ 10-

1. Name and contact information of petitioner:

Name: North Platte Natural Resources District

Address 1: 100547 Airport Rd

Address 2: _____

City & State: Scottsbluff, Nebraska

Zip Code: 69363

Phone Number: (308) 632 - 2749

E-Mail Address: SSchaneman@npnrd.org

Cell Phone: () _____ - _____

2. Check the situation that applies:

- ☐ Application already filed. Application Number: _____
- ☒ Application not filed. (Enclose copy of proposed application)

3. Description of proposed project:

Appropriation to divert excess flows outside of irrigation season for groundwater recharge and stream baseflow enhancement. Castle Rock Canal will divert up to 88 cfs at its headgate located in the SW1/4SW1/4 of Section 03, Township 21N, Range 54W in Scotts Bluff County, Nebraska


4. The proposed project must meet at least one of the following criteria. (Check all that apply)

- ☐ 1. The proposed project is for a non-consumptive use. (Attach description of use)
- ☐ 2. The applicant has a credible proposal for replacing any consumptive use that will occur in a manner such that the project will not harm other users. (Attach offset plan)
- ☒ 3. The Applicant has credible information that indicates there **may be** unappropriated water available at the proposed location at the time the depletion is likely to occur. (Attach analysis)
- ☐ 4. The project existed prior to any informal moratorium, formal moratorium or stay. (Attach proof)
- ☐ 5. There is a public safety issue that must be addressed and the proposed project addresses that issue. (Attach explanation)
- ☐ 6. The proposed use is a temporary use for public construction and the total volume requested is less than ten (10) acre-feet.

5. Other reason(s) to show good cause why a variance should be granted:

See attached supplemental information on anticipated excess flows and the benefits or recharge for reaching integrated management plan and PRRIP goals.

3/13/24
Date


Signature of Petitioner (or authorized agent)

Scott Schaneman
Print Name

If you have any questions regarding this form, please contact the Surface Water Permitting Section at the Department of Natural Resources (402) 471-2363

Forward this petition, all supplemental documentation and a \$10 non-refundable filing fee to:

Nebraska Department of Natural Resources
245 Fallbrook Blvd., Suite 201
Lincoln, NE 68521-6729

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPLICATION FOR A PERMIT TO APPROPRIATE WATER

INSTRUCTIONS: Complete items 1 through 11

FOR DEPARTMENT USE ONLY

1. Applicant information (person or entity that will hold the permit to appropriate)

Name: North Platte Natural Resources District

Address 1: 10057 Airport Road

Address 2: _____

City & State: Scottsbluff, Nebraska Zip Code: 69363

Phone Number: (308) 632-2749 Cell Phone: _____

E-Mail Address: SSchaneman@npnrd.org

Filed in the office of the Dept. of Natural Resources

at _____ on _____ 20____

Application Number: _____

RightID: _____

Map Number: _____

Water Division: _____

Receipt Number: _____

Amount: \$: _____

Select only one: ☐ **Landowner** (owns all land under proposed project, information above must match information on deed, skip number 2)

☐ **Irrigation District, Reclamation District, Public Power & Irrigation District, Mutual Irrigation Company, Canal Company, or the U.S. Bureau of Reclamation** (skip number 2)

☐ **Farm Operator/Manager** (complete landowner information below)

☐ **Allowance for Joint Ownership** (DNR Form AJO-001 must also be filed, see form for details)

☒ **Other:** Natural Resources District (complete landowner information below)

2. Landowner information (Complete if applicant is filing on behalf of the landowner)

Name: Castle Rock Irrigation District

Address 1: 160160 Hwy L79a

Address 2: _____

City & State: Melbeta, Nebraska

Zip Code: 69355

Phone Number: _____

E-Mail Address: _____

Cell Phone: _____

3a. The proposed project will use: ☒ **Natural Flow** ☐ **Impounded Water** (A separate permit to impound is required)

3b. The purpose of the proposed project is: (select only one)

☐ **Irrigation** ☐ **Manufacturing** ☐ **Domestic** ☒ **Other:** Baseflow enhancement through groundwater recharge

3c. The proposed project is: ☒ **Permanent** ☐ **Temporary** (May be granted for a maximum of one year)

4a. Identify the source of the water (Name of stream or reservoir)

North Platte River

4b. If applicable, identify the facility name for transporting water from the source (portable pump, name of canal, pipeline, etc.)

