

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-9613 TO CHANGE THE LOCATION OF

DIVERSION FOR WATER APPROPRIATION D-477R

WATER DIVISION 2-D

THE DIRECTOR FINDS:

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriations D-477 and D-477R are held by the White River Irrigation District (District).
2. Appropriation D-477, with a priority date of December 31, 1894, authorizes the District to divert 4.28 cubic feet per second (cfs) of water for irrigation of 369.0 acres. The water may be diverted from the White River via the White River Canal headgate located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 32 North, Range 52 West of the 6th P.M. in Dawes County.
3. Appropriation D-477R, with a priority date of December 31, 1894, authorizes the District to divert 1.00 cfs of additional water for irrigation of the same 369.0 acres under water appropriation D-477. The water may be diverted from White Clay Creek via the McFarland Canal headgate located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Township 32 North, Range 52 West of the 6 P.M. in Dawes County
4. On, March 17, 2022, Jake Wasserburger, President, filed petition RLP-9613 in the Department for a permit to change the location and source of diversion for appropriation D-477R to the White River at the same location of diversion as D-477.
5. The existing location of diversion on White Clay Creek is located approximately one mile upstream from its confluence with the White River, and the proposed new location of diversion and source (White River) is approximately two river miles upstream of the confluence of White Clay Creek. There are over 20 appropriations between the confluence and the proposed diversion on the White River at the White River Canal.

THE DIRECTOR CONCLUDES:

1. The Department's experience indicates that moving a water appropriation upstream and downstream of junior water appropriations to a location with a different water supply creates the possibility that during times of shortage, some upstream and downstream water appropriators could be harmed. The harm can come in the form of an administrative call for an additional 1.0 CFS of water under the priority date of D-477R. It can also come in the form of physically removing water from the stream that would otherwise have been available to downstream appropriators.
2. Approval of this petition should be conditioned to prevent harm to other appropriators.

to water administration for any junior appropriator within the following described river reach who is short of water and placing a call for water administration by the Department. For the purpose of this paragraph, "junior appropriator" means any appropriator in the following described reach that is junior in priority to D-477R. The applicable stream reach for this condition is from the current diversion location at the headgate of the White River Canal on the White River downstream to the confluence of White Clay Creek and the White River. To prevent harm to junior appropriations upstream of D-477R the Department will not administer a call on behalf of appropriation D-477R.

5. All terms and conditions of previous Orders for appropriation D-477 and D-447R remain in effect unless specifically changed by this Order. Nothing in this Order places new limitations on a priority call for water administration for the benefit of D-477. Currently the grant for D-477 is 4.28 CFS.
6. The appropriator must comply with all relevant statutes. This includes, but is 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 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.

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



Thomas E. Riley, P.E., Director

December 13, 2022

A copy of this Order was posted on the Department's website, provided to the Department's field office in Bridgeport, Nebraska and mailed to the following:

Jake Wasserburger, President
White River Irrigation District
151A Old Hwy 20
Crawford, Nebraska 69339