

## Instruction Sheet for District Transfer Applications

Department of Natural Resources Form Number: **SW Form # 200**

- This application form is for appropriations that are held by an Irrigation District, Reclamation District, Public Power and Irrigation District, Mutual Irrigation Company, Canal Company or the US Bureau of Reclamation.
- This application form has been created for a specific type of temporary transfer that involves changing the use of a natural flow out of stream use of irrigation, or a storage use out of stream use of irrigation appropriation to an in-stream use to augment the streamflow of a specific stream reach.
- It is recommended that all applicants call and set up a pre-application meeting with staff in the surface water section of the Department of Natural Resources (Department).

Form Item Number:

1. Name of Appropriator of Record.
2. Appropriation Information.
  - a. List the water appropriation number that this application proposes to modify. File a separate transfer application for each appropriation. Indicate if the appropriation has incidental underground storage (IUS) associated with it.
  - b. If applicable, the applicant must address the anticipated changes to the IUS portion. If the IUS portion is not currently quantified and will be transferred a use other than temporary augmentation of a specific stream reach, the applicant is responsible for providing calculations to quantify the IUS portion of the appropriation. The application for such a transfer should be filed on separate Non-Expedited Transfer forms (DNR Forms 962-9, 962-11 and 962-12 among others as needed).

*Nebraska Revised Statutes § 46-290(3)(e):*” The incidental underground water storage portion, whether or not previously quantified, of a natural-flow or storage-use appropriation may be separated from the direct-use portion of the appropriation and may be changed to a natural-flow or storage-use appropriation for intentional underground water storage at the same location if the historic consumptive use of the direct-use portion of the appropriation is transferred to another location or is terminated, but such a separation and change may be approved only if, after the separation and change, (i) the total permissible diversion under the appropriation will not increase, (ii) the projected consequences of the separation and change are consistent with the provisions of any integrated management plan adopted in accordance with section [46-718](#) or [46-719](#) for the geographic area involved, and (iii) if the location of the proposed intentional underground water storage is in a river basin, subbasin, or reach designated as overappropriated in accordance with section [46-713](#), the integrated management plan for that river basin, subbasin, or reach has gone into effect, and that plan requires that the amount of the intentionally stored water that is consumed after the change will be no greater than the amount of the incidentally stored water that was consumed prior to the change. Approval of a separation and change pursuant to this subdivision (e) shall not exempt any consumptive use associated with the incidental recharge right from any reduction in water use required by an integrated management plan for a river basin, subbasin, or reach designated as overappropriated in accordance with section [46-713](#).”

*Nebraska Revised Statutes § 46-290(6)* A quantified or unquantified appropriation for incidental underground water storage may be transferred to a new location along with the direct-use appropriation with which it is recognized if the director finds such transfer to be consistent with section [46-294](#) and determines that the geologic and other relevant conditions at the new location are such that incidental underground water storage will occur at the new location. The director may request such information from the applicant as is needed to make such determination and may modify any such quantified appropriation for incidental underground water storage, if necessary, to reflect the geologic and other conditions at the new location.

*Nebraska Revised Statutes § 46-290(7)* Unless an incidental underground water storage appropriation is changed as authorized by subdivision (3)(e) of this section or is transferred as authorized by subsection (6) of this section or subsection (1) of section [46-291](#), such appropriation shall be canceled or modified, as appropriate, by the director to reflect any reduction in water that will be stored underground as the result of a transfer or change of the direct-use appropriation with which the incidental underground water storage was recognized prior to the transfer or change.

3. List the current point of diversion and name of canal.
4. List the legal description of the beginning and ending points of the stream reach intended to be augmented by this transfer.

