

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DENYING PERMIT TO TRANSFER GROUND WATER TO AN ADJOINING STATE

The Director of the Department of Natural Resources (Department) denies Application TA-54, submitted by Jeffrey N. Edwards (Applicant), for a permit to withdraw and transport ground water to Kansas for livestock use.

The Director concludes that application TA-54 does not sufficiently meet the factors and conditions set forth in *Neb. Rev. Stat. § 46-613.01*, as follows:

1. The proposed transfer would supply a secondary source of water for up to 100 head of livestock pastured on the Applicant's property in Kansas. Livestock watering is considered a beneficial use of ground water under Nebraska statutes.

Application TA-54 requests a total of 9 acre-feet per year, at a maximum rate of 57,600 gallons per day (gpd). Using a standard consumptive-use rate of 25 gpd per head, however, supply to 100 head of cattle might reasonably be expected to total 2,500 gpd, or approximately 3 acre-feet per year. The amount of water requested under TA-54 appears to be far in excess of that which could reasonably be needed for the proposed use, even if the proposed transfer were to provide 100% of the Applicant's livestock water supply. The Applicant provided no information to justify the magnitude of the amounts requested under TA-54, given the facts of the proposed use. Consequently, the application does not fully meet the standard of beneficial use as contemplated in *Neb. Rev. Stat. § 46-613.01(1)*.

2. According to information supplied by the Stockton field office of the Kansas Department of Water Resources, Kansas allows the supply of water, from either surface water or ground water, to less than 1,000 head of cattle with no permitting requirement or other restrictions. Thus, the Applicant seems to have available the unrestricted opportunity to develop a livestock water source in Kansas.

Although the Applicant's existing surface water rights and domestic water well in Kansas may be inadequate for the proposed livestock-watering use, the Applicant did not convincingly explain why no other water source was sought or obtained in Kansas. Moreover, the application information did not justify convincingly the apparent preference of a Nebraska water source over a Kansas water source. Consequently, the Department determines that Application TA-54 does not adequately meet the standard of *Neb. Rev. Stat. § 46-613.01(2)*.

3. No other ground water transfers permitted by the Department currently exist in the area of the Applicant's proposed transfer. To the east of the Applicant's well, in the portion of the Republican River basin located within the boundaries of the Little Blue Natural Resources District (NRD), transfers to Kansas for irrigation use have been denied, based in part on NRDs' concerns about water supply and the effects on Compact compliance and accounting. Water supply from aquifers in the immediate area of the Applicant's well is limited, but

the Applicant did not provide sufficient information to explain why a transfer from Nebraska to Kansas is the preferred choice for livestock supply to the Applicant's property. Although the proposed transfer might not cause direct harm to surrounding users or impact other transfers upstream or downstream, the application does not meet the standard of evidence necessary to grant transfers of this kind.

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, 4th 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 denying Permit TA-54 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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