

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION NEX-7544 FOR A CHANGE OF APPROPRIATION TO AUGMENT

STREAMFLOW PURSUANT TO CREP WATER USE CONTRACT NUMBER 1142

WATER APPROPRIATION A-13587

WATER DIVISION 1-B

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-13587 is held by Ronald L. and Jo Ann Hawley, Ryan L. Hawley, Richard L. Hawley, and Lola Lawley.
2. Appropriation A-13587 with a priority date of May 21, 1975, authorizes the use of 0.26 cubic-foot per second (cfs) of water from the Republican River for irrigation of 85.4 acres of land.
3. On August 22, 2019, Ronald L. and JoAnn Hawley, Ryan L. Hawley, Richard L. Hawley, and Lola Lawley filed application NEX-7544, which is authorized under the provisions of *Neb. Rev. Stat.* § 46-290(5) and 457 *Neb. Admin. Code* Chapter 9.002.01, and requested a temporary change of use and location of use of water for appropriation A-13587 in order to **enroll in the Nebraska Platte-Republican Resources Area Conservation Reserve Enhancement Program (CREP)** for the improvement of water quantity and quality, and the enhancement of wildlife habitat, through establishment of vegetative cover to reduce irrigation water consumptive use and agricultural chemical and sediment runoff into waters of Nebraska. The CREP contract is pursuant to an agreement between the State of Nebraska and U.S. Department of Agriculture Commodity Credit Corporation. Ronald L. and JoAnn Hawley, Ryan L. Hawley, Richard L. Hawley, and Lola Lawley desire to participate in CREP and agree not to irrigate specific land for a specific period of time.
4. The proposed location of use is downstream of the current point of diversion to the Nebraska/Kansas State Line. Under provisions of *Neb. Rev. Stat.* § 46-294(1)(e) only the historic consumptive use may be transferred to the new use and location of use. In order to meet CREP eligibility requirements the enrolled cropland must have been irrigated at the rate of not less than one-half acre-foot per acre per year for four years out of the same six-year period established for CRP cropping history eligibility, as provided in National FSA CRP Directives at the time of enrollment of the original Contract.
5. The Department has reviewed application NEX-7544 and other pertinent information and determined that the transfer request meets all necessary requirements for approval pursuant to *Neb. Rev. Stat.* § 46-294(1) and all other applicable laws and regulations.

ORDER

IT IS HEREBY ORDERED Application NEX-7544 and map number 20471 are APPROVED:

1. Application NEX-7544 is a transfer for the purpose of benefiting fish and wildlife habitat through stream flow augmentation in a specific stream reach pursuant to a CREP contract.
2. Ronald L. and JoAnn Hawley, Ryan L. Hawley, Richard L. Hawley, and Lola Lawley entered into CREP Water Use Contract 1142 with the Department and a CRP-1 Contract with the U.S. Department of Agriculture (hereinafter collectively referred to as "the Contracts" agreeing not to use appropriation A-13587 for irrigation in accordance with the terms of the Contracts.
3. Appropriation A-13587 (on lands appurtenant to CREP Water Use Contract 1142) through transfer NEX-7544 shall be a flow augmentation appropriation for the amount of water shown below, not to exceed 11.86 acre-feet per annum, for meeting the purposes of the CREP goals. The Department has determined the amount of historic consumptive use of surface water for these acres shall not exceed the following:

<u>A-13587</u>	<u>Month</u>	<u>CFS</u>
	June	0.04
	July	0.08
	August	0.08

4. The location of use shall be downstream of the current point of diversion to Harlan County Reservoir. Such water may be stored in Harlan County Reservoir upon the agreement of the Department and the owners of Harlan County Reservoir.
5. This temporary use is coincident with the beginning of the Contracts and is effective through the end of the Contracts. After termination of the Contracts, appropriation A-13587 shall automatically revert back to its previous use and location of use without further action by the Department.
6. The following described land shall not be irrigated during the term of this temporary CREP transfer as shown on map number 20471.

<u>Township 01 North, Range 17 West of the 6<sup>th</sup> P.M. in Harlan County</u>	<u>Acres</u>
Section 01: SE $\frac{1}{4}$ SW $\frac{1}{4}$	3.9
SW $\frac{1}{4}$ SE $\frac{1}{4}$	9.4
SE $\frac{1}{4}$ SE $\frac{1}{4}$	22.9
Section 12: NE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>15.8</u>
TOTAL	52.0

7. During the term of the temporary transfer the remaining portion of water appropriation A-13587 shall be shown in the records of the Department as a permit to divert 0.10 cfs for the irrigation of 33.4 acres of land. All terms and conditions of A-13587 remain in effect unless specifically changed by this Order.
8. The appropriator must comply with all relevant statutes. The statutes include, but are not limited to, the following:
  - A. Notify the Department of any change in ownership or address.
  - B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
  - C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

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 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 a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

November 4, 2019

  
 Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. A copy of this Order and map number 20471 was provided to the Department's field office in Cambridge, Nebraska. A copy of this Order and map number 20471 was mailed on November 4, 2019, to the following:

Ronald L. and Jo Ann Hawley  
 12359 707 Road  
 Naponee, Nebraska 68960

Richard L. Hawley  
 8111 Bancroft Avenue  
 Lincoln, Nebraska 68506

Ryan L. Hawley  
 706 Lincoln Street  
 Alma, Nebraska 68920

Lola Hawley  
 706 Lincoln Street  
 Alma, Nebraska 68920