Castle Rock Canal

5a. Identify the location of the: ☐ **Pump** ☒ **Headgate of:** Castle Rock Canal

Legal Description: SW SW Section: 3 Township: 21 Range: 54 ☐ **E** ☒ **W** Scotts Bluff County

5b. If applicable, indicate the height, in feet, of any proposed diversion or check dams. _____

6. State the approximate amount of water desired for this proposed project (select only one)

☒ 88.00 Cubic Feet per Second (CFS) (for natural flow amount Nebraska statute allows up to 1 CFS per 70 acres to be irrigated.)

☐ _____ Acre-Feet (AF) (for impounded water amount is limited by the quantity of stored water available in the source reservoir)

7. If a pump will be utilized, indicate the rated pumping capacity. _____ gallons per minute (GPM)

8a. State the estimated time required for completion of all water diversion facilities. Completed

8b. State the earliest date when water will have been used for beneficial purposes. 04/01/2024

Please continue on page 2

9. Legal description of lands to be irrigated under this proposed permit.

Section	Township	Range	Direction	NW¼				NE¼				SW¼				SE¼				Total Acres
				NW¼	NE¼	SW¼	SE¼	NW¼	NE¼	SW¼	SE¼	NW¼	NE¼	SW¼	SE¼	NW¼	NE¼	SW¼	SE¼	
			<input type="checkbox"/> East <input type="checkbox"/> West																	0.00
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			<input type="checkbox"/> East <input type="checkbox"/> West																	0.00
Total Acres:																			0.00	

10. Will this project be constructed under a federal program, receive federal funding, or have federal planning assistance?

☐ Yes ☒ No

If yes, explain: _____

11. I certify that I am familiar with the information contained in this application, and to the best of my knowledge and belief such information is true, complete, and accurate.


Signature of Applicant

Scott Scheneman
Print Name

3/13/24
Date

Signature of Landowner
or owner's authorized agent (with proper documentation)

Print Name

Date

Notes:

- A project map is required for this application.
- The applicant may request that the Department of Natural Resources assist in producing a project map.
- This form must be completed in full. An incomplete or defective application will be returned with 90 days being allowed for correction and resubmission. Failure to resubmit a corrected application within this period shall cause dismissal of the application and consequent loss of priority and fees.

A non-refundable filing fee, payable to the Department of Natural Resources, computed from the table below, must accompany this application.

Domestic Use (non-commercial)	\$10.00	Manufacturing Uses	
Agricultural Use (commercial)		General.....	\$10.00
Irrigation from stream (natural flow)		Power generation for each theoretical 50 horsepower.....	\$5.00
0-1,000 acres	\$200.00	Other Uses	\$10.00
Each additional 1,000-acre unit or portion thereof	\$100.00		
Irrigation from a storage reservoir (storage use)			
0-1,000 acres	\$50.00		
Each additional 1,000-acre unit or portion thereof	\$25.00		

Submit this form and filing fee to:
State of Nebraska
Department of Natural Resources
245 Fallbrook Blvd., Suite 201
Lincoln, Nebraska 68521-6729
(402) 471-2363

***Petition for Leave to File an Application for a New Surface Water Appropriation
Within a Moratorium or Stay Area***

Supplemental Information

The North Platte Natural Resources District, Petitioner submits this Petition for Leave to File an Application for a New Surface Water Appropriation Within a Moratorium or Stay Area, pursuant to Department Rules Title 457 N.A.C. 23, to request leave to file a permanent natural-flow appropriation for the purpose of diverting excess flows during the non-irrigation season. Petitioner desires to partner with Irrigation Districts and Canal Companies to divert excess flows into their canals and allow such diverted water to seep through the canal perimeter and recharge the aquifer beneath the canal, less any spills back to the river or its tributaries that may occur during operation of the canal. Petitioner provides the following information in support of this Petition for Leave to File an Application for a New Surface Water Appropriation Within a Moratorium or Stay Area, along with a copy of the draft Application for a Permit to Appropriate Water (Permanent); a copy of the five-year agreement which the North Platte Natural Resources District and the Irrigation District or Canal Company has executed to take advantage of excess flows when available; and a copy of the executed Task Order for anticipated excess-flow diversion opportunities.

