

STATE OF NEBRASKA

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

AMENDED ORDER ADOPTING THE JOINTLY DEVELOPED VOLUNTARY  
INTEGRATED MANAGEMENT PLAN AND ASSOCIATED SURFACE WATER  
CONTROLS FOR THE MIDDLE NIOBRARA NATURAL RESOURCES DISTRICT

BACKGROUND

1. On January 21, 2015, the Middle Niobrara Natural Resources District (District, NRD) submitted a letter of intent to the Nebraska Department of Natural Resources (Department, NeDNR) to develop a voluntary Integrated Management Plan (IMP). On February 4, 2015, the Department submitted a letter to the District, agreeing with the intent to jointly develop a voluntary IMP with the District.
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. In addition, on November 27, 2018, the Department and District jointly held a public meeting, to solicit public comments and opinions regarding the voluntary IMP. The meeting was publicly noticed in area newspapers and on the Department and District websites. The members of the stakeholder group were invited to attend the meeting. 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. On August 13, 2020, 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 and groundwater controls that are proposed for adoption and implementation of the voluntary IMP.
4. On September 14, 2020, pursuant to notices published in accordance with *Neb. Rev. Stat.* § 46-743(2), the Department and the District jointly held a public hearing in Valentine, Nebraska on the proposed voluntary IMP. Formal oral testimony by one member of the public was received.
5. Following the public hearing, the Department and District jointly considered the testimony and jointly agreed to adopt the voluntary IMP with no revisions.
6. The Department consulted with the Nebraska Game and Parks Commission (Commission) in accordance with *Neb. Rev. Stat.* § 37-807. As stated in the Commission's response letter dated October 9, 2020, the Commission determined that the adoption of the proposed voluntary IMP would have no adverse effect on threatened and endangered species or their habitat.

7. On October 9, 2020, the District's Board of Directors voted to advance the draft voluntary IMP as presented at the September 14, 2020 public hearing as the final draft.
8. On November 9, 2020, the District sent a letter to the Department agreeing to the final draft voluntary IMP.
9. On November 12, 2020, the Department issued an order adopting the voluntary IMP jointly developed by the District and the Department. The effective date of the IMP was stated to be December 21, 2020. It was determined that, in order to meet the requirements of publication as described in *Neb. Rev. Stat.* § 46-744, the effective date must be changed and an amended order issued.
10. On November 13, 2020, the Department sent a letter to the District agreeing to adopt the proposed voluntary IMP and associated surface water controls.
11. The Department met all publication requirements for this Order pursuant to *Neb. Rev. Stat.* § 46-744.

## SURFACE WATER CONTROLS ADOPTED

The surface water control areas are shown in Figure 1, included in the voluntary IMP, and are as follows:

### **1. Surface Water Control Area 1 (Niobrara basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Niobrara River Basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation to no more than that level of depletion in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

### **2. Surface Water Control Area 2 (Loup River basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Loup River Basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same

year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

### **3. Surface Water Control Area 3 (Elkhorn River basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the Elkhorn River basin resulting from newly permitted groundwater irrigation development. NeDNR will calculate additional stream depletion amounts due to new permitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

### **4. Surface Water Control Area 4 (White River basin)**

#### **a. Restriction on addition of surface water irrigated acres:**

NeDNR has, since 2004, had a moratorium in place in this basin on the development of surface water irrigation. This moratorium will not be renewed as part of this IMP.

NeDNR will restrict development of surface water irrigation based upon the amount of stream depletion to streams in the White River Basin resulting from newly permitted groundwater irrigation development allowed by the NRD. NeDNR will calculate additional stream depletion amounts due to newpermitted groundwater irrigation development in a given year based on data provided by the District and will restrict additional stream depletion from surface water irrigation by up to the same amount in the same year. The District will notify NeDNR within 30 days of its planned approval of groundwater development and will provide the necessary data – including legal description (section, township, and range) and number of acres irrigated – to NeDNR on all new groundwater irrigation by October 31. NeDNR will notify the District of all surface water appropriations as they are approved, including information on the location and number of acres irrigated.

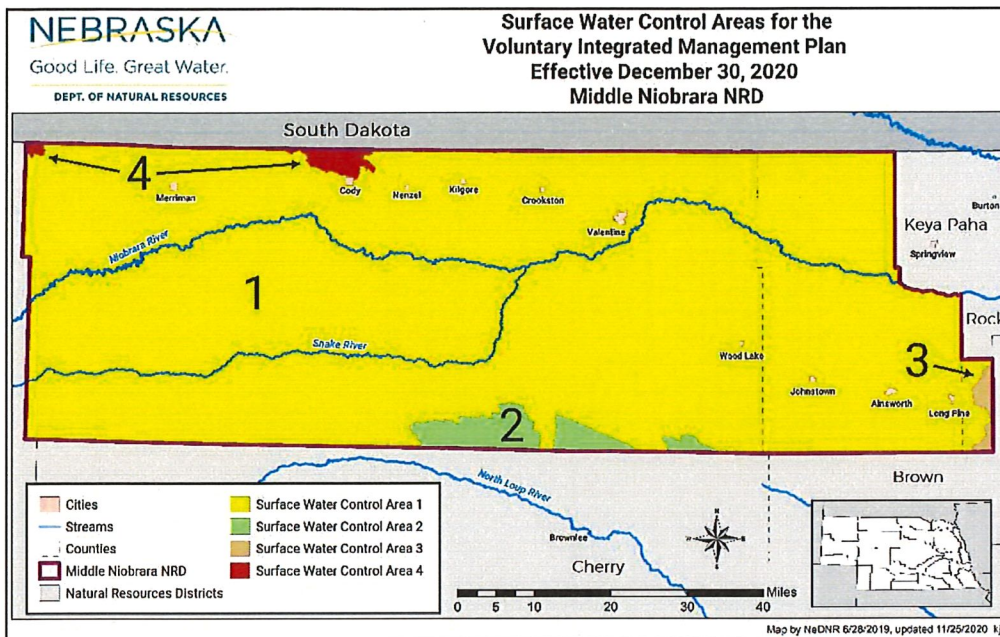


Figure 1: Surface Water Control Areas

ORDER

It is hereby ORDERED that the voluntary Integrated Management Plan, *jointly developed by the Middle Niobrara Natural Resources District and the Nebraska Department of Natural Resources*, and the surface water controls in the plan are hereby ADOPTED by the Department and will become effective on **December 30, 2020**.

DEPARTMENT OF NATURAL RESOURCES

November 30, 2020

*Thomas E. Riley*  
 Thomas E. Riley, P.E., Director

A copy of this Order was posted on the Department’s website at [dnr.nebraska.gov](http://dnr.nebraska.gov). Copies of this Order were provided to the Department’s field offices in Bridgeport, and Ord, Nebraska. A copy of this Order was provided to Leonard Danielski, Board Chair, Middle Niobrara NRD, 303 East Hwy 20, Valentine NE 69201.