

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19799

WATER DIVISION 1-A

BACKGROUND

1. 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 including the North and South Platte Rivers and tributaries. Subsequently, integrated water management plans have continued the moratorium on issuing new surface water appropriations.
2. On October 19, 2021, Devin Brundage, on behalf of The Central Nebraska Public Power District (CNPPID), filed petition VAR-9453 for Leave to File or Consider an Application for a Permit to Appropriate Water within a Moratorium Area or Stay Area. The petition requests leave to file an application for a temporary permit to appropriate water stored in Lake McConaughy for the purpose diverting Environmental Account water into the Phelps Canal and Cottonwood Ranch to test infrastructure, specifically gate calibration and butterfly valve cavitation issues. The overall purpose will be for the benefit of Fish and Wildlife and reductions to shortages to target flows on the Platte River via the Cottonwood Ranch Complex.
3. On November 29, 2021, the Department granted leave to file an application for a permit to appropriate water by approving petition VAR-9453.
4. On December 2, 2021, CNPPID, filed in the Department application A-19799 for a temporary permit to appropriate water to test infrastructure associated with the Cottonwood Ranch recharge facility. The application further qualifies the intent of the diversion for recharge is to benefit fish and wildlife.
5. Thomas Econopouly, Environmental Account Manager for the United States Fish & Wildlife Service authorized the use of Environmental Account water. In his authorization he stated "that the permit should be restricted to testing of infrastructure at the Cottonwood Ranch Recharge Project; and more specifically limited to the calibration and adjustments of gates, and the troubleshooting and repair of valves."
6. Temporary permits may not be granted for a term of more than one year.

ORDER

IT IS HEREBY ORDERED that application A-19799 is APPROVED subject to the following conditions:

1. The Source is water stored in Kingsley Reservoir (A-2374), which has accrued to the Environmental Account.
2. The priority date is December 2, 2021.
3. The water shall be used for the purpose of testing infrastructure associated with the Cottonwood Ranch recharge facility; and more specifically limited to the calibration and adjustment of gates, and the troubleshooting and repair of valves. There may be incidental benefits for fish and wildlife and reductions to shortages to target flows on the Platte River via the Cottonwood Ranch Complex as the result of deliveries of water under this appropriation.
4. This appropriation will be limited to a maximum of 2,000 acre-feet.
5. Water subject to release under appropriation A-19799 shall be accounted for in combination with water released under storage use appropriation A-17695 such that the total amount of water diverted under these two appropriations cannot exceed the quantity of storage water accrued to the Environmental Account.
6. Environmental Account water may be released from Kingsley Reservoir (Lake McConaughy) and diverted at a maximum rate of 200 cubic feet per second (cfs) at the Tri-County Diversion Dam. Water will be routed through the Supply Canal to the Phelps Canal and delivered to the Cottonwood Ranch Complex.
7. This storage-use appropriation will not divert natural flow or cause limitation in other appropriator's diversions of natural flow.
8. The water diverted under A-19799 may flow only through the headgates, canals, laterals and pipeline systems. The water diverted under A-19799 may not be used for direct irrigation. Any water diverted for the purpose authorized under this permit that is not delivered to the Cottonwood Ranch Complex under the specified limitations and conditions shall be returned to the Platte River system at established spills and drains.
9. The Appropriator shall have measuring devices installed and operational at the headgate diversion from the Platte River and at the delivery point to the Cottonwood Ranch Complex facility prior to commencing diversion and delivery under this appropriation. Accurate measurement of diversions and deliveries will be documented by the Appropriator (CNPPID) and made available upon request by the Department.

10. A summary of all diversions under this appropriation must be provided to the Department within six months after cessation of diversion for this project or the termination of this appropriation, whichever occurs first. The summary must contain, at a minimum, the average daily diversion and delivery values for this appropriation.
11. Appropriator must notify the Department in written form before diversion may occur under this appropriation. Appropriator must receive written acknowledgement from the Department 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 communication will confirm the rate of diversion under this appropriation. Once notified, the Department will take any necessary actions to ensure that diversion under A-19799 will not interfere with other appropriator's diversions.
12. Once diversion under this appropriation has begun, the Appropriator shall notify the Department in writing or via email prior to cessation of diversion under this appropriation. If this falls on a holiday or weekend, then the notification must be received by the next business day. If there is an interruption of storage delivery under this appropriation, then a confirmation must be obtained from the Department as described within this Order before resuming diversion under this appropriation.
13. The Appropriator must comply with all relevant statutes.
14. If a relinquishment is not submitted first, then A-19799 will EXPIRE one year from the approval date of this Order and appropriation A-19799 will be CANCELLED without further action by the Department as of that date.

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



December 21, 2021

Thomas E. Riley, P.E., 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 on December 21, 2021, to the following:

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