Title 457 N.A.C. 23.001.03, Unappropriated water: The Petitioner has reason to believe that unappropriated water in excess of “state-protected flows,” including those flows necessary to meet appropriations held by Central Nebraska Public Power and Irrigation District when in priority, and target flows required for compliance with the Platte River Recovery Implementation Program (PRRIP) may be available, prior to the beginning of the irrigation season. As of March 16, 2023, according to the 2023 National Hydrologic Assessment, the North Platte River Basin at Seminoe Reservoir was at 125% of normal. This does not include any winter precipitation events that may add to the total water supply in the North Platte Basin prior to the beginning of the irrigation season.

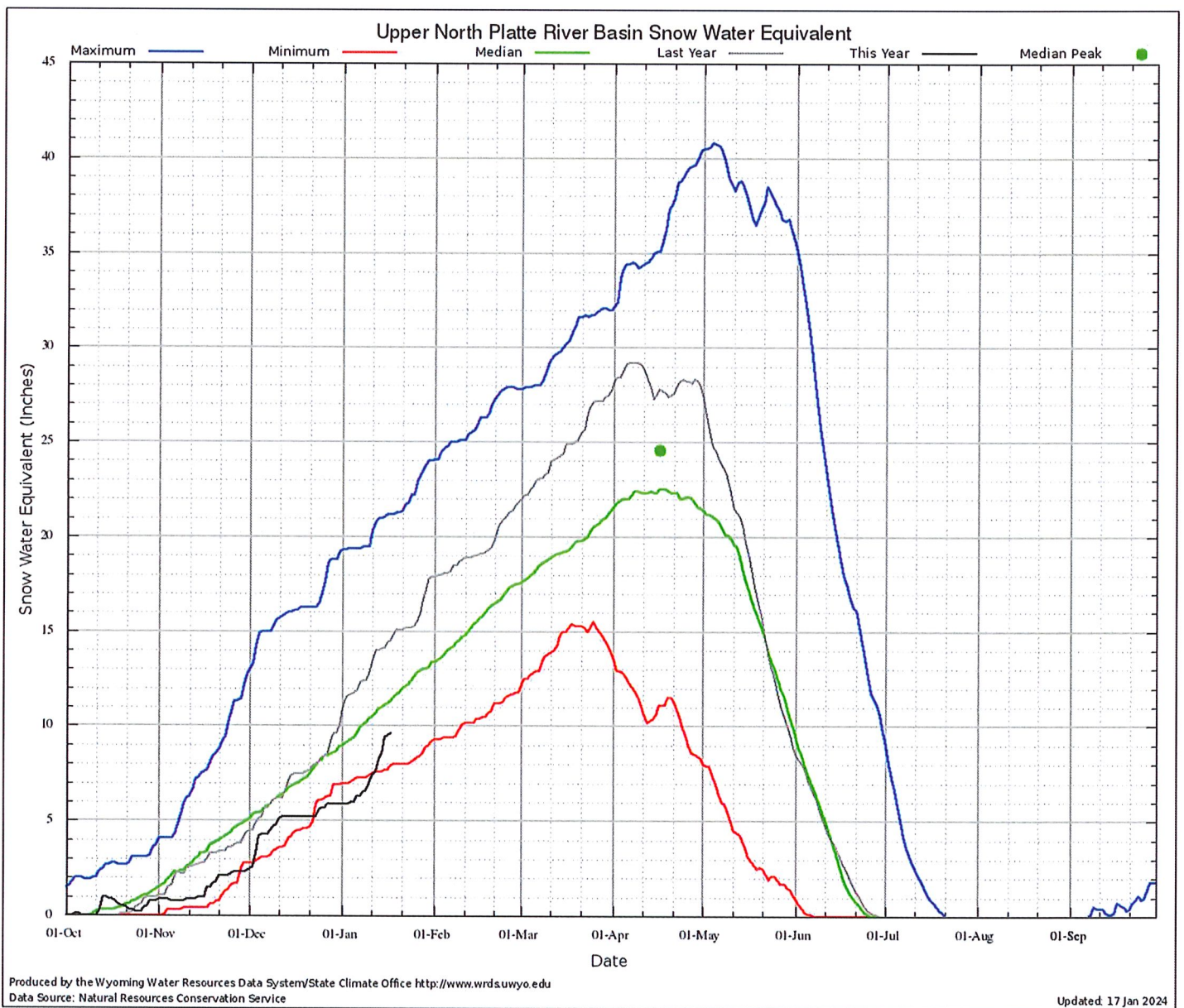


Figure 1: Current and projected snow-water equivalent of snowpack in the lower North Platte Basin below Seminoe Reservoir. (http://www.wrds.uwyo.edu/Snow/Upper_North_Platte-SWEYearPlot.html, accessed January 17, 2024.)

