

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER ADOPTING TRI-BASIN NATURAL RESOURCES DISTRICT INTEGRATED MANAGEMENT
PLAN AND ASSOCIATED SURFACE WATER CONTROLS

Background

1. On September 15, 2004, the Nebraska Department of Natural Resources (Department) designated a portion of the Tri-Basin Natural Resources District (District) as overappropriated.
2. On April 21, 2006, the Department issued an order of final determination that the portion of the Platte River Basin upstream of the Loup River confluence (downstream of the overappropriated portion) within the District was fully appropriated.
3. The Department and the District consulted and collaborated on the development of the integrated management plan (IMP) with a group of stakeholders. The stakeholder group consisted of the statutorily required entities and other entities which were identified by the District and the Department to be included in the group. Through this process of consultation and collaboration the Department and the District jointly developed an IMP in accordance with the Ground Water Management and Protection Act (the Act), particularly Neb. Rev. Stat. §§ 46-715, 46-716, 46-717, 46-718, and 46-720.
4. The District and the Department reached agreement on (a) the proposed goals and the objectives of the IMP, (b) the proposed geographic area to be subject to the controls, and (c) the surface water and ground water controls and incentive programs that are proposed for adoption and implementation.
5. 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 received on August 11, 2009, the Commission determined that the adoption of the proposed IMP would have no adverse effect on threatened and endangered species or their habitat.
6. On June 18, 2009, pursuant to notices duly published in accordance with Neb. Rev. Stat. § 46-743, the District and the Department jointly held a public hearing on the proposed IMP.
7. Following the hearing on June 18, 2009, the Department and the District jointly decided to adopt and implement the proposed IMP and the surface water controls, ground water controls, and incentive programs proposed in the IMP without modifications.

Controls Adopted


1. The surface water controls included in the IMP are as follows:
 - A. The Department will continue the moratorium on new surface water appropriations in the portion of the Platte River Basin within the boundaries of the Tri-Basin NRD. Variances may be granted by the Department in accordance with Department rules and regulations.
 - B. Transfers of surface water appropriations will be in accordance with statute and Department rules and regulations.
 - C. Surface water appropriations will continue to be administered according to statute and Department rules and regulations.
 - D. The use of surface water will continue to be monitored to make sure that unauthorized use is not occurring.
 - E. The Department will not require surface water appropriators to apply or use conservation measures; If the Department in the future requires surface water appropriators to apply or use conservation measures, the surface water appropriators will be allowed a certain amount of time to identify conservation measures to be applied or used and to develop a schedule for such application and utilization.
 - F. The Department does not anticipate a need to require additional restrictions on surface water use; If the Department in the future requires other restrictions on surface water use, such restrictions must be consistent with the intent of § 46-715 and the requirements of § 46-231. If the Department in the future requires other restrictions on surface water use, the surface water appropriators will be allowed a certain amount of time to comment on the proposed restrictions.

Order

It is therefore ORDERED that the integrated management plan for the Tri-Basin Natural Resources District and the surface water controls in the plan are hereby adopted by the Department and will become effective on September 14, 2009.

DEPARTMENT OF NATURAL RESOURCES

August 13, 2009


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 15 days of the date of this Order and be accompanied by a filing fee of \$10.00.

On August 13, 2009, a copy of this Order was posted on the Department's website and mailed to John Thorburn, General Manager, Tri-Basin Natural Resources District, 1723 North Burlington, Holdrege, Nebraska 68949, and to the Department of Natural Resources field offices.