

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER TO EXTEND TEMPORARY STAY ON SURFACE WATER APPROPRIATIONS IN CERTAIN
AREAS OF THE LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

Background

1. On September 18, 2007, under the authority of Neb. Rev. Stat. Section 2-32,115, the Department placed a 180-day stay on the issuance of any new surface water natural flow appropriations in the Uplands Area of the Lower Platte North Natural Resources District. The moratorium area (referred to as the "Uplands Area") is depicted on the attached map and includes the townships named by counties in the attached list.
2. The temporary moratorium was instated at the request of the Lower Platte North Natural Resources District (LPNNRD) pursuant to Neb. Rev. Stat. §46-707(2). The LPNNRD had placed an immediate temporary stay for 180 days in the Uplands Area on the construction of any new water well and on any increase in the number of acres historically irrigated.
3. The 180-day stay on the issuance of new surface water permits was needed to give the Department time to determine if the surface water and groundwater resources in the Uplands Area are hydrologically connected and what effect the use of surface water in the area has on the groundwater resources.
4. On February 22, 2008, the Department held a public hearing in the offices of the LPNNRD in order to take public comment and testimony on the effects of the temporary stay and whether or not it should be continued.
5. The studies being conducted by the LPNNRD that will assist the Department to determine whether or not the groundwater and surface water in the Uplands Area are hydrologically connected have not been completed.

It is therefore ORDERED:

Effective March 19, 2008, a temporary stay shall be placed on the issuance of any new surface water natural flow appropriations in the Uplands Area as depicted on the attached map and list of townships by counties.

New surface water natural flow appropriations that are necessary to alleviate an emergency situation involving the provision of water for human consumption or public health or safety are exempt from this stay.

The Department shall hold at least one public hearing within the Upland Area prior to the expiration of the stay. At the public hearing public comments will be taken on whether or not the Department should impose a stay or other conditions in the Upland Area in accordance with Neb. Rev. Stat. Sections 46-234 and 46-714(12) i.e. because: (1) there is no more unappropriated surface water available in the area, (2) it is in the public interest to deny any new applications for surface water appropriations in the area, (3) the area is fully appropriated, or (4) as otherwise in accordance with Section 46-234 and Section 46-714(12).

This stay shall remain in effect until September 15, 2008.

DEPARTMENT OF NATURAL RESOURCES



March 18, 2008

Ann Bleed, 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., Sections 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, Nebraska 68509-4676) within 15 days of the date of this order and be accompanied by a filing fee of \$10.

On March 19, 2008 a copy of this Order was posted on the Department's internet site and mailed to John R. Miyoshi, General Manager of the Lower Platte North Natural Resources District at 511 Commerical Park Road, PO Box 126, Wahoo, Nebraska 68066-0126; and to the Department of Natural Resources field offices.