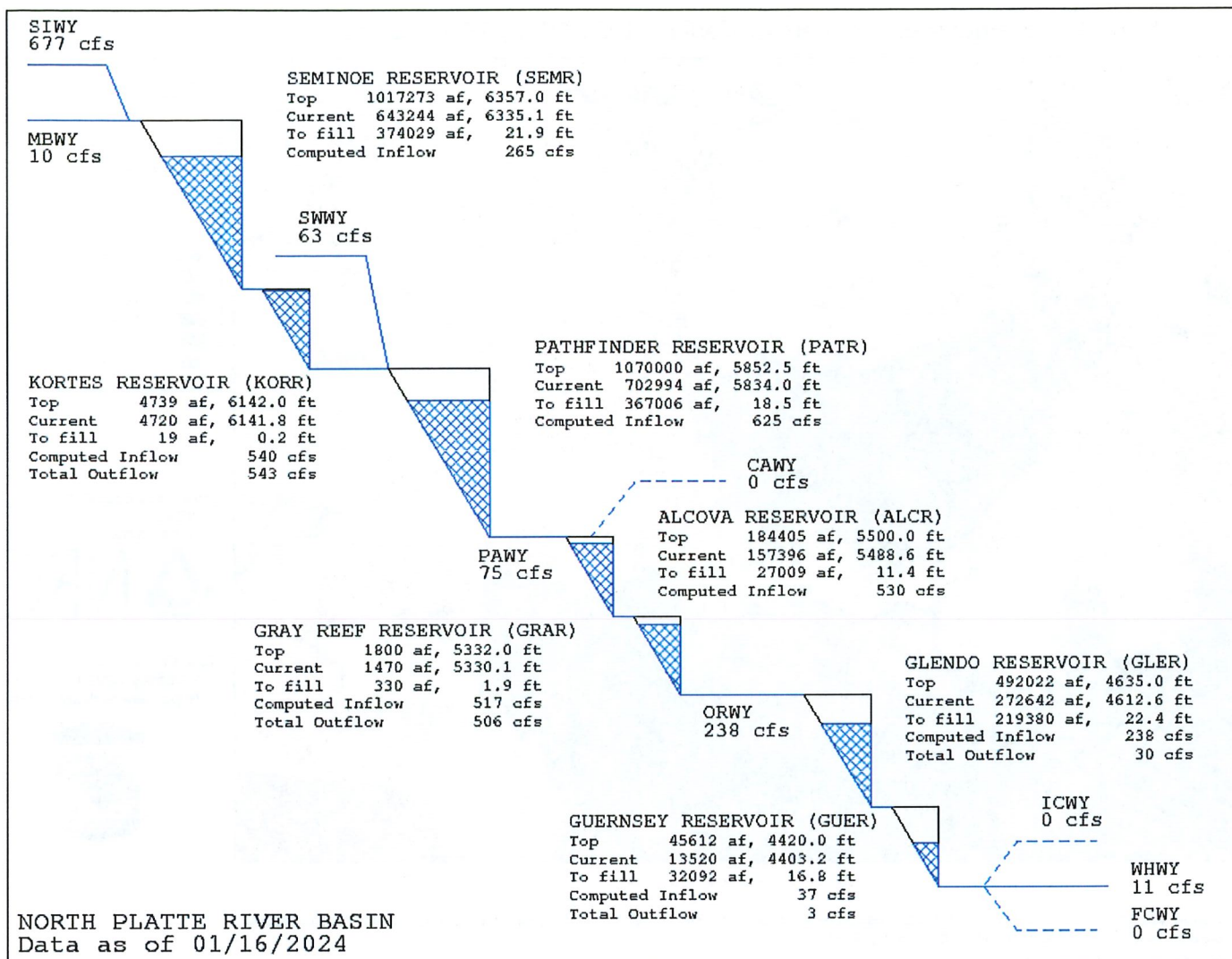
