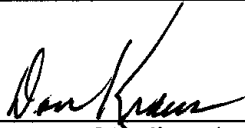


STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

PETITION TO THE NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
FOR 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

Complete items 1 through 5 by printing in ink or typing the appropriate information and by placing an X in the appropriate box. Attach supporting documentation and a \$10 non-refundable filing fee.		For Department Use Only	
1. Name and address of petitioner: The Central Nebraska Public Power and Irrigation District P.O. Box 740, 415 Lincoln Street Holdrege, NE 68949-0740		Modification No.: VAR-4829 Date Filed: September 19, 2013 Time Filed: 4:59pm SW Appropriation No.: _____ (if applicable) Right ID No.: _____ (if applicable) Water Division: 1-A Receipt No.: A4145 Amount: \$10.00	
E-mail address: _____ Telephone No. (308) 995-8601			
2. Check the situation that applies: <input type="checkbox"/> Application Already Filed      Application Number: _____ <input checked="" type="checkbox"/> Application Not Filed (Enclose copy of proposed application)			
3. Description of proposed project: <u>Diversion of unappropriated water into the E65 Canal and Elwood Reservoir for the purpose of groundwater recharge.</u>			
4. The Proposed Project — (Check all that apply): <input type="checkbox"/> 001.01 — Is a non-consumptive use <input type="checkbox"/> 001.02 — Will replace (offset) any consumptive use (Attach Offset Plan) <input checked="" type="checkbox"/> 001.03 — Is for possible unappropriated water (Attach Analysis) <input type="checkbox"/> 001.04 — Existed before the stay or moratorium (Attach Proof) <input type="checkbox"/> 001.05 — Addresses a public safety issue (Attach Explanation) <input type="checkbox"/> 001.06 — Is a temporary use for public construction (<10 AF)			
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<u>9/19/13</u> Date		 Signature of Applicant (or authorized agent)	
		Don Kraus, P.E. General Manager	

Send to the following address (along with \$10 non-refundable filing fee):

State of Nebraska  
Department of Natural Resources  
301 Centennial Mall South / PO Box 94676  
Lincoln, Nebraska 68509-4676  
(402) 471-2363

MOD-09192013-4829-Pet (5)

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

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on \_\_\_\_\_

Application No. \_\_\_\_\_

Map No. \_\_\_\_\_

Water Division \_\_\_\_\_

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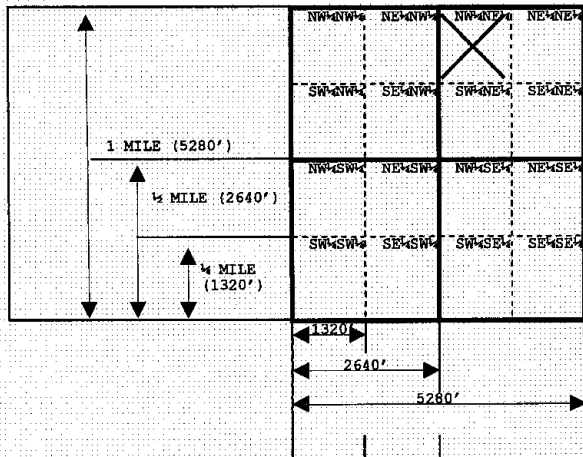
Platte River

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

E65 Canal

5. Identify the location of the  Headgate       Pump

Section 1, Township 8 North, Range 23      E  W  County Gosper



The box at left represents one square mile (section). Place an X within each appropriate 40-acre tract to indicate the location(s) of each headgate or pump.

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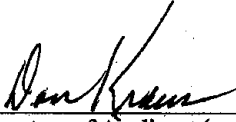
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9/19/13 Date	 Signature of Applicant (or authorized agent)	Don Kraus, P.E. General Manager

Send to the following address (along with \$10 non-refundable filing fee):

State of Nebraska  
Department of Natural Resources  
301 Centennial Mall South / PO Box 94676  
Lincoln, Nebraska 68509-4676  
(402) 471-2363

Copy filed by hand delivery 9-19-2013

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

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on \_\_\_\_\_

Application No. \_\_\_\_\_

Map No. \_\_\_\_\_

Water Division \_\_\_\_\_

Receipt No. \_\_\_\_\_ Amount \_\_\_\_\_

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E-mail address: \_\_\_\_\_ Telephone No. (308) 995-8601

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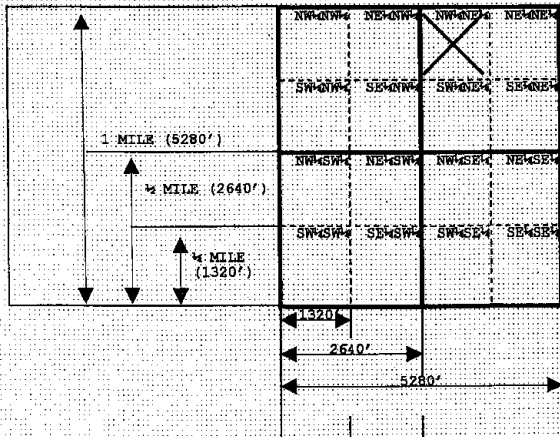
Platte River

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5. Identify the location of the  Headgate       Pump

Section 1, Township 8 North, Range 23 E  W  County Gosper



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If applicable, indicate the height, in feet, of any diversion or check dams on the line below.

\_\_\_\_\_

\* A separate permit to impound water must be obtained.  
\*\* A temporary permit maybe granted for a maximum of one year.

6. If applicable, identify the location of lands by 40-acre subdivisions that will be irrigated.

LEGAL SUBDIVISIONS	Sec.	Twp.	Rge.	No. of Acres	LEGAL SUBDIVISIONS	Sec.	Twp.	Rge.	No. of Acres
TOTAL NUMBER OF ACRES TO BE IRRIGATED:									0.0

Enclosed is an aerial photograph that I have marked to show the approximate location of land to be irrigated as described above.

7. State the approximate quantity of water desired for

appropriation. 350 cfs

- Gallons per minute  
 Cubic feet per second  
 Acre-feet (impounded water)

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

12 months

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

9-20-2013

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

No  Yes If yes, explain: \_\_\_\_\_

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

Date 9/19/13

Don Kraus Don Kraus, P.E., General Manager  
 Signature of owner or owner's authorized agent (with proper documentation)

A final project map may accompany this application or must be filed within six months following departmental approval of this application, drawn in accordance with NAC Title 457 – Rules for Surface Water, Chapter 10, ([http://dnr.ne.gov/SurfaceWater/Title\\_457\\_0608.pdf](http://dnr.ne.gov/SurfaceWater/Title_457_0608.pdf)). At the request of the applicant, the Department will assist with preparation of the project map.

This form must be completed in full. An incomplete or defective application will be returned with 90 days being allowed for resubmission. Failure to resubmit a corrected application within this period shall cause dismissal of the application and consequent loss of priority and fees.

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State of Nebraska  
 Department of Natural Resources  
 301 Centennial Mall South / P.O. Box 94676  
 Lincoln, Nebraska 68509-4676  
 (402) 471-2363

Nature of Use	Cost	Nature of Use	Cost
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Agricultural		General .....	\$10
Irrigation from Stream		Power Generation for each theoretical 50 horsepower .....	\$5
0-1,000 acres .....	\$200	Other .....	\$10
Each additional 1,000 acre unit .....	\$100		
or portion thereof in excess of the first 1,000 acre unit			
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0-1,000 acres .....	\$50		
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**CENTRAL**

*Nebraska Public Power  
and Irrigation District*

**SUPPORTING DOCUMENTS FOR:**

**PETITION FOR LEAVE TO FILE AN  
APPLICATION FOR A TEMPORARY PERMIT TO APPROPRIATE WATER  
FOR GROUNDWATER RECHARGE ON THE:**

**E65 CANAL, ELWOOD RESERVOIR  
and  
COTTONWOOD WATERFOWL PRODUCTION AREA  
in  
Gosper and Phelps Counties**

**VAR-4829**

**SUBMITTED BY  
THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT  
TO  
STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES**

**OCTOBER 14, 2013**

**INCLUDES PRELIMINARY COPY OF:  
APPLICATION FOR A PERMIT TO APPROPRIATE WATER  
FOR TEMPORARY GROUNDWATER RECHARGE**

*Filed 10-18-2013*

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

10-15-08  
3:00 PM

Complete items 1 through 10 by printing in ink or typing the appropriate information and by placing an X in the appropriate box.

