

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER GRANTING PERMIT TO TRANSFER GROUND WATER FOR MUNICIPAL USE

AND

CANCELLING PERMIT TO TRANSFER GROUND WATER FOR MUNICIPAL USE

The Director of the Department of Natural Resources (Department) approves Application MT-45, submitted by the City of Benkelman, Nebraska, for a permit to withdraw and transport ground water for municipal use.

The terms and conditions of Permit MT-45 are as follows:

1. Permit MT-45 authorizes the City of Benkelman to withdraw and transfer ground water from one existing and up to two proposed public water supply wells. Withdrawal and transfer of ground water under permit MT-45 shall not exceed 800 gallons per minute maximum, nor shall the maximum rate of withdrawal exceed 1,152,000 gallons per day (gpd).
2. The average daily withdrawal and transfer of ground water shall not exceed 342,465 gpd.
3. The total amount of ground water that may be transferred in a one-year period shall not exceed 125,000,000 gallons.
4. The priority date shall be April 10, 2014, as required by Neb. Rev. Stat. § 46-642(1).
5. Ground water may be withdrawn and transferred from the existing public water supply well identified as G-030148, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, Township 2 North, Range 37 West of the 6<sup>th</sup> P.M.; and from up to two proposed wells to be constructed in the NE $\frac{1}{4}$  of Section 13, Township 2 North, Range 38 West of the 6<sup>th</sup> P.M., all in Dundy County, Nebraska.
6. The water shall be used for domestic, fire suppression, and all other beneficial municipal purposes for the service area of the City of Benkelman, shown on maps filed in support of Application MT-45.
7. Approval of this permit is based on the information included and representations made in Application MT-45 by the City of Benkelman. That information and those representations are considered terms of this approval, to which the City of Benkelman must adhere.
8. The City of Benkelman must develop and implement best management practices to ensure that the City maintains its customers' per-capita water use at rates less than or equal to the rates stated in the application.

9. For one year from the date of this Order, the City of Benkelman is granted statutory spacing protection (1,000 feet) for any test holes or wells under construction at the proposed wellfield. The affected lands are described as follows:

Township 2 North, Range 37 West, Dundy County

Section 7: SW $\frac{1}{4}$ SW $\frac{1}{4}$   
Section 18: W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$

Township 2 North, Range 38 West, Dundy County

Section 12: S $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$   
Section 13: E $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$

10. The City of Benkelman shall install a flow meter on each well, and, by January 31 of each year, the City of Benkelman shall file in the office of the Department a completed "Public Water Supplier Ground Water Well Report", on a form provided by the Department.
11. The City of Benkelman must comply with all state and federal laws and the regulations of the Department and the Upper Republican Natural Resources District (NRD), including, but not limited to, the following:
- A. Any new or replacement water wells must be registered as required by *Neb. Rev. Stat.* § 46-602(1).
  - B. Notice of decommissioning forms for existing wells G-092236 and G-093574 shall be filed as required by *Neb. Rev. Stat.* § 46-602(8).
  - C. The withdrawal and transfer must be in accordance with the provisions of the integrated management plan (IMP) developed by the Department and the Upper Republican NRD.
12. In order to ensure compliance with both the Republican River Compact and the joint Upper Republican NRD/Department IMP, as they exist as of the date of this Order, the Department imposes the following additional conditions:
- A. When deemed necessary, the Department and the Upper Republican NRD may review the withdrawal and transfer activities under permit MT-45 to determine what, if any, adverse impacts such activities may have on surface water appropriators, ground water users, or on the state's ability to comply with the Compact.
  - B. The Department and the Upper Republican NRD may work together, in conjunction with the City of Benkelman, to determine, using the best available tools, the amount of impact directly attributable to the City's wellfield operations.
  - C. The Department, the Upper Republican NRD, and the City will agree on the appropriate method of mitigation for such impacts, as well as a schedule for implementing the proposed mitigation.

13. Permit MT-45 shall be valid for five years after the date of this Order and as long thereafter as the water for which the permit is granted is placed to beneficial use. If the City of Benkelman has not used water for beneficial purposes and in accordance with the terms of this permit for more than five years, the permit may be revoked or modified by the Director pursuant to *Neb. Rev. Stat. § 46-644*. The procedure for such revocation or modification is provided for in *Neb. Rev. Stat. §§ 46-229.02 to 46-229.05*.

The water wells and ground water withdrawals included under Permit MT-45 completely replace the water wells and ground water withdrawals permitted under existing municipal transfer permit A-17533, which was granted on May 16, 1997. The Director CONCLUDES that Permit A-17533 should be cancelled.

It is therefore ORDERED that Permit A-17533 is hereby cancelled.

THIS PERMIT MAY BE REVOKED OR MODIFIED BY THE DEPARTMENT FOR FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THE PERMIT.

DEPARTMENT OF NATURAL RESOURCES

November 24, 2014

  
Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing, in accordance with the *Neb. Admin. Procedures Act §§ 84-901 et. seq.* RRS and the Department's *Rules of Practice and Procedure Title 454 Neb. Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the Approval and be accompanied by a filing fee of \$10.

A copy of this Order granting Permit MT-45 and cancelling Permit A-17533 was posted on the Department's website and provided to the Department's field office in Cambridge, Nebraska. A copy of this Order was mailed on November 24, 2014, to the following:

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Kier Farms, Inc.  
1221 B Street  
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Baney Farms, Inc.  
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Ray L. and E. Maxine Balderson, Trustees  
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Ellis Farms, Inc.  
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