

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING LOWER NIOBRARA NATURAL RESOURCES DISTRICT
INTEGRATED MANAGEMENT PLAN AND ASSOCIATED SURFACE WATER
CONTROLS

Background

1. On September 30, 2011, the Lower Niobrara Natural Resources District (District) submitted a letter of intent to develop a voluntary Integrated Management Plan (IMP) to the Nebraska Department of Natural Resources (Department).
2. The Department and the District consulted on the development of the voluntary IMP with a group of stakeholders. The stakeholder group consisted of the statutorily required and other entities that were identified by the Department and the District to be included in the group. Through this process of consultation, the Department and the District jointly developed a voluntary IMP in accordance with the Ground Water Management and Protection Act (the Act), particularly, *Neb. Rev. Stat.* §§ 46-715, 46-716, 46-717, and 46-718.
3. The Department and the District reached agreement on (a) the proposed goals and objectives of the voluntary IMP, (b) the proposed geographic area to be subject to the controls of the voluntary IMP, and (c) the surface water controls and groundwater controls that are proposed for adoption and implementation of the voluntary IMP.
4. On January 15, 2014, pursuant to notices duly published in accordance with *Neb. Rev. Stat.* § 46-743, the Department and the District jointly held a public hearing in Butte, NE on the proposed voluntary IMP.
5. Subsequent to the hearing on January 15, 2014, the Department and the District reviewed the testimony and jointly agreed to adopt and implement the proposed IMP with only minor revisions. Those revisions did not consist of any modifications to the goals and objectives of the voluntary IMP, proposed geographic area subject to the controls of the voluntary IMP, or the surface water controls and groundwater controls proposed for adoption and implementation in the IMP.
6. On March 3, 2014, the District adopted the proposed IMP and affirmed the use of groundwater controls necessary for implementing the IMP.
7. On March 5, 2014, the Department sent the District a letter agreeing to adopt the proposed IMP and surface water controls.

Controls Adopted

1. The surface water controls included in the IMP are as follows:
 - a. The Department will continue to map and track irrigated acres and require that project maps be submitted and approved for the purposes of obtaining a surface water permit.
 - b. The Department will continue to evaluate the necessity for mandatory installation of water flow meters and/or reporting on all surface water pumps for irrigation, commercial, industrial, and municipal uses.
 - c. Should the District issue a moratorium on any increase in groundwater irrigated acres, the Department will issue a similar moratorium to limit development of additional acres for surface water irrigation. Should the District issue a restriction on the number of additional acres irrigated from groundwater, the Department will issue a similar restriction on the development of additional acres for surface water irrigation per year to 1/3 of the amount the District will allow for additional groundwater irrigated acres. The Department will utilize the District's number of additional groundwater acres as of January 1st of each year for determining the number of additional acres for surface water irrigation in each calendar year.
 - d. The Department will continue to post notices in the local newspaper and on the Department website of all new surface water appropriation applications within the borders of the District, with the exception of small domestic withdrawals, in order to allow the District the opportunity to review and provide comment on the applications pursuant to option one of the Department's "Opportunities for Participation in the Permitting Process" document.

Order

It is therefore ORDERED that the voluntary integrated management plan for the Lower Niobrara Natural Resources District and the surface water controls in the plan are hereby adopted by the Department and will become effective on May 1, 2014.

DEPARTMENT OF NATURAL RESOURCES

March 14, 2014

Brian P. Dunnigan, P.E., Director

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 Nebraska Administrative Procedures Act (*Neb. Rev. Stat.* §§ 84-901 et. seq.) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of this Order and be accompanied by a filing fee of \$10.00.

On March 14, 2014, a copy of this Order was posted on the Department's website and mailed to Terry Julesgard, General Manager, Lower Niobrara Natural Resources District, 410 Walnut Street, P.O. Box 350, Butte, NE 68722-0350; and to the Department of Natural Resources field offices.