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Holdrege, NE 68949-0740

Filed in the office of the Department of  
Natural Resources at \_\_\_\_\_ a.m./p.m.

on \_\_\_\_\_

Application No. \_\_\_\_\_

Map No. \_\_\_\_\_

Water Division \_\_\_\_\_

Receipt No. \_\_\_\_\_ Amount \_\_\_\_\_

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E-mail address: \_\_\_\_\_ Telephone No. (308) 995-8601

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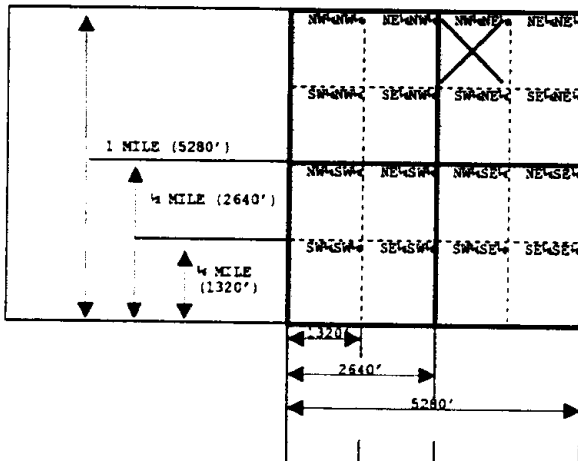
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9/19/13  
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## CNPPID's Intentions

### Temporary Permit to Appropriate Water for Groundwater Recharge on the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area in Gosper and Phelps Counties

The applicant, The Central Nebraska Public Power and Irrigation District (CNPPID) intends to divert Platte River flows in excess of the U.S. Fish and Wildlife Service's Target Flows (target flows) and state protected flows (as defined in the Nebraska New Depletions Plan) for the purpose of groundwater recharge, on the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area, for the Nebraska Department of Natural Resources (Department) and Tri-Basin Natural Resources District (TBNRD).

Only at those times when flow in the Platte River exceeds the quantity necessary to satisfy target flows and state protected flows would diversion occur. Included with CNPPID's Petition For Leave is the Platte River Hydraulic Analysis showing that CNPPID expects unappropriated flows in the Platte River.

The hydraulic analysis and description of excess flows or unappropriated water in the Platte River is based on an assumption that, because of the Platte River Recovery Implementation Program, any new appropriations to Platte River water may be limited to only being able to divert water in excess of U.S. Fish and Wildlife Service's "Target Flows." CNPPID is unaware of any formalization of a requirement to protect Target Flows in the seeking or granting of new appropriations. Therefore, CNPPID wants to clarify that this petition requests the next available water in the Platte River based on priority and submission date and that any limitations regarding Target Flows would be those requirements that may be shared by all future appropriations, or as otherwise may be required as a matter of law.

Diversion for groundwater recharge into CNPPID's E65 Canal would not exceed 350 cfs. The proposed area of groundwater recharge will be the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area as shown on the attached map (Map 2).

## Cory Steinke

---

**From:** Cory Steinke <csteinke@cnppid.com>  
**Sent:** Monday, September 30, 2013 4:41 PM  
**To:** 'beth.eckles@nebraska.gov'; 'mike.thompson@nebraska.gov'  
**Cc:** Mike Drain (mdrain@cnppid.com); Dave Ford (dford@cnppid.com); Don Kraus (dkraus@cnppid.com); 'Debbie Lerma (dlerma@cnppid.com)'  
**Subject:** Ammendments to Temp Groundwater Recharge Water Right Applications Var-4828 and Var-4829

Mike and Beth,

On September 19, 2013, Central submitted temporary groundwater recharge water right applications that were given the following reference numbers: Var-4828 and Var-4829. I would like to amend those applications to reflect some changes in diversion rate and recharge areas.

1. I would like to amend the diversion rate from 450 cfs to 600 cfs for Var-4828 (Temporary permit for groundwater recharge on the Phelps Canal and in Funk Lagoon).
2. I would also like to amend the recharge area on Var-4829 (Temporary permit for groundwater recharge on the E65 canal and Elwood Reservoir) to include the Cottonwood WAP.

Let me know if you have any questions about these amendments.

Cory

Cory Steinke, PE  
Civil Engineer  
Central Nebraska Public Power and Irrigation District  
308-995-3542 work  
308-991-0341 cell

5 Lincoln St.  
P.O. Box 740  
Holdrege, NE 68949-0740

---



Phone: (308) 995-8601  
Fax: (308) 995-5705  
Web: [www.cnppid.com](http://www.cnppid.com)

---

VIA Certified Mail  
7002 2030 0002 0084 9494

October 16, 2013

Mike Thompson  
Nebr. Department of Natural Resources  
P.O. Box 94676  
Lincoln, NE 68509-4676

**Subject: Supporting Documents for Petition for Leave to File an Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the E65 Canal, Elwood Reservoir and Cottonwood Waterfowl Production Area in Gosper and Phelps Counties – VAR-4829**

Enclosed please find a 3-ring binder containing supporting documents for Central's filing designated as VAR-4829. The documents include:

- ✓ Petition for Leave to File - file date September 19, 2013 – VAR-4829;
- ✓ Cory Steinke's September 30, 2013, email to you requesting the recharge area on VAR-4829 be amended to include the Cottonwood Wildlife Production Area;
- ✓ Application for a Permit to Appropriate Water, dated September 19, 2013; and
- ✓ A Report to Accompany the Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area in Gosper and Phelps Counties.

Any notices regarding this application should be sent to Cory Steinke, P.E., CNPPID, PO Box 740, Holdrege, NE 68949-0740.

Sincerely,

A handwritten signature in black ink that reads "Don Kraus". The signature is written in a cursive, flowing style.

Don Kraus, P.E.  
General Manager

dl  
Enclosures

# PETITION

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

PETITION TO THE NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
FOR LEAVE TO FILE OR CONSIDER AN APPLICATION FOR A NEW  
SURFACE WATER APPROPRIATION WITHIN A MORATORIUM OR STAY AREA  
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Corrected Filed 10/18/2013

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The temporary right would allow CNPPID to assist the Nebraska Dept. of Natural Resources and the Tri-Basin Natural Resources District with the retiming of excess water for groundwater recharge in the E65 Canal and Elwood Reservoir.

9/19/13  
Date

Don Kraus  
Signature of Applicant (or authorized agent)

Don Kraus, P.E. General Manager

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Department of Natural Resources  
301 Centennial Mall South / PO Box 94676  
Lincoln, Nebraska 68509-4676  
(402) 471-2363

# APPLICATION

2

# REPORT

**REPORT TO ACCOMPANY**

**THE**

**APPLICATION FOR A TEMPORARY PERMIT  
TO APPROPRIATE WATER FOR GROUNDWATER RECHARGE  
ON THE E65 CANAL, ELWOOD RESERVOIR, AND  
COTTONWOOD WATERFOWL PRODUCTION AREA  
IN GOSPER AND PHELPS COUNTIES**

**October 2013**

SUBMITTED BY

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

TO

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES



THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

REPORT TO ACCOMPANY  
THE  
APPLICATION FOR A TEMPORARY PERMIT  
TO APPROPRIATE WATER FOR GROUNDWATER RECHARGE  
ON THE E65 CANAL, ELWOOD RESERVOIR, AND  
COTTONWOOD WATERFOWL PRODUCTION AREA  
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**EXHIBITS**

Exhibit 1 The CD contains the following documents and data:

- (1) Cover Letter
- (2) Petition for Leave Form
- (3) Application for a Permit to Appropriate Water Form
- (4) CNPPID's Intentions
- (5) Report to Accompany the Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area in Gosper and Phelps Counties
- (6) Platte River Hydraulic Analysis Summary Document (See Exhibit 2 for the printed document.)
- (7) Spreadsheet of Platte River Hydraulic Analysis of Flows in the Platte River

## TABLE OF CONTENTS (continued)

- Exhibit 2 A summary of the Platte River Hydraulic Analysis of Flows in the Platte River and associated spreadsheet. The data analysis is on the CD in Exhibit 1.
- Exhibit 3, Part 1 Water Service Agreement between CNPPID, Nebraska Department of Natural Resources, and Tri-Basin Natural Resources District, dated the 20<sup>th</sup> of September, 2013.
- Exhibit 3, Part 2 Amendment No. 1 to the Water Service Agreement between CNPPID, Nebraska Department of Natural Resources, and Tri-Basin Natural Resources District, dated the 4<sup>th</sup> of October, 2013.