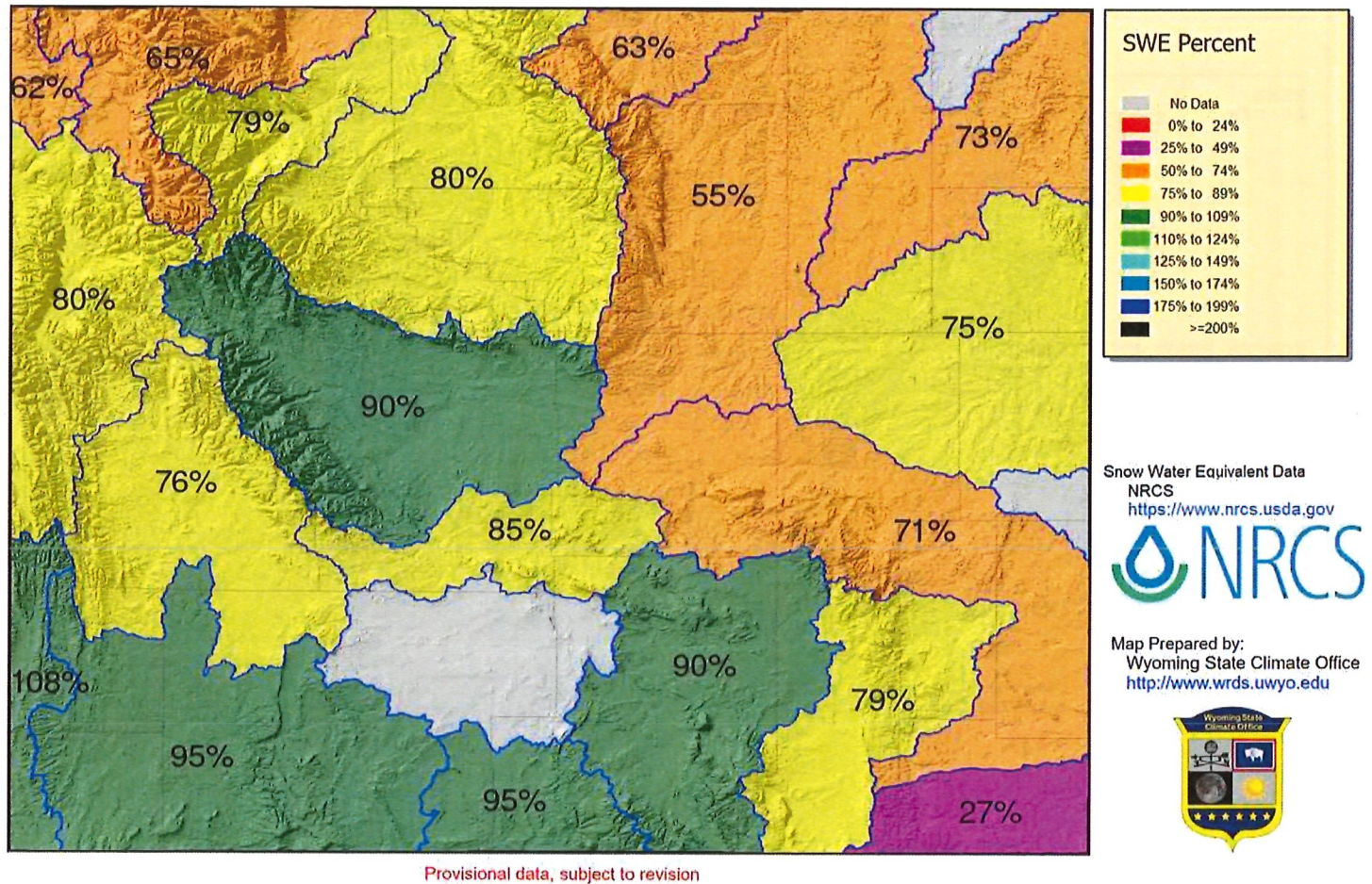


