STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER FOR LIFTING TEMPORARY STAY ON SURFACE WATER APPROPRIATIONS IN THE LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

On October 14, 2013, the Lower Platte North Natural Resources District (LPNNRD) pursuant to *Neb. Rev. Stat.* § 46-707(2) placed an immediate temporary stay for 180 days on the construction of any new water well and on any increase in the number of acres historically irrigated. The temporary stay applied to the areas contained within the boundaries of the LPNNRD.

By letter dated October 25, 2013, the LPNNRD requested the Department of Natural Resources (Department) to place an immediate temporary stay on the issuance of any new surface water diversion permits that result in the consumptive use of surface water excluding de minimis uses such as farm ponds and other conservation practices.

Pursuant to *Neb. Rev. Stat.* § 2-32, 115, the Department, without prior notice or hearing, placed an immediate temporary stay on the issuance of new surface water natural flow appropriations for areas contained within the boundaries of the LPNNRD, effective November 8, 2013. The temporary stay period corresponded with the 180-day period of the LPNNRD's stay and thus, was to remain in effect through April 11, 2014.

By letter dated January 24, 2014, the LPNNRD notified the Department that, as a result of a January 13, 2014, Board Meeting, the LPNNRD had lifted its temporary stay on drilling new wells and on any increase in irrigated acres effective immediately. In the letter, the LPNNRD also stated that it would not object should the Department lift its temporary stay prior to the April 11, 2014, 180-day stay period. The District Board Meeting was preceded by a public hearing where testimony on the matter was received.

Pursuant to *Neb. Rev. Stat.* § 2-32, 115, the Department held a public hearing on March 6, 2014, with notice of the hearing to be given as provided in *Neb. Rev. Stat.* § 46-743. The purpose of the hearing was to take testimony on (1) whether to exempt from the temporary stay the issuance of appropriations for which applications were pending prior to the declaration commencing the stay but for which the application was not approved prior to such date, (2) continue the stay, or (3) to allow the issuance of new surface water appropriations. Testimony received during the hearing indicated that the stay should be lifted to continue to allow the issuance of new surface water appropriations. Testimony was also provided by an official from the LPNNRD stating that the LPNNRD would not oppose should the Department lift the stay.

It is therefore ORDERED:

Effective March 11, 2014, the temporary stay made effective on November 8, 2013, for the issuance of any new surface water natural flow appropriations for areas contained within the boundaries of the LPNNRD is lifted.

DEPARTMENT OF NATURAL RESOURCES

March 11, 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 *Neb. Admin. Procedures Act Neb. Rev. Stat. §§ 84-901* et. seq. 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, NE 68509-4676) within 30 days of the date of this Order and be accompanied by a filing fee of $10.00.

On March 11, 2014, a copy of this Order was posted on the Department's website and mailed to John R. Miyoshi, General Manager, Lower Platte North Natural Resources District, 511 Commercial Park Road, PO Box 126, Wahoo, NE 68066; and to the Department of Natural Resources field offices.