### MAPS

- Map 1 CNPPID - SUPPLY CANAL AND LAKES  
LINCOLN, DAWSON AND GOSPER COUNTIES  
Drawing No. SC-LAKES1  
Date: 11/19/98
- Map 2 PLATTE RIVER EXCESS FLOWS FOR RECHARGE  
IN E65 CANAL AND ELWOOD RESERVOIR  
IN GOSPER & PHELPS COUNTIES, NEBRASKA  
Drawing No. RCHG2\_E65\_2013  
Date: 10/14/2013

THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

REPORT TO ACCOMPANY

THE APPLICATION FOR A TEMPORARY PERMIT TO APPROPRIATE WATER  
FOR GROUNDWATER RECHARGE ON THE E65 CANAL, ELWOOD RESERVOIR,  
AND COTTONWOOD WATERFOWL PRODUCTION AREA  
IN GOSPER AND PHELPS COUNTIES

**Project Description**

Parties in the Platte River Basin are in need of projects that can retime excess flows in the Platte River or develop offsets for streamflow depletions. Studies have shown that recharge projects may be able to retime flows in the Platte River for beneficial uses. CNPPID has existing facilities (canals) that can accomplish these needs. However, excess river flows and canal capacities are typically only available in the non-irrigation season. This application requests a temporary water appropriation for diverting water for the purpose of groundwater recharge on the E65 Canal, Elwood Reservoir, and Cottonwood Waterfowl Production Area (WPA) in the non-irrigation season for the Nebraska Department of Natural Resources (Department) and Tri-Basin Natural Resources District (TBNRD)<sup>1</sup>. The project will use Platte River flows in excess of the U.S. Fish and Wildlife Service's Target Flows<sup>2</sup> and state protected flows (as defined in the Nebraska New Depletions Plan). A Platte River Hydraulic Analysis summary, which shows the availability of excess flows, and an analysis showing Supply Canal diversions are included in Exhibit 2 in this Report with the data analysis included on the CD in Exhibit 1.

CNPPID will divert surface water from the Platte River at CNPPID's Diversion Dam, near North Platte, Nebraska, through the Supply Canal into the E65 Canal for the purpose of groundwater recharge. Excess flows will be recharged on the E65 Canal and diverted from the E65 Canal into Elwood Reservoir and Cottonwood WPA for the purpose of groundwater recharge. Because CNPPID already utilizes these same facilities for diversion under other more senior appropriations for hydropower production, no additional water would be diverted from the Platte River at the point of diversion under this appropriation. However, under this appropriation the water so diverted would then be further diverted into the E65 Canal, rather than being returned to the Platte River at the Johnson No. 2 River Return (J2 Return), so long as excess water is available.

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<sup>1</sup> Agreements between CNPPID, TBNRD, and the Department are included in Exhibit 3 to this Report.

<sup>2</sup> Taken from the Nebraska Depletions Plan, Platte River Recovery Implementation Program, Attachment 5, Section 8, December 7, 2005, pg 4.

## **Temporary Application**

CNPPID would like to take advantage of available excess flows in the Platte River and seek a temporary water right permit for the purpose of groundwater recharge for the Department and the TBNRD. This temporary permit request is for one year from the date that the request may be granted by the Department. The hydraulic analysis (Exhibit 2) shows that the Platte River will most likely produce flows in excess of instream flow rights and the U.S. Fish and Wildlife Service's (FWS) target flows in the non-irrigation season. This temporary right would enable CNPPID to divert those excess flows for groundwater recharge on the E65 Canal, Elwood Reservoir, and Cottonwood WPA.

## **Project Facilities**

CNPPID's Diversion Dam is located just below the confluence of the North Platte River and the South Platte River, approximately 50 miles downstream from Kingsley Dam. The Diversion Dam near North Platte is a combination concrete ogee spillway and radial gate structure extending 874 feet across the Platte River. The Diversion Dam diverts the natural streamflow of the North Platte River and the South Platte River and storage water releases from Lake McConaughy into the headgates of CNPPID's 75.5-mile-long Supply Canal.

The Supply Canal has a capacity of 2,250 cfs and extends from the Diversion Dam to the J2 Return, located south and east of Lexington. The Supply Canal diverts water on a year-round basis and furnishes water for CNPPID's three hydroelectric generating power plants and the cooling water for Nebraska Public Power District's Canaday Steam Plant. Jeffrey Reservoir and Johnson Reservoir are located along the Supply Canal and serve as regulating reservoirs. The Diversion Dam and Supply Canal are shown on Map 1.

The E65 Canal diverts water from the Supply Canal just above the Johnson Lake inlet structure and consists of a main canal, distribution laterals, and buried pipelines. It supplies water to Elwood Reservoir in the non-irrigation season and provides water to land in Gosper and Phelps Counties during the irrigation season.

## **Platte River Diversion Operations and Data – Non-Irrigation Season**

CNPPID holds permits to divert natural flow and storage water from the Platte River into the Supply Canal for the purposes of irrigation, power production and instream flows for fish and wildlife. CNPPID normally diverts all water that is available at the Diversion Dam into the Supply Canal up to a 2,250 cfs capacity and all remaining water is passed downstream of the Diversion Dam into the Platte River. Tables 1 and 2 show historic non-irrigation season (September through March) diversions into the Supply Canal and flows passing the Diversion Dam.

Table 1 Non-Irrigation Season Supply Canal Diversions

Supply Canal Diversion, af							
Water Year	October	November	December	January	February	March	September
1991	42163	39757	41190	53640	72320	63478	65362
1992	52345	55492	58890	67370	85830	125167	74407
1993	54445	54967	69510	79380	81760	129999	77575
1994	104828	88982	102450	96970	91010	90741	53499
1995	61861	52103	60980	63060	56970	61772	129503
1996	131308	120617	92480	91140	99300	117356	130078
1997	116471	123731	100620	94460	109520	133351	131328
1998	135057	126349	131060	122370	122260	132180	129999
1999	134541	126944	108240	107130	115580	126646	131109
2000	134957	129899	131260	133811	125845	130832	70135
2001	61479	63325	56212	75908	76594	72552	71356
2002	42768	45160	64780	61810	53970	61389	42318
2003	40926	39267	38330	39320	35550	40473	31968
2004	19895	19418	21166	24234	28398	30984	31930
2005	21033	25268	27648	29094	26175	29725	25446
2006	27590	25052	30626	32806	27000	36790	23836
2007	28503	26807	28934	28779	35585	42923	24413
2008	27882	26317	28853	34557	33283	32367	29570
2009	42471	32034	27532	36086	32490	32158	48867
2010	69282	79872	57991	79266	55678	91164	130820
2011	134805	128795	118111	91826	93161	132970	131367
2012	134785	127460	120617	112996	120004	105596	57089

Table 2 Non-Irrigation Season Flow Passing Tri-County Diversion

Flows Passing the Tri-County Diversion Dam, af							
Water Year	October	November	December	January	February	March	September
1991	0	0	7570	3460	3830	0	0
1992	0	0	3490	3250	3690	0	0
1993	0	0	3380	14160	6890	0	0
1994	0	0	3050	9230	6430	0	0
1995	0	0	2960	3760	3100	3490	39770
1996	19900	6170	4530	9440	16560	13654	94210
1997	35910	6090	13290	13490	5070	21040	57370
1998	70260	76150	63080	70930	48770	77170	75313
1999	4245	5312	16410	45220	0	0	145061
2000	83134	39599	42050	51972	43603	25813	0
2001	10	0	0	0	0	0	0
2002	0	0	0	244	0	0	103
2003	0	0	6	0	0	6	0
2004	0	516	0	0	0	0	0
2005	0	0	0	0	0	0	0
2006	0	0	0	0	0	0	0
2007	0	0	0	0	0	0	0
2008	0	0	0	0	0	0	0
2009	0	0	0	0	0	0	0
2010	0	0	1259	2153	1002	175	26843
2011	13248	6817	9303	10336	14870	92034	167891
2012	96118	25046	38890	42921	27267	6581	0

Winter diversions into the Supply Canal are typically for power production uses. If the Environmental Account Manager wishes to release Environmental Account water in the non-irrigation season, CNPPID would also divert that water if possible into the Supply Canal. Water only passes the Tri-County Diversion Dam if the Supply Canal is diverting at capacity, icing or maintenance issues exists along the Supply Canal, or if CNPPID is in an agreement with another agency to intentionally bypass water past the Supply Canal. The temporary permit request will not change any of CNPPID's historic or future diversion operations. CNPPID will continue to divert all flows possible and pass any remaining flows down the Platte River.

### **Proposed Non-Irrigation Season E65 Canal Operations**

CNPPID intends to divert water into E65 Canal during the non-irrigation season for the purpose of groundwater recharge on the E65 Canal, Elwood Reservoir, and Cottonwood WPA. The proposed areas of recharge are shaded on the attached map (Map 2). All flows diverted for groundwater recharge will be measured by a Parshall Flume at Milepost 2.8 (MP 2.8) on the E65 Canal. The recharge operations could last from September through March if no problems are encountered with canal operations or elevated groundwater levels.

### **Rate of Diversions**

The E65 Canal capacity is 365 cfs, but for the purpose of groundwater recharge, diversions shall not exceed a peak flow of 350 cfs. Flows of up to 350 cfs will be diverted to fill the canal sections, and then reduced to match pumping and seepage loss demands in the canal, Elwood Reservoir, and Cottonwood WPA.

### **Reduction of J2 Return Flows**

CNPPID diverts water through its Supply Canal during the non-irrigation season for hydropower production. Diverting surface water in the non-irrigation season for groundwater recharge only slightly modifies the operations of CNPPID's system, primarily reducing the amount of water returned to the Platte River at the J2 Return.