Figure 2: TEACUP model of current Wyoming reservoir levels in the North Platte River system. (https://www.usbr.gov/gp-bin/hydromet_teacup.pl?NP, accessed January 17, 2024.)

According to the EPA (Environmental Protection Agency), the climate in Wyoming is changing. Because of this change, there is likely to be a decrease in the availability of water from Wyoming. As the climate warms, there is less precipitation and more snow melt. This decreases the snowpack causing less water downstream. Therefore, the more water we (Nebraska) can recharge into our aquifer, the better. There has also been an increase in the number of farms in Wyoming along with a decrease in the number of acres enrolled in conservation programs in both Wyoming and Nebraska. More water is being used to irrigate more crops. Excess flow events should now be a higher priority for Nebraska.

Snow Water Equivalent Percent of Median (1991-2020) 18 Jan 2024



Basin Snow Water Equivalent Data from Natural Resources Conservation Service Water and Climate Center <https://www.nrcs.usda.gov>
Map created by Wyoming State Climate Office 18 Jan 2024

* Percentages denoted by an asterisk represent data that may not provide a valid measure of conditions. This is most usually seen near the end of the snow season where normal values may be very low or the melt out curve is so steep that a slight variation in days may result in abnormally high or low percentages.

Figure 3: The current Snow Water Equivalent of Median for the Upper North Platte River Basin is at 71%. (<http://www.wrds.uwyo.edu/wrds/nrcs/snowmap/snowmap.html>, accessed January 18, 2024.)

Because of the factors discussed above, high spring flows along the North Platte River are anticipated to occur before irrigation season begins. Petitioner and its partner, the North Platte NRD, believe that these flows will be more than both PRRIP target flows and state-protected flows that are required to be available prior to June 1.

Title 457 N.A.C. 23.002, Good cause: The North Platte NRD has implemented a joint integrated management plan (IMP) and a basin wide management plan (BWP) with the Department of Natural Resources (DNR). As part of this plan, the NRD is required to offset depletions to streamflow caused by groundwater uses begun after July 1, 1997; subsequent increments of the IMP and BWP will include additional offset requirements to achieve or maintain a fully appropriated condition. In addition, Nebraska's compliance with PRRIP requires that shortages

to target flows be reduced by 130,000 to 150,000 acre-feet per year. To accomplish both purposes, Petitioner and the North Platte NRD will partner once again to divert excess flows, if available, to recharge the aquifer. Recharge gained will return as baseflow to the North Platte River, thereby retiming excess flows back to the river at other times of the year when flows are needed and reducing potential shortages during key seasons (e.g., irrigation).

The North Platte NRD has previously partnered with irrigation districts and canal companies to divert excess flows to alleviate flood conditions on the North Platte River and recharge the aquifer through canal seepage. In 2011, spring and fall diversions resulted in 21,764 acre-feet of accretion to the North Platte River. Diversions in the spring of 2016 added 18,787 acre-feet of accretion to the North Platte River. Diversions in 2019 added 9,219 acre-feet of accretion and diversions in 2020 added 1,918 acre-feet of accretion back to the North Platte River. Petitioner and the North Platte NRD see additional opportunities to divert anticipated excess flows for additional recharge and retiming benefits to the aquifer and the river. These benefits will ensure that the NRD and the state of Nebraska continue to meet depletion-offset targets for integrated management planning and PRRIP.

Conclusion: Petitioner presents this information in support of its variance petition for leave to file an application for a permanent appropriation to divert excess flows in the non-irrigation season. Diversions and, as applicable, spills will be monitored to provide a record of the amount available for recharge, and these data will be reported to DNR as part of the integrated-management annual reporting requirements. Diversions will provide recharge to the alluvial aquifer, which will become baseflow accretions to the North Platte River over time. Previous such recharge diversions have provided ample benefit to streamflow and have assisted the North Platte NRD in meeting the goals of its IMP and of the BWP, as well as providing another mechanism for Nebraska to comply with PRRIP streamflow goals.

EXCESS FLOWS AGREEMENT

#2023-001

This Agreement is entered into on this 9th day of March, 2023, by the **North Platte Natural Resources District**, hereinafter "District", and the Castle Rock Irrigation District, hereinafter referred to as the "Irrigator".

