

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING THE SECOND INCREMENT INTEGRATED MANAGEMENT PLAN,
AND ASSOCIATED SURFACE WATER CONTROLS, JOINTLY DEVELOPED BY
THE SOUTH PLATTE NATURAL RESOURCES DISTRICT AND
THE NEBRASKA DEPARTMENT OF NATURAL RESOURCES

BACKGROUND

1. On September 15, 2004, the Nebraska Department of Natural Resources (Department) designated a portion of the South Platte Natural Resources (District) as overappropriated.
2. On September 30, 2004, the Department issued an order of final determination that the hydrologically connected groundwater and surface water within the entire geographic area of the District was fully appropriated.
3. The Department and the District jointly developed an Integrated Management Plan (IMP) for the first increment in accordance with *Neb. Rev. Stat.* §§ 46-715 – 46-718, 46-720, with an effective date of June 20, 2008. The IMP was subsequently modified by the Department and the District with a new effective date of September 14, 2009.
4. In 2016, in accordance with *Neb. Rev. Stat.* § 46-715(5)(d)(iii) and the first increment IMP the Department and the District initiated a technical analysis to determine whether the measures adopted in the first increment IMP were sufficient to offset depletions due to water uses initiated after July 1, 1997, and whether the measures adopted in the first increment IMP have returned the District to a fully appropriated condition.
5. Based on the results of this technical analysis the Department and the District jointly determined that the development of a second 10-year increment IMP was necessary to meet the IMP's goals and objectives and to reduce the overall difference between the current and fully appropriated levels of development.
6. Beginning in 2018, the Department and the District, pursuant to *Neb. Rev. Stat.* § 46-715(5)(d)(iv), consulted and collaborated on the development of the second increment IMP with a group of stakeholders. The stakeholder group consisted of statutorily required entities and other entities that were identified by the District and the Department to be included in the group. Through this process of consultation and collaboration the Department and District jointly developed a second increment IMP in accordance with the Ground Water Management and Protection Act, particularly *Neb. Rev. Stat.* §§ 46-715 – 46-718, 46-740.
7. The stakeholder group, the District, and the Department reached agreement on (1) the proposed goals and objectives of the IMP, (2) the proposed geographic area to be subject to the controls, and (3) the surface water and groundwater controls, and incentive programs

that are proposed for adoption and implementation. Letters acknowledging the agreement were exchanged between the District and the Department.

8. The Department consulted with the Nebraska Game and Parks Commission (NGPC) in accordance with *Neb. Rev. Stat. § 37-807(3)*. As stated in the July 15, 2019, response, NGPC determined that the adoption of the proposed IMP would have no adverse effect on threatened and endangered species or their habitat.
9. On July 17, 2019, pursuant to notices published in accordance with *Neb. Rev. Stat. § 46-743(2)*, the District and the Department jointly held a public hearing in Sidney on the proposed IMP.
10. Following the hearing, the Department and the District jointly considered testimony and exhibits provided, and jointly agreed to adopt and implement the proposed second increment IMP with minor revisions. One such modification included adding the dates of the orders of adoption issued by the Department and District, and adding the effective date of the IMP to the placeholders on page one. The remaining revisions were non-substantive modifications and did not consist of any modifications to the goals and objectives of the IMP, or the surface water controls and groundwater controls proposed for adoption and implementation of the IMP, and did not include any geographic area that was not identified in the notice of hearing as presented in the draft IMP.

SURFACE WATER CONTROLS ADOPTED

1. The following surface water controls will remain effective within the Second Increment *Integrated Management Plan Jointly Developed by the South Platte Natural Resources District and the Nebraska Department of Natural Resources*:
 - A. The Department will continue the moratorium on new surface water appropriations in the portion of the Upper Platte River Basin within the boundaries of the District, unless a variance is granted by the Department according to its rules.
 - B. Transfers of surface water appropriations will be in accordance with statutes and Department rules.
 - C. The Department shall continue to administer surface water appropriations according to the provisions of the permit, statute, Department rules and regulations, and any applicable interstate compact decree or agreement.
 - D. The Department shall continue to monitor the use of surface water to prevent unauthorized uses.
 - E. For conjunctive management projects as described in Section 10.4, the Department may, via the permit approval process, require additional monitoring, measurements, and reporting of diversions, returns, seepage, and/or evaporation.

- F. Except as provided in (1) below, the Department will not require surface water appropriators to apply or use conservation measures.
1. If, at some point in the future, the Department requires surface water appropriators to apply or use conservation measures, in accordance with *Neb. Rev. Stat. § 46-716(2)*, the surface water appropriators will be allowed a reasonable amount of time, not to exceed one hundred eighty (180) days unless extended by the Department, to identify conservation measures to be applied or used and to develop a schedule for such application and use.
- G. Except as provided in (1) and (2) below, the Department will not require any other reasonable restrictions on surface water use.
1. If, at some point in the future, the Department requires other reasonable restrictions on surface water use, such restrictions must be consistent with the intent of *Neb. Rev. Stat. § 46-715* and the requirements of *Neb. Rev. Stat. § 46-231*.
 2. If, at some point in the future, the Department requires other reasonable restrictions on surface water use, in accordance with *Neb. Rev. Stat. § 46-716(2)*, the surface water appropriators will be allowed a reasonable amount of time, not to exceed one hundred eighty (180) days unless extended by the Department, to comment on the proposed restrictions.

ORDER

It is hereby ORDERED that the Second Increment *Integrated Management Plan Jointly Developed by the South Platte 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 **September 11, 2019**.

DEPARTMENT OF NATURAL RESOURCES

August 9, 2019


Gordon W. Fassett, P.E., Director

A copy of this Order was posted on the Department's website. Copies of this Order were provided to the Department's field offices in Bridgeport, North Platte, and Ord, Nebraska. A copy of this Order was mailed on August 9, 2019, to the following:

Rod Horn, General Manager
South Platte Natural Resources District
551 Parkland Drive
PO Box 294
Sidney, Nebraska 69162-0294