CNPPID is requesting to divert excess flows into the E65 Canal in this temporary permit request. Excess flows are flows in the Platte River that are in excess of target flow requirements established by the FWS for the PRRIP and in excess of that needed by existing surface water appropriations. A hydraulic analysis is included in this packet (Exhibit 2) that illustrates that excess flows at the J2 Return are present. The Department also has published a report, "Evaluation of Historic Platte River Streamflow in Excess of State Protected Flows and Target Flows," which also shows the presence of excess flows at the J2 return. Since the permit accompanying this temporary request is only requesting to divert into the E65 Canal at times when excess flows are present and diversions are not to exceed the amount of excess flows present at any given time, any depletion to J2 Return flows during times of diversion under this

temporary permit would not cause harm to any existing surface water appropriations or target flows.

### **Expected Benefits**

The permit associated with this temporary request is for the diversion of natural flow into the E65 Canal for the purpose of groundwater recharge on the E65 Canal, Elwood Reservoir, and Cottonwood WPA for the Department and the TBNRD. Expected benefits of these diversions are to help reduce the shortages to FWS target flows and assist local Natural Resources Districts and the State of Nebraska in offsetting the impacts of some of the uses which have occurred subsequent to 1997, as required by the PRRIP and LB962.

The PRRIP was developed on January 1, 2007, by the governors of Nebraska, Colorado and Wyoming and the U.S. Secretary of the Interior to provide defined benefits for four threatened or endangered species using the Platte River Basin. LB 962 was adopted by the Nebraska Legislature in 2004 calling for the management, conservation, and beneficial use of hydrologically connected groundwater and surface water. LB 962 requires the development of integrated management plans and offsets for streamflow depletions caused by post July 1, 1997, uses with additional offsets that may be needed to return overappropriated basins to fully appropriated conditions.



# EXHIBIT 1

**WATER RIGHTS**  
APPLICATION VAR-4829  
FILED: OCT 2013  
E65, ELWOOD, COTTONWOOD  
GOSPER & PHELPS COUNTIES

**Supporting Documents for Petition  
for Leave to File  
File Date: Sept 19, 2013**

## EXHIBIT 2

# Platte River Hydraulic Analysis

The Central Nebraska Public Power and Irrigation District (CNPPID) analyzed Platte River flows at Grand Island, North Bend and Louisville over sixteen years (1996-2011) to illustrate the availability of unappropriated water in the Platte River. CNPPID identified the U.S. Fish and Wildlife Service's Target Flows and state protected flows (as defined in the Nebraska New Depletions Plan) as flow requirements that must be exceeded prior to distinguishing unappropriated water. These flow requirements vary throughout the year with the target flows differing for type of year (wet, average, and dry) also.

For the purpose of this hydraulic analysis, CNPPID analyzed the flows in the Platte River that exceed the higher of the "wet" condition daily target flows and instreamflow appropriations (such as, Central Platte Natural Resource District's appropriations (A-17004 through A-17009), and Nebraska Game and Parks Commission's appropriations (A-17329 through A-17332)). This analysis conservatively quantifies the amount of excess water available at Grand Island because of the use of the "wet" target flow criteria. Actual conditions for most of, if not all of, the drought cycle were classified as "dry" conditions, therefore the target flows would have been lower and more unappropriated water was in the Platte River than shown in this analysis. CNPPID acknowledges that the state protected flows include Water Action Plans that may utilize some of the unappropriated water in the Platte River, but due to the uncertainty of the projects and required flows, they were not included in this analysis.

The analysis consists of sixteen years of data, 1996 to 2011, to cover a time frame that includes both wet/average years (1996 to 2001, 2009 to 2011) and dry years (2002 to 2008). The attached Platte River Hydraulic Analysis Summary shows the number of days that the Grand Island, North Bend and Louisville river flow exceeds the requirements, the annual amount of unappropriated water at each location, and the annual amount of unappropriated water available at CNPPID's J2 Return for the sixteen-year period.

The analysis shows unappropriated water in the Platte River for all but two years at Grand Island and every year at North Bend and Louisville. It is evident that the limiting factor for available unappropriated water at the J2 Return is the flow requirements and flow conditions at Grand Island. There seems to be around one-third of the amount of unappropriated water at Grand Island as there is at North Bend and Louisville over the analyzed period.

Days of Excess at Grand Island (Using FWS "Wet" Target Flows, NGPC and CPNRD rights)

Sum of Days of													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	24	7	8	2	14	17	27	30	29	20	18	31	227
1997	31	10	7	16	10	17	10	22	29	28	30	31	241
1998	31	18	12	30	20	15	11	18	30	0	30	31	246
1999	31	14	5	13	21	30	15	27	30	31	30	31	278
2000	31	15	15	17	9	7	8	1	0	0	12	10	125
2001	28	4	7	3	13	0	4	6	13	0	4	29	111
2002	26	0	4	0	0	0	0	0	0	0	0	0	30
2003	1	0	0	0	0	0	0	0	0	0	0	1	2
2004	0	0	0	0	0	0	0	0	0	0	0	0	0
2005	0	0	0	0	6	5	0	0	0	0	0	0	11
2006	0	0	0	0	0	0	0	0	0	0	0	3	3
2007	2	0	0	5	1	5	10	13	0	0	0	4	40
2008	4	0	0	0	14	14	8	0	0	4	13	1	58
2009	9	0	0	4	0	10	8	0	1	3	21	18	74
2010	30	4	14	0	12	18	31	27	24	0	15	31	206
2011	28	8	22	30	29	30	31	31	30	31	30	31	331
<b>Grand Total</b>	<b>276</b>	<b>80</b>	<b>94</b>	<b>120</b>	<b>149</b>	<b>168</b>	<b>163</b>	<b>175</b>	<b>186</b>	<b>117</b>	<b>203</b>	<b>252</b>	<b>1933</b>

Days of Excess at North Bend (Using NGPC instream flow rights)

Sum of Days of													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	26	29	31	30	31	30	31	31	30	31	30	24	354
1997	31	28	31	30	31	30	20	22	30	31	30	31	345
1998	24	28	30	30	31	30	31	31	30	31	30	31	357
1999	31	28	31	30	31	30	31	30	30	31	30	31	364
2000	31	29	31	30	31	30	28	16	25	31	30	25	337
2001	31	28	31	30	31	28	20	18	29	31	30	26	333
2002	30	21	25	30	31	24	0	3	11	30	29	28	262
2003	14	25	31	30	31	30	7	0	11	26	30	16	251
2004	0	13	31	30	26	30	22	5	13	30	30	26	256
2005	15	28	31	30	31	30	10	12	13	28	27	24	279
2006	31	24	31	30	12	6	0	8	25	31	29	25	252
2007	20	28	31	30	31	30	27	31	30	31	30	31	350
2008	31	29	31	30	31	30	31	17	17	29	30	22	328
2009	31	28	31	30	31	30	31	31	30	31	30	7	341
2010	29	28	31	30	31	30	31	31	30	31	30	31	363
2011	31	28	31	30	31	30	31	31	30	31	30	31	365
<b>Grand Total</b>	<b>406</b>	<b>422</b>	<b>489</b>	<b>480</b>	<b>472</b>	<b>448</b>	<b>351</b>	<b>317</b>	<b>384</b>	<b>484</b>	<b>475</b>	<b>409</b>	<b>5137</b>

Days of Excess at Louisville (Using NGPC instream flow rights)

Sum of Days of													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	22	26	31	30	31	30	31	31	30	31	30	25	348
1997	31	28	31	30	31	30	23	20	30	31	30	31	346
1998	31	28	31	30	31	30	31	31	30	31	30	30	364
1999	31	28	31	30	31	30	31	31	30	31	30	31	365
2000	31	29	31	30	31	30	30	5	1	17	30	28	293
2001	31	28	31	30	31	29	24	10	24	31	30	24	323
2002	31	19	25	30	31	13	0	5	2	12	25	18	211
2003	13	15	29	30	31	30	11	0	5	0	4	11	179
2004	3	14	31	28	17	30	22	0	9	4	30	18	206
2005	18	28	31	30	31	30	10	2	0	0	11	23	214
2006	31	22	31	30	13	3	0	3	21	19	19	20	212
2007	22	28	31	30	31	30	20	31	30	31	30	31	345
2008	31	29	31	30	31	30	31	28	28	31	30	25	355
2009	31	28	31	30	31	30	31	31	30	31	30	7	341
2010	31	28	31	30	31	30	31	31	30	31	30	31	365
2011	31	28	31	30	31	30	31	31	30	31	30	31	365
<b>Grand Total</b>	<b>419</b>	<b>406</b>	<b>488</b>	<b>478</b>	<b>464</b>	<b>435</b>	<b>357</b>	<b>290</b>	<b>330</b>	<b>362</b>	<b>419</b>	<b>384</b>	<b>4832</b>