WITNESSETH

WHEREAS, the Irrigator has surface water appropriation(s) for natural flow from the North Platte River and/or its tributaries and the necessary conveyance structure(s) to transmit such natural flow; and

WHEREAS, the District and the Nebraska Department of Natural Resources (NeDNR) have jointly developed and agreed to implement an Integrated Management Plan (IMP) which describes investigating projects to enhance and improve water supply, including the development of new infrastructure and other groundwater projects for the purpose of providing net accretions to the river; and

WHEREAS, the District or NeDNR may request the Irrigator to divert natural flow into the Irrigator's delivery system, without consumptive use for irrigation, during periods when streamflow is in excess of US Fish and Wildlife Service target flows and state-protected flows, in order to assist the District with 1) flood prevention and groundwater recharge and/or groundwater discharge to streamflow, or 2) other projects with the purpose of meeting the goals and objectives of the IMP; and

WHEREAS, the Irrigator is willing to assist the District to meet the objectives of the IMP in exchange for compensation;

NOW THEREFORE, in consideration of the mutual covenants made, the compensation agreed to, and other good and valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

I. SCOPE OF SERVICES

The Irrigator will make available the diversion structures of the Castle Rock Irrigation canal and the services of a ditch rider or staff member, for the term of this Agreement, to assist District efforts to meet the objectives of the IMP, which may include, but not be limited to, the diversion of stream flows in excess of target flows and state-protected flows for the purpose of retiming stream flow, and any monitoring activities necessary to further understanding of the effects of such activities on stream flow. These efforts will be carried out in accordance with Task Orders developed under this Agreement and approved by the Irrigator and District. The purpose of this Agreement is to set forth the terms and conditions applicable to such efforts. During the term of this Agreement, the details of timing and payment shall be described and set forth in separate, numbered Task Orders, issued pursuant to the terms of this Agreement. Should a particular Task

Order ever require revision, such revision shall be accomplished through an amendment to that individual Task Order.

II. DURATION OF AGREEMENT

This Agreement is effective on the date signed by the last party and shall automatically terminate five (5) years from the effective date. This Agreement will not be extended or renewed unless further agreed to by the parties and a separate written agreement is executed.

III. THE IRRIGATOR AGREES TO PERFORM AS FOLLOWS:

- A. The Irrigator agrees to divert, only upon request from the District and in accordance with a particular Task Order then in operation, up to 88 cfs of natural flow surface water and convey such water through its delivery system.
- B. The Irrigator further agrees not to apply to consumptive use for irrigation any of the water diverted subject to this Agreement.
- C. The Irrigator represents and affirms that, in accordance with all relevant regulations, statutes, and/or procedures, the Irrigator has complied or will comply with all requirements necessary to allow it to enter into this Agreement and perform all actions herein required. If the Irrigator has not complied, or in the future fails to comply, with all relevant regulations, statutes, and/or procedures, this Agreement is null and void.
- D. The Irrigator retains the right to suspend or terminate its performance under this Agreement 1) in the event of threatened damage to any of its facilities; 2) threatened injury or damage to the person or property of third parties; 3) if any provisions of the Agreement subjects any part of the Irrigator's appropriation to cancellation, reduction, or loss under the laws of the State of Nebraska then in effect; or 4) adversely affects its ability to provide irrigation service during its irrigation season. The Irrigator's sole judgement in these matters will control. In the event that the Irrigator must suspend or terminate its performance pursuant to this paragraph, then it shall promptly notify the District by telephone and in writing. In such events, the District will accordingly determine, based upon the benefit received, any reduction in the payment made to Irrigator.

IV. THE DISTRICT AGREES TO PERFORM AS FOLLOWS:

- A. The District shall pay the Irrigator the sum of \$150.00 per cfs of excess flows diverted for flood relief or recharge each year during the term of this agreement.
- B. Payment will be made according to the terms of each Task Order, but not later than six (6) months after the final date of diversion by the Irrigator. Payment may be delayed depending upon final determination of measurements by NeDNR or compliance with the terms and conditions of this Agreement and Task Orders.

- C. The Irrigator, with the assistance of the District, shall obtain all necessary permits from NeDNR for the purpose of diverting excess flows under this Agreement.

V. THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- A. The parties agree that the Irrigator has retained and reserved the rights to any additional water that it would be entitled to receive under agreements and contracts between the Bureau of Reclamation or any other entity and the Irrigator that are outside of the provisions of this Agreement.
- B. In executing this Agreement, the parties shall comply with all other applicable state and federal laws.