5. Attach document labeled: Item 6 Project Narrative, describing the actual method of transfer, timing and amounts of water proposed to be transferred. Include a description of the hydrologic effects that this transfer may have, including effects on other appropriators. List any other attachments included.
6. Indicate the current status of (the portion of) the appropriation being transferred.
  - **Appurtenant:**  
If (the portion of) the appropriation subject to this transfer is currently appurtenant, the Addendum form SW Form # 200-A must be completed in its entirety for each landowner, including the landowner signature(s), mortgage holder information, list of land and history of use. Attach as many addendum forms as are needed to provide complete information for the appurtenant (portion of) the appropriation subject to the transfer.
  - **Non Appurtenant:**  
If (the portion of) the appropriation subject to this transfer has been previously relinquished and has been cancelled by order of the Department within 5 years, it is considered “non-appurtenant.” List the date that the cancellation order was signed for (the portion of) the appropriation subject to this transfer application. It is important to include the land descriptions of land to which the appropriation was appurtenant to prior to cancellation, and the history of use for the most recent 10 years for (the portion of) the non-appurtenant appropriation subject to this transfer. The list of land and history of each tract may be submitted on the Addendum form, SW Form # 200-A, but the landowner signature and mortgage holder information may be omitted.
7. List the dates during which the transfer will remain in effect. This must include at least one or more irrigation seasons.
  - a. Date transfer requested to begin. The actual begin date will not be before an application is approved.
  - b. Date transfer requested to end.
  - c. Attach a copy of the lease agreement pursuant to *Nebraska Revised Statutes* § 46-290(2).
8. Historic Consumptive Use Calculations.
  - a. Only the amount of water determined to be the Historic Consumptive Use (HCU) is eligible for transfer by this application. The Department has adopted a standard method to calculate the HCU for a tract of land under irrigation. The Department will work with applicants to determine the transferrable amount in the pre-application meeting. The applicant must provide information regarding crops, water use history, and other relevant information.
  - b. The applicant may request the Department to calculate HCU using the adopted method to determine the amount of the appropriation subject to the transfer.
  - c. The applicant may provide credible historic consumptive use calculations using any scientific method they deem credible, but the Department reserves the right to adjust the transferrable amount.
  - d. If the applicant has a requested HCU, it should be entered in item 9. The Department reserves the right to adjust the transferrable amount.
9. Acknowledgement by Organization certifies that the information contained in this form and all attachments is true and accurate, that all attachments have been initialed by the signatory, that the organization agrees to pay for the costs associated with publication of legal notice, filing in the County Register of Deeds, and if necessary a portion of hearing costs.

**(No Item Number) Attach Addendum form: SW Form # 200-A** for as many landowners and tracts as necessary. This addendum form is specific for SW Form # 200.

*See the following instructions for the addendum form.*

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### Addendum SW Form # 200-A

Addendum Form Item Number:

1. a. List the number of acres in each quarter-quarter currently under the appropriation subject to this transfer (appurtenant), or acres in each quarter-quarter from which the appropriation was relinquished and that will be subject to this transfer (non-appurtenant).
  - **Appurtenant:** The Addendum form **SW Form # 200-A**, should be completed in its entirety for each landowner, including the landowner signature(s), mortgage holder information, list of land and history of use. Attach as many addendum forms as needed to provide complete information for the appurtenant (portion of) the appropriation subject to the transfer. Attach aerial photography clearly marked to show the above-listed land that is subject to the transfer
  - **Non-Appurtenant:** List the legal descriptions of the land to which the appropriation was appurtenant to prior to cancellation order date stated in Item 7 of the **SW Form # 200** and the history of use for the most recent 10 years for (the portion of) the non-appurtenant appropriation subject to this transfer. The list of land and history of each tract may be submitted on the Addendum form, **SW Form # 200-A** but the landowner signature and mortgage holder information may be omitted. The aerial photograph may be omitted for non-appurtenant appropriations.
- b. Indicate the source of any water used on the described land. Circle all that apply, i.e. surface water, groundwater and other; if “other” is circled, then describe the source, such as lagoon water.
2. List the history of water use for the most recent ten years for the tracts listed above. This history is necessary for calculating the Historic Consumptive Use (HCU). Even if the portion of the appropriation being transferred is longer appurtenant, the history is required.
  - a. “Acres irrigated” means the land subject to this transfer irrigated by surface water, comingled with groundwater, or other source. The land listed in item 1a. and shown on the marked aerial photograph must correspond.
  - b. If groundwater or another source was used for irrigation on any portion of the land listed in this transfer application, please refer to the “Consumptive Use Calculation Worksheet” for additional information required regarding water use.
  - c. List on each line an estimate (in percent) of each crop type for that year. For example: 2007, diverted water for 60 days, 100 acres irrigated, 20% Alfalfa, 40% Corn, 40% Beans, maximum pump 800 gpm, 212 acre-feet/yr.

The following items must be completed if the appropriation is currently appurtenant:

3. List all mortgage or deed of trust holders. Pursuant to *Nebraska Revised Statutes* § 46-291-(2), the Department is required to notify each holder of a mortgage, trust deed, or other equivalent consensual security interest that is identified by the applicant/landowner, that this transfer application has been filed.
4. Current landowner must consent to the transfer by signing and dating the form. The applicant should verify using all readily available sources as to the authority of the person signing as owner, or having a legal interest, in the tracts of land subject to this transfer.
  - a. If landowner is a corporation, indicate the capacity of the person signing the form; for example, president. Additional contact information may be required.
  - b. If landowner is a trust, list the name of the trust and the capacity of the person signing for the trust.
  - c. Persons signing as attorney-in-fact (power of attorney) shall submit a copy of the document granting power of attorney, OR:
  - d. Persons signing as the personal representative shall submit a copy of the document granting the authority to act as the owner’s agent.