Amount of Excess at Grand Island, af

Sum of Excesses a													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	20033	6942	5891	60	28582	41296	27511	61211	115281	36873	51075	51730	446486
1997	47068	4364	7359	5236	8093	166138	44054	75552	68431	52226	101972	139619	720110
1998	162131	62044	41634	124147	50599	18784	14975	41158	25131	0	62282	64008	666892
1999	93026	18090	1924	6665	150726	193570	93661	135830	122164	49111	73647	115717	1054131
2000	125992	35425	22671	4126	11286	8727	9759	40	0	0	4146	6784	228955
2001	31438	1507	4146	1944	15769	0	2321	3372	14202	0	1408	17792	93899
2002	21640	0	793	0	0	0	0	0	0	0	0	0	22433
2003	198	0	0	0	0	0	0	0	0	0	0	99	298
2004	0	0	0	0	0	0	0	0	0	0	0	0	0
2005	0	0	0	0	24453	4046	0	0	0	0	0	0	28499
2006	0	0	0	0	0	0	0	0	0	0	0	1575	1575
2007	791	0	0	16665	573	4544	5038	9858	0	0	0	2894	40364
2008	545	0	0	0	63567	47550	14341	0	0	7976	11750	206	145936
2009	2182	0	0	5199	0	25415	5536	0	127	1035	26680	12942	79116
2010	43240	2817	24357	0	26896	178297	92887	30189	34077	0	43240	81324	557324
2011	65297	4304	63333	118455	136286	309386	314742	192300	203467	99869	82474	128237	1718151
<b>Grand Total</b>	<b>613584</b>	<b>135493</b>	<b>172108</b>	<b>282496</b>	<b>516831</b>	<b>997754</b>	<b>624824</b>	<b>549509</b>	<b>582879</b>	<b>247091</b>	<b>458674</b>	<b>622926</b>	<b>5804169</b>

Amount of Excess at North Bend, af

Sum of Excesses a													
Row Labels	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	57918	173358	196862	184009	289492	384125	101456	273267	286814	250397	224671	219296	2641665
1997	147176	400469	286933	292348	203210	330292	106633	135136	167983	262001	316368	282946	2931494
1998	254880	334240	304705	520074	234152	412965	132200	145589	113298	205828	302603	194879	3155411
1999	206681	262794	276004	394955	503551	834399	316289	222787	204102	231950	253293	222231	3929096
2000	230205	200294	247481	207891	150548	99651	77773	15709	18506	95069	146362	58136	1547626
2001	91836	90249	290702	370756	312163	76722	20847	23782	74262	110778	88028	98263	1648388
2002	42447	54546	133946	124941	72299	42368	0	4066	6922	46057	64523	62123	654238
2003	19141	54050	128570	116788	206224	66943	7160	0	13944	20807	67518	26143	727290
2004	0	102468	165146	51869	79459	89555	83148	754	32886	34632	81363	54824	776104
2005	18209	137992	115777	138746	180875	256308	9600	11603	6109	21819	30744	149020	1076802
2006	96834	63492	108914	115995	14400	3134	0	9957	67856	49409	38658	56153	624803
2007	38182	266900	213206	279297	307145	301333	41336	176928	68609	176730	84914	112881	2067462
2008	109271	197775	187520	169926	422327	601972	130772	24417	16562	202496	134005	70831	2267874
2009	150369	199064	141047	159216	102130	219117	76365	95109	80649	163559	219673	41237	1647535
2010	69700	146442	407867	175203	182422	1187779	421097	140789	145847	161576	148961	137655	3325338
2011	195573	242384	338464	357466	460787	628789	462354	295859	222965	336283	240777	233557	4015259
<b>Grand Total</b>	<b>1728422</b>	<b>2926515</b>	<b>3543146</b>	<b>3659478</b>	<b>3721185</b>	<b>5535453</b>	<b>1987031</b>	<b>1575752</b>	<b>1527315</b>	<b>2369390</b>	<b>2442462</b>	<b>2020175</b>	<b>33036323</b>

Amount of Excess at Louisville, af

Sum of Excesses a													
Row Labels	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	143348	379999	305221	276381	711600	887676	170859	638389	325572	305201	271581	209517	4625343
1997	215011	567876	463841	417685	342729	482229	202456	120954	243217	329479	342709	342074	4070261
1998	473918	424866	543122	924509	485144	930480	373592	296950	75135	221517	404356	192042	5345632
1999	205689	367721	371867	785605	967750	1188117	533462	343007	223322	212195	227031	254880	5680645
2000	284950	310398	282411	210767	152908	183295	158541	7934	397	34691	132081	55320	1813693
2001	169193	119407	591718	580570	641920	202218	52880	12774	84636	57978	64642	97271	2675206
2002	91439	50976	236056	154455	145867	76087	0	26797	1408	15689	20252	31657	850683
2003	15471	28166	136465	134323	381249	141503	22513	0	18823	0	4027	5415	887953
2004	2579	229094	282609	50222	211322	155665	125496	0	18863	1051	54844	29336	1161081
2005	32073	166931	108676	251349	309228	430558	21680	555	0	0	3888	124822	1449760
2006	117602	50778	110620	249663	29316	3213	0	4760	118712	15273	16205	61786	777929
2007	116729	563929	453726	498394	620419	550620	26242	378392	148743	485105	243812	194641	4280750
2008	214714	338564	434347	382240	804032	1478303	358994	48239	67518	423299	383054	192459	5125761
2009	422763	519538	329975	311727	183573	497224	175540	164690	179646	266206	356455	62460	3469796
2010	95010	163956	1013211	297942	320474	2821489	749485	308553	261941	223124	259481	229511	6744178
2011	319879	452655	494070	597232	755495	1009602	775350	371291	261961	324302	298834	293637	5954308
<b>Grand Total</b>	<b>2920367</b>	<b>4734853</b>	<b>6157934</b>	<b>6123065</b>	<b>7063025</b>	<b>11038277</b>	<b>3747089</b>	<b>2723286</b>	<b>2029894</b>	<b>2915110</b>	<b>3083252</b>	<b>2376828</b>	<b>54912979</b>

Excesses available at J2 on days of Excess at Grand Island, af

Sum of Available E													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	20033	6942	5891	60	24734	31115	26515	53257	74857	35961	46037	51730	377133
1997	43530	4364	7359	5236	8093	23584	922	39868	62189	51087	83966	111506	441704
1998	92356	54407	33700	88702	41747	16019	13083	34008	25059	0	62282	64008	525380
1999	76771	18090	1924	6665	44981	79260	20583	63049	80158	47452	71503	108385	618819
2000	113182	33366	21303	4126	9750	7815	9193	40	0	0	3466	5990	208231
2001	31438	1507	4146	1944	15327	0	2321	3372	14202	0	1210	17792	93259
2002	21640	0	793	0	0	0	0	0	0	0	0	0	22433
2003	198	0	0	0	0	0	0	0	0	0	0	0	198
2004	0	0	0	0	0	0	0	0	0	0	0	0	0
2005	0	0	0	0	2633	4046	0	0	0	0	0	0	6680
2006	0	0	0	0	0	0	0	0	0	0	0	0	0
2007	0	0	0	7008	573	3661	5027	6784	0	0	0	1117	24169
2008	347	0	0	0	6033	3537	6015	0	0	381	8856	0	25169
2009	1587	0	0	2677	0	20056	5275	0	127	133	26352	12942	69148
2010	41181	2817	17015	0	20876	48286	61817	30025	34077	0	43240	79167	378501
2011	58465	4304	50598	93417	65896	79904	55627	59383	97319	85194	76679	98188	824975
<b>Grand Total</b>	<b>500728</b>	<b>125798</b>	<b>142730</b>	<b>209833</b>	<b>240643</b>	<b>317283</b>	<b>206378</b>	<b>289786</b>	<b>387998</b>	<b>220207</b>	<b>423591</b>	<b>550825</b>	<b>3615800</b>