Castle Rock Irrigation Co.; North Platte Natural Resources District,

Jody W. FISCO VP

By: Jody W FISCO S VP

Dated: 03/09/2023

Scott Schaneman

By: Scott Schaneman, General Manager

Dated: 3/9/23

TASK ORDER # 01
to
North Platte Natural Resources District
Excess Flows Agreement #2023- 01

I. THE IRRIGATOR AGREES TO PERFORM AS FOLLOWS:

- A. The Irrigator agrees to divert natural flow surface water and convey such water through its delivery system, in accordance with the terms of the Excess Flows Agreement, beginning when directed by the NeDNR Bridgeport Field Office Supervisor, as needed to alleviate flooding conditions on the North Platte River, or to take advantage of excess flows available in the North Platte River. The period of diversion for this purpose will be the duration of the excess flow event, beginning from the date excess flows are directed and authorized by NeDNR and until the excess flows of such event recede. To receive any compensation under the Excess Flows Agreement, the Irrigator must in good faith divert flows into its system and convey such water for the period of time designated by NeDNR's Bridgeport Field Office and the District, which amount cannot be quantified precisely at this time. A flat rate fee will be paid to the Irrigator as agreed upon below.
- B. Prior to the date of the end of the excess flow event, as determined by NeDNR, the Irrigator retains the right to suspend or terminate its performance under this Agreement 1) in the event of threatened damage to any of its facilities; 2) threatened injury or damage to the person or property of third parties; 3) if any provisions of the Agreement subjects any part of the Irrigator's appropriation to cancellation, reduction or loss under the laws of the State of Nebraska, then in effect; 4) adversely affects its ability to provide irrigation service during its irrigation season; or 5) the Irrigator commences irrigation deliveries. The Irrigator's sole judgement in these matters will control. In the event that the Irrigator must suspend or terminate its performance pursuant to this paragraph, then it shall promptly notify the District by telephone and in writing. In such events, the District will only pay the Irrigator for excess flows actually diverted for flood relief or recharge as measurements can verify.

II. THE DISTRICT AGREES TO PERFORM AS FOLLOWS:

- A. The District shall pay the Irrigator the sum of \$150.00 per cfs of excess flows diverted for flooding mitigation and canal recharge. Payment will be provided not later than six (6) months after the final date of diversion for these purposes but may be delayed depending upon final determination of measurements by NeDNR or compliance with the terms and conditions of this Agreement and Task Orders.
- B. The District will work with NeDNR to determine the measurements or methods needed to estimate project benefits (e.g. diversions and return flows). The District will make the agreed-upon measurements in conjunction with NeDNR.

III. OTHER CONDITIONS

- A. FORCE MAJEURE - The Irrigator shall not be liable for any delay or failure to perform its obligations under this Agreement caused by an event or condition beyond the reasonable control, and not caused by the fault or negligence, of the Irrigator, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, severe cold or other weather event, which delays or prevents performance, which the Irrigator could not reasonably have avoided by exercise of due diligence and foresight. Upon the occurrence of such an event or condition, the obligations of the Irrigator under this Agreement shall be excused and suspended without penalty or damages, provided that the Irrigator shall give the District prompt notice of such event or condition. In such events, the District will only pay the Irrigator for excess flows actually diverted for flood relief or recharge as measurements can verify.
- B. LIABILITY - Except for injury or damage caused by the District's intentional or grossly negligent acts, the District shall not be liable or held responsible for any injury or damage to the Irrigator's facilities, personnel, or equipment, or any other person or entity's property.

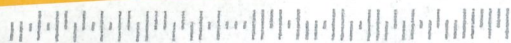
Castle Rock Irrigation Co., North Platte Natural Resources District,

Jody Eiscus V.P.
By: Jody Eiscus V.P.

Dated: 03/09/2023

Scott Schaneman
By: Scott Schaneman, General Manager

Dated: 3/9/23



Natural Resources District

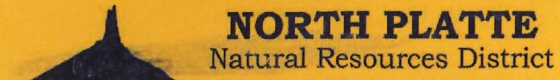
100547 Airport Road, P.O. Box 280
Scottsbluff, NE 69363-0280



Nebraska Department of Natural Resources
245 Fallbrook Blvd., Suite 201
Lincoln, NE 68521-6729

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NATURAL RESOURCES

* 1 of 2 *



NORTH PLATTE
Natural Resources District

100547 Airport Road, P.O. Box 280
Scottsbluff, NE 69363-0280



Nebraska Department of Natural Resources
245 Fallbrook Blvd., Suite 201
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2 of 2