Excesses available at J2 on days of Excess at North Bend, af

Sum of Available E													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	44732	76127	79437	84184	55373	71646	42308	63224	95724	90160	102269	69260	874444
1997	74558	92147	102503	93403	78394	58779	1041	39831	89474	101121	107510	111506	950267
1998	78626	104193	94046	93998	81575	64168	29508	48027	89699	108060	112421	86196	990518
1999	90798	101874	93099	83750	86946	80930	27866	68547	89221	108349	110035	112468	1053884
2000	115012	103160	97088	86623	62658	43631	23586	6668	15619	41691	46755	37349	679840
2001	59954	61863	52466	55099	34920	18145	10614	16862	47800	39689	17320	41128	455859
2002	37548	28166	31841	22325	9549	7851	0	533	4760	10093	12618	21175	186459
2003	10528	18532	19515	16271	8326	2510	0	0	199	0	13796	7461	97138
2004	0	12186	14659	0	0	0	0	0	0	4211	14935	12945	58936
2005	10005	20265	16892	16299	5712	34889	0	0	2360	10522	12614	15262	144821
2006	19977	9119	28993	8662	5	1	0	0	1968	14622	11963	14447	109756
2007	8002	26711	37022	36009	23085	31173	21433	16875	1454	18010	16104	21934	257811
2008	23090	25031	22733	22096	25055	3872	20631	8358	1	32675	34201	4431	222175
2009	24596	24999	15028	51463	15108	40635	12407	0	24507	45573	67526	10824	332667
2010	50336	42818	55220	35362	74409	81999	64956	63583	100965	102897	107465	85681	865691
2011	76546	77200	92363	93417	86196	79904	55627	59383	97319	109966	101368	98188	1027478
<b>Grand Total</b>	<b>724308</b>	<b>824391</b>	<b>852906</b>	<b>798959</b>	<b>647310</b>	<b>620131</b>	<b>309979</b>	<b>391891</b>	<b>661071</b>	<b>837641</b>	<b>888900</b>	<b>750256</b>	<b>8307743</b>

Excesses available at J2 on days of Excess at Louisville, af

Sum of Available E													
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
1996	51067	74330	84753	84184	55373	71646	42473	63224	95724	90160	104887	72295	890115
1997	74669	92147	102503	93403	78394	58779	2596	37443	90025	101121	107510	111506	950097
1998	97810	104193	100889	93998	81575	64168	29604	51068	64361	107787	112421	88757	996632
1999	90798	101874	93099	83750	86946	80930	27876	70197	89221	108349	110035	109705	1052780
2000	114962	103160	97088	86623	62658	43402	26824	3564	397	18075	45539	41193	643484
2001	61527	61863	52639	55099	34920	18420	13655	9991	43416	30732	15862	44992	443115
2002	46731	26777	31444	22325	9549	3351	0	315	299	2112	7810	15861	166575
2003	9428	8839	17689	16798	8326	2510	0	0	0	0	0	3227	68817
2004	912	12384	14659	0	0	0	0	0	0	337	13764	10517	52574
2005	10912	20265	16892	16299	5712	34889	0	0	0	0	2214	15262	122445
2006	19977	8168	28993	8662	5	1	0	0	1810	4582	5312	10679	88188
2007	9983	26711	37022	36009	23085	31173	12175	15214	1454	18010	17361	21934	250131
2008	25372	25031	23046	22096	25055	3872	21384	10692	2399	34350	34201	5542	233040
2009	24596	24999	17353	52942	15108	40635	13138	0	24507	45573	67526	10824	337202
2010	57740	42818	55220	36274	74409	81999	64956	63583	102483	103401	107465	96019	886367
2011	77296	82136	92363	93417	86196	79904	55627	59383	97319	109966	101368	98188	1033164
<b>Grand Total</b>	<b>773781</b>	<b>815696</b>	<b>865653</b>	<b>801878</b>	<b>647310</b>	<b>615678</b>	<b>310309</b>	<b>384674</b>	<b>613415</b>	<b>774556</b>	<b>853276</b>	<b>756502</b>	<b>8212727</b>

Available Excesses at J2 for Each Location

Year	Location		
	Grand Island	North Bend	Louisville
1996	377133	874444	890115
1997	441704	950267	950097
1998	525380	990518	996632
1999	618819	1053884	1052780
2000	208231	679840	643484
2001	93259	455859	443115
2002	22433	186459	166575
2003	198	97138	66817
2004	0	58936	52574
2005	6680	144821	122445
2006	0	109756	88188
2007	24169	257811	250131
2008	25169	222175	233040
2009	69148	332667	337202
2010	378501	865691	886367
2011	824975	1027478	1033164
<b>Grand Total</b>	<b>3615800</b>	<b>8307743</b>	<b>8212727</b>



# EXHIBIT 3

**WATER SERVICE AGREEMENT-  
GROUNDWATER RECHARGE FROM EXCESS FLOWS BETWEEN  
THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT,  
NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
AND  
TRI-BASIN NATURAL RESOURCES DISTRICT**

THIS AGREEMENT made and entered into this 20 day of September, 2013, by and between The Central Nebraska Public Power and Irrigation District, a public corporation and political subdivision of the State of Nebraska, with its principal office located at 415 Lincoln Street, P.O. Box 740, Holdrege, NE 68949-0740, hereinafter referred to as "Central" and Tri-Basin Natural Resources District, a political subdivision of the State of Nebraska, with its principal office located at 1723 North Burlington Street, Holdrege, NE 68949, hereinafter referred to as "Tri-Basin", and the State of Nebraska, acting by and through the Nebraska Department of Natural Resources, with its principal office located at 301 Centennial Mall South, Lincoln, NE 68509-4676, hereinafter referred to as "State". Sometimes hereinafter Central, State and Tri-Basin shall be collectively referred to as "Parties" or individually as "Party".

**WITNESSETH:**

WHEREAS, Central is the owner of the E65 Canal and Elwood Reservoir as shown on Exhibit A; and

WHEREAS, Central filed in September of 2013 with the Nebraska Department of Natural Resources (hereinafter "DNR") a "Petition for Leave to File an Application for a Temporary Permit to Appropriate Water for Groundwater Recharge on the E65 Canal and Elwood Reservoir in Gosper County, Nebraska (hereinafter "Appropriation"); and

WHEREAS, the State and Tri-Basin have jointly developed and agreed to implement an Integrated Management Plan, which plan includes investigating projects to enhance and improve water supply, including groundwater recharge projects; and

WHEREAS, the State and Tri-Basin desire Central to divert available excess flows to provide groundwater recharge for purposes of studying groundwater recharge, sustaining groundwater supplies for the benefit of Tri-Basin's constituents, and implementing the State/Tri-Basin joint Integrated Management Plan (IMP); and

WHEREAS, Central desires to provide such recharge services, though providing such recharge services will require Central to delay a contract for coating the E65-4.6 and E65-5.4 Siphon previously entered into between Central and Allou Blasting Coating, Inc., hereinafter referred to as ABC, Inc.;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and agreements herein contained and the terms and conditions hereinafter set forth, it is hereby covenanted and agreed:

**1. WATER SERVICE.**

a. Beginning no earlier than September 20, 2013, and ending as provided in Section 1(b) below, Central will divert for the State and Tri-Basin available natural flow into the E65 Canal and the Elwood Reservoir for recharge. The Total Amount Diverted shall be measured by Central using the E65 Canal measuring flume located at milepost 2.8 on the E65 Canal. The Total Amount Diverted shall not exceed 10,000 acre feet.

b. Either Tri-Basin or the State shall have the right to terminate the diversions under this agreement by providing notice to Central by Wednesday of any week and diversions will cease on the next Sunday at midnight. The notice shall be provided to Central via email to [central@cnppid.com](mailto:central@cnppid.com).

2. WATER SERVICE CHARGES. The State and Tri-Basin shall pay Central for the water service described above as follows:

a. A Water Service Charge of thirty five dollars (\$35.00) per acre-foot multiplied by the Total Amount Diverted pursuant to paragraph 1 above. All measurements made through Central's measuring device and so recorded by Central operating personnel shall be considered final.

b. 2/3 of the one-time contract delay charge incurred by Central pursuant to Section 1(b) of Change Order No. 1 between Central and ABC, Inc., a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

c. 2/3 of the per day contract delay charge incurred by Central pursuant to Section 1(c) of Change Order No. 1 between Central and ABC, Inc..

d. Central shall jointly invoice the State and Tri-Basin for the Water Service Charge on or before November 1, 2013. Payment shall be due within 60 days of invoice. Past due payments shall accrue interest at 1.5% per month or the maximum legal rate, whichever is less, until paid in full.

3. TERM. The term of this Agreement shall commence when this Agreement is signed by the Parties (the "Commencement Date") and shall expire on December 31, 2013.

4. DATA SHARING. The Parties agree to share all hydraulic and hydrologic data collected in association with this Agreement.

5. WATER APPROPRIATIONS. The source of supply shall be water which is available pursuant to the Appropriation. Tri-Basin shall cooperate, as reasonably necessary, to help Central to obtain the DNR's authorization for diversion consistent with the Appropriation. Water diverted into Elwood Reservoir under this agreement may be released by Central for irrigation water service without any limitation or restriction.

6. FORCE MAJEURE. Central 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 of, and without the fault or negligence of Central, including, without limitation, failure of facilities, flood, earthquake, storm, lightning, fire, severe cold or other weather event, epidemic, contamination, war, terrorist act, riot, civil disturbance, labor disturbance, accidents, sabotage, or restraint by court or restrictions by other public authority which delays or prevents performance (including but not limited to the adoption or change in any rule, policy, or regulation or environmental constraints imposed by federal, state or local governments), which Central could not reasonably have avoided by exercise of due diligence and foresight. Upon the occurrence of such an event or condition, the obligations of Central under this Agreement shall be excused and suspended without penalty or damages, provided that Central shall give the State and Tri-Basin prompt written notice describing the particulars of the occurrence or condition, the suspension of performance is of no greater scope and of no longer duration than is required by the event or condition, and Central proceeds with reasonable diligence to remedy its inability to perform and provides progress reports to the State and Tri-Basin describing the actions taken to remedy the consequences of the event or condition.

7. DEFAULT. If any Party to this Agreement fails to perform or otherwise breaches any of the terms of this Agreement, then such failure shall constitute a default. In the event of default by any Party, the non-defaulting Party/s shall give written notice of the default to the defaulting Party. Following such written notice,

the defaulting Party may cure the default within thirty (30) days. Upon cure, this Agreement shall remain in full force and effect. If the defaulting Party fails to cure, the non-defaulting Party's shall be entitled to any and all legal and equitable remedies except Central's total liability to the State and Tri-Basin for any loss or damage, including but not limited to special and consequential damages, arising out of or in connection with the performance of this Agreement shall not exceed either the amount of Water Service Charges paid by the State and Tri-Basin to Central pursuant to this Agreement or \$50,000, whichever is less.

8. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties hereto with respect to the water service contemplated hereby and supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

9. AMENDMENT. No amendment to this Agreement shall be valid unless it is in writing and signed by the Parties hereto.

10. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding on the Parties, their successors and assigns. This Agreement may not be assigned by State or Tri-Basin without the written consent of Central.

11. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of Nebraska.

12. FUNDING. By execution of this Agreement, the State represents and affirms that it has requested and will make every effort to secure funds for this project. Should the anticipated sources of funding no longer be available, the State will use its best efforts to secure alternative sources of funding.

13. LAWS. In executing this Agreement, each Party shall be responsible for its compliance with all applicable state and federal laws.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the date first stated above.

TRI-BASIN NATURAL RESOURCES DISTRICT,

By John Thornburn  
General Manager

THE STATE OF NEBRASKA,  
ACTING BY AND THROUGH THE NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES,

By Brian P. Dummigan  
Director

**APPROVED**

AS TO FORM & CONTENT  
BY DNR LEGAL COUNSEL

RAE DATE 9/20/2013

THE CENTRAL NEBRASKA PUBLIC POWER AND  
IRRIGATION DISTRICT,

By *Don Knauer*  
General Manager



GEORGIA

STATE DEPARTMENT OF

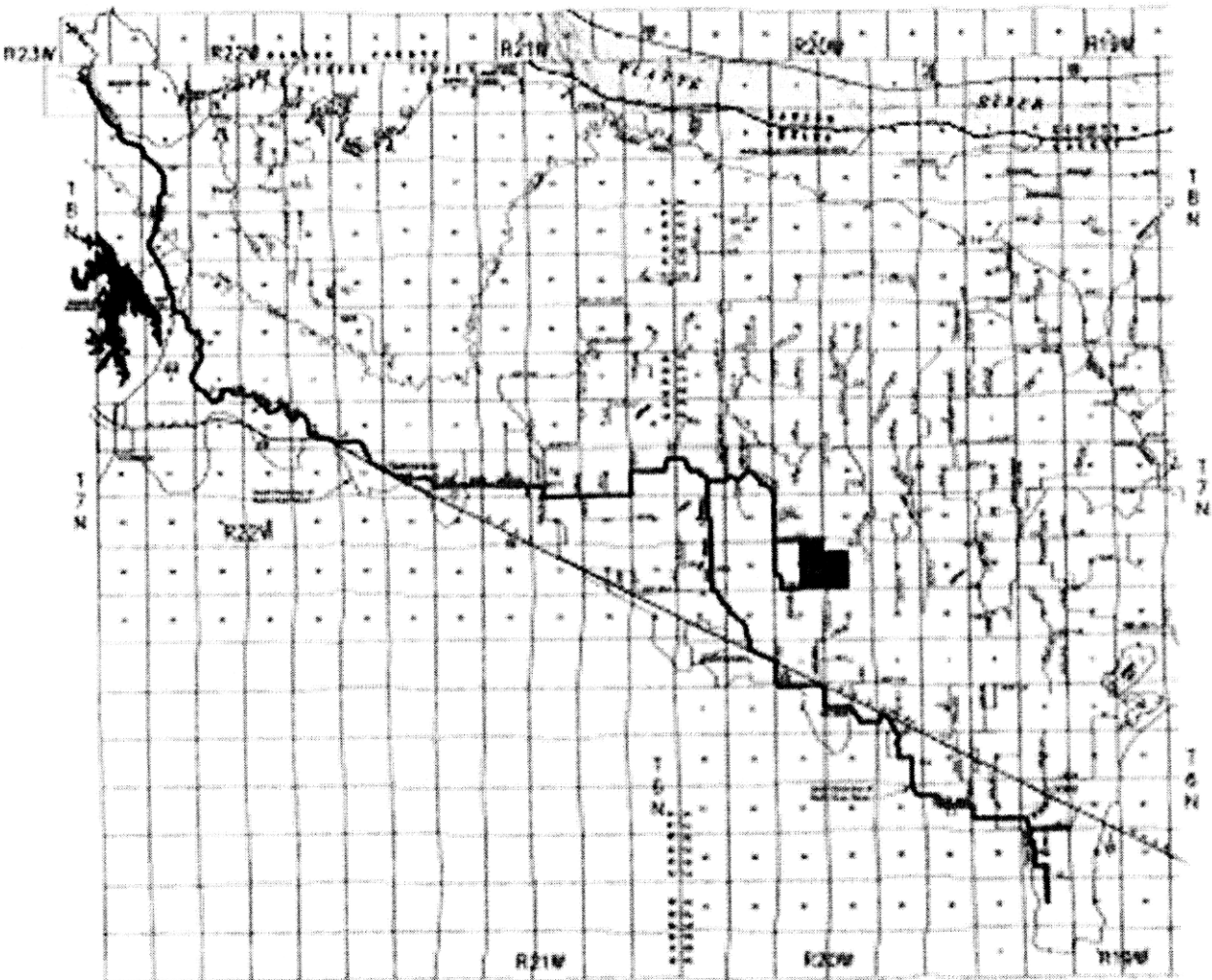
Exhibit "A"

Working Unit: 100000 and all related to that unit.

**CENTRAL**  
 Municipal Public Power  
 and Irrigation District  
 Marietta, Georgia

**PLANT WATER CROSS FLOWS FOR RECHARGE  
 IN THE DAN & CLARK RESERVOIR  
 IN GOSPER COUNTY, GEORGIA**

PROJECT NO.	100	APPROVED	
DATE OF PLAN	10/13/13	BY	
DRAWN BY	J.L.W.	CHECKED	
DATE	8/16/13	NO.	PCNG_C65_2013



AMENDMENT NO. 1 TO THE  
WATER SERVICE AGREEMENT-  
GROUNDWATER RECHARGE FROM EXCESS FLOWS BETWEEN  
THE CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT,  
NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
AND  
TRI-BASIN NATURAL RESOURCES DISTRICT

THIS AMENDMENT NO. 1 made and entered into this 4th day of October, 2013, by and between The Central Nebraska Public Power and Irrigation District, a public corporation and political subdivision of the State of Nebraska, with its principal office located at 415 Lincoln Street, P.O. Box 740, Holdrege, NE 68949-0740, hereinafter referred to as "Central" and Tri-Basin Natural Resources District, a political subdivision of the State of Nebraska, with its principal office located at 1723 North Burlington Street, Holdrege, NE 68949, hereinafter referred to as "Tri-Basin", and the State of Nebraska, acting by and through the Nebraska Department of Natural Resources, with its principal office located at 301 Centennial Mall South, Lincoln, NE 68509-4676, hereinafter referred to as "State". Sometimes hereinafter Central, State and Tri-Basin shall be collectively referred to as "Parties" or individually as "Party".

WITNESSETH:

WHEREAS, the Parties entered into a Water Service Agreement for Groundwater Recharge from Excess Flows using the E65 Canal and the Elwood Reservoir dated September 20, 2013, hereinafter the Original Agreement; and

WHEREAS, the Parties mutually desire to amend the terms and provisions of the Original Agreement by increasing the Total Amount Diverted limit from 10,000 acre feet to 15,000 acre feet;

NOW, THEREFORE, in consideration of the mutual promise and agreements herein contained, and other good and valuable consideration, the Parties do hereby covenant and agree that said Original Agreement be and the same hereby is amended as follows:

1. Section 1(a) of the Original Agreement is hereby amended to read as follows:

Beginning no earlier than September 20, 2013, and ending as provided in Section 1(b) below, Central will divert for the State and Tri-Basin available natural flow into the E65 Canal and the Elwood Reservoir for recharge. The Total Amount Diverted shall be measured by Central using the E65 Canal measuring flume located at milepost 2.8 on the E65 Canal. The Total Amount Diverted shall not exceed 15,000 acre feet.

2. In the event any terms and provisions of this Amendment are construed to conflict with the terms and provisions of the Original Agreement, the terms and provisions of this Amendment shall prevail. In all other respect, except as herein amended, the terms and provisions of the Original Agreement shall remain in full force and effect. This Amendment shall have the same force and effect as if incorporated in the Original Agreement, and shall take precedence thereover.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 the date first stated above.

TRI-BASIN NATURAL RESOURCES DISTRICT,

By John Harbom  
General Manager

THE STATE OF NEBRASKA,  
ACTING BY AND THROUGH THE NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES,

By Brian P. O'Connell  
Director

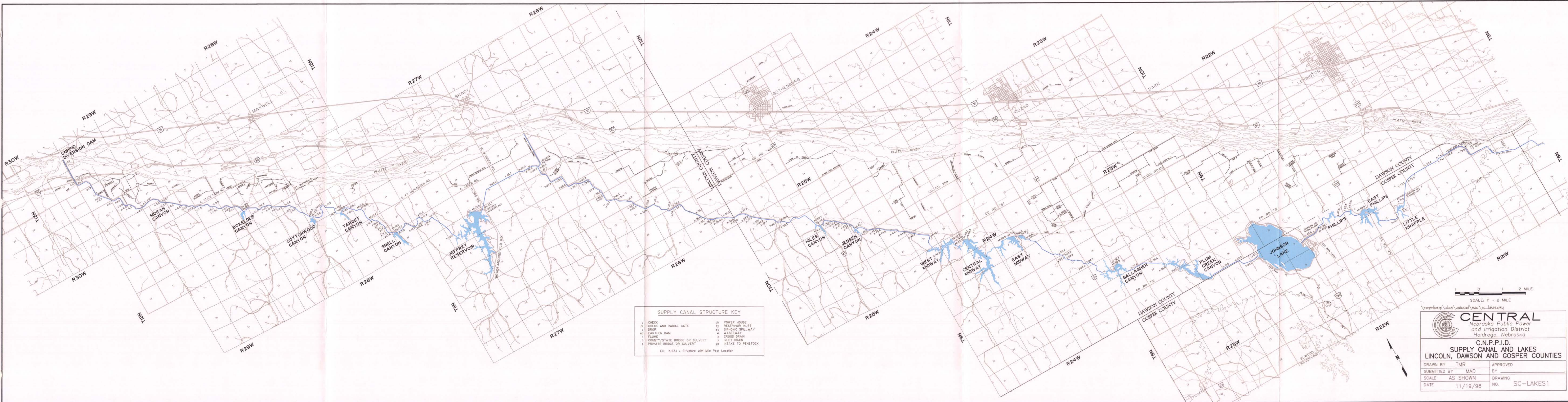
**APPROVED**  
AS TO FORM & CONTENT  
BY NDNR LEGAL COUNSEL  
LWS DATE 10/7/2013

THE CENTRAL NEBRASKA PUBLIC POWER AND  
IRRIGATION DISTRICT,

By Don Kraus  
General Manager



# MAP 1



**SUPPLY CANAL STRUCTURE KEY**

c	CHECK AND RADIAL GATE	ph	POWER HOUSE
cr	CHECK AND RADIAL GATE	ry	RESERVOIR INLET
d	DROP	ss	SIPHONIC SPILLWAY
ed	EARTHEN DAM	w	WASTEWAY
f	FLUME	x	CROSS DRAIN
h	COUNTY/STATE BRIDGE OR CULVERT	y	INLET DRAIN
p	PRIVATE BRIDGE OR CULVERT	yp	INTAKE TO PENSTOCK

Ex: N-63J = Structure with Mile Post Location

SCALE: 1" = 2 MILE

1 0 1 2 MILE

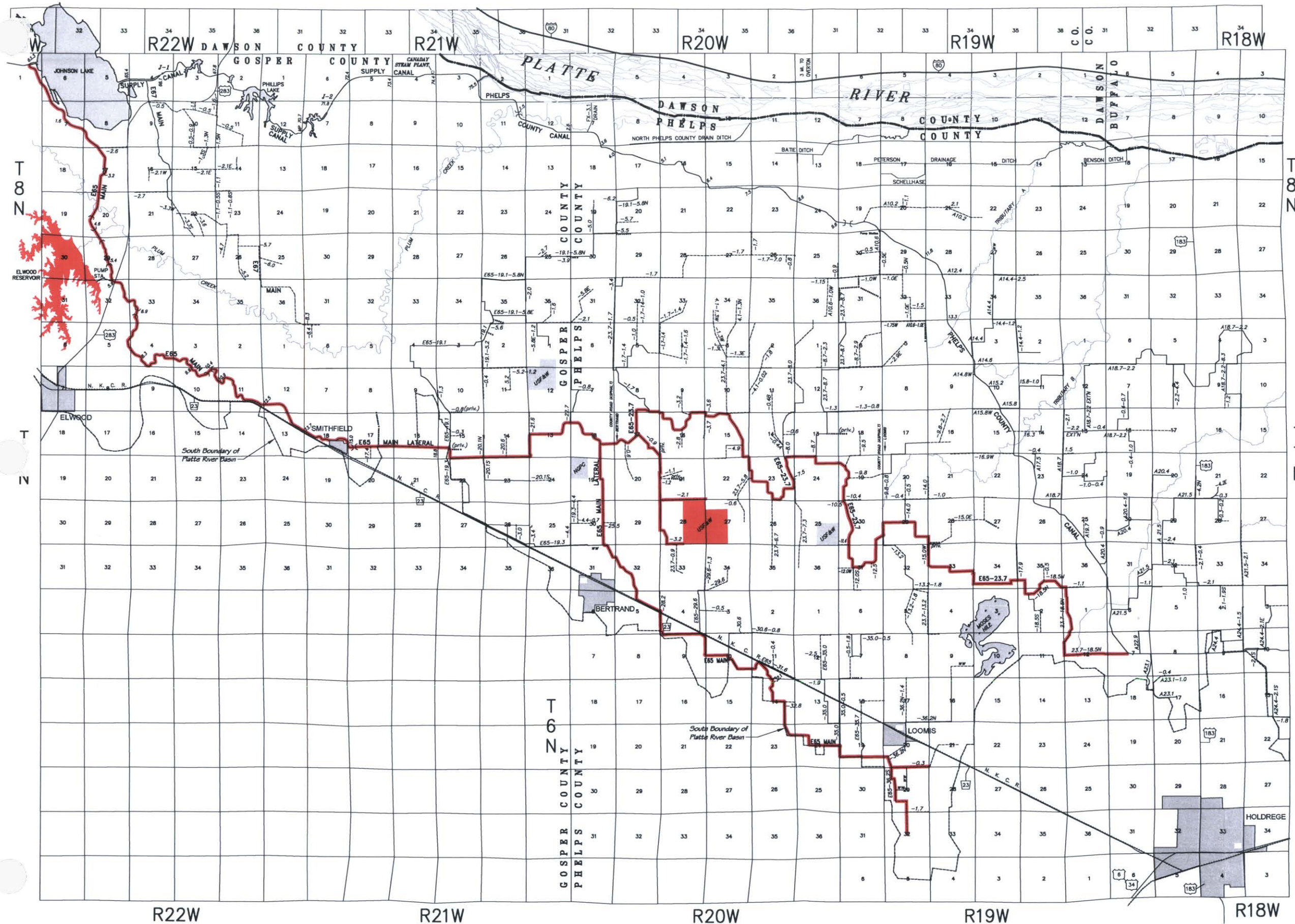
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**CENTRAL**  
Nebraska Public Power  
and Irrigation District  
Holdrege, Nebraska

**C.N.P.I.D.**  
**SUPPLY CANAL AND LAKES**  
**LINCOLN, DAWSON AND GOSPER COUNTIES**

DRAWN BY	TMR	APPROVED	
SUBMITTED BY	MAD	BY	
SCALE	AS SHOWN	DRAWING	
DATE	11/19/98	NO.	SC-LAKES1





**LEGEND**

— EXCESS FLOWS RECHARGE

**Exhibit "A"**

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**CENTRAL**  
Nebraska Public Power  
and Irrigation District  
Holdrege, Nebraska

**PLATTE RIVER EXCESS FLOWS FOR RECHARGE  
IN E65 CANAL & ELWOOD RESERVOIR,  
GOPHER & PHELPS COUNTIES, NEBRASKA**

DRAFTED BY	TMR	APPROVED	
SUBMITTED BY	DRF	BY	
SCALE	1" = 1.4 Mi.	DRAWING	
DATE	10/14/2013	NO.	RCHG2_E65_2013